



## **CITY COUNCIL MEETING AGENDA**

**July 20, 2020, at 7:00 p.m.**

**City Hall Council Chambers, 201 First Avenue East**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PLEDGE OF ALLEGIANCE**

**D. AGENDA APPROVAL**

**E. CONSENT AGENDA**

All items listed on the consent agenda will be accepted by one motion. If a council member desires to discuss an item separately, the item can be removed from the consent agenda by motion.

1. Council Minutes – July 6, 2020

2. Ordinance 1844 – Second Reading – Colton Lee Communities Zoning  
This ordinance would provide initial zoning of B-2 (General Business) at 216 Hutton Ranch Road.

3. Confirmation of Police Officer Dustin Willey  
Dustin Willey has completed his probationary period with the Kalispell Police Department and Council confirmation is requested.

**F. COMMITTEE REPORTS**

**G. PUBLIC COMMENT**

Persons wishing to address the council on any issue not on the agenda are asked to do so at this time. Those addressing the council are requested to give their name and address for the record. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

**H. REPORTS, RECOMMENDATIONS, AND SUBSEQUENT COUNCIL ACTION**

Persons wishing to address the council on individual agenda items will be asked to do so following staff reports. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

1. Flathead Valley Hockey Association Memorandum of Understanding  
City Council will consider approving the proposed MOU with the Flathead Valley Hockey Association for the continued operation of the Woodland Park Ice Rink.

**I. CITY MANAGER, COUNCIL, AND MAYOR REPORTS (No Action)**

**J. ADJOURNMENT**

**UPCOMING SCHEDULE / FOR YOUR INFORMATION**

**Next Work Session** – July 27, 2020, at 7:00 p.m. – Council Chambers

**Next Regular Meeting** – August 3, 2020, at 7:00 p.m. – Council Chambers

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify the City Clerk at 758-7756.

Watch regular City Council sessions live on Charter Cable Channel 190 or online at the [Meetings on Demand](http://www.kalispell.com) tab at [www.kalispell.com](http://www.kalispell.com).

**ADMINISTRATIVE CODE**  
**Adopted July 1, 1991**

**Section 2-20 Manner of Addressing Council**

- a. Each person not a Council member shall address the Council, at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person's name and address in an audible tone of voice for the record, and unless further time is granted by the Council, shall limit the address to the Council to three minutes.
- b. All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.
- c. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion either directly or through a member of the Council, without the permission of the Presiding Officer.
- d. No question shall be asked of individuals except through the Presiding Officer.

**PRINCIPLES FOR CIVIL DIALOGUE**  
**Adopted by Resolution 5180 on February 5, 2007**

- We provide a safe environment where individual perspectives are respected, heard, and acknowledged.
- We are responsible for respectful and courteous dialogue and participation.
- We respect diverse opinions as a means to find solutions based on common ground.
- We encourage and value broad community participation.
- We encourage creative approaches to engage in public participation.
- We value informed decision-making and take personal responsibility to educate and be educated.
- We believe that respectful public dialogue fosters healthy community relationships, understanding, and problem solving.
- We acknowledge, consider and respect the natural tensions created by collaboration, change, and transition.
- We follow the rules & guidelines established for each meeting.



**CITY COUNCIL DRAFT MEETING MINUTES**  
**July 6, 2020, at 7:00 p.m.**  
City Hall Council Chambers, 201 First Avenue East

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**A. CALL TO ORDER**

**Mayor** Johnson called the meeting to order at 7 p.m.

**B. ROLL CALL**

Mayor - Mark Johnson: Present

Council Member - Kari Gabriel: Present via video conference

Council Member - Sandy Carlson: Present

Council Member - Sam Nunnally: Present

Council President - Chad Graham: Absent

Council Member - Ryan Hunter: Present

Council Member - Tim Kluesner: Present

Council Member - Sid Daoud: Present

Council Member - Kyle Waterman: Present

Staff present included City Manager Doug Russell, City Attorney Charles Harball, City Clerk Aimee Brunckhorst, Planning, Building and Community Development Director Jarod Nygren, Finance Director Rick Wills, City Engineer Keith Haskins, Senior Planner P.J. Sorensen, Police Chief Doug Overman.

**C. PLEDGE OF ALLEGIANCE**

**D. AGENDA APPROVAL**

**Motion and Vote to approve the agenda as submitted.**

Council Member - Kyle Waterman: Motion

Council Member - Sandy Carlson: 2nd

Mayor - Mark Johnson: Approve

Council Member - Kari Gabriel: Approve

Council Member - Sandy Carlson: Approve

Council Member - Sam Nunnally: Approve

Council President - Chad Graham: Absent

Council Member - Ryan Hunter: Approve

Council Member - Tim Kluesner: Approve

Council Member - Sid Daoud: Approve

Council Member - Kyle Waterman: Approve

**The motion passed unanimously on voice vote with Councilor Graham absent.**

**E. CONSENT AGENDA**

All items listed on the consent agenda will be accepted by one motion. If a council member desires to discuss an item separately, the item can be removed from the consent agenda by motion.

