

REGULAR MEETING OF THE BILLINGS CITY COUNCIL MONDAY, MARCH 22, 1999

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Charles 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 Gary McDanel.

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

MINUTES – **March 8th**. The Minutes were approved as printed. The Committee of the Whole Minutes were approved as amended.

COURTESIES – **Police Dept.** Police Chief Ron Tussing introduced citizens Richard and Colleen Morris, and described their assistance to the department, by allowing the Police Department to set up an operation in their Heights home. Chief Tussing said their efforts helped the situation end in a peaceful conclusion. Richard Morris said he also thought it was important for everyone to know the outstanding job the police did that evening and they performed their duties in a professional manner and said he appreciated their efforts and the work they did that evening.

Councilmember Bradley introduced and welcomed his mother, a member of the audience this evening.

PROCLAMATIONS – Mayor Tooley proclaimed the following:

1. MARCH as Individuals with Disabilities Awareness Month
2. MARCH 29 – APRIL 4: Community Development Week

ADMINISTRATOR REPORTS - Mark Watson

1. **Legislative Update.** City Administrator Mark Watson reported on the following legislative actions:

- **Deregulation Bills.** The Electrical Deregulation Bill has been properly amended and is being passed on to the Governor.
- **HB336 - Street Maintenance District Bill.** This bill involves modifications to the Street Maintenance Districts and has gone through the appropriate Senatorial Committees and will be taken forward for hearings. Senator Sprague was very complimentary to the Billings City Council on their involvement with this process and this bill will improve the interpretation of how the funds for the Street Maintenance Districts will be used. Mr. Watson said that street signs were supposed to be incorporated into this bill but were lost in several translations during the legislative process.

- **HB91 - Extension of Municipal Jurisdiction.** This bill was passed on third reading. There is an amendment to the bill that will make it effective July 1st. Council will discuss the bill further after consideration by the Governor.
- **State/Municipal Building Inspectors.** This bill would require inspectors to check licenses. Mr. Watson said the City will be allowed to participate in this and use that revenue for court processing in a fine situation. He also said one bill that has been signed that will be helpful to the City would allow use of the private sector to assist in collection of fines/forfeitures that remain unpaid. Presently the City of Billings has over \$1 million in receivables that have not been paid in fines, this would allow a follow-up on individuals who have recanted on paying their fines as defined by the Municipal Judge. Mr. Watson indicated that this is an important new law for the City because there is just not enough time or manpower in the City structure to accommodate that need currently.
- **HB515 – Government Competition.** Mr. Watson encouraged City Council members to contact their Senators or Representatives and advise them not to allow this bill to be blasted out of committee.
- **Yellowstone Legislative Delegation** - Mr. Watson mentioned that there would be a meeting of the Yellowstone Legislative Delegation in Helena on Thursday and encouraged Council members to attend.

CONSENT AGENDA:

1. A. Mayor's Appointments:

(1) **Parks & Recreation Board.** (School Board Trustee appointment.) Recommend Dave Williams (new appointment).

(2) **Parks & Recreation Board.** Recommend reappointment of Kim Gillan.

(3) **Yellowstone County Planning Board.** Recommend Jeff Essman (new appointment)

(4) **Board of Adjustment.** Recommend Jason Gartner (new appointment).

(5) **Board of Appeals.** Recommend Rudy Swoboda (new appointment).

(6) **Housing Authority.** (Tenant Commissioner/Elderly.) Recommend Joanie Fishburn (new appointment).

B. Bid Awards:

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(1) Castlewood & Durland Heights Subdivisions Drainage Improvements. (Opened 3/02/99). Recommend Don Kelly Construction for SCHEDULE A, \$86,190 and 30 days; AME, Inc. for SCHEDULE B, \$199,995 and 60 days.

(2) Flower Bed Planting at Billings Logan International Airport. (Opened 3/02/99). Recommend Gayvert and Company, \$12,500 for two-year contract.

(3) Carpet Replacement for Billings Logan International Airport. (Opened 3/2/99). Recommend Pierce Flooring & Design, \$117,453.00.

(4) Purchase of Four Replacement Paratransit Vans. Recommend utilizing the State of Montana Department of Transportation Purchasing Services bid price, \$46,150/bus (\$184,600 total).

C. Change Order #1, SID 1336: Lake Hills Subdivision, Schedule II: Street Improvements, H. L. Ostermiller Construction, Inc., -\$3,074.19.

D. Amendment #1, W.O. 97-04: Castlewood and Durland Heights Storm Drain Improvements, MSE-HKM, \$16,901.

E. Amendment #1, W.O. 96-09: Lake Elmo Right-of-Way: Main Street to Wicks Lane, MSE-HKM, Inc., \$20,000.

F. Amendment #5, W.O. 79-35: Reconstruction of Rimrock Road, MSE-HKM, \$24,750. Recommend delaying to 4/12/99.

G. Amendment to Operating Agreement and Terminal Building Lease for Delta Air Lines, \$0.

H. Resolution 99-17436 creating Maintenance District #4011 for Montana Avenue Streetscape and Landscape Maintenance.

I. Resolution 99-17437 authorizing the appropriation of \$5,000 from Council Contingency for membership in Celebrate 2000 with the Billings Gazette.

J. Authorization to apply for a subgrant from the Montana Board of Crime Control for training reimbursement for a Domestic Violence and Stalking Investigation Seminar, \$5,585.60.

K. Acceptance of non-binding recommendation from the Local Law Enforcement Block Grant Advisory Board for grant fund expenditures.

L. Subordination of Housing Rehab Loan: Beverly Cassity, 135 Monroe Street, \$5,000.

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M. Release of Transfer Restrictions for Phase I Development of Rimrock West Estates Subdivision, Third Filing.

N. Acceptance of Storm Drain Easements, W.O. 97-04: Castlewood and Durland Heights Subdivision:

(1) *Lot 3, Block 1, Castlewood Sub, 3rd filing*, \$0. (Charles H. Sommers and Jolynn B. Sommers).

(2) *Lot 4, Block 1, Castlewood Sub., 3rd Filing*, \$0. (Norris M. Scott and Gertrude L. Scott)

(3) *Lot 5, Block 1, Castlewood Sub., 3rd Filing*, \$0. (Scott B. Lamb and Gwendolyn J. Leone)

(4) *Lot 6, Blocks 1, Castlewood sub., 3rd Filing*, \$0. (Robert C. Wrench and Karen A. Wrench)

O. Approval of the Billings Jaycees' request for street closures, parade, dance and alcohol sale etc. associated with the annual *Western Days* on 7/23 – 7/24/99.

P. Preliminary Major Plat of Rush Subdivision, 6th Filing, generally located west of the intersection of Poly Drive and Shiloh Road.

Q. Bills and Payroll.

(Action: approval or disapproval of Consent Agenda.)

Councilmember Deisz separated Item H. Councilmember McDermott separated Items I and K. Councilmember Johnson separated Item P.

Councilmember McDermott moved for approval of the Consent Agenda EXCEPT Items H, I, K and P, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

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

Councilmember McDermott moved for approval of Item I, seconded by Councilmember Larson. Councilmember McDermott asked what Celebrate 2000 is. City Administrator Mark Watson explained that it is an advertisement and celebration of the millennium. There will be a series of articles discussing economy, population and various topics. The City of Billings will participate in that process and do some advertising of city government with respect to the millenium. Mayor Tooley said that four town meetings would also be held in conjunction with the project. These town meetings would be for the purpose of gathering public input on the direction the community should take in the next century – in areas such as economics, safety, public health, etc. Councilmember Deisz asked why the City was giving the Gazette \$5,000 more than they normally give them. Mayor Tooley remarked that there would be additional expenses, such as meeting rooms,

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materials for the town meetings, etc. Mayor Tooley said there is a budget and the \$5,000 was just a small portion of that budget. The City of Billings is participating along with several other players including businesses in town. Mr. Watson indicated that this is a package establishing partnerships similar to what the City is doing with the American Bowling Congress. He said the City will participate and be recognized as a certificate sponsor in the project. There will also be some advertising associated with the project and recognition of the City's cash support of the event as it progresses through the community. Councilmember Deisz requested that he receive a copy of the packet outlining this information. Mr. Watson said he would forward a copy to Councilmember Deisz. On a voice vote, the motion was approved. Councilmember Deisz voted "no".

Councilmember McDermott moved for approval of Item K, seconded by Councilmember Larson. On a voice vote, the motion was approved.

Councilmember McDermott moved for approval of Item P, seconded by Councilmember Bradley. Councilmember Ohnstad requested a staff report on this plat, addressing four neighborhood concerns. These concerns are: 1) second access via Colton by an alignment to Shiloh Road, 2) develop 43rd Street through to Grand Avenue, 3) a sidewalk along Poly Drive from June Drive to Shiloh Road, and 4) pedestrian access corridor between the existing subdivision in the east in the proposed 6th filing of Rush Subdivision. Planning Director Kerwin Jensen gave a brief presentation. He explained that the subdivision is located just west of Shiloh Road and south of Poly Drive. Mr. Jensen indicated that Colton Boulevard is not slated to be a collector route and therefore there are no plans to extend it. By extending it, it would function as a collector, which is not the intent of Colton Boulevard west of Shiloh Road in the Transportation Plan. Poly Drive is slated to be a collector route so it is preferred that all neighborhood/subdivision streets feed out onto collector streets, which Poly Drive would serve as in the future. As a collector it would funnel traffic to either major or minor arterials, noting Shiloh Road is a major arterial. Mr. Jensen said that 46th Street West would also serve as a collector street. If 43rd street were extended to run entirely through to Grand Avenue it would then also function as a collector street between Grand and Poly. Mayor Tooley expressed that the concern of the neighbors is that there would be a great increase in traffic and only one access to the entire development. Mr. Jensen indicated that with a much larger residential area, traffic would increase from 200 vehicle trips per day to approximately 2000 vehicle trips per day at the corner on Poly Drive, which can certainly be handled by a collector street. The fact that Rush Subdivision has one access out onto Poly Drive and then west to Shiloh Road will not pose any problems. There will be an extension of Rangeview Drive during Phase 2 of the subdivision to provide emergency vehicle access to the southern part of the subdivision.

Councilmember Ohnstad asked what is happening to 43rd Street West below the cul-de-sac and what is happening above the cul-de-sac. Mr. Jensen said that 43rd Street West would terminate at that point and turn to the west and 43rd Street West coming up from Grand Avenue would also terminate at the point of the cul-de-sac. There would not be a direct tie for vehicular traffic from Grand Avenue to Poly Drive. Councilmember

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Bradley asked why Elsa Drive does not continue west and tie in with Boyer Lane to make an additional exit onto Shiloh Road. Mr. Jensen indicated that it was because traffic taking the route down Poly Drive to Shiloh Road may decide to take that route instead and cause congestion on Corbin Drive. Because Poly Drive is a collector street, Planning is trying to keep traffic on Poly Drive.

Councilmember Larson asked about sidewalk development along Poly Drive for public safety and what is anticipated for Shiloh Road. Public Works Director Kurt Corey stated that there is planning for construction of Shiloh Road from Grand Avenue to Rimrock Road either this budget year or next budget year. Sidewalks from Poly Drive to Shiloh Road could be added to the Shiloh Road project or as an extension to the School Walking Route Program under CTEP.

Councilmember Larson said he's never seen a final plat derive such level of questions. He asked if there will be other opportunities for the council to review plat-related concerns and concerns that may be more appropriately dealt with through special review, etc. Mr. Corey said those discussions could be held whenever the council wanted them. Councilmember Larson asked about the process to hold these discussions. Mr. Jensen said under state law, if the subdivider is not significantly impacting the area with this plat, it would be very difficult for the City to hold up this plat to address parking, etc. on Poly Drive. Councilmember Larson said he did not want to hold up the developer or have them pay for solutions to some of these issues, but he noted that outside of the plat, there are still neighborhood concerns. He asked how and when these could be addressed. Mr. Jensen said the first step would be to hold a neighborhood meeting to discuss the concerns and see how much the neighborhood is willing to pay for in the area. Councilmember Ohnstad said there are CTEP funds available that could be used to pay for up to 80% of the sidewalk in that area. He suggested that the developer could pay the balance and the city could look for ways to assist him.

Councilmember Ohnstad amended the motion to include the condition that CTEP monies be used to pay for sidewalks from June Drive to Shiloh Road, with the remaining 20% to be paid by the developer, seconded by Councilmember Johnson. Councilmember McDanel asked what the percentage was for similar sidewalk projects completed along collectors in Billings. Mr. Corey replied the School Route Program is a 50/50 split on sidewalks, but discussions have indicated that there will not be a School Route Program in the future. So it could be decided to pursue future school route sidewalk programs using CTEP at the minimum matching requirement, which is 80%. Councilmember McDanel asked specifically what the percentage of funds were that the City paid for the Lake Elmo Sidewalk Project. Mr. Corey said the sidewalk project was a 50/50 split. Councilmember Deisz said he had a problem with this amendment – 80% has never been paid by CTEP funds and a developer has never paid 20%. Councilmember Ohnstad said school kids use this area and it is important to have that sidewalk for their safety. Councilmember Larson said he agrees with the concern of the neighborhood regarding traffic and school children safety, but does not agree with the

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amendment. He said the city has an obligation to address these issues if it goes forward with this type of development. On a voice vote, the motion failed.

Councilmember Ohnstad amended the motion to incorporate a pedestrian access corridor from Elsa Drive to Westfield Drive (to connect the corridor to the park in the northwest corner), seconded by Councilmember Johnson. Councilmember Deisz asked if there is a park maintenance district for the park. Mr. Jensen said the developer is paying for the entire cost of developing the park; the neighbors are not paying for any maintenance. Parks Director Mike Hink said it was his understanding that a parks maintenance district would only cover the park maintenance in Rush Subdivision. On a voice vote, the motion failed.

On a vote on the main motion, the motion was approved. Councilmembers Ohnstad and Johnson voted "no".

REGULAR AGENDA:

2. PUBLIC HEARING AND SPECIAL REVIEW #653: a special review to allow a church in a Residential 9600 zone on Lots 7-18, Block 1, Howard Heights Subdivision, located on the north side of Hilltop Road between Garnet and Sapphire Avenues. Edward and Marles Nicholls, owners; Engineering, Inc., agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planning Director Kerwin Jenson said the property is located on the north side of Hilltop Road in the Heights. Surrounding zoning is primarily R9600. The proposed church would be located between Garnet and Sapphire Avenues. The conditions recommended by the Zoning Commission are: (1) prior to development of the site, including the issuance of any building permits, a Development Agreement shall be executed between the owners(s) and the City, which shall stipulate specific infrastructure improvements, and provide guarantees for said improvements, and (2) the landscaped areas on the north and east sides of the parking lot shall contain sufficient buffering, such as a 3 ft. minimum high fence or landscaped berm strip, to mitigate any impacts to adjacent residential property, and shall be subject to approval by the Planning Department.

The public hearing was opened. RICK LEUTHOLD OF ENGINEERING INC said the developers are aware of the conditions and willing to meet them. On Garnet Avenue one access is planned to the 10,000 sf church. The development agreement is written in a way that if development occurs across the street, the church will be responsible for the improvements along the rest of the street. Adequate services exist to the site. He urged the council to approve the request. Councilmember Bradley asked if parking lot lighting would be available. Mr. Leuthold said there would lighting on the lot that meets city standards. The lighting buffering proposed is for headlight lighting.

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DAN FRYE OF 2606 NORTH SHORE PLACE said he is a member of the congregation and asked the council to vote in favor of the request.

BOB KERNER, NO ADDRESS GIVEN, also a member of the congregation, asked for favorable consideration of their request.

REV. ROY KOOSHIAN, pastor of the Heights Baptist Church asked for approval of the special review and assured the Council that the church is interested in complying with City statutes with regard to construction and development of the project.

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

3. PUBLIC HEARING AND SPECIAL REVIEW #654: a special review to allow the placement of an all-beverage liquor license and an outdoor porch/patio in a Highway Commercial zone on Lot 4A of Amended Lots 3 and 4, Block 4, Hogan Homestead Subdivision, located at 2001 Overland Avenue. Greenleaf Land and Livestock Company, owner; Outback Steakhouse, c/o Moulton, Bellingham, Longo & Mather, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planning Director Kerwin Jenson gave a brief introduction on the request. The application is for the Outback Steakhouse. The special review is for an all-beverage liquor license and for an outdoor patio. The only condition recommended by the Zoning Commission was that there shall be no live or amplified music on the proposed outdoor patio. Only background music shall be allowed.

The public hearing was opened. JEFF WELLS OF 405 BURLINGTON AVENUE said he was speaking on behalf of Billings Outback. He said the patio is not similar to patios that other restaurants or bars have. It is a porch with benches where people can wait for table availability. It will not have tables, etc. but a speaker so customers can hear their name called. He encouraged approval of the Zoning Commission recommendation.

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

4. PUBLIC HEARING AND RESOLUTION 99-17438 authorizing the transfer of equipment purchased with 1997 Local Law Enforcement Block Grant to the Yellowstone County Detention Facility. Staff recommends approval. (Action: approval or disapproval of resolution.)

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

5. PUBLIC HEARING AND RESOLUTION 99-17439 authorizing the sale of a house in Amend Park on Tract 1, C/S 2783, located at 610 South Billings Boulevard. Staff recommends approval. (Action: approval or disapproval of resolution.)

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

6. PUBLIC HEARING AND RESOLUTION 99-17440 vacating an alley in Block 1, Normal Subdivision between 12th Avenue North and Poly Drive, between North 27th Street and North 28th Street. St. Vincent Hospital, petitioner; CTA Architects, agents. Staff recommends approval. (Action: approval or disapproval of resolution.)

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the resolution, seconded by Councilmember Larson. Councilmember Deisz asked about the “discounted” price that St. V’s is receiving on this property. Public Works Director Kurt Corey said the range of price for alleys in medical corridors can vary widely from \$15/s.f. down to something much less. This price took into account that there would be utilities remaining upon vacation of the alley, so it would not be considered a “whole property” and as a result the price would be less than what “free and clear” land would be appraised for. On a voice vote, the motion was unanimously approved.

7. FIRST READING ORDINANCE establishing a smoke-free environment for all indoor areas of City-owned buildings or facilities as posted and in all City-owned motor vehicles; establishing exceptions for leased property, and amending the BMCC by adding Section 2-402: Prohibiting Smoking in all City-owned Buildings. Staff recommends approval. (ACTION DELAYED FROM 12/14/98). (Action: approval or disapproval of ordinance on first reading).

City Administrator Mark Watson gave a brief staff report on this item. He said staff had developed a “modified” ordinance, based on previous discussions regarding facilities and individual concerns from different departments. Mr. Watson said the revised ordinance makes a better effort to address the concerns and at the same time remains very compatible to meeting the terms of non-smoking requirements within City facilities. Councilmember McDanel asked if there were provisions within the ordinance that would allow flexibility in certain instances. Mr. Watson said the only slight modification to be considered might be that exceptional environments could be reviewed by the administrator on a case-by-case basis. Mr. Watson went on to say that the main concern is publicly accessible facilities and second-hand smoke problems with other employees. Councilmember Bradley asked about the disciplinary actions that could be issued. Mr.

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Watson replied that the city utilizes a progressive disciplinary process, with ample time for remedying the problem. For the public, if an offense is noted, the person would be asked to cease from smoking and could proceed to a citation level with an officer involved. Councilmember Kennedy asked about how the area of "publicly accessible areas of a city facility" could be worked into the ordinance. Mr. Watson said the city needs to be careful in this wording, since some areas are accessible only to employees. The public areas will be the obvious ones; the employee areas will be reviewed by the administrator.

Councilmember Johnson moved for approval of the ordinance on first reading, seconded by Councilmember McDermott. On a voice vote, the motion was approved. Councilmembers Deisz and Bradley voted "no".

THE MAYOR CALLED A SHORT BREAK AT 9:00 P.M. The meeting was called back to order at 9:08 p.m.

8. PUBLIC HEARING AND ADOPTION of the Update to the City of Billings ADA Transition Plan dated February 1993. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

ADA Coordinator/Purchasing Agent Cliff Fillner provided a brief history of the efforts the city took to address the requirements of the Americans With Disabilities Act. He briefly summarized the timeline, noting that the outline and action plan recommendations were adopted as the ADA Transition Plan in February 1993. He noted that tonight's meeting is to hear comments on the update to this plan.

The public hearing was opened. BARBARA KELLY OF 2402 TERRY AVENUE said she applauds the council for recognizing disability awareness month. She is the president of the Billings chapter of the Coalition of Montanans Concerned with Disabilities (CMCD). She said the purpose of their organization is to promote equal participation of all Montanans in all aspects of society through the collective empowerment of people with disabilities. She urged the council to not accept this update to the transition plan because it does not meet the minimum requirements of a transition plan under Title II of the Americans With Disabilities Act. It does not identify barriers or establish a timetable for their removal. It does not detail methods to make facilities accessible. Ms. Kelly said the section concerning the Aviation/Transit Dept section did provide an excellent example however.

