

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

August 26, 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. Councilmember Cromley gave the invocation.

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

MINUTES: August 12, 2013 – Councilmember Cimmino moved for approval, as written, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel complimented the Police Department staff, their families, and others who held a fundraiser for the K-9 program last Friday night. He said due to budget constraints, the K-9 program was being scrutinized. The fundraiser was well managed, well-attended and was successful financially. He thanked the Rex Restaurant for cordoning off their parking lot for the event.
- Councilmember Crouch saluted the Billings Association of Realtors on their 10th successful Quality of Life Run. He said approximately 40 city employees participated and many of them, including the Mayor, came in first in their age category. The race had raised almost \$300,000 in the ten years, with \$30,000 from this year's race going to the Zoo. Mayor Hanel commented Councilmember Crouch also placed in his age category.
- Councilmember McCall acknowledged and thanked Chief St. John and the Police Department for the additional coverage provided at the Billings Clinic Classic the past weekend.
- Councilmember Bird acknowledged that a week ago Billings, Yellowstone County, and the State of Montana lost one of its true champions with the passing of Joan Hurdle. She said August 26 was the 93rd anniversary of the 19th Amendment to the US Constitution giving women the right to vote in the United States. Ms. Hurdle was an advocate for public health, the rights of senior citizens, youth safety, and the rights of women. She said Ms. Hurdle was very active with the League of Women Voters, an incredible role model, and a force to be reckoned with in her own way. Councilmember Bird asked for a couple moments of silence in Ms. Hurdle's memory.
- Councilmember Ronquillo congratulated the Police Department for capturing the individual responsible for recent serious crimes in the community that had caused the citizens a lot of concern. He asked for a round of applause.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek commented on the following items.

- The WiFi was down. They attempted to have it repaired earlier but were unable to do so.
- Item 4 – Public Hearing and Resolution setting Park District 1 Assessments for Tax Year 2013. According to state statute a list of all those affected and their anticipated assessments was to be made available for public inspection in the City Clerk's Office. The list had not been made available so staff was asking that the item be postponed until September 9 so the public hearing could be re-advertised and the list could be provided.
- Item 7 – Public Hearing and Special Review #910. Referenced a letter from Merry Lee Olson, CEO of the YWCA Billings, dated 8/6/13, in support of the variance and Special Review #910 with six conditions she would like imposed. The letter was provided to Council via e-mail on August 26 and a copy was on Council's desks. A copy was also filed in the ex-parte notebook.
- Item 8 – Public Hearing and First Reading Ordinance for Zone Change #915:
 - ✓ Protest from Sharon Lux, dated 8/21/13, was e-mailed to Council on 8/22/13 and was filed in the ex-parte notebook.
 - ✓ Protest petition signed by 27 property owners was included in the agenda packet and was filed in the ex-parte notebook.

Councilmember Astle asked if there was a valid protest. Ms. Volek indicated there was. Attorney Brooks advised it would require a 2/3 vote, or 8 out of 11.

PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1, #2 & #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. There were no speakers, and the public comment period was closed.

1. CONSENT AGENDA

A. Bid Awards:

1. **SID 1395, Boca Raton Road.** (Opened 7/23/2013)(Delayed from 8/12/2013)
Recommend rejection of all bids until project can be evaluated and the design modified for rebid.

2. **W.O. 10-19, Shiloh Conservation Area.** (Opened 8/20/2013) Recommend delay of bid award until September 9, 2013.

3. **2014 Landfill Compactor** (Opened 7/23/2013)(Delayed from 8/12/2013) Recommend rejecting all bids and directing staff to re-bid with clarified specifications.

B. **Contract** with Blackbox Network Services to provide technology upgrades and services for the new Billings Public Library; \$131,978.22.

C. **Concession Agreement** (5-year) with Boingo Wireless for installation and operation of a paid WIFI system in the Airport Terminal Building; projected annual revenue - \$7,500 to \$8,300.

D. **Signal Emergency Response Agreement** with Montana Department of Transportation; revenue based on labor, materials and equipment.

E. **Approval of Report for Pledged Collateral** for First Interstate Bank Certificates of Deposit and US Bank Certificates of Deposit.

F. **Approval of Semi Annual Investment Report.**

G. **Approval and acceptance** of additional United Way of Yellowstone County Grant Funds for Enforcing Underage Drinking Laws (EUDL) - \$4,794; and extension of grant time period to September 30, 2013.

H. **Resolution of Intent #13-19301** to modify SILMD 301, Josephine Crossing Subdivision (street lighting), and set a public hearing date for September 23, 2013.

I. **Resolution #13-19302** temporarily suspending Section 24-411, BMCC, Parking for Camping Purposes, in the Shrine Auditorium parking lot, 1125 Broadwater Avenue, during the Big Sky Polka Club's Polkafest, August 28 through September 3, 2013.

J. **Second and Final Reading Ordinance #13-5614** amending Billings, Montana City Code, Article 24-400, Stopping, Standing and Parking; permitting the City Administrator to determine installation of parking meters or signs in meter zones and establish limited time parking. Parking Advisory Board recommends approval.

K. **Final Plat** of Falcon Ridge Estates Subdivision, 2nd Filing.

L. **Bills and Payroll:**

1. July 29, 2013

2. August 5, 2013

Councilmember Cromley separated Consent Agenda Item C. Councilmember Ronquillo separated Consent Agenda Item J. Councilmember Cimmino separated Consent Agenda Items L1 and L2. Councilmember McCall moved for approval of the Consent Agenda with the exception of Items C, J, L1 and L2, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Cromley referenced Item C and said there were six airports in the state with commercial schedules and five of them offered free WiFi. He asked why Billings did not. Airport Director, Tom Binford, said "free is not free." Somebody had to pay for it, and in this case it would be the Airport. There was a charge through the company, and the Airport actually made a small revenue from the contract. Looking at the fee base, one was a hybrid and one was completely free. The hybrid gave approximately 30 minutes free, but there was still a charge. Because of the cost of the equipment and line charge under both the hybrid and free models, they would have to pay the costs. He said he did not think a lot of people would make a decision based on the driving distances in Montana to go to an airport just for free internet access. Staff elected to go with the model that did not cost the Airport money and made the Airport a little revenue. The people who would actually be paying for the free internet would be the Airport tenants and the airlines, and staff did not feel they could take another cost to them to provide free internet access.

