

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 17, 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 Ewalt gave the invocation.

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

**MINUTES:** December 10, 2018 – Councilmember Yakawich moved for approval, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

### COURTESIES:

- Councilmember Joy reminded everyone that a public forum would be held on Tuesday, December 18, 2018, at 6:00 PM, at the Montana Convention Center on Midland Road, concerning the South Billings Recreation Center.
- Councilmember Yakawich acknowledged a Boy Scout from Local Troop #7 in the audience.

**PROCLAMATIONS:** There were no proclamations.

### ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski reminded Council that Consent Agenda Item 1E, Amendment No. 1, Wi-Fi Agreement, description should read renewal and extension for two additional years to December 31, 2020; rather than one additional year. This change was made between the draft and final agendas.
- Mr. Kukulski also reminded Council that this was the last meeting of the year! He stated Council would reconvene on January 7<sup>th</sup> as a Work Session meeting.
- Mr. Kukulski announced that there was nothing in the ex parte notebook.

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 3, 4 and 5 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.

In reference to Regular Agenda Item 3, the following members of the public spoke in favor of supporting the One Big Sky District (OBSD):

- **Alan Ekblad, Executive Secretary of the AFL-CIO, 325 Best Place Road, Helena, Montana**, stated he represented investment trusts. He stated OBSD was the type of project the labor movement was seeking to invest trust dollars to the tune of \$100-\$150 million. He stated the project was not only about building Billings, but about building and training a work force and was a great opportunity to invest in Billings.
- **Erin Heringer, YMCA, 3015 17<sup>th</sup> Street West, Billings, Montana**, stated the YMCA served 14,000 people in the Billings area and the facility had 35,000 visits per month. The majority of the memberships are family memberships. She stated YMCA had invested in a feasibility study, etc. to see if there was a need for expansion. She said it made sense to partner with OBSD to further the mission of the YMCA in growing and supporting healthy families. The medical corridor proposed in the district would enhance the health of families.
- **Sean Lynch, Pub Station, 712 North 23<sup>rd</sup> Street, Billings, Montana**, stated OBSD would attract a new pool of talent and potential employees.
- **Matt Robertson, NAI Business Properties, 3005 Upper Highwood, Billings, Montana**, stated their support for community vitality and the opportunity for economic growth.
- **Jess Peterson, 4030 Thunder Ridge Road, Billings, Montana**, stated Billings needs to be in the mix for larger conventions and OBSD would attract visitors to Montana's trailhead for larger conventions.
- **David Trost, St. John's Lutheran Ministries, 4351 Ridgewood Lane South, Billings, Montana**, stated it was important to support the "heart of the city" and St. John's would support OBSD and assess its role in that development.
- **Joni Harman, 2605 Minnesota Avenue, Billings, Montana**, stated her businesses struggled for patrons and employees. She stated the downtown business partners were supportive and ready for action.
- **Lee Humphrey, Jr., Edward Jones, 213 North Broadway, Billings, Montana**, stated Billings needed to continue development to stay the largest city and business hub in Montana.
- **Connie Wardell, P.O. Box 21432, Billings, Montana**, stated she conservatively supported OBSD. She stated she objected to the convention center concept, but would support an events center, but it must not cost public dollars.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Item 1K, voiced his concern about the high drug traffic in his neighborhood not being effectively extinguished and whether the monies were being well-spent.
- **Jeff Essman, 3130 McMasters Road, Billings, Montana**, in reference to Items 1E and 1K, stated wireless wi-fi service at the airport should be a free service to the public and the contract renewal should be denied. He continued that public safety concerns were increasing and aggressive panhandling was not limited to the downtown area. He urged the Council to keep public safety at the forefront when considering new projects.

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

**1. CONSENT AGENDA**

- A. Professional Services Contract** for W.O. 18-23: 2018 Water Master Plan Update; HDR Engineering, Inc.; in an amount not to exceed \$333,900.
- B. Professional Services Contract** for design and construction administration of W.O. 19-10: Jellison Rd. Water Main; Performance Engineering; \$162,186.
- C. Four-Year Contract** for the Neptune AMR/AMI Software Hosting; Northwest Pipe Fittings, Inc.; Year 1 – \$40,920; Year 2 – \$49,290; Year 3 – \$57,660; and Year 4 – \$57,990, for a total of \$205,530.
- D. Amendment No. 1, W.O. 18-22: Leavens Reservoir Expansion and Zone 1 Improvements**, Professional Services Contract, HDR Engineering, Inc., \$599,700.
- E. Amendment No. 1**, Wireless Network Concession Agreement (Wi-Fi Agreement), Boingo Wireless, renewal and extension for ~~one~~ two additional years to December 31, 2019 20.
- F. Exchange City Golf Corporation (ECGC)** 2019 annual budget and fee structure for Par 3 Golf Course.
- G. Easement** with Western Sugar Co-operative for stormwater pipeline for the W.O. 18-30: City-County Drain Mitigation Project.
- H. Easement** with Marte Nelson Trust for stormwater pipeline for the W.O. 18-30: City-County Drain Mitigation Project; \$16,747.50.
- I. Encroachment Permit Appeal** for Alberta Bair Theater.
- J. Donation** to Fire Department, Station #6 from Phillips 66 for the purchase and installation of standby/back-up generator; \$30,000.
- K. 2018 High Intensity Drug Traffic Area (HIDTA) Award** from Executive Office of the President, Office of National Drug Control Policy; \$606,450.
- L. Bills:**
  - 1. November 26 and November 28, 2018  
Councilmember Cromley separated Item 1E for discussion.  
Councilmember Brown separated Item 1L1 in order to abstain.

Councilmember Yakawich moved for approval of the Consent Agenda with the exception of Items 1E and 1L1, seconded by Councilmember Joy.

Councilmember Ronning, in reference to Item 1J, invited Fire Chief Rash to clarify the purpose of the donation. Fire Chief Rash provided information about the generator needs and fire and rescue collaboration with Phillips 66. Councilmember Ewalt and Mayor Cole thanked Phillips 66 for the generous donation.

Councilmember Ronning, in reference to Item 1K, invited Police Chief St. John to speak about the HIDTA award and the coalition for treatment, prevention and education components with United Way. Chief St. John stated that the multi-jurisdictional task force was rated number one 3 times in the past 4 years in a 4-state area. He continued that grants to help law enforcement fight mid- and high-level drug operations was important to the health of the community.

Councilmember Joy, in reference to Item 1C, asked Public Works Director, David Mumford, about any anticipated transitioning problems; was there adequate support to handle those problems; and an explanation of the increased yearly costs. Mr. Mumford responded that customers would not notice or be affected by the change and that the old software was obsolete and no longer supported or serviced. He responded that the increase may be due to additional data storage.

On a voice vote, the motion was unanimously approved.

Councilmember Cromley, in reference to Item 1E, moved that the contract with Boingo not be renewed and allowed to lapse at the end of the year, seconded by Councilmember Brown. Councilmember Cromley explained that 5 years ago this item had come before the Council to extend the contract to allow staff time to research industry changes around the country. He stated free wi-fi was available at all airports in Montana, except Billings. He continued that free wi-fi was available at all other municipal buildings, including the Council Chambers, and it did not make sense to continue this practice at the airport. Kevin Ploehn, Airport Director, responded that over the extended 2-year contract, the terminal expansion would add an additional 60,000 sq. ft. to the facility and that would affect wi-fi accessibility points. He continued that the Boingo contract would support service during that time, but it was the airport's goal to have free wi-fi within 90-days of the authorizing of the contract. He explained that free wi-fi is not free to the City, but negotiations would occur to get the best price. Mr. Ploehn explained the technical aspects for upgrading service; area cellular companies' possible future involvement; expansion construction effect on the overall plan and the RFP process. Discussions followed about whether the airport wi-fi could go "dark" if a contract was not entered into.

Councilmember Joy moved for approval of a substitute motion, to approve Amendment No. 1, of the Wi-Fi Agreement with Boingo Wireless, seconded by Councilmember Ronning.

Councilmember Ewalt called the question. On a voice vote, the motion was approved to vote on the substitute motion, 8-1, Councilmember Yakawich voted in opposition.

On a voice vote, the substitute motion to approve the contract failed, 6-3, Councilmembers Cromley, Yakawich, Ewalt, Clark, Brown and Mayor Cole voted in opposition.

Councilmember Clark moved for approval of the agreement with a condition that within 90 days free public Wi-Fi be implemented in the airport terminal building or the agreement could be terminated with a 90-day notice, seconded by Councilmember Ewalt.

Discussions followed about the airport's relationship with Boingo and concerns about losing wi-fi access if the condition could not be met.

On a roll call vote, the motion was approved, 6-3, Councilmembers Cromley, Yakawich and Joy voted in opposition.

Councilmember Yakawich moved for approval of Item 1L1, seconded by Councilmember Joy. On a voice vote, the motion was approved 8-0, Councilmember Brown abstained.

#### **REGULAR AGENDA:**

**2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE**  
**971: a zone change from Neighborhood Commercial (NC) to Planned**  
**Development (PD) with underlying NC, to allow 1 microbrewery license and 1**  
**restaurant beer and wine license (no gaming) on a 3.6 acre parcel of land**  
**described as: Lot 4, Block 1, MK Subdivision, north of Grand Avenue and west of**  
**54th Street West. MYK Enterprises, owner; Scott Aspenlieder, agent. Zoning**  
**Commission has no recommendation on a vote of 1 in favor and 4 opposed to a**  
**motion to recommend approval and adoption of the findings of the 10 criteria.**  
**(Action: approval or disapproval of zone change.)**

Nicole Cromwell, Zoning Coordinator, gave a brief presentation explaining the differences between the zoning codes and the 10 criteria. She advised Council that no conditions could be placed on a zone change. She reiterated that the Zoning Commission had made no recommendation for approval and adoption of the findings of the 10 criteria. She continued that the Zoning Commission had made no findings in the statute or current zoning code. She stated the Planning staff had recommended approval to the Zoning Commission and their findings were included in the staff report. Ms. Cromwell explained the two uses proposed for the property, i.e., a microbrewery and restaurant with a beer and wine license attached, but no gaming. She gave specifics about landscaping requirements and a bike trail connection and stated there were special stipulations in the Planned Development document that would eliminate

incompatible uses in the proposed uses for the planned development, i.e. auto supply stores, convenience stores, lighting, hours of operation, etc.

Ms. Cromwell responded to Council questions concerning clarification of current zoning and proposed zoning; neighborhood opposition; and rules that would follow a withdrawal of application.

Scott Aspenlieder, agent, provided a history of the project. He stated that the neighborhood meeting had approximately 12 people in attendance and that the Council had likely heard from those individuals via emails or letters. He stated meetings with the West End Task Force were not able to be coordinated. He continued that nearly all of the neighborhoods' requests had been incorporated into the plan. He explained how having services in neighborhoods would lessen traffic demands on Grand Avenue.

The public hearing was opened.

- **Joe Womack, attorney representing MYK Enterprises, LLC, 3091 Parkhill Drive, Billings, Montana**, stated he had represented the family for a number of years. He stated the land had been subdivided by the family in 2007, but nothing had been done with it until now. He continued that the Planned Development had been very well analyzed by the Planning Division to meet the criteria. He urged the Council to approve the zone change.
- **Joshua McIntosh, President of his Homeowners Association, 5502 Clear Sky Drive, Billings, Montana**, voiced his support, individually, and on behalf of his HOA.
- **Rick Reed, 2205 Treasure Drive, Billings, Montana**, stated his support for the zone change and stated the business would be owned by a Billings, Montana family.
- **Corey Walter, 3525 Briarwood Boulevard, Billings, Montana**, gave his support for the zone change as a fellow tavern owner.
- **John Woods, 3521 Tommy Armour Circle, Billings, Montana**, stated his support for the zone change as it would provide a first-class business in that area.
- **Ty Schmeckle, 134 Avenue C, Billings, Montana**, provided an explanation for why his proposed business would be an advantage to the area. He supported the zone change.
- **Steven Wells, 4832 Audubon Way, Billings, Montana**, stated his support for the zone change and for future commercial development on the far west end.
- **Kevin Bromenshenk, 3242 Jack Burke Lane, Billings, Montana**, stated his support for the zone change and small, family-owned businesses. He stated the business would do well.
- **Todd Buchanan, 2046 Pryor Lane, Billings, Montana**, voiced his support for the zone change, livable spaces, and his respect for the developer.
- **Drew Smith, 435 Clark Avenue, Billings, Montana**, stated his support of the zone change and the Schmeckle family's various other businesses.

- **Deanne Cates, 5341 North Castle Stone Square, Billings, Montana**, stated she lived in the neighborhood, co-chairs the Neighborhood Watch program and he opposition to the zone change. She stated there were other alcohol-serving businesses at or near the intersection where the proposed zone change was located and more businesses like that were not advantageous. She stated the neighborhood would support a store/pharmacy type of business that would not rely mostly on alcohol sales as its business.
- **Julie Seedhouse, 104 North Broadway, Billings, Montana**, spoke as a residential real estate agent, and stated that her clients often sought homes on the west end, but traffic concerns and lack of amenities was discouraging. She supported the zone change.
- **Brian Parkins, 5309 Sundance Mountain Circle, Billings, Montana**, stated a year ago he had canvassed the neighborhood about the zone change for The Den and the responses had been overwhelmingly against having a casino located there. He stated he was uncertain how the neighbors felt about this zone change, but voiced his opposition.
- **Terra Pierce, 3623 Quimet Circle, Billings, Montana**, stated her opposition for the zone change. She defined the brewing business as an industrial-type business that should not be allowed next to a Neighborhood Commercial zone. She stated there needed to be a buffer between residences and industrial-type businesses and urged the Council to deny the zone change.
- **David Goodridge, 811 North 31<sup>st</sup> Street, Billings, Montana**, stated he was a commercial realtor and he served on the Project Recode Committee. He stated that until the zoning code was revised, the Council would continue to have reactive/subjective zone change matters come before them.
- **Mike Schmeckle, 1806 Poly Drive, Billings, Montana**, stated he owned several area restaurants with bars, however, the proposed brewery and restaurant was not a bar and would not have a casino. He stated he would appreciate the Council's support for the zone change.
- **Connie Wardell, P.O. Box 21432, Billings, Montana**, stated the schools in the area were eliminated from the conversation. She stated it was unacceptable to locate a brewery or business that served alcohol near schools or the paths that students walked coming and going to school.
- **Larry Arpin, 5240 Vintage Lane, Billings, Montana**, stated his opposition to the zone change.

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

Councilmember Cromley moved for approval and adoption of findings of the 10 criteria as recommended by the Planning staff for the zone change, seconded by Councilmember Joy.

Councilmember Joy recited the Growth Policy and Transportation Plan and stated the zone change was within the policy.

Councilmember Brown stated he would support the motion.

Mayor Cole gave a history of the West End development plans for which he had been involved. He stated the zone change location had been identified to be a node for commercial conveniences, much the same as West Park Promenade, to avoid having long stretches of commercial businesses the entire length of Grand Avenue. He likened the business to other restaurants that serve alcohol, rather than bars, and voiced his support for the motion.

Councilmember Ronning agreed with Mayor Cole and stated she had reviewed the 2001 West End Development Plan and the proposed development was exactly what had been intended. She voiced support for the motion.

Councilmember Ewalt voiced his appreciation for private enterprise and would support the motion.

Councilmember Yakawich stated his opposition to the motion.

Councilmember Gibbs and Clark stated their support for the motion.

On a voice vote, the motion was approved, 8-1, Councilmember Yakawich voted in opposition.

Mayor Cole called for a recess at 8:17 p.m.

Mayor Cole reconvened the meeting at 8:27 p.m.

**3. ONE BIG SKY DISTRICT DEVELOPMENT PLAN. Staff recommends supporting State Legislative efforts to further the One Big Sky District Development Plan. NO ACTION REQUIRED**

Chris Kukulski, City Administrator, stated the Council was not required to adopt a plan or take any action at this time, however, a lengthy presentation would be given by several presenters. Mr. Kukulski introduced Steve Arvescoug, Big Sky Economic Development, as the first speaker.

Mr. Arvescoug provided background information about the action plan. He stated the strategy partners sought an action plan that would spur investment. He spoke about an active, open process of communicating with the public through coffee conversations, newsletters and public forums. He continued that essential legislative support was needed and it was a new way to approach economic development in Montana.

Bob Dunn, Landmark, gave an extensive presentation about the progression of the plan development. He reviewed goals and objectives. He stated Montana's population was aging and a younger workforce was needed. He said Montana had a dominant tourism business, but had no viable convention center to support additional tourism. He offered examples of stadium uses that had changed all over the country to

allow for multi-uses and he proposed Billings have a similar convention center to attract sporting events, concerts, and farmers' markets, as well as regional conventions. He outlined a plan for a health and wellness district that would focus on wellness and not just healing the ill. He spoke of collaborations between the colleges and the medical communities. Mr. Dunn summarized the financial plans and gave an overview of the proposed legislative bill. He asked for the Council's support in private investment.

Jim Duncan, Billings Clinic Director, stated his support and explained the medical communities' workforce needs.

Paul Foster, President of United Properties, Inc., stated his family-owned company had been in business for over 60 years and were a part of the strategy partners. He stated the business operated nearly 450,000 sq. ft. of office space in the downtown area. He voiced his support of OBSD.

Tracy Neary, St. Vincent's Healthcare, stated her support of the OBSD vision and echoed the conversation about medical workforce needs.

Kim Kaiser, CEO of YMCA, provided information and statistics about the needs of their members. She stated they could serve so many more families if they could have a larger facility. She stated Billings had an opportunity to reshape and redefine its downtown area. As a strategy partner, she stated the YMCA board supported OBSD's plan for a health and wellness district.

Mike Nelson, Northern Hotel, incoming chair of Big Sky Economic Development and Secretary-Treasurer of the Billings Chamber of Commerce, provided his story of acquiring the Northern Hotel building through a sheriff's sale after it had gone into bankruptcy. He shared his vision for the hotel and likened it with the OBSD plan. He stated Billings was on the cusp of being one of the great cities of tomorrow and encouraged Council to support future legislation for OBSD.

Bob Dunn returned to the podium to answer the Council's questions about infrastructure needs for the district, use of public monies, opportunity zones, and future legislation.

**4. APPROVAL of Mayor's appointment for the Ward II Councilmember replacement. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mayor Cole stated there had been 2 women and 4 men who applied for the appointment for Ward II. He acknowledged outgoing Councilmember Larry Brewster and explained the criteria he used to determine his recommendation for the replacement appointment.

Mayor Cole announced his recommendation as Roy Neese. He stated Mr. Neese had served on the Heights Task Force for many years in various capacities; had a

willingness to listen to others and be a team player; had a background in finance; and the confidence of his constituents.

Councilmember Ewalt moved for approval of the Mayor's recommendation and appointment of Roy Neese as Ward II Councilmember replacement, seconded by Councilmember Gibbs. On a voice vote, the motion was unanimously approved.

**5. 2019 MONTANA LEGISLATIVE PRIORITIES. Staff recommends approval.**  
**(Action: approval or disapproval of staff recommendations.)**

Chris Kukulski, City Administrator, outlined the priorities identified as:

1. Public Safety
2. Self-governing Power
3. Sustainable Economic Development
4. Increasing Infrastructure Investments
5. Lowering Tax Burden on Property Owners
6. Support Legislative Partners

Mr. Kukulski reviewed the resolutions that were passed by the League of Cities and Towns with the Council. Councilmember Clark spoke about the priorities of the Infrastructure Coalition and stated they were in-line with those of the League.

Councilmember Joy moved for approval of Item 5 as drafted, seconded by Councilmember Ronning. On a voice vote, the 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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, stated that the SBURA was a private corporation and the City was paying for its attorney. He said that practice was flawed and the City should not continue to use taxpayer money to provide the SBURA with an attorney that did not represent the City's interests. He continued that the board members on SBURA were all members of the Southside Task Force and it had become a private club. The board members were appointing one another. He suggested that the Mayor make initial appointments and that the board be made an advisory board.
- **Connie Wardell, P.O. Box 21432, Billings, Montana**, cautioned Council that ruralist legislators may have little interest in supporting big money for Billings and the OBSD. She made strategy suggestions to win support and offered examples of when those strategies were affective.

- **Steve Zeier, P. O. Box 21462, Billings, Montana**, reminded the Council of the public forum meeting, Tuesday, December 18, 2018, at 6:00 PM, at the Montana Convention Center on Midland Road, concerning the South Billings Recreation Center. He stated that there was a reorganization of the South Billings Urban Renewal Association (SBURA) board of directors and provided an explanation for hiring an attorney to ensure that the reorganization was done correctly and the appointment of a member from the Southside Task Force to the board.

**COUNCIL INITIATIVES:**

There were no Council initiatives.

There was no further business, and the meeting adjourned at 11:02 p.m.

CITY OF BILLINGS



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

ATTEST:

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