



**OFFICE OF THE CITY CLERK  
COUNCIL ACTION FORM**

**SUBJECT:**                     October 24, 2022 Minutes                    

**Council Meeting Date:**                     November 28, 2022                    

**Vote:**                     APPROVED 10-0, Councilmember Owen absent/excused during the vote                    

**Shaw, Gulick, Neese, Owen, Joy, Choriki, Tidswell,  
Purinton, Boyett, Rupsis, Mayor Cole**

**MINUTES  
OF THE BILLINGS CITY COUNCIL  
REGULAR BUSINESS MEETING  
October 24, 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 4:00 P.M.

**CALL TO ORDER:** Mayor Cole

After Mayor Cole called the meeting to order, he explained that City Council would recess to conduct a closed executive session to conduct the annual performance review of the City Administrator, Chris Kukulski. Mr. Kukulski had asserted his right to privacy as protected by state law, Sec. 2-3-203(3).

Recess to Closed Executive Session at 4:03 P.M. Reconvened at 5:40 P.M.

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember ~~Tidswell~~ Boyett

**ROLL CALL:**

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 Daniel Tidswell, Ward IV  
Councilmember Pam Purinton, Ward IV  
Councilmember Mike Boyett, Ward V  
Councilmember Tom Rupsis, Ward V  
Mayor William Cole

Absent/  
Excused: All Present

**Staff**

Present: Chris Kukulski, City Administrator  
Kevin Iffland, Assistant City Administrator  
Gina Dahl, City Attorney  
Denise Bohlman, City Clerk  
Police Chief Rich St. John  
Wyeth Friday, Planning Director  
Monica Plecker, Planning Division Manager  
Nicole Cromwell, Zoning Coordinator  
Kevin Ploehn, Aviation and Transit Director  
Michael Whitaker, Parks, Recreation and Public Lands Director  
Debi Meling, Public Works Director

## **MINUTES:**

- September 26, 2022

Moved by Councilmember Joy  
Seconded by Councilmember Boyett  
**APPROVED 11-0**

- October 10, 2022 – Amendment to Page 1, under Council Reports, wherein a reference was made to “Downtown Billings Association”. It should have read “Downtown Housing Group”.

Moved by Councilmember Chorki  
Seconded by Councilmember Gulick  
**APPROVED 11-0**

## **COURTESIES:**

- Councilmember Joy noted that November 28<sup>th</sup> was the RFP deadline to create an Artists in Residency program. She introduced the parties involved in the Public Arts Committee. Carolyn Martin Kennedy with Billings Art Association spoke about the RFP.
- Councilmember Owen remembered the lives of Melissa Darling and her Son, Junior, whose lives were cut short in a tragic murder/suicide incident. She stated the community needed to do better and she mentioned a Council initiative would be coming.

## **PROCLAMATIONS:**

- Mayor Cole proclaimed November 1, 2022, as Extra Mile Day.
- Mayor Cole proclaimed November as Lung Cancer Awareness Month in Montana.
- Mayor Cole proclaimed October 23<sup>rd</sup>-31<sup>st</sup> as Red Ribbon Week. The Billings Young Marines were present and introduced. They were commended for their commitment to a drug-free environment.

## **COUNCIL REPORTS:**

- There were no Council reports.

## **ADMINISTRATOR REPORTS – CHRIS KUKULSKI**

- Advised that Regular Agenda Item 4 needed to approve a motion to remove it from the Agenda.
- Announced that the staff recommendation changed for Consent Agenda Item 1B and he provided an explanation for the changes.
- Provided officer statistics concerning numbers of arrested individuals who had outstanding warrants but were not placed in the jail due to lack of room (approximately 55/week or 8/day). He noted that 50% of the individuals who created a felony had committed other felonies. Council followed with questions to Police Chief, Rich St. John, regarding statistic compilations, and processes.
- One ex-parte communication was received from the Billings Chamber of Commerce indicating support of Consent Agenda Item 1B.

**MOTION:** I move that Regular Agenda Item 4 be removed from the agenda.

Moved by Councilmember Shaw  
Seconded by Councilmember Neese  
**APPROVED 11-0**

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 4 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: 1B and 1L

Councilmember Boyett separated Item 1B, for discussion.

Councilmember Neese separated Item 1L, for discussion.

**Motion:** I move to approve the items of the Consent Agenda as submitted, with the exception of 1B and 1L.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED 11-0**

A. **Bid Awards:**

1. **Striping and Road Markings for 11 Roundabouts.** (Opened 10/04/22).  
Recommend Streamline Markings.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED 11-0**

B. **Professional Services Agreement Bid Selection of Rimrock Foundation and with Substance Abuse Connect for mobile crisis response services.**

Councilmember Boyett clarified Substance Abuse Connect's involvement as a coalition for multiple service providers.

**Motion:** I move to approve Consent Agenda Item 1B, acknowledging that Rimrock Foundation and Substance Abuse Connect receive the bid award for a two-year agreement with renewal up to eight additional years by mutual agreement, in writing, and contingent upon funding and budget approval, as recommended by staff.

Councilmember Rupsis requested that the operational portion be provided during an upcoming Work Session so Council could develop policy.

Councilmembers discussed measurable progress for upcoming renewals and the Fire and Police Departments work toward another option.

Moved by Councilmember Shaw  
Seconded by Councilmember Rupsis  
**APPROVED** 11-0

**C. Reimbursement Agreement** for Construction of Water and Sanitary Sewer; Development 55.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**D. Reimbursement Agreement** for Construction of Water and Sanitary Sewer; Big Sky Economic Development Authority.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**E. Change Order No.1**, WO 22-08: Central Park Tennis Court; Good Earth Works Co.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**F. Amendment No. 1**, Bureau of Land Management (BLM) lease for IP-6 and IP-7 buildings and wareyard ground space at Billings Logan International Airport.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**G. Purchase** of Ultraviolet (UV) disinfection system replacement parts for the Water Reclamation Facility; Trojan Technologies.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**H. Purchase** of X Series cardiac monitors / defibrillators for Medical Response Teams (MRT); Zoll Medical Corporation.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**I. Federal FY22 Homeland Security Grants** for Police Department Bomb Squad.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick

**APPROVED 11-0**

**J. Grant Acceptance** for Zoll Auto Pulse Cardiac/CPR equipment for Medical Response Teams (MRT); Phillips 66.

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick

**APPROVED 11-0**

**K. Amended SIA**, Shiloh Business Park Subdivision. **\*Quasi-Judicial**

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick

**APPROVED 11-0**

**L. Preliminary Major Plat**, Buffalo Crossing Subdivision. **\*Quasi-Judicial**

Wyeth Friday, Planning Director, explained the processes that led to preliminary major plat status. Council discussed the unique composition of the subdivision and its proposed blocks, streets and pedestrian crossings. CPTED principals were also discussed concerning neighborhood fencing near pedestrian crossings; and connectivity to the nearby subdivision. Timelines were also discussed, indicating that a decision must be made during this meeting. Staff and Council discussed adding a condition for Birely Drain Crossing, i.e., the developer would provide up to 50% of the cost of a pedestrian bridge across the Birely Drain in the general area of the drain east of Lot 11, Block 8. This would occur when the City secured encroachment of the bridge over the drain and the City would initiate a Special Improvement District (SID) for construction of the pedestrian bridge; applied park cash in lieu funds to pay for the bridge, or; applied a combination of these funding mechanisms to build the bridge. The City's liability for pedestrian bridge maintenance was discussed and examples of other bridges was given.

Michael Whitaker, Parks, Recreation and Public Lands Director, addressed Council's questions concerning cash in lieu of development, Cottonwood Park, and the service area.

Monica Plecker, Planning Division Manager, spoke about one-offing subdivision regulations concerning fencing and how it is not in the permitting process to review subdivision regulations for special CPTED restrictions, but Zoning regulations determined fencing restrictions. She supported the language Mr. Friday provided as an additional condition.

Councilmember Neese noted his desire for preliminary plats to be added to Work Sessions to debate details.

Ms. Plecker noted when connections to infrastructure are flagged for new developments. Staff and Council discussed connectivity over drains and ditches.

**Motion:** I move to approve 1L with a condition for Birely Drain Crossing, i.e., the developer would provide up to 50% of the cost of a pedestrian bridge across the Birely Drain in the general area of the drain east of Lot 11, Block 8 and a reduced height fencing requirement or no fencing at all.

Moved by Councilmember Shaw  
Seconded by Councilmember Neese

Councilmember Choriki supported better planning for the trails system, rather than subdivision by subdivision.

**Doug Wilder, Buffalo Crossing Developer**, agreed to put a pedestrian bridge over Birely Drain via a SID if the City could reach an agreement with the Birely Drain Board. He stated the current requirements for fencing was not what was being discussed and although he understood the premise for the changes to shorter fencing or no fencing along the path, that was not the current requirements and was problematic and inconsistent. He discussed with Council the process an SID would afford.

Councilmember Joy asked that the 2 amendments be separated for separate votes. After some parliamentary discussion concern motions, Councilmembers Shaw and Neese withdrew their motion.

**Motion:** I move to approve 1L with a condition added to the SIA that a pedestrian crossing over Birely Drain be provided via a Special Improvement District (SID).

Moved by Councilmember Joy  
Seconded by Councilmember Shaw

Staff and Council discussed the mechanism that would trigger the SID and construction of the pedestrian bridge.

Councilmember Neese stated the fencing concerns should be addressed in a future code change that incorporate CPTED options.

Staff and Council discussed how the SID would be spread across the properties to create equity on the investment.

Councilmember Gulick stated he would rather have streets constructed than pedestrian paths.

By a show of hands vote -

**Motion APPROVED** 9-2, Councilmember Boyett and Mayor Cole opposed

**M. Final Plat**, Emma Jean Heights Subdivision, 4th Filing, 1st Amended. **\*Quasi-Judicial**

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**N. Final Plat**, Harmony Meadows Subdivision, 3rd Filing. **\*Quasi-Judicial**

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

**O. Bills for the Weeks of:**

1. September 19, 2022

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

2. September 26, 2022

Moved by Councilmember Shaw  
Seconded by Councilmember Gulick  
**APPROVED** 11-0

Recess called at 7:23 P.M. Reconvened at 7:30 P.M.

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE**

**1018:** generally located at 2110, 2116, and 2130 Bench Boulevard. Zoning Commission recommends approval and adoption of the 10 criteria. \* *Quasi-Judicial*

Nicole Cromwell, Zoning Coordinator, presented and reviewed the zones in and around the subject property currently owned by Old Hickory Shed manufacturing and sales business. She added that the Zoning Commission recommended approval and adoption of the 10 criteria. The zone change would protect the purpose of the business and the surrounding residential zones.

Staff and Council discussed how gravel from the driveway trailed gravel onto Bench Boulevard. They inquired when site improvements or pavement would be required and the differences between commercial zoning districts.

The following individuals spoke during the public hearing:

- **Shawn Torson, IMEG Corporation**, agent, explained that originally the property owner wanted to have the CMX zone to run from the Main Street property line to the Bench Boulevard property line, but for various reasons it was not the best choice. He explained the composition of the property with the owners' home located on a portion of it, as well as a couple of others.
- **Dale Smith, 2145 Bench Boulevard, Billings, Montana**, mentioned that the sheds were encroaching on sidewalks. He did not agree with CX zoning near a junior high school and a grade school where there was a lot of foot traffic by school-aged children. He reported that semi-trucks were entering from the property onto Bench Boulevard, which was a residential area.

There was no further public testimony given.

Council and staff discussed how the existing Heights Neighborhood Plan affected future development opportunities off of Main Street to the North, rather than East and West. Some of the difficulties with development may also be due to separate water and sewer services.

**Motion:** Having conducted a public hearing, considered written and spoken testimony, I move to approve first reading ordinance for Zone Change 1018 and adopt the 10 criteria, as recommended

by the Zoning Commission.

Moved by Councilmember Joy  
Seconded by Councilmember Boyett  
**APPROVED** 10-1, Councilmember Tidswell opposed

**3. MICHELOTTI PROPERTY:**

**a. JOINT PUBLIC HEARING FOR ANNEXATION 22-07 AND ZONE CHANGE 1020:**

- i. **RESOLUTION 22-11079 FOR ANNEXATION 22-07:** a parcel located south of Avenue D and east of Tiburon Lane. Staff recommends conditional approval. **\*Quasi-Judicial**

Monica Plecker, Planning Division Manager, reminded Council she would provide one presentation for all three items concerning this parcel of property, but three separate votes were necessary and public hearings needed to be held. She reviewed the interconnectedness and relation of the items. The 7-acre lot was surrounded on 3 sides by properties in the City limits.

Council clarified with Gina Dahl, City Attorney, that conditions could be set for annexations, but not on zone changes.

**Motion:** Having conducted a public hearing, considered written and spoken testimony, I move to conditionally approve Annexation 22-07, as recommended by staff.

Moved by Councilmember Purinton  
Seconded by Councilmember Tidswell  
**APPROVED** 11-0

- ii. **FIRST READING ORDINANCE FOR ZONE CHANGE 1020:** generally located south of Avenue D and east of Tiburon Lane. Zoning Commission recommends approval and adoption of the 10 criteria. **\*Quasi-Judicial**

Monica Plecker, Planning Division Manager, stated the zone change was necessary because the property was not currently zoned in a zone recognized by the City's zoning. The developer was seeking two zones for the property, NX1 and NX3. She reviewed the zone change criteria.

Council and staff discussed compatibility with multi-floor housing next to single family homes, landscaping requirements and placement of the zone differences at rear property lines. Discussions continued about making future code changes that would curb some of the multi-level developments next to single floor homes.

**John Halverson, Planner with Sanderson Stewart,** presented that the current zoning code encouraged mixed housing development.

**Brad Brown, Stewart Land Company, Developer,** spoke about the comprehensive plan for development.

Public testimony was given by:

- **Lewis Schoenberger, 1724 Norwood Lane, Billings, Montana**, opposed the zone change to development of multi-family housing because of the increase in density to the area.

There was no further public testimony given.

**Motion:** Having conducted a public hearing, considered written and spoken testimony, I move to approve first reading ordinance for Zone Change 1020 and adopt the 10 criteria, as recommended by the Zoning Commission.

Moved by Councilmember Tidswell

Seconded by Councilmember Purinton

**APPROVED** 10-1, Councilmember Neese opposed

- b. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward IV to include recently annexed property in Annexation 22-07: a parcel located south of Avenue D and east of Tiburon Lane. Staff recommends approval.

There was no staff presentation and no public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken testimony, I move to approve first reading ordinance expanding the boundaries of Ward IV to include recently annexed property in Annexation 22-07, as recommended by staff.

Moved by Councilmember Purinton

Seconded by Councilmember Tidswell

**APPROVED** 11-0

~~4. **TAX INCREMENT FINANCING ASSISTANCE** from South Billings Boulevard Urban Renewal District (SBBURD) funds to purchase the Sportsplex located at 5000 Southgate Drive and an adjacent one-acre parcel of land for a public ice rink. SBURA Board recommends approval. **REMOVED by approved motion at the beginning of the meeting.**~~

**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 following individuals provided comment:

- **Wesley Dunn, 832 Dorothy Lane, Billings, Montana**, spoke about bullying.
- **Amber Dunn, 832 Dorothy Lane, Billings, Montana**, spoke about bullying of her daughter and the reactions of parents, the schools and police.

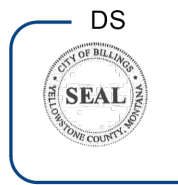
- **Emma Larson, Billings Tennis Association, 1010 N. 32<sup>nd</sup> Street, Billings, Montana**, spoke about providing free tennis lessons to individuals of all ages and growing the lifetime sport of tennis in Billings. She mentioned that the Elks’ tennis facility was closing and the tennis association was seeking opportunities to partner with the City to purchase or lease property for an indoor tennis facility.
- **Kellie Saville, 7 Ponderosa Lane, Boyd, Montana**, spoke about the tennis needs of the community.
- **Amber Sparks, 2528 Burlington Avenue, Billings, Montana**, listed a variety of positions she has held in the tennis community. She asked if the City had any buildings that could be repurposed for 6 indoor tennis courts or land that could be built upon.
- **Jacquelyn Garcia, 941 Dorothy Lane, Billings, Montana**, suggested that smaller community centers in various areas where children could go after school for activities would serve the families of Billings better than the proposed recreational center.
- **Shaun Seedhouse, 104 N. Broadway, Billings, Montana**, spoke about acquiring the SportsPlex for an additional sheet of ice for ice sports.
- **Gerald Kessler, 237 Avenue B, Billings, Montana**, spoke about his noise concerns from Daylis Stadium and asked Council to re-establish the Noise Subcommittee.

There were no further speakers.

**COUNCIL INITIATIVES:**

There were no Council initiatives.

**ADJOURN: 9:20 P.M.**



CITY OF BILLINGS

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*William A Cole*  
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 William A. Cole, Mayor

ATTEST:

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Denise Bohlman  
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