

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 27, 2014

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, Yakawich, Pitman, Cimmino, McFadden, Bird, McCall, Swanson, Crouch, and Brown.

MINUTES: January 13, 2014 – Councilmember Cimmino moved for approval, as submitted; seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES: Councilmember Cimmino wished the Mayor a belated happy birthday, and congratulated him on the birth of his grandson.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- **Item G – Resolution Authorizing Application of Land, Water and Conservation Funding to Improve South Park Playground.** Copy of letter from South Side Neighborhood Task Force, dated January 18, 2014, supporting the grant application was sent in the January 24, 2014, Friday Packet. Copy was filed in the ex-parte notebook. City Council received an e-mail from Tom Zurbuchen, dated January 27, 2014, regarding the use of Park Maintenance Funds in lieu of Land, Water and Conservation Funding. His e-mail was posted on-line.
- **Resolution Declaring an Emergency and Waiving the Requirement for Competitive Bids for Electrical Repairs at the Wastewater Treatment Plant.** Over the weekend there was an emergency at the Wastewater Treatment Plant. Staff was asking Council to authorize an emergency resolution to make necessary repairs to preserve the Wastewater Treatment Plant and the health of the Yellowstone River. A copy of the emergency resolution was on Council's desk and filed in the ex-parte notebook.

Public Works Director, David Mumford, explained that an electrical disruption involving the 12.7 KV electrical supply line occurred at the Wastewater Treatment Plant on Saturday at approximately 5:00 a.m. The disruption took power out at the plant, and backup into the system caused damage to NorthWestern Energy's Rimrock Substation and the Exxon Refinery. NorthWestern Energy crews and city staff spent most of Saturday getting 50% of the plant temporarily back online. They knew it was an underground break, but they did not know the exact location. They currently had temporary feeds into the plant, and staff was asking permission to quickly hire Yellowstone Electric or Action Electric based on hourly rates to determine

what happened and to make repairs. If the current feed was lost it would take three to four days to get equipment in to fix the damage. They could use backup generation, but it would be minimal treatment. Mr. Mumford advised they had two feeds – one feed was severely damaged, and the second feed was partially damaged. The partially-damaged feed was currently on temporary use. He said both feeds were approximately 45 to 50 years old.

Ms. Volek advised MCA 7-5-4303 allowed for an exemption to the competitive bidding process and authorized staff to proceed in any manner if 3/4 of the Council approved a resolution declaring an emergency. Staff was asking that Council give the City Administrator authority to sign any necessary contracts. She noted she would report back to the Council once they had a better idea of the numbers. Ms. Volek asked that the item be added to the agenda as Item 6.

Mayor Hanel asked for an approximate cost of repairs and the source of the funding. Mr. Mumford said they would probably have to go time and material because no one knew exactly what the cause and damages were. He estimated the cost of repairs to be between \$100,000 and \$150,000 that would come out of wastewater funds.

Councilmember McCall moved to add as Agenda Item 6 the resolution declaring an emergency, waiving the requirement of competitive bids, and giving Administrator Volek permission to sign contracts to do the work, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #5 AND #6 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign in at the cart located at the back of the council chambers or 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.

- **Perry Moler, 714 N. 32nd Street, Billings, MT**, asked why the residents around McKinley School were not notified of the request for a parking variance. Councilmember Pitman advised the variance was Item 4 on the agenda, and a public hearing was scheduled. He asked Mr. Moler to stay for the public hearing; at which time his question would be answered.

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

1. CONSENT AGENDA

A. Approval of the City-County Special Investigations Unit (CCSIU) Agreement with Yellowstone County for calendar year 2014.

- B. Approval of 5-Year Cell Tower Lease Agreement and Easements with Gold Creek Cellular of Montana Limited Partnership dba Verizon Wireless for property located at Fire Station #6, 1601 St. Andrews, Billings, MT.**
- C. Recommendation of approval to the Policy Coordinating Committee for Amendment II of the 2012-2016 Transportation Improvement Program (TIP).**
- D. Acceptance of Donation to City of Billings of two Eco-MULTI automatic trail use counters, Rails-to-Trails Conservancy (RTC), \$10,500 value.**
- E. Grant application request to submit application for AmeriCorps VISTA as a Program Grant and authorize City staff to negotiate and finalize the project if awarded.**
- F. Resolution #14-10331 authorizing MET Transit to apply for the Section 5310 grant program for purchase of vehicles; \$134,300.**
- G. Resolution #14-10332 authorizing application for Land, Water and Conservation Funding (LWCF) to improve South Park Playground.**
- H. Second/Final Reading Ordinance #14-5618 for Zone Change #917: A zone change from Public to Residential 7,000-Restricted on a 5.9-acre parcel known as Lampman Park within Lampman Subdivision generally located south of Monad Road and east of 32nd Street West. City of Billings, owner. Approval of zone change and adoption of the determinations of the 10 criteria.**
- I. Preliminary Major Plat of Mont Vista Subdivision, 1st Filing, generally located on the east side of 54th Street West, south of Rimrock Road; Mont Vista, LLC, owner; conditional approval and adoption of the Findings of Fact.**

J. Bills and Payroll:

1. December 30, 2013
2. January 6, 2014
3. October 1 - December 31, 2013 (Municipal Court)

Councilmembers Pitman and Cromley separated Consent Agenda Item G; Councilmember Cimmino separated Consent Agenda Item J1; and Mayor Hanel separated Consent Agenda Item I. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items G, I, and J1, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Consent Agenda Item G and asked Parks Director, Mike Whitaker, if the City had applied for any Land, Water and Conservation Funding (LWCF) for South Park in the past. Mr. Whitaker said they had previously received LWCF for South Park. Councilmember Pitman asked how much had been budgeted in the Park Maintenance District (PMD). Mr. Whitaker said they had \$180,000 budgeted for the playground at South Park. Councilmember Pitman asked why they

would just double it and upgrade everything if they received the grant. He said the PMD was set aside for deferred funds and asked if the money was currently needed elsewhere. Mr. Whitaker said the LWCF was a 50% match, so they needed funds to do the project. They were also required to do a statistically-valid survey to show that playgrounds were a top priority for Billings, and they felt the playground at South Park was a good fit to increase their chances of receiving funds. Councilmember Pitman asked what upgrades were planned. Mr. Whitaker said in 2012 it was mandated that all playgrounds be wheelchair accessible; and they planned to make both the playground and the route to the playground accessible. Councilmember Cromley asked if the \$75,000 grant would be spent on South Park in addition to the \$180,000. Mr. Whitaker said that was correct. He said at this time they did not know the exact amount of the grant. It could be as little as \$5,000 or as much as \$75,000. They wanted to spend \$255,000 if the funds were available. Councilmember Cromley commented the grant application should show the total project cost as \$255,000. Mr. Whitaker said staff would make that correction on the application.

Councilmember Cimmino referenced the survey and asked if it was the survey done where 5,000 or so households received it in writing, but there was also a link provided on the City's website for responses. Mr. Whitaker said the statistically-valid survey could be no more than four years old; so they used it as an opportunity to upgrade their needs assessment. They sent out 4,000 surveys and received an estimated 18.5% response. Mr. Whitaker said the data would be used for the update of Centennial Park, the creation of the Master Plan for Cottonwood Park, and the grant application.

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

Councilmember Cimmino referenced Consent Agenda Item J1 and said she would abstain from all invoices related to architectural and engineering firms based on a directive from her employer for any personal conflict of interest. Councilmember Pitman moved for approval of Item J1, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 10 to 0.

Mayor Hanel referenced Consent Agenda Item I and asked Planning Director, Candi Millar, if there would be a homeowners' association formed. Ms. Millar said she believed there would be because there was a park strip that would remain private and under the homeowners' association ownership. Councilmember Crouch moved for approval of Item I, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND SPECIAL REVIEW #915: A special review to allow construction of a drive-through café in a Community Commercial (CC) zone across the alley from a residential zone on Lot 15A1, Block 2, of Sunset Subdivision, 2nd Filing, generally located at 910 Grand Avenue (former JB's Restaurant); Chris Bakwin, owner; Wadsworth Acquisitions, LLC, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II, Nicole Cromwell, began her

presentation showing a zoning map of the subject property and surrounding properties. She noted there were several drive-through businesses near the subject property that had gone through special review approval because of the adjacent residential uses. She showed an aerial view and photographs of the subject property and surrounding properties. She said 9th Street West and Grand Avenue was a stop-controlled intersection. There was currently a drive approach near the intersection that would be closed and moved further south for safety purposes. An informal drive approach from the alley into the parking lot would also be closed. She said there was another drive approach governed by an access easement at the south end of the property that benefitted the subject property and the adjacent property at 918 Grand Avenue. The access easement needed to remain open, but it would not be a usual way for customers to enter or exit. Ms. Cromwell showed the site plan of the proposed building with the drive-through on the east side of the building. She noted a second building for another tenant and said it was not part of the special review since it did not have a drive-through. She said a 6-foot cedar fence would be built along the alley property line; and the 39 parking spaces on the property were more than enough to accommodate the proposed drive-through and the second building. She advised the Zoning Commission was recommending approval based on the following 13 conditions.

1. The special review is limited to Lot 15A1, Block 2, Sunset Subdivision, 2nd Filing generally located 910 Grand Avenue.
2. The special review approval is for the construction of a 3,000 square foot building with a drive-through café service and no other use or development configuration is intended or implied by this approval. The second building shown on the site plan is not subject to this special review approval.
3. Any expansion of the proposed drive-through café building greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security 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 outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. New trees shall not be any of the following species: Carolina poplar, other populous subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. All installed trees will be continuously maintained and replaced as necessary by the owner.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
8. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.

9. A sight-obscuring 6-foot fence shall be installed along the south property line with the exception of the clear vision area where the alley intersects 9th Street West. A separate fence permit is required from the Planning Division.
10. Any outdoor announcement system shall be operated so it is not audible beyond the property lines.
11. The owner is allowed to have background music and un-amplified, live entertainment on the outdoor patio. Amplified, live entertainment is not allowed at any time.
12. 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.
13. 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.

Councilmember Cimmino asked if an outdoor patio was included, and if it would require a separate special review. Ms. Cromwell said there would be a small patio on the rear of the building enclosed with landscaping, and a separate special review would be required only if they were serving alcoholic beverages.

The public hearing was opened.

- **Ed Waldvogel** said he worked for Wadsworth Development Group. He provided a brief history on Wadsworth Development Group noting it began in 1996 and showed photographs of other Montana projects they were currently building. He said they were the preferred developer for Starbucks in Montana, Utah, Wyoming, Idaho, and New Mexico. They worked well with the City of Billings and said they would develop the site pleasing to the community. He showed an elevation of the proposed building noting the windows would be flipped to the other side to provide more of a dining presence towards the corner of 9th and Grand. Mr. Waldvogel said they would be providing a 10-year lease with renewal options of up to 30 years. They offered employment opportunities, tax revenues, and redevelopment of a vacant infill site. They planned to begin construction on the Starbucks on April 17, 2014, and hold a grand opening on September 9, 2014. The second building would then follow depending on the tenant.

Councilmember Cimmino asked Mr. Waldvogel if he was at liberty to provide information on potential tenants for the second building. Mr. Waldvogel said they had held conversations with food-service businesses that would occupy the entire building.

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

Councilmember McFadden moved for approval with the recommended conditions, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION approving the exchange of properties located within the undeveloped area of the Copper Ridge Subdivision, 2nd Filing, with Copper Ridge Development Corporation. Staff recommends holding the public hearing and delaying action until February 10, 2014. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no presentation but was available to answer questions. She asked that the public hearing be held that evening and action be delayed until February 10 when two other items associated with the property would be brought forward for Council action.

Councilmember Cimmino said she would abstain because Sanderson Stewart had drafted the subdivision.

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

Councilmember McCall moved to delay action until February 10, 2014, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0.

4. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #OP-14-01: A variance from Section 6-1203, Off-Street Parking Requirements, allowing the continuance of no off-street parking requirements for the proposed addition to McKinley School located at 820 N. 31st Street. School District #2, owner; CTA Architects Engineers, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director, David Mumford, referenced Mr. Moler's question and said parking variances fell under the Site Development Ordinance which was different than the Zoning Ordinance. He said the only requirements for a parking variance were notification in the newspaper and a sign posted on the site. He noted McKinley School currently operated with no off-street parking and had for many years. The proposed addition would require five additional parking spaces. Without the variance, McKinley School would be required to have a total of 25 off-street spaces. He said city staff did not see the need for a change and did not object to the continuation of the no off-street parking requirements. Mr. Mumford noted staff and the school district were looking for ways to better handle the on-street parking and would be meeting within the next week or so.

Councilmember Brown asked if the school district would be adding staff that would require more parking. Mr. Mumford said the addition of five classrooms would require five more parking spaces. Councilmember Brown asked if there had been a lot of complaints from property owners around the school about parking. Ms. Volek and Mr. Mumford said they had not been made aware of any complaints.

Councilmember Yakawich noted Mr. Moler would be the new chairman of the North Elevation Task Force and thanked him for coming to the meeting. He said he had visited about seven homes in the neighborhood, and the concern was more about the traffic, especially coming from Grand Avenue onto 8th and 9th. He also visited with the school crossing guard who said parking was not a concern, but the traffic from both corridors was an issue. The crossing guard suggested a stop sign at 8th and 31st.

Councilmember Brown asked Mr. Mumford if there was no space to build more parking spots. Mr. Mumford said currently there was parallel parking, and they would be discussing if there would be an area appropriate for angle parking that would significantly

improve the amount of spots. He said there was currently no parking on the school grounds and no room to build more parking, especially with the expansion.

Mayor Hanel noted that afternoon he received a call from Mr. David Goodrich who lived adjacent to the school. Mr. Goodrich called to share his support for the variance and to say he had no complaints about past or present parking.

The public hearing was opened.

- **Mike Tuss, 13 N. 23rd Street**, said he was the principal in charge at CTA for the Broadwater and McKinley projects. He offered to answer any questions on the parking issue or on the other renovations.

Councilmember Cimmino said School District 2 had allocated \$22 million to do both projects; half to go to Broadwater and the other half to McKinley. Mr. Tuss said it was a little more than that, but he was not sure of the exact budget. Councilmember Cimmino asked if the project would add on to the existing building or construct a separate building. Mr. Tuss said the current annex would be taken down this summer and replaced with a 3-story addition that would line up with McKinley on the north side and be connected internally. The addition would not take up any more footprint than the existing annex and would be built more towards 32nd.

Councilmember Cromley asked if the addition would be more architecturally appealing than the current annex. Mr. Tuss said the addition would be very historically appropriate.

Councilmember McCall asked for the internal changes to the existing building. Mr. Tuss said currently there were student restrooms in the annex and in the basement. The main change to the existing building would be the addition of restrooms on all three levels. They would install new windows and go back to the historical look of 11-foot glass. The woodwork would be refinished and new doors installed. There would be installation of all new electrical, mechanical systems to include cooling, and fire sprinklers. Aesthetically it would look very similar to how it looked now; but performance and energy wise it would be much improved.

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

Councilmember Cromley moved for approval of Item 4, seconded by Councilmember Yakawich. Councilmember Cimmino said she would abstain because CTA Architects was the design engineer and architect. On a voice vote, the motion was approved 10 to 0.

5. APPROVAL OF CONDEMNATION SETTLEMENT with J.P.L., Inc. for property legally described as Lot 12, Block 4, Sunset Subdivision, located at 1146 Grand Avenue in the amount of \$300,067.67. Staff recommends approval. (Action: approval or disapproval of staff recommendation. Public Works Director, David Mumford, said Council was being asked to settle on the last property related to the rebuild of Grand Avenue. He noted construction of Grand Avenue from 8th Street West to 12th Street West began in 2007 and finished in the spring of 2008. In order to widen

Grand Avenue, the City needed to acquire right of way and right of entry from several property owners. He showed a diagram of the subject property and explained it had no parking, so a full-take was required as opposed to other properties that required only partial-takes. He noted there were significant delays to the condemnation due to differences in appraisal amounts between the City and the property owner and the death of the property owner's attorney. He said the original appraisal in 2006 was \$220,500; and with additions, the City made an offer to the property owner of \$223,500. When the City went to condemnation proceedings for right of entry, the property owner stated his property was worth \$600,000; and that was the amount required by state statute to escrow. Under the state statute, the property owner was allowed to withdraw up to 100% of the amount escrowed plus 10%. He said over the years the property owner took out \$223,500 plus \$75,000 in accrued interest. At the time of final negotiations there was a \$2,000 difference between the amount the property owner agreed to settle for and the amount he had already withdrawn from escrow. Mr. Mumford said the recommendation for final settlement was to pay the additional \$2,000. If the City tried to go through full condemnation and court hearings, it would have to try to legally get back the \$75,000 taken from escrow by the property owner.

Councilmember Cromley asked if the City would receive \$300,000 out of the escrow. Mr. Mumford said the remaining escrow would go back to the Public Works fund for arterial road construction.

Councilmember Yakawich said the building was falling apart inside and asked if the City would be purchasing the property. Mr. Mumford said the City would own it and would be able to sell it.

Councilmember Cimmino said there was quite a price difference between the recommended settlement amount and the sale of the nearby Dairy Queen property for \$120,000. Ms. Volek noted the problem with the Dairy Queen lot was that the widening of the road left the lot undevelopable and useful only as a possible coffee kiosk location or a parking lot for adjacent properties, which detracted from its value.

Councilmember Pitman asked if the City would ultimately end up tearing down the building. Mr. Mumford said demolition was a possibility because it was such a nuisance.

Councilmember McFadden moved for approval of the condemnation settlement in the amount recommended by staff, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

6. (ADDED TO AGENDA AT THE MEETING) RESOLUTION #14-10333 declaring an emergency, waiving the competitive bid requirement, and giving the City Administrator authority to sign a contract for repairs to the Wastewater Treatment Plant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no further presentation.

Councilmember Brown asked if NorthWestern Energy supplied the power. Mr. Mumford said NorthWestern Energy supplied the lines to the City property, and the repairs were only to the damage on the City property.

Councilmember Swanson moved for approval of Item 6, seconded by Councilmember McCall.

Councilmember Pitman asked if NorthWestern Energy had any responsibility for the damage. Mr. Mumford said they felt there was a break in the line on City property,

and it was not the fault of NorthWestern Energy. Councilmember Pitman asked how the City would provide power to its facilities if the power plant ever shut down. Mr. Mumford advised the water plant had back-up fuel generation. They had the ability to bring in portable power, and they had a methane power generator onsite at the wastewater treatment plant. The problem was the underground feeder lines within the site were damaged, so back-up power would not operate well. He said the new wastewater treatment plant being designed would include full back-up power.

Councilmember Yakawich asked if there were other areas in the City that could potentially break down. Mr. Mumford said within Public Works vulnerable spots were being identified and projects moving forward to correct them. Councilmember Yakawich asked if Council could receive an update in the future on the vulnerable spots and the status. Mr. Mumford said staff would provide the information at a future work session.

Mayor Hanel asked if there was insurance that might cover the damage. Mr. Mumford said the City was self-insured, but they would check.

Councilmember Pitman said they were putting a lot of faith in Public Works, and asked for a report as quickly as possible on their findings and the cost of repairs. Mr. Mumford said it was their intention to get an electrical company on-site quickly, and hopefully by the next work session staff could provide a report.

Councilmember Cimmino said she would abstain because HDR Engineering provided a lot of design work for the wastewater treatment plant.

On a voice vote, the motion was approved 10 to 0.

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 in at the cart located at the back of the council chambers or at the podium.*)

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

COUNCIL INITIATIVES

- **Crouch:** Said since the Editor of the Billings Gazette had weighed in on snow removal in Billings, he MOVED to have the Mayor, City Administrator, and Street Personnel responsible for snow removal meet with the Editor to share information and invite the Gazette to do their own survey of citizens willing to pay an annual \$25 fee, seconded by Councilmember Yakawich.

Councilmember McFadden said residential snow removal was not a good idea for most of Ward 3 because the streets were narrow, and there was a lot of on-street parking.

On a roll call vote, the motion failed 6 to 5. Councilmembers Cromley, Cimmino, McFadden, Bird, McCall, and Swanson voted in opposition. Councilmembers Yakawich, Pitman, Crouch, Brown, and Mayor Hanel voted in favor.

Councilmember Crouch said he still felt a discussion needed to be held with the Gazette, because the Editor was new to the City and did not understand what they had talked about. Mayor Hanel said he and Ms. Volek discussed the

matter and agreed the Gazette needed to receive more information, and staff would continue to communicate with the Gazette under the direction of Ms. Volek.

- **Bird:** Said the Gazette's snow removal editorial was right-on, and they needed to keep in mind Billings was a growing city. She said there were many other communities across the nation with narrower streets than Billings that removed snow. She MOVED to direct the City Administrator to work with the Public Works Department to draft and present to the Billings City Council an operational plan for snow removal to include recommendations for expanding the service to city residential streets. The operational plan would include policies, recommendations, and the identification of resources needed and the possible means to generate the necessary revenue. The operational plan for snow removal was requested to be presented to the City Council prior to final approval of the 2015 budget. She said the amount of snow received the last couple of years posed a public safety issue when ice ruts in the streets were six to eight inches deep. The motion was seconded by Councilmember McCall.

Councilmember Pitman said Mr. Mumford had presented the options and costs at the last work session. He asked Councilmember Bird what else she wanted Mr. Mumford to present. Councilmember Bird said her recollection from the discussion was that it was informational only, and there was no directive to do anything. Her initiative was to actually put together a plan for snow removal.

Councilmember McFadden asked if City Council had taken an official vote on snow removal when it was discussed last winter. Mr. Mumford advised two budgets ago it was presented as a budget initiative, and at that time the City Council did not want to fund the program.

Councilmember Crouch said city staff could not remove the ice, which caused the ruts. He said he was not opposed to it, but from everything they had heard, snow removal was one thing; but ice was a problem.

Councilmember Cromley said his concern was the pressing problem regarding public safety, and they would be asking for support from the public. He hated to get bogged down with a multi-million dollar snow removal project on top of it. He said he felt people would go for public safety and not snow removal. Every four to five years it came up when they received a lot of snow, and five years down the road they would be having the same discussion.

Councilmember McCall said she would support the motion, because it would be informational in its purpose. She said the initiative asked for recommendations, which did not necessarily mean they would be moving forward. Clearly the Gazette did not understand the challenges of plowing residential streets. It would be worthwhile to review it one more time, provide the options and costs, and make it available to the public for comment and a decision.

Councilmember Cimmino asked if it would be an additional \$600,000 if private companies provided the service. Mr. Mumford said it would be an estimated \$600,000 using private contractors and higher if it was done internally due to adding staff and equipment. The City would have to hire about 12 more employees. Ms. Volek commented the City could not anticipate each winter how many snow events it would have. Contracting would allow the City to use private firms to fill in. Mr. Mumford said the real issue for Public Works was they barely

had enough staff to clear all the arterials and collectors in time and haul the snow. If they added another 320 miles of residential streets, they would need to have a completely different operations crew. He said he would be concerned adding significant staff on a rear-round basis.

Councilmember McFadden asked if the resources could be pulled from private contractors if needed. Mr. Mumford said a few years ago when the City contracted snow removal, Knife River and CMG were both able to provide the resources, but construction had increased significantly since then. He said generally if there was enough snow on the ground to require plowing, the private contractors were not building anything.

Mayor Hanel asked Mr. Mumford what they would do with the snow if they plowed the 320 miles of residential streets. Mr. Mumford said they would push it to the side of the road into the curb lane.

Councilmember Bird said it did not have to be “an upfront all or nothing project.” She said she felt there was a way to do it without putting huge pressure on the taxpayers or requiring that all 320 miles be done the very first year. She was looking for recommendations and a plan to address it over time. She asked if they had the ability to create a contingency or reserve fund specifically for snow removal. Mr. Mumford advised if funding was not spent it stayed within the street maintenance fund. He said they currently cleared a lot of secondary streets, and staff would need specific direction from Council on what other residential streets should be cleared. He said he felt it would create “quite a war out there.” Councilmember Bird asked if the community could be surveyed for input on a gradual implementation plan. Mr. Mumford said it could be done. She asked if parking could be limited to one side of the street during snowstorms. Mr. Mumford said they would need to declare designated snow routes and then notify the public that vehicles needed to be moved during a certain period of time.

Councilmember Pitman amended the motion to specifically include the difference between “plowing” and “removing;” and the costs of residential street repair required in the spring as a result of the heavy equipment and the snow removal, seconded by Councilmember Brown. Councilmember Pitman said they needed the full picture. He said the key points were the costs of removal, where the snow would be taken, and the street repair fees as a result. Ms. Volek noted staff would not recommend removing the snow from the residential streets. They would not have sufficient room to plow and haul the snow.

On a roll call vote, the amended motion was approved 6 to 5.

Councilmembers Yakawich, Pitman, Cimmino, Bird, McCall, and Brown voted in favor. Councilmembers Cromley, McFadden, Swanson, Crouch, and Mayor Hanel voted in opposition.

On a roll call vote, the original motion failed 6 to 5. Councilmembers Cromley, McFadden, Swanson, Crouch, Brown, and Mayor Hanel voted in opposition. Councilmembers Yakawich, Pitman, Cimmino, Bird, and McCall voted in favor.

- **McCall:** MOVED to direct staff to (1) Review and revise the section of city code related to the Human Relations Commission incorporating the expanded anti-discrimination language presented by Walt Dungas at the last work session by

adding "veteran status, sexual orientation, gender identity/expression, mental or physical disability, political beliefs, or any other protected characteristic as may be defined by applicable law." (2) Review and revise the current City employment anti-discrimination administrative orders; (3) Review the Illegal Discrimination Ordinances from the cities of Missoula, Butte-Silver Bow, and Helena for the purposes of drafting an Illegal Discrimination Ordinance for the City of Billings; and (4) Bring these documents forward to the City Council for discussion at a future work session after completion of the budget. The motion was seconded by Councilmember Crouch.

Councilmember McFadden questioned "veteran status" and said it would be taking away veteran hiring preferences. Councilmember McCall said that was not what it was about right now; they were currently looking at the recommended language made available the previous week; and they would leave it up to staff to bring back the appropriate language. If it appeared they were discriminating, they would deal with it at that point.

Councilmember Bird said she supported the motion but would like to add "obesity" to the list of protected characteristics. Councilmember McCall agreed to add "obesity" as a friendly addition to her motion. Councilmember Crouch, who seconded the motion, agreed.

The motion was unanimously approved.

- **Brown:** Referenced an e-mail Council received on January 7, 2014, regarding current business license procedures and MOVED to direct staff to review and provide suggestions for putting the questionnaire and payment of fees on-line, seconded by Councilmember Pitman.

Councilmember Pitman said it would be convenient for the community's business owners to register and renew on-line. He said the current process was very cumbersome.

The motion was unanimously approved.

There was no further business, and the meeting adjourned at 8:25 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk