

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

## **MONDAY, JUNE 28, 1999**

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, given by Councilmember Mike Larson.

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

**MINUTES** – The Minutes of the June 14<sup>th</sup> meeting were approved as printed.

**PROCLAMATIONS** – Mayor Tooley proclaimed July 9-11 as MAGIC CITY SOCCER DAYS in Billings.

**BOARD AND COMMISSION REPORTS** – Councilmember Kennedy said the search for the new City Administrator is moving ahead. He said the position profile and the community profile were distributed to the council for review and comments. He said the final versions would be sent back to the consultant to continue the process.

Councilmember Kennedy spoke briefly on the July 4<sup>th</sup> celebration and the community sponsors for the patriotic fireworks display at Stewart Park next Sunday evening. He thanked the staff for their support and all the community sponsors who are participating in the celebration.

Mayor Tooley said Councilmember Johnson has been visiting with City Lobbyist Jani McCall re: a "rehash" of the Billings City Council and Yellowstone County Legislators as to what happened at the Legislature and what both of these bodies need to be doing in the future. He said they would like to schedule a meeting with the City Council, possibly after an agenda meeting. Some potential dates include either July 13, July 15, July 19, or July 20. The consensus was for Monday, July 19 after the Agenda Meeting.

### **ADMINISTRATOR REPORTS – Bill McGill**

- Acting City Administrator Mr. McGill said an item needed to be added to the Consent Agenda – ratification of the contract with the Firefighters.
- He noted also that bids were opened for the bond issue listed as Item 1A2. The Finance Director has a recommendation for that item.
- Mr. McGill informed the Council of several changes in the request under Item I. The date has been changed to July 22<sup>nd</sup> and alcohol service is no longer being requested.

### **CONSENT AGENDA:**

**1. A. Bid Awards:**

**(1) Heating Upgrade for the Rental Car Rental Offices for Billings Logan International Airport.** (Opened 6/8/99). (Delayed from 6/14/99). Recommend Accent Air Conditioning & Heating, \$19,120.00.

**(2) \$685,000 Broadwater Subdivision Improvements, Phase I Bonds.** (Opened 6/28/1999). (Delayed from 6/14/99). Recommendation to be made at ~~meeting~~ J.C. Bradford & Co. @ 4.993%.

**(3) Plant Mix Asphaltic Concrete and 3/4" and 1 1/2" Crushed Aggregate.** (Opened 6/15/99). Recommend JTL Group Inc and Empire Sand & Gravel.

**(4) Parking Garage Janitorial Services.** (Opened 6/15/99). Recommend Winco, \$18,720.00.

**(5) Wastewater Treatment Plan Improvements (Contract X): Secondary Pumping Station Modifications.** (Opened 6/15/99). Recommend Ace Electric, \$319,836.00.

**(6) Sale of Park Land in Byrnes-Stephens Subdivision.** (Opened 6/22/99). Recommend delaying to 7/12/99.

**(7) BLIA Water Main Improvements – 1999.** (Opened 6/22/99). Recommend delaying to 7/12/99.

**B. Change Order #1, W.O. 95-10: Grand Avenue Reconstruction.** COP Construction, -\$28,447.60 and 0 days.

**C. Easement** with Montana Power Company for electrical service to the new Air Transfer Office Facility for the U.S. Postal Service at the airport.

**D. Contract** with Nancy Wetherelt for public defender services. \$80,000, term: 7/1/99 – 6/30/2000.

**E. Memorandum of Understanding** with the United Way of Yellowstone County, allowing City to host a VISTA volunteer for a one-year period beginning August, 1999, \$4,802.50.

**F. Memorandum of Understanding** with the School District No. 2 regarding School Resource Officers, \$60,000, term: 7/1/99 to 6/30/2000.

**G. Request by Downtown Billings Partnership** for Release of Funds for the Kits of Parts Project and Streetscape Beautification Project, as part of the Urban Renewal Plan, \$26,500.00.

**H. Exercise of Option to Purchase** Lots 15-24, Block 230 O.T. by Chamber of Commerce under Lease Agreement dated 8/8/1988. \$92,400.00.

**I. Street Closure Request** by Avista Communications of Montana, Inc. for

North 29<sup>th</sup> Street between 2<sup>nd</sup> and 3<sup>rd</sup> Avenues North on July 15, 1999 from 2:00 PM to 8:00 PM. (SEE note under Administrator Reports for changes.)

**J. Acknowledging receipt of Petition to Annex #99-01:** an unplatted parcel at the northeast corner of the intersection of Main Street and Lake Elmo Drive located in Township 1 North, Range 26 East, Section 27: NW4NW4SW4, containing 22,743 square feet, more or less, John Q. Hammons, petitioner and setting a public hearing date for 7/12/99.

**K. First reading ordinance** amending Section 6-1042 BMCC, providing that subsurface foundation walls be allowed to remain if it is safe to do so, and setting a public hearing for 7/12/99.

**L. First reading ordinance** amending Section 24-443 BMCC to add high security areas such as Billings Logan International Airport as an additional exception to the handicapped parking time limitation exemption, and setting a public hearing date for 7/12/99.

**M. First reading ordinance** relating to the City of Billings Revolving Loan Program modifications and renaming the program and making certain other findings related thereto, repealing 99-5087 and setting a public hearing date for 7/12/99.

**N. Resolution 99-17462** setting the annual salary of the Municipal Judge, \$59,819.00.

**O. Resolution 99-17463** declaring an emergency and waiving the standard bidding and advertising requirements so emergency repairs may commence on the boiler in the Terminal at Billings Logan International Airport.

**P. Preliminary approval of Resolution 99-17464** respreading costs on SID 1332: Circle 50 Subdivision utility and street improvements, tax code split, and setting a public hearing on 7/12/99.

**Q. Preliminary approval of Resolution 99-17465** respreading costs on SID 1333: 38<sup>th</sup> Street West (between Poly Drive and Colton Blvd) water mains, storm drain and street improvements, and setting a public hearing on 7/12/99.

**R. Bills and Payroll.**

**LATE ADDITION:**

**S. Contract** with IAFF Local 521 (International Association of Firefighters), 3-year term: 7/1/1999 – 6/30/2002.

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

Councilmember Larson moved to add the Firefighter contract as Item S, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved. The contract was added as Item S. Councilmember Deisz separated Items H and N. Councilmember Deisz moved for approval of the Consent Agenda except Items H and N, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

Councilmember Iverson moved for approval of Item H, seconded by Councilmember Larson. Councilmember Deisz asked if the City would still retain control of the Visitor Center and pay rent to the Chamber for that area. Community Development Manager John Walsh replied the City would continue to have control of the Visitor Center at this time. The Chamber does have an option to purchase the Visitor Center from the City in the original lease agreement. Mr. Walsh said the City would not be paying any rent on the Visitor Center. Councilmember Deisz asked if the City is getting 100% of the value of the land as it was appraised. Mr. Walsh said the City is not getting 100% of the value. The lease agreement entered into in 1988 provided that both the City and the Chamber would obtain appraisals and a negotiated price would be agreed upon. The negotiated price is 98% of the City's appraised value. On a voice vote, the motion was approved. Councilmember Deisz voted "no".

Councilmember Iverson moved for approval of Item N, seconded by Councilmember Larson. Councilmember Deisz asked what the Judge's salary was last year and what the percentage of increase was last year. Human Resources Director Laura Marshal said the salary last year was \$55,388. This proposal would increase an 8% increase -- \$4,431. The 8% increase is a 3% COLA and a 5% increase for the increased workload. Councilmember Deisz reminded the council that with the increased workload, the court's budget has been increased and more staff was hired. Ms. Marshal added that the Judge would be taking over the responsibility of overseeing the Clerk of Court office, presently under the Finance Dept. The separation of the Clerk of Court office and the Judge's office operations created a lack of continuity. On a voice vote, the motion was approved. Councilmember Deisz and McDermott voted "no".

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING regarding the annual Budget for FY 1999/2000. Final adoption on 7/12/99. (Action: public hearing only).**

The public hearing was opened. KERWIN JENSEN OF 1031 COTTONWOOD said he is a member of the Bitterroot PTA and they are concerned about the safety of school children that cross the new Kiwanis bike path across Wicks Lane. He said they feel there should be a flashing signal for 15 mph to indicate that school children cross at

this location. The only sidewalk that extends through that school district from one end to another is the new bike path. The only other corridor that goes through the middle of the district is Bench Boulevard, a major arterial with no sidewalks. He urged the council to consider installation of the flashing signal in the upcoming budget.

KARSON JENSEN (child) OF 1031 COTTONWOOD said he rides his bike to school and uses the bike crossing. He would like to have lights across Wicks Lane.

KYLA JENSEN (child) said she goes to Bitterroot School and rides her bike to school. The traffic is busy and she would like flashing lights there.

MARY WESTWOOD OF 1433 YELLOWSTONE AVENUE said she is speaking in support of the Downtown Billings Partnership budget request for an additional staff person. She said many of them have given more hours than a staff person would work legally, in order to make the process work.

CHARLES HAMWEY OF 1010 GRAND AVENUE said he is President of the Planning Board. He urged the council to allocate additional money to the Planning Department for an additional planner position. He estimated the cost at approximately \$40,000.

There were no other speakers. The public hearing was closed. Final action of the budget will take place on 7/12/99.

**3. PUBLIC HEARING AND SECOND READING ORDINANCE FOR ZONE CHANGE #647: a zone change from Residential 6000 to Planned Development with underlying zones of Single Family (Manufactured and Modular Homes) and Residential 6000 (4-plexes) on the S2S2NW4SW4 of Section 23, Township 1 North, Range 26 East, lying west of the old railroad right-of-way, located at 5021 Bench Boulevard. Roy and Betty Clause, owners; Engineering, Inc., agent. Zoning Commission recommends approval. Staff recommends DELAYING public hearing and action to 7/12/99. (Action: approval or disapproval of staff recommendation.)**

Councilmember Iverson moved for approval of the staff recommendation to delay the public hearing and action to 7/12/99, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND SECOND READING ORDINANCE 99-5088 FOR ZONE CHANGE #648: a zone change from Residential 6000 to Residential 7000 on the following properties: Lots 26-48 of Block 5, Lots 25-48 of Block 6, Lots 25-48 of Block 7, Lots 25-48 of Block 8 and all of Blocks 9, 10, and 11 in North**

Elevation Subdivision, 1<sup>st</sup> filing; AND Lots 1-10, 28-45 of Block 15, Lots 2-24 of Block 24, Lots 24-46 of Block 25, Lots 24-46 of Block 26 and all of Blocks 16, 17, 18, 19, 20, 21 22, and 23 in North Elevation Subdivision, 3<sup>rd</sup> Filing, generally located north of Grand Avenue, east of Pioneer Park and west to the medical corridor. City of Billings, agent. Zoning Commission recommends approval.  
(Action: approval or disapproval of ordinance on second reading.)

Zoning Coordinator Jeff Bollman said this is the City-initiated zone change in the North Elevation Subdivision. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the ordinance on second reading, seconded by Councilmember McDermott. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #649: a zone change from Planned Unit Development to Residential Manufactured Home on Tract A of Amended C/S 657, generally located on the south side of King Avenue East, between Jackson Street and Ponderosa Elementary School. F.C. Pierce II, owner. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said the PUD as it currently exists allows outright 57 townhomes. The proposal to change to RMH could allow a maximum density of 30 dwelling units on the property with a 6,000 sf minimum lot size. Physical constraints exist on the site that would make the 30 units unlikely. Mr. Bollman noted there is a valid protest to the request. This would require that 9 of the councilmembers vote in favor of the zone change to approve it. He said the applicant has also just received a conditional withdrawal of protest letter from one of the large property owners. City Attorney Brent Brooks said the letter from Mr. Deaver, the owner of Tract B, the radio station property, is a conditional withdrawal. The statutes allow for a written withdrawal of protest, but not a conditional withdrawal of protest. He emphasized that the council cannot grant a conditional zone change; there is no statutory authority to do so. MCA 7-1-4132(4) allows a written withdrawal of protest, but makes no mention of a conditional withdrawal. Mr. Brooks said that effectively Mr. Deaver has not withdrawn his protest because of the conditions he has placed on the withdrawal. He confirmed that a  $\frac{3}{4}$  vote of the entire council, not  $\frac{3}{4}$  of the members present is required to approve the zone change if a valid protest has been filed.

