

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
July 25, 2022**

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, at 5:30 PM.

Present: Councilmember Kendra Shaw, Ward I
Councilmember Ed Gulick, Ward I
Councilmember Roy Neese, Ward II
Councilmember Jennifer Owen, Ward II
Councilmember Denise Joy, Ward III
Councilmember Danny Choriki, Ward III
Councilmember Pam Purinton, Ward IV
Councilmember Mike Boyett, Ward V
Councilmember Tom Rupsis, Ward V

Absent: Mayor William Cole
Councilmember Daniel Tidswell, Ward IV

Staff Present: Kevin Iffland, Assistant City Administrator
Gina Dahl, City Attorney
Denise Bohlman, City Clerk
Debi Meling, Public Works Director
Wyeth Friday, Planning Director
Monica Plecker, Planning Manager
Michael Whitaker, Parks, Recreation and Public Lands Director
Mark Jarvis, Parks Planner

CALL TO ORDER: ~~Mayor Cole~~ Deputy Mayor Mike Boyett

PLEDGE OF ALLEGIANCE: ~~Mayor Cole~~ Deputy Mayor Mike Boyett

INVOCATION: Councilmember Gulick

MINUTES:

- June 27, 2022 – Pending
- July 11, 2022
 - Councilmember Choriki stated he wanted his statement concerning “large water users” to be changed to read as recorded to: "It concerns me that we now have 2 large users of our City’s water supply that are basically taking the City’s water and selling it to people outside the City. I’m not concerned at this point but I want us to keep an eye on this, thinking about whether or not was want to create a separate rate for people like the Coca-Cola bottling plant and Yellowstone Ice and Water."

Moved to Amend the Minutes by Councilmember Danny Choriki, Ward III
Seconded by Councilmember Roy Neese, Ward II

APPROVED 9-0

COURTESIES:

- Police Chief St. John acknowledged Officers Jones, Weber and Gilmore for their heroic efforts by taking a number of life-saving measures to members in the community.

PROCLAMATIONS:

- Deputy Mayor Boyett proclaimed August 7-13, 2022, as National Health Center Week.

COUNCIL REPORTS:

- Councilmember Joy provided an update on the Our Town Grant the City received from the National Endowment for the Arts.
- Councilmember Owen encouraged everyone to attend the National Night Out on August 2nd, in the Billings Heights, High Sierra Subdivision, near Atonement Lutheran Church.

ADMINISTRATOR REPORTS - ~~CHRIS KUKULSKI~~ KEVIN IFFLAND, ASSISTANT CITY ADMINISTRATOR

- Council has indicated they would like to remove Regular Agenda Item 3 until there is a full Council in attendance. This will require a motion and a 3/4th approval of all Councilmembers present (7).
- There was 1 exparte item sent to Mayor and Council after 3 pm from Shawn Nelson, Zoot Properties, LLC, in support of Regular Agenda Item 2.
- Reminded Council there would be a Special Work Session following the Regular Business meeting after a brief recess.
- Asked Debi Meling, Public Works Director, to provide an update concerning the previous night's storm, including cleanup efforts and timeframe and the waiving of the 1,500 lb. fee to encourage citizens to bring their debris to the dump.

Councilmember Purinton expressed concern about the timing of the CodeRed alert system was slow and the storm was already upon Billings when the alert was sent. Ms. Meling stated she and some others in the City had access to CodeRed, but she believed the County had sent the National Weather Service announcements.

Council and Ms. Meling discussed what measures would be taken to ensure commercial businesses would not be defrauding citizens by charging to remove debris and receiving a waiver at the dump.

Motion: I move to table Regular Agenda Item 3 to the next Regular Business meeting in which there will be a full (11) Councilmembers present.

Moved by Councilmember Roy Neese, Ward II
Seconded by Councilmember Pam Purinton, Ward IV

Council and Gina Dahl, City Attorney, discussed appropriate language for the motion to be "postpone" rather than "table" and indicated that if there were not all 11 Councilmembers at the next Regular Business meeting, a motion would again need to be made.

Amended Motion: I move to postpone Regular Agenda Item 3 to the next Regular Business meeting in which there will be a full (11) Councilmembers present.

Moved by Councilmember Roy Neese, Ward II
Seconded by Councilmember Pam Purinton, Ward IV

Councilmember Joy opposed the motion and indicated all that was required was a quorum of Councilmembers.

Council and Gina Dahl, City Attorney, discussed majority versus $\frac{3}{4}$ vote for approval. During the previous Regular Business meeting, the vote may have been in error at 6 to 4.

Councilmember Choriki indicated that a quorum was defined in the City's code and it appeared Council was trying to change that definition to be that all 11 Councilmembers present would be a quorum. Could the definition of a quorum be set for just this one item or would it need to be done across the board? Gina Dahl, City Attorney, stated a quorum could not be constituted in that way, and made suggestions how agenda items could be removed when a quorum was present.

Councilmember Neese indicated that at the previous meeting the item was on the agenda and it kept receiving a 50/50 split, so a motion was made to bring it back to a Regular Business meeting in which all Councilmembers were present to vote.

Councilmember Rupsis noted there were 9 members present, so there would not be a tie and encouraged Council to move on.

Councilmember Gulick acknowledged it was unpredictable to determine whether there would be all 11 Councilmembers present at the next Regular Business meeting and this was not a good policy when there were 9 members present. He would not support the motion.

Deputy Mayor Boyett asked for a friendly amendment to the motion that it state regardless or whether all 11 Councilmembers were present at the next Regular Business meeting, that it move forward at that time, regardless the outcome. Councilmember Neese agreed to the friendly amendment as did Councilmember Purinton.

Amended Motion: I move to postpone Regular Agenda Item 3 to the next Regular Business meeting.

Moved by Councilmember Roy Neese, Ward II
Seconded by Councilmember Pam Purinton, Ward IV

Councilmember Joy stated it would have failed at the last meeting due to there being an even number of Councilmembers and she urged Council to get on with the matter now. She would not support the motion to postpone.

FAILED 2-7

NO: Councilmember Kendra Shaw, Ward I
Councilmember Ed Gulick, Ward I
Councilmember Jennifer Owen, Ward II
Councilmember Denise Joy, Ward III
Councilmember Danny Choriki, Ward III
Councilmember Mike Boyett, Ward V
Councilmember Tom Rupsis, Ward V

Motion: I move to add a Public Comment period for Non-Agenda items after the Administrator's Report and before Public Comment period on Non-Public Hearing items for up to 3 minutes or for a time appropriate as set by the Deputy Mayor and to be held again at the end of the meeting prior to adjournment.

Moved by Councilmember Neese, Ward II
Seconded by Councilmember Rupsis, Ward V
APPROVED 9-0

PUBLIC COMMENT on NON-AGENDA ITEMS. (Added to the Agenda)

The following individuals spoke:

- **Kathy Aragon, 645 O'Malley Drive, Billings, MT**, Committee Chair of Healthy By Design, Movers and Shakers, who identify citizens who are working toward making Billings and Yellowstone County more bikable, rollable, and walkable. She stated the committee had selected 6 winners from the nominations and introduced Jordan Teller who organized a "walking school bus."
- **Jordan Teller, 528 Beverly Hill Drive, Billings, MT**, introduced her daughters, Alden and Meredith, and explained the "walking school bus" model. She explained the social, physical and mental advantages of the walking school bus.
- **Ming Cabrera, 1734 Poly Drive, Billings, MT, Billings Heights Water Association**, voiced concerns about the Steady Grinding bikini barista business.

There were no further speakers.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 2 and 3 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.)

There were no speakers.

1. CONSENT AGENDA -- Separations: 1G and 1J

- Councilmember Choriki separated 1G for discussion.
- Councilmember Neese separated 1J for discussion.

Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of items 1G and 1J moved for separation.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II

Councilmember Rupsis provided maintenance cost information for the half circle of pavement involved in Item 1K, noting the amount collected annually would basically cover maintenance of that only and not contribute to the street maintenance in the larger district. His point being that a Cost of Services study must be conducted so the full financial impact is realized.

APPROVED 9-0

A. Bid Awards:

1. Landfill Household Hazardous Waste. (Opened 6/21/22) Recommend rejecting all bids.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II

APPROVED 9-0

- B. Professional Services Contract** for W.O. 22-47: Landfill Slope Stability Improvements with Pioneer Technical Services, Inc.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- C. Construction Contract** for W.O. 19-12: West End Raw Water Pipeline Project with COP Construction, LLC.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- D. Donation** to the Billings Public Library from the Billings Library Foundation.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- E. Donations** to the Billings Public Library from various donors.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- F. 2022 Justice Assistance Grant (JAG) Application**, Memorandum of Understanding (MOU) with Yellowstone County, and award to the City of Billings Police Department.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- G. Community Development Block Grant (CDBG) Planning Grant Application** for the West Billings Neighborhood Plan Update.

Councilmember Choriki addressed with Wyeth Friday, Planning Director, his concerns about annexations and City / County Growth Policies being reviewed prior to neighborhood plans. Mr. Friday assured neighborhood plans could move forward if funding was acquired. He noted that the West End and Heights neighborhood plans were the largest and most complex. He explained that the website contained historical plans for neighborhoods and growth plans over the years.

Councilmember Purinton clarified with Mr. Friday that the Growth Policy was statutorily required to be reviewed every 5 years to determine changes, which recommendations would be brought to the Council later in the year. If the City were successful to obtain the grant, it was possible to apply each year for each of the neighborhood plans, but only one grant for one neighborhood could be considered each year or until completed.

Motion: I move to approve Item 1G.

Moved by Councilmember Kendra Shaw, Ward I
Seconded by Councilmember Tom Rupsis, Ward V
APPROVED 9-0

- H. **Acknowledge Receipt of Petition to Vacate** a portion of Marillac Street and set a public hearing for August 22, 2022.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- I. **Acknowledge Receipt of Petition to Vacate** a portion of 12th Avenue North and North Side Addition, 3rd Filing, Block 9 alley and set a public hearing for August 22, 2022.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- J. **Subdivision Improvement Agreement (SIA) Amendment Request for The Timbers Subdivision, 1st Filing.**

Councilmember Neese noted Legal had not reviewed prior to publishing the agenda. Gina Dahl, City Attorney, stated she was currently reviewing it. He clarified that the waiver associated with the SIA was only effective for 20 years. Ms. Dahl stated there was an additional waiver that had to do with the annexation.

Monica Plecker, Planning Manager, explained there were the 2 waivers and the one for the annexation was good in perpetuity. She advised that Council not meddle with the waiver contained in this SIA as it may be circumventing State statute, and the City was adequately covered. She explained the 50% requirement was established in City Code and the developer would have to pay that no matter when the completion of the streets occurred.

David Mitchell, Developer, 1655 Valley Heights Road, Billings, MT, indicated that due to skyrocketing construction costs, development of the area needed to be scaled back and phased differently to make the houses affordable.

Motion: I move to approve Item 1J.

Moved by Councilmember Denise Joy, Ward III
Seconded by Councilmember Jennifer Owen, Ward II
APPROVED 9-0

- K. **Preliminary Major Plat** for Wild Rose Subdivision, 1st Filing.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- L. **Preliminary Major Plat** for Legacy Subdivision, 2nd Filing.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- M. Second/Final Reading Ordinance 22-5814** amending Ordinance 22- 5811 to correct the legal description in Zone Change 1015.

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- N. Second/Final Reading Ordinance 22-5815** expanding Ward III (Annexation 22-06).

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

- O. Bills for the Week of:**

1. June 20, 2022

Moved by Councilmember Ed Gulick, Ward I
Seconded by Councilmember Roy Neese, Ward II
APPROVED 9-0

REGULAR AGENDA:

- 2. TAX INCREMENT FINANCING ASSISTANCE** from Downtown Urban Renewal tax increment finance district to Big Sky Economic Development Authority (BSEDA) for façade improvements to its property, located at 201 North Broadway. DBP Board recommends approval. (Action: approval or disapproval of DBP Board recommendation.)

Mehmet Casey, Downtown Billings Partnership (DBP), Development Director, presented and provided historical information about the building. He reviewed the façade incentive grant; funding expectations at 3:1; funding criteria; eligible reimbursable improvement expenses; and the projects merits.

Council asked about uncompleted portions being eligible for reimbursement once completed and what CPTED principles would be utilized.

Steve Arveschoug, Big Sky Economic Development Authority (BSEDA), thanked Council for their consideration and spoke about the importance of the building and the project for downtown Billings. He stated BSEDA's offices would be located on the upper floor, but the rest of the floors would be utilized by entrepreneurs.

Motion: I move to approve the Tax Increment Financing Assistance from Downtown Urban Renewal tax increment finance district to Big Sky Economic Development Authority (BSEDA) for reimbursement of identified building facade improvements to its property, located at 201 North Broadway; up to a maximum of \$50,000, as recommended by the DBP Board.

Councilmembers Neese and Gulick disclosed they had separate conversations with Steve Arveschoug that provided the same information as was given.

Moved by Councilmember Denise Joy, Ward III
Seconded by Councilmember Kendra Shaw, Ward I
APPROVED 9-0

- 3. RESOLUTION** to establish landfill reserve for future capital expenses. Staff recommends Council NOT approve the Resolution. (Action: approval or disapproval of staff recommendation.)

Debi Meling, Public Works Director, reviewed the timeline that constituted this item coming before Council and the impacts of the proposed resolution. She stated that currently the landfill's rates met its capital and operations and maintenance (O&M) needs. She indicated that the resolution before Council contained the modification requested during the July 11, 2022, meeting and that the initiative made by former Councilmember Ewalt was met whether the resolution was passed or not. She acknowledged that the impact versus efforts in staff's opinion did not equate and staff recommended this resolution not be approved.

Councilmember Purinton clarified that the resolution set the rates, not former Councilmember Ewalt's initiative. She explained that the idea of creating this fund was so that future improvements would not have to go out for bonds but could be paid for utilizing saved funds for that purpose, similar to the Equipment Replacement Plan (ERP). Ms. Meling stated the fund did not affect the bottom line. Public Works would have the same amount of money with or without the resolution.

Motion: I move to disapprove a resolution to establish a separate landfill reserve for future capital expenses, as recommended by staff.

Moved by Councilmember Kendra Shaw, Ward I
Seconded by Councilmember Tom Rupsis, Ward V

Councilmember Neese noted that due to former Councilmember Ewalt's actions, an increase of 10% was initially realized that was new money for the City and now it was increased to 20%, again new money. He emphasized that the money was to be set aside to build for large capital improvement projects or expansions. He asked for clarification on budget impacts. Ms. Meling explained rate adjustments to meet needs as identified on the 5-year Capital Improvement Plan (CIP).

Councilmember Owen noted an expansion was expected in 2026 for approximately \$15 million and whether the resolution to set aside a \$1 million a year was passed or not, there would not be enough funds to meet that expense. She asked what the plan was for meeting that goal. Ms. Meling stated it would likely go to bond sales.

Councilmember Joy asked if the funds could be used toward something unexpected. Ms. Meling stated it could be used for any capital project, including engineering associated with the project.

Councilmember Purinton expressed her concerns about the Council initiative to bring about the resolution and as policy makers it appeared Council was deferring to staff's recommendations. Ms. Meling acknowledged that Council sets policy, but also acknowledged that initiatives did not look at all sides of an issue. She continued that once staff reviewed the costs to implement the fund versus its impact, staff was recommending that the resolution not be approved.

Councilmember Gulick acknowledged former Councilmember Ewalt's contributions to setting increased rates that benefited the capital fund for solid waste, but he would vote in favor of disapproving the resolution as the solid waste staff were doing a good job of managing capital improvements.

Councilmember Neese received clarification from Gina Dahl, City Attorney, about approving the resolution. He then made a substitute motion.

Substitute Motion: I move to approve a resolution to establish a separate landfill reserve for future capital expenses.

Moved by Councilmember Roy Neese, Ward II
Seconded by Councilmember Pam Purinton, Ward IV

Councilmember Joy stated she would not support the substitute motion and that bonding was what municipalities did because they are not in the business of making money. Rates were set based on cost

of services to the citizens. The City has a very good bonding rate. She concluded that the money had no destination and did not make sense.

Councilmember Rupsis received clarification on the motions before them with City Attorney, Gina Dahl.

Councilmember Neese called the question. A vote was taken on the question to vote on the Substitute Motion.

APPROVED 9-0

The vote on the Substitute Motion to approve a resolution to establish a separate landfill reserve for future capital expenses was taken.

FAILED 3-6

- NO** Councilmember Kendra Shaw, Ward I
- Councilmember Ed Gulick, Ward I
- Councilmember Jennifer Owen, Ward II
- Councilmember Denise Joy, Ward III
- Councilmember Danny Choriki, Ward III
- Councilmember Tom Rupsis, Ward V

Councilmember Shaw moved to amend the language in her original motion for clarity to state:

Amended Motion: I move to reject a resolution to establish a separate landfill reserve for future capital expenses.

Moved by Councilmember Kendra Shaw, Ward I
Seconded by Councilmember Tom Rupsis, Ward V

Councilmember Owen acknowledged that the initiative brought about good conversation and helped address increased rates to outside users of the landfill. She supported the amended motion.

APPROVED 7-2

- NO** Councilmember Roy Neese, Ward II
- Councilmember Pam Purinton, Ward IV

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.)

There were no speakers for public comment.

COUNCIL INITIATIVES:

There were no Council Initiatives.

ADJOURN: 7:20 PM.



CITY OF BILLINGS

DocuSigned by:

BY: William A Cole
William A Cole, Mayor

ATTEST:

DocuSigned by:

BY: Denise Bohlman
Denise B. Bohlman, City Clerk

Certificate Of Completion

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Document Pages: 10	Signatures: 2
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Time Zone: (UTC-08:00) Pacific Time (US & Canada)	Toni Keehner
	keehnert@billingsmt.gov
	IP Address: 161.7.21.158

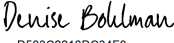

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Denise Bohlman
 bohlmand@billingsmt.gov
 City Clerk
 City of Billings
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Signature

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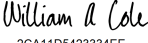
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William A Cole
 coleb@billingsmt.gov
 Mayor
 Security Level: Email, Account Authentication (None)

DocuSigned by:

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Signature Adoption: Pre-selected Style
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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	8/23/2022 1:15:11 PM
Signing Complete	Security Checked	8/23/2022 1:15:17 PM
Completed	Security Checked	8/23/2022 1:15:17 PM

Payment Events	Status	Timestamps
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