



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

SUBJECT: November 28, 2022 Minutes

Council Meeting Date: December 19, 2022

Vote: APPROVED 11-0

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

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
November 28, 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 P.M.

CALL TO ORDER: Mayor Cole

PLEDGE OF ALLEGIANCE: Mayor Cole

INVOCATION: Councilmember Rupsis

ROLL CALL:

Present: Councilmember Kendra Shaw, Ward I
Councilmember Ed Gulick, Ward I
Councilmember Roy Neese, Ward II
Councilmember Jennifer Owen, Ward II – Joined Via Zoom at 5:45 P.M.
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: Councilmember Jennifer Owen, Ward II – Joined Via Zoom at 5:45 P.M.

Staff

Present: Chris Kukulski, City Administrator
Kevin Iffland, Assistant City Administrator
Gina Dahl, City Attorney
Denise Bohlman, City Clerk
Wyeth Friday, Planning Director
Nicole Cromwell, Zoning Coordinator
Matt Hoppel, Assistant Fire Chief
Jessica Fust, Building Official
John Caterino, Facilities Manager
Debi Meling, Public Works Director

MINUTES:

- October 24, 2022

Moved by Councilmember Joy
Seconded by Councilmember Boyett
APPROVED 10-0

- November 14, 2022 - Pending

COURTESIES:

- Councilmember Choriki recognized that Public Works was doing snow removal correctly.

PROCLAMATIONS:

- There were no proclamations.

COUNCIL REPORTS:

- Councilmember Shaw provided an update concerning the Legislative Committee's recent meetings. The committee would meet on December 14th and would bring their recommendations to the last Council meeting in December.

ADMINISTRATOR REPORTS – CHRIS KUKULSKI

- Concerning Regular Agenda Item No. 6, the redlined version in the agenda packet did not have the specific language concerning Page 4, Section 7(b) in the final draft. Gina Dahl provided a final redline via email to Council today.
- Reminder there was only one Work Session meeting in December (December 5th), and 2 back-to-back Regular Business meetings (December 12th and 19th) due to the holiday schedule.
- The first meeting in January, a Work Session, would be held on Tuesday, January 3rd, rather than Monday due to the holiday.
- There were no ex-parte communications received after 3:00 p.m. concerning the agenda.
- Concerning Consent Agenda 1B, Gina Dahl, City Attorney, would clarify revisions to the agreement.

Gina Dahl, City Attorney, addressed the two redlined edits clarifying fees, renewal of leases, and net pay as recommended by staff.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4, 5 and 6 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: 1J2

Councilmember Rupsis separated Item 1J2, to abstain from the vote as Alternatives, Inc. was included as a payee and was a client.

Motion: I move to approve the items of the Consent Agenda as submitted, including 1B with the clarifications made as recommended by staff, and with the exception of 1J2.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

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

A.

Bid Awards:

Airport Carpet Installation and Replacement Project. (Opened 11/9/2022)
Recommend Pierce Flooring, Inc.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

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

B. **Consultant Services Agreement** with Matt Robertson Brokerage, Inc. in affiliation with NAI Business Properties.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

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

C. **Consultant Services Agreement** with Brian Wishneff and Associates, LLC, for new City Hall Historic Tax Credit.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

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

D. **Purchase** 760 Lake Elmo Drive for Fire Station No. 8.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

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

E. **Purchase** one (1) 4x4 Backhoe/Loader Tractor for Public Works Department, Distribution and Collection Division; RDO Equipment Co.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

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

- F. **Purchase** two (2) Ford F250 Crew Cab Brush Trucks for Fire Department; Duval Ford.

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 10-0, Councilmember Owen absent/excused during the vote

- G. **Preliminary Plat Extension** for Trails West Subdivision, 6th Filing. ***Quasi-Judicial**

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 10-0, Councilmember Owen absent/excused during the vote

- H. **Final Plat** of Bishop Fox Subdivision, Amended Plat of Lot 1, Block 1. ***Quasi-Judicial**

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 10-0, Councilmember Owen absent/excused during the vote

- I. **Resolution 22-11086** approving Bureau of Reclamation Small Storage Grant Application.

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 10-0, Councilmember Owen absent/excused during the vote

- J. **Bills for the Weeks of:**

- 1. October 17, 2022

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 10-0, Councilmember Owen absent/excused during the vote

- 2. October 24, 2022

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmember Owen absent/excused during the vote,
Councilmember Rupsis abstained

- 3. October 31, 2022

Moved by Councilmember Boyett
Seconded by Councilmember Shaw
APPROVED 10-0, Councilmember Owen absent/excused during the vote

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

1019: located at Lots 2 and 3, Block 1, Zimmerman Home Place Subdivision. 3rd Filing. Zoning Commission recommends approval and adoption of the 10 criteria. ***Quasi-Judicial**

Nicole Cromwell, Zoning Coordinator, presented and explained that a valid protest had been received on October 19, 2022, and the vote to approve the zone change required a two-thirds majority vote of the Councilmembers present. She explained that the existing zoning was Neighborhood Office (NO) and provided the allowances, existing building and site regulations for that zone. She explained the proposed zoning, Corridor Mixed Use 1 (CMU1), and provided its allowances and building and site regulations.

