

Journal of Proceedings
Missoula City Council Meeting

November 9, 2020, 6:00 pm

ZOOM Webinar

Members Present: Mirtha Becerra, John P. Contos, Heather Harp, Jordan Hess, Gwen Jones, Julie Merritt, Jesse Ramos, Amber Sherrill, Sandra Vasecka, Bryan von Lossberg, Heidi West

Members Absent: Stacie Anderson

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

1. CALL TO ORDER AND ROLL CALL

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

2. APPROVAL OF THE MINUTES

2.1 Minutes from the October 19, 2020 meeting

The minutes were approved as submitted.

2.2 Minutes from the November 2, 2020 meeting

The minutes were approved as submitted.

3. SCHEDULE OF COMMITTEE MEETINGS

3.1 Committee will not meet the week of November 9, 2020

3.2 Committee Schedule for the week of November 16, 2020

Wednesday, November 18, 2020 Committee Meetings

Meeting Type	Start Time	End Time	Location
Public Safety and Health Committee	9:00 AM	12:00 PM	ZOOM Webinar
Committee of the Whole	12:30 PM	1:15 PM	ZOOM Webinar
Land Use and Planning Committee	1:30 PM	5:00 PM	ZOOM Webinar

4. PUBLIC COMMENT

Josh Decker, Ward 1, commented on the recent use of lethal force by Missoula Police Department. Kale Brown is no longer one of their neighbors because of the use of lethal force on November 5th. It saddens him to know that this happened. Anytime that lethal force is used it's a unique and complicated circumstance but it comes on the heels of a delay in the implementation of our Crisis Intervention Team. Had we had a Crisis Intervention Team in place that Kale Brown's death could have been avoided. He would imagine that the tactical enforcement equipment, helmets and so forth that were approved in the budget, were ordered, purchased and received right away. He bets those helmets are sitting in the police lockers right now and it just shows where our priorities are as a community and he's sickened by it. He calls for the County Attorney to make available all relevant body camera and dash camera footage immediately. He calls for the names of the involved officers and their service and conduct records to be released immediately. And he calls for our community to hold space in our thoughts for Kale Brown's family.

Matts Larson, Ward 2, echoed the comments of Josh Decker. Very insightful and a very sad day. He also gave his condolences to the family of the deceased and his two daughters. He hopes now everyone thinks about what's really go on here and what's really important in our community. He'd like to see some legislation or a motion passed by the City Council regarding body camera footage. Given the sorry state of affairs right now that is being fostered at the police department, he would not be surprised if there are discrepancies with the body camera footage and the dash cam footage, they we may or may not be allowed to see. He also challenged the County Attorney to release all relevant footage and all relevant radio communications. It's great that DCI is investigating this but that DCI report goes back to the County Attorney and we're not seeing much transparency from the City Attorney or the County Attorney or much action from the City Council so he wants to compel them to do something.

Andi Hoelzel, Ward 2, encouraged not only City Council and the Mayor, but other members of the community to use our imaginations and put empathy and compassion first in our responses to anything. People are quick to say that use of force is a problem so long as the person that has been harmed is as close to perfect as can be. The fact of the matter is that none of us are that, that any of us could find ourselves in a position where we are aggressive or in crisis or on our worst day and having an officer show up there and feel threatened and feel like he needs to defend himself from a knife with a gun is a problem, regardless of this person's record or any of the circumstances of this incident, an officer of the state murdered someone on Saturday and that matters. It also is unlike any other circumstance in this country that someone has killed another person and we don't know the name of that person two days later. She understands they have been asked to exercise patience as a community and to wait for

people to do their jobs but we have no reason, as a community, as the Missoula public, to trust the Missoula Police Department, to trust the City Council or the Mayor or the Chief of Police or the County Attorney to be transparent in these matters. For example, months ago, she heard in a Council meeting just like this one that the incident involving Officer Malone was “under investigation.” Today, November 9th, 2020 Officer Malone is employed by the MPD. He was in uniform in the station yesterday yet body camera footage of his partners shows him bragging about assaulting an indigenous man during an incident and he later lied on the witness stand. So, whatever is under investigation has not been disclosed to the public. We do not understand or know what disciplinary measures have been taken to address this problem and, therefore, we have absolutely no reason to trust that transparency will be exercised with regard to Kale Brown’s murder. If you want your community to trust you, then earn that trust.

Beverly Sitton, Ward 3, said no one deserves to die because they’re having a mental health crisis. The fact that we have been talking about how we are going to respond to incidences of harm for so long within the City Council and we still have no in-place system for distributing the information about who is involved when incidences like this happens, is atrocious. The fact that we have to keep coming to City Council meetings to get information that should be widely distributed, as quickly as possible, is disheartening. This could have been any of us. A lot of people are here today or outside of the police station tonight and yesterday because they know that they could also be having a bad day and a violent response from the people that are supposed to be there to help protect them and give them resources. No one should have to fear for their life regardless of what circumstances are going on, regardless of the crisis they’re in. It’s ridiculous that they don’t have access to this information and people not trust that they will be given this information in a timely manner before decisions are made without any public input.

Natalie Sophman, Ward 2, said it’s terrifying that this could happen in our community and hope you all take it seriously this time. It’s discouraging to attend City Council meetings and see nothing continuously be done about police accountability and then to have someone shot down by the police. It makes it terrifying to live in this community knowing that cops are capable of doing that and especially our Missoula City employees. And aren’t restrained from doing that and there isn’t accountability as it seems right now, I’d urge you to make that happen and keep the police accountable.

Caller 4053 requested a better information distribution service and to request that the Crisis Hotline Team and that model of law enforcement is continued to be pursued at the fastest timeline possible.

Vickie Sevromero, Ward 4, echoed the comments that came before her. Jesse James Kale Brown was a father of two children, a 16-year-old and a 6-year old. That weighs heavy on her heart. She has a daughter. She wants to make sure the Council and the Mayor are aware that this person is a community member with a family, now without a dad and to hold ourselves accountable as a community and see how we can avoid this tragedy that we all know could have been different had we had the Mental Health Crisis Team.

Mark Burr, Ward 2, said he's also echoing comments before him and he appreciates the Council's time. He'd like to see the police be held accountable and would like the information on what they are doing to be presented to the public in a fashionable manner. That could have been anybody having a bad day. He wants to know the story of what caused him to have to be shot. Why couldn't he have been held accountable for his actions in a different way. Maybe the police didn't need to be there. Maybe the Crisis Unit could have been the thing. There are so many different public health options and resources and it would be nice for those resources to be well known, other than calling the police, maybe a counsellor could have been there or whatever could have been prevented to not have him lose his life. It's really sad to know Mr. Brown has two children that are now without a father. This doesn't add well in the community's eyes, for instance, how you feel when you see a police officer, knowing that if you present yourself in a nervous way or if you're scared and he senses that and make one wrong move and he decides to murder you. He doesn't want to see people having to exercise the Second Amendment just to feel safe to come out of their house. We need accountability and information and we need people to get the help that they need, not to be expedited through the system of what we see with law enforcement and the jail system that doesn't seem to have a high percentage of people actually recovering or masking their lives better or being able to present themselves to the community in a more helpful fashion. He hopes Council agrees with that and wants to make better change too because it benefits our whole community.

Katie Cain, Ward 6, urged the City Council and the Mayor to start taking seriously its job of thinking creatively through what is a national problem that even our centralist president-elect has identified as a sight for reform and innovation. She's so tired of the City Council not coming up with creative solutions to all kinds of issues that involve the police but in this case, she would call upon the City Council to come up with something like ending police-only responses to mental health 9-1-1 calls. And she would echo other suggestions that other people have made with regard to trying to come up with some way to have trained professionals who know how to deescalate these situations, accompany the police. If we don't do something, the blood of this man and the lives of his children are in our hands.

Alison said she lives in the River Road neighborhood. She heard the gunshots from her apartment Saturday evening and it was definitely jarring. Gun violence is also a public health issue and effects the community at large in addition to murdering this individual. The actions of one police officer has ramifications for the entire community, the entire city, so she wanted to echo everyone for transparency of this entire case, beginning to end, and the entire process for the whole city at large. The proliferation of the Mobile Mental Health Crisis Unit for greater violence de-escalation training, we need more and this is affecting everyone at large. She has personal trauma response experience and this definitely has affected her experience working with the police in the future. For this man and his family, we need to be creative in the solutions going forward and in prevention because this is a community effort and your responsibility is on you and the police department to protect our community. We need to see more transparency, accountability and prevention now.

Gerald Huddleston, Ward 4, echoed the comments made earlier. At a time of unprecedented, untrust, mistrust of police it is unconscionable that we don't know just the basic information about this killing. It did not require an investigation to hand over just the basic details that people want to know. If you can't provide that, this crisis of mistrust not just in police but in government, that in general is only going to continue. These are basic things that can help sway some of this mistrust and it's, frankly, what we pay our taxes for. The community pays the salaries not just of the police but also of City Council and all of our city services. We need to have faith that you are doing your jobs and that you can be trusted to protect us. He hopes they do that, that we get that information and he hopes we still have confidence at the end of this investigation that the police are actually going to protect our community.

5. CONSENT AGENDA

AYES: (11): Alderperson Becerra, Alderperson Contos, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Ramos, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (1): Alderperson Anderson

Vote result: Approved (11 to 0)

5.1 Claims - November 10, 2020

Approve claims in the amount of \$296,929.64 for checks dated November 10, 2020.

Vote result: Approved

5.2 A Resolution Adopting the Wastewater Facility Plan

Adopt a resolution of the Missoula City Council to adopt the 2019 Missoula Wastewater Facilities Plan.

Vote result: Approved

5.3 A Resolution Establishing the Utility Service Area Boundary

Adopt a resolution of the Missoula City Council to establish the Utility Service Area Boundary to combine the sewer and water service areas as shown in Exhibit A.

Vote result: Approved

5.4 Resolutions Adopting the Water Facility Plan

Adopt a resolution of the Missoula City Council to adopt the 2019 Missoula Water System Master Plan.

Vote result: Approved

5.5 Appointment to the Missoula Consolidated Planning Board

Confirm the Mayor's appointment of Tung Pham to the Missoula Consolidated Planning Board for a term beginning immediately and expiring on December 31, 2022.

Vote result: Approved

5.6 Confirmation of Eran Pehan as Community Planning, Development, and Innovation Director

Confirm Eran Pehan as the new Community Planning, Development, and Innovation Director.

Vote result: Approved

Mayor Engen said, thank you, Ms. Rehbein. Questions or comments from Councilmembers? Seeing none and seeing no one with a hand raised in the audience, we'll have a roll call vote. Ms. Rehbein, I see I do have a hand up here. Let me grab this.

Matts Larson said, just wanted to congratulate you guys on the claims this week. This is like the first week that I can remember in so, so, so long that we don't have a claim check for the Water Department for a legal battle. So, congratulations, guys. I don't know if maybe things are working but hopefully, we'll know what's going on with all that stuff at some point and maybe you guys can release the baseline core budget documents. Those would be great to see, the itemized inventory of each department, whether stuff's been paid off, how much is owed on what equipment and, you know, basically what's going on under the hood of the City, I think, you know, it would be in the interest to see, you know, the police budget, for instance, and the baseline budget to the Police Department. But, you

know, that's just me. I'll let you guys make your vote but again congratulations on not spending a bunch of money on something that should have been settled a long time ago.

Mayor Engen said, and, Ms. Rehbein.

Upon a roll call vote the motion passed with 11 Ayes, 1 Absent

Mayor Engen said, and the consent agenda is approved.

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

7. SPECIAL PRESENTATIONS

7.1 Proclamation - Children's Grief Awareness Day

Mayor Engen proclaimed November 19, 2020 as Children's Grief Awareness Day.

Mayor Engen said, and once again, ladies and gentlemen, without objection, I'm hoping that you will allow me to take items of new business so we can get some staff members clear tonight. Seeing no objection, great, thank you. So, under new business, our first item is a business purchase agreement, a contract, and that is happening in Ms. Becerra's committee.

8. NEW BUSINESS

8.1 Business Purchase Agreement with HEG Montana LLC

Moved by: Alderperson Becerra

Approve and authorize the Mayor to sign a Business Purchase Agreement with HEG Montana LLC for the purchase of the business and its assets to provide for maintenance of the poplar grove at the Wastewater Treatment Plant and Garden City Compost site at a cost not to exceed \$165,938.00.

AYES: (8): Alderperson Becerra, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Sherrill, Alderperson von Lossberg, and Alderperson West

NAYS: (3): Alderperson Contos, Alderperson Ramos, and Alderperson Vasecka

ABSENT: (1): Alderperson Anderson

Vote result: Approved (8 to 3)

Alderperson Becerra said, thank you, Mr. Mayor. The first item is a business purchase agreement with HEG Montana LLC and Dennis Bowman will be presenting.

Mayor Engen said, Mr. Bowman.

Dennis Bowman said, thank you, Mayor Engen. Good evening everybody. My name is Dennis Bowman. I'm the Deputy Public Works Director for the Utilities for the City of Missoula. Tonight, is the new business item is a business purchase agreement with HEG Montana. The recommended motion the City

Council approve and authorize the Mayor to sign a Business Purchase Agreement with HEG, otherwise as Highbred Energy Group Montana LLC for the purchase of the business and its assets at a cost not to exceed \$165,938.00. HEG Montana LLC has been overseeing the administration and maintenance service of the Poplar Tree Farm for seven years. Tom Platt, the owner at the time, had the same vision as the City of Missoula and was instrumental in the success of this project. Because of the health reasons, Tom was unable to keep working on the project. John DiBari and his partners helped Tom out by purchasing HEG in 2018. The City of Missoula hired an appraiser and HEG hired their own appraiser and after receiving the appraisal, we reached an agreement of \$165,938.00. For their future activities and expenditures of the Poplar Farm, it is in the best interest of the City to own HEG.

Aldersperson Becerra said, thank you, Mr. Bowman. And, Ms. Becerra, would you please make a motion?

Aldersperson Becerra said, I'm happy to. I recommend that we approve and authorize the Mayor to sign a Business Purchase Agreement with HEG Montana LLC for the purchase of the business and its assets to provide for maintenance of the poplar grove at the Wastewater Treatment Plant and Garden City Compost site at a cost not to exceed \$165,938.00.

Mayor Engen said, thank you, Ms. Becerra. Is there discussion on the motion? Alright, seeing none, any public comment on the motion? Mr. Larson.

Matts Larson, Ward 3, said, this is a most interesting purchase by the City. I'm wondering what's going on with this, especially as I understand it, the poplar market isn't really there anymore so like there's no sale values on all these trees that we've grown right now because it has something to do with the pandemic. And so, I'm just curious as to why we're not buying the company. What is the intent? This is a service e company that doesn't even use the...they don't even own the land. Right? Like, so what's going on with this? I just don't understand the logic of purchasing the company to a market that's totally bottomed-out, but I don't know, maybe you can explain to me.

Mayor Engen said, seeing no additional comment, Ms. Harp, discussion?

Aldersperson Harp said, yeah, I appreciate Mr. Larson's comment. So, in committee last week what we learned is, you're right, there is not much demand at all for poplar in terms lumbar form. But it will add additional benefit of what the project actually does, it prevents a fluid being circulated into the Clark Fork River. And I think that every single one of us here believes in clean water and that we should do the right thing and stewards of both our land and our water and our air and for that reason I support this.

Mayor Engen said, seeing no further discussion, we will have a roll call vote.

Upon a roll call vote the motion passed with 8 Ayes, 3 Nays, 1 Absent

Mayor Engen said, and the motion is approved. Thank you. Next is a letter of intent with the Flynn Family Limited Partnership and once again, Ms. Becerra, this is in your committee.

8.2 Letter of Intent with the Flynn Family Limited Partnership

Moved by: Alderperson Becerra

Approve and authorize the Mayor to sign a Letter of Intent with the Flynn Family Limited Partnership, the City of Missoula, and Missoula County to grant a right-of-way for the purpose of carrying out projects pertaining to an extension of Mary Jane Boulevard and O'Leary Street provided for through the BUILD grant.

AYES: (11): Alderperson Becerra, Alderperson Contos, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Ramos, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (1): Alderperson Anderson

Vote result: Approved (11 to 0)

Alderperson Becerra said, thank you, Mr. Mayor. Yes, this is a letter of intent with the Flynn Family Limited Partnership and Jeremy Keene is presenting for us.

Mayor Engen said, Mr. Keene.

Jeremy Keene, Director of Public Works and now Mobility, said, what we have before you tonight is a Letter of Intent to purchase or to acquire a right-of-way from the Flynn Family Limited Partnership. This is right-of-way that will...go into the Mullan Road Grant Project. And this Letter of Intent establishes some of the initial parameters that needed to be defined in order to dedicate these right-of-ways. As you are all aware, the City in partnership with Missoula County received a federal BUILD grant and intends to construct transportation improvements and utility improvements in the Mullan Road area. And the Flynn Family Partnership intends to develop their property through a third-party sale. And subject to regulations with the City, which require public infrastructure improvements, so construction of the Mullan Road project benefits their property by reducing their cost of development. While the BUILD grant and other existing funding sources will cover about 50% in the cost of the project, the City intends to create a Special Transportation Impact Fee and the Utility latecomer's fees subject to approval of City Council and to fund the remainder of the cost of the project. So, this Letter of Intent establishes those terms for granting the right-of-way necessary to construct both Mary Jane...the Mary Jane portion of the Mullan Build Project and in the future the O'Leary Street connection. So, we'll be bringing a recommendation to Council in the incoming weeks for the Special Transportation Impact Fee and the Utility latecomer's fees. We've got some preliminary numbers on those now and we're refining

those for further presentation. So, I apologize that the agreement was not attached to the agenda tonight. We haven't emailed that to Council but will make sure that gets posted for the public. What this agreement now is, it grants right-of-way for Mary Jane Boulevard. It also grants right-of-way for O'Leary. And it also spells out that the landowner will participate in those additional funding mechanisms to recover the remainder of the costs of building the Mullan Build Project. In return the City, in partnership with the County, will construct...will complete the engineering and construct the project. We will also honor the development agreement that's in place for this project, for this parcel, in terms of the density calculations which will be based on the original parcel area. And so, if you remember, the Hellgate Village Development Agreement spelled out specific density requirements in concert with the rezoning that was done that parcel and this is just an implementation of that development agreement and we're honoring what was agreed to their...in terms of the densities that will be a lot of that parcel. And just as a side note there, it falls all within the zoning that was approved so we're not doing anything that requires a variance for anything different than what is already on the books. So, with that, I'd be happy to answer any questions. Thank you.

Mayor Engen said, thank you, Mr. Keene. Ms. Becerra, I'd entertain a motion please.

Aldersperson Becerra said, sure. Thank you, Mayor. I recommend that we approve and authorize the Mayor to sign a Letter of Intent with the Flynn Family Limited Partnership, the City of Missoula, and Missoula County to grant a right-of-way for the purpose of carrying out projects pertaining to an extension of Mary Jane Boulevard and O'Leary Street provided for through the BUILD grant. And may I speak to the motion please?

Mayor Engen said, Ms. Becerra.

Aldersperson Becerra said, I hope that everyone supports this motion. This is a very important piece of the puzzle for development in this area. The transportation and land use connection is imperative to have a well thought-out planning and development in this area so I hope that you will support this motion. Thank you.

Mayor Engen said, thank you, Ms. Becerra. Is there discussion on the motion? Seeing none and seeing no hands up in the attendees, I will ask Ms. Rehbein to call the roll.

Upon a roll call vote the motion passed with 11 Ayes, 1 Absent

Mayor Engen said, and the motion is approved. Our third item of new business this evening is a Housing Navigator Contract and that is happening in Administration and Finance. Ms. Jones?

8.3 Housing Navigator Contract

Moved by: Alderperson Jones

Approve and authorize the Mayor to sign the Housing Navigator grant contract with Partnership Health Center in the amount of \$40,000; this position assists in securing housing for difficult to house individuals.

AYES: (11): Alderperson Becerra, Alderperson Contos, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Ramos, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (1): Alderperson Anderson

Vote result: Approved (11 to 0)

Alderperson Jones said, yes, thank you. This is the Housing Navigator Contract with...the contract is with Partnership Health. This is to hire a Housing Navigator who will work with our coordinated entry systems specifically to help homeless people get housing. And I believe the money is federal funds from CDBG and I think Karen is here to present on this.

Mayor Engen said, Ms. Gasvoda?

Karen Gasvoda, Office of Housing and Community Development, said, thank you, Mayor. So, before you is a motion to approve and authorize the Mayor to sign a Housing Navigator Grant contract with Partnership Health Center in the amount of \$40,000. The Housing Navigator position is funded through Title 1 funds, through our pre-entitlement funds from the federal government. These were funds received prior to the City becoming eligible as a Community Development Block Grant entitlement community. The office administers these funds and they must be used in a manner similar to those CDBG funds. The Housing Navigator was funded with Title 1 funds the last two years and its success proved the role's importance to the functioning and overall capacity of the Missoula Coordinated Entry System. The contract runs from November 1st through June 30th, 2021 to bring it in alignment with the City's fiscal year. Thanks.

Mayor Engen said, thank you, Ms. Gasvoda. Ms. Jones, a motion please.

Alderperson Jones said, thank you. I'd like to make the recommended motion that we approve and authorize the Mayor to sign the Housing Navigator grant contract with Partnership Health Center in the amount of \$40,000; this position assists in securing housing for difficult to house individuals, and I'd like to speak to it briefly.

Mayor Engen said, Ms. Jones.

Alderperson Jones said, this is something that I'm really glad to see come through Council. We have a lot of housing issues in Missoula but specifically we want to get as many homeless housed as possible,

especially as we head into winter, so having this position filled, someone who will specifically help those people navigate the system through our Coordinated Entry System, that will know exactly what resources are out there and how to connect them with them and get them housed as best as possible, is a really good thing. So, I'm happy to make this motion and support it.

Mayor Engen said, thank you, Ms. Jones. Is there further discussion on the motion? Ms. Harp?

Aldersperson Harp said, I still will be in full support of this Housing Navigator position if the...you know, one of the things that we add additional social services to the portfolio that we must do in terms of services as a community, we want to make sure we have the folks in place that we can actually implement in the process and this is an absolute necessity to get people off the streets and into homes.

Mayor Engen said, and Ms. Merritt.

Aldersperson Merritt said, thank you. Thanks, Ms. Gasvoda, for bringing this to us. This is a really good piece of business. I'm glad that we're able to do it. There are...finding housing for people it seems maybe on the surface like a simple thing; it is a difficult thing to navigate. And having assistance through Partnership Health with a professional who knows the ins and outs of the system, who can guide people through it, is so important. And I know that each year that these efforts help us get more and more people off the streets so I'm very happy to support this.

Mayor Engen said, seeing no further discussion, we'll have a roll call vote.

Upon a roll call vote the motion passed with 11 Ayes, 1 Absent

Mayor Engen said, and the motion is approved. Yes, I apologize Libby elected to weigh in which she wants to do occasionally. And, once again, ladies and gentlemen, with your indulgence, I'd like to take the final consideration item which is non-controversial and let Ms. Griffing get out of here as well. And that item lives in Administration and Finance. Ms. Jones.

9. FINAL CONSIDERATION

9.1 Resolution for 1st Quarter FY 2021 budget amendments. This resolution amends the fiscal year 2021 budget to appropriate expenditures and budget transfers not identified in the original budget

Moved by: Aldersperson Jones

Adopt a resolution for 1st quarter Fiscal Year 2021 amendments to the annual appropriations for the City of Missoula, Montana as set forth in the fiscal year 2021 budget that increases the total city revenues by \$1,159,011 and budgeted appropriations by \$1,407,351.93 in order to recognize additional grant revenues, activities and expenses for fiscal year 2021 and incorporate expenditures and projects approved in the FY21 budget process which were not captured in the final appropriations resolution.

AYES: (11): Alderperson Becerra, Alderperson Contos, Alderperson Harp, Alderperson Hess, Alderperson Jones, Alderperson Merritt, Alderperson Ramos, Alderperson Sherrill, Alderperson Vasecka, Alderperson von Lossberg, and Alderperson West

ABSENT: (1): Alderperson Anderson

Vote result: Approved (11 to 0)

Alderperson Jones said, alright. I would like to make the recommended motion that we adopt a resolution for 1st quarter Fiscal Year 2021 amendments to the annual appropriations for the City of Missoula, Montana as set forth in the fiscal year 2021 budget that increases the total city revenues by \$1,159,011 and budgeted appropriations by \$1,407,351.93 in order to recognize additional grant revenues, activities and expenses for fiscal year 2021 and incorporate expenditures and projects approved in the FY21 budget process which were not captured in the final appropriations resolution. And this has been fairly discussed. I'm in support of it. This is basically, as money comes in, we have to sometimes modify our budget accordingly when we get grant money, etc. So, I won't speak to it more than that but it's pretty straightforward.

Mayor Engen said, thank you, Ms. Jones. Is there discussion on the motion? Seeing none, I have one hand up in the audience. Mr. Larson?

Matts Larson, Ward 3, said, this subject, in general, the budget has been anything but straightforward this year so I'd just like to point that out. And, you know, you can see this with the last minute, no levy. You can see this with the police budget and the complete negligence to public commentary regarding that. You can see that with the invisible baseline budgets that the City will not allow the public to see. And so, yeah, I'd love to see or hear from anyone about why we can't see that stuff? Why can't we see itemized stuff from each department, a baseline, core budget document? Why can't we see what's going on with the water enterprise fund, for instance, which is a very important fund, which has to do with the maintenance and overall thing. So, we need to watch this very closely. Why can't we get an estimate for how much the legal fees are going to be this year with Boone Karlberg, Perkins Coie and like every single other contractor and freaking, you know, a third party that has to do with this water battle over the water company that's just never ending. I just spoke with somebody just here a minute ago that said, like that's still going on? I just love that because people are actually waking up and you're seeing this across the board. So, I mean, it seems high time to just kind of explain what's going on under the hood here. Leigh Griffing, Dale Bickell, the Mayor, anybody and maybe there is an estimate on how much the entire legal fees are going to cost this next year. This would be the time to do it. You know

exactly how much money is coming in. You're adjusting all this stuff this week, why can't we see it?

Thank you. Bye.

Mayor Engen said, and we will have a roll call vote.

Upon a roll call vote the motion passed with 11 Ayes, 1 Absent

Mayor Engen said, and the motion is approved. And we are back in order. Thank you again for allowing me to shuffle things around a little bit. We are at the public hearings portion of our agenda and state law and our own Council Rules set guidelines for inviting comment in a formal way on a variety of issues and following a staff report on each of these, Council and I will invite comment. We will begin with public hearing this evening. That public hearing will remain open until Council takes this item up under final consideration in the future. Our two public hearings this evening start with a referral and staff report on Hellgate Village East Townhome Exemption Development Conditional Use. And our staff report this evening comes from Ms. Tripard.

10. PUBLIC HEARINGS

10.1 Referral and Staff Report Hellgate Village East Townhome Exemption Development Conditional Use

The Missoula City Council held this public hearing open and will take it up under Final Consideration at the next regular City Council meeting on November 23, 2020

Cassie Tripard, Development Services, said, can you hear me and see my screen?

Mayor Engen said, we could stand to hear you a little bit better, Cassie.

Cassie Tripard, Development Services, said, yeah, okay, I'll speak up a little bit.

Mayor Engen said, that's good. Thank you.

Cassie Tripard, Development Services, said, I'm Cassie Tripard and I'm an Associate Planner with the Community Planning Development Innovation Department. We received a conditional use request from Nick Kaufman of WGM Group on behalf of HEH, LLC for a townhome exemption development of ten or more units in the B2-1 Community Business Zoning District. The proposal is for 43 units. I will be discussing Memo 1 and Memo 2 during this presentation. Hellgate Village East will be located on Lots 1 and 2, the Hellgate Village Subdivision. The subject property is east of Mary Jane Boulevard, west of the Hellgate Meadow Subdivision and south of Pleasant View Homes #3 Subdivision near Hellgate Elementary School. The subject property is zoned B2-1 Community Business. A targeted Growth Policy amendment and rezoning was approved in November, 2019. All residential building types are permitted in the B2-1 zoning district. And this zoning district allows for one unit per 1,000 square feet of parcel area which is equivalent to 43 dwelling units per acre. Per the zoning, Lot 1 will allow for 54 dwelling

units and Lot 2 would allow for 108 dwelling units. A development agreement was established in November, 2019 which limited the density of the subject property to 14 dwelling units per acre as opposed to 43 dwelling units per acre allowed by zoning. This density would allow 17 dwelling units on Lot 1 and 34 dwelling units on Lot 2. The applicant is proposing to construct 15 units on Lot 1 and 28 units on Lot 2 for a total of 43 units. The proposed density complies with local zoning and the development agreement. Adjacent properties to the north are zoned RT-10 Residential Two-Unit Townhouse and contain detached single-unit houses. Adjacent properties to the south and east were rezoned to B2-1 Community Business with the rezoning of the subject property and are currently vacant. The parcel west of Mary Jane Boulevard is the proposed location of Hellgate Village West which we'll review at a future meeting. Properties to the east are in the neighborhood general subdistrict of the Hellgate Special Zoning District. Abutting parcels to the east contain detached single-unit houses, however, there are townhouses and multi-dwelling building types a block away on Dublin Street. The applicable regional plan is Our Missoula City Growth Policy 2035 which recommends the land use designation of neighborhood mixed use for the subject property. The neighborhood mixed use land use designation recommends a mix of residential and neighborhood commercial uses that include retail, office, entertainment, professional services and eating and drinking establishments. Relatable zoning districts in this land use designation include the B2-1 Community Business Zoning District. And here is the proposed Site Plan. The units are accessed by Killarney Way, Mary Jane Boulevard and private alleyways. The development contains a mix of detached house, two-unit townhouse, three-unit townhouse and four-unit townhouse building types. Many of the units contain attached garages. Others have detached garages shown as tan boxes on the Site Plan. Some units are orange primarily on Mary Jane Boulevard and Killarney Way while others are orange and are shared common areas. The non-motorized public access easement between Killarney Way and Mary Jane Boulevard was created with the Hellgate Village Subdivision. There are plans and improvements for Mary Jane Boulevard and Killarney Way were reviewed and approved with the subdivision as well. So, the applicant began the planning process with Development Services in 2018 when Ordinance #3609 was in effect. The City TED regulations have changed since this ordinance was in place. The Hellgate Village Subdivision was approved in October, 2019. The City was aware of the subdivision but a TED was proposed for the subject property. Our current regulations no longer permit townhome exemption developments of more than 20 units in B zoning districts. Under Ordinance #3609, we did not limit the number of TED units but required conditional use review for projects of 10 or more units. So, the project has detrimental reliance on the regulations in place when they began the project and the applicant and

Development Services signed a letter agreeing that Ordinance #3609 will apply to this project. The TED regulations under Ordinance #3609 limited block lengths to 480 feet. This is also a requirement of our subdivision regulations. The applicant requested a variance to this requirement with the subdivision for Lot 2. The variance was approved. The non-motorized public access easement between Mary Jane Boulevard and Killarney Way was provided to mitigate the impact of the variance request. The TED regulations also require 11% of the parcel be dedicated as parkland or the applicant must provide cash-in-lieu. There is now parkland shown on the Site Plan, however, common areas are provided. The applicant paid cash-in-lieu of the Hellgate Village Subdivision so the TED requirement required parkland dedication was met with the subdivision. All of the TED regulations under Ordinance #3609 are met. And all attached townhouse building types must meet the townhouse design standards of 20.40.140. These design standards and their application to TED projects has not changed since Ordinance #3609. Here are some photos of detached single unit houses in the Hellgate Meadows Subdivision to the east. These homes are located on narrow lots similar in size to the TED ownership units in the Hellgate Village East. There are also two-unit multi-dwelling building types in the Hellgate Meadows Subdivision within a block of the subject property. North of the subject property and the Pleasant View Homes No. 3 Subdivision there are detached single-unit houses, many of which look about like this. And there are 13 different building types proposed for Hellgate Village East, 8 of the designs are detached houses identified as cottage, mews and single-family in the application packet. There are three types of two-unit townhouse building types identified as mews and two-unit townhouse. There will be one three-unit townhouse and one four-unit townhouse on the subject property. And here you can see the front elevations of the two-unit townhouse building types and to the attached house building types. Here are a few more examples of a one-unit and two-unit house. And there will be one 4-unit townhouse and one 3-unit townhouse both located on the southwest portion of Lot 2 near Mary Jane Boulevard. Title 20, Section 20.85.70(H) outlines the review criteria City Council must consider for conditional uses. The first is whether the proposed use complies with all standards of the Title 20 zoning ordinance. The project meets all applicable standards of Title 20 under Ordinance #3609. And per Title 20, Section 20.01.60 the project must comply with all applicable local, state and federal regulations in order to meet zoning. There are eight recommended conditions of approval that will ensure the project complies with all regulations. I will explain the regulations and why each condition is required to ensure compliance when we go through the conditions. Several of the conditions relate to International Fire Code. This criteria will be met if recommended conditions of approval are imposed. The second review criteria is whether the proposed use is in the interest of public convenience and will not have a significant adverse

impact on the general welfare of the neighborhood or community. Adverse impacts on the general welfare of the neighborhood or community are not anticipated. Required improvements to Mary Jane Boulevard and Killarney Way were established with the subdivision will mitigate the effects of traffic generated by the project. A system of pedestrian paths is proposed to provide safe pedestrian access through the development. Only residential uses are proposed on the subject property which fits into the context of residential development to the east and to the north. And the property is in an area that is already served by City Police and City Fire. So, in order to ensure the alleyways are accessible to City Fire, conditions of approval 2B and 7 require no parking zones on both sides of the alleyways, the alleyways must be 19 to 20 feet in width...wide in order to provide fire access as required by condition of approval #3. And I'll provide more detail about fire code and the recommended conditions of approval on the upcoming slides. Conditions numbers 5 and 6 ensure the project will be accessible to City Fire during construction. The proposed TED will not have a significant adverse impact on the general welfare of the neighborhood and community if recommended conditions of approval 2(b), 3, 4, 5, 6 and 7 are imposed. City Council must consider whether the proposed use is compatible with the character of the surrounding area in terms of site planning building scale and project design. The proposed building types are similar to structures east of the subject property and the Hellgate Meadows Subdivision, as you saw in the previous photos. The townhome ownership units are also comparable to lot sizes to the east. Detached houses to the north are compatible in terms of site planning, scale and design to the proposed TED and the only three-unit and four-unit townhouses in the development are located in the southwest corner of Lot 2, away from existing single-family development. All proposed building types are two stories with the exception of the four-unit townhouse which is three stories. The fourth criteria to consider is whether the proposed use has operating characteristics that are compatible with the surrounding area in terms of hours of operation, outdoor lighting, noise and traffic generation. Existing development to the north and east is residential. Other adjacent parcels are currently vacant and only residential uses are proposed for Hellgate Village East. The TED will have operating characteristics typical of residential uses and the surrounding neighborhood. City Council must determine that the proposed use will not have a significant adverse impact on traffic, safety or comfort including all modes of transportation. Plans and required improvements for Mary Jane Boulevard and Killarney Way which provide vehicular, bicycle and pedestrian infrastructure were established with the subdivision. A non-motorized public access easement will provide a safe pedestrian route between Mary Jane Boulevard and Killarney Way. All dwelling units are connected to the public streets and common areas by a system of pedestrian paths and the alleyways provide access to parking, which produces curb cuts on Mary Jane

Boulevard and Killarney Way, creating a safer pedestrian environment. Conditions of approval numbers 2(b), 3 and 7 ensure that the alleyways provide access for City Fire. Staff recommends eight conditions of approval. Condition of approval #1 states the townhome exemption development conditional use on land legally described as Lots 1 and 2 of Hellgate Village Subdivision shall comply with all applicable portions of Title 20. Plans submitted at the time of zoning compliance permit, townhome declaration and building permit application shall substantially conform with the application submitted at the time of the conditional use review, subject to review and approval of Development Services. And this condition is standard for all conditional uses to ensure that the project meets review criteria 1 and criteria 1 requires the project to comply with Title 20 zoning code in order to meet zoning code projects must comply with all applicable local, state and federal regulations. The second condition of approval has three parts. It reads the declaration of townhomes, covenants, conditions and restrictions for Hellgate Village East shall include the following sections and statements subject to review and approval of Development Services prior to zoning compliance permit approval of the townhome exemption declaration. Part A is energy efficiency. The building should consider using energy efficient building techniques such as building orientation to the sun, appropriately sized eaves, windbreaks, extra insulation, passive solar lighting, solar heating, photovoltaic cells and ground source heat pumps for heating and cooling. Ground source heat pumps and other types of heat exchangers are usually more efficient and so create less pollution than other systems for heating and cooling. Increased energy efficiency reduces air pollution, reduces the need for people to use cheaper heating methods that pollute more and helps protect the consumer from energy price changes. This language came from an agency comment provided by the Health Department. The statement was conditioned for the subdivision in order to comply with the Health Department's standards but upon review did not appear in the subdivision development covenants. The TED declaration establishes the ownership units and also acts similarly to development covenants. This statement can be placed in the declaration to ensure compliance with Health Department requirements. Part B, parking restrictions. Parking is permitted on both sides of all alleyways, shown in the application packet. The Hellgate Village Townhomes Owners Association, Inc. must ensure 20-foot clear travel ways maintained on all alleys. The alleyways are too narrow to accommodate parking. City Fire would like to ensure that they can drive a truck through the alleyways to access all structures which is not possible if cars are parked in the alleyways. Adding this statement to the TED declaration notifies property owners that they are responsible for ensuring the alleyways are kept clear. And C, Subdivision Covenants. The development covenants of the Hellgate Village Subdivision applied to all land within the platted subdivision, in addition to the declaration of TED

homes for Hellgate Village East. And this statement ensures that property owners know that they must adhere to both the covenants and the TED declaration. Certain language in the covenants was required with the subdivision to meet regulations. We would like to make it clear to property owners that both documents run with the land. So, after the staff report from Hellgate Village East conditional use was issued on October 29th, 2020, the applicant proposed modifications to the conditions. Condition #3 originally required the alleyways to be paved to a 20-foot width. Representative Nick Kaufman requested that the condition of approval #3 requiring 20 feet of paving through the alleyways be modified to allow 19 feet of paving for alleyways abutting exterior parcel lines. The representative stated that 20 feet of paving was not possible adjacent to exterior parcel lines due to grading issues. At a meeting with the representative on October 30th, 2020, Dax Fraser of City Fire and Troy Monroe of City Engineering determined that an amendment to condition #3 allowing 19 feet of paving for portions of alleyways abutting parcel lands is acceptable. Currently, Mary Jane Boulevard, Killarney Way and the alleyways are not constructed. The applicant would like to begin building structures as soon as possible. Condition #3 originally stated that the alleyways must be installed prior to approval of the first building permit. At the meeting on October 30th, City Fire determined construction of structures could take place before the alleyways are installed as long as structures are accessible to emergency vehicles for Mary Jane Boulevard and Killarney Way. Condition #3 was amended to state the alleyways must be installed prior to Certificate of Occupancy for the first structure. So, Condition #3 now states the applicant shall prepare plans and install improvements for the private alleyways resulting in a 20-foot wide public access easement including paving, drainage facilities and ADA improvements subject to review and approval of City Engineering and City Fire. The alleyways must be paved to a 20-foot wide...or 20-foot width except for locations specified on Exhibit A where 19 feet of paving is required. Plans for improvements shall be approved by City Engineering prior to zoning compliance approval of the townhome exemption declaration. Improvements shall be installed prior to Certificate of Occupancy of the first structure subject to review and approval of City Engineering and City Fire. And condition #3 ensures that the project will not have a significant adverse impact on the general welfare of the community per review criteria #2. Then here's the exhibit from Memo 1 and as you can see, 20 feet of paving is required on alleyways except proportions of the alleys that abut exterior parcel lands. Conditions 4, 5 and 6 were created with Memo #1. At a meeting with the applicant on October 30th, we discovered that Mary Jane Boulevard and Killarney Way had not been constructed yet. Condition #4 was added to ensure that the street improvements are completed prior to Certificate of Occupancy for the first structure. After Memo #1 was issued, the representative requested an amendment to

condition #4. Condition #4 and Memo #1 stated improvements to Mary Jane Boulevard and Killarney Way must be installed in accordance with the street design plans approved with the Hellgate Village Subdivision subject to review and approval of City Engineering per the Certificate of Occupancy for the first structure. Mary Jane Boulevard will be designed and constructed by the City of Missoula with funding from the BUILD grant. The applicant will be contributing to the cost of improvements for Mary Jane Boulevard, however, the timeline for installation is set by the City and the BUILD grant. The applicant does not have control over the timing of road construction. Representatives stated that the timeline for issuing Certificates of Occupancy for structures in the project should not be delayed by the construction of the road. A condition requiring Mary Jane Boulevard to be installed with the condition on the City rather than the applicant. Development Services, Planning and Engineering staff worked with City Public Works staff to amend condition #4. Staff agreed that we should not condition the construction of Mary Jane Boulevard as this is out of the applicant's control. Memo #2 admitted their requirement for permits to Mary Jane Boulevard prior to Certificate of Occupancy from condition #4. So, temporary access must be provided on Mary Jane Boulevard for residents and emergency vehicles. City staff decided that condition #6, which we'll look at on the next slide. Creating Memo #1 ensured temporary access is provided, allowing us to issue Certificates of Occupancy prior to full improvements. Improvements to Killarney Way will still be required prior to Certificate of Occupancy for the first structure. So, condition #5 states the applicant shall install a 20-foot wide millings in place of paving Killarney Way prior to approval of the first building permit on townhome ownership units 1 through 15, 23 through 27, 32 through 43. Millings must be maintained by the developer or owners to a level that ensures access by emergency vehicles in all weather conditions and until full improvements for Killarney Way are installed. In Memo #2 the statement in green was not included in the condition. Today, Fire requested that it be added to the conditions to clarify the developer and others are responsible for maintenance until the road is constructed. We have condition #5 again because I forgot to delete it on the previous slide. Condition #6 states the applicant shall install 20-foot wide millings in place of paving Mary Jane Boulevard prior to approval of the first building permit. On townhome ownership units 16 through 22 and 28 through 31, millings must be maintained by the developer and owners to a level that ensures access by emergency vehicles in all weather conditions until full improvements for Mary Jane Boulevard are installed. Again, the statement in green was added after Memo #2 to clarify maintenance requirements. The applicant would like to begin construction before Mary Jane Boulevard and Killarney Way are installed. City Fire stated that that they must have emergency vehicle access to the site during construction. City Fire agreed that 20-foot wide millings in place of Killarney Way and Mary Jane

Boulevard would provide adequate emergency vehicle access prior to construction. Specific townhome ownership units are referenced in each condition. Some of the units require access from Killarney Way and others require access from Mary Jane Boulevard so they are broken up accordingly. These conditions of approval are recommended to bring the project into compliance with Fire Code and to ensure there is not a significant adverse impact on the safety and general welfare of the community during construction. And condition #7 states the improvement plans for all alleyways shown on the Site Development Plan in the application packet shall include provisions for restricting parking on both sides of all alleyways in the form of installation of no parking signage subject to the approval of City Engineering prior to zoning compliance approval of the townhome exemption declaration. This condition is necessary to ensure alleyways will be unobstructed for the use of emergency vehicles. Condition #8 states all townhome units' structures shall comply with International Fire Code subject to review and approval by City Fire prior to building permit approval. For structures measuring 30 feet or less from grade to top of parapet or 30 feet from grade to the eave line. A seven-foot clear area for City Fire ladder access shall be provided to the structure. For structures exceeding 30 feet in height the following standards shall be met. A, structures shall be located within 15 to 30 feet of an aerial fire apparatus access road and must be parallel to the access road in order to comply with International Fire Code. And B, the aerial fire apparatus road shall provide a minimum unobstructed width 26 feet exclusive of shoulders and shall not be obstructed by overhead utility or power lines located between the access road and the structures in order to comply with International Fire Code appendix d. Currently, all the proposed structures comply with this condition. This condition essentially limits the height of buildings that are not within 15 to 30 feet of an aerial fire apparatus road. Per the site plan, Killarney Way and Mary Jane Boulevard meet the definition of an aerial fire apparatus road but the alleyways do not. Many of the structures will not be located within 15 to 30 feet of Mary Jane Boulevard or Killarney Way. Fire can effectively fight fires to these structures if they are 30 feet or less in height where the eave intersects with the wall. While all proposed structures currently meet this requirement, the site will likely be redeveloped in the distant future. Individual property owners may also choose to modify their structures over time. Conditions of approval are easy for staff to locate and enforce so staff recommends this condition as it will help future planning staff ensure redevelopment and building modifications comply with the International Fire Code. Staff recommends approval of the townhome exemption development conditional use request based on the findings of fact in the staff report, subject to conditions of approval as amended, or as shown in Memo #2 and amended by City

Council on November 9, 2020. And that was amended today because fire did request that extra clarification about who is responsible for maintenance of the milling street construction. Thank you.

Mayor Engen said, thank you, Ms. Tripard. With that, would the developer or the developer's representative care to make any remarks? Mr. Kaufman.

Nick Kaufman, WGM Group, said, thank you, Mr. Mayor, members of the Council, it's nice to see you this evening. Cassie, thank you for the presentation. I'd like to show you about 16 slides as part of our presentation, Mr. Mayor.

Mayor Engen said, give or take.

City Clerk Rehbein said, okay, Mr. Kaufman, you should be able to show...

Mayor Engen said, apparently, we lost you, Mr. Kaufman. Are you still there?

City Clerk Rehbein said, Mr. Kaufman, you've been promoted to panelist so you can show your slides.

Mayor Engen said, perfect. Mr. Kaufman, you're muted. Mr. Kaufman, are you still there?

Nick Kaufman, WGM Group, said, I'm still here. Wonderful world of technology.

Mayor Engen said, nope, no worries at all. I just wanted to make sure we hadn't lost you.

Nick Kaufman, WGM Group, said, tell the truth, Mr. Mayor. Thank you very much, members of the Council and Mr. Mayor. The City of Missoula does a very thorough and exceptional job. This project has been around for almost a year and four months now. I want to thank Development Services and particularly Mary McCrae and Cassie Tripard who gave you the staff report. Also, Parks and Recreation, City Engineering, Troy Monroe and City Fire Department, Dax Fraser. So, Hellgate Village, as we proposed it back in, excuse me, May of 2019, this is an illustration of one of the common areas.

Mayor Engen said, Mr. Kaufman, we are not seeing your illustrations.

Cassie Tripard, Development Services, said, see if you can share a screen. If not, I have a copy of his presentation which I can run.

Mayor Engen said, well, let's do that, Ms. Tripard. Thank you.

Cassie Tripard, Development Services, said, you're welcome. Let me just find it.

Mayor Engen said, we always have a Plan B, Mr. Kaufman.

Nick Kaufman, WGM Group, said, say it again, Mr. Mayor.

Mayor Engen, said, we always have a Plan B.

Nick Kaufman, WGM Group, said, you know, success in life is measured not by how well we implement Plan A, Mr. Mayor, but how well we execute Plan B.

Cassie Tripard, Development Services, said, and, of course, it's not loading up very quickly.

Nick Kaufman, WGM Group, said, I think maybe we'll try this without slides this evening.

Cassie Tripard, Development Services, said, oh, there we go.

Mayor Engen said, thank you, Cassie.

Nick Kaufman, WGM Group, said, thanks, Cassie. You're a lifesaver. I really appreciate it. So, look at this slide the second time so many thanks to the City of Missoula and their staff for this project. Can I have the next slide please, Cassie? This just shows you who worked on this. I'm the Senior Planner. Jeff Smith is the Professional Engineer. Justin Hover is the Project Engineer. And Kate Dinsmore, our Landscape Architect worked on this. Next slide please. So, the project is located on the east side of Hellgate Village, kitty-corner from the school, south of Pleasant View and west of Hellgate Meadows which we did in 2002. This slide shows you 44 Ranch which we're bringing final plats for at this time in Heron's Landing, which you approved two months ago, which soon we'll bring in a final plat. So, we're giving our best in the private sector to help with providing housing. In this case, owner-occupied option housing. Next slide please. The developers were David Edgell and Wade Wright and they combined forces to make HEH. They both developed homes in Hellgate Meadows. David Edgell was actually a partner of Hellgate Meadows so they're very familiar with the area and do very quality construction throughout the Missoula community. Next slide please. So, the designers for this project were Opticos. Opticos is an exceptional design company that keyed the term missing middle housing to help address the housing crisis across the United States and as it is manifested in our own community, Missoula, Montana. For duplexes and triplexes, fourplexes, townhomes they've done an exceptional job with this. When David Edgell was a partner to Hellgate Meadows, they used Bill Lennertz who are the contemporary quality single-family affordable housing designers at that time. This, however, is 2019 through 2020 and Opticos contemporary design is necessary to bring quality development to these important 8-1/2 acres as part of Missoula's future housing stock. Next slide please. So, we've taken a number of steps, Cassie talked to you about planning and zoning as subdivision review, all of which have happened. We're phasing this. The conditional use you're looking at tonight is for Hellgate Meadows East of Mary Jane Boulevard. After the first of the year, we'll submit another conditional use TED for townhomes west of Mary Jane Boulevard. Next slide please. So, as we showed the community and our neighborhood meetings and the City Council is going through subdivision and zoning review, this is an artist's rendering of what the development would look like once completed. We're again working on Hellgate Meadows conditional use townhome exemption development east of Mary Jane Boulevard in this location and we'll bring this one in after the first of the year. Next slide please. So, this is a colored rendering down view of the aerial view of the proposed project. Single-family detached are in yellow. Multi-family are in the colored...you can see some of the common areas throughout the project that the

homes front on is about 4/10ths of an acre of common area here. Also, cash-in-lieu and requirements for a larger park is part of the development agreement. Next slide please. Another artist's rendering. No bleak view this time. Gives you a little closer look of what we imagined and showed the public and what we're proposing is very, very close to what we illustrated a year ago. Next slide please. So, the infrastructure and phasing, street, sewer and water are...have been approved by City Engineering and O'Leary Street has been constructed but for the paving. The right-of-way has been dedicated. You saw Jeremy Keene in his presentation today and your letter of intent to accept the dedication of both O'Leary and Mary Jane Boulevard. So, things are moving in a well-planned fashion and in a timely fashion and we appreciate the City's participation and the developer's involvement in this effort to create housing in the Missoula community. Next slide please. Cassie talked to you about five lots so you approved this summary subdivision in October of last year. Here's Lot 1 and Lot 2 which are the subject of this conditional use. Three and 4 are separate lots and these are the housing developments proposed for them. And then Lot 5 will come in as Hellgate Meadows West at the first part of next year. 43 units on this side of Mary Jane Boulevard that's being reviewed for approval tonight. Next slide please. An update to Title 20. It was Title 19 in 2002 when we did Hellgate Meadows and rezoned all of this property that had a Master Plan for it basically updated that. Zoning allows for phasing in a consistent framework and reasonable setbacks and walkable spaces. We rezoned the entire 57 acres, not just the 8-1/2 acres which was subdivided as Hellgate Meadows and then the 3 units that are under the conditional use review this evening. Next slide please. Phase 1 and 2. Next slide please. Cassie showed you a colored view of what Hellgate Village East looks like. Next slide. A little close up of how those clusters work in this conditional use. Next slide please. So, we actually anticipate build-out and occupancy in 2021. Heather Harp asked me during LUP what I thought...what we thought the timeframe was and I thought it was two to three years. That's an accelerated...been accelerated. It looks like we'll build these 43 units out in 2021. Hellgate Village West, the other side of Mary Jane Boulevard are being worked on right now. And I want to spend just a minute, this is my last slide, Mr. Mayor. I won't show you the thank you slide because I thanked you twice...I was showing you the first...the second slide twice. So, fire protection during construction. We have to bring in concrete trucks, delivery trucks, trusses, all manner of sheetrock and building supplies so we can build these homes through the fall and winter. And to do that we need a structural road surface to do that. Cassie talked to you about those millings, so those millings will provide access for emergency services, be it ambulance and medical or fire protection during the construction phase prior to the buildings being occupied. This is just during construction. Later, Killarney and Mary Jane Boulevard will have to be paved before we can get

occupancy permits. So, we'll have full paved streets at the time of occupancy and temporary access roads for building construction and fire and emergency services during the building phase. That completes our presentation and we thank the City Council for their time and the public for their patience as we worked through this over the last 15 months. Thank you.

Mayor Engen said, thank you, Mr. Kaufman. Thank you, Ms. Tripard, for providing much needed technical assistance this evening. So, the public hearing will remain open until Council takes action. And at the moment I have no one in the audience caring to comment. Councilmembers have questions? No questions? Comments? Provided that they're relatively brief. Ms. West?

Alderson West said, thank you. I have a question on the conditions regarding the height. I don't think I have the most...I don't think I have access to the most up-to-date presentations so, Cassie, do you mind pulling up that language just so everyone knows what I'm talking about. But I was wondering if the conditions related to the height are also going to be required to be a part of the covenants and restrictions just so...I know that this is also for ease of Development Services knowing what the height of the restrictions are. But I think it would be great if the homeowners down the line also know what the restrictions are without necessarily having to come to Development Services so I was, yeah. Do you know if these are going to be included in those covenants?

Cassie Tripard, Development Services, said, currently, it's not and we would be looking at the TED declaration which, like I said, acts similarly while establishing the land. I hadn't planned on placing it in there but that's definitely something we can consider.

Alderson West said, yeah, if the applicant is, you know, agrees with this, I think it would be great for future owners. I know that, you know, I think a lot of dreaming happens before you go to Development Services if you're working on a remodel or an addition to your home and it's really great for people to know what their, you know, reasonable expectations are from the front end so thank you.

Mayor Engen said, thank you, Ms. West. Any further questions or comments? Alright, seeing none, we'll move on to our second public hearing. This is on Schmidt Road-Milwaukee Trail to Mullan Road Connector Public Trail Easement Open Space Acquisition. And with our staff report this evening is Mr. Carlton.

10.2 Schmidt Road- Milwaukee Trail to Mullan Road Connector Public Trail Easement Open Space Acquisition

The Missoula City Council held this public hearing open and will take it up under Final Consideration at the next regular City Council meeting on November 23, 2020

Grant Carlton, Open Space Program Manager, said, good evening, Councilmembers and Mr. Mayor. Can you guys hear me okay?

Mayor Engen said, we can.

Grant Carlton, Open Space Program Manager, said, I am going to forego the video because it has been hard on my connection so maybe I'll try it again in a moment. I'm going to share my screen if I can, pull up some maps. Can you guys see that?

Mayor Engen said, we can, yes.

Grant Carlton, Open Space Program Manager, said, alright, I'm Grant Carlton, Open Space Program Manager, City of Missoula Parks and Recreation. I am here to talk to you guys about the Schmidt Road Public Trail Easement Open Space Acquisition. We are requesting up to \$25,000 of the City's portion of the 2006 Open Space Bond for the purpose of a perpetual public trail easement and as well as applicable transaction costs. Just a quick note on the distinction between the 2006 Open Space Bond and the 2018 Open Space Bond. As most folks know and for those of you that don't, that...maybe out in the public, Missoula voters voted to approve an Open Space Bond in November of 2018 of \$15 million split evenly between the City and County, building on a legacy of open space bonds for Missoula dating back to the '80s. The previous bond was a \$10 million bond in 2006, split evenly between the City and County. We are requesting specifically from the City share of the 2006 Open Space Bond which has about \$83,000 and some change unallocated at this point. So, just as a sort of an accounting measure, we're trying to spend that bond and clean it up a little bit before we start...we already are tapping the 2018 bond but just to get that off the books. So, sort of the primary selling point of the Schmidt Road Easement Acquisition is its connectivity. It provides equivocal connection between the Milwaukee Trail and the Mullan Road and Mullan Trail. And if you can see my cursor here, this yellow highlighted property is the subject parcel. It's about 8-1/2 acres in total, owned by Delbert Fox and again, as you can see, it's bisected by what is an undeveloped portion of the Milwaukee Trail. And the ultimate vision is obviously extending the Milwaukee Trail, the highly used shared use path. And so, the developed portion of the Milwaukee Trail, which you can see down here, and I'm going to pull up a different map if I can. This is...if you guys can see that, this is a sort of inventory of Missoula's primary commuter trails. So, what we're looking at is the developed portion of the Milwaukee Trail here, if you can follow my cursor, and basically it...the property we're talking about is sort of towards the end of the developed portion of the Milwaukee Trail which sort of extends from the urban core of Missoula at its intersection with the Bitterroot Trail all the way out to the Clark Fork where it terminates now. And so, I'll have a more detailed map showing sort of ownership of where it ends but this is sort of just indicative of

Missoula...the community's investment in the Milwaukee Trail and its extension largely due to the Open Space Bonds that we've seen and the investment by other partners in the community. And so, yeah, so this project will just bolster those investments. That's a very important connection that will link the growing Mullan area with City-owned open space along the Clark Fork River, which I'll show you in just a moment, as well as to, you know, Missoula's urban core, businesses, hospitals, places of employment, schools, parks, etc. And...sorry, I'm having trouble bouncing back and forth here between maps. So, this is where the Milwaukee Trail currently ends, the developed portion. So, back in 2016 the City acquired the Kolendich property here, which will be developed and extend the Milwaukee Trail. Back in July of this year the Parks and Recreation Board approved a recreation management plan for the Clark Fork Islands' Nature Preserve which will have future trails out here on this island. There's more proposed trails out here. This is obviously an extension of the Tower Street Conservation Area, so this is sort of building on that momentum. I do want to talk a bit about...let me take a step back. So, the...we'll talk about the river stretch here in just a moment, but there's three other parcels left to be completed that will connect the Milwaukee Trail to the Schmidt Road property and onto Mullan Road. Those are owned...two of them are owned by JTL Group or Knife River and the other one is owned by the Klaus family. We have an easement on this portion here with Knife River. We also have a clause in an agreement that will basically create an easement along the Klaus property once it's connected to Mullan Road. So, essentially once we have the proposal, that Rick's talking about tonight, the Schmidt Road property secured, we will then only need to secure an easement or acquisition of one of these Knife River portions to complete this side of the sort of Mullan Road to the Clark Fork River. I've gotten a lot of really good questions related to this bridge. And like I mentioned, Missoula Parks and Recreation Board did approve a management plan here which does contemplate the extension of the Milwaukee Trail across the river. We did put out a call for bids on design and planning related to a bridge across these channels of the Clark Fork River. We did choose HDR Group for that. We haven't contracted with them yet but just to sort of preemptively address the extension here across the river, we haven't received any indication that that's not feasible or viable. We'll obviously have to undergo some resource assessments and ecological assessments. We'll have to deal with, you know, bank migration and erosion. This is a, you know, where the river opens up and starts channelizing so all that will be assessed but we again, we haven't received an indication that that's not possible. So, we're operating under the assumption that we will be able to cross that river with a likely very expensive bridge and that's the problem right now is that we're trying to figure out where those funds are actually going to come from. I think we can find them but that is sort of to be determined. While I'm talking about that,

I've also gotten questions related to, you know, why, you know, these portions here are not completed, why are we going out here and securing a portion over here that isn't going to be connected immediately. The answer to that is that we have a willing landowner. This is sort of an opportunistic capitalization, if you will, you know, as the Mullan area starts to grow, we're seeing increased land values, we're seeing property change hands and we've got a willing and ready landowner at the table and so we're jumping on that at Parks and Rec. This property is on the market, just to be clear, and I got word the other day that there is interest so again it's an opportunistic endeavor here. If I can, I just want to talk about again there is, many of you know, there's a larger planning effort going on in the Mullan area. We've got the BUILD grant secured between the City and the County and they are going through the Mullan Area Master Planning effort. This is a nice extension and is consistent with all the planning efforts that are ongoing out in that area. We're anticipating sort of exponential growth out in that area and so this is just a really, like I said, a really critical connection. And if I can go back to this, the Milwaukee Trail along with the Bitterroot Trail are basically Missoula's primary means for its commuter trails, as you can see here. There's, you know, many extensions off of those but the Bitterroot Trail and Milwaukee Trail are primary means of moving residents and visitors in a nonmotorized and sustainable way around our community. And so, extending those trails, specifically the Milwaukee Trail, is enumerated in essentially all of our open space and transportation plans, the Missoula urban area. This plan, the Missoula 2045 Missoula Long Range Transportation Plan, the Master Parks Plan and the Active Transportation Plan all sort of prioritize the extension of shared use path and commuter arteries and many of them specifically named the Milwaukee Trail as high priorities as Missoula grows. Let's see, I also just wanted to mention there is sort of a national effort called the Great American Rail Trail that aims at creating a corridor along the Old Milwaukee Road, along with some other portions of railbed from Washington, D.C. to Washington state and this is a segment right in the middle of that so it's consistent with sort of national efforts. It's consistent with local efforts and investments in the Milwaukee Trail extension. And just speaking to you the connection to Mullan Road and Mullan Trail, the County has invested significantly in the Mullan Trail, moving users to the west, as Missoula grows that way, so it's consistent with sort of efforts ongoing with Missoula County. Just a side note, I know I'm in preliminary discussions with the Airport about their stretch of the Milwaukee Trail so there's a lot of momentum that's sort of correlated positively to where Missoula is growing and again this just creates a very opportunistic connection that is sort of a missing link here, so I'm really excited about that. This project does come recommended by Missoula's Open Space Advisory Committee for funding up to \$25,000 and so that...let me just speak quickly to that \$25,000. That is including \$15,000

for the actual easement purchase and then up to \$10,000 for transaction costs related to due diligence works if we need to get a commission to survey, we've got some consultant fees from when there was a gap between my predecessor and myself and so I'm hoping to not use all that \$10,000 so that is an up-to request. And I wanted to keep it brief so with that, any questions?

Mayor Engen said, alright, thank you, Mr. Carlton. If your presentation is done, I will open the public hearing. Alright, we have no one interested in commenting this evening. This hearing will also remain open. Oh, I'm sorry, I do have one person.

Natalia said, hi, can you hear me?

Mayor Engen said, we can, thank you.

Natalia said, hi, my name is Natalia. I live in Ward 3 in Missoula and I personally use these trails a lot, the Milwaukee Trail significantly, and I know that my own brother lives out...down Mullan Road and I think that this would be a great opportunity for the City to expand accessibility, especially for bikers. I know many of my friends personally who have been hit by cars riding on streets in Missoula. I should not know multiple people who have been hit by cars riding on streets in Missoula and I think that this would be a great opportunity for accessibility especially for people who need access to places like Walmart. I know that that can be difficult for people to get to especially if you don't have access to a car, so I want to thank Grant, thank you for your presentation and I think that this is something that the City Council should consider seriously for accessibility in Missoula.

Mayor Engen said, thank you. Alright, seeing no other hands up for the public hearing, questions or comments from Councilmembers? Ms. Sherrill?

Aldersperson Sherrill said, thank you. Grant, I just wanted to say thanks for that presentation. I think that, you know, with all the...you pointed these things out but I just want to highlight them, with all the new development that is going out in that area, I think this is a great step in making those neighborhoods livable and, you know, commutable neighborhoods so I'm excited about that. Puzzles are not always put together, you know, in order so I think that we do need to be opportunistic in this and it's available and I'm all for it. So, I'm also excited about the furthering our transportation goals in the city, so thank you.

Mayor Engen said, thank you, Ms. Sherrill. Anyone else this evening? Alright, well, thank you, Mr. Carlton. Once again that public hearing will remain open. We have no additional hearings and you all took care of items of final consideration. Back in order, communications from the Mayor.

11. COMMUNICATIONS FROM THE MAYOR

Mayor Engen said we have a transparency challenge that is not self-inflicted with regard to officer involved shootings. While he appreciates the passion that folks have to ensure that our Police Department is accountable, which he believes it is, and the desire just to have more information, which he completely understands, today we have some legal obstacles to overcome and we want to ensure that for the sake of the officers involved and the family and the entire community, the process of the investigation is fair. So, releasing some details at this point have potential for prejudicing that conversation, that investigation and ultimately the outcome. It's very difficult to be patient and he recognizes all the frustration that has brought folks in City Council meetings and to the streets to protest and call for police reform and we are continuing that work but also, he said it continues to be important not to conflate every incident with some of what we've seen at the national level. If we were in that position, in this case, his response would be much different but based on what he knows, he is very comfortable with this investigation proceeding. He believes tragically the community is safer today than it was before this incident and the nature of this call would never have gotten a response from our Mobile Crisis Unit. All of that information will be forthcoming in due time. He asked people not to randomly speculate or make inferences without having any information or even limited information that has been provided. It's just not time for that and it doesn't help anyone so we will be continuing through the process and as transparent as we can, given the constraints. Chief White and Mayor Engen had a conversation this morning about what they might need to do in order to make sure that we can get this information out more timely and get resolutions. Everyone involved in these investigations and subsequent Coroner's Inquest are put through hell, whether it be the officer involved or the family member involved or friends and community members. The longer it takes the worse it is so we're working on that as well. We are not in control of all of this, as much as he'd like us to be.

12. GENERAL COMMENTS OF CITY COUNCIL

Aldersperson Harp appreciated Mayor Engen's comments tonight. Our whole entire community needs to put a pause button in terms of its concern around Mr. Kale Brown. Every one of us wants justice to prevail and that process of investigation takes time and patience on all of us. She's tried to be empathetic and put herself in the shoes of the family and the grief they are facing right now so her heart goes out to them and we are thinking about them and all of our law enforcement officers as well.

Aldersperson Sherrill also thanked Mayor Engen for his comments. This is a tragedy regardless of what the ultimate findings might be and she urged our community while we are grieving that they are patient. This needs to be done judicially. It is a tragedy on a lot of counts so please be patient. This isn't going to be solved tomorrow nor should it be because we need to take thoughtful, careful steps in investigation.

Alderperson Merritt said it turns out that hiring and training qualified individuals to participate on this team is somewhat time-consuming. She thanked AC Davis, at the Missoula Fire Department, the folks at Partnership Health Center and our partners at the County for the diligent work that has been going on over the past 2-1/2 months now to get the Mobile Crisis Team up and running. It's not something that just happens overnight. It requires qualified individuals to be part of that team and folks have been working very hard to get this up and running. She's very proud that we have the people who are willing and able to devote the time it takes to make something like this from scratch. As the Mayor said, the incidents that the Mobile Crisis Team will be dispatched to are going to be those that don't involve a weapon and that doesn't describe the situation that happened on Sherwood Lane on Saturday night. We do need to be careful about jumping to conclusions and we need to give the Mobile Crisis Team time to get up and running and show us what they can do. She has every confidence with the leadership that's involved that we will see much better outcomes from a lot of situations but not situations that involve weapons.

Alderperson Jones thanked Mayor Engen for his comments. These situations are really complicated and given this era and climate, especially after this summer of social unrest, there's a lot of attention paid to these types of incidences which is as it should be but there are different entities other than the City of Missoula that are doing full investigations into this, such as the Department of Justice, Montana Department of Justice and the Division of Criminal Investigations that does the full investigation which is a best practice to have a completely different entity evaluate and investigate the entire situation. As a result of that, we don't really have any control over it. She's received a lot of emails from people wanting a lot of information right now and it is nothing the Council has control over and that's exactly the way it should be so that there are impartial, neutral investigators that look at the entire situation. It's a sad situation all around but we have to be patient and let it unfold and that's going to be the way to get the best information.

Alderperson von Lossberg thanked Ms. Merritt for her comments around the Mobile Crisis Response Unit. He wanted to acknowledge that earlier in the agenda they had an item involving the Poplar Plantation and the Hybrid Energy Group and he wanted to recognize Tom Platt who passed away far too young and not that long ago. Tom was instrumental to that operation. He loved that operation very, very deeply. That operation did enormously good things for the river and the operation of the plant. Tom was one of those people who contributed so much to Missoula in so many different ways and really lived a life of innovation and deep compassion and empathy and dealing with tonight's item made Mr. von Lossberg miss him even more and just wanted to acknowledge him.

Alderperson Contos thanked Mayor Engen for his comments earlier, especially emphasizing patience and calmness.

13. COMMITTEE REPORTS

- 13.1 Administration and Finance committee (AF) report
- 13.2 Budget Committee of the Whole (BCOW) committee report
- 13.3 Committee of the Whole (COW) committee report
- 13.4 Land Use and Planning Appointments (LUPA) Subcommittee report
- 13.5 Land Use and Planning (LUP) committee report
 - 13.5.1 November 4, 2020 Land Use and Planning report
- 13.6 Parks and Conservation (PC) committee report
- 13.7 Public Safety and Health (PSH) committee report
 - 13.7.1 November 4, 2020 Public Safety and Health report
- 13.8 Public Works (PW) committee report
 - 13.8.1 November 4, 2020 Public Works report

14. ITEMS TO BE REFERRED

- 14.1 Administration and Finance committee referrals
- 14.2 Budget Committee of the Whole referrals
- 14.3 Committee of the Whole referrals
 - 14.3.1 LEARN Missoula Contract
- 14.4 Land Use and Planning Appointments Subcommittee referrals
- 14.5 Land Use and Planning committee referrals
 - 14.5.1 Referral – 601 W Broadway Riverfront Trail Development Agreement
 - 14.5.2 Trinity Mullan 2 Lot Minor Subdivision
- 14.6 Parks and Conservation committee referrals
- 14.7 Public Safety and Health committee referrals
 - 14.7.1 Fire Department Update - Crisis Response Unit
- 14.8 Public Works committee referrals

15. MISCELLANEOUS COMMUNICATIONS, PETITIONS, REPORTS AND ANNOUNCEMENTS

- 15.1 Administratively approved agreement report

16. ADJOURNMENT

The meeting adjourned at 7:58 p.m.