

**REGULAR MEETING OF THE BILLINGS CITY COUNCIL**  
**April 13, 2009**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Pitman gave the invocation.

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

**MINUTES** – March 23, 2009, approved as presented.

**COURTESIES** – None

**PROCLAMATIONS**

- Arbor Day, April 24, 2009. Mayor Tussing noted that Billings was also designated as a Tree City USA for the 25th consecutive year.
- Fair Housing Month, April 2009. Mayor Tussing recognized Family Tree Center members in the audience.
- Billings Child Abuse Prevention and Awareness Month, April 2009

**ADMINISTRATOR REPORTS – Tina Volek**

- Ms. Volek referenced a contract with RedFlex Traffic Systems, Inc. that was advertised as a public hearing in the Billings Gazette and Billings Times and added as Item #3 to the evening's agenda. She said a contract and memorandum were provided in the Friday Packet and two emails about the item were on the desks that evening. She said copies were also available in the Ex-Parte Notebook for public review.
- Ms. Volek pointed out that the agenda packet provided to Council was off by one item number due to the addition of the new item.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2, 8, 9a and 9b 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.)*

There were no speakers.

**CONSENT AGENDA:**

1. A. **Bid Awards:**

(1) **Mini Buses (2) for Parks and Recreation Department.** (Opened 3/31/09) Recommend Intermountain Coach, \$119,706.

(2) **Cab and Chassis for Billings Logan International Airport.** (Opened 3/24/09) Recommend Motor Power Equipment, \$118,687.

(3) **W.O. 08-02 Miscellaneous/Developer Related Project and Additive Alternate No. 1.** (Opened 3/24/09) Recommend J & J Concrete, \$404,200.

(4) **W.O. 08-12 Waste Water Treatment Plant Digester Gas Condensate Drain Vault Entrance.** (Opened 3/10/09 and delayed from 3/23/09.) Recommend reject all bids.

(5) **W.O. 08-24 Broadwater Crossing connecting Descro Park and Lillis Park – Billings Federal Aid Project STPE 1099(63) MDT CN6634.** (Opened 3/24/09) Recommend H.L. Ostermiller Construction, Inc., \$75,733.66, pending CTEP approval.

(6) **W.O. 09-04 2009 Accessibility Ramps on Grand Avenue and 19<sup>th</sup> Street West.** (Opened 3/24/09) Recommend J & J Concrete, \$333,910.

(7) **W.O. 09-05 Poly Surface Improvements from Westfield Drive to Aspen Drive.** (Opened 3/24/09) Recommend Knife River Construction, \$109,448.50.

**B. Grant Agreement** with Department of the Army for Orchard Lane Water Main Replacement Design and Construction, \$184,000.

**C. Certified Local Government Program Contract** with the State of Montana Historic Preservation Office for historic preservation activities, \$5,500 (4/1/09—3/31/10). Local matches: City of Billings - \$1,031; Yellowstone County - \$1,000; City of Laurel - \$469.

**D. Acknowledging receipt of petition to annex #09-02:** .74 acres of Lot 26, Block 19, Lillis Heights Subdivision, generally located on the northwest corner of Rimrock Road and Rim Point Drive at 4739 Rimrock Road; MCS Properties, LLC, petitioner, and setting a public hearing for April 27, 2009.

**E. Confirmation of Police Officer:**

(1) Jacob Best

**F. Street Closures:**

(1) **Montana Women's Run, 5/9/09.** Closures -- 6 a.m. to 12 noon: 2<sup>nd</sup> and 3<sup>rd</sup> Avenues from N. 10<sup>th</sup> to Division Street; 8:25 a.m. to 10 a.m.: Clark and Yellowstone Avenues (partial); and 6 a.m. to 12 noon: 2<sup>nd</sup> Avenue N. from N. 27<sup>th</sup> Street to N. 29<sup>th</sup> Street and Broadway from 1<sup>st</sup> Avenue N. to 3<sup>rd</sup> Avenue N.

(2) **Yellowstone Valley Farmers Market – Saturdays, 7/18/09 through 10/3/09, 6 a.m. to 1 p.m., and Wednesdays, 8/5/09 through 8/26/09, 3**

p.m. to 9 p.m., N. 28<sup>th</sup> from 1<sup>st</sup> to 3<sup>rd</sup> Avenue N. and 2<sup>nd</sup> Avenue N. from 29<sup>th</sup> to 1<sup>st</sup> Avenue N on Saturdays and N. 28<sup>th</sup> from 2<sup>nd</sup> to 3<sup>rd</sup> Avenue N. on Wednesdays.

**G. Approval of Donations** to send School Resource Officers to the National Conference in Baltimore, MD (6/29/09 – 7/3/09).

- (1) GST, Inc., \$2,053.
- (2) Wal-Mart Foundation, \$500.

**H. Approval** of application for an AmeriCorps VISTA Project, approximately \$320,000 per year through the American Recovery and Reinvestment Act (ARAA) of 2009.

**I. Approval** of application and acceptance of 2009 Internet Crimes Against Children Recovery (ICAC Recovery) Grant, \$422,046 through the American Recovery and Reinvestment Act (ARAA) of 2009.

**J. Approval** of application for a Recreational Trails Program grant for continuation of the Swords Park Trail through the east end of the park and connecting to the existing Airport Road underpass, \$35,000 maximum.

**K. Resolution of Intent #09-18804** to Create SID 1386, MacDonald Drive Street Improvements, and setting a public hearing date for May 11, 2009.

**L. Second/final reading ordinance #09-5489 for revisions to the Animal Ordinance:** changes to the existing ordinance by the Animal Control Board due to the contract entered into between the City of Billings and Yellowstone Valley Animal Shelter.

**M. Exempt Plat** of Amended Lot 2A-4, Block 1, Miller Crossing Subdivision.

**N. Bills and Payroll**

- (1) March 6, 2009
- (2) March 13, 2009
- (3) March 20, 2009

**(Action:** approval or disapproval of Consent Agenda)

Councilmember McCall moved for approval of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember Veis referenced Item D and asked if the City could include the remainder of Rimrock Road in that annexation or if staff had to be directed to do it at a later date. Ms. Beaudry said it would not be wise to include it at that point because the item was advertised as it was presented. Councilmember Veis asked if a Council initiative could be brought forward to include the rest of the road when the annexation was

considered at the next meeting. Ms. Beaudry said that was possible. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

**2. RESOLUTION #09-18805 RELATING TO SPECIAL IMPROVEMENT DISTRICT BONDS 1384, YELLOWSTONE CLUB ESTATES; DETERMINING THE FORM AND DETAILS AND AUTHORIZING THE EXECUTION AND DELIVERY. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)** Ms. Volek advised that there was no presentation on the item but staff was available for questions. Councilmember Ruegamer moved for approval of Item #2, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND APPROVAL OF CONTRACT WITH REDFLEX TRAFFIC SYSTEMS, INC. TO PROVIDE RED LIGHT CAMERA TRAFFIC ENFORCEMENT SERVICES TO THE CITY OF BILLINGS. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)** Police Chief Rich St. John advised that his presentation was a recap of a report made at a work session several months ago, and was a Council Initiative that had been worked on for over a year that was to the point that they had a contract as Ms. Volek indicated in her report. Chief St. John stated that the purpose of the red light cameras was to modify driver behavior to reduce the number and severity of accidents. He noted that since the beginning of 2008, 1,056 citations and/or warnings were written for red-light violations. Chief St. John explained that equipment would allow the police department to exercise discretion because an officer would review the citations to determine if one should be sent to the motorist. Chief St. John noted that another benefit was that it would free up officers to respond to other calls. He provided statistics regarding numbers of accidents at busy intersections.

Councilmember Astle asked how many cameras were being considered. Chief St. John responded that previous discussion did not specify a number of cameras but the study focused on ten intersections. He displayed a diagram of how the cameras recorded the vehicles. He advised that mobile speed units were not explored in the request for proposal process because they captured speed only.

Chief St. John explained that the cameras were 100% violator-funded and would have very little impact on staffing. He explained that one officer would be assigned to review the citations to determine which were accepted. Councilmember Brewster asked if the traffic signals had to be changed to LEDs. Councilmember Veis explained that the City was in the process of converting the signals to LEDs. Ms. Volek added that LED lights were being considered as a potential expenditure under the Department of Energy Stimulus Grant.

Chief St. John advised that there were three options for payment with the vendor: 1) a per-paid citation whereby the vendor took a percentage of the citations accepted; 2) a fixed monthly fee; and 3) a combination of the two.

Councilmember Veis asked which method the contract contained. Deputy City Attorney Hensel indicated that was subject to negotiation.

Chief St. John advised that implementation of the cameras would require an ordinance change. He said it was recommended to make the violation a civil infraction that put the burden on the owner, not the driver, and points would not be added to driving records or insurance. He said the citation amount and process would be determined. He stated that establishment of a Code Court could include those tickets to allow an appeal process. Chief St. John advised that if Council approved a contract, discussion with the vendor would include intersection assessment, the type of system, the number of cameras, and the fee schedule. He said there would be a very significant public education program if the concept was approved.

Councilmember McCall asked about other communities across the country that used that system. Chief St. John said he did not have an exact number, but knew that Seattle, Phoenix, Chicago and quite a few other large cities used the cameras. He noted that Seattle intended to add additional cameras at more intersections.

Councilmember Veis asked if the compensation and pricing included in the contract would be negotiated. Mr. Hensel explained that the contract was prepared in an expedited manner due to the proposed legislation. He noted that it was patterned after the contract used by Bozeman that worked well for that city, but the terms could be negotiated.

Councilmember Gaghen asked Chief St. John for clarification that the system was intended to cite drivers that went through the intersection when the light was red. Chief St. John advised it would be consistent with State law that indicated that a violation occurred when the driver entered the intersection when the light was red, not if the light turned red after the driver entered the intersection. Councilmember Gaghen stated that even though the contract indicated that up to 30 intersections could have cameras, it was more likely that the cameras would be placed at the three or four most problematic intersections. Chief St. John agreed and said it was Council's prerogative where the cameras were placed.

The public hearing was opened.

- **Jack Miles, 2610 3<sup>rd</sup> Avenue South**, stated he was in favor of the red light cameras as a safety factor. He said had seen numerous accidents and close calls in the downtown area and it was not just a traffic control issue it was about safety as well.
- **Tom Harmon, 1662 Augsburg Drive**, said he did not believe that it was about safety, but was about revenue. He stated his belief that the City of Billings would do anything to get revenue into its coffers. He provided an example of Albuquerque, New Mexico, that raised \$60 million from cameras. He said Minneapolis, Minnesota, had so many lawsuits it discontinued them. He said if Councilmembers voted for that and then ran for office, it would be difficult for them because people would be mad and their future political career would be in jeopardy.

Councilmember Ruegamer said it sounded like Mr. Harmon had researched the issue. Mr. Harmon replied that he read the Albuquerque paper every day and his son lived in Minneapolis and told him what went on there. Councilmember Ruegamer referred to Mr. Harmon's testimony that it was about revenue, and explained that when something like that was done, the revenue spiked in the first six to nine months, then dropped off drastically after that. Mr. Harmon said that was true. He said he did not believe the City did a very good job of lobbying and that would put another thorn in its side. He said he looked at the central part of Montana that did well and he wondered what Billings was doing by making people mad.

- **Marion Dozier, 3923 3<sup>rd</sup> Avenue South**, urged Council to vote against the contract because the real winner was the camera company. She said she felt the company would keep the largest share of any revenue and the City would become dependent on the revenue it received from it, which would result in more cameras to increase revenue. She stated if traffic control was really a priority, the existing police force should do it. She said she would feel differently if the City owned the cameras. She reported that her car was totaled by a driver that went through a stop sign, not a stop light. She said she wondered how the accident data was computed. She stated she believed it was a big huge Pandora's box.
- **Ervin Hanks, 344 Grand**, said he felt it was more of a revenue issue than traffic control even though he realized safety was needed. He said that was a way to get the foot in the door for the City to get more money, and if more tax money was needed, the City should inform citizens and not call it a safety measure. He said it was misleading to try to get more revenue that way. He stated that passage would open a door for Big Brother to control people more and more. He said it might be better to say cars were not allowed on the city streets.

Councilmember Ulledalen said it seemed to be voluntary, that if a person chose not to run a red light, there would not be an issue. He said the law-abiding citizens were not affected, which he believed was the great majority of people. Mr. Hanks said that Big Brother was still trying to control people no matter what.

- **Larry Larsen, 117 N. 20<sup>th</sup>**, stated he also opposed the red light cameras. He said the yellow light was too short and by the time a person got through an intersection, the light turned red. He explained that Las Vegas depended heavily on tourist trade and chose not to install the red light cameras because it was not worth the bad will it would create with visitors. He said the cameras would have a negative impact on visitors to Billings as well. He commented that driving in Billings was stressful enough without the added stress of cameras.

Councilmember Astle pointed out that the Police Chief stated that a violation did not occur until a car entered the intersection once the light was red. Mr. Larsen said he heard that, but the timing of the yellow light was not related to the width of the intersection and the light did not stay

yellow long enough. He said he felt it would be a gray area of enforcement.

There were no other speakers, and the public hearing was closed. Councilmember Veis moved for approval of the contract with RedFlex Traffic Systems to provide red light cameras, seconded by Councilmember Ruegamer. Councilmember Brewster advised he would vote against the item, principally, because he felt it created so much ill will, especially from out-of-town visitors. He said he felt the high accident rate at some of those intersections was due to the fact that there were 50,000 cars at those intersections each day.

Councilmember Ruegamer stated that he had never been more disappointed in the testimony than what he heard on that subject. He said the bad will thing did not mean anything to him because the lawbreakers were the ones that would be mad. He said he had not heard one valid reason to not have the cameras. He noted that the yellow lights did not have anything to do with it because they were just a warning that the light would turn red. He stated that law-abiding citizens would only be affected by being safer. Councilmember Ruegamer said the cameras were an aid to the police, and it was not about revenue, it was only about safety. He said the revenue collected would probably go to the Parks Department.

Councilmember Astle stated that he took a rough count of the comments posted on the Billings Gazette website related to the issue and about two-thirds of the sixty comments were positive, and some were from outside Billings. He said he did not think it would scare the out-of-state people away. He reported that just that day, he counted six instances of red light violations when vehicles entered intersections after the light turned red. He said he would vote for the motion.

Councilmember Pitman stated that from what he saw, the red light cameras would exchange t-bone accidents for rear end collisions and he struggled with that as far as supporting the issue. He said that before he was on Council, the same intersections were supposedly dangerous due to the flashing lights of signs. He asked if the sign ordinance made those intersections safer because it seemed like no matter what the Council did, those same intersections were unsafe.

Councilmember Ronquillo advised he was on the committee that addressed the electronic signs and the accident factor was not discussed, the focus was on the brightness at night. He said he felt the camera enforcement was a good policy and that insurance companies would support the concept. He agreed with Councilmember Ruegamer that there would be a spike in the revenue until people got used to where the cameras were and started obeying the traffic signals. He said it was a good fit for the City and would help free up the police officers for other issues. He commended Chief St. John for researching the concept with other cities.

Councilmember McCall said she would also vote for the proposal. She said it was about safety, traffic control and behavior modification. She mentioned HB 531 sponsored by a Missoula Legislator that included an amendment that

grandfathered cities that already had a contract. Ms. Volek explained that the Senate approved that amendment and the House rejected it, so the bill went to a joint committee for resolution. She noted the contract contained a termination clause if state statute prohibited the system. Councilmember McCall commented that the effective date of that bill was upon passage and approval so it could happen quickly.

Mayor Tussing stated he agreed that it was about safety, not revenue, but it was obviously unpopular in the State of Montana. He said a citizen survey comment was that the City did not listen to its citizens. He noted that the evening's testimony was four to one and he had not had any personal contact with anyone in favor of the system. He said he would consider it if the City owned the system and was responsible for it, but he would not support it as proposed.

Councilmember McCall stated that she visited with several Ward IV residents and everyone she spoke with supported the system.

Councilmember Gaghen asked for clarification about the pricing and compensation structure. Chief St. John explained that he could only reference what Bozeman negotiated, which was 50% of what went to the company.

Councilmember Clark asked if the camera expense was the responsibility of the company. Chief St. John said it was, and there was no out-of-pocket expense for the City.

On a voice vote, the motion was approved 8-3. Councilmembers Pitman and Brewster and Mayor Tussing voted 'No.'

**4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR SOCIAL HOST ORDINANCE. AN AMENDMENT TO CHAPTER 18 OF THE BILLINGS CITY CODE ADDING ARTICLE 12, HOLDING A PERSON ACCOUNTABLE FOR ORGANIZING A PARTY OR EVENT IN WHICH UNDERAGE CONSUMPTION OF ALCOHOL TAKES PLACE. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)**

Chief St. John advised that a presentation on the ordinance was provided at a previous work session and there had not been any changes or amendments. Mayor Tussing said he discussed his concerns with Sgt. Conrad about the ordinance not including drugs even though both were against the law for minors, but drugs were against the law for everyone. He said he understood the logic of not including drugs in the social host ordinance because it focused on the people who hosted the party and was rooted to underage alcohol consumption. He said he'd like to see it go farther to include the people who knew it was going on and that alcohol was served to minors. He said he would support the ordinance as it was presented, depending on testimony heard that evening, since staff planned to draft another ordinance regarding drug use and maintaining a disorderly residence.

Councilmember Veis referenced the section of the ordinance related to reduced costs and said it did not seem to make sense that costs were reduced by enforcing a new law. Chief St. John agreed and said the intent was deterrence – that people who provided alcohol and hosted parties knew there

were consequences and would think twice about it. Councilmember Veis said he did not believe it reduced costs and suggested reworking the language. Mayor Tussing commented that it would reduce the costs of the after-effects of the party, such as DUI citations and accidents. He agreed with Chief St. John about deterrence and said that even if numerous citations had to be written to hosts, it was still cheaper than the later effects. Chief St. John advised that the ordinance language could be cleaned up.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Brewster moved for approval of the Social Host Ordinance first reading, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE AUTHORIZING A MUNICIPAL TREATMENT COURT ADMINISTRATIVE FEE. AN ORDINANCE THAT AUTHORIZES A \$25.00 COURT FEE TO HELP DEFRAY ADMINISTRATIVE COSTS INCURRED BY MUNICIPAL COURT FOR PROCESSING MISDEMEANOR CRIMINAL OFFENSES IN BILLINGS ADULT MISDEMEANOR DRUG COURT, BILLINGS ADULT MISDEMEANOR DUI COURT, AND BILLINGS ADULT MISDEMEANOR MENTAL HEALTH COURT. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)**

Municipal Court Judge Mary Jane Knisely reported that she presided over three treatment courts that were funded with federal funds, and the intent was to develop a sustainability plan in the event congressional earmark dollars or state and federal funds were no longer available. She said users of the court would pay a \$25 local government fee to fund future treatment courts. She stated that about \$30,000 in revenue was anticipated from the fee. Judge Knisely advised that a \$35,000 supplemental budget request was approved for the current year but was not used because sufficient federal funds were received so the supplemental money would be reverted to the General Fund at the end of the fiscal year.

Councilmember Clark asked if there would be difficulty collecting the fees. Judge Knisely explained that offenses were assessed various surcharges that were paid first. She said most people made payments and she did not anticipate any difficulty collecting the fee.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Pitman moved for approval of an ordinance authorizing a \$25 treatment court administrative fee, seconded by Councilmember McCall. Mayor Tussing commented that the courts were proactive and effective and he did not feel it was too much to have the people in those courts pay the fee so he supported the ordinance. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND FIRST READING ORDINANCE AUTHORIZING CLOSURE OF HAZARDOUS FIRE AREAS AND UPDATING REFERENCES TO THE FIRE CODE. AN ORDINANCE THAT PROVIDES AUTHORITY TO THE BILLINGS FIRE DEPARTMENT TO CLOSE HAZARDOUS FIRE AREAS,**

**AND UPDATES THE BILLINGS CITY CODE WITH APPROPRIATE LANGUAGE TO PROVIDE THE ENFORCEMENT MECHANISM TO MANAGE HAZARDOUS FIRE AREAS. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)**

Deputy Fire Chief Frank Odermann explained that the ordinance was really in two parts with the latter being a housekeeping matter to update the fire code with the necessary language. He advised that the first part of the ordinance allowed the Chief to close hazardous areas at times such as around the July 4<sup>th</sup> holiday. He stated that in the past, the fire code provided that authority but when it was updated, that language was inadvertently removed and placed in a code not adopted by the Fire Department. He said the ordinance was drafted when they became aware that the language was no longer in the fire code and it provided the same authority to the Chief to close the hazardous areas when needed. He added that the language provided the mechanism for that closure and a penalty.

The public hearing was opened.

- **Jan Rehberg, 4401 Hwy 3**, asked if that was the same language that was used before. Mr. Odermann answered that it was. Ms. Rehberg said she owned property outside Billings that had been closed during the July 4<sup>th</sup> holiday and hoped it would be treated the same because the closures were helpful. She said she was concerned that it was intended to close public lands, but saw that it was for private lands also with the exclusion that owners could still access their property.

There were no other speakers, and the public hearing was closed. Councilmember Gaghen moved for approval of the ordinance authorizing closure of the hazardous fire areas and updating references to the fire code, seconded by Councilmember Pitman. Councilmember Astle asked if the signage should be larger than 50 square inches. Mr. Odermann said it would not be problematic to make it larger and he believed that was the minimum size required by law. He said the department used larger bright orange signs that were easy to see. On a voice vote, the motion was unanimously approved.

**7. PUBLIC HEARING AND RESOLUTION #09-18806 APPROVING TAX INCENTIVES FOR KIMMET PROPERTIES, LLC, DBA CELLULAR PLUS FOR COMMERCIAL BUILDING EXPANSION ON PROPERTY LOCATED AT 815 MAIN STREET. KIMMET PROPERTIES LLC AND ADAM KIMMET, OWNERS. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)**

Assistant City Administrator Bruce McCandless advised that Kimmet Properties, LLC, submitted an application for tax incentives as allowed by a program approved by Council in 2005. He explained that the abatement was for property at 815 Main Street and was an addition to an existing building. He said approval would provide a maximum benefit of \$8,000 per year. Mr. McCandless stated that he thought the figure was high because the Department of Revenue typically did not value property close to the actual construction or market value and would therefore

produce lower taxes than what was stated in the staff report. He said Brandon Berger from Big Sky EDA and Mr. Kimmet were in the audience to answer questions.

Councilmember Veis stated that he did not see approval or denial from Big Sky EDA in the documents and asked if they still had to go through that process. Mr. McCandless said a slide on the PowerPoint presentation he had not started recommended approval of the incentive and that all application steps were completed. He added that he was confident that BSEDA endorsed it because they processed the applications before forwarding them to the City or County. Councilmember Veis asked if that should be part of the recommendation. He asked Mr. McCandless to display the slide that included that recommendation.

The public hearing was opened.

- **Brandon Berger, Big Sky Economic Development** stated that the approval was his oversight on the application. He explained that the approval was included prior to submittal to the city or county. He said Big Sky EDA recommended approval of that application.

Mr. McCandless displayed the final recommendation that could be done in two parts if Council was concerned about completion of the application requirements.

There were no other speakers and the public hearing was closed. Councilmember Ronquillo moved for approval of Item 7, the resolution approving tax incentives for Kimmet Properties, LLC, DBA Cellular Plus with the recommendations from staff, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

**LENHARDT SQUARE MASTER PLAN AGREEMENT. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)**

Ms. Volek advised that staff did not have a presentation for the item, but Planning Manager Wyeth Friday was available to answer questions. Mayor Tussing pointed out that Ms. Rehberg was present as well. Councilmember Clark moved for approval of the Lenhardt Square Master Plan Agreement, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

**9. (a) MANAGEMENT AGREEMENT WITH DOWNTOWN BILLINGS PARTNERSHIP, INC. TO MANAGE THE EXPANDED NORTH 27<sup>TH</sup> STREET URBAN RENEWAL AREA/TAX INCREMENT DISTRICT, \$98,580.**

Ms. Volek advised that the item was discussed at a previous work session and Mr. Greg Krueger from Downtown Billings Partnership was in the audience and available for questions. Councilmember Astle moved for approval of Item 9a, Management Agreement with Downtown Billings Partnership, Inc. to manage the Expanded North 27<sup>th</sup> Street Urban Renewal Area, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

**(b) MANAGEMENT AGREEMENT WITH BILLINGS INDUSTRIAL REVITALIZATION DISTRICT, INC. TO MANAGE PROJECTS WITHIN THE EAST BILLINGS URBAN RENEWAL AREA/TAX INCREMENT DISTRICT, \$2,000.** Ms. Volek advised that there was no presentation on the item, but Mr. Krueger was available for questions. Councilmember Ulledalen moved for approval of Item 9b, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**10. 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.)*

- **Marion Dozier, 3923 3<sup>rd</sup> Avenue South**, said she wanted to address the comments made by Councilmember Ruegamer about the public speakers. She said it was difficult to come before the Council to speak and she felt Councilmembers should listen to the speakers and not take them to task if they disagreed with what was said. She added that it was Council's job to listen and weigh things, but not attack the speakers.

Councilmember Ruegamer stated he agreed with Ms. Dozier that it was their job to listen, but it was also their job to make it clear to the audience when something untrue or misleading was said. He said the testimony that evening that it was all about revenue was reading their minds and he wanted to make it clear that it wasn't. He said he disagreed and was sorry if that was offensive. Ms. Dozier said the problem was that when Councilmembers spoke, the speakers did not have a chance to speak again. Councilmember Ruegamer pointed out that Ms. Dozier was speaking again.

Councilmember Ulledalen stated that Council had some responsibility when public commenters alluded to things that Council was not doing. He said the discussion about red light cameras was never about raising revenue, it was about augmenting the Police Department. He said he often heard comments from people who watched the meetings on TV and were puzzled why Council did not respond sometimes. He said he believed Council had an obligation to the rest of the voters to respond when something untrue was stated. Ms. Dozier said that was true, but her comments came from what she read in the newspaper. She said the story indicated that the revenue was generated from the contract and the camera company received the biggest portion of it. Councilmember Ulledalen responded that that answered the question that it was not about revenue, it was about getting the job done. He said one of the biggest complaints he received from residents in his ward was about people running red lights and it did not make sense to have an officer posted at key intersections to enforce a basic traffic rule. He said he did not see revenue as a big part of the discussion at any point.

Councilmember Gaghen stated that Ms. Dozier presented her testimony in a reasonable way as opposed to some who did not testify that way. She

said many people had mentioned their fear of coming forward and she felt Council should be as non-judgmental as possible even if they disagreed with the testimony.

Councilmember McCall stated that she appreciated Ms. Dozier's comments and that she brought up the issue. She said she thought everyone was responding in a candid fashion, but it was a good lesson and the level of decorum and civility on the Council should be raised.

Councilmember Ruegamer asked if he was being accused of being uncivil. He said he made comments that he thought addressed misleading statements and he did not think his comments were uncivil. He said Ms. Dozier proved with her statements that the issue was not about revenue. He said he wanted it to be very clear that it was not about revenue.

Mayor Tussing asked for the Clerk's notes regarding the discussion on the red light camera issue. He read Councilmember Ruegamer's comments and said he could see that someone could be intimidated by some of those comments and accepted Ms. Dozier's testimony as constructive.

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

## **Council Initiatives**

- **Councilmember Brewster** moved to direct staff to hold a public meeting for the Bench Boulevard residents and any other interested parties to inform them of the plans for the Bench connector, seconded by Councilmember Ulledalen. Councilmember Brewster said he hoped to invite residents, County Commissioners, Montana Department of Transportation and any other interested parties as well. Councilmember Ulledalen said he supported that due to some of the things that happened with the Shiloh Road project, so the more information distributed the better. He said there had been too many iterations and people needed to be informed of the project and the consequences of it. Councilmember Veis asked about a timeframe. Councilmember Brewster suggested 60 days. Ms. Volek advised that a meeting was held earlier that day with MDOT staff, County Commissioners and Public Works staff to discuss details of the plan. She said the discussion was primarily about cost overruns and who would assume the burden of them. Councilmember Pitman asked if Council could be notified of those types of meetings. Ms. Volek said she would do that, and she was not aware that the meeting was to include all the Commissioners. On a voice vote, the motion was unanimously approved.
- **Councilmember McCall** moved to direct staff to investigate the feasibility of implementing the Workforce Housing Ad Hoc Committee recommendations, seconded by Councilmember Pitman. Councilmember Clark moved to amend the motion that the recommendations be presented at a work session, seconded by Councilmember Brewster. Councilmember Veis clarified that they wanted staff input on the sixteen requests. On a voice

vote, the amendment was unanimously approved. On a voice vote, the amended motion was unanimously approved.

- **Councilmember Brewster** advised that he met with a group of people who wanted to work collaboratively with Solid Waste to find a way to dispose of televisions, computers and other electronic equipment that should not be in the landfill. He moved to direct Solid Waste staff to meet with an interested group of people to explore options for disposal of electronic and toxic devices and to report back at a work session, seconded by Councilmember Pitman. Ms. Volek advised that an e-waste collection event was scheduled for May 2-3 at Tatoonie Electronic Systems, and the City would help defray the disposal costs for the electronics. Councilmember Brewster stated he thought they had a reasonable plan but was not sure if the costs were realistic. Councilmember Astle asked if that included disposal of CFC bulbs that contained mercury. Ms. Volek announced that a toxic waste roundup would be held May 30 at the Billings Operation Center, and fluorescent bulbs and other toxic items would be accepted. She said the City was involved in a one-time event and was exploring the possibility of doing that more often. Councilmember Ulledalen stated that Computers for Kids also accepted computer components. On a voice vote, the motion was unanimously approved.
- **Councilmember Gaghen** expressed concern about Carrie's Quilts and Iron's retirement sale that had been ongoing for three months without a liquidation license. She said it seemed unfair that the business would be allowed another 90 days to liquidate once they obtained the license even after they were told previously that one was needed. She wondered if the ordinance could be reviewed to avoid similar situations in the future. Ms. Volek advised that the code enforcement process relied on complaints, and if Council wished, the ordinance could be tightened so an extended period was not allowed if someone violated it. Councilmember Gaghen said retailers in that same market had expressed concerns.

Councilmember Clark stated that it bothered him that it was the Billings Gazette story that actually pushed it to the point that something was done. Ms. Volek explained that it was the policy of the department to try to work with individuals to bring them into compliance before citations were issued, and she believed that was the case in that instance. Councilmember Gaghen stated that although Commercial Code Enforcement Officer Nancy McCullough had contacted the business owners, it should have happened sooner. She said the sale was blatantly advertised without the public license symbol.

Councilmember Gaghen **moved** to direct staff to explore a stricter license process for liquidation/going out-of-business sales, seconded by Councilmember Astle. Mayor Tussing asked if that was a big issue other than the current instance. Councilmember Astle stated that the point was that instead of three weeks or a month; the business would end up with six months to liquidate and they did not think a permit was needed. He said a citation should have been issued after three weeks if they had not obtained

the permit. He stated he was tired of people who flaunted the law. Councilmember Astle stated that he had taken a lot of flack from business owners and felt it was a problem that should not happen again. Mayor Tussing asked if it was a problem with the ordinance or with enforcement of the existing ordinance. Ms. Volek explained that the philosophical process was to try to work with people to bring them to compliance. She said if Council wished to tighten the ordinance and make enforcement the key rather than cooperation, it could be done. She said it was a policy matter and Council guidance was welcome. Councilmember Ulledalen stated that the City could be cooperative and reasonable and in that situation, it seemed to be an issue of the definition, that they indicated they were retiring, not going out of business. He suggested refining the definition. He said the point was that it could keep going on and was hurting other businesses. Councilmember Ronquillo asked Ms. Volek to review the ordinance because he heard that it did not state it was complaint driven. Ms. Volek said that was a practice due to the small code enforcement staff, with only one person doing commercial code enforcement. She mentioned a code court concept that could speed up the process and could provide need for additional code enforcement officers.

Councilmember Astle clarified that he did not expect something to be done in three weeks, but three months was more than bending over backward for someone who was obviously hurting other businesses. He said the business advertised it had \$2 million in inventory, but should not have that amount of inventory if it was going out of business unless new items were brought in. He said the Code Enforcement Department had been reasonable and worked with the business, and he was not against that, but was against people flaunting the law. Councilmember Clark said even the code enforcement people should have known what was going on with all the advertisement that was done. On a voice vote, the motion was approved 10-1. Councilmember Veis voted 'No.'

- **Councilmember Veis** stated that when the Parking Department budget was reviewed that year, he wanted a report on the feasibility of automated attendants at the parking garages. He suggested having the same information from the Airport and what it would take to get to that system. He said he also wanted to know where they were on the sale of Park IV, including a timeline. Ms. Volek said a Park IV report was originally scheduled for the April 20 work session, but it was not complete yet. She said staff would provide the information on the automated attendant concept. She explained there was an ongoing contract with a private contractor for the parking function at the airport. Councilmember Veis said he knew it was more difficult but he wanted to have the discussion during the budget process. Councilmember Ulledalen said he supported that and wanted to hear the business case for why the garages were not automated. He said he understood that Park I only had about 20 spaces that were not reserved. He said with budget constraints, he did not see any reason to staff Park I for so few spaces when they could be leased. He said he believed the ability to

automate the garages already existed with the updated equipment previously installed.

- **Councilmember McCall** reported that the first work session for the Citizen's Survey was tentatively scheduled for Wednesday and an initial plan to the Council was expected in 30 days

**ADJOURN** – The meeting adjourned at 8:09 p.m.