

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 13, 2015

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 Crouch gave the invocation.

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

MINUTES: March 23, 2015 – Councilmember Cromley moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Police Department - Citizen Certificate of Award: Police Lieutenant Dave Cardillo introduced Brandon Wallace of Western Skies Towing. Lieutenant Cardillo advised on March 30, 2015, a police officer was attempting to make an arrest; and during the arrest the officer became involved in a physical altercation with the suspect. Brandon was in the area on an unrelated tow call and jumped in to assist the officer. The suspect attempted to flee, and Brandon chased after him and helped the officer apprehend him. Lieutenant Cardillo said the officer received a shoulder injury and if it were not for people like Brandon, the officer could have been more seriously hurt.
- Mayor Hanel congratulated City staff for another successful annual employee recognition service award event held on April 9. There were several employees with 35-plus years of service and one employee with 40 years of service. Mayor Hanel asked Ms. Volek to express the City Council's appreciation to the employees for their dedication and service.
- Councilmember Crouch noted Billings was celebrating its 130th Birthday on April 14th.
- Councilmember Bird acknowledged and congratulated MSU-Billings on its 47th annual pow-wow held on campus the past weekend. The dancing was stunning, and the costumes were magnificent. Councilmember Bird challenged those who had never attended a pow-wow to attend next year or to attend Crow Fair. Both events were a telling visual of what was taking place in Montana and the country long before westward expansion.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- Item L – Acceptance of Warranty Deed for a street tract for Barrett Road from School District #2. Staff is asking that the item be removed from the

agenda due to a recent change in ownership of the property. The warranty deed would be updated with the current ownership information and brought back to the Council at a later date.

- **Item Q - Resolution relating to Tax Increment Urban Renewal Revenue Refunding Bonds, Series, 2015; authorizing the issuance and private negotiated sale.** A copy of an e-mail from Kevin Nelson, dated April 11, 2015, to the Mayor and Council asking that the item be tabled until a public hearing notice was advertised; and a copy of an e-mail from Dorsey Whitney Law Firm, dated April 13, 2015, responding that it was their legal opinion a second public hearing was not legally required were on Council's desk and filed in the ex-parte notebook.

Mayor Hanel asked if anyone in the audience had intended to speak on Item L. No one came forward. Councilmember Cromley moved to remove Item L from the Consent Agenda and place it on the April 27, 2015, council agenda, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

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.

- **Luke Walawander, 219 W. Main, Laurel, MT**, referenced Item C and said he was the Economic Development Director of Beartooth RC&D. He asked Council to approve their annual MOU request. It had been a very busy year for them, and they looked forward to continuing their service to Billings and Yellowstone County. He said he was available to answer questions.
- **Steve Zeier, 5415 Summerstone Avenue, Billings, MT**, said he was speaking on behalf of the South Billings Urban Renewal Association. He referenced Item A2 and the alternate to place conduit in Calhoun Lane for installation of streetlights at a later date. The South Billings Urban Renewal Association Board was asking that Council not award the alternate as part of the bid. The streetlight maintenance district was not approved, and the property owners did not want to assess themselves for energy and maintenance. The Board felt adding the conduit would be overkill and not necessary. Councilmember Brown asked if it would save money down the road to install the conduit now versus waiting until later when they would have to tear up the streets for the installation. Mr. Zeier said it would save money, but it was his understanding there could be problems with the conduits filling in with silt or being cut by other utility activities.

Mr. Zeier referenced Item G and said the property owners in the Miller Crossing Subdivision, the City, and bond counsel had agreed to make changes to the Development Agreement. Both sides of the table were making certain

concessions. The property owners would no longer be reimbursed for approximately half of their SID assessment. One of the challenges to the current Development Agreement was the property owners received half now and once Miller Crossing reached a certain threshold, they would receive all; and once another threshold was reached, they would receive all plus what they had paid into the SID in the past. It was advantageous to the City and the property owners. It was a win-win situation for everyone.

Mr. Zeier referenced Item Q and said in order to continue to make neighborhood improvements in the district they needed more commercial development and more tax increment funding to occur. It would be in the best interest of all parties to make sure the assessments were taken care of.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Item Q and said the City was going to bond a bunch of money and pay off the SIDs for Walmart, Cabela's, and the developer out of Chicago. It was a nice parting gift as they left town with about \$2 million of Billings' taxpayer money. They breached the agreement. Mr. Nelson suggested terminating the agreement for cause. He said a public hearing should be held because as far as he knew there had not been one. Councilmember Cimmino clarified it was Sam's Club and not Walmart.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 12-31 East End Storm Drain Improvements, Phase II.** (Opened 2/24/2015) Recommend COP Construction, LLC; \$7,622,290.
2. **W.O. 13-15 Calhoun Lane Improvements.** (Opened 3/24/2015) Recommend Knife River; \$2,515,778.83.
3. **W.O. 14-09--Briarwood Reservoir Expansion.** (Opened 3/31/2015) Recommend Western Municipal Construction; \$3,043,112.
4. **W.O. 14-13; Elysian Area Water & Sanitary Sewer Extension.** (Opened 3/24/2015) Recommend Western Municipal Construction; \$3,187,168.50.
5. **Ponderosa School Path.** (Opened 3/31/2015) Recommend delay of award until April 27, 2015.
6. **Reroofing IP-9 Office Building and Portions of Airport Terminal Building.** (Opened 3/24/2015) Recommend Progressive Roofing; \$253,500.
7. **Interior Painting of Airport IP-9 Office Building.** (Opened 3/24/2015) Recommend rejection of sole bid.

B. License Agreement Renewal with PM&M, LLC, Max E. Thornton, and Katherine K. Thornton Testamentary Trust for access to Briarwood Reservoir site; at no cost to the City.

C. Memorandum of Understanding with Beartooth RC&D Economic Development District; \$9,871.54 annual expense.

D. Approval of Assignment and Transfer of the Commercial Aviation Ground Lease from Industrial Properties, Inc. to Daniel W. Wells and Julane Wells, Joint Tenants; the Revised Commercial Aviation Ground Lease with the Wellses; and the Lessor's Consent to Assignment to Secure Bank Loan.

E. Approval of 20-year West End Hangar Ground Lease to Morledge-Hampton Family, LLC (4/1/2015-3/31/2035); revenue first year - \$1,309; revenue subsequent years adjusted by CPI-U.

F. Approval of 10-year Commercial Non-Aviation Ground Lease for Use as a Communications Equipment Site with Network Information Systems (5/1/2015-4/30/2025); first year revenue - \$10,000; revenue subsequent years adjusted by CPI-U.

G. Amendment to Miller Crossing Development Agreement.

H. Amendment #3, W.O. 12-43, Water Treatment Plant (WTP) Backup Power, Phase III, Professional Services Contract, HDR Engineering, Inc.; \$11,700.

I. Amendment #19, Airport Engineering Services for Pavement Condition Index (PCI) Survey, Morrison-Maierle, Inc.; \$60,410.

J. Confirmation of Probationary Police Officers - Ryan Kramer, Jeremiah Adams, and Jeffrey Stovall.

K. Perpetual Right-of-Way Easements with Gary Armstrong, Jock and Kathy Clause, Quarnburg Farming, and Leroy and Norma Walter for W.O. 14-13, Elysian Area Water & Sanitary Sewer Extension.

L. Acceptance of Warranty Deed for a street tract for Barrett Road from School District #2.

M. Acceptance of Federal Aviation Administration Airport Improvement Program Grants for 2015.

N. Second/Final Reading Ordinance #15-5651 for Zone Change #933: A zone change from Residential 9600 to Residential 6000 on a 17,500 square-foot parcel of land described as Lots 15-19, Block 1, College Subdivision, 1st Filing, located at 1229-1239 Poly Drive. Approval of the zone change and adoption of the determinations of the 10 criteria.

O. Resolution of Intent #15-10440 to create SILMD 316, Josephine Crossing Subdivision, and set a public hearing date of May 11, 2015.

P. Resolution #15-10441 authorizing the issuance and calling for the negotiated sale of up to \$435,000 pooled special improvement district bonds (SID 1382 and SID 1397).

Q. Resolution #15-10442 relating to Tax Increment Urban Renewal Revenue Refunding Bonds, Series 2015; authorizing the issuance and private negotiated sale. (SID 1385 - South Billings Boulevard Urban Renewal District)

R. Resolution #15-10443 approving \$3,700,000 Water System Revenue Bonds, Series 2015; authorizing the issuance and fixing the terms and conditions (DNRC Drinking Water State Revolving Loan Program).

S. Approval of amendments to the Subdivision Improvements Agreement and Declaration of Restrictions on Transfers and Conveyances for Skyview Ridge Subdivision, 1st Filing.

T. Final Plan of Lee Manufactured Home Park Subdivision generally located on the south side of Sharron Lane between Lake Elmo Drive and Main Street in the Billings Heights; Han B. Lee and John Johnson, owners; Blueline Engineering, agent.

U. Bills and Payroll:

1. March 9, 2015
2. March 16, 2015
3. March 23, 2015

Councilmember Cromley separated Consent Agenda Items A6, G, and Q. Councilmember Yakawich separated Consent Agenda Items H and I. Councilmember Cimmino advised she would be abstaining from Consent Agenda Items H, U1, U2, and U3. Councilmember Brown advised he would be abstaining from Consent Agenda Items I and U3.

Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items A6, G, H, I, Q, U1, U2, and U3, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich referenced Item H and asked Public Works Director, Dave Mumford, for the rationale of the amendment. Mr. Mumford said during construction the contractor found portions of the wiring did not match the as-builts from which the project had been designed. That required the consultant to assist staff and the contractor much more than anticipated on the best way to move forward with the unexpected wiring challenges. Once they had gotten into the project, they found there were other modifications that could be done during the construction to ensure all pump stations and reservoirs remained on-line during power outages. Councilmember

Yakawich asked if the problems could have been avoided. Mr. Mumford said there was a balance that happened during the design phase. The consultant went to the field, looked over the design of the existing building, reviewed the as-builts, and designed from there. A lot more time could have been spent during the design stage tracing every wire to make sure everything matched the as-builts, which would have made the design much more expensive; or they could have designed the project with the idea that there may be a few items that would occur in the field that would need to be addressed. Councilmember Yakawich moved for approval of Item H, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

Councilmember Yakawich referenced Item I and asked Director of Aviation and Transit, Tom Binford, for an explanation of the amendment. Mr. Binford explained airport professional services contracts were term contracts with civil engineering firms, architects, financial planners, and air service development consultants. The Federal Aviation Administration (FAA) generally allowed a term of five years to do civil engineering work. Once a firm was selected through the request for proposals process, a base contract was created for a 5-year period and a fee schedule was set. Every time the airport had a new project, an amendment was made to the base contract. He noted the base contract had no specific amount; but as they did the individual projects, those amounts added up. He noted the FAA had to approve the fee schedule for each project prior to staff coming to Council for approval. Mr. Binford advised if they tried to do a separate selection based on how the FAA requirements were established, they would have done 19 requests for proposals, 19 reviews, and 19 new agreements. Once the 5-year period ended, they would issue another request for proposals. The number of amendments under a base contract depended on how many projects were done during the term of the contract. Councilmember Yakawich asked Mr. Binford to talk about the rejection of the bid for interior painting of the Airport IP-9 Office Building that was also on the agenda. Mr. Binford advised staff based their estimate on painting of the terminal building done in the past. Only one bid was received, and it came in very high. The painting project required night work, and the tenant of the building would be required to move the furniture every night for the painters. The lone bidder inflated his base price because he was concerned furniture would not get moved, and his crew would not be able to get in a full night's work. Staff elected to reject the lone bid and do the painting in-house. Councilmember Yakawich moved for approval of Item I, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

Councilmember Cromley referenced Item A6 and asked Mr. Binford what type of roofing would be installed, its life expectancy, if using a metal roof had been considered, and why the huge difference between the engineering estimate and the bid amount. Mr. Binford said for the size of the roofs and the weather conditions they received such as hail and wind, the rubberized roofs worked very well for them. Life expectancy was approximately 20 years. Mr. Binford said the reason they received such a good bid was because the Missoula roofing company was in Billings doing two school projects; and they scheduled the project so they could do it at the end of the season and get better prices. Staff based the engineer's estimate on recent projects; but in this case, timing was the key. Councilmember Cromley moved for approval of Item A6, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Cromley referenced Item Q and moved for approval, seconded by Councilmember Crouch. Assistant City Administrator, Bruce McCandless, referenced his handout. He noted the City started creation of the South Billings Boulevard Tax Increment District/Urban Renewal District in 2007. In August 2007 Cabela's approached the City with interest in developing property in the Miller Crossing area between South Billings Boulevard and Orchard Lane and King Avenue East and I-90. The City Council, subject to public hearings, created the South Billings Boulevard Tax Increment District in December 2007. Improvements to King Avenue East were needed to include road widening, traffic signals, and storm sewers; and because King Avenue East in that area was a major arterial street, the property owners within Miller Crossing and other community members benefited from the improvements. Mr. McCandless advised the City was unable to sell tax increment district bonds during the 2008-2011 recession period because of the weak bond market. He said even the special improvement district bonds the City did sell were at a rate of 8%, which was unheard of for municipal bonds even during that period; and the bonds were subsequently refunded because of the high interest rate. In August 2008, because the City was unable to sell the tax increment bonds for the improvements to King Avenue East, the City and Miller Crossing property owners entered into a development agreement where the property owners agreed to pay 100% of the street improvement costs through an SID. The City created the SID and sold the SID bonds. Also included in the development agreement was the promise the City would reimburse the Miller Crossing property owners for the SID payments to the extent that Miller Crossing properties generated tax increment; and the City had been doing so. Also included in the development agreement was that when the property generated enough money the City would refund the SID bonds by issuing TIF bonds. Mr. McCandless advised this year the Miller Crossing property was generating about \$78,000 less than was necessary to pay the annual SID payments. He said if Council approved the development agreement amendments and the bond sale, the \$78,000 would be paid by the remainder of the tax increment district. It was not an extra tax; everyone paid the same amount of tax whether there was a tax increment district or not. It was just that the increment was dedicated to certain projects; and in this case, it would be dedicated to the repayment of the TIF bonds, which in turn, had refunded the SID bonds. Mr. McCandless noted that if the Council approved the amendments and the bond sale, it would end the obligations of the property owners for continued payment of SIDs and release the City's obligation to reimburse the property owners out of the tax increment. He said as the property within Miller Crossing continued to develop, the intent was that it would generate the tax increment that would be greater than what was necessary to make the TIF bond payments. At that point, the extra money would contribute to additional projects within the district. Mr. McCandless noted Mr. Nelson had made reference to the 5-year term for development of the property. He said in the restated agreement in 2008 it did state that the developer believed he would be able to completely develop the property within five years; however, there were no obligations either by the developer or the City that were tied to the 5-year timeframe. Mr. McCandless said he did not believe there was any basis for Mr. Nelson's statement that the project needed to be terminated because the developers were in default of the agreement.

Councilmember Yakawich said Mr. Nelson had mentioned a public hearing and asked if a public hearing had been held. Finance Director, Pat Weber, said a public hearing had been held in 2008 on the Miller Crossing project. Bond Counsel stated when the district was created there had to be a plan; and the plan included a public hearing. When the SID bonds were sold, a public hearing was not legally necessary because the property owners representing 100% of the property petitioned the City to sell SID bonds. Mr. Weber said Council could postpone the item that evening and schedule a public hearing if it wanted; however, according to Dorsey Whitney, the City's bond counsel, it was not necessary. In order to meet advertising requirements, the public hearing could not be held until May, and he was currently on schedule with the underwriter to sell the bonds by July 1.

Councilmember Cimmino commented it was a classic example of a public investment for private development; and the four developers only met 60% of the agreement. Mr. Weber said it was not for private development; it was for an arterial street that was public. He said that was what the whole bond sale was about. King Avenue East was public infrastructure and a public investment. Councilmember Cimmino said she had heard from people with different viewpoints. The City met its commitment and provided the infrastructure improvements; but the four out-of-state tenants did not meet all of their obligations according to the development agreement. Ms. Volek advised the tenants had generated tax increment revenue, and the City had been using the increment paid to refund the bonds. She said the agreement would be cancelled, and they would need some small portion, until that particular area grew again, from the rest of the TIF district. The SBURA (South Billings Urban Renewal Association) Board was well aware of it and had agreed to it. She said they hoped by relieving the approximate \$3 per square foot additional cost, it would be an inducement to complete construction and development in the area; which would, in turn, generate more TIF revenue.

Councilmember McFadden commented there was public concern someone would be cheated in the deal. Money would change hands so the big companies got off the hook, and the smaller taxpayers would pay someone else's share. He asked Mr. Weber to explain. Mr. Weber advised all the increment was being generated by the big companies who were located in the area. It was not costing individual taxpayers a dime by doing the project. Ms. Volek commented it was a magnificent example of how a TIF district benefited residents in an area. She said Newman Lane near Newman School had been paved, a sewer main was being installed, and Calhoun Lane was being improved; so the property owners were receiving benefits in the district that they, nor the City, could have afforded to pay for without the TIF district.

Councilmember Brown asked if there were potential buyers anticipating the elimination of the \$3/square foot cost. Ms. Volek said she had not heard but early on the City was contacted by several individuals who expressed interest.

Mr. Zeier returned to the podium. He said the \$3/square foot cost was essentially the "poison pill" of the conversation. There was no shortage of interest. There was a shortage of people willing to assume millions of dollars in additional SID liability or pay an additional \$3/square foot. He said people in retail, hospitality, hotel, motel, and restaurant businesses understood the importance of the South Billings location. Councilmember Brown asked Mr. Zeier if he felt it was a good investment, and if they

were not just speculating someone would buy the land when the \$3/square foot was eliminated. Mr. Zeier said, in his opinion, it was not speculation; it was removal of a barrier. Councilmember Yakawich said the decision was not being made entirely by the City and asked Mr. Zeier to explain. Mr. Zeier said South Billings Urban Renewal Association (SBURA) was a 501(c)(6) non-profit. He introduced SBURA Board Members Floyd Martin and Sam Handley and noted the board met the first Tuesday of every month at the Billings Operations Center to discuss development activities and neighborhood issues and make recommendations for the expenditure of TIF funds.

Councilmember Pitman commented he had done a lot of homework and listened to a lot of people. He said they were literally back to square one where the initial attempt was the TIF District, selling bonds, and moving the project forward. The basic premise at that point was the "leap of faith" that by doing it, they would promote the growth again and get it moving. Did they believe the increment would produce the growth needed to cover the costs?

Mayor Hanel asked Ms. Volek what the outcome would have been had they not floated the money between the two or financed it as they did. Ms. Volek advised the road improvements would not have been built because they could not sell the tax increment bonds.

Councilmember Swanson asked for the timing for making a final decision. Ms. Volek said they would like to start the new budget year with the transition in place. Mr. Weber said if the decision was delayed, it would put him into May; and he was trying to get everything done so he could call the SID bonds July 1. Councilmember Swanson said he would like to see a diagram or hear an explanation of what it would do and the outcome. Mr. Weber said it would retire \$4.8 million of SIDs with tax increment financing revenue bonds that would be over a 25-year timeframe. They would basically be retiring one debt with new debt.

Councilmember Cimmino asked for the funding source of the completed infrastructure improvements. Ms. Volek said it was the SID bonds. Councilmember Cimmino said the statement was made that taxpayers were not paying for any of the improvements; however, every taxpayer was paying the arterial fee. Ms. Volek advised it was prior to the arterial fee. Mr. Weber said there was no arterial fee at that time; so the major part of the project was done with SID money. Councilmember Cimmino asked Mr. Mumford when the arterial fee was approved. Mr. Mumford said he did not remember the exact date. He believed it was 2009. He noted they could not bond against the arterial fee; so it could not be a revenue source.

Councilmember Bird called for the question, seconded by Councilmember McFadden. On a voice vote, the call for the question was approved 8 to 2. Councilmembers Pitman and Cimmino voted in opposition.

Councilmember Yakawich said he was in favor of the motion because he was placing his confidence in Mr. Weber, SBURA, and development of the area.

Councilmember McFadden said he had confidence in the economy of Billings.

Councilmember Bird said she was in favor of the motion because it was prime commercial real estate right off the interstate waiting to be developed, and it would be foolish not to move ahead with it.

Mayor Hanel said he would support the motion because he had faith in the staff's understanding of SIDs and TIF Districts; the SUBRA Board, and decisions of previous Councils.

Councilmember Brown said he was opposed right off the bat; however, in doing a lot of research, he was willing to take the gamble and support it. He said it would stay stalled unless something was done to jump start it.

On a voice vote, the motion was approved 9 to 1. Councilmember Cimmino voted in opposition.

Councilmember Cromley referenced Item G and said he separated the item for a discussion or presentation. Ms. Volek advised there would be no additional presentation. Councilmember Cromley moved for approval of Item G, seconded by Councilmember Bird.

Councilmember Pitman asked if there was any indication as to how much growth was needed to compensate for the \$78,000 shortfall. Did the entire area need built out? Mr. Weber said a 2008 study indicated full growth was about \$500,000 an increment; so that would be about \$230,000 more than the current increment.

Ms. Volek asked Mr. Zeier what percentage of the parcels were developed. Mr. Zeier said a little less than half of the area was fully developed. He referenced Councilmember Pitman's question regarding the \$78,000 shortfall and said Sam's Club was paying approximately \$170,000 annually in property tax; Cabela's was paying approximately \$110,000; and My Place Suites was paying approximately \$65,000. He said one large project or a collection of smaller projects would quickly take care of it. Councilmember Brown asked Mr. Zeier if he could provide a date certain for full development. Mr. Zeier said he could not provide a date certain, but the activities and interest were there; and he felt development would occur very quickly. On a voice vote, the motion to approve Item G was unanimously approved.

Councilmember Pitman moved for approval of Item U1, seconded by Councilmember Bird. On a voice vote, the motion was approved 9 to 0.

Councilmember Pitman moved for approval of Item U2, seconded by Councilmember Bird. On a voice vote, the motion was approved 9 to 0.

Councilmember Pitman moved for approval of Item U3, seconded by Councilmember Bird. On a voice vote, the motion was approved 8 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE relating to the modifications of the East Billings Urban Renewal Area and adopting a modified Urban Renewal Plan, including a tax increment provision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Planning Division Manager, Wyeth Friday, began his presentation noting the East Billings Urban Renewal District (EBURD) was originally created in November 2006. The tax increment had increased and some projects had been completed; a significant amount of long range planning and project planning had occurred; and the City was intending to modify the EBURD to include newly-annexed property and two properties adjacent to the District. He referenced the current infrastructure project in the area of expansion to improve the streets, address stormwater issues, install water and sewer, and install

curb, gutter and sidewalk. Mr. Friday noted state law required that the Urban Renewal Plan conform to the community's growth policy. He said the Yellowstone County Board of Planning reviewed the EBURD Modification Plan in March and determined it was in conformance with the 2008 Yellowstone County and City of Billings Growth Policy. He said City staff and the Billings Industrial Revitalization District (BIRD) staff prepared the modified urban renewal plan, notified affected property owners, noticed the public hearing, and provided the City Council with the ordinance and supporting documents. Mr. Friday showed a map of the existing EBURD boundaries, the new areas that would be included in the expansion of the district, and the street rights-of-way to be annexed into the City. He noted the County had acted to quitclaim any interest it had in the street rights-of-way; and the annexation would come before Council for approval on April 27. Mr. Friday provided the process and schedule, as follows:

- ✓ January 26, 2015, the City annexed 12 properties in the Exposition Gateway Concept Plan area.
- ✓ March 24, 2015, the Planning Board found the modified EBURD Plan consistent with the Growth Policy
- ✓ March 23, the Council approved a Resolution of Intent to Modify the District, Declare Blight, and set a public hearing
- ✓ That evening the Council was scheduled to conduct a hearing and consider first reading of the ordinance modifying EBURD
- ✓ If the City Council approved the ordinance that evening, the Council would conduct a second reading of the ordinance on April 27. The ordinance would take effect 30 days after second reading (*State DOR will review the final documents for compliance with State TIFD laws*).

Mr. Friday advised staff was recommending the City Council conduct a public hearing and approve the ordinance expanding the East Billings Tax Increment Finance District area and modifying the Urban Renewal Plan on first reading.

Councilmember Brown asked if there had been any further interest to annex from any of the other property owners who initially choose not to annex. Mr. Friday said he was not aware of any discussions, but the BIRD staff may have had additional conversations. Councilmember Brown asked what the process would be to annex additional properties. Mr. Friday advised the City Council would consider the annexation requests, and the district would need to be expanded again to include them. He noted the Annexation Incentive Agreements previously approved by the Council would not apply.

Councilmember Bird asked if the properties that did not annex would receive any benefits based on annexation of the other properties. Mr. Friday said they could potentially see some benefit from completion of the infrastructure project. Councilmember Bird asked if the un-annexed properties who could benefit from the infrastructure project would bear any cost. Mr. Friday said it was complicated because there were county properties that already had some services; and it depended on those properties.

The public hearing was opened.

- **Matthew McDonnell, 315 N. 15th Street, Billings, MT**, said he was in support of the expansion, and it was in line with the master plan.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, said there were businesses that let their property fall apart, and the government came in and rescued them. Some of the properties had not been in the City for more than a couple of months, and the City was just shoveling money to them to improve their property. Mr. Nelson said last week Mayor Hanel made a comment that if the poor street people were not ready to “buck up” and pay for the SIDs and improvements, they were not going to get them; yet a business could let its property fall apart, and the government bailed them out by putting in sewer, sidewalks, and curb and gutter. In his opinion, the worthless business owners who could not maintain their property expected government to do it for them. Mr. Nelson said he believed it would increase his taxes. He said he firmly believed a tax increment finance district infringed on the constitutional school equalization funding mechanism and referenced a current bill in the legislature on the subject.

Mayor Hanel told Mr. Nelson they always appreciated his comments; however, for the record, a lot of the information he presented was very inaccurate. Mayor Hanel said the law introduced at the legislature was Senate Bill 474 regarding tax increment financing and the school district, and it had failed. Mayor Hanel said for the record the term “buck up” was never used in reference to the citizens. He did not refer to the citizens in such terms, and he had a great deal of respect for all of the citizens. The fact that the poor streets had not been improved was a decision of the property owners within that subdivision repeatedly. It had been presented three times, and the majority said they did not want an SID or their streets improved.

- **Andy Pirami, 602 N. 14th Street, Billings, MT**, said he was in support of the expansion and improvements. The area needed to be brought back up. It would also help the residents in the area. There were families with kids who could not go out at night, and they had homeless individuals at the top of N. 14th who pitched tents all year round. There were a lot of police calls to the area. The improvements would produce a better workforce and more income for the city and help the city grow.
- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**, said he supported the expansion. It was needed to help the city grow.

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

Councilmember Yakawich moved to approve Item 2, seconded by Councilmember Cromley.

Councilmember Bird asked to hear more in response to the comment that TIF districts were damaging the schools. Ms. Volek advised the basis of a tax increment finance district was that as of a certain date the tax levy was frozen; and the school district, city, and county continued to receive the same property taxes it did before while the tax increment district was in operation. Because tax increment funds could be turned into public improvements, any additional income that came in from development of new property or improvements to existing property went into the tax increment district

to be invested in roads, parking, streetlights, etc. Unless someone made an extremely large improvement in their property, that individual would not pay more property taxes than they normally paid. The value of the entire district would increase as additional structures were built or improvements were made. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #15-10444 vacating the alley within Block 38, Fosters Addition, generally located between North 26th Street and North 27th Street and 7th Avenue North and 8th Avenue North; Honaker Realty and Thomas Properties, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised there was no presentation, but staff was available to answer questions. Councilmember Cromley advised he would abstain from the discussion and vote.

Councilmember Brown asked if the proposed building would be a hotel and if it would cover the utilities that ran down the alley. Mr. Mumford said the applicant wanted a permanent structure over the top; and it was more appropriate to vacate the alley rather than have a permanent encroachment. The utilities would remain in place. Councilmember Brown asked if there was any cost to the City. Mr. Mumford said there would be no cost to the City.

Councilmember McFadden asked if there would still be access to the utilities. Mr. Mumford said they would still have access, and there were manholes on both ends for the sewer.

Councilmember Cimmino asked if the proposed project was in the North 27th TIF District. Ms. Volek said it was not.

Councilmember Swanson asked if the current zoning allowed for a hotel. Mr. Mumford said it did.

Councilmember Brown asked if they would take the whole block. Mr. Mumford said only the KFC restaurant would stay; everything else would be removed.

Councilmember Yakawich asked if there was any opposition. Mr. Mumford said the KFC had some concerns with parking, but the concerns had been resolved.

The public hearing was opened.

- **Bill Honaker, 1334 Briarwood, Billings, MT**, said he was the petitioner for the alley vacation. He said he was assembling the land for a hotel project. He said the hotel developer was from Montana, but he was not allowed to say who it was at the current time. It was a national brand, and they had received a conditioned franchise agreement that week.

Councilmember Bird asked if there would be other commercial enterprises built on the property. Mr. Honaker said it would only be the hotel and the KFC.

- **Bob Murray, 512-1/2 16th Street West, Billings, MT**, asked Mr. Honaker how many rooms would be in the hotel. Mr. Honaker said the hotel would have four stories, which was within the height restrictions, and it was designed for 95 rooms.

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

Councilmember Swanson moved for approval of Item 3, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 8 to 0. Councilmember Cromley abstained, and Councilmember Bird had left the room.

4. PUBLIC HEARING AND RESOLUTION #15-10445 ordering improvements identified in W.O. 15-02, Miscellaneous Improvements Program. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. 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 Pitman moved for approval of Item 4, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION #15-10446 ordering improvements identified in W.O. 15-06, Poly Drive - 32nd Street West to 38th Street West. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director, Dave Mumford, advised the project would install curb, gutter, sidewalk, and pavement. There would be two lanes of traffic with a bike lane on each side. The project was currently out to bid. The bids would be opened on April 28, and construction would begin on June 8. Storm water had been a significant problem in the area, so they would be placing 72 catch basins in Poly.

Councilmember Brown asked if parking lanes would be eliminated. Mr. Mumford said the parking lanes would remain.

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

Councilmember Swanson moved for approval of Item 5, seconded by Councilmember Crouch. 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.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**, said a meeting was held on the west end regarding dog parks, and approximately 54 people attended. The dog park people did an outstanding job at the Heights dog park. The west end needed a dog park the way the city was growing.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, referenced Street Maintenance Fees and distributed a handout. He said one of the provisions in the law was that City Council could choose how to assess a particular district. It could be assessed by lot coverage, frontage, or taxable value. He said he took properties and applied the same multiplier to the assessed value. Mr. Nelson reviewed the differences in assessments on his handout. He said street

maintenance based on taxable value instead of lot coverage, which was currently being done, would be a more equitable distribution; and taxes would be paid on a more equitable basis.

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

COUNCIL INITIATIVES

- **Crouch:** MOVED to segregate one half to a maximum of \$10,000 inside the General Fund for the batting cage net receipts each year to build an account for future replacement, seconded by Councilmember Pitman. Councilmember Crouch distributed and explained figures showing income, expense, and net of the bat cages from 2010 – 2014. Councilmember Cromley asked for the current replacement cost. Councilmember Crouch said he thought it was around \$200,000. On a voice vote, the motion was unanimously approved. Ms. Volek advised, if acceptable, it would be brought forward as part of the FY16 budget and enacted July 1.

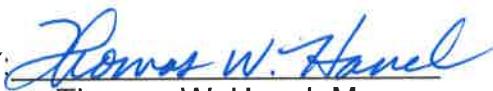
There were no other initiatives.

Councilmember Cimmino requested the policy the City had implemented in terms of cash receipts. She asked for the necessary steps to safeguard the process. Ms. Volek advised she would provide the requested information.

There was no further business, and the meeting adjourned at 8:39 p.m.

CITY OF BILLINGS



BY: 
Thomas W. Hanel, Mayor

ATTEST:

BY: 
Cari Martin, City Clerk