

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 26, 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. Mayor Hanel gave the invocation.

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

MINUTES: March 12, 2012 – Councilmember Astle moved for approval, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel asked for a moment of silence in memory of Owen Neiter, who had recently passed away. He said Mr. Neiter had served six years as a member of the Logan Field Aviation and Transit Commission and was elected to two terms of the Billings City Council. Mayor Hanel said Mr. Neiter was very well respected and had done a superior job serving the City.
- Councilmember McFadden announced that Saturday from 11:00 a.m. to 4:00 p.m. the Cub Scouts and Boys Scouts were holding a Scout Show at the Montana Pavilion at MetraPark that would include the finals of the Pinewood Derby. He said admission was \$1 per person or \$3 per family.
- Mayor Hanel said the Downtown Billings Improvement District had, once again, held a very successful Purple 5K Run with the funds going to the Mayor's Committee on Homelessness. Councilmember Astle said there were approximately 450 runners. He said it was more of a fun run, and everyone seemed to enjoy it. He commented both the Mayor's wife and his wife participated in the run and both set new finish times.

PROCLAMATIONS: Girl Scouts Centennial – "Year of the Girl"

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-parte 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-parte 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-parte notebook.
- ✓ 8 e-mails received today as of 4:00 p.m. – six in favor of urban hens and two against urban hens. Copies were in ex-parte 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 Parks 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

A. Bid Awards:

1. 2012 Caterpillar Model 908H Compact Wheel Loader for Parks Department. (Opened 3/13/12) Recommend Tractor & Equipment Company; \$72,608.

2. Two (2) Landscape Trucks with Dump Bodies for Parks Department. (Opened 3/13/12) Recommend I-State Truck Center; \$159,650.

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.

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

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

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

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.

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.

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

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.

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.

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).

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).

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.

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.

L. Bills and Payroll:

1. February 21, 2012

2. February 27, 2012
3. March 5, 2012

Councilmember Cimmino separated Consent Agenda Items A4 and L2. Mayor Hanel separated Consent Agenda Item H.

Councilmember Astle moved for approval of the Consent Agenda with the exceptions of Items A4, H, and L2, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item A4 and said she needed to abstain because the item had been submitted by her employer. Councilmember Astle moved for approval of Item A4, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8 to 0.

Councilmember Cimmino referenced Item L2, Invoice #753386, and said she needed to abstain because the invoice had been submitted by her employer. Councilmember Astle moved for approval of Item L2, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8 to 0.

Mayor Hanel referenced Item H and said he wanted to acknowledge the following donations for the purchase and training of a new canine for the Billings Police Department: Animal Surgery Clinic of Billings - \$1,200; Stella's Kitchen & Bakery - \$500; Underriner Motors - \$1,000; Wells Fargo Bank - \$500; Justin Krivitz - \$500; and an anonymous donor - \$1,000.

Mayor Hanel moved for the approval of Item H, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously 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.) Planner II and Zoning Coordinator, Nicole Cromwell, explained the text amendment was initiated by the City Zoning Commission on February 7, 2012, and a public hearing was held on March 6, 2012, where they received testimony from individuals in favor of backyard hens and from individuals in favor of the clarification of the existing ordinance. Ms. Cromwell advised the existing ordinance required the reader of the code to consult three sections in order to determine whether or not poultry or livestock were allowed in the City of Billings. She said the proposed text amendment would require the reader of the code to only have to consult one section. She said the code currently did not allow keeping poultry or fowl in the city limits; however, the word "fowl" had been left out of Supplementary Section 27-607. She said the proposed text amendment would add the words "and fowl" to Section 27-607 and clarify the references to other sections of the City Code. Ms. Cromwell said the clarity of the code issue came to the City's attention approximately two years prior when an attorney for a person cited for keeping poultry in the city limits had only read one section of the code. She pointed out the proposed amendment did not prevent the Council from considering an amendment to that

particular code or other city codes to allow backyard hens in the future; however, that was not what was under consideration with the public hearing that evening.

