

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
September 11, 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 Joy

ROLL CALL:

Present: Councilmember Kendra Shaw, Ward I – left at 7:43 P.M.
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
Gina Dahl, City Attorney
Toni Keehner, Deputy City Clerk
Brenda Beckett, Community Development Manager
Jennifer Duray, Deputy Public Works Director
Debi Meling, Public Works Director
Andy Zoeller, Finance Director
Tina Hoeger, Code Enforcement Manager

MINUTES:

- July 24, 2023 - Pending
- August 28, 2023 - Pending

COURTESIES:

- Mayor Cole recognized September 12, 2023, as National Policewomen's Day.

PROCLAMATIONS:

- Mayor Cole proclaimed September 14, 2023, as "A Day to Rally for our Community" for United Way. Kim Lewis, United Way Executive Director, thanked the community for their support.
- Mayor Cole proclaimed September as National Recovery Month. Terri Todd, Gratitude in Action Co-Founder; Gary Parkins, Yellowstone Advisory Council Vice Chair; Chyrel Garding, Rimrock Foundation Chief Medical Physician; and Clyde Davis, Rimrock Foundation Rehabilitation Tech spoke in support.
- Mayor Cole proclaimed September 17, 2023, as "Suicide Prevention Day". Joan Meyer-Nye, American Foundation for Suicide Prevention Chair, spoke of suicide prevention and the upcoming "Yellowstone Valley Out of the Darkness Walk".

COUNCIL REPORTS:

- There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Informed Council Regular Agenda Items 7a, b, c, d, e and 10 needed to be removed from the agenda due to publication issues.
- There were no ex-parte items sent to Mayor and Council after 3 pm concerning items on the agenda.
- Spoke of upcoming Billings Mustangs playoff games and encouraged attendance.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 11a and 11b ONLY. Speaker sign-in required. (Comments are limited to three (3) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium. Comments on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For items not on this agenda, public comment will be taken at the end of the agenda.)

The following individuals spoke in favor of Regular Agenda Item 11b, Recommendation for Public Arts Projects:

- **John Kennedy, Billings Arts Association, 2823 Providence Place, Billings, Montana.**
- **Vincent Long, 2619 Woody Drive, Billings, Montana.**
- **Rebecca Noell, 1109 Lewis Avenue, Billings, Montana.**
- **Jerry Worley, 415 Avenue D, Billings, Montana.**
- **John Halvorson, 239 Avenue F, Billings, Montana.**
- **Terri Todd, 135 Monarch Street, Billings, Montana.**
- **Gary Parkins, no address given, Billings, Montana.**
- **Catherine Card, 2815 4th Avenue South, Billings, Montana.**

- **Christine Leininger, 3560 King Avenue East, Billings, Montana**, supported public art but encouraged privately funded art projects.
- **Gerry Kessler, 237 Avenue B, Billings, Montana**, spoke of support for public arts but did not think the “bright pink “sculpture proposed for Pioneer Park fit with the neighborhood.

There were no further speakers.

SPECIAL PRESENTATION: Greg Burns and Jim Davenport, Thorn Run Partners, Federal Government Advocates gave an overview of topics affecting the City.

Motion: I move to remove Regular Agenda Items 7a, b, c, d, e and 10 from the agenda, as recommended by staff.

Moved by Councilmember Neese
 Seconded by Councilmember Purinton

APPROVED 11-0

Motion: I move to move Regular Agenda Items 11a and b to be heard immediately after the Consent Agenda.

Moved by Councilmember Shaw
 Seconded by Councilmember Owen
APPROVED 10-1, Councilmember Neese opposed

1. CONSENT AGENDA

Councilmember Neese separated Consent Agenda Item 1A1 for discussion.

Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of 1A1.

Moved by Councilmember Boyett
 Seconded by Councilmember Tidswell

APPROVED 11-0

A. Bid Awards:

- 1. Cardboard Recycling.** (Opened 8/15/23) Recommend Earth First Aid.

Councilmember Neese spoke of issues with the cardboard recycling process and indicated he would not support Item 1A1.

Motion: I move to approve Item 1A1, as recommended by staff.

Moved by Councilmember Joy
 Seconded by Councilmember Shaw

Council discussed composting and the City’s costs and benefits of recycling.

Jennifer Duray indicated the City would not start composting until the composting facility was built next year. She explained the process and how the City would extend the life of the landfill.

Councilmember Owen discussed the language in the template contract and questioned the City's ability to cancel the contract if the terms were not met.

Gina Dahl, City Attorney, spoke of the City's standard termination clause.

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

B. Purchase of an irrigation pump station for Mountview Cemetery from Granite Peak Pump Service.

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

C. Professional Services Agreement for W.O. 24-01: Contract 3, Cedar Park Subdivision Water Main Replacement; Morrison-Maierle, Inc.

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

D. 2023 Justice Assistance Grant (JAG) Application, Memorandum of Understanding (MOU) with Yellowstone County, and award to the City of Billings Police Department.

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

E. Perpetual Right-of-Way Easements from Sisters of Charity of Leavenworth Health Services Corporation.

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

F. Exempt Plat Amended Yellowstone Meadows, Phase Three. *Quasi-Judicial

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

G. Second/Final Reading Ordinance 23-5851 for Zone Change 1033: St. Vincent's Healthcare Subdivision. *Quasi- Judicial

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

H. Bills for the Weeks of:

1. August 07, 2023

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

2. August 14, 2023

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

REGULAR AGENDA:

11. PUBLIC ARTS POLICY:

- a. RESOLUTION 23-11164** rescinding and repealing Resolution 04-18101, establishing a Public Arts Policy and Ad Hoc Committee. Staff recommends approval.

Chris Kukulski, City Administrator, spoke of concerns with the existing resolution and reasons to support the rescind and repeal request. He indicated the policy had been followed in one instance regarding a painting donated to the City in 2011, but other policies had been used in most instances.

Elyse Monat, Active Transportation Planner, gave an overview of the resolution rescinding and repealing Resolution 04-18101 and ways the resolution was difficult to follow. She reviewed the Ad Hoc Committee recommendations asking for Council approval for 6 projects.

Motion: I move to approve a resolution rescinding and repealing Resolution 04-18101, establishing a Public Arts Policy and Ad Hoc Committee, as recommended by staff.

Moved by Councilmember Shaw
Seconded by Councilmember Gulick

Gina Dahl, City Attorney, reviewed Resolution 04-18101 and explained several areas of the resolution that were unclear. She indicated the appointment and acceptance process written in the resolution was lengthy and recommended rescinding the policy and repealing the resolution.

Council discussed how the resolution had been overlooked, the potential of setting a precedence of approving art projects without a policy in place, and public input for a future policy.

Substitute Motion: I move to temporarily suspend the public arts policy stated in Resolution 04-18101, for the purpose of approving projects in Item 11b.

Moved by Councilmember Neese
Seconded by Councilmember Owen

Councilmember Rupsis and Gulick spoke against the substitute motion.

FAILED 2-9, Councilmembers Shaw, Gulick, Joy, Choriki, Tidswell, Purinton, Boyett, Rupsis and Mayor Cole opposed.

A vote on the initial motion was taken.

APPROVED 10-1, Councilmember Neese opposed.

b. **RECOMMENDATION** for Public Arts Projects. Staff, Ad Hoc Art Review Committee, Parks and Cemetery Board and Mobilize the Magic City Advisory Committee recommend approval.

Mayor Cole indicated he would recuse himself from Item 11b, due to his involvement in one of the recommended art donations.

Deputy Mayor Boyett presided over the meeting.

Elyse Monat, Active Transportation Planner, gave an overview of "Mobilize the MAGIC City" and indicated it was funded by National Endowment for the Arts. She reviewed the proposed art donations and various community engagement events and positive comments received.

Wyeth Friday, Planning Director, gave an overview of the Heritage Trail Project and Comanche Park basketball mural and discussions and community engagement involved in the projects. He reviewed the South Park pool mural in partnership with a Girl Scout Troop and sculptures donated by Mayor Cole at Skyline Trail.

Motion: I move to approve the Public Arts projects, as recommended by staff, Ad Hoc Art Review Committee, Parks and Cemetery Board and "Mobilize the Magic City" Advisory Committee.

Moved by Councilmember Shaw
Seconded by Councilmember Rupsis

Council discussed the artwork colors, CDBG funding and whether the street art sculptures would affect traffic visibility.

Mac Fogelson, City Engineer, indicated the sculptures had a transparency effect that would not create a traffic hazard.

Councilmember Neese spoke about private dollars being spent on public art and maintenance responsibilities if projects were damaged.

Mike Pigg, Parks and Recreation Director, indicated Parks had entered into agreements with artists in the past to repaint murals if damage occurred. He spoke of Parks' responsibility for sculptures but indicated there had not been any serious damage in the past.

APPROVED 10-1, Councilmember Neese opposed.

Recess at 7:37 P.M. Mayor Cole reconvened the meeting at 7:46 P.M. Councilmember Shaw was excused from the meeting.

2. **PUBLIC HEARING** to receive input on FY2022-2023 Draft Comprehensive Annual Performance Evaluation Report (CAPER) and Community Needs. No action necessary.

Brenda Beckett, Community Development Manager, gave an overview of the governing structure,

Community Development funding history, accomplishments, and goals for the upcoming year.

Council discussed the public restrooms located near City Hall, Continuum of Care, and addressing legislative concerns.

There was no public testimony. No action was necessary or taken.

3. PUBLIC HEARING and amendment to the FY2023-2024 Annual Action Plan. Staff and Community Development Board recommends approval.

Brenda Beckett, Community Development Manager, spoke of previous timeliness issues with HUD due to economic changes and additional federal awards. She reviewed required expenditures, current commitments, future program allocations and projects. She reviewed a map of potential parks projects and how Community Development Block Programs (CDBG) funding could be used for implementing Crime Prevention through Environmental Design (CPTED) principles.

There was no public testimony.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the amendment to the FY2023-2024 Annual Action Plan, as recommended by staff and Community Development Board.

Move by Councilmember Boyett
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Shaw absent/excused

4. PUBLIC HEARING AND RESOLUTION 23-11149 revising Encroachment Rental fees. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, gave an overview of the history of encroachment rental fees and the new two-tier structure that started in FY21. She reviewed the rental fees and annual assessment increases.

Council discussed rates for various properties and how retaining walls and fences affected those rates.

There was no public testimony.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution revising Encroachment Rental fees, as recommended by staff.

Moved by Councilmember Neese
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Shaw absent/excused

5. PUBLIC HEARING AND RESOLUTION 23-11150 setting Special Improvement Lighting Maintenance District (SILMD) assessments. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, gave an overview of the annual SILMD assessments and the amount of revenue that would be generated for FY24.

Councilmember Gulick asked for clarification on the process of converting to LED lighting. Ms. Duray indicated there currently was not a process in place that allowed the districts to convert to LED. She stated the City would need to create SIDs or redo the districts.

Council discussed possible standardization options for updating lights in the future.

There was no public testimony.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution setting Special Improvement Lighting Maintenance District (SILMD) assessments, as recommended by staff.

Moved by Councilmember Purinton

Seconded by Councilmember Joy

APPROVED 10-0, Councilmember Shaw absent/excused

6. **PUBLIC HEARING AND RESOLUTIONS** allocating assessments on the following:

a. **Sidewalk Construction and/or Repairs (Resolution 23-11151)**

b. **Delinquent Sewer and Solid Waste Services (Resolution 23-11152)**

Jennifer Duray, Public Works Deputy Director, gave an overview of the sidewalk hazard fund / assessment program. She reviewed the proposed minor sidewalk repairs and property owner payment options. She indicated the new funding mechanism allowed repairs to be completed quicker than before and would not require the sale of sidewalk bonds.

She gave an overview of the delinquent sewer and solid waste collection process. She reviewed the property owner notification and payment option processes and reviewed the new process being used to attempt to collect delinquent amounts.

Council discussed how “tripper” repairs were brought to the department’s attention. Ms. Duray indicated they were report driven and spoke of several ways the public could report sidewalks needing repair.

There was no public testimony.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution assessing Sidewalk Construction, as recommended by staff.

Moved by Councilmember Joy

Seconded by Councilmember Neese

APPROVED 10-0, Councilmember Shaw absent/excused

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution assessing Delinquent Sewer and Solid Waste Services, as recommended by staff.

Moved by Councilmember Neese

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Shaw absent/excused

~~7. **PUBLIC HEARING AND RESOLUTIONS** allocating assessments on the following:~~

~~a. **SID 1411**~~

~~b. **SID 1419**~~

~~c. **SID 1423**~~

d. ~~SID 2924~~

e. ~~SID 2925~~

8. **PUBLIC HEARING AND RESOLUTIONS** allocating assessments on the following:

a. **Nuisance Property Abatements (Resolution 23-11158)**

b. **Weed Abatements (Resolution 23-11152)**

Andy Zoeller, Finance Director, gave an overview of the nuisance property abatements and citation amounts. He also gave an overview of the weed assessments amounts.

Council asked for clarification on the assessments for the Birchwood property. Tina Hoeger, Code Enforcement Manager, indicated the department had worked with the property owner's daughter and she agreed with the assessments.

Councilmember Neese asked for clarification on the \$25 administrative fee included in the assessments. Mr. Zoeller indicated the amount had not been increased recently and it went into the General Fund to cover staff time. Councilmember Neese indicated his support to increase the amount in the future.

The following individual provided public testimony:

- **James Morehouse, 528 Judith Lane, Billings, Montana**, indicated Code Enforcement had not given advance notice before visiting his property. He spoke of issues with the nuisance property abatement process and his vehicles being impounded.

Ms. Hoeger spoke of the Code Enforcement notification process and indicated there had been several letters, phone calls and visits to the property. She explained the abatement process and how staff tried to keep costs down for property owners. She indicated the impounded vehicles in the Judith Lane case were available for the owner to recoup.

No further testimony was given.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution assessing Nuisance Property Abatements, as recommended by staff.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Shaw absent/excused

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution assessing Weed Abatements, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Shaw absent/excused

9. **PUBLIC HEARING AND RESOLUTIONS** setting annual levy/assessments on the following:

a. **General Fund, Transit, Library, Public Safety I, II, III, and General Obligation Debt (Resolution 23-11160)**

b. **Downtown Business Improvement District (Resolution 23-11161)**

c. Tourism Business Improvement District (Resolution 23-11162)

Andy Zoeller, Finance Director, gave an overview of the assessment amounts for Downtown Business Improvement District (DBID) and Tourism Business Improvement District (TBID).

He reviewed the recommended FY24 mills, estimated tax revenue and Charter cap for items in 9a. He discussed taxable value less increment value and indicated there had been a certified value increase of 22%. He reviewed property value by tax class and historical property tax bases of major tax classes and spoke of how the increase impacted homeowners.

Council discussed utility rebates, legislative responses to the valuation increase, and various options available to the City.

Chris Kukulski, City Administrator, spoke of property tax values and phasing options other cities had used.

There was no public testimony.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution setting annual levy/assessments on General Fund, Transit, Library, Public Safety I, II, III, and General Obligation Debt, as recommended by staff.

Moved by Councilmember Owen
Seconded by Councilmember Gulick

Councilmember Neese expressed disappointment in some items in the General Fund and Library.

APPROVED 8-2, Councilmembers Neese and Purinton opposed, Councilmember Shaw absent/excused

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution setting annual levy/assessments on Downtown Business Improvement District, as recommended by staff.

Moved by Councilmember Joy
Seconded by Councilmember Boyett
APPROVED 10-0, Councilmember Shaw absent/excused

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a resolution setting annual levy/assessments on Tourism Business Improvement District, as recommended by staff.

Moved by Councilmember Neese
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Shaw absent/excused

~~10. PUBLIC HEARING AND RESOLUTION assessing Park Maintenance Districts (PMDs). Staff recommends approval.~~

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 individual gave public comment:

- **Kathy Smith, Off the Streets**, Via Zoom, spoke of low barrier shelter needs and asked Council and the City for their support.

There were no further speakers.

COUNCIL INITIATIVES:

Councilmember Choriki moved to direct staff to schedule a presentation on a future Work Session agenda regarding The Hope Springs Project, seconded by Councilmember Joy.

Council discussed funding, estimated staff time needed to move forward, Council priorities and the high risk for the City to be reimbursed for the housing project.

FAILED 3-7, Councilmembers Gulick, Neese, Owen, Tidswell, Purinton, Boyett and Rupsis opposed, Councilmember Shaw absent/excused

ADJOURN: 9:55 P.M.



CITY OF BILLINGS

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

ATTEST:

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