

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

April 23, 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 Gibbs gave the invocation.

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

MINUTES: April 9, 2018 – Councilmember Brewster moved for approval, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

COURTESIES:

- The Mayor wished Councilmember Brewster a happy birthday.
- Councilmember Yakawich announced that the Annual Prescription Drugs Take Back event would be held April 28, 2018, 9 am – 2 pm, at the Elks Lodge.
- The Mayor recognized Boy Scout Troops 23 and 27 who were in attendance.

PROCLAMATIONS:

- Billings Child Abuse Prevention Awareness Month – April. The Mayor recognized Family Tree and the annual pinwheels for awareness campaign.
- Great American Cleanup Week - April 23-29, 2018. Joan Tooley and Peggie Gaghen from Bright N' Beautiful announced organized events.
- Arbor Day - May 3, 2018
- National Day of Prayer - May 3, 2018
- Yellowstone Valley Gives - "Giving Day" May 3-4, 2018. Lauren Rite, Executive Director, Billings Community Foundation, announced that a block party would be held on Broadway as a kick-off event and the goal was \$100,000 during the 30-hour event.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless stated that all the strategy planning partners had agreed to sign the One Big Sky Project Planning Agreement. He stated that all of the local share funding had been committed and only \$2,650 was needed to complete the private sector contributions to the project, which would place the private contributions at \$95,000.
- Mr. McCandless stated the first TIF Policy Working Group meeting was scheduled for Friday, April 27th from 1:30 pm to 3:00 pm, in the First Floor Conference Room, Miller Building, 2825 3rd Avenue North.

- Mr. McCandless reminded the Council there was a bye week Monday, April 30th and therefore, no meeting would be held.
- Mr. McCandless stated that Item 1A5, had a memo in the Friday Packet that contained the low bidder, JR Civil, LLC, for \$592,681.50.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **Police Range Building Improvements Project.** (Opened 4/10/18) Recommend Cucancic Construction; \$94,475.
 2. **Airport - Two Heavy Duty Snow Plows.** (Opened 4/10/18) Recommend delaying award until May 14, 2018 Council meeting.
 3. **Airport Improvement Program (AIP) Operations Building Pavement Rehabilitation Project.** (Opened 4/10/18) Recommend Knife River; \$434,638.
 4. **W.O. 17-07, Hilltop Road and Aronson Avenue Storm Drain Extension.** (Opened 4/10/18) Recommend Western Municipal Construction, Inc.; \$1,583,734.
 5. **W.O. 18-20, Poet Street Water Replacement.** (Opened 4/17/18) Recommend JR Civil, LLC; \$592,681.50.
- B. **Approval** of professional services contract with SAFEBuilt Studio to update the zoning regulations; estimated \$160,000.
- C. **Approval** of professional services contract with Mass Mutual as the City's 457(b) Deferred Compensation Plan vendor, with the exception of Nationwide for IAFF members.
- D. **Agreement** with Yellowstone County Sheriff's Department to provide New World Public Safety FY2019 data processing services; Annual revenue \$145,734.

- E. **Amendment No. 4, W. O. 16-05, Central Avenue, Shiloh Road to 32nd Street West**, Professional Services Contract, DOWL; \$409,280.
- F. **Acceptance** of stormwater drainage, construction, and maintenance easement with Billings High School District #2.
- G. **Acceptance** of Montana Board of Crime Control Grant to establish the Supportive Housing and Re-entry Program; \$198,065.
- H. **Approval** of reimbursement from East Billings Urban Renewal District Tax Increment Funds to J Bird Luv, LLC, for its Liberty and Vine redevelopment project at 2019 Montana Avenue; \$99,881.60.
- I. **Resolution 18-10716** approving the 2018 distribution of Bridge and Road Safety and Accountability program funds and authorizing Jennifer Duray, CPA, Public Works Finance Manager to execute documents necessary to facilitate distribution of funds; \$655,684.20.
- J. **Preliminary Major Plat** of Amended Lot 1, Block 3A, Silver Creek Estates Subdivision, 2nd filing, generally located on the east side of 50th Street West and south of Rimrock Road; Boyer Land, LLC, owner; KLJ Engineering, agent; conditional approval and adoption of the findings of fact.
- K. **Bills and Payroll:**
 - 1. March 26, 2018
 - 2. April 2, 2018

Councilmember Yakawich separated Item 1A4 for discussion.

Councilmember Cromley separated Item 1A5 for discussion and 1K1 in order to abstain.

Councilmember Brown separated Items 1K1 and 1K2 in order to abstain.

Councilmember Ewalt separated Items 1C, 1E, and 1G for discussion.

Councilmember Brewster moved for approval of the Consent Agenda with the exception of Items 1A4, 1A5, 1C, 1E, 1G, 1K1 and 1K2, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich, in reference to Item 1A4, asked David Mumford, Public Works Director, about the project. Mr. Mumford responded that the Heights' area had a stormwater drainage issue. He continued that in recent years Public Works had completed a portion of the stormwater project along Hilltop Road and Item 1A4 would extend stormwater improvements from the last completion point and work eastward

toward Aronson Avenue. Councilmember Yakawich moved for approval of Item 1A4, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Cromley, in reference to Item 15A, clarified the low bidder on the project was JR Civil, LLC. Councilmember Cromley moved for approval of Item 15A, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1C, asked why the IAFF members were not moving their 457(B) deferred compensation plan to Mass Mutual. Andy Zoeller, Finance Director, responded that he served on the selection committee and the IAFF members had wished to continue with Nationwide because they felt they were better served. Councilmember Ewalt moved for approval of Item 1C, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1E, asked David Mumford, Public Works Director, whether DOWL was the low bidder for the consulting contract. Mr. Mumford responded that consulting contracts did not have to be low bidder per State law. Councilmember Ewalt asked if it were common practice to have a firm bid nearly 100% over the base bid price. Mr. Mumford stated that in the original invitation there had been several items that had not been included and added later. Councilmember Ewalt moved for approval of Item 1E, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1G, asked whether the grant for supportive housing and re-entry program would entice parolees from other areas to Billings. Bruce McCandless, City Administrator, stated the participants were from the Billings area and the grant would help provide adequate housing needs for those re-entering the community. Dave Armstrong, Chief Executive Officer, Alternatives Inc., provided a handout that outlined the funds' uses. He stated the money would be used for abatement to properties should damage occur, and rent and utility assistance. He continued that a screening process could be implemented for applicants. He clarified that the grant was for 16 months and that \$52,000 had been appropriated for the supervisor's salary. He estimated approximately 200 people could be helped during the 16-month period. Mr. Armstrong stated that Billings would receive over one-half of the State's total budgeted grant amount, with Missoula and Ravalli Counties receiving portions of the remainder. He stated the grant was likely a one-time opportunity and the State would probably not fund it beyond the 16 months. Councilmember Yakawich moved for approval of Item 1G, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

Councilmember Brewster moved for approval of Item 1K1, seconded by Councilmember Joy. On a voice vote, the motion was approved 9-0, Councilmembers Cromley and Brown abstained.

Councilmember Brewster moved for approval of Item 1K2, seconded by Councilmember Ewalt. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. PUBLIC HEARING and approval of allocation of FY2018-2019 CDBG and HOME Program funds and approval of FY2018-2019 Annual Action Plan. Staff recommends approval of the Community Development Board's recommendation and prioritization. (Action: approval and disapproval of staff recommendation.)

Brenda Beckett, Community Development Manager, gave a PowerPoint presentation and advised Council that Billings had received Community Development Block Grants since the mid-1970s and Billings may expect to receive approximately \$650,000 this year. She continued that Billings had received HOME program funds since the 1990's and may receive approximately \$350,000. She stated all funds were used to support low-income families. She reviewed the findings of the consolidated plan and outlined areas of concern, as well as solutions to those concerns. She listed all the community partners that collaborated in meeting housing needs in the community and mentioned many housing projects that have been built over the years.

Councilmember Joy asked about the Mayor's Committee on Homelessness impact on the community during its ten-year operation. Ms. Beckett stated it had helped identify more community resources that served the homeless and provided better networking between those resources to better serve the homeless population.

Councilmember Ronning asked that more be done to serve homeless youth. Ms. Beckett stated that through the VISTA services application process, area providers, such as Tumbleweed, were encouraged to apply for VISTA resources when a project was identified. She continued that the City's position was as a secondary support to community resources and that its role was not direct service.

Mayor Cole asked about the first time homebuyer default rate on the CDBG and HOME loans. Ms. Beckett responded the default rate was around 2%.

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

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

3. PUBLIC HEARING AND RESOLUTION 18-10717 approving an amendment to the limits of annexation map. Annexation Committee recommends approval. (Action: approval or disapproval of Annexation Committee recommendation.)

Wyeth Friday, Planning Director, gave a PowerPoint presentation outlining the Annexation Committee's recommended amendments. He explained there were different departments and agencies throughout the City that had participated in the recommendations, including County agencies and the School District. He stated there were two of the five annexation petition areas that were not recommended for inclusion on the annexation limits map. He stated that some areas on the West End were in floodplain areas and therefore, not all of the property, should it be annexed, would be developed. He continued that the Morledge property in the Alkali Creek area, north of the airport, contained 578 acres, but only about 300 acres could be developed due to the challenges of the topography. He reminded Council that should something be placed in the red zone for future development, it would not guarantee the property would be developed.

Councilmember Brewster inquired about extension of sewer lines for properties like the Morledge property. David Mumford, Public Works Director, addressed the possibilities.

Councilmember Clark asked whether the Airport would need any of that property in the future. Kevin Ploehn, Director of Aviation and Transit, responded the City had purchased all the land it really needed. He continued that there were a couple of areas that may be affected by noise from the airport and stormwater runoff, but all of it could be mitigated.

Councilmember Clark inquired whether the Inner Belt Loop would be affected by the annexation of the Morledge Property. Mr. Friday responded that the annexed area would be south of the Inner Belt Loop and would not impede the Inner Belt Loop project.

Mr. Friday continued that the other property not recommended for inclusion in the annexation petition areas was the Staley Property (39 acres) on the West End. He stated the area was not located near current City limits and the area did not have City police and fire services to it. He stated there were considerable distances from City services for sewer and water lines and providing those would be expensive and a challenge.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, stated his support to include the Morledge property in the annexation petition area so it could be developed. He stated the CIP indicated an additional fire station would be built in the Heights area within 2 years. He stated the landowner had submitted a letter indicating their understanding that the cost to extend City public utilities would be their responsibility, without guarantee of

reimbursement. He continued that the police services would have to grow wherever the City grew.

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

Councilmember Yakawich moved for approval of Item 3 as recommended by staff, seconded by Councilmember Cromley.

Councilmember Brewster moved to amend the motion to include the Morledge Property in the red zone (annexation petition area), seconded by Councilmember Brown.

Councilmember Brewster stated it was time to drive development in that area and stop waiting for landowners to sell their properties on the West End. He continued that property placed in the red zone would not guarantee immediate annexation or development.

Councilmember Brown agreed with the amended motion and stated the City's growth plan included development of the Morledge property area.

Councilmember Yakawich stated he opposed the amended motion because he wanted police and fire to be in agreement with the annexing of property. He stated if those services were concerned about extending public safety to that area, then that should be considered.

Councilmember Joy stated she opposed modifying the annexation map entirely because parks were not being developed in the areas that had been annexed already.

Councilmember Ewalt asked if the Morledge property owners petitioned to be annexed and provided money to extend public utilities to the annexed property, would the City be obligated to approve the annexation. Mr. Friday stated that would help in the approval process, however, concerns for public safety and other factors would need to be mitigated before the petition to annex would be accepted.

Councilmember Friedel asked who would be responsible for the expense of extending the roadway. Mr. Friday responded if City utilities were extended, the road construction would be included. He stated that should the developers pay for road construction, as well as, utility infrastructure, then the City would be responsible for the maintenance of the road. He continued that reimbursement options could be available to the developer. David Mumford, Public Works Director, added that the infrastructure improvements would be the developer's responsibility, but the City would share the cost of installing larger capacity utility lines for future development past the annexed area. He continued that road development and storm drains would be the responsibility of the developer. Councilmember Friedel stated he was concerned about stormwater runoff from the airport in the area, as it had led to past problems. He added that if the

developers were responsible for most of the costs and if stormwater runoff could be mitigated, then he would support the amended motion.

Councilmember Cromley stated he would not support the amended motion and should the developers continue their interest to annex in a year or so, Council could reconsider adding the Morledge property into the red zone at that time.

Councilmember Ronning voiced her concerns about additional pressures for increased public safety needs when the previous four public safety levies had failed.

Fire Chief, Bill Rash, spoke about concerns for fire safety overall and that the Heights area was the number one concern for additional fire service. He continued that annexing the Morledge property would increase fire safety risks. He stated the Heights area consisted of over 30,000 residents; was presently underserved and another fire station was needed now, according to a recent master plan study. He stated that the Heights area was the size of Helena, which had 2 or 3 fire stations to serve its population.

Police Chief, Rich St. John, also added his concerns for extending City boundaries and staffing pressures. He stated police service was concentrated in the lower west end and downtown areas, and response times were affected when the City's limits were stretched further and further.

Councilmember Friedel stated that given the information provided by the Chiefs, it would be prudent to postpone adding the Morledge property into the red zone until after the new fire station had been built.

Councilmember Joy stated all areas of the City deserved to have the same services overall.

Councilmember Brown stated development needed to continue regardless, as public safety concerns would always be a challenge. He stated he fully supported the amended motion.

Councilmember Clark stated there were plenty of areas in the red zone that could be developed.

On a voice vote, the amended motion made by Councilmember Brewster failed 8-3. Councilmembers Cromley, Yakawich, Ewalt, Joy, Friedel, Ronning, Clark and Mayor Cole voted in opposition.

On a voice vote, the motion made by Councilmember Yakawich supporting staff's recommendation that the Staley and Morledge properties remain outside of the red zone was approved 9-2. Councilmembers Joy and Ronning voted in opposition.

Mayor Cole called for a recess at 9:10 pm.

The meeting was called back to order at 9:20 pm.

4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 965: a zone change from Controlled Industrial (CI) to Residential 6,000 (R-60) on a 7,000 sq. ft. parcel of land, generally located at 109 South 35th Street. Dave Healow, owner; High Plains Architects, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Karen Huffman, Planner, gave a brief PowerPoint presentation and reminded Council that conditions could not be placed on zone changes. She stated the petitioner could have petitioned for either a special review or zone change and the petitioner had chosen a zone change.

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

Councilmember Cromley moved for approval of Item 4 and adoption of the findings of the 10 criteria, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

Mayor Cole recused himself and the meeting continued with Deputy Mayor Brewster officiating over the next item.

5. PUBLIC HEARING AND SPECIAL REVIEW 963: a special review to allow the construction of more than four attached dwelling units in the PD-MF-4 zone on a 19.13 acre parcel of land, generally located west of South 44th Street West and north of Georgina Drive. Lenhardt Farm, LLC, Lenhardt Enterprises, LLC, Lenhardt Property, LP, owners; Sanderson Stewart, agents. 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 PowerPoint presentation and reminded Council that a special review was tied to a specific use and conditions could be required.

The public hearing was opened.

- **Gary Ohm, Sanderson Stewart, 1300 Transtech Way, Billings, Montana**, stated more open spaces could be created with the proposed plan design and explained that walkways, community garden spots, fire pit areas and other amenities would be included.
- **Bill Hanser, 2916 Thousand Oaks, Billings, Montana**, stated there would be a mix of apartments for rent and owned townhomes. He

continued that due to road construction expenses to divert traffic from the area, the project needed to increase housing density to keep the unit prices affordable.

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

Councilmember Clark moved for approval of Item 5, as recommended by the Zoning Commission, seconded by Councilmember Brown.

On a voice vote, the motion was approved 10-0. Mayor Cole abstained.

Deputy Mayor Brewster passed the officiating to Mayor Cole.

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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, suggested that the One Big Sky Project be placed on the November ballot for public reaction. He voiced his concern about SBURD TIF funds and an application for Kings Ace Hardware. He provided a handout to Council.

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 10:04 p.m.



CITY OF BILLINGS

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

ATTEST:

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