

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 10, 2007

The Billings City Council met in regular session in the Council Chambers on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Gaghen gave the invocation.

ROLL CALL – Councilmembers present were Ronquillo, Gaghen, Stevens, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones, and Clark.

MINUTES – August 27, 2007, approved as distributed.

COURTESIES – Several members of Boy Scout Troup 274 from the LDS Church introduced themselves and said they were in attendance as a community citizenship requirement.

PROCLAMATIONS – Suicide Prevention Week, September 9 - September 17, 2007.

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek reminded the council the Agenda Review Meeting was scheduled for tomorrow evening at 5:30 p.m. in the City Hall Conference Room.
- Ms. Volek referenced a revised Development Agreement with Foursquare Properties regarding the Miller Crossing Subdivision that Council received in their Friday packets. She noted a copy of the revised agreement was located in the Ex-Parte Notebook in the back of the room.
- Ms. Volek noted that a copy of a PowerPoint presentation for the Comprehensive Annual Performance Evaluation Report for Agenda Item 2 had been distributed that evening. She said a copy of the presentation was also included in the Ex-Parte Notebook.
- Ms. Volek advised that Fire Chief Marv Jochems had announced his retirement effective December 31, 2007, ending a career of 36 years with the City of Billings; 35 years of which were with the Fire Department. She noted Chief Jochems had been a leader in his profession with the Fire Department and a tireless worker in the community. Ms. Volek said Chief Jochems had originally planned to retire November 30, 2007; but at her request, he postponed his retirement so a national search for his replacement could be conducted. Ms. Volek said Chief Jochems became Fire Chief in May of 2000 after serving as Acting Chief, Assistant Chief, and Battalion Chief. She said he originally began working for the City as a Bookmobile Driver for the library. Ms. Volek said earlier this year Chief Jochems was presented with the Distinguished Alumnus Award from

Montana State University-Billings that recognized individuals who distinguished themselves through personal, professional, and civic contributions. Ms. Volek stated Chief Jochems had led a cooperative effort between the Fire Department and MSU-B to create a Fire Science Program at the College of Technology. She said the City was building the first fire station in 20-plus years under Chief Jochem's administration. She said Chief Jochems had served as the incident commander last year for a disaster preparedness drill in which more than 6,300 people were inoculated for influenza as a preparatory exercise to a future emergency; and Chief Jochems had served in many local, state, and national offices and on many local boards. Ms. Volek stated Chief Jochems would be a great loss to the City's management team and to the community. She said Chief Jochems planned to stay in Billings and wished him the best in his retirement.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4, 5, and 6 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.)

Councilmember Ruegamer moved to allow Ann Charter to speak during the public comment period on a non-agenda item, due to the unpredictable length of the council meeting, seconded by Councilmember Gaghen. The motion was unanimously approved.

- **ANN CHARTER, 1424 HONDO WAY**, said it would be her privilege to give each of the councilmembers one of her books at the party in appreciation for all they had done for the Billings Community. She said her book was titled "Cowboys Don't Walk", which now had an epilogue because she had lived so long. She said the party was scheduled for September 21st between 5:00 p.m. and 8:00 p.m. at the Home on the Range.

Mayor Tussing advised that Ms. Charter was one of the founders of the Northern Plains Resource Council.

There were no further speakers, and the public comment period was closed.

CONSENT AGENDA:

1. A. **Bid Awards**
(1) **2008 Sewer Jet Cleaner and Manhole Vacuum System.**
(Opened 8/28/07) Recommend Maric Sales, \$219,853.25.

(2) Private Contract No. 392 - Phase III, Kings Green Subdivision; Water, Sanitary Sewer, Storm Drain, and Street Improvements. (Opened 8/28/07) **Schedule I** - Recommend Gray Construction, \$112,609.75; **Schedule II** – Recommend JTL Group, \$171,712.00.

B. Professional Services Contract for W.O. 07-09 – City of Billings Storm Water Master Plan, HDR Engineering, Inc., \$250,000.00 maximum.

C. Interlocal Agreement with Yellowstone County and the City of Laurel in the event of a pandemic or other natural disaster (5-year renewable term).

D. Interlocal Agreement for Montana Law Enforcement Testing Consortium.

E. Reimbursement Agreement with the Transportation Security Administration, \$169,900.00 for first year.

F. Mutual Aid Agreement with the Lockwood Fire District.

G. Agreement Revisions to the Big Ditch Trail II CTEP Project Agreement incorporating \$25,000.00 of Safe Routes to School Grant funding for the Arrowhead/Chandelier Connector.

H. Agreement Revisions to the Highland School Sidewalk CTEP Project Agreement incorporating \$25,000.00 Safe Routes to School Grant funding.

I. Acknowledging receipt of petition to annex #07-10: 400.94 acres of Tract 1, Certificate of Survey 2017, generally located north of Matador Avenue and the Lake Hills Golf Course in Billings Heights, Frank Sindelar, petitioner, and setting a public hearing date for 9/24/07.

J. Acknowledging receipt of petition to annex #07-21: 8.868 acres of Tract 1C, Certificate of Survey 2991, generally located west of the intersection of Central Avenue and 29th Street West, Raymond and Douglas Kramer for the Lydia Kramer Real Estate Management Trust, petitioners, and setting a public hearing date for 9/24/07.

K. Acknowledging receipt of petition to annex #07-22: 8.868 acres of Tract 1B, Certificate of Survey 2991, generally located the southwest corner of the intersection of Central Avenue and 29th Street West, Todd Icopini, owner and petitioner, and setting a public hearing date for 9/24/07.

L. Acknowledging receipt of petition to vacate a portion of an alley between North 29th and North 30th Streets, north of 10th Avenue North, Billings Clinic, petitioner, and setting a public hearing date for 10/9/07.

M. Acknowledging receipt of petition to vacate a portion of South 12th Street West near Southgate Drive, Montana Dakota Utilities, petitioner, and setting a public hearing date for 10/9/07.

N. Confirmation of Police Officers Riley Finnegan, Shane Shelden, Nathan Krause, Shaun Guardanapo, and Bret Becker.

O. W.O. 04-33 Lake Elmo Drive (Hilltop to Wicks Lane) Right-of-Way Acquisition:

(1) Parcel 20: Portion of Lot 3A-1, Siewert Acres Subdivision, D & M Family Limited Partnership, \$300.00.

(2) Parcel 47: Portion of Lot 19, Block 1, Broadmoor Subdivision, Rosemary Moses, \$5,305.50.

(3) Parcel 66: Portion of Lot 17, Block 3, Arrowhead Subdivision, Wade & Michelle L. Pickering, \$5,550.00.

P. Acceptance of donation to the Billings Police Department Bike Patrol Program from the Downtown Billings Association and the Business Improvement District, \$2,500.00 maximum donation.

Q. Acceptance of donations to the Ballpark Construction Fund for \$10,000.00 and the Ballpark Maintenance Fund from various donors for \$38,709.00.

R. Approval of Semi-Annual Investment Report.

S. Approval of Securities Pledged by Sterling Savings Bank and US Bank as collateral for their respective certificates of deposit, MIA, and repurchase accounts.

T. Resolution #07-18596 amending Resolution #07-18567 approved by City Council on June 11, 2007, for the vacation of a portion of Moose Hollow Lane, correcting error in the legal description.

U. Resolution #07-18597 creating a Downtown Transit Center Ad Hoc Committee.

V. Resolution #07-18598 relating to Pooled Special Improvement District Bonds, Series 2007; determining the form and details and authorizing the execution and delivery of the bonds. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

W. Resolution of Intent #07-18599 creating SILMD 303 and setting a public hearing date for October 9, 2007.

X. Second/final reading Ordinance #07-5427 for Zone Change #813: A zone change from Residential 9600 to Planned Development generally located on the southeast corner of the intersection of Rimrock Road and Avalon Road, including the Yellowstone Racquet Club, TenFish Company, owner; Engineering, Inc., representative.

Y. Second/final reading Ordinance #07-5428 for Zone Change #816: A zone change from Residential 7000 to Neighborhood Commercial on a 1.14-acre lot addressed as 848 Wicks Lane and generally located on the south side of Wicks Lane, east of Bench Boulevard, Colleen Baker, owner.

Z. Second/final reading Ordinance #07-5429 for Zone Change #817: A zone change from Public to Residential 8000 on 48,799 square feet of property north and south of the Lake Hills Golf Course Clubhouse on the east side of Clubhouse Way; north of Lake Hills Drive, Lake Hills Golf Club, owner.

AA. Second/final reading Ordinance #07-5430 for Zone Change #818: A text amendment to Section 27-623, Zoning Compliance Permits Required.

BB. Second/final reading Ordinance #07-5431 for Zone Change #819: A text amendment to Section 27-1429 and Map Amendment to Section 27-1430, Extension of Shiloh Corridor Overlay extending the South Shiloh Corridor Overlay District along the south side of King Avenue West between Shiloh Road and 32nd Street West.

CC. Preliminary Subsequent Minor Plat of Shiloh Crossing Subdivision.

DD. Final Plat Approval of Reflections at Copper Ridge Subdivision.

EE. Bills and Payroll

- (1) August 10, 2007
- (2) August 17, 2007
- (3) July 1 – July 31, 2007 (Municipal Court)

(Action: approval or disapproval of Consent Agenda.)

City Administrator Volek referenced Item 1U, the creation of a Downtown Transit Center Ad Hoc Committee. She noted Mark Kennedy of the Airport Aviation and Transit Commission had been appointed to serve on the committee and advised a councilmember was also needed to serve on the Committee. Ms. Volek said the Ad Hoc Committee's role was to consult with Aviation and Transit

on the future Transit Center to be built downtown and asked Aviation & Transit Director Tom Binford to elaborate further. Mr. Binford advised the committee would interact with the design team of architects and staff and provide design input on the project. He said because of the downtown location it was felt there were a number of people in Billings who would have interest in the project.

Councilmember Boyer asked when the committee would move forward. Mr. Binford said it would be between now and the end of the year. He said they hoped to have the design done by the end of the year so the project could bid in January or February, and construction could begin in March or April.

Councilmember Stevens asked if the Council would see the design before the project went to bid. Mr. Binford advised the Council would see the final design before it went to bid.

Councilmember Boyer volunteered to serve on the committee.

Mayor Tussing separated Item 1U in order to discuss adding the two members to the committee.

Councilmember Jones asked Chief Jochems what the Mutual Aid Agreement had cost the City the past couple of years. Chief Jochems said both of the big fires in Lockwood had been declared federal fires. He said the cost of last year's fire was approximately \$9,000, and the cost for this year's fire was currently being prepared. He said hopefully in the near future, the City would be reimbursed for both fires.

Councilmember Veis moved for approval of the Consent Agenda, with the exception of Item 1U, seconded by Councilmember Stevens.

Councilmember Veis moved to amend the motion to add Mark Kennedy from the Aviation and Transit Commission and Councilmember Boyer to serve as members on the new Downtown Transit Center Ad Hoc Committee, seconded by Councilmember Ruegamer. On a voice vote, the amended motion was unanimously approved.

On a voice vote, the original motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING for the FY2006-2007 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG) and HOME Programs. Community Development Manager Brenda Beckett reviewed the report with a PowerPoint presentation that had been distributed earlier to the Council. Ms. Beckett advised the CAPER was required by the federal government. She said the report illustrated their progress for FY2006-2007 and the strategies of their five-year Consolidated Plan. Ms. Beckett introduced Boardmembers Kathy Walters and Duane Loken, who were in attendance; and said the majority of the Board represented low income neighborhoods in Billings. Ms. Beckett said their largest Budget Allocations for FY06-07 were for Affordable Housing Development, Home Repair & Improvement, and First Time Homebuyers; and their largest Allocations for Con Plan Strategy were for New Affordable Housing, Existing Affordable Housing; and Partnership Development. Ms. Beckett said Strategy #1 of the Consolidated

Plan was to promote the preservation of the existing supply of affordable housing in the community; Strategy #2 was to promote the preservation and revitalization of the community's older neighborhoods; Strategy #3 was to promote new affordable housing opportunities; Strategy #4 was to work as an active partner with non-profits, neighborhood groups, and others to address housing, community, and neighborhood needs; and Strategy #5 was to improve the economic conditions of lower-income households in the community. Ms. Beckett showed "before" and "after" pictures of some of their projects and provided information on the local organizations they had worked with, the number of projects funded, and the number of local citizens their programs had assisted.

Ms. Beckett confirmed with Mayor Tussing that the public hearing was the only requirement, and her report did not need Council approval.

The public hearing was opened.

- DUANE LOKEN, 1805 MARIPOSA LANE, said he was Chairman of the Community Development Board. He referenced a copy of the Comprehensive Annual Performance Evaluation Report the Council received earlier and pointed out Section II that listed all of the accomplishments and Pages 6-16 that showed all of the organizations and people the federal dollars had reached. Mr. Loken said he was pleased to work with such a great staff and felt the Board was accomplishing a lot.

There were no other speakers, and the public hearing was closed.

3. PUBLIC HEARING and approval of Resolution #07-18600 approving and adopting a budget amendment for Fiscal Year 2007 for Municipal Court Drug Court grant match, \$40,156.00. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation on the item, but staff was available to answer questions.

The public hearing was opened. There were no speakers, and the public hearing was closed.

Councilmember Brewster moved for approval of Item #3, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

4. APPROVAL OF PURCHASE of Lot 2, Sandra Subdivision, located at 19 Charlene Street, for future water treatment facility and distribution system expansion, \$140,000.00. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation on the item, but staff was available to answer questions.

Councilmember Stevens moved for approval of Item #4, seconded by Councilmember Ronquillo.

Councilmember Ruegamer asked if this was the same Charlene Street where they had the fence issue. Public Works Director Dave Mumford said it

was. Councilmember Ronquillo asked if the fence would be taken down. Public Mr. Mumford said the house had been removed.

On a voice vote, the motion was unanimously approved.

5. RESOLUTION #07-18601 setting FY 2008 mill levy rates for the Public Safety Fund, General Obligation Debt Service Parks, General Obligation Debt Service Streets, and General Obligation Debt Service Baseball Stadium. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no staff presentation on the item, but staff was available to answer questions.

Councilmember Gaghen moved for approval of Item #5, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

6. DEVELOPMENT AGREEMENT between the City of Billings and Foursquare Properties for amended plat of Lot 2A of amended Lots 2, 3, 4, and 5, Block 1, Miller Crossing Subdivision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director Dave Mumford advised the Development Agreement was a standard agreement with the exception of one item; he said if the Council approved a TIFD for the area in November, it would help offset some of the off-site public improvements that were part of the agreement.

Councilmember Ronquillo asked if there would be a couple more public meetings. Mr. Mumford said the TIFD would have its own public meetings. Planning Director Candi Beaudry advised the first meeting was scheduled for Thursday, September 13th, at Ponderosa School, and said the Council should have received an invitation. The councilmembers said they had not received an invitation, so Ms. Beaudry said she would e-mail each of them the information.

Councilmember Ronquillo moved for approval of Item #6, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

7. 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, 4235 BRUCE AVENUE, said the City needed to make public safety number one and protect the citizens from future Pit Bull attacks. He referenced the 70-year-old man who was attacked recently in Billings and said it could have been a 7-year-old. Mr. Nelson advised there had been a Pit Bull attack in Livingston that past week, and the Billings Police had shot a Pit Bull in a recent drug raid. He said on Thursday there was a story on CNN about a woman who put her child in a trash can to protect him from a Pit Bull attack. Mr. Nelson said a year ago he was the victim of a Pit Bull attack on Golden Boulevard. Mr. Nelson said the City could build Cobb Field, subdivisions, and water lines, but it did not protect the people from

vicious animals. He said other cities had banned Pit Bulls, and it was time Billings produced an ordinance doing the same.

Councilmember Ronquillo stated the dog that attacked the 70-year-old man on State Avenue was a crossbreed, so not only would the City have to get rid of the Pit Bulls, it would have to do away with the crossbreeds. He said in the past the City attempted to ban Rottweilers; and it was a tough, uphill battle that was voted down. Councilmember Ronquillo said he agreed with Mr. Nelson that Pit Bulls were dangerous animals, but the crossbreeds would be even more difficult to control.

Councilmember Stevens told Mr. Nelson she understood his concerns and said Pit Bulls tended to be the breed to cause the problems; but she felt it was more the owners of the breed that made the dogs dangerous. She said if Pit Bulls were outlawed, the same types of owners would find other animals such as Dobermans or Rottweilers that tended to be more violent if treated poorly. Councilmember Stevens said she felt outlawing the breed would not solve the problem, because the root of the problem was with the owners.

Mr. Nelson agreed but said if a person was a felon, he could not have a gun; or if a person was picked up for drunk driving, he could no longer drive. He said maybe it was time to ban Pit Bulls from people who had been convicted of serious offenses.

There were no other speakers, and the public hearing was closed.

Council Initiatives - None

ADJOURN – The meeting adjourned at 7:10 p.m.

(NOTE: Additional information on any of these items is available in the City Clerk's Office)