

**MINUTES  
OF THE BILLINGS CITY COUNCIL  
REGULAR BUSINESS MEETING  
July 24, 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 Gulick

**ROLL CALL:**

Present: Councilmember Kendra Shaw, Ward I – Left the meeting at approximately 9:00 P.M.  
Councilmember Ed Gulick, Ward I  
Councilmember Roy Neese, Ward II  
Councilmember Denise Joy, Ward III  
Councilmember Pam Purinton, Ward IV – Via Zoom  
Councilmember Mike Boyett, Ward V  
Councilmember Tom Rupsis, Ward V  
Mayor William Cole

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

Staff  
Present: Kevin Iffland, Assistant City Administrator  
Karen Schexnider, Assistant City Attorney  
Denise Bohlman, City Clerk  
Monica Plecker, Planning Manager  
Hunter Kelly, Planner  
Nicole Cromwell, Zoning Coordinator  
Jennifer Duray, Public Works Deputy Director  
Andy Zoeller, Finance Director  
Mike Pigg, Parks and Recreation Director  
Jeff Roach, Aviation and Transit Director  
John Caterino, Facilities Manager

**MINUTES:**

- May 22, 2023

Moved by Councilmember Joy  
Seconded by Councilmember Gulick  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

- June 12, 2023

Moved by Councilmember Joy

Seconded by Councilmember Gulick

**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

- June 26, 2023 – Pending
- July 10, 2023 - Pending

**COURTESIES:**

- Mayor Cole recognized the passing of former Councilmember Al Swanson, 89, on July 14<sup>th</sup> and offered his condolences to his friends and family. He noted a funeral service would be held at First United Methodist Church on September 8<sup>th</sup>. Former Councilmember Swanson served on the Billings City Council 2014-2017.
- Mayor Cole acknowledged that a noose was recently located by a member of the Lyle Lovett Big Band. Police were made aware of it and were treating it as a hate crime. He urged anyone with knowledge about the incident to contact the police department. The matter was being taken very seriously.
- Mayor Cole provided a photo opportunity of Council with an air show banner.
- Councilmember Purinton mentioned volunteers were needed at the air show and provided contact information if anyone was interested.

**PROCLAMATIONS:**

There were no proclamations.

**COUNCIL REPORTS:**

- Councilmember Joy mentioned that "Mobilize the Magic City" had a booth at the Strawberry Festival and polled people about the importance of public art. Top reasons identified was 1. Beautification; 2) community pride and 3) crime prevention. 438 people participated in the raffle.

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI KEVIN IFFLAND, ASSISTANT CITY ADMINISTRATOR**

- Reminded Council that Monday, July 31<sup>st</sup>, was not a bye week. The Work Session from July 3<sup>rd</sup> has been rescheduled to July 31<sup>st</sup>.
- 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, and 5b 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**

There were no separations.

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

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

A. **Contract** with Fabricon, LLC, for Skypoint Sail Replacement.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

B. **Contract** with Alta Planning + Design, Inc., in association with Sanderson Stewart, for 2023 Pedestrian and Bicycle Master Plan update.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell a

C. **Compensation Agreement** with Daniel Properties, LLC, extension of a public water main from the intersection of Rimrock Road and 62nd Street West, along the frontage of Tule Ridge Subdivision.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

D. **Services Agreement** with Airside Solutions, Inc. for Airfield Lighting System Equipment Upgrade.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

E. **Services Agreement** to NEOGOV for onboarding employees.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

F. **Amendment No. 6**, with HDR Engineering for W.O. 14-11: WRF Nutrient Upgrade, Expansion and Improvements Project.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

- G. **Change Order No. 1**, Hail Repairs at Billings Community Center, Finishing Touch Exteriors, Inc.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

- H. **Quitclaim Deed** from the City to Todd and Michelle Vralsted

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

- I. **Preliminary Major Plat** of Howard Billings Industrial Subdivision. ~~Quasi-Judicial~~

Councilmember Purinton asked for clarification on variances. Monica Plecker, Planning Manager, explained the differences between subdivision variances and zoning variances and that subdivision variances came before the governing body, but zoning variances did not.

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

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

1. June 19, 2023

Moved by Councilmember Gulick  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki and Tidswell absent/excused.

**REGULAR AGENDA:**

2. **PUBLIC HEARING AND RESOLUTION 23-11141** approving and adopting FY2023 budget amendments. Staff recommends approval.

Andy Zoeller, Finance Director, provided a PowerPoint presentation. He explained the budget amendments for City Hall Construction Funding; Fleet Services; Property and Liability Insurance Fund; East Tax Increment Fund.

Council and staff discussed anticipated future insurance increases and that the past 3 years had experienced double digit increases in property and liability insurance rates and workers compensation rates.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution approving and adopting FY2023 budget amendments, as recommended by staff.

Moved by Councilmember Boyett  
Seconded by Councilmember Gulick  
**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

**3. PUBLIC HEARING AND FIRST READING ORDINANCE** amending Billings, Montana City Code (BMCC), Article 21-200, Solid Waste Collection and Disposal. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, provided a PowerPoint presentation and explained the necessity to amend the code to align with the changes made to the "extras" program, i.e., yard waste and yard rubbish; solid waste container details; solid waste collections; contaminated materials and asbestos; and delinquent bills. She continued that some of the changes were housekeeping in nature.

Council and staff discussed cardboard collection, containers and public education concerning the changes.

Councilmember Purinton expressed concern about infectious waste permits and animal carcasses. Ms. Duray responded that the infectious waste permits were not intended for schools and churches dealing with byproducts from ill children and that only one permit had been issued. Concerning the discarding of animal carcasses, Ms. Duray explained that due to complaints about meat markets and bloody containers, the amendments were needed to require that the waste be bagged.

Councilmember Rupsis asked that the word "inflammable" be changed to "flammable" throughout the code as the words meant the same thing and "inflammable" was confusing. Ms. Duray agreed.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve the First Reading Ordinance amending BMCC, Article 21-200, Solid Waste Collection and Disposal, as recommended by staff with the Mayor's changes included, and the word "inflammable" changed to "flammable", and clarification to yard rubbish to street right-of-way.

Moved by Councilmember Shaw  
Seconded by Councilmember Boyett

Councilmember Neese expressed his disappointment that this item had not been discussed at a Work Session prior to coming to Council for action. He opposed the motion to approve.

Councilmember Purinton voiced concern about compliance and enforcement with the new changes. Ms. Duray explained enforcement would be complaint driven.

**APPROVED 7-1**, Councilmembers Owen, Choriki, and Tidswell absent/excused, Neese opposed.

**4. CITY-OWNED PROPERTY NORTHEAST OF BILLINGS-LOGAN INTERNATIONAL AIRPORT:**

**a. JOINT PUBLIC HEARING FOR ANNEXATION 23-05 AND ZONE CHANGE 1032:**

**i. RESOLUTION 23-11142 APPROVING ANNEXATION 23-05:** City-owned lands located west and north of the Billings-Logan International Airport. Staff recommends approval. \*Quasi-Judicial

Hunter Kelly, Planner, gave a PowerPoint presentation and explained the staff memo contained an error about publishing notice in the *Billings Gazette*, when in fact, it had been published in the *Yellowstone County News*. He proceeded to review the parcels to be annexed.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution approving Annexation 23-05, as recommended by staff.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

- ii. **FIRST READING ORDINANCE FOR ZONE CHANGE 1032:** to allow the annexation of city-owned land adjacent to the Billings Logan International Airport and bring all current airport property into the City Limits. Zoning Commission recommends approval and adoption of the 10 review criteria. \*Quasi-Judicial

Hunter Kelly, Planner, reviewed the review criteria for the zone change and the Zoning Commission's recommendation for approval and adoption of the 10 review criteria.

Jeff Roach, Aviation and Transit Director, addressed Council's questions concerning the parcels and the landlock situation for the airport. Mayor Cole expressed concern about the airport needing to relocate in the future if expansion was deemed necessary. Mr. Roach assured Council the airport property was sufficient for some time in the future, but the master plan may indicate differently.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1032 and adopt the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

- b. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward I to include recently annexed property in Annexation 23-05: a parcel located west and north of the Billings Logan International Airport. Staff recommends approval.

