

SPECIAL MEETING OF THE BILLINGS CITY COUNCIL
September 21, 2009

The Billings City Council met in special session at the Community Center located at 390 N. 23rd Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 5:30 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, Veis, Ruegamer, Ulledalen, Astle, and Clark. Councilmember Brewster was excused, and Councilmember McCall was ill.

ADMINISTRATOR REPORTS

- Ms. Volek advised that the special meeting was decided on at the previous Monday's regular meeting and had been duly advertised. She noted there was a single item on the agenda, the Danube Court Manufactured Home Park Preliminary Major Plat. She advised that staff received two comments via email, and copies were placed at Council desks and in the ex-parte notebook at the back of the room. She said it was a contentious issue and it was possible that other Councilmembers had been contacted regarding that item. She reminded Council that ex-parte communications should be reported and noted for the record. She said if any Councilmembers had such communications, it should be noted during the proceedings.
- Councilmember Ruegamer advised that he had an ex-parte conversation with the Clauses during the break at the previous regular Council meeting about whether the items were completed that were not when he visited the development five years ago.
- Councilmember Astle reported that he received an email invitation to tour the development and his response was to decline the offer from the Clauses.
- Councilmember Clark stated that he thought all Councilmembers received that invitation.
- Councilmember Gaghen advised she received a call from an individual concerned about the expansion. She added that she drove through the development.
- Councilmember Veis advised he had a conversation with Barb Whiteman, as summarized by the email that was provided for the ex-parte notebook.
- Councilmembers Ulledalen, Ronquillo and Gaghen indicated they received the same email from Ms. Whiteman also but did not respond to it.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item: 1. 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.

- **Roy Clause, 1995 Outlook Drive**, said he was a part owner of Danube Court. He said there was reference to ambulances at the previous meeting, and as he recalled, there was a woman who had a seizure two different times two different days, and another man who had a stroke or heart attack. He stated that the development was a concentration of people in one area that consisted of all age groups. He said another issue brought up was the traffic. He stated he knew the Council approved a 400-unit housing development across the street that bordered Bitterroot and that sidewalks were not put in there, and the comment was made that kids had to walk along the streets to school. He added that his development paid over \$10,000 each year in arterial fee taxes.
- **Stephanie Haider, 729 Aronson** began to testify about Sahara Park. Mayor Tussing advised her that that item was part of the work session and her comments would be taken at that time.
- **Barb Whiteman, 1745 Riverview Drive**, stated that the new court would have a great effect because there was a church going on in there and a storage unit as well. She said she was for good growth but it was not turning out. She noted that extreme measures were needed to clean up the other developments in area. She said she opposed it because the people in the trailer court were still trying to get services provided.

Councilmember Gaghen asked if Riverview Drive was to the east of the development and overlooked the river and the refinery. Ms. Whiteman said that was correct.

- **Stan McIntire, 1425 Bitterroot**, said he wanted to correct Mr. Clause's statement that the development on Bitterroot was for 200 houses, not 400, and sidewalks would be put in the development, but he did not know if a sidewalk would be put on Bitterroot. He added it was the type of development that if a person purchased a home there, the value should increase. He said the Danube Court expansion was the worse abomination he had seen from the Legal Department, Planning Department and the City Manager.

Councilmember Gaghen asked if the 200 homes he spoke of would be manufactured or stick built. Mr. McIntire advised they would be stick built homes.

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

SPECIAL AGENDA:

1. **Danube Court Manufactured Home Park Preliminary Major Plat. (Action: approval or disapproval of Preliminary Major Plat.)** Planning Manager Wyeth Friday provided an overview and background from the discussion that occurred at the previous Council meeting. He noted that the Planning Board conducted a public hearing and recommended approval based on the following six conditions:

1. To minimize effects on local services, the developer shall provide centralized delivery boxes with sufficient pullouts to accommodate mail carrier vehicles. The location of the boxes shall be reviewed and approved by the post office prior to final plan approval and the Subdivision Improvement Agreement (SIA) recording. (Recommended by the United States Postal Service).
2. To minimize effects on local services and to mitigate the impacts of the development on local infrastructure, prior to final approval and before any manufactured homes are placed on the property, the required cash contribution for the intersection of Hilltop Road and Bench Boulevard and the required cash contribution for the left turn bay at the intersection of Hawthorne Lane and Yellowstone River Road must be made. The cash contribution amounts also must be stated in Section III (D) of the SIA. (Required by the City Engineering Division)
3. To minimize the effects on local services and provide park land for the Danube Court development in compliance with the City Subdivision Regulations, the cash contribution in lieu of the required 1.07 acres of parkland shall be waived as per Section 23-1009 (D) of the City Subdivision Regulations. To meet the waiver requirements in Section 23-1009 (D), prior to final approval and before any manufactured homes are placed on the property, the developer will identify a 1.07 acre parcel of private property for park land for Danube Court residence on property near the Danube Court Manufactured Home Park, show the parcel location on the final Site Plan Exhibit for the Danube Court Manufactured Home Park, and include a description of the property location, purpose and compliance with Section 23-1009 (D) in the SIA.
4. To minimize the effects on local services and comply with Section 23-413 of the City Subdivision Regulations, prior to final approval and before any manufactured homes are placed on the property, all fire hydrant requirements specified by the City Fire Department will be met, including proper spacing and location of hydrants throughout the subject property. (Required by the City Fire Department as per Section 23-413 BMCC)
5. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final development plan for the Danube Court Manufactured Home Park shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of Yellowstone County, and the laws and Administrative Rules of the State of Montana.

Mr. Friday stated that Council had multiple questions at the last meeting and requested additional information on the following items:

- approval and documentation of the streets in the subdivision along with as-built information for those streets
- DEQ approval information related to stormwater, water, and sanitary sewer for the project
- information on sidewalks within the development
- stormwater drainage pond

Mr. Friday advised that Public Works Director Dave Mumford would help address those items. He mentioned that the 60-day review period for the application expired September 24, 2009, and the only way to extend it beyond that was with the applicant's approval.

Mr. Friday advised that Council had received an email correspondence from the City Attorney related to a potential code enforcement violation being investigated by both the City and County for the Cherry Creek Manufactured Home Park and the Riverview Estates Subdivision, just east of Cherry Creek, regarding access between the two developments. He said that information was received after the previous Council meeting. Councilmember Ulledalen asked if the fence was a condition of one of the phases but was never done. Mr. Friday explained that it could not be verified whether the fencing met the requirement of the previous development agreement. Councilmember Ulledalen asked if there was a check-off system to document whether conditions were met. Mr. Friday said it was a new complaint since the verification of the development agreement, so staff had to determine if something had changed since then.

Councilmember Ulledalen stated he was a little puzzled by the parkland issue because the staff report suggested cash-in-lieu and the Planning Board recommended providing the land, but the land would be provided off-site of Danube Court. Mr. Friday explained that the property was about a city block, or less from the property, on Cherry Creek Loop, in an area owned by the developers that already had picnic tables and facilities in place, and it was large enough that the additional acre could be provided to meet that condition of Danube Court. He said the final documents would identify the same park that was part of the second filing and was located on a portion of Lot 4. He noted it was not associated with requirements for either of the previous filings for the entire property.

Mr. Mumford reported that the infrastructure for Cherry Creek was private, but was reviewed to make sure it met subdivision regulations for a private manufactured home court when it was built. He added that the street and sidewalks met standards when originally built and the Danube Court area was re-checked after the new application. He said the City was only responsible for water and sewer up to the property line and those items were done correctly. He noted that DEQ approval was required of the developer when it was built, and with the new subdivision application, everyone had to resubmit. Mr. Mumford advised that there were stormwater issues with the original Phase I and II, and the City worked with the developer to improve the ponds and install a lift station. He said the only thing that would be looked for with the new review was whether there were any MS4 issues, and if there were any, they would be addressed in the Subdivision Improvement Agreement. He noted there were no issues anticipated because it was a private stormwater discharge into its natural channel. He confirmed that it was a different situation because the City did not evaluate private systems, or whether the road depth was

correct, or the water and sewer. He stated that the developer had met the obligations for Phase I and II and what was built met the current standards of the SIA with the exception of the stormwater. He noted that the developer was asked to submit a whole new set of plans for review just as any other subdivision would be required.

Councilmember Veis asked if Mr. Mumford knew if the internal streets were constructed to subdivision standards. Mr. Mumford said they met the 32' width standard, but there was no standard for private roads under the City's ordinances. Councilmember Veis asked why the streets had to be constructed in accordance with the regulations. Mr. Mumford said the only standard was related to the width for fire service, parking and such.

Councilmember Pitman asked for the dollar value of the parkland. Mr. Friday said he did not think that value had been established. He said a certified market analysis had to be submitted before the final plat that compared similar properties to determine a value. Councilmember Gaghen asked if it was a one-acre park, including the picnic tables that were already there. Mr. Friday explained that the requirement was for 1.07 acres and it would cover a portion of that and some of it would be green space adjacent to or in the same area with the tables.

Councilmember Astle moved for conditional approval of Danube Court, seconded by Councilmember Ruegamer. Councilmember Pitman offered an amended motion to have the cash-in-lieu of land dedication, seconded by Councilmember Ulledalen. He said if it was separated into two subdivisions, the City should be consistent since there were two separate subdivisions and two separate corporations. Mayor Tussing asked Mr. Brooks if that condition was appropriate. Mr. Brooks advised he did not have any problems with it. Mr. Friday stated that it was acceptable for the process. He said the original proposal that went to the Planning Board for plat review recommended that condition. Councilmember Ulledalen said he agreed with Councilmember Pitman and supported the cash-in-lieu condition rather than combining the parkland since they had to be so rigid about the first two phases being closed issues. Mr. Friday referred to the original condition that cited the subdivision regulations that required how the cash payment was determined.

On a voice vote, the amendment was unanimously approved. Mayor Tussing stated that he understood the heartburn some were having; that there may have been circumvention, but it was apparently done legally and there was nothing the Council could do about it. On a voice vote, the amended motion was approved 7-2. Councilmembers Veis and Gaghen voted 'No.'

2. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.
(Restricted to ONLY items not on the 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.

- **Mike Nelson, 19 N. Broadway (Northern Hotel)**, said he came to thank the Council for the downtown police patrol that was very effective. He stated that Officer Shane Winden had improved the neighborhood and could be seen moving all around. He encouraged any consideration to expand the safety zone and related funding.

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

COUNCIL INITIATIVES – None

ADJOURN

The meeting adjourned at 5:57 p.m.