REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 11, 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 Astle gave the invocation.

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

MINUTES: May 29, 2012 – Councilmember Cimmino moved for approval, as submitted, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

COURTESIES:

- **Swords Park Trail**

  Parks Director Mike Whitaker advised the Swords Park Trail, Phase II, Project was recognized as the 2012 Montana Trail of the Year. He said the award was given annually by Montana's Recreational Trail Program administered by Montana State Parks, a division of Montana Fish, Wildlife and Parks.

  Planning Director Candi Beaudry advised the Swords Park Trail was also recognized by the Coalition for Recreational Trails, which was a coalition of agencies and organizations that also received Federal funds for trails. She said the award was given in the category of Environment and Wildlife Compatibility recognizing that the construction of the trail helped to preserve the landscape and eliminate off-trail use.

  Mr. Whitaker and Ms. Beaudry each presented plaques in recognition of the two awards. Mayor Hanel advised the plaques would be displayed so the citizens of Billings could enjoy the accomplishments.
- **Councilmember McCall** said she was proud of the Better Billings Foundation for the wonderful job it did creating and opening Oasis Park. She said the partnerships between the Better Billings Foundation, the City, and many others helped make it possible, and they deserved a great deal of credit. Councilmember McCall thanked everyone for their support.
- **Councilmember Ronquillo** said on Saturday they held the March Against Drugs and Violence organized by Mike Yakowich and the Boys and Girls Club, and over 400 people attended. He thanked all of the speakers, contributors, and participants. He said the event started 15 years ago, and this year was the largest turnout so far.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

City Administrator Volek commented on the following items:

- Consent Agenda Item 1A5 – Fire Stations 2 and 3 Sleeping and Restroom Quarters Remodel Bid Award. Memo from Facilities Manager Saree Couture with bid award recommendation to Fisher Construction for $61,033 was sent in June 8 Friday packet. Copy was filed in ex-parte notebook.
- Consent Agenda Item D – Recommendation to the PCC supporting a rail traffic impacts planning study for the rail corridor. Staff would like item separated in order to provide additional information following the 10:00 meeting held that morning with the county.
- Regular Agenda Item 7A – Public Hearing and Resolution Approving and Adopting FY13 Capital Budget. Revised staff report from Finance Director Pat Weber was sent in June 8 Friday packet. Revision was a change in the Capital budget amount from $80,079,628 to $79,532,828. Copy was filed in ex-parte notebook.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT,** referenced Item D and asked Council not to make the recommendation. He said it was nothing more than a run-around to give coal a black eye, and global warming was just not happening. He referenced Item N and said there was no discussion the prior week at the work session on the financing of a new water storage reservoir. He referenced Item R and said the city could not burden the commercial community with the lower decibel requirements. He said a normal conversation was 60 to 65 decibels, and business owners would be required to go down to 55 decibels. He said it was almost impossible, and he did not think there was any equipment that could. He recommended staff re-visit the requirements.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **W.O. 11-16, Wastewater Treatment Plant Digester Cleaning.** (Opened 5/29/2012) (Award delayed from 5/29/2012) Recommend Parker Ag Services, LLC; $181,200.

2. **W.O. 12-10, Broadwater Trail Connection and Will James Alternate Multi-Use Path.** (Opened 5/29/2012) (Award delayed from 5/29/2012) Recommend Knife River-Billings: $186,920.75.

3. **W.O. 12-23, Wastewater Treatment Plant Headworks Backup Power and West Mechanical Motor Control Center (MCC-B5) Improvements.** (Opened 5/29/2012) (Award Delayed from 5/29/2012) Recommend Yellowstone Electric; $49,656.

4. **W.O. 12-28, Water Treatment Plant Transformer Replacement.** (Opened 5/29/2012) (Award Delayed from 5/29/2012) Recommend Colstrip Electric, Inc.; $177,315.

5. **Fire Stations 2 and 3 Sleeping and Restroom Quarters Remodel.** (Opened 6/5/2012) (Recommendation of award to be made at June 11, 2012, city council meeting.) Recommend Fisher Construction; $61,033.

B. **Professional Services Agreement** with HDR Engineering, Inc. for W.O. 11-11, Water Treatment Facility Rapid Mixer System Improvements; $110,100.

C. **Consultant Agreement** with Planning Communications for preparation of 5-year Analysis of Impediments to Fair Housing Choice; not to exceed $33,650. (Donations approved by Council on 4/9/12: Housing Authority of Billings - $10,000; HRDC District 7 - $5,000; Billings and Montana Association of Realtors - $2,000; First Interstate Bank - $1,000)

D. **Recommendation** to the Policy Coordinating Committee (PCC) supporting a rail traffic impacts planning study for the rail corridor.

E. **Acknowledging Receipt of Petition to Annex #12-06:** two parcels totaling approximately 4.06 acres located on the south side of Highway 3 just west of Hickok Circle, adjacent to city-owned parkland, and legally described as Tracts 2-A and 2-B, Certificate of Survey 2577; Timothy and Sheryl Dernbach and Jeff and Dana Sorenson, owners; and setting a public hearing date for June 25, 2012.

F. **Acknowledge Receipt of Petition to Vacate** street rights-of-way within Copper Ridge Subdivision, 2nd Filing; Copper Ridge Development Corporation, petitioner; and set a public hearing date of July 9, 2012.

G. **Approval** of joint city/county grant application and acceptance of the 2012 Justice Assistance Grant (JAG) totaling $52,130 for equipment purchases (Billings Police Department - $39,220; Yellowstone County Sheriff's Office - $12,910); and **approval** of Interlocal Agreement with Yellowstone County Sheriff's Office.

H. **Acceptance of Donation** to Parks Department from Beartooth Nordic and Hiking Club of Billings through BikeNet for memorial bench and plaque at Swords Park in honor of Gary Hafer; $1,400.

I. **Acceptance** of Montana Mental Health Settlement Trust Grant for Police Department multi-disciplinary team crisis intervention training; $7,910.

J. **Approval** of Josi Wilgus, James Mariska, and Patty Nordlund to the Ad Hoc Collaborative School Planning Committee.

K. **Resolution of Intent #12-19163** to create SID 1394, Macona Lane; curb and gutter, drive approaches, and street improvements; and set a public hearing date of July 9, 2012.

L. **Resolution of Intent #12-19164** to sell Lot 7 and Lot 8, Block 189, Original Town of Billings, located at 10 South 26th Street; and set a public hearing date of July 23, 2012.

M. **Resolution of Intent #12-19165 to De-Annex #12-05:** approximately 2.7 acres of developed land known as Lot 2, Hobby Subdivision; June and Leonard Hobby, petitioners; and set a public hearing date of July 9, 2012.

N. **Resolution #12-19166** related to financing a new water storage reservoir and establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

O. **Resolution #12-19167** authorizing the issuance and calling for a negotiated sale of $390,000 Pooled Special Sidewalk, Curb, Gutter and Alley Approach Bonds (WO 09-11 Rimrock Road and WO 11-02, Miscellaneous/Developer Related Improvements).

P. **Second/Final Reading Ordinance #12-5569 for Zone Change #895:** a text amendment to Billings, Montana City Code (BMCC) Section 27-615 (c); Section 27-615 (d) – Visibility at Intersections, and Section 27-618 – Figure 1a. and Figure 1b., deleting and adding language to clarify the regulation.

Q. **Second/Final Reading Ordinance #12-5570 for Zone Change #896:** a text amendment to Billings, Montana City Code (BMCC) Section 27-601 (a) – Parking and Storage Restrictions, deleting language and adding language to clarify the regulation requiring setbacks for recreational vehicles parking or stored in driveways in residential zoning districts.

R. **Second/Final Reading Ordinance #12-5571 for Zone Change #897:** a text amendment revising Billings, Montana City Code (BMCC) Section 27-612 – Supplemental Commercial Development Standards, by adding Section 27-612(e) and Section 27-309 deleting and adding language to establish standards for compatibility between residential uses and new commercial uses.

S. **Second/Final Reading Ordinance #12-5572 for Zone Change #898:** a text amendment to Billings, Montana City Code (BMCC) revising Section 27-604 – Fences, Walls and Hedges, and Section 27-618 Figure 6. - Illustrations, deleting and adding language to clarify the regulation.

T. **Final Plat Approval** of Josephine Crossing Subdivision, 2nd Filing.

U. **Bills and Payroll:**

1. May 14, 2012

Councilmember McCall separated Consent Agenda Item D. Councilmember Cimmino separated Consent Agenda Items 1A1, 1A3, 1A4, B, and U1. Councilmember Pitman separated Consent Agenda Item R.

Councilmember Pitman moved for approval of the Consent Agenda with the exceptions of 1A1, 1A3, 1A4, B, D, R, and U1, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember McCall referenced Item D and said there was some confusion on the Council's part as to why Item D was on the agenda. She said she had spoken with the City Administrator that afternoon and would comment after Ms. Beaudry's presentation.

Councilmember Ulledalen asked Ms. Volek how Item D ended up on the Consent Agenda. He said they had received public testimony, and Council took no action and did not request that anything be brought back. Ms. Volek said it was a recommendation from the Planning Board. Planning Director Candi Beaudry said the request came from the Planning Board as a modification to an earlier request by the Yellowstone Valley Citizens Council (YVCC) to participate in an Environmental Impact Study (EIS) for a west coast coal terminal. She said when the Planning Board received the request, they considered it and rejected the participation in the EIS but recognized there would be an increase in rail traffic not just from coal and felt it was time the City addressed the impacts. She said the 2004 Over, Under and Around Study was the last study, but prior to 2004 there had been eight other studies on how to address increased rail activity. Ms. Beaudry advised about four of the seven short-term recommendations were implemented, and not all were as successful as they could have been. She said the Planning Board was recommending that the Policy Coordinating Committee (PCC) consider an additional study; however, the item went to the Technical Advisory Committee (TAC) that did not see a value in an additional study since there had already been eight. She said TAC was recommending an implementation plan for the short-range strategies that had already been identified but not yet implemented that included a possible left-turn lane on 27th Street, an advance warning system so another route could be taken, upgraded signal traffic controllers to improve traffic flow all around the intersections crossing the tracks, and coordination with the railroad companies to consider changing operating practices. She said an associated action with the implementation plan was to consider doing a corridor study that would look at both vehicular and rail traffic impacts along the length of the rail within the urban area within Yellowstone County, which would be done as part of the long range transportation plan due to be updated in 2014. She said it was a two-part recommendation - (1) implement the short-range strategies currently identified; and, (2) do a more thorough corridor study in 2014 when the long range transportation plan was updated. Ms. Beaudry said the recommendations would be brought before the Policy Coordinating Committee the next day, and they would be forwarding Council's recommendation at that time. Mayor Hanel asked for the availability of the 2004 study. Ms. Beaudry advised she could e-mail it to Council and post it on-line. Mayor Hanel asked if the Council voted not to adopt the 2004 study in its entirety. Ms. Beaudry advised Council did not act on it at all.

Councilmember Astle asked who controlled the traffic lights on N. 28th and N. 29th Streets. Ms. Beaudry advised MDT controlled N. 27th because it was a state route. She said the projects would need to be prioritized in the implementation plan and then engineered. She said it would not be a simple matter of installing signaling for a green light on N. 27th because 56 signals would be impacted by changing that one signal. She said part of the engineering plan for implementation would be determining the costs, identifying the responsible party, developing a timeframe, and identifying funding sources.

Ms. Beaudry clarified the action before the Council that evening was to make a recommendation to the PCC to move forward with the study as the Planning Board requested or make a recommendation to move forward with an implementation plan of an existing study. City Administrator Volek said only the Planning Board recommendation was included in the documentation that was advertised and not the TAC recommendation. Attorney Brooks clarified there was a public notice issue and what was on the published agenda. He said Council could either vote on what was before them on the agenda that evening, which did not include the TAC recommendation, or delay action.

Councilmember Ulledalen said another option would be to go forward with no recommendation from the City Council. He said the study was not implemented because it proposed building a gigantic trench down 27th Street underneath the railroad tracks. Ms. Beaudry commented that was part of it. She said the impacts of the long-range recommendations to go over, under, or around were so costly and very disruptive to the downtown businesses. Councilmember Ulledalen said it was not that they just did nothing; it was that the alternatives presented did not make any sense. He said he had heard the buildings downtown would not sustain a giant dig going underneath, and it would cause disruption with downtown connectivity.

Councilmember Cimmino asked if the 2004 study even considered the thought of coal trains coming through Billings. Ms. Beaudry said she could not recall if coal trains were singled out. She said the main concern was the increasing number of trains causing disruption of service to the other side of the tracks, specifically emergency vehicles. Councilmember Cimmino said she felt the May 9 letter submitted by the Planning Board was outdated because it said the County Commissioners did not support the concept; yet according to the Billings Gazette, they were now supporting it. Ms. Beaudry clarified that the County Commissioners were not supporting any type of study at that point. She said after the Planning Board sent the May 9 letter to the County Commissioners, both she and the Planning Board Chair attended the meeting and the County Commissioners were not in favor of going forward with a study.

Councilmember Pitman said they had done all of the studies and received all of the answers but the reality was they could not afford any of them, and the trains would just keep coming. Ms. Beaudry commented that the long range options were not currently affordable which did not mean they could not program the costs at some time in the future with transportation funds and other funding sources. She said they had not looked at the cost of the short-term solutions to see if they were affordable.

Councilmember Bird asked if it would be beneficial for the city to do an additional study if the County was not willing to participate. Ms. Beaudry said, as a member of TAC, she had heard all of the arguments for and against an additional study, and it seemed like, of the eight, the recommendations were so similar that coming up with a new alternative was unlikely; so doing an additional study would not get them any further than they were now.

Councilmember Cromley asked Ms. Beaudry if the 2004 study indicated the most economical method of solving the problems was to move the tracks approximately 25 to 30 feet south to alleviate damage to buildings and put in an underpass at an estimated cost of $25 million. Ms. Beaudry said she recalled the method, but was unsure of the cost. Councilmember Cromley asked if Federal funds were available to assist with the issue. City Administrator Volek advised Federal assistance was carried for a number of years on the city's Federal Legislative Program but was withdrawn at the request of the Over, Under, and Around Committee when it became apparent after conversations in Washington D.C. that Billings was not the only city with the problem and if one project was funded, there would be a need to fund many others.

Councilmember Ulledalen said another issue was the Montana Rail Link (MRL) switching activity and asked if MRL had been talked to about moving its switchyards. Ms. Beaudry said they had been in contact with an individual from Burlington Northern who could talk to MRL about its operations. She said one of the recommendations would be to look at operating practices, such as switching and train speed. She said MRL's switching operations had been considerably modified, and they did not cross over at 27th Street as much as they did in the past.

Councilmember Bird asked if there had been discussion on regional, long-term planning for rail traffic. Ms. Beaudry said it had been brought up with the Montana Department of Transportation on a very informal basis.

Councilmember McCall moved that Council postpone action indefinitely based on Ms. Beaudry's information, the eight studies that had already been completed, the short-term strategies that could be implemented, and inclusion in the 2014 Long Term Transportation Plan, seconded by Councilmember McFadden.

Councilmember Ulledalen said he was not comfortable with the Planning Board's recommendation but liked TAC's idea to deal with the problems as they could with the tools they had. He said he would support the motion. He said he would like to see TAC's recommendations come back to Council. Councilmember Bird concurred with Councilmember Ulledalen.

Councilmember Cromley said he would not support the motion because it would send the message that Council was not interested. He said as a representative of Ward 1 the train traffic was one of the major problems in downtown Billings, and he was anxious to do anything. He said the coal issue was not big in his mind because it was already an intolerable problem.

Councilmember McCall said it was her intent with the motion that it not be discussed further that evening based on the fact that there was not a noticed public hearing. She said she believed the Mayor would share the information talked about and the information provided by Ms. Beaudry.

Attorney Brooks recommended addressing the issue through that evening's council initiatives.

Councilmember Cimmino said TAC made a recommendation to implement strategies already identified in the original 2004 study. She said, for the record, the report needed to be resubmitted with the appropriate information in writing and not just verbally.

On a voice vote, the motion was approved 8 to 3. Councilmembers Cromley, Ronquillo, and Cimmino voted in opposition.

Councilmember Cimmino referenced Consent Agenda Item 1A1, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item 1A1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Consent Agenda Item 1A3, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item 1A3, seconded by Councilmember Ronquillo. On voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Consent Agenda Item 1A4 and asked Mr. Mumford who handled the bid award on the project. Mr. Mumford said the project was bid through Public Works and not a consultant. Councilmember Cimmino withdrew her separation. Councilmember Pitman moved for approval of Item 1A4, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Consent Agenda Item B, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item B, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Consent Agenda Item U1, Invoice #755513, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item U1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Pitman referenced Consent Agenda Item R and asked staff to talk about the 3-foot distance for equipment location and the sound abatement or suppression. Planning Division Manager Wyeth Friday said the 55 decibels referenced in the new amended zoning code came from the residential decibel levels in the city noise ordinance. He said it was set up to limit noise from developments adjacent to residential properties and further reduce the potential for noise pollution. Mr. Friday said there was potential that a mechanical piece of equipment could be close to the property line if the building was set further back, so the idea was to limit the equipment from getting too close to the residential properties.

Councilmember Ronquillo asked if existing businesses would be grandfathered in, and if it would help where there were county islands. Mr. Friday advised there would still be potential challenges with the county islands depending on the development, and said a current development within the city would not have to go back and re-do to comply.

Councilmember Pitman moved for approval of Item R, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. **PUBLIC HEARING AND FIRST READING ORDINANCE amending the boundaries of Ward I to exclude recently de-annexed property in Annex #12-03: approximately 13.82 acres of undeveloped land known as Tract 81A, Certificate of Survey 2165, in the Briarwood Planned Unit Development; James and Stella Ziegler, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation)** City Administrator Tina Volek advised staff had no presentation but was available to answer questions.

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

Councilmember Ronquillo moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

3. **PUBLIC HEARING AND RESOLUTION #12-19168 adopting fees associated with various services provided by the Planning Division and Public Works Department. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Planning Division Manager Wyeth Friday explained the Public Works Department was proposing increases in fees for site plan review, traffic plan review, and subdivision review within the city, and the Planning Department was proposing a 4% increase in most of its review fees such as zoning, annexation, fence permits, etc., as well as a separate increase in subdivision review fees to cover the full cost of completing reviews. Mr. Friday said the Planning Division had always collected the fees for subdivision reviews and then transferred a fixed amount based on a percentage of total annual revenue to Public Works. He said the proposed changes would allow both entities to be paid for the service at the time the application was submitted for review. Mr. Friday reviewed a table of the proposed subdivision review fee increases broken down by different types of subdivisions, ranges in the number of lots, types of plats, and pre-application meetings; and said under the proposed fees the Planning Division estimated it could collect about $21,000 in new revenues in FY2013, and Public Works estimated it could collect about $7,300 in new revenues in FY 2013 provided they saw the same level of activity as in 2012. Mr. Friday advised the proposed fee changes had been discussed with the Billings Home Builders Association (HBA) and the Development Process Advisory Review Board (DPARB), and the public hearing that evening had been legally advertised.

Mayor Hanel asked for comments received from the HBA and DPARB during the discussions. Mr. Friday said the comments at the HBA monthly meeting were concerns that the community was continuing to come out of the economic recession, and the fee increase could make it more difficult to bolster the increase in activity based on trying to provide affordable housing products. He said the comments from the DPARB meeting were similar but not as extensive. He said there was also discussion about the cost of doing business, providing services, and recouping costs.

Councilmember Pitman asked how staff arrived at the fee amounts. Mr. Friday said the Planning Department looked at the type of subdivision and the average staff time it took to review them. Councilmember Pitman said it seemed to him the fee increases should be more focused on the people who submitted incomplete paperwork and required a lot of staff time and handholding versus across the board for everyone. Mr. Friday said no matter how complete an application submittal was it still had to meet certain criteria before it was accepted, and it required a lot of work to get it from the point of submittal to the point of council approval. Councilmember Pitman asked if the fees had been addressed in the priority based budgeting. City Administrator Volek advised they had looked at cost and cost recovery as an element of priority based budgeting, but cost recovery by far was not the only measure by which programs were judged.

Public Works Director Dave Mumford clarified that the costs were based on an average. He said the problem was that the current amount received from development fees was paid directly to the Planning Department and did not cover the actual work time spent, so the General Fund had to subsidize Public Works in order to make up for the time. Mr. Mumford said they were asking that the General Fund not have to subsidize Public Works in any way. He said if they did a task that took five hours, they needed five hours of pay. Councilmember Bird asked Mr. Mumford if the fee increase would completely eliminate Public Works' dependency on the General Fund. Mr. Mumford said it would.

The public hearing was opened.

- **Bob Glasgow, 909 Avenue B, Billings, MT,** said he was the Government Affairs and Local Issues Chairman for the HBA and had been a member of DPARB for approximately ten years. He expressed concern from the home builders and developers about any new costs that would come into building homes because the costs would be passed down to the builders, buyers, and realtors. He said the timing was bad because they were just coming out of a very tenuous time period for developers and builders, and they found it hard to add any more costs to building homes, putting in developments, and trying to build Billings.

  Councilmember Bird asked what the fee increase would be on a $250,000 property. Mr. Glasgow said it would probably be fairly small, but any fee increase would be added to the price of a new home. He said any added cost made it tougher to sell a house and tougher for a young couple to qualify to buy a house.

  Mayor Hanel asked if the homebuilders could live with a fee increase of less than 4%. Mr. Glasgow said the homebuilders could probably live with the 4% increase but any cost would be passed down making a more difficult market to build or sell a house.
- **Denise Smith, 1645 Avenue D, Billings, MT,** said she was the Executive Officer for the Home Builders Association. She said they were concerned on the timing of the fee increase because they were just starting to recover economically, and it was a slow recovery. She said any additional fee could hinder additional building to a certain degree. Ms. Smith encouraged Council to allow the priority based budgeting process to fully move forward prior to implementing the fee increases. She said the fee increases were coming "in the heat of the season."

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

Councilmember Ronquillo moved for approval, seconded by Councilmember Ulledalen.

Councilmember McFadden commented the builders did not invent the rules and regulations or request that the city impose them. He said some of the rules may be necessary and some not, and if the city needed to inspect the properties to enforce city rules, it was not the builders' fault and they should not have to cover 100% of the cost.

Councilmember Pitman asked for the dollar amount coming from the General Fund. Mr. Mumford advised it was approximately $35,000 to $40,000.

Councilmember Astle referenced the table of proposed subdivision review fees and said based on a 200-lot final major plat the fee increase would reflect approximately $10 per lot.

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

4. <u>**PUBLIC HEARING AND RESOLUTION #12-19169 adopting revised Right-of-Way Permit Fees for the Public Works Department. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**</u> City Administrator Volek advised staff had no presentation but was available to answer questions.

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

Councilmember Astle moved for approval, seconded by Councilmember Ronquillo.

Councilmember Cimmino asked why there was no staff presentation. City Administrator Volek said Mr. Mumford's indication was there had been previous discussion on the item, but he would be available to answer questions. Councilmember Cimmino said she felt it was appropriate to have a staff presentation for the benefit of the people in the audience or watching the meeting on television. Ms. Volek summarized that it was the first increase in the past five years. She said in 2010 Engineering was transitioned from the General Fund into an Internal Service Fund that required Engineering to generate enough revenue for operations by charging cost of services. She said the recommendation was that there be increases ranging from $0 to $85, with an average increase of $45. She said in the future Public Works would be proposing increases on a more regular basis to reduce the impacts of the larger increases.

On a voice vote, the motion was approved 9 to 2. Councilmember Pitman and Cimmino voted in opposition.

5. **SOLID WASTE COLLECTION AND DISPOSAL CHARGES**

A. <u>**PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings, Montana City Code, Article 21, providing the option to include solid waste collection fees as part of the City's monthly utility billing. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**</u> Public Works Director Dave Mumford said they were trying to be more efficient in Public Works. He said currently the billing for solid waste was assessed annually with the property taxes, and they had to carry $1.5 million in reserves to get them through between assessments. Mr. Mumford said they had approximately 36,000 customers that would be affected. He said the city already had a billing system with all of the customers that would allow the change at no cost and with current staff. He said they would be charging residential customers approximately $7.77 per month.

A joint public hearing was opened for Items 5A and 5B. There were no speakers and the public hearing was closed.

Councilmember Astle moved for approval of Item 5A, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

B. <u>**PUBLIC HEARING AND RESOLUTION establishing FY2013 Solid Waste residential and commercial collection and disposal fees and landfill use fees to be effective July 1, 2012. Staff recommends holding the advertised public hearing and delaying action until June 25, 2012. (Action: approval or disapproval of staff recommendation.)**</u> Mr. Mumford said the last state legislature passed a law that the City of Billings could no longer have exclusive rights to provide garbage collection in all newly-annexed areas. He said if a property owner in a newly-annexed area decided they did not want city garbage service, the city would not have a way of knowing who was getting what under the current method. He said now when someone signed their house up for water and sewer they could sign up for garbage at the same time. He said no doubt there could be minor issues with less than 5% of the customers in making the change, but staff would be willing to work with them. He said unfortunately the system could not customize everyone's bills.

Mayor Hanel clarified that the change in the billing process would not include a rate increase. Mr. Mumford said there would be no rate increase with the change in billing.

Councilmember McCall said she had received a phone call from a property owner who was concerned about the impact the change of billing would have on commercial businesses and landlords. She asked if there were any accommodations that could be made. Mr. Mumford said he was not 100% sure of what they could or could not do. He said he had reached out to that particular property owner, as well as the Landlord Association and offered to attend their meeting, but he never heard back from them. Councilmember McCall said the individual had offered some ideas and said she would encourage him to contact Mr. Mumford.

Attorney Brooks advised the proposed ordinance was very clear that the fees had to be paid on a monthly basis, so if there were to be any exceptions, they would need to be placed in the ordinance on the second reading.

Mr. Mumford advised it would be extremely difficult to separate who would be billed monthly and who would be billed through assessments. He said in that case they would be better off staying with the existing system.

(A joint public hearing was opened for Items 5A and 5B following discussion of Item 5A. There were no speakers, and the public hearing was closed.)

Councilmember Astle moved for approval of staff's recommendation to delay action on Item 5B until June 25, 2012, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Mayor Hanel called for a brief recess at 8:30 p.m. The meeting was called back to order at 8:40 p.m.

6. **PUBLIC HEARING AND RESOLUTIONS setting annual FY2012 assessments for Park Maintenance Districts (#12-19170); Light Maintenance Districts (#12-19171); Street Maintenance (#12-19172); Storm Sewer (#12-19173); Arterial Construction (#12-19174); Tourism Business Improvement District (#12-19175); Business Improvement District (#12-19176); and imposing annual all-purpose mill levy and mill levies for Library operation, Transit operation, and Public Safety Funds (#12-19177). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek advised the Park Maintenance District assessments involved the existing park maintenance districts and said each district was assessed the cost of its operation. She said the Light Maintenance District assessments involved existing districts that were set and determined by individual district. She said the Street Maintenance assessments involved a downtown district charged at .059181 per square foot, and a district for the remainder of the city charged at .009813 per square foot. She said the Storm Sewer assessments involved existing districts that were set and determined by individual district, and the Arterial Construction assessments were developed by zone. Ms. Volek said the Business Improvement District assessments were charged by parcel, and the Tourism Business Improvement District assessments continued at $1 per occupied room per night. She said the Mill Levy assessments continued the Charter-set 74-mill Capped General Property Tax Levy, 10-mill Transit Levy, 5-mill Library Operating Levy, and 20-mill Public Safety Levy.

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

Councilmember Ronquillo moved for approval of the resolution setting the annual assessments for the Park Maintenance Districts, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Ronquillo moved for approval of the resolution setting the annual assessments for the Light Maintenance Districts, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved for approval of the resolution setting the annual assessments for the Street Maintenance Districts, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved for approval of the resolution setting the annual assessments for the Storm Sewer Districts, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved

Councilmember Cimmino moved for approval of the resolution setting the annual assessments for Arterial Construction, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of the resolution setting the annual assessments for the Business Improvement District, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of the resolution setting the annual assessments for the Tourism Business Improvement District, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino moved for approval of the Mill Levy Resolution for General Property Tax, Transit Operations, Library Operations, and Public Safety, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

***Note: Councilmember Bird left the meeting at 9:15 p.m.**

7. PUBLIC HEARINGS AND RESOLUTIONS APPROVING AND ADOPTING THE FISCAL YEAR 2013 CITY OF BILLINGS BUDGET

A. PUBLIC HEARING AND RESOLUTION #12-19178 adopting the FY2013 City of Billings Capital Budget. Staff recommends approval. (Action: approval of disapproval of staff recommendation.) City Administrator Volek advised she would be making a joint presentation on Items 7A and 7B. She began her PowerPoint presentation showing a pie chart of the Revenues of All Funds totaling $265,891,983 and noted the number one source of revenue for the city was Charges for Services followed by Debt Proceeds, Property Taxes, Inter-Governmental Fees, and Interfund Transfers. She showed a pie chart of the Expenditures of All Funds totaling $275,814,917 and said the number one expenditure was Capital followed by Personal Services, Operation and Maintenance, Interfund Transfers, and Debt Service. She noted for both revenues and expenditures there could be an $18.2 million reduction because the city hoped to bond the library in the current budget year. She reviewed additional changes to the FY13 proposed budget that included the transfer of the SID Revolving Loan Fund amount of $1,838,096. Ms. Volek noted Council had received a list of potential sources for the use of the transfer from the SID Revolving Loan Fund to the General Fund in their Friday packets as follows: (1) city hall boiler - $140,000; (2) city hall lighting upgrade - $81,000; (3) seven fire station lighting and boiler upgrades - $216,800; (4) transfer to property liability fund - $1.2 million; (5) pay off of the new radio system; (6) establishment of a home reinvestment revolving loan program in anticipation of a decline in CDBG funding; and (7) improvements to the Park District offsetting the costs of the first year of the Park Maintenance District. Ms. Volek said salaries and wages included a 2.5% Cost of Living Adjustment (COLA) negotiated with the Firefighters Union, Police Union, and Teamsters Union, and past practice had been to grant the same COLA to the non-represented employees. Ms. Volek said the O & M Funds had gone up including an anticipated increase of $233,000 in electricity and $270,000 in fuel. She said they also anticipated interfund transfers of $25,395,338, and noted transfers were not 'real' expenditures. She reviewed the recommended major CIP projects and the major ERP replacements and additions. Ms. Volek said there were three major initiatives the Council was working on - (1) Priority Based Budgeting; (2) Continued Innoprise Implementation to replace HTE; and (3)

Continued Radio System Implementation. She reviewed the fee changes Council had approved earlier in the evening, and said the average increase to a residential property owner would be $6.36 a year. Ms. Volek advised one of the ways funds were controlled in the budget was to require any department wishing to add a new program, service, or individual to submit a Supplemental Budget Request (SBR). She said they had a total request of $1.5 million for the General and Public Safety Funds, and the total amount being recommended for funding was $299,134. Ms. Volek noted the Internal Services Fund requested $112,100, and the amount being recommended for funding was $78,000. She said the total amount requested from other funds was $1,139,000, and the amount being recommended for funding was $1,099,358. Ms. Volek said they were recommending the addition of a half-time Emergency Services Worker and full-time positions for a Parks Volunteer Program Coordinator, Parks Equipment Operator, and Parks Arborist for a total cost of $182,525. She noted in order to control the budget the past eight years they had identified additional revenue sources, kept O & M at 0%, implemented special budget requests, and limited staffing additions. She reviewed the history of the approved SBRs since 2005. Ms. Volek said another way they had reduced or maintained costs was to limit the addition of staff and reviewed the staffing additions the past 10 years. Ms. Volek advised they were concerned about the General Fund balance. She said the General Fund was heavily funded by property taxes, and they only received property taxes twice a year. She said they needed to have enough cash on hand to meet payroll and other expenses. She said in FY13 they anticipated the fund balance to be $21,000,000. She said in FY11 they anticipated by FY15, if the costs maintained at the same level, they would fall below the minimum recommended fund balance in the General Fund account. She said the picture had brightened somewhat and they now anticipated it would move back a year and more likely occur in late 2016. Ms. Volek said the single largest source of revenue for the General Fund was taxes, followed by inter-governmental, licenses and permits, charges for services, fines and forfeitures, and other smaller amounts. Ms. Volek said General Fund expenditures totaled $31,341,653. She said the largest amount was for interfund transfers, followed by personal services, operation and maintenance, and capital. Ms. Volek said the Revenue for the Public Safety Fund was $35,175,498 and the main source was the transfer from the General Fund. She said the Public Safety levy adopted in 2009 was a flat mill levy that brought in about $3.7 million a year; and the second mill levy adopted in 2004 and sustained by public vote in 2005 was for a dollar amount and held at $8.2 million a year. Ms. Volek advised the Public Safety Fund expenditures were primarily personal services. She said the proposed budget for the Police Department was $19,858,778 and the proposed budget for the Fire Department was $15,321,538. Ms. Volek reviewed the proposed changes to the FY13 budget with revenue from the General Fund Transfer-In from the SID Revolving Loan Fund in the amount of $1,838,096; and expenditures for the General Fund Transfer-Out to the MHz Fund of $600,000, additional expenditure for the Firefighters contract in the amount of $356,752, and the reduction of $15,000 in the 911 Center overtime offset by the proposed half-time position. Ms. Volek reviewed the operating funds using reserves for capital projects, as follows: Streets - $500,643 for equipment purchases, Water - $5,285,533 for repair or maintenance of two reservoirs and a waterline in 56th Street, Solid Waste - $1,642,424 for landfill Phase 5 construction and household hazardous waste facility, Information Technology - $41,364 for installation of fiber optic line from city hall to the 911 Center, Fleet Services - $67,500 for purchase of a diesel exhaust fluid dispensing system and replacement of the courier vehicle, Gas Tax - $650,596 for the PAVER Program, Arterial Fee - $960,286 for Rimrock Road from Forsythia to Shiloh, and Storm - $1,323,893 for storm sewer trouble spot construction and the Shiloh Conservation Area. Ms. Volek explained the operating funds using reserves to balance budgets included Planning, Public Works Administration, Library, Transit, and Property/Liability. She said they would also be recommending the transfer of the Fire Hydrant Fund to the Water Fund. She said they would not be levying any money for the fire hydrants this year because there were sufficient reserves to cover operating costs. She said they would make the recommendation to Council the beginning of FY14 to consider including the water hydrant fees on the water bills. Ms. Volek reviewed items needing Council decision, as follows: Park District 1 fund amount and assessments, Council's initiative to undertake a Human Resources/Legal Study anticipated at between $80,000 and $120,000, Priority Based Budgeting, and use of the money from the SID Revolving Loan Fund. Ms. Volek added there had also been Council discussion of having an outside agent perform bargaining for the city, which was not in the budget and would require an amendment.

Councilmember Ulledalen commented the Human Resources/Legal Study had gone beyond the scope of what he had initially envisioned and said it needed to come back for discussion. He said his concern had to do with the employee lawsuits. He asked if the City had the right people in place with the right expertise to address the issues for an organization the size and complexity of Billings. Ms. Volek said there were studies done by MMIA on lawsuits that indicated Billings was on the same level of other cities in the state.

Councilmember Astle said he thought it would be a good idea to get the CDBG funding back up to a level where Community Development could turn junk houses into livable homes that paid taxes. Ms. Volek said a potential source of revenue would be a transfer from the SID Revolving Loan Fund. Planning Director Candi Beaudry advised the idea was to backfill the shortfall in the CDBG funds. She said the more money they could put into a revolving loan fund, the more they could lend out in housing rehab. She said $250,000 was the lowest they could go because they would be loaning the money out at very low interest rates. She said they could do a bang-up job for $500,000.

City Administrator Volek said, in answer to Councilmember Cimmino's earlier question on reserve fund balances, there were a couple of pieces. She said Council received a copy of the ordinance and the operating procedures outlining what should be retained in each fund in the Friday packet. She reviewed a table outlining the Governmental Funds and said Building Inspection, Parks Maintenance Districts, and Street Maintenance District balances remained under the recommended amounts, and they were attempting to rebuild the funds with slight increases. Ms. Volek reviewed a table outlining the Proprietary Funds. She noted Parking was an issue, and there was a small shortage in Engineering.

City Administrator Volek advised the City Council had several options that evening. She said staff strongly recommended Council approve 7A, the Capital Budget, in order to move forward with the summer work projects. She said it was also recommending that Council approve 7B, the budget for Personal Services, Operation and Maintenance, Debt Service, and Transfers that evening; and said the city was required by state law to adopt the final budget in those areas no later than 30 days after it received the assessed valuation from the state, which they anticipated to be August 1. She said staff was prepared to continue the grueling schedule of a work session a week if necessary to include Priority Based Budgeting. She said Council could adopt the current budget which was balanced and amend it later; they could focus on 2014 and make decisions in regard to Priority Based Budgeting after they worked with the survey and the community conversations; or they could postpone adoption and continue Priority Based Budgeting discussions that were already scheduled with the work sessions.

Councilmember Cimmino referenced the Revenues and Expenditures amounts and said technically there was a $9.9 million deficit. Ms. Volek advised it was not a deficit. She said there were outside revenues that did not already exist such as transfers and new revenue. Ms. Volek said the budget was balanced as required by state law. Councilmember Cimmino said they were balancing the budget using reserves and asked what the final reserve balances would be. Ms. Volek advised that information had been included in the last two pages of her presentation. Finance Director Pat Weber said the Governmental Funds reserve balance was $32,939,092 and the Proprietary Funds reserve balance was $33,304,686.

Councilmember Pitman asked why they did not just show a balanced budget instead of having to explain it. Ms. Volek advised they complied with the Government Finance Officers Association and Government Accounting Standard Board (GASB) requirements. She said there were national standards that required the separation.

Councilmember Ronquillo referenced the Parking Enterprise amount and asked if selling Park IV would help balance the amount. Ms. Volek said selling Park IV and refinancing Park II would go a long way towards balancing the amount. She said in order to refinance Park II and assure the lender the payments could be made, there would be a staff recommendation to slightly increase parking fees.

Councilmember Pitman referenced the amount listed for Park District 1 and asked if there was another part of it. Ms. Volek advised some of it would be in Operating Funds, such as staffing. Councilmember Pitman said his concern was that they were getting too far ahead of themselves and asked how they would adjust it. Ms. Volek advised the amount represented the proposed, recommended expenditures; and if the Council wished to take it out of the budget for further discussion, it could.

Mayor Hanel asked Mr. Weber if the City fell within the recommended percentage range for reserves. Mr. Weber said it did.

The public hearing for Items 7A and 7B was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT,** referenced Item 7B and said the Council had the power to move funds around and not to fund certain portions of the budget. He said he felt there should be a higher emphasis placed on the noise issue in the city. He asked why money was being spent with the volunteer police force to harass the citizens of Billings for not properly parking at garage sales. He asked that the Chief be told to back off harassing citizens at garage sales and spend more time working on noise issues. Mayor Hanel responded that Council did not rank his concern with noise any less a priority than parking violations at garage sales, and they took his concern seriously.

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

Councilmember Astle moved for approval of Item 7A, seconded by Councilmember Ulledalen.

Councilmember Pitman moved to amend the motion to remove the consideration of Park District 1 from the Capital Budget to allow for further discussion and until an amount could be set, seconded by Councilmember Cimmino. On a voice vote, the amended motion failed 8 to 2. Councilmembers Cromley, Ronquillo, McFadden, McCall, Ulledalen, Astle, Crouch and Mayor Hanel voted in opposition.

On a voice vote, the original motion was approved 8 to 2. Councilmembers Pitman and Cimmino voted in opposition.

B. <u>PUBLIC HEARING AND RESOLUTION approving and adopting the FY2013 City of Billings Budget for Personal Services, Operation and Maintenance, Debt Service and Transfers. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)</u> The staff presentation for Item 7B was included with the presentation of Item 7A, and one public hearing was held for Items 7A and 7B following the staff presentation.

Councilmember Astle moved to postpone Item 7B until June 25, 2012, seconded by Councilmember Pitman.

Councilmember McCall said she had a concern with June 25 because of the Priority Based Budgeting process they were currently involved with. She said it may take longer than June 25 to complete the process, and they needed to extend it out as far as possible in order to meet the timelines for a balanced budget based on state statute.

Councilmember Astle withdrew his original motion. Councilmember Pitman, who seconded the motion, was in agreement.

Councilmember Astle moved to postpone Item 7B until July 23, 2012, seconded by Councilmember Pitman.

Councilmember Ulledalen asked Ms. Volek if anything they would learn about Priority Based Budgeting over the next four weeks would have any impact on the Fiscal 13 budget. Ms. Volek said they could look at the 4th quartile items and determine if there may be programs they would be willing to eliminate. She said there was still a long way to go, as there were missing numbers and additional steps that needed to be provided to them to give more flexibility. She said once the missing information was provided, it may give Council some discussion points. She said the Teamster Contract stipulated that 45 days notice must be provided to an employee whose job was being terminated. She said there were very few savings that could be achieved unless they were talking personnel items, and it would depend on how quickly the Council wanted to move on them.

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

PUBLIC COMMENT on <u>Non-Agenda Items</u> -- <u>Speaker Sign-in required.</u> *(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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT,** referenced a proposal Council received in its Friday Packet from the Downtown Billings Partnership (DBP) to use tax increment finance dollars for a business retention and relocation program. He said the attorney for the DBP relied on a small portion of a 2000 Attorney General's opinion to determine it would be a proper use of public funds. He said there was no public purpose in a private business, and it would not be an appropriate use of tax dollars.

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

<u>COUNCIL INITIATIVES</u>

- **<u>McCall</u>:** Referenced Agenda Item D, the rail traffic impact study, and **MOVED** to direct Ms. Volek to request staff to come back within 90 days with a summary of the studies that had occurred and recommendations that had been made, including the recommendations of the Technical Advisory Committee, so Council could look at what options they had using some of the existing information to move forward, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.
- **<u>Cimmino</u>:** Asked about the Payment of Claims reviewed that evening and the 1,900 transactions for US Bank. She asked how many credit cards were issued within the city organization. Ms. Volek advised she would provide her with the information.

- **<u>Ulledalen:</u>** Said as they brought the Park Maintenance District item back to the table, he sensed there was a real disconnect between staff, the Parks Board, and the Council. He said there were a lot of loose ends and confusion. Ms. Volek advised she would try to identify the items of confusion and provide clarification.

There was no further business, and the meeting adjourned at 10:07 p.m.

CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk