

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

## MONDAY, APRIL 9, 2001

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 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 Jan Iverson.

**ROLL CALL** – Councilmembers present on roll call were: Bradley, McDermott, Brewster, Iverson, Ohnstad, Johnson and Larson. Councilmembers McDanel, Kennedy and Elison were excused.

**MINUTES – March 26th**. Approved as printed.

### **COURTESIES – Police Dept., Library.**

- Police Chief Ron Tussing recognized Robin Christensen with a Citizen Award for her assistance in a counterfeit case. The suspects have been arrested, charged and restitution has been made for the effects of their crimes.
- Chief Tussing recognized Kathleen Dignen with a Citizen Award. Ms. Dignen is a 10-year old at Alkali Creek School who collected toys for the cats and dogs at the Animal Shelter.
- Chief Tussing presented Officer Clyde Reid with a Medal of Merit for his lifesaving efforts of a young woman who had injected lethal amounts of medication and was slumped over the steering wheel in her car with the engine running.
- Chief Tussing presented Sgt. T.J. Vladic with a Medal of Meritorious Service for his exceptional performance throughout the year 2000. He has more than set a standard for other supervisors to follow, while handling a heavy call load. He and his group accounted for 35% of the DUI enforcement of the entire department and 20% of the total contacts and 21% of all the arrests within the City.
- Lt. Dave Hinkle and Chief Tussing presented the following officers with Medals for Meritorious Service for outstanding performance in DUI arrests. Recipient officers were: Dale Lawrence, John Finnegan, James Schillinger, Holly Newsome, Gordon Aguilar, DeWitt and Jason Pawlowski.
- Chief Tussing presented Kathy Taggart with the Supervisor of the Year award for her work in the identification division and her expertise in fingerprint analysis.
- Chief Tussing presented Kristal Ward from the Animal Shelter with one of the Employee of the Year award. The other recipient of the Employee of the Year award is Donna Gartner, who works in the identification division. She worked with clearing out the old cases and implemented a new barcoding system.

- Library Director Bill Cochran introduced Thurman Smith and his wife LaDawn. Mr. Smith is the library's systems administrator and will be retiring at the end of this week. He has accepted a new position with a new automation company in Provo, Utah. Mr. Smith was described as a pioneer in bringing the "digital" age to the Library.

**PROCLAMATIONS – Mayor Tooley.** Mayor Tooley proclaimed April as FAIR HOUSING MONTH.

**BOARD & COMMISSION REPORTS.** Councilmember Ohnstad reported that last weekend Billings hosted the Last Trails Convention. The idea was to bring together parties interested in trails. People from many organizations and many communities attended. Lewis & Clark Trail representatives were present, as were the Bozeman Trail and the Continental Divide Trail representatives. One of the highlights of the conference was a field trip to Riverfront Park to explain the bike trail efforts underway there.

**ADMINISTRATOR REPORTS – Dennis Taylor.**

- Mr. Taylor reported he and Assistant Administrator Bill McGill were in Green River, Wyoming for the GOSCMA Conference. They had a day-long training session on E-government.

**CONSENT AGENDA:**

**1. A. Mayor's Appointments:**

- (1) James D. Thompson to ADA Compliance Committee
- (2) Reg Gibbs to ADA Compliance Committee

**B. Bid Awards:**

(1) **W.O. 96-06: Grand Avenue Widening Project: 12<sup>th</sup> to 17<sup>th</sup> Street West.** (Opened 3/27/01). Recommend Empire Sand & Gravel, \$1,674,957.85 and 105 calendar days.

(2) **W.O. 91-09: Cottage Lane/12<sup>th</sup> Street West Storm Drain Improvements.** (Opened 3/27/01). Recommend Empire Sand & Gravel, Inc., \$241,300.00 and 45 calendar days.

(3) **South Park Pool PVC Pool Liner Installation.** (Opened 4/3/01). Recommend Thompson Pools, \$58,644.00.

**C. Railroad-Highway Grade Crossing Signal Agreements;** STPRP 1018(8) [4616] for 2100 block of 4<sup>th</sup> Avenue North, STPRP 1099(29) [4419] for 4<sup>th</sup> Avenue South at State Avenue; Tri-Party Agreements between the State of Montana, Montana Rail Link and the City, for upgrading the existing rail crossing signal equipment.

**D. Ground Lease** with Three Rivers PCS Inc. for location of outdoor telecommunications site at the Billings Regional Landfill and to co-locate communications

equipment on an existing tower; \$5,000/year; term: 20 years with annual CPI adjustment.

**E. Contract for Professional Services** for W.O. 00-15: Grand Avenue Reconstruction: 8<sup>th</sup> Street West to 12<sup>th</sup> Street West and associated PUD Replacement Projects; Kadmas, Lee & Jackson, \$415,802.47.

**F. Lynch Flying Service:**

(1) **Commercial Aviation Ground Lease** with Lynch Flying Service Inc, under new ownership of Clifford Edwards, \$70,414.00, term: 20 years with annual CPI adjustment.

(2) **Bank Assignment** with US Bank for financing purchase of Lynch Flying Service Inc by Clifford Edwards.

**G. Right of Way Acquisition for W.O. 92-11 Grand Avenue Widening:**

(1) **PARCEL #81:** Right of Way Agreement and Warranty Deed for a tract of land in Lot 6, Block 1, Liquin Subdivision, Amended, containing 589 sf, Ted and Martha Godwin, Trustees, \$0.00.

(2) **PARCEL #82:** Right of Way Agreement and Warranty Deed for a tract of land in Lots 1-3, Block 1, Liquin Subdivision, Amended, containing 658 sf, Ming Jia Qian, \$2,275.00.

**H. Authorization** to apply for a \$5,500 Certified Local Government (CLG) grant through the State Historic Preservation Office for historic preservation activities.

**I. Acceptance of a Quit Claim Deed** for Amended Tract 7, C/S 2548 from Food Services of America for street right-of-way along South 32<sup>nd</sup> Street West, \$0.00.

**J. Acknowledge receipt of petition** to annex Tract 1, C/S 3050, (Annex #01-08), G. Ronald and Linda Pierce Family Trust, petitioner, and setting a public hearing date for 4/23/01.

**K. Acknowledge receipt of petition** to vacate the N1/2 of Buchanan Avenue, Dale Davis and Ron Barker, petitioners, and setting a public hearing date for 4/23/01.

**L. Resolution 01-17685** authorizing use of Council Contingency Funds (\$32,765.00) for costs incurred by departments during the Presidential Visit to Billings.

- (1) Police Dept: \$20,474.29
- (2) Fire Dept: \$3,855.12
- (3) Street/Traffic Division: \$8,435.59

**M. Resolution 01-17686 for SID 1346: Streetscape Improvements to North Broadway:** providing for the receiving of bids and the letting of a contract for the construction of improvements in the district.

**N. Resolution of Intent 01-17687** to annex #01-05: C/S 2374, and setting a public hearing date for 5/29/01.

**O. Resolution of Intent 01-17688** to annex #01-06: Lots 9-10, Block 2, Lillis Heights Subdivision, and setting a public hearing date for 5/29/01

**P. Resolution of Intent 01-17689** to annex #01-07: Lots 2,3, 15-17, Block 4, Lillis Heights Subdivision, and setting a public hearing date for 5/29/01

**Q. Big Sky State Games:** Hill Climb on Saturday, July 21, 2001.

**R. Alberta Bair Theatre:** Gala on Saturday, April 28, 2001.

**S. St. Vincent Healthcare:** Heart and Sole Race, Saturday, June 9, 2001.

**T. Preliminary Plat** of Shiloh Business Park Subdivision, generally located south of Zoo Drive and east of Shiloh road at the new Shiloh Interchange.

**U. Preliminary Minor Plat** of Amended Lots 19-21, Block 8, Lake Hills Subdivision, 19<sup>th</sup> filing, generally located north of Wicks Lane, west of Lake Hills Drive.

**V. Preliminary Minor Plat** of Amended Lots 7 & 8, Block 9, Lake Hills Subdivision, 19<sup>th</sup> filing, generally located north of Wicks Lane, west of Lake Hills Drive.

**W. Bills and Payroll.**

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

There were no separations of the Consent Agenda. Councilmember McDermott moved for approval of the Consent Agenda, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION 01-17690 ordering the installation of curb, gutter, sidewalk and street improvements in W.O. 00-02, #2: Broadwater Subdivision Improvements, Phase III. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Staff Engineer John Nowak said the project area generally includes the area south of Miles Avenue between 13<sup>th</sup> Street West and 15<sup>th</sup> Street West and both sides of Howard Avenue from 12<sup>th</sup> Street West to 13<sup>th</sup> Street West. There is a wide range of estimated assessments in the project area. The high assessment is estimated to be \$14,100.00, the low assessment of \$0.00 and the average assessment of \$2600.00. He said it is important to note that the "high" assessment is indicative of a commercial corner lot that

has very large frontages on both sides of the street and is not eligible to receive the corner lot subsidy offered by the city on residential corner lot properties. Overall project cost is estimated to be \$1.3 Million, with estimated total assessments of \$520,000 or about 1/3 of the project cost. Mr. Nowak said this is the third phase of a multi-phase program. Phase IV will be brought forward next year. Phase I is fully complete, Phase II construction resumed and is approximately 75% complete at this time. It is expected to be finished in a couple of months. Phase III construction is anticipated to begin in late May or early June, allowing the project to be totally completed this construction season.

The public hearing was opened. BILL DUGAN OF 1321 COOK AVENUE said "thanks" for the work and efforts to date. He bought his house in 1989 and has watched Phase I go in, adding that the streets are "beautiful". He concluded by stating that he gave his resounding approval to this project.

TAMARA FRANK OF 1331 COOK AVENUE said she is excited about the project. She noted that she hopes her street will be as nice eventually. She concluded by stating, "go for it all the way".

BONNIE KERWIN OF 1321 ST. JOHNS AVENUE said she moved from Helena a couple of years ago. She's happy that the city is doing this project.

JOE KELLY OF 1401 ST. JOHNS AVENUE said he has worked in the construction business from a public sector standpoint. He noted that he is coming from a "gun shy position" because he just paid for an SID on the South Side, noting he had no control over it. He asked why the residents couldn't do the removal of deteriorating infrastructure themselves. Mr. Kelly said he hopes that after these improvements are built, he won't see the "potholer" machine in this area, because it is the biggest waste of money because the repairs it produces don't last.

There were no other speakers. The public hearing was closed. Councilmember Brewster moved for approval of the staff recommendation, seconded by Councilmember Iverson. Councilmember Iverson thanked staff for all their work on this project and the council for their support for getting these streets done. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5147 extending the boundaries of Ward III to include recently annexed property in Annex #01-04: Lot 1, Block 1, Gabel Subdivision, 3<sup>rd</sup> filing. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Iverson moved for approval of the ordinance on second reading, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5148 FOR ZONE CHANGE #675: a zone change from Residential Multi-Family to Residential Manufactured Home on Lot 20 of the Amended Plat of Lot 11, Kuhlman Subdivision, located at 408 Kuhlman Drive. Howard and Lois Young, owners; Charles Lashley, agent. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was

closed. Councilmember Ohnstad moved for approval of the ordinance on second reading, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5149 FOR ZONE CHANGE #676: a zone change from Residential Multi-Family and Residential 6,000 to Residential 7,000 on Tract 2A, C/S 2866 Amended and Tract 1, C/S 1972, generally located in the 1300 Block of Lake Elmo Road on the west side of Lake Elmo Road, south of Wicks Lane. Jesse and Helen Rehard and Mill Wright, owners; Engineering, Inc., agent. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Larson moved for approval of the ordinance on second reading, seconded by Councilmember Johnson. Councilmember Brewster made a substitute motion to approve the zoning change, but eliminate the \$500/lot charge in the Subdivision Improvement Agreement, seconded by Councilmember McDermott. Councilmember Brewster said there is another subdivision developed adjacent to this one that will use the same routes and Lake Elmo every bit as much as this subdivision and they don't have that charge because they were platted ahead of time. "I think it is patently unfair to make this guy compete with that developer for price of lots with an additional \$500 charge," he stated. Councilmember Ohnstad asked where the \$500 goes? Acting Public Works Director Brian Borgstadt replied that the Subdivision Improvements Agreement provides for that deposit to go into escrow for the improvement of Lake Elmo Drive. Councilmember Bradley asked what the logic behind this was. Mr. Borgstadt replied that it is for the additional impact to Lake Elmo Drive. This will be a large subdivision – 130 lots, when it is fully built. It has a short frontage on Lake Elmo Drive, so its impact is much greater than what is reflected in its frontage.

Councilmember Larson mentioned another subdivision didn't pay this charge and asked the history behind that. Councilmember Brewster said the other subdivision is closer to Hilltop Road. There are two different developers too. Mr. Borgstadt said on the other side of the BBWA Canal there is an area that was platted before it was part of the City limits, quite a long time ago. The area is divided by the BBWA Canal. The earlier subdivision was not required to pay the \$500/lot fee. Councilmember Ohnstad noted that they are talking about \$65,000 and asked if waiving the fee would be setting a precedent or if other subdivisions are being charged similar fees. Mr. Borgstadt said he didn't know if a precedent would be set, but it is a way to address getting the needed improvements done on Lake Elmo from an impact standpoint. The choices the City had in the past included getting waivers, which won't work well here, requiring money up front or requiring money to be placed in escrow for future improvements based on phased development. He noted that latter is the option they are proposing with this fee. Councilmember Bradley asked what phase this project would constitute. Mr. Borgstadt said Phase I is complete; Phase II is designed and this project would either be Phase III or IV, depending whether or not the segment between Wicks Lane and Hilltop Road is done. This area is comprised of two phases III and IV. Mr. Borgstadt noted that before either Phase III or IV could commence, considerable right-of-way acquisition had to occur. On a voice vote, the

substitute motion failed. Councilmember Brewster cast the only “yes” vote. On a voice vote on the original motion, the motion was unanimously approved.

**6. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5150 FOR ZONE  
CHANGE #677: a zone change from Agricultural-Open Space (county) to Controlled  
Industrial on Lot 1, Block 1, Gabel Subdivision, 3<sup>rd</sup> filing, located at 1212 South 32<sup>nd</sup>  
Street West. Bottrell Family Investments LLP, owners, Engineering, Inc., agent.  
Zoning Commission recommends approval. (Action: approval or disapproval of  
ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Bradley moved for approval of the ordinance on second reading, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

7. **PUBLIC HEARING AND SECOND READING ORDINANCE** amending BMCC by adding sections to be numbered 24-481 – 24-486 allowing the City administrator to create residential on-street parking permit districts under certain conditions, setting the permit procedure and fees, limiting parking in districts, setting a penalty for violations and allowing the City administrator to suspend enforcement. Staff recommends approval. (Delayed from 1/8/01 and 3/12/01.). (Action: approval or disapproval of ordinance on second reading.)

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Johnson moved to table the ordinance, seconded by Councilmember Bradley. Councilmember Johnson thanked the staff for their work on the two different ordinance proposals, noting the Council is obviously not ready to act on either of them, nor has the public responded to the proposals at any of the public hearings. He suggested they wait and see how the summer goes, noting there have been changes in the parking situations of some of the affected areas – like the hospitals and MSU-B. Councilmember McDermott said she would like to see an example situation, noting that perhaps the possibility of having an area in the medical corridor designated as a test area to see if such a district would work. She said she would like to see a trial project in the future and not just forget this issue. On a voice vote, the motion was unanimously approved. The ordinance was tabled indefinitely.

**ADJOURN** - With all business complete, the Mayor adjourned the meeting at 8:17 P.M.

## THE CITY OF BILLINGS:

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

MINUTES: 4/9/01

**ATTEST:**

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