

COUNCIL ACTION SUMMARY

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

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

AGENDA

COUNCIL CHAMBERS

February 27, 2012

6:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Ronquillo

ROLL CALL: Councilmembers present on roll call were: Cromley, Ronquillo, Pitman, Cimmino, McFadden, Bird, McCall, Ulledalen, Astle, Crouch

MINUTES: February 13, 2012 – approved as submitted

COURTESIES: None

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- Item 2, Zone Change #854: Said a copy of the ordinance was on Council's desks. The only difference was the addition of page numbers to the ordinance.
- Item G, Utility Relocation Agreements with NWE and MDU for new library building: Said copies of the agreements were on Council's desks. She said the main differences on the NWE agreement were the elimination of insurance and gross receipts tax language, the substitution of 'utility' for 'contractor' throughout the agreement, and addressing NWE as an investor-owned company. She said the insurance language was changed because NWE was self-insured. Ms. Volek referenced the MDU agreement and advised the gross receipts tax language was eliminated and the proper name of their company was added.
- Letter from the South Side Neighborhood Task Force: Said a copy of the letter was on Council's desks. She said the letter was in regard to the award of the South Park Gazebo to the HGFA architectural firm.

Ms. Volek advised copies of all of the documents were filed in the ex-parte notebook in the back of the room.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 & #4B 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.

- **Joseph Sands, 2512 Terry Avenue, Billings, MT**, said he was present on behalf of the 110 city firefighters that belonged to Local 521. He said they wished to express their disappointment with Consent Agenda Item 1A, #12, and the appointment of Mr. Hammer to the EMS Commission. Mr. Sands said last month Council had a qualified applicant who was wrongly accused of having a conflict of interest for the position, and they would like to see that candidate recommended and appointed to the EMS Commission.

Mayor Hanel asked Mr. Sands if he was familiar with the vote taken on the previous candidate. Mr. Sands said he was.

Councilmember McFadden said there may have been a misunderstanding, but the vote by the Council was not that they were voting against the individual, but trying to decide if an active, full-time employee of the city by a department affected by the particular board could serve on that board or commission.

Mr. Sands said on that commission currently an individual was serving who was a full-time city employee who served with the Billings Airport Fire Department, who conducted EMS operations and who had a couple of employees who actually worked for the provider that the commission governed under the City Council. He said there appeared to be no conflict there, and nothing had ever been brought up on that individual. Mr. Sands said it looked like because he was a local fireman in the firefighters union, he was not wanted on the commission.

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

1. CONSENT AGENDA -- Separations: 1A1, D, E, N, P1

A. Mayor Hanel recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1	James Olson	Board of Adjustments	01/01/12	12/31/13
2	David Petersen	Board of Appeals - Architect	01/01/12	12/31/13
3	No Applications	Board of Appeals - Electrical	01/01/12	12/31/13
4	No Applicatons	Board of Appeals - Builder	01/01/12	12/31/15

5	Brian Schulz	Board of Appeals	01/01/12	12/31/14
6	Clark Swan	Board of Appeals	01/01/12	12/31/14
7	Stephen Sylvester	Board of Ethics	01/01/12	12/31/15
8	Cindy Sanders	Community Development	01/01/12	12/31/15
9	Edward Button	Community Development	01/01/12	12/31/12
10	Martha Sanford	Community Development - Low Mod	01/01/12	12/31/15
11	No Applications	Community Development - Low Mod	01/01/12	12/31/14
12	Edward Hammer	EMS Commission	01/01/12	12/31/12
13	Bryon Mayala	Exchange City Golf Board	01/01/12	12/31/14
14	No Applicatons	Housing Authority - Resident Comm	01/01/12	12/31/13
15	Malcolm Bailey	Human Relations	01/01/12	12/31/15
16	Eugene Wade	Traffic Control Board	01/01/12	12/31/13
17	Trina White	Traffic Control Board	01/01/12	12/31/15

1. Unexpired term of Terry Madtson
10. Unexpired term of James Knox
14. Unexpired term of James Knox

MOTION TO APPROVE ALL APPOINTMENTS WITH THE EXCEPTION OF #12 WAS APPROVED 6 TO 5. COUNCILMEMBERS CROMLEY, PITMAN, CIMMINO, MCFADDEN, BIRD AND MAYOR HANEL VOTED IN FAVOR OF MOTION. COUNCILMEMBERS RONQUILLO, MCCALL, ULLEDALEN, ASTLE, AND CROUCH VOTED IN OPPOSITION OF MOTION.

B. Bid Awards:

1. Terminal Circle Road Rehabilitation. (Opened 2/14/2012) Recommend delay of award until March 12, 2012. **APPROVED**

C. Approval of additional funds for the purchase of a second snow plow assembly with hydraulic controls from Kois Brothers; \$36,289. **APPROVED**

D. Contract for Professional Services with HDR Engineering, Inc. for W.O. 09-19, Zone 3 East Fox Reservoir Expansion; \$309,400. **APPROVED 10-0. CM CIMMINO ABSTAINED.**

E. Digitization Service Agreement with Western Heritage Center; \$25,000. **APPROVED 10-0. CM CIMMINO ABSTAINED.**

F. CTEP Project Specific Agreement for installation and replacement of approximately 56 ADA handicap ramps at intersections along 5th Street West from

Central Avenue to Grand Avenue; CTEP Grant - \$179,564; City Match - \$170,436.
APPROVED

G. Utility Relocation Agreements with NorthWestern Energy and Montana Dakota Utilities for construction of the new library building. **APPROVED**

H. Approval of Limited Commercial Use Ground Lease with Corpat, Inc., DBA Alamo/National Car Rental; 1/1/12 - 12/31/12; first year revenue - \$975, annual revenue for subsequent years to be adjusted by Consumer Price Index for All Urban Consumers (CPI-U). **APPROVED**

I. Amendment #1, W.O. 11-05: Chappel Area Water Main Improvements, Professional Services Contract, Morrison-Maierle, Inc.; \$61,467.75. **APPROVED**

J. Amendment #19, Engineering Services for Terminal Circle Road Rehabilitation, Morrison-Maierle, Inc.; \$64,895. **APPROVED**

K. Acknowledge receipt of petition to vacate the alley within Block 14 of Suburban Subdivision between 3rd Street West and 4th Street West and Cook Avenue and Howard Avenue; Pepsi-Cola Bottling Company, petitioner and owner; and setting a public hearing for March 26, 2012. **APPROVED**

L. Street Closures:

1. St. Patrick's Day Parade and Celtic Street Fair Festivities, March 17, 2012. Assemble 8:00 a.m. between 1st and 3rd Avenues on Broadway; parade to begin at 10:00 a.m. and follow established downtown parade route; festivities to conclude at 4:00 p.m. **APPROVED**

2. Downtown Billings Association Purple 5K Race and After Race Event. March 25, 2012, 10:00 a.m. - 2:00 p.m.; Race: Grandview Boulevard and N. 30th Street, south on N. 30th to 12th Ave. N, west on Beverly Hill Blvd., south on Virginia Lane, through Pioneer Park, east on Ave. C, north on 2nd Street W., east on Ave. E, north on N. 32nd, east on 11th Ave. N., south on N. 28th, west on 10th Ave. N., south on N. 31st to 2nd Ave. N., finishing under Sky Point. After Race Event: Under Sky Point. **APPROVED**

M. Acceptance of Donation from the Montana State ELKS Association to the Billings Police Department for the purchase of a Med-Return Kiosk; \$895. **APPROVED**

N. Grant Application Request to submit a Montana State Historic Preservation Office Certified Local Government Grant application for FY2012-2013; \$5,500. **APPROVED 10-0. CM CIMMINO ABSTAINED.**

O. Resolution of Intent #12-19139 to construct W.O. 12-02, Miscellaneous and Developer Related Improvements, and a set a public hearing date of March 26, 2012. **APPROVED**

P. Bills and Payroll:

1. January 23, 2012 **APPROVED 10-0. CM CIMMINO ABSTAINED.**
2. January 30, 2012 **APPROVED**
3. February 6, 2012 **APPROVED**

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #854: A text amendment to Section 27-500, Historic Preservation, amending the language to update terms, allow local designation of historic properties or districts, require a Certificate of Appropriateness for exterior remodeling of properties on the local or National Register, and allow penalties for unauthorized demolition of properties within recognized historic districts. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.) **DELAYED UNTIL 3/26/12 COUNCIL MEETING.**

3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #882: A zone change from Neighborhood Commercial to Planned Development – Neighborhood Commercial with an allowance for the on-premise sale of beer and wine without gaming and the provision of catering services on a 1.3 acre parcel of land described as Lot 2, Rose Park Subdivision, generally located at 1504 through 1528 24th Street West. Larson and Carpenter Partnership, owner; Pam Shires, 6 Degrees Gourmet, representative. 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**

4. ANNEXATION REQUEST #12-01

A. PUBLIC HEARING AND RESOLUTION #12-19140 FOR ANNEXATION #12-01: two parcels of land totaling 6.48 acres legally described as Tract 2A of Amended Tract 2, Certificate of Survey 1404 and portions of Lots 4 and 13, Clark Subdivision; generally located off Nall Avenue along South 27th Street and addressed as 108 Nall Avenue; Donald Lee, petitioner, on behalf of owners BL Realty, Inc., the Estate of Richard E. Lee, the Estate of Donald R. Lee, and OE Lee and Company. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

B. DEVELOPMENT AGREEMENT with Boyer GSA Billings defining required public improvements on properties legally described as Tract 2A of Amended Tract 2, Certificate of Survey 1404 and portions of Lots 4 and 13, Clark Subdivision, less

highway right-of-way (Annex #12-01). Staff recommends approval. (Action: approval or disapproval of staff recommendation.) **APPROVED**

5. PUBLIC HEARING AND RESOLUTION #12-19141 ADOPTING THE SOUTH BILLINGS MASTER PLAN. Yellowstone County Board of Planning recommends approval. (Action: approval or disapproval of Yellowstone County Board of Planning recommendation.) **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 up on the clipboard located at the podium.*)

The public comment period was opened.

- **Joseph Sands, 2512 Terry Avenue, Billings, MT**, said Local 521 would like to encourage the Council not to go to quarterly meetings of the EMS Commission. He said they sensed there were some serious issues that the Committee may be neglecting or overlooking with the work that was being done. He asked Council to instill into the committee that they should not go to quarterly meetings.

Councilmember Ulledalen asked Mr. Sands to share with the new councilmembers some of the main objectives Local 521 would like the EMS Commission to consider and bring recommendations to the Council.

Mr. Sands said they were concerned with the waivers being granted to the ordinance on a basis of 15, 20 or even 42 waivers per month and how they could justify going to quarterly meetings. He explained the city ordinance allowed the city administrator to waive the response requirements of the EMS ordinance, which was 8 minutes or less, 90 percent of the time within the jurisdiction of the boundaries of the city, not including the county or the BUFSA. Mr. Sands said there was a problem with the system if, on record, the private provider was asking for continual 42, 30, 25 waivers a month. He said they wanted to see that the absolute best was being provided to the citizen because it put them in a dilemma when they were standing there waiting for an ambulance and they had individuals who could not perform or do a function to provide a higher level of service.

Councilmember Bird asked if there was a percentage that could be tied to the amount of calls being granted a waiver. City Administrator Volek advised there were a number of specific items on which waivers were allowed to include bad weather or calls in excess of what a provider had on staff. She said she had been provided with an analysis that she would be happy to have updated and sent to Council. Councilmember Bird said she would like to receive the analysis to better understand the issue in terms of response time and waivers. Councilmember Bird asked if the analysis included the justification for the waiver. Ms. Volek said it did.

Mr. Sands advised that particular topic alone took up a lot of time in the interest bargaining process they just went through, and the documents were public record. He said exactly what they talked about in interest-based

negotiations were public record. Mr. Sands said they took the statistics injected into the conversation right from the monthly reporting of the private ambulance provider.

Councilmember Bird commented that if there were discussions to have a city/county EMS Commission within the next year, she questioned whether making a change in frequency of meetings was a relevant point at that time.

Councilmember Cimmino asked City Administrator Volek if it would constitute a breach of contract if American Medical Response's performance did not meet the contract specifications. Ms. Volek advised she would need to go back and look. She said she thought Mr. Sands was referring to a list brought monthly to the fire chief and EMS Commission for review and approval. Ms. Volek said the decision to go to quarterly meetings was initiated at the request of the EMS board, as a result of the senior members of the board contacting her, and some of the Council expressing their concern that the issue had become the sole focus of the committee, which discouraged other members or other entities from attending. She said the current issues were primarily those of coordination with other community entities, volunteer fire departments, and lack of coverage in various areas of the community, which were some of the reasons the EMS Commission recommended looking at a joint city/county commission.

- **Mike Yakowich, Chairman of South Side Neighborhood Task Force**, thanked staff and council for their hard work and for the support of the gazebo in South Park. He said they conducted a survey and the neighborhood was excited about having a new gazebo and they wanted to support the Parks Department's decision to have HGFA architectural firm work with them on the gazebo.

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

COUNCIL INITIATIVES

- **McCall:** MOVED to direct the City Administrator to have staff research on how other communities were handling the issues associated with mobile vendors. She said in talking with other people, it appeared to be a much larger issue that they needed to research and come forward with new ideas on how they might strengthen the ordinance. The motion was seconded by Councilmember Astle.

Councilmember Ulledalen said the EBURD planned to add to their agenda the possibility of creating an area specifically for mobile vendors in the EBURD, so they needed to leave that open. He said he had received a suggestion about doing something similar in the Old Town area. He said another suggestion was regulation and licensing like other communities had done with restriction to certain areas.

Councilmember Astle said he would like to see some reasonable limitations and not total elimination.

Councilmember Cimmino asked when the results of the covered parking meter study would be available and if that information could be presented at the same time. Ms. Volek advised the parking meter study would be presented at the April 16th work session.

On a voice vote, the motion was unanimously approved.

- **Cimmino:** MOVED to include special recognition of the Leadership Team to include department heads, managers and supervisors of all divisions at the annual Employee Service Awards held in March, seconded by Councilmember Pitman.

Mayor Hanel advised the employee service awards were intended to recognize the line employees for their years of service and combining the two would take away from the line employees. He said he respected the request but to combine the two would be time-consuming and troublesome.

Councilmember Cimmino said it was one day out of the year and it could be expedited by having certificates of appreciation pre-printed. She said they spent so much time attending meetings, working on weekends, and going the extra mile to provide information; and it would be a simple gesture that would be well-received.

Following a brief discussion, the motion failed 9 to 2. Councilmembers Cromley, Ronquillo, McFadden, Bird, McCall, Ulledalen, Astle, and Crouch voted in opposition. Councilmembers Cimmino and Pitman voted in favor.

ADJOURN: 8:57 p.m.

Additional information on any of these 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.