

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 23, 2007

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 Ulledalen gave the invocation.

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

MINUTES – July 9, 2007 – approved as amended.

COURTESIES:

- Mayor Tussing recognized Councilmember Ruegamer for winning the Big Sky State Games 5K Race and the Mountain Bike Race in his age group.
- Councilmember Gaghen introduced her daughter, Rebecca, who was in Billings visiting and in attendance at the meeting.

PROCLAMATIONS - None

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek referenced the bid protest and the City Attorney's response to the protest on Agenda Item 5 distributed in the Friday packet.
- She noted Attachment C for Agenda Item I distributed that evening that was not included in the packet.
- Ms. Volek noted a letter distributed that evening from Cory Oliszczak, President of the Railyard Ale House & Casino, requesting Agenda Item L3 be tabled indefinitely.
- Ms. Volek referenced a letter distributed that evening from the Department of Natural Resources and several other letters regarding Agenda Item 2.
- Ms. Volek noted that staff recommended separating Consent Agenda 1V for further discussion of the Planning Commission recommendations.
- Ms. Volek reminded the Council there would be no Agenda Review Meeting the following evening because of the five Mondays in July. She said the next Agenda Review Meeting would be held in the City Hall Conference Room at 5:30 p.m. a week from tomorrow for the August 13th agenda.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 3, 4, and 5 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.)

- JOE DWYER, SECRETARY/TREASURER OF TEAMSTERS LOCAL 190 said Local 190 represented 360+ City of Billings employees, and he would like to speak on Agenda Item 3. Mr. Dwyer stated that City Management had changed considerably since 2004 with a new City Administrator, Assistant City Administrator, and Human Resource Director. Mr. Dwyer said during negotiations there were many pertinent issues brought forward by both parties,

and both parties listened to each other and tried to understand the rationale behind each proposal. He said both parties did not agree on each issue, but respected each other's positions. Mr. Dwyer said he had been negotiating city contracts since 1997, and it was the first time there had been open and frank discussions between the two parties. He said the City team headed by Karla Stanton and Bruce McCandless, with direction from Tina Volek, understood and believed in the importance of regaining respect and trust. Mr. Dwyer asked City Council for their help and support by approving the new Labor Agreement.

- JESSICA AGUILAR, 8645 WEST FRANKLIN ROAD, BOISE, ID, said she represented Hawkins Companies and requested separation of Item T, Preliminary Minor Plat of Vista Heights Subdivision, 2nd Filing, from the Consent Agenda for further discussion. She said the item involved the Walgreen's Store located at Main Street and Wicks Lane. She said there were problematic easements for the owner and requested that the wording "These easements shall be depicted on the face of the plat" in Item 1 of the Conditions for Approval be removed and replaced with "All utilities and access easements shall be reserved," as written in the Declaration of Easements, Covenants, Conditions, and Restrictions provided to Staff. Councilmember Brewster asked Ms. Aguilar if it would be detrimental to delay the item two weeks to allow her time to make the changes and present them again to Council. Ms. Aguilar said she was trying to finalize paperwork with Walgreen's, and signature of the final plat was a critical component. She said it would be appreciated if the problem could be discussed that evening. Councilmember Brewster suggested separating the item and delaying discussion until the end of the agenda so Staff could report why the specific wording had not been included.
- RICK SELENSKY, 3625 TOMMY ARMOUR CIRCLE, said he represented HKM Engineering, Inc. and requested separation of Item V, Emma Jean Heights Preliminary Plat, from the Consent Agenda. Mr. Selensky stated a couple of conditions were placed on the plat by the Planning Board; the first condition was the park dedication, and the second condition was moving an access road 25 feet to the south. He said if a park was dedicated, there would be five parks within the area. He said he thought it would be beneficial for the City to take cash in lieu of parkland to help improve the other parks. Mr. Selensky said the reason they placed the access road where they did was because there was a 19-1/2 foot deep manhole there. He said if the access road had to be moved 25 feet to the south, another 19-1/2 foot deep manhole would need to be set. Mr. Selensky asked that the two conditions be removed. Councilmember Brewster asked if Mr. Selensky was suggesting the road be moved back to the original location. Mr. Selensky said that was correct. He said there was discussion about moving the road due to sight distance concerns at the ditch and bridge. He said a study was done at 600 feet, and there was adequate sight distance. He said moving the road to the south would not improve safety and would necessitate cutting into the sewer. Councilmember Gaghen asked what the amount of the cash in lieu of parkland would be. Planner Juliet Spaulding said the amount had not been identified. Councilmember Stevens asked if the parkland and relocating the road were both conditions Mr. Selensky wanted removed. Mr. Selensky said the park condition could be modified to say "cash in lieu" instead of "dedication"; and the location of Anchor Avenue should remain as shown on the plat.

The public comment period was closed.

CONSENT AGENDA:

1. A. **Mayor's appointments:**

Mayor Tussing recommends that Council confirm the following appointment:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Board of Ethics	07/23/07	12/31/08

1. Unexpired term of David Morales

B. **Approval** of Mutual Aid Agreement renewal with City of Laurel.

C. **Approval** of Limited Commercial Aviation Building and Ground Lease renewal with Alpine Aviation.

D. **Approval** of Non-Commercial Aviation Ground Lease renewal with First Interstate BancSystem, Inc.

E. **Approval** of Terminal Building Commercial Space Lease revision with Montana GSE, Inc.

F. **Approval** of Commercial Non-Aviation Ground Lease for a Communication Site with Gold Creek Cellular of Montana Limited Partnership.

G. **Amendments** to Emergency Operations Plan for Billings, Laurel, Broadview, and Yellowstone County.

H. **Amendment #2, W.O. 03-07 Alkali Creek Trail.** Professional Services Contract with HKM Engineering, Inc., \$168,000.00.

I. **Perpetual Right-of-Way Easement and Right-of-Way Agreement** with Yellowstone Country Club, \$40,697.00.

J. **W.O. 07-01, 2007 Water & Sewer Line Replacement Project, Schedule 2,** Right-of-Way Agreements; a Perpetual Right-of Way Easement; and Temporary Right-of-Way Easements with 11 property owners, \$1,450.00.

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

- (1) **Parcel 15:** Portion of Lot 1, Rex Subdivision, Janet Croy, \$13,750.00.
- (2) **Parcel 16:** Portion of Lot 1, Rex Subdivision, 2nd Filing, The Bird House, LLC, \$8,800.00.
- (3) **Parcel 17:** Portion of Lot 2, Rex Subdivision, 2nd Filing, The Bird House, LLC, \$13,700.00.
- (4) **Parcel 30:** Portion of Tract 1, Certificate of Survey 1682, Ron Goertzen and Alisha Goertzen, \$8,100.00.
- (5) **Parcel 39:** Portion of Lot 6, Block 1, Rice Subdivision, Linda M. Posey, \$2,250.00.

