

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

## **MONDAY, AUGUST 14, 2000**

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 Mayor Tooley, followed by the Invocation, which was given by Councilmember Mick Ohnstad.

**ROLL CALL** – Bradley, McDermott, McDanel, Kennedy, Iverson, Ohnstad, Johnson, Larson and Elison. Councilmember Deisz was excused.

**MINUTES** – July 24 & August 7. APPROVED as printed.

**COURTESIES** – **Airport, Police, Human Resources.** City Administrator Dennis Taylor introduced Ruth Craig from the Airport. She began work with the Airport in 1979, left Montana in 1983, and returned to the Airport in 1985. She has been the lead service worker at the airport for most of that time. Ms. Craig is retiring after many years of service to the City.

Mr. Taylor introduced Don Rebal, the City's first safety officer. Mr. Rebal is retiring to return to school to become a high school science teacher.

Lt. Larry Reinlasoder of the Police Dept. said over the past few years they have attempted to implement a new policing philosophy in the community – community policing. Education was an important part of this process. He noted that the volunteers the Police Department has used for this new program have been an invaluable resource to the City. Those individuals include: Scott Bennett, Anthony (Tony) Denning, Wade Edwards, George Carey, Lois Gordon, Markita Narwold, Keith Kondon, and Marissa Forseth, Peggy Lehman, Pauline Miner, Frank Weller, and Kathleen Benoit.

### **PROCLAMATIONS –Mayor Tooley.**

1. Year of the Airborne (Airborne Forces of the U.S. Army) – the year 2000.
2. Social Security Day - August 14, 2000

### **BOARD & COMMISSION REPORTS – None.**

**ADMINISTRATOR REPORTS – Dennis Taylor.** Mr. Taylor said last Thursday another negotiating session on the multi-use parking structure took place. Charles Yegen and Bob Keefe summarized the results of that session. Mr. Yegen said an in-depth session was held and some great strides made. Negotiations are continuing on a package that will be suitable to the City Council. He said their progress was encouraging. Mr. Yegen said they are concerned about the expenditure of public funds and the development and redevelopment of the downtown. Mr. Keefe said they would like the council to extend the timeframe specified in the preliminary development agreement. The appraisals will not be completed until the end of October. He asked if the council would extend this time frame. Councilmember Bradley moved to ADD to the regular agenda – Item 6: An amendment to the Preliminary Development Agreement with CTA Development and the Downtown Partnership, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

**CONSENT AGENDA:**

1. A. **Bid Awards:**

- (1) **Miscellaneous Projects 2000 for Billings Logan International Airport.** (Opened 7/25/00). Recommend High Tech Construction, \$90,949.00.
- (2) **New Concourse Fan Coils for Billings Logan International Airport.** (Opened 8/8/00). Recommend delaying award to 8/28/00.
- (3) **W.O. 95-13, 1999 School Route Improvements.** (Opened 8/8/00). Recommend JTL Group Inc., \$312,045 and 60 calendar days.
- (4) **Gasoline, Diesel Fuel and Lubrication Products.** (Opened 8/8/00). Recommend delaying award to 8/28/00.

B. **Change Order #4, W.O. 99-01, Schedule II, 1999 Water and Sewer Replacement Projects,** Gray Construction, \$1,926.18 decrease and 0 days.

C. **Lease Agreement** with Bureau of Indian Affairs for Office Space in Airport Building IP-8, \$3,080 first year, adjusted by CPI-U each subsequent year, 5-year term.

D. **Lease Agreement** with Bureau of Indian Affairs for Warehouse Space in Airport Building IP-8, \$5,000 first year, adjusted by CPI-U each subsequent year, 5-year term.

E. **Lease Renewal** with Corporate Air for Airport Commercial Lot 2, \$9,793.20 first year, adjusted by CPI-U each subsequent year, 5-year term.

F. **Grant Application** with Montana Cultural Trust for \$20,000 in grant funding for HRDC Growth Thru Art.

G. **Project Agreement Modification** with Montana Department of Transportation for W.O. 95-13, 1999 School Route Improvements.

H. **Vacation of North 28<sup>th</sup> Street between 12<sup>th</sup> Avenue North and Poly Drive**

1. **Development Agreement** with the Sisters of Charity of Leavenworth Health Services Corporation (St. Vincent Hospital) and Montana State University.
2. **Perpetual Right-of-Way Easement** for a strip of land situated in Lots 14-20, Block 1, and the vacated alley in Block 1, Normal Subdivision, C/S 934 and Lot 2, Block 1, Normal Subdivision, 3<sup>rd</sup> filing.
3. **Perpetual Right-of-Way Easement** for a 70-foot wide strip of land situated in Lot 2, Block 1, Normal Subdivision, 3<sup>rd</sup> filing.
4. **Perpetual Right-of-Way Easement** for a strip of land situated in Lot 1, Block 1, Normal Subdivision, 3<sup>rd</sup> filing.

I. **Final Bond Resolution 00-17593** for \$625,000 Special Sidewalk, Curb, Gutter and Alley Approach Bonds, Series 2000.

J. **First Reading Ordinance** revising BMCC Sections 23-404(c) and 23-404(e) relating to city subdivision development recommendations from Planning Department staff.

K. **Variance Request** on Cemetery policy (re: headstone on single gravesite). (Grinsteiner

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memorial).

**L. Approval** of new Master Plan for Centennial Park.

**M. Acceptance** of 1-acre parcel from Yellowstone County in Rush Subdivision to consolidate city ownership of parkland in the park land dedication for Rush Subdivision; property described as: Tract 2, C/S 2411.

**N. Condominium Development Agreement** for The Pryor's Condominium, Lots 1-9, Block 19, Olympic Park Subdivision.

**O. Sale of Land to Chamber of Commerce and clarification of Visitor's Center Operations:**

- (1) Addendum to 1999 Buy/Sell Agreement
- (2) Statement of Termination of Lease Agreement
- (3) Statement of Termination of Declaration of Unit Ownership for Community Condominium
- (4) New Visitor's Center Operating Agreement

**P. Contract Amendment #2, Various water and wastewater plant improvements**, HDR Engineering, Inc., \$913,482.00.

**Q. Tripartite Agreement** with State of Montana and Yellowstone County for GIS service.

**R. Final Plat** of Sprague Subdivision. (Generally located between Wicks Lane and Cheryl Street, east of Hawthorne Lane).

**S. Final Plat** of Hogan Homestead Subdivision – Lots 1A and 1B. (Generally located east of Creekside Road and south of Grant Road).

**T. Final Plat** of Rush Subdivision, 6<sup>th</sup> filing. (Generally located south of Poly Drive and east of Larchwood Lane.)

**U. Bills and Payroll.**

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

Councilmember Johnson separated Item 1A3. Councilmember Ohnstad moved for approval of the Consent Agenda except Item 1A3, seconded by Councilmember Larson. On a voice vote the motion was unanimously approved.

Councilmember Ohnstad moved for approval of Item 1A3, seconded by Councilmember Larson. Councilmember Johnson said he had three reasons for separating this item. He said work is to start next Monday, with a majority of the work to be on 32<sup>nd</sup> Street West at Boulder Avenue School. He hoped most of it would be completed before school opens. He also noted that staff has indicated it will perform a detailed budget analysis of the budget allocations for this project and reduce the scope of the project to fit the budget, if necessary. "I understand those kinds of things have to be done. I hope that we either do have sufficient

dollars or that it be brought back to us to add more dollars, so that this kind of work can be done in school zones, rather than say 'we couldn't do that this year because of dollars'." The third item was for the other school zones – eight areas were listed for safety and school crossings. This project encompasses four of those eight; "we need to act in haste to get those done too," he stated. On a voice vote, the motion was unanimously approved.

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION 00-17594 ANNEXING (#00-04): Unplatted portion of the NE1/4 of Section 32, T1N, R25E, containing approximately 20.80 acres, Jim Bromenshenk, Betty Teigen and Jerry Lee Zimmerman, petitioners, Engineering Inc., agent. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)**

Zoning Coordinator Jeff Bollman said this is an annexation of 20.8 acres of unplattd land located on the west side of 46<sup>th</sup> Street West between the Cove Ditch and the High Line Ditch. In the county right now, it is split in half, with the north side being zoned Residential 9600 and the south half zoned Agricultural Open Space. This property has also concurrently submitted a subdivision plat and condominium project that would create 24 lots. The request before the council tonight would allow both the subdivision and condominium project to move forward. Water and sewer currently exists adjacent to the property in 46<sup>th</sup> Street West and Poly Drive respectively. The condition recommended by staff include the standard condition that either a Subdivision Improvement Agreement (SIA) or a Development Agreement be entered into with the property owner, since the property has not yet gone through subdivision review. Councilmember asked what zoning classification this property would come into the City as. Mr. Bollman replied that it would be Residential 9600. A zone change for the condominium project would not be required. Councilmember Johnson asked what the lot sizes would be under the condominium project. Mr. Bollman said what is being created under the proposed condominium project is not actually lots, but condominium units that will have single family homes on them. The unit sizes range from 15,000 sf to 24,000 sf. There is also a substantial amount of common area included within that condominium project area. Councilmember Johnson said it is difficult for him to continue to accept the larger size lots in that form of development, "when we as a community are looking at the West End plan, development, sprawl, etc... Coupled with those thoughts and my feelings there, I see in the City departments and their reviews and 'OK' on most of them, but ... the Police Dept is saying 'no' – there are problems. I don't know if that is the beginning to a small warning, or if that is coming closer to ... a point that we can't go any farther ... with a 120 officers. Is it going to be one department at a time? Are we averaging out what City departments are saying? ... I'm not prepared to make the motion, but it is in the report from staff, the possibility or potential for a moratorium. I don't know if this council this evening wants to look at a moratorium – at least a short one," he stated. Mayor Tooley asked if he had a question for Mr. Bollman. Mr. Johnson said the question referred to the lot size and what the police department meant by their comments.

City Administrator Dennis Taylor said, "from the Police Dept's point of view, with a 121 sworn officers, given the demands placed on our City and the relative size of the force, there comes a time when you'd ask yourself – 'is this stretching our resources by one more marginal increase in our city area. Absent an annexation policy that we are working on, that's the question that comes before you. It was the Police Dept's opinion that this particular development in this particular location did in fact receive a negative comment because of their inability to provide the type of law enforcement that they'd like to provide community wide," he stated.

The public hearing was opened. DENNIS RANDALL OF ENGINEERING INC, 1001 SOUTH 24<sup>TH</sup> STREET WEST said he is speaking to the Council on behalf of Jim Boyer of Design Builders. He has entered into a purchase agreement with the property owners of the Zimmerman Family Trust. His intent is to

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develop this into a single-family residential development. The overall density is about 1 acre, but the unit sizes are not actually an acre. What property owners will actually own is a 1/24 interest in the entire project area. Mr. Randall said Mr. Boyer developed Rush Subdivision, 6<sup>th</sup> filing last year and this development should be equally as nice. Mr. Boyer plans to spend a substantial amount of money on landscape features, including ponds and other water features. Since it is a condo project, all the utilities within the boundaries, as well as the street system will all be private and won't be a burden to the City's infrastructure – as far as maintenance on those internal features.

There were no other speakers. The public hearing was closed. Councilmember Larson moved for approval of the staff recommendation, seconded by Councilmember Kennedy. Councilmember Johnson said the idea of a moratorium was probably not popular in terms of annexation. "Just to remind us of where we are in planning, several of us testified just this week to encourage the county to assess the full two mills for the planning department. They are going to ask the voters in November to do that, to have those additional dollars to do more and better planning. More and more people are talking about a general plan, rather than just the West End plan," he stated.

Councilmember Kennedy said he appreciated the concern expressed by Councilmember Johnson about these kinds of annexations. "We don't have a development agreement yet. The thing I get worried about is when in the middle of a process that Mr. Bromenshenk has gone through, and we stop him at the last minute and say 'no'. He's put money into it; he's played by the rules as they exist right now. He did not see these rule changes coming. I don't think it's fair at this time to do that to an individual who has invested their time, capital and sweat into something like this. But I encourage you to continue to looking down the avenue you are looking, because I think it is an important one," he stated.

Councilmember McDaniel said he has spoken previously about some sort of annexation/development policy. He said that he felt the timing of a moratorium at this time was inappropriate – "where an individual has put this much time and effort into developing a piece of property in a way that is consistent that we've asked developers to do this kind of thing." Councilmember Larson said, "if I could have a moratorium on anything, what I would have a moratorium on are subdivisions approved by the Yellowstone County Commissioners, which are built just outside the city limits, not to city standards, not with city services, not with any of the requirements. Then we talk about where they actually end up with an acre lot, not a common area, that we end up inheriting anyway. To me the annexation policy that we are going to develop is almost in self-defense. The subdivisions that have been developed are all going to be lined up at that podium at some point and asking 'how do we access city water; how do we access city sewer, and all the rest of that. To me, the moratorium isn't for us to stop and say 'we can't do that anymore'. This is almost to me the case that the more that come our way, instead of across the street to the county, the better off we are in the long run. For me to look at a development we know is coming in from the get go to meet our standards, I've got to vote for that," he stated. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION 00-17590 spreading original costs on SID 1342: Eastlake Circle utility and street improvements. Staff recommends approval. (Action: approval or disapproval of staff recommendation).**

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

**4. RESOLUTION renaming Riverfront Park to Josephine Park. Staff recommends approval. (Action: approval or disapproval of resolution.)**

Parks and Recreation Director Don Kearney said the staff and Park Board recommend the name change from Riverfront Park to Josephine Park, based on the historical background of The Josephine

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steamboat. Councilmember Elison asked if the Parks Board surveyed the public to see if they wanted the name of the park changed. Parks Supervisor Gene Blackwell said the department did not conduct any type of public survey. The support at the Park Board meeting was unanimous however. The original Josephine Park is at the current Public Utilities plant. As the plant has been expanded, the parkland has been displaced and has been fenced off for security purposes.

Councilmember Bradley asked who Josephine was. Michael Kennedy, a member of the audience was asked to respond to the question. He replied he did not know who she was, but he saw this as a way to tie into the Lewis and Clark Trail event. Councilmember Elison moved for disapproval of the resolution, seconded by Councilmember McDermott. Councilmember Elison said he is not saying that The Josephine was not an important part of the history of the region and the history of Billings, but he had a problem renaming Riverfront Park. "In my mind, river front brings to mind steamboats, more readily than Josephine does. We already have a Lake Josephine and if we rename Riverfront Park Josephine Park, it's not Josephine Park. Josephine Park existed and has passed and that piece of ground is no longer available as a park. If you rename Riverfront Park Josephine Park, the name of a place is merely so that you recognize where it is... If we rename this Riverfront Park Josephine Park, we have forever confused the issue of where Josephine Park was. Where is it? It's not at Riverfront Park; Riverfront Park and Josephine Park are different places and to rename one the other confuses the issue. What's in a name? ... It's Riverfront Park; it has been Riverfront Park. There is a Lake Josephine; I don't think we lose from the history in that aspect. Of course at the Park and Recreation Board it was strongly favored because no one knew it was going to come up... The only people there were the advocates for it... The question was never addressed to the community, of whether they would like to see a flagship park for this city renamed. I don't think it's fair to 'yes' stamp, 'yes' stamp, 'yes' stamp, boom, your sign goes up, and people go 'wait a minute, when did this all happen?' I don't think it should be renamed and I don't think it should be renamed by fiat without at least asking the residents of this city what they think," he stated.

Councilmember Kennedy supported the resolution. "What this does for me ... is to allow me to understand a little more about this community and this area. You said 'what's in a name?' What's in Billings' name because Frederick Billings never spent a night here! So, why did we name it Billings? ... I think to understand the reason that we named it Billings talks a lot about the history of Yellowstone Valley, about Montana itself. ... As far as Lake Josephine or Josephine Park, to me, it helps me as an interested individual ... try to understand my community. Where did that name come from? ... It helps color in that black and white and gray matter that history sometimes seems to be. It gives it a little color. It's for history sake; it's for making history understandable," he stated.

Councilmember Larson said names do matter. "What concerns me the most is process here. There hasn't been a lot of process. Mr. Kennedy has brought forward a recommendation that may make excellent sense. He's gone to the Park Board to discuss that. But here we have a fairly significant change in the name and location in the community and where is the community process? ... I'm not ready to necessarily totally reject this concept, as I am to say that if we do say 'no' tonight, I would like to see us instead of outright turning this down, send it back to the Park Board for further consideration and maybe some public process," he stated.

Councilmember Johnson agreed and asked the Council not to act too hastily. He said Riverfront Park is an old gravel pit and his children used to swim in it as children, and to him it is Riverfront Park. He encouraged the Council to leave the name as it is and send it back to the Parks Board for further public input.

Councilmember Kennedy made a substitute motion to send this issue back to the Park Board for reconsideration and further public process, seconded by Councilmember Johnson. Councilmember Elison said he doesn't like the idea that perhaps less than 50 people in the city even know that this name change has occurred until they drive out to Riverfront Park and see the sign that says it is Josephine Park. Councilmember McDanel said he agreed with Councilmember Elison, noting that Riverfront Park means

something to him – there's a lot in that name. "I think it's important that we recognize our history and Josephine Lake makes an attempt to do that... I agree at the very least, we should send it back for some public input, even if it is a public hearing before this body. There needs to be some process for gathering public input..." he stated. Mayor Tooley noted that in the event the substitute motion passes, he would like staff to come back to the Council with an idea of this will cost the City to change maps, signs, and whatever official documents need to be changed, so we have a better understanding of how this is going to affect the budget. Councilmember McDermott asked if they had an estimated cost on what this would cost. Mr. Blackwell said they haven't identified a specific cost for the name change, noting they have been involved in a number of name changes over the years. He named Coulson Park as an example, and its name change to Two Moon Park, as well as others, adding that the name changes have all been accepted by the users. On a voice vote, the substitute motion was approved 6-4. Councilmembers voting "yes" were: Bradley, Kennedy, Tooley, Iverson, Johnson and Larson. Councilmembers voting "no" were: McDermott, McDanel, Ohnstad and Elison.

**5. PUBLIC HEARING AND SECOND READING ORDINANCE amending the Billings City Charter to provide for increasing the Mill Levy limits and submitting the proposed amendments to the electors of the City. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading).**

Mayor Tooley said the council has learned since it's last discussion on this item that the City has an additional amount of money for its budget. City Administrator Dennis Taylor noted that when he was putting the budget together, one of the questions before staff was alternative revenues as well as issues that needed to be brought before the 2001 Legislature. "When we looked at those potential new sources of revenue, we felt there was a high probability that those revenues would not be available before we would be in the business of constructing the budget for FY 2002. Even though there is a strong held feeling not to use the opportunity to float the mills – as was provided to other local governments during that 1999 Legislature when tax reforms were implemented, I recommended to you that we at least consider a change in our charter so that we could have some bridge financing to have time to look at retrenchment, should that be the choice of the council, or get these new revenues established and actually through any litigation and available for allocation. It didn't seem possible that could occur. With the unanticipated revenues that were amassed this past year, the revenues were sufficient enough to allow us to take that time, even in 2002. I think it would be a good idea for us to postpone consideration of this idea, not adopt it and not send it to the voters this November. We have breathing room... That will be the change in the staff recommendation, from what was given to you several weeks ago. The other thing that I would tell you is that because of the delay in putting the new budget together this year – new actors came and took over their responsibilities, and learned the ropes, we were three or four weeks later than we normally would have been. We also had the timeline of a date certain – the last day that we could put this idea on the ballot. So, when we found the extra and unanticipated revenue, which occurred before we adopted the budget, where in past years, that kind of exercise took place after you have traditionally adopted the budget. So, we are fortunate to have more accurate information on this year's beginning fund balance and we are also fortunate to not have to adopt this and send this question to the voters. We have some time to look at other activities and other revenues and ways to balance the budget, than to ask you for more of the burden to be placed on the property taxpayers," he stated.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Bradley moved for disapproval of the resolution, seconded by Councilmember Elison. On a voice vote, the motion was unanimously approved.

**LATE ADDITION:**

**6. AMENDMENT TO PRELIMINARY DEVELOPMENT AGREEMENT with CTA Development and Downtown Partnership for a downtown multi-use parking structure. Staff recommends approval of the amendment to extend the consultant's deadline to October 31<sup>st</sup>. (Action: approval or disapproval of amendment.)**

Councilmember McDanel moved to approve the amendment delaying the development agreement schedule, seconded by Councilmember Kennedy. Councilmember Elison asked for more specific information on the delay. Mayor Tooley read the following language from the amendment document: "The amendment is to the Preliminary Development Agreement between the City, the Downtown Billings Partnership and CTA Development to extend the time in Phase I, Paragraph 3 to allow CTA until October 31, 2000 to perform the requirements of that paragraph and extend the deadlines accordingly and direct the City Attorney to write such an amendment and authorize the Mayor and City Clerk to sign it." Councilmember McDanel said he was concerned about the length of the delay, noting he expected a delay of no longer than 30 days. City Administrator Dennis Taylor said the delay is primarily to allow time to allow appraisers to appraise certain properties that would need to be acquired for the project. If we had all the I's dotted and T's crossed, which we do not, in the development agreement, we would still have to wait for until those critical appraisals were completed. Because of the backlog of work, it is estimated that it could be up to two months before those appraisals could be conducted. That's the primary reason for the request for the delay and the delay to a date certain in October. Another reason we would like to request the delay is that this is a very complex development agreement that involves multiple parts – housing, entertainment centers, parking structures, land acquisition and unique arrangements in the financing of the parking structure that will require some additional work. The initial approach advanced by the developer, had certain legal and technical problems that could not be the vehicle for putting together the agreement. However, in our sincere desire to keep our focus on how we can enable this process, we came up with another approach that would set aside the funding that was available in the parking program and in the existing tax increment district and bring this proposal forward, funded through the creation of a separate, new, tax increment district that would have parcels detached from our current tax increment district and parcels that are currently not part of the tax increment district now, but would be part of the overall development in a new tax increment district. That would allow us some unique approaches to financing that would provide an opportunity to keep this project at the scope that was proposed – in the neighborhood of \$40 - \$50 Million worth of development and still preserve our ability to consider other parking needs and other parking development opportunities in the downtown. All of this can be completed we believe, in time to still meet construction season opportunities next construction season. We don't think by making this request for an extension that we are really delaying what would actually occur if there is a project to go forward," he stated.

Councilmember McDermott said her concern is also the time element, asking if they were guaranteed that the October 31<sup>st</sup> deadline would be met. The Council still has a number of decisions to make, since this project has been vastly expanded than when it was first proposed, she noted. "Do we get some kind of an agenda or a timeline on what we are going to need to do?" she asked. Mr. Taylor said there are no guarantees, adding the additional time is needed to do additional research. "But what we can bring forward to you is timelines that we think you'll have to take action to create a new district, and the timeline it will take to bring together a new development agreement and by the motion that is before you tonight, we're just changing the one deadline to October. All the other timelines would remain in effect to keep some discipline," he clarified. He said the city is no further behind by adopting this amendment, than if all timelines had been met according to the original agreement. The project would still be on hold to wait for the appraisals.

Councilmember Johnson asked why the delay became so long, other than the appraisals. "Did we not have the things that were reported to us 60 days ago? ... Is it like it all kind of fell apart for awhile? Is it that much touch and go? Are we looking at the right thing? Do we need to get back to a multi-use form of

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structure, like the original intent was? Can you give me some encouragement to delay this long, because I think the public will think that's a considerable delay; it's longer than the time period for the original plan to be put together?" he asked. Councilmember Bradley replied that part of the delay was the two weeks that the Council used when trying to select a site. "The other one is a technical glitch that the developer has come up against as to work schedule for the appraisals. Most of the appraisals that are taking place are by Billings' firms and it's difficult for them to fit them in right now, because they have so much work. That's why they have come back and asked us for this particular delay. ... These guys are pretty busy with how the market is right now and it will take some time for these guys to catch up. The developer was a little apprehensive asking for the delay because he knew the council would start asking questions as to 'why'. It doesn't fare well for him to say 'one component of our team has got so much work logged that we have to ask for this delay'. That's basically what is going on. I think the proposal that will come back will be a project that you will be much happier with," he stated.

Councilmember Kennedy reminded the Council that this is a very involved, intricate and huge process, utilizing both public and private funds. Councilmember Larson asked he was correct in his understanding that the council will be asked to approve an expansion of the tax increment district to include properties that are not currently included. Mr. Taylor said that is something the committee would like to explore to keep the financing intact. "It would allow us an opportunity to not have to spend all \$3.1 Million of our parking revenues that will accumulate. It would solve the problem of the housing components that are identified on the Site #1 map that are outside of the current district and it would save some increment that has already been earned in the existing district and require that large development in that defined Site #1 area to pay for that level of development from within the district. It has some advantages we believe. It gets over some of the barriers of how parking funds can be used. It gets over some of the barriers that were roadblocks to how tax increment funds could be used in support of projects that were not in the district. Withdrawing a couple of lots that are in Site #1 that are in the current district and expanding it with the other parcels that have been identified for development that are currently not in the tax increment district into its own tax increment district. The advantage of that approach is that we don't have to use the cash on hand for the parking element and still get a large development that includes office space, an entertainment center or development at that level, as well as a parking structure. One of the things we had talked about earlier was the desire of the council to do this project at the scope proposed by the developer and still have sufficient revenues in our parking funds or in our tax increment district to look at yet another parking structure closer to the downtown area," he stated.

Councilmember Larson said he wanted to see the council move forward with the efforts they will need to put forth to make any changes to a tax increment district or anything along that line prior to October 31<sup>st</sup>. "Some rather simple steps: (1) talking to the school district, Yellowstone County. We have encountered ferocious opposition to the existence of the current downtown tax increment district. I think we will see that same reaction to any recommendation – whether it's a couple of blocks, a couple of houses or a couple of feet. The council also, when the last tax increment district came forward to this council, was voted down. It was a tie vote – out on the West End. There has been some concern about that form of financing or that particular vehicle. There's no point as far as I can see, to wait until October 31<sup>st</sup> to get an appraisal to start marching down that road. If that's a real consideration for this, we need to have those conversations ASAP and see what the willingness of this council will be to support or vote in that particular direction," he stated.

Councilmember McDanel said he was more confused than at the beginning of the discussion. "You have talked about expanding or modifying the existing tax increment district. I'm pretty sure that I heard you say something about a new tax increment district. However, everything that phrase comes up, my vision blurs and my hearing fades. Are you talking about a new tax increment district that would include some portion of the existing tax increment district as well additional area, or are you talking about amending the

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existing area to include new additional area?" he asked. Mr. Taylor replied that state law does not allow the City to expand the district in that way. "State law allows us to take a portion of the district out and create a district that would be that portion and the rest of the proposed Site #1 area. That's the idea that we advanced to the developer when we ran into roadblocks about the particular approach to financing the parking structure, preferred by the developer, that we could not legally do with parking funds and with the tax increment funds outside of the district. We spent the whole afternoon 'saying we understand your concept and we understand the economics of your concept, and we still think it's a concept worth pursuing, one that we would bring back to the council and the community. How can we get this done?' That was a way that was advanced that seemed like it could meet the needs of both the developers, the partnership and the City. It was attractive in that it would also allow us to continue to pursue other proposals for development in the downtown and address other parking needs within existing revenues. Because it seemed like a win-win-win proposal, we all left the meeting thinking it is worth the additional work and worth coming to you and the community with these ideas, recognizing that discussion will need to take place in a variety of forums, as well as at the negotiating table with the negotiating team. We're prepared to do that; we're prepared to show you the timeline it will take to accomplish this and the concept behind it, but it will take some time to work out the details." he stated.

Councilmember McDanel said he would encourage the team to pursue those discussions with the other jurisdictions and with the council. "This is an issue when it comes before this Council, I expect it to be a very heated debate. I believe that this is going to be an issue in which the Heights is going to suffer because they are lacking one of their representatives. I expect the debate will be extremely heated over the creation/modification of any of the tax increment districts. It's going to be very unfortunate for those that cannot have full representation on this body," he stated.

Councilmember Johnson said, "we didn't set up those timeframes; they set up those timeframes; they were in their booklets. I've been to half a dozen meetings, plus, where they made it very clear what those times would be. I came to this meeting this evening ... realizing that we were going to need some more time. We were hearing they wanted and needed some more time. But two months, two and a half months? By the time we meet again after their two, two and one-half months, it may be three months. And we are into winter and another season...," he stated.

Councilmember Elison called for the question, seconded by Councilmember McDanel. On a voice vote, the motion was approved. (Councilmember Bradley and Johnson voted "no"). Debate was stopped. On a voice vote on the motion on floor, the motion was unanimously approved.

**ADJOURN** – With all business complete, Mayor Tooley adjourned the meeting at 9:07 p.m.

## THE CITY OF BILLINGS:

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

**ATTEST:**

**MINUTES: 8/14/00**

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