1. Council Minutes – June 15, 2020
2. Award Bid for the 11<sup>th</sup> Street West Sanitary Sewer Reconstruction Project  
This item would award this project to Sandry Construction in the amount of \$479,646.
3. Approval of HDR Engineering as the Professional Consultant for the Wastewater Treatment Plant Equalization Basin Project  
This item would approve negotiations with HDR Engineering to provide engineering services to construct one 75-FT diameter Equalization Basin for the Wastewater Treatment Plant.

[07:02:11 PM \(00:04:51\)](#)

Mayor Johnson opened public comment on the consent agenda. Seeing none, he closed public comment.

**Motion and Vote to approve the consent agenda as submitted.**

[Council Member - Sam Nunnally: Motion](#)

[Council Member - Ryan Hunter: 2nd](#)

[Mayor - Mark Johnson: Approve](#)

[Council Member - Kari Gabriel: Approve](#)

[Council Member - Sandy Carlson: Approve](#)

[Council Member - Sam Nunnally: Approve](#)

[Council President - Chad Graham: Absent](#)

[Council Member - Ryan Hunter: Approve](#)

[Council Member - Tim Kluesner: Approve](#)

[Council Member - Sid Daoud: Approve](#)

[Council Member - Kyle Waterman: Approve](#)

**The motion passed unanimously on voice vote with Councilor Graham absent.**

**F. COMMITTEE REPORTS**

**G. PUBLIC HEARING – Preliminary Fiscal Year 2021 Budget**

Council will accept comments regarding the preliminary budget for fiscal year 2021.

Mayor Johnson opened the public hearing and asked for public comment. Seeing none, he closed the public hearing.

**H. PUBLIC COMMENT**

Persons wishing to address the council on any issue not on the agenda are asked to do so at this time. Those addressing the council are requested to give their name and address for the record. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

**07:03:51 PM (00:06:30) Shelly Strauss, Public Comment**

Shelly Strauss of Kalispell spoke in support of law enforcement naming the many tasks that police officers perform.

**07:07:20 PM (00:09:59) Valerie McGarvey, Public Comment**

Ms. McGarvey of Kalispell spoke regarding an intimidation problem in this valley saying she knows of people that were planning to provide public testimony at the meeting tonight but felt intimidated by social media threats.

**07:09:54 PM (00:12:34) Dennis Gomez, Public Comment**

Mr. Gomez of Kalispell spoke regarding protecting the Veterans Memorial.

**07:11:23 PM (00:14:03) Kelley Tindall, Public Comment**

Ms. Tindall of Kalispell spoke regarding her experiences at the June 6, 2020 protest saying she did not feel any intimidation. She further spoke in support of Law Enforcement.

**07:14:24 PM (00:17:04) BJ Cummings, Public Comment**

Mr. Cummings spoke regarding his perspective at the June 6 protest saying some of the attendees with guns had good intentions and some had bad intentions. He was afraid for the safety of people at the protest.

**00:20:37 Holly Keefe, Public Comment**

Ms. Keefe of Kalispell spoke regarding her perspective at the June 6 protest saying speech and monuments were protected above feelings.

**07:19:34 PM (00:22:14) John Rome, Public Comment**

Mr. Rome of Kalispell spoke regarding progressive movements in Montana. He spoke regarding his perspective at the June 6 protest, saying he saw a lack of safety being used around the firearms and militia type gear present.

**07:24:33 PM (00:27:13) Cole Water, Public Comment**

Mr. Water of Kalispell spoke in support of law enforcement and then spoke of his perspective at the June 6 protest.

**00:28:42 Brian Block, Public Comment**

Mr. Block of Creston spoke in favor of law enforcement.

**00:29:14 Tracey Tuller, Public Comment**

Ms. Tuller of Kalispell spoke regarding organized and trained officers to help ensure safety at protest events.

**00:31:31 Jason Boeras, Public Comment**

Mr. Boeras of Kalispell spoke regarding the right to exercise amendment rights and talked about property damage that has happened in other cities during rallies and protests. He provided his perspective of the June 6 protest.

**00:35:46 Cherilyn Devries, Public Comment**

Ms. Devries of Kalispell with Love Lives Here spoke regarding threats and ugly jokes, etc. that

were said on the social media Flathead 411 page prior to the protest and prior to tonight's Council meeting saying she feels these comments are squelching free speech. She spoke regarding misinformation, and her perspectives of the June 6 protest. She provided ideas for public safety at future events.

00:44:14 *Holly Keefe, Public Comment*

Ms. Keefe spoke against socialist agendas.

00:45:07 *John Anistatio, Public Comment*

Mr. Anistatio spoke regarding personal experiences dealing with criminals in big cities. He spoke regarding his perspectives on the June 6 protest, and spoke in favor of gun rights.

00:51:15 *Dick Cordell, Public Comment*

Mr. Cordell spoke regarding guarding the Veterans Memorial during the June 6 protest, and his perspectives there saying he felt no one was threatened. He spoke in favor of gun rights.

00:54:03 Public Comment Closed

Seeing no further public comment, Mayor Johnson closed public comment.

**I. REPORTS, RECOMMENDATIONS, AND SUBSEQUENT COUNCIL ACTION**

Persons wishing to address the council on individual agenda items will be asked to do so following staff reports. Please see the last page of the agenda for the proper manner of addressing the council. Please limit comments to three minutes.

1. Colton Lee Communities Growth Policy Amendment, Annexation, and Zoning

This item considers a request from Colton Lee Communities, LLC for a growth policy amendment, annexation, and initial zoning to allow for a multi-family residential project on a 3.27-acre parcel at 216 Hutton Ranch Road.

- a. Resolution 5979A, B, C – Growth Policy Amendment
- b. Resolution 5980 – Annexation
- c. Ordinance 1844 – First Reading – B-2 Zoning

Senior Planner P.J. Sorensen provided the staff report on this item.

Council questions for staff.

Public Comment

Mayor Johnson opened public comment.

07:58:00 PM (01:00:40) *Rory Young, Public Comment*

Mr. Young with Jackola Engineering spoke on behalf of the applicant.

Seeing no further public comment, Mayor Johnson closed public comment.

07:58:43 PM (01:01:22)

**Motion and Vote to approve Resolution 5979A, a resolution adopting an amendment to the Kalispell Growth Policy – Plan It 2035 on a 3.27 acre tract of land more specifically**

**described as Tract 1 of Certificate of Survey 21115 in the North half of Section 31, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana from “Urban Residential” to “Commercial”.**

[Council Member - Kyle Waterman: Motion](#)

[Council Member - Kari Gabriel: 2nd](#)

[Mayor - Mark Johnson: Approve](#)

[Council Member - Kari Gabriel: Approve](#)

[Council Member - Sandy Carlson: Approve](#)

[Council Member - Sam Nunnally: Approve](#)

[Council President - Chad Graham: Absent](#)

[Council Member - Ryan Hunter: Approve](#)

[Council Member - Tim Kluesner: Approve](#)

[Council Member - Sid Daoud: Approve](#)

[Council Member - Kyle Waterman: Approve](#)

**The motion passed unanimously on roll call vote with Councilor Graham absent.**

08:00:28 PM (01:03:08)

**Motion to approve Resolution 5980, a resolution to provide for the alteration of the boundaries of the City of Kalispell by including therein as an Annexation certain real property described as Tract 1 of Certificate of Survey 21115 in the North half of Section 31, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana, to be known as Colton Lee Communities addition No. 448, to zone said property in accordance with the Kalispell Zoning Ordinance, and to declare an effective date.**

[Council Member - Ryan Hunter: Motion](#)

[Council Member - Sandy Carlson: 2nd](#)

[Mayor - Mark Johnson: Approve](#)

[Council Member - Kari Gabriel: Approve](#)

[Council Member - Sandy Carlson: Approve](#)

[Council Member - Sam Nunnally: Approve](#)

[Council President - Chad Graham: Absent](#)

[Council Member - Ryan Hunter: Approve](#)

[Council Member - Tim Kluesner: Approve](#)

[Council Member - Sid Daoud: Approve](#)

[Council Member - Kyle Waterman: Approve](#)

**The motion passed unanimously on roll call vote with Councilor Graham absent.**

08:01:49 PM (01:04:29)

**Motion to approve the first reading of Ordinance 1844, an ordinance to amend Section 27.02.010, official zoning map, 1677, by zoning certain real property, more particularly described as Tract 1 of Certificate of Survey 21115 in the North half of Section 31, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana (previously zoned County SAG-10) to City B-2 (General Business), in accordance with the Kalispell Growth Policy Plan-It 2035, and to provide an effective date.**

[Council Member - Ryan Hunter: Motion](#)

[Council Member - Sam Nunnally: 2nd](#)

[Mayor - Mark Johnson: Approve](#)

[Council Member - Kari Gabriel: Approve](#)

[Council Member - Sandy Carlson: Approve](#)



[Council Member - Sam Nunnally: Approve](#)  
[Council President - Chad Graham: Absent](#)  
[Council Member - Ryan Hunter: Approve](#)  
[Council Member - Tim Kluesner: Approve](#)  
[Council Member - Sid Daoud: Approve](#)  
[Council Member - Kyle Waterman: Approve](#)

**The motion passed unanimously on roll call vote with Councilor Graham absent.**

2. [Chrysalis Group Home Conditional Use Permit](#)

This item considers a request from Chrysalis Group Home for a conditional use permit to operate a youth group home for eight or fewer residents at 1005 8<sup>th</sup> Avenue East.

Senior Planner P.J. Sorensen provided the staff report on this item.

[Council questions for staff.](#)

[Public Comment](#)

Mayor Johnson opened public comment.

[08:10:33 PM \(01:13:13\) Cory Hickman, Public Comment](#)

Mr. Hickman spoke on behalf of the applicant.

[08:11:10 PM \(01:13:50\) Tracey Tuller, Public Comment](#)

Ms. Tuller spoke in favor of the group home.

[08:12:07 PM \(01:14:47\) Valerie McGarvey, Public Comment](#)

Ms. McGarvey spoke in favor of the group home.

