

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

**March 8, 2010**

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

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

**MINUTES:** February 22, 2010, approved as distributed.

### **COURTESIES:**

- Deputy Police Chief Tim O'Connell and Tim West, State Coordinator of the Internet Crimes Against Children (ICAC) Task Force presented a plaque to Maggie McDonald and Randi Friez of Bresnan Communications in recognition of its support of the ICAC Task Force.
- Boy Scout Troup #10 leaders and Scouts in attendance introduced themselves.

**PROCLAMATIONS:** None

### **ADMINISTRATOR REPORTS - TINA VOLEK**

- Ms. Volek advised that letters were being circulated for Council signatures that would be taken to Washington DC and given to the Montana Legislative Delegation when Ms. Volek and Councilmembers met with them during the coming week.
- Ms. Volek advised that a revised easement with Morningside Homeowners' Association for Item 1E was distributed to Council that evening. City Attorney Brent Brooks explained that the revised version was what Council needed to act on that evening. Public Works Director Dave Mumford explained that the revisions were minor and concerned a request by homeowners for a guardrail. He noted that the homeowners had signed the revised agreement. Ms. Volek noted that the revised agreement was available for public viewing in the ex parte notebook at the back of the room.
- Ms. Volek advised that a memo from Fire Chief Paul Dextras regarding Item 3, the bid award for purchase of two quick response vehicles, was sent in the Friday Packet and was also available for public viewing in the ex parte notebook at the back of the room.
- Ms. Volek advised that Council received a potential add-on item regarding a statement of interest to the National Endowment of the Arts for Artspace. She explained that there was no financial obligation to the City and the statement of interest was a first step to become eligible to apply for a grant. She noted that a three-fourths vote would be required of council to add the item, and requested

adding the item as #5 of the Regular Agenda. Ms. Volek stated that the item was available for public viewing in the ex parte notebook at the back of the room.

Councilmember McCall moved to add the NEA Statement of Interest item to the agenda as Item #5 on the Regular Agenda, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #3, #4-1,**

**#4-2, and #5 ONLY. Speaker sign-in required.** (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.)*

The public comment period was opened.

- **Rick DeVore, 2614 Park Ridge Lane N.**, said he was the District Manager for Montana District One Little League and requested support for Council Contingency Funds for a water meter at a new ball field being constructed at Centennial Park. He reported that the league received a \$99,000 grant and had raised an additional \$87,000 for the project.

Mayor Hanel expressed appreciation for the time and effort the league had put into the City's ball parks.

- **Julie Guarino, 1537 Westchester Sq. E #4 and Joe Stout, 751 Lewis**, said she and Joe were from the Downtown Billings Association and spoke in support of the street closure for the Purple 5K Run and Downtown Crit to benefit the Spare Change for Real Change Program.
- **Dan Cottrell, 3415 McGirl Road**, said he was President of the Billings Firefighters Association, IAFF Local 521 and expressed concern about purchase and implementation of quick response vehicles. He said the firefighters were concerned with the safety of the firefighters and the public, and the economic impacts of the proposed experimental project. He said the large fire trucks were used because firefighters were called to many different types of emergencies and it was necessary to have the tools necessary to mitigate whatever situation arose. He provided a brief explanation of the differences between QRVs and the full-sized trucks. He said they had been told QRVs would save money over time, but had yet to receive any supporting documentation. He said they had grave concerns about the financial impact of the trucks and felt the purchase of the vehicles would help create an even larger budgetary hurdle that would have to be overcome in the near future. He stated that the program was not well-thought out, and was not supported four years ago by past Fire Department administration.

Councilmember Ulledalen stated that a lot of businesses made decisions like that and that he was asked by community members why the \$400,000 truck was being sent to calls when it was not needed. He advised that he felt the taxpayers thought the smaller vehicles made fiscal sense, and asked Mr. Cottrell why he felt it did not. Mr. Cottrell said the numbers had not been produced for them.

Councilmember Ulledalen stated that the City was facing a budget crisis and needed to figure out how to execute its mission. He said people were saying that with EMS calls, the \$400,000 vehicles were being turned over sooner than in the past, and it made sense to use the smaller vehicles to stretch the capacity of the larger trucks. Mr. Cottrell advised that he was not aware the trucks were being replaced at a faster pace than what was set in the Equipment Replacement Plan. He said he felt it would make sense to have some numbers that proved the concept saved money and asked if it was the right time to spend \$300,000 plus to save some minimal fuel and maintenance costs.

Councilmember McFadden asked if the Fire Department needed any new vehicles whatsoever. Mr. Cottrell stated that his job was to drive them, and his perception was that they were sound, well-maintained pieces of equipment. He said even though the trucks were used for EMS calls, what happened with the EMS call or after them was the firefighters' concern.

Councilmember Gaghen asked how often firefighters were called to another call while on an EMS call. Mr. Cottrell said he did not have a percentage, but in his mind, even once without the necessary equipment would not be acceptable.

Councilmember Ruegamer said he felt it was a good point that numbers were needed, but Mr. Cottrell did not have the numbers Councilmember Gaghen just asked for, yet he asked the Council to take his word for it and he was not taking Chief Dextral's word. He commented it was a money issue that had to be weighed with a risk issue, and there was always risk. Mr. Cottrell agreed and said minimal risk should be taken with the resources available.

Councilmember Astle advised that he had been asked by at least three different citizens which law required the Fire Department to respond to EMS calls. Mr. Cottrell responded that he was not aware of a law but felt it was the right thing to do.

- **Joe Sands, 530 S. 27th St. and 2512 Terry**, distributed an informational packet to Council. He said he wanted to express his discontent with a QRV concept, which was a failed concept from the 1980's. He said it was not fiscally sound or politically right for the City. He referred to the Council's reluctance earlier in the year to approve replacement vehicles for the Police Department due to the coming budget crisis. He reviewed previous testimony from former Fire Administration against the concept. Mr. Sands reviewed three letters contained in the informational packet that were not in support of quick response vehicles. He said a vote for the QRV's would cost more than \$250,000 budgeted by the ERP Committee, \$60,000 of supplemental budget requests to equip the vehicles, and \$28,000 to equip the vehicles with radios. He said the total cost of the two QRV's was just below \$400,000, and two full-sized pumbers were recently purchased for \$408,000 each. He said that money could be better used somewhere else. He said the evidence in the packet was that quick response vehicles decreased response capabilities, increased response time, and reduced firefighter and citizen safety.

Councilmember Ulledalen asked if a mini-pumper was different from a QRV. Mr. Sands explained that they were the same thing.

Councilmember McFadden asked how well equipped the smaller vehicle would be to extricate a vehicle accident victim. Mr. Sands advised that no

extrication equipment was planned for the QRV, unless Fire Administration changed its plan.

Councilmember McCall asked Mr. Sands if he had checked national statistics with other communities besides the two referenced in his informational packet. Mr. Sands advised that he could not find another community the size of Billings that used quick response vehicles. Councilmember McCall asked Mr. Sands to explain why the quick response vehicles were more successful in larger cities. Mr. Sands explained that the vehicles were used in Seattle solely to respond to medical aid calls and were 100% staffed separate from the engine and truck company. He added that in response to Councilmember Gaghen's question, he recalled a busy night when he spent 12 hours on the fire truck without returning to the station.

Mayor Hanel asked if anyone had compared fuel mileage. Mr. Sands advised that another person would provide that information during his testimony.

Ms. Volek asked Mr. Sands if the new truck he referenced that was purchased for \$408,000 was fully equipped, including a radio. Mr. Sands responded that the equipment was transferred from the truck that was replaced and the cost included the radio.

- **James Dershian, 2222 Elsa Drive**, suggested the Council ask questions regarding the fiscal responsibility and whether the QRVs were experimental. He said the Council should ask about savings and how long it would take to realize the savings. He expressed his concern if a fire occurred at his house and a QRV was dispatched to it. He stated that he did not think the trucks were good for the City.

Councilmember Clark advised that four fire trucks would be dispatched to Mr. Dershian's house if a fire was reported. Ms. Volek advised that less than 1% of the Fire Department's calls were for structure fires, and 70% of the calls were for medical assistance.

- **Kevin Bentz, 3038 Canyon Drive**, asked for a 'No' vote on the quick response vehicles. He said there were no cost savings to the vehicles. He advised that Chief Dextras stated that the vehicles would result in fuel savings, but his own research found that claim to be without merit. He explained that fuel costs were one-half of one percent of the Fire Department's budget and it seemed to him that using fuel savings as a valid reason to buy QRVs was a ridiculous argument. He said he hoped the Council would not put the lives of citizens and firefighters on the line by reducing the effectiveness of an already understaffed fire department.
- **Jack Nickels, 943 N. 19th**, explained he was a volunteer for Artspace project. He provided a brief review of the process and timeline to submit a statement of interest and the grant application, if invited to apply. Mr. Nickels explained the work that had been done during the past three years and how Artspace worked to address the need to provide affordable housing and work space for artists or art organizations. He noted that the City had not been asked to commit any funds; the required match would be sought from private and other public funds and would not be a tax burden. He added that it would be taxable property when completed. He said a study was conducted that indicated the need for 35-45 units that were about 1500 square feet in size.

Councilmember Ulledalen asked if Mr. Nickels was talking of rehabilitating an existing building. Mr. Nickels explained that there were potential buildings when the

project started two years ago, but they had been sold since then, so it would probably be an old building that was revitalized with new construction, or totally new construction.

Councilmember McCall asked if there were other communities in the state that considered the same type of thing. Mr. Nickels advised that Bozeman and Missoula were interested.

Councilmember McFadden asked what advantages there were to the program because it seemed like it was just offering cheap rent downtown. Mr. Nickels explained that only qualified, practicing artists would be eligible for the housing and the intention was to have a common area available for public use.

Councilmember Ruegamer stated that he did not feel that Mr. Nickels answered questions regarding the scope, location, and advantages. He asked if there was a definite plan. Mr. Nickels explained that there was no building in mind until the design work and site selection was done. Councilmember Gaghen suggested having a more detailed presentation at a future work session.

- **Shari Nault, 732 Burlington**, advised that an economic impact study of the arts found that Montana had more artists per capita than New York City. She said she thought the Artspace project was good business and hoped the Council would consider it.

Councilmember McCall asked Ms. Nault if Big Sky Economic Development Authority was involved in the project. Ms. Nault said it was not involved, but was supportive of it. She said it was a volunteer effort.

Mayor Hanel asked what would be required of City staff for the statement of interest. Ms. Nault said the only burden on City staff would be a signature requirement.

- **Bob Golubski, 3540 Duck Creek Road**, said he was Secretary-Treasurer of Billings Firefighters Local 521. He reported that when the discussions about the QRV program began in the fall of 2008, firefighters asked about costs and return on investment. He said Chief Dextras did not have figures then because it was a pilot program. Mr. Golubski stated after that, Ms. Volek informed them that the ERP Committee recommended approval, but she did not have figures available. He reviewed data used to determine that fuel savings would be about \$3800 per year and it would take 63 years to pay off the QRVs. Mr. Golubski stated that upon hearing those figures, Councilmember Ruegamer stated that it may not be the economically right thing to do, but it was the politically correct thing to do due to citizen inquiries about the larger trucks responding to medical calls. Mr. Golubski said they believed the money would be better spent educating the citizens about the firefighter duties and the needs for the fire trucks. He said Councilmember Ruegamer indicated that he would look into the costs and the projected payoff for the program, and would provide the information prior to the bid approval, which was scheduled for that evening. He asked if the figures were available. Mr. Golubski stated that he felt the politically correct thing to do was to be fiscally responsible with taxpayer dollars and vote against the vehicles.

Councilmember Astle asked Mr. Golubski if he was in the Fire Department under the previous chief. Mr. Golubski said he was. Councilmember Astle referred to one item contained in the information provided by Mr. Sands that indicated that

former Fire Chief Marv Jochems was not in favor of the smaller trucks. He asked if it was true that the firefighters approved a vote of "No Confidence" in Mr. Jochems before his retirement. Mr. Golubski said they did, and offered to explain further, but Councilmember Astle told him that was not necessary.

- **Dennis Ulvestad, 3040 Central Avenue**, stated he was present to support and reiterate the testimony of the firefighters. He asked if there were enough firefighters to operate two quick response vehicles and engine trucks at the same time; how the Council could start a new program for that amount of money when the City was in a budget crisis; and the makeup of the ERP Committee. Ms. Volek explained the membership of the ERP Committee and the process followed. Mr. Ulvestad asked why two new vehicles were being purchased when the ERP was for city-wide vehicle replacement. Mayor Hanel advised Mr. Ulvestad that the Council was not compelled to answer his questions; that it was his time for public comment on the issue. Mr. Ulvestad suggested putting the issue out to a vote by the public so residents could decide. He suggested the Council vote 'No' on the motion.

Ms. Volek advised that an election would cost approximately \$40,000. She added that new vehicles were included as part of the vehicle replacement process.

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

## 1. **CONSENT AGENDA**

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

1. **W.O. 09-13 Staples Redundant Water Main – BBWA Canal Crossing.** (Opened 2/23/10). Recommend Four Beers, Inc., \$73,670.00
2. **W.O. 10-04 2010 Accessibility Ramps.** (Opened 2/23/10). Recommend J & J Concrete, Inc., \$179,675.00
3. **Chemicals -- Polyaluminum Hydroxychloride (PACL) for Water Treatment Plant.** (Opened 2/9/10). (Delayed from 2/22/10). Recommend Kemira Water Solutions, Inc., \$ 0.367/lb for rail delivery; \$0.387/lb for truck delivery; \$0.60/lb for tote delivery.

### B. **Professional Services Contract** for W.O. 10-11, Water Treatment Plant High Service Pump Station H2-1 Replacement, HDR Engineering, Inc., not to exceed \$75,600.00.

### C. **Approval** of Encroachment Permit to cross the Billings Bench Water Association Canal at the west end of Parkhill Drive for W.O. 09-13, Staples Redundant Water Main, \$1,542.00.

### D. **Recommendation of approval** to the Policy Coordinating Committee for Amendment III of the 2010 Transportation Improvement Program.

**E. Easement** with Morningside Homeowners' Association for the move of Alkali Creek and stabilization of Alkali Creek Road; \$127,480.50. **Delayed from 2/22/10.**

**F. Appointment** of Adam Kimmet of Cellular Plus to the Ad-Hoc Committee on Distracted Driving.

**G. Street Closures:**

1. **St. Patrick's Day Parade and Celtic Street Fair**, March 13, 2010. Parade: 9 a.m. - 12 noon, established downtown parade route; street fair: 7 a.m. - 2 p.m., North Broadway between 1st Ave. North and 3rd Ave. North.
2. **Yellowstone Rimrunners Shamrock Run**, March 14, 2010, 12:30 p.m. - 1:45 p.m., beginning at 3rd Street West and Avenue B; north on 3rd Street West; west on Parkhill Drive to Nordbye; turning around going east on Parkhill; right on 3rd Street West; ending at Pioneer Park.
3. **Hope 2 One Life, Inc. World Water Day Walk**, March 20, 2010, 7:30 a.m. - 12:30 p.m., beginning at the MSU-Billings Campus (1 mile walk will remain on campus) heading west on Marbara Lane to Virginia Lane; north on Virginia Lane; west on Park Lane; south on Highwood Dr.; east on Woodland Dr.; north on Raymond Place; east on Highland Park; north on Virginia Lane; east on Marbara Lane; through the campus using the tunnel at 27th Street to Mountain View Blvd.; south on 27th Street; and ending at the MSU-Billings Campus.
4. **Downtown Billings Association Purple 5K Run and Bicycle Race**, March 27, 2010, **5K run:** 8 a.m. - 12 noon, beginning at Grandview Boulevard and N. 30th Street; south on N. 30th to 12th Ave. N.; west on Beverly Hill Blvd.; south on Virginia Lane; through Pioneer Park; east on Ave. C; north on 2nd St. W.; east on Ave. E; north on N. 32nd; east on 11th Avenue N.; east on N. 28th; west on 10th Ave. N; south on N. 31st; and right on 2nd Ave. N; finishing under Sky Point. **Bicycle race:** 5 p.m. - 8 p.m., beginning under Sky Point; south on Broadway to 1st Ave. N.; make a u-turn; north on Broadway to 3rd Ave. N.; make a u-turn; south on Broadway to 2nd Ave. N.; west on 2nd Ave. N. to N. 29th; north on N. 29th to 3rd Ave. N.; make a u-turn; south on N. 29th to 2nd Ave. N; west on 2nd Ave. N. to N. 30th; make a u-turn; east on 2nd Ave. N. to Broadway; finishing under Sky Point.

**H. Approval of Quarterly Report for Pledged Collateral** for First Interstate Bank Certificate of Deposit, US Bank Municipal Investor Accounts, US Bank Repurchase Account, and US Bank Certificates of Deposit.

**I. Approval of Semi Annual Investment Report.**

**J. Resolution #10-18916** authorizing expenditure of up to \$11,000 of FY2010

Council Contingency Funds for a two-inch water meter at Centennial Park for a new baseball field.

**K. Preliminary Minor Plat** of Mattson Acres Subdivision, a 1.01 acre tract of land located at 719 Mattson Lane, legally described as Lot 14, in Section 15, T1N, R26E, conditional approval of the preliminary minor plat and adoption of the Findings of Fact.

**L. Bills and Payroll:**

**1. February 9, 2010.**

**2. February 12, 2010.**

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

Councilmember McCall separated Item J. Councilmember Gaghen separated Item E. Councilmember Cimmino separated Item B and Item L1. Councilmember Astle moved for approval of the Consent Agenda with the exception of Items B, E, J, and L1, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember McCall stated she would recuse herself from Item J due to her husband's involvement.

Councilmember Gaghen referred to Item E and noted that it was a difficult issue and commendable that it came together without legal action. She commended Public Works Director Dave Mumford and Deputy City Attorney Kelly Addy for their hard work. Mayor Hanel pointed out that a revised easement was received for that item. City Attorney Brent Brooks advised that the motion for the item needed to reference the revised agreement.

Councilmember Cimmino stated she would recuse herself from Items B and L1.

Councilmember Astle moved for approval of Item B, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9-0.

Councilmember Astle moved for approval of Item E with the revised easement agreement provided that evening, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved for approval of Item J, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9-0.

Councilmember Astle moved for approval of Item L1, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9-0.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC 24-501 by adding Sections 24-312 and 24-541, allowing the City to legally authorize civilians to regulate traffic flow upon successful completion of an authorized safety course. Staff recommends approval. (Action: approval or disapproval of staff recommendation).**

Ms. Volek explained that the item was a result of inquiries about events that did not

have adequate traffic flow. She said the item had been reviewed with many of the groups that had events. Mayor Hanel advised that he knew that the same issue was a concern in many other communities.

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

Councilmember McFadden moved to amend BMCC 24-501 by adding Sections 24-312 and 24-541 on first reading, seconded by Councilmember McCall. Councilmember Astle asked about liability to the City if citizens were allowed to regulate traffic. Mr. Brooks explained that the issue was researched and the City's liability carrier MMIA indicated it could reduce, but not eliminate, the City's liability. Councilmember Pitman asked how the City would ensure the people were certified. Ms. Volek explained that it would be part of the permit process for the events. On a voice vote, the motion was unanimously approved.

**3. BID AWARD: Two (2) Quick Response Vehicles (QRV) for Fire Department. (Opened 2/23/10). Staff recommendation will be made at meeting. (Action: approval or disapproval of staff recommendation).**

Fire Chief Paul Dextras provided an overview of the quick response vehicle concept, a description of the vehicles and how they were used. He stated that he felt they were safer vehicles to operate. He advised that the Fire Department responded to approximately 10,000 alarms each year, and a majority of those alarms could be handled with the quick response vehicle. Chief Dextras stated that he tried to share the cost information internally. He explained that the ERP allocated the funds by extending the life of the larger engines, and there would be additional costs to equip the trucks with self contained breathing apparatus. He said the fuel savings was only a part of the reason he proposed the quick response vehicle. He explained that the larger trucks were designed to do a lot of things which resulted in the need for regular maintenance, and that using the QRV concept could extend the life of the larger vehicles. He explained the response procedure and staffing proposal for the QRV. Chief Dextras said he felt the QRV had a lot of validity from a safety and financial standpoint, and it made sense to match the right size vehicle with the alarm.

Councilmember Ulledalen asked how it was determined when to retire a truck. Chief Dextras explained that mileage, years of service and hours of operation were considered by the ERP Committee and a determination was made whether or not to retire a vehicle. He said the QRVs were expected to last ten years.

Councilmember McFadden asked if supervisors would be allowed to make the decision to send the larger truck to a call if it seemed necessary. Chief Dextras said the captains were given that latitude to make the decision, but would be held accountable for it also.

Mayor Hanel asked how many personnel were at each fire station. Chief Dextras stated that a majority of the stations had three assigned firefighters. Mayor Hanel asked what the minimum staffing would be on the QRV. Chief Dextras advised it was designed for a maximum of four people, but he expected a minimum of two would staff it whenever it responded to a call. Mayor Hanel asked Chief Dextras how it would be handled if another call came into a station when only one firefighter was there. Chief Dextras said it would not

be the intent to leave only one person at the station and explained how the trucks would respond in tandem. He explained that he had met with battalion chiefs about cross-staffing the larger engines.

Councilmember Astle asked if Chief Dextras knew how many hours or miles per year were put on each vehicle. Chief Dextras said he did not have that data, but believed it was probably 9-10,000 miles per year.

Councilmember Pitman asked about other calls that did not fall into the fire or medical categories. Chief Dextras said some were for grass and car fires, alarm systems, false alarms, and dealing with hazardous materials. He said a complete breakdown was included in the annual report. Councilmember Pitman asked if there would be dedicated staff on the QRVs. Chief Dextras explained how the cross-staffing would work and the types of calls that the QRV would respond to.

Councilmember McFadden said the firefighters were concerned that the salary and equipment budgets were competing. Chief Dextras explained that the equipment budget was typically for one-time expenditures, and salary expenditures were recurring.

Councilmember McCall asked if there was evidence of other communities that used the cross-staffing model, nationally or regionally. Chief Dextras said he had not interviewed other departments, but knew it was a common practice. He noted that he knew that a community in Kansas had similar calls as Billings and staffed its department with the QRV and larger vehicles. Councilmember McCall asked if the community would be less safe or if the fire department would be less effective if the QRV was not funded. Chief Dextras advised that the service would not be diminished.

Councilmember Cimmino asked if the QRV would be fully equipped. Chief Dextras explained that they were not fully equipped and items such as hoses, air packs and medical equipment would be an additional cost. Councilmember Cimmino asked how the ERP Committee allocated additional funding. Chief Dextras explained that extending the life expectancy of the larger engines allowed funds already in the ERP Program to be allocated to the QRV program. Ms. Volek provided a detailed explanation about how funds were allocated to the ERP program by department contributions over a long term. Chief Dextras advised that the QRVs were approved in the 2010 Equipment Replacement Plan.

Councilmember Pitman stated he supported the Fire Department and the EMS, and although people asked about the budgeting, his issue was if the budget crisis occurred in three years as predicted, and the City was not leaning toward the Fire Department becoming an EMS department, that the need for people would be cut back. He said it seemed like a supplement to go in that direction, versus not doing so, because in three years a different Council could decide to bail out of EMS and start slashing the Fire Department budget. Chief Dextras responded that he did not think that would be a reality because the staffing would still be needed, especially since the department's functions had become multi-dimensional, and even if EMS calls were eliminated, the firefighters would still be needed. He noted that the department was still not currently staffed to the level it should be staffed. He said by being able to respond to EMS calls, they worked in partnership with the ambulance company and in many cases, arrived on the scene prior to the ambulance.

Councilmember Gaghen asked if Chief Dextras received a copy of the informational packet provided by Mr. Sands. Chief Dextras said he did not. Councilmember Gaghen asked if Chief Dextras worked with Mike Piper from Arvada and referred to his comments about the way the QRV concept was implemented in Arvada. Chief Dextras provided an overview of the Arvada Fire Department while he was employed there and his experience

with the QRV concept.

Councilmember Ulledalen moved for approval of Item 3, seconded by Councilmember Gaghen. Councilmember Cimmino stated that she would not support the motion because it was a request for a quarter of a million dollars for two vehicles that were not fully equipped, and it seemed like the two vehicles would be purchased to respond to 10,000 emergency calls and she did not understand why further analysis was not requested for that pilot program.

Councilmember McCall stated she liked the concept but was not comfortable voting in favor of it. She said she did not see the urgency to purchase the trucks and did not think the department would be hindered without them. She said she was also concerned about the budget, and the fact that there was no valid research about where it worked. She advised she would vote 'No' for those reasons.

Councilmember Pitman made a substitute motion to postpone the item for six months until more information was obtained, seconded by Councilmember McFadden. Councilmember Astle noted that a six-month delay would take it out of the current budget year. Councilmember Pitman moved to amend the substitute motion to postpone the item for three months, seconded by Councilmember McFadden. Chief Dextras asked Council to provide specific direction through Ms. Volek regarding the additional information it wanted. He advised that the bid was likely good for only 90 days and if the concept would proceed after the postponement, it would probably have to be re-bid. Mr. Brooks advised that bid documents usually indicated that a bid would be awarded or rejected within 60 days. Ms. Volek advised that bids were opened February 23, 2010.

Councilmember Ruegamer said it sounded like there was not a lot of information available. Chief Dextras responded that he could find data regarding departments that cross-staffed and departments that did not like the concept. Councilmember Ruegamer stated that he could not find any studies on the concept. Councilmember McCall suggested searching for data from national associations.

Mayor Hanel stated that he would not support the substitute motion because he was still concerned with the availability of manpower and with the budget constraints. He said the manpower could be even fewer, not just in the fire department, in future years. He said he was concerned with staffing levels and the availability of manpower to equip, not only the current vehicles, but additional vehicles. He added that the concept of less maintenance and less overhead made sense, but from the information presented and the testimony, it seemed like it would take many years to realize a savings. Mayor Hanel stated he would also not support the original motion.

On a voice vote, the substitute motion failed 1-9. Councilmember Pitman voted 'Yes.' Councilmembers Gaghen, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, Astle and Clark and Mayor Hanel voted 'No.'

On a roll call vote, the initial motion failed 5-5. Councilmembers Gaghen, Ruegamer, Ulledalen, Astle and Clark voted in favor of the motion. Councilmembers Pitman, Cimmino, McFadden, McCall and Mayor Hanel voted against the motion. Councilmember Clark asked which side could bring an item back for consideration. Mr. Brooks advised he would consult Roberts Rules of Order and would email Council with the information. Councilmember Gaghen asked Mr. Brooks to advise if Councilmember Ronquillo would be able to make the motion since he was absent that evening.

**4. SID 1389, PUBLIC IMPROVEMENTS ON CLUBHOUSE WAY BETWEEN GREENBRIAR ROAD AND CHERRY HILLS ROAD**

- 1. Resolution #10-18917 approving sale of bonds for financing SID 1389, \$182,000.00. Staff recommends approval. (Action: approval or disapproval of staff recommendation).**

Assistant City Administrator Bruce McCandless reported that one bid was submitted that day from Royal Johnson, for 6%, for a term of 15 years. He said staff recommended approval of the sale.

Councilmember McCall moved for approval of the resolution approving the sale of bonds in the amount of \$182,000 to Royal Johnson, for financing SID 1389, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

- 2. Bid Award: SID 1389, construction of public improvements on Clubhouse Way between Greenbriar Road and Cherry Hills Road. (Opened 2/23/10). Recommend HL Ostermiller Construction, Inc., \$444,048.53. Staff recommends approval. (Action: approval or disapproval of staff recommendation).**

Ms. Volek advised that staff did not have an additional presentation but was available to answer questions. Councilmember Clark asked where the remainder of the money came from. Ms. Volek advised that Mr. Ron Hill, the major property owner, was paying off his portion of the project. Ms. Volek explained that in light of the current bond market, that procedure would be more common to ensure there was a bid on the bonds before the bid was awarded for construction. Councilmember Clark asked if chances of getting more than one bid on a small bond like that one were slim. Councilmember Ulledalen explained that due to the current bond market, it was advisable to make sure there were potential bidders before assuming there would be bidders for bonds. Councilmember Cimmino moved for approval of the staff recommendation to approve the bid award for SID 1389, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

**5. APPROVAL OF NATIONAL ENDOWMENT OF THE ARTS (NEA) STATEMENT OF INTEREST FOR ARTSPACE PROJECT FUNDING AND GRANT APPLICATION IF OFFERED. Staff recommends approval. (Action: approval or disapproval of staff recommendation).**

