

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 27, 2016

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

**ROLL CALL:** Councilmembers present on roll call were: Cromley, Yakawich, Brewster, Cimmino, McFadden, Friedel, Sullivan, Swanson, and Clark. Mayor Hanel and Councilmember Brown were excused.

**MINUTES:** June 13, 2016 – Councilmember Brewster moved for approval, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

### COURTESIES:

- Police Chief Rich St. John thanked the members of the Community Innovations team for their work on the chronic inebriation problems downtown. Lisa Harmon, Downtown Billings Alliance Executive Director, introduced San Diego's Serial Inebriate Program members as: Officer John Liening, Deni McLagan, and Sergeant Richard Schnell. Ms. Harmon stated that the San Diego program had been an excellent mentor for the City's Motivated Addiction Alternative Program (MAAP). Ms. Harmon stated that MAAP had interacted with 538 participants and had 11 graduates.
- Councilmember Yakawich thanked Billings Symphony for the recent event at Pioneer Park.

### PROCLAMATIONS:

- Deputy Mayor Cromley read a proclamation signed by Mayor Hanel declaring June 20-26 to be Amateur Radio Week.

### ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek did not have any items to discuss for the Administrator Report.

### **PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1 ONLY.**

**Speaker sign-in required.** (Comments offered here are limited to one (1) minute for one item, or three (3) minutes for multiple items. 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.

- **David Ellis, 1100 6<sup>th</sup> Avenue N, Billings, MT**, in regards to Item 1E, stated that the railway was vital to Schnitzer Steel and urged Council to vote against the motion. Councilmember McFadden asked how much Schnitzer Steel utilized the railway. Mr. Ellis stated that they loaded two to three rail cars per day.
- **Tim Goodridge, East Billings Renewal District (EBURD) Coordinator**, in regards to Item 1E, stated that the study contradicted the EBURD Master Plan and that the railway was an asset to the area. Mr. Goodridge stated that the area was an industrial sanctuary and needed the rail spur. Councilmember McFadden asked for clarification on the term industrial sanctuary. Mr. Goodridge stated that the industrial sanctuary was the furthest east portion of the area and that the railway served many industrial businesses in the area. Mr. Goodridge stated that the time to do a feasibility study would be when the railroad decides to stop servicing the area. Councilmember Cimmino asked how many members were in the area. Mr. Goodridge stated that there were 470 individual properties in the area and that there were 80 active Billings Industrial Revitalization District (BIRD) members. Councilmember Yakawich asked how many signatures that EBURD had received on the petition that they had created. Mr. Goodridge stated that they had received approximately 70 signatures on the petition.
- **Marty Connell, BIRD President**, in regards to Item 1E, stated that this study did not represent EBURD and that the report was anti-railroad. Mr. Connell asked Council to support EBURD and allow growth in the area.
- **Scott Chesarek, BIRD Vice President**, in regards to Item 1E, stated that EBURD represents the neighborhood, but was not approached regarding this study. Mr. Chesarek stated that the timing of this study was not right and that the money should be used somewhere else.

There were no further comments, and the public comment period was closed.

## **1. CONSENT AGENDA**

### **A. Bid Awards:**

1. **W.O. 11-12 HHW Facility Parking Lot.** (Opened 06/14/16) Recommend CMG Construction, \$139,760.

2. **W.O. 16-17; 2016 Miscellaneous Locations Valley Gutter Construction.**

(Opened 5/24/16) Recommend J&J Concrete, Inc., \$98,695.

**B. Landfill Agreement** with Yellowstone County; \$171,667 annual revenue for the Solid Waste Fund, and \$8,583 in franchise fees for the General Fund in FY 2017.

**C. Evidence Facility CCTV Security System Agreement** with TelNet Systems,

\$101,425.

**D. Amendment #3, W.O. 09-15 Grand Avenue Zimmerman Trail to Shiloh Road,** Professional Services Contract, HDR Engineering, Inc., \$58,590.

**E. Consultant Agreement** with Kadrmas, Lee & Jackson, Inc. to complete the 5th Avenue North Corridor Feasibility Study, not to exceed \$80,000.

**F. Approval** of new Automobile Rental Concession and Lease Agreements with: Overland West, Inc., DBA Hertz, Corpat, Inc. DBA Alamo/National, Enterprise, Avis/Budget, DTG Operations, DBA Thrifty/Dollar; 7/1/2016-6/30/2021; guaranteed revenue of \$5,757,510 over the five-year period.

**G. Acceptance of Donation** to the Billings Fire Department from Yellowstone County Tavern Association for new patient lift devices; \$1,500.

**H. Resolution** relating to \$4,935,00 pooled tax increment bonds, Series 2016 (Phase 2 Sanitary Sewer and Orchard Lane projects in the South Billings Urban Renewal District (SBURD)); fixing the form and details and providing for the execution, delivery, and security.

**I. Resolution** amending Resolution #16-10544 correcting the legal description of the property annexed in Annexation #16-03.

**J. Resolution** for Proposed Fee Increase for Mountview Cemetery.

**K. Second/Final Reading Ordinance** amending City Code Article 26-200, Water and Wastewater Service Area.

**L. Preliminary Major Plat** of Emma Jean Heights Subdivision, generally located on the west side of Bitterroot Drive, south of Wicks Lane, in the northeast Billings Heights; Felton Associates, Inc., owner; Northern Engineering and Consulting Inc., agent; conditional approval and adoption of the findings of fact.

**M. W.O. 15-05, Poly Drive Bike & Pedestrian, Final Payment;** \$383, 599.82.

**N. Recommendation of approval** to the Policy Coordinating Committee for the West End Multi-Modal Traffic Modeling Study.

**O. Cancellation of Checks and Warrants.**

**P. Bills and Payroll:**

1. May 31, 2016

2. June 6, 2016

Councilmember Sullivan separated Items 1G and 1N for discussion.

Councilmember Cimmino separated Item 1D, 1P1, and 1P2 in order to abstain.

Councilmember Cromley separated Item 1P1 in order to abstain.

Councilmember Yakawich separated Item 1E for discussion.

Councilmember Swanson moved for approval of the Consent Agenda, with the exception of Items 1D, 1E, 1G, 1P1, 1P2, and 1N, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich, in regards to Item 1E, stated that 60-70 people had signed the petition in opposition and asked Mr. Goodridge to expand on his position about the feasibility study. Mr. Goodridge stated that the City had entrusted EBURD to provide guidance for the area and that they received intelligence from property owners in the area. Councilmember Yakawich asked if the railroad was financially crucial to businesses in the area. Mr. Goodridge stated that businesses that utilized the railroad would be impacted and that he also worried about the study being perceived as “anti-railroad or anti-industrial”. Mr. Goodridge stated that the area was primarily industrial and needed to be welcoming in order to grow. Councilmember Yakawich moved to not approve the motion, seconded by Councilmember Friedel. Ms. Volek stated that Council could choose to narrow the study to only include N. 22<sup>nd</sup> to N. 31<sup>st</sup> Street, which would allow the Downtown Partnership to be exempt. Deputy Mayor Cromley asked if it would be an option to delay this item. Ms. Volek stated that she was unsure how long negotiations would take. Ms. Volek stated that the study had been a serious discussion for the downtown area for several years. Councilmember Sullivan stated that he would like to see a vote completed right away, and that the narrowed study could be presented to Council at a later date. Candi Millar, Planning and Community Services Director, stated that the funding for this study was from Federal Transportation Planning Funds and had been approved in September 2015 by the Policy Coordinating Committee. Ms. Millar stated that the study was a part of the FY16 work plan, and therefore, it could not be changed to a different program. Ms. Millar stated that she would recommend the study be re-scoped to eliminate the EBURD, and only include N. 22<sup>nd</sup> to N. 32<sup>nd</sup>. Ms. Millar stated that if Council did deny the study, that she would like to receive some direction on how to proceed with re-scoping the project. Deputy Mayor Cromley asked if the funds could be used for other purposes. Ms. Millar stated that the funds could not be used for other purposes. Councilmember Cimmino stated that the staff report stated that the consultant, KLJ, Inc. would conduct interviews with the property owners, key businesses, and stakeholders. Councilmember Cimmino stated that KLJ, Inc. needed to be notified ahead of time that a petition against this study had received 83 signatures. Councilmember Cimmino stated that she would like to see the study amended to eliminate the BIRD. Ms. Millar stated that the area had been the subject of many previous studies. Ms. Millar stated that half of the area was residential or mixed use and

that an 18 unit residential housing development was coming into the area. Ms. Millar stated that the BIRD was soliciting a proposal for an overpass and/or an underpass on Main Street to connect the EBURD with the Metra. Ms. Millar stated that, through preliminary interviews, she hoped to identify the areas of opposition and eliminate those areas from the study, to allow them to focus on the areas that were more favorably receptive to the idea. Ms. Millar stated that she hoped Council would consider amending the motion to eliminate the EBURD, and only include N. 22<sup>nd</sup> Street to N. 32<sup>nd</sup> Street in the study. Ms. Millar stated that this would allow pedestrians to enjoy a safe, convenient corridor that would include the YMCA, the library, the trade center, and the Yellowstone Art Museum. Councilmember Sullivan stated that he would be voting in opposition of this study, but suggested that Councilmember Cimmino could bring forward an alternative motion as an initiative if she wished to do so. Councilmember Sullivan stated that stability in planning helps to grow business, and that EBURD had created a plan, which created their stability. Councilmember Sullivan stated that creating another plan would only create instability. Councilmember McFadden stated that he thought Council should vote on the motion and that any changes to the plan should be presented and voted on separately. Councilmember Cimmino provided a substitute motion to eliminate the BIRD and to modify the study area to include N. 22<sup>nd</sup> Street to N. 32<sup>nd</sup> Street. Councilmember Cimmino stated that Council had known about this study and that they needed to keep their promise to the planning staff. Councilmember Cimmino's motion died for lack of a second. On a voice vote, Councilmember Yakawich's motion was approved 8-1, with Councilmember Cimmino voting in opposition.

Councilmember Sullivan, in regards to Item 1G, thanked the Yellowstone County Tavern Association for their donation to the Billings Fire Department. Councilmember Sullivan moved for approval of Item 1G, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan, in regards to Item 1N, asked for clarification on when the study needed to go to the Policy Coordinating Committee (PCC). Ms. Volek stated that the PCC would meet on July 19<sup>th</sup>, but that the study could be postponed if Council needed more time to review the item. Ms. Volek stated that there would be room on the July 7 work session agenda and that staff would be able to move the item to that meeting. Councilmember Cimmino stated that Council had already had two weeks to look at the item. Councilmember Cimmino stated that Debbie Meling, Public Works Engineer, had provided Council with information showing that Rimrock Road and 67<sup>th</sup> Street West were already in the 5 year CIP. Councilmember Cimmino stated that Ms. Meling had stated that "the others are in the county and are not in our radar to put in the CIP". Councilmember Cimmino stated that she had reviewed page F that discussed the long term project recommendations and it had showed Rimrock Road and 67<sup>th</sup> Street West were already approved in the CIP. Councilmember Cimmino stated that the traffic signal roundabout would be \$1.5 million and \$10.3 million for the widening and reconstruction. Councilmember Cimmino asked if arterial funding would be used. Ms. Volek stated that she was not certain where the funding would come from, but could get the information for Councilmember Cimmino. Deputy Mayor Cromley stated that these questions would be answered at a work session if the motion was passed. Ms. Volek

stated that Vern Heisler, Deputy Public Works Director, had just informed her that the funds would come from the arterial fund. Councilmember Cimmino asked for clarification on if the projects would be completed this year. Ms. Volek stated that Item 1N was only part of a general road reconstruction in the area. Councilmember Sullivan moved to table Item 1N until the July 11 Council meeting, and also to add it to the July 5 Work Session agenda for Council discussion, seconded by Councilmember Clark. Councilmember Brewster stated that the area was going to have issues and that Council would have an opportunity to discuss changes before anything would occur. Councilmember Brewster stated that County, City, Planning, and Highway Department would all have a vote. Councilmember Sullivan stated that the study pertained to areas outside of the City limits, but could be brought into the City limits eventually, and that the study deserved more than 10 days of review. On a voice vote, the motion to table Item 1N was unanimously approved.

Councilmember Sullivan moved for approval of Item 1D, seconded by Councilmember Brewster. On a voice vote, the motion was approved 8-0, with Councilmember Cimmino abstaining.

Councilmember Sullivan moved for approval of Item 1P1, seconded by Councilmember Brewster. On a voice vote, the motion was approved 7-0, with Councilmembers Cimmino and Cromley abstaining.

Councilmember Sullivan moved for approval of Item 1P2, seconded by Councilmember Brewster. On a voice vote, the motion was approved 8-0, with Councilmember Cimmino abstaining.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION approving and adopting Budget Amendments for FY16. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that staff did not have a presentation, but was available for questions.

