

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

November 10, 2003

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 Charles F. Tooley called the meeting to order and served as the meeting's presiding officer. The Pledge of Allegiance was led by Boy Scout Troop 27, followed by the Invocation, which was given by Councilmember Mark Kennedy.

ROLL CALL – Councilmembers present on roll call were: McDermott, Gaghen, Brewster, Iverson, Kennedy, Ohnstad. Councilmembers Brown, Poppler, Jones and Larson were excused.

MINUTES – October 27, 2003. Approved as printed.

COURTESIES - Planning Department Director Ramona Mattix

Mayor Tooley noted that newly elected Councilmembers Richard Clark, Nancy Boyer and Vince Ruegamer were in the audience this evening.

Ms. Mattix introduced Lora Mattox as the new Neighborhood Planner. She comes to Billings from Burlington, Iowa where she was also a Neighborhood Planner. Ms. Mattox began her employment on November 3rd.

PROCLAMATIONS – Mayor Tooley.

- November: Adoption Awareness Month
- November: National Hospice Month

BOARD & COMMISSION REPORTS - Public Utilities Board - Bruce Kline

- Mr. Kline noted that fellow board members Barry Nolan and Steve Brown were present this evening. He said the Public Utilities Board serves in an advisory capacity reviewing utility extensions including Briarwood and the West End, improvements to the wastewater plant, and the Lockwood wastewater treatment proposal. He said their most recent task was to review construction development fees for the water and wastewater rate schedules.
- Mr. Nolan spoke about the recent Stakeholders meeting that he attended. Mr. Kline also noted that the Board would be losing two experienced board members at the end of this year.

ADMINISTRATOR REPORTS – Kristoff Bauer.

- Acting Assistant City Administrator Robert Keefe said City Administrator Kristoff Bauer was not in attendance due to illness.
- Mr. Keefe reminded the Council of the Council Retreat scheduled for Wednesday 5:30 P. M., November 12th at the Airport Operations Center.

CONSENT AGENDA:

1. A. Bid Awards:

(1) Purchase of Gasoline Powered Sweeper Scrubber for MET Transit. (Opened 10/21/03). (Delayed from 10/27/03). Recommend rejecting the sole bid and re-advertising at a later date.

(2) Roof Coating for IP 1-5 for Logan International Airport. (Opened 10/28/03). Recommend Bradford Roofing, \$90,250.00.

(3) Cleaning of Four (4) Parking Garages. (Opened 10/28/03). Recommend ABC Maintenance, \$16,740 for one year, with second year option to renew at same rate.

(4) Vehicles for City of Billings. (Opened 10/28/03). Recommend Archie Cochrane Ford, \$56,454.00; Menholt Chevrolet, \$41,687; and purchasing the police pursuit vehicles from the State of Montana bid, \$176,184.00.

(5) Industrial Park Pavement Rehabilitation – Logan International Airport. (Opened 10/28/03). Recommend delaying to 11/24/03.

B. C.O. #1, W.O. 02-06: Hawthorne Lane Secondary Trunk Storm Drain, COP Construction, Inc., \$86,820.00 and 0 days.

C. Contract for Professional Services: Park II Expansion Project, JGA Architects, Engineers and Planners, \$28,500.00.

D. Agreement with Yellowstone County for the City-County Special Investigations Unit (CCSIU), term: 1/1/04 -12/31/04.

E. Assignment of Lease between City of Billings and Billings Amateur Hockey League to Billings Community Youth Foundation (BCYF) on 8 acres in Centennial Park to allow BCYF to construct two ice arenas and related amenities in Centennial Park..

F. Removal of Board Member: Ryan Halpin from Board of Adjustment.

G. Acknowledge receipt of petition to vacate a portion of 38th Street West along Lot 18A, Block 14, Circle Fifty Subdivision Amended, and setting a public hearing date for 12/8/03.

H. Subordination of First Time Homebuyer Loan: Jamie Hernandez, 224 S. 32nd St., \$5,000.00.

I. Equipment purchase: one new model 2004 vacuum air sweeper for the Street/Traffic Division, State of Montana bidding schedule with Western Plains Machinery, \$136,480.00.

J. Bills and Payroll.

(Action: approval or disapproval of Consent Agenda.)

Councilmember Iverson moved for approval of the Consent Agenda, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 03-18042 annexing Lot 4, Block 2, Barry Acreage Tracts, 3rd filing. Roy & Jock Clause, owners. Staff recommends approval of the public service report and conditional approval of the annexation. (Action: approval or disapproval of Staff recommendation.)

Planning Staff Member Juliet Spaulding said this annexation is for a one-acre parcel located on the northeast corner of Bitterroot Drive and Erin Street. The petitioners have requested annexation to provide sewer service to the lot. She said a similar annexation request was made in June 2003, which was denied by the Council due to concerns of leaving a portion of Erin Street in the County, causing jurisdictional confusion. This is a new proposal, annexing all of Bitterroot Drive from Erin Street to north of the existing city limits and including all of Erin Street. Ms. Spaulding noted that the lot is zoned Residential 7,000 and is currently vacant. The petitioners plan to develop it as two residential lots.

There are no significant impacts to services. She noted that existing utility services are available within the Erin Street right-of-way. She added that revenues from taxes and fees would not cover the cost of city services. The utility construction costs would be financed by the developer.

Ms. Spaulding said this annexation is supported by the Growth Policy goals. It does comply with the Annexation Policy with the exceptions of the size of the annexation and that it is not wholly surrounded by the City. She said the Staff is recommending conditional approval, with the following condition:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest to SID and PMD shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

Councilmember Brewster asked if the reason Bitterroot Drive is being annexed is to force the residents living adjacent to the area south of Bitterroot Drive and east of Erin Street (that would be wholly surrounded) to be annexed. Ms. Spaulding said the City has no intention of doing that.

The public hearing was opened. TOM ZURBUCHEN, 1747 WICKS LANE, said this is a good annexation for Erin Street. He noted that only one-half of Bitterroot Drive is being annexed. He said the property to the west of Bitterroot Drive is unplatte. He asked who would have jurisdiction of this right-of-way, when half is in the City and half is in the County.

JOCK CLAUSE, 1940 RIVER OVERLOOK DRIVE, said he is the owner of the property. He said the annexation request is to obtain City services for the property. He noted that Erin Street would be built to City standards.

MARVIN BROWN, 1603 BLARNEY STREET, said he is concerned about the bridge that crosses the canal at the upper end of the annexation. He said the bridge does not meet City sight specifications, is very narrow and has been cracked and patched many times. He said the bridge would need to be replaced soon.

CAROL STEPHENSON, 3300 ALEXANDER ROAD, said she is the prospective buyer for the property. She said the plans include development with two duplexes that would be an asset to the neighborhood.

There were no other speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the Staff recommendation, seconded by Councilmember Brewster. Councilmember Brewster asked that the issue of the right-of-way on Bitterroot be addressed. Public Works Department Director Dave Mumford said the other half of the right-of-way on Bitterroot Drive is an easement at this time, which allows for access to utilities. He said it is not uncommon to have rights-of-way that are discontiguous. He noted that Airport Road changes jurisdictions many times between the State, the County and the City, as does Rimrock Road, and Shiloh Road. An arrangement each year is developed between the appropriate jurisdictions regarding maintenance.

Councilmember Gaghen asked about the concerns expressed about the bridge at the north end. Mr. Mumford said the City is not anticipating any construction for this bridge. It would be addressed in the future as more development occurs. He noted that the pipe in the canal is the responsibility of the BBWA. On a voice vote, the motion was unanimously approved.

3. MOLT ROAD/HIGHWAY 3 Collector Road Engineering Study by HKM. Staff recommends approval of Alternative #1, \$1,939,293.00. (Action: approval or disapproval of Staff recommendation.)

Councilmember Kennedy said the County has not been informed of this study and asked if a joint City/County meeting for this presentation at a later date would be more appropriate. Mayor Tooley asked if the collector street is completely within City limits. Planning Department Director Ramona Mattix said it is in the City and the County. She said the presentation this evening would inform the Council of several options for the alignment and get Council feedback before revising the Transportation Study. After Council approval the Policy Coordinating Committee, consisting of a representative from the City Council, chairman of the County Commissioners, a representative of the Montana Department of Highways, the City/County Planning Staff, and the City/County Planning Board, would review the approved alternatives. The final decision is made by the respective policy bodies. Ms. Mattix said she spoke with the Commissioners about this at their board meeting today. Commissioner Kennedy's view was that this connection was not needed at all, but Commissioners Ostlund and Reno wanted to see the presentation and make comments at that time. Councilmember McDermott noted that Commissioner Reno commented to her that he would like the Council to consider approval of this after Transportation Planner Scott Walker gave the presentation to the Commissioners or a joint presentation to the City and County. She suggested a delay of

this approval.. She said a concern of the County is that a majority of the land is within the County jurisdiction. Ms. Mattix noted that one-half of the land is within the County.

Ms. Mattix said previous transportation plans supported making a north/south connection on the Rims while the area was available. The study was to consider creating a space for future alignment for a transportation corridor. A traffic study was commissioned and showed the demand for a collector level street in the year 2021 to handle 2,100 cars per day.

Ms. Mattix said five different potential alignments were reviewed. There was no clear consensus of opinion on the alignment at a public meeting because each of the surrounding developments did not want to see this "in their backyard". The eastern and midway alignments were eliminated because of archeological or cultural concerns, pipelines and some engineering difficulties with slopes and grades. The result was three alternatives. Alternative #1 was located the furthest away without sight distance problems relative to the railroad and is the alternative the Planning Staff is recommending. Alternative #2 differs from #1 following a different alignment that cuts through a property, making the property usage difficult. Alternative #3 differs from #1 and #2 in that it goes through the Ironwood Subdivision. This alignment is not consistent with the overall master plan of Ironwood and would increase the cost of right-of-way acquisition.

Ms. Mattix said the costs were calculated per mile in the Rim crossing, which would be the City's responsibility to construct. She said Alternative #1 has the least cost per mile of the Rim crossing segment. This alternative appears to be the least costly to the City residents and least bothersome to the landowners. For these reasons Alternative #1 is recommended by the Staff.

Councilmember Brewster asked why Shorey Road is not paved as an alternative route. Ms. Mattix said Shorey Road would not serve the developments that are going on in these areas, especially to the south.

Councilmember McDermott asked if there are additional costs for this study. Ms. Mattix said there would be more detailed costs but this is the end of the study. Councilmember McDermott asked if the \$1.9 Million is the City's share with the County matching that figure. Ms. Mattix said the City is assuming that the road would be constructed in the City with the Rim-face crossing being a shared cost with the County. Councilmember McDermott asked where the funding for the road would come from. Ms. Mattix said the funding for this road has not been considered. This study is to identify a place marker for the corridor alignment only. Councilmember McDermott asked what the cost of the study was. Ms. Mattix said she would provide the Council with that information. Councilmember McDermott commented that Commissioner Kennedy said he would not be in favor of the connector road unless it was Shorey Road.

Mayor Tooley asked if Alternative #1 caused the least disruption to the private property owners. Ms. Mattix replied "yes". Councilmember Ohnstad moved for approval of the Staff recommendation, seconded by Councilmember Iverson. Councilmember Brewster confirmed that approving Alternative #1 informs the County which alternative is acceptable to the Council. He asked if this approval would come back to the Council after the County has reviewed it. Mayor Tooley said the Council would approve the recommendation that goes on to the Policy Coordinating Committee.

Councilmember Kennedy said he is not ready to make a recommendation before the County has considered the study. He suggested sending all three alternatives to the

County for their approval. On a voice vote, the motion failed 3-4 with Councilmembers Iverson and Ohnstad and Mayor Tooley voting "yes".

4. PUBLIC COMMENT. (Restricted to Non-Agenda Items; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

- TOM ZURBUCHEN – 1747 WICKS LANE spoke about his concerns regarding the Subdivision Improvement Agreement that was contained in the final plat approval for the Cherry Creek Subdivision. He noted that the agreement stated that no building permits would be issued until all financial guarantees for improvement requirements in the SIA were met. He said two buildings permits have been issued and the required fencing is not constructed and is being relocated. He said the fencing was a negotiated requirement of the Council. He said there are no financial guarantees in place for the fence. He asked that City Staff be directed to "get back on line with the SIA". Mr. Zurbuchen said the fence needs to be constructed before any more permits are issued.

Council Initiatives

COUNCILMEMBER BREWSTER: Councilmember Brewster asked that Mr. Keefe research Mr. Zurbuchen's concerns and provide a report to Council with special attention to the financial guarantees and how they are secured.

ADJOURN –With all business complete, the Mayor adjourned the meeting at 7:15 P.M.

THE CITY OF BILLINGS:

By: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Susan Shuhler, Deputy City Clerk