REGULAR MEETING OF THE BILLINGS CITY COUNCIL

June 24, 2013

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 Thomas W. Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Mayor Hanel gave the invocation.

ROLL CALL: Councilmembers present on roll call were: Cromley, Ronquillo, Pitman, Cimmino, McFadden, Bird, McCall, Ulledalen, Astle, and Crouch.

MINUTES: June 10, 2013 - Councilmember Cimmino moved for approval, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Councilmember Astle stated he recently visited Red Lodge and they were experiencing some major road improvements.
- Councilmember Crouch stated he wanted to salute Connie Jens-Kindsfather and all the businesses at 3rd Avenue and 30th and 29th Streets for the "Chalk on the Walk". There were over 120 artists of all ages that beautified the sidewalks in front of these businesses.
- Councilmember Bird mentioned it was "Tournament of Champions" week for Billings Little League and she encouraged everyone to attend a game.
- Councilmember Cimmino stated there was record attendance (4,500+) at the Billings Mustangs opening night.
- Mayor Hanel thanked all who participated in the ceremony honoring Yellowstone Kelly's Monument in Swords Park. Councilmember Cimmino stated she and City Administrator, Tina Volek, attended the ceremony that was sponsored by the Billings Chamber of Commerce and the Parks Department. She was pleased to see 2 busloads of people arrive to attend the ceremony at the historic gravesite.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items and noted a copy of each item was filed in the ex-parte notebook in the back of the room.

- <u>Consent Agenda Item S1 – Bills and Payroll. May 28, 2013.</u> Memorandum from Finance Director Patrick M. Weber, dated 6/21/2013, was sent in the June 21 Friday Packet asking that the corrected claims payment report replace the previously submitted report.
- <u>Regular Agenda Item 8 – Public Hearing and First Reading Ordinance revising Section 5.01 of the Billings Charter; providing for advisory boards, commissions,</u>

and committees of the City to have administrative authority if allowed by state or federal law or interlocal agreement, and submitting the proposed amendment to the electors of the City as provided by law.
    - E-mail from Larry D. Brewster, dated 6/24/13, in opposition of the proposed Charter amendment sent to Mayor and Council. Copies were provided and were on the Council's desk.
- Regular Agenda Item 9 -- Approve Cancellation of Lease Agreement with the Billings Community Youth Foundation, Inc. for an amateur ice arena in the southeast portion of Centennial Park due to breach of agreement; and REQUEST that Parks, Recreation and Cemetery Board consider proposals for other uses and make recommendation to City Council.
    - E-mail from Vickie Martin, dated 6/24/13, supporting a dog park in Centennial Park sent to Mayor and Council. Copies were provided and on the Council's desk.
    - E-mail from Marcia Clausing, dated 6/24/13, supporting a dog park in Centennial Park sent to Mayor and Council. Copies were provided and on the Council's desk.
- Regular Agenda Item 10 – Resolution approving the Transfer Agreement of the Billings cable television franchise and local cable system from Cablevision to Charter Communications Operating, LLC; AND authorizing Charter Communications Operating, LLC, to assume control of the Bresnan Communications franchise; AND extending the franchise term to July 9, 2015. Revised Staff Memo from City Administrator Tina Volek, dated 6/21/13, was sent in the June 21 Friday Packet asking that the revised staff memo and attachments replace the previously submitted staff memo.
- Add-on Item – Montana League of Cities and Towns Board Appointment for Councilmember Pitman. E-mail from City Administrator Tina Volek and attached Staff Memo, dated 6/23/2013, recommending this item be added to the June 24th Agenda by a three-quarters vote of those present and then approving Councilmember Pitman's appointment. Copies were provided and on the Council's desk.

Councilmember McCall made a motion to place the appointment of Councilmember Pitman to the Montana League of Cities and Towns Board at the end of the Regular Agenda as Item 11, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, #9, and #10 ONLY. Speaker sign-in required. (Comments offered here are limited to one (1) minute. Please sign in at the cart located at the back of the council chambers or at the podium. Comment 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.

- **Rick DeVore, 2614 Park Ridge Lane North, Billings, MT,** Chairman of the Park, Recreation Board, referenced Item 9 of the Regular Agenda and stated the Board asked that the lease with the Billings Community Youth Foundation, Inc. be terminated due to breach of the agreement. He further asked Council to direct Park staff and the Park Board to begin considering other groups and uses for Centennial Park. Finally, he asked City Council to provide $30,000 of Council Contingency funds to be put toward obtaining a modified Master Plan for the park.

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

1. <u>CONSENT AGENDA</u>

A. Mayor Hanel recommended Council confirm the following appointments:

1.

	Name	**Board/Commission**	**Term**	
			Begins	Ends
1	No Applications	Animal Control Board	01/01/13	12/31/16
2	No Applications	Animal Control Board*	01/01/13	12/31/13
3	No Applications	Board of Appeals - Electrical	01/01/13	12/31/13
4	No Applications	Board of Appeals - Builder	01/01/13	12/31/15
5	No Applications	Housing Authority Res Comm	01/01/13	12/31/13
6	Walt Donges	Human Relations Board*	01/01/13	12/31/15
7	No Applications	Human Relations Board*	01/01/13	12/31/15
8	No Applications	Human Relations Board	01/01/13	12/31/16
9	No Applications	Mayor's Homelessness Lending	01/01/13	12/31/16
10	Randall Swenson	Mayor's Homelessness Econ Dev	01/01/13	12/31/16
11	Barb Perzinski	Mayor's Homelessness Econ Dev*	01/01/13	12/31/14
12	Billie Parrott	Mayor's Homelessness Econ Dev*	06/24/13	12/31/16
13	Tom Rupsis	Parks, Recreation & Cemetery Brd*	06/24/13	12/31/13
14	Tabitha Frasca	Parking Advisory Board*	06/24/13	12/31/13
15	Joni Harman	Parking Advisory Board*	06/24/13	12/31/13
16	No Applications	Parking Advisory Board*	06/24/13	12/31/14
17	Clint Peck	Soil Conservation Board*	06/24/13	06/30/15
18	Ginny Hart	Tourism BID	06/30/13	06/30/17
19	Joyce Bratland	Tourism BID	06/30/13	06/30/17

2. Unexpired term of Solomon Neuhardt
6. Unexpired term of Malcolm Bailey
7. Unexpired term of Claudia Stephens

11. Unexpired term of Bruce MacIntyre
12. Unexpired term of Paul Chinberg
13. Unexpired term of Margy Bonner
14. Unexpired term of Tami Kelling
15. Unexpired term of Drew Smith
16. Unexpired term of Bruce Simon
17. Unexpired term of John Moorhouse

B. <u>Bid Awards:</u>

1. Airport Terminal Building Concourses Interior Painting. (Opened 6/11/13) Recommend High Roller Painting, $86,855.

2. W.O. 13-08, 58th and Grand Storm Drain Improvements. (Opened 6/11/13) Recommend Springline Construction, Inc., $91,981.75.

C. Billings Public Library Furniture Purchases

1. Bid Award for new library open line furniture. (Opened 6/11/2013) Recommend 360 Office Solutions, $215,725.24.

2. Approval of State-approved, pre-competed contracts for new library furniture and furnishings; 360 Office Solutions - $172,677.04; Dundas Interiors - $79,916.41.

D. Contract for W.O. 13-09, City-Wide Traffic Signal Controller Upgrade, Intermountain Traffic, LLC, $77,630.

E. Amendment #1, W.O. 12-14: Integrated Water Plan Implementation, Wastewater Collection System Study, Professional Services Contract, DOWL HKM, $50,000; and **Extension of Contract Term** to March 31, 2014.

F. Amendment #2, W.O. 12-16: Integrated Water Plan Implementation, Water Distribution System Study, Professional Services Contract, Morrison-Mairele, Inc., $80,000; and **Extension** of Contract Term to March 31, 2014.

G. Approval of use of EBURD TIF funds to develop a cost estimate for Exposition Gateway Infrastructure Improvements, $10,000.

H. Drainage Way Easements with Steven Kienitz and Maureen Kienitz, Lot 22; and Kathryn McLain, Lot 23, Block 5, Wilshire Heights Subdivision.

I. Acknowledging receipt of petition to vacate a 10' right-of-way between Lots 10 and 11, Block 5, Wanigan Subdivision; and setting a public hearing for 7/22/13.

J. Resolution #13-19286 approving City Administrator's signature authority for home repair loan subordinations.

K. Resolution #13-19287 authorizing closure of SID/Sidewalk Bond Debt Funds 8630 and 8990 to the SID Revolving Fund.

L. Second/Final Reading Ordinance #13-5606 amending the boundaries of Ward I to exclude recently de-annexed property in De-Annexation #13-05: approximately 6.64 acres of undeveloped land described as Lot 20, Block 3, Rolle Subdivision, generally located between Alkali Creek Road and Highway 3 (Airport Road); Robert Honaker, owner.

M. Resolution #13-19288 transferring a portion of Bitterroot Heights Park to Public Works for W.O. 12-05: a sanitary sewer lift station and access road; compensation from Public Works to Parks, Recreation, and Public Lands - $75,000.

N. Second/Final Reading Ordinance #13-5607 expanding the boundaries of Ward III to include recently annexed property in Annexation #13-06: approximately seven acres of land described as Lot 5, Block 2, and Lot 1, Block 3, Titan Subdivision, generally located on the north and south sides of Interstate Avenue just east of the intersection of Interstate Avenue and Mullowney Lane; Origer Enterprises, Inc. and TNC Development, LLC, owners.

O. Preliminary Major Plat of Bitterroot Heights Subdivision, 2nd Filing, generally located on the west side of Bitterroot Drive, north of Mary Street; BCJM, LLC, subdivider; Interstate Engineering, agent; conditional approval and adoption of the findings of fact.

P. Preliminary Major Plat of High Sierra Subdivision, 7th Filing, generally located on both sides of Benjamin Boulevard, west of High Sierra Boulevard; High Sierra II, Inc., subdivider; Sanderson Stewart, agent; conditional approval and adoption of the findings of fact.

Q. Final Plat of Trails West Subdivision, 2nd Filing.

R. Cancellation of Checks and Warrants.

S. <u>Bills and Payroll:</u>

1. May 28, 2013
2. June 3, 2013

Councilmember Cromley separated Consent Agenda Item D. Councilmember Cimmino separated Consent Agenda Items E, F and S2. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items D, E, F and S2, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Ulledalen suggested that the animal control board be disbanded due to the fact that vacancies have gone unfilled for a very long time with no applicants.

City Administrator Tina Volek stated she would discuss with the Police Chief and report her findings to the Council.

Councilmember Cromley referenced Item D and asked Vern Heisler, Deputy Public Works Director, about the 15-year commitment to replace all of the traffic signals. He inquired whether the replacement included the traffic signals at 27th Street and Montana Avenue. Mr. Heisler responded that those routes are owned and maintained by the Department of Transportation. The Mayor asked to be provided information about other proposals received and Mr. Heisler stated he would provide that information to Council.

Ms. Volek explained that the existing traffic signal system is no longer maintained by the company that originally produced it. The system has been sustained this long because the City was able to obtain replacement parts and pieces from other communities that were no longer using this type of traffic signal system. That capacity is no longer available and the City needs to implement a new traffic signal system.

Councilmember Cimmino questioned if any of the funding for the 32nd Street / Arlene Corridor development was set aside for replacement of traffic signals. Mr. Heisler responded it wasn't and those funds were used for the construction of the project.

Councilmember Cromley moved for approval of Item D, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item E and said she was abstaining from this item to avoid any perceived conflict of interest. Councilmember Pitman moved for approval of Item E, seconded by Councilmember McCall. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Item F and said she was abstaining from this item to avoid any perceived conflict of interest. Councilmember Pitman moved for approval of Item F, seconded by Councilmember McCall. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Item S2 and said she needed to abstain due to her employer's submitted Invoice No. 766284. Councilmember Pitman moved for approval of Item S2, seconded by Councilmember McCall. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #910: a zone change from Residential Manufactured Home (RMH) to Highway Commercial (HC) on Lots 10 and 11, Block 5, Wanigan Subdivision, a 22,082 square foot parcel of land, located at 1005 Main Street. Gerald Watson, owner; Darryl Wilson, River Crossing Real Estate, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator, Nicole Cromwell, gave a presentation regarding this zone change and provided maps of the existing and proposed changes to the subject property. Ms. Cromwell explained this parcel of land has been used for a number of years by the Paint Doctor as storage lots for its business. The zoning on the front of the parcel is zoned Highway Commercial, but the subject lots are still zoned Residential

Manufactured Home. The intention is to bring the lots into conformance with their highway commercial business use. The lots have frontage on Shawnee Drive. There are gated accesses from Main Street and Shawnee Drive. The lot parcel is fenced with chain link and barbed wire and contains many vehicles in various states of disrepair. It does not meet the site development requirements for screening and shielding adjacent to residential properties, but if the property was ever sold or redeveloped, the site development requirements would be imposed at that time. The Zoning Commission conducted a public hearing and has recommended approval based on the following criteria for zone changes.

1. Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following goals of the Growth Policy:
• Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)
The proposed zoning would permit the existing commercial use to continue in conformity with the zoning. The two vacant lots on Shawnee Drive may add value to the tire shop by providing additional area for storage. The area along Main Street and the property adjacent to the east have been used for commercial purposes since the late 1970s. The proposed zoning is consistent with the neighborhood character and land use patterns between Main Street and Bench Boulevard. Development standards are in place to require screening, buffering, and mitigation of any potential conflicts with adjacent residential uses. The proposed zoning is compatible with the existing uses on Shawnee Drive and Radford Square.
• More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)
The existing zoning is restricted to residential uses. The proposed zoning will allow the retention of the commercial use on Main Street and re-development of the property in the future.
• Business development and rejuvenation in the Heights.(Economic Development Goal, Page 8)
The proposed zoning will allow continuation of an existing use and the re-use of land for new business development.
2. Is the new zoning designed to secure from fire and other dangers?
The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.
3. Whether the new zoning will promote public health, public safety and general welfare?
Public health, safety and general welfare will be promoted by the proposed zoning. The nonconforming zoning discourages investment in the property.
4. Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?
Transportation: The proposed zoning may have some impact on the surrounding streets if the property is redeveloped in the future. A traffic impact study may be required depending on the development that is built on the property in the future. New development that generates 500+ new vehicle trips per day will require a Traffic

Accessibility Study (TAS).
Water and Sewer: The City provides sewer to the property and water is provided by Billings Heights Water District. Schools and Parks: There should not be any impact to schools from the proposed zone change.
Fire and Police: The subject property is currently served by the city Public Safety Services.
5. Will the new zoning provide adequate light and air?
The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.
6. Will the new zoning effect motorized and non-motorized transportation?
Traffic generation from a commercial site is dependent on the specific uses within the development. The site is currently developed and the change in zoning should not have any effect on existing traffic patterns.
7. Will the new zoning promote compatible urban growth?
The new zoning does promote compatibility with urban growth. The new zoning will allow investment in the property, increasing property value over time.
8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?
The proposed zoning does consider the character of district and the suitability of the property for commercial uses including neighborhood and commuter service businesses.
9. Will the new zoning conserve the value of buildings?
The existing commercial building and development will be conserved by the new zoning.
10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?
The proposed zoning will permit a greater variety of uses on the property and is the most appropriate use of the property.

There have been no objections from the neighborhood. There was a pre-application meeting and it was understood the owners were trying to make the property conform to zoning.

Councilmember Ronquillo asked whether Shawnee Drive would ever be paved. Ms. Cromwell stated the City maintains it as a gravel road presently and an SID would have to be done if it were to be paved. The Mayor addressed Deputy Public Works Director, Vern Heisler, and asked about gravel road maintenance and procedures. Mr. Heisler stated there are miles of gravel roads the City blades and this is conducted on a rotating basis. Councilmember Pitman stated he is working with the owners of Tire-rama and Godfather's Pizza to get the approach to Main Street on Shawnee Drive paved. He stated there may be some monies set aside in Public Works to help with the costs of paving. He would like to see some follow-up on that and wishes to start the conversation with the neighborhood about an SID.

Councilmember Bird asked whether anything could be done about the fence surrounding the parcel; stating it was unsightly. Ms. Cromwell stated there are two triggers in the zoning code where the site development regulations would apply. 1) If the property were sold and transferred to another business; and 2) the building was expanded by 10% or more. If either of those situations occurred, then the property would be required to install fencing that would shield/buffer on the residential side. If there was a catastrophic loss of the building and it had to be rebuilt, all of the site development regulations, including landscaping, would apply. Zone changes cannot be conditioned for approval.

The public comment period was opened.

- **Darryl Wilson, 8522 South Frontage Road, Billings, MT,** represented the owners of the property. He stated the zone change would add value to the land and would help with any future development.

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

Councilmember Pitman moved for approval of Zone Change #910, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #911: a zone change from Neighborhood Commercial (NC) to Community Commercial (CC) on Lots 1 through 8, including Lots 6 & 7 as C/S 1716, Block 15, Central Heights Subdivision, 5th Filing, located at 109 S. 24th Street West. Rimrock Mini-Mall, LLC, owner; Marshall Phil, P.E., Blueline Engineering, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Zoning Coordinator, Nicole Cromwell, gave a presentation regarding this zone change and provided maps of the existing and proposed changes to the subject property. Ms. Cromwell explained this parcel of land is home to the Rimrock Mini-Mall. Presently, the building is sitting on two zones. Community Commercial zoning only applies to the south half of the Mini-Mall. The north half is zoned Neighborhood Commercial. The applicant and agent would like to make the zoning consistent across the property so it can market and lease to similar businesses throughout the Mini-Mall. The major difference between the two zones is that in Community Commercial you can apply for a special review to locate a liquor license or a casino. Also personal storage is not allowed in Community Commercial and some drive-thru business activity is not allowed. The Zoning Commission has recommended approval, based on the following criteria for zone changes.

1. Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following goals of the Growth Policy:
• Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)
The proposed zoning would permit the types commercial uses to expand from the current restricted zoning of NC to the uses allowed in CC. It appears the uses will be compatible with the neighborhood character. Certain uses would require special review approval of the City Council prior to locating on the property including alcohol licenses.
• More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)

The existing zoning is restricted to 10,000 square feet of floor area for each business and certain uses are not allowed. The proposed zoning will remove the floor area limitation and allow additional business choices in the area.