Councilmember Larson asked if it would be appropriate to delay action on this item to get clarification of the intent of the letter of withdrawal of protest. Mr. Brooks said that would be an option, so that the protester could be present. A public hearing is required this evening, because it has been advertised. Councilmember McDermott noted the developer has submitted information stating that he did not intend to put 30 units on the property, only 14. She asked if the council approved the zone change, what guarantee would the council have that the developer would not decide to put 30 units on the property instead. Mr. Bollman said with this type of zone change, there is no guarantee that the site plan submitted is the way the property will be developed. No conditions can be

placed on this zone change.

The public hearing was opened. VICKIE ARCHER OF 912 JACKSON said she is primarily concerned with the access in and out of the property. There is only one way in and one way out. A lot of traffic would be generated if there will be 30 trailers on the property, and even with 14 units. She noted that this area is close to the Kings Green Subdivision with all of its flooding problems. She asked if the roads would be at an angle where the water will run out to Jackson in front of their homes.

HAROLD FRYER OF 835 JACKSON STREET said his concern centers around the number of trailers that will be placed on the property. The neighbors have received two proposed plans – both different, one with 1 access and the other with 2 accesses. He is concerned that all the requirements and restrictions may be altered and amended or rescinded at any time by recording an instrument in the Office of the County Clerk and Recorder, executed by the owners of record of not less than 66% of the lots described in the amended certificate. Mr. Fryer was also concerned that there are no maintenance provisions for the lots. The requirements state no manufactured homes older than 12 years will be permitted. He would prefer to see that be lowered to 5 years. He said he would prefer to see modular homes built instead.

CHARLES WILLIAMS OF 902 JACKSON said this trailer park would be right up against his property line. There are already trailer parks in the area and this development would surround his property with trailers. He said he would prefer to see single-family modular homes instead because he has an investment in his property.

GARY CARTER OF 4104 JANSMA said he supports the zone change request. He thought the concern centered on the old-type trailers that had aluminum siding. This development will resemble the one west of Ponderosa School, a nice development.

JUDY CARTER OF 4104 JANSMA said she supports the project because of the shortage of places to put nice manufactured homes. Land is hard for young people to buy. Affordable manufactured housing is the answer to some of these people owning their own homes and they take pride in them. Ms. Carter said the community needs affordable housing and feels the developer will do a good job with the project.

FRED PIERCE, NO ADDRESS GIVEN, said he is the applicant. He said he has no intention of putting 30 trailers on the property or changing any of the plans, other than what is required to do while going through the process. He noted he originally had a street planned going in and out of the development. The city requested that he not include that street because it did not align up with the outgoing street. Mr. Pierce said the owner of the radio station was convinced that 30 trailers would be placed on the property. The conditions that owner listed were placed on the applicant, not the city. Councilmember Larson asked if there would be a problem delaying this item. Mr. Pierce said he did not object to a delay to clarify the protest matter.

CHARLES HAMWEY OF 1010 GRAND AVENUE said he is familiar with the subject property since before 1980. A number of realtors have tried to sell the land for development. Some major factors impact the property: the sewer line and water lines in Jackson Street sit so high that you cannot build homes with basements, and there are pipelines from Cenex and Conoco on the north end of the property. For 20 years, it has been an undeveloped weed patch. This proposal presents an excellent opportunity for

infill development. He said Mr. Pierce has painstakingly worked with the city and county to come up with this proposal. He encouraged the council to support the request.

There were no other speakers. The public hearing was closed. Councilmember Johnson moved for approval of the Zoning Commission recommendation, seconded by Councilmember Ohnstad. Councilmember Johnson asked what the status of the flood control measures was. Community Development Manager John Walsh said the subject property would not be affected by the floodwater work in the Kings Green Subdivision. This project is being carried out via a grant – to build a stormwater retainage pond near McDougal. It is estimated that the work will be completed by next Spring.

Councilmember McDermott said infill development is important, but more important is that the developers get some buy-in from the neighborhood. The neighbors need to understand what is happening. The neighbors are not opposed to development, they just do not want 30 trailers on the property. Councilmember Larson made a substitute motion to delay action and continue the public hearing to 7/12/99, seconded by Councilmember Kennedy. Councilmember Larson said the issue of the valid protest will be critical to this issue and the extra time should be used to clarify the status of the valid protest and the intention of the letter of withdrawal of protest. On a voice vote, the substitute motion was approved. Councilmembers Bradley and McDermott voted "no".

**6. PUBLIC HEARING AND SPECIAL REVIEW #660: a special review to allow placement of an all-beverage license in a Community Commercial zone on Lot 5-A-1, Block 2, Descro-Central Subdivision Amended, located at 2545 Central Avenue. Qayum Investment Properties, LLC, owner; Ernie Dutton, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said this license is proposed to be located in the strip mall located immediately east of Target that contains TJ Maxx. Stewart Park, Rimrock Mall and Kmart are south of the subject property. Residential Professional zoning lies to the north of the property. The conditions recommended by the Zoning Commission are: (1) this special review approval shall be limited to the 1,400 sf portion of the shopping center, labeled as Suite d on the submitted application materials. (2) the 600-ft. separation requirement from any school, playground, public park, public recreation area, church or other public building be waived.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Ohnstad moved for approval of the Zoning Commission recommendation, seconded by Councilmember Kennedy. On a roll call vote, the motion failed due to a tie vote. Councilmembers voting "yes" were: Bradley, Kennedy, Johnson, Ohnstad and Larson. Councilmembers voting "no" were: McDermott, McDanel, Deisz, Iverson and Tooley.

**7. PUBLIC HEARING AND SPECIAL REVIEW #661: a special review to allow the operation of a college, university or professional school (SIC#822) in the Central Business District on Lots 19-24, Block 10, O.T., located at 2525 4<sup>th</sup> Avenue North. Max Griffin, owner; Patrick Connealy, agent. Zoning Commission**

**recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said this property is located on the northeast corner of 4<sup>th</sup> Avenue North and North 26<sup>th</sup> Street. It is currently a vacant 4-story office building. The professional school proposed requires special review in all commercial zones. Surrounding uses are generally commercial and office-type uses. The Zoning Commission and DRC both felt this was an appropriate use of the location and have recommended approval.

Councilmember Bradley asked about the parking for this property, noting that he thought a portion of it was owned by Hardy Construction. Mr. Bollman said the site has 30 on-site parking spaces and the owner is leasing additional spaces on North 25<sup>th</sup> Street. He pointed out however that the CBD does not require provision of off-street parking. Councilmember McDermott asked how many students would be there during the day. Mr. Bollman said the agent would respond to that.

The public hearing was opened. PATRICK CONNEALY OF 4113 SNOWBERRY said he represents the owner of the building. Councilmember McDermott asked how large the school would be and what the student population would be. Mr. Connealy replied that they are looking at occupying the first two floors of the building – approximately 16,000 sf of space. He didn't know how many students they are going to have, but have requested the school run from 8:00 AM to 8:00 PM because they will offer night classes. An adjoining parking lot contains 34 spaces. Another leased parking lot with 75 spaces is located at 503 North 25<sup>th</sup> Street. This is the Education of America School that is relocating from the south side. Mr. Connealy added that they are planning to do a facelift on the building as well.

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

**8. PUBLIC HEARING AND RESOLUTION 99-17466 CREATING SID 1340: street and utility improvements in Cenex Park Subdivision. Staff recommends approval. (Action: approval or disapproval of resolution.)**

Public Works Director Kurt Corey said this district is generally located south of the intersection of 24<sup>th</sup> Street West and King Avenue West. It is a Controlled Industrial zoned area that encompasses about 100 acres. The proposed district would complete the balance of missing utility and street improvements in that area. This project was brought forward at the request of the property owners within the district. The total estimated assessments of \$1,037,000 would be borne by 41 property owners in the district. That equates to an average assessment of about \$25,000 with a high assessment of about \$98,000, a low of about \$1200 and a median of about \$17,000. The resolution of intent was passed by the council on May 24<sup>th</sup>. The protest period ended on June 25<sup>th</sup>. There were no protests received. Staff recommends approving the resolution creating the district.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember McDermott moved for approval of the resolution, seconded by

Councilmember Larson. On a voice vote, the motion was unanimously approved.

**9. PUBLIC HEARING CONTINUED AND RESOLUTION 99-17467 vacating public right-of-way in Industrial Subdivision, 2<sup>nd</sup> filing, adjacent to Lot 5, Block 5. Paul and Dorothea Rice, petitioners. (Continued from 5/10/99, 5/24/99 and 6/14/99). Staff recommends approval of the resolution. (Action: approval or disapproval of staff recommendation.)**

The public hearing was opened. PAUL RICE, NO ADDRESS GIVEN, said he is the petitioner for this vacation. He said this was delayed because the Billings White Company owns land next to the property and they could not establish the ownership of the street. That has since been established by the City Attorney and Billings White Truck Company. Mr. Rice read from a written letter to him the following paragraph, "Billings Truck Center withdraws its request for postponing action and supports the abandonment of the portion of right-of-way in the petition." He noted that this is a small piece of land at the very east end of 2<sup>nd</sup> Avenue North – at the end of the city limits. He said it was annexed in 1990.

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

**10. PUBLIC HEARING AND INTERIM ORDINANCE 99-5089 adopting an immediate moratorium on the acceptance of applications for off premise/billboard signs in all applicable zoning districts for a six-month period. Staff recommends approval. (Action: approval or disapproval of ordinance.)**

Staff Planner Gail Kenson said in May, the council directed staff to bring forth a moratorium on billboards for a period of 6 months. At the end of last year there was quite an increase in the number of outdoor advertising structures within the community and there was some concern expressed. The six-month period will be used to look at the regulations, meet with members of the public and sign industry to determine how to move forward and take those recommendations to the council at that time.

Councilmember Deisz asked if staff anticipated having a course of action for the council to look at before the 6-month period ends or was this a stopgap measure. Ms. Kenson said they would make every attempt to be back to the council within 6 months with new recommendations. This is a controversial and sensitive issue. Councilmember Bradley asked what the controversy is about. Ms. Kenson replied the controversy deals with signage and the ability for business owners to reach their clientele. People are not upset about the moratorium; people are concerned about what types of recommendations could come forward to amend the City sign ordinance as it pertains to billboards.

The public hearing was opened. CAL CUMIN OF 1107 AVENUE B said he supports the moratorium. This is an important time for the community to analyze what it is trying to do and how it should regulate these signs.

JOHN OLIVER OF 1203 CONCORD DRIVE said he is expressing concern that came up at a recent task force meeting, where he was informed about a letter that was sent to the mayor from the Central Terry Task Force. It addressed the issue that the

council takes a look at a moratorium. He said residents should be given the opportunity to have input on the placement of signs. He has a billboard in his back yard. His neighborhood is a very quiet one with commercial development held to a minimum. They are therefore concerned about new billboard regulations. Mr. Oliver said he did not find out that this sign was going in until the hole was dug for it. "I'd like to make it explicitly clear that we are not in objection to LaMar Advertising having billboards. We are not against the business itself. But we do think that is prudent that responsible business ownerships take into consideration the effects that it has on the homeowners in the direct community in which the sign is located... I think it is rude and inconsiderate that the residents were not considered." He said he would appreciate serious consideration of the placement of these signs.

JERRY T. RAY, NO ADDRESS GIVEN, said LaMar Advertising monopolizes the sign business in Montana. Billings is a rapidly growing hub so this has become a very lucrative business. Advertising plays a tremendous part of the growth. Billboards work for advertising; that's the reason they are out there. The reason for the influx of them is simple – the people that own the property are getting paid very large fees for the leases on their signs. The moratorium will probably only cause these fees to increase. He emphasized to the council that what they have created is a monopoly. He recommended letting this issue take its own course. There will be some point in time where it is no longer profitable and they'll back out of them.

JOANNE BYLSMA OF 609 MILES AVENUE said she is in favor of the moratorium. It's time for the citizens of Billings and the people of Yellowstone County to decide what image they want their city to portray and what the entrances into the city will look like.

OSCAR HEINRICH OF 4210 WELLS PLACE said he is in favor of the billboard moratorium. It will give City Staff, the public and the billboard companies an opportunity to iron out an agreement that is equitable to all sides.

MARY WESTWOOD OF 1433 YELLOWSTONE AVENUE said she supports the moratorium. She noted her reasons were basically aesthetic ones. "They are beginning to block the views of things that I find inspiring. I write poetry and I really enjoy seeing my community without someone's advertisement in front of my face. I think it is really difficult in these situations where you are dealing with free enterprise and trying to be fair to everyone in these regards. But as citizens of any society, you need to remember that our rights are defined at the end of the next person's nose, and a billboard in front of your nose is really distressing. You need more space than that and you need to see the beauty of the place that you live."

PAUL WHITING OF 139 WYOMING said he favors the moratorium. He is a member of the Central/Terry Task Force and is speaking on their behalf. He showed the council a number of billboard photos. Some of them showed billboards on the Rims, a treasured landmark, along the highway hiding the Beartooth mountains, and one for an adult bookstore down the street from the co-cathedral. He said the billboards and their placement send mixed messages. He cited some examples of what other states and communities do, noting there are positive solutions to this issue.

SANDY FISHER OF 2644 WOODY DRIVE said she is in favor of the moratorium.

She said she's been trying to hire a landscape architect for the past 18 months. She said she's seeking someone to come to Billings, Montana and work with her firm. Her firm deals with the management of resources – recreational resources, urban resources, etc. "When I bring them to town, they say to me 'this does not look like a community that cares about their scenery or their natural resources.' They are appalled by the condition of the Rims and cannot believe the number of billboards. She said she has offered wages higher than Fort Lauderdale and still has not been able to hire someone. She emphasized that the issue needs to be reviewed and that there are positive solutions to the problem. Ms. Fisher said if you look at national trends, Montana is one of the last states that allow them. Other states are spending time and dollars to remove them. She urged the council to use the moratorium time to think about this issue, or the City will be back in 5 – 10 years spending money to remove them. "Why can't we learn from other people's experiences? Why do we think we always have to make the same mistake that has been made all over the country?" she asked. The cost of removal can be very high. Ms. Fisher said we already require things like fencing between changes of land uses or between a multi-million dollar investment at the hospital and a residence adjacent to it. But we have no control over the situation where the billboard or lights of it encroach on his back yard. The scenic resources and the big sky are the reasons a lot of us are here. She urged the council to take the time to let the community consider this issue.

PAUL DENNEHY, NO ADDRESS GIVEN, said he works for LaMar Advertising at present and worked for their predecessor, Myhre Advertising for 10 years prior to LaMar purchasing them. He said LaMar Advertising has come into this community with the idea of cleaning up a product that was already here. Mr. Dennehy said they are in the process of completely remodeling and upgrading their plant and downsizing. They agree changes need to be made – rules and logic. They want to be a part of that change process, because they feel they are a part of the community. Their goal is to work with the city, not to butt heads or fight with the city or county or anyone. Mr. Dennehy said they see the need for the change and are not opposed to the moratorium. But they would like to be a part of the review that takes place.

ALAN REED, NO ADDRESS GIVEN, said he is the General Manager of LaMar Advertising. He said when they bought Myhre Advertising they recognized that some changes needed to be made, chiefly the spacing in the market. He confirmed they are not totally opposed to the moratorium, but they do want something to be done about it. "We don't want to wait around and be put on hold for six months. We want to see a forward direction with it," he stated. Mr. Reed said spacing from residential properties needs to be considered. A lot of changes need to be made. He emphasized that they are willing to work with whoever is involved in the process. He suggested forming some type of task force or action committee to study the issue, adding that LaMar Advertising desires to be represented on that committee.

JOHN OLIVER RETURNED. Mr. Oliver concluded his remarks concerning the letter from the task force. The letter was intended to bring to the council's attention the number of sign permits being issued and that things were happening to people's neighborhoods as a result. He noted that he felt it would have been prudent for the council to get involved earlier to find out why a neighborhood was in such an uproar about

a billboard. Mr. Oliver said his home and his neighbors' homes are their sanctuaries. He urged the council to work closely with the task force on issues because people are just trying to protect their homes.

Mayor Tooley welcomed three members of the Laurel City Council in the audience and welcomed their comments. They made no comment at this time.

There were no other speakers. The public hearing was closed. Councilmember McDanel moved for approval of the staff recommendation, seconded by Councilmember Johnson. Councilmember Deisz said input from the sign industry is important. He did not want to see this issue drag on longer than necessary and extending the moratorium. "I'd like to get something on the books or on the board as soon as possible," he stated. Mayor Tooley asked what kind of process might be possible. Planning Director Kerwin Jensen said staff has hesitated to come up with a distinct format, but they will start work on this issue immediately. He said they would involve as many people from the community as are willing to participate. This would include members of the sign industry, the task forces, private citizens, city councilmembers and perhaps even Laurel City councilmembers. He said if the council approves the interim ordinance, staff will begin working on a schedule of meetings tomorrow, with the intention of having something back to the council within the 6-month time period.

Councilmember McDanel said it is important to define the process. He suggested directing staff to provide a brief outline of the process at the council's July 19<sup>th</sup> agenda meeting for discussion. Mr. Jensen said they could provide an outline within the next few days. Councilmember Johnson asked the Laurel councilmembers if they would comment on what Laurel has done on sign permits. Dirk Kroll of 301 2<sup>nd</sup> Avenue in Laurel, said they had a recent public hearing with their City/County Planning Board regarding a proposal for 5 billboards in the Laurel area. They had concerns because Billings was having this meeting regarding a moratorium and they were finalizing a transportation study and a revitalization study, which look at ways to bring people into their town. Their Planning Board denied the application, which is good for a 1-year term. He said this allows Laurel time to look at what they want to do. Mr. Kroll said they are interested in what Billings will do on the billboard issue and want to be involved in the process.

Councilmember Johnson said he appreciated the council looking at a possible moratorium on the billboards. He quoted from Frank Lloyd Wright who said, "the longer I live, the more beautiful life becomes. The earth's beauty grows on us. If you foolishly ignore beauty, you'll soon find yourself without it. Your life will be impoverished. But if you wisely invest in beauty, it will remain with you all the days of your life." He said this relates to the issue the council is looking at now. There are 100+ "highway" billboards within city limits. "We need to look at reducing size, reducing numbers, possible elimination someday down the road, of those kinds of things," he said. He said he could take anyone down most any arterial street and have your vision blocked out of the big sky, of the Rimrocks, of the river, of trees, flowers, shrubs, etc. He urged the council to support the moratorium to allow an opportunity to take another look at what is happening. On a voice vote, the motion was unanimously approved. The interim ordinance imposing a 6-month moratorium was approved.

**11. AMENDMENT TO LOBBYIST CONTRACT with Jani McCall, extending the contract term to cover services provided at the Special Session of the Legislature on June 14<sup>th</sup> and legislative follow-up and networking on an as-needed basis thereafter. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Councilmember Deisz asked if the previous proposal for a monthly retainer arrangement @ \$1200/month was no longer valid. Acting City Administrator Bill McGill said a revised contract and proposal was sent out after the original proposal. It provides for work on as-needed basis. Councilmember Deisz asked if the council would receive reports on the activity. Mr. McGill replied would be prepared on whatever basis the council preferred – weekly, monthly, quarterly, etc.

Councilmember Deisz moved for approval of the contract for services on an as-needed basis, seconded by Councilmember Kennedy. Councilmember Deisz asked for a follow-up report on the total amount expended on these services for the past year. Mr. McGill said he would provide that information. Councilmember Bradley asked who would determine the need. Mr. McGill replied that the contract states the City Administrator will determine the need. Councilmember Johnson asked if the Mayor should also be able to determine the need. Mayor Tooley replied that if the council saw a need and conveyed that to the City Administrator, he would convey that to Ms. McCall. Councilmember Larson said he would also expect to hold the City Administrator responsible for that decision. If the council felt at the end of the year that the contract was used in a wasteful manner, that would be part of the council's evaluation process of the performance of the City Administrator and paid staff. Councilmember Johnson clarified that his suggestion was for convenience and availability sake. If the City Administrator were not available, the Mayor could make the determination. Councilmember Larson reminded the council that whenever the City Administrator is going to be away from the City, he always appoints a senior staff member to act in his behalf, thereby always ensuring a chain of command. Councilmember Kennedy said he was comfortable with the fact that any of the councilmembers could direct the City Administrator to assign Ms. McCall to a task. On a voice vote, the motion was unanimously approved.

**ADJOURN –** With all business complete, Mayor Tooley adjourned the meeting at 9:20 P.M.

THE CITY OF BILLINGS:

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

MINUTES 6/28/99

ATTEST:

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