

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 13, 2017

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. Deputy Mayor Brent Cromley called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Deputy Mayor Cromley gave the invocation.

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

MINUTES: February 13, 2017 and February 27, 2017 – Councilmember Brewster moved for approval, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

COURTESIES:

- There were no courtesies.

PROCLAMATIONS:

- There were no proclamations.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek, in regards to Item 1C, Utility Easement with Cenex Pipeline to install an 8-inch pipeline across Coulson Park, stated Council had received an email from CHS with a Groundwater Monitoring Status Report and the report had been included in the ex parte notebook.
- Ms. Volek reminded Council that the Chamber of Commerce and the Parks (PRPL) Department had requested that staff add two items to the March 13, 2017 agenda. She stated a donation of \$375,000 had been received from the Chamber of Commerce for the Yellowstone Kelly Grave & Interpretive Site and there had been a 2nd change order for the Yellowstone Kelly Interpretive Site. She added that a $\frac{3}{4}$ majority vote would be required to add the items to the agenda. Ms. Volek stated this would allow materials to be purchased and the site dedication to remain on schedule.
- Ms. Volek stated there would be a Council Subcommittee meeting regarding Dehler Park at 3:00 pm on March 14, 2017 with Erin McCrady, the City's bond counsel from Dorsey & Whitney. She added there would also be a meeting on March 22, 2017 with Dave Heller, owner of the Billings Mustangs Baseball Team.
- Ms. Volek thanked Jeanette Vieg, Animal Control Board Member, for bringing Councilmembers a jar of honey. Ms. Vieg, in reference to Item 1F, stated the honey

that had been given to Council would be similar to the honey produced if the hobbyist beekeeping ordinance was approved. She thanked Council for their time.

- Deputy Mayor Cromley stated that Council could entertain a motion to add the Yellowstone Kelly Grave and Interpretive Site donation as Item 1L and the Yellowstone Kelly Interpretive Site Change Order #2 as Item 1M. Councilmember Sullivan asked when the appropriate time would be to add the items and if they should be on the consent or regular agenda. Brent Brooks, City Attorney, stated "now would be the appropriate time and the items could certainly be added to the consent agenda." Councilmember Sullivan moved to add the two items to the consent agenda, seconded by Councilmember Swanson. Councilmember Cimmino made a substitute motion to add the donation and change order as Item #5 on the regular agenda, seconded by Councilmember Brewster. Councilmember Sullivan stated that the items could be separated for discussion if placed on the consent agenda. On a voice vote, Councilmember Cimmino's substitute motion failed due to the lack of a $\frac{3}{4}$ majority vote. The vote was 5-4, with Councilmembers Cromley, Sullivan, Swanson and Brown voting in opposition. On a voice vote, the motion to add the two items to the consent agenda was unanimously approved.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1 & #2 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.

- **Bill Cole, Chamber of Commerce Board of Directors**, in reference to Item 1L and 1M, stated that adding these two items to the agenda would help the project to be completed on time. He encouraged Council to approve the donation and the change order. Councilmember Swanson asked when the project would be completed. Mr. Cole stated that they would be having a grand opening party on June 22nd and were hopeful that it would be completed by then.

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

1. CONSENT AGENDA

- A. **Memorandum of Understanding (MOU)** with Beartooth RC&D Economic Development District; \$9,949.78 annual expense.
- B. **Development Agreement** with Marsich Investment, LLC, to construct public improvements on recently annexed property, generally located west of Shiloh Road between Central Avenue and Bell Avenue.

- C. **Utility Easement** with Cenex Pipeline, LLC to install an 8-inch pipeline across Coulson Park.
- D. **Utility Easement** with NorthWestern Energy to replace deteriorated underground electric distribution service lines in the Parkland West Park.
- E. **Approval of Donation** to Laurel Police Department from Billings Police Department; Cameras and Related Equipment, \$2,165.
- F. **Second/Final Reading Ordinance** allowing hobbyist beekeeping in the City limits.
- G. **Second/Final Reading Ordinance** amending Billings Montana City Code (BMCC) Section 7-504, Acceptable Forms of Identification to Pawnbrokers.
- H. **Second/Final Reading Ordinance** repealing Section 7-602 of the Billings, Montana City Code (BMCC) regarding allowing a City official access to hotel guest registries.
- I. **Preliminary Subsequent Minor Plat** of Amended Lot 2B-1A, Block 2, Southgate Subdivision, 2nd Filing, generally located at 5110 Southgate Drive; Billings Lodging Investors, LLC, owner; Sanderson Stewart, agent.
- J. **Final Plat Approval** of Harmony Meadows Subdivision, 2nd Filing.
- K. **Bills and Payroll:**
 - 1. February 13, 2017
 - 2. February 21, 2017
- L. **Acceptance of Donation** to the Parks, Recreation and Public Lands Department from the Billings Chamber of Commerce for the Yellowstone Kelly grave and interpretive site, \$375,000.
- M. **Change Order #2** - Yellowstone Kelly Interpretive Site, Hardy Construction, Inc., \$89,182.08.

Councilmember Brown separated Item 1K2 in order to abstain.

Councilmember Yakawich separated Item 1J for discussion.

Councilmember Cimmino separated Item 1D for discussion.

Councilmember Cimmino separated Item 1K1 in order to abstain.

Councilmember Brewster moved for approval of the Consent Agenda, with the exception of Items 1D, 1J, 1K1 and 1K2, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan moved for approval of Item 1K1, seconded by Councilmember Brewster. On a voice vote, the motion was approved 8-0, Councilmember Cimmino abstained.

Councilmember Yakawich moved for approval of Item 1K2, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 8-0, Councilmember Brown abstained.

Councilmember Yakawich, in reference to Item 1J, stated that the property appeared to be close to a flood plain area. Wyeth Friday, Planning Director, stated there was a portion of land located between the subdivision and the river. He added there was also a significant elevation difference between the river and the property location that brought the property out of the flood plain. Councilmember Yakawich asked if there had been any concerns with limited exits to the property. Mr. Friday stated there was an internal connection from Dodger Lane that wrapped around Interstate Avenue and went back to Elysian with two points of access. He stated that future development would also increase the connectivity. He added that the Planning Department worked in conjunction with Public Works, Engineering and the Fire Department to ensure good connectivity. Councilmember Yakawich moved for approval of Item 1J, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino, in reference to Item 1D, stated that the start date of February 27, 2017, listed in the staff report, had already passed and needed to be modified. Brent Brooks, City Attorney, stated that the start date was an estimated anticipated date used in the easement application form and would not need to be amended, but could be noted by Council. Councilmember Cimmino moved for approval of Item 1D, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

- 2. RESOLUTION declaring an emergency and authorizing the payment of repair costs to install a new water main to the Airport Terminal Building. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

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

Councilmember Yakawich asked for clarification on Item 2. Kevin Ploehn, Aviation and Transit Director, stated that building maintenance had noticed water

creeping into the basement along the walls. He added that there was quite a bit of water coming in. He stated that tests showed it was City water coming from underneath the terminal building. Mr. Ploehn stated that staff and contractors did a lot of brainstorming to come up with ideas on how to fix the issues. He stated that the building maintenance manager recalled an old service tunnel that had been used to get the electrical feed into the terminal building and out onto the airfield. He stated they moved the repair slightly to the west and took out the concrete in front of the glass windows. He stated they dug into the tunnel to replace the existing pipe with new pipe. He stated that the repairs were completed and it had come in under the estimated budget amount. Ms. Volek added that it had been completed just in time for spring break and the NAIA Women's Division tournament.

Councilmember Friedel asked if Council contingency funds could be used for the repair. Ms. Volek stated that contingency funds could be used, but that there were adequate funds available in the Airport enterprise fund.

Councilmember Yakawich moved for approval of Item 2, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION authorizing filing of the annual Federal Transit Administration Section 5307 Grant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

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

The public hearing was opened.

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

Councilmember Brewster moved for approval of Item 3, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION vacating a portion of Patagonia Court within Riverfront Point Subdivision, Riverfront Pointe, LLC, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

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

The public hearing was opened.

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

Councilmember McFadden moved for approval of Item 4, seconded by Councilmember Friedel. On a voice vote, the motion was approved 6-3, with Councilmembers Brewster, Sullivan and Brown voting in opposition.

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.

- **Amaya Garcia, 206 Avenue C, Billings, Montana**, Human Relations Commission, encouraged Council to make a proclamation that states that the City of Billings values the diversity of its citizens and has zero tolerance towards hate crimes, bigotry, misogyny, and any other form or sign of discrimination towards a member of another group. She stated that furthermore, a proclamation should affirm that the City of Billings encourages civil discourse and respect towards people of every sex, race, nationality, religious affiliation, political affiliation, sexual orientation, and gender identity.
- **Pastor Rob Kirby, 408 Alderson Avenue, Billings, Montana**, encouraged Council to take a stand against discrimination. He added that the Human Relations Commission only had power if Council acted on their suggestions. He encouraged Council to do the hard work by drafting a statement. Councilmember Brown stated that there weren't any laws or actions that could back up a statement of opposition. He asked what Council could do without discrimination laws. Mr. Kirby stated that by not speaking out against discrimination, it was creating an environment where people thought discrimination was ok. He stated that not making a stand sent a message that discrimination would be tolerated. Councilmember Cimmino stated that Council had accepted the letter by Ms. Garcia as a gesture of goodwill. She stated that she was appalled when a hate symbol had been painted on the Rims and added that it had been removed quickly. Mr. Kirby stated that it had been removed by a private individual. He added the Parks Department had stated that it would be put on the list for removal. Councilmember Cimmino stated that she would be happy to initiate a proclamation on the community's behalf. Councilmember Yakawich stated many people had attended the Martin Luther King events and the events were well supported by the community. Mr. Kirby stated that unfortunately many of the people that committed acts of hatred were not attending these events and encouraged Council to make a broader statement.
- **Kathy Walters, 3104 Radcliffe Drive, Billings, Montana**, Human Relations Commission, stated that several cities in Montana had made public statements that they would not tolerate hate. She encouraged the City of Billings to join in by making a public statement of zero tolerance of hate, bias and bigotry.

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

COUNCIL INITIATIVES:

There were no Council initiatives.

Councilmember Cimmino asked if it would be possible to get a presentation from Steve Arveschoug, from BSEDA, in regards to the GE Building. She stated that a presentation had taken place for the County Commissioners and the Billings Gazette had recently published an article. Ms. Volek stated that Mr. Arveschoug had indicated that he would be willing to provide information to Council regarding the recent decision by GE. She stated that approximately 170 employees had lost their jobs and approximately 100 had already been hired by Wells Fargo and The Bank of Montreal. She stated that GE had made a monetary contribution that would cover its payments for the next few years. She added that a presentation could be added to the Work Session schedule if Council should choose to do so. Deputy Mayor Cromley asked if Council was interested in a presentation. Councilmember Yakawich suggested that Councilmembers could attend a tour of the GE Building on Friday, March 17, at 2:00 PM.

There was no further business, and the meeting adjourned at 7:25 pm.

CITY OF BILLINGS



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

ATTEST:

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