

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 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 Yakawich gave the invocation.

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

MINUTES: November 26, 2018 – Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Councilmember Yakawich stated Marion Dozier, former Councilmember, was in the hospital. He added that Ms. Dozier was a great mentor and an active community member.
- Councilmember Ewalt stated his family had recently added another grandson.
- Councilmember Clark stated he had attended the graduation of four new Billings officers at the Montana Law Enforcement Academy and welcomed them to the City.
- Councilmember Ronning stated the *Billings Gazette* had recently published an article regarding homelessness in the City. She stated there were currently 5,722 people waiting for affordable housing. She added that all of the Billings Schools were participating in the OPERATION: Billings Child program and were collecting gift cards and donations for students of all ages.

PROCLAMATIONS:

- There were no proclamations.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski stated that Consent Agenda Item 1G needed to be removed from the agenda for contractual issues. He added the Council would need to approve the removal with a 3/4 super majority vote. Councilmember Joy made a motion to remove Item 1G, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.
- Mr. Kukulski added that he would like Council to take a moment, at the end of the meeting, to choose a date for the January 2019 Work Plan meeting.

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. Mayor Cole recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1	Mark Astle	Aviation & Transit	01/01/19	12/31/22
2	Ron Spence	Aviation & Transit	01/01/19	12/31/22
3	Sean Lynch	Billings BID	01/01/19	12/31/22
4	Jeffrey Bollman	Board of Adjustments*	01/01/19	12/31/21
5	No Application	Board of Appeals* Electrical	01/01/19	12/31/21
6	Brian Hoerner	Board of Appeals	01/01/19	12/31/22
7	No Application	Board of Appeals	01/01/19	12/31/22
8	Anne Giuliano MD	Board of Health	01/01/19	12/31/21
9	Kristi Drake	Bicycle & Pedestrian Advisory	01/01/19	12/31/21
10	Rose Cook	Bicycle & Pedestrian Advisory	01/01/19	12/31/21
11	James Boyett	City Zoning Commission	01/01/19	12/31/22
12	Laura Gittings-Carlson	Community Development	01/01/19	12/31/22
13	Bret Rutherford	Community Development	01/01/19	12/31/22
14	Katrina Kruger	Community Development Low Mod	01/01/19	12/31/22
15	No Application	Community Development Low Mod	01/01/19	12/31/22
16	No Application	Community Development Low Mod	01/01/19	12/31/22
17	Fred Buford Jr.	Exchange City Golf Cooperation	01/01/19	12/31/21
18	Sandra McKee	Housing Authority Resident Comm	01/01/19	12/31/20
19	Robert Waller	Housing Authority	01/01/19	12/31/23
20	No Application	Housing Authority	01/01/19	12/31/23
21	Brian Schnitzer	Human Relations Commission	01/01/19	12/31/22

22	Diane Kersten	Human Relations Commission	01/01/19	12/31/22
23	Amy Aguirre	Human Relations Commission	01/01/19	12/31/22
24	Kody Christensen-Linton	Human Relations Commission	01/01/19	12/31/22
25	David Darby	Library Board	01/01/19	12/31/22
26	Thom MacLean	Parks, Recreation & Cemetery Board	01/01/19	12/31/22
27	Mark Wahl	Parks, Recreation & Cemetery SD Rep	01/01/19	12/31/22
28	Kallie Parsons	Billings Parking Board	01/01/19	12/31/22
29	Kevin Heaney	Billings Parking Board	01/01/19	12/31/22
30	No Application	Billings Parking Board	01/01/19	12/31/22
31	David Goodridge	Planning Board - Ward 1	01/01/19	12/31/20
32	Eric Wallace	Planning Board - Ward 3	01/01/19	12/31/20
33	Darell Tunnicliff	Planning Board - Ward 4	01/01/19	12/31/20
34	Jon Thompson	Planning Board - Ward 5	01/01/19	12/31/20
35	Ken Kingman	Police Board	01/01/19	12/31/21
36	Deborah Willis	Police Board	01/01/19	12/31/21
37	John Armstrong	Traffic Control Board	01/01/19	12/31/22
38	No Application	Traffic Control Board	01/01/19	12/31/22
39	Keith Edgerton	Yellowstone Historic Preservation Board*	01/01/19	12/31/19

* 4 Unexpired term of Frank Chesarek

* 5 Unexpired term of vacant position

*39 Unexpired term of James Graff

B. Bid Awards:

1. **2019 33,000 GVW Single Axle Tote Mount Paint Truck.** (Opened 11/20/18) Recommend Mark Rite Lines; \$296,242.

C. **Recommendation to the Policy Coordinating Committee for approval of Amendment II of the 2017-2021 Transportation Improvement Program.**

D. **Funding Agreement Renewal with Adult Resource Alliance of Yellowstone County; \$40,000.**

E. **Donation to the Billings Parks, Recreation and Public Lands Department from Billings Parks, Recreation and Preservation Foundation for the Songbird Community Garden and Arbor Day Event; \$10,373.75.**

- F. **Donation to the Police Department from an anonymous donor to the K-9 Program; \$15,000.**
- G. **Preliminary Subsequent Minor Plat of 44 West Subdivision, generally located south of King Avenue West and west of South 44th Street West; CK Land, LLC/Propriedad, LLC, owner; Sanderson Stewart, agent.**
- H. **Final Plat of Glynn Abbey Subdivision.**
- I. **Final Plat of Wolf Subdivision.**
- J. **Bills:**
 - 1. October 29, 2018
 - 2. November 5, 2018
 - 3. November 13, 2018
 - 4. November 19, 2018

Councilmember Cromley separated Items 1D, 1J1 and 1J2 in order to abstain.

Councilmember Brown separated Items 1J1 and 1J4 in order to abstain.

Councilmember Clark moved for approval of the Consent Agenda with the exception of Items 1D, 1J1, 1J2, and 1J4, seconded by Councilmember Ewalt.

Councilmember Ronning asked for clarification, in reference to Item 1F, on the donation to the Police Department. Chief Rich St. John stated the K-9 program was very well supported by the community and an anonymous donor had donated money for the program. He added they currently had two Drug Program K-9's and two Patrol K-9's.

Councilmember Yakawich, in reference to Item 1D, stated the Adult Resource Alliance was a great program for people over 55 years old.

On a voice vote, the motion to approve the Consent Agenda with the exception of Items 1D, 1J1, 1J2, and 1J4 was unanimously approved.

Councilmember Clark moved for approval of Item 1D, seconded by Councilmember Friedel. On a voice vote, the motion was approved 9-0, Councilmember Cromley abstained.

Councilmember Clark moved for approval of Item 1J1, seconded by Councilmember Friedel. On a voice vote, the motion was approved 8-0, Councilmembers Cromley and Brown abstained.

Councilmember Clark moved for approval of Item 1J2, seconded by Councilmember Friedel. On a voice vote, the motion was approved 9-0, Councilmember Cromley abstained.

Councilmember Clark moved for approval of Item 1J4, seconded by Councilmember Friedel. On a voice vote, the motion was approved 9-0, Councilmember Brown abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC, Sections 18-300 through 18-309, Nuisance Code. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave a PowerPoint presentation reviewing the proposed code amendments. He added that the amendments would make the process clearer and more effective for Court, City staff and property owners. Mr. Friday stated Mayor Cole had requested to add the words "originally intended" for human occupancy and correct the reference for abandoned or decaying structure criteria in Section 18-305 (5)(b).

Councilmember Cromley asked for clarification on the term "intended for human occupancy". Mr. Friday stated that would include a garage, shed, shop, house, business, etc. Councilmember Cromley stated he was concerned with "intended for human occupancy" being ambiguous and suggested staff take out that term.

Council discussed terminology issues and made suggestions for the proposed amendments to the Nuisance Code. Mayor Cole stated he had suggested replacing the word "suitable" with "intended".

Brent Brooks, City Attorney, stated narrow definitions, could become a benefit for people resistant to comply. He stated there were many areas in the code regarding human occupancy and added that "occupied structure" may be a term Council would like to consider.

Councilmember Yakawich asked for clarification on current code procedures. Mr. Friday stated property had to meet certain criteria in order to be considered a nuisance issue. He added that staff worked with property owners over an extended period of time before ever reaching the court level. Mr. Friday stated code enforcement issues were almost entirely complaint driven. Councilmember Yakawich stated there were some extremely unsafe structures in the City and the blight was impacting several

neighborhoods. He added that the amendments would help give Code Enforcement better tools to resolve the issues.

The public hearing was opened.

- **Bill Milligan, Good Stuff owner, 1008 Broadwater Avenue, Billings, Montana:** stated the nuisance ordinance was not being used properly and thought the City was opening case files without proper reasoning. He added that he should have been given proper notice and instead had been ticketed and sued by the City.
- **Don Cantrell, 532 Miles Avenue, Billings, Montana:** stated he was concerned about the definition of "junk or inoperable vehicles". He added the City should model the ordinance that Yellowstone County currently used.
- **Fran Bertholet, P.O. Box 802, Billings, Montana:** asked for clarification on the City's rights to enter property. Mr. Brooks stated the court would have to rule to allow the City to enter a property and abate the nuisance as ordered by the court. Ms. Bertholet asked how the City would define abatement costs. Nicole Cromwell, Code Enforcement Supervisor, stated the limitation was being added to the code in order to coincide with the State statute.
- **Mark Ferguson, 1708 St. Johns Avenue, Billings, Montana:** stated he was concerned with the code and how it would affect people restoring cars. He added the City should look at the policy Yellowstone County was currently using.
- **Lou Anne Jones, 3343 Parkhill Drive, Billings, Montana:** stated people could not always afford to make the necessary improvements and questioned how the City would handle repossession costs. Mr. Brooks stated the City did not take ownership of the properties in question, but instead worked with property owners to achieve voluntary compliance. He added that, as a last resort, the City could turn to municipal infractions or file a civil nuisance complaint. Ms. Cromwell added that the City had added funding to the nuisance abatement line item in order to help with court ordered abatements issues. She added that if the property owner did not pay for the abatement, it was assigned to the property taxes.
- **Joseph Rooney, 947 Bench Boulevard, Billings, Montana:** stated he was concerned with the term "immediate use" for vehicles and thought the policy was too vague. Ms. Cromwell stated citations were complaint driven and there would need to be more than three vehicles parked on the property to be a nuisance issue.
- **Jerry Kessler, 237 Avenue B, Billings, Montana:** stated there were excessive dilapidated properties in his neighborhood and was in support of the City having more authority to correct the issues.

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

Councilmember Yakawich moved for approval of Item 2, with the words "suitable for human occupancy" removed, seconded by Councilmember Cromley. Mayor Cole asked for clarification on which portions of the code would need those words removed. Councilmember Cromley stated it would apply to the section that discussed abandoned or decaying structures and dangerous structures.

On a voice vote, the motion was approved 8-2, Councilmembers Friedel and Brown 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.

- **Ken Crouch, 1642 Wembly Place, Billings, Montana:** stated December 10 was International Human Rights Day. He added progress had been made, but there was still work to do. He urged the City to pass a non-discrimination ordinance.

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

COUNCIL INITIATIVES:

Councilmember Yakawich directed staff to solicit RFP's, within the next six months, for building space to house the Administration, Finance, Planning and Public Works Departments and receive clarification from staff on how to proceed, seconded by Councilmember Cromley. Mr. Kukulski stated he appreciated Council recognizing the need for new office space and stated staff would bring forward information on how to proceed. On a voice vote, the initiative was unanimously approved.

Councilmember Clark directed staff to research options, as soon as possible, to amend the City ordinance to have two Municipal judges instead of one, seconded by Councilmember Friedel. Mr. Brooks stated staff would research the election timelines for the Municipal election. Council asked questions about staff, costs, etc. Mr. Brooks stated staff would research requirements and consult with Judge Kolar regarding staffing. On a voice vote, the initiative was approved 9-1, Councilmember Joy voted in opposition.

ADD-ON AGENDA ITEM:

Councilmember Cromley moved to add scheduling the January Work Plan meeting to the agenda, seconded by Councilmember Yakawich. On a voice vote, the motion to schedule the meeting on Saturday, January 26, 2019 was unanimously approved.

There was no further business, and the meeting adjourned at 7:49 p.m.

CITY OF BILLINGS



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

ATTEST:

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