Councilmember Pitman asked for clarification of whether a funding match would be requested from the City. Ms. Volek explained that the request was only for the City to sign a statement of interest. She explained that the Council could authorize the Mayor to sign the statement of intent for an application, and if invited to apply, the grant application could be approved separately; or the Council could authorize the Mayor to sign both documents at this time, with the understanding that there was no City money budgeted for it. Councilmember Clark confirmed that if it went forward and a \$250,000 match was required and it went to the tax increment financing district, it would have to come back before the Council. Ms. Volek said that was correct, and explained that the old tax increment district had reached sunset, and there was not yet sufficient increment in the new district to provide that match. She said the Downtown Partnership had indicated it would like to keep working

on the issue, but would not have sufficient funding for a match until about 2013. Councilmember McCall moved for approval of supporting the NEA statement of interest and grant application if offered, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

**PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Please sign up on the clipboard located at the back of the Council Chambers.*)

- **Kevin Nelson, 4235 Bruce**, stated he would like to see enforcement efforts of the noise ordinance for loud vehicles. He pointed out that there was a railroad quiet zone and business noise was regulated, but vehicle noise from modified exhaust systems and music were ignored. He also expressed concern about the use of arterial street funds instead of tax increment funds to reimburse the Cabelas developer. He said the Council said all the incremental money and arterial street funds would be used to pay for the bond, but \$200,000 was being shifted away from the district, which only left about \$50,000 to pay for the bond. He asked where the money was coming from for the bond because the arterial street funds were being depleted. He said it would take 20 years to pay off the bond at the rate things were being done.

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

## **COUNCIL INITIATIVES**

- Councilmember Clark advised that due to the emails and comments by the landlord and realtor associations, he felt the Social Host Ordinance should be reviewed again at a work session to allow public comment. He said he did not know why people did not comment on it when it was discussed previously. Councilmember Clark moved to bring the Social Host Ordinance back to Council at a future work session for further review and to allow public comment from concerned individuals, seconded by Councilmember Gaghen. Councilmember McCall said she agreed with Councilmember Clark and felt people did not thoroughly understand the ordinance. Councilmember Astle said the issue was already hashed out with the Chief of Police and Legal staff, so he would vote against the initiative. Councilmember Pitman said the major issue was that even if people that did not know about what went on were prosecuted, the fact that those people had to defend themselves would be an expense to a landlord that did not know what went on in their rentals. Councilmember Ulledalen said he was back and forth on the issue, but it was a misdemeanor and there was some leeway. He said there was very little that could be done with an absentee landlord. He provided an example of a nice neighborhood where a house became a rental and "party central." He said it took a long time to get the problem resolved. He said he probably would not change his vote from the original issue and believed that tool was needed. Councilmember McFadden stated he felt they were getting into an area where people were expected to take legal responsibility for another person's actions. He said he was in favor of the landlord's position on that. Councilmember Clark said he felt there were people that did not

understand the ramification and it would not hurt anything to listen to those people and their problems with the ordinance. On a voice vote, the motion was approved 8-2. Councilmembers Astle and McFadden voted 'No.'

Mr. Brooks reported that he reviewed Roberts Rules of Order and had an answer to Councilmember Clark's procedural question about reconsideration. He said in that night's vote on Item #3, the 'No' votes were the prevailing side, and any of those five Councilmembers or Councilmember Ronquillo, since he was absent, could make a motion for reconsideration yet that evening or at the next regular Council meeting.

Mayor Hanel asked Police Lt. Mark Cady to provide information related to Mr. Nelson's comments about noise. Lt. Cady explained that the Police Department was complaint driven, so if they did not know about it, nothing could really be done. He said he would visit with Mr. Nelson to determine what could be done about his concerns. Councilmember Ruegamer asked if the noise had to reach a certain decibel level before it was a violation. Lt. Cady explained the criteria for a violation. Councilmember Ruegamer said his point was that it was hard to prove and enforce. Lt. Cady explained that the stereo ordinance was a little different, but still difficult to enforce or prove.

**ADJOURN** -- The meeting adjourned at 9:08 p.m.