

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

November 13, 2012

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Thomas W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Astle gave the invocation.

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

MINUTES:

- October 9, 2012 – Councilmember Astle moved for approval, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.
- October 22, 2012 - PENDING

COURTESIES:

- In honor of Veteran's Day, Mayor Hanel recognized all military men, women, and families for their dedication and sacrifices.
- Mayor Hanel recognized former Councilmember and Aviation & Transit Board Member, Norm Koplin; and Bruce Putman, former Director of Aviation & Transit, who both had recently passed away.
- Leslie Modrow, Parmly Billings Library Foundation Development Director, advised the library, in partnership with School District #2, had been chosen to receive a \$100,000 grant from the Institute of Museum and Library Services and the MacArthur Foundation. She said the grant would help develop and equip a learning lab where young people could connect with mentors and peers, as well as new media and traditional materials, to pursue their interests and connect new skills to academics, career and civic engagement.
- Jeff Ewelt, ZooMontana Director, provided an update on the events at the zoo. He introduced Troy Paisley, the new Education Director, who talked about current educational programs at the zoo. Mr. Ewelt and Mr. Paisley introduced a couple of Madagascar Hissing Cockroaches, who were residents of the zoo's Living Wall.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following item:

- Item 5 – Amendment to the April 13, 2009, agreement between City of Billings and the Billings Industrial Revitalization District changing the status of the Tax Increment Finance District Coordinator:
 - ✓ Copy of letter, dated October 19, 2012, from Billings Industrial Revitalization District sent via mail to Mayor & Council.
 - ✓ Copy of revised staff report sent to Mayor & Council in the November 9th Friday packet.
 - ✓ Copy of e-mail from Marty Connell sent to Mayor & Council on November 12.
 - ✓ Copy of letter from Matthew McDonnell sent to Mayor & Council via e-mail on November 13.

Ms. Volek noted all items were filed in the ex-parte notebook for public review.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item #'s 1, 5, and 6 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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT,** referenced Item 5 and recommended the combination of all TIF Districts with the Mayor appointing an advisory board to oversee all of them. He said there was approximately \$3 million in revenues with nearly \$500,000 expended on administration. He said the administration costs should only be 10% or \$300,000.
- **Marty Connell, Billings Industrial Revitalization Board President,** referenced Item 5 and said they did not need an administrator to run the districts. He said it took community and landowner involvement to get the enthusiasm and help build the tax base.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **Airport Wheel Loader.** (Opened 10/23/12) Recommend RDO Equipment Company; \$207,650.
2. **Water Treatment Facility Roofs.** (Opened 10/23/12) Recommend Donaldson Construction and Roofing, Inc.; \$63,900.

3. **Purchase of Two Solid Waste Cabs and Chassis.** (Opened 10/23/12) Recommend I-State; \$283,973.

4. **Purchase of 14 City Vehicles in Car and Light Truck Class.** (Opened 10/23/12) Recommend Bid Schedules I, IV, VII, VIII, IX and XI with trades to Denny Menholt Chevrolet of Billings for \$227,002.68; Bid Schedules III, VI and X with trades to Archie Cochrane Ford of Billings for \$55,187; and Bid Schedules II & V with trades to Bison Ford of Great Falls for \$39,177.23.

5. **W.O. 11-11, Water Treatment Facility Rapid Mixer System Improvements.** (Opened 10/30/12) Recommend COP Construction; \$953,000.

B. **Change Order #2 - Empire Garage,** OAC Services; \$50,962.

C. **Compensation Agreement** for Private Contract No. 639 - Legends West Subdivision; \$38,783.50.

D. **Library RFID Conversion and Upgrade Project Agreement for Phase I,** with 3M Library Systems; \$119,765.

E. **Acceptance of Donation** of property located at 634 Bench Boulevard from Eileen Stoltz Stumpf as part of the Bench Boulevard North-Phase I Project; estimated value - \$11,000.

F. **Approval of Application for State Revolving Fund Loan** for W.O. 12-05, 5-Mile Creek Lift Station; \$3,450,000.

G. **Acceptance** of a Department of Justice grant for \$200,000 over a 2-year period and a Substance Abuse and Mental Health Services Administration grant for \$971,630 over a 3-year period for the Billings Adult Misdemeanor Treatment Courts.

H. **Resolution #12-19235** relating to \$4,385,000 General Obligation Refunding Bonds, Series 2004A and 2007B, determining the form and details and authorizing the execution and delivery of the bonds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

I. **Second and Final Reading Ordinance #12-5589** amending Article 23-600 of the City of Billings Subdivision Regulations bringing the Regulations into compliance with the Montana Subdivision and Platting Act.

J. **Final Plat** of Josephine Crossing Subdivision, 3rd Filing.

K. **Bills and Payroll:**

1. October 9, 2012

2. October 15, 2012
3. October 22, 2012

Councilmember Cimmino separated Consent Agenda Item 1A5. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Item 1A5, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item 1A5 and said she needed to abstain due to her employment.

Councilmember Astle moved for approval of Item 1A5, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #12-19236 AS PART OF ANNEXATION #12-07: Property described as a 30-foot-wide petitioned county road easement covering approximately 0.167 acres along the front of Tract 1A, Certificate of Survey 2990, and located on the south side of Grand Avenue just west of the Grand Avenue and 48th Street West intersection. 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.

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

3. PUBLIC HEARING AND FIRST READING ORDINANCE amending the Expanded N. 27th Street Urban Renewal Plan to include a Retail Retention and Recruitment Program as a project eligible for tax increment financing. Downtown Billings Alliance recommends approval. (Action: approval or disapproval of Downtown Billings Alliance recommendation.) City Administrator Volek advised the item was the topic of a presentation at a previous work session. She said there was no additional presentation, but staff was available to answer questions.

Councilmember McFadden asked Ms. Volek to provide a brief explanation of the item for the public to include the type of recruitment and retention planned and how it would affect the local economy. Ms. Volek said it was a program that would provide opportunities for businesses trying to recruit into the area, particularly retail businesses, and retain them. She said it would allow for some payment of rent in the future. She said there was no specific program at this time being planned, and it was simply a preparatory piece to make it available if and when it became necessary.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, said it was not the proper role of the government. He said if a business was recruited to downtown,

customers would be taken away from other businesses that did not have the incentive. He said providing a business with a rent subsidy would lower operating costs, which would provide an unfair advantage to compete with other businesses. Mr. Nelson said that was not what government did. He said the downtown district was a failure because they were down to rent subsidies for businesses and asked if it was the last "trick in the bag." Mr. Nelson said the solution to level the playing field would be the next time someone came with a new building project on the west end the property owner should be required to build a 1930 vintage building with steep steps; dimly-lit narrow sidewalks; and no parking; and then the downtown could compete with the west end because that was about all they had left.

- **Greg Krueger, Downtown Billings Partnership**, said the plan was to work directly on street level business opportunities. He said Downtown Billings was a nurturing ground for many home-grown businesses, and in tough times downtown retained its retail. He said it was the 1930's buildings with many stories that paid far more taxes per square foot than anyone else in the city and help was needed to remodel and refurbish the businesses. He said the city imposed codes that were designed to make them tear the buildings down and build a one-story building with a large parking lot. Mr. Krueger said the purpose of the program was to level the playing field and provide opportunities for home-grown businesses to locate in the city center.

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

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

4. PUBLIC HEARING AND FIRST READING ORDINANCE repealing Sections 2-533 through 2-535 of the Billings, Montana Municipal Code, disbanding the Emergency Services Board. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised the item was in response to two council initiatives. She said the first initiative in early 2012 was to investigate converting the city's EMS Board to a Yellowstone County function. She said with the assistance of Mr. Winslow, Yellowstone County Emergency Services Director, a joint meeting with rural and city fire departments was held; and it was determined there were several existing private and public groups to address most of the issues of concern that focused more on services in the unincorporated areas. Ms. Volek said the original function of the EMS Commission was to make recommendations to the Council on what to do if the ambulance service was no longer available, and it was created in a time when the ambulance service was very new. She said the ambulance service was currently very stable, and at the September 17, 2012, work session City Council directed staff to place the disbanding of the EMS Board on a future Council agenda.

Councilmember Cimmino commented the EMS Commission met four times a year and asked Ms. Volek if she was overseeing the Fire Chief on the performance of AMR. Ms. Volek said in compliance with city ordinance, a quarterly review by the City

Administrator was required of any qualifying ambulance company. She said currently there were three ambulance services in Billings, but AMR was the only one who provided emergency services. She said the other two were simply transport services and did not meet the strict standards required for an emergency ambulance. Councilmember Cimmino said between the community conversations, the citizen surveys, and the priority based budgeting it was determined that public safety was the number one priority in the community and asked how conducive it was to disband the EMS Commission. Ms. Volek advised the EMS Commission did not have a specific duty, and said according to two senior members of the Commission the primary purpose had shifted to providing emergency services to the outlying parts of the county.

Mayor Hanel asked what checks and balances would be in place for emergency services locally if the EMS Commission were disbanded. Ms. Volek advised city ordinance specified that the City Administrator would review the statistics on any provider on a quarterly basis. She said the Fire Chief would also be working with Mr. Winslow to talk about projects and problems as they occurred. Ms. Volek advised there was an emergency committee at the county level and an internal emergency services committee in the Fire Department that had been reactivated.

Councilmember Cimmino asked if an interlocal agreement to include the Fire Chief and the County Emergency Services Director could be entered into so there was some type of oversight on emergency medical services provided to the citizens. Ms. Volek advised doing so would require a change in the city ordinance. Ms. Volek described the quarterly report she received from AMR that included a quarterly compliance by month and total, detailed specifications by date of the reasons for not meeting the minimum requirements, and further detail on each of the calls.

Councilmember Ulledalen commented there was nothing in the ordinance that said another company could not come in and compete as long as it met the standards. Ms. Volek said the city did not in any way compensate AMR for being in the community, and AMR paid the city approximately \$25,000 per year for dispatching. She said the Fire Department and the ambulance company both responded to emergency calls, and she felt they had an excellent service that provided good service.

The public hearing was opened.

- **Alan Lohof, 3712 Hayden, Billings, MT,** asked Council not to dissolve the Emergency Medical Services Board. He said the emergency medical system of Billings needed more public oversight – not less; more transparency – not less; and the best solution would not be to eliminate all public oversight of the local ambulance service. Mr. Lohof said he had attended many meetings of the Emergency Medical Services Board, and it was not fulfilling the mandate set for it. He said part of the mandate read that the Commission should continuously review the current, local organizations which provided emergency medical services and assess their ability to provide necessary and appropriate services to the community. Mr. Lohof said that was the delayed ambulance waivers issue. He said the ordinance gave the City Administrator the power to grant waivers, but the EMS Board should be reviewing the waivers in detail for appropriateness and factual content to ensure the spirit of the ambulance ordinance was being

adhered to and the City Council was being informed. He said it was the board's duty, but they were unable to complete the mandate because the detailed information of ambulance waivers was not being provided. Mr. Lohof recommended keeping the board and directing it to research, review, and discuss in depth all ambulance waivers. He recommended that Council provide direction to the board as to what constituted an acceptable condition worthy of a waiver from the law of the city, such as what was a severe weather condition and what was unusually high demand. Mr. Lohof said only that way would the ambulance waiver issue find transparency and validity.

Councilmember Ulledalen asked Mr. Lohof if it would make more sense to have the Council review the waivers if the community thought it was an issue. Mr. Lohof said examining and researching 44 exemptions a month would take a lot of time. He said when he reviewed them for the Fire Department it took 20 to 30 minutes to research each waiver because he would listen to the radio tapes and look at previous calls and where the ambulances were and where they were responding. Councilmember Ulledalen said he thought Council could do it.

Mayor Hanel asked Mr. Lohof why he felt the activities of the EMS Commission had diminished. Mr. Lohof said he would suggest the number one issue was the response time reporting. He said as the months went on the level of detail went down further and further to the point they did not even know how many exemptions had been granted. He said there were people who wanted to serve on the Commission, but they had been prohibited from doing so. He said as far as the current feeling of the Commission, Chairman Hamwey would be better able to comment.

- **Charles Hamwey, 1010 Grand Avenue, Billings, MT**, said he had been on the EMS Commission for a little over eight years and had been the chairman for the past two years. He said the main duty of the Commission from the start was the financial consideration of AMR and its possible bankruptcy. Mr. Hamwey said AMR's financial situation had turned around, and the city now had a solid medical service. He said the Commission received and reviewed the reports from AMR, but approval was left up to the Fire Chief and the City Administrator. He said they were an informed Commission, but it had gotten to the point where the Commission felt its days had come to an end; and forming a group with Yellowstone County meant more and had more validity in the event of a major community emergency. Mr. Hamwey said they had come to the end as far as the EMS Commission was concerned and asked the Council to approve the disbanding of the EMS Commission.

Councilmember Ulledalen said if there was really an issue with response time, he could not see any reason why the Council could not handle it. Mr. Hamwey agreed. He said he felt very confident that the Fire Chief and City Administrator had done a great job reviewing the reports.

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

Councilmember Ulledalen moved for approval of Item 4, seconded by Councilmember Ronquillo.

Councilmember Pitman advised Jason Banfield, a city firefighter, had contacted him that day to discuss the matter. Councilmember Pitman said every time they talked about it, they seemed to get distracted in specifics, and reviewing response times was the City Administrator's job. He said he disagreed with Councilmember Ulledalen because if they were going to disband the EMS Commission just because Council could handle it then they could disband all of the other boards. He said they needed to continue with the EMS Commission so the public knew they had access to a board that could report to Council.

Councilmember McCall said she appreciated Councilmember Pitman's comments, but she had talked with several people and felt the EMS Commission had reached the end of its usefulness. She said she would like to focus now on the county effort and put their energies towards it in a comprehensive fashion. She said they needed to keep staff accountable and trust they were doing a good job reviewing response times.

Councilmember Ulledalen said it was certain firefighters who were complaining about response times, which was part of a bigger initiative for the national union to try to take over emergency medical services nationwide. He said they had good response from the Fire Department and the ambulance service, and he thought the dilemma with the EMS Commission was that there was nothing left for them to do.

Councilmember Bird said she thought they were talking about two different things. She said they were talking about whether or not the EMS Commission had outlived its usefulness and what appeared to be an ordinance on response time for emergency medical services where the exception had become the rule. She said even though the Fire Chief said he had not received any complaints about response times it did not mean there had never been complaints about response times or complaints that the Fire Department and ambulance showed up at the same time. She said having a system that did not allow trained and skilled firefighters to perform medical services was another issue. Councilmember Bird said eliminating the EMS Commission would not solve the problem, and maybe it was time to repurpose the EMS Commission instead of disband it.

Councilmember Ronquillo noted Jason Banfield had also contacted him to discuss the issue.

Councilmember McFadden reminded everyone the main reason for disbanding the EMS Commission was to establish a similar commission that would include Yellowstone County. He said he would support the motion.

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

5. AMENDMENT to the April 13, 2009, agreement between the City of Billings and the Billings Industrial Revitalization District (BIRD) changing the status of the Tax Increment Finance District (TIFD) Coordinator from a City position to a private, contract position. Staff recommends action be postponed until the December 17, 2012, council meeting. (Action: approval or disapproval of staff recommendation.) City Administrator Volek said the Council had received an earlier request from the BIRD to amend the existing development agreement, which included a reference to the Downtown Partnership for an arrangement that no longer existed and

to enact an amendment creating a similar agreement. She said at that time there was some discussion of the BIRD subcontracting with the South Billings Urban Renewal agency for the use of the same individual. She said on Friday evening there was a meeting of the South Billings Urban Renewal Board at which time they decided not to participate with BIRD as a subcontractor and investigate going their own way with a new individual. She said the South Billings Urban Renewal Board asked the City to work with them in the future to create a work plan and budget for their operation and to work with them to find an individual to assist in their operation. Ms. Volek said she had worked with Mr. Connell over the weekend, and staff met that day to look at the agreement and material provided by Mr. Connell. She said staff was now recommending that Council approve the proposed amended agreement with the BIRD for them to have their own individual who would no longer be a part of the Planning Department. Ms. Volek advised the City Council would retain the authority to approve any project or expenditure of funds put in place in the district and receive periodic reports from the BIRD.

Councilmember Astle moved for approval of the amended agreement, seconded by Councilmember Ulledalen. On a voice vote, the motion was approved 10 to 1. Councilmember Cimmino voted in opposition.

6. APPROVAL of draft letter to the Montana Districting and Apportionment Commission (DAC) submitting comments on the Commission's tentative House District Plan for the DAC's November 15 public hearing. Staff recommends approval. (Action: approval or disapproval of staff recommendation. Assistant City Administrator McCandless advised Council had received a copy of the draft letter and asked if there were any questions.

Councilmember Pitman moved for approval of Item 6, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

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

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT,** asked why the SBURD meeting held on Friday night was not advertised. He said the public needed to be noticed on any type of meeting. He said an unelected board was making decisions on expending public funds, and no one in the district knew the meeting was taking place.

Councilmember Ronquillo said it was only a work session and no decisions were made. He asked Mr. Nelson to bring up at the next SBURD meeting that all meetings needed to be advertised.

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

COUNCIL INITIATIVES

There were no initiatives.

- **Ronquillo:** Asked for the status on the Planning Department move. Ms. Volek advised staff was meeting on the issue. She said they were hoping to talk to a couple senior members of the real estate community to see if there was anything they could do better. She said at the direction of the Council they would be working on another RFP.

There was no further business, and the meeting was adjourned at 7:58 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk