

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 14, 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 pm. and served as the meeting's presiding officer. 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:

The November 23, 2020 minutes were pending.

COURTESIES:

Mayor Cole thanked Julie Seedhouse and Lauri Patterson for their efforts in organizing lights to be strung overhead on a block of Broadway. He added that they were an improvement for the area and looked nice.

PROCLAMATIONS:

There were no proclamations.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski stated staff had not yet finalized the agenda for the December 21, 2020 Council meeting, due to some possible changes that may need to take place, depending on the direction Council decided during this meeting regarding Project ReCode.

Mr. Kukulski stated there had been some concern from the public regarding how the City was spending the CARES Act funds it had received. He added the City was using some funds for direct costs, such as personal protective equipment, software and computers for remote work situations. He stated most of the funding was being used for services already rendered such as payroll and benefit reimbursements for dispatchers, emergency responders, Fire and Police.

Mayor Cole informed Council that Regular Agenda Item 4 would most likely take several hours and asked Council to consider tabling Items 5, 6 and 7.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2a, 2b, 5, 6, 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.

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

1. CONSENT AGENDA

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

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Chuck Tooley	Aviation & Transit	01/01/21	12/31/24
2	David Hummel	Aviation & Transit	01/01/21	12/31/24
3	Steven Tostenrud	Aviation & Transit	01/01/21	12/31/24
4	John Scheuering	Animal Control Board	01/01/21	12/31/24
5	Ronda Smith	Animal Control Board	01/01/21	12/31/24
6	George Maragos	Billings BID	01/01/21	12/31/24
7	No Applications	Billings BID	01/01/21	12/31/24
8	Deborah Davis	Board of Health	01/01/21	12/31/23
9	Rebecca Noell	Community Development	01/01/21	12/31/24
10	Gynthia Finch	County Water District of Billings Heights	01/01/21	12/31/24
11	No Applications	Exchange City Golf Cooperation Board	01/01/21	12/31/24
12	No Applications	Housing Authority - Resident Comm.	01/01/21	12/31/22
13	Kari Boiter	Housing Authority*	01/01/21	12/31/21
14	No Applications	Housing Authority	01/01/21	12/31/25
15	No Applications	Human Relations Commission	01/01/21	12/31/24

16	Chuck Platt	Parks, Recreation & Cemetery Board	01/01/21	12/31/24
17	Lew Morris	Parks, Recreation & Cemetery Board	01/01/21	12/31/24
18	Jami Clark	Parks, Recreation & Cemetery Board	01/01/21	12/31/24
19	Maia Dickerson	Parks, Recreation & Cemetery Board	01/01/21	12/31/24
20	Terry Corey	Police Board	01/01/21	12/31/23
21	Teresa Larsen	Planning Board - Ward I	01/01/21	12/31/22
22	Dennie Stephenson	Planning Board - Ward III	01/01/21	12/31/22
23	Darell Tunnicliff	Planning Board - Ward IV	01/01/21	12/31/22
24	Jon Thompson	Planning Board - Ward V	01/01/21	12/31/22
25	Bill Enright	Public Works Board	01/01/21	12/31/24

*13 Unexpired term of Gloria Boyd

B. Bid Awards:

1. **Dozer for the Landfill.** (Opened 12/01/20) Recommend RDO Equipment; \$510,000.
2. **Shredder for the Landfill.** (Opened 12/01/20) Recommend Ecoverse Industries; \$790,400.
3. **Wheel Loader for the Landfill.** (Opened 12/01/20) Recommend Tractor & Equipment Co.; \$261,739.

C. Professional Services Contract for W.O. 21-01: Pioneer Park Area Water Main Replacement; Morrison-Maierle, Inc.; \$585,854.

D. Breathing Air Compressor emergency replacement for Fire Department; \$127,683.29.

E. Second/Final Reading Ordinance 20-5745 expanding Ward III (Annexation 20-03) for an approximate 4.350 acre parcel of land described as Certificate of Survey 1121, Tract 2-A-1, located south of the South Frontage Road and north of the Grey Eagle Ditch. Chuck Hogan and Rick Dorn, on behalf of Hogan Properties, LLC, petitioner.

