

**REGULAR MEETING OF THE BILLINGS CITY COUNCIL
May 11, 2009**

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 gave the invocation.

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

MINUTES – April 27, 2009, approved as presented.

COURTESIES – None

PROCLAMATIONS:

- **Peace Officers' Memorial Day, Friday, May 15, 2009**
- **Emergency Medical Services Week, May 17-23, 2009**

ADMINISTRATOR REPORTS – Tina Volek

- Ms. Volek advised that a revised resolution for Item I, creating an ad hoc committee, was sent in the Friday Packet and available for public viewing in the Ex-Parte Notebook at the back of the room.
- Ms. Volek advised that the three protests received for Item 5, SID 1386, were sent in the Friday Packet and available for public viewing in the Ex-Parte Notebook at the back of the room.
- Ms. Volek referenced Item K and said Exhibit C of Attachment B was available for public viewing in the Ex-Parte Notebook at the back of the room.
- Ms. Volek advised that an incorrect date was provided for Item G7j, the Strawberry Festival. She said the correct date was June 13, 2009.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 6, AND 7 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.)

There were no speakers.

CONSENT AGENDA:

1. A. Bid Awards:

(1) **Airfield Concrete Ramp Joint Repair.** (Opened 4/28/09). Recommend A-Core of Idaho, Inc., \$109,730.

B. W.O. 08-01, 2008-2009 Water & Sewer Replacement Projects, Schedule 2, License Agreement with Robert and Jennifer Bradshaw to transfer two sewer services from old sewer main at 601 Grand Avenue to new sewer main; at no cost to the City.

C. Compensation Agreement for Private Contract No. 608 for extension of storm drain and sanitary sewer main in King Avenue West; St. Vincent Healthcare Foundation, Inc. and Montana Sapphire, LLC, Developers; \$100,806 sanitary sewer equal share compensation; \$255,507 storm sewer equal share compensation.

D. Maintenance Agreement with State of Montana to provide regular street maintenance of state-owned highway system within the city limits; and **Special Projects Contract Maintenance Agreement** to provide maintenance on state highway system within the city limits. Two-year agreements from July 1, 2009, through June 30, 2011; regular street maintenance revenue: \$592,035 in FY2010 and \$603,997 in FY2011; \$300,000 annual revenue for special projects maintenance.

E. Development Agreement and Deed Restriction Agreement providing a \$465,000 zero interest deferred payment loan to the Interfaith Hospitality Network for its Housing First project located at 1427 Avenue C.

F. Acknowledge receipt of petition to vacate a portion of Zimmerman Trail abutting Lot 5, Scott Subdivision; James and Jenica Buker, petitioners; and set a public hearing for June 8, 2009.

G. Street Closures:

(1) **Al Bedoo Shrine Parade**, 6/6/09, 10 a.m. to 12 p.m., commencing at 3rd Avenue N. and N. 23rd Street, west on 3rd Avenue N., south on N. 32nd Street, east on 2nd Avenue North, ending at N. 27th Street.

(2) **St. Vincent's Health Care Heart and Sole Race**, 6/13/09, 6 a.m. to 1 p.m., commencing on N. 30th Street across from St. Vincent Healthcare, south to 7th Avenue N., west on Avenue B, through Pioneer Park, north on Virginia Lane, west on Parkhill Drive, north on 17th Street W., west on Colton Boulevard, north to Poly Drive, east on Poly Drive, ending on Poly Drive north of Grandview Park.

(3) **Yellowstone Health Partnership Fun Run/Walk**, 6/20/09, 7 a.m. to 11 a.m., commencing at 2nd Avenue S and S. 26th, east to S. 25th Street, south to 6th Avenue S., west to S. 37th Street, north to 2nd Avenue S., east to S. 28th Street, south to 9th Avenue S., west to S. 31st Street, north to South Park on 6th Avenue S.

(4) Alberta Bair Theater Annual Fundraiser, 6/27/09, 10 a.m. to midnight, 2nd Avenue N. from the alley west of 27th Avenue N. to 29th Avenue N., N. Broadway between 1st Avenue N. and 3rd Avenue N., and N. Broadway between 3rd Avenue N. and 4th Avenue N.

(5) Big Sky State Games 5K Run, 7/17/09, 5:30 p.m. to 7 p.m., commencing at 3rd Street W. at Grand Avenue, north on 3rd Street W., west on Parkhill Drive to 12th Street W., east on Parkhill Drive, south on 3rd Street W., ending at Wendy's Field at Daylis Stadium.

(6) Big Sky State Games Triathlon, 7/19/09, 6 a.m. to 11 a.m., Adult course -- starting at Lake Elmo State Park, right on Rolling Hills Road to Pemberton and the entrance to All American Pharmaceuticals, left on Main Street, left on Highway 87 to Shepherd Action Road, south on Highway 87, right on Main Street, right on Pemberton to Rolling Hills and back to Lake Elmo State Park. Kids' course – starting at Lake Elmo State Park, left to Riveroaks Drive, left on Annandale Road, left on Riveroaks Drive, back to Lake Elmo State Park.

(7) Downtown Billings Association Events:

(a) Alive After 5, 6/4/09, 3 p.m. to 9 p.m., 2nd Avenue N. from N. Broadway to N. 29th Street;

(b) Alive After 5, 6/11/09, 3 p.m. to 9 p.m., N. 26th Street from Montana Avenue to 1st Avenue N.;

(c) Alive After 5, 6/18/09, 3 p.m. to 9 p.m., N. Broadway between 1st Avenue N. and 2nd Avenue N.;

(d) Alive After 5, 6/25/09, 3 p.m. to 9 p.m., N. 25th Street between Montana Avenue and 1st Avenue N.;

(e) Alive After 5, 7/2/09, 3 p.m. to 9 p.m., N. 31st Street between 4th Avenue N. and 6th Avenue N.;

(f) Alive After 5, 7/9/09, 3 p.m. to 9 p.m., N. 24th Street between 4th Avenue N. and 3rd Avenue N.;

(g) Alive After 5, 7/30/09, 3 p.m. to 9 p.m., N. 30th Street between 1st Avenue N. and 2nd Avenue N.;

(h) Alive After 5, 8/6/09, 3 p.m. to 9 p.m., N. Broadway from 1st Avenue N. to 2nd Avenue N.;

(i) Alive After 5, 8/13/09, 3 p.m. to 9 p.m., N. 29th Street between 1st Avenue N. and Montana Avenue;

(j) Strawberry Festival, 6/9/09, 3 a.m. to 7 p.m., N. 28th Street from 1st Avenue N. to 3rd Avenue N., 2nd Avenue N. from the alley west of N. 27th Street to N. 30th Street, N. 29th Street from 1st Avenue N. to 3rd Avenue N.;

(k) Harvestfest, 10/10/09, 6 a.m. to 5 p.m., N. 28th from 1st Avenue N. to 3rd Avenue N., 2nd Avenue N. from the alley west of N. 27th Street to N. 29th Street;

(l) Holiday Parade, 11/27/09, 7 p.m., standard downtown parade route;

(m) Christmas Stroll, 12/4/09, 4 p.m. to 9:30 p.m., N. 28th Street from 1st Avenue N. to 3rd Avenue N., 2nd Avenue N. from the alley east of N. 27th Street to N. 29th Street.

H. Resolution #09-18810 for temporary suspension of the camping ordinance for BLM's annual seasonal fire mobilization operation at Billings Logan International Airport, 7/1/09-10/31/09, at no cost to the City.

I. Resolution #09-18811 creating an ad hoc committee to promote annexation east of the East End TIF District.

J. Resolution of Intent #09-18812 to create SID 1387, Zimmerman Trail Subdivision Sanitary Sewer Improvements, and set a public hearing for June 8, 2009.

K. Resolution of Intent #09-18813 to create SILMD 307, Shiloh Road from Rimrock Road to Pierce Parkway, and set a public hearing for June 8, 2009.

L. Preliminary Minor Plat of Goodwin Acres Subdivision, Amended Lot 2A; a .79-acre tract located at Gentry Lane north of the 2500 block of Poly Drive; Bruce and Lynette Jensen, applicants; Eggart Engineering Company, engineer; conditional approval of preliminary minor plat, approval of two variance requests from the street development standards, and adoption of the Findings of Fact.

M. Bills and Payroll

- (1) April 10, 2009
- (2) April 17, 2009

(Action: approval or disapproval of Consent Agenda)

Councilmember Ronquillo separated Item D. Councilmember Astle moved for approval of the consent agenda with the exception of Item D and with the corrected date of June 13, 2009, for Item G7j, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved for approval of Item D, seconded by Councilmember Brewster. Councilmember Ronquillo reported that Montana Department of Transportation would continue to try to alleviate the pigeon problem at the 6th Street underpass and would install spikes to deter the pigeons. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #09-18814 AMENDING THE FY2009 BUDGET. AN AMENDMENT ESTABLISHING BUDGET AUTHORITY IN THE AIRPORT CAPITAL GRANT FUND FOR THE TAXIWAY "A" EAST REHABILITATION PROJECT TO BE FUNDED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF

RECOMMENDATION.) Ms. Volek advised that staff did not have a report on the item but was available for questions.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Ulledalen moved for approval of Item 2, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

3. CONTINUANCE OF PUBLIC HEARING AND RESOLUTION #09-18815 APPROVING AND ADOPTING THIRD QUARTER BUDGET AMENDMENTS FOR FISCAL YEAR 2008/2009. (CONTINUED FROM 4/27/09). STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.) Ms. Volek advised that the item was continued from the previous meeting and the public hearing was properly noticed. She said staff did not have a report but was available to answer questions.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember McCall moved for approval of Item 3, the resolution approving and adopting third quarter budget amendments for Fiscal Year 2008-2009, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND FIRST READING ORDINANCE EXPANDING THE BOUNDARIES OF WARD IV TO INCLUDE RECENTLY ANNEXED PROPERTY IN ANNEXATION #09-02, A .74-ACRE PROPERTY DESCRIBED AS LOT 26, BLOCK 19, LILLIS HEIGHTS SUBDIVISION, AND LOCATED AT 4739 RIMROCK ROAD; MCS PROPERTIES, LLC, PETITIONER. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.) Ms. Volek advised that staff did not have a report but was available to answer questions. Councilmember McCall stated that she would recuse herself from the discussion and vote because the petitioner was a friend and colleague.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Ruegamer moved for approval of Item 4, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10-0.

5. PUBLIC HEARING AND RESOLUTION #09-18816 CREATING SID 1386, EAST MACDONALD DRIVE AND WEST MACDONALD DRIVE, FOR CONSTRUCTION OF CURB AND GUTTER, DRIVE APPROACHES, AND STREET IMPROVEMENTS. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.) Public Works Director Dave Mumford advised that the project began about 18 months ago at the request of property owners. He said the project was estimated at approximately \$500,000, but the final costs could be less, if it followed the same pattern as recent projects that had received bids that were lower than engineer estimates.

Mr. Mumford explained that the project would be funded in three parts: 1) the asphalt component would be split evenly among the 40 property owners after the City's portion was subtracted from the cost; 2) the curb and gutter costs would be assessed only to those properties without curb and gutter; and 3) the driveway approaches would be assessed only to those properties that had them. Mr. Mumford stated he believed the driveway approach portion of the project caused some issues and confusion with the residents. He noted that staff would work with the residents to keep the costs as low as possible. Mr. Mumford advised that the SID was for 15 years and would be split among the 40 property owners. He reported that three protests had been received, which was not enough to halt the project.

Councilmember Veis asked how many meetings were held with the residents about the project. Mr. Mumford responded that there were about seven meetings. Councilmember Ruegamer referenced a protest letter that mentioned some property owners owned more than one lot but would be assessed as if it was one single lot. Mr. Mumford explained that the assessment was made by tax code and some property owners had the lots combined into a single code. Councilmember Ruegamer asked if anyone could be excluded from the SID. Mr. Mumford stated that everyone on the street benefitted when the road was improved.

Councilmember Veis asked about discussion at the meetings regarding the allocation. Mr. Mumford advised that a lot of time was spent talking about that and the residents voted on their preference. He said item 3 seemed to be confusing. He said the cost for that component would range \$5,000-11,000 per property. Councilmember Veis asked about the possibility of removing the driveway component. Mr. Mumford explained that a lot of water moved down that street and adequate curbing would be needed to keep it flowing so it would not back up into anyone's property. Councilmember Ruegamer asked if there would be liability with flooding if the driveways were not installed. Mr. Mumford said there would not be any liability because the curb and gutter and the return had to be installed regardless to take care of the water flow.

The public hearing was opened.

- **Frederick Kahn, 3003 West MacDonald** said the intent of the neighborhood was to share to cost of the project, but some homeowners would end up paying more than others. He said he felt item 3 was not presented clearly and requested dividing the cost evenly among the 40 property owners. He stated that the neighbors were all in favor of getting the project done.

Councilmember Ruegamer asked Mr. Kahn if he agreed with the driveway approach idea that staff would work with each property owner. Mr. Kahn said he was opposed to the way it was presented because he felt it was not clearly stated, but it was acceptable for staff to work with the property owners.

Councilmember Ulledalen commented that it was an interesting group of people to work with because the residents were willing to

shoulder extra costs to help out others. He said the terrain in that area was very extreme and varied.

- **Natalie Goulding, 3107 East MacDonald** stated that she had lived on the street since 1955. She said there were three broken water mains last summer and the street was a disaster. She encouraged passage of the SID.
- **Tom Gormley, 3131 East MacDonald** said his wife got the ball rolling on the project. He stated that payment was discussed at the last neighborhood meeting and it was determined that people who had curbs did not have to pay for them again. He said there was no way to know the figures for item 3 of the project.
- **Pete Teller, 3215 East MacDonald** reported that he had lived in his current home for eight years. He said his previous work experience provided him with knowledge about civil infrastructure and that road was a disaster. He said the road was needed and he supported the SID. Mr. Teller noted that the downed timber still at the park along the street was dangerous and he suggested having it cleaned up.
- **Don Sterhan, 3104 East MacDonald** expressed his support for the project. He said it was time for a street and many neighbors were willing to do whatever it took to get the street fixed.
- **Ken Steinmetz, 3190 West MacDonald** said it was a safety issue because two cars could not pass each other without one having to pull over. He added that winter use of the park caused parking problems.
- **Karen Sanford Gall, 3110 East MacDonald** thanked the Council and staff for the hard work on the project. She said she supported the street and improvements but felt item 3 should be shared equally.
- **Bruce Harper, 3206 East MacDonald** said the neighborhood was together on the issue and thought the City had done all it could to be fair about item 3. He expressed his support of the project.

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

Councilmember Veis moved for approval of creating SID 1386, East MacDonald Drive and West MacDonald Drive, seconded by Councilmember Ruegamer. Councilmember Ulledalen stated that staff did an excellent job and the people in the neighborhood were willing to share the expense of the project. He said he supported it and asked for any latitude with item 3 of the SID.

Councilmember Astle advised that if the SID totaled \$318,000, the annual assessment per property owner would be about \$530 per year and it was a tax deductible item. He suggested putting the driveway approaches in now rather than waiting to do them later when the cost would likely be greater.

Councilmember McCall stated she would support the SID. She thanked staff for their work and Councilmember Ulledalen for his involvement. She said it was a good project and she hoped the issues with item 3 could be worked out.

On a voice vote, the motion was unanimously approved.

6. COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP PROGRAMS AND THE FY2009-2010 ANNUAL ACTION PLAN. PUBLIC HEARING HELD APRIL 27, 2009. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)

Community Development Manager Brenda Beckett advised that the Community Development Board met and approved the recommendation without any changes. She noted that five public service activities were recommended for funding, not 14 as mentioned in a recent newspaper article. She clarified that there were 14 applications, but only five were recommended for funding.

Councilmember Ronquillo asked if affordable housing had to be approved by the task force in order to receive funding. Ms. Beckett explained that since 2003, not one had been funded without task force approval. She noted that task force input and support was very important to the Community Development Board.

Councilmember Brewster moved for approval of the Community Development Block Grant and HOME Investment Partnership Programs and the FY 2009-2010 Annual Action Plan, seconded by Councilmember McCall. Councilmember Pitman advised that he would recuse himself from the discussion and vote because he was involved with three of the projects recommended for funding. On a voice vote, the motion was approved 10-0.

7. FY 2010 DOWNTOWN BILLINGS PARTNERSHIP PROJECT PROPOSAL FOR \$20,000 OF N. 27TH STREET TAX INCREMENT DISTRICT FUNDS FOR FOUR DOWNTOWN IMPROVEMENT PROJECTS. STAFF RECOMMENDS APPROVAL. (ACTION: APPROVAL OR DISAPPROVAL OF STAFF RECOMMENDATION.)

Ms. Volek advised staff did not have a report but was available for questions. Councilmember Pitman moved for approval of the FY 2010 Downtown Billings Partnership Project Proposal for \$20,000 of N. 27th Street TIF District Funds for four Downtown improvement projects, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

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.)

There were no speakers.

Council Initiatives

Councilmember Ulledalen said he did not have an initiative but wanted to report that he received a call regarding the growing problem of graffiti on the rims, and in the area north of MSU-B. Mayor Tussing noted that he received a similar message from someone who called about graffiti at the end of 17th Street

West, but the caller did not leave contact information so he was unable to return the call. Ms. Volek advised that the Fire Department's rope team had assisted with clean-up in the past and she would contact them.

Councilmember Astle reported that he received a complaint from a resident regarding off-street motorcycle riders in the 36th and Monad area. Ms. Volek advised she would contact the resident and follow-up on the complaint. Councilmember Clark said the Police Department was aware of the situation.

ADJOURN – The meeting adjourned at 7:21 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 contact Cari Martin, City Clerk, at 657-8210.