

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
January 11, 2016

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 5:30 p.m. and served as the meeting's presiding officer. Mayor Hanel gave the invocation.

ROLL CALL: Councilmembers present on roll call were: Cromley, Yakawich, Brewster, Cimmino, McFadden, Friedel, Sullivan, Swanson, Clark, and Brown.

RECESS TO CLOSED EXECUTIVE SESSION*

*Note: The closed Executive Session is solely for the purpose of discussing litigation strategy in which the only parties are NOT public bodies or associations, as described in Section 2-3-203(1) and (2). The meeting is closed, as allowed by Section 2-3-303, MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

The meeting was called back to order at 6:32 pm

MINUTES: December 21, 2015 Regular Meeting: Councilmember Yakawich moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved. January 4, 2016 Special Session: Councilmember Yakawich moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Police Chief Rich St. John introduced officers and civilians who were nominated by their peers for special recognition. Officer David Firebaugh received the Officer of the Year Award for his hard work and positive attitude. Officer Glenn Gunther received the Optimist Club's Respect for Law Award for outstanding contribution and positive influence to the youth of the community. Officer Marc Snider received the American Legion National Law Enforcement Award for performance above and beyond the call of duty. Lynn Perry was recognized for her hard work with the Rocky Mountain High Intensity Drug Trafficking Task Force. Sergeant Justin Jagers received the Outstanding Supervisor of the Year Award. Evidence Technician Todd Morgan received the Employee of the Year Award.

PROCLAMATIONS: Mayor Hanel proclaimed Monday, January 18, 2016 as Martin Luther King Jr. Day and urged citizens to embrace the 2016 theme of "Standing on the Shoulders of Dr. King." Councilmember Yakawich introduced Reverend Melvin Terry of All Nations Church. Reverend Terry stated that the community must embrace beliefs that enrich the human spirit and enhance the human condition.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek noted that due to the Martin Luther King Jr. holiday, the next work session would be held on Tuesday, January 19.

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.

- **Mike Mace, 3916 Laredo Place, Billings, MT, President of the Billings Petroleum Club**, asked for Council's support on Item 1F. Mr. Mace stated that the Petroleum Club had not been renovated in over 30 years and that the renovations would allow it to become a more desirable event venue open to the public.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 15-10 WTP Chemical Building/Disinfection Improvements**
(Opened 12/22/2015) Recommend COP Construction, \$6,904,700.

- B. **Amendment #1, Park One Lease Agreements** for the Big Sky Imaginarium and The 29th St. Cafe.

- C. **Amendment #23, Airport Improvement Program Pond D Storm Water System Design**, Engineering Services Contract, Morrison-Maierle, Inc., \$294,205.

- D. **Confirmation of Probationary Police Officers** - Tyrel Flammang, Caleb Schultz, and Philip Tanis.

- E. **Approval** of the City-County Special Investigations Unit (CCSIU) Agreement with Yellowstone County for calendar year 2016.

- F. **Revolving Loan Fund** to the Billings Petroleum Club, \$250,000.

- G. **Approval and Acceptance** of U.S. Department of Homeland Security Grant for the City of Billings Bomb Squad for training, \$28,000.

H. **Acceptance** of Montana Department of Military Affairs/Homeland Security Grant for purchasing Haz-Mat equipment and supplies, \$353,175.05; **approval** of purchasing six railroad tank car derailment emergency response kits, \$56,238; and **approval** of purchasing six LifePak 15 V4 defibrillators, \$217,671.36.

I. **Resolution of Intent** to Create SILMD 319, Orchard Lane street lighting, and set a public hearing date for February 8, 2016.

J. **Preliminary Subsequent Minor Plat** of Amended Lot 1, Block 4, Moody Subdivision, 2nd Filing, described as two lots on approximately 17,360 square feet of land generally located on the northeast corner of the intersection of Bench Boulevard and Ahoy Avenue Milton, LLC, owner; Sanderson Stewart, agent; conditional approval of the plat and adoption of the findings of fact.

K. **Bills and Payroll:**

1. December 7, 2015
2. December 14, 2015
3. December 21, 2015

Councilmember Sullivan separated Item 1F for questions.

Councilmember Brown separated Item 1K3 in order to abstain.

Councilmember Cimmino separated Items 1A1, 1K2, and 1K3 in order to abstain, and Item 1B for questions.

Councilmember Cromley moved for approval of the Consent Agenda, with the exception of Items 1A1, 1B, 1F, 1K2, and 1K3, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan asked for clarification on Item 1F. Pat Weber, Finance Director, stated that an application must be submitted and approved by the Revolving Loan Fund committee before it is brought forward to Council. Mr. Weber stated that the Fund originated using money from the tax increment district fund with the sole purpose of loaning money to help downtown businesses. Mr. Weber stated that collateral is provided in various ways such as putting a second lien on a business, private owner guarantees, or a UCC filing with the State on a business's equipment. Councilmember Sullivan moved for approval of Item 1F, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino asked for clarification on Item 1B. Tracy Scott, Parking Manager, stated that the two businesses listed in Item 1B are behind in their rent and this amendment adjusts the figures to help get them caught up. Councilmember

Cimmino moved for approval of Item 1B, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Item 1A1, seconded by Councilmember Cromley. On a voice vote, the motion was approved 10-0, with Councilmember Cimmino abstaining.

Councilmember Yakawich moved for approval of Item 1K2, seconded by Councilmember Brewster. On a voice vote, the motion was approved 10-0, with Councilmember Cimmino abstaining.

Councilmember Yakawich moved for approval of Item 1K3, seconded by Councilmember Brewster. On a voice vote, the motion was approved 9-0, with Councilmembers Cimmino and Brown abstaining.

REGULAR AGENDA:

2. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #944: A zone change from Residential 6,000 (R-60) to Public (P), on a 1.02 acre parcel of land described as: Lot 2, Block 1 Westward Ho Subdivision. West Side Baptist Church, owner; Bill Stene, agent. The Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Nicole Cromwell, Zoning Coordinator, began a brief PowerPoint presentation for Zone Change #944, showing the zoning map and photographs of the subject property.

Councilmember Clark asked if the church that owns the property is required to pay taxes on it. Ms. Cromwell stated that the church pays assessments based on the acreage of Residential 6,000 (R-60) land it owns and an additional assessment based on the acreage of Public (P) land.

The public hearing was opened.

- **Bill Stene, 2355 Cline Road, Billings, MT** stated that a developer had purchased the surrounding property and could only use a section of the property, so the church was left with a 102 by 400 foot strip. The church would like to change it to Public to simplify the zoning on the remaining property.

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

Councilmember Cromley moved for approval of Item 2, based on adoption of the findings of the 10 criteria, seconded by Councilmember McFadden. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently annexed property in Annexation #15-12: an approximately 90 acre parcel of land located at the southwest corner of the intersection of Elysian Road and Mullooney Lane. Harmony Meadows, LLC and James Weber, owners. 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 Brewster moved for approval of Item 3, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward I to include recently annexed property in Annexation #15-13: approximately 2 acres located at 517 Lincoln Lane, Propriedad, LLC, owner. 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 Yakawich asked if the residents that were involved in the annexation would be putting money aside to address infrastructure issues. Wyeth Friday, Planning Manager, stated that the City will seek contributions when development occurs on the property.

The public hearing was opened.

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

Councilmember Yakawich moved for approval of Item 4, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

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

The public comment period was opened.

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

COUNCIL INITIATIVES

Councilmember Clark asked Ms. Volek if the donation to Riverstone Health had already been made. Ms. Volek stated that the check was in hand and that she was writing a letter of endorsement to send with it. Councilmember Clark asked if the contract for the new officer downtown had already been made. Ms. Volek stated that Council would first need to approve the budget amendment that was on the agenda for January 25, 2016.

- Councilmember Clark moved for Council to have a discussion, as soon as possible, concerning how and who does the negotiations with the unions, seconded by Councilmember Brewster. Councilmember Brown asked for clarification on what type of information Councilmember Clark wanted to see brought forward. Mayor Hanel stated that he believed that Councilmember Clark wanted staff to bring forward information on how the process works, who is involved, and previous RFP's regarding cost of negotiations. Ms. Volek stated that staff is scheduled to have a discussion on contract negotiations during the February 1 work session. Councilmember Sullivan asked when contract negotiations were scheduled to begin. Ms. Volek stated that the fire contract expires June 30, 2016, and negotiations usually start in March or April. Ms. Volek stated that she could contact the firms that had responded to the last RFP and get updated financial information from them. Councilmember Brewster stated that he thought the rates attached to the contracts were too high and wanted Council to discuss how appropriate the raises were. Ms. Volek stated that staff had done thorough research on what employees were being paid in other police departments throughout the state and that the City of Billings was 3rd in wage rates. Mayor Hanel stated that attracting and retaining police officers had been a problem for the City, which factored into the change in contract rates. Councilmember Clark withdrew his original initiative and Councilmember Brewster withdrew his second. Councilmember Clark moved for Council to have a discussion on how the City negotiates contracts, who is involved, and what work rules were discussed, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.
- Councilmember Clark moved for staff to research creating a "Billings Public Safety District" which would not be financed by property taxes but by all properties including non-profits, seconded by Councilmember Sullivan. Councilmember Brewster asked if this would be similar to a fee structure. Councilmember Clark stated that it would be similar to what the City does with arterial street fees. Councilmember Brown asked when Councilmember Clark would like the information presented. Councilmember Clark asked if the presentation could be scheduled by the first work session in March. Ms. Volek stated that the information could be presented by that date. Councilmember Swanson asked if there were any rules in the State Legislature against this process. Brent Brooks, City Attorney, stated that amendments had been made that reduce the flexibility to create special districts and more research would need to be done. Councilmember Cimmino asked for clarification on if this would include churches, hospitals, colleges, and non-profit organizations to start paying toward this type of Public Safety District. Councilmember Clark stated that it would include all of those types of organizations.

Councilmember Brown asked if this would include TIF Districts. Councilmember Clark stated that it would. On a voice vote, the motion was unanimously approved.

- Councilmember Clark moved to bring the Complete Streets Program back to Council to review its progress, seconded by Councilmember McFadden. On a voice vote, the motion was approved 10-1, with Councilmember Cromley voting in opposition.
- Councilmember Clark moved for Council to discuss the budget amendment concerning the hiring of a new Resource Outreach Coordinator, seconded by Councilmember Brewster. Ms. Volek stated that the budget amendment is scheduled for the January 25 Council meeting. Councilmember Cromley stated that a discussion will take place at the time of the hearing and staff would be prepared for any questions the Council may have. Mayor Hanel stated that an initiative may not be necessary as long as staff comes prepared to answer questions about this part of the budget amendment. Councilmember Cimmino asked if the general fund would be used as the funding source for the Resource Outreach Coordinator. Ms. Volek stated that funding would be from the general fund and the City would contract with Rimrock Foundation to provide the position. Councilmember Clark withdrew his original initiative and Councilmember Brewster withdrew his second.
- Councilmember Clark moved for Council to discuss implementing a policy regarding donations to non-profit and private organizations, seconded by Councilmember Brewster. Councilmember Sullivan stated that most corporations have a donation policy in place. Councilmember Brown stated that he supports this initiative. Councilmember Swanson stated that he hopes Council does not go back on its word regarding previous donation commitments. Councilmember McFadden stated that he would like to see a guideline and not a policy that stifles flexibility. Councilmember Yakawich stated that he supports this initiative and hopes Council will include contingency funds as well. On a voice vote, the motion was approved 10-1 with Councilmember Cromley voting in opposition.
- Councilmember Clark moved for Council to have a discussion about changing the time limit for the public comment period on non-public hearing items to match the time limit set for public hearing and non-agenda items, seconded by Councilmember Brewster. Mr. Brooks stated that he would send out a memo discussing what policy other cities utilize. Councilmember Brown asked if the times could be changed according to the topic. Councilmember Sullivan stated that Councilmembers can extend the public comment period by asking the speaker a question, and that he does not feel a need to change the policy. Councilmember Cimmino stated that the City Clerk and the Mayor do a good job monitoring the public comment period with the timed light system. Councilmember Swanson stated the he thinks the current process is working well and does not think any changes need to be made. Mayor Hanel stated that he is very flexible and does not feel that there is a problem with the current time limit. Councilmember Clark stated that he would like to see the time limit be consistent and would like to see Council have a discussion about it. On a roll call vote, the motion was approved 6-5, with Councilmembers Yakawich, Brewster, Cimmino, McFadden, Clark, and Brown voting in favor, and Councilmembers Cromley, Friedel, Sullivan, Swanson, and Mayor Hanel voting in opposition.

There was no further business, and the meeting adjourned at 8:18 pm.

CITY OF BILLINGS

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

ATTEST:

BY: *Billie Guenther*
Billie Guenther, City Clerk