F. Resolution 20-10917 of Intent to create SILMD 329 and amend SILMD 263 on Hallowell Lane and set a public hearing date of January 11, 2021.

G. FY22 Equipment Replacement Plan (ERP).

H. FY22 Technology Replacement Plan (TRP).

I. Bills for the Weeks of:

1. November 2, 2020
2. November 9, 2020
3. November 16, 2020

Mayor Cole separated Consent Agenda Item 1A1 in order to allow for the withdrawal of the application of Cynthia Finch from the County Water District of Billings Heights Board. He added she stated she had not been welcomed at the board meeting and wished to withdraw her application. He stated the Heights Water Board was in a dispute with the City regarding water fees.

Councilmember Brown separated Consent Agenda Items 1C, 111 and 113 in order to abstain, because his employer was in receipt of payment for claims and award of a contract.

Councilmember Boyett moved for approval of the entire Consent Agenda, with the exception of Items 1A1, 1C, 111 and 113, seconded by Councilmember Shaw. On a show of hands vote, the motion was approved unanimously.

Councilmember Yakawich moved for approval of Consent Agenda Item 1A1, with the removal of the County Water District of Billings Heights board application of Cynthia Finch, seconded by Councilmember Boyett. On a show of hands vote, the motion was unanimously approved.

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

Councilmember Boyett moved for approval of Consent Agenda Items 111 and 113, seconded by Councilmember Shaw. On a show of hands vote, the motions were approved 10-0, Councilmember Brown abstained.

Councilmember Choriki moved to amend the agenda to remove and reschedule Regular Agenda Items 5, 6 and 7 until the December 21, 2020 Regular Business meeting, seconded Councilmember Joy. On a show of hands vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 20-10918 for Annexation 20-04: a 37.381 gross and 34.917 net acre parcel of land generally located both north and south of Elysian Road and east of East Lane. Quarnburg Farming Corporation and McCall Development, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Monica Plecker, Planning Division Manager, gave a PowerPoint presentation of the property requesting annexation. She stated staff was recommending conditional approval of the annexation with the two development agreements shown in 2a and 2b.

Councilmember Boyett asked about possible improvements on roads in the area. Ms. Plecker stated the conditions of approval related to the development agreements and the agreements included expectations of how the developers would participate in improvements.

Council discussed how the annexation would affect the City and the need for a cost of services study.

The public hearing was opened.

- **Kristi Drake, 2950 Waldon Place, Billings, Montana:** encouraged Council to include walking and biking trails in the plans for the annexation.

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

Mayor Cole asked about plans for trails in the Marathon Loop area. Wyeth Friday, Planning Director, stated a trail had been developed on Mallowney Lane and Josephine Drive and added development was occurring south toward the river in the Annafeld development.

Councilmember Joy moved for approval of Regular Agenda Item 2, seconded by Councilmember Shaw. On a show of hands vote, the motion was approved 9-2, Councilmembers Ewalt and Boyett voted in opposition.

a. Development Agreement with Quarnburg Farming Corporation for Lot 1, QFC Subdivision, 1st Filing.

Debi Meling, City Engineer, provided a PowerPoint presentation of the development agreement. She stated the agreement would include a SID for the development and reimbursement for half the cost of the water line. She gave an overview of the area being annexed and the water line that would require reimbursement to the City.

Council discussed traffic issues in the area and the plan for handling traffic after the annexation. Greg McCall, developer, stated the intersection had been modified to a 4 way stop and could be changed again if necessary, after the traffic study was complete.

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

b. Development Agreement with McCall Development for Lot 2A, Block 1, Adam and Mollie Walter Subdivision.

Debi Meling, City Engineer, provided a PowerPoint presentation of the development agreement. She stated the agreement would include an SID to the developer and reimbursements to the City for both water and sewer.

Councilmember Purinton asked how long subdivision reimbursements would last. Ms. Meling stated they would last for 20 years.

Mayor Cole asked if the City was tracking the SID expiration dates in order to allow time to notify property owners. Ms. Meling stated the GIS system was tracking the waivers and following the expiration dates. She added the information was also included in closing documents that were shown to a person when property was purchased.

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

3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently annexed property in Annexation 20-04: a 37.381 gross and 34.917 net acre parcel of land located both north and south of Elysian Road and east of East Lane; Quarnburg Farming Corporation and McCall Development, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Monica Plecker, Planning Division Manager, stated she did not have a presentation but was available for questions.

Councilmember Purinton asked how staff calculated how population would affect various wards.

Mayor Cole stated the Ward Map adjustment process would begin in the New Year after receiving the consensus report and that information was helpful for population issues.

Ms. Plecker stated staff looked at the ward the property was adjacent to and the process occurred after the census results were received.

The public hearing was opened.

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

Councilmember Shaw moved for approval of Regular Agenda Item 3, seconded by Councilmember Boyett. On a show of hands vote, the motion was unanimously approved.

4. PUBLIC HEARING AND FIRST READING ORDINANCE approving Project ReCode. (Continued from 11/23/2020 Regular Business Meeting) - Zoning Code amendment and Zoning Map update. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Chris Kukulski, City Administrator, gave a brief overview of Project ReCode and stated the Built Environment mattered because the design and quality of business and neighborhoods helped attract and citizens, investors and college bound students. He added there was a competition within the state to retain skilled workers and students and Project ReCode was an important part of that.

Wyeth Friday, Planning Director, stated the Council packet focused on specific items and amendments that had been requested by Council. He added there would be a review of non-conformity issues regarding total loss and encouraged Council to stay focused on what the steering committees had developed and the few items that would be brought forward in the upcoming presentation.

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation of the Zoning Code amendments and Zoning Map updates. She gave an overview of the numerous people involved in Project ReCode over the past three years. She reviewed the substantive changes and the documents that had been amended. Ms. Cromwell reviewed the changes shown in Exhibit C.

Mayor Cole mentioned some minor corrections to the following: page 7 Section 27-304, N1 District regarding garage length; and page 19, types of Planned Neighborhood Districts. Ms. Cromwell stated she would make the appropriate corrections.

Council discussed the amendments to the neighborhood districts' portion of the code and the development percentages. Ms. Cromwell stated the percentages were minimums and the developer could choose to use higher percentages of mixed neighborhood districts if they desired to do so.

Council discussed new neighborhood development, infill development of existing neighborhoods and garage door opening limitations.

Mayor Cole stated he wanted clarifying language added on page 19, Section 3a "unless table states otherwise". He added the table notes, at the bottom of the table, could be removed, as it was no longer needed.

Mayor Cole called for a recess at 7:58 pm.

Mayor Cole reconvened the meeting at 8:07 pm.

Mayor Cole stated the public space requirements seemed minimal. Ms. Cromwell stated the proposed 2% public space minimum was an effort to require some public space because many developments did not plan for any public space at all.

Ms. Cromwell continued the presentation on landscaping code sections for residential developments and clarified the proportionate compliance section concerning site design requirements.

Ms. Cromwell stated staff had modified the Electronic Message Display sign (EMD) dwell time from a 6-second static message time allowance to a 3-second static message time, based on direction received from Council.

Mayor Cole stated he was concerned with shingle replacement being considered a roof-style change. Ms. Cromwell stated materials were not considered a style change.

Mayor Cole referred to page 28, of Exhibit C, and stated a cross-reference of the materials portion should be indicated. Ms. Cromwell stated that could be done.

Councilmember Ewalt asked for clarification on non-conforming signs. Ms. Cromwell reviewed the difference between minor non-conformity and major non-conformity. She stated if the sign was abandoned for a certain period or changed by 50% or more, it would need to meet the new code.

