

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 8, 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, Pitman, Cimmino, Bird, McFadden, McCall, Swanson, Crouch, and Brown.

**MINUTES:** May 26, 2015 – Councilmember Crouch moved for approval, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

### COURTESIES:

- Councilmember Crouch commended the Orrel Housing Development Project.
- Councilmember Bird praised the Friendship House and encouraged others to visit as well.
- Mayor Hanel mentioned the upcoming June 15-17 MT-WY Tribal Leader Council meetings taking place in Billings at the First Interstate Bank Center. The event is open to the public and there is no cost to attend.
- Mayor Hanel also mentioned the City and County's successful involvement with a grant for Justice Assistance.

### PROCLAMATIONS:

- Men's Health Week: The week leading up to, and including, Father's Day
- Drug Abuse and Violence Prevention Week: June 8-13, 2015

### ADMINISTRATOR REPORTS - TINA VOLEK

- **Consent Agenda Item 1G: Donation of Scheels Gift Card:** was removed from the original agenda after the initial agenda publication. All documents have been corrected, including the published agenda. Item 1G was removed, and remaining agenda items were shifted up one space after its deletion.
- **Special Review #926 for LDS Meeting House:** Public hearing was scheduled on 6/22; the church has asked to withdraw its application for special use permit #926. Administration received a letter from J. Roberto Hernandez (Director for Temporal Affairs for Idaho and North America Central Areas) earlier today. Special Review #926 has now been removed from the 6/22 agenda. A copy of the letter is filed in the ex parte notebook.

- **Tribal Leader Council Meetings** taking place in Billings June 15-17.

**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** -- Separations:

A. **Bid Awards:**

1. **W.O. 12-31 Phase I Yegen Drain.** (Opened 5/26/15) Recommend Western Municipal; \$551,760.50.
2. **W.O. 14-14; Reflections Detention Pond Improvements.** (Opened 5/26/15) Recommend Western Municipal, \$87,921.
3. **WO 15-08 Exposition Gateway.** (Opened 5/19/15) (Delayed from 5/26/15) Recommend Knife River, \$2,993,637.25.
4. **W.O. 15-25; 44th Street West Multi-Use Path.** (Opened 5/26/15) Recommend Wharton Asphalt, LLC , \$62,927.11.
5. **SID 1382 Colton Boulevard.** (Opened 5/12/15) (Delayed from 5/26/15) Recommend Wilson Brothers Construction, \$1,121,906.50.

B. **Landfill Agreement** with Yellowstone County; \$165,200 annual revenue for the Solid Waste Fund and \$8,260 franchise fees for the General Fund in FY 2016.

C. **Development Agreement** with Cynthia Johnson for property at 326 North 20th.

D. **Agreement and Purchase** of fusible PVC pipe; Underground Solutions, Inc.;

\$61,763.

- E. Amendment #1, W.O. 15-08: Exposition Gateway, Professional Services Contract, Sanderson Stewart, \$301,150.**
- F. Utility Easements with Northwestern Energy within Harvest and Olympic Subdivisions.**
- G. Acceptance of Montana Association of Planners' \$500 grant for defraying costs of hosting one-day Enforcement Skills Workshop.**
- H. Final Plat of Mont Vista Subdivision, 2nd Filing.**
- I. Resolution relating to \$435,000 pooled special improvement district bonds (SID 1382 and SID 1397), Series 2015; fixing the form and details and providing for the execution, delivery, and security.**
- J. Resolution relating to \$310,000 pooled special sidewalk, curb, gutter, and alley approach bonds; Series 2015, (W.O. 14-02, Miscellaneous Improvements and W.O. 15-06, Poly Drive from 32nd Street West to 38th Street West); fixing the form and details and providing for the execution, delivery, and security.**

**K. Bills and Payroll:**

**1. May 11, 2015**

**2. May 18, 2015**

Councilmember Cromley separated Item 1C. Councilmember Yakawich separated Item 1E. Councilmembers Brown and Cimmino separated Item 1K1 in order to abstain. Councilmember Pitman moved for approval on the Consent Agenda, excluding items 1C, 1E, and 1K1, seconded by Councilmember McCall. On a voice vote, the motion was approved 11 to 0.

Councilmember Cromley referenced Item 1C and asked Dave Mumford, Director of Public Works, whether the existing structure on the property would be torn down or used. Mr. Mumford stated that the existing structure will remain, and will be modified and remodeled. Councilmember Cromley moved for approval of Item 1C, seconded by Councilmember Yakawich. On a voice vote, the motion was approved unanimously.

Councilmember Yakawich referenced Item 1E, and asked Mr. Mumford for further clarification about the \$301,150 amendment. Mr. Mumford stated that administration, construction, and inspection of the project was not awarded at the time of the original contract, since that amount was not known at that time. An additional cost for modifying the existing storm drain at the project site also contributed to the amendment. Councilmember Yakawich moved for approval of Item 1E, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval on Item 1K1, seconded by Councilmember McCall. On a voice vote, the motion was approved 9 to 0, with Councilmembers Brown and Cimmino abstaining.

**REGULAR AGENDA:**

2. **PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #15-08:**  
**Property described as approximately 20 acres, located at the southwest corner of the intersection of Elysian Road and East Lane. Elysian School, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)**  
Wyeth Friday, Planning Division Manager, began a PowerPoint presentation on Annexation #15-08.

Mr. Friday showed a map of the property on Elysian Road and explained that the request for annexation was initiated in 2013. Mr. Friday also noted that the Elysian School is in the process of expanding its existing building and would require access to City services to complete the project. Mr. Friday explained the conditions to approval are for the required improvements to be clearly defined in the development agreement, and for the school to sign a waiver of the right to protest any future SIDs in its area.

Councilmember Brown asked Mr. Friday for clarification on why this property is being annexed. Mr. Friday explained again that the annexation for this property began in 2013. Councilmember Brown commented that schools typically do not require a great deal of police service.

Councilmember Yakawich echoed Fire and Police department concerns that patrolling and servicing this area would create additional burdens on the two departments. Mr. Friday stated that this area was "brought into the red" zone on the map, and typically those properties are on track for annexation. Councilmember Yakawich again expressed concern over difficulties for Fire and Police to service this area.

Councilmember Cromley expressed concerns over the annexation process. He asked Mr. Friday how far this property lies outside of current City limits. Mr. Friday stated that the property is approximately one mile outside of current City boundaries, so the property would initially be an "island." Mr. Friday stated that this is not uncommon, and the properties surrounding the Elysian School will also likely petition to annex into the City in the future.

Councilmember Brown whether Elysian School could still connect to City resources if the property was not annexed. Dave Mumford, Director of Public Works, stated that Elysian School would have to connect to the resources by completing a waiver, but that the School proceeded with construction as planned based on previous discussions. Mr. Mumford stated that the School would face consequences, including significant financial consequences, if the property was not annexed into the City.

Councilmember McCall asked Mr. Mumford for the approximate cost of bringing the City water line to this property. Mr. Mumford stated that the cost has been \$4-5 million. Mr. Mumford again mentioned that the properties surrounding the school would likely be requesting annexation into the City as well, and would be able to use the water line that has been extended to Elysian School. Councilmember McCall thanked Mr. Mumford for reminding Council of the effort that has gone into the Elysian School development so far.

Councilmember Bird asked Mr. Mumford why the developers proceeded with this project if they were not sure that the property would ultimately be annexed (since the developers are at risk of losing a significant investment if the property is not annexed). Mr. Mumford stated again that the process started in 2013, and the property was brought into the red zone in 2014. At the time the project was started, there were no conversations about the inability to serve and annex additional properties. Mr. Mumford stated that the developers and the City moved forward in good faith that the property would ultimately be annexed. Mr. Mumford also noted that the City Fire department is already servicing this area.

Councilmember Pitman stated that whether or not the property is annexed, the water line is still being installed; not annexing the property would mean that the line would be installed at the site, but the School would not be able to hook into it. Mr. Mumford confirmed Councilmember Pitman's statement.

City Administrator Tina Volek clarified that at this time, staff is only asking for annexation of the 20 acres that comprise the Elysian School property, not surrounding properties.

The public hearing was opened.

- **Terry Odegard, 2101 Lake Hills Drive, Billings, MT** stated that he serves on The Heights Task Force. Mr. Odegard mentioned an accident that occurred on Bench Blvd, where a pedestrian was struck and killed by a vehicle. Mr. Odegard stated that he would like to address safety issues and how they relate to new annexations. He suggested a moratorium on certain annexations until "we get a handle on our safety issues in the City." Mayor Hanel asked Mr. Odegard whether he was in favor or in opposition of Annexation #15-08. Mr. Odegard responded that he wants Council to take a good look at it before making a decision and that he personally would not vote in favor of this annexation.
- **Bob Whalen, Superintendent of Elysian School**, stated that if the property is not annexed, Elysian will not be able to open and hold school in August. Councilmember Yakawich clarified with Mr. Whalen that Elysian is not currently

part of School District 2. Mr. Whalen replied that the school is currently in the County, and will not become a part of School District two with annexation. Councilmember Yakawich expressed concerns over student safety due to potentially inadequate response times from Police and Fire units. Mr. Whalen responded that, last school year, the Police department (currently County) was never called, and the Fire department (currently City) was also never called. Councilmember Pitman stated that since the school building is new, it would likely have updated security, therefore lessening even further the potential of having to call the Police department for assistance. Mr. Whalen replied that security at the school will be state of the art (keyed door systems, alarms, sprinkler systems). The sprinkler systems do require access to City water. Mayor Hanel asked Mr. Whalen about the school's enrollment statistics. Mr. Whalen replied that five years ago, the school had less than 100 students; last year, the school had 260; with the expansion of the school, Mr. Whalen is expecting approximately 700 students within the next ten years.

- **Tom Zebruchen, 1747 Wicks Lane, Billings, MT**, urged Council to vote in opposition of this annexation. Mr. Zebruchen stated that the school's investment would not be destroyed if the property is not annexed. Mr. Zebruchen stated that one police call will take services away from taxpayers in the City.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, stated that he is concerned that \$5m has been spent on this project so far, while there are gravel streets elsewhere in the City. Mr. Nelson believes that development in surrounding properties will not take place in the near future.
- **Frank Ewalt, 2131 Phoebe Drive, Billings, MT**, questioned whether surrounding properties will be paying taxes to the City. Mayor Hanel replied that the surrounding properties have plans to annex into the City, at which time they will pay taxes. Mr. Ewalt stated that some Elysian students' families live in Yellowstone County, rather than the City, and therefore do not pay City taxes.

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

Councilmember McFadden moved to approve Item 2, seconded by Councilmember McCall. Councilmember McFadden stated that the City should not penalize Elysian school for an alleged lack of police in the City. Councilmember McFadden stated that the City is expected to continue its growth. Councilmember Bird stated that this property is a natural area to annex, as it is already within the limits of annexation. Councilmember Brown stated that he supports this annexation, but that Council needs to listen to Fire and Police concerns. Councilmember McCall stated that she also supports the motion, as the annexation has progressed throughout the standard process, and that a large amount of work has taken place based on previous conversations. Councilmember Yakawich stated that he hopes that Police and Fire needs are taken into consideration on future annexations, but that he supports this motion based on past discussions and Mr. Whalen's statements. Mayor Hanel noted

that there are growing pains with the City's expansion, and that he is in favor of the motion. On a voice vote, the motion was unanimously approved.

### 3. STREET MAINTENANCE DISTRICTS

A. **PUBLIC HEARING AND RESOLUTION amending the boundaries of street maintenance districts within the City of Billings. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek noted that this resolution would expand Street District #1 to encompass the entire City, including Downtown. Ms. Volek also stated that this item had been previously discussed at work sessions, but that staff was available to answer questions.

Councilmember Pitman asked if there was a map available of the street districts. Public Works Director Dave Mumford replied that the district would encompass the entire City limits. Councilmember Brown asked Mr. Mumford whether this resolution was just for basic street maintenance. Mr. Mumford stated that was correct.

The public hearing was opened.

- **Tom Zebruchen, 1747 Wicks Lane, Billings, MT**, urged Council to vote in opposition of this resolution. Mr. Zebruchen stated that certain zones have higher rates than others. Mr. Zebruchen stated that he believes that residential property owners pay higher rates, and he disagrees with this practice.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, stated that he hopes that the City does not sweep his street because it is gravel. Mr. Nelson also stated that street maintenance services are determined by the City Administrator; Mr. Nelson wanted to know how the increases or decreases in fees would be distributed. Mr. Nelson stated that he does not feel that he is seeing increased services after fees are increased. Mayor Hanel asked Mr. Nelson whether he was interested in having his street paved. Mr. Nelson responded that he is working on a proposal that he will present, but that he needs a few more numbers.
- **Frank Ewalt, 2131 Phoebe Drive, Billings, MT**, asked if there was money left over from street maintenance since this past winter was mild. Mr. Ewalt asked if certain businesses would be reimbursed for costs. Mr. Ewalt stated that there are businesses outside of Downtown, and that those businesses should not have to pay more in order to subsidize Downtown businesses.
- **Terry Odegard, 2101 Lake Hills Drive, Billings, MT**, stated that he did not understand why the street maintenance districts needed to be changed. Mr. Odegard predicted that more levies will fail in the future if Council does not listen to constituents.

Mayor Hanel called Mr. Mumford back for questions. Mayor Hanel asked Mr. Mumford to explain the budget, and if funds are specifically allocated to snow removal. Mr. Mumford stated that the budget for Public Works/Street Maintenance is one budget,

and that funds are not specifically allocated within street maintenance. Mr. Mumford stated that equipment and staff members are still present and will work on other projects if they are not needed for snow removal.

Councilmember McFadden asked Mr. Mumford if approving this resolution would make allocations "more fair." Mr. Mumford replied that when this resolution was first discussed, District #2 was operating under a significant deficit, and required Public Works to pull funds from other areas. Mr. Mumford stated that he saw this resolution as a method to more equity for all properties. Mr. Mumford stated that fees are based on State statute and zoning.

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

Councilmember Cromley moved for approval of Item 3A, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 9 to 2, with Councilmembers Pitman and Cimmino voting in opposition.

B. **PUBLIC HEARING AND RESOLUTION setting annual street maintenance district assessments for FY2016. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**  
Ms. Volek stated that staff did not have a presentation, but was available for questions.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Ave, Billings, MT**, asked why there were different rates for different districts. Mr. Nelson stated that he was being over-assessed for street maintenance services. Mr. Nelson stated that costs should be allocated to all parcels. Mr. Nelson stated that he would like to know who is not paying for street maintenance services.

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

Mayor Hanel asked Mr. Mumford for further explanation on the different rates that Mr. Nelson addressed. Mr. Mumford stated that there was a flat rate fee for street maintenance, and then the additional assessment covers the manpower for services rendered in certain locations.

Councilmember Cromley moved for approval of Item 3B, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 9 to 2, with Councilmembers Cimmino and Pitman voting in opposition.

4. **PUBLIC HEARING AND RESOLUTIONS setting annual FY2016 assessments for Storm Sewer; Arterial Construction; Business**

**Improvement District; Tourism Business Improvement District; Mill Levy Rates for General Fund, Transit, Library, and Public Safety. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Ms. Volek noted that storm sewer and arterial fees are proposed to increase by 2.7% in FY2016, there are no mill increases in FY2016 in the general fund, transit, library, and public safety. Ms. Volek stated that staff recommends to hold one public hearing for all of these levies, but to vote on each resolution separately.

The public hearing was opened.

- **Tom Zebruchen, 1747 Wicks Lane, Billings, MT**, stated that he does not feel that the fee increases are nominal. Mr. Zebruchen stated that fees are increasing at a rate higher than his social security payments are increasing; he asked what to cut from his budget to pay for fee increases. Councilmember Bird asked Mr. Zebruchen what the City should cut from its budget to alleviate fee increases; Mr. Zebruchen stated that the City was increasing payroll at a rate that is too high. Councilmember Bird stated that the City would be forced to cut staff if payroll cuts were made.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, stated that people notice shifting costs. He stated that the Legislature does not trust the City.

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

Ms. Volek read the title of each of the resolutions to be considered under Item 4:

- 1) A resolution making the annual all-purpose mill levy and mill levies for library operating, transit operating, and public safety funds for FY2015-2016: Councilmember Cromley moved for approval of this resolution, seconded by Councilmember McCall. On a voice vote, the motion was approved unanimously.
- 2) A resolution levying and assessing arterial construction fees for properties within the City of Billings: Councilmember Cromley moved for approval of this resolution, seconded by Councilmember McCall. On a voice vote, the motion was approved unanimously.
- 3) A resolution levying and assessing storm sewer fees for properties within the City of Billings: Councilmember Cromley moved for approval of this resolution, seconded by Councilmember McCall. Mayor Hanel noted that the City is required to build certain facilities (such as a storm sewer facility) based on federal law, and thus also faces pressure from the government. On a voice vote, the motion was approved unanimously.
- 4) A resolution assessing all hotels with six or more rooms within the Billings Tourism Business Improvement District \$2 per occupied room night: Councilmember Cromley moved for approval of this resolution seconded by Councilmember McCall. Councilmember Pitman clarified that this resolution is dealing with the TBID, and the fee remained consistent from the previous year.

Mayor Hanel noted that the money brought in from this fee is very well spent. On a voice vote, the motion was approved unanimously.

- 5) A resolution levying and assessing properties for the purpose of providing and maintaining the common area improvements made in the Downtown City of Billings: Councilmember Swanson moved for approval of this resolution, seconded by Councilmember McCall. On a voice vote, the motion was approved unanimously.

5. **PUBLIC HEARING AND RESOLUTION approving and adopting FY2016 Budget. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Ms. Volek noted that the total proposed budget for FY2016 is \$317,144,586, that staff has made several presentations at previous meetings, and that staff is available to answer questions.

The public hearing was opened.

- **Tom Zebruchen, 1747 Wicks Lane, Billings, MT**, stated that the budget increased more than 14% from FY15, and therefore assumed that spending on Public Safety would increase. Spending on Public Safety actually decreased in proposed FY16, and reserves were increased. Mr. Zebruchen stated that money does not come from a fairy wand, and that the proposed FY16 budget is ridiculous. Mr. Zebruchen also questioned why the City is remodeling the Municipal Courtroom.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, stated that he is being over-assessed as a result of unreimbursed costs. He stated that he would like Council to put money into the Public Works budget to complete some unfinished projects such as a section of gravel on 13<sup>th</sup> or 14<sup>th</sup> street, a fence post at 32<sup>nd</sup> and Grand, and pot holes in The Heights. Mr. Nelson also asked which budget is paying for landscaping along the roads.

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

Mayor Hanel asked Dave Mumford, Public Works Director, to come forward to answer questions. Mr. Mumford stated that maintenance/landscaping in street rights of way is paid by street maintenance fees, as there is not a general fund in Public Works. Regarding the unfinished projects that Mr. Nelson mentioned, Mr. Mumford stated that the property at 32<sup>nd</sup> and Grand is still County property, not City property. Mr. Mumford stated that he would like to see the other areas repaired as well, but they are local streets and would require SID creation, and currently there is not a place for storm drains in these areas.

Patrick Weber, Director of Finance, stated that the FY16 budget is larger than the FY15 budget. One reason for the increase is a \$60m sanitary sewer project for the Wastewater Treatment Plant. In regards to the Police Department budget, Mr. Weber stated that many of the officers in the department are newer/younger, and other

officers have retired. Mr. Weber also stated that there are not any cost of living increases in the Police budget because the City is currently in negotiations. Mr. Weber stated that the City will need to take approximately \$1.2m from reserves to finance Police and Fire in FY16.

Councilmember Cimmino asked for clarification on the \$60m sanitary sewer project. Mr. Mumford stated that \$60m is the cost of the current phase of the project and that there will be additional phases in the future, as mandated by the State and Federal governments.

Councilmember McCall asked about the Courtroom remodel and asked for the amounts of both a full remodel as well as a partial remodel. Ms. Volek stated that the full remodel would be \$310,000 and the partial remodel would be \$165,000.

Councilmember McCall moved to approve Item 5, with option 2 (\$165,000 partial remodel), seconded by Councilmember Bird.

Councilmember Yakawich moved to amend the motion, and to remove all courtroom remodels (full and partial) from the budget until further review after the City Master Plan for facilities has been completed. Councilmember Cromley seconded the motion. Councilmember Brown asked if both remodels addressed security issues, to which Ms. Volek responded that they do. The partial remodel does not include lobby expansion; Councilmember Brown stated that he supports the partial remodel.

Councilmember Swanson asked Councilmember Yakawich if there was a reason to wait to decide on the remodel. Councilmember Yakawich stated that he would like to wait until to review the facilities Master Plan; he believes that there may be security issues, but that the Municipal Court has better security than the Yellowstone County Courtroom. Councilmember Cromley spoke in favor of Councilmember Yakawich's amendment, and stated that he would like to wait to review the Master Plan.

Councilmember Swanson asked when the Master Plan would be completed; Ms. Volek responded that it would be brought to Council on July 6<sup>th</sup>. Councilmember Bird asked Ms. Volek when the last time the City Hall building, particularly the Municipal Courtroom, was assessed for ADA compliance. Ms. Volek requested for Assistant City Administrator Bruce McCandless to respond. Mr. McCandless replied that the last thorough audit was conducted approximately seven or eight years ago, and that the City entered into a consent decree with the Department of Justice to make the corrections suggested in the audit; some of the work is still ongoing, but the City has completed 90-95% of what it agreed to complete so far. Councilmember Bird stated that she believes the City needs to address ADA issues, as well as security issues.

Mayor Hanel asked Ms. Volek for a history of the matter. Ms. Volek stated that the action of security improvements and the action for the remodel was brought forward by a Council Initiative approximately two years ago. Mayor Hanel stated that there is a concern for both accessibility and security. Mayor Hanel mentioned his concerns with the smaller rear courtroom and that there is only one door in and out, which only leaves the window as an additional means of exiting. Mayor Hanel stated that he does not think Council should wait to review the Master Plan, and noted the potential risk of liability if a security-related incident should occur. Councilmember Cromley asked

whether the remodel would impact ADA accessibility, and Mr. McCandless replied that no measurable impact would occur from either remodel options. Mr. McCandless stated that the remodel would make access to the back courtroom more convenient and more secure. Mr. McCandless stated that both option one and option two would increase security, as visitors would no longer enter the staff areas behind the security door leading to the Courtroom. Councilmember Brown stated that the Master Plan would need to be reviewed if ADA issues were going to be addressed in the remodel. Councilmember McCall clarified that she is concerned with safety and security, especially for staff. Councilmember McCall stated that the facility plan would likely take five years to come to fruition. Councilmember Cimmino stated that she does not support holding up FY16 budget based on this one special budget request, but that she appreciates Councilmember McCall's motion which reaches a compromise on the remodel issue. Councilmember Cimmino voiced her support for waiting to review the Master Plan; she also noted that there is a police officer present at regular Council meetings, but not at work session meetings and that she does not understand why. Councilmember Cimmino thanked Councilmember Bird and Councilmember McCall for reaching a compromise on the remodel issue. Councilmember Bird stated that the original initiative led Council and the City to a commitment to examine the needs of the space. Councilmember Bird also noted the space issues and needs within City Hall. Councilmember Bird voiced her support for the \$310,000 full remodel, but also voiced support for the partial remodel as it addresses many of the existing issues. Councilmember McFadden stated that he supports voting for the budget as-is, including the court remodel, but that Council should address specific remodeling needs for the Courtroom at a later time. Ms. Volek asked for Mr. McCandless to discuss the Master Plan. Mr. McCandless stated that the Master Plan will be a long-term view of the space needs of the City, and will not really address the Courtroom remodel in particular, as it is a short-term solution. Mr. McCandless stated that there would likely be recommendations for new construction, new leased spaces, etc. and that the projections are typically going to be long-term projections for ten years from the present time. The Master Plan will likely not address short-term needs or projects. Councilmember Swanson stated that Council should listen to the concerns of staff, as they are the ones who work in this space every day, and that Council should approve this right away based on immediate needs. Councilmember Pitman stated that he supports approving the budget, but that he will likely want to make some changes to it six months down the road. Councilmember Yakawich stated that he does not see the Courtroom remodel as critical at this time, and that Council should wait to address the issue at a later time. Councilmember Bird stated that she feels it is irresponsible to hold up passage of the budget for one small project, and that court security is a pressing issue. Councilmember Cromley stated that he does not feel that Council is irresponsible for discussing this project. Councilmember Cimmino reminded Council that there were five previous work sessions discussing this issue, and thanked City Administrator Volek and staff for thorough presentations and for delivering the budget manual. Councilmember Cimmino called for the question on the amended motion, seconded by Councilmember Cromley. Mayor Hanel called for a round of applause for all of the work that staff put into preparing the budget for FY16. City Attorney Brent Brooks reminded Council that it would need to vote on the motion to call the question

before voting on the amended motion itself. On a voice vote, the call for the question was unanimously approved. The amended motion to remove all Courtroom remodels from FY16 budget was decided by a roll call vote, and the motion failed by a vote of 3 to 8; Councilmembers Cromley, Yakawich, and Cimmino voted in favor of the amended motion while Councilmembers Pitman, McFadden, Bird, McCall, Swanson, Crouch, Brown, and Mayor Hanel voted in opposition of the amended motion.

Councilmember Cromley called for the question on the original motion to approve the budget with the \$165,000 partial Courtroom remodel, seconded by Councilmember Crouch. On a voice vote, the motion to call the question was approved 9 votes to 2 votes, with Councilmember Bird and Councilmember Yakawich voting in opposition. On a voice vote, the motion to approve the budget with the partial Courtroom remodel was approved by 9 votes to 2 votes, with Councilmembers Yakawich and Pitman voting in opposition.

**PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the council chambers or at the podium.)**

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, mentioned that City Administrator Volek had previously stated that she provided comments in memo form regarding the budget and wanted to know how he could access that memo. Mr. Nelson stated that he believes the City is growing at 1% per year, and that he doesn't believe the City will double in size within the next 20 years. Mr. Nelson also stated that he will ask the Revenue Transportation Committee to examine how much money the State is spending on roadside landscaping. Mr. Nelson asked if it is City policy to landscape along roadways.
- **Joe Schmidt, PO Box 134, Billings, MT**, stated that he believes the carpet in the Courtroom does not need to be replaced. Mr. Schmidt addressed a problem with the driveways that are along the entryway into the park. Mr. Schmidt stated that he would like the curbs to be painted yellow in no-parking areas, as there are safety concerns with cars parking in no-parking areas. Councilmember Yakawich stated that there is a legitimate safety concern regarding parking along the curbs in this area. Councilmember Brown stated that he felt this issue had been previously discussed, and City Administrator Volek stated that she would look into it.

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

## **COUNCIL INITIATIVES**

- Mayor Hanel would like for staff to examine the City's health insurance contract. Mayor Hanel stated that he is uncomfortable with the current process, and believes that area hospitals need to have the opportunity to bid to be the healthcare provider for the City at least every 3-4 years. Mayor Hanel moved to open the bid

process to area hospitals within the next 12 months, seconded by Councilmember McCall. Councilmember Swanson stated that Council should consider existing legal documents that are in effect and would need to be amended. Councilmember McCall stated that the City has received excellent service from St. Vincent Healthcare, but that it is prudent for the City to allow for the bidding process. Councilmember Brown asked City Administrator Volek what the internal cost would be for changing primary providers every couple of years. Ms. Volek responded that she did not know the cost at this time, but that she had previously spoken with Human Resources Associates regarding this topic; she also stated that contracts of considerable significance typically run for 5-10 years. Ms. Volek noted that employees often build relationships with physicians, and changing providers every few years would limit the ability to build those relationships. Ms. Volek requested that Council consider a minimum of five years for the proposed new program, as the burden to switch providers every couple of years would be eased on employees and their families. Ms. Volek also noted the potential issue that, under the existing contract, employees were to have the final say in health insurance providers, as employees pay for their insurance. Ms. Volek stated that EBMS, the City's third party provider, would be responsible for soliciting bids and that process could take some time. Mayor Hanel stated that both hospitals in Billings should have a fair opportunity to bid to provide services for the City. Councilmember Cromely asked for clarification on the City's insurance policies. Ms. Volek stated that when the initial insurance discussions took place in 2000, the insurance program was borrowing from the reserve funds. At that time, the City solicited bids from providers, and the final contract did not have a termination date built into it. Councilmember Swanson stated that City Council should be responsible for making the insurance decision. Ms. Volek responded that she would need to review the union contracts, and noted that City employees contribute a portion to health insurance, and that the City also contributes a portion. Councilmember Cimmino stated that the current contract is valid indefinitely. Councilmember Pitman clarified that the Mayor's motion is to open bids within a 12 month period, and proposed the idea of bringing this topic to a work session. Councilmember Pitman also pointed out that the current contract did have a termination date, but that it automatically renewed recently. Councilmember Bird stated that she agrees with the Mayor's concerns, but suggested spending the next year looking at the insurance process. Councilmember Bird stated that the City would be doing a disservice to employees if they were forced to switch providers every couple of years; she also stated that there is the option of considering a multi-provider option so that employees may choose which provider to visit. Councilmember Cromley asked Mayor Hanel if he was comfortable having this initiative discussed at a future work session. Mayor Hanel replied that he would support discussing this initiative at a work session. Councilmember McFadden stated that he is generally supportive of this initiative, and Council should not be reading so far into the negative implications of switching providers. Councilmember Pitman moved to amend Mayor Hanel's motion, and for this initiative to be discussed at a work session within 60 days, seconded by Councilmember Yakawich. Mayor Hanel stated that he was in favor of Councilmember Pitman's amended motion.

Councilmember Crouch called for the question on the amended motion, seconded by Councilmember Cimmino. On a voice vote, the motion to call the question was approved unanimously. On a voice vote, Councilmember Pitman's amended motion was unanimously approved.

- Mayor Hanel discussed the Burn the Point event. The event has taken place in Billings for over 30 years and raises a large amount of money for various charities. The organizer for Burn the Point was informed that, due to City ordinance and based on the permit the event received, the event would need to shut down by 11:00pm. The organizer contacted Mayor Hanel to discuss the possibility of continuing the event until its previous ending time. Mayor Hanel moved to allow the event to continue until a later time (as it had in the past), seconded by Councilmember Pitman. City Administrator Volek stated that she believed the event went until midnight in the past. Councilmember Cromley stated that the petitioner had the right to appeal the end time allowed by the permit. City Attorney Brent Brooks offered to email a recent copy of the noise ordinance. Mayor Hanel stated that Burn the Point will be relocating to Laurel for future events if the ending time is not extended. Councilmember McCall asked Councilmember Cromley if events such as The Billings Classic have later ending times. Councilmember Cromley stated that believed that the Billings Classic does have a later ending time. Councilmember Brown asked whether the Burn the Point festival would need to appeal the ending time each year, based on the new ordinance. Mayor Hanel replied that yes, the Burn the Point festival would need to appeal the end time allowed on their permit each year, since there is not a grandfather clause in the new noise ordinance. Mayor Hanel clarified that his motion was to allow Burn the Point to host its event as it had in the past. City Attorney Brooks stated that thought it would be helpful to look into the event's past to see how late it was typically allowed to operate. Mr. Brooks also stated that the noise ordinance does allow for appeal. Mr. Brooks cautioned that Council would also likely need a public hearing on this topic, as it would be voting on a substantive matter with significant public interest. Mr. Brooks recommended for Council to allow staff to research and send information on the ordinance and the Burn the Point event. Councilmember Cromley stated that he may have previously misspoken about events that are allowed to go past the ordinance time. Councilmember Cimmino clarified that the Burn the Point event would like to relocate to Laurel because of the new ordinance; she noted that the City should strive to keep the event in Billings. Mayor Hanel stated that the organizers of the event would like to run their events on the same schedule as previous years, that they did not want to go through the appeal process on the ordinance, and that the organizers are from Laurel and will take the event there. On a voice vote, the motion was approved by 10 votes to 1 vote, with Councilmember Cromley voting in opposition. Councilmember Cromley noted that many residents and business owners in the area have concerns over noise, and would likely attend a public hearing on this matter. Mayor Hanel moved to reconsider the original motion, seconded by Councilmember Pitman. On a voice vote, the motion to reconsider the motion was unanimously approved. Mayor Hanel moved to add the item to the 6/22 agenda to allow for public hearing, seconded by Councilmember Pitman. Councilmember Crouch called for the question, seconded

by Councilmember McFadden. On a voice vote, the motion to call the question was approved unanimously. On a voice vote, Mayor Hanel's motion was approved unanimously.

- Councilmember Yakawich stated that there was an issue with property located at 100 Emerald. Councilmember Yakawich stated that the property was possibly overlooked when it was zoned. The petitioners of the property asked for the property to be rezoned as residential professional. City Administrator Volek stated that Council would need to take initiative to initiate the rezoning process. Councilmember Yakawich moved to initiate the process of rezoning 100 Emerald, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.
- Councilmember Cimmino requested to use \$23,000 in Council contingency funds to finish the disc golf course at High Sierra. A group of students from Skyview completed fundraising efforts and raised partial funding for the project. The plan for the course has already been completed. The total cost of the project is \$51,000, and \$28,000 had been budgeted for the project. Councilmember Cimmino moved to use \$23,000 in contingency funds to construct a disc golf course, seconded by Councilmember Pitman. Councilmember Brown stated that he thought there was going to be more fundraising for this project from the private sector. Councilmember Cimmino stated that she believed the fundraising project was ongoing; corporate sponsors or individuals are still able to donate funds for the project. Councilmember Cimmino stated the importance of supporting the parks in the community. City Administrator Volek stated that the \$28,000 is from the budget of Park Maintenance District I, rather than the General Fund. Councilmember Cimmino agreed with Ms. Volek. Councilmember Bird thanked Ms. Volek for the clarification. Councilmember Bird asked for clarification on which action Council is voting on. Ms. Volek stated that Council would be voting on creating a resolution to allocate \$23,000 from the Council Contingency fund; the resolution would be brought before Council for the June 22<sup>nd</sup> meeting. Councilmember Cimmino stated that she felt the timing for this project was perfect because there would still be enough time to approve the resolution in FY15. Councilmember Cromley noted his support of this project, as it would benefit Pioneer Park. On a voice vote, the motion was unanimously approved.

**ADJOURN:** There was no further business and the meeting adjourned at 9:57 pm.



CITY OF BILLINGS

BY   
Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

BY: 

Billie Guenther, City Clerk