

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 24, 2008

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

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Stevens, Veis, Ruegamer, McCall, Ulledalen, Astle, and Clark.

MINUTES – February 25, 2008, approved as distributed.
March 10, 2008, approved as distributed.

COURTESIES – None

PROCLAMATIONS - World Water Day – March 29, 2008
Parkinson's Disease Awareness Month – April 2008
Parkinson's Disease Awareness Day – April 11, 2008

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek advised Consent Agenda 1A3, the King Avenue Lift Station Bid, came in considerably higher than anticipated; and staff was asking that Council reject all bids. She said the project would be re-bid in the spring.
- Ms. Volek reviewed the following agenda items forwarded to the City Council in their Friday packets and said they were available in the Ex-parte Notebook in the back of the room for public viewing.
 - ✓ Item M – Pages 5 & 6 of Attachment A - Amendment #6, were inadvertently left out of the Amendment as originally distributed.
 - ✓ Item N1 – Attachment A – Assignment and Transfer of a Non-Commercial Aviation Ground Lease.
 - ✓ Item 5 - Attachment I – Deed Restriction Conditions
- Ms. Volek advised Monday, March 31st, was the 5th Monday of the month, so there would be no Agenda Review Meeting that following evening. She said the next Agenda Review Meeting would be held April 1st for the April 14th Council meeting.
- Ms. Volek advised the City Council was invited to a noon luncheon Friday, March 28th, at the Crown Plaza with the Fire Chief candidates.
- Ms. Volek advised that on Monday, March 31st, at 6:00 p.m., a training session for new councilmembers would be held in the City Hall Conference Room.

Mayor Tussing said he thought Item 6 should come before Item 5. He asked if the reason for the current order was in the event Item 5 did not pass, they would consider Item 6. City Administrator Volek said that was correct.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 4, 5 and 6 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

The public comment period was opened.

- **Joe White, Billings, MT**, said he had no problem supporting the Salvation Army parking variance; but he had a concern with the 3-story building they planned to construct with the bedrooms on the top story. Mr. White said he would like them to consider building only two stories and using the Naval Reserve property for the classrooms.
- **Dick Larson, 1733 Parkhill**, said he represented the Lockwood Water & Sewer District and was available to answer any questions concerning Agenda Item #4. Mr. Larson noted that KTVQ reported on the 5:30 news that evening that the Lockwood residents would be paying the City \$12,000,000 in System Development Fees, which was incorrect.

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

CONSENT AGENDA:

1. A. Bid Awards:

- (1) **Phase 3 Landfill Expansion.** (Opened 3/11/08) Recommend delay of award until April 14, 2008.
- (2) **W.O. 08-05, King Avenue East Water Main.** (Opened 3/11/08) Recommend COP Construction, \$148,167.00.
- (3) **W.O. 08-06, King Avenue Lift Station.** (Opened 3/11/08) Recommend Williams Brother Construction, \$1,921,000.00.

B. Change Order #1 – Airport Improvement Program (AIP) 33 Project, Taxiway “A” Drainage and Rehabilitation, Western Municipal Construction, \$33,052.67 increase.

C. Change Order #1 – Airport Improvement Program (AIP) 33 Project, Taxiway “A” Drainage and Rehabilitation, Riverside Sand and Gravel, \$39,405.30 deduction.

D. Change Order #1 – Airport Improvement Program (AIP) 33 Project, Runway 7/25 Overlay, Riverside Sand and Gravel, \$70,405.29 deduction.

E. Change Order #4 – New Baseball and Multi-Use Stadium Sound System, \$84,950.00, paid for from the Construction Fund.

F. Contract with Reporter Office Products to provide paper and office supplies, \$250,000.00 (annual estimate), One-year contract with two, one-year options to renew.

G. Agreement with Jon Dehler for exclusive naming rights of the new ballpark in consideration of his \$1 million donation to the ballpark construction, 20-year term.

H. Agreement with Exxon/Mobil for the 2008 Exxon EPA Emissions Reduction Plan, funding an equipment replacement project with the Department of Parks, Recreation & Public Lands, \$300,000.00.

I. Agreements (3) with Montana Department of Transportation (MDT) for realignment and signalization improvements to the Moore Lane-Monad Road Intersection; and reconstruction and new crossing signals to the Moore Lane Railroad Crossing.

- (1) MDT and City of Billings - Construction Agreement for City-Maintained Routes
- (2) MDT, City of Billings, and Montana Rail Link, Inc. - Construction and Maintenance Agreement
- (3) MDT, City of Billings, and Montana Rail Link, Inc. – Grade Crossing Signals Tri-Party Agreement

J. Amendment #3, Airport - 2008 Miscellaneous Improvements, Engineering Services Contract (5-year term), Morrison-Maierle, Inc., \$137,698.00.

K. Amendment #4, Airport Improvement Program (AIP) 34 Project, Engineering Services Contract (5-year term), Morrison-Maierle, Inc., Staff recommends delaying approval until April 14, 2008.

L. Amendment #6, Airport Operations Center Storage Mezzanine, Architectural Services Contract (5-year term), CTA Architects Engineers, \$6,630.68.

M. Amendment #6, W.O. 04-36 Briarwood Sanitary Sewer Main Extension, Professional Engineering Services Contract, Morrison-Maierle, Inc., \$436,209.00.

N. (1) Assignment and Transfer of Non-Commercial Aviation Ground Lease from Rocky Mountain Bancorporation, Inc. to BVDS, Inc.

(2) Approval of 20-year Limited Commercial Aviation Ground Lease with BVDS, Inc., (4/1/08-3/31/28); \$4,568.28 first year revenue, revenue for subsequent years according to Consumer Price Index for Urban Consumers.

O. Approval of Bikes Belong Grant Application for Swords Park Trail, Phase 2, \$10,000 maximum.

P. Resolution of Intent to Create SID 1384, Yellowstone Country Club Sanitary Sewer Extension and set a public hearing date of April 14, 2008.

Q. Rescission of Final Plat of Central West Subdivision.

R. Preliminary Subsequent Minor Plat of Brookshire Subdivision. Conditional approval and adoption of Findings of Fact.

S. Bills and Payroll.

- (1) February 22, 2008
- (2) February 29, 2008

Mayor Tussing separated Consent Agenda Items A3, O, and P. Councilmember Veis separated Consent Agenda Item E.

Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items A3, E, O, and P, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved to reject all bids on Item A3, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Item E, seconded by Councilmember Astle.

Councilmember Veis asked the Parks Department staff for a current, overall cost of construction for the ballpark, including the cost of the sound system. Parks Director Mike Whitaker advised, with the purchase of the sound system, they would still be in the black by approximately \$1,000.00. Councilmember Veis asked if the \$1,000.00 was the balance of the contingency for the rest of the construction. Mr. Whitaker said that was correct. Councilmember Veis asked what happened to the former sound system. Mr. Whitaker advised it was old, antiquated, and they did not carry it over. Councilmember Veis asked if the old sound system would have met the current requirements. Mr. Whitaker said he did not know. Councilmember Veis said he had a concern that there was only \$1,000.00 left in reserve and asked why the sound system was taken out if it was known it would have to be put back in at a later date. He also asked why they were not told at the time. Mr. Whitaker advised it was the recommendation of HNTB (the architect) to pull it out from a value engineering perspective. He said HNTB was not aware it was part of the Minor League Baseball requirement at the time. Mr. Whitaker advised the Mustang organization pointed it out to staff and provided them with information that stated the sound system was required at that level of play. Councilmember Veis asked if the architect was not aware of what was required for minor league baseball. Mr. Whitaker advised the architect was aware of all of the standards; but he missed it.

On a voice vote, the motion passed 10 to 1. Councilmember Veis voted 'no'.

Councilmember Pitman moved for approval of Item O, seconded by Councilmember Ruegamer. Mayor Tussing advised he was recusing himself because his wife was involved with the project.

Councilmember Ruegamer asked for the specific location. Planning Director Candi Beaudry advised it was on top of the rims where the Council had taken an earlier field trip. She said it was on top of the rims going down to Airport Road.

On a voice vote, the motion was approved 10 to 0.

Councilmember Pitman moved for approval of Item P, seconded by Councilmember Ruegamer. Mayor Tussing advised he was recusing himself because he had a financial interest in the project. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION vacating a portion of alley within Block 261 of Billings Original Town for a value of \$3,125.00. Turnbull ITC, LLC, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available to answer any questions.

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

Councilmember Gaghen moved for approval of Item #2, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING on Reallocation of CDBG Funds for Skate Park Restroom Building. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available to answer any questions.

Councilmember Veis asked about the operation and maintenance requirements and the budget numbers. Recreation Superintendent Joe Fedin said the project would be included in the Park Rover Program. He said they had 25 restroom buildings in the parks system maintained each day by the park rovers. He said the new restroom would definitely increase their burden in terms of time, but the budget for maintenance was minimal in terms of cleaning supplies and other amenities.

Councilmember Astle asked Mr. Fedin if the Galles Building would be torn down. Mr. Fedin advised the new restroom would be placed on the skate park side of the alley on the east end of the skate park, so the Galles Building would not be torn down. Councilmember Astle asked if the Galles Building was occupied. Mr. Feden said the building was very sound but it had been gutted inside; he said he thought there had been one toilet in the building.

Councilmember Ronquillo asked if any other bids had been received for building the restroom facility. Mr. Feden advised they had not gone out for bids yet. He said they had received estimates from some of the vendors; and they were looking at \$37,000.00 to \$38,000.00 for purchase and delivery to the site, plus additional costs to run the water, sewer, and electrical service. Mr. Fedin said the total estimated cost would be

\$80,000.00. Councilmember Ronquillo asked if the new facility would be similar to the facilities on the west end. Mr. Feden said they had placed a prefab concrete building behind the Rose Park filter room for chemical storage when the pool heaters were installed. He said it was a "bare bones" building that cost around \$13,000.00 to \$14,000.00. He said it was solid concrete, including the roof, with steel-framed doors. Mr. Feden said the new facility at the skate park could be operational within a day after it was placed on the site. He said it would be two-sided with a single stainless steel fixture on each side. He said they were not planning to heat the facility at that time.

City Administrator Volek pointed out that staff was asking Council to reallocate the CDBG funds intended to be used for the renovation of the restroom in the Galles Building to the funding of the free-standing restroom facility. Ms. Volek advised the bids would be brought to the Council for approval if they came in high.

Councilmember Stevens asked if the restroom facility would be operational during the winter. Mr. Feden advised none of their restroom buildings were operational in the winter. He said none of them had heating systems.

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

Councilmember Ronquillo moved for approval of Item #3, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

4. LOCKWOOD SEWER DISTRICT WASTEWATER AGREEMENT. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation, but staff was available to answer any questions.

Councilmember Clark said he did not think there would ever be any chance the City would receive the \$2 million, and asked where the figure had come from. Deputy Public Works Director Al Towlerton said he was not sure he could provide the details. He said he had spoken with the engineer of the district and received some indication of how they had come up with \$2 million and \$4 million. He said he currently understood from Mr. Larsen that the numbers had been scaled back. Mr. Towlerton said he felt \$2 million and \$4 million were too high; and at the very best, he felt the City might realize half. He said he understood the \$2 million was on the whole district. Councilmember Clark said he thought it was for just a small portion of the district and asked how many years it would take to get to that point. He said if Council was being asked to vote on the agreement, they needed to have the right information. Mr. Towlerton told Councilmember Clark to direct his question to someone from the district. He said he had heard it would take five to six years for the build-out of the initial sub-district, but he did not have a lot of detail.

Mayor Tussing asked Mr. Towlerton if he was confident that, no matter what the amount ended up being, it would be enough to cover the City's costs to develop the system. Mr. Towlerton said the agreement called for the rate consultant to determine the level of the system development fee; and in doing so, they would look at the portion of the City's facilities that would be utilized by the district. Mr. Towlerton advised it would recover the district's proportionate share of the cost.

Councilmember Gaghen asked if the fees to the city residents would increase. Mr. Towlerton said the rates and fees the district paid would be based on a cost of service basis, so the cost to provide the service would be recovered from the district.

Councilmember Stevens questioned the recommendation in the memo to possibly not charge system development fees because there was a concern with owner versus non-owner. Mr. Towlerton gave the example of the Heights Water District being a non-owner. He said it was a very similar arrangement with a private investor utility where there was a charge on the rate of return on the investment that the utility owners had made and that were being used by the non-owner to get the service. Mr. Towlerton said it was "messier" from a rate aspect when a system development fee was charged. He said they would have to be careful not to overcharge on the system development fee portion to avoid ending up with a negative rate base. He said it would somewhat "blur" the line between owner and non-owner. He said if a system development fee was collected, it would imply some ownership. Mr. Towlerton said the agreement clearly stated in Item 1 that they were intended to be a non-owner.

Mayor Tussing asked Mr. Towlerton how much additional capacity it would take and what his estimate was when the City would reach full capacity. Mr. Towlerton said it was estimated the Lockwood Sewer District would ultimately contribute one million gallons a day on an average annual basis. He said the City's treatment plant had a design capacity of about 26 million gallons on an annual average basis. Mr. Towlerton said the key was not so much the hydraulic aspect as it was the treatment requirements the City would be faced with over the next few years. He said whether it was based on the flow or the treatment level, the City would have to make significant improvements at the wastewater plant for the City's own customers, with or without Lockwood. Mr. Towlerton said he understood the State would be coming out with very stringent limits on total nitrogen and total phosphorous. He said there were future multi-million dollar investments for the wastewater plant in the CIP to address the new standards, and they would happen whether Lockwood was involved or not.

Councilmember Stevens asked if industrial waste or residential waste had the biggest impact on the requirements. Mr. Towlerton said it would be primarily residential waste. He said that was where they were getting into the nutrient standards issues. He said anything that contributed domestic type waste, such as a hotel or homes, would be contributing to the issues.

Councilmember Ruegamer asked Mr. Towlerton if the plant was currently handling 26 million gallons. Mr. Towlerton said the plant was designed for 26 million gallons a day, and they were currently averaging 16 million gallons a day. Councilmember Ruegamer said they were told at one time the plant would be obsolete before it ever reached 26 million gallons. Mr. Towlerton said the recently completed master plan looked at the wastewater plant in terms of hydraulic capacity and deemed it adequate through at least 2025. He said, in terms of the upcoming nutrient standards, the current process used would not meet those standards; so significant upgrades would need to be done. Mr. Towlerton said the plant was 30 plus years old, so they were also looking at significant equipment replacements.

Councilmember Gaghen asked Mr. Towlerton how much the capacity had been stretched the last several years with the City's 2% to 3% average growth. Mr. Towlerton said it could be determined, but he did not have the numbers off the top of his head.

Councilmember Gaghen asked if the numbers had increased rapidly enough to cause greater stress than usual. Mr. Towlerton said they had not.

Councilmember Astle commented the Town Pump was looking to build on the north side of the freeway and asked if anyone else was planning to build in the area that would significantly impact the hydraulics coming into the treatment plant. Mr. Towlerton said he was not familiar with the development in Lockwood; but he understood the commercial development had been taken into account in the growth projections for Lockwood.

Councilmember Veis told Mr. Astle he had seen the wastewater plan for the future Town Pump, and it added another big waste water system on top of the three or four already in the area. He advised Town Pump was planning to open their doors regardless of what happened that evening, and they were well on their way to obtaining approval.

Councilmember Ronquillo asked if there had been calculations done on how much Briarwood would be disposing into the wastewater treatment plant. Mr. Towlerton said he could not recall the exact numbers, but they were well within the capabilities of the plant. He said there was a wastewater plant in Briarwood the City was currently operating. He said the flow was not getting to the main plant, but Briarwood was part of the City's existing customer base.

Councilmember Clark asked if Briarwood and Lockwood would add to the current 16 million gallons. Mr. Towlerton said both would, but the flow would be very small.

Mayor Tussing asked how much the Yellowstone Club Estates sewer extension was anticipated to contribute to the treatment plant. Mr. Towlerton said he would estimate the number to be three tenths of a million gallons a day.

Councilmember Ruegamer asked Mr. Larson where the \$2 million dollar figure came from. Mr. Larson advised that Carl Anderson of Morrison-Maierle initially indicated the figures would likely be \$2 million for Phase I and \$4 million when the entire system was built out. He said Mr. Anderson later advised those numbers were high and determined it would be closer to \$2 million for complete build-out.

Councilmember Clark said staff had indicated the City may not be able to charge system development fees and asked Mr. Larsen if it all would go away. Mr. Larsen said he was not sure it would all go away because it was spelled out in the contract with the Lockwood Water District. Mr. Larsen said he could not answer the question as to who owned the system and who did not. Mr. Larsen said the City added the system development fees in the contract and the contract, as it was currently written, was acceptable to the district.

Councilmember Astle said it was his understanding the agreement would need to go back to Lockwood for approval if Council approved it that evening. Mr. Larsen advised the agreement would be approved or disapproved on Wednesday at the Lockwood Water and Sewer Board Meeting. He said if the Board approved it, there would still need to be a mail ballot vote by the people in Sub-district One.

Councilmember Ulledalen asked if Sub-district One involved largely commercial areas. Mr. Larsen advised that Sub-district One was substantially commercial with some residential homes.

Councilmember Clark moved to disapprove the Wastewater Agreement with Lockwood, seconded by Councilmember Ronquillo.

Councilmember Ulledalen asked City Attorney Brooks if the City would need to go to litigation or arbitration if the “blurring” line between owner and non-owner ever needed to be resolved. Attorney Brooks said it was hard to predict at that point because it would depend on the rate expert’s study. He said litigation was always a potential. Attorney Brooks said Lockwood might be able to challenge the rate devised by the rate expert.

Councilmember Stevens asked if it would then be possible for Lockwood to receive the same rate as the City’s residents, with no premium. Attorney Brooks said it was possible. He referenced Section 21 of the agreement where the Lockwood Water and Sewer District agreed to pay the system development fees. Attorney Brooks said he could not predict the future, but the current agreement called for the rate to be paid and the system development fee to be paid. He said litigation was always an option in any contract.

Mayor Tussing asked Attorney Brooks if he was convinced the contract protected the interests of the taxpayers of Billings as well as possible. Attorney Brooks said he was; but even the best written documents would always be subject to scrutiny and litigation.

Councilmember Ulledalen said it was known the agreement was contentious with people in Lockwood, and it would be challenged. He said the only smart thing to do would be to reject it.

Councilmember Stevens said the district had provided all of the numbers, staff was unsure about the numbers, and the DEQ was considering changing their requirements. She said it all could fall back on the tax base. She said if the City provided the service, businesses in Lockwood would be paying less tax, but would still be receiving City services. Councilmember Stevens said she would support the motion to deny.

Councilmember Veis said, as an employee of the Department of Environmental Quality, he knew it would be a lot more likely that the DEQ would make the City pick up the slack for the on-site systems in Lockwood. He said it would be much easier for the DEQ to go to the City of Billings and tell them they had to meet the standard than to go to 3,000 people on on-site systems and tell them they had to meet the standard. Councilmember Veis said the City would be much better off taking Lockwood’s effluent than having the DEQ make the City make up for it.

Councilmember McCall said she would like the Council and the public to know that she and Councilmember Pitman took a tour of the City’s treatment plant last Friday. She said she was very impressed with the facility, and she was convinced the City was capable of handling the project. Councilmember McCall encouraged the other councilmembers to vote against the current motion.

Councilmember Astle commented the Yellowstone River was everyone’s environment, and what was not taken to the sewage treatment plant would seep into the river. He said our valley had been abused badly enough, and it was time to stand up and take care of it.

Councilmember Gaghen said she agreed with Councilmembers McCall and Astle. She said she had concerns that the federal funding incentive for Lockwood would not be there forever. She said if the funds were lost, it would take a long time for Lockwood to get them reallocated.

On a roll call vote, the motion to disapprove the Wastewater Agreement failed 7 to 4. Councilmembers Gaghen, Pitman, Veis, Ruegamer, McCall, Astle, and Mayor Tussing voted against the motion. Councilmembers Ronquillo, Stevens, Ulledalen, and Clark voted in favor of the motion.

Councilmember Veis moved for approval of the Lockwood Sewer District Wastewater Agreement, seconded by Councilmember Gaghen. On a voice vote, the motion was approved 7 to 4. Councilmembers Ronquillo, Stevens, Ulledalen, and Clark voted 'no'.

5. SITE DEVELOPMENT ORDINANCE VARIANCE #OP-08-01: A variance from the Site Development Ordinance, Section 6-1203(j), concerning the required number of off-street parking stalls on Lots 11-18, Block 262, Billings Original Town, generally located at 2016 6th Avenue North. Staff recommends approval of the variance request with conditional deed restrictions. Action postponed until March 24, 2008. (Action: approval or disapproval of staff recommendation.)

Public Works Director David Mumford advised that Council directed staff at its March 10th meeting to prepare conditional deed restrictions in conjunction with the variance so the limited parking could not be carried over with other uses of the property. He advised staff created the conditional restrictions, presented them to the Salvation Army, and the Salvation Army was in agreement. Mr. Mumford said they were recommending approval of the variance and asked if there were any questions.

Councilmember Ruegamer asked if it was clearly written that if the Salvation Army sold the building, the variance would go away. Mr. Mumford read #4 of the Conditional Deed Restrictions, "*This variance approval shall run with the land, shall be filed and recorded as a permanent deed restriction, and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.*" Mr. Mumford advised any subsequent owner would have the same deed restrictions. He said unless the building was used for charitable activities, including teenage homeless lodging or a youth activity center, the variance would be null and void. Councilmember Ruegamer asked if Attorney Brooks had reviewed the restrictions.

City Attorney Brooks said he had read through the restrictions. He said he would be wordsmithing the document a little, but what Council was seeing was fine. He said the concept was that Council would be conditioning and restricting the use of the property.

Councilmember Ruegamer asked if it could be written that if the property was sold, the new property owner would have to re-apply for a variance. Mr. Mumford read the last paragraph of the restrictions, *The property uses must conform to those mentioned above. If the property use does not meet those described, the parking variance will be immediately revoked and the parking must meet the City of Billings current parking requirements for the proposed use.*"

Councilmember Pitman asked if it meant the City would deny any kind of occupancy permit if the owner was not in compliance. Mr. Mumford said that was correct.

Councilmember Ulledalen asked if the variance could be tied to obtaining a building permit. He said in the event the Salvation Army could not fulfill its fundraising requirements and did not obtain a building permit, the variance would evaporate. Mr.

Mumford advised the variance outlined the uses. Councilmember Ulledalen said he wanted to be sure that contingency was covered.

Attorney Brooks said they were focusing on the uses, and it would be up to the applicant to build the building first before the uses were applicable. He said he had never seen a variance conditionally granted on funding, and it would be very difficult to monitor because the focus of a variance was the use of the property rather than how the use was funded or whether or not there was a change in ownership. Attorney Brooks advised the Council was interested in making sure the specific uses promised by the Salvation Army would continue in perpetuity.

Councilmember Veis asked to hear from Major Bottjen regarding the deed restrictions. Major Bottjen advised he had spoken with the Salvation Army Headquarters, and they had approved the restrictions as written. Councilmember Veis extended his thanks to Major Bottjen for working on the parking space issue.

Councilmember Astle moved for approval of Item #5, seconded by Councilmember Ruegamer.

Councilmember Veis confirmed the motion was for the variance with the conditional deed restrictions. Councilmember Astle said that was correct, and Councilmember Ruegamer agreed.

On a voice vote, the motion was unanimously approved.

6. FIRST READING ORDINANCE FOR ZONE CHANGE #831: A zone change from Controlled Industrial to Central Business District in an area with general boundaries from the east side of North 25th Street to North 20th Street, and the south side of 6th Avenue North generally south to the railroad right-of-way. Public Hearing was held on January 28, 2008; action delayed until February 25, 2008. Staff recommends withdrawing the application and allowing the Salvation Army to pursue the variance request. (Action: approval or disapproval of staff recommendation.) City Administrator Volek recommended that Council make a motion to withdraw the application since Council was the applicant. She said doing so would make the record clear.

Councilmember Stevens moved to withdraw Item #6, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

7. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required. *(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)*

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

Council Initiatives

- **Ronquillo** asked City Administrator Volek if they were still waiting for approval of the TIFD committee members for the Southwest Corridor. Ms. Volek advised she was told Council action was not required to approve the members. She said they were advisory to City Council.

The meeting adjourned at 7:30 p.m.

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

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