

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 13, 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. Councilmember Yakawich gave the invocation.

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

MINUTES:

October 11, 2021 – Councilmember Choriki stated the minutes had been marked pending at the November 22, 2021 Council meeting due to a revision he suggested. He added the revision had been on the October 25, 2021 minutes, which had already been approved, therefore, he moved to approve the October 11, 2021 minutes, seconded by Councilmember Neese. On a voice vote, the motion was unanimously approved.

November 8, 2021 - Councilmember Neese stated he had suggested a revision to the minutes and the minutes now showed the revisions. He moved to approve the revised November 8, 2021 minutes, seconded by Councilmember Boyett. On a voice vote, the motion was unanimously approved.

November 22, 2021 - Councilmember Neese moved to approve, seconded by Councilmember Boyett. On a voice vote, the motion was unanimously approved.

COURTESIES:

Mayor Cole had recently attended the Change-In-Command ceremony for the USS Billings that was held in Florida.

Councilmember Shaw stated Cedar Hall had recently offered a pediatric Covid-19 vaccination clinic. She stated it had been a well-organized event and was a great community resource.

PROCLAMATIONS:

There were no Proclamations.

COUNCIL REPORTS:

Councilmember Yakawich had attended meetings for the Bicycle and Pedestrian Advisory Committee, Community Development Board and the Aviation and Transit Board. He stated the meetings had great presentations and were very welcoming to attendees. He encouraged Councilmembers to attend.

Councilmember Choriki had attended the Community Traffic Safety Plan meetings and stated they were striving to find ways to decrease accidents. He added they were focusing on impaired drivers and safety belt usage. He encouraged Council to get involved. Mayor Cole reminded Council of a summit occurring on January 25, 2022.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski informed Council that December 20th would be a Regular Council meeting and the meeting for December 27th had been vacated.

Mr. Kukulski stated there had not been any ex-parte items received concerning the agenda.

Mr. Kukulski stated he would not be attending the December 20th meeting and thanked all outgoing Councilmembers for their support.

Mr. Kukulski informed Council he and some staff would be leaving the meeting to attend various concerts for their children and would return when they could.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 3b, and 5 ONLY. Speaker sign-in required. (Comments are limited to three (3) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium. Comments on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For items not on this agenda, public comment will be taken at the end of the agenda.)

The public comment period was opened.

There were no 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	Arlyne Zarn	Animal Control Board	01/01/22	12/31/25
2	No Applications	Animal Control Board	01/01/22	12/31/25
3	No Applications	Animal Control Board	01/01/22	12/31/25
4	Kristi Drake	Bicycle & Pedestrian Board	01/01/22	12/31/24
5	Margy Bonner	Bicycle & Pedestrian Board	01/01/22	12/31/24
6	No Applications	Billings BID	01/01/22	12/31/25
7	No Applications	Billings BID	01/01/22	12/31/25
8	David Mitchell	Board of Adjustments	01/01/22	12/31/25
9	Dave Hagstrom	Board of Adjustments	01/01/22	12/31/25
10	Oscar Heinrich Jr.	Board of Adjustments	01/01/22	12/31/25
11	Jeff Bollman	Board of Adjustments	01/01/22	12/31/25
12	No Applications	Board of Adjustments	01/01/22	12/31/25
13	No Applications	Board of Adjustments	01/01/22	12/31/25
14	No Applications	Board of Adjustments	01/01/22	12/31/25
15	No Applications	Board of Appeals - Architect	01/01/22	12/31/25

16	No Applications	Board of Appeals - Electrician	01/01/22	12/31/25
17	Mick Brown	Board of Appeals - Plumber	01/01/22	12/31/25
18	Anne Giuliano	Board of Health	01/01/22	12/31/24
19	Delayed	Citizen Police Advisory Board	01/01/22	12/31/25
20	Delayed	Citizen Police Advisory Board	01/01/22	12/31/25
21	Delayed	Citizen Police Advisory Board	01/01/22	12/31/25
22	Delayed	Citizen Police Advisory Board	01/01/22	12/31/25
23	Delayed	Citizen Police Advisory Board	01/01/22	12/31/25
24	Joe Stockburger	Community Development Board - Low Mod	01/01/22	12/31/25
25	No Applications	Exchange City Golf Cooperation Board	01/01/22	12/31/25
26	No Applications	Housing Authority - Family Res. Comm	01/01/22	12/31/23
27	Tafuna Tusi	Housing Authority*	01/01/22	12/31/24
28	Kari Boiter	Housing Authority	01/01/22	12/31/26
29	Kim Lewis	Human Relations Commission	01/01/22	12/31/25
30	Lloyd Mickelson	Library Board	01/01/22	12/31/25
31	Trudi Paulson	Library Board	01/01/22	13/31/25
32	Staci Samuelson	Library Board	01/01/22	12/31/25
33	Jennifer Smith	Library Board	01/01/22	12/31/25
34	Mark Kary	Parking Board	01/01/22	12/31/25
35	Brandon Scala	Parking Board	01/01/22	12/31/25
36	No Applications	Parking Board	01/01/22	12/31/25
37	No Applications	Parking Board	01/01/22	12/31/25
38	Jarod Greenwood	Parking Board*	01/01/22	12/31/22
39	Jim Rott	Parks, Recreation & Cemetery Board	01/01/22	12/31/25
40	Lloyd Swords	Parks, Recreation & Cemetery Board	01/01/22	12/31/25
41	Jon Thompson	Parks, Recreation & Cemetery Board	01/01/22	12/31/25
42	Ken Kingman	Police Board	01/01/22	12/31/24
43	Stephen Eliason	Police Board	01/01/22	12/31/24
44	Roger Gravgaard	Planning Board - Ward II*	01/01/22	12/31/23
45	Travis Jones	Public Works Board	01/01/22	12/31/25
46	No Applications	Public Works Board	01/01/22	12/31/25
47	No Applications	Traffic Control Board	01/01/22	12/31/25
48	No Applications	Traffic Control Board	01/01/22	12/31/25
49	Keith Edgerton	Yellowstone Historic Preservation Board	01/01/22	12/31/23

*27 Unexpired term of Michael Samson

*38 Unexpired term of Kevin Heaney

*44 Unexpired term of Heidi Jensen-Christison

B. Bid Awards:

1. **Deice Truck.** (Opened 11/16/21) Recommend I-State Truck Center; \$145,531.

- C. **Purchase** of 4,050 feet of 8" DR 14 fusible PVC pipe from Aegion (Underground Solutions) for pipe-bursting program; \$144,787.50.
- D. **Purchase** of twelve 2021 Ford Interceptor SUV vehicles from Duval Ford for the Police Department; \$430,836.
- E. **Ten-year Agreement** with Sky Dine Billings, LLC, to operate the Airport's Restaurant / Lounge Concessions.
- F. **Consultant Agreement** with Gallagher Benefit Services, Inc. for guidance and direction to the City's Health Insurance Committee; not to exceed \$64,500 first year; \$64,500 second year; \$66,500 third year; \$68,500 fourth year; and \$70,500 fifth year.
- G. **Memorandum of Understanding** with Beartooth Resource Conservation and Development Area, Inc. (Beartooth RC&D); \$12,887.60.
- H. **Exchange City Golf Corporation (ECGC) 2022 proposed annual budget and fee structure for Par 3 Golf Course.**
- I. **Donation** to the Parks Department from Landon's Legacy Foundation for Poly Vista Park Development Phase I; \$43,547.
- J. **FY23 Equipment Replacement Plan (ERP).**
- K. **FY23 Technology Replacement Plan (TRP).**
- L. **Preliminary Plat Extension** for Bishop Fox Subdivision, Amended Lot 1, Block 1, generally located at 54th Street West and Grand Avenue; Bishop Fox Company, owner; Ron Isakson of Cushing Terrell, agent.
- M. **Final Plat** of Big Iron Subdivision.
- N. **Resolution 21-11017** approving and adopting the South Billings Aquatic and Recreation Center Master Plan and Feasibility Study.
- O. **Second/Final Reading Ordinance 21-5786** repealing and replacing Article 7-900, Billings, Montana City Code (BMCC), granting a renewal cable system franchise to Spectrum Pacific West, LLC, locally known as Charter Communications, Inc.
- P. **Second/Final Reading Ordinance 21-5787** adding Article 14-600, Billings, Montana City Code (BMCC), Regulation of Fire /Security Alarm Systems.
- Q. **Second/Final Reading Ordinance 21-5788** adding Article 7-1700, Billings, Montana City Code (BMCC) defining marijuana businesses and permanently prohibiting adult-use (recreational) marijuana dispensaries in the City of Billings.
- R. **Bills for the Weeks of:**
 - 1. November 1, 2021
 - 2. November 8, 2021
 - 3. November 15, 2021

Mayor Cole separated Item 1A1 for discussion.

Councilmember Ronning recused herself from Item 1N due to a professional relationship with parties involved.

Councilmember Brown separated Items 1R2 and 1R3 to abstain, stating his employer was a beneficiary.

Councilmember Purinton separated Item 1N for discussion.

Councilmember Ewalt separated Items 1J and 1K for discussion.

Councilmember Shaw moved for approval of the entire Consent Agenda with the exception of Items 1A1, 1J, 1K, 1N, 1R2 and 1R3, seconded by Councilmember Boyett.

Councilmember Neese disclosed that he had business relations with parties involved in Items 1E and 1H but did not have direct interest in these items.

Councilmember Purinton asked for clarification on Item 1G and requested further information on the services provided by Beartooth RC&D. Joel Bertolino, Beartooth RC&D, stated the MOU would help match a federal EDA Grant for operations that provided funding for economic recovery and resilience. He added they provided technical and business assistance which was used in providing funding for small businesses and gave an overview of some various businesses for which funding was provided.

Councilmember Ronning, in reference to Item 1I, congratulated Landon's Legacy Foundation for their extraordinary job raising funds.

Mayor Cole asked if staff should increase contribution costs for Item 1L since the preliminary plat had occurred 5 years ago and the extension had pushed back the date. Monica Pecker, Planning Division Manager, stated staff was confident that minor changes were allowed within the Subdivision Improvement Agreement (SIA) and the EPI Index included could increase the numbers if needed.

On a voice vote, the motion for approval of the entire Consent Agenda, with the separated exceptions, was unanimously approved.

Mayor Cole moved for approval of Item 1A1, with the exceptions of the following: #28 - Kari Boiter withdrew her application, #29 - Kim Lewis had not met the 2-year residency requirement, and #40 - Lloyd Swords. He stated current board member, Laura Draeger, had submitted her application after the deadline but it was policy to reappoint incumbent board members, which would allow the Parks Board to retain a board member from the Heights. He added the 3 positions would remain open until they were advertised, and the Mayor and Council could fill and approve the new positions.

Council discussed the importance of board members representing the various wards throughout the City.

On a voice vote, the motion for approval of Item 1A1 with Mayor Cole's exceptions, was unanimously approved.

Councilmember Ewalt, in reference to Items 1J and 1K, stated the inflation rate was currently over 6% and the current proposal used an inflation rate of 4% for the replacement programs. He made a motion to increase the rate to 6% for both the ERP and TRP, seconded by Councilmember Neese.

Andy Zoeller, Finance Director, stated the change would equal an approximate \$700,000 increase which would come from the General Fund for the ERP.

Council discussed how the increase would affect the General Fund and where the money would go if the inflation rate did not increase.

Councilmember Joy stated she would not support the motion because inflation was not equal across all sectors of the economy and how it would impact equipment could not be determined.

Chris Kukulski, City Administrator, gave an overview of the City's current policy and stated the current depreciation equipment replacement program was very effective and worked well.

Councilmember Shaw stated she would not support the motion to tie up that amount of money on a guess and staff could return to Council if an increase was needed.

Councilmember Choriki stated he would not support the motion because an increase would need to be considered within the context of the entire budget and setting aside money during inflationary times could devalue the money.

Councilmember Yakawich made a substitute motion to approve Items 1J and 1K, seconded by Councilmember Shaw. On a voice vote, the motion was approved 10-1, Councilmember Ewalt opposed.

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

Councilmember Purinton stated she would not support approving the master plan since it had been completed in 2019 and it was too broad.

Councilmember Neese asked for clarification on the next steps that would occur for the project. Mike Whitaker, Parks Director, stated the master plan was in very preliminary stages and would become more thorough and complete as it progressed.

Council discussed the City's role and ability to manage the Aquatic and Recreation Center. Chris Kukulski, City Administrator, stated the project was in the early stages and it was not a certainty that the City would manage it. He added the voters would need to be included in the process because the City would not have the funding to complete the project alone.

Councilmember Brown asked if the current master plan as presented would be revised. Mr. Whitaker stated the current plan was more of a "vision" and the next step would be a design concept with the final document to include pricing and what staff hoped to build. He added the final document would return to Council for approval.

On a show of hands vote, the motion was approved 7-3, Councilmembers Neese, Ewalt and Purinton opposed, Councilmember Ronning abstained.

Councilmember Boyett moved for approval of Items 1R2 and 1R3, seconded by Councilmember Shaw. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 21-11018 establishing fees for false fire/security alarm responses. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mike Spini, Fire Marshall, gave an overview of the proposed fee amount of \$250, the assessment and collection process and where fees would be deposited once they were obtained. Councilmember Boyett asked if staff had heard any citizen complaints regarding the fee. Mr. Spini stated he had recently met with a facility about the fee and had reviewed various ways to improve their system to avoid fees. He added there had not been any other companies that had contacted to the department.

Councilmember Purinton stated the fees should be deposited into the Public Safety (PS) Fund instead of the General Fund. She asked for clarification on the data collection per department. Fire Marshall Spini agreed fees could be deposited into the PS fund. He added each department would keep track of all the false alarms and provide the information to the Finance Department.

The public hearing was opened.

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

Councilmember Yakawich moved for approval of Item 2, seconded by Councilmember Ronning.

Councilmember Purinton made an amendment to deposit the collected fees into the PS Fund, seconded by Councilmember Neese.

Mayor Cole asked for clarification on how that would affect the funds. Andy Zoeller, Finance Director, stated it would not make a difference logistically which fund the money was deposited.

Mayor Cole asked if there would be administrative costs involved in the accounting change. Mr. Zoeller stated there would be enough revenue from the fees to cover the relatively small administrative costs.

On a voice vote, the amendment was approved 9-2, Councilmembers Boyett and Brown opposed.

On a voice vote the motion to approve Item 2, as amended, was unanimously approved.

3. KB RENTALS, LLC

a. PUBLIC HEARING AND RESOLUTION 21-11019 FOR ANNEXATION 21-12: property described as Lot 4A, of Amended Plat of Lots 2, 3, 4, and 5 of, QFC Subdivision, First Filing, located south of the South Frontage Road and east of East Lane. KB Rentals LLC, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

Monica Plecker, Planning Division Manager, gave a PowerPoint presentation of the property, aerial photos, Limits of Annexation Map, and stated all criteria of the Annexation Policy had been met. She reviewed the development agreement and the Ward Boundary ordinance for Ward III.

Councilmember Purinton asked for clarification on the requirement of adding 10-foot sidewalks to developed properties in the area. Ms. Plecker stated the property directly to the east would include 10-foot sidewalks and they were including those slowly as progress was being made. Councilmember Purinton asked for clarification on railroad requirements from property owners. Ms. Plecker stated the location of the right of way was separated by a frontage road and an interstate and did not have an immediate adjacency.

The public hearing was opened.

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

Councilmember Shaw moved for conditional approval of Item 3a, seconded by Councilmember Purinton. On a voice vote, the motion was unanimously approved.

b. DEVELOPMENT AGREEMENT with KB Rentals, LLC for infrastructure improvements located south of the South Frontage Road and east of East Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Councilmember Purinton moved for approval of Item 3b, seconded by Councilmember Ronning. On a voice vote, the motion was unanimously approved.

c. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently annexed property in Annexation 21-12: a 16.584 gross acres and 8.785 net acres, more or less, parcel of land located south of the South Frontage Road and east of East Lane. KB Rentals, LLC, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

The public hearing was opened.

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

Councilmember Ronning moved for approval of Item 3c, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

4. MCCALL DEVELOPMENT

a. PUBLIC HEARING AND RESOLUTION 21-11020 FOR ANNEXATION 21-13: a parcel located south of Elysian Road in the Annafeld development, southwest of Annafeld Subdivision, Third Filing. McCall Development, owner and petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

Monica Plecker, Planning Division Manager, gave a PowerPoint presentation of the property, aerial photos, Limits of Annexation Map, and stated all criteria of the Annexation Map had been met. She added the property owners within the area would be required to sign a Waiver of Right to Protest future SID's.

Councilmember Neese asked if the Fire Department had weighed in on the annexation. Ms. Plecker stated both departments had reviewed the annexation location for their ability to serve the location and had responded affirmatively. She added the Fire and Police Departments had indicated they wanted the current language to remain the same even with the new Public Safety mill levy changes.

Councilmember Yakawich brought forward Brad McCall, McCall Development, to ask what the vision for the area was. Mr. McCall stated they had currently built about 35% of the planned development that would include: a mini mall with a coffee shop, a market, and a sales office. He added the project included little cottages, townhomes, single family homes, and rentals.

The public hearing was opened.

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

Councilmember Ronning moved for conditional approval of Item 4a, seconded by Councilmember Boyett. On voice vote, the motion was unanimously approved.

b. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently annexed property in Annexation 21-13: approximately 6.792 gross and net acre parcel of land located south of Elysian Road. McCall Development, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

The public hearing was opened.

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

Councilmember Joy moved for approval of Item 4b, seconded by Councilmember Choriki. On a voice vote, the motion was unanimously approved.

Mayor Cole called for a recess at 7:27 pm.

Mayor Cole reconvened the meeting at 7:38 pm.

5. FY2023-2027 CAPITAL IMPROVEMENT PLAN (CIP). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, gave a PowerPoint presentation reviewing the FY23-27 department summaries and amendments discussed at the November 15, 2021 Work Session.

Councilmember Boyett asked what Council could do to encourage staff to investigate buying land for future fire station projects. Kevin Iffland, Assistant City Administrator, stated staff was currently monitoring service calls and gathering data to see where the fire stations should be located. He added staff was compiling data and identifying possible land to purchase and would have a better idea in the spring.

Councilmember Shaw moved for approval of Item 5, seconded by Councilmember Ronning.

Mayor Cole asked why the parks' shelters were so expensive. Michael Whitaker, Parks Director, stated they were large event shelters that could accommodate several hundred people and included accessible pathways.

Councilmember Neese asked for cost estimates for projects within the Castle Rock Master Plan. Mr. Whitaker stated the costs were estimated at \$3.5-11.5 million.

Councilmember Neese made an amended motion to add \$11.5 million to the FY25 CIP and include it with the bonding for the Aquatic and Recreation Center, seconded by Councilmember Yakawich.

Council discussed bonding options, and funding and revenue sources for future parks projects.

Councilmember Shaw stated she could not support the amendment due to lack of public participation.

Councilmember Ronning stated Council had not identified a funding mechanism yet and added the public needed an opportunity to participate.

Councilmember Brown stated he would support a bonding process but there needed to be a funding mechanism in place.

Council discussed revenue sources, Park District 1 (PD1) and public participation for future parks and trails development.

Councilmember Neese asked for clarification on the funding sources to add the Castle Rock Park Master Plan to the FY25 bonding for the aquatic center.

Andy Zoeller, Finance Director, stated the Aquatic and Recreation Center was using \$30 million in TIF bonds, which did not require a vote, and \$28 million in GO Bonds which would require a vote.

On a show of hands vote, the amendment failed 2-9, Councilmembers Shaw, Ewalt, Joy, Choriki, Purinton, Ronning, Boyett, Brown and Mayor Cole opposed.

Councilmember Purinton made an amendment to move the Comprehensive Plan update to FY23. The amendment died for lack of a second.

Mayor Cole made an amendment to add two park shelters to the FY25 CIP, one for Castle Rock Park and one for Centennial Park, seconded by Councilmember Neese.

On a show of hands vote, the amendment failed 3-7, Councilmembers Shaw, Ewalt, Joy, Choriki, Purinton, Ronning, and Brown opposed.

Councilmember Yakawich asked for clarification on future Urban Funds being added to the CIP. Debi Meling, Public Works Director, stated upcoming Urban Funds would be made available to the City and could be allocated to projects deemed necessary by Council.

Councilmember Yakawich made an amendment to use \$3 million of Urban Funds for improvements to the 21st Street underpass in FY27, seconded by Councilmember Neese. On a voice vote, the motion was unanimously approved.

On a voice vote, the motion for approval of Item 5, as amended, was approved 9-2, Councilmembers Neese and Purinton opposed.

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required. *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

The public comment period was opened.

Kevin Nelson, 4235 Bruce Avenue, Billings, Montana, thanked the outgoing Councilmembers for their dedication to the City. He stated Councilmember Yakawich was a hard-working advocate and would be missed.

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

COUNCIL INITIATIVES:

Councilmember Neese directed staff to create a Boards and Commissions policy that would require at least one board member from each Ward, seconded by Councilmember Yakawich. On a show of hands vote, the motion failed 5-6, Councilmembers Shaw, Joy, Choriki, Ronning, Brown and Mayor Cole opposed.

Councilmember Ewalt informed Council he would bring an initiative to the next Council meeting to clarify increases to Solid Waste fees.

There was no further business, and the meeting adjourned at 8:40 pm.

CITY OF BILLINGS:



By: William A Cole
William A. Cole, Mayor

ATTEST:

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