

Journal of Proceedings
Missoula City Council Meeting

January 27, 2020, 7:00 pm
City Council Chambers
140 W. Pine Street, Missoula , MT

Members Present: Stacie Anderson, Mirtha Becerra, Heather Harp, Jordan Hess, Gwen Jones, Julie Merritt, Amber Sherrill, Sandra Vasecka, Bryan von Lossberg, Heidi West

Members Absent: John P. Contos, Jesse Ramos

Administration Present: Mayor John Engen, Dale Bickell, Chief Administrative Officer, Ginny Merriam, Communications Director, Jim Nugent, City Attorney, Marty Rehbein

1. CALL TO ORDER AND ROLL CALL

The meeting of the Missoula City Council was called to order by Mayor John Engen at 7:00 PM in the City Council Chambers at 140 West Pine Street

2. APPROVAL OF THE MINUTES

2.1 Minutes for January 13, 2020

The minutes were approved as submitted.

3. SCHEDULE OF COMMITTEE MEETINGS

3.1 Committee Schedule for the week of January 27, 2020

Land Use & Planning Committee Appointments Subcommittee, January 28, 2:00 – 5:00 p.m. in the Development Services First Floor Conference Room at 435 Ryman Street.

Committee of the Whole, January 29, 10:40 – 10:50 a.m.

Parks & Conservation Committee, January 29, 10:55 – 11:10 a.m.

Public Works Committee, January 29, 11:15 – 11:40 a.m.

Land Use & Planning Committee, January 29, 11:45 – Noon

Administration & Finance Committee, January 29, 12:30 – 1:30 p.m.

4. PUBLIC COMMENT

Brian West, Ward 6, said because there are so many people here tonight, it's probably good they all have a limited time each for comment. He said the City Council has a fairly limited attention span for some issues. For example, it seems they cannot concentrate on proposals that are not created exclusively to concentrate wealth. He does have to bow to the expertise of the City Council as the real pranksters after all they're the ones who are able to draw such a terrific audience. They're the ones who understand that repetition is comedy and they understand

what's at the real root of humor, which is that we laugh about the things that are too terrible to cry about.

Brant Miller said the *Missoulian* is launching a new quarterly publication focusing on doing PR for business and they're calling it Missoula Business. This quarterly will feature a notable business person, among other things, and the very first one they have is a lawyer from the MRA. The topic is "PR Spin for Tax Increment Financing." He was glad to read that. There was no specific response to criticisms or concerns about TIF, even though there was a whole cover story and centerfold's worth of material to do so. Instead Natasha Prinzing Jones, an unelected MRA representative, married to a banker from an institution that benefits from TIF, in the same controversial win as Stockman got buying their own bonds at 6%, loaning us their own corporate handouts while stiffing taxpayers with the interest payments. The same Prinzing Jones who underestimated the Mountain Water legal price tag by \$16 million. Instead of responding to specific concerns, Prinzing Jones defaults to the same politically expedient tactic as all the other TIF addicts, claiming that Missoula citizens are just too brainless, too ignorant and too stupid to understand how TIF works. She said that critics don't even show up at MRA meetings. Mr. Miller wondered if we are to consider that an invitation and if so, please be careful what you wish for because he does consider it an invitation.

Matt Wordell said his friends are taking an adversarial tone because they're very upset and that's understandable. The community is here expressing what they want, their interests, and serve those things, that adversarial attitude would diminish. They don't want to fight. They don't have personal animosities and none of them have fortunes to protect. They're trying to make simple livings and get by. Those raise families. Some have businesses. Just trying to have that quintessential American dream. The City Council is not helping them. They are helping people who have already got everything they need. They don't need anymore help or our tax money. There are a dozen people on the streets he could find in 10 minutes that do need our tax money. The guy that got killed at the Pov needed our tax money. Who do you serve, who do you serve? That's all.

Raymond Zimmer recalls that Mayor Engen had said, some months ago, he's trying to get ahead of the rumors. He believes this is what he's earned by trying to get ahead of the rumors. He hopes he is proud of his work.

Kevin Hunt, Ward 1, said the bond issue was brought up in Missoula Business. Previously, through Mr. Ramos, he's been directed to where the legal description was done for the Stockman deal, where it worked out really well because the City of Missoula didn't have the money in reserve to handle what they were going to be doing with TIF so the City did a bond issue and they had the privilege and the honor of borrowing from the bank the money that they're loaning to the bank and then paying the bank an additional 4% interest, which is very clever. The reason you do that is because under state law, if you issue general obligation bonds, you have to get a vote of the people. When you write things down in fine print, you don't have to get a vote of the people. You don't want the people to have power and control because you know they would never approve that. Municipal bonds are always considered such a great investment because they're secured by the almost unlimited power of the government to raise taxes. Not these bonds. These bonds were secured by a prediction that there would be 120% of existing obligations the City created would continue to be coming in because there'd never be another recession, nor another housing slump or a downturn in tourism. Everything would be dandy and rosy forever. Bonds like that are called junk bonds. If the people of this town understood that you've had two bond issues of junk bonds and he's hoping the citizens of Missoula are aware of

that, they would probably be very upset. There are new satellite stations for Partnerships that are being prompt up on this house of cards. What is going to happen to people who depend on those services when and if this house of cards collapses? The Washington Public Power Supply System (WPPSS) fiasco was the first municipal bond default in the history of the United States and it was, at the time, the largest lawsuit in the U.S. and he worked on that. A lot of Missoula utilities got caught up in that. If there is a collapse, the City of Missoula would have to go bankrupt.

Dan asked what would it feel like if we all told the City Council we've got your best interests in mind and will follow the procedures and rules and also obey the principles of this setup, and then we just didn't. And then we came back and blatantly disregarded what we pledged. He's been reading a lot of things in the *Missoulian* that offend him and makes him want to make promises to the Council saying he has their ideas at heart and then the deeds they do is just oxymoronic to the words he's seen put in print. Consider the fact that these people are here to voice the will of the people and what they feel. If Council does represent their interests, then they would respect the fact that we are all trying to keep their comments under two minutes.

Stan Koontz said he's on the southside. He was born and raised here. He's been trying for years to get attention and been ignored. He knows how to solve problems around here and been ignored. He knows why people don't come to this town because they're being ignored. He's tired of watching his antiques getting torn down. The City is working with nothing but big money. He fell down 15 years ago. He's been in that Pov. He dug his way out of it. He asked that Council work for the people. He can get half that Pov certified equipment operated but no one wants to listen to him. He's smart and knows what's going on. Forget that big money. He loves Missoula. That building will end up being four stories high by the time they're done with it, counting the ground. There's a bunch of sneaky stuff here. He wants to take Council's jobs because he knows he can fix it.

Anthony J. Cox said on September 11, 2018, there was a Montana Supreme Court ruling, City of Missoula vs. Franklin, Case No. DA160760. The Supreme Court said the City violated the law when it imposed surcharges for people convicted in Missoula Municipal Court of disobeying state laws. The surcharges averaged about \$220,000 per year for the past five years with about 80% of that needing to be refunded, according to Dale Bickell, City of Missoula Chief Administrative Officer, who serves at the will of the Mayor. In Article 3, Section 5, say the Mayor shall supervise all city departments except the Municipal Court. September 17 the Missoula City Council passed Resolution 8302 which planned to set up a program to refund the people of Missoula upward of about \$800,000 in court ordered surcharges but the Montana Supreme Court ruled it six days earlier were illegal. The surcharge initially began as a \$5 additional court fee in 2003, doubled to \$10 in 2004, tripled to \$15 in 2005 and grew to \$16 in 2006. It expanded to \$18 in 2011 and had ballooned to \$25 per charge in 2013, a 500% increase in only 10 years. Judge Jenks called it a monolithic program. Tuesday, September 18, Public Information and Communications Director Jenny Merriam issued a press release explaining the Supreme Court ruling and resulting City Council resolution response. She concludes saying, "We are continuing to notify the public as the work on a refund system progresses with updates to local news media and directly to the public on the City website." We, the public, waited for a refund. The rest of September went by. Then October went by and still no form. November 30, 2018, 2-1/2 months after the resolution, a refund form was posted to the City website without announcement. Finally, a vehicle to actually receive refund checks with. Unfortunately, there was no press release so none of the local media outlets covered it. Where was the communication of public information by Director Ginny Merriam? Over a year later, still to this day, no press release about a refund form. The

suppression of this information speaks far louder than the release of it. By hiding this refund form, the City must have figured that ignorance is the best damage control, the last revenue and refund payouts. On the City website, Mayor Engen said, "We're committed to building relationships with our citizens and communicating with you intelligently and effectively." If you're sure about that, tell Ginny Merriam to issue a press release about the mere existence of a Municipal Court surcharge refund form. A couple of months later he got a check for \$65 in the mail. His wife got \$75. His coworker got \$200 back. Free money from the government. The refund form is your golden ticket.

Henry Curtis, Ward 4, talked about the resolution to vacate the right-of-way on Ronald which is tied to the development on 4th Street, the condo situation. He expressed his general opposition to this further opening up of Missoula as sort of more of a focus on luxury housing and in general to advocate for a broader effort to expand public housing and affordable housing in this city as a broad base.

5. **CONSENT AGENDA**

Mayor Engen said, thank you, Ms. Hands. Questions or comments from Councilmembers? Ms. Vasecka?

Aldersperson Vasecka said, I would like to separate 5.5 please.

Mayor Engen said, we can do that. Any other comment? Ms. Merritt?

Aldersperson Merritt said, I would like to note that I am abstaining from voting on item 5.7 and if I could speak to that very briefly.

Mayor Engen said, you may.

Aldersperson Merritt said, for the benefit of our new colleagues on Council and folks who are just tuning in recently, I'm an employee and a shareholder in WGM Group. I've been completely open about this from the time I decided to run for this office. I went to the extent of writing a letter to the editor as soon as I decided to run to let people know and make sure that the public knew about my employment situation. In the interest of avoiding conflict of interest, I have recused myself from voting each and every time an item has come in front of this body that involves my employer. I will continue to do so as long as I serve on this Council. I would note that WGM Group has been doing business for and in front of the City for decades, long before I came to work for them, much longer than I've been on City Council and I have no doubt they will continue to do so long after my service on this body is finished. I'm not voting on this item on the consent agenda because it involves a contract with WGM Group. Likewise, I will not be voting on the items on the committee reports that will be heard towards the end of our meeting tonight. Thanks.

Mayor Engen said, thank you, Ms. Merritt. Any further discussion? Anyone in the audience care to comment on any of the items on the consent agenda this evening? Seeing none, we'll have a roll call vote on items 1 through 4 and 6 through 9.

Upon a roll call vote, the motion passed with 10 Ayes, 2 Absent, with the exception of item #7 which Councilperson Merritt has abstained from voting on.

Upon a roll call vote, the motion passed on item 5.5 with 9 Ayes, 1 Nay, 2 Absent

Mayor Engen said, thank you, Ms. Hands. The consent agenda is approved.

AYES: (10): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (10 to 0)

5.1 Claims - January 21, 2020

Ratify claims (accounts payable) in the amount of \$854,137.96 for checks dated January 21, 2020.

Vote result: Approved

5.2 Claims - January 28, 2020

Approve claims (accounts payable) in the amount of \$493,361.34 for checks dated January 28, 2020.

Vote result: Approved

5.3 Referral – Cemetery Columbarium Purchase

Approve the purchase of a double-sided columbarium wall for cremation inurnments from Memorial Monuments in the amount of \$29,523.

Vote result: Approved

5.4 Appointment to the Public Art Committee

Confirm the Mayor's appointment of Danielle M. Vazquez to the Public Art Committee to fill a vacated term, to begin immediately and expire on June 30, 2021

Vote result: Approved

5.6 Resolution approving fiscal year 2020 neighborhood project fund grant awards

Adopt a resolution of the City Council awarding \$20,000 in Neighborhood Project Fund Grants for fiscal year 2020 to certain organizations and directing staff to negotiate contracts with said organizations for the Mayor's signature.

Vote result: Approved

5.8 Agreement for the Purchase of Clouse Property on Mullan Road for Future Water Well Installation

Approve and authorize the Mayor to sign an agreement with Dale Clouse for purchase of his property at 4155 Mullan Road for future water well installation at a cost not to exceed \$725,000.

Vote result: Approved

5.9 Resolution adopting the 2019 Service Area Report Impact Fee Study and associated fees and Ordinance amending Impact Fee regulations and procedures

Set a public hearing on February 3, 2020 on a resolution of the Missoula City Council approving the 2019 Service Area Report and Impact Fee Study and increasing certain impact fees by 10% as shown in Exhibit A. to partially fund public facility construction, acquisition, or expansion required as a result of new development and return this item to the Administration and Finance Committee.

Vote result: Approved

5.5 Professional Service Agreement: City of Missoula Aerial Imagery Acquisition

Approve and authorize the Mayor to sign an agreement with Aero-Graphics, Inc. for aerial imagery acquisition and processing in the amount not to exceed \$34,400.

AYES: (9): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Sherrill, Alderperson von Lossberg, and Alderperson West

NAYS: (1): Alderperson Vasecka

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (9 to 1)

5.7 Professional Services Agreement Amendment #4 with WGM Group, Inc. for the Wyoming Street Water Main and Street Reconstruction Project

Approve and authorize the Mayor to sign Amendment #4 with WGM Group, Inc. for the Wyoming Water Main Extension Project at a cost not to exceed \$18,509.32.

AYES: (9): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSTAIN: (1): Alderperson Merritt

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (9 to 0)

6. COMMENTS FROM CITY STAFF, AGENCIES, BOARDS, COMMISSIONS, AUTHORITIES AND THE COMMUNITY FORUM

6.1 Community Forum Report Randall Gunn

Randall Gunn said they had a very short Community Forum. There were no public comments but they did hear from Tom Zavitz, Missoula Area Master Plan, from Community Forum member Caroline Lauer, Climate Smart Missoula who talked about the Climate Ready Communications. They also heard from Ben Schmidt, from the City of Missoula, who talked about air quality rules and changes to air quality in solving the burning fuels.

7. SPECIAL PRESENTATIONS

7.1 Proclamation - Sons of Norway Day

Mayor Engen proclaimed January 16, 2020 as Sons of Norway Day.

Mr. Rude said there will be 50 years of selling Vikings this summer and within the next five or six years they hope to sell their one millionth Viking. Like to thank you all and particularly John Engen for helping them get to that point.

[laughter]

Mayor Engen said Vikings have absolutely nothing to do with Norwegian cuisine which is why they taste good. He thanked the folks for being here tonight and appreciate what they do.

[laughter]

8. PUBLIC HEARINGS

8.1 Fiscal Year 2019 MRA End of Year Budget Amendments

Moved by: Alderperson Jones

Adopt a resolution amending the annual appropriations for the City of Missoula, Montana as set forth in the fiscal year 2019 budget that amends the total Missoula Redevelopment Agency (MRA) budget including increasing revenues by \$2,652,838 and increasing expenditures by \$2,433,686 in order to recognize additional revenue based on final valuations and mill levies, anticipated bond proceeds, and administrative and project related revenue and expenditures during the fiscal year and incorporate on-going construction projects and bond issues with related debt service that were carried forward from fiscal year 2018.

AYES: (10): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (10 to 0)

8.2 Fiscal Year 2020 MRA Budget Amendments

Mayor Engen said, our first two public hearings this evening are on amendments to the Missoula Redevelopment Agency's end-of-year budgets for fiscal year 2019 and 2020 and Ms. Dunn I would be happy if you were interested in providing staff reports for both simultaneously.

Jilayne Dunn, Missoula Redevelopment Agency, said, so, what I have for you this evening is a short presentation we have before you for public hearing budget amendments for fiscal year '19; that's our year-end wrap-up that we do every year. It's a procedural thing. We have to recognize all of the things that we've done throughout the year that weren't anticipated when we originally do our budget. MRA has projects that come before the Board that have been evaluated by the staff to make sure that they are presented in accordance with State Urban Renewal Law. Those would go before the

Board for consideration and if those projects are approved, then those are obviously all publicly noticed medians but we recognize all those expenditures at the end of the year. We also recognize expenditures, or excuse me, revenues that possibly come in during the year for grants. MRA does a lot of partnerships with a lot of organizations. We do planning partnerships when we have an area that we would like to see improvements such as sidewalks or public transportation improvement so a lot of times we have grants that come in through our partners. So, this is the quick timeline of the agenda for this evening and my quick PowerPoint presentation, just the budget process timeline that we have at the City of Missoula, amending the budget, just how the budget amendments happen, that process. Just briefly, tax increment financing fee, funding source and then the two amendments for MRA. This is a very simplified budget process that the City of Missoula goes through which MRA is a part of. February and March, we have our internal budget process begins. April, the City Council and Administration meet and develop strategic framework. May and June, proposed budgets are referred to the City Council's Budget Committee of the Whole and those are deliberations open to the public, public comment. Our fiscal year begins on July 1. In June and August, the City Departments present their budgets and any new requests, if they have any, to the Budget Committee of the Whole. In August, a very important date for the City of Missoula, as a municipality, that is the month that the State Department of Revenue releases the taxable valuations of all of our properties that we own or don't own, figures and the City Council approves your budget resolution based on that so that is also during the public hearing. MRA does not levy mills and we're not a tax jurisdiction. Our funding comes from an incremental value and so we have to wait till the final mill levies are received from the six other taxing jurisdictions in the city of Missoula that are a part of our Urban Renewal District. So, our revenues are delayed as what we anticipate. We are conservative in our revenue estimates every year because of that. We use prior year revenue estimates for our budget process and hope that those are close to what our revenues come in when the mill levies are adopted and the taxable values are set. So, sometimes that's the case and sometimes it's not. We have an annual audit that's completed at the end of December. This process, this budget amendment process is behind the City of Missoula's general budget amendment process for year-end because the City of Missoula audit process goes in front of MRA. MRA has an independent audit process that we go through annually as does the Parking Commission but those audit processes start behind the City's and so we're a little bit delayed as far as these year-end budget amendments for that reason. And, of course, our fiscal year ends June 30. These slides are prepared by the City Finance Department. Just a little bit about how amending the budget process works for the City of Missoula. This statement is coming out of Montana Code Annotated. We are required to do public hearing and public notices for the citizens of Missoula. The publications appear in a newspaper and they must be published twice with at least six days separating each publication. The City budget is amended throughout the year for a variety of reasons that I've stated previously. The amended budget constitutes the final budget and the governing body shall adopt the final budget by resolution. So, the first referral to you is a proposed budget amendment for our fiscal year 2019. The bullets that are highlighted on the screen above you are the highlights from those budget amendments. Again, like I said earlier, this is a procedural step to close out our fiscal year 2019 year, the year-end reconciliation. So, like I said earlier, those projects come in before the Board and if they are approved as tax increment financing grant for the public improvements for those projects, those projects are sometimes delayed. We budget them all in one year and maybe there's a delaying factor

in the construction season and those projects are not closed out by the end of the fiscal year so that's a reconciliation that we have to take care of at the end of the year that there's carryover funds. Those funds are not distributed to the grants...the developer, sort to speak, for those public improvements until the public improvements have been completed. So, if a project includes sidewalks improvements, if it includes a water main extension, not a service line extension, those projects have to be completed and they have to show proof of completion through the paid contractor invoices. They have to provide us releases before that money is ever given to that particular developer. So, I want to be clear about that. But that's an example of how that project timing can affect our year-end reconciliation. As I stated earlier, we sometimes have revenues come in during the year that we've identified when we did our budget process. One example would be a pass-through grant for a Max Wave. That one was down in the river. There's been some folks in the community that have been working on Max Wave for several years. And just like we did Max Wave down in front of Caras Park and there's a pass-through grant, a small one that MRA did for that project. That wasn't identified. We have to identify that. That's a good example of a pass-through grant that would affect that budget amendment. And then we recognize the bond issues that have been approved by City Council during that public process. Bond issues for MRA projects have to go through the public process. City Council approves those, the MRA Board does not. So, we do have to recognize those at the end of the year as part of our budget reconciliation. These are the highlights for fiscal year 2020. This year, like I said, the final mill levies determine our anticipated revenues. MRA budgeted the same revenue that we had budgeted last year. This year the mill levies were lower than fiscal year '19 and so our revenues are less so you will see in your motion for the proposed budget amendments that those revenues are decreased and the expenditures are decreased. And then the City Council, all of you approved a tax increment remittance in fiscal year '19 and you approved another one in fiscal year '20. At that time, the MRA budget didn't have where that money was going to come from and so we need to recognize where that money is going to come from out of those districts as a remittance back to the taxing jurisdictions. And then the last thing, we had a few projects that have been approved to date so those were included in your FY20 amendments. And that concludes my budget presentation. The motions are up there on the screen and you also have them in front of you. I'm happy to answer any questions.

