

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 14, 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 Ronquillo gave the invocation.

OATHS OF OFFICE CEREMONY: Judge Mary Jane Knisley swore in new Councilmembers Denis Pitman and Jani McCall; and returning Councilmembers Peggy Gaghen, Vince Ruegamer, and Richard Clark.

ELECTION OF MAYOR PROTEM: Councilmember Ruegamer nominated Councilmember Ronquillo, seconded by Councilmember Veis. The nomination was unanimously approved.

ROLL CALL - Councilmembers present were: Ronquillo, Gaghen, Pitman, Stevens, Veis, Ruegamer, McCall, Ulledalen, and Clark.

MINUTES - December 10, 2007, approved
December 17, 2007, approved

COURTESIES – Finance Department, GFOA Financial Reporting Excellence: Jim Hauck, Vicky Harrison, and Alene Malloy were recognized for their work on the CAFR.

PROCLAMATIONS - none

ADMINISTRATOR REPORTS – Tina Volek

Ms. Volek advised the following correspondence had been received and distributed to Council that evening

- A letter from Mr. Horstmann with regards to Agenda Item D, the contract for the collection of money related to parking violations.
- A letter from the Rod & Gun Club and an e-mail from Tracy and Pam Willett with regards to Agenda Item 3, the sale of a portion of parkland in Rehberg Ranch Subdivision.
- A letter from Clayton Fiscus and a telephone message from Terry Houser with regards to Agenda Item 6, Zone Change #825, which would allow accessory dwelling units in single-family residential areas.

Ms. Volek advised all items had been filed in the Ex-Parte Notebook in the back of the room for public reference.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 9 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. Mayor's Appointments:

(1) Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
1.	Richard DeVore	Parks/Rec/Cemetery Board	01/14/08	12/31/10

Unexpired term of Denis Pitman

(2) Appointment of two Councilmembers to the MDOT Shiloh Road Committee.

(3) Appointment of one Councilmember to the Montana League of Cities.

B. Bid Awards:

(1) W.O. 05-20 Aronson Avenue Extension (Opened 12/18/07)
Recommend COP Construction LLC, \$5,634,212.70.

(2) W.O. 07-12 Alkali Creek Water Line Replacement (Opened 12/18/07) Recommend COP Construction LLC, \$336,441.50.

C. Professional Services Contract for W.O. 07-22, King Avenue East Improvements, HDR Engineering, \$350,975.00.

D. Contract with Penn Credit Corporation for past-due parking violation collection services, minimum 19% withheld from money collected depending on required workload, five years.

E. Contract with Northwestern Energy for Special Improvement Lighting Maintenance District 300, Bellville Subdivision, for light district ownership, energy, and maintenance.

F. Contract with ABC Maintenance for janitorial services for the City's four parking garages, \$57,600 per year, one year with a one-year option for renewal.

G. Rescindment of the IAFF Local 521 Memorandum of Understanding (MOU) permitting firefighters to schedule additional vacation days during July and August.

H. Acknowledging receipt of petition to annex #08-02: 54 acres legally described as Tract 2B, Certificate of Survey 1121, generally located west of Washington Street, south of Interstate 90, and north of the Yellowstone River, King Business Park LLC; Richard Dorn, Samuel Rankin, and Hannah Elletson, owners and petitioners, and setting a public hearing date of January 28, 2008.

I. Confirmation of probationary police officer, Benjamin Scott.

J. Approval and acceptance of boulevard sidewalk easement for Sugar Subdivision, First Amendment.

K. Approval and acceptance of warranty deed with MWSH BILLINGS LLC for Tract 1B of Amended Tract 1, Certificate of Survey 1648, located at Central Avenue and Shiloh Road.

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

(1) **Parcel 24:** Portion of Lot 15, Josephine Subdivision, Orville M. Kurtz and Lake Elmo Storage LLC, \$21,105.00.

M. Acceptance of donation from Steven Kops of EFX Photography, Laurel, MT, to the Billings Animal Shelter, \$740.00.

N. Approval of application for a Certified Local Government Grant from the Montana State Historical Preservation Office, \$5,500.00.

O. Approval of grant application with the Montana Department of Transportation for paratransit operating assistance and the purchase of two paratransit vans, \$49,004.00 FY 08/09 revenue for paratransit administrative, maintenance, and operating costs; and up to \$106,640.00 for two new vans.

P. Acceptance of Municipal Court grant from the National Highway Traffic Safety Administration, Department of Transportation, providing staff training for treatment of DUI offenders, \$8,000.00.

Q. Joint Resolution with Yellowstone County for participation in the State-Wide Radio System.

R. Resolution temporarily suspending Section 24-411, BMCC, Parking for Camping Purposes, in the Masonic Temple parking lot, 1101 Broadwater Avenue, during the state meeting of the Eastern Star chapters, June 17-22, 2008.

S. Second/final reading ordinance expanding the boundaries of Ward III to include recently annexed property in Annexation #07-25: Property described as a 2.457-acre portion of 44th Street West right-of-way south of King Avenue West legally described as Block 5, Lot 1, Long Subdivision, City of Billings, requester.

T. Second/final reading ordinance expanding the boundaries of Ward IV to include recently annexed property in Annexation #07-05: Property described as 13.4 acres of a portion of park land along Zimmerman Trail right-of-way and a portion of Zimmerman Trail right-of-way between Highway 3 and Rimrock Road; City of Billings, requester.

U. Second/final reading ordinance expanding the boundaries of Ward IV to include recently annexed property in Annexation #07-13: Property described as a 0.92-acre portion of Zimmerman Trail right-of-way; City of Billings, requester.

V. Second/final reading ordinance expanding the boundaries of Ward IV to include recently annexed property in Annexation #07-14: Property described as a 4.86-acre portion of Cove Avenue right-of-way between 46th and 50th Streets West; City of Billings, requester.

W. Second/final reading ordinance expanding the boundaries of Ward IV to include recently annexed property in Annexation #07-16: Property described as a 0.359-acre portion of Grand Avenue right-of-way east of 56th Street West; City of Billings, requester.

X. Second/final reading ordinance expanding the boundaries of Ward V to include recently annexed property in Annexation #07-11: Property described as a 3.74-acre portion of Broadwater Avenue right-of-way west of 30th Street West; City of Billings, requester.

Y. Second/final reading ordinance expanding the boundaries of Ward V to include recently annexed property in Annexation #07-12: Property described as a 1.69-acre portion of Bell Avenue right-of-way west of Shiloh Road; City of Billings, requester.

Z. Second/final reading ordinance expanding the boundaries of Ward V to include recently annexed property in Annexation #07-18: Property described as a portion of 56th Street West and Broadwater Avenue rights-of-way; City of Billings, requester.

AA. Preliminary Subsequent Minor Plat of Amended Lot 1-A, Block 1, McCracken Subdivision, 2nd Filing, generally located just west of the intersection of Lake Elmo Drive and Wicks Lane, conditional approval of the plat and adoption of the Findings of Fact.

BB. Final Plats

- (1) Shiloh Crossing Subdivision
- (2) Amended Lot 1, Block 4, High Sierra Subdivision, 3rd Filing

CC. Bills and Payroll

- (1) December 3, 2007
- (2) December 7, 2007
- (3) December 17, 2007

Councilmember Clark separated Items 1A2 and 1A3. Councilmember Ruegamer separated Item D.

Councilmember Ulledalen moved for approval of the Consent Agenda with the exception of Items 1A2, 1A3, and D, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

Councilmember Ulledalen moved for approval of Item 1A2 confirming Councilmembers Clark and Ulledalen as members of the MDOT Shiloh Road Committee, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Ulledalen moved for approval of Item 1A3 with the nomination of Councilmember Clark to serve as representative to the Montana League of Cities, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Ulledalen moved for approval of Item D, seconded by Councilmember Ruegamer. Councilmember Ruegamer asked Parking Supervisor Chris Mallow if he had seen the letter concerning the selection for the maintenance contract and asked for his comments. Mr. Mallow said he had not seen the letter until that evening and advised the criteria used to exclude that particular proposal, as well as some of the other proposals, was the stipulation in the Request for Proposal (RFP) for *similar work performed*. He said there was no reference to *similar work performed* in that particular proposal, which was why it was set aside. Councilmember Ruegamer said the wording *minimum 19% withheld from money collected depending on required workload* was too vague and asked Mr. Mallow to explain. Mr. Mallow advised a 19% fee would be withheld under normal collection circumstances; but if formal legal action was authorized by the City of Billings to further the collection process, a 40% fee would be withheld. Councilmember Ruegamer asked if City Attorney Brooks had reviewed the contract for compliance. Attorney Brooks advised he had, and it was one of the contracts he had worked on for the past two years for the City's Purchasing Manual.

Councilmember Stevens asked why four of the six proposals had been rejected for reasons other than price. Mr. Mallow advised some of the proposals did not include the requested financial documents, the breadth of service showing they could handle the required workload, or proof of similar work performed. Mr. Mallow said the final decision was based on price. Councilmember Stevens asked if the rejected proposals were considered incomplete. Mr. Mallow said that was correct.

City Administrator Volek advised the City's RFP process considered price as the final aspect. She said all firms were looked at in reference to their proposals, the top two or more were chosen, and the final consideration was the price.

On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING on Reallocation of CDBG and HOME Funds. Community Development Board and Staff recommend approval. (Action: approval or disapproval of Community Development Board and Staff recommendation.) City Administrator Volek advised the item had not been properly advertised, so Council was being asked to postpone action until February 11, 2008. Ms. Volek said it had since been advertised to allow a 30-day comment period. Councilmember Veis asked if Council was being asked to postpone the public hearing until February 11, 2008. Ms. Volek said that was correct.

Councilmember Veis moved to postpone the public hearing until February 11, 2008, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION to sell a fragment of park property, Block 10, of Rehberg Ranch Subdivision, 2nd Filing. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available for questions.

Councilmember Veis asked staff to point out the location of the subject property on the plat. Councilmember Ruegamer asked staff to point out the location of the Rod and Gun Club and asked why the Club felt the sale would take away part of its buffer zone. Parks Superintendent Gene Blackwell said he thought the feeling was that any lessening of the park dedications within Rehberg Subdivision would infringe on the Rod and Gun Club. Mr. Blackwell pointed out the boundary line between the Rehberg Ranch Subdivision and the Rod and Gun Club. Councilmember Ruegamer asked where the actual shooting range was located. Mr. Blackwell said the rifle range was farther to the east and to the north. Councilmember Veis asked if an appraisal had been completed. Mr. Blackwell advised an appraisal was included with the supporting documents.

Mayor Tussing asked if it was the adjoining landowner who approached the City about purchasing the land. Mr. Blackwell said that was correct, and there was no significant negative impact in selling the land. City Administrator Volek advised the land was very rugged terrain, and the property owner felt he needed the parcel to have a buildable lot. Mayor Tussing asked if there was construction on the land, and Mr. Blackwell advised a house was in place but not on the parcel in question. Mr. Blackwell said the buyer, Mr. Willet, was present at the meeting to answer questions.

The public hearing was opened.

- **TRACY WILLET, 4297 LONG RIDER TRAIL**, said his property was adjacent to the subject parkland. He said before the park was dedicated to the City, the developer gave him permission to construct landscaping on the lot. He said he needed to build a retaining wall to make the lot buildable. Mr. Willet said the retaining wall was constructed prior to the park ever being conveyed to the City, and he was told that evening that the Rod and Gun Club would be objecting to the sale. He said he was told their objection was that he had encroached on the City of Billings parkland, and he was just trying to rectify the problem. Mr. Willet said that was not what happened, he

had visited with the Rod and Gun Club about it, and he thought they were withdrawing their objection. Mr. Willet said he had only constructed a 7-foot natural rock retaining wall on the lot. Mr. Willet distributed a picture showing the original property line and the new property line if the purchase was approved. He said if the sale was not approved, it would not be a major problem; but he would like to buy the land if possible.

Councilmember Stevens asked staff if an agreement with Mr. Willet was mentioned at the time the parkland was conveyed to the City. Mr. Blackwell advised that when the second filing was platted, the land company did not make the City aware of any agreement. He said the information was submitted with the request to purchase the property.

Mayor Tussing asked who owned the land before it was conveyed to the City as parkland. Mr. Blackwell advised it was owned by Rehberg Land Company. Mayor Tussing asked Mr. Willet if he knew he did not own the parcel and if he was under the impression it was okay to landscape it. Mr. Willet advised he knew he did not own the parcel. He said after he submitted his plans for building to the Rehberg Ranch Association and the developer, they told him he would benefit to have a little more land. He said Mrs. Rehberg advised she would be happy to sell him more land. Mr. Willet said by the time Mrs. Rehberg got around to it, the plat had already moved forward. He said Mrs. Rehberg told him the engineering fees would be astronomical to re-plat it, and advised him to buy it from the City after it had been dedicated.

Councilmember Ruegamer asked Mr. Willet what the Rod and Gun Club was referring to as encroaching on the parkland. Mr. Willet said they were referring to the 7-foot retaining wall. He said they did not know he had permission to build it, and they thought he was encroaching on City parkland.

- **JOHN MOORHOUSE, 123 NORRIS COURT**, said he was speaking for the Billings Rod and Gun Club and was secretary of the club. Mr. Moorhouse referenced the letter sent to Council objecting to the sale. He said the club's initial impression was that the retaining wall was built in trespass; and it was their current understanding that Mr. Willet at least thought he had permission and built the wall in good faith. Mr. Moorhouse said the club objected to the sale because it lessened the buffer strip. He said when the subdivision was proposed, the club felt it might affect their ability to use the club, and the buffer strip was one of the reasons they did not object. He said it was a surprise the City was proposing to sell any part of the parkland, and the club objected to the process rather than to the sale itself. Mr. Moorhouse said they would like to ask three things of the City: (1) The City look at the process where the City Parks Department gave Mr. Willet permission to do something on City property and then decided later to approve or disapprove the sale. He said the process was upside down, and if Council decided not to sell to Mr. Willet, he would be in a jam. (2) The City take seriously the obligation to maintain the parkland as a buffer for the Rod and Gun Club.

Councilmember Stevens clarified that Mr. Willet was given permission to encroach on the property before it ever became parkland.

Councilmember Veis asked Mr. Moorhouse for the third item on his list. Mr. Moorhouse said the third item was that the City look at its obligation to maintain the buffer and take it seriously.

City Administrator Volek advised there had been no title search completed when the City accepted the property, and staff had learned a lesson from it.

Councilmember Pitman asked if there were any other properties that had been allowed to do the same. Mr. Blackwell said there was one other lot in the first filing where, in order to obtain a more buildable footprint because of the nature of the terrain, there was a boundary change that traded an equal amount of one lot corner for an equal amount of another lot corner, but it did not change the lot sizing.

Councilmember Stevens asked if the obligation to maintain a buffer between the subdivision and the Rod and Gun Club was between the developer and the Rod and Gun Club. She asked if the agreement ran with the land and if the City had inherited the obligation. Ms. Volek advised it was a very deep gully that could not be developed, so the buffer would be preserved. Ms. Volek advised staff would need to look at the transfer documents regarding obligation and report back to Council.

Councilmember McCall asked Mr. Moorhouse if the reasons for the buffer were safety and noise factor. She asked Mr. Moorhouse to describe the essential elements of the buffer. Mr. Moorhouse said spacing homes away from the club's activities was important. He said the more space the better. Councilmember McCall asked Mr. Morehouse if the particular lot in question interfered with the safety factor. Mr. Moorhouse said it did not.

Councilmember Gaghen asked how many acres were owned by the Rod and Gun Club. Mr. Moorhouse said they owned approximately 350 acres. He said approximately 200 acres were in wheat ground on top. He said the archery range was down in a coulee, and the rifle and shotgun range was also on top.

- **IRV NAUMAN, 3109 CABIN CREEK**, said he was a resident within the 300 foot area, and the retaining wall was an improvement to what was there before. He said he and an adjacent homeowner, who was unable to attend the council meeting, had no objection to the sale.
- **JIM HIGGINBOTHAM, 4255 LONG RIDER TRAIL**, said he lived around the corner from Mr. Willet, and he had no objections to the sale. He said the retaining wall created a nicer looking backyard.

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

Councilmember McCall moved for approval of Item 3, seconded by Councilmember Stevens.

Councilmember Veis said he would vote in favor of the motion, but he agreed with Mr. Moorhouse that there was a problem with the process. He said if it

were not such a small piece of ground, he would have much bigger reservations. He said the buffer was very important to the Rod and Gun Club, and they were there first. He said he worried about the Rod and Gun Club and Rehberg Ranch in the future. Councilmember Veis said the City needed to keep on top of it, and he did not see it as a precedent to allow for any expansion toward the Rod and Gun Club. He also said it was not good to leave the problem to the City Council to deal with on the back end just because it was too expensive to go back and re-do the documents.

Mayor Tussing said he agreed with Councilmember Veis. He said if the City was selling a large piece of parkland so someone could build a house, he would be opposed to it. He said it would have been a lot cleaner if a title search had been done.

Councilmember Ruegamer questioned the appraisal value on the staff report, and said it was misleading. Councilmember Veis asked if the sale price was \$200 or \$4,130. City Administrator Volek confirmed it was \$4,130. Mr. Willet advised he thought the sale price was \$3,500. He said he stated he preferred to pay \$3,500 in his letter. Mayor Tussing advised Mr. Willet he had the choice of paying \$4,130 or not buying it. Mr. Willet said \$4,130 would be okay.

Councilmember Stevens advised that if anyone out there was conducting similar deals, the paperwork needed to be recorded at the Courthouse. She said if the paperwork was not recorded and the property was sold or transferred to the City, they could not count on the City Council to fix it.

Councilmember Veis asked Attorney Brooks if the dollar amount needed to be included in the resolution. Attorney Brooks said it would be appropriate since there seemed to be some disagreement.

Councilmember Veis moved to amend the resolution to include the sale price of \$4,130, seconded by Councilmember Stevens. On a voice vote, the motion was unanimously approved.

On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION to sell a portion of Lot 15A, Block 2, Southgate Subdivision, 1st Filing, and initiate a zone change. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised this item was a potential owner-proposed land sale. She said MRL Equipment Company, Mark Rite Holding, had asked to acquire the property for future expansion and a parking site at the price of \$3.00 per square foot. She said the land was originally platted as an open space buffer and was deeded to the City in 1991. Ms. Volek advised the property was partly maintained by a Park Maintenance District and zoned public. She showed a map outlining the current location of MRL Equipment and the subject property. She said a 15-day public notice was given on December 22, 2007; and the adjoining property owner had been notified. Ms. Volek advised the sale price of approximately \$102,000 would go into the Park Acquisition and Development Fund, and re-zoning would be initiated to Highway Commercial.

The public hearing was opened.

- **AL KOELZER, 2828 WESTWOOD**, said he was a commercial real estate agent and present on behalf of the buyer. Mr. Koelzer asked Council to vote in favor for the following reasons: (1) an easy \$100,000 for the City for land they acquired for back taxes; (2) the Parks Department would not need to continue maintaining the grassy area along King Avenue; and (3) Council would support the continued success and growth of MRL Equipment Company.
- **JIM SPIELMAN, 3717 HARRY COOPER PLACE**, said the acquisition would enable MRL Equipment to continue with the growth they had been fortunate to have over the years. He said they would expand their building to the east. He said MRL Equipment employed 90 to 95 people who generated approximately \$24 million in annual sales. Mr. Spielman said MRL Equipment contributed between \$4 million and \$5 million in annual payroll to the City. He said they were a locally-owned and operated company, who purchased \$8 million to \$10 million worth of products and services from other local businesses.

Councilmember Ruegamer asked what MRL Equipment manufactured. Mr. Spielman said they manufactured truck-mounted road striping equipment. He said they had recently sold product to Korea, Saudi Arabia, and Ireland.

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

Councilmember Ruegamer moved for approval of Item 4, seconded by Councilmember Ronquillo.

Councilmember Veis asked why the City was initiating the zone change instead of the landowner. City Administrator Volek advised Assistant City Administrator Bruce McCandless, who was not present, had negotiated the sale. Councilmember Veis asked if the Planning Department would receive any fees for the re-zoning process. City Administrator Volek advised the Planning Department would lose approximately \$900.

There was no further discussion. On a voice vote, the motion was unanimously approved.

Before moving to Item 5, Mayor Tussing recognized members of Boy Scout Troop 10 who had arrived. It was advised the Boy Scouts were earning part of their Citizenship and Community Merit Badge by attending the meeting.

5. PUBLIC HEARING AND RESOLUTION adopting the South Side 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 she brought forward the South Side Neighborhood Plan at the December 3, 2007, Work Session. She said it was a collaborative effort between the South Side Neighborhood Task Force and the residents of the south side. Ms. Mattox began her presentation showing the boundaries of the neighborhood. She advised all parcels were located within the city limits, and there were no county islands located

within the neighborhood. She said the South Side Neighborhood Plan focused on areas identified by the residents and the task force as having various issues. She said the Neighborhood Plan identified each issue and discussed them individually with actions to address any goals set forth by the task force. She said the Plan included information on each issue, as well as a chart to help the neighborhood guide the issues and actions within the plan. Ms. Mattox advised the Planning Board held a public hearing to discuss the Neighborhood Plan, and it was forwarding a recommendation for adoption as part of the Growth Policy.

Councilmember Gaghen said she and Councilmember Ronquillo knew how extensive the effort had been in preparing the Neighborhood Plan for adoption. She said the neighborhood committee worked very faithfully with Ms. Mattox's guidance. Councilmember Gaghen thanked Lora and the neighborhood committee for their efforts.

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

Councilmember Ronquillo moved for approval of Item 5, seconded by Councilmember Gaghen.

Councilmember Ronquillo thanked Ms. Mattox and told her she had done an outstanding job putting the Neighborhood Plan together.

On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #825: An ordinance amending Sections 27-201, 27-305 and 27-310 of the Unified Zoning Regulations allowing, through special review, the addition of single-bedroom rental units under certain circumstances on single-family, owner-occupied lots within existing residential zoning districts. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II Juliet Spaulding advised Zone Change #825 was a text amendment to the Zoning Code initiated by the City Council a little over a year ago. She said, if approved, Sections 27-201, 27-305, and 27-310 of the Zoning Code would be amended to add Accessory Dwelling Units (ADU), which were self-contained dwelling units secondary to a principle or main residence. Ms. Spaulding said an ADU could be an addition to a main residence; part of a basement of a main residence; or a stand-alone, detached small house or cottage in the rear. She advised ADUs were a growing trend in progressive neighborhoods and provided a housing option for one or two people. She said they also provided an added income opportunity for fixed income households and housing options for the aging population. Ms. Spaulding said the ADUs were sometimes referred to as "Granny Flats" because they provided housing options for aging parents. She said they also increased security in neighborhoods as "additional eyes on the streets" and combated sprawl by providing in-town housing opportunities. Ms. Spaulding advised the proposed ordinance would allow one, single-bedroom ADU per single-family residential lot after a Special Review; the ADU could not exceed 800 square feet and must meet all other applicable height, setback, and lot restrictions found within the underlying zoning district; the ADU must meet all applicable building codes and provide a

separate off-street parking space for its occupants; the principle dwelling or the ADU must be owner occupied for the life of the ADU; and a permit would be required to ensure compliance with the requirements.

Ms. Spaulding advised public hearings were held before the Zoning Commission in November and December 2007. She said many other meetings were held where Planning Staff informed neighborhoods and interest groups throughout the community of the proposed change. She stated there were proponents and opponents at both public hearings. She said the opponents voiced enforcement concerns over the owner-occupancy clause; additional parking needs; street congestion; the expense of bringing existing ADUs up to code; and the possibility of opening up the single family zoning district to a multi-family zone. Ms. Spaulding advised, based on the public input and consideration of the 12 zoning criteria, the Zoning Commission recommended denial for reasons such as impacts on neighborhood character, traffic impacts, and overcrowding of neighborhoods.

Councilmember Veis asked what the process of enforcement would be if an accessory dwelling unit was added to a home in compliance but became non-compliant at a later date. Ms. Spaulding said if the owner decided to move and the new owner did not want to maintain homeownership, there would be a title search done at the time of sale, which would reveal the homeownership requirement. She said if an owner decided not to maintain owner occupancy of one of the units, it would be a City code enforcement issue. Ms. Spaulding said most of the City's code enforcement was done on a complaint basis, so a neighborhood would have to initiate the code enforcement action. Councilmember Veis asked what the code enforcement officer could do about non-compliance. Ms. Spaulding said the officer could put the owner on notice, followed by court action, if necessary. Councilmember Veis asked if the City of Billings would be going to court to move people out of their homes. Attorney Brooks said it could potentially happen, but it would be the property owner's responsibility and not the city's responsibility. He said it would be viewed like any other zoning code violation.

Councilmember Stevens asked Attorney Brooks if the headlines could read "City Sues Landlord to Evict Granny." Attorney Brooks said he felt it would be a misdemeanor zoning violation citation and up to the owner to remedy; possibly within a timeline set by the court. Councilmember Stevens also referenced the wording "providing a housing option to one or two person households" and said the City could not control how many people lived there. She asked Attorney Brooks if it would be familial status discrimination to do so. Attorney Brooks said he would have to research that question. Councilmember Stevens said she felt it was very misleading, and the City would have a problem enforcing the number of people in a unit.

Councilmember Ruegamer asked if a mobile home could be placed on one of the lots or attached to a house. Ms. Spaulding advised mobile homes were not allowed except in manufactured home zoning. Councilmember Ruegamer commented he could not see someone on a fixed income affording to build an 800 square foot dwelling, and he could not see someone with a \$750,000 home building a little cottage on their property.

Councilmember Ronquillo said he did not think the zone change was feasible and would not be supporting it.

Ms. Spaulding asked to respond to Councilmember Stevens questions. She stated there was nothing in the proposed ordinance limiting the number of people, but there was a limit on size and the number of bedrooms.

Councilmember McCall asked if there had been any research with comparable cities and what the experience had been. Ms. Spaulding advised Bozeman has had the concept in place for ten years with success and no major enforcement problems, and Whitefish had also been successful with the concept.

The public hearing was opened.

- **MARION DOZIER, 3923 3RD AVENUE SOUTH**, asked the Council to vote against the ordinance. She asked who would monitor and enforce compliance. Ms. Dozier said she was a City code enforcement officer for five or six years, and it was impossible to enforce owner-occupied, illegal dwellings. She said the court process was very time consuming, and the City only had two code enforcement officers.
- **BILL MCINTYRE, 1106-1/2 POLY DRIVE**, said he lived behind "the house from hell." He said the house was residential for many years and had a basement apartment no one knew about. Mr. McIntyre advised several realtors bought the house, and it was currently being rented as a duplex. He said at times there could be six or seven cars parked in the driveway; five or six cars parked on the street; and a semi-truck parked in front of the house. He said sometimes two or three cars parked in his driveway preventing him from getting to his own house. Mr. McIntyre said if the Council approved the ordinance, it would destroy neighborhoods.

City Administrator Volek advised that Councilmember Ulledalen had made the City aware of Mr. McIntyre's situation; and she would like to talk to him if he would stay after the meeting. Ms. Volek advised the matter had been turned over to the Police Department for investigation.

- **DAMON HAWKIN**, said he rented at North Park, and he had complained about the roads going through the trailer park. He said it looked like a dumpster in the trailer park. Mayor Tussing asked Mr. Hawkin if he had comments on Zone Change 825. Mr. Hawkin said he did, and said the trailer park was full of garbage, and the roads were like driving over a washboard.

Councilmember Ronquillo invited Mr. Hawkin to attend the North Side Task Force Meetings on the first Thursday of each month at North Park Community Center at 7:00 p.m. and bring his concerns to the meeting.

- **CLAYTON FISCUS, 111 MAIN STREET**, said he had been a real estate broker for 33 years and sold over 1,000 single-family homes in Yellowstone County. He said not one of the single-family homebuyers wanted to live in a multi-family, restricted, or permitted multi-family area. Mr. Fiscus said the rights of those people needed to be protected. He said a rental next door would drive the value of homes down. He said homes built the last 30 years were not designed for a multi-family unit, and backyards were not

subdivided to accommodate a separate unit. Mr. Fiscus said less than 1% of the market was interested in buying a property with an owner/occupant restriction.

- **DAVE BROWN, 544 WIGWAM TRAIL**, said he thought Smart Growth had something to do with the granny flats because it took less land to accommodate more people. He said Portland, OR, was the “poster child” for Smart Growth. Mr. Brown said there was a case where a multi-million dollar home burned down, and the property owner was told he could not rebuild because the neighborhood zoning had changed to multi-family. Mr. Brown said every time zoning or a regulation was changed within a city, it affected people. He asked the Council to take into consideration the majority of the people in Billings and not the minority who wanted a granny flat.
- **ROBERT (INAUDIBLE), 1111 5TH STREET WEST**, said the ordinance should be denied. He said he had lived in his house since 1976, and within 100 feet of his home there were five multi-family dwellings. He said they created a huge parking problem.
- **ERVIN HANKS, 3404 GALLATIN PLACE**, told the Council they were opening a new can of worms, and the City would end up with more legal problems. Mr. Hanks asked how the City would ever be able to enforce the ordinance and encouraged the Council to vote it down.
- **BRUCE SIMON, 217 CLARK AVENUE**, said he opposed the zone change. He said there were technical problems with the ordinance. He said the parking requirements were unclear, and a lot of lawns would need to be torn up to provide the off-street parking. Mr. Simon said it would be an enforcement nightmare, and the City would have to depend on neighborhood snitches to report violations to the Zoning Commission. He said there were already a lot of non-conforming issues in the neighborhoods, and the ordinance would create a whole lot more 20 years from now. Mr. Simon asked the Council to reject the zone change.
- **DAVE BOVEE, 424 LEWIS AVENUE**, said the neighborhoods west of downtown would be the target. He said the City did not have the infrastructure to enforce the ordinance; and the properties would only have to go through one special review (not per use) when they were built. Mr. Bovee asked the Council to deny the zone change.
- **JOAN HURDLE, 210 KNOLL**, said the opposition to the accessory dwelling units was “a bit alarmist” and caused a lot of unnecessary fear. She said the real estate and development interests had a bias toward maintaining all single-family zoning. Ms. Hurdle said Billings desperately needed affordable housing, and allowing a homeowner to add a granny flat was an excellent idea. She said it worked in many progressive communities, and it could be made to work in Billings. She said it would be one small step towards solving the affordable housing crisis and bring Billings in compliance with the Growth Policy. Ms. Hurdle urged the City Council to approve the zone change.
- **CONNIE WARDELL, 1302 24TH STREET WEST**, asked Council to vote in favor of the zone change. She said she contacted 18 out of 36 states who

had this type of zoning, and none of them said they had enforcement issues, including the City of Bozeman. Ms. Wardell said approximately one accessory dwelling unit was built per 1,000 dwellings; and in Billings that would calculate between 20 and 30 per year. She said it would not solve the whole problem of homelessness or the whole problem of affordable rental housing; but it would be an alternative to large, low income multi-plexes. She said the zone change would be part of the Growth Plan calling for more infill, and it would be the least intrusive and least expensive approach to affordable housing.

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

Councilmember Ruegamer asked Attorney Brooks if he would have a conflict of interest because he owned a duplex where he rented one-half and lived in the other half. Attorney Brooks said he did not see a conflict of interest, but if Councilmember Ruegamer felt uncomfortable, he was entitled to disqualify himself from deliberation and the vote.

Councilmember Veis moved for denial of Zone Change #825, seconded by Councilmember Stevens.

Councilmember Ronquillo said Ms. Wardell and Ms. Hurdle brought some good issues to the table. He said having worked for a local utility for 30 years and seeing the many violations in homes, he felt the City did not have the manpower to enforce the ordinance. He said he felt it was a good idea at first, but could see more problems than the City could handle. Mr. Ronquillo said, for that reason, he would be voting against the zone change.

Councilmember Stevens said initially she felt it was a good idea, but the enforcement issue had become a concern for her. She referenced the apartments that were for sale behind Albertsons; and in order to use the apartments for business purposes, they had to be owner-occupied. Councilmember Stevens said they now know the owner only worked there, did not live there, and it was not being enforced. She said she felt it would be impossible to enforce, and she would not support the zone change.

Councilmember Ruegamer said he did not see how the ordinance could be enforced, it would be opening up a can of worms, and he would not vote in favor of it.

Mayor Tussing said he would support Councilmember Veis' motion to deny; however, he said he reserved the right to reconsider if the task force being appointed on affordable housing came forward with recommendations that incorporated some of the ideas.

On a voice vote, the motion to deny the zone change was unanimously approved.

7. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #827: A zone change from Residential 9600 to Residential 7000 on a 44,644 square foot property located north of Saturn Place in the Billings Heights. Dorn Property LLC, owner; Engineering, Inc., agent. Zoning

Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (Action: approval or disapproval of Zoning Commission recommendation.)

Neighborhood Planner Lora Mattox began her PowerPoint presentation showing the location of the subject property. She explained the zoning to the north and west of the property was R9600, and the zoning to the south and east was R7000. Ms. Mattox said the applicant had requested the zone change to R7000 and had submitted a minor subdivision plat proposing five single-family lots ranging in size from 7,000 to over 9,000 square feet. She said the applicant conducted a neighborhood meeting on October 10, 2007, and according to the applicant's minutes and notes from the meeting, none of the surrounding property owners attended. Ms. Mattox advised her office had not received any comments regarding the application. She said the Zoning Commission held a public hearing on December 4, 2007, and voted 3 to 0 to recommend approval of the zone change based on the following 12 Determinations.

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed development is consistent with the following goals and objectives of the 2003 Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element #1, pg. 5)*

The proposed land use is consistent with the existing land uses adjacent to the proposed zone change property.

- *New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element #2, pg. 6)*

The proposed zone change would allow a single-family or two-family subdivision with similar lot sizes and residential densities to those existing developments to the south and east.

- *More housing and business choices within each neighborhood. (Land Use Element #6, pg. 6)*

The developer proposes to offer an affordable housing supply similar to what is currently developed adjacent to this property.

2. Is the new zoning designed to lessen congestion in the streets?

The development should not negatively impact the local streets in the area.

3. Will the new zoning secure safety from fire, panic and other dangers?

The nearest fire station is located nearby at 1601 St. Andrew's Drive. The property will also be served by City water and sewer services when

development occurs. No public health or safety issues have been raised with this application.

4. *Will the new zoning promote health and general welfare?*

The new zoning would allow single-family or two-family residences to be built with City services. No public health or safety issues have been raised with this application.

5. *Will the new zoning provide adequate light and air?*

The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The new zoning would allow the development of single-family homes on lots that are a minimum of 7,000 square feet or two-family homes on lots that are a minimum of 9,600 square feet. The proposed site plan indicates that the lots will range in size from 7,147 square feet to 9,778 square feet. It also indicates that 5 lots are proposed for the property. At the time of development, setbacks, lot coverage, height, and other requirements will help to prevent overcrowding of the land.

7. *Will the new zoning avoid undue concentration of population?*

The new zoning would allow the development of single family homes on lots that are a minimum of 7,000 square feet or two-family homes on lots that are a minimum of 9,600 square feet. The R-70 zoning would allow for approximately 6 single family homes or approximately 4 two-family homes. The R-70 zoning is set up to avoid undue concentrations of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

Transportation: The development should not negatively impact the local streets in the area.

Water and Sewerage: The City will provide water and sewer service to the property and has adequate facilities to serve this property.

Schools and Parks: There should be no negative effect on parks or schools from this rezoning.

Fire and Police: The property is served by existing services and there should be no effect on these services from the new zoning.

9. *Does the new zoning give reasonable consideration to the character of the district?*

Staff is comfortable that the new zoning does give reasonable consideration to the character of the surrounding community in that it would allow development of similarly-sized single and two-family lots. The developer did host a

neighborhood meeting and invited surrounding property owners. No property owners attended this meeting.

10. Does the new zoning give consideration to peculiar suitability of the property for particular uses?

The subject property is located in an area of R-96 and R-70 zoning districts.

The proposal is suitable for the requested zoning district.

11. Was the new zoning adopted with a view to conserving the value of buildings?

As noted in #9 above, the new zoning would seem to conserve the value of the similarly priced residences to the south and east of the subject property.

12. Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?

Yes, the new zoning will encourage the most appropriate use of this land in the area.

Councilmember Stevens asked where the neighborhood meeting had been held. Ms. Mattox advised the meeting was held at Engineering, Inc., which was in the TransTech Center. Councilmember Stevens asked approximately how many miles the subject property was from Engineering, Inc.'s office. Ms. Mattox estimated 10 miles.

Councilmember Ruegamer asked how many people attended the meeting. Ms. Mattox advised no surrounding property owners attended the meeting.

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

City Administrator Volek asked Attorney Brooks to address the Council's concerns about the location of the neighborhood meeting. She said there were certain requirements that had to be met when approving or denying a zone change, and she wanted to make certain it was acted upon in a way that would ensure equity for the owner and security for the City. Attorney Brooks advised there were 12 criteria by statute in which to assess a zone change. He said if there was concern about the site of the meeting, the Council could delay action for up to 30 days. Attorney Brooks said the only concern he would have would be if a denial was based on the meeting not being in a central location.

Councilmember Ruegamer asked Attorney Brooks if holding the meeting in Laurel would have met the criteria for the public meeting. Attorney Brooks said it would have been beyond the jurisdiction of the government entity and would not have satisfied a reasonable, centrally-located meeting place.

Councilmember Stevens moved to postpone Zone Change #827 for two weeks so a meeting could be held in the neighborhood, seconded by Councilmember Veis.

Councilmember Stevens said at the last meeting staff had been asked to investigate some of the "loopholes" in the new ordinance that allowed meetings to be held outside the neighborhood. She said technically the letter of the ordinance did not require the meetings to be held in the neighborhood, but the spirit of the

ordinance did; and holding the meetings away from the neighborhood violated the spirit.

On a voice vote, the motion to postpone action for two weeks so a neighborhood meeting could be held in the neighborhood was unanimously approved.

8. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #828: A zone change from Residential 9600 to Residential Professional on Lot 3, Block 1, Rocky Village Subdivision, generally located on the northwest corner of Poly Drive and 17th Street West. Ric Heldt, A & E Architects, representative. Zoning Commission recommends approval and adoption of the determinations of the 12 Zoning Commission Determinations. (Action: approval or disapproval of Zoning Commission recommendation.)

Planner I Dave Green began his PowerPoint presentation showing the location of the subject property and describing the surrounding properties. He said a Conoco station was currently on the subject property, another Conoco Station was across the street to the south, Rocky Mountain College was across the street to the east, and a medical facility was located to the west and behind the property. Mr. Green advised the applicant would like to remove the Conoco station on the subject property and build a new medical facility. He said they intended to close the two access points that currently served the gas station and use the access currently used for the existing medical facility. He said at some point in the future the applicant would like to replace the existing medical building with a new building and create a small medical complex in the area. Mr. Green advised the applicant held a neighborhood meeting on October 29, 2007, at the 17th Street Station, which was located across the street from the subject property. He said several surrounding property owners attended, and their biggest concern was height of the proposed medical facility. Mr. Green said the height restriction in Residential Professional Zoning was the same as Residential Zoning (34 feet maximum). He said it was believed the current medical facility was taller than the maximum height allowed; but when the building was replaced, the new building would meet the current zoning requirements of Residential Professional. Mr. Green said the Zoning Commission was recommending approval of the zone change on a 3 to 0 vote based on the following 12 criteria.

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is generally consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 5)*

This property is in an area of Billings that has a larger amount of residentially developed property. The addition of this parcel as Residential

Professional will enable the property owners to expand the existing RP use behind this property and provide medical facilities to the neighborhood.

- *New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Town sites. (Land Use Element Goal, page 6)*

The proposed zone change would allow the property to be developed to expand a medical facility that exists in the neighborhood and provide more services to the surrounding neighborhood.

- *More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)*

The proposed zoning will permit an expansion of an existing use behind this property.

2. *Is the new zoning designed to lessen congestion in the streets?*

The new zoning will allow the expansion of the existing medical facility adjacent to this property and with that expansion of use an existing access on 17th Street West will be used. The new access configuration will allow the closing of the accesses that currently exist for the Conoco station so that there will no longer be accesses right on the northwest corner of Poly and 17th Street West.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

When the developer submits a proposed site plan, the Engineering Division, Planning Division and the Fire Department will be able to review what the developer is proposing to build and have input to insure that it is designed to meet safety requirements.

4. *Will the new zoning promote health and general welfare?*

The proposed zoning will permit Residential Professional uses. The Unified Zoning Regulations specify minimum setbacks, lot coverage requirements and height restrictions. It also has landscape requirements to enhance the look of the site and make it a positive addition.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The proposed zoning, as well as all zoning districts, contains limitations on the maximum percentage of the lot area that can be covered with structures. This requirement will help prevent overcrowding of land.

7. *Will the new zoning avoid undue concentration of population?*

The proposed zoning is for Residential Professional use which will not cause a concentration of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

Transportation: The future closure of the two accesses for the existing Conoco station on the northwest corner of Poly and 17th Street West will reduce the traffic conflicts on that corner.

Water and Sewer: The City will provide water and sewer to the entire property through existing lines from Poly or 17th Street West.

Schools and Parks: The proposed zoning will have no effect on the school system.

Fire and Police: The subject property is currently served by the City of Billings fire and police departments.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The proposed zoning will be alike in character with the adjacent Residential Professional zoning to the west and north and will provide services to the surrounding neighborhood.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The subject property is suitable for the requested zoning. The proposed medical facility will provide the surrounding citizens with a medical facility within their neighborhood.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The applicant has proposed Residential Professional zoning for the property so it will be the same as the zoning to the west and north. This zoning will lend itself to a development on the street intersection that allows for professional

medical offices where keeping it R-9600 would render the corner difficult to sell for a single family home. Therefore, it will be an expansion of an existing use that is already in the neighborhood.

12. Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?

The proposed zoning will permit an expansion of an existing use, it will be the most appropriate use of the land and not bring unwanted commercial use into the area.

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

Councilmember Pitman moved for approval of Zone Change 828, seconded by Councilmember Ruegamer.

Councilmember Stevens said, for consistency purposes, she would like to thank the applicant for holding the neighborhood meeting in the neighborhood.

On a voice vote, the motion was unanimously approved.

9. DEVELOPMENT AGREEMENT between the City of Billings and Downtown Billings Partnership; Downtown Development Corporation, Inc.; the White Family, LLC; Big Sky Economic Development Authority; and Yellowstone County for the Federal Courthouse Building. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised the item was the subject of the last Work Session, and the resolution to be approved was dated January 4, 2008. She said Mr. Krueger, Mr. Honaker, and Mr. Wahrlick had worked on the resolution; and Mr. Krueger advised there was one item in the resolution they would like to correct.

Mr. Krueger pointed out that in Section 5.3(d), third paragraph, the actual amount to be paid to Big Sky EDA was \$756,000 and not \$765,000, as indicated. He said that was the only change.

Councilmember Ronquillo asked if the square foot amount of \$35 to \$38 was still correct. Mr. Krueger said he felt they would be asking GSA for \$38, and all the costs in Table 1 were based on \$35. He said the exchange of land between the parties would be based on that; and GSA would actually subsidize more of the project than what was anticipated.

Councilmember Ruegamer asked if the land package would be put together and sold to the GSA or to the developer. Mr. Krueger said it would be sold to the developer selected by GSA. Mr. Krueger advised there may be some wordsmithing, so Council approval would be subject to further legal review. He said nothing substantial in the document would change as far as costs.

Councilmember Veis advised he would vote for approval, but he had specifically asked Mr. Krueger at the Work Session to see Exhibit 3, which released the City from obligation to the County to pay for a parking lot. He said it was a complicated process, and he did not want to have to pay the County twice for a parking lot.

City Administrator Volek advised there were two things that could be done. She said the County was not scheduled to vote on it until January 29th, so action could be postponed until the 28th. She said the other option would be to make the approval contingent upon the receipt of the release document.

Councilmember Gaghen moved for approval of the Development Agreement changing the incorrect amount of \$765,000 to the correct amount of \$756,000 and contingent upon written clarification that the City would be released from its obligation to pay the County for a parking lot, seconded by Councilmember Ronquillo.

On a voice vote, the motion was unanimously approved.

10. 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.)

- **TRENT GODFREY, 737 SOUTH BILLINGS BOULEVARD, SPACE 15**, said there were no assurances or regulations protecting homeowners in manufactured home parks from being displaced as the result of redevelopment caused by park closures. Mr. Godfrey said areas in Billings may soon be experiencing park closures and requested that the Mayor and City Council place a moratorium for the ban of any redevelopment in the residential community until such a time a plan could be developed to protect the needs of low income, affordable housing.

Councilmember Ronquillo asked Mr. Godfrey if he had a presentation he could give at a Work Session. Mr. Godfrey said he was working on a PowerPoint presentation to give to the City Council. Councilmember Ronquillo asked Mr. Godfrey if he was familiar with a recent real estate ad for the sale of a mobile home court across from the new Cabela's location. Mr. Godfrey said he had investigated the ad, and it was a four-unit mobile home park not close to Cabela's.

Councilmember Stevens advised Mr. Godfrey that putting a moratorium on development of privately-owned mobile home parks would deny the owner the opportunity to develop his or her land. Mr. Godfrey said the moratorium would be a temporary circumstance so a report could be presented to the City Council with a plan for preventing the displacement of residents. He said development of a property was not the issue. Mr. Godfrey gave the example of a developer in Whitefish who purchased a 60-unit mobile home park. He said the mobile home park residents were displaced; 15 of them found homes for their manufactured homes, and the rest of them did not and had to walk away from their homes. He said the moratorium was to protect those people so they would not become homeless until a plan to protect them was created.

Councilmember Clark asked if the problem was addressed under state law. He said he thought a property owner had to give tenants of mobile home parks six months' notice before the mobile home court was redeveloped. Mr. Godfrey said it did not provide relocation assistance and compensation for the

residents.

Councilmember Stevens asked if there was a relocation assistance requirement under the TIF District for the mobile home park in the area that had been declared blighted. Planning Director Candi Beaudry said the Urban Renewal Plan, which was a requirement of the TIF District, should address how displaced residents would be relocated. She said it had been deferred until a neighborhood plan could be started this year. She said they indicated in the Urban Renewal Plan that that they would address those concerns in the neighborhood plan. Ms. Beaudry advised Mr. Godfrey's proposal could possibly be incorporated into the plan.

Councilmember McCall said she would like to have more information on the subject, and a presentation would be worthwhile at a Work Session.

City Administrator Volek advised agenda items at Work Sessions were presented by Staff. She said a council initiative could be made or a 5:00 p.m. meeting scheduled before a 5:30 p.m. Work Session for those councilmembers wanting to hear the presentation.

- **DAVE BOVEE, 424 LEWIS AVENUE**, said it had been six to seven months since the patio and parking spaces had been sold to the property owner at Montana Avenue and North 25th Street. He said, as a result of the patio, the left traffic lane was blocked by parked vehicles, the curb was not painted yellow, and there were no "no parking" signs posted. He said people were parking at the patio and blocking the left-hand driving lane. Mr. Bovee said had the job been completed correctly, the curb would be painted yellow and "no parking" signs would be posted. Mr. Bovee asked the City to finish the project.

City Administrator Volek thanked Mr. Bovee for bringing the issue to the City's attention and said Ms. Beaudry would have Code Enforcement investigate.

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

Council Initiatives

- **VEIS: MOVED** to have the Parks Department reimburse the Planning Department \$900.00 for staff time involved with initiating the zone change for Agenda Item #4, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.
- **RUEGAMER: MOVED** that Council receive the wording for the neighborhood meeting requirement. Ms. Volek advised the existing ordinance requiring a local meeting would need to be amended to say the meetings must be held within the same ward as the property. Mayor Tussing said he thought they had already done that. Ms. Volek said they had, but it was not specific. Councilmember Veis advised Nicole Cromwell had been e-mailing Council when the meetings were taking place, but he had not received one for awhile. Ms. Beaudry advised Council would continue to receive notices. She said Council requested that staff look at the ordinance to restrict or limit the location for a meeting to within reasonable distance.

Ms. Beaudry said staff would bring the matter back to Council no later than April, and they would encourage developers to hold the neighborhood meetings in the neighborhood in the meantime. Councilmember Ruegamer said he would withdraw his motion.

- **ULLEDALN: MOVED** to place discussion of the RFP for privatization of the Animal Shelter on the January 22nd Work Session Agenda, seconded by Councilmember Ronquillo. Ms. Volek said she could bring an RFP document to the next Work Session, but the agenda was already very long. She said the RFP was scheduled for the Work Session of February 22, 2008. Ms. Volek said she would look to see if she could re-arrange the schedule on the 22nd to include the RFP. On a voice vote, the motion was unanimously approved.
- **RONQUILLO: MOVED** to have Scott Godfrey work with staff and present a PowerPoint at a future Work Session to discuss the displacement of mobile/manufactured homeowners when a mobile home park owner decided to sell the property for redevelopment, seconded by Councilmember McCall. Councilmember Stevens said she felt it was a state legislative issue, and she would not support the motion. Mayor Tussing said it could set a precedent on other issues with other people, so he would not support the motion. Councilmember Veis said if six members of the Council wanted to hear the presentation at a Work Session, they would hear it. Councilmember Clark recommended having Mr. Godfrey set up his own meeting and invite whoever wanted to come instead of bringing it to a Work Session. On a roll call vote, the motion failed 5 to 5. Councilmembers Ronquillo, Gaghen, Veis, Ruegamer, and McCall voted yes. Councilmembers Pitman, Stevens, Ulledalen, and Clark, and Mayor Tussing voted no.

ADJOURN: The meeting adjourned at 9:07 p.m.

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

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