

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

October 11, 2016

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. Mayor Hanel gave the invocation.

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

MINUTES: September 26, 2016 – Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel welcomed Arrow of Light Cub Scout Troop #44. The Scout Leaders and Cub Scouts participants introduced themselves. Mayor Hanel welcomed the Cub Scout participants and congratulated them on their hard work.
- Councilmember Clark spoke fondly about the late Mayor Van Arsdale. Mayor Hanel stated Mayor Van Arsdale had been dedicated to children and would be missed. Councilmember Cromley stated that Mayor Van Arsdale had been very active in the community and Golden K Kiwanis Club.

PROCLAMATIONS:

- Mayor Hanel read a proclamation that declared October as Community Planning Month. Wyeth Friday, Interim Planning Director, stated that the various boards and commissions, as well as the planning staff, were very dedicated to the City. He also stated that the 2016 City Growth Policy was available on the City website.
- Mayor Hanel read a proclamation that declared October as International Alpha Delta Kappa Month. He stated that women educators constitute a great portion of the working population and constantly strived to serve their communities. Mayor Hanel welcomed the members of Alpha Delta Kappa that were in attendance and thanked them for their service to the community.

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek informed the Council of a revision to Item 1B on the consent agenda. She stated that the First Presbyterian Church had accepted a one-time payment of \$2,000 for the easement.
- Ms. Volek announced the Planning Director Meeting and Interviews would be held October 12, 2016. She stated the two candidates were Wyeth Friday, Interim Planning Director, and Byron Hickox from the City of Waynesville, North Carolina.
- Ms. Volek reminded Council that on October 13, 2016, at 3:00 pm, there would be a closed executive session to discuss the City Administrator's employment agreement.
- Ms. Volek stated the Montana League of Cities and Towns had been held in Missoula last week and that Billings would be hosting the conference in 2019. Ms. Volek stated that it would most likely be held downtown and would possibly need to utilize two hotels. She stated that the MT Infrastructure Coalition group would return next month to discuss their program. She added that staff had been invited to join the group and that the lowest non-voting Associate membership fee was \$500, and that a voting membership fee was \$5,000. She stated that attendees would include a combination of local government, contractors, engineers and architects interested in infrastructure development of Montana and responsible funding. Mayor Hanel stated that normally the larger cities throughout Montana and several organizations participated at the \$5,000 level. He stated that the \$5,000 level would allow a voting position on the board. He added that as the largest City in Montana, a voting position would be very important. Councilmember Clark stated that the seminars were very informative and he would be happy to answer any questions.

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

1. **CONSENT AGENDA**

A. **Professional Services Contract** for W.O. 16-21, Exposition Drive Pedestrian Crossing Feasibility Study; HDR Engineering, Inc.; \$35,410.

B. Irrigation Easement with the First Presbyterian Church for installation of an irrigation pump station and main line to Veterans Park.

C. Acceptance of Donation to the Fire Prevention Bureau from IAFF Local 521 for the purchase of fire prevention public education supplies; \$750.

D. Acceptance of Donation to the Fire Department from Alpha Omega Disaster Restoration for kids' plastic fire helmets; \$700.

E. Second/Final Reading Ordinance for Zone Change #948: a zone change from Public to Residential Professional on a 2-acre parcel of land described as: Lots 1 and 2, Block 4, Rocky Village Subdivision, generally located at the intersection of 17th St. West and Rimrock Road. Michael Larsen, Applicant; David Mitchell, Agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria.

F. Bid Awards:

1. **City Vehicles.** (Opened 9/27/16) Recommend Schedules 1,6,7,8 & 9 without trades to Bison Motors, \$186,262.08; Schedules 5 & 10 without trades to Archie Cochrane Ford, \$50,828.00; Schedules 2,3 & 4 without trades to Billion Auto Group, \$302,009.00.

2. **W.O. 16-12, 4th Avenue North and Division Street Capacity Improvements.** (Opened 9/27/16) Recommend Ace Electric, Inc., \$290,631.03.

3. **Yellowstone Kelly Interpretive Site Improvements.** (Opened 9/20/16) Recommend Hardy Construction, \$507,901.80.

G. Bills and Payroll:

1. September 12, 2016

2. September 19, 2016

Councilmember Clark separated Item 1A and 1F2 for discussion.

Councilmember Sullivan separated Item 1B for discussion.

Mayor Hanel separated Item 1F1 for discussion.

Councilmember Friedel separated Item 1F3 for discussion.

Councilmember Cimmino separated Item 1A, 1G1 and 1G2 in order to abstain.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1A, 1B, 1F1, 1F2, 1F3, 1G1 and 1G2, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

Councilmember Sullivan, in reference to Item 1B, questioned why the easement was not requested before the project was completed. Mike Whitaker, Parks Director, stated that it was discovered at the beginning of the project that there was not a formal easement in place, as previously thought. He stated that it had taken longer than expected to come to an agreement with all of the parties involved. Councilmember Sullivan moved for approval of Item 1B, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Clark asked for clarification on Item 1A. Dave Mumford, Public Works Director, stated that it was a study to determine viable options for a pedestrian crossing. He stated that it would be funded through EBURD. Councilmember Clark moved for approval of Item 1A, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 7-0, with Councilmember Cimmino abstaining.

Councilmember Clark, in reference to Item 1F2, asked how many turn lanes the project would include. Mr. Mumford stated that there would be improvements made to 3rd and 4th Avenue North, in between Clark Avenue and Division Street. He stated that Public Works would be widening the road and adding two turn lanes onto 4th Avenue North. Councilmember Friedel asked if the situation with turning right on 3rd Avenue North would be addressed. Mr. Mumford stated that this project would not address that situation. Councilmember Friedel asked why turns were not allowed during the red light. Mr. Mumford stated that there had been accidents at the intersection in the past due to sight issues. Councilmember Clark moved for approval of Item 1F2, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

Councilmember Friedel, in reference to Item 1F3, asked why the City paid for project donations in advance. He stated that he was concerned about what would happen if donations were not received as expected. Ms. Volek stated that the City was expecting a large amount of donations to be made within the next few years. She stated that the City had always worked with donors in the past regarding late payment and not had any issues. She stated that the Chamber of Commerce was involved in the project and would continue to seek donations. Councilmember Clark asked when construction would begin. Mike Whitaker, Parks Director, stated that construction should begin in November. He stated that once the contract was signed, they would begin value-engineering to bring down the cost of the project as much as possible. He stated that staff hoped to reduce the amount by \$33,000 through the value-engineering process. Ms. Volek added that they hoped to decrease the budgeted amount by allowing the

Parks Department to provide the landscaping maintenance, instead of the construction firm. Mayor Hanel thanked Bill Cole, Chamber of Commerce, Board of Directors Chair, for his work on the project. Councilmember Friedel moved for approval of Item 1F3, seconded by Councilmember Yakawich. On a voice vote, the motion was approved unanimously.

Councilmember Sullivan moved for approval of Item 1G1, seconded by Councilmember Friedel. On a voice vote, the motion was approved 7-0, with Councilmember Cimmino abstaining.

Councilmember Sullivan moved for approval of Item 1G2, seconded by Councilmember Friedel. On a voice vote, the motion was approved 7-0, with Councilmember Cimmino abstaining.

Mayor Hanel, in reference to Item 1F1, stated he would like to see the City do as much business locally as possible. He stated that one of the City vehicle bids from Archie Cochrane Ford had only been \$153 more than the accepted bid from Billion Auto Group. He stated he would like to see Council reject the bid from Billion Auto Group and award the bid to Archie Cochrane Ford instead. Ms. Volek stated that the City's current purchasing policy required that bids be awarded to the low bidder. She stated that there had been previous discussion about allowing a local preference, but that it had not been enacted by Council. She added that a policy would need to be enacted before the City could start allowing a local preference on bids. Councilmember Cimmino stated that she supported doing as much business locally as possible, but understood that it was a State statute. She stated that car dealerships knew that the bidding process would be competitive, and that it was up to them to sell the vehicles at a price that would remain competitive against other dealerships. Bruce McCandless, Assistant City Administrator, stated that all dealers could submit bids and in this case the local dealer had not provided the low bid. He added that Mr. Brooks could discuss the state law requirement for award to the lowest competitive, responsive and responsible bidder. Brent Brooks, City Attorney, added that the State statute required that the bid award go to the lowest, most responsible bidder. He stated that awarding a bid based on a local preference would be inconsistent with the purchasing policy and urged Council against it. He added that a few years ago he had presented a PowerPoint presentation to Council on bid preferences and that only Great Falls used the policy and in a very limited manner. He stated that none of the other cities were using a local bid preference policy. Mr. Brooks added that the ultimate issue was the best use of the taxpayer dollar. Councilmember McFadden stated that he had brought forward this issue a few years ago and that legal counsel had found it to be possible but not practical. Councilmember Sullivan asked if there would be any benefit to a local dealer regarding maintenance of vehicles. Larry Deschene, Motor Vehicle Maintenance Manager, stated that new vehicles still under warranty were serviced by the local dealership. Councilmember Friedel stated that there

could be hard feelings by the local dealership about warranty work if the vehicles were not purchased from them. Mr. Deschene stated that local dealerships were reimbursed financially by the manufacturer for warranty work. Mr. Brooks stated that without a bid preference disclosure in the bid documents it could create some difficult legal issues. He stated that he would strongly urge Council to award to the lowest responsible bidder. He added that Council would have to enact some form of a bid preference policy to allow them to have a preference in the future. Mayor Hanel stated that he does not want to put the City in legal jeopardy, but wanted to state for the record that he was uncomfortable with the close bidding figures. He stated that sending the bulk of the money out of town was very disturbing. He added that Council may need to revisit the policy on vehicle purchases. Councilmember Cromley stated that the City could face retaliation by the rest of the state if they were to impose a penalty on out-of-town bidders. He added that it could also be detrimental to our local vendors when they were bidding on out-of-town projects. Councilmember Yakawich asked what would happen to the existing vehicles that were being replaced. Ms. Volek stated they would be sold at auction or they would be used in another department.

Councilmember Sullivan moved for approval of Item 1F1, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

There were no items on the regular agenda.

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.

- **Ken Crouch, 1642 Wentley Place, Billings, Montana**, stated Denver and Phoenix had recently changed the name of Columbus Day to Indigenous Peoples Day. He stated that Columbus Day had a negative association and encouraged Billings to change the name as well. Mr. Crouch stated petitions had been circulated and that they had received almost 100 signatures. Councilmember Cromley stated he thought there could be opposition to changing Columbus Day by many people. He wondered if the City could add a day honoring Native American people. Mr. Crouch stated that part of the issue was Columbus Day and the negative things that had occurred in the past. Councilmember Sullivan stated that Columbus Day was celebrated by Italian and Hispanic people and added it was a Federal holiday. Councilmember Cimmino stated that this movement started 24 years ago in Berkley, California. She added that perhaps Council could discuss adding a day to honor Native American people and their culture. Ms. Volek stated that there is a federally declared

national Native American Day in September. She added that MSUB recognized that day and had events planned. She stated that she would continue to research the matter and would present it to Council before September of next year. Ms. Volek stated that Council could indicate their support through an alternative policy that could be discussed at that time.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, Montana**, encouraged Council to keep Columbus Day, but turn it into a day of honest education and National mourning. He stated that it could be used as a reminder of an unjust day in history.
- **Denise Smith, Public Relations Director, Montana Rescue Mission (MRM)**, invited Council to attend a tour of the facility on October 14. She stated that they would give an overview of the services that the MRM provides. Ms. Smith stated that there had been several changes and that there was more depth to the services they now provide.
- **Kinsley Walksalong, 3900 Olympic Blvd, Billings, Montana**, stated that she had attended an Indigenous march and encouraged Council to change Columbus Day to Indigenous Peoples Day. She stated that Native Americans still suffered from the memories of the historic trauma that had occurred.

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

COUNCIL INITIATIVES:

- Councilmember Cimmino requested additional information regarding the Sixth Avenue North bike lane from EBURD. She added that staff could provide the information after the holidays.

There was no further business, and the meeting adjourned at 8:04 pm.

CITY OF BILLINGS



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

ATTEST:

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