

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

November 12, 2013

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 Crouch gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Cromley, Ronquillo, McFadden, Bird, McCall, Ulledalen, Astle, and Crouch. Councilmembers Pitman and Cimmino were excused.

**ELECTION OF DEPUTY MAYOR (BMCC Section 3.05)** Councilmember Ulledalen moved to elect Councilmember McCall, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

**MINUTES:** October 28, 2013 – Councilmember Astle moved for approval, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

**COURTESIES:** Councilmember Ulledalen said he had driven the full length of the completed Rimrock Road. He said it looked great, and it was nice to have it done. He extended thanks to Public Works and all the staff that contributed to the project.

**PROCLAMATIONS:** National Hunger and Homelessness Awareness Week - November 16-24, 2013

### ADMINISTRATOR REPORTS - TINA VOLEK

City Administrator Volek commented on the following items:

- **Item 2, Public Hearing and Resolution authorizing the sale of city-owned property described as the north 100 feet of Lot 11 (Less 1,300 feet for street), Block 4, Sunset Subdivision, located at 12<sup>th</sup> Street West and Grand Avenue.**
  - ✓ Council received a memorandum in the November 8, 2013, Friday Packet from David Mumford, Public Works Director, recommending accepting the bid from Mike McCord in the amount of \$16,500. Copy of memo was filed in the ex-parte notebook.
  - ✓ Copy of the Sunset Subdivision plat highlighting the location of the north 100 feet of Lot 11 was on Council's desks and filed in the ex-parte notebook.
- **Item 3, International Association of Fire Fighters Local 521 Union Contract.**
  - ✓ Council received a memorandum in the November 8, 2013, Friday Packet from the City Administrator recommending approval of the contract as presented. Copy of memo was filed in the ex-parte notebook.

- Ms. Volek reminded Council, per its action at a previous meeting, the next scheduled regular business meeting was Monday, November 18, at 6:30 p.m. She noted the first strategic planning session with Dr. James Sipe was scheduled for Tuesday, November 19, from 6:00 p.m. to 9:00 p.m., in the Council Chambers.

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

**Speaker sign-in required.** (Comments offered here are limited to one (1) minute. 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. Bid Awards:**

**1. Library Building Pre-Demolition Asbestos Abatement.** (Opened 10/29/13) Recommend Safetech, Inc.; \$79,500.

**B. Approval** to overturn the October 15, 2013, bid award to T & E Company in the amount of \$364,312 for purchase of a 2014 landfill compactor; to be rebid at a later date.

**C. Change Order #1 - City Hall Lighting Retrofit** (Postponed from 10/28/13), Action Electric, \$10,547.

**D. Approval** of Consent of Assignment transferring lease of cell tower located in the City of Billings landfill from MTPCS, LLC to Cedar TowerCo, LLC.

**E. Agreement** with Rimrock Foundation for treatment services for Billings Adult Misdemeanor Treatment Courts; \$440,000 (grant-funded, 2 years).

**F. Perpetual Right-of-Way Easement** with Popelka Enterprises, LLC, on Lot 3A, Block 1, Popelka Commerce Center Subdivision, for unlimited access for installation, maintenance and repair of public water main.

**G. Approval** of application for State Revolving Fund Loan for W.O. 08-25, Zone 3 Chapple Expansion Project, \$6,000,000 (20-year amortization with 3% interest rate).

**H. Acceptance of** State Highway Traffic Safety Billings Selective Traffic Enforcement Program (STEP) overtime grant - \$10,000; **authorizing** the Mayor to sign the Standard Agreement.

**I. Bills and Payroll:**

1. October 15, 2013
2. October 21, 2013

Councilmember McCall separated Consent Agenda Item B. Councilmember Bird separated Consent Agenda Item C. Councilmember Astle moved for approval of the Consent Agenda with the exception of Items B and C, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Bird referenced Item C and said she did not remember receiving the requested follow-up information. Ms. Volek advised Ms. Couture, the Facilities Manager, was in attendance and available to answer questions. Ms. Couture said a council memo was sent out a week ago yesterday. Councilmember Bird apologized and said she did not see it and asked Ms. Couture to explain why all the wrong light bulbs were put into the ballasts. Ms. Couture said the project was bid as a retrofit, and there were over 2,000 lamps in the retrofit that were to be changed out. There had been a previous retrofit to T8 lamps, which was an upgrade. The engineering firm advised there would be a cost to go inside every fixture to check the ballast for incompatibility. The contingency they estimated was about 10 percent on the ballasts, which accounted for about one-third of the change order. Ms. Couture said the existing, incompatible ballasts seemed to be rapid-start, electronic ballasts that were probably originally T12 ballasts and even though some were labeled they were compatible with lower wattage lights they were not. She said had they bid the project with checking all the fixtures, she believed it would have doubled the project cost upfront. Councilmember Bird asked if one-third of the change order was to check the ballasts or replace the ballasts. Ms. Couture said it was to go into the fixture, change out the ballasts, and in some cases re-lamp them. She explained another third was due to the exit signs. There were some signs completely left off the drawings and other non-LED exit signs were missed that were required by the rebate. Ms. Couture noted numerous fixtures looked almost identical and were very hard to detect from the ground.

Councilmember Astle moved for approval of Item C, seconded by Councilmember Ulledalen. Councilmember Bird said she had a concern for the future. She did not know what it would take but when something like it had to be done in the future maybe they had learned a lesson this time. Councilmember Ulledalen commented there was no practical, reasonable way to find out what ballasts would not work unless all were taken down and tested. He said the option was to replace the bulbs, see which ones blew, and then go back and fix them. Councilmember Bird commented in the future it would be good upfront information for the Council to have that there could be problems based on history. Councilmember Ulledalen said they also could have refused the lower engineering contract and accepted the higher amount and paid the extra \$40,000 to \$50,000 upfront. Councilmember Astle commented City Hall was over 70 years, so it did not surprise him there was a combination of old and new fixtures. He said it was an ancient building by electrical standards and codes, and the code when it was built would never get a permit today.

Councilmember Crouch asked about receipt of the rebate. Ms. Couture said the City would receive the rebate when the project was finished. She said the combined rebate for Park 3 and City Hall would be approximately \$92,800. She said they were also using USB credits from NorthWestern Energy to pay for energy improvements.

On a voice vote, the motion was unanimously approved.

Councilmember McCall referenced Item B and asked Public Works Director, David Mumford, for a summarized explanation. She said the process seemed to be convoluted and confusing and asked when they planned to re-bid. Mr. Mumford said they had taken a simple process, made it extremely cumbersome, and gotten it wrong three times. He said they had not purchased a compactor in a number of years and went back to see how it was done the previous time. He said there was reference to a 3-year buy-back, and the Equipment Replacement Program (ERP) had approved replacement of compactors on a 3-year cycle. After Council approved the bid award at the last meeting, the Finance Manager questioned why they were replacing compactors on a 3-year cycle when they currently had a 6-year-old compactor and a 9-year-old compactor. Mr. Mumford said they had also spoken with the Legal Department, who questioned how the Invitation for Bid was set up and the 3-year buy-back. Staff felt they needed to take a step back, look at it again, and find out what the real life was of the equipment so they were not trading it in sooner than they had to. Mr. Mumford said they would re-bid sometime after the first of the year once they had a chance to look into it. Ms. Volek advised they notified the vendor, who had not yet ordered or purchased the compactor. Councilmember McCall asked if it would not be in the ERP for next year. Mr. Mumford said they would deal with it within this fiscal year.

Councilmember Ulledalen said he had heard comments from the public that the City replaced equipment faster than a comparable private sector entity. He said people talked about the City being short of money and having potential layoffs, but at the same time the City had brand-new vehicles nicer than what contractors used. He said the ERP was a great program but it might be an opportunity to examine all of the programs and purchasing in general.

Councilmember McCall moved for approval of Item B, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION #13-19324 authorizing the sale of city-owned property described as the north 100 feet of Lot 11 (less 1,300 feet for street), Block 4, Sunset Subdivision, located at the intersection of 12th Street West and Grand Avenue. Recommendation to be made at November 12, 2013, meeting.** City Administrator Volek advised there was no presentation, but staff was available to answer questions. She referenced the Administrator's Report where Mr. Mumford was recommending accepting the sole bid from Mike McCord in the amount of \$16,500.

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

Councilmember Astle moved for approval of the sale to Mr. McCord in the amount of \$16,500, seconded by Councilmember Ulledalen.

Mayor Hanel advised he had looked at the property. There was a privately-owned sign on the property that limited the use. He said parking was the only thing it could be used for; maybe three to six parking spots depending on the size of the vehicles. He said he felt it was a fair purchase for the buyer and a fair sale for the city; so he would support the motion.

On a voice vote, the motion was unanimously approved.

**3. INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF) LOCAL 521 UNION CONTRACT (7/1/2013-6/30/2015). Postponed from 8/12/13, 8/26/13, 9/23/13, and 10/28/13. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator Volek advised the 3-year renewal to the contract with the International Association of Fire Fighters was approved by Local 521 at meetings on November 4 and November 5, 2013. The contract included a 2.9% Cost of Living Adjustment (COLA) for each of the first two years of the contract with a wage reopener for the third year. Also included was grandfathering special certification pay for an employee who already had a boiler's license but eliminating the license as a certification after the individual left or allowed his license to lapse. They were limiting the amount paid through salary to retirement to the actual increase in the City's portion of the premium; or 15%, whichever was less. She said at this time the health insurance premium would not increase, so there would be no increase in that item for the coming year. They were adding a voluntary physical fitness program similar to the one in the Police Department in which those who participated in an annual test would receive a once-a-year payment of \$100; \$200; or \$300 depending on his or her overall score. Ms. Volek noted a copy of the contract was included as part of the agenda packet; and Fire Chief Dextras and Human Resources Director, Karla Stanton, were available to answer any questions.

Councilmember Ulledalen said he understood the full amount of the increase was deficit in terms of spending. He asked what the total accumulated deficit would be at this point for the current budget. Ms. Volek said they did not budget for it because they were in contract negotiations at the time the budget was approved. For the current year it would be \$261,000; and for next year it would be \$268,569. The voluntary fitness program cost was not yet known because it would depend on the number of employees who chose to participate. The numbers would need to be made part of a future budget amendment brought to Council on a quarterly basis. Councilmember Ulledalen said the budget was already essentially eating into reserves by about \$180,000. Ms. Volek said it was beginning this year for the first year in the last seven. Councilmember Ulledalen said they would be at around \$400,000 at this point collectively. Ms. Volek said that was correct.

Councilmember Astle asked if 2.9% was the same for the Police Department, Teamsters, and non-represented employees. Ms. Volek said that would be their recommendation next week. Councilmember Astle said the 2.9% was actually more money per fireman than per police officer. He said they were provided with figures that a fireman on median made approximately \$3,000 more than a policeman. Ms. Volek and Ms. Stanton both confirmed that was correct. Councilmember Astle said on the median the fireman's 2.9% raise would be higher; and if it continued on like that, the gap would become wider and the Fire Department would be paid more than the Police Department

even though it was called the same percent. Ms. Volek said there were a larger number of police officers than firefighters, so the total was not the same; but individually, on the median, that would be correct. In the Fire Department, the firefighters were kept within rank within a certain number of positions in the department. In the Police Department there were some 30 sergeants, three lieutenants, and three or four captains. In the Fire Department there were four battalion chiefs but nothing at the equivalent of a sergeant. They had captains, and no lieutenants.

Councilmember McCall moved for approval of Item 3, seconded by Councilmember Crouch.

Councilmember Astle said he understood police and fire were the two most dangerous occupations in a municipality but he could not vote for it because he could not believe the firemen were more valuable than the policemen. He did not blame the Fire Department for being better negotiators; he blamed the City for not holding the line and paying the Police Department as much. When the alarm rang because of a structure fire, four trucks responded and they knew within reason what they were getting into. When the police were dispatched to a domestic disturbance they had no idea if someone was drunk and threw a bottle out a window or if someone was holding a person at gunpoint and looking for suicide by cop or wanting to take someone out with them. He referenced a recent standoff involving the swat team and said he thought the Police Department was worth as much money as the Fire Department.

Councilmember McFadden said it was always his understanding they were not actually paying the firemen more money than the policemen. It was just that the average fireman had more seniority as a city employee than the average policeman. Ms. Stanton advised that was correct. They had a lot of new police officers come onboard the last few years who were at lower rates of pay and moving through their steps. Most of the firefighters were at a higher level of pay because they had been with the City a long time and had seniority.

Mayor Hanel asked if it would be true with other departments based on pay increases. Ms. Stanton said that was correct. It depended on seniority and years of service.

Councilmember Bird asked for the average year of service for the Fire Department and the Police Department. Ms. Stanton said she did not know the current numbers off the top of her head, but about a year ago over half the police force was less than seven years. She said the Fire Department number was much higher. She would get the numbers and provide them to Council.

Councilmember Bird asked Councilmember Astle for his solution at that point in time since they had already approved the police contract. Councilmember Astle said the solution would be not to go into negotiations saying 2.9% was what was being paid because that was what the police and teamsters received. The message needed to be relayed that they had to stand alone and that "one size did not fit all."

Councilmember Ulledalen commented they would have the opportunity to re-examine the issue over the next two years because it would be important to get a public safety levy on the ballot as soon as possible next year. If it did not pass they had some tough decisions to make. A lot would be put on the table if it did not pass.

On a voice vote, the motion was approved 7 to 2. Councilmembers Astle and Ulledalen voted in opposition.

**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.

- **Dennis Ulvestad, 3040 Central Avenue, D103, Billings, MT**, congratulated Mr. Brown on the win for City Council and said he knew he would do a good job. Mr. Ulvestad thanked the City Council for coming forward to serve the great City of Billings. He said even though he was disappointed he could not be part of the City Council, he would continue to serve the great City of Billings. He did not know at what capacity yet. Billings was his hometown, and it had the potential to be one of the best cities of its size in the U.S. He thanked the City Council for stepping up to the plate and serving the citizens of the great City of Billings.

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

Mayor Hanel commented they would be publicly recognizing the individuals who were successful in the election in the near future. He recognized future Councilmembers Brown and Yakawich who were present at the meeting. Mayor Hanel confirmed with Ms. Volek that the newly-elected councilmembers had been invited to the upcoming strategic planning session. Ms. Volek advised they had.

**COUNCIL INITIATIVES** There were no initiatives.

There was no further business, and the meeting adjourned at 7:12 p.m.

CITY OF BILLINGS

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

ATTEST:

BY: \_\_\_\_\_  
Cari Martin, City Clerk