

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

November 13, 2017

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 Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Brewster gave the invocation.

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

MINUTES: October 23, 2017 - Regular Business and October 30, 2017 - Special Meeting – Councilmember Sullivan moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel welcomed Cub Scout Group 81. Each Cub Scout introduced themselves and the group took a picture with the Council.
- Mayor Hanel congratulated all of the people who won in the Municipal elections and thanked all those who ran for City Council positions.
- Councilmember Cimmino congratulated Councilmembers Yakawich and Brown on their new terms.

PROCLAMATIONS:

- Mayor Hanel declared November 25, 2017, as Small Business Saturday, and encouraged the community to shop locally at small independently owned businesses.
- Mayor Hanel declared November 25, 2017, as Salvation Army Red Kettle Kickoff Day. Lieutenant Tim Simeroth, Major Trish Simeroth and Retired Major Keith Bottjen thanked Council and the community for their support. Councilmember McFadden stated there were 1.5 million members of the Salvation Army and they were located in 128 countries and helped about 25 million people in the United States every year. He added that the Salvation Army had an excellent record of ensuring that the money raised was used to help people in need.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless did not have any items for the administrator report.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 3B and 5 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.)

The public comment period was opened.

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

1. CONSENT AGENDA

- A. Amendment No. 4, Cellular Tower Ground Lease located at Billings Regional Landfill, Gold Creek Cellular of Montana Limited Partnership; revenue first year \$8,000, revenue subsequent years adjusted by CPI-U.**
- B. Approval of lease renewal of the Non-Commercial Aviation Ground Lease with First Interstate Bank, revenue first year \$3,675, revenue subsequent years adjusted by CPI-U.**
- C. Approval of Mercer Group, Inc. project manager substitution.**
- D. Consulting Agreement with Kittleson and Associates; \$225,000; 2018 Billings Urban Area Long Range Transportation Plan and Public Participation Updates.**
- E. Consulting Agreement with Kittleson and Associates; \$125,000; MPO Travel Demand Model.**
- F. Professional Services Contract for W.O. 17-16, Fox Pump Station Improvements; Morrison Maierle Inc.; \$315,200.**
- G. Professional Services Contract for W.O. 18-06, EBURD 10th Avenue North to 13th Avenue North; Sanderson Stewart; \$735,535.**
- H. Drainage Easement for Lots 2 and 3, Block 8, Vintage Estates Subdivision.**
- I. Approval and Acceptance of U.S. Department of Homeland Security Grant for the Bomb Squad for training; \$10,000.**
- J. Approval and Acceptance of U.S. Department of Homeland Security Grant for the Six Montana Regional Fire Department Hazmat Teams; \$360,000.**
- K. Preliminary Major Plat of Copper Ridge Subdivision, 7th Filing, generally located on the north side of Rimrock Road, east and west of 70th Street West, and west of the existing Copper Ridge Subdivision; Gary Oakland and Marvin Hessler, owners; Sanderson Stewart, agent.**

L. Bills and Payroll:

1. October 5 and 10, 2017
2. October 16, 2017
3. October 23, 2017

Councilmember Sullivan separated Item 1C for discussion.

Councilmember Cimmino separated Items 1D, 1E, 1G for discussion and Items 1L1 and 1L2 to abstain.

Councilmember Brown separated Item 1F and 1L3 to abstain.

Councilmember Yakawich separated Item 1D for discussion.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1C, 1D, 1E, 1F, 1G, 1L1, 1L2 and 1L3, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan moved for approval of Item 1L1, seconded by Councilmember Cromley. On a voice vote, the motion was approved 10-0, Councilmember Cimmino abstained.

Councilmember Sullivan moved for approval of Item 1L2, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 10-0, Councilmember Cimmino abstained.

Councilmember Sullivan moved for approval of Item 1L3, seconded by Councilmember Cimmino. On a voice vote, the motion was approved Councilmember Brown abstained.

Councilmember Sullivan moved for approval of Item 1F, seconded by Councilmember Cimmino. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Cimmino asked for clarification from staff on the funding source for Item 1D, the consulting agreement for the 2018 Billings Urban Area Long Term Range Transportation Plan and Public Participation Updates. Scott Walker, Transportation Planner, stated that the Federal funding received allowed the City to finance projects that could not be afforded otherwise. Councilmember Cimmino noted that part of the agreement stated that none of the work covered would be subcontracted without prior approval, but noticed DOWL was listed as a subcontractor. Mr. Walker stated that DOWL would be working with Kittleson and Associates, but the financial amount would not change.

Councilmember Yakawich asked where the money for Item 1D would come from. Mr. Walker stated that Federal funds passed through the Department of Transportation and was allotted to the City as a metropolitan planning organization. He added that Council had approved the work program at the end of August, which had included this item. He stated it was a \$225,000 contract for the Long Range Transportation Plan and a \$25,000 contract to update the Citizen Participation Plan. Councilmember Yakawich asked why the project could not be done by in-house staff. Mr. Walker stated that the companies hired were professional and very proficient at this type of work. He added that by bringing in an outside company, it allowed staff to continue functioning with day-to-day duties.

Mayor Hanel stated the Policy Coordinating Committee had approved the 2018 Work Plan and asked if it would create a conflict if this item were not approved. Mr. Walker responded affirmatively.

Councilmember Yakawich moved for approval of Item 1D, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino, in reference to Item 1E, asked why there was an additional cost for the Travel Demand Model, that it was already provided in the Long Range Plan. Mr. Walker stated the Travel Demand Model studied efficiency. He stated the findings could be used to prevent roadway congestion in new subdivisions and identify locations with conflicts, accidents and transit issues. Mr. Walker stated the State of Montana had the working model in Helena and staff believed it could work well locally. Councilmember Cimmino stated that a traffic demand model study had just been completed by Westat and questioned why another one was needed. Mr. Walker stated that had been a transportation survey and was not a model. He added the information gleaned from the study would be used for the model.

Councilmember Sullivan asked about ongoing costs. Mr. Walker stated the cost was approximately \$1,200, annually, to maintain the modeling software. He added staff would be able to update the model when major changes occurred.

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

Councilmember Cimmino asked for clarification on the funding source for Item 1G. Dave Mumford, Public Works Director, stated that the project would be funded by East Billings Urban Renewal District (EBURD), except for a small amount funded by Public Works.

Councilmember Brewster asked if the street light portion of the work order would be an SID. Mr. Mumford responded affirmatively, and added there would also be some funding from the TIF District.

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

Councilmember Sullivan, in reference to Item 1C, asked why the City had chosen to remain financially responsible for payment of the City Administrator search contract with Mercer Group, instead of canceling the contract. Bruce McCandless, Interim City Administrator, stated that the contract had a 30-day cancellation notice and the remaining work would be completed in the next 30 days. He added staff's recommendation was to substitute a project manager to complete the work. Councilmember Brewster stated he had reviewed the biography of the proposed substitute project manager and felt it was very substantial. He supported the substitution.

Mayor Hanel asked if the remaining work would be completed in time. Councilmember Brewster responded affirmatively and added the background checks could be done in time for Council to be presented with the information for the final interviews.

Councilmember Yakawich asked for clarification on why a new project manager was recommended. Councilmember Brewster stated there had been some missteps during the candidate selection process that had caused some concerns. He stated he had originally discussed completing the remaining process with in-house staff, but due to contract requirements, it had been recommended to substitute the project manager. He added he would forward the biography for the proposed substitute project manager to the rest of Council.

Councilmember Brewster moved for approval of Item 1C, seconded by Councilmember Cimmino.

Councilmember Sullivan stated he had some doubts, given the past behavior of the organization, that the remaining process would be finished in the next 30 days. He stated he would vote against Item 1C. Councilmember Yakawich asked whether Councilmember Brewster felt confident with the substitution. Councilmember Brewster responded affirmatively. He added that Council had not been entirely pleased with the existing work provided, but felt the organization, as a whole, was a good organization. He stated that the City had received very good work from the organization in the past, but had recently been disappointed with performance that he was confident would not be repeated in the future.

Councilmember Cimmino stated the City Administrator Subcommittee had reviewed 11 RFP's and had unanimously chosen the Mercer Group. She stated they had 45 years of experience and the City had been happy with their previous services. She stated she would support the proposed substitution.

Councilmember Friedel asked if the 5th candidate had decided to withdraw his application. Mr. McCandless stated that Mr. Mihelich had chosen to withdraw from the

process. Councilmember Friedel stated he lacked confidence with the Mercer Group. Councilmember Brewster added Council always had the opportunity to start over with the City Administrator search if they felt the process was not working well.

Councilmember McFadden voiced his satisfaction with the list of candidates.

Councilmember Brown stated Mercer Group was a good company and had done a fine job. He stated Mercer Group had provided a fine list of candidates and supported continuing with them and substituting a new project manager.

Mayor Hanel stated contracts were very important and Mercer Group had been highly recommended for their work in the past. He spoke in favor of approving the substitution. He added there were four great remaining candidates and thanked Councilmember Brewster for his hard work.

On a voice vote, the motion was approved 9-2, Councilmembers Cromley and Sullivan voting in opposition.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 17-10678 adopting the Parks, Recreation and Open Space Comprehensive Plan. Staff, the Parks, Recreation and Cemetery Board and the City/County Planning Board recommends approval. (Action: approval or disapproval of staff and Boards' recommendation.)

Mike Svetz, PROS Consulting, gave a brief PowerPoint presentation on the proposed Parks Open Space Comprehensive Plan. He reminded Council that by adopting the plan, they were not adopting and implementing all of the recommendations. He added that the plan was an outline that identified the City's current status with its Parks Comprehensive Plan and his recommendations to proceed.

Councilmember Cimmino asked for clarification on a difference in numbers on the original staff memo and the Friday packet that Council had received. Mr. Svetz stated there had been a mathematical error and the correct amount was \$84 million. Councilmember Cimmino asked if the indoor sportsplex mentioned was in addition to the one already being considered by the South Billings Urban Renewal District (SBURA). Mr. Svetz responded affirmatively. He stated the project by SBURA was aimed at regional sports tourism and was focused on aquatics. He added the project in the Comprehensive Plan was a community recreation center that would serve local needs.

Councilmember Cimmino asked for clarification on land being donated to the City for park space. Mr. Svetz stated that most donated land would fall into the "pocket park" category and would not be the type of land needed for community parks, which typically needed to be a minimum of 10 acres.

Councilmember Sullivan asked for clarification on the City's rate of 1 employee for every 23 acres, compared to similar cities. Mr. Svetz stated that 1 employee for every 20 acres would be ideal for the City. He stated the City of Billings was at about 5.5 full time employees (FTE's), which was not bad. He added that if the City added satellite maintenance yards it would bring the City to 4.5 FTE's. Councilmember Sullivan asked for clarification on the financial benefits of a work order system. Mr. Svetz stated the technology of a work order management system would help the City financially. He provided information about Bozeman's work order system and encouraged staff to contact the City of Bozeman about their work order management system.

Councilmember Brown asked if the plan considered outside organizations that currently provided indoor space, i.e. YMCA. Mr. Svetz stated only City-owned spaces were considered and the needs of the community. He added that if an outside organization met the community's need for indoor space, it would have moved to the bottom of the list of community priorities and concerns. He stated \$50,000 - \$100,000 was needed for a feasibility study to determine site selection, competition or partnership opportunities, etc.

Councilmember Yakawich asked about citizen input on the Parks Comprehensive Open Space Plan. Mr. Svetz stated there had been considerable citizen input at the beginning of the process. Councilmember Yakawich asked about having a public meeting at the library to receive community input. Mr. Svetz stated there had been a meeting during the summer to receive input, but could have another one if Council wished.

Councilmember Yakawich asked if the request of over \$80 million for Parks was realistic. Mr. Svetz stated that life cycle replacement was a continuing need. He stated \$22 million was needed for replacement needs in the next 10 years, but reminded Council that the City had hundreds of millions of dollars' worth of assets. He stated the focus should be on meeting the community's needs. He added that the community had indicated they wanted facilities that would allow indoor swimming, indoor basketball, and an indoor event center, etc.

Councilmember Clark asked how many people had provided input on the Comprehensive Open Space Plan. Mr. Svetz stated over 100 people had attended the focus groups and the public meeting. He added the statistically valid survey had been mailed to over 2,000 households and could be answered via mail, online or telephone. He added that they had received over 500 responses.

Councilmember Swanson asked if an aquatic center had been considered in the study. Mr. Svetz stated that a multi-generational recreation center typically included an aquatic facility, and would recommend conducting a feasibility study on it. He stated a competition-style swimming center was being considered by outside sources and had not been included in the City's study.

Councilmember Cimmino clarified that Castlerock Park had completed a master plan, but the City had not had funding for a community center at the time. She asked why another master plan was recommended for Castlerock Park. Mr. Svetz stated the master plan had been done so long ago, that it did not necessarily show the community's current needs. Ms. Cimmino stated that many of the consulting studies 'collected dust' due to lack of available funding. Mr. Svetz stated one of the worst things a city could do, from a Parks and recreation standpoint, would be to raise hope by engaging the community, doing a master plan and then not implementing it.

Councilmember Sullivan stated the City was currently on a 5-year Capital Improvement Plan (CIP) and questioned if a 10-year CIP would be recommended. Mr. Svetz responded affirmatively.

The public comment period was opened.

- **Clark Johnson, 6180 Masters Boulevard, Billings, Montana:** spoke in favor of another community park. He stated that the west end was growing rapidly and more park space was needed. He added he supported an indoor pickleball facility. Councilmember Cimmino clarified that the tennis courts at Pioneer and Castlerock Park had recently been resurfaced and included pickleball. Councilmember Brown asked if Mr. Johnson would support higher taxes to support funding new park space. Mr. Johnson answered affirmatively. Mayor Hanel encouraged Mr. Johnson to apply for the Parks Board.
- **Connie Wardell, P.O. Box 21432, Billings, Montana:** stated she did not think most people would support higher taxes for more park space. She added that a work order management system needed to be addressed. She stated there were plenty of swimming pools in the City already and added that more public input was needed.

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

Councilmember Brewster moved for approval of Item 2, with an amendment to include evaluation of the financial aspects during the Council work plan, CIP and the budgeting process, seconded by Councilmember Sullivan. Councilmember Brewster stated Council had an obligation to provide the community with some costs to implement the plan. Councilmember Sullivan made a motion to amend Councilmember Brewster's motion to include the implementation of a work order management system in Fiscal Year 2019. Mayor Hanel suggested that the amendment be included in Councilmember Brewster's original motion. Councilmember Sullivan withdrew his amendment. Councilmember Brewster amended his motion to include implementing a work order management system, seconded by Councilmember Sullivan.

Councilmember Sullivan stated that the Parks Maintenance District had been a sore subject with many people in the past and thought that a work order management system indicating where money was utilized would help track spending.

Councilmember Friedel stated staff needed to complete work orders, sell excess unused land and prioritize remaining issues. He stated he would support the amendment.

Councilmember Yakawich stated staff should find additional ways to include community input. He clarified that by approving Item 2, there would not be an increase in PMD 1 or any money from the general fund.

Councilmember Cimmino stated that the Parks Open Space Comprehensive Plan was only a guiding document and would not allocate any money.

Councilmember Brown stated that the community would provide more input when financial details were included. He added that the plan should not be approved if Council was not going to move forward with funding and follow through with action.

On a voice vote, the motion was unanimously approved.

3. SID 1403, Gleneagles Boulevard

A. PUBLIC HEARING AND RESOLUTION 17-10679 creating SID 1403, Gleneagles Boulevard. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless, Interim City Administrator, stated 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 3A, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

B. PROFESSIONAL SERVICES CONTRACT for SID 1403; Performance Engineering and Consulting; \$145,137. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless, Interim City Administrator, stated staff did not have a presentation, but was available for questions.

Councilmember Sullivan stated he would abstain from voting on Item 3B.

Councilmember Brewster moved for approval of Item 3B, seconded by Councilmember Cimmino. On a voice vote, the motion was approved 10-0, Councilmember Sullivan abstained.

4. PUBLIC HEARING AND FIRST READING ORDINANCE amending the boundaries of Ward II to exclude the portion of recently de-annexed property in De-Annexation #17-04: approximately 49 acres of undeveloped land described as portions of Terrace Estate Subdivision, 3rd filing; James and Jo Ann Boyer, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless, Interim City Administrator, stated 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 Cimmino moved for approval of Item 4, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

5. NOMINATION AND ELECTION of Deputy Mayor. Staff recommends City Council nominate and elect a Deputy Mayor. (Action: approval or disapproval of staff recommendation.)

Mayor Hanel asked for legal counsel on the process of nominating and electing a Deputy Mayor.

Brent Brooks, City Attorney, stated City Code required an election of a deputy mayor, by the Mayor and Council, after each Municipal election every two years. He added that the Deputy Mayor served as the presiding Mayor when the Mayor was not available. Mr. Brooks stated that the Deputy Mayor would be able to sign official documents. He added that the voting would need to be made by voice vote.

Councilmember Clark asked for clarification on the timing of the nomination and election. Mr. Brooks stated there was an ordinance stating the action take place at the Council meeting following a Municipal election. He added that the election of a Deputy Mayor Pro-Tempore took place after the swearing in of the new Mayor and Council.

Councilmember Sullivan nominated Councilmember Brewster, seconded by Councilmember Friedel.

Councilmember Cimmino stated she had sent an email to Council nominating Councilmember Yakawich and he had informed her he would like to yield the position to Councilmember Brewster.

On a voice vote, the nomination of Councilmember Brewster 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.

- **Connie Wardell, P.O. Box 21432, Billings, Montana:** stated there had been an instance in the past where both the Mayor and the Deputy Mayor had been available, therefore, it was decided that a Deputy Mayor Pro-Tempore be elected.
- **Clark Johnson, 6180 Masters Boulevard, Billings, Montana:** stated that a Facebook page would be a great way to get the community involved in the Parks Comprehensive Plan.

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

COUNCIL INITIATIVES:

There were no Council Initiatives.

There was no further business, and the meeting adjourned at 9:08 pm.



CITY OF BILLINGS

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

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk