

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**May 23, 2016**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Thomas W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Hanel gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Cromley, Yakawich, Brewster, Cimmino, McFadden, Friedel, Sullivan, Swanson, Clark, and Brown.

**MINUTES:** May 9, 2016: Councilmember Sullivan moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

### **COURTESIES:**

- Mayor Hanel acknowledged the scouts from Troop 7 who were attending to learn about City Council meeting procedures. Troop Leader Andy Coburn introduced himself, and the scouts in attendance introduced themselves. The parents of the scouts in attendance also introduced themselves.

### **PROCLAMATIONS:**

- Mayor Hanel read a proclamation declaring the week of June 5 through June 11 to be Drug Abuse and Violence Prevention Week.

### **ADMINISTRATOR REPORTS - TINA VOLEK**

- City Administrator Tina Volek reminded Council of the May 24 budget work session at 5:30 pm. Ms. Volek also reminded Council that next Monday is a fifth Monday as well as Memorial Day, so there would not be a Council meeting.
- Ms. Volek, in reference to Item 5, stated that the applicant submitted a revised site plan to be considered.
- Ms. Volek, in reference to Items 6, 7, and 8, stated that staff discovered that the public hearings were not advertised. As a result, staff requested that Council vote to remove the items from this agenda, and to forward them to the June 13 agenda to allow for proper advertising.

Councilmember Clark moved to remove Items 6, 7, and 8, and to forward them to the June 13 meeting, seconded by Councilmember Sullivan. Councilmember Cromley stated that due to a conflict, he would be abstaining from the vote. On a voice vote, the motion was approved 10-0, with Councilmember Cromley abstaining.

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

**Speaker sign-in required.** (Comments offered here are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign in at the cart located at the back of the council chambers or 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. For Items not on this agenda, public comment will be taken at the end of the agenda.)

The public comment period was opened.

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

**1. CONSENT AGENDA**

**A. Bid Awards:**

- 1. Agreement and Purchase** of fusible PVC pipe with Underground Solutions, Inc.; \$63,135.
- 2. Veterans Park Irrigation Replacement.** (Opened 05/10/2016)  
Recommend The Good Earth Works of Billings; \$343,200.
- 3. W.O. 16-02 Miscellaneous Concrete Project.** (Opened 05/10/2016)  
Recommend J & J Concrete, Inc.; \$287,150.

**B. Approval** of lease renewal of the West End Hangar Ground Lease with Steven A. Vold Revocable Trust and Susan K. Vold Revocable Trust, revenue first year \$1,348.20, revenue subsequent years adjusted by CPI-U.

**C. Approval** of lease renewal of the West End Hangar Ground Lease with Moore, Palmersheim and Tostenrud, L.L.C., revenue first year \$1,348.20, revenue subsequent years adjusted by CPI-U.

**D. Amendment #24, Airport Improvement Program - Pond D Storm Water System,** Morrison-Maierle, Inc., \$357,268.

**E. Amendment #25, Taxilane West Construction Project,** Morrison-Maierle, Inc., \$237,471.

**F. Amendment #26, Sanitary Sewer Line Project for West End Hangar Site,** Morrison-Maierle, Inc., \$55,106.

**G. Consultant Agreement** with Kadrmas, Lee & Jackson, Inc. to complete the 5th Avenue North Corridor Feasibility Study, not to exceed \$80,000.

- H. **Acceptance** of National Girls Collaborative Project Mini-Grant for The Billings Public Library for a series of STEM (science, technology, engineering, mathematics) programs for girls, \$750.
- I. **Revolving Loan Fund** to Kismet Fine Rugs, \$230,000.
- J. **Approval** of Downtown Billings Partnership Board of Directors' recommendation of a Tax Increment Grant of up to \$143,754 to Jeff Neishabouri for eligible improvements to the Annex Building located at 112 N. Broadway.
- K. **Approval** of reimbursement from East Billings Urban Renewal District Tax Increment Funds to the firm selected by the RFP, for a feasibility crossing study, not to exceed \$40,000.
- L. **Right-of-Way Easements** for W.O. 15-07, Orchard Lane Reconstruction.
- M. **Right-of-Way Easement** for W.O. 16-06, SBURD Sanitary Sewer Phase 2.
- N. **Resolution** authorizing the issuance and calling for the negotiated sale of up to \$346,000 pooled sidewalk bonds (W.O. 15-02, Miscellaneous Improvements).
- O. **Resolution** authorizing the issuance and calling for the negotiated sale of up to \$5,300,000 in bonds for South Billings Urban Renewal District Construction projects.
- P. **Second/Final Reading Ordinance expanding Ward III (Annexation #16-02)** for an approximate 34 acre parcel of land described as Lot 1, Block 1, Adam and Mollie Subdivision, located south of Elysian Road and west of the Hogan Slough between Mallowney Lane and East Lane. McCall Development and the Yellowstone Boys and Girls Ranch Foundation, petitioners.
- Q. **Preliminary Subsequent Minor Plat** of Lot 2 of the Second Amendment to Sweet Subdivision, 2nd Filing, described as 2 lots on an approximately 39,000 square foot parcel of land generally located west of Grand Avenue and 24th Street West; Freedom Montana, LLC, owner; Eggart Engineering, Inc., agent; conditional approval and adoption of the findings of fact.
- R. **Preliminary Subsequent Minor Plat** of Superior Homes Subdivision, described as 2 lots generally located at 406 Roxy Lane; Ann C. Bustell Revocable Living Trust, owner; Eggart Engineering, Inc., agent; conditional approval and adoption of the findings of fact.
- S. **Preliminary Major Plat** of Copper Ridge Subdivision, 6th Filing, generally located north of Rimrock Road and east of 70th Street West; Copper Ridge Development, Corporation, owner; Sanderson Stewart, agent; conditional approval and adoption of the findings of fact.

**T. Preliminary Major Plat** of High Sierra Subdivision 11th Filing, generally located north of Benjamin Boulevard west of High Sierra Boulevard; High Sierra II, Inc., owner; Sanderson Stewart, agent; conditional approval and adoption of the findings of fact.

**U. Preliminary Major Plat** of Josephine Landing Subdivision 1st Filing, generally located south of Elysian Road, east of East Lane on the west edge of the Hogan Slough; McCall Development, Inc., owner; Sanderson Stewart, agent; conditional approval and adoption of the findings of fact.

**V. Bills and Payroll:**

1. January 1, 2016 through March 31, 2016 (Municipal Court)
2. April 25, 2016
3. May 2, 2016

Councilmember Yakawich separated Item 1G for discussion.

Councilmember Brown separated Items 1D, 1E, and 1F in order to abstain.

Councilmember Brewster separated Item 1A2 for discussion.

Councilmember Cimmino separated Item 1V3 in order to abstain.

Councilmember Brewster moved for approval of the Consent Agenda, with the exception of Items 1G, 1D, 1E, 1F, 1A2, and 1V3, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich separated Item 1G to ask Candi Millar, Planning and Community Services Department Director, why the EBURD board seemed to be absent from discussions on planning the study. Ms. Millar stated that the study was planned for FY16, and was presented to Council in August 2015. Ms. Millar stated that part of the study will include visiting with surrounding landowners to discuss potential plans. Ms. Millar stated that if a general sense of opposition to the project exists, the plan is not necessarily required to move forward. Councilmember Yakawich asked whether a member of the BIRD could participate on the feasibility study's steering committee. Ms. Millar stated that the steering committee is currently being created, and that a member of the BIRD could participate. Councilmember Clark asked how the \$80,000 for the study was being funded. Ms. Millar stated that the entire \$80,000 cost was being funded by a Federal Transportation Planning Grant. Councilmember Cimmino asked what funding options were available to complete developments that may be recommended by the study. Ms. Millar stated that grants and partnerships are often considered for funding options after development recommendations are received. Councilmember

Cimmino asked if this project was included in the five year Capital Improvement Plan. Ms. Millar stated that it was not, and that the purpose of the study was to examine different types of projects rather than specific projects. Councilmember Sullivan asked whether using \$80,000 for this study was to the detriment of any other transportation projects. Ms. Millar stated that the Planning Department carefully examines transportation needs of the City, and that the funds being used for this study are not taking away funds from other transportation projects. Councilmember Brown asked if the intent of the study was to replace or remove rail spurs. Ms. Millar stated that there are active rail spurs in the area, and the study would examine current and long-term plans of the rail spurs to determine whether they would remain. Councilmember Clark asked whether railroad representatives would be consulted. Ms. Millar stated that she has spoken with railroad representatives, and that some are willing to participate on the steering committee. Councilmember Yakawich asked Marty Connell, EBURD President, to discuss his opinion on the study and potential development. Mr. Connell stated that EBURD supports development, but that he hoped that the City realizes that the study and certain development could be a disincentive for people to move into the EBURD. Mr. Connell stated that railroads are extremely important to many businesses in the EBURD, and that the EBURD feels left out of the process. Councilmember Yakawich moved to disapprove Item 1G, seconded by Councilmember Friedel. Mayor Hanel stated that this Item is a study, and not a plan to remove railroads from the EBURD. Mayor Hanel stated that he opposed the motion and would like to move forward with the study. Councilmember Sullivan asked whether the study could be postponed. Ms. Millar stated that the City receives Federal funding based on the Federal fiscal year (October through September). The awarded funding for this project is only valid this year, and would be forfeited if not used. Councilmember Sullivan stated that he supported Councilmember Yakawich's motion. Councilmember Clark asked if the \$80,000 could be used for another study. Ms. Millar stated that this work plan was approved by Council for recommendation to the Policy Coordinating Committee, which then forwarded a recommendation of approval to the Federal Highway Administration. The Federal Highway Administration approved the work plan, which included this specific study. Ms. Millar stated that the funds could not be used for any other purpose unless it could be approved by all of those entities. Councilmember Swanson stated that he was in favor of conducting the study, and opposed to the motion. Councilmember Yakawich stated that he was concerned with the EBURD appearing to be left out of the discussion. Councilmember Yakawich stated he was also concerned with financial loss in the EBURD. Councilmember Cimmino suggested delaying the study so that the City could discuss it with EBURD representatives. Councilmember Cimmino made a substitute motion to table this Item for 30 days to allow Planning staff to discuss the study with parties who may be affected by its results, seconded by Councilmember Sullivan. Ms. Volek stated that June 27 would be the meeting date closest to 30 days from this meeting. Councilmember Brewster made an amended motion to table Item 1G until June 27, seconded by Councilmember Sullivan. Councilmember Brown clarified that Planning staff would consult with the EBURD and would bring back additional information on June 27. Mayor Hanel stated that the vote would be on the motion to table Item 1G until June 27. On a roll call vote, the substitute motion was approved 8-3, with Councilmembers Yakawich, McFadden, and Friedel voting in opposition.

Councilmember Sullivan moved for approval of Items 1D, 1E, and 1F, seconded by Councilmember Cromley. On a voice vote, the motion was approved 10-0, with Councilmember Brown abstaining.

Councilmember Brewster separated Item 1A2 to ask whether more bids would have been received if the project would have been advertised in the fall. Mike Whitaker, Parks, Recreation and Public Lands Director, stated that the project consultant recommended the completed bidding schedule. Mr. Whitaker stated that the received bid amount was less than the engineer's estimate for the project, and that the Parks Department felt confident and comfortable with the bid. The timeline will allow the project to be completed in September, after the park's heavy use season.

Councilmember Clark asked for the amount of the engineer's estimate. Mr. Whitaker stated the amount was \$363,790, and the bid amount was \$343,200. Mayor Hanel clarified that this project would be complete installation and the system would be ready for use upon completion. Mayor Hanel asked if the system would be similar to that used on the par three golf course. Mr. Whitaker stated that it would. Councilmember Brown asked Mr. Whitaker why only one entity submitted a bid for this project. Mr. Whitaker stated that he was not sure why other entities did not submit bids for this project. Mr. Whitaker stated that he would be concerned if the bid amount exceeded the engineer's estimate, but it did not. Councilmember Cimmino asked if The Good Earth Works was the same company as Land Design. Mr. Whitaker stated that it was not. Councilmember Brewster moved for approval of 1A2, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan moved for approval of Item 1V3, seconded by Councilmember Brewster. On a voice vote, the motion was approved 10-0, with Councilmember Cimmino abstaining.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION approving MET Transit Route and Schedule Changes and Fare Increases. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Kevin Ploehn, Aviation and Transit Director, introduced Transit Manager Jim Perez. Mr. Perez began a PowerPoint presentation with an overview of the proposed route, schedule, and fare changes.

Mayor Hanel thanked Mr. Perez for his well-prepared presentation. Mayor Hanel noted that he received one negative comment from the public meetings, and that the individual was concerned about public transportation options west of Shiloh Road. Mr. Perez stated that the individual was present at the meeting, and that he was concerned about not servicing his area (MET Route 24) until August 1. Mr. Perez stated that MET did not have funding to begin the service prior to August 1. Mayor Hanel asked if there

were other public transportation options available in that area. Mr. Perez stated that the only option he was aware of at this time would be taxi services.

Councilmember Cimmino asked Mr. Perez if Route T3 could remain in service for passengers travelling to Medicine Crow Middle School. Mr. Perez stated that three or four school buses would be providing service to Medicine Crow Middle School.

Councilmember Brown asked how MET compares to national averages for ridership and fares. Mr. Perez stated that MET's fares and ridership are comparable to national averages for similarly situated communities. Mr. Perez stated that he is examining methods for more efficient operations.

Councilmember Yakawich stated that he attended the public meeting at the Library, and that citizens were receptive to the changes. Councilmember Yakawich asked whether bus sizes would be changing for certain routes. Mr. Perez stated that MET recently received two smaller vehicles, and will be receiving four more within the next month. Mr. Perez stated that MET carefully considers placement of smaller capacity vehicles. Councilmember Yakawich asked how citizens will be made aware of route changes. Mr. Perez stated that there will be several methods of communication: a CityLink article, newspaper advertisements, and "Take One" fliers on all buses. Mr. Perez stated that letters will also be sent to the school district and to community task forces.

Councilmember Friedel asked if MET could implement an on-demand schedule/bus tracker. Mr. Perez stated that MET is exploring grant opportunities for that type of technology. Mr. Perez stated that MET does not currently have money budgeted for that type of project, but will continue to explore potential opportunities. Councilmember Clark asked for a cost estimate for on-demand technology. Mr. Perez stated that MET has not reached the point of obtaining cost estimates. Mr. Perez stated that he has researched potential programs, and prices range from \$30,000-\$60,000 depending on the capabilities of the programs. Councilmember Friedel asked if fare increases could be used to cover the cost of the technology. Mr. Perez stated that the option could be considered.

Mr. Ploehn, in response to Councilmember Cimmino's comments on Route T3, stated that the school district decided to serve the area as a result of student safety concerns. Mr. Ploehn stated that if MET operated in that area, it would be providing a duplication of services. Mr. Ploehn stated that the route would remain in MET's budget, but that it would not be used unless it became a necessity. In response to the technology discussion, Mr. Ploehn stated that MET's operating deficit is \$160,000. Mr. Ploehn stated that he is cautious about spending and purchasing additional technology or equipment. Mr. Ploehn stated that MET understands that technology is important, and that MET will examine potential opportunities.

The public hearing was opened.

- **Robert Deese, 4105 Corbin Drive, Billings, MT** stated that for years, he has walked along Grand Avenue and worries about being struck by a vehicle. Mr. Deese stated that he is relieved that a new route (24) will be added in his area. Mr. Deese stated that cabs and special transit are not affordable for him. Mr. Deese stated that he is blind and is thrilled about the new route, but that he would like to see it in place before August 1. Mr. Deese stated that he asks friends for rides, but sometimes they are unable to provide a ride. Councilmember McFadden asked Mr. Deese if he has any issues with his service dog boarding the bus. Mr. Deese stated that there are no issues, and that bus drivers like to pet Asia, his dog. Mr. Ploehn stated that the construction in the area is the cause for the delay of the route. Mr. Ploehn stated that MET will examine special transit options and will be in contact with Mr. Deese.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT** stated that the ten mills levied for transit purposes must remain in the transit fund. Mr. Nelson stated that MET fares are being overinflated because the mills are not being used for transit. Mr. Nelson stated that revenues are being transferred to tax increment districts. Ms. Volek stated that a staff meeting was scheduled to discuss the funding issue. Ms. Volek stated that MET's funding has struggled due to lessening Federal funds for transit in smaller communities. Mayor Hanel noted that routes have been improved and enhanced across the City. Ms. Volek and Mayor Hanel commended MET Transit's staff. Councilmember Brewster noted that Council had asked for information from staff regarding transit and tax increment funds. Ms. Volek stated that the information would be discussed at the staff meeting on May 24. City Attorney Brent Brooks stated that the meeting will take place on May 24, and staff will present information to Council after the meeting. Councilmember McFadden asked whether Mr. Deese would be able to utilize special transit services. Ms. Volek stated that staff will work with Mr. Deese.

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

Councilmember Yakawich moved for approval of Item 2, seconded by Councilmember Sullivan. Councilmember Yakawich stated that he appreciated the efforts of Mr. Perez and Mr. Ploehn and their outreach to the community. Councilmember Sullivan thanked MET Transit staff for their work, and that he supported the motion. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTIONS approving an amendment to the Limits of Annexation Map and Annexation Policy for 2016. Annexation Committee recommends approval. (Action: approval or disapproval of Annexation Committee recommendation.)**

Wyeth Friday, Planning Division Manager, began a PowerPoint presentation for Item 3. Mr. Friday provided an overview of the proposed policy and map amendments.



Councilmember Clark asked if absence of MET Transit service in certain areas prevents annexation. Mr. Friday stated that absence of MET Transit service is only one aspect that is considered when reviewing annexation petitions and map amendments.

Councilmember Cromley asked whether surrounding undeveloped County-owned land affects annexation map amendments. Mr. Friday stated that surrounding developments are considered when amending the annexation map.

Councilmember Cromley asked if the long-range urban planning area was contained on the map. Mr. Friday stated the long-range urban planning area was represented by the orange areas on the proposed annexation map.

Councilmember Brewster asked why the Inner Belt Loop was not contained in the red area on the proposed annexation map. Mr. Friday stated that the Annexation Committee discussed the Inner Belt Loop area, and noted that the City would only own the right of way within the area.

Councilmember Yakawich asked for an overview of the Annexation Committee members. Mr. Friday stated that the Annexation Committee is comprised of representatives from the following entities: Planning, Public Works (Water, Sewer, Utilities, Engineering), MET Transit, Fire, Police, Parks, Administration, County Water District of Billings Heights, and School District 2. Councilmember Yakawich asked how Police protection availability factors into annexation decisions. Mr. Friday stated that Police protection availability is considered as a factor when reviewing potential annexations. Councilmember Yakawich asked why soil studies are included in annexation staff reports. Mr. Friday stated that urban planning studies examine the conditions of land in the area, and soil is one component of the studies. Soil conditions may affect construction and development potential.

Councilmember Cimmino asked for the general makeup of the Annexation Committee. Mr. Friday stated that the Annexation Committee is comprised of representatives from the following entities: Planning, Public Works (Water, Sewer, Utilities, Engineering), MET Transit, Fire, Police, Parks, Administration, County Water District of Billings Heights, and School District 2. Councilmember Cimmino asked how members of the public can be involved with the Annexation Committee. Mr. Friday stated that the Annexation Committee meets to consider any received petitions for annexation. The Annexation Committee members as well as property owners directly involved with a proposed annexation will then meet to discuss the petition. Formal minutes are not prepared, as the Committee is an internal staff committee, but members of the public are invited to attend.

Councilmember Brewster stated that the Inner Belt Loop is continually omitted from the red area on the annexation map. Councilmember Brewster stated that the City is attempting to acquire necessary right of way, but the property owners want assurance from the City that the surrounding area will develop. Mr. Friday stated that changes to the annexation map are typically driven by requests from the land owner; the City does

not change the annexation map without receiving a request from land owners. Ms. Volek stated that staff's intent with the upcoming route study was to determine if there is a more feasible route for the Inner Belt Loop. Ms. Volek stated that five years of Federal road building funds have been used for the Bench Boulevard area to the exclusion of other areas. Ms. Volek acknowledged Councilmember Brewster's frustration, and noted that three or four years of funding would be required for the Inner Belt Loop project. Ms. Volek stated that staff is searching for potential funding sources for the project. Dave Mumford, Public Works Director, clarified that water and sewer is currently in place at the top of the existing road. Mr. Mumford stated that potential annexation of the Inner Belt Loop area should include a comprehensive analysis of all available services, just as any other annexation. Councilmember Brewster stated that he would like some assurance that the upcoming Inner Belt Loop alignment study would lead to action on the project. Mr. Mumford stated that the study would not address annexation. Mr. Mumford stated that Council could direct staff to include the Inner Belt Loop in next year's annexation map presentation. Councilmember Brewster asked when the alignment study would be completed. Mr. Mumford stated that the study will likely be completed early in 2017. Councilmember Brewster asked if the study would provide enough information for Council to make a rational decision regarding annexation of the area. Mr. Mumford stated that the alignment study and additional service analysis should provide enough basis for an annexation decision. Mr. Friday asked for clarification on the areas to which Councilmember Brewster was referring. Councilmember Brewster stated that he would like to add the area for the Inner Belt Loop alternate route to the red area on the annexation map. Mr. Friday stated that private and public properties are involved in the area. Mr. Friday stated that the private property owners would need to request adding their properties into the red area on the map. Councilmember Brewster stated that he wants to see action from the alignment study. Mayor Hanel noted that more progress has been made on the project in the last three years than since 2005. Mayor Hanel stated that funding for the project is important to consider. Councilmember Brewster stated that he was told that annexation would be the way to develop the area. Councilmember Sullivan stated that the project seems to be in limbo and urged City staff to reach out to landowners in the area. Ms. Volek stated that staff has contacted property owners in the area, and that most want assurance that the area will be developed. Ms. Volek stated that Council could add the area into the red area of the annexation map, or instruct staff to expand the alignment study to also include utility analysis. Councilmember Swanson asked if there would be property tax ramifications for placing this area into the red zone on the map. Mr. Friday stated that he was not aware of property tax ramifications, but that he has heard from property owners that a certain value is placed on the assurance that the property will be annexed into the City. Councilmember Brown asked whether adding utility analysis to the study would require an amendment or an entirely new agreement. Ms. Volek stated that Council could create an initiative directing staff to examine the potential costs of revising the study. Councilmember Friedel asked whether the Inner Belt Loop area could be moved into the red zone and then moved back out later. Mr. Friday stated that once a property is moved into the red zone, the City has committed to providing services to the property. Removing the property from the red zone would be a significant decision and

action. Councilmember McFadden stated that the property owners in the area have been aware of the potential Inner Belt Loop project for a long time.

The public hearing was opened.

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

Councilmember Cromley moved for approval of the amendments to the limits of annexation map, seconded by Councilmember Yakawich. Councilmember Brewster asked for staff to discuss the results of the alignment study as soon as they are available, and then evaluate the potential for moving the property into the red area and amending the map. Councilmember Cimmino noted that a formal study was conducted in 2005, and a design was also completed in the past. Councilmember Cimmino stated that the project will be funded by the City and that Zimmerman Trail is its own independent project. Councilmember Yakawich commended Police Chief Rich St. John for participating in the annexation process and providing the status of police protection availability. On a voice vote, the motion was unanimously approved.

Councilmember Cromley moved for approval of the amendments to the annexation policy, seconded by Councilmember Yakawich. Councilmember Clark for clarification on the policy amendments. Mr. Friday stated that the amendments clarify the wording of the policy and processes for property owners to be included in long range urban planning area studies. On a voice vote, the motion was approved 10-1, with Councilmember Sullivan voting in opposition.

**4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annexation #16-03: an approximate 6.4 acre parcel of land located south of Rimrock Road at the southwest corner of the intersection of 54th Street West and Trail Creek Drive. Yellowstone Meadows Partners, LLC, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that staff did not have a presentation, but was available for questions.

The public hearing was opened.

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

Councilmember Swanson moved for approval of Item 4, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

5. **PUBLIC HEARING AND SPECIAL REVIEW #942: a special review to allow the construction of one four-plex multi-family dwelling in a Residential 6,000 (R-60) zone on a 13,200 square foot parcel of land described as: Lot 1A, Block 13, Sweet Acres Subdivision 4th Filing. Rob Morehead, applicant; Travis McDowell, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Nicole Cromwell, Planner II and Zoning Coordinator, began a PowerPoint presentation for Item 5, and gave an overview of the property. Ms. Cromwell noted that the applicant submitted a revised site plan which addressed comments received at the Zoning Commission meeting. The revised site plan included updates to the parking lot design on the property.

Ms. Cromwell discussed the conditions for approval: 1) the special review approval is for the construction of one four-unit apartment building, with 12 off-street parking spaces. No other use is intended or implied by this approval; 2) the special review approval is limited to Lot 1A, Block 13 of Sweet Acres Subdivision, 4<sup>th</sup> filling, generally located at 2250 St. John's Avenue; 3) the applicant will construct the four-unit apartment building in substantial conformance with the submitted site plan. Minor modifications to the plan are allowed; 4) in order to mitigate potential conflict with the adjacent apartment development, Rimrock West, the applicant will install wrought-iron and pillar style fencing currently in place for the existing apartments along the east and south property lines of the subject property. The applicant will coordinate with the apartment owners and managers on the fence selection and installation; 5) in order to mitigate potential conflict with the adjacent Mt. Olive Lutheran Church, the owner will maintain the existing chain-link fence on the west property line; 6) the applicant will not remove, damage, or otherwise destroy trees, or root systems of trees, that exist on the adjacent lots. Branch trimming of trees on adjacent lots may be necessary for construction. Prior to trimming of trees on adjacent property, the applicant will coordinate and receive permission from the adjacent property owner for any necessary trimming. All tree trimming will be done or supervised by a certified arborist; 7) the applicant will install two trees in the five-foot wide bufferyard along the street frontage, one on each side of the proposed driveway, to continue the similar tree plantings on the adjacent properties. The applicant shall select a tree species as recommended as a Street Tree by the City Forester and be of a size and height at planting that the lowest branch is at least eight feet above the sidewalk; 8) all exterior lighting, including security lighting, shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Porch lights are not included in this restriction; 9) no construction or demolition activity will occur before 7am or after 8pm daily; 10) any centralized solid waste storage shall be enclosed by a wall on three sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside; 11) these conditions of special review approval shall run with the land described in this

authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs, and assigns; 12) the proposed development shall comply with all other limitations of Section 27-613 of the United Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

Councilmember Brown asked how many parking spaces will be removed from St. John's Avenue as a result of this development. Ms. Cromwell stated that three spaces will likely be removed from the road. Councilmember Brown asked if the revised site plan was submitted as a result of a request from the Planning Department. Ms. Cromwell stated that the revised plan was submitted as a result of concerns from the Zoning Commission regarding a potential lack of parking for visitors to the development. Councilmember Brown asked if the original site plan included adequate parking. Ms. Cromwell stated that the original site plan met the parking requirements set forth in City Code.

Councilmember Clark asked if patios would still be included for the apartments if the structure was moved back to accommodate more parking spaces. Ms. Cromwell stated that patios would still be included, but that they would be smaller than in the original site plan.

Councilmember Cromley asked whether the Zoning Commission reviewed the revised site plan. Ms. Cromwell stated that the Zoning Commission did not review the revised site plan. Councilmember Cromley asked if trees would be able to be placed on the land in both site plans. Ms. Cromwell stated that trees would be included in both site plans.

The public hearing was opened.

- **Travis McDowell, 2029 Forest Park Drive, Billings, MT, agent for the applicant,** stated that he was available to answer questions about Item 5. Mr. McDowell stated that the applicant would prefer Council approval of the original site plan. Councilmember Yakawich asked whether the proposed development would be part of the existing adjacent apartment complex. Mr. McDowell stated that the proposed development would be a separate entity. Councilmember Clark clarified that the original site plan allowed for more green space than the revised site plan. Councilmember Friedel asked whether parking issues within the development were anticipated since the parking lot would be near West High School. Mr. McDowell stated that the applicant is currently addressing the issue, and that a homeowners' association would also be involved.

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

Councilmember Cromley moved to adopt the recommendation of the Zoning Commission for Item 5 (the original site plan), grant conditional approval, and adopt the

findings of fact, seconded by Councilmember Friedel. Mayor Hanel spoke in favor of the motion. On a voice vote, the motion was unanimously approved.

6. ~~**PUBLIC HEARING AND RESOLUTION** vacating a portion of Palladium Drive right of way within Copper Ridge Subdivision 5th filing, Copper Ridge Development Corporation, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)~~

This item was removed from the agenda, but remains listed as a reference.

7. ~~**PUBLIC HEARING AND RESOLUTION** vacating a portion of the alley within Block 163 of Billings Original Townsite, Riverstone Health, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)~~

This item was removed from the agenda, but remains listed as a reference.

8. ~~**PUBLIC HEARING AND RESOLUTION** vacating a portion of 3rd Avenue North and North Broadway, The Alberta Bair Theater Corporation, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)~~

This item was removed from the agenda, but remains listed as a reference.

9. **PUBLIC HEARING AND RESOLUTION repealing Resolution 11-19097 and adopting a revised Complete Streets Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek noted that several emails were sent to the Mayor and Council email address after 3:00 pm. Those emails were printed, distributed to Council, and placed in the ex parte notebook. Ms. Volek began a PowerPoint presentation for Item 9, provided an overview of the Complete Streets Policy, and reviewed the recent discussions surrounding the Complete Streets Policy. Ms. Volek provided an overview of the proposed changes to the Complete Streets Policy.

Councilmember McFadden asked for an estimate of how often streets need to be restriped and the cost per mile of striping. Ms. Volek noted that collector and arterial streets are the main streets encompassed in the Complete Streets Policy. Mr. Mumford stated that long lines are striped each year. Councilmember McFadden asked how collisions impact Complete Streets decisions. Mr. Mumford stated that collisions are considered when planning construction or reconstruction of streets. Councilmember Sullivan clarified that lanes are striped whether or not a street is a Complete Street.

Councilmember Brown stated that he did not see any major differences in the proposed revised Complete Streets Policy, and asked for an overview of the proposed changes. Mr. Mumford noted that a checklist had been added to the proposed policy.

Mayor Hanel asked Mr. Mumford if there was a problem with the existing Policy. Mr. Mumford stated that he did not see a problem with the existing Policy, but that the revised Policy would clarify the decisions made during the street design phase. Mayor Hanel stated that the existing Policy seems to have worked well. Councilmember Cromley stated that he did not consider the Policy to be mandatory, but rather a consideration for street construction.

Councilmember Sullivan asked Mr. Mumford under which circumstances ADA ramps and sidewalks are not installed on street. Mr. Mumford stated that ADA sidewalks and ramps are always installed.

Councilmember Friedel asked when staff would deliver the presentation on the total costs of Complete Streets. Mr. Mumford stated that staff was still compiling data, and would likely deliver the presentation in late June. Councilmember Friedel asked whether the report would include line item details for costs. Mr. Mumford stated that it would. Ms. Volek noted that June 20 would likely be the date for the presentation.

Councilmember Brewster asked whether the proposed Policy will ease road construction project management. Mr. Mumford stated that the proposed Policy does not address project management, but rather promotes transparency during the design phase of projects. Mr. Mumford stated that staff would be willing to present designs to Council when projects reach a 30% completion rate. Councilmember Brewster clarified that Federal funds are typically not used for arterial street construction. Mr. Mumford stated that the City was constructing "complete streets" long before the Complete Streets Policy was in place. Councilmember Brewster asked why there is a Complete Streets Policy. Mr. Mumford stated that the Policy was created out of a concern for health. Ms. Volek stated that several groups support having a Complete Streets Policy (health groups, developers, builders, business owners).

Councilmember Cromley asked whether eliminating the Complete Streets Policy would save money for the City, and whether the City would lose sidewalks, trails, or bicycle paths. Mr. Mumford stated that costs are difficult to quantify because streets are constructed in different manners with different amenities. Mr. Mumford stated that some amenities could be lost, such as boulevards and bicycle lanes.

Councilmember Swanson stated that he received many phone calls and emails primarily in support of the Complete Streets Policy. Councilmember Brewster stated that he received phone calls and emails primarily in opposition of the Complete Streets Policy.

Councilmember Clark stated that he did not see a problem with the Complete Streets Policy until public input was lost when Lewis Avenue was painted. Councilmember Clark stated that staff would previously solicit public input for street projects. Mr. Mumford stated that Lewis Avenue was the only street where residents were asked to provide input, and that the City has striped every other street and added bicycle lanes without public input. Mr. Mumford stated staff has never, with the

exception of Lewis Avenue, conducted public hearings for striping. The public hearing was held for Lewis Avenue as a result of residents' concerns over speeding on the road.

Mayor Hanel complimented Mr. Mumford for his leadership with the Public Works Department. Mayor Hanel asked Mr. Mumford how much staff time has been devoted working on the proposed changes to the Complete Streets Policy. Mr. Mumford stated that many hours have been devoted to the project. Mayor Hanel stated that the program seems to be working, and that if changes are requested, an ad hoc committee could be created.

Councilmember Cimmino stated that Calhoun Lane was a successful project. Councilmember Cimmino stated that staff and Council are taking the Complete Streets topic seriously. Councilmember Cimmino noted that public safety is the top priority for Council.

Councilmember Brown stated that he was concerned with the lack of flexibility in the original Complete Streets Policy. Councilmember Brown asked if the proposed revisions allow more flexibility. Mr. Mumford stated that, to allow for more flexibility, staff would be able to present proposed Complete Streets project designs to Council. Mr. Mumford stated that projects could be presented at 30% completion.

The public hearing was opened.

- **John Malin, 737 S. Billings Boulevard #18, Billings, MT** stated that the intersection of South Billings Boulevard and King Avenue East is unsafe for pedestrians. Councilmember Yakawich stated that he has witnessed the safety concerns for pedestrians in this area.
- **Kristi Drake, 2416 Avalon Road, Billings, MT** stated that she envisions a community where residents can walk, drive, and ride bicycles safely.
- **Scott Barber, 2551 Magnolia Place, Billings, MT** stated that he recently purchased The Bike Shop on Grand Avenue, and that he rides his bicycle on many different roads. Mr. Barber stated that Complete Streets is important to the community, and that he does not see any reason to change the Policy.
- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT** urged Council to retain the Complete Streets Policy but to add flexibility.
- **Greg McCall, 1615 Front Street, Billings, MT** stated that he served on the ad hoc committee that created the original Complete Streets Policy. Mr. McCall stated that the goal of the Policy was to create a more attractive community. Mr. McCall commended Mr. Mumford for his commitment to working with the community. Mr. McCall stated that he supported the revisions to the Policy. Councilmember Brewster asked Mr. McCall whether he felt that policies should be reviewed after several years. Mr. McCall stated that he supported reviewing policies.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT** expressed frustration over adding bicycle lanes at the expense of residential parking. Mr. Nelson stated that residents need street parking in front of their homes. Mayor Hanel asked Mr.



Nelson whether he supported the Complete Streets Policy. Mr. Nelson stated that he supported adding flexibility into the Policy.

- **Kathy Aragon, 645 O'Malley Drive, Billings, MT** stated that she previously compiled research on Complete Streets policies, and that she would be able to distribute the information to Council. Councilmember Sullivan stated that he would be happy to talk with Ms. Aragon about her research.
- **Melissa Henderson, 525 Parkhill Drive, Billings, MT** stated that the Complete Streets Policy helps to create sustainability and ideals. Ms. Henderson stated that she supported the addition of a checklist to the Policy. Ms. Henderson stated that she works for Riverstone Health as the Physical Activity and Nutrition Coordinator. Councilmember Sullivan asked if Ms. Henderson was aware of a Complete Streets benchmark study that was mentioned in *The Billings Gazette*. Ms. Henderson stated that she remembered the benchmark study being mentioned at an earlier work session. Councilmember McFadden asked if a mandate exists allowing a County Health Department to attempt to influence a City government. Councilmember Cromley stated that Riverstone Health is a City-County Health District, and both the City and County governments appoint board members. Councilmember Yakawich thanked Ms. Henderson for her work with the Southside Task Force. Councilmember Yakawich asked Ms. Henderson for her opinion on how to move forward with this issue. Ms. Henderson stated that she encouraged dialogue in the community, and also encouraged Council to visit the paths and bikeways around the City. Councilmember Friedel stated that he was concerned with trying to engineer healthiness, but that he supported the idea of sidewalks and bicycle paths.
- **April Keippel, 1118 Dickens Avenue, Billings, MT, member of Healthy by Design**, stated that the Complete Streets Policy was designed with flexibility in mind. Ms. Keippel stated that her son often rides his bicycle or walks throughout the community. Ms. Keippel stressed that the existing Policy was not intended to be a mandate, but rather a tool for consideration when designing roads.
- **Julia Kehoe, 3514 3<sup>rd</sup> Avenue South, Billings, MT** stated that she rides her bicycle around the community. Ms. Kehoe stated that accessibility and bicycle friendliness is an important factor when she decides where to live.
- **Tami Hoar, 5424 Spring Stone Avenue, Billings, MT, Executive Director of Living Independently for Today and Tomorrow**, stated that the organization advocates for individuals with disabilities. Ms. Hoar stated that safe streets and sidewalks are important for everyone, including individuals with disabilities, and that the Complete Streets Policy ensures that safety.

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

Councilmember Cromley moved to retain Resolution 11-19097 in its current form, seconded by Councilmember Cimmino. Councilmember Sullivan made an amended motion to retain Resolution 11-19097, but to ask Public Works to present a pre-engineering screening of Complete Streets projects, seconded by Councilmember Swanson. Councilmember Brewster stated that the proposed amended Policy would be beneficial, and that Mr. Mumford built more flexibility into the proposed Policy.

Councilmember Brewster spoke in opposition of the motion and the amended motion. Councilmember McFadden agreed with Councilmember Brewster's statements. Councilmember Yakawich thanked Council and staff for the time spent on this project. Councilmember Yakawich stated that the proposed changes to the Policy would improve its effectiveness, and that he opposed the original motion and the amended motion. Councilmember Sullivan stated that pre-planning and budgeting for street construction projects would allow for input from the public. Councilmember Sullivan spoke in favor of his amendment and of Councilmember Cromley's motion. Mayor Hanel spoke in favor of Councilmember Cromley's motion. Mayor Hanel stated that the City of Billings is doing well and is an attractive community. Councilmember Cromley spoke in favor of Councilmember Sullivan's amended motion. Councilmember Brewster made a substitute motion to adopt staff's recommendation of the proposed revised Complete Streets Policy and to incorporate Councilmember Sullivan's suggestion for Public Works to present to Council pre-engineering screenings of potential Complete Streets projects, seconded by Councilmember Friedel. Councilmember McFadden spoke in favor of the substitute motion. Councilmember Brown spoke in favor of the substitute motion. Councilmember Friedel stated that Council was elected by taxpayers, and that he supported the substitute motion. Councilmember Swanson spoke in favor of the substitute motion. Councilmember Cromley moved to call the question, seconded by Councilmember McFadden. On a roll call vote, the motion to call the question was approved 10-1, with Mayor Hanel voting in opposition. On a roll call vote, the substitute motion was approved 10-1, with Mayor Hanel voting in opposition.

Mayor Hanel called for a recess at 10:57 pm.

Mayor Hanel called the meeting back to order at 11:14 pm.

**10. PUBLIC HEARING AND RESOLUTION authorizing the sale of Lot 17, Block 189, Billings Original Townsite to Russ and Susan Plath for a total of \$18,375.**

Ms. Volek stated that Bruce McCandless, Assistant City Administrator, was prepared to deliver a presentation and that the dollar amount listed in the proposed resolution was inaccurate; the correct dollar amount in the resolution should be \$18,375. Mr. McCandless began a PowerPoint presentation providing an overview of the property for Item 10.

Councilmember McFadden asked for an explanation on the plans to reopen the windows of the building. Mr. McCandless stated that the original windows were sealed on one side of the building. If a building is unprotected by a fire sprinkler system and there are window openings on exterior walls, a "sizeable setback" must exist between that building and the adjacent property. Purchasing the adjacent property will allow for the windows to be reopened and eliminate the need for the "sizeable setback."

Councilmember Clark asked how much of the parking lot on this land would be sold. Mr. McCandless displayed a visual of the property and explained that the small portion outlined in red would be sold. The lot is 25 by 140 feet.

Councilmember Yakawich asked whether the remaining area around the lot would still be used as a parking lot. Mr. McCandless stated that the City-owned remaining area would still be used as a parking lot.

The public hearing was opened.

- **Russ Plath, owner of L&L Building, proposed purchaser of the land**, stated that he plans to utilize the lot as parking for the building. Councilmember Brown asked whether Mr. Plath was planning to remodel the upper floor of the building. Mr. Plath stated that the upper floor was being remodeled and that he hoped to have the windows reopened soon.

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

Councilmember Yakawich moved for approval of Item 10 with the corrected sale amount of \$18,375, seconded by Councilmember Friedel. Councilmember Cimmino asked whether the funds will be deposited into the Downtown Tax Increment Fund. Mr. McCandless stated that staff recommended depositing the funds into the Downtown Tax Increment Fund. Mayor Hanel spoke in favor of the motion. 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. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the council chambers or at the podium.)*

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT** stated that property assessments should be calculated on the same basis. Mr. Nelson stated that assessments should not be calculated arbitrarily.

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

## **COUNCIL INITIATIVES**


- Councilmember Swanson moved to establish a recruiting task force comprised of Chief St. John, Ms. Volek, Mayor Hanel, one Councilmember, and other employees or consultants, with the goal of filling vacant police officer positions, with a presentation on current programs during the first month of the task force, and a sunset date of June 30, 2017, seconded by Councilmember Sullivan. Councilmember Brown spoke in opposition of the motion, and noted that Chief St. John has outlined the extensive recruiting efforts of the department. Councilmember Brown noted that police academy space availability also affects recruiting. Mayor Hanel spoke in opposition of the motion and commended staff's recruiting efforts. Councilmember Swanson stated that there are many different recruiting methods that can be implemented. Councilmember Friedel stated that

the limited police academy space seemed to be the source of the problem. Councilmember Sullivan spoke in favor of the motion and noted the importance of police officer recruitment and retention. Councilmember Cimmino asked whether Public Safety Officer Standards and Training (POST) was the cause of the issue. Ms. Volek stated that problems arise due to limited space in POST classes. Ms. Volek stated that officers must be POST certified before they may work for the City of Billings. Chief St. John stated that POST is a 12-week program. Councilmember Cimmino asked if potential officers could be sent to POST in states other than Montana. Chief St. John stated that officers may be sent to other states, but the costs would be much greater. Chief St. John also noted that officers would only be POST certified for the state in which training was completed; upon return, an officer would be required to complete a two week equivalency course to be certified in Montana. Chief St. John stated that the Police Department is exploring the option of creating its own POST program. Councilmember Cimmino asked if recruitment has always been such a prominent issue for the Police Department. Chief St. John stated that the City reserves spaces in POST classes. Chief St. John noted that the most recently advertised police officer positions require POST certification; if officers are hired from that pool, then they will be able to begin working relatively quickly. Chief St. John also noted that the Police Department will be accepting applications on a rolling basis in order to maintain a steadier applicant pool. Mayor Hanel asked Chief St. John if any additional recruitment efforts could be undertaken. Chief St. John stated that additional advertising could be conducted, but that method would require additional funding. Chief St. John also discussed the possibility of an incentive program for officers who refer new officers. Councilmember Swanson asked whether recruitment efforts take place at colleges and whether recruitment efforts are directed toward veterans. Chief St. John stated that the Police Department attends job fairs and other events at colleges. Chief St. John noted that the Department also offers internships. Chief St. John stated that the Department receives many applications from veterans, and that social media efforts are also underway. Councilmember Swanson withdrew his motion, and Councilmember Sullivan withdrew his second. Councilmember Yakawich thanked Councilmember Swanson for the discussion.

There was no further business, and the meeting adjourned at 11:49 pm.

CITY OF BILLINGS

BY:

  
Thomas W. Hanel, Mayor

ATTEST:

BY:

  
Billie Guenther, City Clerk

