

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 11, 2011

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, Clark

MINUTES: June 27, 2011, Pending

COURTESIES:

- Councilmember Gaghen introduced her daughter, Rebecca, who was visiting from Paris, France.
- Mayor Hanel announced there was a meeting scheduled the following day at noon in the County Commissioners' Board Room for an update on the oil spill.

PROCLAMATIONS: Livestrong Day, July 14, 2011, in support of cancer survivors.

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items:

- Agenda Add-On Item – Big Sky State Games Route Modification for half marathon and 10K scheduled for 7/16/2011. Event routes were originally in the county. Due to oil spill, routes had to be moved to inside the city limits. Requesting approval of street closures for the half marathon and 10K. Staff memo on council's desk and in ex-parte notebook. Ms. Volek advised a motion to add the item to the consent agenda was needed.
- Agenda Item 5 – Resolution approving and adopting FY12 budget. Item was added to tonight's agenda at the July 5 special session. Copy of staff report was filed in ex-parte notebook.
- Consent Agenda Items 1A2 and D could not be voted on until the budget had been approved. She said Council could remove or postpone the items until after the budget had been discussed that evening. She said if the budget was approved, the two items could be acted on at the end of the agenda as Items 6A and 6B; or the items could be postponed until August 8, 2011.

Councilmember Ronquillo commented that on May 8 a meeting was held with the tow truck people, and they were expecting some answers by the end of June. He asked for the status. Ms. Volek advised Purchasing was working on a bid for that item, and it was not yet complete. She told Councilmember Ronquillo she would check on the status and report back to him via e-mail.

Councilmember Astle moved to add the Big Sky State Games route modification to the Consent Agenda as Item K, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #4, and #5 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. 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.)

The public comment period was opened.

- **Joe White, Billings, MT**, said he had no specific line item remarks but had general comments on the budget. He said he felt they needed additional support for social work and police funding. He said he had a concern with construction controls regarding major inspections in the state. He said he would like to have sufficient funding for public health controls.

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

1. CONSENT AGENDA -- Separations:

A. Bid Awards:

1. **P25 Digital Radio, NG9-1-1 Telephone System and Digital Logging Recorder.** (Opened 7/5/2011) Recommend delay of award until July 25, 2011.
2. **W.O. 10-29 Wastewater Treatment Plant West Mechanical MCC Replacement and Improvements.** (Opened 6/14/2011) (Delayed from 6/27/2011) Recommend Action Electric; \$618,000.

B. Approval of the Assignment and Transfer of the Limited Commercial Aviation Ground Lease and the Commercial Aviation Ground Lease for a Fuel Farm Site from Corporate Jet LLC to Edwards Jet Center Montana, Inc.; and Approval of the Assignment of the Limited Commercial Aviation Ground Lease and Commercial Aviation Ground Lease for a Fuel Farm Site with Edwards Jet Center Montana, Inc. to Stockman Bank for loan security purposes.

C. Agreement with Yellowstone County Sheriff's Department to provide New World Public Safety data processing services. (7/1/11 - 6/30/12); Annual revenue - \$94,520.

D. Approval of the purchase of three Ford F150 4X4 SuperCrew pickups, budgeted through the approved FY12 Equipment Replacement Plan, to replace three police patrol cars. Recommend purchase from Bison Motor Company, Great Falls, MT, as determined per state bid; \$82,534.95 total.

E. Street Closures:

1. Annual Mexican Fiesta: Assembly: Friday, July 29, 2011, 4:00 p.m.; Event: Saturday, July 30, 2011, 10:00 a.m. to 6:00 p.m.; 6th Avenue South between South 27th and 28th Streets.

2. Dash for Dog Parks 2K/5K Fun Run: Saturday, August 13, 2011, 6:30 a.m. to 11:30 a.m.; 2K: Beginning at High Sierra Park, down the access road, right onto Wicks Lane, turn around at Fantan and continue on Wicks Lane back to the park. 5K: Beginning at High Sierra Park, down the access road, left onto Wicks Lane, right onto Matador, right onto Vesca Way, left onto Sierra Granda Boulevard, right onto Fantan, left onto Adobe, left onto Morocco, turn around at Sierra Granda, south on Morocco, left onto Fantan, right onto Wicks Lane and back to the park.

3. Amp'd Festival: August 4-6, 2011; 3:00 p.m. to 9:00 p.m.; alley closure between South 26th and 27th Streets between the Skate Park and Subway.

F. Resolution #11-19084 authorizing the issuance and calling for a negotiated sale of \$494,000 Pooled Sidewalk Bonds (WO 05-13 Jackson Street, Phase II and WO 09-02, Miscellaneous/Developer Related Program).

G. Resolution #11-19085 confirming the sale of Lots 9-12, Block 142, Original Townsite of Billings, to RiverStone Health approved by Council at the 6/27/2011 meeting.

H. Second/Final Reading Ordinance #5538 for Zone Change #876: A zone change from Residential 7,000 (R-70) to Residential Multi-family-Restricted (RMF-R) on a 20,235 square foot parcel of land containing an existing 4-plex multi-family dwelling originally constructed in 1955 and legally described as Lot 25 and the west 14 feet of Lot 26, Block 1, Arrowhead Subdivision, located at 519 Crow Lane; Trenton Parks, applicant. Approval of the zone change and adoption of the determinations of the 12 criteria.

I. Approval of extension of preliminary plat approval date for one year for Tuscany Subdivision; setting new expiration date of August 11, 2012.

J. Bills and Payroll:

- 1.** June 10, 2011
- 2.** June 17, 2011

K. Big Sky State Games Half Marathon and 10K Run. Saturday, July 17, 2011, 6:30 a.m. to 10:00 a.m.; Starting at King Ave. West and Shiloh Road following the bike path, continuing west on Rimrock Road to Yellowstone County Club, turning around and following same route back to King Ave. West and Shiloh Road.

Councilmember Astle separated Consent Agenda Items 1A2 and D, and Councilmember Cimmino separated Consent Agenda Item 1J2 and said for the record, she would be abstaining from voting on Item 1A2. Councilmember Clark asked for a legal

opinion if Councilmember Cimmino would need to abstain from 1A2 when the bid was not being awarded and there was no financial involved. City Attorney Brent Brooks said as long as Councilmember Cimmino was not voting on the actual approval, he did not see any reason why she could not vote to at least continue it. He said if it was postponed, she could always renew her recusal.

Councilmember Pitman moved for approval of the Consent Agenda with the exceptions of Items 1A2, D, and 1J2, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved to postpone Items 1A2 and D until the August 8, 2011, meeting, seconded by Councilmember Clark. On a voice vote, the motion was approved 10 to 1. Councilmember Gaghen voted 'no'.

Councilmember Cimmino advised she would be abstaining from Item 1J2, Invoice #745653, due to her employment.

Councilmember Pitman moved for approval of Item 1J2, seconded by Councilmember Astle. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #11-19086 authorizing filing of the annual Federal Transit Administration Section 5307 Grant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised staff had no presentation, but was available to answer questions.

The public hearing was opened.

- **Joe White, Billings, MT**, said he was concerned with the general conditions for building anything in the downtown area. He said he did not have objections but they needed to get the railroad, trains, and diseases under control before sinking a lot of money into a convention center. He said they needed to extend the Montana Avenue historic district instead of spending millions and millions of dollars on a slum mess. (The rest of Mr. White's testimony was inaudible.)

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

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

3. CONTINUATION OF PUBLIC HEARING & 1ST READING ORDINANCE approving the Empire Parking Garage and Northern Hotel Projects as Urban Renewal Projects in the Expanded N. 27th Street Urban Renewal Area - 2008. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Assistant City Administrator Bruce McCandless said as was reported at last week's work session, the Empire Parking Garage would not be built or at least not in its original configuration because the city would receive fewer tax increment dollars than originally anticipated. He said the ordinance also contained the Northern Hotel project, which would proceed as far as they knew. He said the Development Agreement Council approved

simultaneously with the purchase of the property survived regardless of whether the parking garage was constructed or not. He said staff was recommending Council adopt the ordinance after conducting the public hearing.

Councilmember Ruegamer asked what impact it had on the Northern. He said the city bought the Northern parking garage and asked if the city would still own it. Mr. McCandless said that was still to be determined. He said the Downtown Billings Partnership had asked for approximately 30 days to bring recommendations to Council as far as what to do with those properties and the potential construction of the Empire Parking Garage. He said staff had not taken any steps at that point to try to convey the property back to the original owner or to sell it to another party. Mr. McCandless said he really could not directly answer the question. Councilmember Ruegamer asked if the city now owned the old Empire Bar lot. Mr. McCandless said the city owned the entire half block starting with the Windsor Court Building on N. 27th and Montana Avenue all the way to N. 28th.

Councilmember Ronquillo asked if the city was talking to the people in Windsor Court. Mr. McCandless said he knew they were aware the city had encountered some financial issues, but he did not know at what level. He said they were on a month-to-month lease, and he had not communicated directly with them about their continued occupancy of the building.

Councilmember McFadden asked if the city would be experiencing any deadlines with the project. Mr. McCandless said the only deadline was the 2-year limit to hold the property without proceeding with a parking garage. He said the city was also having to manage the office building property, which was something the city was not used to doing or comfortable with. He said disposing of the property, sooner rather than later, would probably be the staff's recommendation.

Councilmember Clark said if the Northern was completed, the city would be up against a deadline because the city needed to provide parking. Mr. McCandless said that was correct. He said in the agreements subsequent to the purchase of the property, the city agreed to provide parking for construction workers in the event the old parking garage was not available while the hotel was under construction. He said if the hotel opened, and the garage was not available for their customers, the city would be obligated to provide parking for the customers until the new garage was constructed. He said those obligations would only be triggered if the existing garage was damaged or destroyed.

Councilmember Ronquillo asked who received the revenue from the parking garage. Mr. McCandless advised Mr. Honaker would continue to receive use of 25 spaces free of charge, and the other 25 spaces would be used by tenants of Windsor Court and were included in the rent.

The public hearing was opened.

- **Greg Krueger, Downtown Billings Partnership, 2815 2nd Avenue North, Billings, MT**, said Mr. McCandless' presentation was concise. He said he had been in contact with the current tenants, and they were very willing to work with the city. He said there may be a possibility they could build a smaller garage that would be phased in, and they would have more information for the Council by the end of the month. Mr. Krueger asked Council to support the ordinance.

Councilmember Ronquillo expressed his concern over the maintenance of the office building the city now owned. Mr. Krueger said he understood and within

the next 30 days they would decide on the status of the building. He said their recommendation may be to tear the building down and turn it into a parking lot. He said even if they went for a year or longer, the current occupants of the building would maintain it. He said their recommendation would be the least amount of risk for the city, which could be to sell it and be done with it; to tear it down; or to try a new plan. Mr. Krueger said the error by the Department of Revenue came as a surprise, and he thought the State of Montana should do a better job of accounting for municipalities.

Councilmember Ruegamer said if the city owned the properties and others would be using them, the city would rent to them and not let them use the properties for free. He said if the Northern Hotel wanted to start using the garage, they would pay rent. Mr. Krueger said that was an option they should talk about because plans had changed drastically. He said in 30 days they would come back with a plan that would address it.

Councilmember Cimmino said in light of the fact that the proceeds were different since the Department of Revenue's determination on the tax increment, the proposed 30-day delay, and the fact that the ordinance addressed two different urban projects, it might be wise to postpone the ordinance until after the 30-day period so Council would have an ordinance to review that would be kosher for them to adopt. City Attorney Brooks advised they could pass one of the projects and continue the other or wait for both for 30 days after the Partnership's report. He said they could also postpone the second reading or continue the first reading until after the 30 days. Mr. Krueger said the Partnership would be in favor of supporting the Northern Hotel project because there was no cost to the city until the project was completed, and be in favor of postponing the other half of the ordinance on the Empire project. Councilmember Cimmino noted that Mr. McCandless advised that if the Northern project were to be finalized or approved at that point, the city would be looking at \$800,000 from the General Fund. Mr. McCandless said because of the shortfall in the tax increment fund based upon faulty information from the Department of Revenue, staff would be bringing a recommendation to the Council on July 25 to approve a loan from the General Fund to the Tax Increment Fund to be paid in FY2012. He said the deficit was in the Tax Increment Fund because the city spent \$2.4 million purchasing the property in anticipation of receiving that much. He said when the city found out it would not receive that much, it created the deficit and caused the request by staff to loan from one fund to another.

- **Joe White, Billings, MT**, said he spoke earlier on the item and his comments still applied. He recommended the continued support of the Northern Hotel.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, suggested setting it aside and dealing with all of the issues when they had all the facts. He said if they did not, it would be a typical city council mess where the city would be trying to dig itself out later. He said he did not believe it was an error by the Department of Revenue, and the facts were clearly available to anyone who wanted to look at them. Mr. Nelson said the Department of Revenue vs. Montana Taxpayers was another issue, and people were challenging the actual amount of taxable value they were being assessed. He said there were a lot of issues out there, and they needed to slow down and wait until they had all of the information.

Assistant City Administrator Bruce McCandless commented that there was \$89,000 of taxes under protest by the time the taxable value was certified to the city, which was a very small increment of taxable value eventually withdrawn by the Department of Revenue (DOR). He said most of the value was in one of two sources. He said they knew about one of the appeals but did not know about 90% of the others, and the DOR made no effort to inform the city. Mr. McCandless said the second part of the loss of taxable value was in the form of centrally-assessed property, which the city had no ability to access because all of it was done in Helena. He said 2009 was the first time in 40 years the State of Montana had reappraised agricultural property, and there were large increases in the amount of taxable value and multiple appeals.

Councilmember Ruegamer said he wanted to clarify that the DOR really did make an error and the information that Mr. Nelson said was available was really not available. Mr. McCandless said that was what he would contend. He said the DOR made two significant errors; one of which they know what the error was and the second the DOR was unable to give the city satisfactory answers about how the error was made.

- **Lisa Harmon, Executive Director of Downtown Billings Alliance**, said she supported the Urban Renewal Projects, the Northern Hotel and Empire Parking Garage. She said Downtown Billings Alliance continued to support them as valid projects that would stimulate the economy. She said they were not going to “throw the baby out with the bath water” because there was a DOR error. She said they would like answers as to how it happened. Ms. Harmon asked the Council to give them 30 days to come back with recommendations.

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

City Administrator Volek advised that staff had become increasingly concerned about the fact that reappraisals were only done in the State of Montana every six years. She said it was a very hurried process, and she strongly suggested when they began their next legislative effort to consider urging the State to shorten the period of time between appraisals. Mayor Hanel commented there were other cities in the state that planned to bring the same matter forward. Councilmember Gaghen asked if there was any basis for waiting 40 years to reappraise agricultural property. Mr. McCandless advised he knew of no logical reason.

Councilmember Clark moved to postpone until August 8, 2011, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved 10 to 1. Councilmember McFadden voted ‘no’.

4. APPROVAL of established standard purchase rate of \$5 per square foot to include a 10% cash incentive discount and a 6-month post sale development contingency for the east 90 feet of vacant Lots 1-2 and all of vacant Lots 3-6, Block 184, of the Original Town of Billings generally located on the corner of 6th Avenue South and South 26th Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

City Administrator Volek advised the parcels had been acquired by the city in 1993 and 1994 for a total of \$73,538. She said there was a party interested in buying the property for the construction of a radio shop for the Montana

Highway Patrol, who would lease the building. She said the party had offered an average of \$1.49 per square foot for the property. She said the offer subsequently was increased to \$3 per square foot in light of recent bids on Block 142 of \$5.00 per square foot. Ms. Volek advised staff was recommending that Council consider setting a minimum of \$5 per square foot for the land and a 10% development incentive discount for cash sales if development on the site was started within six months.

Mayor Hanel asked for the total square footage of Lots 1-6. Community Development Manager Brenda Beckett said the total square footage was 18,500.

Councilmember Ronquillo said it took Council a long time to realize city property was worth something, and it was no longer free. He asked Council to keep the value at no less than \$5 per square foot.

Ms. Volek confirmed there had been two offers received. She said one offer was for all six lots at \$55,000, and the second offer was for only Lots 3-6 for \$42,000.

Councilmember Ruegamer asked where the \$5 per square foot originated. Ms. Beckett advised a market analysis was done by Real Estate by Hamwey on an adjacent property, and staff did not feel it was necessary to spend the money on another market analysis. Councilmember Ruegamer confirmed that the total price for Lots 1-6 at \$5 per square foot would be \$92,500. Ms. Beckett said that was correct. She said the purpose of the staff memo was to ask Council for guidance on where to set the minimum price.

Councilmember Ulledalen said the lots were small, and they needed to be careful not to piecemeal them and leave themselves with property they could not sell.

Councilmember Pitman said he was concerned with locking in the price of \$5 if the market were to fluctuate up and down. He asked if they were being asked to set the standard price city-wide. Ms. Beckett said it was just for the South 27th Street properties that were purchased with TIFD funds and Community Development Block Grant Funds for redevelopment purposes.

Mayor Hanel asked where the funds would go if the subject property was sold. Ms. Volek advised the funds would go to the General Fund because they were from a TIF District that no longer existed.

Councilmember Ronquillo moved to charge a minimum of \$5 per square foot and eliminate the 10% cash incentive discount, seconded by Councilmember Gaghen.

Councilmember Ruegamer amended the motion to sell the subject property as described in Item 4 (east 90 feet of vacant Lots 1-2 and all of vacant Lots 3-6, Block 184, of the Original Town of Billings) for a minimum of \$5 per square foot based on the purchase of all of Lots 1-6 and eliminate the 10% cash incentive discount, seconded by Councilmember Gaghen.

Councilmember Pitman said he was good with the \$5 per square foot but felt they should be flexible with the 10% cash incentive discount.

On a voice vote, the amended motion was approved 10 to 1. Councilmember Pitman voted 'no'.

On a roll call vote, the original motion was approved 9 to 2. Councilmembers Ronquillo, Gaghen, McFadden, Ruegamer, McCall, Ulledalen, Astle, Clark and Mayor Hanel voted in favor. Councilmembers Pitman and Cimmino voted in opposition.

5. RESOLUTION #11-19087 approving and adopting the Fiscal Year 2012 City of Billings Budget. Public Hearing held on 6/13/2011. (Postponed on June 27, 2011, until August 8, 2011. Moved on July 5, 2011, to the July 11, 2011, agenda.) Staff

recommends approval and adoption. (Action: approval or disapproval of staff recommendation.)

City Administrator Tina Volek began her PowerPoint presentation with a brief overview of revenues and expenditures. She showed a breakdown of all revenue funds totaling \$237,039,116 and a breakdown of all expenditure funds totaling \$239,123,424. She said the difference would be made up by carryover. She said in many cases, especially in capital items, money saved from previous years would be brought forward to complete the projects. Ms. Volek advised revenues in the General Fund totaled \$31,042,234, and expenditures totaled \$29,727,958; for a difference of approximately \$1.3 million. Ms. Volek said in the coming year approximately 67% of the General Fund would be inter-fund transfers with the bulk going to the Public Safety Fund. She said Public Safety revenues, including taxes from two public safety levies and the transfer from the General Fund, would be \$33,760,375; and the Public Safety expenditures would be \$33,767,050.

Councilmember Ronquillo referenced the transfer from the General Fund to the Public Safety Fund, and said a prior Council said the transfers needed to be maintained at \$15,000,000. Ms. Volek advised in 1999 when the first of the Public Safety levies was adopted, Council pledged that the total of contributions to Public Safety would not fall below \$15.4 million, which was the amount in that year. She said the amount had varied year-to-year since then. She said the current proposed amount was \$18 million. She said it had ranged between \$13 million and \$18 million since 1999. Ms. Volek said last year the amount for the FY11 budget was \$17.4 million. Councilmember Ronquillo asked if kicking the contribution back to \$15 million would mean Fire and Police would have to make up the difference. Ms. Volek said there would be no way she knew of for them to come up with sufficient revenue to make up a \$3 million gap, and the city would be looking at diminishing services. Councilmember Ronquillo said in 2015 the city would be looking at "falling off the cliff" and asked if enough money could be saved to prevent it from happening. Ms. Volek said the city would not be able to and had done as much as they could through savings the past couple of years.

Mayor Hanel asked, based on the deficit, where the manpower changes would begin, like civilian or programs such as the Crime Prevention Center. Ms. Volek said they had not undertaken those discussions to date. She said it would require a thorough process involving taking a good look at what each program did and how important it was to the public and the Council.

Councilmember Astle said based upon the hit in the TIF District, they could be assured there would not be increased revenues anywhere for the next three or four years and asked if that was a fair assumption. Ms. Volek said it was an assumption they took into account when the budget was prepared. She said they normally counted on 2% growth and they were now only counting on 1%.

Councilmember Ulledalen asked if they should just perpetuate the status quo or have a more robust discussion on what they did and why. He said there was a whole spectrum of things they would need to discuss at some point, such as further consolidations with the county or privatizing certain functions within the city. He said they never really had received a Plan B and always received a Plan A because it was the way it had always been done. He said at some point in time they needed to look more aggressively at reorganizing the government. Ms. Volek said she believed Billings had done a lot toward cooperating with the private sector, such as the management of Par 3,

ball fields, soccer fields, and the animal shelter. She said they needed to look at it from a legal standpoint about what could and could not be done.

Councilmember McCall said she had thought about it a lot and was changing her thought somewhat on supporting the budget because she thought they were at a point where they needed to pass the budget. She said the Council needed to look at priority based budgeting by this fall. Ms. Volek advised staff had been in contact with two individuals from Denver and one locally who operated under priority based budgeting. She said the two individuals from Denver had agreed to come in August to discuss it at a work session.

Councilmember Ruegamer said Councilmember Ulledalen wanted to start now and he did not blame him. He said he would be done with Council in December and he wanted to see them moving. He said he did not want to leave knowing 2015 was still hanging over the city's head. Councilmember Ruegamer said they needed to start the process tomorrow doing something about the budget. He said he was not sure priority based budgeting would be the answer to everything. He said the problems needed resolved and steps needed to be taken quickly.

Mayor Hanel asked Ms. Volek how much had been spent since July 1 on overtime. Ms. Volek said she did not know because the payroll had just started to roll. Mayor Hanel said beginning now they needed to look at where the money was being spent. He said he was going to be rather firm that overtime be completely nixed or only allowed with specific department head approval. Ms. Volek said the fourth of July required overtime for the police and firefighters to enforce the fireworks ordinance. Mayor Hanel said he was not opposed to overtime that was necessary such as the fourth of July, the rock incident, and the explosion. He said it was the non-necessary and abuse of overtime that he was concerned about.

Councilmember Ulledalen said they could also freeze hiring. He said the issue was from poor decisions and at the rate they were going, they either needed to figure out a way to increase taxes or cut costs. He said the city budget was about 80% people and by eliminating police cars, fire trucks, gasoline, copy paper, etc. they were only assessing 20% of their costs. Councilmember Ulledalen said at some point if they did not get more money, they would have to start laying people off, and then the decisions would be who would be laid off and when. He said it was no more complicated than that. He asked if there were things they could do today to freeze or restrict the budget so they did not careen off the cliff. He said they would either have to radically overhaul the government or have more money because even if they could stretch it beyond FY2015 the problem would still be there moving forward. He said the rates of increase in the departments needed to slow down.

Councilmember Ronquillo asked if the city had the \$1.2 million to repair the water reservoir Mr. Mumford reported on the previous week. Ms. Volek advised the city would have to postpone other projects in order to have adequate resources. Councilmember Ronquillo asked if the city had money set aside to pay the last police lawsuit. Ms. Volek advised the city did not and at that point, they did not know the dollar amount. She said the Police Department had set aside a limited amount of money from an unfilled position that would be available but was not sufficient. Ms. Volek advised there were a couple of other issues that had not been settled, as well. She said they would recommend to Council that they consider handling the case like they did with the Fire Department, and that was that the Department bore the cost of making the payment.

Councilmember McCall said she supported what Councilmember Ulledalen said and was in full agreement with it. She said she did not think it was smart to make decisions that evening in a short-sighted sense not knowing all of the unintended consequences that could come with it. Councilmember McCall said she would make a motion during the Initiative portion of the meeting for staff to bring priority based budgeting to the Council to begin the process by September, and that Council be committed to looking at all of the issues that had been outlined.

Councilmember Astle said he voted to pass the budget last time and he would again that evening, but he said the city budget was almost impossible to follow. He asked that each department be included under separate tabs and page numbers be added. He said it needed to be simple to read and understand and if it came to him any other way, he would not vote in favor of the budget again.

Councilmember Pitman asked if they could approve the budget with the exception of not hiring any new employees because there were 3.5 positions pending. Ms. Volek said she was not aware of any personnel changes within any departments for the next several months.

Councilmember Astle moved for approval of the FY2012 Budget, seconded by Councilmember McCall.

Councilmember Clark asked what percentages of the Public Safety Fund went to the Police Department and Fire Department. Ms. Volek advised for 2012 the proposed expenditures in the Police Department totaled \$19,154,064 which included administration, operations, investigations, support services, and animal control. She said the proposed expenditures in the Fire Department totaled \$14,612,986 which included administration, investigations, prevention, equipment maintenance, suppression, 911 Dispatch Center, communications equipment, and BUFSA direct costs.

Councilmember McFadden said he was supporting Councilmember Astle's motion to pass the budget. He said he was hearing on how to better serve our needs in future budgets, but he felt they were holding their current budget hostage to changes in future budgets and it did not make any sense to him.

Councilmember Ulledalen said he agreed it was hard to make assumptions and projections. He said they needed a breakdown on a five-year basis of the General Fund Departments, including transfers to the General Fund and Public Safety, using today's percentages that were transferred from the General Fund to all departments. He said they needed to hold them constant and project over five years. He said then the Council could see exactly where the deficits were. Ms. Volek advised that was what they had done but they may not have been clear on the documentation. Councilmember Ulledalen said the Council needed to see where the deficits were incrementally each year. He said at this point in time, the Council did not know what questions they wanted answered and they were going to send staff off on a priority based budgeting project without really knowing what the problem was. He said the problem was they were running out of money, and the city needed to cut somewhere, or ask for more taxes, or re-invent the government and make radical decisions about what they would be able to provide. He suggested even changing the City Charter. Councilmember Ulledalen said at some point the community needed to get engaged in terms of what it was willing to pay for. He said they knew the deficit was there and their unofficial, un-adopted policies were to just kick the can down the street and let a future council worry about it.

City Administrator Volek said three to four years ago, the Council asked for a budget with zero transfers from the reserves to the General Fund, which they had done. She said this year the Council asked that they look at a zero increase in bargaining with staff in terms of COLA, and one item already approved had that in it. She said when Council asked staff to do something, they took the mission forward and completed it. She said they had looked at combining the Police Department and Sheriff's Department, but they could not come to agreement with the Sheriff's Department on the savings.

Councilmember Ulledalen said he thought it was a Council problem and not a staff problem. He said the Council needed to own up to the trends in the last four or five budgets. He said staff was doing what they were being asked to do, but it needed to be a Council decision and Council agreement on what the issues were and what needed to be addressed.

Councilmember Cimmino said according to Ms. Volek's presentation the All Funds Revenues totaled \$237,039,116 and the All Funds Expenditures totaled \$239,123,424, for a difference of \$2,084,308, which was a deficit budget the city would balance using reserves. Ms. Volek advised it would technically be reserves but it would be allocated reserves set aside for specific projects. Councilmember Cimmino said she felt it was bad business and they should cut spending, but so far they had not talked about that concept.

Councilmember Ronquillo amended the motion to include building the gazebo in South Park this year, seconded by Councilmember Gaghen. Councilmember Ronquillo said the amount to build the gazebo would be \$180,000.

Councilmember Gaghen clarified that the South Side Task Force and others were attempting to raise monies to decrease the \$180,000 amount for the gazebo. Councilmember Ronquillo said any money they collected would be turned over to the city. Councilmember Astle and Councilmember Ulledalen asked where the \$180,000 would come from. City Administrator Volek said it would come from the General Fund and be transferred to the Parks Department.

Councilmember Ruegamer called for the question, seconded by Councilmember Ronquillo.

On a roll call vote, the amended motion was approved 7 to 4. Councilmembers Ronquillo, Gaghen, Pitman, Ruegamer, McCall, Clark, and Mayor Hanel voted in favor. Councilmembers Cimmino, McFadden, Ulledalen, and Astle voted in opposition.

On a roll call vote, the original motion was approved 7 to 4. Councilmembers Ronquillo, Gaghen, McFadden, Ruegamer, McCall, Astle, and Mayor Hanel voted in favor. Councilmembers Pitman, Cimmino, Ulledalen and Clark voted in opposition.

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Comments are limited to three (3) minutes. Please sign up on the clipboard located at the podium.*)

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, said Billings had laws on the books but the police refused to enforce them. He said code enforcement forced people to cut their weeds, code enforcement made sure people were building to code, and police enforced the fireworks ordinance on the 4th of July; but the noise ordinances were never addressed. He said he could not sit in his own backyard

without being bombarded with vehicle noise, car stereo noises, and all kinds of other noises.

Mayor Hanel told Mr. Nelson his point was well received. Mayor Hanel asked Mr. Nelson to call dispatch and file a formal complaint so they could get an officer in the area. He said it would be helpful to identify frequent times. Mayor Hanel asked Mr. Nelson to communicate with him if the problem had not been settled to the best of the city's ability after he had filed the complaint, and he would contact the City Administrator, who would follow-up on it.

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

COUNCIL INITIATIVES

- **McCall:** Moved to direct staff to be prepared to begin priority based budgeting with the City Council no later than September 2011, including answering the items articulated by Councilmen Ulledalen and other councilmembers during the July 11 council meeting, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved 10 to 1. Councilmember Cimmino voted 'no'.

Councilmember Ulledalen said unless Council defined the questions it wanted answered, it was a pointless exercise.

Councilmember McCall said she agreed but they had to start the process somewhere. She said they could begin their processes as a Council in a work session while staff prepared to get ready to begin the process.

Councilmember Gaghen said they needed to have clear parameters as far as what it would be possible to look at such as cuts and which items were funded and mandated by federal, state, or local government. She said she would like to have a breakdown of what latitude they would have.

Councilmember Cimmino said earlier that year several staff members recommended priority based budgeting and Council said 'no'. She said Candi Beaudry talked about it when she presented her budget and Council said 'no'. She said Dr. Joe Michaels suggested looking at priority based budgeting and Council said 'no'. She said now all of a sudden Council was saying it needed to hurry and get it done. Councilmember Cimmino asked what the rationale was for the change of heart. Councilmember Cimmino said she would support it, but she just wanted to know why all of a sudden it was so urgent.

Mayor Hanel said he felt the motion had come about as a result of the budget discussion they had just had. Councilmember Cimmino said they just adopted a deficit budget and once again, she thought they needed to make cuts. Mayor Hanel said they were talking about the motion on the floor, which was to move forward with the planning for priority based budgeting.

Councilmember Pitman said he would like to see more than just across the board cuts, and they could not just say they were going to freeze hiring. He said maybe they needed to have one of those meetings where they went back to the community center to tell their story in a less formal situation. He said he had heard out on the streets that Council was looking at freezing labor or looking at layoffs. He said their own organization was having anxiety over what Council was talking about and how they were talking about it. He said it was not good for morale or good for the city in any way, shape or form; but the reality was they had to have the

discussion. He said they needed to sit down and have the discussion in a less formal format.

Councilmember Clark said priority budgeting would answer a lot of the questions because everything in the budget would be looked at. He said they would go back to the line item approach.

Councilmember Cimmino said she was hearing from Ms. Volek that they would narrow it down to just General Fund and Public Safety. Ms. Volek said that was her recommendation but they could go broader if the Council desired. Councilmember Cimmino made a substitute motion to look at that concept for the city-wide organization that would include all 16 divisions. The substitute motion died for lack of a second.

(Councilmember Astle left the meeting at approximately 8:20 p.m.)

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

- **Mayor Hanel:** Said he was very concerned about overtime and asked that Mr. Weber provide calculations for the Council. He asked that a minimum of quarterly reports be provided to the Council of all of the overtime and after review they would look at the employees who tended to use overtime on a repeated basis. He said any overtime from this point forward must be authorized by a department head unless it was an outright emergency. Ms. Volek said she would have to look at the personnel records. She said once they had the FY2011 budget wrapped up, staff could provide the cost of overtime over the year. Mayor Hanel said he wanted very strict use of overtime for all departments.
- **Ronquillo:** Said on N. 29th between 2nd and 3rd Avenues North there had been very little or no work done on the sky bridge and asked why. Ms. Volek said she had been made aware of it that afternoon, and she was checking into it and would let Mr. Ronquillo know.
- **Ronquillo:** Said money had been provided to produce inserts for the water bills regarding cell phone use while driving, and asked why nothing had been sent out. Ms. Volek said she would accept personal responsibility. She said she was waiting on a copy of the revised flyer. Ms. Volek said since they were into a new budget year and they had not spent the money from council contingency, she would bring back a request to renew it out of council contingency for this year.
- **Gaghen:** Moved to quickly include inserts in the water bills regarding the cell phone ordinance, provide more education to the public, and increase enforcement of the ordinance, seconded by Councilmember Ronquillo. Councilmember Gaghen said she had experienced anxiety that the \$2,500 expenditure authorized generously by the Council from contingency had not been utilized in any way. On a voice vote, the motion was approved 8 to 2. Councilmembers Cimmino and McFadden voted 'no'. Councilmember Astle was absent.

Councilmember McCall said she had received comments and calls from several people who had seen numerous people using their cell phones while driving. She said public service announcements would be good, and they needed to catch people and fine them.

Ms. Volek said she would provide information on the tickets that had been written so far.

Councilmember Gaghen said the City of Butte had followed the city's lead regarding the need for a cell phone ordinance, and Billings was leading the way.

- **Ruegamer:** Said it was the Council's job to approve and pass the budget, which meant understanding it first. He said their second job was to manage the city manager. He said the budget problems they had were not the city manager's problems; and were the problems of the City Council. He said the problems were not what the city manager had done but things the Council had not done. He said he felt Council was now on the right track. Mayor Hanel said he agreed, and it was not a reflection on Ms. Volek.
- **McFadden:** Said he had taken a tour of the Northern Hotel prior to the council meeting. He said the work they had done was tremendous and over \$8 million of private funds had been put into it. He said just because they were having difficulties, it did not mean they needed to pull the carpet out from underneath them. He said it meant they needed to give them more support.

There was no further business, and the meeting adjourned at 8:45 p.m.



ATTEST:

BY: Cari Martin
Cari Martin, City Clerk

CITY OF BILLINGS

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