

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL MONDAY, JUNE 12, 2000

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. Deputy Mayor Michael Larson called the meeting to order and served as the meeting's presiding officer. The Pledge of Allegiance was led by the Deputy Mayor, followed by the Invocation, which was given by Deputy Mayor Larson.

**ROLL CALL** – Councilmembers present on roll call were: Bradley, McDermott, McDanel, Kennedy, Iverson, Ohnstad, and Johnson. Councilmembers Deisz and Elison were excused. Mayor Tooley was attending a Mayor's Conference event in Seattle.

**MINUTES – May 22nd.** The Minutes were approved as printed.

**COURTESIES** – Library Director Bill Cochran introduced nearly all of the members of the Library Board and noted the Board would be making a presentation under the Board and Commission Report segment.

**PROCLAMATIONS – Mayor Tooley.** Deputy Mayor Larson proclaimed June 14<sup>th</sup> as the U.S. Army 225<sup>th</sup> birthday and the week of June 12 – 18 as U.S. Army Week.

**BOARD & COMMISSION REPORTS** – Stephen Fenter of the Library Board said they have put together a resolution regarding the Library and its presence downtown and the great need for a new facility. The Board believes that the Library is one of the biggest draws to the downtown area, with over 300,000 visitors each year. Mr. Fenter said the Broadway facility has served the community well for over 30 years, it can no longer serve the community's library needs, nor can it economically be renovated to serve well in the future. A comprehensive architectural and engineering study was conducted in 1994. In 1998, the Board recommended exploring the need for a renovated or new downtown facility and branches in the Heights and West End. "While it was the perfect time for the Library to move ahead with its facilities plans, it was not the perfect time for the community as a whole. In deference to the then approaching and very important public safety mill levy election, our Board postponed the process of moving ahead on a new downtown facility and branches. The time is rapidly approaching when the City and the Library may be forced to make some hard decisions about the future of our downtown facility. At that time, it may not be feasible to continue to service the downtown site. The present proposal for a Downtown Mixed Use Parking Facility for revitalization ... is a golden opportunity to avoid this future dilemma, by assuring continued Library service in the heart of the downtown. You, the council are being asked to invest public dollars as part of this public/private partnership in downtown revitalization. We believe that it is important, even imperative that the public as least as much as the private developers benefit from this investment and that the best way to achieve this public benefit is to

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require that the project include a new downtown public library facility in whatever is the most appropriate site.” He said the Board urged the Council to require that this project include a new downtown library facility to justify the investment of public funds.

**ADMINISTRATOR REPORTS – Dennis Taylor.** None.

## **CONSENT AGENDA:**

### **1. A. Bid Awards:**

- (1) **2000 Street Maintenance, W.O. 00-03, Contract No. 1.** (Opened 6/6/2000). Recommend JTL Group, Inc., \$227,920.00.
- (2) **W.O. 99-02 #2, Broadwater Subdivision Improvements, Phase II.** (Opened 6/6/2000). Recommend delaying award to 6/26/00.
- (3) **Cleaning Services for four (4) parking garages.** (Opened 6/6/2000). Recommend rebidding; no qualified bids were received.
- (4) **Sale of \$650,000 W.O. 99-02 Broadwater Subdivision Improvements, Phase II Bonds.** (Opens 6/12/2000). Recommend canceling June 12<sup>th</sup> sale and re-advertising at a later date.

**B. Change Order #1, Library 5<sup>th</sup> Floor Fire Escape Project,** Hardy Construction, \$290.00.

**C. Change Order #1, Cobb Field Restroom Renovations,** Fisher Construction, \$2,792.00.

**D. Contract Amendment #2, W.O. 98-05: Lake Elmo Drive and Wicks Lane Traffic Signal,** Morrison-Maierle, Inc., \$8,800.00.

**E. Addendum to Food and Beverage Agreement with HMS Host (formerly Host Marriott).**

**F. Storm Water Improvements and Maintenance Agreement and Easement Agreements with Lake Hills Golf Course.**

**G. Contract Agreement for Storm Water Management Master Plan, W.O. 99-14:** Morrison-Maierle, Inc., \$124,981.00.

**H. Professional Services Contract for SID 1346: Downtown Streetscaping**

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Improvement Project, Fischer & Associates, \$59,500.

**I. Contract Agreement for Library Security Guards**, Guardian Security, \$12.25/hour. (Term: July 1, 2000 – June 30, 2001.)

**J. Vehicle Lease Agreement for City-County Special Investigations Unit (CCSIU)**, Selover Buick, \$14,400.00, (6 vehicles). (Term: July 1, 2000 – June 30, 2001.)

**K. Development Agreement** for Right-of-Way Improvements to Jacque Lane, fronting Lot 6, Block 5, Superior Homes Subdivision, Ness Construction, \$0.

**L. Buy/Sell Agreement** to purchase Right-of-Way in the S2 of Tract 4, Monsma Acres (1.1 acres) for the construction of the Arlene/34<sup>th</sup> Street West street corridor, \$20,000.

**M. Authorization of Payment** of \$31,548.23 of Tax Increment Funds to Yellowstone County Treasurer for Courthouse Renovation Project (final payment).

**N. Cancellation** of outstanding checks and warrants in the amount of \$1,612.40.

**O. Declaring Surplus Equipment:** old telephone systems from Fire, 9-1-1 Center and Airport Administration.

**P. Approval of application** to the Department of Justice for Cops in Schools grant for 2 School Resource Officers in Billings middle schools, and increasing officer strength and vehicle fleet by 2 officers and 2 vehicles, contingent on grant approval and SD#2 funding.

**Q. Resolution 00-17577** declaring the intent to sell city-owned property described as: 62,244 square feet of Swords Park located in the SW1/4 of Sec. 27, T1N, R26E, PMM and setting a public hearing for 7/10/2000.

**R. Resolution of Intention 00-17578** to create SILMD 271, Gabel Subdivision 2<sup>nd</sup> filing, and setting a public hearing for 7/10/2000.

**S. Resolution 00-17579** levying and assessing residential/commercial collection, disposal and landfill fees for FY 2000-2001.

**T. First Reading Ordinance** extending the boundaries of Ward V to include recently annexed property: (Annex #00-02), Tract E of C/S 1011, containing

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approximately 4.405 acres, and setting a public hearing for 6/26/2000.

**U. First Reading Ordinance** amending BMCC Sections 3-202 – 3-204 relating to public drinking and public display of alcoholic beverages in City parks, and setting a public hearing date for 6/26/00.

**V. Release of Transfer Restrictions** for Rimrock West Estates, 3<sup>rd</sup> filing.

**W. Extension Request (1-year)** for Amended Plat of Lot 7, Heights Acreage Tracts Subdivision.

**X. Extension Request (1-year)** for Amended Plat of Lot 2, Heights Acreage Tracts Subdivision.

**Y. Preliminary Minor Plat** of King Heights Subdivision, 1<sup>st</sup> filing. (Generally located at the southeast corner of Wicks Lane and Bench Boulevard).

**Z. Final Plat** of Amended Lots 15 and 16, Block 5, O.T. (Generally located in alley located between North 32<sup>nd</sup> and North 33<sup>rd</sup> and 4<sup>th</sup> Avenue and 6<sup>th</sup> Avenue North).

**AA. Final Plat** of Lake Hills Subdivision, 28<sup>th</sup> filing. (Generally located on Black Diamond Road between Glen Eagles Boulevard and Lake Hills Drive).

**BB. Final Plat** of South Heights Subdivision. (Generally located off Bench Boulevard and north of Dorothy Lane).

**CC. Final plat** of Siewert Acres Subdivision. (Generally located at Lake Elmo Drive and Siewert Lane).

**DD. Bills and Payroll.**

(**Action:** approval or disapproval of Consent Agenda.)

Councilmember McDermott separated ITEMS I and M from the Consent Agenda. Councilmember Bradley moved for approval of the Consent Agenda LESS ITEMS I and M, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

Councilmember Bradley moved for approval of ITEM I, seconded by Councilmember Iverson. On a voice vote, the motion was approved. Councilmember McDermott voted “no”.

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Councilmember Bradley moved for approval of ITEM M, seconded by Councilmember Johnson. On a voice vote, the motion was approved. Councilmember McDermott voted "no".

## **REGULAR AGENDA:**

**2. RESOLUTION 00-17580 requesting Yellowstone County place a mill levy increase of 2-mills for Planning Department on the November ballot. Staff recommends approval. (Action: approval or disapproval of resolution.)**

Councilmember McDermott moved for approval of the resolution, seconded by Councilmember Bradley. Councilmember Johnson said the importance of doing this is to encourage the Commissioners in this effort to alleviate the staffing problems in the Planning Dept. "You approach the office and it's almost as if those persons still there ... are almost afraid that you may want or need something and they don't have time to do it," he said. On a voice vote, the motion was unanimously approved.

**3. SITE SELECTION for the Downtown Mixed Use Parking Development. (Public hearing held 5/8/2000). (Delayed from 5/22/00). (Action: approval or disapproval of consultant recommendation).**

Councilmember McDanel moved for approval of the consultant recommendation, seconded by Councilmember Kennedy. Councilmember McDermott said she has been listening carefully to the downtown property owners and with few exceptions they have supported Site #3. "They know the downtown dynamics better than any of us and I believe they have listened to all sides of this issue. They weighed their needs against the advantages and disadvantages of all three sites. They voted for Site #3 as their first choice. Their need is for parking and the location for that parking is Site #3," she stated. She urged the Council to listen to the downtown property owners.

Councilmember McDermott made a SUBSTITUTE MOTION to make Site #3 the Council's first choice. The motion died for lack of a second. Councilmember McDermott AMENDED THE MAIN MOTION to include a parking garage on Site #3, to be built simultaneously with Site #1, seconded by Councilmember Bradley. Councilmember Kennedy asked how the second parking garage would be paid for. Councilmember McDermott said the Finance Director provided the council with some advice on how a garage could be paid for. Councilmember McDanel said he would support a parking garage in the Site #3 area, but it is not appropriate as part of this motion; the two are separate issues. Councilmember McDermott said she would normally agree, but is concerned that if Site #1 proceeds, the parking garage on Site #3 will get lost.

Councilmember Johnson said, "we're sitting in the center of the city center, we're sitting in the heart of downtown Billings... I have difficulty if we begin to say ... yes to this

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and this and this, but be damn sure you do this too kind of thing... I know other things need to be included in each site... A good share of the folks I've spoken with or who have spoken with me have said, 'please don't forget a second garage; don't forget more parking; don't forget that the greatest need is probably over and across the street – in this immediate area that we are sitting in. But that area is somewhat expanded, has been by CTA, has been by this RFP, has been by our even opening up again to take another look.

I think we need to stay with the plan ... give fair warning ... let it be known that we are very much interested in taking care of this parking as well as that, that needs to be done there. I would ask that we consider Site #1 as is and as totaled and as a large and meaningful beginning to what needs to be done here. I think things are already happening in Site #2 and Site #3 and the neighborhoods surrounding," he stated.

Councilmember Iverson said she agreed with Councilmember Johnson. "I'm very excited... When we were running for office, we often had people ask us about the downtown – our feelings about the downtown. To me, this plan was so exciting when I first got it. I looked at it and thought it was exciting then and I think it is exciting now. I really do think that development in Site #1 ... will overflow into the rest of downtown Billings," she stated.

Councilmember Kennedy said he was around twelve years ago when the council had the same discussion up here. "I've watched a community sort of stick their head in the sand twelve years ago. At the last minute some ideas came in and sort of split the groups into three or four different factions. I was a tenant in a building downtown and subsequent to that I lost my business because of the continual deterioration of the downtown community. I don't want to see that happen again... What it's all about here for us ... this is a private investment by a group of developers and we are being asked to help with that investment, to leverage those dollars with the public funds we have... There is finally some interest in looking at downtown. A couple of years ago, the Partnership didn't want to work with anything north of Sixth Avenue...It's still cheaper to build west or east. We had a little discussion about the Pierce Packing Plant last week; there's interest in it now. Lonnie White has some discussion going on with government agencies looking for RFPs in this community that want to move into one consolidated area. We have an opportunity there. We can start that process now to guarantee Councilmember McDermott that if we can get that stable of forces together, we'll have a new parking garage in the area you are requesting right now... What I am seeing here is the change; it gladdens my heart to see that. We're also charged with convincing the development community that we are serious in our attempts at redevelopment," he stated.

Councilmember Ohnstad said he was excited about the Library Board talking about a new library facility in Site #1. He said he had a property owner call him and suggest that the parking garage could be moved closer to Fourth Avenue and solve the distance that people perceive they have to walk. He noted also that the Christian Church is concerned about the pedestrian mall in front and no North 29<sup>th</sup> Street.

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Councilmember McDermott reminded the Council that the Tax Increment District stops at Sixth Avenue North. Councilmember Bradley said he thinks that with the maximization of the garage fund and the TIF investment, Site #1 provides the “bigger bang for the buck”. In regard to putting a parking garage in Site #3, he said there is a lot of interest in that area. “It is ripe for redevelopment. It’s something we need to do... If we can tie both ends of the city together in Site #1 and #3, then the next step will be Site #2 for redevelopment... With the synergy of the Montana Avenue streetscaping, I think that everyone will understand that downtown is not dead; it’s just asleep. We just need to throw some cash into it to wake it up. I’m in favor of Site #1 and have been from the day we first discussed the amount of investment and looked at how the three different sites penciled out,” he stated. He urged the Council to support the motion.

On a roll call vote on the AMENDED motion, the motion was failed 2-6. Councilmembers voting “yes” were: Bradley and McDermott. Councilmembers voting “no” were: McDanel, Kennedy, Iverson, Ohnstad, Johnson and Larson.

Discussion resumed on the main motion. Councilmember Johnson encouraged the Council to vote for Site #1 because it is the best site for housing. It is a good site for parking and suggested that the parking be moved as close to downtown as possible. It is also a good location for office buildings and a new library facility. Councilmember McDermott suggested placing the Library facility in Site #3. She said office space in Site #1 would be in direct competition with the downtown, right in the middle of the city center, with “folks trying to lease space right now. That new office space will have a nice new parking garage. We’re still going to have down here a list of 400 requests for parking spaces. I think it’s not a level playing field,” she stated.

Councilmember Johnson said, “this is not really a downtown or a neighborhood, this place we are tonight. It’s a city center. It’s the center of business, government, finance, education, culture, leisure, outdoor activity, all of that to those of us that live in this community, those who live in this region ...,” he stated as he read from a constituent’s letter.

Deputy Mayor Larson reminded the council that this step tonight is only one more step in a lengthy process. “The Council’s decision tonight to have this group look at Site #1 by no means brings anything to a conclusion. All it does is take one more step at directing these people to take sixty (60) days to bring forward to the City Council an actual, for real, not theoretical proposal, but something with hard numbers where we can actually sit down and take a look at that. That’s one more opportunity for us to have this conversation again. There will be several of those opportunities throughout this process. We have a long ways to go with this and many additional opportunities from Site #3 and Site #2 and anywhere else in downtown to come to the table to talk about opposing point of view, additional things that we can look at... I see this just as one more very progressive step,” he stated. On a roll call vote on the main motion, the motion was approved 7-1. Councilmembers voting “yes” were: Bradley, McDanel, Kennedy, Iverson, Ohnstad, Johnson and Larson. Councilmember McDermott voted “no”.

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**4. PUBLIC HEARING AND SECOND READING ORDINANCE 00-5121 FOR ZONE CHANGE #659: a zone change from Residential Multi-Family and Residential--15,000 to Community Commercial on Tracts 1-2, C/S 1882, located at 345 Orchard Lane. Tom Craft, owner. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)**

The public hearing was opened. LEON PATTON OF 453 NEWMAN LANE said he is the Chairman of the Southwest Corridor Task Force. Mr. Patton said the task force supports the zone change.

KARL HOWARD OF 4312 BROCKTON AVENUE said he supports Mr. Craft's request. He handed copies of letters of support from twenty neighbors in the area to the City Administrator and urged the Council to approve the request.

There were no other speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the ordinance on second reading, seconded by Councilmember Johnson. On a voice vote the motion was approved. Councilmember Bradley voted "no".

**5. PUBLIC HEARING AND SECOND READING ORDINANCE 00-5122 FOR ZONE CHANGE #660: a zone change from Community Commercial to Controlled Industrial on Lots 3-12, Block 171 O.T., generally located at the southwest corner of 3<sup>rd</sup> Avenue South and South 25<sup>th</sup> Street, Gerald Neumann, Darrell Aldinger and Stephen Stokkee, owners. Zoning Commission 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 Iverson moved for approval of the ordinance on second reading, seconded by Councilmember McDermott. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND SECOND READING ORDINANCE 00-5123 FOR ZONE CHANGE #662: a zone change from Residential Multi-Family Restricted to Public on Lot 1, Block 1 of West Side Addition, located at 3 Broadwater Avenue. Roman Catholic Bishop of Great Fall, MT, owner; CTA Architects/Engineers, agent. Zoning Commission 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 Ohnstad moved for approval of the ordinance on second reading, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

**7. PUBLIC HEARING AND RESOLUTION 00-17581 changing the name of Baltusrol Road to Black Diamond Road. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**



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The public hearing was opened. RON HILL OF 1653 LAKE HILLS DRIVE said the road currently has no existing signage and any bills for costs with the name change will be his responsibility. The old name has been misspelled and mispronounced so much that he recognized it needed to be changed.

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

**8. PUBLIC HEARING AND RESOLUTION 00-17582 CREATING SID 1345: street and utility improvements in Wentworth Drive. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Public Works Director Kurt Corey said this district involves fourteen lots that are an extension of Wentworth Drive improvements completed over the past couple of years. Twelve parcels are under single ownership. No protest was received.

The public hearing was opened. KEN HOLLAR, NO ADDRESS GIVEN, said he owns twelve lots in the proposed district, nine of which have sale arrangements on them. He said there are about thirty houses in the project. He urged the council to approve the district.

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

**9. PUBLIC HEARING AND RESOLUTION 00-17583 CREATING SILMD 272: Forest Park Subdivision, 5<sup>th</sup> and 6<sup>th</sup> Filings. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Public Works Director Kurt Corey said Fifth and Sixth filings of Forest Park Subdivision are the new area in the northwest quadrant of 24<sup>th</sup> Street West and Grand Avenue. The developers of the 105 total lots in the new filings have petitioned for the creation of the lighting district. 99 of 105 lots are under single ownership. The average cost per lot per year will be about \$215/yr. He noted they are large lots with relatively tight spacing of the upscale designed lights.

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

**ADJOURN** – With all business complete, Deputy Mayor Larsen adjourned the meeting at 8:23 p.m.

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THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Michael Larson          DEPUTY MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CMC/AAE          City Clerk