

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

January 10, 2005

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 Boy Scout Troop 23, followed by the Invocation, which was given by Councilmember Peggie Gaghen.

ROLL CALL – Councilmembers present on roll call were: McDermott, Gaghen, Brown, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones, and Clark.

MINUTES – December 13, 2004. Approved as printed.

COURTESIES -- Councilmember Clark announced his wife's birthday was today and wished his wife Donna a Happy Birthday.

PROCLAMATIONS – Mayor Tooley.

- January: Volunteer Blood Donor Month

BOARD & COMMISSION REPORTS – Community Development Board

- Mike Kenney, Chair of the CD Board said the primary focus of the Board's activities includes: community revitalization, affordable housing and allocation of CDBG/HOME funds. He summarized the Board's projects for 2004 and noted that the Board's focus for the next five months would be on considering applications for CDBG/HOME funds, holding budget hearings and making funding recommendations to the City Council. Mr. Kenney said the Board's five year plan includes a new housing needs study through MSU-Billings Center for Applied Economic Research, review of the CD Board's goals and objectives and establishment of the strategies to meet those goals.

ADMINISTRATOR REPORTS – Kristoff Bauer.

- Mr. Bauer noted that Staff provided information in the Friday packet on adding the Lewis and Clark Signature Event resolution to the agenda this evening. He noted if the Council wished to add the item, a motion to add the item and supermajority vote would be required to add it to the agenda.
- Mr. Bauer said he would be in Helena tomorrow attending the "Montana on the Move" event. He added he would also try to meet with as many legislators as he could while there regarding issues that the Council has recommended.

LEGISLATIVE REPORT – Kristoff Bauer.

- Mr. Bauer reported on the first week of the Legislature. He said the City's lobbyist Jani McCall provides daily updates on the bill activity and Staff tries its best to respond and give her the feedback she needs to testify on behalf of the City. Mr. Bauer said several bills of interest to the City will be heard: SB32 – which amends what street maintenance fees can be spent on; SB175 – which makes zoning

classification an assessment method for street maintenance assessments. The first local option tax bill (by the Montana League of Cities and Towns) which expands the resort tax will be heard on January 20. Several bills involving impact fees – SB158 and SB185 will be heard on January 25. He encouraged the Council to make an effort to attend and lend support for the legislation that is of concern to the City Of Billings.

ADDITION TO AGENDA:

Councilmember Boyer moved to add the Lewis and Clark Signature Event item to the Regular Agenda, as Item #8, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1 ONLY. Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda.

There were no speakers.

CONSENT AGENDA:

1. A. **Bid Awards:**

(1) **Cellular Telephone Service.** (Opened 1/04/05). Recommend delaying award to 1/24/05.

(2) **Rose Park Recreation Building.** (Opened 11/23/04). Recommend rejecting all bids and rebidding.

B. **Amendment #1, W.O. 04-12: Alkali Creek Road Reconstruction,** Kadrmas, Lee & Jackson, Inc., \$25,394.00.

C. **Acceptance** of the 2005 High Intensity Drug Trafficking Area (HIDTA) Award, \$159,248.00.

D. **Agreement with Laurel Ford** for a vehicle for Laurel Police Dept. participation in HIDTA Task Force, \$4,200.00 paid by the HIDTA award.

E. **Approval of DBP Grant** to Urban Frontier Development Venture 2, L.P. (SoPo), \$549.00.

F. **Approval of Downtown Revolving Loan** to James E. Turley, D.D.S., P.C., up to \$250,000.00 at 2.625% rate adjusted annually, to finance tenant improvements, technology investment and staff training and retooling for the Digital

Dental Office located at 315 North 25th Street in the Rocky Mountain Professional Building.

G. Authorize submission of an application for a Certified Local Government Grant from the Montana State Historic Preservation Office, \$5,500.00.

H. Approval of the FY 2004-2005 Fair Housing Action Plan.

I. Resolution 05-18230 relating to financing of Certain Proposed Projects (Water and Wastewater Revenue Bonds); Establishing Compliance with Reimbursement Bond Regulations under the Internal Revenue Code.

J. Street Closure requests:

1) *Martin Luther King Day Pedestrian March*, Monday January 17, 2005, 6:30 p.m., 3rd Avenue North and 4th Avenue North between North 27th and North 29th Streets.

2) *March of Dimes Walk America Event*, Saturday, April 23, 2005, 8:30 am to 12:00 noon, 2nd and 3rd Avenues North from North 11th to North 34th Streets.

K. Second/final reading ordinance 05-5311 expanding Ward I to include property on South Frontage Road at the southeast corner of the South Billings Boulevard – Interstate 90 Interchange (Annexation #04-12).

L. Rescission of Acceptance of QCD from Rehberg Ranch Estates Marketing to the City of Billings for a small parcel of land in Rehberg Ranch Estates, 1st filing for park land.

M. Approval of the aggregation of Lots and Dedication of Right-of-Way for Lots 44-46, Block 7, Amended West Side Addition.

N. Final plat of Foxtail Village Subdivision.

O. Bills and Payroll.

(1) November 26, 2004

(2) December 3, 2004

(3) December 10, 2004

(4) December 17, 2004

(Action: approval or disapproval of Consent Agenda.)

Councilmember McDermott separated Items C & I from the Consent Agenda. Councilmember Jones moved for approval of the Consent Agenda with the exception of Items C & I, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Jones moved for approval of Item C of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember McDermott asked for a

breakdown of where the money will be spent. Police Lt. O'Connell said the funds would be used for overtime for the agents in the task force, to pay for the vehicles that are leased for them, drug informant pay and for the purchase of drugs during undercover operations. On a voice vote, the motion was unanimously approved.

Councilmember Jones moved for approval of Item I of the Consent Agenda, seconded by Councilmember Ruegamer. Councilmember McDermott asked for a breakdown for how the money is being spent and the corresponding location for the expenditures. City Administrator Kristoff Bauer said this item represents the step to recoup expenses incurred between now and the issuance of the bonds. Those expenses are recouped from the bond proceeds. Public Works Director Dave Mumford said the Headworks Building project is in the CIP for this year and expenses are now being incurred during the bid finalization process.

On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC: establishing a Zoning Overlay District to extend 500 feet from the center line of Shiloh Road from King Avenue West south to Interstate 90, including Zoo Drive; regulating development standards, landscaping standards, building design standards and other site development standards; and sign standards for commercial, industrial and multifamily developments. Zoning Commission recommended on 5/10/04 approval of the Shiloh Corridor Overlay District as a whole, excluding the portion along Zoo Drive. Staff recommends approval of the South Shiloh Corridor Overlay District, as defined by the area 500 feet from the centerline of Shiloh Road, from King Avenue West south to Interstate 90, including Zoo Drive. (Action: approval or disapproval of Staff recommendation.)

Planning Manager Candi Beaudry said the Council directed the Staff to separate the district into two portions – North of King Avenue to Rimrock Road and South of King Avenue to Interstate 90 including Zoo Drive. She noted the Zoning Commission originally recommended that the entire district be considered excluding Zoo Drive. The Staff recommends the adoption of the Shiloh Corridor Overlay District from King Avenue South to Interstate 90 including Zoo Drive.

Ms. Beaudry said the only properties affected by the Overlay District are properties that are zoned or used for commercial or industrial purposes. This involves approximately 34 properties and 6 actual property owners. The Council asked the Planning Staff to work with the property owners to develop an overlay district that is customized to those properties due to the proximity to Interstate 90. Four of the property owners representing five of the entities within the district enumerated the requested changes in a letter to the department on August 4th. The changes that were incorporated from that request were:

- 1) massing or clumping of landscape elements,
- 2) exempting landscape requirements for interior parking lots of the auto sales lots,
- 3) restriction of the amount of light spillage onto neighboring properties to 1.5 foot candles,
- 4) removing separate categories for the number of points (from 25 to 15) for large and small large parcels as they pertain to the Relative Criteria,

- 5) allowing special or auxiliary flashing lights if they are part of the sign's message (electronic signs),
- 6) allowing video boards,
- 7) allowing decorative borders or framing area of monument sign supports to be greater than freestanding signs,
- 8) increasing the maximum height of free standing signs for properties contiguous to Zoo Drive and Interstate 90 to 40 feet measured from the centerline of Zoo Drive or Shiloh Road, and
- 9) allowing applicants to appeal Staff's determination to the Planning Director or City Council (the same appeal process approved in the Shiloh Corridor Overlay District – North).

Ms. Beaudry noted the landowners and their lots and stated that a protest petition has been received. That protest was signed by one of the property owners that owns 26.9% of the area, which triggers a valid protest. Approval of this portion of the district will therefore require a 2/3 majority of the Council.

Ms. Beaudry said the Staff did not incorporate all of the requested changes. She noted this was a negotiated process including conversations with all of the landowners. The items that were not included were:

- 1) no automatic approval option for applications that take more than 15 days to review (sign permits still have automatic approval option),
- 2) reducing the number of trees and shrubs required in frontage landscaping from 8 to 5 and 15 to 10, not 8 to 4 and 15 to 8,
- 3) no change in parking lot landscaping except to increase maximum unbroken distance from 100 to 150 feet and reduce the number of trees and shrubs required in internal parking lots,
- 4) reducing the required number of categories in relative point system from 8 to 7, not 8 to 6,
- 5) no change in relative points for continuing lighting from adjacent properties, and
- 6) lighting measurement requirements at the property line were left unchanged.

Ms. Beaudry noted that most of the businesses located on North Shiloh Road comply with these regulations (regarding landscaping, building signs and site development) and Pierce RV also complies with the exception of some of the signage. There are zoning districts in place that are very close to the requirements (entryway districts). Councilmember Ulledalen asked who makes the decisions regarding the point system. Ms. Beaudry said the Staff makes those decisions. Councilmember Ulledalen asked why the Staff is including Zoo Drive when the Zoning Commission recommended excluding it. She said there was a lot of concern from the property owners on Zoo Drive at the Zoning Commission public hearing that the district (as proposed at that time) did not meet the special requirements of businesses who rely on the Interstate commerce. The Staff has developed regulations to meet those requirements and reached an acceptable compromise with most of the concerned landowners. Councilmember Jones asked how the points relate to the underlying zoning in Section 27-1509. Ms. Beaudry said the underlying zoning has no effect in this new version.

The public hearing was opened. ED GULICK, 3015 10TH AVENUE NORTH, said the landowners have been able to modify the overlay district. He said the district is a tool to help develop the City. It demonstrates the degree by which this local governing body

values the input of its citizens. He said it is “reasonable that the public has a mechanism that ensures that the “front door” of Billings honors the public interest and its investment”. He is satisfied for the most part with the southern portion of the Shiloh Corridor Overlay District, but said several things were overlooked. Several relative criteria points are redundant and he recommended removal of items 3a and 3b under Section 27-1509.

DEBRA REGER, 2708 PALM DRIVE, asked the Mayor and Council to support the overlay district with the addition of the entire (17 changes) August 4th property owner letter. She said she would also like to see a standard “tree” adopted in the overlay landscape standards.

JOE WHITE, 926 NORTH 30TH STREET, said he is concerned about the air quality and the need for an environmental impact statement on this area. He said the air quality poses serious impacts on agriculture in the area.

JERRY THOMAS, 2012 PLAZA DRIVE, said he represents the properties south of Zoo Drive to Interstate 90. He has been involved in numerous meetings with the Planning Staff, the Councilmembers and Commissioners in support of the Shiloh Corridor Overlay District – South including the issues that have been discussed. He said he understood there were 9 categories rather than 8 as the property owners support 7 of 9 not 7 of 8. They also support the lighting issue of 1.5 foot candles providing they are measured vertically at the property line. These items must be in the final plan. Other important issues are allowing the electronic message boards, no clustering of trees so the development can be strategically located and parking lots for auto dealers with any tree requirements.

MATT BROSOVICH, 1550 POLY DRIVE, said the requests in the August 4th landowner letter was designed to allow time for the Planning Staff and the landowners to review the requirements. He said the final document includes what the property owners agreed to and they are content with the document. He said he supports the 7 of 9 relative criteria. He said he does not feel the overlay district requirements present a disadvantage to the businesses that are located there. Mr. Brosovich said he also agrees with the zoning map.

WALT GULICK, 2018 12TH STREET WEST, said he celebrates the culmination of a lot of work by a lot of people and thanked the Planning Department and the landowners for the time they have spent on this issue. He applauds the process and is pleased that Zoo Drive is included in the document. He said there is a need to address the 40 foot sign issue. He would like to see the property owners get together and plan together to construct joint signs on the Interstate and limit the number of signs.

RANDY REGER, 2708 PALM DRIVE, said he is still protesting certain parts of the overlay district. He said he is vehemently opposed to taking away property rights and forcing zoning. He asked that the district be brought back for consideration to work out something everyone can live with. He said the landowners don't have all the answers and that is why he would like his planner to sit down with Ms. Mattix of the Planning Department and review the issues. He said he would be agreeable to the district if all the requests in the August 4th letter are included.

JOAN HURDLE, 210 NALL AVENUE, said this has been a good process. She is disappointed that the 40-foot signs and the electronic reader signs are being allowed. She said she is also concerned about the weight that special interest groups have had in the process and in the community. She said public input has been overlooked in favor of

special interests.

GREG MCDONALD, 2929 30TH AVENUE NORTH, said the concept of the Shiloh Corridor Overlay District is sound and will serve the community well. He said one issue does deserve additional attention – the assumption that only land included in the district boundaries would be affected. He said he owns 80 acres of residentially zoned land that is adjacent to commercial land contained within the proposed district. His land will be significantly impacted by the implementation of the ordinance with regard to the area lighting. Mr. McDonald said the 1.5 foot candle limit is too high and not compatible with residential zoning. He noted Rimrock Mall's lighting measures .4 to .5 foot candles. He recommends .3 to .5 foot candles of light with the light cast downward. He expressed concern about the trespass of light onto his property.

ED HUDSON, NO ADDRESS GIVEN, said he represents King Resources and Sapphire Subdivision and supports the concept of the overlay district but has some concerns. He would not like to see additional restrictions over and above the Subdivision Improvements Agreements already in place. The provisions in the district limit the protest provision and he would like to see more openness and latitude in the protest process.

JIM KOONS, COLLABORATIVE DESIGN ARCHITECTS, said he represents the Long Family, LLC with property adjacent to Mr. McDonald's property. He said the overlay document has been arrived at through numerous meetings and a lot of compromise. He said the Long family supports the document that is before the Council this evening.

BILL COLE, 3733 TOMMY ARMOUR CIRCLE, said the idea of a consistent tree pattern is a good one. He asked the Council to approve the proposed text amendment for Shiloh Road south of King Avenue in its current form with some possible amendments. The regulations, if adopted, will help to achieve the goals of the West End Plan, promoting landscaping, sidewalks and trails and less big box architecture and obtrusive signage and lighting. He said the regulations are not perfect as three relative criteria are redundant because they are already required. Therefore, there is no reason to automatically give every development a point for meeting requirements that are already required. He also noted that many of the regulations are less restrictive than are the existing entryway zoning standards. He added that the Council may want to make them more restrictive as time goes by. Mr. Cole stated his concern for the sign sizes and that animated signs should have a 1-year moratorium placed on them to further consider their color and flashing aspects.

There were no other speakers. The public hearing was closed.

Mayor Tooley called for a recess at 8:00 P.M.

Mayor Tooley reconvened the Council Meeting at 8:05 P.M.

Councilmember Clark moved for approval of the Staff recommendation, seconded by Councilmember Ruegamer. Councilmember McDermott made a substitute motion to approve the ordinance and incorporate all of the changes attached to the August 4th property owner's letters, seconded by Councilmember Brown. She said it is important for the Council to recognize all of the requests of the property owners to make the valid protest of the Regers unnecessary. Councilmember Brewster noted that Council approval would make the valid protest "go away". Councilmember McDermott clarified that her motion included the general as well as the specific changes. On a roll call vote, the

substitute motion failed 5-6 with Councilmembers McDermott, Brown, Ulledalen, Jones and Clark voting “yes” and Councilmember Gaghen, Brewster, Veis, Ruegamer, Boyer and Mayor Tooley voting “no”.

Councilmember Brewster amended the motion to reduce the number of relative criteria categories from 7 of 9 to 6 of 9, seconded by Councilmember McDermott. Councilmember Brewster said this appeared to be the consensus of the property owners. Ms. Beaudry said this amendment would take away the incentive to further enhance the site development and ultimately reduce the number of amenities. The relative point criteria were added to give flexibility to the developer to choose the way he could further enhance the site. Mr. Bauer noted the 9 areas the developer can earn points for the development features of their site. In the current proposal 7 of the 9 areas must be selected to earn a point. This amendment would allow them to ignore signage and architectural design and get their 15 points from the other areas. This reduces the diversity of improvements the developer is required to utilize. Councilmember Ulledalen said problems will arise some years in the future when the landowner is trying to sell their property and the criteria have become too restrictive to permit that sale. He said this Council should consider utilizing the 6 of 9 flexibility that would eliminate those types of problems. On a roll call vote, the amendment was approved 6-5 with Councilmembers McDermott, Brown, Brewster, Ulledalen, Jones, and Clark voting “yes” and Councilmembers Gaghen, Veis, Ruegamer, Boyer and Mayor Tooley voting “no”.

Councilmember Jones amended the motion to remove the second sentence in Section 27-1509 regarding “the number of points required depending on the underlying zoning of the property on which the development is located”, seconded by Councilmember Clark. On a voice vote, the amendment was unanimously approved.

Councilmember Brewster amended the motion to strike 27-1509 3a and direct Staff to bring language back on the second reading for points for a lower lighting standard, seconded by Councilmember Gaghen. Councilmember Jones confirmed that the requirement for how the lighting would be measured is contained in the absolute criteria. Mr. Bauer said proposals for development would be judged and based on calculations from the architect’s design and information from the lighting manufacturer. On a voice vote, the amendment was unanimously approved. On a voice vote, the motion as amended was unanimously approved.

3. CONTINUATION OF PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC redistricting of the Ward boundaries. Staff recommends Scenario 1, including placing Rehberg Ranch in Ward IV. (Action: approval or disapproval of Staff recommendation.)

Planning Director Ramona Mattix said the process for redistricting included: 1) comparison of the demographic changes in the existing Wards from 1990 to 2000, 2) consideration of the request by the Yellowstone County Election Administrator to follow precincts as closely as possible, 3) consideration of existing Councilmembers’ addresses to allow them to continue to represent their Wards, 4) endeavoring to make population as equal as practicable among the Wards with some consideration for future growth. She said the Staff is recommending Scenario 1. It differs from Scenario 2 in that it places Briarwood in Ward I, does not split Precinct #38 and places Rehberg Ranch in Ward II. However the Planning Staff does expect Rehberg Ranch to experience significant growth

within its own boundaries that would cause Ward II to easily out-populate the other wards by the next census. For that reason, the Staff is recommending placing Rehberg Ranch in Ward IV. Ms. Mattix said Scenario 2 would not allow Ward I the ability to increase its population and would provide it with the highest population.

Councilmember McDermott noted that Briarwood and Rehberg Ranch are “city islands in the county” and the residents would have to travel quite a way to vote in both cases. Councilmember Ulledalen asked if any of the streets in Rehberg Ranch would eventually connect to Alkali Creek Road. Ms. Mattix said the study of the inner belt loop considers this corridor study for costs but the actual funding of those connections would be quite some time in the future.

The public hearing was opened. VIRGINIA COURT, 3525 PRESTWICK, said she has lived in Briarwood for the past ten years and is a firm proponent of Briarwood staying in Ward I. Businesses, restaurants and activities in Ward I are the ones used mostly by Briarwood residents as South Billings Boulevard is a convenient access to Briarwood. Traveling to Casa Village to vote would significantly decrease the voter participation from Briarwood.

JANICE MUNSELL, 2838 DOZIER ROAD, said she lives in Briarwood that is currently in Ward I. She said most of the neighbors say it seems logical for Briarwood and Cedar Park to remain in Ward I. Scenario 1 presents better diversity in Ward I and she supports that diversity. She said she hopes that Councilmembers can represent everyone in their wards and make decisions for the benefit of the entire community despite differences in the residents. She asked the Council to consider the underlying issues of the move of Briarwood into Ward III as it could set a precedent.

BILLIE KRENZLER, 4537 RYAN, said she is a former council representative for Ward I. She said she supports Scenario 2 because she believes keeping like demographics together is very important. She said she does not believe the voting place issues are that important. Access from Briarwood to the Ward III area is easily accomplished via the Interstate. She said a valid reason why Wards should be represented by peer persons is that someone in a low income category has a hard time running a campaign against someone with unlimited resources.

JIM RONQUILLO, SOUTHSIDE TASK FORCE CHAIR, said he also supports Scenario 2 and feels Ward I residents are better represented by that redistricting which would better serve the neighborhoods.

MARION DOZIER, 3923 3RD AVENUE SOUTH, said she has lived in Ward I for 39 years and believes Scenario 2 is the best option for her ward. Residents in Ward I don't have common interests of those in Briarwood. She said she feels well represented by the Councilmembers in her Ward because they know and understand the issues that Ward I residents are concerned about and confronted with.

MARY WESTWOOD, 2808 MONTANA AVENUE, said she is a new resident of Ward I. She said the neighbors in Ward I are very different from the ones in Ward IV where she grew up. She believes the City is “trying to achieve one person, one vote as closely as possible” with the redistricting. She said the areas of growth in the community are in the perimeter areas as described by Ms. Mattix and Ms. Beaudry. This imbalance created by that growth can be best handled by Scenario 2. This scenario puts the larger population at the center of town and as populations increase in other areas, the imbalance becomes equally balanced. She said the growth that is planned between Briarwood and

Ward IV is more compatible to the Briarwood area. Ms. Westwood said the community of interest is very solid and evident in Ward I. She asked the Council to support Scenario 2 as it is the best for the community and maintains the political strength in Ward I.

MARGARET WISER, 3905 3RD AVENUE SOUTH, said she is the Vice Chair of the Southside Task Force. She said the concerns in Ward I include older housing and houses that have outlived their life. Ward I also has a large number of low income and Section 8 citizens and too much drug trafficking in some areas. She said these are not issues that the residents of Briarwood are familiar or wish to be concerned about. She asked the Council to consider Scenario 2.

JERRY TATE, 124 S. 38TH STREET, said she supports the previous speakers 100%. She said the residents of Briarwood's interests are best served by Ward III.

There were no other speakers. The public hearing was closed. Councilmember McDermott moved for approval of Scenario 2, seconded by Councilmember Brown. Councilmember Boyer said she thinks of Billings as a very diverse city and feels the Briarwood residents would add energy and a new vision to Ward I. She said isolating certain ethnic or income residents is not her vision for the City. She said she supports Scenario 1.

Councilmember Gaghen said she has friends in both the original Ward I and Briarwood. She said she is concerned that Briarwood residents will feel uprooted as they have just barely gotten comfortable with their position in the City. She said she is not convinced that Scenario 2 is the best choice for the community. Councilmember Ruegamer said as a councilmember he was informed that he is a representative of the entire city not just of his ward. Geographically Briarwood belongs in Ward I, he stated, because the best way to segregate Billings is geographically. He said it makes no sense to divide Billings according to interests. It is the nature of people to have common interests and diversified interests. He said he supports Scenario 1 as the most logical choice.

Councilmember McDermott said one of the discretionary criteria of legislative redistricting is "communities of common interests". Ward I has always been the oldest part of town representing a "blue collar" neighborhood with close connections to programs that support low to moderate income families. She stated it is important to keep those communities of common interest intact. The diversity in Ward I centers on minority residents and not high-income neighborhoods. She said she finds it difficult to represent both \$40,000 and \$500,000 households where in that case, diversity creates a problem. Councilmember McDermott said the reason to create wards is because of common interests and she asked the Council to support Scenario 2.

Councilmember Ulledalen summarized that the three task forces in Ward I are important to their representatives and the polling places for Briarwood is an issue. He noted that some areas west of St. Vincent's and north of Pioneer Park are comparable income-wise to Briarwood. He stated that the Council will have to grapple with financing and growth in the next few years and taking growth out of Ward I will create a new set of concerns of how to pay for growth in the future. This is a good reason to keep Briarwood in Ward I.

Councilmember Jones asked if the Briarwood polling place would actually be Casa Village if it were placed in Ward III. Ms. Mattix said that would be the designated polling place at the present time. Councilmember Jones said he has concerns about that issue

as he feels it is important to make it easy for citizens to vote. He agrees with Councilmember Ulledalen's observations that there are higher income households already in the original Ward I boundaries.

Councilmember McDermott said she perceives growth for Ward I in the next five years coming from portions of Ward III that are aging, allowing Ward III to expand into the newly developing areas. She sees Scenario 2 preparing for any future redistricting. Councilmember Ruegamer stated that Councilmember McDermott reminded him six months ago that he represented all of the citizens of Billings. Councilmember Ruegamer made a substitute motion to approve Scenario 1 as represented on the redistricting map, seconded Councilmember Boyer. On a roll call vote, the substitute motion was approved 8-3 with Councilmembers Gaghen, Brewster, Veis, Ruegamer, Ulledalen, Boyer, Jones and Mayor Tooley voting "yes" and Councilmembers McDermott, Brown, and Clark voting "no".

4. PUBLIC HEARING AND FIRST READING ORDINANCE expanding Ward II to include recently annexed property. (Annexation #04-09): 1.6 acre parcel of land on the northeast corner of the intersection of Main Street and Airport Road, Lamar Outdoor Advertising Montana, petitioner. 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 Brown moved for approval of the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

5. CONTINUATION OF PUBLIC HEARING AND RESOLUTION 05-18231 regarding the disposal of City-owned property described as Lots 9-12, Block 142 O.T., located on the 100 Block of South 25th Street and authorizing the sale of the land to the Montana Rescue Mission for \$35,000 or \$2.50 a square foot. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Community Development Manager John Walsh said a bid from Montana Rescue Mission for \$20,160.00 for this property has been received by the City. This equals \$1.44 per square foot. He said the Staff is recommending negotiating with the Montana Rescue Mission for a price of \$2.50 per square feet or \$35,000 for the purchase. This price is consistent with other land sales in the South 27th Street corridor in the past. Mr. Walsh said an appraisal was not completed for this property. Councilmember Brewster asked if the Montana Rescue Mission indicated their desire to have the City donate this property to them. Mr. Walsh restated that the Mission has entered a bid proposal of \$20,160.00 and he recommends negotiating that price up to \$35,000.

The public hearing was opened. GARY DRAKE, EXECUTIVE DIRECTOR OF MONTANA RESCUE MISSION, said the bid amount was arrived at based on fair market value of \$2.25 per square foot with incentives applied to reduce the amount to \$20,160.00. According to property previously purchased on South 27th Street he felt the \$2.25 per square foot price was appropriate. He said the new Rescue Mission facility project is very exciting and will enhance this portion of currently undeveloped property in Billings. Mr. Drake said this particular piece of property is key to the expansion of their facility and reducing current operating costs. He said they are not disputing any of the figures the City

has arrived at, but stated that any help the City can give will go toward developing the new facility. He noted two of the current facilities have contingent buy/sells with a private party.

KEITH MYRHE, 234 YELLOWSTONE, said he the architect for this project and supports the purchase of this property. He offered to answer any questions.

There were no other speakers. The public hearing was closed. Councilmember Brewster moved for approval of the Staff recommendation, seconded by Councilmember Clark. Councilmember Brown made a substitute motion to sell the property at \$2.25 per square feet instead of \$2.50 per square foot, seconded by Councilmember Jones. Councilmember Ulledalen amended the substitute motion to gift the property to the Mission for a price of \$0.00, seconded by Councilmember Ruegamer. Councilmember Ulledalen said the City of Billings does not do a lot for the homeless in the community, where the Rescue Mission does. He said this gift would foster the Mission's attempts to serve the homeless in the community and the proposed project would benefit downtown properties and businesses as well. Councilmember Brewster said he would like to see this motion be contingent on their actually developing the property as proposed. City Attorney Brent Brooks suggested the best way to facilitate that would be to amend the resolution to approve the sale and include that as a condition. It should also appear in the deed restriction as well.

Councilmember Ruegamer asked if a time limit should also be imposed on the project. Mr. Bauer said the conditions could include that the property would revert back to the City if the project is not developed within a certain timeframe or if it is not developed as the proposed use intended. Councilmember Ruegamer asked what the expected timeframe for construction is. Mr. Drake said that centers on the ability to raise the funds needed for construction and hopes that construction would begin sometime in the middle of 2005 with a tentative completion date of December 2006. Councilmember Ulledalen withdrew his amendment and Councilmember Ruegamer withdrew his second. Councilmember Brown withdrew his substitute motion and Councilmember Jones withdrew his second.

Councilmember Brewster made a new substitute motion to approve the resolution disposing of the property and gifting it to the Montana Rescue Mission for \$0.00 contingent on their development of the property within 10 years, seconded by Councilmember Boyer. In answer to Councilmember McDermott's questions, Mr. Drake noted there would be a play area for children and a day room for the daytime activities of the homeless men. Councilmember Gaghen suggested that updates be brought to the Council on the proposed construction.

Councilmember Jones amended the substitute motion to change the condition from 10 years to 5 years, seconded by Councilmember Brown. Councilmember Jones said five years should be enough time and the Council can entertain a request for an extension at that time. His concern was that the property may not be utilized as proposed in five years and another use could be possible at that time. On a voice vote, the amendment was unanimously approved.

Mr. Bauer said the contingency should also include what should happen to the property if the contingency is not met. He suggested the property either revert to the City, or the City receive fair market value for the property. He added that it should be clarified that the property is being gifted to the Rescue Mission with restrictions on transferability. Councilmember Jones amended the substitute motion that the property not be transferable

and is to revert back to the City at the end of the term if not developed as proposed, seconded by Councilmember Boyer. On a voice vote, the amendment was approved with Councilmember Brown voting “no”. On a voice vote, the motion as amended was unanimously approved.

6. PUBLIC HEARING AND RESOLUTION 05-18232 approving Annexation #04-13: a portion of the NW4 of Section 4, T1S, R25E, C/S 1877, Tracts 1 & 2, containing approximately 50 acres, Jack and Robert Sukin, petitioners. Staff recommends approval of the public service report and the resolution of annexation with conditions. (Action: approval or disapproval of Staff recommendation.) .

Planning Manager Candi Beaudry said the annexation petition is for a 50-acre parcel located at the southeast corner of the intersection of Grand Avenue and 54th Street West. She said the current use is Agricultural Open-Space purposes and the proposed use is a residential subdivision. All of the departments have given a favorable response to review of this annexation with the Parks Department requesting that the proposed subdivision park be developed by the subdivider. She said the property is currently served by the City Fire Department because it is in the BUFSA. She noted there have been no objections by the Police Department.

Ms. Beaudry said there are water and sewer services available in Grand Avenue, but no storm drainage available so storm water will be retained onsite and discharged into the Big Ditch. She noted the developers are responsible for fees to connect water and sewer service and for storm water management. Because the annexation is adjacent to arterials, the developers will be responsible for upgrade of Grand Avenue.

Ms. Beaudry said the annexation complies with the 2003 Growth Policy and the West End Billings Plan with the exception that it is not contiguous to the City of Billings, but does fall within the annexation limits of the recently approved Annexation Policy.

Ms. Beaudry said the Staff is recommending approval with conditions. The conditions are:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Right to Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for developing a neighborhood park within the subdivision.

The public hearing was opened. JOE WHITE, 926 NORTH 30TH STREET, said he is concerned about the agriculture and the need for an environmental impact statement.

There were no other speakers. The public hearing was closed. Councilmember Ruegamer moved for approval of the Staff recommendation with the attached conditions, seconded by Councilmember Clark. Councilmember Boyer noted this annexation falls within the Sphere of Influence for proposed annexations. Councilmember McDermott stated that leap-frog development, whether inside the Sphere of Influence or not, creates unnecessary financial burdens on the taxpayers of Billings. Councilmember Jones asked if

a park is considered infrastructure. Ms. Beaudry said a park is considered a subdivision improvement and the conditions are worded to include two possibilities, the park development as infrastructure or if the parcel is subdivided, as a subdivision improvement. On a voice vote, the motion was approved with Councilmember McDermott voting “no”.

7. PUBLIC HEARING AND SPECIAL REVIEW #774: a special review to permit the sale of alcohol (full beverage license) without gaming on a property zoned Community Commercial located at 1640 Grand Avenue. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planning Manager Candi Beaudry said this is special review to permit the sale of alcohol (all beverage) without gaming on property zoned Community Commercial located at the intersection of 17th and Grand Avenue. It allows the City Brew and City Vineyard businesses to relocate and acquire additional parking.

Ms. Beaudry said the Zoning Commission has placed restrictions on the development of the property. The Zoning Commission is recommending approval with the following conditions:

1. The special review approval shall be limited to Lots 9 & 10 and the west 50 feet of Lot 6, Block 1 of Luse Subdivision as shown on the site plans submitted with this application. The all beverage liquor license without gaming shall be limited to no more than 3,500 square feet in floor area and will be located only on lots 9 and 10 of Block 1, Luse Subdivision.
2. The site shall be landscaped and screened from adjacent properties as shown on the site plan dated 10/26/04 and provided with the Special Review application.
3. Changes in floor plans or interior remodeling may occur. Increases of floor area for the all beverage liquor license beyond 3,500 square feet or the addition of an outdoor patio will require another Special Review application {BMCC 27-613}.
4. Trash enclosures shall be constructed of wood, vinyl, brick, stone or concrete block or other building materials and provide a closing gate on one side. No chain link or wire material is allowed for this enclosure.
5. The fence provided to screen the proposed parking lot on the west 50 feet of Lot 6, Block 1 Luse Subdivision (Alderson Avenue) shall be constructed of new material and be wood, vinyl, brick, stone or concrete block or other building materials and be at least 6 feet in height from finished grade. No chain link or wire is allowed for this sight obscuring fence.
6. Any new drive approach off Grand Avenue or 17th Street West shall be approved by the City Engineering Division.

The public hearing was opened. JIM KOONS, COLLABRATIVE DESIGN ARCHITECTS, said he is the architect for City Vineyard and City Brew that proposes to demolish an unkempt property and replace it with a new structure. The proposal will provide landscape screening between City Brew and the car wash adjacent to it. He said the exit off of Grand Avenue would be an exit only and the alley would be used for access to the drive-up as well as the entrance from 17th Street. He noted the alley is currently used by other commercial uses.

JOHN JONES, PARTNER WITH MOULTON LAW FIRM, said he represents the applicant, Beckie Reno and her business. He said this issue was before the Council

several years ago and became quite contentious because it was located within 600 feet of a school. After a canvas of the neighborhood, it was ascertained that this concept was considered to be appropriate for this area. Mr. Jones said the application could consider gaming, but Ms. Reno has elected not to consider that option. He noted it would require separate Council approval to do that in the future. He said the current concept is a great remedy for this location and asked the Council to approve the special review.

REBECCA RENO, 3021 NORTH SLOPE TRAIL, said she would like to move her business from 2228 to 1640 Grand Avenue and into a building that would accommodate her operations. She said she has looked for two years for a new location and with the help of the architect has designed a beautiful new building with great landscaping. She asked the Council to approve the special review.

JOHN BECKNER, OWNER OF 1621 AND 1623 ALDERSON, said he is not concerned about Ms. Reno as a neighbor. His concerns have all been addressed.

There were no other speakers. The public hearing was closed. Councilmember Boyer moved for approval of the Zoning Commission recommendation including the conditions indicated by the Staff, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

8. LEWIS AND CLARK SIGNATURE EVENT RESOLUTION 05-18233. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Mayor Tooley said the recommendation for this item includes adoption of the resolution providing support for the event and the authority for the Mayor to sign a letter of support to the National Park Service with a recommended match amount of \$10,000. This would also allow the City's lobbyist to support the passage of a bill at the legislature to help fund the Pompey's Pillar and the Great Falls Signature Events. Councilmember Jones moved for approval of the Staff recommendation, seconded by Councilmember Boyer. On a voice vote, the motion was approved with Councilmember Brown voting "no".

~~8.~~ 9. PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required. (Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker.) There were no speakers.

Council Initiatives

COUNCILMEMBER JONES: Councilmember Jones moved to direct Staff to provide a breakdown of the \$18,000 paid to the Billings Gazette last month and to come back with a policy on when advertising is to be done in the Billings Gazette and when it is to be done in the Billings Times, seconded by Councilmember Ruegamer. Mr. Bauer said Human Resources and the Planning Department are the main users of this resource that advertises for employment opportunities and zoning actions respectively. On a voice vote, the motion was unanimously approved.

MINUTES: 01/10/05

ADJOURN —With all business complete, the Mayor adjourned the meeting at 9:58 P.M.

THE CITY OF BILLINGS:

By: _____
Charles F. Tooley MAYOR

ATTEST:

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