

Council Meeting Action Summary
Missoula City Council

February 28, 2022, 6:00 pm
ZOOM Webinar

Members Present: Stacie Anderson, Mirtha Becerra, Daniel Carlino, John P. Contos, Jordan Hess, Gwen Jones, Kristen Jordan, Mike Nugent, Jennifer Savage, Amber Sherrill, Sandra Vasecka, Heidi West

Administration Present: Mayor John Engen, Jim Nugent, City Attorney

1. CALL TO ORDER AND ROLL CALL

The virtual meeting of the Missoula City Council was called to order by Mayor John Engen at 6:00 PM.

2. APPROVAL OF THE MINUTES

The minutes were approved as submitted.

3. SCHEDULE OF COMMITTEE MEETINGS

Parks and Conservation Committee, March 2, 9:00 - 10:00 a.m.

Public and Safety Health Committee, March 2, 10:15 - 10:25 a.m.

Public Works Committee, March 2, 10:40 - 11:40 a.m.

Administration and Finance Committee, March 2, 12:10 - 12:40 p.m.

Land Use and Planning Committee, March 2, 12:55 - 2:55 p.m.

Mayor John Engen Thank you Ms. Trimble. Any changes to the committee schedule this evening? Seeing none, we'll move on to the public comment portion of our agenda.

4. PUBLIC COMMENT

Mayor John Engen This is your opportunity to comment on items not elsewhere on the agenda this evening. And looking in our attendees list, Mr. Parker.

Jim Parker Greetings. Can you hear me?

Mayor John Engen We can sir.

Jim Parker Excellent, thank you. Mayor Engen, City Council members, and staff good evening and thanks for your this opportunity to provide public comment. My name is Jim Parker. I live at 3700 Rattlesnake Drive and I'm a volunteer member with 350 Montana Climate Change group, pushing for 100% clean energy transition for Montana. I'm here tonight to provide thanks for good work being done by the City and to urge additional good work to get done. First, thanks for the City's 100% Clean Electricity Resolution passed in 2019 and your continued work to meet the goals addressed including a goal of 100% clean electricity by 2030 and an interim goal of 80% by 2025. Thanks for that ongoing work. Yet as many of you know, the Intergovernmental Panel on Climate Change the world's premier climate research body provided a sweeping analysis of climate impacts and vulnerability a summary of

which was released Monday asserting that "the extent and magnitude of climate change impacts are larger than past UN assessments." Basically, no country is doing enough or doing it fast enough including the State of Montana. To that point, I have concerns with actions of one of your partners to Missoula's Clean Electricity Resolution NorthWestern Energy. I've not seen any real changes by that corporation since the resolution passed to fundamentally change their responses to the growing climate chaos we're seeing with summer and now winter wildfires and smoke, which both hurts our tourism economy and threatens citizens with health issues from smoke inhalation, mega droughts hitting our agricultural sector, and rivers getting less snowpack renewal, warming earlier and killing fish in our recreational economies. All of these issues resulting fundamentally due to our changing and warming climate which is primarily caused by us humans burning fossil fuels. And as you know, Northwestern Energy is pushing for a new gas-powered tweaker plant to be built using Montana ratepayer's dollars in Laurel, Montana. This is absolutely the wrong direction and I hope you will not expect them to become climate heroes anytime soon for the City of Missoula, but additionally I'd like to suggest considerations for local city work on climate issues. Number one, houses are being built in Missoula at a record pace, yet how many of these homes are climate smart. For instance, using clean renewable energy sources versus dirty fossil fuel sources for energy procurement and use. Perhaps the City could offer incentives to builders and developers to design and build climate smart housing. Two, the City's fleet of vehicles. As the fleet ages and gets replaced, I'm hoping the city is seeking to purchase electric vehicles moving forward versus gas and diesel-powered dirty vehicles, in order to meet both interim and long-range objectives of the 100% Clean Electricity Resolution. And finally, three, your hiring of the energy specialists. Thank you so much for doing this but as you interview for this position, I hope you will be hiring someone ready to go 100% to deliver the City's commitment to their clean energy goals now and in the future, and to finalize a roadmap to meet the resolutions aspirational goals. I thank you for the work you've done, the work you're doing, and the work you'll need to do to continue moving Missoula, Montana into this most important state of 100% clean electricity use. Thank you so much.

Mayor John Engen Thank you Mr. Parker. Any other general public comment this evening? Mr. Ashworth. [inaudible]

Dave Ashworth Okay, sorry. Can you hear me now?

Mayor John Engen We can. Thank you.

Dave Ashworth Okay, yes, my name is Dave Ashworth, and I would just like to comment on, on a couple of quick things. First of all, is that, just notice that there's been a bunch of new houses that are going to be built in, in Montana and I know you guys can't change the building code, but I'd encourage you to possibly consider the idea of giving incentives for homes to be built that are not hooked up to gas, as far as heating goes and air conditioning and water heating, and to make sure they're using 100% electricity in the heating and cooling of their home. And then secondly, I would hope that you could also maybe give incentives to homeowners that want to install solar panels and also want to install some kind of a heat

system that uses a thermal, thermal source, or uses some kind of a heat pump to heat, to heat, and have that option to heat their homes as well. I appreciate the work you guys are doing and thank you.

Mayor John Engen Thank you sir. Any other general comment this evening? All right, seeing no additional hands up among our attendees, we'll move on to our consent agenda.

5. CONSENT AGENDA

Mayor John Engen Items here we're approved unanimously in City Council standing committees and we consider these items all at once on Monday evenings to save a little time. Ms. Trimble will read the list of consent agenda items aloud so that those joining us via zoom will know what we're considering, and we'll take comment on these items before we vote. Ms. Trimble.

AYES: (12): Alderperson Anderson, Alderperson Becerra, Daniel Carlino, Alderperson Contos, Alderperson Hess, Alderperson Jones, Kristen Jordan, Mike Nugent, Jennifer Savage, Alderperson Sherrill, Alderperson Vasecka, and Alderperson West

Vote result: Approved (12 to 0)

5.1 Accounts Payable (claims) for checks dated February 22, 2022

Ratify accounts payable in the amount of \$662,286.52 for checks dated February 22, 2022

Vote result: Approved

5.2 Purchase of one (1) Pickup for Wastewater Treatment

Approve the purchase of one Dodge Ram 1500 SSV pickup from Billion Dodge of Bozeman, Montana for \$36,671.00 for the Wastewater Treatment Division.

Vote result: Approved

5.3 Accounts Payable (claims) for checks dated March 1, 2022

Approve accounts payable in the amount of \$310,155.72 for checks dated March 1, 2022.

Vote result: Approved

5.4 River View Subdivision and Rezoning, 1923 River Road. Ms. Alex Eidam, Senior Planner, City of Missoula

[First reading and preliminary adoption] Set a public hearing on March 14th, 2022 and preliminarily adopt an ordinance rezoning property located at 1923 River Road from RT10 Residential (two-unit/townhouse) to RT5.4 Residential (two-unit/townhouse) and refer this item to the Land Use and Planning Committee for presentation and discussion on March 2nd and if needed, March 9th, 2022.

Vote result: Approved

5.5 Memo of Understanding for the Midtown Master Plan

Approve and authorize the Mayor to sign the memorandum of understanding for the Midtown Master Plan.

Vote result: Approved

5.6 Purchase of Large Turf and Lawn Sprayer for Parks Department

Approve the purchase of one Toro Multipro 5800-G with Excelerate for the Parks Department from Midland Implement of Billings, Montana for \$60,187.37.

Vote result: Approved

5.7 Purchase of three (3) SSV Pickup Trucks for Police

Approve the purchase of three (3) Dodge Ram 1500 SSV pickup trucks for the Police Department from Billion Dodge of Bozeman, Montana for \$39,607.25 each for a total of \$118,821.75.

Vote result: Approved

5.8 Purchase of seven (7) Ford Explorers for Police Department

Approve the purchase of seven (7) Police interceptor Explorers for the Police Department from Duval Ford of Jacksonville, Florida for \$48,640.08 each totaling \$340,480.56 for all seven.

Vote result: Approved

5.9 Contract for Email Security with Barracuda

Approve and authorize the Mayor to sign 1) a quote with CDW-G for the provision of a 3 year subscription license for Barracuda Total Email Protection in the total amount of \$182,439 and 2) the financing contract with VAR for the provision of (3) annual payments in the amount of \$60,813.00 per year.

Vote result: Approved

Mayor John Engen Thank you Ms. Trimble. Any questions or comments from Council members this evening? And just to be sure, I want to make sure that if you're raising your hand, I can see it. Seeing none, anyone in the audience care to comment on the consent agenda this evening? And seeing no hands raised there, we'll have a roll call vote.

Mayor John Engen And the consent agenda is approved.

6. COMMENTS FROM CITY STAFF, AGENCIES, BOARDS, COMMISSIONS, AUTHORITIES AND THE COMMUNITY FORUM - None.

7. SPECIAL PRESENTATIONS

Mayor John Engen We do have one special presentation in the form of a proclamation.

7.1 Proclamation - Black History Month

WHEREAS, in 1915 Historian Carter G. Woodson and Minister Jesse Moorland founded the Association for the Study of African American Life and History dedicated to researching and promoting achievements by black Americans and other people of African descent; and WHEREAS, due largely to the contributions of the Civil Rights Movement and a growing awareness of black identity, President Ford in 1976 officially recognized Black History Month inspired by ASALH's Negro History Week dating back to 1926; and WHEREAS, the City of Missoula recognizes Montana's own black history is complex, spanning from the arrival of the first documented enslaved African's in 1805. the publication of Montana's first black newspaper, The Colored Citizen in 1894, to the election of Geraldine Travis, the first African American woman elected to the Montana legislature in 1974, and the election of the state state's first black Mayor,

Wilmot Collins, in 2017; and WHEREAS, other examples of Missoula's enduring black history can be found on the 1400 block of Phillips Street where St. Paul African-Methodist Episcopal Church, Missoula's first black church was founded in 1910 and whose congregants built a community and pursued racial equity with neighbors in the face of threats from the Ku Klux Klan; and WHEREAS, the city of Missoula is proud to join Missoula county and the State of Montana in recognizing the accomplishments and contributions of black Americans who are part of the fabric of our nation here in Montana throughout history and today. Now, therefore, I, John Engen, the Mayor of Missoula, Montana in the State of Montana hereby recognize February 2022 as Black History Month.

Mayor John Engen And I apologize our council schedule was such that we are wrapping up Black History Month with our proclamation, rather than reading it at the beginning, but we certainly didn't want the month to go by without acknowledging all of the things that I think this proclamation points out and more. We will move on ladies and gentlemen to the public hearing portion of our agenda.

8. PUBLIC HEARINGS

Mayor John Engen State law and our own Council rules set guidelines for inviting public comment pardon me formal way on a variety of issues. Because we are in, continue to be operating in the world of pandemic or maybe hopefully an endemic. We are we are holding these public hearings open until the next regular council meeting, at which time Council will make a final decision and vote on the item before it. Today's lone public hearing is on a resolution for second quarter fiscal year 2022 budget amendments. As you know, these come to us with some degree of frequency and we're just straightening out the books, as revenues and expenditures come into reality versus theory, in some cases. And I'm guessing Ms. Griffing has our staff report this evening.

Leigh Griffing I do. Thank you Mayor Engen. As the Mayor mentioned, we bring these somewhat regularly, so I just wanted to, for the information, for folks watching run through the process and, and why we amend the budget every year. Our budget process timeline is actually pretty extensive and goes beyond a year and I like to say that the budget is actually a living breathing document because so much can change during an entire fiscal year. So, it usually starts in February/March when we begin our budget process with departments. We, excuse me, we usually then don't actually approve the budget until after the fiscal year has begun which begins on July 1st. The budget gets approved usually in late August and then we have, you know there are so many things that go into making up the budget, we might, as the Mayor mentioned, recognize revenues that have come in after we've approved the budget. Other items are just to keep the booking, the bookkeeping in line with the accounting codes and so forth. Now the state allows us to amend the budget during the fiscal year by conducting public hearings, at regularly scheduled meetings and there are certain notice requirements that we have to follow which is why sometimes it feels like we're always having budget hearings that are coming or that they, you know, sort of because we'll take it to committee. For example, this came to committee two weeks ago and then we have to have these notices that have to have at least six days apart, and then depending on City

Council meetings and calendar and so forth, we bring it forward to these public hearings and then we have two public hearings. So, what we have today is an exhibit that's being attached to your agenda, and this is pretty much one of those housekeeping budget amendments that we discuss. There's a lot of items that have been presented to City Council in the past or discussed with City Council previously, but we want to follow the process of, but you know the state mandated budget amendment process in order to get them in our books and officially on our FY22 budget. Some examples that we have today are receiving HIDTA, that's High Intensity Drug Trafficking Grant, that was contemplated in FY22 budget but received after the budget was approved. CPDI, Community Planning Development and Innovation, is bringing on additional permit and engineering tech and paying with that through existing revenues that have really increased with their increase in work. Housing is bringing in an over \$100,000.00 grant from the National Institute of Health. And then we have quite a few items here that were approved during the budget process but we're bringing them as a budget amendment to attach them to the appropriate places within our accounting budget. Some of these also didn't have revenues that were identified at the time and subsequently identified and so going through the official approval process. One exception in this exhibit, I just wanted to point out is number 22, Housing bringing in an \$850,000.00 State of Montana CDBG Grant. So, going through here that again long list of projects that were discussed and approved as CIPs last summer, and you'll note also that certain revenues have been identified in here. There's a note here, SRF stands for State Revolving Fund; we use a lot of those funds. It's very inexpensive to borrow from the state and it's been a great program, especially for our utilities. At the bottom of the exhibit, we have two more items that are just brought forward as informational pieces for City Council and the public. The first is FY22 budget carry forwards; these are often projects that were in process. They weren't concluded at the end of FY21; they might have contracts that are still open and just finishing up that work. And then, we have an item called budget transfers and this is really just accounting, where we're taking budget from one area and putting it to another area because maybe something changed or we realized, for example, Public Works and Mobility, we had it in the wrong activity code. And then there's something that's called salary reserve but that is just really covering a lot of the [inaudible] increases that staff received throughout the year. Since we don't know exactly what that's going to look like on the date that the budget is approved in August, as that becomes apparent, we bring it in as a transfer and show it as an exhibit for City Council, so that everybody can see, when you look at the very first budget exhibits that were approved and then the final ones, those are going to be a bit different. We bring those forward as budget transfers so everybody can follow those pieces. Thank you.

Mayor John Engen Thank you Ms. Griffing. And are there? I will open the public hearing, and anyone care to comment on these budget amendments this evening? Seeing none, questions or comments from Council members. Ms. Jones.

Alderpersion Jones I don't know if you can see my hand or not that, but I raised. Leigh, we were not seeing the budget and proposed budget amendments. I'm not sure if you were trying to show us to them

but, we, they all are attached on the agenda, and I had looked at them there. I, I just wanted to clarify that in case people are looking for them; they are all attached to the agenda items....just to clarify.

Leigh Griffing Sorry about that folks, I was trying to share my screen.

Mayor John Engen Not at all....Thank you. Seeing no additional questions or comments, this public hearing will remain open until our next regular meeting, and we have no additional public hearings this evening. We will move on to Communications from the Mayor.

8.1 Resolution for 2nd Quarter FY 2022 budget amendments. This resolution amends the fiscal year 2022 budget to recognize revenues, and appropriate expenditures and budget transfers not identified in the original budget.

9. FINAL CONSIDERATION - None.

10. COMMUNICATIONS FROM THE MAYOR

Mayor John Engen I would like to just briefly acknowledge the passing, any I, I'm a regular reader of obituaries and, and more and more I'm, I'm seeing friends and community members who have who have made contributions and, and lived full and interesting lives in our community passing away and I wanted to acknowledge the passing of Joe Cancellare. Joe, Joe is responsible for my first two real jobs. One was, Joe owned a rental center and when I was a much younger man, my job was to, to, to clean the bottom of lawn mowers, fuel them up, make sure they started, and then show folks how they started. I also learned to start an aerator or two and Joe gave me the best advice I've ever had from a boss and that was John, you don't need to, you don't need to go so fast, and so I've taken that to heart over these many years. Joe was a marvelous guy and my condolences to Rita and the entire family.

11. GENERAL COMMENTS OF CITY COUNCIL

Mayor John Engen We'll move on to general comments from Council members and we'll start with Mr. Contos this evening.

Aldersperson Contos Yes, thank you Mr. Mayor. It's kind of hard to be able to comment and not mention the situation over in the Ukraine. I'm totally impressed with the President over there, Zelenskyy, just his, he had the opportunity to leave the country, be swept away and he refused and stayed. And I think, as a result, it's done a lot for the people over there, just to stand up and take on this situation. And I was really impressed with his, his example, his character and it just made me realize that when you step into situations that are hard, it inspires lots of other people, but a lot of prayer really needed for that situation, and I believe it's going to work out for the best. Thank you.

Mayor John Engen Ms. Jones...Mr. Nugent.

Aldersperson Mike Nugent Thank you Mr. Mayor. Quickly, there's a couple articles in the media at the end of last week about housing in Missoula and specifically new homes approved. I think there's a lot of a lot of positives be taken away from that. One thing I have seen is if you read the articles, the information has been shared from our staff very accurately but some of the people sharing on social media are equating that there were 1,338 new single family homes approved in the calendar year 2021 and that number actually is broken down much, in much greater detail. So, of that number, 1,064 were multi-dwelling

apartments. For example, 130 were single dwelling detached and I think that that for some reason referring to every unit as a home confuses people, which is unfortunate because it should not, but I think it's worth mentioning that, just to make sure that people are using accurate information when they're having a conversation. Thanks.

Mayor John Engen Thank you. Ms. Sherrill.

Aldersperson Sherrill Yeah thanks, I appreciate Mr. Contos' comments about the Ukraine. It's something I've been following and certainly thinking about and worrying about the people there, but I, I want to have a little bit of a celebration because I'm the one always harping on wearing masks and such. That today was the first day that MCPS, the, the students of MCPS went to school without a mask mandate. It has been almost two full years that they've been in masks at school and I, I just, I'm feeling, I'm feeling very kind of celebratory about our numbers right now. I'm always feeling like I'm holding my breath about it but, I, I think that our community is going in the right direction on this and just I, I want to give my thanks to everyone that, that has done their best to make this thing as fast as possible even though it was two full years. So, I'm glad we're where we are.

Mayor John Engen Ms. West.

Aldersperson West I'll pass.

Mayor John Engen Ms. Vasecka.

Aldersperson Vasecka I'll pass, thank you.

Mayor John Engen Ms. Savage.

Aldersperson Savage I'll pass as well. Thank you.

Mayor John Engen Ms. Becerra.

Aldersperson Becerra I'll pass, thank you.

Mayor John Engen Ummm....I had to switch screens there, sorry. Ms. Jordan.

Aldersperson Jordan I'll pass, thank you.

Mayor John Engen Mr. Hess.

Aldersperson Hess I'll pass as well. Thanks.

Mayor John Engen Mr. Carlino.

Aldersperson Carlino I'll pass.

Mayor John Engen And Ms. Anderson.

Aldersperson Anderson Thanks so much. I do want to echo the comments from my Council member Mr. Contos, and I have, I am a history buff. I spent quite a bit of time studying Russian history; it's on my bucket list to visit the area at some point in my life. And I just you know can't help but see the pictures and hear the interviews of lawmakers in you know in the parliament or at the local level and what extreme lengths that they're willing to go to, to protect their democracy. Ukraine is a democratic country that had free and fair democratic elections and elected their president in 2019, and he is infamous for standing up to a bully that unfortunately came from our shores, but I just can't help but spend some time thinking about how appreciative I am to live in a democracy, to live in this country, to have the privilege of serving

my community, and, and wonder what I would do if you know God ever put it in front of me to have to go to those lengths. And so, I, I think that it's an excellent reminder that democracy is messy, it's hard, it's intentional, and we shouldn't ever take it for granted for a moment. So, yes I will be lifting up my prayers for all of those folks who are going through the most unimaginable circumstances right now, and just continue to be so impressed by the folks and what they're willing to do for their country and to save their democracy and know that we in our history have been called upon at various points in time and have answered that call and I'm thankful for that as well. Thanks.

Mayor John Engen Thank you all.

12. COMMITTEE REPORTS

Mayor John Engen We'll move on to our committee reports. These items, generally speaking, aren't approved unanimously in committees, but in this case I think all of them were. We're considering them this evening under committee reports to give them a little extra emphasis for a variety of reasons. And our first committee report this evening comes from the Administration and Finance Committee and that's an amendment to Council rules, and Ms. West.

Aldersperson West All right, thank you. So, the recommended motion is to Approve the changes to City Council rules with an effective date 30 days after adoption. If I could just speak to it for a moment?

Mayor John Engen Ms. West.

Aldersperson West All right. So first of all, I really want to thank the folks that worked on this including Marty Rehbein, our former Council chair Bryan von Lossberg, Gwen Jones, and Jordan Hess. I got added to the table at the very end of this, so I know that lots and lots and lots of work went into this and I also really appreciate all of the substantive discussion that we've had in our committee meetings. I think these rules, we really deliberated on the details of the language and troubleshoot a lot of potential effects and outcomes, and I just want to say that this sets the stage for everything that happens in our space. It isn't just about how we expect the public to treat us, but about how we treat the public and how the public treats each other. And I think the idea is to create you know a welcoming space where everybody can feel comfortable speaking their mind without fear of being booed or personal attacks or retaliation, and hopefully this will allow more people to participate in their local government over the long run. So, yeah, that's all I've got to say about it.

Mayor John Engen Thank you Ms. West. There is a motion on the floor, and it is in order. Is there a discussion on the motion? Ms. Vasecka.

Aldersperson Vasecka Thank you. I'll make this quick, as I developed a sore throat over the weekend. I did vote yes for this on Wednesday; however, it was, it was just not sitting right with me, as I was thinking about it over the weekend. I do want to thank Heidi for indulging me and letting me say all of my concerns and I want to thank Marty and Jordan and Gwen for work working with me on a lot of my concerns. I still with the impugning on motives and indulging on personalities, it still doesn't really sit right with me. I'm uncomfortable with that part so because of those alone are the only reason why I'm going to be voting no tonight on it. Everything else in the rules, I, I do support, and I do, wanted to thank

everybody for I'm working so hard on this, but unfortunately because, because of that I will not be in support of this tonight.

Mayor John Engen Thank you Ms. Vasecka. Ms. Becerra.

Alderperson Becerra I too want to thank Marty, Bryan, Gwen, and Jordan for all of your work, for looking at all of this with great detail to ensure that we have a, a welcoming place to work in for the public to participate. And I also want to thank Sandra for bringing an amendment for us to consider allowing us to have that conversation and that discussion. I know that you know we are not at a place where Ms. Vasecka feels comfortable, but I want I would like to thank her for putting that on the table and allowing for that conversation to happen, and I'm fully supportive of it. Thanks.

Mayor John Engen Mr. Hess.

Alderperson Hess The rules, I think, this has been a really interesting exercise for me to look over the rules and consider our rules and one of the things that I've come to, to believe about our rules is that generally, we don't need them and we, we generally get along, we generally work well together, we generally are respectful and that goes for meeting attendees, members of the public, as well as, as well as members of the body. And I feel like we have rules to keep the train on the tracks in in the worst case scenario and so I, I'm grateful for, for the work that that Marty and our Council colleagues have done to, to come up with these rules. They rely pretty heavily on Mason's rules of legislative procedure, which is published by the National Conference of State Legislatures. So, it's you know, they're really similar to government body rules that are used across the country. I think that they, I think that they help us create a safe space to help us create and, and enforce respect. I think that they protect free speech and I think they help us keep ourselves in order and on track when we need them. So, I, I also think that they're really minor adjustments to what was already codified practice. So, I'm happy to support the rules tonight.

Mayor John Engen Thank you Mr. Hess. Ms. Jones.

Alderperson Jones Thanks, I will just briefly say that first of all super happy to wrap up this project and move on to other things; it's time. And I just wanted to put a special shout out to Marty Rehbein, our City Clerk, and Claire, I hope you can pass this on to her. Marty has worked for the City for a long time and because of that has just a wealth of knowledge about prior Councils and how things have played out, and she also is incredibly good at detail. So, I just want to acknowledge Marty really anchored this conversation and her expertise was hugely helpful. If she hadn't been part of this circle, we, we would not have as good of rules as we have I think that we're passing tonight. So, thank you Marty and please pass it on to her Claire.

Mayor John Engen Thank you. Seeing no additional comment, anyone in the audience care to comment on the Council rules this evening? Seeing no hands among our attendees, I will again, I will echo the many thanks. My experience with Council rules as they get considered at length and don't change. So good for you for actually getting to a place where there are some changes and I think those changes are positive. So, with that, we will have a roll call vote.

Mayor John Engen And the motion carries and that the new rules will go into effect.

12.1 Administration and Finance committee (AF) report

12.1.1 Minutes from the February 23, 2022 Meeting

12.1.2 Amendments to City Council rules

Moved by: Alderperson West

Approve the changes to City Council rules with an effective date 30 days after adoption

AYES: (11): Alderperson Anderson, Alderperson Becerra, Daniel Carlino, Alderperson Contos, Alderperson Hess, Alderperson Jones, Kristen Jordan, Mike Nugent, Jennifer Savage, Alderperson Sherrill, and Alderperson West

NAYS: (1): Alderperson Vasecka

Vote result: Approved (11 to 1)

Mayor John Engen Our second committee report this evening comes from the Committee of the Whole, which is a global settlement agreement with Carlyle Group and with all of its various entities. And before I entertain a motion, I'll offer a brief synopsis for the viewing public's benefit. We had a thoughtful presentation and conversation on Wednesday before the Committee of the Whole. First, the City of Missoula owns its water company and will forever, unless someone does something very ridiculous and I don't anticipate that happening. And the benefits to the community are, are I think fairly monumental, and I think many of those benefits will only play out over time. There was an enormous team effort involved in acquiring this system and, and that includes Council members, staff, our attorney team, and members of the public who brought support to bear on the effort. Our litigation with Carlyle has continued since 2014. The remaining items in litigation are acclaimed by the City of Missoula, that, that Carlyle acted in bad faith and in doing so, made the acquisition of Missoula Water more expensive than it needed to be. We pursued that claim through an arbitration panel, working with the attorney team who successfully navigated and won our condemnation case and, and allowed us to ultimately purchase the water system. Those attorneys worked on a contingent basis and were not paid, but they believed so much in this case, that they were willing to take that risk along with the City of Missoula. We did not prevail in that arbitration and while that is disappointing, there is nothing I can do to change it, and the consequences of that loss are, are financial. And those consequences, without this settlement, I believe could, could end up costing the City, in the 12 to 14 million dollar range. This negotiated settlement with Carlyle settles not only the arbitration claim, but all other claims and there are a number of others in district court that are pending. Some of which we could win or lose, all of which pose a risk and there is in some cases potential reward. What this settlement agreement does is allows us to settle all of those claims, be done with the, with the arbitration award, which is a number that is unpredictable and far in the future and allows us to close the chapter on this complicated legal journey that ultimately had a very good result for the City of Missoula. Knowing what I know today, I would pursue this, I would pursue this claim again but, again, we did not prevail and that is unchangeable at this point. What this settlement does is allows us to move forward. It allows us to do it at a cost that, that the water utility can absorb over time. There will be no consequence

to ratepayers. That is, if you are a Missoula Water customer, you won't see an increase in your bill as a function of this settlement agreement. Council did approve a rate increase to support operations and capital expenses last year, so there will be rate increases but they have nothing to do with this settlement. There will also be no tax consequences for residents of Missoula; your property taxes will not be affected by this settlement. We intend to finance the settlement agreement of about 4.13 million dollars over the course of 20 years through a bonding mechanism. That allows us to service that debt over time, with an impact of about \$318,000.00 a year to the water system. In a system where we are investing millions of dollars in improving infrastructure and maintaining the system, I would just assume be spending that \$318,000.00 a year on those projects, but that bill does not stop us from doing the work that we promised to do and continue to do to improve that system. I believe this is the most economical and effective way to put to rest, all of the continuing legal corals, all of which I believe have merit, but this is a good way to be done. I think it's a reasonable agreement and provided that Council agrees and authorizes me to sign that agreement, I will get that done likely tomorrow and as I say, we can close a chapter here. I am available for any questions you all may have, moving forward, but in the meantime Ms. Jones, I would entertain a motion.

Aldersperson Jones Okay, I'll make the recommended motion which is to Approve and authorize the Mayor to sign the Global Settlement Agreement and Release with Carlyle Group, et al. and adopt a resolution relating to the financing of water system improvements and legal settlement; establishing compliance with reimbursement bond regulations under the Internal Revenue Code. And I would speak to it briefly, if now is the time?

Mayor John Engen Ms. Jones.

Aldersperson Jones I spoke at length on Wednesday, and we had a robust committee meeting on Wednesday, so I'm not going to repeat myself. I will just briefly say that this is just a huge accomplishment for the City of Missoula and as I look back over the last 10 to 12 years with the administration, with City Councilors, with the legal team, a lot of hard work went into this and good judgment to navigate a very difficult situation, as best as possible. I too wish there had been a different result from the bad faith arbitration, but it is what it is and in the big scheme of things to have a global settlement where we wrap it all up and acknowledge and note that we have acquired the water system, that's the important thing and I'm thrilled with it. And we put this on the committee reports tonight just, just so that this item is it is so significant. I wanted to make sure that it was prominently positioned in our agenda to get some attention and any more public comment. I don't know if we'll have any more tonight, but that was the rationale behind that and just wanted to acknowledge this is, this is a really good thing for Missoula and I'm very happy to be voting on finalizing 10 plus years of hard litigation and work. So, I'm in support of it.

Mayor John Engen And Ms. Jones' motion is in order. Discussion on the motion? Mr. Hess.

Aldersperson Hess Thanks. I'm in sport of emotion and you know I'm not one to resort to hyperbole and but I, I will say that in all honesty that being part of this, this process to acquire our water supply for

municipal ownership in perpetuity for future generations, may likely be the most important work I'll ever have the privilege of working on for the City of Missoula. It's, it's been a long process and as I said on Wednesday that the thing, that the thing that matters at the end of the day, the thing that matters tomorrow, the thing that matters into the future is that we've secured a resource that is precious, that is scarce, that is dwindling for future generations of Missoulians, and that is a really good thing. And so, I want to thank the Mayor. I want to thank our staff, our legal team for having the courage to bring that forward a little over eight years ago and I, I'm not gonna dwell on the fact that we're, that we're, that we didn't prevail in the bad faith case because the thing that matters is that we have this water system, and that will continue to replace pipes in the ground that are over 100 years old. That we will continue to reduce leakage by, we can count water that is not being pumped in Olympic swimming pools per hour, that's how much water was being wasted, that is now not being wasted. And so, it's extremely important for our community's future and this is, this is a blip on that, on that future roadmap but it is only a blip and so I'm, I'm really happy to support this and I and I want to really thank the Mayor and our legal team for putting this together.

Mayor John Engen Thank you Mr. Hess. Ms. Sherrill.

Alderpersion Sherrill Thanks. I don't have a whole lot, a lot to add I was not on Council at the time that that we acquired the water system. I do want to say thanks to everyone that was involved in that because, as Mr. Hess indicated, water is a dwindling resource, and it is even more so in the west. So, I think the most important thing is that we own our water system and I'm, I'm really thankful to everyone that was involved in that. You know, another piece that I just don't want lost in this discussion, is you know those swimming pools full of water that is leaking. We're still pumping those and moving that around and it's leaking out of the system. So, you know, the water seeps back into the ground but as we try to become carbon neutral, we are not going to be able to do that when we are losing that much water in an old system. So, I'm very thankful for all the work we're doing on the system. I think it is achieving other City goals and I'm just, I'm, I'm appreciative of every single person that has been involved in this and had the forethought and, and the fight in them to, to get this done. So, I'm happy to support the motion tonight.

Mayor John Engen Thank you Ms. Sherrill. Ms. Becerra.

Alderpersion Becerra I too want to thank everyone who had the foresight to go through this process and you know I want to recognize that this is not an easy or inexpensive endeavor, but like most things in life that are worth pursuing, you know those things are often times complex, but the effort is, is worth it. And we can see that already, but you know by the fact that we have done an incredible amount of infrastructure maintenance and replacement and all of that without raising our rates and that to me also speaks to the excellent and dedicated management that we have in our water enterprise. And ultimately I think that this is one of those things that it's going to be the, the greatest gift we can give to the future generations of Missoulians and for that I'm supportive of this and, and glad that we own our water.

Mayor John Engen Thanks Ms. Becerra. Further discussion? Mr. Nugent.

Aldersperson Mike Nugent Thanks Mr. Mayor and you know, I think that, that the, the comments everybody, everybody else on Councils made really kind of echo and I want to say thanks to you and, and to those Council members who made the initial votes to, to move forward even, even when there was some pushback, when the costs maybe were higher than you first thought. I think that the foresight showing is something that we should acknowledge, and I also think that it's okay to say out loud that this was a huge success. If this acquisition was looked at as a business decision and you added up the cost to acquire it and then you look at your operating revenue every month and you're generating revenue to put into capital projects and stuff like that, we would say that pencils and I think that that's something that's really important to say out loud. And I think that the other thing that's important to say out loud, that we all said several times in the committee hearing last week, is that this is not tax dollars. This is not, this whole project is not something that came from our property taxes. This, this water system is funded and supported by the ratepayers of the water system, and I think that it's a tremendous success. We're going to be proud to have it and we should, we should say it like it is on that front. So, thank you.

Mayor John Engen Thank you Mr. Nugent. Any further discussion? Anyone in the audience care to comment this evening? Seeing no hands there, we will have a roll call vote.

Mayor John Engen And the motion to approve the settlement agreement is approved.

12.2 Committee of the Whole (COW) committee report

12.2.1 Minutes from the February 23, 2022 Meeting

12.2.2 Global Settlement Agreement and Release with Carlyle Group, et al

Moved by: Aldersperson Jones

Approve and authorize the Mayor to sign the Global Settlement Agreement and Release with Carlyle Group, et al. and adopt a resolution relating to the financing of water system improvements and legal settlement; establishing compliance with reimbursement bond regulations under the Internal Revenue Code.

AYES: (12): Aldersperson Anderson, Aldersperson Becerra, Daniel Carlino, Aldersperson Contos, Aldersperson Hess, Aldersperson Jones, Kristen Jordan, Mike Nugent, Jennifer Savage, Aldersperson Sherrill, Aldersperson Vasecka, and Aldersperson West

Vote result: Approved (12 to 0)

12.3 Land Use and Planning (LUP) committee report

Mayor John Engen Our third and final committee report this evening is on the dedication of Pineview Park's Ice Rink to honor Bill Bevis, and this is happening in Parks and Conservation. Ms. Sherrill.

Aldersperson Sherrill Thanks. I recommend that we approve naming the ice rink in Pineview Park the Bill Bevis Ice Rink to honor Bill Bevis's 46 years, yes that's 46 years, of dedication to the improvement and maintenance of the rink for the enjoyment of all Missoulians and also to direct Parks staff to work with the Friends of Missoula parks and dedicated ice rink volunteers to develop and install a recognition sign at the rink in accordance with City policy. And may I speak to that motion?

Mayor John Engen Ms. Sherrill

Alderperson Sherrill Thanks. I asked for this to be on committee reports even though it was a unanimous vote, really just to bring attention to it tonight. The ice rink at Pineview Park behind the Rattlesnake School has, has been a community, a community place in the winter for kids and families and ice hockey players and people that were just sliding around on their knees which is what my kids did for many years. It, it has really been quite a gem and a gem for our community and as we, as we were speaking in the, the previous item about dedication to something. Bill Bevis has shown incredible dedication through the years in making this an incredible place for our community. I am thankful for him. I am thankful for everyone that volunteered with him, which of course he pointed out on Wednesday, that it wasn't just him and I am ever thankful for people in our community that are just willing to do things to make our community better and have again the forethought to get these things done.

Mayor John Engen Ms. Sherrill's motion is in order. Is there a further discussion? Seeing none, I, I will just say that I've known, I've known Bill for a long time as a professor at The University of Montana, but also the, the, the Zamboni/shoveler/flutter dude. This has been a labor of love for Bill for many years and so many people have benefited from that that love and that labor. So, I'm grateful; this is a nice recognition. In the audience, I have Mr. Harmon.

Mr. Harmon Sorry, I had to unmute. Thanks for the opportunity to speak. Yeah, if you could just picture for a minute, it's five o'clock in the morning, probably about the middle of January, we're all in bed snuggled up with our caps on, the wind's blowing 20 to 30 miles an hour, the thermometer is somewhere around five to ten degrees maybe, with the wind chill it's 20 or 30 below zero. And you know where Bill was? He was on the ice holding a two-inch rubber hose spraying it up in the air because he just loved that rink and he loved doing it for the for the kids and for everybody to skate there. So, I fully support this I think it's the greatest thing that we can name this the Bill Bevis rink and it's just wonderful. Thank you for doing it.

Mayor John Engen Thank you Mr. Harmon. Mr. Parker.

Mr. Parker Okay, thank you so much. I can't agree more with Mr. Harmon's comments. It's a great honor for Mr. Bevis, for the work he's done for the community, for the families but since he would never tell you, I just want those of you to know that don't already that Dave Harmon has been the second in command there for many, many years as well and provided silent, but extremely generous support to Bill and everyone else down there at the rink. So, I'm not suggesting that the name should change at all, but I just want to also acknowledge Mr. Harmon's dedication to the same facility, certainly as a strong second hand. Thank you so much.

Mayor John Engen Here, here. Thanks Mr. Parker. Seeing no additional hands in the audience and, oh I do see an additional hand. Ms. Jenny.

Ms. Jenny That would actually be Bill Bevis.....

Mayor John Engen I should have known that MC. Are you technical support?

Ms. Jenny Yes, I am. Would you like to have the video on?

Mayor John Engen Sure, we'd love to see Bill and you for that matter...Well there's Bil now...I recognize that character.

Bill Bevis If I may, I'd like to take two minutes to give credit where it's due.

Mayor John Engen Yes sir.

Bill Bevis If that government is best, which governs least, as some say, then Missoula has been a star at managing Pineview. First as a county park in 75, then after annexation as a city park. The Parks and Rec's response to Pineview has always been, Bill just tell us what you need. There was no skating rink in town, neighbor, Paul Shockey and I began by calling on the Fire Department to open a hydrant and use their fire hose to flood a slight depression at 20 below zero. Resurfacing was rare. When the county park became a city park in 2007, with major upgrades, Alan White said, now what do you need? We dug the depression, got a new shed, a tractor with a blower and plow, and then an electric retrieve fire hose reel. Another neighbor, Craig Podner, had begun making ice with Paul and me. So, we had a professor, a lawyer, and a fisheries biologist and their friends making ice, usually at 6:00 a.m. or 10:00 p.m. In the 90's, Dave and Amy Harmon joined us with more helpers and donations bought a used Zamboni. Tim Beck told his guided legal relations with Donna Gaukler at Parks and Rec and with Friends of Missoula Parks, and everyone knows it's volunteer ice. Teenagers pick up gum wrappers and obey the signs....usually. This was a community project from the start. Soon other hockey players made ice with boards at the fairgrounds and spearheaded Glacier Ice Rink. If my name is useful, fine, but Pineview has been a collaboration of four ice makers, Bevis, Sharkey, Bodner and Harmon with lots of their friends plus a populist obeying the signs and a city government that has always helped, not hindered. All of Missoula should be proud. What did John Donne say in his poem? I am a little world made cunningly...So is Pineview. Thanks Missoula for the ice and fight global warming. Thanks a lot everyone.

Mayor John Engen Thank you Bill. Great to see you. And you too MC....All right, with that, why don't we vote to make this official?

Mayor John Engen That is a good thing. We'll get a sign set up right away. Bill I'm going to ask you to proofread it before we put it up though.

12.4 Parks and Conservation (PC) committee report

12.4.1 Minutes from the February 23, 2022 Meeting

12.4.2 Dedication of the Pineview Park Ice Rink to Honor Bill Bevis

Moved by: Alderperson Sherrill

AYES: (12): Alderperson Anderson, Alderperson Becerra, Daniel Carlino, Alderperson Contos, Alderperson Hess, Alderperson Jones, Kristen Jordan, Mike Nugent, Jennifer Savage, Alderperson Sherrill, Alderperson Vasecka, and Alderperson West

Vote result: Approved (12 to 0)

12.5 Public Safety and Health (PSH) committee report

12.6 Public Works (PW) committee report

12.6.1 Minutes from the February 23, 2022 Meeting

13. **NEW BUSINESS - None.**
14. **ITEMS TO BE REFERRED - None.**
 - 14.1 **Administration and Finance Committee referrals**
 - 14.1.1 **FY2021 Audit Presentation**
 - 14.2 **Committee of the Whole referrals**
 - 14.3 **Land Use and Planning Committee referrals**
 - 14.4 **Parks and Conservation Committee referrals**
 - 14.4.1 **Marshall Mountain Park: Master Planning Contract with SE Group for an amount not to exceed \$130,000.00**
 - 14.4.2 **Referral -- Appointment to Energy and Climate Team**
 - 14.5 **Public Safety and Health Committee referrals**
 - 14.5.1 **Referral-Surplus Resolution for Fire Department Equipment**
 - 14.6 **Public Works Committee referrals**
 - 14.6.1 **Referral – Sidewalk Program Informational Presentation**
15. **MISCELLANEOUS COMMUNICATIONS, PETITIONS, REPORTS AND ANNOUNCEMENTS - None.**
 - 15.1 **Administratively approved agreement report**
16. **ADJOURNMENT**

ADJOURNMENT

Mayor John Engen As always, I thank you for your service and we will be adjourned.

The meeting adjourned at 7:05 p.m.

Martha L. Rehbein, CMC, Legislative
Service Director/City Clerk

John Engen, Mayor