

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 23, 2012

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

Boy Scout Troop 10 presented the colors and led the Pledge of Allegiance. The Boys Scouts, Leaders, and Scout Masters introduced themselves and each Boy Scout gave the name of the school he attended. The troop recited the Boy Scout Law.

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

MINUTES: April 9, 2012 – Councilmember Astle moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES: None

PROCLAMATIONS:

- Administrative Professionals Day-April 25, 2012 and Administrative Professionals Week-April 22-28, 2012
- Child Abuse Prevention Month, April 2012
- National Crime Victims' Rights Week - April 22-28, 2012

ADMINISTRATOR REPORTS - TINA VOLEK

City Administrator Volek commented on the following items:

- Item 2 – Public Hearing and First Reading Ordinance for Zone Change #885: a text amendment to the city code clarifying that both livestock and poultry are not allowed uses within the city limits.
 - ✓ Fax sent to Councilmember Pitman on April 21 from Leona Johnston stating she felt it was unwise to allow chickens in the city limits. Copy on Council's desk and in ex-parte notebook.
 - ✓ Letter from Billings Association of Realtors, dated April 23, 2012, asking Council to clean up the code language to explicitly ban chickens within the city limits. Copy on Council's desk and in ex-parte notebook.
 - ✓ Mayor and Council received e-mails that day in support of urban chickens from T.J. Wierenga, Catherine Lynch, Kelly Fulton, Linda Rath, Wayne Bondy, Steve Plaggemeyer, and Bernard Quetchenbach that would be posted to the city's website the following day.

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. **W.O. 12-01, Water and Sanitary Sewer Main Replacement Projects.** (Opened 4/10/12) Schedule 1A, 1B, 1C: Recommend delay of bid award until May 14, 2012; Schedule 2A, 2B Base, 2B Additive Alternate, and 2C: Recommend COP Construction; \$2,233,047.

2. **W.O. 12-02, Miscellaneous/Developer-Related Project.** (Opened 4/10/12) Recommend J & J Concrete; \$570,255.20.

3. **W.O. 12-27, Over Excavation of New Library Site.** (Opened 4/10/12) Recommend CMG Construction, Inc.; \$619,875.

B. **Approval** of revised agreement with Jon Dehler for 20-year naming rights of ballpark retroactive to 2008.

C. **Contract for Professional Services** with DOWL HKM for W.O. 12-04, Wastewater Collection System Study as part of the Integrated Water Plan Implementation Projects; \$202,130.

D. **Amendment #1, W.O. 10-29: Wastewater Treatment Plant West Mechanical MCC Replacement and Improvements.** Professional Services Contract, HDR Engineering; \$9,800.

E. **Amendment #1, W.O. 12-05: 5-Mile Lift Station Replacement.** Professional Services Contract, Morrison-Maierle, Inc; not to exceed \$536,544.

F. **Amendment #2, W.O. 05-15: Howard Heights Storm Drainage Improvements.** Professional Services Contract, Interstate Engineering, Inc.; \$14,963.10.

G. **Sidewalk Easement** with The Boyer Group for construction of boulevard sidewalk along 4th Avenue North.

H. **Acceptance of Donation** to the Police Department to be used for the purchase of a police canine; Downtown Billings Exchange Club; \$1,500.

I. Resolution of Intent #12-19152 to create SID 1393, Fritz Subdivision; curb and gutter, drive approaches, storm drain and street improvements to Cottonwood Boulevard; and set a public hearing date of May 29, 2012.

J. Preliminary Plat Three-Year Extension for Lake Hills Subdivision, 25th Filing, Amended, generally located along Ditton Drive and Lake Heights Drive at the north end of Lake Hills Subdivision; setting a new expiration date of June 23, 2015.

K. Preliminary Plat Three-Year Extension for Mont Vista Subdivision, generally located south of Rimrock Road between 50th Street West and 54th Street West; setting a new expiration date of June 22, 2015.

L. Preliminary Amended Plat of Foxtail Village Subdivision, 2nd Filing, Block 2, Amended, approximately 2.7 acres generally located on the north side of Grand Avenue just east of 60th Street West; conditional approval of the preliminary plat and adoption of the Findings of Fact.

M. Bills and Payroll:

1. March 26, 2012
2. April 2, 2012

Councilmember Cimmino separated Consent Agenda Items D, E, and M1. Councilmember Pitman separated Consent Agenda Item 1A3. Mayor Hanel separated Consent Agenda Item B.

Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items 1A3, B, D, E, and M1, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item D and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item D, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Item E and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item E, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Item M1, Invoice #754149 submitted by her employer, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item M1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Pitman referenced Item 1A3 and asked why it was going through Public Works and not the Library. He also asked how it would affect the total cost of the Library. Public Works Director David Mumford said they were assisting the Library on the process and once construction began, the Library would be handling all of the on-site management. Finance Director Pat Weber said currently the site preparation was being done in the Construction Fund, and the cash was being loaned from the Library. He said in the Fourth Quarter Budget Amendments there would be an approximate

\$700,000 budget amendment transferring the money to the Construction Fund. Mr. Weber said the \$619,000 would actually be paid from bond proceeds. He said a reimbursement resolution had been approved and once the bonds were sold, it would be paid by the bond proceeds. He said it was part of the overall cost of the Library and not an additional cost. Councilmember Pitman asked if it was anticipated or an addition. Mr. Weber said they would have to absorb it into their budget. He said when they originally prepared the budget they were not expecting it, so another part of the project would probably have to be reduced. He said there was site prep work planned for but not to that extent, and he was guessing it would be approximately \$300,000 more. Councilmember Pitman moved for approval of Item 1A3, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Mayor Hanel referenced Item B and said the only reason for the separation was because of the importance of the item, and it would be beneficial for the Council to know the history and why it was resurfacing. City Administrator Volek said the City Council originally approved the agreement and after it was presented to Mr. Dehler, he had additional comments and issues. She said the main issue was that the original resolution had contemplated payments of \$150,000 a year. She said Mr. Dehler had made an upfront payment of \$400,000 and subsequent to that, sporadic discussions were held with Mr. Dehler. She said the City had since received another \$50,000, and Mr. Dehler had signed an agreement that called for a \$100,000 payment each year. She said the City would invoice Mr. Dehler for the remaining payments, and another payment would be made in July. She said all future payments would be made in the month of July. Councilmember Cimmino referenced the last page of the agreement and asked why the sentence "Time is of the essence in this Agreement." was even necessary since the agreement was actually initiated in December 2007. Ms. Volek advised it was just carried forward from the previous agreement, and no one thought to strike it. She said they could amend the agreement; she did not feel Mr. Dehler would object; and she could contact Mr. Dehler to initial it. Councilmember Cimmino said she did not want to delay the process. Mayor Hanel asked if the situation caused any financial hardship on the City of Billings. Ms. Volek said the bonds were separated into two sets – the General Obligation Bonds paid by taxes and Series B Bonds paid by contributions. She said they were actually issued as full faith and credit bonds of the city, so last year the City taxed for the equivalent of the \$100,000 payment. She said Mr. Dehler had since signed an agreement to carry his payments forward for a full ten years, and in the eleventh year after the bonds were paid off from the donors, his payment would be put into the General Fund to offset the costs of the bond issue to the public. Councilmember Astle moved for approval of Item B, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #885 (DELAYED FROM 3/26/12): a text amendment to Section 27-607 of the Billings, Montana, City Code clarifying that both livestock and fowl (poultry) are not allowed uses within the City of Billings. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission)

recommendation.) Zoning Coordinator Nicole Cromwell advised she had no visual presentation but was present to answer any procedural questions. She said City Council should have received a memorandum from City Administrator Tina Volek, Planning Director Candi Beaudry, Animal Control Supervisor Dave Klein, and City Attorney Brent Brooks providing a "road map" of where they were on the issue. She said they developed and presented a draft ordinance to City Council at the work session of April 16 to allow keeping hens within the City of Billings. Ms. Cromwell said they received a comment back from the City Council asking for the addition of a sunset clause or a one-year time period for the ordinance to be in effect and a comment that pre-inspection permitting would not be resource intensive and not conducive to getting permits done in a timely manner. She said adjustments had been made to the ordinance. Ms. Cromwell told the City Council if they voted to deny Zone Change #885, they could subsequently initiate the draft ordinance and proceed through the Zoning Commission to look at the zoning parts only. She said the Zoning Commission would not make a recommendation on the animal control provisions of the draft. Ms. Cromwell advised it would go to the Zoning Commission on June 5 and come back to Council for public hearing and first reading on June 25, with a second reading on July 9. She told the City Council they could also vote to table indefinitely, or they could vote to approve Zone Change #885.

Councilmember Astle said when the item was delayed on March 26th they had held a public hearing and asked if the public hearing that evening would be a continuation of the previous public hearing. Ms. Cromwell said it would. Councilmember Astle asked if those who had previously testified on March 26th regarding Zone Change #885 would be allowed to testify again that evening. City Attorney Brooks said it would be his recommendation, pursuant to the public participation statutes, that anyone wishing to comment again that evening could because it was a separate meeting. He said the Mayor could regulate or streamline the comments.

Councilmember Cromley said there was discussion of tabling, and asked what the process was for taking it out of the tabling process. Attorney Brooks said if Council tabled indefinitely, it acted as the equivalent of denying the text amendment but still fell back to the current prohibition against backyard hens. He said if it was tabled to a date certain, it would keep the amendment alive.

Councilmember Ulledalen said if the item was tabled, it would kill it; and asked if it could be brought back at a later date if Council so desired. Attorney Brooks said tabling indefinitely would keep the matter denied, but Council could always bring it back through a Council initiative if they wanted.

Councilmember Pitman said he wanted to clarify that no matter what Council decided to do it would not change the covenants of certain properties. Ms. Cromwell said that was correct.

Mayor Hanel commented they had already heard a considerable amount of testimony regarding backyard hens, and he recognized people in attendance who had previously testified. He said he would open the opportunity once again to everyone, but said he would be very firm on the time; and the repetition of testimony may fall on deaf ears.

The public hearing was opened.

- **Carol Braaten, 183 Lexington Drive, Billings, MT**, asked everyone in the audience in support of backyard hens to stand and said they were asking Council to vote to disapprove the text amendment while they all worked towards getting an ordinance passed that was efficient for them to use a one-year trial period while exploring the possibilities of what issues might arise and what changes might need to be made to the ordinance. She asked Council to table indefinitely or disapprove the text amendment. Ms. Braaten said there were people who had kept backyard chickens for 20 years because of the ambiguity in the law, and they were asking Council not to make them outlaws as they moved forward to try to get an ordinance passed.

City Administrator Volek advised Council that if the ordinance was not passed that evening, the existing ordinances were still in place. She said the ordinances had to be read as a group to understand that they currently prohibited hens in the city limits. She said not passing it that evening did not void the existing ordinances.

Councilmember Astle told Ms. Braaten that people with chickens were violating a code, and it was not a criminal act. Ms. Braaten said she totally understood they would not be arrested.

- **Stacy Wright, 560 Sprint Circle, Billings, MT**, said she was not affiliated with the backyard hen people, but she was totally not against it. She said she had no dogs of her own and constantly heard other people's dogs, but she would not want them outlawed. She said she felt people should have the opportunity to have chickens, and she had no problems with them.

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

Councilmember Ulledalen moved to table Item 2, seconded by Councilmember Ronquillo. Mayor Hanel asked if he meant indefinitely, and Councilmember Ulledalen said 'table it'. Attorney Brooks commented it would mean indefinitely if there was no date certain set. He said tabling it indefinitely removed it from the agenda, and it would not be brought back in any form unless the Council directed staff, such as by a Council initiative. On a voice vote the motion was approved 9 to 2. Councilmembers Cimmino and Pitman voted in opposition.

3. PUBLIC HEARING and approval of allocation of FY2012-2013 CDBG and HOME program funds and approval of the FY2012-2013 Action Plan. Staff recommends approval of the Community Development Board's recommendation and prioritization. (Action: approval or disapproval of staff recommendation.)

City Administrator Volek acknowledged that Ms. Beckett had been honored as one of the recipients of the YWCA's Salute to Women. She said Ms. Beckett was recognized for her work in the community on homelessness and other matters, and it was a well-earned recognition.

Community Development Manager Brenda Beckett said the City Council heard the recommendations at their April 16th work session, so she would give a very brief presentation. She introduced Board Chair Kamber Kelly, Board Member Emily Shaffer, and Erin Lambert from the YWCA. Ms. Beckett said their board members were

predominately representative of low and moderate income areas. She said HUD programs were designed to provide decent housing, suitable living environments, and economic opportunities and must benefit lower income households or areas. She said they did two major studies and from the studies they built their five-year consolidated plan. She said they had one-year action plans due every May 15, and they reported on their accomplishments every September. She showed a breakdown of the budget for both CDBG and HOME, totaling \$1,290,326, which had decreased the past two years by \$420,705. She showed a chart of the funding history of CDBG/HOME, which she said was not a good picture; and all of their applicants were anticipating a 9% decrease in funding from that point forward for next year. Ms. Beckett advised affordable housing was their number one priority and HUD's number one priority. She said they wanted to focus on generating program income, HUD compliance, and task force priorities. Ms. Beckett reviewed the FY2011-2012 Budget Allocations and the FY2012-2013 Budget Recommendations. She said future options for applicants included CDBG & HOME grants issued to non-profit organizations to support activities serving low income individuals and households and AmeriCorps*VISTA positions for capacity building and fund development.

The public hearing was opened.

- **Erin Lambert, 4502 Mitchell Avenue, Billings, MT**, said she was the Program Manager with YWCA Gateway House. Ms. Lambert encouraged Council to consider the priority budgeting for the non-profit organizations through CDBG. She said they had received approximately \$340,000 in funding over the last 20 years from the program, and it was a very important part of their budget. She said they were anticipating receiving \$10,000 for next year's operating budget from the grant based on past awards, and they found out it may not be happening for next year's budget. She said they provided shelter for battered women and children, and if they did not receive the funding they may need to reduce services and/or staffing.
- **Kamber Kelly, 5343 Sacajawea, Billings, MT**, said she was Chair of the Community Development Board and was speaking on behalf of the board. She said the board fully supported city staff recommendations. She said city staff worked very hard, and there was a lot of reporting and administrative duties that came with managing all of the programs and funds, especially grants.

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

Councilmember McCall said prior to making the motion she would like to say she felt it was a very wise recommendation. She said city staff and the board had made some tough decisions but based on the economy and what was happening nationally, it would allow for sustainability in the future. Councilmember McCall moved for approval of the allocation of the 2012-2013 CDBG & HOME Program Fund recommendations, seconded by Councilmember Cimmino.

Councilmember Astle said he would like to inquire into the possibility of allocating a portion of the money received from the gas wells, up to a certain percentage or amount, to help supplement CDBG. Ms. Volek advised it was a considerably smaller

amount than anticipated because natural gas prices were down, and it seemed to her the amount in the fund was well under \$100,000. She said at one time the Council had voted to dedicate the fund for the radio replacement system. Councilmember Ulledalen said he thought it had been a staff request, and Council had not voted on it. Ms. Volek said there had been a vote, and she would provide the motion and vote to the Council. She said it was part of the budget last year.

On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION #12-19153 FOR ANNEXATION #12-02: three parcels totaling approximately 0.85 acres located on Lincoln Lane in the Billings Heights and addressed as 337 and 325 Lincoln Lane; Brent Nelson, petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there would be no presentation, but staff was available to answer questions.

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

Councilmember Crouch asked for the definition of "conditional approval". Planning Division Manager Wyeth Friday explained that standard conditions were recommended for annexation, and it was tied back to vacant property or property that would be redeveloped and how the property services would be provided in the future. He said the conditional recommendation could include a special improvements agreement or a development agreement depending on how the property would be developed.

Councilmember Cimmino asked Mr. Friday what was planned in terms of development for the subject property. Mr. Friday said the property owner, Brent Nelson, was in attendance and could answer questions, but he understood it would be a residential, multi-family development.

Councilmember Astle moved for approval of Annexation #12-02, seconded by Councilmember Ulledalen.

Councilmember Pitman said they had wanted to have more discussion on it, and one of the issues on Lincoln Lane was a lot of missing infrastructure. He said the staff report indicated there were storm drain lines on Lincoln Lane, but last year Public Works told him there were no storm drain lines. Councilmember Pitman said he was concerned with the additional pressure being put on Lincoln Lane and asked if they were making sure there would be storm drain, sidewalks, and gutter. He said it was good the property was being annexed, but they needed to make sure they were fixing problems as they did it. Mr. Friday said the infrastructure maps provided by Public Works showed there was storm in the area. He said when the property redeveloped, the sidewalks, curb and gutter, storm water, water, and sewer requirements would all need to be addressed.

On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC 25-301 through 25-307 Nuisance Vegetation. An update providing clarity and consistency across several sections of the Nuisance Vegetation code. Code Enforcement Division Staff recommends approval. (Action: approval or disapproval of Code Enforcement Division Staff recommendation.) Zoning

Coordinator Nicole Cromwell said the ordinance was to close a loophole in the city code that several people had taken advantage of by not taking care of weeds up against fences or on a slope where a hand-held trimmer would need to be used. She said the current code indicated all that needed to be used was a riding or push mower, and the amendment would specify weeds must be cut by any means to four inches or less in height.

Councilmember McFadden asked if weed killers could be used where it would take awhile for the weeds to die instead of using a trimmer that would cut the weeds off immediately. Ms. Cromwell said anyone could use any herbicide in conformance with regulations governing herbicide use; however, the point of the city's weed ordinance was to have them cut down.

The public hearing was opened.

- **Joe White, Billings, MT**, said he supported the control of weeds because Billings had a terrible weed problem. He said there were weeds everywhere along fences, in alleys, on ditch banks, around trees, along railroad tracks, in industrial yards, and along public rights-of-way. He said they needed to go after the ditch companies and storage yards. He said the city should work hard at getting after the big problem areas.

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

Councilmember Cimmino moved for approval of Item 5, seconded by Councilmember Astle.

Councilmember Pitman commented that sometimes they argued about what they could or could not do in their own backyards for whatever reasons, and said he wanted to point out there were a lot of ways they regulated people's property, and it was just another example of it. He said they needed to keep that in mind as they looked at consistency as they moved forward.

On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #891: a text amendment to Sections 27-201 and 27-622 of the Billings, Montana City Code (BMCC) to eliminate the definition of "townhome" as a type of residential land use and update the section that requires a Master Site Plan review for multi-unit developments. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Nicole Cromwell advised the amendment was to align the existing city zoning code to Montana Legislative amendments made in 2009 and 2011. She said the amendment would eliminate the definition of townhome as a type of land use and allow townhomes in any residential zone or other districts that allowed residential uses. She said the amendment would also update a portion of the code that required a Master Site Plan review for multi-unit developments and add the words townhome or condominium. Ms. Cromwell said they were working through the issues of the recent Attorney General's opinion about any undivided parcel having more than one structure

now needing a subdivision. She said they may use the Master Site Plan Development Code as a framework to deal with those upcoming subdivisions.

Councilmember Ronquillo asked if there would be any other row houses like they currently had on Jackson and Jefferson. Ms. Cromwell said in the 12 years she had worked for the city, they had done two townhouse special review requests and both were for Habitat for Humanity because they wanted to build attached units. She said they did not have any others that she could recall. She said if they did have a similar situation in the future where the use came forward with a zero lot line, a variance would be done to put both of the structures on one lot line with a property line through the middle.

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

Councilmember Ronquillo moved for approval of Zone Change #891, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #892: a text amendment to Section 27-1502 of the Billings, Montana City Code (BMCC) to align the local zone change procedures with new state law amendments passed in 2009 and 2011. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Nicole Cromwell said the amendment dealt with how zone changes were processed in the city. She said the State Legislature amended that part of the state law including the types of criteria and the words from the criteria that were reviewed when making a zone change decision. She said there used to be 12 criteria and now there would be 10. She said a lot of it was updated information having to do with growth policies rather than comprehensive plans with types of transportation networks and whether it promoted compatible urban growth. Ms. Cromwell said the next section of the ordinance dealt with protest provisions by state law that had to do with the type of unit ownership just discussed on townhomes. She said now a townhome or unit owner would have a protest right for zone changes when within a 150 feet of the zone change.

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

Councilmember Cimmino moved for approval of Zone Change #892, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

8. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #893: a text amendment to Sections 27-1508 and 27-1604 of the Billings, Montana City Code (BMCC) aligning the county zone change procedures and enforcement with new state law amendments passed in 2009. Zoning Commission recommends approval. (Action: approval or disapproval of staff recommendation.)

Zoning Coordinator Nicole Cromwell advised the city and county had a unified zoning code, and it was unified in the city code. She said the item would only deal with county zone change procedures and enforcement, but because it was part of the city code, the City Council must also pass it as an ordinance. She said the county changes to zoning procedures were more extensive than the city zoning

procedures and now required that all zone changes be published and posted in public places 45 days in advance of the County Commissioners' hearing. She said currently they mailed notice to the surrounding property owners and posted just the property with the public notice, so it would be an increase in public notification procedures in the county. Ms. Cromwell said the county also changed the type of criteria they looked at including whether or not the zoning in the county was compatible with the adjacent city zoning if the property was near the city limits. She said their criteria also dropped from 12 to 11. She said the State Legislature passed an enforcement procedure for any county zoning violations that allowed a property owner a minimum of 30 days to comply prior to the county taking any further enforcement action after notification.

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

Councilmember Pitman moved for approval of Zone Change #893, seconded by Councilmember Astle. 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 limited to 3 minutes. Please sign up on the clipboard located at the podium.*)

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, MT**, said when you put self interest in front of the public's interest, you will have problems, and it was evident at the last meeting and in the Billings Gazette with the parking garage issue and deficit. Mr. Nelson said past Council actions were going to require future Council actions to mitigate those parking garage impacts. He said they would not have the problem they had today if past Council would have taken the appropriate action. He said in 2008 there was \$4 million left in the tax increment district, and the Council decided the best use of the funds was to give \$1.9 million to the Babcock LLC to buy the Babcock Building. He said three members of the Babcock LLC were also members of the Downtown Billings Partnership who was administering the tax increment finance district money, which should have been a red flag. Mr. Nelson said it was ironic that one member of the Babcock LLC was chairman of the Parking Garage Board that had to deal with the issue. He said due diligence would have been to take the \$1.9 million from the tax increment and pay down the debt, and said he wondered where they would be today if they had done that. He said he bet they would not be in the current situation. Mr. Nelson said when you put self interest in front of public interest, things come back to you, and now it's back. He said when the Downtown Billings Partnership, the Parking Advisory Board, and others show up wanting more money, they should be asked if the \$1.9 million would have been better spent paying down debt service rather than taking care of personal interest.

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

COUNCIL INITIATIVES

- **McCall:** Said her initiative was based on the previous discussion regarding the Redistricting Commission and the meeting to be held on May 15. She said they had talked about the plan both the city and county had come forward with and approved. She said in looking at the different plans being brought forward by the Commission, she believed the Urban-Rural Plan matched mostly with what they were recommending. Councilmember McCall **moved** to direct staff to prepare testimony and appropriate printed material that supported the Montana Districting and Apportionment Commission's Urban-Rural Plan. The testimony and printed material would be presented by the Mayor to the Commission at its Billings public hearing at 7:00 p.m. on May 15, 2012. The draft testimony and material would be reviewed and considered for approval by the City Council at its regular meeting on May 14, 2012. The motion was seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.
- **Ulledalen:** Asked Ms. Volek if they were on track to meet the dates for the public park maintenance district and if there were any loose ends they needed to deal with. Ms. Volek said she believed they were on schedule, and they were working on the list of the council-approved projects and would be bringing it forward for a motion. She said she would provide the exact date the following day.
- **Cimmino:** Asked Ms. Volek if the May 15 work session scheduled for 5:30 p.m. would allow time to attend the Redistricting Commission's meeting that same evening. Ms. Volek said the meeting was at 7:00 p.m. She said the work session agenda was kept to four items to allow time to attend both meetings.

There was no further business, and the meeting adjourned at 7:52 p.m.

CITY OF BILLINGS



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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk