

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 9, 2019

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 5:30 p.m. and served as the meeting's presiding officer. Councilmember Ronning gave the invocation.

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

MINUTES: August 26, 2019 - Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

COURTESIES:

- There were no courtesies.

PROCLAMATIONS:

- Mayor Cole proclaimed September as National Recovery Month.

COUNCIL REPORTS:

- There were no Council reports.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski stated there were five items in the ex-parte notebook, regarding Consent Agenda Item 1F, Synthetic Field Turf Installation at Amend Park.
- Informed Council in reference to Regular Agenda Item 6A, Assessing Fees for Encroachments, the attachment in the resolution had duplicate records listed. A corrected attachment has been prepared for the Mayor's signature.
- Mr. Kukulski reminded Council the October 7, 2019 Work Session would be held off-site at the Senior Center to discuss the Public Safety levy.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 2 ONLY.
Speaker sign-in required. (Comments are limited to three (3) minutes. 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 public comment period was opened.

The following constituents spoke in favor of Consent Agenda Item 1F:

- **Mike Mayott, 2424 Locust Street, Billings, Montana:**
 - **Quinn Scarborough, 4440 Laredo Place, Billings, Montana.**
 - **Carmelita Dominguez, 4440 Laredo Place, Billings, Montana.**
 - **CC Bentler, 302 Beverly Hills Boulevard, Billings, Montana.**
 - **Terry Stapleton, 2015 Eastridge Drive, Billings, Montana.**
 - **Brynn Schwarz, 3630 Hayden Drive, Billings, Montana.**
 - **Mike Ormsby, 2930 Walden Place, Billings, Montana.**
 - **Nathan Yonts, 1556 Forest Park Drive, Billings, Montana.**
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- **Ed Gulick, 3015 10th Avenue North, Billings, Montana:** in reference to Item 1G, spoke in favor of updating the bylaws of the Bicycle and Pedestrian Advisory Committee (BPAC).
 - **Kristi Drake, 2416 Avalon Road, Billings, Montana:** spoke in favor of updating the bylaws of the Bicycle and Pedestrian Advisory Committee (BPAC).
 - **Chloe Propp, 302 South 36th Street, Billings, Montana:** stated the City had recently repaired streets in the area and tore them up again 10 days later for water main repairs. She added that it was a waste of taxpayer money.
 - **Rose Clark, 2915 Outfitter Trail, Billings, Montana:** in reference to Item 1G, stated having a non-voting member would help to recognize the member as a part of the committee.

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:

1.

	Name	Board/Commission	Term	
			Begins	Ends
1	Pam Rogina	Animal Control Board*	09/09/19	12/31/21
2	Scott Barber	Bicycle & Pedestrian Advisory Comm*	09/09/19	12/31/21
3	No Applications	Board of Appeals - Electrical Contr.	09/09/19	12/31/21
4	No Applications	Board of Appeals - At Large	09/09/19	12/31/22
5	No Applications	Board of Appeals - Engineer	09/09/19	12/31/22
6	No Applications	Community Development - Lod Mod*	09/09/19	12/31/19
7	No Applications	Community Development - Lod Mod	09/09/19	12/31/22

8	Tim Erickson	Energy & Conservation Commission	09/09/19	09/09/23
9	Glenn Foy	Energy & Conservation Commission	09/09/19	09/09/23
10	Randy Hafer	Energy & Conservation Commission	09/09/19	09/09/23
11	Neil Kiner	Energy & Conservation Commission	09/09/19	09/09/23
12	Jennifer Owen	Energy & Conservation Commission	09/09/19	09/09/23
13	Deborah Singer	Energy & Conservation Commission	09/09/19	09/09/23
14	Karen Stears	Energy & Conservation Commission	09/09/19	09/09/23
15	No Applications	Human Relations Commission*	09/09/19	12/31/20
16	No Applications	Traffic Control Board	09/09/19	12/31/22

- * 1 Unexpired term of Jeannette Vieg
- * 2 Unexpired term of Andrew MacLeod
- * 6 Unexpired term of Rebecca Bey
- *15 Unexpired term of Lita Pepion

B. Bid Awards:

1. **Medium Duty Conventional Cab Trash Truck.** (Opened 8/27/19)
Recommend Motor Power in the amount of \$132,033.
- C. 2019 Justice Assistance Grant (JAG) Application,** Memorandum of Understanding (MOU) with Yellowstone County, and award for City of Billings Police Department; \$84,717.
- D. Billings Heights (PCCP) Water Transmission Main Pipeline Condition Assessment** with PURE Technologies US, Inc.; \$348,768.92.
- E. Right-of-Way Agreement and Bargain and Sale Deed,** with the Montana Department of Transportation (MDT) to shift the access control line at Swords Park; \$500.
- F. Professional Services Agreement** for Synthetic Turf Field Installation at Amend Park; FieldTurf; \$1,514,582.71.
- G. Update** By-Laws for the Bicycle and Pedestrian Advisory Committee (BPAC).
- H. Confirmation** of Probationary Police Officers - Elizabeth Chaffin, Jacob Grommes, Justin Prindle, and Lance Weber.
- I. Preliminary Subsequent Minor Plat** of MK Subdivision, 2nd Filing, generally located at the northwest corner of the intersection of Grand Avenue and 54th Street West; Arrowhead Investments Corporation, owner; Stahly Engineering & Associates, agent.

J. Bills for the week of:

1. August 5, 2019

Councilmember Neese separated Items 1B1, 1G and 1I for discussion.

Councilmember Ronning separated Item 1A1 for discussion.

Councilmember Friedel separated Item 1F for discussion.

Councilmember Brown separated Item 1J1 in order to abstain.

Councilmember Yakawich moved for approval of the entire Consent Agenda, with the exception of Items 1A1, 1B1, 1F, 1G, 1I, and 1J1, seconded by Councilmember Joy.

Dave Mumford, Public Works Director, spoke to the concern brought up during the public comment period regarding a street being torn up for water main repairs near South 32nd Street after having recently been repaired. He stated he was unaware of any work being done by the City to the area, but would get back to Council with the information.

Councilmember Yakawich asked for clarification on Item 1D and the use of Smartball technology. Mr. Mumford stated there were corrosion issues in the water main located in the Heights and the proposed technology would allow for an assessment without shutting off the water.

On a voice vote, the motion to approve all non-separated items was approved unanimously.

Councilmember Ronning, in reference to Item 1A1, stated the process to create an Energy and Conservation Commission had taken over 18 months and a lot of hard work had been put forth to choose the board members.

On a voice vote, the motion to approve Item 1A1, was unanimously approved.

Councilmember Neese, in reference to Item 1B1, requested a delay in order to allow staff time to research the possibility of having Public Works, Solid Waste Division provide trash pick-up for the Parks Department. He added that he would like to see the two departments get together to discuss the possibilities. Mr. Kukulski stated that some parks required daily pick up during the summer months, but staff could research the possibility of having Public Works take over all trash removal for the Parks Department.

Councilmember Ronning stated the truck purchase for the Parks Department had been approved in the 2019 budget and the purchase and procedures had been made clear to Council during the entire process.

Councilmember Yakawich asked for clarification on the trash removal process. Mr. Mumford stated Public Works would be capable of picking up trash for the Parks Department, but added that the process would require a much more in depth conversation between the two departments. He stated Parks had a very unique situation with the amount of parks and was unsure who could better provide the service.

Councilmember Neese made a motion to postpone Item 1B1, in order to allow Public Works and Parks Departments time to discuss the possibility of Public Works picking up trash for Parks, seconded by Councilmember Ewalt.

Councilmember Ewalt asked for clarification on the Parks Departments trash removal process. Mike Pigg, Parks Superintendent, stated the trash truck ran 12 months per year and was the busiest during the summer months.

On a voice vote, the motion to postpone Item 1B1 was approved 8-3, Councilmembers Cromley, Joy and Ronning opposed.

Councilmember Friedel made a motion to approve Item 1F, seconded by Councilmember Clark. Councilmember Friedel commended SBURA on raising funds and their overview of Amend Park. Councilmember Joy asked for a good neighbor policy when it came to noise issues. On a voice vote, the motion was unanimously approved.

Councilmember Neese, in reference to Item 1G, asked for clarification on a floating member allowance in the BPAC bylaws. Wyeth Friday, Planning Director, stated BPAC's proposed changes were intended to ensure that someone from TrailNet was always in attendance. He added one of the proposed changes would alter the City staff requirement with the BPAC.

Council continued discussion on the existing wording and proposed changes to the bylaws.

Councilmember Joy made a motion for approval with an amendment to change the terminology to include "one Billings TrailNet representative to serve as an ex-officio (non-voting) member", seconded by Councilmember Yakawich.

Councilmember Brown stated the proposed language needed to indicate that the member could change each month.

Councilmember Joy amended her motion to include "the member may change from meeting to meeting", seconded by Councilmember Yakawich.

On a voice vote, the amended motion was unanimously approved.

Councilmember Neese, in reference to Item 11, stated the plat approval did not include the promised trail development and would like to see a condition added to ensure the trail development be completed.

Monica Plecker, Planning Division Manager, stated that was not accurate and the Subdivision Improvement Agreement (SIA) required that as each lot was developed, the trail would also be built. Mayor Cole referenced some of the documents and stated that it they not show a requirement for trail development. Ms. Plecker stated the referenced document was the Findings of Fact and not the SIA, which did list the appropriate requirements. She added that Council would have an additional opportunity to review the documents during the final plat process.

Councilmember Ewalt stated the residents had not been happy about the proposed development and the construction of the trail had been an important part of the discussion.

Councilmember Neese stated a condition needed to be added to ensure the entire north boundary would be developed before any other development could occur. Councilmember Joy stated that landscaping could be ruined if it was put in too soon and Council needed to trust that staff and developers would proceed in an appropriate way.

Councilmember Neese made a motion for approval with a condition to include development of the north border trail before development of any structures, seconded by Councilmember Ewalt. Ms. Plecker suggested Council place a condition in the SIA that the trail development be the responsibility of the sub divider and not future lot owners at the time of final plat. Councilmember Neese amended his motion to be consistent with the staff recommendation, seconded by Councilmember Ewalt.

Councilmember Joy stated she would welcome a policy change, but did not support Council making one time changes, as they were a policy board.

On a voice vote, the amended motion was approved 10-1, Councilmember Joy opposed.

Councilmember Joy moved for approval of Item 1J1, seconded by Councilmember Clark. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Mayor Cole called for a recess at 7:22 p.m.

Mayor Cole reconvened the Council meeting at 7:28 p.m.

REGULAR AGENDA:

2. RESOLUTION 19-10816 amending the boundaries of SILMD's 8, 9 and 10. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. Kukulski stated staff did not have a presentation, but was available for questions.

Mayor Cole asked if overcharging had occurred or amendments were just to "clean up some numbers". Mr. Mumford stated the rates had decreased due to removal of lights in the new districts and the amendments were balancing out the charges.

Councilmember Friedel asked for clarification on some non-functioning lights along 6th Avenue. Mr. Mumford stated staff was in the process of repairing them.

Councilmember Neese asked how the City's lighting districts differed from Northwestern Energy. Mr. Mumford stated the City had an upfront capital cost and slightly lower costs. Councilmember Neese asked if property owners could switch from Northwestern Energy to City lighting districts. Mr. Mumford stated there would be a significant cost to make that change.

Councilmember Yakawich moved for approval of Item 2, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND VARIANCE TO SITE DEVELOPMENT ORDINANCE: a variance from BMCC, Section 6-1203(j), Off-Street Parking Requirements, allowing 26 fewer parking stalls for a fitness environment for service members and veterans with disabilities located at 1420 Broadwater Avenue. Blehm 2, LLC, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. Kukulski stated staff did not have a presentation, but was available for questions.

Councilmember Friedel asked how the variance had been brought about. Mr. Mumford stated the property owner had requested a variance and added that the surrounding neighbors had indicated consent of allowing fewer parking spots. Mr. Mumford added the building had been vacant for some time and approval of the variance would be beneficial in occupying the building.

Councilmembers Neese, Ewalt and Brown expressed concerns with the location and possible parking issues. Mr. Mumford stated previous business' located at the property had received parking variances in the past as well.

The public hearing was opened.

- **Karen Pearson, Adaptive Performance Center, CEO:** stated the fewer parking spots would not be an issue due to most of their clients being dropped off by family members, VA and DAV transportation or the MET bus. She added that the US Army Reserve next door had shown support of the proposed facility and would allow their parking lot to be used as overflow if needed.
- **Mitch Crouse, Adaptive Performance Center, COO:** stated that only Veterans would be allowed to join the facility, which would limit the amount of vehicles.
- **Andrea Wright, 2804 Hoover Avenue, Billings, Montana:** stated she had military friends and family and was in full support of the proposed facility and hoped the small issue with parking would not deter such a helpful service.
- **Jose Bustos, Jr., 109 South 37th Street, Billings, Montana:** stated he was a veteran and hoped Council would support the facility. He added the facility would have a very low cost, which was very important for some veterans. He did not think the parking would be an issue.
- **Dennis Ulvestad, 3040 Central, Billings, Montana:** stated the applicants had come to a local VFW and spoke to the veterans in attendance about the proposed facility. He added the veterans he spoke with were very supportive of the facility.

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

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

4. PUBLIC HEARING AND RESOLUTION 19-10817 adopting annual Special Improvement Light Maintenance District assessments for FY20. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. Kukulski stated staff did not have a presentation, but was available for questions.

The public hearing was opened.

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

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

5. PUBLIC HEARING AND RESOLUTION 19-10818 setting General Obligation (GO) Debt and Public Safety (PS II) mill levy rates for FY20. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, stated there had been a decrease in the GO Debt and PS II rates due to an increase in the annual taxable values.

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 Ewalt. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND RESOLUTIONS spreading assessments on the following:

- A. Encroachments RESOLUTION 19-10819**
- B. Park District 1 RESOLUTION 19-10820**
- C. Park Maintenance District RESOLUTION 19-10821**
- D. Road Maintenance District 6 RESOLUTION 19-10822**
- E. SID 1406 RESOLUTION 19-10823**
- F. SID 2915 RESOLUTION 19-10824**

Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. Zoeller gave a brief overview of the assessments for Items 6A through 6F. He added Item 6A had duplicate items listed in the staff memo and recommended Council approve the item with the duplicates removed.

Mayor Cole asked how long it had been since the encroachment rates had been updated. Mr. Mumford stated the rates had not changed since established in 1985. He added that rates could be updated in the future by amending the resolution.

Councilmember Neese stated he would be bringing forth an initiative directing staff to bring Council a proposal to revisit the market rates. Mr. Mumford stated it was an annual assessment that could be adjusted for the following year. Mr. Kukulski reminded Council that they did not need to bring forth an initiative, but could instead ask staff to research and make a proposal for changes.

The public hearing was opened.

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

Councilmember Yakawich moved for approval of Item 6A, with the removal of duplicate items, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Item 6B, seconded by Councilmember Joy.

Councilmember Neese asked for clarification on how much money the Park District had previously requested for Park District 1 (PD 1). Mike Whitaker, Parks Director, stated PD 1 had asked for \$2 million per year to cover capital cost to replace amenities and maintenance system improvements. He added that the total dollar amount had been \$9 million and the Parks and Recreation Comprehensive Plan had shown approximately \$22 million worth of capital needs.

On a voice vote, the motion was approved 10-1, Councilmember Neese opposed.

Councilmember Yakawich moved for approval of Item 6C, seconded by Councilmember Joy.

Councilmember Ewalt stated the Lutheran Park assessment was too high for the size. He also questioned the garbage fees since the park did not have any garbage receptacles. Mr. Whitaker stated water costs could fluctuate and having a financial buffer built up from the assessments could benefit Lutheran Park in the future. Mike Pigg, Parks Superintendent, stated the garbage fees also included staff time for trash removal and maintenance. He added the amount could be considered a little too high and staff thought \$8,000 would be an appropriate amount.

Councilmember Ronning asked for clarification on Cottonwood Park. Mr. Whitaker stated it was an undeveloped park and had past drainage issues.

Councilmember Joy asked for clarification on Woodland Park. Mr. Pigg stated it was an undeveloped park. Councilmember Joy stated each ward had parks with similar assessments issues and picking out one park from the list was not appropriate. She stated it was a difficult situation but one that each ward dealt with.

Councilmember Ewalt made an amendment to lower the Lutheran Park assessment to \$8,000, seconded by Councilmember Neese.

Councilmember Ronning stated she did not agree with singling out individual parks and these types of questions need to be handled ahead of time. Councilmember Brown stated the current mechanism of assessing parks worked much better than the previous system and was not comfortable with pulling out individual parks for special consideration.

On a voice vote, the amended motion was approved 8-3, Councilmembers Joy, Ronning and Brown opposed.

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

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

Councilmember Yakawich moved for approval of Item 6F, seconded by Councilmember Neese. 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 at the cart located at the back of the Council chambers or at the podium.)

The public comment period was opened.

There were no 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 8:51 p.m.

CITY OF BILLINGS



By: William A. Cole
William A. Cole, Mayor

ATTEST:

By: Denise R. Bohman
Denise R. Bohman, City Clerk