

**JOURNAL OF PROCEEDINGS
MISSOULA CITY COUNCIL SPECIAL MEETING
A JOINT HEARING WITH THE BOARD OF COUNTY COMMISSIONERS
NOVEMBER 16, 2005**

CALL TO ORDER AND ROLL CALL

The special meeting of the Missoula City Council was called to order by Mayor Kadas at 2:35 p.m. in the County Courthouse, 200 W Broadway, Room 201. Present were Alderwomen Crowley, and Kendall, and Aldermen Ballas, Childers, Engen, Floyd, Hendrickson, Nicholson, Peissig, and Reidy. Alderwoman Rye was absent. Also present were Acting Administrative Officer Bender, City Attorney Nugent, Finance Director Ramharter, and City Clerk Rehbein.

PUBLIC HEARINGS

Public hearing on special meeting with County Commissioners on a [resolution](#) adopting the Wye Mullan Plan as an amendment to the Missoula County Growth Policy ([request for action](#)) ([summary revisions](#)) ([additional amendment](#)) ([Links](#)) ([Draft](#)).

Will Snodgrass said, when you say you'll take comment and then handle questions, will those questions be from the public or amongst yourselves?

Mayor Kadas said, we will take public comment from the public and then we will take questions from council members. I don't think we are going to get into an ongoing debate or dialog.

Alderman Engen said, Mayor Kadas, my recollection is that if a council member were to try to return this to committee, this is an item for final consideration for us. I think it would require a majority vote to return it to committee.

Mayor Kadas said, okay, you're correct. If it's not a public hearing, if it's an item for final consideration, it will take majority vote to return it. So in that case, we just take that up when we reconvene after the Commissioners have taken their action.

City Clerk Rehbein said, point of order. This is a public hearing for the City Council.

Mayor Kadas said, okay, if it is a public hearing then one person can send it back.

City Clerk Rehbein said, and also Mayor Kadas says the point of order, please note that all the council members are present.

Mayor Kadas said, the clerk orders me that all the council members are present with the exception of Ms. Rye. Anybody else not want to be here? I apologize; I am going to be in and out a couple of time. If I am out when we need to take some business then Mr. Reidy will chair for the City. Since we're at the convenience of the County, the County will run the meeting. Thank you, Commissioners.

Chair Curtiss said, thank you Mr. Mayor. I know that City Council has much fancier mics and more of them, ours are on all the time so make sure you are careful of what you say. We'll have staff give us a little bit of back ground. The Commissioners – our process is different than the City's. When we had our joint meeting with the City, looked at the resolution – the Wye Mullan Plan – we then worked through Items #1-36 over a period of time and had an intent to adopt that way. I believe that's what the City has been working with. Today, will be considering whether to adopt the things that we've talked about and whether there would be any new changes since we last met. Laval, if you'd like – we have a portable mic there. Maybe Mr. Floyd could hand you that one. You can take that one too.

PUBLIC COMMENTS FROM CITIZENS (3-MINUTE RULE WILL BE ENFORCED)

Laval Means said, I'm with the Planning office – Office of Planning and Grants. We're here today to consider resolution to adopt the Wye Mullan Plan. This is just a few business items. There's a packet that the Commissioners have is the request for commission action sheet. And then you have with you, a repeat of summary of the amendment by issues that you have had before. And then another item at the back of that that

is the additional amendment issue # 36. What the City has in the packet will also be request for City Council action. These action sheets help provide a little background on actions, taking us to this point as well as an executive summary of the hearing dates and locations specifically in legal notification. There's also the recommended motions as a guide point for continuing to work through and getting us to hopefully some resolution here today. With that I will go through a little bit up the process. Our elements of outreach in this plan, and then just talk briefly about the plan, focusing primarily on the end result and those are mostly our land-use recommendations and some of the key strategies.

Chair Curtiss said, before you start Laval, I think I will officially open the public hearing for the County.

Laval Means said, our framework is to fit within the – as an amendment to and consistent with the 2002 County Growth Policy and the 1998 Urban Comp Plan being in accordance with the Montana Code Annotated Section 76-1-605. This all started for governing review process back in April of 2005 with our initial joint public hearing. That was based on consideration of the draft plan with amendments made during the Planning Board review. Public comments were received and issues identified. The County and the City reviews split into two processes from that point with coordination occurring through our office. Then I will describe some of the County Commissioners review process. The BCC continued its public hearing to April 27, 2005 and held several work sessions for detailed dialogue on those issues. Overall, there were 10 work sessions, five additional public hearings. During the public hearings, the Commissioners approved amendments to the plan. The BCC, just as a note for everybody and I will probably say this a few times, Board of County Commissioners considered the same issues as the PAZ committee for the City. To continue on, after considering public testimony suggesting over 30 changes, the Commissioners set a public hearing to consider the resolution of intent to adopt that revised plan. Public hearing was held on July 13, and the Commissioners approved a resolution of intent to adopt with amendments. This is what referred to as issues #1-26 in the summary of amendments by issue. The Board of County Commissioners review process continued – it stayed on hold for a while, while the City PAZ Committee was continuing to review issues. Then by mid-October when another group of issues were identified as differences in the plan between the City Council PAZ Committee's review and the Commissioners. The Commissioners held additional public administrative meetings and made additional revisions to the plan based on those PAZ recommended amendments. That's referred to as issues #27-35 in the summary of amendments by issue. The BCC set a final public hearing date of November 16, 2005. The draft document was prepared showing changes made throughout the governing body's review process to date, November 3, 2005. You all have that packet, planned document, dated November 3rd before you. Additional BCC consideration: PAZ continued to review the plan and had an additional meeting on November 9th and recommended an additional amendment. This is an amendment that the City Council – PAZ Committee has already recommended but one that the Commissioners would need to continue to consider. That is referred to as Additional Amendment #36. So over onto the City Council review process: City Council continued its public hearing to April 25, 2005 and sent review of the plan to the Plat Annexation and Zoning Committee, what I've been referring to as PAZ for detail dialogue on issues. Overall, PAZ Committee held 18 meetings with this plan on its agenda. During PAZ meetings, amendments were made to the plan, four addition public hearings were held and PAZ considered the same issues as the Board of County Commissioners. By about the end of October, PAZ had completed review of most of the issues. We developed a draft document that showed changes to date, being November 3, 2005. The summary of amendments by issue identifies all the amendments up to November 3, 2005 and those are issues #1-35. PAZ continued consideration of the issues to November 9th and completed its review of the plan on that date. They recommended an additional amendment to the planned document and that is referred to as Additional Amendment #36. On October 27th the Mayor set a special meeting for the purpose of holding a public meeting and considering a resolution to adopt the plan. That is what brings us to this date, November 16, 2005 with the final joint public hearing. Today's consideration is a resolution to adopt the Wye Mullan Plan as an amendment to the 2002 County Growth Policy with amendments. The summary of amendments by issue that are #1-35. These amendments are reflected in the draft document that you have out there. These same amendments are being considered by both the City and the County. So to this point except for the issue #36 we are looking at the same document. I would also want to point out that not all issues resulted in amendments to the plan so while there may have been a longer list of issues that council and the Commissioners have worked hard at trying to consider, they may not have resulted in a change to the plan so our amendment list is a little shorter than what all the issues that have been considered are. You have the additional amendment #36 that I referred to and then consideration allowing us to make the additional corrections to allow for consistency, proofreading, clarifications, etc. for final development of the plan and the land-use map as amended, any additional amendments as a result of public comment that you may here today. Outreach on this plan after the point of Planning Board's review. That plan as amended going to governing bodies included several different aspects. We revised a document dated March 15, 2005 and that was really with the starting point of council and

commissioner review. We held another community meeting on March 15, 2005. We did a revised document that you have before you from November 3rd. We did a broad-base mailing to all property owners in the plan area that occurred back in March 2005 letting citizens know about the community meeting as well as the April 11th joint public hearing. We have done another broad-base mailing that occurred in November letting citizens know about today's joint public hearing. Missoulian Legal Notice was placed announcing the meeting. Press releases inviting all the media to participate were sent out. Continuation of hearings to specific dates announced at each public hearing until the hearing was closed for the City and resolution to adopt occurred for the County. Ongoing update to the OPG Wye Mullan website occurred. City Council committees and Board of County Commissioner published agendas would place Wye Mullan Plan issues on those agendas. There was an ongoing acceptance of oral and written comments throughout this process especially if new issues were raised or expert comment on already established issues were brought forward. Ongoing email to interested parties tracking review of the plan occurred through our office as we collected emails and address for folks. So that's the numerous ways that we've continued to work on Outreach in this planning process. To the plan specifically: What the plan does is an important reminder for what it does and what it doesn't do. It revises a land-use designation for the plan area. It communicates the community's vision for growth and change in this plan area over approximately 20 years. It sets policies and recommends planning directives. It provides detail to the Growth Policy. It provides guidance for design and review of subdivision and rezoning proposals. What the plan doesn't do is, it's not regulatory and it does not change zoning. It is not the sole criterion for subdivision or rezoning recommendations and it does not set budgets or mandate implementation. The plan area context; this is a project area of approximately 13,000 acres with in the context of the larger urban valley. It comes around the Reserve Street corridor on the west side, the Clark Fork River along the south edge, up towards Deschamps Lane on the west side, around a tight area around the Wye Commercial areas, along Highway 10 or West Broadway for the north boundary, and then up and into where Westview Village is – kind of coming up to the interstate intersection with the Reserve Street corridor. Key features in this plan area include the Clark Fork River, Grant Creek, Laval Creek and Butler Creek as some of the main creeks in the plan area, the Missoula International Airport, Reserve Street and its region/commercial corridor, the Wye, and then Mullan Road that runs through the middle of the plan area to some degree. Estimated population for this area in 2003 was 6,709. An estimated housing unit was 2,388. Build out based on the recommended land uses to date is for a potential of 10,500 new residential uses. This process needs to cover a lot of different aspects and a lot of input from a lot of different sources. This is to kind of highlight how the process is informed. It's informed by the community wide adopted goals and policies, neighborhood input, the land owner input, existing zoning, existing development pattern, existing and planned infrastructure, the multiple school, public safety and political jurisdictions as well as agency comments. Checking on some of the higher prioritized guiding principles from the plan with the plan recommendations. It's always nice to look back at what were we striving to do when we first established planning, guiding principles with the neighborhood at some of our earliest workshops. In doing that, some of those main principles higher prioritized were preserve natural resource areas. We do that through consideration of the open-end resource and cluster land-use designations, design guidelines in this plan and strategies. Providing for a mix of use residential and other that combine to be neighborhoods and fit with the existing character is another principle that was established early in this plan process. We do that through considering variety of land uses and design guidelines, encouraging nonmotorized connection among neighborhoods that occurs through the potential parks and trails map, showing some potential trails, as well as the transportation strategies. Strategically located and cluster local commercial; that can occur through the commercial land-use designations as well as the tool of the neighborhood center indicators that are placed throughout this plant area. Manage and build infrastructure systems strategically and collaboratively; this is considered with a refinement to the collector street grid for this area, the recommendations for build out infrastructure plans, detailed mapping of the proposed and dedicated future roads, and other transportation strategies. All of that brings us to the land-use recommendations, land-use map the way it is after the governing bodies review. I will highlight some of the areas but not do a real specific brush through everything. The open end resource is a land-use designation that is used in sensitive areas or as a link between resource areas. You see that along the Clark Fork River floodplain, along the edge of the Clark Fork River for some steep slope areas, for some open space linking areas, along the old Milwaukee and in other floodplain riparian drainage areas. You will also see it with the Grant Creek system and for where we have conservation easements. The cluster land-use, which helps to balance the efficient used of public service with natural resource areas is an aspect that we've looked at along the southwest edge of the plan area, that we have as the transitioning land-use on the other side of the old Milwaukee, and that we have north of Rollercoaster Road. The range of commercial/light industrial and mixed us designations for business areas, primarily focusing on the Reserve Street corridor, really reflecting the kind of uses that are going on there already. The industrial land use around where we have gravel operations, we have it's along the Highway 10 corridor, we have shifts from more primarily highway heavy commercial to a commercial industrial to a type of industrial and then continuing with that concept with the commercial/industrial along the corridor of

Highway 10 and more industrial as you go further west beyond Highway 10 and between Deschamps – up to Deschamps Lane. We also carry that commercial concepts primarily around the south and eastern end of the airport. That does two things for us. It also helps to address compatible land uses with the airport flight path off of the existing runway. We have some commercial and industrial around the edge of the airport and then we transition, as we go further to the interior of the plan area, to the community commercial, and then to some mixed use land uses further away. You'll also see a little bit of light industrial to the south of the airport and then, as I mentioned, more over towards the northwest end. We used a neighborhood center indicator to help communicate the idea of establishing a focal point or a neighborhood center place within some of these land uses that are already established – or been recommended. For the range of residential uses, we have from 8 dwelling units per acre to 1 dwelling unit per 5 acres. We really run the range from higher density closer to Reserve and between Reserve and the Grant Greek corridor to a land-use designation of either 2 or 1 in areas where there's an existing strong development pattern already in place along the Mullan corridor and then 4 dwelling units in some other areas where it's established also like at the Elmer Estates. And then the rural 1 per 5, as you get towards the western end of this area's that are already within a 1 per 5 pattern and have many rural characteristics to them along the Deschamps Lane route. I've already talked a little bit about the neighborhood centers. The plan includes illustrations of potential parks that are a symbol again that continue around the plan area. I've mentioned the compatible land-uses with the flight path off the airport and then another land-use consideration was reflecting existing land-uses where change is not feasible. I mentioned that with some of these places where we continue to show either a 1 dwelling unit or 2 dwelling unit recommendation in those areas within the center of the plan area. So that gives you a quick run through our land-use designations. The next slide is what I was just talking about. Go on. What I have here is a slide that shows the same land-use that I just described but it places it in a context of our comp plan around the perimeter. It does have some property lines on here. We can just leave it up, cover it for a while so you can get back in place. We can leave that up and be able to use that as a reference in the future. Thank you.

Chair Curtiss: Thank you, Laval. So at this time we'd accept public comment on the plan. I think that most folks here have been to either or both the City's or County's work sessions and public hearings to this point. Probably other than Item #36, which the Commissioners haven't officially voted on yet may agree with things.

Diane Beck said, I'm a property owner in the plan area, not here representing any groups or organizations today, just an owner of 1 acre out there. First of all I would like to comment, this has been a long process. I think you've all heard me say that. My youngest daughter Emily was 2 when I attended my first meeting and now she's 10. I'd have her here today but she's at school. I want to thank Laval. Vicki Bostick said, I feel like we should clap after the presentation. It's been a long process but Laval deserves a lot of credit for maintaining a certain amount of civility. I'm attempting to try to keep everyone's interest at the forefront and on the table. I think there are still some interests or issues that need to be addressed. I think you're going to hear about that in a few minutes. I would just ask that each and every one of you pay particularly close attention to what property owners have to say. A lot of these people have lived in this area a lot longer than I have and have a lot larger interest in our neighborhood and in our plan. I think it's really important to pay close attention to their individual property rights. I thank you all for your time and your consideration and I hope that we can get something passed here before Emily turns 11. Thank you.

Bonnie Snavelly said, I'm the owner of Kona Ranch. I've sent a letter to Cindy Klette at the OPG, which has been forwarded to you today to ask that my property be accorded the same consideration as other properties and that certain certificates of survey, which are described in that letter are given a 2 dwelling units per acre consideration in the Wye Mullan Plan. Those particular parcels are adjacent to Elmer Estates and they abut planning densities of 4 dwelling units per acre and recommendations in this new planning area of an additional 4 dwelling units per acre and 2 dwelling units per acre. That is identified with a map that is highlighted in green and it shows those parcels. My particular holdings are a larger amount of acreage in this area and certainly it's appropriate to split the densities between the two different areas of my ranch. As a public body, I would ask you to consider that over the years my family has cooperated greatly with the County and with the City. In the 1970's, we actually gave land to Missoula County to allow Cody Lane to be paved, which is used by many people today. Our property originally went to the corner of Kona Ranch Road and Mullan Road. Many people drive that land today and it was originally part of the ranch. The second portion that we also cooperated with fully was in allowing land to be taken from Kona Ranch, which became Kona Ranch Road and went on to do the Kona Ranch bridge, which was to create a relationship between the Mullan Roan area and Big Flat. That road is named for the ranch because the land came from the ranch. I simply ask that I be given the same rights as anyone else to a corridor, which supports vehicular traffic well in access of anything that's been proposed by my planners or myself. Lastly, the thing that I did solely because at that point I was the only family member who still had ownership in the ranch,

I executed easements for the municipal sewer which was desperately needed to correct the situation which had occurred at Elmer Estates with the sewer system that failed – a community sewer system. I executed easements at no cost to the County for over 7,000 feet of liner sewer mainline to run through my property and with that easement, certainly understood that there would be additional density in the area served by the area that has 18 manhole covers as well as allowing me to plan responsibly contiguous to areas that were 2 and 4 dwelling units per acre in density. I also bear one of the highest burdens financially because of that RSID and have approximately a half a million dollars worth of encumbrances against my property. Again, working in common community is good. I would ask that what I had brought before these two bodies be considered in the same spirit and vein with which my family has approached working with the County and the City over the years. I trust that there will be – I think #36 were able to comment on later is that correct?

Chair Curtiss said, go ahead and make comment on that now if you'd like, Bonnie.

Bonnie Snavelly said, okay.

Chair Curtiss said, we haven't voted on it yet.

Bonnie Snavelly said, you will find that attached my letter are letters that have come from the Planning Group that I retained for my property, DTJ Design from Marci Vallejo who is a contiguous land owner to property that I own, from Jeff Crouch who is an architect with the Kibo Group and my letter, which is asking you to consider putting in a small scale plan destination resort area. The treasure that my property brings to this very diverse and large planning area is what exists along the riparian corridor. Please note that in my plan, in no way, did we put any structure whatsoever on any of the open space as was designated by the Office of Planning and Grants. That particular wildlife corridor as it was modified has my full support and endorsement. Presently, through another land owner, you have someone asking for a resort designation and breaking into that open end resource area. I beseech you not to allow that to happen. My land is certainly as valuable and I have a lot more of it. The property that they're asking to bring out of the open end resource area is the funnel that allows the wildlife to spill as it is constricted along an irrigation ditch and the Clark Fork River frontage. That is the corridor between Kelly Island and the island that is part of this Kona Ranch area. If you breach that funnel – if you breach that basket of wildlife, which is significantly abundant then I would submit to you, why are any of us engaging in a planning process. It simply does not correlate with where we've been.

Chair Curtiss said, thank you Bonnie. Anyone else who would like to comment?

Vicki Bostick said, I have spoken at the City Council meetings in regards to the plan destination resort designation quite a few times. I would like you to have the same comments that I have given to them for your consideration. In essence, my comments come from the fact that during this planning process there was never a plan destination resort designation ever made. I'm not – maybe there had been some other considerations that went way back to 1997 and I'm not going to say that I remember those or that that was part of it. From the time we began again in 2002 or whenever that was, this issue didn't ever come up. I feel that the timing is not right to add something at such a late hour to a plan that so many people have been involved in. So many people that have helped to make this what it is and to add something that has such a huge change in what we've already done is wrong. I do think that the language that speaks to – I think there's a good compromise with adding language that at least lets the plan know that it's been considered. One of my biggest fears is that right now there would be nothing that really lays out what that plan designation would be and how that resort would look. That greatly concerns me that we would add something to the map that doesn't have a better idea of what would be involved. Whereas the way it sits now, if it were just the language that mentions that it's been talked about then at the time that Bonnie were to bring something that – or anyone for that matter – that really has a total plan of what's involved, it gives all of the bodies a chance to really look at it and vote on something that they can see and know exactly what would be in the plan. So I ask you not to add that at this late time.

Chair Curtiss said, Vicki, could I ask you a question before you go back. You're saying that you've seen the language that we refer to as Issue #36 that talks about it being talked about but doesn't put the designation in. You're okay with that?

Vicki Bostick said, yes, I think it's a good compromise.

Chair Curtiss said, okay, thank you. Anyone else?

Will Snodgrass said, as you know the Rattlesnake coalition filed a federal lawsuit regarding the lack of an EIS, Environmental Impact Statement, on Wastewater Facilities Plan which is a very, very critical component of any development that would proceed out into the Wye Mullan area. Yesterday we filed another lawsuit against the City, State of Montana and the Montana Department of Environmental Quality alleging their failure to comply with the environmental rules of the road of the State of Montana known as MEPA, Montana Environmental Policy Act. Both of these lawsuits have a profound bearing on the Wye Mullan Plan. I'd like to remind those of you who have read Judge Malloy's decision in our federal case. Judge Malloy said that you cannot use anymore "tainted federal money" unless you comply with federal law. The Wastewater Facilities Plan on paper began as an \$88 million 20 year adventure. Using an amortization schedule or by way of obstruction, \$13.1 million upgrade to the plant grew to nearly \$20 million, therefore the \$88 million is going to go to something well over \$100 million. The finding of no significant impact for the Wastewater Facility Plan upon which you must rely if you're going to develop that area states that clearly that additional federal money will probably be required to complete this massive plan. You will not be able to get any more federal money unless you comply with the National Environmental Policy Act. Without going into detail I think it's suffice to say that there are faults in the federal decision that was rendered here. We had appealed to the 9th Circuit, the paper work is in and that case will be heard by the 9th Circuit Court of Appeals. The federal laws that apply to this process that you are engaging in are very clear. They require integration and the use of field documented scientific data that you don't have. They require an interdisciplinary team approach. Integration with the Wastewater Plan, you have Transportation Plan, which is utterly deficient. You're \$100 million short on that; that will require federal money. We are concerned about, what we perceived to be a terribly flawed "Master Plan." We are concerned about the violations of codified federal law with respect to public participation and a provision of documents. We are concerned about tampering with public records by the City of Missoula. I think that we're going to allege that and we'll be able to prove that in a court of law. We're concerned, with all do respect Commissioner Curtiss, about providing false and misleading information to the public at County Commissioner meetings, which you did. With all due respect, Bill, I'm concerned about your video taped remarks at the Mullan Road meetings that extend through this plan if you will, which essentially serve as an admission that you were willing to violate federal law with respect to the Planning and Wastewater Facilities. Barbara was innocently enough led into the writing of a letter, which requested federal funding referring to state orders and closures of wastewater facilities out in the west part of town when in fact no such order had been issued. That's not your fault, that the fault of the people who invited information for you. I'm concerned about documents signed by Ann Mary Dussault that are quite specious in my opinion. They get to the subject of environmental assessment that was written – environmental check list for grant monies for Mullan Road. She signed those documents. We're looking into falsification of records by the City and its agents. We're looking at, for example, the use of a shredder at the Wastewater Plant to destroy records. We're concerned about tampering with public records by city officials again.

Commissioner Evans said, Will, can I ask you – are you talking about the Mullan Road (inaudible) –

Will Snodgrass said, I certainly am, yes. What I'm trying to get to here, Barbara, is that this plan has moved forward. Whether folks are well intended or not in moving this forward, there are some very serious laws that have been violated. And that's what I'm trying to talk about here. Yes, I'm talking about the Mullan Road Plan but again you're not going to go anywhere and develop Mullan Road out to the Wye – the Wye Plan – without wastewater. I'm talking about integration of federal laws, transportation, wastewater, public participation, CFR-40. I'm trying to paint a picture here for you because this is going to go to court if you cannot bring yourself into compliance. We as citizens as a matter of public record have been asking since 1990, but certainly 1994 when Mayor Kemmis was in office. An Environmental Impact Statement be prepared to inform a decision to allow the public to know what would be the impacts of this massive development, most of which is hard industrial or light industry according to the map. If I may finish, Mayor Kadas has stated on the record that he refuses to do an EIS, but the City did an environmental impact statement for a mere small intersection in Missoula. I can abbreviate my remarks here and close them out. The 1974 manual for preparations of EIS's says, on page 32 – this is the original first manual done by the EPA. You will pay attention to air quality; this is a non-attainment air shed. At best it would be moved into a maintenance status or, it may never get off the list for particulate. Based on what's happening now scientifically and with the EPA. Subsequent EPA studies in 1978 clearly pointed to the need to do an EIS if you are in a marginal air shed. Page 32 said, if the air shed is marginal, you will pay attention to the affects of sewerage on subsequent development and diminishment of air quality. They talked about creating an irreversible air quality problem. In 1981 draft EIS for the Wastewater Facilities Plan, again, which relates to all the way out to the Wye said that an EIS was required. EPA said significant impacts. The '84 final plan said that an EIS would be done. None was ever done. There are over 200 Environmental Impact Statement documents for Wastewater Facilities Plan on file with the federal government. We're not asking Missoula to do something that is by any means, unusual. We're asking the City and the County to operate with a

state of respect and dignity for the people, especially the elderly and the children in this valley who will be impacted by that plan. It's a disclosure document. It's the very least that you can do for this community. If you are filed to have discriminated against anyone, not only the disabled, but any person or any group of people by denying an equal treatment to the law then you will not get federal money. That's a 14th amendment issue, which we've raised in our state lawsuit in terms of Article 2 Section 4, on equal treatment. I would urge you to put this plan on hold and sit down with the people in the City who have been so utterly reluctant to do an EIS and begin complying with the laws that you must comply with if you're going to get any more federal money. With that, I thank you.

Chair Curtiss said, thank you, Mr. Snodgrass. Anyone else who would like to make comment?

Arvis Wells said, I am a land owner in the area you're discussing and I also live just across the Clark Fork River in the big flood area. I've been there for about 20 years. I just want to comment on the resort designation that we were talking about a moment ago. I think that would be a really good idea. I like the idea of a destination resort there. I believe that it would help increase the value of my property. I would just like to go on record as favoring it.

Commissioner Evans said, what is your address, Mr. Wells?

Arvis Wells said, 2850 Big Flat Road.

Chair Curtiss said, thank you. I think I saw somebody else getting up.

Jeri Fisher said, I represent Yellow Stone Fly – three words. When I spoke before the City Council they made a request that I establish, for them, an easement. I'm not going to waste a lot of time on this but I would like to take a moment and show you where those easements exist. There are two easements that serve our property. One comes off of Mullan Road and it comes – this is Mullan Road, this is a portion of Elmer Estates. The easement you can see is a black dotted line across here that goes to our property and then goes further to serve other parts of the Kona Ranch; that is one easement. I'll give the City Council members copies of that court order. The other easement is on Amigo Drive; that was just recently recorded. It comes in on here – it's an unpaved road at this time – the judge's order is that we could pave it. It comes in, services here and either one of them can go over the ridge and go out the other easement direction. I just wanted to show you that. This first one is the Amigo Drive easement. This is the survey for it. This is the legal documentation. I didn't make a lot of copies of it because I didn't know if anybody would really be interested in it. The second one is the court order for the access off Mullan Road. If anybody else would like copies of that I would be glad to make them. I would like to make two requests. The first request is the removal of the open space park designation from the property in Section 17 that we own and Tracts 1, 2, 3, 4, 5 of COS-5797. The subject property is out of the 100 year floodplain, does not boarder the Clark Fork River, it fronts near the Frenchtown Irrigation District ditch. Our land-use planner, Nick Kaufman WGM Group, advised us that these are presently buildable parcels and it is our plan to build on them. Mr. Kaufman based his analysis on the following information; site is an elevated gravel terrace, it sits a minimum of 20 feet and more like 40 feet above the 100 year floodplain, its primary vegetation is knapweed, historically the site was used for abandoned farm equipment storage, there's no high ground water, and the site has excellent capability for development. The channel of water is managed to the benefit of the Frenchtown Irrigation District and the irrigation users. They have the option to do whatever they want to the channel, often putting a CAT in it to remove gravel and to clean the channel. The shore line is managed to the benefit of the irrigation users, not wildlife. Physically and culturally it's separated from the Clark Fork River system. It's a site that should be managed, recognizing the natural setting, making it idea for such uses as lodging, restaurant and/or residential. Performance standards could be worked out through rezoning and thus would be a use which compliments the wildlife. I guess I would like to add a little bit to that. This is no longer a state water. The State of Montana gave it to the Federal Government Bureau of Land Management back in the 1930's, I believe it was. The property that we own is an open field. There are a few birds as there are few nesting sites. The water birds that are there tend to be out on the islands. I would ask, where's the proof that this is a wildlife corridor, except people say so? Who so designated it and what are there qualifications? I didn't get answers to that. I took my own good planners, wildlife biologist and birders, and learned that this is probably not prime wildlife property. Most importantly, this is the thrust of what I'm going to say today. If the land is buildable, the governing body cannot destroy an owner's beneficial use of the property; in this case the value of the building lots. In our only meeting with OPG regarding this property, we were told, we do not want you to build on this property. Of course, government always has an option; condemnation with payment of market value. This clearly fits the provision of a taking as upheld by the US Supreme Court. That ruling provides you with the

means to remove our right to use the property either by agreement to purchase it or to condemn and purchase it at market value. We're not interested in selling to the public recognizing that you do have the option to condemn it and buy it anyway, but we request that you not take this option. Regarding the destination indicator – that is not a taking if you don't give it to us. I don't know what they call that; maybe a giving but that is not a taking. We request a small scale plan destination indicator on that same property and without a lot of restrictions at this time we would prefer to go through the process and bring something to the governing body that they can then say, this is acceptable and this is what you can do here. I guess the request, that it be taken out of the park and open space designation is my number one request.

Chair Curtiss said, Ms. Fisher, what is the current zoning? Is it 1 per 1?

Jeri Fisher said, 1 per acre on all of it. Thank you for your time.

Chair Curtiss said, thank you.

Barri Tennor said, I'm not a land owner but I live on the Kona Ranch. I've lived there for 9 years and have ridden the property, until recently, almost every single day. I may not have, I almost have, a degree in biology; however, I was a safari guide in East Africa for 3 years so I must have some knowledge of animals. That area that Ms. Fisher was talking about is part of the wildlife corridor. In fact, if you all went out there you would see how much a part of the wildlife corridor it is. It's not just for the deer that come up there but the whole island is filled with a myriad of birds. You can check with the Audubon count that they do every year. There are all different types of raptors; Bald Eagles, Golden Eagles, Hawks, Swanson Hawks that won't stay. The little birds will stay; they will stay in the trees and fly over. But the big raptors aren't going to stay at all. They get too pressured, too disturbed. I don't think that you take a chunk out of a corridor, a riparian area, and think that you're not disturbing the whole flow. From Kona Ranch down the Cody Lane, I believe that runs about 3 miles. The site, Section 17 that she's speaking of is about a mile into the ranch. The other problem is that yes the Frenchtown ditch is right there but I think it is – I think you have to see it to realize that it's more of a channel size. It's not a ditch, although it is the Frenchtown ditch. There are a lot of ducks that breed there. It just doesn't make any sense to me if you're really concerned about keeping a wildlife habitat to disrupt it right in the middle of the place. Is the land right now covered with knapweed? It is; it hasn't been taken care of in the 9 years that I was there. Does that have to be? No, it can be disked and replanted. No big deal. I think before you make a decision, you really should go out and see it for yourselves. Frenchtown does go over. They do drain. They use a CAT to move the gravel around at the back of the island. It's not every year they do that. It's every 2 years, 3 years, 4 years. It's at the back of the island. They shore up the cut-throughs by the channel but they're not there all the time. They are there for a one week period and then they go on. The pressure that they're putting on the wildlife over there is almost none, nonexistent. You probably should talk to Ed Alexander about it. That's all I have to say.

Bonnie Snavely said, Mr. Fisher pointed out two easements that are very much in dispute. The Amigo Drive easement has a federal easement on it which is for historic use only to Section 17. In addition, there is a physical constraint there that there's one point at which it's constrained down to 25 feet. In no way could that be perceived to be some sort of a traffic corridor. The property that she identifies to as being owned by the Frenchtown ditch contiguous to it – the ownership is there. I own, across the river, and I don't own the Clark Fork River, nor does the Frenchtown Irrigation Company own the Clark Fork River. Abstracts back to 1880 absolutely designate and define what she is referring to as Frenchtown Irrigation ditch as Clark Fork River. Any interference with that is going to require a bureau of reclamation the core of engineer's type of study. So you are not dealing with an irrigation ditch site. I think it's tragic that she's referring to this site – which is a beautiful site – absolutely a phenomenal wildlife corridor as one that is knap week and historically has been used for broken down machinery. Ms. Fisher's clients, I don't believe she personally has an ownership in this property. It certainly has not been disclosed through the courts. That property was purchased from my brother who is emotionally disadvantaged. Tragically he now is bankrupt with no funds and this war has been set off with the ranch. Aside from those issues, both easements are in dispute. I can tell you that the appeals run to the highest court of the land, the US Supreme Court. I also would tell you that in no way is there definitive access to Section 17. My property which is absolutely contiguous, sharing the same amenities is staying within an open end resource area out of respect for the treasure that this is to the entire Missoula valley. A numeration of birds in the area, annually the Audubon society does it's Christmas count and the species number of birds in that exact area usually range from the high 50's into the 60's. To my knowledge there hasn't been a count into the 70's. They will be out again this year about December 15th to do their annual count. Thank you.

Chair Curtiss said, just to clarify, easements and access to property are things that have to be proven to do subdivision; they don't have to be proven to do this plan. Other comments? Should we just close the hearing, I guess and have our discussion amongst ourselves. Mr. Reidy.

Alderman Reidy said, as the Mayor has left now, is it necessary for the City Council to stay in session while you are debating this?

Chair Curtiss said, probably not unless we want to have a dialogue amongst ourselves before we recess.

Commissioner Evans said, I would prefer that we just all visit and ask our questions as a group.

Alderman Reidy said, yes, but the question that I would really like to get to, is there anybody on the City Council that intends to send this back to committee? Is there anybody on the City Council going to send this back to committee? That would save a lot of time if we knew about that, if they are sending it back – Clayton?

Alderman Floyd said, I would be interested to know if City Council members willing to clarify and amend any language that's before us today? I think there is a couple of things looking into what we were provided by staff dated 11/4 that don't mesh with what my memory of what we decided. I confess that I had missed a couple of these meetings in October, so maybe some action was taken that I wasn't aware of. Back on page 11, of that document provided by staff, it speaks to the airport restricts land uses run way protection RPZ within the airport ownership. That's not a big deal. Which often extends –

Alderman Reidy said, Mr. Floyd?

Alderman Floyd said, sir.

Alderman Reidy said, I think we are going to turn it back to the Commissioners so they can go on with their discussion. If you want to bring this up further, you're welcome to.

Alderman Floyd said, you're asking whether I'm going to send it back. I think it depends on whether we're willing to amend this, if that is acceptable or not.

Alderman Engen said, Mr. Floyd, I don't speak for the Council but our process here is to discuss and amend. And you're in a position to propose amendments as necessary. Whether they will be successful is another question.

Alderman Reidy said, I'll turn it back to you, Jean.

Chair Curtiss said, thank you Mr. Reidy. I'll call again for further public comment either to say you like what you see, you don't, you have some question or whatever before we close the hearing and make amendments amongst ourselves if necessary. Any other comment? Mr. Snodgrass, if you're going to talk about the sewer, I don't want to hear it.

Will Snodgrass said, why wouldn't you want to hear about the sewer?

Chair Curtiss said, because you already said it.

Will Snodgrass said, that's not what I'm going to talk about.

Chair Curtiss said, okay.

Will Snodgrass said, I don't know if that's appropriate for you to say that or not. I would ask one of our City Council members to send this back to committee. I think some very serious questions have been raised here this afternoon by a number of people. That's my request of my City Council.

Chair Curtiss said, thank you, Mr. Snodgrass. Any other public comment on the Wye Mullan Plan? Close the hearing for the County. Did you want to close if for the City at the same or do you want to recess?

Alderman Reidy said, what's the consensus of the Council? Do you want to recess? Let's close the public hearing.

Chair Curtiss said, so the hearings have been closed. Now we would like the opportunity to debate amongst ourselves. I know the Commissioners haven't – we didn't take action on amendment #36 that PAZ had...because we felt it didn't have adequate public notice for us to do so after you had done this on the 9th. So this is the one that's the revision to the language in the neighborhood chapter in regard to the things that Ms. Bostick referred to. The proposal would be to, on page 3-12, to insert after the first paragraph under Potential Neighborhood #8 Kona Ranch area; that a planned destination resort land-use designation was proposed in the vicinity of the Clark Fork River and the Kona Ranch Road. We decided to strike the words that were earlier presented to say, "By a local land owner" and just say, "Late in the planning process" because there is interest for more than one. The concept introduces unique elements not otherwise included in existing land use designations that may provide additional amenities to the area and enhance its character. The concept also presents concerns related to potential traffic impacts to the Kona Ranch Road, impacts to natural resources along the Clark Fork River and impacts to the surrounding neighborhood areas both inside and outside the plan area. More specific information is required before a plan destination resort land use designation can be defined adequately, analyzed for appropriateness and located in the plan area. Such information is typically presented in detailed applications for special zoning districts and development proposals that address scale, context, location, use and other elements that may affect natural resources, transportation and other infrastructure, public services, neighborhood character and other values reflected in the plan. This plan does not create a plan to destination resort land-use designation, however, if such a development application is made it will be considered by the City and the County governing bodies based on an evaluation of its merits and the context of goals and objectives adopted in the plan. I know that PAZ has already considered this language. Are you okay with striking "by a local land owner" because there is more than one? Mr. Floyd, oh – go ahead.

Alderman Reidy said, (inaudible) I would defer to you.

Alderman Floyd said, actually, Commissioner Curtiss, I think to be accurate; this is the first time that we've seen this language. What we accepted in PAZ was language that simply directed that staff would develop additional language and that we were willing to entertain the concept of a plan designation resort – destination resort rather, within the Wye Mullan. I think this language that you just read goes quite a ways beyond what we considered in PAZ.

Chair Curtiss said, it probably adds some of the concerns that we had. Let's discuss it. Are there things you like or don't like?

Alderman Floyd said, personally I think the last sentence in paragraph 1, the concept also presents concerns related to. Part of the discussion in PAZ was, it would be difficult to determine potential impact because it depends on scope and size of the project because you can probably make an opposite statement to the affect that if it were small in scale it would probably represent less impact from a vehicular stand point than the allowed potential residential build up.

Chair Curtiss said, so Mr. Floyd, I think that's why we put it "presents concerns" because we don't know for sure what the impacts will be because we don't know what we're looking at. We don't know the scale.

Alderman Floyd said, if that's really the intent I'm hearing then that's not a problem. But I think the concern was that when we've used language like that in some of the other discussions we've had with regards to wildlife corridors and that, we want to be clear that that doesn't become a lever against that kind of development. I'd rather look at it at the time of application.

Chair Curtiss said, that was our intent with this too.

Alderman Floyd said, okay, good. Thank you.

Chair Curtiss said, Mr. Childers if you could borrow the microphone.

Alderman Childers said, I think Clayton is correct and we haven't accepted this language and in the context of this joint meeting, I will move that the City Council accept this language including the amendment made by the Commissioners.

MOTION

To accept this language including the amendment made by the Commissioners.

Alderman Childers moved to accept this language including the amendment made by the Commissioners.

Chair Curtiss said, Mr. Reidy, you have a motion, I guess. We're going to break all the rules today, Jack.

Alderman Reidy said, discussion on Mr. Childers' motion? Any discussion? All in favor of Mr. Childers' motion, signal.

Alderman Ballas said, I was just wondering, I know we've had public comment but I'm not sure – our process is normally to ask the public if they –

Alderman Reidy said, yes, and you're absolutely right.

Alderman Ballas said, -- if they have any comment before we actually vote on the motion.

Chair Curtiss said, that's okay.

Alderman Ballas said, we're kind of marrying our two procedures.

Alderman Reidy said, I don't want to get in trouble. Comments from the public on this please.

Will Snodgrass said, before I comment, I need to know when was this language drafted? How recent is this language? Can someone answer this question?

Chair Curtiss said, since PAZ met on the 9th.

Will Snodgrass said, on the 9th.

Chair Curtiss said, it was dated the 10th, it came to that the staff worked on.

Will Snodgrass said, has this revision been made available in print here for the members of the public prior to this meeting?

Chair Curtiss said, yes, Laval is that correct that it was available out on the web as to the draft public document?

Unidentified said, was it included in this draft?

Laval Means said, it was reviewed with PAZ on November 9th where they motioned for including the language in the plan but asked that we take a look at its fit and form, if you will, within the neighborhood chapter section that was being proposed where it would go to establish a better fit for that language compared to the way it was written on the 9th. They approved the language with that ability for us to establish an appropriate fit for the language. That's the piece that you have before you.

Chair Curtiss said, when was it made available to the public? I noticed that Vicki nodded. So it was out on the web?

Laval Means said, initially it was the language that we've had from November 9th. When I prepared packets for the Council, which was last Thursday I think, you had it in there already. You had that language. About that same time was when it would have been placed on the web. Attached to the agenda maybe for the Council. So in all of those different places.

City Clerk Rehbein said, this has been posted on the City's website when we posted the packet for this meeting on Monday.

Will Snodgrass said, not everyone has the internet and the Montana Codes make it very clear that posting something on the internet is not sufficient public notice, so technically speaking, because this document has not

been provided for the general public, is the document here in print form for the general public? It has been distributed? Was it distributed at this meeting or before the meeting?

Chair Curtiss said, it was available on the Web before this meeting and it was distributed—

Will Snodgrass said, was it available in print, that's all I'm asking.

Chair Curtiss said, yes.

Alderman Reidy said, any more public comment? Further discussion on Ed's motion?

Upon a voice vote, the motion carried.

Chair Curtiss said, so the Commissioners haven't officially voted on this, so what would be your pleasure, Ms. Evans? Would you like to—

Commissioner Evans said, Carey has heard my comments previously, so it's not a crime that he isn't here to hear them again; but I will say that I do support this language; I do not support a public plan to destination resort on the same road that crosses the bridge to the Big Flat. The reason for that is across the river, it's rural, and it's County. On the north side of the river, it may someday be City. But that will still likely leave us with the County on the other side of that bridge, and I've been here long enough to remember when the bridge was put in and the anger of the folks that did not want that bridge, didn't want it at that location, and do not want additional traffic out there. I recently was on that road; I do not think it would be a good idea to have a planned resort destination right there; I have no problem with a destination resort, I just don't want it there so that everyone who stays at the resort will think it would be nice to take a drive in the country. I don't want commercial on the north side of the bridge, and very rural on the south side of the bridge. I believe that the language still leaves room for that discussion at some future time, if a plan is brought to us to look at. Same thing if it's yours by that time. If a plan comes to you, and it makes sense to you, I would ask you to listen to the folks across the river, because they will live right across the river, and it may be your land that you'll be making the decision on, but I think that the folks would not like it, and I strongly support this language because it's middle of the road, it gives the landowner's the opportunity, but it still expresses that there are concerns. So I would move that we adopt this language.

MOTION

To accept this language including the amendment made by the Commissioners.

Commissioner Evans moved to accept this language including the amendment made by the Commissioners.

Chair Curtiss said, any discussion? Any public comment?

Upon a voice vote, the motion carried.

Chair Curtiss said, so I think the two other issues that we haven't—the City and the County haven't addressed in the plan are the density issue that Mrs. Snively brought up today, and I know some of us have had these discussions previously, so I'm just seeing if there's any interest in bringing them up again. The other would be the open and resource designation on the property owned by Yellow Stone Fly down close to the river channel or ditch. Is there anyone that wanted to bring that up for discussion?

Alderman Floyd said, when we had this conversation in PAZ, Ms. Means was asked and answered that because if it were to remain and resource would not preclude the development of the land, it could be—an application could be made to rezone and I believe I remember that you said yes, it could.

Laval Means said, I said that they can make an application for rezoning, reviewing criteria on that application would have to be considered in looking at what the land use designation as well as all of the other considerations for rezoning would be a part of that.

Commissioner Evans said, could you tell me the acreage of the piece of land that they're referring to, please?

Laval Means said, I believe it is 3.2 acres, the piece that Ms. Fisher's referring to.

Alderman Nicholson said, Ms. Snavelly's been in front of us several times on request of what to do, and has garnered very little attraction. This request is a modification of what she asked for earlier, where she wants a portion of her property that abuts the sewer line to be changed from one per acre to 2 per acre, which by the way, happens to be adjacent to something that's already out there at four per acre. So I think it's a reasonable request and it's not a very large component of what we're talking about here. So I would like to amend the plan to put that into effect.

Chair Curtiss said, we did have some discussion about this amongst the Commissioners this morning with staff, and we actually have a proposal that we think might be acceptable. I have copies, I let Mr. Carey—

Commissioner Carey said, I would move that we add language on page 7-8 of the plan, wording would be Cluster land use type, recommended uses and descriptions, insert the following language after the description of #1, residential density. For the area generally west of Elmer Estates and east of Kona Ranch Road between Mullan Road and the Clark Fork River, additional density could be considered up to 2 dwelling units per acre, based upon governing body review, specific development proposals and availability of sewer.

MOTION

To amend the plan to add language on page 7-8 of the plan, wording would be Cluster land use type, recommended uses and descriptions, insert the following language after the description of #1, residential density. For the area generally west of Elmer Estates and east of Kona Ranch Road between Mullan Road and the Clark Fork River, additional density could be considered up to 2 dwelling units per acre, based upon governing body review, specific development proposals and availability of sewer.

Commissioner Carey moved to amend the plan to add language on page 7-8 of the plan, wording would be Cluster land use type, recommended uses and descriptions, insert the following language after the description of #1, residential density. For the area generally west of Elmer Estates and east of Kona Ranch Road between Mullan Road and the Clark Fork River, additional density could be considered up to 2 dwelling units per acre, based upon governing body review, specific development proposals and availability of sewer.

Chair Curtiss said, thank you, Mr. Carey. So the paper being handed out to you, you need to add the words between "area" and "west," "generally" and before Kona Ranch, put "east of." I believe there's some copies, enough copies to hand back to the public. You may need to share, we could make copies if needed. What we were trying to do by this, and then I'll take some more comment is, to try and give some flexibility that property that's served by sewer, there may be some projects that could go up to 2 dwelling units per acre, but it didn't automatically make the whole Ranch 2 dwelling units per acre.

Alderman Reidy said, the Commissioners' position on this will have to be acted on independently with the Council.

Chair Curtiss said, Bill did make a motion—

Alderman Reidy said, if you want to go ahead and do yours, I'll open it up for ours.

Commissioner Evans said, I do want to second it and I have some comments. I've been here a long time, and I've seen numerous plans come in for the Kona Ranch. They have not all been the same plan. So it is possible that what you see or have potentially before you may change again and I don't care to vote on something that is not in its final form. I believe that this allows the flexibility for the Ranch and still gives the final say to local government, whichever one of us it happens to be, to look at the zoning and the density based on whatever kind of a plan is submitted to us for final action.

Chair Curtiss said, further comments from the public? This is an amendment being proposed to the cluster land use type.

Jeri Fisher said, I just have a question. What I'm understanding here is even though when we did 64 acres, put 25 lots on it, we were told by OPG that did not meet the open space requirements, even though it was so little density. This means that we can redo that to 2 per acre; is that what I'm understanding?

Chair Curtiss said, this means that additional density could be considered. It would be based on whatever the project was that came forward and the availability of sewer, which I believe you're—

Jeri Fisher said, we do have that. This was one of the concerns when we were made to redo Phase II, is we already had sewer. We could not have two more lots. I was concerned about then, and I probably will be bringing something to you.

Chair Curtiss said, other public comment?

Marci Vallejo said, I don't understand the final paragraph language. It says "for the area west of Elmer Estates and Kona Ranch Road." Does that mean the area west of—between—

Chair Curtiss said, maybe we should, and the Clark Fork River.

Marci Vallejo said, it sounds like it's the area west of Elmer Estates and west of Kona Ranch Road.

Chair Curtiss said, the paper that went out to you didn't put in what we've set up here. It says "generally west of Elmer Estates and east of Kona Ranch Road.

Marci Vallejo said, thank you.

Bonnie Snavely said, thanks for the clarification. With this what I believe you are doing is putting all of the Kona Ranch under 2 dwelling units per acre, and what I had requested is that it simply be between the boundary of Elmer Estates to the south, all of the way, and then only to area, the COS's that are impacted by the sewer lines on my property. So no further than Yellow Stone Fly. It would just go to my—what I call the eastern portion of my property; I was anticipating it would go simply to the western boundary of that, in the area that's not on the river, up on the bluffs. I think this one would actually promote that density throughout all the property.

Chair Curtiss said, just to clarify what our intent was with this language, is that the cluster would stay as one per one on the map, but additional density could be considered up to 2 dwelling units, so we didn't want to give 2 per acre to color the map that way, but when a proposal came in, probably not all of the ranch but some parts of the ranch could be considered for this. So we think that it meets what you're wanting to do, but it didn't put an exact line on the map.

Bonnie Snavely said, I appreciate that. What I'm now hearing is that Yellow Stone Fly is going to come back in for additional lots and re-platting to grab more density, if you will, rather than meeting a spirit of the property, so I would ask that you move it more to the east and to the south, just keeping it in what is much more of an urban quarter. My eastern plank is 2 dwelling units per acre down to the Cody Lane area.

Chair Curtiss said, this doesn't automatically give them 2 dwelling units per acre, but it could be considered.

Bonnie Snavely said, this places me back in front of a governing body again saying now the soft impact on the land that I had sought to achieve, I need to redo it, which is what kicked off a great deal of this debate several months ago, was would it come in through Yellow Stone Fly. Could we just sort of have this stay on the eastern portion of Kona Ranch and to the south to Cody Lane?

Commissioner Evans said, I support the language that Bill read and that Jean has clarified, and to me what it does is leave it at 1 per acre cluster, but you can come in with a project that might gain 2 per acre if it meets our approval.

Chair Curtiss said, anyone else want to make a comment before we vote?

Bill Wagner said, I represent Dougherty Ranch Limited Partnership and James D. Dougherty. Issue #25 is addressed on page 7-3, and that provides that the area within Zone A approximate floodplain would be treated in accordance with floodplain regulations, and not necessarily in accordance with the land use map as I understand it. In other words, floodplain regulations will control, and if there is a possibility that land is correctly categorized as floodplain, that it would nevertheless be considered for a higher or greater use than open and resource. Am I reading that correctly?

Chair Curtiss said, I know that you just walked in late so you might not know that we're voting on a totally different motion.

Bill Wagner said, when you said Public Comment, I was concerned about having the opportunity to address this for Mr. Doherty.

Chair Curtiss said, so what we're voting on is issue #36. Any other comment on issue #36? Mr. Childers?

Alderman Childers said, I'll be a public commenter on your issue. The language that you're proposing here, it doesn't specify to me exactly what you're planning to do and if, for instance, there were 100 acres in this, one-to-one zone and someone was going to do a development on part of that, and you okayed the development on that part as 2 per acre instead of one per acre, which chunk of property are we doubling the number of dwelling units on? Are you referring back to the original 100 acres or are you looking at a new subdivided piece of property and just looking at that?

Chair Curtiss said, does anybody have suggestions for a way to clarify that? Do we want it to say on the original parcel?

Alderman Floyd said, how about as "platted at the date of adoption"?

Chair Curtiss said, so you're saying, Ed, is that somebody could have a 100, break off a 50 and then—what number do we base the density on? The 100 or the 50?

Alderman Childers said, that's kind of it. "Cluster" means you can put all your 100 in the same acre I suppose, so I don't know how this language really would work.

Mike Sehestedt, said, as always on a short leash, essentially once you develop and use up your density rights and situation you have a 100 acres and you build a 100 units on 1 acre, it's a tall tower, you've used up all of your density rights for the 100 acres. We need to reflect that of record is a density transfer. Then you turn around and you've got your 100 units and your 1 acre and you turn around and sell off the remaining 99, there are no density units available for that; the purchaser is on notice at least constructively because the recorded utilization of those density rights and nothing else gets to go there.

Alderman Childers said, this language says that "additional density could be considered up to 2 dwelling units per acre." How do you fit that into —

Mike Sehestedt, said, essentially, you come in with a proposed offer, whatever parcel you own at the time, the density, the development is approved at that particular density for that whole parcel of property, and you're done. If you want to do 10 acres at 2 of your 100, you need to first of all divide that 10 acres and make it clear that that's all that you're utilizing. On the other hand, if you have 100 acres, you might put 200 units on 50 acres and have 4-per acre density and the remaining 50 open. The question of whether or not to approve that is with the governing body, and it really depends on the quality of the development. It think the purpose of this is to say, okay, we're adopting a plan, not a straight jacket; recognize that there may be areas in which increased density is desirable, and because of the amenities provided and the availability of sewer, we want the governing bodies free to be able to consider that within the confines of this plan. Does that make sense? I'm surprised.

Alderman Nicholson said, my intent of opening this subject up was if someone came in and had a development they wanted to put where the sewers are, they would indeed be able to in that area by itself, do 2 units per acre. What we now seem to be talking about is those 2 units per acre are going to use up rights on adjacent land. That wasn't necessarily the thrust of my question or my intent.

Chair Curtiss said, I think it's because the cluster requires open space.

Alderman Nicholson said, 45%.

Mike Sehestedt, said, actually, no. If the development area is proposed as a part of a total ownership we can identify that. Let's use the Kona Ranch as an example. Half of it has sewer available; half of it does not. If we leave it at one unit per acre clustered and say that the whole ranch is 100 acres, you have a 100 units, period. If Kona Ranch, and again, just using it for illustrative purposes, comes in with a proposal on the 50 acres that has access to sewer, and they say they have a plan there that meets all of the requirements of the cluster but gives us a density of 2 per acre; we have access to sewer; the governing body with jurisdiction could consider and say

yes to that without violating the plan. On the remaining 50 acres of the ranch, they would have whatever development units they had associated with that 50 acres, probably one per.

Alderman Nicholson said, that's what I think should happen, but I don't think that's what this says.

Mike Sehestedt, said, I think that's what the language—

Alderman Nicholson said, if that's the intent, then we ought to work the language over a bit.

Chair Curtiss said, so Laval or Cindy, since your office is the one that usually interprets the language, do you think this language meets the intent of what we are trying to get to today.

Cindy Klette said, in terms of how density is reviewed when development proposals are brought forward to our office for processing, we look at the parcel that is included in the development proposal itself. We calculate density in that proposal based on the land area in the proposal. I believe, in answer to your question, Chair, that yes, this does get at the heart of the issue that both you and Mr. Nicholson were speaking to. We would look at the parcel that is presented for development; we would calculate the number units that are proposed to be developed on that parcel, and we would find the ratio of those units to the land area in that development proposal and see if met 2 dwelling units per acre or one dwelling unit per acre. If it was 2 dwelling units per acre per the plan, it would be acceptable given other considerations that you would make in terms of meeting the values and the goals and objectives in the plan. We wouldn't be transferring density per se, 2 parcels that come forward for development review under this language in the plan, and we would be looking at every development in a proposal by proposal basis. If you were going to get into transfer of development rights, that's something that the plan could allow, but it would require legal transfer of development rights that are conferred by zoning.

Alderman Nicholson said, I just want to be sure: the land that is under the ownership of Kona Ranch but outside this initial development has a right of one dwelling unit per acre. That remains intact.

Cindy Klette said, the land that's currently zoned has a right per zoning. What this plan says, if you adopt this amended this language, is that there's a cluster-1 designation on the Kona Ranch property, but in certain circumstances you would consider up to 2 dwelling units per acre. Those would be reviewed, development proposal by development proposal, each on its own merit. If a development proposal came forward to you that was for the entire ranch, then you would look at the entire ranch land area, you would divide by the number of units that are being proposed in the development; you would see is it netting out one per acre or is it netting out 2 per acre. Either would be acceptable per the plan, depending on how you evaluate.

Alderman Nicholson said, either 1 or 2 for the whole ranch?

Cindy Klette said, according to this language, it would be, yes.

Chair Curtiss said, the 45% required open space wouldn't be available to be further developed at another date.

Cindy Klette said, what we would do is look at the land that is not developed, if it's part of the development proposal, and we would see that it is conserved through easement, common area, park land or other means.

Chair Curtiss said, so Barbara is suggesting that we might need to add after the Clark Fork River that is currently 1 per acre cluster; that's just in the plan that's it's currently 1 per acre cluster, isn't it? It's actually now zoned—is that needed? She thought it might clarify.

Laval Means said, I don't think it would hurt. We do have two cluster designations under that residential section. So it would help to clarify even further, besides the place-specific location we have on that that it's for this area that is at 1 dwelling unit (inaudible).

Chair Curtiss said, so Barbara, is that a motion then to insert that?

Commissioner Evans said, it's a motion to amend Bill's motion to insert that language and I would ask you to read the whole paragraph so it's clear what I'm saying.

MOTION

To amend Bill's motion to read: For the area generally west of Elmer Estates and east of Kona Ranch Road between Mullan Road and the Clark Fork River, that is currently one-per-acre cluster, additional density could be considered up to 2 dwelling units per acre based upon governing body review of specific development proposals and availability of sewer.

Commissioner Evans moved to amend the motion to read: For the area generally west of Elmer Estates and east of Kona Ranch Road between Mullan Road and the Clark Fork River, that is currently one-per-acre cluster, additional density could be considered up to 2 dwelling units per acre based upon governing body review of specific development proposals and availability of sewer.

Chair Curtiss said, so the paragraph would then read: For the area generally west of Elmer Estates and east of Kona Ranch Road between Mullan Road and the Clark Fork River, that is currently one-per-acre cluster, additional density could be considered up to 2 dwelling units per acre based upon governing body review of specific development proposals and availability of sewer. Is there further comment?

Alderman Ballas said, I just wanted to make sure that my concern is noted here. Part of the problem we've had is that the majority of the Kona Ranch is outside the sewer service area. There is some reluctance on some members of Council to expand that sewer service area, even though they have a sewer line running through that, but to expand the sewer service area to allow them to hook up to the sewer. So before they would have access to the sewer so before they would have access to the sewer we would have to expand the sewer service area in order to permit that, so I think your language recognizes that and I don't have a problem with it. The other one in Yellow Stone Fly; I believe, John, you can correct me, that they are under contract with the City allowing them a certain number of units that can be developed, and just because the zoning may change or something, they can't add more units without changing that development agreement.

Alderman Engen said, I'd have to research that, Jerry, I can't remember off the top of my head. I can't remember the contract—that's the contract for sewer and we'd have to have a look.

Chair Curtiss said, any further comment?

Alderman Floyd said, I'd like to piggyback on that one just a little bit because the sewer does run through Kona Ranch but nothing's hooked to it. It speaks to availability, and while historically we've never really denied hook-up to sewer once it is available, would then we be looking a potential for taking us there because it's designated in the plan and it's available but if we denied it.

Chair Curtiss said, I think it would be part of the governing body's decision is whether or not—the City's still going to have the right to decide whether or not they have sewer.

City Clerk Rehbein said, Mr. Nicholson, you have a motion on the floor that isn't the same as the Commissioners', unless you would, for the record, make a friendly amendment to accept the language that they've moved.

Alderman Reidy said, there's no motion in front of the City Council, Marty.

City Clerk Rehbein said, Don made a motion that—

Alderman Reidy said, do we make motions together there's one make a motion and we make a motion, we can't—

Chair Curtiss said, do you want to rescind yours until we're done, Don?

Alderman Nicholson said, I'd rather make a friendly amendment to yours that encompasses what—either way.

Chair Curtiss said, what was it that you wanted?

Alderman Nicholson said, I wanted two breaker and that's what we got. Just different language.

Chair Curtiss said, we will first vote on the amendment to the proposal, which is Barbara's language, to insert that it's currently 1 per acre cluster.

Upon a voice vote, the motion carried.

Chair Curtiss said, now we'll vote on the whole motion that has now been amended. So this is the Council voting on this, and then we'll give the City the opportunity to deal with the density. The Commission's going to vote and then the Council can.

Upon a voice vote, the motion carried.

Chair Curtiss said, so we have added—this would be #37.

Commissioner Evans said, I want to make it clear to Don that my motion does not automatically give 2 per acre. It's currently 1 per acre cluster designation. Unless they come in with the proposal, that would grant more based on the government's review and the availability of sewer.

Alderman Nicholson said, I have to ask then, what you're implying is that the 1 per acre is the controlling number of the whole thing? That's your intent?

Commissioner Evans said, yes.

Chair Curtiss said, but we wanted the flexibility.

Mike Sehestedt, said, I wanted to add something more for the record in response to Council query. I think sewer is available only if A) it's physically on the ground, and B) there's a legal ability to connect to that physical plan. So to clarify that, this doesn't automatically amend the sewer service boundary by any way, shape, or means, and that to have sewer available, the person with the pipe still needs to get an amendment to the sewer service area or other contractual arrangement with the City.

Chair Curtiss said, Jack, did you want the Council then to consider this new issue #37?

Alderman Reidy said, have you considered it yet? You voted on it. I have a point of order that I'd like to ask Mr. Nugent. Is this enough change to go outside the public hearings?

City Attorney Nugent said, no, Jack, this is part of the discussion that's been going on.

Alderman Reidy said, just want to make sure on that. Now we'll open to floor the motion on this then.

Alderman Childers said, I believe Don does have a motion on the floor. I don't think he accepted the Commissioners' language as of last listen. I believe we need to go with the Commissioners' language and if Don won't accept that, I will offer an amendment to do that. That's up to Don.

Alderman Nicholson said, I'll accept your amendment.

Alderman Childers said, so we are now considering the same amendment that the Commissioners just passed.

Alderman Reidy said, public comment on the motion? Discussion on the motion? We're discussing your amendment?

Alderman Childers said, we're discussing Don's motion which is now the same as the County Commissioners just passed.

Alderman Nicholson said, we're discussing your amendment to my motion which is the same as the County Commissioners.

Alderman Childers said, no, we're not. You said this is what it is, so that's what it is.

Alderman Reidy said, further discussion on the motion?

Upon a voice vote, the motion carried.

Chair Curtiss said, the only other issue that I heard today would be the proposal by the Representative of Yellow Stone Fly to remove that small piece of property, approximately 3.2 acres. Is there anyone on the Council or Commission that wants to propose that? Seeing none, I guess that's not something we want to consider. Are there any other issues that other members of the Council or the Commission heard that they want to bring up before we go onto these?

Alderman Floyd said, I started reading from page 11 on the 11/4 document that staff provided; highlighting the paragraph which is in the second paragraph, the sentence, rather, which often extends the airport ownership no residential development, churches, schools or similar development, of noise-sensitive use should occur. My recollection of what we agreed to way back was that—we had a significant discussion over the possibility of a second runway, the RPZ, the whole nine yards. My last recollection was that the RPZ would not apply to the density designated outside area-owned by the airport. In other words, the airport can do with their property as they so choose, but the private property owners adjacent to the airport, but not owned by the airport, or without contract or obligation to the airport would not.

Chair Curtiss said, the way I read it, it says: the airport restricts land uses within the runway protection zone (RPZ). The next sentence is talking about the 65 DNL. Within the 65 DNL noise contour, which often extends outside the airport, so this is talking about the DNL. Is that correct, Laval? The RPZ we don't say is off of their property.

Alderman Floyd said, I understand, but what that implies to me is that if they can demonstrate 65 DNL in—

Chair Curtiss said, actually it says, runway protection zone, I said period in the wrong place. It says within airport ownership. The DNL is done by studies that show where the noise sounds show up, according to a study. They can't make that up, it's done by a study that shows where the noise goes. Are you okay with that?

Alderman Nicholson said, I'm a little late getting to the page, but as I read it, it says to me in the middle of the paragraph: within the 65 decibel noise contour, which often extends outside the airport ownership, no residential development. That doesn't imply at all that the airport owns that land. Really the intent—

Chair Curtiss said, no, the airport owns the RPZ—

Alderman Nicholson said, the intent I think is, that they can do whatever they want on their land, but they can't imply a 65 decibel requirement on adjacent lands, for no development.

Chair Curtiss said, I'll have Laval clarify.

Laval Means said, there's been main components to our discussion of airport restrictions. One has been the RPZ, the other has been the 65 DNL noise contour, and then the concept of extended approach and departure areas. The RPZ and the 65 DNL noise contour have—it's been pretty clear that limitations to any residential inside the 65 decibel noise contour should not be recommended, and has consistently not been recommended. We have a land use designation of commercial and industrial for those areas and specific language in the land use type that says no residential. That's for the 65 noise level, and we have mapping of that information that comes from the airport. It would apply to the existing runway. I think that's—

Alderman Nicholson said, we have a 65 decibel line drawn on the map for the proposed new runway someday. I think that goes right smack over 44 Ranch which has 4 units per acre in it. I think we're—

Chair Curtiss said, we took those off, I think.

Laval Means said, no, the noise contour from the information that we've gotten from the airport, the noise contour for a potential second runway would be a lot shorter. It falls within the airport ownership, it's a different kind of use, and they show it to within the extent of the runway itself.

Alderman Floyd said, so they own the whole thing?

Laval Means said, I can bring up this map 6A4 to show you that.

Chair Curtiss said, Clayton, did you have another question?

Alderman Floyd said, no, that was it, because she mentioned the contour and if the contour was on their property no problem if it was coming off their property then—

Chair Curtiss said, for the existing runway, it's off their property, but for the potential second runway it's on their property, the 65 DNL.

Alderman Floyd said, just to refresh my memory here, the reason we allow that in our conversation is it was non-optional, it was under federal law.

Laval Means said, it is a clear point of comment from the FAA, about not recommending residential within the 65 DNL, or the RPZ.

Alderman Floyd said, I remember comments on my part that said there's construction technique you can use in building to diminish the sound effect, even at 65 DNL. So—that's fine.

Alderman Engen said, I thank you Mr. Floyd, for that statement. Actually, let's not beat it to death because we really did beat this one to death in PAZ to end up where we are. So I'm just going to ask you to trust me: you were fine with it.

Jeri Fisher said, as I understand it, you're going to take the piece of property that is a buildable parcel and put an open and resource designation on it, so I want to know: is the county going to start condemnation process on that?

Chair Curtiss said, that piece of property is currently still zone one house per acre?

Jeri Fisher said, correct.

Chair Curtiss said, unless you come with some other kind of proposal to change that zoning we won't—

Jeri Fisher said, it's not the zoning, but it's the land use plan. You are putting on it that it should be open and resource land, that's not residential use. Or any use. I want to know if, indeed, you are going to start condemnation. Because if it comes on it, we're not going to just give up that valuable piece of property. I'm just curious what the plan is here.

Chair Curtiss said, we don't have any plans to condemn it, no.

Jeri Fisher said, but you are going to leave that on there? I guess I'd like to ask your attorney what his definition of a taking is.

Mike Sehestedt said, since it's still zoned 1 per acre, if you come in with a proposal that meets the zoning, you'll probably be approved. It's not a taking until you're denied all economic use of the property.

Jeri Fisher said, we have been told by the Office of Planning and Grants we do not want you to build on that.

Mike Sehestedt said, that may a true statement of aspiration; I suspect it's a true statement of aspiration of everyone approving the plan based on what we've heard. The fact is, legally, it's zoned 1 dwelling unit per acre and assuming that you can meet all of the other requirements to develop it, there's simply is no taking by a plan that aspiration says this is what we'd like to see happen. Maybe you can leverage it into a density transfer or something else, maybe an amenity that you can use otherwise or maybe you wind up just using it in accordance with existing zoning.

Jeri Fisher said, I would want to point out that the governing bodies make the decision.

Mike Sehestedt said, right. It's a future question; this plan doesn't take anything away from you, it doesn't grant you anything either.

Jeri Fisher said, but it does, if these things have a way of getting set in stone when you go to OPG, and this is what our concern is as the public.

Mike Sehestedt said, like I say, you may have future problems; it is not something we can address now. This is a broad brush.

Jeri Fisher said, it's not in the floodplain, there's not a reason for it to be designated as such. Everything else that is designated such is in the floodplain. This is the only parcel that is not in the floodplain. It's about 40 or 50 feet above the floodplain. I would ask you to reconsider that.

Chair Curtiss said, Dave now has the map up showing those 65 DNL, just so Clayton can see that he settled it before. You can see that the 65 zone on the current runway is off the airport's property, but the one on the other one because of the type of aircraft and such is on—

Unidentified said, I assume that little dashed line is their ownership?

Chair Curtiss said, I think they're the dark gray, aren't they?

Unidentified said, they had an option on the property to the south.

Chair Curtiss said, I think that from the Commissioners' point of view we're probably ready for motions and then we can see if you can do your portion. The suggested motions from the planning office, so that we don't mess up is on this paper. Now that we've done additional amendment issue #36, we can probably just add that to—they're all there. Our motion will be to adopt the numbers 1-26 then 27-35 and 36, so Mr. Wagner came in late and weren't given the opportunity to comment; would you like to comment on #25 that you had some questions before?

Bill Wagner said, yes it is, thank you.

Chair Curtiss said, I know I closed the public hearing but we will still public comment on these motions we're going to make. I'm just giving him that opportunity.

Bill Wagner said, thank you, I'll be very brief. On behalf of Jim Doherty and Doherty Ranch Limited Partnership, and I just wanted a clarification on issue #25. As I understand it, the FEMA designation will control, in essence for land use decisions, in the future, and that is that if property can be shown as not properly being within the FEMA floodplain designation area, that that land can apply for different uses than are designated by this growth policy, is that correct?

Laval Means said, the plan document on page 7-3, along with the new language that we added as a request from this issue #25, right below that states: additional density beyond what is recommended in the land use description may be appropriate if the land is not within a foot hazard area, development does not conflict with the floodplain regulations and other resource constraints do not apply. So I would say, generally, we would be looking at, if we're deemed to not be within the FEMA floodplain, that you'd be looking at some other type of density from around the area, but it does also state that other resource constraints do not apply as well. I don't know if there are any other resource constraints there, but I think that the designation is primarily because of the floodplain, FEMA mapping.

Bill Wagner said, with that, I'd just like to make one comment for the record for Mr. Doherty and Doherty Ranch Limited Partnership then with regard to issue #25. Some of this land near Deschamps Lane is, in fact, designated as in the FEMA zone, and other lands that are similarly designated are shown as qualifying for residential development at this time. He just simply wants it noted in the record that he takes exception to the FEMA designations as have other land owners, and I know that's noted in the plan, but he wanted that noted on record.

Chair Curtiss said, the good news is that Missoula County will be one of the counties that's going to get their FEMA mapping redone, but I think it's just on the rivers, is that—I'm not sure if it will do that, but we will note that that's on the record. At this time I think we're ready for motions. Don?

Alderman Nicholson said, I'd like to make one general comment before get into motions here. The City is tangled up, as you know, in the lawsuit over St. Pat's Safeway. The basis of that lawsuit is the plan. In the plan, when you read the Northside/Westside plan, you will find that Safeway is mentioned as being in favor of a larger store doesn't say how big, and St. Pat's is barely mentioned at all. Here, we're adopting a lot of things, and I want to be sure that to raise the issue, that this plan is a guide. It's not absolute, it's not "thou shalt this" it's just a guide. I really don't want to get back into another lawsuit over something that's in here, and is then interpreted to be far more restrictive and absolute than what is the intent. So I'm hoping a lot, that in the preamble here, we have something that says, "read all this as well as you like, because it's about ¾ inch thick, but it's just a guide."

Unidentified said, I would second that, even though I can't second a motion.

Alderman Reidy said, that isn't a motion, that's an opinion.

Commissioner Carey said, I move that the Missoula Board of County Commissioners adopt a resolution to adopt the Wye-Mullan West comprehensive area plan draft, as an amendment to the 2002 Missoula County Growth Policy, with the following amendments: 1) Amendments #1-26 in the draft document in summary of amendments by issue document previously approved with the resolution of intent to adopt. 2) Amendments #27-35 in the draft document in summary of amendments by issue document, identifying revisions that have occurred since the resolution of intent to adopt. 3) Additional amendment, issue #36, revisions to language in the neighborhood chapter related to planned destination resort, not included in the draft document or summary of amendments by issued document. #37, amendment to the cluster land use type, found on page 7-8 of the draft plan—is that enough for the record or do you need me to read the whole thing? 4) Additional corrections, including renumbering for consistency, modifying tables to reflect the BCC changes, proof-reading, consistent references to agencies, and clarifications if references are made to time-sensitive information. 5) The land use maps with amendments reflecting amendments to the revised final draft.

MOTION

To adopt a resolution that the Missoula Board of County Commissioners adopt a resolution to adopt the Wye-Mullan West Comprehensive Area Plan draft, as an amendment to the 2002 Missoula County Growth Policy, with the following amendments: 1) Amendments #1-26 in the draft document in summary of amendments by issue document previously approved with the resolution of intent to adopt. 2) Amendments #27-35 in the draft document in summary of amendments by issue document, identifying revisions that have occurred since the resolution of intent to adopt. 3) Additional amendment, issue #36, revisions to language in the neighborhood chapter related to planned destination resort, not included in the draft document or summary of amendments by issued document. #37, amendment to the cluster land use type, found on page 7-8 of the draft plan. 4) Additional corrections, including renumbering for consistency, modifying tables to reflect BCC changes, proof-reading, consistent references to agencies, and clarifications if references are made to time-sensitive information. 5) The land use maps with amendments reflecting amendments to the revised final draft.

Commissioner Carey moved to adopt a resolution that the Missoula Board of County Commissioners adopt a resolution to adopt the Wye-Mullan West comprehensive area plan draft, as an amendment to the 2002 Missoula County Growth Policy, with the following amendments: 1) Amendments #1-26 in the draft document in summary of amendments by issue document previously approved with the resolution of intent to adopt. 2) Amendments #27-35 in the draft document in summary of amendments by issue document, identifying revisions that have occurred since the resolution of intent to adopt. 3) Additional amendment, issue #36, revisions to language in the neighborhood chapter related to planned destination resort, not included in the draft document or summary of amendments by issued document. #37, amendment to the cluster land use type, found on page 7-8 of the draft plan. 4) Additional corrections, including renumbering for consistency, modifying tables to reflect BCC changes, proof-reading, consistent references to agencies, and clarifications if references are made to time-sensitive information. 5) The land use maps with amendments reflecting amendments to the revised final draft.

Chair Curtiss said, it's been moved and seconded. Any further discussion? Any public comment?

Upon a voice vote, the motion carried.

Chair Curtiss said, so I think we're done. We'll let you go, Jack.

Alderman Reidy said, at the Council end of it, before we start this, I think I'll rule one thing that after discussion has started and all that, I don't think we can send that back to committee without a vote on it. So if anybody

wants to send it back to committee ahead of time, speak up now. Alright, I'm voting for motions now. Anybody want to make the motion on that?

Alderman Engen said, before I read these, let me just thank Ms. Means and the Office of Planning and Grants for their extensive work, as well the public who has participated relentlessly in this process. I understand Laval will now begin working on the Z-Mullan Plan, so that's good to know. It's all alphabetical, isn't it? Wye, Z? I move that the Missoula City Council adopt a resolution to adopt the Wye-Mullan West Comprehensive Area Plan draft, as an amendment to the 2002 Missoula County Growth Policy, with the following amendments: 1) Amendments #1-26 in the draft document in summary of amendments by issue document previously approved with the resolution of intent to adopt. 2) Amendments #27-35 in the draft document in summary of amendments by issue document, identifying revisions that have occurred since the resolution of intent to adopt. 3) Additional amendment, issue #36, revisions to language in the neighborhood chapter related to planned destination resort, not included in the draft document or summary of amendments by issued document. #37, amendment to the cluster land use type, found on page 7-8 of the draft plan. 4) Additional corrections, including renumbering for consistency, modifying tables to reflect BCC changes, proof-reading, consistent references to agencies, and clarifications if references are made to time-sensitive information. 5) The land use maps with amendments reflecting amendments to the revised final draft.

MOTION

To adopt a resolution to adopt the Wye-Mullan West Comprehensive Area Plan draft, as an amendment to the 2002 Missoula County Growth Policy, with the following amendments: 1) Amendments #1-26 in the draft document in summary of amendments by issue document previously approved with the resolution of intent to adopt. 2) Amendments #27-35 in the draft document in summary of amendments by issue document, identifying revisions that have occurred since the resolution of intent to adopt. 3) Additional amendment, issue #36, revisions to language in the neighborhood chapter related to planned destination resort, not included in the draft document or summary of amendments by issued document. #37, amendment to the cluster land use type, found on page 7-8 of the draft plan. 4) Additional corrections, including renumbering for consistency, modifying tables to reflect BCC changes, proof-reading, consistent references to agencies, and clarifications if references are made to time-sensitive information. 5) The land use maps with amendments reflecting amendments to the revised final draft.

Alderman Engen moved to adopt a resolution to adopt the Wye-Mullan West Comprehensive Area Plan draft, as an amendment to the 2002 Missoula County Growth Policy, with the following amendments: 1) Amendments #1-26 in the draft document in summary of amendments by issue document previously approved with the resolution of intent to adopt. 2) Amendments #27-35 in the draft document in summary of amendments by issue document, identifying revisions that have occurred since the resolution of intent to adopt. 3) Additional amendment, issue #36, revisions to language in the neighborhood chapter related to planned destination resort, not included in the draft document or summary of amendments by issued document. #37, amendment to the cluster land use type, found on page 7-8 of the draft plan. 4) Additional corrections, including renumbering for consistency, modifying tables to reflect BCC changes, proof-reading, consistent references to agencies, and clarifications if references are made to time-sensitive information. 5) The land use maps with amendments reflecting amendments to the revised final draft.

Alderman Reidy said, we'll have public comment on the motion. Seeing no public comment, discussion on the motion?

Alderman Nicholson said, I think I'm the only one out of step with the world here, but hearkening back to our long lengthy discussion about the airport, could the airport be moved closer, and the answer was after quite a while, "a little bit." Does it need an instrument landing; there's a perfectly good instrument landing right next to it, but no, they needed to have it in case there's some designation of what I think in both those cases. I think there's private land that has been moved over on, without actual purchase, although there's pretty strong indication that airport has to buy that land if they're going to do their thing there. I really am troubled by the lack of a road network on what I call the northwest end of the runway. I think it's an area that's going to be developed, but the road network that's identified ahead of time is really not sufficient. I made that point lots of times in front my Council mates and been shouted down, but for those reasons I will not be able to support the adoption of this plan.

Alderman Reidy said, I will support this plan knowing full well that a lot of people will think it is law. I think the barrel down on the City Hall is full of plans for adopted since I've been on South Hills planning. Having said that,

I hope everybody realizes this is not a law, it's a plan, it's a guide, I'll put that in the record. But I will support the motion. Further floodplain discussion?

Alderman Floyd said, I'd like to thank Council for their indulgence because at times I raised a number of issues during the course of this discussion, but I think we actually have a better document that's going to be more workable for the private property owners that are out there. I guess in my mind, you still never get a 100% of what you're looking for; I think after we spend \$2 million putting a pipe in the ground down Mullan Road, we could have maybe had greater density there, but I'm satisfied with the outcome of this process, and I would like to echo compliments to Laval, because it wasn't easy.

Alderman Reidy said, I would echo those, too, and speak for the whole Council. Further discussion?

Alderman Engen said, I'd like to call for the question.

Alderman Reidy said, that's supposed to my job, John, but I'll let you. We'll have a vote on the motion.

City Clerk Rehbein said, this is a resolution, Jack, we have to have a roll call vote. I'm Marty, the party-ruiner.

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

AYES: Ballas, Childers, Crowley, Engen, Floyd, Hendrickson, Kendall, Lovegrove, Peissig, Reidy

NAYS: Nicholson

ABSTAIN: None

ABSENT: Rye

Motion carried: 9 Ayes, 1 Nay, 0 Abstain, 1 Absent

Alderman Reidy said, hooray and hallelujah, let's get down the road. The City's business is concluded.

Chair Curtiss said, the County's in recess.

ADJOURNMENT

The meeting was adjourned at 4:50 PM.

ATTEST:

APPROVED:

Martha L. Rehbein
City Clerk

Mike Kadas
Mayor

(SEAL)

Respectfully submitted by,

Jane Kelly Stoll, Deputy City Clerk