

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

**December 21, 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 Neese 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.

The December 14, 2020 Minutes were pending.

### **COURTESIES:**

Mayor Cole recognized Bill Snell, through the Pretty Shield Foundation and Rocky Mountain Tribal Leaders Council, for the erection and illumination of 7 teepees in Swords Park, to honor those who have died and as a symbol of hope.

Mayor Cole acknowledged that this was the longest night of the year. He thanked all the agencies and individuals that helped the homeless population.

### **PROCLAMATIONS:**

There were no proclamations.

### **COUNCIL REPORTS:**

There were no Council reports.

### **ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

Mr. Kukulski stated that before Public Comment on Agenda items, John Felton, Yellowstone County Health Officer, Riverstone Healthcare and Melanie Schwarz, Big Sky Economic Development, would give an update to COVID-19 statistics in Yellowstone County and a presentation concerning the Joint Information Center that will provide weekly community updates concerning vaccines, hospital capacities, and Yellowstone County's COVID-19 cases.

Mr. Kukulski noted this was the last meeting of 2020. The next meeting was a Work Session scheduled for January 4th.

Mr. Kukulski stated there was 1 ex-parte communication received after 3:00 P.M. regarding support of the Poly Vista / Landon's Legacy element in the CIP.

**COVID-19 UPDATE:** John Felton, Yellowstone County Health Officer, Riverstone Healthcare and Melanie Schwarz, Big Sky Economic Development.

John Felton stated Montana saw an increase in COVID-19 positive cases in September and peaked in mid-November. He continued that Yellowstone County mostly mirrored those statistics. He stated the number of cases had decreased since mid-November with about 70 cases per day and that was a hopeful sign. Mr. Felton shared the in-patient numbers for the area hospitals and that also reflected a decrease with less than 100 patients overall as of December 20, 2020. He compared the case numbers for children 19 or younger and noted that there was a steady increase, but it was very slow and indicated the schools were doing a very good job of controlling the spread. Mr. Felton compared 5 years of flu cases and deaths with this year's COVID-19 totals. He noted that the total number of deaths due to the flu over the past 5 years was 23 in Montana, while Montana had seen 151 deaths in approximately nine months. He emphasized that COVID was significantly more lethal. He continued that with the extra sanitizing measures that were practiced, it would be effective at reducing the amount of influenza cases this year. He stated that each of the Yellowstone County hospitals received 975 of the Pfizer vaccinations and all had been dispensed. He stated that Montana needed to have at least 110,000 people vaccinated or had the disease to gain "herd" immunity. He stated that the Unified Information Command (UIF) had reorganized to better communicate information. It now has a Joint Information Center and Melanie Schwarz leads it as the Public Information Officer.

Melanie Schwarz described the types of information that would be available through the Joint Information Center. She stated the goal of was to provide credible, concise, clear and consistent information to the community's citizens and leaders through trust, transparency and teamwork. She said information would be updated weekly and provided to the Council and other community leaders. She mentioned the 14 people in the team whose efforts are to provide a synopsis of information gathered and researched. She gave information about the vaccine numbers, expected numbers of vaccines to arrive, hospitals' capacities, and resources, etc. She stated the team meets every Tuesday to gather, research and report information.

Councilmember Ronning mentioned that the Native American communities had taken huge hits due to COVID and asked who on the team represented this population. Ms. Schwarz stated they did not have anyone on the team to represent the Native American population and she was glad Councilmember Ronning brought that to her attention. She would follow up to locate an interested person.

Councilmember Neese asked about adverse reactions to the vaccines and suggested this information be included in the weekly reports. Ms. Schwarz responded that even if people contracted COVID, the recommendation was that they, too, receive a vaccine because immunity would not last forever.

Councilmember Choriki suggested that the report include a URLs, so people that print the report could type in the URL to access information on the web, rather than only through hyperlinks.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: ENTIRE AGENDA.**

**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.

- **Frank Fuhrmann, 433 Hillview Lane, Billings, Montana,** stated he was concerned about the gravel roads in the Southwest Corridor and stated the properties were annexed into the City in the 1990s. He continued that property owners were promised by the City for street improvements, but nothing has happened other than property taxes doubled when they were added into the City. He stated that when the SBURA was created in 2008, it was promised that the improvements would be paid from the TIF at no cost to the property owners. He stated the roads need to be brought to City standards. He added there is a flooding problem -- he pays for storm sewer, but the water goes nowhere. He stated the Council had approved the improvements in 2018, yet nothing has been done. He urged the Council to move forward with using 100% TIF dollars to get the street improvements made to the area as soon as possible.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana,** asked the City to use 100% of TIF monies to make the improvements listed in the CIP for properties in the SBURA as promised.
- **Barbara Prewitt, Billings, Montana,** stated her late husband was on the TIF board. She said that street improvements in the SBURA area were to be paid 100% by TIF monies.

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

**1. CONSENT AGENDA**

**A. Bid Awards:**

1. **Electronic Waste Collection.** (Awarded 9/14/20) Recommend cancelation of bid award to Green Technology Solutions.

- B. Exchange City Golf Corporation (ECGC) 2021 annual budget and fee structure for Par 3 Golf Course.**
- C. Airport's Updated Disadvantaged Business Enterprise (DBE) Program.**
- D. MET Transit Agency Safety Plan.**
- E. Donation to Fire Department from ExxonMobil Pipeline Company; \$2,500.**
- F. Perpetual Right of Way Easement with Yellowstone County for sewer facilities at MetraPark.**
- G. Resolution 20-10919 approving an extension of the Cable Franchise Agreement with Bresnan Communications, LLC, through December 31, 2021.**
- H. Bills for the Weeks of:**
  - 1. November 23, 2020
  - 2. November 30, 2020

Councilmember Brown separated Consent Agenda Items 1H1 and 1H2, in order to abstain, because his employer was in receipt of payment for claims.

Councilmember Shaw moved for approval of the entire Consent Agenda, with the exception of Items 1H1 and 1H2, seconded by Councilmember Boyett.

Councilmember Ronning asked Kevin Ploehn, Aviation and Transit Director, how disadvantage businesses would learn about the DBE program in Consent Agenda Item 1C to make application. Mr. Ploehn explained the program was a state-run program that benefitted minority or women-owned businesses. He continued that whenever Federal grants were received, the DBE programs were required to be incorporated, therefore Aviation and Transit had these programs in place. He stated the Aviation and Transit departments look for those businesses to help with construction projects, etc. He stated they have not been very successful in getting representatives from these businesses to attend publicly noticed meetings and encouraged anyone that met the criteria to reach him. He said they would be holding meetings to locate someone for the airport concession program soon.

Councilmember Purinton, in reference to Consent Agenda Item 1G, asked what the hold-up was. Interim City Attorney, Gina Dahl, stated she was new to the subject of the cable franchise agreement, so she was unable to address the question. She stated she asked for a year-long extension to allow her and Stacy Tenney, Deputy Staff Attorney, time to research any special issues that be associated with the agreement. Mayor Cole offered that he was involved in this matter at one point and said it is a very specialized area. He continued that a delay likely benefitted the City more than it hurt it. Councilmember Choriki also stated he had experience with negotiating a cable franchise from his time in New York City. He said it really is not in the cable company's favor to renegotiate the agreement. He offered his assistance to the City Attorney's

office. Councilmember Neese asked if televising the Council meetings over cable could be negotiated into the agreement.

Councilmember Purinton stated there had been a significant amount paid for flu shots to employees. She asked if the flu shots were required and would City employees be required to receive a COVID vaccine. Chris Kukulski, City Administrator, stated neither were required by the City, but that could change in the future.

Chris Kukulski, City Administrator, added that as cable usage decreases, so does the amount of money the City receives and that was something to consider. He continued that it was doubtful there were other cable companies wanting to get a franchise agreement with the City and as technologies changed, people were starting to stream more. Councilmember Ewalt warned about entering into a bad contract. Mayor Cole stated that Charter had most of the infrastructure and it would be very hard for another company to replicate.

Councilmember Neese, in reference to Consent Agenda Item 1B, acknowledged the great job the Exchange City Golf Corporation did with Par 3 Golf Course and thanked them.

Councilmember Ronning, in reference to Consent Agenda Item 1E, acknowledged and thanked Exxonmobil for their generosity not just to the City, but to many other organizations in the community, too.

By a show of hands vote, the motion to approve the entire Consent Agenda, with the exception of Items 1H1 and 1H2, was approved unanimously.

Councilmember Neese moved for approval of Consent Agenda Items 1H1 and 1H2, seconded by Councilmember Boyett. By a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

## **REGULAR AGENDA:**

### **2. LEASE of Airport property with NorthWestern Energy (NWE) to expand and rebuild the Rimrock Substation, revenue first year; \$29,245.94, revenue subsequent years adjusted by CPI-U. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Kevin Ploehn, Aviation and Transit Director, gave a presentation with numerous mock-ups and reviewed the site layout for the lease area. He recapped information from a September Work Session. He stated the lease was required for an expansion of the Rimrock Substation. He stated the current substation was over 60 years old and was constructed of wood. He continued that it would be upgraded to modern steel standards for greater strength and reliability. Mr. Ploehn stated the expansion would increase electrical capacity and provide greater ability to handle high summer / winter peak loading for Billings and the surrounding area. He addressed concerns raised about the

impact and visibility of the substation; aesthetics and landscaping; and possible relocation to the east on 64.86 acres owned by the City for the Public Works Department. He stated that the location could not be moved because of the 230,000 volt lines and creating a redundancy for reliable electrical flow. He addressed the secondary items of a parking area near the highway and walking path to the Swords Park Trail; and the NWE 2+ acre lot just south of the existing substation and north of Black Otter Trail for possible parking. He continued that the area was very challenging due to terrain and electrical wires running from all directions. He stated the site was located just east of the airport's LWAS tower and the substation towers would be shorter than the LWAS tower. He suggested that the area where the substation would be built would need to be leveled. The dirt removed for leveling could be used to create berms around the substation and mitigate some visibility of the substation equipment. He made suggestions for a parking lot on NWE's 2+ acres near the Black Otter Trail, and possible improvements to be made to the trail was in the CIP.

Roy Ishkanian, NorthWestern Energy's representative, supported Mr. Ploehn's presentation and talking points. Council discussions with Mr. Ishkanian continued regarding leveling, berming, fencing, safety around the substation and parking lot paving and millings. Mayor Cole expressed concern about approving the lease without the 2+ acres being a written part of the lease. Mr. Ishkanian stated he did not have authority to convey property on behalf of NWE, but he would check on it and get back to Council. Chris Kukulski, City Administrator, asked that Council consider adding language to the lease about berm creation too, if they were going to ask for contingency language to be added to the lease to address the 2+ acres.

Councilmember Neese asked whether there were any water lines that ran through the subject properties. He voiced his concerns about the berms having landscaping and no source of water. Debi Meling, Public Works Director, stated there were no water lines in the area; the nearest source was in Alkali Creek and no development for a water line was expected at any of the nearby properties. Mayor Cole stated the Yellowstone Kelly Interpretive Site had native plants planted and they survived fairly well from the moisture from rainfall and snow. He suggested something be written in the lease to address landscaping and maintenance on the berms. Mayor Cole added that when planting at the Yellowstone Kelly Interpretive Site, Western Sugar Company provided topsoil that was washed from sugar beets before processing and that could be an option here.

Councilmember Boyett moved for approval of the lease of airport property with NorthWestern Energy, as recommended by staff, with the contingencies added concerning proper berming with native plants and their maintenance until established and the donation of the 2+ acres owned by NWE, seconded by Councilmember Joy. Councilmember Ewalt moved to amend the motion that once the lease was revised with the language and items included, it be brought back to Council for approval at either regular business meeting in January, 2021, seconded by Councilmember Neese. Mayor Cole confirmed with Roy Ishkanian whether the delay in approval would cause any problems for NWE. Mr. Ishkanian responded he did not believe so, but asked that the

commencement date of the lease be changed to reflect a February 1<sup>st</sup> beginning date, rather than January 1<sup>st</sup>, 2021.

Councilmember Shaw stated she would not support the amendment to the motion as it appeared the changes could be made by staff and handled without oversight of the Council.

By a show of hands vote, the amendment to the motion was passed 7-4, Councilmembers Shaw, Choriki, Ronning and Brown voted in opposition. By a show of hands vote, the amended motion was approved 10-1, Councilmember Neese voted in opposition.

**3. FY2022-2026 CAPITAL IMPROVEMENT PLAN (CIP). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Andy Zoeller, Finance Director, provided a brief presentation for the CIP and its corrections from previous Council discussions, i.e., corrected grant funding classification for the stagecoach trail on pages 20-21, and adjusted Park District 1 programs to match Council direction.

Council discussions focused on the Parks Department's projects and donations for Landon's Legacy at Poly Vista Park.

Councilmember Purinton asked about \$11.9 million in the Facilities budget. Kevin Iffland, Assistant City Administrator, stated that was based on the negotiations for the Stillwater Building, and the purchase of the property for the BOC was not reflected in the CIP because it was never anticipated or in the plan.

Councilmember Boyett asked about the Recreation and Aquatics Center in the SBURA and whether it should be removed from the CIP altogether at this time. Councilmember Joy stated it was important to keep it in the planning documents. Jim Tevlin, SBBURD Coordinator, stated the project was very much on SBBURD's radar and recommended keeping it in the CIP. Councilmember Ewalt asked if the School District's proposal for a football stadium was to be on the same piece of ground. Mr. Tevlin responded affirmatively.

Councilmember Choriki moved for approval of the FY2022-2026 Capital Improvement Plan (CIP), as recommended by staff, seconded by Councilmember Shaw. Councilmember Ewalt moved to amend the motion to separate the SBBURD area street improvements for a separate vote, seconded by Councilmember Joy. Council entered into discussions about whether items could be separated with or without a motion.

Mayor Cole called for a recess at 7:33 P.M.

Mayor Cole reconvened the meeting at 7:42 P.M.

Mayor Cole continued the discussion about separated items needing a motion or not and referred to the City's Code, Section 2-221(2)( e), BMCC – Meeting Protocol, and under subsection (n) the City Attorney would act as the parliamentarian and would

make the final determination. Interim City Attorney, Gina Dahl, stated the item could have a separation by motion. By a show of hands vote, the motion to amend the motion was approved 6-5, Councilmembers Shaw, Yakawich, Choriki, Ronning and Brown voting in opposition. By a show of hands vote the amended motion to approve the CIP, with the exception of the separated SBBURD street improvements, was approved unanimously.

Councilmember Neese moved to approve the gravel street improvements in the SBBURD as referenced in the CIP and recommended by the SBBURD to be paid 100% by the SBBURD TIF District, seconded by Councilmember Ronning. Councilmember Purinton stated she was concerned about not being able to locate minutes or video that specifically stated what was promised to be paid at 100% and she was concerned this may set a precedent. Debi Meling, Public Works Director, provided an estimate to install sidewalks, curbs, gutters and street surface in the designated area. The sanitary sewer project was completed some years ago and every property located in the SBURA had access to the City's sewer system, but not all properties were connected because the fees to connect was the sole responsibility of the property owner.

Councilmember Brown stated that if the TIF funds were not used for street improvements in the SBURA, the streets would remain unpaved for the rest of his lifetime and beyond because many of the residents did not have the means to afford an SID. He stated it would be an appropriate use of the funds this time, but made clear that the Council should never promise that anything be paid 100%. Councilmember Yakawich stated he appreciated that the CIP was brought forward now, rather than later. He voiced his agreement with Councilmember Brown's statements. He continued that much of the information was done by a handshake and there were no written records of it, however, the Council had heard from some of the long-time residents that the promise was made. He stated he wanted the Council to approve the use of the TIF funds at 100%.

Councilmember Choriki stated this was really a policy question and he would consider proposing an initiative at the end of the meeting about bringing many of the gravel streets within the City limits up to City standards.

Councilmember Neese stated it was clear that a former Council gave their word to use TIF funds to pay 100% of street improvement costs and it never should have happened, but Council needed to keep their word and follow through. He voiced his support to use the TIF funds as recommended, but supported a policy being passed to guide future Councils.

Councilmember Ronning stated she also supported usage of TIF funds but stated relying on minutes from the past may not always provide the intent of the discussions that occurred and thus a policy really needed to be developed.

Councilmember Joy stated that in 2018 Council had on its priority list improving gravel streets, but it was not moved to a high priority. She stated that federal transportation funds would help Billings with street improvements at 50/50 from property owners and federal funds. She continued that the Council in 2018 chose not to make

streets a priority. She stated this was creating an inequality between citizens living in a TIF district and those that lived outside the boundaries of a TIF district and she could not support the motion. She concluded that she would support a 50/50 compromise, but not that 100% be paid by the TIF district.

Councilmember Ewalt stated this discussion was exactly the reason he asked for the CIP item to be separated because there is so much confusion about what was promised and what was and was not documented. He continued that everything from now on needed to be in writing and of record. He voiced his support for a 50/50 compromise.

Mayor Cole stated he would vote against the motion to pay for street improvements in the SBURA at 100% from the SBBURD TIF.

Councilmember Purinton moved to amend the motion to delay approval until Public Works could provide a solid estimate for street improvements, other items of infrastructure that may be an issue in the SBURA, and a timeline in which the improvements could be installed and paid by SBBURD TIF, seconded by Councilmember Joy. Councilmember Shaw stated she would not support the motion because initially the Council was just addressing gravel streets and now everything was being included. She stated she did not need any additional information and was prepared to vote without delay. Mayor Cole stated because of comments made during public comment, more information was needed. Councilmember Brown stated he would not support the motion either because in the CIP they were only addressing the gravel streets indicated in the red circle, not the rest of the streets in the SBURA or storm sewers, etc. He continued that this was just the CIP and subject to change. He stated it could be talked about more during budget discussions. Councilmember Neese echoed Councilmember Brown's statement and stated he would not support the motion.

By a show of hands vote, the amendment to the motion to delay approval failed 4-7, Councilmembers Shaw, Yakawich, Neese, Choriki, Ronning, Boyett and Brown voting in opposition.

By a show of hands vote, Councilmember Neese's motion to approve the SBBURD's recommendation to fund at 100% the \$3.9 million gravel streets improvements only for properties located inside the red circle designation, was approved 6-5. Councilmembers Ewalt, Joy, Purinton, Boyett and Mayor Cole voted in opposition.

**4. 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.)**

Mehmet Casey, Downtown Billings Partnership, provided a brief PowerPoint presentation concerning the properties located at 2712 / 2714 Minnesota Avenue. He stated DBP Board was pleased that The Burger Dive would remain in the downtown

footprint and would continue to be housed in the N. 27<sup>th</sup> Street Tax Increment District. He continued that The Burger Dive was wildly successful and nationally known. He stated the owners of the properties would be expanding their business; intended to rehabilitate the properties; add residential apartments for downtown workforce to the upper levels of the buildings; and would strive to retain the history of the buildings while making improvements and bringing the buildings into code. Mr. Casey reviewed the project merits and compliance. He reviewed the eligible TIF expenses and gave a breakdown of the project expenses.

Councilmember Shaw moved to approve tax increment finance assistance from Downtown Billings Partnership to Halsten Holdings, LLC, as recommended by the DBP Board, seconded by Councilmember Yakawich. Councilmember Shaw stated the development would go a long way to revitalizing Minnesota Avenue.

Councilmember Neese asked for clarification on the reimbursable expenses. Mr. Casey provided examples and specifics of qualifying reimbursable improvements. Councilmember Neese then asked about Historic Funds and if those were guaranteed. Eric Schmidt responded that Historic Funds were received after the project was completed, much the same way that TIF funding were received. He continued that Historic Funds had similar criteria to qualify for the funds, i.e., anything that would maintain or retain the buildings' historic structure.

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

**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.)**

Mehmet Casey, Downtown Billings Partnership, provided a brief PowerPoint presentation and stated the building located at 2624 Montana Avenue would be known as the Stone Building. He stated that the owners had negotiated with Your Pie Pizza to open its second branch in the building, which would add employees and activity to the vacant corner and contribute to the safety of downtown. He stated that by rehabilitating the building and the change of ownership from a non-profit to a privately-owned building it would now contribute to the tax base. He provided project merits and compliance. He stated the parking lot to the south of the building would be improved with lighting and fencing for improved safety. Mr. Casey explained that the purchase of the building was not reimbursable but was considered in the overall expenses. He explained the timing criteria that allowed its consideration and spoke about Phase 1 and Phase 2 of the overall project.

Councilmember Shaw moved for approval of tax increment finance assistance from Downtown Billings Partnership to Downtown Properties, LLC located at 2624 Montana Avenue, as recommended by the DBP Board, seconded by Councilmember Ronning.

Councilmember Neese asked of the developer, Randy Swenson, if the project was always considered to have multiple phases in order to return for TIF assistance during each phase. Mr. Swenson acknowledged that TIF assistance was sought very early on before the purchase of the building. He stated they had been assured it would be a high priority project and it took 6 to 8 months to go through the historical review. He explained the delays and movement of the project with the timing of the applications for assistance.

Councilmember Yakawich asked about improvements to the parking lot and whether a kitchen could be installed in the building. Mr. Casey explained that the parking lot would have one pedestrian exit/entrance, lighting and a curb cut off of Minnesota Avenue. He stated there had been some restrictions concerning kitchen facilities and residences above it but believed those had been resolved with the railroad.

Councilmember Choriki asked if the owner had a preference to a proposed overpass or underpass installed to mitigate traffic problems at the railroad tracks. Randy Swenson responded his preference was a tunnel because it would not disturb the activity on the street level.

Councilmember Ewalt voiced his concerns about pedestrian traffic crossing the railroad tracks. Councilmember Purinton followed asking about the number of parking spaces and ADA accessibility. Randy Swenson stated the parking lot had been with the building for many years and they would make improvements to increase the safety. He continued that there were already dropdown gates at the railroad tracks so pedestrians would not cross. He stated there was curbside parking along the front of the building and the parking lot, which contained 45 spots, would mostly be for staff parking. He continued that the entrance to the parking lot would be moved from the South 27<sup>th</sup> Street side to the Minnesota Avenue side and that would enhance safety. He acknowledged that the parking lot may not have enough spaces should the building ever become fully occupied. Wyeth Friday, Planning Director, stated because the property was in the Central Business District, it was exempt from the parking space requirements.

Councilmember Neese stated that by his calculations the reimbursable amount was significantly different than the ask. He stated he would support the assistance request but in the future wanted the figures to be more about future improvements.

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

**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.)**

Mehmet Casey, Downtown Billings Partnership, provided a brief PowerPoint presentation and reviewed the rehabilitation plans to bring back historic features to the vacant spaces. He stated that Kibler & Kirch was a locally owned business and their design office had been in the Stapleton Building for 6 years and the plan was to join the

retail branch of the business in the subject building. He reviewed the project merits and compliance. He explained the committee's decision to approve \$79,940 of the qualifying reimbursable expenses at a 10:1 ratio, rather than a 5:1 ratio.

Councilmember Ewalt asked about the ownership of the building. Jeremiah Young, Kibler & Kirch, responded that the 2 upper floors of the Stapleton Building were condos (residential) and they owned the 2 floors that were commercial (first floor - purchased in 2008, second floor - purchased about 7 years ago). He stated they were responsible for locating good tenants and this was the first time they had applied for TIF assistance. Discussions continued about visible blight and the comparison between the properties of The Burger Dive and the assistance they were receiving and the Kibler & Kirch property.

Councilmember Ronning moved for approval of the tax increment finance assistance from Downtown Billings Partnership to Kibler & Kirch located at 2807 1<sup>st</sup> Avenue North, as recommended by the DBP Board, seconded by Councilmember Joy.

Councilmember Ronning shared her memories of growing up and role the Stapleton Building played downtown. She acknowledged that Kibler & Kirch was a well-established, reputable business in Red Lodge and had been for many years. She looked forward to seeing their clientele do business in Billings. She also thanked Kibler & Kirch for their out-of-the-box ingenuity with repurposing old buildings and hoped others would do much the same with other buildings downtown.

Councilmember Neese complimented the DBP Board for its decision to reduce the TIF assistance.

Councilmember Yakawich thanked Mr. Young for investing in downtown and asked what attracted them to that area and move their successful business from Red Lodge. Mr. Young responded that their interior design business had been working from Billings for a number of years and they had been taking baby steps with retail, i.e. the art gallery, and it was on the backs of those businesses that they decided to bring their interior decorating retail business to Billings, too.

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

Mayor Cole called for a recess at 9:40 P.M.

Mayor Cole reconvened the meeting at 9:47 P.M.

**7. SOUTH BILLINGS BOULEVARD URBAN RENEWAL DISTRICT (SBBURD) EXPANSION. Staff recommends supporting the expansion of the SBBURD. (Action: approval or disapproval of staff recommendations.)**

Wyeth Friday, Planning Director, stated that he and Jim Tevlin, SBBURD Coordinator, would co-present. He advised Council that the purpose of the item was to provide direction to staff on possible expansion of the SBBURD. He reviewed the existing boundaries of the SBBURD TIF and expansion possibilities. He gave a historical background into the expansions of the existing TIF districts in Billings and

stated it rarely occurred and should be done strategically. He stated the expansion procedure was very similar to the TIF district creation. Mr. Friday acknowledged that the anticipated purchase of property for the BOC could be included in the expansion if it occurred and reminded Council that properties must be in the City limits to be included in a TIF district. He continued by providing a list of the numerous projects and improvements that had been made over the years in the SBBURD. He reviewed the path for development, expansion and determining blight.

Jim Tevlin, SBBURD Coordinator, spoke about various properties that could be considered for expansion south of Interstate 90. He mentioned that these properties could help with the development of the Marathon Loop and access to Riverfront Park. He focused on each properties' existing soil composition concerns, dilapidated structures and debris and the proposed future developments.

Wyeth Friday gave a summary of the information that was provided about the 4 identified properties considered for inclusion in the SBBURD. He reminded Council that staff was looking for direction from Council to explore expansion possibilities with Mr. Tevlin in 2021. He stated that would begin by identifying areas of blight and setting a schedule to meet with Council.

Council discussions continued concerning green field development; impediments to development; open ditches and open lands; valuations, incentives and blight.

Councilmember Neese asked whether the owners or previous owners of the properties with soil problems due to infill and reclamation efforts, should have been required to follow EPA guidelines and if they had not, was there a remedy through EPA. Jim Tevlin responded the infill was according to DEQ requirements. Tim Compton, stated the location was previously a gravel pit for the purpose of building the interstate and frontage roads and therefore considered a mine. He said there were stringent rules concerning mining. He continued that the previous owner filled the pit with acceptable materials per DEQ regulations. He stated those standards are in place for water quality purposes, safety and usability; the kinds of use are not distinguished at the time. He continued that through his development efforts, he has learned about the obstacles that hinder the type of development he seeks and that is why he is considering joining the TIF district for possible financial assistance.

Councilmember Shaw asked if there was a downside to expanding the TIF district. Wyeth Friday responded that through his analysis of the properties, he could find no downside. He explained that the City gaining properties located near the river would be placed on City services and that would be better than having them remain in the County on septic and water well systems. Chris Kukulski, City Administrator, reminded Council that it was because of the TIF district in the SBURA that commercial development occurred and now because of the TIF district, capital improvements to the area were planned in the approved CIP. He continued that Billings was competing with other cities for businesses and development along the interstate, south, made sense rather than to continue all new development to the eastern and western edges of the City. He added that the properties may look to gain financial assistance through the TIF district by entering into it, but there were no promises made to that effect and

applications and considerations would occur just like with everything else. He stated that if the properties did not enter the TIF district there was absolutely no chance that they would benefit from TIF assistance.

Councilmember Ronning asked about the open ditches on the Adkins property. Jason Adkins responded they had been used and posed a safety concern to the area's school children. He added that there was a blighted structure on the property that was being used for illicit drugs deals and needles and other drug paraphernalia was found in the ditches. He continued that he wished to rehabilitate and develop the property into something similar to Josephine Crossing.

Councilmember Choriki added that the area between Jackson Street and Garden Avenue needed to be in a TIF district someday.

Councilmember Boyett moved to direct staff to work with the SBURA Coordinator to move forward with the process of expanding the SBBURD TIF district, seconded by Councilmember Brown.

Councilmember Brown gave his support to move forward with identifying blight in the area and begin the process of expansion of the TIF district, if necessary.

By a show of hands vote, the motion was approved 8-3. Councilmembers Ewalt, Neese and Purinton voted in opposition.

**8. REMOVAL of contingencies on buy/sell agreement and proceed with purchase of property located at 6014 South Billings Boulevard. Staff recommends approval. (Action: approval or disapproval of staff recommendations.)**

Jessica Iverson, Building and Facilities Manager, gave a PowerPoint presentation about the potential purchase of a 19.923 acre parcel of land for \$2.5 million, currently located in the County as agricultural land, for the Billings Operations Center (BOC). She continued that the property was located directly beside the current BOC location and by acquiring it, would allow for expansion of that facility in the future. She explained the current property purchasing procedure. She mentioned that the appraisal came in at \$1.13 million; the City made a counteroffer and the seller agreed to that purchase price. She reviewed the investigative findings, i.e., appraisal process, Phase 1 environmental inspection and soils report. She stated the buy-sell agreement approved by Council in August for \$2.1 million was amended December 8, 2020, to \$1.13 million based upon the appraised market value. Ms. Iverson continued that the sellers would remediate identified contaminated soils. She reviewed the contingencies and stated the contingency release date was January 12, 2021. She stated the land purchase would be made using monies from the General Fund; it would be managed by Facilities Division and financed through charges to the BOC tenants; Facilities Division would have a master plan created within 12-18 months to guide future development and allocate the purchase cost to the benefitting departments; and repayment to the General Fund would begin in FY2025 after the current debt service at the BOC was paid in FY2024, which would keep department budgets from increasing due to the purchase. She reviewed the payment structure that each department would contribute.

