



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

SUBJECT: APPROVED MINUTES of February 13, 2023

Council Meeting Date: March 13, 2023

Vote: APPROVED 10-0, Shaw absent/excused

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

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
February 13, 2023**

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 Shaw

ROLL CALL:

Present: Councilmember Ed Gulick, Ward I
Councilmember Roy Neese, Ward II
Councilmember Jennifer Owen, Ward II
Councilmember Denise Joy, Ward III
Councilmember Pam Purinton, Ward IV
Councilmember Mike Boyett, Ward V
Councilmember Tom Rupsis, Ward V
Mayor William Cole

Absent/ Councilmember Danny Choriki, Ward III
Excused: Councilmember Daniel Tidswell, Ward IV

Staff

Present: Chris Kukulski, City Administrator
Kevin Iffland, Assistant City Administrator
Gina Dahl, City Attorney
Denise Bohlman, City Clerk
Andy Zoeller, Finance Director
Wyeth Friday, Planning Director
Nicole Cromwell, Zoning Coordinator
Hunter Kelly, Planner
Michael Whitaker, Parks, Recreation and Public Lands Director
Mike Pigg, Parks Superintendent
Kory Thomson, Parks Recreation Superintendent
Debi Meling, Public Works Director
Jeff Roach, Aviation and Transit Director

MINUTES:

- January 23, 2023

The following revision to be made to the Council Reports section:

“Councilmember Choriki stated there was a group of people who were trying to enforce the ban on cameras at traffic signals reverse the ban on using traffic cameras to enforce traffic laws and they would be meeting at the second-floor conference room at the Billings Public Library on January 26th.”

Moved by Councilmember Neese
Seconded by Councilmember Joy

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

COURTESIES:

- Mayor Cole reminded Council to speak into their microphones so the viewing public could hear them.
- Councilmember Purinton mentioned she did a ride along with a police officer and encouraged other Councilmembers to do the same, especially in their wards to get a better understanding of the issues and concerns of the community.

PROCLAMATIONS:

- Mayor Cole proclaimed the month of February as Black History Month.

COUNCIL REPORTS:

- Councilmember Joy reported that the Community Development Board met and Council would see action items in the near future concerning investments to the parks by Community Development.
- Councilmember Purinton forwarded a progress report from Big Sky Economic Development to Council to review.

ADMINISTRATOR REPORTS – CHRIS KUKULSKI

- Reminded Council they must keep their cameras while attending meetings via Zoom.
- Advised that the Resolution involved in Consent Agenda Item 1U had some minor terminology changes.
- Provided a Police Department warrant data YTD 2/1-2/8 update.
- Reminded Council that the following week’s Work Session would be on Tuesday, February 21st due to the President’s Day holiday.
- Informed Council they may wish to vacate July 3rd Work Session due to the Independence Day holiday or reschedule for later? To be determined later.
- Announced there was 1 ex-parte item concerning Regular Agenda Item No. 3. – VISTA WEST sent to the Mayor and Council after 3 pm. It was placed in the notebook on the cart where the sign-in sheets and agendas were held.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 3b and 4b 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 following individuals gave public comment:

- **Michael Mayott, Director of Amend Park Development Council, 123 Lewis Avenue, Billings, Montana**, in reference to Consent Agenda Items 1G and 1H, supported the approval of both items.
- **Dick Zier, President of South Billings Boulevard Urban Renewal Association (SBBURA), 3039 Golden Acres Drive, Billings, Montana**, in reference to Consent Agenda Item 1U, supported the approval of the resolution giving all the economic and social benefits a recreation center would bring to Billings.
- **Heather Hasiak, 6607 O'Donnell Lane, Billings, Montana**, in reference to Consent Agenda Item 1U, supported the approval of the resolution and addressed scheduling conflict concerns of various groups of users; fundraising campaigns and the facility's ability to pay for itself in the future.
- **Dawn Githens, 3126 Harrier Lane, Billings, Montana**, in reference to Consent Agenda Item 1U, supported the approval of the resolution and spoke about Billings' future.
- **Thom MacLean, Chair of Parks and Recreation Board, 2702 Montana Avenue, #305, Billings, Montana**, in reference to Consent Agenda Item 1U, stated the Board unanimously supported the approval of the resolution to adopt the concept plan for the recreation center.
- **Jack Jennaway, Billings Chamber of Commerce, 815 S. 27th Street, Billings, Montana**, in reference to Consent Agenda Item 1U, supported the approval of the resolution and spoke about the project's economic value and its potential to reduce future crime in Billings.
- **Marc Nynas, 872 Ginger Avenue, Billings, Montana**, in reference to Consent Agenda Item 1U, supported the approval of the resolution as the recreation center would benefit everyone's' mental and physical health.
- **Jody Adams, 5520 Morning Star Lane, Billings, Montana**, in reference to Consent Agenda Item 1U, supported the approval of the resolution and asked that Council to give the voters an opportunity to make the decision of whether they wanted a recreation center. She spoke about US Olympic opportunities that the recreation center would afford youth.

There were no further speakers.

1. **CONSENT AGENDA** -- Separations: 1U

Councilmember Purinton separated Consent Agenda Item 1U for discussion.

Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of 1U.

Moved by Councilmember Gulick

Seconded by Councilmember Shaw

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

A. **Bid Awards:**

1. **Airport Terminal Baggage Claim Restroom Remodel.** (Opened 1/17/2023) Recommend

Morgan Contractors, LLC.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

2. W.O. 21-31: Water Reclamation Facility UV Electrical Improvements. (Opened 1/17/2023) Recommend CEI Electrical Contractors.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

3. W.O. 22-20: Water Treatment Plant High Service Pump Station HVAC Upgrades. (Opened 1/17/2023) Recommend Morgan Contractors, LLC.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

4. W.O. 23-03: Contract No. 1, City Overlay. (Opened 12/20/22) Recommend Knife River.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

5. W.O. 23-03: Contract No. 2, City Chip Seal. (Opened 12/20/22) Recommend Hardrives Construction, Inc.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

6. W.O. 23-03: Contract No. 3, City Digouts. (Opened 1/17/23) Recommend Wharton Asphalt.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

B. Purchase D8 bulldozer for Landfill from Tractor & Equipment Co.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

C. Purchase playground equipment for Highland Park from Northwest Playgrounds.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

D. Agreement for Public Works utility billing with VertexOne Software, LLC.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

E. Agreement with US Bank for Depository and Banking Services.

Councilmember Boyett inquired whether it would benefit the City to consider other banks in order to create an impromptu audit situation. Andy Zoeller, Finance Director, indicated it was not necessary to create such a situation.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

F. Agreement with US Bank for Commercial Card (Pcard) Services.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

G. Agreement with Amend Park Development Council.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

H. Amend Park Development Council 2023 Proposed Annual Budget and Fee Structure.

Councilmember Neese and Mayor Cole expressed appreciation of the Amend Park Development Council's excellent management of Amend Park.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

I. Professional Services Contract for W.O. 23-16: Landfill Scale Addition with HDR Engineering, Inc.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

J. Professional Services Contract for W.O. 09-12: Inner Belt Loop and W.O. 21-38: Skyline Trail with Sanderson Stewart.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

K. Airport Business Park Building and Ground Lease with Bureau of Land Management.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

L. Amendment No. 5, Airport Mid-Field Service Road Project; Morrison-Maierle, Inc.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

M. Amendment No. 6, Airport Commercial Aircraft Ramp - Schedule IV; Morrison-Maierle, Inc.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

N. Amendment No. 3, W.O. 19-42: West End Water Treatment Plant Project; Burns & McDonnell Engineering Company, Inc.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

O. Request to initiate System Modification to add a portion of Grand Avenue from 41st Street West to 62nd Street West and complete system connectivity on 62nd Street West, from Grand Avenue north to Rimrock Road.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

P. Request to submit FY23-24, Montana State Historic Preservation Office Certified Local Government grant application.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

Q. Acceptance of Federal Aviation Administration Airport Improvement Program Grants.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

R. Donations to Billings Public Library from various donors.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

S. Perpetual Right of Way Easement from Bradley W. Hardt and Tammy Jo Hardt for

sanitary sewer.

Moved by Councilmember Gulick

Seconded by Councilmember Shaw

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

- T. **Traffic Signal and Sidewalk Easements** from Sharon J Quast Trust, Lutheran Church of the Good Shepherd, and Power of Abundant Recovery Ministries for W.O. 22-29: 24th Street West Signal Conduit Upgrades.

Moved by Councilmember Gulick

Seconded by Councilmember Shaw

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

- U. **Resolution 23-11098** adopting the Conceptual Design Phase Final Report of the Billings Multi-Generational Recreation Center.

Councilmember Purinton supported the vision of the recreation center but was concerned about the cost to taxpayers. She hoped more overall community support would have been shown, rather than a few selective groups and stated she would vote in opposition.

Councilmember Rupsis thanked the design team and supporters.

Councilmember Joy acknowledged this was an important beginning step and the voters would ultimately decide whether the center would be built.

Dusty Easton, A&E Design, indicated there had been a mathematical mistake in a spreadsheet and once recalculated the cost recovery realized would be 85%.

Council discussions continued concerning the ongoing process to see it through fruition, cost concerns, public safety, continued community involvement and support, and PD1 sunseting.

Motion: I move to approve a resolution adopting the Conceptual Design Phase Final Report of the Billings Multi-Generational Recreation Center with grammatical changes in Paragraph 2, second sentence to read as, "Also the study will provide for the programming of special events and sports tourism needs for the community and region." And Paragraph 3 to read as, ". . . (adopted December 2021), in the development of the Multi-Generational Recreation Community Center."

Moved by Councilmember Rupsis

Seconded by Councilmember Joy

APPROVED 8-1, Councilmembers Choriki and Tidswell absent/excused, Purinton opposed

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

1. January 3, 2023

Moved by Councilmember Gulick

Seconded by Councilmember Shaw

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

2. January 9, 2023

Moved by Councilmember Gulick

Seconded by Councilmember Shaw

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION 23-11099** for a street name change from South 46th Street West to Western Sky Drive located at the southeast corner of King Avenue West and South 46th Street West. Staff recommends approval.

Debi Meling, Public Works Director, presented.

- **Rick Leuthold, Sanderson Stewart**, agent for the developer, explained that the developers were building a mobile home park with multi-family housing, named Western Sky to match the name of the Subdivision.

Councilmember Boyett confirmed that Emergency Services approved the renaming of the street.

There was no public testimony given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the street name change from South 46th Street West to Western Sky Drive, as recommended by staff.

Moved by Councilmember Boyett

Seconded by Councilmember Purinton

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

3. **VISTA WEST:**

a. **JOINT PUBLIC HEARING FOR ANNEXATION 21-15 AND ZONE CHANGE 1021:**

i. **RESOLUTION 23-11100 FOR ANNEXATION 21-15:** located south of Central Avenue and west of Shiloh Road. Staff recommends conditional approval. ***Quasi-Judicial**

Nicole Cromwell, Zoning Coordinator, presented and explained that the zone change application was to be heard a year prior, but the applicant asked for a withdrawal at that time to rework their plan and Council had granted it. She explained the interconnectedness between the annexation and the zone change and that a joint public hearing would be held on those items, and both items would require separate votes. She indicated there would be no presentation for the annexation agreement or ward boundary expansion ordinance, but a separate public hearing was needed for the ward boundary ordinance and separate action for each. Staff was available to answer any questions on those items.

Ms. Cromwell highlighted the benefits to Planned Neighborhood Developments, i.e. predictability, plannability for service providers and putting the City in the driver's seat. She reviewed several maps concerning the annexation area and zoning. She reviewed the zoning plan and street connection with and without a variance. The Zoning Commission recommended the variance, however City staff did not.

She reviewed the annexation policy criteria and noted the proposed land use within the annexation area met the goals of the 2016 Growth Policy. She reviewed the Zone Change criteria. She noted that a valid protest was received and explained that even if the property was approved for annexation, Council would need a two-thirds majority (6 of 9 Councilmember present) vote to approve the zone change only and not the variance nor the annexation. She reviewed the properties within the valid protest area.

Debi Meling, Public Works Director, reviewed estimated traffic counts and acknowledged that after the traffic study was completed some traffic calming measures may be needed. She suggested language be added to the Annexation Agreement if Council wished to add traffic calming.

- **John Halverson, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana,** agent for the applicant, noted the Planned Development met 5 key themes – compatibility, transportation, safety, fiscal impacts and housing choice. He reviewed each of these during his presentation.

Council and staff discussed what portions of Bell Avenue and Obie Lane were in the County and whether forced annexation would be necessary. Also discussed with the developer's agent, was a lack of neighborhood commercial amenities within the development, i.e., coffee shops, styling salons, etc. It was confirmed that the entire development was comprised of residential rental properties. The CPTED elements integrated into the development were also discussed. Council expressed concerns about high density traffic in the area combined with pedestrian traffic and lack of walkability to services in the area. The variance would cause the road to dead end, was a concession to the neighbors that lived there and the variance would hinder connectivity.

The following individuals spoke in favor of the annexation and/or zone change and/or variance during the public hearing:

- **Rick Leuthold, Sanderson Stewart, 1300 N. Transtech Way, Billings, Montana,** spoke in favor of the annexation, zone change and variance.
- **Steve Simonson, 2021 Overland Drive, Billings, Montana,** on behalf of the Billings Realtors Association, spoke in favor of the project as it would aid with workforce housing.
- **Jeff Kanning, 3230 Country Club Circle, Billings, Montana,** supported the entire project and its housing choices.
- **Bailey Desper, 540 Suden, Billings, Montana,** stated it was difficult to acquire affordable housing and more housing options were needed.
- **Melissa Smith, 1335 Naples Street, Billings, Montana,** stated young citizens had no place to live because housing was scarce in Billings and more affordable housing options were needed to keep young people in Billings to reinforce the workforce.
- **Eric Schmidt, 2915 Second Avenue South, #205, Billings, Montana,** supported a variety of housing choices afforded a variety of people and created a more robust economy. His business was desperately seeking employees, but the housing market prohibited candidates from moving to Billings. He spoke about the necessity for connectivity between neighborhoods to assist with pedestrian / traffic safety.
- **Virginia Duke, 239 Avenue F, Billings, Montana,** supported the annexation and zone change for the hundreds of renters that needed more housing choices. She opposed the variance, however, as connectivity was important.
- **Katie Harrison, 2901 6th Avenue South, Billings, Montana,** supported rental options provided by the zone change.
- **Jenna Martin, Lose Creek Road, Billings, Montana,** supported rental options provided by the zone change and noted there was a massive need for more rentals.

The following individuals spoke in opposition of the annexation and/or zone change and/or variance during the public hearing:

- **Terri Kaufman, 110 Big Pine Court, Billings, Montana**, noted density was a descriptor, not a plan and the development was excessive for the amount of land available.
- **Toby Erickson, 4142 Banbury Place, Billings, Montana**, stated the proposed development would ruin the fabric of the neighborhood. He asked that the development be reduced in scale.
- **Michael Hunthorn, 4160 Bell Avenue, Billings, Montana**, spoke about homeownership and single-family dwellings versus large rental apartment complexes. He asked that the variance be denied.
- **Wesley Dunn, 832 Dorothy Lane, Billings, Montana**, voiced concerns for public safety and his opposition to the development.
- **Amber Dunn, 832 Dorothy Lane, Billings, Montana**, added her concerns about increased crime and background checks on tenants to the development.
- **Jacqueline Garcia, 836 Dorothy Lane, Billings, Montana**, stated the rent for the units was not affordable.
- **Margy Bonner, 4610 Silver Creek Trail, Billings, Montana**, stated she represented the Bicycle Pedestrian Advisory Committee (BPAC) who had reviewed the variance issue and recommended denial of the variance as it hindered connectivity to public transportation, etc.
- **Joan Schey, 5011 Cherokee Trail, Billings, Montana**, also a member of the BPAC opposed the variance and asked for traffic calming measures along Bell Avenue.
- **Lisa Moan, 4160 Obie Lane, Billings, Montana**, voiced support for the variance, but opposed the zone change and proposed development because there were plenty of new, large apartment complexes in the area in various stages of development that were not occupied.
- **Roger Fuhrman, 191 Legends Way, Billings, Montana**, spoke about Bell Avenue construction and traffic concerns. He supported condo ownership rather than apartment rentals. There was too much density being created along Shiloh Road.
- **Judy Powers, 4185 Obie Lane, Billings, Montana**, opposed the zone change as Obie Lane was an unmaintained County road with no improvements. Increased traffic from the development was a safety concern. Young people wanted to invest in their own homes and there were not enough affordable single-family homes available. Rental properties only benefited developers and investors and only supported short-term residency.
- **Ed Hoffman, 4246 Central Avenue, Billings, Montana**, noted that Bell Avenue was not constructed to handle increased traffic. He stated there were hundreds of apartments being built in Billings that were not occupied and the necessity for more was not realized. Emergency services were stretched and School District 2 on the west end was filled to capacity.
- **Billie Rice, 29 Twin Pines Loop, Billings, Montana**, spoke about Twin Pines being a private subdivision with private roadways. She objected to increased traffic using roadways for which she was paying the maintenance of. She supported annexing Twin Pines so infrastructure would be publicly maintained. She supported a variance.

- **Mike Vanhoover, 4115 Obie Lane, Billings, Montana**, supported the variance and opposed the zone change. He noted that Morning Star Assisted Living does not provide adequate parking space for employees and employees park along Bell Avenue causing congestion and traffic concerns. He raised environmental concerns caused by increased traffic pollution which may contaminate water wells in the area.
- **Dick Reich, 4134 Banbury Place, Billings, Montana**, voiced his opposition to the zone change.
- **Terry Havener, 11 Twin Pines Loop, Billings, Montana**, stated if the zone change were approved the neighborhood in which he resided would be forced to install control gates to the entry of the neighborhood.
- **Linda Fuhrman, 191 Legends Way, Billings, Montana**, voiced concerns about increased traffic caused by the development.
- **Missy Erickson, 4142 Banbury Place, Billings, Montana**, joined in opposition to the zone change.
- **Phil Johnson, 82 Legends Way, Billings, Montana**, spoke in opposition and voiced concern about the number of vehicles each apartment could have which would be parked along the residential streets hindering emergency travel and traffic in general.

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

Recess called at 8:14 PM. Reconvened at 8:23 PM.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to conditionally approve Annexation 21-15, as recommended by staff.

Moved by Councilmember Gulick
Seconded by Councilmember Joy

Councilmember Joy supported the annexation of land into the City because improvements were built to a standard that benefited all.

Councilmembers Rupsis and Purinton questioned whether the annexation met the growth policy but would support the motion.

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

- ii. **FIRST READING ORDINANCE FOR ZONE CHANGE 1021:** located south of Bell Avenue and north of Rocky Vista Way and the Bannister Drain generally located west of Shiloh Road. Zoning Commission recommends approval and adoption of the 10 criteria. ***Quasi-Judicial**

There was not an additional presentation.

Councilmember Boyett agreed with the neighbors that spoke about the congestion on Bell Avenue due to Morning Star staff parking on both sides of the street. He asked Council to at least deny the variance to stop through traffic.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading for Zone Change 1021 and adopt the findings of the 10 criteria, but deny the variance.

Moved by Councilmember Joy

Nicole Cromwell, Zoning Coordinator, clarified that the Variance was to the Planned

Neighborhood Development code and a separate vote could be taken. She explained the Zoning Commission had separated the Zone Change from the Variance initially, but ultimately voted for approval of both under one motion. She reiterated that staff was not supportive of the Variance. A super majority vote was required for the Zone Change, but not for the Variance.

Monica Plecker, Planning Manager, appeared via Zoom, and clarified that the Annexation Agreement would reflect whatever Council action was taken whether the Variance was approved or denied.

Councilmember Joy amended her motion:

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading for Zone Change 1021 and adopt the findings of the 10 criteria, as recommended by the Zoning Commission, excluding the Variance language.

Moved by Councilmember Joy
Seconded by Councilmember Gulick

Councilmember Neese asked for parliamentary direction from the City Attorney, Gina Dahl. Ms. Dahl acknowledged that the recommended motion on the agenda had neglected to include any language about the Variance, but that the Zone Change and the Variance needed to be addressed separately. Councilmember Joy's motion was deemed sufficient.

Councilmember Gulick supported the Zone Change and proposed development. He understood the neighbors who supported the Variance and wished to have less traffic in their neighborhood. He would oppose the Variance.

Councilmember Owen expressed her concern about the move away from homeownership and the generational wealth that homeownership would build. She noted a lack of commercial neighborhood properties in the development and asked that future developments include some of those opportunities. She supported the motion.

Councilmember Purinton expressed concern about over development of rental properties to address the lack of housing opportunities, but she would support the motion with some reluctance.

Councilmember Joy noted that private developers build housing, not the City, and it was up to the developers to provide the supply of housing necessary until it was no longer needed. She provided a brief history of housing in the United States.

Councilmember Shaw expressed her support for condo facilities, rather than apartment rentals.

Councilmember Rupsis spoke to setting policy and how the different housing options affected tax revenues and that the City may be subsidizing large multi-family complexes for public services. Council could change development patterns through policy. He would not support the motion approving the Zone Change based on it did not meeting all 10 criteria, in his opinion.

Councilmember Neese spoke to policy setting and stated his desire for some commercial activity in the project. He would not support the motion.

Councilmember Purinton expressed concern over creating policies that may drive developers away from Billings. She stressed that the market drives development.

Mayor Cole shared his observations about why developers choose to build rental properties rather than condo units to sell. He supported the motion. He reminded Council that due to the valid protest, a majority vote was needed of no less than 6 votes for approval.

On a show of hands vote the motion was **APPROVED 6-3**. Councilmembers Neese, Boyett and

Rupsis opposed; Councilmembers Choriki and Tidswell absent/excused.

Council, staff and Rick Leuthold discussed the issues of the Variance and its effect on connectivity.

Motion: I move to deny the Variance until a point in time when Bell Avenue and Obie Lane and 44th Street West are developed to handle increased traffic and the entries be blocked to allow only emergency vehicles use.

Moved by Councilmember Rupsis
Seconded by Councilmember Boyett

Councilmember Joy asked for an explanation of the ordinance concerning connectivity. Debi Meling, Public Works Director, advised that the transportation department's focus was getting traffic to collector and arterial roadways as fast as possible to reduce traffic in residential areas. However, Zoning and Planning's goals were different. Nicole Cromwell, Zoning Coordinator, explained connectivity was not just about traffic, but about connecting people through walking, biking, etc. to other people. Wyeth Friday, Planning Director, wove the traffic connectivity and social connectivity principles together for the Council. He explained that Bell Avenue and Obie Lane were designed to eventually connect to other streets, even though they were not at this time.

Councilmember Neese acknowledged that Bell Avenue and Obie Lane were in the County -- could they be improved. Ms. Meling stated they could if it were written into the Annexation Agreement.

Mayor Cole asked about capacity on Bell Avenue and Obie Lane. Ms. Meling explained the City's standard street width was 32 feet and Bell Avenue was 30 feet wide and allowed parking only on the northside.

Councilmember Gulick noted that the Police Department approved annexation based on connectivity. If the entries were gated, that would hinder public safety.

Substitute Motion: I moved to deny the Variance from Section 27-804(c), BMCC, and provide the connections as indicated.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw

Councilmember Boyett noted the developer went before the public and let them know what he wanted to do. The neighbors expressed their opposition. He supported the constituents.

Councilmember Neese agreed connectivity was needed and the roads should be developed sooner rather than later. He supported the substitute motion.

Councilmember Purinton would not support the motion.

Debi Meling, Public Works Director, noted that Obie Lane was a County road whose subgrade did not meet City standards and would not withstand a lot of traffic.

Councilmember Rupsis supported connectivity but would not support the substitute motion.

Councilmember Neese asked who was responsible for rebuilding streets in fully developed County properties that were later annexed into the City. Ms. Meling responded that the property owners were responsible for rebuilding their streets to City standards.

Councilmember Joy called the question.
Seconded by Councilmember Neese

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

On a show of hands vote, the substitute motion to deny the variance was **APPROVED 6-3**,

Councilmembers Purinton, Boyett and Rupsis opposed; Councilmembers Choriki and Tidswell absent/excused.

- b. **ANNEXATION AGREEMENT** with Dorn/Lowe LLC and Dorn Property and Homes LLC. Staff recommends approval.

There was no additional presentation.

Motion: I move to approve an annexation agreement with Dorn/Lowe LLC and Dorn Property and Homes LLC, with the addition of traffic calming on adjacent streets, as recommended by staff.

Moved by Councilmember Joy
Seconded by Councilmember Neese

Motion to Amend: I move to add that the Developer will finish Bell Avenue to the south to meet City standards.

Moved by Councilmember Neese
Seconded by Councilmember Owen

Councilmember Neese noted the development would place additional traffic on Bell Avenue and the Developer should mitigate that.

Rick Leuthold, agent for the developer, agreed to the addition to the Annexation Agreement.

Councilmember Rupsis voiced his opposition that traffic calming may be better if Bell Avenue remained under-developed.

APPROVED 7-2, Councilmembers Joy and Rupsis opposed, Councilmembers Choriki and Tidswell absent/excused

Amended Motion: I move to approve an Annexation Agreement with Dorn/Lowe LLC and Dorn Property and Homes LLC, with the additions of traffic calming on adjacent streets and the Developer to finish Bell Avenue to the south to meet City standards.

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

- c. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Annexation 21-15: a parcel located south of Central Avenue and west of Shiloh Road. Staff recommends approval.

There was no presentation.

There was no public testimony given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance expanding the boundaries of Ward V to include recently annexed property in Annexation 21-15, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Rupsis

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

4. **ELYSIAN SCHOOL DISTRICT NO. 23:**

- a. **PUBLIC HEARING AND RESOLUTION 23-11101 FOR ANNEXATION 22-08:** located south of Elysian Road and west of East Lane. Staff recommends conditional approval. ***Quasi-Judicial**

Hunter Kelly, Planner, presented. He reviewed the annexation policy and the proposed Annexation Agreement. He reminded Council that 2 separate public hearings were necessary for the Annexation resolution and the Ward Boundary expansion ordinance. He mentioned the school district property was zoned P2, but the area to be annexed was zoned Planned Development. The Planned Development zoning would not require a zone change as the allowances would accommodate Civic and Institutional zoning.

The following individual provided public testimony:

- **Rick Leuthold, Sanderson Stewart**, agent, explained that the Coca-Cola Company had purchased and annexed land near Elysian School and did a land swap for the school's new ball field.

No further public testimony was given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to conditionally approve Annexation 22-08, as recommended by staff.

Moved by Councilmember Joy

Seconded by Councilmember Gulick

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

- b. **ANNEXATION AGREEMENT** with Elysian School District No. 23. Staff recommends approval.

Debi Meling, Public Works Director, noted the applicant requested that the words "in the future as determined by the City" be added to Section 6 of the Annexation Agreement as it related to future improvements that would occur as East Lane was improved.

Motion: I move to approve the Annexation Agreement with Elysian School District No. 23, including these additional words, "in the future as determined by the City" to Section 6, as recommended by staff.

Moved by Councilmember Joy

Seconded by Councilmember Shaw

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

- c. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward III to include recently annexed property in Annexation 22-08: a parcel located south of Elysian Road and west of East Lane. Staff recommends approval.

There was no presentation.

No public testimony was given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance expanding the boundaries of Ward III to include recently annexed property in Annexation 22-08, as recommended by staff.

Moved by Councilmember Joy
Seconded by Councilmember Gulick
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

5. PUBLIC HEARING AND FIRST READING ORDINANCE amending Ordinance 22-5819, Zone Change 1018. Staff recommends approval.

Wyeth Friday, Planning Director, explained that this was a corrective action only due to a discrepancy in the legal description.

No public testimony was given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance amending Ordinance 22-5819, Zone Change 1018, as recommended by staff.

Moved by Councilmember Neese
Seconded by Councilmember Boyett
APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

6. PUBLIC HEARING AND FIRST READING ORDINANCE amending Ward Boundaries. Staff recommends approval.

Wyeth Friday, Planning Director, presented. He explained that ward boundary amendments are conducted every 10 years and follow the data provided from the Census. He reviewed the proposed amendment and indicated that ward boundary amendments needed to occur before the 2023 elections. He provided a timeline to meet election filing deadlines.

Council and staff discussed anticipated future population growth near and around the Inner Belt Loop area and which ward(s) might be affected by that. Also discussed were the percentages of the wards and the method boundaries were established. There was interest in amending the ward boundaries more often, if possible.

The following individuals provided public testimony:

- **Amber Dunn, 832 Dorothy Lane, Billings, Montana**, voiced concerns about representation for Heights' residents living in Ward 1 and noted priorities were very different for the downtown area and that of the Heights.
- **Wesley Dunn, 832 Dorothy Lane, Billings, Montana**, stated that ward boundary amendments would occur whether public opinions were heard or not.
- **Frank Ewalt, 2131 Phoebe Lane, Billings, Montana**, mentioned that Council wards lacked diversity in that members lived too closely to each other. He suggested districts be formed within wards and a Councilmember be elected from separate districts for each ward to create more diversity.

No further public testimony was given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance amending Ward Boundaries, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Shaw

Councilmember Owen was concerned that neighborhoods were not kept together with the proposed boundary amendments.

Councilmember Neese was dissatisfied with the recommendation and agreed with Councilmember Owen, but would support the motion due to time constraints caused by the upcoming candidate filing deadline for the elections. He wanted staff and Council to work toward a different system after the elections in the fall.

APPROVED 7-2, Councilmembers Owen and Purinton opposed; Councilmembers Choriki and Tidswell absent/excused

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 gave public comment:

- **Frank Ewalt, 2131 Phoebe Lane, Billings, Montana**, voiced his concerns about increased crime and effective public safety.
- **Wesley Dunn, 832 Dorothy Lane, Billings, Montana**, reminded Council that they worked for their constituents and the City Administrator worked for Council.
- **Amber Dunn, 832 Dorothy Lane, Billings, Montana**, spoke about the public safety mill levy and objected to monies being used toward a homeless shelter in Billings.

There were no further speakers.

COUNCIL INITIATIVES:

Motion: I move to allocate \$20,000 from South TIF (SBBURD) to a study of revenue opportunities at the proposed community recreation center. The study would be performed by Victus Advisors. The Billings Chamber, EDC, and TBID would contribute funds to the study, which will cost \$37,000, plus expenses.

Councilmember Purinton noted the City had already contributed significant funds toward the project and was opposed to spending more funds at this time. It was time for other interests to contribute.

Councilmember Joy expressed her disappointment that the monies would be taken from the SBBURD TIF, but she would support the motion.

Moved by Councilmember Rupsis
Seconded by Councilmember Shaw

APPROVED 8-1, Councilmember Purinton opposed; Councilmembers Choriki and Tidswell absent/excused

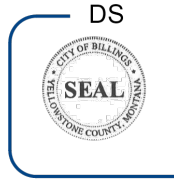
Motion: I move to direct staff to contract with National Center for State Courts or similar third-party entity to conduct a review of municipal court operations, including prosecution, and make recommendations to support the transition to a second municipal judge and a new courthouse facility in planning for municipal court expansion.

Moved by Councilmember Owen
Seconded by Councilmember Boyett

Councilmember Neese expressed his concerns about whether the proper procurement process was being done for both of the initiatives.

APPROVED 9-0, Councilmembers Choriki and Tidswell absent/excused

ADJOURN: 11:04 PM



CITY OF BILLINGS

DocuSigned by:
BY William A. Cole
2CA110... William A. Cole, Mayor

ATTEST:

DocuSigned by:
BY Denise R. Bohlman
D5030... Denise R. Bohlman, City Clerk

Certificate Of Completion

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Denise R. Bohlman

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bohlmand@billingsmt.gov

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bohlmand@billingsmt.gov

Signer Events

William A. Cole

coleb@billingsmt.gov

Mayor

Security Level: Email, Account Authentication (None)

Signature

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William A. Cole

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Timestamp

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Denise R. Bohlman

bohlmand@billingsmt.gov

City Clerk

City of Billings

Security Level: Email, Account Authentication (None)

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Denise R. Bohlman

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Using IP Address: 161.7.21.114

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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

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Carbon Copy Events

Status

Timestamp

Toni Keehner

keehnert@billingsmt.gov

Deputy City Clerk

City Clerk

Security Level: Email, Account Authentication (None)

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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Certified Delivered	Security Checked	3/14/2023 8:18:32 AM
Signing Complete	Security Checked	3/14/2023 8:18:43 AM
Completed	Security Checked	3/14/2023 8:18:45 AM

Payment Events	Status	Timestamps
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