

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 9, 2012

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 W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Bird gave the invocation.

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

MINUTES: March 26, 2012 – Councilmember Astle moved for approval, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

COURTESIES: Mayor Hanel mentioned the recent Energy Summit held in Billings at the Rimrock Auto Arena and thanked the organizers and everyone who participated. He said it was well attended, a huge success, and a benefit for the community and the region.

PROCLAMATIONS:

- Fair Housing Month - April
- National Library Week - April 8-14, 2012 – Read by Library Director, Bill Cochran. Mr. Cochran shared there would be activities held every day that week at the downtown library and at their pilot project branch at the MSU-B College of Technology. He said they had jointly received computers from the Department of Commerce who partnered with the Gates Foundation, and they would have computers at both locations for people to try out or use in classes.
- 2012 Year of Brain Injury Awareness
- Mayor Hanel advised there would be a forthcoming proclamation on behalf of The Family Tree in recognition of April being Child Abuse Prevention Month. He referenced the pinwheels placed on the courthouse lawn for a ceremony held that past Friday in recognition of child abuse nationwide.

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items.

- Item N – Resolution of Intent to De-Annex #12-03: Copy of letter received from the petitioners, James and Stella Ziegler, dated 4/2/12, on Council's desk. Copy in ex parte notebook.
- Item O – Resolution fixing the form and details of bond sale for SID 1392: Copy of memorandum from Patrick Weber, Finance Director, with an updated resolution for Yellowstone Family Park sent in the April 6 Friday packet. She said

the primary update was a new interest rate received on the bonds. Copy in ex parte notebook.

- Reminder of the joint meeting between the City Council and School District No. 2 Board at noon on April 12, 2012, at the Lincoln Center.

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

A. Bid Awards:

1. W.O. 12-04, Accessibility Ramp Project. (Opened 3/27/12) Recommend J & J Concrete; \$249,345.

B. Engineering Services Contract with Morrison-Maierle, Inc. to provide design and construction services for the Aviation and Transit Department (4/9/12 - 4/8/17).

C. Approval of the Assignment and Transfer of the West End Hangar Ground Lease from Hat Creek Hangar Co., LLC, to Wireless Communications; and **approval** of Amendment No. 1 updating lease language.

D. Approval of water rights settlement between the U. S. Department of Interior, U.S. Bureau of Indian Affairs, U.S. Bureau of Reclamation, and the Crow Tribe. Staff recommends approval. (Action: approval or disapproval of staff recommendation.

E. Acknowledging Receipt of Petition to Annex #12-02: three parcels totaling approximately 0.85 acres located on Lincoln Lane in the Billings Heights and addressed as 337 and 325 Lincoln Lane; Brent Nelson, petitioner; and setting a public hearing date of April 23, 2012.

F. Confirmation of Probationary Police Officers David Firebaugh and Timothy Doll.

G. Acceptance of Donations to sponsor the 2012 Analysis of Impediments to Fair Housing Choice; Housing Authority of Billings - \$10,000; HRDC District 7 - \$5,000, including assistance with survey mailing; Billings Association of Realtors - \$1,000 (additional \$1,000 pending); First Interstate Bank - \$1,000.

H. Acceptance of Donation from Century Link to remove its utility lines from the alley between North Broadway and North 29th Street for construction of new library building at no cost to the City; estimated value - \$15,000.

I. Acceptance of Donation to Parks, Recreation, and Public Lands for bike rack at Swords Park Trailhead; Kathie and Steve Shandera through BikeNet; \$700.

J. Acceptance of Donation to the Police Department to send four Honor Guard members to the National Law Enforcement Memorial Week in Washington D.C.; Billings Police Foundation; \$2,500.

K. Approval and Acceptance of grant award from FM Global to Billings Fire Department for purchase of digital camera and associated equipment; \$2,707.

L. Approval and Acceptance of the 2012 High Intensity Drug Traffic Area (HIDTA) Award from the Executive Office of the President, Office of National Drug Control Policy, \$190,257.

M. Approval and Acceptance of 2012 ConocoPhillips Company grant; \$6,000 to the Police Department; \$6,000 to the Fire Department.

N. Resolution of Intent #12-19149 to De-Annex #12-03: approximately 13.82 acres of undeveloped land known as Tract 81-A, Certificate of Survey 2165, in the Briarwood Planned Unit Development; James and Stella Ziegler, petitioners; and set a public hearing for May 14, 2012.

O. Resolution #12-19150 fixing the form and details of bond sale for SID 1392.

P. Second/Final Reading Ordinance #12-5553 for Zone Change #854: 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.

Q. Second/Final Reading Ordinance #12-5554 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.

R. Second/Final Reading Ordinance #12-5555, #12-5556, #12-5557, #12-5558 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.

S. Second/Final Reading Ordinance #12-5559 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.

T. Second/Final Reading Ordinance #12-5560 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.

U. Second/Final Reading Ordinance #12-5561 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.

V. Second/Final Reading Ordinance #12-5562 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.

W. Second/Final Reading Ordinance #12-5563 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.

X. Final Plat Approval of Holling Ranch Subdivision, Amended Lot 9; and **approval** of a variance from Section 23-406(B)(6) of the City Subdivision Regulations allowing for the dedication of 10 additional feet of right-of-way for Bench Boulevard.

Y. Bills and Payroll:

1. March 12, 2012
2. March 19, 2012

Councilmember Cimmino separated Consent Agenda Items E, P, and Y2. Councilmember Ronquillo moved for approval of the Consent Agenda with the exception of Items E, P, and Y2, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item E and said the recommendation in the staff report was to set the public hearing for April 23, 2012. She said there had been a request made for further discussion and moved to postpone the public hearing to the regular business session of May 7, 2012, seconded by Councilmember Pitman. Councilmember Astle asked for the reason for wanting to delay the public hearing. Councilmember Cimmino said she had received communication from the Heights Task Force chairperson, who did not have the ability to put it on the agenda for the membership to review, and it was basically a routine matter.

Mayor Hanel asked staff if the postponement would cause scheduling concerns. City Administrator Volek advised the public hearing had already been advertised for April 23 in order to meet notification deadlines. She said staff recommended opening the hearing on April 23, not closing the public hearing, and postponing action until the first business meeting in May. Councilmember Cimmino was in agreement.

Councilmember Astle moved to amend the motion to start the public hearing on April 23 and keep it open until the first business meeting in May, seconded by Councilmember Pitman.

Councilmember Ulledalen asked if they were just delaying it at the request of the Heights Task Force. Councilmember Cimmino said as a routine matter the Heights Task Force liked to review zoning applications, as well as any annexation that came before the governing body. Councilmember Ulledalen asked if there would be any issues with state law or the proponent.

Mayor Hanel asked Wyeth Friday, Planning Division Manager, if there would be any issues for the Planning Department. Mr. Friday said the public hearing for April 23 had been published, and they had signed the property for the hearing on April 23, so they would need to deal with that. He said the applicant was present, and he was expecting the public hearing to be on April 23. Mr. Friday said they had notified the task force, but staff could make it work, if necessary. Councilmember Cimmino thanked Mr. Friday for his clarification and feedback on the matter that was sent via e-mail earlier that morning.

Councilmember Ulledalen asked if anyone could call in and delay anything on the agenda. Ms. Volek said it was up to the Council to decide, which was what they were being asked to do. Councilmember Ronquillo said he would like to hear from the petitioner to see if he had an issue with the delay.

Brent Nelson gave his address as PO Box 20382, Billings, MT 59104. Councilmember Ronquillo asked Mr. Nelson if he would have a conflict with the delay. Mr. Nelson said he had gone through the process, paid his money, had people lined up, and was ready to go. He said he was required to follow time periods and he had done what he was suppose to do, and the delay request was because the task force was not ready to go. Mr. Nelson said he was available to answer questions, and it seemed pretty straight forward to him.

Councilmember Bird said she agreed with Mr. Nelson. She said he followed the process and procedures, and Council needed to stick with the agenda. She said if the task force had an issue, they could come back and talk about it. She said she did not want to be held hostage to the whims of any task force in town when things were publicly noticed, and there was a process they should be following.

Councilmember Cimmino confirmed for the record that the communication went out on March 23, and the Heights Task Force did not have its meeting until March 27; therefore, the agenda had already been communicated and transmitted to the membership. She said it was a simple request to have some input as a routine matter.

Councilmember Pitman referenced Mr. Nelson's comment that he was ready to go. He said they were just talking about annexation at that point and asked Mr. Nelson what he meant by ready to go. Mr. Nelson said with each delay in the spring, he had to compete for time periods and processes in the development. He said it put him off, he had prepared ahead of time, and it was more than just a simple thing to him.

Councilmember Pitman asked if he was planning to build. Mr. Nelson said he was. He said there were time constraints, and people would be getting busier. Councilmember Ulledalen commented a delay would also cost money.

Councilmember McFadden asked if Mr. Nelson had a construction timetable already in place. Mr. Nelson said he did, and he needed to take advantage of the construction window in Montana.

On a roll call vote, the amended motion failed 7 to 3. Councilmembers Cromley, Ronquillo, McFadden, Bird, McCall, Ulledalen, and Mayor Hanel voted in opposition. Councilmembers Pitman, Cimmino, and Astle voted in favor.

Councilmember Cimmino withdrew her motion to delay.

Councilmember Ulledalen moved for approval of Item E, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 1. Councilmember Pitman voted in opposition.

Councilmember Cimmino referenced Item P and said she would abstain. Councilmember Ronquillo moved for approval of Item P, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Item Y2, Invoice #753960, submitted by her employer, and said she would abstain. Councilmember Ronquillo moved for approval of Item Y2, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

1. PUBLIC HEARING AND RESOLUTION #12-19151 approving and adopting Third Quarter Budget Amendments for Fiscal Year 2011-2012. Staff recommends approval. (Action: approval or disapproval of staff recommendations.) City Administrator Tina Volek advised staff had no presentation but was available to answer questions.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced the last page of the budget amendment and the Public Safety Fund – Fire Department entry. He said the notation said the revenue returned to the City from the South TIF adjustment would be used to fund construction. He said he would argue that it was not the city's money and said it was the taxpayers' money. He said it was an overpayment of the taxpayers due to the miscalculation of the Department of Revenue. Mr. Nelson referenced the first chapter of Title 15 under General Revenue Laws of the State, Section 15-1-503, Refundable Overpayment Procedure. He read "tax collected by the department, and if there was no law providing for a refund, the department shall refund the amount of the overpayment to the taxpayer, plus penalty and interest." Mr. Nelson cautioned the Council about spending the money because it was not theirs to spend.

Mr. Nelson asked if the MMIA \$1 million issue had ever been resolved. Ms. Volek said Mr. Nelson was referring to a matter of litigation involving an individual officer in which the Montana Municipal Interlocal Authority (MMIA) paid

a court settlement involving the City of Billings. She said there was a debate about whether they should have charged the city for a portion of it. She said MMIA paid it, and it had not been resolved. Ms. Volek said it went to mediation, but the mediation never occurred. She said it had been a number of years now, and the city inquired periodically but had heard nothing from MMIA on the matter. She said they were awaiting a decision at MMIA's level.

Ms. Volek said TIF funds were not additional tax funds. She said they were taxes that were charged because of increased value within the district. She said when a TIF District was created, the local agencies agreed to take the amount of taxation they received at that time. Ms. Volek said in January 2011 the South Side TIF District was created and taxes did not go up as a result of the TIF District; they went up as a result of increased valuation in the district. She said the extra TIF money that came in because the tax values had increased went to the TIF District for expenditures on public projects. Ms. Volek said they had discussed it with the Department of Revenue and as a result, the city, county, state, and school district were refunded a portion of what was put into the TIF District incorrectly. Ms. Volek advised the agenda item was to provide equal accommodations for female firefighters, and that was what they were recommending the money be used for.

Councilmember Ronquillo said he was still confused and asked what revenue was being taken from the South Side TIF District because he was always told the money had to stay within the TIF District. Ms. Volek advised there were two different propositions: (1) the land was not included erroneously and, as she understood it, it reduced the amount of payment that had to be paid back. (2) the amount of money that was over-estimated should have gone to the taxing entities instead of going to the TIF District. She said the money was being returned because the TIF District was over-estimated due to the Elysian School District and School District No. 2 being combined in error when the Department of Revenue did the calculations. Councilmember Ronquillo said at the south side tax increment meeting held on Tuesday evening, it was said that there were eight businesses that paid but no revenue was received, so they made a decision to have two legislators in attendance contact someone in Helena and ask if they could get the revenue back. Assistant City Administrator Bruce McCandless explained that the businesses were not properly classified as being in the tax increment district. He said they paid their taxes just like every other property owner, but a portion of their taxes should have been attributed to the tax increment district. He said that was not done at the time they were billed but it had now been done and was part of the correction made for the entire district, not just the eight properties. Mr. McCandless said it had been accounted for, and it was money that should have gone into the district, but did not, and now it had. He said too much money was in the district, and it was now coming back to the General Funds of the city, state, county and school district. Councilmember Ronquillo said last week when they talked about it, they had asked Attorney Brooks to take a look at it because they did not want to shortchange the school districts. Attorney Brooks advised the adjustment had already been made by the Department of Revenue. Councilmember Ronquillo asked if both school districts

were getting their money. Ms. Volek said Elysian School had not been made whole because they had negative funding so the question was what they wanted to do with it. She said Elysian was a district with very high state funding and received about \$8,000 per pupil. She said they had a student/teacher ratio of 11 to 1, and they seemed to be in fairly good financial shape. Ms. Volek said the information would be brought to Council to decide how they wanted to deal with Elysian School. Ms. Volek said the amended dollar amount was correct according to both the city's calculations and the Department of Revenue's calculations. Councilmember Ronquillo said it was all very confusing, and he felt there were two different stories floating around. He asked Ms. Volek to attend the next meeting and explain things, and she said she would. Ms. Volek commented the district would continue to receive approximately \$1.2 million annually. Councilmember Ronquillo asked if the reduction would show up on the tax statements, and if not, they had more explaining to do. He said they needed to come up with some type of form explaining it. Ms. Volek said it would not show on the tax statements, so she would be happy to provide the information to them. She said it was not the tax number itself that changed. She said the proportion that was given to TIF and the proportion that was given to general taxes would change. She said the dollar amount total should not change.

Councilmember Pitman asked if the \$39,000 for the remodel was in a separate fund or in the General Fund. Ms. Volek advised it was in the General Fund. Councilmember Pitman asked for the total amount that was put back into the General Fund. Ms. Volek said she thought it was between \$400,000 and \$450,000 for all the jurisdictions to be split proportionately among the jurisdictions. Ms. Volek referred the question to Mr. McCandless. Mr. McCandless said the city received about 20% of every dollar of property tax paid, so 20% of \$475,000 would be somewhere around \$100,000. He said he thought that was the number that was recorded, but he would provide Councilmember Pitman with the exact amount the following day. Councilmember Pitman said his only confusion was with the statement made by Ms. Volek that if it was not taken out of the TIF District money, it would be taken out of the General Fund. Ms. Volek said it was already in the General Fund, and she had spoken in error.

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

Councilmember McCall moved for approval of Item 2, approving and adopting 3rd quarter budget amendments for FY2011-12, seconded by Councilmember Ulledalen.

Councilmember Cimmino said basically the discrepancy then was to take \$39,000 out of the General Fund to pay for the two restrooms to accommodate the female firefighters, and the \$39,000 was already in the General Fund. Ms. Volek said that was correct. Councilmember Cimmino amended the motion that Item 2 be approved as submitted with the exception of the Public Safety Fund using the General Fund for the restroom facilities instead of the TIF District money. Ms. Volek advised it would be the General Fund. The amended motion died for lack of a second.

On a voice vote, the original motion was approved 9 to 1. Councilmember Cimmino voted in opposition.

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

The public comment period was opened.

- **David Strong, 206 Avenue E, Billings, MT**, said he was concerned about the impact of the coal trains to Billings in future years. He showed a map and pointed out the Wyoming coal fields and the location of Billings. Mr. Strong said what that meant was any train that came from the coal fields east to any of the ports on the west would be coming through Billings. He said any activity in the ports that were shipping coal to other places such as Asia and South America would increase the impact to Billings. He referenced the Cherry Point port near Bellingham, WA, and said it was currently undergoing a scoping process and the EIS process for the 53 tons of coal to be shipped out. Mr. Strong said if they maximized it, 53 tons would come through Billings, and that was only one of six ports activated during the process. He said Billings needed to be in on the scoping process and the environmental impact statements for any of the port openings for coal shipping to Asia. Mr. Strong said they would like to talk about it in more detail at the next work session.

Councilmember Ulledalen asked Mr. Strong what he was asking from the City of Billings because it was more of an issue of interstate commerce and international trade. Councilmember Ulledalen said they understood there would be impacts, but it was really not the city's battle. Mr. Strong said it would be an impact on the City of Billings, and they were recommending that the City Council and others such as the County Commissioners recommend to the County Planning Board to formally send a request to be included in the scoping process at Cherry Point. He said now was the time to be in on the EIS scoping process.

Councilmember Astle asked Mr. Strong if he had any idea what it would cost the City of Billings to attend and be involved. Mr. Strong said he did not think there would be any financial cost, but he would find out. Councilmember Astle asked if the City would need to have someone onsite. Mr. Strong said he would find out if they were put on the agenda the following week.

Councilmember Bird asked Mr. Strong if he was aware of other communities along the travel pattern from the coal fields to the ports that were requesting to be involved or be a part of the planning and discussions. Mr. Strong said none were in a worse position than Billings because Billings was the bottleneck. He said right after Billings the coal trains could go north, as well as to Oregon or Washington, or even through Bozeman or Helena. He said he understood Helena and other cities in the Columbia Gorge were also being approached.

Councilmember McCall said she felt it was worthwhile for the Council to hear the information. She said they knew international business would continue to increase. She said there would be an impact on the city, and she felt it would be worthwhile spending a few minutes on a work session agenda. She said

Planning Director Candi Beaudry and Darlene Tussing had information about it, and she would be interested in hearing a little bit more; not saying they were getting themselves into the process. Councilmember McCall said she understood Councilmember Ulledalen's concerns but she also felt they needed accurate facts about the future.

Councilmember Ronquillo said a meeting was held with the railroad people, who said the facilities in Seattle and Portland only had until 2016 before they closed because they were trying to get permits in order to spend millions of dollars to upgrade their facilities, and they did not know if they would get the permits. Councilmember Ronquillo said Billings would definitely be impacted with the 40 trains being talked about; 20 full and 20 empty. He said he was told the trains would be 135 cars long. He said the County Commissioners asked Ed Gulick to come back to the Policy Coordinating Committee (PCC) meeting for further discussion. He said they needed to hear both sides of the story, and he would like to hear from the railroad people. Councilmember Ronquillo told Mr. Strong he did not think they could put him on the work session agenda the following week because they needed to get a hold of the train people to give their side of the story. He asked Mr. Strong if he would contact them and ask them to put on a presentation.

City Administrator Volek said she consulted with Planning Division Manager, Wyeth Friday, and she felt there was a request being made to allow the city to participate in the Cherry Point scoping process. She said it was her understanding from Mr. Friday that ultimately the group would like the PCC to vote to ask to have the city included in the Cherry Point scoping, so they were making a presentation the following night to the Planning Commission. She said a series of presentations were being made to each of the groups that were voting as part of the PCC.

Councilmember Ulledalen asked why the PCC was even relevant. Ms. Volek referred the question to Mr. Friday. Mr. Friday said it was his understanding the request was to have each of the PCC entities bring forward a request that the PCC be included in the scoping effort and separately to have each entity included in the scoping effort. Councilmember Ulledalen asked what the point was for asking the PCC. Mr. Friday said it was his understanding it was because it was a transportation issue.

Ms. Volek advised there had been some discussion of a study to look at moving the train tracks. She said in the city's federal appropriation process a number of years ago, funds were requested in the amount of \$300,000 for the study. She said the anticipated cost of moving the railroad tracks was \$300 million, and the federal government's indication at the time was the likelihood of receiving federal funds was highly doubtful because it was also a situation in many other communities around the country. Ms. Volek said a local group called the Over, Under, and Around Committee had looked at it and in the end they determined it was just not the right time. Ms. Volek advised next week was the final work session before the budget hearings started, and they would be having a budget workshop every Monday or Tuesday in May, which was supposed to be devoted solely to budgeting. She said, in addition, they had priority based

budgeting in mid-May. She said there was also a very lengthy work session on April 16. Ms. Volek asked when the Cherry Point decision would be made. Mr. Strong said it would be early summer. Ms. Volek asked the Council for direction on whether to do a special meeting on April 30 or to include the topic on the next work session.

Councilmember Ulledalen said he knew rail traffic was a problem downtown, and there was a multitude of issues with the tracks. He said farmers wanted to ship more and more wheat and soy beans to India and China, and there was trade coming back from the Port of Olympia down into the gulf coast area. He asked Mr. Strong if he was opposed to all rail traffic or if his objective was just to stop the coal traffic. Mr. Strong said his plea was that if they had 160 million tons of coal going to the ports that it would have a significant impact in Billings, and there was an opportunity to intelligently reflect on the impacts. He said he thought the ultimate consumers should pay for the cost to Billings that the impacts would cause. Councilmember Ulledalen asked Mr. Strong if he would be interested in spreading the impacts other than just on the coal. Mr. Strong said he was focused on the coal and ports, and he did not know about the others. Councilmember Ulledalen said he felt the letter they received contained a fair amount of misinformation from the standpoint that there probably were six or seven ports under consideration but in reality probably one or two would be built. He said he felt the numbers provided were dramatically overstating the impact with what could potentially be happening and asked how to get accurate numbers. Councilmember Ulledalen said he did not think they had time to deal with it. Mr. Strong said they were asking for accurate numbers, and they would be included in the scoping process. Mr. Strong said the scoping process they were asking the city to be a part of was the Cherry Point port, which was the farthest along in the scoping process.

Mayor Hanel asked if Mr. Strong's concern was the trains or getting funding from Asia. Mr. Strong said he did not know who would bear the cost of the increased train traffic, but he thought the Chinese consumers should be paying for some of the impacts the trains would have to Billings. Mr. Strong said what he was concentrating on was the increased train traffic.

Councilmember Astle asked if he was looking for monetary compensation and asked what the impact would be on Billings other than grumpy people sitting and waiting for a train to pass. He asked Mr. Strong what he would do with the monetary compensation for the impacts. Mr. Strong said they did not know what all of the impacts would be but they knew there would be increased diesel fumes, increased health problems, problems with ambulance and police travel between the north and south sides, and dust problems from the trains. He said each train car lost 500 pounds of coal dust by the time it reached the coast. Mr. Strong said having a full scale environmental impact statement would help them to intelligently identify the various impacts.

Councilmember Bird said she would attempt to articulate what Mr. Strong was asking because she believed they were reading a little too much into his request. She said she thought all he was asking the City Council to do was to be proactive and to request to be a part of the conversation upfront. She said it was

really not about money but to be a part of a conversation with the Cherry Point port, which was the furthest along in developing the potential for shipping coal from Montana and Wyoming to Asia. She said when the rubber met the road and the coal was developed and shipped through Billings to all points westward the city would not be caught off guard and blindsided with unexpected impacts because it had been a part of the conversation or had access to the information upfront. She said she thought they were being asked to be proactive and be a part of the process from the beginning. Mr. Strong said that was exactly what he was asking and thanked Ms. Bird.

Councilmember Ulledalen said if one, two or three coal ports were not built on the west coast, the port in British Columbia would be expanded and the train would still go through Billings, so he did not understand the purpose of joining in a fight over an export facility in Washington. He asked if they should also join the fight on the other six to eight ports that were proposed. Mr. Strong said if the coal was shipped north or to five ports on the west coast, it would still have an impact on Billings.

- **Amaya Garcia, 206 Avenue E, Billings, MT**, said they wanted to have their voice on every port that was opened; not just Cherry Point. She said they needed to have a voice on what came through Billings.

Councilmember Ulledalen said his point was that currently there was only one coal export facility on the west coast and it was in British Columbia. He said the intention was to try to develop facilities in Washington and Oregon and if those ports were not developed, it was his understanding the British Columbia port was expandable. He said the issue was that if the American ports were defeated and the coal was exported to China, it would come through Billings anyway going to British Columbia like it did currently.

Ms. Garcia said they were trying to find their way to exist in the process. She said they were just asking to have a voice in the process. She said she did not think being part of the scoping process meant shutting down the port in any way, shape or form. She said all they needed was to have Billings a part of the equation when the processes were being developed.

- **Frances Harris, N. 33rd Street, Billings, MT**, suggested the Council take a trip to Sheridan, WY, and see how long the coal trains were. She said Billings should not be sacrificed because China was not their friend and no benefit to America or Montana. She said Wyoming should not be stripped of its coal to ship to China. Ms. Harris said she also wanted to speak on the water settlement on the Yellowstone. She said she was enrolled on the Crow rolls, and born with the US Constitution in one hand and the Crow Indian Treaty and Crow Indian Law in the other hand. She said the 1920 Crow Allotment Act allotted vested title of all Indian land, including all water, to the Crow Indians born up to that point because non-Indians were coming in and taking it. She said she was barely included because the rolls were closed ten days after she was born. Ms. Harris said the water settlement would take away the allotted vested title, and that was communistic. She said she did not object to people having water from the Yellowstone River, but the City was aiding and abetting in the taking of the vested title.

- **Doug Ruebke, 110 S. 31st, Billings, MT**, said he was the former owner of Buster's Second Hand Store on 27th and Minnesota, and he used to watch all of the trains go by until he closed in 2005. He said he currently lived about a block from the tracks, and every once in awhile he got a whiff of diesel fumes from all of the trains. He said in 2005, he did not smell diesel from the trains from his store, so he felt the city should be involved in all of the different train processes. He said more trains would be going by and creating more and more diesel fumes.
- **Joe White, Billings, MT**, said he was there to plead for the damages that were ordered. He said they had not received the damages, they had no money, increasing children sitting on top of one another in the motel room, and they would have to move out in the spring if they did not get more room and somebody would pay for it. He said they tried to put them all in one minivan and they could hardly get air. He said it was becoming very stressful. Mr. White also commented that he concurred that they needed the fullest environmental impact statement as possible. He said residents next to the railroad would be moving out, and he had supported taxing the railroads for years. He suggested a \$5 parking tax per day on each coal train. (Many parts of Mr. White's testimony were inaudible.)

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

COUNCIL INITIATIVES

- **Ronquillo**: Asked Ms. Volek if they would be receiving more facts about the tax increment. Ms. Volek said they would very shortly. She said there was the discussion on the Elysian School District payment and whether they should receive the payment from the tax increment funds.
- **Astle**: Asked who was in charge of the new trail that would be going between the golf course and the houses from Will James to Broadwater. He said he had received a specific request for information. Ms. Volek advised if it ran along the road it was the Public Works Department and if it were a separate, independent trail, it would likely be the Parks Department. Councilmember Astle asked Ms. Volek to have someone contact him.
- **Mayor Hanel**: Asked Ms. Volek if she had heard of any progress on the sandblasting and the noise concerns on Orchard Lane. Ms. Volek said she had not and was intending to call the DEQ that day but had a family emergency. She said she would follow up with the DEQ the following day. Councilmember Ronquillo commented he had met with the County Commissioners, and the chairman had sent two people to the site who asked the business to build a makeshift garage for the sandblasting. He said the other issue was the paint smell, and they had thought about putting something against the fences. Councilmember Ronquillo said he was told there really was no noise ordinance, so they did not know if they could stop any of the noisy equipment. Councilmember Ronquillo advised the Commissioners were keeping him informed.

There was no further business, and the meeting adjourned at 8:02 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk