

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 24, 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 McFadden gave the invocation.

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

**MINUTES:** *July 10, 2017 - Special Session* - Councilmember Sullivan moved for approval, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved. *July 10, 2017 - Regular Business* - Councilmember Sullivan moved for approval, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

### COURTESIES:

- Mayor Hanel recognized Karen Sanford Gall and her staff for their expert organization of the Big Sky State Games. He stated it had been a huge success and had brought thousands of participants, supporters and spectators to Billings.
- Mayor Hanel stated Relay for Life had been a huge success and thanked Ms. Volek and City staff for their assistance at the events.
- Wyeth Friday, Planning Director, introduced the new Planning Division Manager, Monica Plecker. Mayor Hanel welcomed her.

### PROCLAMATIONS: NONE

### ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek reminded Council that Monday, July 31, 2017, was a bye week and no Council meetings would be held.
- Ms. Volek reminded Council that the new 9-1-1 center groundbreaking would be on Monday, July 31<sup>st</sup>, at 10:00 a.m. at 911 North 24<sup>th</sup> Street. She continued that approximately \$3.6 million had accrued over a period of time and had been collected from telephone fees.
- Ms. Volek stated, in reference to Regular Agenda Item 4, that a response email from Ms. Volek addressed Councilmember Cromley's question concerning Landmark, LLC's background and partnership in the One Big Sky Center. She stated that the principals in Hammes Company were also the principals in Landmark, LLC. She stated Hammes would invest in all of the initial services to create a development plan. A copy of the email had been placed on the Council's desks and in the ex parte notebook.

- Ms. Volek stated, in reference to Regular Agenda Item 5, that an email was received from Todd Buchanan supporting the Downtown Billings Partnership's recommendation to approve TIF assistance for Alberta Bair Theater Corporation. A copy of the email had been placed on the Council's desks and in the ex parte notebook.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4 and 5 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.

- **Bill Gottwals, President of Alberta Bair Theater, 5252 High Trail Road, Billings, Montana**, in reference to Item 5, thanked Council for its support and stated that everyone in the area had benefited from some of the best cultural opportunities the State had to offer because of the Alberta Bair Theater.
- **Jan Dietrich, Executive Director of Alberta Bair Theater, 2018 Green Terrace Drive, Billings, Montana**, in reference to Item 5, listed many renovations scheduled for the theater. She stated it had been 30 years since any major improvements had been made to the theater. She supported Council's approval of the TIF assistance. She stated the improvements were not extravagant, but were desperately needed. She continued that approximately 130 public performances were held in the past year at the theater; drawing approximately 90,000 people, including school children, into the theater. She stated that approximately 8,000 of those people travelled from outside the Billings' area. She stated that the ABT was the "crown jewel of downtown Billings" in the 1980s and it was time to polish and shine it.
- **Jim Duncan, 2711 Gregory Hills Drive North, Billings, Montana**, in reference to Item 5, offered his support for TIF assistance to the Alberta Bair Theater and encouraged Council to approve the assistance. He added that the Billings Clinic had utilized the theater for its annual "Classic" event and had loved to highlight it. He stated that when the Clinic recruited personnel, the cultural events held at the ABT planned an important role for candidates.
- **John Brewer, Billings Chamber of Commerce and VisitBillings, 815 South 27<sup>th</sup> Street, Billings, Montana**, in reference to Items 4 and 5, stated he supported the extension of the MOU concerning One Big Sky Center, because the project would be transformative to Billings and the entire region. He added that Billings was losing business because it did not have adequate conference space. He stated he had asked the Chamber's membership to forward emails directly to the Council providing their voice about One Big Sky Center. He stated that out of the 70 members, 66 members had supported the project, while 4 had been opposed. He stated that meeting planners considered a variety of variables

to create excitement for attendees. He segued into the topic of TIF assistance to the Alberta Bair Theater Corporation. He continued that it was an important amenity for Billings and brought business into Billings. He stated tourists generated \$400 million each year in Yellowstone County. Councilmember Friedel stated he agreed that One Big Sky Center could be a great project, but if there was a big need for a convention center, why had the private sector not developed one. Mr. Brewer responded that meeting spaces are typically lost leaders for a community. He stated they were typically public/private investors simply because the volume and scale to run the facility could generate money and convention spaces generate money for an entire area. Councilmember Friedel stated he believed the private sector could build a convention center more cost-effectively and better than the public could. Mr. Brewer stated one could not make money from the space rent, food and room rental. He continued that many other businesses were positively impacted by a convention center, i.e., restaurants, gas stations, entertainment venues, motels/hotels, retail businesses, etc. Councilmember Sullivan asked for point of order and stated debate over TIF monies and macro- and micro-use of the monies was not appropriate. Councilmember McFadden asked where business owners in the TIF District sought to use TIF monies. Mr. Brewer stated he found that those businesses supported most anything that brought additional business to that district.

- **Mike Matthew, 115 North Broadway, Billings, Montana**, in reference to Items 4 and 5, stated he and his wife had made drastic improvements to three different downtown buildings and had utilized TIF monies for those buildings. He continued that he had paid a significant amount of taxes into the TIF districts and the buildings that had been renovated had significantly improved the downtown area. He supported Alberta Bair Theater, and stated downtown was a viable, beautiful place. In reference to Item 4, he stated that, as a former County Commissioner, the most economical thing that could have been done with MetraPark was to close it. He stated it had lost money all the time, but having losing that facility, which had brought so much business to the community, would have been detrimental to the whole community. He added that sometimes the public sector had to have facilities that offered large scale advantages to a community. He stated those types of large scale facilities would not be profitable all the time and needed the support of community and not just private investors.
- **Corby Skinner, 622 North 29<sup>th</sup> Street, Billings, Montana**, in reference to Item 5, stated he represented the Billings Cultural Partners and voiced support for TIF assistance to Alberta Bair Theater. He stated he had been involved with the Fox Theater 31 years ago during the transition to the Alberta Bair Theater. He stated that Alberta Bair herself had said to him, "she had never been so proud," at the time the theater became a reality. He stated it was time to be proud of the theater again.
- **Jacqueline Laferriere, 226 Alderson Avenue, Billings, Montana**, in reference to Item 5, stated she was on the Board of Directors for "This House of Books", a books cooperative. She continued that the Alberta Bair Theater was a critical amenity to downtown, the cultural center of Billings, and the vibrant downtown arts community.

- **Kathleen Benoit, 2247 Old Highway 10, Laurel, Montana**, in reference to Item 5, stated she had worked for the Alberta Bair Theater for a number of years in a number of capacities. She stated she was currently a consultant for the Alberta Bair Theater. She continued that annually, more than 24,000 children were bussed to the theater from all over the county and was, for many children, their first glimpse of the performing arts. She thanked the Council for their support.
- **Harvey Singh, Owner of Seva restaurant, 2720 Poly Drive, Billings, Montana**, in reference to Item 5, voiced his support of TIF assistance to Alberta Bair Theater. He admitted he had received a TIF loan to help him open his restaurant and that the loan had been repaid. He stated the location of the theater had been considered when he decided to open his restaurant across from it. He stated that when the theater was busy, so was his restaurant and many other downtown businesses as well. He stated that even if his restaurant had not been located in near proximity to the ABT, he would have given his testimony in support of the Alberta Bair Theater.
- **Darrin Rich, Director of Billings Symphony and Chorale, 3803 Palisades Park Drive, Billings, Montana**, in reference to Item 5, voiced his support for TIF assistance to Alberta Bair Theater. He clarified that the symphony and the Alberta Bair Theater were two separate entities with two separate boards of directors and staff. He stated the theater was very important to the symphony and chorale. He continued that the whole audience experience was even more important than the programming. He continued that an investment in the theater was an investment for greater economic activity.
- **Ron Yates, 4912 Stoneridge Circle, Billings, Montana**, in reference to Item 5, stated he was an officer for the theater's Board of Directors and supported TIF assistance. He stated that the overall expenditures planned for the theater were over \$10 million and he spoke about future fundraising plans. He stated the theater was considered a primary economic driver for the area and was one of the top three reasons people visited the downtown area. He stated investing now would keep the Alberta Bair serving the greater Billings areas for decades.
- **Greg Krueger, Downtown Billings Partnership (DBP), 2515 2<sup>nd</sup> Avenue North, Billings, Montana**, in reference to Items 4 and 5, explained the DBP's functionality and contract with the City concerning recommendations for TIF assistance expenditures. He voiced support for the approval of the extension of the Memorandum of Understanding for One Big Sky Center and TIF assistance to Alberta Bair Theater Corporation on behalf of the DBP. Councilmember Clark asked why DBP had not recommended the full amount of assistance that the ABT had requested. Mr. Krueger stated the Board had suggested \$2.5 million, but had arrived at \$3.5 million based on the TIF's ability to raise the increment. Councilmember Yakawich asked whether Mr. Krueger believed the TIF would be recouped within two years. Mr. Krueger responded affirmatively. He continued that One Big Sky Center not would affect the amount of TIF to ABT. Councilmembers Brown and Cimmino asked about reimbursable renovations, including ADA required. Mr. Krueger outlined the renovations. Councilmember Brewster asked whether there would be enough monies left within the TIF district to meet other funding requests. Mr. Krueger responded there was not a great

