

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

## **August 12, 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 Mike Larson.

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

**SWEARING IN OF WARD I COUNCILMEMBER** - After Council confirmation, Mayor Tooley administered the oath of office to Peggie Denney Gaghen. She took her place on the Council representing Ward I.

**MINUTES – July 22, 2002**. Approved as printed.

**COURTESIES –**

- Police Department – Confirmation of Officer Shawn Wanchena: Lt. Petermann spoke on behalf Officer Wanchena. He spoke briefly about his education and background. He noted that Officer Wanchena was a member of the first reserve group of the Billings Police in 1997 and served for four years. He introduced his wife Dana and son Damian who were in the audience. Lt. Peterman asked for the Council's support for Officer Wanchena's confirmation.

**PROCLAMATIONS – Mayor Tooley.** – None

**BOARD & COMMISSION REPORTS.** – None

**ADMINISTRATOR REPORTS – Dennis Taylor.**

City Administrator Dennis Taylor reported that the Special Legislative Session in Helena concluded Sunday and two of the objectives of the City were favorable achieved. He said SB 10, that would have taken away the 3% increase provided when HB 124 was adopted, was tabled and HB 18 that reverted the percentages to counties and consolidated cities came to a favorable conclusion. Mr. Taylor noted that the deficits in the State budget would make the formulation of the City's objectives for the 2003 legislative agenda very important. He concluded that the City of Billings emerged from the special session intact.

**CONSENT AGENDA:**

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

(1) Councilmember for Ward I (appointment to fill recent vacancy).  
Announcement and swearing in will be made at meeting.

Mayor Tooley reviewed the process, set forth by the City Charter, to fill the vacancy in Ward I due to the untimely death of Stephen Bradley. He noted the Charter states that the Mayor would propose a name and the City Council would approve or disapprove of that name. The Charter requires the Council to fill the vacancy within 30 days. The nominee must be approved at this evening's meeting, he added. He said the first step in the process was to advertise for applications from residents of Ward I interested in being appointed to the City Council. There were 16 respondents at the end of the application period. Mayor Tooley said he appointed a committee of City Councilmembers to review the applications and to refer the top four choices to him. He said he interviewed the four finalists last week and he informed the City Council that his selection would be Peggy Gaghen. He noted she will be confirmed tonight or the Council may call for a special election held November 5<sup>th</sup> or later. He introduced Ms. Gaghen and her family. He also acknowledged several former councilmembers who were present in the audience. Mayor Tooley gave a summary of Ms. Gaghen's qualifications and a history of her past community service for the last forty years. He said she is "committed to Ward I and the City of Billings with a depth of knowledge of this community" that will provide a good basis for her proposed position.

Councilmember Brewster moved for approval of the Mayor's recommendation of appointment of Peggy Denney Gaghen to the Ward I Council position, seconded by Councilmember Iverson. Councilmember McDermott commented that she learned today from Duane Winslow of the Election Office that the cost for a special election to add the election of a Ward I Councilperson to the November ballot could be as low as \$1,000.00. She noted that candidates would have until August 22<sup>nd</sup> to submit their names. She said the Council made the decision to form the committee and submit a list of names based on incomplete and faulty information. She said the Councilmembers were informed it was too late to place a name on the ballot and the cost would be approximately \$25,000.00 to do this. She said the 30 day limitation of the Charter has rushed a decision that she said she feels give her little comfort.

Councilmember McDermott made a substitute motion to place the vacant position in Ward I on the November 5<sup>th</sup> ballot to allow the voters of Ward I to make the decision of the replacement for Stephen Bradley, seconded by Councilmember Brown. Councilmember Larson said according to the City Charter the process that the Mayor has used is the process that was envisioned by the Charter committee as the preferable or first choice. He noted that a special election would only be held if the Council failed to act on the replacement. He said the Council has not failed to act on the motion yet and he is reluctant to bypass the intent of the Charter by not attempting to address the Mayor's nomination. He noted that three members of the present Council, Councilmembers Brewster, Kennedy and Bradley were brought onto the Council with this process and all were ratified by the voters at the very next election. He said he did not object to the process at that time and would not object this time. Councilmember Larson said he has not found a flaw in the process and has a hard time not allowing that process to work. He said he supports the process.

Councilmember Iverson said, as a member of the committee that presented the names to the Mayor, she asked Councilmember McDermott if she would be "happy with

the selections". She said she remembered Councilmember McDermott replying "yes". Councilmember McDermott said she is not discussing the candidate's qualifications, but rather questioning the faulty information given to the Council regarding the cost and timing of a special election. She said the process is faulty and needs to be corrected. Councilmember Brown said there has been many changes in Ward 1 and he said he believes the voters should be able to elect their representatives. Councilmember Poppler said this is a difficult decision and said she feels the process was somewhat faulty, but will support the Mayor's recommendation. Councilmember Kennedy commented that this process should not be so difficult and frustrating. He said he feels the Charter needs to be looked at and re-worked. He said however he supports the Mayor's recommendation. On a roll call vote for the substitute motion, the motion failed 2 to 7 with Councilmembers McDermott and Brown voting "yes" and Councilmembers Brewster, Iverson, Mayor Tooley, Kennedy, Poppler, Ohnstad and Larson voting "no".

Councilmember Iverson said she feels Ms. Gaghen would be a wonderful councilperson. Councilmember McDermott said she intends to vote for Ms. Gaghen. On a voice vote, the original motion was unanimously approved.

**B. Bid Awards:**

- (1) Nortel PBX Upgrade.** (Opened 7/23/02). Recommend Shared Technology Fairchild, \$38,601.00.
- (2) Voice Mail System.** (Opened 7/23/02). Recommend Dial Pro/Octel, \$48,255.00.

**C. Lease renewal** of Airport Hangar IP-3 to Lynch Flying Service, Inc., dba Edwards Jet Center, term: 4 years to 7/31/06.

**D. Lease renewal** of Airport Hangars IP-1, IP-2 and IP-4 to Corporate Air, term: 4 years to 7/31/06.

**E. Agreement to provide Library Service** to Golden Valley County for one-year term ending 6/30/03, \$5,510.90.

**F. Resolution 02-17867** providing for the receiving of bids and the letting of a contract for the construction of improvements for SID 1354: improvements to King Avenue East, and setting a bid opening date for 9/10/02.

**G. Resolution 02-17868** correcting the annexation description on Res. 02-17859 for recently annexed parcel located south of Wicks Lane and west of Bitterroot Drive, #02-13.

**H. Confirmation** of Police Officer: Shawn Wanchena.

**I. Agreement** for the purchase of real property at 412 28<sup>th</sup> Street aka Yellowstone Shopper Building, described as Lots 5 and 6, Block 53, Fosters Addition, \$141,000.00.

**J. Final Plat** of High Sierra Subdivision, 2<sup>nd</sup> filing.

K. **Final Plat** of Superior Homes Subdivision, Amended Lot 7, Block 1.

L. **Bills and payroll.**

(Action: approval or disapproval of Consent Agenda.)

There were no separations of the Consent Agenda. Councilmember Iverson moved for approval of the Consent Agenda, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

2. **PUBLIC HEARING AND SECOND/FINAL READING ORDINANCE 02-5218 FOR ZONE CHANGE #700: a zone change from Residential 9,600 to Community Commercial on Lots 1-3, Block 1A of Lampman Subdivision Amended. The subject property is generally located at the southeast corner of South 30<sup>th</sup> Street West and Henesta Drive.** Louie Kuchera, owner. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second/final reading.)

There was no staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Kennedy moved for approval of the zone change and ordinance on second reading, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

3. **PUBLIC HEARING AND RESOLUTION 02-17869 creating SID 1349 for public improvements consisting of water, sanitary sewer, curb and gutter and street improvements.** Staff recommends approval (Action: approval or disapproval of staff recommendation.)

Public Works Director Dave Mumford said SID 1349 is in Lake Hills Subdivision and includes Annandale Road and Greenbriar Road. There will be storm drain and street improvements to Annandale Road and storm drain, water, sewer and street improvements to Greenbriar Road. He said the total cost of the project is \$811,349.51 with \$227,000.00 recovered through direct assessments to property owners and \$474,587.58 recovered through previous storm drain improvement funding from SIDs 1355 and 1359 and a cash contribution by Susan B. Lovely, Laura Taylor, Inc., Kenneth Hollar and Ron S. Hill. He noted the City of Billings is contributing \$109,761.03 towards necessary widening of Annandale Road, retention basin improvements for lots owned by the City and storm drain over-sizing in Annandale Road. This funding is from Gas Tax and storm funds approved in the FY 2003 budget. He noted that of the 47 lots involved there were 2 protests to the SID. Councilmember Brewster said there are corner lots on St. Andrews Drive that butt up against this SID. He said those lots have already participated in another SID and are faced with a second SID assessment. He asked if anything was being done to accommodate those property owners. Mr. Mumford said the City has not anticipated any action to accommodate those lots. Mayor Tooley expressed concern for treating those property owners fairly. Mr. Mumford stated if those property owners were to be broken out of the SID the City would have to re-notify the other property owners of the recalculated

costs, which would delay construction. City Administrator Dennis Taylor said the bulk of the costs of this SID are being born by the previous SIDs and the City. He said this SID is currently subsidized and the property owners contribution amounts to only  $\frac{1}{4}$  of the total cost. Councilmember Larson said this seems inconsistent with the usual approach to property owners regarding SIDs. Councilmember McDermott said she did not think that the "corner lot program" that subsidizes lots that fall within two SID jurisdictions, would not apply to new street improvements. Mr. Mumford confirmed that corner lot subsidies are not given for new construction.

The public hearing was opened. WOODY WOODS, WITH MORRISON & MAIERLE, INC., 2020 GRAND AVENUE said Morrison & Maierle are the engineers for this SID. He noted there has been a storm drain problem in this area for years. He said the property owners that were assessed in SIDs 1355 and 1359 are now paying a portion of the street that was completed on St. Andrews in the past and are being subsidized and are not paying for the storm drain. They were assessed only for the curb and gutter and street improvements as sewer and water has already been installed. He asked the Council to approved the creation of the SID.

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

**4. PUBLIC HEARING AND SECOND/FINAL READING ORDINANCE 02-5219 revising BMCC Section 13-502 providing authority and limitations on City Administrator approval of contract change orders. Staff recommends approval. (Action: approval or disapproval of ordinance on second/final reading.)**

There was no staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Ohnstad moved for approval of the ordinance on second reading, seconded by Councilmember Iverson. Councilmember McDermott amended the motion to include a required written report regarding change order approvals submitted to the Council on a monthly basis, seconded by Councilmember Larson. Councilmember Iverson asked City Administrator Dennis Taylor if this request was feasible. Mr. Taylor said it was and he had intended to do this as a matter of routine. On a voice vote for the amendment, the motion was unanimously approved. On a voice vote for the motion as amended, the motion was unanimously approved.

**5. PUBLIC HEARING AND SECOND/FINAL READING ORDINANCE 02-5220 revising BMCC Section 2-223 providing for one public hearing at the first reading of an ordinance or on any matter requiring a hearing unless a continuance or postponement is requested and granted by the Mayor and City Council. Staff recommends approval. (Action: approval or disapproval of ordinance on second/final reading.)**

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

**6. PUBLIC HEARING REGARDING THE DEVELOPMENT AGREEMENT between Sysco Inc. and the City of Billings for the sale of the City-owned Edward Street Complex. Staff recommends approval of the development agreement and authorization for the Mayor to execute the agreement. (Action: approval or disapproval of staff recommendation.)**

Assistant City Administrator Kristoff Bauer said this agenda item included one year of negotiations and has been previously discussed in Council work sessions. He said he wanted everyone to be aware of the terms of this very important process. He noted that the Development Agreement (which requires a Public Hearing regarding the sale of most of the Edwards Complex) and an Authorization to Purchase Replacement Property are the items before the Council tonight. He said there is an additional authorization of an Option Contract with Sysco and Big Sky Economic Development Council.

Mr. Bauer said the City hired CTA Architects in 1997 to do a Master Plan of the Edwards Street Complex. This study identified a number of inadequacies in both the condition and size of the facility. There have been no steps taken by the City to implement those recommendations. He said Sysco has contacted the City for several years regarding the Edwards Street Complex and these negotiations became serious in May of this year. At that point the City and Sysco jointly hired CTA to revise the Master Plan and an alternative site to identify if the City's property could meet the needs of Sysco and what the requirements were for the replacement property needed by the City. He said at that point there was a gap between the money the City would receive from Sysco and the costs to relocate the City's facilities. Mr. Bauer said the City began looking for partners to implement the plan. Joe McClure from Big Sky Economic Development Authority worked together with Sysco and the City to assist Sysco with an infrastructure loan from the State and State tax credits for them. This became part of the transaction. He noted James Klessen from Beartooth Research, Conservation and Development assisted the City in applying for a Federal EDA grant for \$1.4 Million to assist the City with their costs. Mr. Bauer said Yellowstone County Commissioners have taken action to adjust the tax abatement program assisting the development agreement.

Mr. Bauer introduced Bob Taylor, Vice President of Operations and Steve Boden, Vice President of Finance for Sysco who were in the audience. He said that Sysco currently has 466 employees in Billings representing an annual payroll of \$20 Million. He noted that Sysco has been growing at an average of 10% per year and is mandated by their corporate office to continue to grow by 10% each year. Their current facility has run out of expansion space and they have negotiated an agreement with the City that would transfer the City's Edwards Street Complex to Sysco and vacate Edwards Street allowing them to expand their facility and remain in Billings. This expansion would benefit the traffic flow in the area and relieve the traffic congestion on Daniels Street when truck traffic is negotiating the loading area. Their growth needs are what have been driving discussions with the City. Mr. Bauer illustrated the portions of the Edwards Complex that would be sold to Sysco that include 24.3 acres of the Edwards Complex and 1.2 acres of the vacated Edwards Street. He noted that the 7.8 acres for the City's current MET facilities would remain with the City.

Mr. Bauer outlined the City's needs. He said growth in the community has resulted in more garbage trucks, street equipment, police cars and increased space needs for the Animal Shelter. He said the 1997 plan developed by CTA identified \$11.6 Million (in today's dollars) in costs for improvement needs for upgrading existing and new facilities. Because of a lack of funding the City has not moved forward with this plan. He said the City looked at the agreement with Sysco as an opportunity to retain a major employer and allow the City to finance and afford expansion of their facilities at the same time. He also noted that Sysco as an employer, spends approximately \$10 Million with local businesses and pays \$140,000.00 per year in taxes on their current property. He added that when Sysco purchases the proposed portion of Edwards Complex it will change from a public to a private asset that will generate taxes. Sysco has also committed to support infrastructure improvements including SIDs to improve both Monad and Daniels Streets.

Mr. Bauer outlined the proposed agreement with the following key terms:

<b>Sysco Duties:</b>	<b>City Duties:</b>
Pay the City \$4 Million (\$1 Million down and remainder by March 2004)	Transfer 17.7 acres to Sysco and associated improvements (16.5 acres from the Edwards complex + 1.2 acres from vacating Edwards St.)
Pay an additional \$1.4 Million at \$70k per year for 20 years beginning in 2005	Rebate to Sysco up to \$200,000 in City property tax increase per year for 10 years from 2011 to 2020
Reimburse City's actual moving expenses up to a \$217k maximum	Process a zone change for the transferred property from "Public" to "Controlled Industrial"
Construct a temporary parking facility for the City to support uses during transition	Vacate Animal Shelter by 10/15/2003
Support the formation of SIDs to improve both Monad and Daniel streets	Vacate remaining Edwards complex buildings and uses (except MET) by March 2004
Stay in Billings as long as economically feasible	

Mr. Bauer stated there are contingencies of the proposal that must transpire before the agreement can be completed. The first contingency is an "Early Start" letter that allows the City to expend funds that would be reimbursable when the grant from the Economic Development Agency for the \$1.3 Million is authorized. He said some of the tax abatement programs are other contingencies. Sysco is in the process of a Level 2 Environmental Review of the property and has a certain date to approve the outcome of the report. He said the re-zone of the property to Controlled Industrial is subject to Council approval. The City has agreed to take on the task of moving utilities that are currently in the Edwards Complex, he added. Mr. Bauer said the projected closing date is October 15, 2002 with the Sysco goal of an operational warehouse in the Spring of 2003.

Mr. Bauer explained the following impacts on City operations:1) Edwards Street would be closed off and alternate access for City vehicles would need to be found, 2) a utility relocation needs to be created, 3) relocation of parking, 4) relocation of entrance to City facilities, 5) how to deal with construction activity, 6) focus on moving the departments, and 7) no immediate use conflict with access through the MET transit facility.

Mr. Bauer talked about the proposed replacement property. He said it is 23 acres on South Billings Blvd. It will provide improved interstate access for motor pool, police and garbage truck uses. He said the purchase price is \$1.37 Million for unimproved land. There are several challenges to the property. One is a Midland Road easement crossing that must be improved at the City's expense. He said there is also a canal and there will be some costs associated with relocating existing utilities in the Midland Road easement. He noted that there will be the purchase process of the property and it will need to be annexed and rezoned as it is currently zoned Agricultural Open Space. Mr. Bauer said the estimated cost for the replacement facility is \$14.6 Million which includes \$1.4 Million for the land, \$2.6 Million for site development and utilities, \$10.4 Million for construction and \$0.2 Million for bond costs. The revenues identified earlier are \$4 Million for land sale, \$1.3 Million from the EDA Grant, \$3 Million cash on hand and \$6.3 Million will be financed through lease payments and bonded debt.

Mr. Bauer outlined the next steps that would be taken if the Council approves the action this evening. He said he would be meeting tomorrow regarding initiating the replacement design process. Several processes will come before Council, including vacation of Edwards Street, replatting and rezoning of the Edwards parcel. He said the utility and entrance relocation would need to be designed. Mr. Bauer said the option on the replacement property expires at the end of August and the purchase of the property must take place soon. The closing of the Sysco purchase will be October 15<sup>th</sup> and it will be replatted for a second time due to the requirement of issuing a building permit across a property line. He said it will be replatted once to record the vacation and area to be sold and again to record that it is one lot. Development of the purchase property is another concern, he added.

Mr. Bauer asked that the Council authorize the Mayor to execute the proposed Development Agreement substantially in the form that has been presented to them. He also asked the Council to authorize the Mayor to execute necessary agreements to acquire the South Billings Blvd property once the EDA "Early Start" Letter is received. He asked the Council to authorize the staff to initiate processes to satisfy the contingencies and begin design of the replacement facilities.

Councilmember Brown asked if Big Sky EDA was paid a percentage of any of the processes that Joe McClure was involved with. Mr. Bauer said they are not compensated in any way. Councilmember Brown asked if James Klessen of Beartooth RC & D were paid anything. Mr. Bauer replied "no" stating they are governmental entities supported by their own funding. Councilmember Brown asked what the amount of the Yellowstone County Tax abatement was. Mr. Bauer said it is 100% of the increases in four years and reduces over a longer period of time.

Councilmember Poppler asked if there was any impact to the surrounding businesses with the proposed sale or street conflicts. Mr. Bauer said all of the property

owners were notified of the public hearing tonight and there were no complaints received at this point. City Administrator Dennis Taylor noted that the access on Daniels Street would improve, affecting the adjacent businesses in a positive way. Councilmember Poppler also asked about the concerns of the Veterans regarding possible noise during their military ceremonies at the Cemetery. Mr. Bauer said there are trees that will remain on public property that will buffer the possible noise. He said that Sysco describes their business as usually quiet during the daytime with most of the truck traffic either early in the morning or late in the evening. He added that Sysco is aware of the concerns and is willing to cooperate to reduce any unwanted noise.

Councilmember McDermott asked if there is a new design for a possible SID because the previous designs were not acceptable to the property owners. Mr. Bauer said there was no design at present. Mr. Taylor said the SID design process will be taken up at a later date. He noted that the major concern with the previous SID was from Sysco and having to do with the design of the curb and gutter that would interfere with their truck traffic access to the loading area. This problem would be solved with relocation of the loading area to the Edwards Street side.

The public hearing was opened. BOB FEARS, COMMANDER OF THE BILLINGS VETERAN'S UNIT, said he is not opposed to the land sale but is concerned about the possible noise pollution from Sysco. He said it is very hard to have any sanctity during the memorial services while there is truck traffic noise close by. In the past it has only taken a quick phone call to the shop foreman and the noise is abated. He said Memorial Day is a very important day for the Veterans and they don't need a lot of noise coming from that area during those services. He said he would like Sysco to understand that the integrity of the cemetery needs to be preserved.

SCOTT SIMON, 2225 TRUDY LANE, said there were two pieces of data missing in regard to the Animal Shelter. One of the items is the cost of retrofitting a temporary facility and the other is the time frame for building the new Animal Shelter. He said he hopes the City has looked into those issues and have reliable data.

City Administrator Dennis Taylor said that if the time lines laid out can be met there will be no need to move the Animal Shelter into a temporary facility. The shelter will stay in its current location until October of 2003 and will be moved directly to its new location on the new complex on South Billings Blvd.

BOB TAYLOR, VICE PRESIDENT OF OPERATIONS FOR SYSCO, said most of the operation of his company is done at night with the trucks being out of town during the daytime. He said he is willing to work with the Veteran's Unit to meet their needs. He invited them to visit Sysco and see what the noise level is. He said there is a solution worked out for the Animal Shelter and there should be no need for a temporary facility.

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

**7. PRELIMINARY MAJOR PLAT of Chrysalis Acres Subdivision, generally located at Hallowell Lane, one block south of State Avenue. Staff recommends conditional approval of preliminary plat and acceptance of the findings of fact. (Action: approval or disapproval of staff recommendation.)**

Planning Staff Member Gail Kenson said this agenda item is a preliminary plat on the Southside, located one block south of State Avenue on Hallowell Lane. She said this would create 69 residential single-family and duplex lots that will provide housing for low to moderate-income families. She noted there is one large lot that will be sold to School District #2 for the expansion of an existing school. The zoning is Residential 7,000. The conditions for approval consist of the following:

**Regarding the SIA:**

1. Language shall be included stating: "The developer, upon Phase II, will construct curb and gutter on the south side of Frances Avenue to Jackson Street."
2. The SIA shall be revised to include the possible installation of inlets at Arden, Bruce, and Clevenger on the west side of Hallowell to be paid for by the City.
3. SIA-4 B(3) – The last two sentences of this paragraph should be deleted. The transmission water main fee is considered to have been satisfied.
4. Add language to indicate that this development will be subject to system development and franchise fees.
5. SIA-8 E(11) – Delete references to Hawthorne Lane and Dickens Lane. They are not part of this subdivision

**Minor wording:**

6. Minor wording changes hereafter shall be made in the SIA and documents, as requested by the City Engineer's Office and Planning Office, to clarify the documents and bring them into the standard, acceptable format.

**Compliance:**

7. If approved, the final subdivision shall comply with all requirements of the City of Billings Subdivision Regulations, Billings Municipal City Code, and Rules, Regulations, Policies, and Ordinances of the City of Billings, and the Laws and Administrative Rules of the State of Montana.

The Findings of Fact for Chrysalis Acres 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 (76-30608, MCA) and the City of Billings Subdivision Regulations (Section 23-304(c))

- A. Primary Review Criteria [Article 23-300, Section 23-304 (c)(1)] [MCA 76-3-608 (3)(c) BMCC]**

- 1. Effect on Agriculture**

The site is currently in used for grazing horses. The development of this site will remove approximately 20 acres from grazing land within the city limits.

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

This development will create an easement east from Hallowell Lane across the property to permit the continuation of a lateral irrigation ditch. The lateral irrigation ditch that runs south along Hallowell Lane will be discontinued. The Subdivider will install a well for the owners of Lots 3 and 6 of Homecroft Subdivision in lieu of the continuation of the existing lateral which currently does not provide water to this property.

## **3. Effect on Local Services**

- **Water and Sewer Service.** City water and sewer will serve the development. The subdivider will install, at his own expense water and sanitary sewer mains or services within and/or adjacent to the subdivision to serve the lots therein. Said mains or services will be connected to existing mains at appropriate places, sizes, locations, and standards as approved by the PUD Director and shall be installed in conformance with the design standards, specifications, rules and regulations of the City of Billings the Montana State Department of Environmental Quality (DEQ).
- **Storm Water Drainage.** Storm drainage and surface flow shall be provided by a combination of surface drainage, curbs and gutters, and storm drain lines as approved by the City Engineer. The design, sizing, and location of the storm drain improvements with respect to the Subdivision shall be subject to review and approval by the Engineering Department and in conformance with the *Stormwater Management Manual*. The Stormwater Management Design Report shall be submitted by the Subdivider and approved by the City Engineer at the time of construction plans and specification submittal for Phase I improvements or at the time of final plat submittal, whichever occurs first.  
A 30-inch storm drain trunk line exists south of the Subdivision in Hallowell Lane approximately 750 feet south of the subdivision. The Subdivider shall extend the existing storm drain north within Hallowell Lane to serve the Subdivision. The City shall participate in the cost of any over sizing of the storm drain within Hallowell Lane which may be necessary to serve properties, or rights-of-way not specifically related to the development of the Subdivision.
- **Public streets and roads.**  
**Interior Streets** All streets shall be built to grade with a satisfactory sub-base, base course, and asphalt surface. All interior streets will be constructed with 37 feet from back of curb to back of curb. The design cross-sections of said streets shall be

submitted to, and approved by, the City of Billings Public Works Department.

**Hallowell Lane** Approximately 26 feet of asphalt paving has been previously constructed on Hallowell Lane. The Subdivider shall construct and install curb and gutter, handicap ramps, sub-base, base course, and asphalt surfacing on the easterly portion of the street, matching the existing street construction. Pavement tapers shall be constructed at each end of the subdivision to transition to the existing roadway width.. Hallowell Lane is designated as a residential roadway with a required width of 37 feet back of curb to back of curb. The Subdivider shall make alterations or reconstruct those portions of the existing Hallowell Lane improvements as necessary to accommodate the street construction fronting the subdivision. The design section of Hallowell Lane shall be submitted to and approved by the City Engineer.

**Interior Sidewalks** All sidewalks within the Subdivision will not be required to be installed until building construction occurs on the lots, except as specifically noted herein. The responsibility for said installation will be with the owners of the lots at the time of lot development. This statement will be included in the Buy-Sell Agreement of each lot. At a minimum, the sidewalk shall be complete on one side of each internal street of the phase under development before building permits will be issued in the next phase.

A Traffic Accessibility Study has identified the following improvements. The improvements shall include, but not be limited to the following:

- a. Mandatory stop signs should be installed on Cecropia Avenue and Bruce Avenue where they intersect Hallowell Lane.
- b. The curb return radii should be 20 foot minimum at Cecropia Avenue-Hallowell Lane and Bruce Avenue (east approach)-Hallowell Lane intersections, and the northwest curb return at the Monarch Lane-Bruce Avenue intersection. The clear vision easement area on Lot 19 should be adjusted accordingly.
- c. ADA compliant curb ramps for disabled pedestrians should be constructed at all intersections.
- d. It is recommended that the City of Billings initiate efforts to construct curb ramps at the Francis Avenue-Jackson Street intersection as a safety improvement and to comply with current ADA requirements. The primary concern is current

slip-trip-fall hazards for small children and handicapped pedestrians who may utilize the crosswalk without the aid of a crossing guard.

The subdivider has requested a variance from the following sections of the City of Billings Subdivision Regulations:

- Section 23-601(k) requiring a local street right-of-way width of 60 feet, to provide a 50-foot width.
- Section 23-605(d) discouraging double frontage lots, to permit double frontage lots on Viceroy Street and Van Buren with a one foot no-access strip.
  - **Fire and Police Protection** The City of Billings Fire Department and Police Department will provide fire and police service. The development has adequate fire hydrant locations to meet the needs of fire suppression within the development. There is adequate access to the development for all types' emergency vehicles.
  - **Emergency Medical Service** American Medical Response will provide ambulance and EMS service along with emergency response units from the City of Billings Fire Department. Again, there is adequate access to the development for emergency vehicles.
  - **Solid Waste Disposal** The Billings Solid Waste Department will provide solid waste hauling; the Billings Landfill has adequate capacity to provide landfill disposal service.
  - **Schools** No response was received from School District #2. It is estimated that at build out of the subdivision there may be up to 200 school children. The closest elementary school is Orchard School. Students would also attend Riverside Middle School and Billings West High School. Currently Billings West High School is at capacity.
  - **Historic Features** There are no known historic, archaeological or cultural sites, structures or objects are known to be present on the site.

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

This project is currently used for grazing. This project is wholly surrounded by existing development within the City limits. There is existing City water and sewer service so there will be no significant adverse effect to groundwater is expected. The stormwater runoff generated by the subdivision and the surrounding roadways will be collected by a stormwater drain system that will be routed to the existing City storm water system. The developer will be required to meet all requirements of the City's Stormwater Management Manual.

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

The proposed development does not include any sensitive wildlife or wildlife habitat. It is not expected to have any significant adverse effect on these resources.

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

There are no man-made or natural hazards located on the property that will impact public health and safety.

The subdivision will generate approximately 412 trips daily. The current Level of Service (LOS) on the surrounding street system is either "A" or "B". The increase of traffic will have a minimal effect on the current LOS of the existing street system. Traffic and pedestrian safety will be assured through the implementation of the city traffic improvement standards.

**B. Environmental Assessment [Article 23-300; Section 23-304(c)(2) BMCC][MCA 76-2-210(1)]**

This proposed subdivision is exempt from preparing an environmental assessment because it is located within the area of the Yellowstone County Comprehensive Plan, it is currently zoned and a strategy for development, maintenance, and replacement of public infrastructure has been put in place.

**C Conformance with the Yellowstone County Comprehensive Plan, West Billings Plan, and Billings Urban Area 2000 Transportation Plan. [Article 23-300, 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. Encourage new housing construction in all neighborhoods. (C-1)**

*The proposed subdivision is providing new housing in an existing subdivision within the city limits.*

**b. Retain and improve existing residential neighborhood and develop new residential areas in an orderly and financially sound manner. (K-1)**

*The proposed development is a residential development that is adjacent to existing residential subdivisions. The proposal is consistent with and compatible with the existing built environment.*

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

*The proposed development is within adjacent to existing residential subdivision and is adjacent to like and compatible uses*

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

*This development is a classic infill development. It is wholly surrounded by the city limits and urban development.*

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

*This project is creating additional housing within an existing neighborhood. Additionally, this is an infill project capitalizing on existing infrastructure.*

## **2. West Billings Master Plan**

While this proposed subdivision is not within the West Billings Master Plan area, the proposed subdivision complies with the following goals and policies of the West Billings Master Plan:

- a. Establish development patterns that use land more efficiently.  
This subdivision is developing to urban densities with city services.
- b. Reduce sprawl and development pressure on agricultural lands, conserve irrigated farmland, and increase the density of new residential development by requiring new subdivision in the West Billings Plan are to be served with municipal or approved community water and sewer systems.

*This subdivision is not taking any irrigated agricultural land out of production and is being served by municipal water and sewer.*

- c. Development of non-irrigated farmland within the appropriate zoning designation is considered a priority.

*This parcel is non-irrigated agricultural land currently in hay production.*

## **3. Billings Urban Area 2000 Transportation Plan and BikeNet**

The proposed subdivision is within the jurisdictional area of the Billings Urban Area 2000 Transportation Plan and the 1995 BikeNet Plan and conforms to these plans by providing for safe and efficient traffic circulation.

The 1995 BikeNet Plan designates the Roosevelt Avenue alignment lying along the north boundary of the subdivision as an on-street or off-street bike path. This subdivision will provide a 15-foot wide easement for the purpose of bicycle and pedestrian access along the north boundary of the subdivision. The Plan also designates Hallowell Lane as part of the on-street system. Hallowell Lane is designated as a local street. As such, per the Plan, the bike path can be accommodated within the standard 37-foot wide roadway to be constructed on Hallowell Lane and no further improvements are required.

**D. Compliance with the Montana Subdivision and Platting Act and local subdivision regulations.** [Article 23-200, Section 23-201, BMCC] [Article 23-300; Section 23-304(c)(4) BMCC]

This proposed subdivision meets the requirements of the Montana Subdivision and Platting Act and conforms to the design standards specified in the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Sanitary requirements.** [Article 23-200, Section 23-201, BMCC] [Article 23-300; Section 23-304(c)(5) BMCC]

The City of Billings Public Utilities Department will provide both domestic water and sanitary sewer service. Their facilities meet all of the requirements of the State of Montana.

**F. Zoning requirements.** [Article 23-200, Section 23-201, BMCC] [Article 23-300, Section 23-304(c)(6) BMCC]

This site is currently zoned Residential-7,000. The subdivision will comply with all of the R-7,000 zoning requirements.

**G. Planned utilities.** [Article 23-300; Section 23-304(c)(7) BMCC] [MCA 76-3-608(3)(c)]

Utilities will be extended to the subdivision within the utility easements as shown on the preliminary plat.

**H. Legal and physical access.** [Article 23-300; Section 23-304(c)(8) BMCC] [MCA 76-3-608 (3)(d)]

Legal and physical access to this subdivision is provided by Hallowell Lane to the west and Francis Avenue and Arden Avenue to the east. All roads providing access to and within this subdivision are currently dedicated to the public.

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

The overall conclusion of the Findings of Fact is that Chrysalis Acres Subdivision does not create any adverse impacts that would warrant denial of the subdivision.

Chrysalis Acres Subdivision is an infill development which provides mitigation for the impacts caused to public services such as water, sewer, schools, police, and fire through the installation of infrastructure and the payment of increased taxes or system development fees. Based on the information provided, it is difficult to determine whether or not this development will pay for all the impacts to public services.

Ms. Kenson asked the Council for approval of the preliminary plat and acceptance of findings of fact. Councilmember Gaghen moved for approval of the staff recommendation, seconded by Councilmember Larson. Councilmember McDermott said this was a good infill development. On a voice vote, the motion was unanimously approved.

**Council Initiatives** - None

**ADJOURN** —With all business complete, the Mayor adjourned the meeting at 9:02 P.M.

THE CITY OF BILLINGS:

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

ATTEST:

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