

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

October 23, 2017

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 Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Yakawich gave the invocation.

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

MINUTES: October 10, 2017 -- Councilmember Brewster moved for approval, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel recognized the Billings Public Library's involvement in the High Plains Book Award over the past 11 years.
- Mayor Hanel congratulated all the participants and thanked all those involved in a successful NILE week.

PROCLAMATIONS:

- Mayor Hanel declared November 1, 2017, as Extra Mile Day and encouraged citizens to go above and beyond the expected to make the community, their families and the world, a better place.
- Mayor Hanel declared October 25 through October 31, 2017, as Magic Week. Andrew Nordstrom, State Deputy Director, accepted the proclamation on behalf of the Billings Magic Society. Mr. Nordstrom stated the Club met on the second Tuesday of every month at All Fun and Games on 16th Street West and all meetings were open to whomever wished to get involved in the art of magic.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless reminded Council of the Special meeting to review semi-finalists applications for the City Administrator position on October 30, 2017, at 5:30 pm, in Council Chambers.

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 meeting.)

The public comment period was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, in reference to Consent Agenda Items 1E, 1F and 1G, spoke against the approval of TIF funding for all the projects. Mr. Zurbuchen stated the City could have purchased the building subject to Item 1G for \$1 and at that time the City stated it was not worth \$1. He continued that the City was willing to place 15 million times that into the same building, presently. He insisted that all taxpayers were paying for the TIF districts and that all the Downtown TIF District was good for was spending tax money. He stated the money should be returned to the taxing entities and then everyone would see a reduction in their tax obligations. He stated there was no value to the TIF districts and it was corporate welfare at its worst.

Mayor Hanel asked that the record reflect that the information given by Mr. Zurbuchen was inaccurate. He continued that the interest in the former Battin Building was a majority vote to support the acquisition of the building, however, it was denied by the County Commissioners and the amount was, in fact, \$1.

- **Greg Krueger, Downtown Billings Alliance, 2815 2nd Avenue North, Billings, Montana**, in reference to Consent Agenda Items 1E, 1F and 1G, spoke in favor of the approval of TIF funding for all the projects. He stated the figures given by Mr. Zurbuchen were not accurate. He explained the return on TIF districts and that when tax monies were returned to the entities in the past, there had been a 52 percent (52%) reduction in taxable value within 3 years. He stated that property owners in all areas of the City that were not involved within the tax districts did not pay anything in additional taxes, only the businesses and people living within the districts were affected by increased taxes to be utilized within the respective districts.

Mayor Hanel confirmed that all the applications had been reviewed by the Board; met the criteria for recommendation and that funding was available. Mr. Krueger responded affirmatively and that all of the funds were on a reimbursement basis. He continued that no funds would be released until proof of the improvements and payment made had been received. He stated the estimated amount contributed by the investors toward the Stillwater building renovation was \$6.5 million. He stated the Sawyer building had been vacant for 18 years and the projected amount to renovate the building was \$2.5 million, but may be more and tenants were waiting to relocate to the building. He explained the breakdown in funding for the Carlin building and stated that reimbursement would be mostly for updating fire suppression equipment.

Councilmember McFadden stated the term, "tax increment" was very confusing and misleading and should be changed. Mr. Krueger stated the law was actually called the "Urban Renewal" law and the plans were called the "Urban Renewal" plans. He stated that tax increment was very specific because it was property taxes segregated from the general property tax collected and was only segregated to the specific area.

Councilmember Cimmino complimented the investors. She stated the Griffin family had invested large amounts of money into the Sawyer building and would improve that area of Montana Avenue. She stated that Mr. Schaer's leadership helped to shape the renovation of Montana Avenue and she congratulated him on his successful projects. She compared the amount Mr. Schaer had requested in his application for the Carlin building (\$172,000) and the amount the Board had recommended (\$35,000). Mr. Krueger stated the Board had reviewed the application, the project and the budget and approved the amount to be awarded. He continued that City Council could award more or less than the recommended amount.

Councilmember Clark asked about the TIF district's account balance. Mr. Kruger stated an additional installment would be received toward the end of the year, but he believed the amount would be approximately \$800,000 at the end of year.

