

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

October 12, 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 5:35 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.

CALL TO ORDER: Mayor Cole

PLEDGE OF ALLEGIANCE: Mayor Cole

INVOCATION: Councilmember Ronning

MINUTES:

September 28, 2020 - Councilmember Neese noted amendments to the minutes on page 15 concerning encroachments and noted a change to "assessments less than the \$10 minimum". Councilmember Neese moved for approval of the minutes as amended, seconded by Councilmember Ewalt. By a show of hands vote, the motion was approved unanimously.

COURTESIES:

Mayor Cole stated Yellowstone County Health Officer, John Felton, had given a press conference that day. He stated due to an increase in COVID-19 cases, there was a new health order in effect until November 9, which lowered the amount of people allowed at group gatherings where social distancing was not an option. He encouraged residents to follow the guidelines to keep people safe and help ease the burden on healthcare facilities.

Councilmember Joy was accepted to the Active People Healthy Nation Champions' Institute to gain expertise on approaches that created an active, healthy and thriving community.

Councilmember Yakawich stated October was National Domestic Violence Awareness month.

PROCLAMATIONS:

Mayor Cole proclaimed October as Walktober and National Pedestrian Safety Month and stated walking helps prevent heart disease, stroke, some cancers and mental health challenges. He encouraged people to rededicate themselves to enjoying the benefits of walking and ensuring the safety of pedestrians throughout the community.

Mayor Cole proclaimed October 12, 2020 as Indigenous Peoples' Day and stated it celebrates and honors Native American people and commemorates their histories and cultures. He added he was having conversations about changing the name from Columbus Day to something more inclusive.

COUNCIL REPORTS:

Councilmember Choriki stated the Montana League of Cities and Towns (MLCT) conference had been very interesting and informative. He stated AARP had played a very active role and was encouraging livable cities. He encouraged people to reference AARP.org/livable-communities for more information.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski stated regarding Regular Agenda Item 3, Public Hearing and First Reading Ordinance for Zone Change 983, the applicant had made a request to withdraw the application and asked Council to consider removing the item from the agenda.

Mr. Kukulski stated regarding Regular Agenda Item 4, Public Hearing and Resolution to amend the Limits of Annexation Map, staff had a proposed addition to be considered by Council when the item was reviewed, discussed and acted upon.

Mr. Kukulski stated there were no exparte communications received after 3:00 pm.

Mr. Kukulski stated Project ReCode would be presented to Council at a Work Session on Monday, October 19th, could possibly be continued to a Work Session on November 2nd, if needed, and presented at a Regular Business meeting on Monday, November 9th for approval.

Mr. Kukulski stated the Capital Improvement Plan (CIP) was available on the City's website at Billingsmt.gov/CIP. He added there would be meetings for public feedback on October 20th and October 21st and Council would be presented with information during a Work Session on November 16th. He added the presentation would

also include the Equipment Replacement Plan (ERP) and Technology Replacement Program (TRP).

Mr. Kukulski thanked Landon's Legacy for their donations and hard work raising money for Poly Vista Park. He stated they had paid for ¾ of the master plan for Poly Vista Park through their fundraising and donations.

Mayor Cole stated Council would need to make a motion to move Regular Agenda Item 3 up on the agenda, in order to vote on allowing the applicant to withdraw the application. He stated if the application was withdrawn, the applicant could resubmit in 4 months, and if the withdrawal was rejected, the applicant could not resubmit the application for 12 months.

Councilmember Shaw made a motion to move Regular Agenda Item 3 to before the Public Comment period on Non-Public Hearing items, seconded by Councilmember Brown. On a show of hands vote, the motion was unanimously approved.

Mayor Cole advised the Public that the vote to withdraw the application for Change 983 would effectively remove the item from the agenda. If the viewing Public wished to speak on the item, they could do so during the Public Comment period on Non-Agenda Items at the end of the meeting.

Councilmember Ewalt stated the zone change had been on the agenda for several weeks and would not support the withdrawal because he wanted to see it voted on in order to finalize the issue.

Councilmember Choriki made a motion to accept the withdrawal of the application, seconded by Councilmember Joy.

On a show of hands vote, the motion was approved 10-1, Councilmember Ewalt voted in opposition.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 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:** None
- B. **Professional Services Agreement** with 360 Office Solutions for paper and office supplies; approximately \$300,000 per year.
- C. **Professional Services Agreement** with Quest Services Corporation for the 2019 Hail Claim Project Management Services; \$90-\$125 hourly rate.
- D. **Professional Services Agreement** with Advanced Engineering and Environmental Services, Inc. for water and wastewater rate studies; \$226,673.
- E. **Donation** to Parks, Recreation and Public Lands (PRPL) Department from Landon's Legacy Foundation for design development, phasing plan and cost estimate for Poly Vista Park Miracle League Field; \$49,241.
- F. **2020 State Homeland Security Grant** to establish a drone program and to provide pilot training for the five (5) regional HazMat teams; \$300,000.
- G. **Preliminary Subsequent Minor Plat** of Lake Hills Subdivision, 21st Filing, Amended Lots 8-9, Block 51, generally located at west end of Winged Foot Drive and Greenbriar Road; Ron Hill/Schneiter Enterprises, owner; WWC Engineering, agent.
- H. **Preliminary Subsequent Minor Plat** of Terra West Subdivision, 3rd Filing, Amended Lots 1 and 2, Block 3, generally located at 3112, 3116 and 3120 Solar Boulevard; Burrowes Family 1995 Living Trust, Marlene Grimm, Daniel and Karen Kohm, owners; Essex Surveying, agent.
- I. **Final Minor Plat** of Willowbrook Subdivision, Amended Lot 4A, Block 1.
- J. **Final Major Plat** of High Sierra Subdivision, 14th Filing.
- K. **Final Major Plat** of High Sierra Subdivision, 16th Filing.
- L. **Second/Final Reading Ordinance 20-5743 for Zone Change 982:** a zone change from Residential Professional (RP) to Residential Multi-Family (RMF) on Block 4, Lot 4-8, Sunset Subdivision, a 39,793 square foot parcel of land, generally located at 1127 Alderson Avenue. 1127 Alderson Avenue, LLC, owner; Michael Burke, agent. Zoning Commission recommends approval and adoption of the 10 criteria.
- M. **Bills for the Weeks of:**
1. September 7, 2020

2. September 14, 2020

Councilmember Neese separated Item 1F for clarification.

Councilmember Brown separated Item 1M1 in order to abstain.

Councilmember Yakawich moved for approval of the Entire Consent Agenda, with the exception of Items 1F and 1M1, seconded by Councilmember Boyett.

Councilmember Purinton asked for clarification on the financial costs of Item 1E. Mike Whitaker, Parks and Recreation Director, stated the 30%, indicated in the staff memo, would begin to identify costs and phasing, and the remaining 70% would come later in the project.

Kevin Iffland, Assistant City Administrator, stated the donations from Landon's Legacy would allow for 30% of the design development, phasing plan and cost estimate for Poly Vista Park Miracle League Field. Councilmember Purinton stated Landon's Legacy had indicated a goal of raising \$3 million for the park and asked about the City's portion. Mr. Iffland stated the total cost for the park would be approximately \$4-5 million and Landon's Legacy donations would be used for Landon's Miracle Field and the inclusive portion of the park.

Chris Kukulski, City Administrator, stated the Capital Improvement Program (CIP) would be presented to Council and they would have an opportunity to discuss project components and what portion the City would have financially towards building the park.

Councilmember Neese asked if the pledges Landon's Legacy had received were still valid with the current COVID-19 situation. Mr. Iffland stated Landon's Legacy Board had stated they were confident they had \$800,000 worth of pledges.

Councilmember Ewalt asked if the City would be accepting labor donations for the park. Mr. Iffland stated there were certain parameters, purchasing policies and contracting issues that must be met, but private partnerships would be considered.

Mayor Cole asked if the park contracting donation policy needed to be addressed by Council. Mr. Kukulski stated if there was not any public money involved in the current phase of the project, the City would be accepting gifts of needed services. He stated State statutes needed to be followed regarding bidding and donation of services if public money was involved.

Councilmember Choriki disclosed that he had family that lived in the subdivision involved in Item 1G, but had not spoken with anyone regarding the plat and would not recuse himself from the vote.

By a show of hands vote, the motion to approve the entire Consent Agenda, with the exception of Items 1F and 1M1, was approved unanimously.

Councilmember Neese asked for clarification on Item 1F. Jason Lyon, Fire Battalion Chief, stated the drone program would not cost the City any money and the grant would pay for the City to begin training and purchase the drones for the Montana Regional Hazmat Team program. He added the grant would pay for 10 firefighters to become qualified and licensed by the Federal Aviation Administration (FAA). He stated the drones would have nighttime cameras to assist in search and rescue missions as well as a gas reading monitor for environmental safety issues.

Councilmember Neese asked when the drones would be used. Mr. Lyon stated the drones would be used for emergency purposes only and not patrols.

Councilmember Neese moved for approval of Item 1F, seconded by Councilmember Ronning.

Councilmember Ewalt asked how manning the drones would affect the department's overtime budget. Mr. Lyon stated the Fire Department had chosen people for the drone program from various shifts and had tried not to overlap the shifts, which would help with overtime issues. He added they had chosen pilots for the program in order to separate rescue personnel and Hazmat personnel, so the pilot manning the drone would not take away from personnel needed for the rescue.

Councilmember Choriki asked how many of the regional Hazmat teams would be purchasing drones. Mr. Lyon stated 5 of the regional Hazmat teams would be participating, with the exception of Kalispell, because they were not comfortable with the 3-year commitment required of the program.

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

Councilmember Boyett moved to approve Consent Agenda Item 1M1, seconded by Councilmember Joy. By a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 20-10914 creating SILMD 328, North and South 27th Street streetlights. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Debi Meling, City Engineer, gave a PowerPoint presentation of the Street Improvement Light Maintenance District (SILMD). She stated there were 190 properties included, 126 LED luminaries and the SILMD had received 0% protest. She stated the lights would be installed and maintained by Montana Department of Transportation (MDT).

Councilmember Neese asked if the City had an agreement with the State of Montana and what would happen if the State decided to change the terms. Ms. Meling

stated the streets were completely owned by the State of Montana and the district had been created for electricity use only. She added if the agreement needed to be changed, it would require a re-creation of the district.

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

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

3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 983: a zone change from Public to Residential 8,000 (R-80) for the southern 1.98 acres of Lot 2, Block 1, Cherry Creek Estates Subdivision. Cherry Island, LLC, owner; Blueline Engineering, agent. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.)

This item was addressed at the beginning of the meeting (*noted above*) in which the application for Zone Change 983 was withdrawn.

4. PUBLIC HEARING AND RESOLUTION 20-10915 to amend the Limits of Annexation Map. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave a PowerPoint presentation reviewing the map recommendations for amendments. He stated when the Capital Improvement Plan (CIP) was reviewed for updates, staff also looked at the Annexation Policy and Map for possible amendments.

He added amendments could be made when requested by property owners or staff. He stated one additional recommendation being presented was that the area by Highway 3, east side of Inner Belt Loop Corridor, be brought into the red area. He stated the Long-Range Area amendments were: West End Reservoir and East Heights Billings Bypass; and the Petition Area amendments were: West Airport Highway 3 area, Highway 3 and IBL Intersection (NW corner) and Grand and 62nd Street area.

Councilmember Neese disclosed he had been contacted by Brad Tecca in reference to property he owned. Mayor Cole also disclosed he had met with Brad Tecca and stated he had represented the Tecca family in a matter several years ago.

Council discussed the land on the northwest corner of the intersection of Rod and Gun Club Road and Highway 3 just south of the Rehberg Ranch property and how it would affect the Inner Belt Loop.

Councilmember Choriki stated he had a discussion with Mr. Tecca about opportunities to develop in the area and added he was impressed with the long-term vision Mr. Tecca had for the area.

Councilmember Brown asked if the City was ready to provide long-term services for the areas proposed. Mr. Friday stated the City had funding for the transportation corridor and the current discussions showed the property owners that the City had a serious interest.

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

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

“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.

- **Ben Larson, 1649 Hollyhock Street, Billings, Montana:** stated Billings needed to advocate for the passing of Indigenous Peoples’ Day to replace Columbus Day. He encouraged people to recognize indigenous people and honor their role.
- **Carson Taylor, 8 West Harrison Street, Bozeman, Montana:** former Mayor of Bozeman, stated the City of Bozeman had celebrated its 5th year observing Indigenous Peoples’ Day and added it had brought the community closer together.
- **Sonia Davis, 341 Wyoming Avenue, Billings, Montana:** thanked Councilmember Ronning and Mayor Cole for acknowledging Indigenous Peoples’ Day and encouraged people to celebrate indigenous people.
- **Kevin Wruck, 660 Wintergreen Drive, Billings, Montana:** commended the Public Works Department for the recent work that had been done on the street he lived on. He also stated the City should be able to cut down weeds that were not maintained and added the weeds needed to be cleaned up after being cut.

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

COUNCIL INITIATIVES:

Councilmember Ewalt directed staff to create the new City Attorney position as a temporary one, to allow Council an opportunity to review the Charter, in order to have the position report to Council, instead of the City Administrator, seconded by Councilmember Purinton.

Brent Brooks, City Attorney, stated Council could pass an ordinance on how the Charter amendment on who the City Attorney reported to, and add ballot language that would need to be voted on by the public.

Council discussed the legality and possible issues of having a City Attorney report to Council, instead of the City Administrator.

Councilmember Joy asked when the Charter was due to be reviewed. Mr. Kukulski stated the Charter was due for review in 2024. Mr. Brooks added the State statute stated a study review was due every 10 years.

Councilmember Brown asked for clarification on how the various forms of government worked and what form was most commonly utilized. Mr. Brooks stated a manager form of government was more common than a strong mayor form of government, but both ways were still used.

Council discussed reviewing the Charter and the various ways the proposed change would affect the City Attorney position, in addition to Council’s responsibility and role.

On a show of hands vote, the initiative failed 2-9, Councilmembers Shaw, Yakawich, Neese, Joy, Choriki, Ronning, Boyett, Brown and Mayor Cole voted in opposition.

There was no further business, and the meeting adjourned at 8:39 pm.



CITY OF BILLINGS

By: William A Cole
William A. Cole, Mayor

ATTEST:

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