

**JOURNAL OF PROCEEDINGS
MISSOULA CITY COUNCIL
ABBREVIATED MEETING
DECEMBER 20, 1999**

CALL TO ORDER AND ROLL CALL

The meeting of the Missoula City Council was called to order by Mayor Kadas at 7:00 P.M. in the Council Chambers, 435 Ryman Street. Present were Alderwomen Carpenter, Herbig and Turek and Aldermen Anderson, Charney, Harmon, McGrath, Morgan, Reidy and Sponseller. Alderwomen Crowley and Gingerelli were absent. Also present were City Attorney Nugent, Chief Administrative Officer Stevens, Finance Director Ramharter and City Clerk Rehbein.

APPROVAL OF MINUTES

Minutes of the regular meeting of December 13, 1999 were not completed in time to be submitted.

SCHEDULE COMMITTEE MINUTES

The following meetings were announced:

Administration and Finance	No Meeting
Committee of the Whole	No Meeting
Conservation	No Meeting
Plat, Annexation & Zoning	No Meeting
Public Safety & Health	No Meeting
Public Works Committee	No Meeting
Economic Development Subcommittee	No Meeting
Subcommittee on Program Income	No Meeting

CONSENT AGENDA (1 ROLL CALL VOTE)

1. Approve claims totaling \$183,077.51. (A&F) (12/15/99)
2. Approve the appointment of the following members to the Open Space Advisory Committee for the term to begin January 25, 2000 through January 24, 2003: Kathy Owens, Dan Funsch, Pat Collins and Kristy Pelletier. (Conservation)
3. Approve the bid award for the Parks and Recreation Department lawn mower to Midland Implement in the amount of \$61,584.00. (Conservation)
4. Deny the variance request from Section 3-2(15)(A)(1) of the Missoula City Subdivision Regulations requiring boulevard sidewalks within J.S. Corps Phase II Summary Subdivision for Lots 1 and 2 and approve the variance for Lot 3 of this subdivision based on the findings of fact set forth in the staff report. (PAZ)
5. Approve the J.S. Corps Phase II Summary Subdivision based on the findings of fact in the staff report and subject to the recommended conditions of approval. (PAZ)
6. In accordance with Missoula Municipal Code 12.12.010, order the construction of curb/gutter and sidewalk improvements adjacent to various parcels as designated on the attached property list and that the lots enumerated on the attached property ownership list shall be incorporated into and become a part of the Public Works Committee Minutes. (PW)
7. **Resolution** - Approve a resolution to expend up to \$1,503,000 plus usual and customary closing costs, to fund City acquisition up to 15.6 acres, 42,000 +/- sq. ft. tilt-up concrete manufacturing/warehouse building and secondary structures to include three polebarns located along the west side of Scott Street just north of the Scott Street Bridge, Missoula, Missoula County, Montana, and additionally expend up to \$400,000 for renovation and construction at the new site, and the sale of the current maintenance facility site, located at the south half and a portion of the north half of Block 48 and the north half of Block 47, all of the W.J. McCormick Addition and adjacent rights of way (specifically North Street and contiguous alleys), proceeds of the sale to be used to offset the cost to relocate the City of

Missoula's Maintenance and Streets Divisions and other maintenance facilities and construction of a recreation area. (PW)

8. Confirm the reappointment of Clayton Anderson to the Building Code Board of Appeals, beginning immediately through June 30, 2003. (PW)
9. Authorize the Mayor to sign Amendment No. 2 to the Professional Engineering Services Agreement with WGM Group, to provide design services for SID 524 for the amount of \$265,359. (PW)

Mayor Kadas said, just a correction. On number 7 there is reference to a street that could potentially be vacated. It says North Street and that should read Nora Street. Is there any public comment on items 1 through 9 of the consent agenda?

Jerry Ballas said, I'm Jerry Ballas, 204 South Avenue East and Council-Elect for Ward No. 4. And I come before you and I realizing that I don't have any official standing with this current Council. But as an upcoming Council person, I do have a concern about your Item no. 7 and the resolution that you're intending to take. I'm going to ask you tonight to maybe remove that from the Agent Consent and take it up under your regular Agenda so the public could hear a little more about what your plans are for this project. Understanding you're talking about almost a 2 million dollar expenditure initially and maybe more later. I think that's a significant amount of money and the public has a right to know a little bit more about what your plans are for this area. And I don't believe that the resolution that was published in the paper gives the public enough information about what you're planning to do tonight. I also have a concern about your listing in there of abandoning or considering the sale of adjacent rights of way, specifically, Nora Street. I have a concern that you don't really understand all of the people that use Nora Street, and the effect that it might have on a couple of businesses that have access to that. Specifically, the dairy that operates there on Spruce and Nora, they use this street quite extensively to bring their big trucks up from Broadway and have the access to the alley there. And abandoning or closing that street I think would cause them some significant problems on servicing their facility. And leaving it in here, I'm afraid that you're going to tie the future Council hands and our ability to address some of those issues without any public comment on what's really going on. So thank you for your time.

Mayor Kadas said, thank you Mr. Ballas. Further public comment? Questions from.... Dan, I think that No. 7 is going to get moved.

Dan said, shall I reserve my comments til...?

Mayor Kadas said, yeah, no sense doing it twice.

Alderman McGrath said, said, are we going to have public comment again on that?

Mayor Kadas said, yes.

Alderman McGrath said, said, okay.

Mayor Kadas said, if it gets moved we're going to, we'll open it up. Any other public comment? Mr. McGrath.

Alderman McGrath said, yeah, I want to remove Number 7.

Mayor Kadas said, okay so we'll take that up later in the meeting under Committee Reports.

Alderman Charney said, I noticed in the packet that there was no back up for Item No. 1, and I'm wondering if the chairman of A&M happened to take a look at those and assure me that everything's legit with it.

Alderman McGrath said, I don't think I got a copy of that either, thanks for catching that. So I suppose we should pull that off, huh?

Alderman Charney said, I'd hate to do that because it's going to mean (inaudible) you know a real delay in paying the bills.

Chief Administrative Officer Stevens said, well we can go up and find it, I guess if something like that happens again it would be nice to know during the day so that we can have the person, if you see it is all I'm saying. Probably you all caught it tonight and not today. That would be nice if we knew ahead of time then we'd have some time to pull it.

Mayor Kadas said, so if you want to pull it, we'll put it on A & F and see if we can't get the documentation.

Alderman Charney said, okay, I'll do that.

Mayor Kadas said, okay, so that Item No. 1 we'll also take up under Committee Reports. Any other questions? Then we'll have a roll call vote on Items 2 through 6 and 8 and 9.

Upon a roll call vote, the vote on the consent agenda was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Harmon, McGrath, Morgan, Reidy, Sponseller, Turek

NAYES: None

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Motion carried: 10 Ayes, 0 Naves, 0 Abstain, 2 Absent

PUBLIC HEARINGS

Mayor Kadas said, we do have two public hearings, appropriately we ought to have a Motion to suspend the rules to consider these two items. A Motion to Suspend the Rules, Mr. McGrath?

Alderman McGrath said, so moved.

MOTION - Suspend the Rules.

Alderman McGrath moved to suspend the rules.

Mayor Kadas said, it's non-debatable.

Upon a voice vote, the motion carried.

Mayor Kadas said, we'll continue the public hearing on a procedure for hiring architects and engineers. Is there any additional public comment on that ordinance?

Mayor Kadas opened the public hearing.

Terry Meinershagan said, my name is Terry Meinershagan, I'm an architect, my firm is Rocking M Design and the address is 101 East Broadway, Suite 612. I participated in a couple of Missoula Society of Architect luncheons at which we were presented with the concepts of this ordinance and once again with when Andy Sponseller met with us to go over what I think was a preliminary version of this. And I appreciate the fact that the City and Departments are looking at this selection process. In general, I think this is very well done and addresses the issues that were of concern to the professional community. If I may speak for engineers, as well as architects. That it brings a basis of fairness to the selection process, a couple of very small items. There's some typos in here that you may want to address, one of which is programming and scoping, I don't think we do much scoping, but we do do scoping, so you might want to catch a little bit of that.

Mayor Kadas said, well you never can be sure, we would rather scope than scoop.

Terry Meinershagan said, that is under section 2, paragraph c, part of the way down. Another suggestion under section 3, procedure, the first paragraph a, annual solicitation, prequalification, the listed items below that, number 8, public building remodel. It says public building remodel or construction, that maybe would be better phrased new construction if that is the intent. And also the last part of that phrase says, with ADA requirements, I think that's redundant and may cause problems if ADA requirements are part of a project. They're addressed in codes and things and you're not listing every specific thing about a building, you don't say it needs to meet UBC or needs to meet this or that. It will meet ADA requirements by default. So that's not a necessary phrase. I think one of the issues that was discussed at both of the meetings that I was at in any case were selection based on project familiarity. And I think that this latest revision has done a good job in making selection fair, not based on say a professional was engaged in a preliminary design, either pro bono or compensated that gives them an unfair foothold or approach to it by being overly familiar with the project due to some previous experience with staff. I think that's something that needs to be dealt with in a very fair manner, that everybody gets a fair shot at these projects. I think the approach on the medium sized projects of doing it in a rotational basis is a good approach to that. A couple of other small typos, section 5, under the first paragraph and subparagraph (a), it says, projects, management, I don't think the s is necessary there. And down under section 6, paragraph (a), subparagraph under criteria, professional qualifications and past performance and response, and I think we need "of" in there, response of references. I had a concern when I first read this in that same sentence where it says, past performance. Again I was concerned about if there's performance on a preliminary phase of a project that that wasn't necessarily giving too much weight. I actually think in reading through this that that was referring to past performance on similar projects that may or may not have been performed for the City, so I do think that is a reasonable criteria. And on the, under criteria definitions, I think my pages are out of order here, so I apologize. It would be again under section 6, criteria, criteria definitions, subparagraph (e) determine that the consultant is available to manage day to day on site duties. And it's site is the location, s i t e, as opposed to s i g h t. Minor stuff, I hate to make typo corrections, but it's an ordinance, it ought to be right. Again, I really appreciate the effort that went into this. I would ask strongly that this go ahead and be voted on and passed, hopefully. I don't see a need for this to go back to Committee, I think this accomplishes the goals that are stated and I appreciate your time. Thank you.

Mayor Kadas said, thank you Mr. Meinershagan, further public comment?

John Wells said, my name's John Wells, I'm an architect in town. I'm one of the partners at MMWR Architects at 603 Woody Street, just down the block. I've reviewed the draft proposal, I think that mine's a little shorter version than Terry's. I would concur with him though that it is a much fairer process than what was in place before. It opens up the process, it's obvious that the selection will be based on professional qualifications, experience, expertise, instead of something as arbitrary as having worked with specific personnel or on specific projects. You'll bring more design professionals to the table, and you'll end up with the most qualified person for the project, and I would like for you to pass this. Thank you.

Mayor Kadas said, thank you Mr. Wells. Any other public comment? Any other public comment? Then we'll close the public hearing.

Mayor Kadas closed the public hearing.

Mayor Kadas said, what's the Committee's Council's pleasure? Miss Carpenter?

Alderwoman Carpenter said, do we need to move to have the typos changed or are they just going to be taken care of?

Mayor Kadas said, if you instruct us to do it.

Alderwoman Carpenter said, please do so. Just the typos though.

Mayor Kadas said, let's take a Motion to approve it. Mr. McGrath?

Alderman McGrath said, do we have questions here? The Committee recommends approval of an Ordinance amending title to Missoula Municipal Code by enacting Chapter 2.90 entitled "Architects, Engineers Selection" and I so move.

ORDINANCE 3112

AN ORDINANCE AMENDING TITLE 2 MISSOULA MUNICIPAL CODE BY ENACTING CHAPTER 2.90 ENTITLED "ARCHITECTS/ENGINEERS SELECTION". BE IT ORDAINED THAT TITLE 2, CHAPTER 2.90 MISSOULA MUNICIPAL CODE BE ADOPTED

MOTION

Mayor Kadas said, okay, let me just ask is there any objection to making the changes that were suggested b Mr. Meinershagan? Mr. Sponseller?

Alderman Sponseller said, yeah, would it be okay if we asked Terry to explain again the business about the ADA? Is it ADA or AIA? Which one are we talking about here?

Mayor Kadas said, ADA.

Alderman Sponseller said, oh, disabilities act reference?

Mayor Kadas said, yes, yeah. Mr. Bender.

Bruce Bender said, Director of Public Works. I think that's a valid point, we reference this because a lot of our work has been on ADA compliant, we are doing a lot of renovation work, and so being aware of that was a concern we had. But he's correct you know, you have to do it according to the code and that's one of the code issues, so I guess it's valid to drop it out.

Mayor Kadas said, okay, then seeing no objections to staff taking care of these typos and then we'll go ahead. Any further discussion on the ordinance? Then we'll have a roll call vote on the ordinance.

Upon a roll call vote, the vote on Ordinance 3112 was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Harmon, McGrath, Morgan, Reidy, Sponseller, Turek

NAYES: None

ABSTAIN: None

ABSENT: Herbig, Gingerelli

Ordinance 3112 passed, 10 Ayes, 0 Naves, 0 Abstain, 2 Absent.

Public Hearing on amending an ordinance dealing with "Special Events Permits." (PS&H)

Mayor Kadas opened the public hearing.

Mayor Kadas said, Mr. Lawrenson would you give us the Staff Report?

Police Chief Lawrenson said, Mayor Kadas, Members of the Council, I am Pete Lawrenson with the Police Department. This public hearing is intended to make some recommended changes to Missoula Municipal Code Chapter 12.58 concerning special events of street use and public right of way including the sidewalks within the City of Missoula. This has been a collaborative effort with the Police Department, the Fire Department, the City Attorney's Office, the Mayor's Office, and the Public Works and Engineering

Department. I've provided to you in legislative format the recommended changes and you'll see any deletions or recommended deletions or strike outs are reflected by strike outs. And the majority of changes being recommended are additions to, or language changes which are reflected with underlines. And so I could just take a few minutes and go step by step through the proposed ordinance recommended changes if that would be sufficient. Okay? First of all, before I get into the changes, our intent as a City organization is to continue to urge the City to be proactive, a family oriented, user friendly atmosphere, and that does incorporate the necessity to have some occasion to use the public right of way. That being the streets or the sidewalks and those areas that are normally designed for transportation and not for people to gather or recreate. Examples of that have been what we've done in the Farmer's Market and the People's Market and obviously we have some very fun and family oriented parades that add to the culture and the environment of the Missoula community and we want to continue that. However, we've also recognized that some of these events have become very intensive in terms of staff time. The City has certainly been exposed to liability due to injuries while on the city streets and what not. And we felt it was incumbent upon us as a City to make changes to the ordinance so that the event sponsor or person seeking the permit shares in that liability. Protects the City, reduces the staff time and does whatever is necessary to insure that the event is safe and healthy and yet all people concerned are protected. So that was the intent behind the recommended changes. In Section 1 of the Ordinance, first of all I have found a couple of I think grammar errors too. And one of them is under paragraph (b), Section 1, above halfway down, there's a sentence that starts, "further, the City urges that any organization, entity or applicant" and then it appears that we're missing the word, "asking for, or requesting permission". The addition to Section 1 is that some events we would encourage people to consider using alternate places for their events, such as a public park and actually stay out of the right of way. Anytime that we use the public right of way it can be disruptive to traffic flow. So that's the only recommended change in Section 1 other than we're changing the word, "manpower" or eliminating the word "manpower" and just addressing it as "staffing of City departments". In Section No. 2, we have increased the definition of parade, and we've also designated, and I'll get to that at the end, some standard parade routes. Councilman McGrath questioned me about the special event, the last item on page no. 1, special event. What does that mean in terms of a sidewalk? Does an individual have to have a permit? And do they have to have liability insurance to use a sidewalk? I'm not particularly familiar with any event that is totally encompass the sidewalk. Some events people certainly fall off over onto a sidewalk, as an example when the University of Montana Homecoming Parade uses Higgins Avenue, they're not using for permission to use the sidewalk. I'm not familiar with any particular event asking just to use the sidewalk, however, if that were the case Mr. McGrath, I would suspect that as a City and as an organization, we may be in a position to ask them to provide some liability insurance. And certainly if they're using the sidewalk so that totally blocks the movement of pedestrians up and down the sidewalk. We would not give them that authority to do that without a special permit as the sidewalk obviously is primarily designed for foot traffic. So I don't know if I even came close to answering your question. Okay. In Section No. 3, you'll see some major strikeouts and some pretty massive additions to it. Primarily what we're asking for under the first paragraph, the first lengthy paragraph is, for people that are asking for a special use permit, to give the City a little bit of lead time. We'd prefer two weeks, we know that's not always possible. And there's one addition that I would like to comment on here is that, almost to the end of paragraph (a) under that section it talks about if it's less than two weeks, that these people may have to hand carry it from department to department. I didn't mean for that necessarily to be left in there. Later this spring, we will be implementing a software program within the City of Missoula dealing with permits. And our intent will be to utilize the Sierra Software and electronically transmit all requests for special permits. Whether it's a special street use permit, or perhaps something coming out of the Engineering Department or the Public Works Department. So at no time do we intend after we have this software on line for an individual to have to go to the Police Department to the Fire Department to the Public Works Department. We will do all of that electronically. I think that the main meat of the primary change in this Ordinance is paragraph 2 and the operable words here in my opinion are, "reasonable possible", it is felt by the City Attorney and those involved in the recommended changes that it's in the best interests of the City to require an event organizer or an individual seeking a permit to demonstrate liability insurance and indemnify the City of Missoula. And that's what paragraph B addresses. Subparagraph 2 under B states that an individual is required to demonstrate a traffic plan which has been reviewed by the City Engineer and that if barricades or any other type of structure or material is needed for street closure. It's their responsibility to use a private vendor to obtain that material and to set it up and remove it, that is, City staff will not assume that responsibility. Subparagraph 4 under B is a recommended change in the hours of special permits. Previously, it was from 11 at night until 6 in the morning, and we're recommending a change from 9 PM until 8 AM are the hours that special permits are not going to be awarded. However, there's always been exceptions to that, the Mayor has the ability to grant an exception, and I think those exceptions come from the various departments. A good example is, Mr. Anderson brought up to me earlier, we had the Street Jam last summer that did go beyond 9 o'clock,

and we would be prepared to deal with those on an exception basis. Primarily, we do this because again, it is a staff requirement to have people on board when we're having these special events. And one of the reasons to get it before 9 or to end them before 9 o'clock, or not to start them after 8 o'clock is, as much as possible we try not to do a special event during the hours of darkness. And even 9 o'clock during the winter hours obviously, you're going to get into the hours of darkness, but we're not going to generally find a basketball event down on Main Street during the winter hours. I've attached to the back of that and as a reflective under subparagraph 6, is that we have recommended a number of standard parade routes and what our intent is to encourage event organizers to use a route that we, the City staff are familiar with. That the private vendors that supply barricades and street cones and those sort of things are very familiar with. The City of Missoula, that is the citizens of Missoula are used to having various street events in this proximity. It would be easy for the media to advertise that event, and again, because of the consistency with previous events, it's going to greatly enhance the safety to not only the citizens, but the people participating in the event and City staff. It's not set in stone that anybody has to use one of those, but it's a preponderance for us to consider an alternative to one of the recommended street routes. Under Section 5, subparagraph 4, again it's probably one of the two major changes recommended to the Ordinance and we're specifically addressing that a person within a parade, a participant in a parade or procession shall not throw, cast or drop candy or trinkets or any other articles to the people along the parade route, but may walk along the side of the parade edges, or the edges of the parade and hand out these items. I think anybody that witnessed the University of Montana's Homecoming Parade last year sees the importance of this particular event. And we don't want to discourage those people that want to pass out trinkets or candy or something fun, but we certainly need to make it in a safe and healthy manner. And the way that it happened last fall was not a safe and healthy manner. And in fact, we have seen over the last 2 years or so, two people participating in parades have been injured as a result of just that activity. And further on, in the recommended change, actually it's down in Section 7, we address that as a potential penalty. The event sponsor or permittee, or the particular offending participant may be guilty of a misdemeanor or subject to a \$25 fine, and that's an increase from \$10 to a \$25 fine. Under Paragraph B of Section 5, it's specifically addressed that any barricades will be in compliance with the manual on Uniform Traffic Control Devices, and that's an Engineering recommendation. And then Section 9 is an entirely new section that specifically addresses residential block parties, and it really doesn't have a lot of different language than the balance of the Ordinance. But it does in fact address block parties, and again, it uses the operative words, "reasonable possible" in terms of determining liability insurance coverage requirements. It also addresses the fact that before we're going to issue a permit for a block party, that the person requesting to do that has gained sufficient notification of cooperation from the neighbors, that is the neighbors are not going to be objecting to the block party, in fact that they would be in favor of it. And that is just a very brief overview of the recommended changes. The one additional grammar error that I detected was on the top of page 2, under Section 3, it states, "a special event permit shall be required" and then the very next word is "issued", so I'm not sure if the City Attorney meant to put a slash or a hyphen in there, or to eliminate the word "required" and just go with the word "issued".

Mayor Kadas said, we'll take public comment and then we'll probably have you back after questions. Mr. Nugent?

City Attorney Nugent said, to clarify one of the issues that came up early, with respect to sidewalks. If you look on Page 2, in Section 3B, 3. If you're solely on the sidewalk you don't need a permit. And examples of picketing that's been solely on the sidewalk, obviously is labor picketing, it's happened many times in this community. Also, that time that the Holiday Gas Station was on the ballot by initiative. The Chamber of Commerce organized someone and had them picketing on the sidewalk and they solely stayed on the sidewalk. So, if they're staying solely on the sidewalk, they aren't in for a permit, they don't have to come in for a permit. But as you see in Subsection 2, they also have to allow passage for the public, ingress and egress has to be allowed, and they also have to allow ingress and egress in through driveways too. So if people are trying to go in. And that's been the case with respect to labor picketing all along as well.

Mayor Kadas said, okay is there additional public comment on the proposed Ordinance? Any additional public comment? Okay, questions from Council? Mr. McGrath.

Alderman McGrath said, I think Mr. Nugent spoke towards my question that I asked of Pete. I mean we've had language in here about that essentially (inaudible) demonstration saying it's a special event and, but as long as you're not blocking the sidewalk, you don't need a permit. Prior to this point, however, you didn't need a million and a half dollars insurance. And I guess my question has to do, I mean most of the special events that are going to apply for this for parades, for homecoming parades and stuff like that makes a lot of sense. And I just don't want to constrain the free assembly of people into you know, and

often those are not necessarily groups that would have even all that much organization, let alone the ability to bond or get liability insurance. So, maybe you could, Jim you could clarify that and obviously a labor picket is clearly understood in Section B-3, would it also include for the lack of a, to use a word that we haven't used tonight then "march". I mean something where it's a moving picket if you will, or something that is staying to sidewalks, not blocking traffic, but it's more or less a political parade. It's a gray area.

City Attorney Nugent said, Jim I would suggest you could put in there, necessary for sidewalk picketing or sidewalk marches. If you want to put that word in there, that might be appropriate. I think there have been a couple of times where people marched down Higgins on the sidewalk rather than the street. But there's no intent as long as they're staying on the sidewalk like a normal pedestrian that they have liability insurance. It's when they're getting out in the street and disrupting the normal expectations of traffic flow and pedestrians and that. Especially at night, in the dark, that it's a concern for the liability insurance. So anyone (inaudible) solely on the sidewalk for picketing or marching, would not be required to get the liability insurance because they don't need to get a permit under this Ordinance.

Mayor Kadas said, other questions? Mr. Anderson.

Alderman Anderson said, is there a copy of the form, I don't see that attached anywhere to this Ordinance, although there's some maps of proposed routes. And the reason I'm asking is they talk about the application process and the approval or denial, and how does that approval or denial get communicated to the applicant? Is that by mail, is it verbal? So they say if a, an application is denied, the person has the right to appeal immediately to the Mayor, but if that's by mail there may be a delay of several days. And I just wondered how that occurred then. Is that clearly stated on the permit?

Pete Lawrenson said, it is in the permit form, Larry. And the Police Department has always been the department that is the coordinating department. So the Police Department is the last department prior to going to the Mayor's Office. With respect or with the exception of anything that's just solely a special permit for inside a park, and then it would be the Parks Department. So the individual, by the time it leaves the Police Department knows what our recommendation is, either approval or a denial. And then at that point, it's hand carried to the Mayor's Office and if there is a denial on the part of the Police Department and the Mayor concurs with that denial, it's an immediate telephonic notification. We're not going to put a citizen of the City of Missoula incumbent on the mail for notification purposes. And we also recognize that if we're recommending a denial and the fact that the Mayor concurs with that denial, it's the time element, the expedient ability on their part to appeal is very, very imperative. So we do not rely upon the mail, and we actually think with this Sierra Software that we're going to greatly enhance the ability to even cut that time down faster.

Alderman Anderson said, I just, another question, another one of these events that could exceed the time limit and possibly involve blockage of streets would be First Night. I guess what I would like to see is maybe a couple of these events that are ongoing and continuous maybe be listed in there that may exceed that so they don't have to grow through an appeal process or an approval process. Would that be possible to list any of those specifically by name that are kind of a community-wide event that we know will exceed those time limits. Would it be possible for those to be listed there or?

Mayor Kadas said, specifically addressing First Night, I'm not aware that they've requested a special permit, a street use permit. Street Jam has only been in the City Arena one year, but I do expect them to be an ongoing process and as I stated to you prior to the meeting, we have always retained the ability to provide an exception to the time frame depending upon the event. As often as not, where that exception has come is the event will go up to a certain time and then we need to allow them time to dismantle or break down those sort of things. But I don't see any reason why we couldn't individually list a couple that we know of.

Alderman Anderson said, I was just thinking of First Night where that occurs in the area between Caras Park and the Wilma Theater where there's a lot of traffic around that, which will be a street I guess if it isn't now after the parking structure's completed there and there'll be more traffic through there that may result in a closure of that area while that event's taking place.

Chief Administrative Officer Stevens said, I think though there are events like that from time to time, the organizers change for those events. And I think it would be wise to require to get a permit each time, simply from the fact that that might happen. And the event itself might change in some way that would

require different things going on. The request for an exception doesn't take any longer than just applying for a new permit anyway. So I don't think it's a huge burden on anybody.

Alderwoman Carpenter said, I was a little bit concerned, first of all about what Larry said as far as a process or something within here, I'd like to see what happens for an event that might need to go later. Like the Downtown Association does the Hoopfest and the night before there's been talk of perhaps having a dance on the street. And that would be something that would maybe need to go later, it doesn't have to go to the dark hours because obviously it would be in the summertime. So as far as that goes, I'm interested in extending the hours in the summertime to coincide with darkness, maybe from you know, Memorial Day to Labor Day kind of thing. If we can change that, that's fine, otherwise if there's something we can do to let it be known that that exception is welcome, coming with the darkness rather than an actual time.

Pete Lawrenson said, I don't know of anybody that's never been bashful about asking for an exception. The most recent one was when the Irish Pub on Pine Street did their Gaelic event earlier this year and we needed to give them an exception/. Even the way it's currently written, to 11 o'clock, we exempted them up until midnight, allowing them to run their event and then have plenty of breakdown time. I mean it's certainly a Council option to change the hours, I know we would be very comfortable trying to encourage the majority of people to stay within the parameters that we feel are most beneficial to the City staff and the safety of the community. But then as Ms. Stevens stated, an exception is very easy to do, and we will incorporate or do have that language incorporated in the permit application process.

Mayor Kadas said, Chief Lawrenson where is the exception language in the ordinance?

Pete Lawrenson said, it's not written in the Ordinance.

Mayor Kadas said, I think that is a problem. If we don't specifically authorize it, it doesn't matter in a form or not. Given that, I'm thinking we probably need to send this back to Committee. Any other questions? Okay, Miss Carpenter?

Alderwoman Carpenter said, (inaudible) back to Committee please?

Item was sent back to Committee.

PUBLIC COMMENTS FROM CITIZENS - LIMITED TO ITEMS ON TONIGHT'S AGENDA(3-MINUTE RULE WILL BE ENFORCED)

Judy Smith, 224 Crosby, thanked Andy Sponseller for being on the Council for 4 years and spending time here doing the things that are important to do. She has known Andy for awhile, worked together on growth management kinds of things with the stakeholders and some other issues. She wished him the best and presented him with a card.

Linda Smith thanked him for his energetic representation of his Ward and for the community at large interest while serving on the City Council. She said that after she had been on the Open Space Committee for a number of years, she felt it was time for her to move on. One of the people who took her place on that Board was Andy Sponseller. When she had heard that a contractor had been appointed to the Open Space Committee, her reaction was less than positive but she's glad to have been proven quite wrong. She wanted to say farewell from the City Council for your time being here on the City Council and bon voyage to whatever he decides to take up next.

COMMITTEE REPORTS

Administration & Finance Committee

Mayor Kadas said, that's all we needed. Any other public comment? Okay we'll move on to Committee Reports, PAZ. Mr. Morgan?

Alderman Morgan said, we have a Motion regarding

Mayor Kadas said, oh, I'm sorry, we'll do A & F first. Sorry, Scott. Mr. McGrath.

Alderman McGrath said, the Committee recommends approval of claims totaling \$183,077.51 and I so move, and I'll speak to it briefly if I can.

MOTION - Approve claims totaling \$183,077.51.

Alderman McGrath moved to approve claims totaling \$183,077.51.

Mayor Kadas said, is there any public comment? Seeing none, a discussion on the motion. Then we'll have a roll call. Mr. McGrath, I'm sorry, I'm trying...,

Alderman McGrath said, this won't take very long. I appreciate your noticing that we didn't have it in there. I thought I had seen it. I think part of the..., I'm not sure why it was overlooked but there isn't very of it..., and just for Council Members that, the largest ones went to, for example, OPG and the Water Company. So it's actually not a lot of claims this week, and so I encourage you to pass them.

Alderman Charney said, my only point in bring it up is making sure it will be in the record, because I think every week it is a part of our minutes. Substantiation for the consent item or agenda and so now it will be and that's fine.

Mayor Kadas said, any further discussion? Then we'll have a roll call vote.

Upon a roll call vote, the vote on the motion was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Harmon, McGrath, Morgan, Reidy, Sponseller, Turek

NAYES: None

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Motion carried: 10 Ayes, 0 Naves, 0 Abstain, 2 Absent

Mayor Kadas said, Motion carries. Miss Crowley informs me that there is an item under the Conservation Committee. So Miss Crowley?

Conservation Committee

Alderwoman Crowley said, this is just for the Council's information. We wanted to let you know that the Committee voted to accept the Park Board's First Annual Mount Jumbo Report. This report is required by the Mount Jumbo vegetation plan and is to be filed late every fall. It's meant to alert the Council to any changes they feel are needed in the plan itself for the coming year. This first year there are no changes to be made, but if you've read the document you will see that there are some records, recommendations that the Committee plans to follow up on. And I want to thank the Park Board for putting the time in to put this report together for us.

Plat, Annexation & Zoning Committee

Alderman Morgan said, two Motions out of PAZ this week, both having to do with appointments to the Planning Board. The first Motion is the City Council appointments, the second Motion will be concerning the Mayor's appointment. The first Motion is to reappoint Bonnie Gee as a regular member and reappoint Marty Baker as an alternate member to the Missoula Consolidated Planning Board for the term of January 1, 2000 through December 23, 2002. And I would like to move additionally that we separate those two items.

MOTION - Reappoint Bonnie Gee as a regular member and reappoint Marty Baker as an alternate member to the Missoula Consolidated Planning Board for the term of January 1, 2000 - December 31, 2002.

Alderman Morgan moved to Reappoint Bonnie Gee as a regular member and reappoint Marty Baker as an alternate member to the Missoula Consolidated Planning Board for the term of January 1, 2000 - December 31, 2002.

Mayor Kadas said, okay, let's take public comment and then we'll take your motion to separate, if we could do that. Is there any public comment on the main motion to reappoint Bonnie Gee and Marty Baker to the Planning Board? Seeing none, then Mr. Morgan has made a Motion to separate the two appointments and take them one at a time. Is there any objection to that Motion? Seeing none, then we will take the first Motion to reappoint Bonnie Gee. Is there discussion? Mr. Anderson.

MOTION - Reappoint Bonnie Gee.

Alderman Morgan moved to reappoint Bonnie Gee.

Alderman Anderson said, I'd like to make a substitute Motion and delete Bonnie Gee's name and insert Chuck Gibson, and have him appointed as a regular member of the Missoula Consolidated Planning Board.

Mayor Kadas said, I think the proper Motion would be to amend, rather than to substitute.

Alderman Anderson said, okay, I'll make that as an amendment.

AMENDMENT - Delete Bonnie Gee's name and insert Chuck Gibson to be appointed as a regular member of the Missoula Consolidated Planning Board.

Alderman Anderson moved to delete Bonnie Gee's name and insert Chuck Gibson to be appointed as a regular member of the Missoula Consolidated Planning Board.

Mayor Kadas said, is there discussion on the Motion to Amend? Mr. McGrath.

Alderman McGrath said, well I don't support the Motion. I think we're about very quickly to enter into extensive Committee business here on the floor which I think we're going to regret doing. I guess I'll hold off more remarks to see if we can conclude it quickly. But I think we should be making our Planning Board appointments thoughtfully with discussion and evaluation and review. I've been disappointed with the way that we handled this one from the beginning. And I think that we have not, the Committee and the Council has not looked at various options before moving this amendment. I made the Motion to Reappoint Bonnie Gee..., [tape change, loss of words]..., had a large list of qualified applicants, but the one serving were also qualified and we were struggling, I think not to spend a lot of time on it, and this is an important So perhaps we should go ahead and spend time on it. But we didn't discuss Mr. Gibson as a Planning Board Member, and if we're going to go back and look at different Planning Board choices, we should do that in committee.

Mayor Kadas said, Mr. Nugent has raised the question of public notice on the substitution of a candidate here, so I think that before we go any further, we need to open it back up for public comment with respect to Mr. Gibson's nomination.

Alderman Sponseller said, well Mr. Chairman, it seems a little inappropriate to make an announcement in the short term like this about public comment on an issue like this. It..., I mean it seems to me that it would be appropriate to do the proper noticing in regards to this.

Mayor Kadas said, well I think that's an argument you can make. I think that since Mr. Gibson was included in the list of people who were interviewed, that the public had some notion of who the list was. The difficulty here is if we open, if we have to go back to committee every time we have a change, you know it will take us weeks and weeks to potentially fill these vacancies.

Alderman Sponseller said, but, may I respond? It seems to me, it seems to me that this is a rather substantial change, and I don't have any indication myself that Bonnie Gee hasn't fulfilled her responsibilities in regards to attending meetings and applying herself to this job. So I have to assume that on some level that this may be more politically oriented and you know, let's face it, those sorts of things happen down here. But, this is a fairly substantial change, and I ... you know I don't think that it's appropriate to do this without some further noticing.

Mayor Kadas said, okay, well here's what I'm going to recommend and do, unless majority of the Council suggests otherwise is, I'll open it back up for public, for public comment on anyone who is offered as a substitute. There is also, if someone wants to send this back to Committee, a Motion to Refer to Committee takes precedence over all other motions. Now it is non-debatable except for questions which may be asked. But if someone made that motion, that motion could be made, we could ask questions about it and then have a vote on it. So, is there any public comment on the proposed appointment of Chuck Gibson to the Planning Board? Okay, seeing none we'll continue the debate.

Alderwoman Carpenter said, during that particular Committee Meeting, I was, I've been in favor of Chuck Gibson, I liked what he had to say. I didn't mention him, because I didn't feel that at that particular meeting we'd have actually enough people to get him on there. I just didn't hear a lot of feedback on that, but when we did discuss Bonnie Gee there was quite a bit of negative discussion (inaudible) there was a question of her attendance, how regular she was. As well as the fact that we were unable to interview her this time as well as last time. So I think that given that, the discussion is not, you know we heard from Chuck, we didn't hear from Bonnie.

Alderman Reidy said, I don't think (inaudible) since I've been on here, and that's 13, 14 years, and it happens all the time. Of course it's political. But people have different choices, and this is the full Council and we have a lot of things that come out of committees that are changed, and might be on in time, so let's get on with the, let's get on with the vote.

Alderman Sponseller said, we have an amendment on the floor, is that correct?

Mayor Kadas said, there's an amendment on the floor, yes.

Alderman Sponseller said, I was wondering if I could make a friendly amendment, Mr. Anderson? ... entertain that anyways. My friendly amendment would be that we reappoint Bonnie Gee and appoint Chuck Gibson as an alternate, I'm spacing out a little bit, alternate member, and I think that would go a long ways towards satisfying the desires of any numbers of people here.

Alderman Anderson said, I don't accept that as a friendly amendment. And I would like to speak if I could. I've known Chuck for 13 years, ever since I've been with the City of Missoula. And I know that he's been involved in his neighborhood activities, he's familiar with a lot of the Planning regulations and rules in his position as Fire Chief because they are involved in a lot of the Planning issues, especially in Subdivision and Review, and providing fire service. I know him to be a very capable individual, I think he would serve well here in reading over the minutes of the PAZ Meetings, since I'm not on that Committee, I did see several references to Bonnie Gee's lack of attendance. And I think attendance is very important in these things, since these are such crucial issues to the community, and to good planning. So, I would continue to support the Council to consider and support Mr. Gibson for this position.

Alderman McGrath said, well, while there was passing reference to Bonnie's attendance, there was also a great deal of praise about the quality of her work there. But, the most reiterated comment about why she should not be reappointed was that she is too political, and filed a complaint against Ed Childers. So it's clearly a case where we're entering into a new level where we're asking Planning Board members to retire from all public life, and or else suffer payback, and I think that's a ridiculous place for this council to go

when we're looking at something like the Planning Board. We were not able within the time frame that we had to dig into other people who were interviewed, or other people who were not interviewed and both Miss Carpenter and myself had requested additional people might be considered in the interview process. We didn't talk about any criteria of what kind of work, what we valued in a Planning Board, what the existing membership that would be, not counting these appointments that would create a certain balance or any kind of goal for the Board at all. Um, again, I, understanding that we had several good choices, and that we would be hard pressed in a short period of time to center on two, I went with two that were existing and were satisfactory, and I think that we need to not use this sort of appointments as a set of critical pay-offs.

Alderman Harmon, said, well I think Chuck's a really decent guy. And I'd like to see him participate somehow, however, it is a political thing. And I guess what that means to me is, is frankly I want people on the Planning Board that either see things the way I see them or I think they're going to vote a way that makes sense to me. And I think that's probably what we're all going to do, is we want people on there that are going to do what we want them to do. And I don't think, although I respect Chuck and I think he's a nice person, I don't see him voting the way I'd like to see somebody vote on there. I don't think he'll be for ADU, I don't think he's for neighborhood commercial establishments, and I don't think he'd buy into the smart growth policies. Maybe I'm wrong, but based on the interview, I don't think he will. And therefore I won't support him here.

Mayor Kadas said, further discussion?

Alderman Reidy said, I call for the question.

Mayor Kadas said, could..., Miss Crowley is before you. Miss Crowley

Alderwoman Crowley said, um, this is a difficult decision, because I feel, I am going to support Chuck. Mainly, because I feel like he's spent the last six months talking with people on the street, something that most of the Planning Board probably hasn't done in a while. So he has a good feel for what's out, what the thinking is out there. But at the same time it's difficult because Bonnie has given such good service, and you can always count on her to bring up the issues and to be a strong voice for good decision making. I happen to disagree with Dave, I think Chuck is a good worker, he'll pay a lot of attention and he has an open mind, and he can make up his own decisions.

Alderman Reidy said, yeah I think we've debated enough on this; I call for the question, the previous question (inaudible).

MOTION - Call for the question.

Alderman Reidy moved to call for the question.

Upon a voice vote, the motion carried.

Mayor Kadas said, motion carries. We'll have a roll call vote on the Motion to Amend to Strike Bonnie Gee and Insert Chuck Gibson as the Council's Regular Member Appointee to the Planning Board.

Alderman Charney said, will the vote on the amendment be considered (inaudible), in essence, the same?

Mayor Kadas said, technically it shouldn't be, I think that you're right that in all practice it is, if there is no objection by the Council, we can have the vote on the amendment be the final vote rather than doing the same vote twice.

Alderman Harmon said, I object.

Mayor Kadas said, okay then we'll do the same vote twice. So we'll have, well actually on the ... we can... since it's only a Motion to Amend we can do that by a voice vote, but that's going to be close enough that we're going to recall a roll call and... so let's just have the roll call vote. This is on the Amendment.

Upon a roll call vote, the vote on the amendment was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Reidy, Turek

NAYES: Harmon, McGrath, Morgan, Sponseller

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Motion carried: 6 Ayes, 4 Nays, 0 Abstain, 2 Absent

Alderman Harmon said, I have some discussion on the main motion when you're ready. I'd like to send it back to committee.

MOTION - Send the item back to Committee.

Alderman Harmon moved to send the item back to Committee.

Mayor Kadas said, it is a Motion to Refer, it's non-debatable, questions are available, seeing none we'll have a voice vote.

Upon a voice vote, the motion failed.

Mayor Kadas said, motion fails. We're on the main motion, any further discussion? Mr. Sponseller:

Alderman Sponseller said, well I was just kind of repeating what I said before, but I think it's kind of a shame that this body couldn't do a little better than this. And I guess I hate to say something negative on my final night going out, but it is kind of disappointing and I expect really more from you guys. We've got two good people here, I think Chuck's a fine individual too, and I know Bonnie Gee personally, I think she's a fine individual and I don't have any reason to believe she hasn't done a good job on the Planning Board. I think this is really about politics that don't have anything to do with community planning and at least that's the way it looks to me. But that being said, I think this body could've done a better job and dealt with your feelings in a little more honorable way by appointing both these people to the Planning Board and come to a better situation, we all could've lived with it. I think we all would've been a little bit satisfied but, I'm a little disappointed here.

Alderman McGrath said, yeah, this is, what we started with, two incumbent members of the Planning Board that we had to take into account and assess whether we wanted to reappoint them or appoint somebody else. We had 13 applicants, there were a number of them that were (inaudible). Normally we would interview all of them, and there wasn't anybody on there that was like un-interviewable. But there were 13 of them, so we entered into a process that the Council hasn't done in the past, which is to select a short list. That selection process, I thought was demonstrated fairly quickly, the Council members really had made up their minds on certain, along certain lines, and which raises the question to me as to why we would even do interviews at all. Because interviews are an information seeking process, and so when Council members request to interview an applicant, I would think that we would do that. Or at least call for some rationale for why we didn't. I think this whole process has been one where we entered into it with certain people having already made up their minds. And anyone who was trying to legitimately assess the Planning Board was you know, a half step behind that process.

Mayor Kadas said, any further discussion? Seeing none, we'll have a roll call vote on the Motion as amended.

Alderwoman Herbig said, Mayor Kadas can we have an exact statement of the Motion so that I make sure it's correct in the minutes?

Mayor Kadas said, the Motion is to appoint Chuck Gibson as the regular member, as a regular member to the Planning Board, whereas the City Council's regular member to the Planning Board.

City Clerk Rehbein said, said, okay, so it's ... same as the last motion.

Mayor Kadas said, yes.

Upon a roll call vote, the vote on the motion was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Reidy, Turek

NAYES: Harmon, McGrath, Morgan, Sponseller

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Motion carried: 6 Ayes, 4 Naves, 0 Abstain, 2 Absent

Mayor Kadas said, motion carries. Mr. Morgan, if you could make the next motion just to be clear that what we're on, I think technically you've already made it, but...

Alderman Morgan said, sure, try to separate it out. This would be a Motion to Reappoint, and this comes from PAZ. Reappoint Marty Baker as an alternate member to the Missoula Consolidated Planning Board for the term mentioned.

MOTION - Reappoint Marty Baker as an alternate member to the Missoula Consolidated Planning Board for the term mentioned.

Alderman Morgan moved to reappoint Marty Baker as an alternate member to the Missoula Consolidated Planning Board for the term mentioned.

Mayor Kadas said, is there any public comment on this motion?

Bob Oaks said, 1026 Kennett, I hadn't come even knowing this was on the agenda, so I hadn't planned to speak about it. But, I've observed the Northside/Westside Comp Plan over the last couple of years. And Marty Baker's the only one from the Planning Board who has come and attended regularly. As far as I can see, the guy's terrifically dedicated to what he's doing, and I would certainly urge Council to support his reappointment.

Mayor Kadas said, thank you Mr. Oakes. Any further public comment? Okay, seeing none, (inaudible).

Alderman Charney said, in the interest of gender, the quality I would like to amend by substituting for Marty Baker the name of Helen Cipolato.

AMENDMENT - Substitute Helen Cipolato in place of Marty Baker.

Alderman Charney moved to substitute Helen Cipolato in place of Marty Baker.

Mayor Kadas said, is there any public comment then on the nomination of Helen Cipolato? Seeing none, discussion on the motion. Mr. Charney?

Alderman Charney said, Helen is also an incumbent, however she is currently the appointee by the PPC, and has specifically requested to go alternate from a regular member to an alternate. PPC has already made their appointment for their regular member replacing Helen. We interviewed Helen for the alternate position, it's the only one she wants, she does not want a regular position, she wants alternate only. She certainly impressed the Committee, or at least me as a member of the Committee. And I think in the interest of the, also and the Mayor has pointed out to us that there was a shortage of females on the Planning Board, and that was one of the reasons that he appointed his appointment, which is going to

come up later in the meeting. So I think now that we have replaced a female with a male for the regular appointment we should do likewise for the alternate and replace a male with a female.

Mayor Kadas said, discussion? Miss Carpenter.

Alderwoman Carpenter said, this is a particularly tough development. I was there, and I was very careful when the applications came in, to read them, to go over them. Helen stood out, she did when, but when they actually did the actual interviewing, I really, really liked Helen. My suggestion was to go with Marty and Helen, and that's what I would've liked to have seen happen. Since that can't happen, I think I probably would tend to sway my vote towards Helen right now. Unfortunately, because I agree 100% with Bob that Marty is so dedicated, he shows up for I think just about all of the neighborhood meetings, and he's also on a couple of other boards in this city, and I hate to see him go. But I think that Helen would carry on good in his place.

Mayor Kadas said, further discussion? Mr. Sponseller.

Alderman Sponseller said, well it's pretty unbelievable what I'm hearing, is that performance doesn't count and I, you know, (inaudible) Marty you know acknowledging that he's done a good job of attending meetings is, seems unfathomable on some level. I would have expected that folks that weren't in favor of Bonnie Gee might be in favor of, some sort of a compromise but this seems sort of adds insult to injury on some level.

Alderman Harmon said, yeah, I spent some time with Marty Baker down in San Diego. I guess I'm not changing anybody's mind, so I'll keep it really brief. I guess people have pretty much made up their minds what's going on in here. We did invest around \$1,000 in Marty to get him up to speed on some smart growth stuff. I'd like to see him kind of have a chance to exercise some of that knowledge. I guess it's not a total waste, he is on the Design Review Board, so maybe he can apply some of that information that we invested in him there. But I'd like to see him hang in there, it's a tough one for me because besides being my neighbor, there's many times that Helen's been a really dedicated advocate and she and I agree on things about 50% of the time and not the other 50. She's a good worker, so it's not like I don't feel like we're going to, the Planning Board's going to the dogs by doing this vote, on the other hand if I had to choose between the two, I'd pick Marty.

Mayor Kadas said, further discussion? Then we'll have a roll call vote on the Motion to Amend.

City Clerk Rehbein said, this is on the Motion to Appoint Helen Chipoloto as alternate.

Upon a roll call vote, the vote on the motion was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Reidy, Turek

NAYES: Harmon, McGrath, Morgan, Sponseller

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Motion carried: 6 Ayes, 4 Naves, 0 Abstain, 2 Absent

Mayor Kadas said, Motion carries. Any further discussion? Is there any objection to recording that vote as the vote on the final Motion? Seeing none, then we will just duplicate that vote for the final Motion. Mr. Morgan?

Upon a roll call vote, the vote on the final motion was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Reidy, Turek

NAYES: Harmon, McGrath, Morgan, Sponseller

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Motion carried: 6 Ayes, 4 Naves, 0 Abstain, 2 Absent

Alderman Morgan said, then we have another Motion out of PAZ which is to confirm the Mayor's appointment of Deb Halliday to the Missoula Consolidated Planning Board.

MOTION - Confirm the Mayor's appointment of Deb Halliday to the Missoula Consolidated Planning Board.

Alderman Morgan moved to confirm the Mayor's appointment of Deb Halliday to the Missoula Consolidated Planning Board.

Mayor Kadas said, is there any public comment on this item? Seeing none, discussion?

Alderwoman Carpenter said, this is one that I am going to oppose although I do respect the Mayor greatly, and I appreciate his opinion on how things..., how he chooses people. I didn't find that Deb's qualifications were up to where other people's were who were also applying, so I'm going to be voting no.

Mayor Kadas said, further discussion? Seeing none, we'll have a voice vote. All those in favor say aye.

Upon a voice vote, the motion carried.

Mayor Kadas said, Ms. Turek passes.

Alderman Charney said, passes.

Mayor Kadas said, let's have a roll call vote just so we get it all straight.

City Clerk Rehbein said, this is on the Motion to Confirm the Mayor's Appointment to the Planning Board, and I guess we start with Morgan..

Upon a roll call vote, the vote on the motion was as follows:

AYES: Crowley, Harmon, McGrath, Morgan, Reidy, Sponseller

NAYES: Anderson, Carpenter

ABSTAIN: Charney, Turek

ABSENT: Gingerelli, Herbig

Motion carried: 6 Ayes, 2 Naves, 2 Abstain, 2 Absent

Public Safety Committee

Public Works Committee

Mayor Kadas said, Motion carries. Let's move on to the Public Works, Mr. Anderson, Item No. 7 from the Consent Agenda.

Alderman Anderson said, the Committee recommends a council for the resolution to spend up to \$1,503,000.00 plus usual and customary closing costs from the city acquisition of up to 15.6 acres. 42,000 plus or minus square feet tilt up concrete manufacturing/warehouse building and secondary structures to include 3 (inaudible) barns located on the West side of Scott Street just North of the Scott Street Bridge, Missoula, Missoula County, Montana. In addition, they'd spend up to \$400,000 for the renovation and construction at the new site, and the sale of the current maintenance facility located at the South half and a portion of the North half of Block 48, in the North half of Block 47, all of the WJ McCormick Addition and adjacent rights of way specifically Morris Street and contiguous alleys. Proceeds of this sale to be used to offset the cost to relocate the City of Missoula's Maintenance and Streets Division and other maintenance facilities and construct a recreation area, and I would so move.

RESOLUTION 6290

A RESOLUTION OF THE MISSOULA CITY COUNCIL TO EXPEND UP TO \$1,503,000 PLUS USUAL AND CUSTOMARY CLOSING COSTS, TO FUND CITY ACQUISITION UP TO 15.6 ACRES, 42,000 +/- SQ. FT. TILT-UP CONCRETE MANUFACTURING/WAREHOUSE BUILDING AND SECONDARY STRUCTURES TO INCLUDE THREE POLE BARNs LOCATED ALONG THE WEST SIDE OF SCOTT STREET JUST NORTH OF THE SCOTT STREET BRIDGE, MISSOULA, MISSOULA COUNTY, MONTANA, AND ADDITIONALLY EXPEND UP TO \$400,000 FOR RENOVATION AND CONSTRUCTION AT THE NEW SITE, AND THE SALE OF THE CURRENT MAINTENANCE FACILITY SITE, LOCATED AT THE SOUTH HALF AND A PORTION OF THE NORTH HALF OF BLOCK 48 AND THE NORTH HALF OF BLOCK 47, ALL OF THE W.J. MCCORMICK ADDITION AND ADJACENT RIGHTS OF WAY (SPECIFICALLY NORA ST. AND CONTIGUOUS ALLEYS), PROCEEDS OF THE SALE TO BE USED TO OFFSET THE COST TO RELOCATE THE CITY OF MISSOULA'S MAINTENANCE AND STREET DIVISIONS AND OTHER MAINTENANCE FACILITIES AND CONSTRUCT A RECREATION AREA.

MOTION

Mayor Kadas said, without objection, what I'd like to do is ask Mr. Bender to give a staff report on this. Mr. Ballis has raised the complexity of this issue as an issue and it may help us as we go forward just to kind of get some more information out on the table, if that's okay with everyone?

Chief Administrative Officer Stevens said, if I might, Bruce is going to give a history of how we got to where we are and then I'd be happy to speak to Mr. Ballis's issue too.

Mayor Kadas said, okay, Mr. Bender.

Alderman Bender said, (inaudible) throughout the Spring or Summer of 1998, when the St. Pat's (inaudible) approached the City about the possibility of interest in the Street Maintenance Shop. We looked at this as an opportunity to advance a particular project that had been in the CIP for over a decade and that was the upgrade of our Street Maintenance Facility, and they were aware of that interest. And so that led the staff on a venture basically of looking at the whole City and talking about where we should have a maintenance facility. A logical approach to that was a look at trying to centrally locate a facility, and so we did, essentially in the sense of where we think the center of the city would be in the future too. Because we were talking about a facility that could grow, or meet our needs in the future. So we did basically look in the area of in the East Reserve Street area primarily, between there and Russell Street. We focused on that area either north or south of South Avenue, and looked at a variety of properties there. We looked at the Forest Service properties along the Bitterroot Branch, we looked at the Montana Power properties, we looked at also, we had actually a realty firm, Lambros was looking for us for properties, because the agent working for St. Pat's. And so they were looking for a lot of bare site lines or sites that were, had properties on it that could meet our needs. We also looked at the DNRC properties too, out in the Target Range area. And anyway, we went through all of those, we spent all of our time looking at those over a period of about a year, and basically centered in on the Mullan Road site, because that was the one that was available next to the County Jail, as county property. It had the acreage we were looking at, because we wanted something in the neighborhood of 11 to 15 acres and also had availability. And then that's when the Public Works Subcommittee basically entered into it, and we brought them on line, and they initiated a Subcommittee in 1999, excuse me, 1998. Actually, I guess we started this in 1997, excuse me, because I'm thinking that we spent the first year '97, and then the Subcommittee started up in about the Winter of '98, and we spent that spring looking at the properties. And that's when the, it was in that review that we zeroed in on the White Pine site, because we knew that availability and the

Subcommittee worked with us on that. So it wasn't until basically the Summer of 1998 that we zeroed in on the White Pines site and started seriously looking at that, and with the Subcommittee, and also started looking at ownership. And then the ownership started changing as we were looking at it, and then we continued those discussions as into the Winter of '99, and through this summer. So that's a little bit of the background, and that's how we gradually moved toward this particular issue. There was numerous reports in the Subcommittee that were brought to the Committee, I mean actually Committee members could speak a little bit more clearly than me. And also came out with a recommendation, and the recommendation was to look at the White Pines site because of the acreage (inaudible) the facility, we toured it, we looked at it, and there was an interest sellers, and that was the other parameter of it. One of our biggest problems we were having previously was that there were properties that we might thought we were interested in, but they were not available, and they came up and into it. So, that's how we gradually came to this process of dealing with Zip Beverage and also to the property owners to the north of that.

Mayor Kadas said, thank you Mr. Bender. Mrs. Stevens?

Chief Administrative Officer Stevens said, this item has also been in the Capital Improvement Program for a few years, and in fact, this current CIP has a project, Project No. CS10 in the amount of 3.2 million dollars, which includes the, a GL Bond for 2.150 million dollars, and obviously it's going to be about a million dollars less than that or more. It also indicates the sale of the existing Street Facility, and then it also lists the sale of the parks facility which is not something that we're bringing forward as a part of this resolution at all, and further, as to the sale of the existing Street Facility. Prior to the vacation of the right of way, we will develop a request for proposals which will contain an option for vacation. After we receive responses, we will make a recommendation which the Council will have to approve. It would then be in that approval or shortly thereafter that the vacation procedure, which is a legal requirement, would be used. We're not circumventing any of the legal requirement for a vacation of rights of way, and that will come through the Council as a normal process.

Alderman Reidy said, yeah, I was on the Subcommittee to look at the property, and I was impressed especially with the building. I was in the Mayor's Office this morning, and I discussed the North Street closing. I get a little uneasy when we do things to make the private sector jump through a bunch of hoops when we close streets. But I guess the Mayor assured me that this will have to come in front of the full body again and I would hope that all the (inaudible) street and the people that do business on that street have a chance for input with the finalization of this contract is fulfilled. And I think that I would ask the Mayor to explain that a little bit to me further, for my own....,

Mayor Kadas said, the, in order to vacate a street, we have a statutory process that we have to go through, and we also have a statutory process that we have to go through in order to sell property. And both of those processes require Council approval. So, the reason that we have asked to have the street vacation included in this issue, is because that from the marketability standpoint, one of the key parties that is interested is really looking to assemble a 2-block area. And so being able to vacate that street is critical to them in terms of their purchase price. So what we had in mind in terms of the sale of this property, is that we would put together an RFP that would have a couple of options in it. One would be the property without vacation, another would be the property with vacation. And we would bring that back to the Council with a recommendation, but at least that gives the folks who are bidding on it kind of the whole spectrum of what's available. It also, you know it will ultimately have to come back to this Council to decide kind of what you, how you want to deal with it. But, I mean there's no question that the Council has to essentially approve both issues, sale and vacation. But we think that it's beneficial to be able to include those in the process in order to get the best view of what the market looks like. So, okay, so let's, we'll do public comment and then we can open it back up for questions. Is there any additional public comment on this item?

Bill Pagas 704 North Fifth. I'm also on the Leadership Team of the Northwest Side Council and just want to let you know that we've met a few times with the Mayor and some of the staff at our last neighborhood meetings. And went through the possibility of actually moving the shops there and what that would mean for the neighborhood. And a general consensus of those meetings are that it's fine, I mean there's really no opposition of having the shops there. And actually if there's a possibility to put a little bit of a park there on one of the pieces of property, that's just a bonus for us, so that's about it, thank you.

Mayor Kadas said, thank you Mr. Pagas. Further public comment?

Candy Mathew-Jenkins, this is another question. Who's bidding on this property? Is the public allowed to know that? That there would be an entity that would be interested in a vacated street and two full blocks?

Mayor Kadas said, well St. Patrick's Hospital is the entity that we're aware of that's interested there. What we hope to do is advertise it widely enough so that anybody else that's interested will also provide us with a competitive bid.

Candy Mathew Jenkins said, interesting, thank you.

Mayor Kadas said, you're welcome.

Bob Oakes 1026 Kenton, said, I'm here to speak in favor of this resolution. I've watched this come together over the past oh, three weeks to a month. I'm amazed that it has come together as beneficially as it seems to be on behalf of the neighborhood. I hate to be rash, but it seems as if there's a lot of winners in this, and I think that there probably are trade-offs, whenever there are a lot of winners. And I think that probably the City Shop's building that was recognized as a cultural resource by the neighborhood and then there's a desire to see that preserved. Consolidation of that property would perhaps endanger that building. But, the other hand, there's been a crying need for playing fields out on the northside, especially soccer fields, for an awfully long time. And it's a neighborhood where over half of the children live in poverty, and many of them maybe even most of them can't get to Fort Missoula to play soccer. And it's been a desperate need for a long time to get a playing field on the northside. I think this is the opportunity to do it, and I think that the City Administration has taken some really decisive leadership and putting together a package. And I would also commend Zip Beverage and Scott Street Group who are showing a willingness to contribute towards the development of a playing field. I think it could be a beneficial deal for us all, and I urge you to support it, thanks.

Mayor Kadas said, thank you Mr. Oakes.

Jerry Ballas again, 204 South Avenue East, Council-Elect Ward 4. Again, my concern here is, one, I do support this, I think it's a great idea to try to move the shops. I know how important that it needs to be moved. I know that any ten people that you talk to that come up with at that the site, because I've been through this, is going to have a different opinion on where the site is. So I definitely defer to the Committee, they've come up with a site and we can support that. But I still have the concern that we seem to have a couple of dual standards when we're developing property. When any public developer that would've come to you with any kind of a proposal like this would've had to provide the public a lot more information as to about what the plans were. And we would have advertised and had a public hearing, and we haven't really done that. So I see a dual standard, that the City is saying, you do what I say, not what I do to public development, and I don't think that's right. The other issue, there's about three paragraphs on here that reference an abandonment of adjacent right of ways and streets. And I have no problem giving you the authorization to sell your current facilities, I don't understand though, why you have to have those paragraphs in the resolution, that I see as a tying of our hands when it comes down to future discussion of these. You have not talked to that people in that area, you may have talked to representatives on the Northside, Westside Neighborhood Council, but you haven't talked to the businesses and the people that are..., that would be affected by this particular item. And I think you need to do that, you need to understand that the trucks that service the community, the creamery and the dairy are over the road trucks carrying piggyback trailers and they use this street to access their facility. If you close the alley there without their input, you're going to be end up forcing highway trucks through some of the residential areas and to places where they have to park. And I think Jack Reidy can, has driven some of those and he knows that these trucks are not easily handled. But I fail to see how you can just summarily put a vacation of right of ways into a resolution without talking to the some people, of the people that it affects. Thank you.

Mayor Kadas said, thank you Mr. Ballas. Further public comment? Okay, seeing none, particularly on this point that Mr. Ballas raises, I am just wondering on the second further be it resolved. It, I don't know if this will deal with your problem Mr. Ballas, but on the second line following the comma where it says, the sale of, if we inserted the advertisement for sale of. And so what the Council would be doing is authorizing us to put together, authorizing the Administration to put together the RFP and to go out and get the bids back. We would still clearly have to bring those bids back to the Council and the vacation issue would have to come back to the Council at that time. But then, at least we would know, we would have responses to the bids which are going to vary depending on the vacation issue. And so, I mean we would certainly be willing to do that if that helps. Mr. McGrath?

Alderman McGrath said, I have a question about that, and I also want to speak to. I guess my question about it, about a change to that extent how would that affect the contingency of this purchase on the sale and therefore the revenue from the sale on the purchase if we're really only committing to advertise it.

City Attorney Nugent said, I think that we're also not changing the Purchase Agreement which is referenced elsewhere. But I do think it ends up being a little confusing if the idea is that we're not committing to selling the property, but we're saying we won't do it unless we sell the property. So, I think that since we haven't finalized any of those Purchase Agreements that I don't see that as a problem.

Chief Administrative Officer Stevens said, I'm still not clear really on what the issue is here in terms of the vacation of the streets and alleyways in that this says, in accordance with state statutes which binds us to putting the thing through the process just like any other developer. I don't..., I'm not clear on why this is any different than what we're doing with any other developer. We must comply with state law just like they do.

Bruce Bender said, and also in your Purchase Agreements, both of them state in there as a condition of the sale is that the City Council approves the sale of the current property, so you know, the Council has to approve the sale, that's a condition of the Purchase Agreements. And you can't approve the purchase of the sale of that property without meeting the obligations that Janet refers to, which is going through a proper hearing and the vacating it, etc., you couldn't final the sale of that property unless that's all met.

Mayor Kadas said, Miss Turek? Or excuse me, Mr. Nugent did you have something to add?

City Attorney Nugent said, it's always been the intent of anyone I've talked to, to follow state law with respect to the discontinuance of the street, and it's always been my understanding that there might be alternatives as to who the purchasers might be, and what they might want. And as I understood it, the City Administration was trying to be up front and let you know that vacation of alleys and street might be what's going to be part of the package that strikes the best deal in the public interest through the community here. But with respect to street vacations, if it turns out that the City Administration chooses a bid or requests for purchase that includes that, they will then weigh whether that's what they want to recommend to the Council. Or if they do, there's a statutory process to go through for discontinuation of the street. And it's made of stuff just like it is for any John Doe or Jane Doe.

Alderwoman Turek said, maybe I can just make a suggestion that will solve Jim's problem and Jerry's problem. Maybe we can just leave it further resolved that the sale of the maintenance facility. But down at the second line from the bottom, and just put in, and possibly be adjacent right of ways. Then we still have a contingent upon the sale of the land that we own, and then it gets to Jerry's concerns about the rights of way in the whole paragraph there.

Mayor Kadas said, your suggestion is following, and insert possibly the, where potentially... is (inaudible)

Alderwoman Turek said, yeah, the rest of this sentence would stay the same. I'm just inserting possibly.

Mayor Kadas said, do you want to make that in the form of a motion?

Alderwoman Turek said, I would like to make that, yes.

Mayor Kadas said, let's discuss Miss Turek's motion. Is it potentially or possibly?

Unknown said, either way, you'd have to also have a dot in there.

Mayor Kadas said, yeah, I got the "the". I'm looking for the big word.

Alderwoman Turek said, let's use potential.

AMENDMENT - Insert "and potentially the" following and on the second therefore be it resolved, fourth line.

Alderwoman Turek moved to insert "and potentially the" following and on the second therefore be it resolved, fourth line.

Mayor Kadas said, okay there you go. Okay, Motion to Insert and Potentially "The" following and on the second therefore be it resolved, fourth line. Discussion? Seeing none, we'll have a voice vote.

Upon a voice vote, the amendment carried.

Alderman Sponseller said, I think that the site over on Scott Street has excellent potential, I did some time on the Subcommittee and we looked at that, and it seems like an excellent solution to some of our problems in this area. But, I have some problem with releasing in this manner, a piece of premium real estate that's downtown, that's downtown and we did come to the Council some time ago with a, with a petition from a number of people in the Missoula area, some of which are fairly notable. Asking the City to consider the disposition of the shop property, old shop property, carefully. Because it has in the minds of many people in town, the potential for future transportation uses. I know that we talked about the possibility of maintaining some easements along the railroad tracks and possibly working out some sorts of arrangements with the future owner/developers of this property. But I'm not seeing any evidence of that right now and that you know just remains to be words, so I can't, I can't vote for this resolution because I think it's a real mistake for the City to let go of this property. I find that hard, that that's difficult to do because I think the White Pine property is really an excellent thing for us to do. But I think we're gonna really regret some day having let go of this property, without having gone out to the general marketplace to find out what kind of proposals people might make to the City in terms of the development of this property and I'm talking about free market type development. Interests that might see some interest or might see some possibilities in this and I don't think we've..., [tape change, loss of words]..., institution in our community, I think that until you know about all the possibilities that might be out there on the market place, that just limiting the disposition of this property to one party is not a very good idea.

Mayor Kadas said, Mr. Sponseller, this is specifically not limiting it. This is to do a public advertisement to do just what you're asking for.

Alderman Sponseller said, so we would be open..., and I'm happy to be corrected here because I would like to believe that that's true. I just may not understand the wording exactly. But, does that mean that we could receive any number of development proposals and...,

Mayor Kadas said, I expect Sponseller and Associates to be...

Alderman Sponseller said, no, but I was just..., I'm happy to be enlightened here. Okay, thank you.

Alderman Anderson said, this is a very complicated and involved resolution as well as the purchase agreement and the conditions that go along with those. A lot of dominoes have to line up and fall into place before this is anywhere near a done deal. And the identification that a potential purchaser would like to see the vacation of these streets and alleys were being up front about that has been mentioned before, but a lot of other things have to happen before this could be considered. And as was stated earlier, this RFP process is wide open to anybody that wants to come in and make an offer or submit a proposal. I think we've looked long and hard at other sites. I think this has a lot of pluses and I think the benefits outweigh the cons of this development going here. If, in fact, the development in the Scott Street area does develop to where it's advantageous for the City to sell this property and look at some place else that comes available, more centrally located, that certainly is an option down the road but I think right now if you look at the amount of money that's being invested here versus what it will cost us not only to buy the land but to build a building, dollar for dollar, this is the best proposal that we can come up with in a short period of time and I think it states the Council's intention that they want to move ahead on this project, and I would certainly encourage the Council to support this. It's got benefits in there for the neighborhood, for the other areas..., you can also develop on some of this property a parking site for motor pool vehicles for other City or County employees to alleviate some of the parking congestion of the downtown by a shuttle service down to the government campus here. So there's a lot of potentials for this site that aren't quite being mentioned here but can be if they're allowed to develop, if this goes forward. So I would encourage the Council to push for the passage of this resolution.

Alderman McGrath said, I'm glad that we're having discussion on this. I support the resolution and the draft agreement as it comes forward, and I think as the neighborhood around it is supportive at this point or at least doesn't object, I don't think I've heard anywhere along the line anyone really objecting to this here. I wanted to make sure that we took note of the significance of some of this transaction. We've

talked a little bit about..., that part of the transaction hinges on the successful sale of the existing shops, property on Broadway. We also are buying a building and a bunch of acreage on a Super Fund site. I ask that we acknowledge that specifically in the resolution and we are acknowledging that the state has designated this a high priority Super Fund site which is currently in the assessment process. That process won't conclude until probably this summer so the City is taking on a certain amount of risk. We're also specifically saying that we are not accepting liability for clean up and we're being indemnified by the sellers, however, the private indemnification from the sellers is not necessarily transferred to the state. If they decide we should clean it up, however, I would hope that we would not make that transaction if we understood that we were going to be tagged with that. I think we have to be thoughtful as a community about how we enter into this, working within a Super Fund site. Also the City quite visionarily entered into a Brownfield Initiative for this site as well as the Champion site. That initiative..., the planning and assessment of that process is not concluded yet either. And one of the specific..., it had two specific goals in this grant from the EPA. One was to help move the Super Fund site through assessment and a potential clean up to redevelopment and the other was to involve the adjacent neighborhood in site planning and other planning for..., initiated by owners, lessees and/or potential developers. The City, if we buy this land and building will become an owner and potential developer and so we also..., I did ask and it has been put into this resolution that the City commits to working with the adjacent neighborhoods in a plan for potential redevelopment as described in the Brownfield Grant. I think all of these things are essentially stating what we have stated elsewhere as policy, but I think it's important that we carefully review and understand what we're entering into here, which is a fairly big deal. I mean it's not just \$2 million; it's \$2 million and a Super Fund site that's in the middle of a process, and we need to be respectful of those processes. It does reference a draft purchase agreement and I will ask in a minute here the status of that because on the one hand the resolution binds us to contingent on conditions spelled out in the purchase agreement. On the other hand, I hear we're not approving the purchase agreement, which is kind of unfortunate because then we don't know what the actual conditions that are being placed are, and I don't want to have to drag them all out and put them in the resolution necessarily. One of the conditions, by the way, Condition #4, of the purchase agreement for both parties is that the City of Missoula, City Council agrees that the land being purchased will not be used for residential purposes. Now that's an interesting statement because obviously if we're going to put a shop or a playing field on there, we're not going to use it for residential purposes, so it doesn't really bind us very much. However, the reason that Huttig, the potentially responsible party in the clean up wants that in there is because they're hoping that that will signal to the State Department of Environmental Quality a level of clean up. And I hope that we are going to, as the City, hold the State and the potentially responsible party to the highest level of clean up for the community and the neighborhood and the citizens and the former workers. By the way, we do also acknowledge that we want to ensure that the site is cleaned up to a standard that assures health and safety of the employees working on the site and adjacent neighbors. So I think there's a lot in this agreement and in the resolution that goes towards most of the big concerns which is why I am supportive of it, and I appreciate the Administration sitting down, not only with the neighbors involved but also taking stock of my comments along the way and incorporating them because while it's obviously a very important thing to community neighboring it and anyone who ends up working on it in the future. It's also a big deal for the community as a whole. And we can't simply make our decisions on the basis of whether one or two parties gets something out of it. It has to be a good deal for the community as a whole as well as the neighborhood and the City. And we obviously are getting a pretty good deal compared to building a building. The other thing that is in reference but I was led to believe in Committee would be in the legal description and the draft purchase agreement is the actual acres that would be in the legal description, in the draft agreement, is the actual acreage that would be part of this exchange or part of this deal, let's say. One acre from Scott Development Corporation. One acre financed from ZIP and then an additional acre that the City is buying within the bounds of this agreement that up to one acre might be used for the playing field. So I think that's something that would be important to have all in place. I've never seen the City make a \$2 million land deal without public hearing. A couple of weeks ago we did \$175,000 open space purchase and we had a public hearing for that. Not because it's legally required but because it's good, because it makes sense to..., and actually the Open Space people see it as an opportunity to do education and discussion about the values of these particular parcels. I appreciate that we've had extensive discussion this evening, however, this is not publicly noticed as a public hearing and didn't give much lead time. In fact the City Council really didn't get much lead time as far as reviewing this particular agreement. And to say that it was in our CIP a couple of years ago for a couple of years out, you know, it's currently on our CIP for 2001 with no sites specified. Certainly no Super Fund is specified and no recreational property involved and so on. So although I fully support this and probably will continue to fully support this, I am going to make an amendment that we set a public hearing for January 3rd on this resolution so as to do right by the community. I don't think we need to be afraid of a public hearing if we have a good proposal, and I think we do have a good proposal.

Mayor Kadas said, so is that a motion, Mr. McGrath?

Alderman McGrath said, that's a motion.

Mayor Kadas said, I'm not sure that you're motion is in order.

Alderman McGrath said, I think the motion would be to amend the resolution to set a public hearing for the intention of adopting the resolution.

Mayor Kadas said, okay. So that's a motion to amend to set a public hearing for adoption of the resolution. Discussion on the motion.

AMENDMENT - Set a public hearing for the intention of adopting the resolution.

Alderman McGrath moved to set a public hearing for the intention of adopting the resolution.

Alderwoman Turek said, maybe just a question for you or Janet. What's the time sensitivity on this?

Mayor Kadas said, the time sensitivity is primarily with ZIP. They have a large investment that they're not generating any income off of at this point, and they have other folks who would like to rent the facility lease it essentially, and the longer we wait the more likely that is to happen now. I don't know if another three weeks pushes them over the limit or not. I'd just as soon go ahead and get this done myself.

City Attorney Nugent said, I just want to remind the Council that you can only transfer land pursuant to an ordinance or resolution, and this resolution is not transferring any land. You can easily have a public hearing...the same time you have a public hearing if the recommendation is to vacate a part of the street. Even if there is no recommendation to vacate part of the street, you still can only transfer land by ordinance or resolution so you will have this issue before you again. And if you do it by ordinance, it's always a hearing. If you do it by a resolution, it's optional with the Council as to whether they want to have a hearing, so this matter will come back to you.

Alderman Anderson said, I understand Jim's concerns and they were brought up in the Public Works. I don't know that we have the time to fully discuss them, but I brought that up in regards to a public hearing. I think we need to state our intentions to the other parties involved. And as Legal Counsel just advised us, if we decide to purchase this or put the other property up for sale there will be an opportunity to have a public hearing at that time, but I think we need to move this forward as far as the intention of the City Council.

Alderman Sponseller said, well, it seems like it's a done deal if we state our intentions to the buyers. I mean that..., one of the common complaints that people have about the way the public does business is that it's a done deal before the hearing and I think that in good faith to the public, and if this is a good deal today for ZIP and for the City, it will be a good deal the first week of January. If they thought it was a time sensitive deal and they had some crushing time sensitive issues, I'm sure they would have let you know about it specifically and in detail. But that doesn't seem to be the case. So, if in fact we want to act in good faith to the public, we should go ahead and set the hearing and not make it a done deal now.

Alderman Charney said, tonight, December 20th, is kind of an anniversary. In all the files I have on this subject, on December 20th, 1998 one year ago today I convened the first meeting of the Subcommittee to discuss this matter. So tonight if we can take action on this resolution tonight, it can be appropriate in that it's the one-year anniversary from the date the first Subcommittee meeting was held.

City Attorney Nugent said, the City Council can have as many hearings as they want on this, however, on January 3rd you will have no idea who the purchaser is, and I think that's going to be baffling to the public. They are going to come in and one of their first questions is going to be, well who's the purchaser? So I just point that out that on January 3rd you won't have an offer probably; you won't even have the advertisements out. The intent of the resolution is to advertise for proposals and you won't know what the proposal is yet on January 3rd.

Alderman McGrath said, yeah, I mean we don't know what it is now. In a sense that's probably a good question for the public to ask. You know, I don't want to reiterate too much what Mr. Sponseller said but I

want us to be serious about this agreement. That means we're committing to it. And I don't want to commit to it and then have a public hearing. I don't want to deceive the public and say look, we're going to have public hearings..., we're going to have seven public hearings after we've decided. We're going to have 10 public hearings after we've decided. I want to decide that this is the best thing to do which I am confident will be. I think it will stand up to a public hearing. I've been told by the Administration that neither of the sellers want to sell it before April 16th for tax purposes, so January 3rd isn't going to make them move. It's not like there's going to be somebody else that they would rather sell it to if they want to hold off a sale of that loan. We're not exchanging any money at this point. I don't think..., I mean my overriding question is who's afraid of a public hearing? What's the deal here? Why don't we just have a public hearing and everyone in the community will have a chance to review it. They can ask us those hard questions, Jim, about oh where is the buyer going to be at; I'd like to know who the buyer was too in advance but we put a contingency in there that says Look, if it doesn't work out, we can't sell it, that's going to be a problem, everybody knows that going into it. So, I think this is a good agreement and I think it's a better agreement if we air it through a good practice.

Chief Administrative Officer Stevens said, just a clarification. I believe the April 16th date is correct, however, it's more of an issue for the donation, not the sale of the property, but the donation.

Mayor Kadas said, additionally the owners while they don't want to consummate any sales until that point, they'd certainly like to enter into contracts prior to that point that consummated the sale on that, on or after that date. I think the sooner that they can get into contracts the more comfortable they all are.

Alderman Harmon said, if we vote on Jim's motion, will that be it for tonight or do we vote on setting a public hearing and then we do some other voting? Cause I have another issue to discuss but...

Mayor Kadas said, if Mr. Harmon's..., oh, you're Mr. Harmon..., if Mr. McGrath's motion carries, then we're still working with the..., we still have a main motion as amended, so there's still more discussion to go.

Alderman Harmon said, okay, I'll hold off.

Alderwoman Carpenter said, I think that..., I see this as something that's stating an intention similar to what we did with the ball park in that this is what we would like to do..., we'd like to have a discussion and authorize the Administration to enter into it. I also see setting a public hearing at this point is just adding a public hearing that I don't necessarily see as needed because the public hearings that are going to come when we actually do what we're hoping to do, that we're going to talk about doing, the public will have an opportunity to speak at that time.

Mayor Kadas said, I guess that's pretty much how I feel is that we have a tendency to try to have a public hearing for having public hearings almost is the way it seems. I think that we have..., there's been a long involved process that has involved with the public and particularly has involved the folks who are immediately affected by this. There was also an article in the *Missoulian* about this so folks who are concerned about could have come tonight. You can see the level of interest. I guess I don't see the value of having another public hearing here. I mean I think having public input is important but I think that frankly that has been available and we've gotten important comments and we've tried to deal with them as we've moved along here. Further debate on the motion to amend. Then let's try a voice vote.

Upon a voice vote, the amendment failed.

Alderman Harmon said, I've got a couple of..., a comment and then some fiscal questions, and I appreciated Bruce and Janet and Mike getting some email back to me and answered some other questions today. First is a comment about the Parks and Recreation property where we have a maintenance facility. I see in the document that we're saying the first whereas that Missoula's current maintenance facilities are not co-located. And from that I would deduce that an objective of this is that we co-locate our maintenance facilities and so what I understand this to mean is that we're going to move the Parks and Rec maintenance stuff in with this. And if that's the case, that's fine and I'm sure there's a lot of reasons that that makes sense. What I'm concerned about is the sale of the land where that building currently exists. And if that's a part of this whole deal, then I'm concerned with it. So what I would need to vote in favor of this is just to hear that no, in fact, the sale of that property is not being contemplated at this time.

Mayor Kadas said, this has nothing to do with the sale of that property.

Alderman Harmon said, thanks. Secondly, about the cost, and I just want to walk through this for my own state of mind for a second. So we're looking at a total of like \$1.9 million total and Janet has said that we have a CIP item for this that was \$3.2 million I believe or something to that extent. What I'm curious about is whether we've done any calculation of the cost because..., and I understand that the Committee did a lot of hard work trying to find a place better centered in town, and I appreciate that and maybe the answer just is we just ain't going to find a better place. But having said that, we've also kind of agreed, and I don't know if it's written here, but I've certainly heard talk about satellite facilities. And it seems to me that that is kind of a given; it's not a maybe it's a..., we're going to need satellite facilities to really make this thing work efficiently. And if that's the case then we really should be adding that cost onto this \$1.9 million because we know we're going to need to spend that, so that's part of the deal is that we're going to degenerate to buy some more land, build another building to make this work. So let's just..., I just want to be fair about the fact that, you know, we're not going to do this whole deal and only spend \$1.9 million. In reality we're going to do this whole deal and spend a lot more it seems like. And I wonder has somebody calculated the cost of the additional satellite facilities?

Mayor Kadas said, the notion of satellite facilities is that, out in the future. And what's been driving this is the inadequacy of our current facility, not its location. We are still able to provide good responsive service given the location. And this new location is what? Five or six blocks from the old location. So that doesn't change really. We think we can still provide good service to the areas that are in the City now. As we see the City growing, particularly to the south and to the west, then a satellite facility becomes more of an important issue but I don't think any of us see having to deal with that for, I don't know, Bruce, 10 years? It is really quite a ways down. What's driving this issue is the inadequacy of the present facility and then I would also say what I see is a very good opportunity in this facility.

Alderman Harmon said, just as a follow-up then, I appreciate hearing that, as a follow-up then the left over money from the \$3.2 million to the \$1.9 million goes what? Back into the CIP Revolment Fund and can be spent? Oh, that was bond to be generated.

Mayor Kadas said, yeah.

Alderman Harmon said, but it was budgeted.

Mayor Kadas said, it was lined out for Fiscal Year 2001 so we're actually a little bit ahead of ourselves here. What we would have done is after selling both parcels of property under that scenario, then we would have bonded for the remainder and we would have had to make the debt service payments for that bond fit into our budget, just as we'll have to make lesser debt service payments for this bond fit into our budget.

Alderman Harmon said, thanks.

Alderwoman Carpenter said, I'll make mine really quick. I just want to say thank you big, thank you to ZIP Beverage and the Scott Street group as well as the Administration for working so hard on trying to get the Northside Neighborhood a soccer field. It's really needed. And as Bob Oaks so eloquently said, the kids down there really need it and I just really commend you guys for working on that.

Alderman Reidy said, I'm going to vote for this because I was on that Committee and I really like that building out there. If we bring a bunch of people in here screaming and yelling when we tried to close that street end..., then somebody says to me, well, we've got to take the deal here and this and that, well, I might be a little bit upset about that because loving neighbors is a really big thing for me wherever it is and I want Mr. Ballas, and he will agree with me, that I'm sure, that the neighborhoods are only..., [inaudible]..., I don't want to see any more Teamsters out of jobs either, by the way, like happened at Eddy's Bakery. It happened to the community, by access, so I'm just going to remind you that all along I'm 100% in favor of this. [inaudible]..., neighborhood publicly and any closing of any street anywhere.

Mayor Kadas said, I hope we have assured you that that will happen. I want to just say I think we're getting close to the vote here, but I want to try to articulate what I think are the advantages here to doing this. We've talked a little bit about the CIP item in 2001 that was a I think a \$3.2 million project. And that was based on our look at the Mullan Road property, property that's owned by the County. And for \$3.2

million we would have gotten about three-quarters of the acreage that we're getting in this proposal. No park and three-quarters of the building. So, for two-thirds of the cost, we're getting a park and a quarter..., and 25% more building and 25% more acreage. And I think that's what really says to me that this is..., we're not going to get an opportunity much better than this, and I really think that it's in the City's best interest to move forward on this. We do need to deal with the shops issue eventually. I mean it has been something that Public Works has been talking about for five or ten years now. We have a great opportunity here and I hope we can move forward and take it. Any further discussion? Seeing none, then let's have a roll call vote on the resolution as amended.

Alderwoman Carpenter said, does the amendment include having the public hearing?

City Clerk Rehbein said, no. The amendment was Ms. Turek's amendment to "and potentially the adjacent rights of way..."

Upon a roll call vote, the vote on Resolution 6290 was as follows:

AYES: Anderson, Carpenter, Charney, Crowley, Harmon, McGrath, Morgan, Reidy, Turek

NAYES: Sponseller

ABSTAIN: None

ABSENT: Gingerelli, Herbig

Resolution 6290 passed, 9 Ayes, 1 Naves, 0 Abstain and 2 Absent.

ITEMS TO BE REFERRED

Administration & Finance Committee

Claims - Consent Agenda. (Brentt Ramharter)

Confirmation of the appointment of Scott Cole to the Missoula Urban Transportation District Board for a four-year term beginning January 1, 2000 and ending December 31, 2003 - Regular Agenda. (Mayor Kadas)

Repeal Resolution 6216 - The resolution defining exemplary economic citizenship - Regular Agenda. (Myrt Charney)

Election of Committee Chair and Vice-Chair - Regular Agenda.

Committee of the Whole

City Council appointment to the Missoula Downtown Association - Regular Agenda. (Jamie Carpenter)

Election of Committee Chair and Vice-Chair - Regular Agenda.

Conservation Committee

Parks and Recreation Master Fee Chart Annual Review - Regular Agenda. (Donna Gaukler)

Election of Committee Chair and Vice-Chair - Regular Agenda.

Public Works Committee

Resolution declaring certain vehicles and equipment as surplus - Regular Agenda. (Jack Stucky)

Election of Committee Chair and Vice-Chair - Regular Agenda.

MISCELLANEOUS COMMUNICATIONS, PETITIONS, REPORTS AND ANNOUNCEMENTS

Alderman Reidy said, last week I neglected to say goodbye to the people who are leaving and didn't give them my best wishes. So I would at this time..., Mr. Sponseller and I have had a lot of heated things but we did a lot of good work together on some things including the Fox Theatre. We did good work on that.

And I always like to, when people leave, no matter whether we get along or don't get along politically or on the issues, that when I leave this room that's the end of that and I've worked with you, Andy, and although sometimes we've had a little bit of heated things, I wish you all the good luck in the world. Mr. Anderson I've worked for for many, many years. I'll miss him a lot but I know I'll go down to his shop and see him once in awhile. I know he'll be here so good luck to you all and merry Christmas to everybody.

Alderwoman Turek said, you stole my line, Jack. Merry Christmas.

City Clerk Rehbein said, I just wanted to make sure that Councilmembers know since we don't have Committees that are scheduled until the first week of January, that the existing Chair or in the Public Works case, if the Vice-Chair would contact the Clerk's office about scheduling that meeting since we won't technically have Committee Chairs at that point on that Monday, that would be great. And also to let you know that on each of the Committee schedules we'll be putting the election of a Chair person and Vice-Chair person on each Committee schedule as an action item for you at that time.

Alderwoman Crowley said, I just wanted to say goodbye to Larry and Andy. I think they were both Council people who made you think, who brought forward what they thought was the best thing to do and I'm going to miss you.

Alderman Charney said, I'd like to thank Councilman Sponseller and Councilman Anderson as well as Council President Chris Gingerelli is not here tonight, for their public service and regardless of whether we've agreed or disagreed, they've done outstanding service for the citizens of Missoula in serving.

Alderman Anderson said, I'd just like to say it's been an honor and a privilege to serve on this Council for four years and served with the people that make up this Council, the staff, the Administration and the constituents that elected me, and they did even a better job in electing my opponent two years later. So, we've got some interesting issues in the future. When I was faced with decisions I always remembered a statement that a graduate school friend of mine had always said when he was in the Navy that indecision is the key to flexibility, but in this position you can't be indecisive. So, to those coming on board City Council, just to pass on a little bit of advice, when in doubt vote no, when you vote yes condition it with remember ongoing maintenance costs. It's been a pleasure to serve with you all, regardless of whether we've agreed or disagreed and look forward to seeing you in the future.

Alderman McGrath said, I have spoken about Mrs. Gingerelli and Mr. Anderson, and only briefly about Mr. Sponseller and I did want to thank Andy for his service. It's been great working with you. The one thing that struck me when I was thinking back on it was big--a man of large ideas, of religious passion for justice and they will be big shoes to fill.

Mayor Kadas said, I would like to thank Andy and Larry and Chris. You've all brought your special skills, perspectives and levels of expertise. I think what always strikes people in the community who don't always understand as well...., kind of everybody who's on the Council almost always is absolutely just fundamentally dedicated to the well being of the City and to the community. And regardless of the positions they take, they're doing...., they're trying to reach generally the same end for their own reasons but that dedication and commitment is always there. Each Council seems to have its own character. I mean every two years we have a new Council. And if you'll remember about two years ago, a little less, I came to you with a list of about 20 things that kind of were on the plate that we had to do. And I looked back at the list over the weekend and you did just about all of them, so I think that that's really a testament to your efforts and to the work of the staff to put projects together and different proposals and bring them through and get them through various multitudeness processes. But you really have accomplished an amazing amount in the two years that you've worked as a group, and I want to thank you and I think the community would thank you as well. And then I'd also just like to offer to our faithful readers and listeners, be careful over Christmas and be safe.

Alderman Sponseller said, I don't want to say very much other than the fact that....,

Mayor Kadas said, okay.

Alderman Sponseller said, my parents raised me to be interested in my community. My father was on lots of boards and my mother was very active politically on boards as well. My grandfather was a Councilman at large in North Canton, Ohio for I think a better part of 24 years and so I had some predisposition to do this but I just want you to know that I think that this group of people behaved in a good manner and I think

we did a lot of good work for the community in my opinion, and I was honored to be a part of this. I think it's a real privilege and an honor to work for the public and I hope that people will continue to see it that way and will come down here and give of their time and their effort. A parting comment is that I don't think that as a community we should be limited by what seems apparent. I think that we have a lot of capacity, especially here in Missoula, Montana, to do things that aren't so obvious, that are really highly beneficial to future generations and to our society and to the community. I think the challenge is to stretch ourselves and see...., just take one more step each time to see what's possible. Thanks.

Mayor Kadas said, seeing no further business, we'll adjourn and see you all next year.

The meeting was adjourned at 9:20 PM.

ATTEST:

APPROVED:

Martha L. Rehbein
City Clerk

Mike Kadas
Mayor

(SEAL)

Respectfully submitted by,

Linda Dunn, Deputy City Clerk