

REGULAR MEETING OF THE BILLINGS CITY COUNCIL MONDAY, FEBRUARY 26, 2001

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 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 Larry Brewster.

ROLL CALL -- Councilmembers present on roll call were: McDermott, Brewster, McDanel, Kennedy, Iverson, Ohnstad, Johnson, Larson and Elison. Councilmember Bradley was excused.

MINUTES – February 12th. APPROVED AS PRINTED.

COURTESIES -- Mayor Tooley recognized City Clerk Marita Herold for completion of an advanced records management course through ARMA International, the professional association for records managers.

PROCLAMATIONS –Mayor Tooley. None.

BOARD & COMMISSION REPORTS -- None.

ADMINISTRATOR REPORTS – Dennis Taylor.

- Mr. Taylor noted this meeting would be Public Works Director Kurt Corey's last council meeting. Mr. Corey resigned to become the new Public Works Director for Eugene, Oregon. City Engineer Brian Borgstadt has been appointed as the Acting Public Works Director in the interim.

RECONSIDERATION -- From February 12th: RESOLUTION 01-17669 ordering in the improvements of W.O. 01-02, #1: 2001 Miscellaneous/Developer-Related Improvements, in regard to the improvements on Highwood Circle. Councilmember Ohnstad moved to add this item to the agenda as Item 7A, seconded by Councilmember Johnson. On a voice vote, the motion was added as Item 7A. Councilmember Larson voted "no".

CONSENT AGENDA:

1. A. **Mayor's Appointments:**
 - (1) Mary Alice Jaksha to the Animal Control Board.
- B. **Bid Awards:**

- (1) **SID 1347 Construction.** (Opened 2/20/01). Recommend delaying award to 3/12/01.
- (2) **Uniform Rental Service.** (Opened 2/13/01). Recommend American Linen, \$49,454.03.

C. Change Order #1, MET ADA Restroom/Office Remodel, Hardy Construction, \$35,640.00.

D. Development Agreement between Food Services of America (FSA) and City of Billings on Tract 7, C/S 2548, generally located on South 32nd Street West, south of King Avenue West.

E. Right-of-Way Agreement and Warranty Deed for W.O. 91-09: Cottage Lane/12th Street West Drainage Improvement and W.O. 92-11: Grand Avenue Widening, for Tract A of C/S 2192, Patrick Goggins, \$115,490.00.

F. Approval of Revised Master Plan for Millice Park.

G. Acknowledging receipt of a petition to annex Lot 1, Block 1, Gabel Subdivision, 3rd Filing, located at 1212 S. 32nd St. West, Bottrell Family Investment LLP, petitioners, and setting a public hearing date for 3/12/01.

H. Approval of Special Events in Downtown Billings:

1. DBA Request for Burn the Point Parade and Car Show on 8/31 and 9/1/2001
2. DBA Request for Christmas Stroll on 12/7/2001
3. DBA Request for Farmer's Market on Saturdays from 7/21 to 10/6/2001.
4. DBA Request for Food Fair on 7/25/2001.
5. DBA Request for Holiday Parade on 11/23/2001.
6. DBA Request for Strawberry Festival on 6/9/2001.
7. Billings Jaycees Request for Western Days and Parade on 6/22 and 6/23/2001.
8. Al Bedoo Shrine Request for Shrine Parade on 6/2/2001.
9. Montana Women's Run on 5/12/2001.
10. DBA Request for Celtic Celebration on 3/17/2001.
11. Big Sky State Games Request for Triathlon on 7/22/2001.
12. Big Sky State Games Request for 5K Run on 7/20/2001.

I. Approval of a loan to Montana Power Building LLC from the (TIF) Downtown Billings Revolving Loan Fund for \$95,550.00.

J. Resolution 01-17673 authorizing the use of Council Contingency Funds for payment of the City's share of the Juvenile Accountability Block Grant, \$19,573.00.

K. Resolution 01-17674 adopting REVISED departmental records retention schedules for the City Administrator, City Attorney, Finance Dept., Fire Dept., Housing and Community Development, Human Resources, Planning Dept and Transit.

L. Resolution 01-17675 providing for the receiving of bids and the letting of a contract for the construction of improvements in SID 1350: street and utility work to Lake Hills Drive, Glen Eagles Boulevard and Pinehurst Road and setting an opening date for 3/13/01.

M. Resolution 01-17676 providing for the receiving of bids and the letting of a contract for the construction of improvements in SID 1352: street and utility improvements to Tamarisk Road and Burning Tree Drive and setting an opening date for 3/13/01.

N. First reading ordinance extending the boundaries of Ward IV to include recently annexed property in Annex #00-07, #00-08, #00-09: Lots 1-3, Block 6 of Rush Subdivision, 2nd Filing; Lots 5-6, Block 6 of Rush Subdivision, 2nd filing; Tracts 1 and 2 of Rush Acreage Tracts Subdivision; Tract 1 of C/S 2563, Tract 1 of C/S 2050 and Tract 1A1 of C/S 1876 Amended and setting a public hearing date for 3/12/01.

O. VISTA Volunteer application to the Montana Dept of Public Health and Human Services, for 1 volunteer beginning August 2001 to continue the work with the Neighborhood Task Forces

P. Acquisition of vacant land on the southwest corner of 2nd Avenue South and South 28th Street, described as Lots 7-12, Block 165, O.T., Salvation Army, owner; \$31,000.00. (for Affordable Housing activities).

Q. Housing Rehabilitation Loan payoff, Barbara Gutterez and Gabriel Bueno, 520 South 31st St., \$7,000.

R. Preliminary minor plat Lot 22, Flanagan Subdivision (Generally located at 234 and 260 Moore Lane).

S. Bills and payroll.

(Action: approval or disapproval of Consent Agenda.)

There were no separations of the Consent Agenda. Councilmember Kennedy moved for approval of the Consent Agenda, seconded by Councilmember Larson. On a voice vote, the Consent Agenda was unanimously approved.

REGULAR AGENDA:

9- 2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #670: a zone change from Neighborhood Commercial to Community Commercial on Lots 19 and 20 and the East 10 ft of Lot 18, Block 1, Descro Central Subdivision, 1st filing, located at 2404 Broadwater Avenue. Richard Skewis, owner. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.)

Mayor Tooley noted that the applicant has requested withdrawal of the zone change request. He suggested that the item be moved up on the agenda – as Item #2. Councilmember Elison moved to move this item to #2 on the agenda, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

Candy Beaudry of the Planning Dept said the applicant has requested withdrawal and the staff concurs with the request.

The public hearing was opened. VI LEIKAM OF 2719 WYOMING AVENUE said they have a beautiful subdivision and the owners take pride in their properties. They do not want the zone change and were devastated to learn what could happen to the area with the zone change. She said they invested a lot of money in their homes and hoped the zone change would never happen.

ALEX KAISER OF 2425 CUSTER said he was happy to hear that the request was withdrawn. He noted that it was denied by the Zoning Commission – nearly unanimously. The DRC opposed the zone change as well because it is predominantly a single-family area. The neighborhood is proud and unified in their opposition to the zone change.

There were no other speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the withdrawal, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

2- 3. PUBLIC HEARING and approval of Budget Amendment #1 to the FY 2000-2001 CDBG Program, for an allocation of \$25,000 from unprogrammed funds to the South Park Swimming Pool to install a new pool liner. CD Board recommends approval. (Action: approval or disapproval of CD Board recommendation.)

Community Development Director John Walsh said the Parks/Recreation Dept asked for \$25,000 for the South Park pool liner. Both the CD Board and South Side Task Force have recommended approval of the allocation. It will come from unprogrammed funds in the block grant.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Iverson moved for approval of the CD Board recommendation, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

3- 4. PUBLIC HEARING and approval of the City of Billings Capital Improvement Plan: Fiscal years 2002 – 2006. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Finance Director Bob Keefe said the proposed CIP is essentially the same as the one presented at the public meetings with one exception: the \$7.6 Million worth of projects

funded by Stormwater Revenue Bonds have been deleted from the CIP program. They will be reconsidered next year and in coming years. Mr. Keefe said the equipment replacement program has been included in the CIP as a single line item. Grand Avenue is included as two construction projects. The total CIP program is \$151,659,394.00. Of that \$28,315,000 is for the equipment replacement program. It is to replace equipment that the City currently owns and this is to get it on a regular schedule for replacement.

Public Works Director Kurt Corey explained the Grand Avenue projects. He said the plan calls for funding two construction projects in the 5-year CIP window. These specifically would be the reconstruction of the section from 12th Street West to 17th Street West this summer. There is nothing planned for Grand Avenue in the 2002 construction season. The installation of utilities, right-of-way acquisition, etc. from 8th Street West to 12th Street West is planned for the 2003 construction season. The balance of funding to reconstruct Grand Avenue west of 17th Street West on out to 22nd or 23rd is anticipated in 2005 or 2006. Mr. Corey said the utility work from 8th to 12th Street West was initially contemplated for this year in anticipation of accelerating the schedule and getting as much of Grand Avenue redone as quickly as possible. The plan would be for water and sewer line reconstruction between 8th and 12th Streets in the same construction season as the street improvements – in 2003. He noted that the timing is contingent on adequate funding and getting the necessary right-of-way.

The public hearing was opened. DANNY GRAVES OF 1175 PATRIOT said the thought it was great that the City has put together a capital improvement plan. He asked for several amendments, primarily to see some of the improvements in the Heights moved up on the schedule, instead of on the back burner. He said the Heights has outgrown its image of a being a bedroom community. It is a viable part of the community with many growing businesses, neighborhoods and subdivisions. He said they need the same amenities as exist on the other end of town.

DAN KOCH OF 2490 32ND STREET WEST said his son belongs to the swim team. Mr. Koch said it was a shame that Billings doesn't have a facility to host a state or regional swim meet. It is a year-round sport. The aquatic facility proposed is an outdoor facility, which would be limited to 2 – 2 1/2 months of use. He sees this as an opportunity to capitalize on a year-round sport. A facility like this should be centrally located in the city and wouldn't compete with private clubs that have pools.

LYDIA DEKAKIS OF 302 CLARK AVENUE said she is president of Friends of the Library. They support the CIP. One of the major projects recommended in the CIP is a new central library facility. Ms. Dekakis noted that the Library serves over 334,000 visitors each year – with the same number of staff. The building that currently houses the Library is costing a tremendous amount in upkeep and lost opportunities. "With each expenditure, the Library services dwindle," she stated. The collection materials must be limited to accommodate the necessary repairs to maintain a failing building. Ms. Dekakis said recently they had to install a fire escape installed that cost \$56,000. Asbestos needed to be removed at the cost of \$6,862.00. Recently they received 12 citations under the ADA, which will cost \$40,000. To continue to maintain the building at this time, they need to remodel the entrance and circulation area for a cost of \$275,000. Also a new carpet is needed for \$125,000. Ms. Dekakis said the largest lost opportunity was the Gates Grant,

which had a value of \$31,231. They were unable to accept it because they lacked enough space in the existing library. She urged the Council to consider the new facility.

MARY WESTWOOD OF 2802 MONTANA AVENUE said she supports the CIP plan. She is happy to see planning going on. It is long-term planning and tries to create a community that is good for everyone. The plan has some flexibility as well because it is reviewed each year. She said she is also supportive of a new library, stating that she believed it would help greatly with the revitalization of the downtown. Ms. Westwood said part of the problem is that we don't think of ourselves as a community; we think of ourselves as being from the Heights, the West End or the downtown. "We all need to start thinking of this as a total community – every part of it belongs to each one of us, and the kind of community it is depends on how much we support each other," she stated.

MARTY CONNELL OF 2903 RADCLIFF DRIVE commended the staff and council on a good job in constructing the CIP. He said that planning is the key. He said the only criticism he had of the plan is that it should be for a longer term and include planning for more projects. He asked the council to do more than just vote to approve the plan. He urged each of them to get out and talk to their constituents about why they should vote for it.

ART SCIBELLI, DIRECTOR OF THE DOWNTOWN BILLINGS PARTNERSHIP said he is a resident of 210 Clark Avenue. He applauded the efforts of the CIP Team and the council. He related the CIP plan to the downtown. A central library located downtown may seem obvious to people involved in the downtown, but a downtown library is so important because it is a tremendous asset. Over the past few months, the concept of a government center was discussed. A downtown library is a core aspect of a government center. It creates synergy. The parking is another important aspect of the downtown. All of the downtown projects proposed are important to the Downtown Framework Plan as well.

DONNA DAVIS OF BOX 23392, BILLINGS, MONTANA said she is currently president of the Parnly Billings Library Foundation. She urged the council to support the library proposal in the CIP. "Two compelling reasons to do the central library downtown and a branch in the Heights are: (1) if we have a strong library, we have a strong downtown. We had 325,000 visits to our library the last fiscal year. That means that one in every 3 Montanans has passed through our door... We will have more people coming downtown if we have a draw of a library... (2) a branch in the Heights in conjunction with a multi-plex is important as well. We won't need to have an additional levy if we ... building a freestanding main branch downtown and then work to build a branch in the Heights a few years down the road," she stated. She urged the council to approve the plan.

CAROLYN BOYD OF 1434 MCMULLAN LANE IN LAUREL said she is on the Board of Trustees of the Library. They are part of a group dealing with how to improve the library and deal with the building in which they are currently housed. Ms. Boyd said they had a consultant come in a few years ago and talk about what they need to do to modify the building so that it would meet the needs of the community. The cost of doing that was tremendous. She said they are in dire straits, since the downtown library was originally a warehouse. She urged the council to approve the CIP and the concept of branch libraries in the community.

There were no other speakers. The public hearing was closed. Councilmember Ohnstad moved for approval of the staff recommendation minus the stormwater projects, seconded by Councilmember Iverson. Councilmember Elison said the CIP is not about the library; it is about water and sewer construction, road construction, building replacements, capital replacements, etc. – everything the city plans to spend substantial amounts of money on over the next five years. He said it is flexible and can be altered, as it is a guiding document, not a budget document. He reminded the council that every item in the plan is contingent upon funding for that item. The library requires a \$9.8 million general obligation bond issue, he stated. “Approval of the plan tonight is not the approval of a new downtown library. All it says is that ‘yes, we feel that a new library building is an important component of the infrastructure of Billings’ and should come into play in the next five years. The same is true of an aquatic center in the Heights. These are things we want to see in the City of Billings,” he stated. The plan sets up a system of priorities as well.

Councilmember Larson thanked the staff for the entire document because it is a good management tool that has been needed for quite some time. He reminded the council that the Heights pool and a library need further action on the part of the council, as well as a vote of the people.

Councilmember Johnson said there has never been a plan like this and it will help make the community the kind of community that everyone wants.

Councilmember Brewster said he was impressed by the comments tonight – especially in that “we all need to work together as a community, not as the downtown or the Heights. When the community sees a unified need ... it works. Doing a little at a time never results in anything big happening,” he stated. He said he would like to see a community-wide library plan with a timeline, not a plan segregated into separate projects.

Councilmember Iverson commended the staff for a great job of developing the plan. It is indicative of teamwork and shows the give and take on the part of the individual departments.

Councilmember Brewster said he would like to move the Heights wading pool ahead of others in the plan, if the city elects to go ahead with the wading pools. It is the only water facility in the Heights. Parks and Recreation Director Don Kearney said at the time projects were submitted for the CIP, they were wondering what to do with the three wading pools that were closed. He said in their evaluation of the aquatic facilities in the community, they are not advocating replacing the wading pools. They are proposing to locate them in the larger aquatic facilities instead of having 15 – 20 of the smaller facilities all around the city – for the purposes of management, cost efficiency and liability. Mr. Kearney said they recommend holding off on the first year wading pool replacement, until they have had a chance to put together a complete aquatic facilities plan that addresses aquatic facility needs in the entire city.

Councilmember Brewster moved to amend the CIP to delay replacement of the wading pools a year, until a community-wide aquatic facility plan is developed, seconded by councilmember McDanel. Councilmember Elison suggested they not do that because currently there is \$125,000 earmarked for capital improvements for aquatic facilities. “You remove that from the plan, there is now not \$125,000 earmarked in capital improvements

around aquatic centers. I think you are better off leaving that in the plan as present and determine at a later date if the \$125,000 is better saved or spent in a different way than replacing wading pools. If you remove it from the CIP, it is gone and we are no longer budgeting \$125,000 for that year for aquatic facilities,” he stated. Councilmember Brewster withdrew his motion and Councilmember McDanel concurred. City Administrator Dennis Taylor clarified that the plan includes three projects of \$125,000 each for aquatic facilities. Councilmember Larson reiterated that the plan does not guarantee that each project in the plan will happen and in the order/manner that the council discussed. He emphasized that this document is for the benefit of the council to guide their budgeting process. “The rubber meets the road when we sit down here in May and June and start talking about what makes the city budget. This document guides the staff and what projects they will bring forward,” he stated.

On a voice vote on the motion (to approve the CIP minus the stormwater projects), the motion was approved. Councilmember McDermott voted “no”.

4. 5. PUBLIC HEARING AND RESOLUTION 01-17677 vacating a segment of the alley in Lot 11A, Block 2, Normal Subdivision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Public Works Director Kurt Corey said this alley needs to be vacated per the terms of a Development Agreement with St. Vincent Hospital and Medical Center, approved by the council last August. The utilities were relocated, so the vacation of the alley is now a housekeeping measure. A value has been established for \$3.91/sf resulting in a total value of just over \$11,000.

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

5. 6. PUBLIC HEARING AND RESOLUTION 01-17678 annexing: Lots 9-15, Block 18, Lillis Heights Subdivision (Annex 01-03). Staff recommends approval of the annexation public services report and the resolution. (Action: approval or disapproval of staff recommendation.)

Candy Beaudry of the Planning Department said the planning staff is recommending approval of the petition for annexation, including Lots 9-14 and Lot 15, and the public services report. A cost revenue analysis was performed on these properties and it was determined that the cost of each property would be \$232/lot to the City. Revenues anticipated would be \$216/lot. The properties are currently served by City water and sewer can be extended to all properties. It would be extended from the intersection of High Park Drive and Rimrock Road.

Councilmember McDermott noted that the situation whereby the cost to annex a property exceeds the revenue it will generate will need to be addressed in the future.

Councilmember Johnson asked if the owners of Lot 15 had been contacted. Ms. Beaudry said they were not contacted, but the City is not obligated to contact them. They will be contacted as a courtesy.

The public hearing was opened. DAVID VIGESAA OF 4633 RIMROCK ROAD said he owns Lot 14. They need sewer and are running out of time on their septic system. Mr. Vigesaa said he thought they would be annexed at the time the temple property was annexed, but they were not. He said they built their home in 1972 and have waited a long time for city sewer. He urged the council to approve their petition.

There were no other speakers. The public hearing was closed. Councilmember Larson moved for approval of the public services report and the resolution annexing, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

~~6.~~ **7. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5142 extending the boundaries of Ward I to include recently annexed property in Annex #00-05: an unplatted portion of T1S-R26E-S17: S2SW4 LESS C/S 2834. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Elison moved for approval of the staff recommendation, seconded by Councilmember Larson. Councilmember McDermott added that this annexation was the property in which the difference between the expense of annexing and the revenue it would produce to the City was about \$25,000 in revenue shortfall. On a voice vote, the motion was unanimously approved.

~~7A.~~ **8A. RECONSIDERATION -- From February 12th: RESOLUTION 01-17669 ordering in the improvements of W.O. 01-02, #1: 2001 Miscellaneous/Developer-Related Improvements, in regard to the improvements on Highwood Circle.**

Councilmember Ohnstad moved to remove the work on Highwood Circle from W.O. 01-02, #1, seconded by Councilmember Johnson. Mayor Tooley noted this work was discretionary, included in the program at the property owners' request. When they found out the costs would be higher than anticipated, they requested that the work be removed from the program. City Administrator Dennis Taylor noted that the next item on the 1999 Developer-Related Sidewalk Program is NOT related to this program. On a voice vote, the motion was approved. Councilmember Kennedy voted "no".

~~7B.~~ **8B. PUBLIC HEARING AND FINAL APPROVAL OF RESOLUTION 01-17666 levying and assessing the original costs of SCG#2001, W.O. 99-02, #3: the 1999 Developer Related Sidewalk Program. Staff recommends approval of the resolution. (Action: final approval or disapproval of resolution.)**

The public hearing was opened. There were no speakers from the audience. The public hearing was closed. Councilmember McDermott moved for approval of the staff recommendation, seconded by Councilmember Elison. On a voice vote, the motion was unanimously approved.

~~8.~~ **9. PUBLIC HEARING AND RESOLUTION 01-17679 creating SID 1351: curb, gutter and street improvements on Vaughn Avenue between Hallowell Lane**

and Stephens Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Public Works Director Kurt Corey said this district is for paving and improvement of Vaughn Avenue west of Hollowell Lane on the south side of Billings. It is based upon a petition of the neighborhood. The assessment boundary contains 19 properties with an assessment total of \$131,000.00. The average assessment is approximately \$7,000. The protest on the project came from two properties, totaling about \$21,000 or 16.4% of the amount to be assessed. Staff is recommending proceeding with the district.

Councilmember McDermott asked there are any drainage problems in the area. Mr. Corey replied that this area should be okay as far as local drainage improvements. There may be implementation of an eventual south side storm drain infrastructure down the line, but it is not part of this project.

The public hearing was opened. KATHERINE WANDLER, NO ADDRESS GIVEN, said she is speaking on behalf of tenants who live at 4202 and 4204 Vaughn Lane. They do not want this project because the cost will be passed along to them. Ms. Wandler said there is one storm drain in front of their apartments on Vaughn Lane. It looks like that will get all of the water. She said that is a concern to her. Vaughn Lane is like a dead end street because Stephens Lane is like an alley or dirt road. Ms. Wandler said their property has curbs, gutters and sidewalks with a storm drain in front of it on Hollowell Lane. She said they didn't think it was worth the money. "We're expected to pay the most for it and we would get the least out of it because we are right at the entrance to Vaughn Lane. In all fairness, if this is passed, I think it should be amended to read that every property owner pays an equal amount. That's the only fair way to do this one," she stated.

JIM SCHAUMLER OF 4202 VAUGHN LANE said the people that live on the street signed the petition, which had 11 signatures on it, and are in favor of having the street paved. It is in bad shape and is oiled once a year. He didn't know for certain if curb and gutter was necessary or sidewalk; that needed to be determined by the Engineering Dept. "The issue at hand is not just about the money; it has to be about the betterment of our homes and the people who actually live there and own these homes are the people are the people who have more at stake here," he stated. He said they are hoping for the betterment of their lives.

CLARENCE WANDLER, NO ADDRESS GIVEN said his biggest "beef" is the industrial site at the end of Vaughn Lane. "We were told that it would be shut off completely. I want to know it will be shut off completely or if it is hearsay, or down the road if they will have access to the road," he stated. He was concerned about what guarantee he has that the city won't come in from Hollowell Lane, tear it up and they would have a double charge because they have a corner lot. "It is not right the way it is set up. It should be split 19 ways. We get the least use of it," he stated. He said he felt they are discriminated against because they are 1 of 2 rentals in the area.

