

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 22, 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 Cimmino gave the invocation.

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

MINUTES: April 8, 2013 – Councilmember Cimmino moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES: None

PROCLAMATIONS:

- National Volunteer Week, April 21-27, 2013
- National Crime Victims' Rights Week, April 21-27, 2013

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek advised there were no ex-parte items but commented on the following agenda item.

- Consent Agenda Item 11 – Resolution of Intent to De-Annex #13-05, Lot 20, Block 3, Rolle Subdivision.
 - ✓ The staff memo title incorrectly referenced Lot 30. The correct lot is Lot 20, which is referenced in the body of the staff memo and in the resolution.
 - ✓ The resolution showed a passage date of April 8, 2013. It has been corrected to read April 22, 2013.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items #1 and #11 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.

- **Richard Clark, 1207 25th Street West, Billings, MT**, referenced Item #11. He said a cornerstone on the new library should represent all the taxpayers of

Billings, should have the City logo displayed, and should not represent just one organization. He would also like to see a wall with plaques listing names of councilmembers serving at the time the new library was built, names of the Library Board members, and names of the Design Committee rather than a cornerstone with an organization that had nothing to do with building the new library.

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

1. CONSENT AGENDA

A. IT Conduit to 911 Center Project

1. **W.O. 13-05, IT Conduit to 911 Center Bid Award**; Recommend C & L Service, Inc.; \$204,206.

2. **Memorandum of Understanding** between the City of Billings and Yellowstone County for the IT Conduit to 911 Center Project. Yellowstone County to provide financial support of \$84,733 in exchange for 50% ownership of 4" conduit.

B. Library Security System Service Agreement with Kenco Security and Technology; \$64,981.02.

C. Compensation Agreement with Stock Development for Private Contract P-647, Schedule 1, extension of sanitary sewer in South 44th Street West between King Avenue West and Monad Road (Lots 1 & 2, Block 1, Lenhardt Square Sub); compensation to be based on the final sanitary sewer utility construction costs-estimated \$187,408.50.

D. Amendment #1, W.O. 12-43: Water Treatment Plant Backup Power, Phase III, Professional Services Contract, HDR Engineering, \$53,600.

E. Approval of Right-of-Way Deed for W.O. 09-12, Inner Belt Loop for Parcel No. 8 located on the east half of the southwest quarter of Section 18, Township 1 North, Range 26 East; State of Montana Department of Natural Resources and Conservation; \$8,400.

F. Subordination of Housing Rehabilitation Loan for Stefanie M. Ruegamer; \$19,980.61.

G. Acceptance of Donations to Community Development Division for Project Homelessness; Stockman Bank - \$500; First Montana Title - \$500.

H. Resolution of Intent #13-19259 to create SID 1395, public improvements on Boca Raton Road between Annandale Road and Clubhouse Way, and set a public hearing for May 13, 2013.

I. Resolution of Intent #13-19260 to De-Annex #13-05: approximately 6.64 acres of undeveloped land described as Lot 20, Block 3, Rolle Subdivision; Robert Honaker, owner and petitioner; and set a public hearing for May 28, 2013.

J. Final Plat of Grand Peaks Subdivision, 3rd Filing.

K. Bills and Payroll:

1. March 25, 2013
2. April 1, 2013
3. January 1, 2013 - March 31, 2013 - Municipal Court

Councilmember Ulledalen referenced Item 1A1 and asked if the City would be spending \$204,000 boring conduit to a building they would eventually be replacing. Ms. Volek said as she understood, it would be a backbone to expand the fiber to other places. IT Director, David Watterson, said the conduit was a backbone, and the \$204,000 included a drop and service to the Depot, the Parks and Recreation Department, and the current 911 Facility. Councilmember Ulledalen confirmed with Mr. Watterson the \$204,000 was not just to take conduit to the 911 Center. Mr. Watterson said that was correct. He said all properties being considered for future development of a 911 Center were in the vicinity, and they would have capacity in the conduit to pull additional fiber or come off of the 911 Center to a new facility depending on its location. They were also partnering with Yellowstone County, which was a great opportunity to build the infrastructure together. Councilmember Cimmino asked if the Planning Department would be able to take advantage of the infrastructure in its move to the Miller Building. Mr. Watterson advised there was already infrastructure outside the Police Department on 3rd Avenue North, so they would be able to come off of that same box and go down 3rd Avenue North on the south side to the Miller Building.

Councilmember Cromley separated Consent Agenda K2. Councilmember Cimmino separated Consent Agenda Items D, K1, and K2.

Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items D, K1 and K2, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cromley referenced Item K2, #764560, and said he would abstain due to his employment. Councilmember Cimmino referenced Item K2, #764508, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item K2, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 8 to 0.

Councilmember Cimmino referenced Item D and said she would abstain due to her employment. Councilmember Astle moved for approval of Item D, seconded by Councilmember Pitman. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Item K1, #764322, and said she would abstain due to her employment. Councilmember Pitman moved for approval of Item K1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 13-19261 approving and adopting Third Quarter Budget Amendments for Fiscal Year 2013. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was 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 Astle moved for approval of Item 2, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #13-19262 relating to Special Improvement District No. 1385 Refunding Bonds, Series 2013; authorizing the issuance and private negotiated sale. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions. She said it was a refunding in order to reduce bonding costs.

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

Councilmember Ronquillo moved for approval of Item 3, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION #13-19263 creating SILMD 311, Rimrock Road from Forsythia Boulevard to Shiloh Road. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Deputy Public Works Director, Vern Heisler, reported two protests were received representing 1.96% of the district.

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

Councilmember McCall moved for approval of Item 4, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #OP-13-01: A variance from Section 6-1203 of the Site Development Ordinance pertaining to off-street parking requirements at Great Harvest Bread Company, 907 Poly Drive. Bryan Layton, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

Councilmember Ronquillo asked if a public meeting had been held. Mr. Heisler said he did not believe there had been a public meeting.

Councilmember Cimmino said she needed clarification. Great Harvest Bread would be buying the Poet Street Market, would be remodeling, and would actually meet their parking requirement if they included their seven spaces, plus whatever parking was left over by the previous merchant. Mr. Heisler advised the parking would be short,

which was the reason for the variance. Currently they had seven spaces, and they would be required by code to have 15 spaces. The area did not offer a lot of options, and businesses had been there for a very long time.

Councilmember McCall said she lived in the area, and it had been that way for a long time. They were very popular establishments, and she hoped Council would support the request.

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

Councilmember McCall moved for approval of Item 5, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING and approval of allocation of FY2013-2014 CDBG and HOME program funds and approval of the FY2013-2014 Action Plan. Staff recommends approval of the Community Development Board's recommendation and prioritization. (Action: approval or disapproval of staff recommendation.)

Community Development Manager, Brenda Beckett, began her PowerPoint presentation showing their Consolidated Plan Goals as follows: Strategy A. Promote the preservation of the existing supply of safe, affordable housing in the community. Strategy B. Promote new affordable housing opportunities. Strategy C. Work as an active partner with non-profits, neighborhood groups, and others to address housing and community development specific to lower income and special needs households. Strategy D. Promote the preservation and revitalization of the community's older neighborhoods. Strategy E. Provide assistance to agencies serving lower income households and special needs populations, particularly the homeless, public service activity funding to assist the homeless, the elderly, and those with disabilities. She said they had about \$1.4 million, and HUD had not given them their budget number to date. Their budget recommendations on the CDBG and HOME side were maximum allowed for the Administration Caps; VISTA Program (\$50,000); Housing Rehabilitation (\$350,000); Foreclosure Acquisition/Rehab (\$250,000); Manufactured Home Repair (Remaining \$); Community Housing Development Organization (minimum required – estimated \$48,000); and First Time Homebuyer (Remaining \$). Ms. Beckett noted she had provided the tier of the Priority Based Budgeting ranking for each program. She showed an overall breakdown of the funding with an 8.2% decrease. She referenced the First Time Home Buyer Program and said they were looking at a minimum of \$473,286; plus the additional \$250,000 they would roll out the beginning of May.

Councilmember Cimmino asked if the \$473,286 included the \$250,000 allocated from City Council Contingency. Ms. Beckett said it was in addition to, and they could do anywhere between 35 and 50 loans with the \$473,286 and about 15 loans with the \$250,000. Councilmember Cimmino asked how many families could take advantage of the First Time Home Buyer Program. Ms. Beckett said approximately 65 families. She said it was a tremendous program and a great honor to receive the funding from the City. The money would come back to the City over and over so it was a true revolving loan fund. Loans were turning around about every four years.

Councilmember Pitman thanked Ms. Beckett for tying in the Priority Based Budgeting and including tier levels. It was very important as they entered the budget that they could connect it with what they had been doing.

Councilmember Cimmino said she wanted Ms. Beckett to know she had read the whole report. She referenced Page 64 and the YWCA Gateway Shelter, a facility serving victims of domestic violence, and said it was her understanding by a recent newspaper article that the program was no longer available. Ms. Beckett said she had not heard the Gateway Program had been shut down. She understood their disability programs may be eliminated, but she did not believe the shelter had been eliminated. Councilmember McCall said she thought the YWCA would be increasing their activities for women who had experienced violence. Ms. Beckett said the YWCA was actually interested in looking at a community housing development organization proposal in the future. She said it would be a sizable project much like the Pheasant Home project.

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

Councilmember Astle moved for approval of Item 6, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND RESOLUTION #13-19264 FOR ANNEXATION #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. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

The public hearing was opened.

- **Lauren Waterton, Sanderson Stewart**, said she represented the applicant, Ryan Rookhuizen, who was also present, and they were available to answer questions.

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

Councilmember Pitman moved for approval of Item 7, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

8. PUBLIC HEARING AND RESOLUTION #13FOR ANNEXATION #13-04: A portion of existing Tract 2, Certificate of Survey 3295, composed of one parcel totaling approximately two acres generally 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. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

The public hearing was opened.

- **Quinten Eggert, Eggert Engineering Company**, said he was available to answer questions.

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

Councilmember Crouch moved for approval of Item 8 subject to the following conditions:

- Prior to site development, a Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements, and a Waiver of Right to Protest the Creation of Special Improvement Districts will be recorded; and/or
- A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of Special Improvement Districts shall be approved and recorded that will stipulate infrastructure improvements and provide guarantees for such infrastructure improvements.

The motion was seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

9. PUBLIC HEARING AND FIRST READING ORDINANCE amending the boundaries of Ward V to include recently annexed property in Annexation #13-01: two parcels totaling approximately 97 acres in Tract 1, C/S 2587, and Tract 1, C/S 3329, generally located northwest of the intersection of Hesper Road and Gabel Road; Industrial Planning Associates, L.P, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was 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 Astle moved for approval of Item 9, seconded by Councilmember Crouch. Councilmember Cimmino asked if the item was for the FedEx property. Ms. Volek said that was correct. On a voice vote, the motion was unanimously approved.

10. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently annexed property in Annexation #13-02: a 63.32-acre parcel of land generally located south of the King Avenue West interchange with Interstate 90 and addressed as 1228 and 1236 Mullowney Lane; Elizabeth Zeiler, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was 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 Bird moved for approval of Item 10, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

11. ACCEPTANCE OF THE CORNERSTONE DONATION from the Masons for the new Billings Public Library. Library Board of Trustees recommends

conditional approval. (Action: approval or disapproval of Library Board of Trustees recommendation.) City Administrator Volek said at the last work session the City Council received a presentation on the item and asked the Library Board of Trustees to make recommendations whether or not to accept the donation. At their April 11 meeting the Library Board of Trustees voted 5 to 2 with two members absent to recommend the cornerstone offer made by the Masonic Lodge on the following conditions.

1. The Library Board, project architect and City Council must approve the proposed location, size and text of the cornerstone;
2. The cornerstone is to be installed without cost to the Library and the City; and
3. The installation and/or unveiling of the cornerstone is to be honored in a separate ceremony scheduled by the Masonic Lodges in coordination with the Library and Library Foundation boards so as not to interfere with any other events or ceremonies that either of those groups have scheduled.

Mayor Hanel advised since he was a Mason he would recuse himself from the matter.

Councilmember Ronquillo referenced Mr. Clark's earlier testimony and asked Library Director, Bill Cochran, if the Library Board had talked about building a wall in the new library displaying plaques as Mr. Clark had suggested. Mr. Cochran advised the architect was expected to arrive later that week and although there had been no formal discussion about a plaque, he had been of the opinion it would be assumed there would be one. There was one in the current building and one in the old library. Public buildings typically had a bronze or brass plate with names of City Councilmembers, Commissioners, Library Board, etc. Mr. Cochran said he anticipated raising the issue with the architect.

Councilmember Pitman said it was his understanding the Masons offered to put the city logo on the cornerstone if the city wanted it there. Mr. Cochran said there were representatives present that evening. He said he had carefully construed that the Masons' intent was to have their symbol on it and beyond that no other designs on the rest of the cornerstone with the text.

Councilmember Ulledalen said he was struggling with this one and asked Mr. Cochran if it involved any gift to the library cash-wise, for maintenance, or construction because anyone else who had received recognition had done something to contribute to the advancement of the library. In this case, the Masons would be given recognition on the building when they had not done anything to advance the cause of the library. Mr. Cochran said he did not see the receipts of the Foundation, so he could not speak whether there had been a donation made by the Masonic organization. He suspected donations had been made by individuals belonging to the Masonic organization, but he did not believe the organization itself had contributed to the Foundation. He could verify it with the Foundation Director if Council would like.

Councilmember Astle referenced Condition #1 and asked if there was a definition of the word 'text'. Mr. Cochran said it was derived in part from the presentation given by the Masons to the Library Board and City Council. It was his understanding their desire

was to limit their recognition on the cornerstone to the Masonic symbol in a corner. Any text would be at the discretion of the Library Board and City Council.

Councilmember Cimmino said she had done some research, and it had been a long-term tradition or ceremony that the Masons had undertaken over the course of time. It was a fraternal organization, and a cornerstone they dedicated to a certain public building was usually at a designated site where all parties would agree to it. She said the way she read the article it was basically dedicated to the Mayor and City Council. She said she looked at the cornerstone on the Masonic Temple directly across from Alberta Bair Theater. She also read in a recent newspaper article on the YMCA's 100-year anniversary that the Masons had placed a cornerstone, but she was unable to find it because it may have been covered up by remodeling projects over the years. She said she saw the cornerstone on the Masons' own temple, and it was very eloquent and not obtrusive. It was a tradition, and they dedicated it to the Mayor and City Council. She felt it would be an honor and in terms of monetary donations, as fellow taxpayers, they all made a donation based on the fact the voters voted for the library bond for 20 years.

Councilmember Pitman moved to accept the cornerstone donation with the conditions set forth in the staff report, seconded by Councilmember Ronquillo.

On a roll call vote, the motion failed 5 to 4. Councilmembers Cromley, Bird, Ulledalen, Astle, and Crouch voted in opposition. Councilmembers Ronquillo, Pitman, Cimmino, and McCall voted in favor.

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

- **CIMMINO:** Commented the Council had been invited to welcome back the veterans of the Honor Flight at the Billings airport that evening. She read the following from a downtown advertisement for the veterans.

“No generation of Americans faced a tougher task than the one fought and won - World War II. Their legacy is one that deserves to be preserved. The deepest appreciation for all who have served and are currently serving our country, your service and sacrifices are not forgotten.”

Councilmember Cimmino also commented Councilmember Rich McFadden would be performing with the Caledonian Pipes and Drums at the airport. County Commissioner Bill Kennedy extended the invitation for Council to participate, so everyone was welcome. She gave a special thank you to First Lady Robin Hanel who accommodated the veterans and the rest of the volunteers on the flight.

There was no further business, and the meeting adjourned at 7:19 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk