

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

### **June 9, 2008**

The Billings City Council met in regular session in the Council Chambers on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Ulledalen gave the invocation.

**ROLL CALL** – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Stevens, Veis, Ruegamer, McCall, Ulledalen, Astle, and Clark.

**MINUTES** – May 27, 2008, approved as amended

**COURTESIES** – Worksite Wellness Bronze Award – Tam Rodier, Chair of City's Wellness Committee

Sports Illustrated article "70 Day Journey" which includes a stop in Billings at Dehler Park – Councilmember Ruegamer

Acknowledgment of the success of Toxic Waste Roundup – Councilmember Gaghen

**PROCLAMATIONS** – Community Stance Against Drugs and Violence Day, June 14

**ADMINISTRATOR REPORTS – Tina Volek**

- City Administrator Volek reminded Council that the Agenda Review meeting was scheduled for the following evening at 5:30 p.m. in the City Hall Conference Room.
- Ms. Volek listed the following additional items that were not included in the agenda packet:
  - ✓ ITEM 1A – A list of appointments to Boards and Commissions was sent in the Friday packet and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEM 4 – Revised fee increase information for the Planning Division was sent in the Friday packet and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEM 5 – Revised resolution setting FY 2009 mill levy rates was sent in the Friday packet and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEM 7 – Revised resolution and Exhibit A approving and adopting the FY 2008-2009 budget was sent in the Friday packet and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEM 7 – A letter from the Billings Chamber of Commerce City Budget Task Force was distributed at the meeting and located in the Ex-Parte notebook in the back of the room.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item: 1 & 2 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.)*

- **Kevin Nelson, 4235 Bruce Avenue**, said he wanted to address Items S & T. He asked how much the properties would pay in the event that the widening didn't happen on King Avenue East. He asked if a development agreement was signed that provided revenue back to the City for those zone changes scheduled for second reading that evening. He said he wondered if there was any recourse in the event the tax increment district for that project didn't come to fruition.

Mayor Tussing said he wasn't sure he understood the question. Mr. Nelson asked if a development agreement was signed with that group in the event the project didn't occur there because the City provided services to properties. He wondered how the dollars would be recovered since there wasn't an SID or development agreement or any recourse because services were provided to properties, particularly one in the County. He said the City didn't typically provide services at no cost without some type of recourse option.

Councilmember Veis said he would try to answer that. He stated that as part of the zone change, there was no development agreement tied to it, no reimbursement tied to it; it was just a zone change. Mr. Nelson said the water mains were already run to those properties. Councilmember Veis responded that wasn't part of the zone change, which was what would be discussed at that meeting. Mr. Nelson said that the City typically had some type of recourse if it provided City services.

Councilmember Stevens said she didn't think water or sewer was provided to those properties. Mr. Nelson said water mains were on and into the properties. He said the services were there and if the past testimony was reviewed, a property owner testified there were water main stubs put into the property. Councilmember Ronquillo confirmed the water mains were run into the property.

City Administrator Volek said she consulted with staff present and that service was stubbed to the property lines for the two properties, but there was not a development agreement created yet; that would happen later with the development because the zone change was simply the request to change the zoning. She added that any work done to the road was paid from City sewer and water fees without an SID or a cost to the adjoining property owners. She said development was mandated as part of the annexation process and a development agreement came later. Mayor Tussing said the property didn't have the service until a development agreement was agreed upon. Councilmember Veis asked if the property owner could pay the system development fees and then hook onto the system. Ms. Volek said that was possible.

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

## **CONSENT AGENDA:**

1. A. Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Board of Appeals	06/09/08	12/31/11
2.		Exchange City Golf Corporation	06/09/08	12/31/10
3.	Leonard Smith Jr.	Mayor's Committee on Homelessness	06/09/08	12/31/10
4.	Ken Chase	Mayor's Committee on Homelessness	06/09/08	12/31/08
5.		Human Relations Commission	06/09/08	12/31/10
6.		Human Relations Commission	06/09/08	12/31/10
7.	Leticia Moore	Parking Advisory Board	06/09/08	12/31/09
8.	David Hummel	Public Utilities Board	06/09/08	12/31/11
9.	Linda Gallagher	TBID Board	06/09/08	09/01/08
10.	Joyce Bratland	TBID Board	06/09/08	09/01/09

3. Unexpired term of Jacquelyn Wagner
4. Unexpired term of Dustin Machler
5. Unexpired term of Shoshana Tom
6. Unexpired term of Jean Smith
7. Unexpired term of Ken Nicholson
9. Unexpired term of Chris Ervin
10. Unexpired term of Chris Walters

### **B. Bid Awards**

(1) **W.O. 07-14, Moore Lane and Monad Road Water and Sewer Improvements** (opened 5/27/08). Recommend Western Municipal Construction, \$130,621.00.

(2) **SID 1379 King Avenue West – Landscaping Design.** Bid opening delayed to June 10, 2008. Recommend delay of award to June 23, 2008.

C. **Approval** of Assignment of the West End Hangar Ground Lease with Russell Schmitt to Western Security Bank for financing purposes, at no cost to the City.

**D. Approval** of Two (2) West End Hangar Ground Leases with John M. and/or Marcia A. Nash to Western Security Bank for financing purposes, at no cost to the City.

**E. Montana Department of Transportation Utility Agreements (2) for the Airport Road project:**

(1) MDT and City of Billings: Lowering of two water mains to allow construction of the "G Line" portion of the project, MDT pays 75%; City's share is 25% of project, estimated \$24,000.

(2) MDT and City of Billings: Utility work in proposed right-of-way, MDT pays 46.75%; City's share is 25% of utility relocations, 8% for traffic control, 8% for mobilization, 12.25% for indirect costs, estimated \$50,000.

**F. Approval** of Vehicle Lease Agreement with Underriner Motors for six (6) vehicles, 7/1/08-6/30/09, for City County Special Investigations Unit (CCSIU), \$27,000.

**G. Acknowledge receipt of Petition to Vacate** the alley within Block 260 of Billings Original Townsite for a value of \$6,875 and set a public hearing for July 14, 2008. Aaron Sparboe, petitioner.

**H. Resolution #08-18713** closing Special Improvement/Sidewalk Bond Debt Funds to SID Revolving Fund, \$10,154.28 to the City.

**I. Memorandum of Understanding (MOU)** between the City of Billings and Billings Public Schools for two (2) middle school resource officers, 7/1/08-6/30/09, \$52,000 to the City.

**J. Memorandum of Understanding (MOU)** between the City of Billings and Billings Public Schools for three (3) high school resource officers, 7/1/08-6/30/09, \$62,400 to the City.

**K. Acceptance of Sidewalk Easements (2)** for SID 1379 – King Avenue West:

- (1) Shiloh Glen Apartments, northwest corner of King Avenue West and Olympic, no cost to the City.
- (2) Town Pump, intersection of 32<sup>nd</sup> Street West and King Avenue West, no cost to the City.

**L. Street Closures:**

(1) Expert Tire, 9:00 a.m. - 4:00 p.m., 6/21/08, North 31<sup>st</sup> Street between Montana and 1<sup>st</sup> Avenue North.

(2) Yellowstone Health Partnership Fun Run/Walk, 7:00 a.m. - 10:00 a.m., 6/22/08, commencing at 2<sup>nd</sup> Avenue South and South 26<sup>th</sup>, east to South 25<sup>th</sup> Street, south to 6<sup>th</sup> Avenue South, west to South 37<sup>th</sup> Street, north to 2<sup>nd</sup> Avenue South, east to South 28<sup>th</sup> Street, south to 9<sup>th</sup> Avenue South, west to South 31<sup>st</sup> Street, north to the 6<sup>th</sup> Avenue South entrance of South Park.

(3) Reporter Big Sky Office, American Cancer Society Benefit Car Show, 7:00 a.m. - 4:00 p.m., 6/21/08, North 14<sup>th</sup> Street between 1<sup>st</sup> and 2<sup>nd</sup> Avenue North.

(4) Downtown Billings Association Events:

(a) Alive After 5, 3:00 p.m. - 9:00 p.m., 7/17/08, North 30<sup>th</sup> Street between 1<sup>st</sup> Avenue North and 2<sup>nd</sup> Avenue North

(b) Alive After 5, 3:00 p.m. - 9:00 p.m., 7/31/08, North 29<sup>th</sup> Street between Montana Avenue and 1<sup>st</sup> Avenue North

**M. Approval** of grant application and acceptance of the 2008 Technology Grant award to purchase a Crime Scene Investigation Vehicle for Police Department, \$177,077.

**N. Approval** of grant application and acceptance of the 2008 Technology Grant award to purchase digital video cameras for approximately one-half of the police vehicles, \$205,766.

**O. Resolution #08-18714** for Temporary Suspension of the Camping Ordinance for BLM's annual seasonal fire mobilization operation at Billings Logan International Airport, 7/1/08-10/31/08, at no cost to the City.

**P. Second/Final reading Ordinance #08-5465 for Zone Change #838:** Approval of a zone change and adoption of the 12 criteria for property in a Planned Development (PD) with underlying zoning of Public (P) to an underlying zoning district of Highway Commercial (HC) on a .75-acre parcel of land legally described as a portion of Lots 1-4 & 15 of Amended Lot 15A, Block 2, Southgate Subdivision, 1<sup>st</sup> Filing, located directly east of 5379 Southgate Drive. City of Billings, owner; Bruce McCandless, Assistant City Administrator, agent.

**Q. Second/Final reading Ordinance #08-5466 for Zone Change #839:** Approval of a zone change and adoption of the 12 criteria for a change from Residential 9600 (R-96) to Neighborhood Commercial (NC) on Lots 3 through 7, Block 9, Central Acres Subdivision, 5<sup>th</sup> Filing, located at 3133 Central Avenue. Charles Haynes, Ira & Ruth Park, and Alan Oster, owners; Gerald Neumann, agent.

**R. Second/Final reading Ordinance #08-5467 for Zone Change #840:** Approval of a zone change and adoption of the 12 criteria for a change from Residential Multi-Family-Restricted (RMF-R) to Residential Professional (RP) on Lot 4A, Block 2, Goodman Subdivision, 4<sup>th</sup> Filing, described as a 67,110 square foot parcel of land on the southeast corner of the intersection of 41<sup>st</sup> Street West and Avenue C. Randall Swenson, Steve Repac and Jeff Muri, owners; Engineering, Inc., agent.

**S. Second/Final reading Ordinance #08-5468 for Zone Change #841:** Approval of a zone change and adoption of the 12 criteria for a change from Residential 7000 (R-70) to Entryway General Commercial (EGC) on Lot 1, Block 5, Pinnick Subdivision, 3<sup>rd</sup> Filing, less the north 110 feet; described as a 3.043-acre parcel generally located on the northeast corner of the intersection of Newman Lane and King

Avenue East; Christ the King Lutheran Church, owner; Kristin Omvig and Jared LeFevre of Crowley, Haughey, Hanson, Toole & Dietrich Law Firm, agents.

**T. Second/Final reading Ordinance #08-5469 for Zone Change #842:** Approval of a zone change and adoption of the 12 criteria for a change from Residential 9600 (R-96) to Entryway General Commercial (EGC) on Tract 1 of C/S 2350; a 4.34-acre parcel generally located on the northeast corner of King Avenue East and Calhoun Lane; Robert Medvec, owner; Kristin Omvig and Jared LeFevre of Crowley, Haughey, Hanson, Toole & Dietrich Law Firm, agents.

**U. Second/Final reading Ordinance #08-5470 for Zone Change #843:** A text amendment to Section 27-1502(b) of the Unified Zoning Regulations requiring that a pre-application neighborhood meeting be held within a 2-mile radius of the subject property of a proposed zone change.

**V. (a) Second/Final reading Ordinance #08-5471 Model Cable TV Ordinance.**

**(b) Second/Final reading Ordinance #08-5472** repealing existing Cable TV Franchise Ordinance and enacting new Franchise Ordinance with Bresnan Communications.

**W. Preliminary Plat** of Tract 1 of C/S 1531 and Tract 2 of C/S 193, Chalice Acres Subdivision, conditional approval of the plat and adoption of the Findings of Fact.

**X. Final Plat** of Brookshire Subdivision.

**Y. Cancellation** of Checks and Warrants, \$24,380.49

**Z. Bills and Payroll**

- (1) May 9, 2008
- (2) May 16, 2008

**(Action:** approval or disapproval of Consent Agenda.)

Councilmember Stevens separated Item A. Councilmember Ulledalen separated Item R. Councilmember Veis separated items S and T. Councilmember Astle moved for approval of the Consent Agenda with the exception of items A, R, S and T, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved for approval of Item A of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember Stevens asked Staff if there were more than six applicants for the vacant positions on the boards and commissions. Mayor Tussing said only six applications were received and fortunately everyone who applied was qualified. He noted there were still openings and he was grateful for the individuals who submitted applications. Councilmember Clark asked if there were

applicants for the other vacancies. Mayor Tussing said nobody else applied. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved for approval of Item R of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember Ulledalen stated he abstained from the first reading vote and would do the same for the second reading. On a voice vote, the motion was approved 10-0. Councilmember Ulledalen abstained.

Councilmember Astle moved for approval of Item S of the Consent Agenda, seconded by Councilmember Gaghen. Councilmember Veis said Council didn't need to fight the battle again but he wouldn't vote for the item. On a voice vote, the motion was approved 8-3. Councilmembers Gaghen, Stevens and Veis voted 'no.'

Councilmember Astle moved for approval of Item T of the Consent Agenda, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8-3. Councilmembers Gaghen, Stevens and Veis voted 'no.'

## **REGULAR AGENDA:**

### **2. Resolution #08-18715 ordering construction of improvements for W.O. 02-08, Milton Lane School Route, \$480,500 total project cost. (Continued from 5/27/08) Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Deputy Public Works Director Vern Heisler reported that information about that item was sent to Council and the Mayor in the last Friday packet. He advised that public notices were sent to all affected landowners on May 1; a corrected notice was sent a few days later; an informational meeting was held at Bench Elementary May 7, where a 24x36 poster board illustrated the project. He said a question came up at the previous Council meeting regarding the right-of-way which was 60 feet wide. He said there were 16 lots assessed with 14 owners. He said progress meetings were also held with the principal of Bench Elementary regarding the entrance to the school. He mentioned some landowner concerns:

- ✓ **Tammy Reichert** was concerned about the size of the SID for her mother. Information was provided to her regarding CTEP and CDBG programs that could help with the cost.
- ✓ **Loretta Ramus** raised questions prior to the public information meeting and those questions were addressed at the information meeting regarding length of time and interest rates.
- ✓ **Denise Mehia** said she didn't receive the notices that were sent. Mr. Heisler said she received her mail at her business office and the tax listing had the house listed as her mailing address which was where the notices were sent. He said when that was discovered, copies were provided to her. She also expressed concern about a tree in her yard. Mr. Heisler said it was on her property and she was informed the City could work with her to get it trimmed.
- ✓ **Janet Croy** owns a day care and expressed parking concerns. Mr. Heisler said City officials were working with her on that issue.
- ✓ **Joe & Tracy Seward** raised questions about their hedge located on the property line. Mr. Heisler said the City would work with them on the hedge. He said voice mail messages had been left for them but they hadn't responded yet.

Mr. Heisler said another question raised at the last meeting was about the funding. He said the assessed cost of \$67,000 would be eliminated if the project went away. He noted that CTEP's \$125,000 didn't have to be spent by a specific date even though MDT wanted those projects completed as soon as possible. Mr. Heisler said unspent CTEP funds went back and were reallocated when applications were received. Mr. Heisler said the storm drain and gas tax funds were City funds that could be used as needed. He said the CDBG funds for the storm drain had an expiration of November 1. He said unspent funds were handled the same as CTEP funds.

Councilmember Pitman advised he visited with residents on that street and wondered how many actually applied for any assistance. Mr. Heisler said he didn't know that. Councilmember Pitman noted that some residents were elderly and on fixed incomes. He said many of the issues that were raised were answered, but the financial part was probably still a concern for some. Mr. Heisler stated that property owners that asked were informed of the possible grant opportunity.

Councilmember Ulledalen asked Mr. Heisler what the project accomplished. He said he knew the CTEP grant addressed the safe school crossing but wanted to know about the rest of the project. Mr. Heisler said there were stormwater issues there that would be addressed with the project. He added that when the project was complete on Lake Elmo, it could be tied into that. He said the sidewalks, stormwater and street improvement were the main things. Councilmember Stevens said to put it into perspective, she went to grade school there and the lake was there back in those days.

Councilmember Ulledalen moved for approval of Item #2, seconded by Councilmember Gaghen. Councilmember Pitman noted that since he missed the previous meeting, he missed some of the discussion. He said he and Councilmember Stevens also missed the public information meeting as well. He said that as long as those issues were addressed and the neighbor's hedges, trees and property line issues were taken into account, he felt it was a good project. Councilmember Veis said it was important to be sure that those folks were aware they were allowed to apply for a CDBG grant even though he was sure it was part of the process. Councilmember Ulledalen pointed out that the landowners were picking up only 13% of the costs of the total project which was lower than typical assessments in other parts of the community. He said by reading the staff memo and the opposition to the project, he wondered if it was something the people wanted to move forward with.

On a voice vote, the motion was unanimously approved.

**3. Public Hearing and Resolution #08-18716 approving the disposal of City property, approval of Right-of-Way Easement and Right-of-Way Agreements to Montana Department of Transportation for Airport Road Project MT 009. Subject property is described as 11 acres adjacent to the existing Highway 3 Corridor, beginning at the east end of the Airport property and west to approximately the Airport Operations Building, \$184,400 revenue, less \$23,775 returned to the FAA, for net revenue of \$160,625. Staff recommends approval. (Action: approval or disapproval of staff recommendation).** City Administrator Volek said that any time the City disposed of property, even if it was to another government entity, a public hearing was required. She advised Staff didn't have a presentation, but was available

for questions. She noted that the public hearing for the Shiloh Road right-of-way dedication would be set at the next Council meeting on June 23.

Councilmember McCall said her question wasn't specific to the City's property, but asked if it was possible for Staff to provide an update on the other right-of-ways with the Airport project. City Administrator Volek said she understood from Staff present that the remaining items had already gone through Council.

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

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

**4. Public Hearing and Resolution #08-18717 adopting a new fee schedule for various applications and services rendered by the Planning Division. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Planning Director Candi Beaudry advised that at the June 2, Work Session, Council requested revision of planning fee increases from the initial request of 10% to 40%. Ms. Beaudry explained that the 40% came from an evaluation of the increased costs since 2003 when the fees were last increased. She said the time for each step of the process was multiplied by the hourly cost of each planner, and an administrative fee was added. She said in those five years, personnel costs increased at the rate of 8% each year for a total of 40%. She said the fee schedule was adjusted to reflect the actual cost. Ms. Beaudry said an analysis was also conducted of the time it took to review certain applications which confirmed that the previous time estimate was still the same. She said communities outside the State weren't considered. She said it was determined it was difficult to compare out-of-state applications to ours because the zoning and permit fees were so different, so it would be a comparison of apples to oranges.

Ms. Beaudry said the fee request presented at that meeting was for a 40% increase. She said that would eliminate the need for the General Fund transfer to the Planning Department if the projected number of applications was correct, and if the County Commissioners also approved the 40% increase. She said 30-40% of the fees were from County applications. She said the 10% request was presented to the County Commissioners who were in general agreement with it but wanted to hear what City Council had to say first. She said the 10% increase was also taken to the Development Process Advisory Review Board (DPARB) and to the Planning Board. She said the 40% increase had not been presented to any boards or commissions.

Councilmember Veis said the reason for the increase was because the City would have to transfer General Fund dollars to the Planning Department. He asked if the County Commissioners had agreed in the past to transfer money from its general fund to support county planning. Ms. Beaudry said it hadn't happened in her tenure with the City/County Planning Office. Councilmember Veis said that meant they weren't willing to do the same things as proposed by the City. Ms. Beaudry said the County wasn't asked.

Councilmember Ruegamer asked if Ms. Beaudry would email him a list of the DPARB Board membership and when it met.

Councilmember Ronquillo asked about the minor subdivision pre-application meeting that previously had no fee associated with it and what an applicant got for \$200. Ms. Beaudry responded that the pre-application meeting was required by State statute. She explained that the documents were reviewed and distributed to the affected departments, and then the meeting was held that usually lasted one to two hours and included the developer, the utility company, City departments and any other organization that could be affected. She explained that the information was then compiled and returned to the subdivider. She said between that meeting and the submittal, the Planning Department worked with the subdivider to make sure the submittal was in conformance with the comments received. She said it could be accomplished in one meeting and in many cases, it took one formal meeting and a lot of phone calls. She said what the person got for that meeting was insurance that when the application was submitted, it was complete and sufficient for review. Councilmember Ronquillo asked if there was a charge for a second meeting to finish up if necessary. Ms. Beaudry responded that once the application was formally submitted, there was another department review of all the formally-submitted documents. She said the idea was to identify any red flags during the initial pre-application meeting. She added there were instances when developers wanted to negotiate items or wanted to do things other than the way Staff did, so incorrect applications were still received. She stated it was an involved process that took about three months to complete and when it came to Council, all those details were ironed out. Councilmember Ronquillo asked if that was the first time that \$200 fee was charged. Ms. Beaudry said the pre-application fee had not been charged previously. Ms. Beaudry said that fee was common in the State and she knew that Laurel charged \$1000 for it. Councilmember Ronquillo said he understood and felt it was time to start making some money. He said he understood that developers might get upset if they came back more than once and had to pay \$200 every time, but he was sure Staff tried to work everything out during the first meeting. Ms. Beaudry said the department hoped the fee was incentive for only one meeting.

Mayor Tussing asked Ms. Beaudry if Billings could be compared to other cities since it was difficult to make the comparison with other states. Ms. Beaudry said a comparison was done in 2006 to determine if Billings was in the ballpark. She said Billings was low but she hadn't gone back to look at the exact rates.

City Administrator Volek advised that in response to Councilmember Ruegamer's question, the DPARB was created by a previous City Administrator and it reported to City Administration. She said it included representatives of heavy contractors, title companies, realtors, builders and other groups that reviewed processes to make sure they're adequate. She said the group also discussed issues such as curb widths and matters that were part of the construction process, and it was an advisory board to the Administrator's office, not the Council. She said she could provide the membership list.

City Administrator Volek pointed out that the budget resolution to be considered later in the meeting was the one in which staff recommended the 10% increase and a small transfer of \$41,000 from the General Fund to the Planning Department to avoid an increase in the 40% range. Mayor Tussing confirmed that approval of Item #4 would require modification of the budget. Ms. Volek said that was correct if the 40% fee increase was approved. She noted that the original documentation contained a 10% fee increase. Councilmember Veis clarified that a \$75,000 transfer from the General

Fund to the Planning Department without a fee increase was the original proposal; the second option was a \$41,000 transfer with a 10% fee increase; and the option before Council that evening consisted of no transfer from the General Fund to Planning, all budgeted through increased Planning Department fees. Ms. Volek added that it also included less certainty because the department wasn't certain what applications it would receive so reliance on that large amount could be questionable.

Councilmember Stevens asked if the 40% increase was reflective of a 40% increase in personnel costs. Ms. Beaudry said that was correct. Councilmember Stevens asked what time period that covered. Ms. Beaudry responded it was over five years. Councilmember Stevens said that averaged 8% per year and asked what made up that 8%. Ms. Beaudry replied that it was largely from the 5% step increase for each planner and the COLA increases. She said the staff changes also figured into that because a Planner I and a Planning Assistant were added rather than increasing the number of Planner IIs. She said she didn't know everything in detail because she got the number from HR. Councilmember Stevens asked for further explanation of the step increases and where Planner I versus Planner II was on the totem pole. Ms. Beaudry responded that Planner I was the lowest of the planners and there was a Planning Assistant also. She explained that the City wage scale had seven increases in step and a new hire generally started at Step 1. She said employees qualified for a 5% increase based on their evaluation and a 5% increase moved the employee to the next step. She said the 5% increase was typically granted. Councilmember Stevens said it was based on the performance evaluation so that meant that everyone performed such that everyone received the 5% increase. Ms. Beaudry said that was correct.

Councilmember Astle said a one-time transfer of \$75,000 was needed but a 10% fee increase dropped that transfer amount to \$41,000, which meant that a 10% increase brought in \$34,000. He noted that 40% would be four times the \$34,000 for a total of \$136,000 when only \$75,000 was needed. He said he wasn't saying the City wasn't entitled to charge that much to builders and developers who were doing well, but he wanted to know how it went from \$75,000 to \$136,000. Ms. Beaudry responded the actual costs of the increases were estimated and the department wasn't looking at simply erasing the General Fund transfer, but wanted to build on a rational basis which meant the amount of time actually spent on the application review. She said she agreed the 40% increase would bring in more. She said she actually figured the 40% increase would bring in \$76,000 which didn't include the new revenue from the subdivision pre-application meeting fees and a master site plan review fee. She said the pre-application meeting was figured in but there wasn't a cost for the master site plan review fee yet, so that wasn't calculated. She said if estimates on the number of applications received were correct, the needed \$75,000 would be exceeded. Councilmember Clark asked if extra funds would be used to rebuild reserves. Ms. Beaudry said that was correct; it was the number one priority.

Councilmember Veis asked Ms. Beaudry if she did any math to determine what percent increase was needed to erase the \$75,000 transfer. Ms. Beaudry said a 20% increase would generate \$38,000. She said it was difficult to determine because the number of pre-application meetings had to be estimated and because she had figures for 20% and 40%, it was somewhere in between. Councilmember Veis said the best guess would probably be a 30% increase and he knew that was dependent on the

number of applications. Ms. Volek said there could be some dampening effect within the charter. Councilmember Ulledalen asked how many items had State-mandated timelines. Ms. Beaudry replied that only the preliminary subdivision applications had a mandatory timeline, which was a major subdivision and minor preliminary plat application.

Councilmember Veis asked how Ms. Beaudry saw the City proceeding if the County Commissioners weren't happy with the fee increase, especially if a budget was based on it. Ms. Beaudry said the budget was an estimate and the department could possibly not meet the estimate and still need a General Fund transfer. She said it would be explained to the Commissioners. She said that in the past, the City increased fees and the County didn't, so there was a split fee schedule. She said that was for only one type of permit and wasn't too difficult. She said if the department didn't get what it needed from the County; the fees would remain the same or increase only 10%. Councilmember Veis asked what fee schedule would be used if the City approved a 40% increase and the County approved a 10% increase. Ms. Beaudry said a split-fee schedule would be kept because County applications were kept separate from City applications. Councilmember Veis asked what she thought the County's response would be if a 10% fee increase was adopted and wasn't enough, and if the County would be willing to transfer money from its general fund to help with the Planning Department budget. Ms. Beaudry said she couldn't speak for the County Commissioners but she hadn't asked that question.

Councilmember Ulledalen asked if there was any sense of June numbers. He said the May report reflected a 47% decrease in single family building and commercial was down 15%. Ms. Beaudry said building always followed the subdivision and zoning applications and those were a little low. She said there were only four zoning applications, but two major subdivisions were received - one City and one County. She said the City subdivision was Tuscany Subdivision which was a re-submittal. She said her feeling was that developers proceeded very cautiously these days. She said there were numerous pre-applications and although quite a few were in the que, not all went forward with an application. She said there would be four pre-application meetings during the current week which was typical, and if they all came to fruition, the estimates would be exceeded.

Councilmember Stevens asked what percentage of the budget was attributed to personnel costs. Ms. Beaudry said it was about \$800,000, which was about two-thirds. Councilmember Stevens said for \$800,000 and an automatic 8% raise each year, the budget increased \$64,000. She said she was concerned about the COLA because it was automatic each year and it sounded like the step increase was too. She said there wasn't a bell curve and it seemed like everyone got it with few exceptions. Ms. Beaudry said when she was Division Manager she gave 5% to less than half. She said employees could qualify for 5% but if there was some reason the person didn't perform to get that amount, they didn't get it. She said the 5% was what people could qualify for so that was what had to be budgeted.

Councilmember Veis asked if the 40% increase was based on increased personnel costs or increased cost of time to complete the tasks. Ms. Beaudry said the time hadn't changed and that was verified, so it was based on personnel costs.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue** said he would like to see the minor plat subdivision fee of \$200 revised. He said it could be just a person that had a lot to subdivide and it set a bad precedent that an ordinary person walked in and had to swipe his credit card for \$200 just to get in the door to talk to the department. He said it set a real bad precedence in the City for someone who was supposed to serve and help people, not just take the money. He said he felt there could be a different type of schedule or fee structure for the smaller people that needed help. He said earlier when he said the City wanted \$76,000, what he was trying to get to was the fact that about \$200,000 was spent to put the water main in the street. He said even though they would pay a system development fee that anyone had to pay, the water line was stubbed onto the property and the water line was free and all they had to do was pay the system development fee. He said without recourse, the City wouldn't get any money back because a development agreement wasn't signed. He said the City essentially provided a free service and anyone else in town had to pay that fee to have the water main put in the street. He said that was what he was trying to get to; that a free service was provided without any recourse to get the dollars back. He said the people could pay the system development fee and start digging. He said no one else got that latitude or courtesy. He said he was concerned about that zone change and the fact that the City didn't properly cover itself with costs that could be associated with it if it didn't come together.

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

Councilmember Ruegamer moved for approval of Item #4, seconded by Councilmember Ronquillo. Mayor Tussing noted that clarification of the percentage of the increase was needed. Councilmember Ruegamer restated his motion and moved for approval of Item #4 with the 40% increase, seconded by Councilmember Ronquillo. Councilmember Veis said he didn't have a problem with the fees but felt it was done in a short timeframe. He said the development community should be engaged and that group should have a chance to comment on it. He said the way the City went about it was not underhanded but quick in light of the fact that it was budget season. He said if there was a way to work it out to engage that group to have a discussion, it should be done. Mayor Tussing said it wasn't a bad thought since Council instructed Ms. Beaudry to revise the fee schedule just a week ago. He asked if there had been feedback or if anyone even knew the 40% increase was considered. Ms. Beaudry said it was in the newspaper that day and the 10% increase was taken to DPARB and the Planning Board. Councilmember Stevens said she was going to say the same things Councilmember Veis said that there wasn't public notice on the 40% other than the story in that day's newspaper and if anyone looked at the agenda online, the 10% increase was what they saw. She said they might not show up at the meeting for a 10% increase, but some people might want to show up for the 40% increase.

Councilmember Stevens advised she also had a concern about the minor subdivision fee. She said she had done minor subdivisions in other counties. She asked Ms. Beaudry what was discussed at the pre-application meeting. She said it wasn't required in Big Horn County when she did them. Ms. Beaudry said the

requirement for a pre-application meeting was put into the legislation in 2005, but the City held them prior to that time. She said the idea was to identify any potential problems or needs that hadn't been considered by the developer; reviewed the time frame and basically lined them out so when the submittal was received it wasn't in such a state that corrections had to be made back and forth. She said it was also a time for the developer to evaluate whether it wanted to go through the subdivision process. Councilmember Stevens asked if a developer had to pay the fee again to return with a corrected minor plat application. Ms. Beaudry responded that there wasn't a fee for a resubmittal unless the developer wanted another pre-application meeting. Ms. Beaudry said developers were given a certain time frame to make corrections. Ms. Beaudry said the pre-application meeting was designed to streamline the process and had less delay for the developer and made him/her aware of the requirements. Councilmember Stevens said it helped an inexperienced developer but for an experienced developer it was actually more onerous. Ms. Beaudry said that was possible; but there was always the possibility that a two-lot subdivision had significant issues.

Councilmember McCall said the 2005 legislation was intended to provide continuity and consistency to the process and education. She said she felt it was a useful part of it and there was a lot of effort that went on in terms of a legislative work group that brought the bill together. She said it occurred on a state-wide basis. She said one of her questions about the proposed fee, was if it was possible to consider a sliding scale depending on the issues that came forward. Ms. Beaudry said it would be difficult to say one situation was less complex than another which wasn't always the case. She said it was based on averages but the same process had to be followed and the same people were at the table. She said regardless of the list sent to the developer, it still took an amount of time.

Councilmember Ulledalen asked if there was any sense of what percentage of the regulatory process was attributed to the State and what percentage was attributed to the County or the City. Ms. Beaudry responded that the State gave local governments the authority to develop its own regulations, particularly in subdivisions. She said about half was State mandated and about half was local. She said that was a guess. She said an example was that in the County, it was required to have roads paved in subdivisions that adjoined paved roads and the State was silent on that issue. She said that was the level of detail regulations went into beyond what the State set.

Councilmember Pitman said he was concerned if the fees increased 40% and the County stayed at 10%, there would be a mass exodus and huge subdivisions built just outside the City limits which then created a new set of headaches for the City. Ms. Beaudry said that could happen. She noted that the application fee was a very small part of the total development process. She said there were already more lenient regulations in the County and some developers knew it and stayed there. She said her hope that night was that the 10% increase was approved which allowed time to obtain some public input on the 40% increase.

Councilmember Stevens asked if it was still possible in certain circumstances to skip the preliminary plat application and go straight to the final plat. Ms. Beaudry said it was. Councilmember Stevens said if she was a good applicant and qualified for it, she would skip the preliminary and go straight to final for \$250. She said if that she had to resubmit her application and had to pay another \$250, she was into it for \$500 and if

she went through both steps it would have cost \$800. Ms. Beaudry said in most cases developers would be informed if they qualified for expedited review and that was encouraged.

Councilmember Veis asked if the 10% increase was approved along with the General Fund transfer of \$41,000, if it was possible to have a good sense about proceeding with the 40% increase by the end of the first quarter after the development community had been engaged. Ms. Beaudry said it wasn't a busy time of year but when the steady flow of applications was expected. She said there should be an idea of the total number by then.

Councilmember McCall proposed an amended motion to go back to a 10% increase and to implement the new fees as distributed in the document, seconded by Councilmember Ruegamer. Councilmember Pitman asked if that was needed because he thought if it was voted on, it was automatically in the proposed budget as already stated. There was consensus that it needed to be voted that way. Councilmember Clark said if the 40% was looked at later, there probably wouldn't be enough fees collected in the budget year because the majority of the activity to collect fees would already be done since the busy time of year passed. Councilmember Veis asked Ms. Beaudry how many applications she could expect between July 1 and October 1. Ms. Beaudry said there would probably be about 5 zoning applications each month. Councilmember Veis said the \$41,000 transfer would probably still have to occur because the bulk of the fees would have been collected in the first quarter. Ms. Beaudry said if the estimates were exceeded, the General Fund transfer could be reduced. Councilmember Veis asked for a best guess of how much the General Fund transfer could be reduced through budget amendment if the 40% increase was approved after the first quarter. Ms. Beaudry and Ms. Volek agreed that 40-50% of total fees may be collected during that time since that was typically a busy time.

Councilmember Stevens said she had a question of Council. She said everyone knew the housing market was getting soft and in other parts of the country, 10% of the homes were in foreclosure. She said she hoped it wasn't coming to Billings but didn't know if it wasn't. She said she had concerns that during with state of the economy, there was talk of increasing fees by 40% on a segment of the industry that may be looking at tough times. Councilmember Ulledalen said that might be mixing issues. He said there was debate of how much property was annexed in the City and that houses could be built for 15-20 years without annexing another piece of property. He said his issue was that the budget was driven by new projects and annexations and there may not be many of them, which really wasn't part of that discussion. Councilmember Clark said a majority of those foreclosures were from poor loans, that were poorly done to begin with, not the cost changes. Councilmember Gaghen said the report of last month was that throughout the nation there was a bit of an upsurge so it more or less flattened and was now rising again. She said most of those homes were probably overpriced and the loans were more solidified now.

On a voice vote, the substitute motion of the 10% fee increase and approval of new fees was approved 8-3. Councilmembers Gaghen, Ulledalen and Astle voted 'No.'

Councilmember Veis asked if Council Initiative was needed to seek public input and proceed with the possible 40% increase. City Administrator Volek said Staff would move forward on it.

**5. Public Hearing and Resolution #08-18718 setting FY 2009 mill levy rates for the General Fund, Transit Operating Fund, Library Operating Fund, and Public Safety I Fund. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

City Administrator Volek advised that two of the funds, Transit Operating Fund and Public Safety I Fund, had remained the same for a number of years. She said the budget presentation later in the evening would explain slight modifications to the General Fund and the Library Fund in the way the mills were distributed but the total mill amount didn't change. She said there was no other presentation, but Staff was available to answer questions. Mayor Tussing asked Ms. Volek to confirm that there wasn't an increase in the number of mills. Ms. Volek said that was correct; there was a change in how a couple were distributed, but no change in the number levied.

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

Councilmember Veis moved for approval of the resolution setting mill levy rates with the updated rates of 74 for General Fund, ten for Transit Fund and five for Library Fund and 20 for Public Safety I, seconded by Councilmember McCall. Councilmember Ronquillo commented that there was a meeting the previous weekend at the Senior Center and he talked with some seniors. He said a gentleman mentioned that it only cost him \$3 to ride the MET bus for a month. Councilmember Ronquillo told the man that he learned at a recent work session that it cost the City about \$4.18 per trip. Councilmember Ronquillo said the man told him the City should increase the cost. Councilmember Ronquillo said with the price of gasoline the way it was and it being a losing entity, even though he knew there were restrictions, it was pretty cheap. He asked if an increase was considered. City Administrator Volek said the mill levy was capped by voter approval. She said fare increases and routes were currently part of the transit study. She noted that fares yielded only a small portion of what it cost to operate the system. She said reserves were used in that fund for the current year. Ms. Volek said the next agenda would include the funding request to the federal government that paid about 35%. She said fares were looked at and other adjustments to make it more cost effective.

On a voice vote, the motion was unanimously approved.

**6. Public hearing and Resolutions setting annual FY 2009 assessments for the Park Maintenance Districts-#08-18719; Light Maintenance Districts-#08-18720; Fire Hydrant Maintenance-#08-18721; Street Maintenance-#08-18722; Storm Sewer-#08-18723; Arterial Construction-#08-18724; Business Improvement District-#08-18725; Residential/Commercial Collection, Disposal, and Landfill Fees-#08-18726; and Tourism Business Improvement District-#08-18727. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

City Administrator Volek said of the fees in front of Council, the arterial construction fee was increased 10% for an annual total of \$39 per normal household and the street light and park maintenance districts were adjusted annually depending on the needs within those individual districts. She said the remaining fees

were at the same level as the prior year. She said there was no presentation, but Staff was available to answer questions.

Mayor Tussing asked for a brief explanation of the need for the 10% arterial construction fee increase. Deputy Public Works Director Vern Heisler advised that the current assessments were about \$2.6 million and a 10% increase would net about \$260,000. He said the increase costs of oil and construction meant that the project money didn't go as far as it did in the past and an increase would help get projects back on track. He said Council saw what happened with the CIP last year that was \$4 million in November and it would have to be reviewed and presented to Council again. He said the increased arterial fee would help the capital projects. Councilmember Ulledalen asked when it was originally implemented and if it was ever increased before. Mr. Heisler said he didn't believe it was increased and was implemented about three years ago. Ms. Volek said that prior to the implementation of the fee, arterial improvements were funded through a Special Improvement District with the surrounding property owners and didn't take into account that people who lived on interior streets also used those roads as well as the arterial road residents. She said the fee was devised by the Council and she believed it was looked at as a model by other communities in the State to provide basic funding for major roads in the community. Councilmember Clark asked if it came up when looking at Shiloh Road. City Administrator Volek said that was when it was devised because an SID wasn't acceptable on Shiloh.

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

Councilmember Stevens moved for approval of Item #6, seconded by Councilmember Ruegamer. Councilmember Ulledalen said he felt a philosophical discussion was needed at some time about what to do with those things. He said that was the first increase of 10% and he thought the costs during the same period of time had risen about 40%. He said with the cost of services study, the budget study and review, it was time to take a hard look at it because it fell into line with how to pay for growth and maintain what was in place. He said he would support a 10% increase but thought a harder look needed to be taken at the street maintenance fees, how they were assessed and what State law changes needed to be implemented in order to shift the burden more from residential to commercial users. Councilmember Gaghen said she agreed with Councilmember Ulledalen's comments. She said when she looked at the Billings garbage collection rates as compared to other cities of similar size within the state and region, Billings was a bargain and everyone knew that it was one of the most beneficial services. She said she wanted to consider recovering more of those costs in the next budget year, not to profiteer, but she said she didn't see how the City could afford to continue with the current structure. Councilmember Stevens said Garbage and Solid Waste were Enterprise Funds and should cover their own costs. Ms. Volek said that was true. Councilmember Stevens said those operations did a good job.

Councilmember Stevens stated she had a question about the lighting maintenance districts. She said the City tried to recover 100% of all the lighting costs and asked if there was an idea of how much the lighting districts were anticipated to increase. Ms. Volek responded that it would actually depend on each district and the extent of lighting because some were residential lighting and the downtown lighting was

obviously more intense. Ms. Volek said the total budget increased about \$200,000. Councilmember Stevens said she kept wondering how long the City could continue to light little-used residential streets all night long. She said that would probably come down to the residents on those streets and how much lighting they wanted. Ms. Volek said some of it was that in the newer neighborhoods, the fees collected were still paying for the physical construction costs. She said as costs increased, that might be a consideration. She said she wasn't aware that there had been a request to have one withdrawn, other than the downtown district that was looking at an alternative that would be City-owned and paid for.

On a voice vote, the motion was unanimously approved.

**7. Public Hearing and Resolution #08-18728 approving and adopting the FY 2008-2009 Budget. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek advised that night was one of the most significant evenings in the City's year because the City Council would consider the resolution for the proposed 2009 budget. She said it was the culmination of two months of hearings and discussions with Staff and among Council. She noted that the Chamber joined the Council in the review during the current year. She said a letter was received from that group as well. Ms. Volek presented a PowerPoint review that highlighted revenues and expenditures. She said total revenue in all funds was \$220 million and the single largest source was charges for services at 35%, followed by debt proceeds, then inter-governmental. She said expenditures in all funds totaled \$232 million, and the largest portion of it was capital followed by personal services, and then operations and maintenance at 22%.

City Administrator Volek displayed a comparison between 2008 and 2009 for personal services. She said non-bargaining salaries increased \$606,000 and benefits increased \$175,000 for a total of \$781,000. She said police salaries increased \$462,000; benefits increased \$143,000 for a total of \$605,000. She explained that the fire department budget currently included benefits only because contract negotiations were in progress and nothing was currently budgeted for salary increases for firefighters. She said the number would be brought forward after negotiations were complete and that number would require a transfer from the City's reserves. Ms. Volek advised that Teamster's wages increased \$993,000 and benefits \$410,000 for a total of \$1,403,000. She said the City-wide increase was \$2,831,000.

City Administrator Volek said gas and diesel costs presented significant challenges to the budget. She said one change reflected was the March closure of the downtown TIF district. She said the total of operations and maintenance of all funds was \$50,566,000. She said several major CIP projects were included in the plan, most of which Council was aware of and were displayed in her presentation. She said many were the culmination of several years of planning. She said proposed fee and assessment changes were reviewed by Council. She said water and wastewater fee increases were approved by Council previously; arterial fees were discussed earlier in the meeting as were park maintenance, street light maintenance districts and the planning fees.

City Administrator Volek said the General Fund revenue was a significant amount of money, \$30,698,000 and the single largest source of income for that fund was taxes at 40%, followed by inter-governmental at 27% and licenses and permits at 11%.

City Administrator Volek reviewed the General Fund expenses and said inter-fund transfers totaled 62% and the primary item was the transfer from the General Fund to the Public Safety Fund. She said the inter-fund transfers were \$19 million and of that, the Public Safety transfer was \$18.5 million. Ms. Volek said operations and maintenance expense was 13% and personal services were 24%. She noted that in that fund, the capital represented only 1%.

City Administrator Volek reviewed revenues in the Public Safety Fund. She said the major source was the \$18.5 million transfer from the General Fund and additional sources included two levies passed in past years. Councilmember Stevens asked if there was a projection based on the current rate when it would be necessary to seek more money for public safety. Ms. Volek said the additional transfers had been calculated; and there was one more year of increase because it was the fourth of the five-year set of levy increases. She said what wasn't calculated or known was what the effect of reappraisal would be. She said one levy would be impacted by the reappraisal. Councilmember Stevens said she saw that O&M was down a bit and she assumed some equipment was sacrificed for that but personnel costs kept rising. She asked when taxpayers would be asked for more public safety mill levy money based on the increases in personnel costs. Ms. Volek said some projections were provided but primarily the transfer from the General Fund was what was considered. She said it was anticipated that by 2012, the transfer couldn't be increased and alternative revenue would be needed. Councilmember Stevens said that would be in four years.

City Administrator Volek reviewed expenditures in the Public Safety fund and stated that 79% of the expenditure came from personnel. She said operation and maintenance, transfers, debt service and capital were a small portion of those items.

City Administrator Volek advised that changes that had been reflected in the item before Council that evening included the levying of 74 all-purpose mills in the General Fund. She said that previously, 69.5 mills were levied and another 4.5 mills were given directly to the Library. She said in accordance to Council's instruction, the General Fund amount was raised to 74 all-purpose mills. She said the proposed transfer was \$795,392 to the Library Fund from the General Fund. Ms. Volek added that \$20,000 was budgeted for a citizen's survey and the Planning Department transfer was reduced by \$34,000. She noted the Library mills were reduced by 4.5 and the revenue was increased to reflect the transfer from the General Fund. She said the planning fees approved earlier in the evening provided for the transfer of \$41,000, not \$75,000, from the General Fund to the Planning Department. She said staff recommended approval of the resolution as presented.

Mayor Tussing pointed to the notebook that contained the budget documents and said about 20 hours were spent in discussion in addition to reading time. City Administrator Volek added it was the culmination of two months of work with Council and Staff and many hours by Staff.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue**, said the budget item he wanted to address was the capital outlay of \$4.5 million for the widening of King

Avenue. He said he wondered if the Council was prepared to allocate that kind of money with the risk that the money may have to be spent if the tax increment district financing didn't pass. He said the TIF dollars might not be available to reimburse that capital improvement project money. He said he was a little concerned that in the development agreement entered into with Foursquare Properties on September 10; one of the State provisions to have a tax increment district, urban renewal district and a development agreement was that the urban renewal plan offered recourse to the municipality if the redevelopment was not completed. He said that language wasn't present in that document. He said the May 4 Billings Gazette quoted Finance Director Pat Weber as saying he agreed to pay off that share of the bonds if the project fell through, but when asked, Foursquare didn't address it. He said developers needed to put a backstop in place and hadn't. He said if the project didn't go through and the bonds weren't available, the Council was rolling the dice with \$4.5 million. He said he thought Council felt in its heart that the district would be approved and the City could be reimbursed the \$4.5 million that it considered allocating for that project. He stated that D.A. Davidson said bonds were risky. He said he was concerned about whether Council thought through the process properly and was willing to roll the dice knowing it hadn't dotted all the i's or crossed all the t's with the urban renewal district and if it didn't come through there was an SID across the street. He stated he was also concerned there wasn't an SID on the other side of the street and \$200,000 was spent for a water project without recourse for revenue to come back. He said it was another quick try-to-get-it-done thing and the process wasn't thought through very well.

City Administrator Volek advised that staff was very careful in monitoring and hadn't issued contracts for the majority of the construction on that project. She said staff was working with bond counsel and the bonding agencies and was seeking additional guarantees from the developer against the costs to help bridge the project. She said the City was proceeding very cautiously and she stressed that the majority of the construction for that project hadn't been bid or awarded yet and wouldn't be until the bonding was secure.

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

Councilmember Pitman moved for approval of the resolution approving and adopting the budget for FY 2008-2009, seconded by Councilmember Veis. Councilmember Clark said everyone worked hard on the budget and it was probably where it could be. He expressed his concern about spending reserves and was afraid it would get to the point that the City borrowed money to pay salaries and then interest would have to be paid on top of that until the next tax revenue came in. He noted that some place along the line, the City had to be more prudent with reserve spending. He said it seemed like even though the City didn't collect enough money, everyone was entitled to have the budget that was being voted on. He said he didn't like the looks of the next few years.

Councilmember Ruegamer said there was a plethora of numbers that meant very little to the public. He said the charts and documents wouldn't be reviewed by the public

so he wanted to deal with some real numbers. He said the presentation showed \$220 million in revenue and \$232 million in expenditures which was a \$12 million shortfall and he guessed 65-80% of the expenses were wages. He said wages were increasing 8-10% each year because of step and COLA increases and revenues grew at 2%; anyone could tell that meant the City would go broke. He said when the City started borrowing, it was broke. He said the federal government had done that for too many years and the debt hadn't been recognized by people who ran for office. He said issues had to be faced soon because the reserves would be gone soon. He said he asked Mr. Weber for projections of when the reserves would run out. He said the decisions had to be made this year and from now on. He said the City couldn't keep waiting and the reason things were the way they were now was because past Councils didn't face the issues.

Councilmember Stevens asked at what point the Council would deal with the budget. She said she had the feeling that everyone would vote for the budget and it would get passed on to the next year. City Administrator Volek advised that last year the attempt was made to find alternative sources of revenue. She said when the borrowing from reserves began, the City had what were probably excess reserves and it was probably appropriate to spend some of those down. She said that as Staff realized the reappraisal process harmed the City, alternative sources were sought and to date, those efforts were unsuccessful. She said additional sources would be sought during the next legislative session in cooperation with business partners. She said one reason Staff proposed and Council accepted the cost of services study was to identify the cost of the services the City provided. She said the next year would probably require serious discussion about which of those services were important enough to the taxpayers to continue supporting. She said that was the only way that issue could be addressed in the short term. She said long-term, there were larger issues that had to do with the way the taxation was set up in the State and it focused on property tax. She added there was a limit with what could be done both because of the Charter cap and because of statewide reappraisal. She said short-term, cost of services and a hard discussion about what services were provided along with how the costs were covered, were the two things that had to be addressed.

Councilmember Astle said he agreed that reserves couldn't be spent to zero. He said Council just had an opportunity to stop the bleeding in the Planning Department and everyone ran from the 40%. He said that sounded like a ton of money, but compared to the dollars on the charts, it wasn't. He said it was about \$1000 for a subdivision and it wouldn't add very much to a lot in a proposed subdivision. He said it would have put more money in than went out; it wouldn't cover \$12 million, but that amount couldn't be covered with a line item. He said a lot of line items was the way to get it back, which was where the bleeding started. He said it was never an arterial bleed, it was a whole bunch of small cuts and the leakage was very big. He said the second thing was that the Chamber talked to the City about the resort tax but as the legislators said at the work sessions, it wasn't going to go. He said Councilmember Ruegamer talked about the fact that the revenue sharing component would cost more than the City would collect. He said he still felt that was a violation of the City's civil rights and wanted the City Attorney to investigate that because small towns were able to do it but Billings couldn't. He said Montana supposedly had the best constitution in the nation and civil rights were supposed to be a big deal and equal treatment was needed

under the law. He said he would ask that question continually. He said he would have to vote for the budget but didn't like it.

Mayor Tussing said he would support the budget because there wasn't much choice at that point. He said he was anxiously waiting for the cost of services study and it was at that point that serious gut-checking would be needed. He said he believed the Council needed to exercise some political courage to ask the citizens if they wanted to change the Charter because Billings and the small town of Sunburst were the only two that couldn't float mills in the whole state. He said he realized it wasn't a popular thing to do, but the best people to judge were the citizens if they wanted to change the Charter so reserves didn't have to be spent or continually returning to the legislature beating heads against the wall for another leg on the stool of our ability to generate income other than property tax. He said property tax was maxed out and citizens needed to be asked if the Charter could be changed so the Council could float the mills. If the citizens said 'no,' the very clear message would be the only alternative was to cut services. He said he wasn't saying that service couldn't be cut or might not be necessary; he felt that was the most viable, while politically incorrect course to take at this point. He said the City didn't seem to be successful in asking the legislature to allow it to exercise self-governing powers and it couldn't keep going to the same well.

Councilmember Ruegamer said he too would vote for the budget because Council couldn't not vote for it. He said he asked legal staff to come up with an opinion whether that tourist tax issue was constitutional. He said it certainly didn't seem so to a practical man. City Administrator Volek said it sounded like an appropriate Council initiative. Councilmember Ruegamer said it was previously made.

Councilmember Ulledalen said there were several realities that collided in the budget. He said there were a lot of costs that rose and there was no control over them, mainly energy and related items. He said as far as personnel costs, the City was locked into some situations that guaranteed it would be stressful for the Council in the future because there was no say over some of the things in contracts. He said there was an increasingly retired population that would be increasingly resistant to putting up more money. He said the other debate that was needed as a community was how to pay for continued growth. He said parcels were annexed, subdivisions were approved and planning fees were increased or implemented. He said as Councilmember Astle mentioned, that was an example of taking a hard look at what was done for whom and who should pay those costs. He said the mill levy increase was discussed and the question was why it should be spread to people who didn't benefit from the impact of the developments. He said he felt all the fees should be reviewed, such as the arterial fee and areas where costs increased 40%, but in the end the fees were only increased by 10%. He said in reality, the City went backward on what it tried to accomplish. He said consideration was needed about whether the fees should be increased gradually to account for inflation rather than waiting until it was necessary to take a huge jump. He said as Ms. Volek alluded to, the next reappraisal could result in decreased revenues. He said it would be tough to explain that to people with all the building going on. He said the Governor already said he wouldn't allow property increases to result in significant tax increases, so that would have to be wrestled with in the Legislature. He said tax law changes were probably needed but it probably wouldn't happen. He said every two years the attempt would be made and the answer would be the same. He

said he would vote against the budget because he felt there were issues that the City hadn't looked at realistically.

Councilmember Clark said Councilmember Astle brought up the fact that the 40% wasn't passed to allow time to ask the planning community what it thought about a 40% increase. He commented taxpayers could be asked what they thought about making up the difference with taxes. He said he felt the Council goofed on the 40%

Councilmember Veis said Council was putting extreme faith in the cost of services study and he hoped it wasn't a disappointment. He said that would help with the future discussions and part of why the City did okay was that a budget was adopted and Staff administered it quite well year to year. He said the City would probably be okay for the next few years but after that might be tough. He said he hoped the cost of services study would jump-start some of the discussions about where it wanted to go with the budget in the future and what services were kept, reduced, etc. He said he didn't have a problem with the 40% planning fee increase, but had a problem with a one-week timeline. He said there were probably other fees that could have the same discussion and he would feel just as bad giving only a week to react to a fee so that discussion was needed over the course of the year. He said he hoped the cost of services study would kick-start the City in the right direction and if not that, hopefully something else would get it in the direction to find out what services were provided and at what level.

Councilmember McCall said she would vote for the budget. She said while it might not be politically correct, she thought the Charter needed to be discussed. She said there was no movement with salaries and benefits because the City was locked into it. She said there was the whole taxation issue of its fairness and equity, and the cost of services study issue. She said those were four issues that needed attention and those discussions needed to begin by late summer or early fall because the start of the new year would be too late.

Councilmember Ulledalen clarified that he understood the time frame issue of the planning fee and felt that Council's action was reasonable. He said in reality, it was a fee increase of hundreds of dollars when there were hundreds of thousands and millions of dollars transacted. He said he understood the situation of a single lot proposal, but the reality was that most of the decisions were made for land sold for substantial amounts of money and developers and homebuilders would make significant returns. He said a 40% increase on one lot and one homeowner ended up being relatively small.

Councilmember Pitman said Council could get caught up in doom and gloom and fear, but there was a lot of good things happening in the City and people started to think outside the box. He used Dehler Park as an example of people stepping up and contributing for things that weren't budgeted. He mentioned MDU's proposal to turn something that was a huge liability into something that would create revenue for the City. He said the challenge was to think outside the box and challenge the community to think of other ways and what it was willing to sacrifice. He said a discussion he remembered was something about naming every tree in the park after someone and if that was what it took, it should be considered. He said the City was growing and listed as one of the top 10 places to live. He said the community needed to be challenged to

step up and come up with new ideas and some would be outside of taxation or cutting services.

Councilmember Ulledalen said he understood that and tried to be positive. He said he and Councilmember McCall represented Ward IV, the only ward in the city that supported the last school tax increase. He said it was necessary to be cognizant of those people. He said Ward IV asked for stuff and stepped up and paid for it. He said the reality was that the community was increasingly retired and it was going to be more difficult to wrest those increases from property taxes or other fee increases because those were the only tools the legislature gave cities to work with.

Councilmember Gaghen said she favored the 40% raise in the planning department fees but her concern was not having had opportunity to present that to the County Commissioners. She said she wanted as much collaborative effort as possible in balancing the budget and generating as many funds as possible. She said approving the 40% fee increase without input would have been a negative. She said having the Chamber group's observance of the budget process was worthwhile and it was perceptive of the budget evaluation and decision process. She said the Council was bound by a salary structure and dealt with various unions and labor groups that protected their employees. She said the City needed to work toward a measurable and workable insight as to how to face the future. She said it could be done but it had to begin early because it wouldn't come about quickly and it could be painful.

On voice vote, the motion was approved 8-3. Councilmembers Stevens, Ulledalen and Clark voted 'no.'

**8. Public Hearing and first reading ordinance expanding the boundaries of Ward I to include recently annexed property in Annex #08-07, a 4.76-acre property legally described as Tract 1, C/S 2350 and located on the northeast corner of King Avenue East and Calhoun Lane. Robert Medvec, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek advised that Staff didn't have a presentation on the item, but was available to answer questions.

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

Councilmember Gaghen moved for approval of Item #8 to expand Ward I to include annexation #08-07, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

**9. 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.)**

- **Kevin Nelson, 4235 Bruce Avenue**, said he would go back to the same topic again. He said City resources and dollars were used to install the main on King Avenue. He said City dollars and resources were used for the engineering. He said that property, by Council's vote, exploded in value. He said that person should have had to pay for the services provided because Mr. Nelson said he

had a problem that the person got his water main installed free but in the very same proposed urban renewal district, Council voted for an SID on Clevenger Avenue two months ago and those people didn't get free water and sewer services. He said that person got his for free in the same district, the same urban renewal under the same circumstances and Council said many times that people would get those services and would get streets paved, water and sewer, and that person got his done for free but the Clevenger people had to pay with the SID. He said Council took care of Corporate America to make sure it got the tax breaks but the poor people on Clevenger had to get their checkbooks out to pay up. He said the Clevenger people couldn't come back to Council for reimbursement for the SID when the district was approved because the money should be there in a revolving account. He said Council did it for that person and for the church and he felt that should be done for the people on Clevenger because it was all the same. He said he saw inequity in Council's action that evening that some people got off free and made a whole lot of money and the other people had to pay.

There were no other speakers.

## **Council Initiatives**

- **RUEGAMER:** Moved to direct Parks and Recreation staff to check the feasibility of: 1) selling naming rights for small, unnamed parks; 2) implementing fees for folf and folf tournaments for money to go back to that course; and 3) selling memorials in City parks, seconded by Councilmember Stevens. Councilmember Ruegamer used an example of a park on Division Street across the street from Billings Central Catholic School that was named Founders Park and another small park down the street named Community Park and other small parks with no names and no signs. He asked why the City couldn't sell the names to those. He said restrictions could be put on it and it could even be named after a business.

Councilmember Ruegamer used the sculpture park at Rose Park as an example of possible memorials. He suggested a designated area where memorials could be placed in that area. He said that would result in little or no cost to the City.

Councilmember Veis asked Councilmember Ruegamer how much time he expected Staff to devote to the initiative. Councilmember Ruegamer said he guessed an hour would be sufficient. Councilmember Veis said part of the problem was that initiatives were sent to Staff without enough direction and he didn't want excess time spent to develop a plan. He said he didn't have a problem with Staff developing options but didn't want more than three or four hours spent on them. Councilmember Ruegamer said if Staff spent more than an hour or two on any of the feasibilities he suggested, that was too much time. Councilmember Ruegamer pointed out that the City had no

compunction about spending \$68,000 to have someone come from Los Angeles to tell the City what to do at Pioneer Park and yet three hours couldn't be spent on ideas to try to find small sources of revenue. He said it may be small, but everything added up. Councilmember Clark said those kinds of memorials could result in an expense to the City if vandalism occurred. He noted there were problems with that at Rose Park.

Councilmember Veis said he wanted to make sure Staff understood it wasn't a primary duty and didn't spend a bunch of time on something to please six councilmembers. Mayor Tussing said he supported it but shared Councilmember Veis's concern. On a voice vote, the motion was unanimously approved.

- **CLARK**: Said he didn't have an initiative but had a question. He said when Councilmember McCall asked about the property acquisition for the Airport Road project, someone said it came through the Council already but it wouldn't have because it was a State project and the City probably wouldn't have heard about the property transaction. He said the only time the City would have heard was if the City sold property. Councilmember McCall advised the reason she asked was because she wanted to be informed of the right-of-way acquisition. She said she understood it was the State's responsibility, but she thought the Council should be informed on a regular basis of how it went. She said the City waited to get the projects done and part of the problem was the right-of-way acquisition so she wanted an occasional update.
- **PITMAN**: Moved to direct Planning staff to draft text amendment language to the vertical siding requirements in Section 27-310 (i) (f) (9) to allow certain types of vertical siding on detached accessory structures and still prohibit vertical metal siding and other similar plastic or steel siding in residential zoning districts, seconded by Councilmember Ruegamer. Councilmember Pitman said he visited with Planning Division Manager Wyeth Friday about a possible amendment and wanted a Staff presentation at the June 16 work session. Councilmember Pitman said the issue was brought to him by a gentleman who was building a shed. He said the vertical siding code was passed a few years ago that prohibited vertical siding on structures. Councilmember Pitman said it was to prevent pole barns from being built. He said he wanted residents to be able to put vertical siding on a shed to match vertical siding on a house. He said he noticed a lot of houses had vertical siding so it would be nice if shed siding could match the homes. Councilmember Ronquillo said he thought that when the code was passed, it was intended for metal siding on pole barns. He said he wasn't sure how the T1-11 was included in the code. Councilmember Stevens said it was interesting that many covenants required outbuildings to have the same siding as the house and yet there was an ordinance that prevented that from happening. She asked how much of a problem it was and if a variance was

more appropriate than an ordinance change. City Administrator Volek said she was informed that four variance applications were submitted on that issue, three of which were approved in approximately 1-1/2 years since the ordinance was created. She said there was a fee for the variance and the time required for the applicant to go through the process. Councilmember Clark said shed kits usually came with vertical siding. Councilmember Pitman said the ordinance required horizontal siding on anything greater than 200 square feet. On a voice vote, the motion was unanimously approved.

- **RUEGAMER:** Said he wanted Council to know that he would continue to suggest budget savings ideas
- **MCCALL:** Formally requested a regular update of Right-of-Way acquisitions. City Administrator Volek said Montana Department of Transportation would be contacted for that requested information.

The meeting adjourned at 8:46 p.m.

*Additional information on any of these items is available in the City Clerk's Office.*

*Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.*