

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 22, 2010

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th 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 Clark gave the invocation.

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

MINUTES: March 8, 2010 - approved as distributed.

COURTESIES

- Mayor Hanel read a letter from the United States Chamber of Commerce awarding the Billings Chamber of Commerce/Convention & Visitors Bureau with 5-Star Accreditation for its sound policies, effective organizational procedures, and positive impact on the community.
- Councilmember Gaghen recognized Deb Schmitt of the City's IT Department for her donation of a portion of her sales of Miche handbags to benefit cancer research.
- Mayor Hanel mentioned that Billings had been recognized in an AAA publication with a nice write-up and photographs. He said the article was brought to his attention by Councilmember Gaghen.
- Councilmember Ruegamer presented a check for \$5,980 to the City of Billings from a portion of the Kiwanis proceeds from the sale of the 'Magic City' license plates. He said the City used its portion of the proceeds to purchase trees for city parks, and the Kiwanis used its portion to fund youth programs.

PROCLAMATIONS - None

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek advised a special meeting of the Library Board was held that day regarding the sale of two city-owned lots located on Broadway to Stockman Bank. Assistant City Administrator Bruce McCandless advised the Library Board made a recommendation to sell the property and ask for first right of refusal. He advised the recommendation would come before Council for discussion purposes at the April 5 work session and as a business item at the April 12 regular meeting. Councilmember Ulledalen asked if there were timeline issues. Mr. McCandless said the timeline was tight.
 - Ms. Volek referenced Item 1G and the Letter of Interest on Council desks that evening. She said a copy was also in the ex-parte notebook in the back of the room for public view.
 - Ms. Volek referenced Item M and advised staff had asked the item be separated for further discussion.

- Ms. Volek referenced Item N, and advised there were still two vacancies that needed to be filled on the Medical Marijuana Ad Hoc Advisory Committee. She said they were currently working on filling the positions of pharmacist and medical doctor.
- Ms. Volek advised the Councilmembers who received a paper copy of Item S had received a corrected Exhibit B in their Friday packet. She said Councilmembers receiving the electronic copy were not affected. She said a corrected copy was in the ex parte notebook in the back of the room for public view.
- Ms. Volek asked that the Termination of Regulatory Agreement for West Park Village be added to the Consent Agenda as Item Y. She said a copy was in the ex parte notebook in the back of the room for public view.
- Ms. Volek advised a letter from the applicant for Item 3, Zone Change #861, was on their desks that evening and in the ex parte notebook in the back of the room for public view.

Tom Binford, Aviation and Transit Director, referenced Item 1M and explained that because of Congress' inability to approve a number of funding measures this year, they had been extending programs of 3-month increments through continuing resolutions. He said normally they received their entitlements in two blocks of funds called Program A and Program B. He said, in this particular case, they received notification the Program A funds would be available March 2, so they prepared the staff memo for tonight's meeting. He said seven days later, they were notified by the FAA who said unless the City executed the Program A grant by March 15, they would lose the grant funds. He said since Mayor Hanel was out of town, Deputy Mayor Ulledalen executed the grant documents. He said since the time Deputy Mayor Ulledalen executed the documents, many communities became upset with the Secretary of Transportation, so additional time was given to execute the grant documents, which changed the grant dates and made the document Deputy Mayor Ulledalen signed inaccurate. He said the purpose that evening was to approve and execute a new document.

City Attorney Brent Brooks referenced proposed Item 1Y and said the particular project involved the sale of no-interest bonds in order to finance the original construction of West Park Village. He said, as the result of the low-interest bonds, there was a 20-year requirement for the owners to provide a certain percentage of rent to low-to-moderate-income residents in exchange for the bonds being tax exempt. He said the West Park Village Partnership Agreement was amended to allow them to refinance once during the 20-year period from 1987 to 2007. Attorney Brooks said they intended to, once again, refinance and redeem the bonds that were originally issued. He said the agreement before Council that evening was the City simply agreeing with West Park Village Partnership that they had met the requirements during the 20-year-period to rent to low-to-moderate-income individuals and had appropriately maintained tax-exempt status of the bonds by doing so. Attorney Brooks advised the document would allow them to move forward and refinance. He said during the last week to ten days, he had received a greater sense of urgency from the lawyer representing West Park Village Partnership, who indicated a closing on a loan for the facility had been scheduled for early April and waiting approval until the next council meeting of April 12 would not have allowed them to obtain the best interest loan. Attorney Brooks advised he had modified

the agreement somewhat and added some indemnification on behalf of and to protect the City. He said the document would release them from the responsibilities they had complied with in the beginning.

Councilmember McCall moved to add the approval of the Mutual Termination of Regulatory Agreement with West Park Village to the Consent Agenda as Item Y, seconded by Councilmember Ulledalen. Councilmember Gaghen asked Attorney Brooks if there would continue to be a percentage of low-to-moderate-income housing available at West Park Village. Attorney Brooks said that information had not been provided to him. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 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. There were no speakers, and the public comment period was closed.

1. CONSENT AGENDA

A. Bid Awards:

1. **New Airport Entry and Welcome Signs.** (Opened 3/9/10). Recommend Keystone Construction; \$88,980.

B. Approval of Investment Grade Audit Contract with McKinstry; \$288,350.

C. Certified Local Government Program Grant Contract with the State of Montana Historic Preservation Office for historic preservation activities, (4/1/10 - 3/31/11), \$5,500; Local matches: City of Billings - \$1,031; Yellowstone County - \$1,000; City of Laurel - \$469.

D. CTEP Project Specific Agreement - Swords Park Trail II between Montana Department of Transportation and the City of Billings for design and construction of a hard-surfaced bicycle and pedestrian path.

E. Approval of the Scheduled Airline Operating Agreement and Terminal Building Lease with Allegiant Air, LLC for a term beginning March 1, 2010, and expiring on June 30, 2010; approximate annual lease revenue - \$28,500; approximate annual landing fees revenue - \$47,800.

F. Approval of Easement and Customer Agreement with Northwestern Energy for WO 04-26, Zone 4 Reservoir/Zone 5 West Pump Station. Easement - no cost to the City; Customer Agreement - not to exceed \$380,358.

G. Approval of City support of a Letter of Interest for the US Environmental Protection Agency Technical Assistance Grant.

H. Approval of Jacobs Consultancy Work Authorization for facility, financial, and feasibility analysis for Aviation and Transit's Car Rental Quick Turn Around Facility (\$96,500 plus reimbursable costs) and Automobile Parking Projects(\$106,500 plus reimbursable costs).

I. Amendment #1, Contract with MT Department of Transportation for FY2010 Paratransit Operating Assistance through the Federal Transit Administration Section 5316 JARC Grant Program; \$86,754.

J. Right-of-Way Easement with NorthWestern Energy for installation of electrical power for the BLM's new Wildlands Fire Station located at Billings Logan International Airport.

K. Right-of-Way Easement with Montana Dakota Utilities for installation of a natural gas line for the BLM's new Wildlands Fire Station located at Billings Logan International Airport.

L. Release of Easement along the vacated portion of Boundary Waters Circle.

M. Acceptance of Federal Aviation Administration Airport Improvement Grants for 2010; up to \$2,976,969; City Match - \$156,853. (approval to be ratified 4/12/10)

N. Approval of Medical Marijuana Ad-Hoc Advisory Committee Members.

O. Street Closures:

1. **Shrine Circus “Elephants on Broadway”**, April 6, 2010, 4:00 p.m. to 9:00 p.m., 2700 and 2800 blocks of 2nd Avenue North and 100 and 200 blocks of 28th Street North.

2. **Magic City Blues Festival**, 9 a.m., August 13, 2010, to noon, August 15, 2010, 2300-2500 blocks of Montana Avenue.

P. Second/Final Reading Ordinance #10-5505 amending the BMCC by adding Chapter 28, Articles 28-100 through 28-700, containing Sections 28-101 through 28-715, regulating the City's stormwater collection system through the development of a stormwater management program; including issuance and enforcement of private and public construction Storm Water Pollution Prevention Plans to address construction site stormwater, enforcement of adopted Best Management Practice (BMP) construction

standards, enforcement of post construction stormwater BMP maintenance, and the detection and elimination of illicit discharges.

Q. Second/Final Reading Ordinance #10-5506 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.

R. Resolution of Intent #10-18918 to construct W.O. 04-12, Alkali Creek Road Improvements, and set a public hearing for April 12, 2010.

S. Resolution of Intent #10-18919 to construct W.O. 08-21 Lake Elmo Drive-Main Street to Wicks Lane Improvements, and set a public hearing for April 12, 2010.

T. Resolution of Intent #10-18920 to construct W.O. 09-02, Miscellaneous and Developer Related Improvements, and set a public hearing for April 12, 2010.

U. Resolution #10-18921 approving City Administrator's signature authority to execute Buy/Sell Agreements for eligible, vacant, foreclosed properties up to \$150,000 for the Neighborhood Stabilization Program.

V. Preliminary Subsequent Minor Plat of Hogan Homestead Subdivision, Amended Lot 4-A, Block 5, generally described as the southeast corner of the intersection of King Avenue West and South 24th Street West. Spirit Spe Portfolio 2006-1 LLC, owner; Depierro Realty Advisors, subdivider; Sanderson Stewart, agent. Conditional approval of the plat and adoption of the Findings of Fact.

W. Final Plat Approval

1. Bellville Subdivision, Amended Lots 5 & 6, Block 1
2. Riverfront Pointe Subdivision, Amended Lots 4-19, Block 2

X. Bills and Payroll:

1. February 19, 2010
2. February 26, 2010

Y. Approval of Termination of Regulatory Agreement for West Park Village.

Councilmember Ulledalen moved to separate Item M. Councilmember Pitman separated Item N. Councilmember Cimmino separated Items F, X1, and X2.

Councilmember Pitman moved for approval of the Consent Agenda with the exceptions of Items F, M, N, X1 and X2, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Item N, seconded by Councilmember Clark. Councilmember Pitman said he had received an application from Representative Carey Smith that day to serve on the committee and submitted it to the

City Administrator and Mayor about 5:00 p.m. He asked if they could have an ex-officio member of the Police Department as part of the committee and said the Police Chief had indicated Tim O'Connell was interested. City Administrator Volek advised the ad-hoc committee section of the code provided that the City Administrator could appoint staff to assist the committee, and they would certainly have someone from the Police Department appointed. Councilmember Ulledalen said he was expecting information on a possible pharmacist, but had not received it to date. Ms. Volek advised Councilmember Ulledalen had also provided the name of a physician who had been contacted. On a voice vote, the motion was unanimously approved.

City Administrator Volek advised that Council needed to vote on Item M since it had been separated. Mayor Hanel advised they had not gotten to it yet, but would.

Councilmember Cimmino advised she needed to abstain from voting on Item F because her consulting firm was working diligently on the Zone 4 Reservoir project. Councilmember Pitman moved for approval of Item F, seconded by Councilmember Astle. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino advised she needed to recuse herself from the payrolls of February 19 and February 26 (Items X1 and X2). Councilmember Pitman moved for approval of Items X1 and X2, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved 10 to 0.

Mayor Hanel advised that a motion had been made and seconded to approve Item M. On a voice vote, the motion was unanimously approved. Councilmember Clark asked if Ed had moved for approval of Item M, and members of Council agreed that he had. (Note: After reviewing the recording of the meeting, a motion was not made and seconded to approve Item M. This item will be brought back to the agenda of April 12, 2010, for ratification.)

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #10-18922 AUTHORIZING THE SALE OF TRACT 2 OF CERTIFICATE OF SURVEY #3426. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available for questions.

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

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

3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #861: A zone change from Residential 9,600 (R-96) to Residential 7,000 (R-70) on Lot 8, Block 1 of Meadowood Subdivision located at 2302 Meadowood Street. Mark Dawson, owner; BlueLine Engineering, agent. Zoning Commission recommends denial and adoption of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Nicole Cromwell, Zoning Coordinator, began her PowerPoint presentation showing the location and photographs of the subject property and the zoning of the surrounding properties. She said the

purpose of the application, as presented by the applicant and agent, was to create conformity with zoning for the existing duplex on the property, which was built in 1956 prior to the enactment of the current zoning in 1972. Ms. Cromwell advised the current zoning of R9600 was single-family-only on lots of at least 9600 square feet. She advised staff looked at the conformity of surrounding properties prior to forwarding its recommendation of denial to the Zoning Commission. She noted there was a legal, non-conforming property in the neighborhood located on the east side of Meadowood close to Poly Drive, which was the only non-conforming property within 600 feet. Ms. Cromwell acknowledged receipt of Mr. Dawson's letter that afternoon, and said she had not had a chance to thoroughly review it. She said the Zoning Commission held a public hearing on March 2; the applicant and agent were not in attendance, and there was no testimony from surrounding property owners. Ms. Cromwell advised the subject property was not situated like other properties in the neighborhood and could be considered spot zoning. She said there was no guarantee that the subject property would be owner-occupied townhomes or condominium units if the zoning was changed. Ms. Cromwell advised the Zoning Commission voted 3 to 1 to recommend denial and adoption of the following 12 criteria.

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

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

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would permit an existing nonconforming use to continue in a primarily single family residential neighborhood. All of the surrounding property is zoned R-96 and is developed for single family uses.

The proposed zoning is inconsistent with the surrounding character of the neighborhood, which is single-family development.

- The proposed zone meets the three tests for creation of an illegal spot zone.
 1. The requested use is significantly different than the prevailing use in the area.
 2. The area requested for the use is small in area.
 3. The requested zoning benefits a single owner and not the community and may be at the expense of surrounding owners.

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

There should be no effect of traffic congestion. The 2-family dwelling is an existing structure and no increase in dwelling unit density is proposed.

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

The subject property is currently serviced by City Fire and Police. No change to the existing use is proposed that would affect public safety.

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

The proposed zoning would permit a 2-family dwelling to continue in perpetuity in a primarily single family neighborhood. The surrounding property values may be

affected by this dissimilar use. The Unified Zoning Regulations do specify minimum setbacks and lot coverage requirements for the proposed zoning district in order to promote health and safety.

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

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

6. Will the new zoning prevent overcrowding of land?

The proposed zoning, like all zoning districts, contain limitations on the maximum percentage of the lot area that can be covered with structures. The R-96 and the proposed R-70 zone allow 30% lot coverage. The proposed site plan does not increase the foot print of the existing building.

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

The new zoning does avoid undue concentration of population. The R-96 zoning only allows single family homes on a minimum lot size of 9,600 square feet. The proposed zoning would allow 2-family dwellings on a lot of at least 9,600 square feet. The 2-family dwelling exists and there is no proposed increase in dwelling unit density.

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

Transportation: The proposed zoning will not impact the surrounding streets.

Water and Sewer: The City will provide water and sewer to the property through existing lines.

Schools and Parks: School District #2 will provide education to students that may live on this parcel. There should be no impact to school census from the proposed zone change.

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

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

The proposed zoning will permit a legal nonconforming use – a 2-family dwelling, to continue within an existing single family residential neighborhood. Only 1 out of 105 surrounding properties within 600 feet have also developed as a 2-family dwelling. All of the surrounding zoning is R-96 with the exception of the Poly Drive Elementary school (zoned Public). This does not give reasonable consideration to the character of the district.

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

The subject property may be suitable for the requested zoning district if surrounding properties were also developed for 2-family dwellings or if the subject property was adjacent to other similarly zoned property. This is not the case at this particular

location.

11. Was the new zoning adopted with a view to conserving the value of buildings? Surrounding residential property to the north, south and east have much higher taxable value for buildings than this property. The taxable value of the land at 2302 Meadowood Street is much higher than the taxable value for the building in the most recent state reappraisal. It appears from the exterior photographs of the dwelling that maintenance has been deferred on the structure. The proposed zoning of R-70 would preserve the right of the owner to re-build a 2-family dwelling so the investment on the part of this owner could be preserved. The value of surrounding property may be affected by the continuation of this dissimilar use in the single family neighborhood.

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

The proposed zoning will permit the current development to continue that is not alike in character with the surrounding single-family residential uses.

Councilmember Astle asked Ms. Cromwell to confirm that the property was a legally, non-conforming property. Ms. Cromwell said that was correct. She said the property could be improved by replacing the roof, adding a deck, or adding a garage; as long as the improvements did not exceed 50% of the current value of the structure. She said financing and insurance was difficult to obtain on non-conforming property.

The public hearing was opened.

- **Kate Hamlin, 2304 Spruce Street**, said she was representing Mark Dawson and was just introduced to the property two days prior. She said, as one of the top producing real estate agents for Century 21, she was familiar with real estate and wanted to discuss some of the points that would be a benefit to the neighborhood as a result of the zone change. She said generally rentals were only maintained to a minimum and agreed that financing was difficult on legally, non-conforming property. She said if she was the next door neighbor, she would prefer to have someone living next door who owned the property instead of a renter because of pride of ownership. Ms. Hamlin said if the zone change was allowed, she knew Mr. Dawson intended to enact covenants that the property be owner-occupied, which would actually be a big help to the neighborhood. She referred to the proximity of the structure and said there were at least 16 similar properties approximately 630 feet one block to the south. Ms. Hamlin said Mr. Dawson was not asking specifically to have permission to build something new as a dual-family; but simply to allow separate funding for each side of the duplex. She said the subject property was a 9,836 square foot lot, so it would not be able to be subdivided again because it would be too small. Ms. Hamlin said she understood how spot zoning could be a concern; but said she did not feel it would be. She said Mr. Dawson sent a letter to the neighborhood, and no one objected. She said a neighborhood meeting was held, and only the property owner attended.

Councilmember Astle asked if there was any reason the property could not presently be owner occupied. Ms. Hamlin said because it was a duplex, the owner could only live on one side. She also said the owner would not be changing the current use of two families; he only wanted the change for financing purposes. She said the owner wanted to sell both sides independent of each other for affordability purposes.

Councilmember Ulledalen asked if the way it was right now the owner could live in one side and rent the other side. Ms. Hamlin said that was correct. Councilmember Clark asked if there was a guarantee of what would happen if the zone change was approved. Ms. Hamlin said the owner could not do much differently because it was already set up as a 2-family residence. She said it was not really marketable on secondary market financing, and a lot of money would need to be put down. She said it would most likely have to be an in-house loan that would be very expensive. Ms. Hamlin said if Council were to delay action, Mr. Dawson would be happy to record covenants and restrictions that the structure had to be owner/occupied for future approval. Councilmember Clark advised the City did not enforce covenants.

Councilmember McCall asked if Mr. Dawson's intent was to tear the structure down and put up a new duplex or to just remodel. Ms. Hamlin said Mr. Dawson intended to turn it into two condos and sell them separately with 50% common element ownership for the land. Councilmember McCall asked if Mr. Dawson intended to tear it down or just remodel it. Ms. Hamlin advised she did not know, but he would have to do upgrading to meet the secondary market financing ability.

Councilmember Astle asked how long Mr. Dawson had owned the property. Ms. Hamlin said she believed he purchased it at the end of 2009. Councilmember Astle asked if Ms. Hamlin was the listing agent for Mr. Dawson. She said she would not financially benefit from it, and she was an agent in his office as an independent contractor. Ms. Hamlin said Mr. Dawson was her broker, but not her employer.

Councilmember Ulledalen asked if Mr. Dawson knew what the criteria and zoning were when he purchased the property. Ms. Hamlin said Mr. Dawson did not purchase properties without first thinking it through, so she was 90% positive he knew.

Councilmember Gaghen asked why Mr. Dawson did not attend the Zoning Commission hearing or the Council meeting that night. Ms. Hamlin said the reason Mr. Dawson was not there that evening was because of a previous obligation, and she did not know why he had not attended the Zoning Commission hearing.

Mayor Hanel commented the recommendation by the Zoning Commission was based on land use outlined in the Growth Policy and asked if Mr. Dawson was aware of that. Ms. Hamlin said she knew he reviewed the letter he received but she was not familiar with the Growth Policy and could not speak for Mr. Dawson.

- **Marshall Phil, BlueLine Engineering, 2110 Overland**, said he represented the owner. Mr. Phil advised there would be no structures added to the site because

the property was only 9,800 square feet. He said the reason they did not attend the Zoning Commission hearing was because he and Mr. Dawson had the meeting on their calendars on the wrong day.

Councilmember Ulledalen commented there were a lot of similar circumstances around Billings and asked Mr. Phil if he thought it would be a good idea to allow spot zoning all over town. Mr. Phil said if properties were a great distance from the requested zoning, then it would not be appropriate but said the subject property was close to other R7000 zoning.

Councilmember Gaghen said she felt it was spot zoning, and they had been firm in going by the 12 criteria. She said she had concern with changing the policy and felt they needed to stay consistent.

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

Councilmember Clark moved to approve the Zoning Commission's recommendation of denial based on all of the Zoning Commission's criteria, seconded by Councilmember Ulledalen. Councilmember Astle said he felt it was clearly spot zoning and would vote to deny the zone change based on the criteria. Attorney Brooks recommended that Council mention particular criteria for the basis of their decisions for the public record. Councilmember Cimmino said she was looking at it as a dwelling that was built in 1953. She said because it was built before zoning regulations were put into effect, it had been a legal, non-conforming use since then. She said Mr. Dawson did the right thing by applying for the zone change, and she planned to support the zone change request. Councilmember McFadden said the City would set a bad precedent in changing the zoning because he felt someone had speculated on real estate betting on the fact they could get a zone change. He said he did not want to see other people running out and wasting their money thinking the speculation was free and easy. He said he would support the recommendation of denial just so they would not be leading people down the wrong path.

On a voice vote, the motion to deny the zone change was approved 10-1. Councilmembers Ronquillo, Gaghen, Pitman, McFadden, Ruegamer, McCall, Ulledalen, Astle, and Clark, and Mayor Hanel voted to deny the zone change. Councilmember Cimmino voted to approve the zone change.

4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #862: A zone change from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Tract 2A1 of C/S 1965 and Lot 5 of Block 1, Bergquist Subdivision, located at 2414 Roundup Road and 621 Pemberton Lane. Vacant Land, LLC and Tom & Cheri Bergquist, applicants; Ernie Dutton, agent. Zoning Commission recommends approval and adoption of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Nicole Cromwell, Zoning Coordinator, began her PowerPoint presentation showing the location and photographs of the subject property and the zoning of the surrounding properties. Ms. Cromwell advised the zone change request involved two separate parcels on the southwest and northeast side of the former K-Mart property currently occupied by All American Pharmaceutical at 2376

Main Street. She said the current zoning of Community Commercial on the two parcels did not allow pharmaceutical or limited pharmaceutical manufacturing. She said in 2004 when All American Pharmaceutical moved into its current location, City Council changed the zoning for the property to Highway Commercial, which allowed pharmaceutical manufacturing. Ms. Cromwell advised All American Pharmaceutical would not require an additional driveway opening as a result of the zone change and would continue to use the existing drive approach off of Pemberton Lane. She said Main Street was an arterial street that accommodated more traffic than any other street in the state of Montana and would be able to handle any additional traffic as a result of the requested zone change. Ms. Cromwell advised the proposed zoning was compatible with existing zoning and the surrounding neighborhood, adjacent to a principal arterial street, would not alter the character of the neighborhood, re-use of the property would provide infill development of under-utilized property, and expansion of the existing facility would require adequate screening, buffering and shielded lighting. She said the Zoning Commission conducted a public hearing and was recommending approval of a 4 to 0 vote based on the following 12 criteria.

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

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

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would allow two vacant parcels to be used for commercial purposes along an arterial street that can accommodate any traffic generated without impact to surrounding residences.

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

The proposed zoning is consistent with the surrounding character of Main Street and Roundup Road and will allow re-use of property that is underutilized.

- Contiguous developed focused in and around existing population centers. (Land Use Element, page 6)

The proposed zoning will provide a good in-fill and re-use of the property that has limited quality for residential uses or community commercial uses.

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

Main Street is a principal arterial that carries approximately 18,000 vehicle trips per day. No significant increase in traffic load is anticipated from this zone change. There is already significant commercial traffic during business hours to this location. Access to and from any development of the property will be controlled by the city and Montana Department of Transportation if new or relocated drive approaches area required.

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

The subject property is currently serviced by City Fire and Police. The proposed zoning will not affect the ability of these services to access the property.

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

The current CC zoning allows a wide range of commercial uses but no manufacturing.

The HC zone allows limited manufacturing including pharmaceuticals. The parcels were zoned CC when the County adopted zoning in 1973 and it has not changed since that time. It appears the re-zoning of the parcel will lead to in-fill development that will be beneficial to the health and general welfare of the area.

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

The proposed zoning requires building setbacks and limits building height. Zoning, building and fire codes should provide assurance of adequate light and air for the property and surrounding neighborhood.

6. Will the new zoning prevent overcrowding of land?

The proposed zoning limits maximum lot coverage to 75% of the lot area. The current CC zoning allows up to 50% lot coverage. Lot coverage only includes the area of the lot covered by structures and does not include pavement. The proposed increase in lot coverage should not overcrowd the property.

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

The proposed zoning allows residential uses but must use the same lot area, lot coverage and setbacks as required by RMF-R zoning. Single family, two-family and multi-family would be allowed. The current zoning also allows residential uses at the same density. The proposed zoning would not unduly concentrate population.

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

Transportation: The proposed zoning should have no impact on adjacent local or arterial streets.

Water and Sewer: The City provides water and sewer to the property through existing lines and may need to be upgraded when development occurs.

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

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

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

The proposed zoning will allow a commercial re-use of the property along a principal arterial street. The quality of commercial or residential use of this property is limited by its location and proximity to commercial and industrial uses to the south and east. Any development of the parcel will have to meet minimum standards for landscaping, buffering of adjacent residences to the south and west as well as access restrictions.

The new zoning gives reasonable consideration to the existing character of the district.

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

The subject property is suitable for the requested zoning district. Properties north and south of the subject property along Main Street are zoned HC.

11. Was the new zoning adopted with a view to conserving the value of buildings? Staff cannot determine whether the proposed zoning would appreciably alter the value of structures within the area. As re-development occurs in the area, building values should increase as properties are improved.

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

The proposed zoning will encourage the most appropriate use of this land on a principal arterial street in Billings Heights.

The public hearing was opened.

- **Ernie Dutton, 2046 Mariposa**, said he was present on behalf of the owner of the parcel on Pemberton and said he was part-owner of the parcel on Roundup Road. He said the purpose of the zone change was to allow All American Pharmaceutical to expand their facility, due to growth of their business. He said All American Pharmaceutical had cleaned up the property, painted it, taken care of the parking lot, and the weeds had been kept under control. He said they held a neighborhood meeting and several neighbors showed up with questions. He said once the neighbors were told All American Pharmaceutical would access the property from their existing parking lot, they were satisfied. He said the neighbors were also told the old chain-link fence inherited from K-Mart would be replaced with a vinyl fence to provide more privacy. Mr. Dutton said currently All American Pharmaceutical had access all around the building, which required good setbacks from the street and any neighboring property. He said they attended the Neighborhood Task Force and Zoning Commission meetings and the lack of attendance by the neighbors indicated their questions had been answered to their satisfaction. He said All American Pharmaceutical had been a good neighbor and provided a lot of jobs to the community; and he was requesting Council's approval.

Councilmember Clark asked if the expansion would provide additional jobs. Mr. Dutton said that was the expectation.

- **Jeff Golini, 3745 Colin Drive**, said he was the owner of All American Pharmaceutical and offered to answer any questions. Mr. Golini said in 2006 they had 45 employees in Billings and currently had 70 employees in Billings. He said they also had increased their outside sales and marketing staff to 30, for a total of 100 employees. He said their business in 2009 was up 7.5% over 2008; and in the first quarter of this year, their business was up 300%. He said they were hiring more employees, and the expansion was crucial because they needed more room. Mr. Golini said their plans were to increase the size of their warehouses to accommodate the increase in business. He said the expansion would be a 2-year project, and they were anticipating 50 new jobs in Billings as a result of the expansion.

Councilmember Pitman complimented Mr. Golini on his open communication with the neighbors and thanked him for his hard work.

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

Councilmember Cimmino moved for approval of Zone Change #862 and adoption of the 12 criteria, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

#863: A text amendment to Section 27-614(e) of the Billings, Montana City Code (BMCC) regulating temporary uses of land related to construction projects.

Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Nicole Cromwell, Zoning Coordinator, explained that on February 8, 2010, Council initiated a text amendment to the zoning code to address materials and equipment storage for temporary uses at approved construction sites. She said the issue came forward last construction season when the Public Works Department had a large project at 24th Street West and Central Avenue. Ms. Cromwell advised that staging and storing of materials on any construction project was a given, but the City Code was silent on the issue except for allowing construction equipment sheds, construction offices, and construction equipment such as backhoes and loaders in any zoning district. She said the code said nothing about storing pipe, dirt, rocks, concrete, etc. Ms. Cromwell advised the Zoning Commission held a public hearing on March 2, 2010, and one of the questions that came up was the definition of "temporary." She said under the zoning code, "temporary" had a definition of "temporary use" as a period of less than one year. Ms. Cromwell advised that the materials stored had to be associated with an approved construction project in any zoning district. She said another part of the code that was lacking was criteria for how the equipment was stored and the property maintained during the temporary use. She said the amendment language assured construction staging areas were allowed only on a temporary basis and materials were to be stored in a neat and orderly manner. Ms. Cromwell advised the Zoning Commission recommended approval on a 4 to 0 vote.

Councilmember Pitman asked how it would be determined if the materials were specific to one project. Ms. Cromwell advised, if staff received a complaint, they would ask what the material was for and ask to see the appropriate construction permit.

Councilmember Astle asked about the storage of pipe being removed from the ground. Public Works Director, Dave Mumford, advised as pipe was removed, it was disposed of and not stored at the site. He said on City projects, the contractor has to have a staging site approved by the City.

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

Councilmember Astle moved for approval of Zone Change #863, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

6. EAST BILLINGS URBAN RENEWAL DISTRICT

A. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE

CHANGE #857: An amendment to the City of Billings Zoning Map, an amendment to the Zoning Regulations to create an overlay district to allow separate off-street parking regulations to apply within the East Billings Urban Renewal District (EBURD), and inclusion of property owned by R. Clawson located on the east side of N. 12th Street north of 6th Avenue North. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

B. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings City Code Section 6-1203 to remove off-street minimum parking space requirements within the East Billings Parking Overlay District to accomplish parking management goals for the East Billings Urban Renewal District. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

C. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings City Code Section 24-400 - Division 4 - Parking Meters and Zones, by revising Sections 24-451, 24-452, 24-454, 24-456, 24-457, 24-462, and by adding new Sections 24-480 - Use of Revenue from Parking Permit Sales within Parking Permit Districts, and 24-490 - East Billings Parking Overlay District, to accomplish the parking management goals for the East Billings Urban Renewal District. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Nicole Cromwell, Zoning Coordinator, advised there would be one combined presentation for Items 6A, 6B, and 6C. She noted Kevin Shively of Nelson/Nygaard Associates, the consultant who worked with the City, Big Sky EDA, and the Steering Committee on the proposed amendments, was present.

Ms. Cromwell said in 2006 the City partnered with Big Sky EDA to develop a Master Plan for a tax increment finance district on the east end of Billings. She said a grant was awarded to Big Sky EDA, and the master plan was developed and approved by City Council in July 2009 to help develop revitalization efforts for the area east of downtown. She said the plan was guided by input and local funding from many public and private agencies and included the following guiding principles.

- Economic Growth – foster economic growth where and whenever possible.
- Centers – certain sections of district would be focused for certain types of redevelopment such as mixed use, preservation of industrial area, fostering new green businesses.
- Affordable Housing – all types of families and individuals.
- Industrial Uses – protection of industrial uses making sure they were not forced out of the area.
- Trees & Open Space – improve streetscape in entire district focusing on making it more pedestrian and environmentally friendly
- River Connections – between the Heights, North Park, downtown, and to the river.
- Edges – integrate edges of district with Central Business District, North Park Neighborhood, hospital corridor, and the university.
- Transportation – ensuring a number of adequate transportation choices and connections to other parts of the City.
- Infrastructure – storm sewer and sewer system, especially on the east end of the district.
- Environmental Risk – reduction of environmental risks.

Ms. Cromwell said the East Billings Urban Renewal District (EBURD) was an economically and culturally vibrant neighborhood that provided housing, clean technology, and pioneering of green industries along the City's historic rail yards. She said the EBURD was a gateway to the City, the river, the residential areas, and businesses for residents and visitors.

Ms. Cromwell introduced Kevin Shively, Associate Program Manager with Nelson/Nygaard Associates. Mr. Shively said they looked at the district's current policies and possible alternatives to help facilitate the type of growth the City was seeking. He referenced Item 6B, the removal of minimum off-street parking requirements and said most cities throughout the country had minimum off-street parking requirements, including the City of Billings, with the exception of the Central Business District. He said the philosophy behind the regulation was management of parking and explained the purpose was to preserve the availability of on-street parking by requiring each property owner to provide a certain amount of off-street parking. Mr. Shively said it did not appear there was a current on-street parking problem in the EBURD, but they were looking at potential growth and development and putting down the ground work so a parking problem did not exist in the future. Mr. Shively explained the two major issues of off-street parking requirements were the expense to the property owners and the difficulty of adapting a property for re-use or re-development, especially historic properties. He said off-street parking requirements could also defeat the purpose of a transportation plan by increasing traffic, as people chose to drive instead of walk or take public transportation. Mr. Shively showed the parking requirements currently in the City Code and said they were very similar to those requirements in other parts of the country. He said very often they were standards derived from Institute for Transportation Engineers based on a fair amount of research but not based on local research. He said they recommended that the parking policy be tailored in a way that focused on the demand out on the street. Mr. Shively said the Planning Board had initiated the amendment to the zoning code in July 2009, Nelson/Nygaard was hired to develop recommendations for city code changes, and they had good conversations with various stakeholders in the district. He said they tried to tailor their recommendations to some of the issues that were identified in those conversations. Mr. Shively discussed the following Nelson/Nygaard recommendations and said they needed to be considered together, especially the first three, as one whole alternative to minimum off-street parking requirements in order to preserve the availability of parking on the street and ensure that it would support the type of development in the district.

- Eliminate Minimum Parking Requirements
- Adopt a Goal of 15% Vacancy On-Street
 - Manage Parking Supply to Achieve Goal
 - Metered pricing with rates adjusted
 - Parking Permit District with supply/rates adjusted
- Return Revenues to District
- Adopt Unbundled Parking
- Adopt Cash-out Subsidies
- Assess Impact Fees

Councilmember Astle asked if 'Return Revenues to District' meant that the City would provide the enforcement and do all the work but not get paid back for the cost. Mr. Shively said that was not correct. Councilmember Astle asked if the revenue stayed in the BIRD forever. Mr. Shively said it would for purposes specified in the amendments to include everything related to the monitoring and enforcement of traffic laws within the district, and parking violations within the district; and anything related to parking and transportation within the defined area would be eligible to receive the revenues. He said the idea was to keep the revenue locally within the district rather than going into a city-wide pool to be used for other purposes. He said it did not affect existing parking meter revenues from downtown Billings or prospective feature revenues in any other areas outside of the proposed district.

Planning Director Candi Beaudry said she wanted to make it clear the revenue was not going to the BIRD. She said the revenue would be retained within the parking district, and the City maintained the parking district.

Councilmember Ruegamer asked how much a parking meter cost. Ms. Cromwell said she was not sure, but Item 6C dealt with permit parking, and it was not planned at this time to have parking meters. Councilmember Ruegamer asked why it was being talked about. Ms. Cromwell advised it was part of Nelson/Nygaard's recommendation but she would be getting more into what the steering committee recommended.

Assistant City Administrator Bruce McCandless advised the cost of a double-head parking meter was \$800. Councilmember Ruegamer asked how many parking meters would be needed in the area. Mr. Shively said he was not prepared to talk about it, and the approach they were recommending was that the City set a policy for the desired goal for vacancy of on-street parking and let it be a determining factor as the district developed to determine how and whether parking meters were used, parking permit districts were established, and so on.

Councilmember McCall asked Ms. Cromwell if they were just extending the 15% vacancy from downtown. Ms. Cromwell advised the City currently did not have any vacancy goal for any metered or permanent or paid parking. She said it would establish the ability to monitor on-street parking vacancy and then take action based on those vacancy rates. Mr. Shively said the 15% came from research done at UCLA. He said if there were 15% of spaces vacant on any particular block face, there would be about one to two parking spaces always available. He said that was exactly what would support the type of growth envisioned for the district. Mr. Shively said they recommended monitoring the performance of parking throughout the district annually or bi-annually.

Mr. Shively said one of the big concerns with parking in many areas was the affect of spill-over parking. He said there was a fear that if minimum parking requirements were removed, people would park on the street right in front of a building or spill over into a residential neighborhood and congest that parking. He said one of the main approaches would be to establish permit parking districts or use parking meters. He said the rules and eligibility for getting permits, the supply of permits, and the price of permits would be adjusted over time based on surveys of occupancy on the street within the area. Mr. Shively said returning revenues to the district applied to both revenues from the parking permit district and parking meters.

Councilmember Ulledalen said one of the things Council wanted to do was maintain the support and the buy-in of the landowners. He said what he saw happening was that the landowners had rejected the parking recommendations; and at that point, it was not what they wanted to do in terms of the City imposing a standard on them. He said they wanted additional flexibility as they moved forward on the project.

Ms. Cromwell said there were six outlined recommendations. She said the recommendations of 'Adopt Unbundled Parking', 'Adopt Cash-Out Subsidies', and 'Assess Impact Fees' were three large policies and changes that were beyond the scope of what they wanted to talk about because of the timeline imposed to accomplish better parking management and regulations in the district. She said the one issue in particular for the Billings Industrial Revitalization District (BIRD) property owners association was the use of parking meters. She said there was a great deal of negativity from the BIRD on parking meters, so the steering committee and Planning staff adjusted to their opposition. She said the association was in support of the elimination of the minimum parking requirements, in addition to the adoption of the vacancy goal and managing the parking either through permit districts or some other type of paid parking arrangements, as well as revenues from those permit or paid parking in the future going back into the parking district, not the BIRD, to do enforcement, streetscape improvements, and parking improvements.

Mayor Hanel called for a short break at 8:40 p.m. The meeting was called back in session at 8:47 p.m.

Ms. Cromwell said in January 2010 the steering committee, Planning staff, Big Sky EDA, and the consultant held a public meeting and invited all of the property owners within the district and property owners within the 300-foot area surrounding the district to make comments and voice concerns on the recommended strategies for parking management within the EBURD. She said at the public meeting and subsequent to the public meeting at the Zoning Commission hearings, the concerns were voiced about unbundled parking, cash-out subsidies, and the assessment of an impact fee. She said the steering committee and staff determined they would not pursue those particular recommendations at that time. She said since the BIRD property owners association expressed concern with establishing a metered parking district at any time, the code amendments were tailored to take their concerns into consideration. She said the recommendations of the steering committee and staff were (1) elimination of the minimum off-street parking requirements within the district and adoption of an overlay district within the zoning code; (2) adoption of the goal for 15% vacancy on block fronts within the district and managing the parking supply to achieve the goal on an as-needed basis, parking prices with rates adjusted, establishing a framework for a permit parking district within areas of mixed uses; and (3) allowing the revenues generated from the permit parking or paid parking districts to go back to the parking district for other improvements.

Ms. Cromwell said Item 6A was the zoning amendment to establish the district. She showed an aerial photo of the district and pointed out a two-block area (Empire Steel) on 6th Avenue North that was a county island. She said the amendments to the City Code would not apply to that property unless it was annexed into the City and the overlay district was amended to include the property. She pointed out a 7-block area directly to the west that was not included in the district. Ms. Cromwell advised that

Richard Clawson came to the Zoning Commission and requested that his property zoned Community Commercial located on the east side of N. 12th Street, north of 6th Avenue North, be included. She said the Zoning Commission thought it made sense to include Mr. Clawson's property and have made a recommendation to include it.

Ms. Cromwell advised they were also adding a new proposed Section 27-1460 that stated that "The District is hereby established and within the District regulations for parking include, but are not limited to, no minimum off-street parking spaces are required at the time of development, redevelopment, expansion, change of use, addition to public, commercial, industrial, residential property." She said if it was adopted, it would mean that the property owner who had 20 extra parking spaces could offer them for lease or for sale to someone who may have a parking deficit for their customers or residents in the district. She said the second requirement written into the zoning code was where off-street parking spaces would be provided. She said by eliminating the off-street minimums, it did not mean no parking lots would ever be developed in the district again. She said it just meant that the developer could decide how much off-street parking they wanted to provide. She said the code provided that if they did provide off-street parking, it would be developed in accordance with design standards and codes the City had in place for off-street parking. She said the third section would be that deregulations eliminating off-street minimums in no way diminished or reduced the property owner's liability or obligation to provide accessibility and compliance with Federal ADA.

Ms. Cromwell referenced Agenda Item 6B and advised in order to accomplish the on-street vacancy goal, they needed to amend the City Code dealing with paid and city parking spaces, on-street or off-street. She said the elimination of the off-street parking space minimum standards within the overlay district also needed to include language in the Site Development Code Section 6-1203 exempting the East Billings Parking Overlay District from providing off-street parking.

Ms. Cromwell referenced Agenda Item 6C and said the district currently had approximately 8,500 spaces of on-street and off-street parking; two-thirds of which were off-street spaces. She said the perfect parking district would be where vehicles and city parking spaces were regulated through the issuance of permits to property owners, business owners, etc. in that particular district; however, in order to set up the framework, one would have to say what it was, why it was being instituted, and what the triggers being built into the code were for establishing a permanent parking district in the future.

Councilmember Ruegamer asked who would make the decision to put parking meters in or do anything differently. Ms. Cromwell advised City Council would make those decisions. She said that the code would set standards for parking permit districts, not just in the EBURD, but anywhere. She said if the City found themselves with parking conflicts, a permit parking district could be established in the future anywhere by the City Council, by ordinance. Ms. Cromwell said the code amendment would also allow for the return of revenues to any permit parking district when it was created. She said the establishment of an on-street vacancy goal was incorporated into the parking meters and zones section of the City Code, so it could be applied wherever there was a high parking demand. Ms. Cromwell said the current on-street inventory in the district was 1,956, which did not include the arterial streets within the district. She said the off-

street inventory was estimated at 6,600 spaces. She said the current supply exceeded demand.

Councilmember Astle asked Ms. Cromwell if she remembered the parking problems with the Salvation Army and asked if the amendments would override the variance that was approved by Council at that time. Ms. Cromwell said they would. She said with the amendments, the Salvation Army would now be able to provide off-street parking as they determined necessary for their own use.

Ms. Cromwell advised the Zoning Commission reviewed the parking overlay district, the code amendments, and the inclusion of Mr. Clawson's property and were forwarding recommendations of approval.

Councilmember Ulledalen asked, with the framework, could they create something similar in the tree streets. Ms. Cromwell said that was correct. She said they could implement a permit parking district anywhere in the City if they followed the framework in the code.

Mayor Hanel commended Ms. Cromwell and the others for their detailed and very informative presentation.

The public hearing for Item 6A was opened.

- **Marty Connell, 2903 Radcliff Drive**, said he was president of the Billings Industrial Revitalization District (BIRD). He said they represented 96 paid members who owned most of the 216 parcels in the district. He said City staff had been "phenomenal" to work with, and they supported the presented amendments 100 percent. He said the Nelson/Nygaard report was very thorough and very good. He said there were parts they disagreed with, but for the most part, they agreed with it. He said in the future they would be coming to Council with other ordinances as they worked forward. He said they did not want the Central Business District (CBD) designation where there were no parking requirements for developers. He said they wanted to have something in between, and they thought the amendments gave them that. He also said the BIRD was opposed to parking meters now and in the future.

Councilmember Cimmino asked Mr. Connell what he would recommend. Mr. Connell said he wanted the amendments approved. He said they would give them the tools to move forward. He asked Council to support staff's recommendations. Councilmember Cimmino confirmed with Mr. Connell that the BIRD did not support parking meters. Mr. Connell said there were alternatives to parking meters that cost less and were friendlier to the people.

Councilmember McCall said she thought it was a good approach.

Councilmember Ruegamer said parking meters in the district now and in the foreseeable future would be a waste of money.

Councilmember Ulledalen said by planning the entire area, a lot of problems would be eliminated, and it provided tools to innovate as needed. He said he liked the flexibility to address parking problems if they developed.

- **Patty Nordlund, 1810 Camden Drive**, said she was a member of the steering committee representing Big Sky EDA. She urged Council's support.

- **Joe White, Billings, MT**, said he lived and conducted business in the district for several years and saw no serious problem with on-street parking. He said he thought a permit system should be kept and saw no problem with Council's approval.
- **Randy Hafer, 631 N. 26th Street**, said he was the chair of the Parking Advisory Board and served on the steering committee. He said it was an exciting process, and Nelson/Nygaard had done a great job for them. Mr. Hafer said it was a great process for moving forward and urged Council's support.
- **Tom Zurbuchen, 1747 Wicks Lane**, said it all sounded well and good, but said they admitted there was a problem. He said if parking meters or permit parking did not work, the City would be looking at a parking garage, and asked who was going to pay for it. He said it would be nice to see it happen in this unrealistic world, but it did not work downtown and the City had to build parking garages. He said you could not tell everyone to forget about off-street parking and to do what they thought was enough because 20 years down the road it would not be enough. He said there needed to be some restrictions on parking.

Councilmember McFadden said he did not think there was a business on the planet who would not want to have their parking lot overflowing. He said it would mean they were doing something right. Mr. Zurbuchen said that was correct but at the same time where would the cars go in the future. He said there were buildings in the area that covered an entire lot.

There were no other speakers, and the public hearing for Item 6A was closed.

Mayor Hanel reminded everyone that staff's one presentation covered Items 6A, 6B, and 6C, but said they would hold a separate public hearing for each Item.

Councilmember Cimmino moved to approve Item 6A, Zone Change #857 with the inclusion of Mr. Clawson's property, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

The public hearing for Item 6B was opened. There were no speakers, and the public hearing was closed. Councilmember Gaghen moved for approval of Item 6B, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

The public hearing for Item 6C was opened. There were no speakers, and the public hearing was closed. Councilmember Ronquillo moved for approval of Item 6C, seconded by Councilmember Ruegamer. 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.*)

The public comment period was opened.

- **Joe White, Billings, MT**, said he wanted to speak about two matters (inaudible) sent letters to the Mayor about the restraining order (inaudible) but did not receive answers from the City. Mayor Hanel advised Mr. White that in order for Council to be able to respond, they would need to speak with legal counsel. Mr. White said the second matter was that on two occasions (inaudible).
- **Walter Cwalinski, 2130 Santiago Boulevard**, said he missed the presentation regarding the zone changes on the lot behind his house off of Blue Creek Road. He wanted to know what was approved. City Administrator Volek said she thought Mr. Cwalinski was talking about Item 2, the parcel the City acquired on Blue Creek for a pump station and the plan to sell a portion of it. She said the Council action that evening was approval for staff to sell the parcel through public bid. Ms. Volek offered to provide Mr. Cwalinski with additional information after the meeting. Mr. Cwalinski said he was satisfied with the information provided.

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

COUNCIL INITIATIVES

- **McCall** moved to reconsider the purchase of the Quick Response Vehicles for the Fire Department at the 4/12/10 Council meeting, seconded by Councilmember Ronquillo. She said she was one of the 'no' votes at the meeting of 3/9/10; but since then she had done more research on the subject, and she felt it needed to come to Council for reconsideration. Councilmember Ronquillo said he was absent on 3/9/10 and did not get a chance to vote, so he appreciated Councilmember McCall bringing it back. He said he had also done some investigation on the subject. Councilmember McCall said Ms. Volek had sent out an e-mail with a website link, and she had done a cursory count, and there were at least 83 different fire departments around the country using quick response vehicles. Councilmember McFadden asked if Council could look at purchasing only one vehicle instead of two. Councilmember Clark said it was his opinion a reconsideration needed to be exactly as it was presented the first time; and the time to talk about changes would be after it was brought back to the floor. City Attorney Brent Brooks confirmed that was correct. Councilmember Ruegamer said he wanted to clarify something he had sent in an e-mail. He said when he sat down to his computer, he was impatient and wanted to get done. He referenced his comment that it was more an issue between Administration and the fire fighters. He said what he meant and should have said and wanted to say was that it was not just a cost savings issue, it was an innovation issue, a change issue, and it may be a safety issue. He said he was not sure what all the other issues were; but it was more than just about saving money and the Fire Chief had made that clear that Monday night. He said he apologized to the Council and the world at large. Councilmember Cimmino thanked Ms. Volek for the e-mail on similar vehicles being used throughout the country and asked Councilmember McCall if the information she looked at had the same budget, same population, same everything. Councilmember McCall said she did not have time to study each one, but she did count and there were at least 83. Councilmember Cimmino said she appreciated the information coming forth now and said it would have been nice to have it when the matter was on the agenda. She told Councilmember Ruegamer that she

understood his sentiment in his e-mail but she felt the language was rather strong. She said as far as she was concerned, the Heights residents put her in the seat for the next four years and she would like to speak for herself with her integrity intact. She said they did not have all the information when the item was submitted, but she was in support of putting the item back on the agenda. On a voice vote, the motion was unanimously approved.

- **Ruegamer** moved to direct staff to make recommendations for restricting on-street parking in the area of 10th Street West and Custer Avenue as soon as possible, seconded by Councilmember McFadden. Councilmember Pitman amended the motion to consider a 2-hour specific, Monday through Friday, 9 to 4 parking time period, seconded by Councilmember Ruegamer. On a voice vote, the amended motion was unanimously approved. On a voice vote, the original motion was unanimously approved.
- **Ruegamer** moved to direct staff to investigate if the Broadwater Shopping Center at 10th and Broadwater was in compliance with all ordinances, specifically remodeling more than 25% of the building, seconded by Councilmember Pitman. He said he would like this initiative to run concurrent with his previous initiative. He said there were some very simple solutions to the parking problem, but the owners were not interested in a simple solution and would not cooperate. On a voice vote, the motion was unanimously approved.
- **Ronquillo** asked to have code enforcement look into the traffic problem at the King's Hat. He said he had received several complaints about the traffic backing up to get into the business and creating the potential for accidents. Ms. Volek advised staff would look into it.
- **Clark** asked about the status of the Social Host Ordinance. Ms. Volek advised it was on an upcoming Work Session agenda.
- **Ullendale** said he had distributed copies of the annual report for the Beartooth RC&D.

The meeting adjourned at 9:55 p.m.

CITY OF BILLINGS

Thomas W. Hanel, Mayor

ATTEST:

Cari Martin, City Clerk