

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 14, 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 Crouch gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Cromley, Yakawich, Pitman, Cimmino, McFadden, Bird, McCall, Swanson, Crouch, and Brown

### MINUTES:

- June 9, 2014 – Councilmember Cimmino moved for approval, as submitted, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.
- June 23, 2014 - pending

**COURTESIES:** Mayor Hanel recognized the entire community and the outlying areas for the participation and support for the American Cancer Society 2014 Relay for Life. It was an extreme success, and the weather cooperated. He thanked the City staff for assisting and doing a very fine job.

**PROCLAMATIONS:** Park and Recreation Month - July 2014

### ADMINISTRATOR REPORTS - TINA VOLEK

- **Item 1A1 – Bid Award for Aronson Bypass Trail at Swords Park.** Bids were opened on 7/1/2014. Staff recommends Rehbein Enterprises in the amount of \$113,670. Council received a protest letter from Dave Resch of Knife River via e-mail on July 9 and a protest letter from Kevin McGovern of CMG Construction via e-mail on July 14 asking that the low bid from Rehbein Enterprises be considered non-responsive and be disqualified. Staff is asking that the item be separated from the Consent Agenda for discussion. Copy of the bid tab is on Council's desk and copies of the e-mails are filed in the ex parte notebook.
- **Item 2 – Public Hearing and Resolution authorizing sale of Lot 12, Block 4, Sunset Subdivision.** Bids were opened on July 7, 2014. Council received a memorandum from Public Works Director, Dave Mumford, in the July 11 Friday Packet recommending the bid of \$35,500 from Max Griffin be rejected. Copy of memorandum is on file in the ex parte notebook.
- **Non-Discrimination Ordinance.** There may have been a misunderstanding that there would be an agenda item that evening regarding the non-discrimination ordinance. The next meeting it was scheduled to be discussed was the July 21 work session when staff would bring forward the third version for review. She said there had been several requests to hold the council meetings in a larger forum. She spoke with Tim Harrington of Community 7 TV, and he would not have the ability to televise the meetings live if they were moved because he

lacked the equipment and the staff to do the live telecast. She said staff was recommending the meetings remain in the Council Chambers. It was the consensus of the Council that the meetings remain in the Council Chambers.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Item E and said in reviewing the recommendations, one street not on the list that he felt was very important was Hallowell Lane with emphasis at Optimist Park. He said that area of town had more safety issues than any other part of town with the activities in Optimist Park. It really needed attention, and he asked Council to put emphasis on that particular section of the street for future funding consideration. Mayor Hanel asked Mr. Nelson if he was speaking specifically of the street or the parking area adjacent to the park. Mr. Nelson said the whole area deserved consideration.

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

**1. CONSENT AGENDA**

**A. Bid Awards:**

1. **Aronson Bypass Trail at Swords Park.** (Opened 7/1/2014) Recommend Rehbein Enterprises, Inc.; \$113,670.
2. **W.O. 14-01; 2014 Storm Drain Project, Schedule 1A.** (Opened 6/10/2014)(Delayed from 6/23/2014) Recommend Western Municipal Construction, Inc.; \$1,057,570.

**B. Change Order #7 - Empire Parking Garage, Sletten Construction Company; \$54,652.58.**

**C. Memorandums of Understanding between the City of Billings and Billings Public Schools for two middle school resource officers and three high school resource officers. (7/1/2014 - 6/30/2014)**

**D. Approval of 10-year lease renewal with State of Montana Department of Fish, Wildlife, and Parks for a 21,875 square foot parcel in the Executive Hangar area located on the west end of the Airport (7/1/2014 - 6/30/2014); revenue first year - \$6,098.76, subsequent years adjusted annually by the Department of Labor's Consumer Price Index for All Urban Consumers (CPI-U).**

**E. Recommendation of approval to the Policy Coordinating Committee for 2014 Billings Long Range Transportation Plan.**

**F. Amendment #2, W.O. 12-29: Solid Waste Management Plan, Professional Services Contract, Great West Engineering, \$150,000.**

**G. Amendment #11, Engineering Services for Construction of Rental Car Transition Lot and Loop Road Repair, Morrison-Maierle, Inc.; \$130,008**

**H. Amendment #12, Engineering Services for Environmental Assessment for Land Purchase and Extension of Runway 10R/28L, Morrison-Maierle, Inc.; \$148,986.**

**I. Revolving Fund Loan to Kristi and Mike Grob d/b/a Pita Pit; not to exceed \$40,000.**

**J. Revolving Fund Loan to Tracy Lofts Development Venture, LLP; not to exceed \$150,000.**

**K. Second/Final Reading Ordinance #14-5623 expanding Ward II (Annexation #14-01) for a portion of Tract 2B, of Corrected Certificate of Survey 840, 2nd Amended, located north of Kyhl Lane in Billings Heights; Richard Jr. and Mae L. Sartorie, owners.**

**L. Resolution of Intent #14-10375 to create SILMD 312 within St. Vincent Healthcare Subdivision, and set a public hearing date of August 11, 2014.**

**M. Resolution of Intent #14-10376 to create SILMD 313 within Vintage Estates Subdivision, Phase 2, and set a public hearing date of August 11, 2014.**

**N. Resolution #14-10377 authorizing the issuance and calling for the public sale of up to \$395,000 pooled special sidewalk, curb, gutter and alley approach bonds (W.O. 09-20, Rimrock Road from Forsythia Boulevard to Shiloh Road; and W.O. 13-02, Miscellaneous Improvements at various locations)**

**O. Resolution #14-10378 relating to the financing of \$13,000,000 proposed storm sewer system improvements and establishing compliance with reimbursement bond regulations for W.O. 12-31, East End Industrial Area Storm Drain.**

**P. Resolution #14-10379 relating to the financing of \$65,000,000 proposed wastewater treatment plant upgrades and establishing compliance with reimbursement bond regulations for W.O. 14-11, Wastewater Treatment Plant Nutrient Upgrade Expansion and Improvements.**

**Q. Final Plat Approval**

1. Lake Hills Subdivision, 33rd Filing
2. Lake Hills Subdivision, 34th Filing

**R. Bills and Payroll:**

1. June 9, 2014
2. June 17, 2014
3. June 23, 2014

Councilmember Pitman separated Consent Agenda Items 1A1 and B.

Councilmember Brown separated Consent Agenda Items G, H, R1, and R3 in order to abstain. Councilmember Cromley separated Consent Agenda Item L in order to abstain. Councilmember Bird separated Consent Agenda E. Councilmember McCall moved for the approval of the Consent Agenda excluding Items 1A1, B, E, G, H, L, R1 and R3, seconded by Councilmember Crouch. Councilmember Cimmino noted for the record the employer who made the determination for her to abstain from anything having to do with architectural, engineering, and construction projects was null and void as of that time. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Item 1A1 and said staff had asked that the item be separated to allow for a staff presentation. Parks Director, Mike Whitaker, noted it was a federally-funded CTEP project. He showed an exhibit for the location of the trail and said the project would connect Alkali Creek Trail to Swords Lane; following Alkali Creek, going under the Aronson Bridge, and following parkland to Swords Lane. Swords Lane would then be striped for bikes and would lead to the sidewalk. There were three bidders, and Rehbein Enterprises from Polson, MT, was the apparent low bidder in the amount of \$113,670. Mr. Whitaker advised Knife River was protesting the award because the lowest bidder did not physically re-insert the bid document into the project manual when they submitted their bid. He said there was a difference of \$23,452 between the low bid and the next lowest bid from Knife River. Rehbein Enterprises presented all of the appropriate bid documents; they just did not re-insert them into the manual as required. City Attorney Brooks said he sent Council an e-mail that day with three separate occasions when protests from contractors were received for an almost identical issue where the bid form was not physically re-inserted into the project manual. He referenced an e-mail from Liz Kampa, the City's Purchasing Agent, to Knife River, indicating there was nothing she could find that prevented the other two bidders from having their bids considered fairly and fully. Attorney Brooks said twice in 2007 and once in 2009 the Council rejected the same type of protest and awarded the project to the lowest bidder. The case law stated the rules of bidding were for the protection and cost benefit of the taxpayers, not the competing companies who submitted bids; and nothing about failing to physically re-insert the bid form prevented the other bidders from having their bids fully considered. Attorney Brooks said it was staff's recommendation as in the past, and as the Council had consistently done in the past, that the bid be awarded to the lowest bidder, Rehbein Enterprises.

Councilmember Pitman asked if staff had the bid form and if it had just not been physically included in the whole packet. Mr. Whitaker advised all appropriate documents were provided at the bid opening; they were just not re-inserted into the project manual. That was the only issue. Councilmember Pitman asked if they had rejected bids in the past based on similar, minor details. Attorney Brooks said they had. He noted that particular requirement was purely and solely for the convenience of the project engineer so the bid form and project manual were physically connected to one another. Ms. Volek asked Attorney Brooks to explain what the bid forms included. Attorney Brooks said the form listed the specifications and had blanks for the contractor to fill in with what he would charge for time and materials. There was nothing in the bid form submitted that changed the bid of the low bidder or the other two bids. Attorney Brooks

said Council could (1) award the contract to the lowest bidder consistent with what had been done in the past under similar situations; (2) award to the next lowest bidder and deem a non-responsive bid by the lowest bidder; or (3) reject all bids and re-bid. Authorities from the Montana Supreme Court indicate those types of situations could be waived as irregularities because they did not affect the fairness or competitiveness of the bidding process.

Councilmember Cromley asked if the bid document was generated by the City. Attorney Brooks said it was an established form specific to the project generated by the City and made available to anyone wanting to bid on the project. The bid form that contained all the vital information was submitted by each contractor, including the lowest bidder; however, the lowest bidder did not physically re-insert the bid form back into the project manual that was provided by the City and that contained the project specifications.

Councilmember Swanson asked Ms. Volek for her recommendation. Ms. Volek said she recommended awarding to the low bidder. There was a 45-day construction period so if they chose to rebid, they would not be able to get the project completed this summer. She felt they either needed to accept the low bid or reject the low bid and award to the next lowest bid, which was a \$23,000 difference.

Councilmember Swanson moved to accept the lowest bid, seconded by Councilmember Cromley.

Councilmember Pitman asked how they would protect the taxpayers if the lowest bidder started to come back with a lot of change orders. Mr. Whitaker noted the low bid was within a couple hundred dollars of the Engineer's Estimate, so he felt comfortable it was a good number.

Councilmember Bird said she shared Councilmember Pitman's concern for the perpetual request for more money after a contract was awarded. She said there was a significant difference between the bids and asked for an explanation. Mr. Whitaker said he could not explain it; but the Engineer's Estimate was within a couple hundred dollars of the low bid and he felt comfortable with it. He said, however, that did not mean that something unforeseen would not come up and need to be addressed.

Councilmember McCall said she was opposed to the motion. She did a lot of work with RFPs and grant writing where there were a lot of very strict requirements and conditions. When there were competitors involved and one was given an advantage by receiving slack in terms of form, she thought it created a disadvantage and she would feel that way had she submitted a bid.

Councilmember McFadden said he would vote in favor of the motion because it was the taxpayers' money they were talking about; and if a contractor wanted to be awarded the bid, he needed to simply be the lowest bidder and not the guy who threw the fit.

Councilmember Bird said she agreed with Councilmember McCall. They had gone through a very agonizing experience with the bids on the Galles Building and the technical issues that caused them to re-bid. They needed to remain consistent with their own process.

Councilmember Cimmino asked if the City Clerk's office opened the bids in the presence of the Purchasing Agent and if each bid was date-stamped when it was received, including the one sheet that was inadvertently not spiral-bound. Mr. Whitaker said that was correct; all three envelopes were stamped.

Councilmember Crouch said he would vote in favor because it came close to the Engineer's Estimate.

Councilmember Cromley said he would vote in favor of the motion. He thought in terms of consistency it was what they had done before several times. It was a minor displacement of paperwork and had no effect on the merits. Their chief duty was to the taxpayer, who should be given the lowest price.

Councilmember Brown said he would vote in favor of the motion only because the precedent had been set. He encouraged they look at the bid process since it had happened three or four times.

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

Councilmember Pitman referenced Item B and asked how they failed to anticipate signs inside the building. They were adding trees and sidewalk and two demising walls that had been missed. He said they had already added \$1 million. Assistant City Administrator, Bruce McCandless, said the project was distinctly different than most projects. It was a design-build project, which meant the project was not entirely or clearly designed at the time construction started. There were a number of signs included in the bidding package; however, they were small monthly permit and hourly parking space signs. They did not know exactly where the signs needed to be placed because they did not know how many hourly spaces would be designated at the time they started the construction. In order to make the garage function, they wanted to order the signs and get them installed before the garage opened. Mr. McCandless said all of the sidewalk near the building had to be demolished when the old buildings were taken down. All the concrete would be new out to about six to eight feet away from the curb. They would have had a somewhat mismatched grade; as well as old concrete next to new concrete. In order to make the project look more complete and attractive, staff felt it was best to replace most of the concrete, particularly on the Montana Avenue side. Mr. McCandless said the demising walls were 6-inch wide walls that separated three ownerships that would exist in the retail area. The real estate broker, Mike Walker, recommended the demising walls be installed. Without the walls in place, they would have to estimate where the lines were and what the square footage would be of each unit.

Mayor Hanel said he understood there were expected costs and costs not determined at the time they began the process. He said there were also credits they were not expecting between \$400 and \$500.

Councilmember Pitman said he could understand the signs and the demising walls; and asked if the stamped concrete, tree receptacles, and graffiti coating were upgrades because there was extra money or if they were part of the project. Mr. McCandless said the streetscape and landscaping was upgraded on Montana Avenue in 1998 and 1999, and there was a substantial amount of stamped concrete and brick pavers installed at that time. The City would receive a credit from Sletten Construction for not having to re-install the brick pavers but there would be an 'add' for the red, stamped concrete to replace the pavers. Councilmember Pitman asked if they were within budget. Mr. McCandless said they were within the City's contingency established prior to construction. He said they should have about \$150,000 left.

Councilmember Cimmino asked how many private owners there would be. Mr. McCandless said there would be four private property owners and the City. Three owners were in the retail area, and there were two parking units. One of the parking units had the same owner as one of the retail units. Councilmember Cimmino asked if the signs were directional or signs of the particular businesses. Mr. McCandless said

the signs were installed within the public parking areas of the garage and had nothing to do with the private owners.

Councilmember McCall said she would support it because it was a reasonable request. She asked for the total amount of change orders to date. Mr. McCandless said they were at approximately \$1.4 million. He said at least \$900,000 were known expenses. They knew there would be underground utilities, and they thought they would need to hire a separate contractor. Since Sletten Construction was onsite and controlled the site, they contracted with them. The same situation happened with the demolition.

Councilmember Bird asked for the revised completion date. Mr. McCandless said that morning they did what was supposed to be the final walk-through and punchlist. There was approximately two weeks more work to be done. The garage would be completed by August 1<sup>st</sup>, but he did not think the doors would be open until the middle of the month. Councilmember Bird said she assumed the original bid included the gates to get in and out and asked if the Empire Garage would use more current technology than the other parking garages. Mr. McCandless advised the Empire Garage would be using an entirely different manufacturer of hardware and software. It had very nice flexibility, which the garage would need. If it worked out well, they could install it in the other garages when the time came to upgrade. Councilmember Bird asked if the Empire Parking Garage allowed the customers to use a debit card. Mr. McCandless said it would require the use of a debit or credit card; no cash would be accepted. He said customers could also have a ticket validated by one of the owners.

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

Councilmember Bird referenced Item E and asked if there was a way to work Mr. Nelson's concerns into the Optimist Park Master Plan and Long Range Transportation Plan. Planning Director, Candi Millar, explained the Long Range Transportation Plan laid out over \$265 million worth of projects, which were divided into three categories; (1) fiscally-constrained projects, (2) recommended projects, and (3) projects without a current funding source that they wanted to remain on the list. The categories were distinguished by available funding, traffic volume, number of crashes, public input, etc. Some of the projects brought up were lumped into a capital improvement program. It did not distinguish between which streets were paved, it just set aside a certain amount in the Capital Improvements Plan (CIP) for paving. Ms. Millar said they had a 4-year Long Range Transportation Program and a 5-year Capital Improvements Program; and within that time period projects could change. As money became available new projects could be brought into play. She said she thought it was a good idea when they looked at the Optimist Park Master Plan to plan for street improvements to accommodate users of Optimist Park. She said if there was not a funding source for Hallowell and if Hallowell did not rise to a certain need through the number of crashes, traffic volume, or public input, it would not have been placed on the list. Councilmember Bird asked where the money was coming from for the improvements on Calhoun. Ms. Millar said it would be from state gas tax funds and the tax increment finance funds from the South Billings Urban Renewal District. She said Hallowell was on the list but had not risen to the point of allocated funding.

Ms. Volek advised Hallowell Lane was not currently on the CIP but next year was a major update year for the CIP in which they would go out to public hearing. They encouraged residents of that area to come and speak in favor of Hallowell to hopefully ensure a place on the CIP and move it forward.

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

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

Councilmember McCall moved for approval of Item H, seconded by Councilmember Cimmino. On a voice vote, the motion was approved 10 to 0.

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

Councilmember McCall moved for approval of Item R1, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0.

Councilmember McCall moved for approval of Item R3, seconded by Councilmember Pitman. On a voice vote, the motion was approved 10 to 0.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION #14-10381 authorizing the sale of Lot 12, Block 4, Sunset Subdivision, located at 1146 Grand Avenue. Recommendation to be made at meeting. (Action: approval or disapproval of staff recommendation.)**

Deputy Public Works Director, Vern Heisler, began his presentation showing slides of the subject property, the advertised Invitation for Bid, and the one bid received by the City in the amount of \$35,500 to include the City paying one-half of the closing costs. Mr. Heisler noted some of the concerns expressed by the lone bidder and another interested party were with the building itself, and he thought their intention was to tear down the building and utilize the property. He said there were always unknowns when demolishing an older building, and bidders usually bid accordingly. Mr. Heisler said staff recommendation was to reject the lone bid and demolish the building so it was no longer a factor. Once the building was demolished, the City would re-advertise for sale of the land.

Mayor Hanel asked if the building had been analyzed for hazardous materials in case the cost of demolition exceeded the offer. Mr. Heisler said Public Works had not done an assessment, but one of the potential bidders had concerns over materials inside the building. He said before Public Works demolished the building, they would take a look at what needed to be done. Mayor Hanel commented if the costs were higher than expected, the City may be at an advantage to sell it for less than desired because the buyer would then absorb the cost of demolition and any hazardous materials inside. Mr. Heisler advised preliminary numbers indicated the value of the land without the building was in excess of \$100,000.

Councilmember Brown asked if the bid could be rejected to allow the City time to check out the building to see what hazardous materials may be present before proceeding with demolition. Mr. Heisler advised those were the steps they would take.

Councilmember Pitman asked if they needed to know before they sold or could they sell it as is. He asked for a reminder on why they had purchased the property in the first place. Mr. Heisler said the property was purchased when the City widened Grand Avenue, and the reason for buying the whole property was because the project took out all of the parking in front of the building and they had no other choice other than to buy the whole parcel. The property went through the condemnation process and by the time it was done, it was in excess of \$200,000.

Councilmember Yakawich asked how much it would cost to demolish the building. Mr. Heisler said he was not sure. It would depend if they used City crews, and

they would have to determine what was inside. Councilmember Yakawich said he looked through the windows of the building, and he felt it definitely needed demolished. He had heard there were issues behind the building in the alley, and it needed to be addressed as soon as possible.

Councilmember Cimmino asked if the City conducted its own independent appraisal and market value on the property. Mr. Heisler said he believed the City did, but he did not have the information in front of him. Ms. Volek commented, because of the condemnation, the City was reliant on the court's decision on the value of the land.

The public hearing was opened.

- **Chandler Griffin, 5993 Sandalwood Drive, Billings, MT**, said he was representing Max Griffin on the bid, and he was a commercial realtor so he could provide a good idea of the value of the land, the building condition, the cost to tear it down, and the cost to asphalt it. He said the property was landlocked, there was no access to it, it had no parking, and it was pinned in by a pawn shop and an auto repair center. Mr. Griffin asked the Council to reconsider the bid because of the overall time it would take and what the City would end up doing with it versus the private side, as well as what they were willing to take on to basically make it a parking lot. The parcel was 60-feet wide so only one row of diagonal parking would fit.

Mayor Hanel asked Mr. Griffin if he went inside the building. Mr. Griffin said the building was locked, so all he could do was walk around and look in from the outside. It was open to all weather conditions and not sealed. He determined the tile he could see was asbestos tile, which would cause issues.

Councilmember Cimmino asked who would benefit from the parking lot they would build. Mr. Griffin pointed out buildings to the south and west that they owned, and said they had looked into acquiring the adjacent property that currently housed a gym. He said to clean the entire area was a goal of theirs. There were issues with squatters, and they would like to re-develop the entire corner. All they could do now was demolish the subject building and use the area for parking until the adjacent building was gone.

Councilmember Yakawich asked Mr. Griffin how much he felt it would cost to tear down the building. Mr. Griffin said in excess of \$50,000. Councilmember Yakawich asked why they were asking the City to pay half of the closing costs. Mr. Griffin said he did not know, and that would be a question for his father. He said half of the closing costs would be approximately \$500. Councilmember Yakawich suggested the Griffins pay the \$500. Mr. Griffin said that would be a doable request if their bid were to be entertained and moved forward.

Councilmember Bird asked what their vision was for the entire property. Mr. Griffin said the sky was the limit. They could redevelop it with retail frontage, optimize the corner, and revitalize the area. The longer they let the property sit and rot, the more it would bring down the other buildings around it.

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

Councilmember McFadden moved to approve acceptance of the bid from Max Griffin & Company with the buyer assuming all closing costs, seconded by Councilmember Bird.

Councilmember Bird said she supported the motion because there were a number of potentially blighted places along Grand Avenue. She would prefer to allow someone in the private sector to take it, run with it, and follow their vision as opposed to the City hanging on to it. Councilmember Swanson said he agreed.

Mayor Hanel noted for the record that in his business as a real estate broker, he had no affiliation or participation whatsoever with those who testified, submitted the bid, or with the property. He noted Mr. Griffin made a good point that the property was landlocked and access was limited to most anyone except those who owned the property around it. The unknown factor was what may be inside the building. The City could end up spending \$75,000 removing the asbestos if they rejected the bid.

Councilmember Swanson noted another point of consideration was that the property could be redeveloped and turned into something that looked good and made money, which would provide a bigger tax base.

On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION #14-10380 vacating an undeveloped portion of Monroe Street just north of Orrel Street; Community & Leadership Development, Inc., petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Deputy Public Works Director, Vern Heisler, began his presentation showing slides of the subject property location. He noted the subject portion of Monroe Street was a dirt path, and no road existed.

Councilmember Cromley asked if the City would collect the \$21,900. Mr. Heisler confirmed that was the amount the City would collect if the property was sold.

The public hearing was opened.

- **Steve Houlihan, (no address given)**, said he was president of the construction company that would be developing the property, and his company was wholly owned by Community and Leadership Development, Inc. (CLDI). They wanted to build five duplexes on the property but could only build four without the undeveloped piece of right-of-way. It would not be cost effective to develop the lots without it.

Councilmember McCall asked for the size of the duplexes and the average cost. Mr. Houlihan said there would be six 1-bedroom units, two 2-bedroom units, and two 3-bedroom units that would average from 550 to 950 square feet in size. Mr. Houlihan said a duplex with a 1-bedroom unit and a 2-bedroom unit would cost approximately \$175,000 to build. The total construction cost for all units was approximately \$675,000.

Councilmember Yakawich asked Mr. Houlihan to explain the vision CLDI had for the area. Mr. Houlihan said CLDI focused on a variety of work on the south side. They were building Chrysalis Acres Subdivision just off of Jackson near Orchard Elementary, and they had purchased and completely renovated two row houses; one which was occupied by one of their employees who provided a kids' ministry to include GED programs, assistance, and homework help. He said the row houses just to the south were arguably the most blighted part of the city and the reason they wanted to build there. They desired to take blight and turn it into something nice. After the units were built, they would be owned, rented, and maintained by CLDI.

- **Eric Basye, (no address given)**, said he was the executive director of CLDI, and he and Mr. Houlahan worked hand-in-hand. Mr. Basye said they had their eyes on the property for four or five years, and they saw it as one of the most undesirable, unattractive pieces of land in Billings. The reality was they bought something that was not worth what they paid. Their hope and intention was to develop the property much like Josephine Crossing. They had a desire to see attractive, beautiful housing in place of a vacant, dilapidated, overgrown field. The only way they could make the project work was to have money on the front end, so for the past year and a half he had reached out to individual donors and businesses, and applied for grants. Their intent was to create quality, affordable housing that would meet people's needs. They were a non-profit and had secured over \$500,000 so far and had a pending grant for \$275,000. He asked Council to consider giving them a discount on the right-of-way. They had taken on quite a few additional costs. There was no sidewalk on the rest of the street going up to Jackson Street, and they wanted to finish that out.

Councilmember Swanson asked if they received federal funding. Mr. Basye said they did not. They had 46 rental units; 15 were tax credit properties, and the remaining were wholly owned by CLDI. Their intention was to serve those with less financial means and increase the value of the neighborhood.

Councilmember Bird noted she had spoken with Eric and wanted to learn more about the organization and the project. She encouraged the other councilmembers to join her.

Councilmember Yakawich said he walked the area and asked if sidewalk would be put in all the way to Jackson. Mr. Basye said that was correct. Mr. Houlahan had worked with the City, and they received \$39,000 of TIFD funding. Orrel Street from Jackson to Riverside Middle School was virtually unbuilt and had no curb, gutter or sidewalk. On the south side of Orrel Street there was curb, gutter and sidewalk. There were just dirt paths on the north side, and wrapping around the corner onto Jackson Street 200 feet in each direction there was no curb, gutter or sidewalk. Part of their application to the TIFD was they would be building all of it so Orrel Street would be two lanes wide; have curb, gutter and sidewalk from Jackson Street to the Riverside Middle School fence; and new pavement where there currently was none. It would also include underground utility improvements. They were investing roughly \$200,000 in the city right-of-way. Councilmember Yakawich asked if there would be streetlights. Mr. Basye said there were no plans for extra lighting at that time.

Councilmember Brown asked for the current value of the right-of-way. Mr. Heisler said they received a value of \$2.29 per square foot from a real estate firm.

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

Councilmember Cromley moved for approval of Item 3, seconded by Councilmember Yakawich.

Councilmember Pitman asked if there was anything that prevented them from accepting a lower amount. Attorney Brooks said Council could set the amount or even donate the property.

Councilmember McFadden said \$2.29 a square foot seemed high to him. A lower amount would be fair and would help to bring about the improvements.

Councilmember Crouch said the project was a good example of infill, and they planned to install amenities. Councilmember Crouch moved to amend the motion to donate the right-of-way with development to begin within five years, seconded by Councilmember Pitman.

Councilmember Cimmino asked Attorney Brooks if a development agreement would need to be signed by both parties. Attorney Brooks said a development agreement or purchase agreement could be written, the terms could be specified in the resolution, or the terms could be specified in the deed to make sure everyone was clear on what was expected.

Councilmember Cromley said he would not support the amendment. He said it would set a precedent and would invite anyone to compete for donations. It was a good organization but they were apparently able to do the project without the donation.

Councilmember Brown said he would not support the amendment. He said he would support a reduced cost, but not a full donation.

Councilmember Bird asked Mr. Houlihan for the timeframe for starting and completing the development. Mr. Houlihan said if they had already vacated the property, they would have begun. CMG Construction was lined up to start the right-of-way improvements as soon as they got their building permits and master site plan approved. He felt CMG would be on the site by the beginning of August, and they would begin construction of the duplexes in August. All units should be completed in 18 months. Councilmember Bird said she was willing to consider a break in the price, but there was some value to the organization for paying for some of it. They had to be cautious about giving stuff away. The reality was once the development was completed, the City would recoup far more than the organization paid for the property.

Councilmember McFadden said he was in favor of the amendment because they were not really giving them any money; they were giving them property that was currently not being used and would soon be in the tax base.

Councilmember Yakawich said he had been familiar with CLDI for 25 years, and he was totally impressed by what they did. Rehabilitating the row houses was commendable, and Mr. Houlihan and Mr. Basye both owned homes on the south side and were men of their word. He said to give them the right-of-way was a donation but what they planned to do to the area would come back to the city ten times. It was commendable they were even willing to put in a sidewalk on property that was not theirs. He would support the amendment.

Councilmember Swanson asked Mr. Houlihan if they were a not-for-profit corporation. Mr. Houlihan said CLDI was a 501(c)3. Councilmember Swanson asked if they paid property taxes. Mr. Houlihan said they would pay property taxes. Currently they paid \$1,000 a year for the 30,000 square feet of land. After the land was developed and over the course of eight years they would pay an estimated \$115,000 in property taxes.

Councilmember McCall said she supported the amendment. CLDI was an amazing organization that had already put their stamp on Billings with the huge number of homes they had built and remodeled. They had given an opportunity to people with lower incomes to have pride living in a nice home. It supported the whole notion of quality of life and the desire to be productive and give to the community. It was well worth the investment.

Councilmember Swanson said he also supported the amendment for the same reasons.

Councilmember Cimmino said she supported the very generous gesture made by the amendment, and she believed with their conviction, dedication, and commitment to improve the area, it would be one of the prettiest streets in the city.

Councilmember Bird asked if there were plans for a play area within the project. Mr. Houlihan said there was no intention, primarily for insurance reasons. A play area would create significant liability. Councilmember Bird asked if the extra \$22,000 would be put to use for other improvements that they had not currently considered if Council donated the right-of-way. Mr. Houlihan said the development of Orrel Street including the curb, gutter and sidewalk would cost \$150,000 more than they anticipated. After looking into the Safe Routes to School Program, they saw a problem that needed to be solved so the children from the area of the row houses would have sidewalks to walk to school. Instead of stopping at the borders of their property, they decided to build the road the way it should be built at their expense. He said it would be a blessing to them to have the right-of-way donated.

Councilmember Brown asked for an estimate on the cost for the extra concrete and work for the sidewalk beyond the property lines. Mr. Houlihan said they did not know what would be required from the City at that point, but he would estimate just the 200 feet of street from the school fence to Lot 20 would cost \$50,000. Since they were installing full asphalt, curb, gutter, and sidewalk all the way to Jackson and curb, gutter and sidewalk around the corner, they were at \$249,000.

City Administrator Volek asked Mr. Houlihan if they owned the area marked 'unplatted.' Mr. Houlihan said they did not; they owned Lots 11 through 20. Mr. Houlihan said the unplatted area was owned by several individuals. Enrique Estrada owned the entire triangular piece that neighbored the school. Ms. Volek referenced the document provided to Council and said there was a reversion at the bottom of the resolution that stated the right-of-way would revert to the adjacent property owners of Lots 11-20, Straw Subdivision. Attorney Brooks said typically with vacations of right-of-way half of the street went to one adjacent property owner and the other half to the other adjacent property owner. He preferred to have the language in the resolution checked out to make sure they did not create a title nightmare for CLDI. He would suggest a delay until it could be researched.

Councilmember McFadden asked if they could pass the resolution that evening with the stipulation the Legal Department would look into it. Mr. Brooks said they could.

Mr. Houlihan said he had spoken with Chris Hertz of the Engineering Division and with their civil engineer and surveyor on several occasions the past several months on the exact topic. They discovered Straw Subdivision was platted with the right-of-way; however, Riverside Middle School and the unplatted section were not. After researching deeds, Chris Hertz determined because the right-of-way was platted with Straw Subdivision and not the Estrada property and school district property, the right-of-way would go to only them. Attorney Brooks suggested Council could pass it if they deemed appropriate and if there was an issue, staff would come back to them.

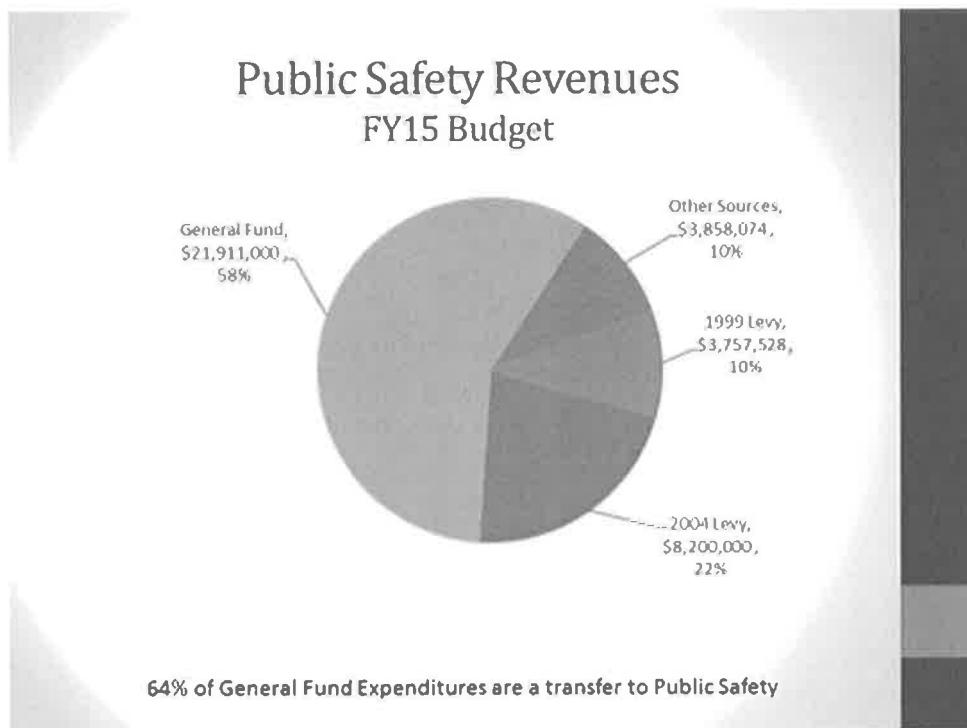
On a voice vote, the amended motion was approved 9 to 2. Councilmembers Cromley and Brown voted in opposition.

Councilmember Cromley amended his original motion to add the condition that the property would go to CLDI and not to the adjoining landowners, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

Mayor Hanel called for a recess at 8:35 p.m. Mayor Hanel called the meeting back to order at 8:55 p.m.

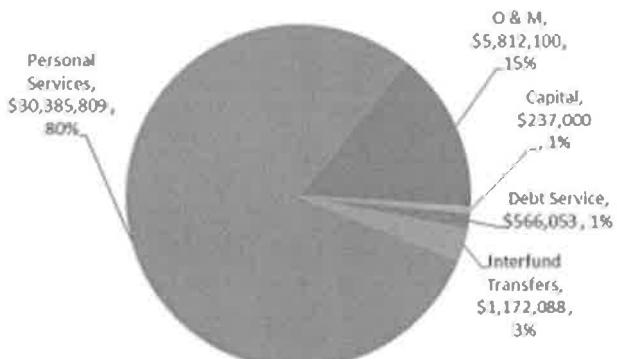
**4. PUBLIC HEARING AND FIRST READING ORDINANCE amending the Billings City Charter to add Section 1.05.2; providing for a permanent mill levy to fund Fire, Police, 911 Dispatch Services, and related public safety expenses, and submitting the proposed amendment to the electors of the City as provided by law. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

City Administrator Volek noted in October a staff committee reported to the City Council with three scenarios for future public safety. Scenario 1 was to remain at the current levy and reduce staff; Scenario 2 was to provide a sufficient levy to maintain the status quo; and Scenario 3 was to present a levy that anticipated community growth. She advised the staff presentation that evening would be based on the community growth option. Ms. Volek presented the following available revenues for public safety for the current budget year. She noted Public Safety was a separate fund; separate from that of the General Fund; which was funded primarily by property taxes. She also noted the Public Safety Fund was funded by 1999 and 2004 levies in an amount of almost \$12 million. She said even with the two levies in place, the General Fund contributed 58% of the revenue for public safety. In order to do so, 64% of current General Fund expenditures were transferred to the Public Safety Fund to make up the revenue.



Ms. Volek presented the following Public Safety Fund Expenditures for the current year budget. She noted the vast majority was for Personal Services.

## Public Safety Expenditures FY15 Budget

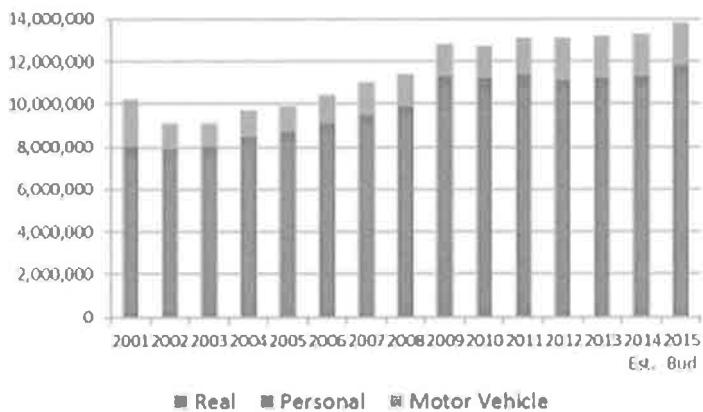


Ms. Volek listed the Fiscal Constraints the City looked at when dealing with funding, as follows:

- City Charter Limitations - The City had a 74 mill limit in the Charter, and any increase would have to be approved by the voters.
- Six-Year Reappraisal & Centrally Assessed Properties - The State Department of Revenue had complete control over appraisals, and there were many centrally-assessed properties that could have a negative impact on the City.
- HB 124 - In early 2001 the Legislature passed HB 124, which took from cities like Billings the revenues from gambling, hotels, food, and liquor by the drink. A portion of the revenue was to be returned to the cities over time; and they were guaranteed there would be a 3% a year increase in the revenue. However, when the state started having financial trouble, one of the first things to go was the money that was to come back annually to the cities.
- General Fund Non-Budgeted Reserves – In anticipation of maximization of the mill levies that were passed 10 years ago, the City began putting aside non-budgeted reserves. The non-budgeted reserves were currently between \$10 million and \$11 million; and if applied to the Public Safety Fund, they would be spent by FY17.

Ms. Volek showed the following chart on the impact of reappraisal on the City's property taxes. She noted in 2009 the State began a 6-year reappraisal cycle that rolled all of the property values at the moment back six years and gradually increased them over the next years. As a result of the reappraisal process, the City's property tax income from assessments had leveled out. She commented they were often asked why city growth could not take care of it, and the chart clearly answered the question.

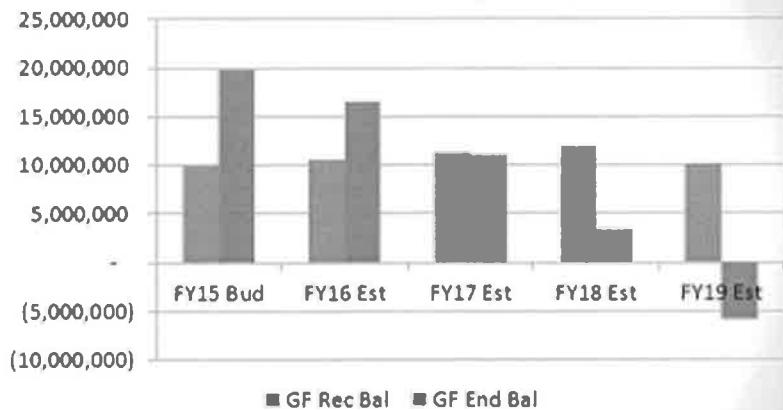
## General Fund Taxes



Note: 2009 was the first year of the 6 year re-appraisal cycle

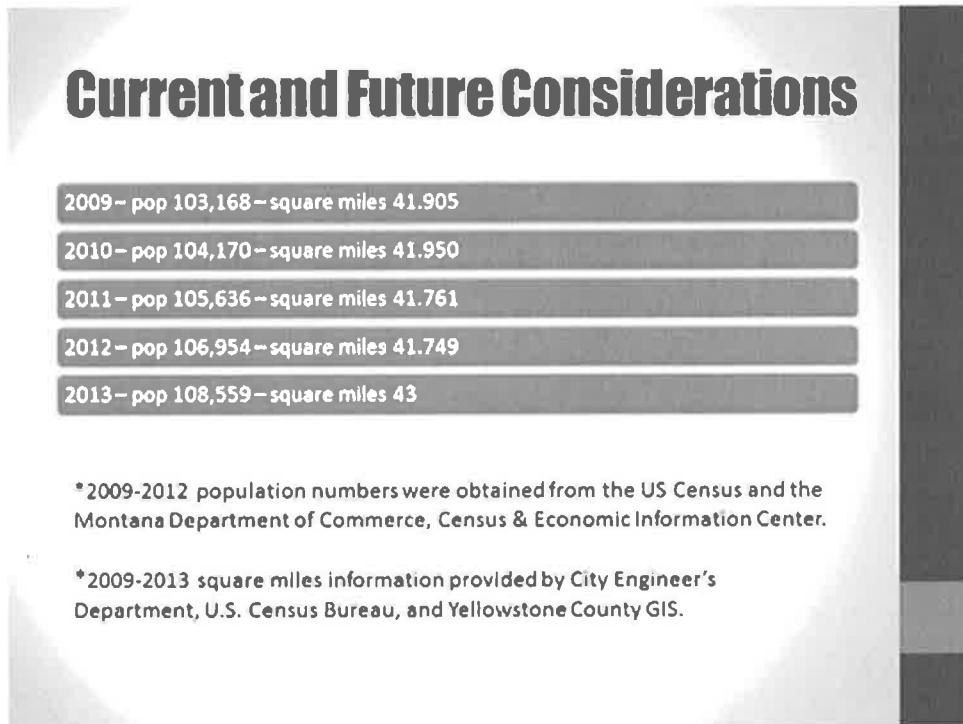
Ms. Volek showed the following table on the condition of the reserves if a Public Safety was not added.

## General Fund Reserves Without Public Safety Levy

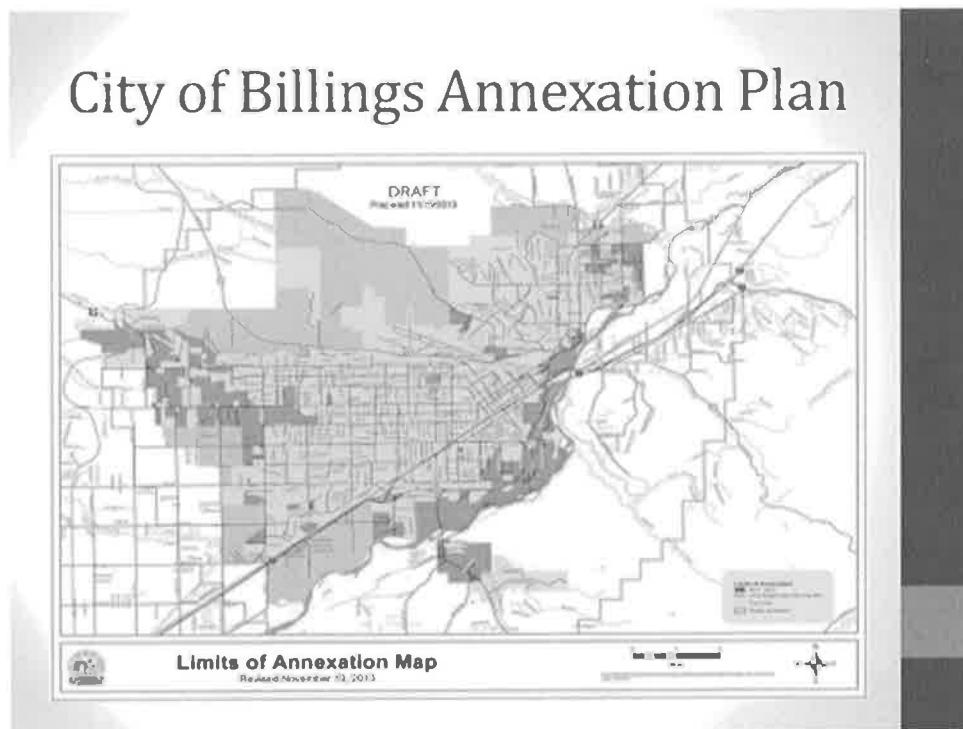


She said the table clearly indicated that if a new Public Safety Levy was not adopted, the reserves would be eaten up. By FY17 the City would just break even, and by FY18 and FY19 the City would be in reverse.

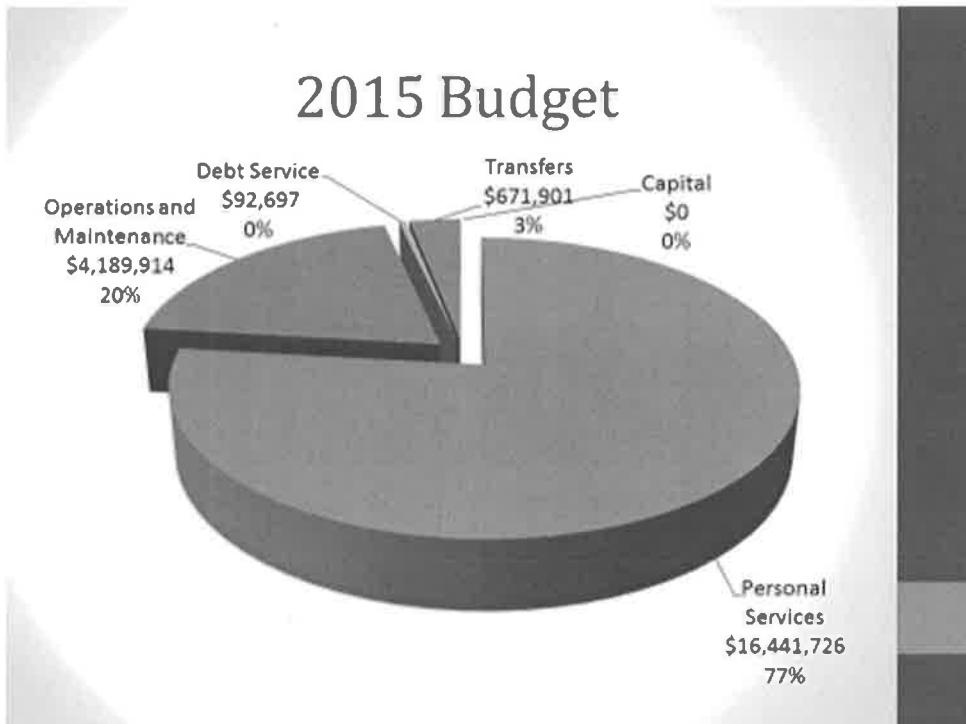
Ms. Volek noted the City had seen a 32% increase in Public Safety calls since 2009 and showed the following slide of Current and Future Considerations. She said Billings had a slow but steady increase somewhere between 1.5% and 2%.



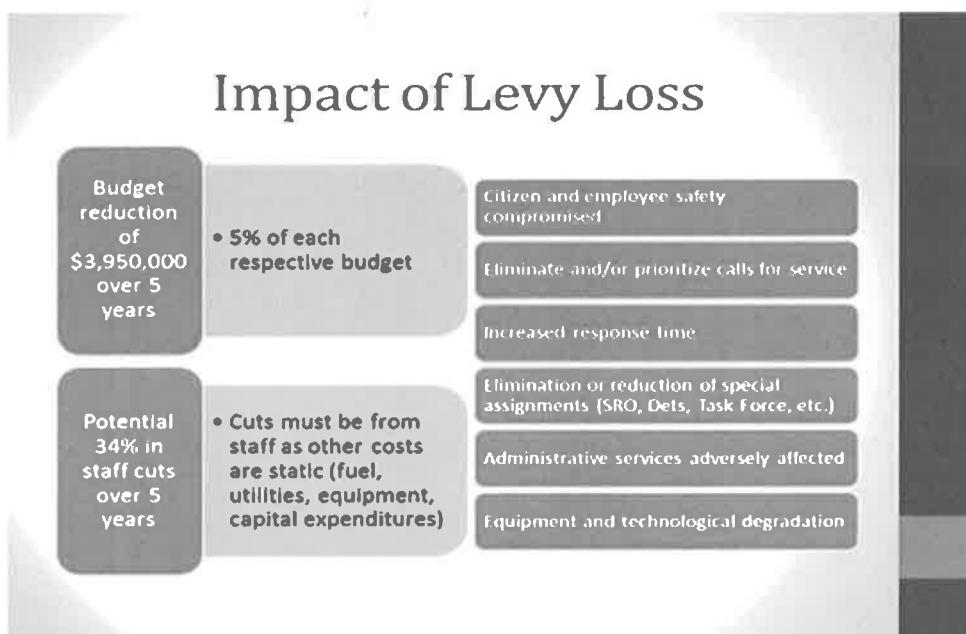
Ms. Volek showed the current Limits of Annexation map. The areas in red were considered currently suitable for annexation with existing resources, and the areas in gold could possibly be considered for annexation in the future.



Ms. Volek noted the number of authorized police officers totaled 101 in 1974; 126 in 2004; 140 in 2009; and 143 in 2014. Since 2009 they added one school resource officer paid for by the school district and two downtown officers paid for by the downtown businesses. She displayed the following Police Department 2015 Budget and noted 77% was expended on Personal Services.



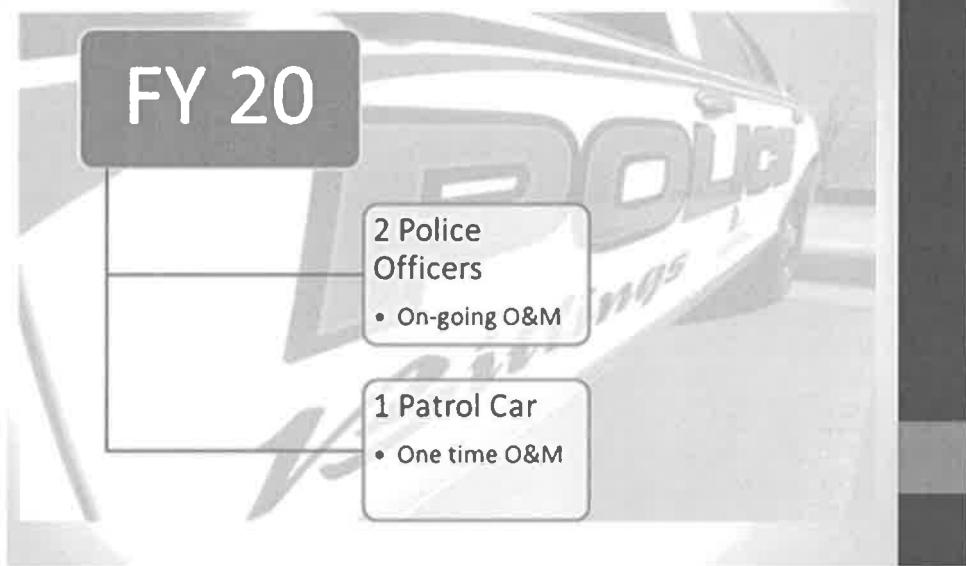
Ms. Volek noted the Police Department had nine beats; the same number as in 1976. She provided the following list of anticipated cuts to the Police Department if the levy did not pass. They would preserve patrol as long as possible, which would mean



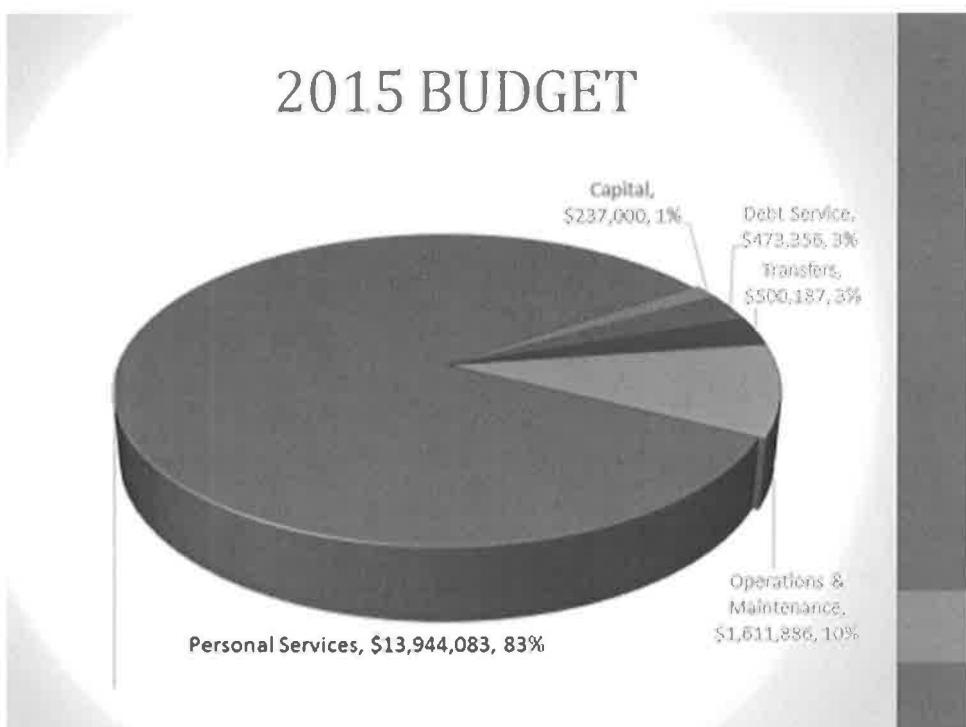
increased response times and the elimination of special programs such as the Drug Task Force and School Resource Officers. If the levy was approved the following would be added over time.



## Levy Approval 5 Year Plan (Cont.)



Ms. Volek discussed the staffing levels in the Fire Department and 911 Center, as follows: 2009 and 2010 – 147; 2011 to 2014 – 146. She noted from 2009 to today, they had lost one position because in 2011 it was decided to transfer the maintenance of fire equipment from the department to the City's Motor Pool. She displayed the following Fire Department 2015 Budget and noted 83% of the budget was made up of Personal Services.



List of impacts to the Fire Department if the levy did not pass.

- (1) There would be a reduction in staffing levels that would directly impact the overall delivery of essential emergency responses to fires and emergency medical calls.
- (2) The City of Billings Insurance rating for commercial and residential property could be increased as a result of a reduction in staffing.
- (3) Some area fire stations may not be staffed for periods of time due to fewer firefighters on duty.
- (4) Fewer on duty firefighters meant fewer staffed emergency response vehicles resulting in an increase in overall response times.
- (5) Annually there would be a continual reduction in firefighter staffing levels resulting in a compounding reduction in emergency services.

List of impacts to the Fire Department if the levy was approved.

- (1) Five new dispatch officers
- (2) Six new firefighters
- (3) One new administrative support individual

Ms. Volek said Council was being asked to authorize staff to put the item on the ballot. Absentee ballots would be mailed out October 6, and the General Election would be held on November 4. She emphasized the City of Billings was safe, and it had magnificent public safety officers who provided services at a very high level. It was a well-organized and effective force, but they had maximized the use of the prior levies and at that point they were anticipating growth that would increase the demands.

Councilmember Brown asked if it would keep the \$1 million in reserves. Ms. Volek said that was not included. It was anticipated they would take the unbudgeted reserves and fold them into the levy to help keep the initial cost of the levy down. Councilmember Brown said he would really like to see the \$1 million remain.

Councilmember Bird asked where they were with the payoff of the firefighters' suit. Ms. Volek advised they had three years left. It was a level payment plan in which they were paying off the interest and actual paper itself at a flat rate over time. It went through FY2017.

Councilmember Cimmino asked how the Police Department's current claim on longevity played into it. Ms. Volek said they were currently in a lawsuit involving a group of individuals who alleged wording changed in a contract years ago that resulted in a shortfall in payment to them. The claims had changed a number of times, and they were looking at going to trial in November.

Councilmember Brown referenced the dispatchers and asked what they covered. Ms. Volek said they dispatched for police, fire, and the sheriff's office; and they took the preliminary calls for the ambulance service.

Councilmember Cimmino asked if the City had a Memorandum of Understanding with the County for cost sharing. Ms. Volek advised the County paid for one dispatcher, and the City paid for all of the call takers. Councilmember Cimmino asked if the Family Safety Levy was the new and improved version. Ms. Volek advised it was up to the Council what to call it.

Councilmember Bird asked if the dispatch center took calls from Laurel. Ms. Volek said the city handled calls for the entire county with the exception of Laurel; they handled their own.

Mayor Hanel asked for the number of mills when the last levy was passed 10 years ago. Ms. Volek advised that year they had a state legislative requirement that they state tax issues not in mills but in dollars. The maximum was \$8.2 million and whatever mills it took to achieve it varied from year to year. At that time it was approximately 60 mills.

Councilmember Bird commented they were a safe community, but their public safety personnel were so busy with the increase in more violent crimes that other issues such as accidents, neighborhood robberies, and traffic were not getting addressed in a timely fashion. Ms. Volek commented the Police Department had adapted as best it could to situations and used volunteers to try to address those issues. Providing direct control services had to be the first need and after that it was up to the people to determine what it was they wanted.

Councilmember Crouch asked when the ball park bonds would come to an end. Ms. Volek estimated 2026. Councilmember Crouch asked if other bonds would be paid off during the next 10-year period or soon after. Finance Director, Pat Weber, said there were park bonds sold in 2001 that would be coming off the tax rolls, but they were small; only 5 to 6 mills.

Mayor Hanel said he agreed with Councilmember Brown that it would be very dangerous not to retain at least \$1 million in unbudgeted reserves. If they did not, they would be setting themselves up for a very scary ride.

Councilmember Swanson said the City did a really good job putting away \$12 million. He asked why the City could not do it again the next 10 years. Ms. Volek said they did it primarily by not being overly generous with the departments. They did it knowing they were having this time coming. When she came to Billings ten years ago there was already talk the City was heading for a financial cliff. They had averted it with very hard work. Councilmember Swanson said they needed to do it again. Ms. Volek commented they could not do it again and maintain services.

Councilmember Pitman asked if there were pros and cons to a five-year levy instead of a ten-year levy. Ms. Volek said it would be challenging to get people to sign on with the City within the five-year period because there would be no window of security.

Councilmember Bird said her concern was that Billings was growing steadily and their responsibility was to be good stewards of the taxpayers' money; however, they would be irresponsible if they did not attempt to keep up. The City saved \$12 million, but it was costing them now.

Councilmember Crouch asked if a 2% sales tax and a 3-year reappraisal instead of a 6-year reappraisal would affect the number of mills. Ms. Volek said a local option tax would generate about \$3 million a year, but they would meet with consistent resistance. She said she inquired with the Department of Revenue about changing the reappraisal cycle to four years, which was the standard in most other states, and the answer she received was they could not wait for the legislature to make a determination.

Councilmember McCall commented there probably would be a very serious attempt to look at local option again this year, but they could not rely on it. She cautioned against a 5-year mill levy because it was not using good judgment. In addition, the cost per house and the number of mills would go up substantially. She fully supported the community growth plan. It was time to pass another mill levy.

Councilmember Brown asked if it would change the overall cost if they stretched the hiring out beyond the first five years. Ms. Volek said in the end it would not make a great deal of difference.

Councilmember Cimmino asked to have the new Assistant Fire Chief introduced. Fire Chief, Paul Dextras, introduced Bill Rash and said he had been onboard for about a month. He was the Lockwood Fire Chief before coming to Billings and was bringing a wealth of experience not only in fire service but in law enforcement. Chief Dextras said he was thrilled to have someone of Mr. Rash's caliber assume the Assistant Fire Chief position. Mr. Rash said he very much appreciated the opportunity. He said he had also been a police officer for 20+ years, and it was a dream come true to finish out his career with Billings. Councilmember Cimmino said they needed to emphasize that Police Chief St. John did not hire an Assistant Chief for cost savings; and it was important for the general public to know. Ms. Volek advised Chief St. John gave up an Assistant Police Chief position, and they used it to pay a lawsuit. The money for the position will now be directed towards operations rather than additional command staff.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, said the ordinance stated the mill levy would fund Fire, Police, 9-1-1 Dispatch Services, and related public service safety expenses. Unless they changed the language in the ordinance, all or a portion of the mills assessed to him would be swept up and captured in the tax increment finance district. Anyone living in a tax increment district who voted would not be voting for a safety mill levy, they would be voting to increase the mills for the revenue into the tax increment district. Now would be a good time to change the language to say all the mills in the levy would be put into the fund and would not be captured in the tax increment district. Otherwise, the voters would think they were voting for apples, but they would be getting oranges.

Councilmember Crouch asked Mr. Nelson what he would suggest. Mr. Nelson said a simple change would say that all mills captured, including those assessed into the taxable value of a tax increment district, would not be diverted into the tax increment district. They would all be in it together to assume the risk and cost of funding the Police and Fire Departments.

Finance Director, Pat Weber, said he thought the language was fine. In a tax increment district there was a base and a value above the base. Calculations were figured on the base, and the tax increment district did not get any of the base. Even if they raised the mills, there was only so much above the base. The mills did not go to the tax increment district. Every citizen paid their share. Mayor Hanel asked if mills could legally be taken to the tax increment district. Mr. Webster said they could not; the base was legally protected. Mr. Webster briefly explained when a tax increment district was started, the Department of Revenue took everyone's taxable value at that point and it became the base. Growth within the taxable value became the increment value. The increment value was what the tax increment district received. The base was always there. The public safety mills would be levied on the base. What happened to the increment had no effect on Mr. Nelson's home or anyone else's home. Their money would go to the public safety fund.

The following individuals spoke in favor of the public safety levy:

- **Charlie Hamwey, 1010 Grand Avenue, Billings, MT**
- **Marie Hunter, N. Mariposa, Billings, MT**
- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**
- **Marty Elizabeth Ortiz, 707 1<sup>st</sup> Street West, Billings, MT**

The following individual spoke in opposition of the public safety levy:

- **Anthony Raue, 2436 Greenbriar Road, Billings, MT**

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

Councilmember McCall moved for approval of Item 4, providing a Public Safety Permanent Mill Levy to fund Fire, Police, 9-1-1 Dispatch, and Related Public Safety Services using the Community Growth option, seconded by Councilmember Crouch.

Councilmember Brown asked if the motion was without a \$1 million reserve. Councilmember McCall said that was correct.

Councilmember Crouch called for the question, seconded by Councilmember Bird. No vote was taken on the call for the question.

On a voice vote, the motion was unanimously approved.

Councilmember Cimmino asked if they were calling it a Public Safety Mill Levy or the Family Safety Mill Levy. Ms. Volek said it was up to the Council. Mayor Hanel said when Family Safety was mentioned his initial thinking was that Billings was one big family, and they were all in it together. He said it did not matter to him, and it was whatever the Council was comfortable with. Councilmember McFadden said they had an obligation to the public to be straight forward, honest, and transparent. Every taxpayer and citizen of Billings knew what a public safety mill levy was, and that was what it should be called. The remainder of the Council agreed.

Mayor Hanel called for a recess at 10:36 p.m. The Mayor called the meeting back to order at 10:49 p.m.

**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.)**

Mayor Hanel advised if anyone was present to testify on the draft NDO, Council would be reviewing the draft again on July 21. Tonight they would not be taking any action. They did not want to hear the same previous testimony over and over again.

The following individuals spoke in opposition to the non-discrimination ordinance.

- **Dick Pence, 4307 Palisades Park Drive, Billings, MT**
- **Ben Uselman, 4615 Palisades Park Drive, Billings, MT**
- **Barbara Prewitt, 3 Southgrove Place, Billings, MT**
- **Janice Linn, 821 N. 27<sup>th</sup> Street, Billings, MT**
- **Mark Carlstrom, 3139 Poly Drive, Billings, MT**
- **Jennifer Strong, 411 Glen Drive, Billings, MT**

- **Gayle Wentling, 1310 Cook Avenue, Billings, MT**
- **Keri Beebe, 712 N. 26<sup>th</sup> Street, Billings, MT**

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

- **Donald Seibert, 1112 Delphinium, Billings, MT**
- **Marty Elizabeth Ortiz, 707 1<sup>st</sup> Street West, Billings, MT**
- **Hope Wisneski, 1640 Rhode Island NW, Washington, DC**

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

## **COUNCIL INITIATIVES**

- **Cromley:** MOVED to ask legal staff to come back to Council with a policy to amend the initiative procedures to give other councilmembers at least 24-hour notice of an initiative. Several times councilmembers have come up with an initiative without mentioning it beforehand, and it was a surprise and the rest of the council did not have a chance to fully value it. If a councilmember had an initiative, it would help to spread the word beforehand so people had time to think about it. It would also save time because they would have the background of the initiative beforehand. The motion was seconded by Councilmember Crouch.

Mayor Hanel asked Councilmember Cromley if his request could include some history of the initiative process. Councilmember Cromley said he would leave it open-ended. Mayor Hanel asked if he wanted to set a timeframe. Councilmember Cromley said six weeks would be fine.

Councilmember McCall said she supported the motion, but she thought the initiative process had other issues. There were no parameters around when an initiative was brought forward. She thought there should be more parameters other than just the 24-hour notice.

Councilmember Pitman said they have had the discussion and all agreed there was some tweaking that needed to be done. It would be good to sit down and look at the whole process, why it was developed, and how it worked. It needed to be more than just a gentleman's agreement. They needed to have a consistent policy for future councils and legislation.

Councilmember Bird said she was not against the idea, but she thought they needed to be very careful about getting themselves locked into a box that could create a barrier or be problematic when things came up and they needed to be responsive.

Councilmember McFadden said he understood the thinking behind it, but they would be restricting themselves and his was opposed to imposing unnecessary restrictions.

Councilmember Cimmino asked Ms. Volek if she had a copy of the Administrative Order defining the parameters of the initiative process. Ms. Volek advised it was her understanding it was a council initiative and an ordinance. There was no Administrative Order attached that she was aware of.

Councilmember Cimmino said previous Councils worked very hard at getting so much work done based on the methodology, and the quarterly initiative reports

sent to Council were very helpful. She hoped the initiative would take into account the hard work done by previous Councils.

Councilmember McCall said she agreed and thought they needed to retain flexibility; but it was good to review how it came about and decide if it was still working.

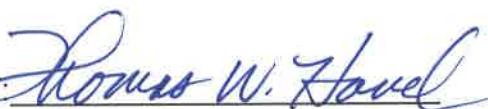
Councilmember Cromley said he would not vote on any initiative in the future without 24-hour notice. He did not like to be surprised.

On a voice vote, the motion was approved 10 to 1. Councilmember McFadden voted in opposition.

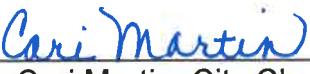
There was no further business, and the meeting adjourned at 11:55 p.m.

CITY OF BILLINGS



By:   
Thomas W. Hanel, Mayor

ATTEST:

BY:   
Cari Martin, City Clerk