

City Council Work Session

5:30 PM
Council Chambers
July 1, 2019

ATTENDANCE:

Mayor/Council (please check) ✓ Cole, ✓ Cromley, ✓ Yakawich, ✓ Neese,
✓ Ewalt, ✓ Joy, ✓ Friedel, ✓ Gibbs, ✓ Ronning, ✓ Clark, ✓ Brown

CM excused: ALL COUNCILMEMBERS PRESENT

ADJOURN TIME: 8:05 PM

Agenda

TOPIC #1	4th of July Protocols
PRESENTER	Bill Rash, Fire Chief; Rich St. John, Police Chief
NOTES/OUTCOME	

- **Rash:** Closures: Rims, Zimmerman, and Phipps Park. From public lands on south side of Hwy 3. The closure will include 1 extra day due to firework displays at Castle Rock on the night of July 4th and then at Stewart Park on the night of July 5th. The closures will begin on Wednesday morning, July 3rd at 6:00 AM. Parks, Police and Fire will post and barricade these areas. The BFD, Parks, Sheriff's office, Billings PD and the Airport PD will actively patrol those areas. Fire Department crews will be on standby for both fireworks events on July 4th and 5th. A brush truck will rove Hwy 3 and Phipps Park area for visibility and quick response in those high-prone areas.
- **Neese:** What would it take to keep the Rims open to provide some level of safety for the public to use the Rims and view them?
- **Rash:** It would be staff intensive. Constant patrols would be necessary, and it would be a safety hazard especially at night. It would not be a good practice or set a good precedent. It would not be cost effective.
- **St. John:** Our afternoon shift, a minimum of 11, will start early at 6:30 PM. There will be an overlap of 3 hours before the night shift comes on at 9:30 PM and they will stay till 2:00 AM or later until all calls for service and complaints have been addressed. We are looking at 55 hours of overtime for the new budget. There will be no additional staffing for the concert event at Stewart Park on July 5th with the exception of 2 officers to work that area. Any fireworks on scene will be confiscated. At this time, event coordinators do not pay for additional officers to do any duties related to any of these events.
- **Rash:** For the sake of transparency, the Fire Department is charging, have invoiced, and received payment for the stand-by crews for those 2 events. The approximate cost is \$280.00 per event.

- **Public Comment:** None.

TOPIC #2	Project ReCode
PRESENTER	Nicole Cromwell, Planner II/Zoning Coordinator/Code Enforcement Supervisor
NOTES/OUTCOME	

- **Cromwell:** During June 18-20, 3 days of intensive meetings were held to finish the code sections. This is a condensed version of what was discussed. We developed our own interactive webpage for ReCode: <https://project-recode.com/>. It has many user-friendly features and also shows the status of where we're at in the process. Currently in phase 3 of the 4-phase project. The webpage also has a side-by-side zoning map for those interested in knowing how the zoning affects different properties. There is a section for comments that are responded to daily. Went over the draft Residential and Commercial Districts code. Took all the existing districts which are 31 and were able to reduce those districts down to 21 by asking if they matched the character of Billings neighborhoods. One of the issues that came up was Accessory Dwelling units. Where they are, how the code doesn't address them. A task group was appointed to focus only on Accessory Dwelling regulations. The task group recommended draft regulations to the Urban Issues Working Group and the County Issues Working Group. They were accepted by the Urban Issues Working Group and will become part of the draft to the city. The County Issues Working Group will address it next week at their meeting on the 10th of July.
- **Ronning:** Can you explain what an Accessory Dwelling is?
- **Cromwell:** An Accessory Dwelling can be a basement apartment or a small living unit above a garage or a small house in the back of the principal dwelling. It may or may not have its own separate address. It does not create a two-family dwelling or property. We crafted the new zone districts to better match the character assessments we did last fall. We created Neighborhood Districts instead of just residential districts. First Neighborhood Zoning is for the first neighborhoods that existed in Billings located in the downtown core area. Then Mid-Century Neighborhoods are areas that were developed after WW2 till around 1975. The third area - Suburban Neighborhoods developed since 1975 to our present day. Each has a distinct form and we tried to capture that in the regulations. There are 7 districts for the City of Billings, and we fine-tuned our multi-family districts from 2 to 3. Mobile home districts we are leaving alone at this time. The first page of a 2-page spread describes how the buildings will be cited. The second page will show a graphical image to meet those requirements for each district. We are working on proposed zoning tool to assist in urbanizing the edges we call "Issues on the Edge" where the City meets the County with the

focus on building a neighborhood rather than a subdivision. We are working on a full draft Sign Code for the city that will come out next week. The Landscaping Working Group will build a City Landscaping Code. We will also be working on off-street parking codes. Specific Administrative Processes, specifically the Special Review whether that is a conditional use or an allowed use with conditions. And how we want to address non-conforming and “Grandfathering” uses and site development standards as we move into the new zone districts. We hope to have the full Code Draft completed by the Fall of 2019 with public hearings to follow.

- **Friedel:** What does the red letter mean in your graphs?
- **Cromwell:** A red letter symbolizes County only zone districts.
- **Friedel:** When a County area decides to come into the City, will there be a lot of hoops to jump or issues they have to deal with before they can?
- **Cromwell:** That may not happen with 80% of the old subdivisions, but that has been the goal with the Planning Board, and we are hoping with this Planned Neighborhood Development Zone, that it will help get that in place.
- **Mayor:** Is the County talking about expanding the zoning jurisdiction to incorporate those areas where the City has moved out to the edge of the old zoning area, especially on the West End. Is it critical to have that expansion of the zoning area or do the new county development standards act as de facto zoning, or is it not that big of an issue?
- **Cromwell:** Where it’s not zoned, those design standards wouldn’t apply. So that would be a critical piece for ensuring that the property on the edge would have a higher level of design and development.
- **Brown:** How far out are you talking about?
- **Cromwell:** In 1973, the county’s jurisdiction was 4.5 miles out from the City limits. In the 45 + years since then, the City has annexed inside that, so that 4.5 miles has significantly shrunk in some areas. Expanding that would probably zone most of that property as either rural residential or as agricultural to give more assurance to folks that there is some predictability of land uses that are out of the City limits. It would give the ability to have more county development that has predictability to it than what’s out there right now. It is something to look at in the future.
- **Cromley:** Is the issue of temporary rentals such as through VRBO and AirBNB being addressed and what will be the status compared to what the status is now and what is the status now?
- **Cromwell:** The status is any rental of residential or any structure that can be used for occupancy less than 30 days is not allowed in our residential zones. We are very aware of Vacation Rental by Owner and AirBNB or the generic term, Short Term Rentals. Our consultant is working on a draft to regulate the Urban Issues and County Working Group to consider.
- **Mayor:** Any predictions that it is likely to go?

- **Cromwell:** It is likely to be allowed in some zones but maybe not all. It couldn't override covenants or restrictions that are adopted into subdivisions the same is true with AirBNB.
- **Yakawich:** When you have owner occupancy required in an Accessory Dwelling, what happens if the owner dies or they rent out their home, can the ADU become a rental?
- **Cromwell:** If the owner dies, the owner or the person who is managing the property has to know that ADU allowance under the zoning code goes away. It doesn't carry over to the next owner unless that new owner files a deed restriction with the City stating this is an ADU property and they abide by all the requirements on that deed restriction. They could fall out of zoning compliance and then it becomes a compliance issue.
- **Yakawich:** Right now, there are 53% rentals on the south side and 57% rentals on the north side. What used to be mother-in-law houses are now becoming rentals. You said unregulated Accessory Dwellings are hard to track, then you also said there are regulations and then you just mentioned it's going to be hard to regulate all this. Long term, how is this going to impact the City 15-20 years from now, will we really be able to get our hands on this or are we encouraging more rentals and less home ownership?
- **Cromwell:** The proposed ADU regulations require tenancy of one of the units by the property owner. We're opening these existing properties that have ADUs to more buyers as opposed to keeping them as rental properties. The new zoning code is not lot area based. A 2-unit property couldn't rebuild both units because of lot area restrictions. The new code allows single family and 2-unit properties or duplexes regardless of the lot area. The new code gives the option for those that are now rentals to build 2 units, so they don't have to be an ADU. It will be a way for owners to recapture some of the equity they have in their property.
- **Mayor:** Consider thinking about a transition period in the event of a sudden change of ownership, that might trump a lease that would give a period of time for it to be worked out.
- **Gibbs:** Can you tell us how Casino's will fit into all this?
- **Cromwell:** We have proposed to reduce the number of districts where gaming is allowed. From the Community Commercial Zone, we created 4 districts instead of 1 with their own coding. We are making sure our Industrial Zones are for industrial property. Casino's will not be listed under industrial properties as they are retail or service related. More information and data will be coming in the next 2-3 months before the end of the year to be adopted.
- **Gibbs:** In the elements page, can you define what Transportation Corridors are.
- **Cromwell:** Transportation Corridors are the arterial streets or collector streets. They are the existing corridors for mixed uses like Main St., Central, Broadwater or Grand. Mixed Corridor Use 1 is for very small single users, single building lots that are right along Billings' neighborhoods. West Park Plaza is a bigger area, so

it is zoned as Mixed Corridor Use 2 which has different requirements than Mixed Corridor Use 1 which has more restrictions.

- **Gibbs:** What would happen if the EBURD (East Billings Urban Revitalization District) wants to expand or shrink, how is that going to impact the future of this?
- **Cromwell:** When a property is annexed to the City, it always can ask for a different zone. All those properties east of the EBURD section chose to stay in the industrial zone. Some have changed to general service or sales and would show up as Mixed Corridor Use 2 instead of an industrial zone.
- **Yakawich:** Can anyone build an ADU or does it have to be existing?
- **Cromwell:** If there is enough lawn area for 2 principal dwellings, yes, an ADU can be built there. If the ADU regulations were adopted in the future, that could change.
- **Mayor:** I understand that the new regs would specifically reference and comply with private covenants and would be a necessary element of Special Review approval.
- **Cromwell:** Yes. Other cities that have adopted ADU zoning have found it only captures 2% of the residential community.
- **Neese:** What prevents a homeowner to subdivide a 20,000 square foot lot for ADUs?
- **Cromwell:** The proposed code has a minimum lot width – not a lot area. If the homeowner only had the minimum lot width on a 20,000 square foot lot, then it cannot be subdivided to make a smaller lot width without a zoning variance. ADU units can be built if it meets the new zoning regulation and meets the subdivision rules of the city.
- **Public Comment:**
- **Jason Smith, 4515 Palisades Park, Billings, Montana:** During the re-zoning and re-coding, were any issues addressed for medical marijuana facilities where they could be located?
- **Cromwell:** Medical marijuana is currently not part of the existing City Zoning Code. It is part of the Business Licensing Code. We didn't think it was an issue that was ripe for discussion as part of Project ReCode
- **Gibbs:** The Federal Government classifies marijuana as a Schedule 1 drug, should the City even consider this since the federal laws prohibit this? What obligation do we have as a City to address this in Project ReCode?
- **Brent Brooks:** There is no obligation, but you could certainly do that if there is a change of mind.
- **Mayor:** As long as it is industrial or commercial, medical marijuana would be allowed in the county. If Mr. Smith's business is close to City boundaries, would Mr. Smith someday be at risk of being forcibly annexed if he would relocate to county and his business would either be made illegal or be a non-conforming use as a result of the annexation. If it is industrial, we could not forcibly annex him and even if it is commercial, forcible annex would be restricted. Can you explain

what the juncture is between the zoning world and the annexation world as it might impact him.

- **Cromwell:** Properties that are zoned for industrial use are never forced to annex into the City. Currently, if you want City water and sewer, you must annex.
- **Public Comment is Closed.**

TOPIC #3	BPAC
PRESENTER	Ed Gulick, Chairman of the BPAC Planning Board
NOTES/OUTCOME	

- **Gulick:** I live at 3015 10th Ave. North. This annual presentation is to apprise the City Council of issues decisionmakers should know about walking, bicycling or active transportation in Billings. Our main task is to identify barriers to safe walking and bicycling and to recommend solutions to City and County on public input and transportation and industry standards. Reviewed the history of walking and bicycling in cities in general. Walking and cycling is beneficial not only for the overall health of people, but studies show residents will not engage in these activities if they do not feel safe whether it's because of the neighborhood or the paths do not meet safety standards. Parents are particularly concerned about these issues. Lifestyles are such that children being able to walk or bicycle to school in safety helps parents who must drive their children to and from schools as well as other functions. Studies also show younger generations, younger families are attracted to places that foster a safe, healthy, walking and cycling lifestyle and choose to live close to bike trails. This trend shows an average of 11% increase in the value of those homes and is why the Billings Association of Realtors has consistently been very supportive of walking and biking trails. After installing scanners on bike and walking trails in the City, we saw a daily average of 6-48 people using the trails which obviously high usage but is understandable when you see the how disconnected the bike trails are from each other – showing there is not yet a network of bike trails to access from one area to another easily. Research shows a dramatic increase in usage once a network was created. Over a 3-year period, the multi-use trails saw much higher usage than bike trails - a daily average of 31-275 people - using them largely because 51%-72% of people walk than bike and there are almost no trails in the center of the community. There are longer stretches of bike trails, but they are not linked together. We see a broad interest in walking and bike trails in Billings across the board. We are concerned because the Federal funding that was dedicated to pedestrian and bicycle infrastructure has decreased significantly in the last 5 years. To develop these trails, we need new sources of funding. We have support from various organizations in the community and the Chamber has a Trail Initiative to connect a Marathon Loop and supporting the existing trails. The

Marathon Loop still has several gaps to fill to make it complete. Bicycle Boulevards are neighborhood streets that already have low vehicle speeds and volume and utilize them for bicycle arterials so bicyclists can get around town without developing new bike lanes. We recommend a more equitable distribution of CMAQ funds in the future. July 13th will be the groundbreaking ceremony for the trail segment to Zimmerman park that will include the underpass for the Zimmerman trail.

- **Joy:** One of your slides showed the congestion of air quality and that 100% of our funds are allocated to the Inner Belt Loop. You also cited cities that use that same money towards building bike and walking trails. What are the purposes of those federal funds?
- **Gulick:** The purpose is to improve air quality by reducing emissions from idling cars.
- **Joy:** Is building a road consistent with that use?
- **Gulick:** Congestion would demand that.
- **Yakawich:** Are you getting financial support from the realtors to help with the funding?
- **Gulick:** They do have Quality of Life grants that they have used to help install the bike racks downtown for example. They have given thousands of dollars every so often. But not the \$350,000 needed to do a mile of trail.
- **Drake:** We did receive the Quality of Life Grant. They told us it could be a one-time grant of about \$30,000 – \$35,000 depending on how many people run in the race on August 10.
- **Yakawich:** I don't see a lot of people riding bikes. Is that part of what you do – get people to ride bikes?
- **Gulick:** If the streets in Billings were not connected to each other, you would see very little automobile traffic in those areas. So, a large part of this is to create a walking and biking network that is more contiguous for Billings citizens who want or prefer to use these methods of transportation. I can confidently say that you would see 4 times as many bicyclists if these networks were created.
- **Mayor:** I would encourage the BPAC Advisory Committee to look at communities who have invested more and have those networks to see what the statistics are. It would be interesting to compare a City similar to ours.
- **Ronning:** Regarding Bicycle Boulevards, what is the process to install intersection treatments like round-abouts in those neighborhoods?
- **Wyeth Friday:** Intersection improvements would have to be reviewed by engineers as to how that would be installed. It would probably be a mix of improvements along with signage and pavement markings.
- **Public Comment:** None.

TOPIC #4	Ballot timelines and costs
PRESENTER	Chris Kukulski, City Administrator

NOTES/OUTCOME	
----------------------	--

- **Kukulski:** We just want to provide you with the data relative with what must happen. 85 days prior to an election, you have to get the notice into the county that gives them the opportunity to get that election process ready. When it comes to a Special Election, essentially the cost is a dollar per registered voter. Billings has 65,000 registered voters so that means you are looking at \$65,000 for a mail ballot – if there is only one question on the ballot. If we're tied to another election, we pay a proportionate share, not the full cost. We wanted to give you information as we go into 2020.
- **Crowley:** Can you elaborate more on the proportionate share?
- **Brent Brooks:** I don't know the answer specifically. I will have to get back to you on that. However, if there are 2 ballot issues, one from the County and one from the City, we determine that we would share the cost of that 50/50.
- **Crowley:** In the primary we will have the President, Senator, and House, would they count?
- **Kukulski:** The Presidential I estimate would be a quarter of the cost of the \$65,000 at most. We will give you more exact information on that.
- **Ronning:** People have told me they voted against the 2014 measure because of the price increase from \$31 a year to a proposed \$300 plus a year within a 9-year period.
- **Kukulski:** The 2014 measure called for a series of mills to be increased over time. I would have to look to see if the numbers you quoted were accurate. If you look at what has been passed in Billings, it depends upon the time period and the elected body at the time. You have the flexibility to how you want to do it going forward whether you want to tie it to a mill or to a value to collect.
- **Mayor:** The reason for that escalation was to phase in a series of hirings. The cost just went up over time and a number of police cars were added as well.
- **Clark:** We were told at that time that state law said that we had to do a dollar amount rather than mills. The escalator was to take care of the increased salaries and everything else as it went along instead of having to go back to the voters again.
- **Neese:** I know we have to go to the public for a safety mill levy, but I'd like to make sure we look at all opportunities to generate revenue. I think that will take time to put together programs and fees in every place we can to help minimize the amount we will ask of the public.
- **Clark:** It's going to take time to figure out what we need. Not just thinking we need "x" amount of mills and then 6 months later find we need more. We have to know where we're going and what it's going to cost. I haven't seen any figures that tell us any of that.

- **Kukulski:** I agree. We must come to an agreement about the size and scale of this. We don't want to be successful and yet find a few years down the road asking for other solutions to the problem.
- **Clark:** Are you talking about bringing Code Enforcement into the public safety funds?
- **Kukulski:** I'm starting broader and expecting you guys to narrow it down. Code Enforcement is now financed through the General Planning Funds, but on the enforcement side, those issues end up running through the court system so there is a definite cost on the attorney side of it.
- **Ronning:** Could we set up a Special Work Session where we can hear from multiple people including the Substance Abuse Connect Committee and the United States Attorney and the Drug Task Force and the issues they are facing in our community. I would like to see the language of all the public safety measure that failed as I think we could learn from them.
- **Friedel:** I feel it is prudent if we are going to lose 4 seasoned Councilmembers to take the next 5 months to hash out all the kinks.
- **Gibb:** I think we should establish everything we want to get done then if we can get it done right by June to do it. If we can't let's wait till November because we have one try at it. It's been 5 years since we lost the last election. I would worry if this does fail that it's going to leave us really lurching trying to figure out how we're going to try to find everything so do it now. Hit for June but if we don't have all our ducks in a row we hit for November.
- **Mayor:** As a reminder that if we are successful in the spring of 2020, we won't be eating into that reserve to the tune of 1.1 million dollars. If it's delayed into November, we would be roughly another 3 – 3 and a half million dollars into those reserves.
- **Cromley:** We need to get some expert advice on the advisability of a separate election or going primary or general because even if it might cost more - \$65,000, maybe only a quarter of that going to primary or general. I think we'd have a better chance to pass it if we have an all-mail in ballot with just that issue.
- **Friedel:** That might actually be a strategy that would work in our favor. Finding out when the School Board is going to throw theirs out there and we pre-emptive strike where ours comes out even before theirs even hits. I know it sounds bad, but it is what it is. We're all fighting for tax dollars here. So I agree with you that it would be a good strategy that we have our own 1 page, 1 ballot mail-in before everybody else and we hash this out so it would be our due diligence to find out when they are going to drop theirs and come up with a plan to hash this out in the next 5 months and go at them before it hits the door of the other people.
- **Mayor:** This is going to take much more than one work session. We're going to need regular staff reports. We'll be looking to staff to lead how we should be pursuing this. The public needs to know that we are behind this unanimously.
- **Gibbs:** Possibly make it a strategic meeting rather than a work session.

- **Ronning:** Yes, possibly a Special Work Session that's less informal and we're just talking and really work and focus on this single issue.
- **Public Comment:**
- **Randy Hines, 810 Steffanich Dr, Billings, Montana:** Regarding the election, I suggest that the Councilmembers who are going to retire offer their knowledge, their memory, and understanding of these issues to educate this group and the public to pass this mill levy.
- **Public Comment is Closed.**

TOPIC #5	Council Discussion
PRESENTER	
NOTES/OUTCOME	

- None.
- **Public Comment:** None.

TOPIC #6	Public Comment on Items Not on the Agenda
PRESENTER	
NOTES/OUTCOME	

- None.