

# City Council Work Session

5:30 PM  
Council Chambers  
Date: August 4, 2014

## ATTENDANCE:

Mayor/Council (please check)  Hanel,  Cromley,  Yakawich,  Cimmino,  Pitman,  McFadden,  Bird,  Swanson,  McCall,  Crouch,  Brown

## Agenda

### TOPIC #1: BUFSA

- Fire Chief Dextras: Gave a presentation on BUFSA. Since 1998 the City of Billings has entered into an agreement with Yellowstone County for BUFSA (Billings Urban Fire Service Area). Primarily property that is continuous with the City. The fees that are charged to the County for the BUFSA area pays for 10 firefighter positions. This year, the assessed charge was \$1,088,000. That is funding that doesn't have to come from our General Fund. It is a benefit to the County. It also protects areas and situations that would happen in the County that could very quickly come into the City's boundaries. Chief Dextras showed a colored map with boundaries. BUFSA Agreement calls for an expansion of the Billings Fire Department Services. These services include fire protection, medical calls, grass fires, hazardous material, and fire investigation. Same services that are provided to the City of Billings. Contract language stipulates that the same levels of service that are provided in Billings are provided in the BUFSA area. Also additional minimal charges for the compensation of operations and maintenance. For example, on brush trucks (hose, nozzles, etc.) we are allowed to incorporate into this agreement. The agreement will be coming before Council on August 25 for renewal. In the past, we have had 5 year agreements with the County, and what we are looking at is a contract in essentially an agreement and perpetuity which would allow us in the County to renew these contracts on a yearly basis. It still allows both the City and the County within the 30 day period to make any changes. That includes exclusions or inclusions in the area. We have recently had a request from Echo Canyon. This is on the road to Molt and on the other side of Ironwood. Had 28 petitions from residents of that area that would like to be included in the BUFSA. It is up to the City Council to approve that. I have issues with extending our coverage area. We have some areas such as Rehberg Ranch, Briarwood and Ironwood. These are areas that have been included into the City. They are usually five miles further from the nearest fire station. There is a significant impact on our response times. Not only would the first station be called on the scene but in any structure fire, we send a minimum of 4 stations. A lot of times 5 stations on these alarms in order to get enough apparatus, and especially personnel, to be able to do fire techs, search and rescue, ventilation, utility control, and water control. As we have expanded our boundaries, it becomes more of a problem. We don't have a lot of alarms in those areas that I mentioned. But it becomes more problematic when additional areas ask for inclusion into the BUFSA to meet those needs. We respond to 11,000 alarms a year. When those units are taken out of the City boundaries and provide services outside of our jurisdiction, the farther out we go the more of a problem it is going to be in the future.
- McCall: How many calls did we respond to for the BUFSA last year?
- Fire Chief Dextras: Under 700 calls.

- McCall: What was the majority of those calls?
- Fire Chief Dextras: The majority is medical calls. Then we get into grass fires and then structure fires. All the services that are provided in Billings and are including vehicle accidents are the same alarms we respond to in the BUFSA area.
- McCall: So maybe 2% in terms of actual structure fires?
- Fire Chief Dextras: Would like to research that before giving an answer. It is not a large amount. We have a Mutual Aid Agreement with Yellowstone County. When Shepard, Molt, Laurel, Lockwood, and any part of our County have a structure fire, if we are able to send an apparatus, then we help them through Mutual Aid. But we don't send the 4 engines and a ladder truck from Battalion Chief on these alarms. We send what we can without jeopardizing our community.
- McCall: So the 10 firefighters that are paid for by the County, do you believe that is an adequate number at this point?
- Fire Chief Dextras: I think it is. There has been a lot of growth, but the actual numbers of alarms in the County have not necessarily increased that much. This agreement does allow us to do, if there was an increase in the number of alarms associated with the BUFSA, go back to the County and re-negotiate the contract. We are not locked into anything for an extended period of time.
- Yakawich: In the City when a person is down, an ambulance and a fire engine usually comes. Is that the same in the County?
- Fire Chief Dextras: Yes it is the same in the BUFSA Agreement. They get the same level of service that a citizen of Billings gets. That includes emergency medical services response. The closest fire station would be responding to any 911 call for medical services that would come in and AMR would be the transporting agency.
- Brown: This new area that want to come into the BUFSA, is that directly connected to Ironwood? How many properties are we talking?
- Fire Chief Dextras: About 2½-3 miles from Ironwood, depending on what property you benchmark off of. It is not a densely populated area as far as homes. A lot of acreage and a lot of them back up to more of the wild land interface where there are the large trees and forest areas. We are primarily an urban dept., although we have vehicles that can do brush fires. We are not prepared to assume a lot of land urban interface at the type that exists in Echo Canyon. A normal response to an area in Echo Canyon, the 4<sup>th</sup> engine that we would send would take 15 minutes to get there. It is a 22 mile trip. We do have two water tenders which to me is not adequate with some of the large structures that they have in that area. They don't have a water supply and the roads are unimproved. Molt Fire Dept. is their primary coverage area. They are primarily wild land or grass fire dept. They do very little structural protection. It is not only Echo Canyon, but also Eagle Cliffs wants to come into our jurisdiction. I personally do not feel comfortable with Billings Fire Department going farther than what the BUFSA area is to provide the same level of services that are provided to our citizens. We have gone to numerous structure fires in the Molt and Homewood area, which is unincorporated. In Laurel area, we will send a fire engine, a water tender, and we send the Battalion Chief to these fires to make sure that our people are safe and that they implement an incident command system. It is controlled under nationally recognized guidelines for the safety of firefighters. We will send what we have available without jeopardizing our community.
- 11,000 alarms mean about 30 a day. Though the majority is medical alarms, we still have structure fires. Recently we have had double structure fires. If we are to allocate our resources into the outside area, and our citizens suffer because of it, I am going to be the one that is going to answer. I don't think we should be expanding our geographical boundaries outside of the BUFSA area. We jeopardize ourselves by taking on additional responsibility.
- Pitman: The new fire station (54<sup>th</sup> and Grand), how many calls a year are they getting?

- Fire Chief Dextras: Under 800 per year. Something else to bring to your attention. Future staffing and budget limitations would limit capability. What happens if this Mill Levy is not supported or approved? My budget is 83% salaries and benefits. If I have to cut the budget, it is going to have to come from personnel. Hoping as we progress, the community realizes that.
- Yakawich: In proportion to what the citizens of Billings pays for fire protection, how is that equivalent to those who will be paying in the County?
- Fire Chief Dextras: I can't answer that. Every year the Fire Dept. puts together, a cost that reflects things like increases in our personnel costs and we provide a flat number to the County. Then it is the County's responsibility to determine who, and at what rate they are assessed.
- Cromley: I see we have a proposed contract. That does not include the Echo Canyon. Correct?
- Fire Chief Dextras: This does not include the Echo Canyon. There is a provision for inclusion in the contractual agreement that the County can have areas to petition to come in. But, it takes written approval by the Council to allow that.
- Cromley: So our meeting in August, we will be looking at the approval of this contract, but not necessarily requesting Echo Canyon yet. That is something that might come in the future? Is that correct?
- Fire Chief Dextras: They made the request and we have a responsibility to provide them an answer as soon as possible. My goal is to work with the City Administrator and have that on the Agenda for August 25<sup>th</sup>. Being able not only to deal with the BUFSA agreement and its renewal, but also provide an answer to Echo Canyon at that time.
- Cromley: That will be 2 issues?
- Tina Volek: Yes. The contract will probably be a consent item. We will have to look at the protocol on the petition.

Public Comment:

- Commissioner Reno: We respect your BUFSA decision. Our role is simply to pass that over to you. The funding is based on a simple formula. You tell us what it is; we collect the money and send the check. I appreciate those cooperative agreements we do have.

## TOPIC #2: Alkali Creek Drainage

- Dave Mumford: Here per request Yellowstone County has made of the City of Billings to participate in work on some drainage issues along Alkali Creek, out in the County area where it interfaces with the City. Yellowstone County has done a report and they hired Morrison-Maierle to look at it. One of the biggest questions we had was making sure everybody understood that to work on what they are doing and requesting of culverts on Alkali Creek Road which interfaces with us. The culverts will bring the drainage to the city side of the road. We are dealing with 95% of the storms but 10 year and less storms. The huge 100 plus year storms that have occurred, this won't accommodate that. The work that the County is asked to do, will help with the smaller storms and make it easier for them to work on upstream fixes that they are hoping to do. Believe this is a good project that we can collaboratively work on with them and would be happy to participate in the costs. We are willing in Public Works to go forward and to insure that it works for both parties. Public Works would participate in the design and construction working with the County and their engineering to come through with a design that works. One thing that has recently been looked at, is since the early 1930's, there has been 11 storms that have been or exceeded 100 year storms. 3 of those storms have been in the last five years. People have lived in areas for a long time and have not felt the magnitude of these storms. These storms were in the 1990's, 1950's and 1930's. We have had an unfortunate string of hard winter and storms in the last few years that have significantly impacted people.