Councilmember Neese asked if multiple messages could be displayed on EMD's. Ms. Cromwell stated different messages could be displayed, but not rolling messages.

Councilmember Neese asked if there was a standard allowance for brightness of messages. Ms. Cromwell stated there was a section dealing with dimming features required so signs adjusted the brightness based on ambient light.

Councilmember Ewalt asked for clarification of turf material allowances in the plant material section. Ms. Cromwell stated the intention was for commercial and mixed-use development properties and staff could add some clarifying wording.

Ms. Cromwell stated Council had directed staff to bring back a different method to allow existing casinos, bars and taverns that became non-conforming locations to request to rebuild in the future if needed. She added staff had been meticulously reviewing areas to ensure property was receiving "right zoning".

Councilmember Neese asked for clarification on pre-existing non-conforming properties. Ms. Cromwell stated if a non-conforming property was destroyed by more than 50% it would require a special review to rebuild the same way as it had previously existed.

Councilmember Neese stated "right zoning" could overturn a property owner's previous zoning efforts. Ms. Cromwell stated Council could make a motion if they had specific properties in mind.

Ms. Cromwell reviewed the non-conforming site characteristic amendments Council had requested and gave an overview of the map included in the Council packet.

Councilmember Purinton stated hard separations took away Council's authority to approve special reviews. Ms. Cromwell stated Council would still need to approve special reviews for new locations in mixed-use and heavy commercial areas. She added special reviews were not required for areas that did not have separation requirements.

Councilmember Purinton asked for clarification on bank loans and insurance for properties that were destroyed. Ms. Cromwell stated a legally non-conforming property that had been destroyed had 6 months to apply for a special review in order to rebuild. She added a non-conforming building that was abandoned or vacant for more than 6 months could lose its former use zoning. She stated that she had never been asked about conformity by a bank or insurance company.

Council discussed changing the time frame from 1 year to 6 months for special use allowances for abandoned and/or vacant properties.

Mayor Cole stated 6 months was not much time given the amount of work it could take to sell a building.

Mr. Friday stated staff received a lot of complaints about non-conforming abandoned buildings taking such a long time to re-establish. He reminded Council by continuing to allow these properties 1 year for re-establishment, it would not change the current situation in the City.

Councilmember Neese asked for clarification on the separation between schools, churches, parks and casinos. Ms. Cromwell stated, if a church purchased property near a casino, it would put the casino into a non-conforming status. She added the amendments would allow a special review on issues where a church purchased property in a commercial district near a casino. She added the relief valve in the amendment would allow non-conforming casinos a way to allay concerns.

Councilmember Neese asked if it mattered if the church was leasing or buying the property. Ms. Cromwell stated the church would need to occupy more than 50% of the property.

The public hearing was opened.

- **Josh Benson, 3112 Falcon Ridge, Billings, Montana:** stated the West End Task Force had concerns that casinos caused crime and devaluation of property. He stated bars, taverns and convenience stores had more crime than casinos and the separation rule to casinos was illogical. He added that the separation requirements seemed very vulnerable to a legal challenge down the road.
- **Doug Wild, 4712 Audubon Way, Billings, Montana:** stated the proposed garage opening widths on homes would make a large number of properties non-conforming. He added the proposed code would make the following homes non-conforming: the townhomes on Briarwood Golf Course, the 4 plexes on the golf course in the Heights, Twin Pines development near Shiloh and Central, and homes on Brookshire Boulevard, etc. He stated he did not agree with the restrictions.
- **Dennis Benson, 143 Lewis Avenue, Billings, Montana:** stated Project ReCode was targeting casinos unfairly and was not healthy for the community. He added most casinos had functioned properly for many years and the proposed requirements could bring forward legal challenges.
- **Christina Volek, 3214 Horton Smith Lane, Billings, Montana, West End Task Force Treasurer:** stated the West End Task Force had brought forward an issue in 2018 regarding the separation of churches, schools and playgrounds from casinos. She stated there was currently a 600-foot separation required for churches, schools, etc. from casinos, but neighborhoods did not have a separation requirement. She added a casino had recently relocated very close to a neighborhood and there was a bar being built on the west end immediately adjacent to homes. She stated a special review process would be an excellent idea for similar situations.
- **Greg McCall, Project ReCode Steering Committee:** thanked staff for the thousands of hours they had given in order to participate in Project ReCode. He added it would have been helpful for Council and constituents to come forward earlier in the process and stated it was disappointing to see the late involvement. He encouraged Council to approve Project ReCode and let it work as it was intended.

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

Councilmember Purinton moved to delay Regular Agenda Item 4, seconded by Councilmember Boyett.

Councilmember Shaw made a substitute motion for approval of Regular Agenda Item 4, seconded by Councilmember Brown. Council discussed the legality of being able to make amendments to a substitute motion.

Councilmember Shaw withdrew her substitute motion for approval, and Councilmember Brown withdrew his second.

Councilmember Ronning stated there had been ample opportunity for the public to weigh in regarding Project ReCode and she would not support a delay.

Councilmember Boyett stated there was still some uncertainty and questions remaining in the code regarding garages, PND percentages, and the special review process and more time would not hurt.

Councilmember Brown stated Council could make amendments and changes to the code and did not need to postpone the approval.

Councilmember Purinton stated the document was not a solid policy document yet and Council needed to address the public comment issues.

Councilmember Yakawich stated staff was capable of handling any issues that occurred with the code and Council could tweak the code at any time. He added the City had great legal counsel they could depend on regarding legal challenges.

Councilmember Neese stated he was concerned with changes staff had made to the code and the need for public involvement in those changes. He stated he had concerns with the legality of the casino regulations and the code needed to be accurate and defensible.

Councilmember Ewalt stated walkability meant different things to everyone and having bars and casinos located near neighborhoods could be appealing to some people.

On a show of hands vote, the motion to delay Regular Agenda Item 4 failed 4-7, Councilmembers Shaw, Yakawich, Joy, Choriki, Ronning, Brown and Mayor Cole voted in opposition.

Councilmember Shaw read the following: the Zoning Code amendment was initiated by the Yellowstone County Board of Planning per its authority under BMCC, Section 27-1502 in 2017 and reviewed by the Zoning Commission before it was forwarded to the City Council. After having conducted a public hearing on this matter, and considering the Zoning Commission's report and its recommendation for approval and adoption of the findings of the 10 criteria, as well as the written and spoken public testimony, I move to approve Project ReCode - Zoning Code amendment, including Exhibits A, Exhibit B Final Map Updates December 14 2020 Final, Exhibit B2 Draft Zoning Maps and Exhibit C Amendments and Adjustments to Exhibit A, seconded by Councilmember Brown.

Councilmember Neese, in reference to Exhibit C, page 20, Table 27-800.1., 3(a), made a motion to remove the 20% minimum district mix requirement in the PND Districts, seconded by Councilmember Ewalt.

Councilmember Joy stated she would not support the motion because the code was trying to attain diversity of housing choices by requiring a 20% mix.

Councilmember Brown made an amendment to the motion to change the 20% to 10%, seconded by Councilmember Yakawich.

Councilmember Choriki stated he would support the amended motion and the minimum would create more diversity and affordable housing.

Councilmember Neese stated he would support the amendment to his motion.

On a show of hands vote, the motion to amend Councilmember Neese's motion was approved unanimously.

On a show of hands vote, Councilmember Neese's amended motion to change the minimum district mix to a 10% requirement was unanimously approved.

Councilmember Ewalt, in reference to Exhibit C, page 10, made a motion to treat all 2-unit buildings as new development duplexes by removing (b) and (c), seconded by Councilmember Neese.

Councilmember Shaw asked for clarification on why staff had recommended the code change regarding duplexes. Wyeth Friday, Planning Director, stated the adjustment in the code was in order to allow a duplex to fit in with existing houses and the character of the neighborhood.

Councilmember Neese stated the amendment would allow builders more opportunity to provide more affordable housing.

Councilmember Joy stated there were many documents to help neighborhoods retain diversity, such as the Growth Policy and she would not support the motion.

Councilmember Brown and Councilmember Yakawich stated they would support the motion.

On a show of hands vote, the amendment was approved 7-4, Councilmembers Shaw, Joy, Choriki and Mayor Cole voted in opposition.

Mayor Cole made a motion to make typographical changes to the following: Exhibit C, page 7; Exhibit C, page 19; Exhibit C, page 20; Exhibit C, page 20 - delete table notes; Exhibit C, page 28; and Exhibit A, page 215; seconded by Councilmember Boyett.

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

Councilmember Neese asked if there had been any discussion to allow garage design or building exceptions for homes located on golf courses. Ms. Cromwell stated there had not been discussion of exemptions.

Councilmember Purinton, in reference to Exhibit C, page 34, made a motion to amend the non-conforming use abandonment time limit from 6 months to 12 months, seconded by Councilmember Brown.

Mr. Friday stated the reduction from 12 months to 6 months had been brought forward in order to allow neighborhoods to positively change non-conformity issues in a timely manner.

Council discussed the current abandonment code and how the proposed amendments would affect various businesses.

Councilmember Yakawich stated he wanted to give abandoned buildings a break and added that abandoned buildings were an issue in his Ward.

Ms. Cromwell stated this portion of the code had to do with non-conformity issues and not just abandoned buildings. She reminded Council that changing the non-conforming code from 6 months to 1 year would allow non-conforming businesses more time to be re-opened in their current non-conformity status.

Councilmember Shaw stated there were too many vacant businesses and giving businesses less time would help get the vacancy issue/abandoned buildings under control.

Council discussed the wording and definitions of the abandonment code.

On a show of hands vote, the motion was approved 6-5, Councilmembers Shaw, Yakawich, Joy, Choriki and Ronning voted in opposition.

Mayor Cole called for a recess at 11:04 pm.

Mayor Cole reconvened the meeting at 11:14 pm.

Councilmember Ewalt stated he wanted the separation of taverns and casinos portion of the code revised and brought back with more freedom for business owners.

Councilmember Joy stated this was the appropriate time to bring forward any changes Councilmembers wanted regarding separation of casinos.

Councilmember Purinton, in reference to Exhibit A, page 147, made a motion to amend the casino separation from 350 feet to 150 feet, seconded by Councilmember Neese.

Councilmember Joy stated she would not support the decrease in a separation requirement due to the impact it would have on homeowners and neighborhoods. She added the topic had been discussed during every task force meeting.

Mayor Cole asked for clarification on what other cities and states were doing regarding separations for casinos.

Mr. Friday stated the State had laws regarding separation of casinos from churches and schools. He added some communities had used the State regulations for separation, and some communities only allowed casinos in certain zones and focused areas of their city. He stated Helena required a 300-foot separation, and Kalispell required a 300-foot separation from churches, schools, parks, residential areas and other casinos.

Ms. Cromwell stated the measuring took place from the outside of the casino location to the property line of the protected use, such as; churches, primary or secondary schools, public parks and residential neighborhood zone district.

Councilmember Neese asked for clarification on which types of zones allowed casinos. Ms. Cromwell stated casinos were allowed in the following areas: corridor mixed-use, commercial, downtown support districts, downtown, EBURD and light industrial districts. Councilmember Neese stated allowing a smaller separation along arterial streets may be a good option. Ms. Cromwell stated 90% of casinos were already located on arterial streets and only a handful were not.

Councilmember Ronning stated she would not support the motion and continually heard frustration from people about casinos in their neighborhoods. She added a casino owner had talked to her about prime locations being near busy streets and did not think casinos walkability and/or neighborhood locations was important.

Councilmember Purinton asked for clarification on existing casinos on Grand Avenue. Ms. Cromwell stated streets like Grand Avenue, Central Avenue, and Broadwater Avenue would not be in conformance even with a 150-foot separation amendment.

Councilmember Brown stated, in the case of a fire or destruction, casinos could still relocate on their existing lot to allow for the 350-foot separation.

Councilmember Neese stated he had seconded the motion for discussion but would not support it. He added it could be looked at later, if necessary, after the code was implemented.

Councilmember Choriki stated Council had been asked repeatedly to do something about the number of casinos and this was a step in the right direction.

Mayor Cole stated he wanted a clear record established for the separation of casinos and wanted consistency in the separation of bars and casinos.

On a show of hands vote, the motion failed 3-8, Councilmembers Shaw, Yakawich, Neese, Joy, Choriki, Ronning, Brown and Mayor Cole voted in opposition.

Councilmember Neese made a motion to amend the code to include a ½ percent net area per dwelling unit of green space with a maximum of 10%. Ms. Cromwell stated that could be very difficult to calculate, because an NX1 zone district had a 4-unit maximum but could have multiple units on a lot.

Mayor Cole stated the amendment was not very specific or well-defined and recommended Councilmember Neese ask staff to bring more information on the topic before the 2nd reading.

Elizabeth Garvin, consultant, stated there were nationwide open space planning standards and would be happy to send Council further information.

Councilmember Neese made a motion to table Regular Agenda Item 4 until December 21, 2020, in order to allow time to review the information provided, seconded by Councilmember Boyett.

Councilmember Brown stated he would not support the motion to table Regular Agenda Item 4 and added the issue could be dealt with before the 2nd reading occurred.

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

On a show of hands vote, the motion to table Regular Agenda Item 4 failed 4-7, Councilmembers Shaw, Yakawich, Joy, Choriki, Ronning, Brown and Mayor Cole voted in opposition.

Councilmember Neese made a motion to amend the map code changes to ensure residential zones were equally applied to all neighborhoods, seconded by Councilmember Purinton. Ms. Cromwell stated the map was continuously updated to allow the zoning to match the development.

On a show of hands vote, the motion failed 3-8, Councilmembers Shaw, Yakawich, Joy, Choriki, Ronning, Boyett, Brown and Mayor Cole voted in opposition.

On a show of hands vote, the motion for approval of Regular Agenda Item 4, with approved amendments, was approved 9-2, Councilmembers Purinton and Boyett voted in opposition.

5. TAX INCREMENT FINANCE ASSISTANCE from Downtown Billings Partnership (DBP) to Downtown Properties, LLC located at 2624 Montana Avenue; up to \$665,765. Downtown Billings Partnership Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.) Removed from agenda to be placed on the December 21, 2020 Regular Business meeting.

6. ~~TAX INCREMENT FINANCE ASSISTANCE from Downtown Billings Partnership (DBP) to Kibler & Kirch located at 2807 1st Avenue North; up to \$79,940. Downtown Billings Partnership Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)~~ Removed from agenda to be placed on the December 21, 2020 Regular Business meeting.

7. ~~TAX INCREMENT FINANCE ASSISTANCE from Downtown Billings Partnership (DBP) to Halsten Holdings, LLC (Burger Dive) located at 2712 Minnesota Avenue; up to \$466,373. Downtown Billings Partnership Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)~~ Removed from agenda to be placed on the December 21, 2020 Regular Business meeting.

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.

- **Josh Benson, 3112 Falcon Ridge Way, Billings, Montana:** in reference to Councilmember Choriki’s statement that people that visited casinos were “sinners”, added that 15-20% of the City’s population visited casinos and he would make it his duty to make sure those people were aware of the statement. Mayor Cole thanked Mr. Benson for his call and stated that Councilmember Choriki had been joking when he made that statement.

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 12:06 am.



ATTEST:

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

CITY OF BILLINGS

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