

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

## August 9, 2004

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 Nancy Boyer.

**ROLL CALL** -- Councilmembers present on roll call were: Gaghen, McDermott, Brewster, Brown, Ruegamer, Iverson, Boyer, Poppler, Clark and Jones.

**MINUTES – July 26, 2004**. APPROVED as printed.

**COURTESIES** – NONE

**PROCLAMATIONS – Mayor Tooley**. NONE.

**BOARD & COMMISSION REPORTS** – Parks, Recreation & Cemetery Board NONE.

**ADMINISTRATOR REPORTS – Kristoff Bauer**.

- City Administrator Kristoff Bauer asked the Council to pull Item N for a substitute recommendation; and to pull Item R to allow for a staff presentation.
- Mr. Bauer noted that Item O has a revised resolution on the Council desks this evening. This is proposed as a replacement to the previously provided resolution. The revised resolution does not include a specific bid opening date to allow Staff more flexibility in the bidding process.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1, #7, #8, #9, #10 and #11 ONLY. Speaker sign-in required.** (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.)

- GREG KRUEGER of the Downtown Billings Partnership said he is available to answer any questions on Items E, G and J of the Consent Agenda this evening.
- There were no other speakers.

### **CONSENT AGENDA:**

#### 1. A. **Bid Awards:**

(1) **W.O. 01-06 Arlene Corridor Improvements, Phase 1.** (Opened 7/27/04). (Delayed from 7/26/04). Recommend Western Municipal Construction, Inc., \$2,544,011.20.

(2) **W.O. 01-07 Rimrock Road – Zimmerman Trail Intersection**

**Improvements.** (Opened 7/20/04). (Delayed from 7/26/04). Recommend H. L. Ostermiller Construction, \$433,015.31.

**B. Amendment #3, 2003 Water and Sewer Line Replacement Project, Schedules I and II, Professional Services Agreement, HKM Engineering, Inc., \$46,125.00.**

**C. C.O. #5, 2003 Water and Sewer Line Replacement Project, Schedule I, Chief Construction, \$29,805.92 and 6 days.**

**D. FY 2005 City/State Agreements with Montana Dept. of Transportation:**

- (1) City/State Maintenance Agreement.
- (2) City/State Contract Overlay Agreement

**E. Annual Operating Agreement** with Downtown Billings Partnership, term: 7/1/04 to 6/30/05.

**F. Agreement** with Yellowstone County Council on Aging, Inc. for senior programs at the Billings Community Center, term: 7/1/04 – 6/30/05, \$21,000.00 annual revenue.

**G. Approval of Pre-Development Loan Program** for Downtown Billings Partnership.

**H. Renewal of Contract for Services** for Misdemeanor Supervision (Probation) Program, Alternatives, Inc., term: 7/1/04 – 6/30/05.

**I. Approval of CTEP Project Application submissions** for: School Route Improvements (Jackson Street, Phase II and Highland School) and Heritage Trail (Big Ditch Trail and Gabel Road Connector). (NOTE: Project application for Cobb Field added by motion.)

**J. Approval of Large Project Gap Funding** for Masonic Temple Project, G & G Advertising, \$188,000.00.

**K. Approval of On-Line Application** for 2004 Local Law Enforcement Block Grant and acceptance of grant funds, \$25,346 (federal amount: \$23,042.00; City match: \$2,304.00).

**L. Street Closure** for Western Wheel Bar Customer Appreciation Celebration, Saturday, August 21, 2004.

**M. Acceptance of the Domestic Violence Unit Grant** (\$101,800.00) and the Victim/Witness Assistance Program Grant (\$75,000.00) from the Montana Board of Crime Control.

**N. Shiloh Road Right-of-Way Acquisition:**

(1) Acceptance of Warranty Deed from Gladys Anderson, Lot 2 of Blue Meadow Acreage Tracts, 2724 Shiloh Rd., \$644.49.

(2) Acceptance of Warranty Deed from Sharon Harvey and Colleen Krause, Lot 10, Block 1, Monty's Place Sub., 3959 Rimrock Rd., \$445.80.

(3) Acceptance of Warranty Deeds and Agreements for ROW Acquisition from Lutheran Retirement Home, Inc., Lots 2-5 of Amended Lot 1, Blue Meadow Acreage Tracts and Tracts A, A-1, A-2, C/S 369 Amended, \$0.00. (Property exchange in lieu of payment). (NOTE: Delayed to 9/13/04.)

**O. Resolution 04-18170** authorizing Construction Bids for SID 1371: Shiloh Road – Poly Drive to and including Rimrock Road ~~and setting a bid opening date for 9/07/04.~~

**P. Second/final reading ordinance 04-5293 for Zone Change #736:** a zone change from Residential 9,600 to Residential 7,000 on property described as Tract 3, C/S 2017 Amended and located on at the northwest corner of the intersection of Wicks Lane and Picador Place.

**Q. Preliminary Plat** of Goodman Subdivision, 4<sup>th</sup> filing, generally located between 41<sup>st</sup> and 43<sup>rd</sup> Sts. West and between Avenues B & D.

**R. Preliminary Plat** of Ironwood Estates Subdivision, 3<sup>rd</sup> filing, generally located north of Ironwood 1<sup>st</sup> filing, east of Molt Road and north of Ironwood Drive.

**S. Preliminary Plat** of Pemberton Subdivision, Amended Lot 11, located at 618 Pemberton Lane.

**T. Preliminary Plat** of Rehberg Ranch Estates Subdivision, 2<sup>nd</sup> filing, generally located northwest of the intersection of Rod and Gun Club Road and US Highway No. 3.

**U. Final Plat** of Barry Acreage Tracts Subdivision, Amended Lot 4, Block 2.

**V. Final Plat** of Culver Subdivision.

**W. Final Plat** of Hunter's Ridge Subdivision.

**X. Final Plat** of Summerhill Subdivision, Amended Lots 21-30, Block 4.

**Y. Bills and Payroll.**

(1) July 12, 2004 (1)

(2) July 12, 2004 (2)

(3) July 19, 2004

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

Councilmember McDermott separated Item I from the Consent Agenda. Mayor Tooley separated Items N, O and R from the Consent Agenda. Councilmember Brewster moved for approval of the Consent Agenda with the exceptions of Items I, N, O and R, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item I of the Consent Agenda, seconded by Councilmember Brown. Councilmember McDermott asked to add a request for a Cobb Field Study to the CTEP submissions. This project would qualify for CTEP funding under category 13 and is in a range of \$55,000 to \$60,000. The matching amount is approximately 13%. Councilmember McDermott amended the motion to add a Cobb Field Study to the CTEP submission list, seconded by Councilmember Clark. On a voice vote, the amended motion was unanimously approved. On a voice vote, the motion as amended was unanimously approved.

Councilmember Brewster moved for approval of Item N of the Consent Agenda, seconded by Councilmember Boyer. City Administrator Kristoff Bauer requested the Council delay this item to 9/13/04 because of difficulty obtaining the necessary signatures on the right-of-way documents. Councilmember Brewster made a substitute motion to delay Item N to 9/13/04, seconded by Councilmember Boyer. On a voice vote, the substitute motion was unanimously approved.

Councilmember Brewster moved for approval of Item O of the Consent Agenda, seconded by Councilmember Poppler. Mr. Bauer said the Staff is asking the Council to take action on the revised resolution placed on the Councilmembers' desk this evening. He said this resolution does not refer to a specific bid date in order to allow flexibility on the bidding for the project. Councilmember Brewster made a substitute motion to approve the revised resolution for Item O, seconded by Councilmember Boyer. On a voice vote, the substitute motion was approved with Councilmembers Clark, Jones and McDermott voting "no".

Councilmember Brewster moved for approval of Item R of the Consent Agenda, seconded by Councilmember Brown. Planning Director Ramona Mattix said the Fire Department has made an original recommendation regarding the emergency access for this preliminary major plat. It is for a twenty-foot wide access that can support a 30-ton vehicle and a storm drainage design that would support a 10-year storm event with no encroachment of the travel way. She said the Planning Board changed the recommendation for the storm drainage design to not be required for a 10-year storm event with no encroachment of the travel way and substituted a recommendation for the construction and upgrade of this access road or creation of an all-traffic secondary access to be completed within a five-year period or prior to the filing of the final plat of the Ironwood Estates planned development or guaranteed in Phase I of the Ironwood Estates Subdivision, 3<sup>rd</sup> filing. Ms. Mattix said the Council can decide which recommendation to proceed with and asked for an additional recommendation that the emergency access condition should become effective upon transfer of right-of-way of 62<sup>nd</sup> Street to the City. She said the County has been unwilling to allow any construction on 62<sup>nd</sup> Street until it is owned by the City.

Assistant Fire Chief Paul Gerber said the Fire Department is asking the Council to approve Recommendation A because of the ten-year storm event concerns. He noted that in 1986 the proposed 62<sup>nd</sup> Street access was underwater. State law (Uniform Fire Code)

says when the Fire Department deems recommendations necessary, a second access out of subdivision may be requested. These roads must be built to withstand travel by all fire apparatus up to 30 tons. The Fire Code says the road must be built at the time of construction, he added. He said the Council previously approved the 10-year storm event language but the developer in Ironwood, 3<sup>rd</sup> filing is asking that this condition be rescinded. The concerns of the Fire Department are due to the extreme distance from the City of this and other subdivisions in the area and meeting the "two emergency access" requirement that is necessary for public safety.

Mr. Bauer clarified the condition is for a secondary access that would hold up in a ten-year storm event, not necessarily at the proposed location (Recommendation A) and conditioned on the transfer from the County the right-of-way of 62<sup>nd</sup> Street to the City. This secondary access condition should be imposed now to insure the safety of individuals who are currently residing there. He added that deferring this condition would impact this same concern for several other subdivisions that are facing the same recommendations. Mr. Bauer noted the developer feels a better access can be constructed in the next five years. In answer to Councilmember Jones' question about the need for 5 years to develop the secondary access, Ms. Mattix said the 5-year time frame was a recommendation of the Planning Board. Councilmember Poppler said the Council should take the responsible action and approve the recommendation by the Fire Department. Councilmember Brewster made a substitute motion to approve the plat with Recommendation A including the acquisition of the right-of-way of 62<sup>nd</sup> Street from the County, seconded by Councilmember Boyer. On a voice vote, the substitute motion was unanimously approved.

## **REGULAR AGENDA:**

**2. CONTINUED PUBLIC HEARING FOR VARIANCE #CC04-01: a variance from the Site Development Ordinance Section 6-1203(h)(2) & (5), regarding the number of curb cuts and spacing of curb cuts, on Lots 13-21, Block 59, Fosters Addition, generally located along the east side of N. 26<sup>th</sup> Street between 6<sup>th</sup> and 7<sup>th</sup> Aves. North. Billings Townhouses, LLP, owner; High Plains Architects, agent. (Public hearing continued from 7/12/04). Staff recommends approval of a maximum of six seven (7) driveways on the North 26<sup>th</sup> St. frontage and a minimum spacing between driveways of 6 eight (8) feet. (Action: approval or disapproval of Staff recommendation.)**

Traffic Engineer Terry Smith said the Staff recommendation is to allow 7 driveways with 8 feet between driveways and not as stated on the agenda. The Board of Adjustment granted a variance for building setbacks that was tied to the specific site plan in June of 2004, he noted. Mr. Smith said there have been changes since the public hearing on July 12<sup>th</sup>. All issues between the applicant and the Staff that were being reviewed at that time have been resolved. He said three alternatives were reviewed and the option of 7 driveways was selected because it eliminates the need for on-street parking. This minimized potential homeowners inconvenience of getting in and out of the driveways, maintains the 24-foot maximum driveway width as provided in the curb cut ordinance and maintains the required separation from the corner of 7<sup>th</sup> Street and the property to the south. Other options created awkward angles for access to driveways. He said denial of the variance would require alteration of the building layout, reducing the number of units or

total revision of the site plan that may require another Board of Adjustment ruling on setbacks. Mr. Smith noted the developer is considering an alteration to the site plan, changing the layout of some of the double and single units.

Councilmember McDermott asked if the developer could proceed without approval of this variance because of the ruling by the Board of Adjustment. Mr. Smith said they could not proceed because the curb cut ordinance would limit them to two driveways on the frontage along North 26<sup>th</sup> Street. Councilmember McDermott asked if the developer is planning to develop the alley into a major street. Mr. Smith confirmed that eleven units would access the alley. Councilmember Boyer asked about an alteration in the number of units in the layout that would allow the 25-foot spacing between driveways to be maintained. Mr. Smith said cutting back to 15 units could make this work, but the Staff thought that working with the developer to accommodate the proposal was the best alternative.

The public hearing was opened. RANDY HAFER, 2910 MORLEDGE STREET, said he is the president of High Plains Architect, working on this project. He said the plan is to complete a downtown urban density development. The Board of Adjustment has granted 5 variances for minor items such as side and front yard setbacks, an incursion into the vision triangle at the corner and lot coverage issues. The variance tonight is the last one needed and it concerns the curb cuts. There were 11 proposed curb cuts that have been reduced to 7. Mr. Hafer said the site would allow for 22 units with 66 on-site parking spaces, twice as many as are required. There would be no impact to on-street parking on 7<sup>th</sup> Avenue North or the other side of North 26<sup>th</sup> Street. In answer to Mayor Tooley's question, he said the 7 curb cuts are a reasonable compromise and the 5 curb cut option may be considered. Councilmember McDermott expressed concern about the proposed density. Mr. Hafer said the maximum number of units allowed is 130 and they are only putting 44 with a more uniform density on the ground plane to create a nicely manicured landscaped interior court. This is a pioneer project that is sensitive to the neighborhood and provides for security.

TOM TOWE, 2739 GREGORY DRIVE, said he and Court Ball own the subject property. He said apartment buildings and office buildings didn't make sense on this location. Mr. Hafer suggested the townhomes to secure the needed density. He noted some of the unique features such as the decks on top, second floor "bubbles" to step out and see the street, and a gated courtyard. These townhomes would be for people who want to live in the downtown area or near the medical corridor and have a minimum of maintenance, and being maintained by an association for the owners.

CHARLES GOLDY, 2127 LYNDALE LANE, said he is an architect. He said this is an exciting project and he likes the proposal. He supports the project.

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

**3. PUBLIC HEARING AND RESOLUTION 04-18171 CREATING SILMD #288: a lighting maintenance district in the Wentworth Drive area in Lake Hills 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 Ruegamer moved for approval of the Staff recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property described as C/S 1876 Amended, Tr. 4B-2 of Amended Tr. 4B, Jerry Goodman, petitioner. (Annex #04-08). 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 Iverson moved for approval of the Staff recommendation on first reading, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward V to include recently annexed property described as: Tract C of C/S 1011 Amended, including all adjacent right-of-way of 34<sup>th</sup> Street West, Robert and Cynthia Cover, petitioners, (Annex #04-07). 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 Boyer moved for approval of the Staff recommendation on first reading, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING FOR W.O. 03-22: INTERSECTION DESIGN STUDY (WEST WICKS LANE AND GOVERNORS/GLENEAGLES BOULEVARD, adoption of Alternative B: a modern roundabout at the intersection. Staff recommends approval. (Action: approval or disapproval of Staff recommendation).**

Chuck Strum, of Interstate Engineering, said the purpose of the study was to determine appropriate, efficient combinations of traffic controls and physical improvements for the intersection at West Wicks Lane and Governors/Gleneagles Boulevard. Several objectives were accomplished: 1) improve intersection operations (reduce vehicle delay and vehicles queues), 2) improve intersection safety, and 3) improve pedestrian safety. This intersection currently experiences elevated daily volumes of traffic. It is unique because it is the only route to and from Skyview High School, creating peak traffic before and after school. Morning peak hour traffic handles 1250 vehicles in an hour and traffic will increase due to additional development in the area. He noted Wicks Lane is scheduled to be extended to the west somewhere near Zimmerman Trail. He said twenty year predictions are for traffic to double on Wicks Lane and triple in the intersection of Wicks Lane and Governors/Gleneagles Boulevard.

Mr. Strum said there is excessive queuing causing traffic delays in the morning for about 1500 feet down Wicks Lane. Wicks Lane has earned an "E" grade (equal to school grades) for level of service on some approaches in the morning and an "F" grade in the afternoons. The average delay is 80 seconds per vehicle. He said the alternatives reviewed were: 1) do nothing – keep as a four-way stop, 2) install a traffic signal, and 3)

install a modern roundabout. The current four-way stop alternative was dropped because it does not provide the adequate capacity to handle the traffic or improve vehicle and pedestrian safety.

Installation of a traffic signal provides acceptable levels of service and improves both existing and future traffic and pedestrian safety, but requires intersection lane use changes. The cost to install the signal and associated improvements is \$220,000. The roundabout provides acceptable levels of service for existing and future traffic and improves safety issues, reducing pedestrian crossing distance and complexity, but requires physical reconstruction of the intersection at an estimated cost of \$290,000. The roundabout functions with a round area in the middle with traffic circulating counter clockwise around the center circle. Mr. Strum said right-of-way acquisition is required on three of the four corners totaling 7/100<sup>th</sup> of an acre.

Mr. Strum said traffic signal control is the conventional option and meets driver expectations. The signal would provide slightly improved peak hour operations (less delay compared to a roundabout) and is easy to install. This option would also reduce right-angle crashes. The disadvantages are increased off-peak delay. There would be a loss of on-street parking because of the approach lanes and the potential for increased rear-end crashes. He said the advantages for installation of the roundabout are reduced vehicle delay for off-peak period traffic as compared to the signal option. Pedestrian crossings are simpler and shorter distances, he added. Roundabouts are also effective as speed control measures, do not require ongoing maintenance and reduce the severity of crashes.

He said the disadvantages of the roundabout are that they do not meet driver expectations and have higher construction impacts and cost. It also has less reserve capacity. Councilmember Brown said other areas of the country have a high incident of "fender benders" with roundabouts. Mr. Strum said roundabout design has been advancing rapidly and has been used in Europe for some time with good experience. Good visibility and conspicuous traffic controls that reduce traffic peaks are features that help to reduce accidents. Councilmember Brewster asked how the roundabouts are safer for pedestrians than traffic signals. Mr. Strum said the pedestrian crossings have raised refuge areas between lanes, whereas crossing with a signal requires five lanes to be crossed at one time. There is also the concern for both right and left-turn lane vehicles. He added that traffic signals give a false sense of security that traffic will stop. Crossing without a signal makes the pedestrian more aware of traffic. Councilmember Brewster asked if the connection with Highway 3 would create a more constant traffic flow. Mr. Strum replied "yes". He added that this would make a roundabout the more acceptable alternative. Councilmember McDermott asked why the roundabout costs more than signal installation. Mr. Strum said the by-pass lanes add to the cost. Ongoing maintenance for the traffic signal option makes it more expensive over time, however. He added that roundabouts are specifically constructed to accommodate maintenance requirements, such as snow removal.

The public hearing was opened. CHARLES GOLDY, 2127 LYNDALE LANE, said roundabouts are confusing. He said he has had bad experiences with roundabouts 11 years ago and hopes the design flaws have been corrected.

TOM ZURBUCHEN, 1747 WICKS LANE, said this intersection needs something done to it. He said Pete Hansen asked him to recommend that a roundabout not be used

and to ask for the simpler, less expensive option of a stop light. He said a simple single-face stop light can be installed for \$150,000, adding that he does not think the traffic on Wicks Lane would double with the future connection to Highway 3. Mr. Zurbuchen noted roundabouts are not new and some have been taken out due to crashes involving motor homes. He said the City can spend \$150,000 and install a system that through which everyone knows how to drive.

There were no other speakers. The public hearing is closed. Councilmember Poppler moved for approval of Alternative B – Roundabout Alternative as recommended by Staff, seconded by Councilmember Iverson. Councilmember Brewster said roundabouts do slow the traffic. He said the Heights Task Force does not support the roundabout alternative. He said it is an interesting concept but he must support what his constituents are asking for. Councilmember Brewster made a substitute motion to approve the traffic signal alternative, seconded by Councilmember Brown. Councilmember Poppler said she shares Councilmember Brewster's concern for youngster's safety and supports this conservative alternative. Councilmember McDermott said roundabouts do make sense in certain areas, but this area with school children present is not one of them. She supports the substitute motion, adding that the study was not a waste of money because roundabouts can be utilized in other parts of the City.

Mr. Bauer noted that the most dangerous maneuver in a slippery environment is a stop. The roundabout would allow traffic to continue to move slowly through the intersection. He added that roundabouts are more effective when there are pulses of use rather than continuous use, handling the peak traffic and not delaying the off-peak traffic. Mayor Tooley said he supports the roundabout alternative because of the pedestrian safety issues. On a voice vote, the substitute motion for the traffic signal was approved with Mayor Tooley voting "no".

**7. BID AWARD: AIP 28, Schedule I: Airport Rescue and Fire Fighting Facility Addition. (Opened 6/29/04). (Delayed from 7/26/04). Staff recommends rejecting the non-responsive bid from Fisher Construction and awarding the bid to High Tech Construction, \$550,863.00. (Action: approval or disapproval of Staff recommendation).**

There was no staff report. Councilmember Clark moved for approval of the Staff recommendation, seconded by Councilmember McDermott. Councilmember Boyer asked what Disadvantaged Business Enterprise meant. Assistant Director of Aviation Tom Binford said it is a program established by the Department of Transportation in the 1980's to give small businesses or minority owned businesses an opportunity to get started bidding projects. On a voice vote, the motion was approved with Councilmember Brown voting "no".

**8. BID AWARD: W.O. 04-03: 2004 Street Maintenance Contract #3. (Opened 8/03/04). Recommendation to be made at meeting. JTL Group, Inc., \$556,770.90. (Action: approval or disapproval of Staff recommendation).**

There was no staff report. Councilmember Jones moved for approval of the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**9. PROFESSIONAL SERVICES CONTRACT with BearWest for the North West Shiloh Land Use Plan, \$40,000.00. Staff recommends approval. (Action: approval or disapproval of Staff recommendation).**

Planning Director Ramona Mattix said this is the result of the RFP requested by Council to determine the land use for newly annexed lands in the northwest area including the cost of service components. The Planning Department receives 25% of their funding from the County mill levy, 25% from the City in the fees generated and 50% from Federal Transportation dollars. Any agency that receives Federal Transportation money must break down their work elements into seven items. Comprehensive Planning and Special Issues are two of those work element categories that fund this project. In 2004 \$152,000 was approved and budgeted by the Department of Transportation in those two categories. She noted a funding complication is the Federal Government's budget cycle that runs from September to October, while the City's budget year is from June to July.

Ms. Mattix noted the County Commissioners continue to be concerned about this study, especially how it is funded. The Commissioners want to be sure they retain authority in their jurisdiction. She said she has reassured them this is a tool for Council use to review future zoning in annexed areas. Mr. Bauer noted that the majority of the funding from the County mill levy comes from City residents. There is an FY 2004 budget amendment to add funding for this plan, but it has not been included in the FY 2005 budget and will require a budget amendment for that budget cycle.

Councilmember Boyer noted that this contract was not awarded to a local firm and asked if there was Council representation on the interview/selection committee. Ms. Mattix said there were no Councilmembers on the committee. The members consisted of Planning Department Staff and Public Works Staff. She noted the firm selected has the best methods for public and council involvement in the process. Councilmember Gaghen moved for approval of the Staff recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was approved with Councilmembers Brown, Clark and Jones voting "no".

**10. RESOLUTION OF INTENT TO CREATE a City-Wide Parks Maintenance District and referring the issue to the voters on the November 2, 2004 ballot. Staff recommends approval. (Action: approval or disapproval of Staff recommendation).**

Councilmember McDermott moved to table the Resolution of Intent to Create a City-Wide Park Maintenance District indefinitely, seconded by Councilmember Brewster. Councilmember McDermott asked the Parks Department to watch the process Engineering and the Street Maintenance Committee is using to develop the street maintenance fees. Equity problems in the current fee structure will be the subject of review in the legislature this year and those results should be employed in this proposal as well. On a voice vote, the motion was approved with Councilmembers Iverson and Ruegamer voting "no".

**11. RESOLUTION submitting the question of the issuance of General Obligation Bonds for the design and construction of a new baseball stadium to the voters on the November 2, 2004 ballot. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

Councilmember Ruegamer moved to disapprove the resolution submitting the question of the issuance of General Obligation Bonds for the design and construction of a new baseball stadium to the voters on 11/2/04, seconded by Councilmember Clark. Councilmember Ruegamer said the group that is working on this initiative does not have a plan as yet. There are obstacles that need to be overcome. He said he does not want to ask the voters for an open checkbook at this point. Councilmember Ruegamer said he hopes to develop a good plan to build and finance this project. He said the study to finance the project would include ways to find alternative sources of revenue and financing for the project. Mr. Bauer noted that CTEP funding is not available for funding of financial analysis of projects. Councilmember McDermott asked what kind of study could be funded by CTEP under Category 13. Ms. Mattix replied that CTEP funds could be used to look at enhancements to the right-of-way, site planning and improvements connected with drive approaches or parking arrangements. On a voice vote, the motion was unanimously approved.

**12. PUBLIC COMMENT on Non-Agenda Items.**

- CHARLES GOLDY OF 2127 LYNDALE LANE: Mr. Goldy spoke in regard to a zone change that was heard at the last council meeting. This was a zone change to allow a manufactured home to be located in back of an existing home on a lot over an acre in size. He said the zoning ordinance needs to be reviewed to address the outdated and misleading terminology – especially for manufactured homes and non-conforming uses. Mr. Goldy emphasized that the new manufactured homes are not trailer houses, especially when they are placed on permanent foundations and receive permanent financing.  
On another matter, Mr. Goldy stated that the 3-minute limit is not enough time to do presentations to the Council on proposed projects and asked how presenters could get more than 3 minutes.
- FRANCIS HARRIS OF THE TERRACE: Ms. Harris spoke about the Teamsters' strike that is currently underway. She noted she has always been treated very well by City employees, who do their jobs well. The City is kept clean and she is very thankful for those employees that perform their jobs well. Ms. Harris said this is a blatant case of discrimination against City employees by City Administrator Kristoff Bauer and Human Resources Director Rick Harden. She stated that Mr. Harden's attitude is "totally intolerable, disgusting and unacceptable, as is Mr. Bauer's" and suggested the Council and management take a good look at themselves. Ms. Harris said "no one is better than the employees that take care of the City and everyone should be thankful". She added "they should be compensated" and not abused. She added that perhaps we should begin "exporting our imports".
- TOM ZURBUCHEN, 1747 WICKS LANE: Mr. Zurbuchen urged the Council to take a hard look at the strike. He asked what the strike was really about, noting that the newspaper reported that the union was waiting for the City Administrator and the City Administrator was waiting for the union to initiate additional talks. He said "if there is no monetary value why aren't these people working". Mr. Zurbuchen said the public needs to know the facts and there needs to be some involvement.

- **CHARLES GOLDY RETURNED:** Mr. Goldy said the Council is a mechanism to do what the citizens of the community want. He said the employees did not want to strike, but felt that was the only way they could communicate they were serious. Mr. Goldy said this needs to be resolved via communication and urged the parties to talk face-to-face and work this out.
- **MAYOR TOOLEY STATEMENT:** Mayor Tooley said the Council values City employees and finds them to be excellent workers. A written statement stating this sentiment has been issued. The Council unanimously feels that excellent employees deserve the best supervision, therefore when it comes time for promotion, the best possible candidate should get the position. Mayor Tooley said this is what has been the major sticking point in the contract negotiations with the Teamsters. He noted that the City has proposed a 5-member committee (consisting of union employees, supervisors and a representative of human resources) to assist department heads in making hiring decisions for supervisory positions. Using the seniority method does not account for work performance, disciplinary actions, or merit, but rather minimum qualifications and seniority. This is not the appropriate way to serve the citizens of Billings.

## **Council Initiatives**

**COUNCILMEMBER McDERMOTT:** Councilmember McDermott moved to require presentations and financial reports from the Stewart Park and Amend Park Committees (in much the same format as the Housing Authority provides), seconded by Councilmember Brown. Councilmember McDermott said those committees are ones where considerable taxpayer dollars are spent on City-owned properties. On a voice vote, the motion was unanimously approved.

Councilmember Gaghen introduced her daughter Rebecca – in the audience this evening, visiting from Paris, France.

Mayor Tooley acknowledged members of Boy Scout Troop 23 in the audience.

**ADJOURN** –With all business complete, the Mayor adjourned the meeting at 8:50 P.M.

THE CITY OF BILLINGS:

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

*MINUTES: 08/09/04*

ATTEST:

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