Councilmember Owen joined the meeting via Zoom at 5:45 P.M.

Ms. Cromwell continued her presentation and compared the zoning map prior to Project Recode to the current zoning map after Project Recode. She compared buildings' heights in and around the area. The Zoning Commission forwarded their recommendation of approval and adoption of the 10 criteria.

Council and staff noted that traffic studies had been recently conducted due to other development in the area and discussed future placement of traffic signals. Also discussed was commercial use for the entire development and building orientation with comparisons to the Shiloh Commons development.

Councilmember Neese inquired about approving something other than the zoning requested. Ms. Cromwell noted it would be difficult to approve a zone change for something that was not advertised and she did not recall that a partial zone change had ever been done.

Council and staff discussed signage restrictions.

Scott Aspenlieder, Performance Engineering, agent, provided details about the zone change neighborhood meeting process, including an in-person meeting. Three people attended the in-person meeting. The protest had been completed prior to the meeting. The concern appeared to be over the height of the buildings. A traffic study was done in anticipation of subdivision improvements and the developer was contributing to intersection improvements too. The proposed development was suitable with the growth plan.

Preston Lees, developer, spoke about creating greater green space and activity areas for the development that was not done for Shiloh Commons. He acknowledged there was a housing crisis and the state of the economy made this type of development preferable. He addressed setback intentions to provide greenspace along Zimmerman Drive and the architecture style. There was a significant investment and commitment made to the project.

The following individuals spoke during the public hearing:

- **Matt Robertson, 3531 Timberline Drive, Billings, Montana**, spoke about the need for more neighborhood-types of businesses in that area of town and encouraged Council to approve the zone change.
- **Greg McCall, 6125 Norma Jean Lane, Billings, Montana**, stated he served on the Zoning Commission and had recused himself from the Zoning Commission vote because he had interviewed with the Zimmerman family in hopes of becoming the developer of the project. He could possibly build some of the townhomes. He noted it was one of the last large in-fill parcels and was an incredible opportunity for mixed use housing.
- **Brian Ludwig, 5445 Green Teal Drive, Billings, Montana**, shared that he owned a business in the area and supported the zone change.

- **John Halvorson, no address given, Billings, Montana,** supported the zone change to increase the housing supply.

No further public testimony was given.

Motion: Having conducted a public hearing, considered written and spoken testimony, I move to approve first reading ordinance for Zone Change 1019 and adopt the 10 criteria, as recommended by the Zoning Commission.

Moved by Councilmember Shaw
Seconded by Councilmember Joy

Councilmember Shaw acknowledged the neighbors' concerns, but it was the Council's job to consider the bigger picture to address the City's housing needs.

Councilmember Joy supported the motion because it met all the zoning criteria. Infill was important to reduce the cost of services and make the best use of the land. Vacant land was not helpful to the area's residents when it came to contributing to the tax base.

Councilmember Boyett was concerned about walkability for school children and pedestrians. Ms. Cromwell was not aware of whether this was addressed in the traffic study.

Councilmember Gulick supported the motion and listed several reasons why the zone change and development of the property provided balance to the community's interests.

Councilmember Purinton was concerned about the height of the buildings and their affect on the character of the neighborhood. She was not concerned about increased traffic. She would not support the motion.

Councilmember Rupsis preferred neighborhood mixed use zoning and was concerned about the transition between zones. He would not support the motion.

Councilmember Owen supported the motion.

Mayor Cole mentioned the development addressed housing needs and he would support the motion.

Councilmember Choriki supported the motion and because it created density, was good infill, and made economic sense.

Councilmember Neese had concerns about the area and the 5-foot set back with the height of the structures proposed.

MOTION FOR APPROVAL FAILED 6-5, Councilmembers Neese, Tidswell, Purinton, Boyett, and Rupsis opposed. A two-thirds vote (8 were needed) in favor was required due to the valid protest.

3. PUBLIC HEARING AND FIRST READING ORDINANCE amending Section 10-202, Billings, Montana City Code (BMCC), creating a second Municipal Court Judge office. Staff recommends approval.

City Attorney, Gina Dahl, explained the code needed to be amended to create an additional Municipal Court Judge office before the 2023 election. She explained legislation was passed in 2021 that prohibited a Municipal Court Judge from appointing a part-time Municipal Court Judge.

Council and staff discussed judge pro tempores, night court or weekend court options, expenses, and a resolution to set the salary. The budget was approved by Council and reflected the expenses and salaries.

No public testimony was given.

Motion: Having conducted a public hearing, considered written and spoken testimony, I move to approve first reading ordinance amending Section 10-202, Billings, Montana City Code (BMCC), creating a second Municipal Court Judge office as recommended by staff.

Moved by Councilmember Tidswell
Seconded by Councilmember Boyett

Motion to Amend: I move to amend the motion to change the language of Section 10-205(a), pursuant to Section 3-6-203, MCA, the salary of the Municipal Court Judge must be set by resolution and not by ordinance.

Moved by Councilmember Purinton
Seconded by Councilmember Tidswell

Councilmember Joy noted that State law allowed the setting of the salary by resolution or by ordinance and there was no need to restrict setting the salary by a resolution.

MOTION TO AMEND FAILED 5-6, Councilmembers Shaw, Joy, Choriki, Boyett, Rupsis and Mayor Cole opposed

Original Motion APPROVED 11-0

Recess called at 7:30 P.M. Reconvened at 7:37 P.M.

4. STILLWATER BUILDING UPDATES. No action required.

Kevin Iffland, Assistant City Administrator, addressed Council and stated the committee wanted to be assured they were on the right track with Council's wishes. He asked if Council wished for the Budget and Finance Committee to review the options and bring to the whole Council its recommendations for financing the buildout. His presentation outlined value engineering concepts, funding options, historic tax credits, debt services and property sales. He stated the Budget and Finance Committee wished to reschedule their monthly meeting to December 8th from the 14th to meet deadlines for Council approval on December 19th.

Jessica Fust, Building Official, reviewed the milestones met.

Nick Luppert, JLG Architects, provided an estimated project timeline and phase II design update.

John Caterino, Facilities Supervisor, reviewed the current costs, anticipated costs, and the value engineering process.

Mr. Luppert, resumed the presentation giving four buildout options to consider and how those options intersected project goals and objectives.

AJ Harmon, Dick Anderson Construction, spoke about deferred construction project impacts and inflated building costs.

Jessica Fust, Building Official, spoke about operating and maintenance costs for the current City Hall and the New City Hall. She reviewed funding options and action items.

Council and staff discussed debt service, utilization of ARPA and COVID funds, lease financing, work from home options, tax increment financing, historic tax credits, delays and deferrals. Consensus was for Option 1 to do the complete buildout all at once. No deferral of construction, and to refer for recommendation to the Budget and Finance Committee to address the \$13 million gap.

Shane Flohr, Dick Anderson Construction, spoke about new build versus remodel and assured Council the remodel was the best route. Construction costs since 2020 increased between 48% and 53% with the intermountain rocky area being the most expensive.

Council and staff discussed anticipated repairs and maintenance to the building and future leasing options, unknown variables, and debt services.

Matt Robertson, Matt Robertson Brokerage, Inc. in affiliation with NAI Business Properties, spoke about lease income the City could generate if all its available properties were leased. Interest in the sale of the current city hall was promising because of its size and location.

There was no action required or taken.

5. APPROVAL OF BID PACKAGE NO. 1 CONTRACT AMENDMENT with Dick Anderson Construction for New City Hall Project. Staff recommends approval.

Jessica Fust, Building Official, was available for questions.

Motion: I move to approve Bid Package No. 1 Contract Amendment, as recommended by staff.

Moved by Councilmember Shaw
Seconded by Councilmember Boyett
APPROVED 11-0

6. CITY ADMINISTRATOR'S Annual Performance Evaluation and **APPROVAL** of Employment Contract.

Mayor Cole explained the item had been continued from the November 14th meeting so the details of Section 7: Retirement and Health Savings Account, of the contract could be clarified.

Motion: I move to approve a city administrator employment contract with Chris Kukulski.

Moved by Councilmember Boyett
Seconded by Councilmember Tidswell

Councilmember Purinton raised issue with budgeted expenses for memberships, travel and education and placing a strict limit on those in Section 8 of the contract. She discussed with Mr. Kukulski the budgeting process and asked for more granularity in the annual budget.

Councilmember Neese noted that paying for an employee's training, education and memberships was standard.

Mr. Kukulski thanked Council for the evaluation and his staff for the opportunity to successfully accomplish all that had been done in recent years.

APPROVED 10-1, Councilmember 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.)

There were no speakers.

COUNCIL INITIATIVES:

There were no Council initiatives.

Councilmember Rupsis apologized that he had not abstained from the vote on Consent Agenda Item 1B. He intended to abstain, anticipating it would be separated. It was not separated and the vote for the remaining Consent Agenda items went through, without him realizing it had not been separated for discussion. He would have abstained due to a business relationship with Matt Robertson.

Councilmember Neese inquired about the status of the low-barrier shelter meeting fire code restrictions and payment. Mr. Kukulski confirmed all were pending an inspection and compliance.

ADJOURN: 9:25 P.M.



CITY OF BILLINGS

DocuSigned by:
BY: William A. Cole
William A. Cole, Mayor

ATTEST:

DocuSigned by:
BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

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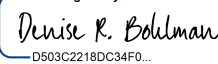
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