

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

October 10, 2006

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 Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Tussing led the Pledge of Allegiance and Councilmember Larry Brewster gave the Invocation.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Stevens, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones and Clark.

MINUTES – **September 25, 2006.** Approved as printed.

COURTESIES

- Councilmember Ruegamer announced the generous donation from John Dehler - - a check for \$1 Million to start the Cobb Field Campaign, adding that it will reduce the bond amount by \$1 Million. Councilmember Ruegamer noted another announcement would be made tomorrow.
- Kurt Osterdyke thanked the Council for recognizing National Martial Arts Day on October 14th. (See proclamation below).

PROCLAMATIONS

- Month of October – National Arts and Humanities Month
- October 14: National Martial Arts Day

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek noted that the Mayor and Council received a number of ex parte' communications regarding Item #6. Copies of these communications were placed in a binder at the back of the Council Chambers this evening.
- Ms. Volek asked the Council to add TWO late items to the agenda this evening – 2 donation items, one from the Breakfast Exchange Club and the other from Wal-Mart. Both donations are to the Fire Dept.
- She announced that a public meeting would be held at noon tomorrow at Cobb Field to make another announcement concerning another donor to the Cobb Field Campaign.
- Ms. Volek reminded the Council that the agenda review meeting would be held tomorrow evening at 5:30 p.m. in the City Hall Conference Room, noting the meeting is also open to the public.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #6 and #7 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items

listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

- ROB PASQUARELLO OF 1810 CHANDELIER CIRCLE asked the Council to make the connection to the Big Ditch Trail at Chandelier Circle. Mr. Pasquarello said the connection is essential for the safety of school children walking to school. He noted the land is already owned by the City and the neighborhood would like to see the connection made sooner rather than later.
- WARREN BICKFORD OF 1822 CHANDELIER CIRCLE said his primary concern is the maintenance of the easement. Today, the easement is mud and weeds and a few patches of grass; it normally is dirt, dust, and weeds and a few patches of weeds. Mr. Bickford said he was told the City would do the maintenance, but there has been no City maintenance provided to date. He said he has been mowing it in an attempt to keep the weeds down.
- JIM BAKER OF 1806 CRYSTAL DRIVE IN SHILOH POINT SUBDIVISION said he supports the connection to the trail, noting it will also benefit the Goodman Subdivision to the south.
- JOE WIHITE OF 926 N. 30TH ST. Spoke on Item 1G. He voiced concern about the abuse of children, specifically that of his own child. Mr. White said no payment of damages has been made yet, adding that he was also concerned about the incompetence of the legal department.

LATE ADDITIONS:

COUNCILMEMBER VEIS moved to ADD the donations from the Breakfast Exchange Club and Wal-Mart to the agenda as Items 1O and 1P, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

CONSENT AGENDA:

1. A. Bid Awards:

(1) Vehicles, City of Billings. (Opened 9/26/06). Recommend Schedules I, II, IV, VI, VII, VIII, X, XI and XII with trades be award to Archie Cochrane Ford, \$251,519.00 and Schedules II, V and IX with trades be awarded to Denny Menholt Chevrolet, \$107,359.03.

(2) One New 10,275 Pound Tracked Excavator. (Opened 9/26/06). Recommend Westco Machinery Inc., \$55,762.00.

(3) Gasoline, Diesel Fuel & Lubrication Products. (Opened 9/26/06). Recommend Schedule A to GM Petroleum Distributors and Schedule B to A & I Distributors.

(4) New Skid Steer Loader for Billings Logan International Airport. (Opened 9/26/06). Recommend Yellowstone County Implement, \$24,772.23.

(5) Pneumatic Pipe Bursting System to Install 8" IPS, 10" IPS and 12"IPS HDPE Pipe. (Opened 9/26/06). Recommend Vermeer Rocky Mountain, Inc., \$140,000.00.

(6) Window Replacement for the Airport Administration Offices for Billings Logan International Airport. (Opened 9/26/06). Recommend Dale & Jax, \$77,370.00.

(7) One 2007 Current Model 48,000 GVW 8-Yard Dump Truck. (Opened 10/10/06). Recommend delaying award to 10/23/06.

B. C.O. #10, W.O. 04-13: Filter Building Expansion and Improvements, COP Construction, \$6,572.40.

C. C.O. #11, W.O. 04-13: Filter Building Expansion and Improvements, COP Construction, not to exceed \$145,000.00.

D. Approval to Trade-in the Replaced City Hall AS/400 (9406 Model 720 Feature 2061 Serial #10-42 LAM) in exchange for \$13,000 trade-in value credit from IBM for future purchase of IBM hardware, software, services and education.

E. Donation of Equipment Unit #1970 and all attachments to the Business Improvement District.

F. Confirmation of Probationary Police Officers:

- (1) George Zorzakis
- (2) Thomas Keightley.

G. Authorization for the City of Billings to administer two Children's Advocacy Center (CAC) Grants.

H. Subordination of Rental Rehabilitation Loan, Gary Fox applicant, \$15,392.50.

I. Second/final reading ordinance 06-5390 for Zone Change #790: A zone change from Residential-9,600 to Neighborhood Commercial on a 0.913- acre parcel of land described as the North 1 acre (less 3,795 sq ft for street) of the E2 of Lot 2 in the NE4 of Section 9, Township 1 South, Range 26 East and located at 4130 State Avenue. Guy & Lloyd Romero, owners; George Esparza and Valerie Dangerfield, agents.

J. Second/final reading ordinance 06-5391 for Zone Change #791: A City Council-initiated zone change to correct the zoning from Public to Residential-9,600 on a 20,022 square parcel of land described Lots 19 and 20 of Block 61, Lake Hills Subdivision, 27th Filing and located at 241 and 301 Glenhaven Drive. Lloyd & Leon Irvine and Laura Dimmler and Robert Guisti, owners; City of Billings, agent.

