

SPECIAL MEETING OF THE BILLINGS CITY COUNCIL

June 26, 2006

The Billings City Council met in a special session in the Council Chambers, located on the Second Floor of the Police Facility at 220 North 27th Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 5:30 p.m. and served as the meeting's presiding officer. The Mayor led the Pledge of Allegiance, followed by the Invocation which was given by councilmember Vince Ruegamer.

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

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #5 thru #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.)

- CONNIE WARDELL, 1302 24th ST. W, spoke on Item 7. She said the City is at “a tipping point” with Cobb Field. She urged the Council to place the bond issue on the ballot and let the voters make the decision on whether the community gets a new stadium and taxpayers pay for it. She said the fate of the stadium will determine whether the community continues to have a baseball team.
- MARY WESTWOOD, 2808 MONTANA AVE., urged the Council to move forward with the Cobb Field bond issue. She said she realizes the Council wants private donations for the facility, but the City needs to move forward with the bond issue. She suggested opening up the opportunity to contribute funding for the facility to anyone interested.
- MIKE ROSSI, 2636 RIVER OAKS DR., said the mill levies are breaking the back of taxpayers. He said he could not support the Cobb Field bond issue. He noted that corporate naming sponsors should be considered as a source of potential funding.
- JOE WHITE, 926 N. 30th St. spoke on Cobb Field, stating he opposes putting the bond issue on the ballot. The stadium should be the responsibility of the baseball community.

CONSENT AGENDA:

1. A. **Bid Awards:**
 - (1) **AIP 27 – Schedule I: Security Access and Monitoring Upgrade; Schedule II Alternate – Gate 24.** (Opened 6/13/06). Recommend rejecting all bids and redesigning the project for rebidding at a later date.

(2) **Passenger Loading Bridge Replacement.** (Opened 6/13/06). Recommend Fisher Construction, \$2,959,225.00.

(3) **2006 Billings Water Service Replacement Project.** (Opened 6/06/06). (Delayed from 6/12/06). Recommend re-evaluating the project for possible re-advertisement in the future.

(4) **Airfield Concrete Ramp Joint Repair.** (Opened 6/13/06). Recommend A-Core, \$225,750.00.

B. Amendment #2, Professional Services Contract, W.O. 04-11: South Billings Blvd, Morrison-Maierle, Inc., \$17,295.00.

C. Memorandum of Understanding with Beartooth Resource Conservation and Development Area, Inc. (RC&D), and assessment for FY 2005-06, \$8,380.00.

D. W.O. 00-15: Grand Avenue Widening, Right-of-Way Agreement and Warranty Deed from Benjamin L. Brown, \$36,153.60.

E. Addendum to Contract, extending the term of the contract with Gallagher Benefit Services, Inc. for health insurance consulting services, extended term ends: 12/31/06; \$2,500 per month.

F. W.O. 04-36: Briarwood Sanitary Sewer Main Extension, purchase of property described as C/S 566, Tract 1A and C/S 656, Tract A2, from Blue Creek Partnership, LP for sanitary sewer lift station site, Blue Creek LLC, owner, \$550,000.00.

G. Acknowledge receipt of Annexation petition #06-07: annexation of 57 acres in T1N-R26E-S23: N2NE4 Less C/S 515 and C/S 1335, but including C/S 999, generally located south of Wicks Lane between Hawthorne Lane and Bitterroot Drive, Felton Associates LLC, owner and petitioner, and setting a public hearing date for 7/10/06.

H. Acknowledge receipt of Annexation petition #06-09: annexation of 2.1371 acres in T1S-R25E-S23: NE4 described as C/S 2771, Tract 2, generally located on the south side of Hesper Road west of S. 32nd St. W, Rice Wagon, LLC, petitioner, Brady Wagner and Carrie Orr-Wagner, owners and setting a public hearing date for 7/10/06.

I. Revolving Loan Fund increase on the loan to Montana Power Building LLC, \$40,000.00.

J. Declaring Surplus Property, four out-of-warranty ballistic vests and authorizing the Police Dept. to release them to the Fromberg Police Dept.

K. Street Closures:

(1) Big Sky State Games, *5K Run*, July 14, 2006.

(2) Big Sky State Games, *Cycling Mountain Bike Race*, July 16, 2006.

- (3) Big Sky State Games, *Triathlon*, July 16, 2006.
- (4) Big Sky State Games, *Cycling Race*, July 15, 2006.

L. Resolution 06-18438 creating an *Architect/Engineer Contract Standards* Ad Hoc Committee, establishing the committee purpose, scope of responsibilities, composition, duration and making appointments.

M. Resolution 06-18439 relating to \$851,000 Pooled Special Improvement District Bonds, Series 2006 (SIDs 1368, 1370 and 1373); fixing the form and details and providing for the execution and delivery thereof and security thereof.

N. Resolution 06-18440 creating the Electronic Signs Ad Hoc Committee.

O. Second/final reading ordinance 06-5372 re: fair ballot language.

P. Preliminary Plat of Amended Lots 1, 2, and 9-14, Block 1 and Lot 1, Block 2, Aspen Gateway Subdivision, generally located on the southeast corner of the intersection of Bitterroot Drive and Wicks Lane, conditional approval of the plat and adoption of the findings of fact.

Q. Final Plat of Arlene Subdivision.

R. Bills and payroll.

- (1) June 2, 2006
 - (2) May 1 – 31, 2006 (Municipal Court)
- (Action:** approval or disapproval of Consent Agenda.)

Councilmember Jones separated Item L and Item C. Councilmember Boyer separated Item N. Councilmember Ulledalen moved to approve the Consent Agenda with the exception of Items C, L and N, seconded by Councilmember Gaghen. There was no discussion on the motion. On a voice vote the motion was unanimously approved.

Councilmember Ulledalen moved for approval of Item 1C, seconded by Councilmember Brewster. Councilmember Jones said he is a representative on this Board and will therefore “recuse” himself from discussion and voting on this item. On a voice vote of the motion, the motion was unanimously approved, with Councilmember Jones abstaining.

Councilmember Ulledalen moved for approval of Item 1L, seconded by Councilmember Stevens. Councilmember Jones amended the motion to add an additional councilmember to the Committee and volunteered to be one of the councilmembers appointed, seconded by councilmember Brewster. On a voice vote, the amendment was unanimously approved. On a voice vote on the motion as amended, the motion was unanimously approved.

Councilmember Ulledalen moved for approval of Item 1N, seconded by Councilmember Brewster. Councilmember Boyer asked if Ms. Volek had added her recommendation to this item. Interim City Administrator, Tina Volek said the item had

been revised and sent in the Friday packet. Councilmember Ruegamer confirmed that Councilmember Brewster was on the Committee and asked that the Committee bring several alternatives to the Council. Councilmember Brewster said that the scope of this Committee is narrow, dealing strictly with the code that regulates signs to make it clear for those enforcing the code and for individuals posting signs. On a voice vote on the motion, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 06-18441 authorizing the filing of a Federal Transit Administration (FTA) Section 5307 grant application. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff presentation. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Boyer moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 06-18442 on the appeal of the assessment of the arterial construction fee, James A. (Ziggy) Ziegler, applicant. Staff recommends approval of a resolution denying the request. (Action: approval or disapproval of Staff recommendation.)

There was no Staff presentation. The public hearing was opened. JAMES A. (ZIGGY) ZIEGLER OF 3040 HOLLOW TREE ROAD said he had appeared before the Council last August and had not received a response to his tax protest. Four years ago he agreed to be annexed into the City and his tax bill with the County then was \$60.19. His first tax bill with the City was \$1619.00, a 2700% increase. He said his tax bill has continued to increase on a yearly basis. Councilmember Jones said that Mr. Ziegler's figures were different from the figures in the Council packet. Mr. Ziegler said he is looking for a \$752 arterial fee refund, which is his tax protest for the second half of 2004. Interim City Administrator, Tina Volek said the difference in the figures was the difference between the full taxes and the arterial fee only. Mr. Ziegler said he does not have any City services.

Councilmember Boyer asked Dave Mumford, Public Works Director, to explain the situation. Mr. Mumford said all the services are stubbed to his property, but Mr. Ziegler has not brought the services into his property; i.e. he hasn't connected to the services. Mr. Mumford added that the City changed to underlying zoning in 2004 as the basis for arterial fee assessments and Mr. Ziegler's was assessment reduced to \$35 for the next year.

Councilmember Stevens asked Mr. Mumford if the City changed the method of assessment to the disadvantage of the homeowners without proper notification. Mr. Mumford said the City sent out the assessments 6 months prior to the taxes being due and sought Council direction on the assessment procedure.

There were no other speakers. The public hearing was closed. Councilmember Ruegamer moved for approval of the Staff recommendation, seconded by Councilmember Boyer. Councilmember Brewster reminded the Council that assessments are not set by the City, but are regulated by State law. Councilmember Stevens said it appears the City "got the cart before the horse" on this matter.

Councilmember Jones asked Staff if the City would have to pay all other 4,000 citizens the rebate. City Attorney, Brent Brooks said that only the citizens that petition for the refund would be eligible for the refund. On a roll call vote, the motion failed 4 – 6. Councilmembers voting “yes” were: Gaghen, Ruegamer, Ulledalen and Boyer. Councilmembers voting “no” were: Ronquillo, Stevens, Brewster, Jones, Clark and Tussing.

Councilmember Clark moved to rebate back to Mr. Ziegler \$340.63, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved. Councilmembers Gaghen, Ruegamer, Ulledalen and Boyer voted “no”.

4. PUBLIC HEARING AND RESOLUTION 06-18443 amending Res. 01-17659: a resolution setting fees and rates for City-owned parking garages and meters. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Deputy City Administrator, Bruce McCandless presented a revised proposal for parking garages and on-street meters. He said Staff tried to respond to the Council’s request for a “tiered affect,” charging a higher rate for the higher used parking structures. The Council noted that City-owned on-street lots had not been included in the original proposal. Those parking lots were included with this proposal. The Staff recommendation would raise the parking meter charge from \$.25 per hour to \$.35 per hour and make up the difference in the parking lots.

In the garages, the hourly rate would remain at \$0.25/hour for the first 2 hours, and then go to \$1.00/hour thereafter. The roof and covered parking would increase \$10/month and \$15/month for Park III. Assigned spaces would remain the same, increasing to \$100 in three years rather than five years. The “Veeder” lot would increase from \$25 to \$35/month and the N. 27th lot would increase from \$45 to \$55/month. These changes are expected to yield \$144,000 in net income – after debt service.

Mr. McCandless summarized the other Staff recommendations as:

- Freezing the General Fund transfer rates at the FY06 transfer amount
- Having a “rolling” 30-day period for courtesy tickets
- Increasing the meter “plugging” fine from \$10 to \$25
- Changing the “booting” policy so there is no minimum number of tickets, only \$50 in fines and not requiring notice to the owner.
- Retaining the group discount for leased garage spaces: 5-24 spaces – 5% discount; 25+ spaces – 10% discount
- Deferring action on the 10-minute and loading zones for 60 days and making no change at this time
- Conducting periodic rate reviews – at least annually.

Councilmember Clark asked if the City currently has contracts with companies for long-term parking that can’t be changed. Mr. McCandless said the City has contracts and can make changes but a specific time limit is included. Councilmember Ronquillo asked about enforcement and Mr. McCandless said that an occasional missed ticket will happen. Councilmember Ulledalen asked Staff to review the parking usage in three-to-four months and determine if there are shifts happening due to the rate changes and in 6 months make any necessary adjustments. Mr. McCandless said the Parking Board had recommended a review because of the unknown portion of this resolution.

Councilmember Boyer said the brunt of the rate structure is falling on the parking garages and not on the meters. She also asked that the parking fees not be transferred into the General Fund at the current rates, adding that the General Fund needed to be “weaned off” of these transfers. Mr. McCandless said that the current year budget has already been set, but the General Fund could be adjusted in future years. Councilmember Gaghen asked how the current rates compare to the proposed rates.

Councilmember Stevens asked what kind of data is being collected and is it by the meter or by the block. Mr. McCandless said Staff has collected detailed information on the garages and the street lots. The meter collections are difficult because the attendants cannot count the monies from each meter. Councilmember Stevens encouraged better data collection to determine the success of this resolution. Councilmember Ulledalen also encouraged review of the rate structure in a year to determine if the results are as expected. Councilmember Gaghen praised the Parking Advisory Board for the work it contributed in the past year. Councilmember Gaghen said she is concerned about the automatic increase each year. Councilmember Boyer said she wants a “balanced” approach and not to penalize shoppers or downtown employees.

The public hearing was opened. AARON SPARBO OF 602 POLY said that his company leases 250 spaces and receives the group discount in the garage. He knew that rates would have to go up and was comfortable with the Parking Advisory Board’s proposal. He said he is uncomfortable going from \$45 to \$80 on the reserved space in the new structure. He suggested that a 3-4% increase on a yearly basis would be reasonable. Mr. Sparbo asked the Council to take another look at the original rate proposal of the Parking Advisory Board and move forward.

MIKE ROSSI OF 2636 RIVER OAKS DRIVE said maybe the parking could go up \$5.00 per year for 7-10 years. He also said that changing the meter rate from \$.25 to \$.50 is not unreasonable.

CHARLEY HAMWEY OF 1010 GRAND AVENUE said the first proposal of the Parking Advisory Board made sense. As a realtor he is trying to get tenants into the downtown corridor and they need reserved parking spaces. \$80 is out of line; \$65 makes more sense. Mr. Hamwey said changing the meter rate to \$.35 or \$.50 was not a problem.

MARY WESTWOOD OF 2808 MONTANA AVENUE said she sees enforcement every day for those individuals that park for more than two hours and those that move their cars to avoid the fines. She encouraged the Council to follow the Parking Advisory Board recommendations. The goal is to move people off the street and into the parking structures and encourage turnover at the meters. She said the City may need stronger enforcement but it should not be combined with the rate issue. Ms. Westwood said the City needs to get the rates done to move forward with the parking structure, transit center, etc.

JOE WHITE OF 926 N. 30TH ST. said he’s opposed to the meter rate increase. Mr. White said if the City raises the meter rates then people will go to the malls for shopping. Mr. White said the garages rates were justifiable. He said the City should add restrooms to the parking structures and clean up the parking structures.

BRENDA BURKHARTSMEIER OF 439 GRANDVIEW said she is the current chairperson of the Parking Advisory Board. She stated she was frustrated that the

Council did not approve the Board's first proposal. The Board wants some changes in the parking structure, but is reluctant to make suggestions because of the controversy involved in the parking arena. She encouraged the Council to consider the Board's original recommendation and make some changes if necessary.

BRUCE SIMON OF 217 CLARK AVE. said the information in the Council packet is different from the proposal before them tonight, calling the different versions of information "a moving target." Mr. Simon said that the street meter prices do not need to be raised. He has tenants that he is concerned will be hurt psychologically. Mr. Simon said that the charges are unfair in that on-street parkers are expected to pay for building parking garages.

There were no other speakers. The public hearing was closed. Councilmember Brewster moved for approval of the original Parking Advisory Board recommendation plus the recommendation from Staff of the addition of a rolling 180-day period for the courtesy ticket, seconded by Councilmember Clark. Councilmember Boyer amended the motion to maintain the freeze on the General Fund transfer at current rates, look at rates yearly and set the on-street meter rate at \$0.35/hour instead of \$0.50/hour, seconded by Councilmember Stevens. Councilmember Jones asked how much the proposed parking meter change would generate. Mr. McCandless said it would generate about \$284,000 in the next fiscal year. On a voice vote, the amendment was unanimously approved.

Councilmember Stevens moved to amend the motion to have a periodic review of the parking rate structure every six months, second by Councilmember Gaghen. Councilmember Gaghen said the enforcement is just as important as the increased revenues. Councilmember Clark noted that some of the amendments were contained in the original proposal. Councilmember Ulledalen said six months is a good review time and noted that Staff needs to work with the Parking Advisory Board on enforcement issues. Councilmember Boyer said the City should consider using a collection agency for those with large fines. Councilmember Gaghen asked if ticket fines could be attached to the issuance of driver's licenses. City Attorney, Brent Brooks said the City could not attach fines to the car licenses because it is the County that issues licenses. Councilmember Jones said it is inappropriate to add a structured review time period in an ordinance and noted that it should be a council initiative instead. On a voice vote the amendment was approved. Councilmembers Clark, Jones and Brewster voted "no".

Councilmember Jones moved to amend the motion to increase the new spaces in Park II to \$65/month. There was no second; the motion died.

Councilmember Jones moved to amend the motion to cap the discount on reserved spaces at 10% instead of 15%, seconded by Councilmember Brewster. The amendment failed on a voice vote. Councilmembers Stevens, Brewster, Jones and Clark voted "yes".

The twice amended motion was to approve the original Parking Advisory Board recommendation, to include the Staff recommendation which would freeze the general fund transfers at current rates, change parking meters from \$.25 to \$.35 per hour, review the rate structure every six months and amend the courtesy ticket to a rolling 180-day period.

Mayor Tussing called for a voice vote on the twice-amended motion. The amended motion was approved with only Councilmember Jones voting "no".

5. RESOLUTION 06-18444 approving and adopting a budget amendment for FY 2005/2006 re: public defender budget. (Delayed from 6/12/06). Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no presentation from Staff. Interim City Administrator, Tina Volek said that the State of Montana will be taking over the public defender operation on July 1, 2006. Councilmember Stevens moved to approve the budget amendment for FY 2005/06, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

6. W.O. 04-18: PARK II EXPANSION:

(A) BID AWARD: W.O. 04-18: Expansion and Repairs of Park II and Repairs of Park I. (Opened 5/23/06; delayed from 6/12/06). Staff recommends awarding a construction contract to Fisher Construction, \$6,597,218.08 and 330 calendar days for construction of the base bid design.

There was no Staff presentation. Councilmember Gaghen moved for approval of the Staff recommendation, seconded by Councilmember Boyer. Councilmember Brewster said the problem with steel structures was encountered on the coast and the City should consider a steel structure in future building projects. Councilmember Ulledalen said the problem with steel structures comes about when melding concrete and steel vertical members. Councilmember Ruegamer agreed the City should look at a steel structure, but it is too late in the process to be making changes at this time with this project. He also asked Mr. McCandless if the exterior design on the parking structure will meet with Wells Fargo's approval. Deputy City Administrator, Bruce McCandless said that the exterior design on the horizontal expansion has not changed from the initial representation to Wells Fargo. Councilmember Clark asked if there is a penalty or incentive if Fisher Construction goes over the 330-day agreement. Interim City Administrator, Tina Volek said that as far as she remembered there is no penalty or incentive and any changes would have to come through a change order. There was no further discussion. On a voice vote, the motion was unanimously approved.

(B) PUBLIC HEARING AND VARIANCE #CC05-03: a variance from the site development ordinance, Section 6-1208(h)(3) re: driveway width and Section 6-1203(j)(2) re: curb cuts. (Delayed from 6/12/06). Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

There was no Staff presentation. The public hearing was opened. There were no speakers. The hearing was closed. Councilmember Ronquillo moved for the approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

7. RESOLUTION submitting the question of issuance of \$12,500,000 General Obligation Bonds for the design and construction of a new baseball stadium to City of Billings' voters. Parks, Recreation & Cemetery Board recommends approval. (Action: approval or disapproval of Parks, Recreation & Cemetery Board recommendation.)

Interim City Administrator, Tina Volek asked the Council to delay this item to the July 24th meeting in order to allow Staff the time it needs to review alternate financing.

Councilmember Clark moved to approve the Staff recommendation, seconded by Councilmember Gaghen. Councilmember Ruegamer made a substitute motion to delay Item 7 as requested by Staff, seconded by Councilmember Boyer.

Councilmember Clark said he doesn't understand why this decision was made without anyone from the Steering Committee being involved in this delay. Ms. Volek said that the Committee and the Council was informed of this requested delay. Councilmember Boyer said she sees this delay as a positive sign. It will allow the community time to get behind this issue. Councilmember Ulledalen said there is a surprising amount of support for Cobb Field that isn't seen in the press.

Mayor Tussing said the City may not need \$12.5 Million for Cobb Field because of individual donations. By postponing voting on the field there will be more time to contact those individuals willing to make donations, he explained. On a voice vote, the substitute motion was unanimously approved. The item was delayed to July 24th.

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.

ADJOURN — With all business for the special meeting complete, the Mayor adjourned the meeting at 7:32 P.M.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Tami Greeley, Deputy City Clerk