

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 10, 2008

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

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Gaghen

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

MINUTES – February 25, 2008, approval pending

COURTESIES – Mayor Tussing recognized Councilmember Veis for his selection as Young Engineer of the Year.

PROCLAMATIONS – None

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek advised that the Agenda Review Meeting for March 24, 2008, would be held the following evening at 5:30 p.m. in the City Hall Conference Room.
- Ms. Volek advised that there were a number of items that had been sent in the Friday packet or placed on Councilmembers' desks before the meeting. Those documents were also available in the Ex-parte Book.
- Ms. Volek said the Friday packet included an agreement for Item F, a supplemental lease agreement from the FAA for Item G, and an agreement with HDR for Item I.
- Ms. Volek said she understood that Councilmembers also received an email for Item Y, the neighborhood convenience stores. She added that this email was held for some time until the item appeared on the agenda.
- Ms. Volek said there were two letters regarding Item 6 which were sent via email to Councilmembers.
- Ms. Volek advised that Item L, a promissory note and related documents regarding the Sage Towers Plan were also distributed to Council and included in the Ex-parte Book.

Mayor Tussing asked for clarification on Item Y and if Council action was to vote to review it at the next work session and then at the April 14, 2008, meeting. Ms. Volek responded that was correct and this meeting was the first opportunity to bring it before Council. Councilmember Ruegamer asked who sent Item Y because it didn't have a signature on it. Ms. Volek responded that she wasn't sure because it was sent with an email address on it and no other information.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 ONLY.
Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

Councilmember Stevens explained that she had her laptop computer with her because she did not have her council packet so she downloaded her agenda packet to the computer. She clarified that she was not connected to the internet and was not communicating with anyone outside of the room.

CONSENT AGENDA:

1. A. Bid Awards:

(1) 2008 Airport Miscellaneous Improvement Projects. (Opened 2/12/08). Delayed from 2/25/08. Recommend Knife River, \$381,023.50.

(2) Central Park Playground Project Safety Surfacing. (Opened 2/26/08). Recommend Great Western Park and Play Equipment, Inc., \$57,333.00.

B. CTEP Project Specific Agreement – Lampman Strip Park Trail-Billings (CN 6635), Montana Department of Transportation, CTEP Grant - \$301,762.00; Local Match - \$46,773.00; Additional Contribution from Recreational Trails Grant - \$20,000.00.

C. CTEP Project Specific Agreement – Swords Park Trail II (CN 6632), Montana Department of Transportation, CTEP Grant - \$62,120.00; Local Match - \$9,629.00.

D. Approval of one-year Limited Commercial Aviation Building and Ground Lease with Big Sky Ground Support Industries (3/1/08 – 2/28/09), \$12,001.44 annual revenue.

E. Lease Extension Acknowledgement with United Properties, Inc. and Billings 401 Joint Venture for Park 4 Garage, 10-year term, \$300,000.00 annual revenue.

F. Lease Extension with Yellowstone County for Uda Mae Parking Lot.

G. Amendment to Federal Aviation Administration Lease #DTFANM-07-L-00039 for second floor office and operation space in the Airport Terminal Building, \$1,439.98 monthly revenue.

H. Amendment #1 to Airport Business Park Building and Ground Lease with Yellowstone County Museum Foundation, \$798.60 initial annual revenue; adjusted annually according to the CPI – Urban.

I. Amendment #9, W.O. 08-06 King Avenue Lift Station. HDR Engineering, Inc., not to exceed \$44,800.00.

J. Amendment to Phases IV and V of the Subdivision Improvements Agreement for Uinta Park Subdivision.

K. Airline Operating Permit with 3D Aviation, LLC, \$2,000 annual revenue.

L. Approval of closing documents for Sage Tower renovations.

M. Approval of Downtown Revolving Loan Committee's recommendation of loans to J & P Realty, LLC – lesser of \$86,000.00 or 20% of total project costs for remodel of office condominium space in the Historic Montana Power Building; and to Randy and Janna Hafer – lesser of \$75,000.00 or 20% of total project costs for redevelopment of the Klos Building located at 2720 Minnesota Avenue.

N. Quarterly Report for Pledged Collateral on Certificates of Deposit, US Bank Repurchase Account, and US Bank Municipal Investor Accounts.

O. Semi Annual Investment Report.

P. Proposed Adjustment of Water and Wastewater Rates and Fees, setting a public hearing date of April 14, 2008.

Q. Proposed Fee Increase for Mountview Cemetery, **Resolution #08-18692.**

R. Proposed Fee Increase for PRPL Aquatics, Rentals, and Permits, **Resolution #08-18693.**

S. W.O. 04-33, Lake Elmo Drive (Hilltop to Wicks Lane) Right-of-Way Acquisition:

(1) Parcel 43: Portion of Tract 1A of C/S 2121 Amended, Brush Meadow Apartments, LP. \$16,250.00.

T. Street Closure: Shrine Circus "Elephants on Broadway", April 1, 2008, 5:00 p.m. to 9:00 p.m., between the 2700 and 2800 blocks of Second Avenue North and the 100 and 200 blocks of 28th Street North.

U. Acceptance of \$8,824.24 bequest from the Estate of Ms. Betty Ryniker to MET Special Transit.

V. Acceptance of \$4,412.14 donation from the Estate of Ms. Betty Ryniker to the Billings Animal Shelter General Donation Fund.

W. Resolution #08-18687 amending Resolution 07-18627 correcting the legal description of the South Billings Boulevard Urban Renewal District.

X. Resolution #08-18688 repealing Resolution of Intent #05-18325 creating SID 1372 and setting a public hearing date of 4/14/08.

Y. Zone Change #826, Neighborhood Convenience Stores: A zone change allowing small retail services to be developed by special review approval within existing residential zoning districts. Action delayed from 11/26/07. Recommend review of proposed amendments to the ordinance at the March 17, 2008, Work Session; and table until April 14, 2008.

Z. Second/Final Reading Ordinance #08-5455 for Zone Change #832: A zone change from Residential 9600 to Residential 7000, and located on the southeast corner of the intersection of Hilltop Road and Agate Avenue in Billings Heights; Steve Zimmerer, owner and applicant.

AA. Second/Final Reading Ordinance #08-5456 for Zone Change #833: A zone change from Residential 7000 to Residential 6000 on the southern half of Tract 2, C/S 3303, located at 927 Bench Boulevard; Gene and Joy Culver, owners; Engineering, Inc., agent.

BB. Second/Final Reading Ordinance #08-5457 for Zone Change #834: A zone change from Residential 7000 to Residential 6000 on Tract 1, C/S 1531, located at 1442 Bench Boulevard. Gene and Joy Culver, owners; Engineering, Inc. agent.

CC. Second/Final Reading Ordinance #08-5458 for Zone Change #835: A zone change from Entryway Light Industrial to Controlled Industrial on Tract 1, C/S 2560, located on the southeast corner of King Avenue West and Shiloh Road.

DD. Second/Final Reading Ordinance #08-5459 expanding the boundaries of Ward II to include recently annexed property in Annex #08-05: property described as Lot 1, Sylvia Subdivision, 1094 Lincoln Lane, generally located on the west side of Lincoln Lane, north of the Target Shopping Center in Billings Heights, First Citizens Bank, owner and petitioner.

EE. Final plat of Copper Ridge Subdivision, 2nd Filing.

FF. Bills and Payroll

- (1) February 8, 2008
- (2) February 15, 2008

Mayor Tussing separated Items 1B and 1C.

Councilmember Stevens made a motion to approve the Consent Agenda with the exception of Items 1B and 1C, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Stevens made a motion to approve Item 1B, seconded by Councilmember Gaghen. Mayor Tussing said he separated Items 1B and 1C to recuse himself from the vote because his wife was involved in both CTEP projects. On a voice vote, the motion was approved 9-1.

Councilmember Stevens made a motion to approve Item 1C, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9-1.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #08-18689 adopting the North Park Neighborhood Plan. Yellowstone County Board of Planning recommends approval. (Action: approval or disapproval of Yellowstone County Board of Planning recommendation.) Neighborhood Planner Lora Mattox advised that on February 19, she attended a work session and provided an overview of the North Park Neighborhood Plan. She said the neighborhood plan was originally completed in 1977 and updated in 1993. Ms. Mattox provided a PowerPoint presentation which showed the boundary map of the neighborhood. She noted that the neighborhood plan was divided into three unique study areas. She identified the first study area as north of 6th Avenue North and east of North 27th Street. She said that area included the main residential area of the neighborhood and bordered the North 27th Street and 6th Avenue North commercial areas. She continued that the second study area was on the other side of 6th Avenue North and contained the controlled industrial zoning areas, and the third area was the central business district located toward the southwest of the neighborhood. She reported that the neighborhood plan identified the focus areas and issues and actions to mitigate any issues identified under each. She then offered to answer any questions regarding the neighborhood plan.

The public hearing was opened.

- **Robyn Driscoll, 724 N. 16th Street**, said she was a member of the North Park Neighborhood Task Force and worked closely with Lora and other members of the task force during the last couple of years. She asked Council's consideration to adopt the plan as presented and said it was a great plan.
- **Joe White, 926 N. 30th Street and Big 5 Motel**, said he couldn't speak about the plan because he wasn't familiar with it. He said he knew there was a need for a workable plan because there had been considerable crime in the area during the last several years. He said a plan was needed. *(the remainder of his testimony was inaudible)*

Councilmember Gaghen commented on the thoroughness with which the project was undertaken. She said Lora Mattox was a great guide for the neighbors who faithfully met each month and brought in the best of the previous neighborhood plan and

updated it so that it met ongoing future needs. She complimented the group's efforts and said the plan offered valuable safeguards to any neighborhood.

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

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

3. PUBLIC HEARING AND RESOLUTION creating SILMD 304 – Downtown Area. Staff recommends tabling indefinitely. (Action: approval or disapproval of Staff recommendation.) Public Works Director Dave Mumford advised that this was a joint project between the City and downtown property owners to change some the downtown streetlights to make them more cost effective and pedestrian oriented. He said that in addition, the joint project was to include changing the downtown traffic signals at the same time. He said the lighting project would use TIF funds and leftover funds from other projects. Mr. Mumford added that Staff's recommendation to table the item would allow the downtown property owners to find out what funds could be used for the project. He noted that he intended to move forward to get the design work done with the funds that were designated for the project and when the final figures were known, he would be able to inform the property owners what relief would be available for the project to offset their costs.

Councilmember Stevens asked if it would be a problem to wait until the end of the month to find out what TIF funds were available. Mr. Mumford said the project was on the list approved by Council. He said he wasn't yet aware how much each project would cost so as the list was reviewed and priorities assigned, they would know what funds were available. Councilmember Stevens asked if there was any danger of the funds going back to the taxing entities. Mr. Mumford said he would defer to City Administrator Volek who responded that she didn't believe it would be a problem. She said \$900,000 was in the plan and allocated to that project and those funds would be used toward the design process. She added that there was discussion of large project gap funding for several potential projects and this project was included in that list. She noted that Council set those funds aside for use and it would have to be determined by year end, but because it was allocated to that list, she said she believed it could proceed. She added that any leftover funds would go toward offsetting costs of the light and lighting fixtures. Councilmember Stevens asked if it was correct that if large-project gap funding didn't become available by the end of the year, the funds wouldn't be lost, but would slide over to another one on the list. Ms. Volek said that was correct.

Councilmember Astle asked Mr. Mumford if changing one-way streets to two-way streets would be a component of this program. Mr. Mumford replied that the intersections would be addressed for signal reconstruction and that a street direction change wasn't programmed into the project. Mayor Tussing asked Ms. Volek or City Attorney Brooks if a public hearing would be held if the item was tabled according to staff recommendation. He said he wanted to make sure that if anyone was present and wanted to testify at the public hearing that they would have another opportunity to testify. Ms. Volek said those arrangements could be made because any large projects

over \$50,000 had to be approved by Council and a hearing could be part of that process. Ms. Volek also pointed out that the SID would require a public hearing.

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

Councilmember Pitman moved for approval of Staff's recommendation to table the item indefinitely, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION #08-18690 accepting the Urban Planning Study and expanding the boundaries of the Billings Urban Planning Area to include properties within six study areas generally known as Bitterroot-Mary; Blue Creek; Mullowney; Northwest Billings; Riverside; and Zoo and Shiloh. Yellowstone County Board of Planning recommends approval. (Action: approval or disapproval of Yellowstone County Board of Planning recommendation.) Ms.

Volek said Staff requested a combined presentation for agenda items #4 and #5. She said that even though a single presentation would be made, the public hearings would be separate. Mayor Tussing asked if there were any objections to that and none were heard. Planner Juliet Spalding explained that her presentation was to amend the current Urban Planning Area boundary as well as the Limits to Annexation Map which was part of the Annexation Policy. Ms. Spalding noted that Billings had experienced growth mainly due to expansion outside the city limits to include existing county populations. She said those things contributed to the milestone reached in 2006 when Billings' population reached 100,000 people. She said with that population, the question arose of how to provide for municipal services to the new populations and still be able to meet the needs of existing residents. Ms. Spalding indicated that the City Planning Department, along with other departments, had used three tools to evaluate growth, and then would recommend final approval. She advised that those tools included the CIP, the Annexation Policy and the Urban Planning Area. She explained that the CIP plan was a list of the City's capital projects to be completed within a five-year span. She explained that the Annexation Policy, first adopted in 2002, was intended to provide guidance to the Council on when and where the City should support boundary expansion. She said that policy was reviewed annually and an updated map was made available to give residents an idea of where the City may expand. The last tool used was the Urban Planning Area which was established in the 1960s as an area surrounding the City limits to provide a plan for growth within a 10-year time period. She stated that the Urban Planning Area was updated and expanded through the completion of urban planning studies, typically completed by a developer or upon the request of a landowner. She noted that during annual reviews of the CIP and the Annexation Policy map, it became evident that two different messages were being sent; one that the Urban Planning Area was slightly different than the Limits of Annexation Map. She said that in order to send a consistent growth message, a project was taken on to coordinate those two areas.

Ms. Spalding explained that the Urban Planning Area was presented to expand in six areas and six urban planning studies were completed by Staff to evaluate whether the City could provide services within a 10-year time frame. She reported that Staff's recommendation included contraction of the Annexation Policy map. Her PowerPoint

presentation included a map which showed the study areas and the colored sections of the annexation map. She explained that the red areas were most important or the most immediate areas of support. There were six areas that Staff recommended alteration to the red area. She pointed out that those areas were depicted on the map with green circles. She also pointed to the red areas and the blue Urban Planning Areas to illustrate the inconsistencies in the two boundaries.

Ms. Spalding began her review of the six study areas with the Bitterroot-Mary area. She reported that a planning study was done for this area only and Staff recommended the Urban Planning Area extended to that portion of the Heights that was north of Barrett, south of Mary and slightly east of Walter Road. She said the area around that was recommended to change from red to yellow and orange. She stated that the yellow area was environmentally constrained with steep slopes and a floodplain and not likely to be developed and the orange area was also not likely to have City services available in the near future. She pointed out an area proposed to change from red to white, and removed from the Annexation Policy map because it was part of county-owned Two Moon Park. She said there were no plans to annex that park.

Ms. Spalding also referenced another area of change that would affect the Lockwood area. She said that area was originally yellow, meaning there was some intent behind it and could be annexed. She stated that based on the City's recent review, it was not likely to be annexed.

Ms. Spalding went on to show another study area, Riverside, described as approximately 900 acres, mostly encompassing city-owned Riverfront Park. She said it was Staff's recommendation to add that to the Urban Planning Area along with areas which were also recommended to be added to the red area. She noted that the Parks, Recreation and Public Lands Department suggested it would like Riverfront Park annexed in the future to avoid jurisdictional confusion.

Ms. Spalding reviewed the Blue Creek study area. She stated that it was already in the red area of the Annexation Policy mainly to show support if a property owner requested annexation. She said that City services were already in place from Cedar Park across the river down to Briarwood, so it would make logical sense to expand it to that area. She added that the Urban Planning Study evaluated its suitability and recommended its addition to the Urban Planning Area. She noted that the same goes for two parcels on the west side of Mallowney Lane and that Staff recommended adding them to the red area and the Urban Planning Area.

Ms. Spalding went on to review the Zoo and Shiloh area study. She said that area focused around the Zoo Drive and Shiloh Road area, and those areas were currently within the red boundary of annexation but not within the Urban Planning Area. She said Staff recommended their addition.

Ms. Spalding reviewed the last study area, Northwest Billings. She explained that there were three portions within the red area but not within the Urban Planning Area. She said staff recommended adding them since City services were in the area. She noted that there was a portion of the Rims that would not likely be developed, however it should be preserved as a parkway to connect with existing parks along the Rims. She pointed to another section on the top part of the map of that area that was proposed to change to white as an area that was not likely to be added to the City.

Ms. Spalding reported that the Planning Board held a public hearing, reviewed the project and recommended the City Council approve the planning studies and expansion of the Urban Planning Area. She added that the Annexation Committee and Planning Board reviewed the amendments to the Limits of Annexation Policy Map and also recommended those changes.

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

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

5. PUBLIC HEARING AND RESOLUTION #08-18691 revising the 2007 Limits of Annexation Map. Annexation Committee recommends approval. (Action: approval or disapproval of Annexation Committee recommendation.) Mayor Tussing said the report for Item #5 was included in the previous item, but the public hearing would still be held. He said Item #5 would change the Limits Of Annexation based on approval of Item #4 which expanded the Urban Planning Area boundaries.

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

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

6. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #OP-08-01: A variance from the Site Development Ordinance, Section 6-1203(j), concerning the required number of off-street parking stalls on Lots 11-18, Block 262, Billings Original Town, generally located at 2016 6th Avenue North. Staff recommends denial of the variance request. (Action: approval or disapproval of Staff recommendation.) Mr. Mumford reported that the Salvation Army had proposed a very good project to bring to Billings. He said the site plan developed by the Salvation Army was reviewed according to the site plan ordinance. He indicated that the proposed site plan required 163 parking stalls according to the development ordinance and the most current plan submitted by the Salvation Army provided only 14 stalls, four of which would be designated handicapped and even with that, it would still be short one of the required handicapped stalls. He said staff looked at the plan and met with Salvation Army personnel and the plan didn't come close to the requirements for off-street parking and on-street parking was not eligible to be counted in accordance to the site development ordinance. He noted that Staff did not recommend approval of the variance request due to the significant difference between the 163 required parking spaces and the 14 that could be provided. He said it was pretty straight-forward even though it was a good project.

Councilmember Ruegamer asked Mr. Mumford if a variance would end if the property was sold in the future. Mr. Mumford responded that if a variance was approved for the property, it would travel with the property. Councilmember Ruegamer then asked if the variance would end if the use of the property changed significantly. City Attorney Brooks commented that he believed that Council could conditionally grant the variance and go so far as to require a deed restriction so if the property was sold to someone else or a different use put to the property than what was currently being

contemplated, the variance would cease. He added that the Council had broad discretion under a section of Code 6-1210, which would allow it broad authority when a site development variance was granted. He said the conditions would have to be reasonable and the applicant could agree to the terms of a deed or use restriction, and then if the property changed hands, the new owner would have to apply for a new variance. Mr. Mumford added that as long as changes by a new owner or a use change wouldn't trigger the need for a new building permit, the variance would still be in effect for the property. Councilmember Ruegamer asked if a change to something like a movie theatre could result in the loss of the variance. Mr. Mumford responded that it would depend on the size of the building and structural changes.

Mayor Tussing said the Board of Adjustment granted approval of the set back for the site. Mr. Mumford confirmed that that was correct; the number of parking spaces had to be approved by Council.

Councilmember Gaghen said her question was probably already answered, but she wondered if restrictions could be established with a timeline or an expiration date or if it had to deal with a use change. Mr. Mumford replied that Mr. Brooks alluded to the fact that Council had some flexibility with conditions for a variance approval and the variance would likely be tied to the property.

Councilmember Astle asked if the property was on a dead-end street and Mr. Mumford answered that it was. Councilmember Astle asked if the Salvation Army could ask for closure of the street similar to what Conoco did. Mr. Mumford said they would have to purchase the street and it was difficult to answer directly about that because if it was sold, both property owners would have to enter into an agreement and split it, and the City would have to look at access to adjacent properties since they wouldn't be allowed to preclude access to an adjacent property owner. Ms. Volek said her understanding from Ms. Beaudry was that another business was accessed from that street.

The public hearing was opened.

- **Bill Kennedy, 902 Parkhill Dr**, distributed alternative site plan options. He said the last time he was there to discuss the building there were a lot of different proposals that went forward. He asked for support of the variance. He said the Salvation Army's current site plan required 163 parking spaces and the first drawing provided for 14. Some reconfiguration was done and new alternatives developed. He said the new plan would require 108 spaces and could provide 22 parking spaces because the footprint was smaller. He said the underground parking option was reviewed and it would only provide about 70-75 spaces at a cost of \$18-20,000 per stall for a final cost of about \$1.3-1.5 million added to the project, which was too expensive. He noted there were 53 parking spots across the street at the Salvation Army. He said he had also evaluated the North Park Gym parking situation where 38 parking spaces could be used and that business received more traffic than the proposed facility.

Councilmember Ruegamer asked where the North Park Gym was. Mr. Kennedy replied that it was in the Community Center located in North Park. He added that he felt the available parking at the proposed site and the surrounding area should be sufficient

for the homeless youth shelter. Councilmember McCall asked if either alternative #1 or #2 of the handout would change the project cost significantly. Mr. Kennedy responded either would stay within the projected costs.

- **Anya Fiechtl, 512 Avenue C**, said she worked with the Salvation Army to develop the building plans for the homeless shelter project and said the program had been reduced to be able to have a building that would require less parking. She said the alternatives allowed the Salvation Army to maintain the planned programs. She indicated that the alternate options presented would provide 22 parking spaces and combined with the 53 spaces at the existing Salvation Army facility, there would be adequate parking.

Councilmember Veis asked if Ms. Fiechtl was in favor of the 22 parking spaces rather than the 14 spaces. Ms. Fiechtl responded that in addition to reducing the size and the program of the building to provide more spaces, the alternate plan was more prudent. Councilmember Veis asked if the Salvation Army would go with alternative option #1 or #2 and still seek the variance. Ms. Fiechtl responded 'yes,' that was the intention. Councilmember Ruegamer said the main thrust for him was to provide a place for homeless kids. He asked how many kids could be housed using the original plan and how many with the alternate options. Ms. Fiechtl said the number of rooms remained the same. She added that the program for all three options was nearly identical.

Councilmember Astle asked the name of the other business in the area that shared the dead-end street and what type of parking it had. Ms. Fiechtl answered that she thought it was LinCare and it was an office. Mr. Mumford stated that he knew the business met code of one space per each 300 square feet of building. Ms. Volek reiterated that the business was required to have one parking space for every 300 square feet and it met that requirement.

Councilmember Gaghen asked if the overall cost was reduced with the modifications. Ms. Fiechtl said she didn't believe so because the original project grew and the recent modifications took the project back to its original size so the cost was about the same. Councilmember McCall asked about the number of homeless youth in Billings. Ms. Fiechtl deferred to Major Bottjen for that information.

Mayor Tussing said that before the item went further he needed to ask Ms. Volek, Ms. Beaudry or Mr. Brooks about the process for the options distributed at the meeting. He asked if there was a requirement that they had to go through a process first or, theoretically, could they be approved at the meeting. Ms. Volek said the documents were presented to staff Friday afternoon and were not the plan advertised for this meeting. She said one issue was whether the new options represented a significant enough change from a 37,000 square foot building to a 21,000 square foot building and from a requirement of 163 to 108 parking spaces, and whether there was adequate public notice. The second issue was that staff wanted an opportunity to review the options and the possibility of a deed restriction as had been discussed. She said it could be a more palatable approach to the Council if there were requirements attached to it. Her understanding was that staff believed that a time limit might be harder to track and it may be harder 5-10 years from now to track whether a variance

had been in place for 5 or 10 years, but there were certainly conditions that could be attached to the title that could be triggered if a change came in as mentioned by Mr. Brooks. She said it was Staff's request to postpone the item for two more weeks to allow them an opportunity to review the options and present an additional or revised recommendation to ensure the situation was handled properly because it does have implications for the neighborhood as well as the individual property. Councilmember McCall asked if closure could be reached in two weeks if staff had all the information regarding the alternatives. Ms. Volek said that closure could be reached, particularly if she had an indication of which alternatives Council would consider.

- **Major Keith Bottjen, Salvation Army**, said the original proposal didn't include any parking which he thought was beyond any expectation because no building should be built without some parking. He said they originally came up with a plan that required 163 parking spaces. He advised that he had a two-hour meeting with Engineering Inspector Wayne Ware Friday, and Wayne said that even though the alternative options would only require 108 parking spaces, he would still recommend against it because of the rules and regulations placed before him in his job. Major Bottjen added that he would have no objection to a condition attached to a variance. He stated that if the building didn't get built, the conditions would be returned to the City. He said they went through a lot to get to the point of 108 parking spaces. He noted that the request was not for an increase in anything, but a reduction of it. He thought the same notice would be out to the people. He said if they could handle 163 and 14 spaces, there was no reason why they couldn't handle 108 and 22 spaces. He said the Salvation Army did its best to meet the needs of the City Council and showed its spirit in trying to work together. He said the North Park Task Force voted in favor of the variance as it stood with the 163 parking space requirement and the 14 the building could provide. Major Bottjen reminded Council that the proposed facility was not a public high school, but a gym designed for homeless kids who probably used bicycles and skateboards for transportation. He said the Salvation Army had not asked for anything but offered to provide a program.

Mayor Tussing asked Major Bottjen if he would be receptive to the possibility of a deed restriction with the stipulation that if the land was sold or the use changed, then the variance would go away. Major Bottjen said he couldn't speak for the Salvation Army Corporation as far as a condition placed on the title after the building was built and not having the ability to sell the property without re-doing everything. He said it was pointed out tonight that any major change in use of the building would require building permits and re-evaluation of the original use. He noted that his offer was that if the building wasn't built, the variance would be returned to the City. Councilmember Ruegamer asked Major Bottjen if his answer to the deed restriction was 'No.' Major Bottjen responded that once the restriction was given he would present it to the Salvation Army Corporation and if it didn't agree to the conditions, he would have to return to the City and that would take 2-3 months. Councilmember Ruegamer said another restriction he'd want was that the homeless-kid floor had to be built in order to get the variance. He said his point was that he wanted a restriction that the building

couldn't start until the full funding had been secured. Major Bottjen noted that the Salvation Army wouldn't allow him to start building until the funds were committed or promised. He said the purpose of the program was to get kids off the streets. He added that the gym would be the drawing card to get the kids to the center. Councilmember Stevens stated her concern that a deed restriction would be important to Council because if the building was sold and the variance was included with the land, it could make it more valuable and instead of building, the Salvation Army could turn around and sell it to make more money.

Councilmember Stevens asked Major Bottjen what kind of timeline he was looking at to get a response from his Board regarding a deed restriction. Major Bottjen replied that if the Council required the restriction, it should be given to him and he could present it for approval. He said the restriction to build or not build due to a variance was a simplistic restriction, because what was originally brought up to him was the question of what would happen if the building couldn't be built because the funds weren't raised. He said that once the building would be in place and the program was established, the Salvation Army would be solid on that. Councilmember Stevens added that it would be a problem if the Council imposed a deed restriction and then the Salvation Army's corporation wouldn't accept it. She continued that Major Bottjen couldn't return and say to just forget it because the Salvation Army Corporation didn't want it. Major Bottjen said he needed to make sure he understood correctly; he understood the deed restriction was on the property and if the property was sold, the Council would reconsider whether or not the variance would be continued. Councilmember Veis interjected that as soon as ownership changed hands, the variance would go away instantly and a new owner would have to seek out its own variance if it wanted one. Councilmember McCall asked Major Bottjen if he would be able to speak with his corporate executives in the next two weeks before the Council would address the issue if it voted to delay it. He stated that he would do that if it was Council's recommendation.

Councilmember Ruegamer pointed out that Major Bottjen said that was a heavy restriction and he agreed with that. He said that was a heavy variance because Council was asked to consider about 20% of what would normally be required and there were good reasons for requiring that number of parking spaces. He said it was a give and take. Major Bottjen said he would be open to that and would return in two weeks. He said several people would speak in favor of the variance.

Councilmember Gaghen asked if either of the two new options just presented would mean that the set-back exception was no longer needed. Major Bottjen responded that the set-back was approved and that was how he was able to produce the alternate options. He explained that the set-back was only requested and approved for 10 feet. City Administrator Volek noted that the set-back issue was properly considered by the Board of Adjustment and would not come before Council. Ms. Gaghen said she understood that but wondered if the new options would require something more. Major Bottjen said he would love to have the building that was originally proposed with the 163 parking space requirement but he knew he backed the Council against the wall so he tried to figure out what he could do to change that.

Councilmember Pitman asked Major Bottjen if he would be able to check with his Board and select the preferred option prior to the next meeting if Council approved a

two-week delay so Council would know what project to consider. Mr. Pitman said he loved the idea and it would be easier to know which project to consider. Major Bottjen said the options were basically the same building but turned differently on the lot.

Councilmember Veis asked Major Bottjen if the reason he didn't produce alternates prior to Friday was because the Board of Adjustment hearing was just held on Thursday. Major Bottjen responded that was correct. He said as soon as the Board of Adjustment approved the setback, he went to see Wayne Ware immediately to work on the alternatives. Councilmember Clark asked if it would be possible to leave the public hearing open if the decision was going to be delayed for two weeks. Mayor Tussing said the public hearing could be continued but he asked Mr. Brooks if it was required to allow testimony to continue at the meeting since there wasn't a motion on the floor and there wasn't certainty that the item would be postponed. City Attorney Brooks said the practice of the Council was to allow people to testify at the meeting and it could also be continued to the next regular meeting. He said it wasn't required to continue public input but he believed it was the practice of Council to do so in the past. Mayor Tussing announced that additional testimony would be accepted and he speculated that the item would be continued for two weeks and the public hearing would be continued.

- **Larry Brewster, 1216 Babcock**, said when he looked at the property it made more sense to spend the square footage on programs and a building rather than parking places. He suggested reasonable conditions on it so it could go forward because it was a need in the community not met by anyone else. He noted that over 10 years ago when he served on the school board, it was estimated that more than 200 kids in the high school district were considered homeless. He encouraged approval of the variance.
- **Robyn Driscoll, 724 N. 16th**, stated that as a member of the North Park Task Force she attended a February meeting when the Task Force voted to unanimously support the variance and kids. She said the location was fantastic because it was close to Tumbleweed, a runaway program, and Lincoln Center. She said the North Park Task Force sent a letter of support for the variance.

Mayor Tussing said the letter of support would have been for the original variance since they couldn't have known that alternatives would be proposed. Ms. Driscoll said that was correct and although she couldn't speak for the North Park Task Force, she would assume that it would also support options #1 or #2.

- **Jim Gallup, 3240 Lloyd Mangrum**, said he was a BIRD board member and BIRD supported the variance and whatever restrictions Council would deem necessary.
- **Shawn McFarland, 6236 Golden West Terrace**, said he was a youth pastor in Billings at First Assembly Life Center and he supported the variance. He said he had been involved in some form of youth ministry for the last 8 years. He reported that there was an estimated 1000 homeless youth in Billings. He clarified that homeless didn't mean the kids didn't have a home, but in some cases, they stayed with friends or others. Mr. McFarland stated he was told of about 60 kids at Senior High that were homeless but still attended school. He

said the facility would be a great help to kids in the form of moral support and other life skills the kids would learn.

- **Brian Dennis, Boys and Girls Clubs of Yellowstone County, 505 Orchard Lane**, stated he was there on behalf of the Salvation Army project. He said it was a population incredibly underserved and the Salvation Army provided an opportunity for kids that nobody else would be able to reach. He offered his support for the project.

Councilmember Stevens said her question should be directed to both Mr. Dennis and several previous commenters. She stated that the Council didn't question the project's worthiness, but the Council's concern was the parking variance and separating the need for parking and what the ordinances were from the emotions of what the facility could provide. Ms. Stevens asked how the Council would be able to explain this issue to the next person who requested a parking variance; the person who said that he knew he was required to provide a certain number of parking spaces but wanted to provide only half of that. Mr. Dennis responded that he couldn't speak to that specifically. He said in the case of his program, the teens came and went with their own mode of transportation, usually their own two sneakers, so there wasn't much parking needed. He said he understood the concern about other businesses and didn't know how to address that. He said he didn't believe there would be a need for much parking at the Salvation Army facility.

Councilmember Stevens said the next person could say the same thing, and how would the Council distinguish one from another.

Mr. Gallup asked if he was allowed to re-address the Council but was told he couldn't since he already testified, unless he could answer Councilmember Steven's question. He said he would attempt to provide the answers.

- **Jim Gallup, 3240 Lloyd Mangrum**, said that as the plan progressed with the TIF district and the plan for the whole area, one thing that would be looked at in the zoning overlay for that area would probably be to request a reduction in the required parking spaces per square foot because the lots were so small. He said that could address some parking issues down the road.

Councilmember Stevens said that was true and there was consideration of some renaissance planning because nobody else had been a bigger critic of how much parking was required and a lot of it had been a waste. She thanked Mr. Gallup for reminding her of that. Ms. Volek said that while she understood what Mr. Gallup said, she assured Council that what was being considered was an adaptive re-use and an overlay that would set a standard for the area that would be clearly defined and would not require site-by-site negotiation of the standards in front of City Council. She said the plan and process would let every property owner know the potential for each parcel.

Ms. Fiechtl asked if she could address Councilmember Stevens' question. Mayor Tussing said she could only speak if the question hadn't been adequately answered. Mayor Tussing asked Ms. Stevens if her question had been answered and she replied that it had.

There were no other speakers so the public hearing was closed.

Councilmember McCall moved to hold the hearing open until the next Council meeting on March 24. Councilmember Clark said it was too late for that because the hearing was closed. He said the item could be postponed for two weeks but a new public hearing would have to be advertised. Mr. Brooks stated that Council could move to reconsider right then and keep the hearing open and continue. Councilmember McCall restated her motion to reconsider and hold it open for two weeks, seconded by Councilmember Astle. Mayor Tussing said he would like Ms. Beaudry to talk with Brenda Beckett to get information about past surveys concerning the number of juvenile homeless people so that information was known and data was used to base the discussion on.

Mr. Brooks interjected and said the Council should present a motion to reconsider separately first, then address the motion to continue. Mayor Tussing asked if it was a motion to reconsider closure of the public hearing. He inquired that since that motion wasn't voted on, was it still necessary to have a motion for it. Mr. Brooks answered yes, that was correct. Councilmember Pitman moved to reconsider closure of the public hearing, seconded by Councilmember Ronquillo. Councilmember Veis asked what Councilmember McCall's motion was. Mayor Tussing stated that Mr. Brooks said the two couldn't be combined in one motion. Mr. Brooks said it would be cleaner if Councilmember McCall withdrew her motion temporarily and Council just moved to reconsider closure of the hearing, voted to keep the hearing open, then considered the second motion. Councilmember McCall said she temporarily withdrew her motion and Councilmember Astle said he withdrew his second. Mayor Tussing asked for discussion for reconsideration of closure of the public hearing. Councilmember Ruegamer said he would not support that motion because the same testimony would be heard again and again at another hearing, probably from the same people, then the Council would make a decision and probably impose restrictions. He said it wouldn't accomplish anything to hear the same testimony again. Councilmember Stevens said she agreed with Councilmember Ruegamer and would not support the motion either. Councilmember Veis noted that there was a request on the next meeting agenda to change the central business district and the people who were present at the current meeting would probably be at the next meeting for that issue and would be available to answer questions on the issue even if there was not a public hearing.

Councilmember Astle said he was confused. He asked what it meant if he voted for the issue and what it meant if he voted against it. Mayor Tussing said voting 'aye' would continue the public hearing until the next meeting and 'no' meant that the public hearing would not be held but the decision could still be continued if Ms. McCall resubmitted her motion and it was seconded by Mr. Astle or someone else. Mayor Tussing said he would assume that no matter which way it went, those individuals present would likely be present to answer questions and there would also be a staff report regarding which option was preferred, along with a staff recommendation. Councilmember Stevens asked Mr. Brooks if the public hearing was continued, would that mean that the people who testified already couldn't testify again because they had already testified. Mr. Brooks responded that Council didn't place any limits on the number of public hearings that a person testified at. Councilmember Stevens said it was a continuation of the same public hearing. Mr. Brooks said if it was the same hearing, then Council would have to keep track of who testified and for how long the first

time around. He said he didn't believe Council had done that but could if it preferred. Mayor Tussing said what didn't make sense to him was that Council was considering a motion to reconsider the public hearing, but there wasn't a motion on the floor to continue the decision, so Council could continue the public hearing and not have a reason to have a public hearing because the decision could be made at the meeting. Mr. Brooks said that was correct and Council could reverse the order if it wished.

Councilmember Veis said this happened because Mayor Tussing closed the public hearing. He added that there was some discussion that it would be kept open and if he had allowed the folks who wanted to continue the public hearing to speak before he banged the gavel, Council wouldn't be going through all the assignments to figure this out. Mayor Tussing told Mr. Veis that normally when people wanted to continue something, they raised their hand before the public hearing was closed and made the motion and nobody did that. He stated that he would also vote against the motion to continue the public hearing and anyone who wanted to do that should have been quicker on the draw. Councilmember Clark asked if the vote was to continue the public hearing or to re-open it. He said they couldn't continue something that was closed and a motion would have to be made to re-open it. He said it was done and the chairman had the authority to do that. Mr. Brooks said he believed the motion was to reconsider closing the hearing and that was what Council would vote on. If it was opened, someone could move to reconsider it and keep it open, then someone could move to continue the hearing. Right now, the vote was to determine whether the hearing should be closed. Councilmember Ruegamer said that everyone knew what order the process was following even though it didn't appear that way. He said it would be a wise thing to move ahead and he would like the City Clerk to re-read the motion because he understood it was to continue the public hearing. The Deputy City Clerk read the motion made by Councilmember Pitman "to reconsider closure of the public hearing." Mayor Tussing clarified that if the hearing was continued, another motion would be needed to continue the whole item until the next meeting. On a voice vote, the motion failed 6-4. Councilmembers Gaghen, Stevens, Veis, Ruegamer, Clark and Mayor Tussing voted 'no.' Councilmembers Ronquillo, Pitman, McCall and Astle voted 'yes.'

Councilmember McCall moved to postpone the decision on item #6, the site development ordinance, until the next Council meeting on March 24. Councilmember Astle seconded the motion. Councilmember Stevens amended the motion to include that staff bring back conditions that could be placed on it with the alternatives, seconded by Councilmember Gaghen. On a voice vote, the amendment passed unanimously.

Councilmember Veis asked Mr. Mumford what factors would be reviewed and if it was likely that Staff's recommendation on the parking variance would change in the course of two weeks. Mr. Mumford responded that on a technical basis, it wouldn't. He said if restrictions were put on it to show that it could only be used as proposed, Public Works could support it. He said he wouldn't support a variance that went with the property and could be used for anything in the future, including the sale of the property for something else if the Salvation Army determined now or in the future that they had a better use of that land's funding someplace else. He added that from his point of view, his department had to be careful not to set precedence, even though we state that Council didn't set precedence, but it was set each time a change from code was made.

Councilmember Veis asked Mr. Mumford if his staff's recommendation would change if the conditions placed on the variance were satisfactory to his department. Mr. Mumford responded that it would. Mr. Brooks added that in essence what the conditions would say to the property owner was that as a condition of the privilege of receiving a variance from the parking requirement, they were required to use the property for the specified purpose and only the owner was allowed the variance. In other words, the property owner came to Council asking for a significant reduction in parking spaces and their promise in return was to back up that request by accepting the deed restriction. Mr. Mumford said that the Salvation Army group met with Wayne Ware Friday with a significantly different plan without any idea that there could be an option for deed restrictions. He advised that on that plan he did say 'no' and should have said 'no.' The idea from Council that restrictions could be placed changed the ability to review the options.

Councilmember Astle said someone would have to prepare the deed restrictions and it would behoove the Council to have a legally-worded document to review. Mr. Mumford said he and Mr. Brooks would work on that in the next few days. He noted that the document would be passed on to the Salvation Army as well for their review prior to the next meeting, and it would be in the Council's next agenda packet.

Councilmember Veis said there were times when an item was sent back to Staff and times when Council had made a motion that wasn't clearly defined, then left it to Staff to write out that language. Just sending it back hadn't always worked so Council needed to give Staff a good sense of what it wanted so they could go forth from there. City Administrator Volek said that what she believed Staff would take away from the meeting was that Council agreed to consider an agreement that would provide for a deed restriction in exchange for approval of a lesser amount of parking than what would be required as a condition for that property. She asked if there were other items Council wished to consider in that regard. Councilmember Stevens said for her personally, if the property wasn't used for what the variance was requested, she felt it should be lost. She added that would include sale of the property and possibly the condition should delineate the use of the property so the City would know if the variance was violated.

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

7. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required. (Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

- **Rick Leuthold, Engineering, Inc.**, asked for reconsideration at the April 14, 2008, Council meeting of the annexation and zoning request for Lenhardt Square Properties. He said he felt there were additional points of interest he could present to Council over the next couple of weeks. Mr. Leuthold also asked for further discussion at the April 7, 2008, work session to address issues prior to the Council's consideration at the April 14 meeting.

Councilmember Astle stated that at the last meeting, one of the property owners

testified to their wish to make this a remembrance of their family. Mr. Leuthold said it was intended to be a legacy to the family. Councilmember Astle said it turned out that the legacy was a buy-sell to Ken-Mark Construction. He asked Mr. Leuthold if that was an accurate statement. Mr. Leuthold responded that he couldn't comment on the family's ideas. He said the understanding was that they held the land in the family for many generations and felt they had a responsibility to develop something that fit the character of the land and left a proper development for the community. He added that in that process, a portion of the property was designed for high-end development. He said Mr. Kennedy was interested in purchasing and developing that land under the conditions and terms that were in the Planned Development Agreement after the annexation and a tentative purchase. He explained that when developers invested large amounts of money to bring a project to that level, they would certainly look at options for development and would have purchasers in line as they proceeded. Councilmember Astle stated that the testimony was that there were two buy-sell agreements; one for the 30 acres on the east end and another for the rest of the parcel. Mr. Leuthold answered that he hadn't seen it, but he understood there was a purchase agreement on the eastern 30 acres and the remainder could be just an option consideration.

Councilmember Astle referenced the item mailed to Council by Attorney Cole and asked if that was the planned development because it seemed to be just drawings. Mr. Leuthold responded that the color-picture document sent to Council was an example of the types of products they hoped to build. He said the meat of the document was in the multi-page Planned Development Agreement that was part of the zoning. He said the annexation would allow the City to control and govern the development. He said the controlling document that dealt with the character and the way the properties were developed was the zoning Planned Development Agreement.

City Administrator Volek asked Mr. Leuthold if his request was for reconsideration of both the annexation and the zoning. Mr. Leuthold confirmed that his request was for consideration of both.

Councilmember Stevens asked Mr. Leuthold if it was correct that in 2006 the expansion of the Urban Planning Area for this property was denied. Mr. Leuthold said the property had always been in the Urban Planning Area. The 2006 request was for expansion of the Limits of Annexation and that was denied because at the time, two things were lacking – a generalized concept of what was to be placed on the property and there wasn't clear detail as to when the sanitary sewer would be extended out King Avenue. He said there was support for the overall process, but because of the two items, the request was denied and it was understood why. He said they could return now that the sewer schedule was known and they felt they had a detailed plan. Councilmember Stevens said she was confused why they would approach Council with the Urban Planning Area, expanding the Limits of Annexation, the annexation and the zoning all at one meeting when the last time the issue was presented the expansion of the annexation limits was denied. She also wondered why his client would put that together and expend a lot of time and money without knowing that the Limits Of Annexation would be expanded. She said that by doing so, it was implied to the Council that because the client expended all that, and even though it was denied the last time it was presented, it had to be passed now. Mr. Leuthold said there certainly was no expectation that it had to be passed. He said when they left the Limits of Annexation vote that night, it was still very clear in his and his

client's minds that they lacked those two things and other than that, the criteria was met to be in the Limits of Annexation. He added that they were asked to provide an updated Urban Planning Services document and did so. He said that was part of the Limits of Annexation request and that process changed in detail from the time it was submitted in 2006 until the present. He noted that the detail required in those documents had grown considerably. He said those documents were prepared to be included in the Limits of Annexation and they understood that the criteria was clear with the addition of those two items. Mr. Leuthold also stated that during the process, they were asked to provide a plan and didn't want to arrive with standard zoning; the client wanted to come and leave a legacy with regard to development and detail sufficient so Council would have a comfort level with the type of development that would occur in the area. Councilmember Stevens said that may be true and he stated that there was no expectation, but his client testified that they had two buy-sells on the property when the annexation and zoning was completed and that was why they needed it. He replied that it was not uncommon for clients today to secure purchase options as they brought developments forward because the costs involved with development didn't allow speculation on property of this nature. Councilmember Stevens said there is still speculation as to whether that will pass the Council.

- **Kevin Nelson, 4235 Bruce Avenue**, stated that at the last Council meeting, Mr. Brooks stated that Council had a right to discharge duties to boards and commissions. He agreed. He said there were guidelines and criteria within that and Council must follow them if it wanted to discharge duties. He said that the law clearly stated that people could not have a conflict of interest inside the Urban Renewal District. He said there was clearly a conflict of interest and the point was, if Council wanted to discharge duties, that was fine but it must make sure that the people that they discharged to could meet the codes and criteria set forth by statute. He indicated he would call on Council, that if anyone who sat on boards or commissions or any boards within the Urban Renewal District, had any conflict of interest in ownership of any property within the district, they were in conflict, or in violation of state statute. He said the Urban Renewal District was fine, but the law must be followed. He said Council couldn't jump over the first 80 pages of the law to the money; the criteria set forth must be followed. He called on Council to clearly define those people and whether they had conflicts of interest. He also asked Council if any of them had conflicts of interest in any urban renewal districts; if they owned any personal property in any urban renewal districts either proposed or in effect, and if so, there was a conflict of interest and that person couldn't participate in any proceedings.

Councilmember Stevens asked Mr. Nelson if he was on a fishing trip or if he was aware of instances of an actual conflict of interest. Mr. Nelson said he believed that there were people in the Downtown Billings Association who actually owned property within the district. Councilmember Stevens asked who those individuals were and Mr. Nelson responded that he didn't know. Ms. Stevens said that was his belief and he was on a fishing expedition and didn't have any specific examples. Mr. Nelson said that was correct. Mr. Nelson said he didn't need a lawyer to pursue this as he had been told

previously. He said he believed he had a right as a citizen. Councilmember Stevens said he absolutely did, but that didn't mean that staff had to be directed to respond to his request. He said he was shining the light on the government. She said if he had any specific examples, he should go for it.

There were no other speakers and the Public Comment period was closed.

Council Initiatives

Ruegamer: MOVED to reconsider the Lenhardt Square proposal for annexation and the zone change ordinance at the April 14, 2008, meeting. The motion was seconded by Councilmember Veis. Councilmember Ruegamer asked Ms. Beaudry if her staff had ample time to prepare that issue if it was on the April 14 agenda and she responded that they would. Councilmember Astle inquired how the zone change could be brought back since it hadn't been discussed at the February 25 meeting. Mr. Brooks said a motion to reconsider would simply require a majority vote. He added that as part of that reconsideration, should it pass, the motion could include the original zone change that was rendered moot because the council didn't have jurisdiction to issue the zone change when the annexation failed. Councilmember Ruegamer said he wanted his motion to reflect that. Councilmember Clark asked if the public hearing had to be opened for that item again. Mr. Brooks said it did and it would be advertised with the agenda. Mr. Brooks said if the annexation failed, Council wouldn't consider the zone change again. He also said there had already been a hearing on the annexation and that, technically, a hearing was only needed for the zone change, but if Council wanted a hearing on both items, it was entitled to do so. He said it might be safer to have a public hearing on both issues if there was significant new information presented. He suggested that was included in the motion. Councilmember Ruegamer agreed to that as part of the motion as well. Councilmember Veis agreed to that also. On a voice vote, the motion was approved 9-1. Councilmember Ronquillo voted 'no.'

Pitman: Stated he had more of a concern than an initiative. He said that several meetings ago the security system was up and running and he thought it was a reasonable and prudent thing to do and not just a knee-jerk reaction to something that happened across the country. He wanted to continue the process of security screening at the entrance to Council Chambers and didn't know what that would involve for staff time. Councilmember McCall said she agreed with Councilmember Pitman and felt it was a reasonable practice and was also pleased to see the security screening at the meeting. Lieutenant Cady, the officer on duty, stated that the Police Department was working to have a shift sergeant or an officer from the street supplement the officer on duty at the Council meeting for the high traffic time to get people through the security system quicker. He said that after the busy time, the second officer would return to his duty and one officer would remain at the meeting. Councilmember Stevens asked why the screening process was not in place at every meeting. Ms. Volek responded that it was her decision. She said she had asked the Police Chief for that on a random basis so staff wasn't tied up every meeting. She said Chief St. John made arrangements for the meeting and as Lt. Cady said, if the security could be offered without a staffing shortage on the street she would be fine with that. Councilmember Clark asked if the security wand could be adjusted so it wasn't so sensitive. Lt. Cady replied that there

was a code within the wand to set it according to the type of use and that wand was set for courtroom level. He added that the internal code was password protected and set by the Court Administrator so the Police Department chose not to change it to eliminate any chance that it wouldn't get reset. Councilmember Stevens mentioned that it was more sensitive than many of the locations she recently visited in Washington D.C.

ADJOURN – The meeting adjourned at 8:18 p.m.

(NOTE: Additional information on any of these items is available in the City Clerk's Office)