

COUNCIL ACTION SUMMARY

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBER

August 28, 2017

6:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Swanson

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

MINUTES: August 14, 2017 **APPROVED**

COURTESIES:

- USS Billings

PROCLAMATIONS:

- Navy Day – August 28, 2017

ADMINISTRATOR REPORTS - TINA VOLEK

- In regard to the proclamation for American Indian Heritage Day (September 22, 2017) it had been postponed to the September 11th Regular Council meeting.
- In reference to Consent Agenda Item K, the public hearing had been changed from September 25th to October 10th.
- A news release had been placed at each Councilmember’s desk concerning a Montana Supreme Court decision that reversed and remanded, in part, the Watters, et al. v. City of Billings decision.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 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 meeting.)

- **NONE**

- 1. **CONSENT AGENDA** -- Separations: 1A1, 1A2, 1A3, 1B, 1C, 1K, 1O1, 1O2

- A. **Bid Awards:**

1. **W.O. 18-03, Contract No. 1 City Crack Seal.** (Opened 8/15/17) Recommend Wharton Asphalt, LLC, \$199,005. **APPROVED**
2. **Winter Traction Material.** (Opened 8/15/17) Recommend Knife River, \$21.00 per ton. **APPROVED**
3. **De-icer / Anti-icer.** (Opened 8/15/17) Recommend Brenntag Pacific, Inc., \$0.94per gallon. **APPROVED**

- B. **Amendment No. 4, W.O. 14-11: Water Reclamation Facility Nutrient Upgrade, Expansion & Improvements,** Professional Engineering Services Contract, HDR Engineering, \$89,800. **APPROVED 10-0, CIMMINO ABSTAINED**

- C. **Perpetual Right-of-Way Easement and License Agreement** with Yellowstone County for W.O. 14-11, Water Reclamation Facility Nutrient Upgrade, Expansion and Improvements. **APPROVED 10-0, CIMMINO ABSTAINED**

- D. **Acceptance of Quitclaim Deed** for Zimmerman Trail South Park from Yellowstone County. **APPROVED**

- E. **Recommendation** of approval to the Policy Coordinating Committee (PCC) of the 2018 Unified Planning Work Program (UPWP). **APPROVED**

- F. **Acceptance** of donation to the Billings Police and Fire Departments from Phillips 66 for SRO training and public education/fire safety programs; \$8,000. **APPROVED**

- G. **Acceptance** of funds from the Billings Library Foundation for the Senior Outreach Program; \$2,000. **APPROVED**

- H. **Resolution 17-10650** authorizing the Change of the Authorized Representative for the Short Term Investment Pool (STIP). **APPROVED**

- I. **Resolution 17-10651** relating to \$140,000 special sidewalk, curb, gutter and alley approach bonds, Series 2017; fixing the form and details and providing for the execution, delivery and security. **APPROVED**

- J. **Resolution 17-10652** relating to the financing of the landfill construction projects, establishing compliance with Reimbursement Bond Regulations under the Internal Revenue Code. **APPROVED**
- K. **Resolution of Intent 17-10653 to De-Annex 17-04:** approximately 49 acres of undeveloped land described as portions of Terrace Estates Subdivision, 3rd Filing; James and Jo Ann Boyer, petitioners; and set a public hearing for ~~September 25, 2017~~. **MOTION MADE BY BROWN TO EXTEND PUBLIC HEARING DATE TO OCTOBER 10, 2017, SECONDED BY SULLIVAN. APPROVED**
- L. **Second/Final Reading Ordinance 17-5692 expanding Ward II (Annexation 17-02)** for an approximate 5.4 acre parcel of land described as Tract 2B-2 of Amended Tract 2B, Corrected C/S 840, Second Amended, generally located west of Hawthorne Lane and north of Kyhl Lane; Richard and Mae Sartorie, owners. **APPROVED**
- M. **Second/Final Reading Ordinance 17-5693** amending BMCC, Section 22-231, Sidewalk Repairs. **APPROVED**
- N. **Preliminary Subsequent Minor Plat** of Amended Lot 4C, Block 1, Shiloh Crossing Subdivision, generally located between Shiloh Road and Shiloh Crossing Boulevard and South of Montana Sapphire Drive; Western Sky Ventures, LLC, owner; Performance Engineering and Consulting, agent. **APPROVED**
- O. **Bills and Payroll:**
 - 1. July 31, 2017 – **APPROVED 9-0, BROWN AND CIMMINO ABSTAINED**
 - 2. August 7, 2017 – **APPROVED 10-0, CIMMINO ABSTAINED**

REGULAR AGENDA:

- 2. **PUBLIC HEARING AND RESOLUTION 17-10654** approving and adopting budget amendments for FY2017. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**
- 3. **PUBLIC HEARING AND RESOLUTION 17-10655** setting General Obligation (GO) Debt and Public Safety II (PS II) mill levy rates for FY18. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**
- 4. **PUBLIC HEARING AND RESOLUTION 17-10656** approving the adoption of the Poly Vista Park Master Plan. Staff and PRC Board recommend approval. (Action: approval or disapproval of staff and PRC Board recommendation.)

The following citizens gave testimony in favor of the approval of the resolution adopting the Poly Vista Park Master Plan:

- **Greg Kemmis, 2176 Skokie Place, Billings, Montana.**
- **Kyle Jordan, 4416 Palisades Park Drive, Billings, Montana.**
- **Kevin Bromenshenk, 3242 Jack Burke Lane, Billings, Montana.**
- **Julie Thomason, President, Kiwanis Club, 265 Caravan Avenue, Billings, Montana.**
- **Amanda Boerboom, Executive Director, Eagle Mount, 427 15th Street West, Billings, Montana.**
- **Patrick Olp, 1416 Avenue D, Billings, Montana.**
- **Dusty Eaton, 906 North 32nd Street, Billings, Montana.**
- **Jeana McClusky, 3144 Aviemore Court, Billings, Montana.**
- **Marcie Smith, 3025 Lloyd Mangrum, Billings, Montana.**
- **Rick DeVore, President, Parks Board, 2614 Park Ridge Lane North, Billings, Montana.**
- **Connie Wardell, P.O. Box 21432, Billings, Montana.**
- **Steve Zabawa, SafeMontana, 3045 King Avenue West, Billings, Montana.**

APPROVED 10-0, CROMLEY ABSTAINED

5. **PUBLIC HEARING AND RESOLUTION 17-10657** authorizing the sale of City-owned property described as a .248 acre lot located in Heritage Walk Townhomes Subdivision. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **MOTION MADE BY SULLIVAN TO APPROVE THE SALE TO THE HIGHEST BIDDER WITH A MINIMUM BID OF \$5,000, SECONDED BY CLARK. APPROVED**

6. **PUBLIC HEARING AND RESOLUTION 17-10658 FOR ANNEXATION 17-05:** property described as a portion of Tract A, Certificate of Survey 1651; Tract 1, Certificate of Survey 1871; a portion of Tract 1, Certificate of Survey 2465; Tract 2A, Certificate of Survey 2465; and a portion of the north 30 feet of the NW1/4, NW1/4 of Section 36, T1N, R24E adjacent to Tract 1, Certificate of Survey 2465, generally located at the northwest corner of the intersection of Rimrock Road and 70th Street West and bordering the south side of the Burlington Northern and Santa Fe Railroad corridor. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

7. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 960:** a zone change from un-zoned to Residential 7,000 (R-70) and Residential 5,000 (R-50) on Tract 2A of C/S 2465 (R-70) and Tract 1 of C/S 1871 (R-50), a 116.18 acre parcel of land, generally located north of Rimrock Road and west of Copper Ridge Subdivision. Gary Oakland, owner; Mac Fogselson, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED**

8. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward III to include recently annexed property in Annexation 17-03: approximately 18 acres of land, generally located at the southeast corner of the intersection of Santiago Boulevard and Blue Creek Road south of the Yellowstone River. Jamey Eisenbarth, owner. Staff recommends ~~conditional~~ approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

RECESS: 9:05 PM

RECONVENE: 9:25 PM

9. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 957:** a zone change from Community Commercial (CC), Residential Multi-Family-Restricted (RMF-R), Residential 5,000 (R-50), Residential 7,000 (R-70), Residential 9,600 (R-96) and Public (P) to Planned Development (PD) on an approximate 66 acre parcel of land described as: Lots 3 and 4, Western Sky Subdivision. Mont Vista, LLC, owner; KLJ Engineering, agent. The Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) **APPROVED 10-1, SULLIVAN OPPOSED**

10. **ORDINANCES PROHIBITING MEDICAL MARIJUANA STOREFRONTS:**

- a. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 959:** a text amendment to Section 27-304, Billings, Montana City Code (BMCC), prohibiting land uses contrary to local, state or federal law. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

The following citizens gave testimony opposing the zone change ordinance:

- **Richard Abromeit, Montana Advanced Caregivers, 1101 Maggie Lane, Billings, Montana.**
- **Jeff Hill, 3855 Avenue D, Billings, Montana.**
- **Elizabeth Pincolini, 1404 Barrett Road, Billings, Montana.**
- **Frank Hartman, Billings, Montana.**
- **John Lister, P.O. Box 3273, Bozeman, Montana.**
- **Nancy Moore, 3 Broadwater, Billings, Montana.**
- **Jason Smith, Montana Advanced Caregivers, 4515 Palisades Park Drive, Billings, Montana.**
- **Heather Watts, 1105 Parkhill Drive, Billings, Montana.**
- **Dustin Williams, 1118 Howard Avenue, Billings, Montana.**
- **Amber Eubank, 5522 Forest Hill Drive, Billings, Montana.**
- **Josh Thill, 1029 Avenue D, Billings, Montana.**
- **Dusty Watts, 1118 Howard Avenue, Billings, Montana.**
- **Lisa Hepler, 1256 Patriot Street, Billings, Montana.**

- **Gerald Kindsfather, 635 Custer Avenue, Billings, Montana.**
- **Jean Lucas, 2705 Sage Springs Circle, Billings, Montana.**
- **Steve MacKey, Attorney for Montana Advanced Caregivers, 24 Yellowstone Avenue, Billings, Montana.**
- **Jeff Eubank, 5522 Forest Hill Drive, Billings, Montana.**
- **Tina Walker, 4100 Murphy Avenue, Billings, Montana.**
- **Adam Smith, 4100 Murphy Avenue, Billings, Montana.**
- **Vicki Eubank, 5522 Forest Hill Drive, Billings, Montana.**

The following citizens gave testimony favoring the zone change ordinance:

- **Dick Pence, 4307 Palisades Park Drive, Billings, Montana.**
- **Jeff Laszloffy, 102 First Avenue, Laurel, Montana.**
- **Susan Sullivan, SafeMontana, 3045 King Avenue West, Billings, Montana.**
- **Lillian McBride, 3137 Peregrine Lane, Billings, Montana.**
- **Mason Simmons, 2545 Phyllis Lane, Billings, Montana.**
- **Eric Simmons, 25 Vista Drive, Billings, Montana.**
- **Matt Rich, 2545 Phyllis Lane, Billings, Montana.**
- **Bart Grant, 261 Windcave Circle, Billings, Montana.**
- **Steve Zabawa, SafeMontana, 3045 King Avenue West, Billings, Montana.**
- **Cherrie Brady, 5032 Poly Drive, Billings, Montana.**
- **Dennis Ulvestad, 3040 Central Avenue, A102, Billings, Montana.**
- **Sean Brady, 5032 Poly Drive, Billings, Montana.**
- **Connie Wardell, P.O. Box 21432, Billings, Montana.**
- **Dr. Lance Parks, 1851 W M Road, Worden, Montana, stated Council should delay their vote.**

MOTION MADE BY CIMMINO TO DELAY DECISION FOR 30 DAYS TO REVIEW 2010 AD HOC COMMITTEE FINDINGS, SECONDED BY SULLIVAN. FAILED 1-10, CROMLEY, YAKAWICH, BREWSTER, MCFADDEN, FRIEDEL, SULLIVAN, SWANSON, CLARK, BROWN AND MAYOR OPPOSED.

MOTION MADE BY BREWSTER TO DELAY VOTE UNTIL AFTER PUBLIC HEARING HELD ON ITEM 10b, SECONDED BY BROWN. APPROVED UNANIMOUSLY.

MOTION MADE BY BREWSTER TO APPROVE, SECONDED BY CLARK. APPROVED 7-4, CROMLEY, CIMMINO, SULLIVAN, AND BROWN OPPOSED.

RECESS: 12:15 AM

RECONVENE: 12:30 AM

- b. **PUBLIC HEARING AND FIRST READING ORDINANCE** amending Section 7-1700, BMCC, relating to medical marijuana dispensaries and storefronts, updating the City Code to remove inconsistencies with state and federal laws. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

The following citizens gave testimony opposing amending ordinance:

- **Jason Smith, Montana Advanced Caregivers, 4515 Palisades Park Drive, Billings, Montana.**
- **Richard Abromeit, Montana Advanced Caregivers, 1101 Maggie Lane, Billings, Montana.**
- **Jeff Eubank, 5522 Forest Hill Drive, Billings, Montana.**
- **Heather Watts, 1105 Parkhill Drive, Billings, Montana.**
- **Josh Thill, 1029 Avenue D, Billings, Montana.**
- **Dustin Williams, 1118 Howard, Billings, Montana.**
- **John Lister, P.O. Box 3273, Bozeman, Montana.**
- **Adam Smith, 4100 Murphy Avenue, Billings, Montana.**
- **Tina Walker, 4100 Murphy Avenue, Billings, Montana.**
- **Steve MacKey, Attorney for Montana Advanced Caregivers, 24 Yellowstone Avenue, Billings, Montana.**
- **Matt Rich, 2545 Phyllis Lane, Billings, Montana.**
- **Vicki Eubank, 5522 Forest Hill Drive, Billings, Montana.**

The following citizens gave testimony favoring amending ordinance:

- **Connie Wardell, P.O. Box 21432, Billings, Montana.**
- **Steve Zabawa, SafeMontana, 3045 King Avenue West, Billings, Montana.**
- **Susan Sullivan, SafeMontana, 3045 King Avenue West, Billings, Montana.**
- **Dick Pence, 4307 Palisades Park Drive, Billings, Montana.**

**MOTION MADE BY BREWSTER TO APPROVE, SECONDED BY CLARK.
APPROVED 7-4, CROMLEY, CIMMINO, SULLIVAN, AND BROWN OPPOSED.**

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.*)

- **Connie Wardell, P.O. Box 21432, Billings, Montana**, stated she found humor in how things change over time. She gave examples of a time when Council meeting topics mainly involved curbs, gutters and sidewalks. She stated those days were long past and new issues replace them.

COUNCIL INITIATIVES:

- Councilmember Brown moved to direct staff to conduct a feasibility study regarding donating decommissioned police vehicles to non-profit, probation-type agencies, seconded by Councilmember Brewster. That was met by opposition from some on the Councilmembers who stated the vehicles should be sold, not donated. Councilmember Brown withdrew his motion and Councilmember Brewster withdrew his second. Councilmember Brown then made a substitute motion to direct staff to conduct a feasibility study regarding donating or selling decommissioned police vehicles to non-profit, probation-type agencies, seconded by Councilmember Brewster. **APPROVED 8-3, CROMLEY, FRIEDEL AND CIMMINO OPPOSED.**

ADJOURN: 2:05 AM, Tuesday, August 29, 2017