

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**July 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 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 Clark gave the invocation.

Mayor Hanel asked for a moment of silence to remember Scott DeRudder, Mayor of Bridger, who had died in an accident. Mayor Hanel stated that Mr. DeRudder had served the public very well as a three-term Mayor.

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

**MINUTES:** June 27, 2016 – Councilmember Clark moved for approval, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

### **COURTESIES:**

- Mayor Hanel asked Tina Volek, City Administrator, to thank all of the staff that had been involved in the American Cancer Society Relay for Life event.
- Mayor Hanel welcomed the Big Sky Rally, which arrived downtown to kick off the event and raised money for a children's camp. Mayor Hanel thanked the City of Billings staff and the Downtown Billings Association for their role in the event.

### **PROCLAMATIONS:**

There were no proclamations.

### **ADMINISTRATOR REPORTS - TINA VOLEK**

- Ms. Volek reminded Council of several revisions that had been made to the agenda. Ms. Volek presented the revisions to Items 1A1, 1I, and 6, and informed Council that the changes had been included in the Friday packet.
- Ms. Volek stated that Agenda Item 2 had a revision to the Sanitary Sewer agreement.
- Ms. Volek reminded Council that she had included a memo in the Friday packet regarding a 2 cent gas tax that the County Commissioners would be considering. Ms. Volek stated that a draft letter of support had been sent and if Council wished to have the item added to the agenda they would need to vote on adding it. Ms. Volek stated it would require a  $\frac{3}{4}$  majority vote to add it to the agenda. Councilmember Yakawich asked how much the gas tax would bring to the City. Ms. Volek stated the tax would be divided evenly

between the City and the County. Ms. Volek stated it would bring approximately \$1.4 million into the City. Mayor Hanel reminded Council that the vote would only be to add the item to the agenda and would not pass the gas tax. Mayor Hanel stated if the County Commissioners approved the gas tax, they would then put it on a ballot for the taxpayers to vote whether they wished for the tax to be passed. Councilmember Clark asked if this tax would on gas sold in the City only. Ms. Volek stated it would include gas sold throughout the County as well. Dave Mumford, Public Works Director, stated 81% of gas was sold in Billings, and the County would divide the amount evenly with the City and disperse the remaining amount among other counties. Councilmember Brown asked where the money would go. Mr. Mumford stated that State statute requires the money be used for maintenance, construction or re-construction of roads. Councilmember Yakawich moved to place the item on the agenda as Item #7, seconded by Councilmember Swanson. Councilmember Yakawich stated he was in favor of adding a gas tax and thought it would be an investment for the City as well as the County. Councilmember Sullivan stated he would not support adding the gas tax because he was having a hard time with two outgoing County Commissioners putting it on the ballot. Councilmember Sullivan stated there was City specific legislative tax issues the Council needed to deal with and would like to look at this item on an out year. Councilmember McFadden stated he would be voting against this item because he thought the taxpayers were tired of getting hit with new taxes all of the time. Mayor Hanel stated he would support the motion because ultimately it would be the County Commissioners who decided if it would be added to the ballot and the taxpayers would get to vote on the item. Mayor Hanel stated gas taxes could be very beneficial when it came to cost of infrastructure for the local taxpayers. On a voice vote, the motion failed, with Councilmembers Brewster, McFadden, Friedel, Sullivan, and Clark voting in opposition.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, #4, #5, & #6 ONLY. Speaker sign-in required.** (Comments offered here are limited to one (1) minute for one item, or three (3) minutes for multiple items. 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.)

- **Greg Krueger, Downtown Billings Alliance Development Director**, in regard to Item 1I, urged Council to support the loan. Mr. Krueger stated this was a loan and not a grant, and therefore, it would be paid back in full.
- **Rick DeVore, Billings Parks and Recreation board member**, in regard to Item 1H, stated that Mr. Musburger had been responsible for bringing Little League to the City, and urged Council to support naming the baseball field after him. Mr. DeVore distributed an architectural rendition of the proposed change for Council. Mr. DeVore stated the changes would be paid by Montana Little League.

- **Jennifer Murecki, 511 Parkhill Drive, Billings, MT,** in regard to Item 4, stated the Billings Growth Policy would allow the City to live by its vision statement and urged Council to support Item #4.
- **Robby Carmody, 440 Lordwith Drive, Billings, MT,** in regard to Item 4, asked Council to support the Billings Growth Policy and stated it would be very beneficial to the City. Mr. Carmody stated he thought a lot of good things would happen to Billings with this Growth Policy. Mr. Carmody stated that the growth policy would help the community become more active and would increase business and growth.
- **Stuart Shay, 1702 Colton Blvd., Billings, MT,** in regard to Item 4, stated the Billings Growth Policy would stimulate growth for the City. Mr. Shay stated that as a small business owner, he felt the Growth Policy would encourage small business growth.

## **1. CONSENT AGENDA**

### **A. Bid Awards:**

**1. Taxilane West Construction Project.** (Opened 6/28/2016) Recommend Knife River, \$1,167,189.80

**2. Wastewater Plant Chemicals - Dry Polymer.** (Opened 6/28/2016) Recommend BASF Corporation, \$1.493 per pound.

**3. West End Hangar Sanitary Sewer Extension.** (Opened 6/28/2016) Recommend COP Construction, \$194,276.

**B. Professional Services Contract** for W.O. 16-14, West Billings Stormwater Development Plan; DOWL, \$198,691.

**C. Professional Services Contract** for a Montana Stormwater Control Guidance Manual to accompany the new State of Montana MS4 General Permit; HDR Engineering, Inc., \$229,791.

**D. Rose Park Pool Operations Building Replacement Study Agreement** with CTA Architects/Engineers, \$123,436.

**E. Parks, Recreation, and Open Space Comprehensive Plan Agreement** with PROS Consulting, \$109,745.

**F. Right-of-Way Easement for W.O. 15-07, Orchard Lane Reconstruction Project** with Forquer/Stuart LLC, Jude D. Gordon, and Robert Ybarra.

**G. Acceptance** of 2016 Justice Assistance Grant (JAG), \$86,925.

**H. Recommendation** of new baseball field at Centennial Park be named Musburger Field.

**I. Revolving Loan Fund** to Montdevco II, \$250,000.

**J. Recommendation of approval** to the Policy Coordinating Committee for the Rimrocks to Valley Bike/Pedestrian Feasibility Study.

**K. Approval** of use of funds from the Ballpark Permanent Fund to move fencing and accommodate a zip line, \$10,995.

**L. Preliminary Subsequent Minor Plat** of Amended Lot 22A, Pemberton Subdivision, described as three lots on an approximately 61,486 square foot parcel of land generally located on North Lakeview Drive, east of Lake Elmo Drive and east of Lake Elmo; Melodee Haagenson, et al, owner; Pinpoint Land Survey, PLLC, agent; conditional approval and adoption of the findings of fact.

**M. Final Plat Approval** of Trails West Subdivision, 3rd Filing.

**N. Bills and Payroll:**

**1.** June 13, 2016

**2.** June 20, 2016

Councilmember Yakawich separated Item 1E, and 1K for discussion.

Councilmember Sullivan separated Item 1H for discussion.

Councilmember Cromley separated Item 1I in order to abstain.

Councilmember Clark separated Item 1D for discussion.

Councilmember Brown separated Item 1N2 in order to abstain.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1D, 1E, 1H, 1I, 1K, and 1N2, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich asked Mike Whitaker, Director of Parks and Recreation, to clarify Item 1E. Mr. Whitaker stated the current Parks Comprehensive plan was over 17 years old and the new plan would help identify current and future needs and identify strategies to provide for upcoming needs. Councilmember Yakawich asked if the plan would be used in the near future. Mr. Whitaker stated it would help the City to qualify for grants from Land and Water Conservation Fund (LWCF). Councilmember Brewster asked why the Parks department couldn't create a comprehensive plan on their own. Mr. Whitaker stated the consulting company had a better understanding of current and national trends. Councilmember Brewster stated he was concerned the City would not be able to

follow through with recommendations from the consulting company. Mayor Hanel stated he appreciated the Parks department's effort in acquiring an RFP at a lower cost than initially budgeted. Councilmember Clark asked when the last survey was sent out. Mr. Whitaker stated a survey was sent in 2013 in order to show current community needs so the City could apply for funding. Councilmember Sullivan asked if the new survey would discuss allowing dogs in the parks. Mr. Whitaker stated it would most likely include that question. Councilmember Brown asked what topics the study would include. Mr. Whitaker stated it would identify the best locations for community and regional parks and audit current parks for deficits. Councilmember Brown asked if the Parks department could conduct the survey without a consulting company. Mr. Whitaker stated the consultant company would be able to audit the Parks department and provide recommendations. Ms. Volek stated the Parks department only had one planner and that person was responsible for all small projects, reviewing construction projects to ensure they are being built correctly, and ensuring that projects were meeting ADA requirements. Ms. Volek stated that one person would not have the time to conduct a major study while working on all the other projects. Councilmember Brown stated he was concerned the City would pay for the study, but then not have the funding to follow through with recommendations on the study. Ms. Volek stated the study would provide community needs, such as a community center, and how important they were to the community. Mr. Whitaker stated the consulting company would also provide funding recommendations that would be presented to Council. Councilmember Clark stated spending money on studies was taking money away from actual Park projects. Ms. Volek stated it had been 17 years since the City had completed a study and the master plan needed to be updated periodically. Councilmember Sullivan stated the Council might need to discuss long range financial plans and how to integrate those plans. Councilmember Brown asked if the recommendations were met on the last study. Mr. Whitaker stated the most significant accomplishment was the development of the City Park Maintenance District. Mr. Whitaker stated that had been a recommendation from the last plan. Mr. Whitaker stated it had allowed the City to have CIP projects by allowing a funding source. Councilmember Yakawich moved for approval of Item 1E, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich asked for clarification on Item 1K. Mr. Whitaker stated that by moving the fence, it would allow for additional programming to be added near the field. Mr. Whitaker stated the Billings Mustangs were considering adding a zip line or a playground. Councilmember Yakawich asked where the money came from for the Ballpark Permanent Fund. Mr. Whitaker stated the fund received money from donations and that several years ago Councilmember Clark had made an initiative to add the lease payments to the fund. Councilmember Brown asked if there was a guarantee that the Billings Mustangs would provide a zip line. Mr.

Whitaker stated he had discussed this with the Billings Mustangs, but that the City did not have a signed agreement yet. Ms. Volek stated the City had a contract with the Billings Mustangs that outlined how the funds could be used. Ms. Volek stated that Mr. DeVore and Mr. Whitaker had made the recommendation and brought it forward to Council. Councilmember Clark asked what kinds of programming the Billings Mustangs were planning to add. Mr. Whitaker stated the Billings Mustangs could bring in bounce houses and a portable zip line. Councilmember Swanson stated he thought a portable climbing wall would be a great addition. Mayor Hanel asked who would be responsible for maintaining the area. Mr. Whitaker stated that the Billings Mustangs would be responsible for all of the area inside the fence and the Parks department managed the area outside of the fence. Councilmember Yakawich moved for approval of Item 1K, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan, in regard to Item 1H, stated he felt it was important to honor local heroes and that Mr. Musburger had brought Little League in the state. Councilmember Clark moved for approval of Item 1H, seconded by Councilmember Brown. Councilmember Friedel stated he was in favor of this motion. Mayor Hanel stated the Musburger family had made a very significant impact for the City and he would support the motion. On a voice vote, the motion was unanimously approved.

Councilmember Clark asked for clarification on Item 1D. Mr. Whitaker stated that the first phase would provide programming, and evaluate the current structure. The next step would be to get a concept and a cost estimate to bring back to Council. Mr. Whitaker stated he would recommend which projects could be delayed so funding could be directed to the Rose Park Pool Operations Building. Councilmember Clark asked if any of the existing building could be saved. Mr. Whitaker stated that due to ADA compliance issues he did not think that any portion of the old building could be utilized in re-building. Councilmember Clark moved for approval of Item 1D, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item 1N2, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 9-0, with Councilmember Brown abstaining.

Councilmember Sullivan moved for approval of Item 1I, seconded by Councilmember Brewster. On a voice vote, the motion was approved 9-0, with Councilmember Cromley abstaining.

Mayor Hanel thanked the Public Works department for their work repairing the 1300 block of O'Malley. Mayor Hanel stated he had received numerous complaints about the area, and that the new blacktop was appreciated by the people living in the area.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING approving an agreement with Meadowlark Capital LLC to provide sanitary sewer service to Meadowlark Court. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mr. Mumford began a brief presentation about the failing septic system at Meadowlark Properties. Mr. Mumford stated that Meadowlark Properties had been working with the Montana Department of Environmental Quality and Yellowstone County to build a lagoon system that would have been in the 100-year floodplain. While it would be legal to build the lagoon, there were concerns about a breach, so Meadowlark Properties approached Public Works about utilizing City sewer services. Mr. Mumford stated it would be an environmental benefit to allow Meadowlark Properties to use the City sewer services. Mayor Hanel asked if there had been any discussion about connecting to City services with any other property owners in the area. Mr. Mumford stated there had not been any other discussion, but the City could provide those services if necessary. Councilmember Clark asked if Meadowlark Properties would be paying for the cost of running the sewer line. Mr. Mumford stated that Meadowlark Properties would be responsible for all of the costs involved. Councilmember Yakawich asked if there were other areas that wanted City services but did not wish to be annexed. Mr. Mumford stated he was not aware of any other areas that would be building within the river frontage. Mr. Mumford stated that Exxon was the only other area that Public Works considered providing City sewer services to. Mr. Mumford stated that in general he does not encourage areas to utilize City services without annexation. Mr. Mumford stated the agreement with Meadowlark Properties would allow the option of annexation in the future. Mayor Hanel asked for clarification on areas that had connected to City services without being annexed. Mr. Mumford stated that Phillips 66 was already connected and the City had added additional services for their industrial waste. Mr. Mumford stated Lockwood and MetraPark had also been connected. Councilmember McFadden asked what the change in elevation was between the City and Meadowlark Properties. Mr. Mumford stated the change in elevation was less than 100 feet. Councilmember McFadden stated that if there was a flood or failure that it would not take long for the lagoon to leak contaminates into the river. Councilmember Cromley asked if the contract was a set amount or if the amount could be changed if the City needed to make changes. Mr. Mumford stated that Public Works would do a rate study to set the amount and the amount Meadowlark Properties paid would change with City rates. Councilmember Sullivan asked how it would affect the City if a failure occurred with the lagoon system. Mr. Mumford stated if the lagoon system failed, it would leech into the ground and river daily. Councilmember Brown asked if there were any criteria in place to separate this

property from other properties wanting to use City services without annexation. Mr. Mumford stated that due to the distance of Meadowlark Properties from the City, it was not a desirable annexation opportunity for the City. Mr. Mumford stated other areas closer to the City's annexation boundaries would possibly be considered for annexation. Mr. Mumford stated that Council had the final decision to approve annexations.

The public hearing was opened.

- **Tyler Dugger, attorney for Meadowlark Properties**, stated that this project had mutual benefit for the City and Meadowlark Properties. Mr. Dugger stated that Meadowlark Properties was concerned that run off from the landfill could impact the integrity of an alternate system and encouraged Council to support this motion. Mr. Dugger stated that Meadowlark Properties provided affordable housing to the community and asked Council to consider waiving the 6% surcharge.

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

Councilmember Yakawich moved for approval of Item 2, seconded by Councilmember McFadden. Councilmember Brown asked for staff recommendation on waiving the 6% surcharge. Mr. Mumford stated the surcharge had never been waived in the past. Ms. Volek stated she would recommend charging the 6% surcharge. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annexation #16-03: an approximate 6.4 acre parcel of land located south of Rimrock Road at the southwest corner of intersection of 54th Street West and Trail Creek Drive. Yellowstone Meadows Partners, LLC, petitioner. 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 Sullivan moved for approval, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.



**4. RESOLUTION of Intent to Adopt the 2016 City of Billings Growth Policy. Yellowstone County Board of Planning recommends approval. (Action: approval or disapproval of staff recommendation.)**

Candi Millar, Planning & Community Services Director, began a brief PowerPoint presentation and gave an overview of the proposed 2016 Growth Policy. Ms. Millar stated that in 2014, Council directed staff to update the Growth Policy. Ms. Millar stated that Council had three options: adopt a resolution of intent as presented, approve the resolution of intent to adopt with revisions, or reject the 2016 Growth Policy.

Councilmember Swanson asked if the policy indicated the need to hire any consultants. Ms. Millar stated the policy did have guidelines that would require additional funding or assistance from a consultant, should Council choose to pursue them. Ms. Millar stated there were many items in the Growth Policy that would be able to be handled by staff and would not require a consultant. Councilmember Sullivan stated he had provided an email to staff outlining some suggestions for revisions. Councilmember Sullivan asked how Council could best provide their ideas for revisions. Ms. Millar stated Council could gather input with the suggested changes and make the revisions for approval. Ms. Millar stated that Council could make revisions on the Resolution of Intent to Adopt and present revisions at a future Work Session. Ms. Volek stated the revisions could be discussed at the July 18 Work Session. Councilmember Brown asked if the revision must be completed by the July 25 Council meeting. Ms. Millar stated Council could re-write the resolution to include revisions. Ms. Volek stated Ms. Millar was retiring on July 28 and had been the primary author of the Growth Policy; therefore, if Council wished to have her involvement, they should have revisions completed by the July 18 Work Session. Ms. Millar stated she would recommend that Council table this item until July 25 to allow for time revisions. Councilmember Clark stated he was concerned with the conception that this policy was set in stone and that Council did not have options. Ms. Millar stated this policy did not dictate Council's actions and State law states that Council is to give consideration to the Growth Policy for land use decisions or infrastructure investments. Ms. Millar stated the Growth Policy did not dictate what Council should do, but only served as a reminder that there were values that should be considered. Councilmember Yakawich stated he would like to see further revisions and discussion be brought to the July 18 Work Session. Councilmember Brown stated the Growth Policy was used by several departments as a document of consideration. Councilmember Brewster moved to table Item 4 until July 25 and schedule a discussion at the July 18 Work Session, seconded by Councilmember Sullivan. On a voice vote, the motion to table Item 4 was unanimously approved.

Mayor Hanel called a recess at 8:32 p.m.

Mayor Hanel called the meeting back to order at 8:55 p.m.

**5. RESOLUTION allocating \$50,000 of Council Contingency Funds for a shelter at High Sierra Dog Park.**

Ms. Volek stated Item 5 was an initiative by Councilmember Cimmino. Ms. Volek stated staff did not have a presentation, but was available for questions. Mayor Hanel stated Councilmember Cimmino was excused from the meeting. Councilmember Brewster moved to table Item 5, due to her absence, seconded by Councilmember Friedel. Councilmember Clark asked if Council would still have time to use the contingency funds if the item was tabled. Ms. Volek stated staff could roll the money back into the general fund and take it out again. On a voice vote, the motion was approved 8-2, with Councilmembers McFadden and Sullivan voting in opposition.

**6. APPROVAL of West End Multi-Modal Traffic Modeling Study (continued from 6/27/2016).**

Ms. Volek stated that Item 6 had been continued from 6/27/2016 per Council's request. Councilmember Cromley moved for approval of Item 6, seconded by Councilmember Sullivan. 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 Brewster, on behalf of Councilmember Cimmino, moved to direct staff to bring back to a meeting within 90 days, the limits of annexation map to re-adjust the boundaries, seconded by Councilmember Friedel. Ms. Volek stated there had been a discussion about bringing the map back to Council after staff had an opportunity to realign the inner belt loop and wanted to know if that was the intent of the initiative. Ms. Volek stated it would take more than 90 days if that were the case. Councilmember Brewster stated they were feeling pressure from constituents to take action sooner. Ms. Volek stated there was room on the September 19 Work Session agenda. Councilmember Brewster amended his motion to allow it to be added to the September 19 Work Session agenda, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

There was no further business, and the meeting adjourned at 9:00 pm.

CITY OF BILLINGS

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

ATTEST:

BY: Toni Keehner  
Toni Keehner, Deputy City Clerk

