

REGULAR MEETING OF THE BILLINGS CITY COUNCIL MONDAY, JULY 10, 2000

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 Mayor Tooley, followed by the Invocation, which was given by Councilmember Jan Iverson.

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

MINUTES – June 26th. The Minutes were approved as printed.

COURTESIES – There were no courtesies.

PROCLAMATIONS – Mayor Tooley. There were no proclamations.

BOARD & COMMISSION REPORTS – There were no Board and Commission reports.

ADMINISTRATOR REPORTS – Dennis Taylor. - Mr. Taylor recognized and thanked the Billings community, businesses and City of Billings employees for the wonderful hospitality shown the Ride Across America bicyclists and the Wing Dingers during their stay here this past week.

CONSENT AGENDA:

1. A. Mayor's Appointments:

- (1) Mike Boyette, Police Commission
- (2) Gordon Belcourt, Board of Adjustments
- (3) EMS Advisory Committee
 - Ed Ulledalen – Chair – Stockbroker at D.A. Davidson & Chair of EMS Advisory Review Task Force (ETF)
 - Sam Rankin – Realtor and member of ETF
 - Michael Bush – Emergency physician at St. Vincent & member of ETF
 - Anthony Russo – Emergency physician at Deaconess & member of ETF
 - Jim Kraft – Yellowstone County Emergency Services Director & member of ETF

- Dick Clark – Former City Council member & manager of Kwik Way stores
- Clarence Nybo – Retired Manager of Job Service & senior citizen representative
- Marv Jochems – Billings Fire Chief (non-voting member)
- Jack Johnson – City Council liaison (non-voting member)

B. Bid Awards:

- (1) **Computer System – AS400 9406-720-2061.** (Opened 6/20/00). (Delayed from 6/26/00). Recommend Integrated Information Systems, Inc., \$78,773.00.
- (2) **W.O. 00-03, #2, 2000 Street Maintenance.** (Opened 6/27/00). Recommend Empire Sand & Gravel, \$514,436.26.
- (3) **AIP 18 – Overlay and Taxiway ‘A’ Light Rehabilitation.** (Opened 6/20/00). (Delayed from 6/26/00). Recommend Empire Sand & Gravel.
- (4) **W.O. 00-02 #1, Developer Related and Miscellaneous Improvements.** (Opened 6/27/00). Recommend Rock Pile, Inc., \$361,450.00 and 115 days.
- (5) **Janitorial Service at 302 Edward Building.** (Opened 6/27/00). Recommend re-bidding.

C. Subordination of Housing Rehab Loan: Cynthia Fisher, 222 Terry Avenue, \$5,000 of \$15,000 deferred loan.

D. CDBG Volunteer Demolition Project, 3210 & 3212 3rd Avenue South and 140 Custer.

E. Allocation of \$30,000 from CDBG Affordable Housing Fund to Community Leadership Development.

F. Acceptance of Federal Aviation Administration Grant #20 to Fund Airport Improvement Project (AIP) #18. (\$1,485,352 grant dollars; \$148,536 City match).

G. Acknowledging receipt of petition to annex #00-03: Lot 1, Block 7 of Rush Subdivision, 3rd filing, Richard Dorn, petitioner, Engineering In, agent and setting a public hearing date for 7/24/00.

H. Preliminary Plat of West Central Subdivision. (Generally located at 3405 Central Avenue).

I. Final Plat of Mattson Acres Subdivision Amended. (Generally located between Mattson Lane and Lambrecht Lane north of Bench Boulevard).

J. Bills and Payroll.

LATE ADDITION:

K. Authorization of staff to increase wages effective July 1, 2000, for Police and non-bargaining employees contingent upon approval of the MPEA contract and the FY 00-01 Budget.

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

Councilmember Johnson moved for addition of Item K to the Consent Agenda, seconded by Councilmember Ohnstad. On a voice vote, the motion was unanimously approved. Councilmember Iverson moved for addition of other members to the EMS Advisory Committee as listed in Item 1A(3), seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved. Councilmember Kennedy moved for approval of the Consent Agenda with the additions, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. RATIFICATION OF CONTRACT with MPEA (Police), 3-year term: 7/1/2000 – 6/30/2003. Staff recommends approval. (**Action:** approval or disapproval of contract).

Councilmember Iverson moved for approval of the contract, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #00-17587 CREATING SILMD 271: Gabel Subdivision, 2nd Filing. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

Public Works Director Kurt Corey said this is a Special Improvement Light Maintenance District to install lighting fixtures in conjunction with the current development along Gabel Road in the area west of South 32nd Street West. This is a one owner SILMD at the request of the Big Sky Economic Development Authority. There is no protest on the SILMD. The public hearing was opened. There being no speakers from the audience, the public hearing was closed.

Councilmember Ohnstad moved for approval of the staff recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

4. ARONSON AVENUE EXTENSION – W.O. 97-07

A. PUBLIC HEARING AND RESOLUTION #00-17588 authorizing sale of city-owned property described as 62,244 square feet of Swords Park located in

the SW1/4 of Sec. 27, T1N, R26E, PMM. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

B. ACCEPTANCE OF WARRANTY DEED & RIGHT-OF-WAY AGREEMENT. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Kurt Corey gave a brief description of the proposed area. He said the Transportation Plan adopted last year identified the extension of Aronson Avenue as a designated collector street from the Heights and along an alignment that diverts north of the BBWA Canal and across several properties including Swords Park. The existing intersection is Alkali Creek Road and Airport Road. He stated that the action this evening is not formal approval of a design but a formality to acknowledge that a portion of Swords Park, although public property, is legally available for construction of a roadway such as Aronson Avenue would be formally converted to public right-of-way in anticipation of extension of the roadway at some point over the next few years. He said there are other properties from which additional right-of-way would need to be negotiated and acquired over a period of time. He stated there will be various public hearing opportunities on the actual design as plans progress.

The public hearing was opened. JILL WIGGINS OF 305 CAMEL asked exactly what is planned for the extension of Aronson Avenue. Mr. Corey indicated on the overhead map the planned extension route for Aronson Avenue.

LEE NIXON, NO ADDRESS GIVEN, said he owns some of the property the proposed right-of-way will go through. He said he wondered if Council realized the beauty of this park. He said when he bought his property 26 years ago he thought the park would always be there and now he is finding he may be looking out on a major thoroughfare.

MARLENE PICKENS, said she lives on Morningside Lane. She said her main concern is about the beauty of the area. She does not know what the proposed street will do to ease the traffic through the Heights. She does not understand the ultimate goal of this project. She said it seems criminal to put a busy street through such a natural area.

There were no other speakers from the audience. The public hearing was closed. Councilmember Johnson moved for approval of the resolution, seconded by Councilmember Bradley. Councilmember McDanel said he would vote for the item because it is in the preliminary stages and there will be opportunity for additional comment and input as to where the actual location of the road will be and the actual design during future public hearings. He said he is also interested in protecting the area. Councilmember McDermott said she would be interested in seeing how the Parks Department's master plan for Swords Park interfaces with the plan for extension of Aronson Avenue. Councilmember Elison said he would vote against this item because it is early in the planning stages and it seems premature to be selling the land and putting the right-of-way through Swords Park without a plan for where the road will ultimately go. He said the sale of the right-of-way to build the road ought to wait for an actual design for the road and allow for public input as to whether the road is needed or wanted through Swords Park. Councilmember Ohnstad said it looks like the road

should go straight through the subdivision (referring to the overhead map) and it looks as though this is a route decided on to satisfy that particular subdivision and still pull traffic into a major intersection. Councilmember Johnson said he agreed that now is the time to look at this issue. "People living in that area, as well as emergency vehicles, need a way to get into and out of the area. If another route is decided on, this process can certainly be undone at that time," he stated. On a voice vote, the motion passed 7 to 2.

Councilmember Johnson moved for approval of the warranty deed and right-of-way agreement, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION #00-17589 vacating North 14th Street between 4th Avenue North and the railroad spur right-of-way adjacent to Blocks 21 and 22, O.T., Ken Kunkel & Calmont LLC, petitioners. Staff recommends approval. (Action: approval or disapproval of resolution).

Councilmember Bradley asked if the railroad right-of-way was currently being used. Mr. Corey said he believed this is currently an unused portion of track.

The public hearing was opened. There being no speakers, the public hearing was closed. Councilmember Elison moved for approval of the resolution, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #CC00-02: a variance from the Site Development Ordinance, BMCC Section 6-1208(h)(2) to allow a 21-foot wide increase in the width of a driveway approach onto Canyon Drive. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

The public hearing was opened. CONNIE WARDELL, NO ADDRESS GIVEN, said she was speaking on behalf of Coldwell Banker The Brokers, who manages the association of Brandywine and who is requesting the variance. She said Brandywine currently has two driveways that go straight through from Monad to Canyon Drive. She said many times there is more traffic down those driveways than there is on Canyon Drive. The proposed driveway would be located in such a way that it could not be seen that the driveway goes all the way through. She stated that she has had tremendous cooperation from City staff on various issues in that area. There were no other speakers from the audience. The public hearing was closed. Councilmember Bradley moved for approval of the variance, seconded by Councilmember McDermott. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND SECOND READING ORDINANCE #00-5126 amending the BMCC and revising sections 23-304(e) and 23-404(c), providing that the number of days to approve or reject a preliminary or minor plat be "working days". Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Acting Planning Director Jeff Bollman said the amendment was being proposed so that the local subdivision regulations comply with changes made during the last Legislative Session to the state statute with regard to subdivision review. This was a

clarification by the Legislature that it was their intent for the days to be “working” days.

The public hearing was opened. There being 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.

8. PUBLIC HEARING AND SECOND READING ORDINANCE #00-5127 amending the BMCC and revising sections 6-205 and 6-301, providing for certain exemptions from the building code and a separate Board of Appeals for the 4-½ mile extended jurisdictional area. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

Kurt Corey said that if HB 91 that was considered by the 1999 Legislative Session had been approved it would have either eliminated or severely restricted the ability of the Building Department to conduct building code enforcement activities in the 4-1/2 mile extended jurisdictional area. The House Bill did not pass but there were various issues raised. Local legislators, county commissioners and staff have tried to address some of the concerns raised during HB91. The Board of Appeals that would review disputes of the 4-1/2 mile extra jurisdictional area is comprised of residents of the city and there is lack of representation of county residents and secondly, there was concern that some classes of agricultural type facilities be exempt from building code enforcement activity. The result is a separate Board of Appeals to be appointed by the county from the extra jurisdictional area to hear those appeals from that area. This ordinance would allow that to occur and it would provide the exemption for agricultural related buildings in that area up to 1,000 square feet in size.

Councilmember Bradley asked why 1,000 square feet was chosen. Mr. Corey said 1,000 square feet is usually hobby-sized barns with some facilities to keep a horse. He said beyond 1,000 square feet there are certain structural issues that should be looked at, so it was determined that 1,000 square feet was a good cutoff. Councilmember Kennedy asked if there could be an appeal beyond the Board of Appeals. Mr. Corey said the Board of Appeals decision is final. There is no appeal beyond the Board of Appeals on this type of issue.

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

ADJOURN – With all business complete, Mayor Tooley adjourned the meeting at 8:18 p.m.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Colleen Schell-Berg Deputy City Clerk