

SPECIAL MEETING OF THE BILLINGS CITY COUNCIL
November 13, 2008

The Billings City Council met in special session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Ron Tussing called the meeting to order at 5:30 p.m. and served as the meeting's presiding officer. Councilmember McCall gave the invocation.

ROLL CALL – Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Veis, Ruegamer, McCall, Ulledalen, Astle, and Clark.

ADMINISTRATOR REPORTS:

- Ms. Volek advised that an agenda was placed on the desks and copies were available on the back table.
- Ms. Volek advised that resumes of the five individuals who originally applied for the position were placed at the desks and available in the Ex-parte book at the back of the room.

Mayor Tussing announced that there would not be a public comment period at the beginning of the meeting because that time was reserved for comment on items that were not scheduled for a public hearing and in that evening's case, the only item on the agenda was scheduled for a public hearing. He advised that there would be an opportunity for public comment after Item 1 was concluded.

SPECIAL AGENDA:

1. **PUBLIC HEARING ON POTENTIAL APPOINTMENT OF WARD II COUNCILMEMBER. (Action: Appointment of Ward II Councilmember or direction to staff to hold a special election.)** Mayor Tussing advised that individuals who wanted to testify would be allowed three minutes for their comments and the testimony had to be related to the potential appointment of a Ward II Councilmember.

The public hearing was opened.

- **Tom Zurbuchen, 1747 Wicks Lane**, stated that the Charter was quite clear on the procedure. He said the Mayor brought forth a nominee without or against the advice of the Council and that nominee was voted down. He said the Mayor had not brought forth another nominee and was dangerously close to being in dereliction of duties as defined in the Charter. He said the Council's opinion on the issue was known and seven Councilmembers signed a letter about it. He said people understood the Council's side but not the Mayor's. He said he felt the public hearing was sort of a farce because the Mayor had refused to give people his side of the issue. He urged the Mayor to make his opinion known and to back it up with facts so people could understand both sides of the issue.

- **Paul Cimmino, 3454 Mitzi Drive,** said he had known Angela Cimmino for 40 years and they moved to Montana in 1989. He said Angela got involved in Heights activities and developed a real passion for that community and she was encouraged to pursue a political career. Mr. Cimmino advised he was a Professor of Sociology and Social Work, was a consultant for organizational construction and had taught classes in resume writing, career development, and ethics. He reviewed the process used to select a finalist. Mr. Cimmino said he felt the qualifications that drove the Mayor to his decision were clearly delineated in the editorial in the November 6 Billings Gazette and he urged people to read it. He asked if Mr. Brewster made any post-interview contacts to attempt to influence Council, and if he did, it would be a breach of due process damaging the field of fairness against Ms. Cimmino. He said the “we like Larry” situation was not a reasonable reason.

Mayor Tussing advised Mr. Cimmino that his time was up but he would allow him a couple more seconds. Mr. Cimmino stated that the conflict of interest reason was something that any Councilmember could run into. He appealed to them to look into their hearts and convictions as a person and public servant.

- **Tom Harmon, 1662 Augsburg Drive,** said his parents moved to Billings Heights in 1948 when there were about 300 people and now there were 30,000-40,000. He said he had a very positive attitude toward Councilmember Pitman and a man like Larry Brewster was also needed. He said he met Mr. Brewster twice and on both occasions he was helping people in the Heights with taxes or streets or other issues. He said Mr. Brewster was a solid Heights citizen and Heights residents knew who Larry Brewster was.
- **Uriah Edmunds, 394 Uinta Park Drive,** stated that he was a former chairman of the Heights Task Force and had never met Ms. Cimmino but knew she was a former chairman of the task force as well and had served on City boards. He said he did not think the Mayor made his choice lightly. Mr. Edmunds said he worked with Larry Brewster on the task force and that even though he had done a good job for the community, it was time for the Council to take a giant step forward with a new direction and new blood. He said the younger individuals he interacted with on a daily basis have told him they were excited to see that the Council was willing to go new directions, but he felt the appointment of Mr. Brewster would be taking a step backward from that progressive mentality. Mr. Edmunds said he understood that \$20,000 was a lot of money to spend on a special election, but the process needed to be honored. He noted that he understood there were Councilmembers that did not support the Mayor’s selection, and if it was not approved, the process needed to go forward with a special election.

Councilmember Ruegamer asked why it would be a step backward to choose Larry Brewster. Mr. Edmunds responded that the City needed a new way of thinking in many directions and appointing Mr. Brewster could mean another eight years with him. He said the City was doing well with the current mix but Mr. Brewster’s appointment would not allow that new way of thinking. Councilmember Ruegamer said that did not answer his question. Mr. Edmunds said Mr. Brewster would bring the same ideas he had brought for eight years.

Councilmember Ruegamer said he had been on the Council since 2004 and had served with seven new Councilmembers which he considered new blood.

- **Pete Hansen, 1435 Wicks Lane**, said Mr. Brewster was one of the people who helped form Heights Task Force. He said the Council's refusal to consent to Ms. Cimmino's appointment made her nomination a dead issue that did not need to be addressed in any forum. He noted that the Council expressed its preference for Mr. Brewster but the Mayor refused to nominate him and had not provided reasons for his refusal to do so, just as Ms. Cimmino and others have said that the Council had not given any reasons for not approving her appointment. Mr. Hansen said the Council was under no obligation to provide reasons. He said that despite the fact that the appointment committee considered five candidates; the Mayor refused to nominate anyone other than Ms. Cimmino and held the threat of a \$20,000 special election out there. He said he felt the Mayor should nominate Mr. Brewster as the Council and committee recommended or place another candidate before the Council. He said a special election would be unwarranted and an unnecessary expenditure of funds and denied the Heights citizens of equal representation. He urged the Mayor to nominate a candidate other than Ms. Cimmino and reminded him that City Charter stated the City's obligation of efficient use of revenue and equal and adequate services to the public.
- **Ray Tracy, 1069 Calico**, said he was an applicant for the Council position. Mr. Tracy said he was present that evening to ask the Mayor for his nomination to fill the Ward II vacancy because he was controversy free. He distributed his portfolio and noted that he was well-qualified. Mr. Tracy reviewed his activities in the Heights as Precinct Committeeman, Secretary/Treasurer of Heights Task Force, and an unsuccessful candidate for State Senate. He said his Senate campaign allowed him to get to know the citizens and the issues of the Heights. Mr. Tracy said he had developed relationships with many Billings legislators and elected officials during his involvement with the Yellowstone County Democratic Party, and those relationships would be beneficial as a Councilmember. He advised that he was self-employed and would be able to dedicate the time needed to be effective and could attend meetings and work sessions. Mr. Tracy said he felt his working relationship with Councilmember Pitman would create an effective team for the Heights citizens. Mr. Tracy referenced letters of recommendation contained in his packet.
- **Kim Gillan, 750 Judicial Avenue**, said she was supportive of the process but came to the meeting because she saw the situation causing division in the Heights. She noted that she discussed the situation with Representative Grinde who was in Helena. She said she supported the Mayor's decision, but because of the controversy, suggested nominating Ray Tracy. She said he was engaged in the community and should be considered. Ms. Gillan stated she was saddened about how the issue was tearing the Heights apart and since the process was not going to work, the way to break the log jam was to go with Mr. Tracy. She said some people on the Council were appointed and no one made a big deal about it, but all of a sudden it became a political issue.

Councilmember Astle asked what Ms. Gillan meant about it being a political issue. Ms. Gillan responded that she felt the process was established and followed, but it appeared it was less about the individual but more about some controversy against the Mayor, and it became a political issue. She said she was not aware of any past rejections of a Mayor's selection of a candidate using the established process. She said it appeared to her that some of the people who served on the selection committee agreed with the two finalists, then stepped forward and disagreed with it and had not allowed the Mayor to make his decision about which candidate should be appointed.

- **Conrad Stroebe, 213 Johnson Lane and 820 Division Street**, said Ray Tracy would be good for the Council because he was young, excited, principled, and exhibited solid values of service and responsible decision making. He said that despite his youth, he had the experience necessary to hit the floor running. He added that Mr. Tracy was a team player which was most important.
- **Noreen Burris, 2721 Terrace Drive**, said she was not a Heights citizen but felt she was qualified to speak to Ray Tracy's qualifications and character for his nomination to fill the Ward II vacancy. Ms. Burris stated she served with Mr. Tracy on the Democratic Central Committee and considered him a leader, communicator and community organizer. She said Mr. Tracy thought outside the box and shared his vision of what things could be and was willing to do what was necessary to make those things happen. Ms. Burris stated that Mr. Tracy was a humble man and never did things for self-promotion or to be in the spotlight. Ms. Burris spoke about his communication skills, computer expertise, respect and ability to interact with all types of people, tolerance of differing views, patience, and dedication to his family. She said the City Council would do well to accept his nomination for the Ward II vacancy.
- **Bruce Simon, 217 Clark**, said he did not want to see \$20,000 of tax money spent on a special election. He said he hoped a solution could be reached that evening. He spoke about advice and consent as it related to government. He said he did not know all the candidates but knew Larry Brewster. He said he felt the Mayor and Council lived up to their rights and duties within the Charter.
- **Joseph Sands, 2512 Terry**, spoke on behalf of Ray Tracy. He said Mr. Tracy demonstrated candor on issues and commitment to his community, specifically the Heights residents. Mr. Sands said he believed Mr. Tracy would represent the Heights in an unwavering fashion to extend the work experience already fostered with Councilmember Pitman. Mr. Sands said he felt Mr. Tracy would be pivotal in the daunting task of the Council to seek a local option tax in the 2009 Legislature because his non-partisan dealings would be helpful.
- **Mac Souza, 1506 Mary Street**, said he heard that putting Larry Brewster on the Council would be a step backwards and he would show how false that statement was. He said the Heights could not have a better representative than Larry Brewster. Mr. Souza spoke about an issue that Mr. Brewster assisted with during the planned development of the Bitterroot Heights Subdivision. He stated that Mr. Brewster was able to work successfully with colleagues on the Council while representing the Heights. He said it was ridiculous to think that having him on the Council was a step backward.

- **Marvin Brown, 1603 Blarney Street**, said Mr. Brewster was always at the task force meetings and even attended meetings held in homes regarding issues that concerned residents. He added that Mr. Brewster had budget experience with the Council. He noted that some on the Council were a little irate with Mr. Brewster which meant that when he got on the right road, he stayed there.
- **Gerald Bittner, 147 Norris Court**, stated he felt it was a no-brainer whether to spend \$20,000 on a special election or appoint someone on an interim basis to fill a void that would be up for election in a short period of time. He noted that the other candidates were qualified and should run through the election process so the whole Heights had the ability to vote on them, but the position should be filled now with someone who knew the inner workings of the Council and had been there. He stated that he felt Mr. Brewster was the best representative for the Heights.
- **Keith Beartusk, 1032 Aronson Avenue**, said he and his wife, Debby were present to support Larry Brewster. He said they felt that Mr. Brewster represented Ward II very well before and were confident he would do the same now. He said another compelling reason to select Mr. Brewster was his experience on the Council, especially because he could step in immediately and the learning curve would not be necessary.
- **Mary Anne Souza, 1506 Mary St.**, offered a ride-along to anyone on the Council who wanted to get an education about the Heights. She stated that Larry Brewster did a wonderful job on the Council and the Heights Task Force. Ms. Souza explained there was an explosion of growth on the Bench, yet there had not been any improvements on Wicks Lane east of Main or Bitterroot. She said the Bench was the third area in line for any consideration for improvements. She said the biggest problem for the Heights was to get a bridge across the gully to help funnel some of the traffic away. She said the money for that project, the inner belt loop and the outer belt loop projects was being siphoned off and during Mr. Brewster's time on the Council he fought like a wild man on that issue. She said Mr. Brewster brought experience, dedication, has walked every inch of the Heights and visited at every door at some point during his time and she was sure he would help direct attention once again to the traffic situations building in the heights. She said Larry Brewster should be on the Council.
- **Valerie McMurtry**, said she was a teacher at Bench School and was also the secretary of the Yellowstone County Democrats and recommended Ray Tracy to fill the Ward II vacancy. Ms. McMurtry stated she had known Mr. Tracy for the past four years while they were both involved with the Yellowstone County Democrats and felt he handled crises and individuals with dignity and grace, and built bridges and formed alliances within the party and the community. She noted that she saw first-hand his tireless ability to get any job done, but his honesty and integrity were most important. Ms. McMurtry said Mr. Tracy, his wife, and three sons lived in the Billings Heights and were committed to their community. She said she felt he would bring his integrity and talents to the Heights community and she recommended his appointment.
- **Austin Kaufman, 2111 Main**, said he was a 20-year Heights resident and had an opportunity to call a Councilmember, Larry Brewster, a number of years ago

when he needed assistance. He noted that Mr. Brewster not only returned the phone call, but he went to bat and got the problem taken care of for him and a number of Mr. Kaufman's neighbors. Mr. Kaufman said he read in the paper that \$20,000 was about to be spent on something that did not need to be taken care of that way. He said his taxes were already too high and he suggested appointing Mr. Brewster because he knew what to do, had already been in there and was up to speed on things.

- **Angela Cimmino, 1745 Sylvan Lane**, stated she was honored to receive the Mayor's nomination for the vacancy. She said it was an exciting opportunity to apply for the vacancy because she had lived in the Heights since 1989, and raised a family of three college-educated children. Ms. Cimmino provided background information which included employment with the City of Billings in the Police and Planning departments. She noted that she was an applicant for a previous vacancy when Michael Dietz passed away, but Mr. Brewster was appointed. Ms. Cimmino stated she continued with her involvement with service on the Zoning Commission, Yellowstone Historic Preservation Board, the Heights Task Force, and two campaigns for a City Council seat. She said that even though she did not win the elections, she continued her work with the task force and worked well with members. She said the \$20,000 expenditure was not needed. She asked why denial was recommended for an individual who had the passion and initiative to work hard for the community as a whole.

Councilmember Ulledalen said Ms. Cimmino was appointed to the Traffic Control Board in January, 2007, but he saw that the slot was vacant even though her appointment did not expire until 2010. Ms. Cimmino explained that the meetings for that Board were at 12 noon and since she worked full-time, there were many times she was unable to attend. She noted that when she was unable to attend meetings, she reviewed agenda items with Traffic Engineering staff Terry Smith and John Gibson, but she was no longer on that Board.

- **Dave Bernhardt, 426 12th Street West**, said the coming year would be difficult with new challenges for everyone. He said he believed seven people voted in favor of Larry Brewster and there must be a good reason for that. He stated that he thought it was important to pick someone with experience and knowledge for the short period of time. He said it was critical for the next year to have someone with know-how, background and ability to articulate to benefit everyone in Billings.
- **Judy Bacon, 1804 High Sierra**, stated that she thought of a Council person as someone who acted responsibly, ethically, and obeyed all laws in the City no matter how insignificant they seemed. She said she also thought of a Councilmember as someone who considered everyone objectively and without prejudice despite their views. She said she had an email message from Mr. Brewster that said he did not consider people who he considered unreasonable or skipped individuals because their views were different or different from the majority of constituents. She noted that she lived in the area directly impacted by the Harvest Church go-kart track project. She said Mr. Brewster's email stated that he skipped her because she was not a reasonable person. She said she was the person most impacted by the go-kart track. She urged the Council to

consider someone who behaved ethically, responsibly and who upheld the laws of the City, and who considered the views of all residents without prejudice.

- **Larry Brewster, 1216 Babcock Blvd**, provided background information about his experience of two terms on the School Board, and his organization of the recall petition to gain representation prior to Michael Dietz's death when his father refused to give up his seat. He said then-Mayor Chuck Tooley and others invited him to apply for the vacancy and he was selected and then re-elected when that term was up. He said he worked hard for the Heights people then and wanted to fill a seat that would be empty for a year and others could run for election then. He said he felt he had the experience to fill that seat for a year and would appreciate consideration for the job.
- **Paul Cimmino** began speaking about the question of ethics and Mayor Tussing advised him he could not testify again.

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

Mayor Tussing advised he talked with City Attorney Brent Brooks about the procedure that needed to be followed that evening. He said Mr. Brooks sent an email to him but it was too late in the day to forward it to Councilmembers. He summarized Mr. Brooks' information that reconsideration of Ms. Cimmino's nomination was not possible because a reconsideration vote or motion had to be made at the next Council meeting following the nomination by someone on the prevailing side. He said it was his intention to ask someone from the prevailing side to make that motion at the previous meeting, but instead the motion was made to have the special meeting. Mayor Tussing stated that the only way Ms. Cimmino's nomination could be reconsidered was if the Council voted by a simple majority to suspend that rule of parliamentary procedure of the Charter. He advised that another option was another nomination by him, but without a motion on the floor, it was not appropriate for him to make comments about his preference.

Councilmember Ruegamer moved to suspend the rule of parliamentary procedure of the Charter, seconded by Mayor Tussing. Mayor Tussing explained that a procedure was agreed upon when Joy Stevens announced her resignation from the Council; the vacancy was advertised, applications were accepted, and an appointed committee interviewed the applicants and made two recommendations to him. He said he interviewed both individuals and felt Ms. Cimmino's enthusiasm would make her a more active and involved Councilmember, not necessarily more qualified, but active and involved. Mr. Brooks interjected that Council needed to vote on the motion to suspend the rule before further discussion on the rest of the issue unless Mayor Tussing's comments were meant to debate that motion. Councilmember Veis asked if all rules of parliamentary procedure would be suspended. Mr. Brooks said he understood the motion to be to suspend the rule regarding reconsideration, and if that passed, it allowed the potential for the previous nominee to be nominated again and voted upon. He stated that was the essence of the email he sent to Mayor Tussing that afternoon. Mr. Brooks advised that the motion could not be debated or amended. Councilmember Veis asked if a motion would then be needed to have discussion about the nominees. Mr. Books responded that if the motion to suspend the rule was approved, a motion would be needed for further discussion about the nominees. Councilmember Gaghen

asked if that meant there was still the option of either choice. Mr. Brooks said the Charter was general and allowed the Mayor to nominate a person and if one was nominated but not approved through Council's vote, the Mayor could nominate people one at a time. Mr. Brooks suggested that public comment be allowed for any potential nominee.

