

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

February 9, 2015

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 Pitman gave the invocation.

ROLL CALL: Councilmembers present on roll call were: Cromley, Yakawich, Pitman, Cimmino, McFadden, Bird, Swanson, Crouch, and Brown. Councilmember McCall was excused.

MINUTES:

- January 12, 2015
- January 26, 2015

Councilmember Crouch moved for approval of the January 12 and January 26, 2015, minutes, seconded by Councilmember McFadden. On a voice vote, the motion was unanimously approved.

COURTESIES:

- Mayor Hanel thanked city staff and city residents who attended the Saturday, February 7, special work session on the public safety levy.
- Councilmember Bird wished everyone a Happy Valentine's Day on Saturday. She said February was National Heart Month and Black History Month. She urged everyone to take care of his/her heart and noted there were many interesting programs planned for Black History Month. She said Presidents Day was Monday, February 16. Presidents George Washington, Abraham Lincoln, William Henry Harrison, and Ronald Reagan celebrated February birthdays.
- Councilmember McFadden announced that Girl Scout cookies were currently on sale and could be ordered on-line.

PROCLAMATIONS: None

ADMINISTRATOR REPORTS - TINA VOLEK

- Ms. Volek advised City Offices would be closed on Monday, February 16, in recognition of Presidents Day. She noted the work session would be held on Tuesday, February 17, at 5:30 p.m. in the Council Chambers.
- Ms. Volek noted on Wednesday, February 11, from 3:00 p.m. to 5:00 p.m. the Community Innovations Group would meet at the Billings Library Conference Room. She said a presentation would be given by the group who recently traveled to San Diego to learn more about its Serial Inebriate and Homeless Outreach Programs. There would also be updates on the group's efforts to help solve transiency and other issues in downtown.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 & #5 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. Aerial Platform Truck for Fire Department. (Opened 1/13/2015)(Delayed from 1/26/2015) Recommend Pierce Manufacturing; \$916,487.

2. Chlorine for Water Treatment Facility and Parks Department. (Opened 1/27/2015) Recommend DPC Industries, Inc.; \$773 per one-ton cylinder; \$193.50 per 150-lb. cylinder.

3. W.O. 14-15, Bench Boulevard North Sanitary Sewer Extensions. (Opened 1/27/2015) Recommend Western Municipal Construction, \$398,798.

4. W.O. 15-03, City Overlay. (Opened 1/27/2015) Recommend Knife River, \$1,041,812.90.

5. Storm Water Pond Area and Car Rental Transfer Lot Fencing Project. (Opened 1/27/2015) Recommend Mild Fence, \$46,733.50.

B. W.O. 13-15, Calhoun Road Improvements Right-of-Way Easements with Gale and Carolyn Rukstad; Eugene and Constance Frank; Lola Berlinsky; Carlin and Jackie Anderson; and Ralph Kottke and Tammy Kottke-Chartier.

C. Acceptance of Donation to Billings Public Library from Billings Public Library Foundation, \$600.

D. Resolution #15-10428 authorizing filing of grant application with Montana Department of Transportation for funding of two paratransit vans and two bus shelters; \$134,080.

E. Second/Final Reading Ordinance #15-5638 for Zone Change #929: A zone change from Agriculture Open-Space to Planned Development with an underlying zoning of Community Commercial with special provisions for medical services, complementary uses, and residential development on an un-platted, 80-acre parcel of

land located on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road. Billings Clinic, owner; Sanderson Stewart, agent. Approval of the zone change and adoption of the 10 criteria.

F. Second/Final Reading Ordinance #15-5639 for Zone Change #930: A text amendment to BMCC Section 27-306 allowing dog grooming in Neighborhood Commercial zoning districts and prohibiting outdoor kennels or exercise areas associated with dog grooming. Zoning Commission recommends approval.

G. Preliminary Plat Two-Year Extension for High Sierra Subdivision, 6th Filing; generally located north of Annandale Road and east of Greenbriar Road in the Lake Hills area; setting a new expiration date of February 9, 2017.

H. Bills and Payroll:

1. January 20, 2015

Councilmember Yakawich separated Consent Agenda Item A4. Councilmember Brown separated Consent Agenda Item H1 in order to abstain. Councilmember Cimmino separated Consent Agenda Items A2 and H1 in order to abstain. Councilmember Pitman moved for approval of the Consent Agenda with the exception of Items A2, A4, and H1, seconded by Councilmember Yakawich. On a voice vote, the motion was unanimously approved.

Councilmember Pitman moved for approval of Consent Agenda Item A2, seconded by Councilmember Yakawich. On a voice vote, the motion was approved 9 to 0.

Councilmember Pitman moved for approval of Consent Agenda Item H1, seconded by Councilmember Bird. On a voice vote, the motion was approved 8 to 0.

Councilmember Yakawich referenced Consent Agenda Item A4 and asked Public Works Director, David Mumford, to explain the funding. Mr. Mumford advised the chip seal was part of the annual Street Preservation and Maintenance Program to maintain existing streets. Public Works budgeted \$2.2 million in the Capital Improvement Plan (CIP) for the program. The program had three parts – chip seal, overlay, and crack seal. Last fall City Council approved a change order for \$46,200 to Knife River's contract for the crack seal. The City had received a very good bid from Knife River, so they added this year's work to the contract, and saved the City over a \$100,000. This year's contract in the amount of \$1,041,812.90 was for the overlay; and the remaining \$1.1 million was for the chip seal, which had not yet been bid. Mr. Mumford said the contractors could see what the overall, total program budget was because it was in the CIP. Staff did not discuss the anticipated cost for each of the three parts of the program with the contractors. It was up to the contractors to submit a bid.

Councilmember Pitman said part of the scheduled overlay was for Broadwater Avenue and asked if it included the part of Broadwater that had been made such a mess on a previous project. Mr. Mumford said part of the overlay would be in that area, and the City had held back funding from the contractor who worked on the project because they had done an unacceptable job. The City would be overlaying the entire

width of the street that would fix the substandard area. Councilmember Pitman asked where the held-back funds were located in the budget. Mr. Mumford said the funding had been held back from other projects, so a quarterly transfer would be needed at some point. He could not say how much it would be, but he would find out and advise the City Council.

Councilmember Yakawich asked for an explanation on the difference between overlay and chip seal. Mr. Mumford advised the overlay removed the top 2 inches and completely resurfaced the street with new asphalt. The chip seal was done on low-volume, residential streets. Cracks were filled, soft areas were repaired, and tar and chips were put down. The chip seal provided a new wear surface and added about 15 to 20 years of life to the streets.

Councilmember Yakawich moved for approval of Item A4, seconded by Councilmember Bird. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION creating SILMD 314, portions of Calhoun Lane. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Public Works Director, David Mumford, showed an exhibit of the SILMD boundaries and the properties within the proposed district. He noted Calhoun Lane would be fully reconstructed during the summer as one of the South Billings Urban Renewal District (SBURD) area projects. Calhoun Lane was an arterial street, and arterial streets normally had streetlights. The cost of installing the streetlights would be covered in the project cost through the City, CTEP, and SBURD TIF Funds. The street light maintenance district had a valid protest of 33.8%. Mr. Mumford noted one property in the proposed district was owned by a power company that required permission through Denver to protest, and the City did not receive any correspondence from them. Staff was also unable to get a response from a second property owner. Mr. Mumford noted there were several properties with multiple owners, but only one property owner had signed the protest; and according to the law all owners had to sign to consider the protest valid. There was also a parcel with a signed waiver. Mr. Mumford said the real issue for staff was, while having lights on Calhoun was a good thing, 67% of the property owners who would be paying an average of \$127 a year for maintenance of the lights said they did not want them. Staff felt City Council should be made aware of the high percentage of property owners who did not want the lights. Mr. Mumford advised the Council had the right under state statute to create the district because there was only a 33.8% valid protest; however, the Council also had the right under state statute to not create the district because of the amount of property owners that did not want it. He said the SBURD would like to have the light district, but they would not be paying the monthly charges.

Mayor Hanel asked how many lights would be installed. Mr. Mumford said there would be 10 LED lights installed on one side of Calhoun Lane.

Councilmember Swanson asked if 100% of the property owners would have to pay if the district were created. Mr. Mumford said it would be mandatory that 100% of the property owners pay the cost of the lights, maintenance, and operation as long as the lights existed.

Councilmember Cromley asked if staff was recommending approval of the resolution creating the district. Mr. Mumford said when the initial recommendation was submitted, they did not have the protests. He said having streetlights on Calhoun was very important for safety and a good thing on an arterial street. The problem staff had was there was not a city-wide arterial maintenance district to take care of lights on arterials that everyone used; and the maintenance fell on the adjacent property owners. The district would meet a need, but staff would understand if Council did not approve the district because of the number of property owners who did not want it.

Councilmember Cromley asked if there were other SILMD areas in the City where there was an allowance or some other alternative. Mr. Mumford said under state statute the only way to pay for the lights was through an assessment against adjacent property owners. There was not another funding source available.

Councilmember Brown asked if it could come up again if Council did not approve the creation that evening. Mr. Mumford said it could come up again in the future. If it did the property owners would also be assessed for the cost of the construction of the lights. Currently, the cost of construction would be covered in the Calhoun Lane project. Mr. Mumford said now would be the absolute, cheapest time to create the district. In the future the road would already be in place. Right now all the crossings could be made while there was no pavement or curb and gutter. Councilmember Brown asked if the infrastructure could be put in but not the lights. Mr. Mumford said they could install the conduit crossings. The only problem would be over time they could fill up and become useless. If it would be five to ten years in the future, it would not make sense.

Councilmember Pitman asked what the cost would be if they were not using LED lights. Mr. Mumford said there was an approximate 10 to 15 percent extra charge because they were building up needed reserves. His neighborhood had high pressure sodium lights, and his cost was \$138 after building up reserves. The cost for the proposed district would go down 10 to 15 percent in about two years after the reserves were in place. The smaller lots would pay \$30 and some of the larger lots would pay \$400 because of the frontage. The \$127 was an average.

Councilmember Bird asked what would be a reason for bringing creation of the district back to the City Council. Mr. Mumford said normally it would be a request by 50% of the property owners. Staff brought them forward at the time of construction because it was the cheapest time when the City picked up the cost of putting in the lights. After that, it became the property owners' cost.

The public hearing was opened.

- **Chuck Barrett, 314 Calhoun Lane, Billings, MT**, said he owned Barrett Subdivision. He said he was on the wall whether he was in favor or in opposition. He talked to most of his neighbors, and everyone he talked to was against it. He asked if five lights could be installed instead of ten lights, and the staff engineer told him it could not be done. Mr. Barrett said US Qwest in the Palmer Subdivision had six lights around their building and the neighbor to the northwest had four lights, plus outside lights on his building. His dad's mobile home park in Nadeau Subdivision had three lights right down the middle. Mr. Barrett said cost was the problem, plain and simple. He had one house in the middle of his

property, and his assessment would be \$400. He was told when the project to widen the road was started that taxes would not increase on anything. Mr. Barrett said South Billings Boulevard was reconstructed a couple of years ago, and there was not a streetlight on it except for a private light on Hanser's property and on King Avenue. Central Avenue from 6th Street to Monad, which was a major arterial, did not have streetlights. The current lighting on Calhoun Lane was not great; but it was fair.

Councilmember Crouch asked Mr. Barrett if he had plans to develop his property that would include other people who would benefit from the lighting. Mr. Barrett said he came to City Council about 10 years ago in an attempt to develop the property, and his request was denied. It would stay agriculture as long as he could afford to pay the taxes.

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

Councilmember McFadden moved to indefinitely table the creation of SILMD 314, seconded by Councilmember Yakawich.

Councilmember Brown asked Mr. Mumford if they could install the conduit and cap it well enough to hold it for five to ten years. Mr. Mumford said they could put in the crossings. Councilmember Brown asked if it would be a cost to the taxpayers. Mr. Mumford said it would be part of the project cost. He said staff did tell Mr. Barrett there would be no assessments; but at that time they were talking about the construction; and no one had thought about the street light maintenance district that would follow. Mayor Hanel asked Mr. Mumford if placement of the lights had to follow certain distance requirements. Mr. Mumford said there was a specific amount of illuminant that had to be on the pavement in certain spots, and lights from private property did not meet the federally-required pavement lighting. He said even though the cost of operating LED lights was less, they had less illuminants on the pavement than high pressure sodium lights so more lights were required.

Councilmember Cromley asked for the speed limit in the area. Mr. Mumford advised it was 25 mph. Councilmember Cromley asked how the amount of traffic on Calhoun Lane compared to traffic on Parkhill. Mr. Mumford said the amount of traffic would be similar. Calhoun Lane's traffic had increased somewhat the last few years with development in the area, but it was not a high-volume arterial road.

Councilmember Pitman asked if there would be a savings with installing five high pressure sodium lights. Mr. Mumford advised they could not install less than ten lights or they would be in violation. He did not know if five high pressure lights would offset the ten; it was a spacing issue.

On a voice vote, the motion to indefinitely table the creation of SILMD 314 was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward I to include recently-annexed property in Annexations #14-06, #14-07, #14-08, #14-09, #14-10, #14-11, and #14-12: Approximately 18 acres, including road rights-of-way, in the area of East Billings between the East Billings Urban Renewal District and MetraPark. Service Candy Company; Bollinger Trust;

Peter Yegen, Jr. Family Trust; Converse Properties, LLC; Cherry Properties, LLC; Earl L. Keenan, Jr. et al; and Industrial Land and Realty, LLC, owners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no presentation but was available to answer questions.

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

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

4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward V to include recently-annexed property in Annexation #14-14: An unplatted, 80-acre parcel of land generally located on the southwest corner of the intersection of Broadwater Avenue and Shiloh Road. Billings Clinic, owner and petitioner; Sanderson Stewart, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) City Administrator Volek advised staff had no presentation but was available to answer questions.

Councilmember Swanson advised he would abstain from Item 4.

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

Councilmember Crouch moved for approval of Item 4, seconded by Councilmember Brown. On a voice vote, the motion was approved 9 to 0.

5. RESOLUTION #15-10429 allocating \$15,000 of Council Contingency Funds for the Optimist Park Master Plan; bringing the total City Council contribution for the plan to \$25,000. Staff recommends approval. (Action: approval or disapproval of staff recommendation.) Parks Director, Mike Whitaker, distributed park master plans for a neighborhood park and a large, regional park so Council would have a better understanding of what was involved.

Mr. Whitaker listed the following purposes of a master plan.

- Provide a guiding document for park development
- Assure facilities were appropriately located and sized for the needs and uses of the park
- Assure adequate public input
 - Surveys
 - Public meetings
 - Stakeholders meetings
 - Park Board
- Insure that current trends were being addressed
 - Example: Pickle ball, off leash dog areas, etc.
- Identify compatible land uses with community needs
- Identify and resolve user conflicts
 - Example: The modification of the layout of the disc golf course at Pioneer Park eliminated most of the user conflicts.

- Identify operation and management efficiencies
 - Example: Makes maintenance operations more efficient
- Insure that all facilities follow current safety and accessibility guidelines

Mr. Whitaker listed the following benefits of a master plan.

- Identify parks and recreational needs in the community
- Quantify the needs of the park
- Help secure finances for park development
- A guide to implement park features
- Properly locate facilities
- Help eliminate traffic and pedestrian conflicts

Mr. Whitaker advised the scope information needed determined the cost of a park master plan, as follows.

- The amount of public input - citizen involvement
 - Surveys
 - Number of public meetings
 - Number of stake holder meetings
- Had a park master plan ever been done?
- Had the park been developed?
- Level of detail needed

Mr. Whitaker provided the following previous master plan costs and showed graphics of Riverfront Park and Pioneer Park developed by the consultant. He noted a master plan was more than just a graphic. It was a narrative as related to the park.

- Regional Parks
 - Riverfront master plan update - \$68,118
 - Completed in 2007
 - Pioneer Park master plan update - \$86,660
 - Completed in 2010
- Community Parks
 - Centennial Park master plan update - \$40,150
 - In progress
- Neighborhood Parks
 - Yellowstone Family Park - \$25,000
 - Completed: 2011

Mr. Whitaker showed two old drawings of Optimist Park and said neither drawing appeared to have been approved by City Council. He said the City typically developed a park master plan through consulting services or in-house. Currently the Parks Department did not have the capacity to develop master plans because of the undertaking of the city-wide Park District projects.

Councilmember Cimmino asked if they were looking at the less-expensive study or the more expensive study for Optimist Park based on the examples of the two master plans. Mr. Whitaker said from a budgeting standpoint they saw Optimist Park as a community park. Since there was not a council-approved master plan, staff estimated the cost would be between \$40,000 and \$50,000 based on the cost of the Centennial Park Master Plan.

Councilmember Pitman asked why the master plan was not being incorporated into Park Maintenance District 1 (PMD1) as part of deferred maintenance where it made more sense. Mr. Whitaker said they were looking at other deferred-type maintenance projects, but it was something staff could consider in the future. Councilmember Pitman asked if the issues with Optimist Park were deferred maintenance or just that nothing had ever been done. Mr. Whitaker said it was his understanding an organization wanted to donate funds to build a parking lot. Before a major improvement was done in a park, staff wanted to make sure there was a council-approved master plan to provide guidance.

Councilmember Bird said she brought the item to Council for consideration. She said the South Billings Urban Renewal Association (SBURA) was committed to providing half the cost of the \$50,000 for an Optimist Park Master Plan. People wanted a parking lot for the park; the little league had done some improvements in the park; and a fair number of residents wanted to see something happen with the park. She said it may be a community park, and she did not consider it deferred maintenance. She said it would be creating a master plan for a park where there had been minimal attempts at master planning.

Councilmember Bird moved to approve the resolution allocating \$15,000 of Council Contingency Funds for the Optimist Park Master Plan; bringing the total City Council contribution for the plan to \$25,000 with the remaining \$25,000 to be provided by the South Billings Urban Renewal Association as committed, seconded by Councilmember McFadden.

Councilmember Brown asked if SBURA had the \$25,000 ready to contribute. Councilmember Bird said they had the money and had approved the donation. Mayor Hanel said if Council approved the use of Council Contingency Funds, the City would not move forward until it had the match from SBURA. Ms. Volek advised there would be a quarterly budget amendment that would include the funding from SBURA.

Councilmember Pitman said he would support the motion because he felt master plans were important as far as having a vision as to where they were spending their money. As the Council moved forward and looked at PMD1, he felt it would be more valuable that PMD1 be the funding source for the master plans because it would really give them a solid basis for the deferred maintenance and the issues going on in the parks.

Councilmember Bird clarified that SBURA had approved the expenditure. Council would approve the budget amendment so their budget could be adjusted to include the transfer of the \$25,000 toward the master plan. It would be up to City Council to allow them to modify their budget.

Mayor Hanel said he was in favor of the motion. He said he looked at the park and the ball field and with the exception of the Little League Association's improvements, overall improvements in the park had been minimal. The park appeared

to be heavily-used and with the opportunity for a match, it was a move in the right direction.

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.

- **Richard Deis, 4548 Morgan Avenue, Billings, MT**, said the big issue was Calhoun. He was a SBURA board member and a past member of the Parks Board and the new ballpark committee. When the individual accused a SBURA board member of favoritism to resurface Calhoun Lane, it was a lie. He said he was defending himself and the other five board members. They met to discuss and gather input from the neighborhood. The individual called the neighborhood blighted. It was not a blighted neighborhood. The individual said they were playing favoritism. Mr. Deis said the only reason they were doing it was because they wanted development in the area; such as a walk-in clinic so people would not have to go across town. Mr. Deis said Floyd Martin was one of the first to be asked to be a SBURA board member; and he was asked many times. He said he was president of the task force, and he was the one who started the south side cop shop. The individual, who Mr. Deis said he would not name, accused him of favoritism, and he took it personally.
- **Frank Ewalt, 2131 Phoebe Drive, Billings, MT**, said in January 2015 he mailed each councilmember a packet of information regarding the inequitable way Street Maintenance #2 was assessed for vacant lots. He said he owned two lots of comparable size; one lot was vacant and his house was on the other lot. Mr. Ewalt said he did not receive a response from anyone. At the work session of January 20 there was a conference call with the lobbyist, and of concern was a bill to put municipal water departments under the Public Service Commission to protect water user rights. There was a comment made that if someone had a problem, they only had to go to City Administration or City Council; and there was no need for the Public Service Commission; yet he heard from no one. Mr. Ewalt said he actually owned three lots on an undeveloped section behind his house for a total of 30,890 square feet. This year his street maintenance fee for the three lots, and the arterial assessment, totaled \$350.50. Other assessments on the three lots totaled \$231.52. Mr. Mumford had said all properties benefited from a well-maintained street system. Mr. Ewalt said he agreed, but they did not benefit to the same extent. Vacant lots had very little impact on city streets. There was no vehicle that started and ended a day at a vacant lot. He had tried to pursue the unfair assessment many different ways from the beginning, and he had run into dead-ends. He did learn it was a management decision on how the assessment would be made without Council input. He also learned that according to MCA 2011, the City Council shall assess the fee. Mr. Ewalt said

in May 2013 Mr. Mumford said it was unfair that apartment buildings should pay a commercial rate for sewer fees because they were paying more than anyone else, so the fees were lowered to residential rates.

Councilmember McFadden told Mr. Ewalt if they lowered the fee on a vacant lot, they would have to charge other people more money. He asked how it could be done equitably. A vacant lot had just as much frontage as a developed lot.

Mr. Ewalt said when the sewer rates for apartment buildings were reduced from commercial rates to residential rates, the \$300,000 was spread out to everyone else. He asked if that was fair and equitable.

Councilmember Pitman told Mr. Ewalt he received his packet, and he brought it up at a meeting and discussed how it could be adjusted. He said staff advised there was no equitable way to do it. Mr. Ewalt said the Montana Code stated that it did not have to fall under one system. He said a vacant lot did not have an impact on city streets. There had to be another way. He said the Park Maintenance District 1 fee on his house was \$28, and the fee on the vacant lot behind his house was \$1.21. He asked why it could not be more like that. He said he paid more in street maintenance fees than he did for all other assessments on his lots.

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

COUNCIL INITIATIVES

- **Cromley:** Said he sent an earlier notice of an initiative regarding the legality of the City's current Ethics Board. It was not three members as permitted by State Statute; it was five members, and it really had no relationship to the State Statute for a number of reasons. He wanted to propose asking for an Attorney General's opinion.

Mayor Hanel asked if it would be acceptable to ask City Legal Staff to review it first.

Councilmember Pitman asked that the request be made in the form of a motion.

Councilmember Cromley **MOVED** that the City Attorney review if the current structure of the Ethics Code and the Advisory Ethics Board complied with State Statute and report his opinion to Council; to include if further opinion should be sought from the Attorney General. He said in 1972 the State Constitution provided that the Legislature shall pass a code of ethics, and in 1977 the Legislature passed a code of ethics with good procedures. Complaints involving the City were to be filed with the County Attorney, and there was procedure for both sides to present their case. Before that happened, the City had a City Code of Ethics that had never been used. It was his understanding sometime after 1977 a crisis occurred involving a councilmember and a 5-member Board of Ethics was appointed. They were not given much guidance, and the current Board had no procedures to follow. He said the Board was subject to Council's appointment and removal, which was strange. He said the current local

ordinance was very much askew, and it should be looked at. He said he intended to make the same argument to the Ethics Board and suggest they should indefinitely postpone any pending cases until a solution could be reached. He sympathized with the complainants who may feel they had no avenue. One of the complainants told him he attempted to file a complaint with the County Attorney, which should be proper procedure; but the County Attorney referred him to the City's 5-member board. It was a Catch 22. The motion was seconded by Councilmember McFadden. Councilmembers Bird and Swanson abstained due to a conflict of interest. On a voice vote, the motion was approved 8 to 0.

Mayor Hanel said he agreed with the initiative. The procedure either needed to be revised and placed in line with the State or done away with entirely. Doing away with the committee had been a subject of previous councils. The timing was extremely awkward because they were currently dealing with some complaints. The complaints needed to be handled properly; and they needed to comply in a manner that was fair to everyone.

- **Pitman: MOVED** to refer the amendments of two sections of the Zoning Code to allow Class A and Class D commercial tow truck parking in residential areas as part of a home occupation to the Zoning Commission; and that the ordinance be brought to a Council work session in March, seconded by Councilmember Bird.

Councilmember Pitman said they could argue all day, but it was not the time. He was just asking for a Zoning Commission opinion to be discussed at a work session. They were not making any decisions that evening other than sending it through the process and beginning a discussion.

Councilmember Yakawich said he had no intent to debate the issue at that point, but he would adamantly oppose it because it opened up a can of worms that would impact Ward I.

Councilmember McFadden and Mayor Hanel said they would support the motion. It was the proper method to come to a resolution.

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

- **Pitman: MOVED** to direct staff to present the Complete Streets Policy at a work session, seconded by Councilmember Cimmino.

Councilmember Pitman said a lot of people had questions and concerns, and some of the councilmembers may not be up-to-date on what it was all about. They had discussion in 2011 and now that it was being implemented, they had received concerns about painting bicycle lanes in the streets. Was the policy really where they wanted to go and was it important?

Councilmember McFadden said he would support the motion for two reasons. The County Commissioners unanimously killed the idea in the county, and he had recently been made aware that all decisions were already mapped out, and representatives of the people would have little say.

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

There was no further business, and the meeting adjourned at 7:50 p.m.

CITY OF BILLINGS



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

ATTEST:

BY: Cari Martin
Cari Martin, City Clerk