Mayor Hanel took a minute to thank Mr. Binford and his staff on the successful completion of the runway project. He said the notification to the public and the communication was very good, and there were very few complaints.

Councilmember McCall moved for approval of Item C, seconded by Councilmember Astle. On a voice vote, the motion was approved 10 to 1. Councilmember Cromley said he was in favor of free WiFi and voted in opposition.

Councilmember Ronquillo referenced Item J and asked Ms. Volek about the parking on First Avenue North. He said someone was still tearing off the 2-hour parking bags, on the south side between 30th and 32nd there were no meters, and on the north side it was hit or miss. He asked if they would be getting rid of all the meters or putting them all back. Assistant City Administrator, Bruce McCandless, said all the meters on First Avenue North would be removed because they were all outside the meter zone previously approved by Council. He said the bags should not be necessary any longer; either the meters would be there without bags or the meters would be removed and replaced with parking limit signs. Mr. McCandless said he would make sure it was taken care of within a couple of weeks. Councilmember Ronquillo asked if anyone had spoken with the owner of Pug Mahon's. Councilmember Cromley said he spoke with him, and he had gone back and forth. He said he thought he would be okay either way. Councilmember Ronquillo moved for approval of Item J, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item L1 and said she had been directed by her employer to abstain from any contracts or invoices paid to other engineering and architectural firms or any other entities involved in the industry. She listed A & E Architects (#767862), Business Tax Section-Sletten Construction-Empire Garage (#767890), Business Tax Section-Construction of New Library (#767890), CTA Architects (#767904), HDR, Inc. (#767937), High Tech Construction (#767943), Jackson Contractor Group, Inc.-Construction of New Library (#767953), Morrison-

Maierle, Inc. (#767986), Natgun Construction (#767996), Sletten Construction Company-Empire Garage (#768024), and Tetra Tech, Inc. (#768035).

Councilmember Pitman moved for approval of Item L1, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

Councilmember Cimmino referenced Item L2 and said she would also be abstaining. She listed A & E Architects (#768066), COP Construction Company (#768097), HDR, Inc. (#768143), Kadrmas Lee & Jackson (#768165), Knife River -JTL Group, Inc. (#768172), and Western Municipal Construction, Inc. (#768269).

Councilmember Pitman moved for approval of Item L2, seconded by Councilmember Ronquillo. Councilmember Pitman asked if a legal decision had been made if Councilmember Cimmino was in violation or had a conflict of interest and if her employer could request she recuse herself. City Attorney Brent Brooks said a decision had been made, and he preferred to visit with Councilmember Cimmino privately. Councilmember Cimmino said she had submitted a list of all the invoice numbers to the City Clerk to formally include in the minutes. On a voice vote, the motion was approved 10 to 0.

REGULAR AGENDA:

2. RECOMMENDATION to the Policy Coordinating Committee (PCC) for approval of the Draft 2014 Unified Planning Work Program (UPWP). Staff recommends approval to the PCC. (Action: approval or disapproval of staff recommendation.) Transportation Planner, Scott Walker, said the document was brought before the Council every year for a recommendation to the PCC. He said it was a very standard document and was reviewed and recommended for approval by the Technical Advisory Board (TAC), Planning Board, County Commission, City Council, and Montana Department of Transportation. It was scheduled to be finally adopted by the PCC on September 17. Mr. Walker said there were 12 work elements in the document that had not changed for the last several years. Reimbursements were requested quarterly from the federal government through the Highway Department, and each work element had a different percentage rate for reimbursement. He said the funding sources for the document came from City Planning Department fees estimated at \$153,000 in 2014; Yellowstone County Planning Department fees estimated at \$51,000; Yellowstone County Mill estimated at \$388,000; and Federal PL share estimated at \$1,059,737. The document was updated annually and would be current October 1, 2013, through September 30, 2014. He noted all the work elements had to be related to transportation and/or transportation planning. Mr. Walker reviewed a table of the work elements, the proposed dollars to be expended, the appropriate local match, and the total estimated cost; as well as a table of funding comparisons between FY2013 and FY2014. He also reviewed a table of the funding summary and the Staff Months by Work Element table. Mr. Walker said two very important changes had been made to the work element table; Dave Green, Planner I, who had been part of the layoffs three or so years ago, had been brought back on staff; and an Alternative Modes Coordinator had been brought back on staff. He listed the 2013 Priorities as the Exposition Gateway Master Plan (100% complete); Hospitality Corridor Study (95% complete), Transportation Alternatives Program (transitioned from the former CTEP Program – up

and running), North By-Pass Environmental Assessment (connecting Lockwood and the Heights – moving along), 2014 Transportation Plan (in process), Downtown Railroad Mitigation Plan, and Data Silo (off-site data storage). He listed the 2014 Priorities as completing the 2014 Transportation Plan, completing a Downtown Railroad Mitigation Plan, starting a Feasibility Study for Rail/Vehicle Interface in Downtown Billings, working on the Highway 3 Corridor Study, Bike/Pedestrian Plan Implementation, and a Shiloh Road to Riverfront Corridor Study that would involve the last piece of the marathon loop around Billings as far as bike/pedestrian paths.

Councilmember Pitman moved for approval of Item 2, seconded by Councilmember McCall. Councilmember Cimmino advised she would abstain from the item because it had to do with Federal Highway Administration Transportation Funding. Mayor Hanel noted the importance of the Downtown Railroad Mitigation Plan and said he hoped it would be completed in 2014. On a voice vote, the motion was approved 10 to 0.

3. PUBLIC HEARING AND RESOLUTION #13-19303 setting mill levy rates for Public Safety Fund, General Obligation Debt Service Parks, General Obligation Debt Service Streets, General Obligation Debt Service Library, and General Obligation Debt Service Series A Baseball Stadium for tax year 2013. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator, Tina Volek, advised there was no presentation but staff was available to answer questions.

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

Councilmember Astle moved for approval of Item 3, seconded by Councilmember McCall. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION setting the Park District 1 assessment for tax year 2013. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Mayor Hanel advised Ms. Volek had asked earlier that the item be postponed until September 9, 2013. The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Astle moved to postpone action on Item 4 until September 9, 2013, seconded by Councilmember Ulledalen. On a voice vote, the motion to postpone until September 9, 2013, was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION #13-19304 approving budget amendments for Fiscal Year 2013. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised the amendments were to the 2013/2014 budget year, and Mr. Weber was available to discuss the street light maintenance district costs if Council was interested. She said there were several vacancies in the Police Department, and they had minimum staffing requirements. As a result of a very heavy workload there was an expenditure of \$200,000 in overtime to cover assigned beats and shifts. There were also additional costs for the new 800MZ system that were absorbed by the department by decreases in other operations and maintenance except for \$25,000.

Councilmember Cimmino referenced the \$200,000 of overtime, and asked if it was regular police work for criminal elements or community events that required police patrol. Ms. Volek advised the community events that required police patrol were normally covered by a charge for the event, so it was primarily for the coverage of beats and special activities resulting from crime in the community. Police Chief St. John said that was correct. Most of the overtime costs were absorbed by people wanting to hire their services. They occasionally provided that service because it was "the right thing to do or it needed to be done." They tried to minimize it, but it did happen occasionally.

Councilmember Cimmino referenced the extra \$25,000 allotted to the radio equipment and said it was her recollection they had provided over \$600,000 of Council Contingency to pay for it last year. Ms. Volek said that was for the base of the system, and the \$25,000 would cover the radios. Councilmember Cimmino asked if it was provided in the staff report last year that this was the next cost. Ms. Volek said she believed it was explained. Finance Director, Pat Weber, said when they had the opportunity to buy the new radio system, he went to both Chiefs and asked them to take money out of their bottom line budget to pay for the radio system instead of budgeting money and both agreed. The Police Department had to come up with \$150,000 out of their budget which meant they were not able to spend their entire budget on items they wanted because they had to pay for part of the radio system. FY14 would be the last payment on the radio system. He said the \$600,000 was used to get the radios to P25 compliance, which was required by the Federal Government. The upgrade to the radios and the new radio system were two different expenditures. Ms. Volek said the Police Department was able to come up with \$125,000 of the \$150,000 cost. Councilmember Cimmino asked if this would be the final cost requirement for the equipment and the upgrade to the radios in both the Fire Department and Police Department. Ms. Volek said there would be one more payment. Mr. Weber said FY14 was the last year for the radio system, so once again he would be asking the Chief for \$150,000 out of his bottom line.

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

Councilmember McCall moved for approval of Item 5, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND SPECIAL REVIEW #909: a special review to allow the construction of a 3-plex, multi-family dwelling in a Residential 6,000 (R-60) zone on Lots 25-27, Block 3, State Realty Subdivision; a 9,375 square foot parcel of land located at the intersection of Jefferson Street and State Avenue. Dave Hagstrom, owner. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planner II, Nicole Cromwell, advised anything more than a duplex dwelling in the current zoning required special review approval so City Council could decide if it was an appropriate use in the neighborhood. She showed a zoning map and an aerial view of the property and surrounding properties. She noted the subject property was a large corner lot and said most of the neighborhood lots were smaller and in the 6,000 to 7,000 square foot range. There were several duplexes in the neighborhood; some with a front house and a back house. She said most of the houses were built prior to the advent of

the automobile and many did not have driveway access from the street. If garages were built, they were built on the rear of the lots and accessed from the alleys. Ms. Cromwell said currently visitors to the neighborhood typically parked on the street, and the on-street parking congestion on Jefferson Street, Adams Street, and Monroe Street was a major issue at the Zoning Commission hearing. There was no parking on State Avenue because it was an arterial street. Ms. Cromwell showed the site plan submitted with the application, photographs of the structure that had since been demolished, and photographs of the surrounding neighborhood. She said there would be off-street parking for the 3-plex with paved alley access, and there would be no driveway from Jefferson Street to the off-street parking. The proposed structure would be 3-bedroom apartments, and there would be living space in the below-grade level. The Zoning Commission was recommending conditional approval based on the three criteria for special reviews: 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2008 Growth Policy, and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts; and the following 10 criteria:

1. The special review approval is for Lots 25-27, Block 3, State Realty Subdivision, generally located at 3 Jefferson Street.
2. The special review approval is for the construction of 1, 3-plex dwelling and no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for porch or entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. The applicant/owner will remove the shrub/tree on the northwest corner of the property and properly maintain and trim the existing trees in the boulevard on Jefferson Street. Any new trees planted shall not be any of the following species: Carolina poplar, other populus subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. The trees will be continuously maintained and replaced as necessary by the owner.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) is visible from

the outside.

8. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.

9. 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.

10. 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 McCall asked to see the site plan again and the proposed parking area. Ms. Cromwell said the parking area would be south of the sidewalk; it would be 22-feet wide, and it would have room for six parking spaces.

Councilmember Cimmino asked if the 28 signatures on the petition would be considered a valid protest. Attorney Brooks said for special reviews there was no valid protest statute regarding a super majority of the Council. Councilmember Cimmino asked if it only applied to zone change applications and not special reviews. Attorney Brooks said that was correct.

Councilmember Ronquillo commented that Mr. Hagstrom had built quite a few residences on the south side, and he always had done a good job and taken good care of them. He said the only problem he had was with the on-street parking, and he wished Mr. Hagstrom would look strongly at building a duplex instead of a 3-plex.

The public hearing was opened.

- **Dave Hagstrom, 324 South 31st Street, Billings, MT**, said it was a good project for everybody involved except for the people who parked on Jefferson. It would be a very good deal for the low-income families who lived there because everything he built was affordable to people who did not make a whole lot of money. It would be a good deal for the City of Billings because the blight that had sat there for two years was gone, it would create affordable housing, it was infill development, taxes would double, and it would stimulate the economy because it would be a \$200,000 project. It was all private sector money and market-driven development. There would be no federal dollars involved in spite of the fact it was on the poor side of town. He said it may be a bad deal for the people living along Jefferson who currently had limited parking. He said he could appreciate it because he had lived for the past 27 years on South 31st Street between 3rd and 4th Avenues South, and there was only one driveway on the entire block. The neighbors had gotten along fine and worked together. Sometimes they had to park further away from their houses than they liked, but nobody had suffered greatly because of the parking problem.

Councilmember Bird asked how his proposal addressed potential ADA issues given the parking challenges. Mr. Hagstrom said ADA kicked in with a 4-

plex. There would be two or three steps into each of the apartments, so they would not be ADA accessible.

- **Lynda Woods, 9 Jefferson Street, Billings, MT**, said she was an employee of the City of Billings but she was speaking that evening as a public citizen. She said she was opposed to the request to construct a triplex, multi-family dwelling. Ms. Woods showed a map representing the subject area and said the areas color-coded in orange and pink represented homeowners that opened the door to her and were opposed to the project. She said she submitted a petition with 24 signatures from individuals who were opposed at the public review; and 21 of the 24 individuals were homeowners. Ms. Woods said most of the existing duplexes and triplexes in the area were homeowner-occupied and were not commercial interests. She said she was opposed to having a commercial interest built in her neighborhood and a triplex putting that much pressure on the surrounding neighbors. She did not think a triplex was sensitive or compatible to the character of the adjacent neighborhood; they were predominantly single-family units and were homeowner-occupied. Her property adjoined the proposed property, and she did not have off-street parking. Many times she and her neighbors could not find parking in front of their homes. Ms. Woods said she had great respect for Mr. Hagstrom, it was very uncomfortable for her to testify, and it was her own fault. She spoke with Mr. Hagstrom while he was at the state legislature and when he said he was looking for a project, she told him to look at the great project right next door to her and now they were faced with building a triplex. She said the multiplexes around Mr. Hagstrom's house were not conforming multiplexes and no developer came before City Council to build them.

Councilmember Pitman said there was no reason given why the other individuals who signed were opposed, and asked if she was connecting them all to the reasons she was opposing it. He asked if it was because of parking or because it was a triplex. Ms. Woods said she did not attach her issues to the names. When she took the petition around she asked the question, and they were opposed to a triplex being built in that area; many of them because of parking and some of them because of the impact to the neighborhood.

Councilmember Cromley asked for an explanation of the green and white colored areas on her map. Ms. Woods said the green areas were vacant properties, and the white areas were individuals who did not answer the door when she knocked.

Councilmember McCall asked how many individuals contacted were in duplexes or triplexes. Ms. Woods said approximately four.

Councilmember Cimmino said Ms. Woods had noted for the record she was a city employee; her occupation was to promote low income housing within given areas; and she had been very instrumental with helping the Mayor's Committee on Homelessness. Councilmember Cimmino said she understood Ms. Woods was speaking from a personal standpoint but there was a dichotomy there and asked what the difference was. Ms. Wood said she was speaking as a private citizen, but she lived and breathed affordable housing development. It was very difficult for her to make the decision to come before Council that evening. She was opposed to the pressure the triplex would put on the

neighborhood. It was a low income neighborhood with many barriers to housing. It was a homeowner-occupied neighborhood and not a rental area. A 3-plex rental would change the flavor of the neighborhood. She absolutely supported affordable housing development but she did not support affordable housing development as a triplex in that location because it would put too much pressure on the surrounding neighbors.

Councilmember Cromley said he drove the street, and it looked like they were all single family homes. He asked if there were basement apartments or houses in the back. Ms. Woods said most of them were non-conforming duplexes with basements that had been converted into another unit or they were back structures or garages that had been converted. They were not originally built as duplexes.

- **Doug Beringer, 2 Jefferson Street, Billings, MT**, said he had lived there for 25 years and was a retired city sanitation worker. There was an upstairs apartment and downstairs apartment next to him with a garage and a driveway, but the tenants parked on the street. Most of the neighbors were elderly. There was currently not enough parking and when vehicles were parked on both sides of the street, the street became very narrow. A triplex would create even more parking problems.

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

Councilmember Pitman moved for approval of Special Review #909, seconded by Councilmember Astle.

Councilmember McFadden said he drove to the subject property and noticed the parking was very tight. He thought it would be a squeeze to build a duplex on the property, and he could not see room for a triplex. It was great that people wanted to develop the neighborhood but he would vote against the motion because it would be too much of a parking hardship on the neighbors.

Councilmember Astle asked for the requirement on commercial parking for housing. Ms. Cromwell said a single bedroom unit required one parking space, and anything with two or more bedrooms required one and a half spaces. It was required by code to provide five off-street spaces, and Mr. Hagstrom was providing six.

On a roll call vote, the motion to approve Special Review #909 failed 8 to 3. Councilmembers Cromley, Ronquillo, Cimmino, McFadden, Bird, Ulledalen, Crouch, and Mayor Hanel voted in opposition. Councilmembers Pitman, McCall, and Astle voted in favor.

