

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
March 11, 2024**

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 Jennifer Owen, Ward II
Councilmember Denise Joy, Ward III
Councilmember Bill Kennedy, Ward III
Councilmember Scott Aspenlieder, Ward IV
Councilmember Daniel Tidswell, Ward IV
Councilmember Mike Boyett, Ward V
Councilmember Tom Rupsis, Ward V
Mayor William Cole

Absent/
Excused: Councilmember Roy Neese, Ward II

Staff
Present: Chris Kukulski, City Administrator
Kevin Iffland, Assistant City Administrator
Gina Dahl, City Attorney
Toni Keehner, Deputy City Clerk
Carly Collins, Grants Coordinator
Mike Pigg, Parks and Recreation Director
Jason Banfield, EMS Assistant Fire Chief
Andy Zoeller, Finance Director
Debi Meling, Public Works Director
Jennifer Duray, Deputy Public Works Director
John Caterino, Facilities Manager
Jessica Fust, Building Official

MINUTES:

- February 26, 2024

Moved by Councilmember Boyett
Seconded by Councilmember Shaw

APPROVED 10-0, Councilmember Neese absent/excused

COURTESIES:

Mayor Cole expressed condolences to Gina Dahl, City Attorney, on the recent passing of her mother.

Councilmember Joy spoke of the safety issues near Central Terry Park and meetings by the Central Terry Park Task Force, Representative Yakawich and the Police Department to address issues.

Councilmember Aspenlieder noted that both MSU-B Women's and Men's basketball teams making the Elite 8 of the West.

PROCLAMATIONS:

Mayor Cole proclaimed March 10-16, 2024, as AmeriCorps Week. Carly Collins, Grants Coordinator, welcomed the AmeriCorps members. The following members introduced themselves and spoke of their current roles: Daniel Sidle, VISTA Leader; Matthew Benowitz, Adaptive Performance Center; Ren Elias, Yellowstone Art Museum; Abigail Scherer, Continuum of Care; Inanna Hencke, City of Billings Parks and Recreation; Gillian Amend, (via Zoom) Mountain Health Gives. They posed for a photograph with Council.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski informed Council that Public Works staff and the Homeowners Association wished to continue the public hearing for Regular Agenda Item 2, rescinding Resolution 90-16317, Hogan Homestead, to allow more time to work with property owners. Council was requested to open the Public Hearing and continue it to the April 22, 2024 Council meeting.

Mr. Kukulski indicated there were no ex-parte communications sent to Mayor and Council after 3 pm.

Mr. Kukulski informed Council of the West End Water Treatment Groundbreaking on March 12, 2024 at 2 pm.

Mr. Kukulski spoke of the upcoming Council and Leadership Retreat on March 15 and 16.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 5 and 6 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 provided public comment:

- **Steve Simonson, National Association of Realtors**, encouraged Council to focus on obtainable work force housing during the upcoming retreat. He indicated the National

Association of Realtors and homebuilders had not been included in the proposed subdivision changes being brought forward at the April 15, 2024, Work Session and requested additional time for review.

- **Cheryl Davis, 1231 Claim Jumper, Billings, Montana**, in reference to Consent Agenda Item 1A1, read a letter from her husband regarding concerns with adding a sidewalk to Claim Jumper. The letter encouraged the sidewalk to be installed on the west side of the street for increased safety of the street.
- **Greg Kenyon, Claim Jumper resident, Billings, Montana**, in reference to Consent Agenda Item 1A1, spoke against the addition of a sidewalk on Claim Jumper.

There were no further speakers.

1. CONSENT AGENDA

Councilmember Aspenlieder separated Consent Agenda Items 1H, 1J and 1K2 to abstain as his employer was involved.

Councilmember Boyett separated Consent Agenda Items 1A1 and 1I for staff to provide further clarification in response to public comment.

Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of Items 1A1, 1H, 1I, 1J and 1K2.

Moved by Councilmember Joy

Seconded by Councilmember Tidswell

APPROVED 10-0, Councilmember Neese Absent/Excused

A. **Bid Awards:**

1. **W.O. 24-02: Missing Sidewalk Project.** (Opened 2/6/2024) Recommend Knife River for Schedules I and II.

Debi Meling, Public Works Director, showed Council a map of the area and spoke of the proposed sidewalk addition on the east side of Claim Jumper Lane. She explained most children would use the crossing at Babcock Boulevard and utilize a sidewalk on the north and east side. She spoke of boulevard-style sidewalks being safer, less congested and reasons why it was the current City standard. She indicated a speed study would occur and staff could add a traffic calming study if needed.

Councilmember Owen spoke of the lack of community engagement. Ms. Meling explained the Public Works policy for community engagement. She indicated staff reached out to property owners and received very little engagement in most projects. She spoke of public participation in the Safe Routes to School Program and how that program was included in the current project.

Moved by Councilmember Boyett

Seconded by Councilmember Rupsis

APPROVED 9-1, Councilmember Neese Absent/Excused, Councilmember Kennedy Opposed

2. **1709 Saint Johns Avenue, Housing Rehabilitation Project.** (Opened 2/20/2024)
Recommend rejecting all bids.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

- B. **Agreement** with United Diagnostic Services, LLC for Medical Evaluation/Diagnostic Consultant Services for Fire Department.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

- C. **Memorandum of Understanding** between the City Parks Department and Little League Baseball and Softball.

Councilmember Owen asked for clarification on Chirrick Field infrastructure issues. Mike Pigg, Parks and Recreation Director indicated the “dug out” at Chirrick Field had been created by parents and was not permitted by the City. He added it was not included in the MOU because it was not a City responsibility. Councilmember Owen asked that staff remain aware of Chirrick Field issues.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

- D. **Memorandum of Understanding** between the City Parks Department and Annafeld Homeowners Association.

Councilmember Rupsis indicated the Annafeld Homeowners Association was doing most of the maintenance of the Park Maintenance District (PMD) for Annafeld Subdivision and encouraged other HOA's to do the same.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

- E. **Recommendation of Approval** of the 2024-2028 Transportation Improvement Program to the Policy Coordinating Committee.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

- F. **Grant Application Submittal** for AmeriCorps VISTA Project.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

G. Acceptance of Inflation Reduction Act Urban and Community Forest Grant.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

H. Preliminary Minor Plat of Zimmerman Home Place Subdivision, 4th Filing. *Quasi-Judicial

Moved by Councilmember Joy
Seconded by Councilmember Boyett
APPROVED 9-0, Councilmember Neese Absent/Excused, Councilmember Aspenlieder
Abstained

I. Resolution 24-11187 ordering improvements for W.O. 24-02: Missing Sidewalk Program.

Moved by Councilmember Boyett
Seconded by Councilmember Rupsis
APPROVED 9-1, Councilmember Neese Absent/Excused, Councilmember Kennedy Opposed

J. Second/Final Reading Ordinance 24-5871 for Zone Change 1042, located at 655 W. Wicks Lane. *Quasi-Judicial

Moved by Councilmember Boyett
Seconded by Councilmember Joy
APPROVED 9-0, Councilmember Neese Absent/Excused, Councilmember Aspenlieder Abstained

K. Bills for the Weeks of:

1. February 5, 2024

Moved by Councilmember Joy
Seconded by Councilmember Tidswell
APPROVED 10-0, Councilmember Neese Absent/Excused

2. February 13, 2024

Moved by Councilmember Joy
Seconded by Councilmember Boyett
APPROVED 9-0, Councilmember Neese Absent/Excused, Councilmember Aspenlieder
Abstained

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION rescinding and repealing Resolution 90-16317, exempting property located within Hogan Homestead Subdivision. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, showed a map of Hogan Homestead Subdivision and reviewed the resolution from 1990 and the proposed changes included in the new resolution. She indicated the previous resolution stated: Hogan Homestead Subdivision does not discharge storm water into the City's storm sewer system; the subdivision had an internal storm drain system operated and maintained by and at the expense of property owners in the Homeowners Association (HOA); and the City incurred no annual costs. She indicated the City currently incurred costs because the

subdivision was using the City's storm sewer system. She indicated staff was requesting Council continue the public hearing until April 22, 2024, to allow additional time with the property owners and the HOA.

Council discussed the procedure for delaying the public hearing. Gina Dahl, City Attorney, recommended Council open the public hearing and state the public hearing would remain open until April 22, 2024.

Council asked for clarification on when the City started maintenance for the subdivision and if there were any similar situations. Ms. Duray indicated the City began maintenance sometime in the 1990's and staff had not found any other similar properties.

No public testimony was given during the public hearing and it remained open.

3. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC, Article 22-800, Storm Sewers. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, indicated moving storm fees from the annual property tax statement to the monthly utility bill would: increase transparency, increase billing efficiency, and decrease the reserves being kept in the storm fund reserves. She spoke of how the change would affect renters, disabled veterans, and not for profit entities. She reviewed the amendments in the proposed ordinance.

Councilmember Owen spoke of an email sent to staff by Councilmember Neese suggesting the following edits: Section 22-802 replicate language currently in the ordinance "...system, pursuant to policies adopted by City Council". Ms. Duray indicated she did not see any issues with the suggested language.

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 22-800, Storm Sewers, including the suggested edits, as recommended by staff.

Moved by Councilmember Shaw
Seconded by Councilmember Owen
APPROVED 10-0, Councilmember Neese Absent/Excused

4. PUBLIC HEARING FOR PURCHASE, SALE AND DEVELOPMENT AGREEMENT of City Hall, South Parking Lot, and North Parking Lot with Honaker Realty, LLC. Staff recommends approval.

Kevin Iffland, Assistant City Administrator, reviewed the timeline of the Purchase and Sales Agreement (PSA) and the people involved in the negotiation team. He indicated a minor edit needed in Section 11 of the PSA: 11(g) should have referenced 11(f). He asked Council to include that in their motion.

Matt Robertson, NAI Properties, spoke of the Request for Proposals (RFP) process and indicated confidence in pricing.

Council discussed the developer's ability to "walk away" or leave behind the older portion of City Hall. Mr. Iffland spoke of potential concerns with the "old" part of City Hall and how the PSA addressed possible issues. He indicated there would not be a discount for "walking away" from the old part of City Hall.

Staff transitioned to Regular Agenda #5 before voting on Regular Agenda Item 4 (motion and vote are noted below).

5. TAX INCREMENT FINANCING ASSISTANCE from Downtown Urban Renewal District to the Rockman Project for hotel project at intersection of North 27th Street and 2nd Avenue North, up to a maximum reimbursement of \$5,000,000, to be paid in 5 disbursements of \$1,000,000 each within 5 continuous fiscal years, as recommended by Downtown Billings Partnership (DBP) Board.

Mehmet Casey, Downtown Billings Partnership, gave an overview of the project by numbers, reviewed renderings of the proposed hotel and spoke of the project's merits. He indicated, after consulting appraisers, the developer and Montana Department of Revenue, DBP suggested a more conservative approach of 50% of project cost may be more appropriate for the development. He reviewed the DBP Board recommendations.

Andy Zoeller, Finance Director, gave an overview of the FY25 Downtown Tax Increment Financing (TIF) cash forecast, beginning cash balances, revenues, operating expenditures, and prior year development incentive awards. He indicated it was a very conservative approach and the numbers would change with an increase in tax base growth.

Council discussed how the expenditure could affect future TIF requests. Mr. Zoeller indicated it would vary based on type of project and timeline. He added that type of payments would need to be examined. He said "future development agreements could include a clause regarding priority of payments. Development agreements that had already been signed would take priority over future requests, including this one. If the City was faced with a situation of not having the financial capacity to pay out on all development agreements, future agreements would be paid in order of chronological agreement with the exception of bonds, which took priority over any development agreement."

Chris Kukulski, City Administrator, indicated Section 4.3 covered payment amounts as \$1 million per year over 5 years. He indicated the City had 100% determination, if the cash existed, to pay the grant over 4 years instead of 5 years, which would subtract \$400,000 from the grant. If the City did not have the revenue, because the estimates turned out to be higher, the agreement stated the grant award extended out to a longer period (not to exceed \$5 million).

Council asked how this TIF agreement could affect upcoming monies needed by the Babcock Theater. Kevin Iffland, Assistant City Administrator, indicated staff would be bringing information to Council at an upcoming Work Session regarding \$200,000 in repairs that were needed at the Babcock Theater.

Mr. Zoeller indicated the development agreement for the Rockman Project stated they had priority over any future development agreements. Mr. Kukulski indicated the issues at the Babcock Theater had been occurring for a while and staff would need to look at the budget and possible cuts or changes that could be made to make up the difference. He indicated the City also needed to see the upcoming Department of Revenue estimates.

Mayor Cole called a recess at 7:32 P.M. He reconvened the meeting at 7:42 P.M.

Bill Honaker, developer, introduced himself and explained his involvement in the community. He spoke of his visions for the project. He indicated the project had qualified for \$9 million in funding, but they had only requested \$5 million to allow access to other TIF projects. He added as soon as the increment their TIF project was creating became unencumbered, it would be available to others. He spoke of the positive impacts the project would have in the community and downtown.

Mayor Cole indicated the agreement described prior private contracts taking priority in funding over any future contracts but asked if Mr. Honaker understood the agreement to include terminology that would not prohibit the City from using TIF money for future government projects.

Mr. Honaker agreed indicating he had discussions with Mr. Kukulski to add language to allow future government projects to come first with the understanding and trust that it would not mean "suddenly there wasn't any money available" because of those projects.

Don Cape, developer, spoke of plans for the project and complimented Billings staff. He discussed their dedication to move forward with the purchase and redevelopment of the City Hall building.

Council discussed the timeline for development and plans for the existing City Hall.

No public testimony was given.

Motion on Regular Agenda Item 4: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the execution of a purchase, sale and development agreement with Honaker Realty LLC, with 11(g) reference in the PSA being changed to 11(f), as recommended by staff.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw

Mayor Cole noted for the record, in Section 11 (d) Time/Failure of Contingencies, both the buyer and seller would meet and negotiate in good faith to attempt to resolve any unsatisfied contingencies, but the City would not have any obligation to fix any unsatisfied contingencies.

APPROVED 10-0, Councilmember Neese Absent/Excused

Motion on Regular Agenda Item 5: I move to approve tax increment financing assistance from Downtown Urban Renewal District to the Rockman Project, up to a maximum reimbursement of \$5,000,000, to be paid in 5 disbursements of \$1,000,000 each within 5 continuous fiscal years, as recommended by DBP Board.

Moved by Councilmember Shaw
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Neese Absent/Excused

6. TAX INCREMENT FINANCING ASSISTANCE from the East Billings Urban Renewal District (EBURD) to Tailwind Management, LLC for remodel and redevelopment of property at 320 North 17th Street, up to a maximum reimbursement of \$137,086.47, as recommended by the Billings Industrial Revitalization District (BIRD) Board.

Michelle Harkins, Billings Industrial Revitalization District Director, gave an overview of the project, a timeline of the Tailwind management offices construction and the photos of the current site. She reviewed EBURD project drivers and the TIF fund breakdown for the project.

Motion: I move to conditionally approve tax increment financing assistance from the EBURD tax increment finance district funds to Tailwind Management, LLC, up to a maximum reimbursement of \$137,086.47, as recommended by the (BIRD) Board.

Moved by Councilmember Shaw
Seconded by Councilmember Gulick

Mayor Cole requested an overview on previously used return on investment numbers to see if the estimated return on investments were accurate. Ms. Harkins indicated she would meet with other districts to create an overview of those numbers.

APPROVED 10-0, Councilmember Neese Absent/Excused

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:

- **Catherine Card, 2815 4th Avenue South, Billings, Montana**, spoke about the City's responsibility to address homelessness.

There were no further speakers.

COUNCIL INITIATIVES:

There were no Council initiatives.

ADJOURN: 8:35 P.M.



CITY OF BILLINGS

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

ATTEST:

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