

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 25, 2016

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

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

MINUTES: July 11, 2016 – Councilmember Sullivan moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel commended the Fire and Police departments for doing an outstanding job. He announced that a gathering was scheduled for a National Day of Recognition for Law Enforcement on August 1st, on the courthouse lawn at 2:00 p.m.

PROCLAMATIONS:

There were no proclamations.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek reminded Council of several revisions that had been made to the agenda. Ms. Volek presented the revisions to the Non-Public Hearing Comment Items and Item 6, and informed Council that the changes had been included in the Friday packet.
- Ms. Volek stated there were a few last minute e-mails received concerning Item 2, and copies of those e-mails were contained in the ex-parte notebook located at the back of the Council Chambers, next to the public comment sign-in sheet.
- Ms. Volek apologized for technical difficulties concerning accessing the agenda and supporting documents on the website. She explained the City's website had recently been updated and some glitches had occurred making it difficult for some to access the supporting documents. She stated those glitches had been resolved and she did not anticipate problems in the future.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, #3, & #6 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 hearing was opened.

- **Kristy Savaria, 1235 Hawthorn Lane, Billings, Montana**, in regard to Item 3, stated she was a proponent for building a shelter at the highly populated High Sierra Dog Park.

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

1. CONSENT AGENDA

A. Five-Year Service Agreement for Energy Management Systems with Alerton Energy Management Systems as provided by ATS Inland NW, LLC; \$55,120.

B. Acknowledging Receipt of Petition to Annex #16-04: approximately 11 acres, Lot 8, Sunny Cove Fruit Farms, located at the southeast corner of Rimrock Road and 62nd Street West, Tule Ridge Developments, Robert Wattenbarger, agent, and setting a public hearing for 08/08/16.

C. Second/Final Reading Ordinance expanding Ward IV (Annexation #16-03) for an approximate 6.4 acre parcel of land located south of Rimrock Road at the southwest corner of intersection of 54th Street West and Trail Creek Drive. Yellowstone Meadows Partners, LLC, petitioner.

D. Bills and Payroll:

1. June 28, 2016

Councilmember Cromley separated Item 1D1 in order to abstain.

Councilmember Yakawich moved for approval of the Consent Agenda, with the exception of Item 1D1, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan moved for approval of Item 1D1 of the Consent Agenda, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE amending City Code Sections 4-401, 4-405, and 4-407, permitting dogs and cats on leash within City parks. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mark Jarvis, Park Planner with Parks, Recreation and Public Lands, gave a presentation. He stated that 80% of households in Billings have at least 1 dog, placing Billings 20% above the national average. He stated dogs have become more integrated into our lives and society is more accepting of dogs in public spaces. Mr. Jarvis stated the current ordinance is difficult to enforce. It was confusing because dogs are allowed in some parks, but prohibited in others and he gave examples. He stated other communities in the State allow dogs in their parks and the Animal Control Board and Parks Board recommended the ordinance be updated. Both boards have worked with staff over the past 2 years. The implementation plan has a three-pronged approach; enforcement, education and cost. Mr. Jarvis stated it has been recommended that an Animal Control officer be present in the parks for enforcement. The proposed enactment date is January 1, 2017. In the interim time efforts would be made to educate the public about the changes to the ordinance, install signage and animal waste stations. Animal Control officers would begin writing citations on January 1, 2017, the enactment date. He believed there were enough Animal Control officers to handle enforcement in 2017, but that additional officers would need to be added in 2018. A supplemental budget request would be sought at that time, if needed. Seasonal Animal Control officers would be considered and perhaps retired police officers would be interested in assisting with that effort. Mr. Jarvis provided examples of signage for pet waste stations and restrictions to notify citizens. He stated that during the grace period, Animal Control would educate the public through the officers in the parks, posting advertisements and running public awareness ads, and provide information to veterinarians to forward to their clients. The Parks Department would post information on its website and social media outlets. Parks' staff would be given information to pass onto patrons at the parks to educate them. Mr. Jarvis mentioned that the Friends of Billings Dog Parks wanted to participate in the education process as well. Mr. Jarvis outlined the anticipated costs for implementation as a one-time cost for replacement signs, new signs, and pet waste dispensers for an estimated cost of \$30,000. The anticipated ongoing costs were \$10,000 to \$12,000 per year for pet waste replacement bags and printing costs for trifold brochures (\$550 per 2,000 copies).

Tom Stinchfield, Animal Control Supervisor, spoke about proposed increased fees and fines and gave statistics. In fiscal year 2015, 4,452 licenses were sold. Mr. Stinchfield stated that if 80% of households in Billings have at least one dog and/or cat, then licensing revenues are grossly under collected. He supported the education and enforcement components proposed in the ordinance update. Mr. Stinchfield explained the method in which citations have been issued for non-licensed animals and the fine collection process. He stressed the importance of educating the public about licensing their animal(s). Mr. Stinchfield stated that if the same number of licenses were sold under the proposed updated ordinance,

licensing revenue would increase to approximately \$47,000. Mr. Stinchfield anticipated that licensing overall would be increased should the updated ordinance be adopted.

Mr. Jarvis concluded the presentation with a slide showing a pie chart indicating 68% of citizens polled were in favor of allowing leashed dogs in the City's parks.

Councilmember Sullivan questioned the sample size in relation to the pie chart. He stated if it were a poll of the e-mails he had received on the subject, it would be the complete inverse of the pie chart. Michael Whitaker, Parks Director, addressed this by stating it was a statistically valid survey, with randomly selected participants, and the returns percentage were higher than normal. Councilmember Sullivan asked for clarification on the increased licensing fees and increased enforcement of licensing. Mr. Whitaker clarified that with additional enforcement presence in the parks, it will encourage citizens to license their dogs and cats to avoid fines.

Councilmember Brown asked whether staffing was sufficient to increase enforcement. Mr. Whitaker stated Animal Control believed there were enough officers to enforce the conditions of the proposed updated ordinance with the educational component added. If it were determined in fiscal year 2018 that additional officers were needed, a supplemental budget request would be requested for 1 or 2 seasonal officers. Councilmember Brown stated that during recent work sessions discussions, Council was informed of staff shortages and Animal Control could not adequately enforce the current restrictions. He asked how that would change under the proposed updated ordinance. Mr. Whitaker stated the current ordinance was very confusing. Currently, a citizen may have their dog on leash in undeveloped areas. However, through the educational component of the updated ordinance, compliance with the ordinance would be better. Ms. Volek added that Animal Control was fully staffed and that had not been the case for some time. Currently, Animal Control focused on patrol and street duty. A redirection of the existing staff toward the educational component would be implemented with the adoption of the proposed updated ordinance. Councilmember Brown asked if the educational component would be a long term or short term focus. Ms. Volek responded it would be responsive to the demands.

Councilmember Brown redirected by stating the biggest concern is animal waste in the parks and would that be enforced under the updated ordinance. Mr. Jarvis responded that educating the public to the health issues of spreading fecal matter and not cleaning after one's pet spreads disease. Education about responsible pet ownership and respect for other park users would help with this concern. Councilmember Brown asked who, in the interim, would be responsible for collecting animal waste when the pet owners don't. Mr. Jarvis stated there are a lot of citizens who collect animal waste for their own pets and others, but Parks staff would also participate in collection.

Councilmember McFadden asked about the breakdown of costs for seasonal enforcement officers. Mr. Jarvis responded that would be reviewed after the updated ordinance went into effect. It would be reviewed during fiscal year 2018 regarding enforcement levels and impacts. Councilmember McFadden asked which budget would be impacted. Ms. Volek stated the Parks Department budget would be impacted. Councilmember McFadden asked about costs. Ms. Volek stated this year

there was a supplemental budget request for one full-time officer and a vehicle for \$138,000. She stated she has worked in other communities where there are summer park rangers present in the parks during the hours in which they are most heavily used. She suggested that perhaps two part-time officers could be in the field, using vehicles from the motor pool, in addition to Animal Control officers in the parks some of the time. Councilmember McFadden inquired if that meant approximately \$100,000 would be spent over the \$30,000 indicated in the presentation. Ms. Volek agreed that should the updated ordinance be adopted, approximately an additional \$100,000 would be needed for the additional position(s), which would have to go through the supplemental budget request process for Council consideration.

Councilmember Swanson addressed the cost of the animal waste bags. He stated the bags were provided as an incentive to pet owners to clean after their pets. Mr. Jarvis agreed that as more stations are strategically placed, that would increase the amount of bags being used for animal waste collection. Ms. Volek added she was approached by a veterinarian to provide waste bags in exchange for advertising and perhaps there would be others willing to help as well.

Mayor Hanel asked City Attorney Brent Brooks to provide the legal definition of "small animal". Mr. Brooks clarified that this particular ordinance dealt with dogs and cats only. He also stated that should Council approve the first reading of the updated ordinance, Council could impose a delayed date of January 1, 2017, to address some of Councilmember Brown's questions about what may occur in the "interim". Mr. Brooks reminded Council with the approval of any ordinance upon second reading, an ordinance does not go into effect for 30 days past the approval date. He also reminded Council that should there be an implementation of a new fee schedule that would occur through a resolution and would not be a part of this ordinance.

Councilmember Cromley asked Mr. Brooks about the current "stop and frisk" laws concerning whether a dog owner could be stopped and asked to provide proof of a license for the animal. Mr. Brooks responded he was not aware of the process the Animal Control Division uses for making inquiry of dog owners to provide proof of licensing. Dog collars are not required, but if there was no license appearing on a collared animal, Animal Control may inquire to determine there was a violation in that instance.

Councilmember Yakawich stated he was concerned about animal waste and assumed the Parks department staff would be challenged with the collection of animal waste along with trash. Mr. Jarvis stated staff already does some animal waste collection. Councilmember Yakawich asked for clarification about the current leash law and whether dogs and cats on leashes could walk through the City's parks. Mr. Jarvis clarified by stating that in developed City parks, the leashed dogs and cats could only walk on the sidewalks or right-of-way in the streets outside the parks. They were not currently allowed in the City's parks. Councilmember Yakawich followed by asking how the updated ordinance would help with enforcement. Mr. Jarvis responded it would be easier to identify any dog off a leash in any City park under the updated ordinance and there enforcement would be easier. The updated ordinance would not make it simply a matter of exclusion, but the focus would be more toward infractions of the ordinance, such as not having the animal on a leash or not removing its waste. Ms. Volek directed Council to

review Section 4-407, "dogs and cats in city parks and public lands shall be restrained by a secured leash . . . or other secure restraint not more than 8 feet in length and under the physical control of a person capable of restraining the animal's movement." Councilmember Yakawich reiterated that by adopting the updated ordinance it would assist enforcement by making it easier to spot unleashed animals. That would provide an opportunity to educate the offender and/or issue a warning or citation. Mr. Jarvis responded affirmatively.

Councilmember Clark asked for clarification as to where, besides in the dog park, could dogs run without a leash. Mr. Jarvis stated the only designated areas for unleashed dogs was in the dog park. Councilmember Clark asked why pet owners would obey the rules in the updated ordinance if they already do not follow the rules in the original ordinance. Mr. Jarvis responded that he thought that was part of the education process that needed to be addressed.

Councilmember Sullivan stated it appeared that education and enforcement would get the job done. He believed that could be done without any additional dollars and without any changes to the original ordinance; an effort just needed to be made to educate and enforce. Councilmember Sullivan asked if that approach had been addressed and whether there was a "Plan B" if the updated ordinance was not adopted. Mr. Jarvis responded that if the updated ordinance was not approved, then the City would fall back to what it had currently. That would place more pressure on enforcement officials to keep animals out of the parks as opposed to making certain they are in compliance while in the City's parks. Councilmember Sullivan stated that Parks and Animal Control Departments are currently fully staffed, yet only 10% of the dogs are currently licensed. There should be an increased focus on registration and citing at the parks where absolutely no dogs are allowed.

Councilmember Brewster stated he was also perplexed. He stated a lot of work went into identifying undeveloped parks where animal owners could take their leashed animals. He inquired about the method of education back then and stated that obviously educating the public about those parks and the leash laws wasn't well done. He acknowledged that better signage would be helpful and asked why not try to improve upon that which already existed. Mr. Jarvis explained that the dynamics have changed since the ordinance was originally adopted. Attitudes have changed about dogs in public spaces. Dogs have been integrated into our everyday lives at banks, grocery stores, public functions and exercise. The updates to the ordinance are in response to the changed attitudes and acceptances.

Ms. Volek reminded Council that the updated ordinance originated from two citizen advisory boards, Parks and Animal Control Boards. Presumptively, the advisory boards represented the views and interests of the community.

The public hearing was opened.

- **Robert Pumphrey, 1017 O'Malley, Billings, Montana**, Chairman of the Animal Control Board, stated the board listened to the citizens and the ordinance was not something the board created. It came about because the citizens voiced their opinions to have an ordinance allowing them to have their dogs and cats on leashes in the City's parks. He mentioned that Shakespeare in the Parks was held in Pioneer Park. Dogs are not

allowed in Pioneer Park at all, but dogs were in attendance and most were on leashes. The updated ordinance would allow for some controls on addressing dogs not on leashes. All major cities in Montana allow for dogs on leashes with the exception of Billings. He stated he found the estimated costs of implementation in the presentation quite high and offered volunteer organizations to help defer the costs of enforcement and education. He stated that Norm's Island is one park where a dog owner is allowed to walk their dog without a leash. He stated waste stations were installed and it greatly diminished the problem of animal waste collection. He suggested citizens provide their extra plastic shopping bags to waste stations for collection use. He stated the licensing issue was only being addressed currently when an Animal Control officer responded to a complaint, i.e., dog attack. He suggested that a public awareness campaign to educate the public could be done in a very positive way via Community 7, the City's website and the Billings Gazette. He was encouraged that two citizen advisory boards worked collaboratively on the updated ordinance. The ordinance was flexible, reasonable and fair. It could be re-evaluated during a phase-in period. He acknowledged dogs are a part of citizens' quality of life and that Billings recently received recognition for being a great place to live.

Councilmember Yakawich asked if the citizens that approached the Animal Control Board were those who honored the current ordinance, but wanted to walk their dogs on a leash in the parks; or were they citizens who observed others disobeying the current ordinance by walking their dogs in parks with or without leashes. Mr. Pumphrey stated the Board was approached because of both of those scenarios. The board members witnessed dogs in Pioneer Park during their meetings there.

Councilmember Sullivan asked if dogs were currently allowed in Pioneer Park. Mr. Pumphrey stated they were not allowed in the park, they could only be walked around the boundaries of the park. Councilmember Sullivan followed by asking if Mr. Pumphrey or anyone from the Animal Control Board stopped someone in Pioneer Park to educate them that dogs were not allowed in Pioneer Park when such was witnessed. Mr. Pumphrey stated they have stopped people and most have been unaware that dogs were prohibited in the park.

Councilmember Brown asked whether Norm's Island is a city or county park. Ms. Volek responded that it is a City park, however it is located in the county and dogs are to be on a leash, however it was not enforced. City staff is not empowered to enforce the leash law there because it is in the county and the county has its own Animal Control officer for enforcement, as they do at Riverfront, Coulson and Phipps Parks.

- **Alan Towlerton, 275 Nubias Place, Billings, Montana**, opposed the updated ordinance. He was concerned about potential consequences of irresponsible owners who did not follow the current ordinance and left

behind their animal's waste. He stated the current ordinance is clear – have your dog on a leash and pick up after them. He was skeptical increased resources would increase efficiency of enforcement. Expansion to allow dogs in all of the City's parks may broaden problem, such as person-to-person and person-to-animal confrontations. He suggested a compromise to expand dogs on leash into some of the lesser used developed parks, but not into the heavily used parks. He supported having more dedicated dog parks. He mentioned the education component could be enforced now under the current ordinance. He was concerned by the language contained in 4-407(g) being overly broad and asked that the power of the City Administrator be more confined.

- **Jeanette Vieg, 525 Gay place, Billings, Montana**, Vice-Chair of the Animal Control Board, reminded Council that Outside magazine gave Billings honorable mention for being an up-and-coming city. That brought recognition to the City and would entice young families to move to Billings with their pets. Pets encourage citizens to get exercise and improve overall health and well-being. She stated the Billings Gazette printed an article that stated Billings is an animal-loving place. She stated dogs in the parks just make sense for Billings.

Councilmember Friedel asked why one would assume that Animal Control would stop pet owners under a revised ordinance when it was not occurring under the current ordinance. Ms. Vieg stated Tom Stinchfield said that if the updated ordinance was adopted, Animal Control officers would be designated during peak hours to tend to the parks.

Councilmember Friedel asked why that was not being done presently. Ms. Vieg responded they are too busy responding to calls now to do that.

Councilmember Friedel then asked what was going to change to allow for staff in the parks for enforcement. Ms. Vieg stated Mr. Stinchfield would be better able to answer that question. Mr. Stinchfield stated there was mass confusion in the parks and more animal waste collection stations need to be placed around the perimeter of the parks. He stated there was only one sign for the entire park at Pioneer Park that gave the visitors notice that no dogs were allowed in the park and more signage was needed. He stated that part of the updated ordinance would improve signage. Mr. Stinchfield stated that Animal Control officers would immediately access licensing information on their onboard computers. Animal Control officer would call vets to learn about rabies vaccinations. More officers would not necessarily be needed, but they would take more time to educate pet owners and that would alleviate some future problems. Animal Control was not just about writing citations. He encouraged Council to pass the updated ordinance because the public wanted it.

Councilmember Cromley asked Mr. Stinchfield if he believed he had authority to stop a person who was lawfully walking a dog on a leash and ask if they had their dog licensed. Mr. Stinchfield stated he did not believe

he could if the pet owner was walking lawfully with their dog on a leash. Mr. Stinchfield stated that 90% of interactions with the public were because of something the public did wrong. The updated ordinance would allow them to stop someone for an unleashed animal and then Animal Control would check on all other matters, such as licensing.

Councilmember Yakawich stated that unleashed dogs in the parks and animal waste was a problem. He asked why Animal Control saw the updated ordinance as a solution. Mr. Stinchfield stated Animal Control wanted an ordinance they could enforce with the public and educate them. He wanted the public to get what they have asked for, but with restrictions that Animal Control could control.

- **Cara Chamberlain, 933 Yale Ave., Billings, Montana,** Animal Control Board Member, stated that listening to the discussions, it was apparent there was a problem and that whatever was or was not being done presently needed to be changed. It was worth trying to allow responsible pet owners to utilize the parks with their pets. Dog parks were not always an option for some people because of distance, etc. She encouraged Council to try something new.
- **Jenny Grass, 1247 Ponderosa Drive, Billings, Montana,** offered her perspective as a millennial and one of the youngest members of the audience. She stated she had moved back to Billings approximately 3 months ago from Portland, Oregon. She stated she had left Billings for job opportunities, but she had returned to Billings because it was a special place with other opportunities. In Portland, there were dog parks within 2 miles of every place she had lived. She was concerned Billings had only one dog park and it was not centrally located. That sent the wrong message to prospective residents that Billings did not like dogs. She supported the updated ordinance and encouraged Council to adopt it. She was a volunteer with BARK and offered to adopt her local park, be an enforcer and replace waste bags as needed.
- **Marcia Clausing, 3016 Gloxinia Drive, Billings, Montana,** stated it was time to update the ordinance and remove the confusion about whether dogs could be in the parks. She had heard that judges have thrown violations out of the courts because the law was confusing. The proposed updated ordinance was clear and concise and removed confusion. Dogs were no longer treated as they were in 1962 and restricted to only the back yard. They were now family members taken wherever their owners went. She stated the Friends of Billings Dog Parks had talked for years about holding a Doggie Amnesty Day to license more dogs. She encouraged Council to adopt the updated ordinance and get Billings moving with the current times.
- **Kristy Savaria, 1235 Hawthorne Lane, Billings, Montana,** thanked Animal Control and the Parks Departments for providing data which

proved that 68% of the random sample of constituents wanted dogs allowed in the City's parks. She gave an example of citizens not obeying laws already in place, i.e., cell phone prohibition, but stated education, enforcement and re-enforcement helped. She encouraged Council to adopt the updated ordinance for consistency purposes so all citizens would understand that all City parks allowed dogs on leashes, not just in a few of the parks.

- **Sue Bressler, 220 Yellowstone Avenue, Billings, Montana,** a member of Friends of Billings Dog Parks, echoed what had been previously said from others who supported the adoption of the updated ordinance and stressed the urgency to do so for the sake of consistency. She believed licensing would be increased because dogs would be cited at the parks if they were found to be unlicensed.

Councilmember Yakawich asked if the Friends of Billings Dog Parks would be assisting Animal Control more in enforcement and education of the updated ordinance. Ms. Bressler responded that Friends would work with Animal Control to determine needs and help accordingly. She stated the Doggie Amnesty Day would be an opportunity to license more dogs and educate dog owners of the updated ordinance. Councilmember Yakawich asked why there was an urgency to make the change. Ms. Bressler responded she wanted to walk her dog through Pioneer Park, legally.

- **Ann Hollob, 2924 Ronan Drive, Billings, Montana,** stated she was a new puppy owner. She stated that walking dogs on sidewalks when it is hot is painful and potentially harmful to the dogs. She preferred walking her dog in a shaded and grassy area such as in the parks. The socialization and interaction she and her puppy would experience in a park would be advantageous as well. She supported the adoption of the updated ordinance.
- **Mary Wiebusch, 217 Avenue F, Billings, Montana,** stated she lived near Pioneer Park and owned pug dogs that she wished to take on walks in the park. She stated High Sierra Dog Park was too far away to drive her dogs for a walk and would appreciate being allowed to walk her dogs in her neighborhood park, Pioneer Park. She supported the adoption of the updated ordinance.
- **Sandy Price, 2507 Kimble Drive, Billings, Montana,** stated the current ordinance punished law abiding citizens by not allowing them in the parks with their dogs. She works with rescue and was in contact with families wishing to adopt dogs. She advocated education for the updated ordinance and made a recommendation for possible signage utilizing the Yellow Dog Project, wherein dogs who need space from strangers or other dogs have a yellow ribbon placed upon their collar or leash to indicate to others to stay away from the dog. She provided an example for Council to preview.

Councilmember Cromley asked Ms. Price if she worked for BARK. She stated she was the director and founder.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana,** commented about all the responsible dog owners who claimed to pick up after their animals, but don't. He stated that if they were so responsible then why were there only a small percentage of dogs licensed. He stated that was not indicative of a responsible pet owner. He mentioned the number of barking dog complaints that are not addressed by Animal Control. He continued by stating non-licensing and "dogs running loose in the park" citations are civil infractions and basically unenforceable. He suggested Animal Control be given a probationary period of one year to see if their statistics improved. He opposed any changes to the current ordinance.
- **Mary Ann Peters, 1204 Caroline Street, Billings, Montana,** stated she saw similarities between the proposed updated ordinance and the "chickens" ordinance. She confirmed with Mr. Stinchfield that no one had received rabies from a chicken or was reportedly attacked by a chicken, etc. No bad things had happened concerning chickens in town. She encouraged Council to take a chance and adopt the updated ordinance.
- **Dennis Ulvestad, 3040 Central Avenue, Billings, Montana,** stated he had been co-chair on the Animal Control Board when the "chickens" ordinance was considered. He encouraged public education with more signage and supported its adoption. If there were problems it could be readdressed at that time.
- **Chuck Bushey, 1333 Colton Boulevard, Billings, Montana,** member of the Animal Control Board, stated he was a former dog owner. When he had dogs they were a very active breed that required a lot of exercise. He would take them to the outer edges of the City to exercise them. He commented the outer edges of the City kept moving further and further away as the City grew and expanded. It was becoming increasingly inconvenient for dog owners to reach open spaces to exercise their dogs, so allowing dogs on a leash in the City's parks made exercising a dog easier. He stated he traveled extensively and during visits to other states and communities he inquired about dogs in parks and their ordinances. No major problems had been reported and communities had adapted.

Councilmember Clark asked whether Mr. Bushey had he ever asked people in attendance at the Animal Control Board which groups they were representing. Mr. Bushey responded they had not asked, but several of those people identified their interest group when they introduced themselves. Councilmember Clark stated that the majority of people in attendance at the Council meeting represented dog groups and were not the average citizen.

Mayor Hanel asked Mr. Bushey if he had attended Shakespeare in the Parks in Pioneer Park recently and whether he had seen any dogs there. Mr. Bushey stated he had been there and he had noticed dogs on leashes and that it was illegal. Mayor Hanel asked about the average size of dog there. Mr. Bushey responded that they were relatively small dogs. No Rottweilers or anything like that. The dogs were well controlled.

Councilmember McFadden asked Mr. Bushey if he had given thought to any possible negative interactions between dogs at Pioneer Park and folf players. Mr. Bushey stated he had not considered that becoming a problem and that was purely speculative.

Councilmember Yakawich thanked Mr. Bushey for volunteering on the Animal Control Board. He spoke about what Mr. Bushey witnessed in other cities and asked about similiarities between Billings and other cities. Mr. Bushey stated he did not read through the ordinances, but had spoken with parks personnel and police and they had appeared to be happy with the situation. He noted there were a lot of regional differences in the U.S. – economically and socially.

- **Paul Schoemer, 1223 Princeton Avenue, Billings, Montana,** stated he lived near Veterans Park. He stated he did not have any feelings one way or the other on the updated ordinance other than he would encourage the City to enforce whatever was decided. He had hoped the "dogs in parks" ordinance would not be like the "cell phone" ordinance which was widely abused. He encouraged the City to step up its efforts in licensing pets and increased fines for those who have not licensed their pets. He stated that increased fines and fees would assist in offsetting the expense of more and better signage, clean up and additional personnel. He stated volunteers were great, but often times volunteers wane.
- **Mary Bennett, 2300 Wingate Lane, Billings, Montana,** complimented the Animal Control Board for their efforts.

Mayor Hanel asked the Director of the Yellowstone Valley Animal Shelter, Chris Anderson, to the podium to address the Council and complimented her and her staff for their management of the animal shelter. **Chris Anderson, 511 Wyoming Avenue, Billings, Montana,** addressed the Council and stated she had reviewed the proposed updated ordinance and had several conversations with Tom Stinchfield about it. She stated Mr. Stinchfield and his staff have done a great job. She shared stories about pet adoption experiences and stated she thought it would be helpful to the public to be given specific instruction about how to have dogs in parks. She reiterated that most dog owners in Billings were good people. She stated the shelter received about 3,500 animals per year and she was in contact with about four times that many people who really cared about animals. The majority of people wanted to do the right thing. Peer pressure was really strong and had a lot of power in the community. She

believed that the people in the parks who obeyed the rules would provide pressure to those who were not into complying with the law. She stated the numbers of dogs at the High Sierra Dog Park was pretty frightening at times and she knew there were dog owners who would not take their dog there because it was pretty scary. If dogs were allowed in the parks, that would lessen the pressure on High Sierra Dog Park. She was in support of the adoption of the proposed updated ordinance and asked Council to trust its citizens to do the right thing.

Mayor Hanel stated the ordinance seemed to address small animals and he expressed concern about the larger of the "small" animals being in the parks. Ms. Anderson asked if the Mayor wished to place restrictions on the size of dog allowed in the parks and stated she would take offense to not being able to take her larger dog to the park. This ordinance brought issues into focus so they could be addressed and changed.

Mr. Brooks provided a definition of small animal under the City Code, Section 4-401, and stated it did not address a weight or size limitation. In Section 4-407, it stated that only dogs and cats would be allowed in the City parks, not swine or chickens or any other small animals.

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

Councilmember Cromley moved for approval of Item 2, seconded by Councilmember Yakawich. Councilmember Cromley began the discussion and stated he supported the adoption of the updated ordinance. He stated Council should consider whether the City was presented as a welcoming City. Dogs played a big part in people's lives. He did not find any other towns in the United States that prohibited dogs in parks, although there may be some. By passing the ordinance, Billings was joining the norm. Responsible dog owners police irresponsible dog owners and cleaned after other animals. He was appalled by the lack of licensed small animals and encouraged a crackdown on this. The City was losing revenue by ignoring the enforcement of licensing. Two separate advisory boards had met over the past two years to develop the updates and made recommendations. He stated that consideration should be given for their efforts. Mayor Hanel asked Councilmember Cromley if he had any concerns about the small animal verbiage of the ordinance. Councilmember Cromley stated the ordinance was specific to dogs and cats. No other small animals were addressed in the ordinance.

Councilmember Sullivan stated the ordinance was not discriminatory toward dog owners. Billings was a dog friendly community in that 80% of the population own dogs. He stated he was not in favor of adopting the updated ordinance because the constituent contacts he had received via emails, phone messages, etc., had been 6 to 1 opposed to allowing dogs in parks. He did not believe Billings was culturally accepting of dogs in parks yet and more work needed to be done. He voiced his disappointment that during a recent work session Council did not acknowledge that the changes may need to be phased in. He stated that phasing in by January 1, 2017, would not provide the results sought. He favored more action

and focus on education about where dogs were currently allowed on leash and where they were not. More enforcement was needed; the City had staff to do it. He stated it was the most economical way to address enforcement and that more signs could be placed without an increased budget or a changed ordinance.

Councilmember Clark pointed to the ordinance language that addressed the definition of small animals as dogs and cats.

Councilmember Swanson stated the definition of a small animal was a veterinarian term that identified a practice specialty, i.e. large animal – cow or horse vs. small animal – dog or cat. He stated he was in favor of the adoption of the proposed updated ordinance as the right thing to do.

Councilmember Brown stated he was on the fence about supporting the ordinance adoption. He was concerned about the lack of enforcement now and was not confident compliance and enforcement would happen in the future. The dogs off leash now would continue to be off leash and animal waste would continue to be a problem. He does not see that the ordinance would improve conditions in the parks and would not support the adoption of the proposed updated ordinance. He sought a better plan for phasing in changes.

Councilmember Yakawich stated one task force had conducted a neighborhood survey and received a positive result. He gave consideration to the efforts the two boards had in the process and stated he relied on input and recommendations of others who worked on the processes. He encouraged Council to try something new and mobilize the citizens. Councilmember Yakawich stated he was in favor of adoption the updated ordinance.

Councilmember Brewster clarified the current ordinance allowed for dogs in parks, but only in some of the City's parks. The largest amount of complaints about dogs in parks comes from the developed parks. Years ago Council made an initiative that identified which undeveloped parks could be considered for leashed dogs to be allowed and the current ordinance was passed. Given the testimony he had heard at this Council meeting, it had appeared the current ordinance was a disaster because no one had been educated about it. Councilmember Brewster spoke with skepticism that if dogs were allowed in all of the parks now that education would work. Therefore, he was opposed to the adoption of the updated ordinance. He encouraged better enforcement of the current ordinance and he would support additional funding to educate the public on the current ordinance.

Councilmember McFadden stated he personally was opposed to the adoption of the updated ordinance. However, he gave the benefit of the doubt to the enthusiastic group of supporters and supported the adoption of the proposed updated ordinance.

Councilmember Friedel asked for the dates the current ordinance was placed into effect and when the first dog park was opened. Mr. Brooks asked for clarification on Councilmember Cromley's motion to approve the adoption of the proposed updated ordinance. Mr. Brooks asked whether Councilmember Cromley had suggested a January 1, 2017 effective date. Councilmember Cromley stated his motion had approved whatever was proposed and if the January 1, 2017 date was in Item 2, then he had moved for approval of that. Ms. Volek provided that the first dog park was established in 2011 and stated the original ordinance had been put into a place a very long time ago, perhaps 1962, but that would have to be researched for an exact date and Mr. Brooks echoed that comment. Councilmember

Friedel stated he agreed with Councilmember Brewster in that the current ordinance allowed for dogs on leash in some City parks. Councilmember Friedel encouraged compliance and education with the current ordinance. He wanted better enforcement and increased licensing efforts. He did not support adoption of the proposed updated ordinance.

On a roll call vote, the motion was approved 6 to 4, with Councilmembers Cromley, Yakawich, McFadden, Swanson, Clark and Mayor Hanel voting in favor of adoption of the proposed updated ordinance. Councilmembers Brewster, Friedel, Sullivan and Brown were opposed.

3. RESOLUTION allocating \$50,000 of Council Contingency Funds for a shelter at High Sierra Dog Park. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek stated staff did not have a presentation, however, noted Councilmember Cimmino sent an email message earlier in the day asking for an accounting of Council contingency fund expenditures.

Councilmember Brewster stated he was uncertain what kind of shelter was proposed and had anyone met with the Parks department. Ms. Volek reminded Council this was a Council initiative and asked Mark Jarvis, Park Planner with Parks, Recreation and Public Lands, to address Council. Mr. Jarvis stated it may be a 15' x 20' or 25' structure over a concrete pad where tables and benches could be placed for people to seek shelter from sun and weather. The structure would be ADA accessible. Councilmember Brewster asked if the structure would be located between the large dog area and the small dog area. Mr. Jarvis stated it would be located just outside the fenced area, with the dogs being inside the fenced area. He continued by stating there were options to consider, such as construction of 2 separate shelters, i.e., a larger one in the large dog area and a smaller one in the small dog area or placing one in between the dividing fences. The initial concept was to have just one larger structure. Councilmember Brewster asked if the Parks department had budgeted or requested budgeting for this. Mr. Jarvis responded the Parks department had not. Councilmember Clark stated it did not appear that there was a specific estimate as to whether the structure would cost \$10,000 or \$100,000. Ms. Volek stated the estimate was determined by staff based on similar shelters in other City parks. Michael Whitaker, Parks Director, addressed Council and stated he was approached by Councilmember Cimmino to provide an estimate for a shelter at the dog park. He provided an estimate between \$48,000 and \$60,000 because he was uncertain of the exact location on the property. He stated he was aware that the structure needed to be accessible from the parking area. He stated that a shelter at the dog park was definitely needed. Councilmember Friedel asked Mr. Whitaker why this item had not been placed in the budget if it was so needed. Mr. Whitaker stated there were a lot of needs and he had not identified the shelter at the dog park as a priority need, but a shelter would definitely benefit the dog park. Mr. Whitaker stated top needs he had identified were for repairs needed to existing facilities to avoid possible closure of those existing facilities. Councilmember Cromley stated that there were not enough benches in the City's parks currently. He asked whether the shelter was a greater need than benches in

the other parks. Mr. Whitaker stated both were top needs and benches had been purchased and would be installed in the near future. He equated the shelter as a top need as well.

Councilmember Brewster made a motion to table this item until the August 8, 2016 Council meeting to allow Councilmember Cimmino to speak on behalf of Item 3. Councilmember Sullivan seconded the motion to table Item 3. On a voice vote the motion was approved 9-1, with Councilmember Yakawich voting in opposition.

4. PUBLIC HEARING AND FIRST READING FOR ZONE CHANGE #947: a zone change from Residential 6,000 (R-60) to Controlled Industrial (CI) on a 2 acre parcel of land described as: the north 4 acres of Lot 5 in the SW1/4 of Section 9, Township 1 South, Range 26 East. Ralph Hanser and Scott Hanser, applicants; Bill Morgan, Sanderson Stewart, agent. Zoning Commission recommends approval of the zone change and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Nicole Cromwell, Zoning Coordinator, Planning Department, gave a brief PowerPoint presentation and an overview of the proposed zone change. She stated the parcel of land was subject to dual applications with a public hearing for Special Review #944 following directly after this public hearing. Ms. Cromwell summarized the 10 criteria and explained the compatibility of the zone change with existing zoning in the neighborhood and the growth policy.

Councilmember Brown asked if the zone change would be conducive because the Hanser's business was the only one there. Ms. Cromwell stated it would be and that the properties were under-utilized. The properties recently became available for sale and Hanser's saw an opportunity to acquire it. Councilmember Brown asked whether the protesting neighbor resided within the zone change area. Ms. Cromwell stated the protesters were tenants and not property owners and located their residence on the PowerPoint map. Councilmember Friedel inquired whether any opposition had been received about the zone change. Ms. Cromwell stated there was not, other than the letter received from the tenants, a copy of which was produced with the staff report. Councilmember Yakawich stated he had toured the facility. Councilmember Sullivan questioned that all property owners abutted against the property had been given proper notice. Ms. Cromwell affirmatively responded that all parties had been given notice and no opposition had been received.

The public hearing was opened.

- **Ralph Hanser, 1565 Westridge Dr., Billings, Montana**, thanked Ms. Cromwell for the presentation and stated he was in agreement with the findings. He stated his business had worked with the previous property owner for a number of years before the property was purchased. He gave specifics about the family-owned business and its contributions to the community. He stated that Hanser's had been for around for 51 years.

- **Scott Hanser, 3020 Donegal Court, Billings, Montana,** stated he operated the salvage portion of the business and that he was in agreement with the findings. He explained the operations of the salvage business and highlighted fluid removal, rainwater recycling and testing processes. He stated their operations were one of the top in the nation. Councilmember Brown asked for clarification of fence restructuring. Mr. Hanser responded that neighbors in the area had asked that the fence be lowered and they had agreed to lower it to a 9' fence that would fully enclose the area from sight.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana,** addressed Council with examples of other controlled industrial sites around the City. He mentioned that the allowed decibel levels in a controlled industrial zone were 90 decibels. He stated he does not raise issue with Hanser's, but stated he was concerned about zoning running with the land. He was opposed to a controlled industrial zone abutted against a residential 6,000 zone. He stated that zoning was for a buffer. Mr. Nelson stated the Planning department and Zoning Commission recently had not allowed for a business 600 feet away from a residential zone to be changed to controlled industrial, but this zone change was only 3 feet away from residences. He questioned the difference between the two zone changes. He asked why the lane was not extended to Newman Lane to provide a safe route to the school. He stated he was concerned about heavy rainfall runoff and possible soil contamination and gave examples of other areas in which that had happened. He urged for Council's rejection to the zone change. He stressed that a buffer was needed between residential and commercial properties for the protection of quality of life. Councilmember Brown addressed the differences between zone change #947 and the Anderson Steele zone change. He stated the Anderson Steele zone change existed within the County and the City had no control over it. Mr. Nelson rebutted that the allowable decibel rates were the same. The allowable noise level was too high to be located next to a residential zone. Councilmember Yakawich noted that Newman Lane is a dirt road and it was a different issue that would need to be addressed aside from the zone change. Mr. Nelson responded that the problem was the 30 foot right-of-way had not been given and the fence should have been moved back more than 30 feet so there would be a 60 foot right-of-way. He went on to say that the walkway would be obstructed by a fence and the 30 foot right-of-way should have been given. He stated that the walkway needed to be safe for kids to get to Newman School. Councilmember Yakawich stated that an SID may be required and that it really was a different discussion altogether. Ms. Volek addressed Council and stated the land was unplatted and right-of-way restrictions could not be mandated. Nicole Cromwell provided an explanation that typically streets' rights-of-way were given at the time of subdividing parcels. However, so long as the parcels were not subdivided, rights-of-way did not need to be addressed. She stated that Hanser's did not request access to Newman Lane. She stated that when South Billings Boulevard was improved, the right-of-way

was given for that property. In the future, if someone were to purchase the property and were to request access from Newman Lane, that would be a time the City would require a right-of-way. If the City requested an SID to build Newman Lane to a full right-of-way, the adjacent property owners would be asked to dedicate that right-of-way.

- **Bill Morgan, Sanderson Stewart, 1300 N. Transtech Way, Billings, Montana,** stated he was the engineer and agent on the project. He stated he had been involved with Hanser's and the neighborhood task force through the entire project. He stated the neighborhood had requested a separation between the large screening fence and the existing fence behind them. He stated that the two to four feet area provided a buffer and safe zone. He stated the area would be gated on both sides to curb unnecessary travel behind the residences. Mr. Morgan stated that the area would be maintained by Hanser's, using a weed fabric. A storm water pollution prevention plan was on file for the facilities to the north and west sides. The facilities would be monitored by the Department of Environmental Quality and the facilities would meet those regulations, as well as the City's regulations. He stated that all storm water within the proposed area would be contained and cleaned through an oil/water separator before it was discharged through the City's system. He assured that none of the storm water left the site and it was all internally drained. All dissembling of auto parts was conducted on the west side of the road in an existing, enclosed facility. All fluids were drained and transmissions lifted from the auto bodies in that facility. Auto body shells was all that were stored on the proposed area. He stated there would be no crushing or loud noises that would come from the proposed area. Councilmember Brown asked if the property owners along the backside of the proposed property attended any meetings. Mr. Morgan stated that there was one couple who lived on the corner that came to the discussion. He stated there had been an in-depth meeting with them and that they had toured the facility. Mr. Morgan stated that there had been one other property owner who attended the meeting, but was not from that subdivision. Mr. Morgan stated that notices had been sent via certified mail to all residents. The meeting had been held at Hanser's as it had been a convenient location for residents. Councilmember Brewster acknowledged Mr. Nelson's concern about the increased decibel level and confirmed that the commercial industrial zoning was 90 decibels.
- **Paul Schoemer, 1223 Princeton Avenue, Billings, Montana,** stated he agreed with the zone change. He stated Hanser's has been a well-managed, forward-thinking operation and used the property in such a way that allowed the company to be more productive.

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

Councilmember McFadden moved for approval of Item 4, seconded by Councilmember Friedel. Councilmember Brown encouraged Council to approve the zone change. Mayor Hanel spoke in favor of the Motion. Councilmember Yakawich stated he appreciated Mr. Nelson's comments and that he was impressed by the environmental consciousness of Hanser's when he toured their facility. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND SPECIAL REVIEW #944: a special review to locate a motor vehicle wrecking yard in a Controlled Industrial (CI) zone on a 2 acre parcel of land described as: Lot 5, SW1/4 of Section 9, Township 1 South, Range 26 East, generally located at 505 and 521 S Billings Blvd. Ralph Hanser and Scott Hanser, applicants; Bill Morgan, 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, Zoning Coordinator, Planning Department, gave a brief PowerPoint presentation and an overview of the special review uses and the Zoning Commission's conditional approval recommendation. Ms. Cromwell summarized the conditions:

1. In regard to the south property line that abuts the residential homes to the south; the residents preferred a separation between the two fences, and had requested that security gates be placed on the east and west sides where the fences did not meet. The area between the two fences would be treated and kept free of weeds and trash by Hanser's.
2. In regard to the outdoor lighting standards; the lights were to be no taller than 15 feet within 50 feet of the residential zones and be equipped with cut-off shields.
3. In regard to the hours of operation; Hanser's would be limited to 7:00 am to 7:00 pm to address noise concerns. Any noise after 7:00 pm would not be waived.
4. Hanser's would be required to maintain a motor vehicle wrecking license from the State of Montana. There are a lot of regulations that must be met through the State.
5. In regard to conditions to run with the land. If Hanser's were to sell to another wrecking company, the new company would have to abide by the same conditions.

Councilmember Friedel asked that if the Hanser's were to sell the property in the future, was it possible to revert the zoning. Ms. Cromwell stated she had never seen a "reverter" clause included in a zone change ordinance, but had seen "sunset" clauses in some zoning codes that were adopted for a short period of time in an emergency event. Ms. Cromwell explained the "neighborhood manners" ordinance that regardless of the zoning (commercial industrial or residential professional) if the business was within 50 feet of a residential zone there were noise, screening and lighting restrictions imposed automatically. Councilmember

Friedel asked if only another wrecking company would be allowed to move onto the property. Ms. Cromwell stated if a new wrecking company were to move onto the property, they would have to comply with these conditions. If a different type of business were to move onto the property, it would have to comply with the "neighborhood manners" requirements, site development requirements and if they asked to subdivide, the City may have to ask for a right-of-way, etc. The new business would be required to come back to Council for a special review.

The public comment period was opened.

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

Councilmember McFadden moved for approval of Item 5, seconded by Councilmember Friedel. Mayor Hanel voiced his support for the motion. On a voice vote, the motion was unanimously approved.

6. RESOLUTION of Intent to Adopt the 2016 City of Billings Growth Policy. Yellowstone County Board of Planning recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek stated Item 6 had originally been on the June 23, 2016 agenda, but the item had been forwarded to a work session and was now being brought to this Council meeting for a decision. Staff had no additional presentation, but was available for questions.

Councilmember Brewster asked for one change to be made under the growth guidelines, page 1, essential investments, infill development near existing City infrastructure from "is" the most cost effective to "may be" the most cost effective. He requested the change because Mr. Mumford had stated that infill may not always be the least cost because the trunk system may need to be replaced, etc. Councilmember Cromley asked about the publication costs, to which Ms. Volek replied that 15 copies would be printed for the public's perusal and final adjustments would be made upon final approval.

Mayor Hanel recognized and complimented Candi Millar, Planning Director, for all her hard work and dedication on the growth policy. Councilmember Clark noted that the growth policy was not regulatory, but a guideline for the City to follow in future development of the City. Ms. Volek also spoke to the contributions and achievements Ms. Millar made to community and wished her well on her future endeavors.

Councilmember Brewster moved for approval of Item 6 as amended, seconded by Councilmember Sullivan. 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.

- **Paul Schoemer, 1223 Princeton Avenue, Billings, Montana,** stated he was pleased that additional police officers were hired and encouraged Council to revisit body cams for its officers.
- **Candi Millar, Planning Director,** addressed the Council and stated it had been her pleasure to serve the City of Billings for the past 16 years. She stated the City has done well in listening to all of the facts and are sensitive to public comments. She stated that the City's decisions were deliberately made based on facts and information. She stated she appreciated the process even though it could be frustrating at times.

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

COUNCIL INITIATIVES

There were no Council initiatives.

Councilmember Friedel asked Ms. Volek for progress followup on the 802 Yellowstone Avenue property that had been plagued by graffiti, etc. Ms. Volek stated that the property owner had been cited and there the property owner had a certain time period to respond. Ms. Volek stated she would e-mail Councilmember Friedel with the information he sought.

Councilmember McFadden stated the former Battin building had been sold and asbestos abatement was expected soon. He stated that the building would be used for office space in approximately one year's time. Ms. Volek mentioned she had been invited to attend a tour of the building on Wednesday, July 27th, but she would not be able to attend the tour. She stated that if any of the Councilmembers were interested in attending, they should contact the sponsors of the tour, Big Sky Economic Development. Mayor Hanel cautioned the Council about quorum restrictions.

There was no further business, and the meeting adjourned at 9:45 pm.



CITY OF BILLINGS

BY: Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk