

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 9, 2007

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 Ron Tussing called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Nancy Boyer gave the Invocation.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Stevens, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones. Councilmember Clark was excused.

MINUTES – March 26, 2007. Delayed to 4/23/07.

COURTESIES

- City Administrator Tina Volek introduced the new City Clerk, Cari Martin. Ms. Martin will start on 4/16/07 and has 10 years working experience with the City of Billings, Engineering Department as an Administrative Assistant.
- Deputy Public Works Director Vern Heisler showed the Council the Zimmerman Trail Award presented to the City of Billings. City Administrator Tina Volek explained the award is the 2006 Public Works Project of the Year for the states of Montana, Wyoming and Idaho and has also been nominated for the National American Public Works Association Project of the year.

PROCLAMATIONS

- April 22-28, 2007: National Crime Victims' Rights Week

ADMINISTRATOR REPORTS – Tina Volek

- City Administrator Tina Volek said the Council Agenda Review meeting would be held tomorrow evening at 5:30 p.m. in the City Hall Conference Room.
- Ms. Volek stated she wanted the Mayor and Council to be aware of the number of received *ex parte* communications regarding Items #4 and #6 that were placed on their desks. She explained the copies of these communications were also placed in the *ex parte* binder at the back of the Council Chambers this evening.
- Ms. Volek explained that since the Council had not had a chance to review the minutes for the March 26, 2007 meeting they would be included on the April 23, 2007 meeting for their approval.
- Ms. Volek noted there was an update to the Board & Commission appointments. The updated list was also placed on the Council members desks.
- Ms. Volek explained that there was an error on the agenda for this evening with reference to ITEM #4. This item was listed as a public hearing in error. Ms. Volek explained that ITEM #4 was not a public hearing. The public hearing was held on 3/26/07 and concluded. The action before the Council this evening is a staff recommendation to approve ITEM #4 – Resolution ordering improvements under W.O. 05-02: 2005-2006 Miscellaneous/Developer-Related Improvements.
- Ms. Volek noted that the Council also had correspondence with reference to Mr. Hammond's property as well as correspondence from Vulcan involving the contractor's property located on Main Street which was excluded from W.O. 05-02.
- Ms. Volek also noted that Councilmember Veis requested that changes be made to the ITEM #6 letter. Another letter was drafted with the new paragraph highlighted and this letter is also on your desk.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #4, #5 AND #6 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.*

The public comment period was opened. JOHN HAMMOND, 35 S. CRESTWOOD, stated he had some pictures of the property showing the renovations that he had completed. Mr. Hammond stated he did receive correspondence from Kirk Cory and he changed a word from exempt to deferred. Mr. Hammond stated he was requesting the Council to “exempt” his property until the street improvements are completed.

CARL PETERS, 58 ROSEVELT, LOCKWOOD, stated he wanted to comment on the annexation study that shows the 84.3 million in capital cost involved. He said one encouraging aspect was the annual estimated revenue of 3.9 million as opposed to 3.2 million. The public comment was closed.

CONSENT AGENDA:

1. A. Mayor's appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Sheri Boelter	Mayor's Committee on Homelessness	4/09/07	12/31/10
2.	Claire Coleman	Mayor's Committee on Homeless	4/09/07	12/31/10
3.	Unfilled	Public Utilities Board	04/09/07	12/31/07

1. Unexpired term of Gary Huffmaster (work force)
2. Unexpired term of Wayne Smithberg (healthcare)
3. Unexpired term of Richard Beulke

B. Bid Awards:

(1) **W.O. 00-15, Grand Avenue Reconstruction** 8th Street West to 12th Street West (Opened 3/27/07). Recommend JTL Group, Inc., \$2,729,519.92.

(2) **Quitclaim Deeds** of Lot 1, Block 1 and Lot 1, Block 2, Arlene Subdivision (Opened 3/13/07). Recommend Jim Pickens, Best Development Group, Inc., Total bid for both lots \$549,000.00.

C. Change Order #3, to the construction contract with Williams Brother Construction for W.O. 04-13, Schedule II, Maintenance Building Construction, adding \$29,882.00 to the contract.

D. (1) Amendment #1 to the John M. and/or Marcia A. Nash West End Hangar Ground Lease – Lot 8 to correct the legal description by amending the lot number to Lot 8 from Lot 9.

(2) **Amendment #1** to West End Hangar Ground Lease – Nash Lot 9 to Lot 8.

E. Assignment and Transfer of West End Hangar Ground Lease – Lot 9 from John M. and/or Marcia A. Nash to Jonathan R. Scott.

F. Contract for Professional Services with Peaks to Plains Design P.C. to update the existing master plan for Riverfront Park and to develop a master plan for Briarwood Park, \$93,500.00.

G. W.O. 04-33: Lake Elmo Drive (Hilltop Rd to Wicks Ln) Right-of-Way Acquistion approval of Right-of-Way agreement and Warranty Deed:

(1) Parcel 4: Portion of Lot 1 of Windsor Sub., to Cosgrove Industries, LLC, \$2,150.00.
(2) Parcel 19: Portion of Lot 3A-5 of Siewert Acres Sub., to Ronald and Kari Rigler, \$2,300.00.
(3) Parcel 25: Portion of Lot 19, of the Amended Plat of Lot 11 of Kuhlman Subdivision to Long Brothers Trucking, Inc., \$9,950.00.
(4) Parcel 29: Portion of Unit 67, Imperial Park Condo., Block 3 of Windsor Sub., to Barbara A. Reichenbach, \$4,650.00.
(5) Parcel 65: Portion of Lot 16, Block 3, of Arrowhead Sub., to Kostas and Helen Jivelekas, \$4,000.00.
(6) Parcel 70: Portion of Lot 4, Block 4, Arrowhead Sub., to James C. & Nancy J. McManus, \$2,782.50.

H. Approval of Grant application submittal and finalizaton for:

- (1) State funds for paratransit operating assistance.
- (2) Provide capital assistance for the purchase of two (2) paratransit vans.

I. Approval of Renewal of the Federal Aviation Administration (FAA) Office Lease #DTFANM-07-L-00039 at the Airport Terminal Building for the term of 1/1/07 to 9/30/12 inclusive, \$41,936.67 annually to the City.

J. Approval of Renewal of Generator Room Lease with the Federal Aviation Administration (FAA) (Supplement #4 to Lease #DTAF11-94-L-15330) for a one-year term beginning 10/1/07 and ending 9/30/08, \$72.92 per month to the City.

K. Confirmation of Probationary Police Officer – Nathan Bryce

L. Street Closure: Cinco de Mayo Celebration, Saturday, May 5, 2007, Don Luis Restaurant requests the closure of the 100 Block of 26th Street North from 3:00 p.m. until 9:00 p.m. for the Cinco de Mayo Celebration.

M. Disposal of the nuclear gauge to Rimrock Engineering, \$1,850.00.

N. Second/final reading ordinance #07-5405 for Zone Change #799: a zone change from Residential-15,000 (R-150) to Public on North ½ of Lot 3 and all of Lot 4 and Lot 7, Sandra Subdivision. The property is located at 23, 63 and 65 Charlene Street. City of Billings, owner.

O. Second/final reading ordinance #07-5406 for Zone Change #800: A zone change from Residential Manufactured Home (RMH) to Residential-6,000 (R-60) on Lots 15A, 16B & 16C, Block 1, Pemberton Subdivision and located at 525 N. Lakeview Drive, 532 & 542 Pemberton Lane.

P. Preliminary Plat of MK Subdivision, generally located on the north side of Grand Avenue and west of 54th St. West, recommend conditional approval of the plat, approval of the variances, and adoption of the findings of fact. (Delayed from the 3/12/07 Council meeting).

Q. Bills and Payroll.

- (1) March 9, 2007
- (2) March 16, 2007

(Action: approval or disapproval of Consent Agenda.)

Mayor Tussing separated ITEM 1A. Councilmember Ruegamer moved for approval of the Consent Agenda EXCEPT ITEM 1A, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

Councilmember Ruegamer moved for approval of ITEM 1A, seconded by Councilmember Veis. On a voice vote, the motion was unanimously approved.

