

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 27, 2020

The Billings City Council held the regular meeting via virtual video-conferencing due to the COVID-19 response. Mayor Cole called the meeting to order at 5:30 p.m. and served as the meeting's presiding officer. He provided an explanation for the virtual meeting setting and stated Council was cooperating with the CDC guidelines for social distancing to flatten the curve of the COVID-19 infection rate. He continued that Council was doing everything they possibly could to protect citizens' rights to participate in public meetings by having it televised live, and offering a call-in period for public comments. Councilmember Purinton gave the invocation.

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

Councilmember Ronning moved to rearrange the agenda, allowing the Administrator's Reports to be heard before the approval of the Minutes so the COVID-19 guests could present first, seconded by Councilmember Purinton. On a voice vote and show of hands, the motion was approved unanimously.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski introduced the COVID-19 update guests, John Felton, Yellowstone County Health Officer and Steve Arveschong, Big Sky Economic Development who gave the Council updates concerning COVID management and response and its economic impacts.
- Mr. Kukulski gave his report concerning City-related COVID-19 updates as they related to Phase 1 changes, effective Monday:
 - Curb-side services begin at the Library.
 - Parking will return to parking enforcement.
 - MET transit will continue free fares for the month of May.
- Mr. Kukulski stated that the staff report for Regular Agenda Item 2(b), did not contain the draft ordinance and the map of the area was not the correct map. He stated that Assistant City Administrator, Kevin Iffland, forwarded, via email, the correct documents earlier in the day.
- Mr. Kukulski asked, regarding Regular Agenda Item (C), whether Council would wish to remove the 20-year language as set by the State.
- Mr. Kukulski stated there was no ex-parte communications received after 3:00 PM concerning items on the evening's agenda.

MINUTES:

March 23, 2020 - Councilmember Purinton moved for approval, seconded by Councilmember Boyett. On a voice vote, the motion was unanimously approved.

April 13, 2020 - Councilmember Purinton moved for approval, seconded by Councilmember Boyett. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Cole stated that on behalf of all of the Council, he forwarded a thank you letter to all City employees thanking them for their extra efforts during the COVID-19 response.

PROCLAMATIONS:

- Mayor Cole proclaimed the month of April as Billings Child Abuse Prevention Awareness Month and stated that due to COVID-19 school closures and added stressors to families, children were even more likely to suffer from abuse and neglect. He encouraged everyone to offer support to the families and report any suspected victims to the child abuse hotline at 1-866-820-5437. He stated the Family Tree Center, Prevent Child Abuse Montana and other organization in Billings are dedicated to the best interest of the community's children.
- Mayor Cole proclaims April 30th as Billings Adopt a Pet Day. Mayor Cole stated that over 5,000 animals are received every year by the Yellowstone Valley Animal Shelter. He encouraged the public to volunteer through donations of time and funds and to adopt a pet to love, provide companionship and comfort.

COUNCIL REPORTS:

- Mayor Cole stated that Tim Burton, with the Montana League of Cities and Towns, was part of the Governor's COVID Response Task Force was working on a potential property tax reimbursement for cities and towns affected by an increase in property owner delinquent taxes.
- Councilmember Joy stated the Community Development Board would meeting via Zoom, on May 5th, at 3:00 PM, and if someone was interested in joining the meeting, they should contact Brenda Beckett, Community Services Manager, to obtain the link to the meeting.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 2c, 3 and 4 ONLY. Speaker sign-in required. *(Comments are limited to three (3) minutes or as set by the Mayor. During COVID-19, the method to take and hear public comment has changed. Individuals wishing to give public comment will call a dedicated phone line (237.6196) and held in queue until it is their turn to comment. 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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Item 4, stated vacant property should not be considered for TIF funds. He continued that the property had all of its infrastructure in place. He also stated the SBURA meeting was not properly noticed for public participation.

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

1. CONSENT AGENDA:

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

1.

	Name	Board/Commission	Term	
1	No Applications	Billings BID*	04/27/20	12/31/23

* 1 - Unexpired term of Scott Turner

B. Bid Awards:

1. **W.O. 19-33: Grand Avenue and Virginia Lane Traffic Signal Reconstruction.** (Opened 4/14/20) Recommend Yellowstone Electric Company; \$316,088.72.
2. **W.O. 20-05: Billings Landfill Road Rehabilitation.** (Opened 4/14/20) Recommend KLE Construction; \$249,755.
3. **W.O. 20-31: Lead Service Replacement.** (Opened 4/14/20) Recommend Western Municipal Construction, Inc.; \$521,400.

C. Utility Easement with Northwestern Energy (NWE) to install underground electrical cables at Amend Park.

D. Amendment No. 5, Security System for the Existing Terminal and Concourse Expansion Project, Professional Engineering Services Contract, Morrison Maierle, Inc.; \$95,000.

E. Bills for the Weeks of:

1. March 23, 2020
2. March 30, 2020

Councilmember Brown separated Items 1D, 1E1, and 1E2, in order to abstain, stating that his employer was the beneficiary in each of these agenda items.

Councilmember Yakawich moved for approval of the entire Consent Agenda, with the exception of Items 1D, 1E1 and 1E2, seconded by Councilmember Boyett. On a voice vote and show of hands, the motion was approved unanimously.

Councilmember Yakawich moved for approval of Item 1D, seconded by Councilmember Ewalt. On a voice vote and show of hands, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Yakawich moved for approval of Item 1E1, seconded by Councilmember Ewalt. On a voice vote and show of hands, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Yakawich moved for approval of Item 1E2, seconded by Councilmember Ewalt. On a voice vote and show of hands, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. YELLOWSTONE MEADOWS:

- a. **PUBLIC HEARING AND RESOLUTION 20-10869 FOR ANNEXATION 18-06: located east of 58th Street West and south of Rimrock Road. Doolen Property Trust, owners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Monica Plecker, Planning Division Manager, provided a PowerPoint presentation and stated the property was located very close to City infrastructure located in Rimrock Road and 58th Street West. She explained that this was a 1-acre parcel of land and was zoned R-96 for a single-family residence. Ms. Plecker continued that because the parcel was located so closely to City infrastructure, the developer would not be allowed to install a septic or drill a well; they would have to connect to City services, thereby forcing the property owner to annex in order to develop the property. She stated that public safety services were already serving the area and due to the land's proximity to the City limits it made sense to annex it.

Councilmember Brown asked whether the property was near a fire hydrant. Ms. Plecker responded that it was located within the one-half mile requirement to a fire hydrant.

Councilmember Purinton asked about whether 58th Street West, currently a gravel road, would be paved in the near future. Ms. Plecker responded that the road was maintained by Yellowstone County Public Works and would remain gravel until more development occurs in the area.

Councilmember Neese asked about the Waiver of Right to Protest contained in the Development Agreement and the mention of it within the Annexation Resolution.

Brent Brooks, City Attorney, clarified that the State law placed a 20-year limit on the waiver, but stated one is not required to limit it to 20 years.

Councilmember Choriki asked if this was a violation of the in-fill policy and did the policy contain enough guidance to make a recommendation. Ms. Plecker stated the in-fill policy was not the only policy considered when reviewing annexations. She stated she was comfortable with recommending approval.

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

Councilmember Neese moved for approval of Item 2a, seconded by Councilmember Purinton. On a voice vote and show of hands, the motion was approved unanimously.

- b. **PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward IV to include recently annexed property in Annexation 18-06: an approximate 1.769 gross acres and .958 net acres located east of 58th Street West and south of Rimrock Road; Doolen Property Trust, owners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Monica Plecker, Planning Division Manager, stated she did not have an additional presentation on this matter, and stated the Ordinance attached to the staff memo was correct, but the exhibit was wrong. She apologized for the inconvenience.

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

Councilmember Purinton moved for approval of Item 2b, seconded by Councilmember Ronning. On a voice vote and show of hands, the motion was approved unanimously.

- c. **DEVELOPMENT AGREEMENT with Doolen Property Trust at 2510 Meadowcreek Drive. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mayor Cole explained that the 20-year restriction for a waiver of right to protest was language in State law that had to do with subdivisions, however for annexations it did not contain the same restriction. He asked whether that 20-year restriction could be removed from the Development Agreement for this property.

Debi Meling, City Engineer, responded affirmatively.

Councilmember Ewalt asked why the developer was responsible for curb, gutter and sidewalks on both sides of the street. Ms. Meling responded that the policy for

annexations was different. She stated that if an SID was desired, it would be handled under an SID, but in this case it was being handled via Development Agreement and requirements could be written differently.

Councilmember Purinton asked for clarification to remove the 20-year restriction from the waiver itself. Ms. Meling stated the motion for approval should include that instruction.

Discussions continued about whether to keep or remove the 20-year restriction and to be consistent.

Councilmember Neese asked how much it would cost to run sewer to the property. Ms. Meling responded it was approximately \$20,000 to run a line along the property's frontage.

Councilmember Ronning moved for approval of Item 2c with the removal of the 20-year restriction in the waiver attached to the development agreement, seconded by Councilmember Purinton. On a voice vote and show of hands, the motion was approved unanimously.

Mayor Cole called for a recess at 7:38 p.m.

Mayor Cole called the meeting back to order at 7:45 p.m.

3. LAND PURCHASE for Airport Runway Protection with FAA Administrative Settlement and authorize the Mayor and/or the City Administrator authority to execute all sales documents for this real estate transfer at an upcoming closing. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Kevin Ploehn, Aviation and Transit Director, gave a PowerPoint presentation of the land to be purchased. He stated it was determined that freight was expanding and additional infield space could be utilized next to the cargo space. He explained that the runways were repositioned to allow for more space and clarified departure and approach protections. He stated that one of the runways actually extended about 1,000 feet onto private property and that began purchase negotiations with the landowner in about 2013. He identified the various tracts around and including the airport and who were the owners of each tract.

Councilmember Brown asked if the City would be purchasing tracts 9, 10 and 11. Mr. Ploehn stated it was tracts 9, 10 and 12, which equaled 60 contiguous acres. He stated that the sliver of property left for protection, would be purchased by the FAA because if a piece of property was impacted by the airport, which this was, then the FAA would purchase it.

Discussions continued regarding the Blaine's property, the obstructions on it and would those impact departure lanes. Mr. Ploehn advised that Council had recently approved for Morrison-Maierle to conduct a study and review the constructability of a runway expansion and he expected that to take up to a year to complete. He stated that after that they could better determine how a runway expansion might impact the Blaine's property.

Councilmember Ewalt asked whether anyone considered having side-by-side main runways, similar to those in larger cities. Mr. Ploehn stated they had only glanced at that option once before. He stated the main runway has a 20-30 year life, meaning one main runway will be sufficient for a very long time.

Councilmember Joy moved for approval for the Mayor and/or the City Administrator authority to execute all sales documents for the real estate transfer at an upcoming closing, seconded by Councilmember Ronning. On a voice vote and show of hands, the motion was unanimously approved.

4. TAX INCREMENT FINANCE ASSISTANCE from South Billings Boulevard Tax Increment District to BTU Buster, LLC for residential development at 136 Viceroy Street and 239 Hallowell Lane; \$69,985 and \$67,976, respectively. South Billings Urban Renewal Association (SBURA) recommends approval. (Action: approval or disapproval of SBURA recommendation.)

Jim Tevlin, Consultant to the South Billings Urban Renewal Association (SBURA), gave a PowerPoint presentation explaining the qualifications that met the criteria for approval with the recommendation of the SBURA Board. He stated the development was consistent with the 2012 South Billings Master Plan and 2019 Urban Renewal Plan for the area. He emphasized that the development met the in-fill and affordable housing objectives. He stated the finance assistance was equal to the 5:1 ratio requirement under the City's TIF policy. He stated the development was for 1 duplex unit on each property. He stated the improvements to Viceroy property was estimated at \$350,000; and \$340,000 for the Hallowell property. Mr. Tevlin outlined the costs that were eligible under State statutes, totaling over \$101,000. He continued that the property on Hallowell would generate \$2,500 to \$2,800 of annual tax revenue. He continued that the project would reduce blight and be income generating. Mr. Tevlin introduced Trent Currie, the developer and owner of the properties.

Trent Currie stated the land had been vacate for a number of years and no one was purchasing them. He stated he was very excited to provide an affordable housing opportunity.

Mayor Cole asked Mr. Tevlin about the 20% of eligible costs and stated the City's TIF policy was 5:1 ratio, not 20%, which would reduce the amount eligible from the TIF district. Mr. Tevlin stated that the TIF policy limits the amount of TIF finance to 20% or 5:1 of the total investment.

Councilmember Shaw asked Mr. Currie how the affordable housing portion worked to ensure he stayed within the HUD guidelines. Mr. Currie responded that if the finance assistance was approved, he would enter into a development agreement with the TIF district and he would have to build within the parameters of the development agreement. He continued that his aim was to serve Section 8 tenants and he had a mission to serve in that area.

Councilmember Joy asked whether Mr. Currie would hold housing for those seeking a Section 8 voucher because HUD was well-known for being slow to award vouchers. Mr. Currie stated he would work with the tenants.

Councilmember Ewalt asked for a definition of "affordable housing". Mr. Currie provided an explanation of the Section 8 process for low-income families. Councilmember Ewalt stated that Mr. Currie would be receiving the full rental amount and gaining from the investment. Mr. Currie responded that it was a win for everyone, because affordable housing was needed and he could develop additional properties with the gains.

Councilmember Boyett stated that the City's TIF policy specifically stated a 5:1 ratio in private/public dollars, but the City could waive that if the ask was under \$100,000.

Councilmember Neese complimented Mr. Tevlin's presentation, but he questioned whether the area was blighted and whether the project was redevelopment. Mr. Tevlin stated there were other areas in the TIF district that were in worse shape and definitely blighted, but the idea is to spur investment. He continued that if this area was improved, it would spur additional improvements. He stated the lines between development and redevelopment were blurred and gave examples. Mr. Tevlin continued that Mr. Currie was risking his money to invest in an urban renewal area, but it was the hope of the SBURA that other investors would follow.

Councilmember Neese asked if Mr. Tevlin's intent was to bring additional similar projects to the Council. Mr. Tevlin responded he hoped additional development would come forth and that Mr. Currie was dealing on additional south side properties. Mr. Currie added that he was looking at an additional 5 or 6 properties on the south side to development.

City Attorney, Brent Brooks, stated Section 7-15-4206(16), Urban Renewal statutes, contained definitions of "redevelopment", which included the acquisition of a blighted area; demolition of blighted buildings; installation of infrastructure and playgrounds, etc. He stated he was unaware of anything in the TIF statutes that would prohibit the acquisition of land for redevelopment.

Councilmember Choriki stated the statutes allowed for assemblage of land for development or redevelopment.

Councilmember Joy moved to approve the application for reimbursement, but reduce the amount of the assistance to \$14,985 for 136 Viceroy Street and \$22,976 for 239 Hallowell Lane (the reduction on both properties was the amount of the purchase price for the land), seconded by Councilmember Neese. Councilmember Joy stated that without a covenant written that the properties remain as affordable housing, she would not support the portion for the purpose of the land. She stated that she wanted to see affordable housing, subsidized and unsubsidized in all areas of the City, not just on the south side, to deter segregation.

Council and staff discussions continued about the calculations of land acquisitions and allowable reimbursable expenses.

Councilmember Brown stated he would not support the motion. He stated the developer's application was within the policy and if Council did not like the policy, then they needed to change it. He stated he did not think affordable housing came into the equation at all. He stated the entire TIF district was at one time, considered blighted and in need of renewal.

Councilmember Ronning agreed with Councilmember Brown and would not support the motion. She stated the developer had done everything required and it was supporting the direction of mixed community housing in Project Recode.

Councilmember Yakawich stated he would support the motion and that it was innovative.

Wyeth Friday, Planning Director, stated that TIF district boundaries were created where blight was determined, however, not all properties within the district are considered blighted. This was something that the Council would consider for each application.

Councilmember Neese stated that vacant lots are not considered blight. He stated he wanted developers to choose properties that were truly blighted and redevelop those with TIF assistance. He stated he would support the motion to compromise.

Councilmember Shaw stated she would not support the motion as the developer met all the requirements. She continued that Council does not get to choose where developers are going to develop; that was up to the developer to choose and then bring the application to the Council for consideration of reimbursement.

Councilmember Purinton stated she would support the motion, because there are other more blighted areas that need the TIF assistance.

Mayor Cole stated he opposed the motion, but appreciated the discussion.

On a show of hands, the motion was approved 6 to 5, with Councilmembers Shaw, Choriki, Ronning, Brown and Mayor Cole voted in opposition.

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 or as set by the Mayor. Please call 237-6196 during the Public Comment period.)

The public comment period was opened and the following individual placed a call into the public comment telephone line.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, stated the City could save a lot of money by having their staff work from their homes and continuing to have the "courthouse" closed to the public most days of the week.

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

COUNCIL INITIATIVES:

There were no Council initiatives.

There was no further business, and the meeting adjourned at 9:12 p.m.

CITY OF BILLINGS



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

ATTEST:

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