

**From:** [Jim Nugent](#)  
**To:** [Dept. Mayors Office](#); [Bryan von Lossberg](#); [Gwen Jones](#); [John DiBari](#); [Julie Merritt](#); [Julie Armstrong](#); [Heather Harp](#); [Stacie Anderson](#); [Heidi West](#); [Jordan Hess](#); [Jesse Ramos](#); [Mirtha Becerra](#); [Michelle Cares](#); [Dept. City Clerk](#); [Mary McCrea](#); [Jeremy Keene](#); [Donna Gaukler](#); [Kevin Slovarp](#); [Troy Monroe](#)  
**Cc:** [Dept. Attorney](#); [Dennis Bowman](#)  
**Subject:** FW: Emailing: Teresa Jacobs Ltr re Hillview Crossing Open Meeting Violations 8-27-19  
**Date:** Thursday, September 5, 2019 6:16:38 PM  
**Attachments:** [Teresa Jacobs Ltr re Hillview Crossing Open Meeting Violations 8-27-19.pdf](#)

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CONFIDENTIAL PRIVILEGED ATTORNEY CLIENT COMMUNICATION!!!!  
TO WHOM IT MAY CONCERN:

With respect to the attached citizen letter of concern pertaining to city council committee actions pertaining to Hillview Crossing Important legal points to be aware of include; but are not limited to the following:

- (1) City council committees are not empowered to make binding land use decisions:
- (2) City council committees are advisory and make advisory recommendations to the city council body as a whole.
- (3) City Council rule 20 RECONSIDERATION is not applicable to city council committees. The language of Rule 20. Rule 20 does not reference city council committee meetings and is clearly written with an intent to pertain to regular meetings of the city council . City council rule 1 entitled "REGULAR MEETINGS OF THE CITY COUNCIL" pertains to the city council's regular Monday evening meetings. In addition City Council rule 3 "NOTICE OF REGULAR CITY COUNCIL MEETINGS AND COMMITTEE MEETINGS, clearly separates city council regular meetings from city council committee meetings within the text of Rule 3.
- (4) City council rule 5 "PARLIAMENTARY AUTHORITY" specifically identifies Mason's Manual of Legislative Procedure with respect to items not specifically covered by city council adopted city council rules.
- (5) Mason's MANUAL OF LEGISLATIVE PROCEDURE does specifically address Legislative body procedures in committees in chapter 58 entitled "PROCEDURE IN COMMITTEES".

Subsection 634(1) states "A legislative committee has a right to reconsider any action taken by it as long as the measure remains in the possession of the committee".

Subsection 634(2) states in relevant part: "Reconsideration in a committee is generally subject to the same rules as the body. THE PRINCIPAL VARIATIONS ARE THAT EVEN WHEN THERE IS A TIME LIMIT ON THE MOTION TO RECONSIDER CAN BE MOVED AT ANY TIME WHILE THE MATTER REMAINS BEFORE THE COMMITTEE AND THAT A RECONSIDERATION MAY BE MOVED BY ANY MEMBER EVEN THOUGH THE PERSON WAS ABSENT WHEN THE VOTE WAS TAKEN." (emphasis added)

Subsection 635(1) pertaining to the authority of a committee states: "1. The SOLE AUTHORITY OF THE COMMITTEE WITH REFERENCE TO A MEASURE IS TO PROPOSE SUCH CHANGES AS THE COMMITTEE DESIRES TO RECOMMEND, AND TO MAKE ITS RECOMMENDATIONS CONCERNING THE ACTION TO BE TAKEN ON THE MEASURE BY THE BODY. (emphasis added)

(6) The City Council as a body has not yet made any decisions pertaining to approval/disapproval of Hillview Crossing; because the item is still in city council committee awaiting the advisory recommendations of the committee.

(7) The reference to a 10 year statute of limitations is based on section 27-2-208 MCA entitled "ACTIONS FOR DAMAGES ARISING OUT OF WORK ON IMPROVEMENTS TO REAL PROPERTY OR LAND SURVEYING"; which establishes a ten year statute of limitations for commencing litigation for such damages in subsection 27-2-208(1) MCA, with subsection 27-2-208(2) MCA granting an additional one year statute of limitations if the damages occurred during the 10th year after the work.

JIM NUGENT

-----Original Message-----

From: Ryan Sudbury <SudburyR@ci.missoula.mt.us>

Sent: Thursday, September 5, 2019 5:01 PM

To: Jim Nugent <NugentJ@ci.missoula.mt.us>; Susan Aaberg <AabergS@ci.missoula.mt.us>

Subject: Emailing: Teresa Jacobs Ltr re Hillview Crossing Open Meeting Violations 8-27-19

Fyi, this is the letter sent by Teresa Jacobs and signed by other residents regarding allegations of open meeting law violations. The mayor handed me this after our meeting

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