Mayor Hanel called for a 10-minute recess at 7:45 p.m. Mayor Hanel called the meeting back to order at 7:55 p.m.

7. PUBLIC HEARING AND SPECIAL REVIEW #910: a special review to allow the construction of three, 4-plex multi-family dwellings in a Residential 6,000 (R-60) zone on Lots 16-18, Block 2, Broadacre Subdivision; a 27,950 square foot parcel of land located west of the intersection of 10th Street West and Wyoming Avenue. Bonini Enterprises, LLC, owner; EEC, LLC, agent. Zoning Commission

recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II, Nicole Cromwell, advised the subject property was one block north of Broadwater Avenue at 10th Street West. On August 7, 2013, the Board of Adjustment granted the variance for the required lot area for three 4-plexes reducing it from 30,000 square feet to 27,950 square feet. Conditions of approval were attached to the variance request including timing for starting and completing the construction. Ms. Cromwell showed a zoning map and aerial photo of the subject property and surrounding properties. She showed a site plan of the proposed project and photographs of the subject property and surrounding properties. There would be access from the alley to the garages of the 4-plex, and the applicant was required to pave a portion of the alley, complete the street improvements along Wyoming Avenue, and make any other needed improvements on 10th Street West. Drive approaches would be located on 10th Street West and on Wyoming Avenue. The Zoning Commission recommended the following ten conditions for approval.

1. The special review is limited to Lots 16-18, Block 2, Broadacre Subdivision generally located at the intersection of Wyoming Avenue and 10th Street West.
2. The special review approval is for the construction of three, 4-plex dwellings and no other use or development configuration is intended or implied by this approval.
3. Any expansion of the proposed building or off-street parking greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.
4. All exterior lighting, including security lighting shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade. Exceptions to this requirement are allowed for porch or entry doorway lighting.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. The applicant/owner properly maintains and trim any new trees planted on the property. New trees shall not be any of the following species: Carolina poplar, other populus subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. The trees will be continuously maintained and replaced as necessary by the owner.
7. Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall enough that no part of the interior dumpster(s) are visible from the outside.
8. The site will be developed in substantial conformance with the submitted site plan – Option A - including landscaping, parking and building locations.

9. 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.

10. 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 Bird referenced the letter from the YWCA and asked what the requirement of sidewalks on all site perimeters meant. Ms. Cromwell said it was required by City Engineering that a city-approved sidewalk must be constructed along Wyoming Avenue in front of the property and along the east side of the property along 10th Street West. Councilmember Bird asked if people would be parking next to the units off the alley. Ms. Cromwell said they would not. She pointed out garage spaces, the 20-foot parking pad in front of each garage and the interior parking spaces. Councilmember Bird asked if there were any comments from neighbors or businesses in the area at the Zoning Commission hearing. Ms. Cromwell said the only comment received was the letter from the YWCA. Ms. Volek advised the applicant had addressed all of the requirements referenced in the letter from the YWCA.

Councilmember McCall referenced the letter from the YWCA and said there was quite a detailed response from the applicant. She asked Ms. Cromwell to summarize the response. Ms. Cromwell summarized the conditions in the letter as follows:

1. Require minimum of 1.5 off-street parking spaces per unit – 18 total. Ms. Cromwell advised 41 off-street parking spaces would be provided.
2. Limit street parking along Wyoming Avenue in the vicinity of the YWCA, which was a 365 day per year, 24/7 facility. Ms. Cromwell advised the on-street parking on 9th Street West and the 900 block of Wyoming would not be affected by the proposal. If the YWCA wanted to restrict on-street parking, a petition could be presented to the Traffic Control Board.
3. Require sidewalks on all site perimeters. Ms. Cromwell advised the applicant was providing sidewalks along the north and east sides of the property as required by City Code.
4. Meet city standards for landscape requirement for installation and maintenance. Ms. Cromwell advised it was one of the conditions related to trees planted on the site that were reviewed at the time of the building permit application for landscaping compliance under city code for the zoning.
5. Limit the time for the variance by requiring design and construction to be completed within two years. Ms. Cromwell advised the City Board of Adjustment considered it and said one building per year was what was planned as far as phasing so gave a 3-year time limit to complete after the first building was issued.
6. Augment the storm water drains along Wyoming Avenue and 9th Street West to address deficiencies in the size and number of drains which contributes to damage to existing facilities along Wyoming Avenue. Ms. Cromwell advised the development would have no impact on the storm drainage system. The applicant

was required under city code to handle all its storm water on site up to a certain storm level. There were no storm drain facilities in 10th Street West, so they would have to retain and infiltrate all of their storm water on the property. Paving of the alley and the improvements to 10th Street West and Wyoming Avenue should actually lessen the erosion and blowing dust.

The public hearing was opened.

- **Quinten Eggart and Adam Schlegel, Eggart Engineering Company.** Mr. Eggart said Ms. Cromwell had covered everything. They had handled all concerns of the YWCA. The storm water would be handled onsite, and they were paving the alley and making street improvements.

Councilmember Ronquillo said the vacant lot had been there a long time and said it was on a large slant. He asked if there would be any infill. Mr. Eggart said there was approximately 20 feet in grade change from the northwest corner to the southeast corner. The buildings would step in height as they went down Wyoming and 10th. There would be walk-out basements on the north building with garages on the top level and coming off the alley there would be tuck-under garages. There was quite a bit of architectural ups and downs of the buildings to match the topography, and there would be significant retaining walls to hold back the hillside. The interior between the three buildings would be landscaped.

Councilmember Bird asked how many bedrooms there would be per unit. Mr. Schlegel said each building would have two and three bedroom units.

- **Joe Bonini, 8470 Long Meadow Drive, Billings, MT,** said he was the builder for the project. He said he had done several other city infill projects with great success. He spoke with the surrounding neighbors, who were happy to see something being built on the property. All issues had been addressed.

Councilmember Bird asked for the target rental range. Mr. Bonini said two bedrooms would be \$700 to \$800 a month, and three bedrooms would be \$1,000 to \$1,200.

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

Councilmember McFadden moved for approval of Special Review #910, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

8. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE

#915: a zone change from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.6 acre parcel described as C/S 1706, Tract 1, generally located on the southeast corner of the intersection of Hilltop Road and Bench Boulevard. Ryan and Jodi Rookhuizen, owners; Sanderson Stewart, agent. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.) Planner II, Nicole Cromwell, advised the property had recently been annexed into the city. The Neighborhood Commercial zoning was

approved in 2006 by the County and stayed the same after annexation. The applicants would like to increase the marketability of the property and were requesting the zone change to Community Commercial. The main difference between Neighborhood Commercial and Community Commercial was that Neighborhood Commercial did not allow any on-premise alcohol service; however, it did allow off-premise sales of beer and wine. Neighborhood Commercial did not allow industries such as auto repair and mini storage units, and it limited the square footage of each commercial tenant to 10,000 square feet. Community Commercial did not have a square footage limitation for commercial uses. Ms. Cromwell advised the City Council had received a valid protest petition, which was more than 25% of the owners within 150 feet of the property who did not approve of the zone change. There had been some confusion with the surrounding property owners because they thought the zone change was to allow a gas station. Neighborhood Commercial did not allow stand-alone gas stations but did allow a gas station with a convenience store. Community Commercial allowed a stand-alone gas station. Ms. Cromwell reviewed a zoning map of the subject property and surrounding properties. She pointed out the Billings Heights Park to the north, which was a public park with playground equipment, and said any application for on-premise alcohol service, if the zone change were approved, would require City Council to waive the 600-foot distance between the two properties.

Councilmember Bird asked what the sidewalk situation was especially for getting across Hilltop. Ms. Cromwell said it was part of the reconstruction of the intersection and Bench Boulevard to the south. The Montana Department of Transportation (MDT) was providing pedestrian access on all four corners of the intersection and along Bench Boulevard on both sides.

Councilmember Pitman said once the road construction was completed it would become a major arterial and asked if it could be considered a substantial barrier between the park and the subject property. Ms. Cromwell said with the provision of pedestrian crossings, it would not. The code gave the example of an arterial street with no pedestrian crossings.

Councilmember Cimmino said construction included the roundabout that MDT was constructing, which was not a city project. Ms. Cromwell advised it was a shared project. The city owned the right-of-way, and MDT was constructing the project.

Councilmember Bird asked if the Planning Department had received any documents indicating what the plans were for the property if the zone change was approved. Ms. Cromwell said it had not. There was no special review pending, and no one had inquired. As far as she knew, the property was still on the market, and they did not have a buyer.

Ms. Cromwell advised there were residential uses adjacent to the subject property to the west, east and south. She showed an aerial map and photographs of the property and surrounding properties. She noted when Bench Boulevard was completed it would be a 3-lane arterial with a lane for each direction of travel and a center turn lane. The Zoning Commission considered testimony and staff recommendation at its public hearing and agreed with the staff's recommendation of approval for the zone change based on the following 10 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 uses than currently allowed by the NC zoning and this is consistent with the neighborhood character and the planned development of Bench Boulevard. The proposed zoning is compatible with the existing uses on Bench Boulevard and Hilltop Road.

- More housing and business choices with each neighborhood. (Land Use Element Goal, page 6)

The existing zoning is restrictive of the types of businesses that could be located at this arterial intersection. The proposed zoning will allow more businesses and services to be located near existing residents.

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. Development of the vacant property will be done in accordance with current site development regulations that provide more screening and buffering for adjacent residential uses. These new requirement were adopted in 2012. This will improve public health and safety and the general welfare of the adjacent neighbors.

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 Bench Boulevard.

Schools and Parks: There should not be any impact to schools from the proposed zone change. However, any residential development in the future could affect the schools in the area.

Fire and Police: The subject property is currently served by the city Public Safety Services. Commercial development of the site may increase calls for service and change the nature of those calls for service.

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 property is dependent on the specific uses within the development. A development plan has not yet been finalized so prediction on effects at the intersection is not possible at this time. Street improvements for Bench Boulevard that are under construction will include sidewalks and/or multi-use paths. Pedestrian safety will be enhanced at this location. The 2011 Bikeway and Trail Master Plan include a short-range on-street bike lane for both Bench Boulevard and Hilltop Road.

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.

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 commercial uses including neighborhood and commuter service businesses. The level of existing traffic along with the number of existing and planned residential developments in the area will likely support the types of businesses likely to locate at this corner.

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

The existing home and structures on the lot should be conserved with the new zoning. All of the existing uses are conforming to the proposed CC zoning. Surrounding buildings should be conserved when development occurs on the site by adding property value to the market.

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 at this intersection.

Ms. Cromwell again advised a valid protest had been received, and it would require a 2/3 majority vote; or 8 out of 11 votes. She reviewed a Valid Protest Map showing the 150-foot protest radius around the subject property. Staff believed the zoning and the proposed uses under the new zoning were compatible with the existing zoning in the surrounding neighborhoods. Last fall Council approved a new section of the zoning code requiring additional buffering and screening wherever commercial development had a common boundary to a residential zone or within 50 feet of a residential zone. It would apply to any development of the subject property under the current zoning or new zoning. The arterial street currently under construction could handle any amount of traffic generated from development under Community Commercial.

Councilmember Cimmino said it was her understanding the past 20 years the notification radius was 300 feet from the subject property and asked why it was 150 feet

now. Ms. Cromwell said the notification radius was still 300 feet. The 150 feet was the valid protest area, and it was set by state law.

Councilmember McFadden asked if there was any possibility the property would turn into a bar, casino, or liquor store if the zone change were approved. Ms. Cromwell advised any on-premise alcohol service would require additional approval of the City Council, which would include a waiver of the 600-foot separation distance to the park. Ms. Cromwell said she did not believe the owners currently had a buyer or an intended use.

Councilmember Cimmino asked if the Heights Park was within 600 feet of the subject property. Ms. Cromwell said it was. Councilmember Cimmino said the property was on the market and asked if the property owners had indicated the current zoning. Ms. Cromwell said the current zoning was Neighborhood Commercial, and she believed there was a sign posted on the property that gave the proposed zoning and not the current zoning.

The public hearing was opened.

- **Kirk Hansen, 740 Conway Street, Billings, MT**, circulated a picture of the “For Sale” Sign posted on the subject property that advertised the property as being zoned Community Commercial. He also presented 28 additional signatures in protest of the zone change bringing the total to 55. Mr. Hansen said he was against the zone change. About eight years ago the property was rezoned with the understanding and approval that a professional center would be built. That owner passed away, and the property was sold. The new owner clearly had no idea what he wanted to do with the property. The reason the neighbors did not oppose the past zone change request from Gainans was because they planned to build nurseries for their business. Mr. Hansen did not see any need to change the zoning.
- **Sheri Brewer, 813 Joyce, Billings, MT**, said she lived in the third house in back of the subject property. She said it was disheartening enough that their scenic country road was turning into the second busiest exit and entrance from and to the Heights. They would also have to use the roundabout 75% of the time just to turn right to get through the traffic. Chances are development of the property would depreciate the values of their properties even more than the “Bench Boulevard Raceway.” It could cause even more traffic, noise and water pollution, dust, dirt, garbage and undesirables. She would hate to live next to a gas tank. She lived in a residential area even though they were Neighborhood Commercial. The children stood on Bench Boulevard to get the bus to and from school not far from the subject property. They did not want a quick stop, a liquor store, or a casino in their neighborhood.
- **Lauren Waterton, Sanderson Stewart**, said she represented the property owners. She said Mr. Rookhuizen had a work schedule conflict and was unable to attend but he wanted her to let Council know his absence did not reflect his lack of interest or lack of dedication to the project. Ms. Waterton said Yellowstone River Road and Bench Boulevard were both classified as principle arterials on the City of Billings Functional Classification Map. The Gainans’ property to the

north was rezoned from Neighborhood Commercial to Community Commercial about a year ago, and the current application was seeking the same zoning request. The Rookhuizens did not have a specific development plan. They were seeking a zone change that would create flexibility for the property and what would be expected and anticipated at an intersection of two principle arterials. Ms. Waterton said the property was only 1.6 acres but it achieved the goals of the Growth Policy regarding infill development, reducing sprawl, creating pockets of commercial development, as well as the goal for business development within the Heights. The Billings Heights Plan called for the intersection to be a mixture of commercial and residential. Many of the concerns addressed at the neighborhood meeting, at the Zoning Commission, and that evening were legitimate. They addressed noise, traffic, pollution, light pollution, and crime attraction, which were all reviewed during development reviews, application reviews, and special reviews. She said in many ways development of vacant property could help minimize off-street impacts and benefit the community. Ms. Waterton said the Rookhuizens were committed to provide a quality development and asked for Council's support.

Councilmember Cromley asked what development the Rookhuizens would be providing. Ms. Waterton said they had not specified a particular development but were committed to providing quality in whatever development they chose. Councilmember Cromley asked if they were currently selling the property. Ms. Waterton said they were currently advertising the property but whether there was a buyer and if they would go forth with a sale, she was not able to answer on their behalf.

Councilmember Cimmino said she and Councilmember Pitman had worked on the Heights Neighborhood Plan many years ago, and the Plan did say that commercial development was compatible at that particular intersection; but they already had Neighborhood Commercial there so that objective had already been met. She said Ms. Waterton indicated both Bench Boulevard and Yellowstone River Road were considered principle arterial streets. She said it took "forever" to have any traffic control measure at the intersection. They finally had a two-way stop, four-way stop, flashing light, and now a roundabout. Councilmember Cimmino said in terms of her clients advertising it was Community Commercial for sale, any informed buyer or credible realtor would say the zoning was already recorded with the deed and anyone could go to the courthouse to check the zoning. For someone to indicate the zoning was already Community Commercial on a sign resembled false advertising, and she was a little bit disappointed in that endeavor. Ms. Waterton apologized and said she was unable to answer the question regarding the sign, the wording on the sign, and the intention they had behind it.

Mayor Hanel complimented Ms. Waterton on the good job she did representing her client and said she explained the case very well. He said it was not, by any means, their intent to "shoot the messenger."

- **Jeff Miller, 741 Conway Street, Billings, MT**, said he would not buy a fifth wheel if he owned a Datsun and asked why Council would allow something to go

through without knowing what would go on the property. He said the property owner needed to tell them what he planned to build first.

- **Cy Ellerd, 735 Conway Street, Billings, MT**, said he was not prepared to testify, but he wanted to voice his opposition to the zone change. He did not understand why the owners would want a zone change if they were not prepared to put something on the property and if the property was for sale. It made no sense at this point. He said if someone bought the property and wanted a zone change, they could apply. If the current owner knew what he wanted to build and needed a zone change, then he needed to let them know.

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

Councilmember Ronquillo moved for denial of Zone Change #915, seconded by Councilmember Cromley.

Councilmember McFadden said a few weeks ago they had a similar situation in Ward 3. He said he agreed with Mr. Miller that if the owners were asking the neighborhood and the City Council to go along with the change and it was all blindfolded, chances were it was not a good thing. He said he would vote for denial.

Councilmember Bird said she would also support the motion. She said she was quite concerned the "For Sale" sign showed the property was zoned Community Commercial and felt it was blatantly disingenuous. She was also concerned they were getting mixed messages about the property being for sale, for lease, and build to suit. The reality was it was predominantly a residential neighborhood, and she would remain consistent in upholding the desires of the people who lived in the neighborhood to ensure when development came to their neighborhood it was the kind of development that would enhance the lives of the people living there.

Councilmember Pitman said since they had changed the way the motion was going they each needed to use part of the 10 criteria as a reason for the denial. When making statements, Council needed to say they were supporting the motion based on certain criteria. Attorney Brooks said it was necessary for Council to use the 10 criteria and to articulate the facts that would cause them to vote in favor of or against.

Mayor Hanel asked Councilmember Ronquillo if he would like to amend his motion to identify the criteria for denial and asked Councilmember Cromley, who seconded the motion, if that would be acceptable. Councilmember Cromley asked Attorney Brooks what would happen if the motion was to approve the zone change and then it failed. Attorney Brooks said the zone change would not go through. Councilmember Cromley asked if that would be simpler. Attorney Brooks said it would.

Councilmember Cromley withdrew his second.

Councilmember Cromley moved to approve Zone Change #915, seconded by Councilmember Ulledalen.

Councilmember Pitman asked if he needed to put it back on the record opposing the motion based on the first criteria stating that Neighborhood Commercial was sufficient for the property and was consistent with the Growth Policy of the Heights.

Councilmember Cimmino said she understood the two motions but she was looking at the audience and some of the people who came specifically looked

bewildered. She asked if someone from the Planning Department could provide clarification.

Mayor Hanel said there was only one motion on the floor. The second on the first motion was withdrawn, so the first motion went away. Councilmember Astle commented the people would understand as soon as the vote was called. Attorney Brooks said he assumed Mayor Hanel meant a negative motion versus a positive motion. Councilmember Astle said there was no negative motion. Councilmember Cimmino said she had 30 faces looking at her on her side of the Council Chambers and she was just wondering. Ms. Volek said the Council had a negative motion and generally under Robert's Rules of Order a positive motion was preferred.

Councilmember Astle called for "point of order" and said they had a motion on the floor, and he wanted to talk to the motion on the floor only and nothing else. Mayor Hanel recognized the "point of order."

Councilmember Pitman said the motion was to make it a positive so they were not voting for something to be against something. It would be a straight forward vote.

On voice vote, the motion to approve Zone Change #915 failed 11 to 0. All councilmembers and Mayor Hanel voted in opposition.

9. PUBLIC HEARING AND FIRST READING ORDINANCE revising Section 2-501.1 of the Billings, Montana City Code prohibiting City employees from appointment to City boards, commissions, or committees that advise their department. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Attorney Brent Brooks advised the amendment was made pursuant to a previous Council initiative to clarify the limitations of a city employee serving on an advisory board. He said the last sentence was added to state that a city employee may be on an advisory board or commission as long as the employee did not work in a department for which the advisory board or commission provided advice.

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

Councilmember Astle moved for approval of Item 9, seconded by Councilmember Ulledalen.

Councilmember Cimmino said she reviewed the active City of Billings boards. She said there were 24 boards, and there were 63 city employees who provided the role of staff liaison totally separate and apart from being a member. However, the exception to the rule was the Technical Advisory Committee (TAC) that had seven city employees listed as members. She asked if the ordinance applied to that particular advisory board. Attorney Brooks said he would have to look at the TAC membership to see, and it could very well apply. They could make exceptions, and staff could come back on second reading and provide an amendment if that was something that would be a positive for TAC. He said if it was a council-created board or commission versus an internal staff committee created by staff or a department head it would be something different. He said it was his understanding TAC was an internal staff advisory committee versus a formally-appointed Council board or commission. If that were the case, he did not think there was a problem.

Councilmember Bird asked Councilmember Cimmino if her research determined if any city employees were currently on advisory boards outside of TAC that might be

part of where they were employed. Councilmember Cimmino said she took it upon herself to look at all 24 boards and out of all of them she made a list of all city employees who served as staff liaison but were not listed as members. She felt that it was due diligence with the exception of TAC, and the City Attorney had answered her question.

Councilmember Ulledalen said the liaisons were required to answer questions. He said TAC was required as part of the Metropolitan Planning Organization (MPO) and not purely an advisory board to the City Council.

Councilmember Bird clarified for the record the liaisons were non-voting members. Attorney Brooks said that was correct.

Councilmember Cimmino said since reviewing it and discussing it, it proved her point; the ordinance, if passed on second reading, would apply to all city boards and commissions with the exception of TAC. Attorney Brooks said that was correct because TAC was a liaison to the MPO as opposed to a board or commission created by the City Council.

Councilmember McFadden said it was his understanding the reason behind it was to avoid conflict of interest with city employees, and it was no way intended to tell city employees they did not count as individual citizens.

On a voice vote, the motion was unanimously approved.

10. INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF) LOCAL 521 UNION CONTRACT (7/1/2013-6/30/2015). Postponed from 8/12/2013. Staff recommends postponing until September 23, 2013. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation but staff was available to answer questions.

Councilmember McCall moved for approval of Item 10, seconded by Councilmember Ronquillo.

On a voice vote, the motion was unanimously approved.

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

- **Mayor Hanel:** MOVED to direct staff to review the regulation regarding the burial of military personnel at Mountview Cemetery. Ashes were currently placed in a specific area of the cemetery and not allowed to be buried in a plot. With the development of the Veteran's Cemetery in Laurel, he felt it would relieve some of the pressure and concern for space at Mountview Cemetery. The motion was seconded by Councilmember McFadden. Councilmember Pitman said at the advice of the Legal staff he would recuse himself because he had been a

licensed mortician for the past 20 years. On a voice vote, the motion was approved 10 to 0.

Mayor Hanel reminded the Council this was the time for Initiatives and not for discussion and asked for other Initiatives. Hearing none, the meeting adjourned at 9:02 p.m.



CITY OF BILLINGS

BY: Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk