

Billings City Administrator Weekly Report

January 31, 2020

- 1) **FY2019 Comprehensive Annual Financial Report** - The FY2019 Comprehensive Annual Financial Report (CAFR) has been audited and is issued. I have attached an electronic copy for your files, and it can also be found online <https://ci.billings.mt.us/DocumentCenter/View/40660/FY-2019-Comprehensive-Annual-Financial-Report>. Printed copies will be available soon, please let me know if you would like one. Finally, our auditor will be at the March 2nd work session to present to City Council.
- 2) **City Ordinance and State Statues** – enclosed is a brief, non-comprehensive list of City ordinances and State statues related to transients, homeless, travelers and partiers which includes the aggressive panhandling ordinance and the vagrancy ordinance is attached. Note the brief summary I have provided concerning unenforceability of the vagrancy ordinance due to amendments by the Montana legislature back around 2003 or 2005. I have also attached a PowerPoint on the overall challenges Montana cities and other cities across the country face in dealing with homeless, transients, etc.
- 3) **Lean 6 Sigma** – The Avior Group conducted on site interviews with each of the City's departments on January 29th and 30th. The interviews are a critical part of their assessment of the organization. Once their report is completed over the next 90 days we will go over the results with the Council.
- 4) **Thank You!** – Words cannot adequately express my sincere appreciation to ACA Iffland, the city staff and Council for your prayers and support for my wife and our family over the past 14 days. Since Nicole's brain aneurysm, the city and my coworkers have allowed me to focus on her medical care even though the city is dealing with some of the most critical issues for 2020. By God's grace, the power of prayer and the wisdom He has given the neurological medical team at the U, she is expected to make a full recovery in 2020. She will likely be discharged within the next few days. If this happens, I anticipate being back in the office sometime next week. Thanks again to the City of Billings and thank you Jesus!
- 5) **QUARTERLY REPORTS** – the quarterly reports for the budget, Health Insurance Fund, Dirty Dozen Update and Code Enforcement are attached.
- 6) **NEXT WEEK'S MEETINGS/TASK FORCES/PRESENTATIONS ETC.**
 - a. Special Work Session, 8:00 am Saturday, February 1st in the Council Chambers
 - b. New City Council Orientation – Parliamentary Procedures, 4:00 pm Monday, February 3rd at the City Hall Conference Room
 - c. SBURA, 7:00 pm Tuesday, February 4th at the Billings Hotel and Convention Center
 - d. New City Council Orientation – Urban Renewal District, 2:00 pm Thursday, February 6th at the Miller Building, 1st Floor Conference Room, 2825 3rd Avenue North
 - e. North Park Task Force, 7:00 pm Thursday, February 6th at the North Park Community Center

- f. North Park Task Force, 7:00 pm Thursday, February 6th at the North Park Community Center

Have a great productive weekend!

Common Offenses Related to Transients/Homeless/Travelers

Billings City Ordinances

Sec. 18-1001. - Commercial solicitation, aggressive solicitation, and penalty.

(a) *Definitions.*

Commercial solicitation or *to commercially solicit* is any request made in person on a street, sidewalk, or public place, asking for an immediate donation of money or other things of value, including the purchase of an item or service for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is a donation. Commercial solicitation shall not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing the request to any specific person.

(b) *Commercial solicitation in certain areas.* It shall be unlawful for any person to commercially solicit when the person solicited is in any of the following places within the city:

- (1) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property;
- (2) Within twenty (20) feet of the entrance to or exit from any public toilet facility, which includes any temporary use site (port-a-toilet);
- (3) **Within twenty (20) feet of an automatic teller machine (ATM)**, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (4) Within twenty (20) feet of any parking lot pay box;
- (5) Within twenty (20) feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- (6) In any public transportation vehicle, or in any bus, or within twenty (20) feet of any bus stop or taxi;
- (7) From any operator of a motor vehicle that is in traffic on a public street; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the owner for passengers of such vehicle;
- (8) In a parking lot or garage owned or operated by the city, including entryways or exits and pay stations connected therewith;
- (9) Within twenty (20) feet of any vendor's location when the vendor has a valid permit under articles 19-400 or 7-1200.

(c) *Nighttime commercial solicitation.* It shall be unlawful for any person to commercially solicit after sunset and before sunrise.

(d) **Aggressive solicitation.** It shall be unlawful for any person to commercially solicit in any of the following manners:

- (1) By blocking the path of the person solicited; or
- (2) By following or walking alongside the person solicited; or
- (3) By using profane or abusive language, either during the solicitation or following refusal;
- (4) By accosting or forcing oneself upon the company of another;
- (5) By continuing to solicit a person who has made a negative response, either verbally or by physical sign;

- (6) By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat;
 - (7) By engaging in any conduct that would cause a reasonable person to feel compelled or to be fearful.
- (e) *False or misleading solicitation.* It shall be unlawful for any person to knowingly make any false or misleading representation in the course of soliciting a donation. False or misleading representations include, but are not limited to, the following:
- (1) Stating that the solicitor is from out of town and stranded when such is not true;
 - (2) Stating or suggesting falsely that the solicitor is either a present or former member of the armed service indicated;
 - (3) Wearing or displaying an indication of physical disability, when the solicitor does not suffer the disability indicated;
 - (4) Stating that the solicitor is homeless, when he or she is not.
- (f) *Exemption.* The city council may by resolution temporarily suspend the requirements and restrictions imposed by this section in order to accommodate charitable fund raising events. The granting of such an exemption is discretionary with the city council, may include conditions, and is limited to a duration of twenty-four (24) hours.
- (g) *Penalty.* A person convicted of a violation of this section shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment.

(Ord. No. 04-5265, § 1, 2-9-04; Ord. No. 07-5411, § 1, 5-14-07)

Editor's note— Ord. No. 07-5411, § 1, adopted May 14, 2007, changed the title of § 18-1001 from "Aggressive solicitation and penalty" to "Commercial solicitation, aggressive solicitation and penalty." Said ordinance also enacted provisions intended for use as subsections (1)—(7). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (a)—(g).

Sec. 18-701. - Loitering or prowling.

A person commits a violation if he loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstance makes it impracticable, a peace officer shall prior to any arrest for an offense under this section afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm. A violation of this section is a misdemeanor with the penalties set forth in section 1-110.

(Ord. No. 90-4842, § 1, 9-10-90)

Note: This ordinance is prohibited by amendments made to Section 7-1-111(14) by a previous Montana legislature. This statute is entitled **Powers Denied** (to a self-governing entity such as Billings). Subsection (14) provides: "Subject to 7-32-4303, any power to enact ordinances prohibiting or penalizing vagrancy." Accordingly, this ordinance is not enforceable.

Sec. 19-201. - Hours.

- (a) City parks shall be open at 5:00 a.m. every day and close at 10:00 p.m. every day. No person shall remain in any city public park during the time when it is closed.
- (b) The city shall cause to be posted, in each public park, the opening and closing hours.

(Code 1967, §§ 15.04.010, 15.04.170)

Sec. 19-202. - Alcoholic beverages in park prohibited; exceptions.

- (a) The possession of alcoholic beverages is prohibited in all city parks except as set out in subsection (b) of this section. Alcoholic beverages discovered in violation of this section shall be considered contraband, and are subject to confiscation and/or destruction or disposal by the city police department.
- (b) Members of groups or organizations who obtain an alcoholic beverage permit issued by the city shall be exempt from this prohibition on the conditions that such group or organization complies with all laws and all requirements and terms of the issued permit.

(Ord. No. 04-5296, § 1, 8-23-04)

Editor's note— Ord. No. 04-5296, § 1, adopted August 23, 2004, amended § 19-202 in its entirety to read as herein set out. Formerly, § 19-202 pertained to public drinking and display of alcoholic beverages prohibited and derived from Ord. No. 00-5125, § 3, adopted June 26, 2000.

Sec. 18-103. - Public urination and defecation prohibited.

It is unlawful for any person to urinate or defecate in any street, alley or public place except in a facility provided for that purpose.

(Ord. No. 86-4714, § 1, 9-8-86; Ord. No. 19-5721, § 7, 1-14-19)

Editor's note— Ord. No. 19-5721, § 7, adopted Jan. 14, 2019, renumbered § 18-309 as § 18-103 as set out herein. The historical notations have been kept with the amended provisions for reference purposes.

Sec. 3-202. - Prohibited acts. (Open Container)

Public drinking and public display and exhibitionism of alcoholic beverages as defined in section 3-201 is prohibited and it is unlawful for any person to engage in public drinking as defined in section 3-201

within the limits of the city, and it is unlawful for any person to engage in public display or exhibitionism of alcoholic beverages as defined in section 3-201 within the city limits.

(Code 1967, § 6.16.020)

Montana State Statutes

MCA Sec. 61-8-508. Intoxicated pedestrian.

Except in an authorized crosswalk, a person who is under the influence of alcohol or any drug may walk or stand in the public right-of-way, as defined in [60-1-103](#), but not on a roadway or a shoulder as is otherwise permissible under [61-8-506\(2\)](#).

MCA Sec. 45-6-203. Criminal trespass to property.

(1) Except as provided in [15-7-139](#), [70-16-111](#), and [76-13-116](#), a person commits the offense of criminal trespass to property if the person knowingly:

- (a) enters or remains unlawfully in an occupied structure; or
- (b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving property owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture.

MCA Sec. 45-8-101. Disorderly conduct.

(1) A person commits the offense of disorderly conduct if:

- (a) the person knowingly disturbs the peace by:
 - (i) quarreling, challenging to fight, or fighting;
 - (ii) making loud or unusual noises;
 - (iii) using threatening, profane, or abusive language;
 - (iv) rendering vehicular or pedestrian traffic impassable;
 - (v) rendering the free ingress or egress to public or private places impassable;
 - (vi) disturbing or disrupting any lawful assembly or public meeting;
 - (vii) transmitting a false report or warning of a fire or other catastrophe in a place where its occurrence would endanger human life;
 - (viii) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
 - (ix) transmitting a false report or warning of an impending explosion in a place where its occurrence would endanger human life; or
- (b) in the course of engaging in any of the conduct prohibited by subsections (1)(a)(i) through (1)(a)(vi), a peace officer recognizes the person's conduct creates an articulable public safety risk.

(2)(a) Except as provided in subsections (2)(b), (3), and (4), a person convicted of the offense of disorderly conduct shall be fined an amount not to exceed \$100.

(b) A person convicted of a second or subsequent violation of subsections (1)(a)(i) through (1)(a)(vi) within 1 year shall be fined an amount not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 10 days, or both.

(3) A person convicted of a violation of subsections (1)(a)(vii) through (1)(a)(ix) shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

(4) A person convicted of a violation of subsection (1)(b) shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 1 day, or both.

LEGAL ISSUES CONCERNING HOMELESSNESS, PUBLIC INTOXICATION, PANHANDLING AND TRANSIENCY



**Brent Brooks
Billings City Attorney
Jim Nugent
Missoula City Attorney
Ryan Sudbury
Deputy Missoula City Attorney
May 9, 2019**

Introduction

NOT INTENDED AS A COMPREHENSIVE LEGAL REVIEW

- **First Amendment Issues:**
 - **Time, Place, Manner Restrictions**
 - **Obviously important**
 - **Can occupy several hours of discussion/debate**
 - **It is left for another time and place**

SUMMARY TOPICS

- **Relevant MT Statutes**
- **Billings/Missoula Ord.s**
- **Typical Application to Issues**
- **Summary also intended to generate new ideas for:**
 - **Adapting to and utilizing current legal limitations**
 - **Crafting potential effective Statutory / Ordinance alternatives**

Common Fact Situations

OPEN CONTAINER

- **Purchase of large cans / bottles of inexpensive alcohol**
- **Person hides somewhere to drink**
 - **Park**
 - **Vacant building doorway**
 - **Vacant field**
 - **Parking lots / Alleys**
- **More daring will drink openly**
- **Citation / NTA for open container violation**

Common Fact Situations

TRESPASS

- **Often related to open container violations**
- **Person is asked to leave a business / parking lot / restaurant**
- **May also be panhandling / soliciting near businesses / ATMs**
- **Given warning / “no trespass”**
- **Violation results in citation / NTA**

Common Fact Situations

PANHANDLING/AGGRESSIVE SOLICITATION

- **Approaching pedestrians - asking for money**
 - **Sometimes an initial question about directions somewhere or borrowing a cigarette, etc**
 - **Or brief account of a family emergency / hard luck circumstance**
 - **Often artful/sometimes convincing**
 - **Then solicitation for money to help the problem**
- **Can be frightening to pedestrian passersby**

Common Fact Situations

SLEEPING ON SIDEWALKS / DOORWAYS

- **Not as common but still a problem**
- **Law Enforcement usually asks person to sit up or otherwise not to lay down on sidewalk**
- **Frustrates businesses**
- **Discourages customers**
- **Missoula Ord. later in presentation**

Applicable Montana Statutes and Sample City Ordinances

PUBLIC INTOXICATION

➤ **NOT** a criminal offense standing alone.

- **MCA 53-24-107(1)**

➤ Intoxicated condition and behavior may evolve into:

- Disorderly Conduct
- Trespass
- Assault

➤ Law Enforcement **MAY** “assist” person if in need of help:

- **MCA 53-24-303(1)**

- “Assist” **EQUALS:**

- Take them home, take to “approved private health facility” or “other health care facility”

➤ Law Enforcement **MAY** detain to protect person’s health/safety until no risk to himself/herself or others:

- **MCA 53-24-107(2)**

Applicable Montana Statutes and City Ordinances

“PASSIVE” SOLICITATION

➤ Stationary / holding sign seeking something such as:

- Money
- Food
- Job
- Etc.

➤ **NOT** a criminal offense by itself.

➤ However, **MAY** evolve into:

- Trespass if done on private property and person is asked to leave
- Open container violation possible

Applicable Montana Statutes and Sample City Ordinances

“AGGRESSIVE” SOLICITATION

- Authority to regulate by **MCA 7-32-4304**:
- Broadly defined
- Includes:
 - Approaching / following / blocking path
 - Using profane language
 - Soliciting money, food, etc.
- **IS** a misdemeanor:
 - BMCC §18-1001(d)(1)-(7)
 - MMC §§ 9.36.010-9.36.050
- Often charged as Disorderly Conduct under **MCA 45-8-101**
- **MCA 61-8-507** prohibits: standing on highway “soliciting employment, business or contributions” from vehicle occupants unless authorized by City

Applicable Montana Statutes and City Ordinances

VAGRANCY “HANGING OUT” OR “LOITERING”

- **NOT** a criminal offense **nor** MI
 - **MCA 7-1-111(14)**
- First Amendment considerations such as:
 - Freedom of assembly
 - Freedom of association
 - To travel

- However, depending on facts:
- **MAY** involve stop and frisk considerations:
 - **MCA 46-5-401** and *Terry v. Ohio*
 - Older, well-known case on “stop and frisk”
 - Loitering near recent crime scene engaged in suspicious activity

Applicable Montana Statutes and City Ordinances

OPEN CONTAINER

➤ Defined

- **BMCC Sec. 3-201**
- Publicly drinking carrying/exhibiting open / empty cans, bottles, glass containers of alcoholic beverages

➤ **IS** a criminal misdemeanor offense per City Ordinance

- **BMCC Sec. 1-110**

➤ Typically offenders:

- Cited (charged)

AND

- “NTA” issued setting an appearance date in Municipal Court

Applicable Montana Statutes and City Ordinances

OPEN CONTAINER – CONTINUED

- **Offenders overwhelmingly fail to appear on multiple NTAs and then Judge issues a “bench warrant” for failure to appear and sets bond for this offense.**
- **Law Enforcement then locates/discovers and arrests offender per Bench Warrant, books defendant into jail.**
- **Defendant sits in jail until posting bond or Court appearance/arraignment.**
- **Usually pleads guilty, sentenced to a few days with credit for time already served before posting bond or arraignment.**

Applicable Montana Statutes and City Ordinances

OPEN CONTAINER – CONTINUED

- Offense can also involve an "intoxicated pedestrian"
 - prohibited "on a roadway" by **61-8-508, MCA** and a Municipal Infraction at **BMCC Sec, 18-1308**.
- These two laws prohibit being intoxicated on a roadway
- Usually not cited by Law Enforcement
 - Because futile to do so
 - Municipal Infraction is civil and not a jailable offense
- Classic "revolving door" for Law Enforcement
- Creates concern with jail-triggers public policy question
 - *What type of pretrial / post-sentencing defendant should be incarcerated?*

Applicable Montana Statutes and City Ordinances

POSSIBLE LAW ENFORCEMENT ACTIONS OTHER THAN ISSUING CITES/ARREST

➤ MCA 53-24-107(1)

- “A person who appears to be intoxicated in public ...may be detained by a peace officer for the person’s own protection...”

➤ MCA 53-24-303(1)

- “A person who appears to be intoxicated in a public place and to be in need of help may be assisted to the person’s home, an approved private treatment facility, or other health care facility by the police.”

Applicable Montana Statutes and City Ordinances

UNANSWERED QUESTIONS

- *Where do you take them?*
- *For how long can they be detained?*
- *Who pays for any charges incurred?*
 - May involve “public duty doctrine” exception for Law Enforcement

INVOLUNTARY ALCOHOL COMMITMENT ?

- **MCA 53-24-302**
 - For a person that “...is an alcoholic who habitually lacks self-control as to the use of alcoholic beverages...” and
 - Threatened / attempted / inflicted harm, etc.
 - AG Opinion - Co. Attys cannot initiate / pursue

Applicable Montana Statutes and Sample City Ordinances

STATE OF MT POLICY ALCOHOLISM AS AN ILLNESS

➤ §53-24-102, MCA

- Alcoholism is an illness
- Public Intoxication/Consumption:
 - Without more cannot be a crime (§53-24-107(1), MCA
 - Failed attempts to make it a **local option Misd.** offense-see **SB 360** (2015 session) and **HB 463** (2017 session)
- Continuum of Treatment
 - To lead normal lives
 - Be productive members of society

Applicable Montana Statutes and City Ordinances

REGULATING SALES OF ALCOHOL STATE SHARES SOME POWER WITH CITIES

- **§16-1-101, MCA**
 - Overall State control of sale, distribution
- **§16-3-309, MCA**
 - Allows city to prohibit sales in certain areas within city limits
- **Town Pump v. Red Lodge (1998)**
 - Cities may impose local zoning that regulates the sale of alcohol.
 - No State “preemption”
 - Rather - “shared powers”

Applicable Montana Statutes and City Ordinances

OVER SERVICE REGULATIONS – STATE DOR

- **§16-3-301(4)(b), MCA**
- *Unlawful to sell alcohol to “actually, apparently, obviously” intoxicated person*
 - License jeopardized
 - Suspension / revocation (4th offense) **ARM 42.13.101**
 - Fines
 - DOR provides training: AlcoholServerTraining.mt.gov

SALES TO MINORS – STATE DOR

- Illegal to “knowingly” sell
- **MCA §§ 16-3-301(4)(a) and 45-5-623(c)**
 - Misdemeanor
 - License jeopardized
 - Suspension / revocation
 - Fines

Applicable Montana Statutes and City Ordinances

INVOLUNTARY MENTAL HEALTH COMMITMENT MCA 53-21-121

- Person must be suffering from “mental disorder” defined at **§53-21-102(9), MCA**
- Evaluation by Mental Health Professional
- Evidentiary hearing before District Court
- Commitment to / placement in “least restrictive environment”
- Emergency detention (cannot be in a jail) - **§53-21-129, MCA**
- Commitment locally or to MSH usually for 2-3 weeks and then released after stabilization of medication

Applicable Montana Statutes and City Ordinances

OTHER CONSIDERATIONS

- **Co-occurring chemical dependency/mental disorder**
 - **Usually follow mental health involuntary commitment process**
- **Commitments are intended to address acute / short term crisis-not chronic long term condition**
- **Costly**
- **Local Group Homes / MSH often at or near capacity**
- **Crisis Center- great assistance for those cooperative**

Recent Caselaw Concerning Enforcement of Ordinances Against the Homeless

EIGHTH AMENDMENT CASES – CRUEL AND UNUSUAL PUNISHMENT

- ***Martin v. City of Boise*** - 2019 U.S. App. LEXIS 9453 (amending 902 F.3d 1031)(April 1, 2019).
 - **Held:** “An ordinance violates the Eighth Amendment insofar as it imposes criminal sanctions against homeless individuals for sleeping outdoors, on public property, when no alternative shelter is available to them.”
- **Extension of reasoning found in *Robinson v. California*, 370 U.S. 660 (1962) and *Powell v. Texas*, 392 U.S. 514 (1968):**
 - The Eighth Amendment prohibits the state from punishing an involuntary act or condition if it is the unavoidable consequence of one’s status or being.
- **Earlier Federal Cases with Similar Holdings to *Martin*:**
 - *Pottinger v. City of Miami*, 810 F. Supp. 1551 (S.D. Fla. 1992)
 - *Johnson v City of Dallas*, 860 F. Supp. 344 (N.D. Tex. 1994)

Recent Caselaw Concerning Enforcement of Ordinances Against the Homeless

EIGHTH AMENDMENT CASES – CRUEL AND UNUSUAL PUNISHMENT

- ***Martin v. City of Boise* - The Footnote Toeholds for Cities?**

- (1) Naturally, our holding does not cover individuals who *do* have access to adequate temporary shelter, whether because they have the means to pay for it or because it is realistically available to them for free, but who choose not to use it.
- (2) Nor do we suggest that a jurisdiction with insufficient shelter can *never* criminalize the act of sleeping outside. Even where shelter is unavailable, an ordinance prohibiting sitting, lying, or sleeping outside at particular times or in particular locations might well be constitutionally permissible.
- (3) So, too, might an ordinance barring the obstruction of public rights of way or the erection of certain structures.

“Whether some other ordinance is consistent with the Eighth Amendment will depend, as here, on whether it punishes a person for lacking the means to live out the “universal and unavoidable consequences of being human” in the way the ordinance prescribes.”

- See e.g., *Joel v. City of Orlando*, 232 F.3d 1353 (11th Cir. 2000) – An ordinance similar Boise’s upheld; cited approvingly by *Martin* court. In *Joel*, Def’s presented unrefuted evidence that shelters had never reached capacity, and plaintiffs always had access to them.

Recent Caselaw Concerning Enforcement of Ordinances Against the Homeless

FOURTEENTH AMENDMENT CASES – DUE PROCESS & VOID FOR VAGUENESS

- ***Desertrain v. City of Los Angeles*, 754 F.3d 1147 (2014)**
 - “No person shall use a vehicle parked or standing upon any City street, or upon any parking lot owned by the City of Los Angeles... as living quarters either overnight, day-by-day, or otherwise.” L.A. Municipal Code, Section 85.02
 - Use of “living quarters” and “or otherwise” phrases problematic for the Court.
 - Under the Fourteenth Amendment an ordinance can be unconstitutionally vague on two independent grounds, *Desertrain*, 754 F. 3d 1155-56:
 - (1) It fails to provide adequate notice of what conduct is prohibited, so that ordinary citizens may conform their conduct to the law (citing *City of Chicago v. Morales*, 527 U.S. 41, 56 (1999)(involving “anti-loitering” ordinance), and
 - (2) It provides “no standards governing the exercise of... discretion,” and can thus be a tool for harsh and discriminatory enforcement (citing *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170 (1972)(involving “vagrancy” ordinance).

Applicable Montana Statutes and City Ordinances

SUMMARY

- **Laws have not always kept pace with societal changes / new problems**
- **Competing societal interests/policies/goals:**
 - **Citizens: “get them off the streets, then help them”**
 - **Law Enforcement works hard to enforce often impractical / futile laws**
 - **Treatment professionals address mental / physical health / addictions**
 - **Social organizations try to help with basic needs**
 - **Affected persons often do not want some or any help**

Applicable Montana Statutes and City Ordinances

NEW IDEAS AND BEST PRACTICES FROM ELSEWHERE

- **“SIP”: Serial Inebriate Program**
 - San Diego, CA
- **No Serve**
 - Green Bay, WI
- **Street Sweeping**
 - Green Bay, WI
- **MT AG Opinion Request?**
 - Local downtown regulation of large (above 16 oz.) cans/bottles

- **“Campus” for Addressing Needs, Protection, Treatment**
 - e.g. Haven For Hope
 - San Antonio, TX
- **Sleeping/lying/sitting Restriction Ordinance**
 - MMC § 9.34.040
- **Sobering Centers**

Additional Discussions

THANK YOU

- Questions?
- Comments
- Suggestions

CONTACT INFORMATION

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QUARTERLY FINANCIAL REPORT

FY 2020 Second Quarter

CHRIS KUKULSKI, CITY ADMINISTRATOR

Attached is the second quarter FY 2020 financial report for your review. The fiscal year 2020 is 50% completed, as such, funds should have used approximately 50% of their operating budget. This may not hold true for Debt Service or Capital Project funds, as the expenditures within these fund do not occur evenly throughout the year.

Andy Zoeller

FY 2020 Q2

GENERAL FUND

REVENUES

Property taxes were billed, and first half payments have been collected. As of the end of the 2nd quarter, 55% of the budgeted amount had been collected. This is an increase of nearly \$250,000 over the same time last year.

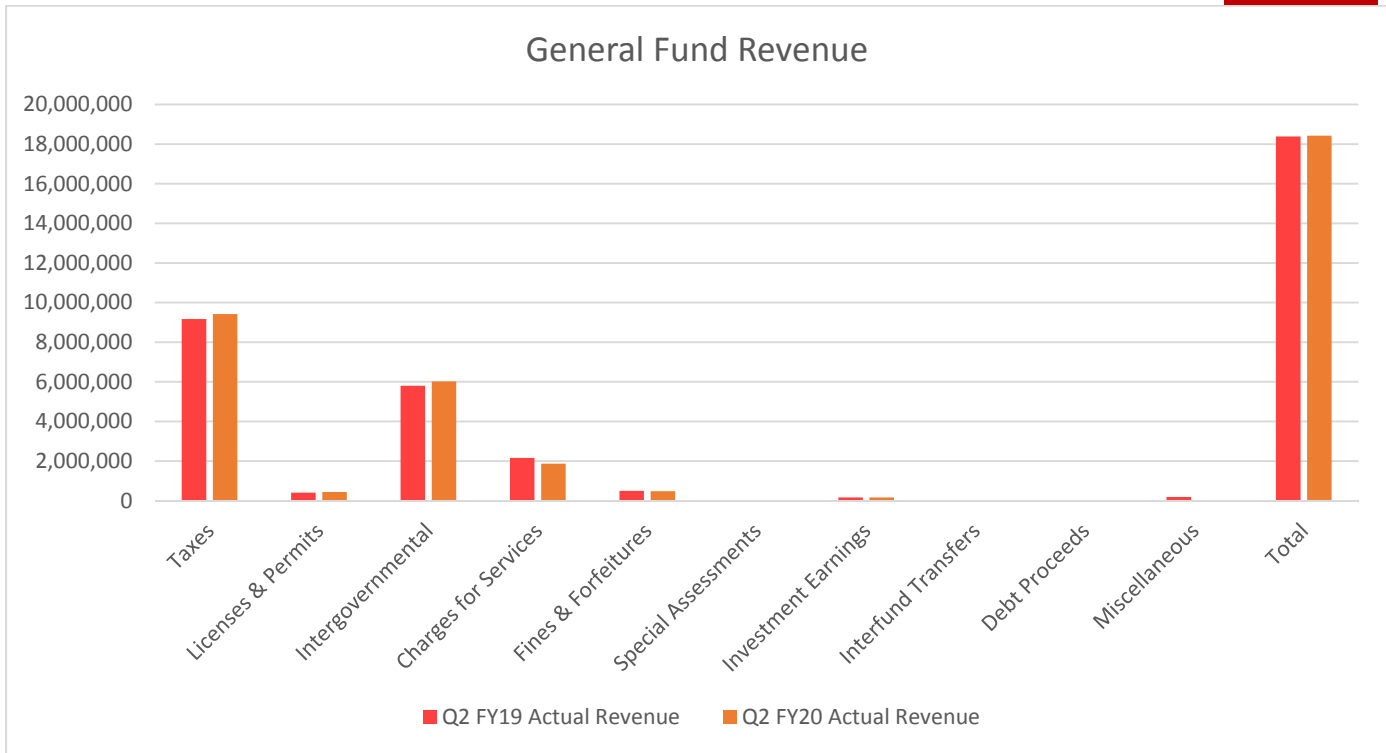
License and permit revenue is collected throughout the year. When compared to the same time in the prior year, there is an increase of 8.2%, or \$33,349. The total collected is 20% of what was budgeted. This is expected, as the major revenue, Cable Franchise Fee, isn't expected until January 2020.

Intergovernmental revenue, which is revenue received from other governments, is up \$218,000 over the same time in the prior year. At the end of the second quarter 51% of the amount budgeted has been collected. This is largely comprised of the State Entitlement Share payments made by the State of Montana.

Charge for service revenue for the second quarter of FY20 is \$1.87 million, or 47% of the budgeted amount. This is \$292,000 less than what was collected in the same time in the prior year.

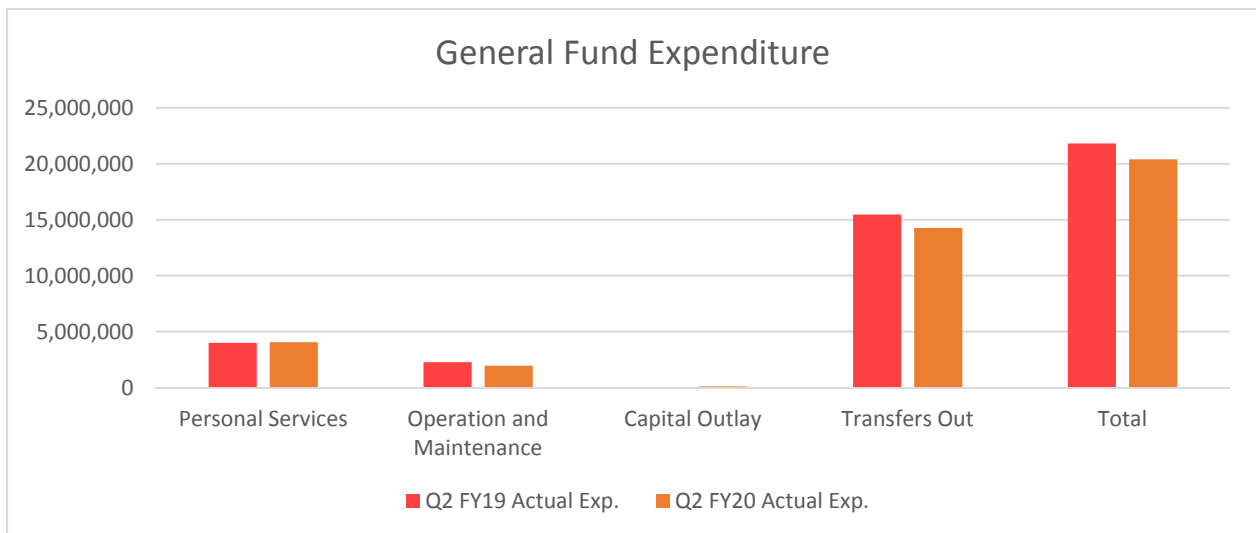
Fines and forfeiture revenue is down about \$20,000 compared to the same time in the prior fiscal year. If current collections continue for the remainder of the year, the General Fund will receive \$561,000 less than what was budgeted for this revenue type.

Overall revenue in the General Fund is nearly flat when compared to the second quarter of FY19. Total revenue collected in the second quarter is 50% of the total amount budgeted for FY20.



EXPENDITURES

The actual expenses in the General Fund for the second quarter of FY20 were 48% of budget, or \$21.9 million. This is a decrease from of \$1.4 million when compared to the same time in the prior fiscal year. The decrease is partially a result of a reduction in Operation and Maintenance costs, but is mostly associated with reduced transfers out.

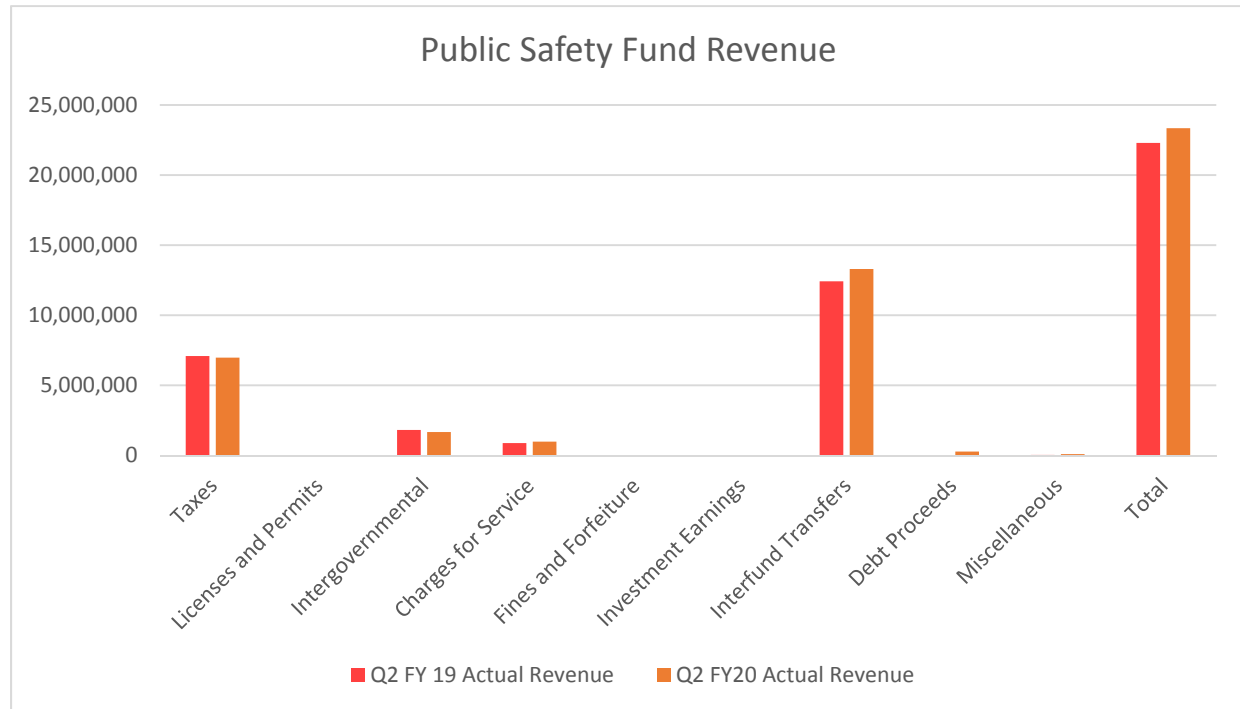


PUBLIC SAFETY FUND

REVENUE

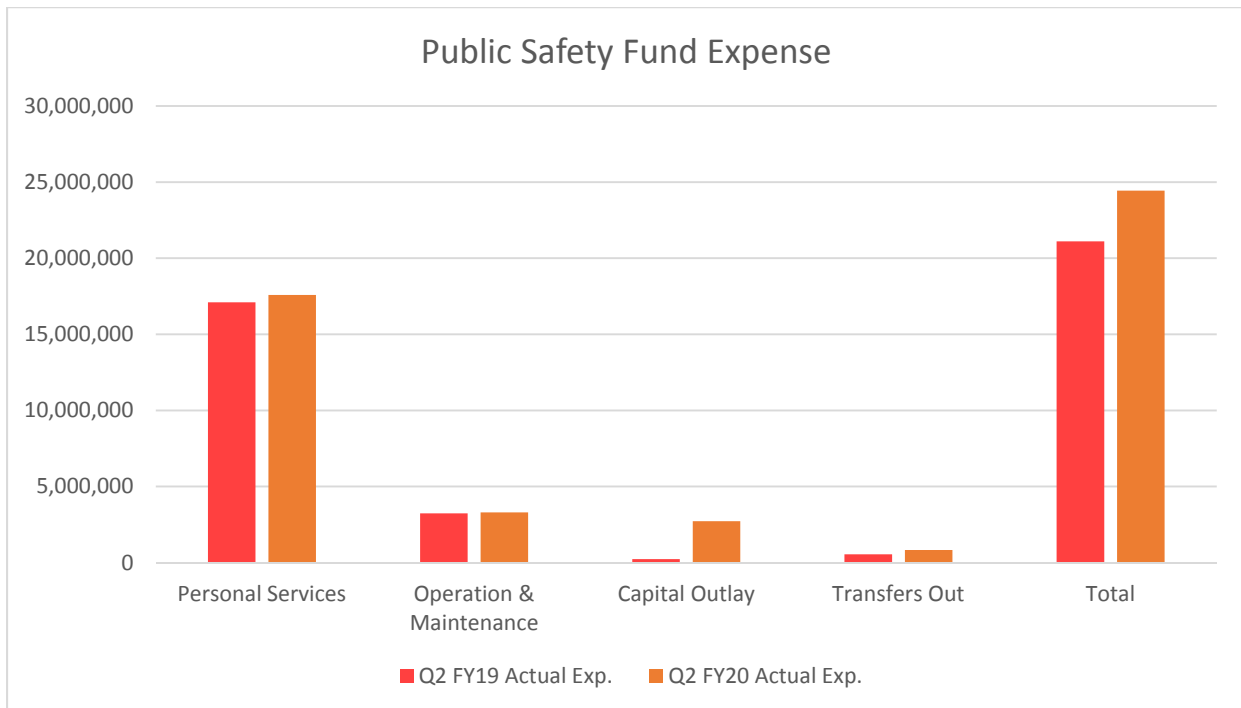
The Public Safety Fund tax revenue is 53%, or \$7.0 million, of the total budgeted amount. Total tax revenue budgeted in the Public Safety Fund for FY20 is \$13 million.

Overall Public Safety Fund revenue increased by 4.7% over the same time in FY19, or \$1,049,463. The major reason for this is because the transfer from the General Fund is \$878,000 higher than the prior fiscal year. All other revenue sources are similar to the prior fiscal year.



EXPENDITURE

Expenditures in the Public Safety Fund are up 16%, or \$3,335,849, over the same time in FY19. This is almost entirely a result of increased the Police Evidence Expansion. Total expenditures are 51% of the total annual amount budgeted. If only operating budgets are examined, the Public Safety fund is operating as expected at 48% of budgeted expenditures being utilized.



FY 2020 Q2 SUMMARY

Second Quarter Budget Amendments

The following projects will require budget amendments within the fiscal year

- 1.) On January 13th, 2020 City Council approved the purchase of playground equipment for Ponderosa Park. On the Council memo approving this purchase, it indicated the need for a budget amendment, as this was an approved project for FY19 that was not able to be completed until FY20. The budget amendment will appropriate funds for the purchase and install of the equipment, as well as, provide funds for creating an accessible route and purchasing fall protection.
- 2.) The Police Department will be seeking the budget authority to spend approximately \$9,000 on expanding their Electronic Citation program. This will be paid for through cash that remains from a surcharge that used to be assessed to municipal infractions. The surcharge is no longer being assessed, but the funds that remain will be used to expand the program, as it is a significant efficiency that has been identified.

City of Billings						
GENERAL FUND OPERATING						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Revenues:						
TAXES	\$ 17,202,088	\$ 9,418,724	\$ -	\$ (7,783,364)	55	\$ 9,171,132
LICENSES & PERMITS	2,191,863	439,521	-	(1,752,342)	20	406,172
INTER-GOVERNMENTAL	11,704,794	6,015,682	-	(5,689,112)	51	5,797,650
CHARGES FOR SERVICES	4,010,224	1,868,838	-	(2,141,386)	47	2,161,157
FINES & FORFEITS	1,513,333	476,089	-	(1,037,244)	31	496,517
SPECIAL ASSESSMENTS	-	2,078	-	2,078	-	189
INVESTMENT EARNINGS	290,000	166,059	-	(123,941)	57	163,531
INTERFUND TRANSFERS	6,600	18,245	-	11,645	276	2,022
MISCELLANEOUS	-	19,122	-	19,122	-	190,088
Total Revenues	\$ 36,918,902	\$ 18,424,359	\$ -	\$ (18,494,543)	50	\$ 18,388,458
Expenditures:						
By Category						
PERSONAL SERVICES	\$ 9,106,087	\$ 4,061,507	\$ -	\$ 5,044,580	45	\$ 4,007,946
OPERATIONS & MAINT	4,173,093	1,850,615	112,727	2,209,750	47	2,273,726
CAPITAL	122,470	47,829	63,188	11,453	91	60,764
INTERFUND TRANSFERS	28,977,203	14,295,707	22,293	14,659,203	49	15,465,910
Total Expenditures	\$ 42,378,852	\$ 20,255,658	\$ 198,208	\$ 21,924,986	48	\$ 21,808,346

City of Billings						
GENERAL FUND-BY DEPT DIVISION						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Expenditures:						
By Department/Division						
MAYOR & COUNCIL	\$ 261,042	\$ 125,771	\$ -	\$ 135,271	48	\$ 120,263
CITY ADMINISTRATOR	906,846	374,979	-	531,867	41	341,344
HUMAN RESOURCES	826,205	345,932	-	480,273	42	330,217
CITY ATTORNEY	1,891,799	941,496	-	950,303	50	1,012,066
MUNICIPAL COURT	1,504,239	646,922	-	857,317	43	638,836
FINANCE	1,625,031	756,679	63,188	805,164	47	685,187
CODE ENFORCEMENT	564,362	209,089	-	355,273	37	234,142
PARKS & RECREATION	5,617,665	2,634,131	42,320	2,941,214	47	4,755,499
NON-DEPARTMENTAL	29,181,664	14,220,661	92,700	14,868,304	49	13,675,793
COUNCIL CONTINGENCY	-	-	-	-	-	15,000
Total Expenditures	\$ 42,378,852	\$ 20,255,658	\$ 198,208	\$ 21,924,986	48	\$ 21,808,346

City of Billings						
PUBLIC SAFETY FUND						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Revenues:						
TAXES	\$ 13,044,663	\$ 6,976,811	\$ -	\$ (6,067,852)	53	\$ 7,096,841
LICENSES & PERMITS	28,500	1,595	-	(26,905)	6	16,996
INTER-GOVERNMENTAL	3,149,574	1,667,832	-	(1,481,742)	53	1,823,023
CHARGES FOR SERVICES	1,598,256	992,961	-	(605,295)	62	890,024
FINES & FORFEITS	2,400	1,200	-	(1,200)	50	1,200
INVESTMENT EARNINGS	700	9,409	-	8,709	-	447
INTERFUND TRANSFERS	27,316,978	13,302,225	-	(14,014,753)	49	12,424,100
DEBT PROCEEDS	2,800,000	285,388	-	(2,514,612)	10	-
MISCELLANEOUS	49,478	103,437	-	53,959	209	38,765
Total Revenues	\$ 47,990,549	\$ 23,340,859	\$ -	\$ (24,649,690)	49	\$ 22,291,396
Expenditures:						
By Category						
PERSONAL SERVICES	\$ 37,679,120	\$ 17,586,860	\$ -	\$ 20,092,260	47	\$ 17,104,048
OPERATIONS & MAINT	5,951,080	3,042,706	256,315	2,652,059	55	3,231,949
CAPITAL	3,178,236	89,696	2,635,382	453,158	86	225,288
INTERFUND TRANSFERS	1,470,841	829,040	-	641,802	56	542,866
Total Expenditures	\$ 48,279,277	\$ 21,548,301	\$ 2,891,698	\$ 23,839,278	51	\$ 21,104,150
By Department/Division						
POLICE	\$ 27,098,702	\$ 11,796,747	\$ 2,525,803	\$ 12,776,152	53	\$ 11,792,681
FIRE	21,180,575	9,751,555	365,894	11,063,126	48	9,311,468
Total Expenditures	\$ 48,279,277	\$ 21,548,301	\$ 2,891,698	\$ 23,839,278	51	\$ 21,104,150

City of Billings						
AIRPORT OPERATING FUND						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Revenues:						
TAXES	\$ -	\$ -	\$ -	\$ -	-	\$ -
LICENSES & PERMITS	-	-	-	-	-	-
INTER-GOVERNMENTAL	5,311,557	3,026,047	-	(2,285,510)	57	1,181,873
CHARGES FOR SERVICES	13,467,909	5,994,419	-	(7,473,490)	45	6,013,350
FINES & FORFEITS	-	-	-	-	-	-
INVESTMENT EARNINGS	278,272	120,822	-	(157,450)	43	115,831
DEBT PROCEEDS	-	-	-	-	-	-
MISCELLANEOUS	75,580	47,091	-	(28,489)	62	33,472
Total Revenues	\$ 19,133,318	\$ 9,188,379	\$ -	\$ (9,944,939)	48	\$ 7,344,526
Expenditures:						
By Category						
PERSONAL SERVICES	\$ 4,420,047	\$ 2,089,563	\$ -	\$ 2,330,484	47	\$ 2,090,307
OPERATIONS & MAINT	3,522,976	1,564,590	103,767	1,854,620	47	1,266,956
CAPITAL	46,941,236	4,943,503	5,843,427	36,154,305	23	3,660,837
DEBT SERVICE	1,329,394	125,570	-	1,203,824	9	153,476
INTERFUND TRANSFERS	-	-	-	-	-	-
Total Expenditures	\$ 56,213,653	\$ 8,723,227	\$ 5,947,194	\$ 41,543,232	26	\$ 7,171,576

City of Billings						
PUBLIC WORKS-SOLID WASTE FUND						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Revenues:						
CHARGES FOR SERVICES	15,862,598	7,994,994	-	(7,867,604)	50	7,278,701
INVESTMENT EARNINGS	174,000	144,233	-	(29,767)	83	111,236
MISCELLANEOUS	-	1,061	-	1,061	-	759
Total Revenues	\$ 16,036,598	\$ 8,140,289	\$ -	\$ (7,896,309)	51	\$ 7,390,697
Expenditures:						
By Category						
PERSONAL SERVICES	\$ 5,576,090	\$ 2,637,978	\$ -	\$ 2,938,112	47	\$ 2,526,714
OPERATIONS & MAINT	5,622,038	2,825,217	213,532	2,583,288	54	2,361,176
CAPITAL	30,969,743	8,120,015	16,207,323	6,642,405	79	1,341,301
DEBT SERVICE	1,561,774	-	-	1,561,774	-	-
INTERFUND TRANSFERS	-	-	-	-	-	-
Total Expenditures	\$ 43,729,645	\$ 13,583,210	\$ 16,420,855	\$ 13,725,579	69	\$ 6,229,191

City of Billings						
PUBLIC WORKS-WASTEWATER FUND						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Revenues:						
CHARGES FOR SERVICES	20,383,650	9,296,084	-	(11,087,566)	46	12,468,954
INVESTMENT EARNINGS	485,000	394,173	-	(90,827)	81	532,103
MISCELLANEOUS	-	175,057	-	175,057	-	1,347
Total Revenues	\$ 20,868,650	\$ 9,865,314	\$ -	\$ (11,003,336)	47	\$ 13,002,404
Expenditures:						
By Category						
PERSONAL SERVICES	\$ 4,184,414	\$ 1,803,711	\$ -	\$ 2,380,703	43	\$ 1,758,405
OPERATIONS & MAINT	5,657,666	2,637,082	402,597	2,617,986	54	2,295,782
CAPITAL	37,755,553	4,823,537	13,927,959	19,004,057	50	14,220,988
DEBT SERVICE	5,330,000	-	-	5,330,000	-	-
INTERFUND TRANSFERS	-	-	-	-	-	-
Total Expenditures	\$ 52,927,632	\$ 9,264,330	\$ 14,330,557	\$ 29,332,746	45	\$ 18,275,174

City of Billings						
PUBLIC WORKS-WATER FUND						
For fiscal year 2020, Periods 1 - 6						
	Total 2020 Amended Budget	YTD 2020 Actual	2020 Encumbrance	Variance	%	YTD 2019 Actual
Revenues:						
CHARGES FOR SERVICES	27,991,770	13,070,000	-	(14,921,770)	47	13,332,540
INVESTMENT EARNINGS	297,300	724,637	-	427,337	244	513,145
MISCELLANEOUS	7,200	212,458	-	205,258	2,951	143,851
Total Revenues	\$ 28,296,270	\$ 14,007,095	\$ -	\$ (14,289,175)	50	\$ 13,989,536
Expenditures:						
By Category						
PERSONAL SERVICES	\$ 5,016,863	\$ 2,156,791	\$ -	\$ 2,860,072	43	\$ 2,359,008
OPERATIONS & MAINT	9,104,831	4,291,559	319,798	4,493,474	51	3,782,698
CAPITAL	37,527,847	8,336,227	10,399,142	18,792,478	50	1,910,936
DEBT SERVICE	2,770,500	-	-	2,770,500	-	-
INTERFUND TRANSFERS	-	-	-	-	-	-
Total Expenditures	\$ 54,420,040	\$ 14,784,577	\$ 10,718,940	\$ 28,916,524	47	\$ 8,052,641

CITY OF BILLINGS, MONTANA
City Health Insurance Fund
Statement of Cash Flows
January 1 Thru December 31, 2019

	<u>2019</u>	<u>2018</u>	<u>2017</u>
Beginning available cash balance, as of January 1, 2019	\$ 8,224,492	\$ 5,509,152	\$5,536,257
Revenue			
Employer contributions	\$ 9,141,318		
Employee contributions	2,210,855		
Interest	220,429		
Claim overpayment	52,259		
Stop loss-insurance revenue	-		
RX rebates	476,022		
Wellness committee	508		
Revenue from health insurance activities	<u>12,101,391</u>	<u>12,237,610</u>	<u>11,509,603</u>
Expenses			
Self-funded medical	6,971,131		
Self-funded RX	1,966,000		
Occu. Health - Nurse Visit	20,090		
Preventive Confirmation Program Incentive	18,100		
Healthy IS Program & Incentive	92,699		
Fiduciary Liability Insurance	3,621		
Employee Assistance Program	15,300		
Third Party Admin - ACA Admin	20,998		
Stop loss-insurance premium	638,465		
Claims administration	324,788		
Third Party Admin. - PPO Fees	55,282		
Consulting Fee	112,250		
Wellness committee	3,332		
All other	<u>206,846</u> ¹		
Expenses from health insurance activities	<u>10,448,902</u>	<u>9,515,948</u>	<u>11,581,357</u>
Net cash provided (used) from health insurance activities:	1,652,489	2,721,662	(71,754)
Cash flow from other activities:			
Revenue			
Flex	\$ 473,242		
Dental	605,407		
Life Insurance	69,888		
Revenue from other activities	<u>1,148,537</u>	<u>1,152,713</u>	<u>1,222,666</u>
Expenses			
Flex claims-medical	400,097		
Flex claims-child care	73,043		
Flex admin	16,999		
HSA admin	12,107		
Dental claims	640,800		
Life insurance premiums	69,883		
Expenses from other activities	<u>1,212,929</u>	<u>1,159,035</u>	<u>1,178,017</u>
Net cash provided (used) from other activities:	(64,392)	(6,322)	44,649
Ending available cash balance, as of December 31, 2019	<u>\$ 9,812,589</u>	<u>\$ 8,224,492</u>	<u>\$5,509,152</u>

¹ All other includes charge for services, supplies, etc.
Report is on a calendar year basis and not a fiscal year basis.

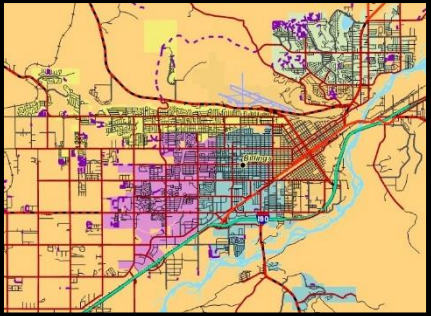


Code Enforcement Division 4th Quarter 2019 Report

Dirty Dozen Update

NICOLE CROMWELL, AICP
ZONING COORDINATOR
CODE ENFORCEMENT SUPERVISOR
PROJECT RE:CODE





2019 4th Quarter Highlights

- ▶ **3** Properties retired from the Dirty Dozen list – since 2019 3rd Quarter
 - ▶ 316 Miles
 - ▶ Case initiated 2012 & re-started in Oct 2018
 - ▶ Compliance Nov 2019
 - ▶ Building permit issued Nov 2019 to move incomplete house forward to meet setbacks.
 - ▶ 1415 1st St W
 - ▶ Case initiated May 2019
 - ▶ Compliance Jan 2020
 - ▶ Owner removed by foreclosure
 - ▶ court ordered abatement completed in Nov 2019
 - ▶ final clean up and eviction by new owner completed Jan 2020
 - ▶ 246 Rhea Lane
 - ▶ Case initiated July 2019.
 - ▶ Compliance Jan 2020.
 - ▶ Owner completed final clean up Jan 7 2020

The Dirty Dozen – #12

- ▶ 623 Avenue F – Caroline & Jan Cahill, Great Falls, MT
- ▶ Open Storage of Junk Vehicles



Jan 2020



Dec 2019

The Dirty Dozen – #11

- ▶ 2613 Missouri – Gerald Fosjord - deceased
- ▶ Current Case started in Aug 2019 – heirs have not filed probate – property in foreclosure
- ▶ Open Storage, Illegal camping, RV storage



The Dirty Dozen – #10

▶ 4124 Murphy – Jack Webb

- ▶ Current Case started in May 2019 – 31 cases at this address since 2007
- ▶ Open Storage, Junk Vehicles, Obstructing Right of Way
- ▶ First Court – hearing November 13, 2019, continued to Jan 2020
- ▶ Judge allowing time to spring to clean up



The Dirty Dozen – #9

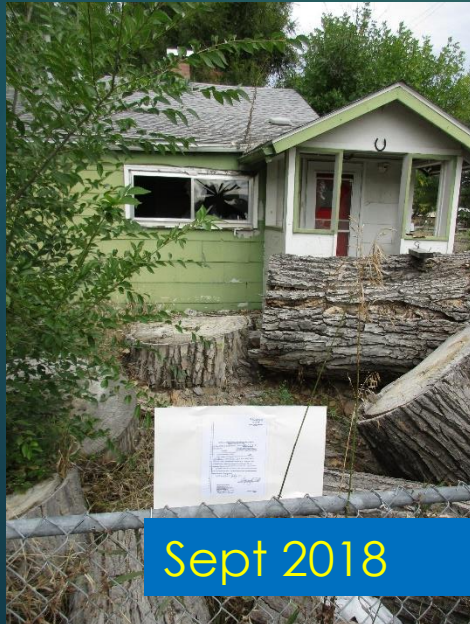
► 206 & 213 S 30th St – Ken Glock

- Case started in Dec 2016
- Four abandoned and unsecured homes
- Cited to court – failed to appear July 22, 2019
- Judge issued fines and closed cases August 19 2019
- New citations issued – Hearing October 16, 2019
- Judge orders abatement in November 2019



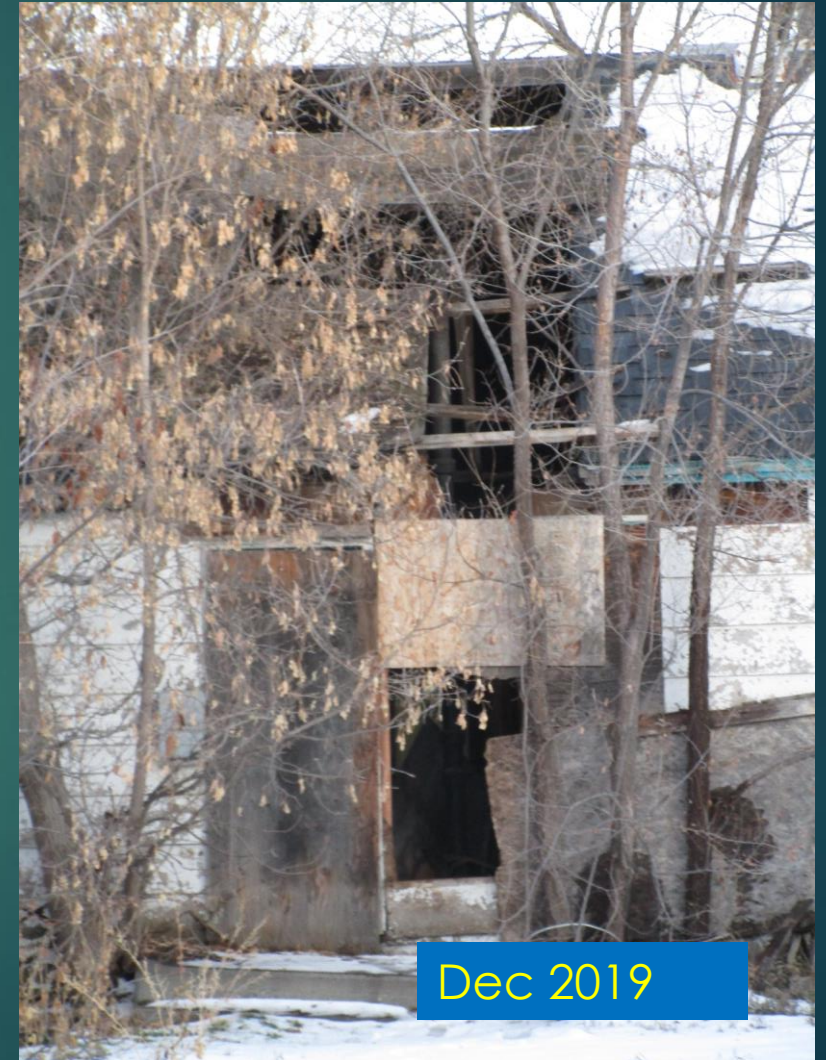
The Dirty Dozen – #8

- ▶ 46 Washington – Quentin LaForge (deceased)
 - ▶ Case opened Sept 2016
 - ▶ October 2019, District Court appointed CEO Salzman special administrator for the estate
 - ▶ Asbestos survey to be completed
 - ▶ Structure secured Dec 2019



The Dirty Dozen – #7

- ▶ 20 Washington – Melvin Boyer, Billings, MT
 - ▶ Fire in 2001
 - ▶ Case opened Oct 2016
 - ▶ Court ordered owner to repair or demolish May 2019
 - ▶ Nov 2019, Judge continued to Feb 2020 – requested owner to get building permit



The Dirty Dozen – #6

- ▶ 911 Terry – Donald & Gesin Kostelic
 - ▶ Case Opened June 2019
 - ▶ Appears to be a long-term collection
 - ▶ Assistance offer by Central Terry TF refused by owners
 - ▶ Contacting owners again – clean up delayed



The Dirty Dozen – #5

- ▶ 1015 McKenney Road – Brad Redlich
 - ▶ Incomplete building – construction halted in 2007 – case opened June 2017
 - ▶ Owner failed to comply- Misdemeanor Citation Issued in June 2018
- ▶ Municipal Court Hearing July 25, 2018
 - ▶ Judge ordered owner to obtain building permit within 60 days – by Sept 19, 2018
 - ▶ Owner failed to obtain permit – Judge granted additional 60 days
 - ▶ Status hearings: Nov 14, 2018; Dec 5, 2018 Feb 6, 2019, April 2019 & July 24, 2019
 - ▶ Judge granted postponement of hearing on July 24, 2019 at request of defendant
 - ▶ Hearing postponed to mid November 2019 to allow structural assessment by owner
 - ▶ Judge granted continuance to March 2020



Dec 2017



Jan 2019



July 2019

The Dirty Dozen – #4

- ▶ 816 N 25th St – Vivian Young
 - ▶ Boarded Building – case opened Nov 2017
 - ▶ Vacant for over 10 years
 - ▶ Owner agreed to demolish
 - ▶ Preparing to issue appearance citation
 - ▶ Owner to replace doors & windows – Dec 2019



The Dirty Dozen – #3

- ▶ 23 Rhea Lane – Timothy Hert
 - ▶ Case started in May 2017
 - ▶ Home abandoned in 2000
 - ▶ Incomplete garage
 - ▶ Home unsecured
 - ▶ Owner says demolition planned for end of Oct 2019
 - ▶ Demo not completed – citation to be served Jan 2020



July 2019



October 2019

The Dirty Dozen – #2

- ▶ 114 S 29th St – Richard Wick
 - ▶ Civil Action Filed in Feb 2018
 - ▶ August 12 2019 Trial Scheduled – but postponed
 - ▶ Judge finds property to be a Hazard – orders building cleared and demolished in 45 days (end of November 2019)
 - ▶ Contract ready for asbestos inspection Jan 2020
 - ▶ Property posted to vacate tenants Jan 2020
- ▶ 118 S 29th St – Richard Wick
 - ▶ Nuisance Citation – Status Hearing July 22
 - ▶ Judge issued Abatement Order
 - ▶ Preparing for demolition and property clean up – Jan 2020

114 S 29th St
Jan 2019



118 S 29th St
Jan 2019



The Dirty Dozen – #1

- ▶ 4116 State Avenue – David Winfrey (deceased)
- ▶ Dangerous Structure – case opened **Aug 2015**
 - ▶ Severe Impact on surrounding property
 - ▶ Fire damaged
 - ▶ Inadequate & Improper Boarding of Doors and Windows
 - ▶ Owner died (2015) without assigning heirs
 - ▶ One heir appeared at District Court hearing appointing CEO Salzman special administrator
 - ▶ Court postponed action for 6 months – Next hearing **March 2020**



July 2019



Oct 2016



Oct 2017



Jan 2019

01/30/2019

Questions?



4th Quarter 2019 Reporting January 2020

Dirty Dozen rankings:	Rank last 1/4	General Location	Compliance Issue	Owner	Current Status	Previous Status	CE Case initiated
Number 1	Number 1	4116 State Avenue	Boarded Structure	Estate of David G. Winfrey owner - deceased Jan 2015	Waiting for Status Hearing in March 2020 before Judge Davies. Harry Winfrey stated he would caretake the propert and file legal papers to gain official title. No progress known at this time.	Attorney General's Office has filed petition in District Court to appoint C. Salzman the Special Administrator - will have authority to abatement nuisances and sell property - Harry Winfrey appeared on Sept 26 at District Court hearing to appoint city as administrator of estate - Judge Davies allowed 6 months (March 2020) for Harry Winfrey to establish ownership and abate nuisance	August 2015
Number 2	Number 2	114 & 118 S 29th Street	Dangerous Structures	Richard D. Wick owner - Billings MT	Asbestos Survey contract signed with Terracon. Preparing to enter the properties with consultant. Posted notice and judgment to vacate and demolish first week of January 2020. Will seek demolition contractor bids after asbestos survey is complete. Consulting with City Legal on clearance of tenants from 114 S 29th .	114 S 29th St is scheduled for Hearing August 12, 2019 Court issued abatement order for 118 S 29th on July 22, 2019 - August 2019 Court hearing on 118 S 29th judge ordered city to abate the burned house - October hearing on 114 S 29th judge ordered house demolished in 45 days by owner - if not city will be authorized to clear the building and demolish.	Nov 2016
Number 3	Number 3	23 Rhea Lane	Dangerous Structures	Timothy Hert - Billings MT	Final Inspection scheduled for January 24, 2020	Citation Issued - owner may have buyer	May 2017
Number 4 - retired	Off the list	316 Miles Ave	Incomplete Construction - Zoning Violation	Michael Mitzel - Billings MT	Building permit issued to move structure forward and west to meet setback requirements. Case closed pending completion of building.	Hearing scheduled for July 22 postponed at request of defendant to August 19, 2019 at 1 pm - Court re-set hearing to allow owner to get engineer's report on moving structure - Building permit submitted October 3 2019 - pending approval	Current Dec 2018 previous case 2012
Number 4	Number 5	816 N 25th St	Boarded Building	Vivian Young - Billings MT	Contact with owner Nov 2019 - indicated doors and windows will be replaced in Dec 2019.	Building unsecured again. Will be citing owner in November 2019	Nov 2017
Number 5	Number 6	1015 McKenney Road	Abandoned Construction (started in 2007)	Bradley K Redlich owner - Billings MT	Judge granted another 90 day continuance to March 2020. Trial to be held at that time if no permit is issued.	Status hearing scheduled for July 24, 2019, postponed at the request of the defendant. Owner has hired an attorney, proposal is to delay hearing until engineer's report on structure available in November 2019	June 2017
Number 6	Number 8	911 Terry	Open Storage of Junk and Junk Vehicles	Donald & Gesin Kostelic	Progress - but slow going	Case Open in June 2019	June 2019
Number 7 - retired	Off the list	1415 1st St West	Open Storage & Junk Vehicles	Tara Hubbard (former owner) - Billings MT	Judge granted court order abatement. Abatement completed in Nov. 2019. Occupant re-trashed the yard. Foreclosure by previous owner completed. Final clean up and house secured first week of January 2020.	Negative progress since first notice to remove trash, junk vehicles and obstructions from alley - cited in Sept 2019 - hearing October 16 2019	May 2019
Number 7	Number 9	20 Washington	Dangerous Structures	20 Washington, Melvin Boyer owner - Billings MT	20 Washington Status hearing on August 19, 2019 at 1 pm. City proved case in May 2019. Court gave defendant 90 days to obtain building permit for renovation or demolition permit to tear down the building. 46 Washington - petition granted appointing CE Staff as Administrator of Estate	20 Washington - CE Working with owner to complete demolition	Oct 2016
Number 8	Number 9	46 Washington St	Dangerous Structures	46 Washington, Estate of Quentin LaForge owner deceased Dec 2015	Asbestos Survey Contract signed. House secured (boarded in Dec. 2019) Scheduling asbestos survey work with Terracon	C. Salzman appointed Special administrator of Escheat Estate in Sept/Oct 2019	Sept 2016
Number 9	Number 10	206 & 213 S 30th St	Dangerous Structures	Ken Glock - Billings MT	Hearing on July 22, 2019 postponed to August 19 - Judge dismissed cases September 2019	Boarded Buildings and Dangerous Structure for at least 2 decades	Dec 2016
Number 10	Number 11	4124 Murphy Ave	Open Storage of Junk, Debris, Junk Vehicles, Obstructing a Right of Way	Jack Webb - Billings MT	Hearing Jan 8 2020 - some progress, judge extended to spring for new status hearing	MI Cite Issued in October - Hearing November 13	May 2019
Number 11	New	2613 Missouri	Open Storage of Junk Debris; RV storage	Gerald Fosjord, deceased	Monitoring for continued compliance. Access to house is a concern.	Complaints started Dec 9 , 2019. BPD & CE Division combined efforts to remove un-wanted guests and secure property, clean up trash & debris	Dec 2019
Number 12 - retired	Off the list	246 Rhea Lane	Open Storage Junk, Debris Abandoned House	Jessica & Rich Westberg - Huntley MT	Property final clean up Jan 7 2020 - case closed	Non-appearance MI Citation Issued in August 2019	July 2019
Number 12	New	623 Avenue F	Open Storage of Junk Vehicles	Caroline & Jan Cahill - Great Falls, MT	Second Notice Sent Jan 6 2020	Complaint received Dec 2019	Dec 2019