

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

March 26, 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 Joy gave the invocation.

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

**MINUTES:** March 12, 2018 – Councilmember Yakawich moved for approval, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

### **COURTESIES:**

- Mayor Cole thanked Mr. Fitzpatrick, a member of the Crow tribe, for a Native American necklace he was given as a symbol of leadership and friendship.
- Councilmember Yakawich announced that the Great American Cleanup was scheduled for April 28<sup>th</sup>, 2018, and encouraged citizens to contact “Bright & Beautiful” offices for details and supplies.
- Councilmember Ronning acknowledged high school student leaders for organizing and participating in the “March for Our Lives” event on March 24<sup>th</sup>.

### **PROCLAMATIONS:**

- Mayor Cole pronounced April 3, 2018 as National Service Recognition Day and thanked all that serve in AmeriCorps and AmeriCorps VISTA programs.

### **ADMINISTRATOR REPORTS - BRUCE MCCANDLESS**

- Mr. McCandless reminded Council that a public meeting was scheduled for Wednesday, March 28, 2018, at 4:00 PM, at the First Interstate Bank Operations Center, 1800 6<sup>th</sup> Avenue North, regarding One Big Sky project planning proposal.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 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.

- **Danny Choriki, 20 Marshall, Billings, Montana**, in reference to Item 1A1, stated he was running for the Montana Legislature and was happy to be appointed on the Human Relations Board.

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

**1. CONSENT AGENDA**

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

	Name	Board/Commission	Term	
			Begins	Ends
1	No Applications	Board of Appeals - Electrical Cont	03/26/18	12/31/21
2	No Applications	Board of Appeals -Plumber	03/26/18	12/31/21
3	Bradley Ball	Housing Authority*	03/26/18	12/31/21
4	John Thayer	Housing Authority - Resident Comm	03/26/18	12/31/19
5	Danny Choriki	Human Relations*	03/26/18	12/31/18
6	Denise Smith	Human Relations*	03/26/18	12/31/19
7	Connie Genger	Human Relations	03/26/18	12/31/21
8	Jon Thompson	Planning Board - Ward 5*	03/26/18	12/31/18
9	Lori Walker	Tourism BID Board*	03/26/18	10/01/19

- \* 3 Unexpired term of Mike Boyett
- \* 5 Unexpired term of Shawna Hawkins
- \* 6 Unexpired term of Marc Burr
- \* 8 Unexpired term of Patrick Klugman
- \* 9 Unexpired term of Arthur Westwood

**B. Bid Awards:**

1. **Airport Cupping Snow Plow Blade.** (Opened 3/13/2018) Recommend M-B Companies, Inc.; \$62,458.
2. **SID 1403 Gleneagles Boulevard.** (Opened 3/13/2018) Recommend CMG Construction, LLC; \$815,279.

**C. Amended Exempt Plat Approval** of Lot 23-A of Sunny Cove Fruit Farms Subdivision.

**D. Approval** of right of way agreement and warranty deed for W.O. 16-05, Central Avenue Improvements, with Eggebrecht Family Limited Partnership.

- E. Approval** of scheduled airline operating permit with MN Airlines, LLC, D/B/A Sun Country Airlines.
- F. Approval** of noise waiver for Magic City Blues Festival and Billings Clinic Classic with event end times of midnight for the 2018 and 2019 events.
- G. Acceptance** of 2018 HIDTA award from the Executive Office of the President, Office of National Drug Control Policy; \$223,812.
- H. Resolution 18-10710** authorizing the issuance and calling for the negotiated sale for W.O. 16-05, W.O. 17-02, W.O. 17-06 and W.O. 18-10.
- I. Resolution 18-10711** approving an extension of the Cable Franchise Agreement with Bresnan Communications, LLC, to June 4, 2018.
- J. Preliminary Major Plat** of Lake Hills Subdivision, 36th Filing, northwest of Lake Hills Golf Course; Ron S. Hill Living Trust, Sheila Siemion, owner; Performance Engineering and Consulting, agent.

**K. Bills and Payroll:**

1. February 26, 2018

Councilmember Joy separated Item 1A1 in order to abstain.

Councilmember Yakawich separated Item 1G for discussion.

Mayor Cole separated Item 1J for discussion.

Councilmember Brown separated Item 1K1 in order to abstain.

Councilmember Clark moved for approval of the Consent Agenda with the exception of Items 1A1, 1G, 1J, and 1K1, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of Item 1A1, seconded by Councilmember Brown. On a voice vote, the motion was approved 9-0, Councilmember Joy abstained.

Councilmember Yakawich invited Police Chief St. John to address the Council regarding Item 1G. Chief St. John spoke about the High Intensity Drug Traffic Area (HIDTA) award, its funding and uses in the community. Councilmember Yakawich moved for approval of Item 1G, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Mayor Cole stated he wanted the standard language to be used in the waiver of right to protest attached to Item 1J. He stated the standard language listed a broader coverage of protests. Wyeth Friday, Planning Director, stated that during a preliminary process that could be reviewed. He continued that it may have been addressed in previous platting of the area and if so, the condensed format of the waiver in this plat could be justified. Mayor Cole moved for approval of Item 1J with the condition that the waiver of right to pretest include standard, broadly scoped protest language, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of Item 1K1, seconded by Councilmember Ewalt. On a voice vote, the motion was approved 9-0, Councilmember Brown abstained.

### **REGULAR AGENDA:**

#### **2. PUBLIC HEARING AND RESOLUTION 18-10712 approving FY19-FY23 Capital Improvement Plan (CIP), FY19 Equipment Replacement Plan (ERP) and FY19 Technology Replacement Plan (TRP). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Vern Heisler, Deputy Public Works Director, gave a presentation outlining projects scheduled for the CIP. Steve Zeier, SBURA, stated the item in the CIP for an aquatics center had not been brought to the Parks Board yet, but would when the invitation was received. No presentations were given concerning the ERP and TRP.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, stated he supported the City applying for Transportation Investment Generating Economic Recovery (TIGER) grants, to prepare to match funds, and prioritize the completion of the Innerbelt Loop.
- **Kristi Drake, 2416 Avalon Road, Billings, Montana**, stated her support for the bike paths in the CIP.
- **Kathy Aragon, 645 O'Malley Drive, Billings, Montana**, stated her support for the bike paths and trails system in the CIP as they encouraged healthy lifestyles.

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

Councilmember Clark moved for approval of the FY19 ERP, seconded by Councilmember Ewalt. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of the FY19 TRP, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for postponement of the FY19-FY23 CIP for 4 weeks (April 23, 2018), seconded by Councilmember Ewalt. Councilmember Clark

stated there were items he wished for more discussion before approving the CIP. Council and staff discussed concerns and funding for the Innerbelt Loop project, including TIGER grant possibilities and the 2017 Legislature's increased gas tax funding. Council discussed removing the City Hall Building and Police Evidence Facility Building from the CIP.

Councilmember Clark made a substitute motion to approve the FY19-FY23 CIP, omitting the City Hall and Police Evidence Facility building projects, seconded by Councilmember Ewalt. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION 18-10713 creating Park Maintenance District (PMD) 4041. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

The public hearing was opened. There were no speakers and the public hearing was closed.

Councilmember Cromley moved for approval of Item 3, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

**4. PUBLIC HEARING AND RESOLUTION 18-10714 creating SID 1405, EBURD, North 10th Street to North 22nd Street and Montana Avenue to 6th Avenue North. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Vern Heisler, Deputy Public Works Director, gave a brief presentation outlining the processes and areas affected by the SID and subsequent SILMD. He stated that Items 4 and 5 dovetailed and a vote for one item would affect the vote for the other. He mentioned that 6 protests were received from the same property owner for both the SID and SILMD and that represented 1.8% of the total assessment. He stated the SID paid for the installation of the street lights and the SILMD would pay for the long-term maintenance and operation of the lighting district.

The public hearing was opened.

- **Lenette Kosovich, CEO Rimrock Foundation and EBURD Board Member, 1140 North 32<sup>nd</sup> Street, Billings, Montana**, stated the lighting safety project would improve security in the area and would poise the area for additional development. She supported the SID and SILMD.
- **Tim Goodridge, East Billings Renewal District (EBURD) Coordinator**, stated that safety in the area would be improved with streetlights. He stated a portion of the construction costs were prepaid to reduce the assessments by 50%. He supported the SID and SILMD and stated that new housing units were slated for the area which no new housing had been built in the EBURD for approximately 30 years.

- **Brad Anderson, 3375 Gregory Drive West, Billings, Montana,** stated EBURD is underserved and he supported the SID and SILMD.
- **Jason Polaski, 3520 Masterson, Billings, Montana,** stated that economic development would come when people felt safe. He supported the SID and SILMD.
- **Krista Paulson, CFO of Shipton's Big R, 1411 Third Avenue North, Billings, Montana,** voiced her support for the SID and SILMD.

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

Councilmember Cromley moved for approval of Item 4, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND RESOLUTION 18-10715 creating SILMD 323, EBURD, North 10th Street and North 22nd Street and Montana Avenue and 6th Avenue North. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

The public hearing was opened. There were no speakers and the public hearing was closed.

Councilmember Yakawich moved for approval of Item 5, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

**6. PUBLIC HEARING AND FIRST READING ORDINANCE allowing a Billings Police Department Technology Surcharge on all citations and complaints, criminal and traffic, to fund the electronic citations project. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Police Chief, Rich St. John, gave a brief presentation about funding, the use of surcharge funds, and electronic citations. He stated the process of issuing citations had not changed for over 35 years and electronic citation technology would increase productivity and efficiencies of enforcement. He continued that four STEP patrol cars would be equipment and up to 12 patrol cars per year thereafter until the entire fleet was equipped. He stated the electronic citation technology instantly provided information to municipal court, which would expedite and streamline the judicial portion to processing complaints and citations.

The public hearing was opened.

- **Paul Schoemer, 1223 Princeton, Billings, Montana,** stated he supported any technologies that improved efficiencies.

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

Councilmember Friedel moved for approval of Item 6, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

**7. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 963: a zone change from Residential 9,600 (R-96) to Neighborhood Commercial (NC) on the easterly 195.83 feet of that part of Lot 2 of the Subdivision of Section 9, Township 1 South, Range 26 East, a 24,643 square foot parcel of land. Skip King, owner/applicant; Bill Morgan, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Karen Husman, Planner, provided a brief presentation of the area's history and provided an explanation of the Zoning Commission's recommendation and its findings of the 10 criteria. She reminded Council that conditions could not be placed on a zone change.

The public hearing was opened.

- **Bill Morgan, Sanderson Stewart, 1300 North Transtech Way, Billings, Montana**, stated there had been a lot of area support for the zone change; it was consistent with other zoning in the area; and it supported the neighborhood fabric. He described the owner's intent for future use of the land.
- **Steve Zier, SBURA**, stated SBURA supported the zone change and that a TIF application would be forthcoming.

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

Councilmember Yakawich moved for approval of Item 7, with the Zoning Commission's recommendations, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

**8. PUBLIC HEARING AND SPECIAL REVIEW 962: a special review to allow the location of an existing all-beverage liquor license with gaming in a Controlled Industrial (CI) zone at 896 S. 29th St. West. 29th West Retail Partners, LLC, owner; Roger Singh, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)**

Monica Plecker, Planning Division Manager, gave a brief presentation and reminded Council that special reviews were based on three criteria, i.e. did it meet the zoning regulations; was it consistent with the growth policy; and was it compatible with surrounding land uses. She continued that special reviews did not require an ordinance and were typically tied to a direct use. She stated the special review was limited to Suite E of the building and she outlined all of the conditions set forth by the Zoning Commission.

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

Councilmember Clark moved for approval of Item 8 with the Zoning Commission's recommendations, seconded by Councilmember Brown. On a voice vote, the motion was approved 9-0, Councilmember Cromley abstained.

**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.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana,** reminded the Mayor that per the Charter, the Mayor was required to vote and have his vote heard. He then provided to Council a spreadsheet indicating projected budgets, actual budgets, and the variances associated with FY 2013 through the present fiscal year. He voiced his concern for accuracy in budget planning and suggested a policy be developed.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana,** stated better enforcement was needed against "jake" braking on Zimmerman Trail.

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

**COUNCIL INITIATIVES:**

There were no Council initiatives.

There was no further business, and the meeting adjourned at 8:56 p.m.



CITY OF BILLINGS

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

ATTEST:

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