

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

May 14, 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 Ronning gave the invocation.

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

**MINUTES:** April 23, 2018 – Councilmember Clark moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

### **COURTESIES:**

- Mayor Cole congratulated Wyeth Friday, Planning Director, on his recent Spirit of Caring award from United Way.
- Mayor Cole encouraged Council to attend the Montana Municipal Institute in the future and added it had been a good 3-day conference.
- Councilmember Ronning stated Margot Kidder, also known as Lois Lane, had passed away. She stated that Ms. Kidder had been an advocate for mental illness and would be missed.
- Councilmember Yakawich congratulated all of the recent graduates and wished them a successful future.

### **PROCLAMATIONS:**

- There were no proclamations.

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

- Mr. McCandless reminded Council that there would be a budget only Work Session on Tuesday, May 15, 2018.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 AND 7B 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 was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana,** in reference to Item 1F, stated taxpayers should not pay for the Ace Hardware store parking lot and encouraged Council to vote in opposition to the TIF assistance.
- **Eric Bassey, 407 South 31<sup>st</sup> Street, Billings, Montana,** in reference to Item 1F, stated he was in support of Item 1F because it would help the area.
- **Debbie Keller, SBURA,** in reference to Item 1F, stated the plans would help to improve the blight in the area.
- **Charles D. King, Ace Hardware owner,** in reference to Item 1F, stated he was hoping to improve a blighted area and thanked Council for their time.
- **Steve Zeier, SBURA,** in reference to Item 1F, stated the TIF application met the standards and thought the improvements would help the area.

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

## 1. CONSENT AGENDA

### A. Bid Awards:

1. **Airline Support Facility.** (Opened 5/1/18) Recommend Swank Construction; \$184,000.
  2. **Airport - Two Heavy Duty Snow Plows.** (Opened 4/10/18) Recommend M-B Company; \$1,532,160.
  3. **Storage Building for the Bureau of Land Management.** (Opened 5/1/18) Recommend delaying award until May 29, 2018 Council meeting.
  4. **W.O. 18-01, Schedule 2, Sanitary Sewer and Water Rehabilitation Project.** (Opened 5/1/18) Recommend Western Municipal Construction, Inc.; \$1,876,084.
- B. **Change Order 2 - SID 1401, Molt Road Turn Lane Improvements, CMG Construction, LLC; \$80,205.50.**
- C. **Approval** of Airport's updated Disadvantaged Business Enterprise Program.
- D. **Approval** of Scheduled Airline Operating Permit with Air Wisconsin Airlines, LLC.
- E. **Approval** of Executive Search Firm Agreement. Recommendation contained in May 11, 2018 Friday packet.
- F. **Approval** of Tax Increment Financing Assistance from South Billings Urban Renewal District to King & King, LLC for Demolition/Site Development at 4160 and 4130 State Avenue; \$212,993.

- G. **Amendment No. 2, Airport Terminal Expansion Project**, Professional Services Contract, Morrison-Maierle, Inc.; \$611,127.
- H. **Amendment No. 8, Pavement Condition Index Survey**, Professional Services Contract, Morrison-Maierle, Inc.; \$67,714.
- I. **Memorandum of Agreement** between the City of Billings and Yellowstone County, Yellowstone County Board of Planning and the Montana Department of Transportation for the Metropolitan Transportation Planning Process.
- J. **Professional Services Contract** for W.O. 18-09, Downtown Traffic Study; Kittleson & Associates; \$189,617.
- K. **Second/Final Reading Ordinance 18-5705 for Zone Change 965**: a zone change from Controlled Industrial (CI) to Residential 6,000 (R-60) on a 7,000 square foot parcel of land, generally located at 109 South 35th Street. Dave Healow, owner; High Plains Architects, agent. Approval of the zone change and adoption of the findings of the 10 criteria.
- L. **Final Plat Approval** of Algeo Subdivision.
- M. **Bills and Payroll:**
  - 1. April 9, 2018
  - 2. April 23, 2018

Councilmember Cromley separated Item 1M1 in order to abstain.

Councilmember Ewalt separated Items 1B, 1F and 1J for discussion.

Councilmember Joy separated Item 1E for discussion.

Councilmember Brown separated Items 1G, 1H and 1M2 in order to abstain.

Councilmember Yakawich moved for approval of the Consent Agenda with the exception of Items 1B, 1E, 1F, 1G, 1H, 1J, 1M1 and 1M2, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1B, stated he did not think the City should be responsible for the change order costs. Dave Mumford, Public Works Director, stated there were discussions with the engineering firm regarding sharing the reimbursement costs. Debi Meling, City Engineer, stated the City typically paid for the cost of betterment. She stated the City would request reimbursement for delays. Councilmember Ewalt made a motion to accept the change order, but require 50% reimbursement from the engineering company, seconded by Councilmember Friedel. Councilmember Brewster asked the Legal Department for counsel on requiring

reimbursement from the engineering company. Brent Brooks, City Attorney, stated it would be a reasonable request, but the City may want to use other opportunities to achieve reimbursement. Councilmember Cromley made a substitute motion to approve Item 1B, as stated on the agenda, seconded by Councilmember Brewster. Councilmember Cromley's substitute motion was approved 9-2, Councilmembers Ewalt and Gibbs voted in opposition.

Councilmember Joy, in reference to Item 1E, moved for approval of using Springsted Waters for the Executive Search Firm, seconded by Councilmember Gibbs. On a voice vote, the motion was approved 6-5, Councilmembers Yakawich, Brewster, Friedel, Clark, and Brown voted in opposition.

Councilmember Ewalt moved for denial of Item 1F, seconded by Councilmember Brewster. Councilmember Ewalt stated the numbers did not add up and the development did not qualify for TIF funding. Mr. Zeier answered questions from Council regarding some confusion on the application. Wyeth Friday, Planning Director, stated the timeline dates in the Memorandum of Understanding had not been met, but the order of events had taken place properly.

Councilmember Cromley made a substitute motion to approve Item 1F, as stated on the agenda, seconded by Councilmember Yakawich.

Councilmember Clark asked for clarification on the amount that had been requested. Mr. Friday stated SBURA had an application policy that discussed allowing 45% of the future estimated increment that might be generated by a project. He added that the application for Item 1F would use some of the funds to remediate blight on the property. Mr. Friday stated the application was different than previous applications, therefore, clarification had been required to eliminate some confusion. On a voice vote, the motion was approved 10-1, Councilmember Ewalt voted in opposition.

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

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

Councilmember Ewalt moved for denial of Item 1J, seconded by Councilmember Brewster. Councilmember Ewalt stated the study seemed similar to the Hammes Group study for the One Big Sky project and thought another study would be a waste of money. Councilmember Brewster asked for clarification on Item 1J. Mr. Mumford stated the study looked past Division Street to Main Street and would cover 1<sup>st</sup> Avenue and 6<sup>th</sup> Avenue as well. Councilmember Brown asked how this study was different from other studies completed in the past. Mr. Mumford stated that a study had not been done regarding two-way traffic streets downtown. Mr. Mumford stated the study would

discuss parking, signals and costs of turning the existing one-way streets into two-way streets. Councilmember Joy asked if the downtown traffic study would overlap the One Big Sky study. Mr. Mumford stated the One Big Sky study would look at the area directly around its proposed location and not the effect of the traffic for the entire downtown area. Mayor Cole asked for clarification on hiring an out of state firm. Mr. Mumford stated the City had used Kittleson & Associates previously and they were very experienced in one-way/two-way street modeling.

Councilmember Brewster made a substitute motion to approve Item 1J, seconded by Councilmember Cromley. On a voice vote, the motion to approve Item 1J was approved 10-1, Councilmember Ewalt voted in opposition.

Councilmember Clark moved for approval of Item 1M1, seconded by Councilmember Ronning. On a voice vote, the motion was approved 10-0, Councilmember Cromley abstained.

Councilmember Clark moved for approval of Item 1M2, seconded by Councilmember Joy. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Mayor Cole called for a recess at 8:22 pm.

The meeting was called back to order at 8:30 pm.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION 18-10718 adopting water and wastewater rate and fee schedule effective July 1, 2018. Staff recommends approval of option II. (Action: approval or disapproval of staff recommendation.)**

Jennifer Duray, Public Works Financial Manager, gave a PowerPoint presentation of water and wastewater costs. She gave an overview of the replacement needs and the costs associated with the replacements. Ms. Duray stated there had not been an increase in water rates since FY15. She briefly explained the price differences between Option I and Option 2 and added that choosing Option II would allow for less increases later to meet infrastructure needs.

In response to Council questions regarding transparency in departmental water usage, Ms. Duray stated staff was working on getting that information out very soon.

The public hearing was opened.

- **Ron Williams, 3070 Buttercup Drive, Billings, Montana**, stated his water bill fluctuated more than any of his other utility bills. He added that other cities had significantly lower water costs.

- **Rodney Garcia, 4333 Ryan Avenue, Billings, Montana**, stated the people needed a taxation break.
- **Susan Smith, 6133 Timbercove Drive, Billings, Montana**, stated she opposed the increases and thought the four tier system being used discriminated against larger families and deterred people from having a garden.
- **Greg Wing, 5875 Canyonwoods Drive, Billings, Montana**, stated the water rates for the City seemed excessive compared to other cities.
- **Abram Hein, 6185 Timbercove Drive, Billings, Montana**, stated the water tier system seemed backwards, economically, and that everyone should pay the same rate for their water usage.

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

Councilmember Cromley moved for approval of Item 2 (Option II), seconded by Councilmember Yakawich. Councilmember Ewalt asked for clarification on the west end reservoir and water treatment plant. Mr. Mumford stated they should have enough money for the project after three years of increases. He added the rate increases could possibly go down afterwards, but there would still be material costs, etc. Councilmember Brewster stated people should have a fixed cost based on water usage. Mayor Cole stated the average user would see a .31 cent monthly increase and the City needed a reservoir on the west end. On a voice vote, the motion was approved 10-1, Councilmember Brewster voted in opposition.

**3. PUBLIC HEARING AND RESOLUTION 18-10719 repealing Resolutions 99-17447 and 04-18137 and adopting the new Sidewalk, Curb and Gutter Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Debi Meling, City Engineer, gave a PowerPoint presentation reviewing the obsolete portions in the existing policies and the proposed changes.

Councilmember Ewalt asked if owners were given the opportunity to make repairs, prior to City involvement. Ms. Meling responded affirmatively.

Councilmember Cromley asked for clarification on corner lot assessments. Ms. Meling stated that curbs, gutters and sidewalks were assessed only on the addressed side of the property. She added that the assessment to the non-addressed side drive approach would be paid by the owner, but the City would pay for the remaining area.

Councilmember Yakawich asked if assessments were strictly complaint driven. Ms. Meling stated the City was taking a more proactive approach, especially near schools. She added there was a traffic bureau that did reviews of particular areas. Councilmember Yakawich asked if the traffic bureau could also help with Code Enforcement. Ms. Meling stated that City Codes were very complicated, but they did currently cooperate with all departments.

Councilmember Ewalt asked for clarification on the areas around Medicine Crow School and Hawthorne Lane. Ms. Meling stated there were two projects scheduled around the Medicine Crow School area that would help with some of the issues. She added that the Hawthorne Lane area was scheduled for improvements in the next five years.

The public hearing was opened.

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

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

**4. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings, Montana City Code (BMCC), Sections 22-232 and 13-1200, for sidewalk repairs. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Debi Meling, City Engineer, gave a PowerPoint presentation reviewing the funding portion of the proposed sidewalk repair changes. She stated that the ongoing concrete program needed revisions and reviewed the proposed modifications. She added that the gas tax would be used to fund the program for the first several years until it became self-sufficient and the gas tax fund would be repaid.

The public hearing was opened.

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

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

**5. PUBLIC HEARING AND RESOLUTION 18-10720 FOR ANNEXATION 18-01: located west of Zimmerman Trail and north of Grand Avenue. Billings Opportunities, LLC, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Monica Plecker, Planning Division Manager, gave a PowerPoint presentation reviewing the property and the proposed annexation. She added that all City services could be provided to the area.

Councilmember Ewalt asked for clarification on traffic issues in the area. Ms. Plecker stated a traffic study would be required to address any issues.

Mayor Cole asked if a cost of service study would address additional revenues. Mr. Friday stated the revenues would depend on the type of development and staff would work on a Request For Proposal.

The public hearing was opened.

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

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

**6. PUBLIC HEARING AND RESOLUTION 18-10721 FOR ANNEXATION 18-02: located east of Jackson Street and south of Orrel Avenue. Ricky Savage, owner and petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Monica Plecker, Planning Division Manager, gave a PowerPoint presentation reviewing the property and the proposed annexation. She added that the property could be served with all City services.

The public hearing was opened.

- **Rick Savage, 2425 Lower Canal Road, Ballantine, Montana:** stated he had owned the property for several years and planned to build a small house at the location. In response to Council questions, he stated he was unaware why the property had not been previously annexed.

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

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

**7. LAKE ELMO DRIVE:**

**a. PUBLIC HEARING AND RESOLUTION 18-10722 FOR ANNEXATION 18-03: located east of Lake Elmo Drive and south of Unita Park Drive. William and Kathy Baumann, owners. Sanderson Stewart, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Monica Plecker, Planning Division Manager, gave a PowerPoint presentation reviewing the property and the proposed annexation. She added that the property would be served with all City utilities.

The public hearing was opened.



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

Councilmember Clark moved for approval of Item 7a, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**b. DEVELOPMENT AGREEMENT with William and Kathy Baumann. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mr. Mumford stated Item 7b was a typical development agreement and added that the property owners would be required to install the infrastructure needed.

Councilmember Brewster moved for approval of Item 7b, seconded by Councilmember Joy. Mayor Cole asked if there would be further review on the property regarding site plans, etc. Ms. Plecker stated there would be further review by staff for master site plans, number of units for the engineering review, traffic study, and landscaping requirements. She added that the master site plan would look at the internal workings of the site. On a voice vote, the motion was unanimously approved.

**8. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings, Montana City Code Articles 17-106 and 17-107, Noise Ordinance. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Brent Brooks, City Attorney, stated there had been past presentations on the noise ordinance and added that the amendments would help to temporarily get through the current year's event season. Mr. Brooks reviewed the four proposed amendments to the current noise ordinance. He stated Dr. Dan Autenrieth from Montana Tech University would review the noise ordinance and make a presentation to Council in August or September.

Councilmember Joy asked if the local high schools would be exempt from the noise ordinance. Mr. Brooks stated that Dr. Autenrieth would review that particular issue.

Councilmember Cromley asked for clarification on exemptions for EBURD and the Central Business District events and how many exemptions were allowed. Mr. Brooks stated there were a lot of events in those areas and they would qualify for more exemptions. He added that Council could change the amendments however they desired.

Councilmember Ronning asked if the noise ordinance study would apply to areas that did fireworks. Mr. Brooks stated Dr. Autenrieth would review the issue and reminded Council that fireworks were illegal within the City limits.

The public hearing was opened.

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

Councilmember Friedel moved for approval of Item 8, seconded by Councilmember Brewster. 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 hearing was opened.

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

**COUNCIL INITIATIVES:**

- Councilmember Yakawich moved to add to the next agenda, a resolution to use \$15,000 of FY18 Council contingency funds to host the USS Billings Commissioning Project, seconded by Councilmember Brewster. Councilmember Joy requested an itemized report showing how the funds would be used. Mayor Cole stated there would also be a need for fundraising from the community and requested any parties interested in donating to contact a Councilmember. On a voice vote, the motion was unanimously approved.

There was no further business, and the meeting adjourned at 10:51 p.m.



CITY OF BILLINGS

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

ATTEST:

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