

# **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

## **August 27, 2001**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> 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 Mick Ohnstad.

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

**MINUTES – August 13<sup>th</sup>** APPROVED AS PRINTED.

**COURTESIES** – Robert Keefe Finance Dept. Director presented Carol Ruff, Debt and Investment Coordinator, with a Certificate of recognition for Budget Preparation for her key role in the City of Billings' achieving the Government Finance Officers Association of the United States and Canada (GFOA) Distinguished Budget Presentation Award for the annual budget for the fiscal year beginning July 1, 2000. This is the ninth year that the City of Billings has received this award and the ninth year that Carol Ruff has received this certificate.

**PROCLAMATIONS** – Mayor Tooley proclaimed September as National Prostate Cancer Awareness Month and urged all men to become aware of their own risks and talk with their health care provider regarding screening for this disease

**BOARD & COMMISSION REPORTS -- NONE.**

**ADMINISTRATOR REPORTS – Dennis Taylor- NONE.**

### **CONSENT AGENDA:**

**1. A. Bid Awards:**

(1) **Gasoline and Diesel Fuel for City of Billings.** (Opened 8/21/01). Recommend G.M. Petroleum, \$1,019,350.00.

(2) **Water Treatment Plant Improvements, Pretreatment, Contract XIII – Phase II (Equipment Procurement).** (Opened 8/21/01). Recommend delaying award to 9/10/01.

**B. C.O. #1, Fox Pump Station, 2000 CIP Projects,** Yellowstone Electric Company, +\$1,181.40 and 0 days.

**C. C.O. #1, SID 1346: North Broadway Streetscape,** JTL Group, Inc., -\$95,385.76 and 0 days

**D. C.O. #1, W.O. 01-02, #1: 2001 Developer-Related/Miscellaneous Sidewalk Program**, JTL Group, Inc., +\$27,956.97 and 0 days.

**E. Amendment to Ground Lease** with Bureau of Land Management for the Fire Retardant Tanker Base lease, adding additional ground to the lease for paving for additional aircraft and vehicle parking, +\$2,170.00/year.

**F. Contract for Library Services** with Golden Valley County, \$2,623.10/year.

**G. Contract Amendment #1, FY 2002 CIP Park Improvement Projects**, CTA Landworks Group, no \$ amount specified.

**H. Executive Hangar Ground Lease** with St. Vincent HealthCare for their Lifeflight Helicopters, \$3,656.28 first year, adjusted by CPI annually, 10-year term.

**I. Acknowledge receipt of petition to annex: #01-14:** an unplatted 27 acres in T1N-R25E-S23: SE1/4, NW1/4, Zella Yegen Trust B and Zella Yegen Trust C, owners/petitioners, and setting a public hearing date for 9/10/01.

**J. Resolution 01-17733** amending the boundaries of SILMDs 8 – 10.

**K. SID 1357: Sanitary sewer main on Rimrock Road from High Park Drive to Rimpoint Drive, adjacent to Lillis Heights Subdivision:**

(1) Professional services agreement with Engineering, Inc., \$9,022.32.

(2) Resolution of Intention 01-17734 to Create District and setting a public hearing date for 9/24/01.

**L. First reading ordinance** changing the boundaries of Ward I to include recently annexed property: A portion of Tract 1, C/S 2373, (#01-12), Leonard and June Hobby, petitioners, and setting a public hearing date for 9/10/01.

**M. First reading ordinance** changing the boundaries of Ward II to include recently annexed property: a portion of T1N-R26E-S27: S2N2SW4NE4NE1; (#01-13), Bill Dunlap, owner/petitioner and setting a public hearing date for 9/10/01.

**N. Preliminary Plat** of Amended North 100 ft. of Lot 3, Block 8, Sunnyside Subdivision, 2<sup>nd</sup> Filing, generally located two blocks northeast of Cobb Field in the North Park neighborhood.

**O. Preliminary Major Plat** of the Fox Run II condominium Townhomes, Lot 1A1, Block 14, Circle Fifty Subdivision Amended, generally located at Swanson Lane and Parkhill Drive.

**P. Preliminary Major Plat** of the Transtech Center Subdivision, generally located at the northwest corner of Gabel Road and S. 32<sup>nd</sup> Street West.

**Q. Final Plat** of Amended Lots 7 and 8, Block 9, Lake Hills Subdivision, 19<sup>th</sup> filing.

**R. Final Plat** of Amended Lots 19-21, Block 8, Lake Hills Subdivision, 19<sup>th</sup> filing.

**S. Final Plat** of Amended Lot 1, Block 3, Circle Fifty Subdivision, a Unit Ownership.

**T. Bills and payroll.**

(Action: approval or disapproval of Consent Agenda.)

**LATE ADDITION:**

**U. Mayor's Appointment:**  
(1) Shoots Veis to Board of Adjustment

Councilmember McDermott moved to add the appointment of Shoots Veis to the Board of Adjustments on the Consent Agenda, seconded by Councilmember Johnson. On a voice vote the late addition was unanimously approved.

Councilmember Johnson moved for approval of the Consent Agenda with the addition, seconded by Councilmember Larson. On a voice vote the Consent Agenda was unanimously approved.

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND VARIANCE #CC-01: a variance from Sections 6-1208(i)(2) and (j)(2) of the Site Development Ordinance for proposed driveway at 3218 Leeann Boulevard. Staff recommends denial. (Action: approval or disapproval of staff recommendation.)**

Mayor Tooley called the Council's attention to a letter from Mr. Lyle Teichert, the applicant for the variance. He requested that the Council approve his request for withdrawal of the variance request. Councilmember Larson moved for acceptance of request for the withdrawal, seconded by Councilmember Iverson. On a voice vote the motion was unanimously approved. The withdrawal request was accepted.

**3. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5169 providing for the repeal of Section 8-301 through 335 BMCC, declaring the same to be null and void and replacing those repealed sections with Sections 8-301 through 8-335 and establishing an effective date. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

There was no staff report. The public hearing was opened. There were no speakers from the audience. The public hearing was closed. Councilmember Elison moved for approval of the ordinance on second reading, seconded by Councilmember Johnson. On a voice vote the motion was unanimously approved.

**4. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5170 changing the boundaries of Ward IV to include recently annexed property: Tract 1 and 3C of Amended Tract 3A, C/S 1834; (#01-10), Charles Zimmerman, Jr., ETAL, petitioner. Staff recommends approval. (Action: approval or disapproval ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember McDermott moved for approval of ordinance on second reading, seconded by Councilmember Elison. On a voice vote the motion was unanimously approved.

**5. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5171 changing the boundaries of Ward IV to include recently annexed property: Blocks 17-19, Yellowstone Club Estates, 5<sup>th</sup> filing, (#01-11), Charles Zimmerman, Jr., ETAL, petitioner. Staff recommends approval. (Action: approval or disapproval ordinance on second reading.)**

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Brewster moved for approval of ordinance on second reading, seconded by Councilmember Johnson. On a voice vote the motion was unanimously approved.

**6. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #683: a zone change from Residential-15,000 and Community Commercial to Residential-9,600 on a portion of Tract 1, C/S 2373, located at 550 Garden Avenue. Leonard and June Hobby, owners; Howard Sumner, agent. DRC recommends approval; Zoning Commission recommends concurs with approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman introduced the zone change noting its location on the West side of Garden Avenue. The annexation was approved at the previous Council meeting and is going through Subdivision review now. The surrounding area is a mixture of zoning from Community Commercial, Residential 15,000 to Agricultural Suburban. He stated that the Zoning Commission has recommended approval of the zone change, along with the DRC, who felt that it was appropriate to remove this property from the Community Commercial zoning because the Residential 9,600 is a more appropriate zoning for this 4.00+ acre property. He added that there was some concern about placement of manufactured homes on this property, however the Residential 9,600 zone would not allow placement of manufactured homes on this property.

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

**7. PUBLIC HEARING AND SPECIAL REVIEW #705: a special review to allow the location of an assisted living facility in the Residential Multi-Family Restricted zone on Lots 4A, 5-6, Block 6, Circle Fifty Subdivision Amended, located at 1830 Swanson Lane. Bert Lane and Randall & Kayanne Swenson, owners; Buron Inc.,**

**agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman introduced the special review to allow an assisted living facility on property that is located on the East side of Shiloh Road just south of Parkhill Drive and West of Swanson Lane. He stated that the entire block is zoned Residential Multi-Family. He added that the further you go from Shiloh Road the lot sizes increase and the zoning changes in a rainbow effect from Residential 7,000 to Residential 9,600. He noted that the agent has met with the surrounding property owners to discuss the neighbors' concerns. The project was for an 84-unit assisted living facility. The DRC reviewed the proposal and recommended conditional approval, stating that this was an appropriate use at this location. With the existing Residential Multi-Family Restricted zoning that this property has, it would allow a 79-unit apartment complex and would be able to exceed the density through the special review process. One of the DRC conditions was to eliminate the limit on the number of units. At the Zoning Commission meeting there was testimony from the neighbors as to their concerns. The Zoning Commission recommended approval and added two conditions to address those concerns. The conditions were 1) limit the maximum height of the structure to forty feet, and 2) require that the parking lot utilize low level or bollard style lighting to reduce the chance of large overhead lighting that would spill over into the adjacent neighborhood properties.

SHERYL SPARKS, 2123 HARKSELL ROAD, FERNDALE, WASHINGTON is the representative for Buron, Inc. and STEVEN L'HEUREUX, 1826 THIRD AVENUE NORTH, GREAT FALLS, MONTANA is the architect with L'HEUREUX PAIGE ARCHITECTS. Ms. Sparks stated that Mr. L'Heureux met with the residents of the neighboring properties on August 17<sup>th</sup> to address the elevation issue. He presented drawings at that time that she felt, "left the residents feeling in the favor of the drawings and with a better understanding of the nature of assisted living." Mr. L'Heureux presented the drawings that were shown to the residents, illustrating the height issue and the explaining the lighting plan for the parking area. He stated that the residents were pleased with the illustrations and explanation.

Councilmember Johnson asked how the building is situated on the lot. Mr. L'Heureux stated that building faces Parkhill Drive with the lower level along Swanson Lane. Ms. Sparks also stated that the traffic flow in and out of the facility would be minimal, due to the nature of the residents as compared to a 79-unit apartment complex. Traffic was another of the neighborhood's concerns. Councilmember Johnson asked if the representatives have met a second time with the residents of the surrounding properties. Mr. L'Heureux stated that he had not, but added that he was surprised that no one came to the Council meeting as several residents said they would come and speak. Ms. Sparks commented that it was a testament to the fact that the residents are comfortable with the planned facility. She added that their research showed a great need for a facility of this nature in the City of Billings and assured the Council that Buron, Inc. is a very "hands on" owner.

There were no other speakers. The public hearing was closed. Councilmember Iverson moved to approve the Zoning Commission recommendation, seconded by Councilmember Johnson. Councilmember Elison thanked the representatives for the

way they worked with the community to resolve issues. On a voice vote the motion was unanimously approved.

**ADJOURN** – With all business complete, the Mayor adjourned the meeting at 7:59 P.M.

THE CITY OF BILLINGS:

By: \_\_\_\_\_  
Charles F. Tooley    MAYOR

ATTEST:

BY: \_\_\_\_\_  
Susan Shuhler, Deputy City Clerk