

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
April 8, 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 Kennedy

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 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

Staff

Present: Chris Kukulski, City Administrator
Gina Dahl, City Attorney
Toni Keehner, Deputy City Clerk
John Caterino, Facilities Manager
Lora Mattox, Planner
Elyse Monat, Active Transportation Planner
Debi Meling, Public Works Director
Nicole Cromwell, Zoning Coordinator
Tina Hoeger, Code Enforcement Manager
Todd Corne, Deputy City Attorney
Mike Pigg, Parks and Recreation Director

MINUTES:

March 25, 2024 - Pending

COURTESIES:

Councilmember Owen spoke of an upcoming event with Dr. Garcia to discuss the School District mill levy on Tuesday, April 23, 2024, at 5:30 P.M. at the Billings Public Library.

Councilmember Joy, in reference to a recent family experience, commended St. Vincent ER Department and staff.

Councilmember Kennedy thanked Mayor Cole and Yellowstone County Commissioner Don Jones for their participation at the Child Abuse Awareness Pinwheel event on the courthouse lawn. He spoke of an upcoming ceremony on Thursday, April 11, 2024, at the Family Tree Nurturing Center for Child Abuse Prevention month.

PROCLAMATIONS:

Mayor Cole proclaimed April as Keep America Beautiful/Great American Cleanup month. Joan Tooley, Bright N Beautiful Executive Director, spoke about the Great American Clean Up event.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

Mr. Kukulski indicated Consent Agenda Item 1D had been revised to include an updated Memorandum of Understanding. He indicated it had been sent to Council the previous week.

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

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4 and 5 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 in reference to W.O. 24-02: Missing Sidewalk Project:

- **Cheryl Davis, 1231 Claim Jumper Lane, Billings, Montana**, spoke in favor of sidewalks but against the boulevard proposed for Claim Jumper Lane. She presented City Administrator Kukulski a petition with signatures from her neighbors.

Mayor Cole indicated an exception to allow constituents to speak even though the item being referenced was not on the agenda.

- **Adam Mallak, 1257 Claim Jumper Lane, Billings, Montana**, spoke against the boulevard proposed for Claim Jumper Lane.
- **Greg Kenyon, 1221 Claim Jumper Lane, Billings, Montana**, spoke in favor of sidewalks but against the boulevard proposed for Claim Jumper. He gave examples of other City projects that had allowed for sidewalk improvements without requiring a boulevard.

There were no further speakers.

1. **CONSENT AGENDA**

Councilmember Owen separated Consent Agenda Item 1N for discussion.

Councilmember Boyett separated Consent Agenda Item 1D for discussion.

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

Councilmember Aspenlieder separated Consent Agenda Items 1B and 1F for discussion.

Motion: I move to approve the items of the Consent Agenda as submitted, with the exception of Items 1B, 1D, 1F, 1J, 1M and 1N.

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

A. **Bid Awards:**

1. **W.O. 23-33: Grandview Park Irrigation System Replacement.** (Opened 3/19/24)
Recommend Good Earth Works Co., Inc.

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

2. **W.O. 24-01: Contract 3, Cedar Park Water Main Replacement.** (Opened 3/19/24)
Recommend Askin Construction, LLC.

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

3. **W.O. 24-27: 2024 Water Service Repairs.** (Opened 3/5/24) Recommend Sunset
Excavation.

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

4. **Aviation Place Road Rehabilitation.** (Opened 3/19/24) Recommend Asphalt Plus,
Inc.

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

5. **MET Transit Office Addition and Remodel.** (Opened 3/19/24) Recommend Swank
Enterprises.

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

6. **Pioneer Park Tennis Court Replacement.** (Opened 3/19/24) Recommend Good Earth Works Co., Inc.

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

- B. **Contract** for New City Hall Audio / Visual Equipment with TeleData Technologies.

Councilmember Aspenlieder asked for clarification on not awarding the contract to a local contractor during the re-bid process. John Caterino, Facilities Manager, explained the re-advertising process and indicated the contractor chosen for the project had a local office in the City.

Motion: I move to approve Consent Agenda Item 1B, as recommended by staff.

Moved by Councilmember Joy
Seconded by Councilmember Boyett
APPROVED 9-2, Councilmembers Kennedy and Aspenlieder opposed

- C. **Agreement** with Yellowstone County Sheriff's Department for FY2025 data processing services.

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

- D. **Memorandum of Understanding** with Hoodies 4 Heroes for a memorial at Dehler Park.

Councilmember Boyett spoke of Mayor Cole's proposed amendment to change Paragraph 4 to add a sentence that Hoodies 4 Heros "provide funds to the City within 3 years for the monument". Mayor Cole spoke to his proposed amendments.

Councilmember Aspenlieder spoke against involving the City in the funding or construction of the monument.

Motion: I move to approve Consent Agenda Item 1D, as recommended by staff.

Moved by Councilmember Neese
Seconded by Councilmember Owen

Mike Pigg, Parks and Recreation Director, indicated the intention was not to involve the City in the project. He spoke in favor of allowing the organization to do the fundraising and construction of the project.

Amended Motion: I move to amend the motion to add “allow 3 years for Heros 4 Hoodies to raise the money to construct the monument” in the MOU terminology.

Moved by Councilmember Aspenlieder

Seconded by Councilmember Shaw

APPROVED 11-0

E. Amend Park Community Garden Grant to the Parks and Recreation Department.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

APPROVED 11-0

F. Safe Routes to School Plan Update, Phase 2 Recommendation to Policy Coordinating Committee.

Councilmember Aspenlieder spoke in favor of tabling the Safe Routes to School Plan until work began on the Transportation Master Plan.

Motion: I move to approve Consent Agenda Item 1F, as recommended by staff.

Moved by Councilmember Shaw

Seconded by Councilmember Rupsis

Councilmember Shaw spoke in favor of approving Item 1F to allow it to be a building block in the Transportation Plan. Councilmember Rupsis agreed.

Lora Mattox, Planner, indicated postponing approval a few weeks would not affect progress, but a long delay would affect all other upcoming plans. She spoke of how a delay could affect the Metropolitan Planning Organization (MPO), various consultant plans and Federal funding opportunities.

Council discussed how delaying this item could affect other plans and how Council could participate more in the planning process.

City Administrator, Chris Kukulski, and Ms. Mattox explained the process for Council and public participation opportunities to discuss transportation and land use issues.

Debi Meling, Public Works Director, spoke of the upcoming Transportation Plan process and how long it was estimated to take.

Elyse Monat, Active Transportation Planner, reviewed disclaimer language that could be included in the planning documents stating: “this document outlines project recommendations as of the adoption date. However, the City of Billings is considering conducting a system-wide plan which, when completed, may contradict some of the recommendations in the Safe Routes to School Plan, Phase 2. If the new, system-wide plan contradicts this plan, the new plan will take precedence. If this is the case, the Safe Routes to School Plan, Phase 2, may be edited to eliminate contradictions between the two plans.”

Substitute Motion: I move to delay approval of Item 1F for two months to allow further time for Council review.

Moved by Councilmember Kennedy

Seconded by Councilmember Aspenlieder

FAILED 6-5, Councilmembers Shaw, Gulick, Joy, Boyett, Rupsis and Mayor Cole opposed

Motion to Amend: I move to add the proposed disclaimer language to the plan documents, as recommended by staff.

Councilmember Neese questioned the legality of a Councilmember amending their original motion. Gina Dahl, City Attorney, indicated she was uncertain but could research the topic.

Councilmember Aspenlieder called the question. Mayor Cole indicated it was time to take a vote on the Motion to Amend.

A vote on the Motion to Amend was taken.

APPROVED 8-3, Councilmembers Aspenlieder, Tidswell and Rupsis opposed

Amended Motion: I move to approve Consent Agenda Item 1F, with disclaimer language, as recommended by staff.

APPROVED 10-1, Councilmember Aspenlieder opposed

G. Boundary Line Relocation between City Parking Lot and Grand Building located at 100 N. 27th St.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

APPROVED 11-0

H. Resolution 24-11192 authorizing the issuance and private sale for refunding of the Series 2013A tax increment bonds.

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

APPROVED 11-0

I. Second/Final Reading Ordinance 24-5873 expanding Ward IV (Annexation 24-01). ***Quasi-Judicial**

Moved by Councilmember Boyett

Seconded by Councilmember Shaw

APPROVED 11-0

J. Second/Final Reading Ordinance 24-5874 expanding Ward V (Annexation 24-02). ***Quasi-Judicial**

Moved by Councilmember Neese

Seconded by Councilmember Kennedy

APPROVED 10-0, Councilmember Aspenlieder abstained

K. **Second/Final Reading Ordinance 24-5875 for Zone Change 1043:** located at 4190 S. Frontage Road. *Quasi- Judicial

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

L. **Second/Final Reading Ordinance 24-5876 for Zone Change 1044:** located at 5900 block of Grand Avenue. *Quasi-Judicial

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

M. **Second/Final Reading Ordinance 24-5877 for Zone Change 1045:** located at 4524 Central Avenue. *Quasi- Judicial

Moved by Councilmember Neese
Seconded by Councilmember Kennedy
APPROVED 10-0, Councilmember Aspenlieder abstained

N. **Second/Final Reading Ordinance 24-5878 for Zone Change 1046:** located at 1202 West Wicks Lane. *Quasi- Judicial

Councilmembers Owen and Neese spoke against the zone change.

Motion: I move to approve Consent Agenda Item 1N, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Kennedy
APPROVED 7-3, Councilmembers Neese, Owen and Tidswell opposed, Councilmember Aspenlieder abstained

O. **Bills for the Weeks of:**

1. March 4, 2024

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

2. March 12, 2024

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

REGULAR AGENDA:

2. **PUBLIC HEARING** for Land Use Contrary to Zoning: HomeFront Duplex in an NX3 Zone, located at 302 Sioux Lane. No action necessary.

Nicole Cromwell, Zoning Coordinator, gave an overview of the area being proposed for the new 2-unit duplex. She spoke of the current zoning for the area and the proposed allowance for lesser units.

Council discussed density opportunities for the proposed duplex and the City's role in using modern technology to build housing.

Tim Stark, High Plains Architects, spoke of size limitations with the current 3d printing project and future 3D capabilities.

Randy Hafer, High Plains Architects, indicated the small space only allowed for 2 units. He indicated the current project could help potentially create additional housing in the future.

The following individual spoke in favor during the public hearing:

- **Dan Brooks, Chamber of Commerce**, spoke in support of the project. He addressed the City's need for affordable housing and encouraged support for Accessory Dwelling Units (ADU's).

There was no further public testimony.

No action required.

3. **PUBLIC HEARING AND FIRST READING ORDINANCES** amending Billings, Montana City Code, Sections:

Tina Hoeger, Code Enforcement Manager, gave an overview of the proposed ordinance changes.

Council discussed existing boarded up/abandoned structures being "grandfathered". The Council consensus was code citations could begin after the ordinance was passed and existing boarded up structures could be sited for violations.

Council continued discussion on the definition of graffiti and graffiti abatement policies.

There was no public testimony.

Mayor called a recess at 7:34 P.M. Reconvened at 7:40 P.M.

a. **18-300, Nuisances**

Motion: Having conducted a public hearing, considered written and spoken testimony, I move to approve the first reading ordinance amending Billings, Montana City Code, Sections 18-300, Nuisances, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Neese

Mayor Cole spoke of the three suggested amendments he had emailed to staff and Council.

Motion to Amend: I move to amend Section 18-303 to: Two (2) or more reports to the police department or code enforcement division of building exteriors, walls, fences, driveways, or walkways which have been defaced by "graffiti" within a 24-month period and which were not painted over, covered, or otherwise abated as required under Section 18-1106 or any other provision of this code;

Moved by Mayor Cole
Seconded by Councilmember Neese

Todd Corne, Deputy City Attorney, indicated two of the amendment items were already included in the code. He cautioned against the amendments and indicated they would increase the difficulty level for enforcement and staff's ability to compile proof for court. He spoke of the amendments increasing enforcement from a "code enforcement" investigative level to a "law enforcement" investigative level and the amendments would slow down the investigation process. He supported leaving the language in the ordinances as staff had presented.

Councilmember Neese indicated he would not be voting in support of the amended motion after hearing from staff. Mayor Cole indicated he trusted staff to use reasonable discretion in how they enforced the ordinances.

A vote on the Motion to Amend was taken.

FAILED 1-10, Councilmembers Shaw, Gulick, Owen, Neese, Joy, Kennedy, Aspenlieder, Tidswell, Boyett and Rupsis opposed

A vote on the original motion was taken.

APPROVED 11-0

b. 18-1100, Graffiti

Motion: Having conducted a public hearing, considered written and spoken testimony, I move to approve the first reading ordinance amending Billings, Montana City Code, Section 18-1100, Graffiti, as recommended by staff.

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

c. 18-1400, Boarded Up Structures

Motion: Having conducted a public hearing, considered written and spoken testimony, I move to approve the first reading ordinance amending Billings, Montana City Code, Section 18-1400, Boarded Up Structures, as recommended by staff.

Moved by Councilmember Boyett
Seconded by Councilmember Neese

Council continued discussion on how staff would handle boarded up structures being "grandfathered" after the ordinance was passed.

Motion to Amend: I move to add the following language to Sections 18-1403 (a) and (b): 180 total days from initial installation or the effective date of ordinance, whichever is later.

Moved by Mayor Cole
Seconded by Councilmember Neese
APPROVED 11-0

A vote on the amended motion was taken.

APPROVED 11-0

4. **RESOLUTION 24-11193** establishing a graffiti fund, as recommended by staff.

Tina Hoeger, Code Enforcement Manager, addressed the anti-graffiti policy and how creating a reward system could encourage accountability and decrease graffiti.

Motion: I move to approve a Resolution establishing a graffiti fund, as recommended by staff.

Moved by Councilmember Kennedy

Seconded by Councilmember Owen

APPROVED 11-0

5. **COTTONWOOD PARK MASTER PLAN.** Staff recommends approval.

Michael Verseman, Land Design, gave an overview of the Cottonwood Park site, history of the property donation from the Forbes family and requirements and restrictions tied to the donation of land. He reviewed the public process timeline and cost estimates. He indicated the master plan was approximately 90% complete.

Council discussed parking, lighting, and proposed maintenance expenses. They spoke about the plan being presented to Council before completion.

Mike Pigg, Parks and Recreation Director, addressed the process of bringing the plan to Council before completion to allow fundraising and public participation. He indicated the complete master plan could be presented when ready.

Motion: I move for approval of the Cottonwood Park Master Plan, as recommended by staff.

Moved by Councilmember Aspenlieder

Seconded by Councilmember Rupsis

Council continued discussion on planning for various parks for the City and expressed dismay over the Cottonwood Park master plan not being complete.

Substitute Motion: I move to table approval of the Cottonwood Park Master Plan until the master plan is complete.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

APPROVED 10-1, Councilmember Joy 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:

There were no Council initiatives.

ADJOURN: 8:57 P.M.



CITY OF BILLINGS

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

ATTEST:

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