

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

MONDAY, SEPTEMBER 11, 2000

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 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 Mike Larson.

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

MINUTES –August 28. The Minutes were approved as printed.

COURTESIES – Finance Department -City Administrator Dennis Taylor presented Carol Ruff, Debt & Investment Coordinator with a Certificate of Recognition for Budget Preparation for her key role in achieving the Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for the City of Billings FY 1999/2000 budget.

PROCLAMATIONS –Mayor Tooley.

- American Heart Walk Week – Week of Sept. 10, 2000
- 163rd Infantry Regiment Remembrance Day – Sept. 16, 2000
- Undoing Racism Day – Sept. 20, 2000

BOARD & COMMISSION REPORTS

Rodney Garcia (Southside Neighborhood Task Force) said there will be a 1-year anniversary celebration for the Southgate Cop Shop on September 30th from 11:00 a.m. to 2:00 p.m. at the Southgate Cop Shop.

ADMINISTRATOR REPORTS – Dennis Taylor.

Mr. Taylor reminded Council of the meeting with area legislative candidates to be held on Wednesday, September 13 at 7:00 p.m. at Deaconess Medical Center to discuss legislative issues under consideration for the 2001 Legislative Session.

CONSENT AGENDA:

1. A. Bid Awards:

- (1) **Parmly Billings Library, 3M Self-Check Units for Libraries, Model 6210.** (Opened 8/15/00). (Delayed from 8/28/00). Recommend 3M Library Systems, \$48,200.00.
- (2) **Current Model 2000 Twin-Engine 4-Wheel Tractor Scraper/Sale of Used 627F Scraper for Solid Waste Division.** (Opened 8/29/00). Recommend Tractor & Equipment Company, \$156,503.00.
- (3) **South 30th Street West Sanitary Sewer Extension Across King Avenue West.** (Opened 9/5/00). Recommend COP Construction, \$74,480.00..

B. Service Agreement with QWEST for dedicated internet access service for the Library, \$8,400 (\$4,368 to be refunded), 1-year term.

C. Contract for Library Services between Parmly Billings Library and Golden Valley County, \$4,559.40, term: July 1, 2000 – June 30, 2001.

D. Agreement with MDOT for STPHS 002(480): installation and maintenance of traffic signal modifications at the intersections of Montana Avenue & North 27th Street and at 1st Avenue North and North 27th Street.

E. Interlocal Planning Agreement between Yellowstone County, the City of Billings and the Town of Broadview.

F. Reimbursement Agreement concerning water and wastewater special benefit facilities – Castlewood Estates Subdivision, 4th filing and Reimers Park Subdivision.

G. Allocation of CDBG FUNDS to Mid-Valley Habitat for Humanity, \$12,200.00, to be used for curbs, gutters and sidewalks to support new housing construction on three lots located at 2808 8th Avenue South, 321 South 33rd Street and 421 South 31st Street.

H. First reading ordinance repealing BMCC Sections 7-401 through 7-423 and 7-425 through 7-428, BMCC and replacing them with Sections 7-401 and 7-402, BMCC.

I. SID 1344: Sanitary Sewer Improvements Serving Properties along Hallowell Drive, Arden Avenue, Bruce Avenue and Clevenger Avenue:

- (1) **Resolution #00-17604** providing for the receipt of bids and the letting of a construction contract for improvements.

(2) ~~Resolution authorizing the sale of bonds to fund the subject improvements.~~

J. Preliminary approval of Resolution #00-17605 spreading original costs on SID 1340: Cenex Park Subdivision storm drain, storm sewer, street and water improvements and setting a public hearing on 9/25/00.

K. Preliminary approval of Resolution #00-17606 spreading original costs on SID 1341: Circle Fifty Subdivision park improvements and setting a public hearing on 9/25/00.

L. Preliminary approval of Resolution #00-17607 spreading original costs on Broadwater Phase I, 2001, W.O. 98-02, #2: sidewalk, curb and gutter improvements and setting a public hearing on 9/25/00.

M. Condominium Development Agreement for Willow Creek Townhome Condominiums (generally located at South 36th Street West, South of Monad Avenue.)

N. Preliminary plat of Silver Creek Subdivision (generally located on the west side of 46th Street West).

O. Final Plat of Wal-Mart Subdivision.

P. Bills and Payroll.

(Action: approval or disapproval of Consent Agenda.)

Mr. Taylor noted that Item I2 was being withdrawn from the Consent Agenda as requested by the Finance Department who indicated the sale of bonds for SID 1344 will be paired with the sale of bonds for SID 1345 at a later date. Councilmember Larson moved for approval of the Consent Agenda EXCEPT Item I2, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. RECONSIDERATION OF SPECIAL REVIEW #678: a special review to allow the location of an old beer and wine license (with gaming) in a Highway Commercial zone on Lot 1, Block 1, Dicono Subdivision, located at 523 Hilltop Road. Concept Development Corporation, owner; Kenneth Frazier, agent. Zoning Commission recommends conditional approval. (Bradley and Johnson). (Action: approval or disapproval of Zoning Commission recommendation.)

Councilmember Kennedy cited a conflict of interest and abstained from deliberation and voting on reconsideration of the special review. Councilmember Bradley moved for reconsideration of Special Review #678, seconded by Councilmember Johnson. Councilmember McDanel said a reconsideration should be in order only when new information that was previously not known is made available. He said he did not believe there was any new information that Council did not already have two weeks ago. "I would hate to get into a position where after receiving a letter from an attorney, suddenly decide to reconsider with no other new information. I will ask the Council to stand our ground, to let our decision be our decision, to do what is right for families and in this case – just say 'no'." Councilmember Johnson said he was interested in the reconsideration on the basis that he felt he did have bits of new information. He did not previously know the name of the bingo parlor. He is now more aware of the bingo parlor's name and location and it's previous consideration by Council. He stated that the bingo parlor is less than 100 feet from the proposed site (523 Hilltop Road). He said he is also now aware that the Bingo Palace does in fact have gaming machines on the premises and is in virtually the same location as the proposed business. He said it was his understanding that Council unanimously approved the request for the Bingo Palace and its gaming machines. He also said that Council and staff need to take another look at the 600-foot requirement. Councilmember Larson asked City Attorney Brent Brooks what options the applicant had to bring the special review back to Council. Mr. Brooks said if the reconsideration was approved, the applicant could withdraw the application or action on the special review could be delayed for a period not to exceed 30 days. If the special review is denied, the zoning code allows the property owner to reapply immediately and/or reapply with a different plan for the property. Mr. Larson asked if the only opportunity for a public hearing was if the applicant reapplied. Mr. Brooks indicated that was correct and Council could also delay action and call for a public hearing to be held at the same time the delayed action was to be taken. Councilmember Johnson said the way special reviews are approved and disapproved is confusing to those people wanting to acquire licenses and establishments with gaming. On a roll call vote the motion for reconsideration failed 3-4 with Councilmember Kennedy abstaining. Councilmembers voting "yes" were: Bradley, Ohnstad and Johnson. Councilmembers voting "no" were: McDanel, Tooley, Iverson and Larson.

3. PUBLIC HEARING AND SECOND READING ORDINANCE #00-5129 repealing BMCC Sections 6-417, 7-701 and 7-424, unnecessarily requiring bonds for electrical contractors, roofing contractors and auctioneers. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading.)

The public hearing was opened. REVERAND DR. DENNIS DUNN OF 305 SOUTH 35TH AVENUE said he was in favor of anything that would improve the city. There were no other speakers. The public hearing was closed. Councilmember McDanel 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 #00-5130

extending the boundaries of Ward IV to include recently annexed property: unplatted portion of T1N-R25E-S32: NE4, Annex #00-04. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading.)

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

5. **RUSH SUBDIVISION**

A. PUBLIC HEARING RESOLUTION #00-17602 EXPANDING THE URBAN PLANNING AREA to incorporate Lot 1, Block 7, Rush Subdivision, 3rd filing into the Billings Urban Planning Area. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

B. PUBLIC HEARING AND RESOLUTION #00-17603 ANNEXING Lot 1, Block 7, Rush Subdivision, 3rd filing. (Annex 00-03) Staff recommends conditional approval. (Action delayed from 7/24/00 and 8/28/00). (Action: approval or disapproval of staff recommendation.)

Acting Planning Director Jeff Bollman referring to Item 5A said the entire area currently exists as a county island and was not incorporated into the Urban Planning Area when Goodman Subdivision (corner of Grand Avenue and Shiloh Road) was brought into the city nor when the Rush Subdivision Urban Planning Study was done. He said for properties to be annexed into the City of Billings, they first have to be incorporated into the Urban Planning Area. To determine whether it is appropriate to bring properties into the Urban Planning Area, an Urban Planning Study is completed to determine the ability to provide city services to the area. Because the proposed area is wholly surrounded by city property, there is an ability to provide services to the island.

Mr. Bollman said Item 5B would annex the proposed property into the city if Item 5A were approved. The property would be incorporated into the subdivision development.

The public hearing for Item 5A and 5B was opened. JERRY GOODMAN OF 7631 PRINCE ROAD IN LAUREL said he and his family own Goodman Subdivision. He said his only concern is a proposed emergency exit through Goodman Subdivision to Grand Avenue. He said the street being proposed for that emergency exit is not a full street but is a street with a sewer line built underneath. He wants to be sure there are some restrictions in place to keep that street from becoming a true street through the subdivision. Mr. Bollman indicated that with the Shiloh Point Subdivision there was a provision made for emergency access because the property only has one access off Shiloh Road. So this street would provide emergency access for the time being. He said he does not know the restrictions put on the street as the plat is still in the preliminary plat stage, but those issues could still be addressed throughout the plat approval process. There being no other speakers from the audience, the public hearing was closed.

Councilmember Iverson moved for approval of staff recommendation for Item 5A, seconded by Councilmember Larson. On a voice vote, the motion was approved. Councilmember Iverson moved for approval of staff recommendation for Item 5B,

seconded by Councilmember Larson. On a voice vote the motion was approved.

6. PUBLIC HEARING AND RESOLUTION #00-17600 levying and assessing the costs of SID 1335 (38th. Street West, adjacent to Parkland West), split tax code.
Staff recommends approval. (Action: approval or disapproval of resolution.)

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

7. PUBLIC HEARING AND RESOLUTION levying and assessing the costs of SID 1336 (water, sewer, storm drain and street improvements in Lake Hills Sub, 23rd and 24th filings), surplus funds. Staff recommends approval. (Action: approval or disapproval of resolution.)

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

ADJOURN – With all business complete, the Mayor adjourned the meeting at 8:06 P.M.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley
MAYOR

ATTEST:

BY: _____
Colleen Schell-Berg DEPUTY CITY CLERK