

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
August 28, 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 Owen

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 – arrived at 5:40 P.M.
Councilmember Mike Boyett, Ward V
Councilmember Tom Rupsis, Ward V
Mayor William Cole

Staff

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

MINUTES:

- June 26, 2023
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Purinton Absent/Late

- July 24, 2023 – Pending
- August 14, 2023
 Moved by Councilmember Boyett
 Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Purinton Absent/Late

COURTESIES:

- Councilmember Owen recognized and introduced Alexander Clark who was leading an effort called (School Lunches and Assistance Year-round) SLAY Montana, raising over \$13K to reduce and retire past school lunch debts. He was working with the Superintendent of Schools to erase future school lunch debt as well. He was working toward addressing the nutritional needs and reducing food insecurity in the schools as well. Those wishing to contribute could contact the Billings Education Foundation to make arrangements.
- Councilmember Owen recognized and introduced Justin Hutchinson for his efforts to provide the City's children books of their own to take to their homes every month. Mr. Hutchinson explained the importance of having books in the home to increase literacy, graduation rates, etc. He explained how fundraising and the program worked and that currently 14 grade schools were receiving new books for every child every month. Donations could be made through the "Big J Show Cares".

PROCLAMATIONS:

- Mayor Cole proclaimed September 9-15 as Drug Abuse and Violence Prevention Week.

COUNCIL REPORTS:

- There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski reminded Council that the following Monday was Labor Day and therefore the meeting would be held on Tuesday, September 5th.
- Mr. Kukulski noted there was 1 ex-parte communication from Mehmet Casey, Development Director for Downtown Billings Alliance, in which he was responding to Steve Arveschoug's email, sent to Mayor and Council after 3 pm concerning Regular Agenda Item 3, Land Use Contrary to Zoning, on the agenda.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 4 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 provided public comment:

- **Kristi Drake, 2950 Walden Place, Billings, Montana**, supported Consent Agenda 1D and noted that Billings TrailNet a grant for 2 bike repair stands for the Skyline Trail and asked that those be installed at Zimmerman Park and the Skyline Trail during construction.

There were no further speakers.

Mayor Cole inquired of Debi Meling, Public Works Director, whether any action needed to be taken at this time to ensure that the installation of the bike repair stands was included during construction. Ms. Meling responded it was not necessary at this time but would be brought to the Council's attention further into the project.

1. **CONSENT AGENDA** -- Separations: 1E, 1I

Councilmember Owen separated Consent Agenda Item 1E to be recorded in opposition to its approval.

Councilmember Boyett separated Consent Agenda Item 1I for discussion.

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

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

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

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Brian Roush	Board of Adjustments*	08/28/23	12/31/25
2	No Applications	Community Development - Low Mod*	08/28/23	12/31/26
3	Kevin Holland	Citizen Police Advisory Board*	08/28/23	12/31/25
4	Jennifer Duray	County Water District of Billings Heights - Non Voting	09/04/23	09/04/27
5	Jeff Essmann	County Water District of Billings Heights - Voting	09/04/23	09/04/27
6	Erin Robbins	Energy & Conservation Commission	09/10/23	12/31/25
7	Glenn Foy	Energy & Conservation Commission	09/10/23	12/31/25
8	Jordan McNaught	Energy & Conservation Commission	09/10/23	12/31/25
9	Karen Stears	Energy & Conservation Commission	09/10/23	12/31/25
10	Neil Kiner	Energy & Conservation Commission	09/10/23	12/31/25
11	Randy Hafer	Energy & Conservation Commission	09/10/23	12/31/25

12	Tim Erickson	Energy & Conservation Commission	09/10/23	12/31/25
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- *1 Unexpired term of David Mitchell
- *2 Unexpired term of April Veach
- *3 Unexpired term of Sheri Herman

Councilmember Joy expressed her concern about Jeff Essman's appointment to the County Water District of Billings Heights because Mr. Essman's business was to resell Billings' water for a profit. In her opinion he would not represent the best interests of the citizens of Billings.

Mayor Cole stated he did not see any conflict as Mr. Essman sold water from the Briarwood area and did not purchase water from the County Water District of Billings Heights.

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

B. Bid Award:

1. **11 City Vehicles.** (Opened 8/1/23) Recommend Schedule 1 - Fremont Motors; Schedules 2, 3, 4 and 5 - Laurel Chevrolet.

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

C. Change Order No. 1, Access Control System Installation with Communication Resources for Billings Fire Stations 1-8.

Councilmember Neese inquired of John Caterino, Facilities Superintendent, when it might be best to rebid a project rather than having such extensive change orders. Mr. Caterino responded that it could be rebid, but that would delay things. He added that the 911 center was added after the bid opening and caused the large significant change order. He explained that the timing was good as there had been an incident at the 911 center that affected the access control system and it needed to be remedied immediately.

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

D. Change Order Nos. 2 and 3, to BUILD Grant for Schedule 2: W.O. 21-38: Skyline Trail with Weave Construction.

Councilmember Neese asked why so many change orders for the Skyline Trail and not the Innerbelt Loop. Debi Meling, Public Works Director, had proposed setting aside \$2 million in change orders for the Innerbelt Loop due to rock

removal, etc. and proposed \$500,000 to the Skyline Trail for additional amenities and that was what these change orders would accomplish. It would not include an underpass under the Highway, however.

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

E. **Amendment No. 1**, with Sanderson Stewart for W.O. 23-09: 5th Avenue Corridor Contract.

Motion: I move to approve Consent Agenda 1E.

Moved by Councilmember Joy
Seconded by Councilmember Shaw

Councilmember Boyett stated his opposition as the project appeared to lead to nowhere and would not connect the downtown area with the MetraPark area.

Councilmember Owen agreed with Councilmember Boyett and voiced concerns the area would become blighted if not done well.

Councilmember Gulick supported the motion, adding Rome was not built in day and Billings needed to start somewhere while the opportunity existed and continue planning into the future.

Councilmember Joy noted the benefits to having an Urban Renewal District that could pay for and develop things like this.

Councilmember Neese was concerned that Billings was not ready for the project yet and asked why it could not wait another 5 or 10 years.

Wyeth Friday, Planning Director, responded that a feasibility study was completed, and it indicated it would be feasible to do the project. He mentioned all the stakeholders along the corridor who participated in the study. The design process needed to be in place before funding or grant opportunities can be realized and the amendment was to extend the study further east into the EBURD to 13th Street.

Councilmember Purinton stated the EBURD Board was not supportive of the project and the Board was surprised it was in the CIP. She would vote in opposition.

Wyeth Friday responded that the EBURD had been kept in the loop and were stakeholders involved in the study and it was news to him that their Board was not supportive.

Councilmember Shaw confirmed with Michelle Harkins, EBURD Director, that the Board had voted in favor through 80% of the design.

A hand vote was taken.

APPROVED 8-3, Councilmembers Owen, Purinton and Boyett opposed.

- F. **Contract** with Dick Anderson Construction, Inc. for General Contractor / Construction Manager (GC/CM) preconstruction services for W.O. 19-42: West End Water Treatment Plant Project.

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

- G. **Purchase** of 2 Automated Side-Load Collection Trucks for the Solid Waste Division from SWS Equipment, LLC.

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

- H. **Commercial Aviation Ground Lease** with Edwards Jet Center Montana, Inc.

Councilmember Neese stated the lease amount appeared low. Jeff Roach, Aviation and Transit Director, explained the rate structure for fixed based operators and that the increase was based off the Consumer Price Index (CPI) making it toward the high end for Montana airports. Discussions continued about placing bids on developable lands in the future.

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

- I. **Downtown Revolving Loan to Sturm & Drake Development, LLC.**

Councilmember Boyett asked for specifics about what the money would be used for and how the loan would be paid. Andy Zoeller, Finance Director, explained the money was used for the remodeling of upstairs apartments, that a TIF increment had been granted and the loan would be repaid through rent monies collected. Councilmember Boyett asked that in future staff memos that information be included.

Councilmember Neese expressed concern about the City's lending rate at 5.25% and the national commercial lending rate was at 7%. Mr. Zoeller explained there was a sizeable loan with Western Security Bank and the City would be second behind that loan. Rates were set per Board policy in October, prime plus 1%, and took effect in January. Councilmember Neese asked whether the additional loan was anticipated at the time of the TIF loan to which Mr. Zoeller stated he did not know.

Matt Robertson, 3531 Timberland Drive, Billings, Montana, developer, stated the remodel had some surprises including a failing sidewalk that took the majority of the funds to replace.

Motion: I move to approve Consent Agenda 11.

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

J. Cancellation of Checks and Warrants.

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

K. Final Minor Plat of Elysian Subdivision. *Quasi-Judicial

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

L. Final Minor Plat of Miller Crossing Subdivision, 4th Filing. *Quasi-Judicial

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

M. Bond Resolution 23-11147 for Pooled Series 2023 Special Improvement Bonds.

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

N. Bills for the Weeks of:

1. July 24, 2023

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

2. July 31, 2023

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

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1033: to allow an update to the Planned Development document for the St. Vincent's Healthcare Subdivision at the intersection of King Ave. West and Shiloh Road. Zoning Commission recommends approval and adoption of the 10 review criteria. *Quasi-Judicial

Nicole Cromwell, Zoning Coordinator, provided a PowerPoint presentation and explained that the Planned Development had been in existence for the past couple of years, but due to rapid development in the area and the added partnership between St. Vincent's Healthcare and Intermountain Health, there was a need to update the document. She reviewed the current zoning and stated that several of the zones identified in the document were no longer available and it was time to make revisions to that information. She explained the plans for development of a medical campus. She confirmed that any buildings on properties existing, would not be affected by the updates and they would not be considered nonconforming.

The following individuals gave public testimony:

- **John Halverson, Planner with Sanderson, Stewart, 1300 Transtech Way, Billings, Montana**, agent, spoke in favor of the update to the Planned Development document. He compared the current plan with the updated plan and mentioned the Shiloh Corridor overlay would be removed as it no longer existed.

Council discussed with Mr. Halverson signage changes and re-establishment of easements.

Mayor Cole stressed the importance of pedestrian and vehicular access and connectivity between the 2 housing developments located near St. Vincent's development.

There was no further public testimony.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1033, as recommended by the Zoning Commission.

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

3. PUBLIC HEARING concerning land use contrary to zoning, concerning new County surface parking lot located at 2550 3rd Ave. N., Billings, Montana.

Nicole Cromwell, Zoning Coordinator, provided a PowerPoint presentation and explained that land located within a Central Business District zone were required to hold a public hearing and special review process before City Council. Surface parking areas could have an affect on adjacent business properties. Montana law, Section 76-2-402, MCA, provided for a public hearing before Council to receive public comment. The Board of Adjustments' power was rescinded, and the power now laid with the local jurisdictions to provide and gather public comment. She explained the County's plans for the property. Ms. Cromwell added that the purpose of the public hearing was to gather comment on the proposed use

contrary to zoning; Council could provide comment to the County; and Council could not approve, deny or attach conditions.

Council and staff discussed public infrastructure and easements along the vacated portion of N. 26th Street. Also discussed were demands for parking; parking islands within the parking lots; and landscaping and snow removal challenges.

The following individuals gave public testimony:

- **Greg Reid, WWC Engineering, 550 Sout 24th Street West, Suite 201, Billings, Montana, agent**, spoke about the challenges of parking islands and snow removal. He mentioned trees would be added later in the spring and reviewed access points.

Councilmember Purinton asked if a high-rise building on the site was restrictive due to the close proximity of the Federal Courthouse. Mr. Reid responded it was a small lot and it would be complicated to build anything of significance. He was unaware of any prohibitions to building next to the Federal Courthouse.

Council discussed public access versus employee parking and law enforcement.

- **John Ostlund, Chairman, Yellowstone County Commissioner**, explained that the County and City were experiencing growing pains and recent changes were making it necessary to provide additional parking. He stated the Stillwater Parking Garage was not an option for purchasing as it was overpriced.

Council discussed free parking spaces versus metered parking spaces in which there will be both available.

There was no further public testimony.

Councilmember Gulick stated surface parking lots were not the best use of land and encouraged property owners to look toward better uses. He appreciated that trees would be planted.

Councilmember Owen noted that people doing business at the Courthouse generally were not having a good day and she supported adding free parking.

Councilmember Shaw agreed with Councilmember Gulick's comments and added with a 3 or 4 story parking garage across from this property it did not make sense that a surface parking lot was necessary, despite the private owner's parking rates.

Councilmember Boyett noted the tremendous amount of people that utilized the courthouse for a quick 10-minute visit and the turnover of the parking spaces. He acknowledged that the privately owned parking garage was too expensive. He supported the land use.

Councilmember Rupsis voiced his disappointment of the land use in a high value district, it would not serve the taxpayers well.

Councilmember Purinton voiced her support.

No action was required or taken by Council.

Recess called at 7:17 P.M. Reconvened at 7:25 P.M.

4. RESOLUTION 23-11148 approving and adopting parks, trails, and recreation project management.

Gina Dahl, City Attorney, noted there were a couple of changes to the resolution since the agenda packet was disbursed and those changes were identified by Councilmember Rupsis. They were: 1) Section 2, paragraph 11, inserted a sentence that was omitted, "the TBID will seek to increase the TBID assessment to cover this cost." And 2) an additional edit to Section 4, paragraph 2(d)4(a) wherein the incorrect study was named and it should read ". . . 2023 Victus Advisors Sponsorship and Naming Rights Analysis for the Proposed Billings Sports and Recreation Center . . ."

Ms. Dahl explained that the resolution would memorialize the Council's intention for the Park's Bond monies if it is successfully approved by the voters. It was a policy and it could be changed by Council at any time in the future, but it was intended to direct this Council as well as future Councils concerning project management of the funds from the Parks bond.

Motion: I moved to adopt a resolution approving and adopting parks, trails, and recreation project management, as recommended and clarified by staff.

Moved by Councilmember Rupsis
Seconded by Councilmember Shaw

Councilmember Rupsis thanked staff and Council for their work on the resolution.

Councilmember Shaw commented on the level of transparency provided to the public.

Councilmember Purinton noted her suggested revisions for Section 1, 7 and 7b "Councilmembers" should be one word. She received clarification that paragraph 5 regarding donations received or pledged was not to be removed. Under Section 4, Recreation Center Management, paragraph (d)(4)(b) where it indicated in the packet material "Since residents are already paying for a large portion . . ." the word "large" was to be replaced with the word "majority".

Councilmember Neese clarified that resolutions were not laws, they were policies.

Councilmember Owen thanked Councilmember Rupsis for all his work toward the resolution, but stated her disappointment as the resolution did not reflect what she and other Councilmembers had discussed. She supported having more public committees and engagement, not fewer.

Councilmember Neese called the question, seconded by Councilmember Purinton.
APPROVED 10-1, Councilmember Joy opposed.

A vote was taken on the motion.

APPROVED 7-4, Councilmembers Neese, Owen, Tidswell and Purinton opposed.

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required. *(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)*

There were no speakers.

COUNCIL INITIATIVES:

Motion: I move to direct staff to bring forward to a future Work Session the review of the Billings City Council Subcommittee Structure, i.e., Budget and Finance, Legislature, Local Government, and Operations.

Moved by Councilmember Choriki
Seconded by Councilmember Shaw

Council discussed the importance of the subcommittees and the work they had done, but that some adjustments were needed to make the subcommittees more efficient and effective, and it might be best to determine those adjustments prior to the new Councilmembers arrival in January.

Mayor Cole spoke against the initiative because it was not noted on the agenda and he wished for that change.

APPROVED 8-3, Councilmembers Neese, Purinton and Mayor Cole opposed.

ADJOURN: 7:57 P.M.



CITY OF BILLINGS

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

ATTEST:

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