

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

December 9, 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 Bird gave the invocation.

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

MINUTES: November 18, 2013 - Councilmember Cimmino moved for approval, as written, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Councilmember Ronquillo introduced Ray Rigdom, the new refinery manager for Phillips 66. Mr. Rigdom said he had been with Phillips 66 for 12 years and in the industry for 24 years. He grew up in Tulsa, OK, was married, and had 2 children. He was very excited to be in Billings and looked forward to being a member of the community.
- Councilmember Ronquillo introduced Matthew Shipp, an AmeriCorps VISTA, who had been working with the Garfield School Literacy Program since July 2013. Mr. Shipp said this was the third year for the project, which was an outreach campus for MSU-B. He was responsible for marketing and promoting the project that provided summer reading clinics, after school tutoring, and focused on adult literacy. He invited anyone interested in volunteering to contact him. The program would be turned over to the College of Education next year. He thanked the Council for their continued support.
- Mayor Hanel recognized County Commissioner Bill Kennedy who was in attendance.
- Mayor Hanel presented plaques to outgoing Councilmembers Ronquillo, Ulledalen and Astle. He thanked each of them for their years of service to the Council and community and wished them the best in their future endeavors.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

Ms. Volek complimented the outgoing Councilmembers on their dedication and service. She commented on the following items:

- **Item 1A1 – Boards & Commission Appointments:** Copy of staff report with the recommended appointments was sent in the December 6 Friday packet. (Appointment recommendations were not available on Monday, December 2, when the agenda packet was published.) Copy was filed in the ex-parte notebook.
- **Item C – Contract Renewal with Yellowstone Valley Animal Shelter for private operation of the Billings Animal Shelter:** Copy of revised agreement was sent in the December 6 Friday packet. The vast majority of changes were editing to make the document clearer. Copy was filed in the ex-parte notebook.
- **Item K – Resolution Creating a 10-Member Ad-Hoc Council Advisory Committee on Right-of-Way Special Events:** A revised resolution was placed on the Councilmembers' desks listing 10 member recommendations. The previously-submitted resolution only listed nine member recommendations. Copy was filed in the ex-parte notebook. Ms. Volek recommended that appointment of the individuals be delayed until January 13, 2014, but encouraged the approval of the resolution creating the committee that evening. She requested that a Councilmember volunteer to chair the committee.
- **Item 4 – Public Hearing and Resolution authorizing the filing of the annual FTA Section 5307 Grant:** Action needed to be delayed until the January 13, 2014, meeting in order to advertise the public hearing.
- **Item 5 – Public Hearing and Special Review #913:** Copy of letter from Lois Morrison, dated December 3, 2013, opposing the construction of two, 4-plex multi-family dwellings at Boulder Avenue and Rehberg Lane was sent in the December 6 Friday packet. Copy was filed in the ex-parte notebook.

Councilmember Bird asked for the process to determine which Councilmember would serve on the Ad-Hoc Committee. Ms. Volek stated they were looking for a volunteer. Councilmember Bird stated she was interested in volunteering, unless there was another Councilmember interested in doing so.

Councilmember Cromley stated he wanted to separate the item because he questioned whether it was advisable to mandate that a Councilmember chair the committee. He did not think it was required per ordinance, and it may be best for the committee that a Councilmember not serve as the chair. He intended to have that language amended.

Councilmember Cimmino asked if it would be a one-year commitment and if there would be a staff liaison. Ms. Volek stated she would be the staff liaison and that it was a one-year commitment. She continued by stating her office would make certain the meetings were announced, etc. as required by ordinance. Other City departments would be asked to provide support as necessary, but would not be voting members on the committee.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 and #2 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. Mayor Hanel recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1	No Applications	Animal Control Board*	01/01/14	12/31/16
2	Delmer Schmidt	Animal Control Board	01/01/14	12/31/17
3	Jeannette Vieg	Animal Control Board	01/01/14	12/31/17
4	No Applications	Animal Control Board	01/01/14	12/31/17
5	Christopher Cook	Bicycle & Pedestrian Advisory Comm	01/01/14	12/31/16
6	No Applications	Billings BID	01/01/14	12/31/17
7	No Applications	Billings BID	01/01/14	12/31/17
8	Mark Noennig	Board of Adjustments	01/01/14	12/31/17
9	Jeff Bollman	Board of Adjustments	01/01/14	12/31/17
10	James Olson	Board of Adjustments	01/01/14	12/31/17
11	Martin Connell	Board of Adjustments	01/01/14	12/31/17
12	Matthew McDonnell	Board of Adjustments	01/01/14	12/31/17
13	Frank Chesarek	Board of Adjustments	01/01/14	12/31/17
14	Paul Hagen	Board of Adjustments	01/01/14	12/31/17
15	No Applications	Board of Appeals - Electrical	01/01/14	12/31/17
16	No Applications	Board of Appeals - Builder	01/01/14	12/31/15
17	Thomas Dennis	Board of Appeals - Plumber	01/01/14	12/31/17
18	David Peterson	Board of Appeals - Architect	01/01/14	12/31/17
19	Herb Schiefelbein	Board of Ethics	01/01/14	12/31/17
20	Michelle Zahn	Community Development - Low Mod	01/01/14	12/31/17
21	Neil Kiner	Community Development*	01/01/14	12/31/15
22	Robert Waller	Housing Authority	01/01/14	12/31/18
23	No Applications	Housing Authority	01/01/14	12/31/18
24	No Applications	Housing Authority Res Comm	01/01/14	12/31/14

25	Lita Pepion	Human Relations Board*	01/01/14	12/31/16
26	Richard Maciel	Human Relations Board*	01/01/14	12/31/15
27	Gwendolyn Kircher	Human Relations Board	01/01/14	12/31/17
28	Jennifer Quinn	Library Board	01/01/14	12/31/17
29	Bernard Rose	Library Board	01/01/14	12/31/17
30	Stella Fong	Library Board	01/01/14	12/31/17
31	Sue Bach	Library Board	01/01/14	12/31/17
32	No Applications	Mayor's Homelessness Lending*	01/01/14	12/31/16
33	Perry Roberts	Mayor's Homelessness Housing	01/01/14	12/31/17
34	Edward Arnold	Mayor's Homelessness Code/Law	01/01/14	12/31/17
35	No Applications	Mayor's Homelessness Faith Based*	01/01/14	12/31/14
36	Rich Lorenz	Parks, Recreation & Cemetery Board	01/01/14	12/31/17
37	Darwin George	Parks, Recreation & Cemetery Board	01/01/14	12/31/17
38	Tom Rupsis	Parks, Recreation & Cemetery Board	01/01/14	12/31/17
39	Mark Wahl	Parks, Recreation & Cemetery School Rep*	01/01/14	12/31/14
40	Dayton Rush	Parks, Recreation & Cemetery Board*	01/01/14	12/31/16
41	No Applications	Parking Advisory Board*	01/01/14	12/31/14
42	Edward Arnold	Parking Advisory Board	01/01/14	12/31/17
43	Paul Hagen	Parking Advisory Board	01/01/14	12/31/17
44	Joni Harman	Parking Advisory Board	01/01/14	12/31/17
45	Leticia Moore	Parking Advisory Board	01/01/14	12/31/17
46	No Applications	Planning Board - Ward I*	01/01/14	12/31/14
47	Patrick Klugman	Planning Board - Ward II	01/01/14	12/31/15
48	No Applications	Public Works Board	01/01/14	12/31/17
49	No Applications	Public Works Board	01/01/14	12/31/17
50	No Applications	Traffic Control Board*	01/01/14	12/31/14
51	Eugene Wade	Traffic Control Board	01/01/14	12/31/17
52	No Applications	Traffic Control Board	01/01/14	12/31/17
53	Nancy Curriden	Yellowstone Historic Board	01/01/14	12/31/15
54	Dennis Ulvestad	Zoning Commission*	01/01/14	12/31/15

Not filled in 1/1/13

21 Unexpired term of Cindy Sanders

25 Not filled in 1/1/13

26 Unexpired term of Claudia Stephens

32 Not filled in 1/1/13

35 Unexpired term of Adela Awner

39 Unexpired term of David Williams
40 Unexpired term of Rachael Cox
41 Unexpired term of Bruce Simon
46 Unexpired term of Zach Meyers
50 Unexpired term of Brent Krueger
54 Unexpired term of Bill Ryan

B. Bid Awards:

1. Playground Fall Protection Replacement. (Opened 11/19/2013) Recommend Good Earth Works, Inc.; \$414,300.

C. Contract Renewal (3-year) with Yellowstone Valley Animal Shelter for private operation of the Billings Animal Shelter (July 1, 2013 - July 1, 2016).

