

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
July 27, 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. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Astle gave the invocation.

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

MINUTES – July 13, 2009, approved.

COURTESIES - Mayor Tussing extended condolences to City Administrator Volek on the death of her father.

PROCLAMATIONS - Fire Fighter/MDA Day – August 8, 2009

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek referenced a letter on the councilmember desks from Federal Signal Corporation questioning the bid award recommendation for Item B1. She said a copy of the letter was filed in the Ex-Parte Notebook for public review.
- Ms. Volek referenced the revised staff memo for Item E that was included in the Friday packet. She said a copy of the revised memo was filed in the Ex-Parte Notebook for public review.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 3(a), 3(b), 4, and 5 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**, referenced the revenue bonds and said the City would have received better prices if they would have opened the bidding to the public. *(The remainder of Mr. White's testimony was inaudible.)*

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

CONSENT AGENDA:

1. A. Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	No Applications Received	Human Relations Commission	07/27/09	12/31/10
2.	William Kipp	Community Development	07/27/09	12/31/09
3.	Matt Krivonen	Zoning Commission	07/27/09	12/31/10

1. Unexpired term of N. Gregory Kohn
2. Unexpired term of Kathleen Gilluly
3. Unexpired term of Thomas Grimm

B. Bid Awards:

(1) Airport Ramp Sweeper. (Opened 6/23/09) (Delayed from 7/13/09) Recommend Intermountain Sweeper Company, \$187,329.

(2) Park I Elevator Modernization and Upgrade. (Opened 7/14/09). Recommend Langlas Associates, Inc., \$249,000.

(3) W.O. 04-26, Zone 4 Reservoir Phase 2. (Opened 7/14/09). Recommend Star Service, Inc., \$2,676,578.

(4) W.O. 08-27, Solid Waste Landfill Phase 4 Expansion. (Opened 7/14/09). Recommend CMG Construction, Inc., \$699,935.

C. Approval of purchase of property at 3113 Stanford Drive, \$107,000.

D. Change Order #4, SID 1379 King Avenue West Landscape Improvements Contract, A-1 Landscaping, not to exceed \$10,000.

E. Professional Services Contract for W.O. 09-11, Rimrock Road Improvements from 17th Street West to Forsythia Blvd., Kadrmas, Lee & Jackson (KLJ); \$301,100.

F Professional Services Contract for W.O. 10-01, 2010 Water and Sewer Replacement Projects, Morrison-Maierle, Inc., not to exceed \$1,202,610.

G. Agreement for Landfill Use with City of Big Timber, one-year term; \$34,500 estimated annual revenue.

H. Agreement with Yellowstone County Council on Aging, Inc. for senior programs at the Billings Community Center, July 1, 2009 – June 30, 2010, \$25,000.

I. Amendment No. 9 with Morrison-Maierle, Inc. for engineering services for the Airport's West End Entrance Replacement Project, \$83,408.

J. Amendment No. 10 with Morrison-Maierle, Inc. for engineering services for the Airport Improvement Program (AIP) 35 Taxi Lane Rehabilitation Project, \$43,054.

K. Right-of-way Easement with Billings Clinic for installation of wayfinding signs in the 1000 block of N. 27th Street for W.O. 06-20, Downtown Wayfinding Signage, at no cost to the City.

L. Approval of sale of Fire Department surplus property:
(1) Used pump and motor to Reed Point Volunteer Fire Department, \$500.
(2) Two Emergency One (E-One) fire apparatus - Unit #4090 and Unit #4091.

M. Street Closure:
(1) Mexican Fiesta, August 1, 2009, 6 a.m. – 7 p.m., 6th Avenue S. between S. 28th and S. 29th, and S. 29th from 6th Avenue S. to the alley.

N. Resolution of Intent #09-18847 to adopt the Old Town Neighborhood Master Plan and set a public hearing for August 10, 2009.

O. Resolution #09-18848 repealing Resolution #07-18594 and establishing and naming a Board of Trustees for the Billings Tourism Business Improvement District No. 0002.

P. Bills and Payroll
(1) June 30, 2009

(Action: approval or disapproval of Consent Agenda)

Councilmember Veis separated Consent Agenda Items B1 and F. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items B1 and F, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Item B1, seconded by Councilmember Ruegamer. Councilmember Pitman asked staff to explain the letter from Federal Signal Corporation and the difference in the bid amounts. Director of Aviation and Transit, Tom Binford, explained that when staff wrote specifications, they always tried to write them for multiple bidders, which was a difficult task. He said what they had done over the years was put a list by item in the specifications to allow the bidder to tell them if they did or did not meet the specs. He said both companies did not meet every specification, but the one specification that was very important was a stainless steel hopper for the sweeper. He said their current sweeper was 20 plus years old, and the hopper rusted out and had to

be replaced. Mr. Binford said Intermountain Sweeper Company's bid was a little higher, but they bid a stainless steel hopper. He said Federal Signal Corporation did not bid a stainless steel hopper but said they would provide a urethane or plastic cover for it. Mr. Binford said it was probably a good application and an option, but Intermountain Sweeper Company bid the hopper to spec; and they would not have had the option to bid a cheaper product. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Item F, seconded by Councilmember Ronquillo. Councilmember Veis said the hourly rates for professional fees for Morrison-Maierle were omitted from the Contract for Professional Services and moved to amend the motion that the rates be included, seconded by Councilmember Pitman. On a voice vote, the amendment was unanimously approved. On a voice vote, the original motion, as amended, was unanimously approved.

REGULAR AGENDA:

2. CONTINUANCE OF PUBLIC HEARING AND RESOLUTION #09-18849 VACATING A PORTION OF CLARK AVENUE WITHIN THE 2300 BLOCK. (Continued from 7/13/2009) Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised that staff had no presentation but was available to answer questions. The public hearing was opened. There were no speakers, and the public hearing was closed.

Councilmember Ronquillo moved for approval, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

3. (a) RESOLUTION #09-18850 RELATING TO POOLED SERIES 2009 SPECIAL IMPROVEMENT DISTRICT BONDS (SPECIAL IMPROVEMENT DISTRICTS 1372 AND 1386); FIXING THE FORM AND DETAILS AND AUTHORIZING THE EXECUTION AND DELIVERY. Staff recommends approval. (Action: approval or disapproval of staff recommendation). City Administrator Volek advised that staff had no presentation but was available to answer questions.

Councilmember Astle moved for approval, seconded by Councilmember Ruegamer. Councilmember Ulledalen commented that the Billings Gazette reported that the City had negotiated bond sales with investors directly instead of offering them for public sale because of the depressed bond market. Councilmember Ulledalen said in some cases the conventional bidder would be a brokerage firm and sometimes bond issues were not big enough to warrant bidding on and then reselling. As a result, he said there had been some failed bids in the past because no one was interested. Councilmember Ulledalen said he wanted people to understand that sometimes there was a reason for a negotiated sale. Councilmember Ronquillo commented that some people thought the item was for a swimming pool. City Administrator Volek clarified the project was for water, sewer, and road improvements to East and West MacDonald. On a voice vote, the motion was unanimously approved.

(b) CONSTRUCTION BID AWARD FOR SID 1386, EAST AND WEST MACDONALD DRIVE. (Opened 6/23/09) Delayed from 7/13/09 until after bond sale. Staff recommends JEM Contracting, \$241,632.50. (Action: approval or

disapproval of staff recommendation). City Administrator Volek advised that staff had no presentation but was available to answer questions.

Councilmember Astle moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

4. RESOLUTION #09-18851 RELATING TO REVENUE BONDS FOR THE 2008 AND 2009 WASTEWATER REPLACEMENT PROJECTS; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS OF THE BONDS. Staff recommends approval. (Action: approval or disapproval of staff recommendation). City Administrator Volek advised that staff had no presentation but was available to answer questions. Councilmember Ulledalen moved for approval, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

5. RESOLUTION #09-18852 RELATING TO REVENUE BONDS FOR THE 2008 AND 2009 WATER REPLACEMENT PROJECTS; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS OF THE BONDS. Staff recommends approval. (Action: approval or disapproval of staff recommendation). City Administrator Volek advised that staff had no presentation but was available to answer questions. Councilmember McCall moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

6. 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.

- **Dennis Ulvestad, 3040 Central Avenue**, said he was the chairperson of the West End Task Force. He said he had been contacted by residents concerning a vacant house at 2638 Yellowstone Avenue. He said the house had been destroyed except for the frame, and had caused the values of other homes in the neighborhood to go down. (Pictures of the vacant house and a letter from Dorothy Lowman were distributed to Council.) Mr. Ulvestad introduced Greg Huffard.
- **Greg Huffard, 2642 Yellowstone Avenue**, said he was there to address the issue of the property at 2638 Yellowstone. He said the people who rented the house moved out in December. He said he had attempted to refinance the mortgage on his house the first week in December and received an appraisal; six weeks later he had another appraisal done, which came in \$16,000 less than the first appraisal. He said he did not know if the issue was with the vacant house next door. Mr. Huffard said he contacted the City and told them the water had been left running and the heat left on. He said he contacted Code Enforcement Officer, Cal Meyer, several months ago to let him know people had brought in large dumpsters and started gutting the house. Mr. Huffard said the house was an eyesore, and they did not know who owned the house. He said they felt coming before Council was the only

way to get help.

Mayor Tussing asked Mr. Huffard if he was asking Council to direct staff to take a look at the property and see what could be done about it. Mr. Huffard said that was correct. Councilmember Astle asked who took the house apart. Mr. Huffard said the name of the company was "The Firm", and they had a sign up in the yard for a while. He said the sign was no longer posted, and there was garbage left in the yard and even up in the tree in the back yard. Councilmember Astle asked how long it had been since they first started taking the house apart. Mr. Huffard said it was around the first of March. He said he spoke to Cal Meyer in May, and he had seen people walking around the house on several occasions but nothing more had been done. Councilmember Astle asked Mr. Huffard if he thought the people walking around the house could have been from an insurance company. Mr. Huffard said he did not know.

City Administrator Volek advised she had provided Planning Director, Candi Beaudry, with a copy of Ms. Lowman's letter before she left the meeting, and Ms. Beaudry had looked at the pictures. Ms. Volek said it was clear the property had not been adequately secured under City code, and staff would be taking steps first thing the following morning to make sure the property was secured. Councilmember McCall asked if staff could also research the property owner. Ms. Volek advised they could find the last owner of record in the County's tax files. Ms. McCall said she had driven by the house, and she was glad the neighbors were at the meeting to talk about it. Councilmember Pitman asked if there was a time limit on people leaving their property in that type of condition. Ms. Volek advised there was no time limit on construction, and the City had looked at an ordinance at one time that would establish a limit. She said there are other residences that have been under construction for a long time in other parts of the city. She said currently all the City could do was make sure the properties were secure and not a hazard. Councilmember Ulledalen said they had worked on a minimum standards ordinance and one of the questions was how stringent could it be because it had to be uniformly applied across the City. He said there was a house in Ward IV that burned a year or so ago and was still there, and the neighbors wanted something done about it. He said there was nothing in City Code or State Law in terms of what could be done other than securing the property. He said it was very frustrating. Councilmember Astle said he had been contacted by several people who complained about the house that was up on blocks at Virginia Lane and MacDonald Drive that had been there for a minimum of two years. He said he did not know if it would be considered secured. City Administrator Volek said there was a lawsuit involved in that particular case, and it was technically considered secured by the orange construction fence around it. Ms. Volek said she understood it was to be moved around the 4th of July. She said the new owners planned to take the house to a property outside the City limits, and they had to make arrangements with the utilities to remove or temporarily take down wires in order to move it. Councilmember McCall said she spoke with Candi Beaudry about the house, and she had indicated it was to be moved to Acton around the first of August. Councilmember McCall said the owners had run into problems with the house movers, which caused the delay.

- **Dorothy Lowman, 2704 Yellowstone,** said she wrote the letter and distributed the petition in the neighborhood. She said the house was a hazard and nothing had been done to rectify the problem. She said many of the neighbors had lived in their homes for many years and took good care of their homes. Ms. Lowman said on June 22nd she was told by the workers that work would start the following week. She said 35 days had passed and nothing had been done. Ms. Lowman said none of the neighbors had been contacted and told what was going on. Ms. Lowman asked Council what the neighbors could do to force the issue. Councilmember McCall asked who told her the work would start the following week. Ms. Lowman said they were people who were sitting on the front porch eating lunch and who had been taking debris from the house and throwing it in the dumpster. Mayor Tussing told Ms. Lowman that staff would be working on it, and if anyone in the neighborhood had questions, they could contact him or their councilmembers.
- **Russell Doty, 3878 N. Tanager Lane,** said he would like the City Council to approve the authorization for him to look at any and all bills that NorthWestern Energy provided to the City for street lighting purposes. Mr. Doty said he had asked for information about lighting as a part of the studies he was doing with the Energy and Conservation Committee, and he was told by the City it would be better if he received the information from NorthWestern Energy. He said NorthWestern Energy told him the City would have to sign off on the information. Mr. Doty said, by way of full disclosure, it looked like as of that day the companies he was involved with would be providing some LED fixtures to other communities, but he intended not to do that with Billings to avoid a conflict of interest. Mr. Doty provided copies of a letter to City Administrator Volek, who distributed them to Council.
 Mayor Tussing asked Mr. Doty if he had sent the letter to the rest of the Council. Mr. Doty said he sent it to the Mayor and copied Deborah Singer and maybe someone else but he was not sure. He said it had been over a week ago.

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

Council Initiatives

- **Ulledalen:** Moved to request staff provide information to Council at a work session on city employee costs by department that are paid from the General Fund. He said he would like to see a breakdown of insurance increases, longevity, etc., seconded by Councilmember Pitman. He said he would like to see a reasonable presentation of what the percentage of increases had been over a number of years to get some type of trend line for where they were headed. Councilmember Astle said he would also like to know the number of FTE's. On a voice vote, the motion was unanimously approved.
- **Ruegamer:** Commented about dogs at the Farmer's Market. He said he had received phone calls complaining about people taking dogs to the Farmer's Market and asked Attorney Brooks if it was correct that the promoters of the Farmer's Market had control over the dogs being there. Attorney Brooks said typically the promoters would be responsible for enforcing the city's leash law. Councilmember Ruegamer said dogs could be at the Farmer's Market as long as

they were on leashes, but people who did not have dogs did not want them there. He said dogs were a problem with fighting and other issues he did not care to mention. Attorney Brooks said he would be happy to pass the information along to the City's Animal Control Supervisor, Dave Klein, and let him know there had been complaints received about dogs at the Farmer's Market who were not on leashes.

- **Ruegamer:** Said two weeks ago he had mentioned he would be making an initiative to abolish some of the Boards, and he had asked everybody to contact him with the Boards they felt were not helpful. Councilmember Ruegamer said two weeks from that evening he would be suggesting that they get rid of the Public Utilities Board, Traffic Control Board, Board of Ethics, and Human Relations Board. He said some were redundant, some were unnecessary, and some had not been heard from in years. He said Ms. Volek could contact the four Boards, and they could contact him to discuss it further. Councilmember McCall asked Ms. Volek for a summary of the dates and reports that the Boards had provided to Council over the past four years. Councilmember Veis said Attorney Brooks had written a lengthy memo that included much of the information and asked if it could be sent via e-mail. Councilmember McCall said she really did not need anything lengthy and just wanted to know what they had accomplished. Councilmember Ulledalen said one of the action steps in their strategic planning was to evaluate the standing Boards and Commissions and decide which ones should be kept and which ones should be eliminated. He said they had the information, and they needed to step up and take action.

City Administrator Volek reminded Council they had revised the entire Boards and Commissions Ordinance last fall, and the removal of any Boards would require another ordinance. Attorney Brooks advised that Assistant City Attorney Bonnie Sutherland had done most of the work on the ordinance, and he would confer with her the following morning about providing Council with all the information they would need to repeal or modify specific ordinances relating to the Boards.

Mayor Tussing commented that Councilmember Veis had made a previous motion to eliminate some of the Boards that had failed. Councilmember Veis said he had actually made two motions, each one at different meetings. Councilmember Astle asked if Attorney Brooks would be e-mailing the memo to the press. Attorney Brooks said he thought it had been sent to the media before but he would be happy to send it to them again.

Councilmember Ulledalen commented that in some cases the functions of some of the boards would be better served by ad hoc boards with specific time limits regarding specific topics like rate increases and that sort of thing.

Mayor Tussing asked if there was some reason why they could not tell NorthWestern Energy it was okay to tell any member of the public how much tax money was spent on lights. Public Works Director, Dave Mumford, advised that Mr. Doty's request was specific to how much each light cost, and NorthWestern Energy was metered on a large scale and not on an individual scale. He said Public Works received a single billing for a light district and did not know the cost per light. Mr. Mumford said it was not that the City did not want to provide the

information. He said NorthWestern Energy felt the City was their customer and before they gave out the customer information, they wanted the City to say it was okay.

Mayor Tussing asked if the information would be readily available from NorthWestern Energy. Mr. Mumford said he did not believe it would be readily available, but he could not speak for NorthWestern Energy.

Councilmember Ulledalen said it appeared to be basic, simple math and asked why staff could not request the information from NorthWestern Energy and then relay it to the Energy and Conservation Commission. He said he was concerned about what other opportunities they would be opening up for other people who wanted similar information. He said it seemed to make better sense to have the information provided to the City, and the City could pass it along.

Mayor Tussing said in an ex-parte communication he had with Mr. Doty, one of the things Mr. Doty wanted to know was if the City was still being charged for old lights that should have already been paid for. City Administrator Volek advised there was a tariff allowed by state law in the downtown district that once a light fixture was paid for and the district was run by NorthWestern Energy, they were allowed to continue to charge for the fixture at a rate set by the Rate Commission. Mr. Mumford advised every light in the state was spread over their rate structure, and that was how the Public Service Commission established their rates. Mr. Mumford advised that NorthWestern Energy controlled the majority of the light districts in the City. Mayor Tussing asked Mr. Doty if he was right about that being one of his issues. Mr. Doty told Mayor Tussing he was correct, and the discussion he was hearing that evening was essentially correct. He said the one thing that had been left out was that if they took the particular piece of the tariff that was used, the City's streetlights should be paid for within six to 12 years. He said the City was paying more than double for them. Mr. Doty said there was also an additional charge for maintenance, so he was trying to quantify what the overcharge was that had been overlooked by the Public Service Commission when they set the rates. He said the City should be paying much less under the tariff, and he thought he could prove it if he could get the information.

City Administrator Volek advised that the Department of Transportation would be giving a report on LED Lights at the August 3rd Work Session.

Mr. Mumford said if Mr. Doty was asking the Council to get into the rate structure with the Public Service Commission, it would be a concern because the City had a relationship with them, and the majority of the City's lights were with NorthWestern Energy. Councilmember Ulledalen said he felt Mr. Doty could get more pertinent and responsive answers from the Public Service Commission rather than asking NorthWestern Energy.

Councilmember Ruegamer commented that Mr. Doty had already testified, and he would be testifying for the third time. Mayor Tussing commented he had asked Mr. Doty a question the second time. Councilmember Ruegamer told the Mayor he had currently not asked Mr. Doty a question. The Mayor commented Mr. Doty was not currently talking. Councilmember Ruegamer said he was about to. Mayor Tussing advised Mr. Doty he could not let him testify again if there were no questions.

- **Ulledalen:** Said there would be an election in November, and the City would be paying for the election ballots that would be going out. He said they had received some criticism that the questions on the Citizen Survey were too broad, too vague, and too general. He said they may have the opportunity to respond by placing more specific questions on the ballots, such as asking for more specific information about park maintenance districts or support for raising the mill cap. Councilmember Ulledalen said he called Duane Winslow, who said he could add informational questions to the ballots. Councilmember Ulledalen said he felt it would be an interesting idea to present three to five questions to the voters and ask for more specific information since the City was already incurring the cost. He said the City could ask anything about plowing streets, garage collection, etc.

Mayor Tussing asked if Mr. Winslow had said Attorney Brooks would have to decide if it was legal. Councilmember Ulledalen said Mr. Winslow thought the City could do it; he believed other cities had done it; and that Attorney Brooks could provide the answer. He said Mr. Winslow suggested qualifying it further by asking the voters to pick three of the five items to answer. Councilmember Ulledalen said it was a chance to get more information while they were already spending the money.

Attorney Brooks asked if it would be a separate document included with the ballot. Councilmember Ulledalen said the questions would be printed right on the ballot. Attorney Brooks said he did not see why they could not do it, but he needed to check with Mr. Winslow. He said there would need to be clarification that it would not invalidate a vote if someone chose not to answer the questions. Mayor Tussing asked if they would need to check with the Secretary of State. Attorney Brooks said he or Mr. Winslow would check with the State.

Councilmember Veis asked if Attorney Brooks would report at a work session on what he found out, and they could discuss what questions they would like to see on the ballot. Councilmember Ulledalen asked if anyone objected, and none of the Councilmembers said they did.

Councilmember McCall said she did not object at all and said she thought it was a good idea. She said the one thing she was concerned about, and she had talked with Councilmember Ulledalen about it earlier, was that the last series of meetings were scheduled for September 16 and 17, and it would be very fortunate if they were able to get through the full series of eight meetings before the information needed to be provided to Mr. Winslow. She said she hoped there would be some flexibility to do that. She said questions on the ballot would act as a follow-up to find out more information on what people were thinking.

Councilmember Ulledalen said Mr. Winslow told him there would be a 75-word limitation on the explanation of each item, so they would need to be very direct on what they were asking and why. He said it would be an opportunity to get a sensitivity of what the voters thought rather than ending up in a crisis in 2013 and having to figure out where money would come from and what cuts would have to be made. He said the information would be gathered up front so reasonable decisions and recommendations could be made.

City Administrator Volek advised there would be a presentation on the results of the Parks and Recreation Needs Assessment Study at the Work

Session on August 3rd, which would address funding. She said the same presentation would be given the following morning, August 4th, at a Chamber Rise and Shine Breakfast. Councilmember Ulledalen said there was an issue with the growing trail system in the City, and the trail system was an important part of the City. He thought they could directly tie it to maintaining the trail system. He said they needed to specifically ask the voters what they wanted the City to do.

Mayor Tussing asked Councilmember Veis to restate his desired plan. Councilmember Veis said he would like Attorney Brooks to report at the last work session in August or first work session in September and have councilmembers bring the questions they would like to see on the ballot to that work session. Attorney Brooks said he would check with Mr. Winslow the following morning, and it might be advantageous to have Mr. Winslow attend the work session. Councilmember Ulledalen asked if there were any other restrictions relative to meetings and notices. Attorney Brooks said it would depend on the details of the questions. He said he wanted to check with Mr. Winslow because he was the elections expert.

Councilmember McCall commented that they had a 47 percent response rate on the Citizen Survey, which was the highest in the country; and contrary to the negative comments that Councilmember Ulledalen had heard, a lot of people heard very positive comments.

- **Veis:** Moved to direct staff to provide a report within 30 days discussing three or four alternate ways to move forward with the sale of Park IV and the pros and cons of each alternative, seconded by Councilmember Ulledalen. Councilmember Veis said he would like to know if it would be possible to do something else besides putting it out for bid or putting an ad in the back of The Billings Times. On a voice vote, the motion was unanimously approved.
- **Pitman:** Moved to direct staff to explore the possibilities of making the Mayor's and Councilmembers' e-mails available to the public, seconded by Councilmember Veis.

Mayor Tussing said he would like to know how much trouble it would be because if he had to get a list of people and stick them on some kind of list and they wanted the ones that were related to the Heights and they did not want the ones that were related to Ward V, that would be too much to ask him to do. Councilmember Pitman said it would not be that complicated, and it would be receiving all e-mails or none.

Councilmember Veis asked Councilmember Pitman to confirm that a person could add his or her e-mail address to the mayor and council list that would be sent out but it would not be required of any one councilmember or staff to include a lot of e-mail addresses. Councilmember Pitman said that was correct.

Mayor Tussing asked City Administrator Volek if she wanted to run the idea by IT first. He said he was not sure he wanted to vote on it yet. City Administrator Volek said the size of the list and the continual upgrading would be the true issue. She said she would check and try to report back in the Friday

packet. Mayor Tussing said he would not support it until he received an answer to his question.

Councilmember Ulledalen said a question for Dave in IT would be if there would be a way to post to the City's website so as e-mails went out, they were automatically posted and anyone could look at them. Ms. Volek advised that was one option they were exploring, and the school district currently did it that way.

Councilmember Ulledalen made a substitute motion to receive a report from IT on what the internal issues would be relative to doing that and if it would make more sense to deliver it via the City website publicly than trying to do it internally via a distribution list, seconded by Councilmember McCall. On a voice vote, the substitute motion was unanimously approved.

- **Ruegamer:** Said he wanted to apologize to Mr. Doty for cutting him off and suggested he speak with Dave Mumford to expedite the information he needed. Public Works Director, Dave Mumford, said the only way Mr. Doty could get the information on how the tariffs were set by the Public Service Commission for NorthWestern Energy was to go through the Public Service Commission, or NorthWestern Energy, or both.

Councilmember Astle commented that, according to Mr. Doty's letter, NorthWestern Energy would not release any of the information about the City of Billings without the City's permission. He said he saw no problem with using simple math to figure out what was being charged per light; but setting rates, why tariffs were allowed, and billing poles forever and ever was nothing the City had any control over. Councilmember Ulledalen said the City also had the option to tell NorthWestern Energy to take down their poles, and the City could put up their own.

City Administrator Volek said the lighting districts with NorthWestern Energy were created at different times, and she believed the City had to give them two years notice to withdraw their fixtures. She said the date rolled from district to district, and there were approximately 105 districts. She said the contracts automatically renewed until the City notified them.

Councilmember McCall said she had seen Deb Singer from NorthWestern Energy that morning at Big Sky EDA. She said at Councilmember Brewster's recommendation, it would be useful to have Deb attend a meeting of the ad hoc work group on special lighting maintenance districts to give a historic overview and how the whole system was set up. She said Deb indicated that morning that there were about 120 districts. Councilmember McCall said she would like to have Deb attend a work session, as well.

- **Tussing:** Moved to direct staff to advise NorthWestern Energy that the City had no objection to releasing the information on City lighting expenses to Mr. Doty or to anyone else, seconded by Councilmember McCall. He said he understood why NorthWestern Energy was reluctant to give out information about one of its customers, but when the taxpayers were paying the bill, the City had never had a reason to withhold information. He said he was not saying the City was trying to withhold information. He said if the information was too difficult or they needed to tell people to go to the Public Service Commission that was fine, but they needed

to let them know the City had no objection to releasing how much money it was paying NorthWestern Energy.

Public Works Director, Dave Mumford, said they had offered Mr. Doty how much the City paid monthly, annually, and how many lights were in the district. He said the information beyond that was what they did not have to give. He said the City never withheld information of what a payment was to anybody.

On a roll call vote, the motion failed 4 to 4. Councilmembers Ronquillo, Pitman Ulledalen, and Astle voted against the motion. Councilmembers Veis, Ruegamer, McCall and Mayor Tussing voted in favor of the motion.

Mayor Tussing said "I guess we don't want anybody to have the information."

Councilmember Ulledalen said he wanted to make a clarification. He said the information had been made available. He said the City had offered to give him the information, so he did not think that was a fair statement. He said what he was saying was that the information was actually something that needed to be requested from the Public Service Commission, and it was really not the City's jurisdiction or decision.

Mayor Tussing said he disagreed, but the motion failed.

ADJOURN - The meeting adjourned at 7:40 p.m.