

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 8, 2013

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 Astle gave the invocation.

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

MINUTES: March 25, 2013 – Councilmember Astle moved for approval, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Councilmember Bird recognized Brenda Beckett and Lynda Woods, Community Development Division, for their efforts in targeting homelessness. They are featured in the April/May 2013 issue of Yellowstone Valley Woman magazine.
- Councilmember Bird recognized Wyeth Friday, Planning Department, for his recycling efforts as mentioned in an article in the April/May 2013 issue of Yellowstone Valley Woman magazine. There are many recycling options available in Billings.
- Councilmember Bird expressed her gratitude to the community for its diversity, i.e. 45th Annual POW-WOW at MSU-B, PBR at Rimrock Auto Arena, etc. Billings offers many entertainment opportunities – cultural, athletic, etc. She encouraged citizens and visitors to Billings to take in as many activities as possible.
- Councilmember Pitman recognized the Shriner's Circus and all the great things they do for the children.
- At the request of Mayor Hanel, Boy Scouts leaders and troop members from Pack #81 and Pack #375 introduced themselves and identified the schools they attend.

PROCLAMATIONS: National Library Week, April 14-20, 2013. The Mayor recognized Brent Roberts, Director of MSU-B Library, for his cooperative working relationship and assistance with the staff of the Parmly Billings Library.

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items:

- **Item M: Resolution of Intent to refund Special Improvement District 1385 Bonds and set a public hearing for April 22, 2013.** Council received a copy of updated resolution in the April 5, 2013, Friday Packet. Copy of resolution was filed in the ex-parte notebook.
- **SO2 levels designation letter.** Copy of e-mail received by Ms. Volek on 4/08/13 from John Brewer, President/CEO of Billings Chamber requesting Council to send a letter to the regional EPA office asking that Yellowstone County be designated “unclassified” rather than “non-attainment” due to emissions. There was an April 15th comment deadline. If Council wished to send a letter of request, a Council Initiative needed to be approved. Copy was on Council’s desk and filed in the ex-parte notebook.
- **School District 2 meeting.** Board Member Kathy Aragon, requested a meeting with the Council during the second week of May. Ms. Volek asked Council to review their schedules and let her know their availability.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 ONLY.

Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign in at the cart located at the back of the council chambers or 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.

- **Heather McMilin, Missoula, MT,** is the Housing Development Director for Homeword, a nonprofit affordable housing organization, based in Missoula, Montana. The organization does affordable housing projects in Billings and Missoula. Ms. McMilin stated Homeword has partnered with Billings Housing Authority on the Pheasant Home Project located on Sioux Lane in the Billings Heights. She expressed her appreciation for additional HOME funding for the project which was expanded to 16 housing units due to these funds and those from the State HOME funds.

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

1. CONSENT AGENDA

A. Bid Awards:

- 1. Cargo Ramp Slot Four Expansion Project** for Billings Logan International Airport. (Opened 3/26/13) Recommend Knife River; \$2,212,754.
- 2. W.O. 09-20, Rimrock Road Improvements - Forsythia Boulevard to Shiloh Road.** (Opened 3/26/2013) Recommend Knife River - Billings; \$3,948,432.50.

3. **W.O. 13-03, #2, 2013 Street Maintenance Program, City Chip Seal.** (Opened 3/26/13) Recommend Knife River; \$839,252.35.
4. **W.O. 13-05, IT Conduit to 911 Center.** (Opened 3/26/13) Recommend delay of award until April 22, 2013.
- B. **Consulting Agreement** with Kittelsen & Associates - 2014 Billings Urban Long Range Transportation Plan, estimated cost \$174,924.
- C. **Approve** Library Board's recommendation to rename the new Library "Billings Public Library."
- D. **Approve** additional funding for Homeword's Pheasant Home Project - \$95,191; and **approve** updated Development Agreement.
- E. **Downtown Revolving Loan Fund Modification** for Venture Theatre, \$72,356.79.
- F. **Approve** MET Transit's Updated Title VI Program.
- G. **Acknowledging Receipt of Petition to Annex #13-03:** Approximately 1.6 acres in Parcel 1, Certificate of Survey 1706, generally located on the southeast corner of the intersection of Bench Boulevard and Yellowstone River Road; Ryan and Jodi Rookhuizen Family Trust, owner and petitioner; and setting a public hearing for 4/22/13.
- H. **Acknowledging Receipt of Petition to Annex #13-04:** A portion of existing Tract 2, Certificate of Survey 3295, composed of about 2 acres, located on the north side of Grand Avenue, just west of the intersection of Grand Avenue and 48th Street West; Mary Beth Gregory, owner and petitioner; and setting a public hearing for 4/22/13.
- I. **Acknowledging Receipt of Petition to Vacate** Reflections Circle within Reflections at Copper Ridge Subdivision, 3rd Filing; Copper Ridge Development Corporation, petitioner; and setting a public hearing for 5/13/13.
- J. **Acceptance of Utility Right-of-Way Easement** for property located at 2450 South 32nd Street West, Berry Y & V Fabricators, LLC, owners, at no cost to the City.
- K. **Acceptance of Quitclaim Deed** for Lot 9, Block 1, Grand Peaks Subdivision, 2nd Filing, from J & S Development, at no cost to the City.
- L. **Subordination of Housing Rehabilitation Loan** for Katja Zimmerman, \$13,128.

M. Resolution of Intent #13-19257 to refund Special Improvement District 1385 Bonds and set a public hearing for 4/22/13.

N. Second/Final Reading Ordinance #13-5596 for Zone Change #907: A zone change from Agriculture Open-Space (A-1) to Controlled Industrial on 2 parcels of land described as C/S 2587, Tract 1 and C/S 3329, Tract 1, a 97.3 acre parcel of land, generally located northwest of the intersection of Gabel Road and Hesper Road at 3815 Hesper Road. Industrial Planning Associations, LP, owner; Rick Selensky, P.E. of Dowl HKM, agent. On a 2-2 vote, Zoning Commission forwards no recommendation.

O. Second/Final Reading Ordinance #13-5597 for Zone Change #908: A zone change from Agriculture Open-Space (A-1) to Highway Commercial (HC) on an unplatted 63.32-acre parcel of land generally located south of the King Ave. West interchange with Interstate 90 and addressed as 1228 and 1236 Mallowney Lane. Elizabeth Zeiler, owner. Approval of the zone change and adoption of the determinations of the 10 criteria.

P. Preliminary Subsequent Minor Plat of Amended Lot 11A, Block 1, Zimmerman Trail Subdivision, approximately 2.33 acres of land on the south side of Highway 3, just east of Zimmerman Trail. Kincaid Land, LLC, owner; Sanderson Stewart, agent; conditional approval of the plat and adoption of the Findings of Fact.

Q. Bills and Payroll:

1. March 11, 2013
2. March 18, 2013

Councilmember Astle separated Consent Agenda Item A3. Councilmember Cimmino separated Consent Agenda Items B, E and Q2.

Councilmember McCall moved for approval of the Consent Agenda with the exception of Items A3, B, E and Q2, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Astle referenced Item A3 and asked David Mumford, Public Works Director, about remedies to last year's chip seal failures. Mr. Mumford responded that the contractor from last year is responsible for removing and replacing the failed chip seal areas and that will be completed this summer. Councilmember Astle moved for approval of Item A3, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item B and said she needed to abstain due to her employer's involvement with the bid process. Councilmember Pitman moved for approval of Item B, seconded by Councilmember Astle. On a voice vote, the motion was approved 8-0.

Councilmember Cimmino referenced Item E and asked Pat Weber, Finance Director, about whether the City actually had the \$50,000 pledge from Venture Theatre. Mr. Weber responded that at this time it was a commitment/pledge, but the City expected to receive \$50,000 on May 1st. Mr. Weber explained that the Downtown

Revolving Loan Committee (consisting of 5 voting members) met with officials from Venture Theatre concerning solidifying the loan and waiving the interest on the loan is the Committee's recommendation. Councilmember Pitman expressed concern about forgiving interest on loans. The interest is used to help future groups. Mr. Weber stated this is only the second loan in the past 14 years wherein forgiveness of interest has been considered. Approximately \$139,000 of interest was forgiven for the YMCA. Venture Theatre is asking that less than \$2,500 of interest be forgiven. Since the inception of the revolving loan fund, the fund has grown by approximately \$600,000 due to interest collected. There has been more good done for the community than bad concerning this fund. Councilmember Pitman agreed and reiterated it is necessary for interest to be collected to keep monies available for future loans. The Mayor asked Mr. Weber what would happen if Council did not approve the request to forgive interest on the loan and Venture Theatre defaulted on the commitment. Mr. Weber stated the City would lose all ability of any loan repayment. If the City did not receive the pledged amount, the City would foreclose on the loan. There is a personal guarantee, and that person would be held accountable for the guarantee. The Committee's recommendation is the best solution for all parties involved. Councilmember Cimmino stated she was aware that Venture Theatre reorganized and was making concerted fundraising efforts. She suggested Council delay forgiving the interest until the \$50,000 pledge was received, perhaps 30 to 60 days. Mr. Weber stated if the City did not receive the \$50,000 pledged, there would not be any forgiveness of the \$2,487 in interest. This is a package deal. Councilmember McCall moved for approval of Item E, seconded by Councilmember Pitman. Councilmember Bird stated she agreed with Councilmember McCall and said the City was not placing the overall revolving loan fund at risk by forgiving the interest. She mentioned Venture Theatre is a very worthwhile business and the community's benefits far outweigh the risks, if any. The request was not normal and did not set precedence. The fund will continue to generate interest from loans. Councilmember Cimmino responded that as elected officials it is the Council's responsibility to Billings' citizens to protect the City's finances. She further stated she was very supportive of Venture Theatre and wished them well. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item Q2 and said she needed to abstain due to her employer's submitted Invoice No. 764129. Councilmember Pitman moved for approval of Item Q2, seconded by Councilmember Astle. On a voice vote, the motion was approved 8 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION #13-19258 ordering improvements identified in W.O. 13-02, Miscellaneous/Developer Related Projects. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised staff had no presentation but was available to answer questions.

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

Councilmember Pitman moved to approve Item 2, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #CC-13-02: A variance from Section 1208(h)(5) pertaining to the number of curb cuts on Lot 1, Block 2A and Lots 1 & 2, Block 3, Foxtail Village Subdivision, 2nd Filing, located on Foxtail Lane and Foxtail Loop West. Cal Kunkel, Developer; Sanderson Stewart, Agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek advised staff had no presentation but was available to answer questions.

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

Councilmember McCall moved to approve Item 3, seconded by Councilmember Pitman. 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 in at the cart located at the back of the council chambers or at the podium.)*

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

COUNCIL INITIATIVES

- **Astle:** MOVED to direct staff to draft a letter to send to the regional EPA office asking that Yellowstone County be designated “unclassified” rather than “non-attainment” due to emissions, seconded by Councilmember Pitman. Councilmember Cromley asked for further explanation. Councilmember Astle offered that it had to do with the water and air quality. Mayor Hanel added that the air quality in the Yellowstone Valley is monitored from several locations and the results are averaged over a 3-year period. A certain level of attainment must be met and anything above that is cause for concern. In June of 2010, during the time of the Father’s Day tornado, one of the testing devices registered a higher-than-acceptable level of sulphur dioxide in the air and it triggered the attention of the DEQ. The DEQ is saying that because a certain level for a period of time, consisting of 3 years, wasn’t maintained, Yellowstone County would be under a monitoring situation. This is being disputed based on the age of the monitoring devices, the accuracy, and the weather conditions at that time. By making this request, hopefully the regional EPA office will allow Yellowstone County to provide the necessary information to show the area is meeting standards and reconsider the attainment standard. On a voice vote, the motion was unanimously approved.
- **Pitman:** MOVED to place on the next Council agenda the placement of a Masonic Cornerstone at the new library building, seconded by Councilmember McCall. Mayor Hanel asked Bill Cochran, Library Director, if Council could expect a recommendation from the Library Board at the next Council meeting.

Mr. Cochran responded the Library Board would be meeting before the next Council meeting and a recommendation would be forthcoming. On a voice vote, the motion was unanimously approved.

There was no further business, and the meeting adjourned at 7:12 p.m.



CITY OF BILLINGS

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

ATTEST:
BY: Denise R. Bohlman
Denise R. Bohlman, Deputy City Clerk