

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 22, 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 Pitman gave the invocation.

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

MINUTES: June 8, 2015: Councilmember Crouch moved for approval, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel stated that there was a water main break near the Clocktower Inn downtown, and that water was temporarily turned off on that property while repairs were made. Mayor Hanel received a phone call from the owner of the Clocktower Inn asking to please convey his appreciation on the prompt response and repair of the water main. Mayor Hanel passed along appreciation to Dave Mumford, Public Works Director, and to City Administrator Tina Volek and staff.
- Mayor Hanel stated that the organizer of the Heart and Sole Race would like to pass appreciation onto Ms. Volek and staff for their support and work with the race.
- Mayor Hanel noted the success of the Tribal Leader Conference that took place last week. Ms. Volek explained that the group is now called the Rocky Mountain Tribal Leader Conference, and 60-100 people attended the event during each of its three days. The conference was a success, and several topics were discussed, including reducing drug use.
- Councilmember McCall also commented on the Tribal Leader Conference and noted that it was a wonderful event, thanks to Ms. Volek and the City becoming actively engaged with the event. Ms. Volek noted that the contributions of the VISTA program as well as private agencies and Native American groups propelled this event's success.
- Councilmember Crouch noted that the Tribal Leader Conference was one of the first times that the City and Tribal Leaders sat down in a setting where everyone was treated as equals. In response, Mayor Hanel also thanked Police Chief St. John for the Police Department's involvement in this event.
- Councilmember Crouch stated that this is currently the Holy Month of Ramadan for people of the Muslim faith. This means that members of the Muslim faith will fast from sunrise to sunset. Councilmember Crouch stated that these individuals are dedicated to their faith, and that everyone should remember and respect their serious commitment to their faith.
- Councilmember Yakawich discussed the Juneteenth event which took place at South Park, and was sponsored by the Black Heritage Foundation. 300-400

people were in attendance from all types of cultures and it was a successful event.

PROCLAMATIONS: There were no proclamations.

Assistant City Administrator Bruce McCandless noted that a proposed agenda item was not submitted for inclusion on tonight's agenda, and staff is requesting to add the following item onto the agenda: **PUBLIC HEARING** regarding draft 2015-2019 Transportation Improvement Program (TIP) Amendment I. A copy of the staff report was distributed to Council prior to the meeting, and a copy was also filed in the ex parte notebook. City Attorney Brent Brooks noted that a $\frac{3}{4}$ vote of present Councilmembers would allow the item to be added onto the agenda, as it was not a matter of significant public interest. Councilmember McCall moved to add the item as the first item on the Regular Agenda as Item 2, seconded by Councilmember Cromley. On a voice vote, the motion was approved unanimously.

ADMINISTRATOR REPORTS - TINA VOLEK

- City Administrator Volek noted that Consent Agenda Item 1I could be removed, as it was previously approved by Council. It will remain on the agenda for reference, but will not be discussed.
- Ms. Volek reminded Council that Next Monday, June 29, is the fifth Monday of the month; therefore, there is no Council regular meeting or work session. Council will reconvene for a work session on July 6. City Hall will be closed on July 3rd in observance of the July 4th Holiday.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1 ONLY. Speaker sign-in required. Comments 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. Mayor Hanel recommends that Council confirm the following appointments:

| 1. | Name | Board/Commission | Term | |
|----|-----------------|-------------------------------------|----------|----------|
| | | | Begins | Ends |
| 1 | Brian Hoerner | Board of Appeals | 07/01/15 | 12/31/18 |
| 2 | Rebecca Bey | Community Development - Low Mod* | 07/01/15 | 12/31/15 |
| 3 | Bret Rutherford | Community Development - Low Mod | 07/01/15 | 12/31/18 |
| 4 | Jami Clark | Housing Authority - Resident Comm* | 07/01/15 | 12/31/15 |
| 5 | No Applications | Human Relations Commission* | 07/01/15 | 12/31/15 |
| 6 | No Applications | Human Relations Commission* | 07/01/15 | 12/31/18 |
| 7 | No Applications | Mayor's Homelessness - Lending* | 07/01/15 | 12/31/16 |
| 8 | Bernard Rose | Mayor's Homelessness - Librarian | 07/01/15 | 12/31/18 |
| 9 | Richard Schilf | Mayor's Homelessness - Econ Dev* | 07/01/15 | 12/31/16 |
| 10 | Tracy McLuskie | Mayor's Homelessness - Health Care* | 07/01/15 | 12/31/16 |
| 11 | No Applications | Parking Advisory Board | 07/01/15 | 12/31/18 |
| 12 | LaRell Baldwin | Tourism BID Board* | 07/01/15 | 06/30/17 |
| 13 | Ronald Spence | Tourism BID Board | 07/01/15 | 06/30/19 |
| 14 | Joe Studiner | Tourism BID Board | 07/01/15 | 06/30/19 |
| 15 | Clint Peck | Soil Conservation District | 07/01/15 | 06/30/18 |

B. Bid Awards:

1. **W.O. 13-20, Arrowhead School Path.** (Opened 6/9/2015) Recommend Asphalt Plus, Inc; \$69,313.
2. **W.O. 13-22, Poly School Sidewalks.** (Opened 6/9/2015) Recommend CMG Construction, Inc.; \$109,885.
3. **W.O. 15-05, Poly Drive Bike/Ped Project.** (Opened 6/9/2015) Recommend Montana Lines, Inc.; \$340,915.26.
4. **W.O. 15-22, King Avenue West Trail.** (Opened 6/9/2015) Recommend

delay of award until July 13,2015.

5. **W.O. 15-27, 19th Street West Sidewalks.** (Opened 6/9/2015) Recommend HL Ostermiller Construction Inc.; \$134,414.10.
6. **W.O. 15-31, Jackson St. Sidewalks.** (Opened 6/9/2015) Recommend Knife River; \$59,502.90.
7. **W.O. 15-33, Solid Waste Landfill Outbound Scale.** (Opened 6/9/2015) Recommend DPS Company; \$130,839.04.
8. **W.O. 15-34, Waste Water Treatment Plant Hail Damage Repairs.** (Opened 6/9/2015) Recommend Commercial Roofing, Inc.; \$381,117.
9. **Pioneer and Castle Rock Parks Tennis Court Reconstruction.** (Opened 6/9/2015) Recommend The Good Earth Works; \$605,000.

C. **Amendment #2, Ground Lease;** Assignment and Transfer of Ground Lease to Marchi Family Enterprises, LLC; and Consent of Sublease to FAA.

D. **Agreement** with Yellowstone County Sheriff's Department to provide New World Public Safety data processing services. FY 2015-2016; annual revenue - \$131,315.

E. **Memorandum of Understanding (MOU)** between the City of Billings and Billings Public Schools for school resources officers for the Career Center, middle schools and high schools in the amount of \$195,159 (7/1/15-6/30/16).

F. **Approval of International Travel** for Billings Police Department member of federal drug task force.

G. **Acknowledging Receipt of Petition to Annex #15-09:** 3.5 acres generally located on the west side of 46th Street West, just south of the intersection of Rimrock Road and 46th Street West; Eggart Enterprises, LLC and RK Development, LLC, owners and petitioners, and setting a public hearing date for 7/13/2015.

H. **Acceptance of Quitclaim Deed** for 30-foot wide road easement on

Broadwater Avenue from Charles G. Yegen and Zellah Farms, LLC.

- I. **Approval of Release of Restrictions on Transfers and Conveyances for TransTech Center Subdivision. This item was removed from the agenda, but remains listed here as a reference.**
- J. **Resolution relating to East Billings Urban Renewal District (EBURD) Increment Bond; authorizing the sale and prescribing the terms of the bond.**
- K. **Resolution and Subdivision Plat of 3510 7th Ave South.**
 - 1. **Resolution amending Resolution 13-19329 (permitting the sale of property at 3510 7th Ave South) and correcting the property's legal description.**
 - 2. **Subdivision Plat of Block 221, Lots 9-12 and vacated right of way, Billings Second Addition, addressed as 3510 7th Ave South, aggregating lots into one parcel.**
- L. **Resolution transferring \$23,000 from City Council Contingency Fund to High Sierra Disk Golf Course.**
- M. **Resolution closing pooled sidewalk and SID 1339 Debt Fund balances.**
- N. **Cancellation of Checks and Warrants.**
- O. **Bills and Payroll:**
 - 1. **May 26, 2015**

Councilmember Cromley moved to remove Item 1I from discussion on the Consent Agenda, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich separated Item 1B7 and 1F. Councilmember Brown separated Item 1G. Councilmember Pitman moved to approve the Consent Agenda, excluding Items 1B7, 1F, and 1G, seconded by Councilmember Brown. On a voice vote, the motion was approved 11 to 0.

Councilmember Yakawich separated Item 1B7 to ask Public Works Director Dave Mumford when the outbound scale project at the landfill will be completed. Mr. Mumford stated that the scale is expected to be completed this fall, so as to not interrupt operations during peak summer times. Councilmember Yakawich voiced concerns from a memo that he received. The memo complained of long wait times at the landfill. Councilmember Yakawich noted the potential costs for employers if their employees are waiting in line at the landfill, as well as for the City if City employees are waiting in line at the landfill as part of their job duties. Mr. Mumford explained that every item deposited at the landfill must be weighed and monitored, and that certain types of vehicles must be weighed both before and after entering the landfill; this requirement sometimes leads to longer wait times. Mr. Mumford stated that unless there was a problem with the lower scale, two scales should always be in operation. Mr. Mumford also stated that he regularly monitors landfill wait times, and that overall, the wait times have been reduced. Mayor Hanel asked about the volume of waste coming into the landfill. Mr. Mumford stated that waste tonnage rates into the landfill are increasing. Mr. Mumford stated that the landfill is planning to become involved with Habitat for Humanity Re-Store so that reusable items may be taken there rather than be placed in the landfill. Councilmember Yakawich moved to approve Item 1B7, seconded by Councilmember Pitman. On a voice vote, the motion was approved unanimously.

Councilmember Yakawich separated Item 1F to ask questions to Police Chief St. John. Councilmember Yakawich stated that he feels there is an increase in drug use as well as needle presence in Billings. Chief St. John stated that there is a significant drug use problem in Billings, and that methamphetamine is the primary problem drug. Chief St. John stated that the drugs often come into Billings from Mexico, as there are fewer home labs due to rigid regulations on the precursor materials. Behind methamphetamine, prescription drugs are the second most common issue. Chief St. John noted that needle presence is generally indicative of intravenous methamphetamine and prescription drug use. Councilmember Yakawich asked Chief St. John for advice to the community on drug use prevention. Chief St. John said that citizens should relay knowledge of drug use to the Police department. Chief St. John stated that the officer's participation in the Federal Drug Task Force (the agenda item being discussed) has the purpose of disrupting and/or dismantling a drug traffic organization. Citizens should always report suspicious activity to the Police department; if needles are found, Police officers have the means to dispose of them properly. Councilmember McFadden asked for demographics on methamphetamine use. Chief St. John stated that men and women in their 20s-30s are the primary offenders. Users come from all different backgrounds. Councilmember Yakawich moved to approve Item 1F, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Brown separated Item 1G to clarify the procedure and meaning of acknowledging receipt of a petition to annex property. City Administrator Volek responded that this is the precursor and public notice of intent to annex property into the City and to set a future public hearing date. Councilmember Brown asked at what point other departments review annexation petitions. Wyeth Friday, Planning Division Manager, responded that no decision was being made tonight regarding the petition; this agenda item is strictly to acknowledge that the City received the petition. Staff reviews the petition

upon receipt and determines when to set the public hearings. Councilmember Brown moved to approve Item 1G, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. ADD-ON ITEM: Public hearing regarding draft 2015-2019 Transportation Improvement Program (TIP) Amendment I.

Ms. Volek noted that staff did not have a presentation, but was available to answer questions.

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

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

3. PUBLIC HEARING AND SPECIAL REVIEW #928: a special review for a beer and wine license with gaming for a proposed Lucky Lil's in an existing vacant structure located in a Controlled Industrial (CI) zone on a 79.524 square foot parcel of land described as: the north half of Lot 4A, Block 1, King Park Subdivision. Alex Tommerup - AT Architecture, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Nicole Cromwell, Zoning Coordinator, began a PowerPoint presentation on Special Review #928. Ms. Cromwell explained the history of the lot, and that Lucky Lil's would like to open a location at this lot. Ms. Cromwell noted that there will not be significant change to the exterior of the building, and that a permit would be issued to remodel the interior of the building. Ms. Cromwell discussed the ten conditions to approval: (1) the special review is limited to this lot only; (2) the special review is limited to a beer and wine license with gaming; (3) any expansion greater than 10% will require additional special review; (4) the building remodel will include complete removal of the drive-through window; (5) no outdoor public announcement system may be installed (neither permanent nor temporary); (6) the outdoor patio will maintain the existing 3.5 foot fence, with the entrance to the patio only through the restaurant; (7) only background music is allowed on the patio; (8) outdoor live entertainment is prohibited on the property; (9) the conditions run with the land; (10) the business must comply with other limitations of City Code Section 27-613 and other city codes as required.

Councilmember Brown asked whether parking at this building would be sufficient. Ms. Cromwell stated that there is sufficient parking space available in the building's parking lot; the standard is one parking space per every 100 square feet of a building. Councilmember Yakawich asked if there are residents living in this area and if they were notified of this special review. Ms. Cromwell replied that there were no residential uses on

the surrounding properties. Councilmember Yakawich asked whether surrounding business owners have the ability to respond to the notice of the special review. Ms. Cromwell stated that business owners do have the opportunity to respond, but in this instance, no responses or protests were received.

The public hearing was opened.

- **Alex Tommerup, AT Architecture, 2010 Wentworth, Billings, MT** stated that he represents the petitioner and that he was available for questions.

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

Councilmember Swanson moved to conditionally approve Item 3, seconded by Councilmember Cromley. Mayor Hanel stated that he is pleased to see that a vacant building will be used, and that the changes will be accommodating for the area. Mayor Hanel wished the business good luck. On a voice vote, the motion was approved unanimously.

4. **PUBLIC HEARING AND SPECIAL REVIEW #929: a special review to add 7,975 square feet onto Trinity Lutheran School in a Residential 9,600 (R-96) zone on a 4 acre parcel of land described as: Lot 2A, Block 1, Oakland Subdivision, 2nd Filing and located at 2802 Belvedere Drive. Jeff Kanning, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Nicole Cromwell, Zoning Coordinator, began a PowerPoint presentation on Special Review #929. Ms. Cromwell gave an overview of the property and showed pictures of the surrounding area. The neighborhood is primarily residential zoning, with some multi-family properties and commercial properties nearby. Ms. Cromwell discussed the concern of surrounding property owners regarding traffic from the school. As a result, site architects redesigned the traffic pattern to allow for larger off-street safe zones for student drop-off; the Zoning Commission feels that this redesign will help alleviate traffic issues at the school and on the surrounding streets. Ms. Cromwell noted that the expansion onto the building would not add additional classrooms, with the exception of preschool classrooms; the existing preschool is located across the street from Trinity Lutheran School, and preschoolers must cross the street to access the school building for activities. The Zoning Commission recommends conditional approval, and there are 11 conditions to be met: (1) the special review is limited to expansion of the existing school; (2) the special review applies only to the current lots of the school; (3) any expansion greater than 10% will require additional special review; (4) no demolition or construction activities will take place before 7 am or after 8 pm; (5) new outdoor lighting will have full cut-off shields (except security lighting), and light pole height is limited to 15 feet; (6) the solid waste enclosure will be obscured from sight and include a closing gate; (7) new landscaping will be installed as shown in the site plan; (8) the site plan will be constructed in substantial conformance with the submission; (9) a circular ribbon-style bike rack which

accommodates 16 bicycles will be installed; (10) the conditions run with the land; (11) the school must comply with other limitations of City Code Section 27-613 and other city codes as required.

Councilmember Brown asked whether the school was planning on accepting more students after this expansion; Ms. Cromwell stated that this would be the choice of the school administrators. Ms. Cromwell noted that the expansion would include spaces that were not included in the original school such as a music room and a library.

Councilmember Brown asked if surrounding property owners saw the site plan and if they felt that traffic issues would be alleviated by the new plan. Ms. Cromwell stated that the property owners did see the site plan and hoped that traffic issues would improve. One concern of property owners is that drivers sometimes block their driveways when they park. Councilmember Brown asked if the new parking lot system would alleviate traffic and parking concerns. Ms. Cromwell stated that she felt it would.

Councilmember Yakawich asked if curb painting on the public right of way on Belvedere would be included in the development contract. Ms. Cromwell stated that the Zoning Commission chose not to add curb painting as a condition for approval, but that she believed that the school intended to paint the curbs. Councilmember Yakawich asked if the condition could be added. Ms. Cromwell stated that Zoning Commission conditions are typically restricted to those that have a direct impact on the proposed use of the property and that the curbs were located on the opposite side of the street from the school. Councilmember Yakawich stated that surrounding property owners are concerned with parking in that area. Dave Mumford, Public Works Director, stated that private organizations cannot paint rights of way on their own; the school would need to go through the Public Works department to ensure that painting is in compliance with regulations. Councilmember Yakawich asked for a recommendation on how this would proceed. Mr. Mumford stated that the school would need to submit the site plan to Public Works to ensure that the painting complies with regulations, and the painting could occur when the site plan is approved by Public Works.

Mayor Hanel stated that he is pleased to see a need for bicycle racks at the school, but that he is surprised that installing a bicycle rack was one of the conditions to approval on this special review. Mayor Hanel asked if requiring certain styles and types of bicycle racks is a new venture for the Zoning Commission. Ms. Cromwell replied that the guidelines (they are not regulations) for bicycle racks are fairly new, and were a result of the Area Bikeway Master Plan adopted by the City and County in 2011.

Councilmember Brown asked if the painting on the curbs could be added into the conditions for approval. Ms. Cromwell stated that City Engineering has not reviewed the site plan for conformance to painting standards, but that there is a City-wide standard stating that vehicles must be parked at least three feet away from a driveway opening. Since the curbs in this area are rollover curbs, it is often difficult to tell where a driveway opening may be; therefore the property owners and school would need to work with the Engineering Department to detail where the curbs would be painted. Ms. Cromwell stated that if this were added as a condition to approval, the applicant would need to then request that the Engineering Department approve additional curb painting on Belvedere

Drive if approved.

Mayor Hanel asked if Council would be satisfied if they were able to speak to representatives from Trinity Lutheran School about the curb paintings. Councilmembers responded affirmatively.

The public hearing was opened.

- **Jeff Kanning, 1008 Poly Drive, Billings, MT, Agent for Applicant** stated that Trinity School has been at its current location since the 1950s. Mr. Kanning noted that drawings have been submitted to the Engineering Department. Mr. Kanning clarified that the school has a limit of 26 students per grade, and that this would not be increasing. Mr. Kanning stated that with the expansion, entryways will be updated, the appearance of the property will be improved with landscaping, and the building will be made more energy efficient. To address safety and traffic-flow concerns, two new off-street parking/drop-off areas will be included in this expansion. The new driveways to the school will also be accessible by the Fire department. A postcard was sent to neighbors of the property notifying them of the proposed expansion; one response was received from a neighbor who had some questions about the development, but was not opposed to it; another response voiced concerns over traffic in the area. Mr. Kanning stated that the school hopes that traffic issues will be resolved by the new parking/drop-off areas.
Councilmember McFadden asked Mr. Kanning what types of improvements will make parking and drop-off more efficient. Mr. Kanning stated that the drop-off areas around the building will be designated for certain age groups, and that a sidewalk will alleviate pedestrian traffic issues as well. Councilmember Yakawich asked how the school plans to continue being a good neighbor to surrounding properties, and if the school will paint the curbs. Mr. Kanning stated that the school would need to go through the proper channels within the City to have the painting approved. Mr. Kanning also mentioned that he met with homeowners and asked what else the school could do to continue to be a good neighbor (traffic directing, painting the curbs, etc.); the school is willing to pay for those types of projects.
Councilmember Yakawich asked if the school was planning to paint the curbs. Mr. Kanning said yes, and noted that the drawings are currently with the Engineering Department. Councilmember Yakawich asked if Mr. Kanning spoke with surrounding property owners and if they were accepting of the school's plan. Mr. Kanning responded that yes, the neighbors are accepting of the plan.
Councilmember Brown asked Mr. Kanning to clarify that the school is not opposed to going through the proper channels to have the curbs painted. Mr. Kanning stated that the school actually offered to take care of the curb painting. Councilmember Brown asked if the school fully intended to paint the curbs. Mr. Kanning stated that the school would paint the curbs if the plans are approved by the Engineering Department. Mr. Mumford stated that he is concerned with the curb painting, and would recommend that the school continue painting the curbs after the initial paint; Mr. Mumford stated that the school should be responsible for paying for and maintaining the curb paint going forward. Councilmember Brown asked for recommendations on proceeding. Mr. Mumford stated that if curb painting was

added as a condition, then he would recommended also adding that painting will be the responsibility of the school, not the City. Councilmember Brown asked Mr. Mumford for his recommendation on the painting. Mr. Mumford stated that there are several concerns with painting, including lack of parking spaces, sight distances of the painted lines, etc. Mr. Mumford recommended working with the school and the surrounding property owners to determine which curb, if any, would need to be painted. Mr. Mumford also recommended including language in the agreement that the school would be responsible for painting and maintaining the curbs. Councilmember Brown asked whether Council should leave this matter to the developer, school, and neighbors. Mr. Mumford stated that he would recommend proceeding in that manner.

- **Jonathan Boll, 401 Lavender Street, Billings, MT, Director of Operations for Trinity Lutheran School** stated that the school intends to be a good neighbor. Mr. Boll noted that only one concern was raised by neighbors (parking on the streets) and that the school will properly address the concern. Mr. Boll stated that the school will also address the issue with families who park in the area to pick up their children from school. Mr. Boll stated that the concerned neighbor is located near the preschool building, and that he will ensure the concerns are addressed.

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

Councilmember McCall stated that she is opposed to any amendment to the agreement that would require painting the curbs surrounding the school. Councilmember McCall stated that to require curb painting would be to micromanage the project, and that the developers and school administrators are able to effectively manage the project and the issue of painting the curbs.

Councilmember Cromley moved to conditionally approve Item 4, seconded by Councilmember McFadden. On a voice vote, the motion was unanimously approved. Councilmember McFadden stated that he agrees with Councilmember McCall, and that Council does not need to micromanage the project. Councilmember Yakawich stated that he will support the motion, but that he does not agree with Councilmembers McCall and McFadden. Councilmember Yakawich stated that the residents around the school are as important as the school in this issue. Councilmember Yakawich stated that he heard the good faith statement that the school will maintain the curb paint, and agrees with Mr. Mumford that the school should paint and maintain the curbs. On a voice vote, the motion was approved unanimously.

5. **PUBLIC HEARING AND RESOLUTION approving and adopting
Fourth Quarter Budget Amendments for Fiscal Year 2014-2015. Staff
recommends approval. (Action: approval or disapproval of staff
recommendation.)**

City Administrator Volek stated that staff did not have a presentation on this topic, but was available for questions.

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

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

6. PUBLIC HEARING Regarding Limits of Annexation Map and Annexation Policy. Annexation Committee recommends approval. (Action: approval or disapproval of Annexation Committee recommendation.)

Wyeth Friday, Planning Division Manager, began a PowerPoint presentation regarding the Limits of Annexation Map and the Annexation Policy. Mr. Friday displayed and explained the City's current annexation map which was adopted in April 2014. Mr. Friday stated that there were two requests for map amendments: one from Trailhead Commerce Park, and the other from Viking Land. Trailhead Commerce Park requested to be added into the Long Range Urban Planning Area (the orange area) on the annexation map. Viking Land requested to be added into the red area on the annexation map. Mr. Friday stated that the Annexation Committee recommended not amending the map for these two requests, as neither property is located adjacent to any current red or orange area. Mr. Friday stated that there is also the potential issue that the City may not be able to serve those properties; there would also be a cost associated with an analysis to determine the costs of providing services to the areas. Councilmember Pitman asked Mr. Friday about the possibility of adding additional areas: Skyway Drive and High Sierra Disc Golf Course. Mr. Friday stated that Councilmember Pitman could make a recommendation to add those areas into the annexation map, and then the Annexation Committee would review the map and discuss it at a future meeting. Mr. Friday stated that the Annexation Committee is concerned with the ability to provide services, such as Fire and Police services, to areas outside of the current annexation map. Councilmember Pitman stated that he understands the concerns of the Annexation Committee and the potential service issues for orange zones and areas outside of both the red and the orange zones on the annexation map; however, Councilmember Pitman stated that certain areas are already being serviced under the Billings Urban Fire Service Association (BUFSA) and that Yellowstone County is also able to assist in those areas as well. Mr. Friday stated that developments can still occur outside of City limits under the County's development regulations, but that the Annexation Committee is concerned with bringing those areas into the annexation limit map due to a potential lack of the ability to provide services. Mr. Friday stated that the Annexation Committee also recommends moving forward with the Cost of Service Analysis, as directed in the City Council 2015-2018 Strategic Plan. The analysis would provide detailed costs associated with providing City services to new annexations.

Councilmember Yakawich asked who comprises the Annexation Committee. Mr. Friday stated that the Annexation Committee consists of members from City Administration, Planning, Fire, Police, MET Transit, Parks, Public Works, and

School District Two. Councilmember Yakawich asked if Sanderson Stewart provided the Urban Planning Study (that was included in the staff report for this agenda item) on the request of the City. Mr. Friday stated that the Urban Planning Study is a requirement in the City Annexation Policy. Councilmember Yakawich asked if the City paid for the Urban Planning Study. Mr. Friday stated that the City did not pay for the Urban Planning Study, and that Sanderson Stewart was required to submit the completed study to the City. Councilmember Yakawich asked whether Sanderson Stewart supports the recommendations of the Annexation Committee. Mr. Friday stated that Urban Planning Studies are created in support of the petitioner who would like to have property added onto the annexation map, so they are in favor of adding additional areas into the annexation map. Mr. Friday stated that the Urban Planning Studies must also include an overview of the services impact if the property were to be included in the map. Councilmember Yakawich asked why a Soil Resource Report was included in the staff report for this agenda item. Mr. Friday stated that soil information is commonly included in planning studies.

The public hearing was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT** asked if the Council would consider implementing a system of payment in lieu of taxes for properties petitioning to be annexed into the City. Mr. Nelson stated that this type of system would encourage/incentivize properties to develop more quickly after they are annexed.

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

Councilmember McCall moved to approve Item 6, seconded by Councilmember Cromley. Councilmember Pitman moved to amend the motion by rejecting the Annexation Committee's recommendation and adding Trailhead to the orange zone, Viking Land, Skyway Drive, and High Sierra Disc Golf Course to the red zone of annexation on the annexation map, and to place this map amendment on the July 13th Council agenda for approval. Councilmember McFadden seconded Councilmember Pitman's amended motion. Councilmember McCall asked Mr. Friday for clarification regarding the amended motion. Councilmember McCall stated that she would like to hear the rationale as to why Skyway Drive and High Sierra Disc Golf Course were not included in the proposed map amendments. Mr. Friday stated that, in his understanding, Skyway Drive would only include the right of way of that road, and would not include any adjacent or surrounding property. Councilmember McCall asked if there was any value in adding the strip of right of way on Skyway Drive to the red zone on the annexation map. Mr. Friday stated that the only potential benefit would be that properties adjacent to the right of way could eventually petition to be annexed into the City. Councilmember McCall stated that she opposed the amended motion, and agrees with the Annexation Committee's recommendation to not add the properties into the red zone on the annexation map. Councilmember Yakawich stated that he agrees with Councilmember McCall, and asked Mr. Friday about the City Growth

Policy. Councilmember Yakawich asked if Candi Millar, Planning and Community Services Department Director, was in support of the Annexation Committee's recommendations. Mr. Friday stated that Ms. Millar was involved in and agrees with the original recommendation made by the Annexation Committee on this topic. Councilmember Pitman, in support of his amended motion, stated that the amendment would not actually annex the properties into the City; rather, it would allow for discussion to continue into the future once the areas were added to the annexation map. Councilmember Pitman stated that without changing the annexation map, the conversation regarding these areas would end. Councilmember Pitman stated that he does not believe that eventual annexation of these areas would cause additional strain on Fire or Police services. Councilmember Pitman stated that these areas are places where the City needs growth and development. Councilmember McFadden stated that he agrees with Councilmember Pitman, and that the City needs growth and development; Councilmember McFadden stated that developers and investors need opportunities and places for investment in the City. Councilmember Crouch asked Mr. Friday whether the areas in the amended motion had previously been discussed by the Annexation Committee, and if so, the results of the discussion. Mr. Friday stated that High Sierra and Skyway Drive had not been specifically discussed by the Annexation Committee. Councilmember McCall stated that she appreciated the rationale of Councilmembers Pitman and McFadden, but the discussion of these areas can still continue even if they are not added into the annexation map at this time; the conversations will continue. Councilmember McCall also asked whether developers are able to speak with individual Councilmembers regarding land use education. City Administrator Volek stated that she believes that High Sierra Park is already within City Limits, and that there were only small rights of way areas that are not within City Limits. In response to Councilmember McCall, City Attorney Brent Brooks stated that if the issue was not one that would come before Council in the immediate or foreseeable future, then developers may speak with Councilmembers individually as long as they are speaking generally about philosophies or policies of development and not regarding specific projects. Mayor Hanel stated that he would like more information and would like to send the ideas presented in the amended motion back to the Annexation Committee for further examination before taking action on them. Mayor Hanel stated that there may be other areas that could be added into the annexation map as well. Councilmember Brown stated that he opposes the amended motion based on discussions regarding moving areas into the red zone on the annexation map. Councilmember Brown stated that he feels that properties are essentially automatically annexed once they have been added into the red zone. Councilmember Swanson called for the question, seconded by Councilmember Pitman. On a voice vote, the motion to call the question was approved unanimously. On a voice vote, the amended motion was not approved. Mayor Hanel noted that there was no doubt that the majority of Councilmembers voted in opposition of the amended motion. On a voice vote for Councilmember McCall's original motion, the motion was approved by 8 votes to 1 vote, with Councilmember Pitman voting in opposition.

7. PUBLIC HEARING AND RESOLUTION creating SILMD 317, Exposition Gateway. Staff recommends approval. (Action: approval or

disapproval of staff recommendation.)

City Administrator Volek noted that staff did not have a presentation for this item, but was available for questions.

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

Councilmember Yakawich moved to approve Item 7, seconded by Councilmember Cromley. On a voice vote, the motion was approved unanimously.

8. PUBLIC HEARING AND RESOLUTION creating SID 1398, Mountain View Boulevard. Staff recommends approval. (Action: approval or disapproval or staff recommendation.)

City Administrator Volek stated that staff did not have a presentation for this item, but was available for questions.

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

City Administrator Volek noted that there were no protests received for SID 1398.

Councilmember Yakawich moved for approval of Item 8, seconded by Councilmember Cromley. Councilmember Yakawich stated that Councilmember Cromley, Mr. Mumford and Ms. Volek worked extremely hard on SID 1398. Councilmember Yakawich acknowledged that this is an example government in action, and thanked Council for its support as well. Mayor Hanel stated that this will be a tremendous improvement for residents on Mountain View Boulevard. Mayor Hanel asked Mr. Mumford if drainage will be difficult to install in this area. Mr. Mumford replied that the installation of drains in the area will be difficult, but residents will be paying for the drainage costs, and the City will be paying for pavement and drainage. On a voice vote, the motion was approved unanimously.

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** cited a resolution dictating that the maximum charges for any tract, parcel, or lot which is undeveloped or unimproved would be \$1,510. Mr. Nelson gave examples of three properties, including golf courses, and stated that they should be paying more in taxes. Mr. Nelson stated that he expects to see higher tax rates on these properties. Mr. Nelson suggested an assessment on taxable value for these properties. Councilmember Swanson asked City Attorney Brent Brooks whether the City has the ability to change the way that taxes are assessed. Mr. Brooks said that

there are several ways of doing this, but they would all likely involve amending the tax assessment ordinance. Councilmember Swanson stated that he agrees with Mr. Nelson that properties should be assessed based on their value. Public Works Director Dave Mumford stated that there are about seven methods to assess property taxes under State statute. The City has not historically assessed property taxes based on market value, as these taxes would be based on County and State auditor value assessments and would not typically be current values. The value determinations also take approximately two years to update for new developments or buildings, so the City would be lacking two years of property taxes on new developments or buildings. Councilmember Brown asked how golf courses are assessed. Mr. Mumford stated that golf courses are broken into different plats and parts. Parts that include buildings or developments are assessed as developed, and the rest of the golf course (which is mainly grass) is considered undeveloped property. Any portion of the plat that includes a structure is considered developed property. Parking lots are considered to be developed property. Mr. Mumford also gave the example of farm land: only portions of the plats that include structures are considered developed land; the remaining open land is considered undeveloped. Mr. Mumford clarified that the situation Mr. Nelson references is not for property taxes, but rather for street maintenance fees; the City charges fees for service, such as street maintenance, only on developed land that receives the services. Councilmember Pitman asked if his house is only assessed for the house itself, not the yard/land. Mr. Mumford replied that the whole property is assessed because it is a single tract of land; the tract is not divided into multiple parcels. Councilmember McFadden stated that since golf courses are making money, they are being taxed on their income by other state entities. Mr. Mumford clarified that the discussion and topic that Mr. Nelson addressed is not regarding taxes and that every part of the golf course is assessed for City taxes. This discussion is regarding street maintenance and storm drain fees. The undeveloped land out on the golf course does not require street maintenance or storm drain maintenance. Mayor Hanel clarified that the City does not maintain cart paths on golf courses.

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

COUNCIL INITIATIVES: There were no Council initiatives.

Mayor Hanel stated that he hopes for safe travels for Councilmember Bird and Councilmember Cimmino, and asked for Council to keep them in their thoughts.

ADJOURN: There was no further business and the meeting adjourned at 8:43 pm.



ATTEST:

BY: Billie Guenther
Billie Guenther, City Clerk

CITY OF BILLINGS

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