

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

July 26, 2021

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Cole called the meeting to order at 5:30 p.m. and served as the meeting's presiding officer. Councilmember Neese gave the invocation.

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

MINUTES:

June 28, 2021 - Councilmember Choriki noted a revision on Page 6, Paragraph 5, "He stated his support in paving Bruce Street and all other gravel streets in the City but questioned the rationale for prioritizing ~~certain streets over others~~ Bruce Street at this time without following normal procedures." He made a motion to approve with the changes noted, seconded by Councilmember Neese. On a voice vote, the motion was approved unanimously.

July 12, 2021 - Minutes were pending.

COURTESIES:

- Deborah Singer, Northwestern Energy company, awarded the City a rebate check in the amount of \$65,750; Public Works - \$62,500 and Parks - \$3,250! She stated the City would realize additional yearly savings of \$61,200/yr. because of their energy saving modifications.

- Mayor Cole mentioned that citizens needed to be vigilant about receiving COVID-19 vaccinations as the Delta variant was increasing and was more easily spread.

- Adam Liberty, Billings Catholic Schools Foundation, introduced himself to the Council as the President of the Foundation. He mentioned they had experienced an increase in their enrollment and that trend was continuing.

- Becky Bey, Project Manager, Substance Abuse Connect, in partnership with Rimrock Foundation, stated they were co-hosting a number of community conversations with Ben Cort, a national expert on marijuana impacts. She invited the Council and Public to attend any of the following meeting dates – August 5th, Billings Public Library, meeting with community leaders and the public from 1-3 pm; August 9th from 10-Noon at United Way, meeting with government leaders; August 9th from 5:30-7:30 pm, at the Vineyard Church, meeting focused on

recovery and the recovery community; August 10th from 10-Noon, meeting with Business Community, HR Departments and would focus on impacts to the work force, i.e. supervisors, etc. She mentioned there would be a press conference held at the Double Tree Hotel on July 27th beginning at 1:30 pm and invited everyone to attend.

- Kristi Drake, Executive Director, Billings TrailsNet, provided Council with a check for \$85,000 as BUILD Grant match to help construct the Skyline Trail!

PROCLAMATIONS:

There were no proclamations.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski gave an update on the Stillwater Building. He stated the matter would be brought to the Work Session on August 16th and results of inspections would be presented. Council would be asked to decide whether to move forward with closing on Sept. 13th. He reminded Council that the Buy/Sell stated the closing was to occur by Sept. 15th and that an extension may be necessary.

Mr. Kukulski stated more review of the CPSM reports would come before Council at a Work Session soon.

Mr. Kukulski noted that the Regular Agenda Item 2's staff memo indicated there was a public hearing, but that was incorrect. It was a request for a letter of support from Council. The public could provide comment directly after the administrator's report during the Non-Public Hearing comment period.

Mr. Kukulski noted Regular Agenda Item 6's agenda description stated the reimbursement was for up to \$94,740, but that was incorrect. The amount changed between the staff's draft agenda and the finalized agenda that was published. The correct amount should have read \$98,776, as indicated in the staff memo.

Mr. Kukulski stated there were no exparte communications.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 2, 6, and 7 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.

- **Bernie Rose, 3221 Green Terrace Drive, Billings, Montana**, in reference to Regular Agenda Item 7, stated he was the President of the Billings Community Foundation, and quickly reviewed the application for TIF funds as needed for funding handicapped accessible restrooms, as well as other plumbing improvements. He invited Council to stop by for a tour of their new office space. He stated his support for approval of the TIF application.
- **John Wright, 511 Yellowstone Avenue, Billings, Montana**, in reference to Regular Agenda Item 7, stated that he was a donor to the Billings Community Foundation. He continued that the building had quite a history, built in 1882 and was one of the original residential homes of Billings. He added that the building would continue to serve the citizens of Billings and preserve a piece of history. He urged Council to support the TIF application.
- **Joy Culver, 3208 Rugby Boulevard, Billings, Montana**, in reference to Regular Agenda Item 7, stated the Billings Community Foundation brought new vitality to the downtown area and the building was very functional for its business and provided onsite parking. She urged Council to support the TIF application.
- **Kristi Drake, 2950 Walden Place, Billings, Montana**, in reference to Consent Agenda Item 1F, stated that the Billings TrailsNet had contributed \$400,000 to date toward the Skyline Trail project and a total of \$655,000 had been contributed toward all trails development in Billings.
- **Don Sterhan, 3104 East MacDonald, Billings, Montana**, in reference to Regular Agenda Item 2, stated he represented Mountain Plains Equity Group, which provided financing for affordable and low-income housing. He clarified that most of the projects financed were financed using the Low-Income Housing Tax Credits. He stated that their company often reviewed inventories in Billings and currently there was a zero-vacancy rate for this type of housing in Billings. He explained the competitive process for obtaining Low-Income Housing Tax Credits through the Montana Board of Housing and encouraged Council to support the project.

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

1. **CONSENT AGENDA:**

- A. **Bid Awards: None**
- B. **Amendment No. 27, Airport West Hangar Development, Professional Engineering Services Agreement, Morrison-Maierle, Inc.; \$121,144.**
- C. **2021 Justice Assistance Grant (JAG) Application, Memorandum of Understanding (MOU) with Yellowstone County, and award to the City of Billings Police Department; \$105,725.**

- D. **Recommendation of approval** of the 5th Avenue North Corridor Feasibility Study to the Policy Coordinating Committee (PCC).
- E. **Donations** from various donors to the Billings Police Department; \$26,500.
- F. **Donation** from Billings TrailNet as a match for the BUILD Grant to help construct the Skyline Trail; \$85,000.
- G. **Donation** from Yellowstone County DUI Task Force for the Billings Police Department to fund overtime shifts for special DUI patrols; \$4,000.
- H. **Quit Claim Deed** for Tract 7 of COS 550 from Kurt Haeker.
- I. **Final Plat** of Amended Lot 5, Block 1, Legacy Subdivision.
- J. **Resolution 21-10980** to repeal the City of Billings' declaration of emergency due to the COVID-19 pandemic.
- K. **Second/Final Reading Ordinance 21-5762 expanding Ward I (Annexation 21-03)**: a parcel located north of King Avenue East and east of Jackson Street, legally described as Tract B-2, of Amended Tract B of Certificate of Survey No. 2367 M, totaling approximately 3.574 gross and 3.522 net acres.
- L. **Second//Final Reading Ordinance 21-5763 expanding Ward III (Annexation 21-04)**: a parcel located south of the South Frontage Road and north of the City-County Drain, legally described as Fractions of Government Lots 2 and 3, Section 15, T.1S., R.26E., P.M.M., totally approximately 35.94 acres.
- M. **Second/Final Reading Ordinance 21-5764 expanding Ward III (Annexation 21-05)**: a parcel located at 6014 South Billings Boulevard; legally described as a tract of land situated in the SE 1/4 of Section 17, and the NW1/4 and the SW 1/4 of Section 16, T.1S., R.26E, P.M.M. totally approximately 22.90 gross acres.
- N. **Second/Final Reading Ordinance 21-5765 expanding the boundaries** of the South Billings Boulevard Urban Renewal District (SBBURD) and adopt a modified Urban Renewal Plan.
- O. **Bills for the Weeks of:**
 - 1. June 21, 2021
 - 2. June 28, 2021

Councilmember Choriki separated Consent Agenda Item 1J for discussion.

Councilmember Boyett separated Consent Agenda Item 1D for discussion.

Councilmember Purinton separated Consent Agenda Item 1N for discussion.

Councilmember Yakawich separated Consent Agenda Item 1E for discussion.

Councilmember Shaw moved for approval of the entire Consent Agenda, with exception of 1D, 1E, 1J and 1N, seconded by Councilmember Ewalt.

Councilmember Neese, in reference to Consent Agenda Item 1H, asked whether there was an expense to the City or loss of revenue by accepting the quit claim deed and receiving the land. Jennifer Duray, Public Works Deputy Director, stated that one-half of the assessments to the property could be written off, but the City may be responsible for \$100 for taxes.

Councilmember Neese made an amendment to the motion to indicate on the staff memo for Consent Agenda Item 1H, that the City may have to pay taxes of \$100 in the acquisition of the land and directed staff to pay it, seconded by Councilmember Joy.

On a voice vote, the amended motion was unanimously approved.

Councilmember Boyett, in reference to Consent Agenda Item 1D, moved to change the wording from "approval" to "received", seconded by Councilmember Neese. Mayor Cole asked staff to speak to the motion as changes to the wording may have very significant consequences. Wyeth Friday, Planning Director, stated the Montana Department of Transportation required there be approval by the MPO to go through the funding process. He continued that it was funded through the Federal MPO dollars and the wording change could be problematic. He stated acknowledging that a document was received, would not flag staff that there was any direction from Council to proceed. Without Council approval, it would not indicate to the Federal government that there was any kind of local commitment from the community. City Administrator, Chris Kukulski, added that if there was anything in the studies that Council did not agree with, then they should reject it, but if Council agreed with the contents, it should be approved. He continued that adoption of a plan did not mean there could not be changes to it later.

Council discussions continued with staff about the boundaries of the corridor, from the YMCA building to MetraPark.

Councilmember Neese stated the study contained many plans brought together over the years and there were definitely some plans that he did not like and therefore would prefer "receiving" it, rather than "approving" it.

Councilmember Shaw stated she would not support the motion because Council was getting ahead of themselves. She stated staff made it very clear that by changing the language, it could jeopardize future Federal funding.

Councilmember Ewalt voiced his concern about significant items being brought to Work Sessions the week prior to Regular Business meetings and asking Council to approve those items giving Council little time between the meetings to comb through the information.

On a voice vote, the motion to amend the wording on Consent Agenda Item 1D, from "approval" to "received" failed 4-6, Councilmembers Shaw, Yakawich, Joy, Choriki,

Ronning and Mayor Cole voted in opposition.

Councilmember Yakawich moved for approval of Consent Agenda Item 1D as written, seconded by Councilmember Joy.

Councilmember Yakawich acknowledged Councilmember Boyett's concerns that Council needed more time to read and understand information brought to them, but he also understood that many of the studies consisted of plans approved along the way by this and previous Councils and Boards. Lora Mattox, Transportation Planner, explained the process of approval for transportation plans and that the plan was anticipated to receive approval recommendations to the Policy Coordinating Committee (PCC) from the County Commissioners and the Planning Board.

Council discussions continued about policies, opportunities to provide input, and staff expectations for approval of items.

On a voice vote, the motion was approved 6-4, Councilmembers Neese, Ewalt, Purinton and Boyett voted in opposition.

Deputy Mayor Yakawich was asked to preside over the next Consent Agenda Item 1E, as Mayor Cole recused himself. Deputy Mayor Yakawich asked for a motion to approve. Councilmember Neese moved to approve Consent Agenda Item 1E, seconded by Councilmember Boyett. Chief St. John spoke to the various donations made to the Police Department. He voiced his appreciation for the generosity and shared plans for use of the monies. Councilmember Neese read the names of the contributors for the record: Vemco, Inc., Northwest Pipe Fittings, Inc.; Industrial Sales and Service; Western Security Bank; Thermax Insulation, LLC; Star Service, Inc.; Dick Anderson Construction, Inc.; and Anne and Bill Cole Fund.

On a voice vote, the motion to approve Consent Agenda Item 1E was approved 9-0, Mayor Cole abstained.

Mayor Cole resumed presiding over the meeting.

Councilmember Choriki, in reference to Consent Agenda Item 1J, stated he would not support the resolution repealing the declaration of emergency due to the COVID-19 pandemic because the pandemic was far from over and variants were present. He urged the Public to get vaccinated to put the pandemic behind us. Councilmember Neese moved for approval of Consent Agenda Item 1J, seconded by Councilmember Purinton.

Council discussed whether there were any implications repealing the declaration of emergency since the State had lifted its mandates. Mr. Kukulski stated his only concern would be if it affected distribution of Federal government monies to cities or states without declarations.

Councilmember Joy stated she would not support the motion. She stated conflicting messages had plagued the pandemic. She continued that school would be starting in 3 weeks' time and it was likely there would be a surge of new infections.

Councilmember Neese stated the County Health Officer would monitor the virus's actions and provide guidance, if needed.

Mayor Cole stated if the resolution needed to be reinstated in the future it could be done.

On a voice vote, the motion passed 8-2, Councilmembers Joy and Choriki voted in opposition.

Councilmember Purinton, in reference to Consent Agenda Item 1N, stated she did not want the Billings Operations Center to be included in the SBBURD. Councilmember Joy moved for approval of Consent Agenda Item 1N, seconded by Councilmember Shaw. On a voice vote, the motion was approved 7-3, Councilmembers Neese, Ewalt and Purinton voted in opposition.

REGULAR AGENDA:

2. LETTER OF SUPPORT for Low-Income Housing Tax Credits for the proposed Tapestry Apartments. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Eric Bayse, with CLDI, provided a brief PowerPoint presentation giving the history of CLDI, its mission and its projects. He provided details about the Tapestry Apartments for Billings' south side.

Councilmember Joy asked about non-discrimination and how tenants were chosen. Mr. Bayse responded CLDI was a faith-based organization that served all people regardless. Councilmember Joy continued asking questions about their ministry and discipleship. She stated based on information she had read online; she would not sign a letter of support.

Councilmember Purinton applauded CLDI's faith-based endeavors and asked whether CLDI paid taxes on any of their properties. Mr. Bayse stated that even though CLDI was a non-profit with tax-exempt status, they paid about 1/3 of their property taxes and explained the process of applying for tax-exemption.

Councilmember Ronning asked if there were any other considerations when choosing tenants, other than by income level. She stated as a Christian it was difficult to read some of the documents that were online and she found them disturbing. She acknowledged the separation between church and state and stated her respect for the separation. She supported the work of bringing low-income housing to Billings and hoped there would be no discrimination.

Councilmember Yakawich moved to approve a letter of support be signed by the Mayor on behalf of the Council, seconded by Councilmember Neese.

Councilmember Yakawich spoke favorably about the progress and improvements made by CLDI on the south side and encouraged Council to sign the letter of support.

Councilmember Ewalt stated he would like to sign the letter of support and asked Councilmember Yakawich for a friendly amendment to include signatures of all supporting Councilmembers. Councilmember Yakawich amended his motion to include signatures of any Councilmember comfortable in signing the letter of

support, seconded by Councilmember Neese.

Councilmember Neese stated his support of the letter.

Councilmember Joy stated she would support the motion even though she would not sign the letter of support.

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

3. PUBLIC HEARING AND SPECIAL REVIEW 990: a special review to relocate an existing all-beverage liquor license to operate a bar and casino for Town Pump, Inc. in the Olympic Park Planned Development zone with underlying zoning of Community Commercial (PD-CC) on a 6.196 acre parcel of land described as Lots 1B-1 to Lots 1B-5, Block 20, Olympic Park Subdivision, generally located on the vacant property on the northeast corner of the intersection of King Avenue West and Shiloh Road. Billings 13 RE, LLC, owners; Performance Engineering, Scott Aspenlieder, P.E., agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 9 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Nicole Cromwell, Zoning Coordinator, provided a PowerPoint presentation and outlined the special criteria and standards of review and noted there were now 9 review criteria, not 3. She reviewed the area map, the underlying zoning and the site plan. She explained that the re-coding could not affect contractual Planned Developments. Ms. Cromwell reviewed the casino and bar separation requirements. She added that the Zoning Commission held their hearing on July 6th and heard from the Applicant, Agent and Planning staff concerning conditional approval. She stated there were 21 conditions, but only reviewed Condition No. 19, the re-opener clause, which stated City Council reserved the right to re-open the conditional approval when one of the following issues arose: 1) failure to respond to a notice of noncompliance with the conditions of approval; or 2) exceptionally high level of calls for public safety services as verified by the Chief of Police. She acknowledged the signage proposed did not meet with zoning requirements and that would be changed during the building and sign permitting processes.

Mayor Cole called for a recess at 7:37 pm.

Mayor Cole reconvened the meeting at 7:46 pm, Councilmember Ewalt returned at 7:47 pm.

Nicole Cromwell finished her presentation.

Councilmember Purinton expressed her concern about 18 trees blocking the view of passing motorists who might possibly see criminal acts occurring. Ms. Cromwell stated the trees must be deciduous trees and the height and size would be

limited due to overhead powerlines. Councilmember Purinton asked about crime mapping data. Ms. Cromwell stated there was up to 6 months of crime reporting available for any area.

Councilmember Neese stated he wanted the code to be revised concerning casinos near residential developments.

Councilmember Ronning received information about relocating a full liquor license within the City.

Councilmember Boyett stated his disappointment that re-code had not effectively addressed casinos near residential areas. He asked if conditions could be modified concerning fencing materials. Ms. Cromwell responded affirmatively.

Councilmember Neese mentioned that the Zoning Commission had failed to correct their motion to include the 9 criteria. He asked if City Council could proceed with action.

Councilmember Purinton mentioned the language contained in Condition No. 19 was not well written and specific enough. She was also concerned about bringing the Police Chief into the action.

Agent for the Applicant, Craig Dalton with Performance Engineering, addressed Council. He stated the Applicant had worked diligently with Planning staff in identifying properties that would meet the underlying zoning and Town Pump chose this property because of its location. He continued that traffic studies were underway with the Engineering Department. He spoke about the 350-foot separation and how that could not be done in a residential situation like Shiloh Commons where residences were located directly above bars. He stated the conditions as set forth by the Zoning Commission were agreeable to the Applicant.

Councilmember Ronning asked from where the full liquor license was relocating. Mr. Dalton responded it had been purchased by the Applicant from a business that had closed.

Councilmember Neese asked if Town Pump would be a 24-hour business. Daniel Sampson, Applicant representative, stated the convenience store would be 24-hours, but the casino and lounge would not. Councilmember Neese asked about delivery access. Mr. Sampson responded delivery trucks would enter at the back of the building and deliveries would be between 8 am and 4 pm. Councilmember Neese asked if the Applicant would be agreeable to building a fortified boundary fence. i.e., masonry block. Mr. Sampson responded affirmatively.

Councilmember Purinton asked if the Applicant had any objections to Condition No. 19. Mr. Sampson responded they would not and stated Town Pump was very serious about safety and security for their customers. He stated that Town

Pump was a long-term business.

Mayor Cole spoke of his appreciation for Condition No. 10 regarding vegetation, its maintenance and replacement. Ms. Cromwell responded that inspections for dead vegetation had been complaint driven in the past, but now plans were kept with the Building Division and there would be an ongoing record to check on the status of vegetation. Mayor Cole suggested implementing a reporting process from applicants to reduce the onus on City staff.

The public hearing was opened.

- **Dennis Ulvestad, 3040 Central Avenue, A102, Billings, Montana**, gave his support and stated that Town Pump kept their properties very well maintained.

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

Councilmember Boyett moved for approval of Special Review 990 and adoption of the 3 criteria as recommended by the Zoning Commission and amending Condition No. 5 that the screen between the commercial property and the residential properties be constructed of a noise-abatement material, i.e., masonry or better, seconded by Councilmember Purinton. Councilmember Neese mentioned there should be an amendment to the motion to correctly adopt the 9 review criteria, rather than the 3 criteria. Councilmember Boyett amended his motion to include adoption of the 9 review criteria, seconded by Councilmember Purinton. Gina Dahl, City Attorney, stated the agenda and staff memo contained the wrong information, but that the Zoning Commission had correctly recommended approval of the adoption of the 9 review criteria and all 21 conditions and City Council could proceed.

Councilmember Ronning asked that Council be provided the information about relocation of liquor licenses in the future.

Councilmember Neese asked about entryways into the commercial property from the residential side. Ms. Cromwell stated those entries were acceptable because Town Pump offered C-store services and was not just a casino and bar, and many neighbors would want easier access for the C-store services.

On a voice vote, the amended motion was approved unanimously.

4. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings, Montana City Code (BMCC), Article 22-1000, Arterial Construction Fees. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Jennifer Duray, Public Works Deputy Director, provided a PowerPoint presentation explaining arterial streets and their charges. She stated that the

changes to the ordinance were brought about because of changes to the zoning code and she reviewed the recommended changes, i.e., N1, N2 and N3, and Residential Zone Classifications NOT capped and Exemptions for Single Family Residences. She reviewed the effective date of the ordinance, if approved, as September 23, 2021. She asked Council to include an additional change to Paragraph C, changing the title of "Financial Services Manager" to "Finance Director" in Section 22-1003, BMCC.

Councilmember Ewalt received clarification that all residential zones (N1, N2, and N3) would be assessed the same amount. He questioned why the assessment amounts were not known at this time before asking for approval to change the code. Ms. Duray responded that the changes to the ordinance were necessary now due to the zoning code changes and assessments would come to Council for approval in late August with a recommended 3.1% increase.

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

Councilmember Yakawich moved for approval of first reading ordinance amending Billings, Montana City Code (BMCC), Article 22-1000, Arterial Construction Fees, and including the amendment to Paragraph C of Section 22-1003, BMCC, the title of "Financial Services Manager" to "Finance Director", seconded by Councilmember Neese.

On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND SECOND/FINAL READING ORDINANCES 21-5766 and 21-5767, RESPECTIVELY, FOR ZONE CHANGE 993: a zone change from A - Agriculture to CX - Heavy Commercial generally located at 3508 South Frontage Road; a zone change from A - Agriculture to P2 - Public 2 generally located at 6014 South Billings Boulevard; and a zone change from RR1 - Rural Residential 1 to NX1 - Mixed Residential 1 and N2 - Mid-Century Neighborhood generally located on Jackson Street. Zoning Commission recommends approval and adoption of the 10 criteria. (Action: approval or disapproval of the Zoning Commission recommendation.)

Wyeth Friday, Planning Director, addressed the Council and stated this was second/final reading for the two ordinances concerning Zone Change 993. He stated the Zoning Commission and Planning staff recommended approval and adoption of the 10 review criteria. He explained there had been a valid protest on the Adkins property located on Jackson Street, which required approval of the second ordinance and a separate vote with a 2/3rds majority vote of approval by Council. He reminded Council they had approved with a 2/3rds majority on first reading on July 12th.

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

Councilmember Joy moved for approval of second/final reading ordinance for Zone Change 993 and adoption of the funding of the 10 criteria a zone change from A - Agriculture to CX - Heavy Commercial generally located at 3508 South Frontage Road; a zone change from A - Agriculture to P2 - Public 2 generally located at 6014 South Billings Boulevard as approved by City Council on July 12, 2021, seconded by Councilmember Neese.

On a voice vote, the motion was approved unanimously.

Councilmember Ronning moved for approval of second/final reading ordinance for Zone Change 993 and adoption of the funding of the 10 criteria a zone change from RR1 - Rural Residential 1 to NX1 - Mixed Residential 1 and N2 - Mid-Century Neighborhood generally located on Jackson Street as approved by City Council on July 12, 2021, seconded by Councilmember Joy.

On a voice vote, the motion was approved 7-3, Councilmembers Yakawich, Neese and Ewalt voted in opposition.

6. TAX INCREMENT FINANCE ASSISTANCE from East Billings Urban Renewal District (EBURD) to Empire Entrepreneurs, for asbestos abatement, demolition and clean-up at 1403 1st Avenue North, f/k/a Lazy KT motel; up to \$94,740 \$98,776. Billings Industrial Renewal District (BIRD) Board recommends approval. (Action: approval or disapproval of the BIRD Board recommendation.) APPROVED WITH AMENDED AMOUNT OF \$98,776.

Zack Terakedis, BIRD consultant, gave a PowerPoint presentation and explained the acquisition process of the property and the abatement of a blighted, public safety concern. He reviewed the TIF eligible expenses, i.e., demolition and removal of structures, per Section 7-15-4288(2), MCA, and stated the BIRD Board recommended approval for reimbursement of 100% of identified eligible project costs, not to exceed \$98,776 to Empire Entrepreneurs, LCC upon completion and submission of receipts.

Councilmember Shaw left the meeting at approximately 8:50 pm and returned at approximately 8:56 pm.

Councilmember Yakawich moved for approval of Regular Agenda Item 6 in the amount of \$98,776, seconded by Councilmember Ronning.

Council discussed future plans for the property and displacement of individuals and families.

Councilmember Neese stated he would not normally support TIF projects, but

would support the motion for this project because it would make the area safer and raise area property values.

On a voice vote, the motion for approval of Regular Agenda Item 6 was unanimously approved.

7. TAX INCREMENT FINANCE ASSISTANCE from Downtown Urban Renewal District to Billings Community Foundation for renovation at 404 North 30th Street; \$181,774. Downtown Billings Partnership Board (DBP) recommends approval. (Action: approval or disapproval of DBP Board recommendation.)

Mehmet Casey, DBP Development Director, gave a PowerPoint presentation outlining the Applicant's philanthropic contribution to the community. He reviewed the eligible expenses of the TIF application.

Lauren Wright, Executive Director of the Billings Community Foundation, spoke to Council about the Foundation's mission and footprint in the non-profit community.

Councilmember Boyett voiced his concern about using TIF monies for non-profits that did not pay into the TIF accounts. Mr. Casey stated there were other ways non-profits contributed to the community by helping other businesses succeed.

Councilmember Shaw moved for approval of Regular Agenda Item 7, as recommended by the DBP Board, seconded by Councilmember Joy. Councilmember Shaw voiced her support for the renovation of the historic building which would add ADA compliant features to better serve the community for years to come.

Mayor Cole asked about infrastructure problems with the building. Mr. Casey stated the building had settled and caused the sewer connections to break. He explained the process needed to repair the break.

Councilmember Neese stated he agreed with Councilmember Boyett that non-profits were removing properties from the tax base and asked Mr. Casey how many non-profits had benefited from TIF assistance. Mr. Casey explained how taxable value was considered and stated that since he had been with the DBP, this was only the second application for TIF assistance by a non-profit.

Council discussions continued about blight removal and contributions to the community. Lauren Wright spoke about the building's inspection and the discovery of the sewer problems; the fundraising efforts and leveraging TIF monies; and the appraisal price and purchase price of the building. She spoke about the failed restaurants that had been in business in the old building and the challenges the restaurants had faced. She stated the Foundation wanted to create permanence and

stability downtown.

Mayor Cole acknowledged the historic value of the building as it being one of the oldest original residential buildings in Billings and the need to preserve it. He stated blight could be viewed in a much larger scale, rather than just a building. He acknowledged that the Foundation brought other monies into the community. He voiced his support of the motion to approve.

Councilmember Ewalt made a substitute motion to approve one-half of the asking amount or \$90,887, seconded by Councilmember Neese.

Councilmember Choriki stated there were several areas in town that had blighted buildings, but any time someone was willing to make improvements to those buildings, it benefitted the surrounding area, not just that building, adding to the vibrancy of the neighborhood.

Councilmember Joy stated she would not support the substitute motion. She said if Council was interested in creating more blight, they could do nothing, and blight would happen. She spoke to placemaking and protecting heritage.

Councilmember Purinton acknowledged the good work the Foundation did and voiced her concern about blight, but stated she supported the substitute motion to help with the sewer issues.

Councilmember Ronning stated that State statutes on TIFs did not mention increasing tax values, but mitigation of blight and public benefit. She stated she would not support the substitute motion. She disclosed she was a non-voting member of the DBP and that it caused 'heartburn' for the Board whenever a non-profit applied for TIF assistance.

By a show of hands vote, the substitute motion failed 4-6, Councilmembers Shaw, Joy, Choriki, Ronning, Boyett and Mayor Cole voted in opposition.

By a show of hands vote, the original motion for approval of the full asking amount \$181,774 failed by a tie vote, 5-5, Councilmembers Yakawich, Neese, Ewalt, Purinton and Boyett voted in opposition.

Councilmember Neese called point of order and asked if someone from the prevailing vote on the substitute motion could call for reconsideration of the vote. Councilmember Ronning made the motion to bring the substitute motion back for reconsideration, seconded by Councilmember Joy.

Mayor Cole asked Lauren Wright and Wyeth Friday, Planning Director, to approach the podium. Mr. Friday stated approving half was not helpful because there were itemized amounts with eligibility percentages attached to them and the percentages were not all 50% eligible recommendations.

