

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
July 12, 2010

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 Thomas Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Ronquillo gave the invocation.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, and Clark. Councilmember Astle was excused.

MINUTES – June 14, 2010, approved as presented
June 28, 2010, approved as presented

COURTESIES – Mayor Hanel read three letters from Bob and Donna Witham, the owners of Lake Elmo Coin-Op Laundry, to the City, Police Department, and Fire Department expressing appreciation for assistance and services after the storm of June 20, 2010.

PROCLAMATIONS – None

ADMINISTRATOR REPORTS – TINA VOLEK

- Ms. Volek asked to add an item to the Consent Agenda as Item 1T, for a street closure requested by Senior High School Class of 1980 for a reunion scheduled on July 23. She advised that the event organizers did not realize that a permit was required to close the street, and the event was scheduled prior to the next Council meeting. She noted that the staff memo was placed at council desks and also available for public viewing in the ex-parte notebook.
- Ms. Volek referred to Item 2, and said a copy of a quit claim deed for COR Enterprises was placed at council desks that evening. She said there had been a question about a repayment requirement for the current building, but that requirement was removed by the then-Council in December, 1993. Ms. Volek advised that a copy of the quit claim deed was also available for public viewing in the ex-parte notebook.
- Ms. Volek advised that staff requested delaying Item 1K to the July 26, 2010, meeting to allow staff additional time to prepare the necessary documents.

Councilmember Ronquillo asked how that type of situation could be prevented in the future because if people were loaned CDBG money and did not have to repay it, Community Development Block Grant funds would run out. Ms. Volek advised that a current council could not bind a future council, so she was not sure how that could be prevented from happening in the future. City Attorney Brent Brooks confirmed that it was a policy decision made by the 1994 Council. Councilmember Ronquillo asked if an amendment had to be made to protect the City in the future contracts could not be changed. Ms. Volek said that contract feature had been part of other agreements, but in that particular case, there must have been a request to remove it. She added that she did not believe a feature could be put on a contract that would bind a future council. Mr. Brooks advised that it was a deed restriction that another Council decided to remove. Councilmember Clark suggested getting the minutes from that time period to Councilmember Ronquillo. Ms. Volek advised that she would check into it, but cautioned that minutes from that time period contained very little detail.

Councilmember Ronquillo said that brought up the question of the land on 27th Street, and where the money would go if it was sold. Planning and Community Services Director Candi Beaudry explained that the funds would go back to CDBG funding to be reallocated. Councilmember Ronquillo asked if a future council could change that. Ms. Beaudry said it could be stated in the contract, but the current council still could not bind a future council. Councilmember Gaghen clarified that if the land was sold, the funds could only be returned to CDBG, not the General Fund. Ms. Beaudry said that was correct.

Councilmember Ulledalen moved to postpone Item 1K to July 26, 2010, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved to add the Billings Senior High Class of 1980 street closure request as Item 1T on the Consent Agenda, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and #3 ONLY.

Speaker sign-in required. (Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

- **Joe White, Billings, MT**, referred to Item 1L and said he supported the bidding process whenever possible to allow enough time to get a better job done.

There were no other speakers, and the public comment period was closed.

1. CONSENT AGENDA

A. Mayor Hanel recommends that Council confirm the following appointments:

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Benjamin Kerns	Tourism BID Board	7/12/10	6/30/14

B. Bid Awards:

1. SID 1388, Dorothy Lane - Street, Curb/Gutter, Drive Approach, and Storm Drain Improvements. (Opened 6/29/10). Recommend H.L. Ostermiller Construction, Inc., \$249,358.08.

C. Contract for Professional Services for W.O. 10-23, Zimmerman Trail Alignment Analysis, HDR Engineering, Inc., amount not to exceed \$245,778.00.

D. Amendment #1 to the Commercial Aviation Ground Lease with Lynch Flying Service, Inc., DBA Edwards Jet Center, reducing the leasehold square footage by 470.44 sf and the annual rental fee by \$54.34 for the current lease year.

- E. **Amendment #2** to the Limited Commercial Aviation Building and Ground Lease with Alpine Aviation, Inc., DBA Alpine Air, extending the lease expiration date to October 31, 2017.
- F. **Vehicle Lease Agreement** with Underriner Motors to lease six vehicles for the City County Special Investigations Unit (CCSIU), July 1, 2010-June 30, 2011, \$30,600 total, budgeted through FY2011 Drug Forfeiture Fund.
- G. **Approval** of Frequency Reassignment Agreement with Sprint Nextel for costs associated with radio frequency reassignment; total reimbursement to City of Billings, \$2,328,582.88.
- H. **Street Closures:**
 - 1. **Blue Knights 36th Annual International Convention Motorcycle Parade** on July 22, 2010, 12 noon - 2 p.m.; starting at the Holiday Inn Grand Montana on Midland Road, using the access road to Laurel Road, east to Montana Avenue, east on Montana Avenue to N. 27th, north on N. 27th to 4th Avenue North, east on 4th Avenue North, ending at MetraPark.
- I. **Resolution of Intent #10-18963 to Exclude Property** to de-annex a portion of Broadwater Avenue located between 56th Street West and 58th Street West in Trails West Subdivision, and set a public hearing for August 9, 2010.
- J. **Resolution #10-18964 amending Resolution #10-18940** to reflect changes to the form and detail of the Department of Natural Resources and Conservation loan and bonds for the 2010 Annual Water Rehab Projects.
- K. **RESOLUTION** fixing the form and detail of the Series 2010A Airport Refunding Bonds.
- L. **RESOLUTION #10-18965** declaring an emergency and waiving the requirement for competitive bids (MT Code Annotated 7-5-4303) to repair damages to Senator's Boulevard where Alkali Creek crosses and Nutter Boulevard where Castlerock Park drainage exits the park following the storm of June 20, 2010.
- M. **Second/final reading Ordinance #10-5516 for Zone Change #864:** A zone change from Community Commercial (CC) to Highway Commercial (HC) to allow the expansion of a limited pharmaceutical manufacturing facility on Lot 1, Block 1, North Pointe Square Subdivision, First Filing, located at 2408 Main Street in the Billings Heights. Cody Family, LLC, applicant; Ernie Dutton, agent.
- N. **Second/final reading Ordinance #10-5517 for Zone Change #865:** A text amendment to Section 27-1505(f) of the Billings, Montana City Code (BMCC) regulating the procedures of the Board of Adjustment when requests for zoning variances have been denied.
- O. **Second/final reading Ordinance #10-5518 for Zone Change #866:** A zone change request from Residential 7,000 (R-70) to Residential Professional (RP) on the east 90 feet of Lot 10, Block 2, Justiss Subdivision, located at 2320 Rosebud Drive. John & Paula Lambrecht, owners.

- P. Second/final reading Ordinance #10-5519** adopting the 2009 Edition of the International Fire Code by reference with certain amendments.
- Q. Approval** of one-year extension of preliminary plat approval date for Skyview Ridge Subdivision, 1st Filing; setting a new expiration date of August 13, 2011.
- R. Final Plat:**
1. Hogan Homestead Subdivision, Amended Lot 4-A, Block 5
 2. Srite Acres, Amended Lot 3
- S. Bills and Payroll:**
1. June 11, 2010
 2. June 18, 2010
- T. Billings Senior High Class of 1980**, July 23, 2010, 5 p.m. - 12 midnight; N. 28th Street between 1st Avenue North and 2nd Avenue North.

(Action: approval or disapproval of Consent Agenda)

Councilmember Cimmino separated Items 1C and 1S2. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items 1C and 1S2, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino stated that she would recuse herself from the vote on Items 1C and 1S2 because she was employed by the consulting firm involved with Item 1C and there were invoices paid to her employer in Item 1S2.

Councilmember McCall moved for approval of Item 1C, seconded by Councilmember Gaghen. On a voice vote, the motion was approved 9-0.

Councilmember McFadden moved for approval of Item 1S2, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9-0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #10-18966 authorizing the sale of Economic Development Revenue Bonds for Community Option Resource Enterprises, Inc. (COR Enterprises), in an amount not to exceed \$1,790,000, to finance a portion of the costs of design and construction of a new facility. Staff recommends approval. (Action: approval or disapproval of staff recommendation). Ms. Volek advised that staff did not have a presentation, but was available for questions.

The public hearing was opened.

- **Tony Cline, 1251 Caroline**, stated he was Director of COR Enterprises and wanted to provide some background about COR and information about the proposed project. He stated that the operation had been in the current building since 1980, and due to expansion of the organization and the aging of the current facility, the Board of Directors started planning for a new facility about six years ago. He said the new building would allow them to provide services in a safer and more efficient environment, and would also provide a more dignified atmosphere for their clients. He said approval of the tax exempt financing

would allow COR Enterprises to obtain a lower interest rate from First Interstate Bank. He said they hoped to break ground on the facility in the fall.

Councilmember Ronquillo asked Mr. Cline if transportation would be available at the new location. Mr. Cline advised that transportation would be provided for most of the clients, and that many of them used the City bus system.

- **Karen Kenney, 432 Jaque Lane**, stated that she had a 28 year old disabled son and had been involved in services for disabled people for many years. She said they had utilized services from COR Enterprises for many years and were very pleased with the staff and programs. She said they had been in many programs, and COR Enterprises was the best, and due to that excellence, the organization was growing and would continue to grow.
- **Dan Kenney, 432 Jaque Lane**, said that although COR Enterprises was a non-profit organization, it supervised and hired personnel to take care of disabled people. He said his son basically employed five people that were paid through COR to provide services to him. He noted that COR served over 500 people, and had to employ enough people to provide the necessary services. He stated that support of COR Enterprises on that issue was a good example of taking care of the people in the community for employment and an economic base. He said it was a positive thing and not a handout. He described the Life Academy program where clients provided services at various locations throughout the community.
- **Dave Stoltenberg, 3004 Brentwood**, reported that he served on the Board of Directors of COR Enterprises for a number of years and could not think of a more appropriate agency for support of their expansion. He urged approval of the item that would allow the organization to continue to grow, thrive, and serve the community.

Councilmember Gaghen said she knew that at one time COR Enterprises had some government contracts for production of items of need, and wondered if that was still part of the program. She asked if it was also called Sheltered Workshop at one time. Mr. Cline responded that they had some federal contracts such as cleaning at the Federal Building, and providing tent lines for the Department of Defense. He said that, at any given time, there were 100 people with disabilities on the payroll.

Councilmember Ronquillo stated that COR Enterprises did a good job for the community and he hoped they could proceed.

- **Kevin Hintt, 2314 Quinhavin**, stated he was president of HighTech Construction and had been working with Mr. Cline and his staff to plan for the new facility. He stated it would be a 100% Billings, Montana, project from designers to contractors, suppliers, etc. He said they would provide 75-100 construction jobs at one time. He explained that the facility would be beautiful, energy efficient, and more welcoming. He urged approval and said his company was ready to submit plans in August and hoped to break ground in September.
- **Jeremiah Rouane, 2826 Dozer Road**, stated he was Assistant Vice President of Commercial Lending at First Interstate Bank and was proud to be working with COR Enterprises, and hoped the program would be approved that evening. He said he was available to answer questions about the financing.

There were no other speakers, and the public hearing was closed.

Councilmember McCall moved for approval of Item #2, authorizing the sale of Economic Development Revenue Bonds for COR Enterprises, seconded by Councilmember Gaghen. Councilmember McCall commented that COR Enterprises was an excellent business that had invested in the lives of people with disabilities for 40 years, and had also invested in the community. She urged support and assumed the Council would fully support it. On a voice vote, the motion was unanimously approved.

3. RESOLUTION #10-18967 authorizing the refunding of Series 2000 General Obligation Bonds (\$1,700,000) issued for the purpose of refurbishing and rehabilitating playgrounds, basketball courts, and tennis courts in existing parks, and for building bike/pedestrian trails. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek explained that the purpose of the refinancing was to reduce the interest rate on the bonds and save approximately \$139,000 in interest on the remaining balance of the \$1.7 million of General Obligation Bonds. Councilmember Clark asked about the original term. Ms. Volek advised it was 20 years, with about 10 years left. Ms. Volek explained that the funds had been spent on refurbishing and rehabilitating playgrounds and basketball courts, and the unpaid balance of \$1.1 million was being refinanced. Councilmember Pitman stated that “refunding” usually meant giving something back. Ms. Volek explained that it was a common term in the bond industry, and really meant refinancing. Councilmember Ruegamer suggested using ‘re-fund’ in the future to avoid confusion. Councilmember Cimmino asked about the ten-year payoff because it seemed that it would take longer to pay off the balance when the first ten years did not reduce the balance by much. Mr. McCandless explained the repayment process and pointed out that the first years paid very little toward the principal, with more toward the end, similar to a home mortgage. He said the balance of \$1.1 million would be paid in the next 10 years. Councilmember Ronquillo moved for approval of refinancing the Series 2000 General Obligation Bonds, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Please sign up on the clipboard located at the back of the Council Chambers.*)

- **Joe White, Billings, MT**, stated that he still had not heard anything regarding a restraining order for damages and a housing order that was causing a festering disease. He asked for immediate action. *The remainder of Mr. White's testimony was inaudible.*

There were no other speakers, and the public comment period was closed.

COUNCIL INITIATIVES

Councilmember McFadden moved that staff be directed to develop a recycling request for proposals to determine whether there was a private company interested in providing recycling for all or part of the City of Billings' waste stream, and at what cost and under what conditions, seconded by Councilmember Ruegamer. Councilmember Ronquillo said that the MDU contract had to be reviewed and considered before getting into that. He said the landfill might not be able to produce the methane expected by MDU if the trash was separated. He explained that when the agreement was made, gas was selling at a much higher rate, and even though it had dropped, it was expected to rise again. He said the projection by MDU was almost \$500,000 per year to the City for 40 years, and he did not want to lose that. He stated that MDU was already a recycling company to an extent. Councilmember Ronquillo made an amendment to the motion to discuss the matter with MDU to see if it had long-term effects on the methane gas project, seconded by Councilmember Ruegamer.

Public Works Director Dave Mumford advised that the contract needed to be discussed with MDU. He said the contract was silent on recycling, but their investment was with the idea that it would continue for a long period of time, and removing the organics would impact the long-term ability for methane gas extraction. He added that the idea was for MDU to provide about \$500,000 in revenue for the methane gas extraction. Councilmember Ruegamer stated

that the City would have to separate the recycle items to keep the contract with MDU. Mr. Mumford advised that the MDU contract did not require that. Councilmember Ruegamer said he meant that was what the City had to do to do what was right. Mr. Mumford explained options for separating the items, all of which would significantly raise rates and costs. He said they would have to decide if ratepayers absorbed those costs.

Councilmember Clark asked Councilmember McFadden to clarify that he wanted proposals from companies, not just the one that spoke to the Council. Councilmember McFadden advised it would be like any other competitive bid process. Councilmember Clark stated that some of the questions being asked were premature to that proposal. Councilmember McFadden advised that City staff would actually require the successful bidder to answer a number of questions, including the ones being asked that night. Councilmember Gaghen asked if it was premature to start the RFP process prior to sufficient information about the MDU contract. Mr. Mumford commented that recycling was costly and even though the contract with MDU was silent on it, the concept was that the City would continue to feed the landfill with the materials. He suggested soliciting responses of interest, rather than the formal RFP process. He said that process would be able to provide the names of businesses that were interested. He noted that some local, small recycling businesses in the community would go out of business if the City pursued the recycling.

Mayor Hanel commented that he was not opposed to recycling, but questioned whether the Council would approve anything of that nature. He said he felt it came down to dollars and cents and it was likely something the City could not afford at the current time.

Ms. Volek suggested a request for qualifications which would bring out the appropriate firms that could talk about experience and plans. Councilmember McFadden advised either a request for qualifications or a request for interest were both acceptable. Councilmember Gaghen stated she was more comfortable with a request for qualifications process.

Councilmember Ronquillo withdrew his amended motion, and Councilmember Ruegamer withdrew his second. Councilmember McFadden withdrew his original motion, and Councilmember Ruegamer withdrew his second. Councilmember McFadden said he would restate his motion and moved that staff be directed to develop a recycling request for qualifications to determine whether there was a private company interested in providing recycling for all or part of the City of Billings' waste stream, and at what cost and under what conditions, seconded by Councilmember Ruegamer. Councilmember Ruegamer said he would like to amend it that MDU looked at whatever came in since it was involved. Mayor Hanel did not call for a second to the amendment. Councilmember Ulledalen said it was premature until the issue was resolved with MDU, and for that reason, he would not support the motion. On a roll call vote, the motion failed 6-4. Councilmembers Pitman, McFadden, Ruegamer, and Mayor Hanel voted in favor of the motion. Councilmembers Ronquillo, Gaghen, Cimmino, McCall, Ulledalen, and Clark voted against the motion.

Councilmember Clark commented that the item could be brought back after the MDU contract was reviewed.

Councilmember Cimmino asked for a clarification of the difference between a Request for Qualifications and a Statement of Qualifications. Mr. Brooks explained that a request for proposals assumed staff had done research and was seeking proposals for what it wanted and how it could be done, and a statement of qualifications was basic and indicated the City was thinking about something and wanted to know who was up to the task and why.

ADJOURN -- The meeting adjourned at 7:28 p.m.