

REGULAR MEETING OF THE BILLINGS CITY COUNCIL MONDAY, JUNE 14, 1999

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, given by Councilmember Mick Ohnstad.

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

COURTESIES – **Acting City Administrator** Bill McGill presented Public Works Administrative Coordinator Tam Rodier with the Administrator's Award for a team process of networking in the organization.

Police Dept. – Gary Williams with the Butte-Silverbow Law Enforcement agency presented Police Chief Ron Tussing with a plaque for his billboard-sitting effort to raise money for Special Olympics.

ADMINISTRATOR REPORTS – Bill McGill

1. Mr. McGill asked for consideration of moving #8 to #2 in the item lineup this evening. Councilmember Iverson made a motion to consider Item 8 as the second item on the agenda, seconded by Councilmember Johnson. On a voice vote, the motion was unanimously approved.

2. Mayor Tooley restated a motion that was discussed during the budget discussion at 5:30 p.m. A motion was made and seconded to allocate \$25,000 from the \$31,000 contingency fund for installing a flashing yellow light at Boulder School subject to and contingent upon a School Route Study justifying such an action. He noted that Staff was seeking direction on this matter and whether or not to prepare an amendment to the proposed budget.

Councilmember Johnson said he realized there were several other schools in need of a flashing yellow light for child safety. Apparently there are five of nine schools that do not have any form of flashing yellow lights and similar requests for these schools are being reviewed. He emphasized that while the decision process should be fact-based and thorough, the process should not take so long, since the safety of school children is at risk here. He asked why this would take five or six years, when the City is growing and changing so quickly. "It's imperative that we move on some of these and that we use some of the contingency monies or we use dollars from the other sources," he said.

Councilmember Johnson reminded the Council that the City is in the middle of doing a West End Study and looking at ways to make it better, to have orderly development on the West End, "yet we can't have proper safety features for our young citizens in one of our elementary schools," he said. He said he hoped the council would pass the motion and take care of this school, then quickly take care of the others too.

Councilmember McDanel asked Kurt Corey for clarification on this issue. Public Works Director Kurt Corey replied that there are 24 elementary schools in the City. Of the 24, 15 have some type of flashing system, leaving 9 that do not have any type of flashing system at the school crossings. Of those 9, they are dealing with 5 similar requests. Councilmember McDanel made a substitute motion that the 5 studies be completed as quickly as possible and the City fund the one that has the priority, based on results of the study, seconded by Councilmember Deisz. On a voice vote on the substitute motion, the motion was unanimously approved.

CONSENT AGENDA:

1. A. Mayor's appointments:

(1) Emergency Medical Services Advisory Review Task Force members:

- Ed Ulledalen
- Sam Rankin
- Dr. Michael Bush
- Dr. Anthony Russo
- David Gurchiek
- Dirk Kroll, Laurel City Council
- Michael Deisz, Billings City Council
- Lorren Ballard, City Staff
- Jim Kraft, County Staff

B. Bid Awards:

(1) **Security for the Parmly Billings Library Facility.** (Opened 5/4/99). Delayed from 5/10/99 and 5/24/99. Recommend Guardian Security Co., \$48,022.25.

(2) **Billings Regional Landfill Infrastructure Facility Upgrades.** (Opened 5/18/99). Delayed from 5/24/99. Recommend Empire Sand & Gravel Co., Inc, \$988,811.25.

(3) **1999 Street Maintenance, W.O. 99-03, Contract #1.** (Opened 6/1/99.) Recommend JTL Group, Inc., \$233,010.00.

(4) **Heating Upgrade for the Rental Car Rental Offices for Billings Logan International Airport.** (Opened 6/8/99). Recommend delaying award until 6/28/99.

(5) **\$685,000 Broadwater Subdivision Improvements, Phase I Bonds.** (Opened 6/14/199). ~~Recommendation to be made at meeting.~~ postponing until 6/28/99. The City will cause to be mailed or delivered to any prospective bidder on or before June 22, an Official Statement relating thereto and a form of bid. Anyone desiring an Official Statement and form of bid, should notify the Director of Finance and Administrative Services.

C. Change Order #1, W.O. 99-01: 1999 Water and Sewer Replacement Project, Gray Construction, Inc., \$0 and 0 days.

D. Airport Terminal Lease with Corpat, Inc., (dba National Car Rentals), \$4,200.00.

E. 1999-2000 City/State Agreements with MDOT:

- (1) Agreement for Contract Maintenance – Overlay, \$148,760.00
- (2) Agreement for Highway System Maintenance, \$410,841.00

F. FY 1999-2000 Landfill Use Agreements:

- (1) Stillwater County
- (2) Musselshell County
- (3) Yellowstone County
- (4) Carbon County
- (5) Treasure County
- (6) City of Red Lodge
- (7) Town of Bridger
- (8) Town of Fromberg
- (9) Town of Columbus
- (10) Bighorn County
- (11) City of Laurel
- (12) Town of Joliet
- (13) Town of Hysham

G. Agreement with Montana State Library for office space rental at Parmly Billings Library, \$542.16/year.

H. Contract with YMCA to establish a Child & Family Intervention Center Project, \$107,000.

I. Easements with Montana Power Company for new low-level wind alert shear sites (LLWAS), \$0,:

- (1) A strip of land 8-ft in width located in the E2 of Section 29, T1N-R26E, being a portion of Tract 1 of C/S 2334.
- (2) A strip of land 8 ft in width in Sec 33:NENW, T1N-R26E, extending from an existing power line in a west direction 900 ft to a transformer located near the north line of the NENW, all located in C/S 833.
- (3) A strip of land 8-ft in width in Section 19: SE4, T1N-R26E, being a portion of Tract 1 of C/S 2334.
- (4) A strip of land 8-ft in width in Section 24: W2, T1N-R25E, being a portion of Tract 1 of C/S 2334.

J. W.O. 95-13: School Route Sidewalk Program:

Right-of-Way Agreements and Warranty Deed on:

- (1) Parcel in Lot 10, Wolf Subdivision, Herman Fox, \$4,588.50.
- (2) Parcel in west 50 feet of Lot 9, Wolf Subdivision, Ynes & Ruth Contreraz, \$2,500.00.
- (3) Parcel in Lot 6, Wolf Subdivision, Zilpha M., Marian I. and Jean A. Erickson, \$0.
- (4) Parcel in W2 of Lot 4, Wolf Subdivision, Ernest Dutton, \$0.

K. Acknowledging receipt of petition to Vacate Public Right-of-Way, a portion of right-of-way adjacent to North 31st Street between 2nd Avenue North and 3rd Avenue North (adjacent to Lots 13-18, Blk 55), St. Patrick's Co-Cathedral, petitioner; and setting a public hearing date for 7/12/99.

L. Acknowledging receipt of petition to Vacate Public Right-of-Way, a portion of North 28th Street and 80 ft of right-of-way north of 12th Avenue North and Poly Drive between Blks 1 and 2, Normal Subdivision, St. Vincent Hospital etal, petitioners and setting a public hearing date for 7/12/99.

M. Resolution 99-17455 levying and assessing residential and commercial collection and disposal fees and landfill use fees.

N. SID 1341: Circle Fifty Subdivision park improvements:

- (1) Contract for Professional Services, Engineering, Inc., \$99,568.74.
- (2) Resolution of Intention 99-17456 to Create the District and setting a public hearing date for 7/12/99.
- (3) Resolution of Intention to Create 99-17457 an Extended Special Improvement Maintenance District #4012 for maintenance of park improvements and setting a public hearing date for 7/12/99.

O. SID 1342: Lake Hills Subdivision, 23rd and 24th Filings, Street and utility improvements on Eastlake Circle and Westlake Circle:

- (1) Contract for Professional Services, Engineering, Inc., \$43,638.24.
- (2) Resolution of Intention 99-17458 to Create the District and setting a public hearing date for 7/12/99.

P. Resolution of Intention 99-17459 to order in W.O.99-02, Contract #3: 1999 Developer Related Curb, Gutter and Sidewalk Program, and setting a public hearing date for 7/12/99.

Q. Resolution 99-17460 relating to Third Quarter budget adjustments, FY 1998-1999.

R. Cancellation of Checks and Warrants, \$3,852.84.

S. Authorization of expenditure of Exchange City Golf Course Funds by

Downtown Exchange Club, \$25,500 (\$25,000 for 3 flagpoles in Amend Park and \$500 for a playground at Poly Drive Elementary School.)

T. Preliminary Minor Plat of Sprague Subdivision, generally located at Wicks Lane and Cheryl Street.

U. Preliminary Minor Plat of Marys Hill Top Subdivision, generally located on Laurie lane.

V. Bills and payroll.

(Action: approval or disapproval of Consent Agenda.)

Councilmember McDermott separated Item 1B1. Councilmember Deisz separated Items H and K. Councilmember Johnson moved for approval of the Consent Agenda EXCEPT the separated items, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved. Councilmember Johnson moved for approval of Item 1B1, seconded by Councilmember Elison. On a voice vote, the motion was approved. Councilmembers McDermott and Deisz voted "no". Councilmember Johnson moved for approval of Item H, seconded by Councilmember Elison. Councilmember Deisz asked if the expenditure of money coming from the federal grant is overseen by the City and if there will be a report at the end of the year. Finance Director Nathan Tubergen replied that the City would receive the money and the YMCA will bill the City on a monthly basis. The City maintains the records for three years thereafter. On a voice vote, the motion was unanimously approved. Councilmember Johnson moved for approval of Item K, seconded by Councilmember McDermott. Councilmember Elison said he would abstain from voting because he was employed by the diocese. Councilmember Deisz asked if there would be additional information at the public hearing. "He said the information submitted was confusing and asked if they were requesting closure of ONLY the 20-foot right-of-way and not complete closure of the street. City Attorney Brent Brooks confirmed that it was closure of just the right-of-way strip being closed. On a voice vote, the motion was unanimously approved.

ADDITION:

Councilmember Elison moved to add RECONSIDERATION of revised methods of assessment for Street Maintenance Districts to the agenda, seconded by Councilmember Bradley. On a voice vote, the motion failed. A $\frac{3}{4}$ majority vote was required.

REGULAR AGENDA:

8- 2. DISCUSSION on a resolution proposing the issuance of General Obligation Bonds for the purposes of constructing a community recreation center, refurbishing and replacing playgrounds and other park facilities, paving parking

lots, and constructing trailways; and referring the question of the issuance of said bonds to the electors. (Action: direction to staff.)

Larry Bean of 2905 Harrow, said he is a member of the Park Board. The proposal presented this evening is well supported. The process requires approval of four items: a resolution making findings necessary to allow voter approval of tax liabilities exceeding limits, an ordinance amending the charter to provide a dedicated 2.3 mills for operation, maintenance and capital needs of the City's swimming pools and submitting the proposed amendment to the electors of the City, a resolution referring the ordinance to the electorate at the November 2nd election and a resolution proposing the issuance of General Obligation bonds to fund the construction of a community recreation center, refurbishment and replacement of playgrounds and other park facilities, paving parking lots and constructing trailways and referring the question of the issuance of the bonds to the electors. He emphasized that the Park Board does support this proposal. He urged the council to take action on these items no later than August 9th so that the deadlines can be met for placing this matter on the November ballot.

Councilmember McDanel said the council needs to be expeditious in dealing with these items. He moved to schedule the first readings of these resolutions no later than the council meeting of July 12th, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

2= 3. (A) PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #647: a zone change from Residential 6000 to Planned Development with underlying zones of Single Family (Manufactured and Modular Homes) and Residential 6000 (4-plexes) on the S2S2NW4SW4 of Section 23, Township 1 North, Range 26 East, lying west of the old railroad right-of-way, located at 5021 Bench Boulevard. Roy and Betty Clause, owners; Engineering, Inc., agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

(B) ADOPTION OF DEVELOPMENT PLAN. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Zoning Coordinator Jeff Bollman said the subject parcel is approximately 8 acres in size and located on the east side of Bench Boulevard. Most of the surrounding zoning in all directions is Residential 7000. The Development Plan for this property proposes to connect the pieces of Heights Lane. The proposed underlying zoning would contain two zones. Lots 14-15 would be zoned to allow 4-plexes. The rest of the lots in the Planned Development would be zoned Single Family and would allow either manufactured or modular homes to be built. He reminded the council that the new Planned Development regulations went into effect with the adoption of the Unified Code. This is the second request to be processed under the new regulations. The process was modified somewhat, to require a Development Plan to be considered concurrent with the zone change. A preliminary review meeting is held and surrounding

property owners are notified of this meeting. Comments were received from the neighborhood – including requiring garages and putting a fence around the entire property. The developer elected to make two changes to the proposed project: (1) to place a 6-foot fence along the entire eastern portion of the property and (2) add language to require a building permit for the structures. A permanent foundation in the single-family zone is required and a minimum length and width is required via the agreement. Three people spoke against the request at the Zoning Commission meeting. The Zoning Commission did however recommend approval of the request because they felt there is a need for this type of zoning within the City. He noted that the Planning Department received a protest petition from the surrounding property owners. Under state law, 20% of the property within any of the 4 quadrants constitutes a valid protest. The petition easily triggered the valid protest on both the east and south sides. Because of the valid protest, 9 of the councilmembers must vote in favor of the request to approve it. City Attorney Brent Brooks said $\frac{3}{4}$ of the council must vote in favor of the request to approve the zone change.

The public hearing was opened. RICK LEUTHHOLD OF ENGINEERING, INC, AGENT, 1001 South 24th Street West said the property is currently zoned R6000. Part of the reason for going to Planned Development is the conditional nature of that zoning. Manufactured housing falls on serious considerations because there are no ways of conditioning some of the development around it; it is just blanketly allowed. The developer is looking at modular or manufactured houses on permanent foundations. A fence has been added. A four-plex of a single-story nature is also being considered so they are accessible. All of the lots are in excess of R9600, the largest allowed single family lot in the zoning code. The properties will be required to obtain a building permit to do their permanent foundation, providing a mechanism of insuring that these foundations are the full depth and permanent in nature. Heights water will be utilized; sewer already exists in the area; storm water will be handled via a series of retention pits. The street will be completed with curb and gutter to full width. Currently Heights Lane is a narrow gravel road. Mr. Leuthhold said the Zoning Commission did recommend approval of the request. The developer will require that only new manufactured homes can be placed on the property. He urged the Council to approve the request. Councilmember Deisz asked if these regulations would be guaranteed, “because when the other development at Two Moon came in, we were also told at this council meeting that those were going to be permanent foundations. If you drive out there, they are not permanent foundations. So, will this be guaranteed if the council was to override the protest,” he asked. City Attorney Brent Brooks said the Development Agreement is just like a contract. If it were not followed, the City would need to sue the developer to enforce the terms of that agreement.

ROY CLAUSE, NO ADDRESS GIVEN, said he is the developer of the proposed project. Mr. Clause said the property is east of Bench Boulevard and north of Hilltop Road. Everything within city limits is zoned R7000. This parcel is about the only property that is not zoned R7000. With current zoning, 29 4-plexes could be built. He

spoke briefly about the irrigation ditch on the property and their desire not to fence it, and their plans to slope the ditch bank down for ease of maintenance. Mr. Clause said the entire project would have curb and a sidewalk on one side of the street.

STEWART DOGGERT, HELENA, MT said he is the Executive Director of the Montana Manufactured Home and RV Association. He said the association supports the project because it allows new manufactured homes placed on permanent foundations as one of the options. Manufactured housing has evolved greatly in the last decade. All manufactured homes are built to the HUD code, a strict federal code. These are not the trailers of yesteryear. Montanans need affordable housing. With Montana's average salary at less than \$20,000 annually, it is understandable why approximately 40% of all new homes sold in the state during the last three years have been manufactured homes. The inclusion of manufactured homes in this development is consistent with the treatment of manufactured housing in other communities. He urged the council to follow the recommendation of the Zoning Commission.

TAMMY ELLIOTT OF 429 KATHY LANE said she has worked with the Clauses for the last eight years. She said the concept of manufactured housing in subdivisions in new for Billings, but is a concept used in other states and resort areas. This Planned Development zone request provides infill, which coincides with the Comprehensive Plan. It also gives consideration to the character of the district. This area is surrounded by older single, doublewide and older homes that are in need of repair. This development will breathe life into an area that needs rejuvenation. Market values range from \$35,000 to \$65,000 in the area. No one in the area will realize a negative impact on his or her property values due to this development. She urged the council to approve the zone change.

SIDNEY JENSEN OF 1031 COTTONWOOD said she is opposed to the zone change because it will not bring housing that is similar to their neighborhood. Their neighborhood is a single-family neighborhood without any mobile homes and no duplexes in the immediate area. She noted there are mobile homes on Heights Lane and on Yellowstone River Road. That is why their neighborhood felt that if the developer wanted to put mobile homes in the development, it should be in the area closer to Bench Boulevard, and allow only modulars next to their neighborhood. Ms. Jensen said the developer is unwilling to look at that option. The neighborhood has tried to work with the developer, despite the misleading information that he offered, especially in regard to mobile homes. She said she is also opposed to the four-plexes he is proposing, because their size and bulk are not compatible with existing structures.

DOUG STOVALL OF 243 ROLLING HILLS ROAD said he works for Big Sky Mobile Homes. He said the difference between mobile homes and modular homes when they are on foundations are almost undetectable. Their appearance is almost the same. He said the community needs this housing because young people cannot afford

\$120,000 starter homes.

PATRICE HOLT OF 1025 COTTONWOOD said she opposes the manufactured homes and the 4-plexes. She purchased her home only a month and a half ago, paying \$93,000 for her home. She purchased it because of the character of the neighborhood and it being a good place to raise her children. She said she felt the modulars and single-family homes would be okay.

PATRICIA ECKERT OF 438 SHARRON LANE said she and her husband have been looking for an affordable home for about 3 years. They are looking at the manufactured homes, but their problem is finding a space to either rent or buy on which to place the manufactured home. She said the developer is on the right track with the proposal. The new manufactured homes are completely different from what they were 20 years ago and will not make this a dumpy area.

TIM HUDSON OF PIERCE HOMES said he has been in the manufactured housing business for over 20 years. He said they used to sell "trailers" but now sell manufactured homes – homes built in a manufacturing plant under controlled circumstances that give you a good, quality product. The average life is rated at 60 – 70 years. He said he grew up in this community and is honored to be part of the manufactured home business because it fills a need of the community. It is a good solution to the problem of affordable housing. This housing will contribute to growth, value increases and addressing a need in the community.

KERWIN JENSEN OF 1031 COTTONWOOD said the neighbors are in favor of the development if Mr. Clause is willing to build and specify where he is going to build what he said he is going to build – modular and manufactured homes. The neighborhood at the east half of the property has asked Mr. Clause to build only modular homes in this portion of the development. He said he believes that is a win-win situation for everyone – the developer, the community and the neighborhood. Yet, he is not willing to state where he is going to build modular homes and where he is going to place the manufactured homes. He reminded the council that the covenants of the subdivision are not enforceable by the City, only the residents of the subdivision, so it is no guarantee to the neighborhood outside the development that there will be new homes on the property. He suggested that the Planned Development Agreement specifically state that there will be no skirting allowed. Mr. Jensen said the neighborhood wants the contract to be enforceable by the City and not the residents of the subdivision. He noted he just heard testimony that there is virtually no difference between modular homes and the new manufactured homes. "If that's the case, put the modular homes on the ½ of the development that we live next to... We would like to see the modulars on our end. Finally, it was mentioned – 'let's me fair to all in this process'. I feel that would be the best way. Our neighborhood would be happy if he would put modulars on our side. Mr. Clause would be happy, because after all he has applied for modular and he would be able to place manufactured homes on the west side of the development." He noted also that they are also opposed to the 4-plexes.

The modulars would be compatible with the neighborhood and the bike path in the area. Mr. Jensen emphasized that all the homes in the neighborhood are stick built homes, built to UBC standards, not HUD standards. The neighborhood is asking for just that and it could be done if modulars would built on the east half of the development. He said they are asking the council to deny the request and have Mr. Clause go back to the neighborhood and re-draft the Planned Development Agreement in a way that everyone can be happy with.

BILL GIESIG OF 910 HEIGHTS LANE, TRACT 5B said the people who have opposed the development are proposing a simple solution. Mr. Giesig said when Mr. Clause came around last summer he told them he was going to build stick-built homes. From stick-built homes, he went to modulars, then to manufactured homes, "what next? Tepees? There was even rumor that he was going to put a pig farm there if he didn't get his variance. It's my feeling ... that we should go with something compatible with the protesting neighborhood. They are not opposed to the UBC, modular type of homes. It doesn't look like the 4-plexes is going over too well, so let's put manufactured homes in with basements. Everyone will come out ahead," he said.

There were no other speakers. The public hearing was closed.

RE: ITEM A ONLY: Zone Change. Councilmember Ohnstad moved for approval of the Zoning Commission recommendation, seconded by Councilmember Kennedy. Councilmember McDanel asked if the Council has the ability to modify the Planned Development Agreement. City Attorney Brent Brooks replied that the council does have some flexibility. The Council is called upon to do things: decide on the zone change and approve the Development Agreement. Councilmember Deisz asked if the Council approves Item A, can they deny Item B? Mr. Brooks replied that the Council needs to act on the zone change first. The Council could however deny the Development Agreement and have it brought back with some suggested changes. On a voice vote, the motion was unanimously approved.

RE: ITEM B ONLY: Development Agreement. Councilmember Ohnstad moved for approval of the Development Plan, seconded by Councilmember Kennedy. Councilmember Deisz said he would like to see the Council send this back to Mr. Clause and ask him to put this into the contract that he is signing with the City, that there would only be permanent foundations and only modular homes on the entire property. Councilmember Deisz made a **substitute** motion to approve the Development Plan, contingent upon adding the conditions that there would be permanent foundations and only modular homes would be built on the entire property, seconded by Councilmember Kennedy. Councilmember Deisz said this is not the first development Mr. Clause has attempted in the Heights, nor the first time he has threatened a neighborhood. "I would like to see the City take the action that we protect that neighborhood versus letting this go through on his say so and promises," he stated. Councilmember Kennedy asked if the Development Plan falls under the valid protest provision too. Mr. Brooks replied that it did not, adding that if the Council is wishing to

put conditions on the Development Plan, when they are really voting on either accepting or rejecting the plan. If the Council does not approve it as presented, they are effectively rejecting it, he clarified. The conditions could be a recommendation for changes. Councilmember Ohnstad said the neighborhood really only asked that the east half of the development be modular; the west part could be manufactured homes.

Councilmember Ohnstad amended the motion to allow only modular homes in the east half of the development (Blocks 7-12) and manufactured homes in the west half (Blocks 1-6) of the development, seconded by Councilmember Iverson. Councilmember Kennedy suggested Mr. Clause be given the chance to make the decision on the changes, after visiting further with the neighborhood. Councilmember Elison said doing this in a parliamentary procedure method, because that motion no longer exists. "The simple motion to either approve or disapprove no longer exists because we are now dealing with the substitute motion, which is to provide the two conditions. The substitute motion has been amended. As far as I know, there is no way to get back to the original motion," he emphasized. Councilmember McDanel asked if he could make another substitute motion. Mr. Brooks said the correct procedure is to work their way back and vote on the present substitute motion. Mayor Tooley said if the Council voted "no" on the second substitute motion, it takes you back to the first substitute motion and then that takes you back to the original motion. Mr. Brooks concurred. Councilmember Elison said, "I beg to differ. We have a substitute motion – the motion on the floor. An aye or nay vote on that matter seals the vote and you move on to the next item of business." Mr. Brooks said it depends on which substitute motion the council votes. "You go through the two substitute motions. If the current one on the floor is voted "no", you work your way back to the next substitute motion, that's voted "no", that brings you right back to the original motion," stated Mr. Brooks.

Councilmember Ohnstad withdrew his amended motion. Councilmember Iverson, the second concurred. On a voice vote on the substitute motion offered by Councilmember Deisz, the motion failed. Mayor Tooley said the Council is now back to the original motion – adoption of the Development Plan. Councilmember McDanel amended the motion to deny the Development Plan and provide direction to staff and Mr. Clause to pursue some compromise that would be included in the Planned Development Agreement that would include limiting the development of manufactured housing to the west end of the property and to work with the neighbors to resolve that, seconded by Councilmember Deisz. On a voice vote, the motion was approved. Councilmember Elison voted "no".

Councilmember Elison said there are two topics here – affordable housing and infill development. Councilmember Kennedy said the community needs to look at affordable housing and look at how it is provided in other communities. "We need to find ways to make affordable housing affordable; this is one way to get it done," he said. There is a big gaping hole in the \$60,000 - \$100,000 market, and this is what needs to be addressed by the Council. On a voice vote on the main motion as amended, the

motion was approved. Councilmembers Elison and Bradley voted "no".

3. 4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #648: a zone change from Residential 6000 to Residential 7000 on the following properties: Lots 26-48 of Block 5, Lots 25-48 of Block 6, Lots 25-48 of Block 7, Lots 25-48 of Block 8 and all of Blocks 9, 10, and 11 in North Elevation Subdivision, 1st filing; AND Lots 1-10, 28-45 of Block 15, Lots 2-24 of Block 24, Lots 24-46 of Block 25, Lots 24-46 of Block 26 and all of Blocks 16, 17, 18, 19, 20, 21 22, and 23 in North Elevation Subdivision, 3rd Filing, generally located north of Grand Avenue, east of Pioneer Park and west to the medical corridor. City of Billings, agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Jeff Bollman said this is a large area bounded on the west by Pioneer Park, to the south by an alley between Grand Avenue and Avenue B, on the east between North 30th and North 31st Street and on the north where Elevation Avenue would be extended. Current surrounding zoning includes Neighbor Commercial on Grand, Public in Pioneer Park and R96 to the northwest and to the east the Medical Corridor Permit District. This zone change was initiated by the City Council late last year. The neighborhood requested that the City initiate the zone change, to eliminate the need for each property owner in the bounded area to sign the application. The neighborhood pursued the zone change application because there was presently potential for multi-family housing to occur in that neighborhood. The current R6000 zoning would allow single-family duplex units and three-plex thru 10-plex units allowed with special review approval. The neighborhood felt that even though special review was required for the denser units, it was not enough protection for their neighborhood. Changing the zoning to R7000 would afford that protection, but also made the allowed lot coverage less and the allowed height was lessened. The front setback increases in R7000 as well. Mr. Bollman said there are currently legally non-conforming structures in the neighborhood and they will continue to be legally non-conforming.

The public hearing was opened. SHAWNA KERR OF 907 NORTH 31ST said she is the secretary for the North Elevation Task Force. She said they are asking the council to vote in favor of the request, as it is consistent with the recommendation of the Planning Department, as it appears in the Neighborhood Plan previously approved by the Council. In the past year, the task force raised over \$700 to pay the zone change fee. All 260-property owners in the zone change area and over 400 property owners in adjacent neighborhoods were notified of the zone change request. She noted the neighborhood contained some up/down duplexes (houses with basement apartments) that are presently legal non-conforming uses. The trend in the neighborhood is people buying these older homes and turning them back into single family homes from the "chopped up" little apartments they are presently. Ms. Kerr said the zone change is important to retain the residential character of the neighborhood and is one of the few historic neighborhoods in the area.

There were no other speakers. The public hearing was closed. Councilmember Elison moved for approval of the Zoning Commission recommendation, seconded by Councilmember Ohnstad. Councilmember McDermott encouraged the Council to support the zone change, noting that it is a grassroots effort by the neighborhood. On a voice vote, the motion was unanimously approved.

4. 5. PUBLIC HEARING AND RESOLUTION 99-17461 authorizing the filing of a grant application and the execution of a grant agreement with the Department of Transportation and Federal Transit Administration under the Federal Transit Act, Section 5307, \$773,084.00. Staff recommends approval. (Action: approval or disapproval of resolution.)

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

5. 6. PUBLIC HEARING AND SECOND READING ORDINANCE 99-5087 relating to the City of Billings' Revolving Loan Program; modifying and renaming the program and making certain other findings related thereto. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading).

The public hearing was opened. BRUCE MCCANDLESS OF THE DOWNTOWN DEVELOPMENT CORPORATION, 2722 3RD AVENUE NORTH said they are asking the council to support this ordinance. It will renew the program, expand the purposes to include equipment and tenant improvements, expand the available resources and permits the City to work with Downtown Development Corporation and the Downtown Billings Partnership to market and administer the fund.

CHARLIE YEGEN OF PARK CITY, MT said he is a downtown property owner and the representative of the Downtown Billings Partnership and serves on the Parking Committee. He proposed several changes to the ordinance as follows:

- Section 7.01 (iv): additional real or personal property security interest shall be required from a borrower, i.e. equity, etc. if recommended by the loan eligibility review committee. (The partnership was concerned about the matter of collateral with the initial loan. The ordinance refers to additional collateral.)
- Section 7.02: A 4-person loan eligibility review committee composed of one each from the City, the Bank Pool, the Yellowstone Regional Development Company (a 501(c)(3) non-profit Montana corporation, and the Downtown Billings Property Owners Committee will review the loan applications and make recommendations to the City Council for approval of the loans. The Mayor will receive nominations from each organization named above and shall appoint the members of the loan committee for a term of two (2) years. (Property owners were concerned that the loan eligibility review board includes a definite number of members and that the viewpoint of the downtown property owners be represented on that committee. The also felt the board membership should be very specifically described.)
- Section 7.03: The Yellowstone Regional Development Company, a 501(c)(3)

non-profit corporation will report to the City Council regarding the use, status and particulars of the Revolving Loan Fund on at least an annual basis. (The Yellowstone Regional Development Company is also known as the Downtown Development Corporation.)

MARY WESTWOOD OF 1432 YELLOWSTONE AVENUE said she is a member-at-large of the Downtown Billings Partnership, a downtown property owner, and a member and secretary of the Downtown Property Owners committee. She said she supports the ordinance. She's grateful to the banks for agreeing to add their financial muscle to the Revolving Loan Fund and increase the change that the latest revitalization effort in the Downtown will succeed. The Downtown Property owners have some concerns, as Mr. Yegen described. Ms. Westwood said she is concerned about the role of the Downtown Development Corporation. Rather than create their own non-profit corporate status, they decided to utilize a "shell" established by the Tradeport called the Yellowstone Regional Development Company and use that name instead. That organization has a broader charge – to do redevelopment in a 5-county area. She said there is some concern about that situation. CONNIE WARDELL OF 1400 POLY DRIVE said she is a member of the Downtown Property Association. She said this is a great idea – pooling dollars into one pool. Ms. Wardell said there is one aspect that should be looked at. She said it is very important for all of the leadership groups in the downtown to come together under one umbrella, "get on the same page", and going in the same direction. This is the first time there has been a coordinated effort and it has taken a long time to get here. To take these funds and have them be strictly under the control of a loan committee, without the requirement that they come before the board of the Downtown Partnership needs to be considered. She requested the council bring this ordinance back in a way that proposed projects be approved by the loan committee (re. Credit worthiness), then to the Downtown Partnership, so that the coordinated efforts of that partnership to develop the downtown are considered.

MARY WESTWOOD RETURNED. Ms. Westwood said she hoped the DDC would amend their articles of incorporation to focus more on the downtown. Their role needs to be clarified – as to what name they will use and what role they will play. Ms. Westwood said this is the first time in downtown revitalization that the groups are working together – not an easy process. But, they all want the same things. As a result, they have all had to give up some of their individual needs for control and their private agendas.

There were no other speakers. The public hearing was closed. Councilmember Bradley moved for approval of the ordinance, seconded by Councilmember Kennedy. Councilmember Kennedy moved to amend the motion to make the following changes:

- Section 7.01: The City Staff is directed by the Downtown Partnership or its designee to develop the program guidelines,
- Section 8: The City Staff is authorized upon approval between the City and the Downtown Partnership or its designee of this ordinance

The motion was seconded by Councilmember Johnson. Councilmember Deisz amended

the motion to also include the changes requested by Mr. Yegen (See above in Mr. Yegen's testimony), seconded by Councilmember McDermott. Councilmember Kennedy said it was his intent to include those changes, but neglected to do so. Mayor Tooley asked Councilmember Johnson if he agreed to include these changes in his second. Councilmember Johnson concurred. Mayor Tooley moved to amend the language to correct syntax as follows: Section 7.01: The City Staff is authorized to develop program guidelines with approval of the Downtown Billings Partnership as it may be required on the loan application..., seconded by Councilmember Kennedy. Mayor Tooley noted that the author of the amended motion concurred with the latest amendment, which will be incorporated into the original amendment. On a voice vote on the amended motion, the motion was unanimously approved. On a voice vote on the motion as amended, the motion was unanimously approved.

6. 7. PUBLIC HEARING CONTINUED AND RESOLUTION vacating public right-of-way in Industrial Subdivision, 2nd filing, adjacent to Lot 5, Block 5. Paul and Dorothea Rice, petitioners. (Continued from 5/10/99 and 5/24/99). Staff recommends approval of the resolution. (Action: approval or disapproval of staff recommendation.)

City Attorney Brent Brooks said he has been corresponding with legal counsel for Billings Truck Center and Cliff Hansen. The latest letter was just delivered to the client this afternoon. It has been suggested that this item be delayed another two weeks to allow the parties to arrive at a mutually agreeable solution to the problem. Councilmember Elison moved to delay action until 6/28/99, seconded by Councilmember Deisz. On a voice vote, the motion was unanimously approved.

7. 8. FIRST READING ORDINANCE revising BMCC Section 27-601(c) relating to the storage of trailers and recreational vehicles and setting a public hearing date for June 28, 1999. Staff recommends approval. (Action: approval or disapproval of ordinance on first reading.)

City Attorney Brent Brooks said this ordinance would need to go before the Zoning Commission on July 6th before coming back to the Council for second reading. The Council will have the second reading and public hearing on July 26th instead.

Mr. Brooks also noted there was a minor typographical error on page 1 (c): delete the word "or" to read: accessory building zoning code setback requirements. Councilmember McDanel moved for approval of the ordinance on first reading, seconded by Councilmember Elison. On a voice vote, the motion was unanimously approved.

ADJOURN –With all business complete, the Mayor adjourned the meeting at 9:47 p.m.

THE CITY OF BILLINGS:

