

**MINUTES  
OF THE BILLINGS CITY COUNCIL  
REGULAR BUSINESS MEETING  
July 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 Boyett

**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  
Karla Stanton, Human Resources Director  
Andy Zoeller, Finance Director  
Ted Wilson, Grants Administrator  
Jeff Roach, Aviation and Transit Director  
Rusty Logan, MET Manager  
Jennifer Duray, Deputy Public Works Director  
Mac Fogelsong, City Engineer  
Wyeth Friday, Planning Director  
Anna Vickers, Planning Manager  
Hunter Kelly, Planner  
Mike Pigg, Parks, Recreation and Public Lands Director  
Tracy Scott, Parking Manager

**MINUTES:**

- June 24, 2024  
Moved by Councilmember Joy  
Seconded by Councilmember Gulick  
**APPROVED 11-0**

- July 8, 2024  
Moved by Councilmember Joy  
Seconded by Councilmember Gulick  
**APPROVED 11-0**

**COURTESIES:**

Mayor Cole congratulated the Billings Outlaws football team on their recent National Championship title.

Councilmember Kennedy recognized former Councilmember Mike Yakawich for his leadership during the March against Drugs.

Councilmember Joy attended the Strawberry Festival and acknowledged the City's employees who provided visitors with resource information.

**PROCLAMATIONS:** None

**COUNCIL REPORTS:** None

**ADMINISTRATOR REPORTS - ~~CHRIS KUKULSKI~~ KEVIN IFFLAND, ASSISTANT CITY ADMINISTRATOR**

Kevin Iffland, Assistant City Administrator, recommended removing Regular Agenda Item 2, Public Hearing and Amendments to Parking Ordinances as additional revisions were made and staff would need additional time to provide a fully edited version to Council.

He announced that for Regular Agenda Item 4, Andrew Schaefer, the developer, would appear via Zoom.

There were no exparte communications received after 3 pm to the Mayor and Council concerning items on the agenda.

**Motion:** I move to remove Regular Agenda Item 2, Public Hearing and Amendments to Parking Ordinances, as recommended by staff.

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

**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.)

There were no speakers.

1. **CONSENT AGENDA**

Councilmember Aspenlieder separated Consent Agenda Items 1A3, 1D, 1I and 1M2 in order to abstain as his company was involved with the items.

Councilmember Neese separated Consent Agenda Item 1H for discussion.

Councilmember Kennedy separated Consent Agenda Item 1K for discussion.

**Motion:** I move to approve the items of the Consent Agenda as submitted, with the exception of Items 1A3, 1D, 1H, 1I, 1K and 1M2.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy

**APPROVED 11-0**

A. **Bid Awards:**

1. **W.O. 22-44: Zone 1, Water Storage Improvements, Schedule 1 - Construction**

**Contract.** (Opened 6/04/24) Recommend rejecting all bids.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy

**APPROVED 11-0**

2. **W.O. 22-44: Zone 1, Water Storage Improvements, Schedule 2 - Construction**

**Contract.** (Opened 6/04/24). Recommend rejecting all bids.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy

**APPROVED 11-0**

3. **W.O. 24-38: Wicks Lane Stormwater Improvements, Phase II.** (Opened 6/18/24)

Recommend Askin Construction for Schedule 1 and Schedule 1 Additive Alternate.

**Motion:** I move to approve Consent Agenda Item 1A3.

Moved by Councilmember Joy  
Seconded by Councilmember Kennedy

**APPROVED 10-0**, Councilmember Aspenlieder abstained

4. **2025 58,000 GVW 12-Yard Dump Truck.** (Opened 6/18/24). Recommend I-State Truck Center.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy

**APPROVED 11-0**

**B. Amendment No. 3** with Mead & Hunt, Inc. for Air Service Consulting Services.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy  
**APPROVED 11-0**

**C. Scheduled Airline Operating Agreement and Terminal Building Lease** with Sun Country Inc.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy  
**APPROVED 11-0**

**D. Water Line Agreement** with the County Water District of Billings Heights for reimbursement funds associated with work completed under W.O. 24-38: Wicks Lane Stormwater Improvements.

**Motion:** I move to approve Consent Agenda Item 1D.

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

**E. Collective Bargaining Agreement** - Teamsters Local 190.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy  
**APPROVED 11-0**

**F. Grant Application Request** for Environmental and Climate Justice Community Change Grants Program in the Billings EBURD and North Park Neighborhoods.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy  
**APPROVED 11-0**

**G. US Department of Energy Efficiency and Conservation Block Grant Funds** to recoup general fund dollars spent on irrigation pumps and controllers at three City parks.

Moved by Councilmember Shaw  
Seconded by Councilmember Joy  
**APPROVED 11-0**

**H. Acknowledge Receipt of Petition to Vacate** Block 51 Foster's Alley and setting a Public Hearing for August 12, 2024.

**Motion:** I move to acknowledge receipt of the petition to vacate and set a public hearing for August 12, 2024.

Moved by Councilmember Neese  
Seconded by Councilmember Gulick

Councilmember Neese inquired about the 5<sup>th</sup> Avenue North Corridor Study and how it may be affected. Mac Fogelsong, City Engineer, responded that the 5<sup>th</sup> Avenue North Corridor was located further south and would be unaffected.

Councilmember Gulick voiced concerns about the storm sewers in the area. Mr. Fogelsong responded that more details would be provided during the public hearing.

**APPROVED 11-0**

I. **Perpetual Right-of-Way Easements** from G2 Investments, LLC, for the trail construction along the Yellowstone River.

**Motion:** I move to approve Consent Agenda Item 1I.

Moved by Councilmember Joy

Seconded by Councilmember Kennedy

Councilmember Neese voiced concerns about river erosion into the right-of-way and how that might affect the trail construction. Mac Fogelsong, City Engineer, responded that the word "Buildable" was included in the easement to mitigate the risk of not having land for the trail, but it was possible the river could significantly erode the land subject to easement. Councilmember Neese suggested future easements along the Yellowstone River contain language specifically addressing erosion.

**APPROVED 10-0**, Councilmember Aspenlieder abstained

J. **Final Plat** of Lake Hills Subdivision, 40th Filing. **\*Quasi-Judicial**

Moved by Councilmember Shaw

Seconded by Councilmember Joy

**APPROVED 11-0**

K. **Resolution 24-11216** authorizing the submission of a grant application to the Montana Coal Endowment Program infrastructure planning grant.

Councilmember Kennedy inquired about matching fund calculations. Ted Wilson, Grants Administrator, provided details.

**Motion:** I move to approve Consent Agenda Item 1K.

Moved by Councilmember Kennedy

Seconded by Councilmember Aspenlieder

**APPROVED 11-0**

L. **Resolution 24-11217** authorizing the sale and prescribing the form and terms for the Expanded North 27th Street Bonds.

Moved by Councilmember Shaw

Seconded by Councilmember Joy

**APPROVED 11-0**

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

1. June 17, 2024

Moved by Councilmember Shaw

Seconded by Councilmember Joy

**APPROVED 11-0**

2. June 24, 2024

**Motion:** I move to approve Consent Agenda Item 1M2.

Moved by Councilmember Joy

Seconded by Councilmember Kennedy

**APPROVED 10-0**, Councilmember Aspenlieder abstained

**REGULAR AGENDA:**

~~2. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings, Montana City Code (BMCC) Sections 24-457, Violation records; 24-467 Failure to pay parking fees; 24-473, Penalties; 24-1004 Parking violation Procedure generally; 24-1005, Same Response failure action; 24-1006, Violation citation compliance failure; warrant for arrest; and 24-1011, Penalty for violations. Staff recommends approval. **REMOVED FROM AGENDA BY MOTION, APPROVED 11-0**~~

**3. PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Amended Ridgeline Subdivision Annexation. Staff recommends approval.

Hunter Kelly, Planner, explained this was a rare situation in which the boundaries of one of the lots was partially contained in the City and partially contained in the County. It was necessary to adjust the boundaries so all of that lot would be in the City limits.

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 V to include recently annexed property in Amended Ridgeline Subdivision Annexation, as recommended by staff.

Moved by Councilmember Rupsis

Seconded by Councilmember Tidswell

Councilmember Aspenlieder abstained as his employer was the agent on the project.

**APPROVED 10-0**, Councilmember Aspenlieder abstained

**4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1052:** located at Lot 3, Block 1, Zimmerman Home Place Subdivision, 3rd Filing. Zoning Commission recommends approval and adoption of the 10 review criteria. **\*Quasi-Judicial**

A staff member was not immediately present to give a presentation.

**Motion:** I move to change the order of the agenda, moving Item 4 to be heard after Item 5.

Moved by Councilmember Neese

Seconded by Councilmember Gulick

Councilmember Owen suggested Item 6 be heard first instead and asked for a friendly amendment to the motion.

Councilmember Neese and Councilmember Gulick agreed to the amendment.

**Amended Motion:** I move to change the order of the agenda, moving Item 6 to be heard before Item 4.

## APPROVED 11-0

*\*Minutes continue to Item 6 below.*

\*\*\*\*\*

\*\* Nicole Cromwell, Zoning Coordinator, gave a PowerPoint presentation. She explained the differences between the current zoning and proposed zoning, and the zoning in the surrounding areas to the subject property. She mentioned the units would be individually owned, but all owners would be part of a cooperative that would be tasked with maintenance, etc. She reviewed the review criteria and the Zoning Commission's recommendation for approval and adoption of the 10 review criteria.

Mayor Cole spoke about concerns between rental units and owner occupied condominiums and possible difficulties with acquiring insurance.

Councilmember Rupsis asked for clarification of language and staff recommendations for zoning contained in the staff memo. Ms. Cromwell explained that Council had this property before them a couple of years ago, but it had not had a super majority vote in favor. The developer reconsidered its options and decided not to include the easterly 31 feet of the property for building.

Council and staff discussed walkability of the neighborhood development; traffic concerns and the 31-foot land separation.

**Craig Dalton, Performance Engineering, agent**, noted the property had gone before Council previously for another Zone Change. Council's concerns at that time was the height of the buildings next to Zimmerman Trail. In this Zone Change, the development was setback by 31 feet from Zimmerman Trail. He explained that notice was given to the same property owners in the area that were notified of the previous Zone Change and public hearings. During the neighborhood meeting there were 2 people that attended who were interested in living in the development when completed. There were no protests. Traffic studies have been conducted three times. The development would be an age-restrictive development – 55 years and older and would create diversity amongst the existing housing community.

**Andrew Shaefer, developer of Village Cooperative of Billings**, appeared via Zoom, and provided a corporate profile of Village Cooperatives. He explained the Senior Cooperatives concept. The proposed project would have 58 housing units in a 3-story structure, underground heated parking garage with 60+ spaces, guest suites for friends and family and large community room with a kitchen, multi-purpose room, fitness center, reading areas, raised garden beds and outdoor fireplace and grilling patio.

Councilmember Owen asked about the maintenance fee structure and future increases to the occupants. Mr. Shaefer responded that each occupant was an owner in the cooperative and the overall budget was set by a board of directors comprised of the occupants. Boards tended to be conservative and because the units were not rentals, occupants tended to take very good care of their buildings. He explained the process for gaining ownership in the cooperative. Subleasing was very rare and had to be approved by the board of directors.

The following individual provided testimony during the public hearing:

- **Steve Zeier, Trinity Real Estate Advisors, 2180 Overland Avenue, Billings, Montana**, supported the Zone Change and proposed development.

There were no further speakers.

Councilmember Boyett advised that approving NX3 zoning did not guarantee the developer would build what was proposed. He was opposed to the zone change.

**Motion:** Having conducted a public hearing, considered written and spoken public testimony, I move to approve first reading ordinance for Zone Change 1052, as recommended by the Zoning Commission.

Moved by Councilmember Gulick  
Seconded by Councilmember Tidswell

Councilmember Gulick approved of the housing diversity and the co-op model for housing.

Councilmember Owen echoed Councilmember Boyett's concerns and indicated the intent of the zoning code was not being realized in so many of the zone changes.

Councilmember Rupsis was opposed. He indicated the lack of protestors was because people did not feel they were being heard. The first go around with the zone change they were heard and the zone change was denied by Council, but this time, people were not being heard. He had concerns the developers were gaming the system in an effort to circumvent the protest process, i.e. 31-foot setback. He liked the proposed development and cooperative model, but indicated it was an inappropriate use of the land.

Councilmember Joy supported the zone change and the proposed development because it would open the market for families seeking single family dwellings as the aging citizens began moving into cooperative housing such as this.

Councilmember Neese noted the lack of protestors was because the neighbors were not opposing the new proposed development. He supported the setback from Zimmerman Trial and the motion.

**APPROVED 8-2**, Councilmember Boyett and Rupsis opposed, Councilmember Aspelieder abstained

**5. RESOLUTION 24-11218** approving and adopting Cottonwood Park Master Plan. Staff recommends approval.

Mike Pigg, Parks, Recreation and Public Lands Director, introduced the consultant, Michael Verseman, Land Design, Inc. Mr. Verseman provided a brief presentation and gave the history of the land donation from the Forbes Family around the year 2000. He explained the public meetings process and provided highlights of the master plan.

Mayor Cole supported the master plan and indicated money was an issue. He was concerned that the study did not address how the funding would be collected, i.e. developer fees and cash-in-lieu.

Councilmember Kennedy was opposed due to funding and the condition of existing parks that needed repairs. Mr. Pigg advised that any cash-in-lieu collected from developments within 1.5 miles of Cottonwood Park was dedicated to Cottonwood Park solely per the development agreement and could not be used toward any other park.

Councilmember Owen voiced concerns about equity for all parks in all areas of the city, i.e. identical community centers. Mr. Pigg agreed and explained the Community Center model process.

Councilmember Gulick objected that new parks could not be developed until existing parks were tended to. He noted the plan adoption would not commit anyone to anything right now, it was a point of departure. He asked for clarification on the cash-in-lieu process. Mr. Pigg reiterated his earlier explanation.

**Motion:** I move to approve a resolution approving and adopting the Cottonwood Park Master Plan, adding the development agreement to the appendices and addressing the funding sources section on Page 64 of the Master Plan and identify the requirements of the development agreement when it comes to funding, and allowing staff to further address funding, as recommended by staff.

Moved by Councilmember Gulick  
Seconded by Councilmember Rupsis

Mayor Cole suggested a Substitute Motion to delay approval.

Councilmember Tidswell asked how much money was in the fund for the park presently and what it would take to "scratch the surface." Mr. Pigg responded that adoption of a master plan was needed so projects could be prioritized.

Councilmember Neese opposed the motion. He inquired of the number of Full Time Employees necessary for parks based on acreage and appurtenances. He voiced concerns about developing parkland in areas where there was a lot of County lands (out-fill), rather than finishing parks that were surrounded by City lands (in-fill), i.e. Castlerock Park. It was counterintuitive to develop parks that mostly county residents would enjoy. He indicated the master plan was not complete and agreed with the Mayor that approval should be delayed.

Councilmember Aspenlieder asked for clarification on Forbes' intention concerning storage of Parks maintenance equipment. He supported having a staging area at Cottonwood Park to store Public Works and Parks equipment that could have other uses. Mayor Cole stated that would be against the conditions set forth in the development agreement. Councilmember Aspenlieder was disappointed that the City may need to acquire additional land for a future staging area and that the City's hands were tied by the development agreement.

Councilmember Rupsis voiced his frustration with adopting expensive master plans that sit on shelves because there is no way to see the plan through to fruition. He suggested future master plans be less detailed and developed by the Parks Board, staff, community leaders, and with public input.

Councilmember Shaw noted Council was approving a plan that was already paid for. She cautioned the public that in no way was the Council prepared to spend millions of dollars or prioritizing Cottonwood Park over any other park. She supported scaling back on the details of master plans. She encouraged Council to approve the motion.

Councilmember Owen asked for clarification of the development agreement language that may indicate Cottonwood Park would be prioritized over other parks and what the Capital Improvement Projects (CIP) might look like going forward. Mike Pigg, Parks, Recreation and Public Lands Director, noted that the master plan came about because of conversations that came from the failed bond. He agreed that the development agreement obligated Parks to bring something to Council in the CIP every year. Councilmember Owen would not support the motion.

Councilmember Boyett noted the money to draft the master plan was already spent. Council should approve it, place it on the shelf, dust it off once a year, approve Parks to spend some the cash-in-lieu on some portion of Cottonwood Park's development and put it back on the shelf till the next year.

Councilmember Joy supported spending the cash-in-lieu specific for Cottonwood Park to start making some progress.

Council and staff discussed that staff would determine where to spend funds by using the projects identified in the appendix.

A show of hands vote was taken.

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

**6. RECONSIDERATION OF MOTION FOR RESOLUTION 24-11219** approving Municipal Court Judges Salary Increase. Staff recommends approval.

\*This item was heard after Item 3 above.

Gina Dahl, City Attorney, provided background information for the reconsideration. On June 10, 2024, Council considered approval of the final budget where several amendments were made. Specifically, \$40,000 was moved from the City Attorney's budget to the Municipal Court Judges salary increases. That amendment was approved by Council 6-5 and later the full final budget was approved 10-1. On June 25, 2024, the resolution approving the Municipal Judges' salary increases failed 4-5, with some of the Councilmembers absent from the vote. On July 8, 2024, Councilmember Boyett moved to have the item placed on the July 22, 2024 agenda for reconsideration of the motion and it was approved 7-4.

**Motion:** I move to approve a resolution approving Municipal Court Judges Salary Increase, as recommended by staff.

Moved by Councilmember Aspenlieder

Seconded by Councilmember Joy

Councilmember Neese voiced his opposition.

**Substitute Motion:** I move to approve a resolution approving Municipal Court Judges Salary from 100% of a District Court Judge's salary to 95%.

Moved by Councilmember Neese

Seconded by Councilmember Owen

Councilmember Neese noted a second judge was recently added and the caseloads should not have been affected enough to require a significant salary increase. He supported justifying an increase after some time has passed and data provided.

A hands vote was taken on the Substitute Motion.

**FAILED 4-7**, Councilmembers Kennedy, Shaw, Joy, Aspenlieder, Tidswell, Boyett and Mayor Cole opposed

A voice vote was taken on the initial Motion.

**APPROVED 7-4**, Councilmembers Gulick, Neese, Owen and Rupsis opposed

*\*\*Minutes continue to Item 4 of the agenda.*

**PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required.** *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 was no public comment.

**COUNCIL INITIATIVES:**

**1. Budget and Employee Pay. (CM Kennedy)**

**Motion:** The City Administrator is directed to provide at the September 16, 2024 Work Session appropriate background documents and a written summary describing how the market-based employee compensation system has been and will be implemented. The information presented should include, at a minimum,

- A) Gallagher Pay Study analysis;
- B) The 3-year progression of raises to city managers and administrators;
- C) Salary comparisons for department directors with other Montana cities and peer cities;
- D) The pay matrix and 7-step system; and
- E) PayScale.com subscription information.

In the interest of expediency, the City Administrator is also directed to assist the Budget and Finance Committee if it elects to add this subject to its upcoming agenda so that a preliminary discussion can occur before the work session with the full council. The intention of this initiative is to provide transparency to both council members and the public on how public dollars are spent related to staff salaries.

Moved by Councilmember Kennedy  
Seconded by Councilmember Aspenlieder

Councilmember Joy inquired whether there had ever been any grievances or lawsuits filed concerning COLA increase administration. Karla Stanton, Human Resources Director, responded there had not been and the information was always available to the public.

**APPROVED 10-1, Councilmember Joy opposed**

**ADJOURN: 7:52 P.M.**



CITY OF BILLINGS

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

ATTEST:

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