

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

May 14, 2012

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 W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Pitman gave the invocation.

Boy Scout Troop 2 presented the colors and led the Pledge of Allegiance. The Boys Scouts, Leaders, and Scout Masters introduced themselves and each Boy Scout gave the name of the school he attended. Each Boy Scout was earning his Citizenship in the Community Merit Badge.

ROLL CALL: Councilmembers present on roll call were: Cromley, Ronquillo, Pitman, Cimmino, McFadden, Bird, McCall, Ulledalen, and Crouch. Councilmember Astle was excused.

MINUTES: April 23, 2012 – Councilmember Cimmino moved for approval as submitted, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel recognized National Police Week proclaimed by President John F. Kennedy in 1962 in recognition of the nation's officers and officers worldwide.
- Mayor Hanel thanked everyone who assisted and participated in the recent Montana Women's Run.
- Mayor Hanel said it was Year 1 of three consecutive years that the Montana Special Olympics would be held in Billings beginning that week. He said Billings was honored to host the event.
- Mayor Hanel displayed a framed proclamation presented to the City of Billings and the residents of Billings and the surrounding region by Governor Schweitzer in honor of Arbor Day at an event held that week at ZooMontana. He said the proclamation would be put on display for public view.
- Councilmember Crouch honored Ms. Margaret Ping whose 100th birthday had been celebrated the past week. He said Margaret was a co-founder of the Billings Chapter of Habitat for Humanity that would soon be dedicating its 59th Billings home. He said she made possible the Big Horn Historical Museum in Hardin where she continued to volunteer. He said she also continued to volunteer with Habitat for Humanity and was a past director of the Billings YWCA. Councilmember Crouch saluted Margaret as one of Billings' finest citizens and thanked her for her time, energy, and resources to make Billings a better place.
- Steve Arveschoug, Director of Big Sky Economic Development Authority (BSEDA), shared recognition of the Community Partner Award from the Williston Area Development Foundation presented on May 10, 2012, to the community of Billings and BSEDA in partnership with the Chamber of Commerce for its response to the rapid growth of the Bakken oil play and for support in securing

funding to provide the infrastructure necessary to accommodate the growth of the Williston community and region. David Irion, representing the Chamber of Commerce, complimented the City and the many businesses in the community who supported the economic development effort. Mr. Arveschoug advised BSEDA would be keeping the plaque he had that evening, but identical plaques would be provided to both the City and the Chamber.

PROCLAMATIONS:

- Emergency Medical Services Week, May 20-26, 2012
- National Day of Prayer, May 3, 2012
- Public Service Recognition Week, May 6-12, 2012
- National Bike Walk Bus Week, May 13-19, 2012
- Mental Health Awareness Month, May 2012 – Libby Artley, representing the National Alliance on Mental Illness (NAMI), said their organization worked toward causes related to advocacy for individuals who suffered from mental illnesses. She said whether a person had a minor life problem or a full blown major mental illness, help worked and said she appreciated the Mayor reading the proclamation.

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items:

- Item E – Approval of Parking Advisory Board’s recommendation for 3-month extension of meter reduction trial period. Copy of e-mail sent to Mayor and Council, dated May 14, 2012, from Bruce Bochy asking that free parking no longer be allowed in front of his business on 6th and Division and copy of staff response. Copy of e-mail on Council desks and in ex-parte notebook.
- Item F – Acknowledging Receipt of Petition to Annex #12-04. Letter from Will Ralph of Sanderson Stewart, dated May 11, 2012, requesting that the request for Annexation #12-04 be withdrawn, as well as Zone Change Request #894 scheduled for a public hearing on May 29th. Copy of letter on Council desks and in ex-parte notebook.
- Item 2 – Public Hearing and Resolution adopting Wastewater Rate and Fee Schedule effective July 1, 2012. Copy of presentation sent via e-mail to Mayor and Council on May 14, 2012, on Council desks and in ex-parte notebook.
- Item 6 – Public Hearing and Resolution revising the 2011 Limits of Annexation Map. Copy of letter from Rick Leuthold of Sanderson Stewart, dated May 14, 2012, asking that the limits of annexation map be amended to include in the Red Area approximately 93 acres owned by Knife River. Copy of letter on Council desks and in ex-parte notebook.
- Notice of Board and Commission Vacancies on Council desks at request of Mayor Hanel. Copy also in ex-parte notebook.
- Staff memo regarding the addition and approval of the proposed GSA Letter regarding acquiring the James F. Battin Building. Council received copy in May 11 Friday Packet. Copy on Council desks and in ex-parte notebook. She said

they originally thought there were several city services, in combination with the County or other agencies who could use the building, but were concerned that if the building was not acquired by a group of local agencies, it would be simply too large for use by just the City. She said the County Commissioners had since declined to participate, and the Big Sky Economic Development Group felt that private development would be a more desirable option. She said staff was recommending that no action be taken. She said the item would need to be added to the agenda for further discussion.

Councilmember Ulledalen moved to add the GSA Letter to the agenda as Item 9, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 1. CM Pitman voted in opposition.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #7 & #8 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. 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. For Items not on this agenda, public comment will be taken at the end of the agenda.)

The public comment period was opened.

- **Bruce Simon, 217 Clark Avenue, Billings, MT**, said he was a member of the Parking Advisory Board and the recent newspaper articles about the Parking Division were just the tip of the iceberg. He said there were very serious problems in the Parking Division that required Council involvement. Mr. Simon distributed a spreadsheet showing past parking rate increases and what happened with each increase. He said raising rates was not the answer to the Parking Division's financial problems because it would do irreparable harm to downtown Billings. He said they could not raise rates to solve the problem, because it was a spending problem and not a revenue problem. He said they needed a serious plan on how to address parking in downtown Billings that would address the future and not just “kick the can.”

Mayor Hanel asked Mr. Simon for his recommendation based on what he was saying. Mr. Simon said there was currently an experiment with bagged meters because the City had too big of an enforcement area with lots of areas where meters sat vacant all day. He said the City had more enforcement and more meters than it needed. Mr. Simon said he would prefer free parking and a smaller two-hour zone. He said they could eliminate the attendants in Park I and Park IV. He said they could not continue to see personnel costs rising at 5 percent per year when revenues were not rising at that rate.

Ms. Volek advised Mr. Simon's recommendations had already been reflected in the budget recommendations for the coming year.

- **Greg Krueger, Development Director for Downtown Billings, 2815 2nd Avenue North**, referenced Item 7 and said the Partnership supported the sale of Park IV. He distributed a memorandum based on action taken by the Downtown

Billings Partnership Board hired by City Council and the City to assist and advise on the expenditures of taxpayer dollars. Mr. Krueger said they felt \$2.6 million was a fair price for Park IV. He said Park IV was built using tax increment dollars generated by downtown property owners. He said many of those property owners currently sat on the Board and approved of the sale.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Item 7 and said all the proceeds from the sale did not belong to the City. He said Park IV was paid for with tax increment finance dollars from county residents, School District 2 property taxpayers, and the City. He said the money needed to go back proportionately to all of the taxing jurisdictions.
- **Lisa Harmon, Executive Director for Downtown Billings Association and Business Improvement District**, referenced Item 7 and said they were in support of the sale of Park IV. She said they believed anything reducing the liabilities for the Parking Division was good business sense and might stimulate further parking projects such as the Empire Parking Garage. Ms. Harmon said Park IV was built by tax increment financing in that district and not by county residents. She also challenged Council to participate in the Spark Plug, Spoke, and Sneaker Challenge at 11 a.m. on Wednesday.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **Billings Logan International Airport Screening Lobby Renovation** (Opened 4/24/2012); Recommend General Contractors Construction Company, Inc.; \$180,881.
2. **W.O. 12-01, Water and Sanitary Sewer Main Replacement Projects, Schedules 1A, 1B, and 1C, plus three additive alternates.** (Opened 4/10/12) (Delayed from 4/23/2012); Recommend COP Construction; \$4,467,716.
3. **W.O. 10-27, Central Avenue Widening and Sidewalks** (Opened 4/24/2012); Recommend Riverside Sand & Gravel, Inc.; \$299,400 pending CTEP approval.

B. Contract for Professional Services with HDR Engineering for W.O. 12-15, Wastewater Treatment Facility Plan as part of the Integrated Water Plan Implementation Projects; \$521,900.

C. Approval of Builder/Selling Agent and Housing and Development Agreement for Kings Green Subdivision, Phase IV, Affordable Housing Project (10 single-family homes on Jackson Street); Real Estate Dynamics, Inc.; 5% total commission.

D. Park 1 Lease Agreement with Big Sky Imaginarium, LLC (6/1/12-5/31/17) with one, 5-year renewal option. Revenue first year - \$24,000; revenue subsequent years - current year plus 3%.

E. Approval of Parking Advisory Board's recommendation of a 3-month extension of the meter reduction trial period beginning May 15 and the re-signing and 2-hour parking enforcement for areas previously removed from the test area.

F. Acknowledging Receipt of Petition to Annex #12-04: 13.39 acres at the west end of Bell Avenue located west of Shiloh Road and north of Monad Road; Dorn-Lowe, LLC, Petitioners; and setting a public hearing date for May 29, 2012.

G. Acceptance of Anonymous Donation to the Human Relations Commission to help defray operating expenses; \$500.

H. Approval and acceptance of the State Highway Traffic Safety Billings STEP Overtime Grant for traffic enforcement funding; \$10,000.

I. Grant Application Request to submit 2012 Internet Crimes Against Children (ICAC) operational continuation application for \$230,650 and accept award.

J. Smart Growth Implementation Assistance Award from U.S. Environmental Protection Agency

1. Acceptance of Smart Growth Implementation Assistance Award from U.S. Environmental Protection Agency providing technical assistance to help develop a framework for collaborative planning between the City and School District #2.

2. Approval of Resolution #12-19154 establishing an Ad Hoc Collaborative School Planning Committee to develop a model city-school collaborative infrastructure planning process.

K. Resolution #12-19155 amending boundaries of Special Improvement Lighting Maintenance Districts #281 and #307 removing certain properties from Lighting District #281 and placing them in Lighting District #307 following completion of Shiloh Road project.

L. Resolution #12-19156 authorizing the issuance and calling for the public sale of up to \$16,300,000 General Obligation Library Bonds, Series 2012.

M. Second/Final Reading Ordinance #12-5564 amending BMCC 25-301 through 25-307, Nuisance Vegetation, providing clarity and consistency across several sections of the code.

N. Second/Final Reading Ordinance #12-5565 for Zone Change #891: a text amendment to Sections 27-201 and 27-622 of the BMCC eliminating the definition of "townhome" as a type of residential land use and updating the section requiring a Master Site Plan review for multi-unit developments.

O. Second/Final Reading Ordinance #12-5566 for Zone Change #892: a text amendment to Section 27-1502 of the BMCC to align local zone change procedures with new state law amendments passed in 2009 and 2011.

P. Second/Final Reading Ordinance #12-5567 for Zone Change #893: a text amendment to Sections 27-1508 and 27-1604 of the BMCC aligning county zone change procedures and enforcement with new state law amendments passed in 2009.

Q. Preliminary Major Plat of Copper Ridge Subdivision, 3rd Filing, generally located on the north side of Rimrock Road, east of 70th Street West, and north of the existing Copper Ridge Subdivision. Copper Ridge Development Corp., owner; Sanderson Stewart, representing agent; conditional approval and adoption of the Findings of Fact.

R. Preliminary Major Plat of Copper Ridge Subdivision, 4th Filing, generally located on the north side of Rimrock Road, east of 70th Street West, and north of the existing Copper Ridge Subdivision. Copper Ridge Development Corp., owner; Sanderson Stewart, representing agent; conditional approval and adoption of the Findings of Fact.

S. Preliminary Major Plat of Reflections at Copper Ridge Subdivision, 2nd Filing, generally located on the north side of Rimrock Road, east of Copper Ridge Subdivision, and north of the existing Reflections at Copper Ridge Subdivision. Reflections at Copper Ridge, LLC, owner; Sanderson Stewart representing agent; conditional approval and adoption of the Findings of Fact.

T. Preliminary Major Plat of Reflections at Copper Ridge Subdivision, 3rd Filing, generally located on the north side of Rimrock Road, east of Copper Ridge Subdivision, and north of the existing Reflections at Copper Ridge Subdivision. Reflections at Copper Ridge, LLC, owner; Sanderson Stewart, representing agent; conditional approval and adoption of the Findings of Fact.

U. Bills and Payroll:

1. April 9, 2012
2. April 16, 2012
3. April 23, 2012

Councilmember Ulledalen separated Item J. Councilmember Bird separated Item E. Councilmember Cimmino separated Items 1A2, B, D, and L. Councilmember Pitman separated Item F.

Councilmember McCall moved for approval of the Consent Agenda with the exception of Items 1A2, B, D, E, F, J, and L, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Ulledalen moved for approval of Item J and said he specifically wanted to have a short discussion on #2. The motion was seconded by Councilmember

Bird. Councilmember Ulledalen asked Ms. Volek if she would be appointing the people to the ad hoc committee or if it would come back to the Council. He said he hoped they would get a fair number of people knowledgeable about city issues so people would not need to be trained on what they were trying to accomplish. Ms. Volek advised it would be the creation of an ad hoc committee of six, which was discussed at the joint school district and city council meeting, with three to be appointed by each side. She said a councilmember had suggested there be five from the city and six from the school district as an alternative to represent all wards from the district. She said the concept presented at the joint public meeting was a six-member committee representing the breadth of the community, the three members of the city council would be an ad hoc committee appointed by the Mayor with the consent of the Council, and that was the recommendation. She said their intent was to ask for applications by May 18 with the idea of making appointments at the next council meeting so the committee could begin its work as soon as possible. She said the school district was working on a master plan and the feeling was the two parts needed to come to a fairly close conclusion so they worked well together. Ms. Volek advised the school district would be discussing the item at a school district meeting that evening.

Councilmember Ulledalen said they needed to get the ball rolling without delay. He said he heard the EPA had never had a community steering committee at that level on that kind of a project before.

Ms. Volek advised according to her discussions with Planning Director Candi Beaudry the EPA remained in charge of the project and was the contractor who would review the documentation before it came to the City.

Planning Director Candi Beaudry said it was not a typical format for a technical assistance award from the EPA. She said the EPA said they would respect and honor the advice of a steering committee but requested that she maintain her position as facilitator and liaison with the City through the process.

Mayor Hanel asked to clarify that the selection of those representatives from the City would be at the direction of the Council. Ms. Beaudry said that was correct. Mayor Hanel clarified that the recommendation of the type of arrangement was made by the Superintendent of Schools and the City Administrator. Ms. Volek said that was correct.

Councilmember Bird asked for the rationale behind the recommendation. Ms. Volek said there was a great deal of emphasis in the documentation submitted to the EPA from both the school district and the city on public participation. She said Mr. Copps proposed the solution because he thought it would go a long way involving people in the process.

Councilmember Ulledalen said he wanted to make sure it was kept as pristine, clean and focused as possible and that it did not turn into a circus. He said it should be something largely staff driven and between Public Works and the Planning Department they could carry it on. He said they needed to keep the balling rolling the best they could and get it approved and move on with it.

On a voice vote, the motion was unanimously approved.

Councilmember Bird referenced Item E and said she would like to discuss what direction they needed to be going because she was somewhat confused. She said she did not understand why they needed to extend the meter reduction trial period. She said they had tough decisions with budget, enforcement, and staffing and she did not

understand why they needed to extend the experiment. Ms. Volek told Councilmember Bird that the Parking Division reported to Assistant City Administrator Bruce McCandless, and he could provide answers to her questions.

Councilmember Pitman said when they had talked about it earlier, he said one of the key components was to talk to the businesses downtown and get their input on how they felt it was working. He asked if any contact had been made with any of the downtown business owners.

Assistant City Administrator Bruce McCandless said the reason for the request for the extension was because there was some seasonality to parking, and the Parking Advisory Board believed it would like to test the meter reduction area during the summer months. He said the intention at the conclusion of the extension would be to bring a recommendation to the Council to permanently remove the meters, remove a portion of the meters, or re-establish the meters. Mr. McCandless said he did not know if the downtown business owners had actually been contacted but several business owners had contacted Parking staff and attended Parking Advisory Board meetings and either through staff action or at the Parking Advisory Board's recommendations, their requests to remove the meter bags or to sign for 2-hour parking had all been honored. He said the area referenced in the e-mail Council had received that day regarding North 32nd close to 6th Avenue North would be signed for 2-hour parking if Council approved the extension.

Councilmember Bird asked Councilmember Pitman when he had asked staff to contact businesses. Councilmember Pitman said it was within the last month. Councilmember Bird asked why that had not happened. City Administrator Volek advised Mr. Krueger was a member of the Parking Advisory Board and represented the Downtown organizations and to the best of her knowledge, he had not objected to it in any form and had been an active participant in the discussion. She said she was assuming he was having discussion with his members.

Councilmember Ulledalen said as someone who had parked downtown for almost 30 years, he felt there was a lot more work to be done. He said one of the problems was they tended to look at parking as a "big amorphous blob downtown" and that was not the case. He said they needed to take a harder look at what they were doing because things were constantly changing.

Mayor Hanel asked Mr. McCandless if the complaints and concerns received where parking availability was having a negative effect on a business had been addressed. Mr. McCandless said they were for the most part. He said in the areas around the Housing Authority, Juliano's Restaurant, and 4th Avenue North between 30th and 31st, the meter bags were removed after initially being installed six months ago because of business owner complaints. He said there were a couple of areas where complaints came late in the trial period, and the Parking Advisory Board did not want to make changes at that point in time. He said if Council approved the proposal, those areas would have the free parking bags removed and 2-hour time limit bags would be re-installed on the meters.

Councilmember Ronquillo said he noticed around the GSA building all of the workers arrived at 6:00 a.m. and took all of the parking spaces that were bagged. He said the Clock Tower also had construction going on that eliminated about six parking spots along 26th. Mr. McCandless said they received a complaint in that area, but it

appeared to be because of long-term parking for days and weeks at a time. He said the problem had been resolved and he believed it was one of the areas the Parking Advisory Board recommended that 2-hour parking be re-established if Council approved the proposal.

Councilmember Pitman said he was okay extending it if, since the City was not going to extend itself to the business owners, that the business owners start acknowledging or realizing they needed to be extending themselves to the City. He said it did not function well if they did not work together, because the data would not tell them a lot without actual feedback. Mr. McCandless said there had been early discussion with Lisa Harmon about doing a survey of downtown businesses, and he felt it was time to re-initiate the idea.

Councilmember McCall said she had complaints from two businesses so she forwarded them to staff and they were immediately taken care of. She said both businesses were very happy.

Councilmember Bird said her primary concern with the extension time was that the tourism season would be starting soon, and they had a lot of downtown employees parking for free and taking up the spots for people coming in from out of town.

Councilmember McCall moved for approval of Item E, seconded by Councilmember Pitman. On a roll call vote, the motion was approved 7 to 3. Councilmembers Cromley, Ronquillo, Pitman, McCall, Ulledalen, Crouch, and Mayor Hanel voted in favor. Councilmembers Cimmino, McFadden, and Bird voted in opposition.

Councilmember Cimmino referenced Item 1A2 and said she needed to abstain due to a conflict. Councilmember Pitman moved for approval of Item 1A2, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Item B and said she needed to abstain due to her employment. Councilmember McCall moved for approval of Item B, seconded by Councilmember Ronquillo. Councilmember Pitman asked Public Works Director Dave Mumford if Item B had anything to do with Regular Agenda Item 2. Mr. Mumford said it did not. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Item D and asked Parking Supervisor Chris Mallow why there was a \$25,000 allowance for reconfiguration. Mr. Mallow advised the space had been vacant and in need of repair for some time. He said it had been deemed by staff and the leasing agent that improvements to the wallpaper, walls, window treatments, carpets, and the bathrooms were needed. He said the bathrooms also needed to be brought up to ADA compliance, and there was mold under the windows that needed to be removed. He said it had always been their plan to help finance those improvements in an effort to bring in a long-term tenant. Councilmember Cimmino asked if it was standard practice to attract new tenants. Mr. Mallow said it was if it was necessary, and it was done on a case-by-case basis. He said if a tenant needed large scale improvements in order to secure the lease, the Parking Division had money available for those types of improvements.

Councilmember Pitman asked who would be doing the repairs. Mr. Mallow said the arrangement was that the tenant would do the repairs, submit the paid invoices and a lien release from the contractor, and the City would reimburse up to \$25,000. Mayor Hanel asked how they arrived at \$25,000. Mr. Mallow advised it was a negotiation

between the tenant's leasing agent and the city's leasing agent. He said it was an estimate of the needed repairs that he had mentioned earlier and what the tenant needed to operate as a daycare, such as a more advanced fire alarm system. Mayor Hanel asked Mr. Mallow if \$25,000 seemed to be an extravagant amount. Mr. Mallow said it did seem to be a large amount, but it was what they would have to do for most tenants in order to get the space into a rentable condition. He said most of the \$25,000 would take care of the bathrooms, walls and carpeting. Mayor Hanel asked if he had received estimates. Mr. Mallow said he had.

Councilmember Pitman asked if they would start collecting rent as soon as the space was ready to occupy. Mr. Mallow said the start date on the lease was June 1st.

Councilmember McCall moved to approve Item D, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Item F and moved to accept the letter to withdraw the petition, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item L and said it was her understanding that \$5 million was being raised by private donations to offset the \$16 million amount. Councilmember Cimmino asked for clarification on the dollar figure. Finance Director Pat Weber advised of the \$16.3 million that \$13.3 million was being paid by taxpayers and \$3 million would be paid with donations through the Foundation over a 10-year period. He said the \$2 million was not included in the figure for the architect because it was a separate donation. He said the total library would cost \$18.3 million, with \$16.3 million coming from bonds. He said part of the bonds would be paid for with donations to the Foundation.

Councilmember Pitman asked Councilmember McCall if the Foundation was continuing to raise money to reduce the amount and, if so, how much they had raised. Councilmember McCall said the Foundation continued to raise funds, but she did not know how much had been raised since the campaign was completed. She said she knew a pledge of \$50,000 was confirmed a couple of weeks ago, and they were working on an additional one.

Councilmember Cimmino moved for approval of Item L, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #12-19157 adopting Wastewater Rate and Fee Schedule effective July 1, 2012. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Public Works Director Dave Mumford advised Council was being asked to approve rate increases for 2013. He said normally they would be asking for rate increases for both water and wastewater, but this year they were not asking for water rate increases. Mr. Mumford said the rate setting process was set by state statute. He advised the rates would be effective July 1 and would show up on the August bills. He said the primary drivers for the rate increases and the wastewater improvements were Federal regulations for nitrogen and phosphorus removal, electricity increases, and increased maintenance due to an aging plant. He said the \$2 million preliminary design for construction of wastewater treatment

plant improvements would be completed in FY 2013 and was programmed in the FY 2013 Capital Improvement Plan, and the estimated \$58 million to \$60 million construction was scheduled for FY 2015 and was programmed in the FY 2015 Capital Improvement Plan. He said the funding would be through revenue bonds, and the rate increases were also needed to build necessary reserves and pay annual debt service. Mr. Mumford advised the average monthly residential wastewater rate increase would be \$2.19 over last year's rate. He showed a rate comparison with other cities and said Billings rates fell within mid-range.

Mayor Hanel asked if there would be an even more substantial increase next year if the rate increase was not approved that evening. Mr. Mumford said that was correct. He said they had to eventually build the plant to meet Senate Bill 367 and the Federal and State Clean Water Act. He said, in addition, the plant was opened in the early 1970's and had not been upgraded significantly since then. He said the life of a plant was 30 to 40 years, and there would be increments over the next 20 years to meet DEQ's new standards. He said the reality to meet the final standards would be well over \$200 million.

Councilmember Ulledalen asked Mr. Mumford where they were with treating stormwater and the whole process with the Federal regulations. Mr. Mumford said they were starting to get regulations on treatment, but at this point the treatment was not required. He said that was why they were moving forward on the lake on Shiloh Road to try to start cleaning it. He said the State would be working forward on a Total Maximum Daily Load (TMDL) for the watershed, taking into account wastewater and stormwater discharge, and setting limits of what could be produced mostly for nitrogen and phosphorus basing the whole watershed as one. Councilmember Ulledalen said he understood the city discharged stormwater from nine places to the river and asked if each one of the nine places would need to be treated. Mr. Mumford said eventually they may have to but it would be out quite a few years.

Councilmember Cromley asked how wastewater was measured at the user level. Mr. Mumford said it was measured in ccf's, which was 748 gallons, and that was how it was billed to a home. Mr. Mumford said they took records of water consumption in January, February and March because it would be strictly domestic use within the home, and the annual was based on those three months.

Councilmember Cimmino told Attorney Brooks she worked for a consulting firm and asked if she should abstain from the matter due to possible design studies. Attorney Brooks advised Councilmember Cimmino that if her employer was providing direct consultation on how the fees were devised and structured, then she should recuse herself. Councilmember Cimmino asked Mr. Mumford if a specific consulting firm was involved in the preliminary design. Mr. Mumford advised HDR would not be involved in setting the fees.

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

Councilmember Ulledalen moved for approval of Item 2, seconded by Councilmember McCall.

Councilmember Pitman said he understood they were trying to ease into it and make it less painful, but he was not supporting it because at some point they had to explain to people the cost the EPA was putting on the city and the extent of money that

it was costing the citizens and the infrastructure. He said it was not that the plant was not doing what it needed to do. He said they were asking the city to do the "super human" and it was easy if it was slowly eased in with a few cents here and a few dollars there. He said they were talking possibly hundreds of millions of dollars, and he was concerned at some point how many times they would keep incrementing it up. He said it could still end up at a point that did not satisfy them. He said there was a point where they had to stand up and say enough. He said his vote was against what they were asking the city to do.

On a voice vote, the motion was approved 8 to 2. Councilmember Pitman and Councilmember McFadden voted in opposition.

NOTE: Councilmember McCall left the meeting at 8:00 p.m.

3. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #OP-12-01: A variance from Section 1203, Off-Street Parking Requirements, allowing reduction from the required 92 off-street parking stalls to 76 off-street parking stalls at 2475 Enterprise Avenue located on Lot 2, Block 1, of Claimstake Subdivision. Streets Properties, LLC, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director Dave Mumford advised the Billings Gymnastics School was asking for a variance on parking. He said there was nothing in the regulations that talked specifically about parking for a gymnastics school. He said the school conducted a study on their use to determine the maximum number of parking stalls they would need. Mr. Mumford said the proposed site plan would provide 76 stalls that would be adequate for their use.

Councilmember Cimmino said the variance application indicated the school was asking for a reduction of only four parking spaces instead of 16 spaces and asked for clarification. Mr. Mumford said off the top of his head he could not explain the difference.

Councilmember Ulledalen said it seemed like the city had a lot of unnecessary parking lots and spaces at a lot of businesses in Billings. He asked if they should address it by changing the code or just continue to deal with it on an ad hoc basis. Mr. Mumford said he believed Planning was looking at parking citywide. He said they would like to look at not having so much asphalt because it affected stormwater and retention.

The public hearing was opened.

- **Al Rapacz, Schutz Foss Architects, 3030 4th Avenue North, Billings, MT,** said he wanted to clarify Councilmember Cimmino's question on the number of parking spaces. He referenced his March 13th memorandum to Wayne Ware and said there were two different ways to figure the number under two groups. He said based on Community Center the amount could be figured four spaces per 1,000 SF gross or 1 per 250 SF gross, plus 1 per 4 seats plus 1 per employee. He said they took the low end, but Mr. Ware wanted to be open and look at the high, so that was the difference.
- **Patrick Sheehy, 550 N. 31st Street, Billings, MT,** said he was speaking on behalf of the gymnastics school. He said his kids had gone to the gymnastics school for 15 years, and the reasons the city had given for the variance were

good reasons. He said most of the gymnasts were under driving age so most of the children were dropped off. He said the school needed some parking spots but not that many.

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

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

4. PUBLIC HEARING AND RESOLUTION #12-19158 de-annexing approximately 13.82 acres of undeveloped land known as Tract 81-A, Certificate of Survey 2165, in the Briarwood Planned Unit Development; James and Stella Ziegler, petitioners. Staff recommends approval. (Acton: approval or disapproval of staff recommendation.) Planning Division Manager Wyeth Friday showed the location of the subject property on the current Limits of Annexation Map. He said the property had never been developed, and the applicant had no plans to develop it anytime soon. Mr. Friday said staff reviewed the petition and found it was consistent with the De-Annexation Policy as follows:

- The property is currently adjacent only on the north side to the acceptable limits of annexation as defined on the most recent update of the Limits of Annexation Map.
- The property is not encumbered with any improvement district.
- The property is only adjacent to public right-of-way where Dumbarton Road intersects the property at the northeast corner. No road right-of-way is dedicated or constructed on the parcel.
- The property is not currently connected to City water, wastewater, or storm drainage facilities, and cannot connect to these facilities without a significant expenditure of personal or public funds. However, the City would be able to serve the subject property from existing water and sewer lines in Dumbarton Road. There are no stormwater facilities in the area of this property and a system would have to be provided if the property were developed to meet the City standards. While costs to provide services to the property could be significant, this 13 acre property was originally planned to be developed under the Briarwood PUD for about 30 single-family residential lots.
- The property is located on the outer perimeter of the City limits and upon exclusion of the property will not result in a parcel wholly surrounded by City limits.

Mayor Hanel noted for the record that he had received a call from Mr. Ziegler and due to a personal matter neither he nor his wife were able to attend the meeting that evening and expressed their apology.

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

Councilmember Ronquillo moved for approval of Item 4, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward II to include recently annexed property in Annex #12-02: three parcels totaling approximately 0.85 acres legally described as Lots 1, 2, and 3 of Skinner Subdivision and located at 325 and 337 Lincoln Lane. Brent Nelson, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

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

Councilmember Pitman moved for approval of Item 5, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND RESOLUTION #12-19159 revising the 2011 Limits of Annexation Map. Staff recommends approval as recommended by the Annexation Committee. (Action: approval or disapproval of staff recommendation.) Planning Division Manager Wyeth Friday said the amendment recommendations from the Annexation Committee for the current year were to the Limits of Annexation Map, with no recommended changes to the Annexation Policy. He said the current Limits of Annexation Map was adopted by City Council in May 2011, and the Annexation Policy required that the City review and look at potential updates whenever the Capital Improvement Plan (CIP) was revised. He said the City Council adopted the most recent CIP on March 12, 2012, so staff was following up with the recommended changes to be in alignment with the CIP. He said the Annexation Committee completed an internal review of the policy and map and received requests from two property owners for requested amendments. Mr. Friday said when proposing updates to the Limits of Annexation Map, the committee considered the following:

- Distance from existing city services and response times;
- Capacity and location of existing facilities and future upgrades or construction of new facilities;
- Cost of city services;
- Effect on existing residents; and
- Conformance with all adopted plans including the Capital Improvements Plan, the Growth Policy, applicable area plans, the Billings Area Bikeway and Trails Master Plan, the most current Transportation Plan, the most current sewer, water and storm sewer plans, and other applicable adopted planning documents.

Mr. Friday said the committee's four recommendations for the current year were as follows:

1. Add Phipps Park to the Red Area on the Limits of Annexation Map for 2012.
2. Add Tracts 2A and 2B of C/S 2577, Amended, and City Park Land described as Tract 1-B, C/S 266 to the Red Area on the Limits of Annexation Map for 2012.
3. Do not add Lot 1, Block 1, Long Subdivision, and Tracts 1A1 and 1B of C/S 1100 to the Red Area on the Limits of Annexation Map for 2012.

4. Make updates to the Map from annexations and de-annexations that Council approved since May 2011.

Mr. Friday referenced the first recommendation and showed a map of the Phipps Park property and how the Limits of Annexation Map would look with the property included in the Red Area. He said the committee's recommendation came down to how the City could regulate and manage the park. He said currently the park was in the county under county regulations and under the jurisdiction of the Sheriff's Department. He said the City Fire Department usually ended up responding to calls at Phipps Park anyway to backup the Molt Volunteer Fire Department, who was the fire department of response. He said the purpose was not to extend water and sewer services and do major development in Phipps Park because the park was given to the City with the understanding it would remain a natural park. Mr. Friday said the City Fire and Police Departments would respond to the park.

Councilmember McFadden asked if dog owners would still be able to walk their dogs in Phipps Park. Mr. Friday told Councilmember McFadden he was not sure and recommended he talk to the Parks Department. City Administrator Volek advised the City did not allow dogs off leashes in city parks. She said one of the staff concerns was the fire situation in Phipps Park, and she did not feel they would see a lot of changes to the park.

Councilmember Bird asked if the fire department went to Phipps Park as a matter of routine or only if they received a call from the Molt Volunteer Fire Department. Mr. Friday said it was his understanding they always went to back them up when there was a call. He said the 4th of July and fireworks were challenges for them.

Councilmember Ulledalen commented that the issue with dogs at Phipps Park was similar to Riverfront Park. He said dogs were allowed on leashes but he had never seen a dog on a leash in either park. He said it was a growing problem that would need to be addressed at some point.

Mayor Hanel asked City Attorney Brooks if the City would have increased liability considering there were some hazardous conditions in the park's current, natural state. Attorney Brooks said the City would be responsible for any land it owned, and the City would need to keep it in a reasonable condition based upon its intended use. He said MMIA would cover any liability in terms of a lawsuit or someone being injured, and he felt the liability would be less in a natural state park than a park with a playground, swimming pool, tennis courts, etc.

Councilmember Pitman asked if a master plan would be needed for Phipps Park. City Administrator Volek said the City had a number of parks that did not have master plans, including Cottonwood Park, and it was something they needed to work on in the near future.

Councilmember Ulledalen commented they would need a master plan soon because the park was being destroyed systematically and methodically. He said the use was growing, and there was a lot of activity with mountain bike riding. He said he thought there was a group of local retired professionals who had said they would do a master plan. He said it was a key part of the park infrastructure that was absolutely being destroyed. Councilmember Ulledalen said staff had done a good job correcting a major erosion problem from heavy rains that caused ruts and five to seven foot gullies

on the main roadway. He said staff had worked with the Conservation Corps and state advisors to put water management in place to control the erosion.

Mr. Friday clarified that if the Council approved the amendment to include Phipps Park in the Red Area that evening, the Parks Department would be coming forward in the near future with the annexation petition to bring it into the city.

Mr. Friday showed the locations of Tracts 2A and 2B of C/S 2577, Amended, and City Park Land described as Tract 1-B, C/S 266, also being recommended as additions to the Red Area. He said they were near Highway 3 and along the rims. He said the city limits were already on the east, south and west sides, and water and sewer were available.

Mr. Friday showed the location of the Knife River property legally described as Lot 1, Block 1, Long Subdivision, and Tracts 1A1 and 1B of C/S 1100. He said the Annexation Committee was recommending that the Knife River property not be included in the Red Area at that time for the following reasons:

- Public Works concerned about Zone 3 capacity and storage limitations for the City's water system. While routine supply may not be a problem, the risk of not having adequate supply to support emergency situations is a problem.
- Fire concerned about emergency water supply, height and type of buildings that might be built in this area from a staff and equipment service standpoint.
- Police believes it is critical response time is adequate across the City and the more expansion that occurs the more difficult it becomes to maintain without additional resources.
- Overall concerns about demands on City services that will occur in the existing City and current Red area at build out.

Mr. Friday advised a letter was received that day from Sanderson Stewart, the agent for Knife River, asking for consideration of the request to include the property in the Red Area.

Councilmember Ulledalen said it was not long ago the Council had a big presentation on how vitally important it was to annex the Lenhardt Square area, and the City essentially created an obligation on the water and sewer systems with that annexation that had not happened yet. He said they were now just going down the road to another one and doing the same thing. He asked what spiraling, compounding obligations they were creating in terms of potential demands on the water system. He said they were already worrying about Zone 3 with Lenhardt Square, and they really did not know what was going to happen up Shiloh on the northwest corner at that point. He said it could be vacant for a long period of time, yet the City had the obligation to supply them because they were already annexed.

Mr. Friday said there were two tools the City had in place to manage growth. He said one was the Limits of Annexation Map and Annexation Policy put in place by the Council to look at addressing resource delivery and demands on resources with properties wanting to be annexed into the city.

Councilmember Ulledalen said he had been very passionate about restricting the map and pushing staff to restrict the map. He said every time a developer stood at the edge of the map saying he wanted more, they caved in. He said he supported staff's

recommendation not to extend the map at this point, but he was looking for rationale so they could go back and defend what they had done because it was important they stayed with the course they had set over the last few years.

Mr. Friday said there was the Limits of Annexation Map and Policy used to make the initial direction decisions in terms of overall growth and then the annexation itself. He said talking about the previously-mentioned annexation, they ended up conditioning that annexation with the concern about water service. He said they had the same types of concerns today, so the issue had not gone away.

Public Works Director Dave Mumford said their concern was how far out they extended their obligations. He said they recognized when the Annexation Committee met that going into the Red Area did not guarantee annexation but it left a perception that it would eventually happen. Mr. Mumford said the current concern was that the City of Billings had an approximate 7.5 million gallon reservoir deficiency. He said 4.5 million of it was in Zone 3, which ran from just below Rimrock Road all the way down along Shiloh south of King. He said they would add to some of the capacity when the 2-million gallon reservoir at Ironwood came on line in the next few weeks, but it still left them with 4.5 to 5.5. He said they were hoping to build an additional reservoir in Zone 3 next summer. He said they had hoped to build it sooner but had run into some land acquisition troubles. Mr. Mumford said their concern was that there were currently a lot of areas in the Red Area and undeveloped areas within the city where they had a deficiency. He said they were concerned how far out they kept allowing. He said it was a great area to eventually be a part of the city and would be a part of the city some day. He said in six to nine months they would have completed the water master plan that would look at how zones were set up and how water could be balanced better. He said when starting from a deficit, there was not much room to move water. He said 7.5 million gallons was significant, and it cost over \$1 a gallon to build a reservoir. He said the water and sewer were almost a mile away, and it would cost the City to extend the services unless the developer was willing to pay for it.

The public hearing was opened.

- **Rick Leuthold, Sanderson Stewart**, said he represented Knife River. Mr. Leuthold said he applauded Public Works on their pursuit for additional capacity in the system. He mentioned the Lenhardt parcel and said it had been an ongoing situation. Mr. Leuthold said when the Limits of Annexation was adopted in 2009, they were seeing a lot of sporadic development on Grand and Central Avenues a mile to a mile and a half out without an infill process occurring. He said after adopting the Limits of Annexation, there was a lot of red infill on the map with properties that could be out five, ten, or fifteen years before coming online. Mr. Leuthold said he was asking for a reasonable evaluation of the Knife River property along King Avenue because he felt it fit the process they were talking about in 2009. He said the property was along a principle arterial and had just been improved, and the developer was prepared to spend several hundred thousand dollars in planning, platting, and negotiating as he looked for a reasonable expectation of being able to connect to city water and sewer. He said if there was a reasonable expectation, they would not be asking for inclusion in

the Limits of Annexation until they came with an annexation petition, and those processes could be eight, ten, to twelve months away because that was the timeframe going from raw land to a final improved product. Mr. Leuthold asked Council to look at it and act favorably and help Knife River continue their process.

Councilmember Cimmino complimented Mr. Leuthold on his 20-page response. She said he brought up a lot of excellent points and presented a compelling case for annexation. She said his points were well taken.

- **Bob Kober, 334 Burning Tree Drive, Billings, MT**, said he was Vice President of Operations for Knife River's Billings Division. He said he was struck by the City of Billings Vision Statement, *The Magic City – A vibrant welcoming place where people flourish and business thrives*. He said they had an opportunity for growth and they appeared to be surviving the recession. He said it was a logical parcel that had been in the orange zone since the inception of the map, the next logical choice would be to go the Red Zone, and then ultimately look to annexation. He asked Council to override staff recommendation and allow the property into the Red Zone so Knife River could continue planning and look to annexation down the road. He said he would actually like to include the entire 450 acres but the current request was for 93 acres.
- **Al Koelzer, 2828 Westwood, Billings, MT**, said there were always a lot of people running their dogs off leashes in Phipps Park and if the park was brought into the city, dogs could not be run off their leashes. He said he did not know the benefits of getting the park out of the Molt Fire District, and it made as much sense to approve the annexation of Phipps Park as it did to disapprove the annexation of the Knife River property. He said the Knife River property was on Shiloh and it deserved to be annexed. He told the Council while they were busy managing growth they also needed to permit growth. Mr. Koelzer distributed a handout with a list of business properties for sale in the City of Billings zoned for commercial with city services.

Councilmember Ulledalen said it was not a case of being for growth or not being for growth. He said Council had been handed a lot of messes that they needed to figure out how to continue to navigate around. He said there were deficits in infrastructure, and they were going to have to raise water rates to get the needed infrastructure in place. He said someone needed to step forward and develop a major commercial, industrial type subdivision, and it would not be the City Council. He said they needed an intelligent, cohesive plan for where and why property fit into the community and not continue to do things on an ad hoc basis as they popped up because it was expeditious for someone to get something sold.

Councilmember Cimmino told Mr. Koelzer she appreciated his comments and agreed they needed the commercial developments in the area.

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

Councilmember Ulledalen moved for approval of Item 6, seconded by Councilmember Cromley.

Councilmember Pitman moved to amend the Limits of Annexation Map to include the 93 acres proposed by Knife River in the Red Zone, seconded by Councilmember McFadden. On a roll call vote, the amended motion failed 5 to 4. Councilmembers Cromley, Ronquillo, Bird, Ulledalen, and Crouch voted in opposition. Councilmembers Pitman, Cimmino, McFadden, and Mayor Hanel voted in favor.

On a voice vote, the original motion passed 7 to 2. Councilmembers Cimmino and Pitman voted in opposition.

7. DISPOSAL OF PARK 4 PARKING STRUCTURE. Staff recommends accepting the purchase offer from United Industries/United Properties in the amount of \$2,620,000 and using the funds to retire a portion of the Park 2 debt. (Action: approval or disapproval of staff recommendation.) City

Administrator Volek advised the item had previously been discussed in detail. She said there was no presentation but staff was available to answer questions.

Councilmember Pitman asked if the recommendation was for a direct sale without city financing. Ms. Volek said that was correct.

Councilmember Cimmino asked if there had been a counter offer made by the city to the \$2,620,000. Ms. Volek advised they only had one bidder, and the city did negotiate with them. She said the city asked for a higher price, and the bidder indicated the city would need to finance the higher price. Ms. Volek said the city was not in the financing business, which was why they were recommending the \$2,620,000.

Councilmember Ronquillo asked how many people would be displaced in Park IV, and how long the transaction would take. Assistant City Administrator Bruce McCandless said the closing would be held as close to July 1st as possible. He said most of the parkers in Park IV were tenants and employees of the Transwestern Buildings and the First Interstate Bank Building. He said he did not believe the sale would displace anyone. He said United Properties had a lease on the property that guaranteed them a majority of the parking spaces.

Councilmember Ronquillo asked if the city was making or losing money on Park IV. Assistant City Administrator Bruce McCandless said Park IV's occupancy was typically between 85 to 95 percent. He said it generated a net income ranging from \$70,000 to \$100,000 per year.

Councilmember Cimmino commented the property was valued at \$4.6 million and the offer on the table was \$2.6 million for a difference of \$2 million. She said it would still not reduce the entire debt in the Parking Division. Mr. McCandless said the proposal was to retire about half of the debt on the Park II garage. He said with the pay down on the principle amount and the refinancing at a lower interest rate, they believed the debt service would be dropped to \$200,000 to \$250,000 per year from the current almost \$500,000 per year. Councilmember Cimmino asked for the timeframe. Mr. McCandless said the proposal was to refinance the garage for 20 years.

Councilmember Ulledalen said it had taken six years to get to where they currently were, and the \$4.5 million number was a "pie in the sky number the consultant gave them off the back of a napkin." He said in order to sustain that price the revenues in the garage would need to go from \$150,000 a year up to over \$300,000 a year to justify that figure. He said the consultant also came up with that amount in a time before the financial debacle hit in 2008, and the consultant had indicated there would be a

number of potential bidders. Councilmember Ulledalen said they could wait for the next 20 years and never get the \$4.5 million.

Mayor Hanel asked Mr. McCandless if the amount offered was the appraised amount. Mr. McCandless said the offer matched the appraisal performed by a company out of Boise that had substantial commercial and specifically parking garage or multi-use facility appraisal experience. Mr. McCandless said United Properties paid for the appraisal, so it was not the city's appraisal.

Councilmember Crouch asked for a response to Mr. Nelson's comment that all of the money did not belong to the city. Attorney Brooks said the increment was what they were talking about, and said he would be happy to work with Mr. McCandless and respond to the Council. He said his short answer would be that over time it had not led to tax increases because of the building of the structure. Councilmember Crouch said Mr. Nelson indicated the money belonged to the school district, the county, and the city. Attorney Brooks said he would need more facts from Mr. Nelson, and he would be happy to meet with him.

Councilmember Cimmino said it was interesting to note that the stakeholders committee with experienced professionals in real estate had no opinion either way and were not making a recommendation. She said it was a red flag that those individuals were not comfortable making a recommendation.

Councilmember Pitman asked how much the city would be saving on interest over the next 20 years. Mr. McCandless said he could not answer the question directly, but an analysis done by Finance indicated if the entire debt of \$5.2 million was refinanced, the net present savings would be equal to at least \$500,000. He said a really wild guess would be that the present value savings would be about half of the \$500,000.

Councilmember Ulledalen said there was another way to look at it. He said they could argue that maybe they should never have built the garage in the first place, but in reality the construction of the garage facilitated the creation of the whole Transwestern Complex, which was a significant addition to the tax base of Billings.

Councilmember Bird asked if there was any benefit to the city having its own appraisal done. Ms. Volek advised the commercial appraisal given the activity of the market could take three to four months, which would postpone the sale. She said in the past they had paid \$3,000 to \$5,000 for the appraisal.

Councilmember Ulledalen said the same numbers had been made public for about three years and if it had been a low-ball deal, he felt someone would have stepped up long ago. He said it was merchandised to local buyers, and no one had been beating the door down wanting to buy it.

Councilmember Ulledalen moved for approval of Item 7, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8 to 1. Councilmember Cimmino voted in opposition.

8. APPROVAL of testimony supporting adoption of the Urban-Rural Map/Plan to be presented at the Montana Districting and Apportionment Commission Billings Public Hearing scheduled for May 15, 2012. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek said the proposed testimony was provided to the Council the prior week. She said

the hearing would be held the following evening at 7 p.m. at the Lincoln Center. She said it was one of the last public hearings in the state and their best opportunity to testify. Ms. Volek said she believed the state staff would, at the direction of the committee, make changes to the map based on what they heard and complete the process, which included giving the legislature a recommended plan.

Councilmember Bird asked what opportunities were given to the public to be involved. Ms. Volek advised the city and county each held public hearings as part of their regular meetings. Councilmember Bird asked if any public comment was received. Ms. Volek said she could not recall. Assistant City Administrator Bruce McCandless said he could not recall if there was public testimony at the public hearings, but said it was one of the topics covered in the Community Conversations where there was a fair amount of discussion.

Councilmember Pitman moved for approval of Item 8, seconded by Councilmember Cimmino.

Councilmember Pitman said they did hold public hearings and Community Conversations so it was not a secret document that just popped up. He said the county held public hearings, as well; so he felt the opportunities they gave the community to participate should be made known. Ms. Volek said she would include it in the discussions.

Councilmember Bird said she felt she needed to abstain from voting. Mayor Hanel asked her why. Councilmember Bird said she had concerns when an elected body voted to approve items before the public had an opportunity to weigh in and provide testimony. Mayor Hanel told Councilmember Bird that a request to abstain was based on a conflict of interest in a professional nature, and it would be better suited with what she just described to either vote for or against the matter. He said he did not see cause for abstaining and asked her to vote with her peace of mind.

Mr. McCandless said the Council was not being asked to vote on the plan the city and county cooperated to submit. He said they were being asked to vote on whether they endorsed one of the plans put together by the non-partisan state legislative staff called the Urban/Rural Plan that addressed Yellowstone County, Billings, and the entire state. He said it happened that the Urban/Rural Plan was closest to the one the county and city submitted.

Councilmember Ulledalen said there had been multiple opportunities to participate, including that evening. He said they got caught up in screwball districts that had been gerrymandered by political forces that did not represent them, so they tried to come up with something that did the best job possible representing the citizens of the City of Billings. He said everyone would have an opportunity to comment at the hearing the following evening, as well, so he did not feel the public had been excluded from the process at all.

On a voice vote, the motion passed 8 to 1. Councilmember Bird voted in opposition.

9. PROPOSED GSA LETTER OF INTEREST for possible acquisition of the James F. Battin Federal Building and Courthouse. Staff recommends not proceeding at this time. (Action: approval or disapproval of staff recommendation.) (This item was added to the agenda following the City

Administrator's Report.) Councilmember Ulledalen said it was either a pig in a poke or a diamond in the rough, so he felt it was difficult to just walk away from it. He said the GSA had about 14,000 similar buildings they were disposing of. He said the GSA did not have a lot of money, they were over a barrel, and wanted to dump the property and walk away from it. He said one of the favorite entities would be groups that served the homeless so they could potentially end up with 400 to 500 homeless people in downtown Billings. Councilmember Ulledalen said the city did not have the staff, money or expertise to take on the project, and there was no vision for the project. He said he felt at the very least the GSA should demise the building and create green space. He said a better opportunity would be if they could be a facilitator of conveying the property to a private developer if one was out there. He said the next phase would be to try to work with private developers to get something done with private funds and put it back on the tax rolls. He said if it was a white elephant the government needed to address it like they did the Naval Reserve Center. He said \$10 million to \$20 million was going to be spent on the Senate race, which was one of the major Senate races in the nation. He said it should be thrown back in their laps, and said whoever loses Billings would lose the race. He said he felt Mr. Rehberg and Mr. Tester had some vested interest and suggested they do some kind of indication of interest that would facilitate the advance to private developers.

Mayor Hanel said what they had before them that evening was within a timeframe to submit by May 21, 2012, whether or not Billings had any interest in the building, and that was what they needed to address. He said should Council decide that evening that Billings was not interested in pursuing the building it would be a dead issue.

Councilmember Ulledalen said he had been told it was a two phase process. The first phase would be interest in acquiring the property and the second phase would be that the City would be involved with a private developer. He said he felt the second step was the part they needed to encourage if they could. He asked if the letter was only relevant to the first phase.

City Administrator Volek advised the letter was only relevant to the first phase. She said the building was 211,000 square feet. She said she had asked what happened if the building was not sold in the first round, and the answer was they would try to re-market it or the GSA would decide how to dispose of it. She said it was possible three to four years down the road they could still have an empty building. Ms. Volek said she hoped someone would buy it, renovate it, and turn it into a building that was on the tax rolls.

Mayor Hanel said the County had voted not to participate, and it would have been a terrific opportunity if the City would have had the cooperation of the adjoining agency since both were in need of space.

Councilmember McFadden said time was on their side because the longer the building sat vacant, the closer it got to the auction block, and the more reasonable the price would be. He said if it went up for auction, they may have a chance to get it at a reasonable price with no strings attached.

Councilmember Ulledalen said the problem would be the \$10 million to scrape off all of the asbestos from underneath the metal floor panels the concrete was poured on top of. He said it was his understanding the building would accommodate about 600

people, so it was ideally designed for one tenant and not a building that could be chopped up into multiple offices on multiple floors. He said they needed to go to their congressional delegation and ask them to help with a solution.

Councilmember Cimmino said it was her understanding the GSA wanted to donate it to the city if the city came up with the money to remove the asbestos. Ms. Volek said only under certain circumstances. She said there were a number of categories. She said if it would be used for corrections or law enforcement, it would be a zero amount. She said they did not consider the courts to be law enforcement. Councilmember Cimmino asked if the Federal government owned the land. Ms. Volek said the Federal government owned the land and the building.

Councilmember Bird said she wanted to note for the record that in the County Commissioners' meeting, Commissioner Ostlund did go on record as saying he would much rather build a new building for joint city/county criminal justice. She said she felt Commissioner Ostlund had some very practical points, but she still felt the GSA building was an opportunity that could be explored.

Councilmember Pitman moved to table the item indefinitely, seconded by Councilmember Ulledalen. 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. Comments here are limited to 3 minutes. Please sign up on the clipboard located at the podium.*)

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

COUNCIL INITIATIVES

- **Pitman:** Said he and the Mayor attended a meeting and had started a proclamation for Billings to become a Purple Heart City. He said he wanted to make sure Council had no opposition, and he was looking for Council support. There appeared to be no opposition, and several councilmembers voiced their support. Mayor Hanel added it basically showed support for present, past, injured, and deceased military.
- **Ulledalen:** MOVED to direct the Parking Advisory Board to discuss options, do an RFP, and bring back suggestions for alternative groups to manage parking in Billings in place of city staff, seconded by Councilmember Pitman. Councilmember Ulledalen said they were at a point where they needed to regain accountability. Mayor Hanel said he definitely supported the motion. He said he personally felt privatization of parking, and probably through the BID, may be very successful. On a voice vote, the motion was unanimously approved.
- **Bird:** Moved to direct staff to bring back an urban chicken ordinance for the City of Billings based on the language of the Missoula's City Code sooner rather than later. Councilmember Ulledalen asked if it would be trial-based or permanent, and Councilmember Bird said at that point she would like the language for Billings based on the Missoula City Code. The motion was seconded by Councilmember McFadden. Councilmember Cimmino said she had a copy of the

Missoula code with her and asked how they would look at the setback requirements from the neighbor's structure and not the property line. Mayor Hanel said he was still adamant that chickens did not belong legally within the city limits and they belonged in the country, which is what farms and ranches were for. Councilmember Ulledalen said he would support it, and his only suggestion would be the inclusion of a one-year trial. Councilmember McFadden said it was not the final vote or end of the discussion; it was just to get the ball rolling and give people their fair shake. On a voice vote, the motion was approved 7 to 2. Councilmember Pitman and Mayor Hanel voted in opposition.

There was no further business, and the meeting was adjourned at 9:42 p.m.



CITY OF BILLINGS

BY: Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk