

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

February 24, 2020

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 5:30 p.m. and served as the meeting's presiding officer. Councilmember Neese gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Shaw, Yakawich, Neese, Ewalt, Joy, Choriki, Purinton, Ronning, Boyett and Brown.

### MINUTES:

The minutes for the February 10, 2020 meeting were pending.

### COURTESIES:

Mayor Cole announced the parameters for which the meeting and public comment would be heard, including reducing public comment from 3 minutes to 2 minutes.

### PROCLAMATIONS:

There were no proclamations.

### COUNCIL REPORTS:

Councilmember Yakawich reported he attended a recent USS Billings meeting. He stated they were going forward with forming a non-profit. He mentioned that a crew from the USS Billings would be in Billings for a visit in April. He encouraged anyone interested to attend monthly meetings.

### ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski stated there were no ex parte communications in the notebook.
- Mr. Kukulski advised that staff's recommendation for Consent Agenda Item 1B1 was that it be removed from the agenda.
- Mr. Kukulski stated that staff recommended that the public hearing be held concerning Regular Agenda Item 10, but that there be no action taken as the property owner paid the abatement costs after the agenda was published and the public hearing was noticed.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 4 ONLY.**  
**Speaker sign-in required.** (Comments are limited to three two (3)(2) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the 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.

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

**1. CONSENT AGENDA -- Separations:**

**A. Mayor Cole recommends that Council confirm the following appointments:**

	Name	Board/Commission	Term	
			Begins	Ends
1	Becky Rogers	Billings BID	02/24/20	12/31/23
2	George Maragos	Billings BID*	02/24/20	12/31/20
3	David Ruff	Board of Appeals - Electrician	02/24/20	12/31/21
4	Miles Borges	Board of Appeals - Engineer	02/24/20	12/31/22
5	Thomas Staycheff	Board of Appeals*	02/24/20	12/31/22
6	Trina White	City Zoning Commission	02/24/20	12/31/23
7	Shane Noble	Community Development Low Mod	02/24/20	12/31/23
8	Hannah Olson	Community Development Low Mod	02/24/20	12/31/22
9	Larry Mathew	Billings Parking Board	02/24/20	12/31/23
10	Heidi Jensen-Christison	Planning Board - Ward II	02/24/20	12/31/23

\*2 Unexpired term of Eddie Schmidt

\*5 Unexpired term of Brian Hoerner

**B. Bid Awards:**

1. ~~W.O. 20-27: WRF Fill Material Removal Project. (Opened 2/11/20)  
Recommend Warren Transport; \$128,853.~~

**C. Change Order No. 3, Centennial Park Development, FirstMark Construction; \$4,543.90.**

**D. Amendment No. 1, Scheduled Airline Operating Agreement and Terminal Building Lease with American Airlines, Inc.; Approx. \$172,000.**

**F. Professional Services Contract for Billings Adult Misdemeanor Treatment Courts for one (1) year with four (4) one-year options to renew; Community Solutions, Inc.; not to exceed \$44,400 per year.**

- G. Purchase and Installation** of compatible CCTV camera system components for Police Evidence Facility, TelNet Systems; \$159,144.92.
- H. Donation** to the Fire Department from Zimmerman Ace Hardware Store of three (3) Traeger pellet grills; \$3,599.97.
- I. Perpetual Right-of-Way Easement** from Judith Deines to the City for construct a turn lane at the intersection of Grand Avenue and Grand Peaks Drive.
- J. Resolution of Intent 20-10849** to create SID 1408, Wanigan Subdivision Paving, and set a public hearing date for March 23, 2020.
- K. Resolution of Intent 20-10850** to create SID 1413, Winged Foot Road and Greenbriar Road Improvements, and set a public hearing date for March 23, 2020.
- L. Resolution of Intent 20-10851** to create SILMD 326, King Avenue East Streetlights, and set a public hearing date for March 23, 2020.
- M. Bills for the Weeks of:**
  - 1. January 21, 2020
  - 2. January 27, 2020

Councilmember Ewalt separated Item 1C for discussion.

Councilmember Brown separated Item 1M2 in order to abstain.

Councilmember Ewalt moved for the removal of Consent Agenda Item 1B1 from the agenda as recommended by staff, seconded by Councilmember Neese. On a voice vote, the motion was approved unanimously.

Councilmember Yakawich moved for approval of the entire Consent Agenda, with the exception of Items 1C and 1M2, seconded by Councilmember Ronning.

Mayor Cole in reference to Consent Agenda Item 1A1, stated that for the first time in a long time there were finally no vacancies of the boards and commissions.

Councilmember Yakawich complimented Municipal Court Judge Sheila Kolar on Item 1F, in negotiating an agreement for the Adult Treatment Court with Community Solutions. Judge Kolar provided an explanation of the services provided to participants in treatment court by Community Solutions.

Councilmember Ewalt in reference to Consent Agenda Item 1G, asked Police Chief St. John if staff had research the costs of getting a whole new system, rather than

upgrading the existing system. Chief St. John stated they had not and it was preferred to stick with the system they had.

Councilmember Ronning in reference to Consent Agenda Item 1H, acknowledged and thanked Zimmerman Ace Hardware for the donation of 3 Traeger grills to the Fire Department.

On a voice vote, the motion to approve the unseparated Consent Agenda Items was approved unanimously.

Councilmember Ewalt, in reference to Consent Agenda Item 1C, stated that the 60-day delay to Centennial Park improvements added about a 40% increase in the time the project should have taken. He asked Michael Whitaker, Parks and Recreation Director, how long would it be before dogs could use the park. Mr. Whitakers stated that the consultants recommended waiting until next spring to resume construction on the project. He continued that the seeding would occur in the spring and then traffic on the seeded area could begin in the fall. Councilmember Ewalt stated this was six months later than originally planned. He expressed his concern that the lowest bidders on projects may not put enough effort, causing overtime expenses, etc. to make up for the low bid. Mr. Whitaker stated much of the delay was weather-related.

Councilmember Neese asked if delays were decided by the contractor or did delays have to be approved by the Parks Department. Mr. Whitaker stated they were approved by Parks with the recommendation of the consultants.

Councilmember Joy moved for approval of Consent Agenda Item 1C, seconded by Councilmember Purinton. On a voice vote, the motion was approved 9 to 2, Councilmembers Ewalt and Neese voted in opposition.

Councilmember Yakawich moved for approval of Consent Agenda Item 1M2, seconded by Councilmember Neese. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND FIRST READING ORDINANCE amending Section 2-551-552, Billings, Montana City Code (BMCC). Human Relations Commission (HRC) recommends approval. (Action: approval or disapproval of HRC recommendation.)**

Kody Christensen-Linton, HRC Chair, provided a presentation supporting the amendments to the City Code that simplified and clarified the language to that section of the City Code. He invited the Council to attend any future Human Relations Commission meetings.

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

Councilmember Shaw moved for approval of amending Section 2-551-552, BMCC, seconded by Councilmember Ronning.

Councilmember Ronning thanked the volunteers that serve on the committee. Councilmember Choriki voiced his support stating that any time a list is made about who gets what rights and protections, it is wrong. He continued that all are human beings and all human beings should have the same rights.

On a voice vote, the motion was approved unanimously.

**3. PUBLIC HEARING AND RESOLUTION 20-10852 FOR ANNEXATION 20-01: property described as Lot 22-A of Amended Lots 1 and 22, Block 2 of Certificate of Survey No. 2727M, generally located northwest of the intersection of Shiloh Road and Central Avenue. Amy Iwata, Trustee of Amy Iwata Revocable Trust, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)**

Monica Plecker, Planning Division Manager, provided a brief PowerPoint presentation. She stated that the following three items on the agenda all affected the same property.

Councilmember Purinton asked about whether public safety departments could service the annexed area. Ms. Plecker responded that all departments are asked for input on City services to a proposed annexation area. She continued that the Fire Department was committed to provide service to the area no matter what because it was contained in the BUFSA area. She stated there is a police presence in the area because there is patrolling on Shiloh Road and in the Shiloh Commons area. Police Chief St. John stated he gave a cautionary message about annexing the property because the Police Department is spread thin. He stated the Police Department can provide services to the area, but additional officers are needed. Fire Chief Rash, echoed the concerns of the Police Chief in that the more the City extends its boundaries, the more it will be necessary to add additional public safety staff and resources.

Councilmember Neese asked City Attorney, Brent Brooks, whether the City was liable for anything considering the statements made by the Chiefs. Mr. Brooks stated the City was in compliance with the annexation laws.

Councilmember Ewalt asked if nearby neighbors are notified about a property being annexed. Ms. Plecker stated they are not specifically noticed, but a notice is published in the Yellowstone County News and an orange sign is posted on the property alerting nearby neighbors of the proposed annexation. She continued that for a Special Review, however, property owners within 300 feet of the external boundary lines were mailed notices.

Councilmember Chokiri asked why there were four separate items on the same piece of property. Ms. Plecker explained that it is multi-step process and the property needed to be annexed first. She stated that then a follow up to expand the ward boundaries was needed so the newly annexed property would have Councilmembers to represent them. She stated that the Buggy Bath Car Wash owners had been forthcoming and it made it easier to enter into a development agreement with them and hear the Special Review all at the same time.

Councilmember Yakawich asked how to determine when an annexation will stretch public safety resources too far. Ms. Plecker stated there was an annexation committee comprised of department staff that reviewed the areas to be annexed. She continued that the annexation map is reviewed every two years and recommendations for additional future annexations and changes to the map are considered.

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

Councilmember Boyett moved for approval of Item 3 for annexation, seconded by Councilmember Purinton. On a voice vote, the motion was approved unanimously.

**4. DEVELOPMENT AGREEMENT with Buggy Bath Car Wash for infrastructure improvements at the northwest corner of Central Avenue and Shiloh Road. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Debi Meling, Staff Engineer, stated a development agreement need to be entered into with the developer of any property. She stated that everything contained in the development agreement was in keeping with all other development agreements, except for the water and sewer lines in Shiloh Road. She said the developer would need to pay the City for the infrastructure that fronts this property. She stated there would be three entrances/exits on the property. Ms. Meling explained that developers pay for the installation of infrastructure and when they sell the property they receive reimbursement for those infrastructure costs.

Councilmember Purinton moved for approval of Item 4 as recommended by staff, seconded by Councilmember Boyett. On a voice vote, the motion was approved unanimously.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward V to include recently annexed property in Annexation 20-01: an approximate 5.818 gross and 4.708 net acres more or less, described as Lot 22-A of Amended Lots 1 and 22, Block 2 of Certificate of Survey No. 2727M, generally located northwest of the intersection of Shiloh Road and Central Avenue. Amy Iwata, Trustee of Amy Iwata Revocable Trust, owner. Staff recommends conditional approval. (Action: approval or disapproval of staff**

**recommendation.)**

Monica Plecker, Planning Division Manager, explained this item required a second reading.

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

Councilmember Shaw moved for approval of Item 5, seconded by Councilmember Neese. On a voice vote, the motion was approved unanimously.

**6. PUBLIC HEARING AND SPECIAL REVIEW 981: a special review to allow a stand-alone car wash facility, in a Neighborhood Commercial (NC) zone, on a 4.708 acre parcel of land, described as Lot 22A, Block 2 of Certificate of Survey 2727M, and generally located on the Northwest corner of Shiloh Road and Central Avenue. Amy Iwata, Trustee, owner; Bryan Alexander, Sanderson Stewart, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)** \* *Quasi-Judicial* – Caution must be exercised concerning any potential ex parte communications with interested parties. This policy-making body may exercise approval or other adjudication authority which is "judicial" because it directly affects the legal rights of a person.

Karen Husman, Planner, provided a PowerPoint presentation and reviewed the criteria to consider. She reminded Council that Special Reviews may be conditioned to mitigate possible impacts to surrounding properties. She reviewed the conditions for the car wash.

Councilmember Choriki asked if the annexation was in line with the City's infill policy. Ms. Husman stated it was a very good example for an infill property.

**Bryan Alexander, agent of Sanderson Stewart**, addressed the questions about ownership of Buggy Bath Car Wash and entrances/exits to and from the property. He stated that in the development agreement with the City, the developer agreed to do a traffic impact study of this area.

Councilmember Yakawich asked about attendance at a hearing and notice given to nearby property owners. Mr. Alexander responded that the developer had considered another piece of property near this one, but there were access problems. He stated that they received one written comment in which the property owner expressed their support to have the car wash on this property, but did not support it on the other piece that had been considered.

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

Councilmember Joy moved to approve Item 6 with conditional approval and the findings of the three criteria as recommended by the Zoning Commission, seconded by Councilmember Purinton. On a voice vote, the motion was approved unanimously.

**7. PUBLIC HEARING AND RESOLUTION 20-10853 creating SID 1410, Annafeld Subdivision, 2nd Filing, Parks and Streetlights. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Debi Meling, Staff Engineer, stated the SID was similar to that which was passed for Annafeld Subdivision, 1<sup>st</sup> Filing. She stated there were no protests.

Councilmember Ewalt asked whether the SID included funding for future streetlight maintenance. Ms. Meling stated that bond counsel had helped staff draft language that would be included in new districts. She clarified, however, that replacement of aging streetlights later would be done under a SILMD, maintenance district, and not under this SID.

**Greg McCall, developer**, addressed the Council and explained how the community of Annafeld would own their streetlights, rather than paying Northwestern Energy for an indefinite time period.

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

Councilmember Brown moved for approval of Item 7, seconded by Councilmember Boyett. On a voice vote, the motion was approved unanimously.

**8. PUBLIC HEARING AND RESOLUTION 20-10854 approving and adopting the budget amendment moving the Castle Rock Master Plan into FY2020 from FY2021 per Council Initiative. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Andy Zoeller, Finance Director, stated that per Council initiative, the budget amendment was being made. He stated if the resolution was not approved, however, the item would stay in the FY2021 budget. He advised that in the "Alternatives Analyzed" section of the staff memo, a statement was incorrectly made referencing that, "disapproval may be in violation of state law". He stated that was an error and to disregard the statement. A correction to the official resolution would be made prior to the Mayor and City Clerk signing it.

Councilmember Joy questioned why a master plan was in the capital improvements plan and not considered Operations and Maintenance. Mr. Zoeller stated it is usually in O&M. Councilmember Joy continued with questions about cash in lieu dollars. Michael Whitaker, Parks and Recreation Director, stated that cash in lieu dollars could be used for master plans and/or construction.

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

Councilmember Neese moved for approval of Item 8, seconded by Councilmember Ewalt.

Councilmember Joy stated she would not support the motion because items such as master plans should come from O&M accounts, not from Capital in which development should occur.

Councilmember Ronning stated she understood Councilmember Joy's concern and she agreed to a point, however, Castle Rock Park was a large, fairly under-developed property with many residential areas surrounding it. Councilmember Ronning stated she wished the Heights residents would start a fundraising campaign for the park, but it just was not happening. She continued that she wanted to see the park developed and be equipped and the updated master plan was the first step to accomplishing that goal. She would support the motion.

Councilmember Neese stated he originally voted against moving the master plan up a year, but he would support the motion now. He thanked the Council for their support in approving the motion.

Councilmember Choriki stated that Council was recognizing there was need to develop its City parks and he encouraged Council to support funding for Parks in the next budget cycle.

Mayor Cole gave a historical view of the City's lack of park development and encouraged the Council to increase Park District No. 1 taxes and earmark funds to leverage private donations. He stated it needed to be a public/private partnership.

On a voice vote, the motion was approved 10-1, Councilmember Joy voted in opposition.

**9. PUBLIC HEARING AND RESOLUTION 20-10855 assessing the cost of cutting and/or exterminating weeds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Wyeth Friday, Planning Director, explained the City's Code Enforcement weed cutting and extermination policies and procedures. He stated that when property owners do not respond to notices that they need to cut their weeds, etc., then the City cuts them for them and sends the property owners a bill for the costs of doing it. If the property owners do not pay the bill, then Code Enforcement brings the assessments to the Council for approval to place the costs onto the property owners' taxes. He stated that takes place twice a year. He stated all property owners were given notice about the public hearing 20 days prior and were given instructions of how to protest the

assessment. Mr. Friday reported that the amount of cases for 2019 was reduced from 2018 and the numbers fluctuate with moisture levels the area receives.

Councilmember Yakawich questioned who was responsible for fires that may result in a property owner not cutting their weeds. Mr. Friday stated he did not have an answer to that question.

Councilmember Brown asked if most of the property owners owned property in Billings, but lived elsewhere. Mr. Friday stated that was the case for some of the properties.

Councilmember Ronning pointed out that the names and addresses of the offenders was made public through the publishing of the Agenda packet, and for her, it would be embarrassing to have her name listed publically.

Councilmember Neese asked if the properties assessed were repeat offenders. Mr. Friday stated there was a reduction in the number of repeat offenders, generally. He continued that many of the properties only required one cutting. Councilmember Neese asked if the fee covered the cost of service. Mr. Friday responded that this service was coordinated with the Parks Department and the fee reflected the correct cost of service amount.

Councilmember Purinton asked for the criteria for weed cutting. Mr. Friday stated rules and cameras are used. He stated the pictures taken are time-stamped and used as evidence of the length of the weeds.

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

Councilmember Purinton moved for approval of Item 9 as recommended by staff, seconded by Councilmember Boyett. On a voice vote, the motion was approved unanimously.

**10. PUBLIC HEARING AND RESOLUTION assessing the cost of abatement for property located at 101 N. 24<sup>th</sup> Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

City Administrator, Chris Kukulski, addressed the Council and stated that the cost of the abatement at 101 N. 24<sup>th</sup> Street, was paid and therefore the assessment was not warranted. He advised that the public hearing should continue as it was noticed, however, Council did not need to approve the resolution to assess the cost of abatement as the City had received payment.

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

Councilmember Ewalt asked Wyeth Friday, Planning Director, whether the next step was demolition of the property because it was in very bad condition. Mr. Friday stated the owner planned to refurbish it, but had not done so and it had been a very long process just to get the property secured. He stated that Code Enforcement continues to work on the situation.

Councilmember Choriki asked if there were concerns with the interior of the building. Mr. Friday stated at this time Code Enforcement is only concerned about securing the outside of the building so it does not become a safety hazard to the community.

Councilmember Neese inquired whether the cost of the abatement included legal fees and staff time. City Attorney, Brent Brooks, stated that State statutes do allow local governments to recoup those expenses.

No further action was taken.

Mayor Cole called for recess at 7:15 PM.

Mayor Cole called the meeting back to order at 7:30 PM.

**PUBLIC COMMENT on “NON-AGENDA ITEMS”. Speaker Sign-in required.**

*(Restricted to ONLY items not on this printed agenda. Comments are limited to three (3) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

The public comment period was opened.

- **Ira Preshinger, 309 S. Second Street, Joliet, Montana**, stated he lived in Joliet and was a member of the Joliet City Council. He voiced his support of a Public Safety Mill Levy for Billings. He stated Joliet was working with Carbon County to build a jail to house 100 inmates. He continued that Carbon County was paying \$20,000 per month to house prisoners elsewhere in the state, including Yellowstone County. He provided an email address for any questions - [townofjoliet@gmail.com](mailto:townofjoliet@gmail.com).
- **Anna O'Donnell, 131 Avenue B, Billings, Montana**, stated Fire Station 8 needs to be in the Public Safety Mill Levy for the Heights area.

The following citizens spoke in favor of a Non-Discrimination Ordinance, also referred to as a Welcoming Diversity Ordinance:

- **Robyn Driscoll, former Yellowstone County Commissioner**, offered statistics of the percentage of LGBTQ residents in Billings and the State of Montana. She stated there was a large percentage of Billings' citizens who were not protected from discrimination under the current State laws. She encouraged Council to pass an NDO.

- **Shellie Mann, 1006 Mary Street, Billings, Montana**, stated her hospitality business depended on a welcoming community. She reminded Council that in 1983 Billings stood up to hate and violence in the community and became famous for it. She stated there was a clear threat to the Billings' economy if it did not show a support of diversity.
- **Uri Barnea, 1104 Poly Drive, Billings, Montana**, stated he would speak from the perspective of a minority living in Billings. He shared his story about being a Jewish immigrant who moved to Billings to serve as the Director of the Billings Symphony. He described many hateful acts and threats against his life and that in which his family members experienced when they first moved to Billings. He stated Billings would suffer a negative economic impact if it did not welcome diversity.
- **Judy Hanrahan, 3100 Valley View Drive, Billings, Montana**, stated that the public's fear about restroom usage by transgender persons was similar to how people reacted to black persons using restrooms for whites only before desegregation and those fears were unfounded. She stated prejudice was taught.
- **Amanda Nelson, 310 N. 27<sup>th</sup> Street, Billings Montana**, described discrimination experienced at a place of employment and encouraged Council to pass an NDO.
- **Charlene Sleeper, 308 Alderson Avenue, Billings, Montana**, liason for the Raven Project and Murdered and Missing Indigenous People, stated there was a lack of "sense of belonging" for youth LGBTQ individuals in Billings and encourage Council to place an NDO on a future agenda.
- **Kody Christenson-Linton, 10 N. 35<sup>th</sup> Street, Billings, Montana**, stated he was an elementary school teacher and avid community volunteer. He continued that no community could sustain without diversity.
- **Dominic Lucero, Billings, Montana**, spoke about depression, anger, hate and suicide among the LGBTQ community. He voiced his support for sending a message of hope by passing a WDO/NDO.
- **Kai Ardent, Billings, Montana**, stated other cities around Montana have passed similar NDOs and by Billings passing one, it would give the LGBTQ community a sense of safety and belonging.
- **Jacqueline Owen, Billings, Montana**, spoke about being a parent of a child who identified as LGBTQ. She stated that while her home is a safe place, Billings needed improvement. She asked that the NDO be placed on a future agenda.
- **Ceci Bentler, 302 Beverly Hill Boulevard, Billings, Montana**, thanked Council for providing extra security measures at the meeting. She spoke about fear of having access to a home and a job and what that must feel like for members of the LGBTQ community. She likened the non-passage of an NDO to past times in history when blacks and women were not allowed certain civil rights.
- **Zac Christensen-Linton, 10 N. 35<sup>th</sup> Street, Billings, Montana**, stated he was speaking for the LGBTQ community and his niece. He stated an NDO would change behaviors, not hearts and minds, but the Council could help make that change.

- **Tawnya Schoulitz, 2031 Country Manner Boulevard, Billings, Montana,** stated when she researched moving to Billings, her research did not consider whether members of the LGBTQ community would be welcomed in Billings. She stated her daughter would have to make decisions about where to live post college graduation and that may not be in Billings. She asked for equality for all.
- **Danielle Egnew, 518 Avenue F, Billings, Montana,** stated she and her wife have businesses in the downtown corridor and she is a fourth generation Billings' resident. She stated that while she was not going to leave Billings, many others in the LGBTQ community were and others still would not come to Billings to live without an NDO. She stated Billings needed to evolve and could do better.
- **Shelley Thomson, Billings, Montana,** stated she and her partner are involved volunteers in several organizations, taxpayers and homeowners. She stated she was astounded that 6 years ago she supported the passage of an NDO and she was doing so again. She gave the example of the history of women suffrage and that women were now serving on the City Council.
- **Don Havig, Billings, Montana,** spoke about defending members of the LGBTQ community against a society that does not welcome them. He quoted the Fourteenth Amendment and stated it was wrong for Council to be asked to make a decision based on moral judgment. He continued that all men were created equal.
- **Adrienne (inaudible), 939 14<sup>th</sup> Street West, Billings, Montana,** stated there was a lot of talk about First Amendment rights, but it appeared many people forgot some of what it said.
- **Kristen Prewett, 5306 Lazy Willow Lane, Billings, Montana,** stated she worked for Billings Clinic Heights and served the transgender population. She quoted the Billings Clinic's website, indicating their providers care for all individuals and are devoted to providing excellent care to all individuals. She stated they were committed to creating diversity amongst their employees and individuals who faced job and housing insecurities were at risk for mental and physical poor health outcomes. She pointed out that Montana rated amongst the highest states for suicide. She continued that members of the LGBTQ community were at a higher risk of suicide. She stated the WDO was too important not to continue the conversation.
- **Phillene Whitman, Billings, Montana,** stated she was a licensed addiction counselor for the urban Indian population. She stated when she arrived in Billings she was homeless and a recovering addict. She stated she found salvation in Billings and she stated the NDO provided basic human rights.
- **Jace Dyckman, 1422 Avenue C, Billings, Montana,** stated he moved away from Billings many years ago to the Seattle area where he found community. He continued that he had returned to Billings and witnessed the struggles Billings has with growth. He spoke about addressing systemic trauma and building a culture in the community. He stated that having an NDO/WDO would provide protections.
- **Kelly Kaufman, 635 Boca Raton Rd., Billings, Montana,** stated she was a registered nurse and that Billings was the last large city in Montana that did not have an NDO in place. She continued that when individuals believe they have

been discriminated against, they exhibit signs of poor physical and psychological health. She asked why the City of Billings would choose to not protect the citizens it serves and emphasized that all citizen's rights should be served equally.

- **Dennis Gaub, 6007 Catherine Court, Billings, Montana**, stated he had lived in Gallatin County for a number of years before moving to Billings. He continued that he wanted Billings to not only be the largest city in Montana, but also the best. He continued he had been a *Billings Gazette* reporter back during the "Not in our Town" campaign and he had great respect for the City's leaders during that time. He supported the passage of an NDO/WDO.
- **Dwight Welch, 4012 South 37<sup>th</sup> Street, Billings, Montana**, stated he was a campus minister with United Campus Ministries at MSU-B and was with the OUT organization. He stated that potential students of the LGBTQ community did not see Billings as a safe and welcoming community because it did not have an NDO. He stated it was a roadblock for students considering attending college in Billings. He stated that many college students remain in the towns where they went to college, but Billings would lose those students if they feared being discriminated against for jobs and housing.
- **Jeff Bottrell, Billings, Montana**, stated he was a Billings Public Schools teacher and provided Council with a letter signed by 42 other teaching professionals. He stated he was the club advisor for the Senior High School Gay/Straight Alliance at Senior High School who were serious about ending bullying and discrimination against the LGBTQ+ student population. He stated discrimination and prejudice amongst the student population was real and it was prevalent. He stated Billings was sending the wrong message to its youth by not passing an NDO/WDO and asked that the conversation continue.
- **Shaun Ostermiller, 28 Burlington Avenue, Billings, Montana**, stated there was evidence that communities that practiced inclusion had stronger economies.
- **Connie Genger, 1706 Wellington Place, Billings, Montana**, stated she served as the Vice President of the Human Relations Commission, and last year worked with the Billings Public Library to provide many children's literature pieces that spoke about inclusion and diversity. She said the Commission was working with the Billings Public Library on a project that would bring awareness to people's biases. She continued that it only made sense that Billings would want to gain understanding and diversify.
- **Rich Lammers, 2136 Fairway Drive, Billings, Montana**, stated he was an emergency room physician for St. Vincent's Hospital and stated he and his fellow physicians care for all their patients. He stated having an NDO/WDO would help with recruiting efforts for qualified medical officials.
- **Mike Mulberry, 1241 Avenue F, Billings, Montana**, stated he was a pastor at Billings First Congregational Church and reminded everyone that there was a religious exemption to the proposed ordinance. He continued that the opposite of fear was love and encouraged all to love thy neighbors. He said that love of a sinner was not about stacking the deck against their basic needs.
- **Erika Willis, Executive Director of Tumbleweed, Billings, Montana**, asked Council to consider passing a NDO/WDO to put the community at the top. She

stated that Tumbleweed housed 700 youths that experienced homelessness and the percentage of youths identifying as LGBTQ was 40%. She continued that many of them were homeless because of rejection from their families. She stated it was an equality issue and the City of Billings needed to respond.

- **Mike (inaudible), Billings, Montana**, spoke about Montana's high suicide rate and the at-risk groups isolated and under-served. He stated Council be a "first responder" by passing a WDO and saving a life. He said our Constitution demands equal treatment.
- **Kim Woeste, 2542 Lewis Avenue, Billings, Montana**, stated she serves as the chaplain at Rocky Mountain College and she stands with the countless students who share their experiences of hate and biases. She continued that by not passing an NDO, it negatively impacted conferences and enrollment.
- **Father Gary Wadingham, 1426 Teton, Billings, Montana**, stated he had 5 adopted sons and they have identified as all different sexualities but it did not matter. He shared that a friend of his was a gay pastor and had received numerous threats. He continued that the people who made those threats were not concerned about the rights of bakers, photographers, etc., but were people who let fear develop into rock hard hatred. He encouraged Council to give a little light by passing an NDO.
- **Catherine Card, 2815 4<sup>th</sup> Avenue South, Billings, Montana**, stated she was a retired pastor. She quoted scripture and stated everyone was to love one another. She stated that the testimonies given by those calling themselves people of faith were speaking exactly the opposite of what the scriptures said they were to do.

The following citizens spoke against a Non-Discrimination Ordinance, also referred to as a Welcoming Diversity Ordinance:

- **Emily Larson, 1515 Cheryl Street, Billings, Montana**, stated she had witnessed discrimination toward friends of hers who were LGBTQ and it was not right. She said the Human Rights Commission enforced protections and that an NDO would allow more rights to LGBTQ members that was over and above the rights given to the rest of society.
- **Hannah Bailey and Thomas Bailey, 3963 Cambridge, Billings, Montana**, stated an NDO would threaten their businesses and make them perform services that were against their moral compass.
- **Doug Donough, 3077 Avenue D, Billings, Montana**, shared a family story about a son in which they had lost contact. He stated an NDO was one-sided and would be against his beliefs and discrimination was wrong no matter who you were.
- **Emily KoKot, 1511 Poly Drive, Billings, Montana**, opposed an NDO due to public safety concerns for women and girls in restrooms and locker rooms by men who identified as women.
- **Wendy Donough, 3077 Avenue D, Billings, Montana**, stated she was a nurse practitioner and concerned about the effects of an NDO on the medical community. She stated medical staff would be required to perform surgeries and

administer or prescribe medications that would support sex changes, etc. She voiced her concerns about taking radical measures on children through medications and surgeries that would harm them irreparably.

- **Tom McGillvray, 3642 Donna Drive, Billings, Montana**, stated there was no correlation to growth associated with whether a city had an NDO or not. The Montana cities that had NDOs had different economic drivers than Billings. He stated Billings' citizens were concerned about public safety.
- **Terry Forke, 341 Rolling Hills, Billings, Montana**, stated the NDO infringed on the constitutional rights of everyone and gave examples of photographers who refused service to same sex couples and were sued. He suggested Council issue a declaration stating the City of Billings was against discrimination of any kind.
- **Cary Smith, 6133 Timbercove Drive, Billings, Montana**, stated he was a Senator and involved in the State legislature. He stated that the legislature had observed other states that had NDOs and saw the effects of those on citizen's religious beliefs and businesses.
- **Jeff Laszloffy, Montana Family Foundation, 112 Frist Avenue South, Laurel, Montana**, provided handouts to the Council. He stated there were many legal issues to consider and gave examples of women raped by men who later claimed to identify as women and wanted to be housed in the women's section of the jail. He stated that 20 states had NDOs and no states had passed NDOs in the past decade. He stated that Montanans are concerned about roads and public safety.
- **Richard Schwartz, 2301 Terry Avenue, Billings, Montana**, stated he was a local pastor and that an NDO would open churches, schools, government to unnecessary, costly lawsuits. He stated an NDO forced those whose beliefs do not support the LGBTQ lifestyle to conduct business with them or risk being sued. He continued that it went against people's religious freedoms and was unconstitutional.
- **Keith Myhre, 234 Yellowstone Avenue, Billings, Montana**, stated there were already protections in place and an NDO was unnecessary.
- **Bernadette Brown, Billings, Montana**, asked how one proved their sexuality. She stated the NDO allowed individuals to manipulate the system to benefit their own agenda.
- **Jacob Schreiner, Laurel, Montana**, stated he was a pastor and the NDO would allow for attacks on religious freedoms and beliefs.
- **Steve Schreiner, 65 Evergreen, Joliet, Montana**, stated he was a pastor and stated that an NDO would be used as a weapon toward and lead to the persecution of the faithful.
- **Dick Pence, 4307 Palisades Park, Billings, Montana**, stated he had attended every minute of every hour of the last public meetings held concerning an NDO. He stated he wished the Council luck in making a difficult decision.
- **Lee Llewellyn, 1038 N. 30<sup>th</sup> Street, Billings, Montana**, stated he opposed the WDO/NDO. He stated cases of discrimination were rare and diversity was already in Billings. He said it would not solve problems, but would create problems.

- **Will (inaudible), 1301 Grand Avenue, Billings, Montana,** stated there were already protections for all under the Constitution. He stated that tax incentives, parks and strong schools would bring people to Billings. He stated he was a minority and had not experienced discrimination while living in Billings.
- **Larry Beneker, 518 Jemstone Drive, Billings, Montana,** stated he did not hate the LGBTQ community and quoted scripture and stated they should ask for forgiveness.
- **Gwen Sieler, 4431 Loma Vista Drive, Billings, Montana,** stated she had not witnessed discrimination toward the LGBTQ community and an NDO was not necessary.
- **Larry Seekins, 380 Camel Place, Billings, Montana,** stated he reviewed the proposed ordinance and wondered who would determine what was a wrongful act and how it would be enforced. He suggested that a welcoming declaration or proclamation be implemented instead of an ordinance.
- **Susan Smith, 6133 Timbercove Drive, Billings, Montana,** stated she was the mother of 6 children and 33 grandchildren. She stated she was concerned about hearing the testimony of others who spoke about suicide rates and depression among the LGBTQ community. She stated an NDO would place a Band-aid on their circumstances and was not the answer. She continued the problem was caused by the systematic destruction of the family, which created confusion amongst the youth.
- **Lester Hall, Pastor of New Life Church, Billings, Montana,** quoted scripture. He stated his concern was when man's laws took over God's laws and created problems amongst people. He stated that one could not be a Christian and hate someone. He stated Billings was a wonderful place and did not need an NDO.
- **Robert Nelson, 2949 Unerad Avenue, Billings, Montana,** thanked the Council for their service and apologized to members of the audience that felt hurt. He continued that he would be dead if it was not for the love of Jesus.
- **Ed Halland, 103 East Bridger Road, Bridger, Montana,** stated he was in favor of equal rights for everyone, but not special rights for only some. He stated NDOs are used to attack Christian businesses and he would not support an NDO.
- **Grover Peterson, 1025 Evergreen Drive, Billings, Montana,** asked what standard was to be used to determine right and wrong? He stated everyone experienced trauma, but God helped you through it.
- **Amelia Marquez, 1520 Virginia Lane, Billings, Montana,** stated she was speaking on behalf of a former legislator, Rodney Garcia. Mayor Cole interjected and stated that was not appropriate and he would not allow anyone to speak on behalf of someone else. He asked Ms. Marquez to return to her seat. Ms. Marquez asked if the Council could vote on whether she could continue to speak and Mayor Cole stated "No".
- **Carol Downer, 240 Avenue E, Billings, Montana,** stated she lived in Billings her whole life and was raised in a Christian home. She shared Proverbs 14:34 and encouraged the Council to do the right thing and not support the NDO.
- **John (inaudible) of Miles Avenue, Billings, Montana,** stated he was concerned for the safety of his wife and daughters and allowing men in women's

restrooms. He continued that he would do whatever he had to to protect his wife and daughters, even if it meant he would be breaking the law.

Mayor Cole called for a recess at 9:50 p.m.

Mayor Cole called the meeting back to order at 10:00 p.m.

### **COUNCIL INITIATIVES:**

Councilmember Ronning moved to set a public hearing for First Reading Ordinance regarding the Welcoming Diversity Ordinance for the August 24<sup>th</sup> Agenda, seconded by Councilmember Joy.

Councilmember Ronning began her statement by stating the most important document to any municipality was its Charter. She continued that the first paragraph in the Billings Charter read:

We, the citizens of the City of Billings, for the purpose of establishing a just form of fundamental law -- one that is responsible to the public for providing equal and adequate services and protections, with efficient use of the community's revenue for all; one that provides for self-governing powers with respect to the health, safety, and welfare of every citizen, and one that utilizes the utmost flexibility to plan for the future--do establish this Charter for the City of Billings of the State of Montana.

and it had not been changed since 1976. She continued that even though there were statements made that indicated all people should have equal rights, it simply was not so. She stated laws are needed to hold order, whether they be for voting rights, ending slavery, etc. She continued by acknowledging the many stories she heard of concerning prejudices, discrimination and biases received by the LGBTQ+ community and assured the evening's attendees that she knew it was alive and well in Billings. She stated no one should be considered second-class citizens. She said that no one could rely on others doing what was right because the fear was too great and therefore, a law needed to be added. She urged the Councilmembers to be courageous in moving the conversation forward about passing a Welcoming Diversity Ordinance in the near future. She stated the date for the Public Hearing to be set in August would allow the Council time to discuss an upcoming Public Safety Mill Levy. She ended by quoting State legislators, "It is the right thing to do."

Councilmember Joy thanked Councilmember Ronning for her eloquent delivery of the initiative. She thanked the community members that attended and gave public comment. She stated she would support the initiative to bring the topic for further discussion and consideration in the future. She continued that democracy worked best when the people came before their governing body and shared their opinions.

Mayor Cole gave his observations and stated that everyone wanted Billings to be a welcoming community in practice, as well as in perception. He stated that proponents may view that by the Billings not having an NDO it sends a message that Billings is not welcoming, but he disagreed with that viewpoint. He stated it was everyone's responsibility to intervene when they see something, to say something, especially if it is illegal, threatening, abusive, cruel or unkind. He stated that State and Federal protections were in place concerning discrimination in the workplace, contracts or funding. He acknowledged that it was not illegal in the State of Montana to discriminate against someone based on sexual orientation, sexual practices or gender identity. He continued that one exception was the State law concerning wrongful termination in which an employer must give good cause in order to terminate one's employment after a probationary period. He stated that the passage of an NDO was more about promoting a City brand than about preventing actual prejudice. He stated that the numbers of cases spoken about discrimination, etc., could not and should not be ignored. He continued that it was difficult to determine the weight of those cases and it was dangerous to pass a public policy based on those. He acknowledged that the growth in Billings had slowed in recent years, but that other reasons needed to be considered as well. He listed off several regional cities that were indicating growth despite not having an NDO. He stated that passing an NDO may make people feel more accepted, but it was no panacea. He gave examples of data from Sweden and the European Journal of Epidemiology which indicated that among same-sex married men, the suicide rates were 3 fold that of heterosexual couples. He stated that with any ordinance, the benefits must be weighed against the cost and in this case the disadvantages outweighed the advantages. He viewed the proposed ordinance as unconstitutional because it failed to protect religious rights and freedoms and he referred to an Arizona Supreme Court decision regarding a Phoenix, Arizona case and referenced other recent court cases from around the country. He stated that private business owners who rebuffed doing business with certain people due to their deeply held religious beliefs and were then sued into bankruptcy and harassed on social media were, in fact, victims of discrimination, too. He further stated that the proposed NDO was unconstitutional because of what it would impose on churches and other religious institutions. He stated churches were not exempt employers under the proposed ordinance and gave specific examples to support this statement. He asked whether the Public really wanted the Municipal Court deciding cases, which it had never done before, based on civil rights claims. He acknowledged that punishing evil-doers and protecting innocents were proper functions of the government, but that the strong arm of the law should be used sparingly and only where it was clearly constitutional; the need was obvious and intrusive government regulations are supported by the majority of the population. He stated that was not the case here. He voiced his observations of the differences between the public comments of the proponents and that of the opponents and identified where they failed to acknowledge constitutional rights for each other. He stated that Supreme Court rulings in the future would determine whether constitutional rights were being violated and would clear the way for NDOs. He stated that approving one now was

begging for an expensive lawsuit. He stated it was bad timing for the City to enter into this discussion as it was dealing with a potential Public Safety Mill Levy and the re-writing of the Zoning Code. He continued that research into all the aspects of the NDO would take months and City staff and the Council simply would not have time to dedicate to it now. He referred to the top 40 items identified by the Council as priorities for the upcoming year and that an NDO was not even on the list. He stated the proposed ordinance was too broad and punitive.

Councilmember Purinton thanked the Public for their letters, emails, public comments and shared stories. She stated her position was that the current Federal and State laws offered protections to all. She continued that as an elected official, she was a voice, not just for the marginalized, but for the common good of all. She stated the proposed NDO would jeopardize freedoms on many levels. She stated that laws were not passed for appearance sake. She continued it was unfortunate that a selected few would hold a Public Safety Mill Levy hostage unless an NDO was passed. She stated that a diversity ordinance, by any name, created divisiveness and weakened tolerance. She stated her hope and prayer was that Billings could move forward to continue to grow as a caring, welcoming community based upon its humanity, and not by a dangerous law.

Councilmember Shaw reflected on the stories given, concerning trauma, businesses seeking employees and persons experiencing denial of basic civil rights. She addressed the Council as its sole millennial and stated that that demographic was seeking equal protections under the law, regardless of gender expression or identity. She stated they were asking for revitalization of the downtown area and investment in Billings' parks and trails. She acknowledged that everything, other than the first item mentioned, would cost millions and millions of dollars. She continued that when the NDO was struck down the first time 6 years prior, the word got out that Billings was not a safe place for certain people and it was broadcast on national news. She stated there was a certain amount of discrimination that Billings accepted and the 21<sup>st</sup> century workforce had chosen other welcoming, diverse areas in which to live and work. She shared that she and her family moved back to Billings approximately 1 year prior to the "no" vote to the first NDO and that if the timing had been earlier, she and her family likely would have chosen a different Montana city in which to relocate. She stated the figure that 1 in 5 millennials identify somewhere on the LGBTQ+ scale seemed light to her and her belief was it was higher than that. She stated Billings could not expect to attract the younger generation to fill positions for bartending, assistant management and nursing home caregivers when clearly 20% of those eligible were told they were not welcome. She urged the Council to consider all the generations of Montanans who would like to return home, and deserved equal protections, civil and human rights. She asked that they approve the initiative to bring forward future discussions of a proposed ordinance.

Councilmember Choriki stated that fear had become a defining emotion for the country. He shared his story about living in New York City on 9-11 when the

World Trade Centers were attacked and the days that followed. He stated he believed that was the day when it legitimized people pointing fingers at each other and placing blame and not being able to deal with each other honestly and openly about problems. He voiced his observations of the public comments given and stated it came down to 2 threats. He stated one side was saying, this is real and it is happening now, while the other side was saying this is a potential threat we are worried about. He stated that as a debate coach, he would recognize the real threat over a potential threat that currently does not exist. He agreed that one could not legislate behavior and one could make anything illegal. He stated he did not believe the Council wanted to legislate behavior, but wanted to provide protections against someone attacking another person because of their color, etc., but that was a discussion about culture and community. He shared a story about his late parents and stated if they were alive, they would have supported an NDO. He stated that what he was really hearing from people was that they wanted community and that whatever the outcome would be from the vote, he encouraged people to start taking the necessary steps to heal the divisiveness and create community and he wanted to be a part of fixing the issue, not the NDO. He stated he did not understand why groups of people kept getting added to lists of protections over and over again.

Councilmember Brown stated he opposed the NDO during the last proposal years before and he opposed it now for the same reasons. He stated that an NDO would not prevent people from being shouted at or having items thrown at them. He stated the proposed NDO addressed housing, jobs, and it is about being able to go into public places. He continued that most of the stories heard would not be affected by the passage of the proposed NDO. He stated he could not get past the concept of public restrooms being shared by the opposite sex and that it was not up to society to subject his daughters and granddaughters to the anatomy of a male in such a display. He stated he would not support moving forward with discussions about the NDO with the language contained in its proposal.

Councilmember Boyett stated he had observed a Public Works crew fix a pothole recently and thought the City really knew how to fix potholes, but in reviewing the 600+ emails he had recently received concerning the initiative to bring forth discussions on an NDO, he did not understand how the City could fix what was being asked. Councilmember Boyett stated he agreed with Councilmember Choriki in that the community needed to address what was really happening and not look toward the passage of an ordinance.

Councilmember Ronning clarified that the vote was not about approving an NDO; the vote was about setting a public hearing and continuing the conversations to move toward language to be considered in a future ordinance. She explained the processes used in Federal and State legislation via initiatives and stated it was the same for City Council. She stated it was shocking to her that statements were made about not supporting language in a "draft" ordinance and she expected amendments and debates to occur in the future months to develop a passable

ordinance. She indicated she was just a vehicle in which to begin the process. She stated, "That's how democracy works."

Councilmember Ronning asked that a roll call vote to be called when it was time to vote. On a roll call vote the motion to set a public hearing and first reading ordinance regarding a Welcoming Diversity Ordinance for the August 24<sup>th</sup> Agenda, failed 7 to 4 with Councilmembers Yakawich, Neese, Ewalt, Purinton, Boyett, Brown and Mayor Cole voting in opposition.

There was no further business, and the meeting adjourned at 10:50 p.m.



CITY OF BILLINGS

By: William A. Cole  
William A. Cole, Mayor

ATTEST:

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