

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 11, 2005

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 Charles F. Tooley called the meeting to order and served as the meeting's presiding officer. The Pledge of Allegiance was led by Deputy Mayor Larry Brewster, followed by the Invocation, which was given by Councilmember Ed Ulledalen.

ROLL CALL – Councilmembers present on roll call were: Gaghen, McDermott, Brewster, Brown, Ruegamer, Veis, Boyer, and Ulledalen. Councilmembers Clark and Jones and Mayor Tooley were excused.

MINUTES – June 27, 2005. APPROVED as printed.

COURTESIES - NONE

PROCLAMATIONS – NONE

BOARD & COMMISSION REPORTS – **Billings Partners for American Indian Home Ownership**

- Maria Valandra, Co-Chair of the Billings Partners for American Indian Home Ownership said the agency has been in existence for two (2) years. She said the organization is a spin-off from the Affordable Housing Task Force and is designed to promote homeownership for American Indians in the greater Billings' community. She noted that only 6-10% of population in the Billings area is American Indian and of that number only ¼ of them are homeowners. This compares to 67% Caucasian homeownership. The homeowner process was started with a survey conducted 2 years ago that indicated there are three (3) reasons why American Indian homeownership is low. Those reasons are that this group: 1) lacks the "know how" to get started and involved in home buying, 2) lacks the ability to afford a down payment, and 3) believes they cannot afford a home. She said three (3) "Lunch and Learn" sessions have been conducted with American Indian employers such as the Bureau of Indian Affairs and the Indian Health Service to educate their staff on how to become a homeowner. Ms. Valandra noted that realtors, lenders and consumer credit counselors have taken part in these one-hour sessions that are geared toward educating the consumer. The goal is to promote homeownership and "walk" people through the process. She noted the partners that are involved in the Billings Partners for American Indian Home Ownership and their contact numbers. She distributed informational pamphlets and noted that their agency has a link on the City's website.

- Chris Dimoch, Chair of the Big Sky Economic Development Corporation (BSEDC) Board of Directors thanked the Council for its vote of confidence and support. He said the BSEDC is a public/private partnership (50 member investors) with a goal of building the regional economy by assisting existing businesses grow and to recruit new high-quality businesses to the Billings area. The partnership has been successful. He

noted the investment the Council has made in BSEDC will ultimately increase revenues for the City.

ADMINISTRATOR REPORTS – Tina Volek

- Interim City Administrator Tina Volek gave a status report of the Wells Fargo negotiations. She said there are two (2) tasks to accomplish: 1) submit site information and a Phase I environmental study on the Transit Center site to the Federal Transit Administration (FTA) and 2) negotiate with Wells Fargo on the lease. Once approval of the site and environmental studies are completed the negotiations can continue with Wells Fargo. Two commercial appraisals have been completed on the site and a review of the appraisals is expected at the end of this week. The FTA must approve the appraisal review and estimated that the grant will be approved by the end of August. She said a lease document has been received from Wells Fargo on May 24th and is acceptable to the City. A property value lease valuation was completed June 27th and a revised lease with the proposed rate was included in a new lease agreement sent to Wells Fargo in San Francisco on June 28th. A June 30th conference call with Wells Fargo included the subject of the lease rate, language to set renewal terms, additional bank usage of the space and expansion of the proposed terms. She noted the lease negotiations are not holding up the purchase.

- Ms. Volek noted that Items 1A, B4 and 8 had revised staff memos that were provided in the Friday packet. A letter from Engineering, Inc. relating to a requested postponement for Item 4 was also included in the Friday packet. She said a revised staff memo for Item 9 and two letters concerning the Master Plan at Pow Wow Park were on the Councilmember’s desks this evening. Ms. Volek also noted that a request to remove Item I from the agenda was made to allow the surplus equipment to be sold at the City auction where Eagle Mount could competitively bid on it at that time.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #9 & #10 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda.)

- TOM ZURBUCHEN, 1747 WICKS LANE, spoke on Item P. He urged the Council to table the formation of the Tax Increment District related to the proposed Sandstone Development to the next meeting and use that as leverage against the risk to the City that is involved in this project.

- BILL COLE, NO ADDRESS GIVEN, asked the Council not to table Item P and to approve the formation of the TID. He said there is nothing that binds or commits the City to the Sandstone project by creating the Tax Increment District.

- JUDY HAUKE, 2549 LEWIS AVENUE, spoke regarding Item 10. She said the property is available for residential financing as a 4-plex but its use and purpose must comply with the zoning. She noted a prior blanket zoning change. She asked the Council to approve the zone change request.

CONSENT AGENDA:

1. A. Mayor's Appointments:

Action delayed from 6/27/05.

	Name	Board/Commission	Term	
			Begins	Ends
1.	Crystal Berg	Human Relations	07/01/05	12/31/09
2.	Delayed to 7/25/05	Animal Control	07/01/05	12/31/09
3.	Jack Lawson	Board of Adjustments	07/01/05	12/31/09

1. Unexpired term of Gayle Tompkins.

B. Bid Awards:

(1) **AIP 29 – Schedule I: Taxiway “G” Improvements.** (Opened 6/28/05). Recommend Empire Sand and Gravel, \$1,486,988.05.

(2) **AIP 29 – Schedule II: Commercial Ramp Improvements.** (Opened 6/28/05). Recommend rejecting the sole bid and rebidding at a later date.

(3) **Airport Wheel Loader.** (Opened 6/28/05). Recommend RDO Equipment, \$135,000.00.

(4) **W.O. 04-30: West Wicks Lane & Governors/Gleneagles Blvd. Traffic Signal Installation.** (Opened 6/28/05). Recommendation to be made at meeting Yellowstone Electric, \$157,711.22.

(5) **W.O. 04-31: Gold Dust Drainage.** (Opened 6/28/05). Recommend C & S Construction, \$29,085.36 and 21 calendar days.

C. Amendment #3, Professional Services Agreement, W.O. 04-12: Alkali Creek Road Reconstruction, Kadrmas, Lee & Jackson, Inc., up to \$10,000.00.

D. Contract for IP-8 Building Mold Remediation, Environmental Contractors, \$27,175.80.

E. Professional Services Contract, Library Building Renovation, A & E Architects, \$13,650.00.

F. Renewal of Contract for Lobbyist Services, Jani McCall, term: 7/1/05 to 6/30/06.

G. Extension of Animal Control Contract with Yellowstone County.

H. Acceptance of AIP-29 grant from Federal Aviation Administration (FAA), \$3,111,250.00, City match is \$163,750.00.

~~**I. Declaring as surplus one used paratransit van and authorizing staff to negotiate a sale of the van to Eagle Mount.**~~

J. Amendment to Development Agreement with Faith Chapel, aka International Church of the Foursquare Gospel, and Douglas W. McGregor and Barbara G. McGregor, Trustees for right-of-way improvements on Shiloh Road.

K. Street closures:

(1) Billings Association of Realtors 2 and 5-Mile Run. August 27, 2005. Masterson Circle on Hwy 3 down Airport Road, right on 27th Street; right on Rimrock Road; left on Virginia Lane, through Pioneer Park; left on 3rd Street West; right on Parkhill; right on 32nd Street, to corner of 6th Avenue N. and 32nd St.

(2) Big Sky State Games 5K Run. July 15, 2005. 3rd Street West at Grand Avenue and Parkhill Drive; and Virginia Lane, 3rd Street West and Parkhill Drive.

(3) Big Sky State Games Cycling Race. July 16, 2005. Usage of 62nd Street West up to Block 14 and Track 2 of Molt Road.

(4) Big Sky State Games Cycling Mountain Bike Race. July 17, 2005, regarding usage of Black Otter Trail.

(5) Big Sky State Games Triathlon. July 17, 2005. Heights area streets.

L. Resolution of Intent 05-18302 to Create SID 1368: Annandale Road improvements between Cherry Hills Road and Greenbriar Road and setting a public hearing for 8/8/05.

M. Resolution of Intent 05-18303 to Create PMD #4028: Vintage Estates Subdivision and setting a public hearing for 8/8/05.

N. Second/final reading ordinance 05-5332 amending the BMCC by adding Sections 18-1101 – 18-1116; prohibiting graffiti, defining terms, providing for a procedure whereby graffiti can be remediated, establishing an effective date and providing a severability clause.

O. Second/final reading ordinance 05-5331 for zone change #755: a zone change from Public to R-7,000 on a 14,673 square foot tract of land formerly known as Holfeld Park and located in the SW4 of Section 27, T1N, R26E, north of Swords Lane and south of Alkali Creek and the Billings Bench Water Association canal. Blake Laughlin and PRPL, owners, Engineering, Inc. agent.

P. Second/final reading ordinance 05-5333 relating to the Downtown Redevelopment District and the creation of a new Urban Renewal Area; authorizing the removal of certain property from the Downtown Redevelopment District, establishing such property as a new 27th Street Urban Renewal Area, adopting an Urban Renewal Plan, therefore including a Tax Increment provision, approving an Urban Renewal Project therein and authorizing the issuance of Tax Increment Urban Renewal Revenue Bonds.

Q. Final Plat of Cottonwood Grove Subdivision, 2nd Filing.

R. Bills and Payroll.

- (1) June 10, 2005
- (2) June 17, 2005
- (3) June 27, 2005

(Action: approval or disapproval of Consent Agenda.)

Councilmember McDermott separated Items B4, B5 and P from the Consent Agenda. Councilmember Brown separated Items K and N from the Consent Agenda. Councilmember Boyer separated Item E from the Consent Agenda. Councilmember Veis separated Item I from the Consent Agenda.

Councilmember McDermott moved for approval of the Consent Agenda with the exception of Items B4, B5, E, I, K, N and P, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item B4 of the Consent Agenda, seconded by Councilmember Brown. Councilmember McDermott asked if the bidder information concern relating to a non-responsive bidder was resolved. Interim City Administrator Tina Volek said the concern was that the low bidder did not have a certified person on staff at the time of the bid. The second low bidder did have the required certified person on staff. Councilmember Brown noted some accusations that the City has tried to improperly eliminate a bidder from the bid process. City Engineer Vern Heisler said the engineer's estimate, the bids submitted and the bid process are good and the lowest responsive bidder has the appropriate certification (ISMA Signal Electrician Level II Certification) required by the bid documents. He noted that the legal department was consulted during the process. On a voice vote, the motion was approved with Councilmember Brown voting "no".

Councilmember McDermott moved for approval of Item B5 of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember McDermott asked if this issue was similar to the item on a prior agenda (approval of \$19,000 for Calico Avenue project) that concerned stormwater drain capacity problems. She said there are several areas in the City that have similar problems but the residents have been informed that their only recourse is to form an SID. She asked why the City is paying for some repairs and not others. Mr. Heisler said this is an engineering contract for repairs due to a minor storm event that concerns stormwater coming off of City streets and is the City's responsibility. He said the City is responsible for correcting design problems and the associated repairs when the stormwater drainage from street run-off is not handling the capacity. Councilmember McDermott asked if there is a policy relating to this issue that would provide the Council with guidance. Mr. Heisler said he was unaware of a policy, but noted that some storm drain systems are undersized and storm drain funds are available to solve the design problems. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item E of the Consent Agenda, seconded by Councilmember Gaghen. Councilmember Boyer referred to Section 9 of page four of the contract and asked why the new language that affects architects and engineers was added to the contract. City Attorney Brent Brooks said the change was made to protect copyright issues. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for withdrawal of Item I of the Consent Agenda, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item K of the Consent Agenda, seconded by Councilmember Brown. Councilmember Brown asked if there is a fee for street closures and events such as "Alive After Five". Ms. Volek replied "no". Acting Parks and Recreation Director Gene Blackwell said the event applicants are responsible for costs involved in clean-up and the special event process. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item N of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember Brown asked what the Parks and Recreation Department does about graffiti in the parks. Mr. Blackwell said the department removes the graffiti (by painting) as soon as possible and notifies the Police department so that the offenders can be monitored and apprehended. Councilmember Brown asked how the graffiti on the sandstone Rims in Pow Wow Park can be removed. Mr. Blackwell said the only method would be to sandblast or grind off the markings. Councilmember Boyer noted the Council previously expressed a desire to re-evaluate this graffiti ordinance after a six-month period. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item P of the Consent Agenda, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved with Councilmembers McDermott, Gaghen and Brown voting "no".

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 05-18304 adopting the Pow Wow Park Master Plan. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Acting Parks and Recreation Director Gene Blackwell said the Master Plan as recommended is a final draft plan so it may be adopted as recommended or with changes. The focus of the plan is on Pow Wow Park, but there also was consideration of possible trail alignment with the Heritage Trail. He said the recommendation is for a bridge access at Alkali Creek School to the park. A trail (either soft or hard surface) running the length of the park (from Judicial Avenue to Quiet Water Avenue) is also recommended, leaving the park as natural as possible.

Mr. Blackwell said the public input and planning process began in December with public meetings on March 29th and April 27th. The recommended plan alternatives were reviewed on May 26th. He said five major concerns from the public input process were: access, safety, maintenance, trespassing and resource protection. The recommended plan complies with the 1998 Parks 2020 Plan, the 2003 Heritage Trails Plan, the City/County Growth Policy and is consistent with adopted master plans for other natural community parks.

Mr. Blackwell said the plan provides better access by a centralized access point for the park from a bridge at the school grounds. The bridge is planned to span the floodway and allow vehicle access if needed. It is also designed to accommodate a wide range of

physical abilities. The access also considered school routes through the park currently used by school children. He said the plan improves public safety through the design specifications for the trails that provide safer surfaces and grades. Easier access allows for better inspection and maintenance of the park when required. He noted that planned trails offer better security and safety and improved emergency access for persons requiring medical assistance while using the trails. Mr. Blackwell said easier access also aids the City crews during their maintenance duties. He stated the improvements that are proposed are being located away from sensitive areas so are less costly to maintain. He said trespassing issues are an important subject with the neighborhood. The plan proposes to clearly mark the boundaries of the perimeter of the park. The centralized trail will confine most of the use and activity away from the less accessible areas so that disturbance to adjacent property owners is minimized. He said resource protection was another important issue with the adjacent property owners. The proposed improvements are appropriate to a designation as a community natural resource park where the trails are located and follow the contours of the park. Mr. Blackwell said the improvements avoid the floodplain and the steeper areas of the park. He said less than 5% of park would be altered as proposed.

Mr. Blackwell said the Parks, Recreation and Cemetery Board held a public hearing and considered the plan on June 8th. He said the Board recommended approval of the proposed Pow Wow Park Master Plan with a trail through the park using hard or soft surface materials, depending on whether federal funding would make construction of a hard surface trail less expensive than a soft surface trail. He said CTEP funding is easier to obtain than recreational trail funding and the local match for CTEP is 18% as opposed to 50% for the recreational trail funding. Mr. Blackwell noted there are no committed funds for this project so the plan is conceptual at this point and further development would have to wait for available funding. There is currently \$410,000 available for trail construction in the Alkali Creek Corridor. Planning Director Ramona Mattix said the trail along Alkali Creek will be funded with CTEP money and the match from Gas Tax and the \$410,000 is air quality funds (Mackey Funds) with a similar local match.

Councilmember Ulledalen asked what the options are for the soft surface trail. Mr. Blackwell said the trail would have a gravel base with any number of aggregate types of surface material that firms up and can include some cement products. Most forms of travel can be accommodated with this type of trail with the exception of roller blades and street bikes. Councilmember Ulledalen asked what type of process would be required to change the Master Plan if in five or ten years the will of the community changed. Mr. Blackwell said the City would have to go through a similar process including public input and Council approval.

Councilmember McDermott asked how Alternative #2 & #3 came about. Mr. Blackwell said the Staff recommended Alternative #2 to provide the option for a soft surface trail. After consideration the Board felt Alternative #3 with a hard surface trail should also be included as an option.

Councilmember Brown asked what is meant by "accessibility issues the City is required to mitigate in its parks" in Alternative #1. Mr. Blackwell said the City is responsible to follow all ADA accessibility regulations in any development that is completed in the park. He noted there are some exceptions such as with natural areas where the terrain limits the ability to provide the accessibility, but as soon as facilities are

installed the ADA requirements must be met. He noted that some ADA accessibility will be required at the terminus of the bridge.

Councilmember McDermott asked if there are any other parks in the City that are in a completely natural state other than Pow Wow Park. Mr. Blackwell said there are two parks near the Rims and additional areas near Riverfront Park.

The public hearing was opened. DICK FINDLEY, 447 INDIAN TRAIL, said Pow Wow Park is unique, not in the heart of the City and should not be developed as other City parks. He said it is a natural area where wildlife is abundant and school children watch many animals from their classrooms. He said many people have written the Council to implore the City to keep the park natural. Mr. Findley said the park is "working" in its present state and used by a wide range of enthusiasts, such as hikers, dog-walkers, joggers and bikers. They use the natural trails without resource damage. He said the community would like to see better access near the school to enable all City residents to use this unique treasure. An access at the school would allow better access to the park for the school children and permit visitor parking ability via the school for other users. Mr. Findley said he supports the multi-use trail along Alkali Creek Road as the trail portion of the Heritage Trail and not one through the park that will cause damage to the park during the construction process. Construction of the trail along Alkali Creek Road started last week. He said the City does not need to duplicate this trail with another one that will run parallel and be at times only 100' from it in the park. He asked the Council to approve a master plan for Pow Wow Park that: 1) provides additional access to the park with a bridge with a maximum width of 4' at Alkali Creek School, 2) leaves Pow Wow Park natural with no improvement to the existing trails and no additional bridges within the park, 3) directs that remaining federal grant monies be used to link the Alkali Creek Road multi-use trail to the Heritage Trail system, and 4) removes the multi-use trail from the park plan.

ANNETTE BROWN, 544 WIGWAM, said she has lived in her home that is about a block from the park for 34 years. Their entire family has used this beautiful park for years. The park is a source of caves to explore, beaver dams to visit and rimrocks to climb. She said she supports a bridge access to the park but any further development with heavy equipment will destroy the habitat. She asked the Council to consider leaving the simple dirt paths because concrete paths would be out of character with and difficult to maintain in the park. She asked the Council to approve a simple access over the creek at the school and leave the park natural.

RICK LUBKEMAN, 540 INDIAN TRAIL, said he wants to ensure that the money in the parks is well spent. The voters of the City approved a plan to improve Alkali Creek Road that includes a new hard surface multi-use trail that provides a means to safely navigate the Alkali Creek area by bicyclists and pedestrians. He said the City should not spend additional funds to construct an additional multi-use trail that will be a mere 100 yards from an existing one. This does not make good fiscal sense. He said the Council has the obligation to ensure the money appropriated to a project must be used where it is needed and where the citizens want it spent. Mr. Lubkeman said the Pow Wow Park project has been handled poorly since its inception and it is the Council's obligation to make it right. He said he has lived in the Pow Wow Park area for 12 years and wants to continue to enjoy its quiet and natural atmosphere for many more years.

LINDA BUCKINGHAM, 531 INDIAN TRAIL, responded to comments made by Mr. Blackwell. She said people use the natural trails in the park and don't venture off of them.

She said there is no vehicular damage to the park. She noted that Alkali Creek residents have never discouraged anyone from using the park. Pow Wow Park is little known and most citizens of Billings are not concerned about the park. The voters of Billings have rejected a bond issue to build a pool in the Heights and she did not think they would want to spend twice as much money on two trails that parallel one another in the Alkali Creek area. She said the park is a natural park and does not need to be maintained nor has she ever seen anyone attempting to maintain it. Ms. Buckingham said Ms. Reich noted that some of the grades were more than 5% and would restrict ADA access, so she did not understand how access would be available to everyone. She asked the Council to approve Alternative #1 and remove Pow Wow Park from the Heritage Trail Master Plan.

MELANIE HOEFLE, 734 INDIAN TRAIL, said she lives across from Pow Wow Park. She reminded the Council that she led some of them on a tour of the park on Sunday. She said she thinks the trail is a bad idea because the machinery used to build the trail will "ruin the habitat and the nature trail won't be that natural anymore."

CHRIS SCHMECHEL, 5546 BILLY CASPER DRIVE, said during the past seventeen years she has resided both in West Billings and the Alkali Creek area. She said her entire family enjoys biking and walking and are avid trail users. She joined Bikenet because she noticed that many trails are being closed to public access. The Council approved the Heritage Trail plan in 2004 and she is confident they recognized the value of a scenic system providing access to the City's nature areas. Many other cities are recognizing the economic value of these community trail systems and are benefiting from their construction. She said the opposition to the Pow Wow Park Master Plan is not unique and many cities have had similar opposition when implementing their trail plans. Mr. Schmechel urged the Council to "stay the course" and approve the master plan for Pow Wow Park so that all the citizens of Billings can benefit.

AUDREY ROSBERG, 833 ALKALI CREEK ROAD, said she lives across the creek from Pow Wow Park. She said she can't use the park because there is no access and it is a mess and very unsafe. Ms. Rosberg said many people that live near the park are prevented from using it because of these issues. She said there is a "win-win" scenario and that is to develop 5% of the park (with either the hard or soft surface trail) and leave the other 95% natural. She encouraged the Council to "stand with all of the people" and potential park users, not just the adjacent property owners.

MARGY BONNER, 4613 TOYON DRIVE, said she is an avid biker and runner and has done so on 95% of the improved and unimproved trails in the City. She said she is familiar with Pow Wow Park and at times it is very difficult to access the park without getting your shoes wet and muddy. The access is difficult and she may have been on private property, unintentionally, in order to access the trails. She said Pow Wow Park should be open and accessible to all citizens of the community and the trails will be a good investment for the City. Ms. Bonner said the mission statement of the City is to "use the resources for all the citizens of Billings". She asked the Council to adopt the master plan as recommended and make that precious resource open and available to all the citizens of Billings.

DOUG BUCKINGHAM, 531 INDIAN TRIAL, said running big earthmoving equipment down 5% of the middle of the park impacts all of the land. He said the type of land the Council is considering ripping up is not easy to reclaim. There are no weeds in the area now, but they will be introduced via the project. He said the park only has room

for one access point. He would like to see the bridge constructed so that everyone can enjoy the park. Don't destroy the natural aspect in order to create the access, he added.

JACK STERLING, 815 SERGEANT AT ARMS, thanked the Councilmembers that toured the park Sunday. He said the adjacent property owners aren't trying to keep anyone out, but would like better access. He urged the Council to provide better access to the park with the bridge at the school and change the Heritage Trail to comply with the mill levy that the voters approved.

AL OLDHAM, 471 INDIAN TRAIL, said he has lived near the park since 1978. He enjoys the park but his only concern is for the vandalism and destruction of property that will occur with development of the park. He said he has worked in crime prevention for 34 years in Billings and understands how vandalism can be a big problem. Mr. Oldham asked the Council to keep the park safe from vandalism.

RITA FELLER, 760 JUDICIAL, asked the Council to leave Pow Wow Park natural. She said she built the first house adjacent to Pow Wow Park over 45 years ago and it was the natural ruggedness of the area that appealed to her. When she landscaped her backyard, she cleaned up the park area between her lot and Alkali Creek. Ms. Feller said she continues to maintain that area, but it has led to vandalism and trespassing. She distributed pictures of graffiti that was recently discovered at the park, which she attributes to the recent notoriety the park has received due to the master plan process. It has been proven that crime escalates when parks are developed and this concerns their neighborhood. A developed trail will encourage and provide easier access to the few people who mean to do harm. She supports the bridge access at the school, but not further development of the park.

BRADD CRANSTON, 617 INDIAN TRAIL, said he recently purchased his house and moved here looking for the security, serenity and safety of the Alkali Creek area. He said he believes the park development will impact the property values and security of the neighborhood and the wildlife that will get pushed further out of the park. He agreed with a previous speaker that altering 5% of the park still impacts 100% of it. Mr. Cranston said he empathizes with handicapped people and those in need of emergency services, but asked "at what cost?" There are a variety of parks in the Billings area with ADA access, he noted. Pow Wow Park is part of the diversity of the City and should remain as it is.

CAROL STERLING, 815 SERGEANT AT ARMS, thanked the Council for allowing this public hearing that gives the concerned property owners an opportunity to provide the Council with information that will assist in its decision. She asked the Council to consider "is it really an improvement when nature is destroyed as a means to the end?" Once nature has been destroyed or changed it can never be returned to its former state. She said she speaks for many who want to continue to enjoy the flora and fauna as it currently exists in Pow Wow Park. This park is truly valued for its uniqueness. Ms. Sterling is only asking for a simple bridge located near the sign that identifies the Alkali Creek Nature Trail to assist with access across the creek. She noted there is a curriculum that was written for the Alkali Creek Elementary School that goes with the Nature Park. She asked the Council to support Alternative #1.

SENATOR KIM GILLAN, 750 JUDICIAL, said it was 10 years ago when the adjacent property owners convinced the Council to consider purchasing this unique natural area that has become Pow Wow Park. A "gentleman's agreement" may have accompanied the purchase that would keep the park natural and make it understood that

no funds would be spent on improvements. She said her concern is that this issue is pivoting on the decision of whether or not to have a bike trail. In the previous election 961 voters in the Heights area supported the bond issue to improve the roads (Alkali Creek Road) including the bike trail and 930 voters did not support it, but in the Alkali Creek area the vote was 2 to 1 in support of the improvements because of the bike trail. She said she hoped the Pow Wow Park project will not become a pro or anti bike trail issue. Senator Gillan urged the Council to keep the park natural but improve access with a bridge.

SARAH KELLER, 1809 BRIARWOOD BLVD., said she is an avid cyclist, runner and tri-athlete. She said she is a professor at MSU-B in communications and noted there have been many inconsistencies in the public testimony tonight, such as: 1) cyclists are at risk on roadway while riding in marked bike lanes, 2) the proponents of the bridge access in the park are concerned about the potential increase of users and the resulting vandalism. She stated that more eyes on a street decreases crime, and 3) most of Billings is unaware of Pow Wow Park, but the Council is doing the citizens of Billings a favor by raising the awareness of the opportunities for exercise in this park because of the current and severe obesity crisis and physical fitness problem. Ms. Keller encouraged the Council to create more opportunities for exercise.

KIM WILLEMS, 121 MORNINGSIDE, said the multi-use trail that will be alongside the road will be separated with landscaping between the road and the lane. The trail will be open and accessible to all members of the community, but the property owners adjacent to Pow Wow Park have much to lose. She said the master plan will change the view from their kitchen windows, invite the public within a few feet of their yards, place their children in danger, and rob the neighborhood of the natural beauty that currently exists. Ms. Willems said she enjoys seeing the trail users in the Swords Park area, but asks if the Council would like to have a parking lot in their backyard. Many of the property owners near Pow Wow Park live that close to the proposed trail. She asked the Council to come and enjoy Pow Wow Park but leave it as it is and has been for many years.

BRUCE LARSEN, 316 BENCH BLVD., said he is very privileged to have a multi-use trail directly across from his home. If the opponents of the trail in Pow Wow Park had the opportunity to have the "trail experience", he is certain their opinions would be swayed. He said trails are a tremendous asset to the community. Mr. Larsen said the Heritage Trail plan connects everything within the City without having to travel on a road. The link between Judicial and Quiet Water is a premium case for where a trail should be located. He noted there is no increase in vandalism because of the trail near his home; in fact he considers the trail an asset to his property.

JOE KANE, 3015 SILVERWOOD STREET, said he is in favor of Alternative #3 for the Pow Wow Park Master Plan. He said he has lived in Billings most of his life and has tried to bike on most of the trails in Pow Wow Park. The great thing about the trail system is that it connects him to many different areas that by living on the West End he would not have had the opportunity to visit. He said the best place to watch the sunrise is on a trail above Two Moon Park and the best view of Yellowstone River is from Mystic Park. He said it is amazing that these trails give people the opportunity to access wildlife and nature. Mr. Kane said the trails that are most appealing to him are the hard surface trails where use is more convenient. He also noted that many rollerbladers and wheelchair users can only access the paved trails. He asked the Council to provide another great trail for all users.

VIRGINIA BRYAN, 1041 MOON VALLEY ROAD, said she lives in the Alkali Creek Corridor and has corresponded with many of the Councilmembers about the Pow Wow Park issue. She said the criminal activity in the Swords Park area has been reduced since the hard surface trail has been installed and is in constant use. She said she did not think either the hard surface or soft surface trail would increase criminal activity in Pow Wow Park. Ms. Bryan said she thinks the opponents of the master plan are acting out of self-interest and don't want anything to change. She said these folks simply do not want the public to enjoy the "public" land that their property abuts. She said the Council's job is to promote the public interest not private interest.

DANIELLE EMERY, 931 MOON VALLEY ROAD, said she has lived in the Alkali Creek area for 12 years, but her access to Pow Wow Park is limited. She said she does not allow her children to use the park because of the danger in crossing the stream. Ms. Emery also noted that people with disabilities are not always confined to wheelchairs and walkers. She is unable to use any type of trail unless it is ADA approved and this area is un-accessible to her. She added that since the addition of the improvements in Two Moon Park, the crime rate has dropped dramatically. This park is now safe for her family, but it is ironic that she must travel that far to enjoy a park when she lives so close to Pow Wow Park. Ms. Emery said she understands her neighbors' concerns about the impacts on wildlife in the park, but the Parks department stated the impact will be minimal as an environmental assessment does not require submission of an impact statement. Pow Wow Park is a very thin strip of land that is in no way pristine and any destruction of habitat has already occurred. She said this master plan is well planned and is something that everyone can use and enjoy. She asked the Council to provide decent access to the park with either a hard or soft trail.

LARRY MATHEW, 458 INDIAN TRAIL, said he has ridden the bike paths, but it does not change his mind about keeping Pow Wow Park natural. He said he is a native Montanan and asked the Council to leave Pow Wow Park as a nice natural area where he can go and feel like he is out of the City and observe the wildlife.

REPRESENTATIVE DENNIS HIMMELBERGER, 233 SWORDS LANE, said he has emailed the Councilmembers regarding the Pow Wow Park issue. He said one of his concerns relates to park maintenance. He noted that adjacent property owners will suffer the greatest impact through assessment of fees if a Park Maintenance District is created. Representative Himmelberger said a councilmember alluded to the fact that there is special interest group involved in the hard trail versus soft trail issue. He said the residents in the area that are concerned about their neighborhood, their property values and their family's safety are not a special interest group. That is what concerned community members do. He noted that Two Moon Park is a natural park and is used quite heavily.

JOHN DEIM, 740 JUDICIAL, said his property abuts Alkali Creek. He said he finds it interesting that people complain they can't access the park when there is daily car traffic that park in his cul-de-sac and use the trail. He noted that 13 speakers this evening have asked the Council not to approve the trail plan and 7 speakers have requested approval, but 5 of those are residents of the West End. Mr. Deim noted that bikers can use the existing trail in Pow Wow Park and travel from Judicial to Quiet Water in 15 minutes, but he does not know of many people who would want to load their bike and travel from the West End for a 15-minute ride that starts nowhere and ends nowhere. Mr. Deim also said the Park Board meeting on June 8th was not well known about or attended (12 people)

when the Master Plan was approved. The public meetings at Alkali Creek School were well attended with at least 120 people with large support for leaving the park natural. He asked why the Council would complicate the financial resources of the City if there are currently no funds to make the improvements to this park.

JERAD WILLEMS, 121 MORNINGSIDE, said there is a portion in the agreement that grants a "mutually agreed upon" access to the park through his subdivision. He said he has not been contacted regarding a site that can be agreed upon and he has not agreed with anything. He also noted that Swords Park cannot be compared to Pow Wow Park because Swords Park is not a residential area. Trespassing on his property has become a problem and it will happen more frequently with development of the park. Mr. Willems said he is also concerned that vehicles will try to access the park if the trails are constructed, just as they do at Swords Park. The majority of the attendees at the town hall meetings overwhelmingly spoke in favor of leaving the park natural with soft trails only and a bridge access.

LAVERN PETERSEN, 811 JUDICIAL, said he owned the first house on Judicial Avenue. He noted that debris from the recent storm was up about 4' on either side of the gulleys that are near the Judicial Avenue access point. There is a huge wall of water that generates from the top of the Rims and runs through the park. The City would have to build something very substantial to divert that drainage. He said he is not concerned about the vandalism aspect, but believes that "not everyplace was meant to be accessed". Mr. Peterson said the potential liability issues for the City are less if the park is left natural with only a bridge access.

JUDY DEIM, 740 JUDICIAL, said she used Pow Wow Park many times when she worked with Boy Scouts to teach them about taking care of land erosion. The natural trails in the park are not conducive to constructing an ADA trail because the terrain is too steep. An ADA trail would also make a major impact because of the necessity of re-contouring the land in the park. This would ruin the nature of the park. She said she supports the bridge access to the park.

JOY STEVENS, 539 INDIAN TRAIL, said her biggest concern about the development of Pow Wow Park is that the people's desires are not being heard. Three town hall meetings were held where the attendees overwhelming said "no" to development of the park. She said most of the people in the audience support the natural option to Pow Wow Park. She asked those people to stand. Ms. Stevens said the Staff has noted there are no funds allocated for the park, but a \$500,000 grant is available for use between Senators and the Metra. She said someone in the City has decided that this money should be used in Pow Wow Park. To that extent, \$56,000 has currently been spent before asking the residents of the Alkali Creek area what they want. She said the community would like the grant money spent along the road and not in the park. Ms. Stevens said the Pow Wow Park residents would like: 1) a 4' width maximum bridge at the school, 2) the remaining park to remain natural, 3) the remaining funds to be used for a connection of the Heritage Trail that is outside of the park and 4) the trail in Pow Wow Park to be identified as a natural trail in the Master Plan. Councilmember Veis asked if it was fair to allow the people living closest to the park to determine what goes into the park. Ms. Stevens said that is already being done through subdivisions, annexations and zoning where the people living closest to certain areas that are going to be annexed or rezoned are allowed a heightened expectation of how their areas will be developed. By analogy

therefore it is recognized that people living closest to a project have more of an impact and are allowed greater latitude in protesting.

MARY JO FOX, 930 WIND VALLEY ROAD, said she does not live adjacent to the park but uses it every day. She said she takes exception to people who state that the adjacent property owners are trying to make this a private park. She is proof that this is not the case as she walks there every day with her dog and the neighbors are very friendly. This park has many uses just as it is; a unique park in the City of Billings. She said it is okay to establish a natural park that is unique and different from other parks. Ms. Fox asked the Council to view this park as something special and useful just as it exists now. There is a hard surface bike path within ¼ mile of Pow Wow Park that is currently being constructed, she added.

MARY WESTWOOD, 2808 MONTANA AVENUE, said she is a person with limited mobility and has come to accept that there are places where she will not be able to go. She does not expect a road to be constructed into the Absaroka wilderness so that she may take a motorized vehicle there; it is enough to know that it is there. She said she is pleased to hear of the natural habitat in Pow Wow Park and would like it to stay that way. There should be places where everything can remain natural instead of watching subdivisions take away the natural beauty of the community. She said this is a unique natural place that should be allowed to stay that way.

ALAN HODGES, 591 INDIAN TRAIL, said his family bought their current residence six weeks ago. Currently Pow Wow Park is not accessible at night; if a trail is put in it will be. The park is completely surrounded by residential property and there will be an impact on those residents if the park is developed. Regarding the fiscal issues, no matter whether it is federal grant money or City funds, it is still taxpayer money and to duplicate a trail that is currently funded and in process is redundant and a waste of taxpayer dollars. He noted a better use of taxpayer money is to find a way to get pedestrians across Main Street and into the Alkali Creek area. He asked the Council to leave the park as it is.

TOM ZURBUCHEN, 1747 WICKS LANE, said he does not live close to Pow Wow Park but would like to comment on the idea that property owners adjacent to parks should not have a say in their development. He said the policy of the Council is to tax adjacent property owners when park maintenance is required. To say those owners should not have a say in what happens to them is ridiculous. The adjacent property owners' voice should be the prevailing voice the Council listens to, he added.

RAY FELLER, 760 JUDICIAL, said if the Council wants to know who really supports the trails then drop the grant money and try to pass a bond issue instead.

WINI HANSON, 821 JOYCE CIRCLE, said she lives just above Two Moon Park trail. Since the trail was built she has seen no less wildlife or any damages to property. She said Pow Wow Park has no marked trail and it is hard to know where the park starts and people's property ends.

DOLORES TERPSTRA, 5335 HILLCREST, said she visited friends that live in the Pow Wow Park area and saw many wondrous sights. She asked why the Council would consider doing anything to this park that could cause the demise of this beauty. The old adage "if it ain't broke, don't fix it" really applies here.

There were no other speakers. The public hearing was closed.

Deputy Mayor Brewster called for a recess at 8:55 P.M.

Deputy Mayor Brewster reconvened the council meeting at 9:02 P.M.

Councilmember Brown moved for approval of the Master Plan with Alternative #1, seconded by Councilmember McDermott. Councilmember Boyer said the Council must consider this park project with a whole vision for the City. Many other cities have trails and walking paths. Businesses who are interested in relocating in Billings are concerned about the cultural events, the schools and amenities such as hiking and biking paths. She said Pow Wow Park is not an easy path to walk and the soft trail option including the bridge access is a good compromise. She said she has heard from all parts of the City that there is support for Alternative #2.

Councilmember Veis said every issue has two sides and ultimately one side will not get what they want. He acknowledged that the Council has listened to the public comments but noted that it must consider this issue as a community issue. He said the trail at Pow Wow Park would be a nice addition to the trail system in the City. He also supports the soft trail option for the park.

Councilmember McDermott said the City can leave some parks natural and Pow Wow Park is one that should be left natural. She agreed that there are some places that people with limited mobility are not going to be able to go and they are satisfied that a natural area within the City still exists. Councilmember Brown said this park is a unique park and is very accessible and he would like to see the park stay as it is. Councilmember Ruegamer said this is a very complex issue and there are good arguments on both sides of the issue. Regarding the “special interest” comment, he said there are two special interest groups involved – Bikenet people who want bike trails in Billings and the adjacent property owners who want a natural park.

Councilmember Brewster said he was an avid hiker at one time and is still an advocate for wilderness protection and trails that preserve nature. He said he has attended at least 10 meetings on Pow Wow Park and has tried to be unbiased as he listened to all of the public comment on both sides. The question at the end of all the discussion is “is this area special enough to be worthy of protection and of unique enough quality for a community that it should not have a large developed path running through it?” He said he has decided that this park is unique enough and really should be preserved.

On a roll call vote, the motion for the Master Plan with Alternative #1 was approved 6-2 with Councilmembers Gaghen, McDermott, Brown, Ruegamer, Ulledalen and Deputy Mayor Brewster voting “yes” and Councilmembers Veis and Boyer voting “no”.

3. PUBLIC HEARING AND RESOLUTION 05-18305 FOR ANNEXATION #05-04: a 10.52-acre parcel located near the northeast corner of Grand Avenue and 60th Street West intersection, known as Tract 123 of the Sunny Cove Fruit Farms property, aka the proposed Foxtail Village Subdivision, 2nd Filing. Mark Kennedy for Kenmark Corporation, petitioner. Staff recommends conditional approval of the annexation. (Action: approval or disapproval of Staff recommendation.)

Planning Manager Candi Beaudry said this area was approved for the Urban Planning Area expansion at the June 27th council meeting. She said the property located at Grand Avenue and 60th Street West is approximately 10 acres (net area is 9.34 acres) and does include the right-of-way of 60th Street West and Grand Avenue. The property will be subdivided creating 31 lots and support a mixed residential development with a zone

change request from Agricultural-Open Space to Residential 9,600 and Residential 7,000. She said the property is within the limits of annexation. The population projected for this future subdivision is both single-family (23 units) located on the perimeter and duplex (16 units) located in the interior of the subdivision. Access will be from Grand Avenue and also through the Foxtail Village, 1st filing that provides access onto 58th and 60th Street West. She noted the proposed subdivision will have to contribute to improvements along Grand Avenue and 60th Street West.

Ms. Beaudry said the future subdivision will discharge its stormwater into Birely Drain and existing water and sewer will come directly from Foxtail Village, 1st filing. All other City services can be provided through that existing subdivision without requiring additional City funding and the proposed subdivision will contribute cash-in-lieu towards the development of Cottonwood Park.

Ms. Beaudry said the elementary and middle schools have capacity for the future student population, but the high school does not have capacity.

She said the annexation does comply with the Annexation Policy, the Growth Policy, the West End Billings Plan and the Northwest Shiloh Land Use Plan even though it is not contiguous to the City limits.

Ms. Beaudry said the Staff is recommending conditional approval of the annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

Councilmember McDermott asked if the Development Agreement will include the provision that all infrastructure costs of the subdivision will be paid by the developer. Ms. Beaudry replied "yes". Through annexation, the City can require a Development Agreement that provides a safeguard for the City that the developer will follow the subdivision laws in all developments.

The public hearing was opened. JOSEPH WHITE, 926 N. 30TH STREET, said he has spoken many times about annexation in the West End and his opinions remain the same. He said the City needs a detailed master plan and urged the Council to get a copy of the Laurel Master Plan.

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

4. PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #05-06: a 116.17 acre parcel located on the north side of Rimrock Road at the intersection of 70th Street West and extending to the railroad property on the north and west, known as

Tract 1, C/S 1871 and Tract 2A, C/S 2465. Larry Staley and Westward Ho Company, petitioners. Staff recommends denial of the annexation. (Action: approval or disapproval of Staff recommendation.)

Councilmember Brewster noted the letter received by Engineering, Inc. that requested a withdrawal of the application. Ms. Volek said conversations with a representative from Engineering, Inc. have concluded that the applicant would like to postpone action on this item to the 2/27/06 Council meeting so they would not have to reapply and there would be no need for another application fee.

The public hearing was opened. RICK LEUTHOLD, ENGINEERING, INC., said he has communicated with the Staff in Planning and Public Works and is requesting a delay as the best course of action. Updating the Water and Wastewater Master Plans and carrying through with the Capital Improvement Program will assist this annexation's success.

There were no other speakers. The public hearing was continued to 2/27/06. Councilmember Veis moved to delay action on Annexation #05-06 to 2/27/06, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC by adding Sections 10-401 through 10-403; providing for the assessment of administrative fees by municipal court as part of the disposition of all citations, criminal and traffic complaints, and time payment contracts. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff report. Councilmember Brown asked if fees have been previously instituted on these functions. Ms. Volek said this will be the first fees on these items.

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 McDermott. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND RESOLUTION 05-18306 expanding the boundaries of extended Park Maintenance District #4012 for the purpose of maintaining the existing and future park improvements in Circle 50 Subdivision to include Village West Subdivision, and improvements installed by the developer as part of a future construction phase of the subdivision. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Acting Parks and Recreation Dept. Director Gene Blackwell said this resolution expands the existing district for maintenance of Country Manor Park and certain street improvements along 30th Street West. He stated there were no protests or comments on file for the expansion of the district and there are waivers of protest on file for this subdivision.

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 McDermott. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND RESOLUTION 05-18307 creating Park Maintenance District #4027 for the purpose of maintaining the public area improvements and other portions of improvements made in Ironwood Estates Subdivision. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Acting Parks and Recreation Director Dept. Gene Blackwell said this would create a park maintenance district for the new Ironwood Estate Subdivision. He said there were no protests or comments received for creating the district and there are waivers of protest on file. He said the creation of the district and development of the park are requirements that are part of the Subdivision Improvements Agreement (SIA) agreed upon by the developer.

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 Brown. On a voice vote, the motion was unanimously approved.

8. PUBLIC HEARING AND RESOLUTION disposing of City-owned property described as Lots 5,6,8,9 and 10, Blk 92, O.T. and awarding the bid for purchase of the property. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff report. Ms. Volek said there were no bids received and the Staff is recommending tabling this item indefinitely. Councilmember McDermott asked if tabling this item means the Council is actually considering selling the property or just delaying action for a developer. Ms. Volek noted that tabling the item effectively kills the item and allows the Staff to rebid it. Councilmember Brown asked if tabling it would leave the properties intact so that the properties cannot be divided and sold separately. Deputy City Administrator Bruce McCandless said the recommendation to table is with the intent of killing the proposed sale of the property. Questions from the Council about the Development Agreement must be discussed and resolved before this action could be taken leaving no reason to proceed with the attempt to sell the property at this time. He said if the Council approves the Development Agreement there is a provision that includes a process for disposition of the property immediately after approval. If the Council does not approve the Development Agreement, the City would have no intention of selling the properties to anyone. He said he originally anticipated a delay in the action on the land disposition until the Development Agreement was considered.

The public hearing was opened. TOM ZURBUCHEN, 1747 WICKS LANE, said he is against tabling the item. He said he does not understand why no bids should mean the item should be tabled. He said tabling really means there is no interest in selling the property. The Council should reaffirm that the property is City-owned and the City is interested in selling it.

MARY WESTWOOD, 2808 MONTANA AVENUE, said she is concerned about giving away public property purchased by public funds. She suggested selling the property to the developer because the citizens of Billings should receive a return on their investments. It is especially important that the citizens of Billings be reimbursed for funds expended on these parking lots since the City has pledged support through a tax increment district and parking funds for the Sandstone project. She said prior gifts of land to the Rescue Mission and the Deering Clinic had a public purpose, but this purpose is for

the benefit of a private developer and for profit. Ms. Westwood said any developer should pay for what they use in public resources. She asked the Council to make sure this happens.

BILL COLE, NO ADDRESS GIVEN, said he represents the developer Harrison Fagg. He said he would be available for questions. He said the developer supports tabling this item until the Council has had an opportunity to consider the project in more detail at its next work session. At that time the Council can wrestle with public policy issues and consider the degree of public investment it should make in the project. The goal has been to put these unique public assets to the best public use and generate the best redevelopment on 27th Street.

There were no other speakers. The public hearing was closed. Councilmember McDermott moved to table the item with the condition that at a future time the lots would be placed for sale and not given away, seconded by Councilmember Brown. Councilmember McDermott noted that 10 days (the bidding process time) is not enough time for potential bidders to gather their resources to buy these lots. Councilmember Boyer said she understands the intent of the motion, but is not willing at this time to untie the connection to the Sandstone project before the presentation at the work session. Ms. Volek said the previous Council meeting adopted the resolution relating to the intent to dispose of the property which is linked to the Sandstone project. The Council would have to adopt another resolution to advertise the property a second time and send notices to property owners. On a voice vote, the motion failed with Councilmembers McDermott and Brown voting "yes".

Councilmember Veis moved to table action on the resolution disposing of the City-owned property, seconded by Councilmember Boyer. Councilmember Brown said this action appears to conclude that the City intends to give away the property and if the property is rebid there is a chance of realizing some revenue for the City. Councilmember Brewster said that is not the intent at all and this action does not guarantee anything for anybody except that nothing is being approved at this time. On a voice vote, the motion was approved with Councilmembers McDermott and Brown voting "no".

9. ~~BID AWARD~~ RESOLUTION 05-18308 AWARDING THE SALE OF \$2,520,000 Pooled Special Improvement District Bonds, Series 2005. (SIDs 1358, 1365, 1366, and 1371). (Opened 7/11/05). Recommendation to be made at meeting RBC Dain Rauscher, Inc., 3.928763%.

Financial Services Manager Pat Weber said there were three bidders for the sale of this bond issue that includes four Special Improvement Districts. He said Springstead assisted in procuring some very good bids and the successful bidder was RBC Dain Rauscher, Inc. at a 3.93% net effective interest rate. He said that is a very good rate and will save the districts \$123,000. Councilmember Brown moved for approval of the Staff recommendation, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

10. RECONSIDERATION OF ZONE CHANGE #757: a zone change from R-7,000 to R-6,000 on property described as Lot 6, Block 1, Burnstead Sub., 2nd filing and located at 945 N. 19th St. Larry & Judith Hauk, owners. Zoning Commission recommends approval of the zone change and adoption of the determinations of

the 12-criteria. (PH on 6/13/05; action delayed from 6/27/05). (Action: approval or disapproval of Zoning Commission recommendation.)

Interim City Administrator Tina Volek said the motion on the floor was for approval of the zone change at the June 13th council meeting and it failed to be approved due to a valid protest that required a 2/3 majority vote of the Council. Ms. Volek confirmed the motion that was voted on was for approval. City Attorney Brent Brooks clarified that to approve this zone change there must be a 2/3 majority vote of the Council, which would be 6 votes. Councilmember Boyer noted that the only additional information the Council received on this item was the letter from Stockman Bank. On a roll call vote, the motion to approve the zone change failed 4-4 with Councilmembers Ruegamer, Veis, Boyer and Ulledalen voting “yes” and Councilmembers Gaghen, McDermott, Brown and Deputy Mayor Brewster voting “no”. The zone change was not approved.

11. PUBLIC COMMENT on Non-Agenda Items -- (Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker).

- TOM ZURBUCHEN, 1747 WICKS LANE, said he is not speaking in favor nor against the Sandstone Project. He said there has been no policy discussion on this project only discussions on risk which are good questions and do need answers. He said the City needs to get public input and develop a policy relating to redevelopment on blighted areas. He said the Council cannot continue asking the taxpayers to buy property, tear down buildings and then “give it away” to a developer who will ultimately make a profit on a project. He urged the Council to “put together a policy on blight control for the City of Billings.” Blight will continue to grow as the City grows.
- ROSE STEINER, 595 REVOLUTION, said she did not know where Pow Wow Park was located but shares some of the neighbors’ concerns. She said she lives next to Castlerock Park. She said the City should endeavor to make known the boundaries of City parks.
- JOSEPH WHITE, 926 N. 30TH STREET, informed the Council about non-payment issues with his personal matters.

COUNCIL INITIATIVES

COUNCILMEMBER BOYER: Councilmember Boyer moved to direct Staff to form a committee of architects and engineers to review the contract language in standard contracts especially concerning use of copyrighted materials in Section 9, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

COUNCILMEMBER BREWSTER: Councilmember Brewster moved to direct staff to review the storm drain system and develop a better solution (pooling water in the cul-de-sac) relating to the BNR Subdivision and the associated park, seconded by Councilmember Boyer. Councilmember Brewster said the pooling of water drains very slowly during big rain storms and because the subdivision has only been constructing a dozen houses at a time, stormwater is not properly addressed. Houses don’t seem to be affected at this point, but it is a safety issue. On a voice vote, the motion was unanimously approved.

MINUTES: 07/11/05

COUNCILMEMBER GAGHEN: Councilmember Gaghen asked if the Staff would review the panhandling ordinance to take a more pro-active approach and provide a greater Police presence in the area of Perkins Restaurant and Albertson's on 27th Street. A report of available options will be prepared for a future Work Session.

COUNCILMEMBER BROWN: Councilmember Brown moved to direct Staff to investigate and review the regulations on parking lot usage by RV's and hold a Council discussion, seconded by Councilmember Ulledalen. On a voice vote, the motion was approved with Councilmember Ruegamer voting "no".

ADJOURN – With all business complete, the Mayor adjourned the meeting at 10:25 P.M.

THE CITY OF BILLINGS:

By: _____
Larry Brewster DEPUTY MAYOR

ATTEST:

BY: _____
Susan Shuhler, Deputy City Clerk