

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
June 26, 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: Mayor Cole

ROLL CALL:

Present: Councilmember Kendra Shaw, Ward I
Councilmember Ed Gulick, Ward I
Councilmember Roy Neese, Ward II – Via Zoom
Councilmember Jennifer Owen, Ward II - arrived at 5:44 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

Staff

Present: Chris Kukulski, City Administrator
Gina Dahl, City Attorney
Denise Bohlman, City Clerk
Debi Meling, Public Works Director
Jennifer Duray, Public Works Deputy Director
Andy Zoeller, Finance Director
Wyeth Friday, Planning Director
Jeff Roach, Aviation and Transit Director
John Caterino, Facilities Manager
Jessica Fust, Building Official
Katie Nash, Domestic Violence Investigator
Ellie Stanton, VISTA
Scott Walker, Transportation Planner

MINUTES:

- May 22, 2023 – PENDING
- June 12, 2023 - PENDING

COURTESIES:

Councilmember Purinton acknowledged that former civil deputy city attorney, Thomas Pardy, was appointed as the newest District Court Judge for Yellowstone County and wished him well.

PROCLAMATIONS:

There were no proclamations.

COUNCIL REPORTS:

There were no council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Reminded Council that Monday, July 31st, was not a bye week. The Work Session from July 3rd was rescheduled to July 31st. No Council meetings would be held the following week.
- Reviewed report from Debi Meling, Public Works Director:
 - Testing showed no contaminants in the river. Wake Up Montana asked for the following written comment:
 - After being informed of the potential for hazardous materials entering the Yellowstone River upstream of the City's water plant, City staff prepared a plan to ensure the water that was provided to our community was safe. Monitoring of the Yellowstone River occurred throughout the day and night, and no contaminants were detected. Out of an abundance of caution, the City decided to shut the intake from the river for a 12-hour period starting at 6 P.M. on Saturday evening. As of Sunday morning, the plant is operating normally and there are no concerns about the City's water supply.
- Provided an update about the railroad derailment.
- Introduced K.C. Williams to address Friday's emergency declaration.
- There were no ex-parte items sent to Mayor and Council after 3 pm concerning items on the agenda.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 3b and 5 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.

• **SPECIAL PRESENTATION: FAMILY JUSTICE CENTER ALLIANCE**

Katie Nash, Domestic Violence Investigator for the Billings Police Department, explained that national experts with the Family Justice Center Alliance would hold community forums over the next couple of days and she invited Council members to participate, if they were available. She thanked Ellie Stanton, AmeriCorps VISTA, for her help with the project and arranging the forums and experts. Ken Shetter, National Director, Family Justice Center Alliance, explained that a Justice Center would have a collective gathering of many agencies and resources under one roof to assist victims and their families.

1. **CONSENT AGENDA:**

There were no separations.

Motion: I move to approve the items of the Consent Agenda as submitted.

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

A. **Mayor Cole recommends that Council confirm the following appointments:**

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	No Applications	Board of Adjustments*	06/26/23	12/31/25
2	No Applications	Community Development - Low Mod	06/26/23	12/31/26
3	No Applications	Citizen Police Advisory Board*	06/26/23	12/31/25
4	M. Gale Stott	Housing Authority - Family Resident Comm	06/26/23	12/31/23
4	Brad Kraft	Yellowstone Soil Conservation	07/01/23	06/30/26

- *1 Unexpired term of David Mitchell
- *3 Unexpired term of April Veach
- *4 Unexpired term of Sheri Herman

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

B. **Bid Awards:**

1. **W.O. 23-16: Landfill Scale Addition. (Opened 6/6/23) Recommend Swank Enterprises.**

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

C. **Agreement with CGL Companies, LLC for Criminal Justice System Efficiency and Court Expansion Study.**

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

D. Agreement with GCR Inc., DBA Civix for Airport Lease Management and Accounting System.

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

E. Commercial Aviation Ground Lease with BAG Billings, LLC.

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

F. Recommendation of approval of the Transportation Alternatives Projects to the Policy Coordinating Committee.

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

G. 2023 Long Range Transportation Draft Plan.

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

H. "Safe Streets for All" Grant Application in support of Safe Routes to School. Moved by

Councilmember Gulick
Seconded by Councilmember Shaw
APPROVED 11-0

I. Billings Community Foundation Grant Application in support of "Mobilize the MAGIC City".

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

J. Preliminary Subsequent Minor Plat of Falcon Ridge Estates Subdivision, 2nd Filing. *Quasi-Judicial

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

K. Resolution of Intent 23-11128 to annex the areas adjacent to Billings-Logan International Airport (Annexation 23-05) and set a public hearing date for July 24, 2023.

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

L. Resolution 23-11129 authorizing staff to pursue financing for new City Hall building renovations.

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

M. Second/Final Reading Ordinance 23-5840 for Zone Change 1026: located at 3648 AJ Way.
*Quasi-Judicial

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

N. Second/Final Reading Ordinance 23-5841 for Zone Change 1028: located at 5417 Hawk Creek Avenue. *Quasi- Judicial

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

O. Second/Final Reading Ordinance 23-5842 expanding Ward I (Annexation 23-04).

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

P. Bills for the Weeks of:

1. May 22, 2023

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

2. May 29, 2023

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

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTIONS setting FY2024 annual assessments on the following:

After each of the presentations was given below, a joint public hearing was held. No public testimony was given.

a. Road Maintenance District 6 – Resolution 23-11130

Andy Zoeller, Finance Director, provided a PowerPoint presentation. He explained the district was established in 2015, contained 51 properties that would be assessed \$55.28 for the year and there was no increase over the prior year's assessments.

Motion: I move to approve a resolution setting FY2024 annual assessments for Road Maintenance District 6, as recommended by staff.

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

b. Street Maintenance – Resolution 23-11131

Jennifer Duray, Deputy Public Works Director, provided a PowerPoint presentation and explained the proposed increase to Street Maintenance District (SMD) fees for SMD 1 – 3% and SMD 2 – 7%. She noted the 2 districts generated \$14.7 million annually and the average residential fee impacts between FY23 and FY24 was an increase of \$12.96. She provided comparisons with Billings' annual SMD fees to other large Montana cities and towns; Billings' fees ranked in the middle.

Councilmember Purinton inquired about whether the increase added to the reserves and the current reserves balance. Ms. Duray responded the increase would not add to the reserves, and she was not certain of the reserves' balance. Councilmember Purinton asked about snow removal fees. Ms. Duray indicated those services were part of the Street Maintenance District and if funds earmarked for snow removal were not expended, those funds would not continue to accrue; instead, the rates would not increase the following year for snow removal. Councilmember Purinton would not support a 7% increase. Ms. Duray explained that material costs increased by 20% the previous year. Costs were expected to continue to increase, so even if there were funds remaining for snow removal, the costs to purchase de-icer and chemicals, plus inflation, would continue and the City should try to keep up.

Motion: I move to approve a resolution setting FY2024 annual assessments for Street Maintenance Districts, as recommended by staff.

Moved by Councilmember Shaw
Seconded by Councilmember Boyett

Motion to Amend: I move to amend the 4.7% inflationary increase to 3% increase, which would reduce the overall 7% increase to 5.3%.

Moved by Councilmember Purinton
Seconded by Councilmember Rupsis

Councilmember Rupsis supported the motion to amend because the 2.3% from the year before was due to deferment of a project, not because there was a budget cut.

Council and staff discussed impacts if the amendment was approved. Ms. Duray explained that the 36th Street West project was deferred and per Council's priority, those monies for that project were given to the Parks Department for one of their projects. The City needed to make up for inflation

going forward and that had not happened last year. Ms. Duray explained how the Capital Improvements Projects (CIP) and the budget were determined and would be affected if the City does not keep up with inflation.

Councilmember Neese agreed with Councilmember Rupsis's statement.

Councilmember Gulick clarified that the 36th Street West project was not included in the 5-year CIP. Ms. Duray responded affirmatively and added that Safe Routes to Schools was added and other items prioritized by Council. Councilmember Gulick would not support the motion to amend as he prioritized continued street maintenance over deferrals.

Mayor Cole asked for more clarification on the inflation numbers. Ms. Duray responded that last year's inflation was about 9% and the City's rates and fees had not increased that much, causing a gap that would continue into perpetuity unless adjustments were made.

A vote on the motion to amend was taken.

FAILED 5-6, Councilmembers Shaw, Gulick, Joy, Choriki, Boyett and Mayor Cole opposed.

A vote on the pending motion was taken.

APPROVED 8-3, Councilmembers Tidswell, Purinton and Neese opposed.

c. Storm Sewer – Resolution 23-11132

Jennifer Duray, Deputy Public Works Director, provided a PowerPoint presentation and explained the proposed increase to storm sewer fees for FY24. She added fees currently generated \$5.2 million in revenue and the increase would generate an additional \$291,000. The impact to annual average residential fees between FY23 and FY24 was an increase of \$3.16. She provided comparisons with Billings' annual storm sewer fees to other large Montana cities and towns; Billings' fees ranked amongst the lowest.

Motion: I move to approve a resolution setting FY2024 annual assessments for storm sewer, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Joy

APPROVED 10-1, Councilmember Purinton opposed.

