

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 9, 2014

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> 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:

- May 12, 2014 – Councilmember Cimmino moved for approval, as submitted; seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.
- May 27, 2014 (pending)

**COURTESIES:** None

**PROCLAMATIONS:** Lesbian, Gay, Bisexual, and Transgender Pride Month – June 2014

### ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek spoke on the following items.

- **Item E – Acknowledge Receipt of Petition to Vacate approximately 10,324 square feet of an undeveloped portion of Monroe Street north of Orrel Street and set a public hearing date for July 14, 2014.** The recommendation in the staff memo was to hold a public hearing on July 13, 2014. July 13 is a Sunday, and it should have read July 14. The electronic version has been corrected.
- **Item 2 – Public Hearing and Site Development Ordinance Variance: A variance from Section 6-1203 allowing customers to access via an alley for commercial uses abutting a residential zone for a mobile food trailer to be parked behind 628 Grand Avenue.** A protest letter from Dave Sutton of 644 Grand Avenue was sent to the City Council in the June 6 Friday Packet. Copy is filed in the ex-parte notebook.
- **Item 6 – Public Hearing and Resolution approving and adopting the FY2015 City of Billings Budget.** A memorandum from Pat Weber, City Finance Director, was sent to City Council in the June 6 Friday Packet with an updated Exhibit A. Copy is filed in the ex-parte notebook. An executive summary, as requested earlier, was on Council's desk.
- **Item 7 – Public Hearing and vote to stop staff work on a Non-Discrimination Ordinance.**

- ✓ A memorandum from City Attorney Brent Brooks was sent to City Council in the June 6 Friday packet in response to concerns from a local attorney whether or not the City Council had the authority to enact an anti-discrimination ordinance and if the City Council would be held personally liable for any impacts attributed to an approved anti-discrimination ordinance. Copy is filed in the ex-parte notebook.
- ✓ All e-mails sent to Mayor and City Council through Sunday, June 8, have been posted to the City's website for public review. Today as of 4:00 p.m. City Council had received 192 e-mails regarding Item 7
  - 143 e-mails were opposed to a non-discrimination ordinance;
  - 45 e-mails were in favor of a non-discrimination ordinance;
  - 4 e-mails were opposed to allowing non-Billings residents to testify;
  - Results of an on-line petition opposed to a non-discrimination ordinance were e-mailed to City Council with 65 people registering their opposition.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item: #1 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.

- **Steve Zeier, Zeier Consulting, 1514 Lynn Avenue, Billings, MT**, referenced Item G and introduced Sam Handley, the newest South Billings Urban Renewal Association (SBURA) board member. Mr. Zeier thanked the Council for its \$10,000 council contingency fund contribution for the Optimist Park Master Plan. Mr. Handley also thanked the Council and said any additional help to improve the neighborhood would be greatly appreciated.

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

## 1. **CONSENT AGENDA**

### A. **Bid Awards:**

1. **W.O. 12-43, Back-Up Power, Phase III.** (Opened 5/27/14)(Delayed from 5/27/14) Recommend CEI Electrical Contractors; \$477,250.

**B. Professional Services Contract** for W.O. 14-11, Wastewater Treatment Plant Nutrient Upgrade, Expansion & Improvements; HDR Engineering; \$4,591,900.

**C. Landfill Use Agreements** (effective July 1, 2014) with Yellowstone County; Stillwater County; City of Laurel; City of Powell, WY; MacKenzie Disposal, Inc.; Republic Services; and Two Tough Guy Services, LLC. Approximate annual revenue -

\$1,900,000 for Solid Waste Fund, and \$110,000 in franchise fees and out-of-state surcharge fees for General Fund.

**D. Amendment #2, W.O. 14-05 SBURD Sanitary Sewer, Phase 1**, Professional Services Contract, DOWL-HKM, \$38,200.

**E. Acknowledge Receipt of Petition to Vacate** approximately 10,324 square feet of an undeveloped portion of Monroe Street just north of Orrel Street; Community & Leadership Development, Inc., petitioner; and set a public hearing date for July 14, 2014.

**F. Resolution #14-10362** allocating \$25,000 from the FY14 Council Contingency Fund to the FY15 PRPL Fund to complete planning and begin equipment acquisition for the High Sierra Park disc golf course.

**G. Resolution #14-10363** allocating \$10,000 from the FY14 Council Contingency Fund to the FY15 PRPL Fund to help pay for an Optimist Park Master Plan.

**H. Second/Final Reading Ordinance #14-5621 for Zone Change #920:** A zone change from Agriculture Open-Space (A-1) to Residential 6,000 (R-60) on a 19.5-acre parcel generally located south of Grand Avenue near the intersection of Grand Avenue and 56th Street West; Regal Land Development, owner; Scott Worthington, agent. Approval of the zone change and adoption of the determinations of the 10 criteria.

**I. Preliminary Subsequent Minor Plat** of Amended Lot 3A, Block 1, Popelka Commerce Center Subdivision, described as approximately 11.27 acres of vacant land generally located on the northwest corner of King Avenue East and South Billings Boulevard; Bob Popelka, owner; Sanderson Stewart, agent; conditional approval of the plat and adoption of the Findings of Fact.

**J. Preliminary Subsequent Minor Plat** of Amended Lot 1, Block 1, Geyser Park Subdivision, described as approximately 5.27 acres of land generally located at 4910 Southgate Drive, west of the I-90/South Billings Boulevard Interchange; John Williamson, owner; Sanderson Stewart, agent; conditional approval of the plat and adoption of the Findings of Fact.

**K. Bills and Payroll:**

1. May 12, 2014
2. May 19, 2014

Councilmember Cromley separated Item C in order to abstain. Councilmember Cromley also separated Item E. Councilmember Brown separated Item K2 in order to abstain. Councilmember Cimmino said she had been directed by her employer to abstain from Items 1A1, B, D, I, J, K1 and K2. Councilmember McCall moved for approval of the Consent Agenda with the exception of Items A1, B, C, D, E, I, J, K1 and

K2, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of Item A1, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10-0.

Councilmember McCall moved for approval of Item B, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10-0. Councilmember McCall moved for approval of Item C, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10-0. Councilmember McCall moved for approval of Item D, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10-0.

Councilmember McCall moved for approval of Item E, seconded by Councilmember Pitman. Councilmember Cromley said they had an appraisal of \$2.29 a square foot, and \$2.50 a square foot or giving it away were also referenced. He asked if they anticipated receiving funds for the right-of-way; and if so, would it be \$2.29 or \$2.50 a square foot. Deputy Public Works Director, Vern Heisler, said staff would recommend \$2.50 a square foot. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of Item I, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0. Councilmember McCall moved for approval of Item J, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0. Councilmember McCall moved for approval of Item K1, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0. Councilmember McCall moved for approval of Item K2, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE: A variance from Section 6-1203(r) allowing customer access via an alley for commercial uses abutting a residential zone for a mobile food trailer to be parked serving customers behind 628 Grand Avenue; Bill Jensen and Cathy Pike, owners. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)** Ms. Volek advised staff had no presentation but was available to answer questions. Mayor Hanel noted the matter had been previously discussed.

The public hearing was opened.

- **Tatiana Heckles, 628 Grand, Billings, MT**, said she owned the property the variance would affect. She had run a food cart there for two years, and this was the first time she was required to apply for a variance. They were not under the radar. She was in magazines, on the news, and in the newspaper; but for some reason they needed to apply for the variance in order to continue the business. She had sold the business to Bill, who would like to continue to provide the food cart to the community. Mr. Sutton, who wrote the protest letter, was not the property owner at 644 Grand. His wife leased a business there, and they had

customer access through the alley, as well. The property was owned by STEP. They had an excellent working relationship with STEP, and some of STEP's clients actually worked for her. The lot was zoned Neighborhood Commercial, and the Grand Avenue construction in 1999 blocked all access to Grand Avenue, so the only access was through the alley.

- **Kellie Sironi, 1801 Parkhill Drive, Billings, MT**, asked for the conditions of approval. Mr. Heisler listed the three conditions as (1) The variance is for a mobile food trailer or cart only, and shall not be extended to any other commercial use of the lot; (2) Adequate parking outside of the public right-of-way shall be provided for customers using the mobile food court plus parking for the existing triplex living units; and (3) Direct food service to customers will not be provided at this location between the hours of 8:00 p.m. and 8:00 a.m.

Councilmember Cimmino asked to see a photo. Ms. Heckles provided the magazine article that contained a photo, and Mr. Heisler said he had a photo he could leave with Councilmember Cimmino.

- **Joe Catron, 628 Grand, Billings, MT**, said he was co-owner of the property at 628 Grand with his wife. A retaining wall was built on Grand Avenue in 1999 that prevented front-street access to the entire 600 block of Grand Avenue. In 1999 the Moore family owned the property; and at that time, they asked for access to an adjacent commercial lot. The City of Billings denied their request because they already had access through the alley. The alley was then paved. They currently had an empty commercial lot, and they would like the new owner to be able to operate his business there; and it had to be accessed through the alley. They had a positive relationship with their neighbor, STEP, who had actually offered them parking. They paid commercial taxes on their property; and if it was not accessible through the alley, they would have a commercial property that could not be used. They operated for two years, they met multiple times with the City, and they were very transparent with their operation.

Councilmember Brown asked if they would be able to meet the parking requirements. Mr. Catron said they had written the City on multiple occasions. Their last e-mail to the City was last week because they wanted to make sure parking was allowed, but the City could not provide an answer for them. After meeting with A & E Engineering, they redrafted a plan to pour a concrete pad where part of the deck was located, which would reduce the amount of needed parking. Councilmember Brown asked if there had been a parking issue in the past. Mr. Catron said in an original meeting with the City, they were told as long as no neighbors complained, they could have alley access; and parking would not be an issue because they were operating under a Class 1 operation, which was 72 hours of operation and then the mobile cart had to be moved. It was their understanding as long as they attempted to move the cart even an inch, they could continue to operate under Class 1. It was only when they sold the business that it became an issue.

Mr. Heisler commented they received a sketch of the proposed site. The City Traffic Engineer visited the site, and staff believed there was adequate parking. The surface area was currently gravel, and staff believed since the business was operated seasonally that gravel would be allowed.

Mayor Hanel asked if the mobile food trailer was self-contained and no waste would be deposited on the ground. The owners indicated it was self-contained.

Councilmember Cromley asked for the length of the permit. Mr. Heisler said the variance request for the alley access went with the property. According to Planning the permit was on an annual renewal. It was also noted the operation had a Health Department permit.

Councilmember Cimmino asked if it was a temporary use permit. Planning Director, Candi Millar, said it was a temporary use permit. There were three classes of temporary uses – (1) Group 1 in which operation was limited to 72 hours; (2) Group 2 required a permit and was annually renewed; and (3) Groups 2 and 3 needed to meet site development standards. A coffee kiosk located in a fixed location would be considered Group 3.

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

Councilmember McFadden moved for conditional approval of Item 2, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION #14-10364 FOR ANNEXATION #14-01: Property described as a portion of Tract 2B, of Corrected Certificate of Survey 840, 2nd Amended, located north of Kyhl Lane in the Billings Heights and currently addressed as 1880 and 1916 Hawthorne Lane. Richard Jr. and Mae L. Satorie, petitioners. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)** Planning Division Manager, Wyeth Friday, showed a map of the subject property and surrounding properties noting the subject property was within the red limits of the annexation area. The property owners planned to subdivide the property, and Council would be considering a preliminary plat at the June 23<sup>rd</sup> meeting. He said the subject property met the following City Annexation Policy criteria.

- The area must be located within the Red Area of the Limits of Annexation Map;
- The City must be able provide adequate services within a time period mutually agreed to by the owners and the City;
- Existing/proposed public improvements must meet City standards;
- Property owners within the area to be annexed must sign a Waiver of Right to Protest the creation of Special Improvement Districts;
- All residential property owners within the area to be annexed must create or join an existing park maintenance district;
- Residential densities within the area to be annexed must equal or exceed four dwelling units per acre; and
- The proposed land use within the area to be annexed must conform to the goals of the City of Billings and Yellowstone County Growth Policy.

Staff was recommending approval subject to the following two standard conditions.

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

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Pitman moved for approval based on the conditions, seconded by Councilmember Cimmino. Councilmember Pitman commented it was an area that would see dramatic growth with the new middle school. It was exciting but also disappointing because it had always been the location of the pumpkin patch, corn maze, and other fun things to do. As the middle school grew, it would be a great neighborhood for families in the Heights. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annexation #14-02: approximately 19.5 acres located south of Grand Avenue near the intersection of Grand Avenue and 56th Street West; Regal Land Development, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Ms. 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 Swanson moved for approval of Item 4, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND RESOLUTIONS setting annual FY2015 assessments for Street Maintenance – Resolution #14-10365; Storm Sewer – Resolution #14-10366; Arterial Construction – Resolution #14-10367; Business Improvement District – Resolution #14-10368; Tourism Business Improvement District – Resolution #14-10370; and all-purpose mill levy and mill levies for Library operation, Transit operation, and Public Safety Funds – Resolution #14-10369. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Ms. Volek advised there was no presentation, but staff was available to answer questions. Mayor Hanel noted the information had been presented publicly with multiple opportunities for public comment.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced a Billings Gazette article that reported family expenses had increased in 2013. Average income for

a family had decreased by \$103 while expenses increased \$777. He asked that Council resist increasing the fees and carry the same burden as Billings' families who did not have the ability to raise their income.

Mayor Hanel asked staff to comment on the procedure of adjusting rates periodically instead of letting them wait over a multiple number of years. Mayor Hanel noted in comparison with other communities, Billings' rates were very competitive.

Ms. Volek said several years ago City Council asked staff to make a periodic increase in various fees for service rather than waiting a period of five or six years and making a very large increase. The fees allowed the City to continue operating much-needed and very important services.

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

Councilmember Pitman moved for approval of the Street Maintenance resolution, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of the Storm Sewer resolution, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of the Arterial Construction resolution, seconded by Councilmember McCall.

Councilmember McCall moved for approval of the Business Improvement District resolution, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino moved for approval of the All-Purpose Mill Levy and Mill Levies resolution, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of the Tourism Business Improvement District resolution, seconded by Councilmember Bird. Councilmember McCall asked Lisa Harmon, Executive Director of Downtown Billings, to summarize what they did for the community and its members. Ms. Harmon said the Business Improvement District had been tasked with clean, safe, outreach programs for the past ten years. They represented 540 property owners. Some of the items they were involved in were a proposed mobile vending ordinance, transients, panhandling, and homelessness. The Tourism Business Improvement District promoted and advocated for the City enabling it to compete on a regional and national level. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND RESOLUTION approving and adopting the Fiscal Year 2015 City of Billings Budget. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Finance Director, Pat Weber, began his presentation reviewing the following charts:

Revenues – All Funds totaling \$258,672,186. He noted Charges for Service was the largest at \$101,284,126; Inter-Governmental at \$31,164,381; Licenses & Permits at



\$6,252,335; Special Assessments at \$22,049,239; Taxes at \$35,645,763; Miscellaneous at \$1,790,926; Debt Proceeds at \$27,931,695; Interfund Transfers at \$28,968,831; Donations/Contributions at \$848,638; Investment Earnings at \$558,865; and Fines & Forfeits at \$2,177,387.

Expenditures – All Funds totaling \$277,427,633. He said overall Capital and Personal Services were the largest at \$84,265,263 and \$86,537,240, respectively; Interfund Transfers at \$28,968,831; Operation & Maintenance at \$62,225,189; and Debt Service at \$15,420,810.

Revenues – General Fund totaling \$33,454,866 with Inter-governmental at \$9,953,347; Licenses & Permits at \$4,367,439; Taxes at \$13,897,377; Miscellaneous at \$1,000, Interfund Transfers at \$2,742, Donations/Contributions at \$4,000 Investment Earnings at \$46,520; Fines & Forfeits at \$1,796,262; and Charges for Service at \$3,386,179.

Expenditures – General Fund totaling \$34,138,981 with Interfund Transfers at \$23,354,965; Capital at \$9,800; Operation & Maintenance at \$3,345,694; and Personal Services at \$7,403,522.

Revenues – Public Safety Fund totaling \$37,925,696 and noting 58% or \$21,911,000 was transferred from the General Fund. The remaining Public Safety Fund Revenues were Taxes – Levy 1 at \$3,956,622; Taxes – Levy 2 at \$8,200,000; Licenses & Permits at \$95,096; Inter-Governmental at \$2,420,612; Charges for Service at \$1,317,704; Interest on Investments at \$2,600; and Miscellaneous Revenues at \$22,062.

Expenditures – Public Safety Fund totaling \$38,173,050 and noting 80% or \$30,385,809 was for Personal Services. The remaining Public Safety Fund Expenditures were Operation and Maintenance at \$5,812,100; Capital at \$237,000; Debt Service at \$566,053; and Transfers at \$1,172,088.

Councilmember Pitman said the City was growing at about 5% and asked what impact it would have on the budget going into next year. Mr. Weber advised there was \$11.7 million in unbudgeted reserves that they planned to support public safety, so in 2016 or 2017 the excess reserves would be gone. Councilmember Pitman asked if the 5% would buy them some time. Ms. Volek advised 2015 would be the beginning of the six-year appraisal cycle with the State, and the Department of Revenue (DOR) rotated the dollar amount for every property in the City back to the number it was six years ago. She said it also did not eliminate their need to continue improving existing operations. New growth did not necessarily pay for itself; however, it was offset by the fact that their roads and sewers were relatively new. They still had the ongoing problems in the City of continuing to maintain existing operations. She noted an article in Saturday's newspaper indicating the Federal Government was in very serious trouble on the highway taxes, which was a major source of road funding for the City and was going to be a concern down the road.

Councilmember Pitman asked if there was a maximum amount allowed by law to have in non-budgeted reserves. Mr. Weber said if the City did not have a charter and floated its mills, there was a law addressing the amount. The City's mills were set by charter so the City knew how many mills they would receive, and the budget needed to be set by that amount.

Mayor Hanel asked Ms. Volek to explain the budget process. Ms. Volek advised City Departments began working in January on the budget for the upcoming year. The City's budget year began July 1. All department Operation and Maintenance Funds had

been frozen for more than 12 years. Submittal of Supplemental Budget Requests (SBRs) were required for new staffing or new programs. Each was carefully reviewed. There was usually more in requests for SBRs than they were able to fund, particularly in the General Fund and Public Safety Fund. This year's SBRs from the General Fund and Public Safety Fund totaled approximately \$800,000, and a little over \$350,000 was granted. The first year she was with the City of Billings in 2004, \$1 million in SBRs was granted. That much had not been granted in any year since, and she believed the maximum amount granted was approximately \$450,000. The departments had become very wise about what they requested. When they looked at the SBRs, they looked first to see if it was Federal or State mandated or safety related; and second if the items would pay for themselves over time. The first of May recommendations were made to the City Council based on the requests in a series of meetings to include presentations from all departments. The recommended budget was then brought to City Council following department presentations. Mayor Hanel asked how many hours of staff time was involved preparing the budget. Ms. Volek said hundreds, if not thousands. Mayor Hanel asked for a brief explanation of the Capital Improvements Plan and how the money was set aside. Ms. Volek advised for better than a decade the City has had a 5-year Capital Improvements Plan. Every other year a complete review was done and taken out into the community. The Plan allowed the City to set aside money for projects over time.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced a Billings Gazette article that said expenses had gone up \$777, yet the City departments were requesting a 5% COLA. A \$60,000/year City employee would be given \$3,000 even though the costs only went up \$777. It sounded like they were getting \$2,200 for breathing. Eight hundred employees at \$2,200 over and above what they deserved would come to \$2.5 million. He said he was not saying they did not deserve to be kept up with inflation, but they would receive an extra \$2,200. They would then come back and want a salary increase. He said it was a perfect example of why the City's expenses kept out-pacing its revenues. Mr. Nelson asked if the City would consider taking the safety mill levy money out of the tax increment districts and putting it back into the General Fund. He said Cabela's, Sam's Club, Intermountain Distributing, Stockman Bank Downtown, and all the downtown motels did not contribute a dime to the safety mill levy. The City would come back in the fall and want to increase the safety mill levy funds letting those businesses escape their contribution to the safety and welfare of the community.

Ms. Volek noted the Downtown Tax Increment District paid the Police Department for two full-time police officers to patrol downtown, including their equipment, vehicle, time, overtime, and everything in conjunction with managing the downtown population. She said in a tax increment district the property owner was not absolved of their property taxes. The amount required to pay was frozen as of a given year, and any amount that their property increased in value over the frozen level was then tax money provided to the tax increment district where it was used for public expenditures. The businesses continued to pay taxes, but

the source as to where the money was going and what it was used for differed in a tax increment district. She referenced the COLA and said it was what was negotiated for a pay increase. There was no other pay increase on top of a COLA unless it involved a new employee working through the initial employment steps.

- **Connie Wardell, PO Box 21432, Billings, MT**, said she had been a City budget watcher and hearing attendee for 20 years. The process that evening spoke for itself as far as an incredible improvement. It used to take at least an hour or two at three or four meetings to discuss the Capital Improvements Plan and two hours discussing the street maintenance and other fees. She said being able to go through the process in addition to holding four or five other public hearings on the same night spoke to Pat Weber's work. Mr. Weber, Ms. Volek, and the City Council needed to be commended. Ms. Wardell said she was concerned with the comment "we'll get to that but we have to deal with the non-discrimination ordinance first" because infill development was critical and the public safety mill was critical. When a councilmember put forward an initiative, he or she did not know where it would go and how much it would cost. She would like to see initiatives come forward with looking into "xyz" limited to \$5,000 of staff time; and when the \$5,000 of staff time was spent, staff needed to come back to Council and ask if they wished staff to continue. According to the City Administrator, staff did not account for their time spent on initiative issues; and it was taking a huge amount of staff time. When there was a public hearing there were 10 to 12 staff members sitting for four or five hours, and it would be done with comp time, which was time that would not be spent on issues critical to the whole city. It was time to put a price tag on staff time. Ms. Wardell said hours and hours were spent on medical marijuana, and the State Legislature undid most of it.

Mayor Hanel commented to Ms. Volek it would be worth a Council discussion in the future. Ms. Volek said tracking time was more common in the private sector. She said they could look into a modified discussion on the matter.

Councilmember Pitman said their whole initiative process needed to be analyzed to include a fiscal note and more of a standard method.

Councilmember McCall said she agreed they needed to look at the initiative process. She had spoken with Attorney Brooks, and there was no real criteria for initiatives.

Councilmember Pitman said it was important to limit the scope and actually put dollar amounts on what staff was asked to do. There needed to be some type of fiscal restraint.

Councilmember Cimmino noted that the Mayor and Council who put in thousands of hours every year had not received a nickel increase for the last 17 years, so they were saving money, and she felt good about it.

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

Councilmember McCall moved for approval of the 2015 Fiscal Year City of Billings Budget, seconded by Councilmember Cimmino. Councilmember Yakawich said he was impressed with how staff sought funding in other ways such as looking at grants

and appreciated how they presented the "City Budget for Dummies." He said staff expressed a great deal of confidence when presenting the proposed budget, and he wished the entire City could have seen it. He said he was confident the City was in good hands. Councilmember Bird thanked Ms. Wardell for her commendation to the staff. She said governmental accounting was very complicated. Councilmember Swanson noted for the audience that Mr. Weber and his Finance Department saved the City over \$6 million by taking advantage of lower rates and a better rating. On a voice vote, the motion was unanimously approved.

Mayor Hanel called for a recess at 7:53 p.m. Mayor Hanel called the meeting back to order at 8:18 p.m.

**7. PUBLIC HEARING AND VOTE TO STOP STAFF WORK ON A NON-DISCRIMINATION ORDINANCE (NDO). Staff recommends the Council vote to rescind the initiative to create an NDO and to rescind a revision of the City employment anti-discrimination administrative orders. (Action: approval or disapproval of staff recommendation.)** Ms. Volek noted on December 2, 2013, citizens approached the City Council at a work session to request a non-discrimination ordinance (NDO) be approved in Billings. Based on the request, an initiative was approved on January 27, 2014, to:

- (1) Review and revise the section of city code related to the Human Relations Commission, incorporating the expanded anti-discrimination language by adding "veteran status, sexual orientation, gender identity/expression, mental or physical ability, political beliefs, obesity or any other protected characteristic as may be defined by applicable law."
- (2) Review and revise the City employment anti-discrimination administrative orders.
- (3) Review the Illegal Discrimination Ordinances from the cities of Missoula, Butte-Silver Bow, Helena, and Bozeman for the purposes of drafting an Illegal Discrimination Ordinance for the City of Billings.
- (4) Bring the documents to the City Council for discussion at a future work session after completion of the budget.

On May 27, 2014, City Council voted 6-5 to direct staff to stop working on a non-discrimination ordinance and to place the directive on the next regular business session for a vote if required for the purposes of public input or comment. Ms. Volek said because it was an issue of great public interest, the decision was made to put it on that evening's agenda. She said if the NDO was tabled staff asked that the initiative to review and revise administrative orders also be tabled since the ordinance would be required to be adopted first. She said initially staff recommended considering postponing the ordinance until after the legislative session met in the coming year in recognition of the fact the City did a great deal of work on medical marijuana only to have the State Legislature enact a state law that voided much of what the City had done. She said at a previous work session the Council indicated it was not pleased with that recommendation and asked staff to take one of two remaining possibilities. Staff

took the position from the majority of the Council and recommended the ordinance be tabled.

Councilmember McCall said she was surprised staff recommended rescinding her original initiative and asked for an explanation. Ms. Volek said the staff's first recommendation was postponement until the end of the legislation. Since that was not the Council's desire, they simply accepted the decision of the majority of the Council; and there was nothing more to it than that. Councilmember McCall addressed Attorney Brooks and said given the fact he had actually been working on the draft language for the initiative shortly after it was approved 10 to 1 by the Council on January 27, it puzzled her with all of the work that had been done and the fact they were scheduled next Monday to review a draft ordinance and have something in hand to discuss, why he would make the recommendation to rescind. Attorney Brooks said there were many recommendations that could be made, and certainly one of them was the recommendation made in the staff memo. Most of the staff concurred. One of the things staff did was make recommendations to the Council and particularly from the Legal staff, Council could accept or reject their advice or recommendations. They were working on a draft of an ordinance but it was not ready because there were many questions to answer. Councilmember McCall said it was her understanding the only reason they were asking to rescind was because the vote was 6 to 5 at the last meeting. Ms. Volek said that was correct. She said the recommendation in the staff report came from her and none others, and she would bear the full responsibility for having made the recommendation.

Councilmember Cromley asked if it was correct the original initiative would have gone to Legal, Human Resources, and the Human Relations Commission. Ms. Volek said that was correct. She met with the Human Relations Commission and held discussion with the ACLU and with representatives of the Montana Family Foundation; however, despite the offers from both groups to provide assistance with writing the ordinance, they chose to do the writing internally because they had a very active and functional legal staff. She said Attorney Brooks had consulted with his peers in the cities around the state who had considered the ordinance. Attorney Cromley said most of the Council liked to defer to staff recommendations because they felt the issues before them had been researched by staff. Council relied on that, which was why he was disappointed. He said he wanted to make clear again that the only reason they had a staff recommendation to oppose the NDO was because of the 6 to 5 vote two weeks ago. Ms. Volek said that was correct and added the recommendation was simply that – a recommendation. It was up to the Council as the governing body and the policy makers to make the final determination.

Councilmember Bird said she was concerned that Councilmember McCall was not notified by Ms. Volek of the staff recommendation. She said it was a unique situation, and it was unfortunate that Councilmember McCall was blindsided by the recommendation. Ms. Volek said she went back and reviewed the tape of the Council meeting at which they made their original recommendation, and she believed they were directed by the Council to go back out and try it again, which they did; and they were basing their recommendation as she previously explained.

Councilmember Cimmino said last Monday when the agenda was published online, everyone in the entire community received it at the same time and those receiving

paper copies received it Monday night; however, she understood the concerns of Councilmembers McCall and Bird. She said she did not think any of them was blindsided. It was a recommendation provided by staff just like any other report; however, in this case, it had been a very passionate process. Even on January 27 when Councilmember McCall made the original initiative, it was not supposed to be until after the budget was completed. She said they just had the budget hearing that evening, and not one question was asked from the general public on how they were spending \$279,000,000. So this particular item had taken a considerable amount of time, and it was just the nature of the business. Ms. Volek said she had seen all the e-mails received; and to receive 100+ e-mails on a single topic on a given day showed it was a very passionate issue.

Mayor Hanel said it had obviously been a very, very sensitive issue for him. To those people in the council chambers, in the halls, in the adjacent rooms, and the citizens who had been following the media, the issue was extremely important to the Council. He said it was very easy to be good leader when things were going smoothly. When things got a little tough and rocky, it took more skill. He said the councilmembers were some of the best representatives the citizens of Billings could have. They did a fine job, and he respected each and every one individually beyond measure. They did a great job, and they have been experiencing an extreme amount of pressure with this matter leading up to tonight. He thanked everyone for being there, and he said he wished they would come back again and again because it was nice to see such an audience at their meetings displaying interest in a particular matter.

Mayor Hanel read the following.

*"Isn't it wonderful that we all have this opportunity? America, the beautiful, the proud, and the free, the envy of many. Isn't it interesting that we are here, all of us, from the beginning being created equal? For we learned as youngsters to love your neighbor, to love each other. So what's happened? Why are we here? As Mayor I am here to represent each and every one of you, and I am honored to have that opportunity. This position, just like those aside me, of all these 10 people, is a non-partisan position. We're not here supporting one party or another at all. I don't care what party you might belong to, what church you may attend, or even if you don't attend church. It doesn't matter to me. It doesn't matter to me who your friends are, and it does not matter to me what choices your friends make whatsoever. You should be proud to live in Billings, each and every one of you as we are; one of the best places in the United States of America to live. We have been rated high on the charts repeatedly and just recently. You should be proud to help your neighbor in a time of need; to share kindness, friendship, and love. So once again why are we here? Are we too proud to admit that we are all equal; that some of us to some of us may be different? Are we too proud to admit that we are all human and that none of us are perfect; not anyone of us? We need to work together. We need to get along wherever you are, whomever you are, whether you agree or disagree. This time more important than ever. This*

is a huge, huge situation we are dealing with, and this is a great City. Many asked why we delayed the vote; why we are here again this evening. That's because of me. I am the one who cast that sixth vote, and that's why we're here. I have had many people ask, why did you do that? You must not agree with it. I'm going to tell you I'm not here telling you that I had any vote, any thought at that time whether I was for or against. You've heard tonight considerable testimony about a huge budget - \$277,000,000 of your money. We have approximately one month to hear all the presentations, to learn, understand, and make a rational decision in the best interest of you, our taxpayers. That's a huge responsibility to you. So why did we delay it? Quite frankly because I felt as if the budget was more important at the time; not that NDO isn't, but that budget is extremely important. The Council has the task of understanding the budget, and as you've heard this evening, the staff of preparing and presenting the budget. Other than the safety of our community and me personally as a former law enforcement officer, nothing is more important than the budget; safety is the utmost. With that I'm going to say this. I have been highly scrutinized by your e-mails; your phone calls; your mail that arrives in my post office box; our Gazette, which I have a great deal of respect for and no reflection on Mr. Ferguson, has been quite cruel. And why for? We haven't even gotten to a draft ordinance yet. We're still trying to decide if we're going to go there. We didn't duck anything, ladies and gentlemen. We don't duck things. As a Mayor with a Council, we're here this evening prepared to stay as long as necessary. We have snacks, we have beverages, and we will take breaks. Believe me, we will not wear out. We will stay here as long as we need to in order to take care of this. But I'm also going to say this. As Mayor of the Council that I once again say I have absolute respect for, it's my intention this evening to relieve them of a huge burden. Once again, I'm going to relieve them of a huge burden. They are under an extreme amount of pressure; extreme amount of pressure. And hopefully those are listening down the hall, in the next room, and all of you, it might just relieve a lot of you of a lot of testimony, and I certainly hope that's the result because I don't see the need to stay here until the wee hours of the morning. It's my sincere intention to show that we can and that we, being as a Council, will work together and we're going to work for the better of all of you. With that, as your Mayor, I am prepared to shoulder this entire matter this evening and accept responsibility of my position; and I am here to tell you that I intend to support rescinding the motion; that I also intend to support the drafting of an NDO ordinance. So if that gives you any idea where we may be headed, I wanted to make it very loud and very clear. Thank you very much."

Mayor Hanel called on Councilmember McCall who had public testimony to present on behalf of those who were absent. There were copies in the back of the room and copies available for the media. Councilmember McCall noted Ms. Volek,

Attorney Brooks, and Mayor Hanel had copies of the letters, and she had copies to distribute to the Council.

Councilmember McCall said she would like to read into the record the first letter from County Commissioner, Bill Kennedy.

*Dear Mayor Hanel and City Councilmembers. I apologize for not being at the council meeting, but I had another meeting this evening. I would like to have all of you remember 20 years ago when we in this whole community stood up against hatred. We told the whole country that discrimination and hatred in our town, in our community, was not allowed. A brick through a window or a swastika painted on a house was not right, and we said we would not tolerate any of this. Discrimination, hatred and bigotry are not part of our town, and we say stay out. I would ask you to move forward on the non-discrimination ordinance and vote against tabling it tonight. I would ask also for you to seriously add the mentally ill and the homeless population to the ordinance. This past Sunday was Pentecost and the readings were to go out and help all of God's children. We need to work to help all of His children. Help with wiping out discrimination in our community. Thank you for your service and keeping our community the best place to live. God Bless. Sincerely, Bill Kennedy.*

Councilmember McCall said she would like to read into the record the second letter from Gary Buchanan of Buchanan Capital.

*To the Mayor and City Council. Subject: Decision Time. Your indecision as a Council is hurting Billings and its reputation statewide in Montana. I've been in business for over 30 years in downtown Billings and have been active in a number of efforts to aid our city. My primary focus has been to support law enforcement and fire protection. As a political independent I vote for both Republican and Democrats in nearly every General Election. We do business statewide and lately I have been asked what on earth is going on in Billings regarding this diverse, embarrassing conflict. Although tonight's options are quite confusing, a real up or down decision is required. Personally, I would vote for a non-discrimination ordinance. Just as we protected religious freedom years ago in Billings, we need to keep religion out of personal freedom today. I understand some of you have deeply-held beliefs on different sides of this issue, and I respect that. My problem is with those of you who may be hoping for political cover by not making a decision. Delay has already made the conflict much worse. Further delay will only lead to more confrontation and embarrassment. Vote up or down for the ordinance, but delay no further. Thank you. Gary Buchanan.*

Mayor Hanel said the matter that evening was to decide whether or not to rescind tabling the matter and moving on to an ordinance.



Councilmember Cimmino said she was wondering if all 11 of them had an opportunity to read all of the letters they had received. Mayor Hanel told her if she had something she would like to present to go ahead. Councilmember Cimmino said she did not know they were going to do that tonight. Mayor Hanel commented he was not aware either. Councilmember Cimmino said she had hundreds of them and asked if she should go to her house and get them. Mayor Hanel said if she did not have them there it would be impossible. Councilmember Cimmino commented she thought this was going to be a fair process.

The public hearing was opened.

The following people spoke in favor of the non-discrimination ordinance.

- **Ted Clark, 2658 Forest Meadow Lane, Billings, MT**
- **Lisa K. Harmon, 156 Rolling Meadow, Billings, MT**
- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**
- **Lynda Moss, 552 Highland Park Drive, Billings, MT**
- **Charlie Donnes, 2211 Spruce, Billings, MT**
- **Carol Hardy, 2211 Spruce, Billings, MT**
- **Shawna (inaudible – did not sign in), 35 Maier Road, Billings, MT**
- **Mariah Welch, 225 Avenue D, Billings, MT**
- **Sam Herbert, 518 Parkhill, Billings, MT**
- **Jessica Narjala, 6125 Masters Boulevard, Billings, MT**
- **Barbara Derwinski, 3105 Copper Ridge Place, Billings, MT**
- **Walt Donges, 941 Constitution, Billings, MT**
- **Pat Olp, 320 Covert Lane, Billings, MT**
- **David Otey, 1946 Avenue B, Billings, MT**
- **Donald Seibert, 1112 Delphinium, Billings, MT**
- **Shelley Thomson, 1253 Yellowstone, Billings, MT**
- **Steve Gordon, 3216 Laredo, Billings, MT \*\***
- **Tammy Mehlhaff, 744 Wyoming Avenue, Billings, MT**
- **Ryan Donges, 941 Constitution, Billings, MT**
- **Cord Kortum, 1414 3<sup>rd</sup> Avenue North, Billings, MT**
- **Skip Godfrey, 4146 Clevenger, Billings, MT**
- **Susan Otey, 1946 Avenue B, Billings, MT**
- **Karen Jarussi, 1131 N. 32<sup>nd</sup> Street, Billings, MT**
- **Carol Heath, 513 Rimrock Road, Billings, MT**
- **Marty Elizabeth Ortiz, 707 1<sup>st</sup> St. West, #6, Billings, MT**
- **Barbara Archer, 2210 Pryor Lane, Billings, MT**
- **John Rossiter, 1505 Rimrock Road, Billings, MT**
- **Andy Wildenberg, 525 O'Malley Drive, Billings, MT**
- **Charles Clark, 707 1<sup>st</sup> Street West, Billings, MT**
- **Marian Bradley, PO Box 81, Pryor, MT**
- **Barbara Gulick, 2018 12<sup>th</sup> Street West, Billings, MT**
- **Courtney Wilson, 4411 Jansma, Billings, MT**

- Patrick Fisher, 2600 Montana Avenue, Billings, MT
- John McDonald, 4111 June Drive, Billings, MT
- Robin Miller, 901 13<sup>th</sup> Street West, Billings, MT
- Deborah Schlereth, 901 13<sup>th</sup> Street West, Billings, MT
- Susan Gilbert, 850 Delphinium, Billings, MT
- Judy Burnam, 1701 Stirrup Road, Billings, MT
- Ron Burnam, 1701 Stirrup Road, Billings, MT
- Marcella Tatarka, 118 Buck Deer Pass, Billings, MT
- Paul Montgomery, 1107 Alderson, #9, Billings, MT
- Chuck Heath, 513 Rimrock Road, Billings, MT
- Amy Hauschild, 1215 6<sup>th</sup> Street West, Billings, MT
- Charlene Scheffelman, 1921 Yellowstone Avenue, Billings, MT
- Peter Gesuale, 2046 Miles Avenue, Billings, MT
- Danielle Egnew, 1312 1<sup>st</sup> Street West, Billings, MT
- Rebecca Douglas, 1803 16<sup>th</sup> Street West, Billings, MT
- Jennifer Walker, 2231 Green Terrace Drive, Billings, MT
- Katie Hendrickson, 3295 Granger Avenue East, Billings, MT
- Jill Lippard, 3295 Granger Avenue East, Billings, MT
- Svein Newman, 703 Yale Avenue, Billings, MT
- Ryan Doll, 2021 24<sup>th</sup> Street West, Billings, MT
- Jenny Jo Allen, 942 Avenue C, Billings, MT
- Eric Porter, 607 N. 25<sup>th</sup> Street, Billings, MT
- Loween Peterson, 2015 Burlington Avenue, Billings, MT
- Susan Eades, 3004 Millice Avenue, Billings, MT
- Karen Stainton, 3004 Millice Avenue, Billings, MT
- Thomas Hall, 3040 Central Avenue, Billings, MT
- Sheena Rice, 300 N. 25<sup>th</sup> Street, Billings, MT
- Todd Garlock, 951 Aronson, Billings, MT
- Dave Overturf, 2507 Montana Avenue, Billings, MT
- Daniel Cerda, 206 Brookshire Blvd., Billings, MT
- Aaron Wallace, 527 St. Johns, Billings, MT
- Daniel Mehrens, 3341 Windmill Circle, Billings, MT
- Genoa Carver, 416 Miles Avenue, Billings, MT
- Ceci Beutler, 302 Beverly Hill Blvd, Billings, MT
- Jacob Tedlund, 1018 N. 25<sup>th</sup> Street, Billings, MT
- Mike Mantzey, 224 N. 24<sup>th</sup> Street, Billings, MT
- Susan Plath, 3617 Tommy Armour, Billings, MT
- Kimberly Woeste, 2542 Lewis Avenue, Billings, MT
- Debbie Schenk, 143 Grapevine Road, Joliet, MT
- Kim Leighton, 1315 Knight, Helena, MT
- Sabrina Currie, 421 5<sup>th</sup> Street West, Billings, MT
- Olivia Splinter, 1034 Yale Avenue, Billings, MT
- Marc Stewart, 614 Burlington, Billings, MT
- Randy Hyvanen, 1237 Poly Drive, Billings, MT

- Hannah Hostetler, 26 Clark Avenue, Billings, MT
- Amy Seymour, 27 Gibson Road, Joliet, MT
- Joseph Splinter, 1034 Yale, Billings, MT
- Hope Wisneski, 1640 Rhode Island NW, Washington DC
- Caitlin Copple, 621 Fairview, Missoula, MT
- Eran Thompson, 2405 13<sup>th</sup> Street West, Billings, MT

The following people spoke in opposition of the non-discrimination ordinance.

- Kellie Sironi, 1801 Parkhill, Billings, MT
- Terry Forke, 341 Rolling Hills Road, Billings, MT
- Krista Davis, 2400 Greenbriar Road, Billings, MT
- Jim Brown, 2043 Constellation Trail, Billings, MT
- Jeff Laszloffy, 3165 Highway 212, Laurel, MT
- Barbara Prewitt, 3 South Grove Place, Billings, MT
- Richard Schwartz, 2701 Terry Avenue, Billings, MT
- Angela Grimstad, 6335 Victoria Lane, Billings, MT
- Gayle Wentling, 1310 Cook Avenue, Billings, MT
- Jennifer Strong, 411 Glen Drive, Billings, MT
- Larry Beneker, 518 Jemstone Drive, Billings, MT
- Daniel Robertson, 627 Mattson Lane, Billings, MT \*\*
- Roy Neese, 2323 Constellation, Billings, MT
- Cynthia Marble, 3131 Harrow Drive, Billings, MT
- Kyndall Miller, 1500 1<sup>st</sup> Avenue North, Billings, MT
- Susan Smith, 5522 Billy Casper Drive, Billings, MT
- Janice Linn, 821 N. 27<sup>th</sup> Street, Billings, MT
- Lee Llewellyn, 1038 N. 30<sup>th</sup> Street, Billings, MT
- Dale Blom, 610 W. 13<sup>th</sup> Street, Laurel, MT
- Mark Grunst, 117 Legends Way, Billings, MT (take to the voters)
- Charlie Eustace, 1418 Janie, Billings, MT
- Sherry Pence, 4115 Obie Lane, Billings, MT
- Steve Pence, 4115 Obie Lane, Billings, MT
- Keith Myhre, 213 Yellowstone Avenue, Billings, MT
- Bob Reed, Joliet, MT
- Ryan Wendt, 2342 S. 35<sup>th</sup> Street West, Billings, MT
- Nikki Downer, 3775 Vista View Drive
- Ken Zeller, 4403 Palisades Park Drive, Billings, MT
- Danny Houde, 1339 St. Johns, Billings, MT
- Rich Friedel, 1302 24<sup>th</sup> Street West, Billings, MT
- Curtis Hughes, 1322 Beartooth, Billings, MT
- Emily Larson, 440 Josephine, Billings, MT \*\*
- Ronald Palmer, 34 Maier Road, Billings, MT
- Kelly Stark, 1737 Maurine Street, Billings, MT
- Tori Benders, 2702 Wyoming Avenue, Billings, MT

- Mitchell Harmon, 504 Santa Fe Drive, Billings, MT
- Brent Nelson, 112 S. Crestwood, Billings, MT
- Abraham Madinger, 226 Terry Avenue, Billings, MT
- Bethany Dugan, 1811 Wyoming Avenue, Billings, MT
- Mark Klein, 3365 Dover Lane, Billings, MT
- Will Adams, 5323 Blue Heron Drive, Billings, MT
- Kari Beebe, 4404 Huntington Hills Road, Billings, MT
- Ron Griffin, 3659 Olympic Boulevard, Billings, MT
- Shane Scheid, address not given, Billings, MT
- Andrew Akerstrom, 1578 Peony Drive, Billings, MT
- Michael Ruger, 7 Rose Lane, Columbus, MT
- Lauren Carr, 250 Avenue F, Billings, MT
- Kerry Skiles, 1961 Pryor Lane, Billings, MT
- Jon Stark, 2323 Fox Drive, Billings, MT
- Wes Prouse, Shepherd, MT
- Paul Schormer, 1223 Princeton, Billings, MT
- Helen Douglas, 221 Avenue B, Billings, MT
- Dawn Douglas, 221-1/2 Avenue B, Billings, MT
- Ken Kirby, 523 S. 33<sup>rd</sup> Street, Billings, MT \*\*
- Bernadette Brown, 1014 Calendula Circle, Billings, MT
- Shawn Park, 3516 Miles Avenue, Billings, MT
- Allison Turner, PO Box 23704, Billings, MT
- Teresa Vincent, 1122 Erb Circle, Billings, MT
- Mike Berry, 1201 W. 12<sup>th</sup> Street, Laurel, MT
- Dick Pence, 4307 Palisades Park Drive, Billings, MT

\*\*Following Mr. Robertson's testimony, Mayor Hanel called for a recess at 9:55 p.m. Mayor Hanel called the meeting back to order at 10:15 p.m.

Councilmember Yakawich asked how they could receive their guests who came forward to testify more politely and civilly. He encouraged the Council to do so. He said the people testifying were very nervous. He asked the Council if they needed to drill them or should they hear what they had to say and move on. Mayor Hanel asked the Council to exercise politeness and professionalism and treat them so they would come back again.

\*\*Following Ms. Larson's testimony, Mayor Hanel called for a recess at 11:30 p.m. Mayor Hanel called the meeting back to order at 11:47 p.m.

\*\*Following Mr. Gordon's testimony, Mayor Hanel called for a recess at 1:06 a.m. Mayor Hanel called the meeting back to order at 1:30 a.m.

\*\*Following Mr. Kirby's testimony, Mayor Hanel called for a recess at 3:07 a.m. Mayor Hanel called the meeting back to order at 3:27 a.m.

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

Councilmember Brown moved that they accept staff recommendations to vote to rescind the initiative to create an NDO and to rescind the revision to the City

Employment Anti-Discrimination Administrative Orders, seconded by Councilmember McFadden.

Councilmember Cromley said he listened to testimony and read the e-mails. He was appalled at the amount of discrimination that goes on, so they could not say there was not a need for the ordinance. They talked about the fact there have never been complaints but that was because it was not illegal to discriminate on the basis of sexual orientation. It seemed to him most of the opposition was based upon fear, and that was very sad to hear. It was sad to hear people were worried about their restrooms. All of the members of the LGBTQ community were currently using bathrooms, and they would use the same bathrooms after passage of an ordinance. There would be no change. There was fear of sexual predators among the LGBTQ community. Montana needed to worry more about the heterosexual community according to a Time magazine article. It was easy to blame lawsuits and lawyers. Billings was not inventing the wheel. As of the end of April, every major city in the US had protection for the LGBTQ communities. The Bible was a matter of interpretation. One major reason for passing the ordinance would be the economic issue. They wanted people to move to Billings, and there would be nothing worse than if they were not inviting to all entities. He thought it was very sad people had to testify in front of the Council on the terrible things they had endured, and he admired their courage. He said he thought the main reason they should vote to pass an NDO was because it was the right thing to do. Councilmember Cromley said he would vote against the motion.

Councilmember McFadden said he was not so calloused to think people in the LGBT community did not have a rough time. He felt sympathy and empathy for those who had suffered because of their lifestyle. He did not feel it was an epidemic in Billings. In the United States of America they were supposed to have a limited government of law that was governed by the Constitution. To see a government make a law like this and enforce it, it would put so much government and control into lives, homes, properties, businesses, churches and organizations. They would take away what used to be American and liberty and replace it with a totalitarian government. Councilmember McFadden said he would support the motion.

Councilmember Crouch said the Civil Rights passage in the 60's did not bring Civil Rights to everybody who was African-American. What it did was put it on the table in a way that it brought education and discussion. An ordinance would stir education and discussion. They needed to have something from staff to be able to talk about it. It would not go away so they should deal with it now.

Councilmember Pitman said everyone had experienced fear, hate, and threats. He opposed the cell phone ban because he thought it was unenforceable and just a bad law. He fought the chicken issue because he thought it was just a bad law, put neighbors against neighbors, and took a simple code enforcement violation and turned it into a civil event. He felt the non-discrimination ordinance would become an empty promise and offer a false sense of hope to a portion of the community that would think it would actually do something; and they would be safer and things would be better or different. The law was not going to do that. The ordinance could not do that. Councilmember Pitman said he would support the motion. He said he knew they would be headed for more discussion and asked if there was more of a generic approach

instead of getting so specific that someone would be left out. He said it would take time to work through.

Councilmember Brown said he believed the vote would be very close; and the Council represented where the City was, which was very split. He said he would certainly support a good debate on the non-discrimination ordinance.

Councilmember McCall said she would vote against the motion. There had been many excellent comments made, and she would not repeat them. She said Councilmember Pitman's comments spoke to the need to really look at the language. It was staff's responsibility to craft language for Council to look at, debate, and fine tune. It had always been about protection, safety, and equality for all citizens in Billings including the LGBT community. She was baffled that Billings would not step up and protect every single person in the community. The decision that they would make was a defining moment for each member of the Council, the Council collectively, and the City of Billings. She hoped everyone would vote to not support the rescinding of the NDO initiative.

Councilmember Swanson said he endorsed Councilmember McCall's comments. He read the City's vision statement and said it referenced all people, not just certain people. Councilmember Swanson said he would not support the motion.

Councilmember Yakawich said it had been a very educational 15 days discussing the issue. It had been very difficult for all of them. He said his decisions were based on what was best for the City and its citizens. Councilmember Yakawich said he would vote in favor of the motion for the following reasons. He was called to represent his constituents and not just his own point of view. He received 18 handwritten letters – three in favor and 15 against. He received 70 phone calls. He did a lot of research, and he figured about 80% of the e-mails were against the NDO. He talked with other community leaders who encouraged him to vote in opposition. Councilmember Yakawich said he felt deeply in his heart it was a bad policy, and he felt sad to hear about people being discriminated. He said he had also felt the sharp stick of persecution in his life. He said no one was innocent. He said he was looking for the best policy for the City, and he did not see it as the best policy. He did not share the ideal that it would be a major milestone and did not see it as a necessity. He did not see the role of the City Council to decide nature vs. nurture or to say if the issue was biblical or not. Councilmember Yakawich said he agreed with Councilmember McFadden that maybe it should be put on the ballot for the citizens to decide.

Councilmember Crouch referenced the Charter, which said the Council was responsible for the protection of the community. If there were people in the community who did not feel protected, it was their responsibility to create the NDO to protect them.

Mayor Hanel expressed his sincere appreciation to the police officers who had been in attendance all night; to the clerk who had been working since yesterday morning, all day, and up all night; to staff who had been there all night; to the citizens who had attended the meeting and testified; to the City Council for their dedication and loyalty; and to the media for their coverage. Mayor Hanel said he voted to table it last time because they were buried in a budget, which was extremely important. He stressed his vote had nothing to do with his support or his opposition to the non-discrimination ordinance. He said he hoped to take some pressure off the Council because he predicted they were headed for a roadblock. Every one dealt with non-discrimination

every day. Did he think it was out of control? He did not think so. Did they want to keep it under control? Yes, they did. Did they want Billings to be the community they bragged about being warm, welcoming, vibrant, succeeding, progressing? Yes, they did. Did they care about their economy? Yes, they did. Mayor Hanel said he would support bringing the study of a non-discrimination ordinance forward and would not support the motion.

Councilmember Bird said a non-discrimination ordinance had morphed into a forced participation ordinance, which had never been on the table for discussion. She said it was not a difficult decision. She agreed with Councilmember McCall and said she appreciated Councilmember Crouch for bringing up the language written in the Charter. It was the Council's responsibility to craft policy that was in the best interest of all of the citizens. The Council did not get to pick and choose who the City was going to protect. She referenced Councilmember McFadden's admission that discrimination against the LGBT community happened but he did not think they should be protected because we did not want any more governmental intervention in our lives. She said if they were going to pick and choose, she would be offering an initiative to direct City staff to go through the City's laws and ordinances and to strike all reference to any special or targeted population group including race, ethnicity, religion, disability, and any specific minority population. Councilmember Bird said she did not think LGBT language in the ordinance was an empty promise.

On a roll call vote, the motion failed 7 to 4. Councilmembers Cromley, Cimmino, Bird, McCall, Swanson, Crouch, and Mayor Hanel voted in opposition. Councilmembers Yakawich, Pitman, McFadden, and Brown voted in favor.

**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** There were no initiatives.

There was no further business, and the meeting adjourned at 5:53 a.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk