



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

**SUBJECT:** 2/27/23 Council Minutes

**Council Meeting Date:** 3/27/23

**Vote:** 10-0, NEESE ABSENT/EXCUSED

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

**MINUTES  
OF THE BILLINGS CITY COUNCIL  
REGULAR BUSINESS MEETING  
February 27, 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.

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Neese

**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

Staff

Present: Chris Kukulski, City Administrator  
Kevin Iffland, Assistant City Administrator  
Karen Schexnider, Assistant City Attorney  
Toni Keehner, Deputy City Clerk  
Elyse Monat, Active Transportation Planner  
Andy Zoeller, Finance Director  
Mac Fogelsong, City Engineer  
Tina Hoeger, Code Enforcement Manager

**MINUTES:**

- February 13, 2023 – Pending

**COURTESIES:**

- Councilmember Joy invited Elyse Monat and Terri Porta to speak. Elyse Monat, Active Transportation Planner, introduced Terri Porta, Artist in Residence, for the Mobilize the Magic City program. Ms. Porta spoke of her past projects and looked forward to the upcoming project.

**PROCLAMATIONS:**

- Mayor Cole proclaimed March as Colorectal Cancer Awareness month.

**COUNCIL REPORTS:**

- Councilmember Joy gave a Local Affairs Subcommittee update.
- Councilmember Choriki indicated the House Bill to reverse a ban on traffic cameras died in committee. He informed Council Zonta and Riverstone Health were starting a reboot to the Billings area Family Violence Task Force.

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

- Reviewed the Legal Counsel recommendation regarding Consent Agenda Item 1Q, Resolution Ordering Improvements for WO 22-21: Brewington Drive.
- Announced there was 1 ex-parte item placed in the notebook at the back of Council Chambers that was sent to Mayor and Council after 3 pm concerning Regular Agenda Item 3.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 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 individual gave public comment:

- **Kristi Drake, Billings TrailNet**, presented the City with a \$10,000 donation for the 5<sup>th</sup> Avenue Corridor Study.

The following individuals spoke in favor of Consent Agenda Item 1T, Zone Change 1021:

- **Katie Harrison, no address given.**
- **Melissa Smith, 1335 Naples Street, Billings, Montana.**
- **Bailey Desper, 590 Sudan Place, Billings, Montana.**
- **Anna Holub, 2924 Ronan Drive, Billings, Montana.**
- **Josh Kostelecky, 140 Wyoming Avenue, Billings, Montana.**
- **Steve Beyer, 2527 Louise Lane, Billings, Montana.**
- **Virginia Duke, 238 Avenue F, Billings, Montana.**
- **Jenna Martin, 1822 Lost Creek Road, Billings, Montana.**
  
- **Jim Brewington, 1720 Brewington Drive, Billings, Montana**, in reference to Consent Agenda Item 1Q, spoke of drainage issues on Brewington Drive and indicated he had concerns with the proposed improvements.

There were no further speakers.

**1. CONSENT AGENDA**

Mayor Cole separated 1T for discussion.

Councilmember Owen separated 1A3 and 1 Q, for discussion.

Councilmember Purinton separated 1O for discussion.

Councilmember Rupsis separated 1W1, to abstain from the vote, stating a client was included as a payee.

**Motion:** I move to approve the items of the Consent Agenda as submitted, with the exception of 1A3, 1O, 1Q, 1T and 1W3.

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

**A. Bid Awards:**

1. **W.O. 22-07: Mallowney Lane Improvements.** (Opened 1/17/23) Recommend Askin Construction.

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

2. **W.O. 22-15: WRF Admin Building Roof Replacement.** (Opened 2/7/2023) Recommend CentiMark Corporation.

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

3. **W.O. 22-21: Brewington Drive Reconstruction.** (Opened 1/17/2023) Recommend Askin Construction.

Councilmember Owen indicated she had policy misgivings and concerns with costs for homeowners.

Mac Fogelson, City Engineer, explained how Public Works was addressing Mr. Brewington's drainage concerns and reviewed the planned improvements.

Council discussed the assessments, condition of the street and alternative design options.

Moved by Councilmember Joy  
Seconded by Councilmember Choriki  
**APPROVED 10-1**, Councilmember Owen opposed

4. **W.O. 23-01: Contract 1, 2023 Billings Water Main Replacement.** (Opened

2/7/2023) Recommend COP Construction, LLC.

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

- B. **Professional Services Agreement** for W.O. 23-12: Zone 4 Pump Station and Waterline Improvements; HDR Engineering.

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

- C. **Professional Services Agreement** for W.O. 23-24: Belknap Office Remodel, Phase 2; Collaborative Design Architects.

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

- D. **Amendment No. 1, W.O. 19-42: West End Water Treatment Plant Project;** Garney Companies, Inc.

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

- E. **Amendment No. 2, W.O. 22-07: Mullowney Lane Improvements,** HDR Engineering, Inc.

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

- F. **Memorandum of Understanding** between the City and the Yellowstone Conservation District for West End Reservoir Conservation and Recreational Amenities.

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

- G. **Lease** with American Towers for cell tower located at Stewart Park.

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

- H. **MET Transit Agency Safety Plan Update.**

Moved by Councilmember Gulick

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

- I. **Donation** to Public Works for W.O. 23-09: 5th Avenue Corridor Project from Billings TrailNet.

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

- J. **Donation** to Police Department from Shield 616, Scheels, The Brosovich Family Foundation and The Buchanan Family Foundation for body armor.

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

- K. **Sidewalk Easement** with Josephine Corner Apartments, LLC and Traffic Signal Fixtures and Sidewalk Easement with the Roman Catholic Bishop of Great Falls.

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

- L. **Exempt Plat and Warranty Deeds** with McCall Properties, LLC and Brittany's Dream, LLC.

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

- M. **Final Plat** of Zimmerman Home Place Subdivision, 3rd Filing.

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

- N. **Resolution 23-11102** authorizing the filing and acceptance of Transit Grant Funds.

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

- O. **Resolution 23-11103** approving FY2024-2028 Capital Improvement Plan (CIP) for Transportation and Parks and Recreation.

Councilmember Purinton indicated she would like a separate vote for the Transportation and Parks/Recreation portion of the CIP.

**Motion:** I move to approve a Resolution approving FY2024-2028 Capital Improvement Plan for Transportation.

Moved by Councilmember Joy

Seconded by Councilmember Neese

Councilmember Purinton expressed concerns with the design plan for the 5<sup>th</sup> Avenue Corridor and spoke in opposition of the 2-way street conversion downtown.

Councilmember Neese spoke against back-in parking downtown.

**TRANSPORTATION CIP APPROVED 8-3**, Councilmembers Tidswell, Purinton and Boyett opposed

**Motion:** I move to approve a Resolution approving FY2024-2028 Capital Improvement Plan for Parks and Recreation.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy

Councilmember Purinton indicated she would not support the Parks and Recreation CIP.

**PARKS AND RECREATION CIP APPROVED 8-3**, Councilmembers Owen, Purinton and Boyett opposed

**P. Resolution 23-11104** ordering improvements for W.O. 22-07: Mallowney Lane Improvements.

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

**Q. Resolution 23-11105** ordering improvements for W.O. 22-21: Brewington Drive Reconstruction.

Councilmember Neese asked for clarification of costs and expressed surprise that the area was not included in the Safe Routes to School program.

Mac Fogelsong, City Engineer, indicated this was a cost-effective option and prices would likely increase if postponed.

Moved by Councilmember Neese  
Seconded by Councilmember Gulick

Councilmember Owen indicated there were people that would not be able to afford the improvements and urged Council to review the policy.

**APPROVED 10-1**, Councilmember Owen Opposed

**R. Second/Final Reading Ordinance 23-5823** amending Ward Boundaries.

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

- S. **Second/Final Reading Ordinance 23-5824** amending Ordinance 22-5819, Zone Change 1018.

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

- T. **Second/Final Reading Ordinance 23-5825** for Zone Change 1021: located south of Bell Avenue and north of Rocky Vista Way. \*Quasi-Judicial

Mayor Cole explained a super majority vote was needed for approval of the zone change. He indicated the variance had previously died and would not be included in the vote.

**Motion:** I move to approve Second/Final Reading Ordinance for Zone Change 1021: located south of Bell Avenue and north of Rocky Vista Way, as recommended by staff.

Moved by Mayor Cole  
Seconded by Councilmember Choriki

Council discussed traffic issues and commercial space needs.

**FAILED 7-4**, Councilmembers Neese, Tidswell, Boyett and Rupsis Opposed

- U. **Second/Final Reading Ordinance 23-5826** expanding Ward V (Annexation 21-15).

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

- V. **Second/Final Reading Ordinance 23-5827** expanding Ward III (Annexation 22-08).

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

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

1. January 17, 2023

Moved by Mayor Cole  
Seconded by Councilmember Joy  
**APPROVED 10-0**, Councilmember Rupsis abstained

2. January 23, 2023

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

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION 23-11106** assessing nuisance property abatements. Staff recommends approval.

Tina Hoeger, Code Enforcement Manager, reviewed the properties and gave updated assessment amounts based on recent payments.

No public testimony was given.

Andy Zoeller, Finance Director, asked Council to approve the resolution and allow staff to adjust the assessments based on payments received.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve a Resolution assessing nuisance property abatements, and allow staff to adjust assessments, as recommended by staff.

Moved by Councilmember Joy  
Seconded by Councilmember Shaw

**APPROVED 11-0**

Council asked for clarification on how assessments were applied to properties.

Ms. Hoeger explained the Department of Revenue process and how the 1-year abatement process worked.

**APPROVED 11-0**

**3. PUBLIC HEARING AND RESOLUTION 23-11107** assessing weed abatements. Staff recommends approval.

Tina Hoeger, Code Enforcement Manager, reviewed the weed abatement properties and the most recent total of assessments based on recent payments.

Councilmember Boyett asked for clarification on a letter Council received indicating the owner of property located at 1042 Broadwater Avenue had done the weed abatement and did not owe the assessment. She explained the weed abatement process Code Enforcement followed and how Parks and Recreation supported and documented the process before and during abatement.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve a Resolution assessing weed abatements, and allow staff to adjust assessments, as recommended by staff.

Mayor Cole, in reference to the letter regarding the weed abatement at 1042 Broadwater Avenue, indicated a motion would be needed allowing staff to adjust the assessment, if they deemed it necessary.

**Amended Motion:** Having conducted a public hearing, considered written and spoken testimony, I move to approve a Resolution assessing weed abatements, and allow staff to adjust assessments based on recent payments and remove the assessment at 1042 Broadwater Avenue, if necessary, as recommended by staff.

Moved by Mayor Cole  
Seconded by Councilmember Choriki  
**APPROVED 11-0**

**4. PUBLIC HEARING AND RESOLUTION 23-11108** approving and adopting FY2023 budget amendments. Staff recommends approval.

Andy Zoeller, Finance Director, reviewed the budget amendments and indicated the Budget Committee had recently met and recommended approval.

Councilmember Owen gave a brief Council Budget Committee update.

Councilmember Neese spoke of obtaining software that could implement the City's assessment methodology.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve and adopt the FY2023 budget amendments, as recommended by staff and the Budget Committee.

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

Councilmember Neese asked for clarification on reconsidering Consent Agenda Item 1T.

Chris Kukulski, City Administrator, suggested Council take a recess to discuss Roberts Rules for a reconsideration.

**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:

- **Amber Dunn, 832 Dorothy Lane, Billings, Montana**, spoke about how living near a drug house affected mental health.
- **David 621 Nottingham Circle, Billings, Montana**, spoke against the "Eyes on the Block" program which promoted sharing personal video recordings with law enforcement.
- **Wesley Dunn, 832 Dorothy Lane, Billings, Montana**, spoke about the need to keep children safe.
- **Sean Seedhouse, 104 N. Broadway, Billings, Montana**, thanked Council for their effort in approving the Recreation Center master plan.

There were no further speakers.

Recess at 7:20 PM. Reconvene at 7:30 PM.

**COUNCIL INITIATIVES:**

There were no Council initiatives.

**Motion:** I move to reconsider Consent Agenda Item 1T, Second/Final Reading Ordinance for Zone Change 1021: located south of Bell Avenue and north of Rocky Vista Way.

Moved by Councilmember Boyett  
Seconded by Councilmember Purinton

Karen Schexnider, Assistant City Attorney, explained the reconsideration process and indicated if the reconsideration was approved Council would have the original four options to: approve, deny, allow withdrawal of the application or delay the application for no more than 30 calendar days. She indicated action would need to be taken tonight or at the next Regular Business meeting.

Councilmember Rupsis asked if the developer would consider withdrawing the application.

Rick Leuthold, Sanderson Stewart, indicated they had made adjustments by adding: clarity, additional buffers, a public park, a better received land use package, and a variance to meet neighbors' concerns. He indicated an application withdrawal would require a full redesign, new public hearings, etc. He would not be interested in withdrawing the application.

Councilmember Gulick expressed concerns with the amount of time and money spent by developers to meet planning and zoning requirements, only to be rejected by Council.

Council discussed zoning plans for the area, traffic calming options, commercial development, and the City's dire need for housing.

Councilmember Rupsis indicated the developer had improved the plans but expressed concerns with four-story complexes. He added the current design was not walkable.

Councilmember Neese asked for clarification on where the walkable commercial development would be.

Wyeth Friday, Planning Director, indicated the developer was not required to include commercial development in the proposed plan. He indicated there was commercial development being planned to the south and some people would consider it to be within walkable distance. He added there would be additional residential and commercial in the nearby Lenhardt Square development.

Councilmember Neese reiterated his concerns with the lack of commercial development in the plans and indicated he would reconsider his position on the vote. He hoped commercial would be included in nearby development.

**Motion to reconsider: APPROVED 10-1**, Councilmember Rupsis opposed

**Motion:** I move to approve the Second/Final Reading Ordinance for Zone Change 1021: located south of Bell Avenue and north of Rocky Vista Way, as recommended by staff.

Moved by Councilmember Owen  
Seconded by Councilmember Purinton  
**APPROVED 8-3**, Councilmembers Tidswell, Boyett and Rupsis opposed

**ADJOURN: 8:20 PM**



CITY OF BILLINGS

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

ATTEST:

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

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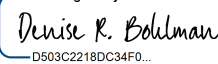

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Signing Complete	Security Checked	3/30/2023 9:45:27 AM
Completed	Security Checked	3/30/2023 9:45:27 AM

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