

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

February 22, 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 Neese 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. Ms. Schwarz provided details about how businesses were responding to the lifting of the mask mandate and stated it was the second week of operating the centralized vaccination clinic at Cedar Hall on the MetraPark grounds. She explained the processes for making an appointment for first vaccinations and stated the second vaccinations would be given at a different location. She continued that approximately 1,440 vaccines would be given during the second week and that the State was still in Phase 1B.

Councilmember Ronning asked how the JIC was responding to the low-income population because they tended to not have the resources to receive important, current information about COVID-19 vaccinations and clinics and provided Ms. Schwarz with a hyperlink to a site to gather more information.

Mayor Cole lost connection at 5:36 pm and Deputy Mayor Yakawich presided over the meeting at that point.

Councilmember Neese asked what the percentage was of Yellowstone County residents who had received their second doses. Ms. Schwarz stated the information was on the State's website and county numbers were being tracked there.

MINUTES:

February 8, 2021 – Councilmember Neese moved for approval of the minutes as written, seconded by Councilmember Boyett. By a show of hands vote, the motion was approved unanimously by all present, Mayor Cole still had not rejoined the meeting.

COURTESIES:

Councilmember Ronning expressed her condolences to the West High community and the families of the 3 students that lost their lives in a tragic accident earlier in the week.

Mayor Cole rejoined the meeting at 5:40 pm and assumed governance of the meeting.

PROCLAMATIONS:

Mayor Cole proclaimed March 2, 2021, as a Day of Empathy to connect justice-involved individuals with resources and services to successfully re-enter the community and decrease stigma by raising public awareness of their challenges.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski provided a legislative update. He stated LC-3268, should be assigned a House Bill number soon and once it did a hearing date and time would be scheduled. He stated the Police Chief and Sheriff had been invited to participate in any hearings on this matter. He continued that HB-309 was a prohibition against any new zoning regulations during an emergency. He stated the City would speak against HB-309. He stated more was to be learned about SB-268 and 269 that affected mobile home parks and their owners. He explained there were predatory behaviors by some out-of-state companies that purchased mobile home parks and then rapidly raising lot rents and fees to their tenants.

Mr. Kukulski acknowledged that one ex-parte communication was received after 3:00 pm concerning Regular Agenda Item 7, Zone Change 987, from Erin Heringer, applicant, supporting the postponement of the item.

Mr. Kukulski stated concerning Regular Agenda Items 4, 5, 6, and 7, that the applicant's had sent a written request to postpone Annexation 20-05, and the subsequent development agreement, Ward expansion and Zone Change to the March 22, 2022 Regular Business meeting. To do so would require two separate motions and action. The first would be to move consideration of Regular Agenda Items 4, 5, 6 and 7 to the beginning of the agenda to vote on now with a simple majority needed; and the second, by a simple majority vote, to postpone these same items to the March 22, 2022 Regular Business meeting.

Discussions followed concerning gaining access to the Library Community Room for hybridized public meetings and open carry laws and security measures.

Councilmember Neese made a motion to move Regular Agenda Items 4, 5, 6, and 7 to the next item on the agenda for consideration, seconded by Councilmember Boyett. By a show of hands vote, the motion was approved unanimously.

Councilmember Neese made a motion to postpone Regular Agenda Items 4, 5, 6, and 7 to the March 22, 2021 Regular Business meeting, seconded by Councilmember Boyett. Discussions followed concerning the extension of time, giving proper notice, impact on the March 22nd agenda and clarity on "quasi-judicial" measures. By a show of hands vote, the motion was approved unanimously.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 5 and 9 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** -- Separations:

A. **Bid Awards:**

1. **2021 Fire Station No. 4 Roof and Siding Replacement Project.** (Opened 2/9/21) Recommend rejecting all bids.
2. **Airport Conduit and Fiber Optic Installation Project.** (Opened 2/9/21) Recommend rejecting all bids.
3. **Billings Landfill Live-Floor Trailers.** (Opened 2/9/21) Recommend Motor Power Equipment; \$462,642.

B. **Change Order No. 1,** additional fire truck to replace unit 4049, Pierce Manufacturing Inc.; \$638,777.

C. **Change Order No. 4,** W.O. 18-22: Leavens Reservoir Waterline and Improvements, Western Municipal Construction, Inc.; not to exceed \$146,024.30.

- D. **Amendment No. 26**, Morrison-Maierle, Inc. for Engineering Services for the Reconstruction of the Airport Commercial Aircraft Ramps; \$250,768.
- E. **Annual Acceptance** of Federal Aviation Administration Airport Improvement Program Grants for 2021.
- F. **Recommendation of Approval** to the Policy Coordinating Committee (PCC) for the Billings Bike and Scooter Share Feasibility Study.
- G. **Donation** to Fire Department of four (4) Traeger Pro Series wood pellet smokers for general use; \$2,796.
- H. **Preliminary Minor Plat** of Amended Lot 6, Block 19, Lake Hills Subdivision, 38th Filing, generally located on the west side of Clubhouse Way where it intersects with Boca Raton Road; Yellowstone Property Solutions, LLC, owner; Performance Engineering, agent.
- I. **Final Minor Plat** of Amended Lots 8 and 9, Block 51, Lake Hills Subdivision, 21st Filing.
- J. **Final Major Plat** of Annafeld Subdivision, 3rd Filing.
- K. **Resolution 21-10926 of Intent** to create SID 1416 Gleneagles Boulevard improvements and setting a public hearing for March 22, 2021.
- L. **Second/Final Reading Ordinance 21-5749** approving and adopting Article 26-800, Billings, Montana City Code (BMCC), Dental Amalgam Management Rule.
- M. **Bills for the Weeks of:**
 - 1. January 18, 2021
 - 2. January 25, 2021

Councilmember Brown separated Consent Agenda Item 1D in order to abstain, stating his employee was the beneficiary of the amendment to the contract.

Councilmember Purinton separated Consent Agenda Item 1F for discussion.

Councilmember Purinton moved for approval of the entire Consent Agenda, with the exception of Items 1D and 1F, seconded by Councilmember Brown.

Councilmember Ewalt, in reference to Consent Agenda Item 1B, asked for clarification on the dollar amounts as stated in the staff memo and refunds into the ERP. Mr. Kukulski responded that any refunds would be returned into the Equipment Replacement Plan (ERP) and not deposited or spent elsewhere. Discussion followed concerning years of service for fire engines, and that a significant savings was realized when ordering the third fire engine now, rather than at the end of its life. Andy Zoeller, Finance Director, provided clarification on the dollar amounts and stated they were correct.

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

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

Councilmember Purinton, in reference to 1F, stated staff would not have time to work on a Bike and Scooter Share Feasibility Study. Councilmember Purinton moved to NOT recommend approval to the Policy Coordinating Committee (PCC), seconded by Councilmember Ewalt.

Councilmember Boyett voiced concerns about spending monies on studies when there were other projects the money could benefit. He stated it was an opportunity for private enterprise to explore.

Councilmember Choriki asked how much time would staff need to spend on the study. Elyse Monat, Active Transportation Planner, responded that no additional time was required of staff at this point, but the study would provide a framework. Monica Plecker, Planning Division Manager, stated the study did not obligate the City to provide any funding toward the program. She continued that Council was asked to accept the document and the information contained in the study and forward a recommendation to the Policy Coordinating Committee (PCC). She stated it was important to understand that distinction.

Councilmember Shaw stated Council often made short-sighted decisions and pushed things to the future over and over again. Councilmember Shaw made a substitute motion to approve the recommendation of approval to the PCC for the Bike and Scooter Share Feasibility Study, seconded by Councilmember Choriki.

Council discussion continued concerning future implementation and whether the City would be obligated later to contribute money to the Bike and Scooter Share if it was determined to be feasible. Also discussed were the benefits toward a healthier community when active transportation was supported; and findings from other communities that had implemented the program.

By a show of hands vote, the substitute motion was approved 6-5, Councilmembers Yakawich, Neese, Ewalt, Purinton and Boyett voted in opposition.

REGULAR AGENDA:

2. PUBLIC HEARING to provide the community an opportunity to comment on the low-income housing communities of Brush Meadow Apartments, Edgewood Apartments and Shiloh Glen, as required under Section 15-6-221(2), MCA. No action by City Council is necessary.

Wyeth Friday, Planning Director, stated the public hearing was required by State law for the applicant, 11 Capital, to qualify for low-income housing tax exemptions. He stated all three of the housing communities were being acquired by 11 Capital. He provided area maps indicating the locations of the subject properties and gave historical details about the housing complexes. All three of the properties are currently low-income housing communities and there are no major improvements or activity expected at this time. He introduced 11 Capital Asset Manager, Betsy Schanno, to answer Council's questions and reiterated that no action was required by the City Council other than to hold a public hearing to solicit public comment.

Councilmember Neese stated he wanted it on the record that low-income housing was needed in Billings. He asked Ms. Schanno about a waiting list for the properties. Ms. Schanno responded that each property had a waiting list of 15 to 20 families at any given time. She continued that 11 Capital had no intension of taking any of the properties out of the program.

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

3. PUBLIC HEARING AND RESOLUTION 21-10927 assessing the weed abatements. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, stated two properties needed to be removed from the list of properties to be assessed for weed abatement as those properties had paid the assessments prior to the meeting. The properties to be removed were 1941 Belvedere Boulevard and 114 S. 29th Street. He stated 1,272 weed cases were reported in 2020 and the Parks Department was dispatched to cut 142 of those cases. He continued that for 22 of those properties, when the Parks Department arrived, they had already been cut. He reported a 89% compliance rate.

Council discussed snow removal efforts and whether a similar program could be created. Wyeth Friday stated there were no resources to make that program effective.

The public hearing was opened.

- **Curt Hecker, Manager of Montana Assets, LLC, 3820 First Avenue South, Billings, Montana**, stated he was assessed for the City to mow the property located in the right-of-way and he refused to pay the assessment because it's the City's right-of-way. He quoted State law that a property owner was not responsible for injury to a person if that injury happens on a sidewalk and he saw no difference between that and the right-of-way weed maintenance.

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

Chris Kukulski, City Administrator, stated that Mr. Hecker's research was partially correct, but his assumptions were incorrect. He stated the Courts have found that the City is liable should someone trip and fall on a sidewalk, but that a homeowner can be held responsible through City ordinance, to build the sidewalk, repair and replace the sidewalk and care for the right-of-way, generally. Wyeth Friday added that City code required property owners to maintain their one-half of the right-of-way from the center up to their property line and therefore Mr. Hecker was assessed for not cutting his weeds on that portion of the property.

Councilmember Yakawich moved for approval of Item 3 with the removal of the two properties as indicated by staff, seconded by Councilmember Neese.

Council discussion followed regarding the lack of legal challenges to the City's code and suggested the Legal Department conduct research on that portion the code.

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

4. PUBLIC HEARING AND RESOLUTION FOR ANNEXATION 20-05: a property located north of Highway 3 and both East and West of AJ Way. Aviation Properties, LLC, petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

This item was postponed by an approved motion to the March 22, 2021 Regular Business meeting prior to the Public Comment on Non-Agenda Items and the Consent Agenda.

5. DEVELOPMENT AGREEMENT with Aviation Properties, LLC, for infrastructure improvements on COS 2037 and COS 1889, Tracts 1A and 1B, north of Highway 3 and west of the airport. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

This item was postponed by an approved motion to the March 22, 2021 Regular Business meeting prior to the Public Comment on Non-Agenda Items and the Consent Agenda.

~~6. — PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward I to include recently annexed property in Annexation 20-05: a parcel located north of Highway 3 and both East and West of AJ Way; legally described as Tracts 1A and 1B, Certificate of Survey 1889 Amended, totaling approximately 49.34 gross and 45.972 net acres. Aviation Properties LLC, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)~~

This item was postponed by an approved motion to the March 22, 2021 Regular Business meeting prior to the Public Comment on Non-Agenda Items and the Consent Agenda.

~~7. — PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 987: a zone change from Agricultural (A) to Highway Commercial (HC/CX) on Tracts 1A and 1B of COS 1889, located east of Billings Flying Service at 3655 AJ Way. Aviation Properties, LLC, owner; Collaborative Design Architects, agent. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.)~~

This item was postponed by an approved motion to the March 22, 2021 Regular Business meeting prior to the Public Comment on Non-Agenda Items and the Consent Agenda.

8. PUBLIC HEARING AND RESOLUTION 21-10928 FOR ANNEXATION 21-01: a property located at the northeast corner of Hawthorne Lane. BCJM, LLC, petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

Monica Plecker, Planning Division Manager, gave a brief PowerPoint presentation and reminded Council there were four items concerning the property and each item needed to be considered separately on their own merits, with three separate public hearings to be held. She stated that if the property was annexed into the City it was necessary to rezone it because currently it held a "agriculture" zone in the County and the City does not have an "agriculture" zone. She continued that the proposed zone would be R-70 or under the new zoning code, N2.

Ms. Plecker reviewed the five criteria: 1) area was located within the Limits of Annexation; 2) City was able to adequately provide services to the property; 3) proposed public improvements within the area to be annexed will meet City standards; 4) all property owners within the area to be annexed must sign a Waiver of Right to Protest future SIDS; and 5) any proposed development of the site would be done in compliance with zoning and site development regulations.

She stated the property would be served by the Height Water District, but sewer, etc. would be served by the City.

Councilmember Boyett asked why N2 zoning was the proposed zoning for the area. Councilmember Neese called point of order and said the zoning should be discussed during the Zone Change later in the agenda and the annexation alone should be discussed now. Mayor Cole allowed the question and Monica Plecker addressed it by saying that when agricultural land is annexed into the City, it must be rezoned with a zone the City has. She continued that in most cases an N3 would be designated, but in this case the applicant has designated N2 and that would be heard during the Zone Change and Public Hearing at the end of the agenda.

Discussions followed about whether public services can be rejected, and it was clarified that only solid waste services can be provided by a private refuse company; all other services, i.e., water and sewer, must be provided by a public entity.

Councilmember Neese expressed concerns about N2 zoning for the property due to the congestion already on properties surrounding it. Councilmember Joy called point of order stating that this discussion had more to do with the zone change to be heard later, than it did the annexation. Mayor Cole allowed the discussion to continue. Monica Plecker responded that when a property has petitioned for annexation, the developer/petitioner/applicant may petition for zoning other than what the City recommends, which in this case would have been N3 zoning; the petitioner wished for N2 zoning.

Mayor Cole asked for clarification on the N2 zoning on properties to the south being bound by a private covenant to only have single family homes. Nicole Cromwell, Zoning Coordinator, responded that the large property located to the south of Bitterroot Heights Subdivision is bound by a private covenant and restriction that does not allow any attached dwelling units. She explained that N2 zoning had narrower lot sizes; allowed up to 2 units to be attached; lot coverage is basically the same; required shorter building height allowance than N3; but has the same garage door opening percentages; and it has a "build to" area, rather than a "setback" area. Ms. Cromwell reiterated that the annexation must occur before a Zone Change can be heard. She clarified that if the Zone Change was denied to an N2 zone, it was left to the Planning Department staff to zone the property, which would likely be N3 and the applicant was aware that could happen.

Councilmember Choriki asked if staff considered that the area around Mary Street and the proposed bypass to I-90 would create a high traffic area. Monica Plecker deferred the response to the applicant's agent, Robbie Neihart, Performance Engineering, Inc.

Councilmember Neese made a statement about the covenants attached to

the surrounding properties as being for single family dwellings and that those homeowners anticipated the area would retain that structure. Councilmember Joy called point of order stating the discussion had no relevance to the annexation of the land. Mayor Cole allowed the discussion to continue. Councilmember Neese continued that the covenants would expire in 2029 and then N2 homes could be built there, leaving the existing residents with a neighborhood that was very different than what was originally visioned. He asked what the developers planned to do with the southern section of the road nearest the proposed bypass.

Mayor Cole called for a recess at 7:33 pm.

Mayor Cole reconvened the meeting at 7:40 pm.

Applicant's agent, Robbie Neihart, Performance Engineering, Inc., stated he would stick to answering questions about the annexation. He stated the 16+ acres was the next phase of Bitterroot Heights Subdivision to be annexed into the City and developed. He continued that they had worked with various City departments to determine the best access to the area and would add onto Hawthorne Lane. He continued that discussions had occurred with MDT concerning the bypass and had learned that that project was slated for construction in 2025 and would be built about 130 feet north of Mary Street.

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

Councilmember Shaw moved for conditional approval of Item 8, Annexation 21-01, as recommended by staff, seconded by Councilmember Joy. By a show of hands vote, the motion was approved unanimously.

9. DEVELOPMENT AGREEMENT with BCJM Properties, LLC, for infrastructure improvements at COS 2317, 2nd Amended, Tract 2A-1, south north of Mary Street and west of Bitterroot Drive. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Debi Meling, Public Works Director, gave a PowerPoint presentation, stating the development agreement was very straightforward and outlined improvements, i.e., water, sanitary sewer and streets, and construction of Hawthorne Lane to Mary Street should the property remain un-subdivided. She continued that the property owner intended to subdivide in March of 2021 and if that occurred, the SIA would follow the outline of the development agreement.

Councilmember Ewalt asked about the gross and net acreage being the same. Monica Plecker, Planning Division Manager, responded that the public right-of-way was already in the City limits and that was why there was no difference between the gross and net acreage.

Councilmember Boyett noted that the property description in the staff report and on the agenda stated the property was located south of Mary Street, but it actually was located north of Mary Street and asked that the information be checked in the development agreement and corrected if necessary.

Councilmember Neese asked about widening Hawthorne Lane and Ms. Meling stated it was currently 24 feet and would be widened to 30 feet and the expense would be to the developer.

Councilmember Shaw moved for approval of Item 9, as recommended by staff, seconded by Councilmember Joy.

Council and staff discussed sidewalk development for safe routes to schools once development began and SIAs now contained a 5-year deadline for completion of sidewalk construction within a subdivision.

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

10. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries Ward II to include recently annexed property in Annexation 21-01: a parcel located at the northeast corner of Hawthorne Lane; legally described as the remainder of Tract 2A-1, Certificate of Survey No. 2317, 2nd amended, totaling approximately 16.741 gross and net acres. BCJM LLC, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Monica Plecker, Planning Division Manager, explained the process of ward boundary expansions once property was annexed into the City.

Council and staff discussed when the census population results would impact possible ward boundary reconfiguration.

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

Councilmember Ewalt moved for approval of Item 10, as recommended by staff, seconded by Councilmember Neese. By a show of hands vote, the motion was approved unanimously.

11. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 988: a zone change from Agricultural (A) to Residential-7000 (R-70) located at 2526 Hawthorne Lane. BCJM Properties, LLC, owner, Performance Engineering, agent. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.)

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation and explained that the property located at 2526 Hawthorne Lane was zoned

"Agriculture" and the applicant wanted to change that zone to "Residential-7000" (N2 – Mid-Century Residential). She continued that the Zoning Commission recommended approval, based on the findings of the 10 criteria, by a 4-1 vote, and she reviewed the criteria. Ms. Cromwell stated a valid protest was received from property owners within the 150-foot protest area, which consisted of 5 properties, and therefore a super majority vote (2/3 - 8) of present and voting Councilmembers was required to approve the zone change. She provided a rendering of the proposed subdivision layout for Bitterroot Heights Subdivision, 3rd Filing, as provided by the agent, Performance Engineering. She reminded Council of the differences between N2 and N3 zoning.

Robbie Neihart, Performance Engineering, stated they proposed that 12 of the 73 lots would contain more than one housing unit on it - townhome-style units. He stated the conception that the area would become a rental community was untrue. He stated the price points for the units was too high for it to become a rental community. He explained that the lots that would contain townhomes were twice the size of those for single family homes so as not to increase density within the subdivision. He stated there was a demand for townhome living and that none of the existing single family homes would be adjacent to the townhomes.

Council discussed with Mr. Neihart price points of single family homes in the subdivision, density, lot sizes and coverages.

Councilmember Ewalt received clarification from Nicole Cromwell about the new code construction requirements for N2, PND and N3 zoning.

The public hearing was opened.

- **Ryan Burt, 2607 Meadow Creek Loop, Billings, Montana**, stated he opposed the zone change.
- **Lindsey Richardson, 2509 Spring Gulch Way, Billings, Montana**, stated she and her husband understood when they purchased their home a year ago that multi-family housing would not be allowed. She stated there was a bait and switch situation here.
- **Joey Kiernan, 2625 Strapper Lane, Billings, Montana**, stated she purchased her home a year and a half ago and was shown maps by the developer that indicated only single family homes would be built in the neighborhood. She stated the owner and developer were not acting in good faith. She expressed concern that the sewer pumping station may not be able to handle increased demand.

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

Councilmember Ewalt received clarification from Robbie Neihart about which property lots were affected by the covenants and stated there was a possibility that the entire 3rd Filing could be built as all townhomes.

Councilmember Ewalt stated he originally thought he would vote in favor of the zone change, but during the presentation and through discussions he had changed his mind and would vote in opposition of its approval.

Mayor Cole asked if the map that was viewed during the meeting and submitted to the Planning Department was the intended configuration should the zone change be approved. Mr. Neihart responded that it was with 12 of the 73 lots having townhomes built upon them.

Council had discussions with Mr. Neihart concerning the pump station capacity, master plan for the subdivision, and park land.

Councilmember Ewalt asked if the item could be postponed so the developer could work with the neighbors on a different configuration. Ms. Cromwell stated that if the zone change was denied, the developer could not apply for another zone change for a year. She provided the options the Council could take, including delaying the item for up to 30 days.

Councilmember Joy moved for approval of Item 11 and adoption of the 10 criteria, as recommended by the Zoning Commission, seconded by Councilmember Shaw.

Councilmember Neese spoke against the motion to approve because it had been clear that the area was to be developed into single family homes and he supported N3 for the area.

Councilmember Shaw voiced support for the motion and the N2 zoning.

Councilmember Ewalt asked about the timing of covenants whether there were any on the subject property. Ms. Cromwell responded she was unaware that there were any, but those were handled privately and not enforced by the City. She continued that if there were more restrictive covenants than what zoning had, the more restrictive requirements is what the owners would adhere to. Councilmember Ewalt moved for approval of a substitute motion to table Item 11, Zone Change 988, for 30 days to develop covenants that restrict the number of townhouses in the area so everyone would know exactly what to expect. He continued that everything was "up in the air" and that the zoning had started as R-96 and was now proposed to be N2, which was a big change. The motion died for lack of a second. Robbie Niehart stated covenants and restrictions are typically developed during the final platting processing.

Chris Kukulski asked for the process, from annexation to final platting of a subdivision, be explained. Ms. Cromwell gave a step-by-step explanation of the process.

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

By a show of hands vote, a super majority was not reached and the motion for approval failed 6-5, Councilmembers Yakawich, Neese, Ewalt, Purinton and Brown voted in opposition.

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 Shaw moved for the City Administrator to direct staff to develop best-practice regulations and ordinance language to regulate (not prohibit) medical marijuana dispensaries and/or storefronts in Billings City limits; present proposed regulations to Council at a Work Session to facilitate feedback; and give notice of a public hearing and first reading for ordinance adoption, seconded by Councilmember Choriki.

She stated this was a Council priority and a first step toward determining how to regulate recreational marijuana, too.

Councilmember Neese asked if the initiative would be violating the restraining order in place against the City in a pending lawsuit. City Attorney, Gina Dahl, stated there was an agreement between the parties of the lawsuit that an initiative would not violate the restraining order. She clarified that the initiative would allow for research into regulation and place the City in a better position to enact legislation when the lawsuit was settled.

Councilmember Brown stated research had been done before with another Council and there likely was not much more that needed to be done. Chris Kukulski responded it was not the intention of staff to recreate the wheel; they would draw on the information that was provided before. He continued that the scenario had changed from before in that the last Council wanted prohibition rather than regulation. He stated that when the legislature adjourned, and the lawsuit settled, Council will know more.

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

There was no further business, and the meeting adjourned at 9:38 pm.



CITY OF BILLINGS

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

ATTEST:

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