- **Patrick Klugman, Big Sky Economic Development, 222 North 32nd Street, Suite 200, Billings, Montana**, in reference to Consent Agenda Items 1E, 1F and 1G, spoke in favor of the approval of TIF funding for all the projects. He stated WC Commercial had invested \$4 million into asbestos abatement and paid delinquent taxes to current on the former Battin building, now Stillwater building. He stated the project met every requirement for urban renewal in the downtown district.
- **Quentin Eggart, EEC, 720 Lohwest Lane, Billings, Montana**, in reference to Consent Agenda Item 1G, spoke in favor of the approval of TIF funding. He stated that over \$10 million had been invested, privately, in the renovations of the Stillwater building thus far. He continued that when all the renovations were completed over \$30 million would have been invested, privately. He stated the tax base would be dramatically increased for the building and a parking garage was planned to be built across from the Stillwater building, generating additional tax revenue.
- **Max Griffin, Griffin Development, 1010 Central Avenue, Suite 1, Billings, Montana**, in reference to Consent Agenda Item 1E, spoke in favor of the approval of TIF funding. He explained that when the Sawyer building was purchased, it had a tax value of \$200,000 to \$300,000. He stated that approximately \$1.8 million had been privately invested in the renovations of the Sawyer building and provided a list of the improvements. He stated the entire second floor was leased and approximately three-quarters of the first floor was leased. He continued that TIF monies made the project more feasible.

Councilmember Yakawich stated it was commendable to renovate old structures and save them from ruin. He asked what had inspired Mr. Griffin to do such a project.

Mr. Griffin stated he loved old buildings and overcoming obstacles and challenges was rewarding. He continued it was very hard to work on construction / development projects downtown and the area posed unique obstacles.

Councilmember Clark asked whether land had been leased from the City. Mr. Griffin clarified that 6 feet of right-of-way had been leased on the west side of the property (23rd Street), so exits could be constructed from the lower level.

Councilmember Cimmino asked if cafes would occupy some of the space. Mr. Griffin listed a number of businesses that would occupy the space, but that cafes were unknown. Councilmember Cimmino asked if there would be any rooftop cafes. Mr. Griffin stated there would not be any cafes on the rooftop, but it would be possible to have one utilizing the new decks.

- **Chandler Griffin, Griffin Development, 1010 Central Avenue, Suite 1, Billings, Montana**, in reference to Consent Agenda Item 1E, spoke in favor of the approval of TIF funding. Mr. Griffin stated the TIF monies enabled businesses to generate additional monies from leasing. He stated many of the businesses that would be lease space in the Sawyer building were from areas outside of Billings. He continued that what was once an unused warehouse, would become viable office space.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **City vehicles.** (Opened 10/10/17) Recommend: Schedules 1, 3, 5 and 10, Billion Auto Group, \$235,030; Schedules 2 and 9, Fremont Motors, \$82,105; Schedules 4, 6, 7 and 8, Bison Motors, \$217,855.92.
- B. **Scott Self-Contained Breathing Apparatus (SCBA) system equipment** with MES Rockies; in an amount not to exceed \$1,252,282.
- C. **Approval** of Limited Commercial Aviation Building and Ground Lease with Alpine Immobilien, LLC, for a five-year term (11/01/2017-10/31/2022).
- D. **Approval** of Ground Lease with Edwards Jet Center for use as a permit-only parking lot, for a five-year term (11/01/2017-10/31/2022).
- E. **Approval** of Downtown Tax Increment (TIF) funds to Griffin Development, for remodeling of the Sawyer building at Montana Avenue and N. 23rd Street; up to \$420,000.

- F. **Approval** of Downtown Tax Increment (TIF) funds to Michael Schaer, for reimbursement for improvements of the Carlin building at 2501 Montana Avenue; \$35,000.
- G. **Approval** of Downtown Tax Increment (TIF) funds to WC Commercial, for reimbursement for major infrastructure upgrades to the former Battin Federal Courthouse (Stillwater building) at 316 North 26th; \$1,500,000 in equal payments over a three-year period, to begin in fiscal year 2019.
- H. **Resolution of Intent 17-10675** to create SID 1403, Gleneagles Boulevard between Cherry Hills Road and Lake Hills Drive and a short extension of Lake Hills Drive (water, sanitary sewer, storm drain, curb and gutter, and streets), and set a public hearing date of November 13, 2017.
- I. **Resolution 17-10676** relating to the financing of East Billings Urban Renewal District improvement projects, establishing compliance with Reimbursement Bond Regulations under the Internal Revenue Code.
- J. **Second/Final Reading Ordinance** amending Section 17-104, BMCC, relating to noise regulations. (Staff recommends indefinitely postponing action.)
- K. **Final Subsequent Minor Plat Approval** of Amended Lot 4C, Block 1 of Shiloh Crossing Subdivision.
- L. **Final Plat Approval** of Lake Hills Subdivision, 35th Filing.
- M. **Bills and Payroll:**
 - 1. September 25, 2017
 - 2. October 2, 2017

Councilmember Friedel separated Items 1E, 1F and 1G for discussion.

Councilmember Cromley separated Item 1M2 to abstain.

Mayor Hanel separated Item 1A1 for discussion.

Councilmember Cimmino separated Items 1M1 and 1M2 to abstain.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1A1, 1E, 1F, 1G, 1M1 and 1M2, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Mayor Hanel, in reference to 1A1, stated that he had been approached by some citizens who inquired why local dealerships were not awarded vehicle purchase

contracts. Interim City Administrator, Bruce McCandless responded that local dealerships were invited to participate in the bid process. Larry Deschene, Fleet Manager, confirmed that invitations to bid were mailed to all local dealerships, as well as others, unfortunately, only one of the local dealerships responded and did not provide the lowest bid. He continued that the bid process was open to any dealership that could meet the specifications. Councilmember Clark asked if the City used the State's contract for purchasing vehicles. Mr. Deschene responded that the City would for some leased vehicles, but this bid was for specialty vehicles and the State's contract would not apply. Mr. McCandless stated the City was required to accept the lowest bid, except under certain circumstances. Councilmember Sullivan moved for approval of Item 1A1, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

Councilmember Friedel spoke in opposition to Items 1E, 1F and 1G, related to Downtown Tax Increment funds awarded to private businesses. Councilmember Sullivan asked for point of order. Mayor Hanel asked Councilmember Friedel if he had questions for staff to which Councilmember Friedel responded he did not. Councilmember Yakawich moved for approval of Item 1E, seconded by Councilmember Cromley. Councilmember Friedel gave an explanation to his opposition, stating public monies should be used for the public's benefit, i.e., improved infrastructure. He pointed to inequities for business owners in the heights and west end areas that could not apply for TIF monies but made improvements to their buildings from their own pocketbooks. Councilmember Friedel stated he would vote in opposition to Items 1E, 1F and 1G. On a voice vote, the motion was approved 8-1, Councilmember Friedel voting in opposition.

Councilmember Sullivan moved for approval of Item 1F, seconded by Councilmember Cimmino. Councilmember Friedel stated pressure was placed on the rest of the City, because when money was extracted from the TIF, money was taken away schools, counties and the State. He stated that money not utilized from TIF accounts was returned after 20 years to schools, counties and the State. Councilmember Sullivan stated when there were decreases in total property values of a district due to decay, money was actually taken from the rest of the businesses in the downtown area due to negative influences. He continued that decay affected the entire tax base of the entire town. He stated it was in the best interests of everyone to reinvest tax monies into properties to rejuvenate an area and protect and increase the tax base. Councilmember Sullivan stated that the buildings in the downtown area were very old, with unique structural needs, and it was important to invest in them to keep them viable, which was very different than buildings in the heights or west end. He continued that the Downtown TIF District was created for this purpose. He stated Councilmember Friedel was short changing the long term tax view by his comments. He stated he would vote in favor of Item 1F. Councilmember Yakawich stated there was a Board that was accountable for reviewing and determining that applications met certain criteria before they were brought to the Council for approval. He stated urban renewal was critical for the entire community, but especially in the downtown area. He stated the efforts of private businesses to revitalize the downtown area was commendable and the TIF monies would be used wisely. Councilmember Friedel stated he agreed it was

commendable, but he viewed TIF as corporate welfare to private businesses to improve their private property. He continued to express discontent that the City had not purchased the former Battin building when the option was available. He stated the County would lease a couple of floors from the building and he wondered when the taxpayers would get a break. He insisted that TIF monies were paid by the general property owners and he wanted those tax monies to be use for public purposes that benefited the public. Councilmember Brewster stated that if TIF districts had not been created, there would be no avenue to subsidize businesses to make them competitive and businesses would not invest in old buildings. He reflected on years past in the downtown area and how a recession affected businesses that later left the downtown area. He stated that downtown was very different, currently, than it had been in the 1980s and 1990s. He continued that the downtown area would not be what it was presently without the TIF. He stated his belief in urban renewal and voiced his support for Item 1F. Councilmember Cimmino asked Interim City Administrator Bruce McCandless if a multi-level parking garage would be built with this project. Councilmember Sullivan ask for point of order as Item 1F had nothing to do with Item 1G and discussion should be held during that separation. Councilmember McFadden stated he agreed with Councilmember Brewster's comments. He stated, however, that the businesses were not subsidized from the City's general fund or the County's coffers or even the State of Montana's. He stated the downtown businesses were subsidized by money paid directly by property owners within the TIF district only. He continued that individual property owners outside the TIF district did not pay a single cent to the TIF district. He voiced his support of Item 1F. On a voice vote, the motion was approved 8-1, Councilmember Friedel voting in opposition.

Councilmember Yakawich moved for approval of Item 1G, seconded by Councilmember McFadden. Councilmember Cimmino asked Interim City Administrator Bruce McCandless if a multi-level parking garage would be built with this project. Mr. McCandless stated a parking garage was not in the application for TIF monies, but it was a future intent. Councilmember Clark asked when the former Battin building had been vacated by the Federal government. Mr. McCandless determined the building had been abandoned in 2013. He stated that the City and County decided not to acquire the building for just \$1, because the estimated cost for asbestos abatement had been over \$20 million. On a voice vote, the motion was approved 8-1, Councilmember Friedel voting in opposition.

Councilmember Sullivan moved for approval of Item 1M1, seconded by Councilmember Clark. On a voice vote, the motion was approved 8-0, Councilmember Cimmino abstained.

Councilmember Sullivan moved for approval of Item 1M2, seconded by Councilmember Clark. On a voice vote, the motion was approved 7-0, Councilmembers Cromley and Cimmino abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 17-10677 approving and adopting budget amendments for FY18. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Interim City Administrator, Bruce McCandless, stated 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 Sullivan moved for approval of Item 2, seconded by Councilmember Brewster.

Councilmember Yakawich asked David Mumford, Public Works Director, about when the storm sewer operations on the Hilltop and Aronson Avenue would be implemented. Mr. David Mumford stated it would be implemented in 2018 and a storm sewer pipe would be installed beginning at the intersection of Aronson on Hilltop and following Hilltop toward Main Street.

On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND SPECIAL REVIEW 957: a special review to install a roof-top concealed wireless facility 9 feet above the existing roof parapet in a Residential 9,600 (R-96) zoning district on Lot 1A, Block 4, High Sierra Subdivision, 2nd Filing, a 14.356-acre parcel of land, generally located at Harvest Evangelical Church, 1235 Wicks Lane. Kevin Howell, representing Verizon Wireless, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Karen Husman, Planner, gave a brief presentation describing the location of the proposed wireless device and the special review criteria. She stated that special reviews did not require ordinance approval and were not zone changes to the property. She continued that special reviews were tied to specific uses allowed in a given zoning district, but were subject to review by the City prior to the use being allowed. She stated the Zoning Commission held its public hearing on October 3, 2017, and had forwarded a recommendation of conditional approved based on the 3 criteria for special reviews.

Councilmember Cimmino asked whether the wireless device would be 9 feet from the roof. Ms. Husman responded the church had had a special review previously so the addition of the device was part of that special review. She continued that the tower itself had to have a special review, but the device would not exceed the height limits. Councilmembers Brewster and Friedel asked where the tower would be

concealed. Ms. Husman referred to a picture rendering in which a fiberglass structure would be placed and painted to look like a part of the church building from its roof.

The public hearing was opened.

- **Kevin Howell, Verizon Wireless representative, 11340 North 105th Place, Scottsdale, Arizona,** stated the cell tower would be concealed by a fiberglass structure, painted to blend with the church building on its rooftop. He continued that fiberglass would be used because the cell tower signal could penetrate it. He stated faux finishes were common to camouflage cell towers. He explained that cities would see more and more of this as more cell towers were needed within neighborhood due to increased demand for data-use capacity. He stated this location was ideal because would be located at the highest point in that area without obstructions.

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

Councilmember Sullivan asked about securing the structure to the building because it was located in a very windy location. Mr. Howell stated the structural engineers would meet code requirements for 85 to 90 mph winds.

Councilmember Clark confirmed that special reviews for cell tower locations would become more prevalent as usage demands increased. He asked if trees interfered with signals. Mr. Howell stated during the summer when deciduous trees had all their leaves, interference was common, but Verizon tried to keep transmitters away from trees.

Councilmember Cimmino asked with the Church had approached Verizon for a cell tower, or had Verizon approached the church. Mr. Howell stated Verizon had approached the church.

Councilmember Clark moved for approval of Item 3 as recommended by the Zoning Commission, seconded by Councilmember Cimmino. 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:

There were no Council initiatives.

There was no further business, and the meeting adjourned at 7:50 PM.

CITY OF BILLINGS



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

ATTEST:

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