No presentation was given, but staff was available to answer questions.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance expanding the boundaries of Ward I to include recently annexed property in Annexation 23-05, as recommended by staff.

Moved by Councilmember Gulick

Seconded by Councilmember Shaw

**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

5. **MACK AND SPAENY PROPERTIES:**

a. **JOINT PUBLIC HEARING FOR ANNEXATION 23-06 AND ZONE CHANGE 1030:**

- i. **RESOLUTION 23-11143 APPROVING ANNEXATION 23-06:** a parcel located north of King Avenue West, west of Saint Mary Way and east of South 44th Street West. Staff recommends conditional approval. \*Quasi-Judicial

Hunter Kelly, Planner, gave a PowerPoint presentation and explained that the owners were experiencing failing septic systems and wished access to the City's infrastructure. He continued that the area was located within the Limits of Annexation; the City was able to provide adequate services; public improvements within the area would have to meet City standards; all property owners would have to sign a waiver of right to protest for future SIDs – Annexation Agreement; and would have to be developed in compliance with zoning and site development regulations.

Council and staff discussed future street improvements to the area.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to conditionally approve a resolution approving Annexation 23-06, as recommended by staff.

Moved by Councilmember Rupsis  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki, Tidswell absent/excused.

- ii. **FIRST READING ORDINANCE FOR ZONE CHANGE 1030:** three parcels of land located on King Ave. W. between the St. Vincent's Healthcare Subdivision and the Lenhardt Square Subdivision. Zoning Commission recommends approval and adoption of the 10 review criteria. \*Quasi-Judicial

Nicole Cromwell, Zoning Coordinator, provided a PowerPoint presentation and reviewed the 10 review criteria and the Zoning Commission's recommendations.

**John Halverson, agent, Sanderson Stewart, 1700 Transtech Way, Billings, Montana,** confirmed that the septic systems were failing and the applicants needed City services. It was his recommendation that the zone be NX2 as it allowed replacement and insurance and it worked for both existing use and future redevelopment.

No public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1030 and adopt the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Rupsis  
Seconded by Councilmember Boyett  
**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

- b. **ANNEXATION AGREEMENT** with Molly and Darrell Spaeny and Michelle Amen. Staff recommends approval.

Hunter Kelly, Planner, explained the conditions within the annexation agreement. He explained that a traffic study was not required presently, and an extension of the multi-use trial was required.

Councilmember Neese expressed his concerns about staff lacking knowledge of the expenditures. He wanted the agreement to include reimbursement from the developers to the City of the improvements, i.e. sewer, water, street widening, trail development.

Monica Plecker, Planning Manager, responded that in relation to the size and percentage of the area being developed, the reimbursement would be very nominal. She spoke to "late comers" agreements for improvements that were made many years prior to current development. The improvements that were made along King Avenue West were made when MDT made their improvements. She reminded Council that the City had system development fees to connect to City infrastructure that the property owners would pay to connect to an existing sewer and water line.

**Motion:** I move to approve entering into an annexation agreement with Molly and Darrell Spaeny and Michelle Amen, as recommended by staff.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy

Councilmember Joy spoke to continuity and reduction of County islands within City annexed properties as being a good thing.

Councilmember Purinton spoke about system development fees and her concerns. Ms. Plecker offered a possible solution to alleviate monies being "left on the table", as adding language in the development agreement for future annexed properties to pay their proportionate share for reimbursement. She added that each of the two residences would pay approximately \$5,000 per residence in system development fees.

Councilmember Rupsis inquired about future development should the properties expand from one residence on the property to multiple residences requiring more infrastructure installation. Ms. Plecker advised that additional fees were charged to expand the lines to provide adequate services to the new multiple residences.

**Motion to Amend:** I move to add standard reimbursement language to the Annexation Agreement.

Moved by Councilmember Neese  
Seconded by Councilmember Rupsis

Mayor Cole suggested the Lenhardt Square annexation agreement be reviewed as it contained language and a breakdown of reimbursement costs.

Councilmember Joy would not support the Motion to Amend based on affordability for 2 homeowners. There was no developer and redevelopment was not anticipated any time soon.

A vote on the Motion to Amend was taken.

**APPROVED 6-2**, Councilmembers Owen, Choriki, and Tidswell absent/excused, Joy and Purinton opposed.

Council and staff addressed concerns about ingress and egress to the properties should redevelopment occur in the future.

**Amended Motion:** I move to approve an annexation agreement with Molly and Darrell Spaeny and Michelle Amen with standard reimbursement language added, as recommended by staff.

**APPROVED 7-1**, Councilmembers Owen, Choriki, and Tidswell absent/excused, Joy opposed.

c. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Annexation 23-06: a parcel located north of King Avenue West, west of Saint Mary Way and east of South 44th Street West. Staff recommends approval.

No presentation was given, but staff was available for questions.

No public testimony was given.

Moved by Councilmember Boyett  
Seconded by Councilmember Rupsis  
**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

Recess at 7:31 P.M. Reconvene at 7:46 P.M.

Councilmember Shaw left the meeting and later appeared via Zoom until 9:00 P.M.

6. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1031**: Text Amendments - Phase II - Action Options for Zoning Commission and City Council; Open Space in NX districts and PND; Rebuild of Residential in Commercial and Mixed Use; Stepbacks for structures in NX2/NX3. Zoning Commission recommends approval on all amendments, with the exception of the amendments for step-backs for structures, in which the Zoning Commission recommends denial.

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation and suggested Council consider each text amendment separately and vote on each separately. She reviewed the proposed changes to the zoning code, BMCC, Sec. 27-1623. - Special Reviews and Sec. 27-1628 – Zone Changes – Action Options for Zoning Commission and City Council.

Council and staff discussed the rarity of an occasion on which this section of the code would be needed and possible scenarios. Councilmember Neese was concerned about the requirement for a simple majority vote. Councilmember Purinton supported a 2/3 majority vote and inquired about when it was appropriate to return a special review to the Zoning Commission.

Discussions continued about changes to state law that affected local law. Monica Plecker, Planning Manager, advised Council that returning/referring a special review to the Zoning Commission could only be done if relevant, new information was learned and specifically identified. It could not be returned/referred to the Zoning Commission simply because Council did not like something.

Councilmember Gulick supported requiring a vote greater than a simple majority and offered a 60% majority vote.

The following individual provided public testimony:

- **Doug Wilde, 4712 Audubon Way, Billings, Montana**, representing the Home Builders Association, supported Councilmembers Neese and Gulick's recommendation for something greater than a simple majority vote to return a special review to the Zoning Commission. He voiced concern about delaying projects but understood the parameters for returning special reviews to the Zoning Commission would be an exception.

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 text amendments to Sec. 27-1623 and Sec. 27-1628 - Special Reviews and Zone Changes (respectively) – Action Options for Zoning Commission and City Council, as recommended by the Zoning Commission.

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**Motion to Amend:** I move to add to Sec. 23-1623( e)(2)( c)(6), special reviews, and Sec. 23-1628, zone changes, that they may be referred to the Zoning Commission only once and require a 60% majority vote of Council present.

Moved by Councilmember Gulick  
Seconded by Councilmember Neese

Councilmember Joy expressed the difficulties for making the referral and causing unnecessary delays.

A vote on the Motion to Amend was taken.

**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

**Amended Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance text amendments to Sec. 27-1623 and Sec. 27-1628 - Special review uses and Zone Changes (respectively) – Action Options for Zoning Commission and City Council, adding to Sec. 23-1623.E.2(c)(6), special reviews, and Sec. 23-1628, zone changes, that they may be referred to the Zoning Commission only once and required a 60% majority vote of Council present.

**APPROVED 8-0**, Councilmembers Owen, Choriki, and Tidswell absent/excused.

Nicole Cromwell, Zoning Coordinator, continued to review the changes to the next zoning code sections, BMCC, Sec. 27-307 - NX1 district; Sec. 27-308 - NX2 and NX3 district; and Sec. 27-800 – Open Space. She indicated the Zoning Commission recommended approval of the proposed amendments to BMCC Sections 27-300 and 27-800. She noted that the current language in those sections was vague and could be interpreted in many different ways, so it was necessary to revise these sections for clarity. She noted amendments to Sec. 27-307.D.5 and Sec. 27.308.D.5 – NX1, NX2 and NX3 and spoke about concerns around “a green”; a parklet; and linear parks with trails and bike paths and connectivity. She continued explaining the amendments to Sec. 27-802 and 27-804, i.e., establish a minimum area required for each PND development of 5% of the net area and better descriptions of the intent of each open space type.

Councilmember Rupsis raised concerns about determining open space and gave examples where recreation areas were nearby, but questioned whether they met the criteria for open space. Ms. Cromwell explained the different requirements for the different developments and their coinciding zoning, i.e., Planned Development vs. NX1, NX2 or NX3. Discussions continued between Council and staff concerning definitions of open space and the different parks.

Councilmember Neese suggested the matter be delayed and sent to a committee to re-work the sections. Monica Plecker, Planning Manager, asked Council to provide direction on what they wanted reworked. Ms. Cromwell, Zoning Coordinator, suggested that removal of exemptions may be helpful. Council and staff continued to debate the options for more clarity.

The following individuals provided public testimony:

- **Doug Wilde, 4712 Audubon Way, Billings, Montana, representing the Home Builders Association**, made a point that it was private development that installed parks within developments and therefore those were private parks, not public. He did not agree with requiring private development to connect private open spaces or parks to adjacent public trails, etc. He offered suggestions and supported the exemptions.
- **John Halverson, Sanderson Stewart, 1300 Transtech Way, Billings, Montana**, noted there was confusion about the amendments. He supported delaying a Council decision to allow for more refinement to the amendments.

No further public testimony was given.

Monica Plecker, Planning Manager, offered suggestions as to how Council could recommend changes to the amendments and staff could have those ready in time for the second reading and passage.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance text amendments to Sec. 27-307 - NX1 district; Sec. 27-308 - NX2 and NX3 district; and Sec. 27-800 – Open Space, as recommended by the Zoning Commission.

Moved by Councilmember Joy  
Seconded by Councilmember Gulick

Councilmember Purinton noted 3 Councilmembers were absent and it would be good to have their input before going to second reading. She wished to delay approval.

**Substitute Motion:** I move to delay approval of First Reading Ordinance text amendments to Sec. 27-307 - NX1 district; Sec. 27-308 - NX2 and NX3 district; and Sec. 27-800 – Open Space, and direct staff to further define Open Space, refine exemptions, internal trails, and reconsider dictating private space requirements to connecting to public spaces.

Moved by Councilmember Purinton

Councilmember Neese called Point of Order, indicating the motion was confusing and likely would not receive a second.

Mayor Cole called for a second and none was given. Councilmember Purinton's Substitute Motion failed for lack of a second.

**Substitute Motion:** I move to delay approve of First Reading Ordinance text amendments to Sec. 27-307 - NX1 district; Sec. 27-308 - NX2 and NX3 district; and Sec. 27-800 – Open Space, and refer the topic to the Council Operations Subcommittee to review all of the suggestions made and bring back to Council at future meeting.

Moved by Councilmember Neese  
Seconded by Councilmember Boyett

Mayor Cole spoke against the Substitute Motion, indicating it was beyond the purview of the subcommittee.

Councilmember Joy would not support the Substitute Motion, indicating it would eliminate public participation.

Councilmember Shaw was noted as leaving the Zoom meeting and declared absent/excused by the Mayor at approximately 9:00 P.M.

A vote on Councilmember Neese's Substitute Motion was taken.

**FAILED 2-5**, Councilmembers Owen, Choriki, Tidswell, and Shaw absent/excused, Councilmembers Gulick, Joy, Purinton, Rupsis and Mayor Cole opposed.

Councilmember Boyett supported delaying the item to provide an opportunity for absent Councilmembers to give input on an important subject.

**Substitution Motion:** I move to delay approve of First Reading Ordinance text amendments to Sec. 27-307 - NX1 district; Sec. 27-308 - NX2 and NX3 district; and Sec. 27-800 – Open Space, and place it on a Work Session agenda for further discussion.

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

Councilmember Joy voiced opposition, indicating the work had already been done and she respected the Zoning Commission's recommendations. Further, the items of concern could be resolved before second reading and therefore no delay was needed.

Mayor Cole supported the Substitute Motion and expressed items he wished to be refined, i.e., making certain proportionate requirements to developments over 3 acres; removal of discretionary language concerning linear parks and defining developers' options to develop a linear park for more than just to fill gaps and remove any reference to open space because it was unclear and lastly, providing credit exemptions.

Councilmember Neese agreed with the Mayor's statement of issues to be reviewed during a Work Session. He argued that developers needed to provide connectivity from one neighborhood to another.

Councilmember Rupsis spoke to the difference between a linear park versus a multi-use trail widening.

**APPROVED 6-1**, Councilmembers Owen, Choriki, Tidswell, and Shaw absent/excused, Councilmember Joy opposed.

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation concerning Sec. 27-1504.C(3)(a).2 – Reconstruction of Residential Structures in Commercial and Mixed-Use Zone Districts. She clarified that the zoning tracked with the property, not with the ownership. The amendments addressed situations wherein fires or natural disasters destroyed an existing residence in these zone districts. The code amendments would allow the residence to be rebuilt, even though the zoning was wrong for that type of structure within that zone district.

The following individual provided public testimony:

- **Doug Wilde, 4712 Audubon Way, Billings, Montana**, representing the Home Builders Association, stated land values in commercial zones were higher and he did not believe anyone would rebuild a residence in those zones.

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 text amendments to Sec. 27-1504.C(3)(a).2 – Reconstruction of Residential Structures in Commercial and Mixed-Use Zone Districts, as recommended by the Zoning Commission.

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 7-0**, Councilmembers Owen, Choriki, Tidswell, and Shaw absent/excused.

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation concerning Sec. 27-308. NX2 and NX3 district. Related to Step-backs for structures in NX2/NX3 zone districts. She explained the Zoning Commission's concerns with the proposed amendments. The Zoning Commission had directed staff to offer instances where step-backs were an issue. Staff acknowledged there were very few circumstances where step-backs had been an issue. If the amendments were adopted, it could devalue properties and only a single-story house could be built because the lot width was only 50 feet in an NX3 zone. She explained the Zoning Commission was concerned about single story structures in an NX district located near an N district that allowed 3 story structures. She gave some examples of existing housing where that situation existed but the Zoning Commission did not view the amendments as necessary. She added that when step-backs were increased, buildable space was decreased, thereby devaluing the property. The Zoning Commission recommended denial of the proposed amendments.

Councilmember Rupsis inquired about landscape buffering between the multi-story complexes and single-family homes. Ms. Cromwell explained that landscaping plans were reviewed and approved during master site plan phases. She reviewed the rear property line and side property line step-back amendments.

Councilmember Neese entertained the idea of leaving the setback at 20 feet for the first two floors but requiring that levels above that be "stepped back" to a 50 feet setback. Ms. Cromwell responded that while those were possible, they were also very expensive, and developers would not wish to build that way.

Councilmember Purinton added her support with the Zoning Commission's recommendation because the amendments defeated the purpose of in-fill.

The following individual provided public testimony:

- **John Halverson, 239 Avenue F, Billings, Montana**, opposed the increased step-back from 20 feet to 50 feet, noting it was severe and arbitrary. The requirement would impede development and make in-fill impossible. He stated it was discriminatory and provided examples.

No further public testimony was given.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to deny First Reading Ordinance text amendments to Sec. 27-308. NX2 and NX3 district. Related to Step-backs for structures in NX2/NX3 zone districts, as recommended by the Zoning Commission.

Moved by Councilmember Joy  
Seconded by Councilmember Purinton

Councilmembers Neese and Rupsis gave examples of existing problems between developments with taller buildings next to developments with shorter buildings. The affect was to deny residents light, air and privacy. Councilmember Rupsis disagreed that some modification would destroy the housing market and its development.

**APPROVED 5-2,** Councilmembers Owen, Choriki, Tidswell, and Shaw absent/excused, Boyett and Neese 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.)*

No public comment was given.

**COUNCIL INITIATIVES:**

There were no Council initiatives.

**ADJOURN:** 10:07 P.M.



CITY OF BILLINGS

BY: William A Cole  
William A. Cole, Mayor

ATTEST:

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