

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

May 11, 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, McCall, Crouch, and Brown. Councilmember Swanson was excused.

MINUTES: April 27, 2015 – Councilmember Cimmino moved for approval, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

COURTESIES:

- AmeriCorps VISTA Project Recognition - Erica Zutz: Tam Rodier, Grants Technician for the Community Development Division, said they were present to recognize and celebrate Ms. Zutz's accomplishments. Ms. Zutz had been serving with the Billings Metro VISTA Project since July 2014, and her project was to positively impact military families in the community. Ms. Rodier said Ms. Zutz developed the Billings Blue Initiative, which brought awareness of military presence in Billings and encouraged appreciation of local service members; she negotiated with local merchants and published a list of discounts available to service members; and she partnered with VFW Post 1634 to raise money for the Military Childcare Scholarship Fund. Ms. Rodier introduced Major John Bleile of the Montana Army National Guard. Major Bleile said Ms. Zutz had increased the sales of the Billings commissary by 33.5% and increased the transactions within the military commissary sale over 56%. He said Ms. Zutz went many miles distributing flyers at every place possible, which resulted in people from out-of-state and from all corners of Montana coming to the commissary sale. Major Bleile presented Ms. Zutz with a Defense Commissary Sale Agency Certificate of Appreciation, a Certificate of Appreciation from the Montana Army National Guard, and a lapel pin. Ms. Zutz recognized several co-workers in attendance, and Major Bleile introduced his son and his wife.
- Mayor Hanel thanked the committee members, volunteers, participants, and city staff for another successful Montana Women's Run held the previous weekend. He congratulated Councilmember Bird for her participation.
- Mayor Hanel thanked Parks Director, Mike Whitaker, for the successful Arbor Day Celebration held May 8.
- Mayor Hanel recognized the boy scouts in attendance. Scout Leader, Jared Lafevre, said the boy scouts were from Troop 6 in the Billings Heights, and they were present to earn their Communications Merit Badge. They would be taking notes and writing a report on the pros and cons of an issue.

- Fire Department – Phillips 66: Ray Rigdon, Phillips 66 Refinery Manager, said they valued the outstanding impact the Billings Fire and Police Departments had on the community; and they were privileged to contribute to meeting the goals of protecting and serving the members of the community as effectively as possible. They looked forward to seeing the impacts of the telecommunications system that would enhance the Fire Department's ability to train and communicate effectively. He said the Police Department would realize great benefit in a new, top-notch firearms training facility. Mr. Rigdon thanked the Police and Fire Departments for their service to make Billings a safer and better place to live.

Fire Chief, Paul Dextrus, introduced Shay Dawson, Phillips 66 Finance and Public Relations. He said Mr. Dawson and Mr. Rigdon were instrumental in granting the \$40,000 to the Fire Department for implementation of the new telecommunications system. The new system would broadcast training to all seven stations. If there were an alarm requiring crews to leave, the system would record the training to be viewed at a later time. Chief Dextrus said the telecommunications system would allow the Battalion Chiefs to visually communicate with the seven fire stations at the same time instead of having to make seven separate phone calls. Chief Dextrus thanked David Watterson, IT Director; Liz Kampa-Weatherwax, Purchasing Agent; Matt Hoppel, Training Officer; and Assistant Fire Chief, Bill Rash, for helping with the implementation of the new system.

- Police Department - Phillips 66: Police Chief, Rich St. John, said the Police Department also benefitted from Phillips 66. The vision was to develop a new firearms range. Their current range belonged to the county and was 20 miles out of town. He said Phillips 66 stepped up to support the firearms training facility. When completed, they would have a facility with two classrooms; a computerized simulator; a 25-yard, two-lane indoor range, and a full firearms range that would support all weapons they used. Chief St. John presented Mr. Rigdon and Mr. Dawson with a plaque in recognition and appreciation of Phillips 66's support for the firearms training facility. He also said none of it would have been possible without the assistance of Public Works Director, Dave Mumford, and his staff who went "over the top" to help the Police Department put it all together and "make it happen."

PROCLAMATIONS:

- National Day of Prayer - May 7, 2015
- Police Week - May 10-16, 2015 & Peace Officer's Memorial Day - May 15, 2015
- Kids to Parks Day - May 16, 2015
- Emergency Medical Services Week - May 17-23, 2015

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek reminded Council of the Budget Work Session scheduled for the following evening (May 12) at 5:30 p.m. in the Council Chambers.

- Ms. Volek advised a handout of Municipal Court Needs was on the Council's desk and would be discussed at the Budget Work Session the following evening.

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. **Waterborne Traffic Paint.** (Opened 4/21/2015) (Delayed from 4/27/2015) Recommend Allstates Coating; Year 1: Gallon Tote - \$9.59 White, \$9.59 Yellow; 5-gallon buckets - \$9.95 White, \$9.95 Yellow; Year 2: Gallon Tote - \$10.07 White, \$10.07 Yellow; 5-gallon buckets - \$10.45 White, \$10.45 Yellow; Year 3: \$10.57 White, \$10.57 Yellow; 5-gallon buckets - \$10.97 White, \$10.97 Yellow.
2. **W.O. 15-02 Miscellaneous Project.** (Opened 4/28/2015) Recommend J & J Concrete; \$394,775.
3. **W.O. 15-04; 2015 ADA Ramp Replacement Project.** (Opened 4/28/2015) Recommend J & J Concrete; \$166,400.
4. **W.O. 15-06 Poly Drive, 32nd Street West to 38th Street West.** (Opened 4/28/2015) Recommend CMG Construction, Inc.; \$3,398,577.
5. **Knuckleboom Trash Loader for Solid Waste Division.** (Opened 4/28/2015) Recommend Solid Waste Systems; \$146,832.73.
6. **Fire Station #1 Roof Replacement.** (Opened 4/28/2015) Recommend Empire Roofing; \$218,252.
7. **Ponderosa School Path.** (Opened 3/31/2015) (Delayed from 4/13/2015) (Delayed from 4/27/2015) Recommend CMG Construction, Inc.; \$182,295.

B. Approval of Assignment and Transfer of the West End Hangar Ground Lease from B & J Properties Limited, LLC, to KW Air, LLC, and approval of Amendment One to the West End Hangar Ground Lease.

C. **Temporary Construction Easements** with River Pointe Edge, LLC; Gary J. Armstrong Living Trust; and Leroy J. and Norma J. Walter for W.O. 14-13, Elysian Area Water & Sanitary Sewer Extension.

D. **Acceptance of Donation** to Billings Fire Department for video conferencing system; Phillips 66; \$40,000.

E. **Approval** of a Downtown Tax Increment District (TID) grant to the Yellowstone Art Museum (YAM) for Phase 1 Jail Restoration Project; \$59,595.

F. **Resolution #15-10452** relating to \$5,170,000 Tax Increment Urban Renewal Revenue Refunding Bonds, Series 2015 (South Billings Boulevard Urban Renewal District); authorizing the sale and prescribing the terms of the bonds.

G. **Resolution #15-10453** authorizing the issuance and calling for the negotiated sale of Tax Increment Urban Renewal Revenue Bonds, Series 2015, (East Billings Urban Renewal Bonds).

H. **Preliminary Subsequent Minor Plat** of Amended Lot 4, Block 1, Exchange Subdivision, generally located at 1148 1st Avenue North; Christian Brothers Real Estate, LLC; Blueline Engineering, agent; conditional approval and adoption of the findings of fact.

I. **Final Plat** of Amended Plat of Central Heights Subdivision 2nd Filing.

J. **Bills and Payroll:**

1. April 13, 2015
2. April 20, 2015

Councilmembers Brown and Cimmino each separated Consent Agenda Items J1 and J2 in order to abstain. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items J1 and J2, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved. Councilmember Pitman moved for approval of Item J1, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 8 to 0. Councilmember Pitman moved for approval of Item J2, seconded by Councilmember McCall. On a voice vote, the motion was approved 8 to 0.

REGULAR AGENDA:

2. **PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward 1 to include recently-annexed property in Annexation #15-01: portions of 6th Avenue North, 4th Avenue North, 3rd Avenue North, 2nd Avenue North, 1st Avenue North, Main Street (Exposition Drive) and some alleys in the area of East Billings; City of Billings, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator

Volek advised staff had no presentation but was available to answer questions. Mayor Hanel noted the item had been presented and discussed previously in a public forum.

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

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

3. PUBLIC HEARING AND RESOLUTION #15-10454 creating SILMD 316, Josephine Crossing Subdivision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no presentation but was available to answer questions. Mayor Hanel noted the item had been presented previously in a public forum.

The public hearing was opened.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**, asked who would pay for the lighting district and if NorthWestern Energy would be involved. Public Works Director, Dave Mumford, advised construction of the lighting would be done by the McCalls. The cost of operation would be assessed against the adjacent property owners once the district was operational. Currently, McCall Development was the single property owner. He said NorthWestern Energy would be involved.

There were no other 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 #15-10455 approving and adopting Third Quarter Budget Amendments for Fiscal Year 2014/2015. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no presentation but was available to answer questions.

Councilmember Brown referenced the amendment for a web-based building permit information map and asked what it would offer the community. Planning Director, Candi Millar, said it would be available for all residents and anyone on the internet to access information on current and past building permits. The accessible information would include the type of permit, the status of the permit, the inspectors' comments, and if a certificate of occupancy had been issued. The accessible information would be valuable to contractors working under a particular permit, as well as to the general public who might be curious about what was going on down the street. The information would also include the number and types of building permits during a given time period and the locations of the work. Ms. Millar said there would be a link on the City's website.

Councilmember Pitman asked if the City would eventually own the software. Ms. Millar said the City would pay annually for the service and not own the software. The service included the ability to link with their existing database and receive daily updates.

There would be ongoing maintenance and service requirements provided by the company. It was a 24-hour service.

Councilmember McCall commented it was an excellent tool to see what was happening in the community, and it provided transparency. She said it would be interesting to see the clustering and the trends throughout the City of what types of building permits had been requested. Ms. Millar said staff was looking forward to the analysis of data the software would provide.

Councilmember Cimmino asked what other Montana communities were using the program. Ms. Millar said none that she knew of. She said Eugene, OR; San Francisco; and a number of other California communities were using it very successfully.

Councilmember McCall commented the software would be a very good topic for the League of Cities and Towns Fall Conference. She felt other municipalities would be very interested in it.

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

Councilmember McCall moved for approval of Item 4, seconded by Councilmember Bird. 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**, asked if people living within county islands inside the city limits would be allowed to shoot off fireworks. Ms. Volek advised the city had an ordinance prohibiting the use of the fireworks in the city limits. It was her understanding the county did not have a similar rule; however, it could be dependent upon the fire conditions at the time. She would check with the County Commissioners and report back at a future meeting.
- **Carol Walsh, 1036 Burlington Avenue, Billings, MT**, said she had a miniature, 25-pound pot belly pig named Pork Chop, and she would like the city's ordinance changed to allow pot belly pigs inside the city limits. Ms. Walsh estimated Pork Chop would grow to weigh between 45 and 55 pounds. They initially got Pork Chop as a pet with the idea she would serve some beneficial properties for her daughter, Bonita, who had multiple allergies, including allergies to cats and dogs. Ms. Walsh said she had spoken with Bonita's pediatrician in March about Bonita's emotional/behavioral issues; and they had found positive benefits of having a pot belly pig. She said her daughter had not been diagnosed with anxiety or an oppositional defiant disorder, but a lot of people found comfort in animals. Ms. Walsh said she was a nurse, so she did not go down easy and she always asked why. She said Pork Chop had gotten out of their backyard, so the neighbors called Animal Control. Pork Chop was considered an animal at large. Ms. Walsh said the neighbor boys let her out, and they had since installed padlocks. She called Animal Control, and she was sick of being told "that's the law, and that's the way it is." As a nurse she did not take that very easily; there

had to be a reason other than "that's the law, and I am just here to enforce it." Ms. Walsh advised there were such things as emotional support animals; and she was told by the Animal Control Supervisor that if she wanted anything changed, she would have to change the law. She said the mental health population was rampant in Billings, and mental health was viewed as an underfunded specialty. If something as simple as an animal could make a person healthy and help with depression or anxiety, she could not see why it would be an issue. Pork Chop brought comfort; she was housetrained; she sat to get food; she stayed in their backyard; and she was like a little dog.

Councilmember Cromley said a lot of cities allowed pot belly pigs and at one time Billings had considered allowing pot belly pigs. He asked Ms. Walsh if she had done any research or knew anything about it. Ms. Walsh said she knew in 2008 the Gazette ran a story about a woman keeping a pot belly pig in her apartment. She said they had neighborhood dogs twice the size of Pork Chop, and Pork Chop did not bark or make any noise. She said she did not understand why it was okay to have three or four barking dogs, and she could not have a pot belly pig that snorted. Councilmember Cromley asked Ms. Walsh if she had researched pot belly pigs in other communities. Ms. Walsh said she had not, but she knew Montana law recognized animals other than dogs as service animals.

City Administrator Volek noted since 1967 the City of Billings had enforced an ordinance that no person shall keep any swine or goats within the city at any time except to bring them to market for commercial services. In 2008 there was a ruling made by City Planning/Code Enforcement staff that a pig was not a domestic pet; and that ruling was upheld by the Board of Adjustment after a public hearing. She said if the Council wished to take an initiative on the subject, staff would move forward with it. She suggested referring the matter to the Animal Control Board and noted the City only enforced when a complaint was received.

Councilmember Brown commented they needed to draw the line but at what point. He recommended the matter be sent back to the Animal Control Board for discussion because pot belly pigs were becoming popular pets. Ms. Volek referenced an article that indicated there were several types of small pigs, and pot belly pigs could grow to weigh 100 to 300 pounds. She said a pig's parents were a good indication what a pig's size would be; however, pigs could breed quite early so a small pig at full maturity could be much larger.

Mayor Hanel told Ms. Walsh that certain subdivisions had restrictions within the subdivision that may control the types of pets allowed. He recommended that she look into possible restrictions in her subdivision.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, played a recording of a barking dog and said that was the issue. He thought it was time to start putting restrictions on owners of barking dogs. The City gave people permission or a license to own a dog, and not everybody had the social skills to own an animal. The Council had an obligation to limit people who could not control their dogs. Mr. Nelson also referenced vehicles that emitted diesel exhaust and smell, noisy motorcycles, and loud car stereos. He said they were quality of life issues, and the City needed to enforce the laws.

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

COUNCIL INITIATIVES

- **McFadden**: MOVED to direct staff to monitor the availability of the downtown post office building so if, and when, it became vacated by the Federal Government, the City could assess the feasibility of acquiring it for the use of the City Courts and Police Department, seconded by Councilmember Yakawich. Councilmember Cromley noted the City was already doing so. Ms. Volek said she understood the post office was seeking tenants and was not currently marketing the building for sale. She said the City was following up on the availability of leases. On a roll call vote the motion failed 6 to 4. Councilmembers Cromley, Cimmino, Bird, McCall, Crouch, and Brown voted in opposition. Councilmembers Yakawich, Pitman, McFadden, and Mayor Hanel voted in favor.
- **Pitman**: MOVED to direct legal staff to look into allowing service animals that were currently prohibited in the city limits. This would include, but not be limited to, pot belly pigs and any other animals that may fall under the classification and report back to the City Council at a work session allowing for a period of public comment, seconded by Councilmember Bird. Councilmember Cromley said if it were a service animal he did not think the City could disallow it. Attorney Brooks said there was a certain, defined service animal; and staff could explore it as part of the initiative. There was a process for an animal to be classified as certified. A service animal was more refined and defined than a lot of people realized. Councilmember Cimmino asked Attorney Brooks if the matter would require a text amendment to the Unified Zoning Code for the Zoning Commission to review. Attorney Brooks said it likely would and added it would not override subdivision covenants as the Mayor mentioned earlier. It would be a joint effort between Planning, Legal, Animal Control, and the Animal Control Board. Councilmember Cimmino asked Attorney Brooks to confirm that subdivision covenants were not enforceable by the City and would be a matter for the District Court. Attorney Brooks said that was correct. Councilmember Brown asked if the initiative would be to define what a service animal was and what animals would be allowed in the City. Councilmember Pitman said that was correct. Councilmember Brown asked if they would postpone action on the pot belly pig issue until a date certain. Ms. Volek said she asked the Police Department to withhold enforcement until Council had the opportunity to discuss it. She asked Attorney Brooks if an animal currently prohibited in the city limits could remain indefinitely in the city limits until a decision was reached; especially since there had already been a complaint. Attorney Brooks said it depended if a pot belly pig could be defined as a service animal. Councilmember Brown said Ms. Walsh had already told them the pig was not a certified service animal and asked if they could set a specific date to have an answer from the Animal Control Board. Ms. Volek said it would be hard to provide a date certain that evening not knowing what research would need to be done. She would check with Legal and report back to Council at the next meeting. If it took several months, it could be an issue. Councilmember Bird asked if the complaint was lodged against Pork Chop

because Pork Chop was running loose or because someone had an issue with a pot belly pig in town. Ms. Volek said she did not know. She advised state code addressed an individual's right to be accompanied by a certified service animal or a service animal in training with identification complying with state code. It addressed the rights of the disabled more than it did the animal itself.

Councilmember Crouch asked Ms. Walsh if the doctor had given her an order. Ms. Walsh said there were service animals, emotional support animals, and therapy animals. Emotional support animals did not fall under the "service animal umbrella." She was told by someone at the animal shelter that it was a new area for Montana, and they did not have a form. Ms. Walsh said her daughter's pediatrician and her PA were willing to write a note stating they had the pig for those reasons.

Councilmember Cromley MOVED to amend the motion to direct the Animal Control Board to consider whether or not pot belly pigs should be permitted in the city limits, seconded by Councilmember Pitman. Councilmember Brown said he would support the amended motion because it was specific to pot belly pigs. On a voice vote, the amended motion was approved 9 to 0. (Councilmember Bird left the room at 7:53 p.m. and was not present for the vote on the amended motion. She returned at 7:55 p.m.) On a voice vote, the original motion was unanimously approved.

- **Yakawich:** MOVED to allocate \$2,500 from the Council Contingency Fund to host an Annual Volunteer Appreciation Luncheon to be held at the City of Billings Parks and Recreation Community Center and specifically invite all City Board and Commission members to attend and accept Certificates of Appreciation and possibly a city pin from Mayor Hanel on behalf of the City Council, seconded by Councilmember McCall. Councilmember Brown asked if they would be asking city staff to plan and coordinate the event or appoint somebody to do it. Councilmember Yakawich said each board had a city representative that could write out the certificates for his/her individual board. Councilmember Brown asked if city staff had the time available. Mayor Hanel said he supported the intention and effort, but he was puzzled as to the logistics because the annual recognition ceremony for city employees typically lasted 2-1/2 to 3 hours with an average of 75 employees. They were talking more than double that amount of people, so it could be an all-day event. Mayor Hanel said he did not oppose the initiative in its entirety, but he felt it would be a lot of people to come together at one time. Councilmember Cromley said he liked the idea, but he had a concern if \$2,500 would be enough, plus it would take some manpower. Councilmember McCall said she felt it was an important thing to do for the individuals who served on the boards and commissions. She felt they could do it in a reasonable amount of time. Councilmember Brown said he agreed that \$2,500 would not be enough and asked if they could get more information on cost estimates. Councilmember Cimmino said she had requested information on the cost of the employee appreciation ceremony from Human Resources Director, Karla Stanton. Ms. Volek advised Finance Director, Pat Weber, had estimated the cost of the employee recognition ceremony was around \$2,800. Ms. Volek said the Parks and Recreation Center was used every day for lunch for the senior population, so

another location would need to be found. Councilmember Yakawich suggested the ball field. Councilmember Yakawich said they could keep the event to an hour luncheon and not recognize everyone individually. Councilmember Cromley suggested a barbecue with the councilmembers cooking. Mayor Hanel asked Councilmembers Yakawich and Pitman if they would be willing to come up with ideas, research prices, locations, and other options and report back to the City Council. Councilmember Bird said she supported the concept, but she questioned whether city staff would have the time; and she felt up to \$5,000 would be a more appropriate amount. Ms. Volek advised she would be happy to help. Councilmember Crouch noted the Police Department honored their volunteers one evening at the ballpark. On a voice vote, the motion was approved 8 to 2. Mayor Hanel and Councilmember Brown voted in opposition.

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

CITY OF BILLINGS



BY 
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk