

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

August 11, 2003

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana. Mayor Charles F. Tooley called the meeting to order and served as the meeting's presiding officer. The Pledge of Allegiance was led by the Mayor, followed by the Invocation, which was given by Councilmember Doris Poppler.

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

MINUTES – July 28, 2003 and July 30, 2003. APPROVED AS PRINTED.

COURTESIES – Solid Waste Division

- Solid Waste Superintendent Ken Behling presented Randy Crable with a plaque denoting his 30 years of service for the City of Billings. Mr. Crable retired August 8th from his current position of Solid Waste Supervisor overseeing the operation of the Billings Regional Landfill. He began his career on May 2, 1973 at the age of eighteen as a seasonal employee working on the back of a rear load garbage packer. Mr. Crable said he plans to spend more time camping, fishing, traveling and quality time with family. He introduced family members present in the audience.
- Mayor Tooley recognized former Councilmember Jack Johnson in the audience this evening.

PROCLAMATIONS – Mayor Tooley.

- August 16 – COMMUNITY FOOD DAY

BOARD & COMMISSION REPORTS

- Greg Krueger from the Downtown Billings Partnership said "downtown is still working well" and he noted he would be participating in the upcoming Work Session with the Council involving the Grant Criteria for the Partnership. He said materials related to the work session topic are forth coming.

ADMINISTRATOR REPORTS – Kristoff Bauer.

- City Administrator Kristoff Bauer said there were revisions on Items I, L and P of the Consent Agenda. Item I included a revised agreement, Item L contained an incorrect Block number on the staff memo and Item P deleted wording from the ordinance language.
- Mr. Bauer noted that two late additions would need to be added to the agenda this evening. The first was a Contract with the Mercer Group for executive recruitment of two current administrative positions and the second was a Security Agreement for the traveling Declaration of Independence - on display at the Western Heritage Center.

Councilmember Kennedy moved to add the Contract with the Mercer Group for Executive Recruitment as Item 10 and the Security Agreement with Annapolis Group, Ltd. as Item 11 to the Regular Agenda, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

CONSENT AGENDA:

1. A. **Bid Awards:**

(1) **Veteran's Park Parking Lot Improvements.** (Opened 7/22/03). Recommend Flack and Flack Construction, Inc., \$23,997.20.

B. **C.O. #3, Contract XIII – Phase II Water Plant Intake Project**, Star Service, \$40,002.00 and 45-day contract time extension.

C. **Assignment and Transfer** of West End hangar Ground Lease from R.W. McKamy to MT Land Company LLC, \$0.

D. **Reimbursable Agreement** with Federal Aviation Administration (FAA), not to exceed \$107,690.00 (10% City funding).

E. **Professional Services Agreement** for Airport Security Master Planning, Leigh Fisher Associates, \$399,986.00 (10% City funding).

F. **Development Agreement** for Kings Green Affordable Housing Project, Phase I funding for Phase I and II infrastructure, Diamond Realtors and Laughlin Construction and \$360,000 from FY2003-04 HOME funds.

G. **Mutual Aid Agreement** with Miles City fire department.

H. **Master Escrow and Release Agreement** for Transtech Center – Gabel Subdivision, 2nd filing.

I. **Agreement** with County Water District of Billings Heights for water to the Lake Hills Subdivision area.

J. **W.O. 02-19: Easement** with Sysco Food Services of Montana, Inc. for access road, \$70,191.35.

K. **Easement** for sanitary sewer in Rehberg Ranch Estates, \$0.

L. **Acknowledge receipt of petition to vacate** South 31st Street West south of Myrtle Drive between Lot 7, Block 14 and Lot 12, Block 19, Lampman Subdivision and setting a public hearing date for 9/8/03.

M. Acknowledge receipt of petition to annex a portion of Tract 3A, C/S 2317, Annex #03-05, George Rosenfeld and Eugene A. Brosovich, owners and setting a public hearing date for 8/25/03.

N. Resolution of Intent 03-18007 to create SILMD #285 along Moore Lane between Laurel Road and Amend Park and setting a public hearing date for 9/8/03.

O. Resolution 03-18008 for Authorized Signatories on a new US Bank account.

P. Second Reading Ordinances 03-5250 AND 03-5251 amending Section 6-511, 6-512, 22-302, and 26-115 revising and clarifying the Excavation Bond and Utility Bond requirements.

Q. Pledged Collateral on Certificate of Deposit and US Bank Repurchase account.

R. Acceptance and Approval of Office of Domestic Preparedness (ODP) Homeland Security Grant, \$70,000. (For Fire Dept Hazardous Material Emergency Response Team)

S. Acceptance and approval of War Supplemental Office of Domestic Preparedness (ODP) Homeland Security Grant, \$150,000. (Equipment for Fire Dept Hazardous Material Emergency Response Team)

T. Acceptance and approval of Office of Domestic Preparedness (ODP) Homeland Security Grant, \$100,000. (Trailer for Fire Dept Hazardous Material Emergency Response Team).

U. Acceptance and approval of Highway Traffic Safety Traffic Enforcement Grant #03-10 (402/405) Amendment, \$10,000.

V. Street Closure for Walker's Grill "Alive After Five" event on August 14, 2003.

W. Final plat of Appleby Subdivision

X. Bills and Payroll.

(Action: approval or disapproval of Consent Agenda.)

Councilmember Brewster separated Item I of the Consent Agenda. Councilmember Larson moved for approval of the Consent Agenda with the exception of Item I, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

Councilmember Larson moved for approval of Item 1 of the Consent Agenda, seconded by Councilmember Kennedy. Councilmember Brewster asked if the rate structure of the Heights Water District is comparable with the City of Billings. City Administrator Kristoff Bauer said the City charges the Heights Water District less for water service than other commercial operations. Councilmember Brewster asked if the City has initiated a dialog with the District to consider dissolving it and bringing it into the City. Mr. Bauer said annexation was discussed and the District said it was not something they were interested in pursuing. Councilmember Brewster said he has had several calls from constituents and hopes that ongoing dialogue will continue. On a voice vote, the motion was unanimously approved.

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION 03-18009 amending the FY2004 budget to provide funding for the Air Quality Control Board, \$21,000. 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 McDermott moved for approval of the staff recommendation, seconded by Councilmember Brown. Councilmember Kennedy asked the City Administrator if he was confident that this contract would come to a successful conclusion within six months. Mr. Bauer replied "yes". Councilmember Brewster asked if a requirement for periodic reports would be part of the contract. Mr. Bauer said that would be an important element. Councilmember McDermott asked if the County Commissioners are still offering free rent to the Air Quality Control Board. Mr. Bauer said he would clarify that issue with Commissioner Reno. On a voice vote, the motion was unanimously approved.

3. PUBLIC HEARING AND RESOLUTION 03-18010 relating to a project on behalf of Rocky Mountain College and the Issuance of Revenue Bonds to finance the costs of constructing, furnishing and equipping a new 200-bed suite residence hall and related improvements, refunding outstanding bonds, approving the project and authorizing the issuance of bonds. 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 Gaghen moved for approval of the staff recommendation, seconded by Councilmember Brewster. Councilmember Brown asked if the City's involvement in the bonds curtails future bonding ability for the City and would the bonds be available for sale to the public. Administrative Services Director Robert Keefe said these bonds will not impact the City's debt limit and will not restrict any bonds the City might issue in the future. He said there are negotiations in progress to sell the bonds privately to a bank for use in trust accounts for clients and will not be for sale to the public. On a voice vote, the motion was unanimously approved.

4. PUBLIC HEARING AND RESOLUTION 03-18011 disposing of City owned property described as Lots 9-12 and Lots 17-18, Block 163, O.T. to provide land for

the expansion needs of the Deering Clinic. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Community Services Manager John Walsh said the City is proposing to trade City-owned property located on Lots 9-12 and 17 and 18, Block 163, Billings O.T. for Lots 9-12, Block 142, Billings O.T. for the Deering Clinic expansion. He noted that the required Resolution of Intent and notification to the surrounding property owners was completed by July 24th. Mr. Walsh noted that the Deering Clinic opened in 1984 and expanded in the early 1990's. He explained the Clinic currently needs additional space for 200 plus employees and 35,000 yearly patients, adding that the proposed \$9.4 Million project includes a \$6 Million expansion.

Mr. Walsh said the Deering Clinic is operated by the Yellowstone City/County Health Department. The Clinic will pursue acquisition of right-of-way from the City for access onto 2nd Avenue South. He added that the project has been reviewed in reference to the current Gateway Business Planning Study. He recommended that the Council approve the trade. Councilmember Brown asked if an appraisal was completed on either of the properties. Mr. Walsh replied "no". He said estimates of the value of the City-owned property and the property to be traded were approximately \$100,000 for the City-owned property and \$70,000 for the property to be acquired.

The public hearing was opened. BILL KENNEDY, YELLOWSTONE COUNTY COMMISSIONER, said he is a member of the Board of Health. He asked the Council to approve the property trade and the resolution.

There were no other 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 approved with Councilmember Brown voting "no".

5. PARKING ADVISORY BOARD PROJECT PRIORITIES. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Parking Supervisor Liz Kampa-Weatherwax presented the Parking Advisory Board's Goals for 2003. She acknowledged the board members, noting that Ken Nicholson would give part of the presentation this evening. She said the purpose of the goal setting was to prioritize a list of projects that would enhance parking in the Central Business District, enabling City staff to implement the projects in an orderly manner.

She listed the goals that have been accomplished as: 1) implementation of a green meter program with the DBA, 2) paving of the Arcade Lot, 3) expansion of diagonal parking in the Central Business District, 4) implementation of a new rate and fine schedule, 5) acquisition of property at 4th and Broadway, 6) acquisition of property adjacent to Park II garage for future expansion, 7) installation of 10-hour meters and a permit program, 8) addition of 10-hour meters at the Library, and 9) installation of 170 new, electronic meters in the Central Business District. The goals process included interviews of staff, board members and surveys from downtown property owners. The list of potential projects was grouped into three categories: 1) priority projects, 2) continuing – work in progress, and 3) projects for later consideration.

Parking Board Member Ken Nicholson presented the highest prioritized projects as: 1) expansion of the Park II Garage, 2) development of parking at 4th and Broadway, 3) study of the downtown parking supply and demand to implement a rates

and rules study to manage the garages, and 4) study of parking needs east of 26th Street.

The lower prioritized projects were: 1) development of parking at No. 29th and 1st Avenue No., and 2) consideration of projects like condominiums in multi-use facilities in the future. He said the projects that work is continuing on are: 1) creating surface lots within and around the "core", 2) expansion of diagonal parking to the medical corridor area, 3) determination of how other diagonal parking requests will be addressed, and 4) focus on landscaping and visual appeal for parking lots and garages.

Councilmember McDermott asked if the need for developing parking at 4th and Broadway is as current as it was when the study was done. Mr. Nicholson said he is the President of the Downtown Business Association and noted that the last parking survey was completed in 1996. He said the RFP process is in the beginning stages and there will be ample time for input and a study to be completed before a garage is placed at 4th and Broadway.

Councilmember Poppler asked if there has been consideration of placing parking areas on the edge of town and shuttling drivers into the downtown area. Mr. Nicholson said that was a good idea and should be investigated. Councilmember McDermott asked if an agreement for parking at Metra could be a consideration for a "Park and Ride" facility. Mr. Nicholson said citizens would have to be convinced to utilize the facility. Councilmember Larson noted there would be conflicts with the unpredictable schedule of Metra.

Councilmember Brewster moved for approval of the Staff recommendation, seconded by Councilmember Kennedy. Councilmember Kennedy commended the board members for their work in furthering the parking projects in the City. On a voice vote, the motion was approved with Councilmember Brown voting "no".

6. RESOLUTION expanding the North Broadway Streetscape Maintenance District #4013. Staff recommends delaying action to August 25, 2003. (Action: approval or disapproval of Staff recommendation.)

Councilmember Iverson moved for approval of the Staff recommendation, seconded by Councilmember Brewster. On a voice vote, the motion to delay action to 8/25/03 was unanimously approved.

7. PRELIMINARY PLAT of Shiloh Corner Subdivision. Planning Board recommends conditional approval. (Action: approval or disapproval of Planning Board recommendation.)

Planning Staff Member Candi Beaudry said the proposed subdivision is located on the northeast corner of Central Avenue and Shiloh Road. This is a 20-acre, 8-lot subdivision to be used for commercial purposes and is zoned Community Commercial. The current use is cultivated croplands. Faith Chapel is located to the north of the property and MSU-B's College of Technology and soccer fields are to the east.

Ms. Beaudry said the findings of fact show no impact to agriculture and agricultural water user facilities because the property is currently irrigated with no downstream users. She said the water shares will be eliminated with the final plat filing. A traffic accessibility study was done and proposed signalization at certain accesses was recommended. Ms. Beaudry explained several different scenarios for the traffic

flow in and around Faith Chapel and the proposed subdivision. The subdivision wholly surrounds an MDU parcel fronting onto Central Avenue. MDU will dedicate right-of-way to the City and the subdivider will install improvements along the frontage on Central Avenue.

Ms. Beaudry said utilities are available onsite. She noted there were no adverse effects on agriculture and effects on water-user facilities, local services and access can be mitigated through the conditions of approval. The Planning Board recommended approval of the variances which are:

1. Variance from Section 23-601(d), BMCC, Streets, arterial no-access, for two full accesses, one right-in/right-out only access, one right-in enter only access, and one $\frac{3}{4}$ access, no left-turn on exit access, in accordance with the locations as shown on the face of the plat on Shiloh Road and Central Avenue. Said accesses shall have protected throats as shown on the face of the plat.
2. Variance from Section 23-602, BMCC, Platting of Alleys in a commercial area, because a permanent service access in excess of an alley design is provided for service access, off-street loading, unloading, and parking consistent with the uses proposed.

The Planning Board recommends conditional approval with the following conditions:

1. To minimize effects on local services, the subdivider:
 - a. Shall show dimensioned approach throat depths on the final plat.
 - b. Work with Montana-Dakota Utilities to dedicate right-of-way on Central Avenue in front of C/S 787 prior to filing the final plat.
 - c. Add a provision in the SIA to address access modifications on Shiloh Road to include:
 - Full access initially on Shiloh at the north subdivision intersection when Phase II develops (north 5 lots).
 - No internal access to Faith Chapel property until Faith Chapel intersection on Shiloh is signalized.
 - Reduce access at the north intersection to right-in-right-out only and extend median when access to property west of Shiloh is developed.
 - Open internal access between subdivision and Faith Chapel when Faith Chapel intersection on Shiloh is signalized.
 - If property west of Shiloh is not developed, but Faith Chapel intersection is signalized, the north subdivision intersection on Shiloh may be modified to a $\frac{3}{4}$ access (right-in, right-out and left in).
2. To ensure that the final plat will comply with local subdivision regulations and state law:
 - a. Minor wording changes may be made in the SIA and final documents upon request of the Planning or Public Works Departments to clarify the documents and bring them into standard, acceptable format.
 - b. The final subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code, and Rules,

Regulations, Policies, and Ordinances of the City of Billings, and the Laws and Administrative Rules of the State of Montana.

The Planning Board recommends the following Findings of Fact for the Shiloh Corner Subdivision. These findings are based on review of the preliminary plat application, supplemental documents, and public comment. The findings address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Section 23-304(c), BMCC).

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

1. Effect on Agriculture

Most of the property to be subdivider is being actively farmed. Approximately 18 acres of the property is cultivated, the remaining acreage was an old farmhouse site that is currently vacant. The agricultural value of this property will obviously be affected. However, because it is an isolated 20-acre parcel, entirely surrounded by urban use, the value has already been significantly diminished. Because of that, the impact will not be significant.

2. Effect on agricultural water user facilities

The property is flood irrigated by a series of lateral ditches that traverses this property from the west. Water rights to this ditch will be severed.

3. Effect on Local Services

- **Water and Sewer Service.** City water and sewer will be extended to the proposed subdivision from mains existing in Shiloh Road and Central Avenue. The subdivider will install at its expense, water and sanitary sewer services and a fire main with the subdivision to serve all lots. A sanitary sewer lateral exists along the east boundary of the proposed subdivision. The subdivider will grant an easement to the City of Billings for continued access to that sewer line. Sanitary sewer improvements shall consist of connecting necessary services to the individual lots within the subdivision from this lateral.
- **Storm Water Drainage.** Storm water from the proposed subdivision will be discharged into the Shiloh Drain. Storm drainage improvements will consist of curbs and gutters, storm drain lines and storm drain inlets. All crossings and discharges affecting the Shiloh Drain shall be approved by the Shiloh Drain Board.
- **Public Streets and Roads.** There will be no public roads in the proposed subdivision. Instead, traffic circulation will be provided by five shared access roads and parking lot drive lanes. A service drive extending from Central Avenue north to the south corner of lot 8 will provide for service deliveries and off-street loading. The service drive will not connect to Faith Chapel to the north.

Shiloh Road and Central Avenue are the main public roads affected by this subdivision. Shiloh is a principal arterial street and carries traffic from Interstate 90 to Rimrock Road. Traffic volumes on Shiloh range from a high of 10,400 average daily traffic (ADT) north of Broadwater Avenue to 6,700 ADT south of King Avenue. Central Avenue is also a principal arterial running east-west and carries traffic from downtown Billings to the west end. Traffic volumes in the vicinity of the proposed subdivision range from 3,250 ADT west of Shiloh to 4,600 ADT, east of Shiloh. The intersection at Shiloh and Central is currently controlled with a four-way stop and operates at a C to F level of service. This intersection warrants signalization at this time. The subdivider will participate in the cost of new traffic signal installation at this intersection. This contribution will be calculated based on the anticipated volume of ADT originating from the subdivision upon build out.

Street improvements on Shiloh include, but are not limited to, those street widening items necessary to tie in the three common access drives. Specifically, these will include acceleration/deceleration lanes, left-turn lanes across the full frontage, temporary signal improvements and pin down curb for raised median control with streetlight illumination. Because of the shared access with Faith Chapel and the potential traffic flow south via the service drive to Central Avenue, some modifications to the north subdivision access will be required to limit traffic volumes at this location. If the connection to Faith Chapel is not open, the north intersection can remain full access. When access to Faith Chapel is opened the intersection could conceivably carry more traffic at this intersection and through the subdivision to Central Avenue. To avoid this, the intersection should be restricted to left-in, right-in, and right-out only turns (3/4 access). At that time, the south intersection on the Faith Chapel property may warrant signalization. Also, the property west of Faith Chapel may develop in the near future. The obvious access onto Shiloh from that property would be at the Faith Chapel intersection. If the intersection is not signalized at that point, development from the west could trigger a signal. In this case, the north subdivision intersection would need to eliminate the left-in turn off of Shiloh because of the distance separation requirements between this intersection and the Faith Chapel intersection.

Off-site street improvements on Central Avenue shall include complete construction of only the north half, sufficient in width to provide an eastbound through lane, westbound through lane, westbound right lane, and westbound left-turn lane. Also included will be a raised median, curb, gutter, 5-foot wide boulevard walk, drainage, gravel and pavement and necessary striping. The east intersection will remain full access. If an opportunity arises such that an access could be shared with the College of Technology, that intersection would be signalized. The east subdivision intersection would not be signalized.

- **Fire and Police Protection.** The proposed subdivision will be served by City Police and Fire Departments. The Fire Station #5 is the closest fire station and is located at 505 S. 24th Street West. The subdivider will install an 8-inch

fire line loop with backflow prevention vaults and fire services within and adjacent to the subdivision.

- **Solid Waste Disposal.** Solid waste disposal will be provided by the City of Billings Solid Waste Department.

4. Effects on the Natural Environment

The property to be subdivided is located on level ground that has been cultivated for agricultural purposes. The soil types exhibit low bearing capacities for building sites and moderate shrink-swell potential.

The depth to water table appears to be at or greater than 6 feet below the surface. Because the development will be connected to City sewer and water services and storm drainage will be discharged into the Shiloh Drain, there is low potential for groundwater contamination.

The proposed subdivision will result in a large expanse of impervious surface that will reduce the potential for future groundwater recharge, however, because this area is mostly urbanized, the reduction of groundwater recharge ability will have limited effect on the properties to the south and southeast – those that would otherwise benefit from the recharge potential.

5. Effects on Wildlife and Wildlife Habitat

This area has limited wildlife habitat potential but does host some upland bird species that use the irrigation ditches as travel corridors. In particular, ring-necked pheasants have been observed on and near the property. The proposed subdivision will eliminate all upland bird and other wildlife habitat present.

6. Effects on Public Health and Safety

Montana-Dakota Utilities operates an electrical substation at the southeast corner of the proposed subdivision. The substation is well landscaped and completely fenced and does not pose a threat to public safety. There are no natural hazards present on the property.

B. Environmental Assessment [Section 23-304(c)(2), BMCC; 76-3-210(1), MCA]

The subdivider prepared an Environmental Assessment as required by the City Subdivision Regulations and state laws in effect at the time of submittal preparation.

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

1. 1990 Yellowstone Comprehensive Plan

The proposed subdivision conforms to the following goals and policies of the *1990 Yellowstone County Comprehensive Plan*:

(a) Capitalize on the use of existing public sewage systems and improve sewage systems in areas not currently served by public systems. (H-4)

City water and sewer service may be extended to the proposed subdivision from nearby mains.

(b) Sound commercial development to conveniently serve county residents with minimum adverse impacts on transportation systems, residences, and visual integrity. (K-2)

This proposed subdivision is well placed to conveniently serve city and county residents along existing transportation routes. Rights-of-way and property abutting public rights-of-way will be landscaped and maintained in an attractive manner to enhance visual integrity.

(c) Promote a diversified economy by attracting new industry and expanding the existing economic base. (K-3)

This proposed subdivision is zoned community commercial. The Shiloh Corner Subdivision may attract new commercial activity that will expand the existing economic base.

(d) Protect against the encroachment of incompatible or related uses. (K-5)

The commercial subdivision is compatible with the surrounding uses and is buffered from residential uses by a large church campus, school district property and a college campus. The one point where the property is in contact with residential use will require fencing.

(e) Curb urban sprawl and discourage leapfrog development. (K-7)

The subdivision is contiguous to existing public and institutional uses. This is an example of growth at the edge rather than leapfrog development.

(f) Promote orderly and rational land use during the various stages of economic and residential growth cycles. (K-12)

When developed, this subdivision will consist of variety of commercial businesses targeted at the community and regional consumers, appropriate for west end development. No information was provided to determine whether the market could support more of this type of use.

(g) Encourage and direct urban growth to urban infill areas and contiguous lands to maintain a strong economy and accomplish a sound transition of agricultural land. (I-3)

While this subdivision does encroach on agricultural land, it is adjacent to an urbanized area within the city limits.

2. Billings Urban Area 2000 Transportation Plan and BikeNet

The proposed subdivision adheres to the goals and objectives of the 2000 Transportation Plan and preserves the street network and street hierarchy laid out in that plan. A bicycle easement will be granted along the north boundary of

the property to preserve the route for future trails in accordance with the 1994 BikeNet Plan.

3. West Billings Plan

The proposed subdivision complies with the following policies of the West Billings Plan.

(a) Utilize zoning to provide an efficient and orderly transition from agricultural to urban land utilization. Minimize leapfrog and indiscriminate development and conserve agricultural lands that are beyond the West Billings Plan area.

While this subdivision will eliminate the agricultural use of the land, it promotes commercial development at the intersections identified for commercial development and is within the city limits.

(b) Provide a consistent and abundant network of landscaping along streets and in parking areas by the creation of street tree planting, landscaped streetscapes and aesthetic site improvement qualities throughout West Billings, and assure there is adequate room for utility placement in the right of way.

The development will be required to comply with landscape standards for Community Commercial zoning.

D. Compliance with the Montana Subdivision and Platting Act and local subdivision regulations. [Chapter 23, BMCC]

The preliminary subdivision plat application met all the requirements of the City Subdivision Regulations and the Montana Subdivision and Platting Act. The subdivider has complied with the procedures for preliminary plat review outlined in the regulations.

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

The subdivider must receive approval from the Montana Department of Quality to connect with the City sewer lines.

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

The property was rezoned in January, 2003 from agricultural-open space to Community Commercial. The proposed uses will comply with that zoning designation.

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

Electricity, gas, telephone and cable TV can be extended from existing services adjacent to the proposed subdivision. Utility easements will be located easement along the lot lines and in the service drive as requested by the utility companies.

H. Legal and physical access. [Section 23-304(c)(8), BMCC; 76-3-608(3)(d), MCA]. Legal and physical access to the subdivision is provided by Shiloh Road and Central Avenue. Shared internal access will be granted by way of restrictions and easements governing the uses in the proposed subdivision.

CONCLUSIONS OF THE FINDINGS OF FACT

Review of the preliminary plat application and supplementary submittal documents indicate that the proposed Shiloh Corner Subdivision will have no significant impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public safety. Furthermore, the preliminary plat complies with requirements of the City Subdivision Regulations and the Montana Subdivision and Platting Act.

Councilmember Kennedy asked if both Faith Chapel and the property owners to the north have agreed to the reciprocal access agreement. Councilmember Larson asked if there is another access for Faith Chapel traffic to get down to Central Avenue. Ms. Beaudry said the proposed access is the only route with the expectation that traffic will go through the subdivision to Central Avenue from Faith Chapel unless there is a controlled access at Shiloh Road.

Councilmember Poppler asked what the impacts of the subdivision will be on the College of Technology and Career Center. Ms. Beaudry noted the letter from MSU-B's Chancellor and the Dean related to their concerns about one access through the College of Technology and a screening for burning between the two properties. She said there would be no access through the College of Technology unless they would prefer that. She noted that the traffic engineers have tried to minimize the traffic flow. Burning or buffering is a site development standard and will be addressed during the review of the development plan, she added.

Councilmember Brown asked about City costs for work on the road and accesses. Ms. Beaudry said if the Transportation Policy requires Shiloh to be developed to arterial standards, the City's policy is to pay for the additional costs to bring it to the standard beyond what is required by the developer. There is no current estimate of that cost because the design of Shiloh Road has not been completed, she added.

Councilmember Ohnstad asked if the burn requirement will appear on the final plat. Ms. Beaudry said the Council will not see the plan, it will be submitted with the building permit application. The Planning Staff then reviews the application for compliance with zoning which requires a minimum of 10-feet buffering between commercial and public use. She noted that the plan as it exists now is not in compliance. Councilmember Poppler asked if Faith Chapel will join in the expense of signalization. Ms. Beaudry replied "yes", they will participate proportionally.

Councilmember Kennedy 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".

8. PRELIMINARY PLAT of High Sierra Subdivision, 3rd Filing. Planning Board recommends conditional approval. (Action: approval or disapproval of Planning Board recommendation.)

Planning Staff Member Candi Beaudry said this is a 70-residential lot subdivision located north of Skyview High School. This was former City-owned property. The zoning is Residential 7,000 that allows for single-family homes on 7,000 square foot lots. The surrounding areas are Residential 7,000 and Residential 9,600. She said there were no significant impacts on agriculture and no agricultural water-user facilities. High Sierra and Sierra Grande Streets will be developed to collector street standards and bike lanes will be striped along High Sierra.

Ms. Beaudry also noted that an emergency gravel road that would connect the local east/west roads might be used more heavily than originally designed. Discussions with the developer and adjacent landowners considered developing the road to half-street standards requiring paving. There are offsite storm detention facilities and the developers are pursuing an agreement with School District #2 to place storm drain facilities on vacant land owned by the school district. Ms. Beaudry said the Police Department was concerned with the close proximity to Skyview High School and the need for security during construction. There was no significant impact to all other review criteria.

Ms. Beaudry said the Planning Board is recommending conditional approval with the conditions being:

- 1 To minimize the effects on local services, the subdivider shall:
 - a. Provide an executed easement from School District #2 for temporary storm facilities on their property prior to filing the final plat. In the event an easement cannot be obtained from SD #2, the subdivider shall install the facilities on subdivision lots.
 - b. Include a special provision for fencing and control of work areas during construction in Private Contract P-494.
 - c. Initiate discussion with Mr. Jay Lyndes to construct a paved half street instead of gravel emergency road along the previous platted segments of Vesca Way, Sierra Granda Boulevard, Cortez Avenue and Matador Avenue.
- 2 Minor wording changes may be made in the SIA and final documents upon request of the Planning or Public Works Departments to clarify the documents and bring them into standard, acceptable format.
- 3 The final subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code, and Rules, Regulations, Policies, and Ordinances of the City of Billings, and the Laws and Administrative Rules of the State of Montana.

The Planning Board recommends the following Findings of Fact for the High Sierra Subdivision, 3rd Filing. These findings are based on review of the preliminary plat application, supplemental documents, and public comment. The findings address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Section 23-304(c), BMCC).

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

1. Effect on Agriculture

The proposed subdivision will border rangeland to the north. The property is fenced and will be separated from the developed lots by a local street and powerline easement. This separation will help minimize effects on the adjoining agricultural land.

2. Effect on agricultural water user facilities

There are no agricultural water users facilities present on the proposed subdivision.

3. Effect on Local Services

- **Water and Sewer Service.** City water and sewer will be extended to the proposed subdivision from mains existing in High Sierra Boulevard and Fantan Street. The subdivider will be required to extend these mains within the rights-of-way of the proposed and previously platted, but not developed, local streets.
- **Storm Water Drainage.** Storm drainage and surface flow shall be provided by a combination of surface drainage, curbs and gutters, valley gutters, and storm drain detention. Storm drain facilities currently do not exist in the vicinity of the proposed subdivision. Temporary storm water detention facilities will be constructed on private property owned by School District #2. In the future, the subdivision may be required to participate in the costs of future area-wide storm drainage improvements. The subdivider has included a waiver of right to protest the creation of an SID to pay for these future improvements.
- **Public Streets and Roads.** Access to the subdivision is from High Sierra Boulevard and Fantan Street. High Sierra is a collector street that will eventually connect with Annandale Boulevard to the north. The subdivider will construct the entire length of High Sierra to the north boundary of the subdivision. Both sides of High Sierra will be improved to collector street standards with full height curb and gutter and 5-foot wide boulevard sidewalk up to the intersection with Sierra Grande Boulevard. From that intersection north, only the east side of the street will be improved with curb, gutter and sidewalks. High Sierra will be constructed to 49 foot from back of curb to back of curb. The four east-west oriented streets are classified as local streets and will be constructed to 37 feet from back of curb to back of curb. Roll-over curbs and 4-foot wide boulevard sidewalks will be installed along both sides of the local streets with the exception of Matador Avenue. Matador fronts a row of lots on the south and rangeland to the north. Curb, gutter and sidewalk will not be constructed on the north side of Matador. Fantan Street, a north-south oriented street will be improved to local street standards from the existing terminus to the intersection of El Rancho Drive. Improvements along Fantan will not include

sidewalks because sidewalk installation was a condition of development of the High Sierra Subdivision 1st Filing.

The traffic accessibility study concluded that this subdivision would generate 66 vehicle-trips during the morning peak hour and 86 vehicle-trips during the afternoon peak hour. The subdivision will have a minimal impact on traffic operations of the surrounding street system.

The subdivider has agreed to construct an emergency gravel road connecting the improved roads via Vesca Way. Considering the potential traffic volume this connector could generate, the City Traffic Engineer has requested that the subdivider discuss the possibility of constructing a paved, half street with the adjoining landowner. The emergency route is entirely off-site. Requiring the subdivider to construct an improved, full-width street is not justified in terms of expense and proportionate impact.

- **Fire and Police Protection.** The proposed subdivision will be served by City Police and Fire Departments. The Fire Station #6 is the closest fire station and is located at 1601 St. Andrews Drive, less than 2 miles from the subdivision. The subdivider will construct temporary gravel roads connecting the developed streets to ensure emergency access. The 24-foot wide gravel roads will connect Matador Avenue, Cortez Avenue and Sierra Grande with Vesca Way.

The proximity to Skyview High School and the potential for vandalism concerns the Police Department. Staff suggests that fencing and work area security be in place during construction of the subdivision.

- **Solid Waste Disposal.** Solid waste disposal will be provided by the City of Billings Solid Waste Department.
- **Schools.** The proposed subdivision is served by School District #2. Nearby schools include Skyview High School, one half block south, Eagle Cliff Elementary, one mile south and Castle Rock Junior High, one half mile to southeast.
- **Parks.** The parkland dedication requirement was met when High Sierra Subdivision 1st Filing was platted. High Sierra Park is located southwest of the proposed subdivision at the west terminus of Wicks Lane. Maintenance of the park is performed by the City and paid for with funds received through a park improvement maintenance district. All of the lots within the proposed subdivision shall be added to the existing park maintenance district.

4. Effects on the Natural Environment

The property slopes gently to the northeast. On the east side of the subdivision, the ground slopes into a steep gulley that drains to the northeast. The soil layer is fairly thin and overlies flat-lying sandstone bedrock that crops out along

hillsides and on flat surfaces. The land is currently vacant, open grassland. The soils are composed of sandy loam and are moderately erodible and do not contain significant amounts of expandable clays.

5. Effects on Wildlife and Wildlife Habitat

This area of the Billings Heights is frequented by herds of antelope that graze on open rangeland as well as domestic lawns. There may be conflicts between humans and wildlife in this area. The Montana Department of Fish, Wildlife & Parks (FWP) commented on the presence of antelope in this area during their review of the High Sierra, 2nd Filing in 2002. They believed that "prospective homeowners should be advised that current residents in this area are experiencing problems with antelope that eat flowers, shrubs and gardens. FWP does not remove wildlife from residential areas unless there is a threat to physical safety. Since this subdivision is in and adjacent to occupied antelope habitat, this problem will continue for sometime." When responding to the request for information regarding this filing, FWP did not have any additional comments.

6. Effects on Public Health and Safety

There are no known manmade hazards or natural hazards occurring within the proposed subdivision.

B. Environmental Assessment [Section 23-304(c)(2), BMCC; 76-3-210(1), MCA]
The proposed subdivision is exempt from the requirement for preparing an environmental assessment because it is totally within an area that has adopted:

1. a growth policy,
2. zoning regulations,
3. a strategy for public infrastructure.

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

1. 1990 Yellowstone Comprehensive Plan

The proposed subdivision conforms to the following goals and policies of the *1990 Yellowstone County Comprehensive Plan*:

- a. Protect against the encroachment of incompatible or related uses. (K-5)**
The residential subdivision is compatible with the existing residential land use. The property has been zoned R-9600 since the mid 90s when it was annexed to the City. A recent zone change increased the allowable density but still maintained the residential character.
- b. Curb urban sprawl and discourage leapfrog development. (K-7)**
The subdivision is contiguous to existing residential development. This is an example of growth at the edge rather than leapfrog development.

- c. Encourage and direct urban growth to urban infill areas and contiguous lands to maintain a strong economy and accomplish a sound transition of agricultural land. (I-3)

While this subdivision does encroach on vacant, open land, it is adjacent to existing residential development within the city limits.

- d. Capitalize on the use of existing public sewage systems and improve sewage systems in areas not currently served by public systems. (H-4)
City water and sewer service may be extended to the proposed subdivision from nearby mains.

- e. Adequate housing supply for all income levels. (C-1)

The existing zoning will provide some variety of housing options. Seven of the proposed 70 lots may accommodate duplex units. The remaining lots are sized for single family housing.

2. Billings Urban Area 2000 Transportation Plan and BikeNet

The proposed subdivision adheres to the goals and objectives of the 2000 Transportation Plan and preserves the street network and street hierarchy laid out in that plan. High Sierra Boulevard is identified as an on-street connector in the 1994 BikeNet Plan. High Sierra will be striped for bike lanes on both sides.

D. Compliance with the Montana Subdivision and Platting Act and local subdivision regulations. [Chapter 23, BMCC]

The preliminary subdivision plat application met all the requirements of the City Subdivision Regulations and the Montana Subdivision and Platting Act. The subdivider has complied with the procedures for preliminary plat review outlined in the regulations.

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

The subdivider must receive certification from the Montana Department of Quality to connect with the City sewer lines.

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

A zone change from R-9600 to R-7000 was recently approved by the City Council. Most of the lots range between 7,323 and 8,500 square feet which would accommodate single family units only. Seven of the lots are greater than 9,600 square feet and would accommodate duplex units.

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

Electricity, gas, telephone and cable TV can be extended from existing services adjacent to the proposed subdivision. Where possible, these utilities will be located in an easement along the rear lot lines.

H. Legal and physical access. [Section 23-304(c)(8), BMCC; 76-3-608(3)(d), MCA]. Legal and physical access is provided by High Sierra Boulevard and Fantan Street. Traffic would originate off of Wicks Lane.

CONCLUSIONS OF THE FINDINGS OF FACT

Review of the preliminary plat application and supplementary submittal documents indicate that this proposed subdivision will have no significant impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat, and public safety. Furthermore, the preliminary plat complies with requirements of the City Subdivision Regulations and the Montana Subdivision and Platting Act.

Councilmember Brewster asked if the bike lane will eliminate parking. Ms. Beaudry said the bike lane is typically striped outside of the parking lane and it is a collector street providing plenty of roadway. Councilmember Poppler asked what the impact would be on the existing traffic problem at Skyview High School. Ms. Beaudry said the traffic study identified an impact and the developers will participate in signalization at Wicks and Governors Lane. Traffic will increase but extension of certain streets onto Wicks Lane would provide some relief.

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

9. FINAL PLAT of B & R Subdivision. ACTION DELAYED FROM 7/28/03. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Planning Director Ramona Mattix said the initial concern of this plat was the conflict between the utilities and the irrigation ditch on the perimeter of the property. The change that has occurred since the Council's last consideration is that the western irrigation ditch has been increased from 4 feet to 14 feet and the ditches on the west side were increased to 17 feet. She said this should mitigate the conflict.

Ms. Mattix also said a letter dated August 10th from adjacent landowners stated concerns about a number of items on the punch list. Those concerns were: 1) the means of notifying prospective purchasers about high ground water conditions (Ms. Mattix said that would be contained in the SIA), 2) lawn irrigation wells are prohibited in the subdivision (this will also be stated in the SIA), 3) easement width previously stated would mitigate conflicts between the utilities and irrigation ditch, 4) concern of John and Judy Reed for replacement of their fence (Empire Sand and Gravel will assume the cost of fence replacement), 5) cleaning the ditch on the Reed property, 6) replacement of the headgate of the north/south ditch, 7) assurance that domestic water will not be affected by the subdivision (Ms. Mattix noted that Items 5, 6 & 7 are not related to the final plat, but covered by private contract that will be enforced by the Planning Department).

Councilmember Brewster asked if the City will be prescribing standards for the replacement of the headgate. Ms. Mattix said the installation of the headgate must be accepted by the BBWA as the governing agency. Councilmember Brewster asked if the users or BBWA has jurisdiction over that portion of the ditch. Ms. Mattix said she

understands that the BBWA has some authority over a portion of it. There have been discussions with Jim Corcoran and he has approved the headgate construction plans at a board meeting. Councilmember Brewster asked that the developer be sure to consult with the water users before final construction. Councilmember Brewster noted there will inevitably be conflict between the water users and the future property owners during irrigation because of water in their basements. He asked how the conflicts will be resolved. Ms. Mattix said there is a piece of information included in the Subdivision Improvement Agreement (SIA) stating that during irrigation the use of sump pumps will likely be required. Future owners will be informed of this provision through that document.

Ms. Mattix also noted that fencing issues will require future homeowners to follow fencing requirements. Councilmember Brewster expressed concern for future homeowners that will be purchasing low-end homes, adding they could incur additional expenses that could be outside of their budget range. He said he hopes these issues can be mitigated on the "front end". Ms. Mattix said this subdivision has one of the longest list of conditions and the Planning Staff has worked through them fairly well. Councilmember Brown asked where the sump pump water would legally go. Mr. Bauer said it should go into the surface water system and he said he would confirm that.

Councilmember Ohnstad moved for approval of the Staff recommendation, seconded by Councilmember Iverson. Councilmember McDermott asked that the Planning Staff be proactive on any possible basement flooding issues. On a voice vote, the motion was unanimously approved.

10. PUBLIC COMMENT. (Non Agenda Items; comments limited to 3 minutes per speaker.)

LATE ADDITIONS:

10. Approval of Contract with Mercer Group for Executive Recruitment to fill two executive level positions in the City Administrator's office, \$15,000 plus expenses. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Councilmember Kennedy asked where this request originated. City Administrator Kristoff Bauer said the proposal was discussed at the Work Session and provided in the Friday Packet. Councilmember Kennedy questioned the need for two additional positions. Mr. Bauer noted that both positions are currently funded positions, one is for the replacement of the Assistant City Administrator position and the other is re-titling the Finance and Administrative Services Director position to the Deputy City Administrator position. Councilmember Larson moved for approval of the Staff recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was approved with Councilmember Brown voting "no".

11. Approval of Security Agreement with Annapolis Group, Ltd. for security services for the traveling Declaration of Independence. Staff recommends approval. (Action: approval or disapproval of Staff recommendation.)

Mr. Bauer said the security agreement is for the display of the traveling Declaration of Independence that is already in progress. This item came to the Police Department rather quickly and the City has asked for reimbursement for the security being provided. The agreement is a standard one that allows for this compensation. Councilmember McDermott moved for approval of Staff recommendation, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved.

12. PUBLIC COMMENT. (Non-Agenda Items: comments limited to 3 minutes per speaker.)

The public comment period was opened.

- BRUCE SIMON, 217 CLARK, spoke regarding the expansion of the North Broadway Streetscape Maintenance District. He noted that he did not know it had been delayed. He said it is difficult for property owners to comment when they are not aware of the new proposal to calculate the assessments. His concern was the lack of communication between the City and the property owners involved in the maintenance district. He noted that his property is not on Broadway but is proposed to be included in the maintenance district. He said he did not have any new sidewalks put in as part of the Streetscape project and yet he will be assessed the same amount as property owners that are on Broadway. He added that 5 different City staff persons could not give him an answer to his questions about the maintenance district notice until after the Council Meeting involving that action. He asked that the City keep the property owners informed of proposed actions in advance of their approval.
- JOSEPH WHITE, 922 N. 30TH STREET, spoke in reference to the disposal of City property. He said a government committee should be formed, including City, County, State and Federal representatives, to discuss how various government properties may be "brought together" in a government complex type of situation. He noted he opposes any change in agricultural zoning in the Shiloh area. He also expressed concern for the general growth of Billings and the need to withdraw more water from the Yellowstone River for human consumption.
- CHUCK GOLDY, 2127 LYNDALE LANE, asked the Council if there was any newly proposed action on Special Review #740 for the Ace Hardware Store at 4170 State Street that was presented at the July 28th Council Meeting. Mayor Tooley clarified that there was no action on this evening's agenda and could be no new action on that item after tonight.
- MINDY NELSON, 1220 AVENUE F, asked about the status of the Growth Policy and the issues that were brought forward during the public comment period. She also asked about the scheduling of the joint City/County meeting to discuss these issues. City Administrator Kristoff Bauer noted that the joint meeting would not be needed after Work Session discussions that developed recommendations that were forwarded to the County for review. The City did not receive any changes to the recommendations from the County. An agreement with the County was reached without further work sessions or public hearings he added. He said the revisions would be brought to Council for a final public hearing and adoption soon. Councilmember Gaghen commented that Planning Staff Member Candy Beaudry welcomes any questions about the status of the Growth Policy and the revisions.

There were no other speakers. The public comment period was closed.

Council Initiatives

- **COUNCILMEMBER GAGHEN:** Councilmember Gaghen spoke about her concerns of silica materials being used in sandblasting and their being a detriment to public health and safety, causing dangerous particulates to be airborne that can jeopardize the community members' health. Councilmember McDermott noted that Yellowstone County should be included in discussions about these effects. Mr. Bauer said it may be more appropriate to have countywide discussions and the Council could adopt a resolution that the County take appropriate action. Councilmember Brewster said he would like to see this item as a Council discussion agenda item. He noted that sometimes silica is the only acceptable medium to use in certain sandblasting operations. Councilmember Gaghen moved to direct Staff to research and bring to Council for discussion proposals to enact or work toward restricting the use of silica in the sandblasting process and the development of the use of alternative mediums, seconded by Councilmember McDermott. Councilmember Brown asked to see data proving that any replacement medium would be safe. Councilmember Poppler asked if it is appropriate for the Council to be restricting sandblasting operations when the State agencies are already involved in their regulation. Mayor Tooley noted that information from regulatory agencies addressing this issue should be part of the discussions. On a roll call vote, the motion was approved 7-3 with Councilmembers McDermott, Gaghen, Brown, Brewster, Iverson, Ohnstad and Mayor Tooley voting "yes" and Councilmembers Kennedy, Poppler, and Larson voting "no".
- **MAYOR TOOLEY:** Requested a discussion to determine the aspects and issues in drafting a Contract with the new City Administrator be brought to Council at the August 25th Council Meeting. It was noted that Councilmembers did not have an issue with the salary amount. It was further noted that Councilmembers did not have an issue with the proposed benefits. Councilmember Larson said he was part of the group that thought the bonus concept is a good idea, but in practice is not up to the same level as the concept. He said factors get involved that have nothing to do with the individual's performance, yet the contract states that the bonus should be based solely on performance. He said the City had an Administrator that achieved those goals but was not given the bonus that was implied by that performance. He said he has concerns about how that process was carried out, adding that he prefers not to repeat that experience as the message intended by the Council was not the message received by the employee. Councilmember Kennedy agreed with Councilmember Larson's remarks, stating that the focus should be on the entire performance and not isolated occurrences with the bonus tied to achievement. Mayor Tooley said the situation actually was that the bonus was scheduled during a tight money period and it was not necessarily indicative of performance.

Councilmember Larson said there should be more of a guarantee and built in strategy regarding the bonus. He said the Council should "steer away" from the idea of merit pay or a bonus.

Councilmember McDermott said the COLA keeps the position in line with the top step of the next lower department head. Mr. Bauer noted department heads at the top of their range just receive the COLA on an annual basis. She said percentages are the best way to augment salaries as high as the Administrator's salary.

Councilmember Brewster stressed that administrators in other similar organizations have certain points clearly defined in their contracts. Typically a range is specified and the contract triggers the increase, based upon the criteria. He stated that in most instances this worked very well. He added that the Council should consider moving the date away from the election cycle. Mayor Tooley noted that the Council is required to complete the administrator evaluation by December 1 and the bonus usually takes effect January 1. Councilmember Brewster suggested that the evaluation be tied to the goal setting process instead.

Councilmember Poppler said the Council should consider setting a salary range that is fair to the administrator. He should be paid adequately for the performance of his duties. Mayor Tooley said the range is currently 1% to 10% merit raise depending upon the administrator's performance. Councilmember Larson noted that if the employee is led to believe the 1% to 10% is a reflection of performance, the Council must be prepared to pay the agreed upon amount.

Mayor Tooley brought up the idea of a default percentage, an amount that would go into effect if the Council cannot agree on a percentage by a certain date, identified as 5% in the current draft. Councilmember McDermott said she prefers to remove the percentage and the default and allow the Council to decide on the percentage of raise. Councilmember Kennedy said a default percentage is a good idea because it forces the Council to come to a conclusion that all members are satisfied with. Councilmember McDermott said this is one of the most important functions of the Council and all members need to fully participate.

Councilmember Brewster said an evaluation document completed by all members by a certain deadline is a way to get full participation. Mayor Tooley reminded the Council that the City Charter states that the Council is required to evaluate the City Administrator every year. He said a document could be developed from the goals and objectives set at the beginning of the year with appropriate ratings and comment fields to be completed by the Councilmembers. Councilmember Larson said the percentage should not be defined in the contract, but the default amount of 5% should be stated as the amount to go into effect, if the Council cannot agree on a percentage.

Councilmember Poppler suggested that the City Administrator be allowed to state his suggestion for the percentage. Mayor Tooley added that a report from the City Administrator could be submitted giving his opinion of his activities and how he has completed the goals and objectives and what he thinks the percentage should be. This could be part of the contract requirements.

Councilmember Larson said evaluation based on the goals and objectives is good, but the Council should take into consideration the emergency issues that arise and must be dealt with and that become a significant part of the job (i.e. Sysco and union negotiations that go awry). Special, unforeseen criteria should also be part of the evaluation process.

Mayor Tooley asked for a summary of the points of the contract. The Councilmembers suggested:

- 1) Built in COLA,
- 2) Default merit increase amount (5%),
- 3) Merit pay rather than bonus, (lump sum payment not added to salary)
- 4) Goal setting time as part of the evaluation process,
- 5) Administrator's report of strengthens and weaknesses of performance,
- 6) Setting a 6-month period for completion of process,
- 7) Leave PERS consideration open,
- 8) Remove the reference of 1% to 10% bonus range, and
- 9) Administrator to give hopes for the future and concept of goals and objectives to the Council.

Mayor Tooley said this information would be drafted into another draft contract proposal to come before the Council for the next Council Meeting on August 25th.

Due to the election in the Fall, Mr. Bauer expressed concerns about moving the evaluation process to the Spring that would commit newly elected councilmembers to a process in which they have not initially been involved. He suggested a date earlier than Spring. Councilmember Poppler said the goal setting should be separate from the evaluation process. Mayor Tooley suggested that the evaluation and decision on a merit raise would be completed by December 1st and the goal setting session several months after the election of new councilmembers.

ADJOURN –With all business complete, the Mayor adjourned the meeting at 9:07 P.M.

THE CITY OF BILLINGS:

By: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Susan Shuhler, Deputy City Clerk