

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 22, 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 Yakawich gave the invocation.

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

MINUTES: January 8, 2018 (Pending)

COURTESIES:

- Councilmember Yakawich recognized the Mayor and other citizens' participation in the Martin Luther King, Jr. day celebrations.

PROCLAMATIONS:

- Mayor Cole pronounced February 1, 2018 as Shape Up Montana Day.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless stated that placed at each Councilmember's desk, was a copy of an email from Wyeth Friday concerning communications between the Planning Division and Councilmember Ewalt regarding the zoning code text amendment process.
- Mr. McCandless stated there were no changes to the agenda and nothing had been placed in the ex parte notebook.
- Mr. McCandless announced that Wyeth Friday, Planning Director, was willing to serve as temporary interim Assistant City Administrator on a part-time basis, in addition to his duties as Planning Director. He explained that the Planning Department had sufficient management personnel to handle most of the workload while Mr. Friday attended to administration matters, however, overall some planning projects may be affected.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 4b, 5, 6 and 7 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.

- **Connie Wardell, P.O. Box 21432, Billings, Montana**, in reference to Items 1E, 5 and 7, stated she supported a public restroom at the Shiloh Conservation Area. She continued that Matt Blakesley had demonstrated an ability to manage a successful entertainment business and supported his involvement in the Babcock Theater lease. She stated she had hoped there would be a public hearing concerning choosing a city administrator, but that there was no hurry to hire one.

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

1. CONSENT AGENDA

- A. MUNICIPAL COURT / CITY COUNCIL CHAMBERS AUDIO / VISUAL EQUIPMENT REPLACEMENT:**
 1. **Contract** with AVI Systems, Inc., \$158,503.
 2. **Resolution 18-10697** approving \$43,503 transfer from Council Contingency to the City Clerk budget for the audio/video system replacement.
- B. Acceptance** of donation to the Billings Fire Department from ExxonMobil for purchase or upgrades to emergency response equipment for the rescue team; \$2,500.
- C. Approval** of Tax Increment Finance District funds (TIFD) from East Billings Urban Renewal District (EBURD) to Slow River, LLC, for qualified property improvements reimbursement to properties at 119-123 North 19th Street; \$45,356.97.
- D. Approval** of Revolving Loan Fund to Jilan Hall-Johnson - The Sassy Biscuit; \$40,000.
- E. Grant Application Request** to submit the Recreational Trails Program grant application to provide funding for a restroom facility at the Shiloh Conservation Area; up to \$45,000.
- F. Grant Application Request** to submit FY18-FY19, Montana State Historic Preservation Office Certified Local Government (CLG) Grant application; \$5,500.
- G. Resolution 18-10683** authorizing grant application request to submit the MDT Transit Planning Division applications for Sections 5310, 5339 or any other available capital grants, and to accept and execute any subsequently awards Grant Agreement(s) for replacement of up to two vans and other capital needs.

- H. **Resolution of Intent 18-10684** to construct W.O. 17-06, reconstruction of Midland Road with improvements, and setting a public hearing date for February 12, 2018.
- I. **Resolution of Intent 18-10685** to create SID 1404, Annafeld Subdivision improvements (parks and street light improvements), and setting a public hearing date for February 12, 2018.
- J. **Resolution of Intent 18-10686** to create SILMD 324, Midland Road (street lights), discontinue SILMD 287, and setting a public hearing date for February 12, 2018.
- K. **Second/Final Reading Ordinance 18-5701 for Zone Change 961:** a zone change from Residential Professional (RP) to Community Commercial (CC) on a 1.42-acre portion of C/S 2465, Parcel 6A, generally located north of Rimrock Road and West of 62nd Street West. Magnus Land Development, LLC, owner; Performance Engineering, agent. Approval of the zone change and adoption of the findings of the 10 criteria.

L. Bills and Payroll:

1. December 26, 2017
2. January 2, 2018

Councilmember Ewalt separated Items 1A1 and 1A2 for discussion.

Councilmember Brewster moved for approval of the Consent Agenda with the exception of Items 1A1 and 1A2, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Ewalt questioned the discrepancy in the total amount for equipment and shipping and handling. City Clerk, Denise Bohlman, responded that it may be a mathematical error. Councilmember Brown asked how much the exclusions would add to the cost of the overall project. Clerk Bohlman stated the Facilities Manager had indicated there may be enough in the facilities' budget to pay for the exclusions to complete the project. Mark Hunt, AVI Systems, Inc., responded to questions about electrical installations and possible placement of the equipment.

Councilmember Ewalt suggested not exceeding the approved \$115,000 in the TRP and acquire whatever audio equipment and installation could be purchased for that amount. He stated the rest could be done in the FY19 fiscal year. Councilmember Yakawich asked Tim Harrington, General Manager of Community 7 Channel, to approach the podium. Mr. Harrington stated the audience could not hear the Council. He continued that Community 7 had made a substantial investment in recent years to improve transmission of the Council meetings, but it was not enough because the Council chamber audio equipment was failing. He voiced his support of AVI Systems,

Inc. and said they had been an excellent company and had installed much of the equipment Channel 7 used. Councilmember Brown asked Interim City Administrator, Bruce McCandless, whether Council contingency or a budget amendment would be better to utilize for payment. Mr. McCandless stated Council had requested staff refine the audio components of the proposals to allow more funding for visual additions. He continued that Council had suggested using some of the remaining Council contingency funds for this purpose. He stated using Council contingency funds would hasten the process as no public notice and hearing process would be necessary as is the case for budget amendments. He also noted that most years the Council had expended very little or none of the contingency funds budgeted. Councilmember Ronning stated she respected Councilmember Ewalt's concern for protecting the budget, but emphasized it was just as important to serve the public's needs. She continued that if the public could not hear what was being said, the public would be restricted in its ability to participate and that should take just as much precedence. Mayor Cole asked about additional costs when a project was completed in sections. Mr. Hunt responded the cost is generally an additional 15%.

Councilmember Clark moved for approval of Item 1A1, seconded by Councilmember Brewster. Councilmember Brewster stated Council contingency funds were discretionary, the money was there and it was rarely spent. He continued that systems worked best when they were built together. On a voice vote, motion was approved 9-1, Councilmember Ewalt voted in opposition.

Councilmember Clark moved for approval of Item 1A2, seconded by Councilmember Brewster. On a voice vote, motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 18-10687 authorizing filing of the annual Federal Transit Administration Section 5307 Grant Application. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. McCandless 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 Item 2, seconded by Councilmember Cromley. On a voice vote, motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 18-10688 approving and adopting budget amendments for FY2018. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

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

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

4. 301 ORCHARD LANE:

a. PUBLIC HEARING AND RESOLUTION 18-10689 FOR ANNEXATION 17-01: property is located at 301 Orchard Lane on the east side of the street in southwest Billings. L.B. Stone Properties Group, LLC, Owner; Nick Czalpa, Petitioner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave a brief PowerPoint presentation regarding the location of the property and the annexation policy. Councilmember Yakawich asked why the owners of this property wished to be annexed. Mr. Friday stated the owners wished to have City sewer services. Councilmember Joy asked about the process for notifying surrounding property owners to a parcel that wished to be annexed. Mr. Friday explained that notification was not required for annexations, as it was for zone changes and special reviews. He stated a sign is posted on the property, a legal notice is published, and the neighborhood task force is notified.

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

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

b. DEVELOPMENT AGREEMENT with L.B. Stone Properties Group, LLC, to construct public improvements on recently annexed property, generally located at 301 Orchard Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

There were no additional presentations by staff. Councilmember Cromley moved for approval of Item 4b, seconded by Councilmember Friedel. On a voice vote, motion was unanimously approved.

5. BABCOCK THEATER LEASE / SALE. Staff recommends Art House Cinema & Pub for the lease of the Babcock Theater. (Action: approval or disapproval of staff recommendation.)

Mayor Cole recused himself from voting on this item and referenced the section of the Billings, Montana City Code that instructs members of the Council to recuse themselves in the event of a conflict of interest. He stated he has represented the current owners of the Babcock Theater. Councilmember Ronning also recused herself because of her involvement with the Art House.

Deputy Mayor Brewster conducted over this matter. Liz Kampa-Weatherwax, Purchasing Agent, gave a brief presentation and provided background and historical information that lead to current events. She provided information about the Ad-Hoc Committee's involvement and stated she had advertised in December 2017, a Request for Proposal (RFP) to lease and an Invitation to Bid to purchase the theater. No bids were received and there were two responses to the Request for Proposals. She stated the Ad-Hoc Committee asked for presentations to be given by the two proposers and the recommendation from those presentations was that the lease be awarded to the Art House.

Councilmember Yakawich asked Matt Blakeslee, Manager, of the Art House and Pub, whether TIF funds had been received. Mr. Blakeslee stated the Art House had been approved for TIF funds in the amount of \$350,000, but the Art House had not received the funds yet and the funds would be used toward the expansion of the current Art House location. He explained the Art House would not be moving to the Babcock Theater location, but would manage the Babcock Theater from the Art House location. This would give the Art House three screens to provide entertainment.

Councilmember Ewalt asked if the City actually owned the Babcock Theater. City Attorney, Brent Brooks, stated finalization of the purchase documents were in progress and would be finished soon. Councilmember Ewalt continued to question the amount of the lease payment as \$1. Liz Kampa-Weatherwax stated that was the proposal, but that final details could be negotiated with the successful proposer once the Council approved a lease. She continued that a portion of the \$500,000 budget for improvements had been used for the purchase of the green room and \$370,000 remained.

Councilmember Brewster stated the lease would be similar to Dehler Park and Mustangs Baseball.

Councilmember Clark moved for approval to negotiate a lease for the Babcock Theater with the Art House and Pub, seconded by Councilmember Ewalt. On a voice vote, motion was approved 8-0. Mayor Cole and Councilmember Ronning abstained.

Mayor Cole resumed conducting the meeting.

6. APPROVAL OF CITY COUNCIL COMMITTEE AND BOARD ASSIGNMENTS:
selections to be made at this meeting and assignments made at February 12,
2018 Regular Business meeting. Staff recommends approval. (Action: approval or
disapproval of staff recommendation.)

Mayor Cole asked Councilmembers presently serving on some of the committees and boards to describe the responsibilities of board and committee members.

After discussions were held about the various boards and committees functions, Councilmembers were assigned as follows:

Big Sky EDA Board – Brown
Community Development Board – Joy
Policy Coordinating Committee – Mayor Cole; Friedel (Alt.)
Montana League of Cities and Towns - Clark
Infrastructure Coalition – Clark
Beartooth RC & D – Ewalt
Bright & Beautiful – Yakawich
DBP Board – Brewster

Councilmember Cromley moved for approval of the Councilmember assignments as set forth and to vacate the item for the February 12th regular Council meeting, seconded by Councilmember Friedel. On a voice vote, motion was unanimously approved.

7. CITY ADMINISTRATOR REPLACEMENT AND RECRUITMENT. Staff
recommends approval. (Action: approval or disapproval of staff
recommendation.)

Karla Stanton, Human Resources Director, reviewed the history leading up to the present-day efforts to locate a replacement City Administrator. Ms. Stanton reviewed possible options, including entering into a contract with the interim City Administrator, Bruce McCandless.

Mayor Cole suggested that more data concerning the market should be researched before beginning the search process again. Ms. Stanton agreed that the City needed to be better prepared with definitive contract terms before any offers were made in the future. She stated a good deal of the information could be obtained via online search engines, including actual contracts for comparable Montana cities and those in neighboring states.

Councilmember Brewster recommended to not use a smaller committee of Councilmembers, but to use the Council as a whole, and to assign a couple of Councilmembers to do the legwork so all of the responsibilities are not left to staff.

Councilmember Ewalt expressed disappointment and concern with the search firm that had been hired. Ms. Stanton stated that the Mercer Group had been brought in too late during the negotiation process because the committee wanted to do the negotiations. Councilmembers Brewster and Ronning agreed that should a search firm be utilized in the future, responsibilities and duties needed to be better defined.

Councilmember Yakawich asked for Ms. Stanton's opinion about beginning the search. Ms. Stanton stated beginning the search immediately may be problematic as the pool of possible candidates may have been affected by the negative outcome from the recent search. She stated the process, when the Council was ready, could be hastened as they would not have to start from scratch. She stated it may be best to focus on having someone hired by September/October.

Bruce McCandless, interim City Administrator, provided his observations to the process and stated the timing with the election of a new Mayor and Councilmembers, etc., may have also contributed to the difficulties, but he did not believe the time of year or seasons made that much of an impact. He stated he was willing to continue as City Administrator for another 12 to 18 months, but he preferred 12 months. He stated that if Council appointed him to the position as City Administrator permanently, he would hire an assistant who could perhaps become a viable candidate. He discussed with the Council the immediate need to fill other vacant department head positions in which interims are present. He explained the Council's powers over a City Administrator versus an interim City Administrator.

Councilmember Brewster stated the Council should enter into a contract with Bruce McCandless as City Administrator for up to one year. That would allow Mr. McCandless the opportunity to hire an Assistant City Administrator and fill the vacant department head positions. He continued that the City should get through the Union negotiations in the spring of 2018, and set a goal of August or September to have a new City Administrator hired.

Discussions continued regarding timing and hiring a permanent Assistant City Administrator. Mayor Cole summarized the discussions as staff should gather data and draft a new contract for the future City Administrator; review the search firms from the recent RFP; fill the vacant department head positions; enter into a contract with Bruce McCandless as City Administrator for up to one year; and utilize consultant feedback regarding timing.

Councilmember Friedel moved to direct Administration to present to Council, at the February 12th Regular Business Meeting, a draft contract with Bruce McCandless for the City Administrator position, seconded by Councilmember Brewster. Councilmember Clark made a substitute motion directing Administration and Human Resources to provide Council a draft contract with Bruce McCandless for the City Administrator position by February 1, 2018, and Council act on the contract at the February 12, 2018, Regular Business Meeting, seconded by Councilmember Friedel. City Attorney, Brent Brooks, asked Council if they wished to have Attorney Tom Singer initiate the drafting of

the contract as he had done in the past. Council agreed. On a voice vote, 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 comment period was opened.

The following individuals expressed concern about the Community and Seniors Center access and recent changes:

- **Rena Bucher, 5646 Lenita Lane, Billings, Montana**, stated she utilized the Center for fitness, hobby and investment classes, book club and social activities. She was concerned about the limited access to space for the writers' program and stated the recent changes had adversely affected overall participation. She voiced her concern about increased fees to attend classes now lead by paid Parks Department employees, rather than volunteers. She spoke on behalf of low-income seniors and the financial impact the changes had on them and asked the Council to intercede where possible to reconcile the differences between the Senior Citizens of Billings group and the Parks and Recreation Department.
- **Willeen Erpenbach, 1715 Street, Andrews, Montana**, stated she volunteered at the Center and that there had been a good working relationship between the Senior Citizens of Billings Board and the Parks and Recreation Department for 40 years. She stated the Parks Department leadership had systematically choked the involvement of the Senior Citizen group with restrictions to activities, access to the Center and increased obstacles to good communication. She asked the Council to assist with resolving the differences.
- **Gerald Bauck, 924 Steffanich Drive, Billings, Montana**, stated he had led the senior writers' group and objected to the Parks Department acquiring space formerly used by the senior writers' group. He voiced his concern for the proposed Veterans Honor Wall and its completion. He stated there are fewer activities provided to the seniors and participation was waning.
- **Robin Grinsteiner, Retired Parks and Recreation employee, 1306 Lewis Avenue, Billings, Montana**, gave some history of the partnerships involved over the past 40 years. She stated that Parks and Recreation founded the Senior Citizens' group. She stated the group became a 501(c)(3) organization because it had been handling money for dues and conducting small fundraisers which had benefitted the City and Parks and Recreation Department. She stated she believed the partnership could be repaired.
- **Joe Fedin, 2533 River Oaks Drive, Billings, Montana**, represented the Board and provided a petition to Mr. McCandless with over 250 signatures. He requested the Board be invited to a future work session and get issues resolved.
- **Clark Johnson, 6180 Masters Boulevard, Billings, Montana**, recommended City Council meet with Senior Citizens' Board, directly.

- **Connie Wardell, P.O. Box 21432, Billings, Montana**, stated the atmosphere had changed at the Center. She inquired about the status of a replacement Ward IV Councilmember.

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 9:17p.m.



CITY OF BILLINGS

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

ATTEST:

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