

## REGULAR MEETING OF THE BILLINGS CITY COUNCIL

February 8, 2021

The Billings City Council held the regular meeting via virtual video-conferencing due to the COVID-19 response. Mayor Cole called the meeting to order at 5:31 P.M. and served as the meeting's presiding officer. Councilmember Yakawich gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Shaw, Yakawich, Neese, Ewalt, Joy, Choriki, Ronning, Boyett and Brown. Councilmember Purinton was excused.

### **COVID-19 Update by Joint Information Center - Melanie Schwarz, BSED**

Melanie Schwarz from Big Sky Economic Development and a member of the Joint Information Center (JIC), provides weekly updates to the Council and community on the COVID-19 responses with a newsletter every Monday.

She stated the City had received its scheduled doses of vaccines for both hospitals and at RiverStone Health. She added the community vaccine site would start giving vaccines the following week. She stated they would be giving vaccines by appointment only at the community clinic and people could schedule an appointment through phone or the electronic medical records application through the hospitals. She added COVID cases and hospitalization numbers in the County were decreasing.

She addressed Council's questions concerning vaccines and community vaccination efforts.

### **MINUTES:**

**December 14, 2020** – Minutes were amended to remove a line on page 8 from Councilmember Purinton. Councilmember Cole moved for approval of the amended minutes, seconded by Councilmember Boyett. By a show of hands vote, the motion was unanimously approved.

**January 11, 2021** – Councilmember Boyett moved for approval of the minutes as written, seconded by Councilmember Shaw. By a show of hands vote, the motion was unanimously approved.

**January 25, 2021** – Councilmember Joy moved for approval of the minutes as written, seconded by Councilmember Boyett. By a show of hands vote, the motion was unanimously approved.

### **COURTESIES:**

Mayor Cole stated the weather forecast showed extremely cold temperatures and reminded the public that shelters and transportation were available to the homeless.

Councilmember Neese thanked the Heights Optimist Club for their recent donation of \$3,500 to the Parks and Recreation Department.

**PROCLAMATIONS:**

There were no proclamations.

**COUNCIL REPORTS:**

Councilmember Joy stated the Community Development Board (CDB) was deliberating how to spend the CARES Act funding, as there were restrictions on how the funds could be spent.

**ADMINISTRATOR REPORTS - CHRIS KUKULSKI**

Mr. Kukulski stated Gina Dahl, Assistant City Attorney, had been hired as the new City Attorney.

He stated a fire engine had been involved in an accident and added none of the firefighters sustained any long-term injuries. He stated the truck replacement discussion would happen within the next few weeks.

He reminded Council that staff was trying to arrange a Council photo for Monday evening and hoped the date worked well for everyone.

Mr. Kukulski gave a brief Legislative update and stated there were no hearings scheduled for the current week.

He stated in regard to Consent Agenda Item 1A1, the City had been in communication with the Heights Water District attorney regarding the City's appointment to the board, and recommended Council proceed with their appointment.

He added in regard to Consent Agenda Item 1D, Mike Mayott, was in attendance to give an overview of some highlights from the Amend Park Development Council.

Mr. Kukulski reminded Council that Monday, February 15<sup>th</sup> was President's Day, so the Council meeting would be held on Tuesday, February 16<sup>th</sup> and there would be an Executive Session that evening starting at 4:30 pm.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: 1 ONLY. Speaker sign-in required.** (Comments are limited to three (3) minutes or as set by the Mayor. During COVID-19, the method to take and hear public comment has changed. Individuals wishing to give public comment will call a dedicated phone line (237.6196) and held in queue until it is their turn to comment. 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.

- **Randy Hafer, 702 North 23<sup>rd</sup> Street, Billings, Montana:** in reference to Consent Agenda 1C, stated the Traffic Study concerning one-way to two-way street conversions had been a long term priority of downtown property and business owners.

There were no other callers, and the public comment period was closed.

1. **CONSENT AGENDA**

A. **Mayor Cole recommends that Council confirm the following appointments:**

1.	Name	Board/Commission	Term	
			Begins	Ends
1	Jeff Engel	County Water District of Billings Heights	02/08/21	12/31/24

B. **Bid Awards:**

1. **W.O. 19-21: WRF Influent Lift Station Project.** (Opened 12/15/20) Recommend RSCI; Schedule 1 only; \$5,291,000.
2. **W.O. 20-02: Missing Sidewalk/Miscellaneous.** (Opened 1/26/21) Recommend Riverside Contracting, Inc.; \$628,902.50.
3. **Rimtop Drive Overlay Project.** (Opened 1/26/21) Recommend FirstMark Construction; \$109,243.

C. **Downtown Billings Traffic Study Alternative Prioritization and Public Preference Plan.**

D. **Amend Park Development Council (APDC) 2021 proposed annual budget and fee structure.**

E. **Recommendation of approval** to the Policy Coordinating Committee for Amendment I of the 2020-2024 Transportation Improvement Program (TIP).

F. **Amendment No. 1, W.O. 20-33: Public Works GIS Services,** Professional Services Contract, HDR Engineering, Inc.; \$829,307.

G. **Amendment** to BUFSA Agreement funding formula.

H. **Amendment No. 2** to 2018 Long Range Transportation Plan.

I. **Grant Application Request** to submit FY21-FY22, Montana State Historic Preservation Office Certified Local Government (CLG) grant application; \$6,000.

- J. **Donation** to the Public Library for mobile hotspots and data plans from the Billings Library Foundation; \$7,000.
- K. **Donation** to Police Department for a Traeger Pro 34 from King's Ace Hardware; \$699.
- L. **Final Plat** of Descro Subdivision, 7th Filing.
- M. **Resolution 21-10924 of Intent** to create SILMD 330 and amend SILMD 280 and set a public hearing date of March 08, 2021.
- N. **Resolution 21-10925** authorizing the use of alternative project delivery for West End water projects.
- O. **Bills for the Weeks of:**
  - 1. January 4, 2021
  - 2. January 11, 2021

Councilmember Ewalt separated Consent Agenda Item 1G for discussion.

Councilmember Brown separated Consent Agenda Item 1O1 in order to abstain, because his employer was in receipt of payment for claims.

Councilmember Neese separated Consent Agenda Item 1B2 in order to abstain, because he owned property in the Missing Sidewalks project.

Councilmember Neese separated Consent Agenda Item 1C for discussion.

Councilmember Shaw moved for approval of the entire Consent Agenda, with the exception of Items 1B2, 1C, and 1G, seconded by Councilmember Boyett.

Mike Mayott, Executive Director of Amend Park Development Council, gave a brief overview of the various events that had been held at Amend Park as well as the events that had been canceled due to COVID-19. He gave an overview of the annual expenses and the grants that had been received. He showed photos of the improvements that had occurred and an aerial view of the park.

Councilmember Ewalt asked for clarification on funding for Consent Agenda 1B1. Debi Meling, Public Works Director, stated the funding was coming from a sewer rehab project and would include dropping influent lines in order to increase the slope.

Councilmember Ewalt asked for clarification on Consent Agenda Item 1B2. Ms. Meling stated it was a carryover of the Missing Sidewalks Project and was the 2<sup>nd</sup> bid for all the work that had been planned for the previous year.

Councilmember Ewalt asked for clarification on the right-of-way purchases for Consent

Agenda Item 1E. Ms. Meling stated the appraisals were from 8 years ago and staff was currently working on updating the appraisals and would start creating offers after they were received.

Councilmember Neese asked when the appraisals would come to Council for approval. Ms. Meling stated it could be a few months and they would be brought back to Council after they were incorporated into right-of-way agreements.

Councilmember Ewalt asked for financial impact clarification on Consent Agenda Item 1M. Ms. Meling stated there would be a very small adjustment to SILMD 280 because several lights were on 32<sup>nd</sup> Street instead of on Gabel Road.

Councilmember Ewalt stated Section 9 of the resolution stated the protest would occur in Council Chambers instead of a virtual meeting. Ms. Meling stated staff would review the resolution and make the appropriate changes.

Mayor Cole asked if Council had any issues with allowing staff to make the appropriate changes to the resolution.

Councilmember Neese asked for legal counsel.

Gina Dahl, City Attorney, stated it was appropriate for Council to allow the change or they could make a formal recommendation if they wished.

Councilmember Ewalt asked for clarification on Consent Agenda Item 1N. Ms. Meling stated industry standards were moving from the design, bid, build process to construction management and design bid programs were faster and allowed for better pricing. It enabled the contractor and staff to work together and would allow bids to be received during the project and allowed for better and more timely decisions.

By a show of hands vote, the motion to approve the entire Consent Agenda, with the exception of Items 1B2, 1C, 1G, and 1O1, was unanimously approved.

Councilmember Shaw moved for approval Consent Agenda Item 1B2, seconded by Councilmember Boyett. By a show of hands vote the motion was approved 9-0, Councilmember Neese abstained.

Councilmember Neese, in reference to Consent Agenda Item 1C, stated he liked the plan overall but had some issues with parts of the plan and would not support Consent Agenda Item 1C.

Councilmember Joy moved for approval of Consent Agenda Item 1C, seconded by Councilmember Shaw.

By a show of hands vote the motion was approved 8-2, Councilmembers Neese and Ewalt voted in opposition.

Councilmember Ewalt asked for clarification on how the dispatch funding worked for Consent Agenda Item 1G. Andy Zoeller, Finance Director, stated there were two separate contracts for County services for 911 Dispatch and it was paid through the Interlocal Agreement.

Councilmember Ewalt asked who shared the costs of dispatch services. Mr. Zoeller stated

various entities shared the remaining amount after the County portion was paid. Mr. Zoeller stated there was a telephone tax in the County and City taxpayers all paid for the services under the Fire Department. He added 911 Dispatch was also used by the Police Department and that department was not located in the BUFSA.

Chris Kukulski, City Administrator, stated there were 2 different services provided regionally. He added the 911 dispatch services were separate from Fire Services and the agreement seemed fair.

Councilmember Neese stated the agreement had not been updated since 2000 and wanted a review of the agreement for possible adjustments or modifications.

Councilmember Brown asked if the agreement covered all Ambulance, Fire Department, and Sheriff dispatch services. Mr. Kukulski stated it covered dispatch services outside of the City limits with the exception of Laurel. He added the agreement could be reviewed for funding charges.

Councilmember Shaw moved for approval of Consent Agenda Item 1G, seconded by Councilmember Choriki.

Council discussed the funding formula and the terms of the agreement.

Councilmember Ewalt stated part of the agreement referred to the "same level of service" and the City could not provide the same level of service as the County, due to location and response time issues. Ms. Dahl stated the contract defined the term "same level of services" and had been reviewed by Fire Chief Rash.

Councilmember Neese stated he did not like the term "same level of services" either and wanted it changed.

Councilmember Brown called the question, seconded by Councilmember Boyett. By a show of hands vote, the motion to call the question was approved 8-0, Councilmembers Yakawich and Ewalt did not raise their hands during the vote for approval and clarification of their vote in opposition was not obtained.

By a show of hands vote the motion for approval of Consent Agenda Item 1G was approved 9-1, Councilmember Ewalt voted in opposition.

Councilmember Boyett moved for approval of Consent Agenda Item 1O1, seconded by Councilmember Joy. By a show of hands vote the motion was approved 9-0, Councilmember Brown abstained.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND FIRST READING ORDINANCE approving BMCC, Section 26-800, Dental Amalgam. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Debi Meling, Public Works Director, gave a PowerPoint presentation of the ordinance and the reasoning behind the Environmental Protection Agency (EPA) recommendation. She stated the ordinance would reduce amalgam in the water and require local dental offices to keep records and meet compliance. She added the ordinance gave the City authority to inspect dental offices and any issues would be a violation of the Clean Water Act. She added

staff had already received certification statements from all existing dental offices. She stated there were no issues currently with amalgam in the water.

She added there had been a few minor formatting changes to the ordinance and the second reading would have the correct ordinance attached. Mayor Cole stated the motion for approval should include the formatting changes.

Councilmember Ewalt asked if the refineries had issues with mercury discharge.

Boris Krizek, Environmental Engineer, stated the City had not seen any mercury levels that were concerning from local refineries. He added the amounts being discharged were well within the allowable amounts.

The public hearing was opened.

There were no callers and the public hearing was closed.

Councilmember Shaw moved for approval of Item 2, as recommended by staff with the formatting changes, seconded by Councilmember Neese. By a show of hands vote, the motion was unanimously approved.

**PUBLIC COMMENT on "NON-AGENDA ITEMS". Speaker Sign-in required.** (Comments are limited to three (3) minutes or as set by the Mayor. During COVID-19, the method to take and hear public comment has changed. Individuals wishing to give public comment will call a dedicated phone line (237.6196) and held in queue until it is their turn to comment.)

The public comment period was opened.

There were no callers and the public comment period was closed.

**COUNCIL INITIATIVES:**

There were no Council initiatives.

There was no further business, and the meeting adjourned at 7:16 P.M.



CITY OF BILLINGS

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

ATTEST:

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