Councilmember Ewalt stated that one-half was better than nothing and if the reconsidered motion for one-half of the asking amount was approved, he would not dictate how the money was used. The Foundation would have to identify how they would use the TIF monies.

Mayor Cole asked Mr. Casey what the DBP's process would be for reapplication, if it were necessary. Mr. Casey reminded Council that the reimbursable items came word-for-word from the City's TIF policy and were eligible, including allowing non-profits to apply and be considered. He commented further that the sewer improvements were allowable expenses per Montana's Code. The signage, exterior landscaping, gutters, drainage, etc., were eligible per the Urban Renewal Plan. Mr. Casey asked that either the policies be complied with or be changed so the DBP applications could fit within those policies. Councilmember Ronning thanked Mr. Casey for reminding Council about their policies, including eligibility for non-profits.

City Administrator, Chris Kukulski, asked if Council was setting a new policy that non-profits could only apply for one-half of their total ask. He suggested that Council not make policy application by application.

Councilmember Neese stated Council had adjusted award amounts in the past and the practice was not at all unusual. He stated an applicant could choose how they received reimbursement as long as the items were eligible for TIF reimbursement.

Mayor Cole asked Ms. Wright if the Foundation would be interested in receiving one-half of the asking amount. Ms. Wright responded affirmatively and thanked Council for their consideration.

Councilmember Shaw asked if Ms. Wright were to go back to the Board and reapply, what might change. Councilmember Shaw stated that Councilmember Brown was not present, and his vote would have made a difference. She asked whether he could ask at the next meeting for a reconsideration of the vote.

Gina Dahl, City Attorney, provided parliamentary direction. She advised that the most recently voted original motion failed in a 5-5 vote and there was no prevailing side, anyone could bring a motion for reconsideration of that motion at the very next regular business meeting, but not beyond that.

Lauren Wright stated she was not certain what would change in the ask should the Foundation choose to reapply. She stated it was difficult to locate donors willing to help with the identified TIF eligible expenses and not receiving TIF assistance would impact the Foundation's grantees. She stated she had not had an opportunity to visit with her Board about the direction they would want to proceed, and she was confused by the Council's process. Mr. Casey reminded Council that

the ask the Foundation made was significantly less than the allowable amount.

Councilmember Ronning asked Gina Dahl, City Attorney, whether the Council needed to provide a reason why they were rejecting an application that was eligible under the Memorandum of Understanding with the TIF district. Ms. Dahl responded the Council did not need to provide explanations or reasons for a denial.

Mayor Cole explained that Councilmember Ronning's motion for reconsideration of the substitute motion's vote was out of order because it was not the last motion voted upon per the parliamentarian, Gina Dahl. Therefore, a motion for reconsideration could be brought by any one Councilmember to the original motion for approval of the full TIF assistance asking amount because there was no prevailing side to that motion's vote.

Councilmember Choriki moved for reconsideration at the next Regular Business meeting, August 9th, seconded by Councilmember Neese. Councilmember Neese withdrew his second because he would vote in opposition. Councilmember Joy seconded the motion for reconsideration.

Wyeth Friday, Planning Director, shared that the DBP Board had a like conversation with concerns about non-profits receiving TIF assistance. He stated the DBP Board ultimately decided to move forward with this particular application and might make changes to their policy later.

Councilmember Choriki clarified he did *not* make a motion for reconsideration, he simply stated he would make a motion for reconsideration at the next Regular Business meeting.

Councilmember Joy moved for reconsideration at the next Regular Business meeting, August 9th, seconded by Councilmember Shaw.

By a show of hands vote, the motion for reconsideration failed 5-5, Councilmembers Yakawich, Neese, Ewalt, Purinton and Boyett 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, however Councilmember Ronning informed Council she would bring an initiative forward to create a Local Government Study Commission, to 1) review the current City Charter; 2) study current local governments across the state; 3) hold public meetings and receive input regarding the current City Charter for possible change and make recommendations for changes to City Council on the current City Charter. She stated the City was due for a Local Government Review in 2024 and she wanted a committee to get started.

There was no further business, and the meeting adjourned at 10:15 pm.



CITY OF BILLINGS:

By: William A Cole
William A. Cole, Mayor

ATTEST:

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