

REGULAR MEETING OF THE BILLINGS CITY COUNCIL MARCH 11, 2002

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 Charles F. Tooley called the meeting to order and served as the meeting's presiding officer. The Pledge of Allegiance was led by the Mayor, followed by the Invocation, which was given by Mayor Tooley.

ROLL CALL – Councilmembers present on roll call were: McDermott, Bradley, Brown, Iverson, Kennedy, Poppler, Jones and Larson. Councilmembers Brewster and Ohnstad were excused. NOTE: Councilmember Brewster joined the meeting at 8:35 p.m.

MINUTES – February 25, 2002. APPROVED AS PRINTED.

COURTESIES – NONE

PROCLAMATIONS – Mayor Tooley. NONE

BOARD & COMMISSION REPORTS. NONE

ADMINISTRATOR REPORTS – Dennis Taylor.

- Mr. Taylor introduced the newest Assistant City Attorney, Kelly Addy, who works in the civil area.
- Mr. Taylor announced that the Council Agenda meetings would be held on the 3rd Floor of the Library in the large meeting room there, beginning with the next Agenda meeting on March 18. In response to Councilmember McDermott's concerns, he said he will work to publicize the change and signs will be posted.

MOTION TO RECONSIDER:

Proposal by Councilmember Brown to Reconsider Resolution 02-17809 annexing South Hills Water and Sewer District: including Briarwood Subdivision, 1st, 2nd and 3rd filings; Ridgewood Estates Subdivision, 1st filing; Shadowbrook Subdivision; C/S 2544, Tracts 1-16; C/S 2165, Tracts 29A3, 29A4, 34-36, 38-46, 57-58, 68-77, 78A2, 78A1A, 81A, 86-89, 91A, 95; C/S 2814, Tract 2; and C/S 2218, Tracts 1 & 2B, including all of the Robindale Boulevard right-of-way from Blue Creek Road to the east side of MacDuff Circle and all of the Blue Creek Road right-of-way from Robindale Drive north to the northern boundary of C/S 2544, Tract 1 AND annexing the Cedar Park Water District: including Cedar Park Subdivision; White Subdivision; C/S 1118, Tract 1; C/S 657 Amended, Tract A4; and C/S 566, 2nd Amended, Tract 2, including all of the Santiago Road right-of-way and all of the Blue Creek Road right-of-way from Santiago Road north to the northern boundary of White Subdivision, South Hills Water and Sewer District and Cedar Park Water District, petitioners, (#02-02, #02-03). (Action: approval or disapproval of motion to reconsider. Approval of motion to reconsider places the

item back in original status before the previous vote, and subject to discussion and a new vote for approval or disapproval of annexation.)

Mayor Tooley introduced the reconsideration action explaining that any Councilmember from the prevailing side can bring back for reconsideration an item approved at a Council meeting immediately following the previous Council meeting. On February 25, 2002 the Council approved the annexation of the area described above. Councilmember Brown has asked for a reconsideration. Councilmember Brown moved to reconsider Resolution #02-17809, seconded by Councilmember McDermott. Councilmember Brown said he represents Ward II and must do what he can to resist higher taxes and lower service standards. He said the annexation could create higher taxes, and possibly higher insurance premiums for Ward II property owners, due to considerable cost for coverage in the annexed areas with regard to fire, police and emergency services. He stated that water and sewer services would be required in the very near future with a high installation cost to the City. Many private and governmental agencies will be involved in these projects due to the logistics of building under the Yellowstone River. The streets are narrow and do not accommodate the fire trucks that are in service with the Fire Department. He said the estimated tax revenue in year 2003 will be \$108,740.00 as opposed to the cost of fire services, which will be \$219,674.73. Councilmember Brown asked Fire Chief Marv Jochems to address the situation on fire protection, with regard to the Blue Creek Fire protection area and for those residents that will not be annexed. Chief Jochems replied that the problem has not been solved, because the Blue Creek Fire Service has not made their intentions known. He said they are considering either disbanding or raising their fees and adjusting their service protection borders. Councilmember Brown asked if the Billings Fire Department will be able to serve the annexed portion equally as well as other areas of the city. Chief Jochems said the response time will be considerably longer, however other aspects will remain equal. Councilmember Brown asked about the impact on the Fire Department for the immediate future, absent an addition of a fire station in the newly annexed area. Chief Jochems said due to the number of fire calls annually the impact will not be that great. On a roll call vote the motion to reconsider failed 4 – 5. Councilmembers McDermott, Brown, Poppler and Jones voted “yes”. Councilmembers Bradley, Iverson, Kennedy, Larson and Tooley voted “no”. The previous action from February 25 stands.

CONSENT AGENDA

1. A. **Bid Awards:**
 - (1) **Water Tank Replacement for Billings Logan International Airport.** (Opened 2/26/02). Recommend delaying award to 3/25/02.
 - (2) **Billings Logan International Airport Terminal Escalator Replacement and ARFF Facility Wheelchair Lift Replacement.** (Opened 2/26/02). Recommend delaying award to 3/25/02.
 - (3) **SID 1353 (full street improvements, water, sewer, storm drain, curb and gutter for 38th St. W, Grand Avenue and Circle Fifty Sub.)** (Opened 2/26/02). Recommend Empire Sand & Gravel for Schedule I, \$694,455 AND JTL Group for Schedule II, \$640,231.74 and alternate bid schedule II

for \$40,500.

- (4) **One New Current Model 2002 One-Ton 4x4 Extended Cab Pickup with Utility Box and Air Compressor for Public Utilities Dept.** (Opened 3/5/02). Recommend delaying award to 3/25/02.

B. C.O. #2, SID 1352, Schedule 1, Utility Improvements to Tamarisk Dr. and Burning Tree Dr., AME Inc., (decrease) \$5,348.00 and 0 days.

C. Lease Amendment extending the term of the Bureau of Land Management Building lease on IP6 and IP7 for an additional five-year period and adding 20,070 sf of ground space at the Airport Business Park.

D. Lease renewal of the Federal Aviation Administration Backup Generator Lease space, extending the term of the lease to 9/30/06.

E. Agreement with First Interstate Bank for placement of a second ATM in the Airport Terminal Building.

F. Lease renewal with Andrew Fish for the operation of a photographic portrait studio business in the Airport "house", \$8,100/1st year, adjusted annually by CPI, Term: 3 years.

G. 2002 Turnkey Agreement with the Billings Mustangs and American Legion Baseball Program for use of Cobb Field Stadium.

H. Resolution of Intent 02-17812 to order in the improvements under W.O. 02-02, #1: 2002 Miscellaneous/Developer-Related Improvements and setting a public hearing date for 4/8/02.

I. Resolution of Intent 02-17813 to order in the improvements under W.O. 02-02, #2: Broadwater Subdivision, Phase IV Improvements and setting a public hearing date for 4/8/02.

J. First reading ordinance amending Section 6-201 and 6-301 BMCC, providing that the procedure for adopting building and technical codes and any revisions shall be by Administrative Order, deleting amendment references to fences, moved buildings and temporary buildings and updating section numbers, and setting a public hearing date for 3/25/02.

K. Approval of a Downtown Revolving Loan to Billings Depot, Inc., \$200,000; 20-year amortization, 3.75% interest, 10-year balloon payment.

L. Alberta Bair Theatre Gala: Friday, 4/26/02 thru Sunday, 4/28/02.

M. Preliminary plat of Moose Lodge Subdivision, generally located on the east side of Calhoun Lane at Underpass Road.

N. First reading ordinance extending the boundary of Ward I to include recently annexed property described as: Annex #02-02 & #02-03. South Hills Water and Sewer District: including Briarwood Subdivision, 1st, 2nd and 3rd filings; Ridgewood Estates Subdivision, 1st filing; Shadowbrook Subdivision; C/S 2544, Tracts 1-16; C/S 2165, Tracts 29A3, 29A4, 34-36, 38-46, 57-58, 68-77, 78A2, 78A1A, 81A, 86-89, 91A, 95; C/S 2814, Tract 2; and C/S 2218, Tracts 1 & 2B, including all of the Robindale Boulevard right-of-way from Blue Creek Road to the east side of MacDuff Circle and all of the Blue Creek Road right-of-way from Robindale Drive north to the northern boundary of C/S 2544, Tract 1 AND annexing the Cedar Park Water District: including Cedar Park Subdivision; White Subdivision; C/s 1118, Tract 1; C/S 657 Amended, Tract A4; and C/S 566, 2nd Amended, Tract 2, including all of the Santiago Road right-of-way and all of the blue Creek Road right-of-way from Santiago Road north to the northern boundary of White Subdivision, South Hills Water and Sewer District and Cedar Park Water District, petitioners, and setting a public hearing date for 3/25/02.

O. Bills and payroll.

(Action: approval or disapproval of Consent Agenda.)

Councilmember McDermott separated Item N. Councilmember Jones separated Items G & J.

Councilmember Larson moved to approve the Consent Agenda EXCEPT for Items G, J, and N, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

Councilmember Larson moved to approve Item G, seconded by Councilmember Bradley. Councilmember Jones questioned the wording on page 2 of the contract, item 5A regarding discrepancies of gate admission sold “for” and “at” between section (1) and (2). Parks and Recreation Director Don Kearney said there should be no difference in wording and this was a typographical error. A correction would be made in the final contract document. On a voice vote, the motion was unanimously approved.

Councilmember Larson moved for approval of Item J, seconded by Councilmember Bradley. Councilmember Jones asked about the purpose of and who makes code changes. City Administrator Dennis Taylor said those changes are made through the State Department of Commerce. City Building Official Kim Palmieri said the City Code automatically adopts the codes that are required to be adopted from the State, through our current ordinance. The State has informed the City that this is not sufficient, and could be accomplished through a letter from the City Administrator. This will satisfy the legal requirement and avoid Council approval each time a code change is made. Councilmember Jones asked if the City Administrator could unilaterally change codes with this procedure. Mr. Palmeri assured the Council that the City could only adopt what the State adopts. Councilmember Bradley asked if the City could adopt a more strict code than the State adopts. Mr. Palmeri replied “no”. On a voice vote, the motion was unanimously approved.

Councilmember Larson moved for approval of Item N, seconded by Councilmember Bradley. Councilmember McDermott asked that before the next election, the Council look closely at the Ward boundaries. She stated that Cedar Park could be

best served by Ward I, and Briarwood would be better served by Ward III or IV due to common interests. Councilmember Kennedy asked for a clarification of “common interests”. Councilmember McDermott said that Ward I is primarily “low to moderate-income folks” with a common interest in redevelopment, making sure that the older part of town has infill development. She stated that Briarwood homes are more expensive, with a “country club atmosphere.” She said there are not enough common interests between those two groups of residents and that is a criteria used when creating ward boundaries. Councilmember Bradley said he did not think economic segregation is a good thing. He said there may be common interests that exist or can be worked toward, in these two areas. Councilmember McDermott asked if ward boundaries would be set before the next election. City Administrator Dennis Taylor said that he could not answer that tonight as this action is tied to the report by the Apportionment Commission to the Legislature in 2003. The population imbalance that occurs after annexations is generally corrected every ten years. He said that while common interests are important, the main goal is to check for the same amount of population in each district. Councilmember McDermott said Ward II is the largest district and it would make more sense to enlarge districts to the east rather than the southwest. Councilmember Bradley commented that the precinct and ward boundaries are based on registered voters as part of the criteria. Mr. Taylor said the boundaries are set according to census tracts, i.e. the number of persons within the jurisdiction. He added traditionally it is the responsibility of the City/County Planning Department to take all of the factors including geographical separations and make recommendation on ward boundaries. The Council, however, makes the final decision as to where the boundaries should occur. Councilmember McDermott said one of the criteria would be that the minority vote could not be diluted. She stated the largest minority vote is in Ward I and said her concern is that the addition of the annexed area would impact this vote. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 02-17814 ANNEXING: (#02-04) Tracts 1-5, C/S 3091, Rehberg Ranch Estates LLC, petitioners. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

Planning staff member Gail Kenson said the urban planning area staff report was considered at the previous meeting and the annexation will be presented at this meeting. Rehberg Ranch Estates is located on the west side of Rod and Gun Club Road north of Highway 3. The purpose of the annexation is to obtain City services. There are concurrent applications for a zone change to a Planned Development and a subdivision plat. The process for annexation begins with acknowledgement of the annexation petition, which was at the last meeting. The public hearing is next, with a public hearing and council action on the ward boundary extension next. Following that is a public hearing and council action on the zone change. Council action on the subdivision would be last.

The Planning Department did an evaluation of city services and estimated annual revenue based on a projected property value of \$4 million for subdivided suburban tracts. The Public Works Department will also collect annual fees with respect to stormwater, street maintenance and solid waste in the amount of \$114,000.00. Councilmember Bradley asked if a stoplight is needed at the intersection. Ms. Kenson said a traffic

accessibility study was submitted and the need for a stoplight at the intersection was not needed at this time. When changes in the plat during the subdivision process are made, another study will be submitted that reflect those changes. The developer has agreed to install improvements on Rod and Gun Club Road and Highway 3 at the start of the development. Councilmember Bradley asked if there will be a left turn lane on Airport Road and Highway 3. Ms. Kenson said "yes". Councilmember Jones asked if this development falls under the leapfrog classification. Ms. Kenson said the area south of Highway 3 is actually in the City. She stated "is it a leap, yes it is, is it a huge leap, no".

The public hearing was opened. TOM LLEWELLYN, 2110 OVERLAND, representing the Rehbergs, requested approval of the annexation. He responded to Councilmember Jones question as to who are the owners of the 200 acres in front of the property. He said the owner is Jim Tekka. The property has been in the family for 70 years and Mr. Tekka still has ties to the Montana area. He stated Mr. Tekka has been informed of all of the proceedings and will probably be present at the Planning Board hearing. Mr. Llewellyn says the property is only ½ mile from the city limits. He stated that all fees will be paid including franchise fees and system development fees and their fair share of street development. The development will move forward and be built to city standards and will be a development that the City can be proud of. The first phase will have 167 lots. Councilmember Larson asked whether the developer's plans include the route of the Inner Belt Loop. Mr. Llewellyn said the subdivison does incorporate the belt loop. He added that the State owns land south of the proposed area and both the State and Mr. Tekka support the plan. Councilmember Poppler asked where the Rod and Gun Club was located in relation to the development. Mr. Llewellyn pointed out the location and said that the developer and the Rod and Gun Club have worked out an agreement on several issues, including one that will avoid moving targets for the club. There also will be ample notice to potential lot owners about the rights and position of the gun club.

There were no other speakers. The public hearing was closed. Councilmember Bradley moved for conditional approval of annexation #02-04, seconded by Councilmember Larson. Councilmember Larson says he considers this leapfrog development but foresees this land will eventually be developed one way or another. He said it is inevitable that the City will grow in this direction. He said that we can either do it now and develop it to City standards or face later annexation after development has occurred that may not be to City standards. He prefers to take control of the development now. This development also preserves precious farmland. He added that transportation in the area will be more and more critical and this will offer another possible route out of the Heights. He noted that the Council is considering annexation of an area that has a very low crime rate. He added he is very concerned about the ability of police to service the area, but will not let that get in the way of intelligent, controlled development.

Councilmember Jones said he also sees this as leapfrog development but agrees with Councilmember Larson that the land needs to be developed properly, rather than dealing with problems in the future. Councilmember Bradley agreed that this area is non-contiguous annexation. He stated that he is more concerned with tree and grass fires than house fires in the area. He said that the Planning Department has done a good job of bringing the water to the area and the City will "get there eventually". He

commented that it was a well planned development. On a voice vote, the motion passed with Councilmember McDermott voting “no”.

3. PUBLIC HEARING AND RESOLUTION 02-17815 ANNEXING: (#02-05) Tract 3B, C/S 2991, Mary Kramer, petitioner. Staff recommends approval of the public services report and conditional approval of the annexation. (Action: approval or disapproval of staff recommendation.)

Planning staff member Gail Kenson said this annexation is an 80-acre tract that is divided into 9 separate parcels. A zone change from R9600 to Planned Development will come before the Council in April. The purpose of the annexation is to obtain city services. It is wholly surrounded by the City and is an example of classic infill development. She said the developer’s intent is to construct 56 dwelling units consisting of duplex-type condominiums. The staff has evaluated all of the City services and completed an evaluation of project revenues and expenses. She said it is currently raw, undeveloped and unsubdivided land.

The public hearing was opened. CHARLIE GAMBLE, 1819 CRYSTAL DRIVE, said he is acting as a dual agent for Mary Kramer, owner and KW Signature Homes purchaser/developer of the property. He stated that the court ordered that the property be divided into the 9 parcels. He clarified the number of units to be constructed as 28 duplexes for a total of 56 dwelling units.

There were no other speakers. The public hearing was closed. Councilmember McDermott moved for approval of the public services report and conditional approval of the annexation, seconded by Councilmember Larson. Councilmember Kennedy informed the Council that he was not the “Mark Kennedy” involved with KW Signature Homes. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION 02-17816 ANNEXING: (#02-06) Tract 3A, C/S 2991, Raymond Kramer, petitioner. Staff recommends approval of the public services report and conditional approval of the annexation. (Action: approval or disapproval of staff recommendation.)

Gail Kenson described this tract as the tract just east of the tract previously discussed in Item 3 above. The Kramer estate is requesting annexation and Kenmark Construction is the purchaser of the property. A zone change will come later that will request a change to Residential Multi-Family Restricted. The proposed development includes 51-unit apartment dwellings. She said the evaluation of the public services were the same as the previous agenda item. Councilmember Larson asked for confirmation that the zone change will require another public hearing. Ms. Kenson said the request for the zone change will be at the next council meeting and will require a public hearing before the Council.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Brown moved for approval of the public services report and conditional annexation, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND SECOND READING ORDINANCE 02-5185 FOR ZONE CHANGE #688: a zone change from Public and Residential 9600 to

Residential 7000 on Lots 7 and 10 of the subdivision of T1S-R26E-S9 and Lots 1-2, Homecroft Acres, generally located on the east side of Hallowell Lane, south of State Avenue. Community Leadership Development Inc., and Kay Doss, owners; Dave Hagstrom and Kay Doss, agents. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Iverson moved for approval of Zone Change #688, seconded by Councilmember Larson. Councilmember McDermott commented that this is another good example of infill development and urged the Council to support the request. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING CONTINUED AND RESOLUTION annexing E2NE4 of Section 16, Township 1 South, Range 26 East LESS the southerly 112.48 feet and westerly 40 feet, (#02-01), Mary E. and Norman Francis Miller and Joseph J. Miller, owners and petitioners. (Continued from 2/25/02). Staff recommends approval or the public services report and conditional approval of the annexation. (Action: approval or disapproval of staff recommendation.)

Planning staff member Candi Beaudry stated that this is a continuation of the public hearing for the Miller property annexation. A staff report was given at the last council meeting and she confirmed that the petitioner has not asked for a withdrawal or postponement. She stated that the zone change and the subdivision for the property are scheduled for the next council meeting.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Poppler noted that the owners of the property have asked for a postponement to the next council meeting due to a public meeting in which the zone change will be discussed. She said that the owners think that the zone change will not be approved and therefore the annexation would be premature.

Councilmember Poppler moved to postpone the annexation to the Council meeting on March 25, 2002, seconded by Councilmember Bradley. City Administrator Dennis Taylor asked that City Attorney Brent Brooks review what the effect would be, should the motion on the floor pass. Mr. Brooks said if the annexation is continued to March 25th, the zone change request must be set back another two weeks according to the State Statute, as it would be a "procedural error" to have the annexation and zone change at the same meeting. Councilmember Larson asked Mr. Brooks if that should be part of the motion or is it an administrative action. Mr. Brooks said it could be part of the motion to also postpone or reschedule the zone change as it is presently scheduled for the next meeting. He said, procedurally the annexation must be decided and filed with the Clerk and Recorder's Office before the zone change request can be acted upon.

Councilmember Larson moved to amend the motion to postpone the public hearing action on the zone change and subdivision request to the meeting after the next meeting and following the action on the annexation, seconded by Councilmember Kennedy. Councilmember Larson said he has no problem with the annexation, but says the zone change will likely be a major battle. He stated that he agrees with the postponement action and says the amendment is formalizing and correcting the procedures. Councilmember McDermott said this is a good annexation, however there

are some problems with the zoning and there has been only a very short period of time to set up meetings. She said she thinks there may be some resolution within the two-week period and asks for at least a two-week delay. On a voice vote on the amended motion, the motion was unanimously approved. On a voice vote on the motion as amended, the motion was unanimously approved.

7. APPROVAL of that portion of the Five-Year Capital Improvement Plan for FY 2003 – 2007 relating to General Obligation Bond Projects. (Action delayed from 2/11/02.) Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Councilmember Kennedy moved for approval of the Five-Year Capital Improvement Plan for the FY 2003-2007 relating to the General Obligation Bond Projects, seconded by Councilmember Iverson. NOTE: Councilmember Brewster arrived at this time - 8:35 P.M. Councilmember Poppler asked what the motion entails. Mayor Tooley explained this concerns the portion of the Capital Improvement Plan that deals with the General Obligation Bonds, which would include the Public Library project to come before the voters in fall of 2002; Street Bond I, improving several projects including South Billings Boulevard to come before the voters in 2003; the Heights and South Park Pools project to come before the voters in the fall of 2004; Street Bond II, improving projects that include Bench Boulevard to come before the voters in the fall of 2006; and the Cobb Field replacement proposed to go before the voters in the fall of 2004. Councilmember Poppler clarified that this motion would add the Library project now and the other projects in the order they were read. Mayor Tooley replied "yes".

Councilmember Larson emphasized that all the Councilmembers are agreeing to tonight are the first steps in any proposal. "This does not place any of these projects on the ballot. This only approves the order of the projects and sets the staff in motion to do what is necessary to prepare them for Council action and ballot action", he stated. He noted it is important to note that the Council would only be agreeing to a "concept" and there would be future public hearings and future actions. He likes every project and is concerned that one of these projects is going to come up short because there are so many. He said that each group of supporters for these projects would have to go out and "sell" their project to the constituents and the community. He is not as concerned about the order of the projects, but whether conceptually these projects will work. Anything that increases taxes is a very hard sell and quite difficult. He will be watching as to where people appear most open. He said his personal favorite are the street projects and he would support and work actively for any of them. He concurs with the order of the projects as stated in the motion.

Councilmember Brewster said this is the most thought provoking issue for him in his time on the Council. He said he has visited with many people about these issues and the main theme he hears is that most people do not like the order that the projects are in. Councilmember Brewster offered a substitute motion to amend the order to place Cobb Field on the ballot this fall and the Heights pool and first street project next year (Group I), the Library in the third year and the other street projects last, as originally slated, seconded by Councilmember Jones. Councilmember Brewster said that his experience with public opinion placed Cobb Field and the Heights pool as the two highest priorities and that is the reason for his substitute motion. Councilmember

Kennedy stated that the Council's task tonight is not to decide what the order of the projects are but to allow the voters to decide what is most important. "The order is not as important as getting these projects to the people; it's not about libraries and baseball fields, but how much the citizens want to add to their property tax this fall", he stated. He said he hoped that the Council would consider the original order of the projects proposed by staff, who has taken all things into consideration. Councilmember Brewster said he doesn't think it is an unreasonable idea to prioritize the projects because the voters will have the final say, irrespective of what the Council decides.

Councilmember Jones confirmed that each project will require an election and there is no guarantee that each or any other project will follow in a certain order. His concern is that Cobb Field is in dire straits and in need of serious repairs while the Library is not going to fall down tomorrow. He is also concerned that the Library costs could escalate if given three more years. Councilmember McDermott asked if the cost figures for Cobb Field are available and what flexibility there is on the Cobb Field proposal. City Administrator Dennis Taylor said he has placed information containing "bare bones" estimates of what can be accomplished on the Cobb Field project if placed before the voters in three different year time frames. He reminded the Council that the Capital Improvement Plan is a five-year plan that will be revisited by the Council every year. Next January, when a new fifth year is added, the Council may reprioritize projects at that time. The Council will have complete flexibility at that time to learn what is needed from the election to make certain decisions or changes about the projects. As an example, he cited the Heights plan in last year's Capital Improvement Plan and placed in the fourth year. The recommendation that came to Council places it in the third year. Last year Cobb Field was not even mentioned in the plan and this year it is placed earlier than year five. He reminded the Council is the "guardian of the plan" and the group that changes it or recommends that it "stay the course". Once the plan is adopted, Mr. Taylor said the budget is prepared on that basis and prioritization that has been indicated by the Council for year number one of the Capital Improvement Plan. There are several steps along the way, in the case of General Obligation Bonds, where input and refinement can take place before the issue is put before the voters. He cautioned the Council that whatever project they pick for FY 2003 or to put before the voters this fall has already lost two months of preparation work that needs to be done by staff prior to those actions. As soon as the Council clarifies the project schedule, staff will be able to complete their tasks and adopt a revised timetable. He added that the order is not as important as knowing that the Council confirms that these projects need to be addressed.

Mayor Tooley also reminded the Council that the Library has a coherent, cohesive idea and a very organized advocacy group that is willing to take their plans to the public immediately for voter approval this fall, while the Cobb Field project is only a concept at this time, not a plan. He said there is a lot of community discussion and decision-making that needs to take place before Cobb Field has a coherent and meaningful plan that will be supported by the voters. Without this advocacy support, he feels the Cobb Field project will not "pass muster" at the ballot. He encouraged the Council to put the Library first as it has the best chance of passing. Councilmember Brewster says the message he has heard from the Library group is not the message that he feels will promote successful passage on the ballot. Councilmember Poppler

said her concern regarding Cobb Field is the liability issues that could come about from a lack of safety in the structure. She also is in favor of the Library, but is concerned that a site has yet not been established for the new structure. She would still like to send the Library project to the voters. Mayor Tooley responded to the safety issues at Cobb Field. He said he has spoken with Parks and Recreation Director Don Kearney who said the City can do a temporary fix to Cobb Field to keep the danger at bay for approximately \$70,000.00. At the Library there are several issues that need to be addressed if there is not going to be a new Library building. Those issues amount to a much larger cost, so if the Council considers putting "good money after bad", the greater risk is postponing the Library.

Councilmember Larson says he feels everyone has an uphill battle selling any of the projects. There is no one person that he has talked with that is excited about spending \$12 million for a new Library. He says the Library appears to be the most ready to find out if the voters are willing to support this type of funding. Councilmember Kennedy said that six months is not enough time for a capital campaign. All of these projects will be good for the community, however the Library seems to be the only project that is ready to go before the voters. It will be a "test balloon" for all of the other projects, whereas Cobb Field is a worthy project, but is not ready to be considered by the voters.

Councilmember McDermott disagreed that the Library will set the standard, because she has heard less support for the Library than for any other project. She said she feels the other projects stand a better chance. She asked if there was a contingency plan if the Library fails. Would it go to the bottom of the list? Mayor Tooley said that if the Library issue fails, the Council or the community can place it back into the Capital Improvement Plan for reconsideration. Mr. Taylor said that if a project fails at the ballot level, it would come back as a fifth year project on the CIP unless there was some compelling reason to place it in an earlier position. That is where the Council decision becomes important, to prioritize projects that will have voter support and the best opportunity to succeed. Councilmember Poppler said she feels the Library has the supporters, the publicity and the desire. She said the November election is a big election, with a Senate race and a legislature change. There should be a large voter turnout as a result. The bigger the voter turnout, the better perception of what the voters will want. She said if the consultant for Cobb Field can assure her that it will not fall down, she would back off on the necessity to escalate the Cobb Field project.

Councilmember Iverson asked if any one of the projects has enough time to be placed on the fall ballot. Mr. Taylor said "yes", any one of the projects could be placed on the ballot. With respect to Cobb Field, it could be on the ballot in November of 2002, but the City would wait until after the season of year 2003 to start the construction.

Councilmember Jones expressed his concern for the price tag of \$12 million for the Library when just a few years ago the estimate was for \$5.5 million. He said it is his responsibility as a City Councilmember to see that it is a reasonable amount that we put before the voters. He feels the Library project is over funded.

Mayor Tooley asked Mr. Taylor to address Councilmember Poppler's concerns about Cobb Field's possible collapse. Mr. Taylor asked Mr. Kearney to address this matter, but stated that regardless of when the project goes on the ballot, there are repairs that must be made for this next season. The timing of the issue on the ballot will

determine the amount of money that must be allocated to do these repairs. Mr. Kearney said he didn't have any information to add to the recommendations and findings presented by CTA Architects to the Council at their last Committee of the Whole meeting. He stated that the City's insurer has indicated that there are measures that need to be taken to provide for the safety of the users of the facility. He added that staff agrees with what the architect has recommended. He cannot elaborate as to whether the facility will fall down, but did concur that it needs significant work and a \$70,000.00 investment will extend the life of the stadium approximately one year. Councilmember McDermott asked again for the figures that indicated there were two options. Mr. Kearney said that the underlying plan has been to invest in improvements that will allow the stadium to be a year round facility and not require a subsidy for the months of non-use.

Councilmember Kennedy again asked Mr. Taylor for confirmation that tonight's process is merely getting the projects on the ballot and that cost issues can be discussed and revised at a later date. Mr. Taylor confirmed "yes", that was the case, and added that the more clarity and consistency that the Council can give to staff regarding priorities will allow staff to research and work on the finer details. This will also give more clarity to costs and what must be financed. The Library estimates were based on the experience of libraries of 61,000 square feet in the general area.

Councilmember Poppler called for the question. On a roll call vote for the substitute motion, the motion failed 5-5, due to a tie vote. Councilmembers McDermott, Brown, Brewster, Iverson and Jones voted "yes". Councilmembers Bradley, Kennedy, Poppler, Larson and Tooley voted "no".

On a roll call vote for the original motion, the motion was approved 7-3. Councilmembers Brown, Brewster, Iverson, Tooley, Kennedy, Poppler and Larson voted "yes". Councilmembers McDermott, Bradley, and Jones voted "no".

MOTIONS FROM THE FLOOR: None

ADJOURN —With all business complete, the Mayor adjourned the meeting at 9:13 P.M.

THE CITY OF BILLINGS:

By: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Marita Herold, CMC/AAE, City Clerk