

COUNCIL ACTION SUMMARY

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE
PEOPLE FLOURISH AND BUSINESS THRIVES.”**

AGENDA

COUNCIL CHAMBERS

September 22, 2008

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Mayor Tussing

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

MINUTES – September 8, 2008, approved as distributed.

COURTESIES - None

PROCLAMATIONS

- Family Day – A Day to Eat Dinner with Your Children, Sept. 22, 2008
- American Indian Heritage Day – Sept. 26, 2008

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek referenced Item H and advised that an existing right-of-way easement would be used, a new right-of-way easement was not necessary, and staff was recommending that the item be removed from the agenda.
- Ms. Volek noted the final staff report and agreement for Item 2 had been distributed in the Friday packets and was available in the ex parte notebook in the back of the room. She also referenced letters from Amy Webber and Mike Schaer regarding Item 2 and advised copies were available in the ex parte notebook.
- Ms. Volek advised the Rehbergs were requesting that Item 3 be postponed until October 14, 2008.
- Ms. Volek referenced Item 11b and said a letter from Bill Cole of the Cole Law Firm was received asking for a change in the Planned Development Agreement. She said a copy of the letter had been distributed to Council that evening and was filed in the ex parte notebook.

- Ms. Volek referenced Item 12 and said updated protest information had been distributed to Council that evening and was filed in the ex-parte notebook.
- Ms. Volek referenced Item 13 and advised the applicant requested that the item be withdrawn.
- Ms. Volek noted a letter from Alan Stageberg regarding Item 17 that had been distributed to Council and was filed in the ex-parte notebook.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2, 3, 4, 10(c), 16, 17, and 18 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.)

The public comment period was opened.

- The following people spoke in opposition of Item 2, Privatization of the Animal Shelter:

- ✓ Mark Francis, DVM, Hardin, MT
- ✓ Georgia Peters, 1950 Mary Street
- ✓ Mary Ann Wegner, 2113 Walter Road
- ✓ Catherine Schaeffer, 2113 Walter Road
- ✓ Angie Cook, 2910 Hannon Road
- ✓ David Wagner, 5220 Midland Road
- ✓ Susan Grasso, 1005 Moon Valley
- ✓ Michael Mansfield, 1125 Siesta Avenue
- ✓ Dan, 110 S. 31st Street
- ✓ Sandra Wulff, 2942 Old Hardin Road
- ✓ Heather Cunning, PO Box 273, Billings
- ✓ Kevin Nelson, 4235 Bruce
- ✓ Liz Honaker, 208 N. 29th Street
- ✓ Bill Honaker, 208 N. 29th Street

- The following people spoke in favor of Item 2, Privatization of the Animal Shelter:

- ✓ Nicole Thompson, 428 Tumbleweed Drive
- ✓ Martin O-Neil, 5216 Rocky Mountain Boulevard
- ✓ Jake Penwell, 1600 58th Street West
- ✓ Chad Amestoy, 1041 Broadwater
- ✓ Ty Voge, 4807 Cedar Ridge Circle
- ✓ Megan McBride, 2223 Belknap Avenue
- ✓ Debbie Schoeppe, 2909 Gregory Drive

- ✓ Dale Sikora, PO Box 31011, Billings
- ✓ Diana Bachman, 2213 2nd Avenue North
- The following people spoke in opposition of Item 17, the Development Agreement for the Babcock Theater:
 - ✓ David Bovee, 424 Lewis Avenue
 - ✓ Joe White, Billings, MT
 - ✓ Kevin Nelson, 4235 Bruce Avenue
 - ✓ Cynthia, 821 N. 27th Street
- The following people spoke in favor of Item 17, the Development Agreement for the Babcock Building:
 - ✓ Michelle Cormier Lee, 220 N. Broadway
 - ✓ Pat Cormier, 220 N. Broadway
 - ✓ Patty Nordlund, 222 N. 32nd Street
 - ✓ Mike Mathew, 115 N. Broadway
 - ✓ Sheryl S., 409 14th Street West
 - ✓ Hans Kostal, 108 N. Broadway
 - ✓ Renee Christensen
 - ✓ Maxine Allman
 - ✓ Lisa Harmon, 2815 2nd Avenue North
 - ✓ Diane Bachman, 2213 2nd Avenue North
 - ✓ Norman Miller, 4507 Palisades Park Drive
 - ✓ Steve Bruggeman, 1824 Forest Park
 - ✓ Jeremiah Young, 3114 12th Avenue North
- The following people spoke in opposition of Item 18, expansion of the North 27th Street TIFD boundaries:
 - ✓ Kevin Nelson, 4235 Bruce Avenue
 - ✓ David Bovee, 424 Lewis Avenue

CONSENT AGENDA: **SEPARATIONS: H**

1. A. Bid Awards:

(1) Non-Commercial Aviation Building and Ground Lease (5-year) for city-owned hangar located at 2431 Overlook Drive. (Opened 8/26/08) Delayed from 9/8/08. Recommend Aero Interiors; \$20,580 first year revenue; subsequent years adjusted annually by CPI-U.

(2) W.O. 08-18, Airport Road Water Line Relocations to accommodate upcoming MDT Airport Road Construction Project. (Opened 9/9/08) Recommend COP Construction; \$395,179.40.

(3) 2009 4-Wheel Mechanical Broom High Dump Sweeper
(Opened 9/16/08) Staff recommends delay of award until 10/14/08.

B. Memorandum of Agreement with Montana State University-Billings (MSU-B) for architectural and building consultant services for the future Joint Community Library on the MSU-B College of Technology campus. \$75,000 City contribution; \$75,000 MSU-B contribution.

C. Maintenance Agreement between the City of Billings and Yellowstone County for the traffic signal at the Johnson Lane/Old Hardin Road intersection; City to be reimbursed actual costs for parts, materials, and services.

D. Amendment #1 to Professional Services Contract with Interstate Engineering for W.O. 01-05, Lake Hills Storm Drain Project; \$67,685.

E. Amendment #1 to Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., dba Alpine Air, adding 1,047 square feet to leasehold for construction of additional office space; \$1,738.08 increase in revenue first year, for total first year revenue of \$19,007.04.

F. Assignment and Transfer of West End Hangar Ground Lease from John M. and/or Marcia A. Nash to Coal Black Cattle Company, L.L.C.; with no financial impact to the City.

G. Right-of-Way Easement Request from NorthWestern Energy to relocate electric power lines for upcoming MDT Airport Road Construction Project; with no financial impact to the City.

H. Right-of-Way Easement Request from Yellowstone Pipe Line to relocate 10-inch pipeline for upcoming MDT Airport Road Construction Project; with no financial impact to the City. **EASEMENT WAS NOT NEEDED. UNANIMOUSLY REMOVED FROM AGENDA.**

I. Declaring surplus property and authorizing a public auction of surplus City equipment and police recovered property on September 27, 2008.

J. Acceptance of donations from various donors to the Ballpark Construction Fund for \$57,308 and the Ballpark Maintenance Fund for \$13,400.

K. Acceptance of donation from Kenneth Hollar for \$15,030 for picnic shelter at Francis's Park in Lake Hills Subdivision.

L. Resolution of Intent #08-18754 creating SILMD 305, King Avenue West from South 31st Street West to Shiloh Road; repealing SILMD 303; and setting a public hearing date of October 14, 2008.

M. Transfer of three RSIDs from Yellowstone County to the City of Billings.

N. Approval of City Administrator Evaluation: Date and Evaluation criteria.

O. Second/Final Reading Ordinance #08-5476 for Street Maintenance Fee Ordinance Amendment clarifying the maximum assessment rate for vacant parcels.

P. Second/Final Reading Ordinance #08-5477 for Storm Sewer clarifying purposes of the City's organizational structure or recent past practices within the Public Works Department.

Q. Second/Final Reading Ordinance #08-5478 for Arterial Construction Fee Ordinance Amendment clarifying that rates are set annually by resolution, and allowing Residential Manufactured Home-zoned property owners to petition for a reduction of arterial construction fee assessments.

R. Preliminary Subsequent Minor Plat of Amended Lot 1, Block 1, Burlington Northern Subdivision, 17th Filing, generally located on the southeast corner of the intersection of Daniels Street and Industrial Avenue and addressed as 227 Daniels Street; Monad Daniels LLC, Dennis Witmore, and Roland Grunstead, owners; Engineering, Inc., agent; conditional approval of the plat and adoption of the Findings of Fact.

S. Bills and Payroll

- (1) August 22, 2008
- (2) August 29, 2008

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

REGULAR AGENDA:

2. AGREEMENT with Yellowstone Valley Animal Shelter, Inc. for a 2-year contract for private operation of the Billings Animal Shelter. (Delayed from 5/27/08, 6/23/08 and 8/25/08) Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED 6 TO 3. COUNCILMEMBERS MCCALL, PITMAN AND MAYOR TUSSING VOTED 'NO'.**

3. TRANSFER of Rehberg Ranch sanitary sewer lift station, force main, treatment lagoons, and effluent storage ponds and dispersal system to the City of Billings. Delayed from 9/8/08. Staff recommends approval. (Action:

approval or disapproval of staff recommendation). **DELAYED UNTIL 10/14/08.**

4. **RESOLUTION** relating to Special Improvement District Bonds 1385; awarding the sale and approving the form and detail of the bonds. Staff recommends delaying action until 10/14/08. (**Action:** approval or disapproval of staff recommendation.) **DELAY APPROVED.**
5. **PUBLIC HEARING AND RESOLUTION #08-18755** approving the original spread of Special Improvement District 1378. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED.**
6. **PUBLIC HEARING AND RESOLUTION #08-18756** approving the original spread of Special Improvement District 1379. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED.**
7. **PUBLIC HEARING AND RESOLUTION** approving the original spread of Special Improvement District 1380. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **PUBLIC HEARING CONTINUED UNTIL 10/14/08.**
8. **PUBLIC HEARING AND RESOLUTION #08-18757** approving the original spread of Special Improvement District 1383. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED.**
9. **PUBLIC HEARING AND RESOLUTION #08-18758** approving a reduction in the Arterial Construction Fee assessments for five (5) Commercially-zoned parcels and one (1) Residential Manufactured Home-zoned parcel used solely as owner-occupied, single family residences. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED.**
10. **PUBLIC HEARING** for the FY2007-2008 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG) and HOME Programs. **NO ACTION REQUIRED.**
11. (a) **PUBLIC HEARING AND RESOLUTION #08-18759 FOR ANNEXATION #08-08:** 55.45 acres described as Tracts 7-A and 6-A-1, Certificate of Survey 2314 and Tract 1-A-1, Certificate of Survey 2702, generally located on the south side of Grand Avenue between 30th Street West to west of Zimmerman Trail. Yegen Grand Avenue Farms, Inc., owner and petitioner. Staff recommends conditional approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED.**
(b) **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #848:** A zone change from Agriculture-Open Space, a county

zoning district, to Planned Development with two underlying districts – Community Commercial and Residential Multi-Family on property described as Tracts 6-A and 7-A, Certificate of Survey 2314 and Tract 1-A, Certificate of Survey 2702, generally located on the south side of Grand Avenue between 30th Street West to west of Zimmerman Trail. Yegen Grand Avenue Farms, Inc., owner and petitioner. Zoning Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED.**

(c) **PRELIMINARY PLAT** of Cardwell Ranch Subdivision, 1st Filing, generally located on the south side of Grand Avenue between 30th Street West to west of Zimmerman Trail. Yegen Grand Avenue Farms, Inc., owner. Planning Board recommends conditional approval and adoption of the Findings of Fact. (Action: approval or disapproval of Planning Board recommendation.) **APPROVED.**

12. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #847:** A zone change from Residential 9600 to Residential 6000 Restricted on property described as Tracts 1 & 2 of Certificate of Survey 3139, Tract 1-B of Certificate of Survey 2379, and an unplatted parcel in the NE1/4 of Section 5, Township 1 South, Range 25 East, generally located south of Grand Avenue and west of 56th Street West. Dorn-Wilson Development, Douglas and Deborah Frank, and Ronald Frank, owners; Engineering, Inc., agent. Zoning Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (Action: approval or disapproval of Zoning Commission recommendation.) **ON A ROLL CALL VOTE, APPROVED 6 TO 3. COUNCILMEMBERS RONQUILLO, PITMAN, VEIS, RUEGAMER, MCCALL, AND CLARK VOTED IN FAVOR. COUNCILMEMBERS GAGHEN, ULLEDALEN, AND MAYOR TUSSING VOTED AGAINST.**
13. **PUBLIC HEARING FOR SPECIAL REVIEW #865:** A special review to allow Commercial Recreation for the rental of the existing grounds and building for special events on a 20,620 square foot parcel of land described as Lots 7 and 8, Block 2, Graham Subdivision; addressed as 2323 Azalea Lane; and known as the Fortin Mansion. Jim and Debbie Eliason, owners; Daniel Horman, Don Lohrenz, and Nicholas and Mary Okon, agents. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.) **ZONING COMMISSION'S RECOMMENDATION TO DENY WAS APPROVED 6 TO 3. COUNCILMEMBERS MCCALL, ULLEDALEN, AND CLARK VOTED 'NO'.**
14. **PUBLIC HEARING FOR SPECIAL REVIEW #866:** A special review to add an outdoor patio to a location with an existing all-beverage liquor license with gaming on a 25,650 square-foot parcel of land in a Community

Commercial zone described as Lot 3, Block 1; the south 150' of the east 52' and the south 150' of the west 96' of Lot 3, and the south 150' of the west 23' of Lot 4, Block 1, Van Ornum Subdivision, located at the Squire Lounge, 1525 Broadwater Avenue. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.) **APPROVED.**

15. **PUBLIC HEARING AND SPECIAL REVIEW #867:** A special review to locate an all-beverage liquor license with gaming on a 33,036 square foot parcel of land in a Highway Commercial zone described as Lot 9, Block 1, Winemiller Subdivision, located at 1423 Main Street in Billings Heights. HOBS, a Montana General Partnership, owner; Al Koelzer, agent. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.) **APPROVED.**
16. **2009 UNIFIED PLANNING WORK PROGRAM (UPWP)** for the Billings Metropolitan Planning Organization. Staff recommends approval of the Draft 2009 UPWP and authorizing the Mayor to take this recommendation to the Policy Coordinating Committee (PCC) meeting of September 26, 2008. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation). **APPROVED.**
17. **DEVELOPMENT AGREEMENT** between the City of Billings, Downtown Billings Partnership, Inc., The Babcock, LLC, for the Babcock Building. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED 8 TO 1. COUNCILMEMBER ULLEDALEN VOTED 'NO'.**
18. **NORTH 27TH STREET TIFD BOUNDARIES.** Staff recommends approval of the proposed expansion of the North 27th Street District. (**Action:** approval or disapproval of staff recommendation.) **APPROVED - RELOCATING THE SOUTHERN BOUNDARY ONE BLOCK TO THE NORTH.**
19. **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.*)
 - **Trent Godfrey, South Billings Boulevard**, said the removal of the trees in the Town Square Development area eliminated the noise barriers and asked staff to look into adding some type of noise barrier.

Council Initiatives

- **VEIS:** Moved to have the ordinance amended to eliminate the need for Special Reviews for existing all-beverage liquor licenses, seconded by Councilmember Ruegamer. **APPROVED.**
- **TUSSING:** Moved to direct staff to look into the pros and cons of annexing Phipps Park and Riverfront Park into the City, seconded by Concilmember Clark. **APPROVED.**

ADJOURN – The meeting adjourned at 12:03 a.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 contact Cari Martin, City Clerk, at 657-8210.

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<http://ci.billings.mt.us>