

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 12, 2018

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. Mayor Cole called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Ewalt gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Cromley, Yakawich, Brewster, Ewalt, Joy, Friedel, Gibbs, Ronning, Clark and Brown.

**MINUTES:** February 26, 2018 – Councilmember Brewster moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

## **COURTESIES:**

- Councilmember Yakawich stated Floyd Martin, previous Southwest Corridor Task Force member, had recently passed away. He stated Mr. Martin had been a valued volunteer for the City and would be missed.
- Councilmember Cromley stated the MSU-Billings women's basketball team would be playing in the NCAA Championships. He added that the game would be broadcast in Petro Hall. Mayor Cole wished them the best of luck.

## **PROCLAMATIONS:**

- There were no proclamations.

## **ADMINISTRATOR REPORTS - BRUCE MCCANDLESS**

- Mr. McCandless stated that regarding Item 2, the correct address should be 802 South 31<sup>st</sup> Street, instead of 3123 8<sup>th</sup> Avenue.

## **PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 4 ONLY.**

**Speaker sign-in required.** (Comments are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign the roster located on the cart at the back of 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 public comment period was opened.

There were no speakers, and the public comment period was closed.

### **1. CONSENT AGENDA**

#### **A. Bid Awards:**

1. **Compact Track Skid Loader.** (Opened 2/27/18) Recommend Bobcat of Big Sky; \$48,133.
  2. **W.O. 17-06, Midland Road Improvements.** (Opened 2/27/18) Recommend Knife River-Billings; \$3,193,186.75.
  3. **W.O. 18-12 Belknap Office Remodel.** (Opened 2/27/18) Recommend Fisher Construction, Inc.; \$94,900.
  4. **SID 1401, Molt Road Turn Lane Improvements.** (Opened 2/27/18) Recommend CMG Construction, LLC; \$208,300.
- B. Amendment No. 1, W.O. 17-16, Fox Pump Station Improvements,** Professional Services Contract, Morrison Maierle, Inc.; \$75,050.
- C. Approval** of Purchase Agreement and Warranty Deed for W.O. 16-05, Central Avenue (Shiloh Road to 32nd Street West) with Jay C. Lyndes.
- D. Approval** of Right of Way Agreement and Warranty Deed for W.O. 16-05, Central Avenue (Shiloh Road to 32nd Street West) with Leo C. Schwehr Trust.
- E. Approval** of Household Hazardous Waste Removal Agreement with Clean Harbors Environmental Services, up to \$100,000 for three years.
- F. Utility Easement** with Charter Communications to install new coax cables in Lillis Park.
- G. Resolution 18-10706** approving a right of way rededication for W.O. 16-05, Central Avenue (Shiloh Road to 32nd Street West).
- H. Preliminary Subsequent Minor Plat** of Silver Creek Estates, generally located on the east side of 50th Street West and south of Rimrock Road; Boyer Land, LLC, owner; KLJ Engineering, agent.
- I. Bills and Payroll:**

1. February 12, 2018
2. February 14 and 20, 2018

Councilmember Yakawich separated Item 1E for discussion.

Councilmember Joy separated Item 1H for discussion.

Councilmember Brown separated Items 1B and 1I1 in order to abstain.

Councilmember Brewster moved for approval of the Consent Agenda with the exception of Items 1B, 1E, 1H and 1I1, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item 1B, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Yakawich, in reference to Item 1E, asked for clarification on the safe disposal of hazardous materials. Dave Mumford, Public Works Director, stated the City had worked with Clean Harbors Environmental Services in the past and they would be safely packaging the material for the City. He added that the amount of household hazardous waste had significantly increased in the past few years and having an outside company safely handle the disposal process had become necessary.

Councilmember Joy stated the disposal process was very expensive and questioned if the public was notified of costs during the chemical roundup. Mr. Mumford stated the landfill had a permanent disposal site now, so the chemical roundup no longer occurred. He added that the costs were part of the services provided to taxpayers by the City.

Mayor Cole asked if the disposal buildings at the landfill could be better labeled. Mr. Mumford stated the new facilities would have better signage and that staff was working on making current signage more recognizable. Mayor Cole asked if an after-hours drop site would be a viable option. Mr. Mumford stated it had been done in the past. He continued that the after-hours drop site had overwhelmed staff and had not helped with the illegal dumping issues. He added that the topic would be discussed at the City/County meeting in the future.

Councilmember Yakawich moved for approval of Item 1E, seconded by Councilmember Ewalt. On a voice vote, the motion was unanimously approved.

Councilmember Joy, in reference to Item 1H, asked for clarification on parkland requirements. Wyeth Friday, Planning Director, stated the subdivision plat had been revised to increase the number of lots and there would be a new plat proposal that would meet parkland requirements.

Councilmember Joy moved for approval of Item 1H, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of Item 111, seconded by Councilmember Brewster. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE: a variance from Section 6-203, BMCC, allowing the alley located at 3123 8th Avenue South 802 South 31<sup>st</sup> Street to remain unpaved. Staff recommends tabling the item indefinitely. (Action: approval or disapproval of staff recommendation.)**

David Mumford, Public Works Director, stated that Section 6-203, Billings, Montana City Code, required the evaluation of paving alleys with any new development. He stated that Public Works had required paving in the past due to gravel being tracked onto paved side streets and the wear and tear on alleys. Public Works had originally thought that Section 6-1210 would be the code used, but after consulting the Legal Department, they had found that Section 6-205 was the appropriate code. Therefore, staff was recommending the item be tabled indefinitely so the Building Appeals Board could handle the decision in order to properly follow the code.

Councilmember Gibbs asked how long the appeal process should take. Mr. Friday stated that the Building Appeals Board had not met recently, so he estimated it may take a few months.

Councilmember Cromley asked if the appeals process was certiorari to the district courts. Brent Brooks, City Attorney, responded affirmatively. Councilmember Cromley asked how the alley paving issue could be enforced if it became a concern. Mr. Brooks stated that it may be a municipal infraction that could be enforced with citations if needed.

Mayor Cole asked if the estimated cost for paving the alley would be around \$3,200. Mr. Mumford responded affirmatively. Mayor Cole encouraged Council and the public to consider donating to The Friendship House.

The public hearing was opened.

- **Adam Liberty, The Friendship House, Community Engagement Officer:** thanked Council for considering the issue. Councilmember Yakawich asked for the address of The Friendship House. Mr. Liberty stated the address was 3123 8<sup>th</sup> Avenue South. He added that the less money they spent on the parking lot, the more money they would be able to spend on the kids in the program.

There were no further speakers, and the public hearing was closed.

Councilmember Clark moved to table the item indefinitely, seconded by Councilmember Brewster. On a voice vote, the motion was approved 10-1, Councilmember Yakawich voted in opposition.

**3. PUBLIC HEARING AND RESOLUTION 18-10707 creating SILMD 325, Central Avenue. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

David Mumford, Public Works Director, stated Items 3 and 4 were both concerning Central Avenue. He added that staff had sent notices to 17 property owners and had received 1 formal protest.

Councilmember Brown asked how vacant properties were assessed. Mr. Mumford stated the property was assessed according to lineal footage and the assessment amount would be included once the property was sold.

Councilmember Friedel asked if South 36<sup>th</sup> Street would be paved. Mr. Mumford responded affirmatively.

Councilmember Clark asked if the houses without addresses on Central Avenue, but with side yards on Central, would pay the assessment. Mr. Mumford stated that they would be assessed.

The public hearing was opened.

There were no speakers, and the public hearing was closed.

Councilmember Clark moved for approval, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

**4. RESOLUTION 18-10708 ordering improvements identified in W.O. 16-05, Central Avenue Improvements. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

David Mumford, Public Works Director, stated there would be no presentation.

Councilmember Clark moved for approval, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND RESOLUTION 18-10709 vacating a portion of right of way within Silver Creek Estates. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Bruce McCandless, City Administrator, stated that the streets created in the plat, Consent Agenda Item 1H, would need to be vacated. He stated there were no improvements made, therefore, policy allowed the City to give the property back to the owner with no costs incurred.

The public hearing was opened.

There were no speakers, and the public hearing was closed.

Councilmember Clark moved for approval, seconded by Councilmember Ewalt. On a voice vote, the motion was unanimously approved.

**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. Please sign the roster located on the cart at the back of Council chambers or at the podium.)*

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana:** stated the City's past development plans had not worked out as planned. He stated Ace Hardware had not offered a breakdown of costs for the TIF money they had requested. He

added that the lack of transparency issues was one the reasons the legislature was reviewing TIF Districts. Mayor Cole stated Council would be reviewing the policies on TIF Administration. He added that a standardized application may be necessary to allow more data to be compiled.

- **Lee Humphrey, 213 North Broadway, Billings, Montana:** stated a large attraction downtown would help the entire City. He added that he was looking forward to the prospect of One Big Sky Center. Mr. Humphrey stated that higher quality office space and buildings would drive all business owners to meet the same level of quality. He added that additional residential buildings would keep business downtown as well.

There were no further speakers, and the public comment period was closed.

**COUNCIL INITIATIVES:**

There was no further business, and the meeting adjourned at 7:56 p.m.

CITY OF BILLINGS



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

ATTEST:

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