- McFadden: About 3 years ago, we had a problem with Alkali Creek Rd. Is this the kind of problems we will be looking at in the future if we do not put these culverts in?
- Dave Mumford: It could. The section you are talking about is more towards Aaronson. The water came down the rock and was undermining. The road had been built over years and there was actually another road underneath so it was sheering along the plane between the old and new roadbeds and so we did realign. On the ten year storms, water does cross Alkali Creek Road. This will give it a place to get the water across and not pond along the edge of the road which could affect homes. We do have some concerns with the big storms, and making sure that we don't impact private property. It is great the County is willing to work with us.
- Pitman: We had a good meeting with the residents last week. Have we received the second report that discusses the fact that putting these culverts in won't affect the downstream flow?
- Dave Mumford: Public Works has looked at a report that Morrison-Maierle did looking at the drainage area basin itself. You are looking at a basin that is huge - 41 sq. miles. What we are doing would not be affected according to their evaluation.
- Pitman: These culverts will protect the road?
- Dave Mumford: It can. We have not had a washout issue. Eventually we could.
- Tina Volek: We believe a cooperative effort design at this time is the best case. We are concerned about some plugging of those culverts if they are not very precisely designed and installed.
- Pitman: Some of our recommendations were deeper swells that control water. How do we work with the County to make sure that happens?
- Dave Mumford: We are hoping to work with the County to get the culverts in. It gives them the opportunity to start the work uphill. It can't be done unless we do something with the downstream end first. The culverts give us an opportunity to get that in, get it started, and then they can work backwards with the community to help alleviate some of the problems that the neighborhood does have.
- Yakawich: My concern is for the residents downstream. Maybe a Council Initiative where the City can help get rid of a lot of brush in Alkali Creek. There are some places I walked along that are congested. Whenever water comes down and there is more flow, you will damn up that area and wipe out back yards. Dave could you please address?
- Dave Mumford: All the water that is coming down the streets right now is going to Alkali Creek. It is not increasing the amount of water; it is changing its path. It may have some impact but minimal is what we understand from the report Morrison-Maierle did. One of the reasons we want to work on a design is to see how that will work and what we need to do. We are not changing the volume as far as the water coming down the roads. It would be very minimal changing the intensity time frame in which the water gets there. As far as debris in Alkali Creek, it is a natural drainage way. Most of it is natural park.
- Yakawich: Down the road, how can we address the brush in Alkali Creek?
- Tina Volek: A couple of years ago, we spent about \$5,000 and had the Conservation Corp. come in and clear material out of the creek. However, the creek is a State waterway, and to do significant work in that waterway would require approval from the State of Montana. We do not have anything budgeted at this time.
- Dave Mumford: CM McFadden asked about the work we did on the lower end down by Aaronson. One thing you need to be careful about is when you work in waterways. The State watches this and you can't do something in one area that impacts people downstream. If we do work, we have to make sure that we are not changing volumes and speed of flows from one

area to another. We had to insure through our design on that lower section, didn't even change the height of the water during the storm by 1/10 of an inch.

- Yakawich: Other than cost, to work with the State, is it a matter of getting permission if I wanted to remove some brush along Alkali Creek?
- Dave Mumford: The last time we did any significant work, it took several years of analysis to show that it didn't have a downstream affect. Morrison-Maierle has looked at time and concentration and doesn't believe it is going to be affected by the work that the County is proposing to help the residents along that area.
- Crouch: Do we have a budget that we are going to split?
- Dave Mumford: We don't know the budget at this point. We would work that out with the County and with the design engineer. They have done the design study reports so we know what the premise of the project would be. Now we are getting down to the finer details. We would take the funding out of our Miscellaneous Storm Drain Program.
- Pitman: Since the Commissioners are here, is there anything they want to add? Any concerns or issues that we are not addressing right now?
- Commissioner Ostlund: We have been talking about 2 ½ years with the residents. Have done some extensive engineering with the same firm you use. Thought that might smooth the process over and make it easier so there was no problem with the collection of the data. There is very little we can do upstream. We have a neighborhood meeting set up to deal with the subdivisions that are in the County and try to mitigate that. Before we can do any of that, we have to do this project. Want to publicly thank Tina Volek, your City Administrator and Dave Mumford. Dave and I spent time talking about what we can do collectively and cooperatively to help these people. This is the first step in the process that has to be done. All of these creeks are prone to flooding. There are some other things you can do with regard to brush mitigation and stuff that will help a lot. Right now, the most important project is the one in front of us.
- Commissioner Reno: Alkali Creek is a major important road. I am not the engineer, but I compare it to a dam. A 100 year storm is going to come over the spillway. In the meantime if you have some culverts underneath, you are going to address 90% of the storm.
- Commissioner Kennedy: Mr. Mumford made one comment, "You want to make sure and check it out that you don't add any more water that is going to flood someone else out. When you make improvements on the upper area of the plateau, you are going to create a 10 year storm, a 50 year storm, a 100 year storm. You are going to create more water coming down into the drainage area. The Morrison-Maierle report, talked about the 10 year flood, and to mitigate in the 10 year flood limit. We saw in the last 5 years, 3 storms that came through. We have had massive flooding in each of those areas. You have seen it in parts of the City; we saw it in the parts of the County there. We haven't solved the problem. What we have done is fixed one small part, the culverts. I know the City Administrator was at the last meeting and said there is not enough money to do all of the work for 100 year flood. Maybe it is something that we go out and see if there is some emergency dollars to help mitigate some of the problems. The water that comes down is created on top through the subdivision. We could have another 50 or 100 year flood this summer, and they are all going to be knocking at the doors of their insurance companies. They have spent a lot of money out of their own pockets. I would hope that when you look at this today, you approve it.
- Mayor Hanel: Attorney Brooks, what effects if any may that have on any litigation? Any complaints?
- Brent Brooks: I would have to see the specifics.

Public Comment:

- Steve Shaw – 838 Sargent at Arms: Questions concerning the information I have received through Mr. Yakawich. We have been in contact quite a bit lately. We have meetings about the flooding down in Alkali Creek and our cul-de-sac, because that is where the creek is. My concerns are with the water coming in up above, I can relate to people with flooding problems. Are the culverts going to go in where the culvert is now and where it is crossing the road?
- Dave Mumford: There are going to be 4 culverts instead of 2.
- Steve Shaw: Would they be going underneath where the present culvert is now out of Sun Valley Rd? I see the erosion from the one culvert, and I look at the other side of the road. I see some homes on the south side have culverts, some don't. So you have blockage, you have a clear way of water, and then you have blockage. They are not prepared for the water to flow anywhere. Who is responsible to get that work done? Is that also budgeted into this whole item? When we say we are possibly taking budget money away from areas of our concern at Alkali Creek, we have been waiting 10 years for a lot of things to happen. Hopefully the County put enough money up to where we are not taking money away from us. I don't see where this is going to develop. I don't see the plan.
- Dave Mumford: The placement of the culvert. The design study report that the County did is asking that 2 of the existing culverts would be in similar locations and they are looking for 2 additional. The next step is to go to the design to insure where that water is going to, that erosion is taken care of, and that we don't have areas that don't have culverts where it backs up and causes other problems. They have looked at the big picture, and said these are some things that can be done. Now we need to get down to that design to make sure we aren't going to cause erosion, scouring other places, etc. All the issues Steve mentioned are the next stage of where we are trying to go and to insure that we take every step possible to minimize the effect on downstream homes.
- Steve Shaw: The Alkali Creek area, is like a war zone. The floods we have had the last five years, and the rush of water, has created giant beaver dams of gigantic proportions. You can't see where the water is going. It is being pushed right and left. It is a big concern and if we have more water coming in, maybe perhaps we can have scouts or Corp of Engineers work on trying to clear this area out so we can have a better flow of water if that does increase. There are other people trying to develop land on the other side of Senators.
- Brown: Mr. Shaw, in your area are you getting flooded before it gets to Alkali Creek?
- Steve Shaw: Alkali Creek is not coming up and flooding. Because of the debris and what is there, it is being pushed sideways and different directions. The water problems we are having are coming from Moon Valley area, airport, and then the debris of mud because it is not paved.
- Tina Volek: Public Works has been out looking at the flooding area in their area, and talking about some drainage swells along Alkali Creek that would help divert the water before it crosses Alkali Creek Road and ends up at Sargeant at Arms.
- Brown: Your concern is that the culverts are going to let the water come in a freer manner and cause more problems?
- Steve Shaw: Making sure that what is there now and what I see of one culvert, it has caused quite a bit of an erosion problem. If you have 4 culverts going through, it would probably minimize that. But there will be more water, and if there is more water, then it is a concern.
- Yakawich: For the people living along Alkali Creek, when the water does come down, if it is blocked then it seems like it eats away at their yards. There is damage and that is the concern.
- Steve Shaw: Yes, there are some erosion problems with some homes.

- LynnDee Schmidt – 441 Pinon Dr.: At the east end of where the runways are by the old Holiday station. The water coming off of the airport over the Rims, are 4 large culverts that have been improvements to the Airport made over the years. Those culverts are anywhere from 3-4 feet wide or even larger, and they bring water from off of Airport Rd. down to a holding area (big drainage ditch) by the service road. Those culverts are off of that service road and off of the ditch, and they point right at a large gully that comes off of the Rims. It is a big bowl that comes down a ditch to an easement, and that easement shoots right at our house. During the last storm in September, we had a 5 ft. wall of water that came down through that easement, and it was as high as the windows on our cars, up over the back of my husband's car, and came over our fence. We took 3 City dump trucks of mud from our driveway, the neighbor's driveway, and the sidewalk. That was one dump truck. Then the other two dump trucks came just out of our front and back yard. We had water flowing out and around our house. We were in water that was hip high, trying to sandbag around our house. The hold ponds didn't breach because the culverts up there did exactly what they were intended to do to divert the water from the Airport, but it is flooding the neighborhoods below. Tumbleweed is in the process of being finished, and construction has stopped on that since the flooding issue. That has added to the water problem because the contractors have huge mounds of mud and dirt, and when this water flows down off of the Rims, it is collecting muck adding to the flooding problem. There should be some drains put in on those new roads that are going in, that may help to bring it down and around and under the city streets and under Alkali to take it to the creek. The flooding is a huge issue. Some of the homes on the new road up on Tumbleweed had washouts underneath their stairs, under and around their basement and foundations because the water was coming down off of the Rims. This is the third time we have had to deal with this type of flooding since 2010. Glad to see we have cooperation between the City and the County on some of these projects. Please don't stop with what is just going on down at Sargent at Arms, but to look at that full section. We will continue to have flooding issues until we get some of that water coming off of the Rims stopped.
- McCall: I appreciate you sharing your information and what has happened with your home.
- Tina Volek: We are now in litigation with the residents in Pinon. This is a lawsuit against the Airport. I would ask that you be very cautious in regard to questions and statements because we are treading into areas that could have a significant impact down the road.
- Brown: You are not opposed to the projects being proposed now; you just don't want it to stop there.
- LynnDee Schmidt: I am not opposed to any of the drains that are being proposed down around Sargent at Arms and in that area. The water does need to go somewhere and not be on the road. The way some of the houses sit in that Tumbleweed, Pinon, the upper end of Alkali Creek before you get to Sargent at Arms, before you get to Alkali Creek School, do need to be addressed. Right now I can see why people are suing. Our basement has been flooded; we have had windows break out. We have the typical hail, roof damage, it is the aftermath. If you wait 10-20 minutes after the storm starts, that is when you see the water coming down to us. It is not from the initial storm, it is the collection of the water on top and what has been done to mitigate it from the airport. But it is flooding the neighborhoods below.
- Brown: How long have you lived there?
- LynnDee Schmidt: Since 1985. It has been the worst the past three years. When we moved there, it was an open field that was not developed. The water would come down off of the Rims and go into that natural draw, and then seep around the homes and we didn't have too much of a problem. 1997 was the first year we had a real big issue, then in 2000. Now we have had issues since the tornado. The service road is paved and now it is forcing the water to come to our house.

- Mayor Hanel: Remind the Council we do have litigation pending. Please use caution with your questioning. It may interfere with what is pending.
- Steve Arveschoug – 1081 Strawberry Ave.: There are more issues than just putting these culverts under the road to address one particular problem. I haven't had a chance to look at the engineering studies that was done. Someone in Planning, Parks, Public Works, take a real comprehensive look. It is not just the culverts coming over the road; it is now the Inner Belt Loop and the potential for development along that whole corridor which we all want to encourage. It is that cumulative impact of all these things in the works. Both today and in the future as our community grows in that area. How is that going to impact that particular area? There is a maintenance issue at stake in that corridor. There also needs to be a comprehensive look at how we are maintaining the open space that we are using as park land. It is a beautiful place to live, but having some partnership and work on maintaining that, so when we do get those flows they are less restrictive, they can move, and something that works for everybody up and down that corridor. Have there been notices given to the City residents on Alkali Creek outside of that particular area about meetings or about the engineering study? I would encourage Council to look at the issue. Do we need to inform other people before we take this step?
- Bruce Raw – 1320 Tomahawk Ln.: Thank you for hearing some of the concerns that are in Alkali Creek. Definitely affected by the lack of culverts. One way or the other, it is going to go down Alkali Creek. Spreading it out with multiple culverts makes a lot of sense to me. Thank you for your cooperation.
- Brad VonBurgen – 1364 Valley Heights Rd.: Thanks to our Commissioners for listening to us. This is something we have been dealing with before or since the tornado. My house has flooded 3 times in 4 years. There is no way I am going to sell it. I want to get rid of my sand bags and not live in fear because Alkali Creek Rd. isn't going to let the water across, and it is going to back up into my house again. These culverts give the opportunity to control that water.
- Don Rickhoff – 1357 Valley Height Rd.: Live on the corner of Alkali and Valley Heights. I have been flooded 3 times. Part of the problem is the ditch is a block away. The water comes down through the ditch and then starts backing up. The culverts would alleviate a lot of our problems. Our house is not in the flood plain.
- Mayor Hanel: We do care about you and thank you for being here.
- Carol Sterling – 815 Sargent at Arms: We have been there for 32 years and the major storm in the 90's; we had high water but no flooding. Since that time, the improvements that have been made changes the path of the flow of water. That is what flooded our home and eroded our property. All of the water from the Airport got us. We are not opposed to the culverts. Anything that will help. But it has been said a number of times that when you change the path of water, you can cause some more problems. The study that was done by the engineering firm referenced the possibility of redirecting some of the water flow up on top in the County area toward the holding ponds at the Airport. I have concerns because that is going to move some water further west to the east to an area that can't handle any more water. Since Moon Valley Rd. was paved and the Airport had additional pavement, if more is going to be directed toward the drainage pond, that is going to add more water to what is already probably over capacity when we get the storms. There has been a change as far as improvements which causes more water our direction. Thank you for looking at this. We would like to be there another 30 years.
- Jonnie Sheehan – 1020 Evergreen Dr.: We don't have flooding yet, but close. We have the glacier that builds up on our driveway when the water drains down in the winter time. Makes it very difficult and dangerous to back out of our driveway. Look at the whole area, not just one part. It impacts all of us.

- Mayor Hanel: Mr. Mumford, do you know of any changes between Alkali Creek Road and the Rims?
- Dave Mumford: The changes that I am aware of are one of the problems of the entire Heights. It was developed with the idea that there is all this open space and so we don't have a storm drain system when the City took it over. There was so much open space that when it went down the road, there was always a vacant farmer's field somewhere and they could absorb the water. Well development keeps occurring; we keep trying to find places to mitigate that water away from. It is very limited on where we can take it. The City and the State design codes all are for 10 year or less storms. So when you get to these very large storms, they are not addressed in the design standards. A lot of the problems these people are facing are development in the area and is changing the open space that absorbed water in the past. We do require developers to allow existing drainage to continue. If there is drainage, you can't by State Statute block it. With new developments we allow it to continue to go forward.
- Yakawich: Down the road working with the County, are we going to be more aware of how development continues in Alkali Creek?
- Dave Mumford: City/County Planning is the one that looks at the comprehensive look at development. They do work with the County. When we have areas of interface between the County and the City, we do work with them as best we can with what resources we have. Development does occur and we work within the codes and what we can do. There is a good overall review of the impacts of development through the subdivision regulations and city/county planning's work.
- Pitman: Where do we go from here? Do we need any formal action?
- Tina Volek: A lot will depend on what the engineering study comes back as a cost. We may have to bring it back to you for approval if our share of it turns out to be above \$50,000. Otherwise, I think we are ready to proceed.
- Dave Mumford: We will go through the design and then depending on how much the work is; we may jointly do it between County and City maintenance staff to minimize the cost.
- Pitman: Time frame?
- Dave Mumford: Don't know exact time frame. The County will have to negotiate with us. They will need to work on a design. Their hope is to have something done this fall before winter sets in.
- Tina Volek: We would be happy to make a periodic progress report to the Council.

### **TOPIC #3: N. 26<sup>th</sup> Street Reconfiguration**

- Dave Mumford: The City of Billings was asked to look at a conversion of a two-way street on 25<sup>th</sup> by Yellowstone County Sheriff's Office. East of 27<sup>th</sup> St. we have the last two one-way streets left in Billings, north/south. That is 25<sup>th</sup> and 26<sup>th</sup>. The Sheriff's Office is off of 25<sup>th</sup>. When the courthouse went through, it bisected the southbound one-way street. We have looked at it. Some things we were really concerned about are to make sure that if it was converted to a two-way street, we wouldn't be required to put additional signals in or traffic changes. It wouldn't require us to put additional signals in, and we can accommodate the traffic volumes on the existing streets without adding additional signals. We do have to modify the signals on 25<sup>th</sup> and 26<sup>th</sup> St. if we go forward with the project. The streets that the City owns, we can use the existing signals as much as possible. Then add mast arms and make changes (striping). On the State routes which are 1st North and Montana Ave., the State is going to require that everything come out and be completely rebuilt intersections. Dave pointed out on his power point; the blue on top would be a request to change the section that affects the Sheriff's Dept. We feel that would be around \$95,000 with the modifications to the street striping, signage,

and the signal modifications. The lower section is accumulative and would be \$330,000 for those changes because the State of Montana would require that we tear out all of the signals and rebuild them. Then if we convert 26<sup>th</sup> and turn that into a two way, we would have additional costs. So the entire project would be about \$600,000. One thing that can be done on 26<sup>th</sup>, when the transit department looked at building their bus transfer center, they can take out the two way conversion that is there now so they can do counter flow, be converted and still operate. So the conversion of 26<sup>th</sup> does not significantly impact the ability of transit to operate downtown. Staffs conclusion is that we should change it all. It doesn't make sense to have partial conversions. If we just change the blue (referring to Power Point), it would be confusing when they are driving. To change it, would not adversely affect the public, or safety downtown. At the same time, I believe it would have an effect to make things easier for the Sheriff's Dept. In the past, we looked at it against our funding sources for projects that would be done. These are the projects that in the next few years in the CIP we are anticipating intersection improvements. If we move forward, even at \$100,000 we would need to find funding in another project that would have to be delayed or eliminated. It is a project that should be done as a whole. Mr. Wahrlich has asked in the past to have angle parking and better access to the Clock Tower so there would be benefits to several businesses. The Post Office would have to change their location of drop off and possibly lose one of their drop offs because of traffic going in wrong direction.

- McCall: I would agree. If we are going to do this, we should do it all. When did it become one-way?
- Bruce McCandless: Think 1970's or before.
- McCall: Looking at the funding of \$600,000, what is a likely timeline in order to do this and to be able to look at adjusting other projects?
- Dave Mumford: We will be making additional adjustments in the next year. It would not be a FY15 project. Those monies are already moving forward. We could come back with looking at future projects. Ideally an FY17 project or past that. We would also look at what we could do ourselves (painting). We have intersections that have significant issues in FY15.
- Cromley: Apparently the three projects are independent of each other.
- Dave Mumford: It would be best if it was one single project.
- Mayor Hanel: It would be best to do all three? With the Federal Courthouse where it is located, Blue (Power Point) could be incorporated with the least amount of impact on the traffic flow up until 4<sup>th</sup> Ave. and then should it stop at 4<sup>th</sup>?
- Dave Mumford: The cost is to go all the way to 6<sup>th</sup> Ave. That solution for the driving public is a do all, but it is a large and expensive project. I suggest we convert it all into one project.
- Mayor Hanel: For the Councils benefit, explain the requests you have had to convert that into a two way.
- Dave Mumford: Yes, we have had requests. The State would require signals to be completely rebuilt. It is a smaller section of conversion, but you can see it is 2 ½ times the cost. We are looking at minimizing the cost by keeping everything we have that is in place, and adding the new signal pole and arm, etc. to the side that is not there, and not go through the expense of a complete intersection rebuild.
- Mayor Hanel: May help some of the impact with traffic when there is a train on the tracks.
- Dave Mumford: Yes.
- Brown: What is it we are benefiting?
- Dave Mumford: The staff's conclusion was there was no significant public improvement by doing this project. This could be a nice project and would have some benefits to it. There is no public interest that is being addressed immediately.
- Tina Volek: Mr. Mumford these projects are all in the CIP Map?
- Dave Mumford: Yes, are currently in the adopted CIP.

- Pitman: I agree that we can go ahead and look at doing Number 1 (blue – which is shown in Power Point) for \$95,000. That addresses some of the issues the Sheriff has.
- Dave Mumford: If we move forward in FY15, which project would you like us to not do? There is no \$100,000 in Public Works budget for construction and design. The CIP is project balanced. We would need to eliminate one of the FY15 projects.
- Mayor Hanel: Which we have already approved, and we are not going to branch out beyond that. This gives the Council some good information to think over.
- Sheriff Linder: There is more than just the traffic flow situation that we need to look at in this particular case. I am looking at public safety. When you look at the way this is designed right now, and with the old Federal Building being empty, there are not a lot of people parking across the street. (Referring to the Power Point) - There is a short piece between 4<sup>th</sup> Ave. N and 3<sup>rd</sup> Ave. N, being a one way, anyone that is coming down 4<sup>th</sup> Ave. or even 6<sup>th</sup> Ave., and gets down to the courthouse, all comes that direction. If they start renting out space in that Federal Building and use all the parking that is in there, everybody that comes out of that parking area is going to need to come out to the south of 3<sup>rd</sup> Ave., continue west. And if they want to go east, they either have to go through the alley, go down 27<sup>th</sup>, go up 27<sup>th</sup> and turn back on either 3<sup>rd</sup> or 4<sup>th</sup>. All this traffic is doing that now, and with the buses coming out on 3<sup>rd</sup>, anyone of my patrol cars that happens to be at the office, if they want to leave or need to respond to an emergency, if they can get through the alley, because there is not somebody pulling in the courthouse parking there, they can go down the alley or 2<sup>nd</sup> and head east. Right now, in order to head east, if that is plugged or if somebody is parked in there, they have to get onto 3<sup>rd</sup> Ave., down to 27<sup>th</sup> St., go one way or the other and head back east. If there is an emergency, you want to be able to have access. That simple little change between 3<sup>rd</sup> and 4<sup>th</sup> Ave., there is very little traffic that would be coming from that. Across from the old Batten Building, would be easily accessed by cars coming in on 3<sup>rd</sup> Ave. up to 26<sup>th</sup> and into that parking lot. It would relieve a lot of the traffic issues we have at the Courthouse. Then all of our people leaving this area who head east, they are not making a roundabout way to get out. They can go straight up 4<sup>th</sup> Ave. and head east. I understand how much it costs to do this project but I also look at public safety.
- Brown: You are talking about the \$95,000 (blue on Power Point).
- Sheriff Linder: Yes. Between 4<sup>th</sup> and 3<sup>rd</sup>, there are two lanes coming south towards my office. When we leave our parking lot, we have one lane that kind of goes out, another lane where there is parking. People don't realize now, that the lane on the west side is supposed to be turning west. Both sides come straight across, and are very confusing. I don't think making that into a two lane is going to confuse people. Not many people come that way. I think it would be better access to other businesses as well.
- Mayor Hanel: It is unfortunate this wasn't discovered when they built the new Courthouse.
- McCall: I do agree. I go to the Courthouse twice a week for meetings. It is exactly as you described.
- Greg Krueger – DBP: This would qualify for TIF (Tax Increment Financing) and it would be a very good use. The original framework plan calls for the two way couplet all over downtown to be removed. At least 2<sup>nd</sup> and 3<sup>rd</sup> Ave. To answer the concern on the Post Office. It is on the short list of surplus property for the postal service to dispose of. We have been in dialogue with the Postal Service and we found out that they are interested in keeping a small presence there. We are looking at a major development that may take place in that area on 26<sup>th</sup>. We may be coming to the City in the next 1½ years to ask that 26<sup>th</sup> between 1<sup>st</sup> and Montana Ave. be closed. It is a very low traffic area. This means that area from 2<sup>nd</sup> and 1<sup>st</sup> needs to be two way. Absolutely has to be two way for the service of that area. Offering that we work with Public Works. The Development Committee which meets once a month and the Board meets

once a month, and determine how we can allocate sufficient TIF. And then Council approval to assist Public Works in getting as much of this done. And a long range plan as well.

- McCall: Great idea. My request was to look comprehensively at this whole piece.
- Greg Krueger: Exactly right. I would like to look at the impact of 2<sup>nd</sup> and 3<sup>rd</sup> option (Power Point) as well. At least up to 27<sup>th</sup> St.
- Pitman: How much money do you have available?
- Greg Krueger: I have enough. We are looking at a contingency that the Empire Garage has right now. Once we have solved all of those issues, I will be working with Mr. Weber to determine exactly what we have. Do know we will have significant funds annually with the TIF that would allow this in phases.
- Public Comment: Dennis Ulvestadt – 3040 Central Ave.: Have been a resident of Billings for over 50-60 years. And I want to tell City Council that is the way we have to go. 2<sup>nd</sup> and 3<sup>rd</sup> Ave. two ways are responders. Agree with Mr. Krueger.
- Tina Volek: We will continue to work on this and get back to the Council.

## **TOPIC #4: Tree Pest Report**

- Jon Thompson: Gave presentation on Billings Urban Forestry Tree Pest Update:  
**Why Care About Trees?**

- Heating/cooling cost
- Increase property values
- Increase commerce
- Improve air quality
- Storm water collection
- Reduce crime
- Improve human health
  - Trees provide habitat for wildlife
  - Deciduous trees planted on south and west sides provide shade and can lower air-conditioning cost by 10-15%
  - Street trees provide shade and cover for paved surfaces, reducing runoff and reflected heat. Street trees also improve the curb appeal of a neighborhood, increasing real estate values by 5-20%.

One 14" diameter tree in our community provides \$223 annually in environmental benefits. The trees that are in our parks alone are worth \$22.3M. In 2009, we inventoried all of our park trees. Our average tree we found was worth \$2,500. Very important to us. They make our community what it is. Looking down from the Rims, what do you see? A lot of trees. They have all been planted. They don't just happen. Concern on insects.

### **Where are we with insects and trees?**

- Mountain Pine Beetle –

In 2009 we discovered an outbreak of Mountain Pine Bark Beetle of our urban pine trees in Billings. Council provided us with funding to do a preventative spray program on our pine trees in our developed parks. We did this for three years. By 2012 the insect population had been reduced substantially. The threat was abated for the most part. We are not spraying for Mountain Pine Bark Beetle right now, although we monitor for it constantly throughout our parks and also throughout the City as a whole. We have to look at trees throughout the whole community.

- Dutch Elm Disease –

Has been in Billings for many decades. We still have a problem. In fact we have seen some resurgence of it in the last couple of years. Within City Parks, we have about 120 Elm trees left. Most of the trees in the courthouse lawn across the street are American Elm trees. We are still seeing problems with this. We are finding several here in the last couple of weeks.

- Scale -

It is a little critter that attaches itself to the trunks of trees, creates a scale effect and sucks the sap out of the tree branches and kills them. We have a big problem with this on our Elm and some of our Ash trees. We have been treating some of our trees with injectable insecticides. You can inject into the trunk and it kills the insect.

- Aphids/Mites -

Aphids cause the leaves to curl up. Generally, they don't hurt the tree. (Jon showed a picture of a Crabapple Tree in Pioneer Park.) There are branches that have turned black and brown all over the tree. If you have an Apple or Crabapple tree at home, you are probably seeing Fire Blight in your tree. It was caused by the hail storm that we had in May of this year. It opens up a lot of wound on the trees. This is a bacteria that gets into those wounds and kills the new growth on trees. It will outgrow itself. Sometimes it moves into the main branches of the tree and can cause substantial damage to the trees. Not much to do except pruning out the dead portions with sterile tools so it doesn't spread.

- Tent Caterpillars -

These are webs in trees with all kinds of creepy crawlies inside of the web. They are not a problem, but again it is something that people see a lot.

- Weather Extremes -

Billings is a tough place to grow trees. Montana in general is east of the divide. We are talking heat, drought, and winter temperatures. If we get these freezes in the early spring or early fall, when the temperatures drop suddenly, it causes damage to the tree where the branches will die back on the ends and all over the tree in general. It weakens the health of the tree. We have seen a lot of this in the last year from the cold weather we had last spring. About six years ago, when we had a massive change in the temperature in the spring, it got really cold, it killed a lot of Juniper trees around town.

### **What is on the Horizon?**

- Emerald Ash Borer (*Agrilus Planipennis Fairmaire*) -

The larvae are what causes damage on the tree. Goes after all species of true Ash trees (Green Ash, Black Ash). These are the two main trees we have in Billings. Larvae hatches out, tunnels around in the tree and it destroys the vascular system and the tree can't take in moisture and nutrients. The tree can die quickly. All of our cities in Eastern Montana are full of Green Ash trees. They are tough trees. A lot of them were used to replace Dutch Elm in some places because they are fast growing. Some of the newer developments in Billings that are being built are planting Green Ash. Not a good idea. Emerald Ash Borer was first discovered in Michigan in 2002. They figure it got there through shipping crates that came into the port of Detroit and had been there for years. Since then it has spread to 22 U.S. States and 2 provinces of Canada. In August of 2013, it was found in Boulder, Colorado which is the furthest west that the tree has gone. Since it was discovered in Michigan, it has killed tens of millions of Ash trees in the Midwestern states. It is moving its way west. (Jon showed a map of where the Emerald Ash Borer is at present time.) How it spreads is through firewood. All it would take for it to get here, is someone coming from Minnesota, Wisconsin, Illinois, in their RV or travel trailer, stopping at one of the campsites here with the Green Ash wood in it with this insect present, and it could get released. We are concerned about that. 21% or 1,860 trees are Ash in Billings parks alone. Estimates are that 40% of Billings trees are Ash. Pioneer and Mountview have the largest concentration of Green Ash trees in our park system. Once Ash dies it becomes a hazard much faster than other species. We will get it. It is just a question of when.

### **Financial Impacts**

- To remove just parks Ash trees would cost over  $\frac{1}{2}$  million dollars
- And we lose  $\frac{1}{5}^{\text{th}}$  of our park trees in a two year period
- Treating trees isn't cheap but may be worth it

Researchers have been busy through the USDA, etc., and have come up with several pesticides that the trees can be treated with. One product that is very promising is called Tree Age. It is new and costly. It is a preventative pesticide application to the tree. It costs roughly \$134 to treat each tree that would be 16" in diameter. Only effective for two years and then the trees would have to be treated again. The insecticide wears off. Trees don't build antibodies. Losing these trees would be tens of millions of dollars and value loss to our community.

### **Current Management**

- Branch sampling
- Diversify species
- Removing weak poor looking trees when opportunities presents itself
- Working with Federal agencies

We are trying to get the word out that we need to stop planting Green Ash trees in our community.

- Mayor Hanel: What are you planting more of now?
- Jon Thompson: We have a tremendous number of species and wide variety of trees that do well in Billings. Everything from different varieties of Maples, Linden's, even American Elms.
- McCall: In terms of our wholesalers and retailers of trees. Have you talked with these businesses about this issue, and the sale of Ash trees?
- Jon Thompson: The talk has happened on a state level through the trade organizations. But there has not been a state-wide protocol put in place where we can actually stop the planting. Everybody plants Green Ash because they are an easy tree to deal with. They establish easily, they grow well and so you can plant and walk away from them and not have to replace them. It will be difficult to get our local landscapers and contractors to change their planting schemes. They are being planted all around town. Not sure when the State will get a protocol in place. As a City we may want to do something. I don't think we should wait.
- McCall: An important thing to do. Particularly in terms of communicating with all of our businesses in town. Our landscapers, contractors and these stores will not want to see our City trees destroyed. I think that is something we want to seriously look at doing. If that takes an initiative, okay. But if it can be done informally, that would be good. Follow-up – Curious about the trees that die. Do you have to be really careful in terms of the removal so you don't cause more infestation in other areas?
- Jon Thompson: Yes.

### **Future Management**

- **Once discovered within 15 miles of Billings**
- Jon Thompson: What we would like to do is develop a city-wide Emerald Ash Borer preparedness and response plan. When Emerald Ash Borer is discovered in a community, USDA quarantines that community. We have no choice in the matter. That would mean any infested Ash trees that have the beetle, cannot leave the quarantine area. There has to be put in place, protocol for how to deal with all of the trees that die. Where do you take the wood to, how do you dispose of it properly so it does not infect other trees? Who bears the cost and who is going to manage that? That is our plan to deal with the answer to those questions. It would outline how it would impact us, and what we need to do for replanting, etc. By being proactive now, we can reduce our costs and spread them out over a long period of time. If it is coupled with preventative treatments, removal, planting, etc. Rather than taking one big hit over a period of just a few years.
- McFadden: Part of the plan was to remove weak or stressed out trees. Is that because beetle is more likely to attack them, or is that because the trees that are unhealthy looking may already have beetles in them?
- Jon Thompson: Trees are precious to us and we don't like removing them unless they are hazardous or not functioning anymore. But with Green Ash trees, when we have them in parkland and they have been damaged from environmental conditions like the tree I showed

you that is stressed out, or other insects that do attack, we sometimes remove them. You can trim deadwood out of them and get them to do quite well, but removing them is something we are doing now, and then replanting.

- Pitman: Is it hard to kill the Pine Beetle?
- Jon Thompson: This critter is winter hardy here. It is from northern parts of Asia. Its threat level is much greater than the Mountain Pine Beetle because of the number of Green Ash trees that we have in the community.
- Yakawich: In other cities, what are the results?
- Jon Thompson: When it hit in the Denver and Detroit area, they tried quarantining it by removing live trees within a 2 mile band around the city. In Detroit they actually went out 10 miles. They started removing all the Ash trees in the forests. They found that because the beetle can't fly further than about 8-10 miles, it was futile because people were transporting firewood in the quarantined area. As a result, they couldn't stop it. They lost all of their trees and had to remove them. Initially they had a big cost because they were the first ones to deal with it. They didn't know what to do and everything died very quickly. The costs were tremendous to them, plus they lost all of this canopy cover. They are replanting. I think we should be proactive, develop a plan now, start planting diversity. Not just in parks but along our City streets and also in private property, and get all of the local nurseries involved. Also Landscapers, Landscape Architects, and other departments in the City. Be proactive with looking for it. Once we find it, have a plan in place so we can deal with this problem. To develop this plan, in FY15 have put funding aside to develop an Urban Forestry Strategic Plan. We will develop this Emerald Ash Boer preparedness plan. The goal will be to improve and coordinate management of our urban trees and forests with Billings growing as it is. We should be proactive in managing our urban forests. Part of that plan will be – How do we preserve and protect our existing forests and how do we enhance and plant? Monitoring and documenting what is going on in our forest. Education and outreach to the entire community is extremely important in getting this handled. The majority of our urban forest exists on private property. Not only your yard but on commercial properties. We need to have them involved. We need to develop a maintenance plan for the future for our community. We will do a tree resource assessment. Not sure how many trees are on city streets or private property. This would be doing a 10% inventory of our community. A statistically valid sample. I will hire a consultant to do this so we know exactly how many green ash trees we have, the shape they are in, how big they are, and then all of our other trees. What kind of costs will we be looking at. Then will do a management assessment where we will look at how we as a community are managing our trees. That will provide us some guidelines for moving forward in the future. Getting the community involved is going to be a big part of it. Our goal to move forward is to first hire our City Forester before that plan gets underway. Will be advertising position this week. As far as public outreach, we are hosting a Regional Emerald Ash Boer Workshop August 19, which is at the Billings Library. We have experts coming from the Agriculture Dept. in Canada; the City Forester from Fort Wayne, Indiana will be part of it. The City Forester from Colorado and our Montana experts will also be here.
- Cromley: How does having trees reduce crime?
- Jon Thompson: There have been a number of studies done, if you have pleasant places to live, your crime will be reduced. It also beautifies your yard.

Public Comment:

- Ben Uselman – 4615 Palisades Park Dr.: I have public property out at the corner of 25<sup>th</sup> and Overland Ave (2501 Overland). Some commercial buildings. By what you described, I think my trees should be looked at. To the knowledge of the City there are no outbreaks at this point?

## **TOPIC #5: Handicap Parking Recommendations**

- Bruce McCandless: Introduced the new Parking Manager for the City of Billings. Tracy Scott comes to us from Central and St. Francis Schools. She was their Activities Director for 17 years.  
We do have a section in our City Code that talks about Handicap Parking. The sections are outlined very briefly. If you have the handicapped plate or placard, you may park in any assigned handicapped parking space either on public or private property. On public property, specifically, what the City has found is to exempt those with the handicap plate or placard from any time limitations, or for having to pay any parking fees. If you choose or are required to construct handicap parking spaces, then there is a section that talks about how they have to be constructed and also how they have to be marked. A violation of parking a non-plated or non-placard vehicle in a handicapped parking space is a civil infraction and the driver will be subject to a \$100 fine. There is also a State Code section.
- Mayor Hanel: It doesn't have to be the plate and the placard? Can it be one or the other or does it have to be both?
- Bruce McCandless: Either one. If I understand it correctly, the State Law provides a section about the plate and who is eligible to receive it. Then an entirely different section that talks about the placard, and who is eligible to receive it. The only difference is, one is temporary and one is permanent. State Law does talk about the handicapped parking also. In 49-4-302 – Parking Privileges – “Local Gov’t may exempt permit holder from parking time limits”. The City of Billings has exempted both time limitations as well as parking fees. What brought up this discussion about Handicapped Parking, particularly in downtown, is the almost completed Empire Parking Garage. It is the City of Billings first fully automated garage. Machines can’t tell if somebody has a handicapped parking plate or placard and thereby being able to exempt them from either time limitations or pay. Do we want to propose to the City Council that you just change the City Code about time limits and payment on the Empire Parking Garage, or do we want to talk about it broader than that? The proposed changes would change three sections.

### **Proposed City Code Changes**

- Empire Garage started the discussion
  - Fully automated; no ability to identify properly tagged/placarded vehicle or exempt from fees
- 24.442
  - Cite the correct state code
- 24.443
  - Handicapped person must be riding in tagged/placarded vehicle (state law)
  - Strike free and unlimited time parking
- 24.443.1
  - Strike unnecessary date

### **Alternatives and Stakeholders**

- Parking Advisory Board
  - No change (exempt Empire Garage)
  - Free but limit the time
  - Pay but no time limit
  - Eliminate both
- Organizations representing disabled person
  - LIFT: Availability is more important than time or fee exemption
- Individuals impacted by the change

## Schedule

- August 4 – Work Session
- August 11 – Public Hearing and 1<sup>st</sup> Reading of Ordinance
- August 25 – 2<sup>nd</sup> Reading
- September 24 – Ordinance is effective
- Staff will begin implementation by Sept. 1 if there are no objections. Empire Garage change is immediate.
- Bruce McCandless: The Parking Advisory Board recommends that we eliminate both divisions that are in the City Code, and allow free parking and unlimited time parking. People with handicapped plates would still have the privilege of parking in those spaces that are assigned, or they could park in any parking space. Right now they are exempt from having to pay in those parking spaces and they are exempt from any time limits that are there. They would have to start paying for, and be subject to the same time limits. Parking Advisory Board isn't recommending that of the downtown spaces that are presently assigned for handicapped parking, that we start charging for those. There are about ½ dozen of those kinds of spaces. The Parking Advisory Board is however recommending to the City Administrator, if she is able to make that kind of modification under the City Code, that the time limits apply in those marked parking spaces, but not requiring that the (inaudible) so that those individuals have to pay. At least at the current time.
- Cromley: Would this just apply to parking garages? Is there any street parking with meters for handicapped?
- Bruce McCandless: I misspoke when I said there were about ½ dozen of those parking spaces. I meant on the street parking spaces. Each of our parking garages has handicapped parking spaces.
- Cromley: Do they have meters?
- Bruce McCandless: No. And they do not have any time limits.
- Cromley: So the change you are recommending would only affect the garages.
- Bruce McCandless: Except the Parking Advisory Board is recommending to the City Administrator that instead of installing meters at those handicapped spaces that are on the street, to only impose the time limitation. She is able to do that under the City Code as it presently exists.
- Pitman: How hard would it be to have people apply for a card just like when we come in and out of the garage?
- Bruce McCandless: That would be possible for us to do. It would require that a person prove that they have the handicapped plate or placard, and if the City Council directs, then they would not be charged for that, but they would be eligible to park in any of the parking spaces. However, in the hourly spaces, and there are some that are assigned for handicapped parking only, there would be no way to provide free parking to those individuals any more than anybody else who would occupy an hourly space. We will have validation availability, for example somebody who comes into a Northern Hotel event, and doesn't realize there are hotel parking spaces in the parking garage, instead that park in the hourly space. They can take that ticket inside the Northern Hotel and they will be able to validate that ticket and they can get back out of the garage without paying. The Northern Hotel will pay for the use of that parking space. There wouldn't be any way to tell if that person who pulls that daily/hourly ticket is a handicapped individual. The monthly permit parking we could handle in the way that you suggested.

Public Comment: None

## **TOPIC #6: Community Conversations**

- Tina Volek: We traditionally have a set of community conversations in the fall. Because we will be discussing the Public Safety Levy extensively in September, this seemed to be a good time. Talked briefly with CM McCall and we would suggest either the week of September 8, September 22, or the week of September 29. Hoping to get an answer from Council on your commitments.
- Mayor Hanel: September 8.

Public Comment: None

## **TOPIC #7: Quarterly Updates**

### **- BIRD**

- Patty Nordlund: Our main project right now is the Exposition Gateway. Patty gave a Power Point presentation. Our Board Members are out on the streets as we speak. We had a meeting and they all have their packets with the information to visit each of the County property owners and to talk with them about requesting annexation. We appreciated the cooperation of City Planning and Engineering. And had a great meeting where we came up with the plan. As you know, the funding plan is in place, and for the EBURD TIF portion of the funding, we have coming to you on August 11, on the Consent Agenda, we would like to put the TIF portion in to get the planning underway. City Engineering thought that was a great idea so they can get a firm hired and survey work done before the snow comes. Our finances for the past quarter, we have our management fee and the City's cost allocation. We accomplished a couple of demolition projects and have paid Castlerock for the first phase. We have made the two payments that are for our longstanding ongoing development agreements. That total expenditure is as you see there. Upcoming, we start with a current balance of \$676,034 and we do have the standing commitments for EBURD Management and the City charge. We do have a second phase of the Castlerock Project, and we have not reimbursed Carol Kraft yet for the demolition of the home that she had demolished. The other upcoming expenditure would be the \$250,000 that was just mentioned for total commitments of \$331,016. This leaves \$345,018 uncommitted for the next quarter. The Board is hosting the first BIRD Bash on September 18. That will be at 1617 1<sup>st</sup> Ave. N. from 4-8 pm. This will be an annual picnic for members and guests.

### **- Downtown Billings Partnership**

- Greg Krueger (DBP): Our TIF commitments are tied to the Empire Garage, which I understand from Mr. Weber, we should be able to analyze and determine if we do have any dollars available this fiscal year within the last month or so. Will be coming back to talk with you about specific projects that we would like to see these dollars invested in. Had a handout of their work plan for FY2014 and probably going into the next couple of fiscal years. The handout is what DBP is working on now. We are developing a "Love Your City" campaign to talk about caring for what we have as a wonderful community. Not only downtown but the City as a whole, and how important downtown is to the City. Big Dipper Ice Cream from Missoula is moving into downtown. They are going to adopt one of our local micro brewers and make ice cream out of the beer. We have another project that is looking at a site in downtown. It is called the Art House Cinema. It is an independent movie theater that will have three screens. It will show movies that aren't necessarily in the main stream. Will also show classic movies. It is run by millennials. We are also looking at a convenience store/pharmacy in the core of downtown. Our hotel guests have told us that this is the #1 thing they would like to see. We do have within walking distance Albertsons. Hope to have done within the next 1-2 years. Working with potential developers for a 5 story mixed use office and residential building. 30 residential units,

11,000 sq. ft. of street level retail, and ½ block of parking for future development. We are looking to do maybe multiple 5 story buildings over several years. We are going to be working with EBURD as well as Big Sky EDA, and another entity in town that works on affordable housing tax credits, and new market tax credits to do some of this work force housing in the buffer area between our two districts which is both what their plan calls for as does ours. We are also continuing our dialogue with Art Space for a work space for artists. We started this several years ago, but because of the Empire Garage being built, it took most of our commitment. You will see that coming back to Council within the next year. We have continued to look for sights downtown in the core for a convention center site development. We have identified a couple of areas. Are working with potential developers. There are two vacant buildings we are targeting for redevelopment. One is the Billings Hardware building, often known as the Westwood family building. That is kitty corner from the Empire Garage on Broadway and Montana. We do have a potential developer and project in mind for that building. One that baffles us right now is the old Batten Building. Heard it is for sale again. We are continuing to develop pocket parks and green spaces as place holders for future development. Monday night on Consent Agenda is your support of the BID allowing the Mayor to sign a petition. We are with the City and are only 3% away from our 60%. We are working with the City Parking Division on the Strategic Parking Plan. Are very pleased with the new hire. Also working with BNSF for exploring solutions of the Railroad crossing issues. Are working with Public Works on the traffic signal on the one-way to two-way conversions.

- Yakawich: Are you working with EBURD on collaboration?
- Greg Krueger: We are aware of what EBURD is looking at, and we are aware at what TBID is looking at as well. Our goal is whatever is best for the City.
- Yakawich: Is Public Safety becoming more of an issue with downtown transients? Talking with business owners and this is the number one concern I have.
  - **Initiatives**
- Tina Volek: You received a list of the Initiatives in the Friday Packet. Any questions?
  - **Cell Phone Statistics**
- Tina Volek: For the first two quarters of 2013 we had 175 cites and 259 warnings. This year so far we have 224 cites and 164 warnings. We have reversed the trend and are moving to citations which do tend to get people's attention. Any questions?
  - **City-Wide Park District 1 Projects**
- Mike Whitaker:

#### **Park District History**

- The Park District was established Dec 2011
- The District was funded in FY2013
  - First half of the funding became available Dec 2012
  - Approximately \$2 million per year is being assessed
    - \$1.5 million goes toward projects and
    - \$0.5 million goes towards ongoing maintenance

#### **Completed Park District Projects**

- Restroom Remodels –
  - Stewart Park
  - North Park
  - Veterans Park
  - Optimist Park
  - Pioneer Park
  - Gorham Park

-Modular Restroom Sites –

Central Park  
Sacajawea Park  
Mountview Cemetery

-Replaced safety surfacing under 22 public playgrounds –

|           |           |
|-----------|-----------|
| Arrowhead | North     |
| Boulder   | Optimist  |
| Burg      | Pioneer   |
| Comanche  | Ponderosa |
| Edgerton  | Primrose  |
| Evergreen | Rose      |
| Gorham    | Sacajawea |
| Hawthorne | Stewart   |
| Highland  | Terry     |
| Lilis     | Veterans  |
| Millice   | Westwood  |

- Rose Pool – Replaced two aging water slides

- Replaced Batting cage equipment. – Our revenues are up \$14,000. I contribute to the upgrade of the equipment.

- Resurfaced 10 tennis courts.

- We are currently replacing our picnic tables. Public feels we need additional picnic tables. In our City-wide survey we did in December, the community said that picnic tables were the top need of Billings.

- Also implemented a Vegetation Management Program. Do spray and fertilize in the spring and fall.

- Hired:  
Arborist  
Park Maintenance Worker

**Established a Community Outreach Program**

- 1,800 people have volunteered at the Parks and Rec. Dept. from May 2013 to May 2014.
  - Total Hours: 8,139.75
  - Value of Hours: \$128,038

**Current Park District Projects**

- o Rebuild 4 tennis courts at Castle Park
- o Rebuild 3 tennis courts at Pioneer Park
- o Upgrade South Park playground
- o Spray ground at South Park – Replaces a wading pool that had to be removed.

**Proposed FY15 Projects** (Assessment will be set Sept. 2014)

- o Improve park infrastructure at Stewart Park
  - Roads, parking, water service upgrade, etc.
- o Pioneer Park Shelter
- o Upgrade water service at Amend Park – Currently we irrigate Amend Park with the ditch. Ditch water doesn't come on until June. That park is busy in the spring and we have to get some water on that facility in the spring. We will be upgrading to City water for the spring if needed.

**What's next?**

- o The Parks and Recreation staff is working with the Park, Recreation and Cemetery Board to develop the next 3-year plan.
- o The plan will be presented to City Council at a Work Session this winter.

- Tina Volek: This was presented to the Rotary and the Breakfast Club. Was very well received. Is available for people who are interested in seeing the presentation on the first results of the maintenance district that was created by Council. We did remove the 6<sup>th</sup> Ave. rock. That was unexpected, and we did pay \$300,000 to remove that rock. \$100,000 came from Public Works and \$200,000 came from Parks and Rec.
- Mike Whitaker: We originally were going to have \$1.2M for infrastructure upgrades at Stewart Park. With paying for the rock removal, we will be at roughly \$1M.
- Tina Volek: So still a significant contribution. There had been some question raised about whether there would be enough to make a significant dent at Stewart Park. We believe \$1M is a good investment.
- Cromley: Location of the spray park in South Park?
- Mike Whitaker: Not sure yet. Will work closely on the South Park Task Force on the location of it.

Public Comment:

- Kevin Nelson – 4235 Bruce Ave.: MCA Montana Law: Control of conflict of interest in a TID or a project may not voluntarily acquire any interest direct or indirect in any urban or renewal project, and any property plan included or planned to be included in urban renewal project. Next page is the meeting notes for the DBP in May 28, 2010 and the project under action item is a mixed used parking structure on Montana Ave. The Empire Parking Garage. Next page is the DBP Board of Directors in 2009-10. Highlighted in orange, the secretary was Bill Honaker. He is currently going to lease a portion of that building as a retail space. I believe under the Conflict of Interest Statutes he is prohibited because of the fact that he sat on the Board, he initiated the DBP and that project. It was certainly a TIF project. Next page is the meeting minutes from the Empire Parking Garage, and the last page is the Official Misconduct Law. What it states is that “no one will act in an official capacity that the public servant knows is forbidden by law”. I would like to take this opportunity to inform you that I believe that you would exercise that document with Mr. Honaker; you would be violating the law. That would be the Conflict of Interest Law under the Tax Increment Laws under the local MCA Code.
- McFadden: Is Mr. Honaker a paid officer or a volunteer?
- Kevin Nelson: Imagine he would be a volunteer.
- McFadden: How would he be considered public official if he is just a volunteer?
- Kevin Nelson: Well it says “an employed municipality (inaudible) agency department or officers that have invested by the municipality with urban renewal project powers and responsibilities”. Doesn’t BDP have project powers?
- McFadden: Wondering how he became an official part of this or employee or a public servant when he is volunteering?
- Kevin Nelson: I believe he has a conflict of interest because he has the DBP, has project powers and responsibilities to administer the TIF District. That is what you are paying him \$220,000 a year to do.
- McFadden: So far we have determined that Mr. Honaker is not receiving money for being on that board.
- Kevin Nelson: I don’t think you have to be paid to have a conflict of interest.
- Mayor Hanel: Mr. Nelson, you have been to several of our meetings. You are fully aware that his investment in the garage, the main level, was put out for a public bid?
- Kevin Nelson: I wonder if he isn’t absolutely precluded from even being part of the project because he sat on the board.
- Mayor Hanel: Are you aware of what he paid by per sq. ft. on that main level?

- Kevin Nelson: I don't believe what he paid or what he didn't pay, I believe personally he has a conflict of interest and it is excluded from being part of the project. He has the opportunity to not be on the board if he believes he wants to be part of the project.
- Mayor Hanel: You are aware he paid \$50 per sq. ft. for unfinished area of that garage? Which is probably the highest per sq. ft. that has been paid in Billings District?
- Kevin Nelson: I think the Conflict of Interest Statute speaks for itself. And I think he's precluded from being part of the project no matter what he paid.
- Tina Volek: I am the representative for the City on that Board. Mr. Honaker has resigned from the Board. I will clarify what those dates were. He has not been a member of the board for years now. In fact, the Board has its own Conflict of Interest Policy that precludes someone from being involved in a discussion when their particular project is under discussion. Will research and provide some material to the Council.
- Mayor Hanel: The bidding process has been determined to be one of the owners; he followed precisely as he was instructed.
- Dennis Ulvestadt – 3040 Central Ave.: I would like to thank Honorable Mayor for appointing me on the Zoning Commission. I wanted to talk about EBURD, TIF and the Downtown TIF. With all due respect to our previous Counselor, I disagree with him. I think we do need a TIF for the DBP, and we do need a TIF for EBURD. That is going to bring in money for the City of Billings. Also to connect with the downtown Billings to the eastern part of Billings. I think it is crucial for the growth of the City of Billings and it is very crucial that we leave this like it is. With all respect to all City Council members the TIF money is going where it is supposed to be going. I want to talk about the DBP. I was downtown the other day, and very impressed the way the downtown has improved. This is the best I have seen downtown Billings in a long time. Lisa Harmon and Greg Krueger are doing an outstanding job with downtown Billings. Trees are an important part of Billings. It is a beautiful part of the City and we need to take care of the problem with the trees we have now to make the City grow.

#### **TOPIC #8: Council Discussion:**

- None

#### **TOPIC #9: Public Comment on Items not on the Agenda**

- Kevin Nelson – 4235 Bruce Ave: Encourage Council to take a look at your hours of operation. I showed up at the Landfill at 11:45 am on Sunday. That line was  $\frac{3}{4}$  mile long. Then we started up the hill and we sat there. I observed about 30-40% of the people just had brush. Then there was a man on the hill directing to the brush pile. The scale cleared and he told me to go across and then I was sent in the brush pile. We could expedite that process up there. I was amazed at the line.  
Second, pending litigation. Whose parties are you discussing tonight? Could Brent Brooks put me a list together? Or maybe on future agendas. The people deserve some information. What, why, and who are you discussing?
- McFadden: There probably is a certain amount of information that is available to the public. Although there is a lot that is private because it is litigation. Perhaps maybe general information on the website?
- Brent Brooks: We could do something like that. All the cases involving the City either as a Plaintiff or Defendant are a matter of public record. The idea of the closed session is to discuss strategy. I think what Mr. Nelson is talking about is a recent petition that is filed against the City and the MMIA. That is not on the report tonight.
- McFadden: There must be a certain amount of generalized information that the public would have available to them under a "right to know" situation.

- Brent Brooks: Depends on the specifics of what you are getting in. In terms of just listing the cases, that is a matter of public record right now. Someone could go to the District Clerk of Court in the State system, for example, and ask how many cases in the City of Billings are involved as either a Plaintiff or Defendant. If it is a matter of convenience where we list on the website the style and the docket number of the cases that is something we could do. Beyond that, the State Statutes clearly say that if it is a closed session to discuss litigation strategy, that does not involve only public parties, then that is something the Council is entitled to do in a closed session. That is what you do on a quarterly basis. You not only discuss the status of the case, but the strategies involved so that opposing council cannot know what you are going to do.
- McFadden: It could be something as simple as a link at our website that could take a citizen to the courts website. So if they are really interested as Mr. Nelson asked, that way we wouldn't be giving away our game plan of strategy but we would be making available to the public the general information that Mr. Nelson was talking about.
- Brent Brooks: Could ask the District Clerk of Court if they an online ability for a citizen to do a search, either plaintiff/defendant or defendant/plaintiff bibliography or table of contents. Could put some information on the website.
- Janice Linn – 821 N. 27<sup>th</sup> St.: College dormitories should be exempt from the NDO (Non-Discrimination Ordinance). Janice passed out copies of news articles.
- David Johnson – 3829 Killdeer Lane: In addition to what Janice Linn has mentioned, that relates to the NDO. I speak **against** the NDO for reasons of its violation of God's moral law.
- Elaine O'Donnell – 3390 Canyon Dr: I am one more voice **opposed** to the NDO.
- Dick Pence – 4307 Palisades Park Dr.: Asked all to stand who is against the NDO.
- Bethany Dougan – 1811 Wyoming: Concern I have on presentation from Parks and Recreation. So many things that are good and wholesome in our City. I believe that all of us want to see a sense of safety and fun continue. Have studied NDO in other places. Concern that I have not heard addressed is when you open up your arms to elevate this lifestyle to a protected status, you open up the City for the kind of behaviors that accompany that. **Opposed** to NDO.

## ADDITIONAL INFORMATION:

ADJOURN TIME: 9:27 pm