

**MINUTES
OF THE BILLINGS CITY COUNCIL
REGULAR BUSINESS MEETING
April 22, 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 Aspenlieder

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: Kevin Iffland, Assistant City Administrator
Gina Dahl, City Attorney
Denise Bohlman, City Clerk
Debi Meling, Public Works Director
Jennifer Duray, Deputy Public Works Director
Andy Zoeller, Finance Director
Jason Banfield, Fire Department – Via Zoom
Nicole Cromwell, Zoning Coordinator
Brenda Beckett, Community Development Manager
Wyeth Friday, Planning Director – Via Zoom

MINUTES:

- March 25, 2024
Moved by Councilmember Boyett
Seconded by Councilmember Neese
APPROVED 11-0

- April 8, 2024
Moved by Councilmember Boyett
Seconded by Councilmember Neese
APPROVED 11-0

COURTESIES:

Councilmember Rupsis recognized HIVE Participants, sponsored by Valley Federal Credit Union. Brandon Scala, SVP of Community Engagement, for Valley Federal Credit Union explained the Shark Tank-type of contest and introduced the top 4 participants.

PROCLAMATIONS:

Mayor Cole proclaimed April 26, 2024, as Arbor Day
Mayor Cole proclaimed April 27, 2024, as St. Vincent DePaul's Friends and Volunteers Day
Mayor Cole proclaimed April 30, 2024, as National Therapy Animal Day
Mayor Cole proclaimed May 10, 2024, as Provider Appreciation Day

Bianca Bell and her dog, Cruella de Ville, represented Pet Partners, and spoke with appreciation for the proclamation and explained the therapies Pet Partners provided.

Jonathan Smith, Development Coordinator for St. Vincent De Paul, shared his appreciation for the proclamation.

COUNCIL REPORTS:

There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI KEVIN IFFLAND, ASSISTANT CITY ADMINISTRATOR

Mr. Iffland advised that Mr. Kukulski was unavailable this week.

Mr. Iffland noted that both he and Mr. Kukulski would be away April 30th through May 3rd to attend the GOSCOMA (Great Open Spaces City Manager Association).

Mr. Iffland advised that concerning Consent Agenda Item 1D, staff recommended its removal from the agenda by approved Motion of the Council. The contractor had not submitted a schedule at the time of the meeting, and it should not be approved until then.

Mr. Iffland reminded Council there were no Council meetings the week of April 29th, as it was a bye week.

Mr. Iffland acknowledged there were no exparte communications received after 3 pm to the Mayor and Council concerning items on the agenda.

Motion: I move to remove Consent Agenda Item 1D from the agenda and placed on an upcoming agenda once the contractor had submitted its schedule.

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

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4b and 7 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.)

There were no speakers.

1. CONSENT AGENDA

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

Councilmember Aspenlieder separated Consent Agenda Items 1F for discussion, 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 1F and 1Q2.

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

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

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Hannah Reno Evans	Citizen Police Advisory Board - Continuum of Care	04/22/24	12/31/25
1	No Applications	Human Relations Commission*	04/22/24	12/31/24
2	No Applications	Human Relations Commission	04/22/24	12/31/28

*1 Unexpired term of Angela Matta

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

B. Bid Awards:

1. **W.O. 23-23: Briarwood Hydrogen Sulfide (H2S) Mitigation.** (Opened 3/5/24)

Recommend rejecting all bids.

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

2. **W.O. 24-01, Contract 2: 2024 Sewer Main Replacement Project.** (Opened 4/2/24)

Recommend COP Construction, LLC.

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

3. **W.O. 24-10 and W.O. 22-22: 2024 Annual Street Reconstruction.** (Opened 4/2/24)
Recommend Weave Construction.

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

4. **Two 2024 37,000 GVW Single Axle Trucks.** (Opened 4/2/24) Recommend I-State Truck Center.

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

- C. Consultant Agreement** with Dowl for Heights Neighborhood Plan Update.

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

- ~~D. Amendment No. 1, W.O. 24-01, Contract 2: 2024 Sewer Main Replacement Project; Morrison-Maierle, Inc.~~ **REMOVED FROM AGENDA BY MOTION NOTED ABOVE**

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

- E. Extensions of Memorandums of Understanding** between the City and each of the 3 Urban Renewal District Advisory Boards (BIRD, DBP and SBURA).

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

- F. Memorandum of Understanding (MOU)** with Billings Bench Water Association (BBWA) for Department of Natural Resources and Conservation (DNRC) grants.

Debi Meling, Public Works Director, explained that the City was a user of the BBWA and the BBWA was applying for grants to assist with the cost of lining the canal. The BBWA asked the City to sponsor the applications for various grants in the MOU. Staff supported the City's sponsorship for grants that would affect City residents only, not those in the County. The original idea was to combine several of those grants into one MOU as several of them would be within the City Administrator's signing authority.

Councilmember Aspenlieder voiced his concerns about exposing the City to liability due to the condition of the canal. He noted the indemnification language in the MOU was too vague and the MOU was a general DNRC template meant for more rural areas. He asked Council to delay approval so the MOU could be revised by the Legal Department to be more specific and remove any references to the City of Billings being a "partner" with BBWA. He was concerned about setting a precedence for other ditch companies to expect the same.

Council and staff discussed timing of approval possibly affecting the grants and bringing each project-based grant before Council individually. One grant needed to be approved before May 15, 2024.

Councilmember Neese disclosed he was a customer of BBWA, but that he was not directly affected by the MOU and would participate in the discussion and vote unless someone objected.

Motion: I move to postpone Consent Agenda Item 1F to revise the MOU with BBWA to present only the grant that is due on May 15th, 2024.

Mayor Cole voiced his concerns that the BBWA have a considerable amount of insurance and that could also be addressed in the revisions to the MOU.

Moved by Councilmember Aspenlieder
Seconded by Councilmember Kennedy
APPROVED 11-0

G. Crisis Response Unit Vehicle Acceptance.

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

H. Donations to the Billings Public Library from Billings Public Library Foundation and Friends of the Library.

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

I. Donation to Parks and Recreation Department from NorthWestern Energy.

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

J. Donation to the Police Department from Patricia Schmitt.

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

K. Release of Perpetual Right-of-Way Easement through Tract 2A-1 of the Amended Plat of Tract 2A of Certificate of Survey 2063.

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

L. Annexation Agreement with C&T Equipment Holding, LLC.

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

M. Resolution 24-11194 ordering improvements identified in W.O. 22-22: 10th Avenue South and South 30th Street.

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

N. **Second/Final Reading Ordinance 24-5879** amending Billings, Montana City Code (BMCC) Section 18-300, Nuisances.
Moved by Councilmember Neese
Seconded by Councilmember Joy
APPROVED 11-0

O. **Second/Final Reading Ordinance 24-5880** amending Billings, Montana City Code (BMCC) Section 18-1100, Graffiti.
Moved by Councilmember Neese
Seconded by Councilmember Joy
APPROVED 11-0

P. **Second/Final Reading Ordinance 24-5881** amending Billings, Montana City Code (BMCC) Section 18-1400, Boarded Up Structures.
Moved by Councilmember Neese
Seconded by Councilmember Joy
APPROVED 11-0

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

1. March 18, 2024

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

2. March 25, 2024

Moved by Councilmember Gulick
Seconded by Councilmember Neese
APPROVED 10-0, Councilmember Aspenlieder Abstained

REGULAR AGENDA:

2. **PUBLIC HEARING** and approval of FY2024-2025 Annual Action Plan and Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Budget Allocations. Staff and Community Development (CD) Board recommends approval.

Brenda Beckett, Community Development Manager, reviewed the Annual Action Plan timeline, noting a public hearing was held September 11, 2023, for the community to voice their concerns on community needs, etc. The submission of the Annual Action Plan was due to HUD May 15, 2024. She reviewed staffing numbers and what each of those members did within the department. She explained how COVID affected the allocations and reviewed the recommended CDBG and HOME allocations. She reviewed the Mitchell Court project to be heard before Council in May. Ms. Beckett reviewed the Operations and Maintenance portion of the department.

Councilmember Kennedy asked specifics about the grants awarded to various applicants.

Councilmember Owen acknowledged the progress made with alignment of funding and VISTAs toward City priorities. She voiced her concerns about the process and supported more partner-focused processes in the future. Ms. Beckett explained how the department pushes information and engagement about applications into the community. Councilmember Owen continued she did not support the foreclosure program as it did not make a big enough impact. She supported moving funds to public facilities and geared more toward City priorities. Ms. Beckett explained

that equal opportunity and competition for application must be provided to all agencies and facilities. She encouraged Council to add something like that to the consolidated plan in the fall of 2024 and make changes in policy.

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 FY2024-2025 Annual Action Plan and Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Budget Allocations, as recommended by staff and the Community Development (CD) Board.

Moved by Councilmember Shaw
Seconded by Councilmember Joy

Councilmember Shaw supported making policy changes in the fall.

Councilmember Owen noted the hard work of Community Development staff but would vote in opposition concerning processes and investments in foreclosures as not being the best allocation of the funding.

Councilmember Aspenlieder echoed Councilmember Owen's comments. He encouraged directing funding toward the Family Justice Center as having a larger impact in the community than foreclosure rehabs.

Councilmember Rupsis acknowledged the challenges in administering and reporting of the Federal Funds that the Community Development Division had. He indicated he would also vote in opposition because the plan had not implemented enough of the changes Council sought last year. He spoke about expansion of programs to maximize the funds and gave examples other cities were doing and Community Development needed to be at the forefront of those conversations.

Wyeth Friday, Planning Director, responded that funding was tied to the HUD programs and federal grants and voiced concerns whether Council priorities could work within those grant requirements. He spoke about the need to identify a different model for staff resources that could sustain changes to any outside HUD programs. He noted that Missoula had staff that worked on affordable housing outside of the HUD programs but Billings did not have adequate staffing to do that.

Councilmember Kennedy noted changes were needed as the same programs had been running essentially the same way for years, benefiting the same agencies and it was time for an impactful change. He would vote in opposition to the motion.

Councilmember Neese also voiced his opposition and wished for more alignment with Council priorities.

Councilmember Boyett asked what would happen to the Community Development Division if Council did not approve the Annual Action Plan as presented. Ms. Beckett noted that the Action Plan would not be submitted to HUD on time and the funding would not be realized, essentially shutting down the Community Development Division. She explained that Missoula had 15 people on their staff and several of those worked on non-HUD projects, but Billings staff of 4 were only HUD supported and there was no other funding source to pay staff members to work on non-HUD projects.

Councilmember Owen asked if it would be possible for a subgroup of Councilmembers to work on the changes it wants before submission to HUD. Ms. Beckett explained there was not enough time to gather supportive data to provide to HUD in most instances, the exception may be the Family Justice Center.

Councilmember Joy confirmed that the City did not allocate any monies into housing projects. Housing projects were solely funded by federal monies. If Council wanted to allocate monies into non-HUD housing projects, then it should provide some funding on its own.

Councilmember Rupsis commented he would support the motion as he would not want to jeopardize the City receiving the HUD funds. He would raise his concerns during the budget talks in May.

Councilmember Neese established the procedure for reconsideration if the motion to approve failed.

Councilmember Aspenlieder voiced his frustration with the staff's process to gain Council's approval on various items.

Councilmember Joy called the question, seconded by Councilmember Boyett. By a show of hands vote, **APPROVED 8-3**, Councilmember Owen, Kennedy and Mayor Cole opposed

A vote was taken by a show of hands on the Motion to approve.

APPROVED 6-5, Councilmembers Neese, Owen, Kennedy, Aspenlieder and Tidswell opposed

3. PUBLIC HEARING AND RESOLUTION 24-11195 rescinding and repealing Resolution 90-16317, exempting property located within Hogan Homestead Subdivision. Staff recommends approval.

Jennifer Duray, Deputy Public Works Director, presented a PowerPoint presentation and explained the history of the 1990 Resolution that exempted the property in Hogan Homestead Subdivision from storm sewer assessments. She explained that the item had been before Council at the March 11, 2024 Regular Business meeting, but the president of the HOA for the subdivision had requested more time to meet with City officials so the public hearing was continued. She reviewed the stormwater ponds' location within Hogan Homestead Subdivision and explained they all drained into Hogan Slough, which the City maintained. Originally the subdivision did not discharge storm water into the City's storm sewer system, but that was no longer the case. The City was incurring maintenance costs, etc. presently and now needed to recoup those costs going forward. The meeting with the HOA president and a few of the property owners was held March 22nd. The City has been performing all storm sewer maintenance and street sweeping in the subdivision as it does with all others. Staff recommended repealing the Resolution that exempted the property owners within the subdivision from paying stormwater fees.

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 rescinding and repealing Resolution 90-16317, as recommended by staff.

Moved by Councilmember Rupsis
Seconded by Councilmember Gulick

Council and staff discussed maintenance of the ponds and possible liability to the City if not performed correctly.

APPROVED 11-0

4. SID 1425 - BROSO PARK AND GABEL ROAD TRAFFIC SIGNAL:

- a. **PUBLIC HEARING AND RESOLUTION 24-11196** creating SID 1425, Broso Park and Gabel Traffic Signal. Staff recommends approval.

Debi Meling, Public Works Director, gave a PowerPoint presentation, explained there were 38 parcels in the district and reviewed the improvements to be made within the district. The traffic signal was addressed in the Subdivision Improvement Agreement (SIA) and she discussed the method of reimbursement costs to the City. She reviewed the construction timeline.

Council and staff discussed future SIAs containing some kind of "interest" payment options.

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 a resolution creating SID 1425, Broso Park and Gabel Traffic Signal, as recommended by staff.

Moved by Councilmember Aspenlieder
Seconded by Councilmember Kennedy
APPROVED 11-0

- b. **BID AWARD: SID 1425, Broso Park and Gabel Road Traffic Signal.** (Opened 2/20/24). Staff recommends Montana Lines, Inc.

No presentation was given, but staff was available for questions.

Motion: I move to approve the bid award for SID 1425, Broso Park and Gabel Road Traffic Signal to Montana Lines, Inc.

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

Mayor Cole called for recess at 7:21 P.M. The meeting was reconvened at 7:32 P.M.

5. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1049: located at 1911 and 1915 8th Avenue N. Zoning Commission recommends approval and adoption of the 10 review criteria. *Quasi-Judicial

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation. She reviewed the area's current zoning, photos of the area and the review criteria.

Council and staff discussed 4 storied buildings were allowed in NX2 zones.

The following individuals spoke during the public hearing:

- **Daniel Williams, 817 N. 19th Street, Billings, Montana**, spoke about the neighborhood meeting being held at an inconvenient time making it difficult for most neighbors to attend. He spoke in opposition of the zone change with his concerns about the size of the proposed building and parking issues. He noted there was a larger housing unit being proposed nearby that would also impact traffic and parking and the proposed building was not in keeping with the neighborhood.
- **Brian Gentry, Owner**, disagreed with the previous speaker's comments and felt it would be a great development.
- **Michelle Harkins, BIRD Consultant**, was supportive of the applicants and the development of low-income housing in the EBURD.

There were no further speakers.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1049 and adoption of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Gulick
Seconded by Councilmember Shaw

Councilmember Gulick spoke in favor of the motion as it met with the City's infill policy and more of that type of development was necessary.

Council and staff discussed adequate parking, diagonal parking, and impacts caused by zone changes in well-established neighborhoods.

APPROVED 10-1, Councilmember Kennedy opposed

6. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1050: located at 5403 Hawk Creek Avenue. Zoning Commission recommends approval and adoption of the 10 review criteria. *Quasi-Judicial

Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation. She reviewed the differences in the allowable uses in NMU and CMU1 zones, the area's current zoning; photos of the area and the review criteria.

Council and staff discussed the current parking issues in the area and impacts of an additional business in the same area. The roads are privately owned and managed by the businesses along there. The businesses would have to work on the parking details. There would also be another gravel parking lot available for patrons. Also discussed were traffic studies and signals and that the property owners would pay for those signals, if signals were deemed necessary.

The following individual spoke during the public hearing:

- **Anna Vickers, IMEG, 175 N. 27th Street, Billings, Montana, Agent for Mountain West**, clarified that Mountain West was not the owner of Diamond X Brewing Co. A casino would not be built on the site because it was located too closely to a neighborhood. She addressed the traffic access into the property was dictated by the Subdivision Improvement Agreement.

Councilmember Neese inquired about the development of the trail from 54th Street West to the back of the property. Ms. Vickers indicated that according to the SIA all the property owners were responsible for the trail's development, but she was uncertain when the development was required to occur.

There were no further speakers.

Motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve First Reading Ordinance for Zone Change 1050 and adoption of the 10 review criteria, as recommended by the Zoning Commission.

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

7. TAX INCREMENT FINANCING ASSISTANCE from the East Billings Urban Renewal District (EBURD) to 1889 Brewing Company, LLC for redevelopment costs, up to a maximum reimbursement of \$40,837.16. BIRD Board recommends approval.

Michelle Harkins, BIRD Consultant, presented on behalf of Matt and Lindsey Miller, owners of 1889 Brewing Company, LLC. She provided an overview of the plans and improvements for the building located at 204 N. 13th Street. She mentioned there was a 7:1 ratio of private funds to TIF.

Council and Ms. Harkins discussed which CPTED concepts would be used on the project to increase safety in the area. There was a long-term lease of 13 years.

Motion: I move to approve tax increment financing assistance from the EBURD to 1889 Brewing Company, LLC for redevelopment costs, up to a maximum of reimbursement of \$40,837.16, as recommended by the BIRD Board.

Moved by Councilmember Shaw
Seconded by Councilmember Gulick

Councilmember Shaw voiced her support for the business and wished them luck.

Councilmember Neese voiced his concerns about alcohol-based businesses contributing to the community's substance abuse issues and encouraged the owners to find ways to counteract any negative impacts to the community.

APPROVED 10-1, Councilmember 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 individuals gave public comment:

- **Michelle Harkins, BIRD Consultant**, mentioned there was a groundbreaking for the dog park in North Park and a disc golf course would follow.

- **Daniel Williams, 817 N. 19th Street, Billings, Montana**, mentioned he was the victim of arson to one of his vehicles. He stated Code Enforcement gave him 3 tickets for having his vehicle parked in his own driveway and referenced the citations given.

There were no further speakers.

COUNCIL INITIATIVES:

There were no Council initiatives.

ADJOURN: 8:30 P.M.



CITY OF BILLINGS

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

ATTEST:

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