

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 8, 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. Mayor Cole gave the invocation.

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

MINUTES:

May 11, 2020 – Councilmember Yakawich moved for approval, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

The minutes from the May 26, 2020 meeting were pending.

COURTESIES:

Mayor Cole acknowledged the success of the recent rally held downtown, protesting the death of George Floyd, and commended the protesters and the Police Department for remaining peaceful and professional during the event.

PROCLAMATIONS:

There were no proclamations.

COUNCIL REPORTS:

Councilmember Joy stated the Community Development Board had recently met to discuss how to spend appropriations received through the Coronavirus Aid, Relief and Economic Security (CARES) Act and added that no decisions had yet been made.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski informed Council there were no ex-parte items received after 3:00 pm.

Mr. Kukulski thanked Council, citizens and the Police Department for the recent rally/protest event and added he was proud how well the event had gone. Rich St. John, Police Chief, added that the Police Department had built very good relationships with the community and various leaders, that helped create a peaceful event. He commended his officers for the way the event had been handled and added the organizers had done a good job creating a peaceful protest.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 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.

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

1. CONSENT AGENDA

A. Bid Awards:

- 1. Three Waste Hauler Trucks for the Landfill.** (Opened 5/26/20) Recommend Montana Peterbilt; \$570,477.
- 2. W.O. 19-22: King Avenue East - Orchard Lane to Jackson Street Reconstruction.** (Opened 5/26/20) Recommend Knife River - Billings; \$2,227,200. Contingent on Montana Transportation Commission approval.
- 3. W.O. 20-08: Low Service Backup Pump Station No. 1 Backup Generator.** (Opened 5/26/20) Recommend rejecting all bids.
- 4. W.O. 20-09: 24th Street West and Overland Avenue Traffic Signal Improvements.** (Opened 5/26/20) Recommend Yellowstone Electric Co.; \$281,252.24.
- 5. W.O. 20-38: Broadwater Avenue and Central Avenue Signal Conduit, Schedules 1-4.** (Opened 5/26/20) Recommend Yellowstone Electric Co.; \$284,986.07.

B. MET Transit Electronic Fare Collection System Agreement with Cubic/Delerrok; \$161,136.90 for three years.

C. Recommendation of approval to the Policy Coordinating Committee for the 2020-2024 Transportation Improvement Program (TIP).

D. Technical Assistance Letter to the Trust for Public Land for community research.

E. Right of Way Easement with KPCS, LLC for improvements to V.F.W. Subdivision.

- F. **Traffic Signal Easement** with John V. Negu for constructing and maintaining a traffic signal foundation.
- G. **Traffic Signal Easements** with Kaufman Brothers Heritage Trust for W.O. 20-38: Central Avenue and Broadwater Avenue Signal Conduit project.
- H. **Utility Easement** with Montana Dakota Utilities for a gas line pipe protection system at Descro Park.
- I. **Utility Easement** with Montana Dakota Utilities for a gas line protection system at McIntire Park.
- J. **Resolution 20-10875** to temporarily suspend Zoning Regulations for outdoor patio and seating areas.
- K. **Bills for the Weeks of:**
 - 1. May 4, 2020
 - 2. May 11, 2020

Councilmember Brown separated Items 1K1 and 1K2 in order to abstain.

Councilmember Neese separated Item 1J for discussion.

Councilmember Ewalt asked for clarification on Item 1B. Rusty Logan, MET Transit Manager, stated the new fare collection system would allow for smart phone and credit/gift card usage. He added the buses would still have a cash box that would continue to allow riders to use cash and paper fare passes.

Councilmember Yakawich moved for approval of the entire Consent Agenda, with the exception of Items 1J, 1K1 and 1K2, seconded by Councilmember Ronning. On a show of hands vote, the motion was approved unanimously.

Councilmember Neese, in reference to Item 1J, stated there were too many unanswered questions and would not be voting for the resolution due to the lack of an exit plan, fees involved, etc. He added staff was moving forward too quickly.

Chris Kukulski, City Administrator, stated the proposed resolution to temporarily suspend the current zoning for restaurants and small businesses was in order to allow them to serve more customers during the pandemic. He added that staff needed to move quickly in order to help businesses during the COVID pandemic and would provide Council with updates on how the process was working.

Councilmember Ewalt asked for clarification on requiring a fenced off area, the open container law, and how clear passages on sidewalks would be handled.

