

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
February 14, 2011

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

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

MINUTES: January 24, 2011 – Councilmember Cimmino moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES: Billings Parks, Recreation, and Preservation Foundation Presentation.

- Parks Director, Mike Whitaker, advised they had partnered with the Preservation Foundation the past couple of years, and it was the second year the Foundation had provided monies to the Park Department's scholarship fund that helped low income children participate in various programs. Al Koelzer said he was on the Billings Park, Recreation and Preservation Foundation Board. He distributed a flyer showing pictures of many of Billings' parks and parks activities, as well as information on how individuals and companies could donate to the Billings parks system. Mr. Koelzer presented Mr. Whitaker a check for \$2,000 for the scholarship program.
- Mayor Hanel wished a Happy Valentine's Day to everyone and congratulated Matt Hagengruber of the Billings Gazette on the birth of his daughter.
- Councilmember Pitman wished his wife and children a Happy Valentine's Day and pointed out that a picture of his wife and daughter were in the current Magic City Magazine.

PROCLAMATIONS: Billings Theater Student Day, February 14, 2011.

- Councilmember Gaghen introduced Bonnie Banks, the Senior High Drama Teacher, who introduced several of the members of her drama class who would be performing on an international stage in August 2011 in Edinburgh, Scotland. She explained the nomination and application process and said they were only the second Montana high school group in 16 years to perform at the world's largest arts festival. She said their performance would focus on American Indian Culture. Ms. Banks advised all fundraising was coming from the kids, parents, and the community. Ms. Banks introduced the president of the Drama Club, who thanked the Mayor and City Council for recognizing the merit in their honor.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek referenced Item A – Agreement with Seon Design to provide and install security cameras in MET buses and paratransit vans and advised an e-mail from Neil Kiner, dated 2/14/11, sent to Mayor and Council stating it was an unnecessary expense was on the Council’s desk and filed in the ex-parte notebook in the back of the room.
- Ms. Volek referenced Item G – Approval of Yellowstone Family Park Master Plan. She said a copy of the Master Plan was sent in the Friday Packet on February 11 and was filed in the ex-parte notebook in the back of the room.
- Ms. Volek referenced Item 6 – Public Hearing and Resolution authorizing the donation of Lots 9-12, Block 142, Original Town of Billings and noted an e-mail from Michael Dennis, dated 2/4/11, was sent to the council members asking that the property be transferred from the City to RiverStone Health. She said a copy of the e-mail was filed in the ex-parte notebook in the back of the room.
- Ms. Volek referenced Item 7 – Public Hearing and approval of Federal Funding Requests and said she had sent an e-mail to the City Council on 2/13/11 outlining the order of preference for the Federal Funding Requests for 2011-12. She said a copy of her e-mail was filed in the ex-parte notebook in the back of the room.
- Ms. Volek asked the Council to add a change order for Huppert Construction for installation of the skate park restroom as Agenda Item 9.
- Ms. Volek asked the Council to add a list of eight legislative bills that needed consideration as Agenda Item 10.

Councilmember Pitman asked if any of the right-of-way for the Inner Belt Loop had been purchased. Public Works Director David Mumford advised they had met with a property owner from California, and the Rehbergs had provided them with the needed information to finally complete their appraisal. He said they were still moving along. Councilmember Ulledalen asked if the alignment of the road had been determined. Mr. Mumford said it had.

Councilmember Clark moved to add the change order for the skate park restroom as Agenda Item 9 and the list of legislative bills as Agenda Item 10, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #2, and #8 ONLY. Speaker sign-in required. (Comments offered here are limited to one (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. For Items not on this agenda, public comment will be taken at the end of the agenda.)

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

1. **CONSENT AGENDA**

- A. **Agreement** with Seon Design to provide and install security cameras in 26 MET buses and 15 paratransit vans; \$200,225; funded 100% by an American Recovery and Reinvestment Act (ARRA) Grant administered through the FTA grant process.
- B. **Memorandum of Understanding** with Beartooth RC&D Economic Development District; \$9,271.91 annual payment.
- C. **Grant Application Request** to submit a Montana State Historic Preservation Office Certified Local Government Grant application for FY2011-2012; \$5,500.
- D. **Approval** of Downtown Revolving Loan Fund recommendation for Tracy Lofts Development Venture, LLP, for renovation of the Tracy Building located at 2600 Montana Avenue; up to \$250,000 and equity of at least 20% of total costs.
- E. **Acknowledge receipt of petition to vacate** South 23rd Street between 3rd Avenue South and 4th Avenue South and 4th Avenue South between South 23rd Street and South 24th Street for a total 54,380 square feet; ConocoPhillips, petitioner; and set a public hearing date of March 14, 2011.
- F. **Acknowledge receipt of petition to vacate** portions of right-of-way within Twin Oaks Subdivision, 2nd Filing; Twin Oaks Corporation, petitioner; and set a public hearing date of March 14, 2011.
- G. **Resolution** approving Yellowstone Family Park Master Plan (formerly Byron Nelson Park).
- H. **Resolution** allocating \$15,000 of FY2011 Council Contingency Funds to be used towards the cost of the Infill Policy Workshop, as recommended by the City Annexation Committee.
- I. **Street Closures:**
 - 1. **Magic City Blues Festival:** Montana Avenue between North 23rd Street and North 25th Street; 9:00 a.m. on Friday, August 12, 2011, to noon on Sunday, August 14, 2011.
- J. **Acceptance of Donation** on behalf of the Billings Area Resource Network from Venture Theatre; \$1,000.
- K. **Resolution of Intent** to construct W.O. 11-02, Miscellaneous and Developer Related Improvements, and a set a public hearing date of March 14, 2011.
- L. **Resolution of Intent** to construct W.O. 05-13, Safe Routes to School Improvements on Jackson Street from Frances Avenue to Ryan Avenue (curb/gutter, sidewalk, and drive approaches), and set a public hearing date of March 14, 2011.

- M. Resolution of Intent** to create SID 1369, Moore Lane between Monad Road and Central Avenue (sanitary sewer improvements, storm drain, curb and gutter, sidewalk, and necessary widening and reconstruction of the street), and set a public hearing date of March 24, 2011.
- N. Second/final reading ordinance for Zone Change #870:** a zone change to allow a mixture of commercial, cultural, medical, clinical and residential uses in a Planned Development on a 111.91 acre parcel of land described as Blocks 1 through 5, The Village Subdivision; Sisters of Charity of Leavenworth Health Systems, owner; Will Ralph, Sanderson Stewart and Doug James, Moulton Bellingham PC, representatives. Approval of the zone change and adoption of the determinations of the 12 criteria.
- O. Second/final reading ordinance for Zone Change #871:** a zone change from Residential 9,600 to Entryway General Commercial on a 1.554-acre parcel of land described as the south 310 feet of Lot 24, Sugar Subdivision, less 4,194 square feet for King Avenue East right-of-way, and located at 766 Calhoun Lane. Almon Blain, Jr., owner. Approval of the zone change and adoption of the determinations of the 12 criteria.
- P. Bills and Payroll:**
 - 1. January 7, 2011**
 - 2. January 14, 2011**
 - 3. January 21, 2011**

Councilmember Ruegamer separated Items A and M. Councilmember Pitman separated Item H. Councilmember Cimmino separated Items G, P2 and P3.

Councilmember Astle moved for approval of the Consent Agenda with the exceptions of Items A, G, H, M, P2 and P3, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Ruegamer referenced Item A and asked Ron Wenger to comment on Mr. Kiner's e-mail. Mr. Wenger advised the FTA and USDOT were meeting on regulations and directives for public transportation safety, and cameras would be a major part of the directives. He said Seon Design had over 200 bus systems and thousands of buses already had cameras. He said it was a huge issue for insurance and liability, and cameras had been a tremendous money saver. He said in addition it could be a very huge best practice customer service operational issue for the MET. He said when the buses were filled, the drivers could not see in the back. He said they had experienced graffiti issues and reports of bullying and if they had cameras, they would be able to address those issues directly and with much more force. Mr. Wenger said at the new downtown transfer center they had an incident within the first month where they had beer bottles cascading onto the platform; and cameras at the center identified the angle and direction so they were able to determine where the beer bottles came from.

He said the Police investigated, talked to the subjects, and they have had no more issues. Mr. Wenger advised the cameras at the transfer center also picked up individuals who covered one of the concrete pillars with graffiti. He said they were identified, turned into the Police Department, and prosecuted. Mr. Wenger said he felt it was a very worthwhile project. He said the ARRA funding was 100% federal, but the project had been internally on the CIP Program for years, and they were looking for an appropriate source of funding. He said they were not just getting cameras because they had the ARRA funding. Councilmember Ruegamer said he wanted to make it clear they were not getting the cameras because of crime on the buses but because of a mandate and an effort towards prevention. Mr. Wenger said that was correct.

Councilmember Astle commented that Mr. Kiner's e-mail was sent from CTA Architects and asked if Mr. Kiner's e-mail was an official position of CTA Architects. Mr. Wenger said not that he was aware of, and commented that CTA had designed the downtown transit center to include cameras.

Councilmember McFadden said he believed privacy for individuals in the public was a legitimate concern and asked Mr. Wenger if he could think of an instance where a rider on the bus would need to have privacy. Mr. Wenger said he was not versed in legalities but knew it was working in thousands of other bus systems, and if there were legal guidelines they would certainly follow them. Councilmember McFadden asked if an individual with special needs who rode special transit could ask to have the cameras turned off if there was a privacy issue. Mr. Wenger said they certainly could.

Mayor Hanel commented that the cameras would also be helpful in the event there was an accident or fall, because they would help the City determine cause and make corrections. Mr. Wenger agreed.

Councilmember McCall moved for approval of Item A, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Ruegamer referenced Item M and said he had attended a meeting of the property owners, and the property owners did not want a sidewalk or the street widened. He said he would like to see the price without the sidewalk and the street with just two lanes.

Public Works Director David Mumford said they could provide the numbers, but Public Works would not support the changes. He said it was an arterial road and to not have sidewalks and have people walking in the street would not be consistent with the 'Complete Streets' that had been going on or how arterials were built. He said it was no different than Grand Avenue because there were pedestrians and the center turn lane was needed to provide access to all of the driveways. He said if they went with a 2-lane street, the road would not function and they would have spent a large amount of money. He said the center turn lane was the City's cost and not the property owners' cost. He said some of the property owners did not want sidewalks because they were currently using the right-of-way where the sidewalks would be installed for their parking.

Councilmember Ruegamer said it was not like Grand Avenue and they did not need sidewalks. He said he had never seen anyone walk on Moore Lane. He said there was also concern about backing trailers out of lots onto the street. Mr. Mumford said the Council would need to tell staff to not follow the City standards, and they would need a variance from those standards. He said they did not build arterials without sidewalks.

Councilmember McFadden said he felt they needed a variance so they could put down new pavement and skip the sidewalks. He said the Council should do what the people wanted them to do.

Councilmember Astle asked Mr. Mumford if there would still be driveway entrances with aprons if there were no sidewalks. Mr. Mumford said there would be 7-foot driveway aprons. Councilmember Astle asked if the improvements would be on city property. Mr. Mumford said they would, and the City was not buying any right-of-way for the project. Councilmember Astle said basically the property owners did not want to pay for sidewalk that would be on city property and just wanted to use the land. Mr. Mumford said that was correct.

Councilmember Ronquillo said there were several new businesses that were told they had to put in sidewalks in order to build, so they did. He said they needed to be consistent and support the sidewalks.

Councilmember Astle asked if a commercial driveway entrance was thicker than a residential driveway entrance, which would make them more expensive. Mr. Mumford said that was correct.

Councilmember Pitman moved for approval of Item M and correcting the hearing date to March 14, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Item H and asked Council to vote 'no'. He said it was an unnecessary expenditure and normally when spending council contingency money it was the council who made the motion and not staff telling them they wanted to spend it.

Councilmember Ronquillo said he would vote in favor because he felt they needed to stop leap-frogging and work on infill. Councilmember Ulledalen said he agreed and said they needed guidance on how to fill in the undeveloped areas within the City. Councilmember Gaghen said she also agreed, and it would be beneficial to learn what other cities had done.

Councilmember Cimmino said she supported the utilization of Smart Growth Leadership Institute but said they were a 501c3 organization funded by the EPA and the National Endowment of the Arts. She said their website provided other available funding sources and she felt coming in and requesting \$15,000 to fund the bulk of a two-day workshop seemed a bit generous. She said it seemed to her if they were planning for that type of infill development research workshop, they could also plan the funding a head of time.

Councilmember Clark asked for the total cost. City Administrator Volek advised the total cost was approximately \$23,000. She said the agenda item was in response to a council strategic initiative to create an infill policy, which was the reason it was requested from council funds. She said the current council contingency fund balance was \$37,500. Ms. Volek said if the Council needed more information, they could postpone action for two weeks and place it on the next work session for further discussion. She said because of time constraints, a decision would need to be made no later than the next regular council meeting.

Councilmember Pitman commented that sometimes they spent money when they already knew what the answers would be, so he would not support it.

Councilmember Astle moved for approval of Item H, seconded by Councilmember Gaghen. On a voice vote, the motion was approved 9 to 2. Councilmembers Pitman and Cimmino voted 'no'.

Councilmember Cimmino referenced Agenda Item G and said she had three concerns. She asked Parks Director Mike Whitaker if the plan was posted on the website as part of the supporting documentation. Mr. Whitaker said it was. Councilmember Cimmino said it represented 381 households, but the meeting minutes indicated there were 50 people in attendance at the two meetings held before the holidays. Mr. Whitaker said that was correct, and they had sent out invitations to all of the households in the proposed benefit district. Councilmember Cimmino asked about naming rights and if thorough research had been done on the beneficiaries or the heirs of the Byron Nelson family. Mr. Whitaker advised the entire development was named after professional golfers, and they did not feel it would be an issue. Councilmember Cimmino said the resolution did not include the language that the park would be designed, constructed and maintained through the creation of an SID and Park Maintenance District (PMD) and asked Legal staff for a response. City Attorney Brent Brooks advised the importance was that the actual SID and PMD provided the financial information; however, Council was entitled to amend the resolution if they felt it was necessary.

Councilmember Astle advised most of the named golfers were no longer living, and he felt none of them were ever asked for permission. He said it was no different than naming streets after President Washington and President Jefferson.

Councilmember Ulledalen moved for approval of Item G, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Agenda Items P2 and P3 and said she would be abstaining from two invoices, #740665 and #740930, that were submitted by her employer.

Councilmember Astle moved for approval of Items P2 and P3, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. RESOLUTION declaring an emergency exception to the Purchasing Policy and awarding a contract to Accurate Concrete Cutting, Inc. for the removal and stabilization of rock in and adjacent to 1313 Granite Avenue. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised in October 2010 a rock face at 1313 Granite Avenue had broken off and some of the boulders rolled down the slope and into a house at that address causing extensive damage to the structure. She said the rock had subsequently moved and as a result, the City notified the property owners they needed to remove the hazard or the City would do so and charge the expense back against the property. She said at a special meeting on January 3, 2011, the Council rejected by a 5 to 5 vote a resolution declaring an emergency exception to the Purchasing Policy and awarding a contract to Accurate Concrete Cutting, Inc. for removal and stabilization of the rock in and adjacent to 1313 Granite. She said a favorable vote of 3/4 of the ten councilmembers present or eight members was needed to approve the resolution. She

said at the January 10, 2011, regular business meeting the council voted 6 to 5 to reconsider the resolution at that evening's business session. Ms. Volek said the staff had no additional recommendation beyond the original recommendation to allow staff to proceed on the Granite Avenue resolution.

Councilmember Astle asked for the amount. Ms. Volek advised the new amount for the Granite Avenue address only would be \$139,255. She said it would come from the General Fund and the City could attempt to recover the funds through a property tax assessment. Councilmember Astle asked for clarification on the city code being used. Ms. Volek advised it could be compared to a partially-burned property left standing that created a public health hazard. She said in the current case, there was concern the rock would continue to move. Councilmember Astle said there seemed to be a misconception that the City would be paying for the removal of the rock, and if another rock fell, the City would pay to remove it as well. Ms. Volek advised the intent was not to take down the entire home, but to stabilize and remove the rock as necessary.

Mayor Hanel asked for a brief description of what services would be included in the contract. Superintendent of Parks Jon Thompson explained there would be three phases of the contract. He said in the first phase the contractor would stabilize the large stone up on the rims by tying it back into the cliff face and knocking off any loose rock to make it safe to work below; the second phase would involve stabilizing the rubble on the slope; and the third phase would be to go into the house and break up and remove one rock from inside the house, one rock that was partially in the house, and two others that were resting against the house. He said the rocks would be stabilized and left on the property.

Councilmember McFadden asked if it was a fair and reasonable amount. Mr. Thompson advised they obtained three estimates to do the project. He said the highest estimate was \$545,000; the second highest estimate was roughly \$350,000, and the lowest estimate was \$139,000. He said in addition to the three quotes, they contacted many other specialty companies trying to get the best price and the best job.

Councilmember Pitman asked Planning Director Candi Beaudry if code enforcement was a complaint driven department. Ms. Beaudry said it was. Councilmember Pitman asked if they had received a complaint. Ms. Beaudry advised they did not receive a complaint.

Councilmember Clark asked if the Parks Department would be paying for the work. Ms. Volek advised her recommendation would be to pay it from the General Fund because the Parks Department and Planning Department had very limited budgets. Councilmember Clark asked if the entire cost would go back to the homeowner or just for the rock being removed from the house. Ms. Volek said it would only be the portion in the home.

Councilmember Pitman asked if there was a breakdown of the costs available. Parks Director Mike Whitaker advised they needed to stabilize the rims before going into the house, so it was all one project. Mr. Whitaker advised they could ask the contractor to break the costs down.

Councilmember Astle said it was his understanding the \$139,255 was of no benefit to the owners of the property and a safety issue with possible and probable continual movement of the rock. Ms. Volek said that was correct.

Councilmember Astle moved for approval of Item 2, seconded by Councilmember McCall.

Councilmember Ruegamer said he had lived in Billings for about 60 years and always thought the rims were beautiful. He said he went to the house on Granite and suddenly the rims took on a different character. He said it was scary, very obvious the rocks would continue to fall, and they needed to get them out of there. He said he had heard from a surprising amount of people who said it was an act of God and not the City's problem. He said he felt they needed to mitigate it, and he would vote in favor with reservations.

Councilmember Clark said he had received the same comment from a lot of people. He said people needed to understand that code enforcement ordered the homeowners to remove the rock and it was not done; so it was the City's obligation to remove the rock and then put the cost back on the property.

Mayor Hanel said he agreed with Councilmembers Ruegamer and Clark. He said he had been approached by several people who told him the City had no business spending tax dollars to remove rocks that fell from the rims. He said they all understood that it was an act of God and a very unfortunate situation; but they could not take the risk that the rock would tumble down further and damage another home or cause injury because if it did their problems would be even more severe. Mayor Hanel said he would like to think it was a unique incident and by no means setting an example that the City or City Council were displaying the fact they would start going along the rims to remove rocks. He cautioned people who lived in the area that rocks may fall and if they did not have any insurance, they should start inquiring. He said he was in support of the motion.

Councilmember McCall said she would also support the motion. She said she had spoken with people and it was about 50-50 whether the City should intervene. She said the rock had failed, destroyed the house, and all indications were that the public was now at risk; so they needed to take care of it.

Councilmember Ronquillo said he agreed and asked Mr. Whitaker to advise how far the rock had continued to move since hitting the house. Mr. Whitaker advised it was his understanding the rock had moved another five to eight feet since the initial impact.

Councilmember Clark said he wanted to reiterate the reason the City was doing it was because code enforcement told the property owners to remove the rock and they would not do it.

On a voice vote, the motion was approved 9 to 2. Councilmember Pitman and Councilmember Cimmino voted 'no'.

3. PUBLIC HEARING AND RESOLUTION ordering construction of improvements identified in W.O. 09-11, Rimrock Road from 17th Street West to Forsythia Boulevard. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised there was no staff report but staff was available to answer questions.

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 if the project was wiping out the current year's budget of arterial money. Public Works Director David Mumford said it was not and within the program funding for the current year.

Councilmember McFadden asked how long ago the project was originally planned. Mr. Mumford said it had been in the CIP for two to three years and design was started over a year ago. Mr. Mumford said the project went all the way to Shiloh but it had to be broken up in phases because it was too expensive to do in any one year.

On a voice vote, the motion was approved 10 to 1. Councilmember Pitman voted 'no'.

4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward 1 to include recently annexed property in Annexation #11-01: the south 310 feet of Lot 24, Sugar Subdivision, located at 766 Calhoun Lane. Almon R. Blain, Jr., owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised there was no staff report but staff 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 of Item 4, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION assessing the cost of cutting and/or exterminating weeds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Planning Director Candi Beaudry advised it was the last of the weed assessments for 2010. She said everyone that would be assessed had been noticed of the public hearing and as a result, there were several people who came in and paid their bills. She said they were currently down to 17 properties; many of which were properties that were repurchased or foreclosed on by banks and as a result, there had been a lot of changes between the time the original owner had the property and was notified. Ms. Beaudry said she believed there were some individuals wanting to testify that had not appealed to her directly because they did not own the property at the time it was originally noticed.

The public hearing was opened.

- **Alex McCready, 19 Stanford Court, Billings, MT**, said they purchased a property that was in foreclosure. She said the City contacted the original owner at the time the property was going into foreclosure in August and the cutting happened in September. She said the property was purchased by a different owner in October but there was no record of the assessment at that time. Ms. McCready said they purchased the property in December and two weeks ago received a code enforcement notice that they would be assessed \$1,000 on their taxes. She asked for some assistance on the process and said if there had been a lien put on the property, the title company would have picked up on it and she could have settled with the previous owner.

Ms. Volek advised the property in question was listed as 709 S. Wagner Lane in the amount of \$1,077.50.

Councilmember Gaghen asked if the notice should have gone to the bank foreclosing on the property. Councilmember Clark said he felt the City acted late, so he felt the property should be removed from the list. Councilmember McCall said she felt it was the City's issue and not Ms. McCready's issue.

- **Paul Sheridan, 3035 Solar Boulevard, Billings, MT**, said he had received a bill for weed mowing on a lot he owned. He said he never received notice that he was in violation and did not know until he received the bill. Mr. Sheridan said the notices should be sent registered mail to ensure receipt. He said he received a notice on the same lot in 2009, and he hired someone to mow the weeds for \$60. He said the bill he received from the City was for \$515.

Councilmember Astle asked where Mr. Sheridan lived in relationship to the lot. Mr. Sheridan advised the property was above Rimrock on Palisades Park Drive and he lived just off of Monad and 32nd Street West so he did not have an occasion to go by the property. He said it was a vacant lot and had never been assigned an address.

Councilmember Ruegamer asked Mr. Sheridan why he had to be told to mow the weeds. Mr. Sheridan said because it was the City's policy to notify the homeowner if the weeds were not in compliance. Councilmember Ruegamer said if the weeds were mowed regularly, the City would not send a notice. He said it sounded to him that Mr. Sheridan just let the weeds grow until the City notified him they needed to be cut. He said sending letters by registered mail was very expensive, and the City did not have the resources to do what Mr. Sheridan was requesting.

Councilmember Gaghen asked Mr. Sheridan if he had someone mow his lot periodically. Mr. Sheridan said when the neighborhood complained, the city sent notice, and he would have someone cut them. Councilmember Gaghen asked if it would not be easier to have someone mow them regularly. Mr. Sheridan said apparently that would be the answer.

Councilmember Cimmino asked for the square footage of the lot. Mr. Sheridan said it was right at 9,600 square feet.

City Administrator Volek added the cost of the bill included the notice and two inspections, in addition to the cutting, and was not simply a matter of cutting the weeds.

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

Councilmember McCall moved for approval of Item #5 excluding the property at 709 S. Wagner Lane, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND RESOLUTION authorizing the donation of Lots 9-12, Block 142, Original Town of Billings to RiverStone Health with first right of refusal to reacquire the property if RiverStone Health does not develop the property and wishes to sell or donate the property to another person or entity. Community Development Board recommends approval. (Action: approval or disapproval of Community Development Board recommendation.) City

Administrator Tina Volek advised the property was donated to the MT Rescue Mission in 2005 but reverted back to the City in 2010 because the Mission did not develop the property in the time required. She said RiverStone Health expressed its desire to obtain

the property, and on January 14, 2011, Council approved a Resolution of Intent to convey the lots and conduct a public hearing. She advised the notice of the hearing was advertised in The Billings Times, all property owners within 300 feet were sent notice and the property was advertised for sale in the Billings Gazette.

The public hearing was opened.

- **Joe White, Billings, MT**, said the City should not give the property away and should get a full report on the expected use of the property. (The remainder of Mr. White's testimony was inaudible.)
- **Emily Shaffer, 824 North 25th Street, Billings, MT**, said she was a member of the Community Development Board and she felt RiverStone Health should pay a fair value for the land. She said the money could be used to give back to Community Development programs.
- **John Felton, 1614 Morocco Drive, Billings, MT**, said he was the Executive Vice President of Operations for RiverStone Health. He said the #1 desire of the RiverStone Health stakeholders was to develop a campus concept to centralize all of their services. Mr. Felton said the Board directed them to pursue discussion with the City regarding the four lots in question and to meet with the Community Development Board. He said the Community Development Board initially felt the lots should be sold but later felt donation of the lots with the right of first refusal would be appropriate, which he felt was a very reasonable solution. Mr. Felton said RiverStone Health was continuing to grow but was currently landlocked.

Councilmember Astle said it sounded like the City was being asked to donate the property and if RiverStone Health did not develop it, the City would buy it back. Mr. Felton said that was not his interpretation. He said the discussion with the Community Development Board was that RiverStone Health should not be donated land and then be able to sell it to anyone if it was not developed. Mr. Felton said it was meant that if RiverStone Health determined there was no growth potential and they would not use it, the City would be able to take it back. Councilmember Astle questioned the lack of a timeline.

Councilmember Ruegamer said he thought the new building referred to as an office building was actually a hospital. Mr. Felton said they did not operate any in-patient services. He said the clinic building was the existing building and the new building housed a number of programs and services but they did not deliver direct service on-site. He said their home care, hospice, environmental health services and various case management functions were housed there but there was no service delivery from there. Councilmember Ruegamer asked what Mr. Felton's comment would be to Ms. Shaffer, who suggested charging for the property. Mr. Felton said he thought a lot of the questions with respect to the sale of property revolved around the donation of property to non-profits. He said they were a fellow governmental agency created by the City and it seemed more reasonable that they should act in concert.

- **Stewart Kirkpatrick, 6068 Ironwood Drive, Billings, MT**, said he was a lawyer representing RiverStone Health. He said he wanted to talk about the issue of value and said there were two issues. He said it was appropriate to allow RiverStone Health to obtain the property because if it was offered to other people, they would run into a

situation where a speculator could acquire the land and then sell it to the government for a higher price. He said the other side was the issue of value. He said the Health Department rendered all sorts of health functions for the city of Billings, such as restaurant inspections, health care for the homeless, environmental work, etc. that was not charged to the city. He said on the other hand the city was a member and participated in the activities and operations of the Yellowstone City/County Health Department. He said the benefit the Health Department provided to the city was provided without any upfront costs, and the services rendered were substantial. Mr. Kirkpatrick said the people served by the Health Department were people that were primarily underserved due to homelessness or income. He said the Health Department housed Montana's only family medicine residency program, as well as a dental program. Mr. Kirkpatrick asked the Council to at least consider that RiverStone Health be the entity to acquire the property in some way, shape or form; and to consider the fact that the costs had already been frontloaded and the costs of the city in charging RiverStone Health for their services had a detrimental effect to the delivery of the services to those people who really needed it.

Councilmember Clark asked where RiverStone Health received its funding. Mr. Kirkpatrick answered from the county and the federal government. Councilmember Clark said the city was part of the county.

Councilmember Astle said he had seen wonderful advertisements on the television and asked why. Mr. Kirkpatrick said it was more a business decision, but in his opinion, in order to deliver quality public health services there was a value in being known. He said just because RiverStone Health cared for underserved people did not mean they did not serve anyone else. He said they also cared for people who did have money.

Councilmember Ruegamer pointed out that everybody appreciated RiverStone Health and it was a necessary service; but being a non-profit, RiverStone Health did not pay property taxes, which cost the City of Billings money.

Councilmember Ronquillo said the property at one time was on the tax rolls when it was owned by a former mayor. He said other businesses paid for city property and he felt the subject property was worth something. He said the land on the south side was worth money and was not for free anymore. Mr. Kirkpatrick said they were a governmental entity and he was not saying the land did not have value. He said he was asking Council to consider that a lot of the value was paid in the services provided to the city and the entire community.

- **Perry Roberts, 2902 Minnesota Avenue, Billings, MT**, said he was the Executive Director of the Montana Rescue Mission. He said they were the former property owners of record who received notification a couple weeks ago. He said he was not formally opposed to the idea but said he felt a little bit blindsided since the formal title transfer was just about a month ago and the paperwork was executed back and forth over several months last year. He said they did their part but did not succeed within the five-year time frame. Mr. Roberts said his concern was the lack of timeframe and it also put a damper on their plan. He said they were part of the 2005 discussion on the campus concept, and they fit into it at that point and time. He said he did not know what had transpired between then and now, but for some reason they did not seem to fit in anymore in the impressions of some. Mr. Roberts said they were still interested in

pursuing a location there. He said it was a small strip of land with downtown zoning so it would not require off-street parking. Mr. Roberts asked Council to give it careful consideration and to look into a time limitation.

Councilmember Gaghen asked Mr. Roberts for the size of the property the Rescue Mission owned in proximity. Mr. Roberts said it was about 2/3 of half a block. Mr. Roberts said they ran out of time, money and community support to develop the property.

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

Councilmember Astle moved for approval of Item 6, seconded by Councilmember McFadden.

Councilmember Astle asked if there was a timeline, value of land, or restrictions included that were the same as were put on the Rescue Mission. City Administrator Volek advised the Community Development Board was recommending that Council donate the property to RiverStone Health, and it was her understanding that the contingency was a first right of refusal to re-acquire the property in the event that RiverStone Health did not develop it.

City Administrator Volek noted in the staff report the customary price for south side property was \$2.50 a square foot, for a total sale price of \$35,000. She said Hamwey Realty performed a market analysis and was recommending a value of \$5.00 a square foot, for a total sale price of \$70,000.

Councilmember Astle said he felt there was more time needed to consider the item and withdrew his motion. Councilmember McFadden, who seconded the motion, was in agreement.

Councilmember Ronquillo moved to put the land up for sale, post a for-sale sign on the property, and keep it on the market until June to see if there were any buyers, seconded by Councilmember Clark.

Councilmember Ruegamer made a substitute motion to delay until the first meeting in April to allow more time to think about it. He said he would like to see financial statements from RiverStone Health. He said Alternatives, Inc. put him on the alert and he was not going to fall into a trap. Councilmember McFadden seconded the substitute motion.

Councilmember Ronquillo said his motion was to hold the property for sale until June. Councilmember Ruegamer said he understood that but his concern was if they sold it to someone other than RiverStone because he felt RiverStone should have the first shot at it. Councilmember Ronquillo said he had no problem with it if they came up with the money.

Councilmember Ruegamer withdrew his substitute motion. Councilmember McFadden, who seconded the motion, was in agreement.

Councilmember Pitman asked what price should be put on the property. Councilmember Ronquillo said it should be \$5.00 a square foot. He said he talked to a realtor who told him it was commercial property and on a main street, and it should be worth \$10 a square foot, but if Mr. Hamwey said \$5.00, he would agree with that.

Mayor Hanel said for the record that as a real estate broker, he was not involved in any of the viewing or analysis of the value of the subject property.

Councilmember Astle asked how the sale had been handled. City Administrator Volek said it had been advertised in The Billings Times and the Billings Gazette. Councilmember Astle asked if any for-sale signs had been put up on the property or a real estate company contacted. Ms. Volek said not to her knowledge, and a real estate company would take money off the top. She said the staff recommendation was that the property be sold to RiverStone Health for \$35,000, and that recommendation was overridden by the Community Development Board. She said the staff would like a date certain to bring the matter back for action, as well as direction on how the Council would like the matter handled other than what staff had already done.

Councilmember Ronquillo said he had made an initiative to have a second real estate company provide a bid and nothing had been done. He said he saw it advertised in the newspaper but that was not the initiative that was put forward. Ms. Volek asked if that was for a second appraisal. Councilmember Ronquillo said it was and he was told it would cost money.

Councilmember Cimmino amended the motion to revisit the matter at the June 27, 2011, meeting, seconded by Councilmember Ronquillo.

Councilmember McFadden asked if they could still entertain bids during the time they were reconsidering the action. Ms. Volek advised they would need to have the bids in by June 3, 2011, to allow time to put them on the agenda for June 27, 2011. She said Mr. McCandless advised her that the Hamwey appraisal was the second appraisal.

Mayor Hanel asked if a person making an offer would be allowed any contingencies regarding the value of the property if it did not appraise for what had been identified. Attorney Brooks said it could be included and asked if the property should be placed with a realtor or have a timeframe for accepting bids. City Administrator Volek said there had been another occasion when two bids were received, one which was contingent, and it was the Council's direction at that time not to accept the contingent bid and to accept the unencumbered bid.

Councilmember Ronquillo said the paper indicated the Federal Government was going to trim Community Development Programs by \$300 million for low income people, as well as cutting payments of heating bills by half. He said the City also had parkland for sale, so why not just give it away too. He said the City cannot be giving property away.

Councilmember Ulledalen asked if the land would be listed with a realtor or if they would just put up for-sale signs and accept sealed bids.

Councilmember Gaghen made a second amended motion to accept bids until June 1, 2011, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Attorney Brooks said in answer to Councilmember Ulledalen's question, they needed to do one or the other, but not both. Mayor Hanel asked Attorney Brooks if he had the legal right to handle the contract for the City. Attorney Brooks said he did not have the authority himself to sign a real estate sales agreement and would need Council direction.

Councilmember Pitman asked if they could do a 'for sale by owner' because he hated to lose money to commissions. Ms. Volek said they could sell it by sealed bid, and she would be very leery of staff serving as a realtor. Councilmembers Clark and Gaghen said they thought they should go with the bid process. Councilmember

Cimmino asked if Bruce McCandless had handled the property transaction with the Stockman Bank. Mr. McCandless said he had not.

City Administrator clarified that the site would be posted, the bids would close on June 1, and the item would be returned to Council on June 27.

On a voice vote, the amended motion made by Councilmember Cimmino was unanimously approved.

On a voice vote, the motion made by Councilmember Ronquillo was unanimously approved.

Mayor Hanel called for a 10-minute recess at 8:55 p.m.

The meeting reconvened at 9:05 p.m.

7. PUBLIC HEARING and approval of Federal Funding Requests. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

City Administrator Tina Volek advised that late last year Council received a list from staff of seven potential federal funding priorities. She said since then, there had been much action in Congress and the House and Senate had both determined that federal earmarks would be withheld for approximately two years. She said they received notification from Senator Baucus' office that they would try and seek alternative funding sources for Montana projects and asked that Council assist them in managing the onslaught of requests they believed they would have by prioritizing the projects presented at the work session. She said Council was asked to provide a ranking of the projects and reviewed the outcome with first place - Public Safety Radio System Replacement for \$9,875,000; second place - Stormwater Improvements in the East End Industrial Area for \$6,400,000; a tie for third and fourth place between the 6th Avenue North Bench Boulevard Connector for \$25 million and the Sharptail Storm Water Retention System for \$2.3 million; fifth place - Speed Control Radar for \$197,750; sixth place - Regional Parkland Acquisition for \$900,000; and seventh place - Fire Department Emergency Services Training Facility for \$10.25 million. Ms. Volek asked that Council approve the items as listed for submittal.

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

Councilmember Astle moved for approval of the federal funding requests, as presented, seconded by Councilmember Clark.

Councilmember Pitman asked about Senator Tester and Congressman Rehberg. Ms. Volek advised Senator Tester's Office notified staff that because the Senate Appropriations Committee had chosen not go forward with earmarks, they were not going to ask for a list this year. Ms. Volek advised they had not received a response from Congressman Rehberg's Office.

Councilmember Ulledalen said he felt there were three items on the list that were specific responses to federal changes, specifically the radio system replacement, the Sharptail stormwater issue, and the East End Area stormwater issue. Councilmember Ulledalen asked if they should trim the list to those three items and say they were the three they needed help with because of the conditions that were federally imposed. He said their chances may be better submitting only three items.

Councilmember McCall said she agreed. Councilmember Cimmino said she agreed but there were technically four items in the top three because of the tie between third and fourth and asked how the tie would be broken. Mayor Hanel advised a discussion would need to be held. Councilmember Pitman said they had always been told to submit the whole list of priorities in case something else came up, so he did not want to submit just three items. Mayor Hanel suggested that they begin by determining which project should be ranked third and which project should be ranked fourth. Councilmember Cimmino said in all fairness they should shorten the list to four. Councilmember McCall said she agreed. Councilmember Ulledalen said they should ask which items should realistically be provided out of their own budget.

Councilmember Ulledalen made a substitute motion to reduce the list to three items, which would be funding for the replacement of the radio system, which was a federal imposition; the Sharptail stormwater issue because it addressed stormwater runoff; and the East End Area stormwater issue because it addressed stormwater. The motion was seconded by Councilmember Ronquillo.

Mayor Hanel commented he was not in opposition to the substitute motion, but felt they needed to retain the entire list.

Councilmember Cimmino amended the substitute motion to include the top four items on the list, which included the two items that tied for third and fourth, seconded by Councilmember Pitman.

Councilmember Cimmino said it was her understanding the contract for the first phase of the Bench Connection construction had already been awarded and would start that spring, so it made perfect sense to continue with the second phase.

On a roll call vote, the amendment to the substitute motion failed 6 to 4. Councilmembers Ronquillo, Gaghen, Ruegamer, Ulledalen, Astle, and Clark voted in opposition. Councilmembers Pitman, Cimmino, McFadden, and McCall voted in favor.

Councilmember Cimmino said with all due respect, they were moving backward.

On a voice vote, the substitute motion was approved 9 to 2. Councilmembers Pitman and Cimmino voted 'no'.

Councilmember Clark moved to retain the list of seven items to reference in the future, seconded by Councilmember Astle.

Councilmember Ulledalen said some of the items had been on the list for years, and he did not see them going away. He said they were in a very unique time with the federal budget and they needed to be realistic about what they were going to get.

Councilmember Cimmino said she wanted to say for the record and to be noted in the minutes that if the underpass did not go in, it would be a huge cluster mess at the intersection. She said she could not imagine anyone not supporting the second phase of the project that was going to start that spring. Councilmember Clark said it was the third phase and not the second phase. He said the second phase was from Hilltop to the Roundup Road because it was already in the works.

On a voice vote, the motion was unanimously approved.

**8. 2011-2012 IAFF LOCAL 521 COLLECTIVE BARGAINING AGREEMENT.
Staff recommends approval. (Action: approval or disapproval of staff**

recommendation.) City Administrator Tina Volek advised that in January Local 521 of the IAFF approved the contract before Council that evening. She said it was retroactive

and would end in June with negotiations likely to begin again in April. She said there were a number of changes in the contract, specifically a 2.9% pay increase for the year which was in line with the changes made for the teamsters contract and reflective of the final year of the police contract expiring in June and random drug and alcohol testing policy and procedures to be implemented for all firefighters for the first time. Ms. Volek said there was additional language that clarified various parts of the contract on the Council's desks, and she would be happy to answer any questions.

Councilmember Ulledalen asked for the total increase. Ms. Volek said there were three items that affected finance. She said the pay increase was \$213,098; a uniform allowance increase went from \$325 to \$375; and final retirement calculation was \$6,216, for a approximate total of \$225,000.

Councilmember Ronquillo moved to approve Item 8, seconded by Councilmember Astle.

Councilmember Ruegamer asked if the bargaining with all three entities would start at the same time. Councilmember Ruegamer said he would like to state for the record that in the 7 plus years he had been on the Council, he voted 99% of the time for public safety and the firefighters. He said the one time he did not was the matter of back wages and if back wages should come from their budget or from the pie in the sky. He said the firefighters wanted the pie in the sky, and he felt the back wages needed to come from their budget. Councilmember Ruegamer said they had been mad at him ever since, so obviously 99% was not enough for them and it must be 100% or nothing. He said he would support the raise and he was happy they would not have the "me too" thing every year.

Councilmember Ronquillo said his biggest issue was the drug testing, and he felt they had achieved a lot having every part of the city covered, especially with the legalized marijuana issue currently out there. He said the citizens should know that the city drug tests everybody and if they failed, they were no longer employed. Ms. Volek advised by state law anyone who was considered to have a safety position would be tested.

Councilmember Ulledalen said he thought they should discuss where they were with the public safety levy in the next budget presentation. Ms. Volek said she would provide the information prior to the budget cycle. Ms. Volek advised 53% of the General Fund went to Public Safety – Police and Fire. She said she understood it had always been the popular public opinion that the City had reduced payments to the Fire Department from the levies, which was incorrect. She said the entire amount of the levies had always gone to the Fire Department and the Police Department.

On a voice vote, the motion was unanimously approved.

9. ADD-ON ITEM. Approval of change order with Huppert Construction in the amount of \$5,585 for the skate park restroom installation. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) There was no staff report. Councilmember Astle moved for approval of Item 9, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

10. ADD-ON ITEM: Council direction on Legislative HB 231, HB400, HB510, HB527, LC1564, LC1565, LC1566, and LC1568.

HB231 – "AN ACT REVISING REQUIREMENTS FOR FIRE DEPARTMENTS IN CITIES AND TOWNS; REMOVING THE REQUIREMENT THAT CERTAIN CITIES AND TOWNS HAVE PAID FIRE DEPARTMENTS; ALLOWING A CITY OR TOWN TO CHOOSE HOW IT PROVIDES FIRE PROTECTION; REMOVING REFERENCES TO CITY OR TOWN CLASSIFICATION WITH REGARD TO FIRE DISTRICTS AND FIREFIGHTER RETIREMENT; AND AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2104, 7-33-2120, 7-33-2125, 7-33-2128, 7-33-4101, 7-33-4102, 7-33-4109, 7-33-4128, 7-33-4130, 19-13-102, 19-13-104, 19-13-210, AND 19-17-102, MCA."

City Administrator Tina Volek said this bill allowed for cities beyond those of third class and towns to be included in rural fire departments allowing for a volunteer fire department in addition to a paid fire department or for a combination of both. She said it addressed wages and retirements for different types of organizations. She said it was approved in the House 58-41, and was transferred to the Local Government Committee.

Councilmember Ruegamer asked if Billings planned to have volunteers or if the bill just gave Billings the flexibility if needed. Ms. Volek advised it provided Billings the additional flexibility but Chief Dextras had gone on record saying he had no desire to reduce the paid staff in the fire department and he would support additional paid staff if given the opportunity.

Councilmember Clark asked Chief Dextras if it would allow Billings to have a reserve unit trained for emergencies. Chief Dextras said it would.

Councilmember Cimmino asked why they were reviewing the bill again when last time they took no position whatsoever. Ms. Volek said the Council did take a position on it. She said she was able to reach seven councilmembers for their input, and at that time the direction of support was 4-3. She said she was bringing it back to the Council that evening because there had been some concern and before it went to the Senate, staff needed final direction.

Councilmember Ulledalen moved to support HB231, seconded by Councilmember Ruegamer.

Councilmember Ronquillo said he thought it would be good because a lot of little communities had a real problem. He said even though Chief Dextras said he would not eliminate paid firefighters, it was still a good training opportunity if needed.

Councilmember Ulledalen said he did not feel the City of Billings would even remotely think about entertaining the idea of having a volunteer fire department and they needed to be clear on that, but the smaller communities would definitely benefit.

Councilmember Ruegamer agreed with Councilmember Ulledalen. He said they were not looking at trying to cut staff, but a volunteer fire department would enhance Chief Dextras' staff. He said he felt the basis from the City's standpoint was to increase the number of firefighters.

Councilmember Pitman said the "devil was in the details". He said he supported the idea of allowing volunteers to help and keep things going, but asked if it was true that six members of the council could vote to privatize the fire department.

Chief Dextras said it was his understanding the legislation just gave cities the option to explore a different model in the future, and the governing body had the responsibility to determine what that was.

Mayor Hanel said it would be absolutely ridiculous if Billings went to a volunteer fire department. He said comparing Billings to other small towns was ridiculous. Mayor Hanel said he was opposed to the bill.

Councilmember McFadden said he felt the bill was poorly written and needed to be rewritten and resubmitted, so he would not support it.

Councilmember Ruegamer said he supported the bill and to not support it meant they were kicking themselves out of the possibility of saving the taxpayers money. He said with volunteers they could have more firefighters for the same amount of money.

Councilmember Pitman said he liked the basic concept but would like to send the message that if a municipality was looking at a major, substantial change to the department, the vote should go to the people for a final decision.

Councilmember McCall said the bill and the proposed language allowed communities to have flexibility, and she would support it.

Councilmember Gaghen said she would support the bill in the hopes it would give more time and more room for departments to expand what they do.

Councilmember Clark called for the question, seconded by Councilmember Ruegamer.

On a voice vote, the motion was approved 7 to 4. Councilmembers Pitman, Cimmino, McFadden and Mayor Hanel voted in opposition.

HB400 - "AN ACT PROHIBITING A COUNTY, CONSOLIDATED CITY-COUNTY, OR MUNICIPALITY FROM IMPOSING FEES FOR CERTAIN EMERGENCY SERVICES PROVIDED IN RESPONSE TO A MOTOR VEHICLE ACCIDENT."

Councilmember McCall moved that Council absolutely oppose the bill, seconded by Councilmember Cimmino.

Councilmember Ronquillo asked Chief Dextras how much time the firefighters spent on a serious accident. Chief Dextras said approximately 40 minutes to an hour. He said vehicle accidents would generate around \$50,000 in Billings based on the number of accidents, clean-up, resources needed, etc. He said rural communities depended heavily on being able to bill for the services and it came back to should communities have the right to be able to determine what was best for them.

Councilmember Gaghen said she would not support the bill. Councilmember Astle said he would not support the bill. After further discussion Councilmember Clark called for the question, seconded by Councilmember McCall.

On a voice vote, the motion to oppose the bill was unanimously approved.

HB510 - "AN ACT REVISING THE REQUIREMENTS FOR ORGANIZING A MUNICIPALITY; ELIMINATING THE PROHIBITION AGAINST ORGANIZING A MUNICIPALITY IF THE PROPOSED TERRITORY IS WITHIN 3 MILES OF AN EXISTING MUNICIPALITY; AND AMENDING SECTION 7 7-2-4103, MCA."

Councilmember Cimmino moved to oppose HB510, seconded by Councilmember Astle. After a brief discussion, on a voice vote the motion was unanimously approved.

HB527 - "AN ACT PROVIDING THAT AN ARBITRATOR MAY NOT CONSIDER THE OVERALL COMPENSATION PRESENTLY RECEIVED BY CERTAIN PUBLIC EMPLOYEES, INCLUDING DIRECT WAGE COMPENSATION, HOLIDAY PAY, OTHER PAID EXCUSED TIME, INSURANCE, MEDICAL BENEFITS, SHIFT SCHEDULES AND HOURS, AND ANY OTHER DIRECT OR INDIRECT MONETARY BENEFITS, IN CALCULATING BENEFITS TO BE PAID PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT; AMENDING SECTIONS 39-31-310, 39-31-504, AND 39-34-103, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A TERMINATION DATE."

City Administrator Volek advised staff had concerns with the bill. She said the intent was to give an arbitrator a very clear direction as to what he could or could not consider and an attempt to help communities with arbitration. She said it could help to some extent but would create other issues prohibiting the city from looking at other things that might be helpful.

Councilmember McCall asked Ms. Volek for staff's recommendation. Ms. Volek advised staff's recommendation would be to oppose the bill.

Councilmember Ulledalen moved to oppose HB527, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

LC1564, LC1565, LC1566 and LC1568 – Urban Renewal Modifications

City Administrator Volek advised the bills all addressed various aspects of tax increment financing legislation to include extensive requirements.

Councilmember Gaghen moved to oppose LC1564, LC1565, LC1566, and LC1568, seconded by Councilmember Astle. After a brief discussion, 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; comments are limited to three (3) minutes per speaker. Please sign up on the clipboard located at the podium.*)

- **Tom Zurbuchen, 1747 Wicks Lane**, said he wished someone would come forward and make a motion to direct staff to bring forth a resolution to increase the arterial street fee rather than put the Inner Belt Loop on a General Obligation Bond. He said nobody wanted to raise taxes and fees. He said in the CIP there was a brand new sewer plant for \$60 million, which was a huge fee increase. He said the public needed some explanation.

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

COUNCIL INITIATIVES

- **McCall:** Moved to create a time-limited ad-hoc legislative committee consisting of Mayor Hanel, Councilmember Ulledalen, and a third councilmember appointed by Mayor Hanel; and authorizing the City Administrator on short notice to make

decisions for the City, seconded by Councilmember Astle. **Councilmember Ruegamer** amended the motion to include Councilmember McCall as the third committee member, seconded by Councilmember Cimmino. On a voice vote, the amended motion was approved. On a voice vote, the motion was unanimously approved.

- **Ulledalen:** Moved to publicly notice the legislative conference calls held at work sessions as official city council meetings until the end of the legislative session, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.
- **Ruegamer:** Referenced several of the e-mails regarding a meeting with School District #2, and said Councilmembers should not be inviting Department Heads to meetings. He said that should be done through the City Administrator. He said they had a meeting with the school district and the subject of land trade came up and the superintendent was not happy. He said the point was they had worked hard to build a good relationship with the school district and they did not want to mess it up.

Councilmember Pitman advised Councilmember Ruegamer that he had responded to the e-mail and had he read it, he would have understood. Councilmember Pitman said he did talk to the City Administrator, invited her, and asked if he could bring Mike Whitaker with him for clarification because staff had already been in contact with the Beartooth PTA. He said Councilmember Ruegamer's statements that Ms. Volek was not in the loop were inaccurate and needed to be retracted. Councilmember Pitman said he followed protocol and no land deals were made. He said there was a little discussion about what to do and how to solve the issue, but no decisions were made and it was not even the major topic of the meeting.

Councilmember Ruegamer said he did not get the e-mail or read anything about it. He said he was not accusing Councilmember Pitman but making a point that they needed to go through Ms. Volek. He told Councilmember Pitman if he did not do anything wrong, he would retract his statement.

- **Pitman:** Moved to postpone the CIP presentation until the March 7 work session due to a conflict with a meeting of the Heights Task Force, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.
- **Cimmino:** Said she would like to state for the record regarding the school district meeting held last Thursday that in all fairness to everybody who was there and to those who did not attend, she would take the bullet. She said Dr. Beeman never made a comment about a meeting between the school district and the City about selling or swapping parkland with Beartooth School. She said he never said it, and it was in reference to Councilmember Ulledalen's comment about talking about different possibilities of the parkland. She said after the Council reviewed it with Mark Jarvis and Mike Whitaker, they had a phone call from members of the Beartooth PTA and principal and that was when they met, and asked Tina, and that was what took place. She said she wanted it in the minutes that Dr. Beeman never made a comment about swapping land and she would take the bullet for it because she was the one who said at the meeting this

discussion came up as part of that. She said as far as she was concerned it was a misunderstanding and the e-mails were totally misleading.

- **Pitman:** Moved to deposit the money from the MDU Landfill methane gas project into the Council Contingency Fund, seconded by Councilmember Ronquillo. Ms. Volek asked if it would be on a short-term basis or on a permanent basis.

Councilmember Ulledalen said he would not support the motion but felt they needed to address the money because he did not want it blended into the General Fund and siphoned off into salary increases. He said it needed to be segregated somehow specifically from the General Fund.

Councilmember McCall agreed and asked if a special revenue account could be set up. Ms. Volek said there could be a special account set up.

Councilmember Clark said he felt it should be placed on a council agenda for further public discussion.

Councilmember Pitman said he would like to be able to see the money and be able to account for it.

City Administrator Volek pointed out the Council Contingency Fund was an expenditure fund within the General Fund and not a revenue account. She said the MDU funds were being put into a separate revenue account. She said what they were talking about was amending their budget which would require a public hearing, etc.

Councilmember Ulledalen said it could be used to fund certain projects in the community such as parks. He said there needed to be a process to set aside the funds to do things they did not have the budget to do.

Councilmember Pitman said he agreed and did not want the money disappearing into the General Fund. He said it was one time when they could actually do specific things for the community based on the revenue.

City Administrator Volek said she wanted to protest at that point and reminded the Council that last year they returned \$1.4 million to the General Fund and to imply that somehow they were out throwing money around with both hands was an inaccurate perception and said she wanted it on the record.

Councilmember McCall asked Councilmember Pitman to withdraw his motion.

Councilmember Pitman made a substitute motion to bring the issue to a work session for further discussion, seconded by Councilmember Astle.

Councilmember Ulledalen told Ms. Volek they were not saying that but he thought it would be so easy for the funds to get sidetracked and evaporate. He said natural gas prices would decline and at some point they could determine the MDU project was not viable. He said part of the issue was that the indication the checks would get bigger in the future may not happen.

Councilmember Gaghen said she would support the motion, but felt it was important they reinforce to the public that the city dollars through finance and staff were very carefully managed and handled. She said she did not want to create feelings of distrust.

On a voice vote, the substitute motion was unanimously approved

There was no further business, and the meeting adjourned at 11:03 p.m.

CITY OF BILLINGS

BY: _____
Thomas W. Hanel

ATTEST:

BY: _____
Cari Martin, City Clerk

City of Billings
Weekly Legislative Report
Eighth Week of the Montana Legislature
February 24, 2011

As of today, February 24th, 1028 bills have been introduced (of the 2199 bill draft requests filed). Today is the 45th Legislative Day, so general bills not acted upon and passed from one Chamber of the Legislature to the other are considered “dead” for the Session. For this Report I highlight the following bills:

- HB 68, to revise the Medical Marijuana Act and allow regulation and control by local governments, introduced by Rep. Sands on behalf of the Children’s, Families and Human Services Interim Committee, is not subject to the 45th Legislative Day transmittal deadline. The Bill is pending executive action. The City supported this Bill. Another important bill dealing with medical marijuana is HB 43, introduced by Rep. Gary MacLaren. It would specify employers’ rights to test and discharge employees related to employees use of medical marijuana. HB 43 passed the House by an 84 to 15 vote. It will be heard in the Senate Business Committee on March 2nd. HB 161, introduced by the Speaker, to repeal the marijuana initiative passed the House. Another bill revising the Medical Marijuana Act which is pending action in the House is Rep. Berry’s HB 429. SB 154, introduced by Sen. Dave Lewis, to regulate the medical marijuana provider supply system, was heard on Feb. 11th.
- HB 106, one of the 16 or more DUI bills, is strongly supported by the Attorney General. It would establish a “24/7 sobriety project for impaired driver offenders”. HB 106 passed the House by a vote of 96 to 3 and has been referred to Senate Judiciary Committee.
- HB 304, introduced by Rep. Hendrick (R.- Superior), would repeal the power of local governments to create special districts and only permit such districts by petition. The Bill failed to pass the House after it was removed from the table. The City opposed this Bill.
- HB 307, introduced by Rep. Tom Burnett, would prohibit building codes from requiring mandatory sprinkler systems primarily in single family residential housing. The City has not yet taken a position on this Bill.
- HB 316, which is scheduled for Executive Action on March 2nd, and HB 317 are companion bills, introduced by Rep. Cook (R. - Conrad), to decrease the amount of distributions in numerous statutory appropriations, including the local government entitlement programs, and to eliminate the three-fifths vote required to reduce the amount of the entitlement share to be distributed, and to sunset statutory appropriations at certain times. These Bills will eventually be reconciled with HB 2, the General Budget Bill. Meanwhile, although forecasts show the economy to be slowly improving, there is about a \$100 million difference of opinion within the Legislature over the level of projected increased revenue. A separate but related bill pending action is the \$90 million general obligation bond bill (HB 439) for state government building projects, including a new building at MSU-B.

- HB 334, introduced by Rep. Scott Reichner (R.-Big Fork), will be the primary workers compensation bill considered to accomplish reform. It passed the House on Feb 24th by a vote of 67 to 31. The Labor Management Advisory Council bill to revise the workers compensation laws (HB 87) was tabled in Committee. SB 243, by Sen. Zinke, was also tabled in Committee.
- HB 390, introduced by Rep. Margie MacDonald, to provide inspection and oversight for dog breeding operations is pending Executive Action. The City supported this Bill and presented a letter from the Chief of Police.
- HB 555, introduced by Rep. Steve Fitzpatrick, is a bill to help all employers control health insurance costs by providing for nonduplication of health insurance benefits. This Bill passed the House on Feb 24th. The City has not taken a position on this Bill.
- The several TIFD bills introduced by Rep. Elsie Arntzen, HB 560, HB 561, HB 562, and HB 564, have been referred to the House Taxation Committee. Hearing dates have not been scheduled. The City will oppose these Bills.
- SB 82, introduced by Sen. Brad Hamlett (D.-Cascade) would adopt a primary seatbelt law. It was tabled in Committee.
- SB 91, introduced by Sen. Taylor Brown, would allow a new city to incorporate even if it does not have a post office (for example, Lockwood). SB 91 passed the Senate 50 to 0. It is tied to passage of HB 426 with a contingent voidness clause. HB 426, by Rep. Gary MacClaren (R.-Victor) would require consent of large industrial facilities (for example, oil refineries) before such properties could be included within the boundaries of a newly incorporated city. HB 426 passed the House 99 to 0.
- SB 152, sponsored by Sen. Taylor Brown, at the request of the City, passed the Senate 48 to 0. It is scheduled for hearing in the House Judiciary Committee on March 3rd.
- SB 251, introduced by Sen. Kaufmann (D. - Helena), was amended to prohibit texting, but not cell phone use, while driving. The Bill passed the Committee and is pending Senate action.
- SB 234, introduced by Sen. Sonju (R. - Kalispell), would negatively impact the ability and cost of cities to provide solid waste services when a private entity is providing similar services. The Bill passed the Senate 39 to 11.
- SB 367, introduced by Sen. Vincent, would establish nutrient standards variances. It has broad support from interested parties, including the League of Cities and Towns and MACO. It passed the Senate 50 to 0.

I look forward to discussing these and other legislative matters of interest to City Council. Please contact me if you have any questions or would like information on any particular topic or bill.

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