

**MINUTES  
OF THE BILLINGS CITY COUNCIL  
REGULAR BUSINESS MEETING  
August 26, 2024**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana, at 5:30 P.M.

**CALL TO ORDER:** Mayor Cole

**PLEDGE OF ALLEGIANCE:** Mayor Cole

**INVOCATION:** Councilmember Owen Boyett

**ROLL CALL:**

**Present:** Councilmember Ed Gulick, Ward I  
Councilmember Roy Neese, Ward II  
Councilmember Denise Joy, Ward III  
Councilmember Bill Kennedy, Ward III  
Councilmember Daniel Tidswell, Ward IV  
Councilmember Mike Boyett, Ward V  
Councilmember Tom Rupsis, Ward V  
Mayor William Cole

**Absent/  
Excused:** Councilmember Kendra Shaw, Ward I  
Councilmember Jennifer Owen, Ward II  
Councilmember Scott Aspenlieder, Ward IV

**Staff  
Present:** Chris Kukulski, City Administrator  
Gina Dahl, City Attorney  
Denise Bohlman, City Clerk  
Andy Zoeller, Finance Director  
Anna Vickers, Planning Manager  
Karen Husman, Planner  
Jessica Fust, Building Official  
John Caterino, Facilities Manager  
Mac Fogelsong, City Engineer  
Tracy Scott, Parking Manager  
Matt Hoppel, Assistant Fire Chief

**MINUTES:** August 12, 2024 - Pending

**COURTESIES:**

Councilmember Joy acknowledged the Public Works Department's staffs' efforts in clearing the storm debris.

Councilmember Kennedy thanked the Breakfast Exchange Club for organizing the Food Truck Challenge to benefit veterans programs in Billings.

**PROCLAMATIONS:**

Mayor Cole proclaimed August as Healthy Tribes Wellness Month.

**COUNCIL REPORTS:** None

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

Chris Kukulski, City Administrator, mentioned the Public Works Utility staff were diligently working on solutions to the utility billing problems. There would be no late fees or shut off during this time period, nor would the 60-day water use bump anyone into the next tier for billing rates and payment arrangements would be offered, if necessary.

Mr. Kukulski advised that all departments that resided in the Miller Building were now moved to other temporary locations until the New City Hall building's renovations were completed.

Mr. Kukulski recommended removing Consent Agenda Item 1F, HOME-ARP Supportive Service Project – Subrecipient Allocations and placing it on the September 23<sup>rd</sup> Agenda to allow subrecipients more time to review their agreements.

Mr. Kukulski advised there was 1 exparte communication received after 3 pm to the Mayor and Council concerning Consent Agenda Item 1K, and the proposed changes to the ordinance.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1, 4, 5 and 6 ONLY. Speaker sign-in required.** (Comments are limited to three (3) minutes or as set by the Mayor. Please sign the roster at the cart located at the back of the Council chambers or at the podium. Comments on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For items not on this agenda, public comment will be taken at the end of the agenda.)

The following individuals provided public comment in support of Regular Agenda Item 4:

- Dan Brooks, Billings Chamber of Commerce, 815 South 27<sup>th</sup> Street, Billings, Montana.
- Jan Dietrich, Executive Director of Alberta Bair Theatre, 2801 3rd Avenue North, Billings, Montana.

There were no further speakers.

**\*Motion:** I move to remove Consent Agenda Item 1F, HOME-ARP Supportive Service Project – Subrecipient Allocations, as recommended by staff.

Moved by Councilmember Neese

Seconded by Councilmember Gulick

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**1. CONSENT AGENDA:**

Councilmember Neese separated Consent Agenda Item 1K for discussion.

**Motion:** I move to approve the items of the Consent Agenda as submitted, with the exception of Item 1F and 1K.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

Councilmember Neese voiced concerns about the costs of having to re-do some of the work and inquired whether the City could make a claim with the contractor or someone to recoup the expenses. Mr. Kukulski noted that a potential claim was being evaluated and it would be brought to Council's attention the outcome of that decision.

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**A. Bid Awards:**

**1. City Vehicles.** (Opened 8/6/24) Recommend Schedules 1 through 9 and 11 - Billion Auto Group; Schedule 10 - KIG Vehicle Concepts.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**B. Change Order No. 1**, to General Contractor/Construction Manager Construction Services Contract with Dick Anderson Construction, Inc. (DAC) for W.O. 19-12: West End Reservoir Project.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**C. Change Order No. 5**, to New City Hall Construction Manager at Risk (CMAR) Contract with Dick Anderson Construction.

Moved by Councilmember Boyett

Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**D. Contract** with Motorola Solutions for 911 Phone and Radio Recorder.  
Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**E. Billings Metropolitan Planning Organization Title VI Assurance.**  
Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

~~**F. HOME ARP Supportive Service Project – Subrecipient Allocations.**~~

**\*REMOVED FROM AGENDA BY MOTION 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**G. Perpetual Right-of-Way Easements** from TREH Commercial.  
Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**H. Final Plat** of Les Schwab Subdivision. **\*Quasi-Judicial**  
Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**I. Bond Resolution 24-11221** for Pooled Series 2024 Sidewalk Bonds for WO 23-02: Missing Sidewalk Improvements and WO 22-21: Brewington Drive Improvements.

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**J. Bond Resolution 24-11222** for Pooled Series 2024 Special Improvement Bonds for Special Improvement Districts (SIDs) 1421, 1422, 1425, 1426, and 1427.

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**K. Second/Final Reading Ordinance 24-5890** amending Sections 24-457, 24-467, 24-473, 24-1004 through 24-1006, and 24-1011, Billings, Montana City Code (BMCC), concerning parking fees and violations.

**Motion:** I move to approve second/final reading Ordinance amending Sections 24-457, 24-467, 24-473, 24-1004 through 24-1006, and 24-1011, Billings, Montana City Code (BMCC), concerning parking violation enforcement procedures, and removing from proposed ordinance the phrase “an \$20 administrative fee in Section 24-1004(C)(1) and (D); replaced with “an administrative fee.”

Moved by Councilmember Neese  
Seconded by Councilmember Gulick

Gina Dahl, City Attorney, noted that Council should determine how the administrative fee would be set, via resolution or City Administrator Order; either would be appropriate.

Councilmember Neese made a friendly amendment to his motion to add "an administrative fee as established by resolution" and Councilmember Gulick's agreed.

Council and staff discussed creating consistency between setting fees by administrative orders and some others by Council resolutions.

**APPROVED 7-1**, Councilmembers Shaw, Owen and Aspenlieder absent/excused; Councilmember Kennedy opposed

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

1. July 22, 2024

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

2. July 29, 2024

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**REGULAR AGENDA:**

**2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1051:** located at 122 N. 12th Street. Zoning Commission recommends approval and adoption of the 10 review criteria. **\*Quasi- Judicial**

Anna Vickers, Planning Division Manager, provided an overview and details of the property located in the EBURD and proposed zone change. She explained the industrial sanctuary zoning components as being housing in an industrial zone for employees or caretakers. She reviewed the Zoning Commissions recommendations for approval.

Zach Schopp, Agent to the Applicant, Cal Paulson, introduced himself and offered to address Council's questions. He explained that the project had 3 phases.

Council inquired about number of floors to the building for residential use and encouraged construction be more than a 2-story building to allow for more housing.

Anna Vickers confirmed that casinos were allowed within the zoning.

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 1051 and adoption of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Gulick  
Seconded by Councilmember Neese

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 1053:** located at 4529 S. Billings Blvd. Zoning Commission recommends approval and adoption of the 10 review criteria. \*Quasi-Judicial

Karen Husman, Planner, provided a brief PowerPoint presentation comparing the existing zone change with the proposed zone change and the owners plans for development. She reviewed the 10 review criteria and noted the Zoning Commission recommended approval.

Councilmember Neese inquired whether any of the property owners objected to the proposed development. Ms. Husman stated no one appeared at the Zoning Commission's public hearing, but since then she had received a phone call from a nearby neighbor that noted the property looked much better now that debris had been removed. Councilmember Neese voiced concern about engine noise and vehicle storage.

Councilmember Joy voiced concerns about contamination from leaking fluids. Ms. Husman indicated that the surface needed to be impervious to leaking fluids to avoid contaminating the soil, etc.

J.W. Papez, Agent to the Applicant, noted that the agenda stated the subject property was 1529 S. Billings Blvd., however it was 529 S. Billings Blvd. He explained the proposed buffering for noise reduction and visual concerns. He noted the parking lot was not intended to be paved but would have gravel.

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 1053 and adoption of the 10 review criteria, as recommended by the Zoning Commission.

Moved by Councilmember Kennedy  
Seconded by Councilmember Tidswell

Councilmember Kennedy noted Hanser's has been a good, responsible neighbor.

Councilmember Joy agreed that Hanser's were good neighbors, but she supported more affordable housing development in the mid-town area. She would support the motion.

**APPROVED 8-0**, Councilmembers Shaw, Owen and Aspenlieder absent/excused

**4. TAX INCREMENT FINANCING ASSISTANCE** from Expanded North 27th Urban Renewal District to the Alberta Bair Theater, up to a maximum reimbursement of \$83,000. The Downtown Billings Partnership (DBP) Board does **NOT** recommend approval.

Mehmet Casey, Development Director, with the Downtown Billings Partnership, provided one PowerPoint presentation that addressed Regular Agenda Items 4, 5, and 6. *(The minutes will reflect the portion of the presentation appropriate for each item under consideration.)* He stated 4 crashes since the Alberta Bair Theater renovation had occurred and patron/pedestrian safety in the area was a concern. The applicant as seeking funding toward installation of 23 bollards. Funding contribution equivalency is 2:1. The DBP board did not recommend funding because it has supported other projects for this entity in the past; the blight argument was difficult to support; and it did not meet the strategic priorities set in the budget. The board acknowledged that the business was key to the health of the downtown and encouraged Mr. Casey to work with City staff to bring a future long-term recommendation for maintaining City-owned assets.

Councilmember Joy inquired whether there would be enough TIF monies available to award any of the applications. Andy Zoeller, Finance Director, explained the district was devalued by 7.5% and more devaluation was expected in the future. He provided facts and figures to demonstrate the point he was making. In the short term the monies would be available for up to \$300,000 in projects, but it would affect the long-term health of the district.

Council and staff discussed the need for ongoing maintenance of all three of City-owned buildings.

Councilmember Kennedy asked why the smaller amount asked by the Alberta Bair Theater could not be authorized and wait on the other TIF applications. Andy Zoeller, Finance Director, responded that the existing monies were already spoken for through grant obligations, etc. and the bollard project was not connected with any grants. He confirmed that the monies earmarked for the Skypoint sails was accounted for.

Councilmember Neese inquired about the agencies' that operate within the buildings profit and loss structure. Mr. Casey responded the DBP did not currently review that information about the applicants but it was likely to change going forward. Councilmember Neese encouraged more fundraising by the organizations. Mr. Zoeller confirmed that annual financial statements were not received from any of the agencies, it was not required.

Councilmember Gulick supported Councilmember Neese's statements and consulted with the City Attorney, Gina Dahl, about amending development agreements to include something specific about ongoing maintenance of the buildings.

Council and Mr. Casey discussed timing of funding recommendations.

Jan Dietrich, Executive Director, explained the importance of keeping patrons safe from traffic / pedestrian accidents. She mentioned that ABT had contributed to their building maintenance before and since the renovation.

**Motion:** I move to deny tax increment financing assistance from Expanded North 27th Urban Renewal District to the Alberta Bair Theater, as recommended by the Downtown Billings Partnership (DBP) board.

Moved by Councilmember Boyett  
Seconded by Councilmember Neese

Discussions continued about denial and reapplication versus tabling the item.

Wyeth Friday, Planning Director, supported delaying the decision to allow City staff, DBP board and the applicants time to reconstruction the ask.

Chris Kukulski, City Administrator, indicated that staff had considered the recommendations of the DBP board, but recognized the Babcock had urgent needs for repairs. He agreed that if Council wished to reconsider after some adjustments were made, then delaying would be appropriate over denial.

Mehmet Casey explained that the devaluation realization was now known and it was unlikely the board would change their recommendation.

Councilmember Rupsis acknowledged that the City had not held up its obligations well toward maintaining its buildings and the City needed to budget for this. All of the assets were important, historical buildings. He encouraged DBP board and staff to work toward a better solution and bring it to the Council for consideration.

Councilmember Kennedy voiced opposition to the motion. He wanted to delay it for a month and have staff return with a solution to consider rather than denial and reapplication from the entities later.

**APPROVED 7-1 TO DENY ASSISTANCE**, Councilmembers Shaw, Owen and Aspenlieder absent/excused, Councilmember Kennedy opposed

**5. TAX INCREMENT FINANCING ASSISTANCE** from Expanded North 27th Urban Renewal District (a/k/a Downtown Tax Increment Fund) to the Cine Billings, d/b/a Art House Billings, up to a maximum reimbursement of \$300,000. The Downtown Billings Partnership (DBP) Board does **NOT** recommend approval.

Mehmet Casey, Development Director, with the Downtown Billings Partnership, provided one PowerPoint presentation that addressed Regular Agenda Items 4, 5, and 6. (*The minutes will reflect the portion of the presentation appropriate for each item under consideration.*) He noted that a historic credits grant was secured to help pay a significant amount of the repairs for the sidewalk, vault and entry repairs. The contribution equivalency was 1:1. The DBP board did not recommend funding because it has supported other projects in the past for this entity in the past; the blight argument was difficult to support; and it did not meet the strategic priorities set in the budget. The board acknowledged that the business was key to the health of the downtown and encouraged Mr. Casey to work with City staff to bring a future long-term recommendation for maintaining City-owned assets.

Matt Blakeslee, Executive Director, spoke to Council about the various needs identified for maintenance. He reiterated that Art House had spent over \$100,000 of its monies to repairs and maintenance projects over recent years. The grant funds secured must have their match by the July of 2025. The sidewalk project has increased since the grant was applied for and this was cause for additional monies to be asked.

Council and Mr. Blakelee continued discussions about all the repairs that were needed and how they were prioritized.

Councilmember Kennedy was concerned about the signage clause of the lease and whether the lessee was responsible for the marquee. City Attorney, Gina Dahl, was reluctant to separate one clause from the entire lease to interpret the intent and meaning of the clause.

Councilmember Rupsis voiced concern about the bidding process for work done on the Babcock over \$10K was required to meet the City's bidding process. He also noted that anything over \$80K that was spent on the Babcock would require City Council approval. He made inquiries into the historic tax credits and preservation.

**Motion:** I move to delay award of tax increment financing assistance from Expanded North 27th Urban Renewal District (a/k/a Downtown Tax Increment Fund) to the Cine Billings, d/b/a Art House Billings, up to a maximum reimbursement of \$300,000, to allow staff time to work on alternate funding sources and modify the request and return to Council at a future meeting.

Moved by Councilmember Neese  
Seconded by Councilmember Kennedy

Councilmember Neese acknowledged that was a critical need at the Babcock Theater for repairs and he wanted to thwart the City's potential liability should something happen.

Councilmember Joy clarified with Mr. Casey the DBP board's reasoning for recommending denial of all three TIF applications.

**Substitute Motion:** I move to deny tax increment financing assistance from Expanded North 27th Urban Renewal District (a/k/a Downtown Tax Increment Fund) to the Cine Billings, d/b/a Art House Billings, as recommended by DBP board.

Moved by Councilmember Rupsis  
Seconded by Councilmember Boyett

Councilmember Rupsis urged consistency on the decisions for all the TIF applications before Council.

Councilmember Boyett noted that all the buildings were owned by the City and the City needed to find some way to help with maintenance.

Councilmember Neese opposed the substitute motion and noted the other applications lacked specific details.

Councilmember Kennedy was opposed to the substitute motion and noted Councilmembers were asking for these applications to be returned to Council with better solutions. He indicated Council was not prepared to vote on any of the TIF applications.

A show of hands vote was taken.

**FAILED 4-4**, Councilmembers Gulick, Neese, Kennedy and Tidswell opposed

A vote was taken on the original motion.

**APPROVED 7-1**, Councilmember Joy opposed

**6. TAX INCREMENT FINANCING ASSISTANCE** from Expanded North 27th Urban Renewal District (a/k/a Downtown Tax Increment Fund) to Billings Depot, Inc., located at 2310 Montana Avenue, up to a maximum reimbursement of \$80,000. The Downtown Billings Partnership (DBP) Board does **NOT** recommend approval.

Mehmet Casey, Development Director, with the Downtown Billings Partnership, provided one PowerPoint presentation that addressed Regular Agenda Items 4, 5, and 6. *(The minutes will reflect the portion of the presentation appropriate for each item under consideration.)* He noted that cement walkways were in need of repairs. The contribution equivalency was 6:1. The DBP board did not recommend funding because it has supported other projects in the past for this entity in the past; the blight argument was difficult to support; and it did not meet the strategic priorities set in the budget. The board acknowledged that the business was key to the health of the downtown and encouraged Mr. Casey to work with City staff to bring a future long-term recommendation for maintaining City-owned assets.

Michelle Williams, Executive Director, appeared via Zoom, and explained that the Depot budgets \$100K in their maintenance fund every year and provided details about recent repairs made to the building and its campus. She explained that the Depot had received a historic preservation grant. She continued that it had not been her intention to apply for TIF, but the cost of repairs was quickly outspending what was in the maintenance fund and timeline set by the grant was quickly approaching its deadline in summer of 2026.

Discussions continued about the Depot paying taxes due to leasing the buildings to tenants and possibility of recouping TIF funds through taxes.

**Motion:** I move to delay award of tax increment financing assistance from Expanded North 27th Urban Renewal District (a/k/a Downtown Tax Increment Fund) to Billings Depot, Inc., located at 2310 Montana Avenue, up to a maximum reimbursement of \$80,000, to allow staff time to work on alternate funding sources and modify the request and return to Council at a future meeting.

Moved by Councilmember Neese  
Seconded by Councilmember Kennedy

Councilmember Neese held that the Depot paid taxes and the \$80,000 could be recouped eventually. He agreed with Councilmember Kennedy that the application could have included more details, but the Council could move quickly on this one.

**Substitute Motion:** I move to deny tax increment financing assistance from Expanded North 27th Urban Renewal District (a/k/a Downtown Tax Increment Fund) to Billings Depot, Inc., located at 2310 Montana Avenue, as recommended by DBP board.

Moved by Councilmember Rupsis  
Seconded by Councilmember Joy

Councilmember Joy indicated it was difficult for the City be a partner with its cultural and art assets, the legislature needs to address this. Relying on TIF funds to address problems of City-owned properties was not a good solution. She would support the motion.

Councilmember Gulick would support the motion.

Mayor Cole supported the motion stating the Depot had an additional year on the grant and could return with another application.

A show of hands vote was taken.

**APPROVED 5-3 TO DENY ASSISTANCE**, Councilmembers Kennedy, Tidswell, and Neese opposed

**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:**

There were no Council initiatives.

**ADJOURN: 8:11 P.M.**



CITY OF BILLINGS

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

ATTEST:

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