3. PUBLIC HEARING AND RESOLUTION 23-11133 establishing collection, disposal, and landfill fees for FY2024. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, provided a PowerPoint presentation and explained the proposed increase was needed for capital requirements, personnel needs and inflation. She reviewed commercial, roll-off collection and solid waste landfill rates and offered 2 options for the landfill rates. She mentioned clean soil parameters was added this year. She addressed residential collection and recapped the discussion from the May 16th Work Session. She stated that 50% of refuse collected contained cardboard. A cardboard collection option was recommended as a way for the City to ease into recycling, as well as a move away from extra

service collection as it was causing employee injuries. She continued that current residential collections were subsidized 20% using landfill revenues. She spoke about creating efficiencies when adding collection containers that could be emptied through automation, rather than using manual labor that took more employees and put them at-risk for injuries. She defined the "extras" service proposed, i.e., cardboard curbside collection with call-in "extras" pickup. Ms. Duray addressed enforcement for compliance with current City Code, adding that 75% of the "extras" collected were not compliant with City Code. A full recycling program was estimated to cost approximately \$6 million to start up and \$2.1 million annually. It was recommended that the City start phasing in recycling starting with cardboard waste as it was approximately 15% of the waste stream collected and 50% of the extras collected. Ms. Duray spoke about the different container size options and having an extensive public engagement and education period with a start date of September 11th. She reviewed Options A and B and advised staff recommended Option A as it was in keeping with the Energy and Conservation Commission and Public Works Board recommendations.

Council and staff discussed cardboard hauling and recycling costs, etc.

Kyle Foreman, Solid Waste Superintendent, fielded questions about shredding cardboard, and composting versus recycling. Discussions continued about outsourcing the cardboard collection, the "extras" fees, logistics and education about the new program, and extending the life of the landfill.

Jennifer Duray, Deputy Public Works Director, explained options considered for charging for "extras" and the per item (\$5) appeared to be the easiest for the consumer to understand and for billing. Discussions continued about manning drop-off areas for cardboard and "extras" and the expenses associated. The tagging process for non-compliance containers was also discussed and subsidizing to encourage citizens to recycle.

Recess at 7:32 P.M. Reconvene at 7:38 P.M.

The following individuals provided public testimony:

- **Margaret Beason, 643 Burlington Avenue, Billings, Montana**, stated she was impressed with staff's research and thoughtful recommendations. She was from Seattle where recycling was required, or citizens were cited. She supported starting with cardboard recycling. She belonged to an organization whose members could help with the education process, and they would be happy to partner with Public Works.
- **Anne Ferguson, 436 Lewis Avenue, Billings, Montana**, expressed her concerns for elderly citizens moving up to 3 or 4 containers to the front curb every week and asked for a commonsense schedule.

No further testimony was given.

Discussions about removal of mattresses and bulky items ensued, along with apartment complexes extras and bundling requirements for cardboard.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution establishing collection, disposal, and landfill fees for FY2024 with a delayed implementation date of September 11, 2023, using Option A, as recommended by staff.

Moved by Councilmember Shaw
Seconded by Councilmember Gulick

Councilmember Shaw indicated other countries she had visited had far more complex and stringent garbage disposal and recycling requirements and felt this was a move in a direction to which citizens would adjust well.

Councilmember Gulick supported recycling to reduce landfill expansion.

Councilmember Purinton spoke of property owners of rental units being responsible for trash removal and that elderly residents can contact the Solid Waste Division for help moving trash containers if they were unable. She sought the simplest and most economical way to collect trash. She would not support the "bulky items" portion of the resolution as it was unclear.

Motion to Amend: I move to amend the motion by removing the charge for a second green barrel.

Moved by Councilmember Purinton
Seconded by Councilmember Neese

Councilmember Choriki stated his opposition to further subsidies.

A vote on the motion to amend was taken.

APPROVED 10-1, Councilmember Choriki opposed.

Councilmember Neese voiced concerns about ensuring vendors were providing an end product for recycled cardboard. He supported cardboard being placed in a container, rather than in bundles that could blow away or get wet.

A vote was taken on the amended motion.

Amended Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution establishing collection, disposal, and landfill fees for FY2024 with a delayed implementation date of September 11, 2023, using Option A and removing the charge for a second green barrel.

APPROVED 11-0

a. **LANDFILL USE AGREEMENT** with Yellowstone County.

There was no presentation.

Jennifer Duray, Deputy Public Works Director, answered Council's questions about residency verification methods. She clarified that Republic Collection, a private refuse hauler, offered a recycling program for their customers in the County but did not require separation of trash.

Councilmember Owen asked that staff research feasibility to do more composting at the landfill.

Motion: I move to approve the landfill use agreement with Yellowstone County, as recommended by staff.

Moved by Councilmember Shaw
Seconded by Councilmember Joy

APPROVED 11-0

4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1027:

generally located south and west of the intersection of East Lane and Elysian Road. Zoning Commission recommends approval and adoption of the 10 criteria. *Quasi-Judicial

Nicole Cromell, Zoning Coordinator, gave a PowerPoint presentation and explained the newly acquired property needed to be included in the underlying Highway Commercial zoning of the Planned Development (PD) agreement. She reviewed the existing zoning, and the parcels in the PD that were outside the City limits and the proposed zoning boundaries. She mentioned the new zoning was in accordance with the growth policy and reviewed the review criteria. The Zoning Commission recommended approval.

Council and staff discussed obtaining red-lined versions of a PD agreement with future staff memos to view all the changes proposed.

- **Anne Vickers, IMEG, agent for the applicant, 175 N. 27th Street, Billings, Montana,** explained the desire of the developer to include some residential options, while restricting and protecting the school's buffer areas.

No public testimony given during the public hearing.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve first reading ordinance for Zone Change 1027 and adopt the findings of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Shaw
Seconded by Councilmember Purinton

APPROVED 11-0

5. RESOLUTION requiring or canceling a Municipal Primary Election on September 12, 2023.

Councilmember Choriki stated he would abstain from the discussion and vote because the Ward he represents and was running for re-election in was involved in the resolution.

City Attorney, Gina Dahl, explained this item was a "just in case" item should the Elections Administrator decide to cancel the primary. The resolution would require or request cancellation of a primary election. Currently, it was a moot point as the Elections Administrator had determined, due to the number of candidates that filed for election in Ward III, that a primary election was necessary. A primary election was not necessary for any of the other wards or for the Municipal Judge position, but Council could require it if they chose. Ms. Dahl continued that Council did not have to take any action on this item because a primary election would be held.

Motion: I move to approve a resolution requiring a Municipal Primary Election on September 12, 2023 for Ward III.

Moved by Councilmember Purinton
Seconded by Councilmember Tidswell

Substitute Motion: I move to table this item as it lacks relevance.

Moved by Councilmember Neese
Seconded by Councilmember Boyett

Councilmember Choriki explained why he asked for the resolution.

Councilmember Neese called "point of order" stating Councilmember Choriki abstained from the discussion and vote and therefore should not have entered the discussion to provide his explanation.

City Attorney, Gina Dahl, provided parliamentary direction that Councilmember Choriki should not have entered the discussion.

APPROVED 9-1, Councilmember Purinton opposed, Councilmember Choriki abstained.

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.)*

Public comment was given by:

- **Wesley Dunn, 832 Dorothy Lane, Billings, Montana**, spoke about the City's water needs and the new water treatment plant. He urged Council to stop further development in west Billings until the new water treatment plant was completed.
- **Amber Dunn, 832 Dorothy Lane, Billings, Montana**, called Billings the dumping ground for "trash" and referred to the homeless as littering the City's parks and parking lots. She urged Council to stop funding homeless services.

There were no further speakers.

COUNCIL INITIATIVES:

Motion: I move to place a follow-up presentation of the Community Provider Programs and Review City of Funding Proposal presented by Amanda Stonerock during the meeting on 6/19/2023 on a Work Session agenda for further discussion and consideration.

Moved by Councilmember Choriki

Seconded by Councilmember Rupsis

APPROVED 6-5, Councilmembers Owen, Tidswell, Boyett, Neese and Purinton opposed.

Motion: I move to authorize the City Administrator to disburse \$10,000 from the Council Contingency Fund to "Mobilize the MAGIC City" from either the FY23 or FY24, as determined by staff.

Moved by Councilmember Joy

Seconded by Councilmember Boyett

Councilmember Joy spoke to the grant being the largest given to Montana municipalities and the fundraising efforts. Council and staff discussed when the funds would be expended and from which fiscal year budget, along with how to utilize Council Contingency funds and if the expenditure needed to go on a future agenda.

Substitute Motion: I move to place this item on the consent agenda on the next Regular Business meeting, July 10, 2023.

Moved by Councilmember Rupsis
Seconded by Councilmember Joy
APPROVED 11-0

Councilmember Rupsis concluded by stating he would bring a Council initiative to the July 10, 2023 Regular Business meeting, concerning the park bond resolution.

ADJOURN: 9:09 P.M.



CITY OF BILLINGS

BY: William A Cole
William A. Cole, Mayor

ATTEST:

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