

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
December 21, 2009

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 Ron Tussing called the meeting to order at 6:30 pm and served as the meeting's presiding officer. Councilmember Pitman gave the invocation.

ROLL CALL: Councilmembers present on roll call were: Gaghen, Pitman, Brewster, Veis, Ruegamer, McCall, Ulledalen, Astle, and Clark. Councilmember Ronquillo was excused.

MINUTES: December 14, 2009 - pending

COURTESIES - County Commissioner Jim Reno, on behalf of the County Commissioners, expressed thanks to Councilmembers Brewster and Veis and Mayor Tussing for their service. He said it had been an honor to work with them, and he wished them well.

PROCLAMATIONS - None

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek referenced two items in relation to Agenda Item 3. She said the first item was suggested changes to the Strategic Plan that Council received in their Friday packets, and the second item was a memorandum from the Billings Chamber of Commerce Convention and Visitors Bureau recommending support for the Multi-Modal Transportation Policy that was on their desks that evening. Ms. Volek advised both items were in the ex parte notebook in the back of the room for public view.
- Ms. Volek thanked Councilmembers Veis and Brewster and Mayor Tussing for their patience, dedication, and hard work.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and #3 ONLY.

Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located 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.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

- **Kevin Nelson, 4235 Bruce**, spoke against Item F. He said he found it appalling the City was going to “balance the budget on the backs of the poor kids.” Mr. Nelson said the City was going to raise \$48,000 in pool fees when it had \$850,000 of incremental taxes set aside. He said he felt some of that money should be used to offset the cost of the pools and asked why the City had to benefit Cabela’s, Wal-Mart, First Interstate

Bank, Intermountain Distributing and the Billings Gazette, who get to set their taxes aside for their own personal use and gain; and “the kids have to come up with a few extra bucks to go swimming in the summertime.” Mr. Nelson said in the “spirit of Christmas and kids” it would be a good thing for the council to do.

- **Dan Austin, 4424 Harvest**, spoke on behalf of the Billings Chamber of Commerce Convention and Visitors Bureau supporting a Multi-Modal Transportation Policy. He said it was their recommendation representing 1,100 businesses in Billings who employed over 44,000 people to encourage support of adopting a Multi-Use Pathway Policy as part of the Strategic Planning. He recommended the city-wide policy to include on-street bike lanes and off-street pathways in the development and expansion of Billings roads whenever they met local, state, and federal design standards and the continuing enhancement of existing pathways and trails. Mr. Austin said their goals were to communicate quality of life and economic benefits to the business community and general public and to bring trails support groups and stakeholders together to find solutions to connect trails and keep them clean and safe.
- **Hillary Harris, 632 Antelope Circle**, spoke on behalf of the Alliance in support of the City of Billings/City Council Strategic Transportation linkage goal. Ms. Harris said the Alliance was an affiliated partnership of the Chief Executive Officers of Billings Clinic, St. Vincent Healthcare, and Riverstone Health who worked collaboratively on community and regional health projects. She said in 2005 the Alliance sponsored a community health assessment and based on the results, the Healthy Places Initiative was created. She said the goal of the Healthy Places Initiative was to create an environment where all members of the community could easily access healthy choices in their every-day lives. Ms. Harris said they believed the transportation linkage goal fell directly in line with the Healthy Places goal, and the Alliance strongly supported the goal of developing a comprehensive multi-modal transportation plan for the Billings community. Councilmember McCall asked how long the coalition had been together. Ms. Harris said it had been together four years. She said the community health assessment was completed in 2005-2006, and the coalition was created out of it. She said they were considered an advisory committee.
- **Mike Nelson, 19 North Broadway**, asked for Council's support for Item E and said he was present to answer any questions. Councilmember Ulledalen asked Mr. Nelson to briefly explain how the funding would work and what it would do for the hotel. Mr. Nelson said they were currently \$5 million into the project, and they were another two months away from finishing the demolition of the property and abatement of the asbestos. He said upon completion, they would have taken about 4200 tons of debris out of the hotel and would be able to start putting items back in. Mr. Nelson showed drawings of the proposed renovations inside the hotel. Mr. Nelson said they hoped to open in the second quarter of 2011, and they expected to hire about 95 full-time employees; 5 to 10 part-time employees; and as banquets were scheduled, they would hire temporary employees. Councilmember Astle asked how many construction workers they had on the project. Mr. Nelson stated they had 20 people currently working on the demolition. He said he thought they would have approximately 100 to 150 construction workers for the duration of the project. Councilmember Ulledalen asked how the bonds affected the construction timetable and the plans for completion. Mr. Nelson said he was not really sure. He said he guessed the bonds would be sold

as they went along, and he did not believe they would be used for the construction financing. Mr. Nelson said they were in discussion with a local bank for the construction financing, and they had been granted a \$1.5 million bridge loan to the construction financing. Councilmember Gaghen asked if the hotel would be attracting conventions and asked for the numbers the hotel could accommodate. Mr. Nelson said the meeting, convention, and banquet businesses were a big part of the formula for success, so they were installing all of the latest high-tech gadgets for video conferencing, etc. He said they could feed a group of 650 at one time; and they would have four other meeting rooms, two high-tech board rooms, and administrative areas. Mr. Nelson said they would be able to hold cocktail parties or provide classroom facilities for 900 people.

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

1. CONSENT AGENDA

A. Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term Begins	Term Ends
1.	Solomon Neuhardt	Animal Control Board	01/01/10	12/31/13
2.	Jim Collins	Bicycle & Pedestrian Advisory Committee	01/01/10	12/31/12
3.	Brent Roberts	Bicycle & Pedestrian Advisory Committee	01/01/10	12/31/12
4.	Paul Cox	Board of Adjustments	01/01/10	12/31/13
5.	Jeff Bollman	Board of Adjustments	01/01/10	12/31/13
6.	Daniel Eggen	Board of Adjustments	01/01/10	12/31/13
7.	Barbara Walborn	Board of Adjustments	01/01/10	12/31/13
8.	LaVerne Bass	Board of Adjustments	01/01/10	12/31/13
9.	No Applicants	Board of Adjustments	01/01/10	12/31/13
10.	No Applicants	Board of Adjustments	01/01/10	12/31/13
11.	No Applicants	Board of Appeals - Plumber	01/01/10	12/31/13
12.	No Applicants	Board of Appeals - Architect	01/01/10	12/31/13
13.	No Applicants	Board of Appeals - Electrical Contractor	01/01/10	12/31/13
14.	No Applicants	Board of Ethics	01/01/10	12/31/13
15.	Beatrice Melichar	Board of Health	01/01/10	12/31/12
16.	No Applicants	Community Development Board	01/01/10	12/31/13
17.	Jon Muessig	County Water District of Billings Heights	01/01/10	12/31/15
18.	Skip Godfrey	Emergency Medical Services Board	01/01/10	12/31/13
19.	Daniel Lewis	Emergency Medical Services Board	01/01/10	12/31/13
20.	James Knox	Emergency Medical Services Board	01/01/10	12/31/12
21.	Brad Frank	Exchange City Golf Corporation	01/01/10	12/31/11
22.	No Applicants	Exchange City Golf Corporation	01/01/10	12/31/11
23.	John Gerharz	Housing Authority	01/01/10	12/31/14

24.	Phyllis Crawford	Housing Authority-Resident Commissioner	01/01/10	12/31/14
25.	No Applicants	Housing Authority-Resident Commissioner	01/01/10	12/31/13
26.	Gwendolyn Kircher	Human Relations Board	01/01/10	12/31/13
27.	No Applicants	Human Relations Board	01/01/10	12/31/13
28.	No Applicants	Human Relations Board	01/01/10	12/31/10
29.	No Applicants	Human Relations Board	01/01/10	12/31/10
30.	Lyn McKinney	Library Board	01/01/10	12/31/13
31.	Tony Hines	Library Board	01/01/10	12/31/13
32.	Lloyd Mickelson	Library Board	01/01/10	12/31/13
33.	No Applicants	Library Board	01/01/10	12/31/13
34.	Leticia Moore	Parking Board	01/01/10	12/31/13
35.	Nick Blake	Parking Board	01/01/10	12/31/13
36.	Scott Godfrey	Parking Board	01/01/10	12/31/13
37.	Mitch Goplen	Parking Board	01/01/10	12/31/10
38.	No Applicants	Parking Board	01/01/10	12/31/10
39.	Margy Bonner	Parks/Recreation/Cemetery	01/01/10	12/31/13
40.	Gary Gray	Parks/Recreation/Cemetery	01/01/10	12/31/13
41.	Ken Kingman	Police Commission	01/01/10	12/31/12
42.	Stephen Eliason	Police Commission	01/01/10	12/31/12
43.	Patrick Dawson	Public Utilities Board	01/01/10	12/31/13
44.	Rod Wilson	Public Utilities Board	01/01/10	12/31/13
45.	No Applicants	Tourism BID Board	01/01/10	06/30/10
46.	Walt Willett	Traffic Control Board	01/01/10	12/31/13
47.	James Knox	Traffic Control Board	01/01/10	12/31/13
48.	Alex Tommerup	Yellowstone Co./City Planning Board	01/01/10	12/31/11
49.	Nancy Curriden	Yellowstone Historic Board	01/01/10	12/31/11

28. Unexpired term of Gregory Kohn
 29. Unexpired term of Eoverall Fox
 37. Unexpired term of Gary Temple
 45. Unexpired term of Linda Gallagher

B. Professional Services Agreement (5-year) with Jacobs Consultancy for Airport Planning and Financial Consulting Services. Fees associated with each project to be negotiated depending on scope of project and approved by Council.

C. Approval of the purchase of thirteen (13) Replacement Police Vehicles and one (1) additional vehicle from the fifth year of mill levy funding in the FY10 Equipment Replacement Plan. Recommend purchasing patrol cars from Bison Motor Company as determined per state bid; \$335,785.38.

D. Approval of application for State Revolving Fund Loan for W.O. 08-22, Construction of UV disinfection system for the effluent of the Wastewater Treatment Plant (20-year amortization at 3.75%).

E. Resolution #09-18905 for preliminary approval of allocation of \$20,000,000 Recovery Zone Facility Bonds to Zootist Hospitality LLC for renovation of the Northern Hotel.

F. Resolution #09-18906 for proposed fee adjustments for PRPL Aquatics, Rentals, and Permits.

G. Street Closures:

1. **Martin Luther King Observance March** on Monday, January 18, 2010, from 6:25 p.m. to 6:50 p.m. originating on the courthouse lawn, walking on the sidewalk to the corner of N. 27th and 3rd Avenue N, crossing N. 27th, marching in the street to N. 29th, north on N. 29th, and disbanding at the Lincoln Center.

H. Acceptance of Donation from the Yellowstone County DUI Task Force for the purchase of a Drivers License and Document Guide on-line program; 80 3M Security Laminate Verifiers; and "You Drink, We Drive" decals for patrol vehicles; \$3,179.60.

I. Approval of a Safe Routes to School grant application submittal to the Montana Department of Transportation, \$50,000; to include an additional \$10,000 pledge from School District No. 2.

J. Bills and Payroll:

1. **November 30, 2009**

Councilmember Ulledalen separated Item C. Mayor Tussing separated Item I. Councilmember Veis moved for approval of the Consent Agenda with the exception of Items C and I, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Veis moved for approval of Item C, seconded by Councilmember Ruegamer. Councilmember Ulledalen said his concern was they were heading into the budget, and this was the last installment of the Public Safety Levy for equipment. He said they knew they had a constrained budget coming forward, and he felt there would be some merit in delaying the item at least until they were done with the Police budget. He said he was also concerned about how they would pay off the Police lawsuits if the City did not win. He said he just did not feel they should expend that amount of money at this point in the budget.

City Administrator Volek advised that the vehicles were part of the Equipment Replacement Plan (ERP). She said three of the vehicles were for new officers, and the remaining vehicles were part of the ERP, so money had already been set aside over a period of time. Ms. Volek said the lawsuit was in very formative stages, and Chief St. John had carried an open Deputy Chief's position for a period of time and was willing to leave the position open as an offset until what, if any, final charges or payment was determined.

Councilmember Gaghen asked Chief St. John if there was a great difference in the bid between Bison Ford of Great Falls and local vendors. Chief St. John said he had not seen the numbers and that the ERP Committee took care of all of the bids. He said he understood Bison Ford had out bid local vendors. He said they were locked into the Crown Victorias for now that included all of their electronics and equipment. He said to take a bid from a GM product would cause a lot of excess cost on the shop side of things. Chief St. John said he understood the Crown Victoria would be going out of production in a couple of years, so they may be looking at a different car then. He said the process was annual, and they set aside money for replacement. He said the patrol cars were traded in every five years or so with 80,000 to 100,000 miles on them, which allowed them to keep their fleet in good repair. City Administrator Volek added that, in that particular case, staff went with the Bison Motor bid through a State contract. She said in other years staff had done a check against local vendors, and they were not able to compete due to the volume done through the State contract. She reminded the Council that the ERP Committee very closely checked before it approved the purchase of any new vehicles to make sure the purchases were warranted on the basis of the use of the vehicles and the studies they had done on the costs of maintaining the vehicles after a certain period of time. Mayor Tussing asked how long the bid was good for in case Council delayed the item. City Administrator Volek advised it would depend on the State contract, and the car manufacturers would not allow orders after so much time had passed. She said staff could do some research and report back.

On a voice vote, the motion was approved 9 to 1. Councilmember Ulledalen voted 'no'.

Councilmember Veis moved for approval of Item I, seconded by Councilmember Ruegamer. Mayor Tussing recused himself because his wife was involved in the project. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #859: A zone change from Residential Manufactured Home (RMH) to Highway Commercial (HC) on the west 388 feet of Lot 10A, Holling Ranch Subdivision, located at 2100 Main Street. E & S Inc., applicant; Sanderson Stewart, agent. Zoning Commission recommends approval and adoption of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II, Nicole Cromwell, began her

PowerPoint presentation showing the location and photographs of the subject property in the Billings Heights, as well as describing the surrounding properties. Ms. Cromwell advised the property had been used in the past as a gas station and a retail store. She said three years ago the property was damaged by an airplane accident in the area, and since then had remained vacant. Ms. Cromwell advised the current owner was intending to develop the property primarily for storage facilities. She said there were several hundred storage units in the Billings Heights, but the demand kept outpacing the supply. She said there was a small amount of frontage on Sharon Lane, which was a local residential street; and there would be no commercial access from Sharon Lane to the subject property, with the exception of an emergency access possibly required by the Fire Department. Ms. Cromwell advised the Zoning Commission was recommending conditional approval based on the following 12 criteria for zone changes:

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following goals of the Growth Policy:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would allow a vacant parcel to be used for commercial purposes along an arterial street that can accommodate any traffic generated without impact to surrounding residences.

- New developments that are sensitive to and compatible with the character of adjacent City Neighborhoods and County Townsites. (Land Use Element Goal, page 6)

The proposed zoning is consistent with the surrounding character of Main Street and will allow re-use of property that was under-utilized.

- Contiguous developed focused in and around existing population centers. (Land Use Element, page 6)

The proposed zoning will provide a good in-fill and re-use of the property that has limited quality for residential uses.

2. Is the new zoning designed to lessen congestion in the streets?

Main Street is a principal arterial that carries approximately 18,000 vehicle trips per day. No significant increase in traffic load is anticipated from this zone change, although the nature of the traffic will change from daily residential traffic to commercial traffic during business hours. Access to and from any development of the property will be controlled by the city and Montana Department of Transportation if new or relocated drive approaches area required.

3. Will the new zoning secure safety from fire, panic and other dangers?

The subject property is currently serviced by City Fire and Police. The proposed zoning will not affect the ability of these services to access the property.

4. Will the new zoning promote health and general welfare?

The current RMH zoning allows residential uses and limited home-based businesses. The lot was placed in this zoning configuration when the County adopted zoning in 1973 and it has not changed since that time. Originally a gas station and retail store was located on the Main Street frontage that is currently zoned HC. An irrigation drainage ditch runs through the frontage along Main Street and defines the western boundary of the parcel. It appears the re-zoning of the parcel will lead to in-fill development that will be beneficial to the health and general welfare of the area.

5. Will the new zoning provide adequate light and air?

The proposed zoning requires building setbacks and limits building height. Zoning, building and fire codes should provide assurance of adequate light and air for the property and surrounding neighborhood.

6. Will the new zoning prevent overcrowding of land?

The proposed zoning limits maximum lot coverage to 75% of the lot area. The current RMH zoning allows up to 30% lot coverage. Lot coverage only includes the area of the lot covered by structures and does not include pavement. The proposed increase in lot coverage should not overcrowd the property.

7. Will the new zoning avoid undue concentration of population?

The proposed zoning allows residential uses but must use the same lot area, lot coverage and setbacks as required by RMF-R zoning. Single family, two-family and multi-family would be allowed. The current zoning allows single family homes and manufactured homes on lots of at least 6,000 square feet per dwelling unit. The area zoned RMH could accommodate up to 7 dwelling units. The proposed zoning could allow a 25-unit apartment building, however, building setbacks, lot coverage and off-street parking requirements would limit the maximum number of apartments to less than 25. The proposed zoning would not unduly concentrate population.

8. Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?

Transportation: The proposed zoning should have no impact on the arterial street.

Water and Sewer: The City provides water and sewer to the property through existing lines and might need to be upgraded when development occurs.

Schools and Parks: There should be no impact on schools or parks from this rezoning.

Fire and Police: The subject property is currently served by the City of Billings Fire Department and Police Department.

9. Does the new zoning give reasonable consideration to the character of the district?

The proposed zoning will allow a commercial re-use of the property along a principal arterial street. The quality of residential use of this property is limited by its location and proximity to commercial and industrial uses to the east and south and limited access on the west. Any development of the parcel will have to meet minimum standards for landscaping, buffering of adjacent residences to the west and north as well as access restrictions. The new zoning gives reasonable consideration to the existing character of the district.

10. Does the new zoning give consideration to peculiar suitability of the property for particular uses?

The subject property is suitable for the requested zoning district. Properties east and south of the subject property along Main Street are zoned HC.

11. Was the new zoning adopted with a view to conserving the value of buildings?

Staff cannot determine whether the proposed zoning would appreciably alter the value of structures within the area. As re-development occurs in the area, building values should increase as properties are improved.

12. Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?

The proposed zoning will encourage the most appropriate use of this land on a principal arterial street in Billings Heights.

The public hearing was opened.

- **Will Ralph, Sanderson Stewart**, said he represented the developer and said he was available for questions.

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

Councilmember Brewster moved for approval of Zone Change #859, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

3. APPROVAL OF STRATEGIC PLAN PRIORITIES. Staff recommends approval.

(Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek said she would not be going through the entire Community Investment Plan because the Council had worked closely on it. She said she wanted to bring a couple of items to the Council's attention that were added at Staff's request. She said Council had received the additions in their Friday packets, but she wanted to make sure they were all aware of them.

Ms. Volek listed the recommended additions, as follows:

- Under "Honest Responsive Government," the addition of social networking sites to the existing media list.
- Under "Comprehensive Orderly Growth," the addition of Identify future community & regional parks and recreational facilities locations.
- Under "Transportation Linkages," the addition of Multi-use trail development and connectivity.
- Under "Economic Development Plan," to change the wording to Ensure appropriate full municipal costs are charged for services.

City Administrator Volek advised a copy of the Plan was in the ex parte notebook in the back of the room for public viewing. Councilmember Ulledalen asked if the Plan would be posted on the City's website for public review and asked that an electronic copy be sent to Council.

Councilmember Pitman moved to approve the Strategic Plan Priorities including the staff recommendations, seconded by Councilmember Gaghen.

Councilmember McCall thanked Staff for their additions. She said they were good catches, and the Staff did a great job. Councilmember McCall acknowledged and thanked Bruce Whittenberg, who was in the audience, for being a part of the process when it began with the Community Conversations and moved into the Strategic Planning process. City Administrator Volek added that once the Council approved its goals and priorities, Staff would come back with specific action steps in February. Mayor Tussing recognized Councilmember McCall and the other councilmembers who worked on the Strategic Planning Committee.

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 limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.*)

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

COUNCIL INITIATIVES – There were no Council initiatives.

Councilmember Gaghen asked the retiring members to share their thoughts as they left office. She told them the gaps would be filled, but they would be greatly missed.

Mayor Tussing said it had been a pleasure and honor to serve the citizens. He said it had been fun most of the time. He said the fun had outweighed the parts that had not been fun.

The meeting adjourned at 7:06 p.m.