

# **SPECIAL MEETING OF THE BILLINGS CITY COUNCIL**

## **March 24, 2005**

The Billings City Council met in special session in the City Hall Conference Room located on the first floor of the City Hall Facility, 210 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.

**ROLL CALL** – Councilmembers present were: McDermott, Gaghen, Ruegamer, Veis, Ullendalen, Boyer, Clark and Jones. Councilmembers Brewster and Brown were not present.

### **AGENDA:**

#### **1. INTRODUCTION OF LOU REITER**

Mayor Tooley said the purpose of this meeting was for City Councilmembers to meet and ask questions of Lou Reiter, the investigator that will be conducting the interviews. Mayor Tooley introduced Jack Ryan who is associated with Mr. Reiter and will be assisting with the investigation. He said there was the anticipation that there would be a quorum of councilmembers present, so this special meeting was noticed. A quorum is six elected officials. He noted that eight councilmembers were present. He said no official City business would be conducted at this meeting. Mayor Tooley said the contract has been published on the website allowing the public the opportunity to review it.

Councilmember Ruegamer said one of the concerns with the investigation is that the Police Chief would receive a fair, impartial and objective hearing. He asked when during the investigation Mr. Reiter would be interviewing Chief Tussing and how would he assure the public that it would be impartial and objective. Mr. Reiter said he was with the Los Angeles Police Department for twenty years and has been retired since 1981. Since 1983 he said he has been a private consultant with his entire focus dealing with internal affairs, police discipline, citizen complaints and the entire administrative investigation process. His entire purpose is to treat everyone in a fair and reasonable manner. He said his intent is to treat everyone involved with dignity and respect. Mr. Reiter said due to the volume of information to review and the short time frame he has asked an associate, Jack Ryan, a lawyer and a retired Police Captain of a New England Police Department to assist with the investigation. They plan to work Thursday through Saturday. He said he spoke with Attorney Cal Stacey who would be contacting Chief Tussing's attorney to set up an appointment for himself and Mr. Ryan to speak with Chief Tussing on Saturday. Normally the accused employee is interviewed last, after all of the alleged allegations have been developed. This allows the employee the opportunity to answer to those allegations.

Councilmember Boyer asked if Mr. Reiter would be reviewing the data on the Gazette website concerning this situation. Mr. Reiter said he has already reviewed all of the information on the Gazette website and has "googled" both Chief Tussing and City Administrator Kristoff Bauer. He noted that he has also reviewed information on the Montana News website and several others. He added that he has not received any documents other than the ones from the Gazette website.

Councilmember Ruegamer asked for a "thumbnail sketch" of the process Mr. Reiter intends to employ. Mr. Reiter said he understood that the City has provided Cal Stacey, the

attorney employed by the City, with a box of documents. Those documents will be reviewed today and he will work with Lt. O'Connell to ensure access to the personnel they may want to speak with. He indicated that most of the people they will be talking with are in the Police Department, but he will also interview some City government personnel as well. Mr. Reiter said he and his associate expect to be working from 7:00 A.M. to 11:00 P.M. to accommodate the working hours of the Police Department. The focus would be on the Police Sergeants and the Command Staff of the Police Department.

Councilmember Boyer asked if the Department Heads serving on the senior leadership team would be interviewed. Mr. Reiter said he did not plan to speak with them. He said he will be speaking with the Fire Chief as he is in the Public Safety arena and personnel from the City Attorney's Office. He said he would normally have an in depth interview with the complainant, Mr. Bauer first, but because Mr. Stacey is not available today that would be postponed. Mr. Stacey asked to be present during the interviews with both Mr. Bauer and Chief Tussing, he noted.

Councilmember Jones said there is concern that some of the requests that Mr. Bauer made are not reasonable. He asked if Mr. Reiter would report back to the City Council as to whether the requests and the actions taken by Mr. Bauer were reasonable. Mr. Reiter said he would be investigating the specific allegations. He said the City has asked him to make some facts and findings, using the burden of proof of law enforcement administrative investigation, which is a preponderance of the evidence. That means more than "50% tipping of the scale" to support or not support the allegations. He said he is a fact finder and is charged with determining what the truth is.

Councilmember Ruegamer asked if Mr. Reiter would be reporting directly to the City Council. Mr. Reiter said his contract says he is to prepare a report and he was unsure who he was to provide that to. He was originally contracted by Mr. Bauer and the last contract he received was signed by the Mayor. Mayor Tooley said Mr. Bauer's first agreement reserved Mr. Reiter's "time on the calendar". He said the Council then contracted with Mr. Reiter to ensure an impartial investigation. He added the information would be shared with Mr. Bauer and Chief Tussing.

Councilmember Ruegamer said there is "no reason for Mr. Reiter not to be fair". After listening to Mr. Reiter, he said he has no concerns about his objectivity. He noted it is just as reasonable that his former association with Police Departments could be viewed as being empathetic with the Police Chief. Councilmember Ruegamer restated that he has no concerns about Mr. Reiter's objectivity and is assured he would do a great job. Mr. Reiter said this is the first time he has been to Billings and does not know anyone here, with the exception of someone who may have taken one of his classes. He said personnel issues are the life blood of City government and Public Safety and investigations of this nature cannot be done without being fair and reasonable.

Councilmember Jones said he trusts that Mr. Reiter's report will contain the conclusion that issues were not reasonable if that is what is found.

**2. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**  
(Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard.)

• SKIP GODFREY, 4146 CLEVENGER, said there is no need to apologize for the overzealousness of the public reactions to this controversy. He said his group is very enthusiastic about seeing how this is resolved. He said Councilmembers Ruegamer and Brown and other City employees have made it obvious that they are interested in a fair and equitable outcome. He said he is encouraged about the overall process.

• CONNIE WARDELL, 1302 24<sup>TH</sup> STREET WEST #168, said Mr. Reiter needs to know about the Montana values. She said when "outsiders come to settle our affairs it grates on all of us". She said the right to know, allowing the public to be involved in any process including investigations of public officials is an important aspect of this situation. She said the issue of fairness is also important. Ms. Wardell said she extends her hand in fairness, friendship and welcome and expects fairness in return.

**ADJOURN** —With all business complete, the Mayor adjourned the meeting at 8:25 A.M.

THE CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_  
Susan Shuhler, Deputy City Clerk