

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 16, 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.

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

MINUTES: November 12, 2019 - Councilmember Clark moved for approval, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved. The December 9, 2019 Minutes were pending.

COURTESIES:

- Billings Police Department's Outstanding Citizen Award – Police Chief St. John gave John Putz this award for his heroic actions in saving the life of Chaney Little Light during an accidental electrocution incident at Pioneer Park.
- Billings Police Department Life-Saving Award – Police Chief St. John provided Officer Travis Fjetland with this award for his swift, life-saving measures to aid a man with a severe arterial laceration.
- Police Chief St. John recognized and thanked Jesse and Rachel Jennings of Jenico Design, for the blue-line American flag art work they provided to the Police Department on August 28th, and stated it would be proudly displayed at the Police Department.
- Mayor Cole recognized outgoing Councilmembers for their service and presented them with plagues. Councilmember Clark thanked the citizens of Ward V for electing him to represent and serve them 5 times over the past 18 years.

PROCLAMATIONS:

There were no proclamations.

COUNCIL REPORTS:

Councilmember Joy reported that the Community Development Board met and reported that property on Steffanich Dr. in the Heights area was purchased for rehabilitation and resale.

ADMINISTRATOR REPORTS - CHRIS KUKULSKI

- Mr. Kukulski stated there were no items in the ex parte notebook.

- Mr. Kukulski advised that Motions to Consider were prepared for the agenda items and given to the Council. Council was reminded that it is very important that the Clerks be able to understand and record the motions and actions taken accurately. Council was asked to be concise and clear when speaking their motion. The Clerks were advised to repeat motions when asked. Beginning in January the Clerk's office will begin including suggested motion language on Agendas. If the votes on motions are not unanimous, Councilmembers were asked to verify their opposing vote.
- Mr. Kukulski reminded Council that this was the last meeting of the year.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2 and 3.

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.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, in reference to Item 2 encouraged the City to collaborate with School District No. 2 to move Daylis Stadium to Amend Park. He stated the access was great from the interstate; there were plenty of hotels and restaurants nearby and there was plenty of parking.
- **Patrick Klugman, Big Sky Economic Development, 222 North 32nd Street, Suite 200, Billings, Montana**, in reference to Item 2 stated BSED sees Parks as being a driver of economic development. He stated his disappointment by the cuts proposed to the Parks CIP. He stated that the cuts would not help the workforce shortage and encouraged Council to invest in its local assets, Parks. He provided figures of grants and donations received and earmarked for the Coulson Park Master Plan and its development. He urged the City to partner with the private sector for its development and not place its parks on the back burner.
- **Tom Rupkas, 105 Legends Way, Billings, Montana**, in reference to Item 2 reaffirmed that the Parks Board's recommendation that there were funds allocated funds in the CIP, specifically new projects in the CIP. He reminded Council the CIP was not a budget allocation. He asked Council to approve new projects and development in the CIP. He urged Council to approve the Parks CIP and give a clear target for where it would like to be in 5 years.
- **Joe Holden, 316 North 26th Street, Billings, Montana**, in reference to Item 3 gave figures for a new city hall, the proposed One Big Sky Center and the Stillwater Building. He indicated the City would save millions of dollars by moving into the Stillwater Building. He spoke in favor of the City entering into negotiations with WC Commercial for a lease or lease to own or purchasing some or all of the Stillwater Building, with or without the attached parking garage.
- **Jesse Myers, 1806 South Mariposa Lane, Billings, Montana**, in reference to Item 3, stated that in 2012 the Federal government offered to give the Stillwater

Building to the County and City. He stated it cost \$4 million to remove the asbestos in the building and that the City could have had it for basically \$4 million. He stated the cost now for 4 floors was \$27 million and as a taxpayer it did not seem to be a good investment.

- **Scott Sanders, 1620 Arcadia Drive, Billings, Montana**, in reference to Item 3, stated he was a retired banker and during his career helped finance several commercial projects in the downtown area. He recalled when the Stillwater Building was abandoned by the Federal government and the condition it was in. He stated Mr. Holden invested his own capital into the building and removed the asbestos. He stated there had been no newly constructed high-rise buildings in Billings since the 1980s. He continued that the commercial rental market in the Billings would not support new construction. He supported the City entering into negotiations with Mr. Holden as the lease rates would be far less expensive than anything the City could build new.
- **Larry Seekins, 380 Camel Place, Billings, Montana**, in reference to Item 3, stated purchasing the Stillwater Building made sense, compared to new construction proposed during the One Big Sky Center conversations.

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

1. **CONSENT AGENDA:**

A. **Bid Awards:**

1. **2020 - 4 Wheel Mechanical Broom Sweeper.** (Opened 12/03/19) Recommend Titan Machinery; \$199,613.

2. **Two (2) New Current Model Articulated Motor Patrols.** (Opened 12/03/19) Recommend Tractor & Equipment; \$542,400.

3. **Current Model 12-Yard Dump Truck with Snow Plow Assy and Sander.** (Opened 12/03/19) Recommend I-State; \$174,418.

B. **Professional Engineering Services Contract** for W.O. 20-12: South 32nd Street West (King Avenue West to BBWA); DOWL; \$573,668.75.

C. **Professional Engineering Services Contract** for W.O. 20-15: Wicks Lane Reconstruction; KLJ Engineering; \$226,099.

D. **Par 3 Golf Course Management Contract Renewal** with Exchange City Golf Corporation (ECGC).

E. **Memorandum of Understanding (MOU)** between Housing Authority Board and City of Billings.

- F. **Memorandum of Understanding (MOU)** with Beartooth Resource Conservation and Development Area, Inc., (Beartooth RC & D); \$12,573.37 annual expense.
- G. **Purchase** of Eight (8) Replacement 30-foot diesel MET Transit Buses; \$3,025,152.
- H. **MET Transit's Updated Title VI Program.**
- I. **Preliminary Major Plat** of Grand Peaks Subdivision, 5th Filing, generally located on the east side of 54th Street West and north of Grand Avenue; J&S Development Co., owner; Sanderson Stewart, agent.
- J. **Preliminary Major Plat** of Grand Peaks Subdivision, 6th Filing, generally located on the east side of 54th Street West and north of Grand Avenue; J&S Development Company, owner; Sanderson Stewart, agent.
- K. **Preliminary Major Plat** of Trails West Subdivision, 4th Filing, generally located on the south side of Grand Avenue, west of 56th Street West; Ronald Frank, Douglas Frank and Deborah Frank and Dorn-Wilson Development, LLC, owner/subdivider; Sanderson Stewart, agent.
- L. **Preliminary Major Plat** of Trails West Subdivision, 5th Filing, generally located on the south side of Grand Avenue, west of 56th Street West; Ronald Frank, Douglas Frank and Deborah Frank and Dorn-Wilson Development, LLC, owner/subdivider; Sanderson Stewart, agent.
- M. **Preliminary Major Plat** of Trails West Subdivision, 6th Filing, generally located on the south side of Grand Avenue, west of 56th Street West; Ronald Frank, Douglas Frank and Deborah Frank and Dorn-Wilson Development, LLC, owner/subdivider; Sanderson Stewart, agent.

N. Bills for the Weeks of:

- 1. November 18, 2019 and November 25, 2019

Councilmembers Cromley and Brown moved to separate Item 1N1 in order to abstain.

Councilmember Clark moved to approve the entire Consent Agenda, with the exception of the separate item, 1N1, seconded by Councilmember Friedel.

Mayor Cole asked for clarification on Item 1B. David Mumford, Public Works Director, stated the scope of the work had changed, but the Public Works Department budget had money to cover the increase. He continued that monies were shifted from the Monad Avenue project to other smaller projects, such as this one.

Councilmember Joy expressed her concerns with approving the plats on the Consent Agenda, stating that the schools on the west end were completely full and that public safety services were stretched. She stated that low density sprawl was very costly to the City and she hoped that anyone choosing to live in those areas would support the City's efforts to maintain that expansion.

Councilmember Ewalt addressed an error in the staff memo description for Item 1K. Mr. Kukulski indicated anything the Mayor would sign on behalf of Item 1K would have the correct information.

On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of Item 1N1, seconded by Councilmember Friedel. On a voice vote the motion was approved 9-0, Councilmember Brown and Cromley abstained.

REGULAR AGENDA:

2. RESOLUTION 19-10842 approving FY2021 - 2025 Parks and Recreation's Capital Improvement Plan. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Chris Kukulski, City Administrator, gave a presentation outlining the changes recommended to the Parks' Capital Improvement Plan. Mr. Kukulski reminded Council that was only a plan and not a budget or appropriation document. Mr. Kukulski stated that it was a policy regularly accepted by past Councils that when it came to projects in Public Works, there was a component for inflationary construction costs to consider. He continued that that policy did not hold true for Park District 1 construction costs, which were held at \$2 million per year. He explained that inflated costs were eating away at the Parks' purchasing power, the equivalent of \$400,000 since the adoption of PD1, giving the Parks less and less to work with for repairs and maintenance. He explained that the Parks' Board made a request for a catch-up provision. He stated staff recommended the creation of a Park Development Fund. He explained that developers either donate land or cash-in-lieu of for park development. He stated those were the only 2 scenarios in which parks could be developed and there really had been no new park development for the past 38 years. Mr. Kukulski reviewed 3 points: 1) annually the City was losing purchasing power by capping PD1 to \$2 million per year and no consideration for inflation to construction costs; 2) the Parks Board recommended a catch-up provision to regain all that was been lost since 2012; and 3) the creation of a Park Development Fund. Mr. Kukulski stated the catch-up provision and Park Development Fund were removed, but Council could add any or all of it back into the conversation. Mr. Kukulski reminded Council that other than some monies committed to Centennial Park, no other dollars for the past 2 fiscal years had been dedicated to developing any other parks. He continued that while he supported private donations and contributions to park development, the burden should not lie solely there. He stated that

by removing these from the conversation, it did not change commitments made in the past, if any were made.

Mr. Kukulski reviewed funding sources and projects. He continued with the funding request, noting that a 3% annual inflation adjustment would begin in FY21.

Councilmember Ewalt moved to approve the FY2021 - 2025 Parks and Recreation's Capital Improvement Plan as recommended by staff, including 3% inflationary adjustment, seconded by Councilmember Cromley.

Councilmember Cromley moved to amend the motion to add the \$400,000 catch-up provision, seconded by Councilmember Joy. Councilmember Neese asked Parks Director, Michael Whitaker, if the \$400,000 was approved by Council, would it go into operations or be solely used for maintenance and repairs. Mr. Whitaker responded that the \$400,000 would go into capital improvement projects and the 3% inflation would go into operations.

Councilmember Clark reminded viewers that should the motion pass as stated, it would increase taxes. He continued that Billings was very different from other cities in Montana because the other cities were allowed to increase their property taxes annually by 1.5%. He stated Billings was prohibited from doing that because of the City's Charter and that this increase was long overdue.

Mayor Cole confirmed with Andy Zoeller, Finance Director, that an increase to a property owner who had a home valued at \$200,000 for a \$400,000 catch-up provision would be basically \$6.50 per year, plus the 3% increase, which would roughly be .26 cents per year.

Councilmember Ronning asked whether private organizations that had been working toward fundraising for various parks' development, would be hindered from continuing to do so. Mr. Kukulski stated nothing prevented the community from investing in their parks. He confirmed that the current motion would not include the Park Development Fund. He stated that an amendment to include the Park Development Fund would be needed in order to include it, otherwise the City would not appropriate any monies toward park development.

Mayor Cole stated he supported the \$400,000 catch-up provision, but would want to split that by making an additional motion that \$200,000 would go toward the catch-up provision and \$200,000 would be toward the creation of a Park Development Fund.

Councilmember Clark confirmed with Mr. Kukulski that all of the PD1 projects and a short list of other projects would be included if the current amended motion were approved.

Councilmember Brown stated he would not support the amended motion. He said it was not an accident made by previous Councils to cap the CIP at \$2 million without inflation. He said he might consider supporting the Park Development Fund.

On a roll call vote, the amendment to the motion failed 6-5, with Councilmembers Neese, Ewalt, Friedel, Gibbs, Clark and Brown voting in opposition.

Councilmember Cromley moved to amend the original motion by adding in the Park Development Fund, seconded by Councilmember Ronning.

Councilmember Joy asked for clarification on the costs to the taxpayer, based on a \$200,000 home. Andy Zoeller, Finance Director, provided the details as outlined in the December 9th Council presentation for each scenario.

Discussions continued about the inflation percentage, overall growth to tax base to the City and tax adjustment projections over the next several years with Mr. Zoeller stating that the difference would be within cents of the projections and not dollars.

Councilmember Brown moved to amend the amendment to approve the Parks CIP, including the Park Development Fund, but the CIP would stretch over a 10-year period, rather than the proposed 5-year period, and the collection would begin in FY22, at an amount of \$100,000 per year for 10 years to reach \$1 million, and staff would report to Council their recommendations for how and where the funds would be allocated, seconded by Councilmember Friedel.

Mr. Kukulski reminded Council that the CIP was a 5-year plan, but there could be a notation made that the Council wished to extend the Parks' CIP for an additional 5-year period. He continued that the CIP was reviewed every year and some changes were often made to it each year, looking forward.

Councilmember Neese spoke against the amendment to the motion to amend, and the motion to amend and the original underlying motion that would approve the Parks CIP, with 3% inflation, because the public safety mill levy should be a priority. He continued that the City would be asking too much from its citizens.

Councilmember Ronning stated her support because Parks was an investment for the entire community and improved the quality of life for everyone.

Councilmember Clark stated he could not support the proposed amendment because it allocated so little money per year, it would be ineffective. He continued that Parks' equipment, master plans, irrigation systems, etc. were so expensive that \$100,000 toward development would not begin to cover anything and he gave Centennial Park investment of \$2 million as an example. He stated that in that scenario it would take more than 10 years to begin park development.

Councilmembers asked for clarification on Councilmember Brown's motion. Councilmember Brown reiterated that his motion to amend Councilmember Cromley's amendment was to approve the Parks' CIP, include the Park Development Fund, and that \$100,000 would be placed in the Park Development Fund each year, beginning in FY2022, for 10 years, so that a total of \$1 million would have been placed in the fund over a 10-year period. He clarified that the Park Development Fund was intended for further development of Centennial, Coulson and Poly Vista Parks, only.

Mayor Cole clarified that per Councilmember Brown's motion, staff would make recommendations to Council for how and where the funds would be allocated.

Discussion continued to clarify the intention of Councilmember Brown's motion to amend. Councilmember Brown withdrew his motion and Councilmember Friedel withdrew his second.

Councilmember Brown attempted to explain the intent of his motion again. Councilmember Brown moved to amend Councilmember Cromley's amendment to include the \$4 million for Centennial, Coulson and Poly Vista Parks, stretched over a 10-year period, rather than a 5-year period, beginning in FY2022, and staff would report to Council their recommendations for how and where the funds would be allocated, seconded by Councilmember Ronning. On a roll call vote the motion failed 4-7, Councilmembers Cromley, Yakawich, Neese, Ewalt, Joy, Friedel, and Clark voted in opposition.

Discussion ensued concerning Councilmember Cromley's amendment to the original motion. On a roll call vote the motion failed 5-6, Councilmembers Yakawich, Neese, Ewalt, Friedel, Gibbs, and Brown voted in opposition.

Mayor Cole moved to amend the original motion to add \$400,000 per year into Park Development, beginning in FY2022 to FY2025, rather than FY2021, and staff would report to Council their recommendations for how and where the funds would be allocated for all Parks projects, not just for Centennial, Coulson and Poly Vista Parks, seconded by Councilmember Joy.

Councilmember Clark stated the budget was still too lean to make any progress toward parks' development. Councilmember Ronning stated the community needed vision and Council commitment toward the vision and approving something toward the parks was important even if the City could not fund an entire project. She encouraged community members to support fundraising efforts for Castle Rock Park and other parks.

Councilmember Ewalt called for the question, no second was recorded. On a voice vote, the motion to call the question was unanimously approved.

On a roll call vote, Mayor Cole's motion to amend the original motion failed 5-6, Councilmembers Yakawich, Neese, Ewalt, Friedel, Clark and Brown voted in opposition.

Councilmember Neese made a substitute motion to approve and adopt the Parks' CIP as recommended by staff, leaving PD1 at \$2 million per year for the full 5 years. The motion died for lack of a second.

Councilmember Neese called for the question, no second was recorded. On a voice vote, the motion to call the question was unanimously approved.

On a roll call vote the original motion by Councilmember Ewalt to approve the FY2021 - 2025 Parks and Recreation's Capital Improvement Plan as recommended by staff, including 3% inflationary adjustment, failed 5-6, Councilmembers Gibbs, Ronning, Clark, Brown, Neese and Mayor Cole voted in opposition.

Mayor Cole moved to reconsider the vote, seconded by Councilmember Cromley.

Councilmember Ewalt called for the question, no second was recorded. On a voice vote, the motion to call the question was approved 10-1, Councilmember Neese voted in opposition.

On a voice vote on the motion to reconsider the vote, the motion was approved 10-1, Councilmember Neese voted in opposition.

Councilmember Ewalt moved to approve the FY2021 - 2025 Parks and Recreation's Capital Improvement Plan as recommended by staff, including 3% inflationary adjustment, seconded by Councilmember Cromley. On a roll call vote the motion was approved 9-2, Councilmembers Ronning and Neese voted in opposition.

Mayor Cole called for a recess at 7:40 p.m.

Mayor Cole called the meeting to order at 7:50 p.m.

3. AUTHORIZATION TO ENTER INTO NEGOTIATIONS with WC Commercial on leasing, leasing to own, or purchasing 316 North 26th Street for City office space. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Kevin Iffland, Assistant City Administrator, gave a brief PowerPoint presentation, with information about the RFP review committee, timeline of the RFP, and space studies and needs. He gave the current square footage deficiencies at 12,000 and the projected space deficit at an additional 15,000 sq. ft. He reviewed the process and evaluation criteria and listed the agencies that submitted proposals. He stated that some of the proposers gave concepts without identifying particular properties, while other proposers provided specific buildings or properties. Mr. Iffland provided the reasons the review committee recommend the City enter into negotiations with WC Commercial and a third party negotiator to flush out details.

Mr. Iffland offered different scenarios for utilizing the current City Hall building for a Law and Justice Center; or selling it partially or wholly, etc. He reminded Council that any recommendations would be brought to the Council for a decision.

Mr. Iffland introduced Randy Hafer of High Plains Architects, who was a part of the review committee to speak about his perspective on the topic. Mr. Hafer stated that the City desired to keep its City Hall in the downtown area. He continued that that was very limiting and really the only option was the Stillwater Building, considering the City's space needs and opportunity for future growth. He stated that other proposed properties were located on the far edges of the City's core and were not really developed and would need to be constructed. He stated there were several very positive aspects about the Stillwater Building, including that it was built as a government building and had plenty of space. He stated the building was structurally sound and just needed to be remodeled. He added that to build a building of that quality today would be far more expensive. He recommended the City enter into negotiations with WC Commercial on the Stillwater Building and bring its findings to Council for review.

Discussions followed concerning remodeling costs; lease-to-own options for the floors the City would utilize at the Stillwater Building; the qualifications met by other proposers and the evaluation process; specifics about the facilities master plan; future space needs; timelines and financing options.

Councilmember Clark left the meeting at 8:28 p.m. and returned at 8:35 p.m.

Councilmember Ewalt moved to authorize the City to enter into negotiations with WC Commercial on leasing, leasing to own, or purchasing 316 North 26th Street for City office space, seconded by Councilmember Neese.

Councilmember Brown inquired about the process to hire a consultant to assist with negotiations. Mr. Kukulski stated this was not a budgeted expense and he anticipated he would need to ask Council to approve the expense of a consultant after the RFP process to locate a consultant was completed.

Councilmember Yakawich stated he was on the review committee and respected the process of reviewing the RFPs in a way that was very fair and professional. He stated he appreciated the opportunity to get facts and figures and see it through to the end. He stated he was very supportive of space for a Law and Justice Center.

Councilmember Clark stated his involvement on the review committee and that he believed the committee arrived at the correct recommendation.

Councilmember Joy stated she would not support the motion and reflected on Minutes from a Council meeting in 2012, wherein a Councilmember spoke about purchasing the Stillwater Building at auction. She stated the City should consider other possibilities if the numbers were not agreeable.

Councilmember Neese stated his involvement on the review committee and his enjoyment in the process. He complimented and thanked Mr. Hafer for his expertise and Mr. Iffland for his leadership. He stated that while touring the City Hall facilities it was very apparent that some City staff were working in unsuitable spaces. He continued that the Stillwater Building would give immediate relief for space needs well into the future. He gave his support of the motion.

Councilmember Clark reminded Council that when the Stillwater Building, formerly known as the James F. Battin Building, was offered to the City for \$1, staff had advised that it would cost the City \$20 million for asbestos abatement, alone, and that did not include remodeling it afterward to meet standards.

Councilmember Ronning interjected that the City would have owned the entire building at that point and she would not support the motion. She asked about whether the City would have to retract its interest in the One Big Sky Center plan that had cost the City significant funds and was taken to the Legislature. She stated the Stillwater Building was 55 years old, was not a good investment for the City, and the taxpayers deserved better.

Councilmember Brown stated he supported entering into negotiations to discover whether the Stillwater Building would be a good fit for the City's needs. He stated the Council may learn that it is not a good fit, but the negotiations needed to occur to unveil that. He stated there were other proposers that the City could go back to if the Stillwater Building was unsuitable, and a solution for the City's space needs could not continue to be delayed.

Mayor Cole stated a Plan B may be to locate interim space because the need was right now. He suggested locating something smaller for certain department's that could benefit from more space right away. He encouraged seeking less expensive options.

Councilmember Ewalt called for the question, no second was recorded. On a voice vote the motion was approved 10-1, Councilmember Joy voted in opposition.

On a voice vote, the original motion authorizing entering into negotiations with WC Commercial was approved 9-2, Councilmembers Joy and Ronning voted in opposition.

PUBLIC COMMENT on “NON-AGENDA ITEMS”. Speaker Sign-in required.
(Restricted to ONLY items not on this printed agenda. Comments are limited to 3 minutes. Please sign the roster at the cart located at the back of the Council chambers or at the podium.)

The public comment period was opened.

- **Kevin Nelson, 4235 Bruce Avenue, Billings, Montana**, cautioned Council about the effect of a public safety mill levy on Class A business owners and gave examples of their tax contributions and the possible increase to them due to a public safety mill levy. He stated the Council would not want to discourage commercial business from being in Billings because the taxes were too high. He stated the tax structure was skewed for certain property owners.

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

COUNCIL INITIATIVES:

There were no Council initiatives.

There was no further business, and the meeting adjourned at 9:10 p.m.

CITY OF BILLINGS

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

ATTEST:

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