deal left in the short term, but it would depend on whether bonding occurred again. He stated the district would sunset in 2038 and there would be ample opportunity to do many projects. Councilmember Sullivan asked about projections for the TIFD. Mr. Krueger stated he had worked with City staff and determined that the fund, based on current revenues, would be replenished in two years, rather than four years as previously stated.

- **Connie Wardell, P.O. Box 21432, Billings, Montana**, in reference to Items 4 and 5, voiced her support for TIF assistance to Alberta Bair Theater and stated it was an appropriate use of TIF funds. She continued that it would be an enhancement to the music and performing arts cultural. She stated it was time to polish the “jewel”. She stated she took exception to the additional extension on the Memorandum of Understanding concerning One Big Sky Center. She stated Mr. Dunn had deceptively represented that the Hammes Company would be involved and had never mentioned Landmark, LLC. She continued that Billings needed to define its vision for the future.
- **Kirk Jenson, 3992 Parkwood Drive, Billings, Montana**, in reference to Item 5, stated he supported the Alberta Bair Theater. He stated he had moved to Billings from Washington, D.C. and was working for First Interstate Bank. He stated he and his wife loved Billings. He added that before moving to Billings, he and his wife had asked what there was to do in Billings. He stated they had found the cultural offerings of the Alberta Bair Theater and that had helped to recruit them to live here.
- **Dennis Ulvestad 3040 Central Avenue, Billings, Montana**, voiced his support for TIF assistance to ABT.
- **Alex Heineman 1253 Yellowstone Avenue, Billings, Montana**, in reference to Item 5, gave a history of his involvement in the initial upgrades and supported the proposed TIF assistance and proposed improvements. He stated the lighting and sound systems needed to be upgraded to meet incoming entertainment standards, as ABT’s technology was now 30 years old.
- **Kay Foster, 115 North Broadway, Billings, Montana**, in reference to Item 5, added her support of the TIF assistance to Alberta Bair Theater. She asked members in the audience to stand to indicate their support of TIF assistance to ABT in an effort to minimize additional testimony. The majority of the audience, with the exception of City staff and media, stood to show their support.
- **Arlo Thomas, 521 Avenue F, Billings, Montana**, in reference to Item 5, read a letter of support written by and on behalf of Wayne Hirsh, Division President - US Bank, and past Alberta Bair Board president.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **Rose Park Pool Operations Building Demolition.** (Opened 12/20/16; Awarded 01/09/17) Recommend rejecting all bids.

- B. Professional Services Contract** for W.O. 17-12, Landfill Drop-Off Facility; HDR Engineering, Inc.; \$2,681,000.
- C. Approval** of ten-year airport office building lease renewal with the United States Government for Transportation Security Administration (TSA) (12/01/16 - 11/30/26).
- D. Approval** of ten-year airport hangar lease renewal with the United States Department of Agriculture, Animal, and Plant Health Inspection Services (USDA-APHIS) (07/01/17 - 06/30/27).
- E. Acknowledging Receipt of Petition to Annex #17-03:** approximately 10.87 acres, located at the southeast corner of the intersection of Blue Creek Road and Santiago Boulevard south of the Yellowstone River, Jamey Eisenbarth, owner; Sanderson Stewart, petitioner, and setting a public hearing date for 08/14/17.
- F. Confirmation of Probationary Police Officers** - Steven Gaertner, Tracy Icard, Moses Richardson, and Daniel Shreeve.
- G. Subordination** of First Time Home Buyer Program loan for \$15,000; M & T Bank, Refinancing.
- H. Preliminary Minor Plat** of Tierra Yellowstone Subdivision, generally located on the northwest corner of South 32<sup>nd</sup> Street West and Conrad Road; Red Lodge Investment, LLC, owner; Sanderson Stewart, agent.
- I. Preliminary Major Plat** of Sartorie Subdivision, 2nd Filing, generally located at 1880 Hawthorne Lane; Richard Jr. and Mae Sartorie, owners; Blueline Engineering, agent.
- J. Bills and Payroll:**

1. June 26 and 27, 2017

Councilmember Cimmino separated Items 1B and 1J1 to abstain.

Councilmember Brown separated Item 1J1 to abstain.

Councilmember Sullivan moved for approval of the Consent Agenda, with the exception of Items 1B and 1J1, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item 1B, seconded by Councilmember Sullivan. On a voice vote, the motion was approved 10-0, Councilmember Cimmino abstained.

Councilmember Sullivan moved for approval of Item 1J1, seconded by Councilmember Friedel. Councilmember Yakawich asked City Administrator Tina Volek about a bill concerning Billings Yellowstone County Household Travel for \$70,000. Ms. Volek responded that Lora Mattox had sent an email to the Mayor and Council regarding a travel demand survey for the development of a transportation model for Billings. She continued that the Metropolitan Planning Organization (MPO) funds \$70,000 and the Montana Department of Transportation funds \$70,000 to provide a survey of 1,000 residents on their travel routes. On another matter, Councilmember Yakawich questioned Northwestern Energy's charges for "light maintenance". Ms. Volek responded that those charges were for light pole maintenance, i.e., bulbs, the poles and energy used. Councilmember Yakawich questioned a \$107,000 water bill. Ms. Volek responded that was a per month charge, that varied from month-to-month, but was for the operation of the water treatment plant and water provided to residents. Councilmember Yakawich then asked about a bill from CTA Architects for \$102,000 for architect and engineering services for the 9-1-1 Center. Ms. Volek responded that was for the design services beginning in June. Councilmember Yakawich asked whether CTA would be on site for anything in addition to the design. Ms. Volek stated that the City had engineering staff that would conduct a review as construction occurred to ensure that the City's needs were met. She continued that other engineering firms may be involved for specific engineering for the project. On a voice vote, the motion was approved 9-0, Councilmembers Cimmino and Brown abstained.

## **REGULAR AGENDA:**

2. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #958: a zone change from Planned Development (PD) and Residential Multi-family (RMF) to Residential Professional (RP) on a 1.12 acre parcel of land, generally located at the southwest corner of 7th Avenue North and North 25th Street. Campos/Dorn, LLC, owner; Sanderson Stewart, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of staff Zoning Commission recommendation.)**

Dave Green, City Planner, gave a brief presentation concerning the area involved in the proposed zone change. He reminded Council of the findings of the 10 criteria and that zone changes would not have conditions. He stated the zone change would allow for professional or medical offices only. He continued that no one from the public had been present to provide testimony at the Zoning Commission's public hearing and that the Zoning Commission had forwarded its recommendation for approval of the zone change.

Councilmember Friedel asked if someone had recently purchased the property or was the zone change pre-emptive. Mr. Green responded that it was pre-emptive.

Councilmember Sullivan asked where the nearest bus stop was located to the property. Mr. Green was unable to provide that information.

Councilmember Yakawich provided bus stop information and stated the zone change had been discussed at the North Park Task Force meeting and the consensus had been positive for the zone change.

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

Councilmember Yakawich moved for approval of Item 2 as recommended by Zoning Commission, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

3. **PUBLIC HEARING AND SPECIAL REVIEW #956: a special review to allow the construction of 2 new four-unit multi-family buildings in a Residential 6,000 (R-60) zone on a 37,600 square foot parcel of land, generally located at 422 Roxy Lane. Ann Bustell, owner; Tom Reiner and Neil Thompson, agents. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Dave Green, City Planner, gave a brief presentation with several photos and aerial shots of the subject property. He reviewed the three criteria associated with a special review. He stated that unlike zone changes that would not have conditions associated with them, special reviews would have special conditions. He described the proposed project for the property and described the gravel surface on Roxy Lane. He continued that no one from the public had been present to provide testimony at the Zoning Commission's public hearing and the Zoning Commission had forwarded its recommendation for conditional approval of the special review.

Councilmember Sullivan voiced concerned about additional traffic pressure on the gravel/dirt road and asked if a waiver of right to protest for improvements would be appropriate to pave it in the future. Mr. Green stated that a waiver of right to protest was not a condition that could be placed on a special review. He stated it was something that was placed on subdivisions. He continued that the Engineering Department would be involved when the neighborhood requested the road to be paved. He stated Engineering would calculate the costs and notify landowners of their share of the costs to be assessed.

Councilmember Brewster stated the dirt road was marginally maintained. He continued that he has had discussions about SIDS with property owners living on similar dirt roads. He stated he had been met with opposition from those property owners because it took too much equity from the value of their homes, some cases it was up to 30% of the equity in the homes. He suggested that a reasonable, alternate standard for such roads be considered so it would be palatable to property owners in those neighborhoods. He continued that in the long run it may be less cost to the City for maintenance. Ms. Volek stated that drainage was also a concern and suggested that



Public Works Department provide a presentation at a future meeting about options via a Council initiative.

Councilmember Clark asked whether Roxy Lane was a dead end street. Mr. Green responded affirmatively.

Councilmember Cimmino stated she had received support from the residents for the project, however, they had expressed concern about additional dust, drainage, and need for snow plowing that the additional traffic from 8 housing units would cause to the road.

Councilmember Brown asked whether other structures were expected to be built on other undeveloped properties along Roxy Lane. Mr. Green stated that whenever there were 3 or more units placed on a lot, Engineering would view it as a commercial project. He continued that that would require paving, minimum parking and a water detention system be in place to handle a 50-year storm event for 24 hours onsite.

The public hearing was opened.

- **Connie Wardell, P.O. Box 21432, Billings, Montana**, suggested asphalt millings and preferred it to blacktop for drainage.
- **Tom Reiner, General Contractor, 7033 Bronco Road, Shepherd, Montana**, stated asphalt would be used in the parking lot on the property and described the flow of traffic from the property and the construction of the parking lot.

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

Councilmember Cimmino moved for approval of Item 3 as recommended by Zoning Commission, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

4. **AMENDMENT NO. 2 TO MEMORANDUM OF UNDERSTANDING (MOU) with MontDevCo, LLC and MontDevCo II, LLC, extending its termination date for One Big Sky Center project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Bruce McCandless, Assistant City Administrator, gave a brief presentation and explained the history of the MOU process on the project. He explained that the MOU authorized staff to work with the developers toward an agreement that would outline the specific steps, responsibilities and obligations of all parties leading to the development of the project. He continued that MontDevCo, LLC, had requested an additional entity representing the Hammes Company be added to the MOU. He stated that two changes had been made to the amendment as 1) Landmark, LLC was added to the MOU as a party; and 2) extended the term of the MOU until the January 8, 2018 Council meeting.

Councilmember Cromley asked whether there had been knowledge of Landmark, LLC, being added to the MOU prior to the previous Friday. Mr. McCandless responded he was made aware on the previous Wednesday and forwarded the information to Council on Friday following. Councilmember Cromley asked if Mr. McCandless had spoken with Mr. Dunn. Mr. McCandless responded that he had had a conversation with Skip Ahern who disclosed the name of Landmark, LLC for the project. He continued that earlier in the day he and Ms. Volek had had conversations with two other representatives of Hammes Company, but not with Mr. Dunn. He stated those representatives had indicated that Landmark, LLC was a “clean” company, in that it did not have any other development projects occurring. He stated this would allow for investors to invest in a single entity that was not mixed with other projects. He continued that it was a fairly common practice in the real estate development business to create separate businesses for each development project.

Councilmember McFadden asked whether the project could be expedited sooner than six months if the partners had their development agreement ready prior to the six month extension. Mr. McCandless stated that had been a topic of conversation that Mr. Dunn had promised to have a business plan ready by October. He continued that should that occur, then a development agreement may be quickly created and presented to Council prior to the deadline date.

Councilmember Cimmino asked who would be the direct contact person for Landmark, LLC. Mr. McCandless stated Mr. Dunn would be the primary contact person. He continued that the principals for Hammes Company were the same principals for Landmark, LLC.

Councilmember Yakawich asked for a monthly report. Mr. McCandless stated the developers verbally agreed to provide a monthly report. Councilmember Yakawich asked if that condition could be stated in the MOU. Mr. McCandless responded it could be added and advised it should be contained in the motion for approval of extension. He assured Councilmember Yakawich that staff would receive a monthly report.

Councilmember Cromley asked for clarification that Landmark, LLC was a “clean” company. Mr. McCandless responded that that had been the description given by Hammes Company principals indicating Landmark, LLC, was not currently involved in any real estate development projects like One Big Sky Center. He continued that Landmark, LLC, had been in existence for 10 or 12 years, according to the Wisconsin Secretary of the State. Councilmember Cromley asked about whether there were other Landmark, LLCs and if there was any information about them. Mr. McCandless stated he was not aware of any additional information. Councilmember Cromley stated he wished to include the Hammes Company in any agreements. Mr. McCandless offered to make the request to Mr. Dunn to add the Hammes Company.

Councilmember Sullivan asked who would be in control should there be disagreements or conflicts between MontDevCo and Landmark. City Attorney, Brent

Brooks, responded that this could be another amendment to the motion to include leadership. Councilmember Sullivan stated he wanted language protections for the City.

Councilmember Brewster stated the City was not financially obligated, so should disagreements between MontDevCo and Landmark occur, the City could let the MOU expire without any additional action taken. Mr. Brooks agreed. He stated that more specific protections language would be appropriately added in the development agreement later.

Councilmember Sullivan asked if the MOU and the creation of the development agreement could overlap. Mr. McCandless responded that the MOU stated a development agreement would be entered into by the expiration of the MOU. He continued that if that could not occur, there would not be anything detaining the City from finishing the preparation of the MOU, or Council taking action to delay until a later date. Councilmember Sullivan asked if the termination date of the MOU should be extended even further. Mr. McCandless stated that MontDevCo and Landmark most likely would not object to additional time if the Council wished to grant it.

Councilmember Friedel discussed the Council meeting schedule for the end of the year and challenges for new Councilmembers after the first of the year.

Councilmember Cromley moved for approval of Item 4, with the exception that Landmark, LLC be removed from the Memorandum of Understanding and Hammes Company be inserted, along with a requirement that monthly reports be submitted, seconded by Councilmember McFadden.

Councilmember Clark asked how long it would take to revise the Memorandum of Understanding. Mr. McCandless stated he would forward the proposal to the principals upon Council's approval of the motion and then await their response.

Mayor Hanel expressed his optimism for the project and his support of the extension until the end of 2017.

Councilmember Friedel moved for approval of a substitute motion to approve the extension of the Memorandum of Understanding as proposed with Landmark, LLC and MontDevCo, with a requirement that monthly reports be submitted and the termination date of December 11, 2017, seconded by Councilmember Swanson.

Councilmember Brown expressed support for the substitute motion and asked staff to enforce the Council's expectations with the developers. Ms. Volek advised that during recent conversations with the principals, she and Mr. McCandless had stressed to them that it may be in their best interests to complete a business plan and provide a proposed development agreement before the end of the year as there would be a significant shift in personnel and Councilmembers.

Councilmember Sullivan reiterated that the creation of holding companies was common practice and he supported the substitute motion.

Councilmembers McFadden, Cimmino and Brewster spoke in support of the substitution motion.

Councilmember Cromley voiced his concern about past misrepresentations made by MontDevCo and Landmark and stated he was opposed to the substitute motion.

On a voice vote, the substitute motion was approved 10-1, Councilmember Cromley opposed.

**5. APPROVAL of Tax Increment Financing Assistance from Expanded N. 27th Street Urban Renewal District, Fund 203, to Alberta Bair Theater Corporation; \$3.5 million. Downtown Billings Partnership (DBP) recommends approval. (Action: approval or disapproval of DBP recommendation.)**

Christina Volek, City Administrator, gave a brief overview stating the Alberta Bair Theater had submitted an application with the Downtown Billings Partnership for TIF assistance in the amount of \$3.5 million. She stated the funds, if approved, would be on a reimbursement basis only for specific improvements. She confirmed for the Mayor that the vacation of the sidewalk had been previously approved by the Council, but the design work for the building improvements were being drafted.

Councilmember Friedel moved for approval of Item 5, seconded by Councilmember McFadden.

Councilmember Friedel stated the project was an appropriate usage of TIF funds for a public building.

Councilmember Clark stated he supported the motion, but voiced his disappointment in that previously the ABT Board had specifically stated it would not request TIF funding.

Mayor Hanel voiced support of the motion and stated the building belonged to the citizens of Billings and had served the community very well from the very beginning and would continue to do so well into the future.

Councilmembers Cimmino, Brewster, Yakawich and Brown voiced support for the motion.

Councilmember Sullivan stated San Antonio had developed a river walk from a muddy, flooded area. He continued that public funds had been used to develop that

area into something beautiful. He stated that the Alberta Bair Theater was, in effect, Billings' river walk.

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.*)

- **Dennis Ulvestad 3040 Central Avenue, Billings, Montana**, asked about the history of Council Contingency funds. Ms. Volek stated that the Council Contingency fund had been budgeted since the 1990s to deal with emergencies or non-budgeted projects and was budgeted at \$65,000 per year. She continued that Council had access to the General Fund should it wish to access it, also. She gave examples of various instances in which Council Contingency funds had been used, i.e. pine beetle infestation, supplemented construction at Centennial Park, and High Sierra Dog Park. She stated Council passed budget amendment resolutions when funds were utilized and all unexpended funds were returned to the General Fund.

#### **COUNCIL INITIATIVES:**

- Councilmember Brewster moved to direct staff to provide Council with cost-effective options to improve unpaved streets within the City, seconded by Councilmember Sullivan. On a voice vote, the motion was unanimously approved.
- Councilmember Clark moved to direct staff to provide Council with financing options for Centennial, Castle Rock and Optimist Parks toward completion of their projects, seconded by Councilmember Brewster. After Council discussion, Councilmember Clark provided a substitute motion to direct staff to provide Council with financing options for Centennial, Castle Rock and Optimist Parks toward completion of their projects at a work session prior to January pre-budgeting sessions, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-1, Councilmember Cromley opposed.

There was no further business, and the meeting adjourned at 9:21 pm.

CITY OF BILLINGS



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

ATTEST:

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