

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

August 13, 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 Crouch gave the invocation.

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

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

COURTESIES:

- South Park Gazebo Contributions – Councilmember Ronquillo introduced Mike Yakowich representing the Southside Neighborhood Task Force; Lisa Von Laven representing the Downtown Exchange Club; and Bruce Parker representing First Interstate Bank. Ms. Von Laven presented the Southside Neighborhood Task Force a check for \$10,000. Mr. Parker read a short comment from Keith Cook, President of First Interstate Bank, and presented the Southside Neighborhood Task Force a check for \$15,000. Mr. Yakowich commented the Task Force had also received a \$1,000 donation from the Vegas Hotel, and thanked everyone for their generous donations. He also introduced Kathleen Candelaria, Vice Chair of the Southside Neighborhood Task Force.
- Councilmember Crouch thanked the Street Department for the new right-turn lane at 32nd and Broadwater and for the widening of Central Avenue to 32nd Street West.
- Mayor Hanel referenced the Blues Festival held the past weekend. He said it was very well attended, very well managed, and thanked everyone who participated for making the event a huge success.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek discussed the following items:

- Item U1 – Final Plat Approval of Whisper Ridge Subdivision. She said Councilmember Ulledalen asked that the conditions listed in the SIA be read, as follows:

- ✓ The Subdivider has provided cash in lieu of parkland dedication, and it is understood that it will be included in the Cottonwood Park future Park Maintenance District area if that PMD were ever to be created.
- ✓ Because there are less than 50 lots, a traffic impact study was not required, and therefore no off-site traffic mitigation improvements are required or expected.
- ✓ The Developer has made a cash contribution toward future improvements of Rimrock Road along its frontage, so those funds will be used at the time Rimrock is upgraded.
- ✓ Any other future SIDs would be dependent on future requests of the neighborhood and up to the City Council to create.
- Item 6 – Resolution approving the conditional sale of the Galles Building.
 - ✓ Copy of letter from Pastor Eric Thorson of Bethlehem Lutheran Church received that day asking Council to consider Interfaith Hospitality Network's proposal for purchase of the building. Copy of letter was on Council's desk.
 - ✓ E-mails to City Council received that day from Kay Tostengard and Kathy Buszmann asking Council to award the purchase of the building to Interfaith Hospitality Network.
 - ✓ E-mail to City Council received that day from Steve and Joni Harman asking Council to award the purchase of the building to Maisie Sulser.

Ms. Volek advised copies of all of the items were filed in the ex-parte notebook in the back of the room for public inspection.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, 2B, 3C, 6, 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 or in the back of the room. 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.

- **Greg Krueger, Development Director for Downtown Billings Partnership, 2815 2nd Avenue North, Billings, MT,** referenced Item 6 and asked Council to sell the building to someone in the private sector. He said selling to the private sector would turn it into a tax paying base. He said a considerable amount of investment had already been made by the private sector on Minnesota Avenue. He said the location was not a bad place for Interfaith Hospitality Network (IHN); it was just not the right place.
- **Andy Rio, President of Interfaith Hospitality Network (IHN), 3121 Sycamore Lane, Billings, MT,** referenced Item 6. He said there was a question on the submittal document if construction would begin within six months of the closing date. He said they could have answered 'yes' and applied for a building permit, but they felt that would not be totally upfront, so they chose to answer the question 'no' and

explain that it would take a total of about two years. Mr. Rio said they would provide more housing, foot traffic, tax-paying entities, downtown jobs, and long-term solutions for the downtown area and greater Billings, which was what was being asked for. Mr. Rio asked Council to award the sale to IHN.

- **Paul Hanson, Bethlehem Lutheran Church, 3333 38th Street West, Billings, MT,** referenced Item 6. He said the church had housed IHN since its inception. He said IHN was so successful that it had outgrown its location at the church. Mr. Hanson commented the people's lives IHN had changed could not be compared to any monetary value and asked Council to award the sale to IHN.
- **Randy Hafer, 631 N. 26th Street, Billings, MT,** referenced Item 6. He said his office was on Minnesota Avenue, and he had been involved in the neighborhood for over 14 years. He said he and others had made a tremendous investment in the neighborhood and urged Council to approve the sale of the Galles Building to Maisie Sulser. He said her project supported the Master Plan previously adopted by Council, and it supported the Framework Plan for providing additional downtown housing. Mr. Hafer referenced Item 8. He said the resolution would adopt a legislative program in state law that provided property tax abatement for properties located in historic districts that were being abated or expanded. He urged Council to support the resolution.
- **Maisie Sulser, 1 N. 33rd, Billings, MT,** referenced Item 6. She said she was still very interested in purchasing the Galles Building. She said the location and the character of the building was the draw for her and would be the draw for tenants. Ms. Sulser said she believed IHN's project could go somewhere else, and she would help them find another place. She asked Council to award the sale to her.

Councilmember Pitman asked Ms. Sulser if she had talked with IHN about helping them find another location. Ms. Sulser said she had not talked with IHN but had talked with Greg Krueger and other members of the DBA Board to get the ball rolling and see what they thought of the project and if they knew of any other areas they thought IHN could go. She said there was land available by RiverStone and the Food Bank.

Councilmember McCall asked Ms. Sulser for an update on her financing. Ms. Sulser said she had spoken with a couple of investors, who were waiting for Council's decision that evening.

- **Jeff Kanning, 1943 Mariposa, Billings, MT,** referenced Item 6. He urged Council to award the sale of the Galles Building to IHN. He said everyone seemed to have a good idea about where IHN should go but nobody really knew IHN and what they did. He said the Galles Building was a great location for them because it was within walking distance of about eight different agencies their clients accessed regularly. He said the coffee shop was a key component of what they were trying to do because it would provide employment for their clients.
- **Brandon Berger, Big Sky Economic Development, 222 N. 32nd, Billings, MT,** referenced Item 8. He said they supported the establishment of a Historic Property Rehabilitation and Restoration Tax Abatement Program and asked for Council's support.
- **Janna Hafer, 631 N. 26th Street, Billings, MT,** referenced Item 6. She said she was a firm supporter of IHN; however, she and her husband had invested in Minnesota

Avenue and had renovated several buildings. She said they had spent a lot of time getting the area designed as the Old Town Historic District. Ms. Hafer said she supported the award of the Galles Building to Maisie Sulser.

- **Sheldon Eaton, 3215 Reimers Park Drive, Billings, MT**, referenced Item 7, and said he was trying to put something together with city staff and get another appraisal. He asked that the eminent domain process be delayed for three or four weeks.

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

1. CONSENT AGENDA

A. Mayor Hanel recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Kristin Lundgren	Mayor's Homelessness - Philanthropy	08/13/12	12/31/14
2.	Mike Craighill	Parking Advisory Board	08/13/12	12/31/13

1. Unexpired term of John Armstrong
2. Unexpired term of Nick Blake

B. Bid Awards:

1. **SID 1393, Fritz Subdivision.** (Opened 7/24/2012) Recommend Knife River-Billings; \$285,810.50.
2. **SID 1394, Macona Lane.** (Opened 7/31/2012) Recommend CMG Construction, Inc.; \$91,325.

C. Approval of contract between State of Montana Department of Public Health and Human Services (DPHHS) - Developmental Disabilities Division and MET Special Transit to provide specialized transportation for developmentally disabled individuals (7/1/12 to 6/30/13 with option of four, additional one-year periods); approximate annual revenue - \$80,000.

D. Agreement with Yellowstone County Sheriff's Department to provide New World Public Safety data processing services. (7/1/12 - 6/30/13); annual revenue - \$96,567.

E. Assignment of Rights Agreement with Montana Dakota Utilities for payment of 15% of net proceeds received from the sale of methane gas extracted from the Billings landfill.

F. Amendment #1, W.O. 11-08: Water Treatment Plant High Service Pump Station 2011 Transfer Pump Replacement. Professional Services Contract, HDR Engineering, Inc., \$22,600.

G. Conditional Approval of Amendment to Special Improvements Agreement for High Sierra Subdivision, 2nd Filing, Amended Lot 1, Block 4.

H. Acknowledging Receipt of Petition to Annex #12-07: one parcel totaling approximately two (2) acres, with approximately 7,260 additional square feet designated as street right-of-way, generally located on the north side of Grand Avenue just west of the intersection of Grand Avenue and 48th Street West; John Clifford Zimmerman, owner; and setting a public hearing date for August 27, 2012.

I. Acceptance of Donation to the Fire Department from Wal-Mart Corporate Offices for purchase of smoke and carbon monoxide alarms for installation in low-income residences; \$2,000.

J. Acceptance of Donation to the Parks Department for a memorial bench and small plaque at Pioneer Park in honor of Mitzie L. Wyrick; Steve Henry, donor; \$1,500.

K. South Park Gazebo

1. Acceptance of Donations to Parks Department for South Park Gazebo: First Interstate Bank Foundation - \$7,500; First Interstate Bank - \$7,500; Downtown Exchange Club - \$10,000; Harrison G. Fagg Associates Architects - \$1,000; south Side Neighborhood Task Force - \$8,000 (misc. contributions); total contributions - \$34,000.

2. Change Order #1 - South Park Gazebo, Fisher Construction, \$35,000.

L. Acceptance of Federal Aviation Administration Airport Improvement Program Grant 43; \$2,063,307.

M. Second and Final Reading Ordinance #12-5576 for Zone Change #900: a zone change from Residential 5,000 (R-50) to Residential Multi-family-Restricted (RMF-R) on a 22.3 acre portion of Lots 1 and 2, Block 1, Western Sky Subdivision, located west of the intersection of 44th Street West and King Avenue West; King Meadows, LLC, owner. Approval of zone change and adoption of the determinations of the 10 criteria.

N. Second/Final Reading Ordinance #12-5577 naming the expansion of Park 2 as an Expanded N. 27th Street Urban Renewal Area project to allow financing with tax increment bonds.

O. Resolution #12-19194 temporarily suspending BMCC 24-411: Parking for Camping Purposes, at the Airport Business Park for the Department of National Resources and Conservation's annual seasonal fire mobilization operations; each year from July through October; and **approval** of annual Letter of Understanding for the 2012 fire season and Temporary Building and Ground Lease.

P. Resolution #12-19195 fixing the form and terms of the bond sale for W.O. Misc/Developer Related Improvements and W.O. 09-11, Rimrock Road Improvements (Pooled Sidewalk, Series 2012)

Q. Resolution #12-19196 authorizing the Mayor to execute the City's Acknowledgement and Acceptance of Conveyance on the estimated 160 right-of-way deeds for the Bench Boulevard project and the Memorandum of Understanding with MDT.

R. Approval of extension of preliminary plat approval date for one year for Tuscany Subdivision; setting new expiration date of August 11, 2013.

S. Preliminary Plan of Subdivision for Rent or Lease (SRL) for Amended Lot 2, Block 4, Cenex Park Subdivision, described as 1.29 acres generally located on the east side of South 25th Street West, just north of Gabel Road; After Shock, LLC, owner; EEC, Inc., agent; conditional approval of the plan and adoption of the Findings of Fact.

T. Preliminary Major Plat of Josephine Crossing Subdivision, 3rd Filing, generally located south of Elysian Road and east of Mullowney Lane; McCall Development, Inc., owner; Sanderson Stewart, agent; conditional approval and adoption of the Findings of Fact.

U. Final Plat Approval

1. Whisper Ridge Subdivision
2. Reflections at Copper Ridge Subdivision, 2nd Filing
3. Copper Ridge Subdivision, 4th Filing

V. Bills and Payroll:

1. July 2, 2012
2. July 16, 2012
3. July 23, 2012

Councilmember Cromley separated Consent Agenda Item J. Councilmember Cimmino separated Consent Agenda Items F, N, and V1. Councilmember McCall moved for approval of the Consent Agenda with the exception of Items F, J, N, and V1, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Cromley referenced Item J and asked how the amount was determined and how the information was made available to the public. He also asked for a description of the bench. Mark Jarvis, Park Planner, said the \$1,500 was determined by the cost of the bench, the installation, the concrete pad, and the cost of the plaque. Councilmember Cromley asked where the bench would be located. Mr. Jarvis advised the bench would be placed in Pioneer Park in a location where it would be easily accessible and maintainable. Councilmember Cromley asked if there was a

list of items and associated costs that could be donated to the parks available to the public. Mr. Jarvis said they currently did not have a list but it was something they were working on. He said he was not exactly sure when it would be done. Councilmember Cromley said he was very interested in having a list available to the public and would like to see it move forward.

Ms. Volek advised she and Mike Whitaker, Parks Director, had discussed putting a list of items and the various costs on the web. She said Swords Park would serve as a model for them. Mr. Whitaker advised they were 50% done listing the items and hoped to have it completed sometime this year. Councilmember Cromley asked if the prices would include the plaque. Mr. Whitaker advised the list would include the total cost, including the plaque.

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

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

Councilmember Cimmino referenced Item N and Page 3, Section 1.03 of the ordinance. She asked if the ordinance could include the amount, as well as the timeframe of how many years the \$100,000 of the annual fee of the tax increment would be provided for Park 2. Assistant City Administrator Bruce McCandless said there was not an exact date for the closing on the Park 4 Garage but they felt it would be before September 1. Mr. McCandless said as far as he knew the timeframe was for the life of the district. Councilmember Cimmino asked if it was the sole purpose to bring down the debt and pay off Park 2. Mr. McCandless said the life of the district was set by state law and unless the city issued bonds, the life of the district could not exceed 15 years. He said if the city did issue bonds within the district, the life of the district would be equal to the term of the bonds. Councilmember Cimmino said her intent was to clarify that particular clause, and it seemed to her that the two points raised were valid and important points. Mayor Hanel suggested the more appropriate action would be to delay action until the information was more readily available and bring it back with a definite date so it coincided with the proposed sale date. Councilmember Cimmino said she did not want to hinder the process. Mr. McCandless said he did not feel it would delay the process at all if Council wanted to delay action until the next meeting.

Councilmember Cimmino moved to delay action on the second reading until the August 27, 2012, meeting, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item V1, Invoice 756997, and said she needed to abstain due to her employment. Councilmember Pitman moved for approval of Item V1, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

2. COPPER RIDGE SUBDIVISION, 2ND & 3RD FILINGS

A. PUBLIC HEARING AND RESOLUTION #12-19197 authorizing the sale of .431 acres of parkland within the undeveloped area of Copper Ridge Subdivision, 2nd Filing, to The Oakland Companies for the appraised value of \$672.32. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

City Administrator Volek said Items 2A and 2B involved re-platting of the subdivision and in each case gave the city the opportunity to sell back to the developer land previously donated as part of the parkland development. She advised staff had no additional presentation but was available to answer questions.

The public hearing was opened.

- **Julie Seedhouse, 3116 E. Copper Ridge Loop, Billings, MT**, said they wanted to keep as much park space as possible because it was one of the most valuable parts of the subdivision.
- **Krystal Dvorak, 3118 E. Copper Ridge Loop, Billings, MT**, said one of the attractions for buying a home in the subdivision was the parks, and the children would love to have the parkland to play in.
- **Gary Oakland, The Oakland Companies**, reminded everyone that it was a final plat position where they had already received the preliminary plat and built the subdivision according to the plans. He said when they had initially started their design concept a number of years ago they were putting in a lot of pocket parks in a variety of places, as well as larger park areas. He said the Parks Department's position had been that it did not particularly care for the little, tucked away strips of parkland because they were hard and expensive to maintain. Mr. Oakland said they had been working with the Parks Department to consolidate some of the land masses and look at cash in lieu.

Councilmember Bird asked Mr. Oakland what they planned to do with the small pieces of parkland. Mr. Oakland said they would be aggregated into new streets and lots.

- **Ken Hittron, 3110 E. Copper Ridge Loop, Billings, MT**, said a pocket park was in front of his house, which caused the traffic to slow down. He said eliminating the pocket parks would be eliminating one of the selling features of the subdivision. He said they were not notified that the design of the next phase of the subdivision was changing even though it was a continuation of the street he lived on. He said there would no longer be a loop, and it would dead-end instead. He said the main issue for him was they moved into the subdivision under a certain premise and concept, and now the concept was changing.

Councilmember McCall asked staff to provide a history of the subdivision events. Planning Director, Candi Beaudry, showed the original preliminary plat with the configured streets and parks and the new preliminary plat layout superimposed on top of it. She pointed out the small cul-de-sac parks being eliminated, the corner park, and the two connectors that would remain. Ms. Beaudry said Council approved the revised preliminary plat in January of 2012. She said the changes were significant enough that staff required the sub-divider to hold another public hearing before the Planning Board and notify all of the adjacent property owners. She said portions of the rights-of-way had been vacated and that evening they were asking to vacate the parkland. She noted

there was a large park that did not show on the map. She said the subdivision had met all parkland dedication requirements and was quite rich in parkland.

Mr. Hittron said his main concern was that the rest of the subdivision would continue to be changed.

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

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

Councilmember Cimmino asked who received notification. Ms. Beaudry advised the homeowners who were immediately adjacent to the parkland received the notification, which was state law. She said it was very different from the notification requirements for zoning.

Councilmember Astle said it was a lot of little pieces of property and not one contiguous piece of property, and Council had asked Parks to get rid of unusable and unserviceable pieces of property; so he would be supporting the motion.

Councilmember McFadden said he would also be supporting the motion. Councilmember Cimmino said removing the property from the neighborhood did change the configuration of the road and said she would vote against the motion. Councilmember McCall reminded Council they voted on it and approved the change in January. She said there was still a lot of good parkland available in the subdivision. Councilmember Bird said she concurred with Councilmember McCall.

On a voice vote, the motion was approved 9 to 1. Councilmember Cimmino voted in opposition.

B. FINAL PLAT APPROVAL of Copper Ridge Subdivision, 3rd Filing. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised there was no presentation but staff was available to answer questions.

Councilmember McCall moved for approval of Item 2B, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 1. Councilmember Cimmino voted in opposition.

3. IRONWOOD SUBDIVISION, 1ST, 4TH & 5TH FILINGS

A. PUBLIC HEARING AND RESOLUTION #12-19198 authorizing the sale of 2.19 acres of parkland within undeveloped areas of Ironwood Subdivision, 1st and 4th Filings, to Regal Land Development, Inc. for the appraised value of \$49,703.60. 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.

- **Dan Wells, 4241 Cedarwood Lane, Billings, MT**, said he was the developer of Ironwood. Mr. Wells said he read in the paper that day that the cash contribution he had agreed to pay would go to Cottonwood Park, and he asked that the

payment stay in Ironwood. He said during the public hearing with the Planning Board last fall, they discussed ways to use the money and at that time it was agreed the funds could be used to improve the Ironwood parks. Mr. Wells commented that Ironwood was one of the only developments in the area where the developer not only provided the parkland but improved the parks. He said in the first four filings they had donated about four acres over their parkland requirement. Mr. Wells said the wide areas were mostly unused and in order to continue to provide trail space in the 5th filing area, they would be installing sidewalks in front of the homes. Mr. Wells said Ironwood was a public area and many people walked in Ironwood and accessed Ironwood's parks every day. He said the money would be used to install playground in a planned park area and asked Council to approve that the cash contribution be kept in Ironwood for the park improvements.

Councilmember Pitman asked Mr. Wells if he had an idea of what he wanted to install in the proposed park areas and asked if the money would go to the Parks Department and then the Parks Department would install the equipment. Mr. Wells said he would probably install a tot lot playground, a swing set, and jungle gym.

Councilmember McCall asked staff to comment regarding the circumstances of the payment that would go to Cottonwood Park. Parks Director Mike Whitaker said the majority of the areas in the subdivision were not large enough to provide a lot of the amenities that Cottonwood Park would be able to provide. He said Cottonwood Park was approximately two miles from Ironwood, and staff's thinking was that Cottonwood Park would serve Ironwood Subdivision and provide more amenities because of its configuration. Councilmember McCall asked Mr. Whitaker if the area Mr. Wells was referencing as a park area had been taken into consideration. Mr. Whitaker said staff thought the greatest value would be that the funds go to Cottonwood Park. Councilmember McCall asked what parks were available within the subdivision itself and Park Planner Mark Jarvis pointed out the existing parkland in Ironwood Subdivision on the exhibit.

Councilmember Pitman asked where they were in the timeframe for development of Cottonwood Park and what the budget for Cottonwood was. Mr. Whitaker said they currently had roughly \$400,000 to \$500,000 set aside, but they would need over \$2 million to put in the infrastructure. He said he could not provide a timeline; it would be as soon as they acquired the funds to move it forward.

City Administrator Volek commented that 10 of the 40 acres in Cottonwood Park had been sold to the school district, and they had a period of time in which to develop the land. She said they were halfway through the period and \$200,000 in escrow for the park was from the school district; so development would be affected by the school district's determination as to their intended use of the site.

Councilmember Bird asked if Cottonwood Park fell under the city-wide Park District that was passed. Mr. Whitaker said currently it did not, but once it was developed it would become a General Fund park. She asked if Ironwood had its own PMD. Mr. Whitaker said it did. She asked if they would see a park

develop quicker in Ironwood than in Cottonwood if they kept the money in Ironwood. Mr. Whitaker said they probably would.

Councilmember Cimmino asked why they wanted to give the money to a park two miles away from Ironwood. Mr. Whitaker said the subdivision would develop a neighborhood park, and Cottonwood Park would be a community park that could provide more amenities.

Councilmember Pitman said he did not think it was fair that small parks already in existence were being walked away from. He said Cottonwood Park would be incorporated under Park District 1, and it would have funding sources. He said they were talking less than \$50,000 to provide a few more amenities to a neighborhood park, and he did not think it would have a big difference on the development and maintenance of Cottonwood Park. He said he felt the money should be left with Ironwood.

- **Nadine Seger, 4230 Aspen Ridge Drive, Billings, MT**, asked Council to keep the money in Ironwood for development of a neighborhood park. She said she would not send her children two miles away to play in Cottonwood Park.
- **Darcey Frewin, 6214 Ironwood Drive, Billings, MT**, asked Council to keep the money in Ironwood for development of a neighborhood park. She said she had five small children, and Dan Wells had gone above and beyond to keep everyone in Ironwood happy. She said the subdivision continued to develop so there would be a need for an additional neighborhood park.
- **Sam Nelson, 3938 Summerwood Drive, Billings, MT**, said he would also like to see the money stay in Ironwood. He said Mr. Wells had worked with the concerns of the neighborhood to add the playground and park space. He said neighborhood parks were a better value and well used. He said the neighborhood park would be developed much sooner than Cottonwood Park.

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

Councilmember McCall moved for approval of the sale of 2.19 acres of undeveloped parkland in Ironwood Subdivision with the proceeds of the sale going back to the development of Ironwood parkland, seconded by Councilmember Cimmino. Councilmember Cromley said he was not in favor of the motion because there were other parks that would benefit from the money. On a voice vote, the motion was approved 9 to 1. Councilmember Cromley voted in opposition.

****NOTE: Councilmember Bird left the room at 8:18 p.m.**

B. PUBLIC HEARING AND RESOLUTION #12-19199 vacating street rights-of-way within Ironwood Subdivision, 4th Filing; Regal Land Development, Inc., petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina 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 McCall moved for approval, seconded by Councilmember Cimmino. On a voice vote, the motion was approved 9 to 0.

C. FINAL PLAT APPROVAL of Ironwood Estates Subdivision, 5th Filing. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised there was no presentation, but staff was available to answer questions.

Councilmember McCall moved for approval, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 0.

4. PUBLIC HEARING AND RESOLUTION #12-19200 vacating the south 15 feet of Hesper Road right-of-way in Tract 3-A1, Rockwood Subdivision, 2nd Filing, generally located near South 30th Street West; Bristlecone, Inc., petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina 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 McFadden moved for approval, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 0.

****NOTE: Councilmember Bird returned to the meeting at 8:25 p.m.**

5. PUBLIC HEARING AND RESOLUTION #12-19201 authorizing the sale of city-owned property described as Lots 1-12, 20 and 21, Block 245, Sugar Factory Subdivision, generally located on South 27th Street and South 28th Street between 10th and 11th Avenues South and accepting the bid from the Roman Catholic Diocese of Great Falls, Montana, in the amount of \$257,250. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Assistant City Administrator Bruce McCandless began his presentation noting that the majority of the property fronted South 27th between 10th and 11th Avenues South, and Lots 20 and 21 fronted South 28th. He said in 1996 the property was donated to the City, and it was currently being used as an interim construction equipment storage area. Mr. McCandless showed photographs of the subject property. He said the bid requirements included that the bid must be received by August 3; the bid must contain the bid amount; an earnest money deposit of 10% must be included with the bid; a description of the development plans must be included with the bid, as well as a commitment to begin redevelopment within six months from Council approval. Mr. McCandless advised the lone bid was received from the Roman Catholic Diocese of Great Falls, who planned to consolidate three churches into one new parish. He said the bid amount was \$257,250; or \$5.25 square foot, and the earnest money of 10% was paid at the time. He said the proposal was to develop the property within 5 to 10 years because they needed time to consolidate the three churches, sell their present properties, and finance and construct the new church.

Councilmember Cimmino asked why the recommendation was to deposit the proceeds into the General Fund. Mr. McCandless said the reason for the

recommendation for the General Fund was because the land was donated to the city and never purchased with CDBG funds. Councilmember Cimmino asked who donated the land. Mr. McCandless said there were three individuals who donated the land, but he did not know the specifics and would need to do some research.

Councilmember Bird asked if the money would go into a discretionary fund and be held until it was determined how best to use it. Mr. McCandless said the recommendation was that the money go into the General Fund. He said when the Council adopted a budget it was authorizing expenditures. He said this was a revenue and until the Council approved the expenditure, the money would just sit there.

Mayor Hanel asked if there were any deed restrictions. Attorney Brooks said he had not seen the deed, so he assumed there were none. He said the Council could place restrictions if they desired.

The public hearing was opened.

- **Michael Mayott, Parish Life Coordinator for Mary Queen of Peace, Roman Catholic Diocese of Great Falls-Billings**, said he was present to speak in favor of the City of Billings selling the properties to the Diocese. He said Mary Queen of Peace came into existence on July 1, 2012, with the merger of the Holy Rosary, Our Lady of Guadalupe, and Little Flower parishes. Mr. Mayott said the three parishes were being merged as a result of lower memberships and the decline in the number of ordained ministers. He said the Diocese and Mary Queen of Peace believed the property met the requirements of the parish and would enhance the community. He said the parish had met several times with the South Side Task Force, and they were in support of the project. He said their plans included a capital campaign to raise \$5 million for construction to include the sale of properties the Diocese currently owned. He said during the time between the purchase of the property and the construction, Mary Queen of Peace would maintain the property and keep it in good repair.

Councilmember Cromley asked what their position would be on a potential condition of construction and what timeframe would they be comfortable with. Mr. Mayott stated their long term plan was to have completion within 10 years. He said their perspective was to build when funds were available.

- **Bill Brown, 1020 N. 31st Street, Billings, MT**, said he was Chairman of the Parish Finance Council and President of Energy Laboratories that bordered the subject property. He said they would love to have the Mary Queen of Peace Parish as neighbors, and it would do a lot for the area.
- **Dee Martinson, 832 Kale Drive, Billings, MT**, said she was Chair of the Pastoral Council for Mary Queen of Peace and had been working the last three years to consolidate the three parishes into one. She said she felt the property sale would be a win-win situation for both parties.

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

Councilmember Cromley moved for approval of the sale of the property with the proceeds going towards the construction of a spray park in South Park, seconded by Councilmember Ronquillo.

Councilmember Astle commented he was in favor of everything but the spray park because they already had a park maintenance district and \$180,000 had already been slipped into the budget for the gazebo. He said he would vote in opposition because he did not want the money to go that way, and it was blackmail as far as he was concerned.

Councilmember McFadden said he agreed with Councilmember Astle only he thought it was more of holding the money hostage rather than blackmail. He said the money needed to go into the General Fund, and Council needed to vote where to use it as a group representing all five wards.

Councilmember Ronquillo commented they had just returned the money from the sale of parkland in Ironwood back to Ironwood. He said the money was coming from the south side, and Ward 1 always took the hit. He said they lost their gazebo and their swimming pool and wading pool. Councilmember Ronquillo said he did not want the money going to the General Fund to pay someone's wages or to pay for a lawsuit.

Councilmember Bird said they should not play games with the money. She said they needed to approve the sale and let the money go into the General Fund with a contingency that Council discuss the use of the money giving priority to enhancing the south side at another time.

Councilmember Bird amended the motion to approve the sale of the property to the Diocese of Great Falls to build Mary Queen of Peace with the proceeds from the sale being put in the General Fund and set aside until the Council had time to discuss where the proceeds should go, seconded by Councilmember McFadden.

Councilmember Cromley withdrew his motion. Councilmember Ronquillo, who seconded the motion, agreed.

Councilmember Pitman commented he would support it either way but reminded the Council it was money they did not have before. He said they could reduce the cost of the park maintenance district assessment by using the money to build the new spray park. He said the spray park would get built, and it was just a matter of which funding source. He said they did not want to hold up the sale of the land.

Councilmember Bird said they had an opportunity with an unanticipated revenue source to address issues in South Park. She said it was a beautiful park and there were a lot of kids who lived on the south side who did not have the benefits that kids in other parts of town had. She said South Park would be a worthwhile investment.

Councilmember Crouch called for the question.

On a voice vote, the motion was unanimously approved.

6. RESOLUTION approving the conditional sale of the Galles Building located on Lot 7, Block 189, Original Townsite of Billings, to Maisie Sulser in the amount of \$60,000. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised the item was the subject of a public hearing at the last meeting and action was delayed until tonight's meeting. She said staff had no additional presentation but was available to answer questions.

Councilmember Astle moved to disapprove the sale and rescind the entire process for rebid with an RFP, seconded by Councilmember Bird. Councilmember Astle commented that two weeks ago the item was discussed and neither proposal met the RFP requirements. He asked if the RFP had been advertised in The Billings Times. Mr.

McCandless confirmed the invitation to bid and notice of public hearing had been advertised in The Billings Times. Councilmember Astle said both bids should be rejected because neither met the criteria, and the RFP should be re-advertised in The Billings Times.

Councilmember McCall asked Attorney Brooks to explain what kind of "slippery slope" they were on given the fact that each of the proposals had varied from the actual request. Attorney Brooks said the ad contained specific criteria and the Council could (1) award to one or the other knowing that both submittals did not satisfy all of the criteria; (2) reject both bids; (3) re-advertise with new and different criteria; or (4) donate the property at a later date. He said the safest way would be to say that neither party met all of the stated criteria.

Councilmember Pitman said they had just approved and waived the building requirement to the Catholic Church, so he could not believe it would be a deal breaker on this item. He said they won the bid and paid their money, and he was really perplexed how they ended up recommending the other option, so he would not support the motion.

Councilmember Cromley said they really had not looked at the bids, and he was not sure if they even knew who bid the most. He said one of the terms not included was that construction needed to be done within a certain period of time. Mr. McCandless advised the recommendation included a condition for a reversion clause in the deed stating that redevelopment must begin within 6 months from the time the property was sold or the property would revert back to the city. Councilmember Cromley said he would support the motion because neither party had complied with the terms.

Councilmember Bird said she would also vote in favor of the motion. She said she felt there was a difference between the sale to the Catholic Church and the current item because the Galles Building was in a clearly-identified historic area with a specific development plan. She said if they were going to be selling property in that area it needed to be clearly designated in the RFP process, and it was obvious there was little to no communication between staff and the DBA in terms of working all of it out.

Councilmember McFadden said he was in favor of IHN's plan because there were more important things to the community than money. He said IHN was standing there with their checkbook open.

Councilmember Pitman said what they were saying was that no non-profits could bid on the property. He said if they were talking about taxable value and the intent of the use of the building, they could not make it a condition. Attorney Brooks agreed. He said the important thing was the criteria.

Councilmember Bird said it had never been suggested that the sale of the property could not or should not go to a non-profit organization. She said the issue was the plan for that part of town and the best use for the property.

Mayor Hanel clarified there was no suggestion or comment in the direction of non-profit.

Councilmember Crouch said the property had been sitting idle for 13 years and they now had a group that was willing to purchase and develop it and make it an important part of the city and an important part of many people's lives. He said he would not support the motion.

City Administrator Volek asked if Council wanted changes to the criteria before a new RFP was advertised. Councilmember Astle said the new RFP should be administered by Attorney Brooks. He said the current RFP was quite lengthy and needed clarification. He said they should reject both bids because they did not meet the criteria put in the RFP. Councilmember Cromley said he was concerned that the reversion clause needed to be further clarified. Attorney Brooks advised they would further clarify the reversion condition.

On a roll call vote, the motion to disapprove the sale and rescind the entire process for rebid with an RFP was approved 7 to 3. Councilmembers Cromley, Ronquillo, Cimmino, McFadden, Bird, Astle and Mayor Hanel voted in favor. Councilmembers Pitman, McCall and Crouch voted in opposition.

7. RESOLUTION pursuant to BMCC Chapter 12, Eminent Domain, declaring public purpose and use, describing the property to be taken and authorizing City officials to proceed with condemnation of approximately 2.56 acres of land generally located along the west side of Clearview Drive immediately west of the Chapple Reservoir for the purpose of constructing a new Zone 3 Reservoir. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director Dave Mumford asked that Council postpone the decision for 30 days. He said after listening to Mr. Eaton's statement earlier that evening and after having a brief conversation with him, he felt Mr. Eaton was sincere in trying to find a resolution within 30 days. He said staff had been talking with Mr. Eaton since September 2009. He said Zone 3 was very critical, and they needed to get started as soon as possible.

Councilmember Cimmino noted the consulting firm she worked with was working on the plans for the project, so she would abstain from all deliberations.

Mayor Hanel asked Mr. Eaton to come to the podium and asked him if he felt based on the recommendation of the Public Works Director that September 10 would be sufficient time for him to come back with what he had indicated as an appraisal. Mr. Eaton said that was what they were shooting for. He said he hoped to get the appraisal back in time. He said they were in the process, and they were all busy but they were willing to try to make something work; and they would do their best to get it done.

Councilmember McCall moved for delay until September 10, seconded by Councilmember Astle.

Councilmember McFadden commented there were stories in recent years that local government had grossly misused eminent domain, and he would like to stay away from the process entirely whenever possible.

Councilmember McCall said she was pleased Mr. Eaton was present and that he and Mr. Mumford were able to have the discussion. She said it was a good resolution for now, and she thought the city had been extremely cautious on any eminent domain in the past.

Mayor Hanel said it was his understanding that the reservoir was a very critical element for the future of Billings, and he hoped the issue could be resolved by September 10.

On a voice vote, the motion to delay action until September 10 was approved 9 to 0.

8. RESOLUTION #12-19202 establishing a Historic Property Rehabilitation and Restoration Tax Abatement Program. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Assistant City Administrator

Bruce McCandless began his presentation stating the city currently operated three tax abatement programs, as follows: MCA 15-24-1401 new or expanding industries; MCA 15-24-1501 remodel, reconstruct or expand existing buildings; and MCA 15-24-1502 remodel, reconstruct or expand existing, vacant commercial buildings. He said a fourth tax abatement program had been established approximately 20 years ago but had not been enacted, and that was MCA 15-24-1601 rehabilitate, restore, expand or new, qualifying construction of historic properties. Mr. McCandless said qualifying properties would be contributing within a historic district, be on the National Register of Historic Places, or be new construction within a district if compatible with the district. He said currently Big Sky Economic Development processed the applications and had agreed to assist with the new program. He said the properties had to comply with standards developed by the US Department of Interior, and the local Yellowstone Historic Preservation Board adopted criteria and reviewed applications for meeting the criteria. He said the tax abatement was only the increase in the taxable value that was abated, not on the base value of the property. He said a property could only apply for 12 months of construction plus five years following the construction period. He said the abatement was only on city and local school levies and did not apply to statewide levies. Mr. McCandless noted that if something was done with a property during the term of abatement that made the property non-compliant, such as certain work or demolition, the property would be disqualified, and the tax abatements would have to be repaid with penalties.

Councilmember Cromley asked if there was a time limit on the program. Mr. McCandless said there was no time limit as long as the state statute was still in effect.

Councilmember Astle moved for approval, seconded by Councilmember Cimmino. 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 or in the back of the room.)

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

COUNCIL INITIATIVES

- **Ronquillo:** Said Streeter Park on Nimitz had “no parking” signs all around the park. He said according to Parks Director Mike Whitaker the signs were installed in 1962 and no one knew why, so they would like to have the signs removed. He said they also needed picnic tables and benches.
- **Cimmino:** Said the female restroom in North Park did not have doors on the three stalls. She said she spoke with the City Administrator and the Parks Director and was told they were removed because of vandalism and would not

be replaced until next summer. She said it would be nice to even just paint the doors and reinstall them sooner than next summer. Ms. Volek said she did not know if there was equipment available, but she would check with staff and report back.

- **McFadden:** Said Terry Park also needed more picnic tables.
- **McFadden:** MOVED that the vote on the urban chicken issues be postponed from August 27 to September 10, seconded by Councilmember Bird. Councilmember McFadden said a lot of the people wanting chickens lived in Ward 3, and it appeared to be a Ward 3 issue to him. He said he planned to be out of town on August 27 so he wanted the issue postponed until he could be present.

Mayor Hanel said delaying the item would be altering the agenda for personal benefit, and they would be doing a disservice to the public. Mayor Hanel said they had heard hours and hours of testimony, and he did not see the need to change the date.

Councilmember Bird said they may have their share of chickens in Ward 3, but there were a lot of chickens in other wards, as well.

On a voice vote, the motion failed 9 to 1. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, Bird, McCall, Astle, Crouch, and Mayor Hanel voted in opposition. Councilmember McFadden voted in favor.

- **Ronquillo:** Said the city-owned property on the corner of Washington and State was overgrown with weeds and needed taken care of.
- **Ronquillo:** Said Jerry Ray was holding an open house the next afternoon at 3:00 at the Crane Building, 3005 First Avenue South, if anyone was interested in looking at it. Ms. Volek advised the committee considering the relocation of the Planning Department would be touring buildings the following day and the Crane Building was on their list.
- **McCall:** Asked to receive a summary of tax revenue by ward for the past fiscal year. Ms. Volek said she did not know the status of appeals on taxes, but she would speak with Mr. Weber the following day and get back to the Council as soon as possible.
- **Bird:** Said last month she had requested a list of all saleable, city-owned property and asked for the status. Ms. Volek said a staff committee had been working on a list and she would check on it.
- **Bird:** Asked when the 8-foot setback for recreational vehicles would go into effect and asked why city enforcement did not issue all violators a citation. Ms. Volek advised the 8-foot setback had gone into effect, and violations were issued on a complaint-driven basis.
- **Bird:** Thanked Public Works and the Street Division for the asphalt work done at 15th and Regal to Industrial. She asked if there were plans to do the north side of Central at 15th and Regal. Ms. Volek said she would pass along the compliment and get an answer to her question.
- **Mayor Hanel:** Thanked Dave Mumford, Brent Brooks, and Ms. Volek for meeting and resolving a long-standing issue with a citizen regarding fees for a utility line connection.

- **Cimmino:** Thanked Public Works and the Montana Department of Transportation for pouring the concrete in front of MetraPark for the Bench Connection in time for the fair. She also asked if the Parks Department could mow the weeds on the city-owned strip of land in front of Oasis Park.

There was no further business, and the meeting adjourned at 9:41 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk