

**JOURNAL OF COMMISSION PROCEEDINGS**  
**Virtual Meeting by Zoom**  
**November 2, 2021**

Regular City Commission Meeting

Mayor Kelly presiding

**CALL TO ORDER:** 7:00 PM

**PLEDGE OF ALLEGIANCE**

**ROLL CALL/STAFF INTRODUCTIONS:** City Commission members participated electronically via Zoom webinar: Bob Kelly, Tracy Houck, Mary Sheehy Moe, Owen Robinson and Rick Tryon. City staff participated electronically via Zoom webinar: City Manager Greg Doyon and Deputy City Manager Chuck Anderson; Park and Recreation Director Steve Herrig; Planning and Community Development Director Craig Raymond; Public Works Director Paul Skubinna; Police Chief Jeff Newton; and, City Attorney Jeff Hindoien. City Clerk Lisa Kunz was present in the Commission Chambers.

Due to the COVID-19 health concerns, the format of the City Commission meeting was held in a virtual video-conferencing environment. To honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), modifications have also been made for public participation. To attend and participate in the virtual meeting utilizing Zoom, attendees must register in advance for the Commission Meeting at: [https://us02web.zoom.us/webinar/register/WN\\_-zH54ZIHTY6bJdYzBFcWxQ](https://us02web.zoom.us/webinar/register/WN_-zH54ZIHTY6bJdYzBFcWxQ)

For all other participation options, please see **Public Participation Guide for City Commission Meetings**.

**AGENDA APPROVAL:** There were no proposed changes to the agenda by the City Manager or City Commission. The agenda was approved as presented.

**CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS:** None.

**PROCLAMATIONS:** Family Court Awareness Month (November 2021) and Resolution of Commendation and Appreciation to Michael J. Winters for his dedication and service that contributed in so many ways to the betterment of others, our community, and our state.

**MILITARY UPDATES**

1. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS FROM MALMSTROM AIR FORCE BASE.**

Colonel Anita Fuegate Opperman thanked Michael Winters for his service to the country and to the Veterans Memorial. She updated the Commission on the following:

- General Lutton, 20<sup>th</sup> Air Force Commander, visited Malmstrom recently during a wrap-up of an Olympic Flag exercise.
- General and Mrs. Cotton were recently welcomed back to Malmstrom.
- Global Thunder exercise is being conducted this week with US Strategic Command.

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- Due to ongoing construction to add anti-terrorism measures, the 2<sup>nd</sup> Avenue gate will not be open until after November 15.
- Ninety-six percent of active duty service members have been vaccinated, and they have started vaccinating Air Force civilians. Covid booster shots are available for those beneficiaries with base access.
- Malmstrom is celebrating Native American Heritage Month.

### PETITIONS AND COMMUNICATIONS

2. Participating via Zoom was:

**Brett Doney**, Great Falls Development Authority (GFDA), announced that GFDA is hosting the Concorde Group consultants this week to conduct a housing market demand assessment across all price ranges in both home ownership and rental in the City and Cascade County. He hopes to have the study in hand by early December.

### NEIGHBORHOOD COUNCILS

3. **MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Robinson commented that at every Commission meeting there is an opportunity for Neighborhood Council representatives to bring information directly to the Commission. He urged those representatives to use this opportunity to report to the Commission things that are going on in the City that Commission members may not otherwise hear.

**Allison Tangen**, Neighborhood Council 6 Chair, reported that the neighborhood council boundaries are: the northern boundary is 10<sup>th</sup> Avenue South, the southern boundary is the City limit line, the eastern is 20<sup>th</sup> Street South, and the western is the Missouri River. She highlighted activities that occurred within the last year: the Upper River Road renovation project received a lot of positive feedback from neighbors that are heavy utilizers of that road; and, renovations to Sunnyside Park included the Free Little Library being moved to a better location with lighting and re-painting the lines at the Basketball Court. The next big project the Council is looking into is a Neighborhood Watch Program.

Ms. Tangen further reported that the Council is in full support of the work the Council of Councils and Legal Department are doing regarding nuisance properties that will make significant difference to the quality and enjoyment of the neighborhood as well as reducing property crime.

Commissioner Moe inquired if the Council receives complaints about junky yards.

Ms. Tangen responded in the affirmative and reiterated the Council's support of the work of the Council of Councils and Legal Department regarding nuisance properties.

Commissioner Tryon encouraged Ms. Tangen to keep the Commission updated on the Council's efforts regarding the Neighborhood Watch Program.

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Ms. Tangen responded that the Neighborhood Watch Program needs to have a formal component as well as an informal component of neighbors looking out for suspicious activity, utilizing the Complaint form or contacting the Police Department. The Council is also utilizing the Sunnyside Neighborhood Watch Facebook group, and emphasizing the Police Department's SCRAM Program.

**BOARDS AND COMMISSIONS**

**4. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

None.

**CITY MANAGER**

**5. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

City Manager Greg Doyon announced that leaf pick-up commenced yesterday in the Boulevard District and will run through November 16<sup>th</sup>. The scheduling is contingent on weather conditions, equipment failures, personnel availability and unforeseen emergencies. Typically, the service will run from 7:00 a.m. – 3:00 p.m. He urged residents to place leaf piles within the boulevard closest to the street and to keep the leaf piles a foot away from any hard objects. Additional information can be located on the Park and Recreation webpage.

The Public Works Department closed an underground refueling station at Fire Station 1 and reopened a new, aboveground station at the Park and Recreation facility.

A roofing project is underway on the Sunrise Apartments. The Housing Authority is hoping to complete three buildings by winter.

He attended a recent groundbreaking for the Touro Medical College that is located south of Benefis and north of Central Catholic School. The project will have significant community impact. The project itself has a tight timeframe due to the accreditation process in order to get the facility constructed. Staff is working diligently with that group to make sure that all of the permitting and development requirements are met in a timely manner to meet critical timelines.

Manager Doyon expressed kudos to Public Works employees Mike Linn and Nick Scribner for their quick actions in putting out a fire. They noticed smoke coming from a metal container that was starting to catch an adjacent house on fire. The homeowner noticed that something was wrong when he returned home and discovered there had been a fire. He looked at his security camera and saw what occurred. He made contact with Public Works expressing his gratitude for their quick action. He also advised that there was somebody sleeping in the basement at the time of the fire. Not only did their actions prevent property damage it could have even saved a life.

He, Chuck Anderson and Tom Micuda attended the housing study Brett Doney discussed earlier. A comment was made that there was a general lack of interest to do in-fill and multi-family housing development. There was talk about potential incentives that, in the future, may be brought

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back to the Commission for consideration in terms of making modest reductions in water and sewer hookups to accelerate some of the redevelopment in certain areas.

**CONSENT AGENDA.**

6. Minutes, October 19, 2021, City Commission Meeting.
7. Total Expenditures of \$3,215,197 for the period of September 19, 2021 through October 20, 2021, to include claims over \$25,000, in the amount of \$2,593,433.
8. Contracts List.
9. Approve the final payment for Encino Drive/Grande Vista 2 Street Repairs Phase 2 project in the amount of \$73,654.37 to MRTE, Inc., and \$743.98 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1680.1**
10. Approve the final payment for the Longfellow ADA Upgrades in the amount of \$59,592.06 to MRTE, Inc., and \$601.94 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **OF 1715.7**
11. Approve Final Payment for the S.S. Trenchless Rehabilitation Phase 23, in the amount of \$757,019.34 to Planned and Engineered Construction (PEC), Inc. and \$7,646.66 to the State Miscellaneous Tax Fund and authorize the City Manager to make the payments. **1675.4**
12. Set a public hearing for December 7, 2021, to receive public comment on the needs within the community related to the use of HOME-ARP funds.

**Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission approve the Consent Agenda as presented.**

Mayor Kelly asked if there were any comments from the public or discussion amongst the Commissioners.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

**PUBLIC HEARINGS**

13. **ORDINANCE 3238, A REQUEST FROM TY HABEL WITH TC GLASS AND NORTHERN HYDRAULICS TO REZONE 14.7 ACRES ADDRESSED AS 1300 RIVER DRIVE NORTH FROM LIGHT INDUSTRIAL AND MIXED-USE TRANSITIONAL TO PLANNED UNIT DEVELOPMENT.**

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

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Planning and Community Development Director Craig Raymond reported that, for the last several months, City staff have been in discussions with the Great Falls Development Authority and the TC Glass company about the former Wausau Building Supply site located at 1300 River Drive North. TC Glass currently has a retail business operation located within the current city limits. Additionally, TC Glass has a glass production facility located outside the city limits at 2300 Vaughn Road. The production facility building on Vaughn Road is too small to accommodate all of the glass product storage needs for TC Glass so they are looking for a property they can grow into.

The property located at 1300 River Drive North used to be the business location for Wausau Building Supply. There is an existing 105,000 square foot building on the property that has been vacant for the last several years. The building and surrounding property have been on the market for some time, but the large size of the building makes it difficult to be used by a single business. TC Glass approached City staff with an interest in using a portion of the existing building to consolidate its entire sales, office, and production operation. However, in order to move forward with its purchase of the property, the applicant has brought forward this rezoning request to be able to share the building with a wider range of industrial tenants.

The second applicant for the request, Northern Hydraulics, wishes to purchase 3.8 acres of the subject property with the thought that they may eventually construct a new building at this location. Northern Hydraulics has a business location in Black Eagle that sells and repairs hydraulic components.

The entire western site and most of the eastern site are currently zoned Light Industrial (I1). A portion of the eastern site along 14th Street is zoned Mixed-Use Transitional (M-2). The applicants' request to create a Planned Unit Development is being driven by several factors: 1) eliminate the split-zoning situation on the eastern tract, and 2) give the applicants the ability to market the sites to both light industrial and limited heavy industrial users. The applicants requested the flexibility to market the sites, particularly the remaining portion of the Wausau Supply Building, for businesses that manufacture products made from raw materials. Normally, this would require the applicants to rezone the property to Heavy Industrial (I-2). However, the applicants are sensitive to the concern that other permitted land use activities in the Heavy Industrial zoning district might raise concerns from surrounding property owners. To alleviate potential concerns, the applicants' PUD zoning request for the property allows them to submit their own list of permitted land uses and development standards. This information, which is included in the agenda report, will use the underlying I-1 zoning district. The only substantive land use added is the proposed allowance for limited Heavy Industrial businesses. This allows the City to specifically prohibit the following land uses that would otherwise be allowed in an I-2 district:

- Fuel Tank Farm
- Telecommunication facilities
- Junkyards
- Motor Vehicle Graveyards
- Motor Vehicle Wrecking Facilities

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Applicants' choice to bring forward a PUD request is preferable to staff than rezoning the property to I-2. The question for the City Commission is whether to allow the Heavy Industrial land use request to create more flexibility for the applicants to potentially add another business that would manufacture raw materials.

The proposed zone change was brought to Neighborhood Council #7 on September 13, 2021. After much discussion, the council voted unanimously to recommend approval of the zone change. The Zoning Commission also recommended in favor of the proposed change on September 28, 2021.

**Spencer Woith**, applicants' representative, reported that TC Glass is a third generation company in Great Falls that has continued to grow. They bring in materials to fabricate all of the windows in Great Falls to be shipped out. Moving into this space provides them the flexibility to grow. The PUD designation provides protection so that "the use of raw materials" wording is eliminated from the requirements and provides flexibility. Applicants will still need to comply with environmental codes regardless of the zoning designation.

Mayor Kelly asked if the Commission members had any questions. Hearing none, Mayor Kelly asked if there were any comments from the public in support of Ordinance 3238.

Appearing via Zoom was:

**Brett Doney**, Great Falls Development Authority, reported that it has been a difficult deal to put together and it is not easy to finance a fast growth company these days. GFDA made a \$1.3 million dollar loan commitment and will not charge payments until the company can afford to make payments. This is a good compromise and re-use of the property.

No one spoke in opposition to Ordinance 3238.

Mayor Kelly closed the public hearing and asked the will of the Commission.

**Commissioner Tryon moved, seconded by Commissioner Houck, that the City Commission adopt Ordinance 3238 and accompanying Findings of Fact/Basis of Decision subject to the Conditions of Approval being fulfilled by the applicants.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Robinson noted historical use of the property since 1915-1916 that included a pea seed factory, and an airplane and farm tractors being built in the facility. His company, Lumber Yard Supply, took it over. In January 2002 they experienced a huge fire. It took 11 months to build the new facility that Wausau now has. In 2015, he accepted an offer to buy his company. Wausau slowly moved their facility south and the facility became vacant. He is very pleased that there is now an opportunity to use that property. TC Glass has a great reputation and is growing.

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Commissioner Tryon expressed appreciation to TC Glass and developers involved in the project, as well as the Planning and Community Development Department. He commented it is an example from an environment of “You can’t do that here” to “How can we help you do that here.”

There being no further discussion, Mayor Kelly called for the vote.

Motion carried 5-0.

**14. ORDINANCE 3239, TO AMEND THE OFFICIAL CODE OF THE CITY OF GREAT FALLS – 17.32.150 (DRIVEWAYS).**

Mayor Kelly declared the public hearing open and asked for presentation of the staff report.

Planning and Community Development Director Craig Raymond reported that the impetus behind the proposed amendment to the Driveway chapter of the Land Development Code was two-fold: first, a series of permit requests to construct street accessed driveways on properties located within the older neighborhoods that also have alley access brought to light a problematic provision within the Driveway chapter of the City’s Land Development Code. The current provision of the code states the following: “For those properties which are served by an alley, no new driveways or expansions of existing driveways accessing the street are allowed unless authorized by both the City Engineer and the Director of Planning and Community Development.” There are legitimate reasons why city codes restricts the ability of property owners to have street-accessed driveways when they already have alley access to parking areas and detached garages. These reasons include: 1) preventing conflicts between vehicles backing out of driveways and vehicles using city streets, 2) keeping the sidewalk network as intact as possible reducing vehicle/pedestrian conflicts, and 3) maintaining greenspace in the front yards and boulevards of older neighborhoods.

The current code provision for alley accessed lots is problematic because it both prohibits street accessed driveways in one passage, but then allows City staff to essentially override the code in the next passage. What is further problematic is that the provision does not provide any decision-making criteria to assist City staff in potentially overriding the prohibition on street-accessed driveways. A better way to write code is to simply allow it, or allow it but only under certain known conditions which can be written in code, or just not allow it.

Secondly, there is an increasing over-use of the city street system for storage of private, large vehicles and an increase in the number of passenger cars and trucks being stored on the street. Most of these streets were not designed to have large vehicles on the shoulder. There is a current effort to deal with large vehicles on the street initiated by numerous citizen complaints. Staff has already brought forth solutions that first and foremost would help people deal with their toys and vehicles on their own private property. The Commission already passed an ordinance that provided significant increases in garage size allowances. Now we bring this proposed change that will also make it easier to store personal belongings on private property, which hopefully will help avoid enforcement and prosecution of nuisances.

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Mayor Kelly asked if the Commission members had any questions. Hearing none, Mayor Kelly asked if there were any comments from the public in support of Ordinance 3239.

Appearing via Zoom was:

**Spencer Woith**, made a general comment that alley loaded driveways are a good segway to look into the opportunity for additional places to create affordable housing. Addressing alley loaded garages and lots for access off the streets is something that needs to be looked at in more detail going forward.

No one spoke in opposition to Ordinance 3239.

Mayor Kelly closed the public hearing and asked the will of the Commission.

**Commissioner Robinson moved, seconded by Commissioner Moe, that the City Commission adopt Ordinance 3239.**

Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Robinson noted that this is another example of staff finding solutions and the Planning Department's move in the right direction that is good for Great Falls.

Hearing none, Mayor Kelly called for the vote.

Motion carried 5-0.

**OLD BUSINESS**

**15. REQUEST FOR PROPOSALS FOR CONSTRUCTION OF INDOOR AQUATICS AND RECREATION CENTER. OF 1770**

Park and Recreation Director Steve Herrig reported that this item is consideration of bids for the facility itself. Staff recommends the award of a construction contract to Swank Enterprises in the total amount of \$18,349,000 for a base bid of \$17,995,000 and alternate #19 in the amount of \$354,000 for the construction of the Indoor Aquatics and Recreation Center. The facility is roughly 45,000 square feet and will consist of two pools, gymnasium, offices, child watch, and fitness area located in Lions Park. The impact that it would have on the community will be tremendous, not only for the citizens of Great Falls but for the military community as it will take care of their military training missions for both Malmstrom and the Air Guard. It was identified in the 2016 Master Plan that the Commission adopted in November 2016.

The Invitation to Bid was advertised four times on August 23, September 12 & 26, and October 3, 2021. Bids were opened on October 13, 2021. The base bids range from \$17,995,000 to \$19,670,000. The base bids with all of the alternates range from \$20,472,200 to \$22,195,000. Swank Enterprises submitted the low bid on both the base and the cumulative of alternates together.



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Alternate #19 is the large flume slide that goes in the leisure pool. It is the assessment of City staff and the design team that the flume slide will be an integral component in terms of getting family and community engagement to use the facility and recreate in the pool for general open use and parties.

Staff is recommending award even though it will exceed the current project budget. Under Montana law, they could engage with the low bidder to negotiate a more competitive proposal as long as it didn't exceed seven percent of the total bid proposed. However, because this proposal is part of a Federal Department of Defense grant award, staff cannot negotiate in that same manner.

If the Commission awards the agreement, the City can work with Swank Enterprises to develop a deductive change order reflecting value engineering and other ways to get back within budget. Once that is accomplished, staff would come back before the Commission for formal approval. There will be a quick turnaround because subs are holding prices, but staff does not know how long they will hold those prices for. The materials market is unstable. Building materials overall have significantly increased over the last 12 months and there are delays in getting material.

To address the budget shortfall, staff will also work with a group to explore fund raising and sponsorship opportunities that may help fund some of the other alternatives.

City Manager Greg Doyon added that this recommendation is a little bit different from what staff would normally do in terms of the situation where the bid exceeds where the target was desired. The risk is if the Commission awards the bid tonight staff will rely on the conversations that will ensue with Swank after the contract is awarded in hopes that Swank understands the situation the City is in. Whatever is amended will come back before the Commission. The other risk is if the award was delayed or something happened with materials, some of the amenities in the facility may need to be changed. Director Herrig has been exploring opportunities for fund raising for some of the areas they may fall short in. There are some options being explored that will be conversed with the Commission to see if the Commission wants to exercise as options.

**Commissioner Moe moved, seconded by Commissioner Houck, that the City Commission award a contract to Swank Enterprises in the amount of \$17,995,000 for the Base Bid and \$354,000 for Alternate #19 for the Indoor Aquatics and Recreation Center, for a total contract amount of \$18,349,000 and authorize the City Manager to execute the construction contract documents.**

Mayor Kelly asked if there were comments from the public.

Appearing via Zoom was **Brett Doney**, Great Falls Development Authority, commented that he is delighted with this bid and suggested moving forward on it.

Written communication was received from **Jimmy Fulton**, City resident, noting the project budget, contracts already executed, and the requested award amount being more than the remaining project funds. He inquired if the Wing Commander at Malmstrom was notified that Alternative No. 4 was not included in the award recommendation, and the City's intention to pay for the additional costs.

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Mayor Kelly asked if there was any discussion amongst the Commissioners.

Commissioner Tryon inquired if \$470,000 worth of alternatives would be cut from the project if the extra funds were not available through negotiations with Swank or fund raising efforts.

Manager Doyon responded that the awkwardness of this is that in any other process the City would be able to negotiate with the low bidder up front to alleviate some concerns. The City does not have that ability in this case because of the grant award from the DOD. If the Commission awards the contract tonight, staff will immediately sit down with Swank to try to value engineer the proposal again. If it gets to a point that the project is going to be substantially altered, that may run into some issues with the actual grant award. At that point, staff would need to talk with OLDCC. He is hoping at this point that some of the materials or design features can be adjusted substantially enough to address the concerns with the overage in the bids. OLDCC has been clear that any overruns are the responsibility of the City. The extreme option the Commission has is to terminate the grant. The City would still be responsible for the monies committed to the architect and to the project so far. As he understands it, the City has the ability to terminate the agreement if the City is not able to find another way to address the cost or make the reductions necessary.

Rather than negotiating with Swank or relying on fundraisers, Commissioner Tryon wants to know what other mechanisms/options there may be for the City to fund the overage.

Mayor Kelly commented that the Park Maintenance District is another funding mechanism available to the City. He summarized the inquiries as to what degree can the City implement the Park Maintenance District funds to cover some of the overage going forward.

Director Herrig commented that the City is coming into year four of park district projects. Without changing the assessment whatsoever, the City could push year four projects to year five. That would free up close to half a million dollars and would allow the City to catch up on all of the park district projects that staff is currently working on. That money would then be available to put towards this project for a one-year period.

Commissioner Robinson requested clarification regarding the award of the base bid with alternate #19 putting the project over budget.

Director Herrig responded that \$1.8 million for Architect & Engineering services comes out of the \$20 million. The base bid includes the facility being stubbed and ready when any of the alternates could come along.

Commissioner Houck inquired if donations or grants of funds could be run through the Park Foundation or some other appropriate mechanism and was responded to in the affirmative.

Mayor Kelly noted that he has been approached by people wanting to know about naming rights, room rights and equipment rights because they feel this is a pretty broad community event and want to participate much like they have done for the schools and other facilities around town.

There being no further discussion, Mayor Kelly called for the vote.

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Motion carried 5-0.

**NEW BUSINESS**  
**ORDINANCES/RESOLUTIONS**  
**CITY COMMISSION**

**16. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.**

Commissioner Tryon commented that last week City staff, public, Neighborhood Council delegates, Mayor Kelly and Commissioner Robinson attended a Council of Councils meeting in person in the Gibson Room. He inquired why it wasn't appropriate or deemed safe for the Commission to conduct in-person meetings.

Mayor Kelly responded that was not his meeting. The meetings that he is in charge of and can vote for pertaining to safety are with the agreement of a majority of the Commissioners. He distanced himself and wore a mask at the Council of Councils meeting, and he had a responsibility as a designate to attend.

Commissioner Tryon commented that Mayor Kelly is sending the wrong message to the public, and people will express a skepticism about the motives involved if he continues with that inconsistent message.

Commissioner Moe commented that the Commission runs this meeting. The Commission is responsible for what happens in this meeting. The Commission is not responsible for what happens at the Council of Councils meeting or meetings that other people run. The Commission does not intrude on the decision making of those bodies. Commission members decide whether to attend or not. The only thing the Commission is responsible for is what happens at Commission meetings, and the Commission has been very consistent about that.

**17. COMMISSION INITIATIVES.**

None.

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**ADJOURNMENT**

There being no further business to come before the Commission, **Commissioner Moe moved, seconded by Mayor Kelly, to adjourn the regular meeting of November 2, 2021, at 8:29 p.m.**

Motion carried 5-0.

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Mayor Bob Kelly

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City Clerk Lisa Kunz

**Minutes Approved: November 16, 2021**