

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 26, 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 Brewster 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: June 12, 2017 - Councilmember Clark moved for approval, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel gave special recognition to Fire Chief Paul Dextras for his service after 9 years as the Billings' Fire Chief and congratulated him on his upcoming retirement. He spoke of the numerous improvements, accomplishments and achievements Chief Dextras had, including the award of the Medal of Valor in Wichita, Kansas; Kansas State Fire Marshall's Thomas McGaughey Fire Service Award and the Devor Foundation Award for saving the life of a Wichita resident while off duty. Mayor Hanel also recognized Bill Rash, the interim Fire Chief and provided information about his background. Mayor Hanel presented Chief Dextras with a plaque. Chief Dextras thanked the citizens' of Billings and stated it had been a blessing and privilege to serve the public.
- Bill Cole, Chamber of Commerce, announced the Northern International Livestock Exposition (NILE) was celebrating its 50th anniversary. He acknowledged the impact that the NILE had on the Billings area. He continued that the City of Billings and Chamber of Commerce had received an appreciation plaque from the NILE.
- Bill Cole, Chamber of Commerce, announced that it was the 88th Anniversary of Yellowstone Kelly's internment and the wreath laying ceremony to honor the late Luther "Yellowstone" Kelly. He continued with a project update.
- Mayor Hanel announced that the christening of USS Billings, Littoral Combat Ship, in Marinette, Wisconsin, would occur on July 1, 2017.
- Police Chief St. John gave citizen recognition to Jason Paisley for his assistance to Officer Matthew Frank on May 12, 2017. Mr. Paisley assisted Officer Frank in detaining a suspect that refused to obey orders. Chief St. John's stated he was eternally grateful for citizens like Mr. Paisley whose actions prevented anyone involved in the arrest from sustaining injuries. Mr. Paisley accepted an award and received a standing ovation.
- Police Chief St. John recognized members of the Volunteer Patrol Unit, Bob Schafer, Al Redman, and Justina Drapala for their involvement in a patrol of

Minnesota Avenue. He stated the volunteers observed a wrecker attempt to load a tagged vehicle onto its flatbed, along with another vehicle. He stated the volunteers reported the suspicious activity and awaiting police officers arrival. He continued to give details of the incident that ultimately lead to the arrests of members of a team of car thieves. Chief St. John provided awards to the volunteers.

- Councilmember Yakawich recognized Bob Schafer as a member of the Elks Club and thanked Mr. Schafer for all of his community involvement

PROCLAMATIONS: NONE

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek announced that revised agendas were placed at the Mayor and Councilmembers' desks indicating that a Courtesy was added concerning Fire Chief Paul Dextras.
- Ms. Volek stated that in reference to Consent Agenda Item 1F, emails were sent to Mayor and Council from Justin Pearce and Sam Merrick supporting the approval of TIF monies to the Art House Cinema. A copy of those emails were placed in the ex parte notebook.
- Ms. Volek stated that in reference to Regular Agenda Item 6, emails were sent to Mayor and Council from Barb and Bruce Harper and Maisie Sulser supporting the approval of an extension of the termination date. A copy of those emails were placed in the ex parte notebook.
- Ms. Volek gave a reminder that there would be no Work Session meeting, Monday, July 3rd and would reconvene for a Regular Business meeting on July 10th.

Councilmember Sullivan asked Ms. Volek about whether patrols would be in place at the Rims over the July 4th holiday. Ms. Volek stated extra patrols would be enforce. She reminded the public that fireworks were illegal within the City limits.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4, 5 and 6 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign in at the cart located at the back of the council chambers or at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda.)

The public comment period was opened.

- **Dennis Ulvestad, 3040 Central Avenue, A102, Billings, Montana**, in reference to Agenda item 6, stated transparency was absolutely necessary and voiced his support.
- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, in reference to Agenda items 1E, 1F, 5 and 6, stated he was concerned about TIF monies given to businesses and stated the Council must know who they are doing business with (OBSC). He expressed a desire for rules to be in place for distribution of TIF monies. He voiced his objections to granting public funds to non-profits. He stated that citizens could and should contribute to non-profit causes, not the City. He gave direction and suggestions for hiring the new City Administrator and reiterated that the Council was in control of what the City Administrator did.
- **Terry Odegaard, 2101 Lake Hills Drive, Billings, Montana**, in reference to Agenda items 1E, 1F, and 6, stated he was concerned about base price established for TIF districts. He stated he believed in TIF districts for road improvements, etc. He stated he was concerned that the Art House would be in competition with the Babcock Theater. He voiced his concern about OBSC and provided a copy of an article published in *The Billings Gazette* and stated he did not believe the OBSC would be beneficial to senior citizens. He stated he liked to meet with County Commissioners because their meetings were structured differently wherein speakers were able to speak earlier during the meetings. He made suggestions for meeting improvements.
- **Ron Larsen, Interim Chancellor at MSU-B, 432 Silver Lane, Billings, Montana**, in reference to Item 5, thanked the Mayor and Council for consideration of granting Council Contingency Funds to the MSU-B Science and Allied Health building fund. He stated that nearly 10 million dollars was needed to complete the remodel and expansion.
- **Bill Cole, 3733 Tommy Arnold Circle, Billings, Montana**, in reference to Item 5, encouraged Council to make a contribution. He stated the current science and health building was likened to a third world country.
- **Steve Arvescoug, Big Sky Economic Development, 222 North 32nd Street, Suite 200, Billings, Montana**, in reference to Item 5, encouraged Council to support future education and economics and area businesses. He stated a contribution to MSU-B showed that the Council supported health care businesses.
- **Kathy Kelker, House District 47 Representative, 2438 Rimrock Road, Billings, Montana**, in reference to Item 5, stated she graduated from MSU-B and that the Science and Health Building looked the same as it did when she attended the college years ago. She stated it is very important for the City to have skin in the game and asked the City to approve the contribution.
- **David Butler, Science Department Professor at MSU-B, 3030 Stinson Avenue, Billings, Montana**, in reference to Item 5, spoke in favor of the MSU-B donation. He stated that most MSU-B students would take one or two science classes at the building and that there were between 150 and 200 science majors in programs at any one time. He provided data and information about the curriculum and the need for updated equipment and additional space.

- **Joseph Walter, Student from MSU-B, 300 North 25th Street, Apt. 207, Billings, Montana**, in reference to Item 5, stated he was originally from Wyoming, had studied in Seattle, Washington, but chose to live in the Billings and attend MSU-B. He stated he was a biology and chemistry student, and worked with Professors Butler and George. He stated there were so many students interested in participating in the research project in which he was working, but there was not enough lab space for additional students. He stated more students could be involved in research projects if the building allowed and if there was enough equipment. He encouraged Council to contribute to MSU-B and support its students.
- **Jeremy Morgret, Downtown Billings Partnership, MSU-B alum, 1040 Strawberry Avenue, Billings, Montana**, in reference to Items 5 and 6, spoke in favor of Council Contribution to MSU-B and stated it was a tremendous asset to the community. Concerning Item 6, he voiced supporting an extension to OBSC.
- **Bobby Anner-Hughes, attorney, 3624 Hayden Drive, Billings, Montana**, in reference to Item 5, stated she was the past chair of MSU-B and an alum. She voiced her support of Council's contribution to the 3rd largest educational institution in the state and stated she was proud of the education she received from MSU-B. She stated MSU-B fit the City of Billings' vision statement.
- **Larry Van Atta, Financial Advisor and Branch Manager of RBC Wealth Management, 2940 Gregory Drive North, Billings, Montana**, in reference to Item 5, stated that MSU-B was a business as well as an educational entity. He provided stats for the need of additional medical employees in the next 20 years and stated that MSU-B could make an impact on that need. He thanked the Council and voiced his support for its contribution.
- **Doug Hansen, 5181 Southgate Drive, Billings, Montana**, in reference to Item 5, spoke on behalf of MDU Resources Group Foundation. He stated they were committed to supporting businesses to make communities better. He encouraged Council to approve Item 5.
- **Bill Kennedy, President and CEO of MSU-B Foundation, 902 Parkhill Drive, Billings, Montana**, in reference to Item 5, thanked the Mayor and Council for their consideration and encouraged approval of the contribution to MSU-B. He added that the University was the crown jewel of the community.
- **Judy Evans, 3481 Masterson Circle, Billings, Montana**, in reference to Item 5, stated she was a retired educator and stated the core function of the Council was to take care of the City and address the City's safety issues. She continued that the monies in the Council Contingency Funds were property of the Billings' citizens and should serve all of the people, not for the University. She opposed approval of Item 5.
- **Connie Wardell, P.O. Box 21432, Billings, Montana**, in reference to Items 5 and 6, stated she attended MSU-B in the 1950s and the science building had not changed much. She stated there was a great partnership between the students and the local hospitals and because of the partnership, it had drawn students to Billings. She approved using her tax monies to support a \$50K contribution to MSU-B science building. She continued that concerning Item 6, she was not comfortable supporting an extension with individuals and businesses that wished

to operate under a veil of secrecy. She quoted, for the record, a statement from *The Billings Gazette*, that keeping the public out of the decision-making process was unlawful. She stated that the Council was representing the public and the public had the right to watch the voting process and give input during deliberation. She stated she was concerned about the right project using the wrong means. She stated the process needed to be in place before moving forward. She was opposed to the extension of time for OBSC.

- **Maisie Sulser, 6708 Cove Creek, Billings, Montana**, in reference to Items 1E, 1F, 5 and 6, stated she and her husband were in complete support of TIF grants to 1E and 1F. She stated that as the Chair of the Downtown Billings Alliance (DBA), it supported Item 5 to improve the MSU-B Science and Allied Health Building. She stated DBA supported Item 6 to extend the MOU concerning OBSC project.
- **Randy Hafer, 702 North 23rd Street, Billings, Montana**, in reference to Item 6, stated he was the Chair of Billings Improvement District (BID) which supported the extension of the MOU for the OBSC project. He stated the alliance group had worked on the project for 2 years. He encouraged the Council to give the project the time it needed as it was an enormously complex project and the City was not out anything by extending additional time. He stated that should the project actually develop, it would improve the overall economics for the downtown area and businesses and be a game changer for Billings. He then explained how TIF monies worked in the community.

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

1. **CONSENT AGENDA:**

A. **Bid Awards:**

1. **Airport Terminal Building's Various Areas Roofing Replacements.** (Opened 6/13/2017) Recommend Empire Roofing, Inc.; \$193,317.
2. **Airport Terminal and Operations Buildings Exterior Finish Insulation System (EFIS) Repair/Replacement.** (Opened 6/13/2017) Recommend rejecting all bids.
3. **Phase 2: Restoration of City Parking Structures I, II, III - Waterproofing.** (Opened 06/13/2017) Recommend John Rohrer Contracting Company, Inc.; \$404,915.

- B. **Landfill Use Agreement** with Yellowstone County; \$180,248 annual revenue for the Solid Waste Fund, \$9,012 in franchise fees for the General Fund in FY 2018.

- C. **Memoranda of Understanding (MOU)** between the City of Billings and Billings Public Schools for school resource officers for the Career Center, Ben Steele Middle School, high schools and middle schools, in the amount of approximately \$542,587 (07/01/17 - 06/30/18).
- D. **Approval** of Airport's updated Disadvantaged Business Enterprise (DBE) Program.
- E. **Approval** of Downtown Tax Increment (TIF) funds to Bissinger, LLC, for remodeling of former Mintana Mills building at 2525 Minnesota Avenue; up to \$150,000.
- F. **Approval** of Downtown Tax Increment (TIF) Fund grant to the Art House Cinema for Phase II improvements at 109 North 30th Street; up to \$350,000.
- G. **Acknowledging Receipt of Petition to Annex 17-02:** a 5.4 acre parcel, generally located west of Hawthorne Lane and north of Kyhl Lane in the Billings Heights; Michael Sartorie, Petitioner, and setting a public hearing date for 07/10/17.
- H. **Resolution 17-10636** closing pooled sidewalk fund #8680, SID #1341 and pooled SID funds #8210, #8220, and #8320.
- I. **Cancellation of Checks and Warrants.**
- J. **Bills and Payroll:**

1. May 30, 2017

Councilmember Yakawich separated Item 1A3 for discussion.

Councilmember Friedel separated Items 1E and 1F for discussion.

Councilmember Brown separated Item 1J1 to abstain.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Item 1A3, 1E, 1F, and 1J1, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich, in reference to Item 1A3, invited Tracy Scott, Parking Manager, to the podium. Councilmember Yakawich asked what was involved with the waterproofing of the parking garages. Ms. Scott responded that the expansion joints would be secured and eliminate water pooling issues, replace some of the doors in Park I and III, because there was a waterfall affect in the stairwells. She continued that the salt used to reduce slippage had damaged the concrete in areas and that would be repaired. She stated that a condition audit was recommended every 5 to 8 years and it

had been 10 years since the last audit. Ms. Scott thanked Council for approving the increased staffing from 1 part-time maintenance person to a full-time maintenance person. Councilmember Yakawich moved for approval of Item 1A3, seconded by Councilmember Sullivan. On a voice vote the motion was unanimously approved.

Councilmember Friedel, in reference to Items 1E and 1F, asked Lisa Harmon, Executive Director of Downtown Billings Alliance, what portion of the TIF district projects were of public use. Lisa Harmon responded that the properties were under-utilized structures in the downtown area and the new owners of the properties had plans to improve the structures which would bring new life to the entire downtown area. She stated that, in turn, would increase the tax base and provide for additional public funds. She stated the Art House project was a \$2.1 million project and the request for \$350,000 in TIF funds was within the 5 to 1 ratio and the improvements met the criteria. Ms. Harmon invited Dennis Deppmeier, architect, to address additional questions of the Council. Mr. Deppmeier stated a comprehensive analysis of the building was conducted. He stated the building was a good condition for being a circa 1950s, 2-story building. He continued that the Art House had been in operation for 2 years and had determined the market would support further expansion to 3 theaters. He stated the mechanical systems were old and outdated, so improvements would be to full code compliance. Councilmember Friedel asked Mr. Deppmeier what the public's benefit would be to received TIF monies. Mr. Deppmeier responded that by bringing an under-utilized building back into use, the public would benefit from the usage as well as the increase to the tax base. He continued that building to the economy in downtown helped other businesses thrive, as well. Matt Blakeslee, Director of Art House Cinema and Pub, addressed the Council and explained the downtown area lacked this type of venue. He gave an example of Shiloh 14 opening and that many businesses followed and surrounded the theater. He concluded that the Art House would have a similar effect on the downtown area that would benefit the public by offering more experiences to them. Councilmember McFadden asked whether the expansion was feasible without TIF monies. Mr. Blakeslee responded that \$70,000 in fundraising monies from the public had been raised and were applying for revolving loan funds. He stated the TIF monies would be a substantial benefit. Mr. Deppmeier provided information about upgrading an older building versus a new built building. Ms. Harmon added that the taxes on the building would increase by 181% after the remodel, or \$3,100 per year. She stated that was goal of TIF districts, to improve blighted or under-utilized buildings and place them back onto the tax rolls. Ms. Harmon spoke about the improvements to be made to the former Mintana Mills building. She stated that it cost a lot to bring a building to current code.

Councilmember Friedel stated it would take approximately 112 years at \$3,100 per year, for a \$350,000 TIF grant to contribute back into the tax rolls. Ms. Harmon responded that was one way to equate the value of the TIF contribution, but she encouraged Council to see the larger picture of the overall effects of an upgraded building in the downtown area.

Councilmember Brown asked for a better description of expenditures for TIF grant applications. Ms. Harmon stated there was a list of criteria that applications had to meet in order to be eligible for TIF monies. She continued to explain the application and review process. She stated expansion was good thing to see and encourage.

Councilmember Clark asked if one of the projects had received TIF monies before. Ms. Harmon responded that the Art House had received \$10,000 toward a technical assistance award. She stated that a technical assistance award helped prospective businesses to evaluate the viability of a vacant building. She stated that the advantage to conducting an architectural analysis was that the Downtown Building Alliance would keep that information about the building for future reference. She stated that having that information helped potential businesses make informed decisions about an investment.

Councilmember Yakawich stated he was concerned about blight and he preferred that buildings be improved, rather than left to further decay. Ms. Harmon responded that was exactly the goal.

Councilmember Friedel moved to not approve Items 1E. The motion failed due to lack of a second. Councilmember Cromley moved for approval of Items 1E and 1F, seconded by Councilmember McFadden. Councilmember Sullivan spoke in favor of the motion. Councilmember McFadden stated utilizing TIF monies to bring continuity and vitality to the community and increase the tax base was the appropriate use of TIF monies. Councilmember Yakawich stated it was commendable that someone would improve an older building, rather than leave it decay and later be torn down. Councilmember Friedel stated he was opposed to using TIF monies in that manner and as a businessman would have been embarrassed to ask for tax dollars to purchase or make improvements to one of his buildings. He continued that it was not government's job to build a business for someone, but that government should get out of the way and let the business build its business without government assistance. Councilmember McFadden responded that the State had created TIF districts and if the State did not want for funds to be available for use and distribution, then TIF districts should not have been created. Councilmember Brown agreed with Councilmember McFadden's statement and stated he would support approval of the motion. Mayor Hanel addressed Tina Volek, City Administrator, concerning whether the eligibility criteria had been met by the businesses to qualify for TIF monies. Ms. Volek responded that blight was one of the criteria. Brent Brooks, City Attorney, provided statutory criteria and confirmed that the businesses met the criteria. On a voice vote, the motion was approved 9-0, Councilmember Friedel voted in opposition.

Councilmember Friedel moved to not approve Items 1F. The motion failed due to lack of a second. Councilmember Yakawich moved for approval of 1F, seconded by Councilmember Cromley. Councilmember Friedel stated he would oppose the approval. Councilmember Clark asked Ms. Harmon the TIF funds balance. Ms. Harmon explained the bonding process on large projects. She stated that all of the bond debt was being met in the district and funds were available to fund the Art House TIF grant. She

reiterated that no funds would be disbursed until the projects provided proof and receipts that work had been completed. Mayor Hanel confirmed with Ms. Volek and Mr. Brooks that the eligibility criteria had been met for the Art House application. Mr. Brooks stated that it met eligibility. On a voice vote, the motion was approved 9-0, Councilmember Friedel voted in opposition.

Councilmember Sullivan moved for approval of Item 1J1, seconded by Councilmember Brewster. On a voice vote, the motion was approved 9 -0, Councilmember Brown abstained.

Mayor Hanel called a recess at 8:20 pm.

Mayor Hanel called the meeting back to order at 8:33 pm. Councilmember Friedel returned at 8:34 pm.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 17-10637 approving and adopting the 4th quarter budget amendments for Fiscal Year 2017. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek stated that staff would not have a presentation, but were available if there were any questions.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, stated his objection to the \$40,000 for One Big Sky Center for ongoing expenses. He stated it had been going on for the past 6 months and that there had been no significant outcomes nor updates. He stated the investors had not followed the conditions as set forth by the Council.

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

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

3. PUBLIC HEARING AND RESOLUTION 17-10638 approving the sale of property located in the 1100 block of S. 27th Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek stated that staff would not have a presentation, but were available if there were any questions.

Councilmember Clark asked how the property had been acquired. Mr. Bruce McCandless, Assistant City Administrator, stated the property had been acquired

through the City's urban renewal or community development program in the 1970s and 1980s. Councilmember Clark asked where the monies from the sale would be deposited. Mr. McCandless responded that the monies would be deposited into the N. 27th Street Tax Increment District, however, Council had full discretion to place the funds wherever it saw fit.

Councilmember Yakawich inquired whether the use of the property by the proposed new owner was known. Ms. Volek responded that the City would not have control over the land's use unless it was a nonconforming use. Mr. McCandless stated that the two bidders were adjacent landowners and it was known what their land uses were. Councilmember Yakawich stated he wished there was a way to learn about intended uses for the land before agreeing to the sale. Mr. McCandless responded he believed it was property aggregation and consolidation to what was already owned.

Councilmember Clark asked if the funds used to purchase the parcel originally had been TIF funds. Mr. McCandless responded that the funds may have been TIF funds or it may have been purchased with community development block grant funds. He continued that now the property was considered urban renewal property or tax increment property.

Councilmember Sullivan asked if the matter were to be postponed, were there any time constrictions. Mr. McCandless stated the Council could choose to sell the property to either bidder or no bidders. He stated the bids are solid for 60 days and there would be no problem delaying the sale for 2 weeks if Council wished.

Councilmember Friedel inquired about the zoning on the property. Mr. McCandless stated it was the South 27th Street permit zone which was an unusual zoning district in that it is principally commercial, but there was additional landscaping and design requirements in the district. Councilmember Friedel asked if re-zoning would become an issue for the property. Mr. McCandless stated the current zoning had been in place at least 25 years. Councilmember Friedel stated he was interested in this particular zoning and asked that Mr. McCandless send him more information about it.

The public hearing was opened.

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

Councilmember Yakawich made a motion to table Item 3 for 30 days, seconded by Councilmember Swanson. Councilmember Yakawich asked if it was possible to have the bidders present their intentions for the property so the South Side Neighborhood Task Force could learn more, too. Councilmember Sullivan stated he would support the motion to see what the bidders' intentions for the land were. Councilmember McFadden stated it wasn't the Council's business as long as the property use was conforming to its zoning and the property should be sold to the highest bidder. Councilmember Cromley stated he was in total agreement with Councilmember McFadden's statement. He continued that it was a 20' strip of land and really not something to be too concerned

about. Councilmember Swanson stated he wished to withdraw his second to the motion, making the motion invalid. Councilmember McFadden moved to approve Item 3 as stated, seconded by Councilmember Friedel. Councilmember Yakawich stated that it mattered what was placed in a neighborhood and he stated he would not support the motion. Councilmember Brown stated he took issue with accepting the highest bid and he believed it was Council's responsibility to mold the City into what the Council hoped for the City to have. He stated however, that due to the small size of the lot, he did not believe it would make any impact on the area and he would support the motion. Councilmember Friedel stated if specific use requirements had been necessary, it should have been included in the bid documents. Councilmember Sullivan called for the question. On a roll call vote, the motion was approved 8-2 with Councilmembers Yakawich and Sullivan voting in opposition.

4. RECONSIDERATION OF RESOLUTION 17-10639 approving and adopting water and wastewater rate and fee schedule effective July 1, 2017. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek stated that staff would not have a presentation, but were available if there were any questions. She continued that the reconsideration affected only the 3 entities in which the City had agreements.

Councilmember Brewster questioned what would be appropriate motion since the item was a reconsideration. Ms. Volek stated that Phillips 66, Lockwood Water and Sewer, and the County Water District in the Heights, had a system development fee that required updating every 2 years in order to be in keeping with state law. She stated they were last updated July 1, 2015. Mr. Brooks clarified that there was no motion on the floor and Council was starting with a clean slate.

Councilmember Brewster moved to approve Item 4, seconded by Councilmember Friedel. Councilmember Brown stated that now that the residential water fees were removed from the item he no longer had to recuse himself from the vote and would participate. On a voice vote, the motion was unanimously approved.

5. RESOLUTION 17-10640 allocating \$50,000 of Council Contingency Funds for the MSU-B Yellowstone Science and Allied Health Building renovation and expansion. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Ms. Volek stated that staff would not have a presentation, but were available if there were any questions.

Councilmember Cromley moved for approval of Item 5, seconded by Councilmember Swanson. Councilmember Brewster amended the motion to state that rather than provide \$50,000 in cash, Council would approve a City in-kind contribution of up to \$50,000. He continued that items such as building permits and system

development fees could be waived, along with other costs MSU-B may incur from the City. Councilmember Sullivan seconded the amended motion. Councilmember Brewster stated he was concerned about granting cash contributions to non-profits. He stated he would not wish to set a precedence in which more non-profits would petition Council for money. He continued that the City Council could show its support with in-kind donations and it may be more palatable than a cash contribution. Ms. Volek stated by allowing in-kind contributions, Council would affect the budgets of all the departments that would waive fees. She continued that the tracking of the various contributions would be cumbersome and could extend for a long period of time and into more than one fiscal year to reach \$50,000. She reiterated that if Council chose to do the in-kind contributions, the Council would change the source of funding. She stated it may cause departments to ask for budget amendments during this process.

Councilmember McFadden asked how much permits and the like cost. Ms. Volek stated she was not certain how much the fees would be for a sizeable project.

Councilmember Brewster stated he understood and was fine with reimbursing affected departments from the General Fund as needed.

Councilmember Cromley asked if problems would arise as the cash contribution would be derived from the FY17 budget, but various in-kind donations would affect FY18 budget and beyond. Ms. Volek agreed. Councilmember Cromley spoke against the amended motion and preferred the gifting of contingency funds.

Councilmember Brown stated he would not support the amended motion, but would support a cash contingency fund gift to the MSU-B. He continued that it was nearly impossible to locate qualified employees trained in the technology field and the only way to fill positions was to create a pool of applicants locally.

Councilmember Sullivan spoke in favor of the amendment and agreed that it was important to develop a skilled workforce. He stated it was a unique opportunity to show support without giving a cash contribution. He also stated he was not comfortable setting a precedent for other non-profits to solicit the Council for donations.

Councilmember McFadden stated he would be in favor of the amended motion if it were acceptable to the MSU-B Foundation.

Councilmember Yakawich stated the cash contribution would be leverage for the college to solicit additional funds from other sources and that was needed now. He stated the use of contingency funds has been a gray area and that other entities had received contingency funds in the past, such as Riverstone Health. He stated he would vote in opposition of the amendment and believed the cash contribution was needed by MSU-B now.

Councilmember Friedel defined contingency as "emergency". He stated a contingency fund was for emergencies. He stated the contingency fund had been

misused for the past 40 years and that was why there had been confusion about the funds uses. He stated the contingency fund had turned into a petty cash fund for the Council. He spoke in opposition of a cash contribution.

Mayor Hanel asked Brent Brooks, City Attorney, whether there had been any situations such as this in the past wherein in-kind donations were made by the City. Mayor Hanel asked whether there would be anything, legally, in which the Council needed to be concerned. Mr. Brooks stated he was not aware of any in-kind types of donations made by the City in the past. Mr. Brooks stated it was within the Council's discretion to make either contribution as it would all affect the General Fund. Ms. Volek stated she recalled a time when the Council had pledged land, not cash, for the construction of the Montana Rescue Mission, however, the land was returned to City as the 5-year window in which the Mission could have built on the land, expired.

Councilmember Clark recalled that land was also donated to Centennial Park. Ms. Volek stated that water and fee hookups, also. Ms. Volek stated that water hookups were also contributed to Cabella's.

Mayor Hanel clarified that Councilmember Brewster made an amendment to the original motion, not an amended motion.

Councilmember McFadden asked Bill Kennedy, CEO of MSU-B Foundation, to approach the podium. He asked Mr. Kennedy whether in-kind donations were acceptable to the Foundation, rather than the cash contribution. Mr. Kennedy responded that it was important to show the City's support. He stated that waiving all the building fees would show support. He continued that receiving a \$50,000 cash contribution, however, also showed support and showed donors across the state that the cash was in the coffers. He stated he appreciated any gesture of support.

Councilmember Friedel asked what the building fees would cost. Ms. Volek stated there was no information available at this time. She continued that Council could delay action until the next meeting while the information was gathered and provided at the next meeting. She cautioned the Council that a delay would cause a cash contribution to be made from the FY18 budget as the FY17 would be closed by the next regular business meeting. She stated there were ample funds to cover the cash contribution from the FY17 budget. She continued that if the funds were not expended by fiscal year end, the monies would be absorbed into the General Fund.

Councilmember Yakawich asked Mr. Kennedy if the \$50,000 cash contribution was a better fit for the college now. Mr. Kennedy stated the cash contribution showed stronger support from the City, however, the waiving of various fees was helpful, too. He stated that the \$50,000 cash contribution would be returned to the City in one way or another through building fees, etc. He stated that either way would be a positive benefit and most appreciated.

Councilmember Clark asked Mr. Kennedy how much time MSU-B had to raise funds. Mr. Kennedy responded an additional \$3 million had to be raised within 2 years. He stated the \$50,000 cash contribution would be paid to the MSU-B Foundation and would be counted as a match toward the State's \$10 million. Mr. Kennedy stated that the City would actually give government monies to another governmental agency. He stated that MSU-B was the City's university and it was an economic driver in the City.

Mayor Hanel stated he agreed with the concept of the amendment to the motion, but he preferred a clean transfer of \$50,000 cash contribution of Council Contingency Funds. He stated the contribution to MSU-B would be an investment in the community. He stated he would vote in opposition of the amendment.

Councilmember Swanson stated he preferred the cash contribution and would vote against the amendment.

Councilmember Cromley stated it may be a dangerous precedence to waive fees. He stated the college was not a non-profit, but another governmental institution and was very important to the City of Billings. He stated it had been a very rare request and he supported the cash contribution, rather than in-kind donations.

Councilmember McFadden stated he preferred the cash contribution over in-kind donations.

Councilmember Brewster stated most of the Council agreed that something should be done to help with the college's project and the amendment to the motion was a good way to do it.

Councilmember Brown stated the college was woven into the fabric of Billings and he preferred the cash contribution as a cleaner method of support.

Councilmember Brewster called for the question. On a voice vote, the call for the question was unanimously approved.

On a roll call vote, the amendment to the motion failed in a tie vote 5-5, Councilmembers Cromley, Yakawich, Swanson, Brown, and Mayor Hanel voting in opposition.

Councilmember Cromley called for the question. On a voice vote, the call for the question was unanimously approved.

On a voice vote, Councilmember Cromley's motion to approve the allocation of \$50,000 of the Council Contingency Funds for the MSU-B Science and Allied Health Building, was approved 9-1, Councilmember Friedel voted in opposition.

6. AMENDMENT #1 TO MEMORANDUM OF UNDERSTANDING (MOU) with MontDevCo and MontDevCo II, LLC, extending its termination date for One Big Sky Center project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Tina Volek, City Administrator, announced that she had received an email from Burke McHugh at 3:52 pm, who stated MontDevCo had an agreement with a joint venture partner, but the agreement would not be signed until the following week. She continued that Mr. McHugh requested the Council table its vote regarding the extension until July 10, 2017, when both companies would attend the Council meeting and provide a presentation. She continued that it would be necessary to extend the current MOU until at least the next meeting of July 10, 2017.

Councilmember Clark moved for extend the MOU to July 10, 2017, seconded by Councilmember McFadden.

Councilmember Brown asked Ms. Volek if it was possible that on July 10th MontDevCo would ask for an additional extension. Ms. Volek responded affirmatively.

Councilmember Cromley moved for an amended motion to extend the MOU for one month after June 30, 2017 termination date, (July 31, 2017), seconded by Councilmember Sullivan.

Councilmember Friedel voiced his frustration with lack of information, unrealized promises and last minute updates. He stated he would vote in opposition on all motions.

Councilmember Brewster stated he would vote in favor of the one month extension. He stated he wanted to hear what the partners had to say before making any final decisions.

Councilmember Brown spoke in favor of the one month extension.

Councilmember Clark stated that he also supported the one month extension.

Councilmember Yakawich spoke in favor of the one month extension. He asked for a packet of information prior to the meeting on July 10th so Council could be better prepared. Ms. Volek stated she would ask for information and she assured Council that no staff members were involved in the negotiations between the two private firms. She stated she did not have anything in her possession, but would ask the partners to provide the Council with something.

Bruce McCandless, Assistant City Administrator, addressed the Council and stated that all that had been asked was for the termination date of June 30, 2017, to be extended six months or to December 31, 2017. He stated that in order to conform with the motion to extend one month, staff would prepare the extension to reflect a July 31, 2017 termination date.

Mayor Hanel spoke in favor of the one month extension.

On a voice vote, the motion to extend the Memorandum of Understanding one month (July 31, 2017) from its termination date of June 30, 2017, was approved 9-1, Councilmember Friedel voted 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.

- **Walt Donnes, 720 Washington Avenue, Billings, Montana**, thanked Council for support and leadership. He stated Big Sky Pride celebration was well attended with over 2,000 people.

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

COUNCIL INITIATIVES:

There were no Council Initiatives.

There was no further business, and the meeting adjourned at 9:49 pm.



CITY OF BILLINGS

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

ATTEST:

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