

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 8, 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 Swanson gave the invocation.

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

MINUTES: November 24, 2014 – Councilmember Crouch moved for approval, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel thanked the citizens of Billings for supporting the community this time of year.
- Mayor Hanel thanked the Road Dogs for their 30th Annual Toy Run held on December 7. He thanked the city staff and all of the volunteers who worked to make the event a success.
- Councilmember Bird introduced her son, Shane Cornell. She said Shane was a 7th grader at St. Francis Upper.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- **Item # 3 Public Hearing and Resolution creating SID 1397: paving of Treasure Drive from Donna Drive to the City High Ditch.**
 - ✓ Letter from Darryl Lackey and Linda Pabst, dated November 23, 2014, in favor of the creation of SID 1397, was received by the City Clerk and e-mailed to City Council on November 25, 2014. Copy was filed in the ex-parté notebook.
 - ✓ Letter from Michael Oliver in favor of the creation of SID 1397 was received by the City Council via e-mail on December 8, 2014. Copy was filed in the ex-parté notebook.
- **Item #4 2015 Montana Legislative Priorities.** E-mail sent to City Council from Tom Zurbuchen, dated December 8, 2014. Copy was filed in the ex-parté notebook.
- Ms. Volek noted through a previous action the City Council agreed to hold its next business session on December 15, and there would be no council meetings the weeks of December 22 or 29. Council would resume on January 5, 2015, with a work session.

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

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

Please sign 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.

- **Dale Emery, 931 Moon Valley Road, Billings, MT**, referenced Consent Agenda Item G and the definition of fireworks. He said, as written, fireworks were defined as any combustible or explosive composition or combination of substances for the purpose of producing a visible or audible effect. He said most other states defined fireworks as having their own oxidizer, which meant they did not use oxygen from the atmosphere. The proposed definition, as written, would include candles, luminaries, tiki torches, and bonfires; any flame for a physical purpose. If fireworks were defined as using oxidizers, most states would exempt model rockets and road flares. Mr. Emery said the ordinance was in error because it included anything that burned.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Agenda Item 4. He said four or five months ago Mr. Bartlett talked about the Local Option Sales Tax; and Councilmember Brown asked if the City of Billings could take the lead on the sales tax issue. Mr. Nelson suggested that the City did not have the confidence of the legislature that was needed to operate a Local Option Sales Tax. Maybe it was power the legislature did not feel the City could behave itself with, because there were other tax items the City had taken liberties with and had exceeded its authority; such as the Park Maintenance District.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **2015 Hydraulic Sewer Jet/Vacuum Cleaner.** (Opened 11/25/2014)
Recommend Titan Machinery, Inc.; \$323,885.

2. **Airport 3-Year Elevator/Escalator Maintenance Service Agreement.** (Opened 11/18/2014)(Delayed from 11/24/2014) Recommend Kone Elevators/Escalators; \$57,564.

B. Change Order #2 - W.O. 13-03, City Crack Seal, Harddrives Construction, Inc., \$46,200.

C. Contract for Professional Services with HDR Engineering, Inc. to provide technical input and support during a 2-year program to develop a new State of Montana MS4 stormwater general permit and stormwater manual; \$119,900.

D. Approval of the Assignment and Transfer of West End Hangar Ground Lease from Bonnie S. Daniels to Picacho Aviation, LLP.

E. Declaring surplus property and authorizing the Police Department to donate outdated cameras and related equipment to the MSU-Billings Police Department.

F. Acceptance of State Highway Traffic Safety Billings STEP (Selective Traffic Enforcement Program) overtime grant; \$10,000.

G. Second/Final Reading Ordinance amending BMCC Sections 14-402 through 14-407 and adding Section 14-409; updating fireworks restrictions and regulations; providing for confiscation of illegal fireworks.

H. Second/Final Reading Ordinance #14-5633 repealing BMCC Section 14-301 declaring same to be null and void and of no effect; and adding a new section in its place to be numbered 14-301 providing for adoption of the 2012 Edition of the International Fire Code and providing penalties for violations.

I. Second/Final Reading Ordinance #14-5634 Expanding Ward 1 (Annexation #14-05) for approximately 2.5 acres located at 659 Lincoln Lane in the Billings Heights; Lary and Judy Garrison, owners.

J. Preliminary Minor Plat of Amended Plat of Lot 6, Block 3, Burlington Northern Subdivision 19th Filing, described as 2 lots on approximately 1.448 acres of land generally located at 609 Charles Street; Empire Lath & Plaster, owner; Eggart Engineering Company, agent; conditional approval and adoption of the Findings of Fact.

K. Final Plat of Circle Fifty Subdivision, Amended Lot 9A, Block 9.

L. Bills and Payroll:

1. November 10, 2014
2. November 17, 2014

Councilmember Pitman separated Consent Agenda Item G. Councilmember Brown separated Consent Agenda Item H. Councilmember Yakawich separated Consent Agenda Items B and J. Councilmember Cimmino separated Consent Agenda Item C in order to abstain. Councilmembers Brown and Cromley separated Consent Agenda Item L1 in order to abstain. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items B, C, G, H, J, and L1, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Item G and asked Fire Marshal Spini to address Mr. Emery's concerns. Mr. Spini advised the definition was taken almost verbatim from the Montana Code Annotated. There were many definitions out there for fireworks but ultimately state law would supersede any other definitions, so they just stayed with what was currently written. Councilmember Pitman asked if a candle or a barbecue would be included. Mr. Spini said they would not. Right now the current definition in state law for fireworks as it was written would not confiscate candles. They would not enforce the proposed ordinance any different than they did right now.

Mayor Hanel asked Mr. Spini to define oxidizer. Mr. Spini said certain things were needed for a fire to occur such as fuel and an oxidizer. Oxygen was the most common oxidizer because it was in the air, but an oxidizer could also be in a chemical composition so combustion could occur without having the proper oxygen in the air.

Councilmember Yakawich said he felt Mr. Emery's concerns were very legitimate and asked about adding the component to the ordinance. Mr. Spini said he was not sure it would hurt anything other than not being in line with state law. He said it really should be changed at the state level.

City Attorney Brooks commented the key phrase given by Mr. Spini would be "for the purpose of" and it really needed to be read in connection with the rest of the definition. He said he doubted lighting a candle in a house was being done to produce a visible or audible effect by combustion or explosion. By reading the entire section together, a person would see that stoves, fireplaces, barbecues, and candles would be excluded. Attorney Brooks said he could look at the state definition and bring it back to Council at a later date. He said at some point statutes had to have overlay upon them with an element of common sense and enforcement by fire marshals across the state. He said they could look at other Montana cities to see how they had defined fireworks. His suspicion would be that they adopted the state definition.

Councilmember Pitman asked if they were in a timeframe where it had to get done. Mr. Spini said they were not in a time crunch other than it would be nice to get it in before the large fireworks displays in July. He said even if they took the definition out, they would still fall under the state statute for the definition of fireworks. Ultimately, state law superseded fire codes in city codes, so they needed to stay in line with what the state currently had on the books. Attorney Brooks noted the state definition was located in Section 50-37-101 of the Montana Code Annotated and was almost verbatim of what was being proposed. Mr. Spini said the only difference he was aware of was the addition of sky lanterns in the ordinance.

Attorney Brooks advised if Council was not comfortable with the definition, he and Mr. Spini could do additional research. He added if they strayed far from the state definition, they would have to have justification for it.

Councilmember Cromley asked if the intent was to make luminaries where candles were placed in a sack during festive times illegal. Mr. Spini said that was correct. Councilmember Cromley asked if the organizations that had used those types of luminaries for processions would not be able to use them. Mr. Spini said they had not been able to use them in the past. He said he had experience with luminaries where half went up into the air and landed in a dry wheat field. Councilmember Cromley said he did not mean luminaries that floated; he meant stationary luminaries people placed along steps. Mr. Spini said he misunderstood; he thought Councilmember Cromley was

referring to the floating sky lanterns. Mr. Spini said the stationary luminaries like those used at Relay for Life were not illegal. Councilmember Cromley asked why the stationary luminaries would not be illegal because they produced a visible effect. Mr. Spini said because they did not produce an audible explosion or effect.

Councilmember McCall said they needed to pass the ordinance. State law covered it, and she did not see any problem with passing it. Councilmember McCall moved to pass Consent Agenda Item 1G, seconded by Councilmember Bird.

Mr. Spini said he thought the gentleman who testified earlier was more concerned with model rocketry. The ordinance would not include model rockets, and they had a separate standard that covered rocketry. He had worked with several groups in town who received permission from the Parks Department to use model rockets as learning tools, so model rocketry was not prohibited.

Councilmember Bird asked Mr. Spini to confirm they were talking about illegal sky lanterns that could end up landing anywhere and burning a wheat field or a house. They were not talking about outlawing stationary luminaries traditionally used at events such as Relay for Life. Mr. Spini said that was correct.

Councilmember Pitman said he was not looking at removing the definition, but instead adding the requirement of an oxidizer. Just because the state was not crystal clear did not mean the City could not be.

Councilmember McCall said she appreciated the gentleman's comments, but she thought they were taken out of context. She said when reading the entire law for the purposes of and putting it together, it made sense.

Mayor Hanel said he would support the motion and appreciated everyone's comments. He said Mr. Spini had explained it very well; and at some point they needed to allow common sense to enter into it.

Councilmember Bird called for the question.

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

Ms. Volek said it was the second reading of the ordinance, and they did not have a date certain to bring it back. The next available date would be January 12, and staff would need direction from the Council.

Councilmember Brown referenced Item H and Section 903.2.8 Group R of the ordinance having to do with automatic sprinkler systems. He asked Mr. Spini if he knew what the financial impact would be for the builders. If a builder was doing a major remodel in a downtown building, when would it go into effect? Mr. Spini said it would be lined out by the building official and the building code. A remodel was a gray area, and it depended on the extent of the remodel. Councilmember Brown asked for the definition of Group R. Mr. Spini said it would be a residential facility, apartment, congregate residence, or something built under the International Building Code and not the International Residential Code. Planning Director, Candi Millar, explained a change of use triggered looking at the code covering that particular use. If a retail store changed to a restaurant or an office building changed to a shop or warehouse, it would trigger the requirement for the proposed sprinkler codes. To her knowledge, they had never done a fiscal impact. Councilmember Brown moved for approval of Item H, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich referenced Item B and said he was unclear if the change order was from the City or the Contractor. Public Works Director, Dave Mumford, said the change order was being initiated by Public Works. Councilmember Yakawich asked for an explanation of the rationale behind it. Mr. Mumford explained every year Public Works had a crack seal program. This year Harddrives' bid came in extremely well, and they were ahead of schedule. With Harddrives' bid and the timeframe, the City could add \$46,200 to the contract as a change order, which was still below the \$200,000 originally anticipated, and finish all of the work for next year ahead of schedule. It would save approximately \$100,000. It was in this year's budget, so it would not require a budget amendment.

Councilmember Brown asked if they would run into any issues with awarding the change order without advertising for bid for the additional work. Mr. Mumford said Harddrives already had the contract to do it, and they were just change ordering in additional work. Councilmember Yakawich moved for approval of Item B, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich referenced Item J and asked Ms. Millar about the notation to wildlife in an area in the Subdivision Improvements Agreement. Ms. Millar said they reviewed every subdivision that came through the City against five primary review criteria set by state law, which included effects on wildlife and wildlife habitat, regardless of whether it was an urban or rural subdivision. In all cases, staff sent the application to Montana Fish, Wildlife and Parks for their input with regard to impacts to wildlife and wildlife habitat, who always wrote back almost verbatim that there may be wildlife encounters. Councilmember Yakawich moved for approval of Item J, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Item L1, seconded by Councilmember McFadden. On a voice vote, the motion was approved 9 to 0.

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

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #14-10413 vacating a portion of 7th Avenue South adjacent to Lots 9, 10, 11, and 12, Block 221, Second Addition, near the intersection of South 35th Street and 7th Avenue South; City of Billings, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director, Dave Mumford, advised the vacation and reapportionment involved residual property dedicated to the City when the Montana Department of Transportation reconstructed State Avenue. The City had interest in selling the property, but its current property alignments were very odd. The proposed vacation would put the property in a better position to sell in the future.

Councilmember Yakawich said there was a portion of a fence on the property that was down and in disrepair. He had received a lot of complaints about it and would like to see the fence repaired. Mr. Mumford said he was not aware of it, but would have staff look into it.

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

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

3. PUBLIC HEARING AND RESOLUTION #14-10414 creating SID 1397: paving of Treasure Drive from Donna Drive to the City High Ditch. 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. She noted the SID was unanimously supported by the affected property owners.

The public hearing was opened.

- **Joe Schmidt, PO Box 134, Billings, MT 59103**, asked why he could not get his alley graded. It was right next to the Harper & Madison Store on 10th Avenue. Numerous requests had been made, and they could not seem to get it done. Mayor Hanel asked Mr. Mumford to discuss the alley with Mr. Schmidt.
- **Ron Billstein, 2711 Treasure Drive, Billings, MT**, said he owned two lots and was willing to pay for the cost of the improvements. He thanked City staff for meeting with the neighbors and developing the cost estimate. All owners were in agreement. The precipitation runoff entering Treasure Drive had increased since the subdivisions along Donna Drive expanded and Rimrock Road was rebuilt. They experienced major erosion and down-cutting of the existing dirt and gravel road with big holes and rock piles. A paved road would be easier for the City to maintain; it would better accommodate other City services; and it would help cut down on the constant traffic noise and dust.
- **Lynn Gillig, 2803 Treasure Drive, Billings, MT**, said she lived at the top of the road, so all of their gravel ended up in Mr. Billstein's driveway. Her husband has had to haul the gravel back up to their property. She was in favor of the project.
- **Shelly Popp, 2706 Treasure Drive, Billings, MT**, said she lived in the last house at the bottom of Treasure Drive. She said sand and dirt filtered down from the upper end of the street resulting in additional mud and sand in front of her house. The City graded the street once a year but the grating did not help much at their end because of the tight quarters and size of the equipment. The City sprayed chemical once a year for dust remediation but it puddled in the street and took a few weeks to filter into the gravel. The chemical also tracked onto her driveway and into her garage. She said shoveling the sand and gravel after a downpour took several hours of labor, and it was physically impossible for some of the residents on the street. Seven of the eight residents signed the petition in favor of paving the street.

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

Councilmember McCall moved for approval of Item 3 creating SID 1397, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

4. **2015 MONTANA LEGISLATIVE PRIORITIES. Staff recommends approval.**
(Action: approval or disapproval of staff recommendation.) Ms. Volek advised the item was a follow-up to a previous work session where priorities and issues were discussed by the Council. She noted the comments from the session were included in the document in front of Council that evening. She said the legislative session would begin on January 5, and they would hold work session reports every other week starting January 20.

Mayor Hanel said there was a recent newspaper article that indicated Council had changed from monitoring to supporting the Early Edge Education Program and asked when the Council had made the change to support it. Ms. Volek said she believed it was discussed at the last work session to support the Governor's \$35 million early education funding request and to monitor other education proposals.

Councilmember McFadden said he went away from the last discussion believing it was only to be monitored. He said he was in total objection because the school system was constantly coming to the voters to ask for more money for their current programs, and now they were looking at spending \$35 million on a new program. The new program would put the school district into the daycare business, and he thought the \$35 million would be much better spent in other places supporting current programs with better track records. He said the Gazette recently reported that statistics were showing Head Start was not proving up for "much bang for the buck" and now \$35 million would be thrown into a similar program. Councilmember McFadden said he was not in favor.

Councilmember Pitman said he reviewed the work session minutes, and there was support from Councilmember McCall for the Medicaid Expansion but nothing further than just monitoring the Early Education portion. He said he was puzzled how it had been moved from monitor to support and asked how it could be moved back to monitor. Ms. Volek said the changes could be made in the motion.

Councilmember Pitman referenced the Medicaid Expansion and asked Councilmember McCall about a preference list link. Councilmember McCall said it was sent out in the Friday Packet. She said she did not know if there was a bill out there yet on Medicaid Expansion, but it was part of the Governor's overall plan. Councilmember McFadden asked if it had been discussed in the last session. Councilmember McCall said it was in the last session, and there were at least two different versions of the bill. The version with the most traction was taking Federal Medicaid dollars and putting them into an insurance program where people would have to buy in with a premium in order to make it more of an insurance fund versus an outright entitlement. Neither versions passed, so they were back at it again. Councilmember Pitman asked if it would be better to monitor it or support it. Councilmember McCall said she thought Medicaid Expansion was a huge benefit for the entire State of Montana. They were looking at health care and human service providers around the entire state. It provided more funding coming into the state and allowed less general fund to be matched to provide services. It was clearly a benefit to the City of Billings considering the number of providers. The funding would help keep consumer costs down, and it would help the transients, the homeless, and the people in poverty.

Councilmember Crouch commented the legislative committee, as a result of the homeless summit, was pushing the Medicaid Expansion. It was an important part of the homeless project.

Councilmember Brown said they were doing a lot of supporting rather than monitoring and asked if they had the resources. He said they did not know what might be forthcoming. Councilmember McCall agreed and said they would be having conference calls with Mr. Bartlett. It was very dynamic and things changed quickly, so they would need to make decisions as they moved forward. If there was a bill that did not appear to meet with the City's priorities, they could change. Right now support was in a general sense, and other groups would be taking the lead.

Ms. Volek clarified there was no substantive language for any legislative bill, and it was simply a list of titles and requests at that point. As things developed, they would see the language that may change their reaction. She said she was approached that day by the Chamber of Commerce and asked if they could list the City as a supporter of the local tax bill. She said she asked them to hold off until the Council met that evening; and if the Council agreed, the City would be listed as a supporter. If after the language came out and if they decided they were no longer in support of it, they could change their position. At that point, direction would be given to Lobbyist Ed Bartlett.

Mr. Bartlett said he communicated with Ms. Volek or Mr. McCandless on a daily basis. The document before Council that evening gave them guidance for today. It could and would change throughout the course of the legislative session. It was very helpful to know where the Council was on the major items before the session began and throughout the session.

Councilmember Cimmino asked if the Chamber wanted the Council to show support for their action to support the local option tax. She said she thought it was the other way around. It was her understanding Mr. Bartlett had an independent contract with the Chamber to represent their interests, as well. Ms. Volek said that was correct, and the City was his primary contract. It was her understanding the League of Cities and Towns would be the primary agent for the introduction of the local option bill, which was decided at the last League meeting held in West Yellowstone. The Chamber of Commerce also had agreed to support a bill under discussion aligned with the precepts of the League program, so they asked if they could list the City as a supporter. Councilmember Cimmino said there was a dollar amount of \$35 million on the Early Edge Education Program and asked if there was a dollar amount on the Medicaid Expansion. Mr. Bartlett advised the dollar amount on the Medicaid Expansion was substantially more. The hope was that, depending on when and if the state approved it, the vast majority of the funds would come from the Federal Government for the next couple years; and then beginning in 2017 there would be a gradual reduction from 100% monies from the Federal Government to 90%. The state would have to make up the difference. He said they were talking about several hundred million dollars over a period of time.

Councilmember Yakawich said he hoped they were not wasting their time. He said they had 16 items to deal with and asked how they could be more strategic and more successful. He asked if they would be drawing down to certain priorities. Mr. Bartlett said they did their best to minimize the involvement of City Staff and City Council at the legislative session. By the time the session started there would be well

over 2,000 requests, and the City would be impacted by a number of them. They prioritized through City Council's involvement and policy statements, and some were more important than others. Mr. Bartlett said he would not recommend avoiding legislation and legislative proposals that involved and impacted the City.

Councilmember Bird said when anything happened in Helena that came anywhere close to mentioning Billings, they had a duty and responsibility to have it on the list whether it was a priority or not. If they did not pay attention to how the legislative body was making decisions that would impact Billings, it would more than likely not work in their favor. Mayor Hanel and Councilmember Bird both recommended spending time in Helena during a legislative session because it was a very interesting, chaotic process.

Councilmember Cimmino asked Mr. Bartlett if the Governor's \$45 million bonding request to fund infrastructure development in Eastern Montana made up for his veto of the \$38 million bonding request from the last go-around. Mr. Bartlett said he would not phrase it exactly that way, but it certainly incorporated many of those items that were in the bill she was referring to. He said the \$45 million was part of a \$300 million request in the Governor's proposed budget for infrastructure across Montana. The \$45 million was likely to change because the needs in Eastern Montana far exceeded \$45 million.

Councilmember Cromley moved for approval of the legislative priorities outlined in Agenda Item 4, seconded by Councilmember Bird.

Mayor Hanel said he would speak in favor of the motion with the exception that the Early Edge Education be monitored instead of supported at that point. Councilmember McCall said she agreed because the Early Edge Education proposal still needed a lot of work. She said she supported Medicaid Expansion because they were looking at Federal dollars that were ready and waiting for Montana, which meant less State General Fund spent on health and human services.

Councilmember Crouch encouraged the Councilmembers to visit Head Start. It had been proven that any one dollar invested in pre-school children's education was worth \$7 in the future economy. It was not just for the kids; it involved providing education, health, and employment for the whole family. It was an excellent program, and it needed their support.

Councilmember Bird said she supported Medicaid Expansion, and she thought they were remiss not supporting the Early Edge Education program. They were social equalizers and opened the door for all younger children to get the kind of interactive stimulations they needed to function in today's world. Pre-school education had been proven to provide kids with some of the skills they needed to be successful in kindergarten and beyond, and it would be in the best interest of the City to support it. Medicaid Expansion was a "no brainer" and an equalizer in terms of the working poor. They were not just talking about low income or people in poverty; they were talking about the working poor earning minimum wage. Good investments in their citizens made them a better community, state, and country.

Councilmember McFadden said there was an article written less than a year ago with statistics showing kids who went to Head Start were no more likely to graduate from high school, get better test scores, or get better grades than kids who did not go to Head Start. They were looking at a situation where Head Start was not showing as much "bang for the buck" and \$35 million could be better spent.

Councilmember Pitman said he would be more comfortable if Medicaid Expansion was a monitor/support because nothing was out there; but he was okay with leaving it as a support. Councilmember Pitman moved to amend the motion to monitor Early Edge Education, seconded by Councilmember McFadden.

Mayor Hanel said Councilmember Crouch had valid points, and he would never underestimate the value of education. He said monitoring did not mean they were opposing or supporting. There were still a lot of questions that needed answered, so he felt it should be monitored at this time.

Councilmember Bird said she supported Agenda Item 4 as recommended, and they could always revisit the items down the road. To amend the language at that point locked them in a box. She asked Councilmember McFadden to cite his resources on the ineffectiveness of Head Start.

On a roll call vote, the amendment to the motion was approved 8 to 3. Councilmembers Yakawich, Pitman, Cimmino, McFadden, McCall, Swanson, Brown, and Mayor Hanel voted in favor. Councilmembers Cromley, Bird, and Crouch voted in opposition.

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

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, Billings, MT**, said at the last TIFD meeting the board thought it was appropriate to recommend to the City Council that the SID be paid off because it was a deterrent to development. He asked if the City of Billings really wanted to be known for paying off the biggest Fortune 500 Company's SID. One poor development agreement did not dictate they enter into another one. In his opinion it was a joke and a scam job by Cabela's, who never held up their end of the agreement. Mr. Nelson said it was time to look at nullifying the entire agreement and not reimburse the SID costs with tax dollars. It was a bad deal. He asked if they really thought they could get a local option tax passed if they paid off Wal-Mart's, Cabela's, and the Chicago developer's SIDs with tax dollars.

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

COUNCIL INITIATIVES

- **Pitman: MOVED** to return Item G to the January 12, 2015, council agenda, seconded by Councilmember McFadden. Councilmember Cromley asked Attorney Brooks at what point they could do a motion to reconsider. Attorney Brooks advised they could reconsider it at that night's meeting or at a future meeting. He suggested making a reconsideration motion for the next available

regular agenda to allow sufficient public notice. By doing so, they would be placing a vote on the second reading on January 12, 2015. Councilmember Cromley said the reason he did not like the ordinance as presented was because it talked about any visible effect, which would outlaw luminaries. He suggested changing the language to "producing a striking or brilliant visible effect or a loud audible effect." Councilmember Pitman said the whole point to bringing it back later was to get clarification on what they had discussed earlier. Councilmember McFadden suggested that "self-oxidizing accelerant" was of importance and should be distinguished. Councilmember McCall said she was confused because Councilmember Cromley talked about reconsideration, and Councilmember Pitman's motion did not. She would be in favor of a reconsideration.

Councilmember Pitman **WITHDREW** his motion, agreed to by the second, Councilmember McFadden.

Councilmember Pitman **MOVED** to reconsider Item G on January 12, 2015, with the considerations and potential changes of language as discussed, seconded by Councilmember McFadden.

Councilmember Bird said adding "self-oxidation" made a distinctive difference between the concerns Councilmember Cromley expressed.

On a voice vote, the motion was unanimously approved.

- **Cimmino:** Said on Friday she heard on the news that the Billings Mustangs had been sold, and asked if she was the only councilmember who did not know about it. Ms. Volek advised Councilmember Cimmino she had attempted to reach her and did not receive a return call. Councilmember Cimmino asked if the sale had been negotiated for quite some time. Ms. Volek advised it was a private organization that changed hands, and the City had no part in the negotiations involving the sale. The City had a contract until 2017 with the Mustangs organization; and they could not, except under very extreme circumstances, void the contract. She said the City was told the Mustangs intended to stay, and the \$30,000 contract with the Mustangs to use Dehler Park would continue. Councilmember Cimmino said she was embarrassed. She had to see it on the news; and the Chamber knew about it. Ms. Volek advised a meeting was held on Friday afternoon with Mayor Hanel and Deputy Mayor McCall as the council representative. They were asked by the owners not to disclose the change. Unfortunately, their current organization was located in the quad cities, the same location of Lee Enterprises, and the word got out. Ms. Volek said they had no knowledge of who was coming to the meeting until they arrived and were introduced to the new partners. Councilmember Cimmino asked what would happen to the original proposal about three years ago from the group who wanted to build a \$3 million museum at third base. Now there was talk of a Ferris wheel. Ms. Volek said the City's traditional practice had been that any amendment to an existing facility became a part of the facility and the property of the City; and it would require approval of the City Council. Councilmember Cimmino asked how they would deal with all interested parties. Ms. Volek said she had not heard from the other group, and she did not know how their fundraising efforts

were going. Ms. Volek said when the time came, it would be up to the Council to hear both sides and make a determination.

Councilmember Cimmino **MOVED** to direct staff to come back with some type of tangible information on Dehler Stadium at a 2015 work session when information became available.

Mayor Hanel noted he had been told just recently by members of the group who had wanted to build the museum that the fundraising had not gotten off the ground, and he did not know if their plans had changed.

Councilmember McCall said there was not a need for an initiative at that point. The people were very committed and excited to be a part of the Billings community. There was discussion about having them come to a work session, and they were eager to do so. It would happen in time.

The motion died for lack of a second.

- **Mayor Hanel:** Said he would be bringing forth an initiative in the future regarding the City's contract with the current healthcare provider. The insurance committee had done an excellent job; however, he was disturbed by the word "indefinite" on the term of the contract. It involved public tax dollars, and the Council needed to be involved.

There was no further business, and the meeting adjourned at 8:26 p.m.

CITY OF BILLINGS



BY: 
Thomas W. Hanel, Mayor

ATTEST:

BY: 
Cari Martin, City Clerk