

# REGULAR MEETING OF THE BILLINGS CITY COUNCIL

## December 9, 2002

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> 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 Doris Poppler.

**ROLL CALL** – Councilmembers present on roll call were: McDermott, Gaghen, Brown, Brewster, Iverson, Kennedy, Poppler, Ohnstad and Jones. Councilmember Larson was excused.

**MINUTES – November 25, 2002.** Approved as printed.

**COURTESIES** – Mayor Tooley noted that several members of the City staff were honored at the 5<sup>th</sup> annual Heroes Breakfast last Wednesday. Three members of the Fire Department, Captain John Dillon, Engineer Barry O'Donnell, and Firefighter Jason Lyon, two Police Officers, Greg Jacobs and Kelly Compton and one Communications Center dispatcher Justin Myhre were honored. He said the City is very proud of their achievement and supportive of their awards.

**PROCLAMATIONS – Mayor Tooley.** None

**BOARD & COMMISSION REPORTS.** None

**ADMINISTRATOR REPORTS – Dennis Taylor.**

- Mr. Taylor noted that Item C would need to be separated from the Consent Agenda and postponed to the January 13<sup>th</sup> meeting. He said Administrative Services Director Robert Keefe would explain in more detail later in the meeting.
- The joint City-County Planning meeting scheduled for December has been cancelled and the next scheduled meeting will be February 27, 2003.
- Mr. Taylor noted that he will be out of the office Wednesday, Thursday and Friday of this week. Assistant City Administrator Kristoff Bauer will be acting City Administrator.

**CONSENT AGENDA:**

1. A. **Mayor's Appointments:**

	Name	Board/Commission	Term	
			Begins	Ends
1	Ralph Stone	Aviation & Transit	01/01/03	12/31/07

2.	Rudy Swoboda	Board of Appeals	01/01/03	12/31/07
3.	Peter Light	Emergency Medical Services Advisory	01/01/03	12/31/07
4.	Mary Ann Andrews	Parking Advisory	01/01/03	12/31/07
5.	Charlie Hamwey	Planning Board	01/01/03	12/31/05
6.	Christopher Montague	Planning Board	01/01/03	12/31/05
7.	Leon Odegaard	Traffic Control Board	01/01/03	12/31/07
8.	Brenda Burkhartsmeier	Traffic Control Board	01/01/03	12/31/07

**B. Bid Awards:**

(1) **W.O. 02-07: Central Avenue Widening.** (Opened 11/26/02). Recommend JTL Group, Inc., \$492,102.15.

**C. \$7,135,000 Tax Increment Urban Renewal Refunding Bonds:**

(1) ~~**Bond Bid award.** Recommendation to be made at meeting. Postponed to 1/13/03.~~

(2) ~~**Resolution** relating to \$7,135,000 Tax Increment Urban Renewal Refunding Bonds Series 2002; Authorizing and Directing the Issuance, Awarding the Sale and Prescribing the Form and Terms and Security. Postponed to 1/13/03.~~

**D. South Hills Water and Sewer District TSEP Project:**

(1) **Assignment of Contract #MT-TSEP-99-102A** between South Hills Water and Sewer District and the Montana Dept of Commerce.

(2) **Contract Amendment #MT-TSEP-99-102B** between City of Billings and Montana Dept of Commerce.

**E. Easement Agreement** for a sewer to be constructed from Rimrock Road to the treatment plant of the Yellowstone Club Estates Subdivision, C/S 836, Tr 4, Jess T. Schwidde Revocable Trust, \$2,913.00.

**F. Subordination of Housing Rehab Loan** to Patti L. Fergusson, 228 Terry Avenue, \$15,000.00.

**G. Lease Extension** for Airport Gift Shop Concession, Airport Gifts, Lonnie Weidler, owner, 2-year extension to 12/31/04.

**H. Amendment to Airline Scheduled Operating Agreement** extending the contract term to 6/30/04.

**I. Extension of Car Rental Concession Agreements** for 90 days (from 12/31/02) to evaluate dual-branding issue in car rental industry.

**J. Second/final reading Ordinance 02-5230 for zone change #705:** A zone

change within the Briarwood Planned Unit Development from Residential-9,600 to Residential-7,200 on a portion of the remainder of Tract 10A of Certificate of Survey No. 2544, 3<sup>d</sup> Amendment (Lot 27 of proposed Ridgewood Estates, 2<sup>nd</sup> Filing). The subject property is generally located at the end of Macmasters Road, north of Briarwood Boulevard. Ridgewood, LLC, owner; Bert Lane and Ray Mehrer, agents.

**K. Second/final reading Ordinance 02-5231 for zone change #706:** A zone change from Agricultural-Open Space (County) to Public and Entryway General Commercial on Tract 1-B of Certificate of Survey No. 1446 Amended and Lot 4, Block 1 of Cereus Subdivision. The subject property is generally located at 5062 South Billings Boulevard. City of Billings and Robert Studer, owners.

**L. Second/final reading Ordinance 02-5232** amending BMCC Sections 24-401 –403, 412, 428, 429, 454, 456, 463, 464, 467, 472 and 1011; repealing Sections 24-430, 432, 444, 463.5 providing for changes to the parking ordinances.

**M. SID 1360: water, sanitary sewer, storm drain and street improvements:** for Gabel Road, S. 32<sup>nd</sup> Street West, S. 31<sup>st</sup>. Street West, S. 30<sup>th</sup> Street West, S. 29th. Street West, Millennium circle, Hesper Road, Broso Park Drive, Spring Creek Lane and Mountain Pass Road:

(1) **Resolution of Intent 02-17932 to enter into Professional Services Contract** with Engineering Inc., \$992,881.26.

(2) **Resolution of Intent 02-17933** to create SID 1360 and setting a public hearing date for 1/13/03.

**N. Acknowledging receipt of petition to annex:** #02-18: A 9.22 acre tract located in the SE4, NE4 of Section 14, Township 1 North, Range 26 East and setting a public hearing date for 1/13/03.

**O. Acknowledging receipt of petition to annex:** #02-19: A 10 acres tract known as Tract 124, Sunny Cove Fruit Farm, located in Section 31, Township 1 North, Range 25 East and setting a public hearing date for 1/13/03.

**P. Property Exchange Agreement** for the Billings Operations Center.

**Q. Annual Merit Pay** for City Administrator, 5% of annual salary for a one-time payment of \$4,758.47 for a total annual compensation of \$101,726.56.

**R. City-County Special Investigations Unit (CCSIU) Agreement** with Yellowstone County, term: 1/1/03 – 12/31/03.

**S. Montana Municipal Insurance Authority (MMIA) Resolutions:**

1. **Resolution 02-17934** authorizing the adoption and execution of the Second Amended Revised and Restated Workers' Compensation Risk Retention Program Agreement between MMIA and the City, dated 12/1/02.

2. **Resolution 02-17935** authorizing the adoption and execution of the Second amended and restated Liability Insurance Coverage Program Agreement between MMIA and the City, dated 12/1/02.

- T. **Final plat** of Augusta Ranch Estates Subdivision.
- U. **Final plat** of Amended Lots 4A & 4B, Block 5 of Reimer's Park Subdivision.
- V. **Final plat** of Zabawa Subdivision.
- W. **Bills and payroll.**

**(Action:** approval or disapproval of Consent Agenda.)

Mayor Tooley separated Item C of the Consent Agenda. Councilmember McDermott separated Item E. Councilmember Jones separated Items F, M, Q and T. Councilmember Gaghen separated Item G. Councilmember McDermott moved for approval of the Consent Agenda with the exception of Items C, E, F, G, M, Q and T, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item C, seconded by Councilmember Brewster. Administrative Services Director Robert Keefe said that the Bond Attorney was out of the office for 30-days and upon her return there were changes that were required on the offering statement. Those changes were too late to get the offering statement out and give enough time for the rating agencies to rate the bonds and the dealers to get a good look at the bond issue. He said it was decided that the lack of time would either result in no bids or bids that were higher than could be justified. The decision was made to cancel the bond sale and reschedule it to the January 13<sup>th</sup> Council meeting. He said the Bond Attorney advised that the Council can authorize the necessary changes and recommend the postponement. This is the recommendation that appears on the substitute staff memo. Also, because of the cancellation of the bond sale, item #2 (the resolution) would be postponed as well. Councilmember Brewster moved to amend the motion to postpone the bond sale to January 13, 2003 and delegate the authority to the staff to make revisions to the bond sale notification, seconded by Councilmember Gaghen. On a voice vote, the amendment to the motion was unanimously approved. On a voice vote, the motion as amended was unanimously approved.

Councilmember McDermott moved for approval of Item E, seconded by Councilmember Brewster. Councilmember McDermott asked who the owner is of the treatment plant. Public Utilities Director Carl Christensen said the Wastewater District was formed under an RSID, which falls under the ownership of the County. They would be the entity that transfers ownership to the City of Billings. He said the staff is asking the Council to approve the acquisition of the easement that would permit construction of the wastewater line to the access road. Councilmember McDermott asked if there were any foreseeable problems. Mr. Christensen said he did not think the County "would turn it over to the City" until the property owners' lawsuit is resolved. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item F, seconded by Councilmember Brewster. Councilmember Jones asked for clarification of the actual financial impact. He noted that the staff memo states there is a “remaining \$10,000 interest in the property” and the agenda states that the amount is \$15,000. Community Development Manager John Walsh said the current loan is \$15,000 and the City is subordinating that amount and will receive \$5,000 of that back once the financing is secured. Assistant City Administrator Kristoff Bauer verified that the financing must be in place before the \$5,000 payment will be made to the City. He said the City must subordinate the \$15,000 in order to receive the \$5,000 payment and at that point the amount remaining will be \$10,000. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item G, seconded by Councilmember Brewster. Councilmember Gaghen said she is concerned that limited foot traffic to the gift shop due to the increased security demands will reduce gross income revenues for the concessionaire. She asked if the expected 18.2% to 19.2% could be negotiated at a later date after the impact of the diminished foot traffic can be assessed. Airport Director Bruce Putman said the Airport staff anticipated this concern with “front-loading” a lower percentage than previously assessed and a little higher percentage on the “back-end”. He added that historically the market is for enplaning passengers and although the traffic was off approximately 10%, the concessionaire still realized about 92% of the normal business. He noted this concessionaire is the only operator that qualifies as the Airport’s sole Disadvantaged Business Enterprise operator and is important to the Airport. Councilmember Gaghen asked what kind of grants can be obtained as a result of having a Disadvantaged Business Enterprise operator. Mr. Putnam said what is at risk is the ability to meet the requirements to receive the annual Federal Airport Improvement Program grant funds. He noted the annual AIP dollars amount to \$2.5 Million to \$3 Million for the Airport. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item M, seconded by Councilmember Kennedy. Councilmember Jones said he is concerned about signing the contract with the engineering firm before the SID is approved. He asked who was liable for the engineering fees if the SID was not approved and what the advantage is to approving the contract at this point. Public Works Director Dave Mumford noted that all of the work performed by Engineering, Inc. at this point is at their risk until Council approval of the district. Councilmember Jones said he did not have a problem with this item if the contract won’t be signed at this time. Councilmember Poppler suggested that the item and motion could state that it is a “resolution of intent to enter into a services contract with Engineering, Inc.”. Mayor Tooley asked Councilmember McDermott if that suggestion was acceptable to her. She replied that it was. Councilmember Brown asked if this change would have complications for Engineering, Inc. Mr. Bob Sanderson of Engineering, Inc. said he did not see any problem with the added language of the motion. On a voice vote, the motion with the additional language was unanimously approved.

Councilmember McDermott moved for approval of Item Q, seconded by Councilmember Kennedy. There was no discussion. On a voice vote, the motion was approved with Councilmembers Jones and McDermott voting “no”.

Councilmember McDermott moved for approval of Item T, seconded by Councilmember Brewster. Councilmember Jones asked if the language addressing the

PMD, specifically for Cottonwood Park, should be included in the annexation. Planning Staff Member Bruce McCandless said the preliminary plat was approved by the Council earlier this year. He said all of the conditions have to be established at the preliminary plat stage and any government body is prohibited from attaching additional conditions after the preliminary plat approval. City Administrator Dennis Taylor noted that the intent is clear with the obligation for receipt of Cottonwood Park. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND RESOLUTION 02-17936 authorizing the sale of the Maverick Fire Station at 201 S. 30<sup>th</sup> Street. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Community Development Manager John Walsh gave a history of the Maverick Fire Station and outlined the recent occupants. He said the building is currently leased to Yellowstone County for the offices of Youth Court Services and other organizations operating as a Youth Intake and Assessment Center, Tumbleweeds and the Child and Family Intervention Center. This lease will expire on December 31, 2002 and the Youth Court Services is planning to move into space at the Yellowstone County Courthouse. He said the Council instructed staff to consider sale of the building. There were three proposals received for the building and on November 12<sup>th</sup> the Council passed a resolution authorizing the sale of the property and setting a public hearing date for this evening.

Mr. Walsh said a building assessment study was completed in 1993 outlining approximately \$400,000 in estimated repairs. Since that time most of those repairs have been completed, however some additional restoration work is still needed. He said a 1996 appraisal sets the value of the building within a range of \$27,000 to \$55,000. A new appraisal would be required to determine a sale price if the Council approves the sale, he added. He said the current zoning of the building is Residential Multi-Family and the current office use is a legal nonconforming use.

Mr. Walsh said the building is listed on the National Registry of Historical Places and the Southside Task Force has had a long interest in assuring that the building is used appropriately, maintained and preserved.

Mr. Walsh said the three proposals that were received were from: 1) Child and Family Intervention Center Project, 2) Tumbleweed Runaway Program and 3) Old Maverick Fire Station Development Venture. He said that staff is recommending proposal #3 from the Old Maverick Fire Station Development Venture. The criteria used to assess the proposal included: 1) capacity of the organization to carry out plans for occupancy of the building, 2) capacity of the organization to maintain and restore the building, and 3) the benefit resulting from the sale of the building. He said the owners of the Old Maverick Development Venture have agreed to pay the appraised value price up to \$80,000 and have the resources to complete \$250,000 in improvements. This proposal would also add this property back on the tax rolls and create additional housing units for Southside residents. The benefit to the community would be improvements to the Fire Station and provide additional housing for low to moderate-income persons in the Southside neighborhood. He said the staff recommendation is for the Old Maverick Development Venture because they are in the best position financially to purchase and maintain the

building.

Councilmember Brown asked if the potential owners would require financing from the City to complete the purchase. Mr. Walsh said their proposal included a request for financing of the \$250,000 improvements through CDBG loans. Mr. Walsh indicated that there was no such program so the partners said they will look for financing through other avenues and this would not be an issue for the purchase.

Councilmember McDermott asked how much CDBG funds have been invested in the Fire Station. Mr. Walsh said those funds paid for the re-roofing, exterior doors on the east side and other smaller improvements including sidewalk work. He said the total amount is approximately \$50,000 to \$60,000 over the last twenty years. She asked if the City staff is comfortable with the estimate from the Old Maverick Development Venture for renovations to the building. Mr. Walsh said "yes".

The public hearing was opened. KEVIN OLIVER, 4203 TOYON DRIVE, said he is a partner in the Old Maverick Fire Station Development project along with Randy Hafer. He said he is very excited about this project. It will meet the needs of his company, Industrial Hygiene. He said it has the space that they need to grow, is a good location and he is excited about the historic nature of the building and would like to have a part in the preservation.

SHELLY OVALLE, SOUTHSIDE RESIDENT, said she has been a resident of the Southside for nine years. She said the program, run by David Morales located at the Fire Station is very useful and helpful to the Southside neighborhood. She said she has seen many people better their lives with his programs and agrees with what Mr. Morales is doing there.

SHARON RUNNING WOLF, 3455 OLD HARDIN ROAD, #60, said she works as a certified teacher at the Child and Family Intervention Center. She said the students she works with definitely need tutoring and counseling. She said she is worried and concerned what will happen to the children if the building is sold to someone other than CFIC. She said CFIC has a very noble and honorable past and needs a place to provide these important services.

JOY MARISKA, DIRECTOR FOR COURT SERVICES, said she supports the Tumbleweed Program and their proposal. She noted that she would provide a letter to the City Administrator stating this support. She said Tumbleweed Services have been a partner with Court Services for many years. They provide 24 hours on-call service that is valuable to Court Services and the law enforcement community. She said she would like to see Tumbleweed stay in the building and perhaps move their whole operation there. This would leave the intake center there, and that service uninterrupted, to serve the police force who is a major referral service for them. She said Tumbleweed has limited resources but has offered to purchase the building and would take good care of it. They have great community support and she said she would like to see this building continue to serve the kids in this community.

ELOISE LAHEY, NO ADDRESS GIVEN, said she is the Native American liaison for the Child and Family Intervention Center. She said she works with homeless children, runaways, and parents looking for their runaway children. She said she thinks the Child and Family Intervention Center should have the Maverick Fire Station because a lot of parents rely on their programs.

MARION DOZIER, 3923 3<sup>RD</sup> AVENUE SOUTH, said she has lived in the same

house on the Southside for 36 years. She said this is an important decision for the Council as it involved three important programs. She said she favors the proposal that includes the housing. She noted that two years ago David Morales was told by the Southside Task Force to look for another location that would be east of 27<sup>th</sup> Street. Ms. Dozier said she would rather have an owner that can invest money in restoration of the Fire Station building. She said a non-profit agency might be coming back to the City for assistance and money for the maintenance of the building, as this has happened in the past.

JAKE ROMERO, 3705 CAMBRIDGE DRIVE, said he is the Director of Irma House. He said he supports David Morales and the Child and Family Intervention Center. He said the Southside needs the programs that CFIC offers. He said he does not think the Old Maverick Fire Station Development Venture will benefit the Southside neighborhood.

MONTY WALLIS, 4165 JUNE DRIVE, said he is on the Board of Directors at Child and Family Intervention Center. He said he supports this program. He said CFIC provides services for minority and low-income children and families. He said CFIC has been at its present location for 4 years and the community is familiar with them at this location when they are in need of their services. Mr. Wallis said it is important that CFIC continue at its present location. He noted that 150 children and families sought services from CFIC last year. He added that CFIC provides essential services for the community dealing with people and problems that most people do not want to be involved with. He said the Fire Station is a perfect location for CFIC and he asked the Council to consider his request.

Councilmember Gaghen asked how CFIC is funded. Mr. Wallis said their funding is a combination of grants from State government or agencies connected with Native American issues and private donations throughout the community including churches or individuals. He noted that CFIC doesn't have a lot of money, but they get by. He said there is a donor that will purchase the Fire Station and lease it back to CFIC for \$1.00 per year. He said he thinks the organization can sustain and improve the building and continue to provide the needed services to this community.

DON AMI, 640 DECLARATION AVENUE, said he supports selling the property to the Child and Family Intervention Center. He said CFIC and Tumbleweed have added value to the property and community by the services they provide. He said a large number of his community benefit from their services. He said CFIC has proven itself worthy of great consideration from this Council. He asked the Council to give CFIC that special consideration. He said he thinks the loss of Garfield School has caused a loss of identity for the Southside and this agency being located at the Fire Station will bring that identity back.

Councilmember McDermott asked if CFIC and Tumbleweeds have considered Garfield School as a possible location. Mr. Ami said he is not a member of the board and would have to defer this question to someone who is. He added that he thought agencies like CFIC would add to the tax base. Mayor Tooley said that non-profit organizations do not pay property taxes.

JOHN BEDFORD, 818 SILVER DOLLAR CIRCLE, said he is a board member of the Child and Family Intervention Center. In response to the question about the Garfield School, he said there are negotiations in process with regard to using this facility. He noted that the individual that is willing to buy the Fire Station for CFIC would be purchasing it individually and therefore it would go back on the tax rolls. He said the prospective



purchaser is well qualified and wishes to remain anonymous. Mr. Bedford said he is a sergeant with the Billings Police Department and is well acquainted with David Morales. He said they share a vision and are committed to providing services to the families and children that have "fallen through the cracks". Sgt. Bedford said one of the goals of the organization is to incorporate more of the faith community to provide funding for the services that are provided. This would assist with the lack of grants available due to economic conditions.

DELTA MORALES, 2815 4<sup>TH</sup> AVENUE SOUTH, said they have lived and worked on the Southside for many years and truly know the needs of this community. She said she thinks making the Fire Station into apartments would be detrimental to the neighborhood. She said the neighborhood is hurting and needs support. She noted that the Tumbleweed program has a building. Ms. Morales said David Morales turned his dream into a reality with a lot of hard work. She said he is a visionary who can take something ordinary and turn it into something extraordinary and has the wisdom to help the community. She said she hopes the Council chooses what is best for the Southside neighborhood and she believes CFIC staying in the Fire Station is what is best for the neighborhood.

KEVIN FRANK, 1820 9<sup>TH</sup> STREET WEST, said he is the Regional Administrator for Child and Family Health and Human Services. He said he has worked with David Morales for the last few years and relies on CFIC for referrals to programs. He said he supports both the CFIC and Tumbleweeds and would like to see the Fire Station remain a social services site.

MARTIN WATTS, 216 SOUTH 30<sup>TH</sup> STREET, said he believes that a building that was built to serve the community should remain in that service. He said he does not want to see the Fire Station turned into a "bunch of apartments".

VICTOR MARTINEZ, NO ADDRESS GIVEN, said he used to work for the center as a maintenance mentor. He said he worked with the kids that came from Court Services. He said he thinks Child and Family Intervention Center should remain in the building for the community.

DAVID MORALES, DIRECTOR OF CHILD AND FAMILY INTERVENTION CENTER, said the community can no longer ignore the troubles and problems of so many people in the community. He said CFIC just wants to continue to help the community with those issues and concerns before the Police Department has to become involved, before hospitals have to put together broken bodies and before the State has to become involved. Mr. Morales said CFIC wants to stop the atrocities that occur in families before they occur. He said the City asked him three years ago why "we are losing so many children" and he said the reason was that not enough people care. He said CFIC is asking the Council to allow them to continue what was started three years ago.

FLORENTINA ALVEREZ, 217 SOUTH 32ND AVENUE, said David Morales has been helping people for 19 years. She said Mr. Morales accepted the responsibility of being a single parent and took her in when she had no place to go. She said she did not know what would happen to CFIC if they cannot remain at the Fire Station. She said the community needs CFIC to stay and help with their needs.

RANDY HAFER, PROFESSIONAL ARCHITECT, said he was not aware of the good work that was going on in the Fire Station. He said he is a partner with Kevin Oliver in the Old Maverick Fire Station Development Venture. He said he was involved in the

work done at the 1 South Broadway Building, converting it into office space and apartments. He said he looks at this new venture as an opportunity to enhance the Southside. He said he appreciates the historical nature of the building, having been through the process of restoring buildings with this classification. Mr. Hafer said he knows what it takes to maintain and preserve a building on the national registry and has the intention, experience and the means to do it. He noted that Mr. Oliver has a growing downtown business that needs to stay downtown and the Fire Station building is an opportunity for him to expand, become a property owner and provide housing. He said the intention is to build two or three loft-style apartments on the second floor. He thanked the Council for their consideration.

Councilmember Poppler asked if Mr. Hafer has assessed what it would cost to put the building into good shape as a safe and usable building. Mr. Hafer said the building is basically safe and usable now, but it needs a substantial amount of maintenance that would bring the shell back to life. He said it would take substantial resources to restore it to its original character and state.

Councilmember Gaghen asked about the level of work that it would take to keep a building on the National Historic Register. Mr. Hafer said the first step is to apply for history tax credits. He said that program requires ownership of the structure for five years. It would be their intention to invest that money in the preservation of the building. He noted that a non-profit can't take advantage of tax credits.

DEANNA LENZ, 2303 ROSEWYN LANE, said she has been an employee at Child and Family Intervention Center for four months. She said she has an appreciation and interest in the historical nature of the Fire Station building. She said she was impressed with the work that David Morales has done with the building. She is also impressed with Mr. Morales's passion and interest in people and children. Ms. Lenz said her desk is in Mr. Morales's office and she constantly is impressed with the way he relates and helps the kids. His vision and integrity in serving the community is both impressive and exciting. She said she hopes CFIC can stay in their present location.

There were no other speakers. The public hearing was closed. Councilmember Gaghen moved for approval of the staff recommendation, seconded by Councilmember Brewster. Councilmember Brown said he needs to know if the Tumbleweed program has a place to move to. Community Development Manager John Walsh said Tumbleweeds has a satellite office in the Fire Station building and has another location that is their main office on 6<sup>th</sup> Avenue North. Tumbleweed Runaway Program Director Ellie Cabach noted their lease at the Fire Station expires in April of 2003. They currently have a satellite office with Court Services at the Fire Station and will not have a location for their on-call service when Court Services moves, she said. This will cause a break in the continuity of services from the Tumbleweed Program.

Councilmember Brewster asked if Child and Family Intervention Center has an alternative plan. Mr. Morales said he has no alternative plan as yet. The board is considering the options and dismantling the service is one of them. He noted that the rent is too high at Garfield School. He said he hopes to find some way to continue the work of CFIC.

Councilmember McDermott said there is no question that the programs currently located at the Fire Station benefit the Southside and its residents. She said the building is going to require a consideration amount of investment for which the non-profit programs

may not be successful in finding funding. She said she thinks there are other locations where these important programs can continue the work that they do. She said she doesn't think the City should tie these organizations to a building that will require funding to maintain the historic presence. She said she will reluctantly support the Old Maverick Fire Station Development Venture's proposal.

Councilmember Gaghen said she shares Councilmember McDermott's views. She noted that the Council's decision is not a negative value judgment on the organizations that are currently located in the Fire Station. She said she has concerns about the non-profit's ability to maintain the historic character of the building.

Councilmember Iverson said the non-profit organizations have certainly become involved in the community. She said she originally intended to support the staff recommendation but feels compelled to support the requests of the non-profit organizations because of the needs of the community. Councilmember Iverson offered a substitute motion that the City accept the proposal of Child and Family Intervention Center. There was no second. The motion failed for lack of a second.

Councilmember Jones said both of the programs are great programs. He said he has been involved in projects that are on the historical register and said the "hoops that have to be jumped through are incredible". He said there is a large amount of architectural time and money that is involved and the Old Maverick Fire Station Development Venture has an architect with this experience. He is concerned that the non-profit organizations have limited funds and will find that the building will drain money from their programs. He concluded by stating that the Fire Station needs to be purchased by someone that has the resources to maintain it.

On a voice vote, the motion was approved with Councilmember Iverson voting "no".

Mayor Tooley called for a brief recess at 8:05 P.M. He reconvened the Council meeting at 8:15 P.M.

**3. PUBLIC HEARING AND RESOLUTION 02-17937 amending FY2003 Budget to allow for costs of the Billings Operation Center and the new Animal Shelter. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Administrative Services Director Robert Keefe said this is a public hearing to consider a budget amendment to allow for the expense of the new Billings Operations Center and the New Animal Shelter. The Operations Center is needed because the current site has been sold to Sysco Foods, Inc. to allow their operation to expand. He said the total expenditure is \$14.6 Million and was presented at a previous work session. He said the revenue would be debt proceeds from a lease-purchase type of debt of \$6.6 Million, sale of the property of \$4 Million and EDA Grant income of \$1.2 Million. Mr. Keefe said \$2.8 Million in reserves would also be used. The reserves would come from Solid Waste, Storm Sewer Districts, Light Districts and Motor Pool. He said the reserves are derived from the difference between actual working capital and recommended minimum working capital. Solid Waste's reserve transfer is the largest at \$1.8 Million, Storm Water District's reserve transfer is \$278,000, Street Light District's reserve transfer is \$198,000 and the Motor Pool's reserve transfer is \$470,000. Councilmember McDermott asked why the City would be able to use Street Light District reserves. She said the costs to operate are variable and she thought those funds would be needed to cover the fluctuations in the lighting expense, noting that is the purpose of the reserve fund. Mr. Keefe said money

cannot be used from the districts that are maintained by Montana Power Company. However the Public Works Department maintains certain districts and the street lighting portion of the Streets and Traffic budget is 5% (which is a cost of providing that service) and that is the percentage used to calculate the amount of reserves that could be used from those districts. Mr. Keefe said there are certain districts where the reserve can be used without problems.

The public hearing was opened. RICHARD CLARK, 1207 25<sup>TH</sup> STREET WEST, said he has questions about the financing for the new building. He noted the citizens of Billings just turned down a bond issue to build a new library for the same amount of money. He said the public would vote this issue down if it were to come before the voters. Mr. Clark said he realizes the necessity of the new building because of the sale of the "City Barns" to keep a major business in town. He asked the Council to "really look at what you are building" and build what is needed and affordable. He said \$14 Million is a lot of money. He noted that there is talk that the City budget is short except when it comes time to building something like this. He urged the Council to "be careful and build what the City can afford". There were no other speakers. The public hearing was closed.

Councilmember Gaghen thanked Mr. Clark for his comments and assured the public that the Council is committed to being fiscally conservative with the Operations Center.

Councilmember Brown moved for approval of the staff recommendation, seconded by Councilmember Kennedy. Councilmember Jones said he believes the City is building a structure that is more than is needed. He noted the square footage of the building from the CTA recommendations has increased by 23,467 square feet and the site has increased 93,533 square feet. He noted the additional expense for the building alone is \$1 Million. Councilmember Jones amended the motion to cut \$2 Million from the debt proceeds (from \$6 Million to \$4 Million) and send the proposal back for more prudent design, seconded by Councilmember McDermott. Councilmember Brewster asked for clarification of the amendment. Mayor Tooley asked Councilmember Jones if the intention of the amendment was to incur \$2 Million less of debt. Councilmember Jones said "yes". He asked staff to speak to the square footage issue. Public Works Director David Mumford said the square footage has been studied carefully. He said there were errors in original calculations that required adjustments in square footage. Some of the covered structures are required due to the Phase II Stormwater requirement that sand and salt mixtures cannot be exposed and leach into the ground, increasing the space necessary. The issue of providing adequate room for the maneuverability of City vehicles has created a need for additional space. He said he does not believe there is any wasted or excess area. He said the City has strived to consolidate the footprint whenever possible. He admitted that there is a big need for covered storage, whereas the office space is limited.

Councilmember Poppler asked why the Animal Shelter requires so much space. Mr. Mumford said the proposed facility contains areas for both dogs and cats, a quarantine area for infectious animals, an adoption area, and some small offices. He noted that the planned area is less than what the community has requested. The current structure is 7,000 square feet and the new structure will be 9,000 square feet. He said the plan includes room for growth.

City Administrator Dennis Taylor noted that the CTA study was done mainly for Sysco Foods, Inc. as a feasibility study. He said the Council was informed of the requests

from the different departments and was compared with the Edward Street Master Plan. Adjustments were then made to the plan currently being worked on by the architects and engineers. He said work is still in progress to stay within the dimensions and the budget that is planned. Mr. Taylor noted this resolution creates the authority for the expenditure and transfers, but the details of the expenditures will be brought before the Council before they are incurred. He said if the budget is reduced by \$2 Million the City will not be able to complete the facility or the transfer that is part of the commitment made when the Edwards Street Complex was sold to Sysco Foods, Inc. He added that the substitute motion will severely jeopardize this project. Mr. Mumford reminded the Council that the \$14 Million figure includes design and engineering fees, the land purchase, construction of Midland Road, storm drain construction, relocation of an irrigation canal, and extension of water and sewer lines, and fees to Public Utilities Department for connections. He said the building costs are in the \$8 Million range.

Councilmember Kennedy asked how Councilmember Jones arrived at his analysis. Councilmember Jones said he based his figures on a \$45.00 square foot building cost and to decrease the police car storage would be in the range of \$500,000 for a total of \$1.5 Million. He said he based the square footage on CTA's numbers. He cited the existing square footage as 103,000, the CTA report as 138,000 and the new figure as 162,000. He noted there are 70 police car parking spots that are enclosed. He said an enclosed lot is not needed. Councilmember Kennedy asked if he was willing to allow the amendment to the motion to jeopardize the Sysco Foods sale. Councilmember Jones said he does not believe this will jeopardize the Sysco project. He said the \$14.6 Million figure has never been substantiated. Councilmember McDermott asked how this amendment would jeopardize the Sysco project. Assistant City Administrator Kristoff Bauer said the Animal Shelter construction must be done by October of 2003 and the BOC project must be completed by March of 2004. He noted the Animal Shelter presently is out of room to hold strays and the intent is to have enough room to hold them. The present facility doesn't have enough space for holding animals that are adoptable. Mr. Bauer noted the cost saving measures that have been proposed for the new structure, include steel rather than concrete. To find \$2 Million to cut from the proposed budget in a short time frame will be difficult. Mr. Taylor added that the City must physically be out of the Edward Street Complex and turn the property over to Sysco Foods, Inc. by a date specific. The limited time frame to construct a new facility would jeopardize the agreement with Sysco. He reiterated that this action gives budget authority and actual execution of contracts for the proposed facility would come before Council for approval. He said these proposals are all consistent with the recommendations that the Council approved when the original Sysco agreement was before the Council in October.

Councilmember Brewster asked if the bond sale for the debt would come to Council for separate approval. Mr. Taylor said that was correct. Councilmember Brewster asked if the final square footage figures would be available before debt approval and would there be a better idea of projected cost at that time. Mr. Bauer said the staff would make sure Council will receive updated design information and estimated costs. Mr. Taylor said the intent is to present this information at a Work Session before it comes to Council in March of 2003.

Councilmember Jones said he is concerned about the constraints that cause the new site to increase the costs. He said the Police and Parks Departments are on tight

budget now and these costs will only add to that situation. He is concerned that the City will have to go to the taxpayers for additional revenue and wants to avoid escalating expenses.

Councilmember Brown said the Council needs to be fiscally responsible. He said the City could cut \$2 Million of the proposal now and if it appears to be warranted, put it back. He said we should show the taxpayers that we are responsible with their money.

On a voice vote for the amendment, the motion failed 3-7 with Councilmembers Brown, Jones and McDermott voting "yes" and Councilmembers Gaghen, Brewster, Iverson, Kennedy, Poppler, Ohnstad and Mayor Tooley voting "no". On a voice vote on the original motion, the motion passed 7-3 with Councilmembers Gaghen, Brewster, Iverson, Kennedy, Poppler, Ohnstad and Mayor Tooley voting "yes" and Councilmembers Brown, Jones and McDermott voting "no".

**4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #707: a zone change from R9600 to R7000 and RMF-R on Tracts 2A, 2B, 2C, and 3C of C/S 2991, located north of Monad Road, south of Central Avenue and west of the BBWA Canal. Legacy Homes, owner; Engineering Inc., agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Planning Staff Member Bruce McCandless said this involves 35.5 acres located north of Monad Road, south of Central and west of the BBWA canal. It is a recommendation from the Zoning Commission for a zone change on three of the tracts to Residential 7,000 that would permit single and two-family dwellings and one tract to Residential Multi-Family-Restricted that would permit multiple family dwellings with restrictive height and density limits. The property was annexed on November 25<sup>th</sup>. He said the Zoning Commission recommends approval, but noted that there was one resident of Terra West that was opposed to the proposal, concerned about housing density and the impacts on traffic.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Brewster moved for approval of the Zoning Commission recommendation, seconded by Councilmember Brown. On a voice vote, the motion was unanimously approved.

**5. PUBLIC HEARING AND FIRST READING ORDINANCE expanding the boundaries of Ward V to include recently annexed property (Annex #02-17) Tracts 2A, 2B, 2C and 3C, C/S 2991 located north of Monad Road , south of Central Avenue and west of the BBWA canal. Staff recommends approval of ordinance on first reading. (Action: approval or disapproval of ordinance on first reading.)**

There was no staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Iverson moved for approval of the ordinance on first reading, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

**6. PRELIMINARY MAJOR PLAT of Ridgewood Estates Subdivision, 2<sup>nd</sup> Filing. Planning Board recommends approval of the findings of fact, plat application and requested variances. (Action: approval or disapproval of Planning Board**

**recommendation.)**

Planning Staff Member Juliet Spaulding said this preliminary major plat would create 43 residential lots and 1 lot with 22 duplex condominiums and 3 single condominiums in two phases. The 3.7-acre parcel is currently undergoing a zone change from Planned Unit Development with underlying Residential 9,600 to Planned Unit Development with underlying Residential 7,200 to allow for the land use and density of the duplex condos. She said there are two variance requests with this plat: 1) A variance from Section 23-601(k), BMCC, which states that the right-of-way width to be dedicated for Castle Pines and Bay Hills Roads (the interior local access roads) shall be 60 feet, or 30-foot half-width. The developers have requested to dedicate 50 feet and have proposed to provide an additional 5 feet on both sides of these streets as a utility easement for fire hydrants and other utilities. Granting this variance request would not compromise the intent of the subdivision regulations, as the 50-foot right-of-way and 5-foot easement on each side of the street could accommodate the proposed road width, and necessary utility provisions. City Engineering, Public Works and Public Utilities Departments recommend approval of the variance, and 2) A variance from Section 23-601(k), BMCC, which requires McMasters Road (a Collector street) to be 49 feet in width from back of curb to back of curb. The developers have requested to maintain the existing 37-foot width of McMasters Road, which was approved by the County when the first filing of Ridgewood Estates was filed. Granting this variance request would not compromise the intent of the subdivision regulations and would maintain consistency of the existing width of McMasters Road. While McMasters acts as a Collector Street, it will not serve the number of homes initially envisioned in the Briarwood Masterplan for a long time into the future. If at a later date it is determined that McMasters should be widened, the homeowners of these lots would be obligated to participate in an SID for such improvements, as a waiver of the right to protest the creation of such SID will be filed with the final plat. City Engineering and Public Works Departments recommend approval of the variance request.

Ms. Spaulding said there are several conditions of plat approval. They are:

- 1) To minimize the effects on local services the following is required:
  - a. The 2 cul-de-sacs in the proposed condo area shall be 43.5 feet in width back-of-curb to back-of-curb. *(BMCC Section 23-601(k); recommended by City Fire)*
  - b. A Traffic Accessibility Study shall be submitted and approved by the City Traffic Engineer prior to final plat approval. The final SIA shall incorporate all mitigation measures. *(BMCC Section 23-702(a); recommended by City Traffic Engineer)*
  - c. A storm drain analysis and preliminary design shall be submitted to and approved by the City Engineer prior to final plat approval. *(BMCC Section 23-706; recommended by City Engineering)*
  - d. Evidence that an easement for the storm water detention pond has been secured/filed shall be provided prior to final plat approval. *(BMCC Section 23-706; recommended by City-County Planning)*
  - e. Item 3 A. (9) of the SIA shall note that McMasters Road, when built as an emergency access road shall have a surface width of 24 feet. *(BMCC Section 23-601; recommended by City-County Planning and City Fire)*

- 2). To minimize effects on the natural environment the following is required:
  - a. An erosion control permit from DEQ is required prior to any construction. (Recommended by City Engineering)
  - b. Item 4 A. of the SIA shall state "Broadcast seed, seed matting or other appropriate seeding techniques if needed." (BMCC Section 23-304(c)(1); recommended by City-County Planning Board)
  
- 3). To bring the subdivision into compliance with state law and local subdivision regulations, the following is required:
  - a. Minor wording. Minor wording changes hereafter shall be made in the SIA and documents, as requested by the City Engineering Division and Planning Department, to clarify the documents and bring them into the standard, acceptable format.
  - b. Compliance. If approved, the final subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code, and Rules, Regulations, Policies, and Ordinances of the City of Billings, and the Laws and Administrative Rules of the State of Montana.

The City-County Planning Board has prepared the Findings of Fact for the Ridgewood Estates Subdivision, 2<sup>nd</sup> Filing for review and approval by the City Council. These findings are based on information received from the subdivider, their engineer, City departmental review, and Planning staff evaluation. The findings address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Section 23-304(c), BMCC).

**A. Primary Review Criteria [Section 23-304 (c)(1)], BMCC, 76-3-608 (3)(c) MCA]**

**1. Effect on Agriculture**

This parcel is within Briarwood PUD and has not been used for agriculture in years. It will not affect agricultural uses or production.

**2. Effect on agricultural water user facilities**

The parcel does not have any agricultural water user facilities on it, and will therefore not have an effect on these facilities.

**3. Effect on Local Services**

**Water and Sewer Service.** Water service will be supplied by the City of Billings, utilizing the South Hills Water and Sewer District facilities until the City water main is extended to connect to the existing Briarwood system. This extension is projected to be completed by the summer of 2003. According to the information supplied in the Environmental Assessment, the 43 single-family lots and 25 condominium units are expected to use 23,800



gallons of water per day without irrigation. Landscape irrigation could add an additional 100-200 percent water usage. The estimated amount of water usage will be able to be supplied by the South Hills Water and Sewer District, if the City's water service is not extended by the time of development.

Sanitary sewer service will also be provided by the City of Billings, using the wastewater facility previously operated by the South Hills Water and Sewer District, until the City's sanitary sewer main is extended to Briarwood. The amount of sewage generated by the 44 lots would be approximately 23,800 gallons per day.

The subdivider is responsible for installation of the water mains and sanitary sewer laterals as approved by the Public Utilities Department. The parcels are subject to all applicable water and wastewater fees and charges.

**Storm Water Drainage.** Storm drainage and surface flow will be provided by a combination of surface drainage, swales, storm water piping, and curb and gutters to the natural drainage ways and to a detention pond created in a storm drainage easement adjacent to the subdivision. Storm water flow is proposed to be directed to a swale at the southern edge of the property where it would then flow to the west to the detention pond. An easement must be secured for this off-site detention pond, and is a condition of approval. Also as a condition of approval, a storm drain analysis and preliminary design shall be submitted to and approved by the City Engineer prior to final plat approval. Any existing storm water retention facility located within or adjacent to the subdivision is an integral part of the street drainage system and shall remain so until such time as a storm drain trunk system becomes available and is utilized by the subdivision. A waiver of the right to protest the creation of an SID for the construction of improvements such as storm drains is included in the subdivision packet.

**Public Streets and Roads.** Access to this 2<sup>nd</sup> Filing of Ridgewood Estates is gained by taking Blue Creek Road approximately three miles south of Billings, east to Briarwood Boulevard and then north on McMasters Road. The new development when built out is expected to generate 544 average daily vehicular trips, therefore a Traffic Accessibility Study shall be required prior to final plat approval. Also, any mitigation measures identified in the study will need to be added to the SIA and then implemented at the time of development. These requirements have been recommended as conditions of approval.

The roads within the subdivision will be completed in two phases. McMasters Road will be extended to the west initially as an emergency access gravel-topped road. At the time of development of the lots in Phase 2 of this subdivision, McMasters Road will be built to a paved width of 37 feet with curb, gutter and sidewalk on both sides of the street, except on the far western portion where the road fronts lot 27. This portion of McMasters will have sidewalk only on the south side of the street.

The portion of the interior loop road that runs east-west, known as Castle Pines Drive, will be completed at the time of Phase 1 lot development as a 37-foot wide paved street with curb, gutter and sidewalk on both sides. The portion of the interior road that fronts the condo lot, known as Bay Hills Road is proposed to be built to a 30-foot width with curb, gutter and sidewalk on one side for the Phase 1 of lot development. At the time of Phase 2 lot development, Bay Hills Road will be completed to a full 37 feet width with curb, gutter, and sidewalks on both sides.

The developers have submitted a waiver of the right to protest future upgrades and maintenance to McMasters Road, Castle Pines Drive, Bay Hills Road, Briarwood Boulevard, and Blue Creek Road which include, but is not limited to, the installation of street lights, street widening, curbs and gutters, sidewalks, driveways, storm drains.

Also, the developers have requested two variances from the City Subdivision Regulations Section 23-601(k). The first is from the requirement for 60 feet of right-of-way dedication for Bay Hills Road and Castle Pines Drive, local access streets. They have requested to dedicate 50 feet and have proposed to provide an additional 5 feet on both sides of these streets as a utility easement for fire hydrants and other utilities. The second variance is from the requirement to provide a width of 49 feet back-of-curb to back-of-curb for McMasters road, a Collector street. The developers have requested to maintain the existing width of McMasters Road of 37 feet, which was approved by the County when the first filing of Ridgewood Estates was filed. City Engineering and Public Works Departments recommend approval of the variance requests.

**Fire and Police Protection.** The Fire Department reviewed the preliminary plat application and commented that the two cul-de-sac turnarounds at the west end of the subdivision indicate a 40-foot radius. City code requires a drivable width of 43.5 feet, which is essential for turning around the large fire apparatus. This requirement has been added as a recommended condition of subdivision approval. Also, McMasters Road will be built as a gravel-topped emergency access road until development on the Second Phase lots is started. City Fire Department recommends that this emergency access road have a width of 24 feet. This recommendation has been added as a condition of approval. Street widths, lot access, and fire hydrant location comply with all City of Billings Fire Department requirements. The City Police Department will serve this subdivision. No comment was received from City Police.

**Emergency Medical Service.** American Medical Response provides ambulance service and emergency medical response. No comment was received from AMR.

**Solid Waste Disposal.** The Billings Solid Waste Department will provide solid waste hauling. The Billings Landfill has adequate capacity to provide landfill disposal service.

**Schools.** Blue Creek School District #3 will serve elementary school students. School District #2 will serve middle and high school students. Middle school students would attend Riverside Junior High and high school students would attend Senior High. No comments on this subdivision were received from either school district. However, it is known that enrollment in the Blue Creek School and Senior High is reaching capacity and solutions for additional student enrollment will need to be investigated soon.

**Parks.** The developer has proposed to donate cash in lieu of parkland dedication and PRPL has accepted this offer. The money will be used to help establish a usable park area in the Briarwood community in the future.

#### **4. Effects on the Natural Environment**

The subject parcel is located in the South Hills area and consists of gently rolling grassland with slopes averaging 4-9% downward toward the southwest. The area contains two soil types: the Lohmiller silty-clay type, which covers the eastern  $\frac{3}{4}$  of the site, and the Elso-Lohmiller complex, which is found in the western  $\frac{1}{4}$  of the parcel. Both of these soil types are clay-based and have limiting features for construction including shrink-swell habits and erosion potential. Data and comments received from the Natural Resources Conservation Service (NRCS) indicate that the Elso soils are also limiting to pond reservoir areas due to seepage, depth to bedrock and slope. The area proposed to contain storm water runoff is located in the Elso soil area. Therefore, special design considerations will be necessary for this storm water detention pond. Also, statements in the SIA warn future lot owners and builders of the potential geotechnical issues that may arise due to the soils in this area.

An erosion control plan is required prior to any construction, and this has been recommended as a condition of approval. In addition, based on public comment received during the Public Hearing, the Planning Board has recommended that additional language be added to the SIA to guarantee effective restoration of disturbed land resulting from the installation of the subdivision improvements (roads, utilities, drainage features, etc.) They recommend as a condition of approval that the methods not only include broadcast seeding, but also seed matting, or other appropriate seeding techniques if needed. In conclusion, the challenges posed by the soils in the area will need to be mitigated with special design considerations as they have with the rest of the development in the Briarwood community.

#### **5. Effects on Wildlife and Wildlife Habitat**

The 20-acre subject parcel is located in an area with abundant open wildlife habitat surrounding it. Montana Fish, Wildlife and Parks had no specific

concerns about the impacts on wildlife that this development may have. The effects on wildlife or wildlife habitat should be minimal.

**6. Effects on Public Health and Safety**

There are no known natural or man-made hazards located on the proposed subdivision.

**B. Conformance with the Yellowstone County Comprehensive Plan, and Billings Urban Area 2000 Transportation Plan. [Section 23-304(c)(3) BMCC]**

**1990 Yellowstone Comprehensive Plan**

- a. ***Protect against the encroachment of incompatible or unrelated uses. (K-5)***  
The proposed subdivision is in an existing Planned Unit Development.
- b. ***Curb urban sprawl and discourage leapfrog development. (K-7)***  
The development of this site is laid out in the Briarwood PUD Master Plan. As part of this Master Plan, this area has been slated for development at urban levels, and the PUD will be receiving City of Billings water and sanitary sewer service in the very near future.
- c. ***Encourage and direct urban growth to urban infill areas and contiguous lands to maintain a strong economy and accomplish a sound transition of ag land. (I-3)***  
The proposed subdivision is within the Briarwood PUD. While it is not an infill project it is within a Master Planned area that has not been used for agricultural production for years. Briarwood is also in the process of receiving City water and sewer services.
- d. ***Capitalize on the use of existing public sewage systems and improve sewage systems in areas not currently served by public systems. (H-4)***  
The new lots will be served by city services.

**Billings Urban Area 2000 Transportation Plan and BikeNet**

The proposed subdivision is consistent with the Transportation Plan and BikeNet.

**Compliance with the Montana Subdivision and Platting Act and local subdivision regulations. (Chapter 23, BMCC)**

The Ridgewood Estates Subdivision, 2<sup>nd</sup> Filing meets the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The developers have requested a variance from Section 23-601(k), BMCC, which states that the right-of-way width to be dedicated for Castle Pines and Bay Hills Roads (the interior local access roads) shall be 60 feet, or 30-foot half-width. The developers have also requested a variance from Section 23-601(k), BMCC, which requires McMasters Road (a Collector street) to be 49 feet in width from back of

curb to back of curb (see Attachment B for a discussion on these variance requests). The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

- C. Sanitary requirements [Section 23-201, BMCC, Section 23-304(c) (5), BMCC].**  
Because the subdivision is within a master planning area and municipal facilities for water supply, sewage disposal and solid waste collection are adjacent, it is exempt from Department of Environmental Quality approval.
- D. Zoning requirements [Section 23-201, BMCC, Section 23-304(c) (6), BMCC].**  
The subdivider has complied with the lot size requirements for the Briarwood PUD R-9600 and R-7200 zoning districts.
- E. Planned utilities [Section 23-304(c)(7), BMCC, 76-3-608(3)(c), MCA].**  
Both MDU and Yellowstone Valley Electric have reviewed the preliminary plat.
- F. Legal and physical access [Section 23-304(c)(8), BMCC, 76-3-608 (3)(d), MCA].**  
Legal and physical access is available to the subdivision from McMasters Road, Castle Pines Drive, Bay Hills Road, and the private drives within the condominium area.

### **CONCLUSIONS OF THE FINDINGS OF FACT**

The City-County Planning Board has determined that the Ridgewood Estates Subdivision, 2<sup>nd</sup> Filing does not pose any negative impacts that would warrant denial of this subdivision. It will not significantly affect agriculture, agricultural water user facilities, wildlife or wildlife habitat. Proposed subdivision improvements and conditions of approval should mitigate any impacts on local services, the natural environment, or public safety. In addition the subdivision complies with the 1990 Comprehensive Plan, and the Billings Urban Area 2000 Transportation Plan.

Councilmember Kennedy moved for approval of the Planning Board recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

### **7. AQUATIC FACILITIES ASSESSMENT and Master Plan. Staff recommends approval of the recommendations of the assessment and acknowledgement of the assessment as a planning document for future recreation facility and programming planning. (Action: approval or disapproval of staff recommendation.)**

Parks Department Staff Member Kory Thomson said this assessment was done from recommendations in the 2020 Parks Master Plan. It will be used as a tool for the framework to the proposed 2004 Recreation Facilities Bond Issue. He said it was a culmination of a three-month study of the aquatics and recreational facilities operated by the City of Billings. The study includes input from both citizens of Billings and Parks and Recreation staff. It was reviewed by the consulting team and compared with national aquatics and recreational trends. He said there were several issues that required this study: 1) 2020 Parks Master Plan recommendation, 2) closure of three wading pools by

the State Health Department due to health concerns, 3) the need to evaluate aquatic needs for the Billings Heights, 4) health concerns at other facilities, and 5) the need to review national aquatic and recreational trends and compare them with those in the City of Billings. He noted that several presentations have been made to the Council in previous Work Sessions and Committee of the Whole Meetings.

Mr. Thomson asked that the Council approve the recommendations from the Aquatic Facilities Assessment and acknowledge the receipt of the assessment to be used as a guideline for future implementation through the Capital Improvement Plan.

Councilmember Brown said there is little flexibility with this plan. He said it does not advise how to contain costs for recreational areas nor address the wading pool issues. He said there is a lot missing. Councilmembers Brewster and McDermott also agreed that the plan provides little flexibility. Parks and Recreation Director Don Kearney noted that the 2020 Master Plan was approved in 1998. He said these recommendations come from that plan. He said the plan is as flexible as the Council wants to make it. He reminded the Council that the plan is built around the opinions from City residents through the survey process. Councilmember Brewster said surveys don't seem to translate into reality. He noted the Heights Pool as an example of what the people said they wanted and yet voted it down. He added that he was not confident that the voters will approve everything that they say they are interested in. Councilmember Poppler refused to put a motion on the floor because there is "nothing about the Master Plan" she approves of except the Heights Pool.

Councilmember Brewster moved for approval of acknowledgement of the assessment as a planning document for future recreation facility and programming planning, seconded by Councilmember Brown. Councilmember Brewster said the intent of his motion is to acknowledge the plan as a guideline without saying the recommendations in the plan are set "in stone", but only as an assessment tool. Councilmember Kennedy said this makes a lot of sense, it is a good motion and he supports it. He said at the very least it helps future councils know where the City was in 2002, and he sees this as a framework to work within. On a voice vote, the motion was approved with Councilmembers Poppler and Brown voting "no".

## **Council Initiatives**

**COUNCILMEMBER BREWSTER:** Moved for allocation of Council Contingency funds not to exceed \$10,000.00 to be used to complete a Master Plan for Meadowlark Park, seconded by Councilmember Kennedy. This would require a budget amendment from staff to document the allocation of money. He said this is needed to satisfy the requirements needed to apply for grants. He added that this would be the only investment that needs to be made for that park. City Administrator Dennis Taylor clarified that staff would develop a memo regarding this subject and it would be presented at the next Council meeting for Council approval. On a voice vote, the motion was unanimously approved.

**COUNCILMEMBER MCDERMOTT:** Asked for clarification of her previous Council Initiative relating to the Blue Ribbon Committee for the Bond Issues that would include Cobb Field and the Heights Swimming Pool. She noted that other aquatic facilities

appear to be included in the committee's scope of interest and she asked that the intention of her original motion be reaffirmed and the committee stay within those boundaries. She also asked if this committee would be ongoing. Mayor Tooley said the time line for the committee would have a date specific and there is a schedule that identifies a time line for the committee to meet and make its recommendations. Councilmember Brewster asked that the committee focus on the bond issues for the two facilities with a recommendation for Athletic Park. He asked that Councilmember McDermott's motion and his second be reaffirmed and the scope of the committee stay within the stated bounds.

**MAYOR TOOLEY:** Gave a short presentation and played a sample video from the Teaching Learning Network based in Palm Beach, Florida that produces Discovery America 2003. They would offer a 5 or 6 minute segment to be broadcast to over 64 million families in this country to market the livability of the City of Billings. He showed a video of one of the cities that they contracted with. He outlined a tentative participation agreement between June 1<sup>st</sup> and September 15<sup>th</sup> to have national television distribution, inclusion in coop advertising, inclusion in their internet website and distribution of articles in both regional and national magazine and newspapers and provide the City of Billings with a broadcast quality master video tape. He said it would be a good promotional item for the City of Billings. He noted that the only costs involved would be pre-production costs of approximately \$20,000.00. The actual airing would be paid by other sponsors. Mayor Tooley moved to direct staff to develop a proposal that can be considered on the January 13<sup>th</sup> Council meeting, with a possible partnership with the Chamber of Commerce, Downtown Partnership and/or Big Sky EDA to consider investing in a promotion tool of this kind for the City of Billings, seconded by Councilmember Iverson. Councilmember Ohnstad noted that we are not in the marketing business with our budget crisis. Mayor Tooley suggested that Council Contingency funds could be used. He explained that the master tape in itself has more value than the proposed cost to the City and could be duplicated and used at many different levels. On a voice vote, the motion was unanimously approved.

**ADJOURN** —With all business complete, the Mayor adjourned the meeting at 9:43 P.M.

THE CITY OF BILLINGS:

By: \_\_\_\_\_  
Charles F. Tooley MAYOR

ATTEST:

MINUTES: 12/09/02

BY: \_\_\_\_\_  
Susan Shuhler, Deputy City Clerk