Councilmember Neese asked for clarification concerning the contingencies were met and their release. Jessica Iverson stated the contingencies were met and now Council needed to approve the lower purchase price.

Councilmember Choriki moved for approval to remove the contingencies on the buy/sell agreement and proceed with the purchase of the property located at 6014 South Billings Boulevard for \$1.13 million, as recommended by staff, seconded by Councilmember Boyett.

Councilmember Ewalt asked about the demolition of the existing structures. Jessica Iverson responded that the personal property would be removed by the sellers and the City had a budget of \$50,000 to remove the structures. She continued that development of the property would be determined by a master plan and if portions of the property were determined to not be of use, the City could sell the unused portion(s). Councilmember Ewalt said maybe a new City Hall could be constructed there.

By a show of hands vote, the motion for approval 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:**

Councilmember Choriki moved to direct staff to put the following issues on future work sessions. Staff will inform the Council of any existing work on the issue and for the Council to “brainstorm” possible solutions to the following issues:

1. Dedicated funding for the operations and maintenance of parks, including new capital projects;
2. Discussion of a policy and a funding source for completing sidewalks and trails, including safe routes to schools; and
3. Funding Cost of Services modeling for future land use decisions.

Seconded by Councilmember Joy.

Councilmember Shaw asked whether forming 3 separate committees to work on each of the 3 issues might be an effective approach to the issues and would Councilmember Choriki consider a friendly amendment to that end. Councilmember Choriki responded currently there had been work on these issues and he wanted staff to give a status report on each of the issues and then decide where to go from there.

City Administrator, Chris Kukulski, stated that significant work by the Parks Board had been done toward identifying alternate funding for the Parks Department and it would be left to the Council to approve what the Board brought forward. He did not support the creation of a subcommittee of Council and staff for that purpose.

Mr. Kukulski continued that it might be helpful to have a subcommittee address Issue No. 2, because there were 3 separate mechanisms involved. He warned that the sidewalk program, safe routes to schools and trails should not be lumped together but considered separately and a committee could help Council understand that better.

Mr. Kukulski addressed his concerns about Issue No. 3, stating it was very costly in both money and staff time. He continued there was no money and it was a budget dialogue for next year.

Mayor Cole made a substitute motion concerning Issue No. 3, that staff provide a detailed cost of services report by March 15th, seconded by Councilmember Neese.

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

Councilmember Boyett moved to make an amendment to the motion for Issue No. 1 that staff and the Parks Board provide an informational presentation to Council at their earliest convenience on their work identifying possible funding for the operations and maintenance of parks, including new capital projects, seconded by Councilmember Neese.

Councilmember Purinton stated she would like more information on the conversation with Trust for Public Lands. Mr. Kukulski stated he would schedule something.

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

Council continued discussion about whether to create a subcommittee to address Issue No. 2, separate it into 3 topics, and how they fit into the Council's priorities.

Mayor Coles asked for clarification on Councilmember Choriki's motion concerning Issue No. 2. He asked if locations for missing sidewalks, trail improvements and safe routes to schools was the mission, or finding funding, or both.

Councilmember Choriki stated he wished to address the issues during this budget cycle. He stated he wanted the sidewalk policy to be reviewed to be more effective at helping Council make future decisions about the sidewalk program. Mayor Cole asked what the funding sources were for sidewalks presently. Debi Meling, Public Works Director, stated sidewalks were funded with gas tax and there was \$100,000 to use for some school crossings. She continued that since CTEP discontinued there were no grants to help with offsetting sidewalk assessments.

Councilmember Brown called the question. By a show of hands vote, it was unanimously approved.

By a show of hands vote, motion concerning Issue No. 2 was approved 10-1, Councilmember Ewalt voted in opposition.

There was no further business, and the meeting adjourned at 11:38 P.M.



CITY OF BILLINGS

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

ATTEST:

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