

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 26, 2015

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Thomas W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Yakawich gave the invocation.

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

**MINUTES:** January 12, 2015 (pending)

**COURTESIES:** Councilmember McCall noted Mayor Hanel had turned 60 on Saturday and wished him a happy birthday. She thanked Mayor Hanel's wife, Robin, for the cupcakes she had delivered to the meeting.

**PROCLAMATIONS:** None

### ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek advised she had nothing for ex-parte.

**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. **Landfill Dozer for Solid Waste Division.** (Opened 1/13/2015) Recommend Tractor and Equipment Company; \$596,917.

2. **Aerial Platform Truck for Fire Department.** (Opened 1/13/2015) Recommend delay of award until February 9, 2015.

B. **Professional Services Contract** for W.O. 15-21, Logan Reservoir/Pump Station; HDR Engineering, Inc.; \$74,800.

**C. Approval** of 2015 Budget for Exchange City Golf Corporation (Par 3 Golf Course).

**D. Grant Application Request** to submit FY2015-2016 Montana State Historic Preservation Office Certified Local Government Grant application; \$5,500.

**E. Second/Final Reading Ordinance #15-5636 for Zone Change #928:** A zone change from Residential Professional to Residential 7000 on Lots 4 and 5, Block 2, Justiss Subdivision, generally located northeast of the intersection of South 24th Street West and King Avenue West and addressed as 2313 and 2321 Henesta Drive. Boris Krizek, owner of Lot 4 and Dean Hardin Trust, owner of Lot 5; Lowell Cooke, Agent. Approval of the zone change and adoption of the determinations of the 10 criteria.

**F. Second/Final Reading Ordinance #15-5637 expanding Ward V (Annexation #14-13)** for approximately 1.6 acres located on the northwest corner of the intersection of Shiloh Road and Central Avenue and addressed as 16 Shiloh Road. Leland and Lorraine Wells, owners.

**G. Bills and Payroll:**

1. December 29, 2014
2. January 5, 2015
3. October 1, 2014 through December 31, 2014 (Municipal Court)

Councilmember Cromley separated Consent Agenda Item G2 in order to abstain. Councilmember Brown separated Consent Agenda Item G1 in order to abstain. Councilmember Cimmino separated Consent Agenda Items B, D, and G1 in order to abstain. Councilmember Yakawich separated Consent Agenda Item C. Councilmember McCall moved for approval of the Consent Agenda excluding Items B, C, D, G1 and G2, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved for approval of Item G1, seconded by Councilmember Bird. On a voice vote, the motion was approved 8 to 0.

Councilmember McCall moved for approval of Item G2, seconded by Councilmember Bird. On a voice vote, the motion was approved 9 to 0.

Councilmember McCall moved for approval of Item B, seconded by Councilmember Bird. On a voice vote, the motion was approved 9 to 0.

Councilmember McCall moved for approval of Item D, seconded by Councilmember Bird. On a voice vote, the motion was approved 9 to 0.

Councilmember Yakawich referenced Item C and asked Parks Director, Mike Whitaker, why there was a fee increase. Mr. Whitaker said Par 3 was down approximately \$30,000 in their projected revenues for 2014. He said the national trend showed the number of golfers was decreasing. Last year they had a wet, cool spring, and golf was very weather dependent. Councilmember Yakawich said he knew a part of the fees went to the Exchange Club and asked Mr. Whitaker to explain. Mr. Whitaker said two-thirds of the profit went to the City, and one-third of the profit went to the Exchange Club. He said they would be receiving \$14,000 for 2014. Councilmember Yakawich asked if they were in the hole. Mr. Whitaker said they were not. They were

pro-active, and 2012 was the last time the green fees had been increased. Councilmember Yakawich said golfers he had spoken with complimented the way the grounds were maintained and how the prices were reasonable. He asked how the golfers would know the fees were increasing. Mr. Whitaker said after Council approved the budget, the new fees would be publicized. Councilmember Yakawich moved for approval of Item C, seconded by Councilmember Cromley. Mayor Hanel asked Mr. Whitaker to pass along to the Exchange Club that they did an exceptional job of managing the course. Very seldom did they hear concerns or complaints. City Administrator Volek commented it was an example of a private/public partnership in the City of Billings. It was land that would ultimately be the site of cemetery expansion, if needed. In the meantime, they were providing a valuable service with the assistance of the Exchange Club. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION #15-10419 approving and adopting second quarter budget amendments for Fiscal Year 2014/2015. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Ms. Volek advised there was a detailed list of the items being proposed for change attached to the agenda item. There was no presentation, but staff was available to answer questions.

Councilmember Yakawich questioned the statement in the Alternative Analyzed portion of the staff report that if Council voted in opposition, it would put the City in violation of the Montana Code. Mayor Hanel said City Council had to vote on it, but it did not mean the Council had to approve it as presented. Finance Director, Pat Weber, explained that according to State Law the City had to have a balanced budget for all its expenditures. If the City did not have a balanced budget, it would be in violation. It had nothing to do with accounting standards.

Councilmember Brown asked if the budget amendments had to be approved that evening. Finance Director, Pat Weber, said some Department Heads would like to know if they had budget authority before spending any money. Things happened throughout the year, and some of the money had already been approved by Council and spent. An example would be Council's previous approval to pay the contractor on the Empire Parking Garage. It was a routine budgetary matter to ensure the books were straight.

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

Councilmember Cromley moved for approval of the second quarter budget amendments, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTIONS FOR ANNEXATION #14-06 (RES 15-10420), #14-07 (RES 15-10421), #14-08 (RES 15-10422), #14-09 (RES 15-10423), #14-10 (RES 15-10424), #14-11 (RES 15-10425), AND #14-12 (RES 15-10426): Approximately 18 acres, including road rights-of-way, in the area of East Billings between the East Billings Urban Renewal District (EBURD) and MetraPark. Service Candy Company; Bollinger Trust; Peter Yegen, Jr. Family Trust; Converse Properties, LLC; Cherry Properties, LLC; Earl L. Keenan, Jr. et al; and Industrial Land and Realty, LLC, owners. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)** Planning Division

Manager, Wyeth Friday, explained the series of annexations had been in the works for quite some time. He showed the locations of each property on a plat map and the limits of annexation map; as well as, photographs of each property. The effort was to bring as many area properties as possible into the City, to move forward with improvements in the area, and later on to bring the area into the East Billings Urban Renewal District (EBURD). The Billings Industrial Revitalization District (BIRD) Board and City Staff had worked very hard with the property owners in the area to bring the petitions to the City Council. Mr. Friday said there were 12 properties and seven property owners. Each annexation had a separate resolution conditioned the same that an Annexation Incentive Development Agreement be executed. Mr. Friday advised as part of the process, the annexations would take in all of the adjacent street rights-of-way, as per State Law. City Staff would be returning to the City Council in February or early March to annex the other rights-of-way in the area to keep everything in alignment and facilitate the larger infrastructure project moving forward for all of the streets. They were currently working with the County to quitclaim rights-of-way to the City, which would come before City Council for approval at a later date. Mr. Friday said each property met the following criteria of the Annexation Policy.

1. The areas are located within the Limits of Annexation.
2. The City is, or will be, able to adequately provide municipal water and sewer services to the properties (a large infrastructure project funded through the EBURD TIF is in the design stages and is expected to be constructed in 2015).
3. Any existing or proposed public improvements within the area to be annexed must meet City standards. To provide continuity of jurisdiction and match the area of the public infrastructure project, the City is proposing to annex all of the road rights-of-way in the area, not just the rights-of-way adjacent to the properties that are petitioning for annexation. The additional road right-of-way annexation (Annexation #15-01) will come before the Council in February.
4. If annexed, any proposed land use will comply with the zoning. The properties are currently zoned Controlled Industrial and will remain zoned that way when annexed into the City. However, Planning Division staff is working with the Billings Industrial Revitalization District Board and property owners in the area to develop an interim zoning to achieve the vision in the Exposition Gateway Concept Plan adopted by the City and County in 2013.

Staff was recommending that City Council hold a public hearing and individually approve the resolutions annexing the properties subject to the following conditions.

1. An Annexation Incentive Development Agreement & Waiver will be executed between the property owner and the City.
2. Prior to site development, a Development Agreement shall be executed between the owner(s) and the City; and/or
3. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of Special Improvement Districts shall be approved and recorded.

Mr. Friday advised the Annexation Incentive Development Agreements and Waivers had been signed by the property owners and were provided to the City Council with the staff report. He said there were a few of the subject properties that had already

made improvements; and it was noted by the Fire Marshal that the Fire Department would conduct inspections within the next several months on those properties if they were approved for annexation that evening to make sure they met the required State Fire and Building Codes.

Councilmember Brown asked what the requirement was to bring the entire area into the EBURD. Mr. Friday said the first step would be to bring the properties into the City. The current Urban Renewal Plan for the EBURD area would then be amended to include the properties, which involved meeting certain criteria. He said if the proposed annexations that evening were approved, it would come back to City Council at a later date. Councilmember Brown asked if individual properties could be brought in one at a time or if multiple properties needed to come in together. Mr. Friday advised it would be best if the entire area came in together, but they could be brought in one at a time.

Councilmember Yakawich said he was excited to see them move forward because it was a blighted area to some degree. He asked if the infrastructure would be taken care of by the owners, as well as the EBURD. Mr. Friday advised the design contract for infrastructure improvements had already been approved by Council. Improvements would bring the rights-of-way to City standards and mirror the type of standards that would be rebuilt in the EBURD area as much as possible; such as boulevard sidewalks, street improvements, bulb-outs at certain intersections, and different types of parking along the streets. The project would make the improvements all at once. There could be some components where the property owners would make additional improvements when developing their own properties.

Councilmember Cimmino said the whole premise was to improve the Billings Exposition Gateway and attract businesses such as lodging, restaurants, shopping, visitor attractions, etc. She said she read a Billings Gazette article that there was a proposed carwash in the area and asked how it played into the Gateway Concept Plan. Mr. Friday said there was a proposal for a carwash project on the property at the corner of 4<sup>th</sup> Avenue North, Main Street, and Exposition Drive. It was in the conceptual stages with the anticipation the property would be annexed into the City. The area was within the Exposition Gateway Concept Plan, and development identified and envisioned in the Exposition Gateway Plan was different than a carwash. The properties were currently zoned Controlled Industrial, and there was no zoning overlay or design standards. Current or short-term development, whether in the City or County, was following Controlled Industrial standards and not bound to any zoning at the current time. Councilmember Cimmino said the idea of long-range planning was to have a vision and plan for the future. She said even though the hotel industry was booming because Billings was a destination site, she did not feel the area would be appealing to someone wanting to build a hotel next to a carwash with the noise levels. There were already businesses along Main Street that included car washes. She was a little concerned about it, but she would see how it all played out.

Councilmember Cromley said the EBURD area had a special zoning configuration and asked if there was a possibility the properties could avoid being rezoned into a complimentary zoning configuration. Mr. Friday said the current plan approved for the area was the Exposition Gateway Concept Plan. The Plan spelled out types of expected and anticipated uses and development in the area, but it was not currently zoned to that. He noted the current zoning in the adjacent Industrial Sanctuary was different than the eventual, anticipated zoning for the area.

Councilmember McCall called for a point of order. She said the hearing was strictly on the annexations and not how particular properties were going to be developed. She felt it was an important topic, but it should be discussed at a different time.

The public hearing was opened.

- **Charlie Yegen, no address given**, said he thought they were on the verge of finally making something of East Billings. The annexations were a terrific opportunity for the petitioners to become part of the City and begin paying their fair share for services they had been deficient of for years and years. As a long time property owner, he was very much in favor of the annexations and saw them as an opportunity for the City to continue to grow and prosper to the east.
- **Sherm Supola, no address given**, said his wife's family owned the building at 611 4<sup>th</sup> Avenue North, and they were in favor of the East End annexations.
- **Patty Nordlund, 1810 Camden Drive, Billings, MT**, said she had worked on the project since 2004, and she was excited they had come this far. She urged City Council to approve the annexations.

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

Councilmember Cromley moved to approve the resolution for Annexation #14-06 (Bollinger property), seconded by Councilmember Bird. Councilmember Cimmino asked if the petitions for the 12 properties were included in one application or if each property paid its own fee and went through the process individually. Mr. Friday said they were individual petitions with annexation numbers. The BIRD helped organize the petition documents and brought them to City Staff. They paid one annexation fee because they were petitioning to annex all the properties at once. Councilmember Cimmino asked if each property owner paid their portion of the fee. Mr. Friday said he did not know how it was arranged with the property owners because they received one payment through the BIRD. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved to approve the resolution for Annexation #14-07 (Bentz property), seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

Councilmember Cromley moved to approve the resolution for Annexation #14-08 (Yegen property), seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved to approve the resolution for Annexation #14-09 (Converse property), seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Cromley moved to approve the resolution for Annexation #14-10 (Berry property), seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved to approve the resolution for Annexation #14-11 (Keenan property), seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

Councilmember Cromley moved to approve the resolution for Annexation #14-12 (Stratford property), seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

#### **4. BILLINGS CLINIC ANNEXATION AND ZONE CHANGE REQUESTS**

**A. PUBLIC HEARING AND RESOLUTION #15-10427 FOR ANNEXATION #14-14: An un-platted, 80-acre parcel of land generally located on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road. Billings Clinic, owner and petitioner; Sanderson Stewart, agent. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)** Planning Division Manager, Wyeth Friday, displayed a photograph, a plat map, and the Limits of Annexation Map showing the location of the subject property. He noted the annexation would include existing right-of-way along Howard Avenue on the south and a road easement for the extension of Broadwater Avenue on the north. The petition was in accordance with the City's Annexation Policy and the following criteria.

1. The area must be within the Red Area of the Limits of Annexation Map.
2. The City must be able provide adequate services within a time period mutually agreed to by the owners and the City.
3. Existing/proposed public improvements must meet City standards.
4. Property owners within the area to be annexed must sign a Waiver of Right to Protest the creation of Special Improvement Districts.
5. Residential densities within the area to be annexed must equal or exceed four dwelling units per acre.
6. The proposed land use within the area to be annexed must conform to the goals of the City of Billings and Yellowstone County Growth Policy.

Councilmember Brown asked how the annexation met with the City's plan to extend Broadwater Avenue. Mr. Friday said the property to the north had a concept master plan in place that extended Broadwater Avenue. The Billings Clinic was also anticipating the extension of Broadwater Avenue. Howard Avenue to the south would also be extended. There was existing right-of-way, and additional right-of-way would be provided at the time the Billings Clinic developed the property. He said the property may develop in pieces and not all at the same time. The main streets in the area for connectivity were already contemplated to be continued, and there would be internal streets and pathways. Councilmember Brown asked if the City had a timeline for extending Broadwater and Howard Avenues or if it would coincide with development of the property. Mr. Friday said his understanding was that they would be built as the project developed. Staff was recommending that City Council conduct the public hearing and approve the resolution annexing the property based on the following conditions of approval.

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

2. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of Special Improvement Districts shall be approved and recorded that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements.

Councilmember Yakawich said he was always concerned about fire and police protection. He understood when the proposed property was located in the red zone it meant the City could pretty much cover it. Mr. Friday said the idea of the red area was that the City, based on analysis for services and infrastructure in the area, could deliver services. Councilmember Yakawich said they were dealing with the reality of the lack of police, and Council needed to count on staff to give them the green light as they annexed properties. Mr. Friday advised the Fire Chief and Police Chief were both present to provide answers to questions on public safety.

City Administrator Volek noted from the staff report that the property was currently served by the Billings Fire Department through the Billings Urban Fire Service Area, and the Billings Fire Department would continue to serve the property upon annexation. According to the Fire Chief, as this and other annexations were built out, additional fire department resources would be needed. The nearest fire station was Station #7 located at 501 54<sup>th</sup> Street West, approximately 2.5 miles northwest of the subject property. Ms. Volek noted from the staff report that the Police Chief stated while the property was in close proximity to an existing patrol area, continued development and annexation would eventually affect the department's ability to deliver services unless it obtained additional resources. She said the departments were saying they would do their best to provide service, but the question was how long they could continue to do so for additional properties barring additional revenue.

Councilmember McCall said they needed to look at when Billings Clinic would develop the property. Mr. Friday said the applicant and agent were present and could provide an answer.

The public hearing was opened.

- **Pat Davies, 1300 N. Transtech Way, Billings, MT**, said he was with Sanderson Stewart, the agent for Billings Clinic. He asked for Council's approval of the annexation. He said there were no plans or anticipated timelines for development. The entire 80 acres would not be developed at once. The property would be developed in phases.

Councilmember Brown asked if they were talking 5, 10, or 20 years. Mr. Davies said at that point in time there had been no specific discussions on timelines.

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

Councilmember Crouch moved for approval of Item 4A, Annexation #14-14, seconded by Councilmember McCall. Councilmember Swanson said he would abstain because he served on a committee involved in the Billings Clinic's acquisition of the property. Councilmember Brown said he supported the annexation; but he, too, was a little concerned about stretching fire and police. Councilmember McCall said she agreed with Councilmember Brown. Billings Clinic had been a good business and partner in



Billings, and she believed it would take some time before the property was developed. It would be great to have them in that area. Mayor Hanel said he was in favor of the motion. Billings and the region was noted for its medical services of all kinds. There was concern for future public safety services that would need to be addressed; but it had been a concern for the last 50 years and would be a concern for the next 50 years. On a voice vote, the motion was approved 9 to 0.

**B. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #929: A zone change from Agriculture Open-Space to Planned Development with an underlying zoning of Community Commercial with special provisions for medical services, complementary uses and residential development on an unplatted, 80-acre parcel of land generally located on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road. Billings Clinic, owner; Sanderson Stewart, agent. Zoning Commission recommends approval of the zone change and adoption of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Planner II, Nicole Cromwell, said now that the annexation had been approved, the applicant was proposing a special zoning for the property. She showed a zoning map of the subject property and surrounding properties, an aerial view, a Google Earth view, and photographs. The Planned Development zone with an underlying zoning of Community Commercial being proposed by the applicant was specialized just for their particular use of a medical campus with uses that were compatible and complimentary to the proposed medical uses. There could be no bars, casinos, or similar types of uses that would normally be allowed in a Community Commercial zone. She said alcohol service could be allowed if it were associated with a convenience grocery store or restaurant. Ms. Cromwell showed a very preliminary concept drawing of the first minor subdivision for the property showing four lots with frontage on Shiloh Road, an entrance from Shiloh Road, and the development of Broadwater Avenue as a collector street and Howard Avenue as a local access. She noted the Functional Classification Map adopted by the City and County did not complete 44<sup>th</sup> Street West as shown on the preliminary concept drawing; and instead moved it slightly left and brought it back down to meet Central Avenue. Ms. Cromwell advised the Zoning Commission conducted a public hearing on January 6 and was recommending approval and adoption of the following ten criteria.

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is consistent with the following goals of the Growth Policy:

- *Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)*

The proposed zoning would allow Billings Clinic to develop new medical services in West Billings similar to other institutional uses on the east side of Shiloh Road. While there are existing agricultural uses to the north and west, it is likely these properties will also annex and develop in a similar urban pattern in the future. An existing rural neighborhood to the south may be affected by the development. The proposed PD has adopted the Shiloh Corridor Overlay district standards and a height limit adjacent to all property lines to mitigate potential impacts. The zoning district is compatible with the

neighborhood character and land use patterns.

*2. Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

*3. Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. Development of the agricultural land in the city after annexation, zoning and subdivision approval will promote the public health and safety of the adjacent residential neighborhood by providing public water and sewer and other public amenities to the area.

*4. Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning and subsequent subdivision will have an impact on the surrounding transportation systems. Mitigation of these impacts will be required as part of the subdivision approval.

Water and Sewer: The City will provide water and sewer to the property. There should be no additional impact to the system from the proposed zoning.

Schools and Parks: There may be a limited impact to schools from the proposed zone change. Residential development is an allowed use in the PD zone. It is unknown the type or mixture of housing choices that would be developed at this time.

Fire and Police: The subject property will be served by city public safety services. The Police Department had no concerns with the zone change and the Fire Department will be involved in the subdivision approval process. Access for emergency services will be assured through this process. Fire Station #7 is approximately 2.5 miles north and west of the Billings Clinic property.

*5. Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

*6. Will the new zoning effect motorized and non-motorized transportation?*

The new zoning will have an effect on vehicle and pedestrian traffic. The Shiloh Road frontage has a multi-use path already developed. The proposed PD will have internal private streets and requires safe and convenient pedestrian access between uses. Traffic generated will be determined at the time of subdivision and development.

*7. Will the new zoning promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow medical services, related uses as well as residential development in a growing area of West Billings.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*

The proposed zoning does consider the character of the district and the suitability of the property for a mix of uses, services and housing types in the neighborhood.

9. *Will the new zoning conserve the value of buildings?*

The property is currently vacant and used for agricultural production. The value of existing buildings should increase when the property is developed.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*

The proposed zoning will permit medical services and related facilities in this area of area and is an appropriate use.

The public hearing was opened.

- **Pat Davies, Sanderson Stewart, 1300 N. Transtech Way, Billings, MT,** said he was asking for City Council's support and approval of the zone change. He said representatives for Billings Clinic were present to answer any questions.

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

Councilmember Crouch moved for approval of Item 4B, Zone Change #929, seconded by Councilmember Brown. Councilmember Swanson advised he would be abstaining for the same reason stated in Item 4A. On a voice vote, the motion was approved 9 to 0.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE**

**#930: A text amendment to Section 27-306 of the Billings, Montana, City Code allowing dog grooming in Neighborhood Commercial zoning districts and prohibiting outdoor kennels or exercise areas associated with dog grooming. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)** Planner II, Nicole Cromwell, advised there was no formal presentation. It was a minor amendment to the zoning regulations as brought forward to the City Council by Ed Jorden. City Council initiated the amendment on November 24, 2014. The Zoning Commission held a public hearing on January 6, 2015, and voted unanimously to recommend approval. The County Zoning Commission also held a public hearing and would be recommending approval to the County Commissioners the following day.

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

Councilmember Crouch moved for approval of Item 5, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND SPECIAL REVIEW #921: A special review to allow a 120-unit assisted living and memory care facility on property legally described as Lot 1, Block 1, Lenhardt Square Subdivision, 1st Filing, generally located at the southeast corner of South 44th Street West and Monad Road in the Lenhardt**

**Square Planned Development. Stock-Naughton, LLP, owner; Sanderson Stewart, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Planner II, Nicole Cromwell, advised the City Council approved a special review for 100 units last summer. The plans had changed, and the applicant now wanted to build 120 units. She showed a zoning map and photographs of the subject property and surrounding properties, the new site plan and design, the landscaping site plan, the elevation plan of the proposed building, and an aerial view of the property. She noted Monad Road was initially not going to be completed with the first special review approval; however, since then St. Vincent Healthcare, the Lenhardts, and Mr. Stock had discussed completing the connection to the north. Ms. Cromwell said the multi-family townhomes with the initial project were nearing completion. The Zoning Commission was recommending approval based on the following six conditions.

1. The special review approval is for the construction of an assisted living and memory care facility with 120 units.
2. The approval is limited to Lot 1, Block 1 of Lenhardt Square Subdivision, 1st Filing, generally located on S 44th Street West.
3. Increases in the number of units or the number of off-street parking spaces greater than 10% of the numbers shown on the site plan will require additional special review approval.
4. The site will be developed in substantial conformance with the submitted site plan dated 12-08-14. Minor modifications to the site plan are acceptable.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

Councilmember McFadden asked if Monad Road at Shiloh Road would be extended another four blocks. Ms. Cromwell said that was correct.

Councilmember Cimmino asked if the 120 units on 8 acres would be single occupancy. Ms. Cromwell advised they did not consider unit counts in a special review. If it were a standard, multi-family apartment building they would look at lot area per unit. The current project was a specialized-type of dwelling so it did not have a dwelling to lot area ratio. Councilmember Cimmino referenced the sentence in the Financial Impact portion of the staff report that read, *"Additional city services will be provided such as police, fire, and other public safety services."* She asked if that was with any development or the subject development in particular. Ms. Cromwell said it would be with any development. She was just noting that city services would be required with the development.

Councilmember Brown asked if it was contingent upon Monad Road being developed the extra four blocks. Ms. Cromwell advised there was a one-lot subdivision currently under review that required improvements for Monad Road. Because of the length of the temporary dead-end street and the types of uses that were proposed, the Fire Department wanted a full, second access for entering and exiting the property.

The public hearing was opened.

- **Pat Davies, Sanderson Stewart, 1300 N. Transtech Way, Billings, MT**, asked the City Council for support of the special review.

Councilmember Yakawich said fire safety was on his mind, and asked if the design for sprinkler systems was comprehensive. Mr. Davies said it had to meet all the current fire and building codes.

- **Jan Rehberg, 4401 Highway 3, Billings, MT**, said she was one of the original owners of the property who developed the master plan and the Planned Unit Development Agreement for the Lenhardt Square development. She said within the Planned Unit Development Agreement there was a requirement that the site and architecture be submitted for review to insure consistency with the design guidelines developed for the community. She said it was not being done at this point and could be done later, but when the first special review was approved there was a specific condition that read, *"The developer shall obtain the Reviewer's written consent in accordance with Article IV.G. of the Planned Development Agreement for Lenhardt Square."* She said it was not contained in the current conditions being presented that evening, and they would like to make sure the condition was still included. It served as a reminder as they were going through the various reviews that the process needed to be completed. Ms. Rehberg said they did not have a problem with the assisted living facility, and it would be a necessary addition to their development scheme and the city. They just wanted to make sure the site plan and the actual architecture of the building received the final run-through.

Ms. Cromwell said Condition #7 from the previous special review approval that Ms. Rehberg referenced had been inadvertently omitted and said City Council's motion for approval that evening could include the addition of the condition.

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

Councilmember Cimmino moved for approval of Special Review #921 with the addition of Condition #7, as noted, seconded by Councilmember Crouch.

Councilmember Yakawich noted again his concern for fire and police safety. He knew they were in a dilemma when trying to expand. There would be 120 individuals who would need police and fire protection. He hoped the city could understand the need for additional resources.

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, MT**, distributed a document listing various properties in Street Maintenance Districts 1 and 2 that showed Tax Code, Property Owner or Use, District #, Amount of Assessment, and the Zone

Classification. He said there were gross mis-statements made by Public Works Director, David Mumford, the previous week when he said it was capped at 9600. That was not the fact. Mr. Mumford said the County did not pay, yet the County did pay. Mr. Nelson said he was really concerned. This was one of Mr. Mumford's primary programs, and he did not even understand the basics. Mr. Mumford did not understand how it was assessed, the limitations, or who was assessed. Mr. Nelson said it would cause him concern as a Council to have Mr. Mumford explaining it to them and asking them to make a decision when he was so incompetent of the facts of his program. Mr. Nelson reviewed the various properties listed and the amounts of the assessments. He said they were told the property owners downtown were paying seven times what the rest of the property owners paid, and he could not find that with the properties he had listed. Mr. Nelson asked why it had been mis-stated. It was amazing to him because the facts were readily available, and no one checked them. He asked what was going on with the Street Maintenance Districts and why the downtown property owners were always whining because they were being over-assessed when they were not. Mr. Nelson said if the downtown property owners were so concerned about cleaning up after the downtown events, perhaps the Strawberry Festival and the Farmer's Market could be moved out of downtown. He was sure there were other businesses outside of downtown who would open their parking lots to the events. Mr. Nelson said according to the comparisons he provided, the downtown property owners were getting a great deal.

Mayor Hanel asked Mr. Nelson how he would feel about combining both districts with no increase. Mr. Nelson said he still believed the downtown property owners received additional services beyond what was necessary. Mr. Nelson asked why the City of Billings was not allocating the cost of its buildings to the departments and divisions. The cost of everything else was allocated except Street Maintenance. He thought the only buildings downtown that did not pay were owned by the City of Billings. If the City allocated the costs, it would bring down the costs tremendously for the downtown property owners and spread the service among all the taxpayers within the General Fund. Mayor Hanel asked if Mr. Nelson felt there was a possibility, if it were to work financially, to combine both districts with no increase. Mr. Nelson said it might, but there were still some service level issues.

Councilmember Bird asked Mr. Nelson why he selected the properties he did for his comparison and why there were three different assessments for the GW Building. Mr. Nelson said it was the way it was laid out in the tax code. He said he selected the properties to demonstrate it was not capped at 9600. He said it was the arterial street fee that was capped at 9600. He said he did not know where the 7 to 1 ratio stated by Councilmember Cimmino came from because his handout did not show a 7 to 1 ratio. Councilmember Bird asked Ms. Volek to respond on Mr. Mumford's behalf. Ms. Volek said she was not familiar with the individual properties and how the comparison of similar downtown properties was being undertaken. She said she had no reason to doubt Mr. Nelson's numbers, and she would discuss it with staff.

Councilmember Cimmino asked Mr. Nelson if his handout was strictly Street Maintenance Fees from the property taxes and nothing else. Mr. Nelson said that was correct. Councilmember Cimmino said they were told several times

by staff and property owners the ratio was 7 to 1, and she was just echoing what she had heard. She confirmed with Mr. Nelson the amount referenced to Randy Hafer was for just one property. Mr. Nelson said, as he understood, it was just for his property on Minnesota Avenue. She noted Mr. Hafer was a downtown developer and paid assessments on the multiple properties he owned. Mr. Nelson said that was also true of other multiple property owners.

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

**COUNCIL INITIATIVES** There were no initiatives.

There was no further business, and the meeting adjourned at 8:10.

CITY OF BILLINGS



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

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk