

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

February 26, 2018

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 6:30 p.m. and served as the meeting's presiding officer. Councilmember Brewster gave the invocation.

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

MINUTES: January 22, 2018 – Councilmember Clark moved for approval, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved. February 12, 2018 - Councilmember Clark moved for approval, seconded by Councilmember Ewalt. On a voice vote, the motion was unanimously approved.

COURTESIES:

- There were no courtesies.

PROCLAMATIONS:

- Mayor Cole pronounced February 26 to March 4, 2018, as National Peace Corps Week. Several Corps volunteer alumni were recognized, approached the podium and introduced themselves. A group photo was taken with the Mayor and Council.

ADMINISTRATOR REPORTS - BRUCE MCCANDLESS

- Mr. McCandless stated that the exparte notebook contained a public meetings schedule concerning One Big Sky Center project, provided by BSEDA.
- Mr. McCandless advised that contract amounts for Consent Agenda Items C and D, had changed per the explanation given by Mr. Ploehn, Airport Director, in the Friday Packet. He stated the items should be separated so motions to amend the amounts could be voted upon for approval.
- Mr. McCandless stated, concerning the One Big Sky Center project, a request for public monies would likely be the subject at the next Work Session meeting, March 5th, and action proposed at the March 26th Regular Business meeting.
- Mr. McCandless introduced Chief St. John who gave an update concerning changed procedures at the evidence facility since the discovery of recent thefts.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1 and 7 ONLY. Speaker sign-in required. (Comments are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign the roster located on the cart at the back of 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.

- **Michael Mayott, President of Amend Park Development Council (APDC), 2424 Locust Street, Billings, Montana**, in reference to Item 1E, requested the Council approve the annual budget and fee structure. Mr. Mayott stated that the APDC management had turned the soccer park into a profitable, well-run facility in a short amount of time. He explained improvements made to the concessions system.

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

1. **CONSENT AGENDA**

A. **Bid Awards:**

1. **W.O. 18-10, Poet Streets Overlay and Curbing.** (Opened 2/13/18)
Recommend Askin Construction, LLC; \$793,896.94.
- B. **Amendment No. 2, W.O. 15-18: Water Treatment Plant Clearwell No. 2 Interior Re-Coat**, Professional Services Contract, Kadrmass, Lee, and Jackson, Inc.; \$22,441.50.
- C. **Amendment No. 4, Airport's Operations Building Paving Project**, Civil Engineering Services, Morrison-Maierle, Inc.; ~~\$117,697~~, \$136,756 (Amended).
- D. **Amendment No. 5, Airline Support Facility**, Civil Engineering Services, Morrison-Maierle, Inc.; ~~\$51,954~~, \$32,895 (Amended).
- E. **Approval** of proposed Amend Park Development Council 2018 annual budget and fee structure.
- F. **Approval** of Utility Agreement with Montana Department of Transportation for installation of a new water main at the roundabout at Zimmerman Trail and Highway 3; estimated \$135,454.33.
- G. **Resolution of Intent 18-10699** to create Park Maintenance District 4041, Annafeld Parks, and setting a public hearing date for March 26, 2018.
- H. **Resolution of Intent 18-10700** to create Special Improvement District 1405 for streetlight installation in the EBURD area, and setting a public hearing date of March 26, 2018.

- I. **Resolution of Intent 18-10701** to create Special Improvement Lighting Maintenance District 323, to provide a source of funding for operation and maintenance of the street lights in Special Improvement District 1405, and setting a public hearing date of March 26, 2018.
- J. **Resolution 18-10702** authorizing a grant application to Land Water Conservation Fund to improve the Rose Park Playground; up to \$150,000.
- K. **Second/Final Reading Ordinance 18-5702 expanding Ward III (Annexation 17-01)** for an approximate 5-acre parcel of land located at 301 Orchard Lane. L.B. Stone Properties Group, LLC, owner.
- L. **Final Plat Approval** of Tule Ridge Subdivision.
- M. **Bills and Payroll:**
 - 1. January 29, 2018
 - 2. February 6, 2018

Councilmember Cromley separated Items 1C and 1D to amend the amounts for approval, and 1M2 in order to abstain.

Councilmember Joy separated Item 1L for discussion.

Councilmember Brown separated Items 1M1, 1C and 1D in order to abstain.

Councilmember Brewster moved for approval of the Consent Agenda with the exception of Items 1C, 1D, 1L, 1M1 and 1M2, seconded by Councilmember Friedel. On a voice vote, the motion was unanimously approved.

Councilmember Cromley moved for approval of Item 1C with the amount amended from \$117,697 to \$136,756, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Cromley moved for approval of Item 1D with the amount amended from \$51,954 to \$32,895, seconded by Councilmember Friedel. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Joy asked Wyeth Friday, Planning Director, whether safety concerns had been considered for the approach from Molt Road, Rimrock Road to 62nd Street West. Mr. Friday stated that the Public Works Department was working with the Montana Department of Transportation on a plan to reconstruct the intersection with a round-about at that location. Councilmember Joy stated that area was zoned Community Commercial and that would invite additional traffic to the area. Councilmember Joy moved for approval of Item 1L, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember Clark moved for approval of Item 1M1, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 10-0, Councilmember Brown abstained.

Councilmember Clark moved for approval of Item 1M2, seconded by Councilmember Brewster. On a voice vote, the motion was approved 10-0, Councilmember Cromley abstained.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 18-10703 assessing the cost of cutting and/or exterminating weeds. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Wyeth Friday, Planning Director, gave a brief presentation, addressing both Items 2 and 3. He explained Code Enforcement's processes, shared annual statistics, and stated that the compliance rate for 2017 was at 97%. He noted compliance had greatly improved in recent years due to staff's efforts.

Mayor Cole inquired about fees and penalties and whether those should be increased. He asked whether attorney fees were associated with Items 2 and 3 or was all of the legal action handled in-house by the City's Legal Department. Mr. Friday responded that there were no attorney fees included because it was all handled in-house.

Councilmember Yakawich expressed a desire to eliminate chronic annual repeat offending.

Councilmember Ewalt asked staff to provide equipment maintenance costs for using Parks Department equipment for cutting.

Councilmember Ronning suggested repeat offenders receive increased penalties each time Code Enforcement was required to act.

The public hearing was opened. There were no speakers and the public hearing was closed.

Councilmember Clark moved for approval Item 2, seconded by Councilmember Cromley. On a voice vote, motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 18-10704 assessing the cost of abatement for properties located at 709 Winemiller Lane and 114 South 29th Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

The public hearing was opened. There were no speakers and the public hearing was closed.

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

4. PUBLIC HEARING AND RESOLUTION 18-10705 authorizing the sale of portions of City-owned properties along North 27th Street and providing certain easements to Montana Department of Transportation. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Councilmember Yakawich asked whether material for the construction projects would be stored on properties along 27th Street. Mr. McCandless stated he did not believe that to be the case and that none of the properties were large enough to hold materials.

The public hearing was opened. There were no speakers and the public hearing was closed.

Councilmember Cromley moved for approval Item 4, seconded by Councilmember Clark. On a voice vote, motion was unanimously approved.

A motion was made by Councilmember Cromley to rearrange Items 5 and 6, so that Item 6 would be heard before Item 5, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

6.5. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE: a variance from Section 6-1200, BMCC, allowing the alley located at 3123 8th Avenue South to remain unpaved. Staff recommends denial of variance. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless, Interim City Administrator, stated the variance was regarding paving the alley from the exit point of the proposed parking lot for approximately 50 feet to where the alley met the street. Mr. McCandless explained that the Public Works staff recommended denial of the variance because there were no special circumstances that would prevent The Friendship House from paving that portion of alley. He continued that paving the alley would mitigate some negative effects to the surrounding area. Mr. McCandless stated that the requirement to pave the alley was not in Section 6-1200, BMCC, but in another section of the code. Mr. McCandless stated it was not certain that the Council could grant the waiver, even if one were permitted to do so under the City's

Code. He recommended the public hearing be opened and continued, along with Council action until the March 12th regular business meeting.

The public hearing was opened.

- **Matt Lundgren, Executive Director, The Friendship House, 4251 Iron Horse Trail, Billings, Montana**, stated he felt the Council could make a decision about the variance and he opposed continuing the matter. He stated that hardship could be argued in that The Friendship House is a non-profit and paving the alley would be a financial hardship. He suggested the City agree to The Friendship House grading and graveling the alley instead. He offered to sweep any gravel that entered the City street from the alley back into the alley.

Councilmember Cromley moved to approve the variance, seconded by Councilmember Yakawich. Councilmember Yakawich supported approval of the variance and stated The Friendship House was a good neighbor and steward to the neighborhood. He said they maintained the alleyway behind their building and he was confident they would do the same for this alley. Councilmember Cromley asked Brent Brooks, City Attorney, for clarification on any requirement for paving alleys. Mr. Brooks stated there were two sections of the code that were in question, Section 6-203(b) and Section 6-1210, BMCC. He encouraged Council to continue the matter. He stated additional research and discussions with Public Works and Planning staff needed to occur to clarify paving requirements. Councilmember Cromley pondered whether it was too late as the special review to locate a parking lot had been approved. Mr. Brooks responded that even if a special review were approached with conditions, that a development would still have to comply with the City's site development ordinances, separate and apart from the conditional use of the land itself. Councilmember Cromley asked for a definition of "hardship". Mr. Brooks stated "hardship" typically is considering the topography of the land, extensive costs, mitigation of development requirements, etc. He continued that there was no mention of "undue hardship" in the referred sections of the code. Mayor Cole stated the staff memo had been very deficient in its explanation of the basis for requiring paving alleyways; it gave unclear criteria for the Council to follow to grant or deny a variance and whether conditions could be applied if the variance were approved.

Councilmember Clark stated this approach had been used in the past with a church that was utilizing the alley as an exit from its parking lot. Councilmember Ewalt voiced his support to postpone a decision on the variance as it would not interfere with the building of the parking lot. Councilmember Ronning voiced her support to approve the variance.

Councilmember Clark made a substitute motion to continue the public hearing and postpone Council's decision until March 12th regular business meeting to allow staff time to clarify site development requirements, seconded by Councilmember Brewster. Councilmember Brewster voiced his support for the motion. Councilmembers Joy and Brown also supported the motion. Mayor Cole stated his support for the motion as he

wanted clarity on the legality of the requirement. The substitute motion passed 9-2, Councilmembers Cromley and Yakawich voted in opposition.

5.6. PUBLIC HEARING AND SPECIAL REVIEW 961: a special review to locate a public parking lot in a Residential 6,000 (R-60) zoning district, generally located at 3123 8th Avenue South. The Friendship House of Christian Service, owner; Matt Lundgren, executive director for Friendship House, agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Monica Plecker, Planning Manager, provided a brief presentation and reminded Council that there were three criteria to consider in their decision, i.e., 1) an allowed use in the zone; 2) meets requirements of the zoning district; and 3) does not impose unmitigated negative effects on the surrounding properties. She continued that Special Reviews could have conditions placed on them. She stated the existing building on the subject property would be removed to make way for the parking lot. Ms. Plecker stated the Zoning Commission had forwarded a 5-0 recommendation for approval.

The public hearing was opened.

- **Matt Lundgren, Executive Director, The Friendship House, 4251 Iron Horse Trail, Billings, Montana**, stated The Friendship House served many families in the area and a nearby parking lot was needed to remove busses from the streets surrounding the building. He stated removing the busses from the curbs around the building would provide better parking for parents and patrons and increase safety. Mr. Lundgren provided Council with a petition of support signed by neighbors, staff, board members, and parents of The Friendship House.
- **Jim Ronquillo, 820 South 28th Street, Billings, Montana**, stated there were multiple uses for the facility, including neighborhood meetings, etc., but parking had become a concern. He voiced his support for the special review for a parking lot.
- **Adam Liberty, 4162 Waterford Dr., Billings, Montana**, Community Engagement Officer, The Friendship House, stated cars were temporarily parked 2 to 3 deep during rush hours and he supported the special review for a parking lot.
- **Jessica Sprattler, 623 Cook Avenue, Billings, Montana**, stated she is a Friendship House parent with children who attend there. She stated parking was a “nightmare” around the facility and the house that would be demolished had had a police raid conducted during the release of classes. She voiced her support for the demolition of the house and the installation of a parking lot.
- **Tim Mascarena, 243 Clark Avenue, Billings, Montana**, The Friendship House Boardmember and alum, stated the proposed parking lot was the best use of the property. He stated the parking lot would be used to store the busses and that would make room for more cars to park around The Friendship House.

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

Councilmember Cromley moved for approval Item 6, and the Zoning Commission's recommendation, seconded by Councilmember Yakawich.

Councilmember Ewalt asked if The Friendship House was established before zoning was adopted which required a specific number of parking spaces for the facility. Mr. Lundgren responded that The Friendship House was established in 1957, before zoning code adoption. He continued that should the Special Review be approved, it would help The Friendship House become compliant.

Mayor Cole stated his concern about condition 3, "the site will be developed in conformance with all applicable zoning and site development regulations." He continued that 20 years from now someone could say that is inconsistent with any variance. He stated that if a variance was later approved, that condition 3 was not intended to be inconsistent with any approved variance that may be approved later. On a voice vote, motion was unanimously approved.

7. APPROVAL of employment agreement, recruiting method and schedule for hiring a permanent City Administrator.

Bruce McCandless stated the recruiting method and schedule had been discussed during a work session meeting. He continued that another Request for Proposals would be advertised shortly for a search firm.

Councilmember Cromley moved for approval of Item 7 as proposed, seconded by Councilmember Clark.

Councilmember Brewster stated Council needed to decide whether it wished to form a smaller committee or have a committee of the whole involved in the process. He stated he wished to be part of the process and suggested that if a committee of the whole was to be involved that there be more meetings scheduled. Councilmember Yakawich supported the involvement of an Ad-Hoc Committee, too. Councilmember Brewster stated the Council would rely on the consultant for more input on scheduling and public input. Councilmember Clark supported committee of the whole involvement.

Karla Stanton, Human Resources Director, stated staff had conducted extensive research concerning compensation packages comparing regional cities of comparable size to Billings. She provided information rendered from that research and stated that apart from salary information, compensation packages varied greatly. Ms. Stanton explained the pre-tax retirement vehicle, 457 deferred comp plan, and how the City's employees utilized it.

On a voice vote, motion was unanimously approved.

PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required.
(Restricted to ONLY items not on this printed agenda. Comments are limited to 3

minutes. Please sign the roster located on the cart at the back of 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:

- Councilmember Ewalt moved to add gymnastics studios to Residential-Professional zoning, seconded by Councilmember Brewster. On a voice vote, motion was unanimously approved.

There was no further business, and the meeting adjourned at 9:00 p.m.

CITY OF BILLINGS

BY: William A. Cole
William A. Cole, Mayor



ATTEST:

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