

REGULAR MEETING OF THE BILLINGS CITY COUNCIL

TUESDAY, MAY 29, 2001

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 Mark Elison.

ROLL CALL – Councilmembers present on roll call were: Bradley, McDermott, Brewster, McDanel, Kennedy, Iverson, Ohnstad, Larson, Johnson, and Elison.

MINUTES – May 14th Approved as printed.

COURTESIES – None.

PROCLAMATIONS – None.

BOARD & COMMISSION REPORTS. – None.

ADMINISTRATOR REPORTS – Dennis Taylor. Dennis Taylor spoke about the Solid Waste Division's *Toxic Trash Roundup* that provides a safe manner to dispose of household hazardous waste by bringing them to the Solid Waste complex at 302 Edward Street this Saturday, June 2, 2001 from 9 a.m. to 4 p.m.

CONSENT AGENDA:

1. A. **Bid Awards:**

(1) **W.O. 95-08, Phase II -- Bike/Ped Underpass Shiloh Billings: STPE Project 1031(1): 4506.** (Opened 4/10/01). Recommend Edward T. Copps Construction, \$580,293.24, contingent upon MDOT concurrence.

(2) **SID 1346: North 28th Street Landscaping – Billings STPE 1099 (31).** (Opened 5/01/01). Recommend JTL Group Inc., \$1,909,854, contingent upon MDOT concurrence.

(3) **Chemicals – Water Plant Polymers for Public Utilities Dept.** (Opened 5/01/01). Recommend POLYDYNE Inc., 12-month contract with option to renew contract one year at a time for up to a total of 3 years.

(4) **Replacement Electrical Vacuum Breakers for Wastewater Plants and/or Extension of 15KV Shelter Form at Water Treatment Plant.** (Opening 5/29/01). Recommend delaying to 6/11/01.

(5) **Mileage Tire Leasing Program for Transit Division.** (Opened 5/22/01). Recommend the award of a Five (5) year Mileage Tire Lease Contract to Firestone Tire, to begin July 1, 2001.

(6) **Landfill Tarping Machine.** (Opened 5/22/01). Recommend delaying to 6/11/01.

B. C.O. #1, SID 1348: Greenbriar Subdivision water line, Paradise Excavating, Inc., -\$2,038.10 and 0 days.

C. C.O. #2, MET Transit Building Restroom/Office Renovation, Hardy Construction, \$22,800.00.

D. Commercial Aviation Ground Lease for tie down space with Lynch Flying Service, \$1,755.00/year, 1-year term with annual renewable provision and 60-day cancellation notice.

E. Executive Hangar Lease with Northland Royalty Real Estate Company, \$16,800.00/year, 20-year term.

F. West End Hangar Ground Lease with Larry Mayer, \$888.40/year.

G. West End Hangar Ground Lease with James M. Lemon, \$888.40/year.

H. Allocation of Tax Increment Funds (TIF) for additional support of Broadway Streetscape project, \$115,576.00.

I. Allocation of Tax Increment Funds (TIF) for professional design fees for a vertical element in the Broadway Streetscape, \$68,000.00.

J. Acceptance of Federal Aviation Transportation (FAA) Grant to fund AIP#21, \$4,490,666.00. (90% grant funds: \$4,041,599.00; 10% City match: \$449,067.00.)

K. Allocation of HOME Affordable Housing Demonstration Program Funds to Bill Dunlap, developer of the Lincoln Lane Housing Project at 637 Lincoln Lane, \$18,500.00.

L. Declaring Library equipment as surplus and authorizing the sale thereof.

M. Authorization of Downtown Exchange Club expenditure request for Special Olympics of Montana, \$2,000.00.

N. Acknowledging receipt of petition to vacate South 31st Street between Myrtle Drive and Rosebud Drive, Barbara Hawkins, ETAL, petitioner, and setting a public hearing date for 6/11/01.

O. SID 1353: Water, sewer, storm drain, curb, gutter and street improvements at 38th Street West and Grand Avenue, adjacent of Circle Fifty Subdivision and Hancock Grand Subdivision:

(1) **Professional Services Contract** with Engineering Inc., \$245,440.46.

(2) **Resolution of Intention 01-17700 to Create** the District and setting a public hearing date for 6/25/01.

P. Resolution 01-17701 transferring funds from various Special Improvement Districts to the Special Improvement District Revolving Closing Fund, \$408,035.49 deficit to the Revolving Fund.

Q. First reading ordinance extending the boundaries of Ward V to include recently annexed properties: Annex #01-09, C/S 2991, Tract 1A and setting a public hearing date for 6/11/01.

R. Acceptance of Quit Claim Deeds for extension of Gabel Road:
(1) Tract 2 of C/S No. 2995, Jane and James Reger, Grantor to the City of Billings.
(2) Tract 2 C/S No. 2995, Eugene and Carol Brosovich, Grantor to the City of Billings.

S. Preliminary Plat of Heritage Walk Townhomes Subdivision, generally located on Kyhl Lane, east of Bitterroot School.

T. Preliminary Plat of Circle Fifty Townhomes Subdivision, generally located north of Avenue D, between Swanson Lane and Shiloh Road.

U. Preliminary Minor Plat of Hobby Subdivision, generally located on Garden Avenue, east of 27th Street.

V. Bills and payroll

Action: (approval or disapproval of Consent Agenda.)

Councilmember McDermott separated Items H, I and K of the Consent Agenda. Councilmember Kennedy moved for approval of the Consent Agenda excluding items H, I, and K, seconded by Councilmember Iverson. On a voice vote, the motion was unanimously approved. Councilmember Kennedy moved for approval of Item H of the Consent Agenda, seconded by Councilmember Larson. Councilmember McDermott asked for an explanation as to why the construction bid exceeded the project budget by \$338,000. Acting Public Works Director Brian Borgstadt explained that there were several factors that caused this situation, including cost of oil prices and increases in the scope of the work to be performed which raises the cost of the project. There was no further discussion. On a voice vote, the motion was unanimously approved. Councilmember Kennedy moved for approval of Item I of the Consent Agenda, seconded by Councilmember Larson. Councilmember McDermott asked for an explanation of the request for the additional professional fees. Finance Director Robert Keefe confirmed that the Downtown Billings Partnership recommended the allocation of the \$68,000. which represents the design cost and the engineering that would qualify as the local match for the TSEP grant that goes to enhancement of the Broadway Streetscape for the vertical

element. There was no further discussion. On a voice vote, the motion was approved unanimously. Councilmember Kennedy moved for approval of Item K of the Consent Agenda, seconded by Councilmember Larson. Councilmember McDermott questioned the square footage costs as being considered affordable housing for low to moderate income families. Community Development staff member Joe Burst confirmed that the proposed price range is what HUD considers low-income families. Councilmember McDermott asked what would happen to the project if CDBG funds were denied. Mr. Burst explained that typically Community Development would work with the developer to seek other options and readdress the request. There was no further discussion. On a voice vote, the motion was approved unanimously.

REGULAR AGENDA:

2. APPROVAL OF WEST END PLAN. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Planning Director Ramona Mattix commented that it has been 2-1/2 years since the beginning of the West End Plan project, which included 16 public hearings. She went on to clarify the overhead power costs versus underground question, asked by Councilmember Johnson noting underground power is three times the amount of the overhead costs. She said that both Yellowstone Valley Electric and Montana Power were willing to work with the Planning Department to talk about the costs and alternatives. She presented and explained several handouts including a flow chart of the West End Plan adoption, a chart of West End Master Plan Fiscal Impacts and expenses incurred for the project. She furthered stated that as of May 29, 2001 the County Commissioners recommended approval of the West End Plan, adding a change pertaining to planning, development and architectural issues that will be dealt with in commercial aspects but not residential. She commented that the state statute requires that the Planning Department look at implementation of the West End Plan, with the most immediate item as the expansion of the county zoning jurisdiction, located on the lower southwest side. She also added that the Council would be concerned with adoption of a precise annexation policy regarding this plan.

She listed the steps involved regarding the three major issues that must be updated as: 1) subdivision regulations, 2) zoning regulations and, 3) a transportation plan from the adoption of West End Plan chart. She highlighted several "big ticket" costs and FTE staff time involved in developing the West End Plan concluding with a total estimated cost of \$244,900 with \$56,900 in-house costs specific to the plan. Councilmember Johnson asked about language pertaining to underground utilities. Ms. Mattix confirmed that the intent remained the same and clarified that it was with regard to 3-phase utility installation and the associated funding. Councilmember Bradley raised questions about adopting a policy and procedure for this issue. Councilmember Iverson moved for approval of the West End Plan, seconded by Councilmember Johnson. Councilmember McDermott commented that those present must remember that it is just a plan. Councilmember Bradley suggested that we should consider annexation of the circumference of the plan area so that all phases of the plan will be completed to City standards. Major Tooley commended the Planning Department and Planning Board for all the work done to bring this plan to the Council. There was no further discussion. On a

voice vote, the motion was approved unanimously.

3. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE
#678: an application to make a major change to the Harvest Subdivision Planned Unit Development Agreement to allow buildings to exceed 3,000 sf and to allow automobile and home glass repair in the Neighborhood Commercial zone on Lots 1, 4-5, of Block 34, Harvest Subdivision, 4th filing, generally located on the east side of Market Lane, between Henesta and Rosebud Drives. Rodney & Doris Critelli and Rocco & Jo Hanna Critelli, owners; Harrison Fagg and Associates, agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Candi Beaudry of the Planning staff introduced the public hearing as a zone change to modify the requirements in the subdivision agreement between the City and the developers to allow structures to exceed the maximum 3,000 square footage requirements on the specific lots mentioned where neither will exceed the allowable maximum lot coverage. She also stated that the owners request modification to the allowed uses of the zoning ordinance with regard to their businesses. She added that the Planning department staff and the City Zoning Commission are recommending approval.

The public hearing was opened. MIKE BURKE, 2101 LOCUST STREET, came forward to speak in support of the proposal stating that he represents the Critellis. He said that he has met with the surrounding property owners and received their approval for the requested changes, assuring that the development would remain residential in nature. There were no further speakers. The public hearing was closed. Councilmember Ohnstad moved to approve zone change #678 on first reading, seconded by Councilmember Larson. On a voice vote, the motion was approved unanimously.

4. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE
#680: a zone change from Residential 7,000 to Residential Multi-Family Restricted on Lots 7-9, Block 2, Happy Hollow Subdivision, located at 215 Wicks Lane. James & Beverly Lechner, owners. Zoning Commission recommends denial. (Action: approval or disapproval of Zoning Commission recommendation.)

Planning Director Ramona Mattix came forward to present the memo from the petitioners attorney requesting the public hearing be postponed to June 25, 2001. Councilmember Johnson moved to allow the public hearing to be postponed until June 25, 2001, seconded by Councilmember Larson. On a voice vote, the motion to delay was approved.

5. PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE
#681: a zone change from Residential 9,600 to Residential Professional on Tract 1A, C/S 2991, located at 2816 Central Avenue. Mary Kramer, owner; Engineering, Inc., agent. Zoning Commission recommends approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Ramona Mattix introduced the parcel in question with an overhead, commenting that the Zoning Commission recommended approval on a 5-0 vote, along with the approval from the Development Review Committee. She commented that there are several parcels that are under different ownership, with 9 tracts and 3 owners and no

tracts adjacent that have the same owners. She stated that it appears Residential professional is a good use for this property and therefore they are recommending approval.

The public hearing was opening. DENNIS RANDALL, with ENGINEERING, INC., 1001 SO. 24TH STREET WEST, came forward to answer any questions regarding the zone change. There were no further speakers. The public hearing was closed. Councilmember Larson moved for approval of Zone Change #681 on first reading, seconded by Councilmember Johnson. On a voice vote, the motion was approved unanimously.

6. PUBLIC HEARING AND SPECIAL REVIEW #700: a special review to allow the location of a 250 ft high cellular communications tower in a Controlled Industrial zone on Tract 4A, C/S 2995 amended, generally located on the southeast corner of Shiloh Road and Hesper Road, south of the BBWA Canal. James R. Reger and James W. Reger Trust, owners; TriStar Communications, agent. Zoning Commission recommends conditional approval. (Action: approval or disapproval of Zoning Commission recommendation.)

Planning Director Ramona Mattix confirmed that the item as stated on the agenda covers most of the conditions of the application. She pointed out one condition that the Zoning Commission is recommending that the tower be constructed so that it can accommodate at least six antennae platform levels. She confirmed that this action meets all the current and proposed standards with regard to towers. Councilmember Johnson asked about the guide wire spacing. Councilmember Brewster questioned whether the tower would be lattice-type or monopole.

The public hearing was opened. J. R. REGER, 2708 PALM DRIVE, came before the Council seeking approval for another communication tower located on the corner of Shiloh and Hesper Roads. He stated that due to a drop off at that particular corner, the tower base would be guarded from view. He further stated that because of two ditches on the backside of the proposed location this type of tower was the optimal way to utilize this piece of property. He confirmed that the tower is a guide wire tower, much like the towers that appear on Sacrifice Cliff. He stated that the tower is two miles away from any other communications tower in the City or County, with several co-locators expressing a need for a tower such as this one in this area. Mr. Reger verified that the Zoning Commission unanimously recommended conditional approval and the planning staff has recommended approval. In summing up, he stated that this tower conforms to the present and future standards and asked for Council approval. He further confirmed that six carriers are not a problem to handle on the guide wire type tower that this is, in response to Councilmember Elison's question.

There were no further speakers. The public hearing was closed. Councilmember Elison moved for approval of Special Review #700, seconded by Councilmember Bradley. On a voice vote, the motion was approved unanimously.

7. PUBLIC HEARING AND SPECIAL REVIEW #701: a special review to allow the location of a 250 ft high cellular communications tower in a Community Commercial zone on Tract 1B1, C/S 1434 amended, located at approximately 330 Airport Road. Brian Kurth, owner. Zoning Commission recommends denial. (Action: approval or

disapproval of Zoning Commission recommendation.)

Mayor Tooley reminded Council that the applicant wished to postpone consideration of this item to June 25, 2001. During a show of hands it was determined that there was no one in the audience that wished to speak to this issue. Councilmember Bradley moved to delay this item to the June 25th Council meeting, seconded by Councilmember Elison. On a voice vote, the motion to delay to June 25th was approved unanimously.

8. PUBLIC HEARING AND FIRST READING ORDINANCE revising BMCC Sections 27-305 and 27-306: providing that the zoning tables of residential and commercial uses reflect changes in wireless communication regulations as set out in Sections 27-619 and 27-620 BMCC. Zoning Commission recommends approval.

(Action: approval or disapproval of Zoning Commission recommendation.)

Mayor Tooley reminded the Council that there has been a request to delay this item until June 25th. Planning staff member Candi Beaudry came forward to explain that the reason for delay is due to the response from the broadcast community's concerns that there are unintended consequences for them. She further stated that she has scheduled a meeting with the broadcast community on Thursday to discuss their concerns and incorporate them into this draft. Councilmember McDermott moved to delay this public hearing until June 25th, seconded by Councilmember Bradley. On a voice vote, the motion to delay to June 25th was approved unanimously.

9. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5152 FOR ZONE CHANGE #668: a zone change from Agricultural Open Space to Entryway Light Industrial on C/S 3050, Tract 1, generally located on the east side of Shiloh Road across from ZooMontana. G. Ronald and Linda Pierce Family Trust, owner; Engineering, Inc., agent. Zoning Commission recommends approval. (Action: approval or disapproval of ordinance on second reading.)

Planning Director Ramona Mattix came forward to remind the Council that this is a second reading and therefore there would be no staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Brewster moved to approve Zone Change #668, seconded by Councilmember Larson. On a voice vote, the motion was unanimously approved.

10. PUBLIC HEARING FOR VARIANCE #SW01-01: a variance from BMCC Section 6-12906 allowing for the elimination of sidewalk along the Katherine Ann Place frontage of Lot 15, Block 1, Lakeview Subdivision, 2nd Filing. Daniel J. Dolan, owner; James M. Murphy, agent. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Acting Public Works Director Brian Borgstadt came forward to answer any questions from the Council. The public hearing was opened. JIM MURPHY, 2929 3RD AVENUE NORTH, an attorney representing Dan Dolan came forward to explain the complications with having a flat sidewalk and a slanted driveway. There were no further speakers. The public hearing was closed. Councilmember McDanel moved for approval of staff recommendation, seconded by Councilmember Elison. On a voice vote, the motion was unanimously approved.

11. PUBLIC HEARING AND RESOLUTION DISCONTINUING public right-of-way on North 19th Street between 6th and 7th Avenues North, HeadStart, petitioner. Billings Public Schools, owner. Staff recommends conditional approval. (Action: approval or disapproval of staff recommendation.)

Acting Public Works Director Brian Borgstadt presented several overheads to illustrate this request for a discontinuance of North 19th Street between 6th and 7th Avenue North to be accomplished when HeadStart expands the facility, which is projected to be in the next 3 to 10 years. He stated that this is proposed in conjunction with the parking enhancement for North Park as well as providing parking for the HeadStart program, which includes a benefit of providing a safe crossing for the children from HeadStart over to North Park. This proposal has been discussed with the Parks Department and has been through several reviews in relation to traffic accessibility. He stated that a traffic accessibility study was done, with results showing little impact on vehicle traffic and his opinion is that traffic will divert to North 18th Street, which is a collector street. He further stated that the Traffic Control Board reviewed this proposal and made no formal recommendation. He commented that the chairman, Bill Shaffer of the North Side Task Force asked the Planning Board to delete the closure of North 19th Street from the neighborhood plan adopted in 1993. Councilmember Kennedy voiced concerns about impact on accessibility for emergency vehicles and Councilmember McDermott commented that most vehicle traffic in this area is from destination vehicles, and stated that the previously mentioned traffic calming is not an appropriate method of traffic control. Councilmember Johnson raised the issue of public utilities located under North 19th Street. Councilmember Larson asked what the conditions of the conditional approval were. Mr. Borgstadt sited a development agreement on the May 14th memo. Councilmember Elison questioned whether discontinuing the public right-of-way has any implications on maintenance of the street. Mr. Borgstadt referred to the development agreement as a vehicle for addressing most of these matters.

Mayor Tooley called for a five-minute break at 8:40 pm. The Council Meeting was reconvened at 8:45 p.m.

The public hearing was opened. LINDA THOMPSON, 110 YELLOWSTONE AVENUE, identified herself as the chairperson of the Yellowstone County HeadStart Board of Directors. She stated the reasons for the necessity of the street discontinuance of North 19th Street as: 1) to increase safety for the young children and parents that go in and out of the building, and 2) to increase parking needs in the North Park area when there is increased activity in the Park. She listed the benefits to the community as: 1) the HeadStart Center will be a permanent stakeholder in the North Park neighborhood, continuing to make improvements to the complex, 2) children and families will continue to benefit from services of HeadStart which strengthens the entire community, 3) North Park improvements will include the addition of a HeadStart playground in the south east corner, 4) increased public parking will make the Park more accessible to families and result in increased usage.

MICHAEL SANDERSON, 1001 SO. 24TH WEST, WITH ENGINEERING, INC. said he conducted a traffic study on behalf of HeadStart. He explained the results of their study of the impact of the closure of North 19th Street, with the conclusion that there would be virtually no increase in the traffic delays with the small amount of traffic that would be

displaced going to the signal at North 18th Street, categorizing the impacts to the closure as very localized.

LON LOCKE, 2006 9TH AVENUE NORTH, stated that North 19th Street is a direct connector to the east end of 9th, 10th, 11th Avenues North and Burnstead Drive. He further stated that he uses that street at least twice a day. He opposed the closing of this street. He asked that the Council review the petition given to them this evening containing 254 signatures that are affected by this closure. He furthered stated that the closure would affect more people than it would benefit.

CHASTITY VEIS, 1900 SUNRISE, is a parent of children who have attended and will be attending HeadStart. Her opinion is that it is a good idea to close this street for the safety factor of the children at HeadStart and North Park. She also stated that there is a parking problem at HeadStart now for both staff and the parents who are transporting their children to and from the school. She asked that the Council approve the street closure.

EMILY SHAFFER, 824 NORTH 25TH STREET, is the secretary of the North Park Task Force. She stated that there have been several HeadStart members at the last four or five of the North Park Task Force meetings. She commented that none of the members present at the meetings have felt that it was a good idea to close North 19th Street. She added that there are too many people who use this street. She asked that the Council not close "one more street in this area".

SANDY FISCHER, 2815 MONTANA AVENUE, said that she has worked with HeadStart on at least six different alternatives to the parking situation, over the past six months. She felt that this is a very important issue for this community, to look at what is good for the overall community. She commented that HeadStart, being a proactive program, should be kept accessible and affordable within the service area and added that it is a great use of the downtown area. She stated that at one point during their consulting process with the neighborhood, it was agreed that closing North 19th Street was preferable. Ms. Fischer explained that the proposal is being requested now, because it will be a requirement for the permit process, during the building expansion, to provide adequate parking. She responded to Councilmember Kennedy's question regarding alternative parking proposals by stating that the HeadStart program is not allowed, by federal law, to cross traffic, therefore the relocating of the playground in the Park and on-site parking on the HeadStart complex was the most feasible compromise.

DUANE MCDERMOTT, 2110 10TH AVENUE NORTH, said he moved into this area in 1939 and has watched the traffic problem continue to grow. He asked that the Council "vote down" this proposal.

RON ALLES, 2010 10TH AVENUE NORTH, said he has lived in the neighborhood for thirty-three years and sent five children to the North Park Schools. He stated that he uses North 19th Street no less than two to three times per day. He reminded the Council about the 260 signatures on the petition against closing of the street. He asked that the Council not approve closure of the street.

MARY ANN SEILSTAD, 917 NORTH 19TH STREET, spoke in opposition to the closure of North 19th Street, as she is concerned about the additional traffic that the closure will create. She further stated that she is concerned about the precedent that is being set by providing parking for schools with street closures.

JUDY BRYNGELSON, 1144 HENRY ROAD, came forward to respond to several Councilmember's questions. She said that the Board has recently affirmed that they do

plan on purchasing the building regardless of the street discontinuance issue. She further stated that there is an informational agreement that is in writing with the City of Billings to use the parking lot across the street. Councilmember Brewster asked why HeadStart doesn't satellite their program. Ms. Bryngelson responded that HeadStart doesn't have the kind of budget that will allow for that.

BILL SHAFFER, 824 NO. 25TH STREET, stated that the northeast part of Billings is cut off very heavily on the north by the canal and by the Rimrocks, therefore the exiting traffic must go south or west. The traffic flow is cut off from going south at several of the numbered streets starting from 14th Street to 25th Street due to a barrier or one-way traffic, therefore No. 19th Street could be a valuable through street. He further stated that the neighborhood does not want to lose this street to a parking lot to satisfy HeadStart's off-street parking requirements. He felt that the traffic study was inadequate because it was held in the wintertime and was limited in scope.

THOMAS FRASER, 802 NORTH. 14TH STREET, made a short statement opposing the proposed closure of North 19th Street. His concern is regarding public access being diminished to North Park and the historical nature of North 19th Street. He further stated that the safety issue of street crossing is rather overprotective, as the HeadStart children should be learning how to safely cross streets. He concluded by saying that he does not support the closure of this public street.

CHARLES HAMWEY, 1010 GRAND AVENUE, representing Ward I and the Planning Board, stated that the Council cannot ignore 250 signatures stating the need to leave the street open. He said that the original proposal brought forward from HeadStart showed parking available on-site for their staff, however the new proposal from Fischer expands this to a different concept. He recommended the Council deny closure of this street.

There were no further speakers. The public hearing was closed. Councilmember Kennedy moved for disapproval of the staff recommendation, seconded by Councilmember Bradley. Councilmember Kennedy commented on the difficulty of this decision, stating that the idea is good in theory and vision, but possibly not an appropriate time and will vote in favor of the disapproval. Councilmember Elison voiced his concern regarding the trade off of something as beneficial as HeadStart and 264 people who live in the neighborhood that want to keep their street open over the issue of where to park cars. He stated that this seems like a bad priority and that closing a street to provide parking is not a viable option. Councilmember Larson stated that the Council created this problem, due to requirements of the building permit process that require a certain amount of parking spaces, therefore he felt we must find some way to eliminate these types of requirements. Councilmember McDanel commented that closing streets in front of schools is something to be avoided, as it would set a precedent that other schools would look to. He further stated that the plan is sound, however he feels that the request to close 19th Street is premature and should not be implemented until the expansion is completed. Councilmember Larson stated that he wants to support the HeadStart expansion one hundred percent, but he cannot because of the issues and the 260 signatures of the neighborhood. Councilmember McDermott stated that the folks in North Park, while definitely not opposed to the HeadStart presence, feel that closure of North 19th Street will adversely impact an area that already has traffic problems. Councilmember Elison made a substitute motion to exempt the HeadStart organization from one-half of all off street

parking requirements at their facility, at this location only, seconded by Councilmember Kennedy. Councilmember Larson questioned the legality of this motion. City Attorney Brent Brooks stated that he did not feel comfortable with that kind of an exemption particularly because this would be treating one entity differently. He stated that this constitutes granting a variance and this motion would be circumventing the normal variance process. Councilmember Brewster suggested that he would rather see HeadStart go through the variance process. On a voice vote for the substitute motion, the motion was disapproved with only Councilmember Elison voting "yes". Councilmember McDanel suggested that Headstart go back to the neighborhood and try to resolve the issues. On a voice vote on the original motion to disallow the discontinuance, the motion was approved with Councilmembers Larson and Elison voting "no".

12. PUBLIC HEARING AND RESOLUTION 01-17702 ANNEXING C/S 866, Tract 1 and C/S 2560, Annex #01-01, Long Family Limited Partnership, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless, of the Planning Department, introduced the annexation application and stated that the recommendation is for conditional approval of the annexation agreement and the services report. On an overhead, he pointed out that this is actually two pieces of property that comprise the 92-acre petition. He commented that the Urban Planning Study was previously approved by the City Council at the last City Council meeting for the smaller piece, which is C/S 866. He added that there is a zone change requested for the approximately 75 acres from Agricultural Open to Entry Light Industrial that is in process with no subdivision application submitted at this time. He stated that gravel pits currently occupy both pieces of property, with C/S 866 and C/S 2560 in the process of being reclaimed. He noted that there have been staff comments received since the staff report and he listed them as: 1) public works proposed conditions, 2) the fire department stated that a water system was needed and the annexation would increase their inspection rate, 3) the finance department stated that their "overall comment was okay", 4) the police department identified problems with the expansion of the service area without the necessary additional resources. He said that the annexation agreement states that the developer responsibilities are for the infrastructure, with the clarification that C/S 866 would not be developed. He added that the taxes and fees generated from this project would be equal to or exceed the costs of services that would be provided to the property. He sited the two recommended conditions as: 1) the development agreement be adopted prior to issuance of any building permit, and 2) all of Shiloh Road and King Avenue West adjacent to the property be annexed at the same time.

The public hearing was opened. Mr. McCandless responded to a question from Councilmember McDermott regarding the payment burden for the development of public utilities by stating that the City of Billings might "front some of the cost in order to get some of the trunk lines extended".

BOB SANDERSON, ENGINEERING, INC, 1001 SO. 24th STREET WEST, representing the Long family spoke about the part of the process for reclaiming the gravel pits and bringing them into a developable state. He stated that the time frame for the extension of the sewer lines out King Avenue past Shiloh is for the winter of 2002-2003. He further stated that the annexation agreement states that the developer will participate in this part of the project either by direct cash contribution or via the trunk fees. He added

that the time frame of the project is also affected by the gradual fill of the gravel pits being completed by JTL, Inc.

JIM COONS, NO ADDRESS GIVEN, representing Collaborative Design Architects, stated that the market would probably dictate what the development will consist of. He said the developer has taken into consideration the requirements of the West End Master Plan in terms of architectural continuity.

CHARLES HAMWEY, 1010 GRAND AVENUE, noted that this development will be a real plus combined with the approval of the West End Plan. He further commended everyone for their work on and encourages approval of these two projects. There were no further speakers. The public hearing was closed. Councilmember Iverson moved for approval of the staff recommendation, seconded by Councilmember Larson. On a voice vote the motion was unanimously approved.

13. PUBLIC HEARING AND RESOLUTION 01-17703 ANNEXING Lots 1-2, Block 1, Sharptail Subdivision, Annex #01-02, Kincaid Land LLC and King Resources, petitioners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless of the Planning Department stated that the recommendations are to conditionally approve the annexation agreement and the public service report. He described the property and clarified that the subject property is actually part of the Sharptail Subdivision, also known as Montana Sapphire Subdivision, the name that will be assigned to the new subdivision. He stated that the subdivision and rezoning applications have been submitted and are in process. He added that the department comments received are identical to item 12 of this evening's agenda. He said the agreement outlines the developer's responsibility as to the infrastructure and that there are major utility extensions that are required to serve this property, with more detail to follow in the subdivision review process. He added that the taxes and fees that are generated would be equal to or exceed the cost of services for the property. He explained the conditions that are part of the approval as: 1) a development agreement executed before any building permits are issued, and 2) all of Shiloh Road and King Avenue West adjacent to the property be annexed at the same time.

The public hearing was opened. RICH LEUTHOLD, ENGINEERING, INC., 1001 SO. 24TH STREET WEST, representing the developers spoke regarding the development of this property. He stated that the Urban Planning Study was approved at the last council meeting and it is in full conformance with the West End Plan. He added that the annexation agreement added conditions with regard to the development aspects in the zoning classification of Entry Way Light Industrial that disallows certain types of development in the area in order to maintain the character of the campus-like development. He said there is a full major plat in place that is being reviewed and that major improvements need to be extended to this property. The developers have been in communication with Public Utilities about the trunk extensions, with pursuit of an initial phase that involves temporary sewer extensions. He asked that the Council keep the process moving forward by approval of the annexation. There were no further speakers. The public hearing was closed. Councilmember Ohnstad moved for approval of the staff recommendation for the Sharptail Subdivision annexation, seconded by Councilmember

Johnson. On a voice vote the motion was unanimously approved.

14. PUBLIC HEARING AND RESOLUTION 01-17704 ANNEXING C/S 2374, Annex #01-05, Steven R. Fisher and Thomas Bennett, owners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless from the Planning Department stated that the recommendation to the City Council was to approve the Public Services Report and the resolution annexing this property. He described the property adding that it has no legal or physical access to the property and that the City of Billings has initiated this annexation, as it is a wholly surrounded island.

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

15. PUBLIC HEARING AND RESOLUTION 01-17705 ANNEXING Lots 9-10, Block 2, Lillis Heights Subdivision, Annex #01-06, B. & J. Uselman, owners. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Bruce McCandless from the Planning Department presented annex #01-06 and #01-07 together as they are essentially identical and both wholly surrounded islands resulting from the annexation of the Mormon Temple. He added that the City of Billings has initiated the annexation, with the services report broken into two parts: 1) the general City services immediately available to the property upon annexation, and 2) the capital improvements necessary are located in the Pineville Road and Palisades Park and could be easily extended.

The public hearing was opened for both annexation requests. There were no speakers. The public hearing was closed. Councilmember Larson moved for approval of the staff recommendation annexation #01-06, seconded by Councilmember Brewster. On a voice vote, the motion was unanimously approved.

16. PUBLIC HEARING AND RESOLUTION 01-17706 ANNEXING Lots 2,3,15-17, Block 4, Lillis Heights Subdivision, Annex #01-07, D. Anspach, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

Mayor Tooley commented that the staff report has been given and the public hearing has been opened and closed in conjunction with the previous item. Councilmember Elison moved for approval of the staff recommendation, seconded by Councilmember Kennedy. On a voice vote, the motion was unanimously approved.

17. PUBLIC HEARING AND SECOND READING ORDINANCE 01-5153 extending the boundaries of Ward III to include recently annexed properties: Annex #01-08, C/S 3050, Tract 1, G. Ronald & Linda Pierce Family Trust, petitioners. Staff recommends approval. (Action: approval or disapproval of ordinance on second reading.)

There was no staff report. The public hearing was opened. There were no speakers. The public hearing was closed. Councilmember Bradley moved for approval the ordinance on second reading, seconded by Councilmember McDermott. On a voice

vote, the motion was unanimously approved.

ADJOURN – 10:10 p.m.

THE CITY OF BILLINGS:

By: _____
Charles F. Tooley MAYOR

ATTEST:

BY: _____
Susan Shuhler, Deputy City Clerk