Wyeth Friday, Planning Director, stated businesses that had a liquor license would work with the Department of Revenue, State, and City's Fire, Engineering, and Planning Departments to ensure all rules and regulations were followed. He added that temporary fencing, with signage to allow entrances and exits, would be used for the duration of the pandemic. He stated Engineering would review patio/seating areas in the public right-of-way to ensure access for pedestrians.

Police Chief St. John, in reference to the open container question, stated the Police Department would not get involved with situations where people had an open container while drinking or dining in an outside patio/seating area. He stated they would be more concerned with people walking down alleys or streets with alcohol.

Council discussed how the initial request process would work, fees, timing of the expedited process, and possible Code Enforcement issues.

Councilmember Choriki moved for approval of Item 1J, seconded by Councilmember Joy. On a show of hands vote, the motion was approved 10-1, Councilmember Neese opposed.

Councilmember Yakawich moved for approval of Items 1K1 and 1K2, seconded by Councilmember Neese. On a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE amending City Charter by repealing and replacing Section 1.05.1. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Brent Brooks, City Attorney, stated this amendment was the first step in creating a Public Safety (PS) mill levy to be placed on a special ballot for voters. He added the second and final reading ordinance, as well as the resolution with the ballot language, would be on the June 22nd Council Agenda for final approval.

Chris Kukulski, City Administrator, stated this ordinance would repeal the ordinance passed in 2004, which had allowed up to 60 mills. He stated in the past several years the City had grown its tax base by almost 50%, which meant taxpayers were paying a little less every year effectively lowering the City's original purchasing power down to 40.17 mills. He added the public safety mill levy approval would help create a revenue foundation for Public Safety of an additional \$4 million and stated it would not add additional resources, but simply secure the existing base.

The public hearing was opened.

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

Councilmember Purinton moved for approval of Item 2, seconded by Councilmember Neese.

Councilmember Shaw stated constituents were indicating the proposed mill levy was not enough for a public safety package. She added she would not support the motion.

Councilmember Joy stated the proposed public safety mill levy would not add any resources and there were considerable needs that would not be addressed by the proposed mill levy.

Councilmember Ronning asked for clarification on what would happen if Council did not take any action for FY21. Mr. Kukulski stated, without increasing revenue or cutting costs, the City would need to take \$4 million from reserves and by Spring of 2021 the City would have spent all additional reserves. Mr. Kukulski stated approximately \$7 million in reserves were being used every year and the proposed mill levy would decrease the amount of reserves being used and buy the City some time.

Council discussed current public safety needs and Council concerns for the City's future needs. Council questioned budget cuts and how that would look for the City and staff.

On a show of hands vote, the motion was approved 10-1, Councilmember Shaw opposed.

3. PUBLIC HEARING AND RESOLUTION 20-10876 establishing collection, disposal, and landfill fees for FY2021. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Jennifer Duray, Pubic Works Deputy Director, gave a PowerPoint presentation of the proposed FY21 Solid Waste fees. She added a recent rate study recommended a 2.5% increase which would generate \$245,000 in revenue. She gave an overview of the proposed increase and the revenue those increases would generate.

Councilmember Ewalt asked for clarification of the separation of materials process and added it would save room in the landfill and allow the City to reclaim the products. Ms. Duray stated he was referring to the Materials Recovery Facility (MRF) and added it would cost \$5 million and was slated for FY22.

Councilmember Ewalt asked for clarification on the residential carry out service charge of \$22.50. Ms. Duray stated elderly people or people that needed assistance were charged that amount to get their trash collected from the door or driveway so they did not have to take their receptacle to the street. She added the service did not

currently have a policy in place to ensure how participants were deemed eligible to receive the extra service.

Councilmember Boyett asked for clarification on why the City was charging less for residential collection than the actual costs. Mr. Mumford stated there had not been a recent rate increase to keep up with inflation. Chris Kukulski, City Administrator, added previous Council philosophy had been to use landfill profit to underwrite garbage collection and Council could change that policy if they wished.

Council discussed City practices for landfill and trash collection and how they compared with Billings.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana:** encouraged Council to keep garbage fees lower for local taxpayers by increasing out of town landfill fees.

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

Councilmember Ewalt made a motion to raise the out of town/state tipping fee 10% above the staff recommended 5% increase, and use the increased funds toward the landfill expansion, seconded by Councilmember Choriki.

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

Councilmember Choriki made a motion to direct staff to devise a policy for carry out service for disabled and elderly constituents, seconded by Councilmember Purinton.

Councilmember Brown stated that would require staff to decipher who qualified as elderly or disabled and could become an "administrative nightmare".

On a show of hands vote, the motion was approved 10-1, Councilmember Brown opposed.

Council discussed the inflation rate for garbage service and rate increases. Mayor Cole asked if a double rate increase would be necessary if a rate increase was not approved for the current year. Ms. Duray stated inflation was approximately 2.5% per year and a double increase would be necessary to eventually "catch up" if the proposed increase was not approved.

Councilmember Choriki made a motion to accept remaining staff recommendations, plus increase residential and commercial solid waste user fees by \$.28, seconded by Councilmember Boyett. On a show of hands vote, the motion was approved unanimously.

Mayor Cole called a recess at 7:52 pm. He called the meeting back to order at 8:01 pm.

4. TAX INCREMENT FINANCING ASSISTANCE from East Billings Urban Renewal District (EBURD) to Trent Currie for demolition of two residences for future redevelopment; \$21,400. Billings Industrial Revitalization District (BIRD) recommends approval. (Action: approval or disapproval of BIRD recommendation.)

Zack Terakedis, East Billings Urban Renewal District, gave an overview of the two blighted properties that were the subject of the assistance.

Councilmember Boyett asked why the request was at a higher percentage than other TIF requests. Wyeth Friday, Planning Director, stated the policy had a preferred 5 to 1 ratio with the ability to adjust as needed. He added the project would remediate blight and demolish two unsafe structures that received a substantial amount of police and code enforcement calls.

Councilmember Neese stated there did not seem to be a policy in place to ensure that all TIF funding requests were handled in a similar manner.

Mayor Cole stated the public would see a benefit in the remediation of blight at the proposed locations while reducing costs for the City in police responses and crime issues.

Mr. Friday stated the ratio could vary due to the low amount being requested and added the policy had been left unrestrictive in order to allow percentages to vary based on benefits the City could expect to see from the project.

Councilmember Purinton asked for clarification on the Rail Spur Village that had been mentioned in the past. Mr. Terakedis stated the Rail Spur Village was a neighborhood between 4th Avenue and 1st Avenue that was part of a master plan to create a neighborhood feel and some public space development for EBURD. He added it would maintain old town history while allowing industrial business to continue.

Councilmember Ewalt asked for clarification on the reason why this demolition had not been completed at the same time as a recent demolition by the same applicant. Trent Currie, applicant, stated the permitting process for commercial demolition had a larger scale of oversight and for financial and permitting reasons it would better suit the project to do the demolition in two phases.

Councilmember Joy moved for approval of Item 4, seconded by Councilmember Shaw.

Councilmember Brown stated demolition of blighted properties helped the City and splitting the cost with developers made a lot of sense for the City.

Councilmember Neese stated he supported the removal of blight, but had concerns with the financial ratio policy.

Councilmember Neese made a substitute motion to allow up to 25% of the low bid, seconded by Councilmember Ewalt.

Council discussed the current policy and how EBURD decided ratios for TIF applications.

Councilmember Choriki called the question. On a show of hands vote, the motion to call the question was approved 10-1, Councilmember Yakawich voted in opposition.

On a show of hands vote, Councilmember Neese's substitute motion failed 2-9, Councilmembers Shaw, Yakawich, Joy, Choriki, Purinton, Ronning, Boyett, Brown and Mayor Cole voted in opposition.

Councilmember Neese stated he wanted staff to review the EBURD's policy for consistency on criteria and TIF policies.

Mr. Kukulski recommended a few Councilmembers form a committee for the purpose of determining consistencies among the various districts for applications and TIF financing policies.

Mr. Friday stated there had been a considerable amount of work by all three districts to create uniform applications and presentations in order to address Council's past concerns about consistencies. He added the districts had each created a master plan, and a modification of the application form.

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

PUBLIC COMMENT on "NON-AGENDA ITEMS". 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.)

The public comment period was opened.

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

COUNCIL INITIATIVES:

Councilmember Neese stated he would bring an initiative forward to direct staff to research the policy of charging \$1 per square foot for public space, if the information was not included in the current budget presentations.

There was no further business, and the meeting adjourned at 8:47 p.m.

CITY OF BILLINGS



By: William A Cole
William A. Cole, Mayor

ATTEST:

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