

Attachment C

Memorandum of December 30, 2015 to Mayor and City Council
Providing Legal Analysis and Recommendations
Concerning City's Ethics Ordinances



CITY OF BILLINGS

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MEMORANDUM

TO: Honorable Mayor and City Council
Tina Volek, City Administrator
Bruce McCandless, Assistant City Administrator

FROM: Brent Brooks, City Attorney *BB*

RE: Council Initiative of Council Member Cromley – Legality of Ethics Ordinances

DATE: December 30, 2015

Introduction

On February 9, 2015, Council Member Cromley presented a Council Initiative as follows:

“Request the City Attorney to provide a written opinion or seek an opinion from the State Attorney General regarding the constitutionality or legality of the City’s Code of Ethics contained in Section 2-700 of the Billings, Montana City Code (hereafter referred to as BMCC) and the City’s advisory Board of Ethics.”

The Initiative was approved by the Mayor and Council. This memorandum discusses several related legal and procedural issues generated by the Initiative and where helpful labeled appendices are attached.

Brief Summary Answer

There are inconsistencies between the City’s ethics ordinances, the State of Montana Constitution of 1972 and state ethics statutes. It is arguable that self-governing cities in Montana do not have authority to enact ethics ordinances that are intended to replace or supersede state ethics laws. Bozeman has addressed this issue in its current ethics ordinances and has concluded that until definitively resolved by a court case or Attorney General opinion, that its ethics ordinances are in effect as long as they are more stringent than state ethics statutes. In contrast, other Montana cities also have enacted various forms of ethics ordinances or resolutions that mostly rely upon the Montana state statutes on ethics for investigation and enforcement. With the exception of Bozeman, these cities usually refer ethics complaints to the County Attorney as provided by state law in Sections 2-2-101 through 2-2-144, Montana Code Annotated (MCA). Those cities’ ethics ordinances are discussed more in-depth later in this memorandum.

There is also an inconsistency between the current ethics ordinances and the City Charter Article V, Section 5.01, which indicates that all City boards and commissions shall have no **administrative authority unless specifically required** by federal or state law or interlocal agreement. Under Section 2-544, BMCC, the Ethics Board makes its “decision” and submits it to the City Attorney for a final decision as to what if anything should be done further. Additionally, whether or not the Board’s function is “administrative” is debatable because the current ethics ordinances imply that the City Attorney has final decision making responsibility as advised by the Ethics Board’s written decision.

The City’s ethics ordinances are arguably inconsistent with the Montana Constitution of 1972, Article XIII, Section 4. They should be repealed with subsequent adoption of state ethics statutes as the exclusive authority for ethics complaints and resolution in lieu of City ethics ordinances. The current City of Billings ethics ordinances are outdated, confusing and at least in need of substantial revisions.

Contents of Memorandum

This memorandum discusses the following:

- (1) A brief summary of the available legislative history concerning the City’s ethics ordinances;
- (2) A summary of how the City’s ethics ordinances have been procedurally implemented in the past;
- (3) A summary of the state ethics statutes;
- (4) A summary of other Montana cities’ approaches to ethics issues;
- (5) The City’s basic self-governing authority as provided in the Montana Constitution of 1972, state statutes, Montana Attorney General (AG) opinions and Montana Supreme Court decisions;
- (6) Weaknesses of the current City of Billings’ ethics ordinances; and
- (7) Analysis, recommendations and conclusion concerning the current City’s ethics ordinances.

Within this memorandum there are numerous references to various ordinances, statutes, Attorney General opinions and Montana Supreme Court opinions. Most of these legal resources and other relevant documents have been labeled and appended to this memorandum rather than quoted or inserted within the memorandum.

1. Available Legislative History of City Ethics Ordinances

In 1981, the Mayor and City Council enacted Ordinance No. 4364 which is the major origin of the current ethics code now codified in Sections 2-701 through 2-709 and 2-540 through 2-544,

BMCC. There were minor subsequent amendments to these sections in 1982, 1997, 2002 and 2009. A copy of the current City of Billings ethics ordinances is attached as **Appendix 1**.

The Ethics Board provided for in Section 2-540, BMCC, was not actually appointed and operational until approximately 2001 when the Mayor and City Council activated both the Ethics Board and the Human Relations Board.

2. Procedures of the Ethics Board

There have not been many ethics complaints submitted to the ethics board since its activation in 2001. Approximately 6 complaints, including three recent early 2015 complaints, have been submitted to and considered by the Board. The procedures utilized by the Board have been pursuant to City Ordinance Sections 2-542 through 2-544, BMCC. The Board has generally used a two-step process as provided in Section 2-542, BMCC:

- (1) A complaint can be submitted to any Ethics Board member from a citizen or from city staff who may have received it from a citizen. A public meeting of the Board is then scheduled during which public comment is received and the complaint is reviewed and considered by the Board. The Board can determine that no further action should be considered and its “decision” can then be submitted to the City Attorney under Section 2-544, BMCC. Conversely, the Board may determine that the complaint justifies “reasonable grounds” to further investigate through a more formal fact finding hearing.
- (2) If the Board determines there is “reasonable grounds” it may proceed to a second formal hearing to learn more, receive additional public comment and “dispose of the complaint”. “Reasonable grounds” is not defined.

Under Section 2-543 of the City’s ethics ordinances, the ethics board shall receive evidence from the city official alleged to have violated any section or sections of this Code, or from any person the accused city official feels may assist in such city official's defense, from the party accusing such city official and from any other person as the Board deems necessary. The Board may request any witness to appear before it at a fixed time or to produce any records or documents required by the Board. The City Attorney shall assign counsel to the Board.

A city official may have legal representation at such a hearing.

Using the above procedures in Sections 2-542 and 2-543, BMCC, the Board issues its decision to the City Attorney and the person complained of with the Board “...either determining no violation occurred, recommending prosecution or setting forth requirements to be complied with in order that voluntary compliance may be had and final determination made.” This section has ambiguities and uncertainties which have been handled as best as possible by interpreting all sections of the ethics code together with the City Charter and City Attorney responsibilities. The Board sends a final letter to the City Attorney with its recommendations and thereafter the City

Attorney may or may not take any further action. In circumstances where there is a potential conflict of interest for the City Attorney, outside counsel has been appointed to assist the Board as authorized by City ordinance Section 2-542, BMCC.

3. State of Montana Ethics Statutes

There are Montana statutes that apply to local government officials. The main state statutes applicable to local government employees or local elected officials are 2-2-102, 2-2-104, 2-2-105, 2-2-131 and 2-2-144, MCA. These statutes are attached to this memorandum as **Appendix 2**. There are other applicable statutes within this section of the Montana Code Annotated, but these are the most notable. These statutes are not drafted as well as they could be, but have been utilized infrequently by citizens in other Montana cities. The statutes were utilized by a Billings citizen in 2015 who submitted a complaint to the Yellowstone County Attorney which related to complaints made by the citizen to the City's Ethics Board. The County Attorney's office investigated and responded to those complaints utilizing the state ethics statutes. See **Appendix 3**.

The State ethics statutes include local government (city and county) elected officials, 2-2-102(8), MCA and local government employees, 2-2-102(7), MCA. These statutes also define "private interest" at 2-2-102(6), MCA, similar to how the City defines "personal" and "financial" interests at 2-702, BMCC. General rules of ethical conduct for state and local officials and employees are described in 2-2-104, 2-2-121 and 2-2-131, MCA, which are more comprehensive than the City's comparable ordinance sections at 2-703 through 2-707, BMCC.

Enforcement of the state statutes as to local elected government officials or government employees is achieved through Section 2-2-144, MCA. This procedure involves submitting information or a complaint to the local County Attorney who then investigates the allegations and may request information from a complainant or the person who is the subject of the complaint. The County Attorney may bring a civil enforcement action in District Court seeking a fine between \$50 and no more than \$1000. The County Attorney may also file criminal charges if it is found to be supported by the investigation.

If the County Attorney finds no violation of any type the original complainant may file their own private civil action in District Court seeking a fine between \$50 and \$1000. There are provisions that allow the District Court to impose sanctions of court costs and attorney's fees against the complainant if the Court finds no violation or against the local official or employee if the Court finds there was a violation of these state ethics statutes. This is another important provision imposing mutual and reciprocal accountability on both the accused and the accuser not as comprehensively provided in Section 2-708 of the City's Ethics Code.

As an alternative to a direct complaint to the County Attorney by any person, under 2-2-144(5), MCA, a local government may establish a three-member ethics panel that initially reviews complaints and refers those complaints to the County Attorney which the panel believes have been substantiated. No one on this panel may be a local government official or employee.

4. Ethics Ordinances/Resolutions Enacted By Other Larger Montana Cities

Part of the research for this assignment included inquiry of other cities' attorneys concerning the existence of ethics ordinances or resolutions in their cities and what procedures were used to consider ethics complaints under those ordinances or resolutions. Missoula, Bozeman, Butte-Silver Bow, Great Falls, Kalispell and Whitefish (by Resolution) all have various types and complexities of ethics rules. Bozeman has the most lengthy and complex ethics ordinances. Whitefish has a Resolution detailing ethics rules for that city rather than an ordinance. A copy of each Montana city's ethics ordinances/rules summarized above is labeled by city name and included here as **Appendix 4**. A brief, non-comprehensive summary of each is listed below.

Bozeman

Most lengthy, comprehensive and complex of the Montana city ethics ordinances reviewed for this memorandum. It cannot be sufficiently summarized in a short paragraph here due to its length but some notable provisions are:

- Provides a combination of state statutes and Bozeman Commission approved provisions.
- Provides a three-member board that investigates and holds hearings.
- The city attorney provides the board with a preliminary written analysis of the complaint no later than 30 days from the date the complaint is filed with the city clerk.
- The accused or the accused's representative, if any, shall have an opportunity to:

Challenge the sufficiency of any complaint which has been filed against the accused; Examine all documents and records obtained or prepared by the board in connection with the matter heard; Call or provide witnesses; Establish all pertinent facts and circumstances; Question or refute testimony or evidence, including the opportunity to confront and cross examine adverse witnesses; and Exercise, to the extent the board, in its discretion, determines to be just and reasonable, any pretrial discovery procedure usually available in civil actions.

- The board may refer the issue to any appropriate administrative authority for disciplinary action or other suitable remedial action; and may make any recommendation to any city administrator at any level of supervision.

- Prohibits ex parte communication between board members and public outside of board meetings/hearings.
- Has a one year statute of limitations for individuals to make ethics complaints.
- Provides a process for maintaining confidentiality of private information and confidentiality if someone has requested a private opinion of the board.
- It requires annual ethics training for officials and employees.
- Provides for city attorney opinions on ethics.
- Contains lengthy complaint evaluation and disposition procedures including hearings.
- The board shall issue its written findings of fact and conclusions, and may issue any additional reports, opinions and recommendations as it deems advisable under the circumstances. All such reports shall be in compliance with all state and city laws governing confidentiality, open government, and torts. All such reports shall be reviewed by the city attorney prior to their issuance.

The Bozeman City Attorney indicates that in five years of an active ethics program (and over a dozen years with an ethics code) Bozeman has never had a formal complaint.

Butte-Silver Bow (BSB)

Ethics ordinances are a combination of state nepotism, open meetings and public participation and ethics statutes. There is no formal enforcement procedure, however it is assumed the state statutes would be utilized for enforcement since most of the ordinances duplicate state statutes. The current County Attorney is not aware of any ethics complaints submitted in the past under Section 2-2-144, MCA.

Great Falls

Very similar to Butte-Silver Bow ordinances. I assume one adopted the other's code with some modifications. In 2013, the City had an ethics complaint against its Mayor, which was referred to and addressed by the County Attorney's office. A citizen filed the complaint directly with the County Attorney's office. The complaint and Cascade County Attorney response are attached with the Great Falls ordinances in Appendix 4.

Kalispell

Relies upon and adopts the state ethics statutes and procedures in a very brief ordinance.

Missoula

Similar to Butte-Silver Bow and Great Falls. However, some differences are:
 Four-member Ethics Advisory Committee provides advice and counsel to officers, officials and employees who may have a question regarding an issue that relates directly to them.
 Board consists of: Chair of Administration and Finance Committee or his or her designee, City Attorney, Chief Administrative Officer, and Personnel Director.

Within the past year the state law process involving the County Attorney's office was utilized by a citizen complainant against the Mayor; but it appeared to be a political/philosophical difference rather than any inappropriate conduct and the County Attorney's office declined to take any action against the Mayor.

Whitefish

Defines ethical conduct by a Resolution which mostly duplicates state ethics statutes. There are some provisions unique to Whitefish: The City Council can impose some sanctions under its Resolution separate from state ethics statutes: The Council may reprimand, censure or request resignation of a City Council member, City Manager, City Attorney or any quasi-judicial board or commission member (Zoning, Planning or Board of Adjustment). Refers complaints about state ethics law violations to Flathead County Attorney using the process at Section 2-2-144, MCA.

5. Self-Governing Authority

In analyzing whether the City's ethics ordinances are authorized, it is important to review the City's self-governing authority in this specific context.

Section 7-1-113, MCA, prohibits local regulations by self-governing entities that are inconsistent with State regulatory statutes, however, it specifically defines "inconsistent" as "less stringent than" the state standards. The Montana Supreme Court has consistently ruled that more stringent local regulation is allowed by Section 7-1-113, MCA. *American Cancer Society v. State*, 2004 MT 376, 325 Mont. 70, 103 P.3d 1085, *Diefenderfer v. City of Billings* (1986), 223 Mont. 487, 726 P.2d 1362, *State ex rel. Swart v. Molitor* (1981), 190 Mont. 515, 621 P.2d 1100, *Lechner v. City of Billings*, (1990), 244 Mont. 195, 797 P.2d 191, 196.

The express provisions of the Montana Constitution, the statutes further interpreting the constitutional grant of broad self-governing authority and these cases cited above all acknowledge that the powers of a local self-governing unit of government are to be liberally construed and every reasonable doubt as to the existence of a power is to be resolved in favor of its existence. "The powers and authority of a local government unit with self-government powers shall be liberally construed. Every reasonable doubt as to the existence of a local government power or authority shall be resolved in favor of the existence of that power or authority." Section 7-1-106, MCA.

If a local government adopts a charter, the local government may exercise any power not prohibited by the Constitution, law or the charter. Article XI, Section 6, of the Montana Constitution provides:

Section 6. Self-government powers. A local government unit adopting self-government charter may exercise any power **not prohibited** by this constitution,

law or charter. This grant of self-government powers may be extended to other local government units through optional forms of government provided for in Section 3. (*emphasis added.*)

The State may preempt action of local governments with self-governing powers only “if there is an **express prohibition** by statute which forbids local governments with self-government powers from acting in a certain area.” *American Cancer Society v. State*, 2004 MT 376, ¶10, 325 Mont. 70, ¶10, 103 P.3d 1085, ¶10 *citing D & F Sanitation Serv. V. City of Billings* (1985), 219 Mont. 437, 445, 713 P.2d 977, 982. (*emphasis added.*) There is an assumption that a local self-governing entity possesses the power unless it has been **specifically denied**. *Id.* Further, the Montana Supreme Court has observed that there is a “broad expanse of shared sovereignty given to self-governing local units”. *State ex rel Swart v. Molitor* (1981) 190 Mont. 515, 520, 621 P. 2d 1100, 1104.

Section 7-1-113, MCA, provides that a self-governing local government entity such as Billings has the authority to enact an ordinance even if the State of Montana is currently regulating the subject area so long as the Billings ordinance is more stringent than the State’s regulations.

Section 7-1-113, MCA, provides:

- (1) A local government with self-government powers is prohibited the exercise of any power in a manner inconsistent with state law or administrative regulation in any area affirmatively subjected by law to state regulation or control.
- (2) The exercise of a power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation.
- (3) An area is affirmatively subjected to state control if a state agency or officer is directed to establish administrative rules governing the matter or if enforcement of standards or requirements established by statute is vested in a state officer or agency.

Three Step Analysis By Past Attorneys General

Montana Attorney General Opinions have utilized a three step or three part analysis when considering whether a self-governing municipality may perform a particular power:

In determining whether a particular self-government power is authorized, numerous previous Attorney General’s Opinions have engaged in a three-part analysis:

- (1) consult the local government’s charter and consider constitutional ramifications;
- (2) determine whether the exercise is prohibited under the various provisions of Mont. Code Ann. Title 7, chapter 1, part 1, or other statute specifically applicable

to self-government units;

(3) decide whether it is inconsistent with state provisions in an area affirmatively subjected to state control as defined by Montana Code Annotated, Section 7-1-113.

48 Op. Att’y Gen. No. 14 (2000); 46 Op. Att’y Gen. No. 13 (1996); 44 Op. Att’y Gen. No. 34 at 140, 142 (1992); 37 Op. Att’y Gen. No. 68 at 272, 274 (1977).”

As to the *first* step, The *Billings City Charter*, Section 1.01 provides that:

The City shall have all powers possible for a self-government city to have under the Constitution and laws of this state as fully and completely as though they were specifically enumerated in this Charter.

Billings City Charter, Section 1.06 provides:

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

Thus, there is nothing in the *Billings City Charter* that prohibits the enactment of ethics ordinances provided that such ordinances do not conflict with the Charter, state statutes or the state constitution. A copy of the *Billings City Charter* is attached here and labeled **Appendix 5**.

As to the *second* step mentioned previously by the AG, limitations of self-governing powers are found in Sections 7-1-111 through 7-1-114, MCA. The powers specifically denied (i.e. expressly prohibited”) to local self-governing municipalities are listed in Section 7-1-111, MCA. This is a lengthy statute detailing several areas where even a self-governing entity is prohibited from exercising authority. Section 7-1-111, MCA, contains no affirmative, express prohibition against Montana cities that prevents or preempts them from approving ethics ordinances. Montana Supreme Court cases interpreting this statute have held that if the local power sought to be invoked is not inconsistent, then it is not the exercise of a prohibited power by a self-governing unit under Section 7-1-111, MCA. *State ex rel Swart v. Molitor* (1981) 190 Mont. 515, 520, 621 P.2d 1100, 1104.

Section 7-1-112, MCA, provides five specific powers that local governments with self-government powers are “prohibited” from exercising “unless the power is specifically delegated by law”. None of the powers needing legislative delegation listed in this statute concern the general subject of ethic as needing state legislative delegation before the City can act.

As to the *third* step mentioned previously, a previous Montana Attorney General has noted that:

...this statute allows a local government with self-government powers to enact any ordinance unless the ordinance is (1) is inconsistent with state law or regulation *and* concerns an area affirmatively subjected by state law to state control.

46 Op. Att’y Gen. No. 13 (1996) and 43 Op. Att’y Gen. No. 7 (1993) citing 44 Op. Att’y Gen. No. 34 (1992); 43 Op. Att’y Gen. No. 53 at 184, 186-187 (1990) and 43 Op. Att’y Gen. No. 41 at 130, 134 (1989) (emphasis in original).

Examining these two subparts of step three, the exercise of a self-governing power is inconsistent with state law or regulation if it establishes standards or requirements which are lower or less stringent than those imposed by state law or regulation. The City of Billings ethics ordinances have some provisions which are arguably more stringent than state statutes—for example—having five members of an ethics board rather than three. This is similar to the facts in *46 Op. Att’y Gen. No. 13 (1996)* where Belgrade imposed more stringent indemnity, insurance and bonding requirements for garbage collectors than what was imposed by the state Public Service Commission.

However, the second subpart of step three involves whether or not the current City Ethics ordinances come within an area affirmatively subjected by law to exclusive state control. This becomes an arguable issue that is of concern. Montana Constitution of 1972, Article XIII, Section 4, provides that “The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state **and local officers and employees**. Additionally, Section 7-1-114, MCA provides in part:

(1) A local government with self-government powers is subject to the following provisions: . . .

(f) any law directing or requiring a local government or any officer or employee of a local government to carry out any function or provide any service. In this instance, there can be reasonable but competing/conflicting arguments. First, it can be argued that the additional, more stringent and specific provisions of the City’s current ethics ordinances are not regulated or prohibited by the State ethics statutes. However, it can also be argued that the state legislature has provided an exclusive statutory system for handling ethics issues and complaints state-wide that cannot be modified or supplemented by local ordinances. As an example, MCA 2-2-101, contains a Statement of Purpose concerning ethics and provides:

The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

The broad issue of whether or not the State has adopted exclusive control and regulation of ethics for local government officials and employees under MCA sections 2-2-101 through 2-2-144 has not been presented to a District Court or to the Attorney General for a definitive answer and remains an open, unresolved question.

However, there are other, independent reasons below that support repeal of the City's ethics ordinances beyond the arguable points concerning self-governing authority to enact local ethics ordinances and procedures.

6. Weaknesses of City's Current Ethics Ordinances

There are several weaknesses in the City's ethics ordinances and procedures for handling and resolving ethics complaints.

1. The Ethics Board is required by City ordinances to conduct investigations and receive evidence/hold evidentiary hearings and render a "decision" to the City Attorney. The Board may also find that no ethics violation occurred or establish "requirements to be complied with in order that voluntary compliance may be had and final determination obtained". This function is unlike other City Board/Commissions. Other Boards/Commissions provide *policy* advice to the Mayor/Council, City Administrator or a City department.
2. The City Charter requires Boards/Commissions to be advisory only. Article V, Section 5.01 of the Charter indicates, "Boards, commissions, or committees of city government shall be advisory only. They shall have **no administrative authority unless specifically required by federal or state law, or interlocal agreement.**"
3. The County Attorney is experienced and skilled in conducting investigations and should be utilized rather than placing the investigatory burden on the Ethics Board. This is the usual ethics complaint procedure used by other larger Montana cities with the exception of Bozeman.
4. The Ethics Board actions under Section 2-544, BMCC, are unclear and uncertain as to the finality of complaints and who does what compared to the comprehensive and clear provisions in the State ethics code at Section 2-2-144, MCA, previously summarized.
5. There is no appeal process provided or referenced in the City Ethics Code.
6. Future hearings of the Ethics Board could involve rights of privacy that require thoughtful analysis and may require some portions of a Board hearing to be closed to observe a person's right of privacy. The Board is not experienced in nor trained to handle such a situation. If such a hearing is not handled properly, there is potential civil liability to the City.
7. The City's current ethics ordinances are confusing, ambiguous and largely duplicative of state ethics statutes. The state statutes are superior in content and provide a more comprehensive, orderly and structured approach to ethics issues.
8. There is nothing in place that prevents simultaneous or successive complaints under

both the City's ethics ordinances and state ethics statutes. This can create confusion and ambiguity as to which laws apply and creates potential contradictory results between the City Ethics Board and the County Attorney. It also creates uncertainty as to what future procedure should be followed by the complainant or conduct to be followed by an accused.

9. Some of the above weaknesses cannot be mitigated or eliminated by amending the current ethics ordinances.

7. Conclusion and Recommendations

When the Ethics Board was initially activated and appointed several years ago our office expressed informal recommendations that the ordinances be revised to make them clearer and easier to understand. The initial intent of the Mayor and City Council was to utilize the existing ordinances first to determine how they worked in practical use. The Ethics Board did recommend the 2002 amendments to Section 2-706(c), BMCC, where the treatment of gifts to city officials was clarified. These minor amendments were subsequently adopted and approved by the Mayor and City Council. During the past fourteen years the Ethics Board has been careful to follow the ethics ordinances as closely as possible and has been successful in navigating some challenging issues presented to it.

However, the ordinances are in need of either repeal or substantial revision. The Council Initiative by Council Member Cromley is an opportunity for the Mayor, Council and City Administrator to make needed changes to the general area of local city official ethics. There are several options available to the Mayor and Council:

- (1) Repeal the current ethics ordinances, formally adopt and clarify the City's reliance upon state ethics statutes in Sections 2-2-101 through 2-2-144, MCA, and refer ethics complaints to the County Attorney for investigation as provided in Section 2-2-144, MCA. The very brief Kalispell ordinance included in Appendix 4 is an example of this option. This is the recommended action by the Mayor and City Council based on the practical and legal reasons previously stated and is the practice of most larger Montana cities; or,
- (2) Revise and amend the current ordinances adopting the best practices/provisions of other Montana cities such as Bozeman, Missoula, Butte, Kalispell and Great Falls and utilize the assistance of the MSU Bozeman Local government Center; or,
- (3) Repeal the current ethics ordinances and appoint the current Ethics Board or an ad hoc Council Committee to study the issue and present findings and advisory recommendations to the Council pursuant to City Code Section 2-224; or,
- (4) Request a formal Attorney General Opinion on the legal issue of whether the state has intended to provide exclusive control over the ethics of local government elected officials and employees. If the answer is yes, repeal the current ethics ordinances. If the answer is no, revise and amend the current ethics ordinances.