ROBIN BYFORD OF 4278 VAUGHN LANE said they built their home in 1994 and have made significant improvements in their home. She said they want the paving and even though they have an oversize lot, they are willing to pay their fair share. They have to put up with the dust, muddy roads, etc.

JEFF ROYBAL OF 4218 VAUGHN LANE said the street has needed paving for

many years. The bad condition of the street tears up cars, is full of chuckholes, etc. He said most of the people that own property in the district are in favor of the improvements and are willing to pay for them.

MARTIN BEARTUSK OF 4219 VAUGHN LANE said paving is needed. "You wouldn't believe how much traffic there is on a dead end street," he stated. He said he supports the project.

VERA ROYBAL OF 4218 VAUGHN LANE said she has lived there for 26 years. Vaughn Lane is in desperate need of paving. She said when they bought the property, they were told it would be paved and 26 years later it still isn't paved. She urged the council to approve the project.

There were no other speakers. The public hearing was closed. Councilmember Brewster moved for approval of the staff recommendation (to approve the resolution), seconded by Councilmember Larson. Mayor Tooley asked if sidewalk, curb and gutter presently exist in the area. Craig Canfield of Interstate Engineering, the consulting engineer, stated that the existing curb and gutter was put in some time ago. The profile of it is such that it would retain water after the street is paved. They recommend replacing curb and gutter to properly drain the improved street. A majority of the boulevard sidewalk would remain in place.

Mayor Tooley asked if one of the assessments is \$80,000. Mr. Canfield replied that no single assessment is \$80,000. The preliminary estimates on the project – which were done about three years ago, the total project at that time was around \$80,000. At this time, with replacement of curb and gutter, some sidewalk and street reconstruction, the project cost has increased to \$131,000.

Councilmember McDanel noted that the average assessment is about \$7,000. He asked what the high and low assessments were. Mr. Canfield replied the high assessment is \$13,303 and the low assessment is \$3,551. With the discussion complete, a voice vote was taken. The motion was unanimously approved.

10. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #671: a zone change from Residential-9,600 to Residential Manufactured Home on the west 212 ft of the south four acres of Lot 5 of the subdivision in Section 9, T1S-R26E; from Residential-9,600 to Residential-7,000 on the east 447.35 ft of the south four acres of Lot 5 of the subdivision in Section 9, T1S-R26E; and from Residential-6,000 to Residential-7,000 on Tracts 3 & 4 of C/S 666, located at 551 South Billings Boulevard. Duane and Vickie Bender, owners. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Jeff Bollman said the subject property is located on the East Side of South Billings Boulevard, north of Newman School and just west of Newman Lane. The southern rectangle of the property is currently zoned R9600. Two certificate of survey tracts on the north are zoned R6000. The proposed zone change would change the west 212 feet to Residential Manufactured Home and the rest of the property to R7000. There is an existing 7-space manufactured home court on the West Side of this property. It is an existing nonconforming use. If the zone change were approved, it would make that

nonconforming use conforming. The remainder of the property would become R7000 and match the zoning of property to the east, with existing single-family residential development. To the north, the zoning is R6000 and to the west is Controlled Industrial and park to the southwest.

The public hearing was opened. DUANE BENDER OF 6104 KING AVENUE WEST said he is the owner of the property and was available to answer any questions. There were no questions.

There were no other speakers. The public hearing was closed. Councilmember McDanel moved for approval of the Zoning Commission recommendation, seconded by Councilmember Elison. Councilmember McDermott reported that the Southwest Corridor Task Force was in favor of the zone change. On a voice vote, the motion was unanimously approved.

11. PUBLIC HEARING AND SPECIAL REVIEW #697: a special review to allow townhouses in a Residential-6,000 zone on Lots 31-34, Block 3, North Park Subdivision, located at 633 North 14th Street. Mid Yellowstone Valley Habitat for Humanity, owners. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Jeff Bollman said the application is proposing to locate townhomes on these four lots. The difference between the townhomes (which may look like a duplex), the lot line between the two lots is an actual property line. The structure and the lot can be conveyed separately, so that there can be different ownership between the lots. The difference between this and a condominium development is that with a condominium development, you own the building and have a common interest in the land. With a townhome, you actually get title to the land and a structure. The condition recommended by the Zoning Commission is that each unit have its own water and sanitary sewer service.

The public hearing was opened. JOHN PINPIRD OF 980 NORTH 17TH STREET, APT #12, said he is the Executive Director of Habitat for Humanity. He noted they are an ecumenical, Christian housing ministry, which forms partnerships with volunteers that share their vision of eliminating poverty in housing. In partnership with low-income families and the community, "we help build new housing". Mr. Pinpird said as of December 2000, they completed their 20th habitat home in the local area in their eight-year history. "Our goal this year is to build 6 habitat homes from start to finish; five of them would be located on this property," he stated. He urged the council to approve the request.

CHRIS CHARTIER OF 1444 BENCH BLVD said he is the construction superintendent for Habitat for Humanity. The structures will have a one-inch between the walls. Properties will have separate foundations. They will be two separate structures very close together.

There were no other speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the Zoning Commission recommendation, seconded by Councilmember Larson. Councilmember McDermott reported that the North Park Task force supports the project and is happy to have Habitat for Humanity in their neighborhood. On a voice vote, the motion was unanimously approved.

12. PUBLIC HEARING AND SPECIAL REVIEW #698: a special review to allow a drive-through service in a Community Commercial zone on Lot 2, Block 4, Sunnyside Subdivision, located at 1131 North 27th Street. Steve Corning, owner; Collaborative Design Architects, agent. (re: City Brew Coffee House). Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Jeff Bollman said the subject property contains an existing office facility, which would be razed for this project. He explained that when the Unified Zoning Code was adopted in 1998, it contains major changes concerning drive-through services. Special review is required only if the property adjoins or is across the street from a residential facility. This is the first special review for a drive through facility since that change went into effect. The conditions recommended by the Zoning Commission are: (1) that landscaping be provided as on the submitted site plan, (2) that a combination of a 6-ft site-obscuring fence and vegetation be provided along the alley to provide screening from this property to the residential neighborhood located directly across the alley to the east, and (3) that a traffic accessibility study be submitted and approved by the City Engineer's office. Mr. Bollman said the driveway locations on North 27th Street and the stacking ability will be looked at through the TAS.

The public hearing was opened. JEFF KANNING OF 1934 MARIPOSA LANE said he is with Collaborative Design Architects, agent for the project. They are aware of the landscaping requirements and are willing to comply with them. He said they believe they have a chance to take an existing building located fairly close to the street, set back the new building and create some enhanced landscaping on the property. Mr. Kanning said they will also work with the Planning Dept on the 6-ft site obscuring fence and a traffic facility study will also be done. Mr. Kanning noted that the parking spaces shown to the north of the property are actually employee parking spaces, accessed off the alley. That alley is paved from street to street. The adjacent office building also has employee-parking access off that same alley. He said this is not in conformance with the zoning code, but it has allowed them to create more stacking area for cars at the drive-through window so there will be no conflict between people backing out and people waiting for their coffee. He said they would work through that issue as well.

JARED SMITH OF 35 PALMER LANE, BOYD, MONTANA said the proposed project is for a City Brew coffeehouse. Mr. Smith noted they currently have a facility on Grand Avenue and one under construction at the Target Center in the Heights. They intend to make sure the concerns of the residential area are addressed with the screening fence. "Clearly we know that those who live in this area are those who shop in this area. We hope to add a very nice building that will give people something to remain on 27th Street," he said. He urged the council to approve their request.

There were no other speakers. The public hearing was closed. Councilmember Iverson moved for approval of the Zoning Commission recommendation, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

13. PUBLIC HEARING CONTINUED AND SECOND READING ORDINANCE 01-

