

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

August 26, 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 Gibbs gave the invocation.

MINUTES: August 12, 2019 – Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Cole recognized former Billings Gazette reporter, Mike Ferguson, in the audience.
- Councilmember Clark wore a Rodeo 406 tie to the meeting and acknowledged his great grandchildren were participants in youth rodeo.
- Councilmember Ronning acknowledged the Billings Police Officers that participated in the "Beat the Heat" run and stated there were over 200 runners, including the City Attorney.

PROCLAMATIONS:

Mayor Cole proclaimed August 31, 2019 as Chief Plenty Coups Day of Honor and handed the proclamation to the Park Ranger. The Park Ranger provided information about the ceremonies at the Chief Plenty Coups Park.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski announced that there were no items in the ex parte notebook.
- Mr. Kukulski reminded Council that due to the Labor Day holiday, the Work Session for next week would be Tuesday, September 3rd, rather than Monday.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 ONLY.
Additional Public Comment will be taken after each "Items for Discussion", Items 2 and 3 below. 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.

- Pam Ellis, 2000 Outlook Drive, Billings, Montana, in reference to Item 1C, stated Public Works did a fine job of communicating with the public and the contract was not needed. She asked if this contract would be used for communicating information about the public safety mill levy.

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

1. **CONSENT AGENDA** -- Separations:

A. **Bid Awards:**

1. **W.O. 19-47: Centennial Park Irrigation Pump.** (Opened 7/09/19)
Recommend COP Construction, LLC; \$374,469.
- B. **Compensation Agreement** with March Madness Apartments, LLC; \$113,267.50 - sanitary sewer main, \$51,296.50 - water main, and \$32,591.50 - storm sewer.
- C. **Consultant Service Agreement** for Media Marketing; Q2/E.W. Scripps Company; \$120,000.
- D. **Donation** of Fire Prevention Frisbees to the Billings Fire Department from Firefighters Local 521 for 2019 Fire Prevention Week give-away items; retail value \$1,000.

E. **Bills for the weeks of:**

1. July 22, 2019
2. July 29, 2019

Councilmember Brown separated Consent Agenda Items 1E1 and 1E2, in order to abstain.

Councilmember Ewalt separated Consent Agenda Item 1A1, for discussion.

Councilmember Clark moved for approval of the entire Consent Agenda, with the exception of Items 1A1, 1E1 and 1E2, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 10-1, Councilmember Cromley voted in opposition.

City Administrator, Chris Kukulski, addressed the concerns raised by Pam Ellis during public comment regarding Consent Agenda Item 1C. He stated the media marketing contract would in no way be used to promote a public safety levy. He continued that while Public Works did a good job communicating with the public, there were areas for improvement and this would likely benefit communication efforts throughout the organization.

David Mumford, Public Works Director, stated the department struggled with providing information to the public in a timely manner through the various avenues of communication. He continued that the contract would provide for talk shows on radio and television to better inform the public. He gave examples of what information would be helpful to the public and stated other departments could use the contract services.

Councilmember Cromley asked who served on the committee to review the proposals. Mr. Mumford responded the entire committee was comprised of supervisors and employees of the various public works divisions.

Councilmembers Neese and Clark voiced their support.

Councilmember Cromley stated that staff had in the past, spoken of hiring a Public Information Officer (PIO). He asked if this contract would serve as one. Mr. Kukulski responded that he had experience with a similar contract for other public works departments and it was successful. He continued that by having a contract, one could try it for a year and then discontinue it, whereas with hiring an employee, it would be much more difficult to terminate the position. He stated the Public Works budget had funds to experiment with this contract, whereas the General Fund did not.

Mr. Mumford stated that the contract provided for production of radio and television spots and paid for airtime, whereas a PIO would not be able to provide any of that without additional cost.

Mr. Kukulski stated the contract would allow the City to retain ownership of its materials, as well.

Councilmember Ronning stated that even though the contract may be discontinued in the future, the content of what was produced could be used for years to come, making it a good investment.

Councilmember Cromley indicated he would not support Consent Agenda Item 1C.

Councilmember Ewalt moved to disapprove the bid award for Consent Agenda Item 1A1, seconded by Councilmember Neese. Councilmember Ewalt stated he was uncomfortable approving this because it was using Enterprise Fund money for a General Fund project. He continued that the project had been approved for \$2.5 million, yet it was costing more and more and was over budget. Councilmember Neese stated he understood the improvement would be a good move, but he agreed with Councilmember Ewalt that Enterprise Funds should not be used for General Fund projects. Councilmember Friedel asked which department would be responsible for maintenance of the equipment. Mr. Mumford responded that the pumps and their maintenance would be the possession of the Parks Department once installed. He continued that Public Works was assisting with construction and design of the equipment. He continued that by installing this equipment the City could stop paying

between \$60K and \$70K a year in clean water to water lawns. Councilmember Friedel followed by asking if Public Works had done this for other City parks. Mr. Mumford stated Public Works had helped with water in the past, but not construction and design. He continued that the money was in the approved CIP in an effort to wean Parks from using City services and conserve water and energy. He stated that with this equipment, Centennial Park would use ditch water, rather than well water or City water. He encouraged Council to approve the bid award so the equipment could be purchased and installed before bad weather arrived. Mr. Kukulski stated it was very expensive to treat water and using clean, treated water for park lawns did not make sense. He continued that this was effort to conserve clean water and save money in the long run.

Councilmember Clark gave a substitute motion to approve Consent Agenda Item 1A1, seconded by Councilmember Friedel.

Councilmember Gibbs asked whether the City had water rights to the ditch water. Mr. Mumford stated the Parks Department would pay for the amount of water it used from the ditch. Councilmember Gibbs followed asking about filtering systems to keep debris and weed seeds from entering the park lawn. Mr. Mumford explained there were large and small screens on the pumps to eliminate debris and some weed seeds. Councilmember Brown stated he had previously said not to use any more General Fund monies for this project, but at the same time he supported water conservation. He stated the investment would pay for itself in 6 years and he supported the substitute motion.

Councilmember Neese stated Council was setting a precedence since this was the first time this had been done. He encouraged staff to develop a policy for use of Enterprise Funds for General Fund projects. Councilmember Clark stated Council was forming an Energy and Conservation Commission currently, and this project fit that mission.

Mayor Cole asked whether the City Attorney, Brent Brooks, would research whether any State statute or the City's Charter prohibited the use Enterprise funds for a General Fund project. Mr. Brooks responded affirmatively, but stated he had no real concerns that it was prohibited or illegal and he encouraged Council to continue with its vote.

On a voice vote, the substitute motion was approved 8-3, Councilmembers Ewalt, Neese and Gibbs voted in opposition.

Councilmember Joy moved for approval of Consent Agenda Item 1E1, seconded by Councilmember Clark. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Joy moved for approval of Consent Agenda Item 1E2, seconded by Councilmember Clark. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

ITEMS FOR DISCUSSION:

2. Overview of Requests for Proposals on City Hall

Assistant City Administrator, Kevin Iffland, stated 6 proposals had been received and the committee reviewing those proposals were asking for 2 or 3 Councilmembers to also sit on the committee. Councilmember Yakawich volunteered to be on the committee and stated the RFP was done because of his initiative. Councilmember Ronning asked councilmembers to disclose whether any of them had been in contact with any of the proposers specific to the RFP. Councilmember Yakawich stated he had been on 2 tours with WC Commercial. Mayor Cole stated he was on 1 of those tours and had contact with Collaborative Design. Councilmember Neese asked about criteria. Mr. Iffland stated it was very standard criteria and discussed the process. Councilmember Neese stated he had conversations with Joe Holden and he knew the other proposers, but had not had conversations concerning City business with any of them. Councilmembers Neese and Clark volunteered to serve on the committee. Councilmember Clark stated he had not been in contact with any of the proposers.

City Attorney, Brent Brooks, reminded Council that by motion, Councilmembers should be nominated and appointed to serve on a committee. Councilmember Brown moved to nominate and appoint Councilmembers Yakawich, Neese and Clark to serve on the committee to review City Hall RFPs, seconded by Councilmember Clark. On a voice vote the motion was unanimously approved.

The public comment period was opened.

- **Pam Ellis, 2000 Outlook Drive, Billings, Montana**, stated she was on the School Board when it had a similar RFP process. She continued that members of the public were invited to serve on the committee, along with staff and trustees and she encouraged Council to consider adding experts from the field to the committee.

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

Councilmember Neese asked whether members of the public could be added.

Discussions continued to determine whether the committee was an ad-hoc committee or administrative committee. With the assistance of City Attorney, Brent Brooks, Council determined the committee was an administrative committee only.

Councilmember Brown moved to amend the previously approved motion to add that the committee was strictly an administrative committee and that members of the public may be included, seconded by Councilmember Clark. The motion was unanimously approved.

3. Public Safety Mill Levy Discussion

City Administrator, Chris Kukulski, reviewed with Council specific points he had outlined in his weekly report, dated August 23, 2019:

- 1) What is the objective of the public safety levy?
- 2) How far into the future should the public safety levy address?
- 3) What divisions should be included?
- 4) How should a community-working group of citizen leaders be created to help guide communications with the public?

Mr. Kukulski stated initially staff analyzed addressing a public safety levy for 20 years in the future and quickly realized that to speculate beyond 10 years could not be considered with any amount of accuracy. Therefore, staff reassessed its immediate needs and suggested considering a public safety levy to address 10 years in the future.

Mr. Kukulski named which departments could benefit from a public safety levy, i.e., prosecution – legal department, municipal courts, code enforcement, 911, fire department and law enforcement and justified why those departments should be considered as being involved in public safety. Mr. Kukulski stated the City could make little headway in improving criminal justice, if it did not consider future facility needs, too.

Mr. Kukulski explained that staff would work diligently to educate the public about the need for a public safety levy, but stated that in no way could staff advocate for a public safety levy. He gave examples of library advocacy groups that had directly influenced the success of a new public library. Mr. Kukulski reminded Council no action was required at this time, he was simply seeking Council's direction of where to start, based on the questions he had outlined.

Councilmember Clark stated immediate needs and 10 years beyond would be an appropriate timeframe. Councilmember Ronning asked Mr. Kukulski to provide a history of the recent public safety levies. Councilmember Brown stated 5 years was not long enough for which to consider a levy and stated he supported a 10-year levy. Councilmember Yakawich supported a 10-year levy.

Councilmember Ronning inquired whether Community Innovations and other substance abuse community partners were considered in the timeframe. Mr. Kukulski responded that he was communicating with many of the partners and learning how their programs may be affected by a public safety levy. He stated it fit into the quality of life conversation. He continued that the City did not traditionally fund any of the programs, but the programs were critical in the working relationships affecting public safety.

Councilmember Neese supported a 10-year levy. Mayor Cole voice his support as well and asked staff to consider or project what items may need to be considered beyond 10-years.

Discussions continued about incarceration and the detention facility, crime victims' advocacy, more judges and specific departments' needs and efficiencies.

Councilmember Clark stated that the first public safety levy was done correctly, in that it increased each year, until it ended. He continued that the second levy did not serve public safety as well and had set amounts, but did not look into the future at all.

Mayor Cole asked City Attorney, Brent Brooks, to provide staffing information for the Legal Department. Mr. Brooks responded that no additional attorney positions had been added since 2007, but an additional victim / witness specialist position was added in 2016, in anticipation of additional work due to the passing of Marsy's law. He stated the department needed to add 2 prosecutors, 1 legal assistant and a paralegal. He spoke about facility needs and compared caseload statistics with those of Bozeman and Missoula; indicating that the number of cases per prosecutor was significantly higher for Billings' prosecutors, than for either Bozeman or Missoula.

Mayor Cole asked Police Chief St. John to provide information about the Police Department's non-uniformed staff needs. Police Chief St. John stated that any time police officers were added, the demands to clerical staff, the Legal Department, jail and court systems increased. He stated that 1 clerical person was needed for every additional 5 officers hired. He continued that 1 supervisor was needed for every 5 to 7 officers. He continued that additional evidence technicians would also be needed. Chief St. John stated he and his staff estimated 50 additional officers would be needed over the next 10 years. He stated that specialized units had made significant differences in the fight against crime. Chief St. John continued to address Council's specific questions about domestic violence, transients, drug and alcohol issues.

Discussions continued concerning whether sobering centers and holding cells were legal or recommended and the daily costs to house inmates at the Yellowstone County Detention Facility.

Mayor Cole asked Fire Chief Rash to provide information about department needs. Fire Chief Rash stated 5 to 6 additional firefighters were needed now. He stated that adding additional police officers also affected the Fire Department as first responders. He added that whenever there was a call for medical attention, the Fire Department was also dispatched to the same scene as the police. He stated Billings could benefit from 2 more fire stations with the Heights area being the priority and another station in the Southwest area of the City. Chief Rash stated that Billings was behind the national average for the number of fire stations needed for a City the size of Billings. He stated with each additional station at least 1 new fire truck and its staffing was required. He stated new fire stations could be utilized as multi-department facilities with a police unit housed at each. He stated staff was reviewing all aspects of public safety and considering the rippling effect each department had on the other.

Councilmember Clark asked why there was a disparity between the reported fire calls in the newspaper and the information Chief Rash provided. Chief Rash stated the

newspaper only reported actual fire calls, but that the Fire Department also responded to emergency medical situations. He continued that the Fire Department received between 45 and 55 calls per day, but those were not just fire calls. He stated EMS, public assists, lift assists, and false alarm calls were included in that number, but not necessarily reported in the newspaper. He added that many of the calls require multiple units to respond.

Councilmember Ronning provided statistics she located from a 2018 report from the Legal Department concerning caseload comparatives.

Councilmember Joy spoke of the trauma inflicted on children and families involved with crime and asked how the City would address it. City Administrator Kukulski stated he identified this with the "healing" of our community statement he made in his weekly report. He noted that City services are very much about dealing with the obvious when it came to fighting crime; however, the social aspects, such as dealing with trauma would come from the community's response as to where they wanted to invest their dollars and working with the outside agencies that specialized in it.

Councilmember Ronning reminded the Council that all of the members receive invitations on a regular basis to attend Community Innovation meetings. She stated they are the experts in this field and they are giving the Council all the answers they need. She strongly encouraged Councilmembers to attend the meetings.

Discussions followed about developing a committee of community members to lead the public safety levy effort and how best to accomplish this. Mayor Cole reminded everyone that the decision to move forward with a public safety levy had not been decided. Councilmember Ronning stated she was happy to take the lead on the effort and start collecting names. City Attorney Brent Brooks quoted the statue that restricts any City funds, equipment and staff from being used to advocate for a public safety levy and stated that Council could advocate without the use of any City funds or equipment.

The public comment period was opened.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, Montana**, stated that the City was not being transparent on the matter. He stated there were only 2 funds included in the Public Safety Fund - Police and Fire Departments only. He stated city attorneys, municipal court, code enforcement, 911 were all General Fund departments and could not be brought into the Public Safety levy discussion. He stated it was a General Fund tax increase and should be named as such.
- **Daniel Brooks, Chamber of Commerce, Billings, Montana**, thanked Council for making public safety a priority. He stated the board of directors had also determined that public safety would be its priority and will be the focus at their annual meeting honoring first responders. On behalf of the Chamber, Mr. Brooks offered the Chamber's assistance in advocating for a public safety levy. He invited the Council to attend a public forum on October 2nd, at the Northern Hotel.

- **Pam Ellis, 2000 Outlook Drive, Billings, Montana**, stated the City operated in silos. She continued that the City talked about new facilities, but then continued funding remodels. She added that the City had too many pockets of money and it was confusing where the funds were held and how they could be used. She stated her concerns about fee assessments, under-maintained parks in the Heights and placing the Charter on the ballot to make changes. She stated the public distrusted City government. She stated the City needed to live with the monies the public pays, stop scamming and be more cohesive and comprehensive in the Council's planning.
- **Coleen Connor Osgard, 1317 Tillamook, Billings, Montana**, stated she was a citizen's advocate and had practiced counseling for over 30 years. She was upset by the discussions of adding more space to jails and additional police officers. She stated there were breaches of trust with the Police Department and stated that the police should not be policing themselves – outside investigations of the police department were needed. She was distressed by recent police shootings. She was not supportive of a public safety levy.
- **Valerie Iron, 4 Rainier Street North, Billings, Montana**, stated she was an enrolled Crow tribe member. She described her grandson's shooting by the police and that her granddaughter was shot and killed (not by the police), but her killer remained free. She added the culture needed to change. She was not supportive of a public safety levy.
- **Carina Iron, 3959 Rimrock Road, Billings, Montana**, stated she represented the Indian Peoples' Action. She stated outside accountability was needed for police officers.

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

REGULAR AGENDA: No Items

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 8:45 p.m.

CITY OF BILLINGS



By: William A Cole
William A. Cole, Mayor

ATTEST:

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