RODNEY GARCIA OF 4141 ARDEN AVE, said he is chairman of the Southside Task Force. He said the task force voted to support the CMCD's request. He said the 1-inch lip is not proper according to the federal law.

ARDIS OLIN OF 217 AVENUE D said she would encourage all citizens and staff to work together on items of concern for individuals with disabling conditions. She noted also that 15 years ago, she and other citizens via the Accessibility/Mobility Task Force worked with the Transit Dept to meet the requirements of the law regarding the

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accessibility to the transit service. She said that perhaps the biggest problem is the lack of dollars available for doing the necessary improvements.

RUSSELL TAYLOR OF 70 ANTELOPE TRAIL said he wants disabled individuals to be treated with respect and treated as other individuals are treated. The proposed plan uses language that does not treat disabled individuals with respect.

TRACY RECTOR OF 415 19TH STREET WEST said he would recommend the council vote against the plan because the sidewalks and curbs are an obstacle to blind individuals. He noted that there also needs to be another method of indicating the 3-minute time limit to a blind person.

SARAH BRADLEY OF 1633 LYNN AVENUE said she would like to see traffic slowed down or a crosswalk on Central at 17th Street. She asked why the hearing signals "beep" so low in the West Park Plaza area.

AMANDA MARNEY OF 70 ANTELOPE TRAIL said that letters on the bus door are too small for some people to read.

STEFANIE BOTHMAN OF 2616 GOLDEN BOULEVARD said she is concerned about her rights under the city's ADA Transition Plan. The plan talks about the parks, but only in regard to bathrooms and playgrounds, but nothing else – such as picnic tables and how to access them in wheelchairs. There are no Braille signs in the parks.

JANET KANTA OF 1151 14TH STREET WEST said she wants to know why this city doesn't follow the ADA. People in wheelchairs have to travel in the streets because the lips in curbcuts make wheelchair access difficult or impossible in some areas.

ERIN BEESEN OF 41 VISTA DRIVE in Casa Village said he has concerns about the ADA Grievance Policy. There are some complaints that should go directly to the ADA Coordinator because the City Administrator doesn't have time to address them. Since the ADA Coordinator is not a member of the ADA Compliance Committee, how will the complaint information get to the committee, he asked. He also said a grievance policy with no specific requirements is inefficient.

MAUREEN WILDIN, NO ADDRESS GIVEN, said all city documents should be available in large print, in Braille or on audio cassette. She said she didn't think anyone needing an alternative format should be required to pay more for it. Everyone needs equal access to their government she said. She said the issues of alternative formats and communications is not even addressed in this transition plan. She stated the plan is flawed and incomplete and urged the council not to adopt it.

DENNIS FENTER OF LEWIS AVENUE said the lips on curbs need to be removed to assist individuals in wheelchairs and blind individuals as well. The plan should also address snow removal because snow is often plowed into curb cuts. He asked what the Public Works Dept schedule is for resolving these issues.

ELLEN RAINES OF 5091/2 BURLINGTON. She said she is deaf and has an interpreter with her – provided by the City. She noted when she asked for an interpreter to be provided for her, she was told that it was not the City's responsibility. She had to provide information from the technical assistance center on this issue to get the interpreter issue resolved. She said the Transition Plan indicated that the Police

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Department does not provide a list of interpreters. The Police Department especially needs to be able to communicate with people with disabilities and should be trained to do so. Ms. Raines said the proposed plan does not address communication for disabled individuals. Some city offices have a TDD phone but do not know how to use them.

BERNICE BERINGER OF 228 1/2 SOUTH 28TH STREET said she is a volunteer advisor for disabled individuals. She said the plan is full of shortcomings. Section 8.1 of the ADA Technical Assistance Manual clearly addresses the steps to achieve compliance of the ADA. 13 points should be considered in the self-evaluation, which is used as a basis for developing the transition plan. Section 8.3 of the manual defines the elements of an acceptable transition plan. Without them, a plan is incomplete. She urged the council not to approve the plan.

DENNIS DUNN OF 2814 2ND AVENUE SOUTH, #3, said he's been observing what has been happening at the meeting. He said people not getting over the curbs is not the issue tonight. He recommended the council help those people that are handicapped. He said the council should not be taken advantage of by people who exploit the handicapped.

HENDERSON HOUGHTON OF 510 NORTH 31ST STREET said CMCD has been painted as the "bad guy" here. They have given the city every opportunity to do the right thing. He said they are only attempting to protect the citizens from injury, to get the city to comply with the law by building curbs that provide smooth transition to the sidewalks, and to minimize the city's liability. Mr. Houghton said CMCD is asking the city to follow the technical guidelines in developing its transition plan.

BARBARA KELLY RETURNED. CMCD has requested that the city provide curb cuts that provide smooth transition to the sidewalk, rehabilitate improperly built ramps as time and money is available, and develop an ADA Transition Plan that follows the technical and administrative guidelines of Title II. She said this plan is an improper plan and does not meet minimum requirements of the ADA. She requested that the Plan not be adopted.

HENDERSON HOUGHTON RETURNED. He pointed out that the city has a paid professional staff that is paid to meet their responsibilities. If they are not fulfilling their responsibilities, then citizens need to make the council aware of this fact.

ERIN BEESEN RETURNED. He said the city has not met its responsibilities in regard to the ADA. The implementation guidelines are not "rocket science" he stated. The proposed plan is not a transition plan, just a status report that is not thorough in its information. He urged the council to not adopt this update because it is flawed and incomplete. It is viewed as a slap in the face by every disabled individual in the community.

ARDIS OLIN RETURNED. She encouraged all citizens and officials to work together to make changes needed under the ADA.

There were no other speakers. The public hearing was closed. Councilmember Larson moved for approval of the staff recommendation, seconded by Councilmember Kennedy. Councilmember Kennedy read from the resolution setting forth a grievance

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procedure. He noted that the resolution established a procedure whereby the transition plan can be remedied of flaws that were stated by individuals testifying tonight. City Administrator Mark Watson said that Council had received a lot of information this evening and that it would be unfair not to allow them time to assess the information. He said we heard from one individual that cooperation is the key, but the remaining individuals said the transition effort is a total waste of time and a document that is not worth the paper it is written on. "This document may require professional assistance. This document may require budgeted dollars. This may require that the CDBG program contribute towards this program. This may require that dollars be taken away from neighborhoods to address this important issue that has been neglected for a number of years. This may require some type of contract with Concerned Montanans with Disabilities. This may require contracting with them to develop a plan that meets requirements. Some research has been done and was included in materials given to Council. There are flagrant discrepancies between what is written on an ADA advisory Internet web site and what was heard tonight. So there is a lot of information to be sorted through and considered," he said. He suggested all the information be compiled and the specific issues noted in the minutes be considered. He said it is very important that this be a partnership among the community to develop something that is good. Mr. Watson said that the airport is able to develop an ADA Transition Plan separate from the rest of the city because they bring in passenger facility charges of \$1 million a year and have the available dollars to put into the Plan. Council on the other hand has to decide whether available dollars go to parks or housing rehabilitation or other programs or other needs within the community. So there is a lot to be considered in this process. He went on to say, "if this document is not worth the paper it is written on, then maybe a more formalized process needs to be established. We need to continue to do some workshopping and research on this. Many of these statutes are advisory in nature, so we need to determine who is going to be our reliable source of information (group in Colorado Springs, ADA Internet web site, the United States government)." He strongly suggested delaying the matter and scheduling a workshop for some future discussions and to look at the processes and alternatives. Councilmember Deisz asked how many weeks this should be delayed to give staff adequate time to complete their work. Mr. Watson said the process will begin with specifics extracted from these minutes. Councilmember Larson said the resolution on the grievance procedure should also be reviewed and strengthened. He noted it is imperative to get the ADA compliance committee into place at once. Councilmember Deisz made a substitute motion to table the plan for 60 days, seconded by Councilmember McDanel. Councilmember Larson asked that staff provide a report on the grievance policy in 30 days. This was incorporated as part of the motion. On a voice vote, the substitute motion was approved.

CLOSING REMARKS:

City Administrator Mark Watson announced his resignation as City Administrator. He will become the new City Manager for Temple, Texas on May 3rd. His last day on the

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job here will be April 23rd. Mayor Tooley said he was on the council when Mr. Watson was hired and had an opportunity to observe his efforts and performance over the past six years and that he had presented himself well. He said he is disappointed that Mr. Watson is leaving, but wished him the best in his new position.

ADJOURN -- With all business complete, the Mayor adjourned the meeting at 10:16 p.m.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AE CITY CLERK