

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
December 13, 2010

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Thomas Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Ronquillo gave the invocation.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, Astle, and Clark

MINUTES: November 22, 2010, approved as presented

COURTESIES:

1. Recognition by Police Chief Rich St. John of Jeff Fox, cab driver with City Cab, for assisting Officer Buechler in recovering a stolen vehicle.
2. Certificates of Appreciation presented by Police Chief St. John for the tremendous and invaluable assistance provided to the Police Department and City of Billings following the tornado on June 20, 2010, to:
 - Montana Highway Patrol - represented by Captain Keith Edgell
 - Montana National Guard - represented by Major Greg Olson
 - Montana Department of Transportation - represented by Tim Kaczmarek
 - Salvation Army - represented by Major Kevin Jackson
 - Northwestern Energy - represented by Kane ClaunchChief St. John also recognized the valuable assistance and coordination of City staff members.
3. Presentation of 48 blankets to the Police Department from Zonta International local president, Jolene Reick and Project Coordinator Nancy Rice.
4. Recognition by Planning and Community Services Director Candi Beaudry of City of Billings Code Enforcement Division's receipt of the National Award for Printed Materials for the 2010 East Pioneer Park Total Urban Neighborhood Enhancement Unified Program.

PROCLAMATIONS -- Councilmember Astle announced that Robin Hanel issued a challenge for donations to The Salvation Army's Red Kettle while she would be ringing the bells at Albertson's on Rehberg and Grand Avenue during the upcoming weekend.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek advised she had nothing to add to the agenda that evening.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 ONLY. Speaker sign-in required. (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. 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 podium.)

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

1. CONSENT AGENDA

A. Bid Awards:

1. **Two (2) Five Yard Double Dump Trucks** (Opened 11/9/10) (Delayed from 11/22/10) Recommend Bison Ford; \$269,266.00 plus the 5-year warranty of \$6,060.00, for a total of \$275,326.00, and retaining Units #1184 & #1193 to transfer to the Solid Waste Division.
2. **2011 Sewer Jet Cleaner and Manhole Vacuum System.** (Opened 11/23/10) Recommend Titan Machinery, Inc., \$262,776.07, less a trade-in of \$35,000 of the current sewer jet, and a five-year warranty on the new unit for \$3,238.00, for a net bid of \$231,014.07.
3. **Five (5) 2011 Truck Cabs and Chassis with Refuse Compactor Bodies.** (Opened 11/23/10) Recommend Schedule I: 2 units from Tri-State Truck & Equipment, \$478,466; Schedule II: 3 units from Montana Peterbilt, \$564,356.
4. **Two (2) Snow Plow Assemblies with Hydraulic Controls.** (Opened 11/30/10) Recommend Kois Brothers, \$42,789.00.

B. Purchase of two (2) additional 2011 56,000 GVW Dump Trucks with Snow Plow Assembly and Sander from IState for \$311,128.00, plus the 5-year warranty of \$3,250.00, with a trade-in of Unit #1154 in the amount of \$15,000, and transfer of Unit #1157 to the Solid Waste Division.

C. Reconciling Change Order for W.O. 08-21, Lake Elmo Drive, Riverside Sand & Gravel, \$102,168.87.

D. Access License Agreement to cross property owned by PM and M, LLC, Max E. Thorton and the Katherine K. Thorton Testamentary Trust to access the Briarwood Reservoir; five year license agreement with the option for three year renewals, at no financial impact to the City.

E. Approval of the City-County Special Investigations Unit (CCSIU) Agreement with Yellowstone County for calendar year 2011.

F. Approval of reimbursement up to \$5,000.00 from the Yellowstone County DUI Task Force for costs associated with training of two officers to become Drugged Driver Recognition Experts.

G. Amendment #3 to the contract with Montana Department of Transportation for paratransit operating assistance funded through the Federal Transit Administration New Freedom program for an additional \$98,378 in grant revenue to offset FY2011 paratransit operating expenses incurred while providing service above and beyond the Federally regulated ADA service.

H. Approval of Yellowstone Historic Preservation Board grant application for Preserve America Grant Funds to develop an Electronic Downtown Walking Tour Guide, \$5,000.

I. Approval of grant application to Safe Routes to School for construction of the Will James Middle School Trail Connection, 120,000.00.

J. Approval of Settlement of Condemnation of Reger Properties on Grand Avenue.

K. Resolution extending operation of the Mayor's Commission on Energy and Conservation to June 30, 2011.

L. Second/final reading Ordinance #10-5526 for Zone Change #869: a zone change from Public (P) to Residential 6,000 (R60) on a 50-foot by 150-foot lot in the northeast corner of Lot 3 in Section 9, Township 1S, Range 26E, located at 412 Hallowell Lane. Lean 2 LLP, owner; Marshall Phil, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria.

M. Final plat, Lenhardt Square Subdivision, 2nd Filing.

N. Bills and Payroll:

- 1. November 5, 2010**
- 2. November 12, 2010**
- 3. November 19, 2010**

Councilmember Ulledalen separated Item 1K. Councilmember Cimmino separated Items 1N1, 1N2, and 1N3.

Councilmember Astle moved for approval of the Consent Agenda with the exception of Items 1K, 1N1, 1N2, and 1N3, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Ulledalen moved to deny Item 1K, seconded by Councilmember McFadden. Councilmember Ulledalen asked Ms. Volek if the only reason the Commission was being extended was to do the New Energy Cities initiative. Ms. Volek advised that was a primary reason, but she believed the group felt there were other issues they could work on. Councilmember Gaghen clarified that any issue that would come from the Commission would require Council approval. Mayor Hanel asked if there was a financial impact to the City if the Commission was allowed to continue another six months. Ms. Volek advised that the only expense she was aware of was staff time. She explained that Mark Evangeline had been the staff member for four years, and although it was a major commitment, he was willing to continue serving for the next six months, but if the Commission was extended beyond that, another staff person would be needed because Mr. Evangeline had his own programs to implement in his department.

Councilmember McFadden stated he felt it was best to sunset the Commission now and re-establish it later if needed.

Councilmember McCall said she would oppose the motion because she felt it needed to continue for at least the six-month period. She said Billings was doing some good things in terms of energy and the group was as well.

Councilmember Ulledalen said he felt the main objective of the Commission was to save taxpayer money within City operations, but it had been drug into other things that were beyond its scope. He said he felt the Commission could continue as a staff function to identify energy savings within the operations.

Councilmember Cimmino asked about the \$15,000 fee for the City to participate in a workshop if the City were to begin the energy cities program. Ms. Volek asked Mr. Evangeline to answer that question. Mr. Evangeline explained that the program was intended to be a community program and the cost could be split among a group of stakeholders, unless the City wanted to pay the entire fee. Councilmember Ulledalen said Mr. Evangeline made the point that it did not need to be a City function. Mr. Evangeline said that was correct, but the City should have a place at the table if it proceeded.

Mayor Hanel spoke in opposition of the motion because he felt the future energy needs were very important and the financial impact for the six-month extension was minimal.

Councilmember Clark asked if that meant the Commission would be expanded since it had already been expanded beyond its original scope. Mayor Hanel said that would be an expansion to allow the Commission to explore the New Energy Cities program. Ms. Volek highlighted some of the Commission's accomplishments during the four years since it was created.

Councilmember Pitman asked if the Commission thought it could complete its work by June 2011. Mr. Evangeline explained that intention of the six-month extension was to establish goals and get direction from the Council.

On a roll call vote, the motion to not extend the Commission was approved 6-5. Councilmembers Ronquillo, McFadden, Ruegamer, Ulledalen, Astle, and Clark voted in favor of the motion; Councilmembers Gaghen, Pitman, Cimmino, McCall and Mayor Hanel voted against the motion.

Councilmember Gaghen expressed appreciation to Mr. Evangeline and the members of the Energy and Conservation Commission for its efforts and accomplishments. Mayor Hanel concurred with Councilmember Gaghen's comments.

Councilmember Cimmino referenced Items 1N1, 1N2 and 1N3, Invoices #738636, #738849, #739070, and noted that she would be abstaining from voting on those invoices because she was employed by the consulting firm that submitted them. Councilmember Pitman moved for approval of Items 1N1, 1N2 and 1N3, seconded by Councilmember Astle. On a voice vote, the motion was approved 10-0.

REGULAR AGENDA:

Ms. Volek announced that Deputy Director of Public Works, Al Towlerton, was retiring December 17, after 31 years with the City and would be making his last presentation to the Council that evening. She acknowledged the contributions of Mr. Towlerton during his long career. Mayor Hanel asked the Council and members of the audience to join him in a standing ovation for Mr. Towlerton's service to the City.

2. PUBLIC HEARING AND FIRST READING ORDINANCE AMENDING BMCC 26-500 related to reimbursement and compensation to developers for construction of certain water and wastewater facilities, to add reimbursement for stormwater facilities, and reimbursement for construction of certain water and wastewater facilities on property located within the Limits of Annexation, but outside the approved "Red Area" identified in the City Limits of Annexation Map. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Mr. Towlerton explained that the item amended an ordinance that had been in existence for many years. He explained the three primary changes as: 1) expand the process to include reimbursement for construction of stormwater facilities; 2) include reimbursement for construction of certain water and wastewater facilities to serve property located within the limits of annexation but outside the approved "red area" identified in the City's Limits of Annexation map; and 3) lengthen the reimbursement period from seven years to 10 years.

Councilmember Clark asked if that meant services would be provided to areas outside the City limits. Mr. Towlerton advised that the requirements for annexation would still apply to any property getting service. Mayor Hanel asked if it was correct that there was no cost to the City under the reimbursement procedure. Mr. Towlerton advised that was correct.

Councilmember McCall commented that the marked up copy of the ordinance was very helpful to understand the changes and might be a good practice for others in the future.

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

Councilmember Astle moved for approval of the first reading ordinance amending BMCC 26-500, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING FOR VARIANCE #OP-10-01: a variance from the Site Development Ordinance, Section 6-1203(a) and Section 6-1203(j) regarding off-street parking for New Hope Baptist Church located at 824 North 19th Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director Dave

Mumford advised that New Hope Baptist Church wished to reconstruct their church that was destroyed by a fire several years ago. Mr. Mumford stated that a church had been located there for 50 years. He explained that City Code required 16 parking spaces for the facility, but the site plan showed two spaces. Mr. Mumford advised that the church believed it had been granted a variance, but the document was destroyed in the fire and the City could not locate a copy of it. He advised that the City was supportive with continuing the variance since nothing was being changed from the way it had been for many years and there was no record of any complaints from neighbors regarding parking. Mayor Hanel asked about any impact to the neighborhood in terms of parking. Mr. Mumford advised that there was on-street parking in the area and staff considered it to have minimal impact on the neighborhood.

Councilmember Gaghen reported that she heard a presentation at the North Park Task Force meeting that endorsed the variance. She noted that the church had a relatively small congregation of about 50-60 people.

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

Councilmember Gaghen moved for approval of Variance #OP-10-01, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND GRANT AWARD OF BUSINESS CONSORTIUM PROJECT FUNDING to The Salvation Army for equipment purchase to support the Bokashi Composting Processing Center, \$100,000; and to Rimrock Foundation to acquire/rehabilitate housing units for homeless individuals, \$200,000. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Mayor Hanel advised that Development Division Manager Brenda Beckett provided a thorough presentation on the item at its December 6 work session. Planning and Community Services Director Candi Beaudry explained that the project was a Social Enterprise project that would be funded through a \$300,000 Federal Housing and Urban Development grant, with \$100,000 granted to The Salvation Army for equipment to run the Bokashi Composting Processing Center, and \$200,000 to the Rimrock Foundation for the purchase and rehabilitation of a residence for the individuals that would work in the composting operation. She said the composting operation would be located at 10 S. 30th Street in The Salvation Army facility at that location, and the residence was at 116 S. 30th Street. She advised that representatives from both The Salvation Army and Rimrock Foundation were present to answer questions or provide more information if needed.

Councilmember McFadden asked if there was a match required for the grant. Ms. Beaudry advised that the project was funded 100% by the grant. Ms. Volek mentioned that the International City Managers Association featured that program in that day's daily newsletter, and other cities would be watching it also to see how homelessness was addressed.

The public hearing was opened.

- **Angela Gonzales, 4002 2nd Avenue South**, asked for support of the house Rimrock Foundation proposed to locate on the South Side. She said the project was important to people that needed safe housing and jobs. She said Rimrock cared for its properties and was a good neighbor to the neighborhoods where they had homes.
- **Calvin Weber**, said he was a resident of one of Rimrock Foundation's sober houses and it was a very positive, structured house for people that needed a fresh start and employment. He said he felt it would be positive for the South Side.
- **Darnell Perry, 4120 Frances Avenue**, advised that he was the Coordinator of Rimrock Foundation's Silver Living Program. He said he was present to urge support of the project. He spoke of the need for jobs and housing for the disabled population.

Councilmember McFadden asked if the proposal was for one duplex and if there were plans to expand on that in the future. Mr. Perry said it was one duplex and he did not know of future expansion plans.

- **Lucy Brown, Housing Authority of Billings and member of Mayor's Committee on Homelessness**, said she supported the project. She said there were programs for homeless people, but not nearly enough. She said that project would offer some much needed supportive services to keep people stabilized in housing and to provide a chance for success. She said she wholeheartedly supported the proposal. She said both players in the project had worked very well with the Mayor's committee and BARN (Billings Area Resource Network) and were committed to providing safe housing, supportive services, and job opportunities.

Mayor Hanel stated that he had visited the Housing Authority and invited all Councilmembers to do the same.

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

Councilmember Ronquillo moved for approval of the Business Consortium Project and the \$300,000 grant award, seconded by Councilmember Gaghen. Councilmember McCall advised that she would recuse herself from the item because she served on The Salvation Army Advisory Board. Councilmember Ronquillo stated he was also on that Salvation Army Advisory Board and should also recuse himself. Mr. Brooks advised that another Councilmember should make a substitute motion.

Councilmember Gaghen offered a substitute motion for approval of the grant award for the Business Consortium Project funding for The Salvation Army and Rimrock Foundation, seconded by Councilmember Pitman.

Councilmember McFadden stated he liked the idea because it did not give anyone a hand out, but a hand up. He commended The Salvation Army and Rimrock Foundation for their efforts.

Councilmember Astle commended Ms. Beckett for her work to obtain federal funding, and said she was an asset to the City of Billings and the homeless people she worked for.

Councilmember Ulledalen advised that it might be a good topic for the 2011 Montana League of Cities and Towns Convention that will be held in Billings.

On a voice vote, the substitute motion was approved 9-0.

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Please sign up on the clipboard located at the podium.)

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue**, said there seemed to be some confusion at the last meeting about the Inner Belt Loop and if money was being spent to determine the feasibility of a tunnel. He suggested the Council pass an initiative to halt the process of exploring a tunnel at Zimmerman Trail until they could decide if that was going to be done. He asked if the City was really prepared to spend that much money on a tunnel. He suggested setting up a committee to look at all options and ramifications of each route. He said he realized the money was earmarked for that particular section of road, but maybe the engineering money could be applied to construction.

Councilmember Ulledalen said there were two options being considered for the development of the existing Zimmerman Trail and he did not think a lot of money was being spent on the engineering aspect of a tunnel. He said he felt there needed to be a reasonable set of facts in hand before it was dismissed. Councilmember Ulledalen stated he did not think there was any drilling being done. Mr. Nelson said he understood that the City was going to spend 20% of the earmarked money for a feasibility study. Ms. Volek explained that an engineering study was underway at the current time and a report should be back to the Council sometime in the spring.

Councilmember Clark asked how much was being spent on the study. Ms. Volek said \$700,000 came to mind but she was not sure if that was correct and would email the information to the Council. She noted that the grant allocation was \$7 million.

Councilmember Cimmino clarified the numbers from the previous presentation on the matter. She said one engineering firm was doing a feasibility study on the Inner Belt Loop for \$700,000, and the other end of Zimmerman Trail was being done by another firm, and the 20% referred to by Mr. Mumford was that they were 20% complete with the design phase for presenting alternatives regarding the feasibility of the tunnel.

Councilmember McFadden asked if the rock data could be used to determine the general stability of the rest of the rocks near the rims. Ms. Volek said she would inquire about that.

- **Doug Ruebke, 110 S. 31st Street**, stated that he was a member of the Animal Control Board that was in the process of reviewing and amending the animal ordinances. He stated that many of the existing signs in the City parks were in need of repair or replacement. He spoke about the need for signage in private lots to prohibit the sale of animals. He displayed a sample sign and said he had spoken with private businesses and they were willing to display the signs at their businesses. He provided cost estimates of approximately \$800 for the 20 signs. He said the Animal Control Board did not have funds to pay for the signage, but there were volunteers willing to install the signs once they were printed.

Councilmember McCall advised that she had visited with Mr. Ruebke and indicated that once the Animal Control Board had completed its review of the ordinances, she would be willing to bring the sign issue forward as a Council initiative.

Councilmember Ronquillo said he knew that if the Police were contacted when people were trying to sell puppies in the private lots, they would respond and issue the proper citations.

Councilmember McFadden asked if the out-of-state people were in town making illegal sales. Mr. Ruebke explained it was illegal to import animals more than three months old into the state without proper vaccinations. He stated that if signs were posted, the Animal Control officers could issue citations instead of warnings.

Councilmember McCall stated she had spoken with animal advocates in the community and found out that even though there were still a few of those operations out there; headway was being made with it.

Mayor Hanel stated he felt it was a worthwhile expense. Ms. Volek advised that she would ask the Parks Department to check on the signs in the parks.

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

COUNCIL INITIATIVES

There were no initiatives.

ADJOURN

The meeting adjourned at 7:55 p.m.