

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

October 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 27th Street, Billings, Montana. Mayor Thomas W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Cimmino gave the invocation.

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

MINUTES:

- September 8, 2014 – Councilmember Crouch moved for approval, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.
- September 22, 2014 – Councilmember Crouch moved for approval, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel thanked the staff for helping to make the NILE Livestock Parade a success the past weekend. He also thanked the members of the City Council who attended the 83rd Annual League of Montana Cities and Towns held in West Yellowstone the previous week, and recognized Councilmember McCall, who was currently serving as the 2013-2014 President.

PROCLAMATIONS:

- Mayor Hanel noted a proclamation for "Pink Day" at Skyview High School had not been forgotten and was forthcoming.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek said she would like to schedule an Executive Session for Monday, October 20, at 5:00 p.m., in the City Hall Conference Room prior to the work session to discuss pending litigation. Councilmembers Cromley and McCall noted they would be out of town, and Councilmember McFadden said he may not be available. It was the consensus of the remainder of Council to hold the Executive Session at that time.

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

1. CONSENT AGENDA

A. Bid Awards:

1. Airport Operations Emergency Generator. (Opened 9/30/2014) Recommend Ace Electric; \$256,000.

2. 2014 Articulated Tandem Roller for Street/Traffic Division. (Opened 9/16/2014)(Delayed from 9/22/2014) Recommend Modern Machinery; \$64,400.

3. Two MET Transit Buses. (Opened 9/30/2014) Recommend Davey Coach; \$431,108.

B. Compensation Agreement with School District #2 for 50% of street and storm drain improvements on Barrett Road for construction of new Heights Middle School; City's estimated portion - \$294,280.83.

C. Transportation Alternative Project Agreement with Montana Department of Transportation for project scope, funding, and federal aid compliance for Broadwater Avenue Path.

D. Contract for Professional Services with DOWL HKM for design and construction administration of W.O. 15-06, Poly Drive - 32nd Street West to 38th Street West; \$271,460.

E. Contract for Professional Services with DOWL HKM for design and construction administration of W.O. 15-01, Schedule 1, 2015 Water and Sanitary Sewer Main Replacement Projects (Will James Middle School Area); not to exceed \$742,630.

F. Contract for Professional Services with Morrison-Maierle, Inc. for design and construction administration of W.O. 15-01, Schedule 2, 2015 Water and Sanitary Sewer Main Replacement Projects (alley between Avenues D and E from 17th to 21st Streets West; and area bounded by the BBWA to the north, 6th Ave. N. to the south, N. 24th St. to the west and N. 12th St. to the east); not to exceed \$700,240.

G. Approval of Scheduled Airline Operating Permit with Mesa Airlines, Inc.

H. Amendment to Special Improvements Agreement for Popelka Commerce Center Subdivision, 2nd Filing.

I. Amendment #2, Airport Restaurant/Lounge Concession Agreement with Air Host Billings, Inc. extending term of Agreement to January 31, 2016.

J. Acknowledge receipt of petition to vacate a slope easement along Lot 21-A-2, Block 39, Lake Hills Subdivision, 12th Filing; Clint Kegal, owner and petitioner; and set a public hearing date of November 10, 2014.

K. Confirmation of Probationary Police Officers - Tyler Bishop, Kodi Kaiser, Jack Brundell, Eric Schnelbach, Brian Weaver and Todd Clyatt.

L. Right-of-Way Easements for W.O. 13-15, Calhoun Road Improvements with Russell and Nicole Anderson, Richard and Debra Lynn Braaten, Shanna Frederickson and Thomas Hopkins, Jr., Billy and Linda Holloway, Gerald and Kathleen LaFountain, Leslie W. and Susanna C. LaFountain, John Martin, Sarah Florence Moore, Greg and Becky Pekovich, Michael G. Sr. Rhodes, Kendra Waters, Vernon and Debra Welch, and Peggy Jo and Heather D. Rollins.

M. Grant Application Request to submit 2014 Internet Crimes Against Children (ICAC) operational continuation application for \$254,693 and accept award.

N. Approval and commitment of funding from the Home Reinvestment Revolving Loan Program and funding from the FY13-14 CDBG First-Time Home Buyer Program to the Foreclosure Acquisition/Rehabilitation Program.

O. Resolution #14-10403 allocating \$2,000 of Council Contingency Funds for the North Elevation Residential Historic District.

P. Second/Final Reading Ordinance #14-5628 for Zone Change #923: A zone change from Agriculture-Open Space to Public on Lot 5A, Block 1, Long Subdivision, a 69.65-acre parcel of land addressed as 1190 Shiloh Road. City of Billings, owner. Approval of the zone change and adoption of the determination of the 10 criteria.

Q. Second/Final Reading Ordinance #14-5629 for Zone Change #924: A zone change from Residential 9,600 to Residential Professional on Lot 4A1A of Blue Meadow Acreage Tracts, 7th Amended, a 1.09-acre parcel of land addressed as 2526 Shiloh Road. BTS, Inc., owner; Sanderson Stewart, agent. Approval of the zone change and adoption of the determinations of the 10 criteria.

R. Second/Final Reading Ordinance #14-5630 for Zone Change #925: A zone change from Neighborhood Commercial to Community Commercial on Lot 2, Block 1, MK Subdivision, generally located at 1450 Chy Way northwest of the intersection of Grand Avenue and 54th Street West. Larry and Mary Karls, owners. Approval of the zone change and adoption of the determinations of the 10 criteria.

S. Preliminary Subsequent Minor Plat of Amended Lot 1C-2, Block 1, Circle Fifty Subdivision, generally located on the south side of Avenue B just east of Shiloh Road.

Mountain Development Co., owner; Sanderson Stewart, agent; conditional approval and adoption of the Findings of Fact.

T. Final Plat of Bitterroot Heights Subdivision, 2nd Filing.

U. Bills and Payroll:

1. September 8, 2014
2. September 15, 2014

Councilmember McCall separated Consent Agenda Item C. Councilmember Brown separated Consent Agenda Items F, U1, and U2 in order to abstain. Councilmember Yakawich separated Consent Agenda Item G. Councilmember Cimmino separated Consent Agenda Item A1. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items A1, C, F, U1 and U2, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember McCall referenced Consent Agenda Item C and said it was a great project that would bring the walking and biking path from Zimmerman all the way to Shiloh Road from Broadwater Avenue. She thanked Candi Millar and her staff for doing a great job applying for grants. She noted federal and state dollars would be used, and the State would complete the project. Councilmember McCall asked for an anticipated completion date. Ms. Millar said they would not know until they started putting together the design and the bid. Councilmember McCall moved for approval of Item C, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

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

Councilmember Yakawich referenced Consent Agenda Item G and asked for a brief explanation. Tom Binford, Director of Aviation and Transit, said the operating permit was with Mesa Airlines, which was one of the smaller airlines in the country that flew for a major airline. He said Mesa Airlines was flying for United Airlines, and the operating permit ensured Mesa Airlines was properly insured and followed the City's protocol while in the community and operating at the Airport. He noted that United Airlines paid all of Mesa Airline's fees. Mr. Binford said there had been a lot of focus in the Billings and Bozeman newspapers on Bozeman's increase in appointments and what Bozeman was doing to attract air service. He said the Billings and Bozeman markets were entirely different. Billings had full-time direct service to all but two of the top 10 markets, which were Los Angeles and San Francisco. Bozeman was a tourist-related market that could define parts of the country where a lot of people would be visiting; such as Yellowstone Park in the summer and Big Sky in the winter. Bozeman could guarantee an airline a certain level of passengers and back it up financially. The City had talked in length about revenue guarantees for the airlines in Billings, and it would not work well. Billings had some tourists, but it was more of a business-driven market and once the passengers left Billings and reached the hubs of the top markets it would be hard to identify their final destinations. Billings also had a more balanced

operation than other Montana airports because it dealt with freight, commercial, and general aviation activity. Billings was doing well on the commercial side, but it was a different market that drove what they could do with the airlines. The inventory of seats was currently hurting Billings. They had some excess seats every day but they pretty much used all of their inventory. Mr. Binford said they had received questions about their terminal building and advised they would be doing enhancements and making changes to spruce things up.

Councilmember Bird clarified that if Billings made revenue guarantees to the airlines similar to what Bozeman did, the City would be responsible for paying the airlines for the cost of the unfilled seats. Mr. Binford said that was correct.

Councilmember Bird asked if payment would be the cost of the tickets. Mr. Binford said it would be a negotiated price.

Councilmembers Swanson and Cimmino thanked Mr. Binford and his staff for the recent tours of the airport and transit operations. Councilmember Cimmino commented Allegiant was a seasonal provider. She said when school was out for the summer people liked to go to Disneyland or Los Angeles. She asked Mr. Binford when that flight would resume. Mr. Binford said he did not know for sure. As Allegiant began to load the flights, they would take them up and down based on demand. Allegiant was an airline that would bring in and take away seats almost at a moment's notice depending on what they were seeing for pre-bookings.

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

Councilmember Cimmino referenced Item A1 and asked Mr. Binford why there was such a range in the bids received. She asked if the City provided a cost estimate to the contractors prior to the bid. Mr. Binford said the City did provide an estimate. He said Ace Electric and Yellowstone Electric had submitted fairly close bids; and both had done work at the airport and were familiar with the working conditions. Mr. Binford said he was confident Ace Electric could do the job with no problem for their bid amount. Councilmember Cimmino moved for approval of Item A1, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Item U1, seconded by Councilmember McCall. On a voice vote, the motion was approved 10 to 0.

Councilmember Pitman moved for approval of Item U2, seconded by Councilmember McCall. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward V to include recently-annexed property in Annexation #14-03: A parcel totaling approximately 69 acres located on the west side of Shiloh Road at the northwest corner of the intersection of Shiloh Crossing Boulevard and South Shiloh Road. City of Billings, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

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

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

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

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, said at the last TIFD meeting it was announced the SID payoff amount for Walmart, Cabela's, and the development company out of Chicago was 5.2 million taxpayer dollars. He also said the City of Billings had corrupted the Safety Mill Levy by allowing for corporate coordination. Mr. Buchanan was allowed to attend every meeting and access all the voters he wanted. State law said there should be a level playing field in campaign spending allowing individuals, regardless of wealth, to express their views to one another and their government. Impact of unlimited corporate donations created a dominating impact on the political process and inevitably minimized the impact of individual Montana citizens. Mr. Buchanan was given all the time he wanted to talk prior to the public hearing. His Facebook page led people to the Billings Chamber of Commerce, Wells Fargo, First Interstate Bank, Cloud Peak Energy, NorthWestern Energy, the Billings Gazette, and the hospitals with an undue influence on the voters. There was a specific state law that said "you will not unduly influence the votes." Mr. Buchanan and Ms. Volek had gone "arm in arm" to all of the presentations. Mr. Buchanan spoke as long as he wanted uninhibited of venue. The Downtown Billings Alliance was under Mr. Buchanan's caption on the YouTube video; and under that umbrella was the Downtown Billings Partnership. Ms. Volek belonged to the Downtown Billings Partnership as a board director or member. The City was using Mr. Buchanan as a surrogate to unduly influence the voters of Billings, and the citizens had no chance to respond to it. It was priceless. You could not put a cost on what advantage it gave to the City of Billings. They needed to have fair and honest elections unimpeded by corporate coordination on the ballot issues.

Councilmember McFadden asked Mr. Nelson if there were organizations, formal or informal, who were counter to the mill levy and who were actively campaigning against it; and if they had been impeded in anyway. Mr. Nelson said he did not know, but that was not the issue. The issue was the venue was provided to him to approve it. Councilmember McFadden said if any of it was improper, they would love to hear about it because they were in to fair and open government with the public. If there was a state agency regulating the activities, he was welcome to discuss the issue with them; and if they had any negative feedback, the City would like to hear about it. Mr. Nelson said there would be a complaint filed. Councilmember McFadden told Mr. Nelson he was a free citizen and had the right to talk with the state agencies who would monitor that sort of thing.

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

INITIATIVES:

- **Mayor Hanel** noted he would be bringing forth an initiative at the next business meeting requesting Ms. Volek provide a presentation on the selection process of the primary healthcare provider for the City of Billings.
- **Councilmember Cimmino** said she had asked for a follow up on a previous initiative on the signs making the public aware there was an ordinance prohibiting no texting while driving. The next day she received an e-mail from Mr. Mumford, Public Works Director, that signs would be installed soon on 15 major arterial streets, in front of the high schools, etc.

There was no further business, and the meeting adjourned at 7:05 p.m.

CITY OF BILLINGS



BY Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk