

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

## July 24, 2006

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 Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Tussing led the Pledge of Allegiance and Councilmember Ed Ulledalen gave the Invocation.

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

### MINUTES

- June 26, 2006 Special Meeting. Approved as printed.
- June 26, 2006 Regular Meeting. Approved as printed.
- July 10, 2006 Regular Meeting. Approved as printed.

**COURTESIES** – Councilmember Gaghen introduced her daughter – Rebecca, who is visiting from Paris. Councilmember Gaghen expressed her sorrow for the unfortunate death of Sally Noe, a long-time Billings resident that was killed last evening by a lighting strike atop the Rims.

**PROCLAMATIONS** -- None

### ADMINISTRATOR REPORTS – Tina Volek

- Interim City Administrator Tina Volek reminded the Council that several agenda items were sent to them in last week's Friday packet: (1) a protest petition for Item #13 was sent. The Planning Dept. did not receive a copy of this petition and will therefore be asking that this item be delayed for two weeks to allow Staff to determine if it constitutes a valid protest, and (2) the Council also received a revised Staff recommendation on Item #15 recommending Ace Electric at \$111,245.95.
- Ms. Volek noted that the Council received exparte' communication on the annexation request in Item G. A copy was placed in a binder at the back of Council Chambers.
- Ms. Volek pointed out that the Council also received a revised resolution for Item #2, which is on their desks this evening. Corrections were made on pages 2, 4, and 6.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, #2 and #14 thru #17 ONLY. Speaker sign-in required.** (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

- WOODY HAHN OF 5509 WALTER HAGEN DR. spoke on Cobb Field, noting that a new Cobb Field Stadium would enhance the community's quality of life. He urged the Council to support the bond issue.
- JIM IVERSON OF 406 MONTCLAIR said the Steering Committee for Cobb Field has worked hard on the proposal. He urged the Council to move forward by approving the bond issue as a ballot item.
- JOHN BREWER, PRESIDENT OF THE BILLINGS AREA CHAMBER OF COMMERCE said the Chamber is on record as supporting the Cobb Field project. He noted it is a legacy project for the community and will be recognized for the next 50 years. Mr. Brewer reminded the Council that great facilities are one of the things that entice businesses to locate in a community and conventions to choose a community for an event.
- MARY WESTWOOD OF 2808 MONTANA AVE. said she supports Cobb Field as an investment in the community. She urged the Council to support the bond issue this evening. Ms. Westwood also thanked the Stewart family for placing the bench at the Skatepark.

## **CONSENT AGENDA:**

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

(1) **Airport ARFF Vehicle Replacement.** (Opened 7/11/06). Recommend Rosenbauer Fire Fighting Technology, \$1,268,150.00.

(2) **W.O. 05-12: Big Ditch Trail – Billings, Federal Aid No. STPE 1099(49), MDT CN5908.** (Opened 7/11/06). Recommend CMG Construction, Inc., Base bid and Bid Alternate #2, \$105,730.00 and 30 calendar days, contingent on CTEP concurrence.

**B. W.O. 04-18: Park II Expansion and Park I & II Repairs,** Amendment #2, Professional Services Contract with Collaborative Design Architects, \$\$50,000.00.

**C. W. O. 05-20: Aronson Avenue 30% Design Study,** Professional Services Contract with HKM Engineering, Inc, \$178,598.00.

**D. W.O. 06-07: Construction Materials Testing,** Professional Services Contracts with Rimrock Engineering, Inc., and Terracon, Inc., each contract not to exceed \$75,000 and terminate on 12/31/08.

### **E. Project Development and Construction Agreements with MDOT:**

- (1) North Bench Boulevard Corridor – Billings
- (2) Zimmerman Trail -- Billings

**F. Acknowledging receipt of petition to vacate** portions of Zimmerman Trail abutting Lots 1, 2, and 4, Scott Subdivision and setting a public hearing for 8/14/06.

**G. Acknowledging receipt of petition #06-11 to annex** a 36-acre parcel described as Tract 1, C/S 3273, generally located on the west side of 46<sup>th</sup> St. W, south of Rimrock Rd., and setting a public hearing for 8/14/06.

**H. Acceptance of donations** from the family and friends of Roger Stewart III to provide a memorial bench at the downtown Billings Skate Park in memory of Roger Stewart III, \$1,025.00.

**I. Resolution of Intent 06-18454** to create an expanded park maintenance district (PMD) #4025 in Rehberg Ranch Estates Subdivision, 2<sup>nd</sup> filing, and setting a public hearing date for 8/28/06.

**J. Resolution 06-18455** relating to \$380,000 Pooled Sidewalk Bonds, Series 2006, authorizing the issuance and calling for the public sale thereof.

**K. Second/final reading ordinance 06-5376** expanding the boundaries of Ward IV to include recently annexed properties in Annex #06-06, described as 5.651 acres in C/S 1011, Tr. B Amended, and adjoining rights-of-way in Grand Ave. and Zimmerman Trail, generally located east of 34<sup>th</sup> St. W and north of Grand Ave., Rocky Mountain Community Church, petitioner.

**L. Second/final reading ordinance 06-5377** expanding the boundaries of Ward IV to include recently annexed properties in Annex #06-08, described as two portions of C/S 1834, Tract 3-C-1, generally located north of Rimrock Rd. at 50<sup>th</sup> St. W, Aviara, Inc., petitioner.

**M. Preliminary plat** of Amended Lot 14, Block 1, Chrysalis Acres Subdivision, generally located on the west side of Monarch St. between Cecropia Ave. (north) and Bruce Ave. (south), conditional approval of the plat and adoption of the Findings of Fact.

**N. Preliminary plat** of Twin Oaks Subdivision, generally located directly adjacent to the north of Uinta Park Subdivision, south of Wicks Lane, conditional approval of the plat and adoption of the Findings of Fact.

**O. Final plat** of Amended Lot 10, Block 3, Midland Subdivision, 5<sup>th</sup> filing.

**P. Bills and payroll.**

- (1) June 23, 2006
- (2) June 30, 2006
- (3) June 1 – June 30, 2006 (Municipal Court)

Councilmember Ulledalen separated ITEM A2. Councilmember Ruegamer moved for approval of the Consent Agenda EXCEPT for ITEM A2, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Ruegamer moved for approval of ITEM A2, seconded by Councilmember Gaghen. Councilmember Ulledalen asked Staff if there were any plans to connect the Big Ditch Trail to Chandalier Circle. Interim Planning Director Candi Beaudry said there is an agreement from the Big Ditch Company to put the culvert in, but there is still not funding to pave a pathway to Chandalier Circle. Councilmember Ulledalen asked the time frame of this phase. Ms. Beaudry said the next phase of this project would be to pave a walkway to Chandalier Circle in 2007. Councilmember Ulledalen said he is concerned about the overall plans and he sees the potential for six similar situations of connecting neighborhood trails to the Big Ditch Trail. He said the City needs to be working with each subdivision developer to connect all the trails.

Councilmember Ulledalen made a substitute motion to delay ITEM A2 until a “game plan” is formulated for connecting the Big Ditch Trail to the access points on Chandalier Circle, seconded by Councilmember Boyer. On a voice vote the substitute motion was approved with Mayor Tussing voting “no”.

## **REGULAR AGENDA:**

**2. RESOLUTION 06-18456 submitting the question of issuance of up to \$12,500,000 General Obligation Bonds for the design, construction and equipping of a new professional baseball stadium and related improvements in Athletic Park to City of Billings’ voters. The Ballpark Steering Committee and the Parks, Recreation & Cemetery Board recommend approval. (Delayed from 6/26/06). (Action: approval or disapproval of the joint committee and board recommendation.)**

Interim City Administrator Tina Volek said there was no Staff report, but Staff would answer any questions. Ms. Volek reminded the Council of Staff’s request to delay this item because there were individuals interested in donating funds toward construction of a new stadium. Ms. Volek said there is also the possibility of a \$500,000 donation from the Senate Appropriation Committee that still needs to pass both the Senate and the House of Representatives. She said in order to put this item on the ballot, it needs to be voted upon at this time. Mayor Tussing asked the cost of issuing the bonds. Ms. Volek said the cost of legal fees and sale of the bonds is estimated at \$380,000, is a normal part of the bonding cost and is not included in the estimates provided to the Council.

Councilmember Ruegamer asked if August 26<sup>th</sup> was the deadline to have the language for the ballot to the election board. Ms. Volek said August 17<sup>th</sup> is the preferred date of receipt. Councilmember Ruegamer asked what the last day would be to change the amount of the bond. Ms. Volek said the bond issue is for up to \$12.5 Million. If contributions from other sources offset that amount it would not be necessary to sell the full amount of the bonds. Bonds will not be sold until a final design and cost is established.

Councilmember Veis asked if contributions firm up before August 17<sup>th</sup>, would the Council need a new resolution. Ms. Volek said the resolution could be amended. Councilmember Stevens said with the “honest ballot language” issue being raised, could

the cost of the bond to the average homeowner be included on the ballot. Ms. Volek said the City is limited by state law on the number of words allowed on the ballot. City Attorney Brent Brooks said he will check the law on proper ballot language. Councilmember Veis asked for the time frame for the Senate Appropriation Committee's possible donation. Ms. Volek said no date had been given.

Councilmember Brewster moved for approval of the resolution, seconded by Councilmember Gaghen. Councilmember Veis said \$12.5 Million might be a stretch and this is not the perfect solution. He noted the surveys show this will be a close vote. Councilmember Veis said many people can't afford the additional tax and many people see the need and the stadium as an asset to the community. Councilmember Gaghen said no one likes additional taxes, but the Council and the public need to work together to improve the community.

Councilmember Jones moved to amend the motion to change the bond amount \$10 Million, seconded by Mayor Tussing. Councilmember Jones said there are a lot of people in his ward that are on fixed incomes and cannot afford additional taxes. He said the baseball fans should be the ones to step up and contribute more because they are the ones who enjoy the sport. Councilmember Veis said the dollar figure is not as important as whether or not the populace wants the Cobb Field Stadium. Councilmember Boyer said she wants to give the Committee and Staff a chance to pull the public and private partnership together.

Councilmember Ronquillo said the people need to decide if they want the stadium. He said the Committee worked very hard to trim the cost from \$15 Million to \$12.5 Million. Councilmember Ruegamer said the Committee worked for a year with the consultant to pare the cost down to \$12.5 Million and that amount was not "picked out of the air". The City has not built a ball park since 1946 and had to hire a consultant to plan the stadium. Councilmember Ruegamer said he will "watchdog" the whole project. Councilmember Clark said he does not want a "half-done" ballpark. Councilmember Stevens said she wants the stadium finished, but wants all the funds used wisely.

Mayor Tussing said he agrees that the baseball fans should be the first to step up and make the first donations. He said the \$12.5 Million takes away the incentive for private donations. Mayor Tussing said that \$12.5 Million is too much and he has not seen the fans show their support. Councilmember Gaghen said Cobb Field is set aside as a public park and the people will show their support. Councilmember Brewster said the idea that there is no baseball money in the community is not true. There have been many donors to little league fields, etc. He said anything over \$10 Million is too high. Councilmember Ulledalen said he would not support the amended motion as this is a "vision" thing. He said people from every age group support this project. The Steering Committee worked hard and this is a good fit for the community. The Council is obligated to present the \$12.5 Million bond to the voters. Councilmember Veis said he wants a new Cobb Field and sees it as a great asset to the community. He said if this does not pass this time the Council will have to make a tough decision because the old stadium will not last another five years and will have to be torn down.

Mayor Tussing reminded the Council that the City public safety levy will be back on the ballot this November as well. Councilmember Jones said the survey done on Cobb Field showed the results were 50-50. He said the Council is setting itself up for serious problems. Councilmember Jones stated that a nice facility can be achieved for \$10

Million. Councilmember Ruegamer said the results of the poll were: 52% for the new stadium, 43% against a new stadium and 5% undecided. "When it's a reality, there will be more people in favor of the stadium," he said.

Councilmember Clark called for the question; there was no second. On a voice vote, the motion was approved with Councilmember Jones voting "no". The debate on the amendment was ended. On a voice vote on the amendment for \$10 Million rather than \$12.5 Million, the amendment failed. Councilmembers Brewster, Jones and Mayor Tussing voted "yes".

Councilmember Jones objected to Councilmember Ruegamer's comment that "it doesn't have anything to do with the money; it only has to do with getting this on the ballot." Councilmember Jones said when the tax roll comes through based on what the Council voted on tonight, it will be evident that money was the issue. The Council is responsible to the citizens for the amount citizens will be taxed. He said the Council should not downplay that responsibility. Councilmember Boyer said the Council's responsibility is to make this a positive vision for the community – "for our children and grandchildren." Councilmember Ruegamer said he's not insulting those on fixed incomes. Many of the fans are on a fixed income and attend the ball games because it is cheap entertainment. Councilmember Ruegamer asked if all progress should be stopped because of those on fixed incomes. Councilmember Stevens reminded the Council there will be another shot at this issue; right now the issue is merely to go up to \$12.5 Million. If the costs are less, then the amount can be adjusted downward.

Councilmember Brewster called for the question, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved. All debate stopped on the original motion. On a voice vote, the original motion was approved with Councilmember Jones voting "no".

**3. PUBLIC HEARING AND RESOLUTION 06-18457 FOR ANNEX #06-10: a 288-acre parcel described as: N2 of Section 20, T1N-R26E and C/S 1904, State of Montana Dept. of Natural Resources and Conservation (DNRC), petitioner. Staff recommends conditional approval. (Action: approval or disapproval of Staff recommendation.)**

City Planner Aura Lindstrand said there is a concurrent zone change for this property that will go to the Zoning Commission next week. Several zone changes are requested including commercial, multi-family and single-family residential as well as an application for a 40-lot subdivision.

Ms. Lindstrand said the Planning Dept. is recommending approval of this annexation for the following reasons:

- Favorable response from all City departments
- Conforms to most land use goals
- Conforms to the annexation criteria, as it is bordered on the north, east, and south by properties within the city limits.
- Lies within the acceptable limits of annexation
- Residential densities will be approximately six (6) units per acre

The public hearing was opened. DENNIS RANDALL OF ENGINEERING INC. said his company is under contract with DNRC to update its master plan for this property. He

has been working with Staff for several months. The dept. has held two advertised neighborhood meetings in order to get input from the local residents.

JEFF BOLLMAN, 1371 RIMTOP DR. said he is a planner with DNRC, the agency in charge of administering school trust lands. This property is school trust land and the beneficiary is the common school trust or K-12 school trust. This property is surrounded on three sides by the City. He asked the Council to approve this annexation.

Councilmember Brewster asked if the rock features would be preserved. Mr. Bollman said the rocks are located in the northeast corner of the property which is proposed for commercial development. DNRC is looking at leasing the property to commercial entities so covenants may be required to preserve the rock features. Councilmember Ulledalen asked how DNRC will dispose of the lots once the annexation and zoning are approved. Mr. Bollman said DNRC will retain the property that will be re-zoned to commercial and multi-family and use ground leases. The revenue that will be generated will go into the common school trust. The single-family lots will be sold at auction.

There were no other speakers. The public hearing was closed. Councilmember Veis moved for approval of the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward II to include the recently annexed property in annexation #06-07: 57 acres in T1N-R26E-S23: N2NE4 Less C/S 515 and C/S 1335, but including C/S 999, generally located south of Wicks Lane between Hawthorne Lane and Bitterroot Drive, Felton Associates LLC, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

There was no Staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Stevens moved to approve the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include the recently annexed property in annexation #06-09: 2.1371 acres in T1S-R25E-S23: NE4 described as C/S 2771, Tract 2, generally located on the south side of Hesper Road west of S. 32<sup>nd</sup> St. W, Rice Wagon, LLC, petitioner, Brady Wagner and Carrie Orr-Wagner, owners. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

There was no Staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Gaghan moved to approve the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND SPECIAL REVIEW #818: A special review to allow a drive through service in a Community Commercial zone adjacent to a Residential-6000 zone on Lots 19-24, Block 2, Evergreen Subdivision and located at 1447 Grand Ave. Ryan Hendrickson, owner; Engineering, Inc., agent. Zoning**

**Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Nicole Cromwell said a special review is required because this property is across the alley from a residential zone. Councilmember Boyer said she is concerned because the lot is small, and questioned whether the Bank can make this plan work. Ms. Cromwell said the bank thinks it can make it work. Councilmember Ronquillo asked if the setbacks had been taken into consideration. Ms. Cromwell said the bank is set back to allow for expansion of Grand Avenue. Councilmember Clark said left-hand turns out of the bank's lot would be a concern.

Public Works Director Dave Mumford said patrons exiting the bank and desiring to make a left turn onto Grand Avenue would have to use the 15<sup>th</sup> Street exit and use the left-turn lane at the traffic signal. Councilmember Veis asked if a sign would be posted denying left turns out of the bank lot. Ms. Cromwell said a sign would probably be posted.

Councilmember Jones asked if the access from Grand Avenue could be eliminated, requiring patrons to enter/exit only on 15<sup>th</sup> Street. Ms. Cromwell said City Engineering did review this revised plan and had no negative comments. Mr. Mumford said the traffic flow will be restricted to "right-in, right-out only" to eliminate traffic congestion in the area. He added that Engineering is reviewing all traffic signals on Grand Avenue to improve traffic flow.

Ms. Cromwell said the Staff recommends conditional approval on the following basis:

1. The special review approval shall be limited to these lots.
2. Any expansion greater than 10 percent will require an additional special review.
3. Any lighting within the parking lot areas shall have full cut-off shields.
4. The existing curb cuts on Grand Avenue and 15th Street West shall be abandoned.
5. Landscaping shall be provided along the property boundary with Grand Avenue and 15th Street West.
6. A Traffic Accessibility Study and recommendations implemented.
7. There shall be no access to the property from the alley and a 6 foot sight-obscuring fence shall be constructed.
8. There shall be no outdoor public address system with the exception of the speaker system for the drive through service windows.
9. The proposed development shall comply with all other limitations and requirements of the BMCC.

The public hearing was opened. MICHAEL SANDERSON OF ENGINEERING, INC., 1300 N. TRANSTECH WAY, said the buyer, Rocky Mountain Bank, will be installing a small facility - only 2000 square feet, with 2-3 drive through lanes. The Traffic Accessibility Study (TAS) has already looked at stacking on 15<sup>th</sup> Street and Grand Avenue. He said this proposal takes into account all the setback requirements and accommodations have been made for the widening of Grand Avenue.

Councilmember Ulledalen asked if the size is similar to Yellowstone Bank in downtown. Mr. Sanderson said it is similar in size. Councilmember Boyer noted that she often has to sit through two traffic lights when traveling down 15<sup>th</sup> Street. Mr. Sanderson said perhaps the timing of the lights needs attention.



Councilmember Ulledalen asked if there are currently two buildings on the property. Mr. Sanderson said both buildings are still on the site with four existing approaches. Two approaches right on the corner will be eliminated; the other two approaches will be moved away from the intersection.

There were no other speakers. The public hearing was closed. Councilmember Ronquillo moved to approve the Zoning Commission recommendation, seconded by Councilmember Gaghen. Councilmember Jones said he hoped there will not be problems with left hand turns in and out of this site. On a voice vote, the motion was unanimously approved.

**7. PUBLIC HEARING AND SPECIAL REVIEW #820: A special review to allow an outdoor patio lounge in a Central Business District (CBD) zone on Lots 1 & 2, Block 111, O.T. and located at 2501 Montana Avenue. Computers Unlimited, Michael Schaer, owner; A & E Architects, James Bos, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Juliet Spalding said the subject property is the site of the Carlin Martini Bar and nightclub. There are currently five other outdoor patios in the downtown area. Ms. Spalding said the following conditions are recommended:

1. The special review approval shall be limited to these lots.
2. The applicant shall obtain an encroachment permit from City Engineering.
3. There shall be no amplified or live music on the proposed outdoor patio. Only background music from stereo speakers shall be allowed.
4. The patio area shall remain 'open air' (except for fencing and awning) and shall not be enclosed.
5. Due to the serving of alcohol within the public right-of-way, the patio shall be separated from the "open" sidewalk area by a wall, fence, or railing a minimum of 3.5' high, but not over 5' high.
6. Operation of the patio only during normal business hours.
7. This Special Review approval shall only be valid as long as there is a valid encroachment permit.
8. The operator of the patio shall indemnify and hold the City harmless for the activity that takes place within the public right-of-way.
9. No signage shall be allowed to be placed on or hung from the fence or railing that encloses the patio.
10. All limitations on expansion of the alcohol service area shall apply.
11. The applicant shall receive approval from the Historic Preservation Board.

Mayor Tussing asked the difference between stereo music and amplified music. Ms. Spalding said amplified is live music. Mayor Tussing noted any stereo has to be amplified and asked if there is a definition for stereo music. He asked if the language is different from other outdoor patio approvals that have been made in the past. Councilmember Jones asked if the word "amplified" could be removed. He added this is not a residential area and the noise wouldn't be bothering the neighbors. Interim City Administrator Tina Volek noted a similar condition in Item 10 says, "there shall be no

outdoor public address system, outside announcement system or music broadcast of any kind”.

The public hearing was opened. DUSTY EATON, 3215 REIMERS PARK spoke on behalf of A & E Architects. Mr. Eaton said the raised patio is being designed to enhance the Carlin Hotel as well as the historic district.

DAVE BOVEE, 424 LEWIS said the spirit of the public notice is being violated by the placement of the notice because “the only way to read this notice would be to stand in 30 mph traffic.” Mr. Bovee said he has no problem with Mr. Schaer “cashing in on Billing’s endless share of drunks,” but why should he have to pay for it. “This expansion will eliminate three parking spots and where will the buses turn?” he asked.

JOE WHITE, 926 N. 30<sup>TH</sup> STREET said outdoor patios do not work well because they do not have proper air supply. The City should place a study block on all outdoor patios. Mr. White said he does not object to approval since other patios have been approved.

MIKE SCHAER, 1109 N. 32<sup>ND</sup> STREET said he is the owner of the Carlin Bar. He noted he is paying for the land through an encroachment permit on a yearly basis. He said the patio is not narrowing the street. Mr. Schaer also said he is removing three parking spots, but has purchased 20 off-street parking spots to replace and supplement those removed.

Councilmember Jones asked about the music condition and what type of music will they be playing. Mr. Schaer said he would like to have that condition removed. There are no residential areas within 2-3 blocks of the Carlin. They would like live jazz and acoustic live music. The only residents are in a hotel upstairs in the Carlin.

There were no other speakers. The public hearing was closed. Councilmember Clark moved to approve the Zone Commission recommendation, seconded by Councilmember Boyer. Councilmember Jones amended the motion by deleting condition #3 and adding “no live or amplified music before 5:00 p.m. and after 2:00 a.m.”, seconded by Councilmember Ruegamer. Interim City Administrator Tina Volek said this amendment would probably create a precedent for the Council. Councilmember Veis said the City will be hearing more requests from bars to have outside patios because of the no-smoking ban indoors. Councilmember Jones said he remembers changing the music requirements for other requests and each request should be decided on a case-by-case basis, not become a “block” condition.

Councilmember Clark made a substitute motion to leave condition #3 in and “state there shall be no amplified music on the patio,” seconded by Councilmember Gaghen. Councilmember Clark said a band would be allowed, but not big speakers. City Attorney Brent Brooks said the City Code should be checked before making a change to the noise level. Councilmember Veis asked if the Carlin wanted to have a band could it acquire a variance from the City for multiple dates or would it have to acquire a variance for each occasion. Mr. Brooks said he did not know, but could find out. Interim Planning Director, Candi Beaudry said she did not know either, but the Council could craft a condition that would limit amplified music at all times, adding that the condition would be attached to the property. If the Council wants to restrict the times for a noise permit, the Council should include that in the condition.

Councilmember Stevens asked what “traditional language” has been used in past zoning reviews. Councilmember Jones said no matter what the conditions set by the

Council, the noise requirements of the City still have to be met. Mr. Brooks said the noise ordinance is being reviewed at this time. On a voice vote the substitute motion was approved with Councilmembers Brewster, Veis and Jones voting “no”.

Councilmember Jones moved to also allow background music from stereo speakers, seconded by Councilmember Ruegamer. Councilmember Clark moved to reconsider the substitute amendment, seconded by Councilmember Gaghen. On a voice vote to reconsider the substitute amendment, the motion was unanimously approved.

Councilmember Clark amended the motion to allow non-amplified live music and background music from a speaker system, seconded by Councilmember Jones. On a voice vote the motion was approved, with Councilmember Brewster voting “no”.

On a voice vote on the main motion as amended, the motion was unanimously approved.

Mayor Tussing adjourned the meeting for a break at 8:35 p.m. and called the meeting back to order at 8:45 p.m.

**8. PUBLIC HEARING AND SPECIAL REVIEW #821: A special review for a Church and Senior Retirement Home in a Residential-9,600 zone on Lot 1, Block 3 of High Sierra Subdivision, 2<sup>nd</sup> Filing and located at the intersection of West Wicks Lane and Sierra Granada Blvd. Atonement Lutheran Church, owner; CTA Architects & Engineers, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Nicole Cromwell said the proposed church and retirement home is west and north of Skyview High School and across the street from Harvest Church. The historic church building is being moved from Box Elder, MT. It will be placed on a new foundation and connected to the senior living complex for church services. The five conditions recommended for the property are:

1. The special review approval shall be limited to this lot.
2. The site shall be developed in accordance with the submitted site plan.
3. Parking lot lighting shall have full cutoff shields.
4. The historic church building may be placed at a temporary location on the subject property while a foundation is prepared. Permanent placement on or before October 15, 2006.
5. The areas labeled “Future Development” on the Campus Plan submitted with application shall remain undeveloped for any uses other than those allowed in the Residential-9,600 zoning district. Expansion of the church facilities, senior retirement facilities or other uses requiring special review approval on to these areas will require additional special review approval of the Billings City Council.

Councilmember Brewster asked if a traffic study was required. Ms. Cromwell said a traffic study has not been done, although there was one done for the High Sierra Subdivision and this property is a part of that subdivision. Councilmember Brewster asked if they would be developing Wicks Lane out past the property. Ms. Cromwell said they will be developing past Wicks Lane. Councilmember Brewster noted the City is only developing one-half a street and it does not make sense. Public Works Director Dave

Mumford said the other half of the street would be paid for by the City because the City owns the other side. Councilmember Brewster said the City is allowing a retirement home across the street from a popular motorcycle area and the noise generated there may be a problem.

The public hearing was opened. KENT BURGESS OF 4012 LAREDO PLACE said he is the CEO of St. Johns. Mr. Burgess said Atonement Lutheran Church purchased this property several years ago. The Church had a vision for a senior living center on its property. The historic church building from Box Elder is 24 feet tall, 22 feet wide, 40 feet in length, can seat 62 people and was built in 1911.

There were no other speakers. The public hearing was closed. Councilmember Jones moved for approval of the Zoning Commission recommendation, seconded by Councilmember Ruegamer. Councilmember Brewster asked if any money was contributed for future traffic signals in the area. Mr. Mumford said "no". On a voice vote, the motion was unanimously approved.

**9. PUBLIC HEARING AND SPECIAL REVIEW #822: A special review to locate a Beer and Wine license with gaming and an outdoor patio lounge in a Controlled Industrial zone on C/S 1551, and located at 1737 King Avenue West Unit #5, RSP Holdings, owner; Roger Tuhy, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Aura Lindstrand said this 300 sf outdoor patio lounge is at the site of the old Slumberland warehouse. The following conditions have been recommended:

1. The special review approval shall be limited to 1737 King Avenue West, Unit 5.
2. There shall be no amplified or live music on the proposed outdoor patio. Only background music shall be permitted.
3. All egress from the patio area shall comply with Fire and Building Codes and any required gates shall be used for exit from the patio.
4. All other limitations on expansion shall apply in accordance with Section 27-613 of the Billings Montana City Code.

The public hearing was opened. ROGER TUHY OF 216 NORMANDY DRIVE said they are not looking to have amplified music or live bands only background music - a simple casino, not a night club environment.

KEVIN NELSON OF 4235 BRUCE AVENUE said the Council did not set a decibel level with the previous approval. He said everyone with a patio will now want live music.

There were no other speakers. The public hearing was closed. Councilmember Boyer moved for approval of the Zoning Commission recommendation, seconded by Councilmember Ruegamer. Councilmember Stevens asked for the decibel level allowable by the City Code. City Attorney Brent Brooks said he did not have the decibel level with him and added the noise ordinance is very antiquated. On a voice vote, the motion was unanimously approved.

**10. PUBLIC HEARING AND SPECIAL REVIEW #823: A special review to locate a Beer and Wine license with gaming in a Entryway Light Industrial zone on Lot 10 (to be 10A), Block 1 of Montana Sapphire Subdivision, and located at 4121**

**Kari Lane. Montana Sapphire, LLC, owner; Roger Tuhy and Holly Jerke, agents. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Nicole Cromwell said this special review is for a new casino. The owners are not requesting an outdoor patio at this time. The property is located in a new subdivision at Shiloh Rd. and King Ave. The following conditions are recommended:

1. The special review approval shall be limited to this lot.
2. Any expansion greater than 10 percent or the addition of an outdoor patio lounge will require an additional special review.
3. The development of the property shall conform to Entryway Zoning Districts.
4. There shall be no outdoor public address system, outside announcement system or music broadcast of any kind.
5. The proposed development shall comply with all other limitations.

The public hearing was opened. ROGER TUHY OF 216 NORMANDY DRIVE said this is just a casino with a restaurant; no music is involved.

JOE WHITE, 926 N. 30<sup>TH</sup> STREET said he has mixed feelings regarding liquor and gaming. The Council should consider where the City is placing these facilities in developing the City – keeping the casino in the inner city instead of outlying developing areas, adding that people try to have a more moral atmosphere in the suburb setting. Mr. White said the City should limit the number of casino licenses allowed.

Councilmember Gaghen asked Ms. Cromwell how many gaming establishments are in the City. Ms. Cromwell said there are 96 all-beverage licenses in the Billings area and all of those licenses come with a gaming license allowing up to 20 machines. Ms. Cromwell was not sure how many beer and wine licenses have gaming.

There were no other speakers. The public hearing was closed. Councilmember Ulledalen moved for approval of the Zoning Commission recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**11. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #778: A text amendment to BMCC Section 27-310(i), changing the size, height, and bulk for detached accessory structures within all residential zoning districts within the Billings city limits. Yellowstone County Board of Planning initiated the amendment on May 9, 2006. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Nicole Cromwell said this is a text amendment to the City Code that relates specifically to detached accessory structures - i.e. garages and shops. This amendment is being initiated in order to control the “pole barns” that are appearing within the City limits. One of the problems occurring was the building of “accessory buildings” that were larger than the “primary building” on the property. The second problem occurring was the height limit which was 34 feet. Most of the older homes are only 1 to 1 ½ stories high and the accessory buildings “dwarf” the primary building. Often the accessory building becomes a business enterprise.

Ms. Cromwell said the Zoning Commission took public comment at its July 5<sup>th</sup> hearing. The Planning Dept. did a mailing to all of the Neighborhood Task Force members and all of the listed suppliers of metal buildings notifying them of the public

comment meeting. There was no opposition to this zone change. The benefits of the amendment are:

1. Protects existing neighborhoods and architecture.
2. Provides for relief through variance process if hardship exists.
3. Adds value to property improvements.
4. May reduce non-compatible home occupations in older neighborhoods, e.g. auto body shops and car repair shops.

Councilmember Ronquillo asked how someone in the planning stages of constructing an accessory building would be affected. Ms. Cromwell said there is a first and second reading on this zone change and a 30-day effective period. Anyone with a permit prior to the change may continue under the old regulations.

Councilmember Gaghen asked how long the previous amendment has been in place. Ms. Cromwell said it has been in place for a long time, but only in the last five years have the accessory buildings become so large. She said it is a result of the fees being charged to store recreational vehicles. Councilmember Brewster asked if a home of this size would be allowed under present code. Ms. Cromwell said the home would be allowed with an attached garage under the current code.

The public hearing was opened. MARION DOZIER OF 3923 3<sup>RD</sup> AVENUE SOUTH said she was a code enforcement officer for 7 years, but could not do anything to stop the construction of these large buildings. She said the buildings are unsightly in an otherwise one-story residential home area.

PHYLLIS RENO 3927 2<sup>ND</sup> AVENUE SOUTH said she has lived in her home since 1936. She loves to garden and the large building next door blocks airflow and sunshine. She said it looks like an industrial building and is very unsightly.

KEVIN NELSON, 4235 BRUCE AVENUE asked the Council to expand the prohibitions on these unsightly buildings. The Planning and Zoning Dept. may need additional help to enforce this code.

There were no other speakers. The public hearing was closed. Councilmember Ruegamer moved for approval of the Zoning Commission recommendation, seconded by Councilmember Gaghen. Councilmember Brewster said people could just attach the structure to their house and get around this regulations. Councilmember Jones asked if there was discussion on not allowing any structure to be taller than the house. Ms. Cromwell said that is a part of the new regulation. She said it would be difficult to attach a "pole barn" to an existing home because it would have to comply with all City codes for a primary residence. Councilmember Jones asked if these structures have to meet the building codes. Ms. Cromwell said if these buildings are attached, they have to have a firewall between the two buildings. On a voice vote, the motion was unanimously approved.

**12. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #783: A zone change from Controlled Industrial to Residential-6,000 on Lots 17 & 18 of Block 32 of Highland Addition, and located at 109 South 39<sup>th</sup> Street. Dave Hagstrom, owner. Zoning Commission recommends approval and the adoption of the determination of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

City Planner Nicole Cromwell said the current zoning was established in 1973. It was anticipated that this area would eventually become industrial, but that has not happened. The owner plans to either remodel the property into a duplex or demolish and rebuild. The benefits of the change are:

1. Preserves existing neighborhood.
2. Provides opportunity for affordable housing
3. Redevelops a blighted property

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Veis moved for approval of the Zoning Commission recommendation, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

**13. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #784: A zone change from Residential-9,600 to Residential-6,000-Restricted on Lot 1, Block 1 and Lot 1, Block 2 of Arlene Subdivision, and located at 3410 and 3416 Poly Drive. City of Billings' Public Works Department, owner; David Mumford, agent. Zoning Commission makes no recommendation. (Action: approval or disapproval of zone change.)**

City Planner Aura Lindstrand said Arlene Subdivision was recently approved as a minor subdivision by the City Council on June 26, 2006. Residential 6,000 (R6000) has smaller lots, but still has single-family dwellings. Ms. Lindstrand said there is space for 37 single-family residences on the property as R6000 as opposed to 23 single-family residences as Residential 9,600 (R9600). Ms. Lindstrand noted she just received a copy of the petition tonight and will check it for "validity". She noted the Zoning Commission action resulted in a tie vote, hence the reason for no recommendation from the Zoning Commission.

Interim City Administrator Tina Volek said the public hearing was advertised for tonight. She recommended opening the public hearing tonight, and continuing the hearing and delaying action for two weeks. Councilmember Ulledalen asked how close the new homes would be to the existing homes on Green Valley Drive. Ms. Lindstrand said there are required setbacks like any other property. She said the rear setback would be 20 feet for both R6000 and R9600.

Councilmember Veis asked why the City is doing this project. Public Works Director Dave Mumford said the plan all along with the construction and financing of Arlene Subdivision and Zimmerman Trail was that part of the funding would be from the sale of this property. Because of the narrow shape of the property the decision was made to change the zoning to R6000 from R9600. Councilmember Veis asked about the value of the larger lot compared to the smaller lot. Mr. Mumford said the larger lots are more valuable, but the Fire Dept. is requiring a secondary access and it would be very hard to fit that into the property. Councilmember Veis asked why the City is taking these steps for a zone change rather than selling the property to a developer. Mr. Mumford said the City is trying to recoup the cost of the project. The property would command a better price with the zone change already in place.

Councilmember Boyer said the Council should be the "highest and best neighbor" and the City should find the best way to settle this situation. She said with a valid protest there must have been some objection. Mr. Mumford said the City followed

the process like any other developer. He said there was some protest at the zoning meeting. Councilmember Stevens asked if along an arterial road R9600 lots would be sellable. Mr. Mumford said he was told that it would be hard to sell the larger lots along the arterial road. Councilmember Jones asked if selling to a developer would lower the profit to the City. Mr. Mumford said the City would be able to find a buyer but selling to a developer would decrease the profit. Councilmember Boyer asked if the R6000 allowed single-family only and not duplex or patio homes. Mr. Mumford confirmed that was correct.

The public hearing was opened. ERV SCHEID OF 2223 GREEN VALLEY DR. said he is opposed to the zone change. Mr. Scheid said he has talked with realtors and was told that R6000 would decrease the property values. Mr. Scheid said he went to the Zoning Commission meeting. The Zoning Commission had a good discussion but the action ended in a tie vote. The City is proposing a zone change and the Council is making the decision. He said he felt that is a conflict of interest. He wants houses on these lots to be comparable to what the neighbors have now - about 15,000 square foot lots.

KIM WALLINDER-MOFFITT OF 2214 GREEN VALLEY DR. said this transaction is good for the City, but will lower values of the surrounding property. A traffic problem will be created by adding more homes in the area. It is already difficult pulling out onto Poly Drive. Once Zimmerman Trail is completed between Grand and Broadwater, there will be an increase in traffic.

THEO ELLISON OF 2104 GREEN VALLEY DRIVE said he has lived there for 25 years. He thought the City would use the property for a park and wondered what happened to that idea. Mr. Ellison was also concerned about SID costs on Colton and said the cost should be distributed and not just paid by the three homeowners.

CAROL CASTELLANO OF 2101 AVALON said she is concerned about the SIDs also or if the developer would have to pay for Colton. Ms. Castellano said she did not get a letter on this zone change so she couldn't get a petition on her street. She also said Boulder School is "maxed-out" and asked if students would be bused to another school.

DIANE WISE OF 2202 AVALON said she has an expensive home on that block. She and her husband developed the subdivision. Changing the property from R9600 would reduce the property value. She asked what happened to the park idea. Ms. Wise said changing the zoning to R6000 makes it very attractive to a developer.

Councilmember Veis moved to continue the public hearing and delay action to the August 14<sup>th</sup> meeting, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved. The public hearing was continued to August 14<sup>th</sup> and action delayed to that same date.

**14. FIRST READING ORDINANCE amending the BMCC by revising Sections 23-304, 23-308 and 23-410, providing a procedure for review of subsequent minor subdivisions and providing updates to regulations on provisions of utility easements for subdivisions. Planning Board recommends approval of the amendments to Sections 23-304 and 23-308 and postponing amendments to Section 23-410 to an unspecified date. (Public hearing held 7/10/06; action delayed from 7/10/06). (Action: approval or disapproval of Planning Board recommendation.)**



City Planner Juliet Spalding said two public hearings were held to review the proposed changes. No opposition was raised at the public hearings. At the July 10<sup>th</sup> meeting the Council directed the Planning Dept. to present options for the Council to consider. The Planning Dept. presents the following options:

1. No public notification
2. Staff notifies surrounding property owners of proposal, indicating that they may submit written or verbal comment to the Planning Dept. prior to the memo deadline date
3. Staff notifies surrounding property owners of proposal and City Council holds a public hearing for subsequent minor subdivisions
4. Staff would notify surrounding property owners by regular mail, by certified mail, or by posting the subject property.

She noted that the Staff recommends the second option.

Councilmember Brewster moved for approval of the Planning Board recommendation including option #2, seconded by Councilmember Jones. Councilmember Stevens made a substitute motion for approval with option #1 - no notification instead, seconded by Councilmember Veis. Councilmember Brewster said the City may not have to notify, but should; "the more communication the better the results." Councilmember Stevens said it's a small change and the Council should not burden Staff with the additional responsibility.

Mayor Tussing asked Staff if option #2 is really their recommendation or if they just said that because the Council asked for options. Interim Planning Director Candi Beaudry said the original recommendation was for no notification, but if the dept. had to notify, it would prefer option #2. Councilmember Boyer noted the Council gets itself into trouble by not communicating.

Councilmember Stevens said this ordinance would require notification on a second minor subdivision, but not the first minor. Councilmember Stevens said the City would be inconsistent with state law and the Council is adding more and more hurdles for a minor issue. Interim City Administrator Tina Volek said if the Council wants to notify for a first minor subdivision the City would have to advertise for the public hearing.

Ms. Beaudry said the procedure for first minor is prescribed by state law and is very clear that it does not require public hearings or notification. Councilmember Ulledalen said if there was no notification on the first minor subdivision, the people being notified on the second minor subdivision would likely be the people already living there, so notification doesn't make any sense. On a voice vote, the substitute motion was approved with Councilmembers Jones, Boyer and Brewster voting "no".

Councilmember Brewster moved for Section 23-410 to be tabled, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**15. BID AWARD: W.O. 03-10: 6<sup>th</sup> STREET W AND CENTRAL TRAFFIC SIGNAL. (Opened 7/18/06). Staff will make a recommendation at the meeting recommends Ace Electric, \$111,245.95. (Action: approval or disapproval of Staff recommendation.)**

Interim City Administrator Tina Volek said the Council had received information in their packets concerning this item. She said Staff was available for questions. Councilmember Ruegamer asked why the City is replacing the traffic light that is

currently in place. Public Works Director Dave Mumford said the wiring in the current traffic signal is hard to maintain. Additionally, the State had concerns about this signal and has provided funding for the project. Councilmember Stevens moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**16. 4<sup>TH</sup> AND BROADWAY REDEVELOPMENT – 2005 Update (Delayed from 7/10/06). Ad Hoc Committee will report the status of negotiations and requests additional guidance from the City Council regarding development incentives and a time extension. (Action: direction to Ad Hoc Committee and Staff.)**

Deputy City Administrator Bruce McCandless said there has been a recent meeting with the 4<sup>th</sup> & Broadway Committee, Stockman Bank and the Sandstone Project developer. He was hopeful that he will be able to bring a favorable report by the next Council meeting. Mr. McCandless said the Sandstone development has a significant parking component and until the Park II bids were awarded, they were unable to talk in much detail, not knowing the amount of money available from the Parking Enterprise Fund. Mr. McCandless said the committee and developer need more time for negotiations and 90 days should be sufficient.

Mayor Tussing said he recently received a letter from the Dept. of Revenue indicating that a TIF (Tax Increment Funding) approved by the Council on June 13, 2005, was not acceptable. That TIF was the original Sandstone Development on 27<sup>th</sup> Street. There may be a problem with TIF funding. Mayor Tussing said Interim City Administrator Tina Volek has a conference call scheduled for July 25<sup>th</sup> with Staff and the Dept. of Revenue to clarify this issue.

Councilmember Brewster moved to allow no more than 90 days for the Committee to negotiate and bring a final recommendation on the redevelopment, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

**17. NAVAL RESERVE CENTER DISPOSITION. Staff recommends: (a) approval of the Navy's offer to abate the visible and damaged asbestos, and (b) asking for Congressional assistance to abate the remaining materials and demolish the structures. (Action: approval or disapproval of Staff recommendation.)**

There was no Staff presentation. Councilmember Gaghen moved to approve the Staff's recommendation, seconded by Councilmember Ronquillo. Councilmember Ulledalen asked Councilmember Gaghen how to approach the delegation. Councilmember Gaghen said former Airport Director Bruce Putnam is no longer a viable contact for the City. She would recommend leaving it up to Mr. McCandless' discretion.

Interim City Administrator Tina Volek said she has discussed this issue with Mr. Putnam and he is willing to be a part of this process on a very limited basis until the City makes a decision on moving forward with lobbying the legislature. Councilmember Veis said the Council needs to put together a strategy and councilmembers need to be involved with an "elected-to-elected official" discussion in August.

Deputy City Administrator Bruce McCandless said Environmental Services contractors are looking at the building to determine the total amount of asbestos removal required - in preparation for either removal or demolition of the building.

Councilmember Ulledalen made a substitute motion to reject the Navy's offer and request congressional assistance to abate the asbestos and demolish the structure, seconded by Councilmember Jones. Councilmember Ulledalen said if the City were successful in requesting Congressional assistance, the Navy would be required to come back and remove the rest of the asbestos. Councilmember Stevens asked what would happen if the Congressional delegation turns the Council down. Councilmember Veis said the City would at least get some of the asbestos removed by accepting the Navy's offer. Councilmember Ulledalen agreed with Councilmember Veis and withdrew his substitute motion; Councilmember Jones withdrew his second.

Interim City Administrator Tina Volek reminded the Council that the direction to Staff in May was to demolish the building. Councilmember Clark said the Council should go back to the Navy with the original contract which stated they (the Navy) would return the land to its original state. The statement was left out of subsequent contracts. Mr. McCandless said this request was recently stated in a letter to the Navy. The Navy's response was that they would not and could not do that. City Attorney Brent Brooks said the second contract was signed in the 70's and he does not know why a second contract was signed. Councilmember Stevens asked if that was the timeframe when asbestos issues were being generated and if so, the Navy was "setting the City up for a fall."

On a voice vote on the original motion, the motion was approved with Councilmembers Brewster, Clark and Jones voting "no". Mayor Tussing asked for volunteers from the Council to serve on the committee along with Staff to approach the Congressional delegation.

Councilmember Veis moved to appoint an Ad Hoc Council Committee on the disposition of the Naval Reserve Center consisting of Councilmembers Gaghen, Stevens, and Boyer, seconded by Councilmember Boyer. On a voice vote, the motion was approved with Councilmember Ruegamer voting "no".

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

MICHAEL ERICKSON OF 10 S. 29<sup>TH</sup> ST. informed the Council of problems he experienced at his business location due to a recent utility construction project. He noted that as a result of no water or power and no access to his business, revenues were down 85% for the month of July. Mr. Erickson asked the Council if the City could find a better way to notify property owners about construction project dates and durations and contact persons in the event of problems.

Public Works Director Dave Mumford said all residents had been notified of the project through door hangers and newspaper ads with phone numbers for the Project Manager listed. The Staff was not aware that a citizen had turned off the water. Once Staff knew, they found the problem and turned the water back on. Other parking was available nearby. The power company was responsible for the power problem.

**COUNCIL INITIATIVES**

- CLARK: asked Staff to bring forward “something to address the issue of when a councilmember cannot serve his/her ward.” Interim City Administrator Tina Volek said the Legal Dept. has retrieved the draft that was prepared for a previous attempt to address this issue. This item will be scheduled for a future work session
- TUSSING: asked about councilmembers’ ability to advocate for the public safety mill levy. City Attorney Brent Brooks said any public official or member of any advisory board cannot advocate for or against a ballot initiative, adding that as “private citizens” these individuals could do so, but cannot do so in their “official” capacities. Mr. Brooks noted he would be sending the Council a copy of his legal opinion on this issue.

**ADJOURN** - With all business complete, the Mayor adjourned the meeting at 11:17 p.m.

THE CITY OF BILLINGS:

By: \_\_\_\_\_  
Ron Tussing, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AE, City Clerk