

# **COUNCIL ACTION SUMMARY**

## **CITY OF BILLINGS**

**CITY OF BILLINGS MISSION STATEMENT:**  
**TO DELIVER COST EFFECTIVE PUBLIC SERVICES**  
**THAT ENHANCE OUR COMMUNITY'S QUALITY OF LIFE**

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## **AGENDA**

**COUNCIL CHAMBERS**

**May 27, 2008**

**6:30 P.M.**

**CALL TO ORDER** – Councilmember Ulledalen for Mayor Tussing

**PLEDGE OF ALLEGIANCE** – Councilmember Ulledalen for Mayor Tussing

**INVOCATION** – Councilmember Ronquillo

**ROLL CALL** – Councilmembers present on roll call were: Ronquillo, Gaghen, Stevens, Veis, Ruegamer, McCall, Ulledalen, Astle, and Clark. Councilmember Pitman was excused.

**MINUTES** – May 12, 2008, approved.

**COURTESIES** - none

**PROCLAMATIONS** - none

**ADMINISTRATOR REPORTS** – Tina Volek

- City Administrator Volek reminded the Council that the Agenda Review meeting was scheduled for the following evening at 5:30 p.m. in the City Hall Conference Room, followed by a Budget Review Work Session for Parks & Recreation and the Library.
- Ms. Volek advised staff was asking to have Consent Agenda Item D separated and postponed until the June 9, 2008, meeting, due to failure to advertise the sale of property.
- Ms. Volek listed the following additional items that were not included in the agenda packet.
  - ✓ ITEM L – Revised resolution from Dorsey & Whitney sent in the Friday packet and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEM 3 – Two e-mails received from property owners on their desks and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEMS 11(a), 11(b), and 12 – Staff memos that were forwarded to Council via e-mail over the Memorial Day weekend that were on their desks and located in the Ex-Parte notebook in the back of the room.
  - ✓ ITEM 14 – The Agreement that had been revised that afternoon was on their desks and located in the Ex-Parte notebook in the back of the room.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 12, 13, and 14 ONLY. Speaker sign-in required.** (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

*(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)*

- **Eric Nord, Crist Law Firm**, said he represented the Gundlachs and would like to make a slight change to the Agreement in ITEM 14 to allow installation of an automatic gate to distinguish where Ironwood Subdivision ends and Tuscany Subdivision begins.
- **Catherine Schaeffer, 2113 Walter Road**, asked the Council not to approve the contract with the Yellowstone Valley Animal Shelter.
- **Angie Cook, Help for Homeless Pets**, said she was against privatization of the Animal Shelter and felt the \$500,000 Performance Bond should be mandatory.
- **Sandra Wulff, Old Hardin Road**, said she was against the privatization of the Animal Shelter and felt the \$500,000 Performance Bond should be mandatory.
- **Mary Ann Wagner, 2130 Walter Road**, said she was against the privatization of the Animal Shelter, and asked Council not to accept any proposal that would ultimately undermine or set back the positive policies of the Billings Animal Shelter's current management.

**CONSENT AGENDA:**      **SEPARATIONS: B, D**

**1. A. Bid Awards**

(1) **City Parking Garage Painting** (opened 5/27/08). Recommend delay of award until June 9, 2008.

(2) **SID 1379 King Avenue West – Landscaping Design** (opened 5/27/08). Recommend delay of award until June 9, 2008.

(3) **W.O. 07-14, Moore Lane and Monad Road Water and Sewer Improvements** (opened 5/27/08). Recommend delay of award until June 9, 2008.

**B. Approval of Contract** with Yellowstone County Animal Shelter, Inc. for City of Billings Animal Shelter Operations. Recommend delay of action until June 23, 2008. **APPROVED 8 TO 0. COUNCILMEMBER STEVENS RECUSED HERSELF FROM THE VOTE.**

**C. Approval of License Agreement for Maintenance Access** to Briarwood sanitary sewer main lines located in the Briarwood Country Club Golf Course with PM & M, LLC, Max E. Thornton, and Katherine K. Thornton Testamentary Trust, at no cost to the City.

**D. Approval of Right-of-Way Agreement and Two Bargain and Sale Deeds** with Montana Department of Transportation for Airport Road Project MT 009, \$184,400 revenue, less \$24,692 returned to the FAA, for net revenue of \$159,708. **ACTION DELAYED UNTIL JUNE 9, 2008.**

**E. Approval of Seven Temporary Construction Easements** for W.O. 07-22, King Avenue East Widening, between Orchard Lane and South Billings Boulevard, \$1,650 total cost to the City.

**F. W.O. 07-22 King Avenue East Right-of-Way Agreements and Warranty Deeds**

- (1) Tract of land situated in Lot 1, Block 5, Pinnick Subdivision, 3<sup>rd</sup> Filing, Christ the King Lutheran Church, \$65,100.
- (2) Tract of land situated in Lots 1 and 2, Block 9, Orchard Lane Subdivision, 3<sup>rd</sup> Filing, Kurt. E. and Delores A. Cummins, \$1,603.86.
- (3) Tract of land situated in Tract 1, C/S 2350, Robert Medvec, \$38,220.
- (4) Tract of land situated in Lot 24, Sugar Subdivision, Emil and Gladys Rennich, \$40,372.50.

**G. Approval of Application for Substitution of a Certificate of Deposit** in lieu of cash retainage as security for performance for Aronson Avenue Extension Project, COP Construction, with expiration of CD at completion of project.

**H. Approval of Quarterly Report for Pledged Collateral** on Wells Fargo, First Interstate Bank, and US Bank Certificates of Deposit; US Bank Municipal Investor Accounts, and US Bank Repurchase Account.

**I. Acknowledge Receipt of Petition to Vacate** portions of Lake Hills Subdivision, 25<sup>th</sup> Filing, right-of-way, and set a public hearing date for June 23, 2008.

**J. Street Closures:**

- (1) Perfect Pitch, Inc. - Montana Avenue Live, Fridays, 1:30 p.m. – 12 midnight, 6/13/08 through 8/22/08, N. 25<sup>th</sup> from Montana Avenue to 1<sup>st</sup> Avenue North.
- (2) St. Vincent's Health Care Heart and Sole Race, 6:00 a.m. – 1:00 p.m., 6/14/08; commencing on N. 30<sup>th</sup> Street across from St. Vincent Healthcare, south to 7<sup>th</sup> Ave. N., west on Avenue B, through Pioneer Park, north on Virginia Lane, west on Parkhill Drive, north on 17<sup>th</sup> Street West, west on Colton Boulevard, north to Poly Drive, east on Poly Drive, ending on Poly Drive north of Grandview Park.

- (3) Alberta Bair Theater Annual Fundraiser, 6:00 a.m. on 6/28/08 through noon on 6/29/08, N. Broadway between 3<sup>rd</sup> and 4<sup>th</sup> Avenues N. and the alley behind the theater between the Miller Building and the theater.

**K. Acceptance of Donation** from Parmly Billings Library Foundation for Library multimedia equipment, \$11,710.

**L. Resolution #08-18710** authorizing issuance and sale of a general obligation note with US Bank to finance the entire Dehler Park scoreboard upgrades prior to the 2008 baseball season with annual debt service payments made by previously-approved Pepsi Cola donations over a 10-year period.

**M. Second/Final Reading Ordinance #08-5464** expanding the boundaries of Ward II to include recently annexed property in Annex #08-06: a 20.6-acre parcel legally described as Tracts 1A, 1B, and 1C, Amended Tract 1, C/S 2055, and located north of Alkali Creek Road. Jim Pickens, Best Development Corporation, owner and petitioner.

**N. Preliminary Plat** of Amended Lot 1, Block 1A, Tierra Yellowstone Industrial Park Subdivision, conditional approval of the plat and adoption of the Findings of Fact.

**O. Preliminary Subsequent Minor Plat** of Amended Lot 2, Block 1, Shiloh Crossing Subdivision, conditional approval of the plat and adoption of the Findings of Fact.

**P. Preliminary Subsequent Minor Plat** of Amended Lot 6B, Flanagan Subdivision, conditional approval of the plat and adoption of the Findings of Fact.

**Q. Final Plat** of Riverfront Business Park Subdivision.

**R. Bills and Payroll**

- (1) April 25, 2008
- (2) May 2, 2008

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

**REGULAR AGENDA:**

2. **PUBLIC HEARING AND RESOLUTION #08-18711** to sell an approximate 10,000 square foot parcel of vacant land north of Leavens Reservoir, generally located at Rimrock Road and Normal Avenue, north of the MSU-B campus. Staff recommends approval. (Action: approval or disapproval of staff recommendation). **APPROVED.**
3. **PUBLIC HEARING AND RESOLUTION** ordering construction of improvements for W.O. 02-08, Milton Lane School Route, \$480,500 total project cost. Staff recommends approval. (Action: approval or disapproval of staff recommendation). **ACTION DELAYED UNTIL JUNE 9, 2008.**

4. (a) **PUBLIC HEARING AND RESOLUTION #08-18712 FOR ANNEXATION #08-07:** A 4.765-acre parcel described as Tract 1, C/S 2350, generally located on the northeast corner of King Avenue East and Calhoun Lane, Robert Medvec, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation). **APPROVED.**

(b) **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #842:** A zone change from Residential 9600 (R-96) to Entryway General Commercial (EGC) on Tract 1 of C/S 2350; a 4.34-acre parcel generally located on the northeast corner of King Avenue East and Calhoun Lane; Robert Medvec, owner; Kristin Omvig and Jared LeFevre of Crowley, Haughey, Hanson, Toole & Dietrich Law Firm, agents. Zoning Commission recommends approval and adoption of the 12 Zoning Commission determinations. (Action: approval or disapproval of Zoning Commission recommendation). **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**

5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #838:** A zone change for property in a Planned Development (PD) with underlying zoning of Public (P) to an underlying zoning district of Highway Commercial (HC) on a .75-acre parcel of land legally described as a portion of Lots 1-4 & 15 of Amended Lot 15A, Block 2, Southgate Subdivision, 1<sup>st</sup> Filing, located directly east of 5379 Southgate Drive. City of Billings, owner; Bruce McCandless, Assistant City Administrator, agent. Zoning Commission recommends approval and adoption of the 12 Zoning Commission determinations. (Action: approval or disapproval of Zoning Commission recommendation). **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**

6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #839:** A zone change from Residential 9600 (R-96) to Neighborhood Commercial (NC) on Lots 3 through 7, Block 9, Central Acres Subdivision, 5<sup>th</sup> Filing, located at 3133 Central Avenue. Charles Haynes, Ira & Ruth Park, and Alan Oster, owners; Gerald Neumann, agent. Zoning Commission recommends approval and adoption of the 12 Zoning Commission determinations. (Action: approval or disapproval of Zoning Commission recommendation). **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**

7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #840:** A zone change from Residential Multi-Family-Restricted (RMF-R) to Residential Professional (RP) on Lot 4A, Block 2, Goodman Subdivision, 4<sup>th</sup> Filing, described as a 67,110 square foot parcel of land on the southeast corner of the intersection of 41<sup>st</sup> Street West and Avenue C. Randall Swenson, Steve Repac and Jeff Muri, owners; Engineering, Inc.,

agent. Zoning Commission recommends approval and adoption of the 12 Zoning Commission determinations. (**Action:** approval or disapproval of Zoning Commission recommendation). **APPROVED 8 TO 0. SECOND READING SCHEDULED FOR 6/9/08. COUNCILMEMBER ULLEDALEN RECUSED HIMSELF FROM THE VOTE.**

8. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #841:** A zone change from Residential 7000 (R-70) to Entryway General Commercial (EGC) on Lot 1, Block 5, Pinnick Subdivision, 3<sup>rd</sup> Filing, less the north 110 feet; described as a 3.043-acre parcel generally located on the northeast corner of the intersection of Newman Lane and King Avenue East; Christ the King Lutheran Church, owner; Kristin Omvig and Jared LeFevre of Crowley, Haughey, Hanson, Toole & Dietrich Law Firm, agents. Zoning Commission recommends approval and adoption of the 12 Zoning Commission Determinations. (**Action:** approval or disapproval of Zoning Commission recommendation). **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**
9. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #843:** A text amendment to Section 27-1502(b) of the Unified Zoning Regulations requiring that a pre-application neighborhood meeting be held within a 2-mile radius of the subject property of a proposed zone change. Zoning Commission recommends approval. (**Action:** approval or disapproval of Zoning Commission recommendation). **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**
10. **PUBLIC HEARING AND SPECIAL REVIEW #857:** A special review to allow a drive-through window for a proposed CVS Drug Store in a Community Commercial (CC) zone adjacent to Residential Multi-Family (RMF) and Residential 6000 (R-60) zoning districts on Lots 5-10, Block 4, Central Avenue Addition, generally located at 615 and 617 Central Avenue; Greg and Becky Pekovich, owners; Velmeir Companies and Kevin Heaney of Crowley, Haughey, Hanson, Toole & Dietrich Law Firm, agents. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation). **APPROVED.**
11. a) **CONTINUANCE OF PUBLIC HEARING AND FIRST READING ORDINANCE – MODEL CABLE TV ORDINANCE.** (Continued from 4/28/08) Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**  
  
(b) **CONTINUANCE OF PUBLIC HEARING AND FIRST READING ORDINANCE** repealing existing Cable TV Franchise Ordinance and enacting new Franchise Ordinance with Bresnan Communications. (Continued from 4/28/08) Staff recommends approval. (**Action:** approval or

disapproval of staff recommendation.) **APPROVED. SECOND READING SCHEDULED FOR 6/9/08.**

12. **CONSIDERATION AND APPROVAL** of the Cottonwood Park School Site Purchase and Sale Agreement. (Action delayed from 5/12/08.) Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED.**
13. **APPROVAL OF SETTLEMENT WITH RIMROCK FOUNDATION.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED.**
14. **APPROVAL OF SETTLEMENT WITH GSK PARTNERS, LLP.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED.**
15. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**  
*(Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)*
  - **Kevin Nelson, 2235 Bruce Avenue**, criticized Councilmember Astle's behavior towards an individual who had testified at one of the public hearings and told him how rude and unprofessional he was to ridicule or demean someone in public. Mr. Nelson also re-stated his concerns with Councilmember Stevens' conflict of interest with the privatization of the Animal Shelter.

## **Council Initiatives**

- **CLARK:** Moved to direct staff to check into reducing the speed limit on Central Avenue between 29<sup>th</sup> Street West and Shiloh Road to 35 mph, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.
- **CLARK:** Moved to direct staff to research the number of City employees who did not live within the city limits and the possibility of requiring City employees to live within the city limits, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.
- **STEVENS:** Moved to direct staff to determine the current meeting locations of the Boards and Commissions and to require they meet in public facilities, not private facilities, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

**ADJOURN** – The meeting adjourned at 10:30 p.m.

*Additional information on any of these items is available in the City Clerk's Office.*

*Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.*

## CALENDAR

### (Council AND Boards & Commissions)

#### JUNE:

6/02/2008	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 <sup>rd</sup> Street
6/03/2008	Community Development Board Zoning Commission Aviation & Transit Commission	3:00 p.m. 4:30 p.m. 5:30 p.m.	4 <sup>th</sup> Floor Library Council Chambers Airport Terminal
6/04/2008	Board of Adjustment	6:00 p.m.	Council Chambers
6/05/2008	EMS Commission Human Relations Commission	7:00 a.m. 12:15 p.m.	Main Fire Station CH Conference Room
6/09/2008	Energy & Conservation Commission	3:00 p.m.	Billings Operations Ctr. 4848 Midland Road
	Council REGULAR MEETING	6:30 p.m.	Council Chambers
6/10/2008	Parking Advisory Board	4:00 p.m.	CH Conference Room
	Council Agenda Setting Meeting	5:30 p.m.	CH Conference Room
	Planning Board	6:00 p.m.	4 <sup>th</sup> Floor Library
6/11/2008	Parks/Recreation/Cemetery Board	11:30 a.m.	Community Center 360 N. 23 <sup>rd</sup> Street
6/12/2008	Library Board Committee on Homelessness	NOON 2:00 p.m.	3 <sup>rd</sup> Floor Library 3 <sup>rd</sup> Floor Library
6/16/2008	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 <sup>rd</sup> Street
6/17/2008	Yellowstone Historic Preservation Bd	8:00 a.m.	4 <sup>th</sup> Floor Library
6/19/2008	Tourism Business Improvement District Board	8:30 a.m.	Chamber of Commerce 815 S. 27 <sup>th</sup> Street
	Public Utilities Board	6:30 p.m.	Public Works- Belknap 2251 Belknap Avenue

6/23/2008	Council REGULAR MEETING	6:30 p.m.	Council Chambers
6/24/2008	Traffic Control Board Planning Board	NOON 6:00 p.m.	4 <sup>th</sup> Floor Library 4 <sup>th</sup> Floor Library
6/25/2008	Development Process Advisory Brd	1:00 p.m.	CH Conference Room

**JULY:**

7/01/2008	Community Development Board Zoning Commission Council Agenda Setting Meeting	3:00 p.m. 4:30 p.m. 5:30 p.m.	4 <sup>th</sup> Floor Library Council Chambers CH Conference Room
	Aviation & Transit Commission	CANCELLED	
7/02/2008	Board of Adjustment	6:00 p.m.	Council Chambers
7/03/2008	Human Relations Commission	12:15 p.m.	CH Conference Room
	EMS Commission - CANCELLED		
<b>7/04/2008</b>	<b>INDEPENDENCE DAY – CITY OFFICES CLOSED</b>		
7/07/2008	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 <sup>rd</sup> Street
7/08/2008	Parking Advisory Board	4:00 p.m.	CH Conference Room
	Planning Board	6:00 p.m.	4 <sup>th</sup> Floor Library
7/09/2008	Parks/Recreation/Cemetery Board	11:30 a.m.	Community Center 360 N. 23 <sup>rd</sup> Street
7/10/2008	Library Board Committee on Homelessness	NOON 2:00 p.m.	3 <sup>rd</sup> Floor Library 3 <sup>rd</sup> Floor Library
7/14/2008	Energy & Conservation Commission	3:00 p.m.	Billings Operations Ctr. 4848 Midland Road
	Council REGULAR MEETING	6:30 p.m.	Council Chambers
7/15/2008	Yellowstone Historic Preservation Bd	8:00 a.m.	4 <sup>th</sup> Floor Library
	Council Agenda Setting Meeting	5:30 p.m.	CH Conference Room
7/17/2008	Tourism Business Improvement District Board	8:30 a.m.	Chamber of Commerce 815 S. 27 <sup>th</sup> Street

7/21/2008	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 <sup>rd</sup> Street
7/22/2008	Traffic Control Board Planning Board	NOON 6:00 p.m.	4 <sup>th</sup> Floor Library 4 <sup>th</sup> Floor Library
7/23/2008	Development Process Advisory Brd	1:00 p.m.	CH Conference Room
7/28/2008	Council REGULAR MEETING	6:30 p.m.	Council Chambers
7/29/2008	Council Agenda Setting Meeting	5:30 p.m.	CH Conference Room