

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

May 11, 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 Ronning gave the invocation.

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

COVID-19 Update by Unified Incident Command (UIC) by John Felton, Yellowstone County Health Officer and John Staley, Lockwood Fire Chief.

MINUTES:

April 27, 2020 - Councilmember Boyett moved for approval, seconded by Councilmember Purinton. On a voice vote, the motion was unanimously approved.

COURTESIES:

- There were no courtesies.

PROCLAMATIONS:

- Mayor Cole proclaimed May 16, 2020 as Kids to Parks Day. He encouraged families to go outdoors and visit parks and public lands, strengthening families while following guidelines to stop the spread of the Coronavirus.
- Mayor Cole proclaimed May 17-23, 2020 as Public Works Week. He added the dedicated efforts of Public Works professionals improved the community's transportation, water supply, and sanitation. He urged citizens and civic leaders to acquaint themselves with the challenges and efforts involved in providing the City with public works services.
- Mayor Cole proclaimed May as Mental Health Awareness Month. He stated early and effective treatment could help people lead full and productive lives. He encouraged citizens and government agencies to recommit to an awareness of mental health issues.

COUNCIL REPORTS:

- There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski reminded Council that there would be a Budget Work Session meeting on Tuesday, May 12.
- Mr. Kukulski stated there were no Ex-parte communications received after 3:00 pm.
- Mr. Kukulski informed Council there would be some staff memo formatting changes in order to give Council and the public more information.
- Mr. Kukulski stated there had been an update with the State lobbyists about hosting meetings for the 2021 legislative sessions.
- Mr. Kukulski stated he was reviewing all City vacancies before authorizing them to be filled. He added that vacancies were not automatically being filled during the COVID-19 crisis.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 3 and 7 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, and the following individuals placed calls into the public comment telephone line.

- **Brent Morris, Living Independently for Today and Tomorrow:** thanked Mayor and Council for the Mental Health Awareness proclamation.

In reference to Item 7, Reconsideration of Resolution approving 2020 Missing Sidewalk Program, the following constituents spoke in favor of allowing 5-foot sidewalks on Aronson Avenue:

- **Kelly Scrimshaw, 1017 Aronson Avenue, Billings, Montana.**
- **Debby Beartusk, 1032 Aronson Avenue, Billings, Montana.**
- **Larry Brewster, 1216 Babcock Boulevard, Billings, Montana.**
- **Kayla Nordhus, 1018 Aronson Avenue, Billings, Montana.**
- **Karen Burroughs, 939 Aronson Avenue, Billings, Montana.**
- **Jeanne Pearson, 1033 Aronson Avenue, Billings, Montana.**
- **Chris Alamond, 1001 Aronson Avenue, Billings, Montana.**

The following constituents spoke against allowing 5-foot sidewalks on Aronson Avenue, to create consistent sidewalks and boulevards throughout the City:

- **Kathy Aragon, 645 O'Malley Drive, Billings, Montana.**

- **Kristi Drake, 2416 Avalon Road, Billings, Montana.**
- **Anna O'Donnell, 131 Avenue B, Billings, Montana.**

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

1. CONSENT AGENDA

A. Bid Awards:

- 1. W.O. 19-35: Metal Streets Improvements.** (Opened 4/28/20)
Recommend FirstMark Construction, LLC; \$593,995.
- 2. W.O. 20-04: 2020 ADA Ramp Replacement Project.** (Opened 4/28/20)
Recommend J&J Concrete, Inc.; \$202,130.
- 3. W.O. 20-20: Walter Pump Station Pump Addition.** (Opened 4/28/20)
Recommend Ace Electric, Inc.; \$563,883.
- 4. W.O. 20-27: WRF Fill Material Removal Project.** (Opened 2/11/20)
Recommend rejecting all bids.

B. Professional Services Contract for W.O. 20-14: Wastewater Master Plan Update; Morrison Maierle; \$308,091.

C. Professional Services Contract for W.O. 20-37: Stormwater Utility Development; FCS Group; \$159,619.

D. Agreement with Ecolane for MET Transit Paratransit Demand Response Scheduling and Dispatching Software System; \$125,758.85 for a five-year period.

E. Amendment No. 2, W.O. 19-12: West End Reservoir Project, Professional Services Contract, HDR Engineering; \$698,400.

F. Amendment to the 2018 Long Range Transportation Plan and recommend approval to the Policy Coordinating Committee.

G. Grant Application Request to submit application for AmeriCorps VISTA and authorize City staff to negotiate and finalize the project if awarded.

H. Grant Application Request to submit to the CARES Act funds for MET Transit and authorize the Mayor to execute the grant agreement with the U.S. Department of Transportation, Federal Transit Administration upon receipt of the grant offer.

- I. **Donation** from Fagg Properties for analysis of expanding Downtown Urban Renewal District or formation of a new Urban Renewal District; \$1,500; and authorize the use of up to \$4,000 from both Downtown Urban Renewal District Tax Increment Finance and General Funds to complete the analysis.
- J. **Preliminary Subsequent Minor Plat** of Willowbrook Subdivision, Amended Lot 4A, Block 1, generally located at 4432 South Frontage Road; Griffin Automotive Enterprises, Inc., owner; IMEG Engineering, agent.
- K. **Second/Final Reading Ordinance 20-5735** expanding Ward IV (Annexation 18-06) for 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.
- L. **Resolution 20-10870** relating to \$1,516,000 pooled Special Improvement District bonds, Series 2020 (SID 1408, 1410, and 1413); fixing the form and details and providing for the execution, delivery and security.
- M. **Bills for the Weeks of:**
 - 1. April 6, 2020
 - 2. April 13, 2020

Councilmember Brown separated Items 1B and 1M1, in order to abstain, stating that his employer was involved in each of these agenda items.

Councilmember Ewalt separated Items 1E, 1F and 1I for discussion.

Councilmember Neese separated Item 1C for discussion.

Councilmember Yakawich moved for approval of the entire Consent Agenda, with the exception of Items 1B, 1C, 1E, 1F, 1I and 1M1, seconded by Councilmember Ronning. On a show of hands vote, the motion was approved unanimously.

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

Councilmember Neese, in reference to Item 1C, asked for clarification whether Council had previously discussed a desire to create a stormwater utility department. Mr. Kukulski stated this step identified the needs and assessed the way to fund the storm water system, which was federally regulated by the EPA through the DEQ. He added the City required an analysis of needs and deficiencies, in order to determine the stormwater needs for the future.

Debi Meling, City Engineer, stated it currently cost \$60 to connect to the City's stormwater system, which did not keep up with construction costs. She added the City

needed to decide if they wanted to provide stormwater systems that could handle everyday storms, 5-year storms, etc.

Councilmember Purinton asked if there would be a separate stormwater fee. Ms. Meling stated the City already had a stormwater fee and was considering how to assess it using a different mechanism.

Councilmember Choriki moved for approval of Item 1C, seconded by Councilmember Shaw. On a show of hands vote, the motion was approved 9-2, Councilmembers Neese and Ewalt opposed.

Councilmember Ewalt, in reference to Item 1E, asked for clarification on the increasing construction costs and how the City was ensuring a checks and balances process. Ms. Meling stated most projects had a 16-20% cost for engineering and construction administrative fees. She added, amendments were necessary because projects evolved as they progressed. She stated the Engineering Department managed every line item of the project to watch costs and this project was right in line with expected costs.

Councilmember Brown asked how many amendments would be expected. Ms. Meling stated there would be two more amendments before construction would begin.

Councilmember Neese asked if there was a time and supplies auditing process. Ms. Meling stated a project of this size had approximately 50-60 hourly line items and every single line item was reviewed by staff for accuracy and expected time and costs.

Councilmember Ewalt moved for approval of Item 1E, seconded by Councilmember Neese. On a show of hands vote, the motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1F, stated he was in favor of the two-way traffic conversion, but not in favor of the TIF extension indicated in the staff memo.

Wyeth Friday, Planning Director, stated Item 1F would include the conversion of 29th and 30th Street and that project would need to be included in the Transportation Plan in order to proceed.

Councilmember Purinton agreed that it seemed like the wording indicated the TIF extension was included in the Transportation Plan and did not agree with that portion of the staff memo.

Councilmember Neese made a motion to approve Item 1F, with neutrality on the TIF extension, seconded by Councilmember Ewalt.

On a show of hands vote, the motion was approved 8-3, Councilmembers Joy, Choriki and Ronning voted in opposition.

Councilmember Ewalt, in reference to Item 1I, stated he wanted to discuss the item.

Councilmember Joy moved for approval of Item 1I, seconded by Councilmember Boyett.

Councilmember Brown stated he was not comfortable with the City putting money and efforts toward the expansion of the Downtown Urban Renewal District. Mr. Kukulski stated he was not certain the City had the time or resources for the expansion analysis, therefore, the donation would allow the City to share some of the costs.

Council discussed the many phases the project would be divided into, the estimated costs, and the partners involved in each part of the process. Several Councilmembers disclosed they had had discussions with Mr. Fagg.

Mayor Cole stated he had also had discussions with Mr. Fagg, but did not think disclosure was required since the item was not a quasi-judicial matter. He added private developers could be deterred by the lack of Council support, and he would support Item 1I.

Council and staff discussed Project Re-Code as a priority and the position of the importance of the Downtown Urban Renewal District analysis.

On a show of hands vote, the motion to approve Item 1I was approved 6-5, Councilmembers Yakawich, Neese, Ewalt, Purinton and Brown voted in opposition.

Councilmember Yakawich moved for approval of Item 1M1, seconded by Councilmember Ewalt. On a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

Mayor Cole called for a recess at 8:04 pm.

Mayor Cole called the meeting back to order at 8:10 pm.

REGULAR AGENDA:

2. *PUBLIC HEARING approving Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) for Airport Revenue Bonds. See, Special procedures required on cover page. No action necessary.

Andy Zoeller, Finance Director, stated the IRS required that a public hearing be held for tax exempt private bonds, but no action was needed. He stated the City had not received any public comment on the item.

Councilmember Purinton stated she would abstain from Items 2 and 3 due to a conflict of interest with her spouse's business.

The public hearing was opened.

There were no callers, and the public hearing was closed.

3. RESOLUTION 20-10871 authorizing the issuance of Airport revenue bonds through a negotiated sale and setting the parameters. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, stated Council would be authorizing the City to proceed with a bond sale and setting parameters based on the principal amount and rates. He stated final resolution for approval would be brought to Council at a later date.

Councilmember Yakawich moved for approval of Item 3, seconded by Councilmember Ronning. On a show of hands vote, the motion was approved 10-0, Councilmember Purinton abstained.

4. PUBLIC HEARING and approval of the FY20-24 Consolidated Plan and the FY20-21 Annual Action Plan and the allocation of Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) program funding. The Community Development Board recommends approval. (Action: approval or disapproval of Community Development Board recommendation.)

Brenda Beckett, Community Development Manager, gave a PowerPoint presentation reviewing the Consolidated and Action Plans, budget numbers, CDBG and HOME history, Affordable Housing Development Project and the Billings Metro VISTA program.

She also gave an overview of the C & C Community, which was a neighborhood in which all homes were owned by the residents through a CDBG grant they had received. She stated it was a very successful program that had empowered the residents to create a neighborhood they could be proud of.

Councilmember Yakawich moved for approval of Item 4, seconded by Councilmember Choriki.

The public hearing was opened and the following call was received:

- **Jim Corsan, 410 15th Street West, Billings, Montana**, stated he was a member of the Community Development Board and thanked City staff for their work. He encouraged Council to support the program.

There were no further callers and the public hearing was closed.

On a show of hands vote, the motion to approve Item 4, was unanimously approved.

5. PUBLIC HEARING authorizing filing of the Annual Federal Transit Administration Section 5307 Grant Application. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Kevin Ploehn, Aviation and Transit Director, gave a brief presentation and stated the grant had recently increased from an 80/20 match to 100% funding allowance due to COVID-19. He added that the Airport relied on the funding for transit operations.

Councilmember Shaw moved for approval of Item 5, seconded by Councilmember Boyett.

The public hearing was opened.

There were no callers and the public hearing was closed.

On a show of hands vote, the motion was unanimously approved.

6. PUBLIC HEARING AND RESOLUTION 20-10872 approving and adopting budget amendments for FY2020. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, stated the first amendment amount was for a Fire Department vehicle that had been totaled in an accident in September and staff needed authority to spend the insurance check that had been received for replacement of the vehicle. The second amendment was for the East Billings Tax Increment Fund. He stated debt issued a year ago had been slightly short in the estimated amounts and needed to be paid in full in order to sell the bonds. The final amendment was for 5 totaled Police Department vehicles that had not received insurance proceeds, partially due to an uninsured driver.

The public hearing was opened.

There were no callers and the public hearing was closed.

Councilmember Ewalt asked if the City carried uninsured motorist insurance. Mr. Zoeller stated the City did not.

Councilmember Yakawich moved for approval of Item 6, seconded by Councilmember Ewalt. On a show of hands vote, the motion was unanimously approved.

7. RECONSIDERATION of Resolution approving 2020 Missing Sidewalk Program. Staff recommends approval. (Action: approval of disapproval of staff recommendation.)

Councilmember Purinton asked for clarification on how citizens were required to pay for improvements. Mr. Kukulski stated they had a choice to pay the full amount or extend the costs over time. He added the first payment would be due the year after improvements were completed. Dave Mumford, Public Works Director, stated the first payment would likely be assessed on the 2021 fall tax assessments.

Councilmember Ronning asked how many protests were received, of the 76 sidewalk and miscellaneous projects, that were not on Aronson Avenue. Mr. Mumford stated, with the exception of Aronson Avenue, all concerns had been addressed and all homeowners had agreed to the improvements. Ms. Meling concurred.

Councilmember Neese moved for approval of Item 7, reconsideration of the 2020 Missing Sidewalk Program, seconded by Councilmember Ewalt. Councilmember Ewalt stated Councilmember Boyett had brought the item back for reconsideration and questioned if he should be the person to move for the approval. Councilmember Neese withdrew his motion for approval, Councilmember Ewalt withdrew his second.

Councilmember Boyett moved for approval of Item 7, reconsideration of the 2020 Missing Sidewalk Program and add the resolution to the May 26, 2020 Council meeting agenda, seconded by Councilmember Purinton.

On a show of hands vote, the motion to reconsider and add the resolution to the May 26, 2020 Council meeting agenda was approved 9-2, Councilmembers Choriki and Ronning voted in opposition.

“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 to the public comment telephone line.

- **Stan Parker, 41 Lewis Avenue, Billings, Montana,** thanked Council for their efforts and added the virtual meetings and Community 7 was making it much easier for constituents to view and participate.

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 9:24 p.m.

CITY OF BILLINGS



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

ATTEST:

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