

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

November 26, 2012

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

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

MINUTES:

- October 22, 2012 – Councilmember Cimmino moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.
- November 13, 2012 - PENDING

COURTESIES: Mayor Hanel thanked all participants of the Holiday Parade for making it a success.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items:

- Consent Agenda Item 1A, Change Order #3 – South Park Gazebo: The change order amount was originally listed on the agenda as \$2,270. The correct amount to be approved as listed on the staff report, is \$5,979. The current agenda reflects the correct amount.
- Consent Agenda Item 1E, Second & Final Reading Ordinance amending the Expanded N. 27th Street Urban Renewal Plan to include a Retail Recruitment and Retention program as a project eligible for tax increment financing: First reading of the ordinance was approved on November 13. However, a copy of the ordinance was inadvertently left off as an attachment to the November 26 Second & Final Reading staff memo. A copy of the ordinance approved on first reading is on Council's desk and filed in the ex parte notebook for public review.
- Regular Agenda Item 4, 2013 Legislative Priorities: The Council received an e-mail from Tom & Jane Zurbuchen sent on 11/26/12 asking that the legislative priorities be amended to include a major increase in coal severance tax. A copy is on Council's desk and filed in the ex parte notebook.
- Part-Time Deputy City Clerk: Denise Bohlman, was introduced.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 4 ONLY.

Speaker sign-in required. (Comments offered here are limited to one (1) minute.

Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda.)

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

1. CONSENT AGENDA

- A. Change Order #3 - South Park Gazebo**, Fisher Construction, \$5,979.
- B. One-Year Extension of Health Insurance Consulting Services Contract** with Gallagher Benefit Services, Inc. (extended until 12/31/2013); \$50,750.
- C. Downtown Revolving Fund Inter-Creditor Agreement Amendment** adding Rocky Mountain Bank and distributing an even participation percentage between all banks.
- D. Memorandum of Agreement with Montana State University-Billings (MSU-B)** to include its campus in the City's water system sampling plan.
- E. Second/Final Reading Ordinance #12-5590** amending the Expanded N. 27th Street Urban Renewal Plan to include a Retail Recruitment and Retention Program as a project eligible for tax increment financing.
- F. Second/Final Reading Ordinance #12-5591** repealing Sections 2-533 through 2-535 of the Billings, Montana, Municipal Code disbanding the Emergency Services Board.

G. Bills and Payroll:

- 1. October 29, 2012**

Councilmember Cimmino separated Consent Agenda Items F and G1.

Councilmember Astle moved for approval of the Consent Agenda with the exception of Items F and G1, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item F and said she would vote “no”.

Councilmember Ulledalen moved for approval of Consent Agenda Item F, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8 to 1.

Councilmember Cimmino separated Consent Agenda Item G1 to abstain from Invoice 760373, submitted by her employer. Councilmember Pitman moved for approval of Item G1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8 to 0.

Councilmember Pitman questioned if Item 1A, Change Order #3 for the South Park Gazebo, was the final change order. Parks Director, Mike Whitaker, stated this was the last change order. Any remaining monies in the project contingency fund would be used to purchase plant materials for landscaping later.

REGULAR AGENDA:

2. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE
#OP 12-04: A variance from Section 6-1203(j) allowing reduction from the required 33 parking spaces to 17 parking spaces with 8 spaces located in the Broadwater Avenue arterial setback, at 908 Broadwater Avenue. Patricia Kuchera, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director, David Mumford, gave a brief presentation concerning the variance for this property. A neighborhood hardware store would be opening for business at this location and 17 parking spaces would be adequate for this type of business.

Councilmember Pitman stated he was concerned about the historic parking issues around this area. Mr. Mumford stated consideration was given concerning other businesses in the area and parking. The hours of operation are not the same for the hardware store and other more high traffic businesses in the area. The hardware store would be a good fit for the building and the neighborhood.

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

Councilmember McFadden moved for approval of the Site Development Ordinance Variance #OP 12-04 for a reduction in parking spaces, seconded by Councilmember Astle.

Councilmembers Astle and McFadden expressed approval of having a hardware store centrally located. Additionally, this was a good example of "in-fill" practices, rather than urban sprawl, and having new business enter older neighborhoods was favorable.

On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND 1ST READING ORDINANCE FOR ZONE
CHANGE #905: A zone change from Residential Manufactured Home (RMH) to Highway Commercial (HC) on a 1.48-acre parcel described as Lots 12, 13, 14 and 15A, Block 5, Wanigan Subdivision, generally located at 1001 Main Street. BEL, LLC, owner; William Lane, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the ten criteria.
(Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator, Nicole Cromwell, gave a presentation concerning the zone change. Ms. Cromwell explained that nearly all of the properties along Main Street in the Billings Heights area have been re-zoned as Highway Commercial and this particular parcel was one of the last remaining parcels to be re-zoned (a visual slide of a planning map

was provided supporting this statement.) This parcel includes 2 vacant properties east of the commercial development on Shawnee Drive, an unpaved street. The applicant also owns these lots and intends to use them for storage. Fenced security would be provided for those lots to benefit the owner's business and the business to the north. (Supporting visual aerial slides were provided.) These lots have never been developed because of the location of underground irrigation piping, and there are some covenants and restrictions that would not allow for the building of certain structures over that area as well. The Highway Commercial zoning would allow the owner of the business to sustain the existing commercial business and to reinvest in the property in the case of loss. Staff is recommending approval.

Councilmember Astle asked whether Shawnee Drive was a dead end street or connected to another street. Ms. Cromwell stated it does connect to Radford Square Drive which leads to Bench Blvd.

City Administrator Tina Volek stated that should this zoning variance be approved, there has been some discussion about paving, at least some of the unpaved roads in that area. Councilmember Pitman reported he has been working with the owners of Tire-Rama and Godfather's about paving Shawnee Drive from Main Street to the irrigation ditch.

The public hearing was opened.

- **William Lane, no address given**, said the zoning of that parcel never was changed and he is asking it to be re-zoned at this time. The portion of the property that is to be developed as fenced storage is not suitable for residential because of the underground irrigation piping and existing easement. The other business owner to the north is agreeable to fencing and screening the property with a chain link fence. Also, if the building for the business was destroyed, it could not be rebuilt according to the current zoning. So re-zoning to Highway Commercial will protect this investment.

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

Councilmember Pitman moved for approval of Zoning Change Variance #905, seconded by Councilmember Cimmino. The motion was unanimously approved.

4. 2013 MONTANA LEGISLATIVE PRIORITIES. Staff recommends approval.
(Action: approval or disapproval of Staff recommendation.) City Administrator Tina Volek stated the priorities has been presented to the Council at previous work sessions and other public meetings. There were no other presentations to be made, but staff was available for any additional questions.

Councilmember McCall stated she will be meeting with Ed Bartlett and Assistant City Administrator, Bruce McCandless, on the afternoon of November 27, 2012, to look at potential legislation that would modify the valid protest portion of statute. She questioned whether the broad land use property environmental regulation category provides sufficient coverage.

Councilmember McCall moved to approve the 2013 Legislative Priorities, seconded by Councilmember Astle.

Councilmember Cimmino stated an e-mail was received from a citizen who is asking the Council to consider the coal severance tax as a part of the legislative priorities. Could discussion be held on that?

Councilmember McCall stated this has been discussed with the Montana League of Cities and Towns. She encouraged the Council not to look at specific legislation from the City of Billings as a community, because the League is looking at different proposals concerning energy impacts from coal, oil, etc. that will affect so many communities throughout the State. This really needs to be a collaborative effort throughout the State. Also, the Governor Elect has discussed proposals. Councilmember McCall feels there will be plenty of proposals to deal with on this subject.

Mayor Hanel directs a question to City Attorney Brent Brooks about whether the individual who sent the e-mail could not forward his concern to the Montana League of Cities and Towns and the legislative body.

City Attorney Brent Brooks responded by stating this is an option for the individual and encouraged him/her to contact their local representative or senator as well.

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.*)

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

COUNCIL INITIATIVES

There were no initiatives.

There was no further business, and the meeting adjourned at 6:58 p.m.

CITY OF BILLINGS



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

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, Deputy City Clerk