

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

September 24, 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 Gibbs gave the invocation.

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

MINUTES:

September 10, 2018 - Councilmember Brewster moved for approval, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

September 19, 2018 - Special Meeting. Councilmember Brewster moved for approval, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Police Chief, Rich St. John commended Officers Trevor Malcom and Michael Johnson on a job well done. They had recently made a traffic stop, and through their detective work, had discovered the man they had pulled over had murdered Billings resident William Joy. They both received a Distinguished Service medal.
- Chief St. John stated Sergeant Scott Conrad had responded to a house fire and ran inside the burning house to rescue a child still inside. He was presented with the Police Department's Lifesaving award.
- Chief St. John stated Officer Tyrel Flammang had stabilized an unconscious man who had been severely beaten. He was presented with the Police Department's Lifesaving award.
- Chief St. John showed a short trailer of the upcoming Police Department's lip sync challenge.
- Mayor Cole listed the four semi-finalists for the City Administrator position. He added the candidates would be arriving shortly for interviews.
- Mayor Cole stated Mike Gulledge had retired from the *Billings Gazette* after 18 years of employment.
- Councilmember Cromley stated the US Census Bureau was recruiting employees in Billings for the 2020 census.
- Councilmember Yakawich thanked Terri Porta and staff for the Park 3 parking garage mural. He commended City staff for their support of the mural.

PROCLAMATIONS:

- Mayor Cole pronounced October 5-7, 2018 as MSU-B Homecoming. Mayor Cole urged all citizens to support the university and attend the scheduled activities.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- There were no administrative reports.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 8 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. **3 - 2019 37,000 GVW Single Axle Trucks with Dump, Sander and Plow.** (Opened 9/11/18) Recommend I-State Truck Center; \$431,650.
2. **2019 58,000 12-Yard Dump Trucks with Snow Plow Assembly and Sander.** (Opened 9/11/18) Recommend I-State Truck Center; \$170,581.
3. **New Makeup Air Units for Airport Terminal Building Kitchen.** (Opened 9/11/18) Recommend Empire Heating & Cooling; \$141,768.
4. **Striping and Road Markings for 10 Roundabouts.** (Opened 9/11/18) Recommend Streamline Markings, Inc.; \$98,041.70.
5. **W.O. 18-16, Filter Building Console Replacement.** (Opened 9/11/18) Recommend Ace Electric, Inc.; \$690,000.
6. **W.O. 18-26, Grand Peaks Pond Improvement Project.** (Opened 9/11/18) Recommend rejecting all bids.

- B. **Change Order No. 1, W.O. 18-30, City County Drain Mitigation, COP Construction; \$10,713.16.**
- C. **Montana Legislative Lobbyist Services Contract, Crowley Fleck; not to exceed \$40,000.**
- D. **Amendment No. 1, Pretreatment Service Agreement, ExxonMobil Corporation; \$712,561.**
- E. **2018 Justice Assistance Grant (JAG) Application, Memorandum of Understanding (MOU) with Yellowstone County, and award for City of Billings Police Department; \$86,331.**
- F. **Tax Increment Financing Assistance from East Billings Urban Renewal District (EBURD) Tax Increment Funds for the EBURD Planting Program; up to \$40,000.**
- G. **Revolving Loan Fund to RYM Properties, LLC; \$225,000.**
- H. **Second/Final Reading Ordinance 18-5719 repealing BMCC Section 13-502, City Administrator Signing Authority.**
- I. **Copper Ridge Subdivision, 7th Filing final plat.**
- J. **High Sierra Subdivision, 6th Filing final plat.**
- K. **High Sierra Subdivision, 9th Filing final plat.**
- L. **Bills:**

- 1. August 27, 2018

Councilmember Ewalt separated Item 1D for discussion.

Councilmembers Cromley and Brown separated Item 1L1 in order to abstain.

Councilmember Brewster moved for approval of the Consent Agenda with the exceptions of Items 1D and 1L1, seconded by Councilmember Ronning.

Councilmember Ewalt, in reference to Item 1G, asked for clarification on the City's positioning for the revolving loan. Andy Zoeller, Finance Director, stated the City would be in 2nd place, behind the bank, and added the property was valued much higher than the Department of Revenue (DOR) appraisal.

Councilmember Cromley asked if the loan would disqualify the business from tax abatement benefits. Mr. McCandless stated the City's policy typically allowed a business to apply for one benefit, but not two or three.

Councilmember Brewster, in reference to Item 1A4, asked for clarification on the roundabout painting process. Dave Mumford, Public Works Director, stated all of the existing arrows, symbols, striping, etc. would be re-painted in epoxy for better longevity.

Mayor Cole asked if the roundabouts would be striped for pedestrian access. Mr. Mumford stated the roundabouts were already striped with pedestrian access markings. He added it would be very costly to upgrade the pedestrian signage, as the traffic would have to be diverted.

Councilmember Ewalt asked if roundabouts were less expensive than traffic signals. Mr. Mumford stated the initial cost of roundabouts was more expensive, but maintenance, power, repairs, etc. was less expensive overall than traffic signals.

On a voice vote, the Consent Agenda with the exceptions of 1D and 1L1, were unanimously approved.

Councilmember Ewalt asked if Item 1D and Item 5 were related. Mr. Mumford stated Item 1D was a contract amendment and Item 5 was a resolution for system development fees. Jennifer Duray, Deputy Public Works Director, stated the contract amendment was needed first, in order to have the numbers to set the system developments fees.

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

Councilmember Brewster moved for approval of Item 1L1, seconded by Councilmember Ronning. On a voice vote, the motion was approved 9-0, Councilmembers Cromley and Brown abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTIONS setting assessments on the following:

A. SID 1405 RES. 18-10770

B. Weed Abatement RES. 18-10771

Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. McCandless stated there was no presentation, but staff was available for questions.

The public hearing was opened.

- **Jerry May, 4646 Grand Avenue, Billings, Montana:** stated he had protested SID 1405. He added the area did not need more lighting and the cost was too high.

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

Councilmember Friedel asked how the properties were assessed. Mr. Zoeller stated they were assessed by linear footage.

Councilmember Brewster moved for approval of Item 2A, seconded by Councilmember Ronning.

Councilmember Brewster asked if Mr. May could protest the SID. Mr. McCandless stated the SID had already been created and the amounts could not be protested. He added the formula of the assessments had been established when the district was created. Mr. McCandless added that the lights were for the street and not the lights on private property.

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

3. PUBLIC HEARING to receive input on the City's FY17-18 Draft Comprehensive Annual Performance Evaluation Report (CAPER) for Community Development Block Grant (CDBG) and HOME Programs. No action is necessary.

Brenda Beckett, Community Development Manager, gave a PowerPoint presentation explaining the programs and how they served the community.

Councilmember Clark asked for clarification on housing loans through the programs. Ms. Beckett stated the loan remained on the property until the property was sold or the title changed. She added that they were very thorough in the loan process to ensure that money loaned was being used appropriately.

Councilmember Ronning stated the waiting list process was very long and asked if the department was doing any public/private partnerships to increase the number of affordable homes. Ms. Beckett stated King's Green Subdivision was a public/private partnership in which the City had been involved. She added that one of the main concerns was the decreased funding available for private partnerships.

Patty Webster, Housing Authority Executive Director, stated they had built 75 units with funding from CDBG. She gave an overview of the Housing Authority accomplishments and goals. She added that there were 2,026 affordable housing units in Billings.

Councilmember Ronning stated some Councilmembers had attended a low income housing event and were hopeful that legislature would take a serious look at the issues.

The public hearing was opened.

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

4. PUBLIC HEARING AND RESOLUTION 18-10772 approving reduction of the Arterial Construction Fee assessment for residents in commercial zones. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mayor Cole stated there was no staff presentation.

Councilmember Brewster stated there had been properties that had blanket zoning, which made their fees higher than they should be, based on use and not zoning status. He added that the resolution would allow a reduction in fees for those properties.

Councilmember Brown asked if the properties had to apply for the reduction every year. Mr. Mumford responded affirmatively.

The public hearing was opened.

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

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

5. PUBLIC HEARING AND RESOLUTION 18-10773 establishing a Wastewater System Development Fee between the City of Billings and ExxonMobil Corporation. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mayor Cole stated there was no staff presentation.

The public hearing was opened.

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

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

6. PUBLIC HEARING AND SPECIAL REVIEW 969: a special review to allow a beer and wine license without gaining less than the required 600 feet from a public park and a public school on a 36.82 acre parcel of land located at 316 South 24th St. West. Matthew Colebank, owner; Steven Zeier, agent. 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 PowerPoint presentation explaining the special review request and location. She reviewed the 600-foot separation requirements and the four ways a waiver could be allowed. She stated the property physically exceeded the 600-foot separation, but was on a very large parking lot, which was the reason for the special review.

Councilmember Ewalt asked about the outdoor announcement system requirements. Ms. Plecker stated the condition would not allow noise to pass the property lines, but also, it could not exceed the noise ordinance rules.

The public hearing was opened.

- **Steve Zeier, P.O. Box 21462, Billings, Montana:** asked Council to support the special review and the 600-foot separation. Mayor Cole asked if there had been any public comment at the Zoning Commission meeting. Mr. Zeier responded there had not been any comments.

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

Councilmember Clark moved for approval of Item 6, with the Zoning Commission recommendations, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE 970: a zone change from Neighborhood Commercial (NC) to Community Commercial (CC) on a .91-acre parcel of land described as: Tract 1C of Certificate of Survey 566. No Cash Water, owner; Jeff Essmann, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Karen Husman, Planner, gave a PowerPoint presentation of the property and the proposed zone change. She added there had not been any public comments at the Zoning Commission meeting.

Councilmember Friedel asked about the property size and number of properties that were notified. Ms. Husman stated it was a 300-foot radius and 31 properties were notified within that radius. Councilmember Friedel asked what kind of businesses the

zone change would allow. Ms. Husman stated Community Commercial allowed a little more diversity such as retail, restaurants, etc.

Councilmember Friedel asked for clarification on what types of businesses were planned for the location. Mike Walker, representative for Jeff Essmann, stated the plans were not developed, but would likely include a 4-5 unit building, consistent with allowable retail uses as the location required.

The public hearing was opened.

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

Councilmember Cromley moved for approval of Item 7, including the Zoning Commission recommendations, seconded by Councilmember Clark.

Councilmember Friedel stated he would not support the zone change and was concerned with a zoning of Community Commercial in a residential area.

Councilmember Brewster stated the property was located on an arterial road and it made sense to develop it. He added that the City had invested a lot of money in the area and would like to see some return on the money that had been spent.

On a voice vote, the motion was approved 10-1, Councilmember Friedel voted in opposition.

8. POLICE EVIDENCE FACILITY EXPANSION. Staff recommends approval.
(Action: approval or disapproval of staff recommendation.)

Lieutenant Mitch Hart gave a PowerPoint presentation reviewing the three options for the expansion of the police evidence facility. He stated staff recommended Option 2, which was the 10-year plan.

Councilmember Yakawich asked for clarification on the reasoning behind keeping the facility at the current location and not moving it to a different location. Lieutenant Hart stated they had hired a consultant and his recommendation was to keep the facility at its current location. He added that the facility was currently adjacent to the Billings Operations Center (BOC) and they provided maintenance support, as well as police support from across the street.

Mayor Cole asked for clarification on how the extra space in the 10-year option could be used. Lieutenant Hart stated the space could be used as storage for crime scene and bomb vehicles.

Councilmember Friedel asked how much it would cost for the additional items included in the 20-year plan, after inflation costs were factored. Allen Rapacz, Schutz Foss Architects, stated it could possibly increase 30% by that time.

Councilmember Ewalt asked for clarification on the building materials. Mr. Rapacz stated the existing building was a pre-engineered building, but the new building was designed using a metal frame, red iron, exterior finish on the office portion. He added the evidence block would be masonry, and the space to the north could be pre-engineered buildings.

Councilmember Ronning asked if the proposed plan would offer increased space for additional employees. Mr. Rapacz stated the plans included flex plans for growth. Councilmember Ronning stated the conditions in the current facility were unbearable and she was looking forward to the improvements.

Councilmember Gibbs asked if all the space would be heated and cooled even before staff started to utilize it. Mr. Rapacz responded affirmatively.

Councilmember Brown asked when a firm cost would be provided to Council. Mr. Rapacz stated the current numbers were only a schematic estimate. He added that a refined cost estimate would be given at every stage during the design process. Councilmember Brown asked what Council was approving if final costs were not yet available. Mr. McCandless stated that Council was asked to choose one of the presented options and authorize staff to begin the design process. He added that it would require an amendment to the FY19 budget. Mr. McCandless stated that once the design was in place, they would have a better idea of the cost.

Councilmember Ewalt asked what would happen if the option Council approved was more expensive than originally estimated. Mr. Rapacz stated the decision on how to proceed would be up to staff. He added that all of the estimates had a contingency to allow for unknowns and the estimates would become more refined after the design process began.

Councilmember Yakawich asked about strategic thinking on the extra space. Lieutenant Hart stated they were planning on a 30% purge every year with intense effort by staff in coalition with the City and County attorneys. He added that some evidence could not be purged, therefore, would need to remain in the facility.

Councilmember Ewalt asked about the possibility of building higher to save money. Lieutenant Hart stated that height could affect fire code and create more issues. He added most evidence facilities did not have fire suppression equipment because of evidence destruction issues. Councilmember Ewalt stated the building would need fire suppression equipment, regardless of the height of the building. Mr. Rapacz stated the proposed evidence building would not be required to have a sprinkler system based on the current fire code. He added there was a provision in the code designating storage higher than 12 feet would trigger the need for a sprinkler system. He stated that building higher than the plans indicated would dramatically increase the cost of construction.

