

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**July 13, 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 Yakawich gave the invocation.

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

### **MINUTES:**

Councilmember Yakawich moved for approval of the May 26, 2020 and June 8, 2020 Council meeting minutes, seconded by Councilmember Boyett. On a show of hands vote, the motion was unanimously approved.

Mayor Cole stated the minutes for the June 22, 2020 Council meeting were pending.

### **COURTESIES:**

Councilmember Joy reminded constituents to complete their Census surveys and added it was a very important survey for the City. She stated interviewers would soon start going door-to-door to obtain results from residences that had not participated in the survey.

### **PROCLAMATIONS:**

Mayor Cole proclaimed July as Park and Recreation Month. He stated he did have the proclamation, but would read it at the next City Council meeting.

### **COUNCIL REPORTS:**

Councilmember Yakawich stated the City was preparing a bronze plaque and chair at Dehler Field in honor of the USS Billings, as well as a wall of honor at the Library. He thanked the Girl Scouts for their recent donation of cookies to the USS Billings crew.

## ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski stated the Public Safety Mill Levy ballot wording was almost complete and staff was continuing to schedule educational meetings throughout the community. He added they had hired a communications firm to create a one-page flyer. He stated the ballots would be mailed on August 28<sup>th</sup> and reminded Council and staff there were approximately 6 weeks remaining to educate the community about the upcoming Public Safety Mill Levy.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 5, 6, 7 and 8 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.

Mayor Cole stated Clark Johnson, in reference to Consent Agenda Item 1A2, had sent an email objecting to his removal and expressing criticism of Mayor Cole and the Parks Department.

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

### 1. **CONSENT AGENDA**

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

1.

	<b>Name</b>	<b>Board/Commission</b>	<b>Term</b>	
	David Mitchell	Billings BID*	07/13/20	12/31/23
	Brad Kraft	Yellowstone Soil Conservation	07/13/20	06/30/23

\* 1 Unexpired term of Scott Turner

2. **Removal** of Parks, Recreation and Cemetery Board member.

#### B. **Bid Awards:**

1. **W.O. 20-02: Missing Sidewalk/Miscellaneous.** (Opened 6/23/20)  
Recommend rejecting all bids.

2. **817 N. 22nd Street Housing Rehabilitation Project.** (Opened 6/23/20) Recommend rejecting all bids.
- C. **Contract** for three years with two additional three-year options for Uniform Rental/Purchase and Laundry Services with AlSCO, Inc.
- D. **Software Agreement** for Fleet Management Software System with Asset Works; \$162,602 estimated for 3 years.
- E. **Purchase Agreement** for Nine (9) MET Transit Buses from Eldorado National-California; \$3,374,838.
- F. **Amendment** to City-County Special Investigations Unit (CCSIU) agreement with Yellowstone County.
- G. **Department of Justice, Coronavirus Emergency Supplemental Funding Program Grant** for the Police Department to reimburse unexpected expenses related to the Coronavirus Pandemic; \$230,612.
- H. **Donation** to Public Works from Mr. William Morse for utility bill assistance; \$1,000.
- I. **Donation** to Billings Public Library from Billings Library Foundation for technology enhancements in the Royal Johnson Community Room; \$18,500.
- J. **Declaration** of surplus property and authorizing the Airport to sell two 1997 snow plows; approximately \$10,000 each.
- K. **Trail Easement** with Roth Enterprises, LLC, to add a key section of the Marathon Loop Trail corridor.
- L. **Forward** a recommendation of approval of the Inner Belt Loop Corridor Study to the Policy Coordinating Committee (PCC).
- M. **Resolution 20-10890** for Airport revenue bonds to finance the terminal expansion and refund Series 2010B bonds.
- N. **Second/Final Reading Ordinance 20-5737 for Zone Change 977:** a zone change to amend the zone district boundary lines within the Planned Development Agreement (PDA) to increase the acres in the underlying Community Commercial (CC) zoning; increase the acres in the Neighborhood Commercial (NC) zoning; decrease the acres in the Residential Multi-family (RMF) zoning; and decrease the acres in the Residential Manufactured Home (RMH) zoning, generally located at King Avenue West and 48th Street West, Western Sky Subdivision. Mont Vista,

LLC, owner, Sanderson Stewart, agent. Approval of the Zone Change and adoption of the 10 criteria.

**O. Cancellation of checks and warrants.**

**P. Bills for the weeks of:**

1. June 1, 2020
2. June 8, 2020
3. June 15, 2020

Councilmember Brown separated Items 1P1 and 1P3, in order to abstain, due to the fact that his employer was a beneficiary in each of these agenda items.

Councilmember Boyett moved for approval of the entire Consent Agenda, with the exception of Items 1P1 and 1P3, seconded by Councilmember Neese.

Councilmember Ewalt, in reference to Item 1B1, asked for clarification on the project timing and asked if a homeowner could begin work before the City started the improvements. Debi Meling, City Engineer, stated the Missing Sidewalk project would be bid late 2020 or early 2021 and added homeowners could do the work themselves if they wished.

Councilmember Ewalt, in reference to Item 1B2, asked how much the City had paid for the property. Chris Kukulski stated the City had paid a purchase price of \$90,000 and the appraisal had been approximately \$97,000. He added rejecting the current bid would allow the City to reassess the project and gave reasons why the bid had come in higher than Community Development's expected amount.

Wyeth Friday, Planning Director, stated several portions of the bid could be adjusted to decrease the estimate for the project, which was why staff was recommended rejecting the current bid. He added projects like these helped stabilize and improve neighborhoods and did not typically make money for the City.

Councilmember Purinton stated she had a lot of questions about the process and did not feel there had been adequate information supplied about the program.

Chris Kukulski, City Administrator, stated Wyeth Friday, Planning Director, and Tam Rodier, Community Development Coordinator, were very knowledgeable about choosing appropriate homes for the program and deciding which ones were good for the rehabilitation program. He added staff would schedule a comprehensive discussion on the Neighborhood Stabilization program for Council at a Work Session.

Councilmember Neese asked how staff planned to lower the cost of improvements for the property. Ms. Rodier stated the house had large elm trees that needed to be removed for \$12,000, so staff would research different options to lower that cost. She added the property currently had a fence of varying heights that needed replacement and the quote they received was \$19,000. She stated by changing to a 4-foot chain link they were able to decrease the price to \$4,000. She added by reassessing the project, staff would be able to bring the cost down.

Councilmember Ewalt, in reference to Item 1E, asked if purchasing all 9 buses at once would create a situation where they would all need replacement at the same time. Kevin Ploehn, Aviation and Transit Director, stated through competitive grants, the department would have the funds to purchase several buses this year and added the procurement cycle was over a year away. He added the current buses were very worn and new buses were necessary.

Mayor Cole, in reference to Item 1H, thanked Mr. William Morse for his donation to help people with their utility bills.

Mayor Cole, in reference to Item 1I, thanked the Billings Library Foundation for their donation to the Library.

By a show of hands vote, the motion to approve the entire Consent Agenda with the exception of Items 1P1 and 1P3, was approved unanimously.

Councilmember Boyett moved for approval of Item 1P1, seconded by Councilmember Joy. By a show of hands vote, the motion to approve 1P1 was approved 10-0, Councilmember Brown abstained.

Councilmember Purinton moved for approval of Item 1P3, seconded by Councilmember Neese. By a show of hands vote, the motion to approve 1P3 was approved 10-0, Councilmember Brown abstained.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION 20-10891 adjusting parking meter rates. Parking Board recommends approval. (Action: approval or disapproval of Parking Board's recommendation.)**

Tracy Scott, Parking Supervisor, gave a PowerPoint presentation showing the proposed rate increase. She discussed the department's additional parking needs, including maintenance, vehicle replacement and painting/signage. She stated the last fee increase was in 2016.

Councilmember Purinton asked if the City had considered basing parking rates on the popularity of a downtown area. Ms. Scott stated the Parking Department had considered that option and it may be implemented in the future.

Council discussed parking meter locations, parking enforcement and hours of paid parking requirements.

The public hearing was opened.

- **Nathan Runkle, 2634 Lillis Lane, Billings, Montana**, stated having the Parking Department increase its rates in order to be self-sustaining was a good decision.

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

Councilmember Joy moved for approval of Item 2, seconded by Councilmember Neese. By a show of hands vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION 20-10892 adjusting Parks and Recreation fees. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mike Whitaker, Parks and Recreation Director, gave a PowerPoint presentation with a breakdown of the fee increases at the various parks.

Chris Kukulski, City Administrator, reminded Council that the fee increases were due in part to the recent budget cut discussions, and was one small way to help balance the budget deficit.

Mayor Cole asked what year the current fees had been established. Mr. Whitaker stated most of the current fees had been established in 2014.

Council discussed Dehler Park and the City's agreement with the Billings Mustangs. Mr. Kukulski stated staff could research various options and opportunities for Dehler Park and bring the information to Council later.

The public hearing was opened.

There were no callers and the public hearing was closed.

Councilmember Neese moved for approval of Item 3, seconded by Councilmember Shaw. By a show of hands vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND RESOLUTION 20-10893 adjusting Mountview Cemetery fees. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mike Whitaker, Parks, Recreation and Cemetery Director, gave a PowerPoint presentation with a breakdown of the fee increases. He stated the fees had not been

increased since 2016 and added the increase would bring an additional \$8,000 annually.

Council discussed current burial and grave site fees.

The public hearing was opened.

There were no callers and the public hearing was closed.

Councilmember Neese moved for approval of Item 4, seconded by Councilmember Boyett. By a show of hands vote, the motion was unanimously approved.

**5. LETTER OF SUPPORT for MRM Unified Campus. No action necessary.**

Matt Lundgren, Montana Rescue Mission (MRM) Executive Director, gave an overview of the services MRM provided, the various shelters, shopping center, job skills training and dining options. He stated the City needed low-income housing and the proposed facility would have a new shelter on one level and affordable housing on another level. He stated they were competing with 8 other cities for a \$6 million grant and MRM would fundraise for the remaining \$6 million needed for the facility. He requested a letter of support from Council to help MRM move forward with the request for low-income housing tax credits.

Council discussed the role of the current shelters, community needs and how the proposed facility would benefit the community.

Don Sterhan, President of Mountain Plains Equity, via phone call, stated they were at a critical stage in the process and it was important to identify the needs in the community. He added a letter of support from Council would be very beneficial.

Chris Kukulski, City Administrator, stated a formal motion for approval may be beneficial for the application process.

Councilmember Yakawich made a motion of formal approval, seconded by Councilmember Purinton. By a show of hands vote, the motion was unanimously approved.

The Mayor called a recess at 7:36 pm.

The Mayor called the meeting back to order at 7:45 pm.

**6. RESOLUTION 20-10894 approving a variance to Resolution 93-16740, allowing staff to enter into a binding agreement with a seller contingent on the appraisal process. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Kevin Iffland, Assistant City Administrator, gave a PowerPoint presentation of the 1993 resolution regarding the acquisition process for property. He stated the appraisal process was very expensive and by approving the proposed variance it would allow the City to enter into an agreement before spending a large amount of money on an appraisal.

Mayor Cole asked if the variance was specific to the two properties mentioned in the staff memo. Mr. Iffland responded affirmatively and stated the variance was for City Hall facilities and land adjacent to Billings Operations Center.

Council discussed the current appraisal process versus a market analysis, signing authority, and various contingency options allowed in agreements.

Councilmember Choriki stated the resolution was from 1993 and Council may want to update the policy in the future.

Councilmember Yakawich moved for approval of Item 6, seconded by Councilmember Purinton.

Councilmember Neese asked Councilmember Yakawich if his intention was in reference only to the two properties listed in the staff memo. Councilmember Yakawich and Councilmember Purinton concurred.

Council discussed public transparency, how the City should handle using taxpayer money, and Council's roll in approval of purchases.

Chris Kukulski, City Administrator, stated the proposed variance would allow negotiation of an agreement pending Council approval, then the appraisal would follow. He stated the appraisal process would simply be moving to a later point in the process, but Council would still have final approval.

Council asked staff to bring the policy to Council for discussion and modifications at a later date.

Mr. Kukulski stated the variance was not changing signing authority or the Council approval process, but simply changing the timing of the appraisal process.

Brent Brooks, City Attorney, stated Council was the ultimate deciding factor in approving buy/sell agreements.

Mayor Cole stated the words "enter into" should be changed to "negotiate". Councilmember Yakawich agreed to amend his motion to change the wording to "negotiate" as suggested by the Mayor. Councilmember Purinton agreed to amend her second.

Councilmember Yakawich moved to call the question. By a show of hands vote, the motion to call the question was unanimously approved.

By a show of hands vote, the amended motion was approved 10-1, Councilmember Ronning opposed.

**7. TAX INCREMENT FINANCE ASSISTANCE from Downtown Urban Renewal District to Billings Symphony Orchestra and Chorale for renovation/rehabilitation of its property at 2820 2nd Avenue North; \$181,340. Downtown Billings Partnership Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)**

Wyeth Friday, Planning Director, stated City staff and all 3 districts had been working very hard to improve the memos, information included in the presentations, language, timing for application requests, consistency in presentations and clarity of advisory board recommendations, as well as providing minutes from the board meetings. He added these changes were made to help address Council questions and concerns and hoped it would help the process proceed smoothly.

Mehmet Casey, Downtown Billings Partnership (DBP) Board member, gave a PowerPoint presentation reviewing the project, location, and the design. He reviewed the boards large project incentive grant expectations listed on the application. He also reviewed the items requested for improvements and how the improvements fit into the strategic plan goals and the City's TIF Policy.

Mr. Casey reviewed the Billings Symphony breakdown of eligible TIF expenses. He reminded Council that TIF grants were a reimbursement after the project was completed and would only fund eligible improvements. He also reviewed the other improvements that would be privately funded expenses.

Councilmember Neese asked for clarification on the Billings Symphony tax status. Mr. Casey stated the Montana Development Corporation was the owner and they were a private taxpaying entity. He added the building was an asset for the company, and the name would remain the same due to the wishes of the previous owners.

Councilmember Neese asked if the Billings Symphony would have any issue with a claw-back provision in order to ensure it remained a private entity. Ignacio Barron Viela, Billings Symphony Executive Director, stated the Billings Symphony did not have any plans to dissolve and would not be opposed to a claw- back provision.

Councilmember Shaw moved for approval of Item 7, seconded by Councilmember Boyett.

Councilmember Neese made a motion to amend the motion and to attach a claw-back provision requiring full repayment if the property did not remain a private entity for 21 years, seconded by Councilmember Ewalt.

Council discussed what a claw-back provision would mean for the property. Mr. Casey stated claw-back provisions were very difficult to legally enforce and their attorneys had written a letter discouraging the use of claw-backs. He added they had made inquiries to various other cities in the state and the consensus of the use of claw-backs had not been positive.

Councilmember Choriki made a motion to call the question. By a show of hands vote, the motion to call the question was approved 10-1, Councilmember Purinton voted in opposition.

By a show of hands vote, Councilmember Neese's amended motion failed 3-8, Councilmembers Shaw, Joy, Choriki, Purinton, Ronning, Boyett, Brown and Mayor Cole voted in opposition.

By a show of hands vote, Councilmember Joy's motion for approval of Item 7, was approved 9-2, Councilmembers Neese and Ewalt voted in opposition.

**8. TAX INCREMENT FINANCE ASSISTANCE from Downtown Urban Renewal District to Bethany Joy Pilates Studio for sign installation at 2202 1st Avenue North; \$1,570. Downtown Billings Partnership Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)**

Mehmet Casey, Downtown Billings Partnership (DBP) Board member, gave a PowerPoint presentation reviewing the project, location and proposed signage design.

Councilmember Neese asked for clarification on the signage program. Wyeth Friday, Planning Director, stated DBP had a sign incentive program with a maximum amount of \$3,000 per project. He added the program was completely funded with TIF funds and did not have a matching element. He added Council could choose to allocate a large yearly amount and not bring back each project for individual approval.

Council discussed the signage program guidelines and questioned why Council was just hearing about the program for the first time. Councilmember Ronning stated an email describing the signage program had been sent to Council in April by the DBP.

Councilmember Choriki moved for approval of Item 8, seconded by Councilmember Shaw.

Mayor Cole stated DBP may want to present an annual budget to Council so that each individual project would not require Council approval.

By a show of hands vote, the motion for approval of Item 8, was unanimously approved.

**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:**

There were no Council Initiatives.

There was no further business, and the meeting adjourned at 9:49 p.m.

CITY OF BILLINGS



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

ATTEST:

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