

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 10, 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 5:30 p.m. and served as the meeting's presiding officer. Councilmember Friedel gave the invocation.

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

MINUTES: August 27, 2018 - Councilmember Clark moved for approval, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Cole reminded Council and the public of the City College memorial on September 11th, 2018, at 7:30 a.m., in observance of 9/11. He added there would also be a memorial at noon on the Courthouse lawn.
- Councilmember Yakawich thanked Phillips 66 for their BBQ at South Park.
- Councilmember Friedel stated that the Central/Terry Task Force would have a BBQ on Saturday, September 15th, at 2:00 p.m., at Terry Park.
- Councilmember Clark stated the West End Task Force would be having a social on Sunday, September 16th, 2018, from 3:00-5:00 p.m., at the playground behind Faith Evangelical Church.

PROCLAMATIONS:

- There were no proclamations.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless informed Council the resolutions for Items 2A through 2K, had been modified so they consistently reflected the phrase "the matter was considered by Council."

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 and 2B 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.

- **Mike Mayott, 2424 Locust Street, Billings, Montana:** supported Item 1B and stated the property would be an asset to the City and Amend Park.
- **Steve Zeier, South Billings Urban Renewal Association (SBURA):** encouraged Council to support Item 1B. He added it was an important step towards an aquatic center in Billings.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana:** in reference to Item 1B, stated the market value price was lower than the asking price and that he had some concerns with the property. He stated there were issues with room for parking as well as a ditch on the property that could cause concerns.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **New Current 5500 Series Dual Rear Wheel Truck with Service Body.**
No bids received. Recommend re-bidding at a later date.
2. **Three New 2019 40,000 lb. 4 CY Wheel Loaders.** (Opened 8/28/18)
Recommend Tractor & Equipment Co.: \$571,949.

B. **Buy/Sell Agreement** to purchase Lots 3A - 1A, and Lots 3A-4 and 3A-5, Popelka Commerce Center Subdivision, 2nd filing; \$934,500.

C. **Professional Services Contract** for W.O. 18-21, Water Treatment Plant Intake Redundancy; AE2S; \$182,900.

D. **Professional Services Contract** for Centennial Park Development; Steiner Thuesen; \$331,111.

E. **Professional Services Contract** for sampling and analysis of the Yellowstone River; HDR Engineering, Inc.; \$254,900.

F. **Amendment No. 3, Airport Terminal Expansion Project**, Professional Engineering Services Contract, Morrison-Maierle, Inc.; \$4,295,590.

G. **Warranty Deed** for Lot 4 of Annafeld Subdivision, 1st Filing, from McCall Development, Inc.

H. **Warranty Deed** for Tracts 2A-2 and 2A-3 of Certificate of Survey 2063, from Hanser Capital Holdings, LLC.

- I. **Warranty Deed** for Lot 1B of the Amended Plat of Lot1, Block 1 of Lenhardt Square Subdivision, 1st Filing, from Stock-Naughton, LLP.
- J. **Assignment and Transfer** of the Automobile Rental Concession and Lease from Corpat, Inc. DBA Alamo/National Car Rental to Enterprise RAC Company of Montana/Wyoming, LLC.
- K. **Limited Commercial Aviation Hangar and Ground Lease** 10-Year Renewal on Lot 7, East Hangar, with Billings Clinic (9-1-2018-8/31/2028); first year revenue - \$31,212; subsequent years adjusted annually using the Consumer Price Index for All Urban Consumers (CPI-U).
- L. **Funding Allocation** from HOME to NeighborWorks Montana; \$56,710.
- M. **Preliminary Subsequent Minor Plat** of O'Malley Farms Subdivision, generally located on the southwest corner of the intersection of O'Malley Drive and Virginia Lane; Big Sky Endeavors, LLC, agent.
- N. **Preliminary Subsequent Minor Plat** of Sunnyside Subdivision, 1st Filing, Amended Lot 3, Block 5, generally located on the northeast corner of the intersection of 10th Avenue North and North 27th Street; Opportunity Bank of Montana, owner; Stahly Engineering & Associates, agent.
- O. **Bills and Payroll:**
 - 1. August 13, 2018
 - 2. August 20, 2018

Councilmember Brown separated Items 1F and 1O2 in order to abstain.

Councilmember Ewalt separated Items 1B and 1D for discussion.

Councilmember Yakawich moved for approval of the Consent Agenda with the exception of Items 1B, 1D, 1F and 1O2, seconded by Councilmember Ronning.

Councilmember Ronning, in reference to Item 1L, asked for clarification on the date of the latest housing study. Brenda Beckett, Community Development Manager, stated they conducted a housing market needs analysis every five years. She added she would email the information to Council.

Councilmember Yakawich, in reference to Items 1A1 and 1A2, asked what the City did with the vehicles they were replacing. Dave Mumford, Public Works Director, stated they could be sold by the Motor Pool department or transferred to another department that needed them.

Mayor Cole, in reference to Item 1A2, asked for clarification on why the lowest bidder had not been awarded the bid. Mr. Mumford stated they had not met the bid specifications, as stated in the staff report.

On a voice vote, the motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1B, stated he did not want the City to purchase the land until plans were further developed. Mr. McCandless stated there were several possibilities for the land, should an aquatics center not come to fruition for any reason. He added that the land could also be used as additional parking for Amend Park.

Councilmember Brown asked if the consultant had given an opinion on the ditch location and possible relocation. Mr. McCandless stated the ditch could be piped to a different location or re-routed depending on the situation.

Mr. Zeier stated he had met with the Suburban Ditch Board of Directors in June and they would allow a ditch relocation. He added it should not cause any issues.

Mayor Cole asked if SBURA would permit the City to use the property for another purpose if it was not suited for an aquatics center. Mr. Zeier responded affirmatively.

Councilmember Brewster asked if cost of re-routing the ditch and/or moving the power line would be determined during the due diligence process. Mr. Zeier stated those costs would be determined during the concept development process.

Mayor Cole asked if a "rough analysis" could be performed within the 90-day period listed in the contract. Mr. Zeier stated that should be possible.

Councilmember Brown asked about the likelihood of using the property as an aquatics center. Mr. Zeier stated there was a very good chance the property would work for the aquatics center and the due diligence process would allow for a more educated decision. He added the concept development plan should be completed by March of 2019.

Councilmember Ewalt made a motion to delay Item 1B for 30 days, seconded by Councilmember Brewster.

Councilmember Brown asked if a delay would affect the sale. Mr. McCandless stated buy/sell agreements typically had stipulations of timing. Mayor Cole stated there was a condition of approval written into the agreement, and if the item was not approved during the September 10, 2018 Council meeting, the agreement would be voided.

Councilmember Yakawich stated he would not support the motion to delay and wanted the project to move forward.

Councilmember Friedel made a substitute motion to approve Item 1B, with a contingency to complete the due diligence process, seconded by Councilmember Clark. Councilmember Friedel stated the area could use more parking if the property was not well-suited for an aquatics center and stated the property would be an asset to the City.

On a voice vote, the substitute motion was unanimously approved.

Councilmember Ewalt, in reference to Item 1D, asked for clarification of the costs included for the Centennial Park Development. Mike Whitaker, Parks Director, stated the costs included the design, detailed construction documents, construction administration and oversight.

Mayor Cole asked if the design process would allow for fine tuning. Mr. Whitaker stated the design would be based on a Council approved master plan. He added that a change order would be needed for any changes made afterward.

Councilmember Ronning asked for design phase clarification. Mr. Whitaker stated the design phase would include site grading, irrigation, seating, possible restrooms, etc.

Councilmember Clark asked if it would include the dog park design. Mr. Whitaker responded affirmatively and added that the dog park committee would help with funding.

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

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

Councilmember Joy moved for approval of Item 1O2, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. PURCHASING PROCEDURE AMENDMENTS:

A. PUBLIC HEARING AND FIRST READING ORDINANCE repealing BMCC, Section 13-502, City Administrator Signing Authority for contract amendments and change orders. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless, City Administrator, gave an overview of the current City Administrator signing authority and the proposed changes. He added that the changes would bring the City in compliance with the current State law.

Liz Kampa-Weatherwax, Purchasing Agent, gave a PowerPoint presentation reviewing the purchasing procedures and proposed changes. She stated the changes would allow a clearer, more concise procedure that would save the City Council and staff time. She added the changes would save staff several weeks' time and expedite project start and completion dates.

The public hearing, for Item 2A, was opened.

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

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

B. RESOLUTION 18-10756 repealing Resolutions 06-18387 and 16-10523, City Administrator signing authority.

Councilmember Brown moved for approval of Item 2B, seconded by Councilmember Clark.

Brent Brooks, City Attorney, stated the resolution would not go into effect, until 30 days after the second reading of the ordinance, in Item 2A. He added that the effective date could be added to the new resolution. Councilmember Brown and Councilmember Clark agreed to add the amendment to the motion.

On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 18-10757 adopting annual Special Improvement Light Maintenance District assessments for FY19. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. McCandless gave a brief overview of the FY19 assessments.

The public hearing was opened.

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

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

4. PUBLIC HEARING AND RESOLUTION 18-10758 setting General Obligation (GO) Debt and Public Safety (PS II) mill levy rates for FY19. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. McCandless gave a brief overview of the proposed FY19 mill levy rates.

The public hearing was opened.

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

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

5. PUBLIC HEARING AND RESOLUTIONS spreading assessments on the following:

- A. Encroachments, RESOLUTION 18-10759
- B. Park District 1, RESOLUTION 18-10760
- C. Park Maintenance Districts, RESOLUTION 18-10761
- D. Road Maintenance District 6, RESOLUTION 18-10762
- E. SID 1401, RESOLUTION 18-10763
- F. SID 1403, RESOLUTION 18-10764
- G. SID 1404, RESOLUTION 18-10765
- H. SID 2911, RESOLUTION 18-10766
- I. SID 2912, RESOLUTION 18-10767
- J. SID 2913, RESOLUTION 18-10768
- K. SID 2914, RESOLUTION 18-10769

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

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

Councilmember Joy moved for approval of Item 5C, seconded by Councilmember Clark. On a voice vote, the motion was approved 9-2, Councilmembers Brewster and Friedel voted in opposition.

Councilmember Joy moved for approval of Item 5D, seconded by Councilmember Yakawich. On a voice vote, the motion approved 10-1, Councilmember Friedel voted in opposition.

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

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

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

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

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

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

Councilmember Cromley moved for approval of Item 5K, seconded by Councilmember Yakawich.

Councilmember Ewalt stated the repairs were not properly done and he was concerned. He asked for clarification on the difference between an SID and a work order. Jennifer Duray, Deputy Public Works Director, stated that Items 5H through 5K were work orders, which meant the City could assess property owners for the work done in front of their property. She added the terminology could be changed in the future for clarification. Mr. McCandless stated that with a typical SID, there were several different assessment methods that were somewhat inflexible. He stated with work orders the assessments could vary according to the size of property.

On a voice vote, the motion was approved 10-1, Councilmember Ewalt 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.

- **Jason Smith, 4515 Palisades Park, Billings, Montana:** stated he wanted the City to change its business license policy regarding medical marijuana businesses. He gave Council a handout referring to Bozeman's medical marijuana ordinances and business license policy.

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 7:36 p.m.

CITY OF BILLINGS

BY: 
William A. Cole, Mayor

ATTEST:

BY: 
Denise R. Bohlman, City Clerk