

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

## August 8, 2005

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Charles F. Tooley called the meeting to order and served as the meeting's presiding officer. The Pledge of Allegiance was led by the Mayor, followed by the Invocation, which was given by Councilmember Richard Clark.

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

**MINUTES – July 25, 2005**. APPROVED as printed.

### **COURTESIES**

- **American Water Works Assn, 5-year Director's Award.** Public Works Director Dave Mumford recognized Water Superintendent Mike Rubich and Deputy Utilities Director Al Towleron for their efforts to provide safe, clean water to the residents of Billings, earning the City the 5-year Director's Award from the American Water Works Association. The Billings' Water Treatment Plant is one of only 37 municipal plants that received this award.
- ~~**Mayor's Award to Water Treatment Plant employees for lifesaving rescue**~~
- **VFW presentation.** VFW Post #6774 Senior Vice Commander John Lattimer spoke on the *America Bands Together* program the VFW is sponsoring. The red wristbands are a national program with 70% of the proceeds going to emergency assistance to the troops overseas and veterans, 20% to strengthen existing programs and 10% to reinvest in this program. VFW's goal is to present President Bush with the one-millionth band this Veterans' Day and to have 10,000,000 supporters by Veterans' Day 2007. He noted several celebrity supporters including Senator John McCain. This is a way of making every day "veterans' day" said Mr. Lattimer. He presented the Mayor and Council with red wristbands.

**PROCLAMATIONS – NONE**

### **BOARD & COMMISSION REPORTS – Animal Control Board**

- Animal Control Supervisor Dave Klein spoke on behalf of the Animal Control Board Chairman who was unable to attend this evening due to an emergency. He said the Animal Control Board has been working on changes to the animal control ordinances for the past 3-4 years. Public meetings have been held over the past several months on additional changes to the ordinance. The Board will bring the proposed changes to the Council for consideration in September.

### **ADMINISTRATOR REPORTS – Tina Volek**

- Ms. Volek clarified the situation with homeWORD. She said the payment-in-lieu of taxes (PILT) would need to be negotiated separately. A PILT is an annual payment in lieu of taxes and does not affect the donated/purchase price. The proposed structure

will not be completed until 2007, so taxes will be paid on unimproved land. A PILT will be negotiated into the agreement and brought to the Council at a later date.

- Ms. Volek called the Council's attention to the most recent version of the Agenda, dated August 4. Several items had been changed from earlier versions.
- Item 1A2 has been removed from the agenda and will be added to the August 22<sup>nd</sup> agenda. The item needed to be competitively bid and is currently out for bid. The item will be rescheduled for a bid award on a later agenda.
- A revised Item C staff report and contract was provided in the Council's Friday packet.
- Staff is asking that Item 1D, the ADA Settlement Agreement be postponed to 8/22/05 to resolve issues with the corrections that are required.
- On the Council desks this evening is a letter from RGB Investments concerning Item 8 – Sale of City-owned property to SAE Express. This is a request to withdraw their offer and a request to return the earnest money. Staff is recommending that the City retain the earnest money since significant Staff time has been spent on the item.
- Ms. Volek asked that an item for the payoff of the Fannie Mae loan on the Securities Building be added to the agenda this evening. This will require a 2/3 majority vote of the Council.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #8 & #9**

**ONLY.** (Comments offered here are limited to 1 minute per speaker. 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.)*

- MARY FITZPATRICK, 631 Clark Ave., chair of Northern Plains Resource Council urged the council to approve their loan request from the Downtown Billings Partnership for their energy efficiency project. This project will contribute to the revitalization of the 27<sup>th</sup> Street entrance corridor and accommodate community meeting space that will be used to teach the public about energy efficiency and sustainable renovation principles.
- EILEEN MORRIS, a member of Northern Plains Resource Council and the Northern Plains Renovation project said she is speaking in favor of the loan to the NPPRC for the energy efficiency project dubbed “Home on the Range”. NPPRC looks forward to being an active part of the economic revitalization of the South Side and a model of energy efficiency.
- GREG KRUEGER of the Downtown Billings Partnership spoke in favor of Item 1P-- the NPPRC loan and Item 1R -- the loan for the Terrace Apt building. He noted that all payments on all revolving loans are current to date.

**LATE ADDITION:**

Councilmember Ruegamer moved to ADD to the agenda as Item 10, the Trust Indenture modifications related to Securities Building LLC payoff of Fannie Mae Loan, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved. The item added as Item 10.

**CONSENT AGENDA:**

**1. A. Bid Awards:**

**(1) W.O. 04-13, Filter Building Expansion and Improvements.** (Opened 7/26/05). Recommend delaying award to 8/22/05.

**(2) Sole source purchase of Indoor Firing Range, Shooting Ranges International, \$197,328.00.**

**B. Professional Services Contract** to complete Class and Compensation Plan, Associated Employers of Montana and Employers Association, Inc., \$31,700.00.

**C. Professional Services Contract** for a stadium feasibility study, stadium conceptual plan and cost estimate, HNTB Architecture, Inc., \$55,000.00 for the preliminary design and feasibility study and \$5,000.00 for the bond election process services and completion of the design and construction of the stadium (if funded) for 10.25% of the project total amount.

**D. ADA Settlement Agreement** with U.S. Dept. of Justice – Civil Rights Division, Disability Rights Section.

**E. Agreement** with Yellowstone County Council on Aging for the senior programs at the Billings Community Center, \$21,000.00.

**F. FY2006/2007 City/State Maintenance Agreement and Special Projects Contract Overlay Agreement,** \$500,000.00/year for regular street maintenance and \$300,000.00/year for overlay contract maintenance.

**G. Amendment #8, AIP #29,** engineering design, survey, and contract administration for the construction of Taxiway "G", design of Commercial Ramp Improvements, study of Runway 7/25 expansion and development of specifications for purchase of a front-end loader for the airfield snow removal and sanding operations, Morrison-Maierle, \$376,416.00.

**H. Contract** with Montana Dept. of Public Health and Human Services – Developmental Disabilities Division, for specialized transportation for developmentally disabled individuals, term: extend 1 year through 6/30/06, \$179,770.00.

**I. Aviation Building and Ground Lease** with FES Development, LLC, term: 1 year with a one-year renewal. \$17,850.00 for first year and subsequent year adjusted by the CPI-U.

**J. Concession Agreement** with Airport Gifts for the Airport gift shop concession, term: 5 years.

**K. Executive Hangar Ground Lease** with Sarpy Creek Land Company, LLC, term: 20 years, \$4,020.00 for first year, adjusted annually by CPI.

**L. Revocable Permit and Non-Recorded Easement Agreement** with UNAVCO for plate boundary observatory GPS monitoring program, term: 15 years, \$0.00.

**M. Commercial Aviation Ground Lease Renewal** with Edwards Jet Center, term: 1 year, \$11,059.00.

**N. Commercial Aviation Ground Lease Assignment**, from Jon Marchi to Whitefish Credit Union to secure financing, \$0.00.

**O. Zone 4 Reservoir Appraisal** establishing a fair market value of \$137,024.00 for a portion of Tract 1, C/S 3030 for the purpose of constructing water storage and pumping facilities and authorizing Staff to obtain the property from GSK Partners, LLP.

**P. Revolving Loan** for Northern Plains Resource Council, \$212,000.00.

**Q. Street Closure:** Western Wheel Bar Customer Appreciation Celebration, August 27, 2005, Minnesota Ave. between S. 27<sup>th</sup> St. and S. 28<sup>th</sup> St.

**R. Tax Increment Fund Housing Grant** to Marchi-Tolliver Partnership, \$72,000 for twelve units of the Terrace Apartments located at 300 N. 25<sup>th</sup> St.

**S. Acknowledging receipt of Annexation Petition #05-08:** 33.71 acre parcel described as Tracts 1 and 2, C/S 3190, located at 120 Wicks Lane, Ernest and Francisca Shaw, petitioners, and setting a public hearing for 9/12/05.

**T. Resolution of Intent 05-18315 to Create** Park Maintenance District #4030, King's Green Subdivision – Second and Third filings, and setting a public hearing for 9/12/05.

**U. Resolution of Intent 05-18316** to dispose of City property described as Lots 4-6 and the east ½ of Lots 1-3, Blk 184, O.T. and setting a public hearing date for 9/12/05.

**V. Second/final reading ordinance 05-5335 for Zone Change #760:** a zone change from Residential Manufactured Home to Highway Commercial on property described as Tract 2, C/S 529 and located at 2202 Main Street, approve the zone change and adopt determinations of the 12 discussed criteria. Terrance Luff, owner; Jim Carroll, Downtown Realty, agent.

**W. Second/final reading ordinance 05-5336** extending the boundaries of Ward IV to include the recently annexed properties in Annex #05-04: a 10.532-acre

parcel located near the northeast corner of Grand Avenue and 60<sup>th</sup> Street West intersection, known as Tract 123 of the Sunny Cove Fruit Farms property, aka the proposed Foxtail Subdivision, 2<sup>nd</sup> Filing.

**X. Preliminary Plat** of Amended Lot 3B, Block 10, Parkland West Subdivision 6<sup>th</sup> filing, generally located south of Central Avenue at the northeast intersection of South 32<sup>nd</sup> St. W., Avanta Federal Credit Union, owner; Engineering, Inc., representative, approval of the preliminary plat, adoption of the findings of fact and approval of the variances.

**Y. Preliminary Plat** of St. Thomas Subdivision, generally located on the southeast corner of Colton Blvd. and Woody Dr., conditional approval of the preliminary plat and adoption of the findings of fact.

**Z. Preliminary Plat** of Lincoln Subdivision, generally located on the east side of Lincoln Lane at 605 Lincoln Lane, conditional approval of the preliminary plat and adopting of the findings of fact.

**AA. Final Plat** of Alkali Creek Subdivision, 5<sup>th</sup> Filing.

**BB. Bills and Payroll.**

- (1) July 14, 2005
- (2) July 19, 2005

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

Councilmember Clark separated Items B and P from the Consent Agenda. Councilmember Veis separated Items C, D and O from the Consent Agenda. Councilmember Jones separated Item R from the Consent Agenda. Councilmember Brown separated Item W from the Consent Agenda.

Councilmember Jones moved for approval of the Consent Agenda with the exceptions of Items B, C, D, O, P, R and W, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved.

Councilmember Jones moved for approval of Item B of the Consent Agenda, seconded by Councilmember Brewster. Councilmember Clark said he is the chair of one of the Associated Employers of Montana boards. He asked if that was a conflict of interest. Deputy City Attorney Kelly Addy asked if he receives any compensation for these services. Councilmember Clark replied "no". Mr. Addy said there would be no conflict.

Councilmember Brewster asked the Staff to clarify that many portions of this study are valuable and only a small portion of it is being re-evaluated. Interim City Administrator Tina Volek said a new firm is being asked to review the Classification and Compensation study recommendations that were provided by another firm. There were some concerns about combining too many job classes and comparing their findings with other salaries within the State of Montana. This new firm is local. Councilmember Boyer asked that a work session be scheduled to update the Council on how these two

studies will mesh. Councilmember McDermott noted that she and Councilmember Jones are on the Classification and Compensation Study Committee, which is well represented by union officials and departmental personnel. She said that \$200,000 is a reasonable resolution for a successful system that is flexible enough to use in the future. Councilmember Boyer said this is a major decision because it involves restructuring positions for hundreds of employees.

Councilmember Boyer made a substitute motion to remove the item from the Consent Agenda this evening and schedule a work session on 9/6/05, seconded by Councilmember Brewster. Councilmember Brewster agreed that this was an appropriate action because many of the councilmembers that voted on the original study are no longer on the Council and this study can have significant financial implications on many employees over a long period of time. Ms. Volek noted that the study this current one will be replacing was conducted over ten years ago, which is an extraordinary time for an organization not to have an adjustment. On a voice vote, the substitute motion was unanimously approved.

Councilmember Jones moved for approval of Item C of the Consent Agenda, seconded by Councilmember McDermott. Councilmember Brewster noted that a portion of this study will determine the feasibility and method of paying for the cost of Cobb Field construction.

Councilmember Veis asked how many public meetings have been scheduled. Acting Parks and Recreation Director Gene Blackwell said there are two meetings scheduled for October at the Depot with 10 days of interviews of the various stakeholders to follow. On a voice vote, the motion was approved with Councilmember Brown voting "no".

Councilmember Jones moved to postpone Item D to 9/12/05, seconded by Councilmember Clark. Councilmember Jones asked what particular issues are of concern. Ms. Volek said issues that require extensive physical correction that may require lengthening the completion time with the Department of Justice. Councilmember Jones expressed concern for the cost involved in these corrections. On a voice vote, the motion was unanimously approved.

Councilmember Jones moved for approval of Item O, seconded by Councilmember McDermott. Councilmember Veis said he would like to have more time to determine whether park land from Annexation #05-07 can be used as a location for this Zone 4 reservoir. Councilmember Veis made a substitute motion to delay this item to 8/22/06, seconded by Councilmember Brown. On a voice vote, the substitute motion was unanimously approved.

Councilmember Jones moved for approval of Item P, seconded by Councilmember McDermott. Councilmember Brown said he is concerned about loaning money at 2.625% when the market is 5%. Councilmember Clark asked how much assistance the City has given to NRPC. Ms. Volek said the City approved variances for the property owned by NRPC. Councilmember Boyer noted there are personal guarantees for the loan and it will be secured by a second lien on the building and parking lot. Mr. Krueger said the loan is comprised of credit made available to the City from local banks. It is an adjustable rate loan that is adjusted every year in October according to federal funds (which are currently at 3%), so this loan rate will rise in a matter of months. He also noted the City gets paid back along with the bank at an

accelerated rate of 5% on an annual basis. On a voice vote, the motion was approved with Councilmember Brown voting "no".

Councilmember Jones moved for approval of Item R of the Consent Agenda, seconded by Councilmember McDermott. Councilmember Jones said he is not comfortable with advice from the City's bond counsel relating to this project. Deputy City Administrator Bruce McCandless said the concern of the bond counsel is specific to the issuance of City bonds on public improvements and not for the expenditure of public funds. The concern of bond counsel is that the City must identify the specific public improvement on which bond funds will be spent. He said the bond counsel has issued no opinion on the City's expenditure of public funds for items such as loans to properties for improvements. On a voice vote, the motion was approved with Councilmembers Jones, Brown and Clark voting "no".

Councilmember Jones moved for approval of Item W of the Consent Agenda, seconded by Councilmember Brown. Councilmember Brown asked how the ACLU suit against the City affects this item. Mayor Tooley said these residents must be assigned a ward in which to vote. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION 05-18317 FOR ANNEXATION #05-07: an undeveloped 172-acre parcel located east of the Ironwood Subdivision along Molt Road between the Yellowstone Country Club and the Rims, described as Tract 1, C/S 3030, GSK Partners, LLC petitioner. Staff recommends conditional approval. (Action: approval or disapproval of Staff recommendation.)**

Planning Director Ramona Mattix said this annexation is located between Ironwood Subdivision and the Rimrocks, north of the Yellowstone Country Club. The owner is requesting annexation in order to obtain municipal sewer and water for a proposed major residential subdivision that could contain about 184 lots. Because of the terrain she expects the number of lots to be reduced however.

The public hearing was opened. JOE WHITE, 926 N. 30<sup>TH</sup> STREET, said he continues to oppose annexation for urban development of open areas. He said additional study needs to be done. All of his previous comments on other annexations apply to this annexation.

RICK LEUTHOLD, ENGINEERING, INC., 1300 N. TRANSTECH WAY, said he represents Mr. Gunlach, the developer. He said Mr. Gunlach is pursuing annexation now for future development. The subdivision plat is very conceptual at this point and it will be some time before it comes before the Council. He said the 184 lot count will probably be reduced and access issues need to be resolved. Mr. Leuthold noted that Mr. Gunlach is the owner of the property but only a partner in the development process. He asked the Council to approve the annexation.

DAVE BOVEE, 424 LEWIS, said is not against development, but he does not feel that these annexations happen just because the property owner desires City services such as water and sewer. He said if the developer pays for the full cost of the City services, annexation should be granted, but if the return from taxes does not cover the cost of services he opposes this action.

There were no other speakers. The public hearing was closed. Councilmember Gaghen moved for approval of the Staff recommendation, seconded by Councilmember Brown. Councilmember McDermott said this particular area is scheduled for annexation within the next few years. Councilmember Jones said water and sewer services are already available to this property and the only way the City will recoup its expenditure on infrastructure is through annexation. On a voice vote, the motion was unanimously approved.

Mayor Tooley called for a recess at 7:35 P.M.  
Mayor Tooley reconvened the meeting at 7:45 P.M.

**3. SID 1368: A SPECIAL IMPROVEMENT DISTRICT FOR PUBLIC IMPROVEMENTS ALONG ANNANDALE ROAD BETWEEN GLENEAGLE BLVD. AND CHERRY HILLS ROAD AND CONSISTING OF WATER, SEWER, STORM DRAIN AND STREET IMPROVEMENTS:**

(A) PUBLIC HEARING AND RESOLUTION 05-18318 creating SID #1368.  
Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Director of Public Works Dave Mumford said there were no protests against forming SID 1368. He said the largest property owner is making a 45% cash contribution to this project. The improvements will assist in many storm water issues in the area. Mr. Mumford said the Staff is recommending approval.

The public hearing was opened. MARSHALL PHIL, ENGINEERING, INC., 1300 TRANSTECH WAY, said he represents the developer. He said he was available for questions. There were no questions.

There were no other speakers. The public hearing was closed. Councilmember McDermott moved for approval of the resolution to create SID 1368, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

(B) PROFESSIONAL SERVICES CONTRACT with Engineering Inc., \$96,781.71. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Councilmember McDermott moved for approval of the professional services contract with Engineering, Inc., seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

(C) RESOLUTION 05-18319 authorizing construction bids for the project.  
Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Councilmember McDermott moved for approval of the resolution authorizing construction bids, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND RESOLUTION 05-18320 creating Park Maintenance District #4028 for the purpose of maintaining the park in Vintage Estates**

**Subdivision. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

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

**5. PUBLIC HEARING AND VARIANCE #OE05-01: a variance from BMCC Section 22-407.1(4), requiring a maximum of one (1) A-frame sign shall be allowed for each business. The sign must abut the business exterior wall within four (4) feet of the business entrance and be no closer than one (1) foot from the entrance. Two (2) or three (3) businesses may share a temporary sign. The subject location is Lot 6, Block 93, O.T, generally located between First Avenue North and Second Avenue North and between North Broadway and North 29<sup>th</sup> Street.** Rock Creek Coffee Co. LLC, applicant. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Brown moved for approval of the Staff recommendation, seconded by Councilmember Brewster. Councilmember Clark made a substitute motion to approve the variance for two signs, one for each entrance, seconded by Councilmember Ruegamer. On a voice vote, the substitute motion was unanimously approved.

**6. PUBLIC HEARING AND RESOLUTON 05-18321 approving and adopting budget amendments for FY 2004/2005.** Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

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

**7. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC Section 7-1504(c), providing that the MDU Franchise does not preclude MDU from challenging any fee or tax.** Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff report. The public hearing was opened. RICK REID, 2205 S. TREASURE, said he is the local manager for MDU and was available for questions. He said their legal department had some concerns regarding the language that involved the ability to protest fees. This action is a clarification of that concern.

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

**8. SALE OF CITY PROPERTY to SAE Express for \$128,340.00.** Staff recommends authorizing Staff to negotiate a revised sale of \$93,340.00 and provide

**an additional \$35,000.00 credit for the trade property. (Action: approval or disapproval of Staff recommendation.)**

Planning Director Ramona Mattix noted there was a letter from the purchaser on the Councilmember's desks that pertained to this sale of City-owned property. She said the Department of Revenue has a market value of \$93,672 for trade property. The appraisal documents that the lot is non-uniform, and there is no pavement or utilities. The lot is crossed by access, water, petroleum and railroad easements which limits the use of the lot by over 50%. Comparable sales show property sales of \$.36 per square foot and \$.37 per square foot. She said the owner purchased this lot in 1998 for about \$24,000. The easement square foot value was \$.09 per square foot due to the use limitations. Ms. Mattix said the appraisal of the property was \$14,726 including the easement value.

Ms. Mattix said the bid on the City property at the 1000 Block of South 27<sup>th</sup> Street was \$142,600. Part of the bid was a land trade of 1.38 acres valued at \$93,672 based on DOR valuation, but to be appraised prior to sale. The City was interested in the land trade because that land was near the trail corridor and could be used for a trailhead or parking. She said the agreement stated that if the appraisal was less than the valuation, the buyer was to make up the balance in cash. The appraisal was \$14,726 and the appraisal cost was \$1,750. She said earnest money received on sale was \$14,210. Ms. Mattix said the buyer requested in their letter that the City either value the property no less than \$88,672 for the sale or return the earnest money. She noted the sale contract specifically states the City is to retain the earnest money. Ms. Volek said SAE has rejected the City's offer of a revised sale of \$93,340, which provides an additional \$35,000 credit for RGB's trade property. RGB is asking for its earnest money back and do not want to proceed with the sale. She said there is no provision in the contract to refund the earnest money. She noted this situation has not happened previously and is unusual.

Councilmember Boyer moved to dismiss the contract for non-performance and retain the earnest money, seconded by Councilmember Clark. Councilmember Boyer said the contract is specific and the City cannot monitor the business decisions of others. Councilmember Clark noted there are costs and Staff time involved in this contract. Councilmember McDermott said this is an exceptional case. This property is in an older part of town where it has had many uses. She said she would not be comfortable withholding the entire earnest money, because the situation is not the buyer's fault. Councilmember Ruegamer said the City entered into a contract in good faith and the other party should do the same. Councilmember Boyer said the City must maintain consistency in their business dealings. On a voice vote, the motion was approved with Councilmember McDermott voting "no".

**9. RESOLUTION 05-18322 FOR A CORRECTION TO FY2005/2006 BUDGET.  
Staff recommends adopting corrected Exhibit A of the FY 2005/2006 budget.  
(Action: approval or disapproval of Staff recommendation.)**

Councilmember Ulledalen moved for approval of the Staff recommendation, seconded by Councilmember McDermott. On a voice vote, the motion was unanimously approved.

**10. TRUST INDENTURE MODIFICATIONS RELATED TO SECURITIES BUILDING LLC PAYOFF OF FANNIE MAE LOAN. Staff recommends approval of making both**

**of the revolving fund loans subordinate to a bank loan of \$2,662,000 from Western Securities Bank. (Action: approval or disapproval of Staff recommendation.)**

Councilmember Clark moved for approval of the Staff recommendation, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved.

**11. PUBLIC COMMENT on Non-Agenda Items. (Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker.)**

- J.A. (ZIGGY) ZIEGLER OF 3040 HOLLOW TREE RD said he lives in Briarwood Subdivision but receives no services from the subdivision. His property utilizes a well and septic system and is three streets away from Briarwood Blvd. He agreed to annex 13.82 acres into the City via the Briarwood annexation. Mr. Ziegler expressed concern about the significant increase in his taxes due to the arterial street construction fee. He noted that he had talked with both former City Administrator Kristoff Bauer and Public Works Director Dave Mumford about his concerns and potential for relief. Mr. Ziegler said he was told there was a possibility that a rebate would be possible for the second half of the taxes, but nothing has been done. He asked the Council to consider his request for an adjustment to the arterial construction fees.
- JOE WHITE of 926 N. 30<sup>TH</sup> ST. referred to an article from the August 2<sup>nd</sup> issue of the Christian Science Monitor regarding medical ethics. He said it is also applicable to payments for damages his family is owed.

**COUNCIL INITIATIVES**

- **COUNCILMEMBER BREWSTER:** Councilmember Brewster moved to direct Staff to bring the council information on whether the annual payment on the \$5 Million road bonds could be paid from arterial construction fees instead of assessments to property owners, seconded by Councilmember McDermott. Councilmember Boyer asked how this would impact the arterial streets construction for which the fee was intended. Public Works Director Dave Mumford said there would still be money to build arterials and this would not "kill" the program. The Capital Improvement Program would have to be amended and brought back to Council. He noted there would still be SIDs on Alkali Creek Road and South Billings Blvd, but the cost of the bonds paid by the general population would be offset. Councilmember Brewster noted the motion is only asking for information at this point. On a voice vote, the motion was approved with Councilmember Brown voting "no".
- **COUNCILMEMBER CLARK:** Councilmember Clark moved to appoint six of seven members of the Cobb Field Committee, to include: Joe Studiner, Jim Iverson, Councilmembers Richard Clark, Vince Ruegamer and Shirley McDermott, and Park Planner Mark Jarvis, seconded by Councilmember McDermott. On a voice vote, the motion was unanimously approved. The last member will be appointed at a later date.
- **COUNCILMEMBER JONES:** Councilmember Jones moved to direct Staff to report to the Council on what other cities in Montana are doing with RV camping in parking lots and what Wal-Mart's policy is, seconded by Councilmember Clark. Councilmember Boyer said the local RV parks are paying a bed tax, whereas parking lot owners such as Wal-Mart are not. Councilmember Ulledalen noted that the subdivision zoning

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restrictions on the parking lots ban overnight camping, making this a City zoning issue not a Wal-Mart issue. Councilmember Jones said this appears to be a change in enforcement policy. On a voice vote, the motion was unanimously approved.

**ADJOURN** – With all business complete, the Mayor adjourned the meeting at 9:05 P.M.

THE CITY OF BILLINGS:

By: \_\_\_\_\_  
Charles F. Tooley MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AAE, City Clerk