Councilmember Astle stated that if the motion was never made, any nomination made by the Mayor would have to be someone other than Ms. Cimmino. Mr. Brooks advised that was correct.

On a roll call vote, the motion was approved 6-4. Councilmembers Gaghen, Pitman, Veis, Ruegamer, McCall and Mayor Tussing voted 'Yes'; Councilmembers Ronquillo, Ulledalen, Astle and Clark voted 'No'.

Mayor Tussing nominated Angela Cimmino to fill the vacant position in Ward II, seconded by Councilmember Pitman. Mayor Tussing asked if public comment should be allowed on Ms. Cimmino's nomination. Mr. Brooks recommended it be allowed before the vote.

The public hearing was opened.

- **Pete Hansen, 1435 Wicks Lane**, referred to previous correspondence and said he tried to be careful not to pick a side, but commented on Larry Brewster's qualifications.
Mr. Brooks and Mayor Tussing advised Mr. Hansen that his comment at that time had to concern the nomination of Ms. Cimmino.
- **Paul Cimmino, 3454 Mitzi Drive**, said it was ironic that Ms. Cimmino went home from City Council meetings and expressed respect and praise for Councilmembers and others who encouraged her to be a leader in the community. He said that helped develop a passion and sense of commitment to the community in her. Mr. Cimmino said Ms. Cimmino was honest, cared about people, and was bright as a whip. He advised he believed her budget analysis ability could match any on the Council. He advised there were research rules that talked about post-interview ethics and everyone had to be on an equal plane. He asked if there were post-interview contacts by Mr. Brewster because some people changed their vote and he wondered how that happened. He said if Ms. Cimmino was chosen, they were guaranteed a person who would work hard, and who would be ethical, honest and committed.
- **Tom Zurbuchen, 1747 Wicks Lane**, said he would repeat his comments of October 27 that Larry Brewster's credentials outweighed Ms. Cimmino's because he had been on the Council. He asked why a proven performer would be passed up for one that was not. He said Ms. Cimmino did not hit the ground running nor would she know what was going on with the Council.
- **Kim Gillan, 750 Judicial Avenue**, said she was comfortable with Ms. Cimmino's nomination and that she was a qualified candidate. She said she recognized that certain people had previously served on the Council but many people on the Council had never served before and were appointed and turned out to be fantastic council people. She said it should be recognized that Ms. Cimmino had worked hard on other comparable boards, was well educated, was an upright citizen and, spent her time in leadership on the Heights Task Force, which was a

daunting task. Ms. Gillan said she hoped that would break the log jam and that Angela Cimmino would be supported.

- **Angela Cimmino, 1745 Sylvan Lane**, said when she applied for the vacancy and delivered her application on September 29, it was for a 14-month appointment and she did not know she had to do an impromptu election. She said her support in attendance that night was friends and family because the meeting was supposed to be a special meeting called by Council. She indicated she would like to have an equal opportunity for people who supported her because she believed in quality not quantity and if there was a chance to have equal ground, she could bring bodies in because she knew a lot of people who supported her. She said everyone there was family and friends for the common good of the City. She said it had been an incredible learning experience for her and she appreciated the opportunity. She asked for support of her nomination.

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

Mayor Tussing stated that there was an agreed-upon procedure; and both he and the committee interviewed the candidates. He said he was impressed with Ms. Cimmino's enthusiasm and felt that Mr. Brewster lacked some of that in the past even though he was knowledgeable but he did not see him involved in extracurricular activities outside of Council meetings. He noted that Mr. Brewster quit attending work sessions after the election which he indicated was a courtesy to Mr. Pitman and was traditional. Mayor Tussing said he was not aware of that tradition but the Councilmembers who had been around a long time confirmed it so he took their word for it. Mayor Tussing stated he was impressed with Ms. Cimmino's resume and he nominated her, not because she produced a glitzy resume, but because it indicated her desire to do that job. He said he felt it was incumbent upon the Council to provide reasons why that nomination was not approved, but none were given in a public meeting. He added that he was disappointed and perplexed at the vote that was taken behind the scenes. He said everyone had an opportunity to comment on the nomination before he called both individuals to inform them of his selection. He advised that the only Councilmembers he specifically contacted were the members of the selection committee and at that time, two people said they preferred new blood, one person said he was fine either way and the other person said he preferred Mr. Brewster. Mayor Tussing advised he called both people the next day after doing research because he heard rumors about Ms. Cimmino's potential conflict with her employment. He explained that he contacted her employer and the City Clerk to find out how many times her employer had contracts with the City and found out it was more times than Mr. Brewster's employer, Northwestern Energy. Mayor Tussing said Ms. Cimmino's employer conferred with their head office in Omaha and determined there was not a problem with it. He noted that the Council did not have much involvement with contracts, just approved them on the consent agenda so the Mayor could sign them so it did not seem like a big deal for her to recuse herself when her firm had a contract on the agenda. He said he was once again asking for Council to approve his nomination of Angela Cimmino to fill the Council vacancy in Ward II. He said he felt by not doing that the citizens were being blackmailed to a certain extent because the Council had indicated behind the scenes that they preferred another candidate.

Councilmember Ulledalen said he was frustrated by the fact that he thought the Mayor was trying to turn the issue into a debate about personalities and individuals and Council was looking at the skill set they thought would best serve the community. He said the Mayor alluded to secret backroom stuff but he had asked for feedback and reasons. He added that Councilmember Veis wrote a letter that Councilmembers signed and sent to the Mayor and he dismissed it. Councilmember Ulledalen asked if the letter should be read for the record that night. Mayor Tussing responded that the letter could be read for the record if he wanted, but his point was that they had an opportunity to comment before he called the people to tell them his choice and he did not hear from most of the Council until after his selection, and then they started making it clear they preferred Larry Brewster to the extent of going around and soliciting signatures on a letter, which to him was a serial meeting because more than half of the Council was involved. Councilmember Ulledalen said that was no different than the guest editorial sent to the Billings Gazette that was signed by the Mayor and Councilmember Pitman. Mayor Tussing said that was not something that was potentially coming to the Council for a vote.

Councilmember Pitman advised that the letter was never presented to him and he still did not have a copy of it. He stated that part of the frustration was there was an intent by some members of the Council to prevent others from knowing about the letter and he said he signed a letter that everyone knew about but they were talking about a letter that he was unaware of and they finally called him the day they presented it. Councilmember Ulledalen responded that he called Councilmember Pitman who made his position clear and he was also told that the letter was signed to present their position to the Mayor and Councilmember Pitman was specifically told that he did not have to sign it but he had the opportunity to do so. Councilmember Ulledalen said Councilmember Pitman was asked about it, he dismissed it, so a copy was not given to him.

Councilmember Ruegamer stated that Councilmember Pitman indicated he was not aware of the letter but he was aware of it before the meeting. Councilmember Ruegamer said it was ridiculous to put that in a perspective of secrecy. He explained that a budget issue was coming up and to dismiss that as unimportant was crazy because the City had a critical need for a positive force to do the budget and to get it right. He said that would be a challenge and to say that someone could understand the budget without having ever seen it was beyond belief. He said he worked with budget most of his adult life and the City budget was a mystery to him when he started and it took time to learn and could not be understood in the first year.

Councilmember Veis stated that throughout the process he had never talked with Mr. Brewster in any way. He said Mayor Tussing wanted to know why the Council did not approve Ms. Cimmino's appointment so he put his thoughts into a letter that others agreed with and signed as well. He said nothing was done behind the scenes; it was just an explanation of why they supported Mr. Brewster. Councilmember Veis asked Mayor Tussing if he was willing to put Mr. Brewster's name forward if the vote for Ms. Cimmino went the same as it did at the previous meeting. Mayor Tussing responded that he did not believe it was appropriate to comment on that because it could influence the vote.

Councilmember Gaghen advised that she was on the selection committee and was surprised when she returned from out-of-town that there was a change of focus. She added that she supported Ms. Cimmino when the initial vote was taken and when the nomination was not approved, she said she made it clear she was opposed to a special election that cost \$20,000 of taxpayer money regardless of the budget it was from. She said knowing the qualifications of Mr. Brewster, she could support him as well and had no contact with him other than the committee interview. She clarified that she did not change her mind, but it was a continuation of her policy to not spend money on an election that would place someone in that position for such a short time.

Councilmember McCall stated she supported Ms. Cimmino with the original motion and one reason was her desire to see new blood, new ideas and new thinking. She said she did not have a problem with Mr. Brewster's appointment but thought there was the opportunity to bring someone new to the Council. She noted that everyone on the Council was new at some point and had a learning curve and kept learning every day. She said the serious budget issues existed when Mr. Brewster was on the Council, currently existed and would exist in the future and a new person could learn it. She said that Ms. Cimmino had the desire to learn and she would support her.

Councilmember Clark advised he was on the committee that interviewed the candidates and the only contact prior to that was an email inquiry from Ms. Cimmino about putting her name in. Councilmember Clark said that he advised her he was on the committee and could not assist her but informed her of the process. He added that he did not have any contact with Mr. Brewster prior to the meeting and would have told him the same thing if he had contacted him. Councilmember Clark said he supported Mr. Brewster and was the one committee member that went to the Mayor to voice his support. He said he still supported Mr. Brewster's nomination and felt he was the more qualified candidate for the one-year term.

Councilmember Pitman stated that it was frustrating that the issue had divided the Heights. He said he wanted to inform everyone that when the committee submitted the final two names, they were both identified as qualified people. He said the mood in the Heights was to get the seat filled without spending \$20,000 for an election. He reiterated that both applicants were qualified for the job.

Councilmember McCall mentioned that she received several emails and phone calls in support of Ms. Cimmino.

Councilmember Ronquillo echoed Councilmember Pitman's statement that it was a shame that the issue was tearing the Heights people apart. He said he agreed that Mr. Brewster could hit the ground running with the budget restrictions. He agreed that last year's budget was tough, but said the current year would be more difficult and hard decisions would have to be made that the City Administrator would have to live up to. He said he was not saying that Ms. Cimmino could not handle it, but in his case, it took him a year to understand how the City functioned in that procedure. He said the Mayor made a decision and the Council said 'No' and the majority had to rule. He said he listened to 22 people that evening and 12 wanted Mr. Brewster. He said it should not be thrown to the people to make the decision because that was why the Council was there. He said he hoped the decision could be reached that evening and he wanted to stress that the Council tried to do the right thing to save \$20,000.

Councilmember Veis said it was an interesting process because any Councilmember could usually bring an idea forward or could make a motion, but in that case, they had to rely on the Mayor to bring a name forward. He said he felt both individuals were qualified, but one was more qualified.

On a voice vote, the motion to appoint Angela Cimmino to fill the vacancy in Ward II, failed 3-7. Councilmembers Pitman, McCall and Mayor Tussing voted 'Yes'; Councilmembers Ronquillo, Gaghen, Veis, Ruegamer, Ulledalen, Astle and Clark voted 'No'.

Mayor Tussing said he was tempted to nominate Ray Tracy at that time because he had the most phone calls in support of him, but he believed he had to abide by the integrity of the process. He noted that he hoped Ray would run for office. Mayor Tussing explained that taxes would not increase if a special election was held. He said Council Contingency Funds would have to be spent and there were better places to spend it, such as snow removal if necessary.

Mayor Tussing nominated Larry Brewster to fill the Ward II vacancy, seconded by Councilmember Ruegamer.

The public hearing was opened.

- **Angela Cimmino, 1745 Sylvan Lane**, stated that Larry Brewster was a dedicated public servant and she had a respectful working relationship with him. She said if that was a public hearing, technically, the Council was obligated to publish the public hearing notice so people could speak in favor or opposition of a nomination. She said she did not have that opportunity to bring supporters with her and she advocated a fair and balanced overview.
- **Pete Hansen, 1435 Wicks Lane**, said he attended many Council meetings and thought that one would be relatively simple, but it had already lasted 1-1/2 hours. He said the meeting was well advertised and asked if the decision had to be delayed until Ms. Cimmino could get her supporters there, which meant a special election would be necessary. He said he spoke in favor of Larry Brewster because he helped him considerably with a Heights group he was involved with. He said Mr. Brewster helped him build Hansen's Crossing over the ditch on Bench Boulevard. He stated that Mr. Brewster was available and a good representative of not only the task force, but the everyday average citizen. He urged support of the nomination to appoint Mr. Brewster.

Councilmember Pitman advised that he would make sure there was a memorial plaque at the crossing he built on Bench.

- **Tom Zurbuchen, 1747 Wicks Lane**, thanked Mayor Tussing for Mr. Brewster's nomination. He said people he talked with in the Heights during the past two days wondered if there would be resolution at that meeting and he said he answered that he did not believe it would happen. He said that as far as Ms. Cimmino complaining she did not have equal opportunity, Mr. Brewster did not call him to attend the meeting and Mr. Zurbuchen said he doubted that Mr. Brewster called anyone. He said Ms. Cimmino has as much opportunity as Mr. Brewster.
- **Dean Frank, 1804 High Sierra Boulevard**, stated that he could not speak for what Mr. Brewster had done for the rest of the Heights but he had a chance to do

something for him and failed. Mr. Frank said the area behind his house seemed to be a destination for parties and loud motorcycles. He said there was a question whether the property was in the City and it was finally determined it was, so City police started doing something about it. Mr. Frank said they tried to get Larry Brewster to help them and he wrote it off and stated in an email to let the kids play. Mr. Frank said he did not care if Mr. Brewster was on the Council or not but he wanted him to think about everybody in his neighborhood. He said the Skyview area seemed to be the destination for people who wanted to break the law and he had to contact the police about three times each week. Mr. Frank said the former Councilmember did not seem to care about them and there was the church's go-kart track issue as well.

- **Uriah Edmunds, 304 Uinta Park Drive**, stated he wanted to address the backwards comment made earlier. He said he had known Mr. Brewster for about five years and when he said a step backwards he may have said it wrong; it was not a step forward. He said he appreciated Councilmember McCall's comment that everyone was new at one point and had to learn the budget. He noted that MSU-B students studied the Billings CAFR for a class so there were people besides Councilmembers who understood the budget, and to say there were not was frustrating to standard citizens. Mr. Edmunds said he believed Mr. Brewster would do a great job, but he looked forward to seeing an election and the hard part was that when someone was appointed, it was very difficult to beat an incumbent in an election.

Councilmember Ruegamer stated he did not say people did not understand the budget but said it was complex and challenging. He welcomed Mr. Edmunds to sit in on all eight or nine budget meetings. He noted that it would be a challenging budget because cuts would have to be made and he imagined that everyone was a little stressed by that issue and making budget cuts would be much bigger. He thanked Mr. Edmunds for his comments.

- **Bruce Simon, 217 Clark**, thanked Mayor Tussing for nominating Larry Brewster. He said Mr. Brewster was the epitome of public service to him with his service on the school board and then the City Council. He recommended support of Mr. Brewster's nomination.
- **Paul Cimmino, 3454 Mitzi Drive**, stated that given the dynamics of what occurred, he believed there was post-interview interaction. He stated he believed the only ethical thing to do, given the shenanigans that were obviously demonstrated in the newspaper, was to hold a special election. He said it would be worth the \$20,000 expense. He noted that anyone who read the paper and what was published would see the bias because what was going on was wrong.

Councilmember Ruegamer said Mr. Cimmino used the words ethics and shenanigans and asked him if he had read Roberts Rules of Order. Mr. Cimmino answered that he had. Councilmember Ruegamer said if he had, he did not understand why Mr. Cimmino kept piping up from the audience if he knew the rules. Mr. Cimmino said it was unfair that Ms. Cimmino did not have the support. Mr. Cimmino said he advised Ms. Cimmino to talk with the Mayor and to do a few things but she did not because she did not believe it was ethical. Councilmember Ruegamer stated that the Gazette did a pretty good job of

reporting but sometimes they capsulated and the whole story was not printed. He asked Mr. Cimmino if he had talked with any Councilmembers. Mr. Cimmino said he had not. Councilmember Ruegamer stated he had not had any contact with Mr. Brewster since he left office until the issue started, however Ms. Cimmino sent him a card after the interview and he wondered if that was ethical. Ms. Cimmino stated from the audience that it was a thank you card. Mr. Cimmino said he knew that shortly after hearing the Mayor's nomination, Mr. Brewster went to the Gazette and the Gazette reminded him that it endorsed Ms. Cimmino and referred to the November 6 editorial. Mr. Cimmino asked Councilmember Ruegamer if he read that editorial. Councilmember Ruegamer said he read it.

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

Councilmember Pitman stated that it looked like resolution would be reached on the issue and while it would not make everyone happy; he assured people that he and Mr. Brewster worked together before and would work together in the future. He said the benefit of what had happened showed the enthusiasm and passion of Heights residents and he appreciated everyone who attended.

Councilmember McCall stated that she was proud of Mayor Tussing for taking the high road that night and she believed he did the right thing. She said she agreed with Senator Gillan that it was a divisive issue on the Heights and it had been divisive on the Council. She said the Council needed to come together to do the business of the City. She stated she looked forward to working with Mr. Brewster.

Councilmember Gaghen said she had not sensed divisiveness on the Council in the past and what was perceived as such in that instance was unfortunate, but she did not think there would be any problem with everyone working together.

Councilmember Clark thanked the Councilmembers who agreed to the special meeting and what it took to get the vacant seat filled without having to wait for a special election.

On a voice vote, the motion to appoint Larry Brewster to fill the vacancy in Ward II passed. 9-1. Councilmember Pitman voted 'No'.

2. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.
(Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

- **Angela Cimmino, 1745 Sylvan Lane**, offered congratulations to Larry Brewster and to all others who were elected and appointed. She mentioned that there were 48 appointments Mayor Tussing would be making soon. She said she hoped the appointments would be an easy process for the Mayor and that he would have Council support. She stated that it had been a learning experience and she would continue her commitment to the community.

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

Councilmembers encouraged interested individuals to continue their involvement in the community and the next election that would occur when the term for that seat expired. Councilmember Astle commented that someone said it was difficult to defeat an incumbent in an election, yet Mr. Brewster was defeated the last time he ran. He encouraged interested people to get organized and pursue the seat if they wanted it.

ADJOURN

The meeting adjourned at 7:25 p.m.