

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

May 13, 2019

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 4:30 p.m. and served as the meeting's presiding officer. Councilmember Clark gave the invocation.

4:34 PM RECESS TO CLOSED EXECUTIVE SESSION* City Administrator, Chris Kukulski's Six Month Review

*Note: The Executive Session will be closed, as allowed in Section 2-3-203(3), MCA, as discussions relate to matters of individual privacy and wherein the demands of individual privacy exceed the merits of public disclosure.

Mayor Cole called the meeting back to order at 5:40 p.m.

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

MINUTES: April 8, 2019 – Councilmember Clark moved for approval, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

April 22, 2019 – Pending

COURTESIES:

- There were no courtesies.

PROCLAMATIONS:

- Mayor Cole proclaimed May as Building Safety Month.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski stated any Council emails that were received after 5:00 pm would be placed in the ex parte notebook at the back of Council Chambers.
- Mr. Kukulski reminded Council of the Budget Work Session meeting on Tuesday, May 14th.
- Mr. Kukulski reminded Council that Monday, May 27th was a holiday, therefore, the Council meeting would be held on Tuesday, May 28th.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2, 6, 7 AND 8 ONLY. Speaker sign-in required. (Comments are limited to three (3) minutes. Please sign the roster at the cart located at the back of the 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.

The following constituents spoke in favor of Regular Agenda Item 6, Commission on Energy and Conservation:

- **Eric Schmidt, 2915 2nd Avenue South, Billings, Montana.**
- **Cathy Fitzgerald, 3245 Poly Drive, Billings, Montana.**
- **Mike Penfold, 3552 Prestwick Road, Billings, Montana.**
- **Debbie Singer, 4140 Corbin Drive, Billings, Montana.**
- **Betty Whiting, 925 Burlington Avenue, Billings, Montana.**
- **Tom Rupsis, 105 Legends Way, Billings, Montana**, in reference to Item 1B2, spoke in support of the Centennial Park Improvements. He stated the bid came in lower than expected, so Parks would be able to add some alternates with the remaining money.
- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Item 7, stated he wanted to see more transparency in the MOU documents. He added that the contract stipulations were not being met. He encouraged Council not to approve the SBURA contract.

The following constituents spoke in favor of the SBURA MOU in Regular Agenda Item 7:

- **Scott Hanser, 430 South Billings Boulevard, Billings, Montana.**
- **Debbie Keller, 646 Orchard Lane, Billings, Montana.**
- **Carolyn Rukstad, 345 Calhoun Lane, Billings, Montana.**
- **Chuck Barret, 215 Calhoun Lane, Billings, Montana.**

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

1. **CONSENT AGENDA**

A. **Mayor Cole recommends that Council confirm the following appointments:**

1.

	Name	Board/Commission	Term	
			Begins	Ends
1		Animal Control Board*	05/13/19	12/31/21
2	Andrew MacLeod	Bicycle & Pedestrian Advisory*	05/13/19	12/31/21

3	Board of Appeals - Electrical Contractor	05/13/19	12/31/21	
4	Board of Appeals	05/13/19	12/31/22	
5	Community Development - Lod Mod*	05/13/19	12/31/19	
6	Community Development - Lod Mod	05/13/19	12/31/22	
7	Carol Burton	Housing Authority	05/13/19	12/31/23
8	Traffic Control Board	05/13/19	12/31/22	

* 1 Unexpired term of Jeannette Vieg

* 2 Unexpired term of Rose Cook

* 5 Unexpired term of Rebecca Bey

B. Bid Awards:

1. **Annafeld Park Development.** (Opened 4/23/19) Recommend delay of award until May 28, 2019.
2. **Centennial Park Improvements.** (Opened 4/30/19) Recommend First Mark Construction; \$1,945,525.
3. **W.O. 19-10: Hillcrest Road Water Main.** (Opened 4/30/19) Recommend White's Civil Contracting; \$357,310.

C. Airline Operating Agreement and Terminal Building Lease with Frontier Airlines, Inc.; estimated annual revenue - \$185,000.

D. Amendment No. 1, Airline Operating Agreement and Terminal Building Lease; Hyannis Air Service, Inc. DBA Cape Air.

E. Acknowledge Receipt of Petition to Vacate a portion of right of way at the northeast corner of 10th Avenue North and North 27th Street, Opportunity Bank, petitioner; and setting a public hearing date of June 10, 2019.

F. Revolving Loan Fund to Billings Depot, Inc.; for no more than \$78,686.98.

G. Montana Department of Natural Resources (DNRC) Grant for Riverfront Park improvements; \$5,000.

H. 2019 High Intensity Drug Traffic Area (HIDTA) Award from Executive Office of the President, Office of National Drug Control Policy; \$231,796.

I. Resolution 19-10792 ordering improvements identified in W.O. 19-02: Miscellaneous Program.

J. Bills:

1. April 1, 2019
2. April 8, 2019
3. April 15, 2019

Councilmember Cromley separated Consent Agenda Item 1J1 in order to abstain.

Councilmember Neese separated Consent Agenda Item 1J2 in order to abstain.

Councilmember Brown separated Consent Agenda Items 1J1, 1J2 and 1J3 in order to abstain.

Councilmember Gibbs separated Consent Agenda Item 1B2 for questions.

Councilmember Clark moved for approval of the entire Consent Agenda, with the exception of Items 1B2, 1J1, 1J2, and 1J3, seconded by Councilmember Yakawich.

Councilmember Yakawich, in reference to Item 1H, thanked Police Chief St. John for his work in getting the 2019 High Intensity Drug Traffic Area (HIDTA) Award.

Councilmember Neese, in reference to Item 1F, asked for clarification on the low interest rate and what the City could do to increase the interest rate. Andy Zoeller, Finance Director, stated the Revolving Loan Fund had been established to encourage development by downtown businesses. He added that the interest rate was low in order to be competitive. He stated Council could make amendments to the ordinance if they wished to do so.

Councilmember Ronning, in reference to Item 1I, asked for clarification on the Sidewalk Improvement Program. Debi Meling, City Engineer, stated staff and Council had recently decided to be more proactive regarding the new sidewalk program. She added that the improvements would provide a community-wide benefit.

Mayor Cole asked if there would be a public hearing at a later date. Ms. Meling responded that there would not be a public hearing and that this Consent Agenda resolution would be the final Council approval.

Councilmember Gibbs asked about possible alternatives for the concerned homeowners. Ms. Meling stated the Engineering Department worked with homeowners in order to minimize impacts.

Mayor Cole asked for clarification about existing structures. Ms. Meling stated they were able to make the sidewalks go around existing structures, such as mailboxes, etc.

Councilmember Gibbs asked if he could still separate Item 1I. Mayor Cole stated that the motion to approve the Consent Agenda would need to be withdrawn.

Councilmember Clark and Councilmember Yakawich withdrew their motion and second, respectively, approving the entire Consent Agenda.

Councilmember Gibbs separated Item 1I for questions.

Councilmember Clark moved for approval of the entire Consent Agenda, with the exception of Items 1B2, 1I, 1J1, 1J2, and 1J3, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

Councilmember Gibbs, in reference to Consent Agenda Item 1B2, asked for clarification on the bid coming in lower than expected and if the add alternate additions were necessary. Mark Jarvis, Park Planner, stated the bid had come in lower, so staff had opted to add alternates to include a restroom facility and interior sidewalks, which would allow for ADA accessibility.

Councilmember Ewalt asked if the plans included a dog fence in the park. Mr. Jarvis stated staff was in discussions with "The Friends of Dogs Parks" regarding donations to be used for dog fencing.

Councilmember Ewalt made a motion to approve Item 1B2, with an amendment that staff could not return to Council to ask for more money. Councilmember Ewalt's motion died for lack of a second. Councilmember Clark made a motion to approve Item 1B2, seconded by Councilmember Cromley. On a voice vote, the motion was approved 9-2, Councilmembers Neese and Ewalt opposed.

Councilmember Gibbs, in reference to Consent Agenda Item 1I, asked if homeowners in the proposed areas had been sent letters regarding the sidewalk program. Ms. Meling responded affirmatively. Councilmember Gibbs asked about the possibility of delaying the project in order to work on alternative options. Ms. Meling stated they would need to complete certain projects by fiscal year end, which was in June. Ms. Meling stated there was a priority to provide sidewalks to high pedestrian areas. She reiterated her statement that staff worked with property owners at great length to avoid trees, mailboxes, driveways, etc.

Councilmember Neese asked if property owners had the option to hire their own contractors. Ms. Meling responded affirmatively.

Councilmember Joy commented that the sidewalks were for pedestrian safety.

Councilmember Ronning asked about the timeline that letters were sent to property owners and response time. Ms. Meling stated the letters had been sent in April and staff usually responded within a few days.

Mayor Cole stated that property owners were typically not aware they did not own the property where the sidewalks would be placed. He added that more advance notice could be helpful.

Councilmember Neese moved for approval of Consent Agenda Item 1I, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Consent Agenda Item 1J1, seconded by Councilmember Neese. On a voice vote, the motion was approved 9-0, Councilmembers Cromley and Brown abstained.

Councilmember Yakawich moved for approval of Consent Agenda Item 1J2, seconded by Councilmember Joy. On a voice vote, the motion was approved 9-0, Councilmembers Neese and Brown abstained.

Councilmember Yakawich moved for approval of Consent Agenda Item 1J3, seconded by Councilmember Neese. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

SPECIAL PRESENTATIONS:

2. Rock 31 Program

Kevin Sharfe, Rock 31, Big Sky Economic Development, gave a brief overview of the current Rock 31 projects. He added that Rock 31 was designed to help entrepreneurs transition from concept to commercialization. He encouraged Council to support them in whatever way they could.

Mayor Cole called a recess at 7:05 pm. The meeting reconvened at 7:14 pm.

REGULAR AGENDA:

3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward III to include recently annexed property in Annexation 19-01: a 45.398 acre parcel of land located west of Annafeld Subdivision, 1st filing, and south of Elysian Road and east of East Lane; McCall Development, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, stated Council had approved Annexation 19-01 on April 22, 2019 and added he 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 Joy moved for approval of Item 3, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC, Section 2-201, Compensation. 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 Cromley moved for approval of Item 4, seconded by Councilmember Neese.

Councilmember Ronning asked if there was any historical precedent for a Council increase. She also asked Councilmember Cromley for clarification on the reasoning behind the proposed increase amounts.

Brent Brooks, City Attorney, stated staff had not been able to find any historical information on Council increases.

Councilmember Cromley stated it had been 22 years since the compensation had been set and he had used the annual inflation rate and a cost of living increase to recommend the increased amounts. Councilmember Ronning stated she found it curious that Councilmember Cromley had proposed an increase of \$400 for Councilmembers and \$1,200 for the Mayor. Councilmember Cromley stated the Mayor had a particularly demanding position and thought it appropriate for the distinction.

Councilmember Neese stated he wanted the increase delayed for two more years in order to avoid a disparity in pay between Councilmembers.

Councilmember Neese made an amendment to the motion to delay the increase until January 1, 2022, seconded by Councilmember Joy. On a voice vote, the amendment was approved 7-4, Councilmembers Cromley, Ewalt, Friedel, and Gibbs opposed.

On a voice vote, Councilmember Cromley's original motion, as amended, was approved 7-4, Councilmembers Ewalt, Friedel, Gibbs and Clark opposed.

5. PUBLIC HEARING AND RESOLUTION 19-10793 approving and adopting budget amendments for FY2019. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, stated the budget amendments had been presented to Council, and was available for questions.

The public hearing was opened.

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

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

6. RESOLUTION 19-10794 establishing an ad hoc Council Advisory Committee - Commission on Energy and Conservation. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Kevin Iffland, Assistant City Administrator stated the Commission on Energy and Conservation had been brought before Council on January 7, 2019. He gave a brief overview of the suggested changes.

Mayor and Council discussed some minor wording changes in the resolution regarding the length of term.

Councilmember Cromley moved for approval of Item 6, seconded by Councilmember Ronning.

Councilmember Clark made a substitute motion that all terms be for 4 years, seconded by Councilmember Cromley.

Councilmember Neese stated the applicants should be required to have experience "and" a demonstrated interest, rather than the word "or".

Mr. Brooks stated the original substitute motion would need to be withdrawn, in order to add the new amendment.

Councilmember Clark withdrew his original motion, and Councilmember Cromley withdrew his second.

Councilmember Clark made a new substitute motion that all terms be for 4 years and change the word "or" to the word "and" in paragraph 3, seconded by Councilmember Cromley.

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

7. MEMORANDUMS OF UNDERSTANDING (MOUS) with the Downtown Billings Partnership (DBP), the Billings Industrial Revitalization District (BIRD), and the South Billings Urban Renewal Association (SBURA). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave a brief presentation of the three MOU's. He gave an overview of all of the MOU backgrounds with the City and the district differences.

Mayor and Council discussed some minor wording changes in the MOU's, including adding the term "opened and noticed to the public" in paragraph I and add "or any future amendments" to paragraph II B.

Councilmember Yakawich moved for approval of Item 7, DBP MOU, with amended terminology, seconded by Councilmember Cromley. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Item 7, BIRD MOU, with amended terminology, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Item 7, SBURA MOU, with amended terminology, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

8. SIX MONTH REVIEW for City Administrator, Chris Kukulski. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Councilmember Yakawich gave an overview of the executive session discussion regarding the Council's thoughts on Mr. Kukulski's interpersonal and professional skills, leadership, relations with Mayor and Council, policy execution, reporting, citizen relations, staffing and personnel management.

Councilmember Cromley made a motion to approve a 5% compensation increase for Mr. Kukulski, seconded by Councilmember Ronning. On a voice vote, the motion was approved 9-2, Councilmembers Neese and Ewalt opposed.

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 at the cart located at the back of the Council chambers or at the podium.)

The public comment period was opened.

- **Dennis Ulvestad, 3040 Central Avenue, Billings, Montana**, asked which Councilmember was on the PCC Board. Mayor Cole responded he was on the board.
- **Steve Zeier, SBURA, Zeier Consulting**, stated TIF Funds were not used for acquisition of the land on State Avenue and King's Ace Hardware had not been reimbursed in excess of the approved amount. Mr. Zeier stated he was responsible for the SBURA overpayment to Zeier Consulting and wanted to clarify that the situation had not been consequence free.

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 9:35 p.m.

CITY OF BILLINGS

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

ATTEST:

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