2. Is the new zoning designed to secure from fire and other dangers?

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. Whether the new zoning will promote public health, public safety and general welfare?

Public health, safety and general welfare will be promoted by the proposed zoning. The different zoning districts for the single property create substantial difficulty for the owner to fill vacancies in the tenant spaces.

4. Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?

Transportation: The proposed zoning may have some impact on the surrounding streets if the property is redeveloped in the future. A traffic impact study may be required depending on the development that is built on the property in the future. New development that generates 500+ new vehicle trips per day will require a Traffic Accessibility Study (TAS).

Water and Sewer: The City provides water and sewer to the property. Schools and Parks: There should not be any impact to schools from the proposed zone change.

Fire and Police: The subject property is currently served by the city Public Safety Services.

5. Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

Traffic generation from a commercial site is dependent on the specific uses within the development. The site is currently developed and the change in zoning should not have any effect on existing traffic patterns.

7. Will the new zoning will promote compatible urban growth?

The new zoning does promote compatibility with urban growth. The new zoning will allow the owner to fill vacant space and will increase investment in the property.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of district and the suitability of the property for commercial uses including neighborhood and service businesses.

9. Will the new zoning conserve the value of buildings?

The existing commercial building and development will be conserved by the new zoning.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit a greater variety of uses on the property and is the most appropriate use of the property.

It is compatible with the existing zoning and surrounding neighborhoods. Certain uses will require special review approval.

Councilmember Bird asked about notice requirements for a zone change request. Ms. Cromwell advised there are three methods of notification. 1) All property owners within 300' of the subject property are notified via mail of the Zoning Commission hearing and the City Council public hearing dates; 2) a sign is posted on property in at least 1 location with the same notice of the public hearings; and 3) a legal ad is published in The Billings Times, once a week, for two consecutive weeks. Another notice is published in The Billings Times when the Zoning Commission has held its hearing and makes its recommendation to the City Council; again, giving the date of the City Council public hearing date.

Councilmember Bird asked what types of businesses would not be allowed to occupy the Rimrock Mini-Mall at this time with the current Neighborhood Commercial zoning. Ms. Cromwell responded there is a separation requirement for any alcohol license with gaming because of the proximity to Central Heights School. The business must be at least 600' away from a school, a church or a public park with playground equipment. Under the City Code, the 600' is measured from property line to property line. The Council, under certain criteria, may grant a waiver of the 600' separation. The Council has granted waivers in the past to liquor licenses in the Rimrock Mall property, which is directly adjacent to Stewart Park.

Councilmember Bird asked if the zoning was not changed, how limited would businesses be? Ms. Cromwell explained the 600' limitation for alcohol would still apply and it would require a special review and a waiver. A drive-thru would be the only other type of business that would be affected by limitations under the zone change.

Councilmember Astle asked how the 600' separation was determined. Ms. Cromwell responded it was determined from property line to property line, "as the crow flies".

Councilmember Bird asked if there were any special parking requirements. Ms. Cromwell responded there are differences in required parking for retail businesses, office spaces and restaurants. Restaurants require more parking. If a restaurant was proposed for the area, a parking analysis would likely be done.

The public comment period was opened.

- **Kay Brown, 116 Pueblo Drive, Billings, MT**, lives directly behind the property proposed for change. It is a very noisy area currently. She looks forward to 10:00 at night when the Mini-Mall businesses are closed. She is concerned the zone change would allow for a business that would create more traffic and noise even later into the evening, i.e. bars and casinos. Business and delivery trucks utilize the alley all day long. She is concerned about potential increased traffic and its effect on the safety of the school children. Ms. Brown stated Pueblo Drive is already a cut-through for people coming off of 24th Street West who try to avoid traffic. The driveway where Lenscrafters is located, is directly across from the driveway into Albertsons. Drivers race across there without stopping. It is a dangerous intersection already without adding additional traffic. She is concerned about what might happen if a business selling alcohol were to move in and how that might affect the school children, traffic and crime in the area.

Councilmember McFadden asked Ms. Brown if there was quite a bit of school children foot traffic on Pueblo Drive. Ms. Brown stated there isn't a lot of foot traffic, but there is a tremendous amount of vehicle traffic. There are a lot of children in the area to be concerned about.

- **Kylan Coghlan, 3037 Gloxinia Drive, Billings, MT,** used to live at the property where Kay Brown now resides. He is very familiar with the area. He stated a 600' separation is not that far from a school. He understood a request for a special review is already on a future Council agenda and only bars and casinos would be the kind of businesses making that request. By passing the zone change, it would be the first line of defense to fall. He doesn't know anyone who would like a bar or casino out their back door and asked the Council to deny the zone change. The neighborhood does not need a bar or casino.
- **Marshall Phil, Blueline Engineering, 2110 Overland Avenue, Suite 119B, Billings, MT,** appeared on behalf of the owner of the Rimrock Mini-Mall. He asked that the Council remain focused on the zone change and not on some future purpose for the property. He stated the owner simply wants to create some consistency with the property so to be able to market the north half of the property the same as they do the south half of the property.

  Councilmember Astle asked if there were any alcohol-serving establishments in the southern half of the property now. Mr. Phil stated he was not able to answer that question and referred it to the realtor of the property.
- **Rob Veltkamp, 2971 Spring Meadow, Billings, MT,** is the commercial broker representing the owners of Rimrock Mini-Mall. The owners have improved the Mini-Mall and thought the entire property was zoned Community Commercial, because the property is taxed Community Commercial. The owners just recently learned the north half of the property was still zoned Neighborhood Commercial. There is only 1 restaurant in the shopping center at this time. Just want to have consistent zoning throughout the property. There is currently a lease offer for the space previously occupied by the Hawaiian B-B-Q restaurant. It may be used as a restaurant space again, and they may want to add gaming machines and a liquor license. It would not be the kind of establishment that would create a loud bar crowd.

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

Councilmember Astle moved for approval of Zone Change #911, seconded by Councilmember Pitman.

Councilmember Cimmino asked Nicole Cromwell whether there was a natural barrier to the 600' separation requirement. Ms. Cromwell stated the criteria for a zoning waiver are:

1) There must be no direct pedestrian access between the two properties. That is not the case here. There is a sidewalk on Eldorado that connects the properties.

2) Intervening buildings completely block the view between the two uses from the school to the proposed bar. Most of the homes on Pueblo are single story, ranch-style and the Mini-mall is a 2-story building; so that does not apply. And,

3) It's across an arterial street from the proposed location and there is no pedestrian signal, that would allow someone to cross that arterial street. Ms. Cromwell stated that applicants may propose other barriers, visual or otherwise, between the two uses as consideration for the Council.

Councilmember McFadden stated the only reason the applicant would want to have the zone changed was to introduce gaming and alcohol in the neighborhood and therefore, he would not support the zone change.

Councilmember Astle asked about the State's process for measuring the 600' separation. Ms. Cromwell stated it is actually measured by a walking line from any entrance, to the alcohol license and the entrance to the school. There would be a line that would go through the parking lot, along Eldorado and then down to the school's entrance.

The Mayor asked Ms. Cromwell to give a history of this property. Ms. Cromwell stated that in the early 1980's the property was zoned Residential 6,000. When 24th Street West was developed into a major arterial, there were many properties that applied for zone changes to commercial zoning. Even at that time, the Planning Department and the Council were concerned with strip zoning arterial streets because it adds to traffic congestion and confusion. There was a proposal at one time to zone all of the block the Rimrock Mini-Mall is located on to Community Commercial, but that failed. So another proposal came back with a Neighborhood Commercial zoning for the north lots and it was approved.

Councilmember Bird stated she has lived in this neighborhood for the past 7 years and has seen an influx of younger families moving into the neighborhood. She appreciated all the improvements the owners have made to the Rimrock Mini-Mall and liked the diversity of businesses located there. However, she would not support the zone change as she could see there was a special review already in the works to introduce alcohol and gaming to the neighborhood. It would be inappropriate to allow an establishment that served alcohol to be located that closely to a school.

Councilmember Pitman called for "Point of Order" for the discussion. Stated this was for a zone change and not for a special review for an alcohol and/or gaming waiver. If a special review came in the future, it would be discussed at that time.

On a voice vote, the motion was approved 9 to 2. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, McCall, Astle, Ulledalen, Crouch and Mayor Hanel voted in favor. Councilmembers McFadden and Bird voted in opposition.

4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #912: a zone change from Residential 5,000 (R-50) and Public (P) to Residential Multi-Family-Restricted (RMF-R) and Public (P) on portions of Lots 1A and 2A, Block 1, Western Sky Subdivision, generally located west of the intersection of 44th Street West and south of King Avenue West. King Meadows, LLC and Pemberton LLC, owner; Marshall Phil, P.E., Blueline Engineering, agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator, Nicole Cromwell, gave a presentation regarding this zone change and provided maps of the existing and proposed changes to the subject property. Ms. Cromwell explained this parcel of land is located in Western Sky Subdivision, on the south side of King Avenue West, and just west of Montana Sapphire Subdivision. A zone change was done for the north half of Lots 1A and 2A in 2012 to Residential Multi-Family-Restricted. The applicant wants to extend Residential Multi-Family-Restricted zoning to the South where the R-7 is located and consolidate the Public zoning. The zoning for the property is presently split between the future entryway off of King Avenue West and the originally planned small pocket park. The applicant wishes to make one 5-acre Public zoned lot for a central recreation area for the apartment complex.

The Zoning Commission recommended approval, based on the following criteria for zone changes.

1. Is the new zoning designed in accordance with the Growth Policy?
The proposed zone change is consistent with the following goals of the Growth Policy:
• Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, page 6)
The proposed zoning would permit more land to be used for multi-family dwellings and this is consistent with the neighborhood character and the planned subdivision. The proposed zoning is compatible with the existing uses in Montana Sapphire Subdivision, Lenhardt Square and St. Vincent Healthcare Subdivision to the north.
• More housing and business choices with each neighborhood. (Land Use Element Goal, page 6) The existing zoning is restrictive of the types of housing available in the subdivision. The proposed zoning will allow more housing in the area including multifamily dwellings.
2. Is the new zoning designed to secure from fire and other dangers?
The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers. The City Fire Department will ensure safe access to the site and provision for minimum fire flow to the new buildings.
3. Whether the new zoning will promote public health, public safety and general welfare?
Public health and public safety will be promoted by the proposed zoning. Lower density subdivisions increase response times by police and emergency service providers. The proposed zoning will increase the availability and variety of housing options for Billings' residents and promote the general welfare.
4. Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?
Transportation: The proposed zoning may have some impact on the surrounding streets, and a traffic impact study may be required depending on the development that is built on the property in the future. New development that generates 500+ new vehicle trips per day will require a Traffic Accessibility Study (TAS).
Water and Sewer: The City will be able to provide water and sewer to the property by extension of those utilities from King Avenue West. A new Zone 3 Water Reservoir will be built in the future to provide additional storage capacity.

Schools and Parks: There may be impact to schools from the proposed zone change since any residential development in the future could affect the schools in the area. The property is in the Elder Grove Elementary and Middle School District and in the West High District (SD #2).

Fire and Police: The subject property is currently served by the city Public Safety Services.

5. Will the new zoning provide adequate light and air?

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. Will the new zoning effect motorized and non-motorized transportation?

Traffic generation from a multi-family development of less than 20 units per acre is approximately 8 trips per day per dwelling unit. The multifamily apartments under construction to the north will add about 1,584 vehicle trips per day to King Avenue West. This is about a 20% increase from the most recent traffic count numbers. The current traffic counts are based on a 3-year rolling average. A TAS will be needed to adequately address the motorized vehicle impact to King Avenue West and S 44th Street West. The TAS may require the developer to invest in traffic control improvements or participate with other land owners in improvements. The 2011 Bikeway and Trail Master Plan included a multi-use trail on the north side of King Avenue West. The new residents of this subdivision would need to cross King Avenue West to access this connector trail to the Shiloh Road Multi-Use Trail. Improvements to S 44th Street West will ensure access for pedestrians.

7. Will the new zoning promote compatible urban growth?

The new zoning does promote compatibility with urban growth. Lower density development is inefficient and ineffective in recovering the costs to extend city services. Higher densities of development, such as the proposed zoning, will allow the city to grow in a better urban pattern and form.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of the district and the suitability of the property for multifamily uses. There are several existing and new multi-family developments in the area. The Growth Policy and the West Billings Neighborhood Plan both encourage higher density housing along arterials between major intersections to avoid the “strip commercial” development typical of older arterial streets in Billings. The increased traffic generation of a multi-family development will not impact existing neighborhoods and will have direct access to a collector street and an arterial street.

9. Will the new zoning conserve the value of buildings?

Surrounding property exhibits higher taxable land value. The property is currently vacant and should increase in value when developed. There are no buildings on the subject property.

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit denser development and allow more housing choices in the area. The surrounding development is compatible and this is the most appropriate use of the land.

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

Councilmember Astle moved for approval of Zone Change #912, seconded by Councilmember Crouch. On a voice vote, the motion was unanimously approved.

5. **PUBLIC HEARING AND SPECIAL REVIEW #906: a special review for a beer and wine license with gaming in a Controlled Industrial (CI) zone on a 1.32 acre parcel of land described as: Lot 5A1, Block 3, Midland Subdivision, 3rd Filing and located at 900 S. 24th Street West. Marshall Phil, P.E., Blueline Engineering and Rob Veltkamp, agents. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)** Zoning Coordinator, Nicole Cromwell, gave a presentation and provided maps and photos of the subject property. Ms. Cromwell explained this special review is for a beer and wine license with gaming in two units in a multi-tenant building. The building is located at 900 S. 24th Street West, west of Shopko and south of King Avenue West. It is zoned Controlled Industrial. The building shares an access off of South 24th Street West. There are no churches, schools or public parks with playground equipment within a 600' radius, so no waiver is required. The Zoning Commission has recommended conditional approval. There are six conditions:

1. The special review approval shall be limited to Lot 5A1, Block 3 of Midland Subdivision, 3rd Filing.
2. The special review approval is for the location of a beer and wine license with gaming and no other use is intended or implied.
3. Any expansion of the interior space greater than 372 square feet will require an additional special review approval. The addition of an outdoor seating area will require an additional special review approval.
4. There shall be no outdoor public address system or outside announcement system of any kind.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

Councilmember Cimmino asked if there would be an outdoor patio area and would a site security fence be needed. Ms. Cromwell responded there will be no outdoor patio area.

Councilmember Bird inquired whether an outdoor "smoke shack" would be needed and would a special request be needed for that? Ms. Cromwell stated no special request is needed; only a building permit.

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

Councilmember Astle moved for approval of Special Review #906, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 1. Councilmembers Cromley, Ronquillo, Pitman, Cimmino, McFadden, McCall, Astle, Ulledalen, Crouch and Mayor Hanel voted in favor. Councilmember Bird voted in opposition.

6. PUBLIC HEARING AND RESOLUTION #13-19289 adopting the Exposition Gateway Concept Plan as part of the 2008 Growth Policy. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Ms. Volek introduced Nash Emrich, High Plains Architect, who gave a presentation. The plan was developed as the result of a recommendation from the East Billings Urban Renewal District Master Plan. It suggested that a mini-Master Plan be developed to research specific issues of the area. Three well-attended public meetings were held with property owners in the district and stakeholders in the community with interest in this area. The success of this plan was a result of the outreach to the property owners and stakeholders. Three main planning principles are:

1. **Stormwater Issues.** Reviewed how to repair and upgrade the stormwater removal system.
2. **Street Types.** Reviewed major arterial streets, including First Avenue North, Fourth Avenue North and Sixth Avenue North. Identified Exposition Drive as a gateway boulevard opportunity and Third Avenue North as a signature street; creating a look and feel of pedestrian-friendly streets that are welcoming. Would seek appropriate uses and forms for the buildings such as Broadway downtown. Considered the intersection of First Avenue North and Highway 87 with a potential roundabout and connection to I-90. Would like to connect the Metra Park and the events and activities there with the uses that may happen in the Exposition Gateway area, including lodging, retail and restaurants. Looked at safe pedestrian overcrossings or undercrossings at that location.
3. **Public Space and Landmarks.** Lacks public park area within this area. Looked to the public streets to provide some public space and greenway area, including a parkway along Metra Park. Also considered a café corner and creating landmarks to denote the area as a gateway into the community.

Finally, the plan considered the land use in the area; starting with the commercial retail core in the center, flanked by lodging opportunities and adaptive re-use opportunities. Many existing, large industrial buildings with a lot of character. Those buildings could have unique re-use opportunities or could continue with industrial uses. Reviewed special redevelopment opportunities along the railroad corridor (Fifth Avenue North). The development in this area will be determined by the property owners, developers and stakeholders. Parking opportunities, pedestrian crossings and streetscape improvements are all outlined in the plan.

Adoption of the plan is key to the implementation process. Must get the infrastructure improvements made to accommodate larger developments in the area. When the infrastructure is in place, some of the larger streetscape improvements and pedestrian crossings will be developed.

Councilmember McFadden asked if there were any commercial enterprises lined up to take advantage of the area. Mr. Emrich stated there are a number of interested developers having discussions with some property owners about acquiring land specifically for lodging, retail and restaurant uses.

Councilmember Cimmino complimented everyone involved in the planning process. It has been very exciting to see the potential of this area and sees an opportunity for a movie theatre to be located there.

Councilmember Pitman asked whether the county island in the middle of the district would be annexed. Mr. Emrich stated it is not incorporated into the plan. It was discussed to incorporate for future development, but is up to the property owners to seek annexation.

The public comment period was opened.

- **Marty Connell, 2903 Ratcliff Drive, Billings, MT,** spoke about the flooding problems and because of the inadequate infrastructure of the stormwater system, there hasn't been any new development in the area. Infrastructure improvements are needed for development to begin. He spoke about the annexation process and stated City Administrator, Tina Volek, prepared a memo giving options. Initially, the property owners were interested in an SID and RSID. He stated he worked on a modification to the TIF incentive annexation plan and together with City staff, developed a plan to offer a one-time annexation deal. Many of the property owners are excited about the opportunity to annex into the City, but they also wanted sidewalks, curbs and gutters immediately. The only way to do that is with an SID. If property owners can annex in on a delayed program -- wherein they would annex in, the improvements would be made and then they would begin paying on their taxes for those improvements.

  Councilmember Cimmino stated $10,000 was already allocated for the engineering study to analyze the improvements needed; create an SID and maintenance. Mr. Connell stated that has been very much appreciated. He stated all property owners were given ballots and provided the results of those ballots.

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

Councilmember Astle moved for approval and adoption of the Exposition Gateway Concept Plan as part of the 2008 Growth Policy, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

7. <u>PUBLIC HEARING AND RESOLUTION #13-19290 approving and adopting Fourth Quarter budget amendments for Fiscal Year 2012/2013. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)</u> City Administrator, Tina Volek, stated staff did not have any presentations, but were available to answer questions.

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

Councilmember Astle moved for approval of Fourth Quarter Budget Amendments, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

8. <u>PUBLIC HEARING AND FIRST READING ORDINANCE revising Section 5.01 of the Billings Charter; providing for advisory boards, commissions, and committees of the City to have administrative authority if allowed by state or federal law or interlocal agreement, and submitting the proposed amendment to the electors of the City as provided by law. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)</u> City Administrator, Tina Volek, stated this step was necessary to begin discussions for a possible Parking Commission for the City. The Charter presently allows boards, commissions and committees to act in an advisory capacity only. Staff did not have any additional presentation, but was available to answer questions.

Councilmember Cimmino clarified that if the Council chose to place this item on the ballot, it would be up to the voters to vote for the amendment. She asked if the Parking Division would be eliminated should the voters pass the amendment. Ms. Volek responded elimination would not be an automatic decision and to eliminate the Parking Division would have to be considered by the Council first.

Councilmember Pitman asked if this amendment would affect all boards, commissions and committees. Ms. Volek stated just those allowed by state or federal law or interlocal agreement.

Councilmember Ulledalen stated it would give the Council the option in the future to reconstruct some boards. Some time ago there were discussions that the Zoning Commission should have the final say about zone changes, etc.

The Mayor stated this subject came about because of previous discussions to move toward creating a Parking Commission.

Councilmember Cimmino stated it was her understanding that state law for any zoning applications required 2 public hearings; 1 at the advisory board level and 1 at the governing board level. This is because of the adoption of ordinances. A zoning commission would not have the authority according to state law.

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

Councilmember McCall moved for approval to revise the Billings Charter, Section 5.01, providing for advisory boards, commissions, and committees of the City to have administrative authority as allowed by state or federal law or interlocal agreement, and submitting the proposed amendment to the electors of the City as provided by law, seconded by Councilmember Astle. On a voice vote, the motion was approved 9 to 2. Councilmembers Cromley, Ronquillo, McFadden, Bird, McCall, Astle, Ulledalen, Crouch and Mayor Hanel voted in favor. Councilmembers Pitman and Cimmino voted in opposition.

9. **APPROVE CANCELLATION OF LEASE AGREEMENT with the Billings Community Youth Foundation, Inc. for an amateur ice arena in the southeast portion of Centennial Park due to breach of the agreement; and REQUEST that Parks, Recreation and Cemetery Board consider proposals for other uses and make recommendation to City Council. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator, Tina Volek, stated the Council directed staff on March 25, 2013, to prepare a letter for the Mayor's signature, to be sent to the Billings Community Youth Foundation, Inc. The letter requested the Foundation demonstrate their compliance with the requirements stated in the lease that was transferred to their organization from the Billings Amateur Hockey League. The 60-day response period elapsed and staff did not hear from the organization. The organization was contacted and staff was advised the organization would stand on the extensive package provided to Council at its March 25, 2013 meeting. Staff recommended termination of the lease at this time and to allow the Parks, Recreation and Cemetery Board to consider other uses for the site and make its recommendation to the City Council. Should the Council wish to make the appropriation previously suggested by Mr. DeVore, it would require a resolution of the City Council. Council may make a motion to approve the cancellation of the lease; request that the Parks Board consider other proposals; and direct staff to bring a resolution back at a subsequent meeting to move funds from the Council Contingency Fund.

Councilmember Astle moved for approval of the cancellation of the lease agreement with the Billings Community Youth Foundation, Inc. for an amateur ice arena in the southeast portion of Centennial Park due to breach of the agreement; and request that Parks, Recreation and Cemetery Board consider proposals for other uses and make its recommendation to City Council, seconded by Councilmember Ulledalen. On a voice vote, the motion was unanimously approved.

10. **RESOLUTION #13-19291 approving the Transfer Agreement of the Billings cable television franchise and local cable system from Cablevision to Charter Communications Operating, LLC; and authorizing Charter Communications Operating, LLC, to assume control of the Bresnan Communications franchise; and extending the franchise term to July 9, 2015. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** City Administrator, Tina Volek, stated Council received updated information in the Friday packet following extensive negotiations between staff, Cablevision and Charter Communications. Cablevision made arrangements to sell the Bresnan Communications franchise in Billings and the local cable system to Charter Communications Operating, LLC. The sale price is $1.65 billion. The FCC requires a transfer agreement be provided from the cities in the area which covers the States of Wyoming, Montana, Utah and parts of Colorado. It had to be completed within 120 days of the announcement. The City's deadline was June 25, 2013. Additionally, there was a request for a resolution that would extend the current Bresnan franchise for two years to July 9, 2015; and would call for an automatic renewal if it were not actively renewed by 2015. Cablevision has had the franchise for about 2 years. Prior to that, Bresnan operated the franchise until the

death of its founder. Ms. Volek thanked City Attorney Brent Brooks and all of the others that spent many late nights working on this item.

The Transfer Agreement prohibits Bresnan from increasing its rates based solely on the amount that was paid for the system. Additionally, the City retains the existing franchise and subscriber PEG fee. The franchise fees received by the City were $1.5 million for the 2012-2013 budget year and were deposited into the General Fund. The City received $92,600 in PEG fees and those fees go to Channel 7 for the purpose of upgrading their system.

Charter agreed to maintain fiber links to City Hall, the County Courthouse and the School District No. 2 board room from them to Channel 7 in the Lincoln Center. Charter further agreed to add fiber to the new Library. The City has asked Charter to investigate alternate high definition links to Dehler Park, Alberta Bair Theatre and the Babcock Theatre. Charter also agreed to a capital payment to be used for portable equipment so live remotes can be done from other locations.

Another concern was losing some of Bresnan's approximately 500 employees. Bresnan had an agreement with Big Sky Economic Development to obtain a payment to help pay for the new call center located on Monad Road. Big Sky Economic Development makes an annual payment to Bresnan to continue to employ at least 117 people in the Billings call center until July of 2015, at which time the agreement with BSEDA expires. Staff expressed concern because Charter recently agreed to bring back overseas call center operations and opened a call center in St. Louis, MN. Staff wanted to be assured there would still be people in the City of Billings employed at the call center and other facilities. Charter agreed to give a 90-day notice of changes to personnel of more than 50 positions, until the current agreement with BSEDA expires. At that time, the City will be negotiating a new franchise agreement. There are approximately 192 employees at the call center. The remaining positions are installation technicians, etc. Charter considers Billings to be an area of growth. Because there are a number of sites that coax cabling could no longer be offered; Charter agreed to pay the City $50,000. This will be passed on to Channel 7 to acquire high definition remote equipment to be used to cover events. That's about one-half of the estimated cost of that equipment. Charter will give an additional $25,000 if the franchise is renewed in 2015.

Staff recommended approval of the Transfer Agreement and Resolution continuing the non-exclusive franchise agreement until July 9, 2015.

Councilmember Pitman moved for approval of the Resolution approving the Transfer Agreement of the Billings cable television franchise and local cable system from Cablevision to Charter Communications Operating, LLC; and authorizing Charter Communications Operating, LLC, to assume control of the Bresnan Communications franchise; and extending the franchise term to July 9, 2015, seconded by Councilmember Astle.

Councilmember Cimmino asked about the information in the Friday packet that addressed the PEG use and noted the address for City Hall was incorrect. In Section 2.6 – Support Payments . . . consistent with this section, the City reserves the right to increase the amount by resolution up to .85 per subscriber per month. Presently, the fee is .25 per subscriber per month. This is an opportunity for an increase in these services. Ms. Volek stated this was language similar to what was contained in the previous agreement. Staff does not anticipate presenting for additional funding. This money is used for capital items, i.e., cameras in City Hall, etc. The Transfer Agreement would not create an automatic fee increase. Fees are regulated by the FCC.

The Mayor noted this has been an exceptional business relationship. On a voice vote, the motion was unanimously approved.

11. APPROVE the appointment of Councilmember Pitman to the Montana League of Cities and Towns Board. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator, Tina Volek, stated Councilmember McCall has been the City's representative on the Montana League of Cities and Towns Board, but she has been promoted to First Vice President of the organization and therefore has left an opening. Earlier in the evening this item was added to the agenda by an unanimous vote of approval.

Staff recommended Councilmember Pitman be appointed to the Montana League of Cities and Towns Board as the City's representative.

Councilmember McCall moved that Councilmember Denis Pitman be appointed to the Montana League of Cities and Towns Board, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

EXECUTIVE SESSION - PENDING LITIGATION

PUBLIC COMMENT on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign in at the cart located at the back of the 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

- **Astle:** MOVED to direct staff to place on a future agenda and draft a resolution to move up to $30,000 from Council Contingency Fund for the purpose of obtaining a modified Master Plan for Centennial Park and set a public hearing, seconded by Councilmember McFadden. Councilmember Pitman stated he did not agree with allocating monies for something that has not been proposed. It is premature. Councilmember Ulledalen stated he would support the motion because it is time to develop Centennial Park. Councilmember Cimmino questioned how much was left in the Council Contingency Fund. Ms. Volek responded the monies would be taken from the new budget year and that balance is $65,000. As a follow up, Councilmember Cimmino gave an itemization of where monies were allocated this past year.
    - $600,000 radio upgrade.
    - $87,650 Rose Park slide upgrade
    - $600,00 New World Public Safety software
    - $81,000 City Hall lighting upgrade
    - $216,000 Fire Station lighting

- $250,000 Approx. Home Reinvestment Revolving Loan
- $420 Printing for Post Card for Community Conversations

There should be a balance of $68,025.45 in the Council Contingency Fund. Councilmember Cimmino stated that if the remaining balance wasn't used by the end of June, it would automatically be deposited into the General Fund. Ms. Volek stated as of July 1st there would be an automatic renewal of $65,000 in the Council Contingency Fund and agreed with Councilmember Cimmino that there would be no roll-over of leftover funds. Ms. Volek stated the ordinance concerning Council Contingency funding was very specific. Councilmember Ulledalen said it would be possible to transfer $30,000 from the undesignated reserves fund, too. There are potentially 3 funding sources from which to draw. Councilman Astle pointed out it was necessary to have a public hearing to expend monies and the Council Contingency Fund balance could not be allocated at this meeting. Councilmember Bird stated she was in favor of getting the modified Master Plan for Centennial Park done. Councilmember Cromley questioned how the $30,000 figure was arrived at. Councilmember Astle stated it was just Mr. DeVore's request early in the evening. Councilmember Cimmino stated there have been e-mails and other discussions about using Council Contingency funds to help other park projects, i.e. a sign at Phipps Park denoting it as City property and a larger sign at the Heights Dog Park. On a voice vote, the motion was approved 7 to 4. Councilmembers McFadden, Bird, McCall, Astle, Ulledalen, Crouch and Mayor Hanel voted in favor. Councilmembers Cromley, Ronquillo, Pitman and Cimmino voted in opposition.

- **Ulledalen:** Inquired whether a Council Initiative was needed to address the at-large cat problem at the City rental property on Stanford Drive. Ms. Volek stated Mr. Mumford has been in contact with the lessee of the property, but she would personally follow-up on this concern. Ms. Volek stated the rental agreement specifically limited the number of animals.

- **McCall:** Reminded the Council that the City Administrator's evaluation would be on Tuesday, July 2nd at 1:30 p.m. She also encouraged Councilmembers to share with Tina their suggestions for community conversations to begin in September.

There was no further business, and the meeting adjourned at 8:31 p.m.

CITY OF BILLINGS

BY: Thomas W. Hanel

Thomas W. Hanel, Mayor

CITY OF BILLINGS SEAL YELLOWSTONE COUNTY, MONTANA

ATTEST:

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