

COUNCIL ACTION SUMMARY

CITY OF BILLINGS

***CITY OF BILLINGS MISSION STATEMENT:
TO DELIVER COST EFFECTIVE PUBLIC SERVICES
THAT ENHANCE OUR COMMUNITY'S QUALITY OF LIFE***

AGENDA

COUNCIL CHAMBERS

September 24, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Ronquillo

ROLL CALL – Councilmembers present: Ronquillo, Gaghen, Stevens, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones, and Clark

MINUTES – September 10, 2007, approved as distributed

COURTESIES - None

PROCLAMATIONS – American Indian Heritage Day, September 28, 2007

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek reminded the Council of the Agenda Review Meeting scheduled for tomorrow evening at 5:30 p.m. in the City Hall Conference Room. Ms. Volek advised, because of the Columbus Day holiday on Monday, October 8th, the Council meeting would be held on Tuesday, October 9th.
- Ms. Volek referenced Agenda Items 15 and 16 concerning text amendments for electronic signs and commercial sign regulations and requested Council open the public hearings and continue them until the next meeting, due to the length of tonight's meeting. Ms. Volek said the proposed continuations had been publicly advertised.
- Ms. Volek asked the Council to add the 2008 Unified Planning Work Plan to tonight's consent agenda. She said the item had been reviewed at a previous work session.
- Ms. Volek noted a letter in regard to Agenda Item 4b from a property owner on St. Andrews Drive requesting that, due to illness, the fee for weed removal be waived. She said the property owners indicated they would be willing to make monthly payments, if necessary.
- Ms. Volek referenced correspondence provided in the Friday Packet for Agenda Item H requesting postponement of a petition to annex for two weeks. She said the request was made by William Hanser.
- Ms. Volek noted Council had received a protest petition for Agenda Items

14a and 14b and several letters concerning Agenda Item 17. Ms. Volek noted copies of all of the items were filed in the Ex-Parte Notebook in the back of the room for public review.

Councilmember Veis moved to add the 2008 Unified Planning Work Program to the Consent Agenda, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2, 3b, and 17 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. 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.)

- **GARY DAVIS, 2745 Homer Davis, Shepherd, MT**, said he represented the stockholders of the Billings Bench Water Association (BBWA) and wanted to speak on Agenda Item 2. He said the BBWA had no problem with the Aronson Avenue project or the legal process of condemnation. He said the land was appraised at \$1.18 a square foot, and 85% of the value was deducted for lack of access. He said the land had access and should be valued at \$1.18 a square foot.
- **SHANE GUNDLACH, 3940 Primrose Drive**, said he was the developer of Tuscany Subdivision. Mr. Gundlach referenced a couple of letters he had submitted to the Council, and said he was available for any questions. Mr. Gundlach told the Council he would like to make a cash contribution in lieu of a Traffic Accessibility Study.
- **KEVIN JACOBSEN, Morrison-Maierle, Inc., 901 Technology Boulevard, Bozeman, MT**, said he represented Shane Gundlach. Mr. Jacobson said he wanted to talk about Condition #3, the secondary access requirement. He said he would like Council to consider extending the timeframe to 2010.
- **TOM EASTWOOD, Morrison-Maierle, Inc., 901 Technology Boulevard, Bozeman, MT**, said he was asking for reconsideration of Condition #8 for the Tuscany Subdivision, the Traffic Accessibility Study requirement. Mr. Eastwood said Tuscany Subdivision would generate less than 500 average daily trips and would not require a Traffic Accessibility Study according to City requirements. He said Mr. Gundlach would like to make a cash contribution for the intersection of 62nd Street West and Rimrock Road instead.
- **SALLY JOHNSON, 5835 Ironwood Drive**, said she felt Ironwood Drive and Canyonwoods Drive were too narrow to handle increased traffic generated by the Tuscany Subdivision. She said she felt a Traffic Accessibility Study was warranted. Ms. Johnson requested an access through Yellowstone Country Club and not two accesses through Ironwood.

- **LINDA WING, 5875 Canyonwoods Drive**, asked Council if they received the letter from Mr. Wells because it summarized how most of the homeowners felt in Ironwood Subdivision. She said she felt the cart was being put before the horse because there was current litigation over Ironwood Road that was not scheduled to be resolved until August of 2008. She said there were safety issues with the Tuscany development and the narrow access road out of Tuscany through Ironwood.

CONSENT AGENDA:

SEPARATIONS: H

1. A. Bid Awards

(1) Purchase of Seven (7) 2008 Truck Cabs and Chassis with Refuse Compactor Bodies for the Solid Waste Division (Opened 9/11/09) Recommend delay of award until October 9, 2007.

B. Agreement with Yellowstone County Council on Aging for the senior programs at the Billings Community Center, 7/1/07 – 6/30/08, \$27,202.00 annual.

C. Approval of three-month lease with Lynch Flying Service, Inc. dba Edwards Jet Center for Airport Hangar IP-3, \$2,450.01 total revenue, 9/1/07-11/30/07.

D. Approval of five-year lease renewal with the Federal Aviation Administration for Garage/Shop Site, \$1,785 annual revenue, 10/1/2007-9/30/2012.

E. Approval of assignment of west end hangar ground lease with Steve Vold to First Interstate Bank.

F. Approval of amendment to the lease with the Federal Aviation Administration for second floor terminal office and operation space, \$2,961.24 per month for term of lease (decrease of \$533.48 per month), 8/1/2007-9/30/2012.

G. Amendment #4, W.O. 04-13, Water Treatment Plant Filter and Maintenance Building Expansion and Improvements. Professional Services Contract, HDR Engineering, Inc., \$125,600.00.

H. Acknowledge receipt of petition to annex #07-24: Tract 1B, Certificate of Survey 1335, Amended, 5.0 acres generally located south of Wicks Lane on the east side of Hawthorne Lane, William Hanser, petitioner, and set a public hearing date for 10/09/07. **Postponed for two weeks.**

I. W.O. 04-33 Lake Elmo Drive (Hilltop to Wicks Lane) Right-of-Way Acquisition:

- (1) Parcel #3: Portion of Tract 2A, Certificate of Survey 1109 Amended, Windsor Mobile Home Park, LLC, \$350.00.
- (2) Parcel #12: Portion of Tract 1A, Certificate of Survey 1109 Amended, Windsor Mobile Home Park, LLC, \$9,500.00.
- (3) Parcel #41: Portion of N1/2S1/2N1/2SE1/4NW1/4 of S22, T1N, R26E, P.M.M., F. William Baumann and Kathy L. Baumann, \$10,815.00.
- (4) Parcel #42: Portion of Tract 3, Certificate of Survey 2866, Kathy Baumann, \$4,200.00.
- (5) Parcel #62: Portion of the SW1/4NE1/4 of S22, T1N, R26E, P.M.M., Tasneem F. Khaleel and Shafiq Ahmed Khaleel, \$18,165.00.
- (6) Parcel #73: Portion of Lot 7, Block 4, Arrowhead Subdivision, Richard C. Emmons and Diana Emmons, \$2,257.50.
- (7) Parcel #74: Portion of Lot 6, Block 1, McCracken Subdivision, RGP Partnership, \$3,050.00.
- (8) Parcel #75: Portion of Lots 5 and 6, Block 1, McCracken Subdivision, RGP Partnership, \$2,500.00.
- (9) Parcel #76: Portion of Lot 4A, Block 1, McCracken Subdivision, Amended Lots 3 & 4, RGP Partnership, \$2,250.00.

J. Resolution of Intent # 07-18602 to expand Downtown Business Improvement District No. 0001, Stockman Bank, petitioner, and set a public hearing date for 10/22/07.

K. Preliminary Plat of River Rock Estates Subdivision generally located on the west side of 46th Street West, south of Rimrock Road between the Hi-Line Ditch and Big Ditch, conditional approval of the plat and adoption of the Findings of Fact.

L. Final Plat of amended Lots 1, 2, and 9-14, Block 1; and Lot 1, Block 2, Aspen Gateway Subdivision.

M. Bills and Payroll

- (1) August 24, 2007
- (2) August 31, 2007

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

REGULAR AGENDA:

2. **RESOLUTION #07-18603 AUTHORIZING CONDEMNATION** to acquire right-of-way of Parcel 5 and perpetual easement across the BBWA Canal owned by the BBWA for the Aronson Avenue Extension project. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

3. (a) **PUBLIC HEARING AND RESOLUTION #18604** amending the FY2008 Budget to add \$120,000 for Tourism Business Improvement District No. 002. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

(b) **APPROVAL OF THE TOURISM BUSINESS IMPROVEMENT DISTRICT NO. 002 WORK PLAN AND FY2008 BUDGET.** Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

4. **PUBLIC HEARING AND RESOLUTIONS** for annual encroachment and weed removal assessments for FY 2008.

(a) **RESOLUTION #07-18605** fixing the amount of the annual rental fee for any encumbrances, obstructions, or encroachments on, over, across, or above any street, avenue, sidewalk, or alley. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

(b) **RESOLUTION #07-18606** levying a special tax upon property within the City of Billings to defray the cost of cutting and/or exterminating weeds. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

5. **PUBLIC HEARING AND RESOLUTION #07-18607** relating to petitions for reduction of Arterial Construction Fee assessments. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

6. **PUBLIC HEARING AND RESOLUTION #07-18608** approving the re-spread of Special Improvement District 1358 based on construction cost. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

7. **PUBLIC HEARING AND RESOLUTION #07-18609** approving the original spread of Special Improvement District 1375. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

8. **PUBLIC HEARING AND RESOLUTION #07-18610** approving the original spread of Special Improvement District 1377. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

9. **PUBLIC HEARING AND RESOLUTIONS** approving the re-spread for property being split or combined in various special improvement districts.
 - (a) **Special Improvement District No. 1358, Resolution #07-18611** - Lake Hills Subdivision, Lot 6, Block 13. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

 - (b) **Special Improvement District No. 1360, Resolution #07-18612** - Tierra Yellowstone Industrial Park Subdivision, Lots 3, 4, 5, and 02A, Block 6; and Lots 03A and 05A, Block 2. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

 - (c) **Special Improvement District Nos. 9606 & 9698, Resolution #07-18613** - Suburban Subdivision, Lot 18, Block 12. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

 - (d) **Special Improvement District No. 1334, Resolution #07-18614** - Billings Original Townsite, Lot 5, Block 109. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

 - (e) **Special Improvement District No. 1327, Resolution #07-18615** – Claimstake Subdivision, Lot 5, Block 4. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

 - (f) **Special Improvement District Nos. 1341 & 1353, Resolution #07-18616** - Circle Fifty Subdivision, Lot 7, Block 2. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**

10. **PUBLIC HEARING AND SPECIAL REVIEW #853:** A special review to construct and operate a commercial bakery on a 49,000 square foot parcel in the South 27th Street Corridor Zoning District on Lots 1-14, Block 230, Billings Original Town, addressed as 802 S. 26th Street, Gilbert Hornung, Trustee of the Aurthur Hornung Trust; Steven Kenney, representing agent; Kyle Nielsen of Grains of Montana Bakery, proposed owner. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.) **APPROVED**

11. (a) **PUBLIC HEARING AND RESOLUTION #07-18617** accepting the Urban Planning Study and approving the expansion of the Urban Planning Area boundary to include the Dover Ranch property described as Tract 1, Certificate of Survey 2017. Yellowstone County Board of Planning recommends approval. (**Action:** approval or disapproval of Yellowstone County Board of Planning recommendation.) **APPROVED**
- (b) **PUBLIC HEARING AND RESOLUTION #07-18618** annexing 400.94-acres located north of the Lake Hills Golf Course and Matador Avenue in the Billings Heights (Annex #07-10). Frank Sindelar, owner. Staff recommends conditional approval. (**Action:** approval or disapproval of staff recommendations.) **APPROVED**
12. (a) **PUBLIC HEARING AND RESOLUTION #07-18619** annexing property legally described as Tract 1C, Certificate of Survey 2991, generally located west of the intersection of Central Avenue and 29th Street West (Annex #07-21). Raymond and Douglas Kramer for the Lydia Kramer Real Estate Management Trust, owners and petitioners. Staff recommends conditional approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**
- (b) **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #824:** A zone change of Lot 1C, Certificate of Survey 2991, from Residential 9600 to Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted located west of the corner of the intersection of Central Avenue and Brookshire Boulevard, Raymond and Douglas Kramer for the Lydia Kramer Real Estate Management Trust, owners; Engineering, Inc., representative. Zoning Commission recommends approval and adoption of the 12 determinations. (**Action:** approval or disapproval of Zoning Commission recommendation.) **APPROVED**
13. (a) **PUBLIC HEARING AND RESOLUTION #07-18620** annexing property legally described as Tract 1B, Certificate of Survey 2991, generally located on the southwest corner of the intersection of Central Avenue and 29th Street West (Annex #07-22). Todd Icopini, owner and petitioner. Staff recommends conditional approval. (**Action:** approval or disapproval of staff recommendation.) **APPROVED**
- (b) **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #823:** A zone change from Residential 9600 to Neighborhood Commercial, Residential Professional, and Residential Multi-family Restricted located on the southwest corner of the intersection of Central Avenue and Brookshire Boulevard, Legacy Homes, owner; Engineering, Inc., representative. Zoning Commission recommends

approval and adoption of the 12 determinations. (**Action:** approval or disapproval of Zoning Commission recommendation.) **APPROVED**

14. **(a) PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #815:** A zone change from Residential 7000 to Residential 6000 on a 25,273 square foot parcel known as Lots 2 and 3, Carrie E. Smith Subdivision, 2nd Filing, located at 1248 Clark Avenue, Jack L. Robinson and the Estate of Genevieve E. Robinson, owners; Ackerly-Hurlburt Architects, agents. Zoning Commission recommends denial and adoption of the determinations of the 12 criteria. (**Action:** approval or disapproval of Zoning Commission recommendation.) **ZONE CHANGE DENIED**
- (b) PUBLIC HEARING AND SPECIAL REVIEW #849:** A special review to allow a four-plex multi-family dwelling on a 25,273 square foot parcel in a proposed Residential 6000 zone on Lots 2 and 3, Carrie E. Smith Subdivision, 2nd Filing. Jack L. Robinson and Genevieve E. Robinson, owners; Dave Hurlburt, agent. Zoning Commission recommends denial. (**Action:** approval or disapproval of Zoning Commission recommendation.) **NOT APPLICABLE FOLLOWING DENIAL OF ZONE CHANGE.**
15. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #821:** A text amendment to Sections 27-703, 27-705(c), 27-706(b), and 27-708, Electronic Signs. Zoning Commission recommends approval. (**Action:** approval or disapproval of Zoning Commission recommendation.) **PUBLIC HEARING CONTINUED UNTIL 10/9/07.**
16. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #820:** A text amendment to Section 27-705(C), BMCC, Commercial Sign Regulations. Zoning Commission recommends approval. (**Action:** approval or disapproval of Zoning Commission recommendation.) **PUBLIC HEARING CONTINUED UNTIL 10/9/07.**
17. **PRELIMINARY MAJOR PLAT** of Tuscany Subdivision generally located east of Ironwood Estates and north of Yellowstone Country Club Estates, conditional approval of the plat, approval of the variances, and adoption of the Findings of Fact. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.) **APPROVED**
18. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.** (*Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.*) **THERE WERE NO SPEAKERS.**

Council Initiatives

- **STEVENS**: Moved for Staff to look into the arterial fees for zoning of Residential Manufactured Housing with a single home on a lot that was owner occupied. She said the property owner should receive the same exception as a single owner in a commercial zone, seconded by Councilmember Brewster. Motion passed.
- **GAGHEN**: Said the contractor that worked on the corner of 2nd and Avenue C left grooves in the street wide enough to catch a bicycle tire that could cause a liability for the City, and asked Staff to look at it. Councilmember Ronquillo said there was the same situation on the block of 9th Avenue South between 27th and 28th. He said the City does not hold the contractors responsible for fixing the streets they tear up.

ADJOURN – The meeting adjourned at 10:55 p.m.

(NOTE: Additional information on any of these items is available in the City Clerk's Office)

**Visit our Web site at:
<http://ci.billings.mt.us>**

CALENDAR

(Council AND Boards & Commissions)

SEPTEMBER:

9/03/2007	LABOR DAY – CITY OFFICES CLOSED		
9/04/2007	Community Development Board	3:00 p.m.	4 th Floor Library
	Zoning Commission	4:30 p.m.	Council Chambers
	Aviation & Transit Commission	5:30 p.m.	Airport Terminal
	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
9/05/2007	Board of Adjustment	6:00 p.m.	Council Chambers
9/06/2007	EMS Commission	7:30 a.m.	Main Fire Station
	Human Relations Commission	12:15 p.m.	CH Conference Room
9/10/2007	Energy & Conservation Commission	3:00 p.m.	Billings Operations Ctr. 4848 Midland Rd.
	REGULAR Council Meeting	6:30 p.m.	Council Chambers
9/11/2007	Parking Advisory Board	4:00 p.m.	CH Conference Room
	Council Agenda Setting Meeting	5:30 p.m.	CH Conference Room
	Planning Board	6:00 p.m.	4 th Floor Library
9/12/2007	Parks/Recreation/Cemetery Bd	11:30 a.m.	Community Center 360 N. 23 rd St.
9/13/2007	Library Board	NOON	Library
	Committee on Homelessness	1:30 p.m.	3 rd Floor Library
9/17/2007	Council WORK SESSION	5:30 p.m.	Community Center 360 N. 23 rd St
9/18/2007	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
9/24/2007	REGULAR Council Meeting	6:30 p.m.	Council Chambers
9/25/2007	Council Agenda Setting Meeting	5:30 p.m.	CH Conference Room
	Planning Board	6:00 p.m.	4 th Floor Library
9/26/2007	Development Process Advisory Review Board (DPARB)	1:00 p.m.	CH Conference Room
	Traffic Control Board	NOON	4 th Floor Library
	Housing Authority	NOON	2415 1 st Avenue North
9/27/2007	Yellowstone County Board of Health	7:00 a.m.	Community Health Center 123 So. 27 th Street

OCTOBER:

10/01/2007	Council WORK SESSION	5:30 p.m.	Community Center
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			360 N. 23 rd St
10/02/2007	Community Development Board Zoning Commission Aviation & Transit Commission	3:00 p.m. 4:30 p.m. 5:30 p.m.	4 th Floor Library Council Chambers Airport
10/03/2007	Board of Adjustment	6:00 p.m.	Council Chambers
10/04/2007	EMS Commission Human Relations Commission	7:30 a.m. 12:15 p.m.	Main Fire Station CH Conference Room
10/08/2007	COLUMBUS DAY – CITY OFFICES CLOSED		
10/09/2007	Parking Advisory Board Planning Board REGULAR Council Meeting	4:00 p.m. 6:00 p.m. 6:30 p.m.	CH Conference Room 4 th Floor Library Council Chambers
10/10/2007	Parks/Recreation/Cemetery Bd Council Agenda Setting Meeting	11:30 a.m. 5:30 p.m.	Community Center 360 N. 23 rd St. CH Conference Room
10/11/2007	Library Board Committee on Homelessness	NOON 1:30 p.m.	Library 3 rd Floor Library
10/15/2007	Energy & Conservation Commission Council WORK SESSION	3:00 p.m. 5:30 p.m.	Billings Operations Ctr. 4848 Midland Rd. Community Center 360 N. 23 rd St
10/16/2007	Yellowstone Historic Preservation Board	8:00 a.m.	4 th Floor Library
10/18/2007	Public Utilities Board	6:30 p.m.	Public Works-Belknap 2251 Belknap Ave
10/22/2007	REGULAR Council Meeting	6:30 p.m.	Council Chambers
10/23/2007	Planning Board	6:00 p.m.	4 th Floor Library
10/24/2007	Development Process Advisory Review Board (DPARB) Traffic Control Board	1:00 p.m. NOON	CH Conference Room 4 th Floor Library
10/25/2007	Yellowstone County Board of Health (Note: November and December meetings to be combined at a date decided in October)	7:00 a.m.	Community Health Center
10/30/2007	Council Agenda Setting Meeting	5:30 p.m.	CH Conference Room
10/31/2007	Housing Authority	NOON	2415 1 st Avenue North