

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 26, 2011

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

**ROLL CALL:** Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, Astle and Clark

**MINUTES:** September 12, 2011, Pending

**COURTESIES:** Bill Bahr with the Department of Environmental Quality presented the George W. Burke Safety Award to the Billings Wastewater Treatment Plant (WWTP). He said the award was given out in Montana by the Water Environment Federation. He said the Department had a long standing emphasis on safety in wastewater plants because traditionally they were one of the most dangerous professions. Mr. Bahr introduced Susan Stanley, WWTP Superintendent, and Matt Winkler, Shaun Emerick, Rich Bradley, and Steve Bravo, employees of the WWTP. Mr. Bahr said he would not read his entire presentation and provided a copy to City Administrator Volek for the record.

**PROCLAMATIONS:** None

### ADMINISTRATOR REPORTS - TINA VOLEK

City Administrator Tina Volek commented on the following items:

- Item B: Contract renewal with Yellowstone Valley Animal Shelter for private operation of the Billings Animal Shelter: Copy of Memorandum from Finance Director Pat Weber was sent in 9/23/2011 Friday Packet with the estimated cost of taking back operation of the Animal Shelter from Yellowstone Valley Animal Shelter (YVAS). She said the numbers on which Mr. Weber based his report were very conservative. She said Chris Anderson, the Director of YVAS, was present if there were any questions. Copy of memorandum was filed in ex-parte notebook.
- Item 9: Approval of Parking Advisory Board's recommendation to bag 447 downtown parking meters: Copy of e-mail sent to Mayor and Council on 9/26/11 from Dick Kosmicki, Property Management for Transwestern Buildings and First Interstate Center, opposing Parking Advisory Board's recommendation in part. Copy was on Council's desk and in ex-parte notebook.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item: #1 and #9 ONLY.**  
**Speaker sign-in required.** (Comments offered here are limited to one (1) minute.

Please sign up on the clipboard located 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.

- **Randy Hafer, 631 N. 26<sup>th</sup>**, referenced Agenda Item 9 and said the Old Town Neighborhood along Minnesota Avenue from 25<sup>th</sup> to 30<sup>th</sup> and the tracks to 1<sup>st</sup> Avenue South had a Master Plan approved by Council years ago that included a parking component. He said part of the parking plan was to not have meters on Minnesota Avenue but to have it signed for 2-hour parking. He said it was very important that it remain free all-day parking with 2-hour parking signage. He said the parking plan also called for 10-hour meters on 28<sup>th</sup>, 29<sup>th</sup> and 30<sup>th</sup>. He said those issues did not seem to be addressed in the staff report, and he would appreciate they be included.
- **Dennis Ulvestad, 3040 Central Avenue**, referenced Agenda Item 9 and said he wanted to discourage bagging 447 meters because it was revenue of \$35,000 for the City of Billings. He asked where the \$35,000 would come from. He said the City was in a budget crunch and needed the revenue. He asked Council not to approve the Parking Advisory Board's recommendation.

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

## 1. CONSENT AGENDA

### A. Bid Awards:

1. **Loader-Mounted Snowblower for Street/Traffic Division.** (Opened 8/30/11) (Delayed from 9/12/11) Recommend Solid Waste Systems; \$122,198.

2. **Three-Year Maintenance Agreement for Elevator/Escalator Maintenance Services.** (Opened 9/13/11) Recommend delay until 10/11/2011.

B. **Contract Renewal** (2-year) with Yellowstone Valley Animal Shelter for private operation of the Billings Animal Shelter. (September 9, 2011 - September 9, 2013).

### C. **W.O. 04-12, Alkali Creek Road Maintenance and Slope Reconstruction**

1. **Amendment #11**, W.O. 04-12, Alkali Creek Road Maintenance and Slope Reconstruction, Phase 3, Professional Services Contract, Kadmas, Lee & Jackson, Inc., \$60,758.50.

2. **Change Order #9**, W.O. 04-12, Alkali Creek Road Maintenance and Slope Reconstruction, Phase 3; CMG Construction; not to exceed \$81,836.34.

**D. Approval** of the Assignment and Transfer of the West End Hangar Ground Lease from Philip O. Petrik DBA Richland Aviation to Richland Aviation, Inc.

**E. Approval** of 20-year West End Hangar Ground Lease with Wesco Resources, Inc. (10/1/2011 - 9/30/2031). First year revenue - \$1,135.26; subsequent year revenues adjusted using the Consumer Price Index - Urban Consumers (CPI-U).

**F. Confirmation of Probationary Police Officers Cory Kirkpatrick and Jeremy Boeckel.**

**G. Approval** of extension of preliminary plat approval date for one year for High Sierra Subdivision, 5th Filing; setting a new expiration date of October 27, 2012.

**H. Street Closures:**

1. Montana Cycling and Ski & Montana Timing Oktoberfest Duathlon Run/Bike Event. October 1, 2011; 8 a.m. to noon; Start and finish at Montana Cycling Parking lot. Route mainly on multiuse path along Shiloh Road crossing Shiloh and King at pedestrian crossing. Remainder of route in the county.

**I. Bills and Payroll:**

1. August 26, 2011

Councilmember Cimmino separated Consent Agenda Item I1. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Item I1, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item I1 and said she would be abstaining from Invoice #748195 due to employment.

Councilmember Pitman moved for approval of Item I1, seconded by Councilmember Ruegamer. On a voice vote, the motion was approved 10 to 0.

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTIONS regarding the spread of assessments in the following Special Improvement Districts.** City Administrator Volek advised one public hearing could be held, but the Council would need to vote separately on each item.

The public hearing was opened for Items 2A, 2B, 2C, and 2D.

- **Mark Wright, 703 Parkhill**, said he owned an 8-plex at 703 Parkhill and was testifying on Item 2D, SID 2902. He said in March he received an assessment notice with recommendation to condemn a Silver Maple tree because it was heaving the sidewalk. He said the City wanted to bill him \$1,000 to remove it, so he talked with an arborist who said it was not that bad. Mr. Wright said he talked

to the contractor who said they could just cut the roots out after removing the concrete, which took them about ten minutes, and he was billed \$300. He said the original estimate was \$3,732.59 and included \$1,000 for the tree removal. He said he was billed another \$500 to move the stop sign one foot to the south because he had an ultimate frisbee lane on his lawn and the sign was in the way. He said his final assessment was \$4,271.07 even though the Silver Maple had not been removed.

Councilmember Astle asked if they also replaced sidewalk. Mr. Wright said they removed sidewalk and did work in the alley. He said even though they did not remove the tree, he was still charged \$1,000. Councilmember Astle recommended that Public Works sit down with Mr. Wright and go over the bill.

Mr. Wright asked for an explanation of the Administrative Fee. Ms. Volek advised it was the cost of the bonding and arranging the financial mechanism to pay for the project. Mr. Wright asked if it was a flat 30% rate. Ms. Volek advised she did not have the project information in front of her and suggested that Council approve the SIDs if there were no other issues, and then staff could meet with Mr. Wright to go over his assessment and make adjustments on his tax bills, if necessary.

Councilmember Gaghen asked if he had protested his assessment. Mr. Wright said he had talked with Ken Ard, the engineer, the previous week who was suppose to mail him the breakdown, but he never received it. Mayor Hanel told Mr. Wright that staff would provide him with an explanation of his assessment.

- **Kevin Nelson, 4235 Bruce Avenue**, referenced SID 1369 and said the net effective interest rate was 5.836%. He then referenced SID 1360 and said it had an interest rate of 5.811%, but staff re-negotiated it to 4.105%. Mr. Nelson asked why interest rates were not being re-negotiated for everyone. Mayor Hanel said he wanted to comment for the record that it was not a discrepancy but a variance in rates.

Finance Director Pat Weber said each bond and SID had its own unique characteristics. He said they sold the bonds together for Moore Lane, Lynn Avenue, and Gabel Road, but the bond market looked at each SID individually. He said they saw something they liked in Gabel Road more than the other two. He said he did not know why, and he had no control over what investors were willing to pay or what they saw in each SID. Ms. Volek asked Mr. Weber if it was fair to say if an area was commercial it was likely to have a better rate than residential. Mr. Weber said that could be a factor. He said he hired an underwriter who went out and tried to get the best rate for the City.

Councilmember Ruegamer asked if the City made money on the bonds. Mr. Weber said not on the refinancing because it had already made money when it initially sold the bonds. Ms. Volek asked Mr. Weber if Gabel Road had a payment history that may have influenced the rate. Mr. Weber said that could have been one of the reasons.

Councilmember Ulledalen asked for the sizes of SID 1360 and the pooled SIDs. Mr. Weber said SID 1360 was \$2.6 million, and the two pooled SIDs were \$700,000.

Councilmember Gaghen asked if all of the SIDs were dealt with on the same date. Mr. Weber said only Moore Lane and Lynn Avenue, which was also a contributing factor for the difference in rates.

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

**A. SID 1369-Resolution #11-19109: Moore Lane Curb & Gutter, Sidewalk, Streets, Sanitary Sewer, and Water Service Improvements from Central Avenue to Monad Road. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Councilmember McCall moved for approval, seconded by Councilmember Gaghen. Councilmember Ruegamer said he would support the motion but still felt the sidewalks were not needed. He said projects should be looked at individually, and sidewalks should be put in only where they were needed. Councilmember McFadden said he agreed. Mayor Hanel commented there had been considerable discussion on the sidewalks, and they did reduce the size to save as much money as they could; but to begin altering projects according to area would create problems. On a voice vote, the motion was unanimously approved.

**B. SID 1391-Resolution #11-19110: Lynn Avenue Curb & Gutter, Street, Drive Approach, and Storm Drain Improvements between 35th and 36th Streets West and 36th Street West from Central to just north of Lynn Avenue. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Councilmember Astle moved for approval, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**C. SID 2901-Resolution #11-19111: Jackson Street Sidewalk Improvements on the west side of Jackson Street from the alley south of Ryan to the corner of Frances. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Councilmember Ronquillo moved for approval, seconded by Councilmember Gaghen. Councilmember Ronquillo complimented the contractor for the excellent job done on the entire project. On a voice vote, the motion was unanimously approved.

**D. SID 2902-Resolution #11-19112: Miscellaneous Sidewalk, Curb, and Gutter Improvements located in areas throughout the City. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Councilmember Astle moved for approval, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARINGS AND RESOLUTIONS regarding the re-spread of assessments in the following Special Improvement Districts.**

The public hearing was opened for Items 3A, 3B, and 3C. There were no speakers, and the public hearing was closed.

A. **SID 1360-Resolution #11-19113: Gabel Road Water, Sewer, Storm, and Street Improvements.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Councilmember McCall moved for approval, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

B. **SID 2801-Resolution #11-19114: Lake Elmo Sidewalk Improvements.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Councilmember Cimmino moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

C. **SID 2803-Resolution #11-19115: Alkali Creek Road Sidewalk Improvements.** Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Councilmember Cimmino moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

4. **PUBLIC HEARING to receive input on the City's FY2010-2011 Draft Comprehensive Annual Performance Evaluation Report (CAPER), Community Development Block Grant (CDBG), and HOME Programs. No action is required.**

Community Development Manager Brenda Beckett began her PowerPoint presentation explaining that each year the City of Billings was required to report on the results of its federally funded CDBG and HOME Programs and submit a report to HUD. She briefly discussed the following five housing strategies for HUD programs for the Consolidated Plan that primarily targeted lower income households and affordable housing, and included the homeless, the elderly, minorities, and those with disabilities.

**Strategy #1**

Promote the preservation of the existing supply of safe, affordable housing in the community.

**Strategy #2**

Promote new affordable housing opportunities.

**Strategy #3**

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 #4**

Promote the preservation and revitalization of the community's older neighborhoods.

**Strategy #5**

Provide assistance to agencies serving lower income households and special needs populations to assist the homeless, the elderly, minorities and those with disabilities.

Ms. Beckett said the Community Development Board represented most of the task forces. She said six out of nine positions were dedicated to low income residents.

Ms. Beckett said they had drawn down \$2,664,413 which included CDBG and HOME resources. She discussed a chart of funding commitments by Consolidated Plan Strategy that showed 25% to support existing housing; 48% to new affordable housing; 15% to partnerships; 3% to preserve neighborhoods; and 9% to special needs support. She also discussed a chart of FY10-11 budget allocations and commitments that showed 1% to Tenant Based Rental Assistance; 15% to Administration; 27% Home Repair Programs; 34% First Time Homebuyer Program; 14% Affordable Housing Development; 1% Property Management, and 8% Public Services.

Ms. Beckett said they had leveraged \$10,749,932 and said their leveraging ratio was higher than normal at 1:6. She said that meant that for every CDBG or HOME dollar put into the community, other programs were also dedicating that amount of money. Councilmember Ruegamer clarified that leveraging meant that when the City gave \$1, they were receiving \$6 from other programs. Ms. Beckett said that was correct. She said outside of the basic building block entitlements from CDBG and HOME, their Division had garnered almost \$2.7 million in additional grants, partly due to the Billings Metro VISTA Project.

Ms. Beckett advised a new requirement was to show where the money was distributed throughout the City. She showed a geographic distribution map of the areas and amounts of the distributions. She said they wanted to make sure there was city-wide distribution of funds serving low-income, minorities, the elderly, and the disabled.

Ms. Beckett provided an extensive overview of their accomplishments as they related to the five strategies referenced earlier. She advised the information was also available on the City's website at: <http://mt-billings.civicplus.com/index.aspx?NID=500>.

Councilmember Astle commended Ms. Beckett on how well she managed the programs.

The public hearing was opened. There were no speakers, and the public hearing was closed. No action was required by the City Council.

**5. PUBLIC HEARING AND RESOLUTION #11-19116 reducing the Arterial Construction Fee assessments providing relief to commercially-zoned properties being used solely as owner-occupied, single family residences located at 437 Roxy Lane (Tax Code C01454A); 2104 Bench Boulevard (Tax Code D05202); 2112 East Main Street (Tax Code D05200); 2112 East Main Street (Tax Code D05201); 107 S. 8th Street West (Tax Code A05114); 233 Swords Lane (Tax Code C12313); and 922 North 30th Street (Tax Code A11635). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek advised the item was a traditional public hearing and recommendation from staff. She said since 2005 individuals were eligible by application to be relieved of the commercial rate on the arterial fee for properties being used as residential. She said eight applications were received, and seven of them qualified.

Councilmember Astle asked Public Works Director Dave Mumford if the amounts being assessed reflected the increase Council approved. Mr. Mumford said they did.

Councilmember Clark asked for the difference between the rates for commercial and residential. Mr. Mumford advised it depended on how the zoning was set up. He said there was a significant difference between residential and commercial fees, but he did not have the exact figures with him that evening.

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

Councilmember Astle moved for approval, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND SPECIAL REVIEW #893: A special review to allow the conversion of an existing commercial building to accommodate a residence and commercial space located at 407 N. 24th Street in a Controlled Industrial (CI) zone on a 10,500 square foot parcel of land legally described as Lots 19, 20 and 21, Block 12, Billings Original Town. NA Thompson, LLC and Sparx, LLC - Jane Deschner and Jon Lodge, agents and prospective purchasers of the property. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)** Zoning Coordinator Nicole Cromwell began her PowerPoint presentation showing the zoning map and photographs of the subject property and surrounding properties. She said the subject property was a 7,000 square foot building that extended from property line to property line and from the front to the alley. Ms. Cromwell said there was a 2-inch separation between the subject building and the building to the south. She said the proposal would add two new entryways to the north side of the building. She showed a diagram of the proposed building and said the front would be maintained as a gallery/display area for the artistic productions of the prospective owners, the area towards the alley would be used as their studios, and living space would be located on the first floor and all of second floor. She said parking would be located on the north side of the building. Ms. Cromwell advised the Zoning Commission held a public hearing and was recommending approval on the following five conditions.

1. The special review approval shall be limited to Lots 19, 20, and 21, Block 12, Billings Original Town, generally located at 407 N 24th Street.
2. The special review approval is for one residential dwelling unit in an existing structure and no other use is intended or implied by this approval. The commercial space shown on the plan is an allowed use within this zone.
3. Any expansion of the proposed building, greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
5. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

Councilmember Astle asked if the building was the old Central Sheet Metal Building. Ms. Cromwell said she thought that was correct.

Councilmember Ulledalen asked why the request was subject to a Special Review. Ms. Cromwell advised in 1997 when the city unified its code with the county code for zoning, the county required special review approval for any residential use in a



Controlled Industrial Zone, and the city did not; so to reconcile the two codes, the city adopted the county's requirement for special review.

The public hearing was opened.

- **Jane Deschner, 635 N. 24<sup>th</sup> Street**, said she and Jon had lived downtown since November of last year, they really liked living downtown, and wanted to make downtown their new home. She said as they kept passing the building located at 407 N. 24<sup>th</sup>, the idea for the project grew and since May they had been assembling the pieces to make it a reality. She said they had contacted most of the potential new neighbors, and every one of them supported their application. Ms. Deschner said they believed the project was 100% compatible with current land use of the area and all the plans and growth policies now in effect. She said they hoped they would even become the catalyst for similar development downtown.

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

Councilmember Gaghen moved for approval of Special Review #893 with the five specified conditions, seconded by Councilmember Ronquillo.

Councilmember McCall thanked Jon and Jane for moving to downtown Billings and wished them the greatest success considering all of the heartache they had the past few months. Mayor Hanel added that the City of Billings, Yellowstone County, had experienced numerous devastating experiences and disasters the past year and a half, and Jane and Jon were present that evening by the mere blessing of God because they could have easily been involved in a situation causing serious injury, if not death.

On a voice vote, the motion was unanimously approved.

**7. PUBLIC HEARING AND RESOLUTION #11-19117 FOR ANNEXATION #11-03: 14.87 acres legally described as Tract 2D of C/S 2776, Amended, and generally located west of Highway 87 and north of the existing commercial development that includes American Pharmaceuticals in the Billings Heights; Wayne Laufer, petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek advised there was no presentation, but staff was available for questions.

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

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

**8. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward 1 to include recently annexed property in Annexation #11-02: 16.94 acres located at 3128 South Frontage Road and legally described as Tract 1 of Certificate of Survey 1591 and Tract 1 of Certificate of Survey 1596; Knife River, Inc., owner; Land Use Consulting, agent. Staff recommends approval. (Action:**

**approval or disapproval of staff recommendation.)** City Administrator Volek advised there was no presentation, but staff was available for questions.

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

Councilmember Ronquillo moved for approval, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

**9. APPROVAL of Parking Advisory Board's recommendation to bag 447 parking meters west of North 30th Street (not including North 30th Street), north of 6th Avenue North, east of North 26th Street (not including North 26th Street) and south of Montana Avenue for a six-month trial period. Staff recommends approval of the Parking Advisory Board's recommendation. (Action: approval or disapproval of staff recommendation.)** Assistant City Administrator Bruce McCandless showed a map of the parking meter reduction area. He referenced the letter from Dick Kosmicki, Property Management for the Transwestern Buildings and First Interstate Center, and showed the location of the approximate 30 moderately-used meters between 4<sup>th</sup> and 6<sup>th</sup> Avenues North on N. 31<sup>st</sup> Street. He said the original staff recommendation was to exclude them from the meter removal area because of the proximity to Park IV. He said one of the Parking staff's concerns was if they were to remove the parking meters, employees presently parking in the parking garage would move to the non-metered spaces. Mr. McCandless said there were an approximate 55 moderately-used meters on Minnesota Avenue and the cross streets that staff recommended be excluded from the test area because plans were already approved to change all of the parking arrangements on Minnesota Avenue and the cross streets. He said instead of doing a short-term test of meter removal in that area and then trying to implement the parking plan that had already been approved by Council, staff recommended leaving that specific area alone.

Councilmember Clark asked if the motion to approve the staff recommendations instead of the Parking Board's recommendation would need to include the two specific areas. Mr. McCandless said the Council could approve the test area with the exception of N. 31<sup>st</sup> from 4<sup>th</sup> to 6<sup>th</sup> and Minnesota Avenue and cross streets.

Councilmember Astle asked if there was a specific reason the Parking Advisory Board did not like the staff's original recommendations. Parking Supervisor Chris Mallow said the Parking Advisory Board wanted to start large and then if they received complaints from a business wanting the bags removed, it left them that option. He said staff's recommendation was to start small and expand.

Councilmember Astle moved for approval, seconded by Councilmember McCall. Councilmember Clark moved to amend the motion to not remove the meters on North 31<sup>st</sup> from 4<sup>th</sup> to 6<sup>th</sup> Avenues North and from along Minnesota Avenue including the cross streets, per the master plan, seconded by Councilmember Gaghen. On a voice vote, the amended motion was approved. On a voice vote, the original motion was 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 up on the clipboard located at the podium.)**

The public comment period was opened. The following people testified in favor of urban chickens. The testimonies and discussions included the health and environmental benefits of homegrown eggs and misconceptions that chickens would be running loose, were noisy, smelled, attracted mice and predators, and spread disease.

- **T.J. Wiergenga, 2215 Beloit**
- **Helen Hampton, 1012 Constellation**
- **Karen Sunderland, 529 Avenue B**
- **Carol Braaten, 183 Lexington Drive**
- **Nicole Thompson, 428 Tumbleweed**
- **Bill Iverson, 3115 Turnberry Circle**
- **Jason Jam, 402 Yellowstone**
- **Catherine Lynch, 5402 Cobblestone Avenue**
- **JoAnne Bylsma, 609 Miles Avenue**
- **Ingrid Rosenquist, 203 Lewis Avenue**
- **Emily Gocke-Smith, 2520 Lake Heights Drive**
- **Susan Jordan, 2108 Yellowstone Avenue**
- **Sara Johnson, 3217 37<sup>th</sup> Street West**
- **Sara Hilbert, 602 Alderson Avenue**
- **Brad Johnson, 3217 37<sup>th</sup> Street West**
- **Stacie Pannell, 406 Yellowstone Avenue**
- **Joy Stevens, 539 Indian Trail**

The following people testified in opposition of urban chickens. The testimonies and discussions included the City/County Unified Zoning Code that stated agricultural uses were restricted in all residential zonings, which included fowl; intrusive and unnecessary noise; potential contention and conflict between neighbors; attraction of predators; and the infringement of property owner rights.

- **Tom Zurbuchen, 1747 Wicks Lane**
- **Greg Jahn, 921 Harvard**
- **Doug Ruebke, 110 S. 31<sup>st</sup> Street**

## **COUNCIL INITIATIVES**

- **Ulledalen:** Moved to direct staff to bring back a report to Council with ideas on the Hen Initiative, seconded by Councilmember Ronquillo. He said he did not think Council had enough information to make a rational and reasonable decision. He asked staff to look at ordinances in other communities and come up with reasonable guidelines that could apply to Billings. He asked staff to bring back the issues other communities who approved urban chickens were having. He asked for feedback on whether enforcement would be done by Animal Control, Code Enforcement, or the Police Department Volunteers. He asked for reasonable restrictions that could be implemented, such as lot size, condos,

duplexes, etc. Councilmember Ulledalen said the report from staff would be the basis to either bring an ordinance forward or reject it.

Councilmember Astle said he would not support urban chickens no matter what additional information was brought forward and suggested buying organic eggs.

Councilmember Ruegamer said he would support the motion but one of his concerns was with people who had the right to say they did not want chickens next door. He said there were already many irresponsible pet owners in Billings, and he did not want to create new issues with urban chicken owners.

Councilmember Cimmino said she supported Councilmember Ulledalen's motion but wanted to offer an amendment to include the formation of an ad hoc committee to include members in the field, veterinarians, people actually involved in the Hens Initiative, a couple councilmembers, and Planning Staff to get all the information available so they could make a concrete decision and present it to the public at a public hearing.

City Administrator Volek advised a Council Ad-Hoc Committee, by ordinance, required a resolution. Councilmember Cimmino said she would include the requirement of a resolution in her motion. The amended motion was seconded by Councilmember Ruegamer.

Councilmember Ulledalen said he thought they would be jumping the gun because it would require a lot of staff time, public meetings, and notices, etc., and there may not be enough support on the Council to go forward with it. He said they needed to bring the initiative back and if it was warranted from there, they could talk about it but if the initiative failed, there would be no point in doing all of the work.

Councilmember Cimmino said she understood where Councilmember Ulledalen was coming from and she appreciated and respected his opinion, but with all due respect to everyone involved, there had already been a lot of time expended on it. She said it seemed to her they should take a proactive approach and embrace a possibility so everyone was aware that all of the issues had been thoroughly researched from both sides of the coin.

On a roll call vote, the amended motion failed 8 to 3. Councilmembers Ronquillo, Gaghen, McFadden, McCall, Ulledalen, Astle, Clark and Mayor Hanel voted in opposition. Councilmembers Pitman, Cimmino and Ruegamer voted in favor.

Councilmember Pitman said he wanted the legal staff involved because they needed clarification as to where the law actually sat.

Councilmember Gaghen said she thought it needed to be looked at from the Unified Code standpoint, as well; and asked staff to look at other communities who had not allowed urban hens.

Mayor Hanel complimented the group who prepared the binder that was delivered to the Council. He said it was very well prepared and professional and contained a lot of good information. Mayor Hanel said he understood and appreciated all of the testimony that evening but one thing that was not mentioned that should have been was that there were Subdivision Improvement Agreements and Covenants and Restrictions, and hens would be in violation of

the recorded, legal documents. He said he was not personally against chickens. He said he grew up and handled 35,000 chickens and said he still thought they were the ugliest, most stinking things to have around. He said the eggs were good for people, but he questioned whether they belonged in the city limits. He said he had spoken with many people regarding backyard hens and very few supported it. Mayor Hanel said the city was looking at very serious financial difficulties, which included law enforcement and animal control. He said it may even result in lesser of those protecting people in the future, and he did not think they needed to bring on any more headaches and problems. Mayor Hanel said he may be proven wrong, but that was just his opinion.

On a voice vote, the original motion was approved 9 to 2. Councilmembers Gaghen and Astle voted in opposition.

- **Ronquillo:** Said when the City installed new water main on Calhoun, they tore the road up in front of the Moose Lodge and had never come back to fix it. He asked when the problem would be taken care. Ms. Volek advised she mentioned it to the Public Works Director who provided a response that they felt it was taken care of as best they could. She said she would check on it again.
- **Mayor Hanel:** Asked for an update on the sign that was down on the side of the road going up N. 27<sup>th</sup> Street. Planning Director Candi Beaudry advised it was determined the sign was destroyed over 50%, and the owner had 30 days from the decision to lodge a formal appeal. She said to her knowledge they had not received an appeal.

There was no further business, and the meeting adjourned at 9:34 p.m.



CITY OF BILLINGS

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

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk