

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 24, 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 5:30 p.m. and served as the meeting's presiding officer. Councilmember Neese gave the invocation.

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

### MINUTES:

May 28, 2019 – Councilmember Joy moved for approval, seconded by Councilmember Neese. On a voice vote, the motion was unanimously approved.

June 10, 2019 – Pending

### COURTESIES:

- Councilmember Yakawich thanked Mark Wade and Dave Ross from Phillips 66 for hosting a recent bingo event that raised \$2,500 for the USS Billings Commissioning. Phillips 66 and staff had donated additional money to bring the total donation to \$10,000.
- Councilmember Ronning thanked the Fire Department for their willingness to participate in recent human trafficking awareness training.

### PROCLAMATIONS:

- There were no proclamations.

### ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski informed Council there was one item in the ex parte notebook.

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

There were no 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	No Applications	Animal Control Board*	06/24/19	12/31/21
2	No Applications	Board of Appeals - Electrical Contractor	06/24/19	12/31/21
3	No Applications	Board of Appeals	06/24/19	12/31/22
4	No Applications	Board of Appeals - Engineer	06/24/19	12/31/22
5	No Applications	Community Development - Lod Mod*	06/24/19	12/31/19
6	No Applications	Community Development - Lod Mod	06/24/19	12/31/22
8	No Applications	Traffic Control Board	06/24/19	12/31/22

\* 1 Unexpired term of Jeannette Vieg

\* 5 Unexpired term of Rebecca Bey

## B. Bid Awards:

1. **Airport Terminal Boiler Replacement Project.** (Opened 6/11/19) Recommend Plumb Montana, Inc.; \$119,000.
2. **W.O. 17-19: Lead Service Replacement Project.** (Opened 6/11/19) Recommend COP Construction, LLC; \$327,475.
3. **W.O. 18-15: Voelker Pump Station Improvements and Staples Generator.** (Opened 6/11/19) Recommend Ace Electric; \$871,000.
4. **W.O. 19-01 Schedule 3: Southside Triangle Water Line Replacement.** (Opened 6/11/19) Recommend Western Municipal Construction; \$3,324,427.

C. **Landfill Use Agreements** (Effective July 1, 2019) with the City of Laurel, the City of Powell, MacKenzie Disposal, Republic Services, Stillwater County, and Two Tough Guys Services. Approximate annual revenue - \$3,600,000 for Solid Waste Fund and \$13,000 in out-of-state surcharge fees for General Fund.

D. **Purchase Agreement** with Trojan Technologies for W.O. 19-31: Water Reclamation Facility UV Equipment Procurement; \$375,400.

E. **Purchase Agreement** with Enviro-Care for W.O. 19-34: Water Reclamation Facility Headworks Screen Procurement; \$148,988.

- F. **Purchase Agreement** with Ovivo USA for W.O. 19-45: Water Reclamation Facility Headworks Grit Unit Procurement; \$82,800.
- G. **Donation** to City of Billings City Hall from Bill Cole for Yellowstone Kelly painting; \$1,500.
- H. **Resolution 19-10801** prescribing the form and terms of Special Improvement District bonds (SID 1404).
- I. **Resolution 19-10802** closing Special Improvement District (SID) 1360 / Sidewalk Bond Debt Funds to SID Revolving Fund - \$42,686.94.
- J. **Preliminary Subsequent Minor Plat** of Western Sky Subdivision, 2nd Amended, generally located on the southeast corner of the intersection of South 48th Street West and King Avenue West; Mont Vista, LLC, owner; Sanderson Stewart, agent.
- K. **Cancellation** of Checks and Warrants.
- L. **Bills for the week of:**

1. May 20, 2019
2. May 27, 2019

Councilmember Brown separated Item 1L2, in order to abstain.

Mayor Cole separated Item 1G, in order to abstain.

Councilmember Cromley asked if there were any appointments to Item 1A1. Mayor Cole stated there were not.

Councilmember Ewalt, in reference to Item 1C, asked how the numbers were calculated and why there was not a 5-year agreement for Yellowstone County. Dave Mumford, Public Works Director, stated the rate was based on tonnage, therefore, there was no need for an agreement with them.

Mayor Cole asked about the \$750,000 insurance requirement. Brent Brooks, City Attorney, stated the amount was in reference to the Montana State statute and was per occurrence. Mayor Cole stated staff may want to consider raising the amount.

Councilmember Neese, in reference to Item 1J, asked if the Police and Fire Departments would be able to service the area. Rich St. John, Police Chief, and Bill Rash, Fire Chief, stated there would not be an issue in servicing the area.

Mayor Cole, in reference to Item 1B4, asked for clarification in the reasoning behind not awarding the project to the lowest bidder. Mr. Mumford stated the lowest bidder had not worked as a contractor in Montana and did not meet bid requirements.

Councilmember Clark moved for approval of the entire Consent Agenda, with the exception of Items 1G and 1L2, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of Item 1G, seconded by Councilmember Friedel. Mayor Cole turned the meeting over to Deputy Mayor Yakawich. On a voice vote, the motion was approved 10-0, Mayor Cole abstained.

Mayor Cole returned to presiding over the meeting.

Councilmember Clark moved for approval of Item 1L2, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

#### **REGULAR AGENDA:**

#### **2. PUBLIC HEARING AND RESOLUTION 19-10803 approving and adopting FY20 budget. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Mr. Kukulski gave an overview of the total budget for FY20, including revenues and expenditures. He presented a PowerPoint with several possible budget modification options, labeled as minimal and moderate budget cuts. He discussed what the General and Public Safety Funds would look like if the proposed modifications were approved. Mr. Kukulski added it was unlikely that the Castle Rock Park Master Plan could be completed during FY20, therefore, the \$75,000 cash in lieu funds had been shown as a possible budget modification.

Andy Zoeller, Finance Director, stated if Modifications 1-8 were chosen, that would leave FY21 slightly below minimum reserves. He added if Council selected Modifications 1-9, moving \$2.5 million from the General Fund, FY21 would end up slightly above minimum reserves. He added Modification 10, removing Parks, Recreation and Public Lands out of the General Fund and moving it to PD1, which meant the PD1 assessment would need to increase to cover approximately \$4.4 million.

Councilmember Neese asked at what point additional revenue streams should be discussed. Mr. Kukulski stated the formal budget process would lock in the methodology and rates and any additional revenues could be discussed at future dates.

The public hearing was opened.

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

Councilmember Cromley moved for approval of Item 2, with Modifications 1 and 3, seconded by Councilmember Yakawich. Councilmember Cromley made an amendment to his motion to add Modification 10, seconded by Councilmember Ronning.

Councilmember Neese stated he would not support Modification 10 because he would like to see the constituents have a say in future increases through the voting process. Councilmember Friedel agreed with Councilmember Neese. Councilmember Ewalt stated he would not support the amendment because such a decision needed to go on a ballot for approval. Councilmember Brown stated it had gone to the voters and operations had been included in the past resolution during the PD1 approval process. He added he would like to see Modification 10 approved. Mr. Kukulski stated the State statute laid out the process for each district and the City had followed the statutes, which had given voters an opportunity to protest the PD1 District. Councilmember Neese asked what the protest percentage had been. Mr. Kukulski stated it had been slightly less than 9%.

Councilmember Ewalt stated there needed to be more transparency to the voters. Councilmember Joy stated the protest was for property owners and a mill levy vote would include the entire voting population. Councilmember Ronning stated the resolution was very clear in what it allowed and moving the Parks and Recreation Department into PD1 would be very transparent. She added it would help open up funds for more dollars to be spent on Public Safety.

Mayor Cole stated he would be voting against Modification 10, because he would like to see Modification 9 approved, as a backfill to replace the lost franchise fee revenue.

On a roll call vote, the amendment to add Modification 10, failed 4-7, Yakawich, Neese, Ewalt, Friedel, Gibbs, Clark and Mayor Cole voted in opposition.

Councilmember Ewalt moved to amend the motion to include Modification 2, seconded by Councilmember Friedel.

Councilmember Joy stated she would reluctantly support moderate cuts. She stated there were many people in the City that did not feel safe in their own homes, and there was a very big problem with Public Safety. Councilmember Ronning stated she would not support any cuts to Public Safety.

Councilmember Brown made a substitute motion to add Modifications 2 and 9, seconded by Councilmember Joy. Mr. Brooks stated that a substitute motion would force an end to any other amendments. Councilmember Brown changed his substitute motion to include Modifications 1, 2, 3 and 9, seconded by Councilmember Joy. Mr. Brooks reminded Council that they could not amend a substitute motion.

Councilmember Brown withdrew his substitute motion and Councilmember Joy withdrew her second.

On a roll call vote, the amendment to add Modification 2 was approved 8-3, Cromley, Joy and Ronning voted in opposition.

Councilmember Friedel moved to amend the motion to include Modification 5, seconded by Councilmember Gibbs. Councilmember Friedel and Gibbs spoke in favor of the Lean Six Sigma program. Councilmember Neese asked how much the Lean Six Sigma program would cost after the initial fee. Mr. Kukulski stated the initial fee would cover an analysis, and full implementation would be between \$500,000 and \$1 million with a return of investment within the first year. Councilmember Cromley stated he thought it was a great program, but could not support it, because the City was not the type of organization that could benefit from the program. Councilmember Clark agreed with Councilmember Cromley. Councilmember Joy stated she would not support the program and thought that amount of money could cover a lot of overtime. Councilmember Ronning stated the Police and Fire departments were already doing an amazing job of cutting costs and would like to see the program implemented when the budget was in a better position.

On a roll call vote, the amendment to add Modification 5, was approved 6-5, Councilmembers Cromley, Joy, Ronning, Clark, and Brown voted in opposition.

Councilmember Cromley moved to amend the motion to add Modification 9, seconded by Councilmember Joy. Councilmember Clark stated he would not support the modification because he thought it went against the Charter rules by adding mills without the vote of the people. Mayor Cole stated he would support the modification and did not think it went against Charter rules. He added that without Modification 9, there would be several Public Safety cuts and he did not think the public wanted to see those cuts. Councilmember Brown stated he would support Modification 9 and had not heard much public opposition.

Councilmember Gibbs asked for legal counsel on the Charter rules regarding changing mills without a vote. Mr. Brooks stated the resolution was very broad and did not personally believe Modification 9 was increasing the mills.

Councilmember Friedel made a 2<sup>nd</sup> amendment to approve a Parks mill levy for a vote in the fall of 2019, including the elimination of PD1 and the amount being taken out of PD1, seconded by Councilmember Neese.

Mayor Cole asked for administrative counsel on the amendment. Mr. Kukulski recommended that Council give staff direction to bring back information on the policy direction they would like to take. Councilmember Brown stated action on PD1 could be taken at any time and would support bringing it forward after the budget was resolved.

Councilmember Cromley stated that any amendment that eliminated an underlying motion was against the rules of order. Councilmember Friedel withdrew his motion and Councilmember Neese withdrew his second.

On a roll call vote, the amendment to add Modification 9, failed 5-6, Councilmembers Yakawich, Neese, Ewalt, Friedel, Gibbs, and Clark voted in opposition.

Councilmember Ronning moved to amend the motion to include Modification 6, seconded by Councilmember Joy. Councilmember Ronning stated the additional money would help increase the federal dollars coming into the community. Mr. Kukulski stated the money would be used towards facing addition issues, and the exact ways the money would be used, would be decided after meeting with Yellowstone County, Rimrock Treatment Facility and other service providers. Councilmember Clark asked about the previous \$50,000 that had been allocated for the program. Mr. Kukulski stated the MAP Program and Rimrock had been unsuccessful in hiring a person for the position, which was one of the reasons the money was being brought forward again.

Councilmember Gibbs stated he was a member of the Substance Abuse Connect Committee and encouraged the City to support the program.

Councilmember Friedel asked if Council could do an amendment at a later date for the program. Mr. Kukulski stated the budget could be amended, but he would like to see amendments kept to a minimum.

Council discussed concerns with how vague the description was in not identifying how the money would be spent. Councilmember Brown stated he was in support of funding the cause and felt comfortable with it not being specific to a certain organization. Councilmember Joy stated the issue of addiction was an identified need and staff was capable of deciding how to use the money appropriately. Councilmember Ronning stated there was not only one non-profit working on the issue, but a collective of community leaders and groups, and trusted that the decisions made would be good for the community. Councilmember Yakawich stated he was disappointed in how vague the description was on how the money would be used.

On a voice vote, the amendment to add Modification 6, was unanimously approved.

Mayor called for a recess at 8:05 pm. The meeting reconvened at 8:16 pm.

Councilmember Yakawich moved to amend the motion to include Modification 8, seconded by Councilmember Cromley. Councilmember Joy asked what Modification 8 would do to the reserves. Mr. Zoeller stated it would bring the total budget for PD1 up to \$9.25 million and would not come out of the reserves. He stated there no capital projects in the PD1 budget.

Councilmember Neese asked about altering the order of business on the agenda, in order to vote on Item 5, FY20-FY24 Capital Improvement Plan (CIP) for Park District 1, before voting on Item 2. Mr. Brooks stated it would be possible for Council to vote to alter the order of business, but stated it could be confusing. Council continued to discuss the order of business and how Modification 8 would affect Item 5. Councilmember Yakawich stated Modification 8 seemed pretty straightforward.

Mayor Cole asked for clarification on if approval would mean adopting certain projects or if the dollar amount approved would have to fit the projects into that amount. Mr. Kukulski stated the Capital Improvement Plan was consistent with what Council had been seeing for several weeks and approval of Modification 8 would mean approval of the projects shown for FY20.

Councilmember Ewalt asked for clarification on the cost of irrigation improvements at North Park. Mike Whitaker, Parks Director, showed a PowerPoint with the cost per acre and how the North Park Irrigation system was estimated. He added that automation would save money by irrigating at night, which allowed people to use the park during the day and helped to avoid transients sleeping in the parks.

Councilmember Neese asked for clarification on cost savings compared to the Veteran's Park irrigation system. Mr. Whitaker stated there would be a cost savings on water usage by using ditch water as well as allowing the seasonal employee to be utilized in other areas. Mr. Kukulski added that the water savings would be in the Public Works Department.

On a voice vote, the amendment to add Modification 8, was approved 9-2, Councilmembers Neese and Ewalt voted in opposition.

Councilmember Ewalt made an amendment to postpone all TIF District Funding to better analyze management fees and to become more consistent with each other, seconded by Councilmember Neese.

Councilmember Ewalt stated there were too many discrepancies within the various TIF Districts and they needed more clarity. Councilmember Brown expressed concern with how projects and investments would be affected by the postponement

Councilmember Ronning stated Councilmembers had opportunities throughout the year to contact TIF Districts to get information and have their questions answered. She encouraged Council to be proactive in getting the questions answered before Council meetings. She added that Council's job was to approve the way money was spent and policy issues, and allowing staff to "balance the checkbook".

Councilmember Joy stated there had been thorough discussion in the past on the TIF Districts and would not support the amendment. Councilmember Friedel stated it would be beneficial to refine the TIF MOU's at a later date, but would not support the amendment.

Councilmember Neese stated the MOU's varied drastically and would like to see the operating costs equalized.

On a voice vote, the motion failed 2-9, Councilmember Cromley, Yakawich, Neese, Joy, Friedel, Gibbs, Ronning, Brown and Mayor Cole voted in opposition.

Councilmember Yakawich called the question, seconded by Councilmember Brown. On a voice vote, the motion to call the question was unanimously approved.

On a voice vote, the motion to approve Item 2, with Modifications 1, 2, 3, 5, 6 and 8 was approved 9-2, Mayor Cole and Councilmember Clark voted in opposition.

**3. PUBLIC HEARING AND RESOLUTIONS setting annual FY20 Assessments on the following:**

- A. Business Improvement District RESOLUTION 19-10804  
Tourism Business Improvement District RESOLUTION 19-10805  
Mill Levy Rates for General Fund, Transit, Library and Public Safety  
RESOLUTION 19-10806
- B. Arterial Construction RESOLUTION 19-10807
- C. Street Maintenance District RESOLUTION 19-10808
- D. Storm Sewer RESOLUTION 19-10809

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

Mr. Kukulski stated there was no presentation, but staff 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 3A, Business Improvement District, seconded by Councilmember Joy. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Item 3A, Tourism Business Improvement District, seconded by Councilmember Ronning. On a voice vote, the motion was unanimously approved.

Councilmember Yakawich moved for approval of Item 3A, Mill Levy Rates for General Fund, Transit, Library and Public Safety, seconded by Councilmember Ronning. On a voice vote, the motion was unanimously approved.

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

Councilmember Clark moved for approval of Item 3C, Street Maintenance District, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

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

**4. DRAFT REQUEST FOR PROPOSALS (RFP) FOR FACILITIES MASTER PLAN, CITY HALL SITE PROPOSALS - PHASE I. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Kevin Iffland, Assistant City Administrator, began a PowerPoint presentation showing the Facilities Master Plan adopted by Council in May 2017. He added that Council had directed staff to research drafting a Request for Proposals (RFP) and described the 2019 updates made to refresh the master plan.

Mayor Cole asked how much money had been spent on the RFP process. Mr. Iffland stated it had been staff time and consulting money so far and more money would be needed as the process progressed.

Councilmember Brown asked if there was a timeframe in mind for the project and if developers were aware of it. Mr. Iffland stated he did not want to give developers a false sense of hope, so they were indicating a 12-36 month timeframe.

Councilmember Ronning stated the City did not have money to spend on a new City Hall and did not want to see money spent on a plan that would go on a shelf.

Council discussed leasing versus buying, feasible funding options and location ideas. They talked about mill levy voting and timelines on getting a Public Safety levy on the ballot. Mr. Kukulski advised Council they needed to decide if they were ready to spend the \$6 million remaining over the minimum reserve for a new City Hall.

Councilmember Brown expressed a growing concern for staff well-being in the current crowded work environment. Council discussed the option of getting RFP's from potential developers in order to find out what was available.

Councilmember Neese stated he would like to see a map showing the various locations for all of the City departments.

Councilmember Yakawich moved for approval of Item 4, seconded by Councilmember Ewalt. On a roll call vote, the motion was approved 6-5, Councilmembers Joy, Friedel, Ronning, Clark and Brown voted in opposition.

**5. FY20-FY24 CAPITAL IMPROVEMENT PLAN (CIP) FOR PARK DISTRICT 1.**  
**Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Councilmember Clark moved for approval of all items in Item 5, with the exception of the cash in lieu fund for Castle Rock Master Plan, seconded by Councilmember Cromley.

Councilmember Brown asked about the status of restrooms for the High Sierra Dog Park. Mr. Whitaker stated PD1 funding was typically directed toward life cycle replacement, not new projects. He added that cash in lieu funds could be considered for the addition of restrooms.

Mayor Cole asked for clarification on styles and costs of installing restrooms to the dog park. Mr. Whitaker stated staff could look at getting estimates during the next CIP process.

Council discussed the issues of how to direct PD1 funding and possibly making some procedural changes in the future. Councilmember Neese expressed concern with some of the projected costs and recommended Council only approve the FY20 portion. Councilmember Clark called the question, seconded by Councilmember Friedel. On a voice vote, the motion to call the question was unanimously approved.

On a voice vote, approval of all items in Item 5, with the exception of the cash in lieu fund for Castle Rock Master Plan, was approved 7-4, Councilmembers Neese, Ewalt, Gibbs, 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 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 Council to consider the definition of blight and appropriate use of TIF funding.

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

## **COUNCIL INITIATIVES:**

- Councilmember Friedel directed staff to replace PD1 and General Fund dollars with a mill levy for all of Parks, Recreation and Public Lands by June 2020, seconded by Councilmember Neese. Council discussed concerns with timing and the public perception of having two or three mill levies on a ballot. Mr. Kukulski advised Council to allow staff to bring back information at a later date, instead of making an immediate decision. Council discussed the Public Safety levy being a priority and various alternative options. Councilmember Yakawich called the question, seconded by Councilmember Brown. On a voice vote, the motion to call the question was approved 10-1, Councilmember Friedel voted in opposition.

On a voice vote, the initiative failed 3-8, Councilmembers Cromley, Yakawich, Joy, Gibbs, Ronning, Clark, Brown and Mayor Cole voted in opposition.

There was no further business, and the meeting adjourned at 10:44 p.m.

CITY OF BILLINGS



By: William A. Cole  
William A. Cole, Mayor

ATTEST:

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