

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

## **MONDAY, SEPTEMBER 25, 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 the Mayor.

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

**MINUTES** – **September 11.** APPROVED as printed.

### **COURTESIES – Community Development, Fire Dept.**

1. Assistant City Administrator Bill McGill presented Community Development Manager John Walsh with a plaque, two gift certificates and the Administrator's Award for Excellence, noting that he is an excellent example of a shared responsibility team member. Mr. Walsh was noted for his efforts in community development.

2. Fire Chief Marv Jochems publicly recognized six firefighters: John Staley, Jason Frank, Sean Biggins, Joe Keener, Mike Spini and Dave Gilbert as the Combat Challenge Team, who placed third in the national competition and will be competing in the national finals in Las Vegas in November. The team has done a lot to promote physical fitness in the City's Fire Dept.

3. Mayor Tooley introduced Ramona Mattix, the new Planning Director for Billings. Ms. Mattix began her duties today.

4. Councilmember Kennedy noted that a former Billings resident is competing at the Olympics in Sydney, Australia. She placed 19<sup>th</sup> in the track events.

**BOARD & COMMISSION REPORTS** – Dan Berry introduced Art Scibelli, the new Director of the Downtown Partnership. He also thanked Greg Krueger, the acting director that filled in during the absence of a director, after the resignation of Bruce McCandless.

**ADMINISTRATOR REPORTS – Dennis Taylor.** None.

Mayor Tooley noted two changes to the Consent Agenda that will require motions of the Council. Item G is being deleted because the officer resigned and Item P regarding Board/Commission appointments for the newly formed Human Relations Board and Board of Ethics needs to be added.

Councilmember Kennedy moved to delete ITEM G, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved. ITEM G was deleted.

Councilmember Kennedy moved to add ITEM P, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved. ITEM P was added.

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**CONSENT AGENDA:**

1. A. **Bid Awards:**
  - (1) **Current Model 2001, 35,000 G.V.W. Single Axle Truck; Double Dump Sander/Spreader for Street/Traffic Division.** (Opened 9/12/00). Recommend Billings Truck Center, \$55,444.22.
  - (2) **Current Model 2001, 4-Wheel Regenerative Air Sweeper for Street/Traffic Division.** (Opened 9/12/00). Recommend Western Plains Machinery, \$96,970.00.
  - (3) **Wastewater Treatment Plant Improvements Secondary Pumping Station Expansion (Contract XII).** (Opened 9/19/00). COP Construction, \$1,842,200.00.
- B. **Change Order #1, SID 1341, Schedule I, Circle Fifty Subdivision, C & S Construction, Inc.**, \$7,650.00 increase and 0 days.
- C. **Amendment #1, SID 1346, North Broadway Streetscape Improvements**, Contract for Professional Services with Fischer and Associates, \$200,653.00.
- D. **Inter-Creditor Agreement** and related documents to increase money available for Revolving Loan Program (\$1.6 million).
- E. **Project Specific Agreement** with MDOT for CTEP funds for North 28<sup>th</sup> Street Landscaping – Billings (CTEP) STPE 1099(31) Control No. 4508, \$487,500.00.
- F. **Acceptance** of 2000 Local Law Enforcement Block Grant Award for \$108,147 (\$12,016 City match from Drug Forfeiture Fund).
- G. **Confirmation of Police Officer: Jason Dewitt. *DELETED.***
- H. **First reading ordinance** extending the boundaries of Ward IV to include recently annexed property: Lot 1, Block 7, Rush Subdivision, 3<sup>rd</sup> filing, Annex #00-03 and setting a public hearing date for 10/10/00.
- I. **Resolution 00-17608** allocating up to \$50,000 from Tax Increment Funds (TIF) to the Downtown Billings Partnership for the purpose of Housing Feasibility Studies within the TIF District.
- J. **Resolution of Intention 00-17609** to trade City-owned property described

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as: Lot 32 and a portion of City-owned Lot 51 consisting of 0.1348 acres FOR the north portion of Lot 31 consisting of 0.4443 acres owned by James E. Powell in Panoramic Heights Subdivision.

**K. Resolution of Intention 00-17610** to create SILMD 273: South Heights Subdivision and setting a public hearing date for 10/23/00.

**L. Preliminary approval of Resolutions levying and assessing the 2000 annual assessments:**

- (1) **RES. 00-17611:** Park Maintenance
- (2) **RES. 00-17612:** Fire Hydrant Maintenance (i.e. Property Safety Water Supply)
- (3) **RES. 00-17613:** Demolition
- (4) **RES. 00-17614:** Encroachments, Encumbrances, etc.
- (5) **RES. 00-17615:** Light Maintenance Districts
- (6) **RES. 00-17616:** Storm Sewer Maintenance
- (7) **RES. 00-17617:** Tree/Limb Removal Program #3001
- (8) **RES. 00-17618:** Weed Cutting and Removal

and setting a public hearing date for 10/10/00.

**M. Resolution 00-17619** relating to \$732,000 Pooled Special Improvement District Bonds, Series 2000A (SID Nos. 1344 and 1345), authorizing the issuance and setting a public hearing date for 10/10/00.

**N. Resolution 00-17620** relating to \$190,000 Special Sidewalk, Curb, Gutter and Alley Approach Bonds, Series 2000B, authorizing the issuance and setting a public hearing date for 10/10/00.

**O. Bills and Payroll.**

**LATE ADDITION:**

**P. Mayor's appointments:**

<b>BOARD/COMMISSION</b>	<b>NAME OF APPOINTEE</b>	<b>TERM</b>
<b>Human Relations Commission</b>	<b>Linda Pease</b>	<b>4 years</b>
<b>Human Relations Commission</b>	<b>James DeFoe</b>	<b>2 years</b>
<b>Human Relations Commission</b>	<b>David E. Dickbernd</b>	<b>1 year</b>
<b>Human Relations Commission</b>	<b>Margaret MacDonald</b>	<b>4 years</b>

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<b>Human Relations Commission</b>	<b>Andrew Rio</b>	<b>3 years</b>
<b>Human Relations Commission</b>	<b>Ian Elliot</b>	<b>3 years</b>
<b>Human Relations Commission</b>	<b>Carmen Gonzalez</b>	<b>2 years</b>
<b>Human Relations Commission</b>	<b>Susan DeCamp</b>	<b>1 year</b>
<b>Board of Ethics</b>	<b>Russell Myers</b>	<b>1 year</b>
<b>Board of Ethics</b>	<b>Victoria Cech</b>	<b>4 years</b>
<b>Board of Ethics</b>	<b>James Thompson</b>	<b>2 years</b>
<b>Board of Ethics</b>	<b>Cindy Dell</b>	<b>3 years</b>
<b>Board of Ethics</b>	<b>David Morales</b>	<b>4 years</b>

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

The Mayor separated ITEM P. Councilmember Elison moved for approval of the Consent Agenda except ITEM P, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

Councilmember Elison moved for the approval of ITEM P, seconded by Councilmember Larson. Mayor Tooley introduced the appointees who were in the audience this evening. Councilmember Johnson thanked the Mayor for his efforts in forming these newly created boards. On a voice vote, the motion was unanimously approved.

**REGULAR AGENDA:**

2. **PUBLIC HEARING FOR 1999-2000 PERFORMANCE REPORTS on the Community Development Block Grant and HOME Programs.** (Action: public hearing only.).

Community Development Director John Walsh said the annual performance report is required to be submitted after two public hearings have been held – one during the budget allocation process and one before the council reporting the progress.

The public hearing was opened. There were no speakers. The public hearing was closed. No further action was necessary this evening.

3. **PUBLIC HEARING AND SPECIAL REVIEW #680: a special review to allow the location of a new beer and wine license (without gaming) and an outdoor patio in a Highway Commercial zone on property located at 405 Main Street. LC Partners, LLC, owner; MRP Heights, LLC and Peter Hendrickson, agents.**

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**(McKenzie River Pizza).** Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.).

Zoning Coordinator Jeff Bollman said the subject property is located on the east side of Main Street just north of Lake Elmo Drive. It is surrounded by Highway Commercial. The new Target is located immediately to the east. The subject property is part of an outlot in that new development. Mr. Bollman noted there is a church that is located within the 600 ft radius area on Lake Elmo Drive and a parcel of County-owned land along Alkali Creek, both of which would require waiver of the 600-ft. separation.

Mr. Bollman said the subject property will be over 50% developed as a restaurant. The Zoning Commission has recommended the following conditions: (1) a 42" high minimum block wall shall be placed around the entire outdoor patio. Any gates required by building or fire codes shall be used for exit only from the patio. (2) there shall be no amplified or live music on the proposed outdoor patio. Only background music shall be allowed. (3) the 600-ft separation requirement from any school, playground, public park, public recreation area, church or other public building be waived.

Councilmember McDermott asked for a further explanation of the church. Mr. Bollman said the church is in a temporary location on a month-to-month lease in the location on Lake Elmo Drive. They are conducting services at that location, which is the principal use of that property at present. Councilmember McDermott said she understood the property is currently for sale and that when it is sold, the church will no longer be there. Mr. Bollman said he could neither confirm or deny that.

The public hearing was opened. STEVE CORNING OF 315 WHITE CIRCLE said he is the developer of the Target building and the McKenzie River Pizza building. He said when they began this process, he thought if ever there was a location that would be immune from the 600-ft radius clause, this was it. This was the site of the old Airport Metra Inn that had an all-beverage license on premises for 35-40 years, prior to their acquiring the property and demolishing the old inn building. He said he was surprised to find out that a church existed within the 600-ft radius. Mr. Corning said the church is currently housed in a former Michelotti Funeral Home and Crematorium. "I confirmed with the agent for the owner – Mr. Earl Guss, who currently has the property listed, that it is on a month-to-month lease and that the entire property and adjacent land is for sale. In furtherance of our conversation, I had asked him if the church had approached them about buying it. The statement to me was the church was unwilling and unable to buy the property, given the price the owners have on it. It is very much our conclusion that the church is presently only a month-to-month tenancy and would most likely vacate the premises at the point in time when the parcel is sold," he stated. He noted that there are already two casino and gaming establishments in place, "so these church folks took occupancy of the building subject to the realization that there was gaming and beverage operations within their view." He noted that his site/building cannot be seen from the subject church. It is obscured by the large TSC facility on Main Street. One can however see the two casino establishments on Lake

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Elmo that are just down the street from the church location. He said this might be a fluke in the ordinance, since this is a temporary type of situation and probably won't be there long term. Mayor Tooley asked for clarification regarding gaming on the subject property. Mr. Corning said his license is one of the new lottery beer/wine licenses that did NOT allow gaming.

There were no other speakers. The public hearing was closed.

Councilmember Bradley moved for approval of the Zoning Commission recommendation, seconded by Councilmember Larson. Councilmember McDermott said she normally votes "no" on the special reviews that seek a waiver of the 600-ft separation, particularly when they pertain to schools and parks. She noted that she did not feel she could vote "no" in this instance, since the church was a temporary situation only. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND SPECIAL REVIEW #681: a special review to allow the location of an old beer and wine license (with gaming) in a Controlled Industrial zone on property located at 2816 King Avenue West. Rodger T. Bell, owner. (5 & Diner). Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said the subject property is located on the south side of King Avenue West, just east of South 29<sup>th</sup> Street West. The area is entirely Controlled Industrial zoning, with a mixture of commercial and retail uses. The subject property is the existing 5 & Diner. The Zoning Commission is recommending approval with one condition: that the owner shall install and maintain no fewer than five (5) trees whose minimum size at the time of planting complies with Section 27-1109 of the landscaping regulations. These trees shall be located in the existing landscaped bufferyards along King Avenue West and the private access road. At least two (2) of these required trees shall be located in the King Avenue West bufferyard.

Councilmember Johnson asked about the location of the trees, noting it seemed minimal. Mr. Bollman said the 5 trees were a condition that was placed on the property when it went through special review for a drive thru. Since the drive thru use was never implemented, the condition was never imposed. The five trees were the minimum that staff felt would be appropriate, not knowing exactly where property and utility lines were located.

The public hearing was opened. RODGER BELL OF 2816 KING AVENUE WEST said he is the owner of the 5 & Diner. He offered to answer any questions the council might have. There were no questions for Mr. Bell.

There were no other speakers. The public hearing was closed.

Councilmember McDermott moved for approval of the Zoning Commission recommendation, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

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**5. PUBLIC HEARING AND SPECIAL REVIEW #682: a special review to allow the location of a 300' cellular communications tower in a Controlled Industrial zone on property located at 1400 South 24<sup>th</sup> Street West. Sutton Properties of Montana, owner; Reger Properties, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said the subject property is located at the end of South 24<sup>th</sup> Street West, right before it turns off for Gabel Road. It is part of the Sutton's development. He reminded the council that any tower that exceeds 50 feet in height is required to go through the special review process. The DRC reviewed this request and could not come to a consensus as to a recommendation to the Zoning Commission. There was some concern by members of the DRC regarding adverse visual impacts a tower of this magnitude could have along the interstate corridor. In addition, the tower does not comply with the 1-mile separation requirement between cellular communication towers. The tower that was approved just south of this certificate of survey #2038 was for a 100-ft communications tower and is in existence at this time – just south and west of Torres Café. The Zoning Commission however felt this was an appropriate use at this location and recommended approval with one condition: that the one-mile separation requirement for commercial towers be waived. Mr. Bollman suggested that the council might wish to add an additional condition – that the tower be built so that it can accommodate at least six communications antennae.

The public hearing was opened. HAROLD SUTTON OF 3815 TOMMY ARMOUR CIRCLE said he thinks the subject location (approximately 3.2 acres) is an ideal location for the tower. They are proposing to begin with a 250-ft tower, but would like to have the ability to extend it the additional 50-ft if necessary. The property has a lot of easements on it, Hogan Slough and containment ponds, gas lines, and is not appropriate for many other uses. It is also near the interstate, which cellular companies prefer. He urged the council to approve the request.

OSCAR HEINRICH OF 4210 WELLS PLACE said he thought this was a "built it and they will come" situation, noting the applicants should go out and get the six companies to come to the tower first before building the tower. Mr. Heinrich said a 300-ft tower is huge, noting the average tower in the county is between 100 – 120 ft. This would be three times that height. "I'd rather see three towers of 100 feet spread throughout this county, than one 300-ft tower that is south of where a major conglomeration of people are going to be looking. It's not an attractive site to look at. If you do approve this, I would hope that you would require a visual and site plan, so you can actually see what it will look like from the west end," he stated. He urged the council to reject the proposal.

J.R. REGER, NO ADDRESS GIVEN, said he is the agent for the tower project. They are proposing a 250-ft tower because of multiple users. Multiple users on a 250-ft

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tower will have a service radius of about 5 miles. On a 100-ft tower, they would have a service radius of about 1.5 miles. "It is clearly a question of two or three of these 250-ft towers in the city or a virtual forest of 100-ft towers," he stated. Councilmember Ohnstad asked how tall the KGHL towers by the interchange were. Mr. Reger did not know their height.

There were no other speakers. The public hearing was closed.

Councilmember Kennedy moved for approval of the Zoning Commission recommendation, seconded by Councilmember Bradley. Councilmember Kennedy amended the motion to include the second condition suggested by Mr. Bollman, seconded by Councilmember Johnson. On a voice vote, the amendment was unanimously approved. Discussion continued on the main motion as amended. Councilmember McDermott asked if there was merit in requesting a visual and site plan. Mr. Bollman replied that was an item of council discretion. On a voice vote on the motion as amended, the motion was unanimously approved.

**6. STREETSCAPE IMPROVEMENTS TO NORTH BROADWAY:**

- A. PUBLIC HEARING AND RESOLUTION 00-17621** creating SID 1346.  
Staff recommends approval. (**Action:** approval or disapproval of resolution.)
- B. PUBLIC HEARING AND RESOLUTION 00-17622** creating PMD 4013 (the associated park maintenance district). Staff recommends approval. (**Action:** approval or disapproval of resolution.)

Staff Engineer Bill Morgan from the City Engineer's Office said the SID is a neighborhood SID. They have been working with the consultant community, the Downtown Partnership, the DBA, etc. for over a year on this project. This SID is a property owner initiated SID. The formal protest consisted of two property owners of 27, amounting to 3.62% of the properties. He introduced the consultants working on the project. Stan Griswold of Fischer & Associates said in 1995, the citizens began planning the future of the downtown area via the Downtown Framework Plan. This plan was approved by the City Council in December, 1997. He said the streetscape improvements proposed for North Broadway are the first fruits of the Framework Plan. Mr. Griswold said many people have experienced the newly revitalized Montana Avenue and this project should do the same for North Broadway. The proposed improvements will complement the Montana Avenue Streetscape project with curb bulbouts at intersections, ground level landscaping and decorative concrete, decorative brick bands, street trees with ornamental grates and guards, ornamental street furnishings like benches and bike racks, trash receptacles, decorative concrete crosswalks, ornamental street lighting at intersections, sidewalk, curb and gutter repair where necessary, improved storm drainage, automated irrigation

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systems, etc. The project consultants worked closely with the Downtown Billings Partnership, DBA and the City to develop this project.

Craig Canfield of Interstate Engineering said the district was created in response to property owner requests and as part of the Downtown Framework Plan. The proposed improvements are very similar to the Montana Avenue Streetscape project improvements. He noted that this project will not include the raised planters that occur on Montana Avenue, they will be ground level with shrubs, etc.

The district includes all commercial property owners between Montana Avenue and 4<sup>th</sup> Avenue North. There are 27 parcels within the district and 23 property owners within the district. The project costs include the following: construction cost is estimated to be \$1.3 Million; creation costs are \$9500; design/engineering/professional fees are \$131,000; construction administration is estimated at \$120,000; City administration fees are estimated at \$22,000 and bond sale costs are estimated at \$50,000. The total estimated project costs from beginning to end are \$1.6 Million.

Mr. Canfield said a number of funding sources are involved in the project. CTEP funds will provide a grant of approximately \$500,000; the Tax Increment District, the City contribution (totaling \$225,000 includes contributions from Gas Tax, PAVER, Storm Sewer operating, Street Maintenance funds), and the balance to be paid by assessments to the property owners. Property owners are funding \$590,000 – about 37% of the project. The district encompasses about 300,000 sf, with quite a range of parcel sizes. The largest parcel is about 37,000 sf and the smallest is about 3100 sf. Assessments were based on a 15-year district. Two types of assessments are proposed: (1) the general streetscape improvements to construct the improvements proposed. They will be assessed at a rate not to exceed \$1.50/sf. (2) there are additional costs that include sidewalk replacement and requested improvements from the property owners. These will be assessed per property and range from \$0 to \$33,000. The maximum assessment in the district is \$8600/year for 15 years and the lowest assessment is \$1000/year for 15 years. Concurrently with this project, a park maintenance district is also being created to maintain the improvements over the life of the improvements. That maintenance district will results in an additional assessment to property owners of about 2 cents/sf/year.

The public hearing was opened. ERNIE DUTTON OF 2046 MARIPOSA LANE said he is speaking on behalf of the Streets Committee of the Downtown Partnership. They met individually with property owners on Broadway at three separate public meetings. There has been substantial support for the project. They have tried to make the revitalization project affordable and believe they have a project that is affordable, since property owner assessments represent only 37% of the total project costs and 63% of the costs are being paid by other sources. Mr. Dutton said this project is comparable to the beautification project on Montana Avenue. That project has brought renewed vitality to that neighborhood and they hope to accomplish the same on Broadway. He noted that in addition to the decorative additions, landscaping, etc., they hope to narrow the pedestrian

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crossings to make it easier for children and senior citizens and handicapped individuals to cross the street. The bulbings at the corners will have the additional benefit of calming traffic in the downtown area. They are also hoping to introduce diagonal parking downtown.

BERNIE NELSON OF 1116 MOON VALLEY ROAD said she is speaking on behalf of Chris Nelson, the owner of 9 lots in the proposed district. Mr. Nelson owns the former Hart Albin Building and Montana National Bank Building and fully supports the revitalization of downtown Billings and hopes it parallels the success of the Montana Avenue Streetscape project. Ms. Nelson said Mr. Nelson supports this SID.

MIKE SCHERR OF 1109 NORTH 32<sup>ND</sup> STREET said he is in favor of the streetscape. He noted he was a major sponsor of the historic Montana Avenue Streetscape. The cost to the property owners for that project was \$750,000 – about 50% of the total project cost. Mr. Scherr said that project helped their property values increase; new jobs have been created and near full occupancy of retail space has occurred. He noted that there has been a major increase in foot traffic and the neighborhood has been cleaned up. He said comments at the public hearings are often based on financial considerations. They had one major property owner in their district that protested the improvement. "The real financial hardship is to the people who want to move forward and make the core of downtown Billings a better place to live and do business," he said. "I think this is a real opportunity for the city of Billings to take the first step to develop the core of downtown Billings. Billings downtown has been a great site for some major businesses. This is a real opportunity to have some of the things that go along with this type of a streetscape, which include unique retail shops, more night life and some great dining," he added. He encouraged the Council to support the project.

BILLIE RUFF, OWNER OF TRAVEL CAFÉ AT 313 NORTH BROADWAY, said she strongly supports this project and believes it is a much-needed improvement to the downtown.

MARY WESTWOOD OF 2808 MONTANA AVENUE, APT A, said she is the secretary of the Downtown Property Owners organization. At their last meeting they voted to support this project. She said they look out for property owner's interests as well as understand that they must make their own investment in the downtown. She urged the Council to keep working with them to keep making things happen in the downtown – not just the projects that include flowers and trees, but ones that include actual increases to the tax base.

MIKE SCHMECKEL OF 5546 BILLY CASPER said he is the owner of Montana Brewing Company. He thanked the Council for allowing them to have a demonstration project of the streetscape project. He said it is working very well. Since they opened up their streetscape/deck project in June, their business for the 3 summer months was 30-40% greater than the previous summer. It's attracted numerous people downtown and they have had compliments to them and the City for allowing the project to happen.

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MIKE MATTHEW, NO ADDRESS GIVEN, said he is an agent for the new owner (his wife) of the Montana Power Building. They have owned the building since June and knew this project was in the works. They viewed it as the beginning of the resurrection of the downtown. Mr. Matthew said they fully support the proposed project.

There were no other speakers. The public hearing was closed. Councilmember Ohnstad moved for approval of Item A, seconded by Councilmember Larson. Councilmember McDermott asked for a report on the City's contributions to SIDs, so they can have some consistency in contributions. On a voice vote, the motion was unanimously approved.

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

**7. PUBLIC HEARING AND RESOLUTION 00-17623 authorizing sale of city-owned property described as: C/S 1358, Tract 1A amended, containing 1.06 acres AND accepting 2.98 acres of Tract 1B from Eugene A. and Carol C. Brosovich in trade. Staff recommends approval. (Action: approval or disapproval of staff recommendation.).**

Parks and Recreation Director Don Kearney said this proposal is really a land trade between the City and the Brosovich family. The property is east of Zimmerman Trail. The trade would change the ownership of land to create a net increase to the City's ownership of Rimrock land. It allows the Brosovich family to build a residence on the upper portion of the land.

The public hearing was opened. TIM OSTERMEIER OF 3322 HARLOU DRIVE said he received the notice and vicinity map a few weeks ago. It makes it hard to fully assess the impact on his property values – specifically the views of the Rims. He said he is concerned about swapping buildable land for land that has no tangible value. He did indicate that he understands the value of open space to the City however. He asked that the City only accept this land swap if there is a line of site setback for any of the impacted landowners that have existing homes right under the Rims and the City not allow any development of this property that it has traded for.

RAY KUNKEL OF 3326 HARLOU said he owns property under the area to be traded. He noted that the home to be built will be closer to the highway and airport than the Rims edge. He said he is okay with this.

There were no other speakers. The public hearing was closed. Councilmember Johnson moved for approval of the staff recommendation, seconded by Councilmember Larson. Councilmember Larson said the swap is between the property owner and the City park department. It is the intent that the Parks Dept will hold the property, and any proposal to sell that property would need Council approval first. Notification would be necessary, as well as a public hearing to dispose of park property. Mr. Kearney said the process would be similar to the one that was utilized on this proposal tonight. On a voice

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vote, the motion was unanimously approved.

**8. PUBLIC HEARING AND SECOND READING ORDINANCE 00-5131 repealing BMCC Sections 7-401 through 7-423 and 7-425 through 7-428, regarding Auctions and Auctioneers and replacing them with new Sections 7-401 and 7-402, BMCC. 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 Larson moved for approval of the ordinance on second reading, seconded by Councilmember Elison. On a voice vote, the motion was unanimously approved.

**9. PUBLIC HEARING AND RESOLUTION 00-17607 spreading original costs on Broadwater Phase I, 2001, W.O. 98-02, #2: sidewalk, curb and gutter 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 Elison moved for approval of staff recommendation, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

**10. PUBLIC HEARING AND RESOLUTION 00-17606 spreading original costs on SID 1340: Cenex Park Subdivision storm drain, storm sewer, street and water 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 Bradley moved for approval of the staff recommendation, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

**11. PUBLIC HEARING AND RESOLUTION 00-17605 spreading original costs on SID 1341: Circle Fifty Subdivision park improvements. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

**ADJOURN – With** all business complete, the Mayor adjourned the meeting **at 8:54 P.M.**

THE CITY OF BILLINGS:

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

**ATTEST:**

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