

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 12, 2021

The Billings City Council held the regular meeting at the Billings Public Library Community Room and via Zoom 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 Choriki 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)~~

Item removed from the agenda due to the unavailability of a presenter.

MINUTES:

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

COURTESIES:

Councilmember Ronning thanked Mayor Cole for his recent keynote speech at the Montana Prayer Breakfast.

Councilmember Yakawich stated the recent Veterans' Meat Locker event had been a success. He added 160 bags of meat had been given.

PROCLAMATION:

Mayor Cole proclaimed Billings Great American Cleanup Day on April 24, 2021. He encouraged responsible, environmental stewardship. Joanie Tooley, Bright and Beautiful Executive Director, thanked the City for their participation and encouraged people to help by getting outside to pick up litter to keep the City beautiful.

COUNCIL REPORTS:

Councilmember Joy stated the Community Development Block Grant (CDBG) Program had received additional funding of \$2.9 million for the HUD program to be used for affordable housing.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski stated April 11-17, 2021 was National Public Safety Telecommunications Week and Animal Control Officer Appreciation Week.

Mr. Kukulski acknowledged 18 ex-parte emails concerning Regular Agenda Item #5, Massage and Spa Facilities.

Mr. Kukulski gave a legislative update and provided hearing dates and stated the City lobbyists would provide an update during the April 19, 2021 Work Session.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2 and 6 ONLY. Speaker identification required. (Comments are limited to three (3) minutes or as set by the Mayor. 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. Public comments during the meeting may be made in-person or remotely by registering as an attendee through Zoom as outlined in the Agenda coversheet.)

The public comment period was opened. There were no speakers, 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	Jennifer Smith	Library Board	04/12/21	12/31/21
2	No Applications	Billings Parking Board	04/12/21	12/31/22

*1 Unexpired term of Jennifer Quinn

*2 Unexpired term of Kevin Heaney

B. Bid Awards:

- 1. Fire Station No. 4 Roof Replacement Project.** (Opened 3/9/2021) Recommend C&C Construction of Northwest Florida, LLC; \$78,404.
- 2. Fire Station No. 4 Siding Replacement Project.** (Opened 3/9/2021) Recommend T.W. Clark Construction, LLC; \$114,000.
- 3. Waterborne Traffic Paint.** (Opened 3/23/21) Recommend Allstates Coatings Company; maximum annual amount for 3-year agreement; \$150,000.

- C. **Agreement** with Yellowstone County Sheriff's Department to provide Public Safety FY2022 data processing services; annual revenue \$150,710.
- D. **Right of Way Agreement** with Phillips 66 for cathodic protection system.
- E. **Professional Services Agreement** for Access Control Upgrade at Billings Operations Center with Knine All Systems, Inc.; \$120,759.41.
- F. **Professional Services Agreement** for Computerized Maintenance Management Systems with eXpress, LLC (FMX); \$9,720 first year; \$6,480 subsequent years.
- G. **Professional Services Agreement** for Firearms/Use of Force Simulator with VirTra; \$199,222.38.
- H. **Equipment Purchase** for W.O. 21-99: Annual City-Wide Traffic Signal Controller Upgrade with Altitude Signal, LLC; \$252,481.25.
- I. **Equipment Purchase** of Body Cameras, Servers and Related Equipment from Watchguard; \$195,153.
- J. **Limited Commercial Aviation Building and Ground Lease** 5-year renewal with Billings Clinic, revenue first year \$29,859; revenue subsequent years adjusted by CPI-U.
- K. **Preliminary Subsequent Minor Plat** of Legacy Subdivision, located on the northwest corner of Dovetail Avenue and 52nd Street West; Legacy, LLC, owner; WWC Engineering, agent.
- L. **Resolution 21-10940** to ratify Annexation 20-05B.
- M. **Resolution 21-10941** for distribution of Bridge and Road Safety and Accountability (BaRSAA) program funds.
- N. **Resolution of Intent 21-10942** to create SID 1417, Elysian Road, and set a public hearing for May 10, 2021.
- O. **Second/Final Reading Ordinance 21-5752 for Zone Change 989**: a zone change from EBURD-Central Works to EBURD-Industrial Sanctuary located at 5 North 16th Street. J & S Properties, Inc., owner; Simonsen Architect, agent. Approval of the Zone Change and adoption of the 10 criteria.
- P. **Second/Final Reading Ordinance 21-5753** expanding Ward I (Annexation 20-05A): a property located north of Highway 3 and east of AJ Way.
- Q. **Second/Final Reading Ordinance 21-5754** expanding Ward III (Annexation 21-02): a property located south of South Frontage Road, east of East Lane and north of Elysian Road and west of Hogan's Slough.

R. Adoption of 2021-2022 Council Priorities.

S. Bills for the Weeks of:

1. March 1, 2021
2. March 8, 2021
3. March 15, 2021

Councilmember Boyett separated Consent Agenda Items 1B1 and 1B2 for discussion.

Councilmember Brown separated Consent Agenda Items 1S1 and 1S2 in order to abstain.

Mayor Cole separated Consent Agenda Item 1N for discussion.

Councilmember Neese moved for approval of the entire Consent Agenda with the exception of Items 1B1, 1B2, 1N, 1S1 and 1S2, seconded by Councilmember Shaw.

Councilmember Ewalt, in reference to Item 1H, asked if the City using different technology than the State for traffic signals created any issues. Debi Meling, Public Works Director, stated staff had looked at the different technologies in the past and found the system they were using worked better for the City's specific uses. She added staff had been able to work through any compatibility issues that were presented.

Councilmember Boyett, in reference to Items 1B1 and 1B2, asked why there had been such a large price difference in the bids. Jessica Iverson, Facilities Manager, stated staff had reached out to the lowest bidder to ensure they had submitted the full scope of the project. She added it was a responsible bid and stated the project manager would be managing the project closely.

Councilmember Ewalt stated he was concerned with the low bid amount and encouraged staff to be cautious.

Councilmember Neese asked if staff had called for references on the contractor. Ms. Iverson stated staff had ensured the entire scope of work was included and unless the contractor had been excluded for some reason in the past, the City could not exclude them.

Councilmember Shaw moved for approval of Item 1B1, seconded by Councilmember Joy.

Chris Kukulski, City Administrator, stated staff would manage the project closely to ensure the performance was satisfactory.

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

Councilmember Boyett, in reference to Item 1B2, asked for clarification on why C&C Construction had been excluded from the bid. Ms. Iverson stated the bid had been excluded since the bid had not included the entire scope of the project, therefore, the bid had not been considered responsible and the next lowest bidder was recommended for award of the contract.

Councilmember Joy moved for approval of Item 1B2, seconded by Councilmember Shaw. By a show of hands vote, the motion was unanimously approved.

Mayor Cole, in reference to Item 1N, asked for clarification on the resolution revision. Ms. Meling stated a correction to the attached resolution had been emailed to Council due to an error in Section 4. She added the resolution had referenced "improvements should include streetlights and park" and it should have read "roadway" instead of "park". She stated the change had been made to the resolution.

Councilmember Boyett moved for approval of Item 1N, with the recommended revision, seconded by Councilmember Neese. By a show of hands vote, the motion was unanimously approved.

Councilmember Shaw moved for approval of Items 1S1 and 1S2, seconded by Councilmember Joy. By a show of hands vote, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. RESOLUTION 21-10943 awarding the sale of refunding Library General Obligation Bonds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, gave a PowerPoint presentation of the General Obligation bonds and reviewed the City's rating. He stated 11 bids ranging from .90% to 1.19% had been received and the recommendation to Council was to award it to Robert W. Baird & Co., Inc.

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

3. 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, gave a PowerPoint presentation reviewing the low-income housing tax exemption application and a map of the three developments. He added there had been an error in the legal notices' procedure, which was the reason for Council seeing the presentation for the second time. Betsy Schanno, apologized for the error and stated the developments were existing assets to the community.

The public hearing was opened.

Patti Webster, 4432 Long Lane, CEO of HomeFront (formerly Housing Authority), Billings, Montana: stated these developments were considered tax credit housing, which was not subsidized, and was not low-income housing. She added affordable housing should be balanced with public safety community needs and added HomeFront was available as a resource to Council in reviewing housing needs.

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

4. PUBLIC HEARING AND FIRST READING ORDINANCE granting a non-exclusive franchise to TDS Metrocom, LLC for cable service. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Stacy Tenney, Deputy City Attorney, gave a PowerPoint presentation concerning TDS Metrocom and its competitive nonexclusive cable franchise request which would provide cable and high-speed internet services. She explained the franchise process, rules and application process and added allowing TDS Metrocom a franchise would promote competition. She gave an overview of the criteria for Council to consider.

Josh Wardell, TDS Metrocom Business Development Manager, gave an overview of the services TDS offered.

Councilmember Purinton asked how many additional FTEs would be required by the City for the project. Debi Meling, Public Works Director, stated the project would require 2-3 inspectors (paid from permit fees) and 1-2 locators (paid from water, sewer, etc. funds).

Councilmember Ewalt asked what would happen to the additional employees after the TDS project was complete. Ms. Meling stated the City currently needed an additional inspector and the budget already included adding more staff that could be added to the City staff when the project was completed.

Councilmember Neese asked who was responsible if mistakes were made during the underground construction process. Ms. Meling stated State law and City Code provided protection and covered the City through right-of-way permits.

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

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

5. PUBLIC HEARING AND FIRST READING ORDINANCE regulating massage and spa facilities through business licensing criteria. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Chris Kukulski, City Administrator, gave an overview of the issues occurring within the City and the processes that had occurred to help formulate the proposed ordinance. He listed some key differences between legitimate massage therapy facilities and illicit facilities. He stated the business license criteria changes would help the City shut down existing illicit massage facilities and help deter crimes.

Gina Dahl, City Attorney, gave a PowerPoint presentation of the proposed ordinance and the steps Council and staff had taken, including creating working groups, and various meetings with stakeholders. She gave an overview of the problems illicit massage facilities had created in Billings, the magnitude of the problems, locations of human trafficking situations and how to spot an illicit facility. Ms. Dahl stated the Board of Massage Therapy licensed the individual professional and did not regulate the business practice; therefore, they were unable to regulate the illicit massage facilities in Billings. She reviewed who would need to apply for the license, exemptions, and what facilities would need to comply with the requirements. Ms. Dahl reviewed the ordinance requirements and the license application process. She gave an overview of the proposed edits that had been added to the ordinance.

Rich St. John, Police Chief, stated the enforcement of violations would be through Code Enforcement and they would use the Police Department as back up for investigations. He added the departments' objectives were to rescue and protect victims and dismantle criminal enterprises to put them out of business. He added this ordinance would be a tool to help achieve those objectives.

Mayor Cole called for recess at 7:44 pm.

Mayor Cole reconvened the meeting at 8:00 pm.

Brandon Walter, FBI Special Agent: stated he had worked on human trafficking since 2014 and at that time there were 15 sex businesses in Billings operating under the disguise of massage businesses. He stated 50% of the human trafficking issue was occurring in Billings and the other half were kids and adults being coerced into the sex trade. He stated his focus was being pulled back from illicit sex businesses and more towards human trafficking. He added there were national advertisements encouraging people to come to Billings because "law enforcement did not care". He stated, in his position, he could not support or oppose the ordinance.

Joseph Scaramucci, Detective and Human Trafficking Investigator: stated the best way to stop human trafficking was using an enhanced collaborative model with everyone working together. He stated law enforcement could not stop the problem alone but needed help from the civil side. Common indicators of human trafficking spa facilities included: being open 24 hours, heavy surveillance, painted windows, and lingerie/nudity. He added legitimate businesses were not being discussed on websites and through advertisements, only the illicit ones were. He stated the proposed ordinance did not target people that were not committing crimes, but targeted illicit sex facilities. He added the proposed ordinance could help stop the illicit businesses and if he were a resident of Billings, he would support the passage of the ordinance.

Rochelle Keyhan, Collective Liberty CEO and expert in human trafficking: stated she had helped train over 7,000 investigators against human trafficking and helped create 60 laws to stop human trafficking. She stated many states had lax regulations which made it easier for illicit massage businesses (IMB's) disguised as legitimate massage businesses to flourish. She encouraged the City to create laws for effective enforcement using hours of operations regulations and rules regarding visibility inside the businesses.

Council discussed how the regulations proposed in the ordinance would affect legitimate massage therapists.

Nicole Cromwell, Code Enforcement Supervisor, stated staff would begin training, create checklists and procedures while working collaboratively with the Legal and Police Departments on responding to complaints and issuing violations.

Councilmember Yakawich asked for clarification on having a sunset on the ordinance. Ms. Keyhan and Mr. Scaramucci stated having an automatic sunset could allow the problem to return after the regulations were lifted.

Mayor Cole recommended the following amendments:

1. Change Sec. 7-1902(o)(1) [solo practitioner exemption] to read: "A place of business where a only one licensed massage therapist practices as a solo practitioner . . ."
2. Change Sec. 7-1913(a)(2) [grounds for denial, suspension, revocation of license] to read: "That the qualifications information set forth in the application utilized to obtain a massage or spa facility license were was materially inaccurate, or incomplete . . ."
3. Change Sec. 7-1913(b) to read: "Any person aggrieved by any decision of the license administrator concerning the issuance, refusal to issue, suspension or revocation of a massage or spa facility license may appeal that action by filing a written notice of appeal with the city clerk within twenty (20) days of personal service or mailing of the written notice of revocation the license administrator's decision . . ."

4. Change Sec. 7-1919(a) [violation and penalty, affirmative defense and remedies] to read: "Any person who violates any requirements of section 7-1904 and 7-1910 shall upon conviction be guilty of a misdemeanor . . . It shall be an affirmative defense under this article for an employee that such employee was under duress or coerced into violating a provision of this article. This affirmative defense is not available to any person who created or materially participated in creating the duress or coercion of another person that resulted in a violation of section 7-1904 or 7-1910 or ~~who knew or should have known of the existence of the duress or coercion.~~

Councilmember Purinton asked why johns were not prosecuted. Mr. Scaramucci stated law enforcement officers typically needed to catch the john/buyer "in the act" through video, which was not something they were willing to do. He added various agencies were using buyer operations to prosecute through license plates, etc.

Councilmember Choriki asked if information collected by Code Enforcement could be used to prosecute the businesses. Ms. Keyhan stated it could be used to assist in prosecution.

Councilmember Choriki asked if business license requirements were being used as a part of a larger social issue. Mr. Scaramucci stated the business license requirement created a tie between the owner, money trails, IP addresses on website advertising for illicit sex, etc. and helped build a case against them. He added every regulation targeted law abiding citizens to target illegal activities.

Ms. Dahl recommended the following amendments to the ordinance:

i. Sec. 27-611(c)(20) needed to be changed to *Sec. 27-1803 A.*

r. Sec. 27-611(c)(9) needed to be changed to *Sec. 27-1803 A.*

Sec. 7-1911 Requirements during operation.

c. Shall keep a complete set of books and records for the business on site at the facility. The records shall also include a log of all massage therapy administered at the facility. The log shall contain the following information: date, time and type of each massage therapy administered, and name of employee administering the massage therapy. The log shall be retained for a minimum of one year following any massage therapy. The log and other books and records shall be subject to inspection upon request by the inspector during normal business hours. *Any protected health information may be redacted from the log and any books and records provided subject to this article.*

Sec. 7-1911 Requirements during operation.

f. Immediately open any locked door, including any exterior door, upon request by an inspector or law enforcement officer who provides proof of identity. *However, an inspector or law enforcement officer may not interrupt a treatment session that is in progress, except that a treatment session lasting 2 hours or more may be interrupted.*

Sec. 7-1912 Inspections.

e. Each massage or spa facility shall make the complete set of books and records and log of all massage therapy administered at the facility as required by this article available for inspection without unreasonable delay. *Any protected health information may be redacted from the log and any books and records provided subject to this article.*

The public hearing was opened.

The following constituents spoke in favor of the ordinance:

- **Julie Solberg, 1820 Barrett Road, Billings, Montana.**
- **Tiffany Wardell, 1309 Daybreak, Billings, Montana.**
- **Kate Freedman, 3835 Avenue E, Billings, Montana.**
- **Dr. Elizabeth Olivo, 3631 Colin Drive, Billings, Montana.**
- **Brittany Homer, 1150 Bluegrass Drive West, Billings, Montana.**
- **Erin Walker, 3287 Canyonwoods Drive, Billings, Montana.**
- **David Reay, 3668 Jasper Park Drive, Billings, Montana.**
- **Jennifer Merecki, 3737 Rosebud Drive, Billings, Montana.**
- **Chelsea Winterholler, 1709 East Thunder Mountain Road, Billings, Montana.**
- **Mark Freedman, 3835 Avenue E, Billings, Montana.**
- **Jennifer Sanchez, 6093 Ironwood Drive, Billings, Montana.**
- **Stephanie Baucus, 4528 Highline Drive, Billings, Montana.**
- **Lauren Sanford, Ward II, Billings, Montana.**
- **Melanie Tripp, 7535 Entryway Drive, Billings, Montana.**

The following constituents spoke against the ordinance:

- **Kathy Kercheck, 443 Broadwater Avenue, Billings, Montana.**
- **Teresa Thormahlen, 2725 Cornell Circle, Billings, Montana.**
- **Paula Larson, 1212 Grand Avenue, Billings, Montana.**
- **Terra Helrand, 2618 St. Johns Avenue, Billings, Montana.**
- **Jennifer Roth, 611 Burlington Avenue, Billings, Montana.**
- **Alex Jopela, 2116 Broadwater Avenue, Billings, Montana.**

- **Nicole Michaelson, 3375 Dover Lane, Billings, Montana.**
- **Janae Bailey, 443 Broadwater Avenue, Billings, Montana.**
- **Eric Hart, 2009 Patricia Lane, Billings, Montana.**
- **Desta Fix, 662 Aries Avenue, Billings, Montana.**
- **Kim Gartner, 1918 7th Street West, Billings, Montana.**
- **Danielle Adelman, 2004 Louise Lane, Billings, Montana.**
- **Tom Larson, 1212 Grand Avenue, Billings, Montana.**
- **Candace Ulrich, 1415 Rimrock Road, Billings, Montana.**
- **Susan Carlson, No Address Given.**
- **Theresa Vondra, Ward II, Billings, Montana.**
- **Meagan Farnsworth, 531 Avenue D, Billings, Montana.**
- **John Mueller, 1021 Yellowstone Avenue, Billings, Montana.**
- **Skelly Adkins, No Address Given.**
- **Deborah Kimmett, Business League for Massage Therapy Executive Director.**

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

Mayor Cole called for recess at 10:23 pm.

Mayor Cole reconvened the meeting at 10:33 pm.

Ms. Dahl, based on public comment concerns, recommended the following amendment be made to the ordinance:

Sec. 7-1911 Requirements during operation.

c. Shall keep a complete set of books and records for the business on site at the facility. The records shall also include a log of all massage therapy administered at the facility. The log shall contain the following information: date, time and type of each massage therapy administered, and name of employee administering the massage therapy. ~~The log shall be retained for a minimum of one year following any massage therapy. The log and other books and records shall be subject to inspection upon request by the inspector during normal business hours.~~ *Any protected health information may be redacted from the log and any books and records provided subject to this article. Any protected health information may be redacted from the log and any books and records provided subject to this article.*

Councilmember Neese moved for approval of Ms. Dahl's amendments, seconded by Councilmember Brown.

Councilmember Brown asked for clarification on what type of information could be redacted. Ms. Dahl stated names, phone numbers, addresses, etc. could all be redacted.

Councilmember Neese asked what type of information would be required if all personal information could be redacted. Ms. Dahl stated the log would need to list date, time, type of service provided, and employee that provided the service.

Councilmember Purinton stated there were some areas of the ordinance that seemed unclear and requiring logbooks seemed like an unnecessary requirement. Ms. Dahl stated the logbooks could be highly redacted but added a complete set of books and records could be requested in an investigation.

By a show of hands vote, the amended motion was approved 9-2, Councilmembers Ewalt and Purinton voted in opposition.

Mayor Cole moved for approval of his amendments, seconded by Councilmember Neese. By a show of hands, the motion was approved unanimously.

Councilmember Neese asked for clarification on concerns that the ordinance may be expanded to include other types of businesses. Ms. Dahl stated she was not aware of any plans to expand the ordinance to include other businesses. She stated it may be necessary to create a different ordinance if that were to occur.

Council questioned the requirement of logbooks and the amount of redaction allowed.

Wyeth Friday, Planning Director, stated the log would require the names of the employees providing the services and each massage therapist would need a license, which could help staff and law enforcement to enforce the ordinance.

Mayor Cole asked if there was a commitment for more resources to be provided towards the issue. Mr. Kukulski stated there would be an increase of staff committed to dealing with the issue and would also need a Public Safety ask for additional resources.

Councilmember Boyett asked what information would be required regarding making complaints against the illicit facilities. Mr. Friday stated the ordinance would have certain requirements regarding the ability to view inside, hours of operation, etc. He added staff was discussing how to be proactive once the ordinance was approved and staff would begin implementing the business licensing process, onsite inspections, and following up with complaints.

Councilmember Ewalt questioned how the ordinance would change the Police Department's ability to provide resources towards IMBs. Chief St. John stated the ordinance would give the Police Department a tool to create a case against the IMBs. He added the department would follow up on complaints with the help of Code Enforcement and the Fire Department.

Councilmember Ewalt stated he would not support the ordinance because it would stop the issue and added the IMBs could "just move out of the City".

Councilmember Purinton asked what support the victims would receive after the IMBs were closed. Mr. Kukulski stated he was unaware of the social services provided to victims and added the ordinance was the first step in the process.

Councilmember Ronning asked for clarification on the fees involved in massage therapists getting a business license. Andy Zoeller, Finance Director, stated the regular base business license fee was \$55, and the required background check was approximately \$30, therefore, the City had decreased the business license fee to \$25 to keep the amount approximately the same.

Councilmember Choriki stated allowing officials to enter a business to inspect for the possibility of illegal activity bothered him and he would prefer to see the illegal activity specified in the ordinance. He added he would not support the ordinance.

Councilmember Brown questioned possible confusion with sole proprietors not needing the background check. Mr. Zoeller stated they would need to comply with the ordinance but not the application requirements. He added there would be a brochure reviewing the requirements.

Councilmember Shaw asked for a legal opinion concerning the complaints that the ordinance was unconstitutional. Ms. Dahl stated it was not unconstitutional. She stated a Councilmember had mentioned equal protection and the ordinance was not a violation of equal protection laws. She added the ordinance was authorized by Montana Law and had a reasonable basis for classifications.

Councilmember Purinton made an amendment to require a 2-year sunset of the ordinance, seconded by Councilmember Neese.

Councilmember Purinton stated the sunset would allow for a re-evaluation of the ordinance to see if it was working well.

Councilmember Shaw stated the problem had been occurring for decades and Council could repeal the ordinance at any time. She added she would not support a sunset.

Councilmember Ronning stated there were tools in place to allow Council to repeal ordinances and she would not support a sunset. She asked for legal counsel on a sunset. Ms. Dahl stated she would not recommend a sunset and thought the IMBs would return to Billings if the ordinance was to sunset in 2 years.

Councilmember Neese stated a sunset would provide Council an opportunity to review the ordinance in 2 years to see how it was working.

Mayor Cole stated he understood the term "sunset" to mean "repeal" and not just review. Councilmember Purinton stated she had intended her amendment to mean the ordinance would be "reviewed". Ms. Dahl stated a "sunset" meant automatic repeal of the ordinance.

Councilmember Yakawich stated there could be a new Council in 2 years and all the hard work could be lost. He stated he would not support the amendment.

Councilmember Joy stated she would not support the motion to require a review of the ordinance.

Councilmember Ronning stated there needed to be clear language describing what standards of progress were met or not being met and would not support the amendment.

Councilmember Boyett stated he wanted staff to provide a review in 2 years to see how the ordinance was working.

Councilmember Brown stated he would not support the amendment and 2 years was not enough time to allow the ordinance an opportunity to work.

Mayor Cole stated he would not support the amendment and did not want to give IMBs an opportunity to return.

Councilmember Choriki stated all ordinances should have clear criteria that allowed measurements of the successes and/or failures.

By a show of hands vote, the amendment failed 4-7, Councilmembers Shaw, Yakawich, Neese, Joy, Ronning, Brown and Mayor Cole voted in opposition.

Councilmember Purinton asked for clarification on the financial impact for the City. Mr. Kukulski stated the City was not using the fees to generate revenue. He added Code Enforcement training would have a cost, but it would be less than the Police Department. Ms. Purinton asked how many additional facility licenses this ordinance would create. Mr. Kukulski stated approximately 80 additional licenses were expected.

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

6. SECOND/FINAL READING ORDINANCE 21-5755 for Zone Change 987: a zone change from Agricultural (A) to Heavy Commercial (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. Approval of the Zone Change and adoption of the 10 criteria. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, stated Item 6 had been approved on first reading during the March 22, 2021 Council meeting, but due to a valid protest, the item would need a super majority vote, which was the reason for placing it on the Regular Agenda.

Councilmember Neese moved for approval of Item 6, seconded by Councilmember Yakawich. By a show of hands vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-AGENDA ITEMS”. Speaker Identification required.
(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Public comments during the meeting may be made in-person or remotely by registering as an attendee through Zoom as outlined in the Agenda coversheet.)

The public comment period was opened. There were no speakers, and the public comment period was closed.

COUNCIL INITIATIVES:

There were no Council initiatives.

There was no further business, and the meeting adjourned at 12:17 am, April 13, 2021.



CITY OF BILLINGS

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

ATTEST:

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