

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

August 12, 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 Friedel gave the invocation.

MINUTES:

July 8, 2019 – Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

July 22, 2019 – Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Police Chief Rich St. John, stated Officers Kathy Brown and Justin Bickford had arrived at an opioid overdose situation and had administered Narcan and started chest compressions until medical help arrived. He stated that both people had survived the overdose due to the officers' help and awarded Officers Brown and Bickford with the departments Life Saving award.
- Chief St. John added that Officer Rylan Nelson had been called to a disturbance on the Rims that involved a physical altercation between a man and woman. Officer Nelson climbed over 150 yards to reach the couple and found that the female was attempting to commit suicide. He was able to subdue her and waited with her until fire rescue could lift her to safety. Officer Nelson was awarded a Medal of Valor.
- Lieutenant Brandon Wooley stated the Police and Fire Departments had recently completed 7 days of active shooter training. Councilmember Ronning commended the departments for their dedication. She added there was a piece of equipment that would allow the Police and Fire Departments' radios to communicate with each other. Lieutenant Wooley stated an encryption chip would allow the departments to communicate without being face-to-face and added the technology would cost approximately \$16,000. Councilmember Ronning encouraged the City and constituents to find a way to raise the money for the important technology. Mayor Cole mentioned local technology that could sense pressure changes from a gunshot and would send a message to the Police Department. He added the community may want to pursue it as an option. He asked for clarification on active shooter training for local businesses. Lieutenant Wooley added that officers with special active shooter training provided training to businesses and schools in the City.

PROCLAMATIONS:

- There were no proclamations.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski stated there were no items in the ex parte notebook.
- Mr. Kukulski stated staff recommended the removal of **Consent Agenda Item 1D, Development Agreement with Christopher Birkle** for construction improvements at 510 Pemberton Lane. He added Public Works Director, David Mumford, would be available to explain the recommendation.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 2 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.

- **John Slaugh, 516 Pemberton Lane, Billings, Montana:** in reference to Item 1D, stated the development agreement should not be signed as there were too many inconsistencies.
- **Veronica Warren, Orchard School PTA President:** in reference to Item 1I, stated tax increment financing assistance was needed at Orchard School to improve the area and for the safety of the children.
- **Joyce Watson, 506 Pemberton Lane, Billings, Montana:** in reference to Item 1D, stated there were safety issues on Pemberton Lane and encouraged Council to deny the agreement.
- **Bernice Korwald, 506 Pemberton Lane, Billings, Montana:** in reference to Item 1D, asked why the street sign on Pemberton Lane had been removed and did not understand why the developer was using her address in the agreement.
- **Linda Korwald, 506 Pemberton Lane, Billings, Montana:** in reference to Item 1D, stated the kiosk in the area had not been open since May and it hindering traffic.

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

1. CONSENT AGENDA

A. Bid Awards:

1. **Self-Contained Breathing Apparatus Ensembles.** (Opened 7/23/19) Recommend Big Sky Fire Equipment; \$123,367.07.
2. **W.O. 19-19: Phase 3 Partial Landfill Closure.** (Opened 7/30/19) Recommend KLE Construction, LLC; \$749,383.
3. **W.O. 19-37: Water Treatment Facility High Service Pump Station H2-2 Pump Replacement.** (Opened 7/23/19) Recommend Ace Electric, Inc.; \$1,190,000.
4. **W.O. 19-47: Centennial Park Irrigation Pump.** (Opened 7/9/19) Recommend delay of award until 8/26/19.

B. **Airport Restaurant/Lounge Concessions Agreement** with Air Host Billings, Inc.

C. **Gross Maximum Price (GMP) Agreement** with Sletten Construction Company for Airport Terminal Concourse Expansion, Phase 1; \$3,359,848.

D. **Development Agreement** with Christopher Birkle for construction improvements at 510 Pemberton Lane.

E. **Six LIFEPAK 15 v4 Monitor/Defib AED Units** for the Fire Department from Stryker/Physio Control; \$185,905.78.

F. **Professional Engineering Services Contract** for W.O. 19-42: West End Water Treatment Plant Project; Burns & McDonnell; \$883,732.

G. **Professional Engineering Services Contract** for W.O. 18-32: Landfill Slope Stabilization; Pioneer Technical Services, Inc.; \$110,006.

H. **Right-of-Way Easement Transfer** of Washington Street easement with Yellowstone County.

I. **Tax Increment Financing Assistance** from the South Billings Boulevard Urban Renewal District (SBBURD) to Orchard Elementary School for playground and outdoor education material improvements; \$45,675.80.

J. **2020 Draft Unified Planning Work Program (UPWP).**

K. **Resolution 19-10812** prescribing the form and terms of Sidewalk Improvement District bonds (W.O. 18-02: Sidewalk Improvement District Project).

L. Final Plat of Lake Hills Subdivision, 25th Filing, Amended.

M. Bills for the Weeks of:

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

Councilmember Clark made a motion to remove Item 1D, as recommended by staff, seconded by Councilmember Cromley.

Councilmember Neese asked for clarification on the development agreement being changed from 506 Pemberton Lane to 510 Pemberton. Dave Mumford, Public Works Director, stated the mistake had been noticed and rectified a few weeks ago. Councilmember Neese asked for clarification on improvements to the street. Mr. Mumford stated they should be completed by the end of the year.

Mayor Cole, in reference to Item 1J, stated the section referring to attorney fees in the event of a dispute indicated the landowner would be reimbursed for self-representation fees. He continued that he would like the agreement changed to cover the City's self-representation fees as well. Mr. Mumford stated he would talk to the Legal Department.

Councilmember Ewalt asked if there were plans to change the name of one of the two Pemberton streets to avoid any future confusion. Mr. Mumford stated they were currently in discussions regarding changing the name.

On a voice vote, the motion to remove Item 1D from the Consent Agenda, was unanimously approved.

Councilmembers Cromley and Brown separated Consent Agenda Item 1M2, in order to abstain.

Councilmember Ewalt separated Item 1C in order to abstain.

Councilmember Neese separated Item 1L for discussion.

Councilmember Gibbs separated Item 1F for discussion.

Councilmember Joy moved for approval of the entire Consent Agenda, with the exception of Items 1C, 1F, 1L, and 1M2, seconded by Councilmember Ronning.

Councilmember Yakawich, in reference to Item 1E, asked about using the older LIFEPAK Monitor/Defib AED Units in public buildings. Assistant Fire Chief, Matt Hoppel, stated the AED Units that were being replaced were not the advanced units and would require special training. He added that the department was trading in the older units and the credit would go towards the purchase of new units. He stated some of the older units were being placed in City buildings and the Dispatch Department, where trained staff could utilize them.

Mayor Cole asked for clarification on the application criteria not being met in Item 1I, for the SBBURD TIF funding. Wyeth Friday, Planning Director, stated there was different application criteria for various requests. He added that staff was in discussions about changing the applications to allow for a broader, standardized application.

Mayor Cole, in reference to Item 1C, stated he would like a cumulative amount listed in staff reports to show Council where the money had gone and how much remained. Kevin Ploehn, Aviation and Transit Director, stated he was watching the project very closely and was working with the contractors concerning budget. He added that staff could add cumulative budget numbers on future projects.

On a voice vote, the motion to approve the entire Consent Agenda, with the exception of Items 1C, 1F, 1L, and 1M2, was unanimously approved.

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

Councilmember Gibbs, in reference to Item 1F, asked if the amount was for the completion of the entire project. Mr. Mumford stated the amount listed was for the design/study portion of the project and would include an amendment at a later date for completion. Councilmember Gibbs expressed concern about hiring an out-of-state contractor for the project. Mr. Mumford stated that Burns and McDonnell would be working with Morrison and Maierle, a local company.

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

Councilmember Neese, in reference to Item 1L, asked if the land had previously been separated into two parcels. Monica Plecker, Planning Department Manager, stated there had been two applications, one for Lake Hills Subdivision and one for Canal Vista, and the item before Council was for Lake Hills Subdivision.

Councilmember Neese asked if the amount of proposed properties could be increased in the future after Project Re-code was completed. Ms. Plecker stated she could not answer the question so early in the process.

Mayor Cole stated the recommendation had not included mention of the SIA. Ms. Plecker stated staff could add that terminology in the future.

Councilmember Joy moved for approval of Item 1L, with the SIA, seconded by Councilmember Clark. On a voice vote, the motion was approved 9-2, Councilmembers Neese and Ewalt opposed.

Councilmember Clark moved for approval of Item 1M2, seconded by Councilmember Joy. On a voice vote, the motion was approved 9-0, Councilmembers Cromley and Brown abstained.

REGULAR AGENDA:

2. RESOLUTION 19-10813 adopting Yellowstone County Multi-Hazard Mitigation Plan 2019 Update. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

K.C. Williams, Yellowstone County Director of Disaster and Emergency Services, thanked the local emergency responders for the efforts during the recent hail storm.

Councilmember Clark asked if the CodeRED app had sent alerts during the storm. Mr. Williams stated that according to the National Weather Service approximately 220 people had properly signed up for the weather alerts and over 190 had received an alert if they were in the affected area. He added that it was discovered that people would need to sign up through the Yellowstone County website or they could text the word "Yellowstone" to 99411.

Council discussion followed about the CodeRED app and some of the issues that people were having with it.

Mr. Williams gave an overview of the Yellowstone County Multi-Hazard Mitigation Plan 2019 update. He added that the mitigation plan was intended to identify possible hazards or threats and present ideas for mitigation plans to lower the possible affects. Mr. Williams stated that having a plan in place would allow the City to qualify for federal recovery funds in the future.

Councilmember Ewalt asked for clarification on what types of buildings would be considered critical facilities. Mr. Williams stated that would include any infrastructure that provided a critical or particular service, such as nursing homes, hospitals, water plants, transfer stations, gas and oil facilities, etc.

Councilmember Yakawich asked if the ditch leak at Vuelcrest Drive was resolved. Mr. Williams stated he was informed that the repairs had been made and the ditch pipe was no longer leaking. Councilmember Yakawich asked if there was a disaster plan in place for a ditch failure. Mr. Williams stated the Emergency Operations Plan addressed

ditch failure and the Yellowstone County Multi-Hazard Mitigation Plan addressed ditch failure and flooding in general.

Mayor Cole asked how the projects listed were prioritized. Mr. Williams stated some of the projects were already in the works and other projects would come forward as they were identified. He added that the various people involved could try to find funding to help with projects.

Councilmember Friedel asked if the City had a way to combat false news or misinformation. Mr. Williams stated there was not a designated public information officer or service to monitor social media or false news.

Councilmember Friedel asked what announcement tools were approved for public information. Mr. Williams stated the systems available were: National Oceanic and Atmospheric Administration (NOAA), Integrated Public Warning, Emergency Alert (EAS) and CodeRED. He added the City would direct people to CodeRed and weather channels for updated information.

Councilmember Ronning stated she had been informed by residents of the Vuecrest area that the ditch leak was not resolved.

Mayor Cole stated Table 5.5 listed dozens of to-do items that would impact the City staff and encouraged Mr. Kukulski to prioritize the items on the list. Mr. Kukulski stated staff would meet to review the Multi-Hazard Mitigation Plan to ensure implementation or create a policy to manage the list.

Councilmember Joy commended Mr. Williams and everyone involved on the comprehensive detailed plan. She added that several of the items on the list would be addressed in the Capital Improvements Plan (CIP).

Councilmember Gibbs asked if the tornado siren test was audible to the public. Mr. Williams stated it was not audible to the public and stated that the sirens would be turned off in September because the technology was no longer supported.

Councilmember Joy moved for approval of Item 2, seconded by Councilmember Neese. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 19-10814 approving and adopting budget amendments for FY2019. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Andy Zoeller, Finance Director, stated he did not have a presentation, but staff was available for questions.

The public hearing was opened.

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

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

4. PUBLIC HEARING AND RESOLUTION 19-10815 vacating a portion of Bonita Circle between Sierra Grande Boulevard and El Rancho Drive. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mr. Mumford stated there was not a presentation, but staff and a representative for the developer were available to answer questions.

Mayor Cole asked if there should be an equivalent amount of space set aside in a plat for storm water retention and asked if there should be a condition included in the vacation. Mr. Mumford responded that was the intent of the resolution and did not think additional language was needed. He added there was a MOU between the City and the developer to proceed with dedicating the land and storm drainage was required in the next phase.

Councilmember Neese asked where the storm water retention would be located. Greg Reid, WWC Engineering, stated they would be vacating the right of way and moving it off the hill towards El Camino Way.

Councilmember Ewalt asked if the storm retention would be a drain or a temporary pond. Mr. Reid stated flooding occurring at the intersection located to the east during large storms and the pond was intended to catch flows from big storms to slow storm water as it passed through. He added it would have a large pipe at the end of the pond handle the large storms.

The public hearing was opened.

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

Councilmember Clark moved for approval of Item 4, seconded by Councilmember Friedel. 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 at the cart located at the back of the Council chambers or at the podium.)

The public comment period was opened.

There were no 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 7:38 p.m.

CITY OF BILLINGS



ATTEST:

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

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