[01:15:38](#)

**Motion and Vote to approve a request from Chrysalis Schools of Montana for Conditional Use Permit KCU-20-03, a conditional use permit for a youth group home for eight or fewer girls with five conditions of approval within the R-3 zoning district, located at 1005 8<sup>th</sup> Ave. East and more particularly described as the north ½ of lot 11 and west 30 feet of the north ½ of lot 12, block 256, Kalispell Addition 8.**

[Council Member - Sid Daoud: Motion](#)  
[Council Member - Kyle Waterman: 2nd](#)  
[Mayor - Mark Johnson: Approve](#)  
[Council Member - Kari Gabriel: Approve](#)  
[Council Member - Sandy Carlson: Approve](#)  
[Council Member - Sam Nunnally: Approve](#)  
[Council President - Chad Graham: Absent](#)  
[Council Member - Ryan Hunter: Approve](#)  
[Council Member - Tim Kluesner: Approve](#)  
[Council Member - Sid Daoud: Approve](#)  
[Council Member - Kyle Waterman: Approve](#)

**The motion passed unanimously on roll call vote with Councilor Graham absent.**

3. [Resolution 5981 – Hedges Elementary School Zone and Speed Designation](#)  
This item would update the school zone boundaries and speed limits around Hedges School to meet current standards.

City Manager Russell provided the staff report on this item.

### **Public Comment**

Mayor Johnson opened public comment. Seeing none, he closed public comment.

[08:16:32 PM \(01:19:12\)](#)

### **Motion and Vote to approve Resolution 5981, a resolution designating certain portions of Kalispell Streets abutting the School Properties of Hedges Elementary School as School Zones and setting appropriate speed limits thereon for Vehicular Traffic.**

[Council Member - Tim Kluesner: Motion](#)

[Council Member - Sandy Carlson: 2nd](#)

[Mayor - Mark Johnson: Approve](#)

[Council Member - Kari Gabriel: Approve](#)

[Council Member - Sandy Carlson: Approve](#)

[Council Member - Sam Nunnally: Approve](#)

[Council President - Chad Graham: Absent](#)

[Council Member - Ryan Hunter: Approve](#)

[Council Member - Tim Kluesner: Approve](#)

[Council Member - Sid Daoud: Approve](#)

[Council Member - Kyle Waterman: Approve](#)

**The motion passed unanimously on roll call vote with Councilor Graham absent.**

## **J. CITY MANAGER, COUNCIL, AND MAYOR REPORTS (No Action)**

City Manager Russell provided the following report:

- The Montana League of Cities and Towns 2020 meeting has been moved to an online forum. Kalispell will host the meeting in 2022.
- The July 13 work session includes an update on Woodland Park, and a follow up discussion to respond to questions posed by Council during the budget work sessions. The July 27 work session will likely be a discussion regarding the core area street connector.

[08:19:14 PM \(01:21:54\)](#) Councilor Hunter spoke regarding community spread of COVID-19, asking that as cases continue to climb, that we require masks in council chambers for future meetings. He would also like to see the city make a public statement encouraging the wearing of masks.

Councilor Hunter thanked the people that provided public comment. He then asked Chief Overman questions regarding the June 6, 2020 protest. He spoke regarding his perspectives at the June 6, 2020 protest, and his views of national and local events. He encouraged all parties to work together to find respectful and safe solutions to differences.

Councilor Hunter asked Manager Russell for clarifications of actions that have been taken by staff under the COVID Emergency Declaration and the timeframe of the declaration. He would ask that a work session be held if the Emergency Ordinance were to be brought before council again.

[08:32:12 PM \(01:34:52\)](#) Councilor Waterman spoke regarding following health department recommendations. He also spoke regarding the desire to see the Interlocal Agreement with the City-County Health Department and the local cities move forward.

Councilor Waterman then spoke regarding feeling heartened by the amount of people that would like to be involved with city governance. He spoke regarding responsibilities.

[08:34:30 PM \(01:37:09\)](#) Councilor Kluesner spoke regarding the Flathead 411 Facebook page and how he feels social media rips the community apart.

[08:35:46 PM \(01:38:26\)](#) Councilor Daoud spoke regarding the recent vandalism to the Black Lives Matter billboard providing a statement on the matter.

Councilor Daoud would ask that the City Manager add a discussion regarding No Knock warrants to a future work session.

[08:37:45 PM \(01:40:25\)](#) Mayor Johnson provided the following report:

- The Homeless Task Force has been meeting and should be providing a work session report to the Council.
- Mayor Johnson spoke regarding meeting with community members and the Police Chief to work through solutions. He complimented those that came to provide public comment even when outnumbered.
- Flathead 411 is not a news source. Rumors on these sites have been incorrect. Mayor Johnson feels social media causes a breakdown of respect for one another as citizens saying hate speech is not free speech. He spoke further regarding exercising rights in a respective manner.

## **K. ADJOURNMENT**

Mayor Johnson adjourned the meeting at 8:45 p.m.

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Aimee Brunckhorst, CMC  
City Clerk

Minutes approved on, 2020

**UPCOMING SCHEDULE / FOR YOUR INFORMATION**

**City Offices Closed** – July 3, 2020 – Independence Day Holiday

**Next Work Session** – July 13, 2020, at 7:00 p.m. – Council Chambers

**Next Regular Meeting** – July 20, 2020, at 7:00 p.m. – Council Chambers

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**Planning Department**

201 1<sup>st</sup> Avenue East

Kalispell, MT 59901

Phone: (406) 758-7940

Fax: (406) 758-7739

[www.kalispell.com/planning](http://www.kalispell.com/planning)

**REPORT TO:** Doug Russell, City Manager

**FROM:** PJ Sorensen, Senior Planner

**SUBJECT:** Ordinance 1844 Second Reading –  
Colton Lee Communities Initial Zoning

**MEETING DATE:** July 20, 2020

**BACKGROUND:** This is the second reading of Ordinance 1844, an ordinance to amend the Kalispell Zoning Map and establish a zoning classification of B-2 (Commercial), based on a request from Colton Lee Communities, LLC. The subject property is located at 216 Hutton Ranch Road to the east of Hilton Homewood Suites, and can be more particularly described as Tract 1 of COS 21115 in the North Half of Section 31, Township 29 North, Range 21 West, P.M., M., Flathead County, Montana.

The Kalispell City Council, at their meeting on July 6, 2020, approved the first reading of Ordinance 1844 unanimously.

**RECOMMENDATION:** It is recommended that the Kalispell City Council approve the second reading of Ordinance 1844, an Ordinance to amend section 27.02.010, official zoning map, City of Kalispell zoning ordinance 1677, by zoning certain real property described as Tract 1 of COS 21115 in the North Half of Section 31, Township 29 North, Range 21 West, P.M., M., Flathead County, Montana, as City B-2 (General Business), in accordance with the Kalispell Growth Policy Plan – It 2035, and to provide an effective date.

**FISCAL EFFECTS:** There are no anticipated fiscal impacts at this time.

**ALTERNATIVES:** Deny the request.

**ATTACHMENTS:** Ordinance 1844

c: Aimee Brunckhorst, Kalispell City Clerk

**ORDINANCE NO. 1844**

**AN ORDINANCE TO AMEND SECTION 27.02.010, OFFICIAL ZONING MAP, CITY OF KALISPELL ZONING ORDINANCE (ORDINANCE NO. 1677), BY ZONING CERTAIN REAL PROPERTY, MORE PARTICULARLY DESCRIBED AS TRACT 1 OF CERTIFICATE OF SURVEY 21115 IN THE NORTH HALF OF SECTION 31, TOWNSHIP 29 NORTH, RANGE 21 WEST, P.M.M., FLATHEAD COUNTY, MONTANA (PREVIOUSLY ZONED COUNTY SAG-10) TO CITY B-2 (GENERAL BUSINESS), IN ACCORDANCE WITH THE KALISPELL GROWTH POLICY PLAN – IT 2035, AND TO PROVIDE AN EFFECTIVE DATE.**

**WHEREAS,** Colton Lee Communities, LLC, the owner of the property described above, petitioned the City of Kalispell that the zoning classification attached to the above described tract of land be zoned B-2 on approximately 3.27 acres of land; and

**WHEREAS,** the property is located at 216 Hutton Ranch Road; and

**WHEREAS,** Colton Lee Communities, LLC's petition was the subject of a report compiled by the Kalispell Planning Department, Staff Report #KA-20-01, dated May 6, 2020, in which the Kalispell Planning Department evaluated the petition and recommended that the property as described above be zoned B-2, General Business, as requested by the petition; and

**WHEREAS,** after considering all the evidence submitted on the proposal to zone the property as described B-2, General Business, the City Council finds such initial zoning to be consistent with the Kalispell Growth Policy Plan-It 2035 and adopts, based upon the criterion set forth in Section 76-3-608, M.C.A., and State, Etc. v. Board of County Commissioners, Etc. 590 P2d 602, the findings of fact of KPD as set forth in Staff Report No. KA-20-01.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:**

**SECTION 1.** Section 27.02.010, of the Official Zoning Map of the Kalispell Zoning Ordinance (Ordinance No. 1677) is hereby amended by designating the property described above as B-2, General Business, on approximately 3.27 acres of land.

**SECTION 2.** The balance of Section 27.02.010, Official Zoning Map, City of Kalispell Zoning Ordinance not amended hereby shall remain in full force and effect.

**SECTION 3.** This Ordinance shall be effective thirty (30) days from and after the date of its final passage and approval by the Mayor.

PASSED AND APPROVED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF  
THE CITY OF KALISPELL THIS 20TH DAY OF JULY, 2020.

ATTEST:

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Mark Johnson  
Mayor

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Aimee Brunckhorst, CMC  
City Clerk



CITY OF  
**KALISPELL**  
**POLICE DEPARTMENT**

312 1<sup>st</sup> Ave East – PO Box 1997 – Kalispell, MT 59903

*'Striving to Exceed Expectations'*

**REPORT TO:** Doug Russell, City Manager  
**FROM:** Doug Overman, Chief of Police  
**SUBJECT:** Confirmation of Officer Dustin Willey  
**MEETING DATE:** July 20, 2020

**BACKGROUND:** Mayor and council, I respectfully request Dustin Willey be confirmed as a patrol officer for the Kalispell Police Department. Officer Willey has successfully completed the one year probationary period effective July 15, 2020.

Officer Willey graduated Cum Laude from California State University, San Marcos with a Bachelor's degree in Literature and Writing. Officer Willey also served 8 years in the Air Force Reserve. He was honorably discharged in 2015.

Officer Willey has excelled throughout the probationary period, earned respect from peers and clearly meet the high moral and ethical standards of the Kalispell Police Department.

It is my pleasure to recommend that Officer Dustin Willey be confirmed as a police officer with the Kalispell Police Department.

**RECOMMENDATION:** Approve the confirmation of Officer Dustin Willey as a patrol officer for the Kalispell Police Department.

DOUG OVERMAN, CHIEF OF POLICE





Kalispell Parks & Recreation  
306 1<sup>st</sup> Ave E. P.O. Box 1997  
Kalispell, Montana 59903-1997  
(406) 758-7715 Fax (406) 758-7719

## MEMORANDUM

**REPORT TO:** Doug Russell, City Manager  
**FROM:** Chad Fincher, Parks and Recreation Director  
**MEETING DATE:** July 20, 2020  
**SUBJECT:** Flathead Hockey Association MOU

**BACKGROUND:** The city owns and maintains Woodland Park and the Woodland Camp Center, in which Flathead Valley Hockey Association has been operating a seasonal ice rink since October 2007. The MOU between the city and FVHA expired in December.

Staff has reviewed and drafted a new five-year MOU identifying the responsibilities of each party, to which both parties agree. The attached MOU indicates use by both parties' and their obligations to set up and take down and responsibilities relating to programming of their own recreational programs. The attached MOU specifies FVHA will pay utilities incurred during their occupancy and expenses related to their staffing, Zambonis, rental skate fleet and miscellaneous requirements related to their operations.

**RECOMMENDATION:** It is recommended the city council pass a motion authorizing the city manager to enter into the MOU with Flathead Valley Hockey Association.

**FISCAL EFFECTS:** The city will be responsible for expenses related to maintenance of the building, the snow removal from the roads within the park and city recreational programming. Revenue will be collected for the city's Learn to Skate program. The expenses are included in the parks FY 20/21 budget for which we have budgetary authority.

**ALTERNATIVES:** As suggested and approved by the City Council.

**ATTACHMENT:** Flathead Valley Hockey Association MOU

c: Aimee Brunckhorst, Kalispell City Clerk

## **USE AGREEMENT**

This Use Agreement is made this \_\_\_\_ day of July 2020, by and between the **CITY OF KALISPELL**, a municipal corporation organized and existing under the laws of the State of Montana, of 312 First Avenue East, Kalispell, Montana 59901 (“**City**”), and the **FLATHEAD VALLEY HOCKEY ASSOCIATION**, a Montana corporation, of P.O. Box 2205, Kalispell, Montana 59903 (“**FVHA**”).

### ***Recitals***

**A.** The City owns and maintains Woodland Park, a municipal park and recreational facility, located in the City of Kalispell, and more particularly, the area known as the Woodland Camp Center located therein, as shown on the map attached hereto as Exhibit “A” and incorporated herein fully by this reference.

**B.** FVHA is a Montana corporation incorporated for the purposes of providing opportunities to the youth of the Flathead Valley to learn to play and participate in the sport of hockey.

**C.** FVHA owns a portable ice rink and wants to install this rink at the Woodland Camp Center for a certain term. The City wants to share in the recreational benefits of an ice rink located in Woodland Park.

**NOW THEREFORE**, in consideration of the covenants, agreements, representations, and warranties contained herein, the parties agree as follows:

### ***Agreement***

- 1. Installation of Portable Ice Rink:** The City agrees that FVHA may, and FVHA agrees that it shall install a portable ice rink at the Woodland Camp Center, located in Woodland Park, Kalispell, Montana as set forth in more particularity on the map attached hereto and identified as Exhibit “A”, upon the terms as set forth below.
- 2. Term and Option to Extend:** The terms of this agreement may be extended for an additional FIVE (5) years, if, prior to NINETY (90) days before the termination date, the FVHA requests such consideration from the Kalispell City Council and it agrees to the extension.
- 3. Obligations of FVHA:** FVHA shall have the following obligations under this agreement:
  - 3.1. Fall set-up tasks:
    - 3.1.1. Set up concession stand.
    - 3.1.2. Set up lobby.
    - 3.1.3. Set up rental skates.
    - 3.1.4. Set up office.
    - 3.1.5. Set up skate sharpening area.

- 3.1.6. Move Zambonis.
- 3.1.7. Arrange and install propane service.
- 3.1.8. Install rubber matting.
- 3.2. Required ice making tasks:
  - 3.2.1. Set up water treatment system.
  - 3.2.2. Start up chiller.
  - 3.2.3. Make base ice.
  - 3.2.4. Install/maintain glass.
  - 3.2.5. Paint ice, install lines and finish ice.
  - 3.2.6. Install rink shade system.
- 3.3. Season operation tasks:
  - 3.3.1. Staffing youth hockey programs.
  - 3.3.2. Staffing and administration of adult hockey programs.
  - 3.3.3. Staffing and administration of public skate.
  - 3.3.4. Staffing and administration of private rental times.
  - 3.3.5. Staffing and administration of special programs, schools, mom and tots, figure skating, etc.
  - 3.3.6. Provide access to ice during open skate to accommodate “Learn to Skate” program on an as-needed basis at no cost to the city.
  - 3.3.7. Clean and maintain restrooms.
- 3.4. Expenses:
  - 3.4.1. Required staff.
  - 3.4.2. Kalispell Parks and Recreation will invoice throughout the season as electric bills are received. FVHA will be responsible for all electric utility costs from October 1 to March 31 of each year.
  - 3.4.3. Kalispell Parks and Recreation will invoice throughout the season as gas bills are received. FVHA will be responsible for all gas utility costs from October 1 to March 31 of each year.
  - 3.4.4. Propane costs for Zambonis.
  - 3.4.5. Blade sharpening costs for Zambonis.
  - 3.4.6. Maintain rental skate fleet.
  - 3.4.7. Zamboni maintenance, supplies and repairs.
  - 3.4.8. Snow removal on steps, ramp and sidewalk at front of Rink entry, and all snow removal necessary within the facility.
  - 3.4.9. Color paper or ice paint.
  - 3.4.10. Purchase restroom and cleaning supplies.
  - 3.4.11. Repair and maintenance of the facility as it was received at the beginning of the season.
- 3.5. Closing and takedown:
  - 3.5.1. Palletize rubber mats.
  - 3.5.2. Transport Zambonis to storage location.
  - 3.5.3. Clean out lobby, office and concession area, and Zamboni room.

- 3.5.4. Move out and store rental skates.
- 3.5.5. Shut down and clean chiller and equipment.
- 3.5.6. Sweep and properly dispose of all debris utilized in making ice and concrete surface washed thoroughly by April 15 of each year.

**4. Obligations of the City:** The City shall have the following obligations under this agreement:

- 4.1. Fall set-up tasks:
  - 4.1.1. Set up and install locker rooms.
- 4.2. Season operation tasks:
  - 4.2.1. Stacking Zamboni snow accumulation pile.
  - 4.2.2. Administration of “Learn to Skate” program.
- 4.3. Expenses:
  - 4.3.1. Maintenance and repair of building heating system.
  - 4.3.2. Phone bill.
  - 4.3.3. Snow removal on Woodland Park roads.
  - 4.3.4. Marketing brochures and flyers will include FVHA schedule and announcements.
- 4.4. Closing and takedown tasks:
  - 4.4.1. Move and store rubber mats.
  - 4.4.2. Take down and store locker room materials inside garage at the facility.

**5. Programming Responsibilities:** The City and FVHA shall each have the following programming responsibilities:

- 5.1. FVHA shall be responsible for the programming of the youth hockey league and open public skate.
- 5.2. FVHA shall provide supervision and administration during Open Ice and Hockey.
- 5.3. The City shall be responsible for the programming of Learn to Skate programs.
- 5.4. The City shall provide supervision and administration for the Learn to Skate program.
- 5.5. The City and FVHA will cooperate in the distribution of materials for league registrations and the promotion of league play.

**6. Rules and Regulations for Use of the Facilities:** The hours of operation for the ice facility shall not extend beyond the park hours [6:00am – 11:00pm] unless approved by the Director of Parks and Recreation. No alcohol shall be allowed on the site. All rules of Woodland Park shall apply as set forth in Exhibit “B” attached hereto in fully incorporated herein by this reference.

**7. Indemnification and Insurance:**

- 7.1. To the fullest extent permitted by law, FVHA shall fully indemnify, defend, and save the City, its agents, representatives, employees, and officers harmless from and against any

and all claims, actions, costs, fees, losses, or damages of whatever kind or nature arising from or related to the use of the Woodland Camp Center as an ice facility for youth hockey league play or practice.

7.2. FVHA shall maintain a policy for general liability in the amount of no less than \$1,500,000.00 aggregate and \$750,000.00 per occurrence, and FVHA shall provide City with proof of such insurance coverage within ten (10) days following execution of this Agreement and at least annually thereafter. FVHA shall notify City thirty (30) days prior to the expiration of any such required insurance coverage and during the term of this Agreement shall ensure such required insurance coverage is timely renewed so that there is no lapse in coverage during the term of this Agreement. FVHA shall further notify City within two (2) business days of FVHA's receipt of notice that any required insurance coverage will be terminated or FVHA's decision to terminate any required insurance coverage for any reason. The required insurance coverage shall name the City as additional insured.

**8. Inspection and Testing:** City has the right to inspect and test any and all work performed by FVHA on the project. FVHA shall allow City and its agents access to the project at all times and shall provide every reasonable facility for the purpose of such inspection and testing, including temporarily discontinuing portions of the work or uncovering or taking down portions of the finished work. Any inspection and testing performed by the City and its agents is for the sole benefit of the City and shall not relieve FVHA of its duty, responsibility, and obligation for ensuring the work strictly complies with all applicable laws and building and safety codes.

**9. Subcontractors:**

9.1. FVHA may employ subcontractors for any work on the project only upon consent of the City. FVHA shall provide City with a list of all subcontractors employed.

9.2. Even with the City's consent to a subcontractor, FVHA shall remain fully responsible for the acts and omissions of any subcontractor as FVHA is for its own acts and omissions.

9.3. FVHA shall be solely liable for any and all payments to subcontractors.

**10. Indebtedness and Liens:** FVHA shall furnish City with a satisfactory proof that there are no outstanding debts or liens in connection with the project. If any lien or claim is filed or made by any subcontractor or material man or any other person, FVHA shall immediately notify the City and shall cause the same to be discharged of record within thirty (30) days after its filing.

**11. Headings:** The headings used in this Agreement are for convenience only and shall not be construed as a part of the Agreement or as a limitation on the scope of the particular paragraphs to which they refer.

**12. Waiver:** A waiver by City of any default or breach by FVHA of any covenants, terms, or conditions of this Agreement shall not limit City's right to enforce such covenants, terms, or conditions or to pursue City's rights in the event of any subsequent default or breach.

- 13. Severability:** If any portion of this Agreement shall be held to be void or unenforceable, the balance thereof shall continue to be effective.
- 14. Applicable Law:** The parties agree that this Agreement shall be governed in all respects by the laws of the State of Montana and the parties expressly agree that venue shall be in Flathead County, Montana, and no other venue.
- 15. Binding Effect:** This Agreement shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.
- 16. Amendments:** This Agreement shall not be modified, amended, or changed in any respect except by a written document signed by all parties.
- 17. No Third Party Beneficiary:** This Agreement is for the exclusive benefit of the parties and shall not constitute a third party beneficiary agreement and shall not be relied upon or enforced by a third party.
- 18. Assignment:** FVHA shall not assign this Agreement in whole or in part without the prior written consent of the City.
- 19. Authority:** Each party represents that it has full power and authority to enter into and perform this Agreement and the person signing this Agreement on behalf of each party has been properly authorized and empowered to sign this Agreement.
- 20. Independent Contractor:** The parties agree and acknowledge that in the performance of this Agreement FVHA shall render services as an independent contractor and not as the agent, representative, subcontractor, or employee of the City. The parties further agree that all individuals and companies retained by FVHA shall at all times be considered the agents, employees, or independent contractors of FVHA and shall at no time be the employees, agents, or representatives of the City.
- 21. Integration:** This Agreement and all Exhibits attached hereto constitute the entire agreement of the parties. Covenants or representations not contained therein or made a part thereof by reference, shall not be binding upon the parties. There are no understandings between the parties other than as set forth in this Agreement. All communications, either verbal or written, made prior to the date of this Agreement are hereby abrogated and withdrawn unless specifically made a part of this Agreement by reference.

IN WITNESS WHEREOF, FVHA and City have caused this Agreement to be executed, effective on the date written above, and intend to be legally bound thereby.

**CITY OF KALISPELL, MONTANA**

**FLATHEAD VALLEY HOCKEY ASSOCIATION**

By: \_\_\_\_\_  
**Doug Russell, City Manager**

By: \_\_\_\_\_  
**FVHA**

By: \_\_\_\_\_  
**FVHA**

STATE OF MONTANA     )  
  ):ss  
County of Flathead     )

On this \_\_\_\_ day of July, 2020, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **Christy Eisinger**, in her capacity as **President** of the Flathead Valley Hockey Association, a Montana corporation, that executed the within instrument, and acknowledged as such subscribed, sealed and delivered said instrument as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and that she was duly authorized to execute the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF MONTANA     )  
  ):ss  
County of Flathead     )

On this \_\_\_\_ day of July, 2020, before me, the undersigned, a Notary Public for the State of Montana, personally appeared **Scott Kroger**, in his capacity as **Board Member** of the Flathead Valley Hockey Association, a Montana corporation, that executed the within instrument, and acknowledged as such subscribed, sealed and delivered said instrument as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and that he was duly authorized to execute the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year in this certificate first above written.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF MONTANA     )  
  ):ss  
County of Flathead     )

On this \_\_\_\_ day of July, 2020, before me, a Notary Public in and for the State of Montana, personally appeared **Doug Russell**, known to me to be the City Manager of the City of Kalispell, a municipality, that executed the within instrument, and acknowledged that such City Manager subscribed, sealed and delivered said instrument as the free and voluntary act of said municipality, for the uses and purposes therein set forth, and that she was duly authorized to execute the same on behalf of said municipality.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal, the day and year first above written.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Montana  
Residing at \_\_\_\_\_  
My Commission Expires \_\_\_\_\_



**Exhibit A**  
**MAP OF WOODLAND CAMP CENTER AND SEASONAL HOCKEY FACILITY**



**Exhibit B**  
**WOODLAND PARK RULES**

Park Hours: 6:00 am to 11:00 pm

Speed Limit 15 mph

No Alcoholic Beverages

Dogs must be kept on leash

No littering

Parking in designated areas only

DRAFT