

**REGULAR MEETING OF THE BILLINGS CITY COUNCIL**  
**May 24, 2010**

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 Thomas Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Ruegamer gave the invocation.

**ROLL CALL** -- Councilmembers present on roll call were: Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, Astle, Clark. Councilmembers Ronquillo and Gaghen were excused.

**MINUTES** -- May 10, 2010 - Pending

**COURTESIES**

- American Legion Youth Sports -- Adam Feralio, Danny Wicker, Dylan Layman, Ryan Walla, Chris White and Jordan Kern, Members of the American Legion Billings Royals and Billings BlueJays, presented a Thank You Billings for support of little league baseball, softball and American Legion baseball.
- Gregg Wilson, President of Exchange City Golf Corporation Board, presented the Annual Distribution of \$20,000.
- Police Chief Rich St. John recognized the 115 Police Department Volunteers in conjunction with National Volunteers Week.

**PROCLAMATIONS** -- None

**ADMINISTRATOR REPORTS - TINA VOLEK**

- Ms. Volek advised that wording for agenda Item ID should be a receipt of a petition to *discontinue* an alley, not a petition to *vacate*.
- Ms. Volek advised that questions had been raised regarding Item 10, adoption of the International Fire Code. She noted that a memo from Fire Marshall Mike Spini that addressed some questions had been placed on Council desks and it, along with letters of support from local architects, was available for public viewing in the ex-parte notebook in the back of the room.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1 and #5 ONLY.**  
**Speaker sign-in required.** (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. There were no speakers, and the public comment period was closed.

1. **CONSENT AGENDA**

A. Mayor Hanel recommends that Council confirm the following appointments:

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Tom Binon	Board of Ethics	05/24/10	12/31/12

1. Unexpired term of Rebekah Wales

B. **Bid Awards:**

1. **Sanitary Sewer for Airport Quick Turnaround (QTA) Car Rental Facility.**  
(Opened 5/11/10). Recommend Hample Excavation, Inc., \$153,842.23.

C. **Amendment, W.O. 05-15, Howard Heights Storm Drainage,** Professional Services Contract, Interstate Engineering, Inc., \$75,000.

D. **Acknowledge receipt of petition to discontinue** the alley located in Block 28, Billings Old Town, bounded by 4th Avenue North, 3rd Avenue North, North 11th Street, and North 12th Street, Trail Creek Properties, LLC, petitioner; and set a public hearing date of June 14, 2010.

E. **Approval** of temporary property easement with Stockman Bank on Lots 7 & 8, Block 53, Foster's Addition.

F. **Utility Easement** with Montana Dakota Utilities for installation of gas transport line at the City landfill.

G. **Street Closures:**

1. **Downtown Billings Association Events:**

1. Alive After 5, 6/3/10, 3 p.m. to 9 p.m., 2nd Avenue N. from N. Broadway to N. 29th Street;
2. Alive After 5, 6/17/10, 3 p.m. to 9 p.m., N. Broadway between 1st Avenue North and 2nd Avenue North;
3. Alive After 5, 6/24/10, 3 p.m. to 9 p.m., N. 25th Street between Montana Avenue and 1st Avenue North;
4. Alive After 5, 7/1/10, 3 p.m. to 9 p.m., N. 26th Street between 4th Avenue North and 6th Avenue North;
5. Alive After 5, 7/15/10, 3 p.m. to 9 p.m., N. 24th Street between 3rd Avenue North and 4th Avenue North;
6. Alive After 5, 7/29/10, 3 p.m. to 9 p.m., N. 29th Street between Montana Avenue and 1st Avenue North;
7. Alive After 5, 8/5/10, 3 p.m. to 9 p.m., N. 30th Street between 1st Avenue North and 2nd Avenue North;
8. Alive After 5, 8/12/10, 3 p.m. to 9 p.m., N. 28th Street between 1st Avenue North and 2nd Avenue North;

9. Alive After 5, 8/19/10, 3 p.m. to 9 p.m., N. 31st Street between 4th Avenue North and 6th Avenue North;
10. Strawberry Festival, 6/12/10, 3 a.m. to 7 p.m., N. 28th Street from 1st Avenue North to 3rd Avenue North, 2nd Avenue North from the alley West of N. 27th Street to N. 30th Street, N. 29th Street from 1st Avenue North to 3rd Avenue North;
11. Harvestfest, 10/9/10 or 10/16/10 (rain date), 6 a.m. to 5 p.m., North 28th from 1st Avenue North to 3rd Avenue North, 2nd Avenue North from the alley West of N. 27th Street to N. 29th Street;
12. Holiday Parade, 11/26/10, 7 p.m., standard parade route;
13. Christmas Stroll, 12/3/10, 4 p.m. to 9:30 p.m., North 28th Street from 1st Avenue North to 3rd Avenue North, 2nd Avenue North from the alley east of N. 27th Street to N. 29th Street.

2. **St. Vincent Healthcare Heart and Sole Run**, 6/12/10, 6 a.m. to 1 p.m., beginning on N. 30th Street across from St. Vincent Healthcare, south to 7th Avenue North, west on Avenue B, through Pioneer Park, north on Virginia Lane, west on Parkhill Drive, north on 17th Street West, west on Colton Boulevard, north on 21st Street West to Poly Drive, east on Poly Drive, ending on Poly Drive north of Grandview Park.

**H. Acceptance of Donation** to Parks Department from Ewals family, \$1,200.

**I. Resolution** amending Resolution #10-18911 to add two at-large members to the Medical Marijuana Ad-Hoc Committee and ask the Ad-Hoc Committee to make recommendations to staff of options for regulating caregivers.

**J. Resolution #10-18939** authorizing the issuance and fixing the form and detail of the Department of Natural Resources and Conservation loan and bonds for W.O. 08-22, Construction of UV Disinfection System for the Effluent of the Wastewater Treatment Plant.

**K. Resolution #10-18940** approving the form and detail of the Department of Natural Resources and Conservation loan and bonds for the 2010 Annual Water Rehab Projects.

**L. Resolution #10-18941** authorizing the Financial Services Manager to set the parameters of the Series 2010 Airport Revenue Bonds.

**M. Resolution #10-18942** adopting procedures to implement the Red Flags Rule.

**N. Recommendation of Approval** to the Policy Coordinating Committee for the 2010-2014 Transportation Improvement Plan.

**O. Second/Final reading ordinance** adopting the International Fire Code (IFC), 2009 Edition, as the Billings Fire Code.

**P. Final Plat** of ZooMontana Subdivision.

**Q. Bills and Payroll:**

1. April 23, 2010
2. April 30, 2010

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

Councilmember Cimmino separated items 1J, 1Q1, and 1Q2. Councilmember Ulledalen separated items 1I and 1O. Councilmember Astle moved to approve the consent agenda with the exception of items 1I, 1J, 1O, 1Q1, and 1Q2, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino advised that she would abstain from voting on items 1J, 1Q1, and 1Q2 due to a potential conflict of interest with her employer. Councilmember Astle moved for approval of Items 1J, 1Q1, and 1Q2, seconded by Councilmember McCall. On a voice vote, the motion was approved 8-0.

Councilmember Ulledalen moved to table Item 1O to July 12, 2010, pending a staff presentation at a work session regarding what was involved with the fire code, seconded by Councilmember Ruegamer. Councilmember Ulledalen explained that he was concerned that the energy code, fire code and two iterations of the building code were all coming forward, and he felt the Council needed a better understanding of the consequences in terms of increased costs and differences in the codes. He said the Council needed to know the issues because it would have to deal with them as they came forward. Ms. Volek explained that enforcement of that code was scheduled to begin July 1, and if it was delayed, staff would likely recommend enforcement to begin January 1. Councilmember Clark said he did not see a problem with delaying it. On a voice vote, the motion was approved 8-1. Mayor Hanel voted 'No.'

Councilmember McCall moved for approval of Item 1I, the resolution to add two at-large members to the Medical Marijuana Ad-Hoc Committee, seconded by Councilmember Pitman. Councilmember Ulledalen stated that the item lumped two different things together. He said he was concerned that things would be asked for on a trickling basis, but he thought a number of items should be presented at one time so staff could work on them. He said he felt the community wanted action and piece-mealing the issues drug it out too long. He stated he had reservations about adding more members to the committee because the process would delay any progress and there would be the issue of determining who served on the committee. He said he was fine with the second part of the resolution, but would vote against the item because he was not in favor of adding the two additional members.

Mayor Hanel asked Councilmember Pitman if the committee had set a date to report back to the Council. Councilmember Pitman said the committee had not because issues kept coming up. He said he was going to ask the Council for more specific direction. He added that the two additional members would provide additional perspective. He said the current committee was composed of two councilmembers, a doctor, a pharmacist, a State Representative, a caregiver, a patient, and a person from the real estate field. He said the additional members could provide resources with more information. Councilmember McCall asked if there was balance in the group. Councilmember Pitman advised that the doctor on the committee was actively writing recommendations, and a patient was on the committee also, so the additional members could offer a different perspective.

Councilmember Ruegamer commented that he was afraid of getting too many on the committee and some middle ground was needed because the people that wanted to be on the committee were adamantly in favor or opposed to it. He said he would stick with the number that was on the committee now unless Councilmember Pitman had ideas of who should be added.

Councilmember Pitman stated that adding members to the committee would send a message to the community that the committee was open to the process and to people with expertise that might offer some valuable information. He said he was looking for a neutral perspective, and the medical profession had expressed greater interest. He confirmed that he did not have a specific agenda and that adding to the committee would not make it worse, but

could only make it better. He noted that the committee would only make a recommendation to the Council.

Ms. Volek provided an explanation of the application and selection process for committee appointments. She advised that the Council could amend the resolution to specify certain types of individuals. She explained that to follow application and advertisement guidelines, the item would be back on the agenda June 28. Councilmember Pitman stated that the committee would keep working until additional members were selected.

On a voice vote, the motion failed 4-5. Councilmembers Cimmino, McFadden, Ruegamer, Ulledalen and Clark voted 'No.' Councilmember Pitman stated that it was his understanding that the vote meant the committee's work was completed, and his recommendation would be a new resolution with a specific task. Mr. Brooks explained that the committee could operate under the original resolution that had a report date of August 23. He added that if additional action was desired on the item, someone from the prevailing side would have to bring it forward for reconsideration, but if substantial changes would be made, there would be public notice issues.

Mr. Brooks clarified that Item D was receipt of a petition to discontinue, not vacate an alley, and to set a public hearing date of June 14.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND SPECIAL REVIEW #881: a special review to allow a three-plex multi-family dwelling in a Residential 6,000 (R-60) zone, on Lots 7-12, Block 238, Billings Original Town, and located at 902 S. 32nd Street. Larry and Marlene Thiel, owners; Dave Hagstrom, Agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)** Zoning Coordinator Nicole Cromwell clarified that Mr. Hagstrom had closed on the property transaction and Mr. and Mrs. Thiel were no longer the owners. Ms. Cromwell began her PowerPoint presentation by displaying a map of the location. She reviewed the history of the project and a site plan. Ms. Cromwell advised that the Zoning Commission held a public hearing May 4, 2010, and voted 3-0 to forward a recommendation of conditional approval with the following conditions:

1. The special review approval shall be limited to Lots 7-12, Block 238, Billings Original Town as shown on the site plan dated April 5, 2010.
2. This special review approval is for the construction of 1, three-plex multifamily dwelling and no other use or expansion of this use is approved or implied with this conditional approval.
3. Development of the site shall be in substantial conformance with the site plan dated April 5, 2010, unless specifically modified by these conditions. Deviations from the approved site plan that change the location of buildings or increase the number of dwelling units will require additional special review approval.
4. This approval shall be limited to 3 dwelling units in 1 structure as shown on the site plan dated April 5, 2010.
5. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10% will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.

6. At least 1 deciduous tree will be planted along each street frontage including S 32nd Street, 9 Avenue South and State Avenue. The remaining lot area will be landscaped with 75% living material and as required by Section 27-1100, of the Unified Zoning Regulations.
7. Any outside storage of solid waste receptacle(s) shall be shielded with a 6-foot high sight-obscuring enclosure on all sides.
8. These conditions of special review approval shall run with the land described in this special review approval and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
9. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City regulations that apply

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

Mayor Hanel asked if there was any objection by the Southside Task Force. Ms. Cromwell said there was no objection by the task force and it had even sent a letter of support that was forwarded to the Zoning Commission. Councilmember Cimmino asked for clarification that egress windows would be in place for the lower level residence. Ms. Cromwell reviewed the plan that included egress windows.

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

Councilmember Astle moved for approval of Special Review #881, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND FIRST READING ORDINANCE amending Section 21 of BMCC related to Solid Waste regulations. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek advised that staff did not have a presentation, but was available to answer questions. Councilmember Pitman asked about Section 21-205 that indicated yard rubbish would be collected at the option of the City. Deputy Public Works Director Vern Heisler stated that if tree limbs were too long or not tied together, they were not collected. Ms. Volek added that there were situations like that example that were governed by the labor contract for safety purposes.

Councilmember Pitman asked if the landfill had the capability to accept credit card payments from people that would be subject to fees. Mr. Heisler advised that the scale house was not yet set up for credit card payments.

Councilmember McCall commented that it was good that the load security provision was included.

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

Councilmember McCall moved for approval of Item 3, seconded by Councilmember Ruegamer. Councilmember Pitman asked for clarification of fees paid by county residents. Solid Waste Superintendent Ken Behling explained that county residents paid a fee to Yellowstone County, and the County reimbursed the City for the materials that went to the landfill. He added that special fees for certain items were assessed in addition to what county residents paid to the County.

On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annex #10-02: a 1.911 acre parcel located on the west side of Zimmerman Trail and north of Grand Avenue; KZ Bar Limited Partnership, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Ms. Volek advised that staff did not have a presentation on the item, but was available to answer questions.

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

Councilmember Astle moved for approval of Item 4, expanding the boundaries of Ward IV, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**5. APPROVAL of Grievance and Arbitration language allowing final implementation of all agreements in the MPEA Billings Police Unit Collective Bargaining Agreement. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Police Chief Rich St. John explained that the Collective Bargaining Agreement, with the exception of one provision regarding grievance and arbitration language, was presented to Council and subsequently approved several months ago. He noted that the professionalism, courtesy and respect shown by all parties during the process set the standard for how negotiations should be done. Chief St. John explained the issue and said the discussion resulted in what was presented for approval that evening. He noted that the language allowed opportunities at three separate levels to address a grievance before it reached the lawsuit stage. He added that the language was acceptable to the union and administration.

Councilmember McCall moved for approval of Item 5, seconded by Councilmember Cimmino. Councilmember Ulledalen asked Ms. Volek for an update of budget projections for the public safety budget. Ms. Volek explained that the police union contract was in its final year, and because Fire's contract was in process of negotiations, those numbers were unavailable. She noted that she would provide an update when the numbers were available.

On a voice vote, the motion was unanimously approved.

**PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Please sign up on the clipboard located at the back of the Council Chambers.)**

- **Erica Smith, 2702 8th Avenue N.,** spoke against medical marijuana and stated that she had envisioned strict regulation and distribution of it after voter approval. She said she was horrified and offended by the term 'caregiver' and the fact that, by their own admission, they had no experience or training in the medical field, and were all patients. She advised that she had personal knowledge of two individuals that attended a recent medical marijuana clinic at the Holiday Inn and were able to obtain a recommendation in a matter of minutes for fabricated ailments without any medical records. She said the situation was out of control and the businesses were being discussed and treated as legitimate businesses, but they were based on an illegal drug. She said the moratorium was a start, but Plan C that was previously proposed was better; but it would cause the county to worry about the influx of marijuana sellers. She stated that the Legislature needed to amend the law.
- **Barry Smith, 2702 8th Avenue N.,** said he was an orthopedic surgeon at Billings Clinic. He said he and his colleagues believed there was very little medical about the issue. He said it was unsupervised use and distribution of marijuana. He stated he believed caregivers needed to meet standards and qualifications similar to doctors, dentists and

other professions that required certification. He said it was his understanding that there was not a physician with a voice against medical marijuana on the ad hoc committee, and he recommended a balanced voice on the committee because the doctor on it was in favor of medical marijuana.

Councilmember Astle stated that he agreed with Dr. Smith's and Erica Smith's comments. He advised that he contacted Billings Clinic to find out if it had a stance, but was not able to get an answer. He said he agreed that a doctor that did not receive fees for recommendations should be on the ad hoc committee. Dr. Smith advised that he and colleagues had requested a physician forum to discuss the medical marijuana issue. He added that he had been told the Billings Clinic would issue a statement in the near future.

Councilmember Ulledalen clarified that discussion would be held about direction of the ad hoc committee, even though the Council would make the final decision. He said he thought the committee would be tasked with getting input from specific interest groups. He said he would like a unified voice from the medical community that could present factual information to the committee or the Council.

Councilmember McFadden asked if there were any efforts among the medical community to request standards for the caregivers. Dr. Smith said he felt those issues would be addressed, but he thought the issue snuck up on people and there were still numerous questions. Councilmember McFadden asked if Dr. Smith felt the issue could be dealt with without stepping on people's rights. Dr. Smith stated that he felt there needed to be regulations and if they were in place, people would feel better about it. He said he did not feel that the way it was being handled was the way voters intended it.

Councilmember McCall stated she agreed with Dr. Smith and felt it would take a comprehensive effort between local governments, municipalities and the legislature to resolve the issue. She said two medical associations that had influence with the legislature were probably having similar types of discussions and would have to be in gear at the next legislative session to make sure it happened.

- **Andrew Boyce, 2186 Rangeview**, stated he was an oral surgeon that dispensed pain medication, and explained how difficult it was to discern which patients needed pain medication when he was on call covering for other doctors. He explained how patients could go from pharmacy to pharmacy and doctor to doctor to get what they needed. He said it worried him that caregivers did not know if their patients really needed the marijuana and their patients could do the same thing he just explained. He said there were good pain medicines available and he found it hard to believe there were 14,000 people that needed the medical marijuana. He stated that regulations and control were needed.

Councilmember Ulledalen asked Dr. Boyce if he knew of any pharmacology related to cannabis. Dr. Boyce said he was not aware of any. He advised that he knew that marijuana users became resistant to other drugs and pain medications and it was considered a 'dirty' drug because of the way it interacted with other medications.

- **Rebecca Boyce, 2186 Rangeview**, thanked Councilmembers that responded to her emails. She stated that she found it appalling that the medical marijuana industry had been allowed to become such an unmanageable conundrum. She asked the Council to do the right thing and remove that blight from the City before it tarnished it. She said it was obvious that the voters made a grave mistake by voting to allow medical marijuana in Montana, and the regulations were too loose. She pointed out that in the eyes of the Federal Government, it was still a Schedule I illegal drug. She said the best and only option was to put the matter back before the voters, and once properly educated, they would probably rescind the law. She said if the use had to be allowed, it should be treated like any other Schedule I drug, and felt it was absurd that a Schedule I drug was being dispensed by individuals without proper education or training. She suggested the



drug be used only in the patient's home, which would eliminate the need for the facilities. She said the argument that medical marijuana would bring jobs to the city was similar to the argument about the number of casinos, and the jobs came at too high of a price. Ms. Boyce stated that decisions made at a recent City Council meeting were based on advice by the City Attorney that legal action would be taken if medical marijuana businesses were not allowed. She said she was present to remind the Council that the City should be governed and laws should be defined based on what was right for the City, not on the fear of litigation.

Councilmember Clark asked Ms. Boyce if she was aware of the two ways to get the issue back on the ballot. Ms. Boyce said she knew that 25,000 signatures were required and that she was part of a group that would try to get the signatures.

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

## **COUNCIL INITIATIVES**

Councilmember Clark stated he did not have a problem with adding additional members to the medical marijuana ad-hoc committee, but by the time the application and selection process was completed, the committee would have had six more meetings and its work could be nearly finished. Mayor Hanel asked Councilmember Pitman how he felt about adding two more members to the committee. Councilmember Pitman stated that he wanted direction from the Council about what was expected from the committee. Councilmember Astle stated he would like the committee to work with staff to determine how to regulate the location and number of dispensaries. Councilmember Clark said the committee had come back to the Council with three options and it seemed that staff needed to continue on with that work. Councilmember Pitman confirmed that the committee would only make a recommendation and the Council would make the final decision.

Councilmember Cimmino asked for clarification because she thought the Zoning Commission would consider a zoning text amendment. Planning and Community Services Director Candi Beaudry advised staff was proceeding under the premise that after direction from the ad-hoc committee to look at a certain zoning approach or other regulation, an ordinance would be recommended and the committee would then present it to the Council as a recommendation, to then initiate a zone change that would be forwarded to the Zoning Commission for a text amendment.

Councilmember Astle asked about the number of active licenses in the City. Ms. Beaudry advised that 81 licenses were in process prior to the moratorium. She explained that the State provided a list of registered licenses and the ones not registered with the state were sent notices to cease operation. She advised that some of the information from the state was inconsistent and the number of businesses that were not registered was not 25 as previously reported. She said current information indicated approximately one-third of the 81 licenses were grandfathered. She reviewed the process of Code Enforcement Officers to determine which businesses were in operation. She added that businesses located in homes and registered with the state were grandfathered, but were required to follow home occupation requirements.

Ms. Volek advised that ten businesses were registered, but located outside the City limits. She added that home occupation restrictions would be provided to the businesses located in homes, and Code Enforcement would investigate complaints as they were received, just as they did for any other business.

Mayor Hanel commented that he did not see any harm to adding two additional members to the committee. He said he felt the Council owed it to the committee chair to provide better direction.

Councilmember Ulledalen stated that the licensing process might need to be addressed and consideration given to how much it was costing the city for the licensing and enforcement. He said with quick work, there could possibly be something put on the November ballot. He listed items to consider such as: information from interest groups; limits on number of businesses; insurance liability; a reasonable amortization period; signage, advertising and outside appearance of businesses; fire department issues; zoning relative to the nature of the business; mobile clinics; and mobile delivery from outside the city limits. He said that although there were numerous items that could be considered, the committee should be asked what items it wanted to consider. Mayor Hanel commented that the issues Councilmember Ulledalen just mentioned were why he voted against allowing medical marijuana businesses in the community.

Councilmember McFadden commented that he thought a minimum standard requirement for anyone obtaining a business license for medical marijuana was that they had to be a current member of the local chapter of the Montana Caregivers Association, because that organization was trying to implement standards and training programs.

Councilmember McCall stated that it was a huge task and there could be ways to facilitate some of the discussion with the committee. She offered her assistance in that matter. She asked if the Council thought there was any value in having community conversations on the topic. Councilmember Pitman explained that he suggested other organizations hold their own forums so the ad-hoc committee meetings did not end up being nothing but public comment.

Councilmember Astle stated he agreed with Councilmember Pitman and suggested the hospitals host forums and invite Councilmembers or committee members to attend. He added that he felt two additional people on the ad-hoc committee might give it a good balance. He asked if it was possible to set an amortization to the length of a business's lease that was shorter than a three-year amortization if that was adopted. Mr. Brooks advised that a set time would be necessary rather than possible interference with a contractual agreement.

Councilmember Clark asked what would happen if it was on the ballot and the citizens voted it out of the City. Mr. Brooks explained that an ordinance had to be presented and the local government had to review it. He cautioned that it could still end up in litigation.

Councilmember Pitman summarized the discussion with what he would take back to the committee: discussion of placing the issue on the ballot, regulating the businesses, and an amortization period. He said dealing with the providers and the business licenses was a struggle. He said discussions had been held with Police and Fire Departments regarding how much it cost the City and those businesses could only be taxed up to that amount. He said since the State had done nothing, there were options to do things the State had not done. He commented that some issues were better addressed by staff or others with more expertise.

Councilmember McFadden asked if the committee was aware that the moratorium could be extended up to two years. Councilmember Pitman said the committee was aware of that, but had gotten the message from the Council and community that they wanted action.

Councilmember Ulledalen asked what the committee was saying. Councilmember Pitman said he felt the committee was saying it had done something and the Council took part of it and sent the issue back for more work. Councilmember McCall said she thought it would be more appropriate for staff to address specific issues because the committee did not have the time or expertise.

Ms. Volek advised that the Planning Department was low on staff due to layoffs a year ago, and could face more if the planning levy was not approved. She added that the Legal Department staff was busy as well. She said staff would be meeting weekly to address a list of 15 items that was developed by the committee. She reminded the Council that MMIA would not cover any legal work or litigation related to that topic.

Councilmember Clark said he hoped the moratorium would not be extended because it would extend the issue for years if an amortization period was set.

Councilmember Ruegamer said he would not regulate based on the fear of litigation, nor would he do anything that would result in litigation. Councilmember Ulledalen said the point was that the moratorium could be used to take the time to address the issue. Ms. Volek stated that staff was going to have to address the legal and zoning aspects.

Councilmember Pitman said the committee had already asked all the questions that had been discussed and more, and would ultimately come back with nothing new, but would give staff direction and time to come up with answers.

Councilmember Ulledalen said he needed to include in his items to consider a reasonable separation of a medical marijuana business from a house. He referred to a business that had armed guards and nearby residents were concerned with safety. He said he thought the simplest way was to develop a zoning matrix. He said that when the zoning options were presented in November, there had not been enough thought on the topic to adopt one of the options. He added that separation from churches and schools needed to be addressed also.

Councilmember McCall stated she thought it needed to be a comprehensive fix, not just the City, because it affected the County as well. She said she thought the legislature would do something with the issue.

Councilmember Cimmino said she felt City leaders needed to step up to the plate and show leadership. She said she thought the item could be put on the November ballot, and the Zoning Commission could develop a zone change related to the issue. She said the leaders were still in the driver's seat and should do something proactive.

Councilmember Astle asked if it was correct that the bottom line was the zoning issue. Ms. Volek said that was correct.

Councilmember Ulledalen pointed out that budget projections indicated potential layoffs and there were no excess funds that could be used for litigation or civil penalties.

Councilmember Astle moved to add two people to the Medical Marijuana Ad-Hoc Committee and have the committee report back with zoning recommendations. Mr. Brooks explained the process that had to be followed if the original resolution was amended or a new one would be presented. The motion died for lack of a second.

Councilmember Cimmino moved to ask the Zoning Commission to review the medical marijuana act and how it could be implemented in the local jurisdiction. Councilmember Ulledalen commented that the City had to initiate a zone change, not the Zoning Commission. Ms. Volek said staff suggested the ad-hoc committee make a zone change recommendation. Councilmember Cimmino stated that was an advisory committee making a recommendation to another advisory board when it was the responsibility of the governing board to make the final decision, and she wondered how that would play out in terms of timeframe. The motion died for lack of a second.

Mr. Brooks expressed his concern that there were two groups at cross purposes duplicating and possibly contradicting efforts. He said the ad-hoc committee and Zoning Commission needed direction.

Councilmember Ulledalen suggested having the ad-hoc committee review the zoning options that were presented in November, making any changes, and then forwarding a recommendation to the Council, which could then initiate a zone change. Ms. Beaudry advised that the ad-hoc committee had asked for information that was not included in the November options. Councilmember Ulledalen said that would be a start and some of the other issues could be dealt with after the zone change was complete. Councilmember Ulledalen moved to direct the Medical Marijuana Ad-Hoc Committee to review the zoning options presented to Council in November, 2009, and to bring back a recommendation to the Council, seconded by Councilmember Clark. Councilmember Cimmino asked if the committee would report back on August 23<sup>rd</sup>. Councilmember Ulledalen said it could be any time before that too. Councilmember Pitman suggested setting up special meetings to specifically address the issue. Councilmember McCall said she was fine with it as long as it was clear what would be

addressed. On a voice vote, the motion was approved 8-1. Councilmember Cimmino voted 'No.'

**ADJOURN**

The meeting adjourned at 9:09 p.m.