

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

**November 14, 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 5:30 p.m. and served as the meeting's presiding officer. Councilmember Clark gave the invocation.

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

**RECESS TO CLOSED EXECUTIVE SESSION\*** (meeting will be called back to order at 6:30 pm)

**\*Note:** The closed Executive Session is solely for the purpose of discussing litigation strategy in which the only parties are NOT public bodies or associations, as described in Section 2-3-203(1) and (2). The meeting is closed, as allowed by Section 2-3-303, MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

The meeting was called back to order at 6:30 pm.

**MINUTES:** October 24, 2016 – Councilmember Sullivan moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

### **COURTESIES:**

- Mayor Hanel offered wedding congratulates to Councilmember Cimmino's family.
- Mayor Hanel offered congratulations to all successful candidates during the recent elections.

### **PROCLAMATIONS:**

- Mayor Hanel read a proclamation announcing November 26, 2016 as Small Business Saturday. He stated that small businesses represented 99.7% of all businesses with employees in the United States. He encouraged the citizens of Billings to shop local small businesses.

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

- Ms. Volek reminded Council that there would be no Work Session meeting on November 21<sup>st</sup> and the next Regular Business meeting would be November 28<sup>th</sup>.

- Ms. Volek stated that an email was received from Don Olsen of O2 Architects regarding Regular Agenda Items 4 and 5, One Big Sky Center project. A copy was included in the ex parte notebook and copies were placed at each Council desk.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, 3, 4, 5, 6 & 7 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.

- **Terry Odegaard, 2101 Lake Hills Drive, Billings, Montana**, in reference to Items 1B, 4 and 5, stated he was uncomfortable with spending \$75,000 concerning BIRD and wondered who was tracking the money. He encouraged Council to do their due diligence when dealing with One Big Sky Center.
- **Rich Friedel, 3302 2<sup>nd</sup> Avenue North, Billings, Montana**, in reference to Items 4 and 5, stated he was present officially representing the Republican Party. He stated he did not believe Council had all the information they needed to move forward with One Big Sky Center. He was opposed to any public financing toward the project.
- **Janine Mix, 217 Avenue D, Billings, Montana**, in reference to Items 4 and 5, stated she supported the One Big Sky Center and saw this as an amazing opportunity for the younger generations. She stated that as a Millennial, she would raise her children in Billings and stated Millennials were responsible for revolutionizing the world through innovations and that generation would eventually run the City. She stated that Millennials could live wherever and work from wherever, something that could not happen with past generations who lived where they worked at the same place for 40 years. She stated she wanted to live in a place of progress and opportunities. She urged Council to listen to the Millennials.
- **Connie Wardell, P. O. Box 214, Billings, Montana**, in reference to Items 4 and 5, stated she is concerned about EB-5 funding and if the developers of One Big Sky Center did not have their EB-5 monies in hand, then the City should not enter into a partnership with them. She provided a handout outlining a variety of projects throughout the country that were not completed and monies had to be returned to the investors and the EB-5 participants did not receive their green cards. She stated the City is not good at speculative development and she was against it.
- **Bill Cole, 3733 Tommy Armour Circle, Billings, Montana**, in reference to Items 1E, 4 and 5, stated he was in favor of the repurchase of Cottonwood Park. He encouraged Council to find a way to pay for regional parks so the lands are not left undeveloped and it will be a great time to explore this during the Parks Master Plan development. Mr. Cole stated he was the Chair of the Billings Chamber of Commerce and stated the Chamber has taken a general position in favor of investigating the process. He shared his personal thoughts that the City was being asked to “go steady” in a sort of dating relationship and not become married forever.

He stated the developers have to sell themselves to the City and the City has to sell itself to the developers. He stated the developers had spent over 2 years of uncompensated time into the project and acquired 7 land purchases. He stated the City was not the prettiest girl at the dance and the developers had other alternatives. He supported the One Big Sky Center.

- **Tana Hergenraeder, 2220 Lyndale, Billings, Montana**, in reference to Items 4 and 5, stated she fully supported One Big Sky Center. She was concerned the project was predetermined to fail and encouraged the City to enter into an MOU to further investigate the project's feasibility.
- **Joel Anderson, 2127 Fairview Place, Billings, Montana**, in reference to Item 4, stated he was a Chamber of Commerce NexGen supported the City entering into an MOU with the developers of One Big Sky Center. He stated that Yellowstone County's people were its greatest asset and he wanted to see opportunities for its people.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Items 3, 4, 5 and 6, stated he did not believe there had been a 3.8% increase in the cost of living, but that it was far lower than that and the 3.8% was quite generous and unjustified. He suggested giving the firefighters a raise and then a cost of living increase, but not to disguise the enter increase as cost of living. He commented that the One Big Sky Center proposal was similar to the Cabella's project which remained incomplete. He stated the MOU in that project was very poorly written and he would hope the MOU for One Big Sky Center would be better. He stated that the Consent Agenda had turned into a public hearing and stated that it disenfranchised the public because the comments really should be made at a public hearing after the staff had their opportunity to present. He then stated that he could be supportive of a local option tax if properly done and stated the current legislature could not trust the City's officials and Billings should be the leader. He stated Billings had credibility issues. He asked Council to build a trusting relationship with the legislature.
- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, in reference to Items 3, 7, 1B, 4 and 5, stated no other government agency received the amount of increases in wages and benefits as the City did. He questioned the percentage increase for the City Administrator's salary. He stated taxpayers could not afford these types of increases year after year. He stated the taxpayers' income did not increase at the same percentage year after year. He spoke about what he saw as failures in administration and pointed to the Council as being responsible for holding administration accountable. He was definitely not supportive of pay increases. He stated the One Big Sky Center was a beautiful project but cautioned the Council about getting too caught up in it before the developers have more in place.
- **John Brewer, President of Billings Chamber of Commerce, 815 S. 27<sup>th</sup> Street, Billings, Montana**, in reference to items 4 and 6, spoke in favor of the Local Option Authority and One Big Sky Center. He outlined the differences between the proposed bill for a sales tax and others in the past. He asked for the Council's endorsement.
- **Lee Humphrey, 213 N. 28<sup>th</sup> Street, Billings, Montana**, in reference to Items 4, 5 and 6, stated he was supportive of the Local Option Authority and One Big Sky Center. He stated the City should not manage the conference center because

government's historically did not do that well. He stated he would be the first major investor in the project if the Council agreed to move forward.

- **Darrell Consilia, Billings, Montana**, in reference to Items 4 and 5, stated he supported the One Big Sky Center project and stated he had been a young business professional for a number of years and stated he avoided the downtown area. He stated it was dated, lacked jobs and aside from a night bar scene offered little attraction to his age group. He stated the City needed to back the project because without it the project would die.
- **Randy Hafer, 702 N. 23<sup>rd</sup> Street, Billings, Montana**, in reference to Items 4, 5 and 6, stated he was the chairman of the Downtown BID Board and that he was representing the Board as well as himself when he announced that he strongly supported the One Big Sky Center. He stated the downtown area was ready for a big project. He stated the project needs the City's support or it would not be able to move forward. He stated TIF funding was the only tool available and therefore he supported the Local Option Authority to give more tools.
- **Nicole King, 745 Henesta Place, Billings, Montana**, in reference to Items 4 and 5, stated she was supportive of the One Big Sky Center. She stated that through her husband's business, they host many foreign visitors. She stated it was difficult to impress visitors with things to do in Billings that were not natural attractions. She stated Billings was missing a lot of amenities and it was time to attract people to live here, but housing was needed downtown.
- **Greg Krueger, 3408 St. John's Avenue, Billings, Montana**, in reference to Items 4, 5 and 6, he stated he was in support of the Local Option Authority and One Big Sky Center. He compared Great Falls to Billings and how Great Falls had a larger population than Billings in 1975, but because they have not improved and invested in their City, Billings has taken the lead through its development, but it has been a long time since the downtown area has had anything developed. He stated that Missoula was on the same trajectory as Billings, however Great Falls was the same as it was in 1975. He compared the First Interstate Bank building and the Empire Garage projects and their use of TIF monies and bonding. Councilmember Sullivan asked if DBA would be facilitating the disbursement of funds. Mr. Krueger stated it would come from Fund 203, the N. 27<sup>th</sup> Street Tax Increment Fund. Councilmember Brewster asked if it was a true statement to state that all of the TIF monies generated by the project would be applied toward the bond, plus a significant amount of the rest of the TIF District. Mr. Krueger agreed he estimated the project would bring about \$4.6 million per year and without the project about \$3.7 million per year would be brought into the District. He stated the bond payment on Empire Garage was just under \$900,000 per year. He stated the parking garage would be in the high 20's. Councilmember Brewster confirmed that none of the revenues from the conference center would be applied toward the debt. Mr. Krueger stated that is not a very stable revenue generator. Councilmember Clark asked that should the City build the conference center, would the City receive any tax revenue from it. Mr. Krueger stated that according to the Department of Revenue it would be the responsibility of the for-profit organization that used public facilities to generate revenue to pay property taxes. Councilmember Friedel asked for a definition of blight, he does not observe blight in the area where One Big Sky Center is proposed

as being an area of blight. He asked what the public interest was for a conference center. He stated that with the Metra in place for conferences and another conference center on the West End he questioned why it was necessary for the City to build a conference center. He stated the developers should build it if it was such a necessity. Mr. Krueger stated that TIF also had the purpose of leveling the playing field. He stated redevelopment is much more difficult to do and public purpose could be defined in many different ways. He stated municipalities were left to define blight in their own urban renewal plan. He continued that blight was defined as having over 40% vacancy in the area and the proposed site had 42% vacancy. He stated that the courts had upheld that if a private project was good for the community, it was a public purpose. Mr. Krueger continued that by bringing another 500 to 800 people every 3 days into the downtown area was a very good public purpose and that was what a conference center would do. Councilmember Friedel stated he does not see it as leveling the playing field, but using ones tax dollars against itself to promote another "like" business, such as The Northern. Mr. Krueger stated it benefitted all of the hotels by bringing everything up a notch. He stated that at the current level of available lodging and conferencing Billings could not bring larger venues. He stated that through the MOU process it would be revealed whether Billings could double its conferencing business. He stated if it could not, he would not be interested in furthering that portion of the project. Councilmember Friedel commented that increasing square footage rates from \$14 to \$35 a square foot was a lofty goal and he was concerned that with the Baaken shutting down and a number of industries slowing the project would create more vacancies. Mr. Krueger stated he had hoped it was and it was worth pursuing. He stated the last time any significant class A office space was constructed was in 1985. Mr. Krueger stated it appeared there was a lot of retail space being built on the West End, yet there were a lot of vacancies in downtown. He stated one would build to the market and if it is shown through studies that the area would not support as large a project as presented, the developers would scale it back. He supported the teams approach and stated that when the Empire Garage was built they were told it was not needed, however it had proven to be very successful and had doubled the amount of tax monies coming into the district. Councilmember Friedel asked if a traffic study would be done in the downtown area because traffic was already a concern. Mr. Krueger stated one would be conducted and they were working with Public Works currently. Councilmember Friedel asked who would draft the MOU. Mr. Krueger stated that the City's bond counsel, City Attorney and the developers' attorneys. He supported updates from the developers on a frequent basis.

- **Kris Carpenter, 4642 Arapaho Lookout, Billings, Montana**, in reference to Items 4, 5 and 6, stated she was the owner of 3 businesses and had opened her newest business in downtown 4 days prior. She favored ACT because it would allow decisions on the local level for local projects where to place tax monies generated by the Local Option Authority. She believed Billings was missing the opportunity to collect from tourists that visited the City and utilized services. She stated she was excited about the opportunity to have a major development like One Big Sky Center downtown as her neighbor.

- **Patricia Elliott, 2323 Crimson Lane, Billings, Montana**, in reference to Item 6, voiced support for the Local Option Authority.
- **Lisa Harmon, Executive Director of Downtown Business Alliance, Billings, Montana**, in reference to Items 4, 5 and 6, stated she was supportive of these items. She stated Billings was a commerce center and that Billings was unique in how it drew visitors to the area, but it wasn't capturing as much as it could. She stated that since 2004, 284 TIF projects, mid-sized and small, had been funded. She stated that \$15 million public dollars for an investment of \$70 million private dollar investments in Billings. She encouraged Council to continue the dialogue with the developers of One Big Sky Center.
- **Brian Brown, 401 N. 31<sup>st</sup> Street, Billings, Montana**, in reference to Item 6, stated he supported the Council's endorsement of ACT. He liked that it allowed Billings to decide what tax monies could be used for. He stated ACT was very different than the Montana Infrastructure Coalition, which focused on roads, sewers, street lights, etc.
- **Skip Ahern, Denver, Colorado**, in reference to Items 4 and 5, voiced his support for One Big Sky Center. He stated it was not his purpose to take every TIF dollar available, but asked that there be monies to cover the items that would be publicly owned – the convention center, the parking garage and street improvements to remove N. 29<sup>th</sup> Street for a pedestrian walkway. He explained that public-private partnerships were nothing new and he believed the One Big Sky Center would create a larger tax base and more TIF funds to be reinvested in other future projects.
- **Angie Cormier, 220 N. Broadway, Billings, Montana**, in reference to Items 4 and 5, stated she has had businesses in the downtown area and lived downtown. She said she was on the fence, 50% in favor and 50% against the One Big Sky Center. She stated she loved the idea of the development in downtown Billings, but there were a lot of "what ifs". She stated she did not mind paying taxes for improvements downtown. She stated she was concerned about the amount of TIF monies from the district for the One Big Sky Center. She stated TIF District monies were already being withheld for distribution pending this project. She stated that her taxes were already raised 30%-35% from the land purchases made by the developers. She made suggestions that the developers consider selling condos in the project, rather than leasing apartments to help with the tax base.

Recess at 9:33 pm.

Meeting called back to order at 9:51 pm. Public comment period continued.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, Montana**, in reference to Item 6, stated he was an Uber driver and took passengers throughout downtown and stated it had changed considerably over the years for the better. He encouraged Council and the Chamber to have a sponsor in Helena on the Local Option Authority or it may fail.
- **Sherry Daly, 108 Wyoming, Billings, Montana**, in reference to Items 4 and 5, stated she saw One Big Sky Center as a part of the big picture. She stated

downtown was the heartbeat of Billings and it needed to grow and needed more living spaces. She voiced her support of the project.

- **Grant Owen, 2214 North Place, Billings, Montana**, in reference to Items 4 and 5, voiced his support for One Big Sky Center as he would like to live in the downtown area and see more business lured into the area.
- **Julie Seedhouse, 104 North Broadway, Billings, Montana**, in reference to Items 4, 5 and 6, stated she lived downtown and welcomed the One Big Sky Center to the area. She stated growth bred growth and stated that Billings needed to invest in itself and could do that with ACT. She was excited for the opportunities the center would attract.

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

1. **CONSENT AGENDA:**

A. **Bid Awards:**

1. **2017 Sewer Jet/Vacuum Cleaner.** (Opened 11/1/16) Recommend Titan Machinery, \$320,290.
2. **Car Rental Parking Lot Lighting Upgrades.** (Opened 10/25/16) Recommend Yellowstone Electric Company, \$28,220.
3. **South Park Splash Pad.** (Opened 10/25/16) Recommend delay of award until November 28, 2016.

B. **Approval** of Conditional Mediation Agreement with Billings Industrial Revitalization District (BIRD); \$75,000.

C. **Amendment #3, W.O. 16-05: Central Avenue, Shiloh Road to 32nd Street West**, Professional Services Contract, DOWL, \$47,460.

D. **Approval** of a new 10-year Commercial Aviation Ground Lease with United Parcel Service (UPS), revenue first year \$28,110.24, revenue subsequent years adjusted by CPI-U.

E. **Approval** to repurchase Cottonwood Park and authorize the Mayor to execute documents necessary to complete the repurchase.

F. **Acknowledging Receipt of Petition to Annex #16-05:** approximately 17 acres, Tract 3, and a portion of Tract 4 and Tract 5 of Amendment of Tracts 1, 2 and 3 of C/S 1648, located west of Shiloh Road, south of Central Avenue and north of Bell Avenue on the west side of Legends West Subdivision, Janet Bergman, owner and petitioner, and setting a public hearing date for 11/28/16.

- G. **Acceptance** of 2016 Domestic Violence Grant for the Billings Police Department for training and supplies; \$19,022.
- H. **Acceptance of Donation** to the Billings Fire Department from Town Pump Charitable Foundation to purchase an inflatable fire house for public safety training; \$1,000.
- I. **Acceptance of Donation** to the Billings Fire Department from the Breakfast Exchange Club to purchase smoke detectors; \$1,000.
- J. **Acceptance of Donation** to the Billings Public Library from Montana Girls STEM Collaborative and Montana State University for Science Action Club Program; \$500.
- K. **Second/Final Reading Ordinance for Zone Change #949:** a zone change from Residential 6,000-Restricted (R-60-R) and Residential 9,600 (R-96) to Residential 5,000 (R-50) on Lots 1, 2, 3 and 4, Block 18, Lots 3 and 4, Block 19, except for Lot 11, Block 16, Lake Hills Subdivision 15th Filing; and Lots 4 and 5, Block 5 of Lake Hills Subdivision, 33rd Filing, a total area of 3.52 acres of land. Trent Parks, applicant. Approval of the zone change and adoption of the findings of the 10 criteria.
- L. **Bills and Payroll:**
  - 1. April 1, 2016 through June 30, 2016 (Municipal Court)
  - 2. October 11, 2016
  - 3. October 17 and 18, 2016
  - 4. October 24, 2016

Councilmember Yakawich separated Item 1A3 for discussion.

Councilmember Brown separated Items L3 and L4 in order to abstain.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1A3, L3 and L4, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich separated Item 1A3 and asked Michael Whitaker, Director of Parks and Recreation, for elaboration on the splash pad. Mr. Whitaker stated 3 bids were received and Council was asked to delay bid award to allow the consultant adequate time to evaluate the bids and make a recommendation. He stated that after the bid was awarded, construction on the project would begin in the winter. He stated the goal was to have construction completed and the bath house opened by the next season. He stated it was the second time bids were requested. Councilmember Clark stated it appeared the project was taking a very long time to complete. Ms. Volek responded that the contractor who had been awarded the bid before was unable to get

a bond and that was the reason it had gone for bid a second time and delayed the project. Councilmember Yakawich moved to delay the bid award for Item 1A3 until November 28, 2016 regular business meeting, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan moved for approval of Item L3, seconded by Councilmember Cromley. On a voice vote, the motion was approved 8-0, with Councilmember Brown abstaining.

Councilmember Sullivan moved for approval of Item L4, seconded by Councilmember Cromley. On a voice vote, the motion was approved 8-0, with Councilmember Brown abstaining.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION NO. 16-10591 granting a tax abatement to Linde Properties, LLC, for a building remodel and expansion to Heights Eyecare at 430 Lake Elmo Road. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Bruce McCandless, Assistant City Administrator, stated there was a presentation in the Friday Packet. He stated this was a program wherein the State allowed the City to adopt and that 3 out of 4 tax incentive programs were currently in effect. He stated the abatement applied only to the new investment. He stated it did not apply to the entire property from property tax, only the newly improved portion of the project. He stated it was an approximately \$1 million investment and there would be a tax saving of approximately \$6,500/year and that was a high estimate. Mr. McCandless stated the applicant met all of the conditions. Councilmember Friedel clarified the \$1 million investment statement.

The public hearing was opened.

- **Patrick Klugman, 222 N. 32<sup>nd</sup> Street, Billings, Montana**, stated he worked for Big Sky Economic Development, and explained BSED's role in assisting businesses applying for tax abatements. He stated Heights Eyecare had been in business since March 21, 1991. He stated the Yellowstone County Commissioners passed the tax abatement unanimously under Resolution 16-91. He stated that the expansion improved the services provided by Heights Eyecare and significantly increased their workforce. He stated the expansion also allowed the business to participate in adding optometry students completing their clinicals and that was a great recruitment tool.
- **Brad Kimball, 4458 Loma Vista Drive, Billings, Montana**, explained the project's expansion and thanked the Council for considering the application for tax abatement. He stated the expansion allowed the business to have handicap accessible areas for certain therapies. He stated the expansion also allowed for

additional parking spaces to be created. He stated the building was a very nice addition to the Heights and he was proud of it. He gave payroll figures for the past year and estimated increases due to the expansion project. He stated he was very excited about recruiting young optometrists to Billings to complete their clinicals. Councilmember Clark stated he appreciated the business's expansion and asked Mr. Kimball how he heard about the tax abatement program. Mr. Kimball responded that he had read about it. Councilmember Yakawich asked if traffic was a problem in that area. Mr. Kimball stated it depended on the time of day and he was uncertain how the new Town Pump would impact traffic on Lake Elmo Drive.

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

Councilmember Brewster moved for approval of Item 2, seconded by Councilmember Sullivan. Councilmember Sullivan stated he was very pleased to see that type of project and Mayor Hanel echoed. Councilmember Yakawich stated Patrick Klugman was a very good representative of BSED and had been involved in several projects around the City. On a voice vote, the motion was unanimously approved.

**3. INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF) LOCAL 521 UNION CONTRACT (7/1/16-6/30/18). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Tina Volek, City Administrator, stated the contract was the third of three contracts negotiated in the past year. She stated the contract called for a 3.2% Cost of Living adjustment for the first year of the contract, which was retroactive to July 1, 2016, and another 3.2% Cost of Living adjustment in the second year of the contract, FY2017. She stated that neither of the items had been budgeted, but a budget amendment would be brought forward. She stated there were sufficient revenues to allow for the budget amendment. She continued that the contract formalized the City's ability to hire deputy fire marshals from outside the department if there are no internal applicants. She stated the assistant fire marshal and fire marshal would be required to obtain ICC fire plan examiner certification within 1 year of their promotion to those positions. She stated if they did not achieve the certifications within that time period, their salaries would be frozen at the current grade and step until certification was achieved. She continued that the boiler license certification pay was removed. She discussed clarification of contract language that reduced the backfill requirement for training which would save funding. Ms. Volek stated the IAFF had been voted on and approved and staff recommended approval.

Councilmember Clark asked Ms. Volek what the entire contract cost the City. Ms. Volek stated that in the Financial Impact section of the staff report it indicated that during the first year of COLA increase the cost would be \$336,000 and \$315,000 in FY2018. She stated the increased cost of the health insurance to retirement benefits would depend upon the increase to health insurance, which a slight increase was expected. She continued that there was an additional cost of \$2,350 to move the training officer to a grade appropriate in comparison with other departments in the State

of Montana and the region. She stated there was a similar cost of \$3,100 to move the assistant training officer, EMS coordinator to Step D of his range. Councilmember Brown questioned if the training officers were the ones that Council had agreed to hire recently. Ms. Volek responded that there had been a full-time training officer for the past 12 years, but the assistant position and EMS coordinator was approved approximately 6 months ago due to the increased need and emphasis on training. She stated that when the positions were created, a thorough examination of salaries of similar positions throughout the State had not been conducted. Councilmember Brown voiced his concern about how the increased costs would affect the drawdown of the Public Safety Fund. Ms. Volek stated the amounts would be taken from reserves as budget amendments. Councilmember Brown asked how it would affect 20/20. Ms. Volek stated she did not believe it would have a serious impact and the Assistant Financial Director agreed. Councilmember Sullivan asked what the COLAs had been for all of the other unions and non-bargaining employees. Ms. Volek stated that the fire department had a wage reopener last year of 3.2%, which was the same raise that was granted to all employees across the board. She stated that this year the same 3.2% was granted to all of the represented and non-represented employees. She continued that there were contracts that guaranteed the 3% for the represented and non-represented employees at the desire of the Council. She stated the 3% would be recommended because for the most part, those were the people that provided supervision to the employees who would receive a 3% COLA. Councilmember Sullivan confirmed that all of the contracts were now inline. Ms. Volek stated that was correct. Mayor Hanel thanked Ms. Volek and all the staff members who had worked on contract negotiations and stated the relations with the fire and police departments had become more peaceful in recent years. Councilmember Cromley moved to approve Item 3, seconded by Councilmember Yakawich. Councilmember Brewster compared Social Security recipients' annual increases were far less than the increases negotiated for City employees. He continued that perhaps an accurate Cost of Living Adjustment could have been measured by that of Social Security recipients. He stated that over a recent 3-year period, Social Security recipients had received less in COLA increases than a City employee received in one year. Councilmember Brewster stated that at some point those Social Security recipients would be asked to raise their taxes to support the increased wages of City employees and they would not do it. He stated he appreciated the "feel good" bargaining, but he was not supportive of giving into whatever the unions requested and did not support the motion to approve. He stated it was unreasonable and he felt it was irresponsible to move forward. Councilmember Sullivan stated he agreed with Councilmember Brewster in that Social Security COLAs were a better reflection of true Cost of Living increases. He stated that during the next union negotiations he would not support anything that would be outside of the current COLAs. Mayor Hanel stated he also respected the opinions of Councilmembers Brewster and Sullivan but stated he was very fond of City employees and he stated there were years when the contracts had not been as lucrative. He also stated that Billings needed to be competitive with other cities in the State and Billings needed to retain its quality employees. Councilmember Clark asked Ms. Volek if longevity was included in the figures and she replied it was.

Mayor Hanel called for a roll call vote on the motion. The motion was approved 6-3, with Councilmembers Brewster, Friedel, and Clark voting in opposition.

**4. APPROVAL of Pre-development Memorandum of Understanding (MOU) between the City of Billings and Montdevco II for the proposed One Big Sky Center downtown redevelopment project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that staff did not have any additional presentations, but was available for any questions. Councilmember Yakawich asked about soft costs associated with this project and whether there was a real breakdown of those costs. Ms. Volek stated that soft costs included professional contracts, engineers and architects, taxes, capital interest and attorneys' costs. Councilmember Yakawich asked if a market study had been done for the downtown area because he was concerned about having too much office space and conferencing areas. Ms. Volek responded that it had not be done by Springsted, Inc.

Councilmember McFadden moved for approval of Item 4, seconded by Councilmember Sullivan. Councilmember Clark asked if an estimate could be given as to how much the City's expenses would be during the process. He stated he understood that the monies would come from the TIF District, but those monies were still tax monies. Ms. Volek stated that no more than \$25,000 would be spent for Springsted, Inc. and she estimated the bond counsel would be approximately \$5,000 to date and staff time was involved. She stated there may be additional costs brought on by the developers, but she was not certain what those might be. Ms. Volek stated the current Pre-development Memorandum of Understanding was set to expire on June 30, 2017 and the developers had asked for an extension to a year from the date of signing the agreement. She stated however, that the current Memorandum of Understanding reflected the June 30, 2017 date of expiration and Council could consider whether to extend that expiration date. Councilmember Sullivan stated it was prudent to keep the June 30<sup>th</sup> date and stated the Memorandum of Understanding could be extended at a later date when Council saw sufficient progress. He stated he liked the project and had been cautiously optimistic, but it was time to see what would be brought next. He spoke in favor of the Memorandum of Understanding. Councilmember Friedel asked whether information could be provided in a closed session as Mr. Ahern spoke about during the Public Comment Period. City Attorney, Brent Brooks, responded that unless the information was proprietary or concerned pending or threatening litigation that needed to be kept private, he could not give specific advice without knowing why a closed session would be necessary. Councilmember Friedel asked if there was anything in the Memorandum of Understanding that could end in a lawsuit for the City. Mr. Brooks stated he did not see anything in the Memorandum of Understanding that would violate the open meetings laws. Mayor Hanel stated he has a strong love for Billings and there had not been a time that he had not supported progress. He stated he was so excited with the project when he first heard about it and shared the information with other

Mayors at a Mayors conference. He stated he was in favor of the June 30, 2017 expiration date and supported the motion. Councilmember Brown stated he would support the motion although there were a lot of questions that remained. Councilmember Brewster stated he supported the June 30, 2017 date, but he wanted better numbers concerning the TIF. Councilmember Yakawich stated he favored the June 30, 2017 date, but would stand by his constituents and did not feel it was in good faith to enter into an agreement if the City should decide not to move forward with the project at a later date. He spoke in opposition. Councilmember Friedel stated the tax monies came from 109,000 citizens and it was important to consider how their money was used. He spoke in opposition. Councilmember Clark asked what would happen if a tie vote occurred. Ms. Volek stated that a tie vote broke to a "no" vote. Councilmember Clark asked the abstaining Councilmember why he was abstaining. Councilmember Cromley responded that his law firm had worked with one or more of the developers in the recent past and present. Mayor Hanel called for a roll call vote on the motion. The motion was approved 6-2, with Councilmembers Yakawich and Friedel voting in opposition and Councilmember Cromley abstaining.

**5. APPROVAL of Bond Reimbursement Resolution for the One Big Sky Center project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek introduced Bruce McCandless who gave a brief presentation. Mr. McCandless stated bond reimbursement resolutions were approved most of the time when there was a capital project. He stated it allowed the City to reimburse itself for costs incurred early on in a project should the City eventually issue bonds for the project. He stated it did not commit the City to issue any bonds nor set a limit to the amount of bonds. He stated its purpose was solely for reimbursement of costs incurred. Mayor Hanel asked what the consequences may be should Council not approve the resolution. Mr. McCandless responded that the City could not reimburse itself for the early on expenses from the bond proceeds if the resolution was not passed prior to bond issuance for the project. Mayor Hanel asked from where the funds would come. Mr. McCandless stated he assumed the funds would come from the Downtown Tax Increment Fund unless the Council directed otherwise. Councilmember Clark asked if the TIF fund would be reimbursed at some point. Mr. McCandless answered, "yes" and that the Tax Increment Fund was the City's fund. He stated the Downtown Business Partnership was contracted to do work on the City's behalf. Councilmember Brown asked if Council did not approve the bond reimbursement resolution, would that affect the developers at all. Mr. McCandless stated the resolution was strictly for the City's benefit and did nothing to the developer or potential project. Councilmember Friedel asked if it would be more prudent to table this item until the project was further along. Mr. McCandless stated the risk to tabling the resolution was that any expenses the City has incurred to date on behalf of this project, could not be reimbursed if the passage of the resolution was more than 60 days from the date the expense was incurred. He continued that there was no requirement that Council approve the resolution, however if the City wished to capture reimbursement of the expenses early on, the resolution was

necessary. Ms. Volek emphasized that the City had incurred approximately \$30,000 in expenses already that could not be reimbursed if the resolution was not passed within 60 days of the expense. Councilmember Brewster stated that if bonds were not sold eventually, there would be no reimbursement. Councilmember Sullivan moved for approval of Item 5, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

**6. APPROVAL to Endorse the Authorize Community Transformation (ACT) Initiative. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek explained that the group known as Authorize Community Transformation (ACT) was asking Council to endorse the initiative concerning a local option tax of up to .03 per dollar on goods and services. She stated there were many organizations who supported a local option tax and listed a number of them and referred to the ACT website at [www.ACTMT.org](http://www.ACTMT.org) for a complete listing. Ms. Volek continued that the Montana Infrastructure Coalition was concerned about how the two tax structures may blend together. She stated that staff recommended approval of the endorsement to maximize all options. She continued that perhaps one would take the lead as it moved toward the legislature. Councilmember Brewster reminded Council that local option tax discussions had happened for the past 20 years. He recalled that many years ago a similar situation occurred in which there were two bills before the legislature and the legislature had asked that one be chosen. He stated one was not chosen over the other and the legislature killed them both. He stated that he would rather support one and would choose by evaluating which one would benefit the City the most. He supported resort-types of taxes with sunset clauses in them. Councilmember Sullivan reviewed the list of supporters and noted that Bozeman, Butte, and Missoula local governments were not aboard. He speculated whether the initiative would go anywhere without them on onboard as well. Ms. Volek stated that the "ask" was being made across the state, lobbying support for the initiative. Councilmember Clark mentioned that the City of Billings was a member of the Coalition and stated it had been developing the infrastructure tax initiation longer than ACT, but it actually taxed more of the citizens of Billings, rather than tourists, and provided a tax relief to the property owners. He suggested the Council wait to endorse until a drafted bill was presented and voiced that he preferred the Coalition's bill over the proposed ACT initiative. Councilmember Yakawich stated he agreed with Councilmember Clark's suggestion to wait to endorse the ACT initiative until a draft bill was presented. Ms. Volek provided differences between the Coalition's bill and that of the ACT initiative. She acknowledged that she was a non-voting member of the Chamber Board and had had access to the information provided concerning ACT projects that would cover a wide variety of subjects. She stated she attended a conference with the Chamber in Oklahoma City and viewed a number of the projects that were involved over a 20-year period. Ms. Volek reiterated that the Coalition's bill and the ACT initiative were two very different approaches and she suggested the Council support both measures to maximize its options. Councilmember Cromley asked whether there had been any communication between the Coalition members and those involved in ACT. Ms. Volek stated that there had

been, but there had been no decisions made as to whether there would be a combining of the two into one bill. Councilmember Clark stated the two parties were miles apart. Councilmember Brown asked if it would be prudent to postpone making a decision until more information was available. Councilmember Clark stated the Coalition would have their drafted bill available for review following the Thanksgiving holiday. Councilmember Friedel moved for Item 6 to be tabled until a final draft bill was presented, seconded by Councilmember Clark. Councilmember Brewster asked that the motion state a "preliminary draft bill" rather than "final draft bill" because the bill could go through many changes by the time it reached the legislature and look completely different than when it was first introduced. He continued that the two groups had very different ideas, with the resort tax being a mature program, the Coalition sought an expansion as to who could participate. Councilmember Friedel moved to amend the motion that Item 6 be tabled until a first draft of the bill was presented to Council and withdrew the previous motion, seconded by Councilmember Clark. Councilmember Yakawich stated he hoped the Coalition and ACT members could combine efforts. Mayor Hanel stated he was in opposition to the motion because no matter what the outcome at the Council level, it would still have to be approved by the voters and ACT simply asked for an endorsement. Councilmember Sullivan voiced his support for the motion because he wanted more Class A Montana cities to be behind the initiative. Councilmember Cromley stated he agreed with the Mayor. Councilmember Cromley moved for a substitute motion to approve Item 6, seconded by Councilmember Sullivan. Councilmember Clark stated the Coalition had worked on the resort tax bill for the past two years, but the Chamber had only worked on the ACT initiative for the past two months. On a voice vote the motion failed 3-6, with Councilmembers Cromley, Sullivan and Mayor Hanel voting in favor of the substitute motion. Councilmembers Yakawich, Brewster, McFadden, Friedel, Clark and Brown voted in opposition. On a voice vote on Councilmember Friedel's motion to table Item 6 until a preliminary draft bill was presented to Council, the motion was approved 7-2. Councilmember Cromley and Mayor Hanel voted in opposition.

**7. APPROVAL of Addendum #1 to the Employment Agreement for City Administrator, Tina Volek. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that staff did not have any additional presentations on this item, but was available for any questions.

Councilmember Yakawich thanked Ms. Volek for her service and professionalism. Councilmember Yakawich moved for approval of Item 7, seconded by Councilmember Cromley.

Mayor Hanel offered that there were years when employees had received no increase in wages and other years when Ms. Volek was offered an increase, but had declined and would not accept an increase. He stated Ms. Volek's salary, with the increase, was still below that of other City Administrators in the region and it would be a challenge to seek her replacement.

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.

- **Adam Green, 6247 Grayhawk, Billings, Montana**, stated he was a property owner in SID 1401. He stated he and other property owners in Falcon Ridge Subdivision signed a petition that requested the City delay assessing the SID for 365 day to allow other property owners to participate in the SID. He asked Council to direct staff to review the district boundaries for this SID and to include Copper Ridge Subdivision in the SID.
- **Connie Wardell, P. O. Box 214, Billings, Montana**, thanked Council for giving Ms. Volek a raise and spoke favorably toward Ms. Volek's administration. She agreed with Mr. Green that more needed to be done to disclose SIAs and waivers of protest at the time of closing.

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

#### **COUNCIL INITIATIVES:**

- Councilmember Sullivan moved to direct staff to re-examine the process used to determine the boundaries for SID 1401 before the December 12th Regular Council meeting and report back to the Council, seconded by Councilmember Friedel. On a voice vote, the motion was approved 6-3, with Councilmembers Brewster, Clark and Brown voting in opposition.
- Councilmember Friedel moved to direct staff to research placing on the next ballot changing the Charter to allow City Council to separate the legal department from administration to make the department independent of administration, seconded by Councilmember Brewster. On a voice vote, the motion was approved 7-2, with Councilmember Cromley and Mayor Hanel voting in opposition.
- Councilmember Friedel moved to direct staff to research placing on the next ballot changing the Charter to allow City Council the ability to hire and fire department heads. The motion died for lack of a second.

There was no further business, and the meeting adjourned at 12:17 pm.

CITY OF BILLINGS



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

ATTEST:

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