D. Agreement with the Billings Kiwanis Club for City of Billings Affinity License Plates amending net revenue distribution to 80% for the Billings Kiwanis Club and 20% for the City of Billings effective December 9, 2013. (4-year agreement with automatic renewal for successive term of four years.)

E. Approval of Lease of State Lands Agreement (10-year) renewing the lease with State of Montana Department of Natural Resources and Conservation for Norm's Island and adding the lease for Darling Island.

F. Approval of the Assignment and Transfer of the Automobile Rental Concession and Lease from Lewis Transportation Group, LLC DBA Thrifty Car Rental and Dollar Rent A Car to DTG Operations, Inc. DBA Thrifty Car Rental and Dollar Rent A Car.

G. Approval of 20-year (9/1/2013-8/31/2033) lease renewal for West End T-Hangar to Turnip, Inc.; revenue first year - \$7,379.40; revenue subsequent years adjusted on an annual basis using the Consumer Price Index for All Urban Consumers (CPI-U).

H. Approval of 5-year renewal (11/1/2013-10/31/2018) for Limited Commercial Aviation Building and Ground Lease to Aero Interiors; revenue first year - \$22,344; revenue subsequent years adjusted on an annual basis using the Consumer Price Index for All Urban Consumers (CPI-U).

I. Recommendation of approval to the Policy Coordinating Committee for the Hospitality Corridor Planning Study.

J. Declaring surplus property and authorizing the donation of old style Hurst Tool hoses no longer used by the Billings Fire Department to the Three Forks Volunteer Fire Department.

K. Resolution #13-19327 creating a 10-member Ad-Hoc Council Advisory Committee on Right-of-Way Special Events.

L. Preliminary Subsequent Minor Plat of Shadow Lawn Estates Subdivision, described as 5 lots on approximately 5.63 acres of land on the south side of Poly Drive, west of Virginia Lane; Aaron Sparboe, owner; Sanderson Stewart, agent; conditional approval of the plat, approval of the variance from Section 23-406(B)(6), and adoption of the findings of fact (Delayed from 11/18/13).

M. Preliminary Subsequent Minor Plat of Falcon Ridge Estates Subdivision, 4th Filing, generally located on the north side of Rimrock Road, west of Molt Road; Falcon Ridge II, Inc., owner; conditional approval and adoption of the findings of fact.

N. Bills and Payroll:

1. November 4, 2013
2. November 12, 2013
3. November 18, 2013

Mayor Hanel separated Consent Agenda Item A. Councilmember Astle separated Consent Agenda Item D. Councilmember Cromley separated Consent Agenda Item K. Councilmember Cimmino separated Consent Agenda Items C, I, L, M, N1, N2 and N3. Councilmember Pitman moved for approval of the Consent Agenda with the exceptions of Items A, C, D, I, K, L, M, N1, N2 and N3, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Mayor Hanel referenced Consent Agenda Item A and advised Paul Hagen had applied to serve on two boards and was being recommended for appointment to the Board of Adjustments and the Parking Advisory Board. Mr. Hagen was now requesting to be removed from the Parking Advisory Board due to time constraints. Mayor Hanel moved for approval of Item A with the removal of Mr. Hagen from the Parking Advisory Board, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

Councilmember Astle referenced Consent Agenda Item D and said he would abstain because he was a member of Kiwanis. Councilmember Cromley stated he was also a member of Kiwanis and would abstain. Councilmember Pitman moved for approval of Item D, seconded by Councilmember Cimmino. On a voice vote, the motion was approved 8 to 0.

Councilmember Cromley referenced Consent Agenda Item K and moved to revise the resolution by removing the words "to chair the committee" from 1(a), seconded by Councilmember Ronquillo. Councilmember Pitman stated when it was presented to Council there was mention there was a possibility for an Ad-Hoc Committee, but he did not recall there had been a motion to move it forward. He said he would not support the resolution because he did not feel there was a current need for another committee. Discussion ensued whether it had been brought forward by Councilmember McCall. Councilmember Cimmino said she recalled discussion that there would be a 2-year grace period, and within the first year a committee would be

formed, and the second year everyone could get organized for any changes or improvements. Ms. Volek suggested the item could be postponed to allow more research into the formation of the committee. She said City ordinance required that an Ad-Hoc Committee have a specified purpose for a specified period of time. Councilmember Bird asked Councilmember Cromley what the purpose of his motion was for changing the language. Councilmember Cromley responded there were 10 members on the committee and a Councilmember may not be the best person to serve as the chair. He said did not see any reason not to go forward with the motion, and he would support it. On a voice vote, the motion was approved 9 to 1. Councilmember Pitman voted in opposition.

Councilmember Cimmino referenced Consent Agenda Item C and asked if there had been discussion that the Yellowstone Valley Animal Shelter would be purchasing the facility. Ms. Volek stated they were interested in that option, but were not prepared to do so. Councilmember Cimmino mentioned a correction was needed concerning the hours of operation. The renewal contract indicated revised hours of operation on Sundays were 12:00 p.m. to 5:00 p.m., but on Page 17 the hours still indicated 6:00 p.m. Ms. Volek advised it would be corrected. Councilmember Cimmino moved for approval of Item C, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Consent Agenda Item I and said she would be abstaining because another engineering firm had performed consulting services on the project. Councilmember Pitman moved for approval of Item I, seconded by Ronquillo. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Consent Agenda Item L and said she would be abstaining because another engineering firm was serving as the agent on the project. Councilmember Pitman moved for approval of Item L, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Consent Agenda Item M and said she would be abstaining because another engineering firm had done the work on the preliminary subsequent minor plat. Councilmember Pitman moved for approval of Item M, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 0.

Councilmember Cimmino referenced Consent Agenda Items N1, N2 and N3, and said she would be abstaining due to her employment to avoid any perceived conflict of interest. Councilmember Pitman moved for approval of Items N1, N2 and N3, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 9 to 0.

REGULAR AGENDA:

2. ACCEPTANCE OF ASSIGNMENT from the Billings Public Library Foundation to the Billings Public Library of Integra Telecom Corporation's 5-year donation of 1G of high speed, broadband internet access. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Bill Cochran, Library Director, introduced Leslie Modrow, Development Director of the Billings Public Library Foundation, to speak about the donation. Ms. Modrow expressed her delight that the Mayor and Council were able to tour the new library building. The gift from

Integra was just one more way of providing a margin of excellence for all library patrons. She urged the Council to accept the donation from Integra. She introduced Mark Francis, General Manager of Integra Telecom Corporation.

Mr. Francis thanked the Council for the opportunity to give back to the community that had been so good to Integra the past 15 years. The gift affected children and people from all walks of life and would immerse them in leading edge technology. Mayor Hanel acknowledged the generous contribution from Integra, and expressed gratitude for everything the company did for the community.

Councilmember Astle moved for approval of Item 2, seconded by Councilmember Pitman. Councilmember Ulledalen mentioned he had been a very satisfied Integra customer, and the City could expect excellent service and support. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION #13-19328 approving and adopting Budget Amendments for Fiscal Year 2013-2014. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised there was no presentation, but staff was available to answer questions.

Councilmember Ronquillo extended gratitude to City staff for their involvement and expertise on the sewer and water improvement projects on the south side. Many of the residents in the area had signed up for the tax increment. Tax increment worked; and because of it several projects were getting done.

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

Councilmember Ronquillo moved for approval of Item 3, seconded by Councilmember Astle. Councilmember Cimmino advised she would be abstaining due to potential contracts awarded to her employer. On a voice vote, the motion was approved 9 to 0.

4. PUBLIC HEARING AND RESOLUTION authorizing the filing of the annual Federal Transit Administration Section 5307 Grant. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised Council was being asked to postpone action on this item until January 13, 2014, but to open the public hearing in the event someone in attendance wished to testify.

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

Councilmember Pitman moved to postpone Item 4 until January 13, 2014, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND SPECIAL REVIEW #913: A special review to allow the construction of two, 4-plex multi-family dwellings in a Residential 6,000 (R-60) zone on the north 150 feet of Lot 1, Wolf Subdivision, generally located on the southwest corner of the intersection of Boulder Avenue and Rehberg Lane; Jeremy Freyenhagen, owner. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission

recommendation.) Nicole Cromwell, Zoning Coordinator, began her presentation showing a zoning map of the subject property and surrounding properties, an aerial view, and photographs. She noted there were single family homes in the area, but there were also many multi-plex dwellings.

Councilmember Bird asked if the Lots 2114 and 3016 to the west and south of the proposed Special Review were single family properties. Ms. Cromwell responded they were. The proposed location had been a vacant lot since the beginning of the subdivision. Councilmember Astle asked what was directly to the east of the property. Ms. Cromwell stated it was a church.

Ms. Cromwell advised the two proposed buildings would face each other across a central courtyard. She noted there would be 12 off-street parking spaces, and the dwellings would not exceed the maximum lot coverage allowed. There would be a small storage building for each unit; and there would not be any covered garage spaces; it would all be surface parking.

Mayor Hanel asked what had been proposed by the developer in regard to the security fence along the south and west sides of the development. Ms. Cromwell said during the Zoning Commission hearing the owner stated he intended to provide a property line fence. The Zoning Commission did not make it a condition or recommended condition in their approval recommendation. Mayor Hanel inquired about the style of fence. Ms. Cromwell said the materials would have to meet the materials requirement for residential zoning.

Councilmember Bird asked if there were sidewalks in the area. Ms. Cromwell stated there were sidewalks along Rehberg Lane that ended at the corner. Councilmember Bird asked if sidewalks would be required along Boulder Avenue. Ms. Cromwell said sidewalks would be required and commented there were very few properties along Boulder Avenue that had curb, gutter and sidewalks.

Ms. Cromwell advised the Zoning Commission was recommending approval based on the following conditions.

1. The special review is limited to north 150 feet of Lot 1, Wolf Subdivision, generally located at 3010 Boulder Avenue.
2. The special review approval is for the construction of two, 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. Exceptions to this requirement are allowed for porch or entry doorway lighting. The maximum height of any light pole in the outdoor areas shall be 15 feet above grade.
5. No construction or demolition activity will occur before 7 am or after 8 pm daily.
6. 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.

7. The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations.
8. 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.
9. 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.

The public comment period was opened:

- **Jeremy Freyenhagen, 2524 Roth Lane, Billings, MT**, said he was the developer of the project. He stated the current lot was vacant and full of weeds, and the proposed in-fill project would beautify the property and improve the neighborhood. He said since the Zoning Commission hearing, he reconsidered the height of the buildings, and they would now be built as one-story instead of two-story resembling two single-story houses with a common front yard. All units would have two bedrooms, and four of the eight units would be fully wheelchair accessible. Mr. Freyenhagen noted the MET bus route ran down Rehberg, and tenants could catch the bus at the intersection of Colton and Rehberg, which had a traffic signal. The property would serve the needs of many in the community with disabilities or limitations. He hoped to break ground in the spring and have it completed by late fall. He thanked the Council for their consideration and asked for their approval.

Mayor Hanel asked what type of fencing was proposed. Mr. Freyenhagen said the fence would be a 6-foot vinyl fence that would run along the south, west and north sides of the property.

- **Allen Kirkwood, 3025 Boulder Avenue, Billings, MT**, said he represented the property owners who signed a petition in opposition. The petition was signed before Mr. Freyenhagen made substantial changes to the proposed project. He said he could not speak for the other people who signed the petition, but after having conversations with Mr. Freyenhagen, he had reconsidered his opposition and wished to remove his name from the petition. He said one of the biggest concerns was that the units would have three bedrooms, but Mr. Freyenhagen had reduced that number to two bedrooms. Mr. Kirkwood said he remained concerned about the condition of the existing sewer lines and the increased demand. He mentioned last summer a sewer truck jetted the system, and he was told it was due to tree root invasion and not sewage capacity which he hoped was the case. He said he thought the project would be an improvement to the vacant corner.

Councilmember Astle asked Dave Mumford, Public Works Director, why the sewer had been jetted. Mr. Mumford said jetting was done on a regular basis in that area, due to age and tree root intrusion. The issue was not capacity or grade of the line. He said that section of line was scheduled to be replaced within

the next few years. Mayor Hanel asked if the existing sewer, as is, could handle the addition of the proposed project. Mr. Mumford stated he did not believe it would cause a problem for water or sewer.

- **Zach Smith, 1301 Industrial Avenue, #7, Billings, MT**, said he had an auditory processing disorder and received special educational services. He graduated from Skyview High School, and he had a driver's license. He noted Mr. Freyenhagen had been his Special Olympics basketball coach, and he had known him for eight years. Mr. Smith said he was the fastest swimmer in the region and state. He swam for Team U.S.A. in Athens, Greece two years ago, winning a bronze in the breast stroke; a gold in the 400 meter freestyle relay; and eighth overall in the 100 meter freestyle out of 168 swimmers. He had worked at St. John's Lutheran Home for more than three years and had taken only three sick days during that time. He lived alone, but his rent had been raised \$90 and \$100 per month. He wanted to live in the new apartments "Coach" Jeremy was proposing to build. It would locate him closer to friends, and he would feel safer. He stated he was a regular person trying to live on his own and did not want to live off the government. He urged the Council to approve the building project.
- **Ron Smith, 1037 Picador Way, Billings, MT**, said he was Zach's father. He stated the project had met the terms of codes, etc., but he wanted to address "community". He stated athletes, like Zach, were seeking to be a part of the development. They were good kids. He stated that Zach was in Section 8 Housing, but he did not feel safe. Living in the proposed development with his friends and others like him would allow them to live on their own and not be a burden on society. He said Jeremy Freyenhagen did amazing construction and had an excellent reputation. Mr. Smith added that prior to Zach acquiring the apartment he currently lived in at Ponderosa Acres; he was on a waiting list for a number of months.
- **Jerry Dalton, 2255 Darcy Lane, Billings, MT**, said he lived on the other side of Rehberg Lane about two blocks from the proposed development. He was neutral to the project but asked Council to fund improvements for Boulder Avenue between Rehberg Lane and Boulder School. He said the condition of Boulder Avenue during a recent snowfall was such that there was no drainage in the street, and he had to walk on the lawns to find a dry area. He moved into the neighborhood in 1985, and the condition of Boulder Avenue was just as bad then as it was now. He asked about an SID and said from time to time the School District received grants for safe routes to school improvements. He asked Council to prioritize improvements for the area.

Councilmember McFadden asked if the school buses traveled in the area of Boulder Avenue. Mr. Dalton stated he did not recall seeing buses. Mayor Hanel asked Mr. Mumford to provide Council with planned improvements for the area. Ms. Volek added that residents could create an SID to improve the conditions of their streets. There were many streets in the City that were in that situation, such as Lynn Avenue. The residents on Lynn Avenue came together and created an SID to pave the street. Mr. Mumford agreed that an SID would also be the case in that situation.

Councilmember Astle asked Ms. Cromwell how many single-family dwellings were located between Rehberg Lane and Boulder School. He said most multi-family property owners were not interested in taxing themselves to put in curb, gutter and sidewalks and fixing the street, but they could get overruled by the single family dwelling owners. Ms. Cromwell responded that there were at least 15 or 16 single family dwellings between Rehberg and 32nd Street West. There were probably at least 20 multi-family properties. Councilmember Astle stated the chances of getting an SID passed were probably slim at that point. Ms. Cromwell stated it all depended. She said if a sewer replacement project was in the area in the near future, it was always a good time to consider street improvements because they would be cheaper.

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

Councilmember Ulledalen moved for approval of Item 5, seconded by Councilmember Astle. Councilmember Pitman pointed out it was a perfect example of how the system should work. Holding neighborhood meetings prior to coming to the City Council allowed time for issues to be ironed out through compromise. Councilmember Ulledalen added there were a lot of multi-family units on substandard streets with no curbs, gutters or sidewalks, and until property owners were willing to vote for an SID to put in improvements, the City would not do it. The City had the same procedure for improvements for that area of town as it did for any other area of town. The opposition came from having so many multi-family dwellings in the area, and it was thought there would be a dramatic increase in negative impact. He said the vacant lot was one of the single biggest weed complaint properties. The proposed project would improve the area and would not dramatically impact the traffic and unimproved street problems that currently existed, so he would support the motion.

Mayor Hanel agreed and stated he would support the development. It was a prime example of infill that would increase property values in the neighborhood.

On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND FIRST READING ORDINANCE amending Billings, Montana City Code Sections 23-201, 23-306, 23-405, 23-601, 23-602, 23-603, 23-605, and 23-606 providing updates to the Subdivision Regulations. Planning Board recommends approval. (Action: approval or disapproval of Planning Board recommendation.) Juliet Spalding, Subdivision Coordinator, began her presentation stating the purpose of the updates was two-fold. The 2013 Legislative Session made changes to the Subdivision Platting Act, which was the State law that dictated how local jurisdictions structured their subdivision regulations. The review schedule began six months ago and came before the Planning Board in November. The main changes were the removal of references to "Lease or Rent" subdivisions. The subdivisions for lease or rent had been placed in their own review category. Another update to procedures was the way amended plats were defined, bringing them into compliance with State law, and clarification of how amended plats creating new lots were reviewed. Another purpose was to ensure consistency of development standards. She said Chapter 400 of the Subdivision Regulations looked at improvement standards for new subdivisions. She

noted one proposed change was how major and subsequent minor subdivisions provided access to lots. The current regulations required that all major and subsequent minor subdivisions provide two points of access to the subdivisions, but there were instances where there were small in-fill projects where a subdivision might create more than five lots, but not have an opportunity to have two points of access. The proposed solution to inconsistent regulations would be to allow exceptions to the two points of access rule. Ms. Spalding said the Planning Board held a public hearing, and there was little testimony. The development community appeared to be pleased with the updates, and the Planning Board was recommending approval.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Astle moved for approval of Item 6, seconded by Councilmember Cimmino. On a voice vote, the motion was unanimously approved.

7. PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #13-04: A variance from Section 6-1203(j) allowing less than the required 12 parking stalls for a fitness center on a proposed cross fit gym at 2940 Grand Avenue. Donna Bliss, owner; HGFA Architects, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Dave Mumford, Public Works Director, asked Council to review and make a determination on a parking variance at Grand Avenue and 30th for a small, cross-fit gym decreasing the required parking spaces from twelve to eight. The business was not a typical gym, and there would be one trainer for up to five people. There would be adequate parking, and if there were overflow, there would be parking available on 30th. It was not a 24-hour fitness facility.

Councilmember Ulledalen said it made sense to have a variance. There were acres of unused asphalt in the City because code did not address situations like this one. He asked if there was any recourse if a problem occurred. Mr. Mumford said the variance was for a specific type of gym. If it changed to another use, there would be some recourse. The building was very limited in size, and it would be difficult to use it for anything other than its intended use.

The public hearing was opened.

- **Jeffrey Winkler, HGFA Architects, Billings, MT**, said the proposed gym was very different from any other gym. Fifty people would not fit in the space. If the entire building and the next two buildings were acquired the gym could then accommodate 50 to 60 people.

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

Councilmember Crouch moved for approval of Item 7, seconded by Councilmember Astle. Councilmember Cimmino advised she would abstain because HGFA Architects was involved in the site plan. On a voice vote, the motion was approved 9 to 0.

8. PUBLIC HEARING AND RESOLUTION #13-19329 authorizing the sale of city-owned property legally described as Fractions of Lots 9-12, Block 221, Billings Second Addition, and addressed as 3510 7th Avenue South.

Recommendation to be made at December 9, 2013, meeting. Dave Mumford, Public Works Director, stated the City had residual property on 7th Avenue South from an older, completed road project. An inquiry had been made about the possible sale of the property, and the City was in favor of its disposal. A Call for Sealed Bids was advertised, but no bids were received. Unfortunately the individual who was interested in the property missed the bid submittal deadline. Mr. Mumford asked Council's permission to re-advertise the Call for Sealed Bids and public hearing. He said he believed it would be in the best interest of the community and would put the property back onto the tax rolls.

Councilmember Ronquillo said the property was off of State Avenue and was always in need of weed removal. It had a chain link fence that was in a state of disrepair. He said the bidder who submitted the late bid would like to own and improve the property.

Councilmember Bird asked Mr. Mumford if the property had been appraised. Mr. Mumford stated it had been appraised, and the value was very low. It could support a duplex, but was very limited.

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

Councilmember Ronquillo moved to approve the re-advertisement of the Call for Sealed Bids and schedule council action for January 13, 2014, seconded by Councilmember Pitman.

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:

- **Ronquillo:** MOVED for staff to conduct a study concerning increasing salaries of the Mayor and Councilmembers, seconded by Councilmember Astle.

Mayor Hanel asked if it was proper to accept the motion from an outgoing councilmember. City Attorney Brooks said it was proper as long as the initiative was acted upon before the end of Councilmember Ronquillo's term. Ms. Volek stated that she did not believe the Council could vote during an existing term on a raise. If an item was brought before the Council, it would wait until the turn of the next set of Council elections for the raise to go into effect. It could be voted upon now, but the raise could not go into effect until the next terms began. Councilmember Pitman asked for clarification. Would the raise be for the next

election or now so the new councilmembers in January would receive the increase? If the motion for an increase was made and approved after the first of the year the new councilmembers would not receive the increase, and it would not take affect for two years.

Councilmember Astle reiterated that the motion was for a study. He was confused if a councilmember could receive an increase in the middle of his/her term. Ms. Volek stated they could not. Councilmember Astle said at that point there was not a dollar amount for the increase. If an increase was not voted on until January, no one would get a raise until the next term. He said he believed a study was necessary to clarify the rules of the Charter.

Councilmember Ulledalen stated he would not support the motion. He said it was really bad politics, especially when the budget needed a significant tax increase, and there needed to be significant layoffs if the tax increase did not pass.

Councilmember Cimmino said she understood Councilmember Ulledalen's comments; but reminded Council the last time they received a raise was 17 years ago. She agreed a study needed to be conducted because of the confusing wording in the Charter. Clarification was needed.

Councilmember Cromley said he would support an increase. He said councilmembers needed some substantial amount; otherwise the Council would only be for the elite that could afford to spend the time away from their business. No one on the present Council would be affected by a raise, not even the three new incoming councilmembers; only those who may be re-elected 2 years down the road.

Councilmember Bird stated it was obvious the matter had been discussed before, so she was uncertain why legal counsel could not explain it now. Why was a study needed? It appeared the rules were already known. Attorney Brooks said Section 3.11 of the Charter stated "The Council shall establish, by ordinance, the compensation of its members, including the Mayor, but no Councilmember or Mayor's compensation may be increased during his or her term of office." He said he could research how it was approached in the past and if it was discussed before.

Councilmember Ulledalen stated there was one proposal for a raise that he would support, which would require a Charter change. It would be to double the Council's salary, accompanied by cutting the Council in half to five members. There would be a net savings to the public, and the salaries would double.

Councilmember Cimmino stated she agreed that to amend the Charter it would need to be brought before the voters. She pointed out that with the City growing, cutting the Council in half was quite conservative.

Councilmember Astle asked if the raises would be staggered. Attorney Brooks said it would need to be researched. Councilmembers would vote for a future increase and would likely have an ordinance with a delayed or postponed effective date into the future. He commented the Charter was not a model of clarity on this particular issue.

Councilmember Pitman said Councilmember Ulledalen may be right. It may be more effective to go to a full-time, 5-member Council. The reality was the

Charter was to be reviewed in the next year, and there could be a discussion at that point. He did not see any harm in the context since Council would be proposing to the voters to change a few things in the Charter anyway. City Administrator Volek added Charter review was mandated by State law.

Councilmember Cromley said it was a common provision and was likely in State law, as well. The Council could vote at any time to raise the Council salary. It could not be done during that meeting because it was not on the Agenda and there had not been a public hearing. No one needed to abstain from voting, because it did not affect anyone presently on the Council. It would only affect the people who would be elected in the future. The vote would not occur until January, so none of the new councilmembers' salaries could be raised during the first four years. The first councilmembers to receive raises would be those who had two years left and who were re-elected to a second term.

Councilmember Cimmino said she recalled the governing board had a salary of \$300 per month, and it had been automatically doubled prior to 2000.

Attorney Brooks responded that City Administrator Volek had researched the topic, and he would like to meet further with her about it. He agreed that it would likely involve staggered compensation, and it may be an odd circumstance having one councilmember receiving more compensation than the other.

On a voice vote, the motion was approved 9 to 1. Councilmember Ulledalen voted in opposition.

There was no further business, and the meeting adjourned at 8:25 p.m.

CITY OF BILLINGS



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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk