

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 26, 2021

The Billings City Council held the regular meeting at the Billings Public Library 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 Purinton gave the invocation.

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

~~COVID-19 Update by Joint Information Center (JIC)~~ This item was removed from the agenda due to the unavailability of a presenter.

MINUTES:

April 12, 2021 – The minutes were pending.

COURTESIES:

Mayor Cole acknowledged the recent violent crime incidents that had occurred in the City. He thanked law enforcement and expressed sympathies for the families and friends who suffered losses.

Councilmember Ronning mentioned that the Continuum of Care would hold a "A Night in the Life of a Person Experiencing Homelessness", a simulated experience of what it was like to be homeless and she encouraged Council to register at <https://form.jotform.com/211085353941150> or contact Dean Wells at Yellowstone United Way for dates and more information.

Councilmember Yakawich acknowledged the recent death of Councilmember Shaw's grandfather and offered his condolences.

Councilmember Yakawich thanked everyone that helped with the clean-up around Billings, organized by Bright-N-Beautiful.

Councilmember Yakawich stated that the prescription drug roundup held at the Elks Club by the Drug Enforcement Agency (DEA) was a success with 5 boxes filled of unwanted prescription drugs.

PROCLAMATIONS:

There were no proclamations.

COUNCIL REPORTS:

Councilmember Choriki stated he met with Merry Lee Olsen with YWCA and mentioned the building project with new apartments to help house families escaping the effects of domestic violence.

Mayor Cole stated he attended a PCC meeting in which the I-90 bridge pedestrian options was discussed.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski stated Kevin Iffland, Assistant City Administrator, would represent Administration at the May 3rd Work Session.

Mr. Kukulski stated there were 2 ex-parte items sent to Mayor and Council after 3 pm – 1 from Diane Reidelbach supporting the applicant involved in Consent Agenda Item 1F; and the others were in support of Consent Agenda Item 1K - Massage and Spa Facilities Ordinance.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 3, 4, 5 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.

- **Lorrie Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Consent Agenda Item 1A2, stated Bruce Avenue should be included in the improvements because for the last 10 years the residents of the street had done all they could to be compliant with requests for the improvements and yet nothing had been done. She requested Bruce Avenue be included in the Hallowell Lane Improvements.
- **Tyler Cruse, 4228 Bruce Avenue, Billings, Montana**, in reference to Consent Agenda Item 1A2, stated there were no sidewalks and the street was unpaved on Bruce Avenue. It was not safe for school children to walk along and there was no adequate drainage along the street.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Consent Agenda Item 1A2, voiced support to amend a motion to include Bruce Avenue for improvements.
- **Matt Lundgren, 2902 Minnesota Avenue, Billings, Montana**, in reference to Regular Agenda Item 5, spoke in support of the approval of TIF assistance to Montana Rescue Mission.

- **Eric Hart, 2009 Patricia Lane, Billings, Montana**, in reference to Consent Agenda Item 1K, stated that the out-of-state speakers gave incorrect information. He stated the Council listened to them, rather than local massage therapists and stated the local massage therapists had been excluded from the process. He continued the ordinance would hurt businesses.
- **Keppi Wallace Kirchheck, 443 Broadwater, Billings, Montana**, in reference to Consent Agenda Item 1K, reminded Council they were to listen to and represent the interests of their constituents and small businesses in the community. She stated the comments were not true that if one was not for the ordinance that they were for human trafficking.
- **Teresa Thormahlen, 2725 Cornell Circle, Billings, Montana**, in reference to Consent Agenda Item 1K, stated prostitution and human trafficking was against the law, but massage therapy was a legitimate business that was not against the law. She asked that the word “massage” be removed from the ordinance and asked that it be directed toward sex trafficking.
- **Theresa Vondra, 321 Prospectors Lane, Billings, Montana**, in reference to Consent Agenda Item 1K, stated there was no way for her to separate scheduling books for the services provided to her business’s clients. She continued that she did not support the ordinance as written but suggested that including more massage therapists into the preparations of a revised ordinance would be beneficial.
- **Jennifer Roth, 611 Burlington Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated most massage therapists are not against background checks and additional licensing fees, etc., but they are against the City officials invading their businesses whenever they want. She continued it was very intrusive and it was unlikely that many businesses would agree to have their financial records, etc. reviewed. She said the ordinance was not very reassuring that legitimate businesses would be protected. She said the ordinance treats massage therapists as criminals.
- **Paula Larson, 1212 Grand Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated her opposition and stated Council was not listening to those most affected by the ordinance. She said the ordinance was violating private businesses’ rights.
- **Genna Carlisle, 922 Miles Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she believed Council was listening to what the community wanted; listened to the experts and did their research. She continued that human traffickers had enjoyed the perfect disguise in Billings, but with the passage of the ordinance the message was being sent to the illicit massage industry that they would no longer be able to thrive and profit in Billings.
- **Jennifer Sanchez, 6093 Ironwood Drive, Billings, Montana**, in

reference to Consent Agenda Item 1K, stated this was a real problem and stated the ordinance was an innovative way to address it. She continued that the illicit businesses brought crime to the area and it needed to stop. The ordinance would make a significant impact in the future of the youth in Billings and the legislation would pave the way for other communities throughout the country.

- **Brittany Homer, 3031 Grand Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she was the executive director of End Sexual Exploitation Montana, and had worked in the field for several years to end sexual exploitation. She stated human trafficking was happening in the massage industry. She continued that without regulation, the industry was an easy mechanism for human trafficking. She stated that the ordinance would have very little impact on massage therapists operating legitimately but it would have significant impacts to those operating illegally.
- **Kate Freedman, 3835 Avenue E, Billings, Montana**, in reference to Consent Agenda Item 1K, stated the public's perception has been skewed. She stated the City Attorney's office stated the Ordinance was not illegal and would not allow for law enforcement to barge in on massage appointments. She said there was a lot of misinformation circulating to thwart the passage of the ordinance. She stated paperwork and background checks were not a big deal, but crime was a big deal.
- **Elizabeth Olivo, 3631 Colin Drive, Billings, Montana**, in reference to Consent Agenda Item 1K, stated many businesses were subject to regulation and regulations were put in place to negate criminal activity and protect the public. She continued that the health industry was one of the most heavily regulated industries and the massage industry should be included. She explained various measures taken in the nurse practitioner industry for disposing of unused medications, etc. and it required a lot of paperwork and logging to ensure that those drugs were not left in the wrong hands and to curb abuse.
- **Sarah Kouba, 2047 Lake Hills Drive, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she reviewed the ordinance and did not find it to be overly inconvenient to comply. She stated regulations were needed and the criminals were only exploiting the massage industry, not restaurants or banks so an ordinance like the proposed one was not necessary for those businesses. She voiced her support for passing the ordinance.
- **Erin Walker, 6287 Canyonwoods Drive, Billings, Montana**, in reference to Consent Agenda Item 1K, stated the amendment proposed to the ordinance by a certain Councilmember would strip its purpose to stop illicit massage businesses. She continued that combining civil and criminal investigations was a stroke of genius and the ordinance was not speaking to prostitution, but rather human trafficking. She supported the passage of the ordinance as written.

- **Kim Gartner, 1918 7th Street West, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she supported her fellow massage therapists as a consumer and stated the proposed ordinance needed to be re-written as it would not work.
- **Bronwyn Plagemann, Ward 4, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she was not a member of the task force or a massage therapist, but she had read through the proposed ordinance and the frenzy of misinformation about it was concerning. She said concerns about open doors or windows, or HIPAA are quickly dispelled when reading the ordinance. She encouraged Council to pass the proposed ordinance.
- **Desta Fix, 667 Aries Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated that comments made about massage therapists made them sound "lazy". She said therapists care very much about the people they serve and that is why they are in the industry. She stated that the ordinance was confusing concerning independent contractors and employees, i.e. who was responsible for having the license, the salon operator or the independent contractor and whose books would be reviewed.
- **Joe Olivo, 3631 Colin Drive, Billings, Montana**, in reference to Consent Agenda Item 1K, stated the concerns he was hearing about the proposed ordinance was about paperwork and law enforcement entering the premises to inspect without probable cause. He compared this to owning a taxidermy in which Fish and Game and inspectors could enter the business at any time to conduct an inspection. He continued that in the food industry a health inspector could enter a business at any time to inspect the premises. He stated many industries have regulations in place and he did not agree with the opponents' viewpoints. He stated the proposed ordinance finally gave the City what it needed to address illicit massage businesses.
- **Chelsea Winterholler, 1709 East Thunder Mountain Road, Billings, Montana**, in reference to Consent Agenda Item 1K, stated the community was so divided on this issue but believed eliminating illicit massage businesses would bring the community together and protect those that were being exploited. She voiced her support for the proposed ordinance.
- **Kevin Nelson, 1709 Howard Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated it was time to provide law enforcement with tools to combat human trafficking in Billings and voiced his support for the proposed ordinance.
- **Deborah Kimmett, Executive Director of LMTD**, in reference to Consent Agenda Item 1K, stated there was amazing gaslighting by the proponents. She stated the proposed ordinance would actually prevent some massage therapists from performing some treatments they are legally trained to do. She stated Billings will have saved no one, the illicit businesses will simply move to another town, taking their victims

with them. She continued that the government was placing a target on the backs of massage therapists as sexual providers.

- **Melonie Tripp, 7535 Entryway Drive, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she was the President of the Zonta Club of Billings and encouraged Council to approve the massage ordinance as it was written with no additional changes to it.
- **Glennadale Nelson, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she understood why massage therapists expressed that they were being targeted to correct a few illicit massage businesses. She recognized that the illicit massage businesses had inserted themselves into the industry by title alone and therefore they must be dealt with as there were no regulations to kick them out. She supported the passage of the ordinance.
- **Kari Fleming, Ward 3, Billings, Montana**, in reference to Consent Agenda Item 1K, stated there was a lot of complaining about paperwork, government oversight, etc. She provided examples of other legislation that was unduly delayed due to similar fears. She said it was wrong to refer to massage therapists as prostitutes and that the women in the illicit businesses were victims being human trafficked and controlled by their handlers. She urged the Council to pass the proposed ordinance.
- **Susan Carlson, a business owner on 13th Street West, Billings, Montana**, in reference to Consent Agenda Item 1K, stated there was no such thing as an illicit massage business in Montana. She stated massage was a recognized health industry and that there were massage businesses and sex businesses, and they were not at all the same. She stated the massage industry was already regulated by the State of Montana. She questioned whether the ordinance would make any impact to the sex businesses. She stated she believed the ordinance to be illegal and cautioned the Council that lawsuits may ensue. She said the City had many other criminal activities for which to be concerned.
- **Tiffany Wardell, 1309 Daybreak, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she agreed with statements made by Ms. Carlson and she was upset that human trafficking was being connected to the massage business. She continued that correlation was not the same as causation and talking about it was bringing the issue to the forefront which was a good thing. She acknowledged that things would get worse for a time before they got better, and she encouraged Council to pass the proposed ordinance.
- **Janae Bailey, 443 Broadwater Avenue, Billings, Montana**, in reference to Consent Agenda Item 1K, stated she was a small businessowner and she was opposed to the proposed ordinance. She continued she was offended by comments made that as long as the illicit businesses were not in Billings, they did not care where those businesses moved to. She asked Council to look at different options for

dealing with the illicit businesses and leave the massage industry alone.

- **Allen Rapacz, 4840 Pecan Trail, Billings, Montana**, in reference to Regular Agenda Item 5, stated he was with Schutz Foss Architecture and was a part of the development team working with MRM and their unified campus that would provide basic services to the homeless. He continued that MRM had received low-income housing credits and he asked that the Council approve the TIF assistance request.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 20-12: South 32nd Street West Reconstruction and Widening.** (Opened 4/13/2021) Recommend Knife River; \$4,062,265.
2. **W.O. 20-30: Hallowell Lane Improvements.** (Opened 3/23/2021). Recommend KLE Construction, LLC, \$3,865,050.
3. **W.O. 21-15 Lead Service Replacements.** (Opened 4/13/2021) Recommend COP Construction, LLC; \$603,519.
4. **W.O. 21-24: Zone 3, 12-inch Waterline Replacement.** (Opened 4/13/2021) Recommend Askin Construction, LLC; \$256,113.

B. **Amendment No. 1, W.O. 19-42: West End Water Treatment Plant Project**, Professional Engineering Services Contract, Burns and McDonnell Engineering Company, Inc. (BMcD); \$3,778,342.

C. **Right-of-Way Agreements and Acquisition of Property** for W.O. 19-15: 24th St. W. and Central Signal Improvements from 2425 Central Ave, LLC; \$44,000; and Automatic Real Estate, LLP; \$28,300.

D. **Grant Application Request** to U.S. Green Building Council for LEED Grant and acceptance of award; \$10,500.

E. **Grant Application Request** to submit application for AmeriCorps

VISTA and authorize City staff to negotiate and finalize the project, if awarded.

- F. **Housing Rehabilitation Loan Program** - applicant denial and grievance.
- G. **Preliminary Minor Plat** of Hunters Point Subdivision, located at 3038 Central Avenue; Bach Homes, owner; Sanderson-Stewart, agent.
- H. **Resolution 21-10944** authorizing the Issuance and Calling for a Negotiated Sale for Sidewalk Bonds.
- I. **Resolution 21-10945** for General Obligation (GO) refunding bonds 2021.
- J. **Second/Final Reading Ordinance 21-5756** granting a non-exclusive franchise to TDS Metrocom, LLC, for cable service.
- K. **Second/Final Reading Ordinance 21-5757** regulating massage and spa facilities through business licensing criteria.
- L. **Bills for the Weeks of:**
 - 1. March 22, 2021
 - 2. March 29, 2021

Councilmember Yakawich separated for discussion Consent Agenda Item 1A2.

Councilmember Purinton separated for discussion Consent Agenda Item 1K.

Councilmember Shaw moved for approval of the Consent Agenda, with the exception of 1A2 and 1K, seconded by Councilmember Boyett.

Councilmember Neese, in reference to Consent Agenda Item 1B, voiced his concerns about the competitive bid process for the project. Debi Meling, Public Works Director, stated that Item 1B was a professional services contract and those were not put out for bid, but for proposals, and based the award on qualifications for the entire project. She said the project was divided up because the City was not certain of the design in the beginning, so the first phase was to define the scope of work, but the engineering company would be involved in the entire project. She explained that engineering costs were usually about 10% of an entire project and having

a good engineer on the project would save money on construction costs.

Councilmember Ewalt confirmed with Ms. Meling that the engineering costs were strictly for the design of the water plant and its processes, not the installation of construction costs or landscaping around the structure. Ms. Meling added that the engineer would be the construction administrator through the entire construction process.

Councilmember Purinton, in reference to Consent Agenda Item 1F, acknowledged that the employer of the individual(s) involved in the item emailed Council in support of the individual(s).

Councilmember Neese stated for Consent Agenda Items 1A2, 1A3 and 1A4, staff should be applying for grants (such as that for the CARES Act) that would assist the City with its infrastructure replacements, and he would be watching for that in the future.

Councilmember Ewalt, in reference to Consent Agenda Item 1G, asked why there were no requirements for the subdivision to have a park for its residents. Wyeth Friday, Planning Director, stated it was a minor plat and there were no State or Federal requirement to have land set aside for parks in minor platted subdivisions.

By a show of hands vote, the motion to approve the Consent Agenda, with the exception of the separate items, 1A2 and 1K, was approved unanimously by all Councilmembers present.

Councilmember Yakawich moved to add a change order that would include the 4200 block of Bruce Avenue to the work order to complete sidewalks, streets and gutters for an additional cost of up to \$350,000 in Consent Agenda Item 1A2, seconded by Councilmember Neese.

Councilmember Neese stated the condition of Bruce Avenue was terrible and it would not take much to add that short section of roadway into the mix.

Councilmember Joy stated the SBURA makes recommendations to the Council and she supported those recommendations for those areas. She continued that, unfortunately, Bruce Avenue was bad, but many other areas in Billings had as bad and in some cases worse streets, so she would not support the motion.

Mayor Cole asked staff since the additional work was unexpected what would the process be now, if the motion was approved. Debi Meling, Public Works Director, stated the engineers would ask the contractor for additional information on cost. She added that there was not a design, so a survey, etc.

would need to be completed, too, and it would be brought back to the Council if the change order were for more than \$350,000.

Councilmember Purinton asked about how the transition between Hallowell and Bruce Avenues would look. Ms. Meling responded engineering considers that and would create a smooth transition.

Councilmember Shaw stated she was empathetic with the neighbors and she wanted sidewalks everywhere for children to safely walk upon but supported the process that Public Works developed for identifying and prioritizing projects. She continued she was not comfortable approving something without knowing the costs.

Councilmember Ronning asked if there were other streets off Hallowell Lane that were like Bruce Avenue.

Mayor Cole asked if the entire project would be placed on hold while the details of the change order were sorted or could the project begin. Ms. Meling explained how adding to the project while the project was still under construction would cost less than adding to it at the end and having to bring subcontractors back to the site later. She continued that water line work needed to happen first, so it was possible to delay the construction a little to do the add-on for the best benefits.

Councilmember Choriki stated he was approached by residents on Bruce Avenue to bring this forward to Council. He stated he did not bring it forward because it was advancing a project out of the process and there were streets in every other neighborhood that would like to be pushed to the front of the line; that was not how it should work, and he would not support the motion. He acknowledged that Bruce Avenue would be paved and improved eventually as it was identified, however, he did not see that Bruce Avenue needed to be moved to the front of the line.

Debi Meling responded to Councilmember Ronning's question about other gravel streets off Hallowell Avenue and stated there were several identified that would be worked on next year. She said there was a total of 22 gravel streets in the area, but not all of them came off Hallowell Avenue.

Councilmember Neese inquired about the additional expense being minimal for adding Bruce Avenue. Ms. Meling explained the change order negotiates for quantities on "like" or similar projects. She said the costs for the Hallowell Avenue project were exorbitant now and concrete prices were the highest she had ever seen; the prices were not going to get better soon, but next year's costs were hard to predict now.

Councilmember Ewalt stated that change orders are a good vehicle for contractors to make up losses they may have had during the bidding process. He continued that because this project was being paid by the TIF district, he did not agree that TIF monies were to be used for the private benefit of a few individuals. He added that projects were to be at a 5 to 1 ratio between TIF dollars and private individuals and that was not happening in this case either. He would not support the motion based on the TIF district policies in place.

Councilmember Yakawich stated Bruce Avenue was the only gravel street left to improve on the west end of Hallowell Avenue. He reminded Council that one of their priorities was to install improvements on all gravel streets in Billings. He does not want the residents to wait another year for SBURA Board to recommend the improvements be made and acknowledged his respect for the SBURA Board. He continued it likely would not be any less expensive to make the improvements next year. He quoted, "a promise made is a promise kept."

Councilmember Ronning expressed her feelings of conflict over the motion. She stated she highly respected SBURA Board and all the boards that served the City. She stated she respected Kevin Nelson for his activism for the community and participation and she listened to constituents. She would support the motion.

Councilmember Choriki asked if the SBURA Board needed to be contacted about the added expenditure since it was coming from their budget. Mayor Cole stated that Jim Tevlin, Consultant to the SBURA Board, had emailed that he was concerned about the deviation of the process but not the budget.

City Administrator, Chris Kukulski, stated the vote and decision laid solely with the Council. The monies in the TIF district were public monies and the Council approved the budget each year.

Councilmember Boyett called the question, seconded by Councilmember Ronning. By a show of hands vote, the motion was approved by all members of the Council present.

Mayor Cole asked for clarification of the process should the motion be approved. Ms. Meling stated a budget amendment would be brought forward later once the expenses were fully realized.

By a show of hands vote, the motion was approved 6-4, Councilmembers Joy, Choriki, Shaw and Ewalt voted in opposition.

Mayor Cole called for a recess at 7:46 PM.

Mayor Cole reconvened the meeting at 7:55 PM.

Councilmember Purinton explained she separated Consent Agenda Item 1K to vote in opposition of the ordinance. She stated she listened to the opponents of it and that experts from the opposition had not been brought to the table to speak. She continued the ordinance would not do anything to curb human trafficking. She said other methods should be researched and discussed and that the "Johns" were not being addressed and should be. She stated it was not up to businesses to regulate, that was the government's job, but were they regulating too much.

Councilmember Boyett shared that during a previous occupation he held he was sent to investigate a business that had been called in as suspicious. He described the conditions of the business and the occupants and their reactions to him. He stated that upon leaving the business, he called the police who were aware of the type of business it was. He continued that he would support the ordinance but, in a year,, he would ask Code Enforcement for a report about the effectiveness of the ordinance.

Councilmember Neese moved for approval of Consent Agenda Item 1K, seconded by Councilmember Ronning.

Councilmember Ewalt stated there was big one money in the illicit businesses. He said that unless the offenders were put in prison, the ordinance would have little effect toward shutting down the businesses; they would just move outside the city limits. He voiced his opposition to the ordinance.

Councilmember Ronning countered statements made by oppositionists about statements Councilmember Neese allegedly made and said they simply were not true. She continued that the illicit businesses had been in Billings for more than 40 years and allowed to operate. She noted there had been plenty of time to bring other solutions to the table and all solutions were welcome, but none were brought forward. She continued that the committee had worked on this ordinance since 2017 and that the City, in 2019, had worked hard to help pass legislation to make "happy endings" illegal in the State of Montana to protect licensed massage therapists. She added that City Administrator Kukulski had helped lobby the State for funding for more officers to be dedicated to human trafficking cases across the state. Her hope was that more options would build upon the passage of the ordinance.

Councilmember Joy stated she would support the ordinance and would follow up to see if it was effective. She stated her understanding was that the ordinance was not to regulate women and their bodies, but to help trafficked

women escape their situation and impact the illicit massage businesses that held them.

Councilmember Shaw clarified that statements made that the City just wanted to push these businesses outside the City limits were not true. She said the Council cared about where the businesses may go, however the Council has no control outside the City limits; but they could however control what took place within the City limits and should. She voiced her support of the motion to approve the ordinance.

Councilmember Choriki said he would not move to amend the motion because he did not believe it would have support. He explained that prostitution was what the ordinance was really targeting, not human trafficking. He also questioned the method of using business licenses to go after criminal activity. He stated the City business license applications specifically state that if one is conducting activity that is illegal, they can be denied a license, so every business was open to possible denial of a business license. He stated that individuals who fit under the current laws would go to jail if convicted, whereas under the proposed ordinance that would not happen. They would just lose their business license, take their money with them, and move out of town. He stated his opposition to the proposed ordinance.

Councilmember Neese thanked Councilmember Ronning for championing and leading the City toward the approval of the ordinance and her kind words. He admitted that when he read the first draft of the ordinance, he would not have supported it. He stated that the committee listened to members of the massage industry and changes were made to the ordinance as a result of their concerns, suggestions and comments. He stated he, too, would ask staff in a year how well the ordinance performed. He voiced his support for the proposed ordinance.

By a show of hands vote, the motion to approve Consent Agenda Item 1K was approved 7-3, Councilmembers Ewalt, Choriki and Purinton voted in opposition.

REGULAR AGENDA:

2. PUBLIC HEARING and approval of FY2021-2022 Annual Action Plan and Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Budget Allocations. Community Development Board recommends approval. (Action: approval or disapproval of Community Development (CD) Board recommendation.)

Brenda Beckett, Community Development Manager, provided a PowerPoint presentation outlining the CDBG and HOME Annual Action Plan supported by the Community Development Board. She explained that since the 1970's the City had received CDBG funds that helped with first-time homebuyers, home repairs, foreclosure and AmeriCorps VISTA program. She continued that the City had received HOME funds since the 1990's that aided with first-time homebuyers and housing development projects. All funds support low-income households and for a household of 4 to qualify that would be a total household income of less than \$61,300. She explained that due to COVID, the federal government passed the CARES Act of 2020 (CDBG-CV) that was exclusively used for Coronavirus preparation, prevention, and response. She introduced another new program called HOME-ARP (American Recovery Plan) that was aimed at helping the homeless / at-risk population with rental assistance and housing development. She continued that she was not certain when the regulations for disbursing the funds would be received, but she guessed late fall or winter 2021. She reviewed the timeline for the Annual Action Plan and CARES Act: CDBG-CV and public service activities eligible for the CDBG-CV funds. She thanked Council for their continued monetary support to the Community Development Division for annual rent / parking and their cash to support housing programs. She provided a funding history for the CDBG and HOME programs since 2001. She reviewed the core programs administered through the Community Development Division. She stated that the City was required to implement an anti-poverty initiative. She stated the VISTAs had spent over \$2.4 million in local rent, markets, etc. and so far, 262 members had gone through the program and they had supported 56 community organizations and Montana had the highest number of VISTAs. She reviewed the Community Development Board's recommendations.

Councilmember Neese asked how the program could grow to provide more housing for low-income families. Ms. Beckett responded that 3 VISTAs worked with the YWCA and they created on a low-income housing tax credit program called Gateway VISTA. She invited any non-profit organizations interested in housing projects to contact her to develop programs utilizing educated VISTAs. She said applications can be submitted at any time for affordable housing projects.

Councilmember Yakawich asked what could be done to counteract slum lords that devalue neighborhoods. Ms. Beckett responded that outside of having an initiative to purchase blighted properties on the market and solidify some deed restrictions it would take a coordinated effort with several City departments to make it work.

The public hearing was opened.

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

Councilmember Neese noted that staff was not going to attend task force meetings and he asked why. Ms. Beckett responded that staff used to attend task force meetings all the time to receive rankings and the analysis was that it was not helpful and did not make sense. She said Mr. Friday worked with the Adjacent Neighborhood Task Force and reported to Council. She continued that her staff has offered to provide presentations, but they did not know how effective they really were. She added that any time the task forces wanted a presentation they could just contact her office and make arrangements. Councilmember Neese encouraged Ms. Beckett to keep in contact with the task forces and explained that it was during a presentation at a task force that he learned about the programs Community Development administered.

Councilmember Ronning moved to approve the Annual Action Plan as recommended by the Community Development Board, seconded by Councilmember Boyett.

Councilmember Ronning thanked Ms. Beckett for her contagious energy she brought to the job and stated she was so proud to be involved with a program that was developed by a VISTA member years ago.

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

3. DEVELOPMENT AGREEMENT with Lupine Holdings, LLC, for Certificate of Survey 1889, Amended Tracts 1A and 1B. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Debi Meling, Public Works Director, gave a PowerPoint presentation and reviewed the tract of land north of Highway 3 and west of the airport and was annexed on March 22, 2021. She reviewed the terms of the development agreement. She stated that MDT was the owner of Highway 3 so they would have a say about intersection and approach developments. She stated that the City was the owner of AJ Way and would have the final say on those street improvements and she gave details about water and sewer lines and crossing for Highway 3.

Councilmember Yakawich moved to approve the development agreement as recommended by staff, seconded by Councilmember Neese.

Councilmember Boyett asked if there was any other place in Billings that required an 8- or 10-foot sidewalk when there would be a crossing on the

highway. Ms. Meling stated that because of the amount of traffic on the highway and the speeds vehicles travelled it made safety sense to create a wide buffer along the highway. Councilmember Neese followed by asking if there was a policy that required an 8–10-foot sidewalk along highways, and if not, he wished for one to be adopted. Ms. Meling stated there was no written policy, but it was something the State and City would agree to. Councilmember Ewalt expressed concern about the sidewalk, too.

City Administrator, Chris Kukulski, asked Council to envision what Highway 3 would look like 40 years from now before deciding whether to question a sidewalk placement. He anticipated that more development would occur all the way to Zimmerman Trail and beyond, filling the open fields presently there.

By a show of hands vote, the motion for approval passed 9-1, Councilmember Ewalt voted in opposition.

4. TAX INCREMENT FINANCING ASSISTANCE from East Billings Urban Renew District (EBURD) to J&S Properties for reimbursement of renovation expenses to property located at 1518 First Avenue North - Yellowstone Ice and Water; maximum of \$63,085. Billings Industrial Revitalization District (BIRD) Board recommends approval. (Action: approval or disapproval of BIRD Board recommendation.)

Zach Terakedis, BIRD Director, provided a PowerPoint presentation and explained that the application for tax increment financing assistance came from J&S Properties that owned several properties. He stated that Yellowstone Ice and Water was an existing business that would move and expand within the EBURD and add additional jobs. Mr. Terakedis reviewed the project drivers and EBURD policies about financial assistance. He continued by explaining the BIRD Board's recommendation.

Councilmember Yakawich moved for approval of Item 4, as recommended by the BIRD Board, seconded by Councilmember Shaw.

Councilmember Neese mentioned that the applicant had been approved for assistance for property located on First Avenue North to demolish a fire-destroyed building in the EBURD and clear away debris, but now a large dirt pile have been moved onto the cleared property and was causing an eye sore. He stated he was hesitant to approve another assistance application to them when the last one was not moving toward improving that property. Mr. Terakedis responded that the developers were currently working on a design for the property.

Councilmember Neese moved to amend the motion to place a condition that the recipient maintain the previously assisted property before

release of additional assistance on another property. The motion to amend died for lack of a second.

Mayor Cole asked if any money had been paid on the first property. Mr. Terakedis stated the dirt pile on the property was from the Billings Clinic expansion and was being stored on the First Avenue North property to help with that construction project.

Councilmember Shaw stated the application packet was very well done and complimented Mr. Terakedis on its contents and would be a great model for other districts.

By a show of hands vote, the motion was approved 9-1, Councilmember Neese voted in opposition.

5. TAX INCREMENT FINANCING ASSISTANCE from Downtown Urban Renewal District to Montana Rescue Mission for reimbursement of remodeling expenses to property located at 2822 Minnesota Avenue; \$420,000 in two installments of \$210,000 per fiscal year. Downtown Billings Partnership (DBP) Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)

Councilmember Neese stated he would abstain from the item because he had a business relationship with the applicant.

Mehmet Casey, DBA Development Director, provided a PowerPoint presentation and reviewed the application and detailed the project of a unified, modernized campus with amenities to help men, women and families experiencing homelessness.

Mayor Cole asked why the DBP did not wish to fully fund the ask of the applicant. Mr. Casey stated the Board did not want to encumber such a large portion of TIF funds to allow for future granting for other projects. If they expended too much of the TIF funds it would take a longer time to recoup. The Board based the amount on the 5:1 ratio of the eligible reimbursable expenses.

Councilmember Yakawich moved for approve Item 5, as recommended by the DBP Board, seconded by Councilmember Boyett.

Councilmember Ronning asked for clarification on the private investment including the tax credit. Mr. Casey responded the low-income housing tax credit was included and it was included in the 5:1 ratio. Councilmember Ronning followed by stating the reimbursement amounts were vague as to what the 3-\$140,000 installments were for and was looking for more specific costs. Mr. Casey explained 3 themes surfaced that were

eligible for reimbursement, however, Council could choose to have the entire amount go toward demolition if they wished. He continued that he and City staff reviewed all receipts for qualifications of reimbursement before any funds are disbursed. He stated that the application listed 22 pages of qualifying expenses, but he would only look at \$2.5 million worth and pay out up to \$420,000, if approved by Council.

Councilmember Joy asked for clarification on the development agreement and whether MRM was a tax-exempt non-profit or a LLC with no members. Mr. Casey stated it was a tax-exempt non-profit LLC and explained that how that worked.

Councilmember Purinton stated she was confused about the 3 tiers identified for reimbursement in the application. She expressed to Wyeth Friday, Planning Director, that she wanted applications to be more specific about how and where the TIF monies would be used. Mr. Friday stated the staff memo explained the qualified expenses and improvements but did not itemize every single expense.

Councilmember Ewalt asked Matt Lundgren of MRM to speak to Council about the services the MRM offers. Mr. Lundgren explained that they accept everyone, meet with them on their level to determine what their needs are, provide food, shelter, and medications, hook them up with counselors and case workers and work to bring them out of homelessness and be successful. He stated that the average number of people staying at the shelters was 90. The expanded campus would shelter 200 individuals. He stated the shelter could really use the extra bump to meet its vision for the future in serving the City's homeless population. He explained the configuration of the new campus with more individualized and private quarters, restrooms, etc. and stated the Women's Shelter building was up for sale and he was anxious to get that building back on the tax rolls. He added the sale of the building was needed to move forward with the construction of the new building. He stated MRM had been privately funded through donations for 75 years and now they were receiving low-income housing tax credits and asking the City for its help.

Councilmember Purinton stated she wanted a better process to identify where and how the funds would be used. Wyeth Friday stated recently several other tax increment financing assistance applications were approved, but the next one he was open to changing so the information reflected more of what the EBURD's staff memo had.

By a show of hands vote, the motion was approved 7-2, Councilmembers Purinton and Ronning voted in opposition and Councilmember Neese abstained.

6. RESOLUTION 21-10946 adopting application and renewal fees for Massage and Spa Facility License. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, provided a brief PowerPoint presentation outlining the proposed massage and spa facility license fees. He stated staff was trying to keep the costs to applicants the same as other business licenses. He explained that because there would be a cost for fingerprinting and background checks, the initial application fee would be reduced to \$25 if submitted on or before June 30, 2022 and then would increase to \$55 after June 30, 2022. This would give all of these businesses one year to get into compliance with the new ordinance. The annual renewal fee would be \$55, same as the cost of a current business license.

Councilmember Neese moved to approve a resolution adopting application and renewal fees for massage and spa facility licenses as modified to \$25 if submitted on or after April 27, 2021 and an annual renewal fee of \$55, seconded by Councilmember Ronning.

Councilmember Shaw asked if there were any other business license applications that require background checks that Council should consider giving a discount to. City Attorney, Gina Dahl, responded that the City had no other business licenses that required a background check.

Councilmember Joy asked Mr. Zoeller when business license fees were increased last. Mr. Zoeller stated it was in the 1970s.

By show of hands vote, Councilmember Neese's motion was approved 6-4, Councilmembers Joy, Ewalt, Choriki and Purinton voted in opposition.

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 was closed.

COUNCIL INITIATIVES:

There were no Council initiatives.

There was no further business, and the meeting adjourned at 10:02 pm.



CITY OF BILLINGS:

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

ATTEST:

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