

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 25, 2021

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 Shaw gave the invocation.

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

### COVID-19 Update by Joint Information Center (JIC)

Melanie Schwarz from Big Sky Economic Development and a member of the Joint Information Center (JIC), provides weekly updates to the Council and community on the COVID-19 responses with a newsletter every Monday. She stated the community received significantly less vaccines than the week before with St. Vincent's Medical Center receiving zero vaccines, caused at the State level due to a problem with rotations but improvements were being made. She stated vaccine distribution to the State was very unreliable, so information concerning vaccines could only be provided on a week-to-week basis and information about availability was forwarded through RiverStone Health. She stated that vaccine appointments filled almost immediately upon release of the information and the call volume was very high. She continued that due to the small number of vaccines received each week in Yellowstone County, a mass vaccination clinic was not warranted as the clinics were able to keep up with the supply. She said the State's COVID-19 website had been improved to include information by County concerning vaccinations given. She provided vaccination numbers for Yellowstone County – 13,918 doses administered with 10,704 first doses and 3,214 fully vaccinated. COVID numbers continued to decrease for another week dropping below 1,000 active cases in Yellowstone County. She stated that Montana had vaccinated over 77,000 citizens so far, with 14,000+ fully vaccinated.

She addressed Council's questions concerning second-dose supplies, continued State rotation blips and distribution.

### MINUTES:

The December 14, 2020 Minutes were pending.

**December 21, 2020** – Councilmember Purinton moved for approval of the minutes as written, seconded by Councilmember Boyett. By a show of hands vote, the motion was approved unanimously.

The January 11, 2021 Minutes were pending.

## **COURTESIES:**

Councilmember Ronning reminded everyone that January was Human Trafficking awareness month and stated the Human Trafficking in Yellowstone County Task Force would sponsor a free screening of the documentary Shattered Dreams, Sex Trafficking in America, on its FaceBook public page on Thursday, January 28<sup>th</sup> at 8:00 P.M.

Councilmember Yakawich stated the Billings Symphony was having a ribbon cutting of their new offices on Friday, February 29<sup>th</sup> at 11:30 A.M.

## **PROCLAMATIONS:**

There were no proclamations.

## **COUNCIL REPORTS:**

There were no Council reports.

## **ADMINISTRATOR REPORTS - CHRIS KUKULSKI KEVIN IFFLAND, Assistant City Administrator**

Mr. Iffland stated Mr. Kukulski was in Helena for the legislature and he would provide the Administrator Report.

He provided a legislative update, beginning with HB 187 concerning Local Option Sales Taxes. He stated a hearing was scheduled for January 27<sup>th</sup> at 8:00 A.M. and if anyone on the Council was interested in testifying they should let him or Mr. Kukulski know for scheduling. He continued that SB 77 had seen a lot of activity between Montana League of Cities and Towns and other cities and staff was monitoring it, along with 39 bills and 145 others. He stated Mr. Kukulski was working on legislation to get State inmates out of local detention facilities.

He introduced Gavin Woltjer, Library Director, to provide an update on the reopening of the Library and Community Room technologies. Mr. Woltjer stated the Library would reopen on February 1<sup>st</sup> and provided information concerning programs, curbside service and public access computers. He stated the Community Room technology installation continued to be delayed due to equipment shortages, customs issues and shipping delays. He gave a timeline for expected arrivals of equipment, installation and testing with a goal date to have the Community Room accessible for Council meetings in mid-March. He stated that while the Library was closed, NorthWestern Energy conducted an energy assessment which identified certain lighting that could be installed to give significant energy savings immediately. Mr. Woltjer answered Council's inquiries about the audio-visual equipment's capabilities, security concerns and possible duo-localities for meetings.

Mr. Iffland concluded his report by stating no ex-parte communications had been received after 3:00 P.M.

**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.

- **Dan Brooks, Billings Chamber of Commerce, 815 S. 27<sup>th</sup> Street, Billings, Montana**, in reference to 11, acknowledged the Parks Department and all of the partners that had given input into the Castle Rock Master Plan which really fit the needs of the community. He continued it was not just a Billings Heights amenity, but a destination amenity for the entire community to benefit.

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

1. **CONSENT AGENDA:**

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

	Name	Board/Commission	Term	
			Begins	Ends
1	Shawna Bonini	Billings BID	01/25/21	12/31/24
2	Thomas Walker	Exchange City Golf Cooperation Board	01/25/21	12/31/24
3	Sandra McKee	Housing Authority - Resident Comm.	01/25/21	12/31/22
4	Tom Boos	Housing Authority	01/25/21	12/31/25
5	Angela Matta	Human Relations Commission	01/25/21	12/31/24
6	No Applications	Parks, Recreation & Cemetery Board*	01/25/21	12/31/21
7	Jeff Schoenhard	Tourism BID*	01/25/21	10/01/21

\*6 Unexpired term of Larry Brewster  
\*7 Unexpired term of Brian Arneson

- B. **Bid Awards:** None
- C. **Agreement** for GIS license software with Environmental Systems Research Institute, Inc. (ESRI); \$82,500 annually for 3 years.
- D. **Agreement** with Yellowstone Valley Animal Shelter (YVAS) and extension through January 31, 2023.
- E. **City-County Special Investigations Unit (CCSIU) Agreement** with Yellowstone County for 2021.
- F. **Land Purchase** from Gene and Ronna Klamert for West End reservoir and water treatment plant, and authorizing the Mayor to execute all documents; \$49,707.
- G. **Recreational Trails Program (RTP) Grant** to fund the BBWA Canal Connection Trail and authorizing the Planning Division to submit the grant application due February 1, 2021.
- H. **2020 Domestic Violence Grant**, and authorization for the Police Chief to sign all required grant material; \$27,331.
- I. **Castle Rock Park Master Plan.**
- J. **Resolution 21-10921** approving Yellowstone County 2020 Hazardous Materials Response Plan.
- K. **Resolution 21-10922** authorizing the issuance and calling for a negotiated bond sale for W.O. 19-02 and W.O. 19-35.
- L. **Third/Final Reading Ordinance 21-5748** approving Project ReCode - Zoning Code Amendment and Zoning Map Update.
- M. **Bills for the Weeks of:**
  - 1. December 21, 2020
  - 2. December 28, 2020

Councilmember Ronning separated Consent Agenda Item 1J for discussion.

Mayor Cole separated Consent Agenda Item 1L for discussion.

Councilmember Brown separated Consent Agenda Items 1M1 and 1M2, in order to abstain, because his employer was in receipt of payment for claims.

Councilmember Purinton separated Consent Agenda Item 1M2, in order to abstain stating that her family's business, Purinton Family Trust, had received payment.

Councilmember Yakawich moved for approval of the entire Consent Agenda, with the exception of Items 1J, 1L, 1M1 and 1M2, seconded by Councilmember Ewalt.

Councilmember Ewalt, in reference to Consent Agenda Item 1D, asked if the budget would increase by \$300,000 for 6 more positions at the animal shelter after FY22. Kevin Iffland, Assistant City Administrator, stated that was an example of how much it would cost the City if they had to staff the animal shelter. He continued that the City was the sole loan financier of the shelter at this time. Councilmember Neese gave his support for the contract and encouraged everyone to consider adopting a shelter pet. Triniti Chavez, Executive Director of the Yellowstone Valley Animal Shelter, confirmed that Yellowstone County would contract with the animal shelter for dogs brought in from outside the City limits beginning this year. She stated the shelter acquired approximately 5,000 animals per year and was the largest animal shelter in Montana. She stated they are housed in the same building as Animal Control, but that they had nothing to do with enforcement of animal codes, just sheltering services. She continued that they shelter all animals that are not hoof and cloven animals. She added that the shelter had not euthanized an animal due to lack of space or overpopulation at the shelter for the past 2 years. She said animals are euthanized only for severe injury or illness and severe aggression that cannot be corrected by trainers in the community. She stated the 'live release' rate for the shelter is 95% and that if an animal dies while in the care of the shelter for some reason other than euthanasia, that counts against the shelter. She said the national standard is 90% and the shelter in recent years has reduced the numbers of dogs and cats euthanized, significantly.

Councilmember Neese, in reference to Consent Agenda Item 1I, thanked the Heights Task Force for its involvement and the role they will play with fundraising efforts and volunteerism toward the master plan.

Councilmember Ronning, in reference to Consent Agenda Item 1H, asked Police Chief St. John about the number of cases assigned to the lone DV investigating officer. Police Chief St. John responded that the lone investigating officer for domestic violence cases likely touched 1/3 more cases than went through for prosecution by the DV Unit in the City Attorney's Office and worked on cases that are referred from the County Attorney's Office, too. He stated the DV investigating officer consistently asks for additional help and staffing and stated the officer was doing an excellent job with the resources provided.

By a show of hands vote, the motion to approve the entire Consent Agenda, with the exception of Items 1J, 1L, 1M1 and 1M2, was approved unanimously.

Councilmember Ronning, in reference to Consent Agenda Item 1J, asked that KC Williams, Yellowstone County Disaster Director, review in a nutshell the 2020 HazMat Response Plan. KC Williams stated the original HazMat Response Plan was adopted in 2011 and in 2019 the Federal government added 9 elements that a community's plan had to have. He stated a consulting firm was hired, using grant monies awarded by the State of Montana, to bring the City/County HazMat Response Plan into compliance with Federal standards. He stated the government requires that there be a Public Information Officer (PIO) to communicate information to the community should there be a HazMat event and an Emergency Operations Center (EOC). He continued that the EOC was located in the basement of Fire Station No. 1, was under-equipped and too small to house approximately 60 personnel that would respond to a HazMat event.

Councilmember Ronning moved for approval of Consent Agenda Item 1J, seconded by Councilmember Boyett. By a show of hands vote, the motion was approved unanimously.

Councilmember Brown, in reference to Consent Agenda Item 1L, made a motion to approve the Zoning Code amendment, 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 being forwarded to the City Council; and after conducting a public hearing and having passed this ordinance on First Reading on December 14, 2020, and on Second Reading on January 11, 2021; and having considered the Zoning Commission's report and its recommendation for approval and adoption of the findings of the 10 criteria, as well as written and spoken public testimony; including Exhibit A as modified by approved Exhibit C, and Exhibit B, which consisted of Exhibit B2 Draft Zoning Maps as modified by approved Exhibit B1 Final Map Updates on Third Reading, seconded by Councilmember Yakawich. Mayor Cole moved to amend the motion to revise Section 27-303.C – Site Access for Lots. 3. As follows:

Where there is an existing or planned alley system, lots shall be provided vehicle access from the alley. Lots without or without alley access ~~shall~~ may be provided a curb cut for vehicle access to the street pursuant to City Curb Cut and Driveway Standards in BMCC, Section 6-1208,

seconded by Councilmember Ewalt.

Councilmember Joy stated curb cuts and driveways through sidewalks made it more dangerous for pedestrians as high-profile vehicles cannot see pedestrians on sidewalks very well.

Councilmember Yakawich supported the motion to amend the section because it offered flexibility and options.

Councilmember Ewalt supported the motion to amend because driving onto plowed streets in the winter was better than driving down muddy, unplowed alleys.

By a show of hands vote, the motion to amend the motion was passed unanimously.

Councilmember Neese voiced his concerns and stated he would vote against it for several reasons. He thanked all the staff and parties that supported the final amendments. He stated that a lot of improvements and clarifications had been made since November and he understood tweaks would continue to be made.

Councilmember Ewalt asked about the process for periodic review of the effectiveness of the amended zoning code.

Wyeth Friday, Planning Director, gave a timeframe of 4 months, 7 months and one year from the adoption of the amended zoning code, to identify problems with the new code. He continued that staff would keep a running list of situations or problems identified while working under the new code between the effective date in February and 4 months later; that could be anything from typographical errors found to significant problem areas. Those would be brought to the Council those intervals for corrections and revisions to the code. He cautioned that major changes to the code should not occur right away, that staff and the community needed time to work within the new code before making any additional major changes. He said changes to the code could be done through Council initiatives in the same method as before.

Councilmembers gave accolades to the many participants, staff and the consultant, Elizabeth Garvin, that worked on Project ReCode – Zoning Code Amendments.

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

Councilmember Yakawich moved for approval of Consent Agenda Item 1M1, seconded by Councilmember Choriki. By a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Yakawich moved for approval of Consent Agenda Item 1M2, seconded by Councilmember Choriki. By a show of hands vote, the motion was approved 9-0, Councilmembers Brown and Purinton abstained.

### **SPECIAL PRESENTATION: 2020 Retirees!**

Kevin Iffland, Assistant City Attorney, recognized 48 City retirees that left service in 2020, noting that many of the retirees had served 30-40+ years and they took with them a lot of experience and knowledge. Mr. Iffland clarified that there were no K-9 retirees in 2020. Council gave a round of applause and appreciation to the retirees.

## REGULAR AGENDA:

**2 PUBLIC HEARING AND SPECIAL REVIEW 988: a special review to allow an existing all-beverage liquor license to relocate to 2499 Gabel Road, a 3,128 square foot building, located at Block 4, Lot 3, Cenex Park Subdivision, on a 68,520 square foot parcel of land. King McCall, LLC, owner; Corey Welter Enterprises, Inc., agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Karen Husman, Planner, gave a PowerPoint presentation and stated that the application originally came to Council in October of 2020 and was very specific to the location. The original applicant reneged on his lease making the all-beverage liquor license available to a different applicant. She stated the applicant had obtained another all-beverage license. She added the proposed location was formerly a church. The Zoning Commission held their public hearing and forwarded a recommendation of conditional approval based on the criteria for special review; relocation of existing all-beverage liquor license; no outdoor seating, music or announcement systems; new exterior and parking lot lighting with full cut-off shields, etc.

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

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

**3 PUBLIC HEARING AND SPECIAL REVIEW 989: a special review for an all-beverage liquor license with gaming into a 2,500 square foot commercial unit in an existing building, and addition of an outdoor patio, located at 3189 King Avenue West, Block 17, Lot 2, Lampman Subdivision, on a 39,907 square foot parcel of land. Daj Enterprises, LLC, owner; Josh Benson, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Karen Husman, Planner, gave a PowerPoint presentation and stated the outdoor patio was new to the application. The Zoning Commission held their public hearing and forwarded a recommendation of conditional approval based on the criteria for special review; relocation of existing all-beverage liquor license; no outdoor seating, music or announcement systems; new exterior and parking lot lighting with full cut-off shields; lighting of signs shall be allowed within the City Sign Code in place at the time of the sign permit application, etc. She stated if the Special Review passed, it would be a legally non-conforming use because of the

separation from a residential zone under the newly adopted zoning code. She continued that the newly adopted zoning code would require a 350-foot separation for businesses with 10 or more gaming machines, but if there were 9 or fewer gaming machines the separation would not apply. Ms. Husman provided clarification on the measurements of distance to determine the separation. She explained the condition about there being no outdoor music or PA systems for the Special Review. She also added that the restrictions surrounding all-beverage liquor licenses and beer and wine only licenses as the same, but in this case the applicant already has an approved beer and wine liquor license, it was just the outdoor patio and all-beverage liquor license that was being reviewed.

Councilmember Ronning asked Josh Benson, agent, how many gaming machines were in the business. Mr. Benson responded there would be 20 gaming machines. He said the outdoor patio was to benefit the restaurant and provide more seating.

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

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

**4 PUBLIC HEARING AND RESOLUTION 21-10923 approving and adopting FY2021 budget amendments. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Andy Zoeller, Finance Director, provided a PowerPoint presentation for the first half of FY2021. He stated Council was asked to approve re-budgeting for prior year's projects totaling approximately \$11 million. He identified where budget savings had occurred and asked for authority to spend that money on additional work in the scope of the project (wastewater interceptors) and police priorities list as Council identified during the 12/7/2020 Work Session. He reviewed new and additional funding through grants and assessments that were unknown at the time the FY21 budget was adopted, i.e. CARES Act.

Council discussion concerning CARES Act monies and reimbursements continued with Mr. Zoeller providing clarification.

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

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

**PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required.**  
(Comments are limited to three (3) minutes or as set by the Mayor. During COVID-19, the method to take and hear public comment has changed. Individuals wishing to give public comment will call a dedicated phone line (237.6196) and held in queue until it is their turn to comment.)

The public comment period was opened.

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

**COUNCIL INITIATIVES:**

There were no Council initiatives.

There was no further business, and the meeting adjourned at 7:26 P.M.



CITY OF BILLINGS

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

ATTEST:

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