

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
February 23, 2009

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. Deputy Mayor Ed Ulledalen called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember McCall gave the invocation.

CALL TO ORDER – Deputy Mayor Ulledalen

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Veis, Ruegamer, McCall, Astle, and Clark. Councilmember Brewster was excused.

MINUTES – February 9, 2009, approved as distributed

COURTESIES – None

PROCLAMATIONS – National Nutrition Month, March 2009

ADMINISTRATOR REPORTS

- Ms. Volek advised the City Council had received a comparison on using LED vs. HPS street lighting in their Friday packet of February 13, 2009.
- Ms. Volek advised the City Council had received a letter of protest from Joyce and George Kenney on Item 5, the creation of SILMD 306, in their Friday packet of February 20, 2009.
- Ms. Volek advised the City Council had received several protests on Item 6, Special Review #874, as well as a letter from Mr. Hagstrom withdrawing his application, in their Friday packet of February 20, 2009. She also referenced additional protests that were on the Councilmember desks that evening and included in the Ex-Parte Notebook for public review.
- Ms. Volek referenced a memorandum from the Planning Director on Item 8, the American Recovery and Reinvestment Act of 2009, asking that additional items be included in the list of projects. She said the memorandum was on the Councilmember desks that evening.

Councilmember Ulledalen asked if the applicant for the special review on Item 6 would have to begin the process all over if his request was withdrawn. Ms. Volek responded that it was her understanding that he would.

Councilmembers recognized the Boy Scout in the audience.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2 and 8 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.)

The public comment period was opened.

- **Joe White, Billings, MT**, spoke on Item 8 concerning projects. He said more social work and construction inspection should be added to the list.

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

CONSENT AGENDA:

1. A. Mayor's appointments:

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Douglas Ruebke	Animal Control Board	02/23/09	01/31/13
2.	Diana Bachmann	Animal Control Board	02/23/09	01/31/13
3.		Board of Appeals	02/23/09	01/31/13
4.	Emily Shaffer	Community Development Board	02/23/09	01/31/13
5.		Emergency Medical Advisory	02/23/09	01/31/13
6.	*	Emergency Medical Advisory	02/23/09	12/31/09
7.	*J. Stephen Begley	Energy & Conservation Commission	02/23/09	12/31/10
8.	Larry Gaalswyk	Homelessness Committee	02/23/09	01/31/13
9.	Patrick Chapel	Homelessness Committee	02/23/09	01/31/13
10.		Housing Authority	02/23/09	01/31/13
11.	*Everall Fox	Human Relations Commission	02/23/09	12/31/10
12.		Parking Advisory Board	02/23/09	01/31/13
13.	*	Parking Advisory Board	02/23/09	12/31/10
14.	Todd Royal	Parks/Recreation/Cemetery	02/23/09	01/31/13
15.	Darwin George	Parks/Recreation/Cemetery	02/23/09	01/31/13
16.	*Gary Gray	Parks/Recreation/Cemetery	02/23/09	12/31/09

17.	*Postponed by Conservation Board	Yellowstone Conservation District Board	1/12/09	06/30/11
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- 6. *Unexpired term of Dr. John Kominsky
- 7. *Unexpired term of Bernard Rose
- 11.*Unexpired term of Shoshana Tom
- 13.*Unexpired term of Gary Temple
- 16.*Unexpired term of Wanda Walker
- 17.*Unexpired term of Gay Easton

B. Bid Award:

(1) Airport Improvement Program (AIP) Project for Taxiway F Construction (Opened 2/10/09) Recommend Riverside Sand & Gravel; \$1,185,272.10.

C. Acceptance of Federal Aviation Administration Airport Improvement Grants for 2009 - \$4,707,652; City Match - \$247,364.

D. Approval of grant application with the Montana Department of Transportation for paratransit operating assistance and the purchase of two paratransit vans; up to \$180,107 FY10 revenue for paratransit administrative, maintenance, and operating costs; and up to \$161,069 for two new vans; total local match - \$26,221.

E. Approval of request from Downtown Billings Partnership, Inc. for matching funds from the North 27th Street TIFD to fund the professional services needed to complete the expansion of the Billings Historic District; up to \$15,000.

F. Street Closures:

(1) St. Patrick's Day Parade and Celtic Street Fair. Parade: established downtown parade route, 11:00 a.m. – 12:00 noon. Celtic Street Fair: North Broadway between 1st and 3rd Avenues North, 9:00 a.m. to 2:00 p.m. on March 14, 2009.

(2) Yellowstone Rimrunners Shamrock Run, beginning at 3rd Street West and Avenue B, north onto 3rd Street West, west onto Parkhill to Nordbye, turning around going east on Parkhill, right on 3rd Street West, ending at Pioneer Park, 12:30 p.m. to 1:45 p.m. on March 15, 2008.

G. Preliminary Plat of Golden Acres Subdivision generally located on the northwest corner of 62nd Street West/Molt Road and Rimrock Road and legally described as Tract 6A of Amended Certificate of Survey 2465; Golden Acres Partners, owner; Engineering, Inc., agent; conditional approval of the plat and adoption of the Findings of Fact.

H. Preliminary Subsequent Minor Plat of Barrett Subdivision located at 314 Calhoun Lane and legally described as Barrett Subdivision being Tract 1, Retzlaf Acreage Tracts Subdivision less Deeded Parcels Document #705093; C.E. Barrett,

owner; City of Billings, agent; conditional approval of the plat and adoption of the Findings of Fact.

I. Bills and Payroll

- (1) January 23, 2009
- (2) January 30, 2009

(Action: Approval or disapproval of Consent Agenda)

There were no separations from the Consent Agenda. Councilmember Clark moved for approval of the Consent Agenda, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. RESOLUTION #09-18793 RELATING TO SPECIAL IMPROVEMENT DISTRICT 1384, AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE OF BONDS. A resolution authorizing the sale of up to \$495,000 in bonds for financing the Yellowstone Club Estates project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised there was no report on the item, but staff was available for questions. Councilmember Astle moved for approval of Item 2, the resolution related to the sale of \$495,000 in bonds for Special Improvement District 1384, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #09-18794 approving the FY10-FY14 Capital Improvement Plan (CIP); Equipment Replacement Plan (ERP); and Technology Replacement Plan (TRP). Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised that the three plans had been the subject of several public meetings and a meeting with the City Council. She said Council asked about a realignment of the intersection at 24th and Lewis at one of the meetings, along with the Main Street Underpass. She noted that staff recommended adding the Main Street Underpass project to the stimulus package projects. She advised that cost information was available for the 24th and Lewis intersection if Council was interested; otherwise, there would be no presentation. Councilmember Astle asked for the dollar amount of the 24th and Lewis intersection. Deputy Public Works Director Vern Heisler explained that realignment would require purchase of a parking lot from the church on the northeast corner and two properties on the southwest corner. He estimated the realignment, with property acquisition, was close to \$600,000. Ms. Volek noted that the project was not included in the current CIP. Councilmember Clark said he thought a less costly alternative had been identified that realigned the crosswalks and moved them closer to the corner. Mr. Heisler said other options were considered; and if Council decided not to add a project of that size to the CIP, other options could be explored. Councilmember Clark stated that adding the project to the CIP would extend the time it took to address it, and it was

more important to get something done for safety reasons. Councilmember Ulledalen asked if the utilities and control boxes around the intersection could be addressed separately. Mr. Heisler explained it was a tight corner; and there was a 30-foot offset with the two streets. Councilmember Astle asked if it was possible to move the crosswalk south of the control box and extend the length of time for the crossing. Public Works Director Dave Mumford explained that the signal timings were set to sequence the vehicles, and the timing could not be changed for one leg of the street. He noted the signal was set to allow enough time for a typical person to get across the street. He said the crosswalks could be realigned, but the problem was that people making right turns did not see the pedestrians because they were looking for oncoming traffic instead. Mr. Mumford indicated it was a driver perception issue. Councilmember Astle asked if a right turn-on-red could be prohibited. Mr. Mumford said it was possible, but it would cause traffic to back up on Lewis. Councilmember Clark noted that moving the crosswalk closer to the corner would make the pedestrians more visible and said the problem with the current alignment was that the pedestrians were so far north of the intersection that drivers who turned north from Lewis could not see them. Mr. Mumford said moving the crosswalk could be reviewed, as well as the location of the ADA ramps. Councilmember Gaghen asked if a sign could be placed at the corner of 24th and Lewis that warned drivers of the crossing. Mr. Mumford stated that a crosswalk guard was in place during the hours when kids were going back and forth to school; and even with that, there were concerns. Councilmember Gaghen advised that the task force had been concerned, and she wanted to see some positive moves made to eliminate the problem. Councilmember Clark stated that, even with the crosswalk guard in place, drivers were already making the turn before they saw the crosswalk guard.

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

Councilmember Ulledalen asked if the items could be separated and voted on individually. Ms. Volek said they could be separated. Councilmember McCall moved for approval of the resolution approving the FY10-14 Capital Improvement Plan, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of the resolution approving the FY10-14 Equipment Replacement Plan, seconded by Councilmember Ruegamer. Councilmember Ulledalen advised he would vote against the motion because even though the City had done a good job of boiling down the spending plan, he felt a harder look could be taken. On a voice vote, the motion was approved 7-2. Councilmembers Clark and Ulledalen voted 'no.'

Councilmember McCall moved for approval of the FY10-14 Technology Replacement Plan, seconded by Councilmember Astle. Councilmember Ulledalen said he had the same comment for that item as he had for the previous one. On a voice vote, the motion was approved 7-2. Councilmembers Clark and Ulledalen voted 'no.'

4. PUBLIC HEARING AND SALE OF CITY-OWNED PROPERTY described as the south 132 feet of Lot 4 in the SW ¼ of Section 9, Township 1 South, Range 26 East more commonly known as South Billings Boulevard. Approval of sale delayed from 1/12/09. Recommendation to be made at meeting. (Action: approval or disapproval of staff recommendation.) Mr. Mumford explained that Public Works

proposed a sale on the property about a month ago due to interest. He said the property was purchased a number of years ago to allow a storm drain to pass through it, and a 40-foot easement would be required on the north end even when sold. Mr. Mumford explained that staff was asked to dispose of the property using the same process used when property on Zimmerman Tail was sold. He stated that the property was advertised twice in the newspaper and buy-sell agreements were accepted until February 18, 2009, at noon. He said buy-sell agreements were received from the same two parties who presented previous offers – Hanser’s Automotive and Paul and Rachel Cox. He said details of the buy-sell agreements were provided in the last Friday Packet. Mr. Mumford advised that the offer from Hanser’s was slightly less than their previous offer, and did not contain any conditions; and the offer from the Coxes was slightly higher and contained conditions, two of which were considered significant by Public Works and legal staff. He noted that the conditions were detailed in the Friday Packet memo. Mr. Mumford advised that the Coxes presented an amendment after the deadline, and legal staff advised him that the offer could not be changed after the deadline. He said the amendment concerned access to Newman Lane.

Mr. Mumford reviewed the conditions contained in the Cox offer. He said one condition was to re-zone the property from R6000 to Controlled Industrial. He noted that legal staff advised that re-zoning was a decision made by the Council that required a public hearing; and if the buy-sell agreement was accepted with that condition, there was concern that Council was pre-disposed to the idea that it accepted the zone change prior to the public hearing process. He noted that the Coxes wanted to construct a sign company, and Mr. Hanser intended to incorporate the property into his adjacent business.

Councilmember Ronquillo asked Mr. Mumford to confirm that Mr. Hanser’s bid did not request anything from the City other than the property. Mr. Mumford responded that was correct. Councilmember Ronquillo stated it was discussed previously that access to Newman Lane was not wanted because it would cause problems with the school kids. He said if a sign company purchased the property and trucks traveled on Newman, there would be numerous problems. Mr. Mumford agreed and said he understood that the Coxes were making other arrangements so that if they purchased the property, they would not need to use Newman even though it was in their buy-sell agreement. He noted there was nothing in the site plan or zoning process that allowed the City to prohibit access to Newman, but it was an undeveloped street that only had 30 feet of right-of-way in some sections and was used by kids to get to school.

The public hearing was opened.

- **Paul Cox, 2015 Azalea Lane** explained that after the February 18 deadline, he secured a buy-sell agreement for a piece of property to the south of the subject property. He said the property was the same size as the subject parcel, and he secured it in an effort to be a good neighbor to satisfy the Newman Lane access issue. He explained that his previous proposal would only have worked if trucks entered his business from South Billings Boulevard and then exited onto Newman Lane; and he realized after the last meeting that the access would be a problem. He stated that he had been after the property to the south for a long

time, and it finally became available the past Saturday. He said having the other parcel would allow trucks to enter and exit from South Billings Boulevard, and access to Newman Lane was no longer needed. Mr. Cox encouraged acceptance of his proposal. He said the zoning change was necessary because commercial property could not be built in the R6000 zone.

- **Ralph Hanser, 1535 Westridge Drive**, said he wanted to remind Council that he did not want to get into a bidding war and had bid the property at what it was valued. He said it adjoined his existing property and asked Councilmembers to remember that he had been in town for 45 years and at the same location for 39 years. He said it was a logical piece of property for his business's expansion. He noted that Hanser's payroll exceeded \$3 million each year, and a lot of money was brought in from outside sources. He estimated 70% of the money generated was from outside the City through sales of parts, transmissions, and revenue recovery. Mr. Hanser said they were good neighbors and communicated with the neighborhood. He reiterated that he did not want to get into a bidding war.
- **Rachel Cox, 2015 Azalea Lane**, said she wanted to mention that all but one piece of property directly north of the subject property was already zoned Controlled Industrial. She said she felt asking for a zone change to Controlled Industrial was a good point to make because it would not change the zoning of everything that was directly north.
- **Leon Pattyn, 453 Newman Lane**, said his property adjoined the piece of property and the 30-foot easement on the road belonged to him. He said that as far as the re-zoning, there was such as thing as a valid protest; and it had to go through the zoning process no matter what. He said if it was granted and given to the Coxes that evening, he could guarantee he would see Council in court. He said the City was probably not getting what the property was worth, and it should possibly be re-zoned; but if a perceived zone change was granted, it was against his constitutional rights. Mr. Pattyn advised that he did not see any ex-parte communication on the item and if there had been any, it needed to be disclosed.
- **Scott Hanser, 3020 Donegal**, said he was a second generation at Hanser's Automotive and had been there for 20 years. He assured continued growth at that location even if Ralph retired. He stated that the business had grown from 14 employees 20 years ago to more than 100 employees and virtually every square inch of land was used. He said land was important in the salvage business because the more land you had, the more cars could be stored, and the more money could be made. He referenced Ralph Hanser's previous comment about how much money came in from Wyoming and outside areas and said more land was needed to continue. He said they kept their property in pristine condition and that would continue with the parcel if the sale went through. He said he hoped those things were considered as the decision was made that evening.

Councilmember Clark asked if the same zone change would be needed to expand their business on the piece of property. Mr. Hanser said it would.

- **Shawn Hanser, 2191 Rangeview Court**, said the property in question was extremely important to the expansion of their operation. He said the development of the property across the street was stopped to await the decision on the city-owned property, because it was integral to their expansion. He said the roadway

was needed to move cars and trucks in and out of the business. He asked Council to allow Hanser's to purchase the property, not only because of the need for the expansion, but because of the financial benefits that would be generated over time.

Councilmember Gaghen asked if his reference to the roadway was South Billings Boulevard, not Newman Lane. Mr. Hanser said that was correct.

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

Councilmember Ruegamer asked City Attorney Brent Brooks if his motion needed to include the purchaser. Mr. Brooks said it did. Ms. Volek noted that staff recommended selling the property to Hanser's, given the conditions attached to the Cox offer. Councilmember Ruegamer moved for approval of Item 4 and the sale of the property to Hanser's Automotive, seconded by Councilmember Ronquillo. Councilmember Veis asked if the two agreements indicated that Public Works had a 40-foot easement on the property. Mr. Mumford stated it was part of Hanser's agreement, and the Coxes knew the easement was needed. Councilmember Astle said he would recuse himself from the vote because he was a client of one party, and the other party was a client of his. Councilmember Ronquillo said he knew Hanser's had a sewer on the other side of the street, and they always allowed access to it whenever the City needed. He said he had a conversation with Mr. Hanser and Mr. Mumford about it, and Mr. Hanser was well aware that he could not build over it and agreed to let the City use it whenever needed. On a voice vote, the motion was approved 8 to 0.

5. PUBLIC HEARING AND RESOLUTION #09-18795 CREATING SILMD 306 – King Avenue East from South Billings Boulevard to Orchard Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Mr. Mumford advised the item was for the creation of a street light maintenance district along King Avenue East. He stated a valid protest was received from the Kenneys, who owned the trailer park on the corner of South Billings Boulevard and King Avenue East. He said he believed Mr. Kenney's objection was based on a misunderstanding of the process that the TIF District paid for all the lights, as well as the construction. Mr. Mumford explained that the TIF District paid for the construction of the lights, but not the ongoing maintenance, which was covered by the light maintenance district. He said the Kenney property was less than 10% of the maintenance district and was the only protest received.

Mr. Mumford stated that the question of using LED lights came up during previous discussions. He said the light standards were in place and if Council decided to use LEDs on the project, the contract could be changed; and the light ballasts could be used for ongoing street light maintenance in other projects. He said the LED lights were a viable option even though they were still more expensive. Mr. Mumford expressed his hope that prices would drop as LED usage became more common, and that lower prices would be seen when new projects were bid. He noted that the current project was bid more than a year ago, and the LED lights were not considered then; but staff would continue to look at them for future projects. Councilmember Ulledalen asked if Mr. Mumford was saying that the standards could be retrofitted for LED lights and the

current ballasts would be used for other lights and not wasted. Mr. Mumford said that was correct. Councilmember Veis asked if the initial capital cost of the street lights was covered by the TIF District. Mr. Mumford explained it was split between the TIF District and the City's arterial construction fees. Councilmember Veis stated the street light maintenance district paid for the power and maintenance, so the residents could save about 50% on energy usage over the life of the maintenance district if LED lights were used. Mr. Mumford advised that if the decision was made to use LED lights, a change order would be required and paid for in another way, but it could be done. Councilmember Ulledalen asked if there was a breakeven point in terms of years if the LED lights were used. Mr. Mumford responded that he did not have all the data with him, but he believed the breakeven point was about eight years, including construction. Councilmember Veis asked Mr. Mumford how many street lights there were, and Mr. Mumford said he thought there were 15 lights. Councilmember Veis stated that if the life-cycle saving was \$5,300 per street light, that meant that the savings over the 40-year life span was over \$75,000.

Councilmember Gaghen clarified that residents in city lighting districts were required to pay the same costs as the proposed light district. She noted it was for the lights, not the construction, and it was not a unique situation. Mr. Mumford said the situation was unique because in most lighting districts, the residents paid for the initial construction through an SID and in the proposed district, the City and the TIF District paid the construction costs. Councilmember Ronquillo said \$21.75 per year was well worth it, and there was a process in place if other areas wanted street lights.

Councilmember McCall asked Mr. Mumford if there would be requirements for energy savings concepts in potential stimulus fund projects. Mr. Mumford responded he did not know how the State would deal with it, but there would be requirements on the part of the City if it attempted to move in that direction. Mr. Mumford said he was not sure if LED lights would be used for the Shiloh Road district, and discussion about it would be held with the Montana Department of Transportation. Councilmember McCall apologized that she did not have the memo that was in the packet, and asked for a summary of the cost comparison between LEDs and regular lights. Mr. Mumford advised that the capital costs for the LED lights were significantly different, but the power consumption was about half and the breakeven point was at about eight years. He said the biggest difference was the life cycle of the lights. He said LED lights were replaced less often and used less electricity. He noted that the amount of light emitted was just as safe as the high pressure sodium lights. Councilmember McCall commented that she thought the City should strongly consider using LED lighting for that proposal.

Councilmember Astle asked if the costs were current. Mr. Mumford said they were. Councilmember Astle asked Mr. Mumford if he had an estimate of how much the costs of LED lighting had gone down. Mr. Mumford responded that he did not have exact information, but he knew there had not been a significant change in the last few years because the LED lights were still new. Ms. Volek advised that the City considered LED lighting for downtown when funding was available through the last of the TIF District, but those funds had been targeted for other projects. She said she was aware of communities that converted their downtown lighting to LEDs. She noted that Ann Arbor, Michigan, received a \$660,000 allocation from its downtown economic development district and after the capital costs were paid, the savings would be about

\$100,000 per year. She said she received a report earlier that day from the Mayor's Energy and Conservation Commission that recommended the use of LED lights in City-owned lighting districts. She said it would be discussed with Council at a future Work Session.

Councilmember Veis asked if the resolution creating the lighting district would have to specify use of LED lights if that was what Council decided. Mr. Mumford said it would. Councilmember Clark asked if the cost to the people in the light maintenance district would go down if the LED lights were used. Mr. Mumford said the costs would go down due to reduced energy and operation costs.

The public hearing was opened.

- **Trent Godfrey, 737 S. Billings Blvd #15**, said he opposed the proposal because any increase assessed to the landowner came back to the homeowners, so any increased hardship to the landowner brought a hardship to the low-income homeowners in that area. He said the homeowners leased the land, and the landowner would pass the increased cost down to them.

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

Councilmember Veis moved for approval of the resolution to create SILMD #306, seconded by Councilmember Ruegamer. Councilmember Astle moved to amend the motion to use LED lights, seconded by Councilmember McCall. On a voice vote, the amendment was unanimously approved. Councilmember Veis said he believed LEDs would be the lighting choice of the future, and it was a good place to use them because the capital costs were borne by the TIF District and all the savings were realized by the people who lived next to it. Councilmember Ulledalen commented that what appealed to him was the fact that the colors were better and as the area evolved, it would be an important entrance to the City and the LED lights would make it more attractive. He said he supported it. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND SPECIAL REVIEW #874: A special review to allow two 9-unit multifamily dwellings on a 39,600 square foot parcel in a Residential 6000 zone described as the south 10 feet of Lot 8 and all of Lot 7 of Willis Subdivision and addressed as 307 Washington Street. Dave Hagstrom, owner. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.) Ms. Volek advised that the request had been withdrawn by the applicant, Mr. Hagstrom. She said because a public hearing was advertised, the hearing needed to be held, and then a vote taken whether or not to accept the withdrawal. Councilmember Ronquillo commented that he had met with Mr. Hagstrom and several of the people who opposed the project. He said questions were asked of Mr. Hagstrom, and he did not provide the answers they were looking for, so he was glad Mr. Hagstrom requested the withdrawal. Councilmember Ronquillo said the residents did not want it in the area, he agreed with them, and he would have voted to deny the special review request. Councilmember Ronquillo thanked the people who showed up at the evening's meeting. Councilmember Astle

asked if Mr. Hagstrom would have to start the process over if he decided to pursue the project in the future. Ms. Volek advised that Mr. Hagstrom would have to start over with the process.

The public hearing was opened.

- **Bob Papin 2039 Avenue B**, stated he was present on behalf of the 320 members of the Plumbers and Pipefitters Union that owned the property adjacent to 307 Washington. He said a letter of opposition was sent to Councilmembers. He said the union opposed construction of 19 units, but was not opposed to progress and wanted to see the parcel cleaned up. He stated that putting 19 units in the space would be like putting a size 8 shoe on a size 12 foot because the area was small, and it would not work. He said his letter provided more explanation about their opposition.
- **Scott Miles, 535 Washington**, said he was involved in an exhaustive study on the procedures and thanked the Council and the entities involved in the South Billings Boulevard Urban Renewal Project and the new Growth Policy. He said he agreed with almost everything in the documents and agreed with the direction the City was going. He said there were improprieties in the proposed project and for the protection of the City, he wanted the application for the Washington Street Infrastructure Project withdrawn because it put the City in a bad position and residents who wanted progress did not want to see the City injured by furthering a project that had issues.

Ms. Volek clarified that the applicant anticipated applying for Community Development Block Grant funds to run water and sewer to the site. She said that may be what Mr. Miles was referring to.

- **Jeff Lesmeister, 355 Washington**, distributed pictures of his residence. He said he cleaned up junk and debris and even cleaned up a junk yard across the road and purchased the land to be able to do it. He said his concerns were the number of units planned for the proposed development; it was near a school, and it did not make sense to have more traffic there. He stated one neighbor had sheep and another had cattle next to the property, and it was a bad environment for everyone. He said he did not know where parking or the trash would be located for the units. He stated that a lot of effort was put into his place, and he had a nice view. He commented that what made the area look nice and serene would not be continued if the project was built.
- **Janelle Lesmeister, 355 Washington**, stated they had worked very hard cleaning up the trash that was on Kratz Lane, along with issues with kids, drugs and vandalism. She said she did not know how that many people could be put on the property. She said a lot of people used Kratz Lane, and even more traffic on it was not needed. She stated that the residents liked to keep the neighborhood clean, and the whole south side needed to be cleaned up because they did not want people to think that the south side was not a good place to live.

Councilmember McCall complimented the Lesmeisters on what they had done with their property.

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

Councilmember Pitman moved to accept the withdrawal of Special Review #874 at 307 Washington Street, seconded by Councilmember Gaghen. Councilmember Clark asked Mr. Brooks what would happen if Council did not accept the withdrawal, but denied the special review. Mr. Brooks explained that it could be approved, denied, approved with conditions, or allowed to be withdrawn. He said the applicant could submit a new application through the Zoning Commission. Ms. Beaudry advised that there were no time limits even if it was denied. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND RESOLUTION 09-18796 levying annual weed assessments for the 2nd half of FY2009. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised that staff did not have a presentation for the item but was available for questions.

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

Councilmember Gaghen moved for approval of the annual weed assessments as indicated on the list provided by staff, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

8. RESOLUTION #09-18797 approving the list of city projects to be considered under the American Recovery and Reinvestment Act of 2009. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised that the list of projects had been distributed earlier, and the addition of the transportation and transit projects was requested. She recommended approval of the amended list. Councilmember Veis asked if the request was to amend the packet to include everything that was on the memo from Ms. Beaudry. Ms. Volek responded that was correct. He asked why projects were included that were not in the City limits. Ms. Beaudry explained that those projects were included in the Metropolitan Planning Organization's (MPO) Transportation Improvement Program (TIP). She said the request was for the City's approval to add them to its list. She said the list was already approved when the Transportation Improvement Program was approved, and it was just additional coverage for those projects. Councilmember Veis said since they were put forward as City of Billings projects, they should be City of Billings projects only. Ms. Beaudry explained that anything could be struck if Council felt it did not benefit the City, but as part of the MPO, the Council had decisions over all those projects and how they went forward. Ms. Beaudry said they would like to see the projects within the City approved as part of the City's list, and the projects not within the City covered in the TIP if they were removed from the stimulus list.

Councilmember McCall commented that she hoped there was clarification before the group went to Washington, D.C. She said the governor's list was about 20 pages long, and she did not know how it was determined which projects were on the list. She said HB2A was a companion bill to the appropriations bill and would define some of it. Ms. Volek stated that to her knowledge, the State did not consult with the City of Billings when its list was prepared. She said the City approached the funding issue from three possible options: 1) some of the projects would be funded as part of the 2008

appropriation request that still had not been acted on by Congress; 2) funded by the stimulus package; and, 3) funds from the 2009 appropriations request that included some duplicates from the 2008 request and the stimulus list. She said it was uncharted territory, and they were working with the delegation to find out how the appropriation process went forward. She referred to it as a shotgun approach to get as much coverage for the projects as possible to get as many funded as possible. She said the City was in a good position because many of the projects were already engineered and already in the shovel-ready category and those that were not, would be in about 90 days. She commented that she was optimistic that the City would do well when the stimulus packages came down. Councilmember McCall asked if the League of Cities and Towns had established a distribution formula and ways the communities could apply for funds. Ms. Volek said it was her understanding it had not.

Councilmember Ronquillo moved for approval of Item 8, the resolution on the American Recovery and Reinvestment Act of 2009, seconded by Councilmember Astle. Councilmember Veis moved to amend the resolution to include the projects from the Transportation Improvement Plan that were within the City limits of Billings and the Business Consortium Project, seconded by Councilmember Astle. Councilmember Ronquillo commented that if Senators Tester and Baucus asked for a list of the projects, they should all be left in. He said if everything was on the list, it showed that the City was trying to improve outlying districts in addition to Billings. He said he thought there would be more benefit to that than limiting the list to projects within the City limits. Councilmember Clark stated that each section of the state was supposed to ask for the funding for just its area. On a voice vote, the amendment was approved 8-1. Councilmember Ronquillo voted 'no.' On a voice vote, the amended motion was unanimously approved.

9. 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.)

The public comment period was opened.

- **James Garvey, 909 N. 19th Street**, said his issue was a safety issue that not only concerned himself, but a number of residents within in the City. Mr. Garvey explained his concern with the height of trees on private property and distributed pictures of his property and his neighbor's trees. He said his neighbor's trees towered over his property, and he was afraid a strong wind or rain would cause the trees to fall over onto his property, and he was frustrated that the neighbor was not as concerned as he was. He stated that he felt Code Enforcement should enforce the height of trees on private properties.

Councilmember Ronquillo stated that he knew the Code Enforcement Division was working on the issue.

- **Joe White, Billings, MT**, spoke on the recent cuts in the Planning Staff. He said the City was going in the wrong direction and should make cuts in the Police Department instead. He said there was a need for more social workers and public

health workers, and a planner should go out and ask people how they were doing. He said the city needed more building specialists, and there was terrible pollution.

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

Council Initiatives

- Councilmember Veis asked how the appointments of councilmembers to other committees would be made. Ms. Volek advised it would be a future agenda item, likely at the March 9 meeting. Councilmember Veis reported that the PCC changed its bylaws at its recent meeting, and the City could designate a representative and two alternates. He noted that he wished to serve as the representative, and Councilmember Brewster was willing to serve as first alternate.

Councilmember Ronquillo advised that he attended the PCC meeting and felt it was a good meeting. He commented that Stefan Streeter from MDT was present, and the 6th Street West Underpass was discussed. He said Mr. Streeter was working on the problem with the pigeon population. Councilmember Ronquillo said the State paid the City for maintenance on the underpass and hoped staff would work with Mr. Streeter. Mr. Mumford explained that the contract prohibited the City from doing anything structural. He said it was the State's decision about what was to be done. Councilmember Ronquillo said he was only asking staff to work with MDT to clean up the area.

- Councilmember Astle asked about the memo regarding the Forfeiture of Office Ordinance. Ms. Volek explained it was a response to an inquiry raised at the last work session when initiatives were reviewed.

Councilmember Veis **moved** to begin the formal process of approving the amendments to the Forfeiture of Office Ordinance, **seconded** by Councilmember Clark. On a voice vote, the motion was unanimously **approved**.

ADJOURN – The meeting adjourned at 7:48 p.m.