K. Second/final reading ordinance 06-5392 for Zone Change #792: A City Council-initiated zone change to correct the zoning from Agriculture-Open Space to Public on a 202-acre parcel of land described as Tract 1 of C/S 2432 and Tracts 1-8 & 11 of C/S 2037 and generally located on Airport Property. City of Billings, owner/agent.

L. Preliminary Plat of E.D. King Subdivision, generally located on the northeast corner of Grand Avenue and Zimmerman Trail; conditional approval of the plat, approval of the variance and adoption of the findings of fact. (Delayed from 9/25/06).

M. Final plat of Bellville Subdivision. (Delayed from 9/25/06).

N. Bills and payroll.

- (1) September 8, 2006
- (2) September 15, 2006

LATE ADDITIONS:

O. Donation of \$3,500.00 from the Breakfast Exchange Club to the Fire Dept. for purchase of microphones and upgrading the corresponding sound system components used by the department's public education characterization team.

P. Donation of \$1,000.00 from the West End Wal-Mart and \$1,500.00 from the Heights Wal-Mart to the Fire Dept. for purchase of microphones and upgrading the corresponding sound system components used by the department's public education characterization team.

(Action: approval or disapproval of Consent Agenda.)

There were no separations of the Consent Agenda. Councilmember Gaghen moved for approval of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember Veis noted the City is making a number of vehicle purchases in Item A1 and asked if these are cars for the police dept. or "police cars". City Administrator Tina Volek replied that the vehicle purchase is a "mix" of vehicles for all departments. Motorpool Manager Larry Deschene said nineteen vehicles are being purchased for various departments. The vehicles being purchased for the Police Dept. are for the detective division.

Councilmember Veis noted that the City is bidding fuel in Item A3, noting that an optional bid for biodiesel was done and asked if the City will be using biodiesel and why was it an "optional" bid. Mr. Deschene said the optional bid was requested because of the interest from the community. The option was to determine the availability and the price for biodiesel. Mr. Deschene said the City needs to do additional research on the use of biodiesel, adding that he does not know of any vendor in the area that can blend the fuel in the blend that is required. Ms. Volek noted also that the Mayor's Commission on Energy Conservation requested information on biodiesel availability and cost. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 06-18502 approving an application for a tax incentive under Res #05-18376 and 15-24-1401 MCA for Home Training Tools, Ltd. Staff recommends conditional approval. (Action: approval or disapproval of Staff recommendation.)

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Ronquillo moved for approval of the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annex #06-13: a 64.714 acre parcel described as Tracts 1 and 2, C/S 2054, and Cynthia Park; Krutzfeldt Ranch LLC, owner. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Clark moved for approval of the Staff recommendation, seconded by Councilmember Stevens. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND FIRST READING ORDINANCE relating to the creation of the East Billings Urban Renewal Area; and adopting an urban renewal plan, including a tax increment provision. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Interim Planning Manager Candi Beaudry informed the Council that Joe McClure of the Big Sky Economic Development Authority (BSEDA) would be giving the presentation on this item. Mr. McClure (of 4038 Pine Cove Rd) said he is the Executive Director of BSEDA and the Economic Development Corporation (EDC). He noted the urban renewal plan for the East Billings Urban Renewal District came about after the realization that the current tax increment district ends in 2008. The *Downtown Billings Framework Plan* was re-examined during the development of this urban renewal district proposal. The Framework Plan identifies this area as the "East" transition zone and talks about it being the next step in urban development for Billings.

Mr. McClure said this initiative became a priority for BSEDA in 2006 for several reasons: (1) the continued development of the urban core is essential to a vibrant, healthy economy overall, (2) the opportunities exist to create workforce housing in the City's core, which will allow the community to provide labor for an expanded multi-industry base of employers, and (3) it will also provide for more efficient utilization of existing infrastructure, encouraging infill development versus sprawl.

He said the intent of the urban renewal plan is accomplish the following:

- Serve as the official urban renewal plan for district.
- Outline what currently exists in the district and discuss future plans for urban renewal.
- Define the boundaries of the district.

- Allow for tax increment financing to be utilized as an urban renewal tool.
- Describe the management structure of the urban renewal district.
- Provide guidelines for future development in the district.

Mr. McClure said the proposed East Downtown Billings Urban Renewal District stretches from 22nd street to Exposition Drive and from Montana Avenue to the approximate mid-block between 6th & 7th Avenue North, emphasizing that the original East Downtown Billings Urban Renewal District boundaries mirrored those proposed by the Billings Framework Plan. He noted however that because of state law, county properties cannot be involved in an urban renewal district. The vision is still for the original area proposed in the Framework Plan, but because of ownership issues, the district will be developed in steps to take into account the change in boundaries as changes from county to city occur.

He noted that local property owners have been involved in the planning process and created the Billings Industrial Revitalization District (BIRD), which currently consists of 46 property and business owners. The participants included: (1) a steering Committee, comprised of many property owners in the district, (2) a Big Sky EDA Oversight Committee, comprised of 7 EDA members overseeing the consultant team that is working on creating the district, (3) an Advisory Task Force, consisting of a wide variety of professionals, public officials and interested individuals, (4) a Volunteer Team, consisting of 15 individuals from CTA Architects and Engineers volunteering time to educate and promote the creation of the district, and (5) an Urban Renewal Plan Subcommittee, consisting of a team assigned the task of putting the plan to paper.

Mr. McClure said blight is defined as underutilization of or an area in decline and is identified in this district as:

- Underdeveloped and missing utilities: Water, Sewer, and Storm Sewer.
- Numerous vacant properties and buildings.
- Potential numerous brownfield sites within district.
- Sub-standard housing.

He explained that the goals and opportunities identified for the district include the following:

1. Improve infrastructure; utilities, roads, sidewalks, parking.
2. Encourage mixed-use development.
3. Provide a housing plan as required by the M.C.A. and to maintain HUBZone status.
4. Provide a housing plan as required by the M.C.A. and to maintain HUBZone status. (A business located in a HUBZone and your employees live in a HUBZone, you get preferential treatment for government contracts.)
5. A new business hotel that has an associated conference center and visitor amenities. (This is an opportunity to connect MetraPark with downtown).
6. Medical offices and clinics that compliment and expand the current medical services and facilities in Billings

7. Retail influx that is combined with a conference center, offices, or entertainment establishments.
8. Professional offices to expand opportunities for new or relocated businesses.

Mr. McClure said the conclusion was that the East Downtown Billings Urban Renewal District has a tremendous amount of potential to become an even greater economic engine. He emphasized that having a core downtown is vital to keeping Billings strong.

Councilmember Veis asked if North Park is included in the boundaries. Mr. McClure said it is included because of the opportunity for additional investment in that part of town. He said the North Park neighborhood saw North Park as an asset for the community and wanted to keep it in the district in case there was an opportunity to upgrade the amenities, etc.

Councilmember Veis noted that this ordinance states no housing element or structure is disturbed by the district, thereby making no relocation necessary. He said the other TIF district being considered this evening says that projects requiring relocation of displaced persons, a detailed relocation plan is required. He asked if that should be added to this district. Mr. McClure said in working with all the interested parties on this district, there was no interest expressed in relocating any of the residents or businesses currently in the area.

Councilmember Ronquillo asked about the two recycling firms in that area. Mr. McClure said both of these businesses have been included in the proposed district because both are inside city limits.

Councilmember Veis asked when enough of an increment would be generated to move some projects forward. Mr. McClure said he did not have an idea, adding that "typically with a tax increment district you are looking for a large project that would jump start it. One that has been talked about is the new federal office building that GSA has discussed. Obviously they are looking for a courthouse and an office building. The courthouse needs to be within four blocks of the current Batten Building, so that would be somewhere in the existing core of downtown. What I have advocated for is if we move a little bit east of that 22nd Street and see if we can develop an opportunity with some of the landowners to put a federal office building in that area. That will start to spur the development. You will have 300+ workers in that office building and that will be a huge increment to start with. The number one issue that property owners down there have talked about is seeing improvements in the infrastructure; then the private development will come."

City Administrator Tina Volek said Staff has heard from bond counsel Mae Nan Ellingson from Dorsey & Whitney. Ms. Ellingson has some questions on the ordinance, therefore Staff is asking that the Council open the advertised public hearing and take comment, but not close it this evening, but continuing the public hearing and action to the October 23rd meeting. Questions regarding the ordinance could be resolved by that time.

The public hearing was opened. JOE WHITE OF 926 N. 30TH ST. said he walks through the proposed district frequently and does not question the need for redevelopment. However, he urged the Council to give careful consideration to what

form this redevelopment takes. "A fixed tax district with boundaries and a board of directors is extremely dangerous," he stated. Mr. White said he supports the new federal courthouse and office building.

MARTY CONNELL OF 2903 RADCLIFF DRIVE said he is president of the Billings Industrial Revitalization District (BIRD), which represents over 50% of the parcels of land (approximately 212) in the proposed district, 46 of which are in the county (near Metra). Mr. Connell said the BIRD has 57 members. He said North Park was included because that neighborhood wanted to be included. BIRD realized there was not much that the district could do for that area now, but may be able to do in the future. Mr. Connell said after the TIF district is approved and in effect, an incentive will be offered to the non-city parcels to annex into the city and the district during the construction phase. He said the TIF district is a good tool to address the infrastructure needs in this area.

GORDY TRYAN OF 2361 CRIMSON LANE said he is also a member of BIRD. Mr. Tryan asked each councilmember to vote unanimously to approve the creation of this district. "I think it is very important that you show a unanimous and consolidated front... The group of people that worked on this worked very hard and has not left much to question in this whole process. If they have left something to question, it is your job tonight to ask us those questions. If you don't ask us those questions, you should have no reason to say 'no' to it," he stated. Mr. Tryan compared creating this district to saving for a child's college education – i.e. "you take a little bit of your money and you set it aside in a special fund and you watch that fund grow. Then you invest that money in your child so they can do better and have a better life. Their income potential grows because of your due diligence in saving for that college education. That's what you are doing when you establish a TIF district. You are taking some of those tax dollars away and setting them aside and you are investing them in "one of your children" – the east end of Billings," he emphasized. Mr. Tryan said it is not about giving away free money, but resurrecting a part of town that has been forgotten and neglected.

DAVE BOVEE OF 424 LEWIS AVE. said he opposes this proposal because tax increment financing is involved. "It's just a wonderful fairy tale atmosphere about what a great thing this will be for the whole city. But the fact is, as operated by the City of Billings, the TIFs so far have been an abject failure for at least 99% of the rest of us -- the residents of Billings have gotten nothing from the TIFs. We'll continue to get nothing from the TIFs," he stated. He said he has asked for proof, facts and actual, tangible, concrete evidence that the TIF benefits everyone. Mr. Bovee said, "I received the conservative propaganda that we all pay less taxes because of TIFs. Well, that's just not true, and if check with the taxing authorities, you find out that is just a fantasy." He said he knew the council will pass this district because less than 1% of the population of Billings will benefit from tax money that is not available to all the rest of the residents. Mr. Bovee referred to several sections of state law that refer to urban renewal – MCA 7-15-4200 and 7-15-4300, stating that the City is not a development authority or a development corporation and is supposed to be taking care of everybody, not only the "parasites" that avail themselves of TIF dollars.

Councilmember Ruegamer said, "now that you have insulted all of the landowners in the proposed district, I would like to point out that you asked for proof that these things help the City, I'm going to show you some and then I'm going to ask you to

prove that they do anything negative... What they are going to do with some of that money is to build sewers, water lines, storm drains. If we didn't use that TIF money, ultimately we would use the entire City taxpayers' money to do it. It saves you and me money, unless you have a business down there. Now you show me something that there has been a negative impact and tell me why the downtown TIF has been an abject failure." Mr. Bovee replied by asking if Councilmember Ruegamer had ever walked up N. Broadway the last several months and noticed how many store fronts between 1st and 3rd Aves. N are empty. "Now they weren't always empty. There are a lot of them open. Two restaurants just opened. They will not both be there in a year, probably less than a year, and most likely both of them will be gone... People are leaving downtown. The condo plans are falling through. I heard that people are trying to find toxic mold cultures so they can get out of their leases in the Securities Building...", he stated. Mr. Bovee also reminded the Council that the urban renewal laws of Montana require housing and that it benefits everybody.

Councilmember Boyer said TIFs have been explained to Mr. Bovee. "There is almost 5 to 1 private investment in this downtown that did not exist before TIF. That is the private sector you are talking about. If you have a deteriorating downtown or core, who do you think pays for that? It's all of the taxpayers in the city. So, you are benefiting from the development of the downtown. If we had left the downtown to deteriorate, you would be paying the tax bill, of which you are not paying now, because it is generating private dollars. The two store fronts don't even compare to the rest of downtown, which is very exciting. We have a lot of energy; we have a Wells Fargo Building that is getting filled. You can't even compare it. I'm frustrated by the fact that you totally misrepresent the information that we have given you time and time again," stated Councilmember Boyer.

Mr. Bovee replied that it is a matter of interpretation. "What you are talking about is something the rest of us won't see until if ever, and I'm guessing from the next public hearing, that will be never, the downtown TIF is allowed to go back completely into private enterprise. What you are talking about with the improvement, we've never seen that. We don't know if it will happen because it has not gone back onto the tax rolls. What I've been saying is that the TIF is subsidizing private enterprise; that is not the intent or the spirit of Part 42 and Part 43, to just subsidize private enterprise. You may not consider employment part of private enterprise; people like me consider employment a huge part. I have never seen employment outside of the Downtown Billings Partnership and BSEDA that was related to the tax increment finance district," he stated.

Councilmember Stevens said, "As a tenant of the Securities Building, I am highly offended about your misrepresentation about what is going on inside that building. One of the reasons our offices moved from the west end to the downtown was because of the revitalization of the downtown, all the public infrastructure that has gone into it, the Downtown Business Improvement District; all the flower boxes, and because it looks good and our clients want to be down there. So, I'm highly offended by your comments on the Securities Building. As for these taxes never going back on the tax rolls, that's simply untrue. Are you aware that it will go back on in 2008, when this TIF district ends? So, characterizing it as that it will never go back on the tax rolls is simply incorrect," she emphasized.

Councilmember Gaghen said she resents Mr. Bovee's use of the term "parasite" for individuals that he feels benefit from TIF monies. "There's bound to be transition, but look at Montana Avenue and the streets around it, the Securities Building being a perfect example. There's been such a rejuvenation and spirit of 'can do'; I don't understand your logic or lack thereof. It just is not true that the community as a whole does not benefit from these dollars," she stated. Mr. Bovee replied that there again is an opinion and he has yet to hear any facts.

Councilmember Ulledalen asked Mr. Bovee if he likes the way east Billings looks now and what his vision was for that area. Mr. Bovee replied that it is a matter of personal investment. "If the property owners there don't want to invest the money, I can't imaging how you can go in there and force them to do it. There are economic realities. Not everybody that owns property has the money to spend \$20,000, \$30,000, or \$40,000 on the outside of their building," he stated. Councilmember Ulledalen said that was not what he asked; repeating the questions of what Mr. Bovee's vision was for the area. "Our point here is to try to foster a positive community, a growing community and I'm asking you what are your ideas for improving the east end of Billings," stated Councilmember Ulledalen. Mr. Bovee replied no one had ever asked him that before. "It seems to serve its function right now. It's available for development without public subsidy, so what would expect one person to do?" said Mr. Bovee.

RON WHITFORD OF 2529 RANCHETTE RD. said he represents CTA Architects and Engineers. He said they have been on "both" ends of the TIF district, adding that they have availed themselves of some of the TIF dollars to move downtown, which created 100-110 well-paying jobs in the downtown. "Right now we employ over 150 people out of the building downtown. These people are downtown everyday, shopping and going to the restaurants. It is very good for that building and that part of the downtown," he stated.

CHARLES BROOKS OF 2622 FAIRVIEW PLACE said he has seen the ups and downs of the downtown in the 37 years he has lived in Billings. Mr. Brooks stated he vehemently disagrees with Mr. Bovee. "We have seen major improvement in the downtown district – that is a fact. We have seen major employment. We have seen major retail, small retail, major restaurants, etc. For a city to be successful and a good place to live, you must have a vibrant and viable downtown," he stated. Mr. Brooks said he is representing the Chamber of Commerce and Yellowstone County Commissioners in support of the TIF district. He encouraged the Council to move expeditiously on the formation of this TIF because the governor's office has been talking about taking 95 mills out of the TIF opportunities. "If that happens, it will be very difficult for the TIFs to be successful," he stated. He closed by asking the business people in the proposed district that are in the audience this evening to stand in support of the proposal.

BRYAN WALLIS, NO ADDRESS GIVEN, said he owns a business on the east end of Billings that is currently in the county. He said he sees this town from a different angle. "The City should be doing more for the poor, like building an overpass or underpass, so if you are having a heart attack on the south side, you'll make it to St. Vincent's or Deaconess. A lot of my friends are homeless and collect cans and go to the recycling center to make enough money to get a pack of cigarettes. I'm not putting this down and have no opinion on it one way or the other. It just seems like the priorities are wrong," he stated.

There were no other speakers. Councilmember Jones moved to continue the public hearing and action to the October 23rd meeting, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE modifying the Urban Renewal Plan of 27th Street District Urban Renewal Area to include certain property formerly part of the Downtown Redevelopment District in order to establish the Extended North 27th Street District Urban Renewal Area; adopting a modified urban renewal plan therefor, including a tax increment provision; approving an urban renewal project therein and authorizing the issuance of tax increment urban renewal revenue bonds of the City to finance costs thereof. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Deputy City Administrator Bruce McCandless said the City created its first downtown tax increment district in 1975. In 1979, the first tax increment bonds were initiated, initially to pay for a parking structure. Three additional parking structures have been paid for since then, as well as numerous other public improvements.

Mr. McCandless said the current district expires in March 2008, the date of the last bond payment. At that time, all of the "new" or increased value of property within that district goes back on the tax rolls to be fully taxed. This means all of the taxing jurisdictions will receive their proportionate share of tax dollars at that time.

He noted that the N. 27th Street District was created in July 2005, as a very small district of six lots located in the 100 block of N. 27th Street. This proposal is to extend that district by extracting the proposed property from the present TIF district and adding it to the N. 27th Street District to create a larger district called the Extended N. 27th Street District. The Planning Board has reviewed the urban renewal plan for this proposal and recommend approval. Mr. McCandless said the key for the downtown interests is to create this district prior to the end of the calendar year. The primary reason for doing that is to allow the district to capture the maximum amount of taxable value that may increase this year as well as future years.

Mr. McCandless noted that when the property is extracted from the present district, the base value that has been in existence on the property since 1975 goes away and the new base value becomes the value that is in effect the new district is created. This means that all of the taxing jurisdictions that tax that property will receive the benefits of that new value effective tax year 2006 if the district is created before the end of the year.

He reminded the Council that the base value is created at the time the district is approved and is frozen at that point in time. Private investment that occurs within the district creates a higher taxable value, which creates the "increment", i.e. the difference between the higher taxable value of the property after private investment versus the frozen base at the time the district is created. Neither Mills nor property values nor tax payments are changed by creation of the district. The increment that is produced is invested in public improvements that are designed to support and encourage additional private investment in the district.

Mr. McCandless said the goals for this district are:

- Eliminate blighted conditions

- Stimulate private investment
- Create housing opportunities
- Tie downtown to Medical Corridor
- Enhance 5th Avenue corridor
- Improve Parking/transportation

He noted that potential projects outlined in the urban renewal plan include:

- Parking structure near Library
- Library expansion/remodeling
- Housing – condo units
- Streetscaping – improved appearance
- Transportation improvements
- New bank and retail/office space

There are 81 ownership parcels in the proposed area, many of which are tax exempt or have low taxable value. The total taxable value of this district is slightly more than \$700,000 out of \$4 Million of the existing tax increment district. Several properties are currently undergoing some level of redevelopment or projects are being planned for the future.

Mr. McCandless informed the Council that the bond counsel had some questions on the ordinance concerning the description of the property to be removed from the current district. A financial analysis is also required and results of it are not yet completed. Staff is therefore asking the Council to hold the advertised public hearing tonight, but continue the public hearing and action to the October 23rd meeting.

Councilmember Brewster said it has been alleged that if the voters pass a bond issue for Cobb Field, the properties within the TIF districts will not have to pay their share of the bonds. Mr. McCandless said the properties said the taxes will still be levied, but the payment would be based on the "base" value, not on the improvements; they would not be exempted.

Councilmember Stevens asked if this district overlays the east end TIF district. Mr. McCandless clarified that it does not overlay that district. The east end district starts at 22nd St. N. and this district extends only to 25th St. N. Councilmember Stevens asked if the Crowne Plaza is included in this district. Mr. McCandless said there may be potential to include that property in this district in the future; it is however not currently proposed in the district. Councilmember Boyer asked if this district includes the Northern Hotel property. Mr. McCandless said this proposal does not include the Northern Hotel property. He added that the future of both the Crowne Plaza and the Northern were up in the air at the time the boundaries of this district were being discussed. Mr. McCandless noted that these properties could be added to the district in the future if desired.

The public hearing was opened. DAVE BOVEE OF 424 LEWIS said the word "blighted" has been used in several proposed urban renewal areas and given different meanings. He read the definition from state law, found in MCA 7-15-4200: "blighted area means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, substantially impairs or arrests the sound growth of the city or its environs, retards the provision of housing accommodations or

constitutes an economic or social liability or is detrimental or constitutes a menace to the public health, safety and welfare and morals in its present condition and use." Mr. Bovee pointed out that a TIF is intended to benefit everybody. He said he would like to see the City make an attempt to abide by the MCA laws that govern the urban renewal areas.

JOE WHITE OF 926 N. 30TH ST. said there is no question for the cause for urban renewal and he was not here to quibble about that. Mr. White said the Council should consider the relationship of this district to Deaconess Hospital. He said he believes that the hospital should move west of Laurel and the City/County health department should move into the Deaconess area. Housing should also be restored to that area.

JOE MCCLURE OF 4038 PINE COVE RD. said there is no mistake or coincidence that these districts are before the Council at the same time. These districts are two new districts that will work well together and there is no overlap. The existing district will sunset in 2008. The proposed districts are designed to address the areas of downtown that still need revitalization efforts. These districts basically will set a new base and hopefully jumpstart some new development in areas not addressed previously.

WILLIAM HONAKER OF 335 CLARK AVE. said he is the president of the Downtown Billings Partnership and "apparently the local parasite." Mr. Honaker said there is no toxic mold in the Securities Building – at least that he is aware of, nor will there ever be. "The Securities Building has increased property taxes from \$12,500 to almost \$40,000 when personal property taxes are included. Keep in mind that we are in the latter part of this district – 3 years. Normally the bonded amount would go 20 years and you'd realize the grant amounts within that period of time through that neighborhood. That increment change is what pays for the grants. The developer does not get free money, he does not get a grant; he pays for it over a period of time." He noted that he has invested nearly \$4.5 Million in that property – through his tenants or himself. The property was on the tax rolls at \$700,000 originally. Mr. Honaker noted that he has created 40-50 new or expanded jobs through the project. Additionally, the project has eliminated blight on a crucial gateway to the downtown. Most importantly, he said it has created a feeling of success and progress downtown, things important to the core of downtown. Councilmember Ulledalen noted that when he moved to Billings in 1983, he worked in the Securities Building and at that time it was past is useful life. He commended Mr. Honaker on his project to renovate that building, noting that it is the private investors that are "doing the heavy lifting" on these projects.

There were no other speakers. Councilmember Boyer moved to continue the public hearing and action to October 23rd, seconded by Councilmember Stevens. Councilmember Veis asked if the Crowne Plaza property could be added to the district at this time. Mr. McCandless explained that the property owners must be notified of the public hearing and given an opportunity to provide public comment. A minimum 10-day notice is required. He said if the ad was published this week and notice mailed to the property owner, the Council could still take action on October 23rd. Councilmember Stevens asked what the process was for adding a property at a later time. Mr. McCandless replied that an urban plan amendment would be required, describing the property and any special factors contributing to its addition to the plan. Additionally, the

ordinance would need to be amended as well. On a voice vote, the motion was unanimously approved.

Mayor Tussing called a brief recess at 8:20 p.m.
The meeting was called back to order at 8:30 p.m.

6. 2006 CTEP PROJECT APPLICATIONS to be submitted to the Montana Department of Transportation for funding from the Community Transportation Enhancement Project (CTEP) program. Staff recommends the Council formulate a recommendation for the Mayor to take to the Policy Coordinating Committee (PCC). (Action: approval or disapproval of Staff recommendation.)

City Administrator Tina Volek said there was no formal Staff presentation this evening as it was reviewed at the last work session. Staff is available to answer questions. Councilmember Veis said the Council received the Transportation Advisory Committee (TAC) recommendations and asked what the recommendations from the Planning Board and County Commissioners were. Transportation Planner Scott Walker said the Planning Board and County Commissioners supported the TAC recommendations.

Councilmember Boyer asked for a summary of the discussion on the recommendations. Mr. Walker said the County Commissioners like the idea of the underpass at Main St. because they see it as a real "people mover". The Commissioners also like the Laurel pedestrian bridge project. The Lake Elmo project was also supported because it needs the improvements. Mr. Walker said the Planning Board essentially felt the same way. No one thought that any of these projects were not worthy of funding.

Councilmember Veis asked about the Big Ditch Trail connections and asked if the Chandelier Circle crossing could be included and what the cost would be. Mr. Walker said the Council could pull out that one piece of the project, but he was not sure of the cost. Councilmember Ulledalen said the dilemma he has involves costs for these connections. Four connections are noted on the map at a cost of \$25,000 each, adding that the costs seemed out of line. Mr. Walker said the estimates are based on current linear footage of surface and current materials costs. Councilmember Boyer asked if the cost is based on concrete. Mr. Walker confirmed that concrete was the material used in the estimate.

Councilmember Boyer asked if there has been any offer from Bikenet for a grant or matching funds for these connections. Interim Planning Manager Candi Beaudry said she has been contacted by Bikenet, which as offered its services as a pass-through for grants that require non-governmental, non-profit organizations to apply. Ms. Beaudry said the City has taken them up on that offer on several other occasions. She said Bikenet also offered to provide some resources for a targeted neighborhood for constructing trails. Ms. Beaudry said she responded by thanking them for the offer, explaining the City did have a targeted neighborhood in mind, and asking them to contact her to discuss the project further. She noted nothing has been finalized at this time however.

Councilmember Ulledalen said he is concerned because Shiloh Point Subdivision is complete and Rush Subdivision is 60-70% complete, so it could be

several years before anything is triggered with any obligations on Rush Subdivision. Ms. Beaudry said the Shiloh Point SIA only address the park requirements, not the trails because this subdivision was recorded prior to Rush Subdivision, 8th filing, so the trail did not exist at the time of recording. She noted that if trail connections are part of the subdivision creation, those connections are shown on the plat that is recorded and the impression created that someone other than the property owner is responsible for making these connections. Ms. Volek noted that in one of the emails she saw, the sender indicated that the salesperson suggested that to the individual. She said the City should be very clear in the SIA about what is and is not included.

Councilmember Boyer said this issue is similar to what happened with SIDs. "People were told things about the parks and trails that were not accurate. I think the developer was the one that actually told these people in the email the information about the trails. That being said, can we have a bigger vision here where we require the developers to do some trails in these subdivisions? Ms. Beaudry said she is not sure that other cities are doing that, but it is something that the City should look into legally. She said a lot of places are doing it voluntarily; it is not a requirement of the subdivision and the City has several subdivisions where the trails have already been put in by the developer because the developer considers it an amenity. Councilmember Boyer asked if the City is proactive about this and talks to the developers when subdivisions start to be discussed. Ms. Beaudry confirmed that the Planning Dept. does have this discussion, but has taken the stance that the developers can do trails on a voluntary basis, but the City has the authority to require dedication of land.

Councilmember Ulledalen said it appears this is a mandate that was created in this subdivision by the City as a part of the platting process. "Now we are going to sit there and say we don't care; we have no plan for completing it," he said. Ms. Beaudry said the City does have a plan for completing it, which is why the CTEP application is being brought to the Council. Councilmember Ulledalen said it could however be six or eight years before it is done. Ms. Beaudry confirmed that there are no guarantees on the time under the CTEP application. She said the dept. is not only working with Bikenet, but exploring other grant options, recognizing that it is a high priority with the Council.

Councilmember Boyer urged Staff to at least get one of the Big Ditch Trail connections done; adding that she did not think the Chandelier Circle connection was as pricey as indicated in the CTEP application. "I think it also qualifies for safe routes to school; I think we have a real problem in how these kids are going across the ditch," she noted. Councilmember Veis asked for clarification on which four connections are included in the Staff information. Ms. Beaudry said the four connections are: (1) Westfield in Rush Sub., 8th filing, (2) south across the ditch, which would include the ditch crossing at Chandelier Circle, (3) further west across Larchwood Lane, a connection into Rimrock West Estates to Ridgewood Lane South, and (4) the play lot area in Rimrock West Estates Park. She noted the connection at Rangeview Court is part of an existing CTEP project that will be constructed this year.

Councilmember Ulledalen moved to delay action on this item to October 23rd and direct Staff to prepare additional information on the cost of the connection at Chandelier Circle by the next meeting, seconded by Councilmember Boyer. Councilmember Brewster asked if it is Councilmember Ulledalen's intent to add the cost

of the Chandelier Circle connection to the TAC recommendation. Councilmember Ulledalen replied it was, but emphasized that the Council needed a more accurate cost estimate, noting that the most critical connection at this time is the one at Chandelier Circle. Councilmember Boyer asked for confirmation as to when the next PCC meeting would be held. Mr. Walker said it is November 1st at 8:00 a.m., a standing 1st of the month meeting. Councilmember Stevens asked Ms. Beaudry if she could also provide some additional information on potential additional funding sources. On a voice vote, the motion was unanimously approved.

7. CITY ADMINISTRATOR CONTRACT with Tina Volek. (Delayed from 9/25/06.)
Staff recommends approval of the employment agreement. (Action: approval or disapproval of Staff recommendation.)

Councilmember Brewster, Chair of the Council Subcommittee for negotiating a contract with City Administrator Tina Volek, said the committee considered all the input from councilmembers in constructing a contract. He noted not each councilmember's concerns were dealt with in the contract, but the committee felt the contract they are recommending is reasonable. Councilmember Brewster said in response to concern about the settlement in case of termination and longevity, the committee adjusted those items by making it an annual rolling adjustment to the contract for the two years. He said the reason for that was because it appeared administrators encounter difficulty when a new council is elected. "A number of new people are typically single-agenda council people and it takes some time for them to get more of a global view. This would offer some incentive for them to keep Ms. Volek around until they learned to work with her," he stated. Councilmember Brewster emphasized that sometimes incentives to work together for awhile are needed, which is the intent of that provision. The change the committee made was to not have an automatic renewal if the Council chooses to intervene. He noted there are still a few issues to consider: the legal advice that the provision in the charter that allows the Council to fire the administrator at any time with no cause – would probably not be sustained by the changes in state law since the charter was adopted. He noted it is likely the Council would have to have cause and it would likely have to go to the term of the contract.

Councilmember Ruegamer moved for approval of the contract, seconded by Councilmember Ulledalen. Councilmember Jones asked what the largest liability (i.e. the longest term) the Council would have to pay under the proposed contract, noting he understands it to be three years maximum. Councilmember Jones explained the three-year period as follows: the initial term is two years from September 10th (2006) and shall automatically be renewed on its anniversary date for an additional two-year term unless notice is given by the employer at least 12 months before the expiration date that the agreement shall be terminated, so the City would have to pay for the two-year term in addition to the one year notice period. Councilmember Brewster said if the first anniversary of the contract came up and the Council intervened and did not renew, the most liability the City would have is two years (one year left of the contract and one year severance). If the Council allowed the contract to automatically renew, then the City would owe the two years of the contract plus the severance. City Attorney Brent Brooks confirmed that the term, renewal and severance sections must all be read together.

Councilmember Jones said he did not anticipate any problems with Ms. Volek, but he did not want to put a potential 3-year liability on another Council, noting it would be irresponsible to do so. Councilmember Brewster said he disagreed, adding he felt it was more responsible to have some certainty to allow people time to get acquainted. Councilmember Boyer said three years is a long time, noting she has never seen a severance that long.

Councilmember Ruegamer pointed out there has been a revolving door to the administrator's office since the charter has been in place. He agreed that three years is a long time, but he also noted that it provides incentives for the next council to keep this person instead of coming in and firing the administrator. Councilmember Ruegamer said he wants the period to be long enough to provide the city administrator with a cushion and a feeling of security to encourage them to stay for awhile. Councilmember Gaghen said it would be a disincentive for those who run for the council on a single issue or a dislike for a certain policy decision.

Councilmember Brewster reminded the Council that there is a provision in the contract that would allow the Council to terminate the administrator for cause, a different situation than without cause. Councilmember Jones said state law has the worst wrongful discharge laws, noting it is not easy to let an employee go. He reminded the Council that one new councilmember coming on board will not be able to fire the administrator; it takes six members of the Council to terminate the administrator. "I think it is irresponsible to do three years, no matter what. It's not easy to fire somebody and tell them they are no longer here and to pay them three years, you are not going to stop the Council. If they want to get rid of them and you end up getting the six votes, they are going to pay it. And they will say that 'we got stuck with this – stuck with a city administrator that was not doing what we wanted him to do... The city administrator does answer to the Council, and if you push it out where it is three years, they have a lot of flexibility not to answer to the Council because they don't have a whole lot of risk when you go out three years," he stated.

Mayor Tussing said that would be his concern, noting that the Council has discussed the motivation of the Council to work with the city administrator, "but what about the city administrator's motivation to work with the Council if they know they've got a potential 3-year cushion?" Councilmember Boyer said she agreed with Councilmember Jones, noting it was difficult when the Council went through this with the former administrator. "I try to think what would it would have been like if we had that 3-year contract including severance (then). One of the things our constituents got so angry about is that we went out and went beyond the contract and gave some severance. They did not like it. They said a contract is a contract," she stated. She concluded by stating that she would hate to saddle any Council with three years, adding it is too much.

Councilmember Stevens said the Council keeps talking about "city administrator", but this is a contract with Tina Volek. "Any other city administrator may have a different contract, so we are not just talking about a vague city administrator. She had been here a year or so as the interim. I think we know what we are getting. It's not like we are hiring somebody through the Mercer Group search and don't know what we are getting. If that were the case, I'd be a lot more concerned about the three years. But she does have a track record with us and we are talking about her

specifically. I don't anticipate her doing a Dr. Jekyl/Mr. Hyde as soon as she signs this. For that reason, because this is specific to her and we have that history with her, I'm not as concerned about it," she stated.

Councilmember Ulledalen agreed, noting he would be more concerned if the Council were hiring someone cold. He added that a point Councilmember Ruegamer made is the most important – "we turn our city administrator over every two to three years and it has been extremely costly. A lot of the junk we deal with ... means we can't get to the present. We are always tripping over something somebody did five years ago or ten years ago or initiated this plan and didn't follow through. We need continuity. That's Tina's responsibility and that's our responsibility. One think the community wants from us is continuity. We will never be proactive if we don't get some continuity in the city administrator job, get a good working relationship and move into the future," he emphasized.

Councilmember Jones said he did not consider a 3-year, \$320,000 agreement to be nitpicking. "When people get voted into this Council, the public is voting. What you are doing is leveling them with a ton of debt -- \$300,000 to get rid of somebody. They were mad when we paid 8 months out to Kristoff... Being an interim administrator and a city administrator are two totally different things. You do not have the liability or risk that you do when you all of a sudden become an administrator... we've seen that; Kristoff is a great example of that," he stated.

Councilmember Boyer reminded the Council that it is starting on a very positive level with Tina. "I've never had a constituent ever complain or be negative about her. Given that, I would have to say, if we are going to try this, this is the one to do it with," she stated. Councilmember Ruegamer said that based on Councilmember Jones' rationale, the Council should let the contract expire every two years when the new Council comes. He questioned whether the Council really wanted to do that.

Councilmember Brewster said he was surprised that Councilmember Jones felt the Council was not taking this seriously. "We are not just fiddle-faddling around; there is good, rational reason for doing this. Frankly, I can see your perspective because you haven't gotten along with one administrator yet," he stated. Councilmember Jones replied that he gets along with Ms. Volek great, "but we are not being fiduciarily responsible by putting a \$300,000 debt on another Council that doesn't want to work with her." Councilmember Brewster replied that Councilmember Jones is assuming there is a debt, but he sees it as trying to get some stability into the City.

Councilmember Gaghen noted there is a window of opportunity for Ms. Volek not to receive the three years if the circumstances require that. She reminded the Council that the average length of time for administrators to stay in a community is five years, with very few lasting beyond that. Councilmember Gaghen said in light of that and because this contract is specific to Ms. Volek, she supports the contract.

Councilmember Jones amended the motion to decrease the total maximum severance payout to one year at any time. The motion received no second. Motion dies.

Councilmember Stevens noted this is a contract negotiation. She asked the Council if they wanted to change contract terms and risk Ms. Volek deciding not to sign a contract and leave. Councilmember Brewster reminded the Council that even though the contract has an automatic renewal, it can be interrupted and terms can be

renegotiated every year if the Council chose. Councilmember Jones replied that the liability for the extra two years would still remain however. Councilmember Clark said if the Council gave notice before entering into negotiations, the most exposure the Council would have is for two years. On a voice vote on the original motion, the motion was approved. Councilmember Jones voted "no".

8. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.
(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.) There were no speakers.

Council Initiatives – There were no council initiatives.

- Councilmember Ruegamer asked about the Zimmerman media strip, noting it is an ugly mess, and asked if someone could go out there and get it cleaned up. City Administrator Tina Volek replied that Public Works is aware of the problem. She said she will get a written report to the Council.
- Councilmember Veis asked about the Human Rights Commission decision, asking if the Council needed to make a decision or put this on a future agenda. Ms. Volek replied that she has been in touch with the City's legal counsel and it is anticipated he will be requesting an executive session. She noted the alternatives include a 30-day conciliation period and a hearing before an administrative law judge. This needs to be discussed with Council. Ms. Volek noted that an executive session would be held after Monday's work session on this item.

ADJOURN - With all business complete, the Mayor adjourned the meeting at 9:45 p.m.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, _____
MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE City Clerk