

REGULAR MEETING OF THE BILLINGS CITY COUNCIL
November 23, 2009

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. Deputy Mayor Ed Ulledalen called the meeting to order at 6:30 pm and served as the meeting's presiding officer. Councilmember Astle gave the invocation.

ROLL CALL: Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Brewster, Veis, Ruegamer, McCall, Ulledalen, Astle, Clark

MINUTES: November 9, 2009 -- approved as distributed

COURTESIES:

- Councilmember Veis thanked Councilmember Ronquillo for preparing and hosting the delicious dinner for the delegation of young political leaders from Nepal who were recently in Billings.
- Councilmember Ulledalen thanked staff for all the hard work in preparing the City's department business plans presented at recent work sessions.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek referenced Item 1D and advised that, if approved, the City would be asked by the County to affirm its support of a related road abandonment in the County. She said staff would then simply sign or indicate its support.
- Ms. Volek advised there were two ex-parte items for Item 3 in the notebook in the back of the room and on the councilmembers' desks. She said one item was a letter from the Parmly Billings Library Foundation supporting a new downtown building for the library and the proposed bonds. She said the second item was an e-mail from Wayne Leischner recommending the City remodel the existing building and keep the library in its current location.
- Ms. Volek advised it was staff's recommendation to postpone action on the downtown library facility project options until December 14, 2009. She said there was no public hearing scheduled on the item that evening due to the speed it was brought to the agenda. She said additional time was also needed to consider financial arrangements.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, 2, and 3 only.
Speaker sign-in required. (Comments offered here are limited to **1 minute** per speaker. Please sign up on the clipboard located 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.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)

The public comment period was opened.

- **James Knox, 661 Garnet Avenue; Jim Court, 18 Heatherwood; and Connie Wardell, 1302 24th Street West** each testified on Item 3 and asked the Council to take its time and explore other options for the Library. Ms. Wardell asked Council to involve more people in the decision making and negotiate all sides of the transaction.
- **Joe White, Billings, MT**, said he and his wife supported the library's temporary move to the Gainan's building. He said the City should demo the current building and purchase the George Henry's building to be used for office space and by the Library Foundation and the University Women.
- **Kevin Nelson, 4235 Bruce Avenue**, referenced Item 2. He said it was amazing that the property owners who received the tax increment money had to submit a 1099 and W9. He asked since when did the City ever send someone who gets a street, sewer, or sidewalk a 1099 for improvements to their building. He said Council "was nothing more than a pass-through agency for personal aggrandizement of a few property owners downtown." He said the City never 1099'd anybody for public funds that he knew of.
- **Greg Krueger, Downtown Billings Development Director, 2815 2nd Avenue North**, said they 1099'd anyone who received public funds. When contractors were hired for the City of Billings, they received a 1099. He said 1099's were very appropriate. He said he had no idea who would apply at that point and to say it was a select group was incorrect.

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

1. CONSENT AGENDA

A. Mayor Tussing recommends that Council confirm the following appointments.

Name	Board/Commission	Term	
1. No Applications	Human Relations	11/23/09	12/31/10
2. No Applications	Human Relations	11/23/09	12/31/10

1. Unexpired term of N. Gregory Kohn
2. Unexpired term of Everall Fox

B. Change Order #1 for engineering services for the Airport Terminal Building Emergency Electrical Generator Replacement Project; CTA Architects Engineers, \$16,350.

C. Lease agreement with Yellowstone County for 13 parking stalls at the Downtown Transit Transfer Center, two-year term, \$15,600 total revenue.

- D. Mutual Grant of Easements and Agreement** with Aldonna Blain and the Estate of Gerhart Blain for access to storm water detention pond and groundwater monitoring well located at the landfill, at no cost to the City.
- E. Acceptance of quitclaim deed** for a portion of Hesper Road and South 32nd Street West from the Walter Estate, with no financial impact to the City.
- F. Acceptance of donation** from the Breakfast Exchange Club of Billings to the Police Department for purchase of Child ID Kits, \$5,000.
- G. Approval and acceptance** of U. S. Department of Homeland Security Grant for the City of Billings Bomb Squad for training and the recalibration of two SABRE 4000 X-ray machines; \$16,434.
- H. Approval of grant application** to the U.S. Department of Housing and Urban Development (HUD) for an Economic Development Incentive Grant for environmental remediation and demolition of the former Naval Reserve Center located at 721 N. 22nd Street; \$475,000.
- I. Approval of re-submittal of grant application** through the State Coal Board for funding of the 25th Street Pedestrian Bridge over the Montana Rail Link tracks to connect Montana Avenue in the historic district of downtown Billings with the Minnesota Avenue Old Town Neighborhood District; \$200,000.
- J. Resolution of Intent #09-18899** to create SID 1389, public improvements on Clubhouse Way between Greenbriar Road and Cherry Hills Road, and set a public hearing for December 14, 2009.
- K. Bills and Payroll:**
 - 1. October 26, 2009
 - 2. October 30, 2009

Councilmember Ruegamer separated Item H. Councilmember Veis moved for approval of the Consent Agenda with the exception of Item H, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Veis moved for approval of Item H, seconded by Councilmember Ruegamer. Councilmember Ruegamer said he wanted to point out that Item H was a direct result of their trip to Washington, D.C. He said on occasion they had heard that their trips were unnecessary. Councilmember Ruegamer said they brought the issue to the attention of Jon Tester, and Mr. Tester's comment was "This isn't fair. The Navy should have to pay for this." Councilmember Ruegamer said it would not have happened had they not gone to Washington, D.C. He said the trips were productive, and it was a good example of what could happen when they talked directly to an elected official. Councilmembers Ronquillo and McCall both agreed with Councilmember Ruegamer. Councilmember McCall said the message they received was that Council needed to be there, to be seen, and to be able to

visit with the elected officials. Councilmember Gaghen asked for a timeline for demolition. Assistant City Administrator Bruce McCandless advised there was no timeline to date, but they planned to have it down by mid-year. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. DOWNTOWN FACADE FUNDING. Authorization for the Downtown Billings Partnership to award FY2010 Tax Increment Finance District Funds from Fund 203 to approve facade, sign/awning program projects in an amount not to exceed \$49,999 for a single project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Tina Volek advised staff had no presentation; but staff and Mr. Krueger were available to answer any questions. Councilmember Clark asked for the total amount available. Ms. Volek advised the total was \$34,000. Councilmember Brewster moved for approval, seconded by Councilmember Veis. On a voice vote, the motion was unanimously approved.

3. DOWNTOWN LIBRARY FACILITY PROJECT OPTIONS. Approval of the Library Board of Trustees' recommendation to place the Gainan's project option on the March 2010 ballot as the least expensive of the three options. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Library Director Bill Cochran advised the recommendation to delay action on the item until December 14, 2009, was based on two significant reasons. He said the first was the speed at which they had to move forward in an attempt to maintain eligibility for recovery zone bond funding did not allow time for a public hearing. He said the second was that they did not have a completed offer to sale for Option 1, which was the recommendation by the Library Board for the Gainan's property. He advised the chair of the Library Board and a member of the Library Board were present that evening to answer any questions. Mr. Cochran said he was aware that many people in the community were interested in exploring all the options and making sure the right decisions were placed in front of the voters.

Councilmember Pitman moved to delay action until December 14, 2009, seconded by Councilmember McCall. Councilmember McCall said she had received many calls from people within the community who believed there may be other opportunities, so she urged Mr. Cochran and the Library Board to continue to look at other opportunities. Councilmember Gaghen said she echoed Councilmember McCall's sentiments and said she wanted to thank Mr. Cochran and the Library Board for the whole effort. She said it was challenging, especially with the speed of the ARRA bonds, and she appreciated the extension until December 14, 2009. Councilmember Clark said he wondered if December 14th was too soon, because he did not feel they could have the answers by then. Councilmember Ruegamer commented that he had not heard from anyone who was against a new library or who was in favor of the Gainan's deal. He said everyone he had talked to commented that the City needed to look at other options and move slowly because they did not want to lose the election when it was put on the ballot. Councilmember Ruegamer said he agreed with Councilmember Clark that December 14th would not allow enough time. Councilmember Gaghen said she agreed unless there was some stipulation. She said she knew it was the

ARRA bonds that had pushed the timeline and asked if there was something technically necessary to keep it at December 14th.

Mr. Cochran advised that the recovery zone stimulus bonds had to be issued by the end of next calendar year, which meant that the project had to be bid and designed. He said the architects working on the feasibility study indicated that a March election of the project would create an extremely ambitious schedule to complete the design between March and November so the project could be bid and the bonds issued. He said at the time the Library Board directed staff to work with Administration, Finance, and Gainan's to put together the optimum funding package; there was a significant spread between the general obligation bond rate and the recovery zone bonds. He said the spread had narrowed and could continue to fluctuate.

Councilmember Ulledalen said at the December 14th meeting they would be looking for a presentation from staff, a public hearing, and discussion; and not necessarily a decision. He said they could have an additional delay from December 14th. Councilmember Gaghen said the sooner they received additional public input, the more helpful it would be to everyone concerned. Councilmember Ulledalen said it reminded him a little bit about what they went through with the Transit Center. He said they came up with an idea, presented it, received a fair amount of opposition, sent it back to the public, gave them a broad brush in terms of what to come back with in proposals, and they received a lot of feedback on things they had not thought of. He said his vision would be to craft something similar for the library and charge the community with coming back with other alternatives. He said it would give them buy-in from the community and be more effective. On a voice vote, the motion to delay until December 14th was unanimously approved.

4. PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.*)

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce**, referenced a sentence in an agenda item that stated "as directed by City Council at its work session on November 2nd." He said council was not to take action at a work session. He said work sessions were not the place to conduct the City's business where they were hidden at the Community Center. He said all proposals needed to be at the regular council meetings for the people to see what they were doing and what they were proposing to do so the people could make meaningful comment. He said it was meaningless for anybody to comment when Council had already made their decisions at a work session, directed staff, and taken action. He said he had gone over the issue with Council many times. Councilmember Ruegamer asked Mr. Nelson which agenda item he was referencing. Mr. Nelson said it was from the staff report for regular agenda Item 3. Councilmember Astle commented that no decision had been made. Councilmember Gaghen advised the direction given at the work session was to help Council make a decision that evening and asked Mr. Nelson if he felt that was out of line. Mr. Nelson said presentations needed to be made at regular, televised council meetings and not at the Community Center.

Councilmember Ulledalen told Mr. Nelson to come back to the meeting of December 14th where a public hearing would be held and a possible decision made.

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

COUNCIL INITIATIVES

- **VEIS:** Moved to create an ad hoc committee to determine what, if anything, they wanted to do with medical marijuana and how it was sold. City Administrator Volek asked who should be included on the committee, how many members, etc. Councilmember Brewster recommended including a couple caregivers, a couple people who carried a medical marijuana card, a representative from a pharmacy, a representative from the medical community, and a couple councilmembers. Councilmembers Ulledalen, Astle, and McCall suggested representatives from the real estate community, law enforcement, and the legislature. Ms. Volek advised a resolution would come back before Council to create the committee; and City Attorney Brooks advised a public hearing would be held and the resolution would include the purpose and scope of the committee, the composition of the committee, and the duration of the committee. Councilmember Veis suggested six months for the committee to report back to Council. On a voice vote, the motion was unanimously approved.
- **RUEGAMER:** Moved to create an ad hoc committee to study the current options for the new library and come up with new ideas, seconded by Councilmember McCall. Councilmember Clark said he would rather wait until after December 14th. He said he felt December 14th would be a more appropriate time for the motion because they needed to hear from the public first and then possibly they would or would not need an ad hoc committee. On a voice vote, the motion to create an ad hoc committee failed 7 to 3. Councilmembers Ronquillo, Gaghen, Pitman, Veis, Ulledalen, Astle, and Clark voted 'no'.

There was no further business, and the meeting adjourned at 7:03 p.m.