

**REGULAR MEETING OF THE BILLINGS CITY COUNCIL**  
**May 9, 2011**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Thomas Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Astle gave the invocation.

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

**MINUTES:** April 25, 2011 – Councilmember Cimmino referenced the first line on Page 12 and said Stacey Robinson was from Land Design and not Great Plains. Councilmember Cimmino moved for approval of the minutes with the correction, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

**COURTESIES:** Councilmember Ruegamer noted All American Pharmaceutical in the Billings Heights was expanding its business by 33,000 square feet; Federal Express was building a new facility on the west end; Stockman Bank and the Federal Courthouse were being built downtown; the Babcock Theater had only one space left to rent; the METRA had been rebuilt into a very nice facility; and there was the possibility of a new library and a new parking garage downtown. He said Billings was very vibrant.

Councilmember Ruegamer also stated the rocks were successfully brought down from the rims without damage or injury, and he wanted to state it was a fact that the City would charge the people whose homes they had to mitigate because removal of the rocks was not the City's responsibility.

**PROCLAMATIONS -**

- Arbor Day, May 12, 2011
- National Women's Health Week, May 8-14, 2011
- Older American Month, May 2011

**ADMINISTRATOR REPORTS - TINA VOLEK**

- City Administrator Volek referenced Agenda Item 2 and said a memo from Assistant City Administrator Bruce McCandless providing additional information had been sent in the Friday packet. She added that a letter from the BIRD, dated May 9, 2011, supporting the tax abatement had been received and a copy was on Council's desk that evening. She noted both items were filed in the ex-parte notebook for public review.
- City Administrator Volek reminded Council of the following meetings:
  - Work Session the following evening at 5:30 p.m. in the Council Chambers.
  - Meeting with the County Commissioners on Wednesday at 5:30 p.m. at the METRA to include dinner and a tour of the METRA.

- Lunch meeting with School District 2 Board Members on Thursday at noon in the City Hall Conference Room.
- Meeting with Alec Hansen of MT League of Cities and Towns (MLCT) on May 17 at 10:00 a.m. at the Belknap Conference Room to discuss the legislative session; followed by an 11:30 a.m. meeting of the members of the planning committee for the MLCT conference to be held in Billings in October.
- Follow-up meeting of the MLCT conference planning committee on May 20 at 3:00 p.m. in the City Hall Conference Room.
- Meeting on Thursday at 3:30 p.m. in the City Hall Conference Room regarding a training class as a result of a Human Relations Commission ruling.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item #1 ONLY. Speaker sign-in required.** (Comments offered here are limited to one (1) minute. 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. For Items not on this agenda, public comment will be taken at the end of the agenda.)

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

**1. CONSENT AGENDA**

**A. Bid Awards:**

1. **Four (4) 10,000 Gallon Deice Tanks.** (Opened 4/26/2011) Recommend rejection of bid.
2. **2011 Milling Machine and Trailer.** (Opened 4/26/2011) Recommend Titan Machinery; \$364,458.45.
3. **W.O. 09-11, Rimrock Road Improvements - 17th Street West to Forsythia Boulevard.** (Opened 4/26/2011) Recommend Knife River-Billings; \$3,550,131.55.
4. **29th Street Skybridge Rehabilitation.** (Opened 4/26/2011) Recommend General Contractors Construction; \$230,814.00.

**B. Change Order #5 - W.O. 09-08: WWTP Water Line Replacement;** Becco General, \$11,362.82.

**C. Approval** of one-year banking contract extension with US Bank from the expiration date of February 2012 to February 2013; additional \$5,800 per month in interest earnings, netting \$121,800 through February 2013.

**D. CTEP Project Specific Agreement** for the Central Avenue Sidewalk Project; available funding - \$102,000.

**E. CTEP Project Specific Agreement** for the Broadwater Connection Project; available funding - \$258,175.

**F. Approval of lease renewal (5-year)** of the Limited Commercial Aviation Building and Ground Lease with Billings Clinic; revenue first year \$25,160.88, revenue subsequent years adjusted by Consumer Price Index for All Urban Consumers.

**G. Approval of Commercial Terminal Building Lease and Operating Permit** with Gulfstream International Airlines, Inc.; 5/1/2011 - 4/30/2015; approximate annual revenue for exclusive use space - \$52,084; approximate annual revenue for landing fees - \$45,000.

**H. Amendment #1, Lease Agreement with BILAW LLC, DBA Mann Mortgage Billings**, expanding leased area an additional 538 square feet in Park 1; annual revenue - \$2,152.00 (538 square feet x \$4.00).

**I. Street Closures:**

**1. Reporter Big Sky Office Car Show**, 6/11/2011; 9 a.m. to 3 p.m.; North 14th Street between 1st and 2nd Avenues North.

**2. Heart and Sole Run** (5K, 10K and 2-mile walk), June 18, 2011; 8:30 a.m. to 1:00 p.m.; starting near 12th Avenue N. and N. 30th Street. Runners head south on N. 30th St; 2-mile walkers turn at 11th Ave. N, 5K runners/walkers turn at 9th Ave. N., and 10K runners/walkers turn at 8th Ave. N., finishing at Dehler Park.

**J. Resolution of Intent #11-19052** to create SILMD 308, Chrysalis Acres Subdivision, Phase II, and set a public hearing date for June 13, 2011.

**K. Resolution #11-19053** related to financing the proposed new Library Building and establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

**L. Second/Final Reading Ordinance #11-5533 for Zone Change #874:** A zone change from Community Commercial (CC) to Highway Commercial (HC) on two parcels of land described as Lots 1 through 17, Block 14 of Suburban Subdivision located at 327 Cook Avenue and 3919 Montana Avenue. Mike Dimich, property owner of 327 Cook Avenue. Gene and April Staudiner, property owners, and Mike Dimich, contract purchaser, of 3919 Montana Avenue. Approval of the zone change and adoption of the determinations of the 12 criteria.

**M. Second/Final Reading Ordinance #11-5534 for Zone Change #875:** A zone change from Community Commercial (CC), Public (P), Residential 6,000 (R-60) and

Residential Multi-Family (RMF) to Residential 9,600 (R-96) and Residential 6,000 Restricted (R-60-R) on Lots 10 through 12, Block 16; Lot 15, Block 17; Lots 1 through 4, Block 18; Lots 1 through 4 and 7 & 8, Block 19; Lots 25 through 27, Block 45; Lots 12A, 12B, 13A and 14 through 17, Block 46; Lots 8 through 13, Block 47, Lake Hills Subdivision; and proposed new Lots A through G to be created from golf course land, for a total of 12.651 acres. All lots are currently vacant. Ron Hill, owner; Marshall Phil of Blueline Engineering, representative. Approval of the zone change and adoption of the determinations of the 12 criteria.

**N. Exempt Plat Approval** of Foster's Addition Subdivision between Blocks 49 and 53 generally located between 4th and 6th Avenues North on the Parnly Billings Library parking site; City of Billings, owner.

**O. Bills and Payroll:**

1. April 8, 2011
2. April 15, 2011

Councilmember Cimmino separated Consent Agenda Items 1B, O1, and O2. Councilmember McCall moved for approval of the Consent Agenda with the exception of Items 1B, O1, and O2, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item 1B and said she would be abstaining because her employer had submitted the change order. Councilmember Pitman moved for approval of Item 1B, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Items O1 and O2. She said she would be abstaining from Item O1 and referenced Invoice #743353. She said she would be abstaining from Item O2 and referenced Invoice #743617. Councilmember Pitman moved for approval of Items O1 and O2, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved 10 to 0.

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION #11-19054 GRANTING A TAX ABATEMENT TO SSI BIG SKY, LLC, DBA SCHNITZER-BILLINGS (FORMERLY GOLDEN RECYCLING) on industrial equipment purchases. Staff recommends denying the request. (Action: approval or disapproval of staff recommendation.)**

Assistant City Administrator Bruce McCandless advised state law allowed cities and counties to abate a certain portion of taxes for different types of businesses. He said the City adopted Resolution #05-18376 in 2005 that mirrored the state law except that the percentage of the taxable value was lower than what state law allowed. He said the program was consistent with Yellowstone County's program for industrial properties. Mr. McCandless said SSI Big Sky, LLC was a qualifying industry and had met all of the city and state requirements. He said SSI Big Sky, LLC had submitted about \$2 million in business equipment that had been or would be purchased for installation at the

business. He said, once the business equipment was installed, they expected to generate eight new jobs. Mr. McCandless said the abatement value of up to \$12,600 per year was using the \$2 million dollar market or assessed value the Department of Revenue would use. He said after the first five years, the abatement would decline by 10% per year for the following five years and on the tenth and subsequent years 100% of the value would be taxable. He said the abatement would include both city and school district taxes, and the school district had been notified of the application. Mr. McCandless said the memo sent in the Friday packet provided additional information and explanation on staff's recommendation to deny the application. Mr. McCandless said if taxes were abated on property within a tax increment district, it meant less increment generated from the investment and less money available for public improvements within the district. He said they were dealing with business equipment and not real property, so there were limited opportunities for the owner to request a type of assistance through the tax increment district.

Councilmember Ronquillo asked if the company would be able to come back through the Billings Industrial Revitalization District and ask for money to do city upgrades. Mr. McCandless said he did not believe they could because it was based on business equipment and not real property. Councilmember Astle asked if the legislature had recently given a business equipment tax break. Mr. McCandless said there was a bill approved by the legislature, but he did not know if the Governor had signed it. Councilmember Clark asked if the \$12,600 would go down as the amount of business equipment tax they paid went down. Mr. McCandless said the amounts collected and abated would decline because the abatement program affected the taxable value. Councilmember Ruegamer asked if they had met all of the criteria to qualify for the abatement and if the most it would cost the city would be up to \$3,600. Mr. McCandless said they had met all of the requirements and the \$3,600 would be approximate. Councilmember McCall said staff's decision was based on the fact that the money would not go into the increment. She asked if staff would agree that by supporting the business with the tax abatement, it would give a jump start to the EBURD. Mr. McCandless said he would agree. Councilmember Ruegamer asked if the City would be legally liable if Council went with staff's recommendation. Mr. McCandless said the only restriction he was aware of in state law was that once a program was established, the percentage of the abated tax could not be varied depending on the business. City Attorney Brent Brooks advised approval or disapproval of tax abatements was discretionary.

The public hearing was opened.

- **Steve Arveschoug, Executive Director of Big Sky Economic Development Authority**, asked Council to approve the abatement application that was submitted by SSI Big Sky, LLC. He said the company was making an investment in equipment and was fully eligible under Montana statute to receive a tax abatement. He said they were making a \$2 million investment that would allow them to add 8 to 10 well-paying jobs to the economy. Mr. Arveschoug cautioned Council not to automatically exclude companies from coming to them for tax abatement just because they resided in a TIF District.

Councilmember Ulledalen said he would support the abatement because rejecting it would send the wrong message to the community at a very difficult time. He said one of the issues was attempting to diversify the economy, and the key component was the percentage of out-of-state sales. He asked Mr. Arveschoug to comment.

Mr. Arveschoug said in abatement there were a couple of different programs under the law. He said there were "primary sector jobs" that brought in revenue from out-of-state that circulated through the local economy. He said Jim Gallup, the General Manager of Schnitzer Steel, would speak further about his company and how they did business all over the western United States.

Councilmember Astle asked for clarification on the number of new jobs that would be created. Mr. Arveschoug said, based on the total investment of \$2 million, eight to ten jobs would be created.

Councilmember Ruegamer told Mr. Arveschoug he would support the abatement, but thought a presentation needed to be given at a work session so the Council better understood the program. Mr. Arveschoug said he would make sure that was done.

Councilmember Ulledalen said they had such a "mishmash of duct tape and baling wire" in the tax code and economic development packages, and they needed to look at differences in what the whole TIF District was designed to do. Mr. Arveschoug said revenues derived from the TIF District were intended to enhance public infrastructure. He said tax abatement programs worked directly with a company that wanted to add jobs and make an investment on its own property. He said they were two different tools, and they needed both of them to do the job of economic development.

Councilmember McFadden said he thought it boiled down to the City either encouraging people to invest more in the City or discouraging them. Mr. Arveschoug said wise use of the tax abatement program encouraged people to make an investment in their business, which helped create jobs.

Councilmember Gaghen commented that Mr. Gallup had invested approximately \$1 million prior to the sale to Schnitzer. She said his foresight stimulated the early beginnings of the TIF District and furthered his ability to do in and out-of-state marketing, which was appealing to Schnitzer.

- **Jim Gallup, 3240 Lloyd Mangrum, Billings, MT**, said he was the General Manager of Schnitzer-Billings. He said he understood what Mr. McCandless was talking about with "double dipping" on the taxes, but it was not the case. He said they had not and would not ask for any TIF District funds. Mr. Gallup said they had already added four good paying jobs, and they would probably add four to five more. He said when he sold out the previous year, their taxes had more than doubled since 2000, and payroll had increased from \$300,000 to \$1.2 million. Mr. Gallup advised if their application was denied, they would not seek legal recourse because that was not what they were about. Mr. Gallup asked Council to approve the application.

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

Councilmember Gaghen moved for approval of the tax abatement and the modification of the resolution to indicate business equipment instead of real property, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION #11-19055 approving the transfer of property between the Billings Clinic and the City of Billings; a 24,000-square-foot section on 9th Avenue North between North 28th and North 29th Streets; a 28,000-square-foot section of the south half of North 28th Street between 10th Avenue North and 11th Avenue North; and 60,800 square feet of 28th Street North between 7th Avenue North and 9th Avenue North for a Clinic-owned building at 640 N. Broadway and 8.8 lots along 6th Avenue North between 29th and Broadway to be used as part of the site for a proposed new Library. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

City Administrator Tina Volek advised the exchange of land would allow the Library to expand to the current site owned by the Billings Clinic if approved by the voters in November. She said if the bond issue was not approved, the land would still be necessary to replace land previously traded with Stockman Bank to allow adequate parking for the Library. She said the project had already been approved by the Billings Clinic Board of Directors. Ms. Volek said if the resolution was approved that evening, requests to abandon the City right-of-way and an agreement with the Billings Clinic would be on the May 23 council agenda.

Councilmember Cimmino referenced the intersection of 9<sup>th</sup> Avenue North and North 27<sup>th</sup> and asked if through traffic would be admitted if it were closed. She said from a practical standpoint, anyone traveling north who wanted to make a left-hand turn would have to turn around to come back out. Ms. Volek asked Mr. Goplin of the Billings Clinic to comment.

Mr. Goplin said he lived at 2243 St. Andrews Drive and represented the Billings Clinic. He asked Councilmember Cimmino to repeat her question. Councilmember Cimmino asked if there were plans to eventually close the access at 9<sup>th</sup> Avenue North and North 27<sup>th</sup> Street. Mr. Goplin said closing the intersection of North 27<sup>th</sup> and 9<sup>th</sup> Avenue North had not been discussed. Councilmember Cimmino said when motorists made a turn at the intersection they would not go anywhere if the little roundabout area was closed for the campus. Mr. Goplin said that was correct. He said they would keep it open for pedestrian traffic, but it would be classified as a dead-end. He said access to the Cherry Tree Inn would remain.

The public hearing was opened.

- **Kathy Aragon, 645 O'Malley Drive, Billings, MT,** requested that, if Council adopted the resolution, there be a provision to keep bike and pedestrian thoroughfare in the area. She said there were many committees working on accessibility and connectivity, and they were very important to the future of health and wellness in the community.

- **Jim Duncan, 2711 Gregory Drive North, Billings, MT,** said he was speaking on behalf of the Billings Clinic. Mr. Duncan said the Billings Clinic had a long standing history of supporting the Complete Streets Project and Healthy by Design, and they were trying to make their campus pedestrian and bike friendly. Mr. Duncan said they had also enhanced the landscape of the area to make it desirable for people to walk, and they had added security officers, lighting, and cameras. Mr. Duncan said they were

a strong supporter of ensuring favorable access to all concerned, and they were constantly talking to the school and neighborhood task forces. He said they were still reviewing options, but they wanted to be able to have people turn left or right from North 27<sup>th</sup> Street and travel west on 9<sup>th</sup> Avenue North to get to the Cherry Tree Inn and access their facilities. He said it may be one-way traffic allowing for drop-off. He said they had visited with McKinley Elementary to ensure that the kids going to and from school who lived east of the campus had safe routes.

Councilmember Ulledalen said he would like to see the route maintained for getting the 200 kids from the North Park area across North 27<sup>th</sup> Street to McKinley Elementary. Mr. Duncan stressed that their partner in education was McKinley Elementary, and they did everything they could to ensure its future liability. He said he felt the large amount of money it would take to move the utilities and the storm sewer system currently in 9<sup>th</sup> Avenue North would keep it a pedestrian mall for a long time.

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

Councilmember Ronquillo moved for approval of Item 3, seconded by Councilmember Ruegamer. On a voice vote, the motion 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 restricted to 3 minutes per speaker. Please sign up on the clipboard located at the podium.)*

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

**COUNCIL INITIATIVES** There were no initiatives.

**Ronquillo:** Said on Friday afternoon, May 13, between 2:00 and 3:00 at South Park they would be having a kick-off for the anticipated Blues Fest in August. He said in July they would be entertained by a gospel choir from Chicago.

**Ronquillo:** Said on Saturday at 11:30 a.m. the South Park Senior Center would be holding an open house and serving free brats and burgers. He said it would be a potluck, and they would be showing their plans for expansion of the kitchen. Councilmember Gaghen added they would be playing Bingo for \$10.

**Gaghen:** Mentioned that a gathering was held at the south side IGA on Saturday. She said the task force was involved in raising additional funds for the gazebo, and a raffle was held by the Senior Center.

**Ruegamer:** Said people wanted an ordinance to have chickens in the city limits. He asked anyone with input or information to send it to him.



There was no further business, and the meeting adjourned at 7:45 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk