

# **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

## **November 27, 2006**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Tussing led the Pledge of Allegiance and gave the Invocation.

**ROLL CALL** – Councilmembers present on roll call were: Ronquillo, Gaghen, Stevens, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones and Clark. Councilmember Brewster was excused.

**MINUTES** – November 13, 2006. Approved as printed.

### **COURTESIES – Finance Division**

- City Administrator Tina Volek noted this item has been delayed to December 11<sup>th</sup>.
- Ms. Volek introduced the following newly-appointed City Staff:
  - Mr. Mike Wittacker, Parks and Recreation Director
  - Ms. Candi Beaudry, Planning Director
  - Mr. Tom Binford, Aviation & Transit Director
  - Mr. John Staley, Assistant Fire Chief

### **PROCLAMATIONS** -- None

- Councilmember Ruegamer announced that both the University of Montana Grizzlies and the Montana State University Bobcats have won their first playoff games. This means there is a chance these teams could face each other in the playoffs in Chattanooga, TN later this year. He noted this would be great for Montana.

### **ADMINISTRATOR REPORTS – Tina Volek**

- City Administrator Tina Volek informed the Council that a revised Item #7 was placed on the desks of the councilmembers this evening. The resolution has been amended to allow for one appointment by the Parks & Recreation Board and requires the Committee to meet at least once a month until the new ballpark is constructed and opened in 2008. She added that exparte communication on Item #2 is in a binder at the back of the Council Chambers this evening.
- She noted that the Council's agenda review meeting for the December 11<sup>th</sup> meeting would be held tomorrow evening at 5:30 p.m. in the City Hall Conference Room.
- Ms. Volek also noted that Thursday this week, the Council is scheduled to have lunch with the Legislators at Noon at the Downtown MSU-B facility in the old Hart-Albin Building.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #8 thru #10 ONLY. Speaker sign-in required.** (Comments offered here are limited to 1 minute per

speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

- There were no speakers.

## **CONSENT AGENDA:**

### **1. A. Bid Awards:**

(1) **W.O. 01-05: Lake Hills Storm Drain.** (Opened 11/14/06). Recommend delaying the award to 12/11/06.

(2) **W.O. 06-20: Downtown Billings Wayfinding Signage.** (Opened 11/14/06). Recommend delaying the award to 12/11/06.

(3) **2007 Tandem Dump Truck with Plow.** (Opened 11/14/06). Recommend Motor Power International, \$125,947.00.

(4) **One (1) or Two (2) Current New Model Year Custom Pumper-Fire Apparatus.** (Opened 11/14/06). Recommend Sutphen Corporation, \$749,953.92 for two trucks.

**B. Modification** to Law Enforcement Personnel Reimbursable Agreement with the Transportation Security Administration (TSA), \$160,000.00 for period 10/1/06 – 9/30/07.

**C. LED Traffic Signal Project Incentive Agreement** with Northwestern Energy.

**D. Development Agreement** with Rocky Mountain Community Church for C/S 1011, Amended Tr. B-1, \$0.00.

**E. Agreement** to provide law enforcement data processing services for Yellowstone County, \$83,970.00, term: 7/1/06 – 6/30/07.

**F. Professional Services Contract** for architectural services for federally funded Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) projects and other general architectural services needed by the Airport, CTA Architects and Engineers, term: 5 years.

**G. Application** to *Safe Route to School Program* for Chandelier Circle Connection to the Big Ditch Trail.

**H. Resolution of Intent 06-18509** to dispose of City-owned property described as Lot 1, Block 1 and Lots 1 and 2, Block 2, Arlene Subdivision and setting a public hearing for 1/8/07.

**I. Resolution of Intent 06-18510** to create SID 1375: water, sanitary sewer, storm drain, curb and gutter and street improvements on Claremont Road, and setting a public hearing for 12/18/06.

**J. Acknowledging receipt of petition #06-15:** to annex 39.55 acres described as Tr. 1A, C/S 3279 Amended and generally located east of the intersection of Grand Avenue and 54<sup>th</sup> St. W adjacent to Bishop Fox Subdivision, Rod Wilson and Judith Deines, owners & petitioners, and setting a public hearing for 12/11/06.

**K. Final plat** of Josephine Crossing Subdivision.

**L. Bills and Payroll.**

(1) October 27, 2006

(2) November 3, 2006

(3) October 1 – October 31, 2006 (Municipal Court)

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

Councilmember Stevens separated Items 1A1 and 1A2.

Councilmember Veis moved for approval of the Consent Agenda EXCEPT Items 1A1 and 1A2, seconded by Councilmember Ruegamer. On a voice vote, the Consent Agenda EXCEPT Items 1A1 and 1A2 was unanimously approved. Councilmember Veis moved for approval of ITEM 1A1, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved. Councilmember Veis moved for approval of ITEM 1A2, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND SPECIAL REVIEW #830: A special review to allow three (3) six-plex apartment buildings to be known as Aspen Grove Townhomes in a Residential-6,000 zone described as Lot 2, Block 6 and Lots 1 & 2, Block 5 of Aspen Grove Subdivision, 2<sup>nd</sup> Filing. William Eaton, owner; Brian Johnson, Homesite Designers, agent. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Nicole Cromwell reported this is a special review request for (3) six-plex townhomes located on three (3) separate lots that are west of 31<sup>st</sup> St. West and north of Central Avenue. These lots are zoned R-6000; multi-family houses can be allowed by special review approval. The Zoning Commission held its public hearing on Wednesday, November 8, 2006 and heard testimony from the applicant and agent, as well as the surrounding property owners. The three (3) lots in question are located directly west in the Central Acres Subdivision and are zoned R-9600. The lots east of 31<sup>st</sup> St. West are zoned R-6000 and are currently vacant. All of the lots to the north and those further east are zoned R-7000. This neighborhood north of Central Avenue is primarily single-family and two-family homes with one exception - the lot located at the

corner of Central Avenue and 31<sup>st</sup> St. West is R-6000 and there is a 4-plex developed on the property at this time. The proposed 6-plex townhomes would have alley entrances to the garages; the front doors would face the street. The three (3) lots that are directly west are developed as single-family homes. When Aspen Grove Subdivision was platted, 31<sup>st</sup> St. West was in a different location, so that all the existing homes face east. When Aspen Grove Subdivision was platted, the City moved that "right of way" to the east and abandoned the original "right of way". Ms. Cromwell said the garage floor plans allow for two (2) off-street parking spaces for each dwelling unit.

The Planning Department recommended "denial" to the Zoning Commission based on the "non-compatibility" with the existing single and two-family dwellings located in this area. Additionally, it is not consistent with the Growth Policy, which encourages predictable land use decisions. She noted that the mere fact it is zoned R-6000 does not make multi-family a compatible use. Councilmember Ruegamer requested further explanation for "predictable land use decisions". Ms. Cromwell explained that it means there is "truth" in zoning, that a special review use is a "conditional" use, and the Zoning Commission makes a recommendation based on the existing development of the area. Councilmember Gaghen questioned when the property was originally purchased in 1984 and given a height restriction of 18 – 20 feet was this height restriction consistent with forward growth. Ms. Cromwell stated the 18-20 foot height restriction was consistent for this subdivision, but not within the zone.

The public hearing was opened. BRIAN JOHNSON, 121 MINER'S DRIVE, said he is an architect with Homesite Designers. Mr. Johnson reported that this area was rezoned in 1984 for development of 8-10 duplex units with an R-6000 zoning, which did not require any special review or variance. He stated it was his understanding that a special review or variance is required for two (2) duplex units that cover 40% of the lot with a maximum height of 34 feet. A review of the context of the area which was defined by the City as a 300 foot radius centralized around the project site. The calculations determined that in the surrounding community, 14.427 acres of the neighboring properties were developed on and within that developed area, there are currently 241 dwelling units, bringing the existing neighborhood density to approximately 14-16 dwellings per acre. Mr. Johnson noted the difference between his calculations and the Planning Department's calculations are that he took into account what is defined as a 300 foot radius, i.e. all the properties that are affected by this proposed development – not just those north of Central Avenue.

The proposed design stresses the importance of community infill. The design focus was not to maximize what was allowed, but instead to develop a unique "Montana craftsman architecture" into the neighborhood. The main focus is in maximizing curb appeal. The proposed design has a lot coverage of 36-38%. The windows have been situated to allow for privacy of the owners of these townhomes as well as privacy to the other lots. The developer has provided single-car garages with 25-foot driveways to minimize on-street parking. The developers' target market is "empty nesters" and young professional families. Each unit will measure between 1400-1600 square feet with the final cost of each unit between \$200,000 - \$250,000 per unit. Councilmember Veis asked why 31<sup>st</sup> Street W was moved. Mr. Johnson replied that he was not sure.

GARY LARSEN, 1634 WEMPLY PLACE, said he also works with Homesite Designers and wanted to address some of the issues that have been brought up in the Growth Policy – (1) land use – he said they will work with the existing design elements of the neighborhood and tie them in, (2) incapable usage and maintain quality of life – they are proposing six (6) units on 18,000 square feet of land. Mr. Larsen also stated he is working with the neighbors to help reduce conflict. He noted that the appearance of the existing land will be improved. (3) urban sprawl – This particular development is in the Growth Plan. They would be infilling the existing fabric of the City, therefore reducing travel time and utilizing existing infrastructure, utilities and other services. Mr. Larsen also pointed out that it would create an attractive and desirable curb appeal project and add to the existing supply of affordable houses. (4) economic development - Mr. Larsen stated that the request is to improve the quality of life, strengthen the area of economy, which this project will do by creating jobs. (5) aesthetics – Mr. Larsen stated that the image of this project will instill pride and improve the quality of life in that neighborhood. (6) natural resources – Mr. Larsen also noted that by developing these lots the “nuisance” factor would be eliminated i.e. weed control. (7) public services – He noted again that the project would improve the community image and increase property value. Councilmember Veis pointed out that a previous presenter stated that each unit is priced at \$200,000 to \$250,000 and “you stated that this is affordable housing – is it your contention that this is affordable housing?” Mr. Larsen replied that for the moderate income group, it would be considered affordable housing.

JERRY VOTO, 3128 LYNN AVENUE, stated he thought that \$250,000 is not affordable. He reported that there are properties located in this area that have been for sale for approximately nine (9) months to over one year. Mr. Voto said these properties are listed at \$200,000 plus and have not sold. He requested to have the property zoned to R-9600, the same as the rest of the block.

SHEILA FOOS, 3124 ST. JOHNS AVENUE, stated she is concerned what will happen to a well-established neighborhood with mid-income residences and one level duplexes. It is aesthetically pleasing with good neighbors. She noted it is already hard to exit onto the street; the traffic will only increase with these six-plex buildings. Ms. Foos said several neighbors went to the Zoning Commission meeting and had no objections to duplexes.

RHONDA BIDLAKE, 3071 ST. JOHNS AVENUE, expressed her concern about the influx of traffic and the height of the proposed buildings. Ms. Bidlake stated that there never was a meeting with the developer. She also expressed concern about the future investment in their homes.

DAVE BOVEE, 424 LEWIS AVENUE, requested the Council respect the decision of the Zoning Commission. It is as close to public input that the community has. He noted there is a reason for zoning regulations.

SHELDON EATON, 3215 MINERS PARK DRIVE, stated he and his father developed this project. In 1984 the zoning changed to R-6000 in anticipation of building multiple 8-10 plex units. The project was later put on hold. Then the project was “looked at” again as 8-plex units that were allowed by the zoning. They also looked at the option of 6-plex units as upscale condos for ownership instead of rentals, trying to do infill development with condos for moderate to mid-income buyers with less coverage than the zoning would allow. This would allow for less density, but still add to the tax

base. He said they could do a 4-unit rental design or a 6-unit condo with a new and fresh design. Councilmember Veis interrupted and asked why 31<sup>st</sup> St. West was moved and would it be more acceptable to the neighborhood if the street was moved between them and the new units. Mr. Eaton replied he was not sure of the reason for the move. Councilmember Boyer noted the design does not fit with the neighborhood and asked if time had been taken to meet with the neighbors for suggestions for a design more conducive to the neighborhood. Mr. Eaton said they thought the attractive condo project would be nicer than rentals. Councilmember Gaghen asked about condo association fees. Mr. Eaton stated the fees would cost about \$65.00 per month. Councilmember Stevens commented that if this special review is granted, there is no guarantee the buildings will “turn out looking” as presented or the project will be built and not delayed again. Mr. Eaton said they have spent a lot of money to get to this point and are serious about the project. Councilmember Stevens pointed out that the special review would go with the land. Councilmember Gaghen asked how much prior to October 2<sup>nd</sup> was this plan in place, and why was there not a public meeting held with the neighbors. Mr. Eaton replied that the design started around seven (7) months ago. He said he thought they were doing a nice project upfront and didn't think the neighbors would object to the proposal.

WILLIAM VOLK, 3115 ST. JOHNS AVENUE, said that the adjustment of 31<sup>st</sup> St. West has created problems for anyone looking for a specific address. The current traffic pattern has a count equal to approximately 10,000 vehicles per day going west on Central Avenue. He said with the additional proposed units, the traffic would increase significantly. Mr. Volk was concerned with the height of the buildings, which would not be appropriate for the neighborhood. He said another concern is that there are problems with the soil - i.e. sidewalks and streets are starting to “buckle”. Mr. Volk also stated that eventually a traffic light will be needed at 31<sup>st</sup> Street and Central Avenue.

PETE CASTELLANO, 2101 AVALON ROAD, said he is representing his mother Viola Castellano who is 84, a widow and lives at 3104 St. Johns Avenue. She has lived at this address since 1981. He stated that the neighborhood has been impacted by the relocation of 31<sup>st</sup> Street West. The neighborhood is mostly single-story homes. Mr. Castellano said his mother does not drive and spends most of her time at home. Her property faces these proposed 6-plexes. Mr. Castellano stated his mother is concerned about the 2-story structures that will be located directly in front of her home.

JOSEPH WHITE, 926 NORTH 30<sup>TH</sup> STREET, stated he doesn't live in the neighborhood. He suggested that “air tests” should be held on the proposed buildings to insure adequate air supply. Mr. White said air deficiency and crowding need to be addressed.

There were no other speakers. The public hearing was closed. Councilmember Stevens moved for approval of the Zoning Commission recommendation for denial, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND VARIANCE #OP06-03: a variance from Site Development Ordinance Section 6-1203(j) regarding parking spaces, on Lots 21-24, Block 1, Mandelkow Subdivision Amended, located at 1826 Grand Avenue,**

**West Park Denture Clinic, applicant. Staff recommends denial. (Action: approval or disapproval of Staff recommendation.)**

There was no Staff presentation. The public hearing was opened. ALEX TOMMERUP, 170 ERICKSON COURT, said he is the architect for this project. He stated that four (4) people typically work in this building with nine available parking spaces. Two or three spaces are almost always available. Mr. Tommerup said that the dental clinic would like to relocate to the upper level of the building and have the lower level for storage and other office space. He also explained that this is a “denture” clinic not a “dental” clinic. The calculation for parking was based on a medical clinic, instead of office use which more closely fits a denture clinic. There is no calculation available for a denture clinic. City Administrator Tina Volek said parking is calculated on gross square feet rather than individual uses. The Mayor asked for information on this zoning and other allowed uses. Planning Director Candi Beaudry stated that the zoning allows a wide variety of professional offices and retail uses. However, some parking requirements are based on the number of employees. This is also a change of use which requires more parking spaces, and is a site development issue. Councilmember Stevens asked for information on the parking requirements that were not calculated correctly. Public Works Director David Mumford replied that the uses were reviewed and noted there is not an actual “denture” usage in the code. He said other cities were called for reference as to what usage they would use. The cities contacted all stated that “dental usage” would be used for parking calculation.

GRANT OLSON, 2925 GREGORY DRIVE, stated he purchased the business from his parents and his business has occupied the building for seven (7) years. He noted that there is a real difference between a dental office and a dentist – which is what he is. He does not have auxiliary staff; he must do his own patient care. He further explained that people cut through the property via the alley to avoid the traffic. He said he has concerns for patient safety as most of his patients are elderly and have limited mobility. He requested that he be able to close off access to the alley and utilize his entire property, i.e. rent out space. Mr. Olson said he has visited with his neighbors about the project and received no objections.

BILL COLE, 3733 TOMMY ARMOUR, reported that there are “exciting things” happening on Grand Avenue. The problem is the old regulations. He requested the City be a little more flexible with reference to the old regulations for the revitalization on Grand Avenue. Mr. Cole explained that this is a professional denture office, not a “dental clinic”. The office requires one space per 300 square feet, which equals 17 spaces. There will only be approximately three (3) or four (4) employees besides the dentist (Mr. Olson). He stated that what is being requested is a variance from 23 spaces to 17 spaces, with a condition that the alley be blocked off to prevent customers exiting through the alleyway. Mr. Cole said one of the main reasons to come before the Council is the application of arterial setback regulations. These new regulations are “eating up” three (3) or (4) spaces for the proper expansion on Grand Avenue, i.e. a City-caused problem. He said it is also very important to consider the legal issues that can be avoided if this variance is granted: (1) constitutional issues requiring paving of a public right-of-way by the developer, (2) whether these regulations even apply at all or whether this property should be “grandfathered”, and (3) BMCC Section 61203 which prohibits access onto an alley when you are adjacent to residential zones. Mr. Cole

stated that this is the exact situation here. "The City is asking Mr. Olson to do something that its own regulations prohibit. How can they do that? The only option is to allow access onto Grand Avenue," he stated. Mr. Cole said the requirement the City is trying to impose - 1 space/200 square feet is almost as strict as one could have. Most of the uses are for far less. He urged the Council to approve the variance.

There were no other speakers. The public hearing was closed. Councilmember Gaghen moved for approval of the variance, seconded by Councilmember Stevens. Councilmember Ruegamer asked if the Council grants this variance, is it obligated to grant similar variances like this or can they be done on a case-by-case basis. City Attorney Brent Brooks said variances are to be granted on a case-by-case basis, based on the facts.

Councilmember Stevens said variances need to be granted in a situation that is not "owner created"; and this is such a case. She noted these are older and smaller lots that do not lend themselves well to new regulations by the City, like the arterial setback.

Councilmember Clark moved to amend the motion to require the owner to block off alley access to this property, seconded by Councilmember Jones. On a voice vote, the amendment was unanimously approved. Councilmember Ruegamer said Grand Avenue is undergoing an important revitalization. Granting this variance will help that process along he noted. On a voice vote on the motion as amended, the motion was approved. Councilmember Veis voted "no".

**4. PUBLIC HEARING AND RESOLUTION 06-18511 authorizing the disposal of City-owned property described as a portion of Lot 10, Block 5, O'Leary Subdivision by exchange for right-of-way dedication in C/S 606, Tr. B at no cost. Staff recommends approval.**

There was no Staff presentation. Mayor Tussing opened the public hearing. There were no speakers. The public hearing was closed. Councilmember Ronquillo moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND RESOLUTION 06-18512 authorizing the disposal of City-owned property described as a house located at 1525 54<sup>th</sup> St. W and awarding a bid. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

There was no Staff presentation. Mayor Tussing opened the public hearing. There were no speakers. The public hearing was closed. Councilmember Clark moved to give Staff permission to dispose of the property as expeditiously as possible, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved.

**6. 2007 MONTANA LEGISLATIVE PRIORITIES -- discussion and finalization. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

JANI MCCALL, Lobbyist for the City stated she wanted to briefly review the fifth draft in relation to the following items:

- Finance & Taxation - Voter approved local option/resort tax authority for local government. The City supports legislation to remove limitations in the current resort tax law to allow all communities the opportunity to determine, through voter approval, to implement such a tax and for what purposes they choose, such as taxing goods and services directly connected to tourist economy.
- Accommodations Tax Distribution – The City supports legislation to distribute 3% of the accommodations tax to the local governments where it is collected to cover the cost of services and facilities. The City supports a voter approved local option lodging tax not to exceed 3%. Ms. McCall said she has checked with both the Chamber of Commerce and Big Sky Economic Development Authority (BSEDA). The Chamber's first priority is the resort tax and will not include an alternative for local option tax with distribution. BSEDA has not finalized its priorities, but believes it will do the same. Ms. McCall further explained that the Council chose to leave the second option out and that it does not mean that the Council cannot come back and revisit this option once into the session. She further explained it gives the Council the opportunity that if it comes forward when the weekly discussions by conference calls are held it will not pose a hindrance.
- Statewide Sales Tax – This has been stricken, but is shown for the Council's convenience for reference in the event of further discussion.
- Business Equipment Tax – The City supports legislation to reimburse local governments for the loss of revenue that occurred when the tax exemption on business was increased by \$20,000. Ms. McCall reported that revenue loss overall from the last session was \$275,000. If successful with this legislation, the amount the City would receive is approximately \$40,000 to \$55,000 annually.
- Tax Increment Finance & Business Improvement Districts – The City supports continuation of Tax Increment Finance Districts that allow municipalities to invest in the re-development of our urban business and residential areas.

Ms. McCall asked the Council if there were any questions on these items or other items. Councilmember Veis asked if the bill on Shiloh Road would be discussed this session. Public Work Director Dave Mumford stated the department is looking for someone to write the bill. He also stated he was waiting to see what the Department of Transportation will propose. Councilmember Boyer stated that it seemed a "cumbersome" way to do Shiloh Road – i.e. that a bill has to be written to transfer ownership from the State to the City. Mr. Mumford said the state cannot transfer ownership; it needs to go through the Legislature.

Ms. McCall reminded the Council that this week on Thursday, November 30, the Council is scheduled to have lunch with the Legislators at Noon at the Downtown MSU-B facility in the old Hart-Albin Building located at 208 North Broadway. She also reported that there are approximately 1,130 bill drafts and 116 of these drafts are bills being monitored for the City. City Administrator Tina Volek noted that a weekly conference call update would be scheduled each week prior to either the work session or regular meeting to brief the Council on the week's events at the legislature.

Councilmember Jones moved for approval with the changes as proposed, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously

approved. Councilmember Veis moved to amend the legislative priority list to include support for Yellowstone County's initiative to seek funding for its Veterans' Cemetery in Laurel, seconded by Councilmember Stevens. On a voice vote on the amendment, the motion was unanimously approved. On a voice vote on the motion as amended, the motion was unanimously approved.

**7. RESOLUTION 06-18513 creating the Cobb Field Steering Committee, making appointments, assigning a term and defining its role. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

Councilmember Boyer moved for approval of the revised Staff recommendation, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

**8. COUNCIL APPOINTMENTS:**

**(A) Appointment of Council voting delegate and alternate to the National League of Cities. (Action: approval or disapproval of appointments.)**

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

**(B) Appointment of Councilmember to Library/COT Joint Project Committee. (Action: approval or disapproval of appointment.)**

Councilmember Ulledalen moved for approval of the appointment, seconded by Councilmember Stevens. On a voice vote, the motion was unanimously approved.

**9. 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.)**

- JOE WHITE OF 926 N. 30<sup>TH</sup> ST. spoke on the Starling dropping problem in the downtown area. He said there are massive droppings on the sidewalks in the downtown area, specifically on the sidewalks of N. 27<sup>th</sup>, 28<sup>th</sup>, 29<sup>th</sup>, and 30<sup>th</sup> Streets. Mr. White said this presents a serious problem because of the potential to carry disease. Councilmember Boyer noted that several downtown retailers have also talked to her about their concern about this issue. City Administrator Tina Volek said the Business Improvement District (BID) has been cleaning the sidewalks, but the birds prefer the downtown because of the lights, safety from predators and warmth. She noted she would find out what method(s) were used in the past to rid the downtown area of the birds. Councilmember Ruegamer reported on a related subject with reference to damaged dumpsters. He stated that the damaged dumpsters allow the birds to find food. He requested that damaged dumpsters be replaced.
- There were no other speakers.

## **Council Initiatives**

Councilmember Stevens moved to have a future work session presentation on impact fees, seconded by Councilmember Boyer. City Administrator Tina Volek asked the Council to consider a “reconsideration” of the concept of a fee study in terms of “cost-of-service” and to possibly “revisit” a previous report. Councilmember Ulledalen said it is an issue of being good stewards of the public safety money and using it as effectively as possible. Councilmember Jones asked what previous study. Ms. Volek replied the Tischler-Bise study.

Councilmember Boyer asked if “annexation” would be included with this study. Ms. Volek stated it would provide some support, however annexation has different issues. The annexation report is in progress and will be available in December. Councilmember Ulledalen said the Council needs to see what it costs the City to annex, followed by the Council’s priorities for annexation. Councilmember Stevens said in order for Staff to prepare a report on impact fees, the cost-of-service information is a prerequisite. Councilmember Ulledalen asked if the proposal is for the Council to institute a study and what the cost of the study would be. Ms. Volek said she would like to update the proposal from Tischler-Bice and bring it back for Council consideration. Councilmember Jones asked what the study would cover. Ms. Volek said they would do a cost-of-services study that looks at what it is actually costing the City now to provide various services.

Councilmember Ulledalen said that would bring the Council to a dead end. He said he would like to see “what can we be doing in terms of impact fees, that we are not doing ... and give us a framework for examining that.” Councilmember Veis said he recalled that about one-half of the information in the Tischler-Bice study was rudimentary and City Staff could do this part if Staff time could be made available.

Councilmember Stevens said that data will be needed to impose impact fees, since the fees must be directly proportional to the impact that new development costs the City. She suggested also including the schools in this. Councilmember Boyer said she doesn’t want to see this information a year later. “I think we really need this data so that we can make good, thoughtful decisions,” she stated.

Ms. Volek said Staff could survey other communities in the State to see what they are doing in terms of impact fees. She said Staff could also provide the Council with a copy of the legislation that was adopted so the Council would be aware of the options. On voice vote on the motion, the motion was unanimously approved.

In closing, Ms. Volek reminded the Council of the next Council tour – a tour of the Police Operations following the legislative luncheon on Thursday. The tour begins at the Operations Center at 1:30 p.m.

**Adjourn** - With all business complete, the meeting was adjourned at 8:45 p.m.

THE CITY OF BILLINGS:

By: \_\_\_\_\_  
Ron Tussing, Mayor

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AE      City Clerk