Mayor Tussing moved to amend ITEM 1A to include the name James Mariska for appointment to the Utility Board, seconded by Councilmember Veis. On a voice vote, the amendment was unanimously approved. On a voice vote on the original motion the motion was unanimously approved.

REGULAR AGENDA:

2. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR EXPANDING Ward I** for recently annexed property of **Annexation #07-03**: a .244 acres property described as the North 1/2, Lot3, and all of Lot 4 and Lot 7, Sandra Subdivision, and located at 23, 63 and 65 Charlene Street, the City of Billings, owner. The second/final reading is scheduled for Council action on April 23, 2007. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.) There was no Staff presentation. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Veis moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

3. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR EXPANDING Ward I** for recently annexed property of **Annexation #07-04**: a .243-acre property described as C/S 598 in Lot 30, Clark Subdivision and adjacent right-of-way, and located at 307 Garden Ave. Lana Jean Bittner, petitioner. The second/final reading is scheduled for Council action on April 23, 2007. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.) There was no Staff presentation. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Brewster moved for approval of the Staff recommendation, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

4. **PUBLIC HEARING AND RESOLUTION #07-18545** ordering improvements under W.O. 05-02: 2005 - 2006 Miscellaneous/Developer-Related Improvements. Staff Recommends approval. (**Action:** approval or disapproval of Staff recommendation.) (Delayed from 3/26/07). There was no Staff presentation. Councilmember Stevens moved to approve Item 4 with the exception of ~~35 S. Crestwood~~ 401-403 Sharron Lane. City Administrator Tina Volek reminded the Council that at the last meeting they amended the W.O. to exclude 2033 Main St. Councilmember Stevens amended the motion for conditional approval, (i.e. if the property owner wants the exclusion.) Mayor Tussing called for voice vote on the amendment, including the property across the street (from Mr. Hammond's property) conditionally as stated (i.e. 401/403 Sharron Ln.). The amendment failed on a 5-5 tie vote.

Mayor Tussing asked for discussion on the original motion -- to approve ITEM #4 – the W.O. with the exception of the property at 400/402 Sharron Lane (aka Mr. Hammond's property). There was no discussion. On a voice vote, the motion failed on a 5-5 tie vote.

Mayor Tussing asked for a substitute motion. Councilmember Veis moved to delay action to the next meeting (4/23/07). There was no second. Ms. Volek explained if action is delayed, it will force this W.O. into the next budget and delay the entire project. Councilmember Veis made a substitute motion to approve W.O. 05-02 as distributed, seconded by Brewster. On a voice vote on the substitute motion to approve ITEM #4: W.O. 05-02, the motion was approved. Councilmembers Stevens, Brewster, and Jones voted "no".

Mayor Tussing made an amended motion to approve the minutes of March 26, 2007 meeting as distributed and the minutes of the April 9, 2007 meeting as distributed with the exception to change 35 South Crestwood to 401-403 Sharron Lane. On a voice vote, the motion was unanimously approved.

5. **DRAFT 2007-2011 TRANSPORTATION IMPROVEMENT PROGRAM (TIP)**. Staff recommends that Council approve the Transportation Improvement Program and forward that recommendation to PCC. (**Action:** approval or disapproval of Staff recommendation.) Scott Walker asked the Council if they had any questions. There were no questions. Councilmember Gaghen moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

6. **LOCKWOOD ANNEXATION** – Letter to Yellowstone County Commissioners stating the City does not intend to annex Lockwood in the foreseeable future Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.) There was no Staff presentation. Councilmember Ronquillo moved for approval of the new letter, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

7. **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

- **ULLEDALEN:** MOVED to have the zoning regulations governing correctional facilities for the City of Billings "checked". Planning Director Candi Beaudry reported she would check into this and report back to the Council. Councilmember Veis suggested looking into the State laws for any appropriate usage. APPROVED
- **TUSSING:** MOVED to include on the next agenda a resolution to suspend RV parking ordinances, seconded by Councilmember Brewster. APPROVED

ADJOURN -- The meeting was adjourned at 10:05 p.m.

THE CITY OF BILLINGS:

By: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cam Trudeau, Deputy City Clerk