

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
March 25, 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 Joy

ROLL CALL:

Present: Councilmember Kendra Shaw, Ward I
Councilmember Ed Gulick, Ward I
Councilmember Roy Neese, Ward II - via Zoom
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 Jennifer Owen, Ward II

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
Jeff Roach, Aviation and Transit Director
Mike Pigg, Parks and Recreation Director
Nicole Cromwell, Zoning Coordinator
Hunter Kelly, Planner
Rich St. John, Police Chief

MINUTES:

- March 11, 2024

Moved by Councilmember Boyett
Seconded by Councilmember Tidswell

APPROVED 10-0

COURTESIES:

There were no courtesies.

PROCLAMATIONS:

Mayor Cole proclaimed April as Child Abuse Prevention Month. Councilmember Kennedy spoke about wearing blue every Monday during the month of April to raise awareness to the cause. He mentioned that blue pinwheels would be installed on the Courthouse lawn and at MetraPark on April 5th as part of the campaign, followed by Blue Sunday (faith-based initiative) on April 28th. On April 11th, Pinwheels for Prevention at the Family Tree Center would be held to recognize individuals in the community who have helped support the prevention of child abuse and neglect in the community.

Mayor Cole proclaimed April 6-12, 2024, as the Week of the Young Child.

Two unidentified women spoke about Family Fun Fair, an event focusing on the needs of young children and their families, being held at Eagle Seekers Community Center on April 13th from 10 AM-2 PM.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski indicated that staff recommended Regular Agenda Item 4c, Annexation Agreement with George Jurovich, be removed from the agenda and placed on the April 22, 2024, agenda via approved motion. He explained that the subject property had been sold since the agenda packet was published and additional changes to the annexation agreement were warranted.

Mr. Kukulski acknowledged there were no ex parte communications sent to the Mayor and Council after 3 pm concerning items on the agenda.

Motion: I move to remove Regular Agenda Item 4c from the agenda and place it on the April 22, 2024, Regular Business Meeting to allow more time for the new owner and City Engineering staff to work on details of the Annexation Agreement.

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

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 ONLY. Speakers 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

Mayor Cole acknowledged the individuals and agencies that gave generous donations to the City in items on the Consent Agenda.

Councilmember Aspenlieder separated Consent Agenda Items 1N for discussion, and 1Q1 and 1Q2 to abstain as his employer was a vendor that received payments.

Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of Items 1N, 1Q1 and 1Q2.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

A. Bid Awards:

1. **Airport's Cargo Ramp Slot 5 Project.** (Opened 3/5/24) Recommend Knife River.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

2. **W.O. 24-28: Water Treatment Plant Sediment Hauling.** (Opened 3/5/24)

Recommend Gairrett Excavation and Trucking, Inc.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

B. **Contract Renewal** for 1-year with Mimecast Email Protection Services.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

C. **Resolution 24-11191** approving lease purchase agreement with Montana Board of Investments to Finance the Construction and Improvements to the New City Hall.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

D. **Non-Commercial Aviation Ground Lease** with Agri Systems.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

E. **Amendment No. 5**, with Burns and McDonnell Engineering Company, Inc. (BMcD) for W.O. 19-42: West End Water Treatment Plant Project.

Councilmember Rupsis inquired whether the amendment was due to a change in the scope of work. Debi Meling, Public Works Director, responded there were 2 contracts – one for the general

contractor and one for the engineering firm. The general contractor contract had a guaranteed price and that amount would not change. This was the last piece of the engineering for construction and the project was on budget.

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

F. Purchase of residential refuse carts for Solid Waste Division from Sierra Container Group.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

G. Purchase commercial and roll-off containers for Solid Waste Division from WasteQuip Manufacturing Company, LLC.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

H. Phillips 66 Grant to the Fire Department for the setup of a second rescue apparatus.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

I. Plains Pipeline Grant to the Fire Department for Hazardous Materials Team enhancements.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

J. Donations from the Library Foundation to the Library to fund two book lockers in Yellowstone County.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

K. Donation from Addie Allen for Parks and Recreation's scholarship fund.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

L. Donation from Scheels for the Police Department K9 Operations.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

M. Donation from United States Tennis Association of Montana to Parks and Recreation Department for the Tennis is Elementary program.
Moved by Councilmember Boyett
Seconded by Councilmember Gulick
APPROVED 10-0, Councilmember Owen absent/excused

~~N. Preliminary Minor Plat for Skyview Ridge, 2nd Filing. Quasi-Judicial~~

Motion: I move to remove this item from the Consent Agenda and have it placed on the Regular Agenda between Items 5(d) and 6 below.

Moved by Councilmember Neese

Seconded by Councilmember Kennedy

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

O. Resolution of Intent 24-11188 to Create SID 1425 and set a public hearing for April 22, 2024.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

P. Second/Final Reading Ordinance 24-5872 amending Billings, Montana City Code (BMCC), Article 22-800, Storm Sewers.

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 10-0, Councilmember Owen absent/excused

Q. Bills for the Weeks of:

a. February 20, 2024

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

b. February 26, 2024

Moved by Councilmember Boyett

Seconded by Councilmember Gulick

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

REGULAR AGENDA:

2. PUBLIC HEARING allowing the City to submit a revised infrastructure grant application to the Montana Department of Commerce. Staff recommends approval.

Andy Zoeller, Finance Director, explained that Council had approved the submission of the grant for three projects, however, one of the projects was denied. Therefore, submitting a revised grant application was warranted for a storm water project.

No public testimony was given during the public hearing.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the submission of a revised infrastructure grant application to the Montana Department of Commerce, as recommended by staff.

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

3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1043:
generally located at 4190 South Frontage Road. Zoning Commission recommends approval and adoption of the 10 review criteria. *Quasi-Judicial

Nicole Cromwell, Zoning Coordinator, provided a brief presentation and explained the proposed zoning as Heavy Commercial, which was in keeping with adjacent zones. The Zoning Commission held their meeting and recommended approval and adoption of the 10 review criteria.

Due to technical difficulties, Councilmember Neese was unable to attend the presentation and vote via Zoom.

Councilmember Gulick clarified the Heavy Commercial Zoning Code.

No public testimony was given during the public hearing.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1043 and adopt the findings of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Shaw
Seconded by Councilmember Aspenlieder
APPROVED 9-0, Councilmember Neese absent due to technical difficulties; Councilmember Owen absent/excused

4. GEORGE JUROVICH PROPERTY - South of Grand Avenue and East of 80th Street West.

JOINT PUBLIC HEARING FOR ANNEXATION 24-01 AND ZONE CHANGE 1044:

a. RESOLUTION 24-11189 APPROVING ANNEXATION 24-01: A parcel generally located south of Grand Avenue and east of 80th Street West. Staff recommends conditional approval. *Quasi-Judicial

Hunter Kelly, Planner, provided a brief presentation outlining the area to be annexed, noting that all the properties surrounding the parcel were already annexed into the City. Mr. Kelly reviewed the Limits of Annexation map and noted the area met the 7 criteria.

Councilmember Aspenlieder expressed concern about annexation agreements being inconsistent and urged staff to create annexation agreements with universal language for all developers.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve a Resolution conditionally approving Annexation 24-01, as recommended by staff.

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

- b. **FIRST READING ORDINANCE FOR ZONE CHANGE 1044:** a 1-acre parcel located within and surrounded by the Buffalo Crossing Subdivision. Zoning Commission recommends approval and adoption of the 10 review criteria. ***Quasi-Judicial**

Nicole Cromwell, Zoning Coordinator, provided her presentation concerning the Zone Change for the same parcel of land. She reviewed the zoning map of the site and surrounding area. She noted that the undeveloped easement access road leading from Grand Avenue to the property would be eliminated and the only access would be through the Buffalo Crossing Subdivision. The zoning would change from Rural Residential 1 (RR1) to Mixed Residential 2 (NX2) which allowed 2 8-unit residential structures and home occupations. The Zoning Commission recommended approval and adoption of the 10 review criteria.

During the joint public hearing, the following individual spoke in favor of the annexation and zone change:

- **Greg Reid, WWC Engineering, Agent, Billings, Montana,** noted the subject property was a county island surrounded by properties within the City limits. He explained that the 25' width of the easement would not have allowed enough room to develop the necessary roadway. The developer of this project was working with the developer of Buffalo Crossing Subdivision to gain a 34' wide easement for access to the subject property.

No public testimony was given during the public hearing.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1044 and adopt the findings of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Joy
Seconded by Councilmember Neese

APPROVED 10-0, Councilmember Owen absent/excused

~~c. **ANNEXATION AGREEMENT** with George Jurovich. Staff recommends approval.~~

- d. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward IV to include recently annexed property in Annexation 24-01: a parcel generally located south of Grand Avenue and east of 80th Street West. Staff recommends approval.

There was no presentation, but staff was available for questions.

No public testimony was given during the public hearing.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance expanding the boundaries of Ward IV to include recently annexed property in Annexation 24-01, as recommended by staff.

Moved by Councilmember Joy
Seconded by Councilmember Tidswell

APPROVED 10-0, Councilmember Owen absent/excused

5. **BROWN BUILDERS, LLC PROPERTY: 4524 Central Avenue.**

JOINT PUBLIC HEARING FOR ANNEXATION 24-02 AND ZONE CHANGE 1045

- a. **RESOLUTION 24-11190 APPROVING ANNEXATION 24-02:** A parcel generally located south of Central Avenue and east of South 48th Street West. Staff recommends conditional approval. *Quasi-Judicial

Hunter Kelly, Planner, provided a brief presentation reviewing the map of the surrounding area, including its zoning and the Limits of Annexation map. He spoke to bringing the agriculturally zoned property into compliance with City zoning. He reviewed the annexation policy criteria.

Councilmember Aspenlieder advised he would abstain from all votes concerning Regular Agenda Item 5 as his employer was involved in the projects.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to conditionally approve Annexation 24-02, as recommended by staff.

Moved by Councilmember Tidswell

Seconded by Councilmember Kennedy

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

- b. **FIRST READING ORDINANCE FOR ZONE CHANGE 1045:** generally located at 4524 Central Ave. Zoning Commission recommends approval and adoption of the 10 review criteria. *Quasi-Judicial

Nicole Cromwell, Zoning Coordinator, reviewed the Planned Development process as it related to zone changes for properties containing 10 acres or more. Planned Development allowed phasing of annexations and she provided more detail on new neighborhood infrastructure. She reviewed the proposed mixed zoning. There were no contiguous properties and Bell Avenue would not be developed further at this time. The Zoning Commission held its public hearing and forwarded a recommendation of approval based on the 10 review criteria. It met the intent of the Growth Policy and the West Billings Neighborhood Plan and was compatible with adjacent uses and zoning.

Council and staff discussed traffic concerns, traffic studies and multi-modal transportation plans. The area was checkerboarded by properties in the County and City. Private roads and sidewalks abutting to public infrastructure and the difficulties that caused with connectivity were also discussed..

Craig Dalton, Performance Engineering, agent, addressed Council's questions about street widths.

Councilmember Neese asked for clarification about sidewalks. Mr. Dalton responded that master site plans in the City Code did not dictate what was to be done for sidewalk and park space.

Councilmember Neese indicated that could be further address in an annexation agreement.

Councilmember Gulick raised concerns about potential denial of public access on private roads and how that could affect connectivity and City utilities that may run under a private road. Debi Meling, Public Works Director, responded that it depended on whether the City held an easement under the private roadway that would require public access for travel and utility maintenance. Mr. Dalton explained road development within master sites and how setbacks affect development. He continued that the focus was to develop streets within this development that were not straight aways to aid with traffic calming.

Council and staff discussed timing of annexations, zone changes and plat reviews.

The following individuals provided public testimony:

- **Craig Dalton, Performant Engineering, agent**, commented that developers do their due diligence to work within and follow all the rules associated with subdivision development, including meeting with numerous City staff and advisory committees before bringing their proposed development to Council. It was discouraging to go before Council and learn about possible amendments so late in the game that could cause significant impacts to the development. He suggested making changes in the regulations so those could be abided by pre-Council meetings. He spoke to the importance of Central Avenue's corridor to the City and traffic concerns.

No further public testimony was given.

Councilmember Gulick offered his support of the annexation and zone change and encouraged staff to make certain that connectivity would occur as future development moved westward.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve first reading ordinance for Zone Change 1045 and adoption of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Rupsis

Seconded by Councilmember Boyett

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

c. ANNEXATION AGREEMENT with Brown Builders, LLC. Staff recommends approval.

Debi Meling, Public Works Director, indicated there was no presentation but she was available to address any questions from Council.

Councilmember Boyett asked whether allowing private roads in the future was a good idea. Ms. Meling stated they were still allowed, but Council could make policy changes otherwise. Mr. Kukulski offered that generally private roads were a bad idea and provided examples of road barricades, etc. to deny public access. He also noted that everyone pays assessments, whether on a private or public street. He urged Council to have private roads removed from the Code. Councilmember Gulick added that smaller setbacks for private roads were likely driving developers to build more private roads.

Motion: I move to approve an annexation agreement with Brown Builders, LLC, as recommended by staff.

Moved by Councilmember Tidswell

Seconded by Councilmember Kennedy

Councilmember Neese asked how to guarantee public access on private roads. Ms. Meling responded that a public easement could be included for private roads in the annexation agreement.

Motion to Amend: I move to amend the motion by adding that private streets must allow public access through right-of-way easement no wider than the street.

Moved by Councilmember Neese

Seconded by Councilmember Rupsis

Councilmember Joy asked about negative impacts with public access on private roads. Ms. Meling responded that generally people living on private roads are unaware that they are responsible for its maintenance and the owners cannot enforce City rules. She added that storm drain rules are handled by the City whether on private roads or public streets.

Councilmember Kennedy inquired whether private roads became public after 7 years of public use. Gina Dahl, City Attorney, stated she would need to research prescriptive use and analysis before providing an opinion.

Mayor Cole addressed the comments made by Mr. Dalton and explained the quasi-judicial process that limits the Council's participation during all prior levels of approval. He added that Council generally has no one than one week prior to final approval to review the agenda items.

APPROVED 8-1, Councilmember Owen absent/excused, Councilmember Aspelieder abstained, Mayor Cole opposed

Mayor Cole voiced his concerns about a 200-unit development not being required to develop parkland or provide cash in lieu for smaller subdivisions.

Motion to Amend: I move to amend the motion to add a paragraph: "PARK/OPEN SPACE. In the event an owner/developer chooses not to go through a major subdivision, the owner/developer will dedicate in-kind parkland in an amount equal to or greater than an amount required by state law if the developer tract were approved as a major subdivision, including the in-kind parkland dedication in a proportion of 11% of the net area of residential lots or dwelling units being created that are smaller than ½ acre in lot area per lot or dwelling unit, in accordance with Section 27-800, BMCC, the developer has provided and zoned a minimum of 2.9% of the net subdivision area as parkland or open space. This area is credited toward the parkland dedication requirements. The subdivider must provide for the balance of 8.1% of the net area to satisfy these requirements. This parkland dedication must be memorialized if a master site plan for multi-use development is filed involving any portion of the developer tract. The above-described requirements shall be moot and have no further affect if the developer tract is approved as a major subdivision that is subject to state statute parkland dedication requirements. Any parkland dedicated per this paragraph or state law shall be developed and maintained by developer, property owners association established by the developer or park construction and maintenance districts initiated by developer and approved by the City."

Moved by Mayor Cole
Seconded by Councilmember Joy

Mayor Cole addressed the comments about when it was appropriate to make substantial changes to annexation agreements.

Council and the agent, Mr. Dalton, discussed the amendments and whether they were palatable to the developer. Also discussed were acceptable instances when private roads, fully contained and isolated within a subdivision, were appropriate.

Councilmember Kennedy spoke against making a policy change during a Council meeting. He asked the Mayor to address it with staff to be brought back as a policy change. Mayor Cole would not withdraw his motion but understood Councilmember Kennedy's objection.

Councilmember Neese provided his support for the Motion to Amend.

Councilmember Rupsis recalled that parkland discussions had been held before and he asked for a status to those changes. Nicole Cromwell, Zoning Coordinator, stated the subject had been brought to a work session, but no conclusions were made for revisions. She explained the complexities and that there would be subdivision regulatory changes brought to Council from the Planning Board in

April and May, a part of which would be amending parkland regulations. Councilmember Rupsis would not support the Motion to Amend.

Councilmember Joy supported the Motion to Amend and agreed with the Mayor about addressing the changes as they were discovered. She mentioned other newly developed subdivisions that had no parkland and children from multi-family units were playing in streets and parking lots.

Councilmember Shaw voiced her support for parkland but opposed the Motion to Amend for a larger conversation and broader changes in the future.

A hand vote was taken on the Mayor's Motion to Amend:

FAILED 5-4, Councilmembers Rupsis, Shaw, Gulick, Kennedy, Tidswell opposed

Amended Motion: I move to approve an annexation agreement with Brown Builders, LLC, with added language that private streets must allow public access through right-of-way easement no wider than the street.

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

- d. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Annexation 24-02: a parcel generally located south of Central Avenue and east of South 48th Street West. Staff recommends approval.

There was no presentation, but staff was available to answer questions.

No public testimony given during the public hearing.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve first reading ordinance expanding the boundaries of Ward V to include recently annexed property in Annexation 24-02, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Rupsis

APPROVED 9-0, Councilmember Owen absent/excused, Councilmember Aspenlieder abstained

1N. PRELIMINARY MINOR PLAT for Skyview Ridge, 2nd Filing. ***Quasi-Judicial**

Nicole Cromwell, Zoning Coordinator, explained this was a 2-lot minor plat and lease owner was involved in the Regular Agenda Item 6. She explained the findings of fact and that this item could not be delayed for review later as it would violate state statutes, unless the applicant agreed to the delay. She explained the reason for the subdivision.

Councilmember Neese was concerned about the location of the plat to the Inner Belt Loop. He was opposed to developing the area into an industrial area. He encouraged Council to consider their vision for the development around the Inner Belt Loop and its zoning.

Ms. Cromwell clarified that CMU2 zoning was not specifically industrial development. She stated it was appropriate to have some industrial use in the area due to the high-tension lines and substation being along a principal arterial and separated by other streets. She clarified the conditions for CMU2 development as it pertained to personal storage.

Councilmember Neese asked whether different zoning could be dictated. Ms. Cromwell stated it could not be dictated as a subdivision condition.

Councilmember Aspenlieder advised he would abstain from the vote.

Motion: I move to deny approval of the preliminary minor plat for Skyview Ridge, 2nd filing.

Moved by Councilmember Neese

The motion died for lack of a second.

Motion: I move to approve the preliminary minor plat for Skyview Ridge, 2nd filing, as recommended by staff.

Moved by Councilmember Shaw

Seconded by Councilmember Rupsis

APPROVED 8-1, Councilmember Owen absent/excused, Aspenlieder abstained, Neese opposed

6. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

1046: generally located at 1202 West Wicks Lane. Zoning Commission recommends approval and adoption of the 10 review criteria. ***Quasi-Judicial**

Nicole Cromwell, Zoning Coordinator, provided a PowerPoint presentation and reviewed the application and mixed-use zoning allowances for CMU2 as it related to the development of personal storage units. She added there would be a climate-controlled storage area facing West Wicks Lane. The difficult soil conditions (sandstone) of the land made development under the current NX3 zoning a challenge. The land was state owned and was being leased. The Zoning Commission forwarded their recommendation of approval, stating it met the Growth Policy, Infill Policy and the Heights Neighborhood Plan.

Councilmember Neese asked about taxation for the buildings if the land was state owned. Ms. Cromwell hazarded a guess that the buildings would be taxed as improvements to the land, much like coffee kiosks located in parking lots.

Taylor Kasperick, Performance Engineering, agent, spoke to the minimal traffic impacts storage units had and how the zone change and proposed development was ideal for the area.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve first reading ordinance for Zone Change 1046 and adoption of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Shaw

Seconded by Councilmember Gulick

Councilmember Neese objected to the zone change and proposed development. He noted it discouraged high development along the Inner Belt Loop and the project would not generate the highest tax value and revenues. He preferred CMU1 zoning to promote other types of businesses along the Inner Belt Loop and the arterial street could handle more traffic brought by other types of businesses. It was also contrary to the wishes of the neighborhood as testified to during the Zoning Commission's public hearing. He added the project would not support or encourage the current use of the land.

Councilmember Aspenlieder advised he would abstain from the vote.

Mayor Cole acknowledged that a developer would not invest in a high dollar business on land they would not own and this project was appropriate.

APPROVED 8-1, Councilmember Owen absent/excused, Aspenlieder abstained, 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.)*

The following individual gave public comment:

- **Riley McCauley, 530 S. 27th Street, Billings, Montana**, represented Carpenters Union, Local 82, and spoke about tax fraud concerning cash payments made to avoid taxation and payment of workers compensation for construction work. He added that foreign workers were brought into the U.S. to work for daily cash payments, which hurt the overall economy. He provided a website where more information could be obtained at stoptaxfraud.net.

There were no further speakers.

COUNCIL INITIATIVES:

There were no Council initiatives.

ADJOURN: 8:32 P.M.



CITY OF BILLINGS

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

ATTEST:

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