

# **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

## **September 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 Larry Brewster.

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

**MINUTES – August 26, 2002.** APPROVED as printed.

### **COURTESIES – Police Dept.**

Lt. Tim O'Connell presented Sgt. Tony Barone and Lisa Posada-Griffin, Minor Alcohol Prevention Coordinator, with a plaque (of the Gazette article published July 8, 2002 entitled "Local Leaders Win Support of Community As They Are Cracking Down On Kegs") for their work on the prevention of underage drinking and their participation in promoting the first keg registration requirement that began in July of this year.

### **PROCLAMATIONS – Mayor Tooley.**

- A Day to Remember – September 11, 2002
- Library Card Sign-Up Month – September
- Kids Day America – September 21, 2002

**BOARD & COMMISSION REPORTS.** – Councilmember Kennedy noted that this past week's community activities included "Ales for Trails", the "Horse of Course" auction and the Farmer's Market. He said the Horse of Course auction was a success and all three activities show that Billings is a community with energy, spirit and pride.

### **ADMINISTRATOR REPORTS – Dennis Taylor.**

- City Administrator Dennis Taylor invited the Council to join Mayor Tooley and other speakers at a ceremony entitled "A Day of Remembrance", on Wednesday, September 11, 2002 at 6 P.M. at Pioneer Park. This will be a community gathering to commemorate the one-year anniversary of the 9-11 terrorist attacks.
- Mr. Taylor said a community wide "United Way Day of Caring" would follow the commemoration ceremony. There will be 35 City employees joining others in the community, sharing a lunch and volunteering their time on Thursday, September 12<sup>th</sup> to work at two Head Start locations doing general cleanup activities. He noted this shows the level of community caring that is here in Billings, Montana.
- Mr. Taylor said that he and Councilmember Mick Ohnstad would be traveling to Helena on Friday to work with Montana League of Cities and Towns on nine

resolutions that will be considered by the League's Legislative Committee. He invited the Council to add any other topics and concerns that need to be addressed and developed into resolutions and submit them to either Councilmember Ohnstad or himself by Thursday. He noted that the League Convention will be in October and those issues should be submitted by that time.

- Mr. Taylor noted there is a change in this evening's agenda. He said Item A2 would be removed from the Consent Agenda and postponed to the next regular City Council meeting. He said Western Municipal Construction has requested an injunction with regard to this bid. The City would not proceed with it until after results of the "show cause" hearing are available.

## **CONSENT AGENDA:**

### **A. Bid Awards:**

(1) **Gasoline and Diesel Fuel.** (Opened 8/20/02). Recommend GM Petroleum for 1-year contract.

(2) ~~**Construction of Rimrock Road Waterline and Sewer Extension.**~~ (Opened 8/27/02). ~~Recommend COP Construction, \$2,595,478.00.~~

(3) **Downtown Billings Skate Park.** (Opened 8/27/02). Recommend rejecting the bid.

**B. Contract** with Kadrmas, Lee and Jackson for the Vulnerability Assessment for the Billings Water System, \$90,000.00.

**C. Agreement #02-01-02-02(154AL)** with Montana Dept. of Transportation for In-car video systems, \$7,000.00.

**D. Agreement** with Billings Housing Authority to fund one police officer for 9/1/02 to 8/30/03, \$65,402.00.

**E. Law Enforcement Personnel Agreement** with Transportation Security Administration for additional law enforcement coverage at the airport, \$407,694.00.

**F. Contract** with Carl Thuesen ASLA for consultant services for the planning, design, engineering, bid documents and contract administration for park irrigation construction and improvement projects.

**G. Acceptance of EPA Grant** for water system vulnerability assessment, \$90,000.

**H. Approval of Loan** to Doug Dierenfield and Dick Harte for partial financing of seven loft apartments in the Universal Awards building at 3217 Montana Avenue, \$235,000.

**I. Resolution 02-17873** approving updates to departmental records retention schedules for: Building, Engineering, Planning, Motorpool, Community Development, Parks/Recreation, Municipal Court, Police and Records Common.

**J. Changes to City Council Meeting schedule and Rules of order:**

- (1) **Resolution 02-17874** repealing Res 94-16822, 94-16837 and 95-16936.
- (2) First reading ordinance amending BMCC Sections 2-211, 2-212, and 2-215 and adding a new Section 2-226 and setting a public hearing date for 9/23/02.

**K. Approval** of the Descro Park Master Plan.

**L. Acknowledging** receipt of petition to vacate a portion of Edward Street lying between City property and the Sysco properties located on Monad Road and setting a public hearing date for 9/23/02.

**M. Approval** of pledged securities by Wells Fargo Bank and US Bank as collateral for Certificates of Deposit.

**N. Final plat** of Gabel Road Commercial Center Subdivision.

**O. Final plat** of j & e Subdivision.

**P. Bills and payroll.**

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

Mayor Tooley separated Item A2. Councilmember McDermott separated Items A1, A3, D, H J, M and P. Councilmember McDermott moved for approval of the Consent Agenda with the exception of Items A1, A2, A3, D, H, J, M and P, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item A1, seconded by Councilmember Larson. Councilmember Brown asked who GM Petroleum was and if they are a local company. Purchasing Agent Cliff Fillner said this is a local vendor, in business in the community and the City's supplier of fuel for many years. The owner, Wally Grunstead, has been long associated with Conoco and that is the brand name for the fuel supply. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved to delay Item A2 until the next regular meeting, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item A3, seconded by Councilmember Brewster. Councilmember McDermott noted that the recommendation is for rejection of the bid and asked if there is a timeline established as to the next steps involved. Parks and Recreation Director Don Kearney said the City plans to look at other

design options and another bidding cycle. He noted that this is a very busy time for most contractors and their bids reflected this. The only bid that was received was incomplete because of the lack of time. He said the desire is for this item to come back to the Council in the late fall, possibly November or December, with a redesign that would eliminate some of the costly hand work involved in the original design. This could be a cost savings and allow the project to come closer to projected costs and still fall within the design criteria. Councilmember McDermott asked if the redesign would cost more money. Mr. Kearney said it depended upon what is involved in the redesign process. He noted that what was asked for in the original design contract has been done. Councilmember McDermott asked what caused the large variance between the bid price and the estimated cost. Mr. Kearney said it was partially due to the unavailability of most contractors at this time. He noted this was true in the other areas where skate parks are being constructed. He also said the design included construction that has a lot of handwork causing the price to increase. Councilmember Jones noted that normally when a bid does not come back within the budget, the contract states that the redesign would be at the designer's expense because the City would be contracting with them for their expertise. He asked if that was in the design contract for this project. Mr. Kearney said he did not know and would have to check and report back to the Council. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item D, seconded by Councilmember Larson. Councilmember Brown asked if this agreement would change the budget. Mayor Tooley noted this agreement was being funded through the Housing Authority and appears to be paperwork rather than an expenditure of the City of Billings. City Administrator Dennis Taylor said this item represents an on-going agreement with the Housing Authority through HUD to enable the City to fund a position in the Police Department to work in a community-policing mode in the Housing Authority's public housing complexes. Therefore the anticipated revenue from the Housing Authority and the related expenditures are included in the budget. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item H, seconded by Councilmember Larson. Councilmember Brown asked who makes the decision as to whether the loan from the Downtown Partnership is appropriate. Administrative Services Director Robert Keefe noted that it is the City that is lending the money. He said there is a loan review committee comprised of himself, Art Scibeli of the Downtown Partnership, Ernie Dutton a representative of a downtown corporation, Tom Nelson a representative of the Downtown Property Owners, and Bill Paul from Yellowstone Bank that reviews the loans and determines the financial feasibility and whether they meet the guidelines of the program. Councilmember Brown asked why the City is always in a secondary position with these loans. Mr. Keefe said that is typical of low interest loans that are designed to stimulate development. He noted that the City has been very successful with these types of loans. Councilmember Brown asked what the interest rate on this loan was. Mr. Keefe said the interest rate is an adjustable rate and City ordinance states that it should be 1% above the rate that is charged to the City by the bank. The annually adjusted rate including the 1% is 3.75%. This will be adjusted on September 30<sup>th</sup> of this year. He noted that the new rate probably would be lower. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item J, seconded by Councilmember Larson. Councilmember McDermott noted there are two members of the Council that would have a problem attending the Tuesday meetings. Councilmember Brown said Tuesdays are a difficult time for him to attend a meeting. Councilmember Larson agrees with the Tuesday issue and noted that this stipulation portion is not in the code and can be discussed and changed at a work session. However he noted that this resolution is intended to change the time for the official Monday Council meetings to 6:30 P.M. He noted that the agenda and work sessions could be changed at anytime with no official action required. Councilmember Iverson asked for clarification on the meeting time for the informal work sessions. Assistant City Administrator Kristoff Bauer said the staff report contains an error. The correct time is 5:30 P.M. and is stated correctly in the proposed ordinance. Councilmember Poppler voiced a concern about the 6:30 Council Meeting time being convenient to the viewing public. Councilmember Larson noted that one of the benefits of the 6:30 meeting time is that it will avoid meetings extending late into the night. He noted that meetings that extend beyond 10:00 P.M. imposes a severe strain on the public that comes to voice their concerns. Councilmember Jones noted that if this change is a concern for the public, the comment period for this ordinance would be on September 23<sup>rd</sup>. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item M, seconded by Councilmember Larson. Councilmember Brown asked what kind of security is pledged on the certificate of deposits. Administrative Services Director Robert Keefe said they are all required to be federal securities such as Treasury Bonds. On a voice vote, the motion was unanimously approved.

Councilmember McDermott moved for approval of Item P, seconded by Councilmember Larson. Councilmember Brown noted that several payments seemed to be for unnamed services and individuals. He asked for more information. Mayor Tooley said this information would be available prior to any meeting and can be requested at any time, preferably before the Council meeting. City Administrator Dennis Taylor said that when the Council receives their packets the Monday before the meeting, they could request, via e-mail, telephone call or drop-in visit any additional supporting documentation. He noted it is awkward to provide that information at a meeting without prior notice. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

### **2. PUBLIC HEARING AND FIRST READING ORDINANCE FOR Zone Change #701: A zone change from Residential-9,600 to Public on Tract A-4 of Certificate of Survey No. 646 Amended, located at 2085 Santiago Boulevard. City of Billings, owner; Interstate Engineering, agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said this zone change is located in the South Hills area adjacent to Cedar Park Subdivision that was recently annexed. The property is currently owned by the City. The Public Utilities Department has purchased this property to locate a pump house and self-service water filling station on it. He said the surrounding zoning is mostly Community Commercial and Residential 9,600. Mr. Bollman said the

Zoning Commission has recommended approval noting that it would create a buffer between the commercial and residential uses.

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

**3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR Zone Change #702: A City Council initiated zone change from Residential Manufactured Home and Public to Residential 9,600 on a portion of Tracts 2B and 3 of Certificate of Survey 3011, located south of Wicks Lane and east of Bitterroot Drive. Roy and Jock Clause, owner, City Council of Billings, agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)**

Planning Staff Member Gail Kenson said this zone change is related to the proposed preliminary plat approval that is scheduled as Item 5 of this evening's agenda. She noted this was a City Council initiated zone change to the proposed Residential 9,600 zoning. She said the procedure history for this zone change was as follows:

Date	Action
June 24, 2002 (1 <sup>st</sup> attempted in April, 2002)	Annexation into the City
July 22, 2002	City initiated zone change to R7000
August 20, 2002	Zoning Commission holds public hearing, recommends approval of zone change
	Property owner filed a valid protest that requires a 2/3 majority of the Council to approve the zone change
August 27, 2002	Planning Board holds public hearing on Cherry Creek Subdivision and did not forward a specific recommendation

She said this is a five-lot minor subdivision that will include a 363-unit Manufactured Home Park. She noted a portion of Lot 1 is zoned Residential 7,000, a portion of Lot 1, and all of Lots 2 and 5 is zoned Residential 9,600. She said there is a portion of Lot 4 that is zoned Public and Lots 3 and 4 (except the portion that is Public) is zoned Residential Manufactured Home. Lots 3 and 4 and the public strip along Lot 4 is the subject of the City Council initiated zone change. Ms. Kenson said there are concerns with density, traffic congestion (Bitterroot Drive and Wicks Lane are major arterials), groundwater and surface water, infrastructure specific to the street handling additional traffic, property values of the surrounding homes and the current lack of Residential Manufactured Homes versus Residential 9,600 zoning. She said the Planning Staff evaluated the Residential Manufactured Homes and Residential 9,600 zoning against specific review criteria including whether the new zoning: 1) was designed in accordance with the Comprehensive Plan, 2) was designed to lessen congestion in the streets, 3) will secure safety from fire, panic and other dangers, 4) will promote health and general welfare, 5) will provide adequate light and air, 6) will prevent overcrowding of land, 7) will avoid undue

concentration of population, 8) will facilitate the adequate provision of transportation, water, sewerage, schools, parks, fire, police, and other public requirements, 9) gives reasonable consideration to the character of the district, 10) gives consideration to the peculiar suitability of the property for particular uses, 11) was adopted with a view to conserving the value of buildings, and 12) will encourage the most appropriate use of land throughout such county or municipal area.

Councilmember McDermott asked who filed the valid protest. Ms. Kenson said Cherry Creek Development, owners of the entire parcel represented by Roy and Jock Clause filed the valid protest. Councilmember Kennedy asked about an e-mail from Assistant City Administrator Kristoff Bauer that noted changes in the plat regarding density. Ms. Kenson said the property owners are not in favor of reducing the density. She noted that the Council can condition the subdivision and that could be a condition. She also called attention to the chart illustrating the different zoning districts in terms of density.

The public hearing was opened. PETE HANSEN, 1435 WICKS LANE, said he is the chairman for the United Residents of East Billings Heights. He said there are 500 residents that belong to this organization and live in the immediate area of this development. He noted that he previously presented the Council with a copy of a petition to vote against annexation and the Residential Manufactured Home designation. He noted that the City of Billings' Comprehensive Plan cites the Billings Heights as one of the areas with "the most density of Residential Manufactured Homes zoning in the county". He said the objections of the residents he represents is that the requested zoning is not in accordance with the Comprehensive Plan nor of the City/County zoning regulations which all speak to compatibility of zoning.

TOM ZURBUCHEN, 1747 WICKS LANE, noted that this area was a gravel pit and the owners were excluded from mining gravel within 300 feet of Bitterroot Drive and Wicks Lane. He said that in 1974 Variance #2, on file at the Clerk and Records Office, states the area will be developed as low-density residential. He noted that a "trailer court" is not low-density residential. He said he and his wife have lived at their present residence for over 25 years with the understanding that it would remain low-density residential. He asked why there is a need to place this type of high-density development that is not compatible with and in the midst of existing developments. Mr. Zurbuchen asked the Council to support this community and their desires.

MARVIN BROWN, 1603 BLARNEY STREET, said he is very much in favor of the Residential 9,600 zoning.

HERB GUNSCH, 1539 SHANNON, said he is in favor of the Residential 9,600 zoning. He said he has been "fighting that for four years". He is in favor of it because of the traffic.

EMERY L. PETTY, 1741 WICKS LANE, said this is "much too massive of a project for this area and for the people."

ALICE LAMBRECHT, 1415 BITTERROOT DRIVE, said she has lived at her current address for 31-1/2 years. She said the main road out of this "trailer park" will go right past her home. She said she is in favor of the Residential 9,600 zoning.

WALLACE LAMBRECHT, 1415 BITTERROOT DRIVE, said he is in favor of Residential 9,600 zoning because it is more compatible with the surrounding area.

MARJORIE BROWN, 1603 BLARNEY STREET, said she "hopes the Council

recommends Residential 9,600.” She said she is concerned about the possible traffic congestion. She doesn’t see how this development would serve as a low-income housing development.

LARRY TRETENBACH, 1608 BLARNEY STREET, said the traffic in this area is bad enough and the new development will add more congestion to it. He said there are too many people in the neighborhood also. He noted it is very hard traffic-wise to exit the neighborhood and the Heights. He is in favor of the Residential 9,600 that would give residents a place to move to but not create a great impact on the area.

LARRY HOBAN, 1607 WALTER ROAD, said he lives directly across from the proposed development. He said the 500 residents mentioned earlier have supported Residential 9,600 “all along”. He said he “hopes the Council will see that way too.”

LINDA TRETENBACH, 1608 BLARNEY STREET, said she is in favor of the Residential 9,600 zoning. She said the traffic is “atrocious”. She said she is in favor of the Residential 9,600 zoning because the added traffic from a “trailer court” is going to make it very difficult to get in and out of the Heights.

RACHELLE RATAGNA, 1721 WICKS LANE, said she purchased a home in the area in November. She said she is for the Residential 9,600 zoning. She noted that traffic in the area is already congested. She said the school where her children go is “packed”.

GARY LARUE, 1347 BITTERROOT DRIVE, said he lives directly to the west of the proposed development. He noted a planning staff report that was prepared and given to the “County Zoning Commission” in the year 2000. The report requested Residential Manufactured Home and Residential 6,000 and the recommendation was denial based on the 12 criteria regarding zoning. He noted the report contained many references to incompatibility to the existing uses and that it would cause significant increase in the amount of traffic on the surrounding street network. He asked the Council to preserve the value of his property.

DARRELL DEVITT, 1225 BITTERROOT, said he supports the Residential 9,600 zoning.

WAYNE KLUNDT, 1432 DUBLIN, asked the Council to support the Residential 9,600 zoning.

JEFF BAUMBERGER, 1245 COLUMBINE DRIVE, said he supports Residential 9,600 zoning.

JOHN HUNT, 1704 CHERYL STREET, said he has a lot of concerns about the points that have been presented earlier, especially regarding traffic. He asked that the Council following the Zoning Commission recommendation.

CELEST BALDWIN, 1716 CHERYL STREET, said as a property owner and a taxpayer she requests that the Council vote for the Residential 9,600 zone change.

SUSAN POWELL, 1748 CHERYL STREET, said she has lived at her present residence for 22 years. She said she previously substitute taught for the Billings School District and found it frustrating ten years ago to substitute across town because of the traffic delays. She said she thinks there will be even more traffic with the proposed development. She also wondered where the children in the proposed development would go to school now that Beartooth School is closed. She said she is opposed to more traffic.

STAN MCINTRYE, 1425 BITTERROOT DRIVE, said his property adjoins the proposed development. He said he objects to the Residential Manufactured Home zoning for the all of the reasons previously stated, such as traffic and decreased property values.



He noted the developer purchased this property knowing that a previous developer, Ken Hollar, had an option on this same property fifteen years ago and walked away from it on the advice of this attorney because of the high liability of developing in an abandoned gravel pit. He said he thinks the new owners "want to make a lot of money at the expense of the existing homeowners." He asked the Council to protect the surrounding property owners and alleviate the traffic situation and vote for the Residential 9,600 zoning for this development.

SHARRON STOMPRO, 503 YELLOWSTONE AVENUE, said she is representing Cherry Creek Development at their residential property next to the subject property that is known as Riverview Estates. She said that, as a realtor, dealing with property values is her business and noted that Shiloh Park (a Residential Manufactured Home Park), on the West End, was built out in 18 months and property values increased during that time. She said that Shiloh Park has 250 units that rent for \$225.00 per month and there are residents that have lived there 20 plus years. In answer to Councilmember Gaghen's question, she said she thought that Shiloh Park may have been first developed in 1981.

JOCK CLAUSE, 1940 RIVER OVERLOOK DRIVE, said he is one of the owners of the proposed development. He said there would be more traffic impact with the Residential 9,600 zoning. He noted that Residential Manufactured Home zoning is more economical to develop and it would provide sites for affordable housing. He said this will be a more dense development than what is there at present. He said it is not financially feasible to develop lots with city services that are ½ acre in size. He asked the Council where the City will allow Residential Manufactured Homes if this development is denied. He said he is trying to provide a site for this type of housing. He asked the Council not to take away this opportunity. Mr. Clause noted several people in the audience that are against the Residential 9,600 zoning and for the Residential Manufactured Home zoning. He asked the Council to vote against the zone change and leave it zoned Residential Manufactured Home.

MICHAEL SANDERSON, ENGINEERING INC., said he is a traffic engineer with Engineering, Inc. and did the Master Plan Traffic Study for the proposed development. He said the trip generation for a densely populated Residential 9,600 would be greater than what is proposed. He said the traffic argument is not a good one for making this zone change.

Councilmember Gaghen asked how 350 units would generate less traffic than Residential 9,600 would. Mr. Sanderson said that Residential Manufactured Homes tend to be lower income and fewer vehicles per household. The demographics are younger families and older citizens who have fewer drivers per household. He said a Residential 9,600 zone could allow a condominium type development that would develop the area fairly densely with nearly as many units as the Residential Manufactured Home zoning. That would mean significantly higher number of vehicles each day under the Residential 9,600.

Councilmember Brewster noted it is difficult to compare Billings with other cities, regarding traffic patterns, because the impacts are different due to the demographics. Mr. Sanderson said the study from the Institute of Transportation is based on hundreds of studies all over the country.

Councilmember Jones asked what the Institute of Transportation numbers were. Mr. Sanderson said it is a fairly lengthy equation, but roughly comes out to 10 trips per day

for a single-family house and 5 trips a day for a manufactured house.

BILL POWELL, 1748 CHERYL STREET, said he has nothing against mobile homes, but he feels it is an intrusion on the size of this property to put a mobile park next to his property that he has lived on for 22 years. He asked the Council to vote for the Residential 9,600 zoning.

STEWART DOGGETT, EXECUTIVE DIRECTOR OF MONTANA MANUFACTURED HOUSING AND RV ASSOCIATION, 105 OAKWOOD LANE, HELENA, said he has represented this industry for the past twelve years. He noted that 40% of new private homes sales in the last five years in Montana have been manufactured homes. He said this indicates that the market is demanding manufactured homes because it is an affordable product. He said he opposes the recommendation before the Council. He said he thinks the area would be compatible with the design that the developers have planned and would make it a logical form of housing while meeting the affordable housing needs of people in the future. He said today's manufactured homes are built with the same materials as site built homes. He noted a study that confirms that manufactured homes do appreciate in value. Mr. Doggett said today's manufactured homes are dramatically different in curb appeal than those of years ago.

Councilmember Poppler asked what the square footage of the usual manufacture homes is. Mr. Doggett said the average size of a home is 1,675 square feet and noted there are facts in the pamphlet that he distributed to the Council. Councilmember Poppler asked what the recommended lot size was on which to place this size of a manufactured home. Mr. Doggett said that would depend on the retailer and the size of the home and setback requirements.

Councilmember Gaghen asked if 350 units, with approximately 1,600 square feet, would fit on the proposed site. Mr. Doggett said he would have to defer that question to the Engineering Department.

RON PIERCE, PIERCE HOMES AND RV, 5195 NEIBAUER ROAD, said there isn't a day that goes by that someone doesn't come to his office and look at purchasing a manufactured home but cannot find an area to place it. He said it is difficult to find those types of properties. He noted that he has personally rented spaces that have become available in order to serve the many requests of his customers. He questioned whether this is a negative impact on the property values surrounding Shiloh Park.

BRUCE FAIN, ATTORNEY, MURPHY, KIRKPATRICK AND FAIN, said he is the attorney representing Cherry Creek Development and Jock and Roy Clause. He noted the valid protest petition previously distributed to the Council and a letter from himself stating why this zone change should be denied. He said his clients have gone through the process of annexation and providing city services to the development. Mr. Fain noted that his clients have incurred a lot of expense in doing this. He said there has been a failure to follow simple departmental procedures in the initiation of this zone change. He noted the Comprehensive Plan speaks to the social need for Residential Manufactured Homes that would provide affordable and a variety of housing. Mr. Fain said the 5.1% of property set aside for manufactured housing is not adequate. He noted that property values surrounding the Shiloh Park area have increased in value.

Councilmember Kennedy asked if Mr. Fain has discussed the reduction in density that might be considered regarding the preliminary plat agenda item. Mr. Fain said he has and his clients are generally unfavorable to what has been represented. He stated that

each step would need to be evaluated as to what is going to happen.

ROY CLAUSE, DEVELOPER OF CHERRY CREEK DEVELOPMENT, said he has a petition with over 400 signatures in favor of the Residential Mobile Home Park. He noted there are seven reasons on the support petition, one being the need for more spaces for this type of housing in Billings. He also noted that it would assure reasonable rental rates for the community and the development will help balance the school system by allowing a more even distribution of students. He said the development would pay its own way toward public services. He said he lives in a mobile home development and noted that this development would have a direct effect on his livelihood.

TAMMY ELLIOTT, 429 KATHY LANE, asked the Council to vote against the Council initiated zone change #702.

DOUG STOVALL, 243 ROLLING HILLS DRIVE, said he has lived in the Heights for 23 years. He noted he is a manufactured home dealer and concurred that there is a great need for affordable housing in Billings. He said that his company can provide good housing for younger couples with a minimum of \$1,500 to \$2,500 down payment. This would give them the pride of home ownership and would make a good taxpayer out of a former renter. This benefits the City.

There were no other speakers. The public hearing was closed. Councilmember Brown moved for approval of the Zoning Commission recommendation, seconded by Councilmember Brewster. Councilmember Brewster said the proposed development area is almost rural in nature, with a lot of large lots and is not compatible with Residential Manufactured Homes. He noted that many people spoke tonight in favor of the zone change; they are persons living around the area and have a financial interest at stake. He said the Council has usually supported neighborhoods that express concerns like this. He acknowledged that there is a need for residential manufactured housing space, and he states he is not opposed to this type of housing, but he said he feels this is not compatible with the area. Councilmember Brewster said there are other areas in Ward II that are closer to the core of the Heights where transportation issues would be less complicated. He encouraged the Council to support the zone change.

Councilmember Brown said the City would be exporting jobs out of Montana by encouraging the sale of manufactured homes.

Councilmember Gaghen said she looked at the area and has major concerns about a development that has this much density as it would not be in keeping with the rural nature of the area. She is also concerned about the impact on the area schools. She noted that the lack of access to the proposed development would funnel so much traffic onto Bitterroot Drive. Councilmember Gaghen said the neighborhood is suddenly changing in a drastic way for many long-time rural residents. She has concerns for the developer and those that provide low-cost housing for citizens, but she said she does not think this area is compatible for that use.

Councilmember Poppler noted that several large buildings have been built in Ward IV, which is a Residential 9,600 zone and these developments have not adversely impacted the traffic for the residents in the area. She noted that manufactured homes are well built and suitable for low-income citizens, especially retired folks, who wish to live in newer more affordable housing. She said it is unfair to change the zoning after annexation, knowing very well the purpose for which it was proposed.

Councilmember Larson said he has clearly heard the Ward representatives'

concerns about their communities' issue with the proposed development. He said he is also concerned about the continual denial of zoning for Residential Manufactured Homes throughout the City. He noted that the same issues arise with each proposed development, which included the number one issue of traffic concerns. He said there have been neighborhoods that have been up-graded with the inclusion of the manufactured home park. He challenged the Council to put some thought into "if not here, where" can a development of this type be located.

Councilmember Kennedy asked if a super majority of the Council must approve this zone change. Assistant City Attorney Bonnie Sutherland said there is a 2/3 majority vote required due to the valid protest. That would require 8 votes. Councilmember Kennedy asked if the developer has a chance to claim the change in the zoning was unfair. Ms. Sutherland deferred the question to Planning Director Ramona Mattix. Ms. Mattix said that the developer can come back before the final plat and make application to amend an approved preliminary plat. Councilmember Kennedy concurred with Councilmember Larson as to "if not here, then where" can a manufactured housing development be located in the City. He said it is frustrating to have the process and the zoning allowed at the county level and then upon annexation be changed when the Council knew the developers' intent. He said he cannot support this zone change.

Councilmember Brewster said there will be a master planning process that will include the Heights that will address the need for locations for manufactured housing. He said the annexation and the zoning were separate issues and should be viewed separately. He said this is the Council's opportunity to decide if the County erred, which he said he feels they did, and place zoning and that allows densities that are appropriate in this area.

Councilmember McDermott said the subject should be, "is this an appropriate location for Residential Manufactured Homes zoning", and she said it is not.

Councilmember Jones asked when the performance standards get set. Ms. Mattix said they get set at the planning stage and in the proposed preliminary plat approval there are several conditions that are directed towards the standards, including tree planting and spacing. Councilmember Jones said he is concerned that with a site built home the development grows slowly, whereas with a residential mobile home park, the lots can fill up fast creating a bigger impact more quickly.

Councilmember Kennedy noted there is the plat process that can control this type of impact.

Ms. Kenson noted the manufactured home development would be a phased development; not all 363 units would be placed at one time. The plat shows a phased development.

Councilmember McDermott noted that problems in the past with residential mobile home parks is the 20-foot separation between buildings. She said it only concerned the main building and other outbuildings, steps and decks and encroachments on the neighboring property. Ms. Kenson said one of the conditions of the plat is the implementation of a development agreement that pertains to anything being placed on a particular lot will be required to have a plan review prior to placement. This will allow review of plans, lot coverage and appropriate separations. She added that those additions would require building permits. She added that this would also alleviate enforcement problems for the developer as this would become the responsibility of the City.

Councilmember Brewster said it is unfair to say that residential manufactured housing is the answer to affordable housing. This is not always the case and he said he thinks that affordable housing can also be smaller homes built on smaller lots with the owners gaining value from ownership.

On a roll call vote, the motion failed 7-4 with Councilmembers McDermott, Gaghen, Brown, Brewster, Iverson, Mayor Tooley, and Jones voting "yes" and Councilmembers Kennedy, Poppler, Ohnstad and Larson voting "no". Motion failed due to a lack of the 2/3 majority (8) vote.

Mayor Tooley called for a five-minute recess at 9:25 P.M. Mayor Tooley reconvened the Council meeting at 9:32 P.M.

**4. PUBLIC HEARING AND SECOND READING ORDINANCE 02-5221 amending BMCC by adding Section 23-1501, providing a procedure for review of applications for exemptions of certain divisions of land from local review under the provisions of the Montana Subdivision and Platting Act, Section 76-3-101, et seq., MCA, defining exemptions, providing a statement of intent for each exemption, establishing required documentation to be submitted with each application for exemption, and setting forth standards that will be applied to each application for exemption. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)**

Planning Staff Member Gail Kenson said this item was approved on first reading on the August 26<sup>th</sup> Consent Agenda. She said as the code states now, certain exempt plats are not required to go through the subdivision review process, such as family transfers, agricultural exemptions, and mortgage exemption. This ordinance would prevent those plats from evading the subdivision criteria by insuring that they are reviewed by the planning staff to confirm that the plat actually deserves the exemption and will not impact the services of the City.

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

**5. PRELIMINARY PLAT of Cherry Creek Estates Subdivision, generally located southwest of the intersection of Bitterroot Drive and Wicks Lane. Planning Board has no recommendation; Planning staff recommends conditional approval of the preliminary plat including the requested variances and acceptance of the findings of fact. (Action: approval or disapproval of Planning Staff recommendation.)**

Councilmember Brewster asked why the Planning Board made no recommendation on this preliminary plat. Planning Staff Member Gail Kenson said the Planning Board did not want to make a decision until they knew what the outcome of the zoning would be. She noted there are specific timelines that must be followed in accordance with State law. Councilmember Brewster said he wished to make a motion to delay this item for two weeks, or send it back to the Planning Board for review. He said he would like to hear the Board's recommendation. Ms. Kenson advised that the Council cannot delay this item without the consent of the developer. Councilmember

Larson asked the Clauses (who were in the audience), if they would be open to a delay of this item to get the input that Councilmember Brewster is requesting. Bruce Fain, Attorney for the Clauses, said he would need to discuss this with his clients before answering that question. Councilmember Larson moved to change the order of the agenda placing this item following Item #9 to allow Mr. Fain and his clients time to discuss this request, seconded by Councilmember Kennedy. Councilmember Larson said he would like to see this item resolved in a less contentious manner than the associated zone change. Councilmember Kennedy asked what the time limit for re-application was if this item was denied. Ms. Kenson said there is no time limit and she noted that the Planning Board meeting is scheduled for tomorrow at which this item could be reviewed. On a voice vote, the motion was unanimously approved.

NOTE: At this point in the meeting with Item #6 was considered.

NOTE: THE FOLLOWING TESTIMONY WAS PRESENTED IMMEDIATELY AFTER ITEM #9. Planning Staff Member Gail Kenson said that Mr. Fain had spoken with his clients and they are willing to delay this action to the September 24<sup>th</sup> Planning Board meeting and the October 15<sup>th</sup> Council meeting. This will enable the Planning Board to make a recommendation to the City Council. Bruce Fain, Attorney for Roy and Jock Clause confirmed his clients would be willing to delay the proposed approval of the preliminary plat for Cherry Creek Estates Subdivision until the October 15<sup>th</sup> meeting. Councilmember Ohnstad moved to delay the approval to the October 15, 2002 meeting, seconded by Councilmember Brewster. Councilmember Brewster thanked Jock and Roy Clause for being generous and allowing additional time for consideration of this preliminary plat. On a voice vote, the motion was unanimously approved. Action on the plat was delayed to the October 15<sup>th</sup> Council meeting.

**6. PRELIMINARY PLAT of Sysco Subdivision, generally located on Edward Street. Planning Board recommends conditional approval of preliminary plat including the requested variances and acceptance of the findings of fact.**  
**(Action: approval or disapproval of Planning Board recommendation.)**

Planning Staff Member Candi Beaudry said this is a minor subdivision owned by the City of Billings and a portion will be transferred to Sysco. She said the area comprises 24 acres including Lot 1 and the vacated portion of Edward Street of which 16.6 acres will be transferred to Sysco, Lot 2 currently used by MET will be retained by the City and the Animal Shelter, and Lot 3 that serves the Cemetery will stay in City ownership. She noted the variances that are required because it is an existing site are: 1) allowing a dead-end street in a commercial or industrial area, 2) allowing direct access from lots to an arterial street, to allow four driveways on Monad Road, 3) from requiring alleys in commercial or industrial districts, and 4) from requiring a 70-foot right-of-way on a local access commercial street. Ms. Beaudry said the conditions of approval were:

1. **STREET VACATION.** Properly vacate Edward Street from Monad Road to approximately 846.5+/- feet north and transfer ownership to the City. The vacated portion of the right-of-way shall be incorporated into Lot 1, Block 1.
2. **ACCESS EASEMENT.** Grant a 40 foot-wide access easement along the north edge of Lot 1, Block 1 to the City of Billings allowing for continued access to the

south cemetery gate and Lot 3, Block 1. The easement shall be shown on the face of the plat and separate easement document shall be filed with the County Clerk and Recorder.

3. **UTILITY EASEMENT.** Grant the necessary utility easements as specified by the City Public Utilities and Public Works Departments and private utility companies for the continued operation and maintenance of all utility lines necessary to serve new and existing developments.
4. **DEED RESTRICTION.** Place a deed restriction on Lot 1, Block 1 requiring any future developer or subdivider to enter into a Development or Subdivision Improvements Agreement, whichever is applicable, with the City to ensure City Development Standards are met.
5. **AGGREGATE PROPERTIES.** The City will aggregate Lot 3, Block 1 with the Mountview Cemetery to the north and record the necessary documents with the County Clerk and Recorder merging these two properties.
6. **FINAL PLAT.** The final subdivision plat shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code and the Rules, Regulations, Resolutions, Policies, and Ordinances of the Public Utilities Department and Public Works Department, and the laws and administrative rules of the State of Montana.

The Findings of Fact for Sysco Subdivision have been prepared by the City-County Planning Staff for review and approval by the City-County Planning Board. 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)

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

**1. Effect on Agriculture**

There are no agricultural uses located in or near the subdivision. The Sysco Subdivision will have no impact on agricultural operations.

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

There are no irrigation facilities located in the subdivision. The Sysco Subdivision will have no impact on agricultural water user facilities.

**3. Effect on Local Services**

**Water and Sewer Service** Water and sanitary sewer mains exist in Monad Road. The subdivider or future developer will be required to install at their expense, water and sanitary sewer services necessary to serve new or existing development on the property. All services will be connected to existing mains at appropriate places and must be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings and the Montana Department of Environmental Quality.

An existing water main is located within the Edward Street right-of-way. Edward Street will be vacated prior to filing the final plat. The existing water main in Edward Street must be terminated or relocated as required by the Public Utilities Department.

A 24" sanitary sewer main runs along the west side of Lot 2, Block 2. The subdivider will be required to grant a utility easement to provide maintenance access to this main.

**Storm Water Drainage** The subdivision will be served by the existing storm main in Monad Road. Site drainage for any future development will be subject to review and approval by the City Engineering Department and must be in conformance with the *Billings Stormwater Management Manual*.

Easements will be provided for the north-south storm drain lines running through the property that serve the cemetery and as necessary to provide drainage for the Edward Street cul-de-sac.

**Public streets and roads** The existing curb, gutter, sidewalk and street paving on Monad Road frontage are in place and meet current City standards. No additional street improvements are required along Monad Road.

The vacated portion of Edward Street does not require additional improvements. However, the new cul-de-sac at the terminus of Edward will require land dedication to the City for public right-of-way, curb, gutter and sidewalk. The full diameter of the cul-de-sac must be paved.

**Fire and Police Protection** The proposed subdivision is currently served by the Billings Fire and Police Departments. There will be no change in the provision of these services.

**Emergency Medical Service** There will be no change is the current service provider.

**Solid Waste Disposal** The City of Billings will continue to provide solid waste and disposal services.

**Schools** No school facilities will be affected this subdivision.

**Historic Features** There are no historic features known to exist on the property.



**4. Effects on the Natural Environment**

The proposed subdivision is for land that is fully developed and completely within an urbanized area. The Sysco Subdivision will have no effect on the natural environment.

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

The proposed subdivision is for land that is fully developed and completely within an urbanized area. The Sysco Subdivision will have no effect on wildlife and wildlife habitat.4

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

**Environmental Assessment [Section 23-304(c)(2), BMCC][ 76-2-210(1), MCA]**

The requirements for preparing an environmental assessment do not apply to the first minor subdivision created from of a tract of record.

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

**1. 1990 Yellowstone County Comprehensive Plan**

*The proposed subdivision falls entirely within the Urban Transition area of the 1990 Yellowstone County Comprehensive Plan. Commercial development of this property complies with a number of the Comprehensive Plan goals in the following ways:*

- a. Retain and improve existing residential neighborhoods and develop new residential areas in an orderly and financially sound manner.** *The proposed subdivision will not interfere with existing residential neighborhoods.*
- b. Sound commercial development to conveniently serve county residents with minimum adverse impacts on transportation systems, residences, and visual integrity.** *The subdivision will allow for the continuation of an existing business located in an industrial area. No disruption of the transportation system, residences or visual integrity of the area is anticipated.*
- c. Promote a diversified economy by attracting new industry and expanding the existing economic base.** *The subdivision will facilitate the expansion of an existing business.*
- d. Protect against the encroachment of incompatible or unrelated uses.** *The subdivision will allow for the continuation of an existing use that is compatible with the surrounding area.*
- e. Curb urban sprawl and discourage leapfrog development.** *By allowing Sysco to expand into this subdivision, the Council is eliminating the potential of Sysco moving to edge of the City and proliferating urban sprawl.*
- f. Promote orderly and rational land use during the various stages of economic and residential growth cycles.** *Sysco has reached the capacity*

*of its current site and has determined that more space is required to accommodate future growth. The subdivision will allow for that growth.*

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

*The proposed subdivision is consistent with the Billings Urban Area 2000 Transportation Plan and the BikeNet Plan.*

**Compliance with the Montana Subdivision and Platting Act and local subdivision regulations [Section 23-201, BMCC, Section 23-304(c)(4), BMCC].**

The City has submitted and conducted the process for preliminary plat review in accordance with the Montana Subdivision and Platting Act and the City of Billings Subdivision Regulations.

**Sanitary requirements [Section 23-201, BMCC, Section 23-304(c)(5), BMCC].**

In accordance with Section 23-304(c), the City will certify as to the availability of municipal water and sanitary sewer service. The subdivider is not required to obtain approval from the Montana Department of Environmental Quality for sanitary facilities.

**Zoning requirements [Section 23-201, BMCC, Section 23-304(c)(6), BMCC].**

The existing and proposed uses comply with the current zoning designations.

**Planned utilities [Section 23-304(c)(7), BMCC, 76-3-608(3)(c), MCA].**

Utilities currently exist on the property. Because of the change in ownership, the City must grant utility easements to ensure continued legal access to the utilities for maintenance purposes.

**Legal and physical access [Section 23-304(c)(8), BMCC, 76-3-608 (3)(d), MCA].**

Lots 1 and 2 may be accessed from Monad Road. Lot 3 has physical access but must be granted legal access by filing an access easement from Edward Street across Lot 1, Block 1.

**CONCLUSIONS OF THE FINDINGS OF FACT**

These Findings of Fact have determined that certain conditions are required prior to filing the final plat to ensure the Sysco Subdivision is in compliance with state law and local regulations. Ms. Beaudry said the Planning Department is recommending that the Council conditionally approve the preliminary plat application for the Sysco Subdivision including the requested variances and acceptance of the finding of facts.

Councilmember Iverson moved for approval of the Planning Board recommendation, seconded by Councilmember Larson. On a voice vote, the motion was approved with Councilmember Brown voting “no”.

**7. PUBLIC HEARING AND RESOLUTIONS re-levying and re-assessing assessments on various Special Improvement Districts:**

- (A) Resolution 02-17875 for SID 1346: curb, gutter, sidewalk, storm drain and landscaping for the N. Broadway Streetscape between Montana Venue and 4<sup>th</sup> Avenue N
- (B) Resolution 02-17876 for SID 1350: street improvements, storm sewer, water and sewer improvements for Pinehurst Road
- (C) Resolution 02-17877 for SID 1352: street improvements, water and sewer improvements on Tamarisk Drive and Burning Tree Road

**Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Administrative Services Director Robert Keefe said these assessments are ready to be re-spread on the tax rolls, originally being spread last year. He noted that SID 1346 concerns the Broadway Streetscape, SID 1350 and 1352 concern Lake Hills Subdivisions. Councilmember McDermott asked if there were any businesses or addresses that received improvements and were not assessed for the improvements. Mr. Keefe said the 2<sup>nd</sup> Avenue water line may have included some payments through the Tax Increment Program. Councilmember McDermott noted that the Gazette, Veeder Law Firm and the Methodist Church were not part of the SID and asked if the City paid for those portions. Mr. Keefe said the TCEP grant covered those portions. She asked if there were other businesses that received improvements but were not part of the SID and did not pay for the improvements. Mr. Keefe noted there were some water lines installed on 2<sup>nd</sup> Avenue that were funded through the tax increment program. **(AMENDED BY COUNCILMEMBER MCDERMOTT.)** She asked if they are included as part of the maintenance districts and will be charged with maintaining the Streetscape and the Skypoint. She requested that Mr. Keefe supply the Council with the estimate for the annual maintenance. Mr. Keefe replied "yes" and he would supply that information. Councilmember McDermott asked why the crosswalks were being removed at 2<sup>nd</sup> Avenue North and Broadwater. City Administrator Dennis Taylor said it was a matter of "spalling" that has occurred from improper installation and will be repaired at the contractor's expense.

The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the staff recommendation, seconded by Councilmember Larson. Councilmember Jones said he does not understand why the Gazette was not paying their fair share. On a voice vote, the motion was unanimously approved.

**8. PUBLIC HEARING AND RESOLUTIONS levying and assessing initial assessments on various Special Improvement Districts:**

- (A) Resolution 02-17878 for SID 1351: curb, gutter and street improvements on Vaughn Lane.
- (B) Resolution 02-17879 for SID 1353: street improvements, curb, gutter, storm drain, water and sewer on 38<sup>th</sup> St. W, Grand Avenue, and Circle Fifty Sub.
- (C) Resolution 02-17880 for SID 1355: street improvements and sewer for Greenbriar Rd.
- (D) Resolution 02-17881 for SID 1356: King Avenue W widening and utilities; BBWA Bridge to 30<sup>th</sup> St. W

- (E) **Resolution 02-17882 for SID 1357: sewer improvements on Rimrock Rd, south of Rimpoint Subdivision**
- (F) **Resolution 02-17883 for SID 1359: street improvements, water and sewer to East and West Skokie Drives.**

**Staff recommends approval. (Action: approval or disapproval of staff recommendation.)**

Administrative Services Director Robert Keefe said these assessments were initial assessments for the SIDs as noted and are reading to spread on the tax rolls. He noted that SID 1351 is for Vaugh Lane, SID 1353 for street improvements to Hancock and Circle 50 Subdivisions, SID 1355 for street improvements for Lake Hills Subdivision – Greenbriar Road, SID 1356 for King Avenue improvements, SID 1357 for Rimpoint and Lillis Heights Subdivision sewer improvements, and SID 1359 Lake Hills Subdivision and Skokie Drives improvements. Councilmember McDermott asked if there were any city contributions to any of the SIDs or were they the full responsibility of the property owners. Mr. Keefe said typically there are some city contributions and he would provide that information to the Council.

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

**9. FIRST READING ORDINANCE FOR Zone Change #669: A zone change from Residential-9,600 to Residential Multi-Family-Restricted on Tracts 1 and 2 of Rush Acreage Tracts Subdivision and Lots 1-3, 5 and 6 of Rush Subdivision, 2<sup>nd</sup> Filing. The subject property is generally located on the northwest and southwest corners of Shiloh Road and Parkhill Drive. Kincaid Land, LLC, Randall Swenson, Bobbie Nitzel, Brian Bessey and Billings Urban Fire Service Area, owners; Engineering, Inc., agent. Zoning Commission recommends approval. Public hearing held 8/26/02; action postponed to 9/9/02. (Action: approval or disapproval of Zoning Commission recommendation.)**

Zoning Coordinator Jeff Bollman said a request was submitted by a majority of the property owners to delay action on the zone change so that they may take it back to the Zoning Commission meeting on October 1, 2002 to designate two certain lots to remain Residential Multi-Family Restricted and the remaining lots be re-advertised for Residential 7,000. This item would then come back before the Council at the end of October. He noted that if the owners withdraw the item there would be a four-month wait to resubmit and this action will accommodate the owners. Councilmember Larson moved to postpone the first reading ordinance for Zone Change #669 for re-submittal to the Zoning Commission for re-review and to the Council at the October 28<sup>th</sup> meeting, seconded by Councilmember Gaghen. On a voice vote, the motion was unanimously approved.

### **Council Initiatives**

- Councilmember Brewster asked that staff be instructed to resolve the on-going Right-of-Way issue behind the Bench School quickly. He noted this

has been unresolved for one year and has created problems for the business owner that is at the end of the alley. He said people are using his parking lot as access from the alley and tracking debris onto the lot that ultimately clogs the drain system in the lot. He said the business owner wishes to block the access but the confusion with the right-of-way status is unclear.

Councilmember Brewster moved to have staff resolve the right-of-way issue and bring back to Council a report, seconded by Councilmember Kennedy.

On a voice vote, the motion was unanimously approved.

- Councilmember Jones commented that he has concerns about the re-bidding process for the Skate Park. He does not want to see more funds being expended on a redesign and said he thinks it would be better to wait for a better bidding cycle. City Administrator Dennis Taylor noted that he was concerned about there being only one bidder and that the specifications were unique, which precluded several firms from bidding on the project. Assistant City Administrator Kristoff Bauer noted that this item is scheduled to be addressed at a future Council Work Session.
- Councilmember Poppler asked that the Council revisit the parking problems surrounding MSU-Billings. She said she has received several complaints from the surrounding neighbors. The Council concluded that they would reassemble the information that was gathered previously and summarize what had taken place the last time this was discussed and open discussions at another work session to decide whether to move forward with it. City Administrator Dennis Taylor noted two options were developed previously.
- Councilmember Larson requested that the Council be provided with a “cheat sheet” on the platting process, what can and cannot be conditioned and the limitations available, in the next packet prior to revisiting the Cherry Creek Development preliminary plat. Councilmember Gaghen also requested that staff prepare a time line on the Cherry Creek Development proposal showing what has transpired to date.

**ADJOURN** –With all business complete, the Mayor adjourned the meeting at 10:10 P.M.

THE CITY OF BILLINGS:

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

ATTEST:

BY: \_\_\_\_\_

*MINUTES: 09/09/02*

Susan Shuhler, Deputy City Clerk