

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***

AGENDA

COUNCIL CHAMBERS

July 28, 2008

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Clark

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

MINUTES – July 14, 2008, approved as presented

COURTESIES – Councilmember Ruegamer presented a check in the amount of \$1,400 to the City of Billings Parks Department from proceeds of the Kiwanis sponsored license plate sales.

PROCLAMATIONS - None

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek thanked the Kiwanis Club for their generous donation.
- Ms. Volek reminded the Council of the Agenda Review Meeting for the August 11, 2008, council meeting, scheduled for the following evening at 5:30 p.m. in the City Hall Conference Room.
- Ms. Volek referenced Item #3 that was on the July 14, 2008, council agenda and advised that she had told them a particular parcel had been inadvertently left out and would need to be brought back before council at a later date. Ms. Volek advised the parcel was actually for a temporary right-of-way easement only and was not one of the parcels being sold, so it would not be coming back to council for approval after all.
- Ms. Volek advised that staff was recommending that Item 1F, the Landfill Gas Sales Agreement with MDU, be delayed until 8/25/08 so the Crowley Law Firm could review it.
- Ms. Volek advised there had been a valid protest received on Item 7, Zone Change #846. She said a copy of the protest was included in the Friday packets, and a copy was located in the Ex-Parte notebook in the back of the room. Ms. Volek told Council the item required a super majority vote.
- Ms. Volek asked that Council delay Item 1B1, the bid award for the King

Avenue East Street Improvements until the meeting of August 11, 2008, as staff was working with Four Square Properties on a possible SID.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2, and 3 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.)

- **Rudy Grossman, 314 Cody Circle**, said he represented General Contractors Construction, and he felt awarding Fisher Construction the bid for the MET Transit Transfer Center was not right because Fisher Construction had not submitted a signed Non-Collusion Form at the time they submitted their bid.
- **Gary Reed, Denver, CO**, said the requirement for submitting a signed Non-Collusion Form with a bid was common in many other cities, and recommended that, in fairness, all bids be rejected on the MET Transit Transfer Center and the project be re-bid.
- **Joe White, Billings, MT**, said he opposed the location of the new MET Transit Transfer Center and recommended rebidding the project.
- **Kevin Nelson, 4235 Bruce**, referenced Item P, the boundaries for the TIF District, and asked where the 54 acres noted in the Billings Gazette were located. He also said since the King Avenue widening project was being delayed, he hoped Council would consider a public hearing on the item instead of just a one-minute courtesy because he felt it was a very important issue.

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

CONSENT AGENDA: Separations: B1, F, O, P

1. A. Mayor’s Appointments:

Mayor Tussing recommends that Council confirm the following appointment:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Gay Easton	Yellowstone Soil Conservation District	07/01/08	06/30/11

B. Bid Awards:

(1) W.O. 07-22, King Avenue East Street Improvements. (Opened 7/1/08). Delayed from 7/14/08. Recommend Knife River contingent

upon receipt of Letter of Credit securing the improvements, \$3,068,058.05.
DELAYED UNTIL 8/11/08.

(2) W.O. 02-08, Milton Lane School Route – Billings.
(Opened 7/15/08). Recommend Knife River, \$339,595.55.

(3) MET Transit Downtown Transfer Center. (Opened 7/15/08). Recommend Fisher Construction, \$3,153,100.

C. Contract with Montana Department of Transportation for FY 2009 Operating Assistance through the Federal Transit Administration Section 5317 New Freedom Grant Program, \$10,401 grant revenue.

D. Approval of Assignment of B & J Properties Limited, LLC West End Hangar Ground Lease and Non-Commercial Aviation Ground Lease to First Interstate Bank for financing purposes, with no financial impact to the City.

E. Approval of two West End Hangar Ground Leases with Pacific Tank and Pipeline, Lots 1 and 2, Taxilane “D”; revenue first year \$1,022.12 each.

F. Landfill Gas Sales Agreement with Montana Dakota Utilities, estimated annual net revenue to the City - \$500,000. (Delayed from 6/23/08).
DELAYED UNTIL 8/25/08.

G. Reimbursement Agreement for Private Contract No. 594; Lot 1, Block 1 of Arlene Subdivision, Phase I – Zimmerman Homes, \$17,701 total reimbursement to Best Development Corp.

H. Grant Acceptance and Approval of the Billings West Wicks Lane Water, Sanitary Sewer, and Storm Sewer Design and Construction Agreement between the Department of the Army and the City of Billings, estimated cost to the City - \$122,500.

I. Amendment No. 6, W.O. 04-12- Alkali Creek Road Slope Stability, Professional Services Agreement with Kadrmass, Lee & Jackson, \$156,700.

J. Acknowledge Receipt of Petition to Vacate a portion of North 19th Street and set a public hearing for August 25, 2008.

K. Approval and Acceptance of Quitclaim Deed from Yellowstone County, Certificate of Survey 2350, Tract 2.

L. Declaring Surplus Property and authorizing the Police Department to release one Whelen lightbar with control box and two red lenses to the rural fire fighting unit in Waco, MT.

M. Approval of Downtown Revolving Loan Fund recommendation for Steven J. and Joni Harman for purchase and renovation of buildings located at

2605 Minnesota Avenue; lesser amount of \$250,000 or 20% of total project costs.

N. Street Closures:

(1) Billings Association of Realtors Quality of Life Run – August 23, 2008; 5:00 a.m. to 10:00 a.m.; 5-mile: start at Masterson Circle, east along Airport Road, down North 27th Street, west on Rimrock Road, south on Virginia Lane, through Pioneer Park, north on 3rd Street West, east on Parkhill Drive, south on N. 32nd Street, finish at N. 32nd Street and Division; 2 mile: start at MSU-B on Rimrock Road, south on Virginia Lane, through Pioneer Park, north on 3rd Street West, east on Parkhill Drive, south on N. 32nd Street, finish at N. 32nd Street and Division.

(2) Montana Marathon – September 21, 2008; 5:00 a.m. to 2:30 p.m.; start on Molt Road, east along Sam Snead Trail and Walter Hagen Drive, south on 54th Street West, east on Rimrock Road, south on 46th Street West, east on Rangeview, north on 38th Street West, east on Poly Drive, south on Patricia Lane, east on Colton Boulevard, south on 17th Street West, east on Parkhill Drive, south on 3rd Street West, finish at Daylis Stadium.

O. Approval of Donation from Ales for Trails for Swords Park Trail, Phase II, \$25,000. **APPROVED 9 TO 0. MAYOR TUSSING RECUSED HIMSELF FROM THE VOTE.**

P. Resolution #08-18737 clarifying the legal description of the South Billings Boulevard Urban Renewal District. **APPROVED.**

Q. Preliminary Subsequent Minor Plat of Gabel Subdivision, 3rd Filing, located on approximately 11.35 acres on the south side of Gabel Road south of the intersection of Transtech Way and Gabel Road, conditional approval of the plat and adoption of the Findings of Fact.

R. Final Plat of Amended Lot 2A, Block 1, Shiloh Crossing Subdivision.

S. Final Plat of Foxtail Village Subdivision, 2nd Filing.

T. Bills and Payroll

1. June 27, 2008

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

REGULAR AGENDA:

2. RESOLUTION APPROVING AND ADOPTING FOURTH QUARTER BUDGET AMENDMENTS FOR FISCAL YEAR 2007/2008 (Budget Item #3 delayed from 6/23/08 and 7/14/08). Staff recommends approval.

(Action: approval or disapproval of staff recommendation.) **FAILED 8 TO 2. COUNCILMEMBERS RONQUILLO, PITMAN, STEVENS, RUEGAMER, MCCALL, ULLEDALEN, ASTLE, AND CLARK VOTED 'NO'.**

3. **RESOLUTION #08-18738 RELATING TO \$7,400,000 SEWER SYSTEM REVENUE BOND SERIES 2008; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED.**
4. **PUBLIC HEARING FOR SPECIAL REVIEW #863:** A special review to allow the location of a beer and wine license with gaming on a 42,148 square-foot parcel of land in a Controlled Industrial zone described as Lot 4A, Studer Acreage Subdivision, located on the southeast corner of the intersection of Cel Avenue and South 32nd Street West. George Frank, owner; Design Lab Architects, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED 9 TO 1. COUNCILMEMBER CLARK VOTED 'NO'.**
5. **PUBLIC HEARING FOR SPECIAL REVIEW #864:** A special review to allow an all-beverage liquor license with gaming on a 38,072 square-foot parcel of land in a Controlled Industrial zone described as Lot 6A, Block 3, Midland Subdivision, 4th Filing, located on the southeast corner of the intersection of South 29th Street West and King Avenue West. Eagle-Fairview Investment Company LLC, owner; Montana Stewards, LLC (Town Pump), agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED 9 TO 1. COUNCILMEMBER CLARK VOTED 'NO'.**
6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #845:** A zone change from Residential 9600 to Residential 6000 on a .85-acre parcel located on the southeast corner of the intersection of Monroe Street and Madison Avenue and addressed as 203 Monroe Street. Daniel Dimich and Patricia Rodriguez, applicants; Charles Hamwey, agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED.**
7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #846:** A zone change from Residential 9600 to Residential Professional on a 16,843 square-foot parcel generally described as Lots 1 and 2, Block 20, Kober Subdivision, 4th Filing, and located at 1702 Colton Boulevard. Sunday Creek Land Company, Ronald Scariano, owner; Heather McDowell, Crowley Law Firm, agent. Zoning Commission recommends approval and adoption of the determinations of the 12

criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **FAILED 7 TO 3. COUNCILMEMBERS GAGHEN, RUEGAMER, MCCALL, ULLEDALEN, ASTLE, CLARK, AND MAYOR TUSSING VOTED 'NO'.**

8. 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.)

- **Catherine Schaeffer, 2113 Walter Road**, said she felt the budget for the Animal Shelter should be increased and a supervisor should be available at all times.
- **Angie Cook, 2910 Hannon Road**, said re-working the schedule to 7 days a week; offering more spay/neuter programs; and allowing special promotions would provide some solutions to the current Animal Shelter.
- **Kevin Nelson, 4235 Bruce Avenue**, said he was confused about the properties on King Avenue East and said he thought they were annexed to be put in the district. He said a lot of issues he has raised had to do with personal, private property rights without State mandated searches and seizures that would come onto private property. He said many laws were outdated. He told Council they were going down a road they had no idea where they were going because they had not sought legal advice as to how many statutes they were violating. He said Council was showing reckless disregard for his private property, constitutional, and civil rights by moving forward with the district because none of them had been tested in court.

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

Council Initiatives - None

ADJOURN - The meeting adjourned at 10:00 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.