

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 29, 2002

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, which was given by Councilmember Brown.

ROLL CALL – Councilmembers present on roll call were: McDermott, Bradley, Brown Brewster, Kennedy, Poppler, Ohnstad, and Jones.

MINUTES – January 14, 2002. Approved as printed.

COURTESIES - None.

PROCLAMATIONS – Mayor Tooley.

Mayor Tooley proclaimed February 9, 2002 as American Bowling Congress Day in the City of Billings.

BOARD & COMMISSION REPORTS. – None

ADMINISTRATOR REPORTS – Dennis Taylor.

- Mr. Taylor complimented everyone's participation in the Torch Run despite the challenges including the cold weather. He said he was proud of the work of the committee, headed by Chief Jochems, our staff in all areas and the volunteer efforts, as well. Finally he was inspired and grateful for the response from the community. He formally thanked Chief Jochems and announced he will present Chief Jochems with an Administrators Award for his role in the Torch Run during a future courtesy. Chief Jochems will in turn be passing out appropriate recognition to his staff.
- He passed along the invitation from the Downtown Billings Partnership to the Councilmembers for a breakfast meeting Wednesday, January 30th at 7:30 a.m. at the partnership office. The meeting will focus on goal setting for the coming year.
- He announced that the next Agenda Meeting would be in the Council Chambers at 6 p.m. rather than the City Hall Conference Room. He said the work session would include a more detailed look at the issue of the library status in regards to a new structure or renovation of the existing structure. David Smith, the library consultant on this project, will present the information to the Council. Mayor Tooley noted that the meeting place of the Council Chambers for the February 4th meeting is for that meeting only. He explained that a lack of space to have presentations such as the Library's, that require more space, prompted the move. The Mayor added that the goal is to find a suitable room for future agenda meetings where the arrangement lends itself to a circular plan that promotes conversation.

CONSENT AGENDA:

1. A. Mayor's Appointments/Reappointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Shoots Veis	Board of Adjustments	01/01/2002	12/31/2005
2.	Sandy Weiss	Board of Adjustments	01/01/2002	12/31/2005
3.	Danny Graves	Board of Adjustments	01/01/2002	12/31/2005
4.	Toby Stapleton	Board of Appeals	01/01/2002	12/31/2005

5.	Michael Kenney	Community Development	01/01/2002	12/31/2005
6.	Peter Light MD	EMS Advisory Board	01/01/2002	12/31/2002
7.	Michael Bush MD	EMS Advisory Board	01/01/2002	12/31/2005
8.	Russell Myers	Board of Ethics	01/01/2002	12/31/2005
9.	Ann Ferguson	Yell. Historical Preservation	01/01/2002	12/31/2003
10.	Anne Foster	Yell. Historical Preservation	01/01/2002	12/31/2003
11.	Armand Lohof	Yell. Historical Preservation	01/01/2002	12/31/2003
12.	Virginia Smith	Yell. Historical Preservation	01/01/2002	12/31/2003
13.	Erica Limberhand	Housing Authority	01/01/2002	12/31/2003
14.	Maureen Jurovich	Housing Authority	01/01/2002	12/31/2006
15.	Michelle Gasek	Human Relations	01/01/2002	12/31/2005
16.	Scott Wetzel	Parking Advisory Board	01/01/2002	12/31/2005
17.	Ken Nicholson	Parking Advisory Board	01/01/2002	12/31/2005
18.	Jim Collins	Parks/Rec/Cemetery	01/01/2002	12/31/2005
19.	Kevin Guenther	Yell. Co. Planning Board	01/01/2002	12/31/2003
20.	Carol Gibson	Yell. Co. Planning Board	01/01/2002	12/31/2003
21.	Jack Johnson	Yell. Air Pollution Control Bd.	01/01/2002	12/31/2003
22.	Terry Houser	Public Utilities Board	01/01/2002	12/31/2005
23.	Steve Brown	Public Utilities Board	01/01/2002	12/31/2005
24.	Bruce Larsen	Traffic Control Board	01/01/2002	12/31/2005
25.	Doug Kary	Traffic Control Board	01/01/2002	12/31/2005

#	Name	Board/Commission	Term		Comment
			Begins	Ends	
1.	Emily Shaffer	Community Development	1/01/02	12/31/04	Reconfirmation of earlier appt
2.	Wanda Walker	Parks/Rec/Cemetery	1/01/02	12/31/05	Reconfirmation of earlier appt
3.	Brenda Burkhartsmeier	Traffic Control Board	1/01/02	12/31/02	Fills unexpired term of Sandy Fisher
4.	Janet Hawley	Community Development	1/01/99	12/31/02	Confirm
5.	Jack Eagle	Exchange City Golf Club	1/01/01	12/31/03	Confirm
6.	Chuck Barthuly	Parking Advisory Board	1/01/99	12/31/02	Confirm
7.	Dennis Whitmore	Zoning Commission	1/01/00	12/31/03	Confirm

B. Bid Awards:

- (1) **W.O. 96-08: 2000 School Route Improvements.** (Opened 1/15/02). Recommend Rock Pile, Inc., \$150,994.00 and 40 calendar day, contingent upon MDOT concurrence.
- (2) **Two Grounds Maintenance Park Tractors.** (Opened 1/22/02). Recommend delay to 2/11/02.
- (3) **Water Treatment Plant Improvements, Pretreatment, Contract XIII – Phase IIA.** (Opened 1/22/02). Recommend delay to 2/11/02.
- (4) **IP-9 Renovation for Billings Logan International Airport.** (Opens 1/29/02). Recommend delay to 2/11/02.
- (5) **One New Current Model 2002 One-Ton 4x4 Extended Cab Pickup with Utility Box and Air Compressor for Public Utilities Dept.** (Opens 1/29/02). Recommend delay to 2/11/02.

(6) **Three-Year Mowing Services for Billings Logan International Airport.** (Opens 1/29/02).
Recommend delay to 2/11/02.

(7) **Five-Year Uniform Rental Service for Billings Logan International Airport.** (Opens 1/29/02).
Recommend delay to 2/11/02.

C. **C.O. #1, W.O. 01-01: 2001 Waterline Replacement Project,** Gray Construction, Inc., (increase) \$25,816.36 and 0 days.

D. **C.O. #1, SID 1356, Schedule I: Utilities,** COP Construction, \$0 and 0 days; **AND C.O. #1, SID 1356, Schedule II: Streets,** JTL Group, \$0. 0 days. (Change in prevailing wage rates only).

E. **C.O. #1, W.O. 95-08: Phase II Shiloh Bike/Pedestrian Underpass,** Edward T. Copps Construction, (increase) \$2,990.93 and 23 additional days.

F. **C.O. #1, W.O. 00-02, #2: Broadwater Subdivision Improvements, Phase III,** Rock Pile, Inc., (increase) \$21,000 and 0 calendar days.

G. **C.O. #1, AIP #21,** Empire Sand and Gravel, (increase) \$79,280.42 and 0 days.

H. **Amendment #1, W.O. 00-15: Grand Avenue Reconstruction – 8th Street West to 12th Street West AND associated PUD Replacement Projects,** Kadrmass, Lee, and Jackson, (increase) \$5,997.00.

I. **Professional Services Contract, SID 1354: Widening of King Avenue East – South Billings Boulevard to Parkway Lane,** HKM Engineering, Inc., \$287,830.00.

J. **Non-commercial Aviation Ground Lease,** Agri-Systems, \$4,562.00 rental first year with subsequent years adjusted by CPI, Term: 20 years.

K. **Easement** for underground power by Montana Power Company to VoiceStream Radio site.

L. **Pledged securities** by Wells Fargo Bank as collateral for Certificates of Deposit.

M. **AmeriCorps Planning Grant** application; approval to proceed with application.

N. **Misdemeanor Supervision Program,** approval to proceed with grant renewal application.

O. **Billings Outlaws Superbowl Tailgate and Mardi Gras Party,** closure of N28th St between 3rd and 2nd Aves. N, February 3, 2002 from 6:00 AM to 10:00 PM.

P. **Resolution 02-17792** authorizing the use of \$4,500 Council Contingency funds for the purchase of a walk-through metal detector for the courtroom entrance.

Q. **First reading ordinance** adding Section 15-104(a) – (e), approving the interlocal agreement between the City of Laurel, the City of Billings, and Yellowstone County creating a multi-jurisdictional service district named the *Yellowstone City-County Health Department*, and setting a public hearing for 2/11/02.

R. **First reading ordinance** expanding the boundaries of Ward II to include recently annexed property (Annex 01-14): an unplatted 27 acres in T1N-R25E-S23: SE1/4, NW1/4, (Annex 01-14), Zella Yegen Trust B and C, owners, and setting a public hearing for 2/11/02.

S. **First reading ordinance** expanding the boundaries of Ward II to include recently annexed property (Annex 01-20): Lots 1-4; Block 5; Lots 1-4, Block 6; Lots 1-4, Block 8; Lots 1-4, Block 9; Lots 1-5, Block 7; Lots 11-19, Block 10, Lots 3-

8, Block 11, Daniels Subdivision, 2nd filing; generally located along Peony and Columbine Drive, east of Hawthorne Lane and south of Mary Street. B & R Development, petitioners and setting a public hearing for 2/11/02.

T. **Preliminary Plat** of j & e Subdivision, generally located on the west side of Hawthorne lane, ¼ mile south of Wicks Lane.

U. **Final Plat** of Circle Fifty Subdivision, Amended Plat of Lot 1C of Amended Lots 1 and 2, Block 1.

V. **Bills and payroll.**

(Action: approval or disapproval of Consent Agenda.)

Councilmember Bradley separated Items K and O. Councilmember McDermott separated Item A. Councilmember McDermott moved for approval of the Consent Agenda EXCEPT for Items A, K and O, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item A, seconded by Councilmember Kennedy. Councilmember McDermott requested that the appointments be coded as to whether they are general or special positions with regard to the criteria of that position, and be noted with each Board and Commission appointment. She also requested that all Boards and Commission member lists be updated and distributed to the Council. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item K, seconded by Councilmember Kennedy. Councilmember Bradley asked if Touch America will become a separate entity when Montana Power Company coverts. Airport Director Bruce Putnam explained that the easement is for underground power supplied from Montana Power to the VoiceStream radio site equipment antenna that will be located on Verizon's tower. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item O, seconded by Councilmember Bradley. Councilmember Bradley commented that the item appeared on the agenda to look like a Gazette headline stating that Billings was outlawing the Superbowl Tailgate and Mardi Gras Party. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 02-17791 approving and adopting a General Fund: Parks & Recreation department budget adjustment for a separate division in the Parks & recreation Dept for the operation of the Stewart Park batting cages. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

City Administrator Dennis Taylor reported that the City of Billings has had a long-term agreement with the current owners of the batting facility. The owners have decided to retire earlier than expected and wish to return the assets to the City earlier than planned. Mr. Taylor stated that the City desires to continue the contract and operate the facility as a city operation.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Bradley moved for approval of staff recommendation, seconded by Councilmember McDermott. Councilmember Jones asked to see financial data, or an analysis of a business plan as this will become a business venture. Finance Director Robert Keefe said that an analysis or business plan had not been done, however based on revenues generated and expenses of the previous owner, the Park and Recreation Department estimates for the remainder of FY 2002 revenues will be \$32,000.00 with \$28,290.00 in expenses which includes a one-time payment of \$1750.00 to the previous owners for equipment costs. Councilmember Brown wondered if there were no private citizens interested in bidding on the concession. Mr. Taylor stated that in the initial creation of the facility, the City assisted in the capitalization of the improvements resulting in the batting cages, in exchange for City ownership of the facility after a five-year period. Due to the early retirement of the present owners, the City of Billings would fulfill that agreement at the end of this fiscal year. In the budget beginning July 1, 2002, Mr. Taylor will recommend direction for the facility in the subsequent years. He stated that it could be in the Council's interest to seek other vendors to run this service, however the action tonight is to assist in the transition from previous vendor to potential vendors while the City takes a more systematic look at what should be done long term. He added that he thought it was in the Park and Recreation Department's long-term plan to operate this concession as part of the Park facilities.

Councilmember Kennedy encouraged the Council to look at this from a service to the community point of view and as a stop-gap measure to avoid losing the facility. Councilmember Brewster noted that the Council could look at the profitability at the end of the season and formulate a plan at that time. Mr. Taylor reiterated that this is a transition action to maintain continuity of the facility and when the data is available, the Council can choose the option to contract out the concession or to be managed as a City operation. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND SECOND READING ORDINANCE 02-5181 FOR ZONE CHANGE #687: a zone change from Residential Multi-Family to Residential 9600 on Tract C, C/S 793. Ron S. Hill Living Trust, owner and agent. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)

The public hearing was opened. BRUCE HOWICK, 1674 LAKE HILLS DRIVE, has no qualms about the Zone Change, however has two valid concerns he requested the City study. They are 1) according to the plat, the new homes (25-30) are presently positioned that the rear of the new homes are facing the existing homes along Lake Hills which will have an adverse effect on property values of the existing homeowners, and 2) a concern for the lives and safety of citizens, especially the children, living on Lakes Hills Drive, with regard to the traffic problems. The traffic problems concern the high speeds in which the cars are driven. The addition of a stop signs at Wicks and Governor's has averted high school traffic to back roads, such as Lake Hills Drive, creating a hazard that could eventually end in traffic accidents and possibly death. He sited his experience this morning where he was almost broadsided in his own front yard due to a car traveling at high speed and sliding on the icy roads. Mr. Howick stated that with the addition of 25 to 30 new homes, the traffic control problem would only worsen. He asked that these concerns be studied.

DENNIS BOYD, 1682 LAKE HILLS DRIVE, stated that his biggest concern is the problem Mr. Howick addressed. He said that with more families in the area, more students are biking to the schools in the area. The car traffic is using all of the backroads to avoid the stop sign previously mentioned. All of those roads are straight-aways and lend themselves to the higher speeds. Calls to the Police have resulted in little or no assistance from the Police Department. Mr. Boyd suggested placement of speed bumps or a study done to look for solutions to the problem.

RICK LEUTHOLD, ENGINEERING, INC., 1001 SOUTH 24TH STREET WEST, commented on the statements of Mr. Howick and Mr. Boyd. He said he is the engineer for Mr. Ron Hill's plat and that there has been a traffic accessibility study done with the subdivision improvement agreement. Lake Hills Drive is a collector street in the area, therefore the design of the subdivision is an internally accessed subdivision in order to minimize the number of driveways that would access onto Lake Hills Drive. There will be fencing around the subdivision and sidewalks will be provided along Lake Hills Drive. He concurred that it is difficult to control the driving habits of the public as they travel through neighborhoods. The subdivision does have collector streets in place for the movement of traffic. There are plans in place for sidewalk and pedestrian protection in the remaining portion of Lake Hill to be developed. He commented that Mr. Ron Hill is doing quality work in that area and is conscious of the neighbors concern and desires.

There were no further speakers. The public hearing was closed. Councilmember Brown moved for approval of ordinance on second reading, seconded by Councilmember Brewster. Councilmember Brown asked for some police protection for this problem area. Councilmember Brewster stated that the backdoor route that has become a problem in the Lake Hills area has been a problem since before his time on the Council. The new four-way stop light has slowed down the traffic on Wicks Lane and encourage more driver's to take the back route which takes more time and consequently when the drivers reach Lake Hills Drive they are trying to make up lost time and exceed the speed limit in the process. He suggested dealing with the four-way stop as soon as possible in some way that would move travel a little quicker and discourage the use of the back route. There was no further discussion. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND SPECIAL REVIEW #715: a special review to allow the location of an assisted living facility in a Residential 9600 zone on Lots 1-3, Block 6, Rush Subdivision, 2nd filing, generally located on the northwest corner of Shiloh road and Parkhill Drive. Randy Swenson, owner; Engineering, Inc., agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning coordinator Jeff Bollman introduced this special review for an assisted living facility on the northwest corner of Shiloh and Parkhill Drives. Most of the area west of Shiloh Road is zoned Residential 9600 and to the east of Shiloh Road is zoned Residential Multi-family. The layout of the facility is for three buildings with 15 units each and a parking lot

with a turn-around. The Zoning Commission has reviewed the request and recommends conditional approval. The Zoning Commission modified one of the conditions that the DRC recommended regarding the screening, which requires a six-foot obscuring vinyl fence to be constructed along the west property line. He noted that the DRC condition was for a fence or shrubbery to screen the residents across the alley from the parking lot.

Councilmember Bradley asked about the alley abandonment issue. Mr. Bollman said that at the time of the platting process for the property to the west there was discussion regarding the alley and whether to keep it or abandon it. Because there was no certainty as to where the utilities would be placed for the property in question this evening, the alley remained, however he noted that there are no public utilities located in the alley that he is aware of at this time.

The public hearing was opened. RICK LEUTHOLD, ENGINEERING, INC., spoke regarding Councilmember Bradley's comments regarding the alley. The site is heavily treed and there are quite a few mature trees in the alley at the current time. Both of the owners of the previously mentioned properties desire to keep the trees intact in that area. Therefore, the intent is to leave the alleyway in place and maintain the trees because it is a benefit to both properties. He suggested that the motion have an amendment that the owner shall provide screening between his west property line and the adjacent property as may be mutually agreed upon with the adjacent property owner, with the mutual agreement in writing and submitted to Mr. Bollman for final review and approval.

The public hearing was closed. Councilmember Brewster moved for approval of Zoning Commission recommendation including the changes in the fencing by allowing the property owners to negotiate the proper fence between the properties and present the agreement to Mr. Bollman for review, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

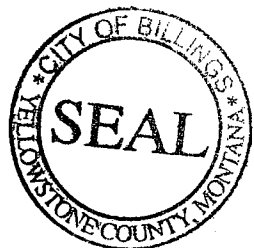
5. CDBG/HOME FY 2001-2002 Budget Allocation Process modifications. Staff recommends approval.

(Action: approval or disapproval of staff recommendation.)

Community Development Manager John Walsh presented six minor recommendations for modification of the FY 2001-2002 CDBG/HOME Budget. The changes are 1) revised application format, 2) neighborhood Task Force involvement in the allocation process, 3) a ranking system for applications, 4) site visits by Community Development board members, 5) revised procedure for Community Development budget hearings, and 6) new application checklist for internal use. He commented that the two key changes were the involvement of Task Force chairpersons or representatives that will encourage them to identify and prioritize their neighborhood needs on a multi-year basis and the Community Development Board's ranking criteria which requires each board member to rank each project individually to assist the board in prioritizing projects for the allocation of limited resources. Councilmember McDermott asked how Community Development would involve the Task Forces with their traditional loaning process. Mr. Walsh responded there is no requirement for the Task Forces to follow the ranking process that suggests ranking the top ten projects for the application and loan process, however Community Development will assist them with individual input. Councilmember Kennedy moved for approval of staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

ADJOURN —:With all business complete, the Mayor adjourned the meeting at 8:18 P.M.

THE CITY OF BILLINGS:



By: Charles F. Tooley
Charles F. Tooley MAYOR

ATTEST:

BY: Susan Shuhler
Susan Shuhler, Deputy City Clerk