

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 9, 2018

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

**ROLL CALL:** Councilmembers present on roll call were: Cromley, Yakawich, Brewster, Ewalt, Joy, Friedel, Gibbs, Ronning, Clark and Brown.

**MINUTES:** March 26, 2018 – Councilmember Brewster moved for approval, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

### COURTESIES:

- There were no courtesies.

### PROCLAMATIONS:

- Mayor Cole pronounced April 22, 2018 as Earth Day. Boy Scout Pack 80 were in attendance to earn a merit badge and took a photo with the Mayor and Councilmembers.
- Mayor Cole pronounced April 8-14, 2018 as Crime Victims' Rights Week.
- Mayor Cole pronounced April 18-24, 2018 as National Public Safety Telecommunicators' Week. Fire Chief, Bill Rash, commended emergency responders and dispatchers for their lifesaving work in helping the public.

### ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Wyeth Friday, Interim Assistant City Administrator, stated there was one email in opposition to Item 3 that had been placed in the ex-parte notebook, along with a copy of the revised Memorandum of Understanding.
- Mr. Friday reminded Council that the next work session on April 16, 2018, would be the last work session before budget meetings would start.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 3 and 4 ONLY. Speaker sign-in required.** (Comments are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign the roster located on the cart at the back of Council chambers or at the podium. Comments 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.

The following individuals spoke in favor of Item 3:

- **Rich McFadden, 619 Terry Avenue, Billings, Montana.**
- **Tana Hergenraeder, 638 Clark Avenue, Billings, Montana.**
- **Andy Patten, Downtown Billings Partnership, President.**
- **Jeff Kanning, 1008 Poly Drive, Billings, Montana.**
- **Mike Nelson, Northern Hotel, Owner.**
- **Julie Seedhouse, 104 North Broadway, Billings, Montana.**
- **Kris Carpenter, 3 Heatherwood Lane, Billings, Montana.**
- **Dr. Randall Gibb, Billings Clinic, CEO.**
- **John Brewer, Chamber of Commerce, CEO.**
- **Steve Wahrlick, 2511 1<sup>st</sup> Avenue North, Billings, Montana.**
- **Alex Tyson, Visit Billings, Executive Director.**
- **Zach Teraledo, 112 North Broadway, Billings, Montana.**
- **Brandon Scala, 2904 Ash, Billings, Montana.**
- **Katie Easton, Downtown Billings Alliance, Executive Director.**
- **Travis Diamond, 1550 Poly Drive, Billings, Montana.**
- **Maisie Sulser, Downtown Billings Alliance, Development Director.**
- **Jim Duncan, 2711 Gregory Drive, Billings, Montana.**
- **Randy Hafer, 702 North 23<sup>rd</sup> Street, Billings, Montana.**
- **Lee Humphrey, 528 Avenue C, Billings, Montana.**

The following individuals spoke in opposition of Item 3:

- **Daniel Barnhart, 550 Pinon Drive, Billings, Montana.**
- **Ed Lawler, 3015 Marigold Drive, Billings, Montana.**
- **Jeff Kreidler, 809 North 31<sup>st</sup> Street, Billings, Montana.**
- **Paul Schoemer, 1223 Princeton Avenue, Billings, Montana.**
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana.**
- **Connie Wardell, PO Box 21432, Billings, Montana.**

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

**1. CONSENT AGENDA**

**A. Bid Awards:**

1. **Airport Exterior Finish Insulation System Repair and Replacement Project. (Opened 3/27/18) Recommend re-bidding project at a later date.**

2. **Waterborne Traffic Paint.** (Opened 3/27/18) Recommend Ozark Materials, LLC; average three-year price, \$9.45 per tote; \$9.85 per bucket.
  3. **W.O. 16-05, Central Avenue Road Improvements.** (Opened 3/27/18) Recommend CMG Construction, LLC; \$5,060,000.
  4. **W.O. 18-04, 2018 ADA Ramp Replacement Project.** (Opened 3/27/18) Recommend J & J Concrete, Inc.; \$92,640.
- B. Acceptance** of Federal Aviation Administration Airport Improvement Program Grant for 2018.
- C. Agreement and Purchase** of fifteen workstations for the new 9-1-1 facility; \$221,965.98.
- D. Agreement and Purchase** of UV disinfection equipment parts with DC Frost Associates, Inc.; \$161,203.40.
- E. Approval** of the assignment and transfer of the Non-Commercial Aviation Ground Lease from Kent Williams to Billings Flying Service, Inc.
- F. Grant Application Request** to submit application for AmeriCorps VISTA and authorize City staff to negotiate and finalize the project if awarded.
- G. Second/Final Reading Ordinance 18-5703** allowing a Billings Police Department Technology Surcharge on all citations and complaints, criminal and traffic, to fund the electronic citations project.
- H. Second/Final Reading Ordinance 18-5704 for Zone Change 963:** a zone change from Residential 9,600 (R-96) to Neighborhood Commercial (NC) on a 24,643 square foot parcel of land located at 4130 State Avenue. Skip King, owner/applicant; Bill Morgan, agent. Approval of the zone change and adoption of the findings of the 10 criteria.
- I. Final Plat Approval** of Zimmerman Acreage Tracts Subdivision.
- J. Bills and Payroll:**
1. March 5 and 6, 2018
  2. March 10, 2018
  3. March 14 and 16, 2018

Councilmember Cromley separated Item 1J2 in order to abstain

Councilmember Yakawich separated Item 1A3 for discussion.

Councilmember Brown separated Items 1J1 and 1J2 in order to abstain.

Councilmember Clark moved for approval of the Consent Agenda, with the exceptions of Items 1A3, 1J1 and 1J2, seconded by Councilmember Gibbs. Mayor Cole stated, in reference to Item 1H, that the staff report had not mentioned previous action that had taken place in order to bring the item to its final reading. Mr. Friday mentioned the first paragraph stated that Council had approved the zone change on first reading and a second reading was required. Mayor Cole added that the staff report for Item 1I had not mentioned there had been a preliminary plat approval or the conditions.

Mayor Cole called for a vote on the Consent agenda, with the exceptions of Items 1A3, 1J1, and 1J2. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich, in reference to Item 1A3, asked for clarification on how staff ensured bidder performance on projects. Dave Mumford, Public Works Director, stated that a performance bond was required on all projects. He added that there was also a one-year warranty in place for most projects that helped to ensure performance. Councilmember Yakawich asked if contractors could continue to bid on projects if they had had poor performance in the past. Mr. Mumford stated that a contractor could be removed from a bidders list, if necessary.

Mayor Cole asked if the City could request a longer warranty. Mr. Mumford stated that it could be extended if desired.

Councilmember Clark asked when construction would begin on the Central Avenue Improvement Project. Mr. Mumford stated it would begin shortly after the bid opening. He added that portions of Central Avenue would be closed during part of the construction.

Councilmember Clark moved for approval of Item 1A3, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item 1J1, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Brewster moved for approval of Item 1J2, seconded by Councilmember Friedel. On a voice vote, the motion was approved 9-0, Councilmembers Cromley and Brown abstained.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION approving the Tax Increment Finance Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mr. Friday stated there had been three work sessions discussing tax increment financing in rural districts. He stated that Council had directed staff, in November 2017, to draft a TIF Policy in order to make consistent informed decisions grounded in State Law and to provide direction to management and to the three urban renewal districts. He added that the draft policy document had been included in the March 9, 2018 Friday Packet and had been sent to the three districts. He stated that Council had been provided with the mark-ups that the Mayor had requested be made to the document.

Councilmember Yakawich asked if the three districts had been given an opportunity to convey their thoughts on the policy. Mr. Friday stated the draft had been provided to the three districts on March 9, 2018 and staff had been in contact with them.

Councilmember Brewster stated that Mr. McCandless had tried, unsuccessfully, to schedule a meeting with all three districts to discuss the policy changes.

Councilmember Friedel stated he did not approve of Section 2b. He stated that since the non-profits did not participate in property taxes, he questioned why they were able to participate in the TIF district funding. He added that he thought the \$5 return, in Section 2a was too low and should be \$10.

Councilmember Joy asked if state law allowed non-profit organizations to participate in TIF districts. Brent Brooks, City Attorney, responded affirmatively. Mayor Cole asked if other cities in Montana allowed non-profit organizations to participate in TIF districts. Mr. Brooks stated he was uncertain, but would email the various cities and forward the results to Council.

Councilmember Ronning stated the \$5 return seemed too standard to be utilized for all of the different types of projects. Mr. Friday stated the \$5 amount had been chosen by previous Councilmembers and could be applied to most projects, but was to be used as a minimum ratio. Councilmember Ronning questioned the need for a TIF Policy since there were State statutes already in place. Councilmember Brewster stated the initial goal was to try to bring the three districts into better alignment. He stated Council would be able to fine tune the policy before the final reading.

Councilmember Brown stated that it would be possible to delay the item if newer Councilmembers needed more time to review the policy.

The public hearing was opened.

- **Tim Goodrich, Billings Industrial Revitalization District, East Billings Urban Renewal District Coordinator**, stated he had sent a letter of opposition due to the confusion of the Mayor's redlined document changes. He stated a regular Council meeting was not appropriate to review the proposed changes. He suggested the three districts meet with some Councilmembers to review the changes.
- **Maisie Sulser, Downtown Billings Alliance, Downtown Urban Renewal District Member**, stated they welcomed the consistency the policy would bring. She stated they would like to focus on negotiating the management contracts, financial reporting consistencies between the three districts, and a consistent review process.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, stated the State statute did not mention private non-profits or advisory boards. He added there should be more board members and that Council should create an urban renewal agency similar to the one in Missoula. Mayor Cole asked if not requiring all board members to live within the district would be acceptable. Mr. Nelson stated he thought anyone should be allowed to serve on the board regardless of where they lived.
- **Steve Zier, South Billings Urban Renewal District**, stated he echoed the statements of Mr. Goodrich and Ms. Sulser. He added he would support the three districts and Councilmembers meeting in a less formal setting to discuss the policy.
- **Connie Wardell, PO Box 21432, Billings, Montana**, stated board members should be required to live in the area of the board on which they serve. She stated there were serious issues with the TIF Policy that needed to be addressed.
- **Randy Hafer, Downtown Billings Partnership**, stated the partnership had been involved in a new leadership search when the TIF Policy draft had been sent. He encouraged Council to give the districts a more time to review the policy.
- **Jeff Essmann, 3130 McMasters Road, Billings, Montana**, stated that by allowing the management to be done by outside contractors, there would be less money available for projects in the districts. He stated allowing grant money to be used by private property owners was not allowed anywhere in State statute. He added that Council should look at a 10 to 1 ratio, instead of the proposed 5 to 1 ratio.

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

Councilmember Brewster moved to delay approval until July 9, 2018, and have staff and Councilmembers meet with the three districts to discuss revisions, seconded by Councilmember Brown. Mayor Cole stated the public hearing had been closed and asked for clarification on how to proceed. Mr. Brooks stated the item could be re-advertised. On a voice vote, the motion was unanimously approved.

Mayor Cole called for a recess at 9:08 pm.

Mayor Cole called the meeting back to order at 9:15 pm.

**3. APPROVAL of One Big Sky Memorandum of Understanding, including a \$100,000 General Fund payment and approving the line of credit agreement between Downtown Billings Partnership and Big Sky Economic Development. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mr. Friday gave a brief overview of the One Big Sky Memorandum of Understanding (MOU). He stated the three elements were: 1. Approval of the MOU by the City, formally joining the City with the strategy partners, completing the development plan agreement and executing the work plan. 2. Approval of a \$100,000 contribution from the General Fund to the local portion of the overall effort to complete the development. 3. Approval of a line of credit agreement between the Downtown Billings Partnership (DBP) and Big Sky Economic Development (BSED) for funding of \$400,000 of the local contribution to the work plan.

Steve Arveschoug, BSED, briefly discussed different sections of the MOU. He stated the final draft of the development plan agreement should be presented to Council at the April 23, 2018, Council meeting and hoped to start the planning effort in May.

Councilmember Yakawich asked if other aspects of the plan, like the railroad, could be included in the plan. Mr. Arveschoug cautioned against getting too far outside the current scope to keep costs from increasing. He added that it may be possible during later discussions how to get pedestrians across the railroad tracks.

Councilmember Ewalt asked if the plan would still be credible in 5 years if it was put on the shelf. Mr. Arveschoug stated he did not think they would be putting the plan on the shelf.

Councilmember Ronning asked for clarification on the risks involved. Mr. Arveschoug stated he would always advise caution when using public resources. He added it was important to get the best value and felt that the risk was low due to the education and work that had been done. He added that the risk would come later when the City decided if they were willing to take action.

Councilmember Yakawich moved for approval of Item 3, seconded by Councilmember Brown.

Mayor Cole stated he thought the City was getting a good deal from Hammes Company and was in support of Item 3.

Councilmember Brewster referenced an article discussing redevelopment centers and data showing a decline in usage. He stated the book was called,

Convention Center Follies, by Heywood T. Sanders. He added he had called similar cities in economy, size and location and they all had convention centers. He stated all of them had to increase their support for the convention centers after they were built. Some funded the centers from their government funds and some taxed the entities that benefitted from the convention center.

Councilmember Cromley stated he admired many of the people that had spoken in favor of Item 3, but he would not vote in favor. He added it was hard to understand spending \$2 million for a study. Councilmember Cromley added he thought the project was stifling other projects, such as an 80,000 square foot convention center on the west end.

Councilmember Ewalt stated that property owners were bearing the brunt of funding the project. He added that the Metra cost \$3 million in public funds every year and worried that OBSC would put the City in a similar situation.

Councilmember Joy stated the City needed to think about how they could attract people to the work force and voiced her support of Item 3.

Councilmember Ronning stated she believed in the community and the people who had made the City into what it was. She added that the City needed to invest in the community and the majority of people she had spoken to were in support of OBSC.

Councilmember Brown stated he had recently visited Missoula and had been very impressed with the downtown area. He added that it was a vibrant, exciting and advancing city and he was hopeful that Billings could make steps towards similar growth. Councilmember Brown stated he would support moving forward with the project.

Councilmember Gibbs stated the City needed to look toward the future and he was in favor of the project.

Councilmember Clark asked if TIF money could be used for other projects and asked for clarification on how staff was going to track how the money was spent. Mr. Friday stated TIF funding could be expended within and around the entire TIF district area because it would benefit the district. He added that staff and the districts planned on tracking the funds very closely. Councilmember Clark asked if TIF money could be received from one group, but given to another group. Mr. Friday stated BSED was acting on behalf of the strategy partners for payment of invoices. He added they would be making the payments on behalf of the City and the funds being used would end up benefitting the district.

Councilmember Clark asked what part of the work Hammes Company would be performing. Mr. Arveschoug stated they would be contracting with architects, engineers and financial analysts. He added the City would not be paying anything for their staff time, expertise or travel expenses. Councilmember Clark stated he had concerns about

using money from the General Fund for the project when the money should be used for public safety.

Councilmember Friedel stated that staff negotiations would soon begin and would cost the City more money. He added that most of the people he had spoken to were not in support of OBSC. Councilmember Friedel stated taxes were always increasing and questioned when the taxpayer would win. He continued that the government should provide infrastructure needs to projects and the private sector should pay for OBSC.

Councilmember Yakawich stated he had originally opposed the project, but had renewed confidence in the project and the people behind it.

Mayor Cole called for a vote on Item 3. On a roll call vote, the motion was approved 6-5, Councilmembers Cromley, Brewster, Ewalt, Friedel and Clark voted in opposition.

**4. APPROVAL of the creation of a Council Committee to review RFP responses from executive recruitment companies. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mayor Cole stated that he, Councilmembers Brewster, Clark, Gibbs, Joy and Yakawich had volunteered to be on the committee. Councilmember Ewalt moved for approval of Item 4, seconded by Councilmember Friedel. 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 are limited to 3 minutes. Please sign the roster located on the cart at the back of Council chambers or at the podium.)*

The public comment period was opened.

- **Joe Holden, owner of Stillwater Building, 316 North 26<sup>th</sup> Street, Billings, Montana:** encouraged Council to consider the Stillwater Building for their future building needs.
- **Lief Welhaven, 4637 Neibauer Road, Billings, Montana:** stated the Stillwater Building would be a great deal for the City and the County. He stated there would be a tour of the building on Wednesday, April 11<sup>th</sup>, at 1:00 pm.

There were no further 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 11:15 p.m.



CITY OF BILLINGS

BY: William A. Cole  
William A. Cole, Mayor

ATTEST:

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