

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 25, 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 at 6:30 p.m. and served as the meeting's presiding officer. Mayor Tussing led the Pledge of Allegiance and Councilmember Jim Ronquillo gave the Invocation.

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

MINUTES – September 11, 2006 Approved as printed.

COURTESIES

- None

PROCLAMATIONS

- September 25: Family Day – A Day to Eat Dinner With Your Children
- October 8-14: Fire Prevention Week

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek reminded Councilmembers that additional information on Item F was included in the Friday packet.
- Ms. Volek said both Item K - the preliminary plat on E.D. King Subdivision and Item N - the final plat for Bellville Subdivision needed to be delayed until October 10th, the next Council meeting.
- Ms. Volek noted that Item 3 regarding vacating portions of 8th Ave. N. needed to be delayed until the October 23rd meeting.
- She added that the City had received exparte' communication on Item 10 – the senior housing at Central Ave. and Shiloh Rd. Copies were placed in a binder available at the back of the Council Chambers this evening.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 and #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.)

- JOE WHITE OF 926 N. 30TH ST. spoke on the City Administrator contract. He said he opposes the contract because of the recent double murder and the arson fire in Billings. He added that severe diseases are caused by unclean conditions.

CONSENT AGENDA:

1. A. Mayor's Appointment:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Bruce MacIntyre	Homelessness Committee	09/11/06	12/31/10

1. Unexpired term of Joseph McClure

B. Bid Awards:

(1) **2007 4-Wheel Mechanical Broom High Dump Sweeper.**
 (Opened 9/5/06). Recommend Western Plains, \$155,462.00 including the trade for Unit #1253.

C. Change Order #9 -- W.O. 04-13: Filter Building Expansion and Improvements, COP Construction, \$6,349.72.

D. Two West End Hangar Ground Leases with John M. and Marcia A. Nash, term: 20 years.

E. Pledged Collateral on Certificates of Deposits, US Bank Repurchase Account, and US Bank Municipal Investor Account.

F. C. Amendments to Agreements with Wells-Fargo:

(1) Buy-Sell Agreement
 (2) Drive-up Bank lease.
 (delayed from 9/11/06).

G. Acknowledging receipt of petition to vacate portion of Zimmerman Trail and Lyman Avenue abutting Lot 6, Scott Subdivision, Ronald Sanchez and Traci Albright, petitioners, and setting a public hearing for 10/23/06.

H. Resolution 06-18487 on East Billings Urban Renewal District, declaring blight, intent to create the district and setting a public hearing for 10/10/06.

I. Resolution 06-18488 on expanding the N. 27th Urban Renewal District, declaring blight, intent to create the expanded district and setting a public hearing for 10/10/06.

J. Second/final reading ordinance 06-5389 expanding the boundaries of Ward V to include recently annexed property in Annex #06-12: a 14.5-acre parcel described as Tract 1 of Corrected Amendment of Tracts 1 and 3 and Remainder Tract 2 to be the Amendment of Tracts 1, 2, and 3, C/S 1648, Bell Family Trust, owner.

K. Preliminary plat of E. D. King Subdivision, generally located on the north side of Grand Avenue and east of Zimmerman Trail; conditional approval of the plat, approval of the variance and adoption of the findings of fact.

L. Preliminary subsequent minor plat of Amended Lot 7, Block 2, Lake Hills Subdivision, 1st filing, generally located at the northwest corner of the intersection of Wicks Lane and Inverness Drive in the Heights; conditional approval of plat and adoption of the findings of fact.

M Preliminary subsequent minor plat of Normal Subdivision, 3rd filing, generally located west of N. 27th St. between Poly Drive and 12th Ave. North; conditional approval of plat and adoption of the findings of fact.

N. Final plat of Bellville Subdivision.

O. Bills and payroll.
(1) September 1, 2006

(Action: approval or disapproval of Consent Agenda.)

There were no separations. Councilmember Stevens moved to approve the Consent Agenda with the exception of Item K & N which are to be delayed until the October 10th Council meeting, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING on FY 2005-2006 Draft Comprehensive Annual Performance Evaluation Report (CAPER) for the Community Development Block Grant (CDB) and HOME Programs. (Action: public hearing only.)

Community Development Manager Brenda Beckett said this report is federally mandated on a yearly basis and focuses on affordable housing development. She said the following are strategies planned by the Community Development Board for the past year:

1. Promote the preservation of the existing supply of affordable housing in the community.
2. Promote the preservation and revitalization of the community's older neighborhoods where the affordable housing stock is located.
3. Promote new affordable housing opportunities.
4. Work as an active partner with non-profits, neighborhood groups, and others to address housing, community and neighborhood needs.
5. Improve the economic conditions of lower-income households in the community.

The public hearing was opened. DUANE LOKEN OF 1808 S. MARIPOSA LN. said he is the Chairman of the Community Development Board. He complimented the Staff members and said that Ms. Beckett's report is actually a "self-audit" listing the goals that

have been attained in the past year. Mr. Loken said he wishes that there was more money in order to do more projects.

There were no other speakers. The public hearing was closed. No further action was required.

3. PUBLIC HEARING AND RESOLUTION vacating portions of 8th Avenue North and the alley between 7th Avenue North and 8th Avenue North for a value of \$584,250.00. Billings Clinic, petitioner. Staff recommends approval. (Action: approval of disapproval of Staff recommendation.)

There was no Staff presentation. The public hearing was opened. MICHAEL SANDERSON OF ENGINEERING INC., 1300 N. TRANSTECH WAY said he represents the Billing Clinic and the request to delay was in order for Billings Clinic to meet with the neighbors in the 8th Ave. N. area to explain it's plans.

JOE WHITE OF 926 N. 30TH ST. said he opposes vacating property to the Billings Clinic. He said he is against property expansion and that hearings and signed letters are necessary.

There were no other speakers. The public hearing was not closed. Councilmember Gaghen moved to extend the public hearing on this Item to October 23rd and postpone action until such time, seconded by Councilmember Ronquillo. Councilmember Gaghen said the public should know that this is not a gift from the City to Billings Clinic, but that the hospital will be paying the City \$584,250 for the vacated portions. On a voice vote, the motion was unanimously approved. The public hearing was continued to October 23rd and action delayed to October 23rd.

4. PUBLIC HEARING AND RESOLUTION 06-18489 annexing a 65-acre parcel generally located south of Rimrock Rd. between 50th and 54th Streets West and described as Tracts 1 & 2, C/S 2054 and Cynthia Park (a county park), Blue Diamond Ranch Partnership LLC, owner/petitioner, Annex #06-13. Staff recommends conditional approval. (Action: approval or disapproval of Staff recommendation.)

Planning Manager Candi Beaudry said there are currently no firm plans for this 65-acre parcel. She said a concept map was submitted which shows a small commercial development at the corner of 54th and Rimrock and residential development for the rest of the property. Ms. Beaudry said the property surrounds a county park – Cynthia Park which is undeveloped. She has talked with County officials and learned that the City would acquire ownership of the park with this annexation.

Councilmember Boyer asked the size of the park and if the property owners would be contributing to the park. Ms. Beaudry said depending on the size of the subdivision, the owners would be required to dedicate land or cash in place of the land.

Councilmember Ulledalen asked where the bike trail would be located on this annexation. Ms. Beaudry said the trail would be along the Hi-line Ditch rather than along the Big Ditch as indicated on the map.

Mayor Tussing said if there were 4 units per/acre that would mean 450+ homes in the area. Ms. Beaudry said two lots are requesting R-8,000, but she does not know what the rest of the property will be zoned; it could remain R-9,600. Councilmember Boyer asked

what the zoning for the commercial area would be. Ms. Beaudry said it would be zoned Neighborhood Commercial.

The public hearing was opened. JOE WHITE OF 926 N. 30TH said he is opposed to expansion in agricultural areas. He suggested that this property be turned into a park instead.

MARSHALL PHIL OF BLUE LINE ENGINEERING, NO ADDRESS GIVEN, said he represents the owners, Blue Diamond Ranch Partnership. He said the owners do plan to build a subdivision on the property. Mr. Phil said the owners would prefer to not have "pocket-parks" and therefore would prefer a cash exchange for that land. He said the R-8,000 zoning is just adjacent to 54th St. and the rest of the property will be zoned as R-9,600. There were no other speakers. The public hearing was closed.

Councilmember Ronquillo moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. Mayor Tussing said he is concerned about providing public services to 250 new homes if the public safety levy is repealed. Councilmember Boyer said the whole City is growing and the public safety levy is needed. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTIONS levying and assessing FY2007 assessments:

A. Res 06-18490 Encumbrances, Obstructions, or Encroachments on, over, across or above the streets, avenues, sidewalks, or alleys of the City of Billings

B. Res 06-18491 Cost of cutting and/or exterminating weeds.

C. Res 06-18492 Park Maintenance Districts 4030 - 4033.

Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

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

6. PUBLIC HEARING AND RESOLUTIONS relevying and reassessing various assessments:

A. Res 06-18493 Respreading assessments for SIDs 1332 and 1341 for a property split

B. Res 06-18494 Respreading assessments for SIDs 1332, 1341 and 1353 for a property split

C. Res 06-18495 Respreading assessment for SID 1346 for a property split

D. Res 06-18496 Respreading assessment for SID 1356 for a property combination

E. Res 06-18497 Respreading assessment for SID 1360 for a property combination

F. Res 06-18498 Respreading assessment for SID 2203 for a property split

G. Res 06-18499 Respreading assessments for SIDs 2301 and 2399 for a property split

Staff recommends approval. (Action: approval or disapproval of the Staff recommendation.)

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

7. PUBLIC HEARING AND RESOLUTION 06-18500 renaming Broadview Drive, north of Uinta Park Drive to Twin Oaks Drive. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

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

8. PUBLIC HEARING AND RESOLUTION 06-18501 regarding petitions for Reduction of Arterial Construction Fee Assessments on eight (8) parcels. Staff recommends approval of the reduction for six parcels and denial of the reduction for two parcels due to failure to meet the criteria. (Action: approval or disapproval of Staff recommendation.)

Public Works Director Dave Mumford said this is the second year that Public Works has brought forward petitions for reduction in arterial assessments. He said these are single-family, owner-occupied homes that are located in zoning areas that are contrary to that use. Mr. Mumford said each year those individuals may petition to pay the \$35 assessment for single-family dwellings. He said this year the dept. received 8 petitions, but only 6 of those petitions met the necessary requirements. Councilmember Brewster said one of the owner's denied lives on the property. Mr. Mumford said it was meant for homes only and this particular individual runs a business with signage and a business license. City Administrator Tina Volek said the Council could postpone this item if it wants more clarification. She asked if there is still time to submit tax items. Mr. Mumford said it would be very close to the time that tax items are to be submitted. He passed around a photo of the business in question for the Councilmembers to peruse.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Ulledalen moved for approval of the Staff recommendation, seconded by Councilmember Boyer. Councilmember Brewster said he would not "hold-up" this item, but added that next year he wants the Council to have time to discuss the real intent of the initiative. He said the intent was to "cap" the tax where single-families lived in a commercial zone.

Mayor Tussing asked if the Council was being consistent in this decision. Mr. Mumford said the Council is being consistent and has turned down other requests involving businesses. Ms. Volek said the definition of a home-business in the City Code is "a business that does not occupy any more than 25% of the owner's home and is not signed". This individual would not fit the requirement, she noted. On a voice vote, the motion was unanimously approved.

9. PUBLIC HEARING AND SPECIAL REVIEW #824: A special review to construct a wireless communication antennae support structure of 125 feet in height in a Community Commercial zone on a leased portion of a 4.792-acre tract of land described as Tract 2A1, C/S 1965, generally located at Main Street &

Roundup Road. Ernie and Leann Dutton, owners; Verizon Wireless, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

City Planner Nicole Cromwell said Verizon Wireless has requested the construction of a monopole behind the former K-Mart building in the Heights. She said the Planning Department requested limiting the monopole to 125-feet and surrounding it by a 6-8 foot fencing. Councilmember Stevens asked why the structure is required to accommodate at least two additional comparable antennae. Ms. Cromwell said that is a City code requirement meant to limit the number of antennae support structures.

Councilmember Ruegamer asked why the 8-feet of barbed wire. Ms. Cromwell said the fence has to be "climb-proof", so the barbed wire has to be high to prevent injuries.

Councilmember Boyer asked how other cities deal with communication towers. Ms. Cromwell said Verizon will probably be coming to a Council meeting in the near future to show a number of creative alternatives for the towers. She added that this area is a "dead-zone" and there is not enough capacity in the area. Ms. Cromwell said this antenna will look more like a flag-pole that is "almost invisible". Councilmember Boyer asked if the Council should wait to make a decision until they see Verizon's creative alternatives. Ms. Cromwell noted that the business in front of the tower will probably "hide" the pole. City Administrator Tina Volek said she knows that some communities restrict the height of the towers, adding that 125-feet is not extreme.

The public hearing was opened. PAUL SLOTEMAKER OF 621 ALDER ST., SUITE 300, PORTLAND, OR. said he represents Verizon Wireless. He stated that the purpose of this proposed tower is to address lack of coverage, dropped calls, and limited capacity. He said that each facility can only handle a certain number of customers at any one time and the current facility is at capacity.

Councilmember Gaghen asked if another company were to attach its antennae to the tower what would be the agreement. Mr. Slotemaker said Verizon Wireless would own the tower and any other company would pay rent to Verizon Wireless to hook-up to the tower.

Councilmember Boyer noted that the site is 4.92 acres and asked what would occupy the rest of the area around the tower. Mr. Slotemaker said Verizon Wireless is only leasing a 40' x 50' plot for the tower and fencing around the tower. He said he does not know what else will be leased on the site. Councilmember Boyer asked if there would be landscaping around the tower. Mr. Slotemaker replied, "yes, landscaping is required." Ms. Volek said that many cities had experienced "speculative building" of towers in the past. She said currently the cell companies are only installing towers when the need arises.

CHARLES GOVIARE OF 2127 LINDALE LN. spoke in favor of the communication antenna for needed 911 calls in order to save lives.

OSCAR HEINRICH OF 4210 WELLS PLACE said he is not against cell phone towers, just against the tall ones. He said a 50-foot tower would be sufficient and just as good as a 125-foot tower. He added that this road is an entryway into Billings and the 125-foot tower would be "ugly".

There were no other speakers. The public hearing was closed. Councilmember Ruegamer moved to approve the Staff recommendation, seconded by Councilmember

Brewster. Councilmember Boyer asked if a shorter tower would work in this location. Councilmember Stevens said often the height of the tower is dictated by "line-of-sight" to the next tower. Councilmember Brewster said sometimes the extra height is needed to tie it into the network. He said they have to consider hills between the towers.

Councilmember Stevens said the company would not build more tower than it actually needs because of the expense. Councilmember Brewster said a 125-foot monopole is pretty expensive.

Councilmember Gaghen said the 4-A's protested the construction of the tower. Ms. Cromwell said City Planner Juliet Spalding had spoken with Mr. Dutton and 4-A's and an agreement had been reached.

Councilmember Brewster asked if there would be detachable steps from the tower so that people could not climb the tower. Ms. Cromwell said the City Code requires a 6-foot fence or "climb-shields", removable ladders are not required. Mr. Slotemaker said Verizon Wireless removes the lower pegs (used for climbing) from the tower because of liability reasons. On a voice vote, the motion was unanimously approved.

10. PUBLIC HEARING AND SPECIAL REVIEW #825: A special review to construct a senior housing community in a Residential-9,600 zone on a 14.77-acre tract of land described as Corrected and Amended Tracts 1-3 of C/S 1648 and generally located at the Southwest corner of Central Avenue & Shiloh Road, north of Bell Avenue. Robert & Bonnie Bell, owners; Carl Sanders of Mountain West Senior Housing, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planning Manager Candi Beaudry said this complex will provide multiple types of living units for the different needs of seniors. She said it is currently zoned R-9,600 and the plan meets the Shiloh Overlay District requirements. Ms. Beaudry said the applicant met with Belle Estates and Legends West Subdivisions to discuss the project and about 12 homeowners attended the meeting. She said there were no "serious complaints". Ms. Beaudry noted that at the Zoning Commission meeting, 5 residents came with concerns about increased traffic, the height of the structure and that they were not informed about the public meeting. She said the developer estimated the traffic in a senior housing complex to generate about 600 trips per/day compared to a subdivision of this size which would generate about 750 trips per/day. Ms. Beaudry said the maximum height of the structure will be 43 feet and the maximum height allowed in an R-9,600 zone is 34 feet. She stated that the average height in this structure would be 35 feet, only 1 foot higher than allowed in R-9,600. Ms. Beaudry pointed out that the structure has multi-rooflines, with "stepped-down" rooflines; i.e. the rooflines would not all be the same height. She said Mountain West sent notification to all the residents, but the letters may have been "tossed" because Mountain West used its letterhead.

Councilmember Stevens asked what group voiced its concerns. Ms. Beaudry said the voiced concerns came from the County subdivision residents, those south of Bell Rd. and west of Shiloh Rd.

The public hearing was opened. CARL SANDERS OF 3220 STATE ST., SUITE 200, SALEM, OR said he represents Mountain West Senior Housing. He said his company has built senior housing in 5 states and 26 communities. Mr. Sanders noted that

his company not only builds the structure, but also manages the “campus-setting” senior housing. He added that the senior population in Billings is growing and that additional senior housing will be required. Mr. Sanders said they anticipate providing 75 jobs to the community as well as increasing the property tax value.

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

11. PUBLIC HEARING AND SPECIAL REVIEW #826: A special review to construct a four-plex in a Residential-6,000 zone on a 11,850-square foot tract of land described as the West 79 feet of Lot 2, Block 1, Algeo Subdivision and located at 818 Avenue B. Derwood and Beverly Schrotberger, owners; Michael Stock, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Neighborhood Planner Lora Mattox said this property is currently an empty lot off of Grand Ave. She said the Zoning Commission gave conditional approval for the request. Mayor Tussing asked if there was a neighborhood plan for the area. Ms. Mattox said the Planning Dept. is in the process of putting together a neighborhood plan, although one has not yet been adopted. Councilmember Clark asked if there is other housing like this on Avenue B and 9th Ave. Ms. Mattox said this neighborhood is a real mix of housing types and density.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Stevens moved for approval of the Staff recommendation, seconded by Councilmember Gaghen. Councilmember Gaghen asked if the Schrotbergers are resident owners. Ms. Mattox said that Michael Stock is the new owner. On a voice vote, the motion was unanimously approved.

12. PUBLIC HEARING AND SPECIAL REVIEW #827: A special review to construct a reinforcing steel fabrication facility in a Controlled Industrial zone on a 1.84-acre tract of land described as Lot 3, Block 5, Tierra Yellowstone Industrial Subdivision and generally located South of Gabel Road at the intersection of South 29th Street West. Tony Creek, LLC, owner; Engineering, Inc., agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

City Planner Dave Green said the property is surrounded by a Controlled-Industrial zone. He said all the businesses in the area are manufacturing operations.

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

13. PUBLIC HEARING AND SPECIAL REVIEW #828: A special review to locate an all-beverage liquor license with gaming in a Controlled Industrial zone on a 4.14-acre tract of land described as Lot 11, Block 1 of Broso Valley Park Subdivision and located at 3398 Broso Park Drive. Big Horn Resorts, LLC, owner; Doug Braham, Divide Development and Engineering, Inc., agent. Zoning

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

City Planner Nicole Cromwell said this request is for an all-beverage and gaming business with a separate restaurant. She said this location is zoned Controlled-Industrial. Ms. Cromwell said it will be part of the Wingate Inn Convention Center and Waterpark complex. She said they will have patio dining. Councilmember Clark asked if the Wingate Inn is currently under construction. Ms. Cromwell replied, "yes, it is under construction." Councilmember Brewster asked if this restaurant is related to the restaurant in Livingston. Ms. Cromwell said, "yes, it is."

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

14. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #790: A zone change from Residential-9,600 to Neighborhood Commercial on a 0.913- acre parcel of land described as the North 1 acre (less 3,795 sq ft for street) of the E2 of Lot 2 in the NE4 of Section 9, Township 1 South, Range 26 East and located at 4130 State Avenue. Guy & Lloyd Romero, owners; George Esparza and Valerie Dangerfield, agents. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Neighborhood Planner Lora Mattox said this is a change from R-9,600 to Neighborhood Commercial and is currently a vacant lot. The request is for a future restaurant at this location. The public hearing was opened. Councilmember Ulledalen asked George Esparza to explain to the Council his plans for the location.

GEORGE ESPARZA, NO ADDRESS GIVEN said he is starting a national franchise with Billings as the headquarters. He said the name of his company is "Taco-Burrito". Mr. Esparza said he will build kiosks that are 10' x 22' and will bear the "Made in Montana" insignia. He stated these kiosks will be shipped all over the nation. Mr. Esparza said his restaurants will have "real Mexican food". He said they will use this property as the "showcase of Taco-Burrito". Mr. Esparza added that Montana is ready for a "boom" and he is excited about Montana. Councilmember Brewster said that Mr. Esparza is "in the right-place at the right-time".

Councilmember Gaghen asked how Mr. Esparza would market his product. Mr. Esparza said the restaurants are strictly takeout, but will have outdoor seating in the summer time. Councilmember Gaghen said the land that Mr. Esparza has purchased is urban renewal and he has "done a favor to the neighborhood" by purchasing it.

VAL DANGERFIELD OF 2940 GRAND AVE. said she is Mr. Esparza's realtor. She said the building becomes a permanent building once it is moved onto the lot, adding that it will be hooked-up to City services. Ms. Dangerfield said it goes along with the State Ave. plan of moving commercial down the street. She said they have had no objections from the neighbors.

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

15. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #791: A City Council-initiated zone change to correct the zoning from Public to Residential-9,600 on a 20,022 square parcel of land described Lots 19 and 20 of Block 61, Lake Hills Subdivision, 27th Filing and located at 241 and 301 Glenhaven Drive. Lloyd & Leon Irvine and Laura Dimmler and Robert Guisti, owners; City of Billings, agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

City Planner Nicole Cromwell said this zone change was an error on the City's part. It is listed as Agricultural-Open, which is not allowed in the City limits. This zoning issue had not arisen until one of the homeowners came for a building permit, which is not allowed in an Agricultural-Open zone. The zone change is to correct the City's oversight.

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

16. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #792: A City Council-initiated zone change to correct the zoning from Agriculture-Open Space to Public on a 202-acre parcel of land described as Tract 1 of C/S 2432 and Tracts 1-8 & 11 of C/S 2037 and generally located on Airport Property. City of Billings, owner/agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

City Planner Nicole Cromwell said this zone change is another error on the City's part. This property was acquired by the City for noise abatement in 1988 when it was annexed, but a new zoning designation was not assigned at that time. The City has no plans for this property.

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

17. CITY ADMINISTRATOR CONTRACT with Tina Volek. (Delayed from 9/11/06) (Action: approval or disapproval of contract.)

Councilmember Brewster moved to delay the contract until the October 10th Council meeting, seconded by Councilmember Ruegamer. Councilmember Brewster said the contract body is essentially what the committee will recommend. He said there were some issues with the evaluation document that they want to resolve. Councilmember Brewster asked the Councilmembers to read through the contract and let the committee know if they object to any item. He asked that the committee meet next Monday, October 2nd at 4:00 p.m., prior to the Work Session. Councilmember Ulledalen said the review process should be geared to input from the community. On a voice vote, the motion was unanimously approved.

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.)

City Administrator Tina Volek reminded the councilmembers that the Agenda Review meeting would take place tomorrow at 5:30 p.m. in the City Hall Conference Room.

Ms. Volek said October 9th is a Holiday (Columbus Day) and City Offices will be closed. Therefore, the next City Council Meeting would be on Tuesday, October 10th.

There were no other speakers.

COUNCIL INITIATIVES

COUNCILMEMBER RUEGAMER: moved to have Staff look into buying a bus that would run on bio-diesel fuel, seconded by Councilmember Gaghen. Ms. Volek said there is an item on the agenda for the October 10th Council meeting listing City vehicles to be purchased, including bio-diesel fuel. Mayor Tussing asked how many of the City's vehicles would be able to use the bio-diesel fuel. Deputy City Administrator Bruce McCandless said the City's Motor Pool has researched the question and found that current City diesel vehicles can use fuel with up to a 10% bio-diesel blend.

Councilmember Ruegamer said a merchant he talked with suggested buying 100% bio-diesel fuel from his "grease pit". Councilmember Ruegamer added that he thinks the merchant may raise the money to buy the bus. Councilmember Jones said the City has an Energy Commission and that this issue should be handled by that Commission. He said the Council is getting ahead of itself and should perhaps discuss this issue further at a Work Session. Mayor Tussing said one of the reasons he appointed the Energy Commission was because he knew that Northern Plains Resource Council was putting together a petition to require the City to use bio-diesel fuel. He added that the Energy Commission's next meeting is October 6th.

Councilmember Ruegamer said he would withdraw his motion and would tell the merchant to talk to Transit Manager Ron Wenger. Councilmember Gaghen agreed to withdraw her second. Mayor Tussing said Mark Evangeline from the Airport is the Staff person on the Energy Commission. He added that he wants more information before the Council makes a decision.

Councilmember Stevens said this is why she wanted technical people on the Energy Commission - so they could look at this project to determine if it is feasible or not. Councilmember Ulledalen said there are 2 types of bio-diesel; (1) those made from 10% vegetative-type matter and (2) those made with grease. He said the bio-diesel will work fine in the summer time with our climate, but will not work in the winter time. Councilmember Ulledalen said the other issue is emissions. He said bio-diesel emits three-times the nitric-oxide that conventional diesel fuel emits, adding we would have additional air pollution in the City. He said it "sounds wonderful", but in reality it is not wonderful.

COUNCILMEMBER BREWSTER: moved to place the Alkali Creek Rd. project on the Council study agenda, in order to review with the Council the unfinished product, seconded by Councilmember Stevens. Councilmember Stevens said she is meeting with Mr. Mumford and Ms. Volek on Friday, September 29th to discuss concerns with the Alkali Creek Rd. Ms. Volek said the road is not finished, but she is glad to review with councilmembers the plans for the road. Councilmember Brewster said the equipment is gone and the project looks finished for this year. Ms. Volek said the work is not completed.

Councilmember Brewster said the folks out there think the contractor has gone and they are “stuck with what is left”. He suggested some sort of public presentation be done of what is planned. Councilmember Clark said at the ribbon cutting it was stated that all the projects were completed and “they are not”. On a voice vote, the motion was approved.

COUNCILMEMBER CLARK: asked when the Council would receive a financial review covering the travel budget. Ms. Volek said there is a Work Session scheduled in October covering the first quarter initiatives and budgets.

Councilmember Clark noted that someone had driven down the grass divider on the new portion of Zimmerman Trail and tore up the planted area.

Councilmember Ronquillo complemented Ms. Volek and Staff for making progress around Pioneer Park. He said there is another problem down on S. 29th St. where they are building a tent-city and intimidating pedestrians in the area. Ms. Volek said that Staff will look into the situation.

Councilmember Boyer said she wanted to thank Chief St. John for sending patrol cars to 5th Street and thus reducing speeding cars. Councilmember Clark said he thinks the police are just doing a better job overall. Ms. Volek said Chief St. John’s plan will produce results on the streets.

ADJOURN - With all business complete, the Mayor adjourned the meeting at 9:15 p.m.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Tami Greeley Deputy City Clerk