

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

October 22, 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 Cromley gave the invocation.

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

MINUTES:

- September 24, 2012 – Councilmember Ronquillo moved for approval, seconded by Councilmember Pitman. Councilmember Cimmino said she would abstain because she was unable to attend the meeting. On a voice vote, the motion was approved 10 to 0.
- October 9, 2012 - Pending

COURTESIES: Councilmember Ronquillo noted Councilmember Pitman celebrated his birthday last week, and Councilmember Cimmino would celebrate her birthday next Monday.

PROCLAMATIONS: "Pink Day" in Support of Breast Cancer Research - October 25, 2012. Skyview High School Head Volleyball Coach Vicki Carle thanked everyone, especially Mayor Hanel, for proclaiming "Pink Day". Ms. Carle said they had made some changes and were now a non-profit so the majority of their money stayed in Montana to help Montana women and men who had breast cancer with treatment expenses. She said they still sent some money to the Susan B. Komen Foundation. Ms. Carle introduced Tracy Kangas and Kendall Merrick and said they were instrumental in organizing the "Pack the Place in Pink" event every year, along with many other volunteers. She said she had been diagnosed with cancer twice and urged everyone to schedule needed annual cancer screenings. She said she was a standing testament of early detection. She said there was no cure for cancer, but cancer could be beaten by staying ahead of the game.

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items:

- Item #6 – Approval to begin negotiations for relocation of the Planning and Community Services Department to the Miller Building located at 2825 3rd Avenue North. (1) Copy of letter from Mike Yakawich, Chair of the South Side Neighborhood Task Force, and a petition with 50 unverified signatures in favor of relocating to the Crane Building were on Council's desk and filed in ex-parte notebook. (2) Copy of Office Space Selection PowerPoint Presentation from October 9 council meeting was sent in the October 12th Friday Packet and filed in ex-parte notebook (3) Copy of Office Space Proposal

Evaluation from Candi Beaudry was sent to Council in the October 19th Friday Packet and filed in ex-parté notebook.

- Item #8 – Parking Meter Reduction Trial Report and Recommendation. Copy of memo from Bruce McCandless sent in October 19th Friday packet and filed in ex-parté notebook.
- Request to Add Item to Agenda: Brownfield Grant Commitment Letter. Memo was sent in October 19 Friday packet and filed in ex-parté notebook.
- Request to Add Item to Agenda: Authorization for two loans from the General Fund to the N. 27th Tax Increment Fund – (1) \$1.5 million to start the Empire Garage Project prior to closing on bonds to be used for utilities relocation, abatement/demolition and pre-design; and (2) \$1.7 million to finish the Empire Garage Project prior to receiving proceeds from the sale of retail space and parking stalls. Memo from Finance Director Pat Weber was sent in October 19 Friday Packet and filed in ex-parté notebook.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 6, 7, 8, 9A and 9B ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign up on the sheet 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.

- **Jerry Ray, 2646 Grand Avenue, Billings, MT**, referenced Item 6 and said he could work out space for the Community Development Division at the Crane Building. He said he could finish the space for them and discount the rent to get them in. He said he needed to know the size and what they had going, but he had not received any cooperation with obtaining the information. He said he had taken the matter to the South Side Task Force, and they were in support of moving the Planning and Community Services Department to the Crane Building.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Item H and said it was nothing but socialism and a pathetic use of taxpayer dollars. He said it would be subsidizing private businesses with someone else's money.
- **Drew Smith, 3312 4th Avenue North, Billings, MT**, referenced Item 6 and said he represented the Miller Building and was available to answer questions.
- **Norman Miller, 4507 Palisades Park, Billings, MT**, referenced Item 6 and said his family owned the Miller Building. He said the Miller Building offered the “biggest bang for the buck.” He said he had not attempted to contact Councilmembers or City employees about the process because he felt the process had been fair. He said the RFP process was professionally done and was very transparent. Mr. Miller asked Council to approve the Planning Department's recommendation.
- **Mike Craighill, 2118 Lake Hills Drive, Billings, MT**, referenced Item 8 and said he was a member of the Parking Advisory Board. He said the trial was successful and said the recommended proposal was a great solution.
- **Steve Bruggeman, 1824 Forest Park Drive, Billings, MT**, referenced Item 8 and said he was a member of the Parking Advisory Board and also the Board Chair of the

Downtown Billings Association. He said he supported the meter reduction proposal and downtown needed free parking outside the core but within walking distance.

Councilmember Ulledalen asked if the proposal would meld well if they were to turn the management of parking over to someone other than City employees. Mr. Bruggeman's response was "absolutely." He said he could not speak for the other board members, but he highly recommended moving towards a commission similar to Bozeman, Missoula, and Helena. He said the plan before Council would fit in with any long-term plan.

- **Lisa Harmon, no address given**, referenced Item 8 and said she was Executive Director of the Downtown Billings Association and Downtown Billings Improvement District. She said she was present to speak in favor of the action before Council regarding the Parking Advisory Board and Meter Reduction Trial. She said she agreed with Mr. Bruggeman that it addressed the issue of free parking, but overall it addressed options they needed in parking. She said the survey indicated the public wanted parking options. Ms. Harmon said the Downtown Billings Improvement District was looking at a long range plan with City Administration to comprehensively look at the parking system and make changes. She said they hoped to be a partner in the long range vision of the parking system for Billings.

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

1. CONSENT AGENDA

A. Contract for Professional Services with HDR Engineering, Inc. for W.O. 12-44, Water Treatment Plant High Service Pump Station H2-3 Pump Replacement; not to exceed \$72,900.

B. Approval and Acceptance of the State of Montana, State Highway Traffic Safety Division, Selective Traffic Enforcement Program (STEP) Overtime Grant for traffic enforcement funding, October 1, 2012 - September 30, 2013; \$10,000.

C. Consultant Agreement with Fehr & Peers to conduct the Hospitality Corridor Planning Study (Highway 87 beginning at the Lockwood I-90 Interchange to its intersection with Airport Road); estimated cost - \$69,910.

D. Amendments to the Scheduled Airline Operating Agreements with Horizon Air (dba Alaska Airlines), United Airlines, Delta Air Lines (as assignee and successor to Northwest Airlines), and Allegiant Air extending the Agreement expiration date to June 30, 2013.

E. Approval of annual Funding Agreement with Adult Resource Alliance of Yellowstone County (formerly Yellowstone County Council on Aging).

F. Resolution #12-19228 amending Resolution #05-18326 adopted 8/22/05; Resolution #08-18738 adopted 07/28/08; Resolution #09-18851 adopted 7/27/09; and Resolution #10-18939 adopted 5/24/10; reducing the interest rates on the Department of Natural Resources (DNRC) Sewer System Revenue Bonds.

G. Resolution #12-19229 amending Resolution #05-18329 adopted 9/12/05; Resolution #09-18852 adopted 07/27/09; Resolution #09-18869 adopted 9/14/09; Resolution #10-18964 adopted 7/12/10; and Resolution #12-19209 adopted 9/10/12 reducing the interest rates on the Department of Natural Resources (DNRC) Water System Revenue Bonds.

H. Resolution of Intent #12-19230 amending the Expanded N. 27th Street Urban Renewal Plan to include a retail retention and recruitment program and setting a public hearing for November 13, 2012. (Delayed from 9/10/12)

I. Bills and Payroll:

1. September 24, 2012
2. October 1, 2012
3. April 1, 2012 through June 30, 2012 (Municipal Court)

Councilmember Cimmino separated Consent Agenda Items 1A, I1 and I2. Councilmember Astle moved for approval of the Consent Agenda with the exceptions of Items 1A, I1 and I2, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

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

Councilmember Cimmino referenced Item I1, Invoice #759345, and said she needed to abstain due to her employment; and Invoice #759470 and said she needed to abstain due to a conflict. Councilmember Cimmino referenced Item I2, Invoice #759564, and said she needed to abstain due to her employment.

Councilmember Pitman questioned Invoice #759417 for the purchase of a \$3,600 desk for the Parks Department. City Administrator Volek advised the purchase was for a system of components that included overhead storage, filing, and a desk. She said she spoke with the Purchasing Agent and was told it was a fairly common price for such a system, and it should have a long life with the City. Parks Director Mike Whitaker advised the desk being replaced with the new components was a hand-me-down metal desk from the old Naval Reserve Center that had to be welded and retrofitted to get it into their office.

Councilmember Pitman moved for approval of Item I1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Pitman moved for approval of Item I2, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino moved to add the Brownfield Grant Commitment Letter to the Regular Agenda as Item #10, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved to add the authorization of two loans from the General Fund to the N. 27th Tax Increment Fund for the Empire Garage Project, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION #12-19231 (1) authorizing the sale of city-owned property (Galles Building) described as Lots 7 & 8, Block 189, Original Town of Billings, to Interfaith Hospitality Network in the amount of \$68,750 for Lot 7 and \$16,250 for Lot 8; (2) using \$21,000 of the proceeds to purchase Lot 17 from Community Development and to repair the parking lot; and, (3) depositing the remainder of the proceeds into the N. 27th Street Tax Increment District account for use on future projects. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Assistant City Administrator Bruce McCandless commented the item had been before the City Council on a couple of occasions so his presentation would be very brief. He said the subject property was located at 10 South 26th Street and the City had owned it for approximately 13 years. He said the property was purchased as a larger land assemblage for a redevelopment project. Mr. McCandless said the reason for selling the property was because the large redevelopment project was no longer possible with the development of the skate park and the restoration of the L & L Building. He said the building was not occupied and was deteriorating. He said the sale of the property was first brought before the Council in July 2012, and Council considered it again in August and rejected two bids that had been received. He said at that point staff re-advertised the property, eliminated most of the previous bidding conditions, and bids were received from Interfaith Hospitality Network (IHN) in the amount of \$85,000 for both lots; Jeremiah Young in the amount of \$65,000 for Lot 7 only; and Maisie Sulser in the amount of \$60,000 for Lot 7 only. Mr. McCandless said staff was recommending the sale of the property to IHN and allocating the proceeds as indicated.

The public hearing was opened.

- **Jeremiah Young, 3114 12th Avenue North, Billings, MT**, said he was owner of Marcasa Clothing in downtown and Kibler and Kirch in Red Lodge. He said he was also the owner of the Stapleton Building and was part of the Downtown Billings Partnership so he was fully vested in the growth of downtown. Mr. Young asked if IHN needed that particular historic building and asked what they would do with it. He said it seemed to him it would be cheaper for IHN to build another building rather than take the Galles Building and, in his opinion, destroy some of the historic value. He said he had done his homework and had a contractor pre-selected to restore the building. Mr. Young asked how long it would take IHN to raise the capital and asked if the building would sit as is for many years. He asked if IHN had experience running their proposed coffee shop and restaurant and said it was not the most ideal location for retail. He asked how important it was to the City Council to retain the historic architecture of the building. Mr. Young said he had admired the Galles Building for many years and would like the opportunity to restore it and keep it on the National Register.

Councilmember Astle asked Mr. Young why he did not bid higher on the building if he felt the building was so valuable. Mr. Young said it was not so much the amount of the bid but the amount a person was prepared to spend restoring the building.

- **Janna Hafer, 631 N. 26th, Billings, MT**, said a lot of people had spent a tremendous amount of time and money to give the historic district along Minnesota Avenue a more

positive identity and in the past ten years many private businesses had relocated to the area increasing the property tax base. She said there were already four social service agencies in the area and asked if all the social service agencies had to be in that neighborhood. She said she did not feel the Galles Building was in a convenient location for the clients of IHN. Ms. Hafer urged Council to consider selling the property to an entity or individual who could restore the building to maintain the historic integrity and increase the tax base because it was a tax increment district.

- **Randy Hafer, 631 N. 26th, Billings, MT**, said when he opened High Plains Architects in 1999 they moved to Montana Avenue and within a year moved to Minnesota Avenue because they saw opportunity. He said since then they had either directly or indirectly participated in over \$8 million in private investment in the immediate neighborhood. He said they created a neighborhood task force called Old Town Neighbors and a neighborhood master plan that was adopted by City Council. He said a non-profit, tax exempt entity would not contribute to the tax base. He said there was already a tremendous amount of property devoted to social service agencies that had been taken off the tax rolls, and they did not need any more non-taxable uses in the neighborhood. Mr. Hafer said taxes generated from the subject property would make up the difference in the initial offer price within the first year and would contribute far more revenue for the city in future years. He said if the property was sold to a private enterprise, it would be good for the tax increment district, the neighborhood, and the City.
- **Joannie Harmon, no address given**, said she lived and operated a few businesses directly across the street from the Galles Building on Minnesota Avenue, and she would like to echo Randy and Janna Hafer. She said Minnesota Avenue was recently given historic status and the proposed housing projects from the other two bidders would be good for the area. She said IHN was a wonderful organization but not for the proposed location.
- **Jeff Kanning, 1008 Poly Drive, Billings, MT**, said he was amazed at the people who had all of the assumptions about what IHN did and what it intended to do with the building. He said they had heard talk that evening and in the previous weeks about what IHN did, what was good for IHN, and what activities were good for IHN, but none of the people talking had ever contacted IHN to find out what IHN's intent for the building was or what IHN planned to do. He said their Board was made up of bankers, attorneys, architects, and other talented individuals who were more than familiar with the building and its needs and historic requirements. Mr. Kanning said the property had been a commercial, mixed-use building with rooms for rent on the second floor since its inception, and they intended to return it to more that type of use with retail/commercial on the main floor and housing on the second floor. He said it was part of the Downtown Framework Plan, and the goal of the district was to preserve and compliment the heritage and create active businesses with residential and pedestrian environments. Mr. Kanning said their proposed cafe would provide 12 to 15 jobs and would be part of the tax increment district. He said they were the highest bidder, and he felt their use would be the most consistent historically and today.

Councilmember Astle asked if the Galles Building was listed on the Historic Register. Mr. Kanning confirmed that it was.

Councilmember Pitman asked Mr. Kanning when IHN planned to begin remodeling. Mr. Kanning said their proposed plan was to begin fundraising in the fall and start as early as next summer. He said they were probably one year away from raising the money they needed. He said they had half of the project financing committed from a local lending institution, and they would need to raise the other half.

- **Andy Rio, 3121 Sycamore Lane, Billings, MT**, referenced the letter he sent to Council earlier and the excellent article written by Mr. Kemmick in the Billings Gazette that explained what IHN did. He said they were not running a day care center. He said it was a business office with a professional counselor and professional staff. He said there would be no soup line and no one would be lining up for a place to sleep at night. He said IHN was a case management program helping people learn how to interview for jobs, manage their money, and dress for an interview. Mr. Rio said three out of four adults who came through their program graduated, became employed, and had a place to live. He said the taxes generated from the cafe would exceed the taxes generated from four or five residential units, and they would also have payroll taxes for 12 to 15 employees. Mr. Rio said what they had heard previously and that evening was "not in my backyard." He said their current center was in the basement of Bethlehem Lutheran Church, and he bet 98% of the residents in that neighborhood did not even know IHN was located there. Mr. Rio proposed that the City donate the property to IHN because it would get its money back from cafe revenues, tax revenues, and payroll taxes.

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

Councilmember Astle moved for approval of the sale of Lots 7 and 8, Block 189, Original Town of Billings, to Interfaith Hospitality Network in the amount of \$68,750 for Lot 7 and \$16,250 for Lot 8, seconded by Councilmember Ulledalen.

Councilmember Cromley said his concern was that there was no development commitment, and he thought that type of clause was to be included. Assistant City Administrator Bruce McCandless said he thought Council's direction was to remove any development requirements from the bid request, and so that was what staff did. He said the Council could apply a condition if they chose.

On a voice vote, the motion was approved 9 to 2. Councilmembers Cromley and Bird voted in opposition.

3. PUBLIC HEARING AND FIRST READING ORDINANCE amending Article 23-600 of the City of Billings Subdivision Regulations bringing the Regulations into compliance with the Montana Subdivision and Platting Act. (Delayed from 10/9/212) Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Planning Division Manager Wyeth Friday noted a presentation had been made at an earlier work session, and the item had been delayed from the October 9th meeting so the public hearing could be properly advertised. Mr. Friday said the amendments specifically dealt with addressing a new Attorney General's opinion issued in January of 2012 that looked at Section 76-3-204 of the Subdivision and Platting Act to determine what was exempt from subdivision review with regard to subdivisions where land was rented or leased. He said the Attorney General's determination was that developments with more than one

structure for rent or lease on a single tract of land, whether residential or commercial use, were not exempt from subdivision review and were considered subdivisions for rent or lease. Mr. Friday listed the proposed updates to Article 23-600 as: the new definition of Subdivisions for Rent or Lease (SRL); the definition of "building, structure, or other improvement" based on definition of "Occupied Structure" found in MCA Section 45-2-101; the exclusion for certain structures/improvements; the review procedures for SRLs based on the number of individual units with water and/or wastewater facilities; other development standards that would bring SRLs into alignment with other subdivision requirements; and the exemption of SRLs from the Master Site Plan review process. He noted the County Commissioners would be considering similar changes within the County subdivision regulations. He noted the Planning Board reviewed the regulations and did not have a recommendation to forward to Council. He said they had a lot of discussion and were specifically concerned with the way the Attorney General's opinion came. He said the Planning Board thought there was a big loop hole not being addressed and felt it should be addressed at the legislative level.

Mayor Hanel asked Mr. Friday if the Attorney General's opinion was the result of court action in Missoula. Mr. Friday said that was correct. He said it was a request from the Missoula County Attorney to the Attorney General to provide an opinion.

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

Councilmember Ronquillo moved for approval, seconded by Councilmember Cimmino.

Councilmember McFadden said he would be voting in opposition because it would pass on unnecessary expenses to people who did not need to pay them, and it should be an issue for the legislature.

On a voice vote, the motion was approved 8 to 3. Councilmembers Pitman, McFadden, and Bird voted in opposition.

4. PUBLIC HEARING AND RESOLUTION #12-19232 approving and adopting Fourth

Quarter Budget Amendments for Fiscal Year 2011/2012 adjusting the Park

Maintenance Districts and Miller Crossing Tax Increment Funds. Staff recommends

approval. (Action: approval or disapproval of staff recommendation.)

City Administrator Volek said the action requested was to amend the budget year that had already concluded. She said the city had higher expenses than anticipated in the park maintenance districts of \$122,300. She said water charges were approximately \$100,000 more than the two previous years. Ms. Volek advised there was also more incremental revenue in the Miller Crossing District than anticipated, which required additional reimbursements to the property owners in the district in the amount of \$2,400. She said the items would be funded by existing cash balances.

Councilmember Pitman asked if the \$100,000 would be charged back next year. Ms. Volek said that was correct, and it would go back into the General Fund.

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

Councilmember Astle moved for approval, seconded by Councilmember Pitman. Councilmember Cimmino asked if the \$100,000 was due to the record breaking heat during the summer. Ms. Volek said that was correct. Councilmember Pitman asked if the parks were billed on a 3-tier level or flat rate. Parks Director Mike Whitaker said it was his understanding they were billed on a flat rate. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION #12-19233 approving and adopting First Quarter Budget Amendments for Fiscal Year 2012/2013. Staff recommends approval.
(Action: approval or disapproval of staff recommendation.) City Administrator Volek advised the majority were items in Public Works that were not able to be completed for a variety of reasons in 2012. She said the airport was in a similar situation. She said there was adequate funding to carry the items over.

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

Councilmember McCall moved for approval, seconded by Councilmember Ulledalen. Councilmember Cimmino advised she would abstain from the item due to her employment. On a voice vote, the motion was approved 10 to 0.

6. APPROVAL to begin negotiations for relocation of the Planning and Community Services Department to the Miller Building located at 2825 3rd Avenue North (Postponed from 10/9/12). Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Planning Director Candi Beaudry reiterated that the City had a policy staff followed for request for proposals, which was a method that created a level playing field for all proposers. She said it was an opportunity for proposers to offer their best and final offer. She said the policy required legal advertising, which they had done twice. She said they also mailed out 150 RFPs to realty and property management firms listing very specific criteria that would be evaluated to ensure as much coverage as possible. Ms. Beaudry said the City received nine proposals but since the item had been discussed in detail on October 9th, she would concentrate that evening on the top three, which were the Miller Building (No. 1 ranked); Anonymous Location "F" (No. 2 ranked); and the Crane Building (No. 3 ranked). (Ms. Beaudry advised the No. 2 ranked location was not being revealed because of confidentiality requirements.) Ms. Beaudry began her PowerPoint presentation discussing the required criteria and how each of the three locations scored. She said they were currently paying below market rent, and it would be very difficult to find the same quality office space at their current rent. Ms. Beaudry said the Miller Building and the No. 2 ranked building would each require approximately \$50,000 in upfront costs, which would cover the extension of city-owned fiber optics to the building. She said having dedicated city-owned fiber optics would ensure a redundant system to serve their needs, which they would not be able to get through rented fiber optics. Ms. Beaudry referenced the Crane Building and said the initial proposal, which they thought was the final and best offer, did not include how costly the remodel would be. She said currently the Crane Building was an empty shell that would require major remodeling, and the Miller Building and Location "F" would require minor remodeling. Ms. Beaudry said distance from City Hall and the Courthouse was also a very important consideration. She commented parking was ample at all three locations. Ms. Beaudry showed the 5-year escalation costs for the three locations, and commented the Miller Building after five years was the better deal of the three locations based on the original proposals. She reviewed the pros and cons of each location and said the recommendation that evening was to allow staff to begin negotiations. She said she did not know in the end if the Miller Building would be the most affordable, cost-effective move for them; but she knew all the other criteria were ideal. She said they needed to begin negotiations in order to get the best deal for the department and the public. She said if additional funding for Community

Development was needed, staff would be back with an exact cost, which could be in the range of \$60,000 a year.

Councilmember Cimmino asked how much financial participation the County would provide since the Planning Department provided services for both the City and the County. Ms. Beaudry advised a quarter of their budget was paid for through the County mill levy at approximately \$360,000. She said they also received approximately \$50,000 from county fees that made up about 30% of a quarter of their budget. She said through the Interlocal Agreement the funds could be used for operation and maintenance, which included office space.

Councilmember Ronquillo commented that Planning was spending quite a bit of its reserves. He suggested rebidding the three locations in order to obtain definite amounts. Ms. Beaudry said she could but did not know why she would because she did not think there was any reason to believe there had been any impropriety in the initial process, and she felt she was given the best and final offers. Councilmember Ronquillo said they still had a lot of time, and any amount of money that could be saved would help in the long run.

City Administrator Volek commented they could not, in her opinion, limit a new RFP to just the three top proposers. She said they would need to reject all proposals and start over.

Councilmember Cromley said parking seemed to be all over the board, and asked if the RFP indicated the number of spaces that were needed. He asked how many spaces they needed. Ms. Beaudry said 45 parking spaces were requested in the RFP.

Councilmember Cimmino asked if they would be sharing a conference room in the Miller Building with the other building patrons. Ms. Beaudry said there was a conference room being leased by one of the tenants, and they had been told there was a possibility they could share it. She said it would be part of the negotiations.

Councilmember McFadden asked how many points were deducted from the Crane Building for being located on the south side of the tracks. Ms. Beaudry responded she was not biased against the south side and had spent most of her career supporting the south side and its activities. She said she did not subtract any points because it was on the south side of the tracks. She said the Crane Building lost points in location because it was further away from City Hall and the County Courthouse.

Councilmember Cimmino asked if train traffic was a consideration. Ms. Beaudry advised train traffic was a consideration only in the fact that it may cause delays getting to and from other office buildings for appointments.

Councilmember Ulledalen moved for approval of Item 6, seconded by Councilmember Astle.

Councilmember Astle advised former Mayor Chuck Tooley had contacted him and questioned him about the specifics of Mr. Ray's proposal. He said Mr. Tooley commented he was attempting to contact other councilmembers, but he did not know if he was successful. Councilmember Astle said it was a 10 to 15 minute conversation.

Mayor Hanel said he wanted to be very careful that the process had been handled properly and asked Attorney Brooks for his opinion. Attorney Brooks said as long as all proposals were considered as originally submitted without amendment or additional supplemental information, the process was being handled properly. He said as long as they used the original criteria in the RFP and then examined and evaluated the original responses to the RFP, they would be okay. Mayor Hanel asked if the Council had received any information that could put the City in jeopardy. Attorney Brooks said not that he was aware of.

He said the disclosure by Councilmember Astle was good because now they were all aware of the information proposed by former Mayor Tooley. Ms. Beaudry commented that when Mr. Ray first came to the City Council he presented information that no one else had, so she sent out a request for supplemental information to all of the proposers to get the same information given by Mr. Ray. She said after that there was no other new or additional information equally requested.

Councilmember McCall said she would support the motion. She said the Crane Building was a beautiful building that had a lot of merit. She said she felt the bid process was fair and adequate, she voted for it the last time, and she would vote for it again that evening.

Mayor Hanel said the future home for Community Development concerned him very much because of the success of its programs. He asked Ms. Beaudry if \$60,000 would be the cost to move them into the Miller Building. Ms. Beaudry said it would be up to \$60,000. She said the cost would be to the General Fund, and the Council would have to vote on it; but she felt it would be part of the negotiation. She said she had evaluated all of the proposals based on original information, plus the supplemental information; and now she was asking to go forward with negotiations and hopefully improve the cost that would include Community Development.

Councilmember Pitman said he was not convinced they needed to move so quickly because they still had time. He said they just proved with the Galles Building that sometimes they just needed to back off, deny all, and try again. He said it would be one way to level the playing field. He said a lot of people were interested and were willing to negotiate.

Councilmember Bird said she agreed with Councilmember Pitman. She said because Planning had been dipping into reserves to pay their costs there was obviously a fiscal issue they needed to look at very seriously in terms of what Planning could afford.

Councilmember Astle said he disagreed. He said they could postpone and "kick the can down the street" for another year. He said he would vote in favor of the motion. He said the building industry was improving in Billings, and the use of Planning would be increasing.

Councilmember Ulledalen said if they did not approve it, they would be undermining the credibility of their process.

Councilmember Cimmino asked what would happen to Community Development since it could not afford the rent. City Administrator Volek gave the following three possibilities: (1) Ms. Beaudry successfully negotiated the rent down to an amount acceptable to the Community Development budget; (2) the rent was reduced and City Council approved funding the difference between the rent and what Community Development could pay; or (3) find a separate location for Community Development. Councilmember Cimmino commented that if common sense dictated, it had to be contingent on whether or not Community Development would be part of the deal.

Ms. Beaudry said she was very concerned about the department being able to afford monthly costs. She said the Miller Building offered an affordable cost for all of the divisions with some assistance for Community Development. She said she could not afford any of the others on a monthly basis because getting fiber optics to them and paying for them on a monthly basis was almost a deal breaker at \$4,100 per month. She said being able to access city services and pay for them upfront eliminated the monthly cost. She said the back-up generator and the redundancy were also huge benefits of the Miller Building location.

Councilmember Bird asked Community Development Manager Brenda Beckett if relocating to the Miller Building with Planning would be a good fit for her program. Ms.

Beckett said the Miller Building was the first choice, and if they were going to lease anything, it should be the Miller Building. She said it was already wired for IT and their phones and to have to invest six figures into another leased space that the City did not own would be tough. She said many of the buildings on their list would need to be re-wired with walls put in and sprinkler systems moved. Councilmember Bird asked if the Miller Building would provide the space she needed for future expansion. Ms. Beckett said the Miller Building had plenty of space for expansion.

Councilmember Cimmino reminded the Council they had gone through a budget process, the difference was close to \$10 million, and they had to borrow from reserves in order to balance the budget. She said it was constant spending of money they did not have, and they needed to remain fiscally accountable.

Councilmember Astle called for the question, seconded by (inaudible). On a voice vote, the call for the question was unanimously approved.

On a roll call vote, the motion to approve Item 6 failed 6 to 5. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, McFadden, and Mayor Hanel voted in opposition to the motion. Councilmembers Bird, McCall, Ulledalen, Astle, and Crouch voted in favor of the motion.

Councilmember Ronquillo moved to direct staff to start over with the RFP process to include the Community Development Division, seconded by Councilmember Pitman.

Councilmember Ulledalen amended the motion to open up the relocation city-wide and not just limit it to the Central Business District, seconded by Councilmember Astle.

On a voice vote, the amended motion was unanimously approved.

On a voice vote, the original motion was unanimously approved.

Mayor Hanel called for a 10-minutes recess at 9:00 p.m. Mayor Hanel called the meeting back to order at 9:10 p.m.

7. APPROVAL OF 30-YEAR LEASE AGREEMENT with the Alberta Bair Theater Corporation. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised the previous 30-year contract between the City and the Alberta Bair Theater Corporation expired on October 18, 2012. She said the theater corporation had asked to renew the lease for an additional 30-year term with the option of a second 30-year term. Ms. Volek advised the cost of the operation of the theater was borne by the theater corporation, and the City did not contribute to its operation. She said there were two major changes in the agreement. She said the first change outlined what would happen if damages were to occur to the building that would seriously interrupt the theater operations, and at that point the two parties would have to mutually agree on how the insurance proceeds would be used to support a performing arts center; and the second change would be to allow the second renewal, which would give the theater corporation the right to the renewal if the process outlined in the agreement was followed.

Councilmember Astle moved for approval of Item 7, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

8. PARKING METER REDUCTION TRIAL REPORT AND RECOMMENDATION. Recommendation to be made at meeting. (Action: approval or disapproval of staff recommendation.) Assistant City Administrator Bruce McCandless advised approximately

one year ago the Parking Advisory Board recommended that approximately 500 meters outside the downtown core be covered for a period of time because a number of the parking spaces were underutilized. He said the Parking Advisory Board wanted to see the spaces used more heavily as long-term parking and hoped to move long-term parkers from the downtown core into those spaces. He said the trial began in September 2011 and included the areas north of 6th Avenue North, east of North 26th, south of Montana Avenue, and west of North 30th, with exceptions for N. 31st Street and Minnesota Avenue. He said other minor exceptions were also granted to meet certain merchant needs. He said in May 2012 the trial was extended another three months in order to capture summertime data. Mr. McCandless said in August 2012 the Parking Advisory Board felt the trial was a success and recommended a permanent reduction in the meters. He said staff agreed meters should be reduced but did not agree with some of the exact areas being recommended by the Parking Advisory Board, so City Council did not approve the meter reduction and directed staff to (1) remove the bags from all the meters, which was done; (2) work with the Downtown Billings Alliance to conduct a survey of customers of downtown parking, which was done; (3) review the medical corridor parking enforcement and the possibility of charging for parking, which had not yet been done but would be; and (4) identify the trial's cost or income, which was done and reported in the October 19 Friday packet. He said it was difficult to draw a lot of conclusions from the survey, but about half of the 97 respondents who either lived or worked in the meter reduction area said they liked the covered meters; however, respondents who had parked at the 10-hour metered spaces before found it more difficult to find parking spaces when the 10-hour metered spaces became free parking. Mr. McCandless said between August and October 2012 the Parking Advisory Board considered the meter reduction trial results twice at their monthly board meetings and arrived at a recommendation to establish a meter zone with meter time limits to be determined by staff and the Parking Advisory Board in the next few weeks. He said the area proposed would add back in approximately 100 of the covered meters and permanently remove the remaining 400 meters. He said city staff and the Downtown Business Alliance both supported the Parking Advisory Board's recommendation.

Councilmember Ulledalen asked if there had been any discussion on adding more 10-hour meters or moving them. Mr. McCandless said 10-hour meters had been used for longer term parking, and the Downtown Billings Alliance believed 10-hour meters had a purpose and asked the Parking Advisory Board to consider the installation of 10-hour meters along the perimeter of the metered area. He said the Parking Advisory Board and staff would be working the next few weeks to determine where the 10-hour parking meters would make the most sense.

Councilmember McCall said she had been approached by a downtown business that utilized the four-hour option and asked for flexibility as staff and the Parking Advisory Board worked on the new meter zone. She asked who businesses needing flexibility would contact to make their request. Mr. McCandless said the businesses could send a request to him; Chris Mallow, the Parking Supervisor; or the Parking Advisory Board.

Councilmember Ulledalen moved for approval of the Parking Advisory Board's recommendation, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

9. EMPIRE PARKING GARAGE

A. DESIGN-BUILD AGREEMENT for the design and construction of the Empire Parking Garage. Staff recommendation to be made at the October 22, 2012, City Council meeting. (Action: approval or disapproval of staff recommendation.) Assistant City Administrator Bruce McCandless advised that design-build was not used a lot by the City of Billings but was allowed by State law. He said the design-build process combined the bidding process with the design so the designer and contractor worked together from the outset. Mr. McCandless said City Council approved the design-build process on July 23, 2012. He said they received 12 responses to the Request for Qualifications (RFQ) and from the 12 submittals, the selection committee chose three finalists. He said the three finalists were asked to submit specific proposals that would give both the design and a guaranteed maximum price. Mr. McCandless said the selection committee was made up of representatives from the Downtown Billings Alliance; Parking Advisory Board; Alley Cat; Zootist; the City; and the project manager, OAC-Gaelic. He said interviews were conducted on October 11, 2012, with Sletten Construction and PCL. He said the third proposer, Anderson Construction, was not interviewed because their submittal exceeded the City's budget by \$2.5 million. Mr. McCandless advised the recommendation to Council was to designate Sletten Construction as the design-builder for the Empire Parking Garage. He said they would self-perform a lot of the work, they displayed the ability to manage the project, they were familiar with Billings, and they submitted a proposal that was a blend of modern design and the historic character of the area. He said Sletten Construction provided a delivery date of the end of 2013/beginning of 2014, with the possibility of some early vehicle occupancy. Mr. McCandless said the maximum budget for the design-build portion of the project was \$11.5 million. He said the contract the Mayor would sign would have contingencies to allow the City to terminate the contract if it were not able to sell bonds or sell the bonds at a price to make the project affordable. He said they anticipated the bond sell to occur in mid January.

Councilmember McCall moved for approval of the design-build agreement with Sletten Construction, seconded by Councilmember McFadden. On a voice vote, the motion was unanimously approved.

B. AGREEMENT with CTA, Inc. for relocation engineering services for the Empire Parking Garage in an amount not to exceed \$62,775.66. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no additional presentation, but staff was available to answer questions.

Councilmember Astle moved for approval of Item 9B, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

10. ADD-ON ITEM: APPROVAL to issue a letter of commitment for a \$400,000 application to the US EPA Brownfields Assessment Program grant to perform Phase I and Phase II environment assessments in the East Billings Urban Renewal District. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised that at the October 15 work session the City Council heard a presentation from Ms. Nordlund of the Big Sky Economic Development (BSEDA) organization asking the Council to issue a letter of commitment for their application for a \$400,000 EPA Brownfields Assessment grant. She said BSEDA asked to have the letter

by November 8, which was why it needed to be added to the agenda that evening. She said a copy of the letter had been sent to Council in the October 19 Friday Packet.

Mayor Hanel said since the item had been added to the agenda that evening anyone wishing to comment on the matter was welcome to come forward and do so. No one came forward to comment.

Councilmember Cimmino moved for approval of Item 10, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

11. ADD-ON ITEM: RESOLUTION #12-19234 authorizing two loans from the General Fund to the N. 27th Tax Increment Fund not to exceed \$3.2 million for the Empire Garage Project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

Councilmember Pitman asked for clarification that the money would be coming out of the General Fund. City Administrator Volek said it would be for a temporary period of time until bonds were issued in January and then a matter of months between the project completion and the purchase of both parking and retail spaces.

Mayor Hanel said since the item had been added to the agenda that evening anyone wishing to comment on the matter was welcome to come forward and do so. No one came forward to comment.

Councilmember Crouch moved for approval of Item 11, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

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

The public comment period was opened.

- **Matthew McDonnell, Big Sky Collision Center, 315 N. 15th Street, Billings, MT,** said he was the Billings Industrial Revitalization District (BIRD) secretary and asked that the proposed amendment to the original agreement between the BIRD and the City of Billings be added to the November 13 Council agenda and to the November 5 work session agenda. He said the City Council should have received a packet of information on the proposed amendment.

Councilmember Ulledalen moved to add the item to the agenda, as requested, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

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

COUNCIL INITIATIVES

- **BIRD:** MOVED to direct City Administrator Volek to provide information on the impact of moving city employees currently parking in Park 3 to Park 2, seconded by

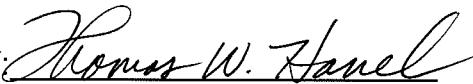
Councilmember Ulledalen. She said with the valet parking situation in conjunction with the Empire Garage, she felt they could free up some of the Park 3 space to accommodate some of that parking and open Park 3 to other downtown businesses. Councilmember Ulledalen said it should be presented to the Parking Advisory Board for discussion and consideration. Ms. Volek advised the Parking Advisory Board would be meeting on November 13, so they could report on it after that. On a voice vote, the motion was unanimously approved.

- **CROUCH:** Said he wanted to share a couple of things in the final chapter of Joe White. He said Joe's family sent his obituary to his insurance company because he had been paying insurance premiums on "his daughter" for years, and the insurance company refunded all of the premiums. He also said Joe's family told his Pastor to do what she could with Joe's van, and she found a family with a mentally-challenged son who needed transportation to therapy so she gave the van to them.

There was no further business, and the meeting adjourned at 9:49 p.m.

CITY OF BILLINGS



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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk