

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

May 8, 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. Mayor Hanel called the meeting to order at 6:30 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, Swanson, Clark and Brown. Councilmember Cimmino was excused.

MINUTES: April 24, 2017 – *Not yet ready for approval.*

COURTESIES:

- Mayor Hanel complimented staff on their hard work and efforts during the Relay for Life event. He stated that staff had made an effort to use a course in the conservation area that did not require a lot of traffic control, emergency personnel, etc. He encouraged other groups to do the same.
- Mayor Hanel stated there had been an Army Reserve gathering on Saturday that was very well organized.
- Councilmember Yakawich commended the people that had worked hard on the Bright-N-Beautiful event. He stated it had been very successful.

PROCLAMATIONS:

- Mayor Hanel read a proclamation that declared the week of May 8-13, 2017 as Economic Development Week. He presented Melanie Schwarz, Big Sky Economic Development (BSEDA) Director of Marketing and Member Investors with the proclamation. Ms. Schwarz thanked Council for their recognition of BSEDA.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek stated the agenda had been revised to remove an item, regarding the sale of Rolle Subdivision, and should have read that "Public Comment is allowed on Non-Public Hearing Agenda Items: #1 & 4 ONLY".
- Ms. Volek, in reference to Item J, stated staff had requested a slight change of language. It should read: Condition No. 2 with proposed modification: To minimize effects on local services, prior to final plat approval language must be added to the SIA clarifying the property owner **at a future date** is responsible for the construction of curb and gutter, sidewalk, and street paving/widening on Bitterroot Drive and Natalie Street. These improvements are included in the waiver of right to protest. She added the term "at a future date" had been added to the description.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 & 4 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 Odegard, 2101 Lake Hills Drive, Billings, Montana**, in reference to Item 1B, encouraged Council to support local business and continue using *The Billings Times* for legal advertising. In reference to Item 1D, he expressed his support for the Revolving Loan Fund and added it was good for the City. In reference to Item 1F, Mr. Odegard stated he hoped the “Battle of Plans” would not cost the City a lot of money.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Item 1B, encouraged Council to change their legal advertising to *Yellowstone County News*. In reference to Item 1G, he stated that bike lanes would take more parking spaces and added the City needed more on-street parking. In reference to Item 1D, Mr. Nelson stated that government needed to stay out of the private sector.
- **Jane VanDyke, Billings Pedestrian Advisory Councilmember, 3130 Gregory Drive, Billings, Montana**, in reference to Item 1G, stated the plan would attract more people and encouraged Council to support the item.
- **Ed Gulick, Billings Pedestrian Advisory Chair, 3015 10th Avenue North, Billings, Montana**, in reference to Item 1G, stated the City needed to plan for the future to be a safe and attractive place and the Bikeway and Trails Master Plan would attract more people.
- **Jonathan McNiven, Yellowstone County News, 3445 Rock Pillar Road, Billings, Montana**, in reference to Item 1B, gave a brief overview of the newspaper and the services it offered. He added that the paper was sold in about 60 locations within Yellowstone County and had an active website that could be accessed by the public. He encouraged Council to give *Yellowstone County News* a try and ensured it would be a win-win.
- **Scott Turner, The Billings Times, 125 Avenue D, Billings, Montana**, in reference to Item 1B, stated *The Billings Times* had been providing the City with legal advertising for over 25 years and continuing with the paper would ensure continuity.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 17-01, Schedule 1, 24th Street West Water Main Replacement.** (Opened 4/25/17) Recommend Western Municipal Construction, \$1,943,450.

2. W.O. 17-04, 2015 ADA Ramp Replacement Project. (Opened 4/25/17)
Recommend LGI Construction, \$249,190.

- B. Agreement** with *Yellowstone County News* to provide City of Billings legal advertising, 5/1/2017-4/30/2018 with five, one-year renewal options, at a cost of approximately \$21,000 per year.
- C. Drainage Easement** with Grand Peaks Subdivision for construction of an outfall.
- D. Revolving Loan Fund** to Matt Robertson for remodeling of 117 North Broadway, \$65,469.80.
- E. Approval** of Tax Increment Finance Assistance from the Expanded N. 27th Street Urban Renewal District, Fund 203, to the Downtown Billings Partnership for an updated downtown development strategic plan, up to \$80,000.
- F. Approval** of Tax Increment Financing Assistance from the Expanded N. 27th Street Urban Renewal District, Fund 203, to the Downtown Billings Partnership, for the "Battle of the Plans 2017-2018, up to \$50,000.
- G. Approval** of the Billings Area Bikeway + Trails Master Plan Update.
- H. Adoption** of the 2016 Facilities Master Plan.
- I. Second/Final Reading Ordinance for Zone Change #954:** a zone change from Residential 7,000 (R-70) to Community Commercial (CC) on a 15,000 square foot parcel of land generally located at the northwest corner of the intersection off Marshall Drive and Laurel Road. C-Store Properties, LLC, owner; Bryan Alexander, agent.
- J. Preliminary Subsequent Minor Plat** of Evans Subdivision, described as two lots on approximately 45,247 square feet of land generally located on the northwest corner of Natalie Street and Bitterroot Boulevard; Norm and Cathy Evans, owners; Neil Thompson, Territorial Landworks, Inc., agent.
- K. Preliminary Subsequent Minor Plat** of Sunnyside Subdivision, 4th Filing, described as two lots on approximately 0.96 acres generally located on the northeast corner of the intersection of North 27th Street and 12th Avenue North. BCJM Inc., owner; Performance Engineering and Consulting, agent.
- L. Bills and Payroll:**
 - 1. April 10, 2017
 - 2. April 18 and 19, 2017

Councilmember Cromley separated Item 1B for discussion.

Councilmember Cromley separated Item 1J for discussion.

Councilmember Cromley separated Item 1L2 for in order to abstain.

Councilmember Brown separated Item 1L1 and 1L2 in order to abstain.

Councilmember Yakawich separated Item 1H for discussion.

Councilmember Sullivan separated Item 1D for discussion.

Councilmember Clark separated Item 1E for discussion.

Councilmember Clark separated Item 1G for discussion.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Item 1B, 1D, 1E, 1G, 1H, 1J, 1L1 & 1L2 seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan moved for approval of Item 1L1, seconded by Councilmember Brewster. On a voice vote, the motion was approved 9-0, with Councilmember Brown abstaining.

Councilmember Sullivan moved for approval of Item 1L2, seconded by Councilmember Brewster. On a voice vote, the motion was approved 8-0, with Councilmembers Cromley and Brown abstaining.

Councilmember Cromley asked for clarification on the sworn statements of circulation on Item 1B. He asked how the question "has the publication been published continuously at least once a week for the prior 12 months in the municipality" had been answered by *Yellowstone County News*. Liz Kampa-Weatherwax, Purchasing Agent, stated that it had been answered "yes". Councilmember Cromley stated he had difficulty with the fact that the City was going to publish legal ads in a publication that is outside of the municipality. Councilmember Friedel asked Mr. McNiven if he believed in free market and capitalism. Mr. McNiven stated that he did. Councilmember Friedel stated that if *Yellowstone County News* was unable to perform the contract, the City would not renew the contract. Mr. McNiven stated the Request for Proposals (RFP) did not state the paper needed to be published within the City limits, it only required it be within the County. He added that he understood the City may have concerns about utilizing a new publisher. Mr. McNiven stated he was confident his paper would provide a better solution for the City's needs. Councilmember McFadden asked how *Yellowstone County News* would ensure that contractors would see the City's invitations to bid. Mr. McNiven stated the City Clerk would publish an ad advising the public that the City's legal ads were moving to a different publication. He added that his paper would publish an ad to advise the public of the change, too. Councilmember Clark asked where the paper was printed. Mr. McNiven stated it was printed by the Livingston Enterprise. Councilmember Cromley made a motion to approve an agreement with *The Billings Times*, seconded by Councilmember Yakawich. Councilmember McFadden stated he would be supporting an agreement with *Yellowstone County News* since they had the lowest bid. Councilmember Cromley stated the purpose was to provide a service by giving notice to as many people as possible and the City and community relied on *The Billings Times* for that information. He added that changing would be an unwise decision. Councilmember Friedel stated that if *Yellowstone County News* did not do a good job the City could cancel the contract and re-bid. Councilmember Sullivan stated he supported Councilmember Cromley's motion and that all of the counties used *The Billings Times*. He stated that changing would force

people to buy two sets of newspapers to look for the City's ads. He added that the pricing difference was not large enough to justify the switch. Councilmember Swanson stated he would not support the motion because the City's staff had done a good job with the RFP and *Yellowstone County News* deserved a chance. Councilmember Brown stated he would not support the motion and added that *Yellowstone County News* had met all of the criteria requested. He stated that *The Billings Times* had an opportunity to file a protest and had not chosen to do so. Councilmember Brewster stated it would cause problems if the City started accepting bids based on past relationships and not pricing. Councilmember Yakawich stated he liked continuity and communication and was in support of *The Billings Times*. He added that they provided the best service for the community. Councilmember Clark asked legal counsel if there were any legal issues with Council not awarding a contract based on accepting the lowest bid. Brent Brooks, City Attorney, recommended Council articulate one or more reasons for choosing one company over another, which they had done. He added that the RFP process did not require the lowest bid to be accepted. On a roll call vote, the motion failed 7-3, with Councilmembers Brewster, McFadden, Friedel, Swanson, Clark, Brown and Mayor Hanel voting in opposition. Councilmember Friedel moved for approval of Item 1B, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 8-2, with Councilmembers Cromley and Yakawich voting in opposition.

Councilmember Cromley moved to approve Item 1J, with the recommended language modification, seconded by Councilmember Sullivan. Ms. Volek stated staff recommended that the words "at a future date" be inserted after the term "property owner". On a voice vote, the motion was unanimously approved.

Councilmember Yakawich asked whether the Battin Building was being considered in Item 1H. Bruce McCandless, Assistant City Administrator, stated staff had purposely not named particular buildings or sites in order to plan for additional space for City offices and identify the needs and not the location. Councilmember Yakawich asked if the public had been included in the process. Mr. McCandless stated the public had been notified of the process and was invited to speak at the public hearings. Councilmember Friedel asked if the plan looked 10-20 years in the future. He asked if Tax Increment Finance Districts (TIFD) funds could be used for the project. Ms. Volek stated that it could be possible to use TIFD money. She added that TIFD had a certain timeline and that could play a role in the process. Councilmember Friedel stated he would prefer the City offices remain in the downtown area and land to the east may be a viable option. Councilmember Clark asked if the plan would involve spending money. Ms. Volek stated that staff was requesting Council to agree that space was needed, but financing for the project would come at a later date. Councilmember Brewster stated that leaving specific locations out of the plan allowed for the City to respond to other opportunities. He stated a good example was the Operations Building that had been built south of the freeway. He stated that Sysco had acquired the old shops and allowed the City to take advantage of the timing to build the new operations center. Councilmember Yakawich moved for approval of Item 1H, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan, in reference to Item 1D, asked for clarification for requested monies after the remodel had been completed. Matt Robertson, Revolving Loan Fund applicant, stated that the current tenant had a dire need for an expansion of the building, therefore, they had chosen to start the remodel immediately. Councilmember Sullivan moved for approval of

Item 1D, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Clark, in reference to Item 1E, asked where the monies were derived. Greg Krueger, Downtown Billings Alliance Development Director, stated the money would be paid by the City to the consultant and added it was the Downtown Billings Partnerships project. Ms. Volek stated that the downtown development strategic plan had reached the end of its life and Item 1E was to create a new plan. Councilmember Clark inquired whether a strategic plan was an acceptable use of Tax Increment Funds. Mr. Krueger stated Tax Increment Funds could be used for a wide variety of projects as long as they benefited the public. Councilmember Brewster moved for approval of Item 1E, seconded by Councilmember Swanson. On a voice vote, the motion was approved 7-3, with Councilmembers Friedel, Clark and Brown voting in opposition.

Councilmember Clark, in reference to Item 1G, asked if the items in the plan were mandated or only a vision. Scott Walker, Transportation Planning Coordinator, stated that it was a vision. Councilmember Clark stated he supported the bike trails, but he did not support bike paths on the streets. Councilmember Clark moved for approval of Item 1G, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION amending the City Annexation Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave a brief PowerPoint presentation and an overview of the proposed annexation policy. He stated that properties outside of the jurisdiction area would be considered for inclusion in the long range area followed by additional analysis and review. He added the next step would be for property owners to request to be brought into the area for annexation. He stated the Staley/Forbes property had some unique situations, which had brought the need for amendments to the City Annexation Policy to light. He stated that without any amendments to the annexation policy, Council ultimately made the determination for approval, but the policy provided criteria which was not currently in place.

Councilmember Friedel asked why the subject property was not already in the annexation area since it was adjacent to existing City property. Mr. Friday stated the property was located outside of the zoning jurisdiction, but would have been considered for the long range area eventually. Ms. Volek stated that one portion of the property had been brought to Council's attention years ago. She stated that the City had not grown that far west at the time and one of the property owners in the area was not interested in selling, which created a gap of property in the area. Councilmember Yakawich asked who reviewed reports to determine the ability to provide police service. Mr. Friday stated that the Police Chief reviewed the reports to make a decision. He added that the police and fire departments had both stated they would be able to provide service to the area but the concern was, that as more areas were brought into the City, it could affect the response times.

Mr. Friday stated that the City Annexation Committee had been concerned that the policy was not clear. He continued that a property may not request inclusion, unless it had first been included in the long range area. He stated an amendment specifying that had been added to the policy. He added that the 2016 Growth Policy had indicated a desire for R-70 and R-60 lots and an amendment had been included to change the density from four dwelling units per acre to six dwelling units per acre. He added that due to some concern, a range of five to seven units had been added to the amendments. He stated that if Council approved the amendments, staff would present the proposed map amendments to the Council on May 22, 2017 to consider the specific request to the Staley/Forbes property. Councilmember Brewster stated that if a developer wished to have any R-96 properties, they would likely have to include some multi-family developments at R-60 to achieve that density. Mr. Friday stated the density could be in a range from five to seven units per acre. He added that the property could be a mix of different density ranges to meet the average of five to seven units per acre. Mr. Friday stated that staff was trying to achieve a more efficient density for service and R-96 was the least dense at four units per acre.

Councilmember Friedel stated that some language about the current policy time range should be included in the new policy because it seemed vague. He recommended that a phrase be added indicating when the policy had been updated and that a property owner can petition to be put into a different annexation zone. Councilmember Brown asked how the policy currently read. Mr. Friday stated that in the past, if a property owner was not located in the City, but wanted to start the process to be considered, they would request the map be amended to bring the property into the long range area for consideration. He stated that upon approval, the property would be brought into the long range area. He continued that at the next review, the property owner would request to go from long range area to red, which would allow an annexation at any time. Mr. Friday stated that the amendment would establish clear criteria and steps for annexation and clear guidelines and criteria for property owners. Mayor Hanel whether there would be any reason why the property in question would not have met the criteria for approval. Mr. Friday stated that due to policies already in place, the property had met some of the requirements that would have been assessed during the long range process. Mayor Hanel stated the subject area was very close to existing annexed property, therefore, providing services should not be an issue.

The public hearing was opened.

- **Gary Oakland, 175 North 27th Street, Billings, Montana**, stated he had complied with the existing policy and had prepared an expensive urban planning study in order to be considered for the red area in the annexation map. He stated that in the past, developers had not wanted to spend the money for the urban planning study until the property was in the yellow area. He stated that a property could be considered for the yellow area after a letter had been submitted requesting consideration. He added that due to questions arising, the Annexation Committee had felt it would be appropriate to clarify the policy and tailor some of the issues in case it occurred again. Mr. Oakland stated he was concerned with introducing planning and zoning issues into the annexation policy as it would take the ability away from the Planning Board to use logic as to what was appropriate for locations. He stated larger lots would be desirable in certain locations. He encouraged Council to allow the zoning and planning part to take place separately from the annexation.

- **Terry Odegard, 2101 Lake Hills Drive, Billings, Montana**, stated he did not know Mr. Oakland, but was very impressed with his developments. He added there was nothing similar in the City to Mr. Oakland's current developments. Mr. Odegard stated the City needed to be cautious about ensuring that it could provide emergency services to all the areas that were annexed into the City.
- **Connie Wardell, P.O. Box 21432, Billings, Montana**, stated she had served on the Growth Policy Board and they had conducted a focus group study that indicated the community had not wanted more development. She stated she would not support the annexation amendment that would require more houses be built on a smaller portion of land and would prefer R-96 remain as an option.

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

Councilmember Clark moved to postpone Item 2 until the June 12, 2017 Council meeting in order to allow Council additional time to ask staff for changes to the policy, seconded by Councilmember Friedel. Ms. Volek stated Mr. Oakland's property was scheduled to come forward to Council at the next meeting, so postponing Item 2, would automatically postpone the Annexation Committee limits of annexation map recommendations scheduled for May 22, 2017. Mr. Friday stated the policy change would not need to occur in order for the request to come forward. He stated the request would come to Council for approval, without the criteria in place, but Council could still take action. Councilmember Clark stated that Council should postpone the item in order to consider all the proposed changes. Mr. Friday stated the only proposed change to the policy, was to change the five to seven units per acre to four to seven units. Councilmember Clark moved to withdraw his motion, followed by Councilmember Friedel withdrawing his second. Councilmember Sullivan asked what would be required to allow a person to change their zoning density. Mr. Friday stated that zoning did not have anything to do with density. He stated that the annexation policy was one of the best planning tools the Council had. He stated that adhering to five to seven units per acre could be reached in many different ways. He added there were many mixed developments around the City that had patio homes, single family dwellings, small cottages, etc. Councilmember Sullivan asked how Mr. Oakland could develop all R-96 lots, if he desired. Mr. Friday stated that the annexation policy was only a policy, not a requirement, and staff would look at the request on a case-by-case basis. He stated the less dense that developments were, the more costly it would be for the City to provide services.

Councilmember McFadden moved for approval of Item 2 as presented by staff, seconded by Councilmember Yakawich. Councilmember Sullivan made a substitute motion to delay action until the June 12, 2017 Council meeting, seconded by Councilmember Clark. Councilmember Sullivan stated the City needed to consider density issues before making a sweeping motion. He encouraged Council to ponder density issues. Councilmember Friedel stated he wanted to approve the first half of the document, but discussions on the second half could occur on June 12, 2017. Councilmember Brown stated he would not support delaying the item and thought Council should be able to reach a decision. Councilmember Friedel stated he would like to make an amended motion. Councilmember Sullivan withdrew his substitute motion, followed by Councilmember Clark withdrawing his second.

Councilmember Friedel moved to make an amendment removing the language regarding density in the bottom half of the document, seconded by Councilmember McFadden. Mr. Friday stated the current policy stated four units per acre. He stated the proposed amendments were to change it to six units, but due to staff and developer concerns, it had been modified to a range of four to six units. Ms. Volek asked for clarification of the amended motion. She stated removal of the language, referring to the density range of five to seven units per acre, would leave the policy at the current range of four units per acre. Councilmember Brewster stated further discussion about density issues was needed. Councilmember Clark asked for the amended motion to be clarified. Ms. Volek stated the motion was to adopt the annexation policy amendments with the removal of No. 2, which would have required an overall density range of five to seven units per acre. On a roll call vote, Councilmember Friedel's amended motion was defeated in a tie vote 5-5, with Councilmembers Yakawich, Brewster, Swanson, Brown and Mayor Hanel voting in opposition.

Ms. Volek informed Council that Mr. Friday would not be available on June 12, 2017. Councilmember Brewster made an amended motion to delay Item 2 until June 26, 2017 Council meeting, seconded by Councilmember Friedel. On a roll call vote, Councilmember Brewster's amended motion was defeated in a tie vote, 5-5, with Councilmembers Cromley, Yakawich, McFadden, Brown and Mayor Hanel voting in opposition. Councilmember Friedel stated the density requirements would not work for his ward.

Councilmember Sullivan made an amended motion to modify the language in the policy from five to seven units to four to seven units, seconded Councilmember Friedel. Councilmember Brewster moved to call the question, seconded by Councilmember Friedel. On a voice vote, the motion to call the question was approved. On a roll call vote, Councilmember Sullivan's motion to modify the language was approved 6-4, with Councilmembers Cromley, Yakawich, Brown and Mayor Hanel voting in opposition.

Mayor Hanel called a recess at 9:30 pm.

Mayor Hanel called the meeting back to order at 9:46 pm.

3. RESOLUTION creating an extended or renewed Tourism Business Improvement District (TBID) No. 0002. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Tina Volek, City Administrator, gave a brief presentation and an overview of the current Tourism Business District (TBID). She stated Council had created TBID with a life of 10 years. She stated that State Law required those types of districts be renewed by the same procedure by which they were formed. She stated Council had adopted Resolution 17-10614, which stated Council's intent to create the district, and a public hearing had been advertised for May 8, 2017. Ms. Volek stated that TBID currently collected \$2 per room per night which had produced \$2.2 million to assist the VisitBillings marketing budget. She stated members of TBID were in attendance. She added TBID did not have a presentation, but some members would be speaking during the public comment period.

Councilmember Brown asked whether TBID would be extended or renewed. Ms. Volek stated that Council would be renewing the TBID. Councilmember Yakawich asked if hotels with

weekly rated were required to pay TBID. Ms. Volek stated that TBID members could better answer that question.

The public comment period was opened.

- **Steve Wahrlich, Montana Lodging and Hospitality Association, 2511 1st Avenue North, Billings, Montana**, stated that \$1.7- 1.8 million from TBID and approximately \$300,000 had been raised from the Lodging Facility Tax. He stated that the TBID fee was exempt for stays over 30 days, as well as an exemption for some Federal employees. Mr. Wahrlich stated most hotels in the area seemed to be supportive of TBID. Councilmember Friedel asked what percentage of stays were over 30-day stays. Mr. Wahrlich stated he had only had 1 room out of 126 at his hotel that had been occupied by one registrant over 30 days. He added that some other properties had more 30-day stays, but were exempt from TBID if they met the 30-day stay criteria. Councilmember Yakawich asked about hotel occupancy. Mr. Wahrlich stated that the numbers were staying fairly flat, meaning traveler numbers were not growing, but hotels were splitting the numbers amongst all of them. He stated there had been approximately 1,500 new rooms built in the last four years. Councilmember Sullivan asked how the National Association of Intercollegiate Athletes (NAIA) had affected occupancy rates in the City. Mr. Wahrlich stated that the NAIA had not shown a huge increase, but expected it to increase as it grew in popularity. He stated that the TBID had reached an agreement with MetraPark, to ensure it would make a certain amount of money, by securing Garth Brooks' concerts. He added TBID may not see a return on that investment, but for the long term benefit of the City, it would be very advantageous. He mentioned a similar agreement with American Airlines. Councilmember Clark asked if TBID would be required to pay American Airlines if they made a profit on the new route. Mr. Wahrlich stated that if American Airlines met their operating numbers, TBID would not have to pay them. Mayor Hanel thanked the board members for their hard work and effort.
- **Connie Wardell, P.O. Box 21432, Billings, Montana**, stated TBID had brought a lot of people into the City and increased revenue, but cost more in police and emergency services. She stated property taxpayers were not making money from the increased revenue for hotels, restaurants and retail. She stated the TBID taxes could be used to hire lobbyists to help property taxpayers benefit from a resort tax.

The public comment period was closed.

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

4. APPROVAL of Trail and Recreational Use Easement with Western Sugar Cooperative for Marathon Loop.

Tina Volek, City Administrator, stated the Chamber of Commerce, the City's Parks, Recreation and Public Lands Department and the Legal Department had worked together to accept a donation from Western Sugar Cooperative of an easement along its property near the Yellowstone River. She stated it would accommodate an additional segment of the Marathon Loop and was historically significant. She added that Western Sugar currently had a grazing easement on the land. Ms. Volek stated that Mr. Brewer and Mr. Cole would be presenting information on the proposed easement.

John Brewer, Chamber of Commerce and VisitBillings member, gave a brief PowerPoint presentation and an overview of the easement and the plans for the proposed trail.

Bill Cole, Chamber of Commerce member, thanked Western Sugar for their generosity, as well as Jim Reno for his hard work. He gave a brief presentation and an overview of the historical significance of the area. He stated the area had been a part of the return voyage of William Clark in July 1806. Councilmember Yakawich asked if the property was located in the county and if it would eventually connect Mystic Park. Mr. Cole stated that it was approximately a 35-acre parcel located in the county. He added that the trail would lead to Garden Avenue since there were no current prospects to allow the trail travel through Yellowstone or KOA Campgrounds. Councilmember Yakawich asked what the City's responsibility would be for the trail. Mr. Cole stated there was an agreement for the City to indemnify Western Sugar. He added that Montana had a recreational use statute that provided a landowner, allowing public use without charge, to be immune from liability. He added an exception would be if the landowner's behavior caused intentional injury or reckless disregard for safety. Councilmember Clark asked if the City would be responsible for maintenance. Mr. Cole stated that the agreement stated the City would mow, spray, or control noxious weeds. Councilmember Friedel asked how much it would cost to maintain the area. Ms. Volek stated the price had not yet been determined. She added staff would need to further research maintenance for the area. Councilmember Sullivan asked if the land was above the high water river area. Mr. Cole stated the area was above the high water river area, but added that the river was very unpredictable. Councilmember Friedel asked how long it would take staff to determine the financial impact maintenance would have on the City. Ms. Volek stated seasonal employees would be responsible for maintenance, but she could provide Council with numbers within a couple of weeks. Councilmember Brown asked if the City would be responsible for maintenance even before the trail was completed. Mr. Cole stated the public would not be allowed on the property until the grazing easement was complete and added that he did not think Western Sugar had any expectations of the City until construction began.

Mayor Hanel asked about outside funding sources for the trail. Mr. Brewer stated that Billings TrailNet had done an amazing job raising funds for trails throughout the City and may be an option. He added that Yellowstone River Parks Association (YRPA) and Billings' Leadership Alumni had expressed interest in the proposed trail. Councilmember Brown asked if fishing access would be a possibility. Mr. Cole stated that the easement did not prevent it, and thought staff could discuss the possibility with Western Sugar.

Councilmember Yakawich moved for approval of Item 4, seconded by Councilmember Swanson. Councilmember Friedel stated he would prefer postponing approval of the easement for two weeks to allow staff time to research maintenance costs and report to Council. Councilmember Brewster stated he would prefer to evaluate maintenance costs closer to construction. Councilmember Yakawich stated it would have been better, to have maintenance costs presented, but trusted that staff would have numbers available at a later date. Mayor Hanel stated he supported the easement and did not want to forgo the opportunity. 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.

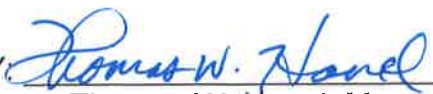
There were no speakers and the public comment period was opened.

COUNCIL INITIATIVES:

- Councilmember Yakawich moved to direct staff to provide quarterly Code Enforcement reports in-person to Council, seconded by Councilmember Friedel. Councilmember Brewster stated he would support written reports, possibly an annual in-person report, but did not feel it necessary to have quarterly in-person reports. Councilmember Sullivan stated that Council already received written reports and thought more discussion on certain areas would be helpful. Councilmember Clark asked if the employees giving the reports would be paid hourly employees. Ms. Volek stated that it would be preferable for Mr. Friday or Ms. Cromwell to be in attendance for questions instead of code enforcement employees. Ms. Volek added that demolition prices for five properties had been included in budget discussions. She added that a senior code enforcement officer had been added and would be handling the more difficult cases. Councilmember Cromley asked about the issue of specific cases needing to be handled during an executive session. Brent Brooks, City Attorney, stated that specific information would need to be handled privately. Councilmember Brown asked whether current reports would be replaced by verbal or written reports. Mr. Friday stated that staff could provide a report, that reviewed the top issues in each ward and be available for questions on any other issues, in addition to the regular reports that Council already received. Councilmember Yakawich stated there were a lot of chronic code enforcement issues and thought Council could notify staff of them and discuss the issues. Ms. Volek stated that staff was aware of many of the issues, but it was a difficult issue due to people's property rights. Councilmember Brown stated that when he had issues in the past, he had notified Ms. Volek, and the issues were handled by staff. He added he was uncertain that an additional report would accomplish anything. Mayor Hanel stated that according to the City Charter, Council should direct issues to the City Administrator, and stated he had received very good responses via that method. Councilmember Sullivan stated it was important to get a little deeper on problem areas or violations and he was not opposed to reviewing quarterly reports. Councilmember Brewster stated he would support the initiative temporarily and would evaluate its value along the way. Councilmember Clark agreed that he would try it two times and decide if it was effective. Councilmember Sullivan moved to call the question, seconded by Councilmember Friedel. On a voice vote, the motion to call the question was unanimously approved. On a voice vote, the initiative was unanimously approved.

There was no further business, and the meeting adjourned at 10:59 PM.

CITY OF BILLINGS

BY: 
Thomas W. Hanel, Mayor

ATTEST:

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

