

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 13, 2014

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 McFadden gave the invocation.

ROLL CALL: Councilmembers present on roll call were: Yakawich, Pitman, Cimmino, McFadden, Bird, McCall, Swanson, Crouch, and Brown. Councilmember Cromley was excused.

ELECTION OF DEPUTY MAYOR PRO TEMPORE: Councilmember McCall moved to elect Councilmember Pitman, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

MINUTES:

- December 9, 2013
- January 6, 2014 (Special Session)

Councilmember Couch moved for approval of the December 9, 2013, and January 6, 2014, minutes, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES: Billings Police Department Annual Awards

Police Chief Rich St. John introduced the following 2013 Police Department Annual Awards Recipients:

- Officer of the Year – Detective Brad Tucker, nominated by the Billings Exchange Club
- Supervisor of the Year – Sergeant Jason Gartner
- Employees of the Year – Police Support Specialists Suzi Henschel-Hansen, Linda Mehlhaff, Tressa Huet, Lindy Newsome, and Amy Trimbo
- Respect for Law – Officer Matt Lennick, nominated by the Billings Optimist Club
- American Legion National Law Enforcement Award – Officer Samantha Puckett

Chief St. John advised the Billings Police Department was the fiduciary for the Eastern Montana High Intensity Drug Traffic Area Task Force (HIDTA), and was one of 31 initiatives belonging to a 4-state task force competing with Wyoming, Utah, and Colorado. The task force was recognized for its work in 2013 as the Rural Task Force of the Year. He introduced Sergeant Brian Korell, the supervisor of the unit.

Chief St. John introduced Chaplain Joe Rockstad and recognized him for his selfless service to the Billings Police Department that went on behind the scenes. He noted Mr. Rockstad would be retiring soon.

Chief St. John also recognized Chaplain Paul Reeder. He said Mr. Reeder had given 30 years of selfless service to the Billings Police Department and had no plans to retire.

Mayor Hanel said the City of Billings had an exceptionally fine work force within all of its departments. He said the last 18 months the Police Department had been involved in some extremely difficult, very sophisticated, very involved, time-consuming cases. He congratulated Chief St. John for managing a very fine department.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- **Item F – Memorandum of Understanding between City and NWE for energy rebate for installation of a new, high speed turbo blower at the Wastewater Treatment Plant.** The incentive amount had changed from \$130,000 to \$145,000.
- **Item M – Resolution appointing 10 members to Right-of-Way Special Events ad-hoc committee.** Council approved a resolution creating the committee on December 9, 2013; therefore, a resolution appointing the members, as indicated on the agenda, was not needed. She noted Councilmember Cromley would serve on the committee since his district was represented primarily by the downtown event situation, and Councilmember Bird would serve as the alternate. She asked that Item M be separated to confirm Councilmember Cromley as a committee member.
- **Item #4 – Public Hearing and Zone Change #917: A zone change from Public to R7000 Restricted for Lampman Park located south of Monad and east of 32nd Street West.** Council received an e-mail from Kevin Bentz, dated 1/13/14, advising Lampman Park had been identified several years ago as a prime location for the relocation of Fire Station #5. Copy of the e-mail was filed in the ex-parte notebook. She noted the matter was investigated during the previous Fire Chief's administration, and it had been hoped the sale of the current fire station property on 24th Street West would be sufficient to build a new station on the Lampman parcel. It was determined it was not feasible, so the staff's recommendation continued to be to rezone the property for sale. Ms. Volek said she was recommending the Council update a decade-old fire station placement study in the next year or two, and she was sure Fire Station #5 would be part of the study.
- **Property Sale of 3510 7th Avenue South.** At the December 9, 2013, Council meeting staff was directed to re-advertise the call for sealed bids and bring a recommendation to the Council at the January 13, 2014, meeting. Council received a memorandum from Public Works Director, Dave Mumford, in the 12/19/13 Friday Packet advising there were discrepancies with the property description, and sale of the property would not be ready for consideration at the January 13, 2014, meeting. Copy of Mr. Mumford's memorandum was in the ex-parte notebook.
- **Ray Property Offer on Midland Road.** Copy of staff report to Mayor and City Council and a letter and buy/sell agreement from Jerry T. Ray of Ray and

Company Realtors was on Council's desk and filed in the ex-parte notebook. She noted for about a decade the City had owned Lot 4 of the Billings Operations Center Subdivision. The City acquired Lot 3 by purchase in May, and Mr. Ray was offering the City Lots 1 and 2 for \$750,000 if the City purchased the Crane Building at \$2 million or for a current MAI appraisal if the appraisal was satisfactory to his firm. Ms. Volek said Mr. Ray previously indicated interest in buying the north parts of Lots 3 and 4, but they had not seen a buy/sell agreement on the offer. She indicated the question before Council that evening was whether the Council wished to further discuss the buy/sell agreement from Mr. Ray offering the two parcels and the Crane Building. It could be added to the agenda by Council initiative. She indicated she had a meeting of department heads who had divisions currently at the Billings Operations Center, and they recommended instead of buying Lots 1 and 2, the City consider allowing their departments to acquire or develop property nearer their operations in the Heights and on the west end. Ms. Volek said when the City acquired the property on Midland Road, it was noted in the staff report that there had been public concern about using what was expected to be prime commercial property for government purposes. At that time, the City swapped Lots 1, 2, and 3 with Mr. Studer, whose family later sold Lot 3 back to the City. She said if the Council wished to discuss the matter at the January 21 work session, she would like an initiative to do so. A copy of the documentation in front of Council was also available for public inspection in the ex-parte notebook.

Councilmember Pitman asked if it was out of the ordinary for realtors to give the City a buy/sell offering the sale of property. Ms. Volek advised it was not common practice. Councilmember Pitman said the City was planning a facilities and property study and asked when it would be done. Ms. Volek advised it was currently out for a request for proposal, and they were anticipating replies the first part of May. She said Mr. Ray indicated he may have other potential buyers for the other two lots; the plan involved the Crane Building; and the City had not identified a specific use for the Crane Building at that time.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item #1 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign in at the cart located at the back of the council chambers or 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. There were no speakers, and the public comment period was closed.

1. CONSENT AGENDA

A. Bid Awards:

- 1. Resurfacing a total of 10 Tennis Courts at Rose and Pioneer Parks.**
Recommend Hellas Construction, Inc.; \$87,000.
- B. Approval** to purchase three Police Patrol Ford F150 4x4 SuperCrew Pickup Trucks from Bison Ford Motor Company of Great Falls for \$30,439.88 each, or a total cost of \$91,319.64, budgeted in the approved 2014 Equipment Replacement Plan.
- C. Compensation Agreement** with Copper Ridge Development Corporation for installation of 892 feet of 18" sanitary sewer main in Rimrock Road between Cove Creek Parkway and West Copper Ridge Loop; \$73,999.
- D. Memorandum of Understanding** between South Billings Urban Renewal Association, Inc.; Big Sky Economic Development Authority; and the City of Billings for implementation of the South Billings Boulevard Urban Renewal District Master Plan.
- E. Memorandum of Understanding** between Billings Industrial Revitalization District; Big Sky Economic Development Authority; and the City of Billings for implementation of the East Billings Urban Renewal District Master Plan.
- F. Memorandum of Understanding** between the City of Billings and NorthWestern Energy for an energy rebate of approximately \$130,000 for installation of a new, high speed turbo blower at the Wastewater Treatment Plant in Fiscal Year 2015.
- G. Amendment #2, W.O. 12-31: East End Industrial Area Storm Drain.**
Professional Services Contract, Morrison-Maierle, Inc., not to exceed \$389,107.
- H. Amendment #2, W.O. 12-45 3 MG Staples Reservoir Liner.** Professional Services Contract, HDR Engineering; \$5,300.
- I. Amendment #7, Engineering Services for Airport West End Sanitary Sewer Improvements.** Morrison-Maierle, Inc.; \$60,094.
- J. Amendment #8, Engineering Services for Airport Detention Pond D Expansion and Outfall Routing.** Morrison-Maierle, Inc.; \$57,700.
- K. Acknowledge receipt of petition to vacate** a portion of Cove Creek Drive in Copper Ridge Subdivision, 2nd Filing; Copper Ridge Development Corporation, petitioner; and setting a public hearing date of February 10, 2014.
- L. Acceptance of Donations** to the Mayor's Committee on Homelessness from the Home Builder's Association - \$1,500; and Downtown Exchange Club - \$500.
- M. Approval** of 10 appointees to an ad-hoc committee on Right-of-Way Special Events.

N. Grant Application Request to submit a Montana State Historic Preservation Office Certified Local Government Grant application for FY2014-2015; \$5,225.

O. Second/Final Reading Ordinance amending Billings, Montana City Code Sections 23-201, 23-306, 23-405, 23-601, 23-602, 23-603, 23-605, and 23-606 providing updates to the Subdivision Regulations.

P. Preliminary Plat One-Year Extension for St. Vincent Healthcare Subdivision generally located at the northwest corner of King Avenue West and Shiloh Road; setting a new expiration date of January 24, 2015.

Q. Preliminary Plat One-Year Extension for High Sierra Subdivision, 6th Filing; generally located north of Annandale Road and east of Greenbriar Road in the Lake Hills area; setting a new expiration date of February 9, 2015.

R. Final Plat of Grand Peaks Subdivision, 4th Filing.

S. Bills and Payroll:

1. November 25, 2013
2. December 2, 2013
3. December 9, 2013
4. December 16, 2013
5. December 23, 2013

Councilmember Brown separated Consent Agenda Items G, I, and J and said he would abstain due to his employment with Morrison-Maierle. Councilmember Cimmino said she needed to abstain from Consent Agenda Items C, F, G, H, I, J, N, R, S1, S2, S3, S4, and S5, as directed by her employer and in order to avoid a perceived conflict of interest because other engineering and architectural firms were involved.

Councilmember McCall commented Consent Agenda Items D and E were memorandums of understanding between the Big Sky Economic Development Authority, the City of Billings, and two urban renewal districts. She said Big Sky Economic Development Authority played a great role in the partnership between the City and the groups in east and south Billings. They did a significant job, and the collaboration was very important.

Councilmember Crouch separated Consent Agenda Item B, and Mayor Hanel separated Consent Agenda Item M.

Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items B, C, F, G, H, I, J, M, N, R, S1, S2, S3, S4, and S5, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of Item G, seconded by Councilmember Pitman. On a voice vote, the motion was approved 8 to 0.

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

Councilmember McCall moved for approval of Item I, seconded by Councilmember Pitman. On a voice vote, the motion was approved 8 to 0.

Councilmember McCall moved for approval of Item J, seconded by Councilmember Pitman. On a voice vote, the motion was approved 8 to 0.

Councilmember McCall moved for approval of Item M confirming Councilmember Cromley as the committee's Council designee with Councilmember Bird serving as the alternate, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

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

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

Councilmember McCall moved for approval of Items S1, S2, S3, S4, and S5, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

Councilmember Crouch referenced Item B and asked why the Police vehicles were not being purchased locally. Ms. Volek advised the State had a contract through which the City was buying the vehicles at a lower price than received in local bids. Councilmember Crouch moved for approval of Item B, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

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

Councilmember McCall moved for approval of Item F, seconded by Councilmember Pitman. Councilmember Yakawich commended the City and others for the \$188,000 saved through rebates and donations. He said they were spending money responsibly. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #14-10330 authorizing filing of the annual Federal Transit Administration Section 5307 Grant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no presentation but 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 2, seconded by Councilmember McFadden. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND SPECIAL REVIEW #914: a special review to allow an all-beverage liquor license for a new restaurant located at 1603 Grand Avenue in the West Park Plaza Shopping Center. West Park Plaza Shopping Center, LLC, owner; Scott Heard and Andy Chan, agents. Zoning Commission recommends conditional approval and a waiver of the 600-foot separation distance to a church and a park with playground equipment. (Action: approval or disapproval of Zoning Commission recommendation.) Nicole Cromwell, Planner II, began her presentation showing a zoning map of the subject

property and surrounding properties; an aerial view of the property; the 600-foot radius map from the exterior boundaries of the property; the site plan of the proposed Umi in Billings restaurant; and photographs of the front of the building and the surrounding properties. She noted there were two properties within the 600-foot separation – the Central Christian Church on 16th Street West and Evergreen Park on Avenue D. There were a couple ways a waiver could be granted (1) the separation was obscured entirely by a building, or; (2) the separation was by an arterial street with no pedestrian signal or facilities. She noted Evergreen Park was completely obscured from sight of the front of the building. Central Christian Church was visible from the front of the West Park Plaza, and there were pedestrian crossings at 16th Street West; however, there was no sidewalk from Grand along the promenade into the property. The Zoning Commission was recommending approval and a waiver of the 600-foot separation from the church and park based on the following five conditions.

1. The special review approval shall be limited to Lot 2A1, Partington Park Subdivision 5th Filing, in Suite 105 of the building located at 1603 Grand Avenue.
2. Development of the restaurant shall be in substantial conformance with the site plan submitted with this application and shown in this staff report. Deviations from the approved site plan that show additional on-premise alcohol service area greater than 10% of the total approved 7,700 square feet will require additional special review approval.
3. There shall be no outdoor seating area without additional special review approval of the City Council.
4. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
5. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

Councilmember Pitman referenced the 600-foot separation, and asked what it would take to change the policy to be from the door instead of the property line. Ms. Cromwell said Council could initiate a zoning amendment for staff to bring back recommendations on the 600-foot requirement.

Councilmember Brown confirmed there would only be two liquor licenses in the West Park Plaza. Ms. Cromwell said that was correct.

Councilmember McCall asked if the proposed grocery store would sell beer and wine at the retail level. Ms. Cromwell said she had not seen an application for review from the State, but service for on-premise consumption was treated differently than off-premise consumption.

Councilmember Cimmino said under usual circumstances the all-beverage liquor license provided for gaming machines; however, the current owner elected not to implement them at this time. She asked if the special review application would have to be resubmitted to include gaming machines in the event the current owner decided to sell to a new owner down the road. Ms. Cromwell said not necessarily. They just

assumed the gaming would happen, and they treated all-beverage licenses as though everyone's intention would be to eventually have gaming.

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

Mayor Hanel commented he received a phone call from Mrs. Warner who lived on White Bird Circle and who was affiliated with the church within the 600-foot separation. She wanted it known she was opposed to approving the special review, and he had sent an e-mail to Council earlier that day relaying her message.

Councilmember McFadden moved to approve Special Review #914 with conditions and waiver of the 600-foot separation, seconded by Councilmember McCall.

On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND ZONE CHANGE #917: A zone change from Public to Residential 7,000-Restricted on a 5.9-acre parcel known as Lampman Park within Lampman Subdivision generally located south of Monad Road and east of 32nd Street West. City of Billings, owner. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Nicole Cromwell, Planner II, began her presentation showing a zoning map of the subject property and surrounding properties; an aerial view of the property; photographs of the subject property and surrounding properties; and Google street maps. She noted the Parks Department conducted a pre-application neighborhood meeting in October followed by submittal of the zone change application. She noted there was no sidewalk on the west side of 30th Street West, so a developer would have to install the pedestrian facilities. There were no pedestrian facilities on either side of 31st Street West, and the developer would either waive a future SID or put in pedestrian facilities on the east side. She said the Zoning Commission was recommending approval based on the following 10 criteria for zone changes.

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

The proposed zone change is consistent with the following goals of the Growth Policy: *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)* The proposed zoning would permit excess land to be sold for single family residence development at similar density to the existing neighborhood. The proposed zoning is consistent with the neighborhood character and land use patterns.

More housing and business choices with each neighborhood. (Land Use Element Goal, page 6) The existing zoning of Public does not allow any residential uses. The existing zoning could allow some types of commercial recreation, social services such as day care centers, public or private schools, and similar assembly uses that may be incompatible with the existing neighborhood. A potential buyer of the excess property would be burdened with changing the zoning to a more appropriate zone. The City Council has directed the city staff to ensure the property is zoned for single family dwellings. The proposed R-70-R zone would allow single family homes on slightly smaller lots that will provide more housing choices in this neighborhood.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The City Fire Department will ensure safe access to the site and provision for protection from fire to the new buildings.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. Lower density subdivisions increase response times by police and emergency service providers. The proposed zoning will increase the availability and variety of housing options for Billings' residents and promote the general welfare.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning may have some impact on the surrounding streets, and a traffic impact study may be required depending on the development that is built on the property in the future. The proposed zoning could generate up to 360 new vehicle trips per day on Monad Road. This level of traffic generation would not require a traffic study. Other uses allowed by special review approval could generate more traffic. New development that generates 500+ new vehicle trips per day will require a Traffic Accessibility Study (TAS).

Water and Sewer: The City will be able to provide water and sewer to the property by extension of those utilities from S. 30th St West. A new Zone 3 Water Reservoir may be built in the future to provide additional storage capacity.

Schools and Parks: There may be an impact to schools from the proposed zone change if the property is developed for residential uses in the future. The property is in the Big Sky Elementary and Riverside Middle School District and in the West High District (SD #2)

Fire and Police: The subject property is currently served by City Police, Fire and Emergency Services.

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

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

6. *Will the new zoning effect motorized and non-motorized transportation?*

Traffic generation from a new single family development of 6 units per acre is approximately 10 trips per day per dwelling unit or about 360 new trips at maximum density. The current traffic on this section of Monad is estimated between 8,000 and 9,500 vehicle trips per day. The maximum number of new trips is about a 4.5% increase

and the existing street design can handle the additional traffic. A different type of development for a special review use such as church may require the preparation of a TAS. The 2011 Bikeway and Trail Master Plan included a proposed on-street bike lane for Monad Road. There is a sidewalk on the east side of S 30th Street West but no pedestrian facilities exist on S 31st Street West. There is a curb-walk sidewalk on Monad Road along the Lampman Park frontage with accessible ramps at both intersections. Any new development may require the installation of boulevard sidewalks on S 30th Street West and S 31st Street West to ensure safe pedestrian access.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. Lower density development is inefficient and ineffective in recovering the costs to extend city services. Higher densities of development, such as the proposed zoning, will allow the city to grow in a better urban pattern and form.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of district and the suitability of the property for higher density single family residences. There are several existing and new single family developments in the area. The Growth Policy encourages higher density housing along arterials between major intersections to avoid the "strip commercial" development typical of older arterial streets in Billings. The increased traffic generation of a multi-family development would not be beneficial to this minor arterial street and would be incompatible with the existing neighborhood.

9. Will the new zoning conserve the value of buildings?

Surrounding property exhibits higher taxable land value. The property is currently vacant and should increase in value when developed. The proposed zoning may also increase the marketability and price the city could achieve from the sale of the excess parkland. There are no buildings on the subject property.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit slightly denser development and allow more housing choices in the area. The surrounding development is compatible and this is the most appropriate use of the land.

Councilmember Cimmino said she thought the whole process was to rezone the entire park to single family R9600. Ms. Cromwell advised R7000 Restricted was single family with higher density. She said R7000 was proposed at the pre-application neighborhood meeting. The neighborhood said they could live with the R7000 density; but they did not want duplexes so R7000 Restricted was submitted.

Councilmember Bird noted that only six of the 93 property owners attended the pre-application meeting, and she was concerned a significant decision was being made on a very insignificant number of property owner participation.

Ms. Volek advised the Park and Recreation Board had a committee made up of local realtors who were directed by City Council to make recommendations on the disposal of undeveloped land. Lampman Park had been owned by the City for many years, had never been developed, and was a recommendation of the committee. She recalled discussion with property owners in the subdivision across Monad Road from Lampman Park, and they were not interested in developing the park because they were already paying for a sewer SID.

Councilmember Bird referenced the letter from Kevin Bentz and the challenges with Fire Station #5 being located on 24th Street West. She asked if there had been a conversation with the Park and Recreation Board that the City could potentially use the Lampman Park property to relocate Fire Station #5. Ms. Volek said did not know if the Park and Recreation Board was aware of it, but as she had stated earlier that evening, there had been a study done and there was a hope the property on 24th Street West could be sold and sufficient funds raised to build at the Lampman location. Upon investigation, it was determined it could not be done, and the discussion concluded. Ms. Volek said there were sites in the Heights and on the south side identified in the study done a decade ago where no fire stations existed. She and Fire Chief Dextras had discussed creating a Supplemental Budget Request (SBR) for next year's budget to update the study. The City had other land to consider, and it could be a long wait to hold the parcel indefinitely while the study was created and the funding found.

Councilmember Pitman asked if the meeting and the process had been publicly advertised. Ms. Cromwell said it had, and no one attended the Zoning meeting except the City Park Planner, Mark Jarvis.

Councilmember Swanson asked for the next step if Council approved the zone change request that evening. City Attorney Brooks advised the property would be advertised for sale, and it would be the Council's decision to accept any proposals to purchase the property.

Councilmember Crouch reminded the Council that a survey had been sent to the property owners, and it came back overwhelmingly that they did not want an SID to create a park. Parks Director, Mike Whitaker, said a straw poll was done in the entire subdivision, and 60% of the property owners did not support an SID to build a park.

Councilmember Swanson commented it was a classic example of a good infill project and good use of the property.

Councilmember Cimmino said she agreed it would be an ideal opportunity for infill development. She said she assumed the property on 24th Street West was worth more today than it was at the time of the study. Ms. Volek said it would be the value of the land and not the structure because the structure was oriented toward a particular use. She said it was the hope the sale of the property would pay for the relocation, but after thorough investigation it was determined it would not.

Councilmember Brown asked for the duration of time between the straw poll survey and the meetings. Mr. Whitaker said the straw poll was taken less than a year prior to the zoning meeting.

The public hearing was opened.

- **Bill Cole, 3733 Tommy Armour, Billings, MT**, said he was chairperson of the subcommittee that made the recommendation to pursue the investigation of selling Lampman Park. He said the reason for the rezoning was to generate greater value for the City from the sale. The committee's recommendation to the City was to use funds from the sale to improve other park facilities in the area such as Lampman Strip Park. He said Lampman Strip Park was a developed north/south trail connector. The land and trail were already there, but there was no developed infrastructure or landscaping.

Councilmember Pitman said he also served on the committee, and the committee had made every effort to make sure the process was being done appropriately and within the guidelines the community was looking for. Even those six people who attended the neighborhood meeting had a huge impact on how it was done. The City could "throw the party" but could not make people show up. The committee had done a phenomenal job listening to the residents and making recommendations. It would provide development, which was exactly what they were looking to do with some of the properties.

Councilmember McCall reminded the Council that when they held the first discussion several weeks ago, the individuals who lived in the area came forward and clearly supported the notion they did not want to do an SID for a park. Their main concern was that it be single family so Council had met that need.

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

Councilmember Crouch moved for approval of Item 4, seconded by Councilmember Pitman.

Mayor Hanel commented as homes developed in the area, they would add to the tax base. It was a very wise use of the land, and he would support the motion.

Councilmember Bird asked if the proceeds from the sale of Lampman Park should be designated for improvements to Centennial Park. She asked if the same neighbors would have to vote on an SID for Centennial Park when the time came to make improvements. Ms. Volek advised the recommendation of the Parks Department was to make improvements to the Lampman Strip Park in the same area as Lampman Park.

Parks Director, Mike Whitaker, advised a 2007 Council initiative directed staff to look into selling Lampman Park and using the proceeds for Lampman Strip Park. At the first public meeting staff advised the recommendation was to utilize the proceeds at Lampman Strip Park. Councilmember Bird asked how they would be assured it would actually happen.

Ms. Volek said she felt they were getting ahead of themselves. The issue before them that evening was the zone change only. If the zone change was approved, staff would advertise the sale of the property and bring it back for Council approval; at which time use of the funds would be designated.

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 in at the cart located at the back of the council chambers or at the podium.*)

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

COUNCIL INITIATIVES

- **Pitman:** MOVED that the money held in reserve from the Better Billings Foundation during the building of the Oasis pool be released back to the Better Billings Foundation for the addition of a second slide, seconded by Councilmember McFadden. Councilmember Pitman said when the City was donating the land to the Better Billings Foundation one of the requirements was that they set aside \$100,000 in escrow in case they did not complete the project or if, for some reason, the City took it back there would be money to do something else with the facility. He said the Oasis was a huge success. It was designed for a second slide; but they did not have the money. He did not see it coming back to the City, they had completed what they said they would, and he felt the \$100,000 could be released so they could install the second slide.

Councilmember Swanson asked if the Oasis had requested the money returned for installation of a second slide. Mr. Pitman said that was correct.

Councilmember Yakawich said he strongly opposed the motion. During his walk in the community many of his constituents were very grateful for the Oasis but very concerned that the money stayed in escrow in case the Oasis did not fulfill its obligation and had to be closed down.

City Administrator Volek said it was a significant amount of money and suggested it be brought back to the Council for a duly-advertised, publicly-announced vote to allow adequate discussion.

Mayor Hanel suggested that staff review the legal aspects of the agreement and provide the Council with a copy of the agreement for review before taking action.

Councilmember Cimmino asked for the original purpose of the \$100,000 in escrow. City Attorney Brooks said he thought the original intent was to use it as a performance bond. The amount of \$100,000 was determined in a discussion with Mr. Whitaker, who estimated it would cost \$100,000 to reclaim the property and do something else with it should the Oasis go out of business.

Councilmember Pitman said if it was a performance bond, maybe they did not need to do anything. He asked Attorney Brooks to confirm how it was done and get back to Council. Councilmember Pitman amended his motion to put the item on a future regular business meeting agenda as soon as possible, seconded by Councilmember McFadden.

Councilmember Bird said she would not support it, because the Oasis had not been in business long enough. They would be "jumping the gun" to do it at this point.

Councilmember McFadden said he recalled the idea behind it was if the Better Billings Foundation failed to come up with enough funds to open the door and the City had to reclaim the land. He said he felt they had performed on what they had been asked to do many times over, and he was embarrassed the City still had the money.

Ms. Volek said she recalled it was not a performance bond. It was escrowed funds without a performance bond attached.

Councilmember McCall said she supported Councilmember McFadden's recollection. She agreed the City should return the money.

Councilmember Cimmino said she remembered four years or so ago when the contract was being negotiated. She felt they now had a track record, and she was very confident they would continue providing the amenity to the community.

Councilmember Brown asked if there was a statute of limitations on how long the City could hold the money. Ms. Volek advised they would need to review the agreement.

On a voice vote, the amended motion was unanimously approved.

- **Pitman**: MOVED that staff bring back to a work session a recommendation on the 600-foot separation from the door vs. the property line, seconded by Councilmember Cimmino.

Councilmember McCall said she thought it was a good idea, but it would be helpful to have information on what other communities were doing with it.

On a voice vote, the motion was unanimously approved.

There were no other initiatives.

Councilmember Cimmino asked Mr. Whitaker for the current status of the Centennial Park Master Plan Update. Mr. Whitaker advised they would be moving full speed ahead with the Centennial Park Master Plan Update and the Cottonwood Park Master Plan within the next couple of weeks. Councilmember Cimmino asked for the status of the Castlerock Park tennis court improvements. Mr. Whitaker said the Billings Tennis Association recommended that staff start with the Pioneer Park courts. In June they would be moving forward with the Castlerock Park courts.

Councilmember Bird asked for an update on the park restroom remodel projects. Mr. Whitaker said they had six remodels and were waiting for a break in the weather to do the outside work. The three modular restrooms had been delivered and as soon as the weather improved, they would be finishing the outside flat work and turning on everything. Councilmember Bird commended the Parks Department for moving forward on the restrooms. She said they were seeing tangible outcomes from the Park Maintenance District (PMD) that would make a difference in the city parks for the citizens. Mr. Whitaker advised staff would be holding a pre-construction meeting with Good Earth Works, who would be installing the fall protection at 22 parks this winter. The fall protection would be in place by spring.

There was no further business, and the meeting adjourned at 8:15 p.m.

CITY OF BILLINGS



BY Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk