

COUNCIL ACTION SUMMARY

****UPDATED AS OF 10/18/2016**
ITEMS 6 AND 7 REVISED, AND
CLOSED EXECUTIVE SESSION ADDED**

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY: A DIVERSE, WELCOMING COMMUNITY WHERE PEOPLE
PROSPER AND BUSINESS SUCCEEDS.”**

COUNCIL CHAMBERS	AGENDA October 24, 2016	5:30 P.M.
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CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Yakawich

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

RECESS TO CLOSED EXECUTIVE SESSION* (meeting will be called back to order at 6:30 pm)

*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.

MINUTES: October 11, 2016 **APPROVED**

COURTESIES:

- Mayor Hanel stated the Boards and Commissions Dinner on October 20th was well attended and he thanked all those involved in its success.

PROCLAMATIONS: Extra Mile Day

ADMINISTRATOR REPORTS - TINA VOLEK

- Items 6 and 7: A letter from Gary Buchanan, Owner of Buchanan Capital, Inc., was hand-delivered regarding due diligence. An email from Maisie Sulser, RESTOR design + build, was received regarding One Big Sky Center project. Copies were included in the ex parte notebook and copies were placed at each Council desk.
- Ms. Volek inquired as to how many Councilmembers wished to have a printed copy of the 2016 Growth Policy. She added that it would be available online as well.
- Ms. Volek reminded Councilmembers about Community Conversations on October 25th, Noon to 1:30 pm at the Billings Public Library Community Room; October 25th at 7 pm to 8:30 pm at Arrowhead Elementary Library; October 26th at 7 pm to 8:30 pm at Medicine Crow School Cafeteria; and November 1st at 7 pm to 8:30 pm at Little Horn State Bank.
- Ms. Volek stated that the Mayor's Committee on Homelessness was terming after 10 years and a Legacy celebration would be held on October 27th at 4:30 pm to 7 pm at the Billings Public Library Community Room.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, 5, 6 and 7 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.)

- **Kelly McCarthy, House Representative for House District 49, 625 Yellowstone Avenue, Billings, Montana**, in reference to Items 5, 6 and 7, stated he was a strong proponent of Tax Increment Finance Districts, but he was concerned about granting TIF monies for St. Vincent DePaul relocation and remodel. He provided a letter to Council outlining his concerns about One Big Sky Center.
- **John Bollinger, 2927 Illinois Street, Billings, Montana**, in reference to Item 5, stated that the mission of St. Vincent DePaul had remained the same, but Montana Avenue had not. St. Vincent DePaul no longer fit the neighborhood and they were in need of additional space to provide greater care for their client base. He supported the TIF grant.
- **Terry Odegaard, 2101 Lake Hills Drive, Billings, Montana**, in reference to Items 5, 6 and 7, stated he wanted to know if \$350,000 in TIF monies was enough for St. Vincent DePaul to accomplish everything that needed to be done. He supported the grant. He provided an article from *The New York Times* to support his concern about EB-5 as it related to the One Big Sky Center. He questioned who would conduct audits on bonding.
- **Paula Schilke, 115 South 29th Street, Billings, Montana**, in reference to Item 5, stated she loved the history of the area in which she resided. She was concerned that St. Vincent DePaul's clientele would trespass on her and her neighbors' property and create safety issues. She stated that the South side of Billings was not a depository for nonprofit, non-taxpaying organizations. She opposed the approval of the TIF grant.

- **Gary Buchanan, Buchanan Capital, 201 N. Broadway, Billings, Montana**, in reference to Items 6 and 7, stated he did not believe there had been enough due diligence made toward the One Big Sky Center to enter into a pre-development agreement. He stated the developers did not have enough “skin in the game” and he opposed moving forward on the project at this time. He applauded the City for choosing Springsted to conduct the review, but it was not enough.
- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, in reference to Items 5, 6 and 7, stated the TIF grant was taking tax money of the finance district and he was opposed to it. He stated he was concerned about EB-5 and that it would allow immigrants into the Country without being thoroughly and properly vetted. He called it back door immigration and stated this was a Federal program that gave no controls on the local level. He stated the developers needed more “skin in the game”.
- **Jeff Essman, 3130 McMasters Road, Billings, Montana**, in reference to Items 5, 6 and 7, stated St. Vincent DePaul is a great organization, however he did not believe it meets the levy requirements of “public purposes”, i.e., water, sewer, streets, sidewalks, curbs and gutters. He stated that the monies would benefit a private organization and not the community as a whole. In reference to the One Big Sky Center, he stated he was concerned about bonding and the project not being able to sell the EB-5 visas and whether the TIF district would be covering the costs.
- **Connie Wardell, P. O. Box 214, Billings, Montana**, in reference to Items 5, 6 and 7, stated she was shocked the City would consider a pre-development agreement for One Big Sky Center without having a public hearing on the matter. She stated that not enough due diligence had been done on MontDevCo and its partners. She voiced concern about demolishing a portion of the downtown area for the project, asbestos abatement, etc. She asked what would happen to that area should the project fail after demolition. She suggested that the item be placed on the ballot with the School District’s election in the spring and to allow voters a voice on the decision. She stated that the current St. Vincent DePaul building on Montana Avenue no longer adequately provided services and that impacted other businesses on Montana Avenue. She encouraged Council to approve the TIF grant for St. Vincent DePaul.
- **Doug Jensen, 1432 Shade Tree Circle, Billings, Montana**, in reference to Items 5, 6 and 7, stated Council should consider the One Big Sky Center project because if Billings did not, Missoula or Bozeman would. He stated his background was in the hospitality arena and he had been involved in a 1,400 acre mixed-use center in Indianapolis. He stated had been involved with the developers of the One Big Sky Center for the past 3 years. He stated there were insurance companies that protected cities in the event of a failure. He supported the TIF grant to St. Vincent DePaul.
- **Dennis Sulser, 3624 Flagstone Dr., Billings, Montana**, in reference to Item 5, stated he represented St. Vincent’s Healthcare and that it had a similar mission to that of St. Vincent DePaul in helping the poor and vulnerable in the community. He supported the TIF grant approval for St. Vincent DePaul.
- **Jerry Ray, 2646 Grand Avenue, #1, Billings, Montana**, in reference to Item 5, stated he was the owner of the Crane Building for which St. Vincent DePaul would

relocate. He supported the approval of the TIF grant to St. Vincent DePaul and stated that everything St. Vincent DePaul did was in service to the community and it was in the community's best interests to get people off the streets. He stated St. Vincent DePaul had been at its current location for years and it would continue to be serving the community for years to come.

- **Clark Marten, 2606 Montana Avenue, Billings, Montana**, in reference to Item 5, he supported the TIF grant and spoke well of St. Vincent DePaul's community efforts.
- **Jeremiah Young, 1744 Songbird, Billings, Montana**, in reference to Item 5, he stated he has a buy/sell agreement with St. Vincent DePaul to purchase the building on Montana Avenue and he looked forward to making improvements to the building and the area. He supported the TIF grant and the relocation of St. Vincent DePaul.
- **Ernie Dutton, 2046 Mariposa Lane, Billings, Montana**, in reference to Item 5, he stated that St. Vincent DePaul had been at its current location for 40 years and predated many of the longstanding businesses in the downtown business area. He stated that a year ago St. Vincent DePaul applied for a building permit to expand its kitchen to serve more people, but it had been denied because the building did not meet code. He stated that in order for St. Vincent DePaul to purchase the Crane Building and move, they would have to sell the current building. He stated they had sold the building on Grand Avenue and were making every effort to continue their mission serving the community. He supported the approval of the TIF grant and stated St. Vincent DePaul would not be able to proceed with the move without the TIF grant.
- **Ed Zabrocki, 3111 Zinnia, Billings, Montana**, in reference to Item 5, stated he was the director of St. Vincent DePaul and clarified its mission. He stated that the homeless in the community was not St. Vincent DePaul's problem; homelessness was the City's problem. He urged Council to approve the TIF grant so St. Vincent DePaul could continue serving the community's homeless.
- **Stella Ziegler, Stella's Bakery, 2525 First Avenue North, Billings, Montana**, in reference to Item 5, stated she had been a business owner for 38 years in downtown Billings and had seen many changes in the downtown area. She supports St. Vincent DePaul's mission to help those in need and urged the Council to approve the TIF grant.
- **Jeanne Bender, 1617 Second Street West, Billings, Montana**, in reference to Item 5, stated she was the secretary of the Board of Director for St. Vincent DePaul. She stated that St. Vincent DePaul is no longer the right fit for Montana Avenue. She stated St. Vincent DePaul has a public purpose and is eligible for TIF monies. She outlined several moving pieces in the relocation process and stated that each piece involved the next piece in order for a successfully relocation. She supported the approval of the TIF grant.
- **Lee Humphrey, Jr., Edward Jones, 213 North Broadway, Billings, Montana**, in reference to Items 6 and 7, stated downtown Billings had improved in recent years and most of those improvements came from cornerstone businesses and there were very few issues caused by those improvements. He supported focusing on large improvements and developing a large convention center.

- **Jeanine Micks, Billings Chamber of Commerce NextGen, Billings, Montana**, in reference to Items 6 and 7, stated she represented NextGen and supported One Big Sky Center because it would create jobs and opportunities for younger citizens.
- **Loif Wilhaven, 4637 Neibauer Road, Billings, Montana**, in reference to Items 6 and 7, represented Eggart Engineering and Construction (EEC), and stated the One Big Sky Center was a game changer. He expressed concern about whether the developers had enough “skin in the game” and that the Council didn’t fully understand EB-5 and TIF policies to enter into any agreements or bonding without more information and education. He was opposed to Items 6 and 7.

Recess at 8:11 pm.

Meeting called back to order at 8:27 pm.

1. **CONSENT AGENDA** -- Separations: 1A1, 1B1, 1B2, 1E, 1F, 1G, 1J
 - A. **Bid Awards:**
 1. **W.O. 14-11, Water Reclamation Facility Nutrient Upgrade; Circuit Breaker Procurement.** (Opened 10/11/16) Recommend Yellowstone Electric Co., \$171,619. **APPROVED 10-0; CIMMINO ABSTAINED**
 - B. **Bills and Payroll:**
 1. September 27 and 28, 2016 **APPROVED 8-0; CROMLEY, BROWN, CIMMINO ABSTAINED**
 2. October 3, 2016 **APPROVED 8-0; CROMLEY, BROWN, CIMMINO ABSTAINED**
 - C. **Professional Services Contract** for W.O. 16-18, 911 Call Center; CTA Architects; \$650,719. **APPROVED**
 - D. **Professional Services Contract** for W.O. 17-01, Schedule 1 of the 2016 Water Main Replacement Projects; DOWL; \$377,800. **APPROVED**
 - E. **Professional Engineering Services Contract** for W.O. 17-01, Schedule 2 of the 2017 Sanitary Sewer and Water Replacement Projects; Morrison-Maierle, Inc.; \$749,453. **APPROVED 10-0; BROWN ABSTAINED**
 - F. **Professional Engineering Services Contract** for Schedule 3 of the 2017 Water Main Replacement Projects; Sanderson Stewart; \$558,975. **APPROVED**
 - G. **Customer Service Agreement** with NorthWestern Energy; W.O. 14-11, Water Reclamation Facility Nutrient Upgrade, Expansion and Improvements; \$235,752. **APPROVED 10-0; CIMMINO ABSTAINED**

- H. **Development Agreement** with the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day-Saints (LDS). **APPROVED**
- I. **Acceptance of Quitclaim Deed** for the street tract within Maier Subdivision near the intersection of 48th Street West and Grand Avenue from Yellowstone County. **APPROVED**
- J. **Acceptance of Donation** to the Fire Department from ExxonMobil for 2 jet skis and a trailer; \$9,600. **APPROVED**
- K. **Acceptance and Approval** of State Highway Traffic Safety overtime grant and Standard Agreement for Billings Selective Traffic Enforcement Program (STEP); \$7,000. **APPROVED**
- L. **Acceptance** of 2016 Internet Crimes Against Children (ICAC) Grant for the Police Department; \$246,797. **APPROVED**

REGULAR AGENDA:

- 2. **PUBLIC HEARING AND RESOLUTION** approving and adopting budget amendments for FY 2017. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED RES. 16-10590**
- 3. **PUBLIC HEARING AND SPECIAL REVIEW #949:** a special review to construct a parking lot on a vacant lot that is zoned Residential 7000 (R-70) on a 7,500 square foot parcel of land described as Lot 2, Cowley Subdivision, and at 331 Calhoun Lane. Niko B&W LLC, owner; Emarie Skelton - High Plains Architects, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**
- 4. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #949:** a zone change from Residential 6,000-Restricted (R-60-R) and Residential 9,600 (R-96) to Residential 5,000 (R-50) on Lots 1, 2, 3 and 4, Block 18, Lots 3 and 4, Block 19, and Lot 11, Block 16 of Lake Hills Subdivision, 15th Filing; and Lots 4 and 5, Block 5 of Lake Hills Subdivision, 33rd Filing, a total area of 3.52 acres of land. Trent Parks, applicant. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**
- 5. **APPROVAL** of Tax Increment Financing Grant from the Expanded N. 27th Street Urban Renewal Area funds to St. Vincent DePaul Building Improvements, at 2610 Minnesota Avenue; up to \$350,000. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED 7-4; YAKAWICH, MCFADDEN, FRIEDEL AND BROWN VOTED IN OPPOSITION.**

6. APPROVAL of Pre-development Memorandum of Understanding (MOU) between the City of Billings and Montdevco II for the proposed One Big Sky Center downtown redevelopment project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED DELAY TO NOVEMBER 14, 2016, 10-0; CROMLEY ABSTAINED.**

7. APPROVAL of Bond Reimbursement Resolution for the One Big Sky Center project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED DELAY TO NOVEMBER 14, 2016 10-0; CROMLEY ABSTAINED.**

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.*)

COUNCIL INITIATIVES:

- Councilmember Brewster moved to direct staff to, by April 2017, provide information regarding TIF districts to educate Council and give direction to Council to develop policies and criteria for use of TIF funds, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.
- Councilmember Brewster moved to direct staff to draft an ordinance for Council consideration concerning tree ownership to address damage to neighboring property owners, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

ADJOURN: 11:39 pm