L. **Street Closures:**

(1) Billings Association of Realtors 2-Mile and 5-Mile Run, 5:00 a.m. to 10:00 a.m., August 25, 2007. Two-mile starting at MSU-B, west on Rimrock Road, south on Virginia Lane through Pioneer Park, north on 3rd Street West, east on Parkhill Drive, south on North 32nd Street, finishing at 6th Avenue North and Grand Avenue. Five-mile starting at Masterson Circle, east on Airport Road, south on North 27th Street, west on Rimrock Road, south on Virginia Lane through Pioneer Park, north on 3rd Street West, east on Parkhill Drive, south on North 32nd Street, finishing at 6th Avenue North and Grand Avenue.

(2) Billings Clinic Classic Street Party, North Broadway between 3rd and 4th Avenues North, from midnight August 24, 2007, through 5:00 p.m. August 26, 2007; and the alley between 3rd and 4th Avenues North from 9:00 p.m. August 25, 2007, through 5:00 a.m. August 26, 2007.

(3) Railyard Ale House Street Closure, August 3, 2007, 2:00 p.m. – 10:00 p.m., closing one lane in the 2500 block of Montana Avenue.

M. Approval of donation of six (6) Class A fully encapsulated hazardous material suits to the MSU-B College of Technology.

N. Approval and acceptance of donation from ConocoPhillips to the Billings Fire Department for Self-Contained Breathing Apparatus (SCBA) equipment, \$8,000.00.

O. Approval and acceptance of in-kind donation from Faith Chapel for labor and materials to paint the North Park Recreation Center handball/racquetball court walls and restrooms; install irrigation and sod at the 6th Avenue North, Grand Avenue, and Division Street intersection; and restore the middle median strip planter on South 27th Street.

P. Resolution of Intent #07-18578 to create a Tourism Business Improvement District, and set a public hearing for 8/27/07.

Q. Resolution of Intent #07-18579 to create SID 1379, King Avenue West from S. 31st Street West to Shiloh Road (water, sewer, storm drain, street, sidewalk, drive approach, and curb/gutter improvements), and set a public hearing for 8/13/07.

R. Resolution of Intent #07-18580 to create SILMD 301 (Josephine Crossing Subdivision) and **Resolution of Intent #07-18581** to create SILMD 302 (Grand Avenue, 8th to 12th Streets West), and set a public hearing for 8/13/07.

S. Second/Final Reading Ordinance #07-5424 modifying allowable driveway widths, curb cut locations from intersections, and curb cut separations on arterial roadways.

T. Preliminary Minor Plat of Amended Lots 15A, 15B, 15C, and 15D, Block 3, Vista Heights Subdivision, 2nd Filing, generally located on the northwest corner of Main Street and Wicks Lane, conditional approval of the preliminary minor plat and adoption of the Findings of Fact.

U. Preliminary Minor Plat of Trailshead Subdivision, a 4.01 acre lot generally located on the southeast corner of the intersection of Rimrock Road and Avalon Road, including the Yellowstone Racquet Club, conditional approval of the preliminary minor plat and adoption of the Findings of Fact.

V. Preliminary Plat of Emma Jean Heights Subdivision, 1st Filing, 38 lots on approximately eight (8) acres generally located on the west side of Bitterroot Drive, south of Wicks Lane, approval of variance; conditional approval of the preliminary plat; and adoption of the Findings of Fact.

W. Final Plat of Gunn Estates Subdivision, 2nd Filing.

X. Bills and Payroll

- (1) June 22, 2007
- (2) June 29, 2007

(Action: approval or disapproval of Consent Agenda.)

Mayor Tussing separated Items 1L3, 1T, and 1V. Councilmember Stevens separated Item 1H. Councilmember Boyer moved for approval of the Consent Agenda except for Items 1H, 1L3, 1T, and 1V, seconded by Councilmember Veis. On a voice vote, the motion was unanimously approved.

Councilmember Boyer moved for approval of Item 1H, seconded by Councilmember Stevens. Councilmember Stevens asked Staff how the construction schedule tied into the construction on Alkali Creek and Aronson Avenue. Public Works Director Dave Mumford said he was not sure how the construction would affect Alkali Creek, due to the recent washout. He said the construction would be ahead of the Aronson Avenue construction that was scheduled to bid in the fall. Councilmember Stevens asked Mr. Mumford how the washout on Alkali Creek would be corrected. Mr. Mumford said the section would need to be stabilized, which could cost \$1.5 million to \$2 million without new construction. On a voice vote, the motion was unanimously approved.

Councilmember Boyer moved to have Item 1L3 tabled indefinitely, seconded by Councilmember Ruegamer. The motion passed. Councilmembers Brewster and Veis voted "no".

Councilmember Boyer moved for approval of Item 1T, seconded by Councilmember Stevens. Councilmember Veis moved to place Item 1T on the regular agenda following Item 5, seconded by Councilmember Stevens. Councilmember Brewster asked Staff to be prepared to address the issues Ms. Aguilar raised earlier. On a voice vote, the motion to place Item 1T on the regular agenda following Item 5 was unanimously approved.

Councilmember Boyer moved for approval of Item 1V, seconded by Councilmember Ruegamer. Councilmember Veis confirmed with Mr. Selensky that the two conditions of concern were #4 and #8. Mr. Selensky said the Planning Board wanted to move Anchor Avenue as far south as possible for sight distance off the bridge. He said a second sight distance analysis was conducted, and 600 feet between the entrance of the bridge was far more than adequate for safety. Mr. Selensky said he had worked with the City Traffic Engineer to determine the best location. Councilmember Veis asked Mr. Selensky if he would be opposed to moving the discussion to the regular agenda, and Mr. Selensky said he would not. Councilmember Veis moved to place Item 1V on the regular agenda following Item 5, seconded by Councilmember Brewster. On a voice vote, the motion to place Item 1V on the regular agenda following Item 5 was approved. Councilmember Boyer and Mayor Tussing voted "no".

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE
#814: A zone change from Residential 9,600 to Community Commercial; Neighborhood

Commercial; Residential Professional; Residential Multi-family Restricted; Residential 6,000; Residential 7,000 Restricted; and Public on a portion of a 288.38 acre parcel of land proposed as Skyview Ridge Subdivision generally located south of Wicks Lane, west of Governors Boulevard, and north of Constitution and Kootenai Avenues. State of Montana, owner. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation).

Planner Dave Green began his PowerPoint presentation describing the property location of the zone change requests. He said the applicant was the Montana Department of Natural Resources and Conservation (DNRC), and the property had been annexed in July 2006. Mr. Green said the DNRC had conducted six neighborhood meetings on the proposed zone changes. Mr. Green said the first phase of the subdivision would include approximately one-third of the property and would run concurrently with the zone changes. He said a subdivision meeting was scheduled for that next evening at 6:00 p.m. on 4th floor of the Parmly Library where specific issues of the new subdivision such as traffic, school impacts, etc. would be discussed. Mr. Green stated the Zoning Commission held a public hearing on July 3, 2007, and approved the zone changes 3 to 1.

Councilmember Brewster stated he had spoken earlier with Public Works Director Dave Mumford about concerns with water pressure and the ability to serve the new subdivision. He said the area to the south had a water pressure problem, and the residents in that area were concerned the new subdivision would worsen the problem.

Mr. Mumford stated Terra Estates Subdivision was the area to the south. He said the water pressure was 40 lbs per square inch, which was low but still within the acceptable range. He said the low pressure problems stemmed more from the fact that it was at the dead end of the system, and water had to be pushed from the Fox Reservoir located near Skyview. Mr. Mumford said there would be two zones into the new subdivision. He said the area to the east along Governors would experience no water pressure problems, and the major portion of the new subdivision would actually benefit the area to the south. He said the system would be looped and connected through the area to the south, feeding from the reservoir from two directions. Mr. Mumford also said the City was planning to install a booster system in the future; and as the subdivision developed, the piping would be available to accommodate the booster.

Councilmember Gaghen asked Mr. Mumford when the booster system would be installed. Mr. Mumford said it would be anticipated as the subdivision was built.

Councilmember Veis asked Mr. Mumford for the location of the looping connections. Mr. Mumford said they would be in the roads coming into the subdivision at Constitution. Councilmember Veis asked if it would be part of the Subdivision Improvements Agreement, and Mr. Mumford said it would.

Councilmember Ronquillo asked Mr. Mumford how much pressure the booster system would provide. Mr. Mumford said 60 would be optimal. He said too much water pressure could create a lot of problems, especially with older homes.

Councilmember Stevens asked if there was a current connection to Governors at Castlerock School. Mr. Mumford said there was not but one was proposed. Councilmember Stevens confirmed with Mr. Mumford that permission had been given by the School District.

Councilmember Boyer said the information provided indicated there could be up to 1,139 families living in the area, and she was very concerned about overcrowding in the schools. She asked if there had been any comments from the School District. Mr. Green said they had not received any specific comments from the School District other than the potential amount of families that would live in the area. He said the anticipated build-up time for the subdivision would be ten years and hopefully within that period of time, the problem would be addressed.

Councilmember Brewster stated there was a parcel currently allocated for an elementary school north of the subdivision past Skyview.

Councilmember Boyer said she wanted the Council to take responsibility as it moved forward because she also saw transportation as a huge issue with the addition of up to 1,139 families. Councilmember Brewster said the proposed Inner Belt Loop would carry the traffic to the west end of Billings.

The public hearing was opened.

JEFF BOLLMAN, DEPARTMENT OF NATURAL RESOURCES, said he would not go into great detail and offered to answer any questions on the handout distributed to the Council that evening. He said the key point was the trust land set aside for the benefit of the beneficiary, the School District K-12 trust. Mr. Bollman showed a slide of the Master Plan approved by City Council in 1985. He said the State subdivided and created lots along the north side of Constitution and Kootenai. He also showed a slide of updated Master Plans created in 2002 and 2006. He pointed out a trail system that was a key point from the very beginning that would provide a connection between Eagle Cliffs Elementary School, Castlerock Middle School, Castlerock Park, Skyview High School, and High Sierra Park. Mr. Bollman pointed out there was approximately double the amount of parkland planned than what was required by State law. Mr. Bollman said all neighbors within a 300 foot radius were notified and four large neighborhood meetings were held. He said a subcommittee of residents was also formed. He said changes were made based on the feedback from the neighbors. Mr. Bollman said they met with the School District at least four times to talk about the different aspects of the property. He said he met with Superintendent Cops a couple of weeks ago to talk about the connection from the subdivision to Governors that would be right across from the main entrance to Castlerock Middle School. Superintendent Cops said the concern was the pressure on Castlerock Middle School from all of the developments in the Heights.

Councilmember Stevens confirmed there would be a road built from the subdivision to Governors across from Castlerock Middle School. Mr. Bollman said they intended to have the road built.

Mayor Tussing asked if the State would develop the land or just sell if after the zone change. Mr. Bollman said the intent of the State was to retain the portion of the subdivision zoned commercial and multi-family and sell the large blocks zoned single family to a developer by public auction.

Councilmember Veis asked if the parkland would be owned by the State of Montana or deeded to the City. Mr. Bollman said the large parkland in the first filing would require a park master plan prior to approval of the first filing. He said the park land would be dedicated to the City, and the City would own it.

Councilmember Brewster asked if the State would retain ownership of the land where the utility easements were located. Mr. Bollman said the transmission corridor would be dedicated to the City. He said the overhead power line would be a combination of private and part of the parkland.

DANIELLE REAGER, 3114 12TH AVENUE NORTH, said she worked for Engineering, Inc. She said she completed the update to the original traffic accessibility study for the subdivision and was available to answer any traffic questions. Ms. Reager noted since the original study was completed, there had been an overall reduction in the number of lots and changes to the proposed zoning that would prevent the number of duplexes originally planned. She said the additional access to Governor's Boulevard across from Castlerock Middle School would provide another access to the subdivision, as well as an additional opportunity for direct pedestrian access to the school.

Councilmember Brewster asked if there were any specific recommendations for Wicks and Governors to accommodate the additional traffic. Ms. Reager said the study indicated Wicks and Governors could handle the traffic generated by the subdivision. She said there may need to be timing adjustments to the signals. She said with the Inner Belt Loop Connection, the whole corridor would require additional analysis.

Councilmember Gaghen asked if there was an estimate of how the limit on the number of duplexes would reduce the number of residents. Ms. Reager said her calculations showed an overall reduction of 577 average daily trips. She said the Institute of Transportation Engineer's trip generation rates were around nine per day per single family.

NANETTE, 1206 CORTEZ, said since the area between Governors and High Sierra was only one lane, it took a long time to get through the traffic. She said by the development of phase two, there would be more traffic at the 3-way stop at Fantan and Wicks and asked if there would be additional streets coming off Wicks to alleviate some of the traffic. Nanette said the June 3rd Zoning Commission meeting was poorly scheduled for a lot of people with the 4th of July holiday.

Councilmember Brewster said that was why public hearings were scheduled at the council meetings so people could talk to the Council. Nanette asked what leverage the homeowners had for alleviating the traffic problems. Councilmember Brewer commented that zoning could not be conditioned. He said when a plat was up for review, conditions could be added to mitigate the traffic. He said when the portion of the subdivision at Fantan was improved; traffic improvements would be addressed at that time.

ERNESTO RANDOLFI, 1250 KOOENAI AVENUE, said he had participated in many of the neighborhood meetings. He said he moved into the area because of the natural beauty of the hills and the quiet environment, which would change with the development. He said the main concern was the current lack of infrastructure to handle the development, the traffic on Main Street, the crowded schools, and lack of fire and police protection. Mr. Randolfi asked the Council to reject the development until future outlying traffic areas were built. He said the development was another example of urban sprawl.

JUSTIN BEAUCHAINE, 836 CALICO AVENUE, said he agreed with Mr. Randolfi and disapproved of Item 2.

Councilmember Brewster said even if the zone change was denied, the subdivision could still develop. Mr. Beauchaine asked if the schools needed the money. Councilmember Brewster said the people who manage the trust have a constitutional mandate to maximize the revenue for the schools. He said the current use of the large acreage was to pasture six horses, and the schools were not making much money on it. They could sell the land and receive much more revenue. Councilmember Stevens commented the only way to stop development of land was to own the land.

CHRIS NELSON, 1041 CONSTITUTION, said she had worked with DNRC on the subdivision and felt the remaining issues were out of their jurisdiction. She said as the Heights continued to grow, there was still only one way in and out of the Heights. She said without further development of Wicks Lane and the Inner Belt Loop, traffic from the proposed subdivision would be forced through surrounding neighborhoods creating congestion and safety concerns for children walking to school. Ms. Nelson said the schools would become overcrowded again. She said Billings needed to be proactive and plan for long-term effects of large subdivisions. Ms. Nelson asked the Council to protect the integrity of the neighborhood and schools by making sure the proper infrastructure was in place before moving forward with a subdivision of such magnitude.

Mayor Tussing asked Staff how many structures and/or people could be anticipated in the development without the zone change. City Administrator Volek stated that information had not been calculated. Candi Beaudry, Planning Director, said Staff would work on the numbers. Mayor

Tussing commented the public needed to understand the subdivision could be developed with or without the zone change approval, and the opposition should have been to the annexation a year ago.

KEN PITTMAN, 977 CALICO AVENUE, said he had been a resident of Terrace Estates since 1980. He said the open space was the reason he had stayed in the neighborhood and loved the neighborhood. Mr. Pittman said he did not want the development in his backyard. He said there was only one way out of the Heights and that was Main Street. He said the four outlets onto Constitution would join at Hilltop where there was only one traffic control device, and he did not see how that intersection could handle the additional traffic. Mr. Pittman said the parkland shown east of Eagle Cliffs School was a gulley, and he was concerned it would end up like the parkland on Senator's Boulevard; nothing but a hillside. He said his major concerns were the lack of open space, lack of infrastructure to handle the additional population, and increased traffic.

The public hearing was closed. Councilmember Ulledalen moved for approval of Item 2, seconded by Councilmember Ruegamer. Councilmember Stevens said she attended several of the DNRC neighborhood meetings; and they worked very well with the neighborhoods. She said they worked hard to protect the rims from development and even though there may be a gulley for parkland, the area would not be privately owned; and there would be trails built in the area. Councilmember Stevens said the parks situation was looked at very closely. She said it was the consensus of the committee to locate the park in the current location with a trail for easy access to the park. She said there were numerous trails throughout the subdivision connecting to the schools. She said the zoning was mostly R9600; and the R7000 and R6000 were in the corner on the northeast side of the linear park with the trail separating it from the R9600, except for a small area along Governors, to keep the higher density development near the neighborhood commercial. She said the manufactured housing was next to the power substation. She said the roads were extensively re-done by the DNRC because people were concerned about roads running north to south through the subdivision and creating "race tracks" within the subdivision. She said High Sierra was the only continuous road through the subdivision, and it would include a roundabout.

Councilmember Gaghen asked Mr. Bollman how many neighbors attended the meetings. Mr. Bohlman said the small subcommittee meetings ranged between five to ten neighbors; and the larger meetings averaged 30 neighbors.

Councilmember Brewster added that the Heights was growing substantially, which was why the Inner Belt Loop was so important.

Councilmember Boyer said her concerns were the lack of infrastructure and that Council was approving developments that the City was not quite ready for.

Dave Green referenced Mayor Tussing's earlier question on how many structures and/or people could be anticipated in the development without the zone change. Mr. Green said taking into account 25% for infrastructure and parklands, with the current R9600 zoning there would be 775 single family lots compared to 547 single family lots under the proposed zone change.

There was no further discussion. The motion was unanimously approved.

3. TEAMSTERS LOCAL 190 LABOR AGREEMENT, JULY 1, 2007, THROUGH JUNE 30, 2010. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.) Human Resources Director, Karla Stanton, began her presentation stating the Teamsters Local 190 represented 391 City of Billings employees; the present contract had expired on June 30, 2007; both teams worked hard to re-establish trust and relationships that were strained during the last negotiations; and the Teamsters Local 190 ratified the contract on July 13, 2007. Ms. Stanton said the issues discussed were sick leave usage; the grievance process; longevity/shift differential/standby pay; health and life insurance; vacancy announcements; uniforms/shoe

allowances; the Solid Waste Ordinance on bundling brush piles; wages; alternate work schedules; certification pay/position upgrades; education pay; and several minor contract language changes. She said ten full-day sessions were held accompanied by numerous hours of research and team meetings. Ms. Stanton listed the contract changes that were agreed upon, as follows:

(1) The elimination of the Occurrence Program, which was an unsuccessful effort to reduce the sick leave abuse.

(2) The reduction of sick leave from ten to seven consecutive days to require a doctor's return to work release.

Councilmember Brewster asked if a flex program had ever been explored with sick leave where an employee would earn additional paid time off if sick time was not used. Ms. Stanton said the City had an attendance incentive program. She said if an employee worked an entire year without using sick hours, 24 hours of vacation would be put into their vacation bank; if an employee used one day of sick hours, 16 hours of vacation would be banked; and if two days of sick hours were used, 8 hours of vacation would be banked.

(3) Consideration of attendance and references in the vacancy hiring decisions, in addition to disciplinary records, skills, and experience.

(4) A memorandum of understanding allowing rest breaks for 911 center employees when workloads permitted.

(5) Secured additional hours/days for temporary/seasonal employees. The limit was increased to 1,056 hours or 182 days.

(6) A reduction of the number of steps in the grievance process. Only serious infractions such as suspensions or terminations would require the City Administrator's involvement; lesser disciplinary action would be handled through Human Resources.

(7) The transfer of seniority with an employee if forced into or absorbed by another division.

(8) A memorandum of understanding that sanitation workers not be required to pick up yard rubbish not of proper size, weight, and bundle, as required by City ordinance (75 lb., 4-foot tied bundles).

(9) CPI-U with 3% floor and 4% cap.

(10) A \$600 lump sum payment to non-probationary teamsters for the first year of the contract paid out the first pay period after ratification. Ms. Stanton said because the teamsters were such a diverse group with a wide array of levels of positions, it was more difficult to come to an overall agreement with everyone. She said the \$600 lump sum payment was a very, very fair deal for the City and the teamsters.

City Administrator Volek stated the \$600 payment would be substituted for negotiated rate increases for longevity; standby pay; shift differentials, etc.

Ms. Stanton said the total cost of the three-year contract to the General Fund was approximately 18% of the \$1.8 million, or \$330,000.

Councilmember Stevens asked if the revenues to the City were at, up, or below the CPI-U. Assistant City Administrator Bruce McCandless said an analysis could be completed of the major categories of revenue, both within the General Fund, Public Safety Fund, and other major funds, that would show the comparison to the CPI. He said without the analysis, he was not able to answer Councilmember Stevens' question. Councilmember Stevens asked how the City could continue to have contracts with cost of living adjustments. Mr. McCandless said the past six to seven years; the City had consistently held all of its operating expenses to a zero percent increase except for costs departments could not control, such as energy costs, internal service charges, insurance, etc. Mr. McCandless said capital spending had been deferred in the General Fund. He said the City was keeping pace in most of its other funds. He said personnel costs, depending on the fund, could be anywhere between 20% and 80% of the total. Councilmember Stevens said she was concerned that revenues may not be keeping pace; and at some point the City would have to

"pay the piper" for all of the deferred maintenance. Mr. McCandless said for the past five to six years the Equipment Replacement had been fully funded from the operating costs of the departments, and all of the rolling stock had been replaced in a timely manner. He said examples of maintenance being deferred were improvements to parks and some of the buildings.

Councilmember Ulledalen said he felt the City had a very attractive benefit package and asked Ms. Stanton how the City's sick leave policy and incentive program compared to similar businesses in the community. Ms. Stanton said the sick leave of 12 days per year was statute. She said Human Resources planned to provide additional supervisory training on the sick leave policy and how to identify abuse; as well as make employees more aware of the incentives for not abusing sick leave.

Councilmember Jones asked how sick leave for part-time employees was handled previously. Ms. Stanton said it had always been pro-rated but not clarified until now.

Councilmember Boyer said she was concerned with the City being able to keep up with personnel costs. She asked if the insurance costs had been examined. She said in private industry the employees were paying more and more of their own insurance expense and confirmed the City was currently at 50/50. Ms. Stanton said that was correct. Assistant City Administrator McCandless added that up until 2001, the City paid 100% of the insurance premium. He said the City was making a slow transition to make employees more health care conscious. He said the City had a large health insurance committee where a lot of self-insured issues were discussed monthly; as well as a Wellness Program that developed programs to encourage employees to stay healthier and not utilize the system as extensively as in the past. Mr. McCandless said there was also a high deductible health plan that had seen increased participation.

Councilmember Gaghen asked Ms. Stanton for the percentage of employees who abused sick leave, because she felt it was important to note that most of the City employees were dedicated and not inclined to abuse the system. Ms. Stanton said she did not have a percentage but under the previous policy, the increase in sick leave hours was staggering, which was why the change in policy was important.

Mayor Tussing asked what the CPI had been running the last couple of years. Ms. Stanton said last December it was 2.6, and in December 2005 it was 3.2. Assistant City Administrator McCandless said it had been between 3.0 and 3.5 the past couple of years. Mayor Tussing said he wanted to make sure the CPI did not generally fall below 3% so the 3% floor in the contract would be realistic.

Ms. Stanton acknowledged the union team members attending the meeting that night, who had spent countless hours negotiating the contract. Ms. Stanton also acknowledged the City's management team for their efforts negotiating the new contract.

City Administrator Volek recognized Karla Stanton and Bruce McCandless for their work on the contract negotiations. She said they both worked very hard on the contract that was fair and would take the City back to being a cooperative unit and working together again. Ms. Volek said Ms. Stanton's personality and leadership were very important segments in the negotiations.

Councilmember Ruegamer moved for approval of Item 3, seconded by Councilmember Gaghen. Councilmember Ruegamer thanked Mr. Dwyer for his very incisive and thought provoking comments. He said the comments about respect and keeping the negotiations amicable saved everyone a lot of money. Councilmember Ruegamer thanked everyone involved, especially Ms. Stanton and Mr. Dwyer, for working through the negotiations and getting it done well.

Councilmember Brewster said he was glad to see negotiations that benefit the City's good employees, and he appreciated the effort. Councilmember Jones said he appreciated the efforts of everyone involved in the negotiations.

There was no further discussion. The motion was unanimously approved.

Mayor Tussing called for a brief recess at 8:20 p.m. The meeting was called back to order at 8:30 p.m.

Councilmember Stevens said she would be recusing herself from Agenda Item 4.

City Administrator Volek referenced Agenda Item 4, the award of the contract for demolition of the existing Cobb Field, and Agenda Item 5, the award of contract for the new baseball and multi-use stadium, and recommended changing the sequence of the agenda items so as not to approve demolition of the existing Cobb Field prior to approving construction of the new stadium.

Councilmember Clark moved for approval to change original Agenda Item 5 to Agenda Item 4 and original Agenda Item 4 to Agenda Item 5, seconded by Councilmember Boyer. The motion was unanimously approved.

4. AWARD OF CONTRACT FOR THE NEW BASEBALL AND MULTI-USE STADIUM AT ATHLETIC PARK. Recommendation to be made at City Council meeting. (Action: approval or disapproval of Staff recommendation). Parks Director, Mike Whitaker, advised bids were opened on July 10, 2007, and the low bid received was from Langlas & Associates in the amount of \$11,467,000; which exceeded the Engineer's Estimate of \$10,565,000.

City Administrator Volek stated there were options available to reduce some of the items in the contract to lower costs. She gave examples of substituting lower grade light fixtures for the "prison grade" safety light fixtures; substituting powder-coated fencing for the rod iron fencing; reducing the height of all of the buildings except the administration building; substituting a ramp for the handicapped elevator; and making adjustments to sidewalks and rampways. Ms. Volek said another option mentioned was the removal of the liquidated damages of \$10,000 a day in exchange for further reduction of contract items. Ms. Volek said at that point Staff could not recommend that option and was continuing to work with the contractor. Ms. Volek said the contractor had expressed a desire to get onto the field as soon as possible. She said because the next council meeting would not be held until August 13, she asked that the contract be approved that evening; and Staff would continue to engineer the items and provide another report at the next meeting. Ms. Volek said the City would continue to work with some of the original organizations that helped raise funds for the ballpark to see if the amounts could be increased. She said there was an initial recommendation from a subcommittee of the Appropriations Committee in the US Senate to provide \$500,000 in the next federal budget that would begin October 1, 2007. Ms. Volek said there are several options available to address the funding shortfall and in the interest of moving the project forward, recommended that council approve the bid as presented.

Mayor Tussing asked if the City did not receive the federal appropriation or obtain any additional donations and was forced to reduce the cost, would it create a problem because the bid was based on the original specs. Ms. Volek said that was one reason the City could not recommend eliminating the liquidated damages. She said City Attorney Brent Brooks felt the changes presented would not make a major change in the contract and would be allowable as change orders. Ms. Volek said if the contract was re-bid, the construction of the stadium would be put off for one year.

Councilmember Ruegamer asked if items could be added back in to the project if additional funding was received. Parks Director Mike Whitaker said that would all depend on the point of construction at the time. Councilmember Ruegamer asked if the items could be added back in until at least October or November since the contractor did not plan to start until September. Mr. Whitaker said the contractor had indicated he would keep the current pricing until the first part of October. Councilmember Ruegamer asked if the decision was made to lower the buildings by two feet, could the height be changed back to the original 16 feet at a later date. Brad Sinclair with Langlas Associates said adding certain items back in would be difficult after the start of construction, but there were a number of items that could be added back in. Mr. Sinclair said it

would all be a timing issue. Councilmember Ruegamer said he had been asked several times why the project was not bid before the bonds so the cost of the construction would have been known ahead of time. City Administrator Volek said at that point, the City would have been committed to the contractor and may not have had bonds approved to fund the project. Councilmember Ruegamer confirmed with Ms. Volek that if the project was bid first, the City would be obligated to build it; and if the bond did not pass, the City would still be obligated to build it. Ms. Volek said all bids could be rejected in most circumstances; but most bids only held for 30 to 60 days, and it would take longer than that to hold an election. She said normally it was a 71-day process for the election commissioner to place an item on the ballot.

Councilmember Clark asked if the contractor would be on site the 25th of this month. Mr. Sinclair said that was correct and if the contract was approved that evening, they would be ready to get started. Councilmember Clark confirmed that start of construction was immediate and not in September or October. Mr. Sinclair said that was correct.

City Administrator Volek said there would be construction on the existing field area in September but not until after the baseball season ended. She said construction would start immediately on the corner of North 27th Street and 9th Avenue North.

Councilmember Brewster said he was confused about selling bonds first. He said the authority to sell the bonds was approved before bids were let; and asked if the bonds had to be sold before receiving the bids. Ms. Volek said she did not know if it was required; but it provided the final dollar amount. Councilmember Brewster said he was curious why we did not wait to see what the contract would cost before the bonds were sold. He said he thought we had the “cart before the horse.”

Councilmember Veis asked Mr. Sinclair what percent of the bid was based on the risk of the liquidated damages. Mr. Sinclair said in the base bid of \$11,467,000, zero dollars were put into the bid for liquidated damages. Councilmember Veis asked how many addendums were in the bid package and the nature of the addendums. Mr. Sinclair said there were four quite lengthy addendums, but he could not remember specifically. Parks Director Mike Whitaker introduced Mr. Workman from CTA, who drafted the addendums. Mr. Workman said the first two addendums were normal coordination items concerning quality control that were overlooked. He said after receiving the 95% cost estimate, the third addendum was necessary to reduce a number of items in the scope of the project. Mr. Workman said he was not sure there was a fourth addendum.

Councilmember Stevens said they were assured there would be a stadium with no frills to keep costs down. She referenced the list of changed engineered items and asked about the \$10,000 for cup holders; the upgraded toilet partitions; the \$14,500 for the interior lighting package; and the \$12,000 for electronic flush valves for toilets and urinals. Councilmember Stevens said she felt whoever wrote the specifications included some very high dollar items. She said they were promised that would not happen and asked who wrote the specifications. City Administrator Volek said the specifications were written by the architects and engineers with consultation from City Staff. She said automatic flush valves were already in place in some of the City's buildings and were a health feature. She said the vandal-proof fixtures would stand up much better than the lower grade fixtures that would be subject to vandalism. Mr. Whitaker said the general direction Staff gave CTA was to make the facility as vandal-proof as possible in an effort to maintain the assets. Ms. Volek said there had been discussion to continue eliminating some of the options even if the full federal appropriation was received or additional money was raised. She said there were plans to transfer the existing sound system and restore other items.

Councilmember Gaghen said she did not feel the stadium had “frills” and would like to see more than what was planned.

Councilmember Ruegamer said he understood Councilmember Stevens' concerns, but he did not want to have mobile homes for bathrooms and concession stands like Missoula. He said

people want a nice, clean concession stand built into the stadium. Councilmember Ruegamer said he did not feel there were any "frills" with the stadium.

Mayor Tussing said one of the issues with Cobb Field was the maintenance. He said it would not be smart to be "penny wise and pound foolish" buying items that would require higher maintenance down the road in the interest of saving money initially.

Councilmember Boyer said Billings wanted a ballpark it could be proud of. Ms. Boyer asked if cuts were currently being made. City Administrator Volek said the cuts were in negotiations and would be brought back in the form of change orders.

Councilmember Veis clarified that Council would be awarding a contract that evening for \$11,467,000 and if nothing changed, an additional half million dollars would need to be raised over the next nine months or cuts would need to be made.

Councilmember Boyer asked about the certainty of receiving the \$500,000 federal money. City Administrator Volek said it had passed out of the subcommittee to the Appropriations Committee.

Councilmember Veis asked for clarification that if the federal appropriation came through, the bid could go forward as written. Ms. Volek said that was correct.

Councilmember Veis moved for approval of the contract award for the new baseball and multi-use stadium at Athletic Park, seconded by Councilmember Clark.

City Attorney Brent Brooks referenced his letter to the second low bidder included in the Friday packet. He said there was a protest from the second low bidder indicating there were bid submission irregularities sufficient enough to disqualify the low bidder. He said his letter was self-explanatory but wanted to make sure Council was aware of his recommendation to reject the protest prior to approving the award of contract and possibly include it in the motion. Councilmember Veis said he would be happy to include what Attorney Brooks said in his motion. Councilmember Clark, as the second to the motion, concurred.

Councilmember Ulledalen said he made a presentation to about 30 people in his Ward the previous week and received feedback that people wanted a nice facility and did not want to see it "junked down."

Councilmember Jones moved to accept Alternate Bid #9 and accept Alternate Bid #3 in the quantity of six, seconded by Councilmember Clark. City Administrator Volek asked for clarification that the alternates were the original alternates that were part of the bid. Councilmember Jones confirmed they were.

City Administrator Volek asked Mr. Whitaker to clarify the two alternates. Mr. Whitaker said Alternate #9 was the reduction from 'A' lighting to rookie level lighting. Councilmember Jones said the alternate stated 'AA' lighting. Mr. Whitaker said the base bid was for 'A' lighting, which was one step above the rookie level. Mr. Whitaker said Alternate #3 was for shade structures at \$14,300 per structure.

Councilmember Jones advised accepting Alternate Bid #9 and Alternate Bid #3 in the quantity of six would provide shade covers, as well as provide the appropriate lighting for the level of play. Councilmember Veis verified the action would be a "revenue neutral switch." Councilmember Jones said that was basically correct.

Councilmember Stevens asked for verification that the \$14,300 was for just one structure. Mr. Workman confirmed the amount was correct per structure.

Mayor Tussing asked if the lighting would be able to accommodate an 'AA' team. Councilmember Clark said that would be quite a ways in the future, and the lighting could be changed. Mr. Whitaker said the lighting would have to be substantially re-engineered.

Mayor Tussing confirmed the amended motion was to accept Alternate #9, which deducted the lighting in the amount of \$93,000; and accept Alternate #3, which included six shade structures, in the amount of \$14,300 each.

Councilmember Stevens asked for verification that Alternate #3 included the support structures and the shade structure. Mr. Whitaker confirmed it included the total unit.

The amended motion was unanimously approved.

The motion to approve the contract for the new baseball and multi-use stadium, as amended, was unanimously approved.

5. AWARD OF CONTRACT FOR DEMOLITION OF EXISTING COBB FIELD. Staff recommends approval of the contract with Magnum Contractors LLC in the amount of \$198,500.00. (Action: approval or disapproval of Staff recommendation). City Administrator Tina Volek stated there was no staff presentation, and Mr. Whitaker was available to answer any questions.

Parks Director Mike Whitaker advised there were two bidders for the demolition of Cobb Field. He said Magnum was the apparent low bidder at \$198,500; and the Engineer's Estimate was \$250,000. He said Magnum was the same contractor who demolished Athletic Pool in a very timely, inexpensive manner.

Councilmember Veis asked if there were any recommendations for any of the alternates. Mr. Whitaker said the project was bid to determine the value of the lights and the cost of taking them down. It was determined if the American Legion Baseball organization accepted the lights, it would save the City \$4,500. If the organization did not take the lights, the City would need to add another \$6,000 to the base bid. He said the past steering committee recommended giving the lights to the American Legion Baseball organization, and their recommendation would be made at the next Council meeting.

Councilmember Clark stated the American Legion Baseball organization would be taking the lights to Pirtz Field at Stewart Park. He said they would take down the poles and the lights. He said they would not use the poles, but would take them down and haul them away.

City Attorney Volek stated it was an attempt to determine the value of the items and if it would be more cost effective for the City to allow the low bidder to salvage the items or to allow them to go out into the committee. She said it was determined that it would be more cost effective to take them out into the community. She said another alternate was the value of the aluminum bleachers; and it was determined the bleachers would be recycled; some would still be used in the current stadium and some would be made available to the public for use by other ball teams.

Councilmember Veis asked about the removal of the infield sod and red infill dirt. Mr. Whitaker stated the American Legion Baseball organization and a little league organization requested the sod and in-fill dirt; so the City would not need to remove it.

Councilmember Brewster asked if there was any interest in selling the bleachers as souvenirs. Mr. Whitaker said the Parks Department would remove the bleachers and hoped to reuse 60% of them at the new facility. He said once it was known what the needs would be, the future of the remaining bleachers would be up to the Council to decide.

Councilmember Brewster moved for approval of the contract for demolition of the existing Cobb Field, seconded by Councilmember Gaghen. City Administrator Volek said she would like to thank Parks Director Mike Whitaker and his staff, as well as the steering committee, for their hard work. The motion was approved. Councilmember Stevens recused herself from the vote, due to a conflict of interest.

Consent Agenda Item 1T - Discussion continued on Consent Agenda Item 1T that was moved to the end of the regular agenda. Jessica Aguilar with Hawkins Companies, 8645 W. Franklin Road, Boise, ID, said she met with staff during the meeting and received clarification on some of the requirements of the preliminary minor plat of Vista Heights Subdivision. Ms. Aguilar said there was

a miscommunication on her team's part; and she now concurred with Staff's recommendation to approve the plat, as presented.

Councilmember Stevens moved for approval of Consent Agenda Item 1T, seconded by Councilmember Ronquillo. The motion was unanimously approved.

Consent Agenda Item 1V – Discussion continued on Consent Agenda Item 1V moved to the end of the regular agenda. Planner Juliet Spaulding said Emma Jean Heights Subdivision was located in the Heights off of Bitterroot Drive. She said the proposal was to create approximately 40 lots in the first filing and approximately 200 lots in the entire subdivision. She said the two issues brought forward by the developer's agent were parkland requirements and the location of Anchor Street off of Bitterroot Drive. She said there was a proposed 20-foot wide linear park following the BBWA as it crossed the property. She said within the 20-foot wide parkland, the developer proposed to construct a 10-foot wide multi-use path built to City standards. Ms. Spaulding said the Planning Board reviewed the proposal and would like to have the developer and the Parks Department add a 2.8 acre centralized neighborhood park. Ms. Spaulding said the developer preferred to provide cash in lieu of the parkland, and the Parks Department agreed with the developer, as there were already three other neighborhood parks within a one-mile distance. Ms. Spaulding said the developer and the Parks Department felt the area could be served by the three other parks, and a cash contribution could be used to provide enhancements to the existing parks rather than establish another smaller park that would not be developed until a later date.

Councilmember Boyer said she would like to hear the comments made by the Planning Board. Ms. Spaulding said the parkland was not heavily discussed; however, some of the neighboring residents felt the potential of adding approximately 200 households would add too much use to the existing parks. Ms. Spaulding commented the existing parks could be enhanced with the cash contribution.

Councilmember Veis asked if Item #8 of the Conditions of Approval normally stated "the remaining required parkland dedication shall be met through a dedication of land or cash in lieu" or did it usually just state "cash in lieu"? Ms. Spaulding said normally a condition of approval would not be added if the Planning Board agreed with what was proposed, which was approximately 1.5 acres of linear park and the remainder in cash in lieu. She said Council's options would be to go with the Planning Board's recommendation to keep Condition #8, or remove Condition #8, or approve another combination.

Councilmember Brewster asked if the BBWA had agreed to accept the property and if they currently had an easement. Ms. Spaulding confirmed the BBWA had an easement, and they would be deeded a 40-foot swath, along and including portions mainly to the south of the ditch. Councilmember Brewster asked if the BBWA had agreed to maintain the property. Ms. Spaulding said to her knowledge they had agreed to accept the property but she was unsure about the maintenance. Councilmember Brewster said the ditch companies maintain the inside of the ditches but have a poor record maintaining the banks of the ditches.

Councilmember Stevens referenced the handout received that evening. She said the handout stated the subdivision regulations indicated consideration was given to the preference of the subdivider as far as cash in lieu versus land dedication. Ms. Spaulding said it was a statute of State Code, as well as the local code. She said it stated the developer's preference should be considered, but it did not state it was the only consideration.

Councilmember Boyer asked to address the letter from the Heights Community Development Task Force. She said the letter talked about the 20-foot right-of-way along the BBWA and their concern with no fence along the bike path between the subdivision and the ditch. Ms. Spaulding said she had not discussed the issue with the task force, but there were comments about the fence at the public hearing of the Planning Board. She said the Parks Department Staff

was hesitant to force the issue of a fence because there was a 50-foot buffer between the location of the trail and the water.

Ms. Spaulding said the second issue brought forward by the developer's agent was the location of proposed Anchor Avenue, which was the only access onto Bitterroot Drive. She said there was approximately 450 feet between a bridge crossing the BBWA and approximately 300 feet to Erin Street to the south. Ms. Spaulding said there were earlier discussions with the developer, design crew, and the City Traffic Engineer, and it was determined alignment with Erin Street would create a street that backed up to existing homes in the County, which would be undesirable; and create a through street to Hawthorne Lane that would increase speeds and cut-through traffic. There was concern from the Planning Board and members of the public that there would be a site distance issue, so the project engineer conducted a site study. The return results were 600 feet to the north of clear vision, and the City Traffic Engineer felt that was sufficient for the existing posted speed. The Planning Board recommended in Condition #4 that Anchor Avenue be moved as far south as possible, which would be approximately 25 feet. Ms. Spaulding said there was an existing sanitary sewer manhole in the proposed location of Anchor Avenue, and one would need to be added if Anchor Avenue were moved.

Councilmember Veis referenced Condition #4 and confirmed with Ms. Spaulding that the farthest extent possible was only another 25 feet. Ms. Spaulding said that was correct and said Condition #4 was not as clear as it could be. Councilmember Veis asked if it was the Planning Board's idea that it would be placed between Lots 14 and 15. Ms. Spaulding said it was the Planning Board's idea that the lots would need to be reconfigured. Councilmember Veis asked Ms. Spaulding if the discussion talked about being at least 125 feet north of the curve. Ms. Spaulding said it did.

Councilmember Brewster said he did not understand the conflict with abutting the street to Erin. He said it would be a through street anyway. Ms. Spaulding said the City Traffic Engineer said there would not be a warrant for a traffic signal. Councilmember Brewster suggested a four-way stop.

Councilmember Veis asked Mr. Selensky what the potential configuration of Lots 13, 14 and 15 would be if Anchor Avenue was moved 25 feet to the south. Mr. Selensky said the storm would need to be reconfigured on the southeast corner, and Lot 13 would need to be as large as Lot 14. He said Lots 13 and 14 fully contained the storm water and would be restricted for sale until the Bitterroot storm drain was constructed. Mr. Selensky said aligning Anchor Avenue with the sewer manhole was another big concern. Councilmember Veis confirmed there was a sewer manhole located where Anchor Avenue was currently located. Mr. Selensky said there was a 19-1/2 foot deep sewer that became shallower as it went south. Councilmember Veis asked Mr. Selensky if they would hit the sewer if Anchor Avenue was moved south. Mr. Selensky said there was no sewer on Hawthorne to tie in to, and there was a shallow sewer on Shannon.

Councilmember Stevens confirmed that Anchor Avenue was placed so there would be a tie in to the existing sewer manhole located in Bitterroot. Mr. Selensky said that was correct. She asked if another manhole would need to be added if Anchor Avenue was moved to the south. Mr. Selensky said that was correct, and it would become shallower going south. Councilmember Stevens asked Mr. Selensky if they would still have gravity feed. Mr. Selensky said they would not to the northwest corner of the subdivision.

Councilmember Gaghen moved for approval of the requested variance from BMCC 23-406, conditional approval of the preliminary plat of Emma Jean Heights Subdivision, 1st filing, and adoption of the Findings of Fact as presented in the staff report, seconded by Councilmember Veis.

Councilmember Veis moved to strike "*the remaining required parkland dedication shall be met through a dedication of land. Parks shall be shown on an updated master plan and shall be reviewed and approved as to location by the Parks, Recreation and Public Lands Department prior*

to final plat approval" stated in Condition #8. Mayor Tussing confirmed the motion was to accept payment in lieu of dedicated parkland. Councilmember Veis said that was correct. The motion was seconded by Councilmember Ulledalen.

The amended motion failed 9 to 2 on a roll call vote. Councilmembers Ronquillo, Gaghen, Stevens, Brewster, Ruegamer, Boyer, Jones, Clark, and the Mayor Tussing voted 'no'. Councilmembers Veis and Ulledalen voted 'yes'.

Councilmember Veis moved to strike Condition #4 moving Anchor Avenue south to the furthest extent possible and leave it as shown on the plat, seconded by Councilmember Stevens.

Councilmember Ronquillo asked Public Works Director Dave Mumford if removing Condition #4 would affect the City in any "way, shape, or form". Mr. Mumford said it would not.

Councilmember Veis said he understood the traffic concerns but the 25 feet would cause major engineering problems for the subdivision. Councilmember Brewster said it would be better off on the property line of the adjacent lots across the street, and he could not understand why it was such a big deal to solve the problem. Councilmember Ulledalen said he would vote no because he did not feel it would be that big of an inconvenience to move the street 25 feet.

The motion to remove Condition #4 passed 6 to 5 on a roll call vote. Councilmembers Gaghen, Brewster, Ruegamer, Ulledalen, and Boyer voted 'no'. Councilmembers Ronquillo, Stevens, Veis, Jones, Clark, and Mayor Tussing voted 'yes'.

The original motion, as amended, was approved 9 to 2. Councilmembers Brewster and Ulledalen voted 'no'.

6. 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.)

- TOM ZURBUCHEN, 1747 WICKS LANE, urged the Council to take money from the new subdivisions to pay for their own infrastructure improvements. He said existing older homes should not be paying for the infrastructure expense of new subdivisions. Councilmember Stevens stated Council had taken the steps to review impact fees. She said a Cost of Services Study was being conducted, which was necessary before impact fees could be assessed. She said the process needed to be started slowly and done correctly.

Council Initiatives

- VEIS: Advised that Ms. Volek, Mr. Mumford, Councilmember Ronquillo, and he had met with Bruce Barrett, Bill Kennedy, and Secretary Lynch to talk about the traffic signal at Zoo Drive and Gabel Road. Councilmember Veis said he felt the best option was to move forward with what had been currently negotiated with MDT because it would be the quickest way to get a light installed. Councilmember Veis said he would like to see the Council take a harder line with MDT's requirements of the City that have slowed projects to a crawl. He said it needed to start at the Council level and not at staff level.
- BREWSTER: Moved to direct staff to begin the process of moving the Salvation Army property on 6th Street into the Central Business District, seconded by Councilmember Ruegamer. He said the Salvation Army would like to build a youth center, and being part of the Central Business District would help resolve most of the problems they have with parking and building placement. APPROVED
- RUEGAMER: Moved that wording be put on the November ballot providing the voters the opportunity to instruct Council to issue a public resolution to end the war in Iraq, seconded

by Councilmember Gaghen. Councilmember Ruegamer said Butte and Missoula had issued a resolution, and he was asked to bring it to the Council. MOTION FAILED.

- RONQUILLO: Stated the new aggressive solicitation ordinance needed to be more heavily enforced by the Police Department. He said the transients were vandalizing property and becoming a huge problem. Ms. Volek said she would consult with the Police Department about possible solutions and report back to Council.

ADJOURN – The meeting adjourned at 10:10 p.m.

THE CITY OF BILLINGS

By: _____
Ron Tussing, Mayor

ATTEST:

By: _____
Cari Martin, City Clerk