

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

February 12, 2007

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Tussing led the Pledge of Allegiance. Councilmember Larry Brewster gave the Invocation.

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

MINUTES – January 22, 2007. Approved as printed.

COURTESIES

There were no courtesies.

PROCLAMATIONS

- February 18 – 24: National Engineers Week

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek reported that copies of two (2) Exparte communications were in the binder at the back of the Council Chambers this evening. The first item was a letter from Mr. Towe regarding Item R. The second item was a letter from Engineering Inc. regarding Item 4.
- Ms. Volek noted that on Item 4, the vacation action had been properly advertised, but it was discovered that the other two action requests had not been properly noticed. She said Staff is recommending that the Council take no action on the Quit Claim Deed on Normal Ave.
- She reminded the Council that the regular Agenda Review Meeting would be held tomorrow evening at 5:30 p.m. in the City Hall Conference Room. Thursday evening Lockwood is hosting a meeting in the Blue Room at the Lockwood School to discuss the City's recommendations on the annexation of Lockwood.
- Ms. Volek also noted that the next work session is scheduled for a Tuesday (rather than Monday), February 20, due to the President's Day holiday.

PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required. (Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

- There were no public comment speakers.

CONSENT AGENDA:

1. A. Mayor's appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Skip Godfrey	Human Relations Commission	01/01/07	12/31/09
2.	Bill Iverson	Yellowstone County Board of Planning (Ward 1)	01/01/07	12/31/08
3.	Donna Forbes	Yellowstone County Board of Planning (Ward 3)	01/01/07	12/31/08
4.	Bill Lucas	Yellowstone County Board of Planning (Ward 4)	01/01/07	12/31/08
5.	Fred Rogers	Yellowstone County Board of Planning (Ward 5)	01/01/07	12/31/08

1. Beginning term was listed as 12/31/09
2. Yellowstone County Board of Planning terms were listed as 4 year terms instead of 2 year terms.

B. Bid Awards:

(1) **W.O. 06-20: Downtown Billings Wayfinding Signage.** (Opened 1/23/07). Recommend Epcon Sign Company, \$191,567.80.

(2) **W.O. 06-11: Heated Storage Addition.** (Opened 1/12/07). Recommend High Tech Construction, \$547,400.00

C. Change Order #1, AIP #29: Taxiway G Improvements, Empire Sand and Gravel, deduct \$54,585.11.

D. Amendment #1 to Scheduled Airline Operating Agreement & Terminal Building Lease:

- (1) Big Sky Airlines
- (2) Horizon Air
- (3) Northwest Airlines
- (4) SkyWest Airlines
- (5) United Airlines

extending the contract expiration date to 6/30/07.

E. W.O. 05-20: Aronson Avenue, Professional Services Contract with HKM Engineering, Inc., \$316,199.00.

F. W.O. 04-33: Lake Elmo Drive (Hilltop Rd to Wicks Ln) Right-of-Way Acquisition:

- (1) Parcel 81: Portion of Lot 15, Block 1, Arrowhead Sub., Gary A. Leapoldt, \$2,450.00.
- (2) Parcel 80: Portion of Lot 16, Block 1, Arrowhead Sub., Troy C. Wolff, \$2,550.00.
- (3) Parcel 79: Portion of Lot 17, Block 1, Arrowhead Sub., Clarence H. Hein, \$1,750.00.
- (4) Parcel 69: Portion of Lot 3, Block 4, Arrowhead Sub., Joseph A. Deigert, \$2,250.00.
- (5) Parcel 72: Portion of Lot 6, Block 4, Arrowhead Sub., Roberta A. Mee, \$2,400.00.
- (6) Parcel 36: Portion of Lot 16, Barkley Subdivision, Richard A. Fox and Judy K. Fox, \$3,950.00.
- (7) Parcel 5: Portion of Lot 2, Windsor Sub., Hanson Brothers, \$6,200.00.

G. Memorandum of Understanding (MOU) with Beartooth Resource Conservation and Development Area, Inc. (RC&D), \$8,380.00.

H. Acceptance of Easement on Lots 1-2, Block 1, Cellan Acre Tracts, Gammy Group, LLP, owners, \$0.00.

I. Revolving Fund Loan to Kimberly A. Pettit d/b/a The Rims Montessori Academy for Children, \$19,575.00.

J. Approval of Grant application submittal and finalization for a subgrant from the Montana Board of Crime Control, Stop Violence Against Women (VAWA) Funds, \$60,000.00.

K. Acceptance of Donation to Animal Shelter, Donald and Carol Roberts Foundation in memory of Virginia K. Weston, Inc., \$500.00.

L. Acceptance of Donation to Southwest Cop Shop, Jim Brown, \$3,000.00.

M. Approval of *Certified Local Government (CLG)* Grant application for a grant from the Montana State Historic Preservation Office, \$4,031.00.

N. Acknowledging receipt of Annex petition #07-02: a petition to annex 13.01 acres described as Lot 65A-4, Amended Plat of Lot 65A of Amended Plat of Amended Lots 65-68, 93-100 and 125-128, Sunny Cove Fruit Farms, Mary Kramer, petitioner, and setting a public hearing for 2/26/07.

O. Acknowledging receipt of Annex petition #07-03 and Resolution of Intent to Annex 07-18526: a petition to annex 3 parcels totaling 2.44 acres and described as (1) N2 of Lot 3 & All of Lot 4, Sandra Subdivision and 63,784 sf combined with Lot 15A, (2) S2, Lot 7, Sandra Subdivision, and (3) N2, Lot 7, Sandra Subdivision, City of Billings, petitioner, and setting a public hearing for 3/26/07.

P. Resolution of Intention 07-18523 to Create Park Maintenance District #4036: Josephine Crossing Subdivision and setting a public hearing for 3/12/07.

Q. Second/final reading ordinance 07-5399 amending BMCC Section 23-1101; providing updates to regulations on requesting a variance from the subdivision regulations.

R. Second/final reading ordinance for Zone Change #793: a zone change from Residential Multi-family (RMF) to Neighborhood Commercial (NC) on 14,000 sf of an existing parcel of land described as: S/2 of Lots 13 through 21, Block 59 Foster's Addition and located at 632 North 26th Street aka Skyline Court Condominiums. Thomas Towe and Court E. Ball Partnership, owner; Susan Lovely, agent. (Delayed from 1/22/07).

S. Second/final reading ordinance 07-5400 for Zone Change #795: A zone change from Residential-7,000 to Neighborhood Commercial (NC) and Residential Multi-family-Restricted (RMF-R) on a 4.69 acre parcel of land described as: Tracts 1 – 5, Brittain Acres Subdivision and located at 803 Yellowstone River Rd., and 821 & 823 Bench Blvd. Big Sky Floral Supply, owner.

T. Subdivision Plats for Scott Subdivision, Lots 1, 2, 4 and 6 and vacated portions of Zimmerman Trail.

U. Preliminary Major Plat of Grand Peaks Subdivision generally located East of the intersection of Grand Ave. and 54th St. W, adjacent to Bishop Fox Sub., conditional approval of the plat, approval of the variance and adoption of the Findings of Fact.

V. Bills and Payroll.

- (1) January 5, 2007
- (2) January 12, 2007
- (3) January 19, 2007

(Action: approval or disapproval of Consent Agenda.)

Councilmember Veis separated ITEM 1R. Councilmember Gaghen separated ITEM 1U.

Councilmember Ronquillo moved for approval of the Consent Agenda except ITEMS 1R and 1U, seconded by Councilmember Brewster. On a voice vote, the Consent Agenda EXCEPT ITEMS 1R and 1U was unanimously approved.

Councilmember Ronquillo moved for removal of ITEM 1R, seconded by Councilmember Ruegamer. Councilmember Brewster made a substitute motion to accept the withdrawal of ITEM R, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Ronquillo moved for approval of ITEM U, seconded by Councilmember Brewster. Councilmember Gaghen asked for a correction on page three (3) to read Ward IV and not Ward I. Staff noted the correction. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward I to include recently annexed property described as: Annex #07-01: an 11,160 square foot parcel of property described as Lot 3, Block 7, Kimble Subdivision, Second Filing and located at 215 Garden Ave. and including all adjacent right-of-way of Garden Avenue. Staff recommends conditional approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff presentation. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Clark moved for conditional approval of the ordinance - as noted in the Staff report, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION OF INTENT to adopt the Highland Neighborhood Plan as part of the Yellowstone County and City of Billings 2003 Growth Policy. Planning Board recommends approval. (Action: approval or disapproval of Planning Board recommendation.)

Planner Lora Mattox stated on January 16th the Staff made a presentation on the Highland Neighborhood Plan to the Council at its Work Session. She asked the Council for a delay until the February 26, 2007 Council meeting because the Staff needs additional time to work with the North Elevation Task Force relating to issues with McKinley Elementary School. Ms. Mattox said the Task Force meeting will be held on February 20th and she hoped to have the necessary additional information at that time.

The public hearing was opened. There were no speakers. Councilmember Veis moved for continuation of the public hearing and action to February 26, 2007, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION 07-18524 vacating portions of Marbara Lane, Silver Lane, Yucca St. and North Rim Rd. MSU-Billings, petitioner, \$115,164.99. Staff recommends approval of: (a) the vacation, (b) the Quit Claim Deed to MSU-B for Normal Avenue, and (c) a right-of-way Easement for public utilities running through the vacated streets and Normal Ave. (Action: approval or disapproval of Staff recommendation.)

There was no Staff presentation. City Administrator Tina Volek stated that Staff recommends that Parts (b) & (c) be postponed until the February 26, 2007 Council meeting to allow for proper advertising.

The public hearing was opened. RICK LEUTHOLD of ENGINEERING, INC., NO ADDRESS GIVEN, said he represented MSU-B. He stated he recognized that the Normal Avenue action needed to be separated due to the advertising requirements asked for action on the Right-of-Way (ROW) vacation tonight rather than delaying it. City Clerk Marita Herold noted that the ROW actions are being treated as a "sale, lease or disposal" of real property, requires a 15-day public notice, and mailing to the property owners within a 300-foot radius of the subject property. As a result, this would delay these items to the March 12, 2007 Council meeting.

EAKLE BARFIELD, DIRECTOR of FACILITIES of MSU-B asked the Council to approve the vacations. There were no other speakers. The public hearing was closed. Councilmember Jones moved for approval of the Staff recommendation on Part (a) and continuance of action on Parts (b) & (c) to March 12, 2007, seconded by Councilmember Boyer. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION 07-18525 creating SID 1377: water, sewer, curb & gutter and street improvements to Greenbriar Rd. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff presentation. The public hearing was opened. RICK LEUTHOLD of ENGINEERING, INC., NO ADDRESS GIVEN, stated he offered to answer any questions. There were no questions. The public hearing was closed. Councilmember Boyer moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

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

Council Initiatives

- COUNCILMEMBER BREWSTER MOVED to direct Staff to start the process to place the Inner Belt Loop (IBL) in the Billings Urban Transportation Plan, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.
- COUNCILMEMBER BREWSTER MOVED to direct Staff to begin buying right-of-way (ROW) for the Inner Belt Loop, to be completed in 5 years, and beginning with the next budget cycle, seconded by Councilmember Ruegamer. Councilmember Brewster reported the cost for this was less than 4% of the money collected by the arterial construction fees over 5 years. He also said that after looking over the financial report the reserves are adequate. The majority of the project was State planned and he felt a “better” price was possible, i.e. \$1,000 per acre. He explained he would like to bring this forward with the CIP and present it to the Council for discussion in two weeks.

Councilmember Boyer stated she “feels” there are numerous conflicts and asked Public Works Director Dave Mumford to report with reference to this issue. Public Works Director Dave Mumford said on the road project for \$17,000,000 from two years ago the City receives approximately \$3,000,000 in arterial fees. He noted that it would take all of the arterial fees collected. Councilmember Brewster interjected, “We didn’t ask you to build it, just buy the right-of-way.” Mr. Mumford stated the Council would need to advise him which capital improvement projects to defer. Councilmember Boyer requested information about the effect this request would have on the Shiloh and the Gateway Triangle Projects. Mr. Mumford replied, “It has no effect on Shiloh whatsoever, and for Gateway, another option is being ‘looked at’ for resurfacing the roads through the Gas Tax. We are trying to find a way to improve the area.” Councilmember Boyer said she supports the IBL, however she wanted a Work Session to discuss this further. She asked for a written report showing what was “involved” and pertinent data.

City Administrator Tina Volek stated Staff had informed her that this is scheduled for presentation to Council at the February 26, 2007 meeting under the Transportation Plan Update. However, there was no federal funding identified. Councilmember Brewster replied, “I am asking that this be done over a five-year period. I am not asking you to do it next week. I am asking that you include it in the budget for each of those five years. If it becomes too physically constrained to do it, you can deny it at any point. I am suggesting that you include it in a plan and move forward. We cannot just keep talking about it and saying it is in the County and not the City, and there are no federal appropriations. Something has to ‘force’ the issue.”

Councilmember Gaghan asked Councilmember Brewster if this would be presented to the County as it was to the City. Councilmember Brewster replied, “That is my point exactly. Everybody is saying this is not the City, it is the

County. This is going to be a City arterial. It is being built for the City not the County. We cannot keep saying this is a County project – it is not. We have to move forward. Geographically you have more than one-third (1/3) of the City’s residents with one way into town; one big, major intersection and if there was a catastrophe, everyone would have only one way out.”

Councilmember Jones amended the motion to direct Staff to “start the process” of buying ROW for the IBL, to be completed in 5 years, beginning with the next budget cycle, seconded by Councilmember Ruegamer. On a voice vote, the amendment was not approved. Mayor Tussing and Councilmembers Ronquillo, Gaghen, Veis and Boyer voted “no”. On a voice vote on the original motion, the motion was approved. Councilmembers Ronquillo, Gaghen and Boyer and Mayor Tussing voted “no”.

- COUNCILMEMBER RUEGAMER MOVED to direct Staff to move ahead with the Billings Kiwanis to create a license plate for the City of Billings, seconded by Councilmember Brewster. On a voice vote, the motion was approved. Councilmember Veis voted “no”.

ADJOURN -- The meeting was adjourned at 7:30 p.m.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Marita Herold, MMC City Clerk