Mayor Engen said, thank you, Ms. Dunn. With that, I will open the public hearing. Anyone care to comment on these bookkeeping issues? Alright. Yes, sir?

Brant Miller said, I thought they were all going to comment together for a moment. So, we're asking for millions more in TIF. I'm just going to read Jesse's comment because he's not here. The first thing I think we need to do is stop the tax increment financing subsidies entirely. TIF is subsidizing these businesses where we give \$3.6 million to the Mercantile, \$1.8 million to the Marriott, \$6.9 million to Southgate Mall. All of that money is being stripped away from the tax base so that everybody's taxes are going up because of that so that brings people in here that are happy to pay those higher taxes who buy a little old lady's house who can no longer afford her property tax bill. We need to take much larger distributions every year from the Urban Renewal Districts. We need to claw back from Missoula Redevelopment Agency. We need to start giving it to the County, the schools, the police, the fire, the infrastructure and go to fix our roads. The money is there. We don't need a sales tax to cover these services. The money is already there

but MRA is taking it all. Obviously, we need to leave enough in those districts to service the debt but above and beyond that, no more new projects for the love of God. We have potholes to fill. We have police that are understaffed and we have schools that are underfunded. Stop with the new projects.

Mayor Engen said, thank you, Mr. Miller. Anyone else in the budget amendments?

Un-named said, just to kind of continue what he said about raising the property taxes, part of that carries over to the rent too because if you raise the property taxes, then the property owners pass that onto the renters and so some of the people most affected by raising property taxes aren't the actual owners, they're the people doing the renting. So, it really prices out low-income folks, and just increases the socio-economical gap that's a major problem. So, just wanted to mention that. Oh, and MRA, the R is for Redevelopment, is that right? Is that what it stands for?

Mayor Engen said, correct.

Matt Wordell said, I just don't know what redevelopment is. I think it's just development. So, I just don't know what the re...I just couldn't figure that out.

Mayor Engen said, okay. Anyone else on the budget amendments?

Matt Wordell said, I just want to articulate on the last point of the gentleman. It does...all this backdoor increasing of prices on the people who least can afford it. It's starting to look like that effect isn't entirely intentional. It's not exactly on the books but it's a well-known result that these things, and here we are just tactfully pushing them at every opportunity we get. And, again, like I said before, the people who need tax money aren't developers. What difference that he's got to pull a little more out of his pocket to build his luxury condos. The other guy's got to, you know, his theatre, his community, all of the rotating gourmet chefs and things like that. It's absurd. Some of us, we elected you. You're here to serve us. Not them, us. We need houses we can afford to live in. And that's just the basics. That's what we're on, so that's where I'll leave it. But there's more to do and we have the ability to do it if we would stop carrying the people who can take care of themselves.

Mayor Engen said, and would you just say your name one more time for the record transcriptionist, we'll let you know.

Matt Wordell said, no.

Mayor Engen said, oh, okay, fair enough. You know, that is one of the requirements here this evening, so thank you, Mr. Wordell. Anyone else on the budget amendment? Alright, seeing none, I will close the public hearing. Are there questions from Councilmembers? Ms. Vasecka?

Aldersperson Vasecka said, I have a clarifying question for Jill or somebody else on Council that can help me out. So, this is just the budget reconciliation and there are no new projects being...we're not approving any projects. We're not issuing any new bonds. It's just like crossing the t's and dotting the i's budget?

Mayor Engen said, that's correct.

Aldersperson Vasecka said, okay. Okay, thank you.

Mayor Engen said, okay. Further discussion? Oh, I'm sorry, further questions? Alright, seeing none, Ms. Jones.

Alderson Jones said, I assume you want both motions?

Mayor Engen said, please.

Alderson Jones said, okay. I make the motion to adopt a resolution amending the annual appropriations for the City of Missoula, Montana as set forth in the fiscal year 2019 budget that amends the total Missoula Redevelopment Agency budget including increasing revenues by \$2,652,838 and increasing expenditures by \$2,433,686 in order to recognize additional revenue based on final valuations and mill levies, anticipated bond proceeds, and administrative and project related revenue and expenditures during the fiscal year and incorporate on-going construction projects and bond issues with related debt service that were carried forward from fiscal year 2018.

Mayor Engen said, and, Ms. Jones, on second thought, for Ms. Hands' sake and the agenda's clarity, let's take them one at a time. Okay, the motion is in order. Is there discussion on the motion? Seeing none, we'll have a roll call vote.

Upon a roll call vote the motion passed with 10 Ayes, 2 Absent

Mayor Engen said, and the motion is approved. Ms. Jones?

Alderson Jones said, okay and the second motion is I will make a recommended motion to adopt a resolution amending the annual appropriations for the City of Missoula, Montana as set forth in the fiscal year 2020 budget that amends the total Missoula Redevelopment Agency budget including decreasing revenues by \$562,584 and decreasing expenditures by \$771,487 in order to recognize appropriate revenue based on final valuations and mill levies, anticipated grants and bond proceeds, and administrative and project related revenue and expenditures during the fiscal year and incorporate on-going construction projects and bond issues with related debt service that were carried forward from fiscal year 2019.

Mayor Engen said, and that motion is in order. Is there discussion on the motion? Ms. Harp?

Alderson Harp said, just a comment to Jill Dunn. Where did you go? Oh, you're way over there. Jill, I want to commend you on this document that you wrote up in terms of actually describing what the bond issuance. I think this is a really great way to take a snapshot in time of where we are so that as we look back in history we can look back and say, ah, this was what we were doing in this particular year. It is really incredibly helpful, especially for folks who may not be really great with numbers or even for those who are good with numbers, so thank you.

Mayor Engen said, further discussion? Seeing none, we had a public hearing, we'll have a roll call vote.

Upon a roll call vote, the motion passed with 10 Ayes and 2 Absent

Mayor Engen said, and the motion is approved. We'll move on to item #8.3. This is our Master Fee Schedule for Parks and our staff report this evening comes from Ms. Kinsey.

Moved by: Alderson Jones

Adopt a resolution amending the annual appropriations for the City of Missoula, Montana as set forth in the fiscal year 2020 budget that amends the total Missoula Redevelopment Agency (MRA) budget including decreasing revenues by \$562,584 and decreasing expenditures by \$771,487 in order to recognize appropriate revenue based on final valuations and mill levies, anticipated grants and bond proceeds, and administrative and project related revenue and expenditures during the fiscal year and incorporate on-going construction projects and bond issues with related debt service that were carried forward from fiscal year 2019.

AYES: (10): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (10 to 0)

8.3 Master Fee Schedule

Shirley Kinsey said, thank you. So, this is the public process we give...

Mayor Engen said, and, Shirley, if I may have you identify yourself for the record.

Shirley Kinsey, Parks and Recreation, said, oh, sorry, Shirley Kinsey, Parks and Recreation.

Mayor Engen said, and that microphone is going to bend up to meet you. There you go. That's ergonomics.

Shirley Kinsey, Parks and Recreation, said, so, this is the public process that we undergo each year that to pass user fees and permit fees if we have any changes. So, each year we review the fees and determine if we need to make adjustments and if we do need to make adjustments. This year we are making adjustments to some of the fees for approximately 4% and that is to cover cost increases for wages, supplies and public service or professional services. In adjusting the fees, I sent out a summary memo to all the user groups and then I follow up with meetings to address any concerns that folks may have. And then we go through the process of reviewing the fees with the Parks and Recreation Board and they passed the fees unanimously this year. The Missoula County Park and Trail Board, who also passed the fees unanimously. We reviewed with the Parks and Conservation Committee and we'll wrap up with this public hearing. So, in general, the 4% will be for softball diamonds. The McCormick softball fields will increase from \$18 per hour to \$18.75 and that is also at Fort Missoula. All softball fields will go from \$18 an hour to \$18.75 with no lights. The lights won't increase. The league grade will increase from \$140 a night to \$145.75. And the fields that don't have lights will increase from \$86 per night to \$88.50 per night. The tournament fees will increase from \$180 a day at McCormick fields to \$187.50. The prep fee will decrease this year from \$59 to \$52 in association with having equipment and staff closer to the fields. After 3 o'clock, the decrease will be from \$88 an hour to \$75 per hour. Fort Missoula fields, a full-day rate on Fields 1 through 7 will increase from \$150 a day to \$260 a day and that includes two preparations. The Fort Missoula half-day rate is \$150 to \$156. Fields 1 through 5 after 6 o'clock will pay a one-time hourly rate for staff and that will increase from \$16 an hour to \$16.75. The baseball and softball fields in Playfair Park for adult use

will increase from \$13 an hour to \$13.50 and for youth from \$7.50 to \$7.75. The multiuse field, Playfair East and West, will increase from \$16 an hour to \$16.75. And the Playfair South Field 1 and 2 will increase from \$11.75 to \$12.25. And all-day rental rates are based on a 10-hour day. Multiuse fields out at Fort Missoula, full size field, will increase from \$20 per hour to \$21 per hour. The 77 field will increase from \$15 an hour to \$15.75. The 60 by 90-foot, \$12.50 to \$13 and the Rugby Pitch will increase from \$25 an hour to \$26 an hour. All-day rentals are based on 10 hours. The Bella Vista Turf with no lights will increase from \$40 to \$41.50 and with lights from \$50 to \$51.50. The multiuse fields in neighborhood parks that are generally used for practice will increase from \$10 an hour to \$10.50 an hour. Football and track fields, \$15 an hour to \$15.75. Toole Park, the same, \$15 to \$15.75. Park shelters. There are no fee increases with the park shelters this year but we will be adding MRL Park as a rental onto the reservation system. Aquatics facilities are based on the number of people that are using. The Currents rental rate, we haven't increased for the past 12 years so it will increase incrementally as we add lifeguards. One to 40 people is \$139 per hour to \$144.50. 41 to 81 people, \$166 to \$172.50. 81 to 120, \$194 to \$201.75. 121 to 160, and so on. The Splash facility rental without the 50 meter will increase from \$375 to \$390 and groups larger than 40 may require more lifeguards and that and the wage will increase from \$12.50 to \$13 per hour. The Splash facility rental with the 50-meter increases from \$550 to \$572. Special events and private events in parks. The only difference between these two permits is that special events are open to the public and private events are not. They will increase 4%. 1 to 100 people, \$60 a day to \$62.50 and then it increments up from there. And then the special use permit for seasonal, up to 9 days a month, will increase from \$170 a month to \$281 a month or 10 days or more, \$370 to \$385 a month. The amplified sound permit will increase from \$46 a day to \$48 a day. Park fees in McCormick, we're asking that the parking fee be adjusted from \$10 per vehicle to read up to \$20 per vehicle and this will reflect the parking fees Logjam is charging for stadium parking. We'll partner with them depending on what they need in terms of the use of our parking lot. The resident discount program. The County Parks and Trail Board has been asked to increase their contribution from \$3,150 to \$3,276 for the Sports Association and Team Sport Subsidy that they pay the City each year. The aquatics daily fees, seasonal and annual passes. We are asking for a 25-cent increase on the daily admission at Splash Montana only. No punch cards or annual passes will be increased this year. The Urban Forestry. The fee for Partners in Parks Tree Share Cost Share Program will increase from \$200 to \$250 and they also made adjustments with the caliber and the approximate height of the trees that are being sold. The concession permits will increase for profit from \$32 a day to \$32.25 and nonprofit \$27 to \$28 per day. And if you buy 10 or more permits at a time, for-profit it goes from \$27 to \$28 per day or nonprofit, \$22 to \$23. Fort Missoula will increase from \$63 to \$65.50 and nonprofit at Fort Missoula is \$53.50 to \$55.50. Yay.

Mayor Engen said, you made it.

Shirley Kinsey, Parks and Recreation, said, I know.

Mayor Engen said, thank you, Ms. Kinsey. And with that, I will open the public hearing. Does anybody care to comment on the Parks and Recreation Fee Schedule?

Anthony Cox said, I was just hoping to see two decreases on there and good job.

Mayor Engen said, that was Mr. Cox, for the record.

Brandon Zimmer said, I'm curious about the, I think it was 3.2, why is it that ticket price at McCormick Park is increasing double and is it because Logjam does that?

Mayor Engen said, and we'll answer that question later.

Brandon Zimmer said, okay.

Mayor Engen said, anyone else? Yes, sir?

Matt Loomis, Ward 5, said, I'll try to speak quickly. I mean no disrespect by this. This is a procedural thing that Shirley in Parks and Rec have to do. I'm speaking out on behalf of myself and a lot of Missoulians, user groups, opposing the Parks and Recreation Master Fee not because they don't need the money. I understand that every year the cost of maintaining, overseeing parks facilities increases, staff increases, wages, etc. leads to increased user fees but Parks has limited revenue sources. Their main operating budget is property taxes. It's what's given to them from the general fund so it stands to reason that raising rental fees is the only way to do this but this is not the way that I feel you guys should be doing this, you are setting the budgets of City departments. What you're doing is in line with the City of Missoula methodology but basically if a department has additional expenses, they just raise rates. They ask the users, the taxpayers for more money. I believe I'm speaking for more Missoulians than just one or two people. To those that have a keen eye, our Parks Department has to make do with less every year. The city annexes, they add parks, they add trails. They fail to adequately fund for the care and maintenance. They don't add money for staffing. I don't think that Parks is asking for more than they need to meet their budget but if the City could stop adding onto the responsibilities, they would not need to increase their budget; it would become moot. In fact, based on City documents from your website, the last measurable increase in the annual Parks budget was in fiscal year 2019 and it was due to a \$5 million increase from the Park District Special Revenue Fund. However, the general fund contribution for Pyrex decreased by \$3 million that same year. The relationship between Parks and many youth and adult programs has become strained to put it lightly. Increasing rental rates to use publicly funded fields isn't going to increase the interest in a sport or create interested use in the facilities. Parks adult sport leagues seize dwindling participants each year but increasing fees is not going to build up participation. You're talking about little leagues, youth football, soccer, lacrosse, softball, all these groups in addition to just individuals rely on these park facilities. Remember what the City's providing. We're providing community-oriented healthy programs. The groups that are renting these facilities are nonprofits. They have their own, ever-increasing user fees, like headwinds and other things. But increasing user fees for these groups, which ultimately is individuals, I think is going to have the exact opposite of what Parks is here for. It's going to discourage the use of these facilities. It's going to discourage physical activity and it's going to discourage residents' participation with their Parks and Rec Department. Meanwhile, Parks is unable, due to a lack of funds, to develop, create, equip or maintain City-mandated neighborhood parks, created by subdivision. It's a whole other thing but it all goes back to budgeting and how little Parks is given. To summarize, I ask the Council to vote against approving the Parks and Rec Master Fee Schedule for 2020 in the interest of supporting those who pay to use the facilities. And I ask that the Council considers increasing annual Parks and Recreation budgets in the future, including an amendment for this fiscal year, either through the general fund or through alternative funding sources, not just asking the same people to

pay more. Lastly, I'd like to point out that I am a parks supporter. I'm an advocate. I'm [inaudible] and I'm an employee of Parks and Recreation. I fully support the Parks [inaudible] Missoula, the scholarship programs, the employees. I cannot support, which is what I'm asking you to consider, asking for further funds from Parks and Rec for Parks and Rec from the citizens just because the department is underfunded. Thank you.

Mayor Engen said, thank you, Mr. Loomis. Anyone else on the fee schedule this evening? Alright, seeing none, I will close the public hearing. Are there questions from Councilmembers? Ms. Merritt?

Alderson Merritt said, Shirley, we had heard some concerns from one of our nonprofit partners about the increase and I know you had some further conversation with that organization, I wonder if you would share with us the outcome of that conversation?

Shirley Kinsey, Parks and Recreation, said, yes. So, that's the Montana Natural History Center. We met with them and through our discussion, it was advantageous for them to look at the seasonal permit that would allow them to use more of the park services...the park areas for less money.

Mayor Engen said, further questions? Ms. Harp?

Alderson Harp said, Shirley, just as a reminder, what has been the history of our fee increases? Have we historically gone up by inflation each year for a long period of time or a more recent history or have we had some times where we go without any increases whatsoever and then all of a sudden, we get 20-30% rate increases and, obviously, a lot of unhappy constituents?

Shirley Kinsey, Parks and Recreation, said, right. So, from the user group meetings, I've ascertained that they would like to see smaller increments annually versus no increases and then having big jumps. So, that's essentially what we're doing now. And being an altruistic person, I would love to have no fees associated with any of our facilities but being a taxpayer here in this city, I totally understand why we have user fees.

Alderson Harp said, follow-up. And then I guess in relation to Mr. Loomis' question or his concerns, do you find that having a balance, if you will, between user fees as well as taxpayer funded Parks Department is a healthy balance. Is that something that we look throughout all of our peer cities and kind of mirror that or are we unique in how we structure it?

Shirley Kinsey, Parks and Recreation, said, no, it's basically many cities have adopted a user pays fee system and essentially you're paying for exclusive use of a facility and having a facility maintained at a higher base standard so through our national organization and the surveys they've done, it's generally a fee based system. The user pays.

Mayor Engen said, Ms. Anderson?

Alderson Anderson said, thank you, Mr. Mayor. Just a quick question. I know you shared this in committee and I feel like it's an important point that I just want to reiterate in the form of a question. So, the thought process behind not increasing the annual passes or the punch cards, but increasing the single use rates around Splash is that because most Missoulians who know that their little ones are going to want to spend lots of time in the Splash park by those passes, and so those are more catered towards

Missoulians and that the one-use fee is when their cousins come to town from out of town for one day to join in or people who are here for various tournaments or the marathon or whatnot, is that the correct thought for why just increasing the daily rate and not the passes and punch cards?

Shirley Kinsey, Parks and Recreation, said, correct. So, we do have a 20% resident discount that you can get a resident discount card and that actually takes additional money off of punch cards that are at reduced rates as well as the annual passes.

Alderson Anderson said, and, Mr. Mayor, may I have a follow-up? Can I ask the question in regards to the parking associated with Logjam and the parking fee? Would you expand upon that please?

Shirley Kinsey, Parks and Recreation, said, sure. And then I would also like to add that with any of our fees we have and we're in the process of revamping our scholarship program. We have a very healthy scholarship offering to people in need. So, the parking in McCormick Park, we have experienced the impact of the concerts in McCormick Park whether we operate Currents or not. So, it seemed to us that it would be better for us to partner with Logjam and depending on what they're charging for fees for parking, we would charge the same for the McCormick to help offset the loss of revenue that we are experiencing anyway at Currents.

Mayor Engen said, Ms. Anderson?

Alderson Anderson said, so, this is not like I want to go and park down there because I'm at Silver Park or at McCormick or at Currents. This is just simply in association when there are times when there are concerts for fees to park there because of its proximity to the baseball stadium where there's concerts?

Shirley Kinsey, Parks and Recreation, said, correct.

Alderson Anderson said, thank you.

Mayor Engen said, we do something similar for baseball as well.

Alderson Anderson said, thank you for that clarification.

Mayor Engen said, okay. Ms. Sherrill, a question?

Alderson Sherrill said, I'd like to make a comment and then also make the motion if that's okay.

Mayor Engen said, this is questions only.

Alderson Sherrill said, questions only. Okay, well, I don't have a question yet.

Mayor Engen said, okay. And Mr. von Lossberg, a question?

Alderson von Lossberg said, thanks. It's probably a question for you, Mr. Mayor. If I recall correctly, in the last budget we transitioned the support from the general fund to the Parks District. I was getting at the issue about the decrease from the general fund and the increase in the Parks District and I just wanted to make that clear.

Mayor Engen said, correct.

Alderson von Lossberg said, but I want to make sure that's right that that was the transition of all the funding for Parks moving to the district. There was a net increase in support for Parks.

Mayor Engen said, that's correct.

Alderson von Lossberg said, yeah, thanks.

Mayor Engen said, yup. Further questions? Alright, seeing none, Ms. Sherrill, you may make a motion.

Alderson Sherrill said, my turn, thank you. First, I'd like to just say that I appreciate that you would shout to the user groups and were proactive about and would also followed up with the Natural History Center and now it's apparent that his pay for many, many sports over the years, I also appreciate the increases because I think that's important in letting families plan for their kids' activity. And I would like to make the motion to adopt a resolution establishing the City of Missoula Parks and Recreation Fee and Permit Schedules for the Parks and Recreation programs, facilities and concessionaires for 2020.

Mayor Engen said, and that motion is in order. Is there discussion on the motion? Ms. Vasecka?

Alderson Vasecka said, I just wanted to say that I agreed with Mr. Cox. I was really impressed about seeing the decreases on there. And then also, Mr. Loomis, your comments really spoke to me and I agreed with you completely so I will be voting no on this one and mainly because there is also this comment that these fee increases are basically to pay for exclusive rights so I don't see the need to increase them.

Mayor Engen said, further discussion? Seeing none, we've had a public hearing, we'll have a roll call vote.

Upon a roll call vote the motion passed with 9 Ayes, 1 Nay, 2 Absent

Mayor Engen said, and the motion is approved. We'll move onto our fourth and final public hearing of the evening. And this is on the question for a conditional use at 5750 Expressway and Mr. Bowman has our staff report this evening.

Moved by: Alderson Sherrill

Adopt a resolution establishing City of Missoula Parks and Recreation Fee and Permit Schedules for Parks and Recreation programs, facilities and concessionaires for 2020.

AYES: (9): Alderson Anderson, Alderson Becerra, Alderson Harp, Alderson Hess, Alderson Jones, Alderson Merritt, Alderson Sherrill, Alderson von Lossberg, and Alderson West

NAYS: (1): Alderson Vasecka

ABSENT: (2): Alderson Contos, and Alderson Ramos

Vote result: Approved (9 to 1)

8.4 5750 Expressway Conditional Use Request for an Enterprise Commercial use in the M1-2 Limited Industrial zoning district.

Andrew Boughan, Development Services, said, this request comes from Aaron Hinks and Gavin Hinks on behalf of Ryan Frye of Marshall Properties Group for an Enterprise Commercial Conditional Use request at 5750 Expressway. This is the location of the property outlined in red. It is on Expressway between West Terrier Street and Trumpeter Way, as part of City Council Ward 2 and Grant Creek Neighborhood Council. The property is zoned M1-2 Limited Industrial where Enterprise Commercial Development over 30,000 square feet requires the conditional use approval. The property is not located within the Development Park or subject to the Missoula Development Park Overlay. The Growth Policy recommends the land use designation for this area Industrial Light. Uses typically include manufacturing distribution, research development, office, technology centers and supportive services to industry. The project consists for four industrial building shelves totally approximately 39,000 square feet and 40 parking spaces. The parking requirement will be reviewed at the time of tenant approval and business license for each tenant's space. The units' interiors are not included with this proposal. Subsequent building permits will be submitted for the units' build-out. Here's the typical elevation for the project. Here's another typical elevation. The lower graphic is a view from Expressway. Title 20 has specific standards for Enterprise Commercial development. I will go through the standards and explain how this project meets them. A number of the standards have to do with parking and pedestrian circulations to the parking lot. EC uses must try to reduce the visual impact of their parking from the public right-of-way. In this case, all parking is either beside or behind the buildings and none of it comes between the buildings and the streets. Per EC standards, there must be an 8-foot sidewalk along the facades which contain customer entrances. The red bars represent the 8-foot sidewalk. EC uses must have pedestrian circulation plans to get pedestrian safely through the parking lot to the building. The project has four 8-foot wide sidewalks adjacent to the entrances, three 6-foot concrete sidewalks connecting through the site and three delineated pedestrian crossings through the parking lot. EC standards also require the building to be separated from drive aisle at...by at least six feet. This is accomplished for three of the buildings. A condition of approval is proposed to provide a required separation between Building C and the drive aisle to the west. Enterprise Commercial uses must be located on arterial streets. Expressway is a collector street; however, the City Engineer has waived the requirement for a traffic study. There are specific design standards for EC projects. The applicants must meet four of the six criteria. In this case, the building meets the color variation of building façade, exterior building materials, varied in texture and color, façade modulation including projections, recesses, offset plains and overhangs. Pedestrian entrances encompassing 75% and at least 20% of the buildings ground floor façade must be transparent or windows. A conditional of approval requires the applicant to increase the glazing from 19% to 20% by providing a larger window on Building D. The building façade along Expressway meets the three following criteria. Color variation, exterior building materials, varied in texture and color and 20% of the ground floor transparency. Condition of approval #1 is a standard condition and it's not shown up here. It applies to all conditional uses that they must comply with Title 20. Condition #2 is with regards to the 6-foot separation between Building C and the drive aisle to the west. Sorry, mixed that one up. Condition #2 is actually the 6-foot sidewalk that connects from Building C to Expressway, as shown with the red square on the slide. Condition of approval #3 is the 6-foot wide landscaped area between Building C and the drive aisle to the west. The red square represents Building C and Building D and the parking facility in between, various spaced and shift all of that over six feet and allow for that green area to be the landscape separation between

Building C and the drive aisle. Condition of approval #4 requires that Building D increase their transparency on the ground floor to 20% and comply with Title 20. This shows just some of the windows that could be increased on the building. The conditional use review criteria require compliance with zoning standards. Requires that it's compatible with the character including the site and building design. Compatible with the operating characteristics of businesses in the adjacent area and traffic safety for all modes of transportation. We also received a late request from the Stormwater Division to ensure that the stormwater facilities onsite or the facilities that exist at the site meet the stormwater facility for 100-year, 24-hour storm event. There was a comment provided by Tracy Campbell stating that the requirement for maintenance of the site and maintenance of the stormwater facility with what regards they do on their site is covered by just the property owners requirement so Stormwater does have the ability to come through and say, you need to update or correct or solve any sort of issues that they have with their facility. We also, at the request of City Council, received comment from the Fire Department, Adam Sabastian, stating that he had no concerns regarding the fire safety of the site and the overall fire apparatus and access roads and fire protection and water supply of the area. And, again, that's the Stormwater Division's comment from Tracy more or less stating that it faults the property owner's responsibility to ensure that the stormwater is functional as designed and they do not concentrate stormwater on the adjacent property. In conclusion, staff recommends approval of the conditional use request in an M1-2 Limited Industrial Zoning District in accordance with Title 20, based on the findings of fact in the staff report and subject to the conditional of approval as amended.

Mayor Engen said, thank you, sir. Anyone here on behalf of the applicant this evening that would like to say anything? Mr. Frye.

Ryan Frye said, I'd just like to be pretty brief here. Industrial project, industrial zoning, I just want to say that I think what is forgotten sometimes in every development project is the well-paying jobs that are created during the building phase of these projects. The carpenters, the painters, the siders, the insulators and the list goes on. But the unique thing about this project is those same small businesses in the trades that worked on the project are the very same types of businesses that will occupy these warehouse spaces, the paint shop, the wood shop, etc. So, this is really small warehouse spaces for small businesses. Thank you.

Mayor Engen said, thank you, Mr. Frye. With that, I will open the public hearing. Anyone care to comment on this proposed conditional use? Yes, sir?

Tim Marinan said, I'm a resident of Ward 2. The property is in Ward 2 and I own the property adjacent to 5750 Expressway. And most of you have a copy of my comments that I provided earlier. This is a request for a commercial project but it's kind of disguised itself as Enterprise Commercial. There will be 19 commercial units on 2.08 acres. One of the uses described by the developer, except for this evening, were related to Light Industrial. Enterprise Commercial, of my understanding, is to allow light industrial businesses to have related commercial use space. Example, Joe's Widget Manufacturing would be allowed to add retail sales. A restaurant would be allowed to serve the people in the industrial area and other commercial uses that would support the light industrial area around it. These 19 units will be designed so that there can be as many as 19 individual owners in a condo-type ownership of the property. I believe the

City has an interest in this because there will be 19 business licenses, 19 water connections, 19 sewer connections and the money generated from this piece of property would probably be greater than if it was a single or just a few uses. Parking is a big concern to me. You have 19 units. The developer has provided 40 but they have used the parking requirements that are required under light industrial. If it was commercial, the same development would require 82 spaces, more than double what they're providing. There are no loading zones. There's no parking for vehicles towing trailers. There is no area larger enough for a commercial delivery truck to pull in and load and unload without blocking the traffic aisles. There is absolutely no space to add additional parking in the future. Buildings B and C have four spaces for four units. That's one parking place for each unit plus there is a fifth handicap. Five of those units will not have a parking place in front of their own unit. There are serious drainage problems in this area. The County has continued to ignore and address them in a half hazardous area. They have used over 80% of their property so there is no room left for retention ponds. On my property next door, I was required to give up 20% of my property for water retention. Just lately on West Terrier, a property owner up there at his own expense had to put in over 300 feet of underground culvert to tie into a storm drain in order to utilize his property. I don't know where the water is going from this property and no one's been able to tell me where it's going to go. In my opinion, this is a blatant attempt to circumvent proper zoning in an effort to maximize profit from 2.08 acres of land. This is not the best use of this property or a use that fits the intended zoning. I would encourage you to deny this project. Thank you.

Mayor Engen said, thank you, sir. Anyone else this evening? Alright, seeing none, I will close the public hearing. Are there questions from Councilmembers? Mr. Hess?

Alderman Hess said, thanks, Mayor. Andrew, can you confirm...so we're in receipt of Mr. Marinan's letter and I want to make sure that his concerns are addressed through the process. Parking is determined at the time that the use is built out essentially, is that correct?

Andrew Boughan, Development Services, said, that is correct.

Alderman Hess said, so, if there were to be a more intensive commercial use that would require parking to be accommodated at that time.

Andrew Boughan, Development Services, said, yeah. They would need to either reconfigure their parking lot so the areas in front of the different base could be converted. They would be required to reinstall curb, to install that parking. In the event that they are unable to meet their parking requirement for a specific business or a specific build-out, they will be denied their permit.

Alderman Hess said, and then the drainage, stormwater management on-site is determined at the time of building permit as well?

Andrew Boughan, Development Services, said, that is correct. And they have been going back and forth with the developer as well as the Stormwater Division to more or less figure out a system that exists over there and there is adequate room within the Momont Industrial Park, which was one of the original subdivisions. There are a few ponds that exist over there they're during the swales that lead. And so, they would be

required to reaching most of the stormwater on site but predevelopment levels would be able to flow to those areas.

Alderson Hess said, okay. And, lastly, just thank you for getting the comments from Fire that were requested in committee.

Mayor Engen said, further questions? Ms. Sherrill?

Alderson Sherrill said, so, I just want to be clear with the conditional use that's being requested, they're requesting that the floor space, sort to speak, is the condition is being lifted of the 30,000 to 39,500, I think is what it is. That's the conditional use request. It's industrial. It's industrial that the industrial use will stand, correct?

Andrew Boughan, Development Services, said, that is correct.

Alderson Sherrill said, thank you.

Mayor Engen said, further questions? Seeing none, Mr. Hess?

Alderson Hess said, thanks. I'd move approval of the Enterprise Commercial Conditional Use for 5750 Expressway in the M1-2 Limited Industrial Zoning District in accordance with Title 20, Missoula City Zoning Ordinance, Sections 20.15.020(D), 20.40.050, 20.85.070 based on the findings of fact in the staff report and subject to the conditions of approval and noting that Condition #5 needs to be reworded as addressed in...or re-punctuated as addressed in committee. And I can...we can read that if we need to get it into the record.

Mayor Engen said, that motion is in order. Is there discussion on the motion? Seeing none, we've had a public hearing, we'll have a roll call vote.

Upon a roll call vote the motion passed with 10 Ayes, 2 Absent

Mayor Engen said, and the conditional use is approved.

Moved by: Alderson Hess

Approve an enterprise commercial conditional use request for 5750 Expressway in the M1-2, Limited Industrial zoning district, in accordance with the Title 20 Missoula City Zoning Ordinance, Sections 20.15.020(D), 20.40.050 and 20.85.070, based on the findings of fact in the staff report, and subject to the conditions of approval.

AYES: (10): Alderson Anderson, Alderson Becerra, Alderson Harp, Alderson Hess, Alderson Jones, Alderson Merritt, Alderson Sherrill, Alderson Vasecka, Alderson von Lossberg, and Alderson West

ABSENT: (2): Alderson Contos, and Alderson Ramos

Vote result: Approved (10 to 0)

9. COMMUNICATIONS FROM THE MAYOR

No communications.

Mayor Engen said, in the interest of time and without objection, I would like to move general comments from Councilmembers until we're done with committee reports. Seeing none, we will do that and move right into committee reports. Items there, ladies and gentlemen, weren't

approved unanimously in Council committees and the chairperson of that committee will make a motion reflecting that committee's actions and we'll, of course, take comment prior to the vote there. Mr. Hess, would you please make motions on behalf of both Land Use and Planning and Public Works Committee?

10. GENERAL COMMENTS OF CITY COUNCIL

Aldersperson West announced that there is an Opportunity Zone Community Discussion with the Missoula Economic Partnership on Tuesday, January 28, at the Burn Street Center, 1500 Burn Street. An Opportunity Zone is a designated census track. The Northside Westside Neighborhood happens to be the one that was chosen for our community. It is a tool that came out of the last tax reform that established Opportunity Funds that can be invested in Opportunity Zones and this is a chance for folks that live in the Northside Westside Neighborhood to show up, say what sort of development they would like to see and what their neighborhood needs are. Hopefully that can inform the sorts of projects that end up happening in their neighborhood. The meeting is from 5:30 to 7:30 p.m. Secondly, Project Community Connect is happening Friday, January 31, from 10:00 a.m. to 3:00 p.m. at Revive Church located at 2811 Latimer Street.

Aldersperson Anderson honored a fallen Montanan, Lt. Col. Ian McBeth who gave of his time in helping fight the fires in Australia. He is a part of the Montana Air National Guard and he was killed when the plane that he was piloting went down in New South Wales. He leaves behind a wife, Bowdie, a daughter Abigail and another daughter Ella. Ms. Anderson spent Saturday with Boy Scouts, with Ms. Jones, teaching citizenship of the world to the next generation of Montanans and Lt. Col. McBeth exemplifies what it means to be a citizen of the world and we appreciate his sacrifice and keep this family in our thoughts and prayers.

11. COMMITTEE REPORTS

11.1 Administration and Finance committee (AF) report

11.1.1 January 15, 2020 Administration and Finance report

11.2 Budget Committee of the Whole (BCOW) committee report

11.3 Committee of the Whole (COW) committee report

11.3.1 January 15, 2010 Committee of the Whole report

11.4 Public Works (PW) committee report

11.4.1 January 15, 2020 Public Works report

11.4.1.1 Request to vacate Ronald Avenue right-of-way north of the alley between Block 12 and 13 of Montana Addition adjacent to Lots 10 & 11 north and south of the ditch in Block 13 of Montana Addition, as well as a portion of South 4th Street East right-of-way

Note: 11.4.1.1 and 11.5.6 were both read together as motions by Aldersperson Hess.

Alderson Hess said, yes. So, I'd move that we adopt a resolution to vacate the Ronald Avenue right-of-way north of the alley between Block 12 and Block 13 of the Montana Addition adjacent to Lots 10 and 11 north and south of the ditch in Block 13 of the Montana Addition, as well as a portion of South 4th Street East right-of-way, generally the southerly 22 feet of South 4th Street East adjacent to property legally described as Lots 1 through 8 of Block 12 Montana Addition in Section 22, Township 13 North, Range 19 W, Principle Meridian Montana, as shown in Exhibit A, subject to the approval of the rezoning request and subject to the conditions of approval as amended, as shown in Memo #5. And, also, that on second and final reading the Council adopt an ordinance to rezone Lots 1 through 8 of block 12 of Montana Addition, a recorded subdivision of Missoula County, Montana; the west half of Ronald Avenue bounded on the north by the southerly right-of-way line of South Fourth Street East, and bounded on the south by the northerly alley right-of-way line of said block 12; that portion of the east half of Ronald Avenue lying southerly of a line connecting the northwest corner of that certain tract of land described in Book 187 deeds, page 100, and a point being 40.0 feet westerly of said corner when measured at right angles, said point being on the centerline of Ronald Avenue, and bounded on the south by the northerly alley right-of-way line of block 13 of said Montana addition; that certain tract of land described in said Book 187 deeds, page 100; the southerly 22.0 feet of South Fourth Street East lying between the northerly prolongation of the westerly line of Lot 5 of block 12 of said Montana addition and the centerline of Ronald Avenue; that portion of South Fourth Street East lying southerly of a line connecting the northwest corner of lot 8 of said block 12, and a point lying 22.0 feet north of the northwest corner of said Lot 5; said point also lying on the northerly prolongation of the west line of said Lot 5 from RT2.7 Residential/NC-UD University District Neighborhood Character Overlay and M1R-2 Limited Industrial-Residential to B1-3 Neighborhood Business. I'd encourage folks to refer to the map exhibit to make sense of those...that descriptor. I'd like to speak to the motions.

Mayor Engen said, Mr. Hess?

Alderson Hess said, thanks. Throughout this process there have been comments along the lines of just say no, to reject this project. And I really am coming at my decision tonight in part because of what it means to say no. Montana is a property right state. Landowners have wide latitude to develop their property in the state of Montana. This is a constraint put on the City at the state level. If we deny this request, I can almost guarantee the developer will tear down all the units on the site and build the maximum units allowed under the current zoning. This will

spread the cost of the site over less units and the cost per unit will almost certainly be out of reach of even more Missoulians. This would be allowed under Montana state law. This would be allowed under the Missoula City Zoning Code. Our decision space is a lot narrower than a lot of members of the public would like it to be. It's a lot narrower than a lot of us would like it to be. It is...I want to refer to the possible outcomes chart that was distributed as part of Memo #5 and at previous committee meetings. And I want to really point out that our area where we can influence this project in a positive manner is through the right-of-way vacation. That is where our lever is and that is our mechanism for influencing this right-of-way...this land use. I, also, want to talk about the project for a moment, and there are aspects of this that I think are getting lost in the discussion and that I want to highlight. It is places like this...or this project places density in an area that is near services, near parkland, near grocery stores, near employment centers, near transit, near our river trail system. The site is downtown. The site is on the Hip Strip. It's on our primary commuter trail network. It is on high frequency transit routes. It's a block away from the Higgins Street Bridge which will be rebuilt with very nice multi-modal facilities for biking and walking in the coming years. I personally believe in creating density in the right places and I believe that this is one of those right places. This idea is not a new idea. The idea of focusing inward and creating density emerged in planning documents well over a decade ago and have been the forefront...the backbone really of Missoula's planning documents since our Long-Range Transportation Plan in 2008. It is central to our Growth Policy and this site is designated as city center within our Growth Policy. It helps us meet our housing policy by adding units at a mix of price plans which is really important. It is important to note that this is the first time that the City of Missoula has been able to condition affordability as an inclusionary policy. And 20% may not seem like a lot but it is more than what we've been able to do in the past and it is more than nearly every inclusionary policy in this country. It creates affordability that is permanent, that is deed restricted and that is structural. This affordability is not at the whim of a landowner. It is not at the whim of the market. It is permanent, structural affordability and that's a really big deal. It also...the right-of-way vacation conditions also allow us to preserve existing structures off site and that is again something that we are not able to do without the ability to condition the right-of-way vacation, and that is also a big deal. I want to say that there's been some comments that the rules are changing and I want to make very clear that changing zoning is not changing the rules. It is not breaking the rules. Zoning is not immutable. Zoning is designed to be flexible over time and there are protections in place and there are processes in place for

changing zoning. This is addressed in state law and it's addressed in our local zoning ordinance. And this zoning district as being proposed is a relatable zoning district within our Growth Policy. It is a zoning district that our Growth Policy says belongs here. Our Growth Policy was adopted with input from hundreds of people and it is our guiding document. It is our north star of how we want our community to come together. And there is room for disagreement over that. There is room for legitimate policy discussions over that but this body adopted that Growth Policy with the importance of that document in mind a number of years ago. It's then up for a review next year and it's a great opportunity to get involved. So, I want to again just go back to say that saying no is not what a lot of people want it to be. And that is an issue that is a state level issue that is certainly can be a cause for frustration on the Council but we need to work within the framework that we're provided and we need to recognize the decision space that we have here. And I believe on balance the right-of-way vacation gets to a better project than we have without it and for that reason I'm supporting it.

Mayor Engen said, Ms. Jones?

Alderson Jones said, I have a few pages of notes here so I will try and get through them quickly and I did want to say, first of all, that I've read all of the public comment. I've attended all of the meetings. I've listened to all of the public comment. I appreciate the time people have put into this. I think that public comment has helped create a better process and it has helped inform the conditions as they have evolved so that it's at a good place but the bigger issue that I want to speak to is really how Missoula is growing and what we as a community are going to do about it. People are moving here. People without money are moving here. People who are middle-class are moving here. And people with money are moving here. And a lot of these people are moving home. They're coming back. And we have college students who come here, go to school and then they want to stay here because it's a great community. And we have people who have lived here for decades. But we have more people moving here and we're going to have to figure out how we, as a community, handle that. And, as Jordan referenced, we have a lot of thoughtful, thoughtful policies that years of work have gone into to try and address this. And our Growth Policy I think is an excellent document. It has a lot of different levels in it of how to address this but the bottom line is we need more stock, housing stock, in Missoula. We need about 800 units every year. We're not meeting that but we're going to have to try and figure out how we are going to do that and this is a project that goes in that direction. So, I think, as this change happens though, we're also seeing great change in our physical

built environment here and that causes a lot of stress. But my concern is if we don't build more housing stock, if we don't address that and create more places to live, we will see far greater change in this community than if we do create housing stock. If we go in the direction of no growth and not building and not adding more density and adding more infill, the very core and the very nature of our community will change greatly. And I've seen it happen in other communities. I can give you tons of examples where you have to either be independently wealthy or have a big trust fund to buy that three-bedroom house for \$1.8 million. It can happen and we need to not go in that direction. We need to do the best we can to keep our housing prices as low as possible or at least stop the acceleration because we don't want to get into that category of point of no return. So, I think we have this tension in Missoula where people are moving here and we need more housing stock. That causes growth and it causes great stress. So, as a City Councilor, I look to all of our policies that are in place that are going to dictate how do we do this because a lot of work has gone into that. And as Jordan referenced, we have a great Growth Policy. It does talk about preserving affordable housing but to just preface that issue, the affordable housing that is on this lot that we are talking about is market rate. It is not preserved in any way as affordable housing and, frankly, it needs a lot of work. It's been neglected over the years so as soon as someone starts fixing those buildings up, the rents go up and that is not long-term affordable housing. Because of this project we have this opportunity to create a condition of long-term affordable housing which is great. So, the policies that I look at when we have to go through our analysis and Andrew, our planner, has gone through this many times but I'm going to hit it again, we have a Growth Policy that favors infill, especially close to our urban core. This is exactly in our urban core. Jordan spoke to many issues of why that's important. I just want to highlight additionally if we are at all concerned with going green in this community, if we are concerned with environmental issues and climate change, then we want to build close to the urban core where people can travel by bus, by walking without getting in their car and driving in from four miles away. If we're at all concerned with those values, that's part of this analysis. Secondly, I think that condos have kind of a bad connotation. Houses are okay, but condos are bad for some reason but we're going to have to change our frame of reference on all of this because if we want to be an environmentally friendly city, we're going to have to build far more densely and not spread out as much and, frankly, it uses a lot less material to build condos. So, I think the future is going to look different and we need to start coming to grips with that because our environment is changing and these are the types of things that impact it. We have a housing policy in place that we

spent a lot of time on, years, and we voted it in, in June. We have an affordable housing issue in this community. We have areas of Missoula that are being built up, that have great impact. If you go to Franklin to the Fort, the north side, the west side, there are areas there where density can go in and it's going in and it has a huge impact on the neighborhood. A big tenant of our housing policy was that this is a community-wide issue. All neighborhoods need to contribute to some degree to creating more housing stock. When I look at the older parts of town that are built in, there's not much opportunity there but I think that this area on 4th Street has great opportunity. I see it, frankly, as an offshoot of the Hip Strip. I think it's anchored on either end by commercial. It is far less residential than the interior of the University District. It is one area that the University District can contribute to increased housing stock that will help with our housing issues. And I think it's important that every neighborhood, to the degree it can, contribute so this is, for me, this is important because if you go look at the other neighborhoods on the other side of town, there's a huge impact there and it's just important that everyone, as a matter of equity, start contributing to this issue. We have the downtown plan, Master Downtown Plan that also emphasizes having more housing close to the University...or, I'm sorry, close to the downtown. So, we have numerous levels of plans and there are competing values. There's talk about preserving character. There's talk about preserving historic buildings. There's talk about affordability in all of these plans and we have to look at what we can do and, frankly, affordability is the highest value that I come down on. And, finally, I wanted to address the University District zoning overlay because there's been a lot of comment on that with this project. I was the City Council that sponsored that. I spent hundreds of hours on it and many, many hours in meetings with people from the University District and it's a really good tool but the point of it is that people cannot take two or three houses and scrape them and build one house. That goes against our Growth Policy. We want more density, not less. We want to be housing more people. This is a situation in which we would be creating far more density which is what we are trying to do in this town in order to increase our housing stock. So, in terms of the University District zoning overlay, that part doesn't really apply because this is going in a different direction. The 4th Street project. Secondly, there were several tools within the zoning overlay that spoke to creating buildings that fit into the character of the neighborhood such as modulating the side of a building so that it wasn't just a flat plain and stair-stepping it down in height as it approaches the neighbor's building...neighbor's house. So, when the architect on this project has spoken in committee, he has specifically spoken to

those items and they are planning on incorporating them into the design. So, it's meeting the University District zoning overlay. Third...

[Unknown spoke from the audience, inaudible]

Mayor Engen said, nope. She gets to talk right now.

Alderperson Jones said, third, there were a lot of discussions when we had the University District zoning overlay as to whether or not architectural design should be a component. And there was a very strong mandate from the University District Neighborhood that that not be a component, that that was too strict. There is a very broad range of architectural styles in the University and it wasn't the right direction to go in because people did not want someone else telling them what...how to design their house. So, that is not part of the University District zoning overlay and I've seen a lot of public comment that somehow equates the two equates that to this project and it is not on the table. It is not a tool that we have at this point. And I would add to that under state law with a rezoning we cannot require architectural drawings. It is against state law. So, I see a lot of public comment that, how can you approve this when you don't even know what it's going to look like? We can't demand drawings on this because it is against state law so that's what we have to work with. And when Jordan talks about our decision space, we have a narrow decision space on this. Finally, there has been a lot of discussion about scale and height and this won't fit in because it's too big. And first of all, I wanted to...the architect has spoken to height and I think they have a good plan for that when the architect has presented on this in committee. I don't see it being too high and, in fact, they have moderated it quite a bit. But also, I wanted to point out that there is actually a lot of density, is how I would describe it in terms of scale, in that neighborhood, in that sector. Specifically, the Spotswood Condos, the Linwood Condos, Hellgate High School, 200 Eddy, 998 Gerald, 430 6th Street, 525 5th Street, these are all huge buildings. A lot of them are big rectangular apartment buildings, built in the 1960s that, frankly, don't contribute a lot to the character of the University District, if you ask me. But the point I'm trying to make is, there's actually a lot of density and buildings of that scale already in existence. This is on the periphery. It's on the edge of the University District. It's basically a commercial area, if you ask me, and it looks out on the river. It has breathing room. So, I think it is actually a great place to put density and that's what you typically see with neighborhoods. You don't plunk it down in the middle of a neighborhood that's zoned a single-family residential. You put it on the periphery where it can breathe, where it has some breathing room so, I think it makes a lot of sense. And, finally, I

guess I would just kind of wrap up by saying for me the priority here is having new affordable housing units. As I said, we want every neighborhood to make a contribution to the degree it can because there's different circumstances in every neighborhood as to how they were built and what land is available. To have housing units that are permanent affordable in this neighborhood, which is one of the highest priced districts in our entire city, is a real win, if you ask me. That's what we want. We want diversity of different income levels in our neighborhoods. That's a good thing. To just finish up here, I'm trying to see what I don't want to repeat myself. So, I think the affordable housing issue is a big issue and we're seeing this incredible growth but I also think, as a community, this is such a big issue because people feel so strongly about Missoula and they connect...their identity is very connected to our built environment. Part of our Growth Policy does call for infill and greater density to be...to contribute to the character of a neighborhood and to complement the character of a neighborhood. We do not have a tool to require that. I don't have anything to mandate that. I hope this is good design. And if this passes tonight and this project is built, I hope that the engineer and the architect who are locals here in town understand how important it is to have good design because to me to complement the character of a neighborhood means looking back at the history, looking at the historic buildings, looking at the architecture, pulling from the downtown, pulling from the neighborhood district, looking at the Pen Well Building and making it reflect or mirror or build upon that, so that is my hope. I don't have a tool to require that but that is my hope that if this goes through, that that design element comes through because I think that's what it really boils down and if it's good design, it's going to be a good project. I'm very pleased if you can get this affordable housing in there and I hope it is good design so I'm in favor of it and thank you for your patience tonight.

Mayor Engen said, further discussion? Ms. Sherrill?

Alderson Sherrill said, so, we have two requests in front of us tonight, the right-of-way vacation and the zoning request. I'm going to be a little bit repetitive but just to make sure that those that are watching and those that have been following understand, the City Council's powers have sideboards, as Mr. Hess said. We cannot condition zoning. We can simply say yes or no to that. There are risks to saying no and I share exactly what Mr. Hess said, there are...we do not have affordable, permanent affordable housing there right now. We have affordable housing that is owned by someone else and has, you know, has been left as affordable housing but that will change. The other thing that I've heard out there, the right-of-

way vacation of the alley is not the City giving away land. That is not owned by us. We simply have the right to use that for City services, trash, police and fire. So, I didn't know that this was actually the first time that we had that along with the zoning request but that is what gives us leverage to ask for the things like affordable housing for the improvements to the streets. I think those are important. So, this leverage allows us to get permanently affordable housing. That is why I'm going to be supporting the measure. We will be able to restrict vacation rentals by owners so it will actually add to our housing stock. I believe that, you know, as Ms. Jones said, as our population grows and I think that as we face climate change, that the projection, in my opinion, and I could be wrong, but I think the projection of the increase in population in our area is possibly going to be higher than what we're predicting. We're going to have to make some hard choices. If we want to continue to not sprawl, sprawling in the surrounding valleys eats up our agricultural land and it increases our reliance on single occupancy vehicles. You know, there are things in this project that I really like. There are things that I don't necessarily love but I think that given our Growth Policy and given the fact that we are looking...we have made a commitment to increase our housing stock to focus inward and to have more affordable housing, I am going to support it and I want everyone to know that I have read the letters. I have studied this. I have tried to understand really where the powers of City Council lie in making this decision but given the policies that we have had lots of public input on, the Growth Policy, the Focus Inward Policy, you know, our climate change mitigation policy, I think that I feel good about voting for this.

Mayor Engen said, Ms. Anderson.

Alderperson Anderson said, thank you, Mr. Mayor, and thank you for the thoughtful comments from my previous Councilmembers. I will try not to be super repetitive. I think that for those of us who have been here and I think I see several faces who have been at all of the committee meetings and Council meetings thus far, we can agree that there are definitely a lot of varying opinions on this and you see my in-box and I'm now having people stop me at parties and in the grocery store to talk to me about this. I think that there's a lot of passionate opinions that run the spectrum. But I do think that the couple of things that we can all agree on is that we have an affordable housing shortage in Missoula. I also think that we can agree that we have an overall housing stock shortage in Missoula, if you have ever tried to buy a home in any price range. So, I realize that this project is not exactly what the neighbors and Missoulians would like if they were given carte blanche to design

what they want but I have to weigh the needs of a few against the needs of a greater community of over 70,000 people that is continuing to grow. And with this project, I think that there are several notable objectives that are achieved. One, if with the vacation right-of-way we are able to require that money be allocated to relocate the historic buildings that currently live...or reside on this site, therefore, preserving a part of historic treasure here in Missoula and that is something that is important to me as a history buff, as someone who loves Missoula and the unique characteristic this town has. If I vote no against this right-of-way vacation tonight, there is no money to relocate these buildings. The developer can go and demolish them tomorrow if they want. There's a developer who's interested in moving them upon review. There are several buildings who are eligible and within good structural integrity enough that could be moved and so, therefore, a piece of Missoula's history will be able to be preserved with this project if I vote to allow the right-of-vacation. Because the developers asked for a right-of-way vacation, we are able to put in a condition that requires affordable housing. We do not have an inclusionary zoning policy here in Missoula because of all the reasons laid out by our Office of Housing but this is a way to do this on this one particular project. Currently, there are folks who are living there that they cannot find other affordable housing in other places because this is affordable housing. If I vote no against the right-of-way vacation, the developer can demo the houses, build whatever is allowed in the zoning with no nod to affordable housing. We are requiring deed restricted, permanent affordable housing as a part of this right-of-way vacation which means for those families and the families who buy them after the first families, there is a way for them to get into permanent affordable housing which, yes, there is a much larger need but for the families who get to have these houses, it will be a game changer for them and for our larger community. Because we have an overall housing stock, this project and its rezoning and right-of-way vacation does increase the overall number of houses that are built and therefore increase the overall number of houses to purchase in Missoula. And if I vote no on that, then we are losing out on that valuable housing inventory that is desperately needed for all incomes and all walks of life and all the people who live here or moving here or looking to move up and all walks in between. So, I hear you. I feel your pleas. I am measuring your wants and your needs against a much larger community and what is better and what is needed and where, as Ms. Jones and Mr. Hess have said, our limited powers to condition and require our...and weighing all of that, I have decided that in the best interest of our greater community that is growing to be in favor of these projects...this right-of-way vacation.

Mayor Engen said, further discussion? Ms. West?

Alderson West said, I would like to thank my colleagues for really laying out what it is we get to make decisions about. I think that there's a baseline that results in, you know, loss of historic structures and loss of affordable housing that is just a baseline reality across a no if we don't vote for this. But I really want to speak to why intentional structural affordability is necessary in our community. In 2015, City Lab came out with a study, an article titled "Where American Workers Spend the Most on Housing" and Missoula was called out as a surprising market. We are more unaffordable based on our wages and our median and our cost of housing than Washington, D.C. and that is a staggering reality. In March of 2019, the *Missoulian* published an article that highlighted the increase of residents in the Missoula area that are wage-independent, meaning that they can afford to live in Missoula without relying on local wages and that number has gone up to 40% of the folks in our community. Most recently or another recent article that was published in *U.S.A. Today* was research done by 24/7 Wall Street which listed Montana as the number one state where the middle class is being left behind. And I'm just going to read the paragraph that describes Montana. "The rapid growth of upper-class incomes has likely increased the cost of real estate throughout the state and made housing less affordable for many members of the middle class. The cost of the typical home in Montana rose 27.8% over the past decade, the sixth most of any state. The share of households earning between \$35,000 and \$75,000 a year that spend more than 30% of their income on housing costs rose from 17% in 2007 to 21.9 in 2016, the fourth largest increase in the country." And that is Montana as a whole and we know that there are housing markets within Montana, Missoula being one of them where those numbers are much higher on what percentage of our population is cost-burdened. So, I think protecting homes for people that are dependent on Missoula wages is something that we have to do. It's not really an option. Otherwise, there aren't going to be houses generated that fill that void. I just briefly want to speak to where affordable housing is being developed in our community that is using other mechanisms so most of our housing is developed by LIHTC ...low-income housing tax credits. Those are rental units and then there's some community land trust homes in our community from Homewood and the NMCDC that are using Home or CDBG funds. So, there are 448 units of LIHTC rental housing that are coming online in our community in the next couple of years, that Skyview, Villagio, Trinity and the Cornerstone of those 448 units, 416 of them are located in the Northside Westside neighborhood. Thirty-two units, which is Skyview Senior Housing, is going to be in an also a low-income area census

tract of Missoula. It is time for other parts of our community to also add to the housing affordability of our community. We have housing goals and we have five-year strategic housing goals that are spelled out in our Housing Policy. We hope to generate 590 LIHTC projects. We are 70% of the way there. Most of those are in the Northside and the Westside neighborhood. We also have strategic goals for home ownership. We hope to create 120 units that are affordable for folks that earn less than 80% area median income and then we hope to generate 100 incentivized home ownership units that serve folks that earn up to 120% AMI. This would generate 8. I realize that that is not a big number in that five-year goal but it sets a benchmark. It creates a tool that we can replicate to generate additional units in our community and generate those units with equity with where they are placed. So, I think that this right-of-way vacation is a tool to create a more sustainable and more structurally equitable tool for generating affordable housing options in our community.

Mayor Engen said, Ms. Harp.

Aldersperson Harp said, my computer is about to restart so hopefully I get a few of my comments out. First of all, Missoula is a highly educated community. We are smart folks. Time and time again I'm just delighted by the fact that we outshine the rest of our nation with our undergraduate degrees as well as our graduate degrees by double. And most of our professions require some kind of a continuing education, whether you're an attorney, you're a doctor, you're a nurse, financial advisor or hair stylist, you need continuing education. And trust me, the 12 of us around this dais also need continuing education. We do that through the Montana League of Cities and Towns where we meet with a lot of our peers to learn about how to better govern our municipalities. But even more importantly, each and every week we meet with countless groups, boards, commissions that are comprised of public citizens just like you. We get most of our continuing education by listening and not necessarily within these four walls. And what that means is that we are listening hard. Topics that include our Master Downtown Plan, going to folks...meeting with the folks with the Missoula Interfaith Collaborative, our Commissioners, climate change sessions, the Chamber of Commerce and the University of Montana to name just a few. And what we hear is that, from you, that hate speech will not be tolerated, that you advocate for a return to civility and not discourse at all levels of governing, that folks deserve a second chance at life, that taking care of our most vulnerable amongst us actually matters, that our children who are frightened of the future we punt to them to fix, that aging in place is preferable, that you expect every right afforded us as a balance with assumed responsibility, that children do not belong in cages,

that no one should become a victim of sex crimes, that we are a welcoming community to refugees and the silence seekers, that we treat one another as we wish to be treated with respect and compassion and that housing and utilities needs to comprise only 30% of one's income to be deemed affordable. That's a lot and there's a lot more that we hear. And, unfortunately, many of those issues have been siloed and trust me for the first year I thought that's how we had to do, tackle them is one by one by one. I was wrong. I think our issues are highly connected and affordable housing is certainly amongst those. And to that regard and how this project relates to the, I guess, the bigger picture is just like all of my colleagues have mentioned, very, very good points, but one of the things that we have to also remember is that the jobs that come along with additional development are high paying jobs. I think that was mentioned by earlier, but also I shop in that Hip Strip neighborhood all the time and oftentimes I'm the only one in those particular shops and I can only imagine that another 48 dwelling units would possibly bring along some additional patrons of those particular characteristic entrepreneurs in those particular shops. And I think they would really appreciate too from a business standpoint. It keeps them employed. But most importantly, one of the most important things I've learned, I've sat on the Climate Change Resiliency Committee for the last 18 months. This is our biggest crisis that faces us and if we can understand, and I'm sure you all know this, but it's worth repeating, when we build densely from the ground up, we also are being very conscientious with our energy consumption. The top two contributing factors to climate change is transportation and our buildings. We cannot buy enough LED lightbulbs to work our way out of our problem. We cannot ban enough plastic bags to get out of...to make a real dent in our climate change. It's going to take really hard efforts and especially when it comes down to where we work, where we play, where we sleep. These structures that I know we all really love have been a part of our history for a long period of time. We treasure them and I get that but I think we've also come to realize that past actions need to actually start changing, if we are serious about believing in the science that we so promote. Our University of Montana has one of the best environmental sciences programs in the country and we have a lot of folks that are really smart who are telling us that we have to listen to them. So, I appreciate every one of you speaking up and coming forward. Also note that there are a lot of folks who support this project, who don't feel comfortable coming down here but have emailed us or have spoken to us as well, so it's actually probably more 50-50 than you might realize. And what we have to make the decisions and we have to make at the end of the day is really trying to think about what's best for our community today but also for future generations, for

our kids and our grandkids that are yet to come. They need to be able to live in smaller footprints that are built sustainably and as affordable as possible. We still have a long, long ways to go but we are a group of smart people and I really do think that we can work on getting away from demand-side economics that has really kind of plagued us with our housing stock and move toward to...and I can't believe Jesse's not here to actually hear me say that I'm going to agree with him, that supply-side economics of building...or adding more supply to the bases actually is going to be a good thing for us. We've had decades of where we fall way...woefully behind our need. I've said it before but it's worth repeating because not everyone has heard this. The Missoula Organization of Realtors, who actually is probably the only body that tracks all this stuff, we grow at roughly 2-1/2% rate each year. In our community that equates at roughly 1,800 people moving to Missoula each year net. So, yes, some leave but more come in. That translates to 850 housing units that we need to bring online each year and if we bring on 400 or half of that, as per the Development Services team as they told me, we'd be lucky. So, we are...no wonder why we have an affordable issue. We don't have enough that's coming on. So, I hope that we can continue to work around with our upcoming Growth Policy next year and work with our development teams that come before us to actually continue to bring better and better projects that are thoughtful. And, Mr. Kaufman, I think you have done a really good job over the years of really listening, as people rise up and they want to contribute their thoughts and I've always appreciated how you actually write them down and I see you write them all the time, and you listen and you respond. And that's a sign of a really good developer so...our engineering and land use planner. So, thank you for that and I will be voting in favor of this.

Mayor Engen said, Ms. Vasecka?

Alderperson Vasecka said, thank you. I want to thank you all for coming here tonight and as some of you may know I personally am in favor of private property rights. I, also, believe in individual responsibility. Being a trustworthy and responsible neighbor is one of the components of being a Montanan. I believe in the inherent good in people and I have to trust and I urge the developer and landowner to take these passionate public comments that come from the love of our community very seriously and they have to trust that he will and they will take them seriously. On that note of private property rights, it is from my understanding that with the right-of-way, the right-of-way is not owned by the City. It's in a public trust for the benefit of the public. It is essentially land that the original property owner way back in the day had to give up for the benefit of the public. With

my opinion, it was not the City's right to take that land to begin with and therefore it's not our right to give that land back. So, I will be saying yes to the right-of-way vacation and because of my trust and inherent...believe that everyone is inherently good and will take these public comments seriously, I will be voting yes to the rezone as well.

Mayor Engen said, Mr. von Lossberg?

Alderson von Lossberg said, thanks. I made this motion in committee and spoke to it for all the same reasons that my colleagues have already articulated so I won't repeat them. I just want to underscore two things. One, my colleague, Ms. West from Ward 1, mentioned the, I think it was the 416 or 448 affordable units being built in the Northside Westside. That's Ward 1 and Ward 2. And when we speak of equity in terms of addressing affordable housing and housing stock in total, this is what, you know, when we speak about all parts of the city contributing toward meeting that need, supporting density here, makes sense for all the reasons that Mr. Hess and others articulated and it also is the equitable thing to do. And I just wanted to thank Ms. Jones for recognizing that. I really do appreciate her acknowledging the density that occurs and is utilized and realized in these other neighborhoods and wards because the zoning permits it by right, and we see that density all the time without these sorts of hearings and considerations so thank you for that. And I'm supportive.

Mayor Engen said, further discussion? Ms. Becerra?

Alderson Becerra said, thank you. I won't take too much time. I know everyone here probably wants to share with us your thoughts. I just want to say that my colleagues have done a really great job of eloquently putting together what has been a very thoughtful process. Both Ms. Sherrill and Ms. Vasecka mentioned the right-of-way vacation and how this is not land that is owned by the City so we cannot just sell it and get market rate dollars for that piece of land. It's a piece of land that we hold in trust. ??In attaching to that piece of land what could do the most good in the community for the benefit of our community has been challenging and has pushed us all to think creatively, compassionately and think about how that can affect the future. I, also, want to say that we have been told or asked to just simply say no and there's nothing simple about saying no and nothing simple about saying yes. It's a very complex proposal that we have before us but ultimately I think for me what it came down to is the fact that saying no means saying yes 11 dwelling units, probably the most expensive 11 dwelling units in Missoula should they be built on that piece of land with no right-of-way vacation and no rezoned allowed by the City. It

means saying no to any historic preservation, saying yes to demolition, no to deconstruction and more importantly for me it's that we would be saying no to any affordable housing. And that is, as all of my colleagues have mentioned, an incredible task that we have before us and I think that for many of you 20% might meet nothing, but as Mr. Hess put it, it's a big deal. It's been incredibly challenging and it will continue to be really challenging to get 20% affordable housing in that development of this magnitude in this location. So, for all those reasons I will be supporting this proposal.

Mayor Engen said, is there any further discussion? Seeing none, if anyone in the audience would care to comment, you're welcome to do that. Please be reminded that we'll keep comments to three minutes.

Andie House, Ward 2, said, you've seen me a lot and very rarely hear me say this. Thank you. You have listened and it's true that 20% is not enough but it is a lot better than what folks were talking about when I first started coming to this meeting about this development. I would especially like to thank Councilperson West and Councilperson von Lossberg for commenting on the amount of density and infill and affordable housing stock that goes on the Westside and Northside neighborhoods because that is my neighborhood. And I know a lot of folks in this room are not used to things aesthetically changing the way that they're going to change on 4th Street and in the University District but some of us who live in lower income neighborhoods in this community are used to that so I appreciate the idea of us sharing that responsibility across the city. I want to just make sure it's really clear that I know that increasing housing stock is important but that that's not automatically increasing affordable housing stock so we do need to continue to make that a priority. The actual problem that we have here is that this entire project has this one unique piece which is a vacation of the right-of-way and it's the only time that anybody gets to have a voice like we've had at these meetings about a new development and that's the problem, because the City does not have an inclusionary zoning policy that would force or require affordable housing to be a part of any market rate project. That's what the problem is. And I just want Council here to know that Missoulians and others are organizing to make that happen because I understand that in the Growth Policy and the Housing Policy that have been passed before that conversation has been shut down very quickly at that table and that's not going to happen anymore. Missoulians are behind inclusionary zoning in a city. That's how we continue to have regular folks be able to afford to live here based on the wages that exist in this town. Thank you.

Mayor Engen said, thank you.

Brian West, Ward 6, said, so, I wrote a number of jokes about this that I'm not going to bother with because we've all gotten to the point where we can all tell this is very serious. Jokes can be very useful to highlight the absurdity of a situation and there are a lot of absurdities to this situation. Right now, I don't think it's necessary. I think it's necessary to discuss the one issue that all of you are talking about, everyone except for Ms. Vasecka, has talked over and over again about affordable housing. And what a lot of people that are here to comment probably are not aware of is that when they stand up to speak in favor of affordable housing, you're hearing that as support for this project because your position is that this provides affordable housing, however, you have the opportunity to close the loophole that would make this provide zero affordable housing and you did not close that loophole. In the language of the motion, as it appeared when it passed committee, it said that the project had to provide either 20% deed restriction or voucher availability for rental units, not and/or. At one point the language was and/or. They had to provide the for-sale units be deed restricted and the rental units had to be voucher...had to have a voucher preference. You took that and/or out and made it an or which means that that 20%, which we argued for, which we fought so hard for, for 20% deed restricted, that can be completely ignored. They can just make the rental unit voucher preference. And as some of you, including Councilman Hess, acknowledged in committee discussion, that voucher preference has a lot less teeth than the deed restriction. You still have the opportunity to close that loophole. You can amend this motion here tonight. You can close that loophole and you can say that they have to make the for-sale units affordable housing because right now they absolutely, positively do not have to do that. Every time somebody comes up here and says we need affordable housing; you're going to hear them in support of this project and that is not what is happening here. This project does not provide affordable housing the way that you have let it pass through your committees. Thank you.

Mayor Engen said, thank you, sir.

Jennifer Anthony said, hopefully, you all read my letter and I know where you're at so I'm not going to repeat everything and if you haven't read it, please read it later. But I just want to say that you have an opportunity to do just a little more in the way of requirements based on the right-of-way vacation. So, right now...let's see, I'm trying to find my page here, so the developer said that he's willing to build residential only, though lower than the request of zoning allows and work with this for preservation commission on appropriate design for the historic neighborhood. This is good news but why not make it part of the development

agreement? You can do that through the right-of-way vacation. Right now, I would ask that you use the right-of-way vacation to demand more concessions from the developer so that we can be assured that what we get is a project that fits in better with the historic neighborhood. It may be what is planned but it should be required to be included in the approval. The addition to the 20% affordable in addition to the 20% affordable housing requirement, the \$12,500 moving costs, contribution and for the six historic structures and the restriction on short-term rentals I'd like to see a requirement that there be no commercial allowed. Residential, condos and apartments only. The City Council is contemplating approving this development because of the need for more housing in the urban core. Why not require that it be residential? You can do that not through the zoning but through the right-of-way vacation so you can add that. And then you know that you're getting 20% of residential. If he makes half of it commercial condos, you're not going to get 20% of that in affordable housing. If the developer is agreeable to having it at a lower height limit, why not make an agreement to that now so if he ends up selling the property and somebody else develops, that they don't build to the maximum height. If he's willing to work with the Historic Preservation Commission on a design that steps back as it gets taller and makes it more compatible with the historic housing, why not make that a requirement if he's amenable to it. And then, again, if the developer ends up walking away and somebody else develops this property that you zoned with no restrictions on it, you know what you're getting and the neighbors would be a lot happier. So, I would ask that you add a seventh amendment with those conditions. And I think that we might get a project that we can all live with and it's a positive project and that we know. I've heard again and again we hope the developer really does what he says he will. Well, why not put it in writing? Thank you.

Mayor Engen said, and that's Jennifer Anthony for the record. Yes, sir?

Troy Callahan, Ward 4, said, people like living in houses. People want a place for their kids to play. People want a yard for their animals. People want a place to garden and entertain friends. This means that people don't want to live in high-rise condos. A strong neighborhood community has happy people who own their own houses next to schools and who know their neighbors. I have lived in apartments and condos and I have never really gotten to know my neighbors in those places. Houses make up a neighborhood and build the community. We don't need condos. We need houses to call home in this great city like Missoula. So, I have two questions for you. How are expensive condos good housing stock especially for those who

can't afford them? And, two, what is the point of public comment if you guys have already made up your mind? Thank you.

Mayor Engen said, Ms. Patterson.

Carolyn Patterson said, hi, thank you all for listening to comments. My name is Carolyn Patterson and I'm in Ward 3. On June 18, 2018 the Missoula City Council approved by a margin of 6 to 4 votes a neighborhood character overlay for the University Historic Neighborhood. After a long tussle, many called this zoning a thoughtful, well-crafted and well-designed plat of the University area that addressed the site mass, height and setbacks of development. Some of the Council people here tonight championed the Silver Lake?? Gwen worked very hard on this saying that they felt that it helped to preserve the beautifully built environment that comprise the University District. This overlay specifies that it is intended to preserve and enhance the character of the University neighborhood by fostering rehabilitation, development and redevelopment that is compatible with the scale, orientation and setting of original buildings in the neighborhood. Let's talk about the 4th Street condos. What do we know about these condos? Well, we know the City is ready to vacate land to expand the condos from 12 feet to 48 units, although no drawing of these units is available to the public. We do know the City is willing to change the zoning from residential to commercial despite the fact that none of us in the neighborhood have seen drawings of these units. Is a 65-foot glass box in the edge of the Clark Fork as in one Facebook shot? Is it a black/white block settled in among trees between the Missoulian and the University as in another Facebook post? Like the Emperor's new clothes, no one knows. Think of this land how it was once a place the Salish Bitterroots, how it became land where the Milwaukee Train shuttled back and forth from coast to coast. Then our citizens banded together to pull up tracks and create this beautiful riverfront for runners, walkers, strollers and dreamers. Like all best places, this is now the place where the wealthy want to claim as their own. These developers need to show us what they intend. We hope that the City of Missoula will also ask for a development plan in exchange for this vacation of land on Ronald. We hope the developer will submit a development plan in keeping with the character of the neighborhood, which is clearly spelled out in the Historic Register. There are bungalows, there are craftsmen-style houses and Victorian houses and they are one and two-story and three-story houses. Even the apartment buildings that said in this historic register looked like single-family residences. If we truly believe this is the last best place, then let's keep it that way. Thank you.

Mayor Engen said, thank you, Ms. Patterson.

Linda Cream, Ward 4, said, I've listened to your concerns that there's a cost to just saying no and that just saying no is not the best outcome for this community, given the challenges that we face. And that's a compelling argument. I hear what you're saying. My concern is that, as the gentleman before me pointed out, in the materials provided and in the committee discussion that I've attended, it has been stated, it's in the documents that as currently structured, you guys are all talking about 20% affordable housing. It could be zero. In fact, as a B zone, changed from an R zone, it could be no housing whatsoever. It could be all business. So, the concerns that you are talking about I'm sympathetic to. I understand those needs for this community but what I don't understand is why given the...and I understand also and that's why I'm speaking to right-of-way as opposed to the zoning, I understand the limits to what you can do in terms of requirements attached to zoning but with right-of-way, as it's been noted, there's more that can be required. So, I understand the concerns that you're noting. What I don't understand is why you haven't crafted something that requires that this actually meet those concerns. And I would urge you please to consider a development agreement as part of this right-of-way that actually requires that the concerns that you profess will be required to be met by this development. And if you don't, that's the public good that this is supposedly designed to address. The zoning proposal is spot zoning. It addresses one piece of property. It will allow that one piece of property despite the list of density projects in the University, none of those can be 65 feet tall. None of those can actually be any taller than 35 feet so those are not comparable density. There's no building anywhere in this neighborhood that can be even close to this tall. This building can be almost twice as tall as any other building. That is spot zoning and spot zoning is controversial. It is not per se illegal but it is controversial for a reason because it grants one property owner a right to do things with their property that none of their neighbors can do. This would be spot zoning for commercial use and for height in particular. So, the way that spot zoning is considered is deemed legal by the Supreme Court of Montana. Part of that equation is meeting a public good. The stated public good here is affordable housing, housing supply as a primary concern and also environmental concerns, but that also links to housing. If the concern here is housing, if you don't tailor it to meet that concern, then it is spot zoning that does not meet the stated good and it's potentially illegal per the Montana Supreme Court. So, I urge you to design something that actually by law because of what is agreed to with the developer in writing, contractually, that will meet the concerns that you stated here. Thank you very much.

Mayor Engen said, thank you.

Brant Miller, Ward 1, said, I just have a few observations given the conversation that's going on tonight. First of all, I think it's amazing to me how the City Council is going out of its way to defend WGM against the community. That's amazing to me. I just wanted to point that out. So, Councilman Hess, you started and you mentioned that Montana is a property right state which means I can do whatever the hell I want on my property including on the east side of the state, building a fracking well on my property that permanently poisons the entire water shed for all my neighbors and surrounding cities. It also means that here in Missoula you can screw over your neighbors by blocking out the sun in your neighbor's yard and garden with a condo tower. You also said if we leave zoning alone, the property owner can tear down the houses. You don't say how many that he can rebuild; it's the same number of units. To me, if you're going to destroy these historic buildings and they're only going to build a couple of units, fine. If it means that we're not going to block out a huge portion of the sky, I'm fine with that because there's already going to be huge amounts of opulence moving in anyway. You didn't mention the commercial aspects of B1 zoning. That's a huge deal. It's very telling that you all have so conspicuously avoided talking about this and instead of chosen to talk about the one aspect of this that makes it legal, the affordable housing requirement, which has already been articulated is total nonsense. There's no way you can enforce that. This is Pandora's Box. This is why this is so contentious. What you guys are opening up right now means any other property owner who hears, hey, now there's a spot zoning loophole, well, that's great. Now we can all do this all over town. That's why there's been such an effort to draw a line in the sand here. Spot zoning like this is only allowed if you can prove public benefit and the only thing that you've got is affordable housing to meet that requirement. This is why affordable housing was not at the whim of the landowner or not at the whim of the market as you say. You say zoning is not immutable. Spot zoning is a different story. Gwen, you commented after Jordan. You said Missoula is growing. You said this also in the closing remarks at the 16th. I don't think that's helpful. I don't think anybody here disagrees with that or needs to be educated on that. We understand the trends. We can see the writing on the wall too. That's not really addressing any of our concerns. Nobody came up here in either the 16th or tonight and said, I don't want Missoula to grow. Nobody said that. Ms. Sherrill, Missoula is not growing due to climate change. It's growing because Destination Missoula taxes local hoteliers to advertise Missoula's real estate to wealthy people in other states. That's a big, big reason why people are coming here in droves who are a certain class. So, we're advertising Missoula. Gwen, you said it's going to be at market rate and affordable. How can it be both market

rate and affordable if market rates are already unaffordable? Finally, there's nothing environmentally friendly about tearing up gardens to build condos. Other neighborhoods aren't against the river. Like when we talk about like what we're doing all over town, this is a very big deal because we all enjoy that part of town. Ms. Anderson, thank you finally for so honestly admitting that you're not interested in what the public has to say, leaning instead on the opinions of the other 75,000 people who aren't here tonight and probably have no idea what's going on. So, thank you for telling the truth that money talks and public comment walks. Finally, my last point, Ms. Harp, if climate is the biggest issue that faces us, then stop this cancerous growth. Transportation and building. The two things that you cited are like major climate contributors. Stop this cancerous growth.

Mayor Engen said, anyone else this evening?

Jenny Roecaus said, it's good to see you all again. First of all, I want to say that I do appreciate the detail that came out with your guys' public comments when that was said, there was a lot of clarity provided but it's really discouraging and utterly disappointed to hear that all of you have your mind made up when there's still public comments to be had and then there's still new information to be presented. I keep hearing if we don't vote for this and there's no plurality to that, there's two motions that are in front of us and one is the vacation of the right-of-way that comes with a lot of power that's really great. The affordable housing, you know, the money that's going to be provided to hopefully move these homes but there's also the rezoning. And in a perfect world I would like to see that we don't vote for the rezoning because having the idea, the 65-foot tall building on the river, that doesn't fit Missoula. We're not ignorant to the fact that Missoula is going to grow. It's going to happen and no we don't want sprawl where we're constantly having to catch up with public transportation and having a an oil inefficient town but there's a certain place that is good for density and this isn't one of those places. There has also been the public comment too where we have talked about that these vouchers, without a rent cap is an empty gesture yet it goes back to committee and no substantive changes are done. And we also talk about the 12,000 that's going to be, you know, contributed to moving these homes when reality is they're old brick buildings and that money we could guarantee if this goes back to committee and have a new proposal here that makes that money be actually donated to the Missoula Historic Preservation so that money does get utilized. That's something we would like. You know, there's two things that we're voting here and to say that to vote no on this, there's two things. So, I'd really appreciate the vacation of right-of-way as something. There's options here. It's not black or

white. So, I really just encourage you guys to rethink your decision and next time not have your minds made up when people want to talk.

Mayor Engen said, thank you.

Michael Albritton, Ward 1, said, late Friday afternoon the public finally got some idea of what a building might look like with the B1-3 zoning. The applicant posted a document on tonight's agenda with two images of a building on the site. I don't know if anyone saw that. But I couldn't get my color printer to work. Each picture has a different angle and view but the images do provide something to judge what B1-3 could produce. This is something that the community has been asking for since the project was first announced and for most projects it's a very common operating procedure as we saw tonight. From both images we can see one large building, 65 feet tall, and towering over the adjacent buildings. From both of the pictures it's easy to see that B1-3 would produce a building that does not fit into the character of the neighborhood. The building is simply too tall. It is three times as tall as the average building height on the block which is 20 feet. B1-3 allows commercial uses and while you can't see that from either of the pictures, commercial uses do not fit into the character of the neighborhood. If you haven't seen these images, remember the ROAM Building and the Marriott are both 60 feet tall with commercial uses on the ground floor. Impacts from commercial uses allow under the B1-3 have not be considered or analyzed in the staff report from Development Services nor have the impacts, including the transportation impacts, been discussed in committee meetings. B1-3 would allow a building that doesn't fit but it doesn't have to be. I presented you all a chart last week that looks something like this with some alternatives. I also passed out about 20 of them tonight. These alternatives would both meet the needs for more dense housing in the urban core and create a project that better fits in the neighborhood. Both RM1-45 and RM1-35 are residential zoning districts. They would provide the exact same density as B1-3 but limit the height and commercial uses. Once again, both of these zoning areas would produce the exact same density as B1-3 that the applicant is asking for but limit the height and commercial uses. In order to get the applicant...in order to get this, we need the applicant to request a new rezone or tonight the Council needs to vote against the rezone so the applicant can submit a more appropriate zoning designation. Remember, there are five criteria for determining the merits of the rezone. I didn't hear much discussion of any of you tonight on those criteria. Favorable right-of-way vacation conditions of approval are not one of the criteria to approve a rezone application. A favorable

right-of-way vacation conditions of approval are not one of the criteria to approve a rezone application. I urge you to vote against the rezone and let the development team know which zoning would be more appropriate. Thank you.

Mayor Engen said, thank you, sir. Ms. Hanson.

Rena Hanson said, good evening. Rena Hanson, one of the partners and owners of the Ditchstone Building which is adjacent to the vacation request. We are also a benefactor of the vacation. It's funny because our vacation is still sitting...stays RT2.7, which is amazing out of three-quarters of that vacation that we're still RT2.7. I guess to start with, I'm a little disenchanted with the process. And the process being that the request goes in as a B1-3 and there isn't an opportunity to change that. We have to go through the process of that request, which is what's impacting the lever. So, inevitably we end up with a building that could be all commercial and could be 65 feet high. And I know and I trust a lot of the guys that are talking about who are the engineers and the architects for the project but it doesn't mean that that's what the developer will do. The conditions are still full of what I think are holes. I hope not. I hope we look back at this and we're like, this was groundbreaking and we put our trust in them and they followed through. But I would rather see it in writing than in trust to go through this process. With that, it's not an option to say, give me an alternative. You know, everybody says well everybody wants us to say no. You've told us there isn't another option besides no. So, if we can't change it or we can't put the teeth in in that's needed, then we have to change a portion of that. And the B1-2 zoning is too much for that space and that dead-end street that we have down there. Then I'd ask for three more minutes for Janet Donahue who wants me to read her letter out loud tonight.

Mayor Engen said, you can submit the letter for the record. We heard Ms. Donahue's letter before.

Rena Hanson said, no, this is a new letter she wrote this morning.

Mayor Engen said, if you could knock out in three.

Rena Hanson said, I'm going to go for it because she requested it.

Mayor Engen said, alright, Rena.

Rena Hanson said, I probably need to take my glasses off so I can actually read it so. "Considering new information included in the Council packet in the *Missoulian* newspaper, I would like to express my continued concern about the rezoning of the property on South 4th Street East. First there was an article in

the newspaper this weekend about the community's concern about the height of the buildings and that City Planner, Tom Zavitz indicated the City plans to take up the matter sometime in the next six months. Considering the impact on the University District and the 4th Street East property owners, I urge the Council to deny the zoning at hand that allows for buildings up to 65 feet. Nothing in the current area matches the height except for the downtown zoning area. This area is not part of the downtown. Zavitz indicated that people have property rights that say they can deal with certain things on their property. Those certain things are on the proposed area for rezoning is spelled out in the current zoning and historic overlay. The zoning request is not one of those absolute rights. It is entirely up to the City Council to do its due diligence. I don't believe that that's been done. The cart is before the horse in this instance and building heights should be clearly addressed before allowing a huge variation of current zoning given neighborhood, community and property owner impact. Secondly, the Council needs to consider whether the proposed zoning meets the three-pronged criteria of illegal spot zoning. Is the requested use significantly different from prevailing use in the area? I surmise there is not another project of this size or height on the south side of the river. It is significantly different. Two, the area in which the requested use is to apply is rather small. Are there a significant number of separate landowners benefitting by the requested zoning change then it is with the actual size of the area benefitted? Compared to properties surrounding this area, it is certainly smaller and there is not a significant amount of landowners that will benefit from the change. In fact, the opposite is true. Three, is the change designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public? The size and expense of this project does not outweigh the negative impact it will have on adjacent neighbors. Finally, we have no idea what might be built there. I find it very hard to believe that there are no artists, architect renderings of what the developer proposes to the land yet the developer is unwilling to share this information. The Planning Office indicated, in the memo to you that the developer wanted this zoning because it allowed building height and commercial opportunities yet we are to believe and trust that something appropriate to the area will be built. Giving that no one was apprised of this project until November even though the Planning Office suggested that to the developer that neighbors be brought into the process, it's hard for me to trust that it won't end up with much more than we are being led to believe. I'm in favor of infill development and have no objection to condos being built on this project if they match the height and historic nature of the area. I do not want to see 65-foot buildings all along the river

on the south side of the Clark Fork. I urge you that this rezoning and vacation be denied.”

Mayor Engen said, thank you, Ms. Hanson. Mr. Wolverton.

John Wolverton said, I'm a resident of Ward 6. Many of you in the past knew me as a bike pedestrian advocate and before that I was also on a Leadership Team in Ward 6, the Neighborhood Council that is. I want to start by quoting from an article titled “In the Midnight Hour” by Anthony Rella. “Will that plows forward, heedless of the damage it causes, is what toxifies our oceans and heats up our planet, harms and splits our communities without accountability. It is the relentless pursuit of profit at all costs, without humility, without consideration, without receiving and blending with the will of community.” And now in my own words, for far too long the citizens' relationship to power has been very lopsided much to the disfavor of our communities. Over my years attending planning processes, I've detected a fervent hope that Missoula's growth and sustainability plans will create some form of resilience but ultimately this is merely resilience fashioned in a manner that creates pathways for new forms of economic exploitation. It is resilience in service to the wealthy. It is places to part money from elsewhere. It is new frontiers for a Wall Street surplus. Our processes are thus not promoting resilience for the community as much as they are in quiescence. And it is even more problematic when the City throws fuel on the fires of growth via subsidies, inadequate fees, streamlining or permitting and even giveaways of public spaces. Almost none of what we hear from City leadership and our representatives qualifies as resistance to exploitation. It is well beyond the moment that City Council expresses what we hear from the citizenry. Even if you feel that it is tossing the baby with the bath water, it is time to voice resistance to the MRA's wish list and to the forces of gentrification. And, you should either demand outsized community benefits or resist, resist the forces of gentrification. While you're here in response to these recent mega-development projects, it is a demand to say no to the perpetuation of inequality. If we do not course correct, inequality will become our society's undoing. It is not hard to imagine how that unintended discontent will make problems such as climate change impossible to address. And with that I'll leave you with a final quote, the words of writer, Michael Messing. “Many members of the liberal establishment in America has failed to come to terms with the waning appeal of the free market model. They dismiss populism as a sort of exogenous disease to be cured by appeals to reason in facts rather than recognize it as a darkly symptomatic response to a system that has failed so spectacularly to meet the basic needs of so many.” Thank you.

Mayor Engen said, thank you, Mr. Wolverton. Anyone else this evening?

Suzette Dussault said, I'm a resident of Missoula living on South 3rd Street West. And I just have to say that you are preaching to the choir. There are many of us who, in this room, who are speaking tonight who have been working for 20, 30, 40 years on economic justice issues, on clean water, clean air, on affordable housing. And so, we're not coming here wanting to pass the buck or wanting to not take full responsibility for our community. The community you see today has been built upon by many of the people in this room who are speaking against this. We...I'm here because I live in this neighborhood. I live on South 2nd Street West which is a beloved area. I have bakeries around. I have shops around. They're all in scale with the historic nature of the community. They're small streets. We have to be careful as we pass each other, whether we're walking or biking or in cars. What I want to say is when I was at the 2020 Vision Missoula, which was what? Eight, ten years ago, which I think is a rather myopic term because it was very un-visionary. It was saying that we take the place that we love and we destroy it. I'm sorry but the University area, Slant Street neighborhood, Hip Strip, Lower Rattlesnake are some of the highest density neighborhoods in Missoula. And they always come out as the most livable, walkable, sustainable, and close to services, sometimes affordable neighborhoods in Missoula. And my heart mourns for the Northside Westside because it is being gentrified and in not a very pretty way. It's losing its soul. It used to be the place where affordable housing could be found. What I suggest to you is to think a little bit outside the box. Don't take what we have in Missoula and destroy it. Replicate it. All across the southside of Missoula, the southwest, the Brooks Street corridor, the Reserve Street corridor, which has been commercialized over the years and one with pavement and asphalt and one-story dimensions. You know, commercial entities. Take that, that's where our vision of Missoula could grow. That is where you can take the notion of a Hip Strip or a Westside Neighborhood which has an absolutely fabulous concept. I mean, I was born in the Westside. That was where I was born. And take that community that is there and take it to another place of town, replicate it. Now you're seeing, we're standing here and we're saying and we're wringing our hands because we have no choice. Change that choice. Change it. You are the people who can vision it. You are the people who can create the zoning. You are the people who can make Missoula continue to be as beautiful a place as it is.

Mayor Engen said, and that's about four minutes, Ms. Duzoe.

Suzette Dussault said, thank you. And I do know that this is the place we all love and that people are here because of the wonderful community we have. So, my suggestion to you is don't allow this vacation. Don't allow the rezoning on something that you have no idea what is going to come...is going to come of it. Don't allow a project that you have no idea of the scale or whether it will fit into the neighborhood. We are not people here asking you to do something that we wouldn't do if we could. So, please don't change this neighborhood and set this precedent that is going to reverberate through our neighborhoods.

Mayor Engen said, thank you, Ms. Dussault.

Suzette Dussault said, thank you, I understand that. So, protect Missoula, what you love, and say no, deny this request. You can say no. Thank you.

Mayor Engen said, anyone else this evening? Mr. Hunt?

Kevin Hunt said, thank you, Mr. Mayor. I just want to join what's just been said by about the last four speakers. Ms. Jones, you spoke at length about there's only one way to do things essentially and that is put density in just this one area and follow a plan that only concentrates and integrates these various concepts in one place. But as this last speaker just said, I just want to wholly concur with that. A vibrant urban area, as it grows, has a number of neighborhoods and these neighborhoods have some self-determination but at the same time it's possible to integrate all of these aspects into each neighborhood, not just throw everything into a downtown core. People won't need to come downtown if, as this woman just said, some of this attention is directed towards the area she was talking about. Why is it that some people...I know are having a hard time believing you, when you're giving the lip service to environmentalism? Well, let's look globally at what you've done. Now, when the Checota project was approved with all of these giant space, square footage, roof tops and so on, the planners approved that would seat as many money-paying people as possible, you know that it is now cheaper with amortization to generate all of your electricity with solar panel than it is to pay the power company. You know, there isn't a single solar panel that's required on that project. Oh, interesting, we're very concerned about environmentalism being green. Well, so you approved this project where we're going to triple the number of automobiles in Missoula. Now he told you it was going to be twice a month and now he says, I read in Missoula Business, it's going to be four times a month. Do you understand why people don't believe you? You say one thing and you do another. So, now I believe you. I think you're actually sincere and you believe all of this but I don't think you're

thinking out of the box at all. And I find it very interesting that when you selectively invoke these kinds of criteria. But, honestly everything you said tonight about this and then look at what you've done with the River Triangle and you expect people to believe it, and it's not credible. It's ridiculous.

Mayor Engen said, thank you, Mr. Hunt. Mr. Gardner? You've been waiting patiently.

Larry Gardner said, I've been procrastinating. So, I'm going to modify my prepared comments to address some of the things I heard from City Council but there was a lot so I couldn't write that much. But first of all, to Ms. Harp who expressed that some of the people that are on the opposite side of this had some sort of fear or are uncomfortable being here, let me say I am uncomfortable being here and I'm going to try and keep my knees from going, as they do. And then to Ms. Jones, some of the things that I heard you address, you said you see the area as part of the Hip Strip. I see it not as part of the Hip Strip but as part of the Kim Williams Trail System. And as for being close to the urban core and transit and the Higgins Avenue Bridge, that's wonderful if someone wants to buy an expensive cup of coffee or micro-brewed beer but if they want to buy a pair of socks, they're going to get into their car and they're going to drive to the Mall or to Reserve Street. If they want to buy a piece of furniture, they're getting into their car or they're having somebody deliver it. And I'm skeptical about the building of this 48-unit condo thing, actually having any effect on less cars in our city. I, also, want to say that if there are 48 units to be built, doing the math tells me that if there are eight affordable units, that implies that there are 40 unaffordable units. And, finally, what I think the last speaker said the same thing, but I think it's a false dichotomy to say that opposing this project on the river should not mean that you'll oppose all new housing stock. I don't think that's true. I'll say one thing from my prepared comments. One thing that I will miss if the condos are approved, besides the restful Missoula feel the area in question now possesses, notice the use of the word Missoula as an adjective. And besides the quaint houses presently sitting there is the amazing native plant garden, John Pierce's labor of love on which he worked so doggedly for so long. If there was an award for unsung civically-minded altruistic Missoulians, John would have had my vote for a decade. I love that place. And because of John I can now distinguish most native plants from our most noxious weeds and invasive species like knapweed and leafy spurge. As I look at it, the proposed condos look a little more like noxious weeds than native plants to me. Some here will know that I have been a once-in-awhile radio disc jockey in Missoula for about 30 years. I'm not so good or at depth as others are with the numbers and me going

bureaucratic intricacies of things but songs I know. Song writers are often impression and demonstrate great vision so I have a song list. I won't go through the whole thing but I will suggest this song, made everybody listen to it this week. It's called "My City Was Gone." Chrissie Hynde wrote it and the Pretenders recorded it in 1982. I think that if you listen to this song with your heart open, you will either cry or maybe you'll be wanting to say one of two things: well, change is hard or you'll say, A-O, where'd you go, Missoula?

Mayor Engen said, thank you, Mr. Gardner.

Sarah Klonsoe, Ward 4, said, Mrs. Vasecka, I heard you earlier say that you like to see the best in people and that you're going to have faith and trust in the developers to do a good job and to make something community-oriented. Was there trust placed in Rome because I can tell you from first-hand experience that place is dead inside. One of my friends actually had a nervous breakdown because he was just so freaked out by the dynamics on the energy in that building. I encourage you to go and spend some time there and see where your faith, your good faith, should be placed. In the community? In the people of Missoula? Or the developers?

Mayor Engen said, thank you.

Katie Vandoren said, I just wanted to piggy-back on Larry Gardner's comments' and whatever everybody else had to say. And all night I've been looking at this picture and thinking that Missoula will not look like that once this development is done. It'll be, you know, unlike the Sawmill District that is far from the river and is limited on height, this will be close to the river and it'll have a lot of height. And all those views from the north, south, west will be just so limited, they won't be able to see Sentinel very well. And this beautiful view is the whole reason why we all like to live here with the river through our beautiful city, it's going to be changed and different, and I think that's a really important thing besides the song that Larry mentioned.

Mayor Engen said, Katie, would you tell us your name for the record please?

Katie Vandoren said, oh, Katie Vandoren. Also, a DJ at Public Radio, part-time.

Mayor Engen said, thank you. Ms. Littig.

Christine Littig said, hi. Christine Littig, 700 South 3rd Street West, the Riverfront Neighborhood, Ward 3. I, first and foremost, just want to say thank you to each and every one of you. I have spent a lot of time myself trying to do due diligence

and learning what this project is about and it keeps coming to mind for me that it's like poker; you play the hand you're dealt. And there are a lot of ties that are currently binding the options that are set in front of you so I do want to say thank you because a lot of you I work with in different facets in the community and I know how much time and energy you have put into considering your options that are on the table and the opportunities that will or will not move Missoula forward in particular ways. I do want you to know that I do support this project. Someone today said you're going to go speak, everyone's going to speak against this evening. And I said I think it's important to remind myself and remind my community that it's important to back those individuals that we did vote for on City Council and their decision-making, if I do agree with them in the moment. I, also, would just like to say that in this process I do want to express positivity about the 20% of permanently affordable housing and please encourage you to hold the developer accountable to 20%. Additionally, I know that moving these dilapidated historic buildings is not preserving them. And while you are sitting there and thinking about that process and thinking about preserving them by moving them, I also would like to charge you with considering yourself to operate as the visionaries that you have and perhaps, you know, an idea of putting them out near the County Brick Building out on Airway Boulevard and a couple of buildings that become, I hear a rumor, maybe a bakery/coffee house and two Airbnb's and a museum with historic buildings that have moved and a visitor site that we can pull people into our community that possibly could generate a revenue that we could then put into an affordable housing trust fund. And, lastly, I just want to say that I am currently working with a broad-based organizing coalition that is gain traction in Missoula and we did stand before you and communicate that we spoke one-on-one to over 3,000 Missoulians over this last year and you adopted our recommendations into the Missoula Housing Policy so I do appreciate that you are seizing this opportunity to protect what has always been the sole of Missoula, which is genuine, hard-working people from all economic classes. Thank you.

Mayor Engen said, thank you, Ms. Littig. Anyone else this evening?

Leslie Van Stubbin Malar said, I've been in the area for almost 50 years. I lived for 20 years on the corner of Hilda and 6th. My husband has worked in the area that you're talking about, in terms of the larger Hip Strip, for almost 40 years, so we have a pretty strong investment in the community and we also own a building on Railroad Street. And so, I am an artist. I don't have the typical values perhaps that are, you know, what's going on in

the country where money is better, bigger is better, more is better. I go for quality of life and tonight, listening to the difference between the group of you in front of me and the citizens that have come who are not being paid, who have done this because they have come and spent a lot of time here talking to you about their concerns, because they are concerned. And it's interesting that out of all the people that have spoken you have one person speak in favor of what you're doing. And, yes, I'm sure there's people that have not showed up that feel in favor of this project but think about the many, many, many people behind myself who have friends and neighbors that have expressed concern who does not come down tonight. So, proportionately, you should be aware there is a very strong feeling from people that are invested here about what this project is. And I'll tell you what, I'm not happy with it one way or the other but if you cannot take the advantage you have and reduce that building's height or limit it to the 35 feet, you're missing an opportunity. Okay. You're acting really, really excited about the paltry number of low-income housing when the truth is those builders are not going to respond to your hopes. That seems really naïve. I think what happens, if you want what you want and you make it clear that you want to keep that within some limit of what is already existing in the neighborhood, you can get it. I don't think you just have to throw over and play dead because some people are going to make money and some wealthy people want to move in down to the river and create an ugly environment that the rest of us will have to endure. And I'm really kind of disturbed looking around and seeing what's going on here. And I know that you can't control growth completely but you guys are giving it up. And I'll you what, ten years from now when you're looking at that building from across the river and the other ones that have gained permission because of the door you're opening here tonight, you will not want to acknowledge that you were part of that. So, I'm asking you to consider at least making sure there's a limitation about that because people do not feel comfortable around very, very tall buildings, especially in the kind of city that we have. I don't go down Front Street if I can avoid it anymore. East Front Street is very unattractive to me. I'm sensitive to that. I'm sure other people are sensitive to it and they just don't recognize it but you have created a barrel street which has died. So, try and not to do that in this neighborhood. Thank you.

Mayor Engen said, thank you, Ms. Malar. We go one time around.

Mary LaPorte said, I live in the 605 South 2nd Street West in the Riverfront Neighborhood. One of the values that I think is really important is when the community is considering change as such

as this is that we value citizen input and that citizens have an opportunity to express how they feel about public good changes like this. And I have in front of me a letter that my friend, Shirley Jewell, received from Datsopoulos, MacDonald & Lind on January 24 saying that they represent KLC and Poopaw, LLC, the developers of a 4th Street Condominium Project. "It has recently come to our attention that you have posted on Facebook a rendering of what the 4th Street Condominium Project would look like from the Higgins Bridge." And they sent an exhibit. "I'm writing for the purposes of placing you on formal legal notice that this rendering presents false and misleading information apparently designed to wrongly influence the public's perception of the project. I have attached another diagram rendering of what the project would look like from the Higgins Street Bridge and I believe that that's the image that was in the *Missoulian* on Sunday." So, this is a letter from a lawyer threatening a citizen for speaking out against a project and I think that is really so against the values of our community and this is not, I don't think, representing who we are as Missoula. And it just speaks against the ability of citizens to speak out.

Mayor Engen said, thank you, Ms. LaPorte. Anyone else care to speak tonight?

Helena Maclay said, I am an attorney. I'm really sorry that Datsopoulos, MacDonald & Lind, on behalf of the trustworthy, the person; the trustworthy developer has tried to stop, halt, civil discourse. So, I think that you need to take great care as I think you should trust but verify. I'm going to turn just to the weeds here. I was at the meeting where the motion was made by the Mr. von Lossberg to transfer this to the City Council and my understanding was that there was to be a 20% affordable housing and/or voucher arrangement of all units, residential units within this building. Condition #5 in Memo #5, which you're all working on, talks about...it does not provide an appropriate baseline against which you may measure the 20%. There is one sentence that says they're going to work with the housing...Eran Pehan's group, to come up with "permanently affordable homeownership units subject to review and approval by Office of Housing and Community Development." There's absolutely no standard in that sentence. The next sentence says, "The developer will work with Eran Pehan's office on the terms of the development agreement." I don't know where that agreement is but it's to be created to "include appropriate pricing for affordable units of 20% of the dwelling units for purchase." This is not the same condition as you all discussed at the last committee meeting. We all understood it, at least I understood, that the motion was 20% of all residential units. And Mr. Kaufman said we can't do 20%; we can only do 15%. And then they gave you

a chart and the chart again says, "Units for purchase." They're carving out a big number of the units of this building and then applying your 20% to it. So, if in fact you're going to create this highly intentioned trustworthy project on the basis of the public good of this housing, then get it right. Have a baseline against which the housing is to be measured, put it in writing. Don't trust anybody. Don't trust me. Put it in writing and make it so that the rest of us can review it, comment on it and see if it makes sense. If we can't make sense out of Condition #5 tonight, there needs to be an amendment of this and your motion needs to be corrected if you're using this Memo #5 in any way. Correct provision #5. And I really suggest that you add provision #7 which Jennifer talked to you about where instead of trusting that they work with the Historic Commission, provide it in writing as a condition. And perhaps you would get...I'm advocating you as a whole. Use the lever, the giant lever that you've all discovered you've got, limit the height of the building, tell them it won't be commercial. Unlike you, I don't view the entry of the park as part of the Hip Strip commerce but I live next to or within a block of five of the eight horribles, the dense things that were created in the '70s out of sweet old little houses. And none of them is more than four stories which I think is the tallest. None of them is over 35 feet, as far as I know, and all of them are regrettable. I don't think you should give another 30 feet to this developer or commercial uses to add to the risk that this one will be regrettable. Thank you.

Mayor Engen said, thank you, Ms. Maclay. Yes, ma'am?

Paige Goode said, I am an interior designer. I also do architectural design. I've worked with a number of architects and builders and engineers around town for a few decades now and I'm about to use a phrase that my clients use with me that I hate. "I can't visualize that." I can't visualize what this developer is going to do. I hear that it's not going to be 65 feet. I hear it's going to be 65 feet. I hear it's going to 48 units or it might not be that many. I hear that you want affordable housing over and above anything which means you're willing to sacrifice what this project looks like in order to get those affordable housing units in, which sets a pretty horrible precedent for down the road. So, Nick Checota has provided beautiful conceptual sketches of his project. You required the Mercantile developer, Andy Holloran, to provide conceptual sketches so you could make decisions on that. Recently, Nick provided conceptual sketches of the multi-family housing project on Eaton Street. Hillview Crossing have conceptual sketches. Why not this project before you make a final decision? I would just urge you to do that, require that.

Mayor Engen said, thank you, Ms. Goode.

Paige Goode said, thank you.

Jan Van Riper said, I have a house, an older house, on 5th Street West in this area. I am opposed to this project but I understand there's good reasons for it. I've listened to you and understand those. At minimum, if you do decide that you want to go forward with this project, I would encourage you to not substitute trust for writing. So, just seconding some of the things that were said here tonight. I think as individuals you can trust somebody. I don't think, as people who are representing the public, when you can reduce something to writing, it's satisfactory to substitute your individual trust. Thank you.

Mayor Engen said, thank you.

Pamela Shore said, I live at the University District and I walk my dogs passed that area every day. Whether you consider that part of the Kim or whether you consider that part of the Hip Strip doesn't matter. It's public space that hundreds of people walk through that area every day. It's crowded. During the Griz games it's packed. Many, many, as I've said before, many, many people walk through there. Putting a large building there is going to be very problematic for many, many people. I think that a compromise could be made. I think you have negotiating power and I think you need to do better diligence and I think these people are not trustworthy. I think they can be very bullying. I think they've written letters that have been bullying and they're not playing fair game. I didn't think you need to not trust them. I think you need to get things in writing and they need to publish. You need to make sure that we, as the public, have a right to know what's going on. I want to know how tall this building is going to be. It should not be a commercial space. I don't want to have to pay to sit in a park space and I don't want to have to pay too, right now I can walk through that area and I can park my car and get out and take the dogs and my husband whose 80 years old, and go for a walk with the dogs. Now if there's a big building there and they want to sell coffee, I'm not going to be, you know, if they're selling coffee or if there's a restaurant there or if it's all congested with many cars, that access is gone for me and all the other people who use the park. What about our rights? Now it's turned into a private space. That's going to mess up our access. All the hundreds of people who use that park now are not going to have that access. It's going to be taken. So, you've taken my public access and my public space and turned it into a private space and limited my access. Well, you can do that. That...it's a good thing to do to look for...I mean, I also have a child and I've lived here 50 years and I've seen growth and I work with women in the Battered Women's Shelter and I know that the public housing

and low-income housing is very important and we need that in our community but this is a park space and this is right next to a park space where many, many, many people use. And we need access to that park and we need to continue to have access to the park. And how do you provide that and how do you protect that? Move that development two blocks away from that area. That is a special space. I'm not saying don't develop. I think that's...I think with the Saw Mill District has done is wonderful. You have a tremendous amount of concentrated housing but you've also gotten this huge area of park space out of it. That's brilliant. And it's got low-income housing. It's got high-income housing and it's all mixed up together. Great. Good. Do that kind of development but this is really special land right next to the river. Pay attention to that and you won't have this kind of resistance if you do. And you have negotiating tools here. There can be a compromise and you have power and I think your intentions of providing low-income housing is excellent and laudable. Please do that but also pay attention to this park space which is very beautiful and lovely there and protect our access to that and protect the spirit of land that's there. Thank you.

Mayor Engen said, thank you. Anyone else this evening? Nope. Nope. Mr. Patterson.

John Patterson said, I have many things to say on this that I'm not even sure where I want to start. Let me say this, I'm a fourth generation Missoulian. The property you're talking about with this land vacation is the home I grew up in built by my great-grandparents. Okay. This is not a fictitious...what do I want to call it? A master plan thing. You know, this is real people. This is my family. Let me show you my PowerPoint presentation. Look at this. This is the home I grew up in. Okay. When you talk about this land vacancy, you're talking about putting in curbing and sidewalks. You're talking about destroying 100-year-old trees. My trees. What this is, we're talking about the fate of Missoula. What these people are, this is Faust making the pact with Mephistopheles. Do you know that story? Faust. He makes the pact with Mephistopheles because Mephistopheles is going to give him the world. What does he get in the end? He gets nothing. Gretchen commits suicide. You're about to commit suicide. In our neighborhood we're concerned about increased traffic. We're concerned about destroying this historical aspect of our neighborhood. I am 61-years-old. I've lived there most of my life and my father served on this Council with 13 great years and he did a lot to improve this city. One of the first things he did was enact a zoning, changed the zoning, so he couldn't have a gas station built right across on 5th Street. He was all about preserving this historical

Missoula district. I'm asking where is this mythological Cole Bergquist. Who is he? Why is he not here? No, instead he sends his minions, his minions to do his work. Do any of you have to live with this development? I ask you that. Wouldn't this be better out on Snow Drift Lane where there's plenty of room and parking? How about that, Mr. Kaufman? How about that Mr. Kaufman, which means sales person. How about that? How about you? Any of you guys? Two years of construction, noise. [off microphone, inaudible]...Real quick. I realize my time is short but as an attorney I'm going to read you what a tort is because this directly effects your land [off microphone, inaudible] Okay. A tort is a syberon other than a breach of contract for which the law provides a remedy. This area of law imposes duties on persons to act in a manner that will not injure other persons. A person who breaches tort duty has committed a tort and may be liable in a lawsuit brought by a person injured because of that tort. Major purpose of tort law. To provide a piece of means for adjusting rights of parties who might otherwise take the law into their own hands to deter wrongful contact, to encourage socially responsible behavior and restore injured parties to their original condition. So, I am saying [off microphone, inaudible]...addressing this land...they can see. Talking about curbing, sidewalks on Ronald Avenue, lighted parking lot, a step-way down to 4th Street. Mr. Boughan calls these improvements. The law is filled with wonderful terms like beneficial use, highest and best use. I like it the way it is. It's our quiet little neighborhood. It's a little nice urban forest, and I say these improvements is detrimental. Again, detrimental to those hundred-year-old trees. My grandfather was also responsible for the Maple trees that are on 5th Street. So, this is destruction of green space within the city, paving over paradise to build a parking lot, as Joni Mitchell says. And, again, I would ask that you consider the major purposes of tort law because if this land vacancy goes through, I think I can make a compelling case that you're not only taking our land but you're also committing harm to our land.

Mayor Engen said, thank you, Mr. Patterson. Anyone else this evening? Anyone else this evening? Ms. Garde.

Annie Garde said, my name is Annie Garde.

Mayor Engen said, that will move right down for you, Annie.

Annie Garde said, well, thank you, John. Alright, my name's Annie Garde and I live on 4th Street West. And I just want to say that I think, along with many of the other people who spoke to you tonight, that you shouldn't trust that the things that you think you're going to get are the things that you're really going to get. I think you should take the time to get those things at least in

writing. If we have to have a big condo project, let's try not to have it be 65 feet tall and all that other stuff. So, please get it in writing. Thank you.

Mayor Engen said, thank you, Ms. Garde. Anyone else this evening? Yes, ma'am?

Lorie Stalling, Ward 3, said, and I just real quickly, I wasn't planning on talking tonight but I do want to get the point out that I'm going to go home tonight very proud of what you guys do. I absolutely love what's happening in Ward 3. I support you all the way but if I go home knowing that all of you are going to vote for something that isn't in writing, I'm going to lose a lot of hope in you so please take that to heart.

Mayor Engen said, thank you, Ms. Stalling. Mr. Rymal?

John Rymal said, thank you for listening. And I want to say that I came here tonight ready to pound my fist on the table and really ask that you reconsider this. I listened to everything that all of you said and you just about had my mind changed that actually this was a good thing. I still can see that part of it. I can see what it could be but I'm also afraid it doesn't quite pass my smell test. I'm concerned that the developer may have some opportunity to take advantage of us, and perhaps we think we bought a cow but we end up with a pig. So, I, too, would ask that you take into consideration all the comments made by the audience tonight. I think there were some very thoughtful and carefully researched comments. I am fairly new to this discussion. I came because I was concerned about the historic aspect of the buildings that are either going to be moved or demolished and I was also concerned about the height of what I perceived as not in character with the neighborhood. I am actually a County resident but I also do own property within a couple of blocks of this development. So, it is of concern to me both as a life-long Missoulian that we get it right and that we not only get it right but we ensure that we get it right. So, I would request that you perhaps take a little more time, table this for tonight, and see if you can't get a bit more of it nailed down. Thank you.

Mayor Engen said, thank you, Mr. Rymal.

Linda said, I don't live in the city right now but I want to. I want to downsize. I want to come in town where it's more convenient. I have lived here a very long time as well a fourth generation Montanan. And I think that you all have good intentions. You've all done really a lot of good work. I am an artist, a teacher. I also have background with military in my family. I have people in my family who are finance people. I'm not against money. I'm not against development but it needs to be done right. The west

is our identity. The west is open. It is friendly and it is about what it looks like. Okay. I talked to somebody about the buildings downtown. So many big, tall buildings going up and crowding, crowding, crowding. A long time ago I think Geoff Badenoch, you know started all this and I don't think he expected it to get to this point. And I said, the views are an emotional and psychological part of us and who we are in our culture, as human beings and our character and our openness and our values need to come into the design. And this guy, who happens to be an engineer, who I have spent some time with on the river, from WGM said, oh, yeah, well, that's why we're making sure making sure that in between all the tall buildings. There's down the street there's these little strips of views. I'm like, oh my God, this guy doesn't get it at all. Right? I'm saying we can have a wider scope, a wider and much longer vision for the future. We don't want to be sheep and follow what they've done in other cities and see the good things that have been done, we also need to see the bad things of results of what's happened in some of these bigger cities. We don't want to be a small Austin nor do we want to be a small Portland. We need to keep our identity and we can do that. We can have it all. We can build. We need to build and we need the affordable housing which I hear a lot of talk about it but I don't see a whole lot of it happening. But whatever does happen needs to be done mindfully with character and values and tact. When I was younger, I wanted to buy land out in North Reserve and everybody laughed at me. Well, guess what? I'd be quite wealthy by now, wouldn't I? But I envisioned it as a small community but they didn't do that. They didn't make parks. They didn't make places for bikers and people to go rest with their children. And those kinds of things can be done if we have a more creative vision and think really more futuristic. You thing you're trying to, you know, copy some big city that's cool. Well, uh-uh. We can do better. We can really do better than that. And I have to say, as an artist and dancer and teacher, I wish I could give get you all out of these seats and desks and get rid of all of this and come together in a big circle and hug each other. Maybe later but I tell you, it's having the creativity to think outside the box. We can create community and we can make little pods in Missoula that all work. So, open yourself up, open your hearts and minds and listen to the people. We can do it all.

Mayor Engen said, thanks, Linda. There's no prize for going last. Mr. Clemow.

Dick Clemow said, I'm a County resident. I can't quote a ward, I'm just up here to speak to the irony of seeing or hearing of this letter coming from the law firm of Datsopoulos, MacDonald & Lind. And many of you do not know the legacy of Ron

MacDonald who served on the MRA Board for over two decades from its inception. And Ron MacDonald warned us about canonization is the word that he used of the Clark Fork River. And it all began, John, you can tell us when the Clark Fork Riverside Manor was built at the corner of Orange and Front.

Mayor Engen said, forty some odd years ago.

Dick Clemow said, that's forty some odd years ago and that set the tone for the development on the north shore of the Clark Fork River. Ron always tried to suppress development on Front Street and the size and the height and the scope of the developments along our river. The south side of the river is largely unspoiled when it comes to scope and height and I hope you folks do not let this one out of the barn. So, good luck with your deliberations.

Mayor Engen said, thanks, Mr. Clemow. Anyone else? Mr. Kaufman.

Nick Kaufman, Land Use Planner with WGM Group, said, and, yes, Kaufman does mean buyer, man and merchant and it is Jewish ancestry and I'm very proud of it. I'm not sure how it figures into tonight's meeting but thank you, John, for bringing that up. I really appreciate that. What does figure into tonight's meeting though is the computation of 20% for deed restricted housing units versus 15% for deed restricted housing units. I hope you'll talk about that during your deliberations. We sent you some information that you requested some figures. I think, Gwen, you particularly requested those figures, so we provided you with that information. It's in your packets and it gives you a comparison and it shows you that we can do well with 10% exaction. It's pretty risky at 15. It is very, very difficult at 20 so thank you for your consideration and thank you for all you do for the community.

Mayor Engen said, thank you, Mr. Kaufman. Alright, is there further discussion? Mr. Hess?

Alderson Hess said, thanks. A few questions for Eran if you don't mind. Can you walk us through your memo dated January 13th that talks about how we accomplish the housing conditions and specifically rent caps, voucher marketing periods and all of that and let's start with that?

Eran Pehan, Office of Housing and Community Development, said, so, there are two ways that we have proposed addressing the affordability condition. One of those is through voucher preference units. All rental units or multi-family units within the development. There all a couple of ways we would need to

address that to ensure effectiveness which we would memorialize through a developer agreement. One of those is that those units would have to essentially be rent capped. They would have to be capped out fair market value which is a permanent housing unit urban development determination to ensure that the housing with utilities included meets HUD levels. Additionally, we would designate a marketing period during which those units can only be marketed to individuals who hold a housing voucher in the city of Missoula and so that essentially allows them a little quite a bit of a competitive edge in renting those units. Since there is that rental cap on the unit, there is no financial benefit for the developer to wait that period out. They're going to get the same level of rent from a voucher holder that they would get from anyone in the community, and so it removes that incentive. The other option would be through 20% set aside for-sale housing. Those 20% of units would be deed restricted and would have to meet income targeting that we identify through the Housing Policy. That deed restriction ensures that at every subsequent point of sale in perpetuity those homes continue to sell at those levels and it caps that inflation so we know those units will be held in an affordability status on a permanent basis in our community.

Alderman Hess said, okay, thanks. And can you talk through the process of crafting a development agreement and what assurances we have? I want to be very clear that I am not hitching my wagon on hope and trust and I just want to make sure that that's your understanding as well with this development agreement is something that's actionable that we can enforce and that we're not going to be left holding the bag, as it were.

Eran Pehan said, absolutely. So, that developer agreement for either one of those options would have to be fully executed prior to the issuance of the building permit so simply put, the developer cannot proceed with development until that developer agreement is negotiated and memorialized and we have all of those details in in writing and worked out.

Mayor Engen said, Ms. Harp?

Alderson Harp said, in just building upon that, to the best of your knowledge how many other developments in the history of Missoula have been able to actually have the development agreement attached to them?

Eran Pehan said, that's probably a question not best answered by me.

Alderson Harp said, Andrew, would you happen to know what that answer would be?

Mayor Engen said, hit me with the question one more time, Ms. Harp.

Alderson Harp said, Mr. Mayor, how many other developments in the history of Missoula have enjoyed a development agreement attached to them so that we have things in writing?

Mayor Engen said, oh, we do lots of development agreements, yeah.

Alderson Harp said, so, this is par for the course.

Mayor Engen said, yes.

Alderson Harp said, okay. Thank you.

Mayor Engen said, further discussion? Questions? That's fine, Ms. Vasecka.

Alderson Vasecka said, one of the public comments said that there was the only reason that this reason is legal is because of the affordable housing part in it. Can someone speak about that because it threw me for a loop?

Mayor Engen said, Mr. Boughan can speak to the zoning conditions.

Andrew Boughan said, sorry for the jacket, I'm cold. Could you repeat the question please?

Alderson Vasecka said, yeah. One of the public comments said that the only reason why this rezoning is illegal is because of the affordable housing aspect of it. Can you elaborate on that?

Mayor Engen said, it's legal.

Alderson Vasecka said, it's legal, that the only reason why this zoning is legal is because of the affordable zoning aspect. Otherwise it would not be legal.

Andrew Boughan said, that is incorrect. The Growth Policy for the area is urban center which has a whole slew of commercial districts and this is not necessarily one that's articulated within the Growth Policy but it does align with the density recommendation for the area and so it's a less intensive commercial district that falls closer to the urban center growth policy designation while being less intensive. And so, the affordable housing piece has nothing to do with the rezoning and that's specifically tied to the right-of-way vacation and the allowance for City Council to establish these additional items.

Mayor Engen said, Ms. Anderson?

Alderson Anderson said, question for Andrew. So, my question is in, okay, so you know we cannot condition rezoning but we are able to put some parameters on this project because of the vacation right-of-way. So, my question to you is, within the vacation right-of-way, merely make a requirement that says that there can be no commercial on this particular project under that guise, because I know we cannot put that guise on the rezoning?

Andrew Boughan, Development Services, said, I would defer to the City Attorney for the legality of conditioning zoning outside of a zoning application, but in an application that is running in conjunction with the rezoning I can't really speak to the legality of that.

Mayor Engen said, it turns out the City Attorney is here though.

Alderson Anderson said, how convenient.

City Attorney Nugent said, if it is part of the package of conditions related to the vacation, it seems like you can negotiate, as has been occurring, to try and address the concerns that the people have. And it seems that prohibiting commercial could be one of the conditions. The problem is it's trying to enforce it down the road, and make sure you do that by not issuing building permits for commercial.

Alderson Anderson said, thank you for that. I would like to further explore this because I think that the purpose and the intent behind this project is to be a housing project and we want affordable housing as part of that, which is one of the many components of this project, and we've also heard from the developer that there are some concerns from them if at the 20% it is tougher for them to make it pencil out so my concern is that if we don't somehow put in writing somewhere the no commercial part, if at the end of the day the developer decides not to continue forward with this project, it could be sold off.

Mayor Engen said, correct.

Alderson Anderson said, so, okay, I didn't expect any of you to agree with...so, I'm wondering...

Mayor Engen said, I think you're safe to sit down, Mr. Boughan.

Alderson Anderson said, thank you. So, is it okay for me to make a motion or an amendment to the motion that's on the floor?

Mayor Engen said, yeah, let me ask a question first. Mr. Kaufman or Mr. Smith, is the developer intending to do commercial as a function of this project?

Nick Kaufman, WGM Group, said, no, the developer is not intending to do commercial.

Mayor Engen said, okay. So, what I would suggest to you, I think you have an opportunity here, Ms. Anderson, if you would like to amend the right-of-way condition by adding a prohibition on commercial development.

Alderson Anderson said, wonderful. Mr. Boughan, would you mind coming back up and helping me where on best to put that and to make sure that we've got the language in the right spot.

Mayor Engen said, I think you could just add it as a condition.

Alderson Anderson said, so, as like a condition #6?

Mayor Engen said, yup.

Alderson Anderson said, 7, sorry. Okay, so I make a motion to add a condition #7 as a part of the right-of-way vacation to say the package of projects have a commercial application and, therefore, could not be given a building permit if it came forward with a commercial application.

Mayor Engen said, I think you can likely simplify that.

Alderson Anderson said, okay.

Mayor Engen said, Jim will argue against simplifying it but I will, so I would suggest that the condition is that as a condition of right-of-way vacation, commercial uses are not allowed within the project.

Alderson Anderson said, I would move to use the language of the Mayor who more eloquently laid out than I do as a part of the vacation right-of-way, #7.

Mayor Engen said, so, that motion to amend is in order.

Alderson Anderson said, thank you.

Mayor Engen said, is there discussion on the motion? I don't believe you. There's no discussion on the motion? Alright. I'm sorry. Ms. Sherrill.

Alderson Sherrill said, I actually like this motion a lot because one of the things that I have been worrying about with the commercial and the percentage of affordable housing being based on dwelling units and I think this came up in the Wednesday meeting that we discussed is that we may be incentivizing by basing it on dwelling units and not have any sideboards on the commercial, we may be incentivizing more commercial development. So, I feel really good about that.

Mayor Engen said, further discussion on the motion to amend? Ms. Harp?

Alderson Harp said, I worry, however, that based upon the document that was uploaded today from inclusionary housing.org/calculator that if the developer can't get to 20% and is going to lose money, that we will get zero affordable housing and that they will walk away from the project. It's a possibility. And that we will end up with 7 multi-million-dollar whatever they're going to be valued at in terms of properties, which is something none of us in this room want. So, I just caution that. I remember when we deliberated about this back in committee the first time. I think Jordan and I both had talked about reducing the parking requirement to actually add to the possibility of increasing affordable housing and neighbors shot that down because they thought parking was an issue.

Mayor Engen said, further discussion? Ms. West?

Alderson West said, I have a question about, I understand how this would be enforced with the current owner pulling the initial building permit and I'm wondering how this is enforced over time. Yeah, could somebody, maybe the attorney, speak to that?

Mayor Engen said, Mr. Nugent? Suggestions? Oh, Andrew?

Andrew Boughan, Development Services, said, so more or less, the planner who is assigned to the building permit or the tenant permit improvement, or whatever that is proposed that involves commercial, more or less would have to go through our automated system to sell out or automation to look at the past application types or right-of-way vacation is one of them that's located in there and confirm the conditions. And so that would be...they would have to look back at previous applications to confirm what was required and what was prohibited and that would be kind of the avenue in which we would do that.

Mayor Engen said, and I can tell you, based on experience, our planners never miss because we have some fascinating conditions applied to a variety of projects and they catch them. Ms. Becerra on the motion to amend?

Alderson Becerra said, yes. In order to ensure that this actually gets memorialized, is it possible to then have a condition require a development agreement that specifies the potential commercial development of that project?

Mayor Engen said, that would be built-in-suspenders. I think that the right-of-way vacation takes care of that.

Alderson Becerra said, okay.

Mayor Engen said, okay. Further discussion? Ms. Sherrill?

Alderson Sherrill said, this is...I have a question that is...I think that it has to do with what Ms. Harp said, that I have a question for you, Andrew or, I'm sorry, not Andrew, Nick. So...

Nick Kaufman, WGM Group, said, I'll take that as a compliment.

Mayor Engen said, pretty smart guy.

Alderson Sherrill said, it's late. I'm getting a little tired. So, I wanted to review the numbers of the sheet that you had given us with the different percentages of affordable housing units because I think that this kind of does tie back to what Heather was discussing too. Could you speak if we're going from 15 to 20 units, do you not want me to do this right now, John? Would you rather have me do it?

Mayor Engen said, you have the floor, Ms. Sherrill.

Alderson Sherrill said, so at 15% you're saying that...of affordable housing units, you're saying that's raising the price. I'm just making sure I'm reading this correctly. About \$19,000 per unit for the other units. Is that correct?

Nick Kaufman, WGM Group, said, correct and then there's a footnote right under the table, Amber.

Alderson Sherrill said, yup.

Nick Kaufman, WGM Group, said, that talks about principle and interest as part of that as well.

Alderson Sherrill said, oh, okay. And so, based on these projections, to move up to 20% you would be...the average home price would be going...of the other units would be going up to \$45,000. Is that correct?

Nick Kaufman, WGM Group, said, correct.

Alderson Sherrill said, okay.

Nick Kaufman, WGM Group, said, one of the things I'd like to add if it's possible, Mr. Mayor?

Mayor Engen said, Mr. Kaufman?

Nick Kaufman, WGM Group, said, is that as we take out commercial as a consideration, that's a fallback. It's not what we intended to do but it was a fallback. As we continue to increase the risk and the cost to 20%, but a fallback, the whole project becomes more risky. So, I hope you can consider the 15% as you remove contingency fallback positions of your deliberations.

Alderson Sherrill said, may I ask one more question?

Mayor Engen said, Ms. Sherrill?

Aldersperson Sherrill said, so, Nick, come back. So, I'm trying to understand these numbers though because I see what you're saying with that but what are you basing, I mean, do you know what you're charging for these upper units already? I mean, what price are we basing that on as far as what your return would end up being on this project? I mean, how do you come to this negative number?

Nick Kaufman, WGM Group, said, in all those numbers, were plugged into the formula by Mr. Bergquist, who's the developer, and then there was consultation with the Office of Housing and Community Development about those numbers. So, I'm not really prepared to discuss the details of those numbers and again it's not my expertise. I'm a land use planner. I'm not a real estate developer. Okay. So, I'm not sure if Housing and Community Development wants to discuss them with you or not.

Mayor Engen said, okay and let's go ahead and dispense with the motion, one way or another, the amendment. Further discussion on the motion to amend? Mr. Hess?

Aldersperson Hess said, thanks. I appreciate the intent of the amendment. I think it's interrelated, as Mr. Kaufman said, with the affordability threshold. The 20% affordability threshold is very important to me and I think it's been made very clear to us that it's very important to the community and I'm not willing to move away from that at this time. I think one way we could address that as a fallback is that the condition could be amended to read, commercial uses shall not be permitted without prior permission from the governing body or from the City Council. And that way the fallback is coming back for essentially coming back to this setting, to seek permission for commercial uses in the event that the other pieces don't work. And so, it's a condition that would allow or would memorialize that there is no commercial uses without going back through this process which, frankly, is not something very many people are going to want to do. So, I think it provides the flexibility but it also provides a certainty.

Mayor Engen said, sorry, I'm thinking for a moment and it's painful. On the motion, Ms. Sherrill?

Aldersperson Sherrill said, this is on the motion, I promise. Thinking about that too, I do support this motion but we could also change the language so that it would say number of units. One of the things that's been bothering me is the percentage is based on the number of dwelling units so residential units, which I do think incentivizes more commercial potentially, so I mean, I would be okay with making...with also

having some provision that it's number of overall units, not just residential units.

Mayor Engen said, Ms. Anderson?

Alderson Anderson said, I have a question for Mr. Boughan on the motion. Is that appropriate?

Mayor Engen said, yes.

Alderson Anderson said, okay, so just walk me or us, all of us, through the process so we have these motions, it's somewhat of a package deal. If it were to pass this evening with the no commercial amendment attached to it, the developers go back and they do their thing and at the end of the day with all of their components, it doesn't pencil out and they decide not to move forward with the project. Do things revert back to where they were or does the developer have the option to then turn around and sell the whole parcel, which would include the vacation right-of-way, with the amendments, as well as the rezone to, you know, Grand Poopaw, LLC from who knows where? Do they have that option?

Andrew Boughan, Development Services, said, they would have the ability to sell but the development agreement would be tied to the land and not specific to a developer.

Alderson Anderson said, right.

Andrew Boughan, Development Services, said, so within the actual agreement it would articulate the actual legal description of the area in which we wish to establish this requirement. And in the event that it did want to more or less allow commercial but only upon your approval, then it would be the same as an amendment to a developer's agreement. So, it would go back to I do believe the Public Works Committee as well as going to the consent agenda, with my limited knowledge of developer agreements.

Alderson Anderson said, right.

Andrew Boughan, Development Services, said, that's kind of the path.

Alderson Anderson said, so, a follow-up to that. So, if we were to instead attach a particular number of units, then it would sort of limit their ability to say they are like okay, forget this, we're just going to build five single dwellings. And if we said, oh, you have to have eight affordable housing units that would not be allowable by what all of the conditions on that piece of property were to allow?

Andrew Boughan, Development Services, said, that's correct.

Alderson Anderson said, okay. So, I'm not interested.

Mayor Engen said, Ms. Vasecka.

Alderson Vasecka said, what did you determine with the amendment to the motion with that? I guess you confused me with your last sentence there.

Alderson Anderson said, oh, no, I was just asking no one has made a motion to amend my motion so the motion that's still on the floor is the condition #7 on the vacation right-of-way seeing that there cannot be commercial uses for this property.

Alderson Vasecka said, okay. Okay, so I'm going to say some things that there's a lot of folks here in the audience that I highly respect but will not agree with what I'm about to say. If this was somebody lived in Missoula, the developer or the land owner if you lived in Missoula, if you lived in Texas, anywhere in the U.S., even if you lived across the world, it is still their land and I do not agree with putting conditions on what they can do with their land so I will be voting no against this.

Mayor Engen said, further discussion on the motion to amend? Ms. Jones?

Alderson Jones said, I want to go back to what Jordan made and I was hoping that would be taken as a friendly amendment. I'm not sure...just to clarify first, are you taking it as a friendly amendment. In other words, to add the option of returned to Council to discuss commercial as the possibility in order to make the project work for 20% affordable housing in the long run? Is that acceptable as a friendly amendment?

Mayor Engen said, I would argue that within the existing condition that option remains available. I don't think you need to specify that as a function of the condition.

Alderson Jones said, okay, can I just clarify my thoughts on that then because I just wanted to note there was some discussion about the 15 to 20% and I appreciate the financial information that was brought forward. I looked closely at it. I thought through a lot of the ramifications and at this point in time I think it is a higher value that we need to stick with the 20% but I do want you to know that I thought long and hard about it. I think leaving the option of ultimately readdressing commercial, I personally don't have a big problem with commercial. I think it's a commercial corridor already but I think that if we go down this path and if it ever needs to be revised, then that is an option so there's flexibility there and I think that addresses this, and I'm in favor of it.

Mayor Engen said, Ms. Becerra?

Alderson Becerra said, I guess I'm a little bit confused about under Mr. Hess's scenario, isn't that essentially a new proposal and would have to go through the process again? And if not, then I guess I'd go back to my question about the built-in suspenders, as you called it, with the development agreement because the development agreement is tied to the land, not to the developer. So, in the future, that use of that property is tied to that development agreement not to the owner.

Mayor Engen said, correct. So, whoever the next owner is, the successor in interest, if they were interested in engaging in a project here, all of the conditions that you would approve this evening would apply to that successor in interest.

Alderson Becerra said, okay.

Mayor Engen said, so, whoever comes next would have the same deal.

Alderson Becerra said, got it. Okay.

Mayor Engen said, okay. Further discussion on the motion to amend? Mr. Hess?

Alderson Hess said, I just want to add that, I mean, this is a lot like, it's a totally different situation, but it's a lot like the alley barricade at the Hoagieville Tap House where, I mean, it surfaced 40 years later and Council had to undo that and so it runs in perpetuity and it's, I mean, I'm comfortable with that.

Mayor Engen said, a stellar example, actually. Further discussion on the motion to amend? Seeing none, anyone in the audience care to comment on the motion to amend?

Un-named said, I just had a question about Heather had mentioned some concern about if amendments are made to the project which make it untenable for the developer, if you guys have granted the rezone and granted the right-of-way request and then they decide it's untenable and just want to build as if you had never rendered these requests, do they have the ability to just knock those buildings down and build 11 super high-priced units in their place or if you grant the rezone request and if you grant the right-of-way vacation, are they not bound by the conditions that you set for them here? Thank you very much.

Mayor Engen said, so the answer to that is they are bound by the conditions here.

Kevin Hunt said, my comment is thank you. Thank you for listening and coming up with this idea. What I meant to say earlier and what I think is appropriate now is I hope you all remember a little gentlemen's agreement, as it ended up being, because it was unenforceable when it was written as a contract,

that the last time you basically didn't want to make anyone angry and you, it wasn't you all people here, but there was an agreement written with someone that was basically based on trust and as it turned out, they stabbed in the back like several of us predicted and that was the Carlyle Group. So, thank you for putting things in writing. And I just appreciate the fact that you're responding to the community on this. I'd like you to consider some of those other demands that the community has made also but thank you for listening.

Mayor Engen said, anyone else on the motion to amend? Yes, ma'am?

Un-named said, I really appreciate this new amendment because I really believe that any kind of commercial development down there added to people living there with 75 parking spots, I just don't see how that will all work, so I really appreciate that. I don't think it should be allowed to be commercial so thank you.

Mayor Engen said, thank you. Ms. Hanson, as long as you don't have a letter from somebody else.

Rena Hanson said, hey, Janet needs to get back from Palm Springs. I have a job I need to do. Rena Hanson. I'm going to be quick. I appreciate the work you guys are doing. I think you know I've been here since the beginning. And I know when they've talked about the design, they've talked about it being, you know, 40, 45 feet. Is there any room in this to add that piece too?

Mayor Engen said, so, we're going to contain comments to the motion that's before the body right now which is the commercial.

Rena Hanson said, perfect.

Mayor Engen said, thank you. Anyone want to comment on the motion that's before the body? Alright. Further discussion on the motion? Mr. Hess?

Aldersperson Hess said, just a clarification. I was suggesting that we restate this as commercial uses shall not be permitted, just to simplify. Does that meet your intent?

Mayor Engen said, okay, further discussion? Alright, we'll have a voice vote. Those in favor please say aye. Opposed? That motion carries on a voice vote. We're back to the main motion as amended. Is there further discussion?

[applause]

Mayor Engen said, now, folks, I get it, but let's keep going here. Further discussion on the main motion as amended? Seeing none, I'm sorry? Mr. Hess?

Alderson Hess said, I'm just going to state for the record, We have based zoning districts because they are deemed to fit. That doesn't always happen. We hope that it does and we try to adjust zoning districts to make that happen. I'm personally not going to sponsor or vote for an amendment surrounding height. That's a personal preference and it's not without recognizing that that sets me apart from a lot of people in the room.

Mayor Engen said, further discussion? Any additional amendments? Seeing none, we will have a roll call vote first on the zoning. I'm sorry, the vacation.

Alderson Hess said, Mayor?

Mayor Engen said, Mr. Hess?

Alderson Hess said, I've noticed one more thing that I intended to modify with my motion. This reflects the intent of the committee meeting which is to strike the word "housing choice" as our Housing staff pointed out, there are multiple voucher preference programs that could be worked out with specificity in the development agreement.

Mayor Engen said, okay. So noted. With that, we'll have a roll call vote on the vacation.

Upon a roll call vote the motion passed with 9 Ayes, 1 Abstention, 2 Absent

Mayor Engen said, and the motion is approved. And on the rezoning.

Upon a roll call vote the motion passed with 9 Ayes, 1 Abstention, 2 Absent

Mayor Engen said, and the rezoning is approved.

Moved by: Alderson Hess

Adopt a resolution to vacate Ronald Avenue right-of-way north of the alley between Block 12 and 13 of Montana Addition adjacent to Lots 10 & 11 north and south of the ditch in Block 13 of Montana Addition, as well as a portion of South 4th Street East right-of-way, generally the southerly 22 feet of South 4th Street East adjacent to property legally described as Lots 1-8 of Block 12 Montana Addition in Section 22, Township 13 N, Range 1 W, P.M.M., as shown in Exhibit A, subject to approval of the rezoning request and subject to the conditions of approval as amended.

AYES: (9): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSTAIN: (1): Alderperson Merritt

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (9 to 0)

Moved by: Alderperson Anderson

Amend the motion and add a condition number seven to prohibit commercial use on the property.

AYES: (7): Alderperson Anderson, Alderperson Becerra, Alderperson Hess, Alderperson Jones, Alderperson Sherrill, Alderperson von Lossberg, and Alderperson West

NAYS: (2): Alderperson Harp, and Alderperson Vasecka

ABSTAIN: (1): Alderperson Merritt

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (7 to 2)

11.5 Land Use and Planning Appointments (LUPA) Subcommittee report

11.5.1 January 22, 2020 Land Use and Planning Appointments Subcommittee report will be available at a later date

11.6 Land Use and Planning (LUP) committee report

11.6.1 January 15, 2020 Land Use and Planning report

11.6.1.1 City Rezone – South 4th Street East & Ronald Avenue Rezone from RT2.7 Residential / NC-UD University District Neighborhood Character Overlay and M1R-2 Limited Industrial-Residential to B1-3 Neighborhood Business

Moved by: Alderperson Hess

[Second and final reading] Adopt an ordinance to rezone Lots 1 through 8 of block 12 of Montana Addition, a recorded subdivision of Missoula County, Montana; the west half of Ronald Avenue bounded on the north by the southerly right-of-way line of South Fourth Street East, and bounded on the south by the northerly alley right-of-way line of said block 12; that portion of the east half of Ronald Avenue lying southerly of a line connecting the northwest corner of that certain tract of land described in Book 187 deeds, page 100, and a point being 40.0 feet westerly of said corner when measured at right angles, said point being on the centerline of Ronald Avenue, and bounded on the south by the northerly alley right-of-way line of block 13 of said Montana addition; that certain tract of land described in said Book 187 deeds, page 100; the southerly 22.0 feet of South Fourth Street East lying between the northerly prolongation of the westerly line of Lot 5 of block 12 of said Montana addition

and the centerline of Ronald Avenue; that portion of South Fourth Street East lying southerly of a line connecting the northwest corner of lot 8 of said block 12, and a point lying 22.0 feet north of the northwest corner of said Lot 5; said point also lying on the northerly prolongation of the west line of said Lot 5 from RT2.7 Residential/NC-UD University District Neighborhood Character Overlay and M1R-2 Limited Industrial-Residential to B1-3 Neighborhood Business.

AYES: (9): Alderperson Anderson, Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSTAIN: (1): Alderperson Merritt

ABSENT: (2): Alderperson Contos, and Alderperson Ramos

Vote result: Approved (9 to 0)

11.6.2 January 22, 2020 Land Use and Planning report

11.7 Parks and Conservation (PC) committee report

11.7.1 January 15, 2020 Parks and Conservation report

11.8 Public Safety and Health (PSH) committee report

12. NEW BUSINESS

None

13. ITEMS TO BE REFERRED

13.1 Administration and Finance committee referrals

13.1.1 Review items held in City Council committees

13.2 Budget Committee of the Whole referrals

13.3 Committee of the Whole referrals

13.3.1 Review items held in City Council committees

13.4 Land Use and Planning Appointments Subcommittee referrals

13.4.1 Appointments to the Historic Preservation Commission

13.5 Land Use and Planning committee referrals

13.5.1 Review items held in City Council committees

13.6 Parks and Conservation committee referrals

13.6.1 Referral—Parks Deep Tine Aeration Services 2020

13.7 Public Safety and Health committee referrals

13.8 Public Works committee referrals

13.8.1 Review items held in City Council committees

13.8.2 Waiver of Missoula Municipal Code Chapter 9.30 Noise Control for Dick Anderson Construction at 139 East Main Street for Construction of the AC Hotels by Marriott.

13.8.3 West Pine Roofing Contract

14. MISCELLANEOUS COMMUNICATIONS, PETITIONS, REPORTS AND ANNOUNCEMENTS

14.1 Administratively approved agreement report

14.1.1 Administrative report and chart of accounts guide

15. ADJOURNMENT

The meeting adjourned at 11:21 PM

Martha L. Rehbein, CMC, City Clerk

John Engen, Mayor

Kelly Elam, Deputy Clerk