

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 11, 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. Mayor Cole gave the invocation.

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

MINUTES:

Councilmember Brewster moved to add the minutes from the May 14, 2018 meeting to the agenda, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

May 14, 2018 – Councilmember Clark moved for approval, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

May 29, 2018 – Councilmember Brewster moved for approval, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Cole welcomed Boy Scout Troop #7, who were in attendance to earn their Communications Merit Badge.
- Mayor Cole welcomed Chancellor Dan Edelman from Montana State University Billings.

PROCLAMATIONS:

- Men's Health Week - June 11-17, 2018. Mayor Cole encouraged men to pursue a healthy lifestyle and receive regular medical checkups.
- National Pollinator Week - June 18-24, 2018. Mayor Cole welcomed Charles Bushy. Mr. Bushey, Animal Control Board Member, thanked Council and invited them to attend Pollinator Day at St. Andrew Community Garden on June 23, 2018.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless introduced Kevin Iffland as the new Assistant City Administrator.
- Mr. McCandless stated Consent Agenda Item 1B, should have stated \$415,666, instead of \$583,236.

- Mr. McCandless stated Consent Agenda Item 1F, had a correction to the ownership information provided in the staff memo. CRMX-233, LLC owned the parking garage and the skybridge. WC Commercial, LLC owned the Stillwater Building. The information had been provided in the Friday Packet and would be correct on the Resolution.
- Mr. McCandless stated Consent Agenda Item 1G needed to be separated and the recommendation revised.
- Mr. McCandless stated an emergency resolution needed to be added to the agenda as Item 1L in order to allow a bidding waiver for repairs to the City/County drain outfall. He requested Council separate the item for a presentation and vote. He informed Council that both actions required a $\frac{3}{4}$ majority vote.

Councilmember Brewster moved to add the emergency resolution for repairs to the City/County drain outfall as Item 1L, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 2 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.

- **Brad Sperry, CTA Architects:** stated One Big Sky Project would increase the work force hiring pool and encouraged Council to approve the One Big Sky agreement.
- **Karen Baumgart, Workforce for Yellowstone County, Director:** encouraged Council to approve the One Big Sky agreement and stated the City needed creative ways to increase the workforce.
- **Kris Carpenter, 3 Heatherwood Lane, Billings, Montana:** stated Billings needed to stay competitive with other Montana cities in order to prosper and hoped Council would approve Item 2.
- **Julie House, 104 North Broadway, Billings, Montana:** stated the One Big Sky Project would benefit the entire City, not just the downtown area.
- **Dr. Dan Edelman, Chancellor, MSU Billings:** stated that the One Big Sky Project could help MSU recruit students and add to the workforce by revitalizing the City.
- **Randy Hafer, 702 North 23rd Street, Billings, Montana:** stated the moment to act on One Big Sky was critical for the City and strongly supported the project.

- **Mike Nelson, Northern Hotel owner, Billings, Montana:** stated the City needed to prepare for work force changes and encouraged Council to approve Item 2.
- **Lee Humphrey, 528 Avenue C, Billings, Montana:** stated the One Big Sky Project would help the downtown area flourish as the core of the City.
- **Kristy Drake, 2416 Avalon Road, Billings, Montana:** encouraged Council to approve the One Big Sky Project.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **New BLM Storage Building.** (Opened 5/01/18) Recommend rejecting all bids.
2. **W.O. 18-02, Miscellaneous Concrete Project.** (Opened 5/29/18) Recommend J & J Concrete, Inc.; \$375,650.

B. Change Order #2, W.O. 18-10 Poet Street Improvements, Askin Construction; \$72,898.04.

C. Approval of MET Transit's Automatic Vehicle Location (AVL) system agreement with DoubleMAP; \$51,900 for the upfront Capital cost and an annual maintenance cost of \$7,650 for 3 years.

D. Memorandum of Understanding (MOU) between the City of Billings and Billings Public Schools and Billings Central High for School Resource Officer Program; ~~\$583,236~~ \$415,666.

E. Acceptance of donation to the Fire Department from Girl Scout Troop #2213 for pet oxygen recovery mask kits; valued at over \$500.

F. Resolution 18-10729 authorizing permit for construction of a pedestrian skyway between Stillwater Building, 317 North 26th Street, and parking garage on North 26th Street.

G. Second/Final Reading Ordinance 18-5709 for Zone Change 964: a zone change to Section 27-306, BMCC - Commercial and Industrial Uses - to allow gymnastics instruction in all Residential Professional (RP) zones.

H. Second/Final Reading Ordinance 18-5710 expanding Ward V (Annexation 18-01): an approximate 42.035 acre parcel located west of Zimmerman Trail and north of Grand Avenue. Billings Opportunities, LLC, owner and petitioner.

- I. **Second/Final Reading Ordinance 18-5711 expanding Ward I (Annexation 18-02):** an approximate 6,250 square foot parcel of land located east of Jackson Street and south of Orrel Street. Ricky Savage, owner and petitioner.
- J. **Second/Final Reading Ordinance 18-5712 expanding Ward II (Annexation 18-03):** an approximate 8.733 acre parcel of land located west of Lake Elmo Drive and south of Unita Park Drive. William and Kathy Baumann, owners; Sanderson Stewart, petitioner.
- K. **Bills and Payroll:**
 - 1. May 14, 2018
 - 2. May 21, 2018
- L. **ADD-ON ITEM: Resolution 18-10730** to waive the competitive bidding process and allow repairs to the City/County drain outfall.

Councilmember Cromley separated Item 1K1 in order to abstain.

Councilmember Cromley separated Item 1L for discussion.

Councilmember Cromley separated Item 1G for discussion.

Councilmember Ronning separated Item 1D for discussion.

Councilmember Brown separated Item 1K2 in order to abstain.

Councilmember Brewster moved for approval of the Consent Agenda with the exception of Items 1D, 1G, 1K1, 1K2, and 1L, seconded by Councilmember Joy. Mayor Cole thanked Girl Scout Troop #2213 for their donation of pet oxygen recovery mask kits. On a voice vote, the motion was unanimously approved.

Councilmember Ronning, in reference to Item 1D, asked if Billings Central High School contributed to the costs of the School Resource Officers (SRO). Mr. McCandless stated there was a new agreement between Billings Public Schools and the Career Center and Billings Catholic Schools. He added that the agreement stated Billings Catholic Schools would reimburse Billings Public Schools 20% of the cost of the new SRO.

Mayor Cole asked if that amount was less than what Billings Public Schools paid for SRO's. Kevin Iffland, Assistant City Administrator, responded affirmatively. Councilmember Clark stated that Billings Catholic School and the Career Center paid Billings Public Schools directly and not the City.

Councilmember Yakawich asked where the SRO's went when not at a school. Mr. Iffland stated they returned to the patrol division during that time.

Councilmember Gibbs asked if the SRO's covered elementary schools, as well. Mr. Iffland stated they did not currently, but the new contract would allow for some coverage.

Councilmember Ronning moved for approval of Item 1D, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

Mr. McCandless, in reference to Item 1G, stated that the recommendation included findings of fact of the 10 criteria. Councilmember Clark asked for clarification on Zoning Commission versus staff recommendations. Mr. McCandless stated that Council had already conducted a public hearing and approved the ordinance on 1st reading, therefore, the Zoning Commission recommendation was not as important on the 2nd reading, because Council had already acted on the matter.

Councilmember Joy moved for approval of Item 1G, including the adoption and findings of the 10 criteria, seconded by Councilmember Brewster. On a roll call vote, the motion was approved 6-5, Councilmembers Friedel, Gibbs, Ronning, Clark and Brown voted in opposition.

Councilmember Yakawich moved for approval of Item 1K1, seconded by Councilmember Gibbs. On a voice vote, the motion was approved 10-1, Councilmember Cromley abstained.

Councilmember Yakawich moved for approval of Item 1K2, seconded by Councilmember Joy. On a voice vote, the motion was approved 10-1, Councilmember Brown abstained.

Dave Mumford, Public Works Director, in reference to Item 1L, began a PowerPoint presentation describing the repairs needed to the damaged storm drain.

Councilmember Joy asked if the flooding issues near Cambridge Drive were caused by the drain not working properly. Mr. Mumford stated the groundwater table near Cambridge Drive was always very high, but that the drain malfunction was contributing to the issues in the area.

Mayor Cole asked for clarification on whether a cap on the price of repairs was needed. Mr. McCandless stated the resolution would allow staff to bypass the competitive bidding process to accelerate the repairs and that requiring a cap could delay the repair process.

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

Mr. Mumford responded to questions about flooding in various areas of town and the City's plans to correct the issues.

REGULAR AGENDA:

2. APPROVAL of One Big Sky District Project development planning agreement. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave an overview of the development planning agreement and the master plan. He introduced Steve Arveschoug, Big Sky Economic Development, Executive Director.

Mr. Arveschoug discussed the development planning agreement and answered Council questions regarding specific portions of the agreement. He introduced Eric Wood, Billings Clinic, Vice President of Ancillary Services.

Mr. Wood, discussed the need to attract talented people to the work force. He stated the One Big Sky Project would add vibrancy to the City and attract new people.

Mr. Arveschoug asked Council to review Exhibit 1, which discussed the services provided by the developer. He reviewed amendments and clarified terminology questions.

Councilmember Friedel asked for clarification on the City's liability within the agreement. Mr. Brooks stated the City would be protected from liability in the previous Memorandum of Understanding (MOU) and he did not see any issues in the agreement. Councilmember Friedel asked for clarification on the possibility of the Tax Increment Financing (TIF) District being unable to reimburse the loan to Big Sky Economic Development Authority (BSEDA). Mr. Arveschoug stated the property was noted as collateral for the \$400,000, therefore, the City would have a lien position on the amount.

In reference to an email sent by Councilmember Cromley, Mr. Arveschoug stated the development plan could identify one or more catalyst projects in concert with Landmark, LLC. He added if there were not any catalyst projects identified, both parties would walk away having met the agreement. If it was decided to move forward with a catalyst project, the City could choose to partner with Landmark, LLC. If the City chose another developer for a project, reimbursement would be made to Landmark, LLC for their costs associated with the planning process. Mr. Arveschoug added that as long as the City chose Landmark, LLC, for one or more of the development projects, the City would not be required to reimburse the costs.

Councilmember Ewalt stated he wanted more detailed costs of the developer's expenditures. Mr. Arveschoug stated there would be quarterly reports with expenditures listed. He added that Landmark would like clarification, during the planning process, concerning reimbursement details sought by the City.

Councilmember Yakawich stated he wanted a term expiration for the exclusivity portion of the agreement. Mr. Arveschoug stated that the contract would start when it

was signed by all parties. He added that the start date would begin 210 days after the contract was signed.

Kevin Heaney, Crowley Fleck Law Firm, stated the exclusivity would last during the term of the agreement and would end within approximately seven months, if not sooner, and only applied to private sector components. He added that the agreement stated the City would discuss private sector components with Landmark, LLC.

Councilmember Cromley asked for clarification on termination obligations. Mr. Heaney stated if the relationship was not working, either party could exit the agreement. He stated the City would be obligated to pay the expenses incurred to the point of termination. He added it would not include Landmark, LLC's expenses, such as in-house costs, etc.

Mayor Cole called a recess at 9:09 pm.

Mayor Cole called the meeting back to order at 9:17 pm.

Councilmember Yakawich asked for clarification on terminology in Section 3, stating the developer shall own the development plan. Mr. Arveschoug stated the agreement would allow the City full access of the plan. Mayor Cole asked if staff was comfortable with the language. Mr. McCandless and Mr. Brooks responded affirmatively.

Councilmember Brown asked whether Landmark, LLC, intended to invest private funds in any of the catalyst projects. Mr. Arveschoug stated Landmark, LLC, intended to be the developer on one or more of the catalyst projects and would bring equity and other resources toward development. He added that could mean local partnerships, and other investment interests, etc., but it would not be the City's responsibility. Mr. Heaney stated that the City would have to discuss catalyst projects with Landmark, LLC, exclusively, for the first seven months, but after that deadline, the private and public sector components could be bid by outside developers.

Councilmember Joy moved for approval of Item 2, seconded by Councilmember Yakawich.

Councilmembers asked Mr. Arveschoug and staff additional questions about terminology in the agreement. Councilmember Brown moved to call the question, seconded by Councilmember Friedel. Councilmember Cromley asked for clarification on the voting rules for the motion to call the question. Mr. Brooks stated it would need to be a simple majority. On a voice vote, the motion to call the question was approved 7-4, Councilmembers Cromley, Yakawich, Brewster and Clark voted in opposition.

On a roll call vote, the motion to approve Item 2 was approved 6-5, Councilmembers Cromley, Brewster, Ewalt, Friedel and Clark voted in opposition.

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.

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 10:01 p.m.



CITY OF BILLINGS

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

ATTEST:

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