

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 11, 2006

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 Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Tussing led the Pledge of Allegiance. Councilmember Nancy Boyer gave the Invocation.

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

MINUTES – November 27, 2006. Approved as printed.

COURTESIES – Finance Division. Delayed to future meeting.

- Mayor Tussing recognized City Clerk Marita Herold for recently receiving the designation of Master Municipal Clerk (MMC). She is one of 527 clerks of 10,256 member clerks worldwide that have received this designation.

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek informed the Council that the Bureau of Justice (BOJ) Grant request from the Municipal Court will NOT need to be added to tonight's agenda. The Court has arranged with the Board of Crime Control to be the applicant for that grant and the Court will be the sub-grantee if it is received.
- She noted also there will be an executive session this evening to discuss pending litigation strategy. The executive session will be held in the City Hall Conference Room immediately after the regular meeting.
- Ms. Volek reminded the Council that because the final "scheduled" Council meeting falls on Christmas Day – December 25th, there will not be a work session next week – December 18th, but a regular meeting instead at 6:30 p.m. This will be the Council's final meeting for the year.

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

- TIM GOODRIDGE OF 2990 LOHOF said he represents the Magic City Blues Festival (re: Item I). He said he just wanted to introduce himself to members of the

Council whom he has not yet met and to ask for continued support for the Festival. Mr. Goodridge said last year was the Festival's 5th anniversary, a milestone for them. He said they are hoping to continue for many more years and to turn it into a signature event for Billings. Councilmember Gaghen asked if he will be donating a portion of the profits to either the School District or some other worthy cause. Mr. Goodridge replied that historically he has done that, adding that they have created a secondary 501(c)(3) corporation for other events unrelated to the Blues Festival. The primary beneficiary of that will be the School District #2 music program.

- There were no other speakers.

CONSENT AGENDA:

1. A. Mayor's Appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Mary Lou Affleck	Homelessness Committee	12/10/06	12/31/08

*Unexpired term of Clark Swan (Lending background)

B. Bid Awards:

(1) **W.O. 01-05: Lake Hills Storm Drain.** (Opened 11/14/06). (Delayed from 11/27/06). Recommend rejecting all bids.

(2) **W.O. 06-20: Downtown Billings Wayfinding Signage.** (Opened 11/14/06). Recommend rejecting all bids.

(3) **W.O. 05-19: Gabel Road Bike/Pedestrian Path, Transtech Center Subdivision, Federal Aid No. STPE 1099(45), MDT CN 5712.** (Opened 11/28/06). Recommend Base Bid and Additive Alternate #1 to JTL Group, Inc., \$84,440.00 and 30 calendar days, contingent on CTEP concurrence.

C. SILMD 299 – Vintage Estates Subdivision, Street Lighting Agreement with Yellowstone Valley Electric Company for light district ownership, energy, and maintenance.

D. City/County Special Investigations Unit (CCSIU) Agreement with Yellowstone County, term: 1/1/07 – 12/31/07.

E. Agreement for health insurance consultant services. Delay action until 1/8/07.

F. Professional Services Contract for SID 1374 – Gateway Triangle Improvements, Morrison-Maierle, Inc., \$229,981.00.

G. Library Reserve Contribution to Joint Community Library Project, \$150,000.00.

H. Acceptance of donation from Ira & Carolyn Robison to the Billings Animal Shelter General Donation Account, \$720.00.

I. Street Closure: *Magic City Blues Festival*, Montana Ave. between 2300 and 2500 blocks from 9:00 a.m. on Friday, August 10, 2007 to Noon on Sunday, August 12, 2007.

J. Preliminary plat of Amended Lot 12 and 13, Block 1, Broso Valley Park Subdivision, generally located southeast of Gabel Road and southwest of Broso Park Drive, conditional approval of the plat and adoption of the Findings of Fact.

K. Final plat of E. D. King Subdivision.

L. Bills and Payroll.

- (1) November 9, 2006
- (2) November 17, 2006

(Action: approval or disapproval of Consent Agenda.)

Councilmember Ulledalen separated ITEM B3. Councilmember Stevens separated ITEM A.

Councilmember Brewster moved for approval of the Consent Agenda EXCEPT ITEMS 1A and 3B, seconded by Councilmember Ruegamer. On a voice vote, the Consent Agenda EXCEPT ITEMS 1A and 3B was unanimously approved.

Councilmember Brewster moved for approval of ITEM 1A, seconded by Councilmember Ruegamer. Councilmember Stevens noted that the appointee resides in Shepherd and the City code requires appointees to be 18 years of age and live in the City limits. City Attorney Brent Brooks stated this individual was the only applicant. The code does not require that the applicant for this committee reside in the City of Billings, however, the City Council could require the applicant to reside in the City of Billings. Councilmember Stevens voiced concerns because she advised a number of possible applicants that they were not eligible if they were not a City of Billings resident. Mayor Tussing explained there are 20 members of the Homelessness Committee that are appointed by the Council. The requirements are specific as some of the appointees have to be from the County, some from the City, a service-oriented provider, a former homeless individual, corrections, law enforcement, and a business person.

Councilmember Boyer moved to approve the appointment and amend the application form to remove the residency requirement for any Board of Commission that doesn't require this stipulation, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of ITEM B3, seconded by Councilmember Ruegamer. Councilmember Veis commented on the rejection of the wayfinding bids and asked what the next step was. Greg Krueger, of the Downtown Partnership said the project will be rebid. The delay does not hurt the time frame. He also commented that the question that referred to the concrete portion of the bid was not "responded" to by the sole bidder. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 06-18514 FOR ANNEX #06-15: annexing 39.65 acres described as Tract 1A, of Amended Tracts 1 and 2, C/S 3279 and generally located east of the intersection of Grand Avenue and 54th St. W adjacent to Bishop Fox Subdivision, Rod Wilson and Judith Deines, owners & petitioners. Staff recommends conditional approval. (Action: approval or disapproval of Staff recommendation.)

The public hearing was opened. ROD WILSON of 422 SHAMROCK LANE thanked the Council for spending the \$10M to extend sewer and water lines down Grand Avenue. He stated the subject property touches on the area and meets the West End Plan requirements. There were no other speakers. The public hearing was closed. Councilmember Stevens moved for approval of the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE amending Ordinance #02-5219, an ordinance providing that the BMCC be amended by revising Section 13-502: execution of contract; providing authority to and limitations on City Administrator approval of contract change orders. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

City Attorney Brent Brooks stated that the recommendation simplifies and provides greater flexibility to the Mayor and Council to insure that the change orders are executed in a timely manner for large and complex contracts. Councilmember Jones noted that verbiage already exists if the Staff wanted to present the change order to the City Council for larger increments. He asked why the verbiage that already exists will no longer work. Mr. Brooks replied that project-specific issues arise when there are multiple change orders in one project within a short time-frame and are time-sensitive. Mr. Brooks also stated these change orders require the Council's authority to execute and the change orders also require approval at a regular meeting. He further noted that

as part of investigating a solution to frequent and large change orders on substantial City projects, the City Administrator and City Attorney's Office proposed an amendment to City Code Section 13-502, which will give the Mayor and Council greater flexibility to approving change orders. The proposed amendments allow the Mayor and the Council to "delegate" contract change order execution to the City Administrator by resolution, especially for specific projects. He stated the new language is found in Section 13-502(b)(3).

Councilmember Ulledalen commented if the project and the change orders get larger, the change orders would cause a delay in the project while they are in process to appear on a Council agenda. Councilmember Jones asked why the limits cannot be set at the time of the contract. Mr. Brooks replied that the Council has no way of knowing what the limits will be at that time. He also stated that it attempts to require the Council to predict a factor that cannot be predicted. He said the Staff is trying to endow the Council with greater flexibility "down the road", after it has approved a contract. As the code states now, "The Council can only provide an Administrator with extended limits of authority upon an initial contract award."

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Gaghen moved for approval of the Staff recommendation, seconded by Councilmember Boyer. Councilmember Jones moved to amend the motion to delete "or his/her designee" from Section 13-502(b) (3), seconded by Councilmember Boyer. On a voice vote on the amendment, the motion was approved. Councilmembers voting "yes" were: Ronquillo, Brewster, Veis, Boyer, Clark and Jones. On a voice vote, the motion as amended was unanimously approved.

4. FAIR HOUSING ACTION PLAN FOR FY06-07. Staff and Community Development Board recommend approval. (Action: approval or disapproval of Staff and Community Development Board recommendation.)

There was no Staff presentation. Councilmember Ulledalen asked who else would approve this plan. Community Development Manager Brenda Beckett stated the Action Plan was developed in conjunction with all Fair Housing Project "partners", and includes 2007 project monies. She noted that HUD already approved the projects via the CAPER. Ms. Beckett also noted this information is available on the website for review by the public. Councilmember Ulledalen asked if the department received any feedback. Ms. Beckett stated the department always receives "feedback" via conference call with all interested parties. Councilmember Boyer requested notification be sent to the councilmembers for all conference calls. Ms. Beckett replied that would be arranged. Councilmember Ronquillo moved for approval of the Staff recommendation, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

5. RESOLUTION 06-18515 creating an *Events Ad Hoc Committee*, establishing the committee purpose, the scope of its responsibilities, its composition and its

duration. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

City Administrator Tina Volek stated this ITEM was previously discussed at a work session meeting and the Staff had no additional presentation. Councilmember Clark moved for approval of the Staff recommendation, seconded by Councilmember Brewster. Councilmember Ruegamer asked if the committee had been named. Ms. Volek stated that the positions would be advertised in the Billings Times and on the website. Councilmember Ruegamer moved to amend the motion to change the membership to 10 members - including 3 councilmembers (one of which is Councilmember Boyer), seconded by Councilmember Ulledalen. On a voice vote, the amendment was unanimously approved.

Councilmember Ulledalen amended the motion to require committee members to be residents of the City, seconded by Councilmember Boyer. On a voice vote, the amendment was unanimously approved. On a voice vote, the motion as twice amended, was unanimously approved.

6. 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.)* There were no speakers.

Council Initiatives

- **COUNCILMEMBER STEVENS:** MOVED to direct the Staff to prepare a report on the feasibility and costs of establishing a city-wide volunteer program and schedule the report for a future work session. Councilmember Ulledalen amended the motion to also have the City Administrator poll the department heads about where volunteers might be appropriate. APPROVED
- **COUNCILMEMBER BREWSTER:** MOVED to adopt the “Ward II compromise” to the insurance carrier’s opinion concerning the use of public property at the end of Wicks Lane, which continues the signs and prohibits use on the upper level and allows the existing uses on the lower level. APPROVED
- **COUNCILMEMBER BOYER:** MOVED to direct Staff to proceed with drafting an ad in the Gazette to thank the public for its support of the Public Safety mill levy, bring cost estimates to the Council and to use Council Contingency funds for the cost of the ad. APPROVED

ADJOURN – The regular meeting was adjourned at 7:45 p.m. The Executive Session followed the regular meeting. The Executive Session was adjourned at 8:31 p.m.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Marita Herold, MMC City Clerk