

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 28, 2015

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

ROLL CALL: Councilmembers present on roll call were: Cromley, Yakawich, Pitman, Cimmino, McFadden, Bird, Swanson, Crouch, and Brown. Councilmember McCall arrived to the meeting after roll call was conducted.

MINUTES: September 14, 2015: Councilmember Crouch moved for approval, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel thanked everyone who attended the weekend forum for the American Renewal Project. Councilmember Yakawich thanked Councilmembers Pitman, Cimmino, and Swanson for attending the forum, in addition to 15 non-profit organizations that also attended.
- Councilmember Bird read an article from the Billings Gazette, in which Billings was ranked one of the top mid-size cities to live in for the second year in row according to Livability.com.
- Councilmember Bird commended the Alzheimer's Memory Walk at Zoo Montana. Councilmember Bird noted that there were over 800 people in attendance and the Billings Alzheimer's Chapter raised \$100,000.
- Councilmember Yakawich welcomed his son Joseph, Joseph's wife, and his daughter, Naomi, who were in attendance at the Council meeting.
- Mayor Hanel welcomed John Brough, a boy scout from Troop 27 and his father, Bernie Brough.

PROCLAMATIONS: There were no proclamations.

ADMINISTRATOR REPORTS - TINA VOLEK

- City Administrator Volek made a correction on Regular Agenda Item 2 (Special Review #931). The owner was incorrectly listed on the agenda as Ernie Szillat, and the actual property owner should have been listed as Z & B Enterprises.
- Ms. Volek informed Council that the Waiver of EBURD Demolition Disposal Fees discussion that was originally planned for the September 28th Council meeting was postponed until the October 26th Council meeting to allow sufficient time to advertise the public hearing.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #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.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, MT** reminded Council that Consent Agenda Item 1A3 was for a short-term fueling station. He asked Council how they expected the City to save money with the exorbitant CNG fuel costs.

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

1. CONSENT AGENDA --

A. Bid Awards:

1. **W.O. 15-12 Gabel Road & 32nd Street West Traffic Signal Improvements.** (Opened 9/15/15) Recommend Yellowstone Electric Company, \$195,681.85.
2. **W.O. 15-17, WWTP Aeration Blower Improvements, Installation.** (Opened 9/15/15) Recommend Star Service, \$143,200.
3. **W.O. 15-38, Solid Waste CNG Short-Term Fueling Station Installation.** (Opened 9/15/15) Recommend Hardy Construction, \$528,000.
4. **2015 Loader Mounted Snow Blower.** (Opened 9/15/15) Recommend Solid Waste Systems, \$128,541.78.
5. **2016 56,000 GVW Tandem Water Truck** (Opened 9/15/15) Recommend I-State, \$123,369.

B. Resolution of Intent to create SID 1399, Lake Hills Subdivision 25th Filing Improvements (water, sanitary sewer, storm drain, curb and gutter, and street), and set a public hearing date for October 26, 2015.

C. Bills and Payroll:

1. August 24, 2015

2. August 31, 2015
3. September 8, 2015

Councilmember Cimmino separated Items 1A2, 1A3, 1C1, 1C2, and 1C3 in order to abstain.

Councilmember Brown separated Item 1A3 for clarification. Councilmember Brown separated Items 1C2 and 1C3 in order to abstain.

Councilmember Pitman moved to approve the Consent Agenda, with the exception of Items 1A2, 1A3, 1C1, 1C2, and 1C3, seconded by Councilmember Yakawich. On a voice vote, the motion was approved unanimously.

Councilmember Brown referenced Item 1A3, and asked Dave Mumford, Public Works Director, for clarification about the "short term" designation. Mr. Mumford stated that the City was uncertain how the Billings Operations Center would be developed in the future, so there was a need for a short-term fueling station to be put in place. All of the equipment used in the short-term project would be moved and utilized at the new established location. Mr. Mumford also stated that there is a substantial savings to the City in using Compressed Natural Gas instead of traditional diesel fuel. Councilmember McFadden asked if the City is making its own natural gas that can be used in City vehicles. Mr. Mumford replied that MDU processes the CNG for the City and will continue to do so. Mr. Mumford said that the city is the only customer purchasing fuel at MDU's facility and the MDU facility only has the ability to fuel one vehicle at a time. The City has looked at purchasing and relocating the MDU fueling station, but MDU will continue to process the fuel for the city even after its relocation. Ms. Volek added that MDU will be meeting with the City to discuss selling the fuel it stores. Mr. Mumford stated that other companies have started to see the benefit of CNG, and he expects the demand to increase. Councilmember Brown moved to approve Item 1A3, seconded by Councilmember Crouch. On a voice vote, the motion was approved 10-0, with Councilmember Cimmino abstaining.

Councilmember Pitman moved to approve Item 1A2, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 10-0, with Councilmember Cimmino abstaining.

Councilmember Pitman moved to approve Item 1C1, seconded by Councilmember Brown. On a voice vote, the motion was approved 10-0, with Councilmember Cimmino abstaining.

Councilmember Pitman moved to approve Item 1C2, seconded by Councilmember Swanson. On a voice vote, the motion was approved 9-0, with Councilmembers Cimmino and Brown abstaining.

Councilmember Pitman moved to approve Item 1C3, seconded by Councilmember Crouch. On a voice vote, the motion was approved 9-0, with Councilmembers Cimmino and Brown abstaining.

REGULAR AGENDA:

- 2. PUBLIC HEARING AND SPECIAL REVIEW #931: a special review to locate an all beverage license with gaming for a new Town Pump/Lucky Lil's Casino, Bar and Liquor Store in a Highway Commercial Zone, on a 2.36 acre parcel of land described as: the south half of C/S 98 and located at 261 Swords Lane. Ernie Szillat, [corrected to Z & B Enterprises, owner]; Alex Tommerup - AT Architecture, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Nicole Cromwell, Zoning Coordinator, began a PowerPoint presentation and gave an overview of the property. Ms. Cromwell stated the eight conditions for approval: 1) special review approval is limited to an all beverage license with gaming on this specific lot; 2) any expansion greater than 720 square feet will require additional special review; 3) any expansion greater than 10% of the 69 parking spaces will require additional special review; 4) no outdoor public announcement system will be installed (neither permanent or temporary), and no outdoor events with amplified sound or music will occur; 5) solid waste storage will be located in a sight obscuring enclosure which will include a gate; 6) add two bike parking racks of a type and location recommended by the guidelines; 7) the conditions run with the land; and 8) the business must comply with other limitations of section 27-613 and other City codes as required. Ms. Cromwell addressed the possible traffic challenges of the proposed business at this location and assured Council that the Montana Department of Transportation would work with the City of Billings to perform a traffic control study.

Councilmember Yakawich asked if any citizens attended the public hearing for this special review. Ms. Cromwell stated that Ernie Szillat, owner of two adjacent properties, was the only one in attendance at the public hearing.

Councilmember Cimmino stated that, according to a report by the Billings Police Department in 2011, the intersection located at the corner of Airport Road and Main Street is ranked as the third highest in vehicle accidents within the City. Councilmember Cimmino also expressed concern with the presence of alcohol at the proposed business and how it could affect this intersection.

The public hearing was opened.

- **Terry Odegard, 2101 Lake Hills Drive, Billings, MT** stated that he is concerned how this proposed business will affect traffic in this intersection.

Councilmember Yakawich asked if Mr. Odegard is also concerned about bicycle safety. Mr. Odegard replied that he is concerned about bicycle safety in this location.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT** stated that this intersection is already very busy and would like to see Council hold off on this decision until safety concerns can be addressed.
- **Alex Tommerup, 2010 Wentworth Drive, Billings, MT**, architect for this project, stated that this type of business will not have a peak business time during rush hour traffic, so he does not think that it will impact the traffic as significantly during these heavy traffic times.

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

Dave Mumford, Public Works Director, stated that Public Works has not been involved with the special review at this point. Mr. Mumford stated that once the site plan has been established, Public Works will begin their review. In reference to Councilmember Cimmino's statement about this intersection being the third highest accident location, Mr. Mumford wanted to clarify that any accident that occurs within hundreds of feet in either direction of this intersection would be classified as an accident at the closest intersection. Therefore, Mr. Mumford stated that the accident rate for this intersection would not give a true picture of the actual intersection safety rating. Mr. Mumford stated that the State of Montana completed extensive work on the intersection a few years ago that improved safety, and that Traffic Engineering looked at volume of traffic versus number of accidents and found this intersection to be quite safe. Mr. Mumford stated that once a site plan has been established, the City will work with the developer to ensure that there will be a safe entrance into the business.

Mayor Hanel stated that this intersection combines both City and County jurisdictions, causing some of the accident statistics to be incorrect.

Councilmember Crouch asked Mr. Mumford if it would be possible for the City to require the proposed business to allow right turning only. Mr. Mumford stated that it would be possible to enforce turn regulations during the site plan development.

Councilmember Pitman moved for approval of Item 2, seconded by Councilmember McFadden. Councilmember Yakawich stated that he is concerned about pedestrian safety in this location. Mayor Hanel stated that he would like to see a new building in this location and that having a Town Pump across the street from the current gas station could relieve some of the current traffic congestion. Councilmember Brown asked Ms. Cromwell to clarify if Item 2 is a zone change and if Council will have a second chance to review it. Ms. Cromwell replied that it is a special review and the zone change has already occurred. Therefore, if Council approves the special review, the business will bring back their construction plan for a concept meeting and that is when the drive approaches will be discussed and determined. Councilmember Pitman wanted to clarify to Council that this review is strictly for a beverage license with gaming, and not a zoning issue. On a roll call vote, the motion was approved by a vote of 8-3 with Councilmembers Cromley, Pitman, McFadden, Bird,

McCall, Swanson, Crouch, and Mayor Hanel voting in favor, and Councilmembers Yakawich, Cimmino, and Brown voting in opposition.

3. **PUBLIC HEARING AND FIRST READING ORDINANCE amending Parking Ordinance Sections 2-565, 2-566, and 2-567 relating to changes to the name of the Parking Advisory Board, Board member structure, and Board powers and duties. 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.

Councilmember Cimmino asked for clarification about the name change. Bruce McCandless, Assistant City Administrator, stated that the Parking Advisory Board is a policy development advisory board and that all policies would still come to the Council for consideration.

The public hearing was opened.

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

Councilmember Cromley moved to approve Item 3, seconded by Councilmember Yakawich. On a voice vote, the motion was approved unanimously.

4. **PUBLIC HEARING AND RESOLUTION reducing arterial construction fee assessments for certain commercially-zoned parcels and certain RMH-zoned parcels meeting the criteria in Ordinance #05-5322 and Ordinance #08-5478, capping parcel square footage at 9,600 square feet and calculating assessments based on the R9600 zoning rate instead of Commercial RMH zoning rates. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that this is an annual matter that is presented to Council by petition of the residents involved. Ms. Volek stated that staff did not have a presentation, but was available for questions.

Councilmember Brown asked Ms. Volek if residents need to submit an appeal each year. Ms. Volek stated that property owners do need to submit an appeal each year due to changes in property ownership.

The public hearing was opened.

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

Councilmember Crouch moved to approve Item 4, seconded by Councilmember Pitman. On a voice vote, the motion was approved unanimously.

5. PUBLIC HEARING AND RESOLUTION assessing the cost of cutting and/or exterminating weeds. 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.

Councilmember McCall stated that she has received a few calls about uncut weeds in the Cottonwood Subdivision. Ms. Cromwell stated that the area Councilmember McCall is referring to is not within City limits and is a County issue.

Councilmember Cimmino asked how long property owners have to cut and/or exterminate the weeds after they receive the notice. Ms. Cromwell stated that property owners are given ten days to cut and/or exterminate the weeds after they receive the notice.

The public hearing was opened.

- **Terry Odegard, 2101 Lake Hills Drive, Billings, MT** stated that he would like to see consistent offenders that repeatedly receive notices and/or fines be assessed even larger fines.
- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT** stated that he would like to see the City enforce weed regulations even further than the current 75 feet past structures to handle more rural areas.

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

Councilmember McCall moved to approve Item 5, seconded by Councilmember Pitman. On a voice vote, the motion was approved unanimously.

6. PUBLIC HEARING AND RESOLUTION regarding the spread of assessments on SID 1398, street and surface storm drain improvements on the upper section of Mountain View Boulevard. 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.

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

Councilmember Yakawich commended the residents for stepping forward to improve their neighborhood.

Councilmember Yakawich moved to approve Item 6, seconded by Councilmember Cromley. 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.)

- **Terry Odegard, 2101 Lake Hills Drive, Billings, MT** stated that he would like to see Councilmembers receive more compensation for their service. City Attorney Brent Brooks responded that action would be required to change the ordinance prohibiting Council from giving themselves a pay raise.
- **Denise Smith, 2902 Minnesota Avenue, Billings, MT**, Public Relations Manager for the Montana Rescue Mission, stated that she would like to clear up any misconceptions that people may have about the Montana Rescue Mission. The Montana Rescue Mission has changed their programs and the way its shelters are operated. Ms. Smith invited Council to have lunch and tour the facility on October 13th from 11:00 a.m. – 1:00 p.m.
- **Richard Clark, 1207 25th Street West, Billings, MT**, stated that he is supportive of hiring more police officers and 911 dispatchers. Mr. Clark would like to see a presentation by the Billings Fire Department to explain the need for more fire personnel.
- **J.E. Schmidt, PO Box 134, Billings, MT**, stated that he thinks the City has too many traffic stoplights, and that stoplights are negatively impacting the flow of traffic. Mr. Schmidt would like to see the City hire a Traffic Engineer to program and properly time traffic signals. Councilmember Yakawich stated that he would like to meet with Mr. Schmidt to discuss the situation with him.

Mayor Hanel welcomed Boy Scout Troop 7 members who were in attendance and asked them to come forward and introduce themselves.

COUNCIL INITIATIVES

Councilmember Crouch moved to direct staff to start paying down the reserves over a three year period to hire: two police officers, two firefighters and one dispatcher the first year; two police officers, two firefighters and one dispatcher the second year; and two police officers, and two firefighters the third year. Councilmember McCall seconded the motion. Councilmember Cromley asked for clarification regarding taking action immediately or bringing the initiative to a future meeting. Councilmember McCall

discussed the City's growth and the demand on police officers, dispatchers, and fire fighters, and stated her support of Councilmember Crouch's motion. Councilmember McFadden stated his support of Councilmember Crouch's motion and reminded Council to keep in mind how many safety personnel they can hire due to budget issues. Councilmember Cromley asked Councilmember Crouch if his motion would allow Council to discuss different possibilities regarding numbers at a future work session. Councilmember Crouch stated that he would be open to different numbers being discussed at a work session. Councilmember Pitman stated that he would like to see Council look at what hiring process would be most effective and made an amended motion to hire four 911 dispatchers in the current budget, and to discuss additional public safety hiring at a future work session. Councilmember Yakawich seconded Councilmember Pitman's amended motion. Councilmember Bird reminded Council that staff had made public safety hiring recommendations that had not been approved at the last Council meeting. Councilmember Cimmino asked Ms. Volek for clarification on the cost of paying existing public safety staff. Ms. Volek stated that existing costs are approximately \$1 million the first year, \$2 million the second year, and \$3 million the third year. Ms. Volek reminded Council that one-time infrastructure or capital requirements must also be paid from the reserve. Councilmember Pitman reminded Council that a new budget would allow for even more public safety personnel hiring. Councilmember McFadden asked if hiring additional staff equated to amending the budget. Ms. Volek recommended that Council adopt a resolution to amend the budget. Ms. Volek stated that Pat Weber, Finance Director, would be able to bring a presentation to Council at a work session to clarify the impact of spending the 99.66 mills. Ms. Volek stated that the City is in the process of hiring more police officers, and asked Lieutenant Brian Korell to clarify the exact number. Lieutenant Korell stated that there will be nine positions open in the department and four slots open at the academy in January. Councilmember Brown stated that he supports a motion to start hiring public safety personnel, but does not support the specific numbers in Councilmember Crouch's motion. Councilmember McCall stated she would like to see a comprehensive discussion at a work session. Mayor Hanel stated he would not support Councilmember Pitman's motion, but was in favor of exploring the various costs of hiring public safety personnel. Councilmember Pitman asked Councilmember Crouch for clarification on his motion. Councilmember Crouch stated that he would like to see Council discuss specific numbers at a work session. Councilmember Cromley stated that if Councilmember Crouch's motion was for an indeterminate number of personnel, he would support Councilmember Crouch's motion. Councilmember McFadden stated that he thinks the most prudent decision would be to support Councilmember Crouch's motion and make alterations at a future session. On a voice vote Councilmember Pitman's amended motion failed (a roll call vote was not conducted). Councilmember Brown asked for clarification on Councilmember Crouch's motion and asked if Council could reword the motion to provide changes to be discussed during a work session. Councilmember Crouch stated that he would allow changes to be made to his motion. Ms. Volek suggested that Councilmember Crouch amend the motion to have staff bring forward costs for other possible hiring combinations. Councilmember Pitman made an additional amended motion to discuss public safety personnel hiring options at a work session on October 19th, seconded by Councilmember Cromley. On a voice vote, Councilmember

Pitman's amended motion was unanimously approved. Council returned to Councilmember Crouch's original motion, which was unanimously approved.

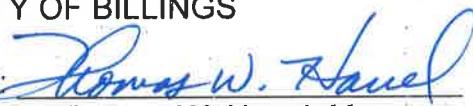
Councilmember McCall departed the meeting.

Councilmember Bird moved to schedule a work session discussion to consider Council contribution to the Yellowstone County Spelling Bee, seconded by Councilmember Brown. Councilmember Bird reminded Council that some of the students in the Yellowstone County Spelling Bee attend School District #2 and a \$2000 contribution could be very helpful. Mayor Hanel asked Councilmember Bird to consider a discussion with School District #2 to change the name to include the City in the title. Councilmember McFadden stated that he would support this motion. Councilmember Crouch moved to call the question, seconded by Councilmember Swanson. On a voice vote, the motion to call the question was approved 9-1, with Councilmember Cromley voting in opposition. On a voice vote, Councilmember Bird's motion was approved 9-1 with Councilmember Cromley voting in opposition.

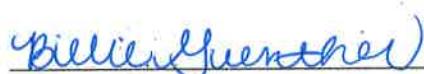
Councilmember Bird moved to schedule a work session discussion on the topic of hiring a City Public Information Officer, seconded by Councilmember Swanson. Councilmember Pitman asked for clarification regarding the hiring taking place on next year's budget. Councilmember Bird stated that she would like to see the topic discussed at a work session, but is fine with the hiring taking place on next year's budget. Councilmember Brown asked for information to be brought forward on the specific duties this position would entail. On a voice vote, the motion was approved 9-1, with Councilmember McFadden voting in opposition.

There was no further business, and the meeting adjourned at 8:51 pm.

CITY OF BILLINGS

BY: 
Thomas W. Hanel, Mayor

ATTEST:

BY: 
Billie Guenther, City Clerk

