

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 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. Mayor Hanel gave the invocation.

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

MINUTES:

- August 11, 2014 – Councilmember Crouch moved for approval, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.
- August 25, 2014 (pending)

COURTESIES:

- Mayor Hanel commended Airport Director, Tom Binford, and city staff for the dedication recently held at the Airport in memory of Bruce Putnam, former Aviation and Transit Director. Mr. Binford said the dedication was very well attended, and 30 of Bruce's family members came from as far away as Virginia and Vancouver. The reason for the buffalo monument and memorial was because Bruce had always wanted to have bison sculptures at the airport to welcome people to Billings, but he passed before he could get it done. A group of people raised the funds for the buffalo monument. The intent was to have one big buffalo and two smaller buffalos, but the fundraising did not kick in like they thought it would. They would continue their fundraising efforts, and hopefully include the two smaller buffalos in the future. Mr. Binford noted there were still individual buffalo sculptures for sale, and anyone interested could contact him.
- Mayor Hanel noted the recent opening of the new Scheels Store on Shiloh Road. He thanked city staff for its participation ensuring everything, including traffic control, went smoothly.
- Councilmember Yakawich commented Phillips 66 and the Citizens Advisory Committee recently sponsored a "Meet and Greet" picnic at South Park. Phillips 66 provided hamburgers and hot dogs, and there were 22 vendors present. He said the attendance count was 463 people; and he thanked everyone for attending.
- Councilmember Yakawich said the 13th Annual 9-11 Program would be held this Thursday, at noon, on the courthouse lawn. A member of the ROTC from MSU-B would be the keynote speaker, and the Central High School Band would be performing.
- Councilmember McCall reminded the City Councilmembers to return their surveys for the City Administrator's evaluation to her that evening or to Wynnette

by noon Tuesday. The meeting would be held Friday at 1:00 p.m., and it would be an executive session.

PROCLAMATIONS: Wilderness Act 50th Anniversary

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek noted the Community Conversations for the week would be held Tuesday evening at the Oasis; Wednesday noon at Valley Federal Credit Union; Wednesday evening at Little Horn State Bank; and Thursday evening at the South Side Community Center.

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. W.O. 14-04, 2014 ADA Ramp Replacement Project. (Opened 8/26/2014) Recommend CMG Construction, Inc.; \$260,700.

2. W.O. 15-09, IT Conduit to Library. (Opened 8/26/2014) Recommend Ace Electric Company; \$27,080.

B. Change Order #3, Empire Parking Garage, OAC Services, \$21,336.61.

C. Empire Garage Skybridge Easement Agreement with Zootist Hospitality, LLC.

D. Agreement with Yellowstone County Sheriff's Department to provide New World Public Safety data processing services. (7/1/14-6/30/15); annual revenue - \$116,843.

E. Amendment #3, Airport Operations Building Emergency Generator Replacement Project, CTA Architects and Engineers, \$19,586.

F. Second/Final Reading Ordinance #14-5625 for Zone Change #921: A zone change from Public (P) to Planned Development (PD) Josephine Crossing – Residential Neighborhood on an un-platted 12.263 acre parcel of land directly west of the existing Josephine Crossing Planned Development. Roman Catholic Bishop of Great Falls,

owner; McCall Development, agent. Approval of the zone change and adoption of the determinations of the 10 criteria.

G. Second/Final Reading Ordinance #14-5626 for Zone Change #922: A zone change from Residential Multi-family-Restricted (RMF-R) to Community Commercial (CC) on Tract 1, Certificate of Survey 979, a 2.5 acre parcel of land generally located at 1125 Lake Elmo Drive; Harvey Capital, LLC, owner; Sanderson Stewart, agent. Approval of the zone change and adoption of the determinations of the 10 criteria.

H. Final Plat Approval

1. Geyser Park Subdivision, Amended Lot 1
2. Parkco Industrial Subdivision, Amended Lot 4A1, Block 1
3. Billings Wadsworth Subdivision

I. Bills and Payroll:

1. August 11, 2014
2. August 18, 2014

Councilmember Pitman separated Consent Agenda Item A2. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Item A2, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

Councilmember Pitman referenced Item A2 and said he was concerned that the recommended bid was half the amount of the other bids that were submitted. He said he wanted to make sure they would actually get the job done for the low bid amount. Public Works Director, David Mumford, said they met with the low bidder and asked him twice to review his bid to make sure there were no bid irregularities or questions. The bidder said he felt confident with his bid amount, so staff was bringing it forward for approval.

Councilmember Pitman moved for approval of Item A2, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #14-10390 FOR 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.) Planning Division Manager, Wyeth Friday, began his presentation showing the location of the subject property on the Limits of Annexation Map noting that it was located within the five-year annexation area. He showed the layout of the proposed stormwater detention and treatment facility that would also serve as public open space with a trail corridor. Mr.

Friday advised the proposed annexation complied with the adopted Annexation Policy criteria as follows:

1. The area was located within the Limits of Annexation.
2. The City was able to adequately provide municipal water and sewer services to the property, although service needs would be limited due the use and operations of the facility.
3. Any proposed improvements to the property would meet City standards.
4. If annexed, any proposed land use would comply with the zoning. The property was going through a rezoning process to zone it Public, which would meet the uses planned by the City.

Councilmember Brown asked if the plan included the Parks Department taking over maintenance. Public Works Director, David Mumford, advised it was a stormwater detention area and would always be the responsibility of Public Works. Councilmember Brown asked if Public Works would do the ground maintenance. Mr. Mumford said Public Works would do all the maintenance on the ponds and the wetlands.

Councilmember Yakawich said it was a unique approach to drainage. Mr. Mumford said it was the largest of its style in the northwest. Councilmember Yakawich asked if they would see more of the same as the city grew. Mr. Mumford said they were looking at additional areas on the west end and on the east end where they needed to deal with cleaning stormwater.

Councilmember Cimmino asked about the trails. Mr. Friday said the primary use was for stormwater management, but there were some public open space amenities being incorporated, and some of the trail infrastructure was being funded with remaining CTEP funds. Part of the effort was to connect from the Shiloh Trail out to 44th Street West and to provide internal connections within the facility. Mr. Mumford said the idea of the trail system was so they could move their equipment around the facility for maintenance purposes; as well as provide a trail system for the public to enjoy.

Councilmember Swanson asked where the excess runoff would go. Mr. Mumford said the Hogan's Slough was on the lower end, and the Shiloh Drain was on the east side. The City had to clean the Shiloh Drain and Hogan's Slough to meet stormwater management requirements. It discharged under the BBWA and then flowed to the Yellowstone River. The ponds were created to help settle some of the heavy solids, and the wetlands cleaned the nitrogen, phosphorous, and fertilizers out of Hogan's Slough and the Shiloh Drain. He said Fish, Wildlife and Parks would be stocking the ponds with fish for the public's enjoyment. The facility would retain water during a major storm and slowly filter it out so the BBWA would not be breached by stormwater from the Shiloh Drain. The system was set up with overflow gates so the water could get out and keep moving.

The public hearing was opened.

- **David Goodrich, 811 N. 31st, Billings, MT**, said he was the General Manager of the company on Orchard Lane that was not very well liked by a few of its neighbors. He said he was all for annexation and wanted to see the community

grow, but he cautioned going where they did not know what would come in after the fact. The steel fabricating company on Orchard was there, and then the City grew around it.

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

Councilmember Crouch moved for approval of Annexation #14-03, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently-annexed property in Annexation #14-04: approximately 12 acres located south of Elysian Road and just west of the existing Josephine Crossing Subdivision. Roman Catholic Bishop of Great Falls, 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 McFadden moved for approval of Item 3, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION #14-10391 vacating Mountain View Boulevard. Mountain View Boulevard residents, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director, David Mumford, explained that earlier in the summer Councilmembers Yakawich and Cromley, Ms. Volek, and he met with several residents of Mountain View Boulevard to discuss their concerns with the condition of Mountain View Boulevard following a city water main rehabilitation project. Mr. Mumford said Mountain View Boulevard was located above MSU-B's ball fields near the top of the rims. He advised most of the lots along the north half of the road were owned by the City of Billings. There were 18 parcels and 11 property owners. He said the property owners wanted the road paved. The City looked at putting pavement back down where the water main had been taken up. He said the pavement was minimal at best, and Engineering had concerns about adding asphalt to an area without drainage. Staff spoke to the residents about an SID, and there was no support to go in that direction. Mr. Mumford showed an aerial view, plat map, and photographs of Mountain View Boulevard. He showed the portion of Mountain View Boulevard that would be vacated and noted the vacation would not include the entire road. He said to the west there was a contractual easement and an agreement with MSU-B for the road that came out by the ball field that would remain. A survey was sent to the 11 adjacent property owners asking if they wanted to privatize the road in which case Public Works would recommend to the City Council that (1) they would not be charged for the road right-of-way, and the \$45,000 set aside in 2010 for the pavement would be provided to the property owners for road maintenance; (2) they create an SID; or, (3) they leave the road in a gravel state maintained by the City. The City received responses from the 11 property owners; 10 of who asked to have the road privatized and one who preferred to have the road left as is or have an

SID created. Mr. Mumford said one of the problems they faced with stormwater was there were no good places to get rid of it, so they would need permission from the BBWA to discharge into the canal. The Fire Department had expressed concerns with accessing the narrow road, but they would have problems getting in and out regardless of whether it was privatized or not. He said if the City made upgrades to the road, they would have to bring it up to city standards, which would cost a lot more and would be difficult. The City would have liability issues if it just put in an asphalt surface. Mr. Mumford said they supported the property owners and were open to any solution that would address their legitimate concerns.

Mayor Hanel asked if the \$45,000 would be turned over to the property owners and how far the \$45,000 would go towards maintenance. Mr. Mumford said the \$45,000 would be turned over to the property owners with the vacation. A utility easement would be maintained, and an access agreement would need to be created to ensure once the road was vacated no one could block their neighbor's access. He said it was his understanding the property owners had contacted a local contractor and a strip of pavement could be put down for \$45,000. It would be a contract between the property owners and the contractor; the City would not be involved or have any liability with the finished product.

Councilmember McCall asked if the 11 property owners were all on the south side. Mr. Mumford said they were all on the south side of the road.

Councilmember Brown asked if it would be a stipulation for the homeowners to take care of stormwater. Mr. Mumford said the homeowners would not have the legal liability as the City. He said there were numerous private roads in Billings maintained by property owners to the standards they were comfortable with. Councilmember Brown asked if there was stipulation on how the \$45,000 was spent. Mr. Mumford said it would be specifically stated that it must be spent on the maintenance of the vacated portion of Mountain View Boulevard. Councilmember Brown asked if the City would help the residents if a stormwater study needed to be done. Mr. Mumford said the City would not be involved.

Councilmember Cromley questioned the ownership of the lots on the north side. Mr. Mumford said basically the entire north side was owned by the City of Billings. Councilmember Cromley asked if they were developable. Mr. Mumford said they were not developable lots, which was how the City ended up with them. Councilmember Cromley said he had received an e-mail from someone who liked to walk along the road and asked if that would still be possible once it became a private road. Mr. Mumford said it would be up to the property owners. A person could walk on the north side of the road because it was City property.

Councilmember Pitman said it was his understanding the road once had asphalt, so the water issues were known and had already been addressed. Mr. Mumford said it appeared the road had oil and gravel put down years ago, but the City had no record of it ever being fully paved.

Councilmember Yakawich asked if it would be wise to put the \$45,000 into the contract. Mr. Mumford said it could be stipulated in the resolution approving the vacation. Attorney Brooks agreed and said it could also be stipulated in a separate Memorandum of Understanding (MOU) or agreement. The important thing was to make

sure the money was used for that specific purpose. The larger issue would be who would do the accounting to show where the money went.

Mr. Mumford said it was his understanding CMG Construction had agreed to pave the road for the property owners. If the vacation were approved, the vacation process would be completed and an MOU created so the property owners could get the paving done this year. Mr. Mumford said the total amount of \$45,000 would be allocated to the contractor.

Councilmember McCall said it was a good idea to have an MOU, and it was important to state the money was a "one time only."

Councilmember Brown asked about liability and what should be done before asphalt was put down. Mr. Mumford said there was a concern with the runoff from the hard surface; however, the residents believed a hard surface worked after watching the runoff for years. It was his understanding the property owners would work with CMG Construction to make sure they kept the same current drainage patterns. Councilmember Brown asked if there should be a statement included that the City was aware there may be water issues; and the property owners could not come back to the City if something happened. Attorney Brooks suggested that a clause be included in the document that the property owners would indemnify and defend the City in the event of a lawsuit; and that they acknowledged they were assuming ownership and design of the vacated roadway.

Councilmember Bird asked if assuming ownership on their half of the road would have an impact on their homeowner's insurance. Mr. Mumford said not that he was aware of. They would be vacating the entire road, even the city side. If the road were such that fire or police could not get in, it might impact their insurance.

Councilmember Cromley noted the documents indicated the City would keep the north half. Councilmember Brown asked if the City would be responsible for half the maintenance. Mr. Mumford said he did not know for sure. Councilmember Brown said if the City would be responsible for half of the maintenance, he thought they should vacate the whole road.

Councilmember Bird asked if an easement could be included if the whole road were vacated so the public would still have access to walk on the road. Mr. Mumford said they would work with the property owners on retaining public accessibility.

Attorney Brooks cautioned that the Council needed to decide that evening if they wanted to vacate half of the road or the entire road. He said if the whole road were vacated, an easement could be negotiated with the homeowners for a walking path. He said if the property owners were assuming ownership and maintenance responsibilities, he strongly encouraged them to form some kind of homeowners' association or legal entity.

Councilmember Brown asked if the water issue would still come back to the City if the City maintained ownership of half the road. Mr. Mumford said the City would still have liability as a partial owner.

Mayor Hanel asked if the property owners intended to pave this fall. Mr. Mumford said they did. If Council approved the vacation that evening, staff would be moving as quickly as possible so the contractor had time to do the work. He said CMG Construction was ready.

The public hearing was opened.

- **Lance Renstrom, 214 Mountain View Boulevard, Billings, MT**, said he owned two lots on Mountain View Boulevard. The residents felt they could maintain the road better than it had been maintained. They did have some pavement that lasted from the time the subdivision was created until five years ago, and they had always had the same situation with drainage. It was a prestigious subdivision when created, and they would like to keep it that way. He asked Council to approve the vacation.

Councilmember McCall asked Mr. Renstrom if he would allow access to walkers. Mr. Renstrom said they had always allowed access for exercise and dog walking. MSU-B and the School District used the area for sports training. He saw no reason to eliminate it. Councilmember McCall asked if he would prefer to own the entire road or share it half and half with the City. Mr. Renstrom said he felt the property owners could maintain it if they owned all of it.

Councilmember Cimmino asked what he thought of Attorney Brooks' recommendation to form a homeowners' association. There would be situations where new people would be moving in. How would the new people get on board with the maintenance responsibilities? Mr. Renstrom said they had formed somewhat of a homeowners' association without it being legally binding because they did not know what the decision would be. They realized they would need to legally form one.

Councilmember Bird asked Mr. Renstrom if he knew how the entire group felt about maintaining public access and owning half or all of the road. Mr. Renstrom said the property owners had held discussions. He noted some of the pictures presented were current and some were not current. He said they were promised a road of pavement equal to what they had prior to the waterline being replaced by COP Construction; and it had not happened. When they found out the \$45,000 had been held in reserve because the paving was not going to be done, they began considering the option of vacating. They could put the paving in and have a more durable, permanent surface.

Mr. Mumford said with all sewer and water projects, the City replaced only the asphalt the width of the trench area. There never was a contract to pave the entire width of the road. Councilmember Bird asked if the \$45,000 went into a reserve. Mr. Mumford said it was not put into a reserve. They had \$45,000 allocated to the asphalt; and they could still find it in the budget.

Councilmember Brown asked Mr. Renstrom if the property owners were willing to take on the responsibility of the water runoff. If the road were vacated, it would not be the responsibility of the City. Mr. Renstrom said he was willing to take on his part. He could not speak for the rest of them.

Councilmember Pitman said after visiting with some of the property owners, he felt they had no intention of putting gates at both ends of the road to prevent access. Mr. Renstrom said he appreciated being in an area that people enjoyed.

- **Stan Everson, 202 Mountain View Boulevard, Billings, MT**, said he had lived on Mountain View Boulevard for 25 years and had seen the evolution of the road

from being in fairly pristine shape to its current washboard, gravel state. It would be a lot easier to maintain if it were paved. They wanted a walk-thru neighborhood, but they would like to stop the speeders.

- **Linda Lemke, 194 Mountain View Boulevard, Billings, MT**, said she and her husband owned two properties. An adjoining property owner, Rich Palmersheim, who lived in Bozeman, asked her to represent his wish for approval of the vacation. Ms. Lemke said many of the property owners had purchased lots on the north side, so the City did not own every lot on the north side. The reason they purchased the north lots was so no one would attempt to build on them. When the water main was done in 2010, they all thought pavement would follow. When the City declared it a gravel road, they were not part of that decision but they agreed to see if it would work for them. The road was dusty and pitted, and the runoff was worse than when they had pavement. They did not have an official homeowners' association, but they gathered frequently.

Councilmember Brown asked if they were in favor of vacating the entire road. Ms. Lemke said they were, and she did not see a problem with walkers or runoff. It would be silly to have curb and gutter because it was a natural area that many people enjoyed; and they wanted to keep it that way. She thought losing the pavement and going to gravel affected their property values.

- **Marty Elizabeth Ortiz, 707 1st Street West, Billings, MT**, said she liked to go for walks and if she saw a sign that said 'private road' she would think she should not walk through it.
- **George Bauer, 115 Mountain View Boulevard, Billings, MT**, said he rented from Jim Powell, who asked that he speak in favor of privatization of the road. He observed that the gravel shown in the pictures could be part of the lots on the north side. He said the entire road should be vacated and not just half. There was room for a path alongside for pedestrians. One of the questions brought up was whether the property owners would be willing to indemnify and defend the City against any future action that arose from the drainage issues. He thought that was beyond the scope of what they were talking about. He said most of the lots on the uphill side of the road were owned by the City, and there would be no change in liability that the City would have. It was a close-knit community of property owners, and it seemed reasonable that a formal homeowners' association and a set of by-laws would be mechanisms to put into place in advance of the vacation being formalized. The \$45,000 should not be delivered in a briefcase. He thought the contractor would perform the work, the City would inspect, and the City would pay the contractor. There was no intent to make it a gated community; they were merely looking to get the road paved. Ten of the 11 homeowners had voted in favor of privatizing the road, and he encouraged the Council to approve it.

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

Councilmember Cromley moved for approval of Agenda Item 4 with the provision that the \$45,000 be set aside exclusively for paving, that the entire road be reverted to the property owners on the south side of Mountain View Boulevard at no charge, that

there be an indemnity clause inserted, and that there be a provision providing for pedestrian access, seconded by Councilmember Yakawich.

Councilmember Brown said he agreed with the motion. His only concern was that everyone understood that if there were flooding or anything else, the liability went back to the homeowners. He really hoped they understood that.

Councilmember Cimmino asked if the MOU or agreement would need to be recorded at the Clerk and Recorder's Office. In the event a property sold, how would the new homeowners be advised of the agreement? Attorney Brooks mentioned there were other lots north of the road that may also be affected, so it was something the homeowners might want to think about. He said an MOU would be important to record because it would set forth references to easements that should also be created and recorded. Attorney Brooks suggested the homeowners' association carry liability insurance for their own protection. He recommended an MOU or agreement that defined the easements that the City was reserving and the responsibilities of the homeowners once they assumed ownership of the road. It needed to be clear the homeowners were assuming the road simple and absolute, which meant they owned the road.

Councilmember Cromley suggested that down the road the City should look at selling its lots on the north side, because they were not doing the City any good.

Ms. Volek asked Councilmember Cromley if his motion was proposing that staff amend the existing resolution to include the items or was he intending an MOU. Councilmember Cromley said he thought the resolution would have to be amended to specify the property would be reverted to the south property owners. The resolution referred to the adjacent property owners, which was not the case. He said he also thought pedestrian access should be included. There were already other easements included for utilities.

Attorney Brooks said there were some north side lots, so half of the road would typically go to them. He did not know who owned them, so it was sort of a murky situation. Mr. Mumford said the City had a couple of the lots, and the majority of the lots had been bought by the people on the other side, as stated. He said it was growing into an issue that he was not sure actually existed. Mr. Mumford said he wanted to make sure Council understood their intent. Staff was recommending vacation of the flat part at the top only and not the whole road. The City would still take care of the steep portion and the access-in portion of the road so the property owners, police, fire, and solid waste could get in.

Councilmember Brown asked Mr. Mumford if the City would still have to do a water study, curb and gutter, etc. if it put down millings. Mr. Mumford said they would put in ditches, because it was not wide enough for curb and gutter. The topic of millings was on an upcoming work session agenda. He said according to the Asphalt Institute's directions on how to use millings, it was no cheaper than using regular pavement.

Councilmember McFadden asked if it would be the same runoff with or without pavement. Mr. Mumford said his engineers say there would be a difference, and that was their concern.

On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION #14-10392 adopting annual Special Improvement Light Maintenance District assessments for Fiscal Year 2015. 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 McCall moved for approval of Item 5, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND RESOLUTIONS spreading assessments on the following Special Improvement Districts.

A. SID 1395, RESOLUTION #14-10393 - curb and gutter, street improvements, sanitary sewer service, and water service on Boca Raton Road between Clubhouse Way and Annandale Road.

B. SID 2905, RESOLUTION #14-10394 - sidewalks along Rimrock Road from Forsythia to Shiloh.

C. SID 2906, RESOLUTION #14-10395 - miscellaneous sidewalk, curb, and gutter improvements in various areas throughout the City.

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 for Items 6A, 6B, and 6C. There were no speakers, and the public hearing was closed.

Councilmember Cimmino moved for approval of Item 6A, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino moved for approval of Item 6B, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino moved for approval of Item 6C, seconded by Councilmember Pitman. 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.

- **Marty Elizabeth Ortiz, 707 1st Street West, Billings, MT,** thanked Councilmembers Bird, McCall, Cromley, Swanson, and Crouch for the dedication they put forward in support of the non-discrimination ordinance. She thanked Councilmember Cromley for attempting to keep the conversation going. Even

though the conversation was over, it should not be. She thanked everyone who supported the efforts of equality, dignity, and fairness.

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

COUNCIL INITIATIVES

- **Cromley**: MOVED to have someone from the State knowledgeable about computers come to Billings or have someone from the Billings IT Department go to Helena to find out the difficulty in making a couple switches in the computers to allow traffic heading south on 27th Street towards the tracks to be able to turn left onto Montana Avenue in a regular sequence even when trains were passing; and to leave the north/south lights green to flush out the traffic for a certain amount of time depending on the stoppage caused by the train traffic. Councilmember Cromley said he thought it would be a fairly simple thing. He had been on the Council almost three years, and they were grappling with the same issue. If they gave the project to any high school computer class, they could probably come up with a solution. Changes had been made, and they had added the shot clocks and synchronized the red lights, so they would not have to re-wire. The motion was seconded by Councilmember Crouch.

City Administrator Volek said a committee organized by the Downtown Partnership was looking into the train issues related to the downtown traffic. She believed some of the issue was railroad switching, and they were trying to work with the railroad to reorganize the switching. She understood they were badly backed up on train traffic. An e-mail from Steffan Streeter of the Montana Department of Transportation (MDT) was sent explaining the mechanisms downtown were quite old, and they were in the process of revising them. Ms. Volek advised arrangements could be made to have a representative from MDT at a work session or the issue could be taken to the PCC.

Councilmember Pitman moved to amend the motion to invite MDT to a work session to provide an update on where they were and their expectations of the 27th Street project they were moving forward with, seconded by Councilmember McCall.

Councilmember Brown said Councilmember Cromley's initiative was to get rid of the traffic back-up and not the train switches or railroad tracks. He asked if there was a way to just ask MDT to change the turn signal.

Public Works Director, David Mumford, advised it was not that simple, and it was not as Councilmember Cromley stated that a high school computer class could do it. Traffic signals were time-sequenced. The computer programs in the downtown signal boxes were old, and MDT was looking to replace all of them in order to make it work. The lights were interlinked and hardwired into the arm gates to hold traffic. They could not just make a simple change. It would cost a significant amount of money. A travel time study was presented to the PCC several months ago. The study indicated it would take a vehicle at Montana and North 27th Street longer to make a left turn, travel to 21st, and go under the underpass than to wait for the train to go by. It was very complicated to get all of

the computers to talk to each other. One change affected areas all the way up 27th and down 1st and Montana.

Mayor Hanel said it also involved signage on the outward areas of downtown, warning devices, etc. for people traveling into downtown that there was a train on the tracks and to use an alternate route. It also involved signage for the railroad. The preliminary estimate was in the neighborhood of \$12 million to upgrade all of the systems. He said progress was being made, and MDT had Billings on their list as a priority.

Mayor Hanel asked Councilmember Cromley if he would agree to have both Mr. Streeter and an IT individual present to answer technology questions at a work session. Mr. Cromley said he would. Councilmember Cromley said he also felt that person could talk to the City's IT Department. Ms. Volek commented MDT would probably contract it out. She was not sure MDT had anyone on staff who was an expert on the equipment.

Councilmember Cromley asked Councilmember Pitman if his amended motion included someone with computer expertise. Councilmember Pitman confirmed it did. Councilmember Cromley said he would like to talk to the person who programmed the traffic lights when they added the shot clocks. Mr. Mumford advised the State's engineering staff did the timing and installation. The City's IT staff did not touch traffic signals.

Councilmember Brown said he supported the amended motion because they could not mandate anything with the lights. All they could do was try to get information and work with them. He would also like to talk to the person who made the changes.

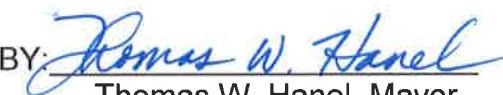
Councilmember Bird asked if what Councilmember Cromley was asking to happen could actually happen. Ms. Volek said given the age of the system, her understanding was the answer would be no.

Councilmember Cromley said he thought they could demand. If it took legislation or going to the governor's office, they needed to get it done.

On a voice vote, the amended motion was unanimously approved. On a voice vote, the original motion, as amended, was unanimously approved.

There was no further business, and the meeting adjourned at 8:27 p.m.

CITY OF BILLINGS

BY: 
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk

