

**COUNCIL ACTION SUMMARY
CITY OF BILLINGS**

CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE
PEOPLE FLOURISH AND BUSINESS THRIVES.”**

AGENDA

COUNCIL CHAMBERS

March 26, 2012

6:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Mayor Hanel

ROLL CALL: Councilmembers present on roll call were: Cromley, Ronquillo, Cimmino, McFadden, Bird, Ulledalen, Astle, and Crouch. Councilmembers Pitman and McCall were excused.

MINUTES: March 12, 2012 - **APPROVED**

COURTESIES: Mayor Hanel asked for a moment of silence in memory of Owen Neiter, a former councilmember, who had recently passed away.

PROCLAMATIONS: Girl Scouts Centennial

ADMINISTRATOR REPORT - TINA VOLEK

Ms. Volek commented on the following items:

- Item G2 - Veteran Motor Car Club Display of Antique Automobiles Street Closure Request: On council's desk was a copy of a current insurance certificate that was not available at the time the agenda packet was published. Copy was in ex-parté notebook.
- Item 2 – Public Hearing and First Reading Ordinance for Zone Change #885 – text amendment clarifying that both livestock and fowl (poultry) are not allowed uses within the city limits:
 - ✓ On council's desk was a copy of a letter, dated 3/22/12, sent by Lois Pavek in favor of backyard hens. Copy was in ex-parté notebook.
 - ✓ On council's desk was a copy of a letter, dated 11/18/11, from John Felton of RiverStone Health concerning potential public health issues related to domestic chickens. Copy was in ex-parté notebook.
 - ✓ 8 e-mails received today as of 4:00 p.m. – 6 in favor of urban hens and 2 against urban hens. Copies were in ex-parté notebook.

- Item 4 – Public Hearing and Resolution ordering construction of improvements for W.O. 12-02, Miscellaneous/Developer Related Project: On council's desk was a copy of a letter from Lauralee Marchant, dated 3/22/12, asking that the storm drain system be improved before new sidewalks and curbs were installed.
- Ms. Volek reminded Council the ranking on various Park projects was due by Wednesday.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 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. There were no speakers, and the public comment period was closed.

1. **CONSENT AGENDA** -- Separations: **A4, L2, H**

A. **Bid Awards:**

1. **2012 Caterpillar Model 908H Compact Wheel Loader for Parks Department.** (Opened 3/13/12) Recommend Tractor & Equipment Company; \$72,608. **APPROVED**
2. **Two (2) Landscape Trucks with Dump Bodies for Parks Department.** (Opened 3/13/12) Recommend I-State Truck Center; \$159,650. **APPROVED**

3. **Waterborne Traffic Paint.** (Opened 3/13/12) Recommend Ennis Paint; Year 1: Gallon Tote - \$9.797 White, \$9.756 Yellow; 5-gallon buckets - \$10.801 White, \$10.760 Yellow; Year 2: Gallon Tote - \$11.267 White, \$11.219 Yellow; 5-gallon Buckets - \$12.421 White, \$12.374 Yellow; Year 3: Gallon Tote - \$12.957 White, \$12.902 Yellow; 5-gallon buckets - \$14.284 White, \$14.230 Yellow. **APPROVED**

4. **W.O. 11-08 WTF High Service Pump Station Transfer Pump H2 Replacement.** (Opened 3/13/12) Recommend Ace Electric, Inc.; \$815,000. **APPROVED 8 TO 0. CM CIMMINO ABSTAINED.**

B. **Change Order #2 - W.O. 05-15, Howard Heights Park Improvements**, Good Earth Works; \$22,750. **APPROVED**

C. **Change Order #1 (Final) - W.O. 11-03, 2011 Street Maintenance City Crack Seal Project**, Harddrives Construction; \$23,825.34. **APPROVED**

D. **W.O. 10-27, Central Avenue Sidewalks.** (1) Right-of-Way Agreement - \$3,693.76, Warranty Deed, and Right-of-Way Easement with Gerald A. Neumann and Edward Jorden for Lot 7, Block 9, Central Acres Subdivision, 5th Filing; (2) Right-of-

Way Easement with Aspen Grove Partnership for a portion of Certificate of Survey 1232. **APPROVED**

E. Assignment and Transfer of the Non-Commercial Aviation Ground Lease from Sarpy Creek to the United States Department of Agriculture (USDA) and **approval** of a new Government Lease for Real Property with the USDA. **APPROVED**

F. Revolving Loan Fund Extension for Urban Frontier Development Venture, L.P. **APPROVED**

G. Street Closures:

1. Montana Women's Run. Saturday, May 12, 2012, 5:30 a.m. to noon; starting at 2nd Ave. N and N. 24th, to N. 10th, to 3rd Ave. N, to Division, to Clark Avenue, to 7th St. W, to Yellowstone Avenue, to 2nd Ave. N, finishing at 2nd Ave N and N. 30th St. Barricades to be placed on Friday, May 11, 2012, 6:00 p.m. at 2nd Ave. N and N. 30th for timing equipment at finish line. **APPROVED**

2. Veteran Motor Car Club Display of Antique Automobiles. Saturday, June 23, 2012; 8 a.m. to 4 p.m.; North 28th Street between 2nd and 3rd Avenues North. **APPROVED**

H. Acceptance of Donations to the Police Department to be used for the purchase of a police canine; Animal Surgery Clinic of Billings - \$1,200; Two Anonymous Donors (\$500 and \$1,000). **APPROVED**

I. Acceptance of donation from the Breakfast Exchange Club of Billings to the Police Department Crime Stoppers Program; \$6,500 (\$4,500 deposited in the monetary rewards program and \$2,000 for advertising). **APPROVED**

J. Second/Final Reading Ordinance #12-5551 revising BMCC Chapter 8, Cemeteries, Sections 8-302, 8-331, 8-332, and 8-334, increasing the amount of the Perpetual Care Fund from 30% to 35% and amending certain regulations for graves, markers, and burial. **APPROVED**

K. Second/Final Reading Ordinance #12-5552 expanding Ward I (Annexation #12-01) for Tract 2A of Certificate of Survey 1404 Amended; a fraction of the southwest corner of Lot 4, and a portion of Lot 13, Clark Subdivision; generally located at 108 Nall Avenue. **APPROVED**

L. Bills and Payroll:

1. February 21, 2012 - **APPROVED**
2. February 27, 2012 – **APPROVED 8 TO 0. CM CIMMINO ABSTAINED**
3. March 5, 2012 - **APPROVED**

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

#885: a text amendment to Section 27-607 of the Billings, Montana, City Code (BMCC) clarifying that both livestock and fowl (poultry) are not allowed uses within the City of Billings. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **DELAYED FOR 30 DAYS ON A 7 TO 2 VOTE.**
CM CIMMINO AND CM ASTLE VOTED IN OPPOSITION OF DELAY.

3. PUBLIC HEARING AND RESOLUTION #12-19146 assessing the cost of cutting and/or exterminating weeds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

4. PUBLIC HEARING AND RESOLUTION #12-19147 ordering construction of improvements identified in W.O. 12-02, Miscellaneous/Developer Related Project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
APPROVED

5. PUBLIC HEARING AND RESOLUTION #12-19148 vacating the alley within Block 14 of Suburban Subdivision between 3rd Street West and 4th Street West and Cook Avenue and Howard Avenue; Pepsi-Cola Bottling Company, petitioner and owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
APPROVED

6. PUBLIC HEARING FOR VARIANCE #CC-12-01: a variance from the Site Development Ordinance Section 1208 (h)(5) allowing two additional curb cuts on the north side of Frontier Drive located on Lot 4, Block 1, Riverfront Pointe Subdivision. Dan Marsich, developer. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

7. PUBLIC HEARING AND SPECIAL REVIEW #897: a special review for the location of an all-beverage license with gaming and an outdoor patio and waiver of the 600-foot separation for an existing location approved for a beer and wine license with gaming and a patio in a Highway Commercial (HC) zone on a 37,750 square foot parcel of land legally described as Lots 2B and 2C, Block 1, Dicono Subdivision and located at 501 Hilltop Road. Michael Schmechel, applicant. Zoning Commission recommends conditional approval and waiver of the 600-foot separation. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

8. PUBLIC HEARING FOR ZONE CHANGE #854 (ACTION DELAYED FROM 2/27/12): A text amendment to Section 27-500, Historic Preservation, amending the language to update terms, allow local designation of historic properties or districts, require a Certificate of Appropriateness for exterior remodeling of properties on the local or National Register, and allow penalties for unauthorized demolition of properties within recognized historic districts. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

9. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE
#883: a text amendment to Section 27-310(i)9 of the Billings, Montana, City Code (BMCC) regulating the types of siding allowed on detached accessory residential structures. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

10. PUBLIC HEARING AND FIRST READING ORDINACE FOR ZONE CHANGE
#884: a text amendment to Sections 27-305 and 27-306 of the Billings, Montana, City Code (BMCC) regarding definitions for community residential facilities and regulating where correctional facilities – public and private – may or may not be located. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED 7 TO 1. CM ULLEDALEN VOTED IN OPPOSITION. MAYOR HANEL ABSTAINED.**

11. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE
#886: a text amendment to Section 27-305 of the Billings, Montana, City Code (BMCC) regarding lot area requirements for dwelling units, elimination of references to townhomes or townhouses, deleting the requirement for additional side setbacks in the Residential 5,000 (R-50) zone and removing the zero lot line references. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

12. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE
CHANGE #887: a text amendment to Section 27-1704, of the Billings, Montana, City Code (BMCC) eliminating reference to specific fees for zoning application. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

13. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE
CHANGE #888: a text amendment to Section 27-310 of the Billings, Montana City Code (BMCC) creating two subsections that regulate detached accessory buildings in residential zones. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED 7 TO 2. CM CIMMINO AND CM RONQUILLO VOTED IN OPPOSITION.**

14. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE
CHANGE #889: a text amendment to Sections 27-1401 through 27-1424 of the Billings, Montana City Code (BMCC) North Shiloh Corridor Overlay District, correcting reference errors and amending sections regulating signage for assembly uses in residential zones. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

15. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE
CHANGE #890: a text amendment to Sections 27-1429 through 27-1451 of the Billings, Montana City Code (BMCC), South Shiloh Corridor Overlay District, to correct reference errors and amend sections regulating signage for assembly uses in residential zones.

Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

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

- **Leo Barsanti, 3316 Pipestone, Billings, MT**, spoke on lighting district overcharges by NWE and asked for a letter of support from Council to the Public Service Commission.
- **Russ Doty, 3878 N. Tanager Lane, Billings, MT**, spoke on the lighting district overcharges by NWE and asked for a letter of support from Council to the Public Service Commission.
- **Kevin Nelson, 4238 Bruce Avenue, Billings, MT**, said he was not in favor of shifting the tax burden of Park Maintenance Districts from one party to everyone. He also asked if the City received \$1 million from the recent massage parlor investigation. He also commented there needed to be 101 classes on barking dogs.
- **Doug Ruebke, 110 S. 31st, Billings, MT**, said there should be restrictions on urban chickens, and other farm animals in the city limits should be outlawed.
- **Carol Braaten, 183 Lexington Drive, Billings, MT**, said a proposed ordinance on urban chickens should be amended to include classes on the care of the hens.

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

COUNCIL INITIATIVES

- **Ronquillo**: MOVED to have staff come back with a new ordinance allowing chickens in backyards for a one-year trial basis, requiring a course on how to raise chickens, and requiring the issuance of a city permit to raise chickens; seconded by Councilmember McFadden. Ulledalen AMENDED the motion to have staff present at a work session reasonable guidelines on urban chickens based on Missoula's and Bozeman's urban chicken ordinances; seconded by Councilmember Crouch. The amended motion was approved 6 to 3. Councilmembers Astle and Cimmino and Mayor Hanel voted in opposition. The original motion was approved 6 to 3. Councilmembers Astle and Cimmino and Mayor Hanel voted in opposition.
- **Crouch**: MOVED that Council provide a letter to the Public Service Commission in support of Leo Barsanti regarding NWE charges, seconded by Councilmember McFadden. On a roll call vote, the motion was approved 5 to 4. Councilmembers Ronquillo, McFadden, Bird, Astle and Crouch voted in favor. Councilmembers Cromley, Cimmino, and Ulledalen and Mayor Hanel voted in opposition.
- **Bird**: MOVED to have staff look into slowing the traffic on Central Avenue from 6th to 24th, making the street safer, and making the businesses more accessible, seconded by Councilmember Crouch. On a roll call vote, the motion failed 5 to 4.

Councilmembers Cromley, Ronquillo, Cimmino, Astle and Mayor Hanel voted in opposition. Councilmembers McFadden, Bird, Ulledalen, and Crouch voted in favor.

ADJOURN: 9:22 p.m.

Additional information on any of these items is available in the City Clerk's Office.

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.