

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 8, 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 Ewalt gave the invocation.

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

Mayor Cole made a motion to move the proclamation portion of the agenda to before the COVID-19 update, seconded by Councilmember Neese. By a show of hands vote, the motion was unanimously approved.

PROCLAMATIONS:

Mayor Cole proclaimed March 12, 2021 as Remembrance Day, which marked the 1-year anniversary of the first COVID-19 case diagnosed in the community.

COVID-19 Update by Joint Information Center

John Felton, Yellowstone County Health Officer, provided an update stating the community vaccinations for the week had been received and all appointments were filled by Monday afternoon. He added the first dose was being given at the Cedar Hall of MetraPark and the Shrine Facility had been leased for the second doses. He stated the Federal government was also sending vaccines to private pharmacies and those were intended for daycare workers and educators. Information on the Federal vaccines could be found at vaccinefinder.org.

Mr. Felton stated Governor Gianforte had expanded the 1B population from 70 years of age down to 60 years of age and had also added additional qualifying medical conditions. He stated this had added an additional 15,000-20,000 eligible people to the Phase 1B population.

He gave a PowerPoint presentation of the current statistics and stated the information was available on the RiverStone Health website. He encouraged the community to continue being careful and follow recommended guidelines for safety.

MINUTES:

February 22, 2021 – Councilmember Neese moved for approval of the minutes as written, seconded by Councilmember Boyett. By a show of hands vote, the motion was unanimously approved.

COURTESIES:

Mayor Cole acknowledged the passing of Pat Weber, former Finance Director for the City. He stated Mr. Weber had worked for the City for 17 years and sent his condolences to the family.

Councilmember Yakawich acknowledged the passing of Jerome Hugs, Jr., a prominent Crow Tribal Elder, and Crow Tribal Vice President in the 1980's. He stated he had helped to translate the Bible into Crow. His son, Josiah Hugs, worked as a ROC and/or counselor with the police department for about two years addressing homelessness and transients in downtown Billings, MT.

Councilmember Ronning stated it was International Women's Day and thanked women for their various roles and accomplishments.

PROCLAMATIONS: Moved up on Agenda.

COUNCIL REPORTS:

Councilmember Yakawich stated the Mayor's Challenge, to reduce suicide among Veterans, met on February 16th and would meet again May 18th at Riverstone Health. He added Bright and Beautiful would have a cleanup around the City on April 24th. He also invited the public to participate in the highway cleanup project on March 27th.

He added the Yellowstone County Behavioral Health Advisory Committee met every 1st Thursday at noon. He stated the Suicide Prevention Coalition of Yellowstone County met every 3rd Monday. He stated his term would be expiring at the end of the year and encouraged Council to join one of the committees.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski stated an email had been sent today regarding an alternative motion for Consent Agenda Item 1C.

Mr. Kukulski gave a Legislative update for the bills being discussed and added recreational marijuana and budget were expected to be dominant topics for the second half of the legislative session.

Mr. Kukulski provided an update and explanation of the splitting of Blaine's Property for the March 22, 2021 Council meeting.

Mr. Kukulski gave an update on Council meetings being held at the Community Room at the Library. He added equipment had been installed in the Community Room. He asked Council to start thinking about how they would like to attend Council meetings and what they would like to see for public participation options. He added hybrid options could include all of Council meeting in the Community Room of the Library, or partial attendance by Zoom.

Mr. Kukulski gave a clarification on the Weekly report concerning budget meetings and the proposed schedule of meetings in May.

Mr. Kukulski stated there were no items for exparte.

Council discussed the various options available for Council attendance options and public engagement.

Councilmember Yakawich stated he wanted a clear date set for getting Council back to "in-person" meetings and added Council needed to "set a standard" of leadership and resume in-person meetings.

Mayor Cole stated he wanted a written plan detailing the various options and plans moving forward.

Councilmember Choriki stated having a procedure in place was more important than setting a date. He stated leadership came in different forms and it was important to keep the public safe by wearing masks and practicing social distancing. He added getting back together "face to face" was the wrong message until vaccinations reached a higher percentage.

Councilmember Neese stated Council needed to set a procedure for resuming in-person meetings. He stated there needed to be a policy involving masks. He added the Public could participate by attending meetings or sending Council an email. He stated the City needed to listen to healthcare professionals in order to have triggers in place.

Councilmember Shaw stated vaccination availability was not yet widespread and there were not enough vaccines available for the entire community. She stated she would feel comfortable resuming in-person meetings when the entire population of the community could receive the vaccination.

Councilmember Brown stated there needed to be a better way to receive public comment and the public comment phone line was not working well.

Councilmember Choriki stated the public comment phone line was the easiest for people to use and not everyone had access to other forms of communication.

Councilmember Ewalt asked if there were State statutes on how Council could meet. Mayor Cole stated the current open meeting law was a rule of reasonableness and if the COVID-19 rules were lifted, Council would most likely need to resume in-person meetings.

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.

- **Patrick Klugman, Big Sky Economic Development:** in reference to Consent Agenda 1B, stated the City had a unique opportunity with the \$250,000 challenge grant that would match funding toward development of Coulson Park. He thanked Kakatu Foundation and John Urbaska for the \$9,000 donation.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 21-03: Contract No. 2 City Crack Seal/Mastic.** (Opened 2/23/21)
Recommend ASTECH Corp.; \$391,000.
2. **W.O. 21-03: Contract No. 3 City Digouts.** (Opened 2/23/21) Recommend Knife River - Billings; \$246,168.75.

B. **Consulting Agreement** with Land Design, Inc. for Phase 1 development of Poly Vista Park; \$136,335.

C. **Acceptance of Right-of-Way and Warranty Deeds** for W.O. 20-30: Hallowell Lane Improvements.

D. **Donation** to Parks, Recreation and Public Lands Department from Kakatu Foundation and John Urbaska for Coulson Park development; \$9,000.

E. **Donation** to Parks, Recreation and Public Lands Department from Barbara Garrett for improvements to Country Manor Park; \$15,000.

F. **Resolution 21-10930** ordering improvements identified in W.O. 20-15: Wicks Lane Improvements.

G. **Second/Final Reading Ordinance 21-5750** expanding Ward II (Annexation 21-01): a property located at the northeast corner of Hawthorne Lane. BCJM, LLC, petitioner.

H. **Adoption of 2021-2022 Council Priorities.**

I. **Bills for the Weeks of:**

1. February 1, 2021
2. February 8, 2021

Mayor Cole separated Consent Agenda Item 1C for discussion.

Councilmember Brown separated Consent Agenda Items 1I1 and 1I2 in order to abstain, stating his employee was in receipt of payment for claims.

Councilmember Purinton separated Consent Agenda Item 1H for discussion.

Councilmember Neese moved for approval of the entire Consent Agenda, with the exception of Items 1C, 1H, 1I1 and 1I2, seconded by Councilmember Joy.

Councilmember Ronning, in reference to Consent Agenda Items 1D and 1E, thanked Mr. Urbaska and Ms. Garrett for their generous donations. She added that Ms. Garrett had been an important advocate for senior equipment in parks. She stated that she was a leader in the community and had donated beautiful artwork to raise funding for the City.

Councilmember Purinton, in reference to Consent Agenda Item 1E, asked how the money would be used. Mike Whitaker, Parks and Recreation Director, stated it would be used to create an accessible walkway, trail and shelter.

Councilmember Joy, in reference to Consent Agenda Item 1C, stated the improvements would make a big difference for the property owners and was a small investment for the improvements.

Councilmember Ewalt, in reference to Consent Agenda Item 1B, asked for clarification on how much money would be paid for the consulting agreement. Mr. Whitaker stated the consulting agreement would cost \$136,335. And that there would not be additional funding needed for the first phase of development.

By a show of hands vote, the motion for approval of the entire Consent Agenda, with the exception of items moved for separation, was unanimously approved.

Debi Meling, Public Works Director, in reference to Item 1C, stated an email had been sent regarding the requirement of paying for the right of way in addition to the assessments. She added it was a unique situation that was not seen often, and the following two alternate options were being presented; ask staff to try to get the right of way donated and use TIF money to pay for assessments; or assess the four property owners for improvements in an amount up to the right of way cost.

Council discussed the property owners' expectations and how the various alternate options would affect them.

Mayor Cole stated he had sent an email adding some additional terminology to Ms. Meling's recommended motion.

Councilmember Neese made a motion to accept the right of way and warranty deeds for Hollowell Lane at no cost to the City using either to offset the right of way cost or accepting deeds as donations to the City, as determined by subsequent negotiations between staff and the property owners and subject to the City Council's approval of any additional documentation that may be deemed necessary by staff, seconded by Councilmember Boyett.

Councilmember Yakawich asked how the assessments on the Orchard and Calhoun Lane project had been handled. Ms. Meling stated she was uncertain, as that was a long time ago, but could get back with Council with information.

Councilmember Ewalt asked if Item 1C was a time sensitive matter and stated he would prefer more time to allow staff to provide information on how the assessments for Orchard and Calhoun had been assessed. Ms. Meling stated Orchard and Calhoun were arterial streets which made that project different and the City was not required to treat the two projects the same.

Councilmember Ewalt made a substitute motion to delay Consent Agenda Item 1C, seconded by Councilmember Yakawich.

Councilmember Neese stated he would not support the City paying for both right of way, street improvements and allow for lower taxes and he would not support the substitute motion.

Councilmember Joy stated what happened on other streets was not important and the Council had already voted for SBURA to pay for the improvements, and added she would not support the substitute motion.

Ms. Meling stated she had researched the past project and the City had not purchased right of way on Calhoun and Orchard.

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

By a show of hands vote, Councilmember Neese's original motion was approved 9-2, Councilmembers Yakawich and Ewalt voted in opposition.

Councilmember Purinton stated she was not comfortable with the proposed Council priorities and made a motion to delay Consent Agenda Item 1H to a Work Session for further discussion, seconded by Councilmember Ronning.

Councilmember Neese stated there needed to be some fine tuning to the list.

Councilmember Ronning stated she had not had the understanding that Council priorities would be on the Consent Agenda. She added there were significant items that needed work and City leadership needed to address the increase in crime.

Councilmember Joy stated there was at least a year's worth of work under the first bullet point of the list and did not see how adding or further discussing priorities was going to be helpful.

Councilmember Purinton stated staff priorities also needed to be taken into consideration.

Mayor Cole stated Council needed to be very specific with their personal priorities.

Councilmember Neese stated he wanted infrastructure and City policy on utilities be added to the discussion.

Councilmember Ewalt stated he wanted to see the Heights Water District situation moved to a higher priority on the list.

Councilmember Choriki stated there needed to be a new process of creating the priority list and the current process was too cumbersome.

By a show of hands vote, the motion to delay Item 1H was approved 6-5, Councilmembers Shaw, Joy, Choriki, Boyett and Mayor Cole voted in opposition.

Councilmember Neese moved for approval of Consent Agenda Items 111 and 112, seconded by Councilmember Boyett. By a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

Mayor Cole called a recess at 7:30 pm.

Mayor Cole reconvened the meeting at 7:38 pm.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 21-10931 creating SILMD 330 and amending SILMD 280, South 32nd Street West reconstruction. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Debi Meling, Public Works Director, gave a PowerPoint presentation of the proposed streetlight district and its locations. She stated Regular Agenda Item 2 contained some slightly convoluted districts due to lighting locations and added staff was amending the districts by removing 10 lights from SILMD 280 and moving it to SILMD 330 because that district would benefit most from the lighting. She gave an overview of the number of lights and costs per lineal foot. She stated staff had not received any protests.

Councilmember Neese asked how the property owners were notified. Ms. Meling stated both the Resolution of Intent held during a previous Council meeting and this item had both held Public Hearings and property owners were also notified by mail.

The Public Hearing was opened. There were no callers, and the Public Hearing was closed.

Councilmember Neese moved for approval of Item 2, seconded by Councilmember Purinton. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 21-10932 authorizing filing and acceptance of the Annual Federal Transit Administration Grant Applications. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Rusty Logan, Transit Manager, stated he did not have a presentation, but was available for questions. He stated the Federal Transit Administration (FTA) grant required a 50% match from the City and added the Transit department relied on these grants. He stated approval of Item 3 would also cover authorizing and filing of additional grant funding throughout the year.

The Public Hearing was opened. There were no callers, and the Public Hearing was closed.

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

4. PUBLIC HEARING AND RESOLUTION 21-10933 approving and adopting budget amendments for Poly Vista Park Improvements. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, stated he did not have a presentation, but was available for questions. He added Item 4 was tied to Consent Agenda Item 1B, which had been approved earlier.

The Public Hearing was opened.

- **Deann Visser, 4223 Rangeview Drive, Billings, Montana:** thanked Council for their support and stated Landon's Legacy was hoping for a late summer/early fall opening.
- **Julie Thomason, 265 Caravan Avenue, Billings, Montana:** encouraged Council to approve Item 4. She stated Landon's Legacy would serve the community and added the foundation had already paid for 30% development of the park and was prepared to pay an additional \$49,000 to cover their portion.

There were no further callers, and the Public Hearing was closed.

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

5. PUBLIC HEARING AND FIRST READING ORDINANCE granting a non-exclusive franchise to Montana Dakota Utilities for the operation of a gas distribution system. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Gina Dahl, City Attorney, stated she did not have a presentation, but was available for questions. She stated the Montana Dakota Utilities franchise had expired in May 2020 and had recently been brought to her attention. She added staff had decided to repeal the previous ordinance and replace it with a new ordinance due to the expiration issue. She added it addressed all previous operational areas and followed Montana State law for right of ways.

Councilmember Boyett asked if allowing this franchise to expire had created any issues or ramifications. Ms. Dahl stated Montana State law allowed public utilities to use public right of ways and there had not been any impact to the City.

Mayor Cole asked if there was a calendaring system to follow and track expiration dates. Ms. Dahl stated there was a system in place and would continue to work on it.

Brandon Lance, MDU Director, thanked Ms. Dahl and Council for handling this item.

Councilmember Neese stated the City may need to research implementing a policy to charge utility companies to use the City's right of ways.

The Public Hearing was opened. There were no callers, and the Public Hearing was closed.

Councilmember Shaw moved for approval of Item 4, seconded by Councilmember Boyett. By a show of hands vote, the motion 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:

There were no Council Initiatives.

There was no further business, and the meeting adjourned at 8:15 pm.

CITY OF BILLINGS



ATTEST:

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

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