

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**August 8, 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. Mayor Thomas W. Hanel 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, McFadden, Friedel, Sullivan, Swanson, Clark and Brown. Councilmember Cimmino was excused.

**MINUTES:** July 25, 2016 - Councilmember Clark stated he had notified staff of an error on the draft minutes. He stated the error had been corrected. Councilmember Sullivan moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

### **COURTESIES:**

- Mayor Hanel welcomed Jason McKee, Boy Scout Master for Troop #52. Scout Master McKee stated that the troop members were working on a communications and a citizenship in the community merit badge. Chad Blumhagen, Committee Chairperson, and Brandon Walter, also introduced themselves. Several of the boy scouts introduced themselves. Councilmember Yakawich welcomed Boy Scouts Troop #52 and stated that all of their hard work would be worth it. Mayor Hanel welcomed all of the members and thanked them for their attendance. Staff took a picture of Troop #52 with Council.
- Mayor Hanel welcomed Christina Aragon, who recently qualified for the Olympic trials, and congratulated her on her success. The Billings Senior High graduate had been voted top female outdoor track and field athlete of the year in a poll conducted by the online site MileSplitUSA. Mayor Hanel stated that Ms. Aragon represented the City very well. Mayor Hanel also welcomed Christina's mother, Kathy Aragon. Christina Aragon thanked the community for their support. Ms. Aragon stated that it was very special to be a part of the US Olympic team.

### **PROCLAMATIONS:**

There were no proclamations.

### **ADMINISTRATOR REPORTS - TINA VOLEK**

- Ms. Volek informed Council of an error in the July 25, 2016 Council meeting minutes. Under Item 6, Councilmember Clark noted that the growth policy was not regulatory, but a guideline. It was not Councilmember Swanson, as stated in the minutes. Ms. Volek stated that the minutes had been corrected to reflect the change.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #3 & #4 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.

- **Marcia Clausing, 3016 Gloxinia Drive, Billings, MT**, in regards to Item 4, stated that she would like to see the City allow dogs in parks with some room for compromise.
- **Jeannette Vieg, Animal Control Board Member**, in regards to Item 4, stated that she supported allowing dogs in parks.
- **Cara Chamberlain, Animal Control Board Member**, in regards to Item 4, stated that she supported allowing dogs in parks.
- **Chuck Bushey, Animal Control Board Member**, in regards to Item 4, stated that he would like to see Council support allowing dogs in parks. Mr. Bushey stated that he thought this motion was a quality of life issue.
- **Robert Pumphrey, Animal Control Board Member**, in regards to Item 4, stated that Billings was the only major city in Montana that did not have an ordinance to allow dogs in parks. Mr. Pumphrey stated that Animal Control and the Parks Department were both in favor of the ordinance change.
- **Dennis Ulvestad, 3040 Central Avenue, Billings, MT**, in regards to Item 4, stated that responsible dog owners should not be punished for the actions of irresponsible dog owners.
- **Mary Bennett, 2300 Wyngate Lane, Billings, MT**, in regards to Item 4, urged Council to support allowing dogs in parks.

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

**1. CONSENT AGENDA**

**A. Amendment #3, W.O. 09-12: Inner Belt Loop, Professional Services Contract, Sanderson Stewart, \$48,000.**

**B. Resolution** relating to \$226,000 Series 2016 Sidewalks; fixing the form and details and providing for the execution, delivery, and security.

**C. Resolution of Intent** to create SID 1401, 62nd Street West turn lane, and set a public hearing date of September 12, 2016.

**D. Second/Final Reading Ordinance for Zone Change #947:** a zone change from Residential 6,000 (R-60) to Controlled Industrial (CI) on a 2-acre parcel of land described as: the south 2 acres of the north 4 acres of Lot 5 in the SW1/4 of Section 9, Township 1 South, Range 26 East. Hanser's Properties, owner. Sanderson Stewart, agent. Approval of the zone change and adoption of the findings of the 10 criteria.

**E. Final Plat Approval** of Superior Homes Subdivision.

**F. Bills and Payroll:**

1. July 11, 2016
2. July 19, 2016

Councilmember Brown separated Item 1F1 and 1F2 in order to abstain.

Councilmember Yakawich separated Item 1B for discussion.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1B, 1F1, and 1F2, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item 1F1, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 9-0, with Councilmember Brown abstaining.

Councilmember Brewster moved for approval of Item 1F2, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 9-0, with Councilmember Brown abstaining.

Councilmember Yakawich, in regards to Item 1B, asked for clarification on how it was determined who would be on the list and how the repairs were handled. Dave Mumford, Public Works Director, stated that the property owners usually contacted the department to notify them of a hazardous area. Mr. Mumford stated that they used a grinder when possible to take care of the repairs. Councilmember Yakawich moved for approval of Item 1B, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #16-04: property described as Lot 8, Sunny Cove Fruit Farms, located at the southeast corner of Rimrock Road and 62nd Street West, Tule Ridge Developments, Robert Wattenbarger, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Wyeth Friday, Interim Planning Director, gave a brief PowerPoint presentation. Mr. Friday gave an overview of the property and surrounding areas. He stated the property met all of the criteria for annexation and that the City would be able to provide services to the area. Mr. Friday stated the area would be zoned Community Commercial. He stated that the intersection had been involved in past discussions regarding the West End Multi-Modal Traffic Planning

Study and future improvements. Mr. Friday stated that the applicant and agent were in attendance and available for questions.

Councilmember Sullivan asked for clarification on what types of businesses could be built in Community Commercial zones. Mr. Friday stated that Community Commercial was a fairly broad term that could include restaurants, convenience stores, retail, vehicle repair, etc. Councilmember Sullivan asked if a casino or auto repair shop would need a special review. Mr. Friday stated that a casino would need a special review for an "all beverage" liquor license. Councilmember Yakawich asked if the property owners were aware that emergency services could take longer to respond. Mr. Friday stated that current owners were aware of the information regarding the annexation. He stated that American Medical Response had satellite locations to enable them to respond quickly to outlying areas. Councilmember Brown asked if there would be a zone change after the annexation occurred. Mr. Friday stated that the property had already gone through a County zone change process with the anticipation of annexation and then development.

The public hearing was opened.

- **Jeannette Vieg, 525 Gay Place, Billings, MT**, stated that she thought the 2016 Growth Policy was very well thought of and gave great guidelines to bring some vibrancy and diversity to the City.
- **Scott Aspenlieder, Performance Engineering, Agent**, stated that they had intended to subdivide the property into lots with a full development plan. Councilmember Clark asked if they had received any protests during the zoning change process. Mr. Friday stated there had been some neighbors with questions and comments. Councilmember Sullivan asked if there was a possibility of a supermarket being developed in the area. Mr. Aspenlieder stated he was not aware what types of businesses would be built in the area, but the area was geared toward community service businesses.

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

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

**3. RESOLUTION TO ADOPT the 2016 City of Billings Growth Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Ms. Volek stated that Item 3 had been the subject of previous discussions, but staff was prepared to make a presentation if Council desired and were available for questions.

Councilmember Cromley moved for approval of Item 3, seconded by Councilmember Sullivan. Mayor Hanel thanked Council for their attention to Item 3. On a voice vote, the motion was unanimously approved.

#### **4. SECOND/FINAL READING ORDINANCE allowing dogs and cats on leash within City Parks.**

Ms. Volek gave a brief PowerPoint presentation on Item 4. She gave an overview of existing signage and costs for implementation. She stated there were several different signs used at different parks throughout the City and it was very confusing. Ms. Volek stated there were seven Public Works parks that were not owned by the City. She stated that dogs on a leash were allowed in those parks and trash cans were located near the "mutt mitts" to mitigate waste issues. She stated that these parks had very few issues and Public Works has researched ways to best manage issues. Ms. Volek stated that there was only one Animal Control officer in the County and he did not have a patrol, but responded on a complaint basis only. Ms. Volek stated that the County had about 60 parks in the area and 80% of their park traffic took place in Two Moon Park and Zimmerman Park. She stated that dogs were allowed in those parks off leash unless they harass wild animals.

Ms. Volek stated staff would like to work with interested groups over the next several months to hold licensing events. She stated that veterinarians in the area had expressed interest in promoting licensing via brochures and signs in their offices. She stated that staff would like to undertake a social media and public service announcement campaign and would like to extend the effective date to January 1, 2017. Ms. Volek added that the Animal Control department had started writing their reports in the parking lots of parks to create more of a presence. She stated that the Parks and Recreation department utilized volunteers that were able to advise, but not cite or deal in a police fashion, with people that were not following the rules. She stated the Police Department had advised staff to hire a Park Ranger to enforce rules in the parks. Ms. Volek stated it would be a supplemental budget request to add a Park Ranger and staff had not recommended it. She stated the cost for a Park Ranger would be approximately \$138,419. She added that \$69,670 of that would be a one-time cost for equipment and a vehicle and that \$68,749 would cover the annual salary and benefits for the position. Ms. Volek stated that staff would bring a budget amendment forward if Council was interested in pursuing that option. Councilmember McFadden asked what department would pay for the Park Ranger. Ms. Volek stated that it would be an additional expenditure of the general fund through the Police department. Ms. Volek stated that adoption of the ordinance would bring the City parks in closer consistency to other parks in the area.

Councilmember Brewster asked if athletic fields were included in the exclusion areas. Ms. Volek stated that she believed athletic fields were included. Councilmember Brewster asked why the City had not annexed the County parks. Ms. Volek stated that the City had worked on annexing them, but some of the parks did not belong to the City and there was some concern about assessments. Councilmember Cromley suggested that "pets must be on leash and licensed" be added to the signage at parks. Councilmember Clark asked why the City would need to annex parks that belonged to them if they were located in the County. Brent Brooks, City Attorney, stated that because that area was in the County, it would have to be annexed into the City regardless of City ownership. He stated that ownership does not equate to annexation within the City's boundaries; therefore, the parks in question would have to be annexed. Councilmember Brown asked if a newly hired Park Ranger would be able to check animal licenses. Ms. Volek stated that she thought that if the Park Ranger did not see tags on the animal, then he/she could stop the owner, and check to see if the animal was licensed. She stated that the Park Ranger would patrol City parks on a regular basis. Councilmember Yakawich asked about a "sunset" clause on the ordinance to see how well it had worked. Ms. Volek stated that staff would recommend that Council create an initiative to re-examine the ordinance in one year, but not to sunset the ordinance, which would mean the ordinance would lapse. Councilmember Sullivan asked how many licensed cats and dogs there were in the City

currently. Ms. Volek stated there were approximately 5,000 licensed cats and dogs in the City. She stated that approximately 80% of homes in the City owned a cat or dog.

Councilmember Cromley moved to approve Item 4, setting a commencement date of January 1, 2017, seconded by Councilmember Yakawich. Councilmember Sullivan stated he was disappointed by the lack of animals that had been licensed. He stated that he would like to see a citizen coalition to help increase the numbers of licensed animals. He moved to amend the motion to strike the January 1, 2017 start date and replace it with "the first day of the month following an animal licensure report of 10,000", seconded by Councilmember Brewster. He stated that this motion was the perfect opportunity for citizen involvement. He added that it may be double the number of animals the City had licensed now, but that it would only be 1/3 of the total number of pets owned. Councilmember McFadden asked if the additional licenses would pay for the Park Ranger. Councilmember Sullivan stated that it would not be enough to pay for the Park Ranger, but it would cover all signage changes, and dog waste bags fees. Mayor Hanel asked Mr. Stinchfield, Animal Control Supervisor, if he thought that an additional 5,000 licenses could be sold within five months if the ordinance kept the start date of January 1, 2017. Mr. Stinchfield stated that staff planned to start a big campaign and he thought that it could be done in that time frame. Councilmember Clark stated that with Councilmember Sullivan's amendment, the new ordinance could go into effect at a later date or an earlier date. Councilmember Brown asked if there would need to be a budget amendment to allow for community education on licensing. Ms. Volek stated that staff would like to meet and plan how best to achieve the goal and then present the budget amendment to Council. Councilmember Yakawich stated that Council should give the entrusted boards the authority to go forward with their recommendations without stipulations. Councilmember Friedel stated that during a recent visit to City parks, he saw dogs without leashes and pet waste all over the parks. He stated that dogs should not be allowed at City parks and the current park issues were not being enforced. He stated that dogs can go to the undeveloped parks and dog parks and did not need to go into the developed City parks.

On a voice vote, Councilmember Sullivan's amendment was approved 7-3, with Councilmembers Cromley, Yakawich, and Friedel voting in opposition. Councilmember Clark asked how Council would review the ordinance in a year. Ms. Volek stated that Council could bring it forward as an initiative one year after the ordinance is implemented. Councilmember Brown asked whether Council needed an initiative to set aside money for the community education part of the ordinance. Ms. Volek stated staff wanted to put a budget together to present to Council. Councilmember Brown asked if it would be possible to provide the community education by utilizing other organizations and not using City money. Ms. Volek stated the printing and advertising would have some cost involved, and after she had put together some numbers, staff could approach outside supporters for assistance. She stated that veterinarians may be interested in providing the "mutt mitts" in exchange for advertising. Councilmember Swanson stated he thought getting local vets involved was a good idea. Councilmember Clark stated he was concerned the new ordinance was even more difficult to enforce. Ms. Volek reminded Council that the old ordinance would remain in effect until the new ordinance went into effect. On a voice vote, Councilmember Cromley's original motion was approved 8-2, with Councilmembers Brewster and Friedel voting in opposition.

Ms. Volek stated that Council had postponed action on using Council Contingency funds, to provide a shelter at High Sierra Dog Park, in order to allow Councilmember Cimmino an opportunity to make a presentation. She stated that Council could have created an initiative to postpone it until the August 22<sup>nd</sup> Council meeting. Mr. Brooks stated that the public would have needed advance notice; therefore, he would not recommend Council taking immediate action on the item. He stated that creating an initiative would be a safer way to handle the item. Councilmember Brown asked if Council could table the item indefinitely. Ms. Volek stated that

by not taking any action, the item would be tabled indefinitely. Mayor Hanel called for action on the item, no motion was made, and the item was tabled indefinitely.

**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.

- **Jason McKee, 2112 Green Terrace, Billings, MT**, thanked Council for their time and service. He stated that Council did a lot of work behind the scenes and it did not go unnoticed.

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

### **COUNCIL INITIATIVES**

- Councilmember Brown moved to direct staff to provide a budget amendment for advertising and community education for dog licensing. Mayor Hanel asked if it would be sufficient to request the information from staff without directing staff in the form of an initiative. Councilmember Brown stated that would be fine with him. Councilmember Friedel asked for an approximate date that Council could expect the information. Ms. Volek stated that she would try to make arrangements with the various groups involved and would anticipate that she could have some numbers for Council before the end of the year.
- Councilmember Sullivan directed staff to bring forward options for strategic planning every two years including sometime in 4<sup>th</sup> quarter of this year, seconded by Councilmember Friedel. Mayor Hanel asked if Councilmember Sullivan was asking for proposed costs, what it would involve, staff time, etc. Councilmember Sullivan stated that he had left the initiative open to allow discussion at a Work Session. He stated that Council had discussed having a formal meeting every four years and a semi-formal meeting every two years to coincide with the change in elected Councilmembers. Councilmember Swanson asked Ms. Volek what her opinion was on the initiative. Ms. Volek stated that staff could certainly investigate the initiative and what had been requested. She stated that staff was in the third of a four-year strategic plan; therefore they were close to doing a new one. She stated that the depth of the current plan was very significant and could be difficult to provide every two years. She stated that they could look at different options. Councilmember Brown stated that perhaps Councilmember Sullivan could specify full or partial plans. Ms. Volek stated that staff had tentatively scheduled a strategic plan during the November 21 Work Session. Councilmember Brown asked if it could include an estimated cost for staff. On a voice vote, the motion was unanimously approved.

There was no further business, and the meeting adjourned at 8:10 pm.



CITY OF BILLINGS

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

ATTEST:

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