

## **CITY OF BILLINGS**

### **CITY OF BILLINGS VISION STATEMENT:**

**“THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE  
PEOPLE FLOURISH AND BUSINESS THRIVES.”**

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### **AGENDA**

**COUNCIL CHAMBERS**

**September 27, 2010**

**6:30 P.M.**

**CALL TO ORDER – Mayor Hanel**

**PLEDGE OF ALLEGIANCE – Mayor Hanel**

**INVOCATION – Councilmember Pitman**

**ROLL CALL - Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, and Astle. Councilmember Clark was excused.**

**MINUTES: September 13, 2010, approved as distributed.**

**COURTESIES - Mayor Hanel recognized the many local citizens who organized the recent Montana Governor's Cup.**

**PROCLAMATIONS - National PA Week Proclamation, October 6-12, 2010.**

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

- Ms. Volek advised that a copy of the Children, Families, Health, and Human Services Interim Committee's Summary of Medical Marijuana Review Process and Bill Drafts was on Council's desks and filed in the ex-parte notebook in the back of the room.
- Ms. Volek advised that as of 5:00 that evening, 199 e-mails had been sent to the Mayor & Council since Thursday in favor of the Zoning Commission's recommendation to ban medical marijuana inside the city limits.
- Ms. Volek advised that as of 5:00 that evening, 5 e-mails had been sent to the Mayor & Council since Thursday against the Zoning Commission's recommendation to ban medical marijuana inside the city limits.

**She advised all e-mails had been posted to the City's webpage and were available in the ex-parte notebook in the back of the room.**

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item #1 ONLY. Speaker sign-in required.** (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. There were no speakers, and the Public Comment period was closed.

1. **CONSENT AGENDA** -- Separations: A5, K, L, O1 and O2

A. **Bid Awards:**

1. **Landfill Track-Type Tractor Purchase for Solid Waste Division.** (Opened 9/14/2010) Recommend Tractor & Equipment Company; \$433,997. **APPROVED**
  2. **Purchase of City Vehicles in the Car and Light Truck Class.** (Opened 9/14/2010) Recommend Fremont Motors for Schedules II, VIII & XIV without trades - \$81,301.20; Archie Cochrane Ford for Schedules I, III, VI & VII without trades and Schedules V and XI with trades - \$242,138.00; Bison Ford for Schedules IV, IX, X, XII & XIII without trades - \$193,031.70. **APPROVED**
  3. **Oil and Lubrication Products for City Equipment.** (Opened 9/14/2010) Recommend A & I Distributors; \$112,461.65. **APPROVED**
  4. **Gasoline and Diesel Fuel Products for City Equipment.** (Opened 9/14/2010) Recommend Town and Country Supply Association for the next 48 months. **APPROVED**
  5. **W.O. 09-14 Wicks Lane and St. Andrews Drive Traffic Signal.** (Opened 9/14/2010) Recommend Ace Electric; \$107,918. **APPROVED**
  6. **SID 1370 Interlachen Drive Storm Drain, Curb/Gutter, Asphalt Restoration, Sidewalks, and Drive Approaches.** (Opened 9/14/2010) Recommend Knife River-Billings; \$154,235. **APPROVED**
- B. **Contract Renewal for Alternative Modes Coordinator Services.** 10/1/2010 through 9/30/2011; \$68,000 for one year (\$42,000 Federal Funding and \$26,000 Local Match from Planning Division.) **APPROVED**
- C. **Amendment #4, W.O. 03-07: Alkali Creek Multi-Use Path - Professional Services Contract,** Dowl HKM, \$32,463. **APPROVED**
- D. **Approval** of additional budget authority for 2010 JAG Grant; \$13,980. **APPROVED**

- E. **Approval of Quarterly Report for Pledged Collateral** for First Interstate Bank Certificates of Deposit, US Bank Certificates of Deposit, and US Bank Repurchase Account. **APPROVED**
- F. **Approval of Semi Annual Investment Report. APPROVED**
- G. **Street Closures:**
1. **Harvestfest Street Closure Time Extension.** Saturday, October 9, 2010, from 6:00 a.m. to 9:00 p.m.; N. 28th Street between 1st and 3rd Avenues North and 2nd Avenue North from the alley west of N. 27th Street to N. 29th Street. **APPROVED**
  2. **Yellowstone Family Dental 5K Fun Run/Walk.** October 16, 2010, from 9:00 a.m. to 12:30 p.m.; beginning on the 1600 block of Rimrock heading east to Virginia Lane, right on Virginia to Park Lane; right on Highwood Drive; back to Rimrock to Wisconsin; right on Yale; right on 13th to Rimrock and finishing in the parking lot of Yellowstone Family Dental. **APPROVED**
- H. **Acceptance of Donation** from BikeNet to the Main Street Pedestrian Underpass Project to provide a portion of the local matching funds; up to \$36,000. **APPROVED**
- I. **Resolution of Intent #10-18997 to Exclude Property** to de-annex a portion of the Briarwood Planned Unit Development property described as Tract 2A of C/S 2544 Amended; and set a public hearing date of October 25, 2010. **APPROVED**
- J. **Resolution #10-18998** respreading assessments on SID 1386, Street and Storm Improvements to East and West MacDonald Drive. (Delayed from 9/13/2010) Staff recommends approval. ( **Action:** approval or disapproval of staff recommendation.) **APPROVED**
- K. **Approval** of Settlement Agreement with Alternatives, Inc. dismissing the annual \$40,000 payment in lieu of taxes assessment associated with Special Review #813, dated 5/22/2006. **FAILED 5 TO 3. COUNCILMEMBERS RONQUILLO, GAGHEN, MCFADDEN, MCCALL, AND ASTLE VOTE 'NO'. MAYOR HANEL AND COUNCILMEMBER CIMMINO RECUSED THEMSELVES FROM THE VOTE.**
- L. **Approval** of Settlement Agreement for Human Rights Bureau Longevity Discrimination Claim; estimated settlement amount -\$87,100. **APPROVED 8 TO 1. COUNCILMEMBER CIMMINO VOTED 'NO'. COUNCILMEMBER RONQUILLO RECUSED HIMSELF FROM THE VOTE.**
- M. **Approval** of Amended Certificate of Survey 3364 accepting dedication of Avenue E and the Development Agreement for proposed construction of a Children's Clinic at the intersection of Avenue E and Zimmerman Trail. **APPROVED**
- N. **Final Plat of Lake Hills Subdivision, 32nd Filing. APPROVED**

O. **Bills and Payroll:**

1. August 27, 2010 - **APPROVED 9 TO 0. COUNCILMEMBER CIMMINO RECUSED HERSELF FROM THE VOTE.**
2. September 3, 2010 - **APPROVED 9 TO 0. COUNCILMEMBER CIMMINO RECUSED HERSELF FROM THE VOTE.**

**REGULAR AGENDA:**

2. **PUBLIC HEARING** to receive input on the City's FY2009-2010 Draft Comprehensive Annual Performance Evaluation Report (CAPER) Community Development Block Grant (CDBG), and HOME Programs. **NO ACTION REQUIRED.**
3. **PUBLIC HEARING AND RESOLUTION #10-18999** reducing the arterial construction fee assessments providing relief to commercially-zoned properties being used solely as owner-occupied single family residences located at 2104 Bench Boulevard, 107 South 8th Street West, 922 North 30th Street, 233 Swords Lane, and 704 Logan Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**
4. **PUBLIC HEARING AND RESOLUTION #10-19000** authorizing filing of the annual Federal Transit Administration Section 5307 Grant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**
5. **PUBLIC HEARING AND RESOLUTION #10-19001** setting mill levy rates for the Public Safety Fund, General Obligation Debt Service Parks, General Obligation Debt Service Streets, General Obligation Debt Service Series A Baseball Stadium, and General Obligation Debt Service Series B Baseball Stadium for tax year 2010. Staff recommends approval. (Action: approval or disapproval of staff recommendation). **APPROVED**
6. **PUBLIC HEARING AND RESOLUTION #10-19002** recapturing the 2009 mill levies for Public Safety II for tax year 2010. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**
7. **PUBLIC HEARING AND RESOLUTION #10-19003** assessing annual fee for encumbrances, obstructions, or encroachments on, over, across or above the streets, avenues, sidewalks, or alleys of the City of Billings. Staff recommends approval. (Action: approval or disapproval of staff recommendation).
8. **PUBLIC HEARING AND RESOLUTION #10-19004** assessing the cost of cutting and/or exterminating weeds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED 7 TO 3 EXCLUDING PROPERTY AT 913 SOUTH 28TH STREET. COUNCILMEMBERS CIMMINO, RUEGAMER, AND ULLEDALEN VOTED 'NO'.**

9. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #867:** A zone change from Residential 6,000 (R-60) to Neighborhood Commercial (NC) on Lot 6, Block 6, Central Acres Subdivision, 4th Filing, located at 3333 Central Avenue. Paul and Sharon Allen, owners. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12 criteria. (Action: approval or disapproval of Zoning Commission recommendation). **APPROVED**
10. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #868:** A text amendment to Section 27-306 of the Unified Zoning Regulations limiting medical marijuana businesses to a few commercial and industrial zones; providing separation from residential zones, schools and public places; requiring special reviews for some businesses; amortizing legal non-conforming uses over four years; and limiting signage. Zoning Commission recommends denial of Zone Change #868 and recommends prohibiting any new medical marijuana businesses in the city and amortizing out all existing medical marijuana businesses within two years. (Action: approval or disapproval of Zoning Commission recommendation.) **APPLICATION FOR ZONE CHANGE WITHDRAWN ON A 9 TO 1 VOTE. COUNCILMEMBER RONQUILLO VOTED 'NO'.**
11. **PUBLIC HEARING AND ORDINANCE #10-5523** extending the interim medical marijuana moratorium for an additional year. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

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

The Public Comment period was opened. There were no speakers, and the Public Comment period was closed.

### **COUNCIL INITIATIVES**

- **PITMAN:** MOVED to direct staff to report on a proposed elimination of longevity pay for City of Billings employees, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.
- **GAGHEN:** MOVED to add approval of the use of up to \$2,500 of Council Contingency Funds to the 10/12/10 agenda to be used for public education on the new city ordinance banning the use of electronic communications devices while operating a motor vehicle, seconded by Councilmember Astle. On a voice vote, the motion was approved 8 to 2. Councilmembers Ruegamer and Pitman voted 'No'.

**ADJOURN - The meeting adjourned at 11:35 p.m.**

*Additional information on agenda items is available in the City Clerk's Office.*

*Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Cari Martin, City Clerk, at 657-8210.*