Councilmember Cimmino asked for clarification on the staff report stating that \$10,000 of Council contingency funds for the Optimist Park Master Plan. Councilmember Cimmino stated that she specifically remembered Council giving \$25,000 to match the SBURA commitment. Pat Weber, Finance Director, stated that the \$10,000 referenced in the staff report was the remaining amount that needed to be moved to complete the budget amendment. Councilmember Brewster asked for clarification on the staff report, stating that if Council did not approve these items, that it would be considered breaking the law. Mr. Weber stated that without Council approval, some of the items would go over budget; therefore, the City would be breaking the law. Councilmember Clark asked for clarification on the amount approved for the Optimist Park Master Plan. Mr. Weber stated that Council had approved a total of \$50,000 out of

Council contingency funds, which SBURA had matched. Councilmember Yakawich stated that he appreciated the City stepping in to provide abatement and asbestos removal to a blighted property. Councilmember Yakawich asked if the property owner would have to pay for the abatement. Ms. Volek stated that the amount would be added to the property taxes and if the owner did not pay the taxes, then the property would be sold for taxes.

The public hearing was opened.

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

Councilmember Sullivan moved for approval of Item 2, seconded by Councilmember Swanson. On a voice vote, the motion was unanimously approved.

**3. CONTINUANCE OF PUBLIC HEARING AND RESOLUTION vacating a portion of Montgomery Street near Hansen Lane and accepting a utility easement, Popelka Enterprises, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that Item 3 had been continued to this Council meeting, per a request from the property owner, and that staff did not have a presentation, but was available for questions.

The public hearing was opened.

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

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

**4. PUBLIC HEARING AND SPECIAL REVIEW #943: a special review to locate a Jiffy Lube service station, in an Neighborhood Commercial (NC) zoning district on a 13,068 square foot parcel of land described as: Lot 9A, Block 2, Justiss Subdivision, 1st Amended. Jason Smith and Matt Johnson, agents. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Nicole Cromwell, Zoning Coordinator, began a brief PowerPoint presentation for Item 4, providing an overview of the property and its surroundings. Ms. Cromwell discussed the nine conditions for approval:

1. Limited to proposed service station (Jiffy Lube).
2. Limited to this legally described lot.
3. Retain all existing trees on site and on adjacent ROWs – consult arborist for any trimming and City Forester for any trimming on public ROWs.

4. Use the color scheme as shown on site plan (Exhibit A).
5. Developed in substantial conformance with site plan.
6. No demolition/construction before 7 am or after 8 pm.
7. Centralized solid waste storage must be enclosed compatible color to new building.
8. Conditions run with the land.
9. Comply with all other limitations in 27-613 and other city codes that apply.

Councilmember Yakawich asked if any residents had come forward to discuss this special review. Councilmember Yakawich stated that he was very concerned with traffic issues in the area. Ms. Cromwell stated that no residents had attended the public hearing meeting or commented on the proposed special review. Ms. Cromwell stated that at the Zoning Commission hearing, it had been stated that Jiffy Lube could service 30-50 cars on a good day. Ms. Cromwell stated that the City Traffic Engineer did not have any comments about the traffic que at the proposed location. Ms. Cromwell stated that agents had invited property owners to attend an informal meeting at the nearby park.

The public hearing was opened.

- **Elliot Smith, TerraForm Companies**, stated that TerraForm Companies had sent letters to the property owners in the area inviting them to a meeting at Rosebud Park. Mr. Smith stated that none of the property owners had attended the meeting. Mr. Smith stated that he did not foresee a problem with traffic in the area. Mr. Smith stated that Jiffy Lube could service 30-50 cars per day, but that the cars would be staggered throughout the day.

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

Councilmember Clark moved for approval of Item 4, including the conditions and the findings of the three criteria, seconded by Councilmember McFadden. 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**

- Councilmember Cimmino moved to adopt a resolution to allow the use of \$50,000 from Council Contingency funds to build a shelter for High Sierra Park, seconded by Councilmember Yakawich. Councilmember Brewster



asked if there was enough time to allow the initiative. Ms. Volek stated that since the initiative had been brought forward before the fiscal year end, that it could be added to the next meeting for discussion. Councilmember Yakawich stated that he thought this would be a good investment and would support it. Deputy Mayor Cromley stated that he thought it was a good proposal, but that he would be voting against it since he had not received a 24 hour notice. Councilmember Clark asked if this motion would include new tables. Councilmember Cimmino stated that it would include new tables. Councilmember Friedel asked if this should be a Parks and Recreation Department matter instead of using Council Contingency money. Ms. Volek stated that this would be a way of expediting an item for something that had not yet been scheduled. On a voice vote, the motion was approved 6-3, with Councilmembers Cromley, McFadden, and Sullivan voting in opposition.

There was no further business, and the meeting adjourned at 7:56 pm.

CITY OF BILLINGS

BY: Thomas W. Hanel

Thomas W. Hanel, Mayor

ATTEST:

BY: Toni Keehner

Toni Keehner, Deputy City Clerk

