

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

August 27, 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, Pitman, Cimmino, Bird, McCall, Ulledalen, Astle, and Crouch. Councilmember McFadden was excused.

MINUTES: August 13, 2012 - Pending

COURTESIES:

- Mayor Hanel recognized and congratulated the Yellowstone County Commissioners for the successful Montana Fair; KOA for their 50th anniversary; the community for their support of the "Over the Edge" fundraiser for Special Olympics; the groundbreaking for the new gazebo in South Park, and Yellowstone Club Estates for the grand opening of its community park.
- Planning Division Manager Wyeth Friday advised last fall the City of Billings adopted an Infill Development Policy, which was the culmination of over a year of work by a variety of stakeholders in the community. Mr. Friday said two weeks ago the Western Planner Conference was held in Billings representing 16 states. He said during the conference the Montana Association of Planners meeting was held, and the City of Billings was presented an award for Professional Achievement in Planning for its Infill Policy.
- Planning Director Candi Beaudry presented Wyeth Friday with the Distinguished Leadership by a Professional Planner Award given to him by the Montana Association of Planners at the Western Planner Conference. She said Mr. Friday had been singularly instrumental in developing the Infill Policy, as well as updating the Annexation Policy. She said he was a great leader, he was the president of the Montana Association of Planners for two years running, he facilitated and organized the Montana Association of Planners meeting last year at Big Sky, and he organized the Western Planner Conference.
- Councilmember Ronquillo thanked the organizers of the "Over the Edge" event. He said it was a successful family event that brought many people downtown.
- Councilmember Bird thanked the SD #2 professionals and the parents for their hard work in educating our children. She reminded people to slow down and look out for the children walking to and from school.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items:

- Item J – Resolution of Intent amending the Expanded N. 27th Street Urban Renewal Plan to include a retail retention and recruitment program and setting a public hearing for September 10, 2012. – The Downtown Partnership was requesting the item be postponed until 9/10/12.
- Item 6A – First Reading Ordinance for Zone Change #899: Deleting and adding language to allow the keeping of hens within residential zones. Today three e-mails were received as of 4:00 p.m. in support of urban hens. Copies were filed in the ex-parte notebook.
- Item 7 – Public Hearing and First Reading Ordinance for Zone Change #901: Copy of memorandum from Steve Zeier sent in the August 24th Friday Packet with requested edits to the EBURD Code. Copy was filed in the ex-parte notebook.
- Item 10 – Public Hearing and First Reading Ordinance amending sections of the City Code regarding the sale or donation of city-owned real property. Copy of PowerPoint presentation on Council's desk. Copy was filed in ex-parte notebook.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #6A, AND #11 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign up on the clipboard located at the podium or in the back of the room. 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.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, MT**, referenced Item 6A and said allowing chickens in the city limits would violate the rights of life, liberty, and happiness for those individuals who did not want chickens next to them.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Item J and said it was the worst case of capitalism. He said taking taxpayer dollars to subsidize the rent of another was flat-out socialism, and it should be abolished. He said it needed to be debated in the Legislature.
- **T.J. Wierenga, 2215 Beloit, Billings, MT**, referenced Item 6A and thanked the council for its work on the item and putting up with them. She said no matter how the vote went that evening, she appreciated the Council's time and effort looking into the issue.
- **Melanie Walker, 2708 Vigilante Trail, Billings, MT**, referenced 6A and said she supported urban chickens. She said they were a lot quieter than dogs and served a purpose.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 09-19, Zone 3 East Fox Reservoir Expansion.** (Opened 8/14/12)
Recommend Natgun Corporation; \$2,572,200.
2. **Storm Water Detention Ponds A, B, and C Upgrades for Billings Logan International Airport.** (Opened 8/14/12) Recommend Asphalt Plus, Inc.; \$99,032.50.

B. **Change Order #7 - W.O. 10-08: Water Treatment Plant Clearwell Baffle Project.** COP Construction, \$245,326.45.

C. **Contract for Professional Services** with Morrison-Maierle, Inc. for W.O. 12-31, East End Industrial Area Storm Drain; not to exceed \$96,175.

D. **Cooperative Agreement** (20-year) with Yellowstone County for installation of radio infrastructure at 1310 West Wicks Lane.

E. **Acknowledge receipt of petition to vacate** the alley within Block 228, Original Townsite of Billings, located between 7th and 8th Avenues South behind the Montana Women's Prison at 701 S. 27th; State of Montana Department of Corrections, petitioner; and set a public hearing date of September 24, 2012.

F. **Acceptance of Warranty Deed** for Lot 18, Panoramic Heights Subdivision, from James E. Edwards, \$25,000.

G. **Approval and acceptance** of the Montana Department of Transportation State-Wide Bus Livability Grant for the purchase of an updated Mobile Data System; \$38,112.

H. **Approval and acceptance** of 2012 ConocoPhillips Company grant; \$6,000 to the Police Department; \$6,000 to the Fire Department.

I. **Resolution #12-19203** temporarily suspending Section 24-411, BMCC, Parking for Camping Purposes, in the Shrine Auditorium parking lot, 1125 Broadwater Avenue, during the Big Sky Polka Club's Polkafest, August 31 through September 2, 2012.

J. **Resolution of Intent** amending the Expanded N. 27th Street Urban Renewal Plan to include a retail retention and recruitment program and setting a public hearing for September 10, 2012.

K. **Second and Final Reading Ordinance #12-5577** designating Park 2 Expansion as an urban renewal project (delayed from 8/13/12).

L. Bills and Payroll:

1. July 30, 2012

Councilmember Pitman separated Consent Agenda Item J. Councilmember Cromley separated Consent Agenda Item G. Councilmember Cimmino separated Consent Agenda Items 1A1 and L1.

Councilmember Astle moved for approval of the Consent Agenda with the exception of Items 1A1, G, J, and L1, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Item J and moved to postpone until September 10, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Cromley referenced Item G and asked if the Mobile Data System would allow patrons to know the location of buses. Transit Manager Ron Wenger said it would allow someone to have access to the schedule and be able to Google the routes, but it was not real time yet. Councilmember Cromley asked how far away they were from patrons being able to locate a bus. Mr. Wenger said perhaps by the next grant. He said it would be a fairly expensive undertaking, but something they looked forward to providing. Councilmember Cromley moved for approval of Item G, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item 1A1 and said she would abstain due to her employment. Councilmember Pitman moved for approval, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Item L1, Invoice #'s 757799 and 757924, and said she would abstain from #757799 due to her employment and #757924 due to a conflict. Councilmember Pitman moved for approval of Item L1, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #12-19204 authorizing filing of the annual Federal Transit Administration Section 5307 Grant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

City Administrator Tina Volek advised staff had no presentation but was available to answer questions.

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

Councilmember McCall moved for approval of Item 2, seconded by Councilmember Bird.

Councilmember Ronquillo asked if they would be looking at natural gas. Mr. Wenger advised it was Transit's operating grant, and they would not be pursuing any capital equipment with it.

On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #12-19205 setting mill levy rates for Public Safety Fund, General Obligation Debt Service Parks, General Obligation Debt Service Streets, General Obligation Debt Service Library, General Obligation Debt Service Series A Baseball Stadium, and General Obligation Debt Service Series B Baseball Stadium for tax year 2012. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised there was no presentation, but staff was available to answer questions.

Councilmember Cimmino asked why the Baseball Stadium Series B was necessary. Ms. Volek advised Series A was the General Obligation Series, and Series B was supported by donations. Councilmember Cimmino asked if the donations had been paid. Ms. Volek said they had received some of them. Finance Director Pat Weber advised there was approximately \$30,000 that had not been received, so they had to levy. Councilmember Cimmino clarified that pledges had not come through. Mr. Weber said not in time to meet the deadline for the council agenda and to be able to make the debt service payment. Councilmember Cimmino said what that meant was that the corporate sponsors who promised to pay to bring down the mill levy on the stadium had not paid. Mr. Weber said that was correct so they had to levy for it.

Mayor Hanel asked Mr. Weber to make the council aware in a future e-mail as to who had not come forward with their donations. Mr. Weber said he would. Councilmember Bird asked what recourse the city had or if they just kept after them. Ms. Volek advised they just kept after them. Councilmember Bird asked Mr. Weber to include the process the city used for reminding people in his e-mail.

Councilmember Pitman asked if the city anticipated receiving the money. Mr. Weber said he believed the city would get it.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, MT**, said now the public would be taxed for what they were not supposed to be taxed when the stadium was built. He asked how the city would refund the money to the taxpayers once the donations were received. Mr. Weber advised once the donations were received, they would go into Series A, which would lower the tax on the property owners' bill. Mr. Weber said of the \$1.3 million that had been pledged, they had received approximately \$750,000.

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

Councilmember Astle moved for approval of Item 3, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION #12-19206 establishing the Park District 1 assessment for tax year 2012. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Finance Director Pat Weber advised per state law there were different ways to determine the assessment – on a per lot basis, which would be the same dollar amount for every property owner; by linear foot; by square foot; or by a percentage of taxable value of the property, which was the method they had brought forward.

Councilmember Cimmino commented that earlier in the year Ms. Volek had referenced a legal opinion that had been rendered on whether or not the existing park maintenance districts would be absorbed with the allocation. Ms. Volek said she did not recall and asked if staff was asked to seek an opinion or if one had already been made. Councilmember Cimmino said she thought the question was pending, and there had been consideration as to whether the existing park maintenance districts would be absorbed into the \$1.8 million. Ms. Volek advised there was to be a citizens' subcommittee formed to discuss the current park maintenance districts, and it was the original recommendation of the Parks Board to take up to three years after the Park District 1 assessment implementation to make a final determination. She said staff had serious concerns because park maintenance districts currently supported the operations of the individual parks. She said if the council decided to incorporate the smaller park maintenance districts into Park District 1 and then decided later to discontinue the Park District 1 levy, there would be a serious issue with the maintenance of the smaller parks. Ms. Volek advised Rick DeVore of the Parks Board was present and could address his intentions with the proposed committee. Councilmember Cimmino asked if the "up to three years after implementation" was discussed at the subcommittee level. Ms. Volek advised it was a recommendation from the Parks Board to the Council but there was no Council action taken. Councilmember Cimmino said her concern was that if they absorbed the 53 park maintenance districts at approximately \$772,000 a year and then assessed the \$1.8 million a year, the \$9 million deferred maintenance would never get paid. Ms. Volek said that was why the levy was contemplated not to include the smaller park maintenance districts.

Councilmember Ulledalen said he was under the impression that part of the reason they delayed action on the levy was so the subcommittee would have time to do some work and report back to Council with ideas and recommendations. He said he was reluctant to vote affirmatively without having any feedback, and he was under the impression that the committee to discuss what to do with the existing park maintenance districts had not even been assembled. Councilmember Ulledalen said the issue for him was the 5,000 households already paying into the city parks system, and how the city could equitably treat them with the levy. Ms. Volek said in order to put the levy on the tax rolls for the coming year they were coming up against the deadline. She said they could move forward and create the subcommittee.

Councilmember Pitman referenced the percentage of the taxable value and asked how they would know if they would go over the \$1.8 million or be short. Finance Director Pat Weber said they definitely would not go over because they would divide the \$1.8 by the certified taxable value. He said if there were delinquent taxes, they could be short, so Parks would have to watch what they spent. Councilmember Pitman asked how soon they would know. Mr. Weber answered they would know in December and June.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, MT**, said he had studied the code, and the city had to follow the rules. He said the district was set up with the City Council as the administrator and now the choice of assessment had been determined by the Parks Board. He said the resolution stated total taxable value

of each parcel, and the code referenced lots and parcels with and without improvements and buildings. He said tax statements showed land and improvements and according to the resolution only land was being taxed. Mr. Zurbuchen said it was not one of their options, and their only option was to tax the land and the improvements and buildings. He said there were more options than Mr. Weber mentioned, and the last option in state code stated "any combination of the above." He said Council needed to have discussions on the taxing options. He said the resolution needed to list the dollars and said if the issue went to court, a judge would be ordering the refund of 40,000 illegal assessments.

Mayor Hanel commented there had been several months of discussion by Council, staff, and the Parks Board. He said the Council made the formal decisions.

- **Margie Bonner, 4613 Toyon Drive, Billings, MT**, said she was a member of the Parks Board and wanted to make a few brief comments on the sale of parkland committee. She listed the members of the committee and said they had been meeting on a bi-weekly basis, and the minutes were posted on the city website. She said they had reviewed over 500 parcels for potential sale and identified approximately 38 to 40 parcels that should be sold because they were undeveloped and not of great benefit to Parks or public members. Ms. Bonner said they would be coming to the September 4th work session to request that Wilson Park and Shiloh Point property be made available for immediate sale.

Councilmember Ulledalen said several years ago there was direction from the Council to explore selling Lampman Park and asked for specifics. Ms. Bonner said staff and the committee intended to meet with members of the neighborhood to see if they would be interested in developing it.

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

Councilmember Astle moved for approval of Item 4, seconded by Councilmember McCall.

Councilmember Cimmino asked if the dollar amount of \$1,855,000 could be specified in the language of the resolution. Mr. Weber said it could easily be added.

Councilmember McCall reminded the Council that about two months prior she had a discussion with Rick DeVore regarding the subcommittee, and she sent an e-mail to Council suggesting that each councilperson recommend someone for the subcommittee but she received barriers or no responses. She said Council had an opportunity to get the subcommittee moving and chose not to do anything about it. She said they needed to move forward and approve the assessment.

Councilmember Ulledalen said he still had a question of equity for people already paying into the system and made a substitute motion to delay action until they had a presentation from staff on what the options might be to equitably deal with the existing park maintenance districts, seconded by Councilmember Cimmino.

Councilmember Astle asked Mr. Weber if the assessment would be based on the market value or the taxable value. Mr. Weber advised it would be on the taxable value.

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

Councilmember Ulledalen amended the original motion that upon passage the existing park maintenance districts would no longer be billed for the cost of water, seconded by Councilmember Crouch.

Mr. Weber advised that at the first meeting in June assessments were set for the park maintenance districts that included water charges.

Councilmember Ulledalen clarified his amended motion to say it would take place after the current assessment. Councilmember Crouch, the second to the motion, agreed with the clarification.

On a voice vote, the amended motion failed 9 to 1. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, Bird, McCall, Astle, Crouch, and Mayor Hanel voted in opposition. Councilmember Ulledalen voted in favor.

Councilmember Crouch called for the question.

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

5. ZIMMERMAN ACREAGE TRACTS SUBDIVISION

A. PUBLIC HEARING AND RESOLUTION #12-19207 FOR ANNEXATION #12-07: one parcel totaling approximately two (2) acres, with approximately 7,260 additional square feet designated as street right-of-way, in Zimmerman Acreage Tracts Subdivision, generally located on the north side of Grand Avenue just west of the intersection of Grand Avenue and 48th Street West. John Clifford Zimmerman, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) Planning Division Manager Wyeth Friday began his presentation showing the location of the subject property on the current annexation map, photographs of the property, and an aerial view. He noted the annexation included the north half of Grand Avenue right-of-way, which they discovered was a county road tract that would be deeded to the city. He said the south half turned out to be a road easement, so the property owners on the south half would need to be contacted to discuss quitclaiming their interest. Mr. Friday said the petitioner was requesting the annexation to receive city services and develop the property for a school. He said staff was recommending approval with the following two conditions.

1. Prior to site development, a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements, and a Waiver of Right to Protest the Creation of Special Improvement Districts will be recorded; and/or
2. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of Special Improvement Districts shall be approved and recorded that

will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

The public hearing was opened.

- **Quentin Eggart, Eggart Engineering, 6809 King Avenue West, Billings, MT,** said he was available to answer questions on Items 5A or 5B.

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

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

B. PUBLIC HEARING AND SPECIAL REVIEW #900: A special review for construction of a new 17,868 square foot, private elementary school with 6 classrooms, 25 parking spaces, a fenced playground, and landscaping in a Residential 9,600 (R-96) zone in Zimmerman Acreage Tracts Subdivision, a 2-acre parcel of land located at 4809 Grand Avenue. John Clifford Zimmerman, owner; Eggart Engineering Company, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planner II and Zoning Coordinator Nicole Cromwell began her presentation reviewing the site plan. She said there would be a new standard drive approach off of Grand Avenue to meet city design standards, a paved parking lot in the front, and new landscaping along the frontage and the west side of the property. She said the new school would be built with an agricultural style, and the playground area would be to the north of the school as far away from Grand Avenue as possible. Ms. Cromwell said the adjacent agricultural land would remain in the county for now. She said the City Traffic Technician conducted a traffic count and speed study on Grand Avenue; and the average daily vehicle count was 7,000 with 90% of the traffic monitored obeying the speed limit of 60 mph. She said the city traffic engineer would work with the applicant when designing the new driveway entry to make sure any turning movements off of Grand Avenue were safe. Ms. Cromwell noted there were ditches that would need to be re-routed when the property was developed to improve the sight distance from the west on Grand. She said the Zoning Commission held a public hearing and was recommending approval based on the following 11 conditions.

1. The special review approval shall be limited to Zimmerman Acreage Tracts generally located at 4809 Grand Avenue.
2. The special review approval is for the construction of a new school building of 17,868 gross square feet and no other use is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the parking or outdoor play areas shall be 20 feet above grade.

5. The proposed new drive approach shall be reviewed and approved by the City Traffic Engineer.
6. No outdoor announcement system is allowed on a permanent or temporary basis.
7. No construction or demolition activity will occur before 8 am or after 8 pm daily.
8. Any new sign will require sign permit approval from the Planning Division. The school will be allowed one (1) monument sign not larger than 32 square feet and may have external illumination.
9. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building location.
10. 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.
11. 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.

Mayor Hanel asked if there had been discussion on other emergency accesses to the school other than on Grand Avenue. Ms. Cromwell said she did not believe any were required, and they did not receive any comments from the Fire Department.

The public comment period was opened.

- **Quentin Eggart, Eggart Engineering, 6809 King Avenue West, Billings, MT,** said he was available to answer questions.

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

Councilmember McCall moved for approval of Item 5B, seconded by Councilmember Astle.

Councilmember Ulledalen asked at what point in time heavy traffic would become the city's problem with the need for a right-turn lane or the widening of Grand Avenue. He said the 7,000 vehicle daily traffic count would continue to increase with development. Ms. Cromwell advised a city/county speed study could be conducted, and the speed limit could be decreased as traffic volumes increased. Councilmember Ulledalen asked at what point it would become a city or county responsibility to come up with funding and a plan to widen the road. Planning Director Candi Beaudry advised funds were being collected with each subdivision and annexation for the widening of Grand Avenue from Shiloh to 54th Street West. She said when they had enough developer contributions, they would move forward with a project, which may be eligible for federal aid.

Mayor Hanel asked if there had been discussion for a pull-off with a parallel lane along Grand Avenue so traffic would not have to make a 90 degree turn. Mr. Eggart said the access had been discussed. He said the right-hand deceleration lane coming from town would be a fairly simple addition. He said left-turns would end up stopping traffic. Mr. Eggart said a secondary access had been discussed and could be provided once more residential development occurred on the adjacent properties.

On a voice vote, the motion was unanimously approved.

6. Urban Chickens

A. FIRST READING ORDINANCE FOR ZONE CHANGE #899 - DELAYED FROM 7/23/12 (PUBLIC HEARING HELD AND CLOSED ON 7/23/12): A text amendment to Section 27-305, Section 27-306, and Section 27-607 deleting language and adding language to allow the keeping of hens within residential zones and on property developed with residential uses; adopting the revision as an amendment to the Zoning Regulations; and setting a time period for the regulation to be effective. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II and Zoning Coordinator Nicole Cromwell summarized that on May 14, 2012, City Council initiated an amendment to allow keeping hens in the city limits similar to the Missoula ordinance; on July 3, 2012, the City Zoning Commission reviewed the draft ordinance and recommended denial on a 3-0 vote; the Planning Staff recommended approval; and on July 23, 2012, City Council conducted a public hearing and closed the public hearing on the 1st reading.

Mayor Hanel said the discussion had been ongoing for several months and thanked all of the citizens who had spoken for or against urban chickens. Mayor Hanel referred to the City Council for action.

Councilmember Astle moved for approval of the Zoning Commission's recommendation for denial, seconded by Councilmember Pitman. On a roll call vote, the motion failed 4 to 6. Councilmembers Pitman, Cimmino, Astle, and Mayor Hanel voted in favor of the motion. Councilmembers Cromley, Ronquillo, Bird, McCall, Ulledalen, and Crouch voted in opposition.

Councilmember Bird moved for approval of the ordinance, seconded by Councilmember Ulledalen. On a roll call vote, the motion was approved 6 to 4. Councilmembers Cromley, Ronquillo, Bird, McCall, Ulledalen, and Crouch voted in favor. Councilmembers Pitman, Cimmino, Astle, and Mayor Hanel voted in opposition.

B. PUBLIC HEARING AND FIRST READING ORDINANCE amending Section 4-401 and Section 4-403 of the Billings, Montana Municipal Code allowing and regulating the keeping of up to six (6) female chickens in residential zones. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Animal Control Supervisor Dave Klein advised now that urban chickens were allowed within the city limits, there needed to be restrictions. He said the animal control ordinance would be amended to add the words 'fowl' and 'chicken' to the definition of animal and small animal. He said up to six female chickens would be allowed on single family parcels only, and an annual permit would be required. He described the housing requirements as (1) a covered predator proof house; (2) thoroughly ventilated; (3) easily accessed for cleaning and maintenance; (4) two square feet per chicken hen; and (5) no more than 12 feet at the peak. Mr. Klein added the housing should be ten feet from the property line, public right-of-way, and the sidewalk. He said no chicken could come within ten feet of the property line. He said the hens needed to be shut in from sunset to sunrise and during the daylight hours the chickens should have access to a henhouse and an enclosure as an exercise area. He said feed

storage needed to be in rodent and predator proof containers. He said it would be unlawful to allow chickens to be a nuisance to neighbors (noxious odors, excessive noise, running loose); no chicken hen house/enclosure could be located in a front yard, and no slaughtering of chicken hens could be done in public view. Mr. Klein said all of the violations would be considered civil violations, the first offense would be a \$110 fine, and all violations would be complaint-driven.

Councilmember Cromley asked for the definition of a front yard. Ms. Cromwell advised a front yard was defined in 27-201 of the Zoning Code as any part of a yard that was forward of the front building line towards the street.

Councilmember Pitman asked if the permit fee was enough to cover the cost of animal control. Mr. Klein said that was currently unknown.

Mayor Hanel asked if the animal shelter was equipped with a storage area for chickens. Mr. Klein said there had been some discussion with the Yellowstone Valley Animal Shelter about building coops on the property but to date none had been built.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, MT**, asked how staff would know what was on every parcel in the city and if it were a single-family residence, apartment building, or duplex.
- **Suther, 41 Valley Drive, Billings, MT**, said she appreciated all of the time spent on the issue and encouraged Council to regulate the chickens now allowed in backyards.

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

Councilmember Ronquillo moved for approval of Item 6B, seconded by Councilmember Bird.

Councilmember Astle asked how staff would know who had a permit and who did not. Mr. Klein said the permits would be sold just like dog licenses so staff would be able to check to see if a permit had been sold for a particular address; however, until a complaint was received, staff would not be checking.

Councilmember Crouch called for the question.

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

Mayor Hanel called for a recess at 8:15 p.m. Mayor Hanel called the meeting back to order at 8:30 p.m.

7. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #901: a text amendment and a map amendment to the zone classification for the East Billings Urban Renewal District (EBURD) adding a new section to the Unified Zoning Regulations specifying land uses, building types, signage allowances, landscaping requirements and location specific street improvements for new zoning districts in the EBURD. Staff recommends approval. (Action: approval or disapproval of staff recommendations.) TIFD Coordinator Steve Zeier said the

Council had seen the information previously, but he wanted to provide a brief refresher. He advised the EBURD code was a form-based code that would provide a regulatory framework to implement the EBURD Master Plan. He said the tax increment finance district and urban renewal district were established in 2006, and the EBURD Master Plan followed shortly thereafter. He said the Billings Industrial Revitalization District (BIRD) was also established during that time representing all property owners in the district. He said the code would be the first of its kind in Montana, and it was drafted in cooperation with BIRD, city staff, and Farr & Associates. He said the steering committee was comprised of property owners, local officials, and design professionals. Mr. Zeier said two public meetings were held at the First Interstate Bank Operations Center. He showed the map amendment portion of the zone change and pointed out the locations of the five districts (Rail Spur Village, Rail Spur Village Main Street, Central Works, 13th Main Street, and Industrial Sanctuary). He said Rail Spur Village was primarily residential but also provided use of office and retail; Rail Spur Village Main Street was a north/south corridor and included restaurant, retail, and street level pedestrian types of environments; Central Works was primarily commercial with allowed residential; 13th Main Street was a north/south corridor to include office and retail; and Industrial Sanctuary was the most intense land use and included two current scrap yards. Mr. Zeier said currently the zoning was predominantly Controlled Industrial with a few areas of Heavy Industrial. He said Conventional zoning had 'use' as its main criteria; however, they used both 'use' and 'form'. He said the district had a mix of uses dating back to the founding of the city, and one size did not fit all. He said the EBURD had distinct areas that needed to be defined and protected, and the code would do that. He said the EBURD Code had greater flexibility, it focused on the form of the structures and how they related to the public realm, it better represented the desires of the community, and it was an extension of the EBURD Master Plan. Mr. Zeier said the first Zoning Commission action was in July, and it was delayed for 30 days to handle concerns brought forward by property owners. He said they had a lot of conversations between the BIRD, city staff, and property owners about the concerns and clarifications, and all had been resolved as noted in the document sent in the August 24th Friday Packet.

The public hearing was opened.

- **Marty Connell, 2903 Radcliff Drive, Billings, MT**, said they worked a year and a half and learned some interesting things. He said they did their best to contact everyone, but saw a big deficiency in the mailing system that notified property owners. He said most of the complaints were related to change of use, building code, or the parts of city code not addressed by the EBURD Code. Mr. Connell said it was scary because they did not know what they were getting into, but it would be reviewed on an annual basis. He said if Council passed the ordinance, it would create one of the most viable districts in town and be a real benefit to the City of Billings.

Councilmember Ulledalen said it meant total and complete sense to approve it in light of the fact it would be reviewed and tweaked on an ongoing basis. He said it seemed to him that it was one of the biggest areas for significant upward improvement over the next 20 years.

- **Larry Larson, Roberts, MT**, said he owned a number of properties in the area, and he appreciated the work that had gone into it. He said he was not included in all of the planning, and he did not understand why. He said he was not kept abreast of what was going on, and it seemed to him the current Controlled Industrial was straight forward and they were trying to put a lot of complication into something that did not need to be altered. He said the two-way streets defied logic.
- **Robert Popelka, 1941 Elaine Street, Billings, MT**, said he had several properties in the district. He said he was initially concerned about the changes to Section 27-1803(a). He said there had been some miscommunication. He said he discussed his concerns with staff, and edits were made to satisfy his concerns. Mr. Popelka said he was now very satisfied with the changes.
- **Jim Markel, 240 Parkhill Drive, Billings, MT**, said he owned Red Oxx Manufacturing which was located in the district. He said he was in favor of the changes and said the vision for the district was definitely on track for the next 15 to 20 years.

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

Councilmember Ronquillo moved for approval of Item 7 to include the amendments as presented to the City Council in the Friday packet of August 24, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

8. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #902: A zone change from Neighborhood Commercial (NC) and Residential Multi-Family-Restricted (RMF-R) to Community Commercial on a 4.189-acre parcel described as Lots 1 through 5, Brittain Acres Subdivision, located on the northeast corner of the intersection of Hilltop Road and Bench Boulevard. Big Sky Floral Supply, owner; Chuck and Mick Gainan, agents. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Planner II and Zoning Coordinator Nicole Cromwell began her presentation showing a zoning map, photographs, and an aerial view of the subject property and surrounding properties. She said the proposed zoning would allow greater flexibility of uses. She said the Zoning Commission conducted a public hearing and was recommending approval based on the following 10 criteria.

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following goals of the Growth Policy:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would permit more land uses than currently allowed by the NC and RMF-R zones and this is consistent with the neighborhood character and the planned development of Bench Boulevard. The proposed zoning is compatible with the existing uses on Bench Boulevard and Hilltop Road.

- More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)

The existing zoning is restrictive of the types of businesses that could be located at this arterial intersection. The proposed zoning will allow more businesses and services to be located near existing residents.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The City Fire Department will ensure safe access to the site and provision for minimum fire flow to the new buildings.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed zoning. Re-development of the property will consolidate access points and greater building setbacks than current exist. This will improve public health and safety at this intersection.

4. Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?

Transportation: The proposed zoning may have some impact on the surrounding streets, and a traffic impact study may be required depending on the development that is built on the property in the future. New development that generates 500+ new vehicle trips per day will require a Traffic Accessibility Study (TAS).

Water and Sewer: The City will be able to provide water and sewer to the property by extension of those utilities from Bench Boulevard.

Schools and Parks: There should not be any impact to schools from the proposed zone change. However, any residential development in the future could affect the schools in the area.

Fire and Police: The subject property is currently served by the city Public Safety Services. Commercial re-development of the site may increase calls for service and change the nature of those calls for service.

5. Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

Traffic generation from a commercial is dependent on the specific uses within the development. A development plan has not yet been finalized so prediction on effects at the intersection is not possible at this time. Street improvements for Bench Boulevard are planned and will include sidewalks and/or multi-use paths. Pedestrian safety will be enhanced at this location. The 2011 Bikeway and Trail Master Plan includes a short-range on-street bike lane for both Bench Boulevard and Hilltop Road.

7. Will the new zoning will promote compatible urban growth?

The new zoning does promote compatibility with urban growth. Lower density development is inefficient and ineffective in recovering the costs to extend city services.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of district and the suitability of the property for commercial uses including neighborhood and commuter service businesses. The level of existing traffic along with the number of existing and planned residential developments in the area will likely support the types of businesses likely to locate at this corner.

9. Will the new zoning conserve the value of buildings?

The existing homes and structures on the lot should be conserved with the new zoning. All of the existing uses are conforming to the proposed CC zoning. Surrounding buildings should be conserved when re-development occurs on the site by adding property value to the market.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit a greater variety of uses on the property and is the most appropriate use of the property at this intersection.

The public hearing was opened.

- **Todd Gainan, 4554 Upland Drive, Billings, MT**, said a public meeting was held and there were very few attendees. He said there was no opposition, and he was available to answer any questions.

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

Councilmember Cimmino moved for approval of Zone Change #902, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

9. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #904: A zone change from Residential Manufactured Home (RMH) to Community Commercial (CC) on a 4.77-acre parcel described as Tract 1, C/S 2537, and the north two acres of the south 10.41 acres east of the lateral and fractions of Section 22, Township 1 North, Range 26 East located at 1026, 1032 and 1040 Bench Boulevard ; Lee Steffanich, owner; Sanderson Stewart, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II and Zoning Coordinator Nicole Cromwell began her presentation showing a zoning map, photographs, and an aerial view of the subject property and surrounding properties. She said there was a prospective buyer for the property whose intent was to develop storage units. She said the Zoning

Commission held a public hearing and was recommending approval based on the following 10 criteria.

1. Is the new zoning designed in accordance with the Growth Policy?

The proposed zone change is consistent with the following goals of the Growth Policy:

- Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)

The proposed zoning would permit commercial and retail uses adjacent to HC zoning on Main Street. The previous golf course was heavily used with limited access on Bench Boulevard. Property to the north is a non-conforming vehicle wrecking yard and other adjacent uses are residential. Development standards are in place to require screening, buffering and mitigation of any potential conflicts with adjacent residential uses. The proposed zoning is compatible with the existing uses on Bench Boulevard.

- More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)

The existing zoning is restricted to residential uses. The proposed zoning will allow the development of service businesses located near existing residents. The proposed use for personal storage is in demand for the Billings area.

- Business development and rejuvenation in the Heights. (Economic Development Goal, Page 8)

The proposed zoning will allow the re-use of land for new business development.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The City Fire Department will ensure safe access to the site and provision for minimum fire flow to the new buildings.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health and public safety will be promoted by the proposed zoning. Re-development of the property will provide a single access to Bench Boulevard and new construction will meet current standards for public health and safety. This will improve public health and safety at this intersection.

4. Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?

Transportation: The proposed zoning may have some impact on the surrounding streets, and a traffic impact study may be required depending on the development that is built on the property in the future. New development that generates 500+ new vehicle trips per day will require a Traffic Accessibility Study (TAS).

Water and Sewer: The City will be able to provide water and sewer to the property by extension of those utilities from Bench Boulevard.

Schools and Parks: There should not be any impact to schools from the proposed zone change. However, any residential development in the future could affect the schools in the area.

Fire and Police: The subject property is currently served by the city Public Safety Services. Commercial re-development of the site may increase calls for service and change the nature of those calls for service.

5. Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

Traffic generation from a commercial site is dependent on the specific uses within the development. A development plan has not yet been finalized so prediction on effects on Bench Boulevard cannot be fully understood at this time. As a general traffic rule, mini-storage facilities will generate 2 vehicle trips for each 1,000 square feet in storage or 30 trips per acre per day. On a per acre basis, the proposed use would generate about 145 vehicle trips per day or about the same amount of traffic as a 10-lot residential subdivision. If developed as a manufactured home park, the traffic generated would be closer to 280 vehicle trips per day. Street improvements for Bench Boulevard are planned and will include sidewalks and/or multi-use paths. Pedestrian safety will be enhanced at this location. The 2011 Bikeway and Trail Master Plan include a short-range on-street bike lane for Bench Boulevard.

7. Will the new zoning will promote compatible urban growth?

The new zoning does promote compatibility with urban growth. Lower density development is inefficient and ineffective in recovering the costs to extend city services.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of district and the suitability of the property for commercial uses including neighborhood and commuter service businesses. The level of existing traffic along with the number of existing and planned residential developments in the area will likely support the types of businesses likely to locate on this property.

9. Will the new zoning conserve the value of buildings?

The existing home and structures on the lot should be conserved with the new zoning. All of the existing uses are conforming to the proposed CC zoning. Surrounding buildings should be conserved when re-development occurs on the site by adding property value to the market.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit a greater variety of uses on the property and is the most appropriate use of the property.

The public hearing was opened.

- **Mac Fogelsong, 1300 North Transtech Way, Billings, MT**, said he was with Sanderson Stewart and represented the property owner. He said they held a neighborhood meeting where a couple of concerns were heard, and they changed their proposal to address the concerns.

Councilmember Bird asked Mr. Fogelsong to explain the concerns. Mr. Fogelsong said the original proposal was for a transition to a multi-family structure to the east of Bench Boulevard between the self storage and Bench Boulevard and the increased traffic.

Councilmember Pitman asked if the trees would be left as a buffer from the mobile homes. Mr. Fogelsong answered as many of the existing trees on the south and north sides on the property as they had control over. He said there were strict standards with buffer zones.

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

Councilmember Pitman moved for approval of Zone Change #904, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

10. PUBLIC HEARING AND FIRST READING ORDINANCE amending Sections 22-901 and 22-902 of the Billings, Montana, Municipal Code for the sale or donation of city-owned real property. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

City Attorney Brent Brooks said some time ago a work group of city staff proposed amendments to the City Council at a work session. He said the City Council also provided suggested amendments and at that time staff recommended waiting until several complex land transactions with Billings Clinic, Stockman Bank, and Underriner Motors had been completed. He said the amendments would clarify and formally articulate City Council policy on selling or donating city-owned land and provide for competitive bidding or donation to other local, state or federal entities not bound by the competitive bidding portion of the ordinance. Attorney Brooks said the amendments would also give the City Council discretion to impose conditions for future use and inform the public of a more structured process. He said the amendments would exclude leases to be approved in the same manner as all other contracts and authorize the City Administrator to establish procedures of implementation to include a minimum sale price, appraisals as needed, and preparation of appropriate documents for signature by the Mayor. Attorney Brooks said at the work session there was discussion on adding the word "exchange". He said the motion of approval could add the word "exchange" to all parts of the ordinance where "sale or donation" was written.

Mayor Hanel asked Attorney Brooks if "exchange" was something the city wanted to get into. Attorney Brooks said it was up to the Council. Attorney Brooks said they had done it once or twice before, and it made things more complex. He said Council could proceed as is and not include the word "exchange." He said the ordinance could always be amended at a later date. City Administrator Volek commented the city exchanged

land with the Billings Clinic for the new library. She pointed out the ordinance amendment was initiated by the City Council.

Councilmember Cimmino asked if an exchange of land would include an appraisal. Attorney Brooks said the Council could add the language, but new Subsection (3) would give the City Administrator authority to establish procedures.

Councilmember Bird asked Attorney Brooks if there were any negatives to adding the word "exchange." Attorney Brooks said there were none he could think of.

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

Councilmember Ulledalen moved for approval of Item 10 to include "exchange" wherever "sale" was used in the ordinance, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

11. AMENDMENT TO THE 2009 BILLINGS URBAN AREA TRANSPORTATION PLAN increasing costs and identifying additional funding for the North Bypass Project. Staff recommends City Council review and discuss the amendment at the August 27, 2012, meeting and make a recommendation to the Policy Coordinating Committee at the September 10, 2012, meeting. (Action: approval or disapproval of staff recommendation.) Planning Director Candi Beaudry said the amendment to the 2009 Billings Urban Area Transportation Plan was predicated on the Council recommending that the Billings Bypass be the priority project with 100% of the Urban and MACI (Air Quality Funds) going towards the project. She said it would not eliminate the possibility of other projects but would delay other projects being funded until 2020. She said the North Bypass was currently estimated to cost \$89 million; and of that, \$18 million remained in earmark funding. Ms. Beaudry said the whole scope of the project had been revised because the purpose of the bypass was no longer to provide a connection from Mexico to Canada as a trade route. She said it would instead provide a connection between Lockwood and the Heights, giving the Heights an additional egress and another option for truck traffic. She said the amendment would shift all funds received on an annual basis to the project, which would be approximately \$25 million. She said there were \$46.5 million originating from funding sources that the state received and was willing to contribute. Ms. Beaudry said if the city decided to use a portion of the MACI and Urban funds on other projects, it would extend the construction time and the funding time of the bypass; and the further out it was extended, the less the state would be able to commit to the funds. She said the Technical Advisory Committee (TAC) had recommended that a minimum of 50% of the MACI and Urban funds go to local projects with the rest going to the Billings Bypass. She said they received \$3.6 million annually in combined funds, so \$1.8 million would go to local projects. Ms. Beaudry said the other projects they were talking about were the Inner Belt Loop, which was not on system yet; the intersection at Main connecting Bench and 6th Avenue North; upgrading or reconstructing Rimrock from Clearview to Ironwood; and Grand Avenue from Rehberg to Shiloh. She said the County Commissioners implied they were in favor of prioritizing the North Bypass recognizing the sooner it was done the faster the funds could be applied to local projects. Ms. Beaudry said Council could make a recommendation to the PCC to approve the amendment; delay until September 10 when the Transportation Improvement Plan (TIP) was on the agenda; or say 'no

build' with all of the money going to other projects. She said if Council did anything but prioritize the North Bypass, the amendment and the TIP would need to be revised to reflect the different proportion of funding to different projects.

Councilmember Astle asked if the bypass would begin around Johnson Lane, build a bridge across the Yellowstone River, cross Dover Road, and end up near the Roundup turnoff or Mary Street. Ms. Beaudry said that was correct. Councilmember Astle asked about the traffic routes. Ms. Beaudry recommended reading the draft environmental impact statement for the project, which outlined the different routes, turn movements, and how much initial traffic it would carry.

Councilmember Pitman said the first phase of the Inner Belt Loop was already secured through arterial funds and asked if she was talking about the phase from Alkali Creek Road to Zimmerman. Ms. Beaudry said that was correct.

Councilmember Ulledalen commented that one of the biggest reasons for the Inner Belt Loop was for safety and to provide another way for people to get out of the Heights. He said if the bypass was built, they would be accomplishing the same thing and asked if it was going to be as compelling to build the Inner Belt Loop in the next few years if the money was committed to the bypass project. Ms. Beaudry said both had a safety component but beyond that, they had different purposes for moving traffic. She said the Inner Belt Loop would serve better to move Heights traffic to the west end, and the bypass would provide a connection for Lockwood.

Mayor Hanel asked if the decision on the bypass had anything to do with the safety aspect of the Johnson Lane intersection. Ms. Beaudry said they wondered why the state was willing to put in \$46.5 million at this time and speculated it would open up the interchange at Johnson Lane to more economic development.

Councilmember Bird asked Ms. Beaudry if she was at liberty to provide pros and cons for the choices Council had been given. Ms. Beaudry said one of the items raised by the County Commissioners was that the funding the state would bring forward could be applied to the interstate interchange, and the project could be done in phases. She said it was rare they could put all of their money into one project and if it was structured right, they would get the bypass built and a good start on additional projects. Ms. Beaudry said the Planning Board said to get it done now while it was more foreseeable and then work on other projects as money became available.

Councilmember Astle asked if the funding was already there and if a political shakeup in Helena could freeze the funding. Ms. Beaudry said the money was not already there but it was identified for the project. She said if the Transportation Plan were to be adopted it would be more secure, but there were no guarantees it would indefinitely remain secure.

Councilmember Ulledalen said he would not support the amendment to make the bypass a number one priority because there were so many other needs in the community. He said they needed to go back to the community and talk about all the other projects that needed to be done. He said the Council may have to look at raising the arterial and street maintenance fees to get those projects done. Ms. Beaudry said if the Council and the PCC rejected the Billings Bypass as a priority, they would go back to the drawing board and elevate the priority of the other projects. She said if the PCC approved the Billings Bypass as a priority, they would have to look at different funding packages for the other projects.

Councilmember McCall said it was not just finding the funding but the realistic timelines for people to understand when the other projects might be done. She said she was inclined to not support the amendment because she thought it was a very serious issue with the concerns and the number of projects they had within the city that would be delayed.

Councilmember Pitman said they had the opportunity to prepare for growth in the City by putting in the infrastructure that would facilitate the growth. He agreed with Ms. Beaudry that the Inner Belt Loop and the Billings Bypass would serve different purposes.

Mayor Hanel asked Ms. Beaudry to explain what would happen at the PCC meeting if the city did not support the amendment. Ms. Beaudry commented there were four voting members on the PCC – City, County, Planning Board, and MDT. She said if the city was a minority on a vote to prioritize the North Bypass, the plan amendment would go forward as presented. She said the TIP would be restructured showing how the funding would flow in the next four years. She said the other projects would continue to be listed in the TIP but no money would flow to them until the project was completed in 2022. She said the city may not see funding going toward any other project until 2020.

Councilmember Cimmino said if the state was willing to put in \$46.5 million and the city turned it down, it would be like kicking a gift horse in the mouth. She said the time to act was now. She said they had been talking about it for at least 17 years, and they could not sit on their hands any longer.

Councilmember Ulledalen said his sense was they should reject it and send a clear message to the Planning Board what the city's priorities were.

Councilmember Bird said she was feeling tremendous stress about the decision because there were so many competing transportation priorities. She said she could see the merits but the thought of voting for the amendment concerned her in terms of placing other city projects on hold and extending them out.

Councilmember Ulledalen moved not to support the amendment, seconded by Councilmember Astle.

Councilmember Ronquillo amended the motion to postpone the decision until September 10, seconded by Councilmember Pitman.

Councilmember Bird said she disagreed with the postponement because it would send the message they were struggling with a decision and giving in.

On a roll call vote, the amended motion failed 6 to 4. Councilmembers Bird, McCall, Ulledalen, Astle, Crouch and Mayor Hanel voted in opposition. Councilmembers Cromley, Ronquillo, Pitman, and Cimmino voted in favor.

On a roll call vote, the original motion failed 6 to 4. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, Crouch, and Mayor Hanel voted in opposition. Councilmembers Bird, McCall, Ulledalen, and Astle voted in favor.

Councilmember Pitman moved for approval of the amendment as written, seconded by Councilmember Cimmino. On a roll call vote, the motion was approved 6 to 4. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, Crouch, and Mayor Hanel voted in favor. Councilmembers Bird, McCall, Ulledalen, and Astle voted in opposition.

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

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

COUNCIL INITIATIVES

- **McCall**: Said they needed to deal with putting together the subcommittee for the existing park maintenance districts and suggested they have a brief discussion at a work session.
- **Ulledalen**: MOVED to have staff provide Council with an idea of how much the arterial fees and street maintenance fees would need to be increased in order to fund the other projects, seconded by Councilmember Crouch.

Councilmember Pitman said he did not feel it was necessary because they had the list of the projects, and there were a lot of different sources of funding.

Councilmember Ulledalen said they needed to start working on a solution rather than leaving a big hole for staff from 2015 to 2020 or at some point just say "the clock stops, we're done" until Fiscal 2021.

City Administrator Volek estimated it would take staff approximately one month. She said she would report back at the next work session after she had a chance to talk to staff.

Councilmember Bird said she agreed with Councilmember Ulledalen but she did not know if it was information they needed in a month. She said if the plan for the bypass went through, she was certain there would be unhappy citizens. She said it would give them an alternative to look at what might need done in the interim. She said they needed to keep moving forward.

Councilmember Crouch called for the question.

On a voice vote, the motion was approved 7 to 3. Councilmembers Ronquillo, Pitman, and Cimmino voted in opposition.

There was no further business, and the meeting adjourned at 10:28 p.m.

CITY OF BILLINGS



ATTEST:

BY Cari Martin
Cari Martin, City Clerk

BY Thomas W. Hanel
Thomas W. Hanel, Mayor