

REGULAR MEETING OF THE BILLINGS CITY COUNCIL FEBRUARY 25, 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 Councilmember Kennedy.

ROLL CALL – Councilmembers present on roll call were: McDermott, Bradley, Brown, Brewster, Iverson, Kennedy, Poppler, Ohnstad, Jones and Larson.

MINUTES – February 11, 2002. Approved as corrected.

COURTESIES – Solid Waste Division

- Barb Butler of the Solid Waste Division presented Jeff Meiers of Conoco Refinery and Kim Purdy of Conoco Citizen's Advisory Council with a plaque in appreciation of their support, and assistance with the Used Oil and Used Antifreeze Dropoff Program that was established at the Landfill in April 2000. The program is a permanent recycling program that has handled 33,000 gallons of used oil and 600 gallons of antifreeze since its inception. Conoco donated five used oil tanks for use in the program, sponsored an informational brochure and yellow page advertising promoting the program. Ms. Butler noted this program is especially noteworthy because it keeps these materials out of the storm drains and lowers the cost of their annual Household Hazardous Waste Roundup.

PROCLAMATIONS – Mayor Tooley. - None

BOARD & COMMISSION REPORTS. - None

ADMINISTRATOR REPORTS – Dennis Taylor.

- Mr. Taylor reminded the Council of the City/County Meeting this week on Thursday evening, to be hosted by and held in Laurel at the Palace Bar and Lanes Banquet Room at 5:30 p.m.
- He also reminded the Council of the Council Retreat this Saturday that begins at 8:30 a.m. in the Operations Center Conference Room at the Airport.
- Final comments on the Cobb Field presentation were made here, due to lack of time at the Committee of the Whole meeting previous to this meeting. Refer to the Committee of the Whole Minutes for these comments.

CONSENT AGENDA:

1. A. **Bid Awards:**
(1) Five-Year Uniform Rental Service for Billings Logan

International Airport. (Opens 1/29/02). Delayed from 1/29/02. Recommend Big Sky Linen, \$69,894.50 for five years.

(2) Public Utilities Department Water/Wastewater Treatment Plant Schedules A – D. (Opens 2/19/02). Recommend Wesco Distribution, Inc., \$313,094.00 (Schedules A, B and D) and Control Technology Co., \$68,650.00 (Schedule C).

B. C.O. #2, SID 1347, Schedule I, Sanitary Sewer, Water and Street Improvements in Lampman Subdivision, COP Construction, (increase) \$2,898.00 and 0 days.

C. C.O. #1, Steam Boiler Replacement at Airport, Accent Air Conditioning, (increase) \$67.00.

D. Engineering contract with Interstate Engineering, design and construction administration for water facilities to serve Briarwood/Cedar Park Subdivisions, \$340,000.00, subject to approval of annexation.

E. Cooperative Agreement (and Financial Work Plan) with U.S. Dept of Agriculture to conduct an Ecological Study at the airport, \$25,000.00.

F. Contract with DATARADIO for 800 MHz Radio frequency infrastructure for mobile data terminals in police vehicles, \$491,285.06.

G. Contract for professional services with Philip Services for the 8th annual Household Hazardous Waste and 7th annual Conditionally Exempt Small Quantity Generator collection events, \$37,500.00.

H. Encroachment Agreement with BP Pipelines Inc. AND Conoco Pipe Line Co. for a bike trail that will cross over their gas pipeline easement along the downtown trail corridor by Coulson Park, \$10.00.

I. Lease renewal with Kasper's Photo in Park I, 3-year term ending 12/31/2004.

J. Resolution 02-17807 for Security Transactions opening a TreasuryDirect account with the US Treasury.

K. Authorization of purchase of live scan fingerprint equipment from Cross Match Technologies Inc., \$24,482.00.

L. Acceptance of the FY 2001-2002 Second Quarter Financial Report.

M. Re-financing of the YMCA Tax Increment Revolving Loan dated 9/01/00, 20-year amortization, 6% interest.

N. Authorization to proceed with disposition of tax deed property in High Sierra Subdivision described as: T1N-R26E-S17: Tract 6A, C/S 2017, 4th Amended,

containing approximately 188 acres.

O. Application for a subgrant through Montana Board of Crime Control for training reimbursement of Violence Against Women Act Funds for a Domestic Violence Seminar, \$9,862.00.

P. Application for a subgrant through Montana Board of Crime Control for enhanced enforcement and referral of violator of state law concerning minors in possession of alcohol (i.e. underage drinking laws grant), \$90,483.00.

Q. Approval of Special Event requests:

- (1) DBA request for Big SkyFest Parade of Balloons on 8/01/02
- (2) Burn the Point Parade and Car Show on 8/30 – 8/31/02
- (3) DBA request for Christmas Stroll on 12/6/02
- (4) Farmer's Market every Saturday from 7/20/02 thru 10/5/02
- (5) Holiday Parade on 11/29/02
- (6) Shamrock Run in Pioneer Park area on 3/17/02
- (7) HRDC request for St. Patrick's Day Parade on 3/17/02
- (8) Strawberry Festival on 6/8/02

R. Acknowledging receipt of petition to annex: #02-04: Tracts 1-5, C/S 3091, Rehberg Ranch Estates LLC, petitioners, and setting a public hearing for 3/11/02.

S. Acknowledging receipt of petition to annex: #02-05: Tract 3B, C/S 2991, Mary Kramer, petitioner, and setting a public hearing for 3/11/02.

T. Acknowledging receipt of petition to annex: #02-06: Tract 3A, C/S 2991, Raymond Kramer, petitioner, and setting a public hearing for 3/11/02.

U. Bills and payroll..

(Action: approval or disapproval of Consent Agenda.)

LATE ADDITION:

V. Final Plat of Montana Sapphire Subdivision.

Councilmember Larson separated Item M. Councilmember Brewster separated Item F. Councilmember Kennedy separated Item B. Councilmember Bradley separated Item R. Councilmember McDermott separated Item D. Councilmember Jones separated Item N. Councilmember McDermott moved for approval of the Consent Agenda EXCEPT for separated Items B, D, F, M, N, and R, seconded by Councilmember Bradley. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item B, seconded by Councilmember Bradley. Councilmember Kennedy abstained from voting on this item. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approved of Item D, seconded by

Councilmember Bradley. Councilmember McDermott asked if the \$340,000.00 contract amount would be refunded once Briarwood was annexed. Public Utilities Director Carl Christensen said the money would be reimbursed through assessments of standard construction fees, which at the present time is 7-1/4 cents per square foot and through system development fees. Councilmember McDermott asked about the time period for this reimbursement. Mr. Christensen said the time frame depends on the amount and area of growth. He added there is a TSEP grant available to help fund the construction cost. Councilmember Jones asked if other engineering firms were solicited. Mr. Christensen said Interstate Engineering was chosen by the current Water and Wastewater District to provide services prior to the possible annexation. There was great interest on their part and the community to continue with this firm in the interest of continuity. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved to approve Item F, seconded by Councilmember Bradley. Councilmember Brewster asked about concerns expressed by one vendor that the whole system needed to be replaced. Fred McCracken of the Police Department said there was a federal grant in 1996 to develop the 800 MHz radio system. He said several departments contracted with a consultant to design the system. At the time, mobile technology was the next step and anticipated that the basic backbone infrastructure was included in the initial purchase. Councilmember Brewster asked if the issue was connectivity with this system and that vendor's technology. Mr. McCracken said "yes". He added that this is a double-phase project as there is not enough money to do both phases at this time. Councilmember Brewster stated that the compliance acceptance from the vendor allowed for conductivity testing but not for the congestion issue. He asked if the congestion problems were going to be resolved. City Administrator Dennis Taylor said that problems in the past related to voice "over-ride". With this new system simultaneous users will experience a slight delay in voice relay, however, will see dramatically faster access to the criminal justice system. He explained that the congestion problem should be resolved with the new system as it functions with electronic transmission of data much like an e-mail system, rather than human interaction. He added that officer productivity would also be greatly enhanced with the new system. Mr. McCracken noted that the new system delegates all of the routine human reporting functions to the computer, so that the voice system is available for the time-sensitive, critical voice communications. Councilmember Jones asked whether Motorola was providing the high quality equipment. Mr. McCracken said that Motorola did not submit a proposal because the project was too basic including only the infrastructure and equipping each vehicle with a computer. Councilmember Poppler asked if the system would be able to interact with the Sheriff and the Highway Patrol. Mr. McCracken said that next year's portion of the project would include Dataroam that will allow the Police Department to communicate with any law enforcement agency or fire department in the State of Montana. Councilmember Poppler asked if all data is backed up on tape. Mr. McCracken responded "yes". Councilmember Brown asked if there was a voice override on everything. Mr. McCracken said the intention of the computer portion of the system was always intended to be a back-up for the voice portion, relegating the computer to more routine functions. Councilmember Bradley asked if voice recognition was the eventual goal in this system. Mr. McCracken said there are still issues to be worked out, but eventually that may be a good option. On a voice vote, the motion was unanimously

approved.

Councilmember McDermott moved for approval of Item M, seconded by Councilmember Bradley. Councilmember Larson abstained from voting on this item. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item N, seconded by Councilmember Bradley. Councilmember Jones asked if the \$381,000.00 is primary in loan status and when it would be repaid to the General Operating Fund. Finance Director Robert Keefe said the \$381,000.00 is a cost of selling the property and would be primary and come out of unobligated reserves. Councilmember Poppler asked how the City would market the property. Mr. Keefe said the intent is to advertise and hold a public auction with a minimum price of \$10,000.00 per acre from an appraisal done by an interested party. Councilmember Poppler asked if it was feasible to do an independent appraisal. Mr. Keefe said "yes". Councilmember Larson asked how quickly the property would be marketed. Mr. Taylor said a resolution declaring it excess property would come first, after which would come a request for bids, which would require an appropriate time for processing. He summarized that it could be as early as this Spring. However if all bids are rejected, the property could be offered at a later date. He added that he would like to develop a master plan that would come before the Council for their input as to the method of sale. Councilmember McDermott said she agreed with Councilmember Poppler on the need for an independent appraisal. Mr. Taylor said that would be possible but pointed out it would add to the cost of sale. He added that the motion before the Council tonight does not preclude the City from going ahead with an independent appraisal. He hopes to go forward with something by Spring due to interest that has been generated. Councilmember Brewster asked if the Right-Of-Way issues were resolved at Wicks Lane. Planning staff member Candi Beaudry said the Planning Department has addressed two "alignments" on Wicks Lane. She said the department would preserve both corridors with dedicated right-of-ways so that in the future one or the other can be chosen. Councilmember Brewster commented that he would like to see this move forward and the land developed. On a voice vote, the motion was unanimously passed.

Councilmember McDermott moved to approve Item R, seconded by Councilmember Bradley. Councilmember Bradley commented that the property appears to be ½ mile from the nearest city boundary and this plan seemed to be "leapfrog" development. He asked what the City policy is on the Comprehensive Plan. Planning Director Ramona Mattix explained that the City can annex portions of property that are not contiguous to the city limits. The leapfrog development that is in the West End Plan addresses property that is discontinuous with any neighborhood of urban density and can be annexed with services provided. This property is an existing neighborhood in this classification. Councilmember Poppler asked about the Fire and Police Department's ability to provide service to the area. Ms. Mattix stated that the additional income from the annexation will go toward augmenting police and fire personnel. Mr. Taylor commented that in already developed subdivisions, such as Cedar Park and Briarwood, there is a value that is not currently allocated as revenue in the General Fund. Once the gap between expenditures and current local services is closed, his recommendation in the budget for Fiscal Year 2003 will be to add police and fire personnel until the city reaches the level proposed to the Council last fall. Proposals will also be included in the Fiscal Year Capital Improvement Plan for 2004 that will provide a new fire station for the area.

Councilmember Poppler restated her concern that the area from the Yellowstone Country Club to Briarwood Subdivision is “quite a stretch” adding a lot of miles for public safety enforcement. Mr. Taylor concurred and said that it is very important to fund the fire station location study that will address providing service in the Billings Urban Fire Service Area outside of our city limits that doesn’t currently include the Briarwood and Cedar Park area. Councilmember Bradley commented that he understood the policy against leapfrog development was because of discussions like this evening which bring out the limited funding available for public safety. He said he wants to see the City grow but reminded the Council that we, “told ourselves we weren’t going to allow ourselves to be stretched out.” He commented about the possibility of annexation out to 72nd Street, which would stretch City services even further. He said the plan was to encourage infill development and be opposed to the leapfrog development and asked the Council to be aware of that goal, especially the new members. On a voice vote, the motion was approved with Councilmember Poppler voting “no”.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 02-17808 vacating a portion of South 31st Street West from Rosebud Drive north to the alley between Rosebud Drive and Myrtle Drive, LAIS Development, Inc., petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

There was no staff report or questions for staff. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Bradley moved for approval of the staff recommendation, seconded by Councilmember Larson. Councilmember Kennedy spoke as a member of this subdivision, saying that it is a good way to have better access to the major arterials and cut down on the “cut-through” traffic. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND FIRST READING ORDINANCE 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 Zoning Commission recommendation.)

Zoning Coordinator Jeff Bollman said this zone change consists of four lots that comprises a little over 21 acres and is located on the east side of Hallowell Lane, south of State Avenue. There is Residential 9600 zoning to the north, west and south and a mixture of Residential 6000 and Residential Multi-Family to the east. The existing zoning of Tract 7 is Residential 9600, Tract 10 is Public and Lots 1 & 2 are Residential 9600. He said the proposal is to change this area to Residential 7000 that allows single-family residences with a 7,000 square foot minimum lot size and duplexes with 9,600 square foot lot size. This allows more density than what is allowed now. Both the Zoning Commission and the DRC recommended approval, noting it would provide an excellent infill project. Councilmember Bradley asked if Roosevelt Avenue extends over to Hallowell Lane and were there any plans to close Hallowell Lane. Mr. Bollman said it

does not extend to Hallowell and there are no plans to do this. Councilmember Brown asked if there is any tax exemption for homes to be built in this area. Mr. Bollman said Lots 7 and 10 are currently owned by a non-profit organization which has a tax exempt status. However there will be a subdivision following the zone change and when the lots that would accommodate duplexes are created and sold they will go back to a taxable status, with the exception of 10 lots that will be retained.

The public hearing was opened. DAVE HAGSTROM, 324 SO. 31ST STREET, commented that non-profit corporations do pay property tax unless they have gone through property tax exemption with the State of Montana. The only way the 10 lots would be tax exempt is if the duplexes built on them under the low income tax credit project plan were managed by a non-profit corporation and would be exempted in the process. He spoke in favor of the zone change saying it would be a good infill development project.

HARRY GARBERG, 301 HALLOWELL LANE, said he owns Lots 3 and 6 of Homecroft Acres, with his home located on Lot 3. He said with the zone change it would be possible that a home could be built within 60 feet of his bedroom and bathroom windows. He is opposed to changing the zone from Residential 9600 to Residential 7000. He stated that Mr. Hagstrom did a good job on the blighted areas, but can't understand why anyone would want to put up homes on this property that isn't blighted. He feels that the property values will go down if there are too many homes in the area.

There were no further speakers. The public hearing was closed. Councilmember Brown moved to approve the zone change, seconded by Councilmember Kennedy. Councilmember Larson said that in the six years he has been on the Council he has seen a number of projects in this area voted down and not one has come back with another proposed project. The Council has heard the community talk about the need for infill development in this area with affordable housing that would keep schools from closing. However the neighborhoods voted down every project that was proposed. This proposed plan is a solid plan that covers all of the neighborhood concerns and issues. He urged the Council to give this project a chance.

Councilmember McDermott said she has attended several meetings with Mr. Hagstrom and he has been very cooperative and flexible with the requests of the neighborhood. She feels that Mr. Hagstrom has gone the "extra mile" and that this is a good development. Councilmember Bradley agreed with Councilmember Larson that this is exactly the type of infill development that is needed. He said previous projects have been voted down because of the proposed use of manufactured homes. This is the kind of project that the Council has been looking for in this area. He noted that Mr. Hagstrom has gone to the community and asked them what they wanted and came back with a project that includes their concerns. He said it is a good project and he will support it.

Councilmember Jones asked City staff about the difference in separation requirements for Residential 9600 and Residential 7000. Mr. Bollman said the setbacks are the same for both zoning classifications, therefore there could be a building in the same place with Residential 7000 and Residential 9600. He added that the lot size is where the difference is with the setback fitting in a greater or smaller area. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND SPECIAL REVIEW #716: a special review to allow the location of a beer and wine license with gaming in a Highway Commercial zone on Lots 1, 3, and 4 of Block 1, Four Seasons Subdivision AND Lot 1, Block 2, Herbert Subdivision, located at 1327 Main Street. Popelka Enterprises LLC, owner; Darrell Kreitzberg, agent. (re: former Western Drug location). Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Zoning Coordinator Jeff Bollman said this special review involves the Four Season Shopping Center located on the east side of Main Street between Logan and Baker Streets. The site is the former location of a Western Drug Store. The proposed establishment is a business with a beer and wine license with gaming. The Zoning Commission recommended conditional approval based on two factors. The first is that there will be no uses within 600 feet that require the 600 foot separation waiver; and second, staff felt this was an appropriate place for this type of business. This special review is limited to the 3,010 square foot space that is shown on the site plan submitted with the application.

The public hearing was opened. TIMOTHY FILZ, 315 NO. 24TH STREET, said he represents Popelka Enterprises LLC. The plan is for a facility with 2,500 square feet for a business with a beer and wine license and an option for a small casino. He asked for the Council's approval.

There were no other speakers. The public hearing was closed. Councilmember Brewster moved to approve the Zoning Commission recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

5. PUBLIC HEARING AND RESOLUTION annexing the 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. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Planning staff member Candi Beaudry said that petitioners Mary and Norman Miller have requested annexation and expansion of the Urban Planning Area concurrently. Typically the expansion is heard before the annexation. The petitioners are now requesting a continuation of the public hearing until March 11, 2002. This property is actually going through four separate and different actions. The first is the expansion of the Urban Planning Area; next is the request for annexation, followed by the request for a zone change, to be followed by a subdivision application. She said that the Planning Staff has no problem with the request to continue the Public Hearing and action on this item. The zone change will go to the Zoning Commission the first part of next month. Postponing the public hearing until after the Zoning Commission action will give the petitioners a better idea of the results of the zone change request. In the interest of moving forward, she continued the staff report on the annexation.

The area is located ¼ mile south of the South Billings Boulevard interchange. The Urban Planning area includes the area south of the city limits with the north boundary being Riverfront Park. The annexation includes only the north ½ of the Urban Planning Area expansion, extending the South Frontage Road to approximately the mid

section line--only 35 acres in comparison to 59 acres of the Urban Planning Area expansion. The staff is recommending conditional approval for annexation, with the condition of a Development Agreement being executed between the owner and the City stipulating specific infrastructure and improvements with guarantees for those improvements. If the property is subdivided, the required Subdivision Improvement Agreement shall be filed with the subdivision and will stipulate specific infrastructure and improvements and provide guarantees. The reason for the conditions are to address and guarantee what improvements will be required at the time of development instead of at the time of annexation.

She noted the staff has conducted a cost revenue comparison for the annexation. They determined that the costs to the City for those services funded by the General and Public Safety Funds are estimated to be \$40,482.00. The City is expected to receive \$108,097.00 in revenue, with the ratio of costs to revenue being 37 cents paid out in services for every dollar of revenue brought in, based on a per square foot cost basis for commercial property. She said the reason for the request for annexation is to be able to connect to City water and sewer services. The property is in the process of being sold to Sunworks, Inc., who will develop the property as a commercial business park that will include an auto auction facility. The staff will review and act on a zone change for this facility and other commercial enterprises within the coming months. The property is presently zoned Agricultural-Open Space and was actively farmed as of last year. The adjoining property uses are Agricultural-Open Space to the west and south, I-90 to the north, and a manufactured home park to the east. The Planning Department did not receive any negative responses from other departments as to their ability to provide public services or other concerns.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Kennedy moved to continue the public hearing to March 11, 2002, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

6. PUBLIC HEARING AND 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). Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

There was no staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Kennedy moved to approve

the annexation, seconded by Councilmember Bradley. Councilmember McDermott said this annexation is leapfrog development and is not good for the City. Councilmember Larson reminded the Council of Councilmember Bradley's previous comments about leapfrog development and said he agrees with them. However, he said this situation is different. It is an existing development that was built to urban standards. Therefore he said he is reluctantly supporting the annexation, at the same time acknowledging that he has grave concerns about the volume of annexations that have come before the Council recently. Councilmember Kennedy asked City Attorney Brent Brooks what the liability was for the community, if the Council turns down this annexation. Mr. Brooks stated "none", that this would be a discretionary action by statute on the part of the Council. Councilmember Kennedy asked City Administrator Dennis Taylor if this petition follows the annexation policy. Mr. Taylor said there are areas in City limits that coincide with the extension of the Urban Planning Area. Councilmember Kennedy concurred and said he understands that concerns for the public services issues may have a beneficial effect, in that it points the development community in the direction that the City wants to go and will take some pressure off of the West End. He said this community is growing and will eventually have to annex this area in the interest of controlling and managing the area, so he will vote in favor of the annexation even though it is a difficult situation.

Councilmember Brown said his understanding is that there is a volunteer fire department in that area with a fire district that collects money from the residents. He wondered how the City of Billings could provide service to the residents in the rural areas that are not now served by this district. Fire Chief Marv Jochems said that the City fire department is working with those citizens in the rural area not now covered with fire protection to look for solutions. One solution is to extend the fire district boundary and charge the people in the rural area for fire protection. Another solution is to place those persons in BUFSA. He commented that the Blue Creek Fire Service would like to continue and hopes that the Blue Creek Fire Board will make the decision to continue to at least monitor the grass fire responsibility, because there are places that the Billings Fire Department cannot go with aluminum fire trucks that are too large for some of the lots in that area. Councilmember Brown also expressed concern about the inability for the City to protect those residents and asked if they would be protected if they were in BUFSA. Chief Jochems said, "while there are no guarantees, it would take a combined effort of the City and Blue Creek Fire Department to cover the citizens in that area."

Councilmember Bradley asked what the plan is for connection to sanitary sewer for Briarwood and Cedar Park Subdivisions. Public Utilities Director Carl Christensen said the present plan is to construct a waterline to those areas as soon as possible, because Cedar Park is in need of a water source and Briarwood is under administrative order to correct their water situation. The plan is to have a wastewater line in place within the next five years. Councilmember Bradley asked about the bentonite problem in the soil and how that will affect these plans. Mr. Christensen acknowledged the bentonite problem, however he said he didn't think that would be a concern with regard to the water and wastewater plans. Mr. Taylor said that all homes built prior to annexation have been inspected.

Councilmember Kennedy asked whether the time limit for the Treasure State Endowment Grant will run out if the annexation is not approved now. Mr. Christensen

replied that an extension has been applied for and the Public Utilities Department has given them assurances that they are working on the problem. However he said the grant could “go away” if the annexation is not passed tonight.

Councilmember Bradley called for the question and moved to stop debate, seconded by Councilmember Larson. On a voice vote, the motion was approved with Councilmember McDermott voting “no”.

7. PUBLIC HEARING AND RESOLUTION 02-17810 expanding the Billings Urban Planning Area to include the Miller Property Urban Planning Study area, generally located one-quarter mile east of the South Billings Boulevard and South Frontage Road intersection, containing approximately 60.9 acres, Mary and Norman Miller and Joseph J. Miller and Sunworks LLC, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Candi Beaudry of the Planning Department said this is the same property that she spoke of previously in Item number five. She noted that the Urban Planning Study Area is slightly larger than the area to be annexed. The Planning Board recommended approval of expansion of the Urban Planning Study Area, but has concerns about contamination of the groundwater given the proposed commercial development. The Planning Staff will look at that concern very closely when development proposals come before them. Councilmember Larson asked what the implications are of expanding the Urban Planning Area. Ms. Beaudry said the purpose of the Urban Planning Area is to look at the effects on City services in a ten-year time frame. By expanding it, we are implying that the City has the ability to fully service the area within that time period.

Councilmember McDermott asked if the Councilmembers are willing to listen to a public hearing for planning study were they necessarily guaranteeing that they will be approving the annexation? Ms. Beaudry said one does not necessarily guarantee the other. The Council would still have the ability to deny the annexation after approval of the Urban Planning Area expansion.

The public hearing was opened. There were no speakers. The public hearing is closed. Councilmember Poppler moved for approval of expanding the Urban Planning Area, seconded by Councilmember Kennedy. Councilmember Kennedy asked if Lockwood is a part of the Urban Planning Study Area. Ms. Beaudry said “no”. Councilmember Kennedy commented that by approving the Urban Planning Study the council will ultimately be faced with annexation issues. Councilmember Bradley said his only concern is that the planning study contain the basic requirements and comply with the vision for expansion. Councilmember Jones asked what costs were associated with the study. Planning Director Ramona Mattix said that each petitioner has to pay for a study that the Planning Staff reviews. Councilmember Brown spoke about his concerns that a possible auto auction will be in the area and asked if there are plans for a buffer for the residents to the west. Ms. Beaudry stated that there are manufactured homes to the east of the planning area. There will be a subdivision proposal coming before the Council within a month and that will outline the proposed uses. An auto auction is the “anchor” of that proposal. The owners of the auto auction have gone to great lengths to discuss the concerns of the residents of the manufactured home court with regard to groundwater contamination, lighting, noise, and odors and have taken great steps to

mitigate some of those concerns. She commented briefly on their plans to direct the groundwater runoff into the City storm drains.

Councilmember Bradley asked if they would be treating the runoff. Ms. Beaudry said the runoff from the parking lot would not be treated, however the by-products from the body and detail shop will be collected and treated onsite and recycled and not discharged into the City storm drainage system. Councilmember Bradley asked about the future possibility that groundwater runoff going into the storm drainage system will need to be treated. Ms. Beaudry said that would be addressed with the subdivision application and she was not familiar with the extent of the requirements for treating the runoff at this time.

Councilmember Poppler asked if the previously mentioned concerns are normally a part of the urban planning study. Ms. Beaudry said at the time of the study, generally the proposed uses are not known, however to the extent that they are known, the Planning Staff will address them. Councilmember Brewster asked if the zoning change and the annexation are coming at the same time. Ms. Beaudry confirmed that the property owners wanted a continuation of the annexation to hear what the Zoning Commission recommendations regarding the zone change will be, prior to the annexation public hearing. Councilmember Brewster asked whether approval of the annexation is a separate action from the zone change. Ms. Beaudry confirmed that the Council may in fact approve the annexation and deny the zone change. Mr. Taylor added that one action cannot go forward without approval of the previous action. Councilmember McDermott asked what the zone change request would be. Ms. Beaudry said the proposal for the zone change is for a Planned Development, which will mirror the Entryway General Commercial zoning. She added that the zone change will be before the Council on the 25th of March, at the same time of the subdivision application. The public hearing was opened. There were no speakers. On a voice vote, the motion for approval of expanding the urban planning area was unanimously approved.

8. PUBLIC HEARING AND RESOLUTION 02-17811 expanding the Billings Urban Planning Area to include the Rehberg Ranch Estates Urban Planning Study area, generally located north of Montana State Highway 3 and west of the Rod and Gun Club Road, comprising all of Section 15 and the E4 of Section 22, T1N-R25E, Rehberg Ranch LLC, petitioner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Planning Director Ramona Mattix said this is a much larger version of an Urban Planning Study than was just heard. It is an 800-acre area that will require Council approval to expand the urban planning area boundary. She noted a flood area that will be part of the study in the future as the upper part of the area is developed. She said the requirement tonight would be for the Council to have a public hearing and take an action on the Urban Planning Study and Public Services Report. The acknowledgement of the annexation petition will be at another meeting, followed by a public hearing regarding the boundary extensions and a public hearing on the zone change and Council action on the subdivision. There will be four other separate items that will be considered by the Council. Planning Staff member Gail Kenson said the Planning Staff

asked for responses from other city departments about the effects of extending public services to this area.

Currently the taxable value of this parcel is \$29,037.00 because it is currently in agricultural production, which provides for a lower tax level. The total revenue generated for the City would be \$1,084.00. Once the parcel is subdivided it will lose the agricultural exemption. Using comparable parcels in Briarwood as a basis, the Planning Staff estimated the taxable value of undeveloped subdivided land will be \$4 Million, which will in turn bring in tax revenues of \$15,000.00. There will be a 4% franchise fee for construction of the infrastructure for public utilities. She noted that City water is about ¼ of a mile to the east of the project. The one-time only franchise fee for construction of the water system would be approximately \$4,576.00. However once residents are connected there will be a monthly 4% franchise fee for actual service. Public Works also has fees that are associated with the project. She listed several more fees, including system development fees, involved with the different services and noted that this would be all on vacant land. She added that because this area will be opened up to multiple developers there could be as many as 20 units added each year which would generate \$9,457.00 per year in taxes and additional franchise fees for water and sewer. With regard to the Fire Department services, she noted that the BUFSA boundary is close to the area. Councilmember Bradley asked about the number of lots involved. Ms. Kenson said at total buildout there are 1200 lots; in the first phase there will be 356 single family lots and 48 townhouse type lots. Councilmember Brown asked where the water would be coming from. Public Utilities Director Carl Christensen said water would be supplied from the Staples Pump Station to the east, which is an easy water construction. Councilmember Bradley asked about an existing wastewater line from the Rimrocks that is sized to accommodate the proposed area. Mr. Christensen said it could be used, however another plan for a different route to the wastewater treatment plant would be more appropriate. Councilmember Jones asked where the funding will come from and are all the items in the Capital Improvement Plan. Mr. Christensen said this project is in the Capital Improvement Plan on a per year basis for extension of water lines showing up as one lump sum.

The public hearing was opened. TOM LLEWELLYN, 2110 OVERLAND, is the developer representing the Rehbergs in this project. He noted that the BUFSA goes three miles beyond the proposed area. It is really an infill development and eventually will give some relief to traffic in the Heights, with one owner and one additional mile to go to connect to the beltway from the airport. He responded to the water situation regarding the proposed golf course. There are four wells producing 450 gallons per minute that are added to the effluent from the wastewater pond and will provide more than enough water for the golf course. He added that the area is being developed as a family recreation community and is a good investment for the community. He asked for the Council's support.

There were no other speakers. The public hearing was closed. Councilmember Ohnstad moved for approval of the staff recommendation, seconded by Councilmember Kennedy. Councilmember McDermott commented that the "Briarwood annexation concerns her and this one scares her," however states that she would rather have development in this area than the West End. Councilmember Poppler asked about the plan for street maintenance on the county roads in the areas that are not contiguous to the city limits. Mayor Tooley said that there will be a meeting with the County

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Commissioners regarding who will be responsible for the roads connecting the city limits to those developments that are not contiguous to the City. Mr. Taylor noted that this is an annexation issue that will be a topic for discussion at the City/County meeting on Thursday. He said that agreements have been worked out previously with the County regarding trading a comparable amount of the maintenance of streets and roads. Councilmember Poppler asked if there was a two-lane road into the property. Public Works Director Dave Mumford said currently there is a road with a recycled asphalt surface, but the Subdivision Improvement Agreement will require that the road be rebuilt to a full two-lane road, built to municipal standards. Mr. Llyewellyn added that the road would be widened with a turn lanes included. On a voice vote, the motion was unanimously approved.

ADJOURN – With all business complete, the Mayor adjourned the meeting at 9:35 P.M.

THE CITY OF BILLINGS:

By: _____
Charles F. Tooley MAYOR

ATTEST:

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