

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

## August 13, 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 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 Mark Kennedy.

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

**MINUTES – July 23rd. APPROVED AS PRINTED.**

**COURTESIES – Finance Dept., Police Dept.**

- Police Chief Ron Tussing introduced Shane Schaff and his family. Officer Schaff was one of the first officers hired under the new contract last year that required physical fitness standards. Chief Tussing also presented a plaque to Christina Rusiff for her participation in apprehending several individuals who stole a \$500 puppy from a local pet store.
- Finance Director Bob Keefe introduced Accountants Alene Malloy and Jim Hauck and recognized them for their work on the comprehensive annual financial report. The City has again received the prestigious award from GFOA, its 13<sup>th</sup> such award.

**PROCLAMATIONS – Mayor Tooley. NONE.**

**BOARD & COMMISSION REPORTS. NONE.**

**ADMINISTRATOR REPORTS – Dennis Taylor.**

- Mr. Taylor thanked City Attorney Brent Brooks for his part in arguing the Right-of-Way ordinance fees at the district court level last Friday.
- He also thanked those members of the Council who attended the Employee Pancake Breakfast last Saturday. Over 600 employees attended the event.
- Mr. Taylor said Sept 13 and Sept 27 have been received for community meetings on the Capital Improvement Plan for the coming year. The public is encouraged to participate and offer input on potential projects.

**CONSENT AGENDA:**

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

- (1) David Dickbernd to Human Relations Board (Re-appointment)
- (2) Julie S. Brown to Library Board
- (3) Brenda Simon to Animal Control Board

**B. Bid Awards:**

**(1) Refuse Compactor Bodies, Solid Waste Division.** (Opened 7/31/01). Recommend Kois Brothers Equipment, Schedule I, \$132,072.00; Kois Brothers Equipment, Schedule II, \$40,471.00.

**(2) Truck Chassis, Tilt Cabs for Solid Waste Division.** (Opened 7/31/01). Recommend Tri-State Equipment, Schedule I, \$183,024.00; Tri-State Equipment, Schedule II, \$87,867.00.

**(3) One New Current Model 2001 or 2002 Landfill Compactor/Sale of Used 826G Compactor for Solid Waste Division.** (Opens 8/7/01). Recommend Tractor & Equipment Company, \$487,614.00 and selling the used compactor to Marcel Equipment Limited for \$141,660.00.

**(4) RESCISSION of Award of Escalator Replacement Project for Billings Logan International Airport,** Fisher Construction.

**C. C.O. #1, Billings Community Center,** General Contractors Construction Co., +\$2,654.00 and no additional time.

**D. Contract to purchase** Block 91, O.T., Lots 7A and 8 a/k/a 114 North 26<sup>th</sup> Street, for future Park II expansion, \$325,000.00.

**E. Easement Agreement** with Lake Hills Golf Course along Wentworth Drive and Greenbriar Road for golf cart crossings and irrigation/power under the streets.

**F. Agreement** with Yellowstone County to provide Law Enforcement Data Processing Services; term: 7/1/01 to 6/30/02, \$63,890.00.

**G. Reimbursement Agreement** with Wayne Ask for water/wastewater special benefit facilities in Lots 3-4, Block 1, Ellingson Subdivision 2<sup>nd</sup> filing; Lot 1 of Yellowstone Exposition Subdivision; Lot 1 of Hornung Subdivision, and Lots 1A, 2A and 3, Block 1 of Players Club Subdivision, \$0.

**H. Modification to the CTEP General Project Development and Construction Agreement,** with MDOT for W.O. 96-08: 2000 School Route Improvements, \$0.

**I. Acceptance** of 2001 Local Law Enforcement Block Grant, \$90,887.00. (City match is \$10,099.00 from Drug Forfeiture Fund).

**J. Confirmation of Police Officer:** Shane Schaff

**K. Approval of Loans from Revolving Loan Fund:**

- (1) Broadway Place (Alan Nicholson), \$250,000 for remodeling the interior to increase rental office space and remodeling the façade of the building
- (2) Montana Power Co. Building (Kay Foster), \$250,000 for retiring the existing note to provide for tenant improvements.
- (3) Zoot Properties, Inc., (Chris Nelson), \$92,678 for remodeling public areas of the Hart-Albin Building.

**L. Sale and rehabilitation** of City-owned property at 324 South 34<sup>th</sup> Street, Dollar Home, Community Leadership Development Inc., \$3,924 expense reimbursement.

**M. Resolution of Intent O1-17725** to create SILMD #276: a light maintenance district for street lights along Grand Avenue from 12<sup>th</sup> Street West to 16<sup>th</sup> Street West, and setting a public hearing date for 9/10/01.

**N. SID 1359: Water, sanitary sewer, and street improvements to East and West Skokie Drives:**

(1) Professional services agreement with Morrison-Maierle, Inc., \$56,316.16.

(2) **Resolution of Intention 01-17726** to Create District and setting a public hearing date for 9/10/01.

**O. Resolution 01-17727** relating to \$815,000 Pooled Special Sidewalk, Curb, Gutter and Alley Approach Bonds, Series 2001B (2001 Miscellaneous/Developer-Related Sidewalks Programs and Broadwater Subdivision Improvements, Phase III), authorizing issuance and calling for the public sale thereof on 9/10/01.

**P. Resolution 01-17728** relating to \$280,000 Pooled Special Improvement District Bonds, Series 2001C (SIDs 1351 and 1355), authorizing issuance and calling for the public sale thereof on 9/10/01.

**Q. Resolution 01-17729** modifying the Mountview Cemetery Fees.

**R. First reading ordinance** amending BMCC for Mountview Cemetery, repealing Sections 8-301 thru 8-335 and replacing repealed sections with Section 8-301 thru 8-335 and establishing an effective date.

**S. First reading ordinance** changing the boundaries of Ward IV to include recently annexed property: Tract 1 and 3C of Amended Tract 3A, C/S 1834; (#01-10), Charles Zimmerman, Jr., ETAL, petitioner.

**T. First reading ordinance** changing the boundaries of Ward IV to include recently annexed property: Blocks 17-19, Yellowstone Club Estates, 5<sup>th</sup> filing, (#01-11), Charles Zimmerman, Jr., ETAL, petitioner.

**U. Preliminary plat** of Circle Fifty Subdivision, Lot 1C of Amended Lots 1 and 2, Block 1 (Lease parcel creation) generally located at the southeast corner of Avenue B and Shiloh Road.

**V. Preliminary plat** of Popelka Commerce Center Subdivision, generally located at the northwest corner of King Avenue East and South Billings Boulevard.

**W. Preliminary plat** of Montana Sapphire Subdivision, generally located at the southwest corner of the intersection of Shiloh road and King Avenue West.

**X. Bills and Payroll.**

(Action: approval or disapproval of Consent Agenda.)

Councilmember McDermott separated Item V. Councilmember Bradley separated Item C.

Councilmember McDermott moved for approval of the Consent Agenda except Items C and V, seconded by Councilmember Larson. On a voice vote the Consent Agenda except Items C and V was unanimously approved.

Councilmember McDermott moved for approval of Item C, seconded by Councilmember Brewster. Councilmember Bradley expressed concern over the "cost overs" on projects and requested "a list of change orders for the last 36 months -- according to date, start and completion date of project, project name, department, contractor, consultant, the original contract amount, and the amount of change order or cost over be it a change order or addendum and an explanation for the cost over," with said list to be compiled in the next 60-90 days. On a voice vote on the motion, Item C was unanimously approved.

Councilmember McDermott moved for approval of Item V, seconded by Councilmember Bradley. Councilmember McDermott asked about the access "meridians" mentioned in the SIA for this plat and the option to extend them – were they the "meridians" they now have on South Billings Boulevard? Planning Director Ramona Mattix said they were these same meridians. Councilmember McDermott asked for clarification on the boundaries of SID 1354. Acting Public Works Director Brian Borgstadt replied that SID 1354 is a proposed SID to construct improvements on King Avenue East, between Parkland Lane and South Billings Boulevard. He noted also that the "median" that she inquired about was the King Avenue median, not the South Billings Boulevard "median". On a voice vote, the motion was unanimously approved.

Councilmember Larson asked for a clarification on whether or not Councilmember Bradley's request for information was acknowledged by the Council. Mayor Tooley said it was not. The motion on the floor was for approval of Item C and that motion was voted on. Mayor Tooley suggested to Councilmember Bradley that he get a couple more Council signatures on the request form if he is going to ask for that kind of expenditure of staff time. He said it sounded to him that it would be an extensive process to get 36 months of projects delineated in the detail that Councilmember Bradley requested. "I

believe our procedure for the Council is to ask for a couple more people to make that request," he stated. City Administrator Dennis Taylor said Councilmember Bradley asked for this information and it was provided on a 12-month retrospective review, trying to analyze where and when change orders were necessary in excess of the contract. This information was provided to Councilmember Bradley some time last year. Mr. Taylor said he would like to find out where and in what time frame that was done. Councilmember Larson said, "I have no problem with the purpose, whatever it is, but we set up this particular procedure for this type of request for a reason – and that was to keep our requests to the staff for information under some level of control. What I would request is that at the next agenda meeting we discuss this or at least bring it up in terms of if anyone else on the Council is interested in this level of detail and what the purpose of this fairly significant expenditure of staff time and energy is for, so that it is not just a single councilmember, but actually a 'council' request." Mayor Tooley noted to Mr. Taylor that if there is a system in place to produce this information quickly, then to proceed with the request. But, if it involves an extraordinary amount of staff time, then additional council support will be required. Mr. Taylor noted he would confer with staff and have an estimate of time it would take by next Monday evening's agenda meeting/work session. If it is an extraordinary effort, he will ask that a council initiative be prepared before beginning the work.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION 01-17730 creating SID 1356: water, storm drain, curb, gutter and street improvements, King Avenue West from BBWA Canal Bridge to South 31<sup>st</sup> Street West. Staff recommends approval.**  
**(Action: approval or disapproval of staff recommendation.)**

Acting Public Works Director Brian Borgstadt noted that the consulting engineer was in the audience in the event the Council had any questions. There were no questions from the Council.

The public hearing was opened. There were no speakers from the audience. The public hearing was closed. Councilmember Brewster moved for approval of the staff recommendation, seconded by Councilmember Larson. On a voice vote the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION 01-17731 annexing a portion of Tract 1, C/S 2373, (Annex #01-12), Leonard & June Hobby, owners. Staff recommends approval of the public services report and conditional approval of the annexation.**  
**(Action: approval or disapproval of staff recommendation.)**

Planning Director Ramona Mattix said this parcel had been annexed previously in the early 1980s pending commercial development and was subsequently de-annexed. The owners have submitted a preliminary plat to the County and part of the conditions of that plat was that a portion of this area be annexed to the City. She noted there are no financial implications from this annexation. There will be some BUFSAs reduction that will

be offset by some increase in property taxes, but no development is anticipated for this tract. Ms. Mattix noted the Council might see a zone change application on this parcel to change the zoning to Neighborhood Commercial.

The public hearing was opened. There were no speakers from the audience. The public hearing was closed. Councilmember McDanel moved for approval of the staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND RESOLUTION 01-17732 annexing the S2N2SW4NE4NE4 of Section 27, T1N-R26E, (Annex #01-13), Bill Dunlap, owner. Staff recommends approval of the public services report and conditional approval of the annexation. (Action: approval or disapproval of staff recommendation.)**

Planning Director Ramona Mattix said this parcel is on Hilltop Road and constitutes about 2 acres. There are two conditions for the annexation: that a development agreement be executed between the owner and the City which stipulates specific infrastructure improvements and provides for a guarantee for them or an Subdivision Improvement Agreement shall be approved by the Council which will stipulate infrastructure improvements and provide guarantees for them. The other condition is that all of Lincoln Lane be annexed with this property.

Ms. Mattix noted that when the fiscal impact of annexation is reviewed, for the City to "break even" a valuation of \$150,000 is needed to derive about \$533 in taxes. This property is valued at less than this with an estimated tax benefit of \$183. "This is one of those examples of where affordable housing is not paying its way in terms of services to be provided," she stated.

The public hearing was opened. There were no speakers from the audience. The public hearing was closed. Councilmember Kennedy moved for approval of the staff recommendation, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5168 FOR ZONE CHANGE #682: A zone change from Residential Multi-Family to Residential Manufactured Home on Lot 21 of the Amended Plat of Lot 11 of Kuhlman Subdivision, generally located on the south side of Kuhlman Drive, east of Lake Elmo Drive, Geraldine Nolan, owner; Donald Myers, Sr., agent. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

There was no staff report. The public hearing was opened. There were no speakers from the audience. 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.

**6. PUBLIC HEARING AND SECOND READING ORDINANCES providing that the Billings, Montana City Code (BMCC) be amended to revise:**

- (A) **ORDINANCE 01-5165 FOR Sections 27-305: District regulations, residential uses; 27-306: District regulations: commercial and industrial uses; providing that the zoning tables of residential and commercial uses reflect changes in wireless communication regulations as set out in Sections 27-619 and 27-620 and new standards for land mobile radio and television and radio broadcast facilities as set out in Section 27-620.**
- (B) **ORDINANCE 01-5166 FOR Sections 27-619: Standards for amateur radio antenna support structures, and 27-620: Standards for wireless communication facilities, providing updated definitions, exempting broadcast facilities from this section and regulating these facilities under Section 27-621, limiting the height and number of antenna support structures in certain zoning districts; allowing a review procedure for proposed antenna support structures and antennae on government-owned properties; regulating the location, construction, height and co-location requirements of antenna support structures, antennae and wireless communications facilities; requiring antenna support structure separation; requiring certain application submittal information for wireless communication facilities and reducing the expiration of the special review period.**
- (C) **AND ORDINANCE 01-5168 FOR adding a new section to the Billings, Montana City Code, Section 27-621: regulating the siting of broadcast facilities, antennae, structures and associated equipment and buildings; defining terms; allowing certain nonconforming broadcast facilities; regulating the zoning districts and placement of broadcast antennas and antennae support structures and the location and construction of all land mobile radio service and radio and television transmission facilities; addressing abandonment, submittal requirements and appeals; and prohibiting nuisance broadcast facilities..**

Zoning Commission recommends approval. (Action: approval or disapproval of ordinances on second reading.)

There was no staff report. The public hearing was opened. There were no speakers from the audience. The public hearing was closed.

Councilmember Ohnstad moved for approval of Item A, seconded by Councilmember Larson. On a voice vote, the motion was approved. Councilmembers Brewster and McDanel voted "no".

Councilmember Ohnstad moved for approval of Item B, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

Councilmember Ohnstad moved for approval of Item C, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

MINUTES: 8/13/01

**ADJOURN –** With all business complete, the Mayor adjourned the meeting at 8:00 P.M.

## THE CITY OF BILLINGS:

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

**ATTEST:**

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