Councilmember Cromley said there appeared to be a huge misunderstanding of what was being decided that evening. He said he understood that chickens were currently not allowed in the city and asked if that was correct. Ms. Cromwell said that was correct. Councilmember Cromley asked if chickens would still not be allowed if they passed the change in the ordinance. Ms. Cromwell confirmed chickens would still not be allowed. Councilmember Cromley asked if chickens would still not be allowed if they did not pass the change in the ordinance. Ms. Cromwell confirmed chickens would still not be allowed. Councilmember Cromley asked if it was correct that there was no issue before Council that evening on whether or not chickens were a good thing or a bad thing. Ms. Cromwell said that was correct. Councilmember Cromley asked how a person interested in raising chickens in the city would go about bringing change to the ordinances so chickens would be allowed. Ms. Cromwell advised in June of 2011 there was an initiative brought before the Zoning Commission by a citizen's group to initiate an amendment to allow backyard hens, and the Zoning Commission unanimously denied the request at that time. She said subsequently the same group went before the City Council in September of 2011, and the City Council directed staff and the Animal Control Board to study the issue and come back to them with a recommendation. She said the City Council reconsidered the initiative in November 2011 and tabled it indefinitely due to budgetary considerations. Ms. Cromwell said an individual would need to go back to the Zoning Commission, the City Council, or the Animal Control Board to initiate an amendment. Councilmember Cromley asked City Attorney Brooks how someone would change the ordinance under "animal raising" and not a zoning ordinance. Attorney Brooks said one of the ways the Council could accomplish it would be to pass an initiative to direct staff to present a zone change to the Zoning Commission that would come back to the Council on a recommendation for approval or denial. He said the Council could pass an initiative at the end of the meeting that evening to direct staff to provide a draft ordinance allowing backyard hens, which would have to go through the Zoning Commission and then back to the Council again. City Administrator Volek said an individual could write to the City Council or come to a public comment period at the end of a meeting and ask for an item to be considered, which would then be the decision of the Council if it wanted to proceed with the request. Councilmember Cromley asked if the issue before the Council was whether they should clarify an existing prohibition against chickens. Ms. Volek said that was correct.

The public hearing was opened.

- **Carol Braaten, 183 Lexington Drive, Billings, MT**, said there were many families in Billings that had chickens. She referenced approximately 78 e-mails the Council had received the past 30 days against the text amendment but in favor of backyard hens. Ms. Braaten asked the Council to table the unnecessary amendment to the code that stomped on their rights to produce food for their families. She asked the Council to move forward with an alternate initiative to pass a one-year trial period so everyone else could see why 96% of the largest cities in the United States had ordinances that allowed backyard hens. She said

eight out of the ten largest cities in Montana allowed backyard hens. Ms. Braaten said she was 100% certain there would be no issues, and asked for Council's support.

Councilmember Cimmino asked for the timeframe of the e-mails Ms. Braaten referenced. Ms. Braaten advised they had all been written since February 27, 2012. Councilmember Cimmino asked if she was considering the e-mails from proponents received last year or the e-mails sent in opposition. Ms. Braaten said she was not.

Councilmember Bird asked Ms. Braaten what her concern would be if Council voted to clarify the language. Ms. Braaten said she feared it would be used to issue citations to the families in Billings who already had backyard hens.

Councilmember Ronquillo asked Ms. Braaten if she and the group she represented would be in agreement to providing a class to anyone wanting to raise chickens and providing them with a completion certificate to present to the City in order to obtain a permit to raise backyard chickens. Ms. Braaten said their non-profit organization, Magic City Hens, already offered a Chicken 101 class for a small fee for materials. She said she was certain they could work up a free, two-hour class that would provide all the legalities and instructions on how to build a predator-proof chicken coop.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**, said he was a member of the Animal Control Board and the West End Task Force Chairperson, but he was representing himself as a citizen only. He said he initially was not in favor of urban hens, but after he thought about it, he changed his mind. Mr. Ulvestad said it was important to listen to both the pros and cons. He said if Billings wanted to truly consider itself livable and sustainable, the community needed to have hens. He said they needed to embrace their craftsmen and let their culture flourish. He said he supported urban hens, and the group had gone above and beyond to do the right thing for the community of Billings.
- **Karen Sunderland, 529 Avenue B, Billings, MT**, said there was a fire in the Heights the previous week, and the cause of the fire was a heat lamp in a chicken shed in an effort to keep the chickens warm. She said the homeowner did not realize chickens did not need a heat lamp. Ms. Sunderland said she spoke with Mike Spini of the Fire Department and explained how Magic City Hens educated people, and that they did not advocate a heat source for chickens. She said chicken coop fires would not be an issue if people were educated on how to raise chickens.
- **Joe White, Billings, MT**, said he spoke on the issue when it came up before. He said some of the main complaints were smell and disease. He said chickens fostered a healthy way of eating. (The remainder of Mr. White's testimony was inaudible.)
- **T.J. Wierenga, 2215 Beloit, Billings, MT**, asked everyone present in support of urban hens to stand up. She said she was President of the Board of Directors of Magic City Hens, and they were a non-profit group of people who had invested a lot of their own time and money to make urban chickens successful in Billings. She said they had gone to the City Council the previous year wanting to put some education and reasonable restrictions on an existing situation, not because

they had gotten into trouble but because they wanted to make it work the right way. She said they still wanted it to work the right way and would do whatever it took to help it work out. She said they would be there as long as it took to get the chicken initiative passed.

- **Nathan Blanding, 539 Clark Avenue, Billings, MT**, said he was speaking in favor of chickens. He said there were a lot of individuals wanting it and there were open-ended clauses in the laws to allow it to happen. He said he understood zoning was more about stopping bad things from happening. He said there had been a reasonable effort made on the part of the community to make a preference heard, and there was an opportunity to clarify the laws one way or another and to be more progressive. He said they should not just stop it now.
- **James Klanke, 625 Lewis, Billings, MT**, said Council would be voting on an opportunity to allow people to raise chickens for their own food, connect with their agricultural heritage, and have their own freedom of making choices. He asked Council to decline the change and allow people to raise chickens in a responsible manner.
- **Reid Koprek, 2919 38th Street West, Billings, MT**, said he was fortunate enough to have friends with a backyard hen house, and he had been eating the eggs for about four months. He said he could not believe how much better the eggs tasted and looked compared to what he could buy at the store. He said he would love to be able to raise six chickens to have enough eggs for his family. He said they should leave the laws alone, give them some time, and everyone should be able to do what they wanted.

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

Councilmember Ronquillo said he would like to move to amend the code to allow chickens for a one-year trial period; with Magic City Hens providing classes on raising chickens and issuing a certificate to be brought to the City in order to get a permit to have backyard chickens, seconded by Councilmember McFadden.

Councilmember Astle questioned whether that pertained to what was on the agenda. City Attorney Brooks recommended, because of public notice requirements, that Councilmember Ronquillo's motion take the form of an initiative at the end of the meeting. He said staff could then bring forward a new ordinance with that particular language with a new public hearing advertised.

Mayor Hanel commented they had gotten entirely off track with regard to proper and required public notice, and it belonged in the form of an initiative at the end of the meeting. He said what they were deciding that evening was a change in the language as presented by Planning.

Councilmember Cromley moved to delay action on Zone Change #885 for 30 days, seconded by Councilmember Ronquillo.

Councilmember Bird commented that she was very much in favor of it and did not want delays. She said if they put it off for 30 days, they needed to be ready to move. She said in reviewing previous work session minutes on backyard hens, there had already been a request by Councilmember Ulledalen to put something together, and then it was pushed by the wayside. City Administrator Volek advised at a meeting on

November 21st City Council chose to take no action, and there was direction from Council not to proceed. Councilmember Bird said it also looked like at the same meeting Councilmember Ulledalen presented a Council initiative to direct staff to bring back a report to the Council with ideas on the hen initiative, seconded by Councilmember Ronquillo. She said she thought they were spinning their wheels.

On a roll call vote, the motion to delay action for 30 days was approved 7 to 2. Councilmembers Cromley, Ronquillo, McFadden, Bird, Ulledalen, Crouch and Mayor Hanel voted in favor. Councilmembers Cimmino and Astle voted in opposition.

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.) City Administrator Volek advised staff had no presentation but was available for questions. She said there were seven assessments totaling \$1,681.89 that would be assessed.

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

Councilmember Astle moved for approval of Item 3, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously 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.) Public Works Director Dave Mumford explained Work Order 12-02 was an annual curb, gutter and sidewalk project intended to replace missing curb, gutter and sidewalk and eliminate existing tripping hazards.

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

Councilmember Ronquillo moved for approval of Item 4, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously 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.) City Administrator Volek advised staff had no presentation but was available for questions.

The public hearing was opened.

- **Christine Prill, Crowley Fleck, 490 N. 31st Street, Billings, MT**, said Pepsi was the sole owner of all of the surrounding property and wanted to vacate the alley to decrease traffic flow and increase employee safety. She said the property would also be used for their day-to-day operations, and they would like to be able to build over and across the alley in the future. She said the owner had requested, in lieu of an appraisal, that they use the price per square foot from a previous sale last fall for \$5.42 per square foot. Ms. Prill noted there was a sanitary sewer that ran through the alley that exclusively serviced Pepsi, and

Pepsi understood if the vacation was approved they would be responsible for maintaining the sewer.

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

Councilmember McFadden moved for approval of Item 5, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously 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.) City Administrator Volek advised staff had no presentation but was available for comments.

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

Councilmember Astle moved for approval of Item 6, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously 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.) Planner II and Zoning Coordinator, Nicole Cromwell, explained the special review was to upgrade from a beer and wine license with gaming to an all-beverage license at The Vig Ale House and Casino at 501 Hilltop Road. She showed a zoning map and photographs of the subject property and surrounding properties, an aerial photograph of the subject property, and a site plan of the subject property. Ms. Cromwell noted there was no direct physical access, no sidewalk along Montgomery Street, or no visual connection between Bench Elementary and The Vig; so they were recommending the waiver of the 600-foot separation. She said the Zoning Commission conducted a public hearing on March 6, 2012, and was recommending conditional approval, as follows:

1. The special review approval shall be limited to Lots 2B and 2C, Block 1, Dicono Subdivision generally located at 501 Hilltop Road.
2. Any expansion of the proposed patio, building, building occupancy or parking lot greater than 10 percent of existing conditions will require an additional special review approval.
3. The owner is allowed to have background music and un-amplified live outdoor entertainment on the outdoor patio lounge. Background music is amplified music not audible beyond the outdoor patio lounge.

4. A solid waste storage area shall be enclosed on three (3) sides by a sight-obscuring fence or wall and by a sight-obscuring gate on the remaining side. This enclosure shall be constructed of normal fencing materials. No chain link or wire fencing will be used for sight-obscuring enclosure.

5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

Councilmember Cimmino asked Ms. Cromwell to go back to the conditional approval list and said it did not indicate that they needed to waive the 600-foot requirement. She said it was her understanding that there was enough of a physical barrier that the requirement was not even needed. Ms. Cromwell said it was actually a property line to property line measurement. She said the waiver did not have to be in the conditions of approval because it was a separate action for each time the location of an alcohol license was approved. Ms. Cromwell said the physical building itself was more than 600 feet from the elementary school, but the parking lot, which was part of the business, was within the 600 feet.

The public hearing was opened.

- **Joe White, Billings, MT**, said he opposed approval of the 600-foot waiver.
- **Mike Schmechel, 5546 Billy Casper Drive, Billings, MT**, said he appreciated Council considering the special review and said he wanted to point out there was actually more than a 600-foot separation from the school. He said there were two lots, and it was only the lot that parking was on that was within the 600 feet. He said he would be happy to put an enclosure around the dumpster.

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

Councilmember Cimmino moved for approval of Special Review #897 with the conditions noted on the staff report and approval of the 600-foot waiver of separation, seconded by Councilmember Astle. On a voice vote, the motion was unanimously 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.) Councilmember Cimmino advised she would need to abstain from Item 8 due to a conflict of interest.

Planner II, Lora Mattox, said on February 27, 2012, a public hearing and first reading was conducted. She advised that during the public hearing two property owners of individually listed National Register commercial properties raised concerns about impacts to their properties for rehabilitation and restoration renovation. She said Council delayed action until March 26, 2012, and directed staff to meet with the individually listed National Register property owners to review the ordinance and make any amendments that would be agreeable to all entities. Ms. Mattox advised a public meeting notice was sent to all individually listed National Register property owners, and a meeting was held on March 13, 2012. She said 11 people attended, and the two areas of concern were as follows:

(1) Language in Section 27-505(5) of the Ordinance that allowed the City to automatically list individually listed commercial National Register buildings to the Billings Local Register. Once listed to the local register, any exterior renovation to that building would require review by the Yellowstone Historic Preservation Board (YHPB) prior to approval of a building permit. Ms. Mattox said it concerned the property owners due to the potential time delay and cost associated with the review. She said after discussion, it was proposed to amend Section 27-505(5) to allow the owners of record of individually listed commercial National Register buildings to petition to the City Council to be listed to the Billings Local Register, and everyone in attendance was in agreement.

(2) Language in Section 27-516(3)(b) of the Ordinance that allowed the YHPB to delay demolition of any property subject to review by the Ordinance for up to one year. She advised the delay was desired by the board to provide alternatives to demolition for historic properties subject to the Ordinance, and if demolition was the only alternative the time frame would also allow sufficient time to record the property through photographs and building history prior to demolition. Ms. Mattox said the time frame concerned property owners for the potential time delay and cost associated with the requirement. She said after discussion, it was proposed to amend the section to reduce the one year review time frame to a six month time frame, and everyone in attendance was in agreement.

Ms. Mattox said the ordinance was edited to reflect the changes and forwarded to everyone who attended the meeting and to the City Legal Department for final review; and the edits had all been approved. Ms. Mattox advised the Zoning Commission was recommending approval.

The public hearing was opened.

- **Joe White, Billings, MT**, said demolition of buildings needed to be broadened to include all buildings whether they were in the historic district or not. (The remainder of Mr. White's testimony was inaudible.)
- **Mike Nelson, 19 North Broadway, Billings, MT**, said he had spoken at the previous council meeting where he indicated he could not support the changes. Mr. Nelson thanked Ms. Mattox for allowing him to speak his mind and suggest changes. He said Ms. Mattox listened to everyone who spoke out either in favor

or against the changes, and he now thought it was a great thing to do and he was in favor of it.

- **Randy Hafer, 631 N. 26th Street, Billings, MT**, said they had a very productive meeting. He said all parties were heard, all concerns raised at the first public hearing were addressed, and changes had been made. Mr. Hafer said he was completely happy with the document and urged Council to vote in favor.

Mayor Hanel asked Mr. Hafer if representatives from the Babcock attended and participated in the meeting. Mr. Hafer said Mike Mathew was in attendance and was in agreement. He said it was a very cordial meeting, and all of the issues were worked out.

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

Councilmember Ronquillo moved for approval of Item 8, seconded by Councilmember Astle. On a voice vote, the motion was approved 8 to 0.

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.) Planner II and Zoning Coordinator, Nicole Cromwell, advised she would be making one presentation for Agenda Items 9 through 15, Zone Changes 883, 884, 886, 887, 888, 889, and 890.

Ms. Cromwell referenced Zone Change 883 and said the proposed amendment would allow homeowners whose homes had vertical siding or a mixture of horizontal and vertical siding to construct a detached garage with matching siding without requesting a variance from the Board of Adjustment. She said the Zoning Commission conducted a public hearing on March 6, 2012, and was recommending approval. She said the zone change was an initiative made by Councilmember Pitman.

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

Councilmember Cimmino moved for approval of Zone Change #883, seconded by Councilmember Astle. On a voice vote, the motion was unanimously 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.) Ms. Cromwell said Zone Change #884 would involve four separate ordinances that would amend the city codes to refine definitions for community residential facilities, which were facilities protected under State law as residential uses under local zoning. (1) She said the city code did not conform to the current State law definitions, and the “Assisted Living” definition was completely left out of the city code; so they were proposing to amend the codes to make the corrections and add “Assisting Living” facility. Ms. Cromwell advised that facilities

for eight or fewer people could be allowed in any residential zoning districts, but if there were more than eight people or 24-hour staff, there would be a special review process. (2) She said they were also proposing to eliminate the definition of a rehabilitation center. She said it was an original definition in the first zoning code in 1972 and predated the community residential facilities definition in State law. She said it was currently a duplication of many of the definitions of the residential facilities, and it caused confusion because under the "Use" portion of the zoning code, rehabilitation centers were required to go through the special review process in all residential districts. Ms. Cromwell said they were proposing to eliminate the definition and the special review requirement because they were duplication of code. (3 & 4) She said the third and fourth amendments would prohibit any new public correctional facilities in the South 27th Street Corridor and in a Controlled Industrial zone and keep them as special review uses in a Public zoning district. Ms. Cromwell advised Councilmember Ulledalen initiated the amendment in 2007. She said they had reviewed drafts of the ordinances with the City Legal Department to make sure they were staying within the boundaries of zoning and the boundaries of what was allowed by State law. She said State law allowed a public agency to use public land contrary to zoning by going through a public hearing process with the Board of Adjustment; so even though they were changing the zoning to state the City did not want any more public correctional facilities in the South 27th Street District, a public agency could override the local zoning through the public hearing process if they owned the land.

Councilmember Bird asked if there were currently vacant lots in the South 27th Street District owned by public entities who could propose a public correctional facility. Ms. Cromwell advised the City owned several lots, the State owned the Montana Women's Prison and adjacent land, and the County Youth Detention Facility owned land.

Ms. Cromwell said the last part of the amendment was to not allow privately operated correctional facilities in the South 27th Street Corridor by special review. She said the current code allowed them by special review. She said privately-operated correctional facilities were not halfway houses or pre-release centers. She said they were locked facilities where an entity had contracted with the federal, state, or county government to operate privately. She said a portion of Passages was a locked facility but two-thirds of the facility was a pre-release center for people who were under close probation. Ms. Cromwell said if Council approved the amendment, the locked portion of Passages could not expand. She said it could remain or be rebuilt at the same current square footage if something happened to the building.

Councilmember Bird asked if a facility built by the city or county could be contracted out to a private entity. Ms. Cromwell said the specific term in the code was "privately-operated correctional facilities", so the land or ownership was not an issue. It was who was operating the facilities.

Councilmember Ulledalen asked if any other governmental entity wanted to buy land and build a jail they could circumvent the city's review process by going directly through the Board of Adjustment. Ms. Cromwell said that was correct; it was a State law provision.

Mayor Hanel advised he was recusing himself from Agenda Item 10.

Deputy Mayor Ulledalen opened the public hearing. There were no speakers, and the public hearing was closed.

Councilmember Astle moved for approval of Zone Change #884, seconded by Councilmember Crouch. On a voice vote, the motion was approved 7 to 1. Councilmember Ulledalen voted in opposition.

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.)

Ms. Cromwell said the amendment would clarify different sections of the code related to residential uses and lot area requirements for residential uses. She said the current code caused confusion when multiple dwelling units existed on undivided lots. She said the code was interpreted that each detached dwelling unit required the minimum lot area even though the detached units were not separated by a lot line. Ms. Cromwell advised many older neighborhoods were developed with a big house in the front and a small house in the back; but because they were detached, the current interpretation of the code was that there needed to be two lot areas for the two single units on the undivided lot. She said the proposed amendment would allow the property owners to keep what they had and not have to go through a lot area variance upon refinancing or selling the property. She said the proposed amendment would allow two units on an undivided lot to use the same lot area whether the units were attached or detached in R8, R7, R6, R5, RMF, and RMF-R zones. She said the amendment also proposed to eliminate references to townhomes or townhouses as a specific use in response to recent legislative changes, removed the requirement for an additional 10-foot setback in an R-5000 zone if no alley existed, and eliminated allowances for zero lot lines because they were only used in reference to townhomes.

Councilmember Ulledalen asked if it in some way re-visited the accessory dwellings issue and opened the door to allow it if there was enough square footage. Ms. Cromwell said it did as long as there was enough lot area and the required setbacks were met. She said the basis of zoning was density, lot coverage, building height, and lot crowding, etc., and whether the units were attached or detached in a two-unit configuration really did not make a lot of difference. Councilmember Ulledalen said he had a lot of mixed feelings about the accessory dwellings initiative and said there was a lot of concern in the older neighbors that would be impacted by it, but he felt there was a lot of merit in considering it. He asked if staff had thought any more about how to address some of the concerns that came up in the accessory dwelling units that would make sense to bring back and reconsider. Ms. Cromwell said she thought they had a good foundation just with the existing zoning they had if they allowed the calculation to go through.

Councilmember Ronquillo asked how it would affect the places that already had two houses. Ms. Cromwell said it would make them conforming and eliminate lot area variation applications for homeowners wanting to refinance or sell their property.

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

Councilmember Ronquillo moved for approval of Zone Change #886, seconded by Councilmember Astle. On a voice vote, the motion was unanimously 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.) Ms. Cromwell advised in 2004 the method of assigning fees to zoning applications was changed from ordinance format to resolution format. She said the county also used the same method, so there was an artifact in the code they needed to get rid of that referenced fees.

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

Councilmember Cimmino moved for approval of Zone Change #887, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously 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.) Ms. Cromwell said there was a unified code for the city and county; but in 2006 the city heavily amended the accessory structures code that only applied within the city limits. She said they tried to make the amendments within the existing unified code, and it was very difficult to read and interpret. Ms. Cromwell said they were proposing to extract the two sets of regulations and create a subsection just for the city and a subsection just for the county.

Councilmember Cimmino asked if it would also go before the County Zoning Commission. Ms. Nicole said it would, in addition to the zone changes for residential lot area, correctional facilities, fees, and detached accessory structures being considered that evening.

Councilmember Ulledalen asked if someone could build a pole ban in the city as long as they had horizontal siding. Ms. Cromwell said it would be very expensive but someone could.

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

Councilmember Astle moved for approval of Zone Change #888, seconded by Councilmember Bird. On a voice vote, the motion was approved 7 to 2. Councilmembers Cimmino and 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.)

Ms. Cromwell said Zone Change #889 and Zone Change #890 (Agenda Item 15) were to clean up incorrect references in the code, as well as amend a section of the sign code. She said they recently ran into issues on an institutional use on Shiloh Road. She advised under the Religious Land Use and Institutionalized Persons Act (RLUIPA), any local regulation of assembly uses for religious or non-religious had to be the same. Ms. Cromwell said the current code made differentiations between schools and churches, so staff was proposing to amend the code to make it one for all types of assembly uses.

Councilmember Cimmino asked if the sign code for city and county would be kept separate. Ms. Cromwell said it would and said the Shiloh Road Overlay District only applied within the city and not in the county.

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

Councilmember Crouch moved for approval of Zone Change #889, seconded by Councilmember Astle. On a voice vote, the motion was unanimously 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.) Ms. Cromwell's presentation for this agenda item was included with her presentation for Agenda Item #14.

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

Councilmember Astle moved for approval Zone Change #890, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Comments 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 (PSC). He noted his attorney, Russ Doty, was with him and could answer any questions.

Councilmember McFadden asked Mr. Barsanti if it was correct that NWE had increased the rates on the light poles in the neighborhoods since Mr. Barsanti had gone to the Public Service Commission with the NWE issue. Mr. Barsanti said that was correct. He said NWE went to the PSC and was granted a rate increase.

- **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. He said the City could save about \$60,000 a month if they

could succeed now that they had standing before the Public Service Commission. Mr. Doty said NWE mismatched its tariff with its depreciation schedule. He said the depreciation was based over a 30-year period and at the end of the period when it was paid off, half of it was still in the rate base and the City was still paying for it. Mr. Doty said it had escaped staff and the regulators because of the way regulation came down. He said NWE said they were not allowed to charge for infrastructure but that was untrue. He said the rate base was infrastructure and they earned a rate of return on the infrastructure. Mr. Doty said they had fully allocated cost of service studies and put everything in different rate bases, which included one for street lights. He said the street lighting should be done differently because each street lighting district paid off at different rates. He said the depreciation schedule should be matched to the actual tariff NWE was allowed to charge.

- **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 another. He also asked if the City or the Police Department had received \$1 million from the recent massage parlor investigation. Mr. Nelson said before they held a Chicken 101 class, the City should hold 101 classes on barking dogs.

Mayor Hanel asked Mr. Nelson if the noise and pollution continued to come from the business on Orchard Lane. Mr. Nelson said it was continuing. He said it was an issue where the Council needed to step up and talk to BSEDA. He said BSEDA looked for the business, and there needed to be communication. He said they knew what the business was going to do, and they dropped it on the city. Mr. Nelson said no one knew what materials the business was using.

Councilmember Ronquillo said he had spoken with Commissioner Kennedy, who had talked with County Code Enforcement and RiverStone Health, and they were supposed to look into it. He said the Commissioner was out of town, but he would contact him when he returned to see what they had found.

City Administrator Volek said she had a discussion with the DEQ, and the DEQ had opened an investigation on the matter. She said the business was on county property, but Legal was investigating to determine if the City could proceed with some type of action.

Attorney Brooks advised there had been discussion between his office and the Civil Division of the County Attorney's Office. He said they were waiting for a reply from the County regarding authority in the matter.

Mayor Hanel asked Ms. Volek to comment on Mr. Nelson's question regarding any money the City may have received as a result of the massage parlor investigation. Ms. Volek advised the City would receive forfeiture money from the investigation; however, she was not sure if the City had received it to date. She said she was unsure of the dollar amount but she would get it. Mayor Hanel asked Ms. Volek to report her findings at a future meeting.

- **Doug Ruebke, 110 S. 31st, Billings, MT**, said a number of years ago someone had asked the City to change the ordinance regarding pot bellied pigs and the Council referred them to the Board of Appeals. He said maybe that was what the Council should do regarding urban chickens. Mr. Ruebke said if chickens were allowed in the City then other farm animals should be allowed.

- **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 to gain a certificate for the permit.

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.

Councilmember Bird suggested a good starting point would be with the materials that had been presented by Magic City Hens to include their recommendation that Council consider Missoula's ordinance as a framework and then modify it as necessary.

Mayor Hanel asked Ms. Cromwell to come to the podium and briefly explain what an SIA and covenants and restrictions meant. Ms. Cromwell said subdivision covenants and restrictions and SIAs were recorded documents that affected only subdivision lots in a particular subdivision. She said any ordinance passed by the City that was contrary to the covenants and restrictions or SIA of a particular subdivision did not overrule them. She said, in other words, if a subdivision's covenants and restrictions said no livestock or poultry, regardless of what the city said, a person could not have livestock or poultry.

Councilmember Ulledalen asked how that differed from the RV restrictions. He said a lot of subdivision restrictions banned onsite storage of RVs but the city codes allowed it. Ms. Cromwell said it was no different.

Councilmember Cimmino stated for the record that she had responded to many e-mails, answered many phone calls, and had coffee with several people who were proponents of the hen initiative. She said with the addition of the one-year pilot program, education course, and city permit, there needed to be a few more conditions they needed to consider before the initiative even went forward. She said as far as she was concerned and speaking purely from the communication she has had with several individuals, the number of hens seemed to be six, or twelve, or eight. Councilmember Cimmino said none of them wanted to consider three or four or under six, so it was almost like "our way or the highway." She said they really needed to carefully study it as a governing body before voting on the initiative; before it went forward.

Councilmember Astle said they had heard from 78 e-mails, and he was sure another 25 or 30 were lost in the process. He said in prior testimony it was said there would never be more than 3,000 people wanting to do it, which left 97,000 people in the city who did not want it or did not care. Councilmember Astle said they could say what they wanted, but if it was not cooked, he did not like chickens. He said there were articles on Salmonella with kids, and he was not going to vote for it. He said they would have more problems, and just because Missoula wanted it, it did not mean they had to want it, too.

Councilmember Bird said before they rushed to judgment everyone should read and go on-line and research other city ordinances so they would have a starting point for reasonable conversation on the issue. She said in the multiple conversations she had with people inside and outside her ward, there were plenty who did not want chickens but did not have a problem with their neighbors having chickens. She said they had a larger problem with dogs in the community than they would ever have with chickens. Councilmember Bird said elected officials routinely complained that the citizens did not take the time to get involved in their government. She said local government was about day-to-day and what brought people into the room. She said she believed the initiative taken by some very passionate, responsible, well-intended citizens was a sign people had found an issue they cared about, and they had not asked the city to do anymore than what they were willing to do themselves. She said it was no different than BikeNet and the dog parks. Councilmember Bird said there were "larger chickens to fry" than backyard hens such as the park maintenance district and serious budgetary items. She said the issue needed to be moved on so they could focus on what was important.

Councilmember Cimmino said she was a firm supporter of people doing independent research and in the two years and three months she had served on the council she had received and responded to over 10,000 e-mails. She said she did her research and listened to what people had to say. She said it was actually the process of reciprocity, and they would have discussion and exchange mutual dialogue with respect and the ideas needed to be studied, not "we want it this way, and if not, then you don't support this; then we think you are bad people." She said she did not operate that way. She said she had been very supportive of a lot of the issues they had studied as a governing board, but before the initiative could go forward there were other issues that had to be studied instead of just everyone voting for this to be studied.

Councilmember Cromley said his understanding of the motion was that it would be a fairly broad range of investigation in determining what was the best solution should the ordinance be passed. He said the Council seemed to do a lot of things with regards to zoning. He said dogs and cats were not part of the zoning ordinances and asked City Attorney Brooks if it made sense to go outside the zoning ordinances. Attorney Brooks said it would be wise to look at the animal control ordinances. He said staff would need to have fairly specific direction from the Council such as how many hens they would be interested in, because it would have to go back through the Zoning Commission. He said another work session may be necessary.

Ulledalen: AMENDED the motion to have staff present at a work session reasonable guidelines on urban chickens based on the Missoula and Bozeman urban chicken ordinances; seconded by Councilmember Crouch. He said he was looking for specifics such as setbacks from property lines, setbacks from neighboring houses, and setbacks from the property owner's house. He said six to eight hens seemed to be a reasonable urban hen number in other communities.

Councilmember Cimmino said, "Well, since we're going to be reviewing the Missoula and the Bozeman ordinance, we might as well just go all of the way and do Miles City and." Councilmember Ulledalen replied, "That's not the amendment," and Councilmember Cimmino said, "Yeah, but I'm suggesting it." Councilmember Ulledalen repeated, "That's not the amendment." Councilmember Cimmino replied, "Then I'll amend your motion." Mayor Hanel advised it could be amended a second time and said within Robert's Rules of Order a motion could be amended and amended a second time. He said if there was an amended motion, they would go that direction. Mayor Hanel asked Attorney Brooks if that was correct. Attorney Brooks advised there could be two amendments pending at once, and then they would work their way back. Councilmember Ulledalen said, "So we're going to vote on her amendment first." Mayor Hanel advised they only had one amended motion at that time and asked for discussion. Councilmember Ulledalen asked if they had one amendment, and Mayor Hanel confirmed they only had one amendment. Attorney Brooks advised again they could amend the amended motion. Mayor Hanel said that was correct, but they had not heard that amendment yet and asked for discussion on the amended motion. Councilmember Bird suggested "they vote and quit henpecking the issue." Mayor Hanel asked for further discussion. There was a call for the question.

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 (PSC) in support of Leo Barsanti regarding NWE charges, seconded by Councilmember McFadden.

Councilmember McFadden said unless he was mistaken, all they were asking for was that Council provide a letter requesting that the Public Service Commission give the issue a fair and honest hearing and conduct an investigation.

Councilmember Cromley said he understood Councilmember Crouch's motion was to support one side of the legal case. Councilmember Crouch said it was to support Leo Barsanti and his standing before the PSC. Councilmember Cromley said he did not feel he understood the legal arguments of both sides so he would be voting against the motion.

Councilmember Ulledalen said he would vote no. He said they already had issues on their table they could not handle; and it was an extracurricular thing they were not set up to deal with at that point.

Mayor Hanel said he was not comfortable with his experience and knowledge of the issue in such detail, so he could not support the motion.

Councilmember Crouch said it was his understanding that before the Supreme Court of Montana they had standing to take the issue before the PSC. He said all he was saying in his motion was that they support them in their standing before the PSC. He said they did not know what kind of decision would come of it, but they came to ask for that.

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, seconded by Councilmember Crouch. She said she knew that State Avenue had gone through renovation in terms of better traffic control, and she would be very interested in exploring it for Central Avenue for public safety reasons, the lack of ability to control traffic flow, and the renewed interest in some of the development happening on Central Avenue.

City Administrator Volek asked if Councilmember Bird was talking about speed, signaling, expansion of the road, or installation of turn lanes.

Councilmember Bird said she was requesting staff look at traffic on Central Avenue and how it could be slowed down and made safer and how the businesses on Central Avenue could be made more accessible so the Central Avenue commercial corridor could continue to grow and evolve. She said she knew there had already been an analysis done on Central Avenue.

Councilmember Ulledalen said all of the streets worked together and asked where the traffic would be pushed if they were going to restrict speed or access on Central.

City Administrator Volek said the State Avenue improvements were made with an extensive engineering study, so the first step would be to determine what, if any, study needed to be done and get an estimated price to Council.

Councilmember Bird said she thought it was just a section of a larger community problem with uncontrolled traffic. She said she would rather get a jump ahead and look at what their traffic options were long term instead of trying to catch up.

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.

- **Ulledalen:** Said he had a discussion concerning a sewer backup situation where someone thought they were on city sewer but it turned out they were on a septic tank. Councilmember Ulledalen said there were over 1,000 properties in Billings that were still on septic tanks. He said Public Works had indicated they would be sending a letter to property owners on septic tanks to inform them that they were not on city sewer and suggested that they also work with the Billings area realtors to get the word out.

Mayor Hanel said he was in the real estate business, and those in his profession would be more than willing to work with the City on it. He said there were many, many properties that had never been connected to city sewer, and there were property owners who thought they were connected to city sewer but were not.

City Administrator Volek said she and the Public Works Director had discussed it several weeks ago. She said Mr. Mumford was preparing the letters, and they would also take the matter to the Development Process Advisory Review Board (DPARB) so mortgage lenders, realtors, and others would be aware of it.

- **Bird:** Said she noticed the Animal Control Board minutes and agendas had not been updated on the city website, and asked if they could be brought up-to-date.

There was no further business, and the meeting adjourned at 9:22 p.m.

CITY OF BILLINGS



ATTEST:

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

BY: Cari Martin
Cari Martin, City Clerk