

A Meeting of the Meridian City Council was called to order at 6:00 p.m., Tuesday, January 26, 2021, by Mayor Robert Simison.

Members Present: Robert Simison, Joe Borton, Luke Cavener, Treg Bernt, Jessica Perreault, Brad Hoaglund and Liz Strader.

Also present: Chris Johnson, Bill Nary, Sonya Allen, Clint Dolsby, Jamie Leslie, Joe Bongiorno and Dean Willis.

ROLL-CALL ATTENDANCE

☒ Liz Strader	☒ Joe Borton
☒ Brad Hoaglund	☒ Treg Bernt
☒ Jessica Perreault	☒ Luke Cavener
☒ Mayor Robert E. Simison	

Simison: Council, I will call this meeting to order. For the record it is January 26, 2021, at 6:00 p.m. We will begin tonight's regular City Council meeting with roll call attendance.

PLEDGE OF ALLEGIANCE

Simison: Next item is the Pledge of Allegiance. If you would all, please, rise and join us in the Pledge.

(Pledge of Allegiance recited.)

COMMUNITY INVOCATION

Simison: Our next item on the agenda is the community invocation, which will be delivered by Michael Pearson of the Seventh-Day Adventist Church. Pastor Pearson, you are recognized. Thank you for being here and for those in the audience if you would join us in this or take this as a moment of silence or reflection. Pastor Pearson, when you are ready.

Bernt: Mr. Mayor?

Simison: Yes.

Bernt: I don't think he can hear us.

Johnson: Pastor Pearson, are you able to hear us?

Simison: Pastor Pearson, if you can hear us -- we can hear you it sounds like. I guess we will just have to forego the invocation this evening.

ADOPTION OF AGENDA

Simison: All right. Next item was the adoption of the agenda.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I move that we adopt the agenda as published.

Cavener: Second, Mr. Mayor.

Simison: I have a motion and a second to adopt the agenda as published. Is there any discussion on the motion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the agenda is adopted.

MOTION CARRIED: ALL AYES.

PUBLIC FORUM – Future Meeting Topics

Simison: Nobody signed up under public forum this evening.

DEPARTMENT / COMMISSION REPORTS [Action Item]

- 1. Resolution No. 21-2253: A Resolution of the Mayor and the City Council of the City of Meridian Appointing Zachary Shoemaker to Seat 3 of the Meridian Transportation Commission; and Providing an Effective Date**

Simison: So, the next item is Department/Commission Reports. First item is Resolution No. 21-2253 appointing -- resolution to appoint Zachary Shoemaker to the Meridian Transportation Commission. Council, if I could just take a few minutes and talk -- I sat down like we normally do with the chair of the Commission. We had a new chair of the Transportation Commission now. It's been David Ballard for many years, but we have a new transportation chair and we sat down with the applicants and interviewed folks and it was a tough decision, like it always is. We have got a lot of qualified people who are very interested in transportation as, you know, one of the main things people are concerned about in Meridian. But when we looked at the current makeup of the commission, that often can be as much a deciding factor because the Transportation Commission has more criteria than our other commissions in trying to keep it balanced from a resident perspective, a business perspective and a geographic perspective and while all the applicants were outstanding, Zachary Shoemaker rose to the top and his appointment also helps meet those balance needs as he works for a business located here in Meridian, lives in Meridian, so he fits a couple of different boxes from that standpoint. He is very community focused. Lives up in the northern part of our community, which is where we want to keep some of the representation up there and so

I would propose that we appoint him to the Transportation Commission.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: One, thanks. I really appreciate that you are putting these applications as part of the agenda topic, allows for Council, as well as the public to kind of review this a little bit more before we come. You always bring forth strong recommendations. Appreciate you involving the commission chair in this process. I don't have any questions. I'm happy to make a motion unless anyone has anything they would like to say. So, Mr. Mayor, I move we approve Resolution No. 21-2253, appointing Zachary Shoemaker to the Meridian Transportation Commission.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I second that motion.

Simison: I have a motion and a second. Is there any discussion?

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I know Zack Shoemaker. He is a -- he is a dear friend of mine and highly qualified for this role. He has a lot of experience in public policy. He has a graduate degree at Boise State and is prime for this -- for this -- for this role. Very excited to cast my vote in favor for him and wish him the best of luck.

Simison: Thank you, Councilman Bernt. If not, all those in favor signify by saying aye. Opposed nay. The ayes have it.

MOTION CARRIED: ALL AYES.

Simison: Congratulations, Zack, and I know Zack is on the call with us today. Zach, if you have any comments we would love for you to take a second and address a nice large audience.

Shoemaker: Yeah. Can you hear me?

Simison: Yes, we can.

Shoemaker: Yeah. Thanks -- thanks, Mayor and Councilman Bernt for the nice words. I look forward for the opportunity to help out the City of Meridian continue to grow and look

forward to it -- yeah, with offering any insight and information I can help create and get good policy and good transportation decisions for the city. So, thank you for this opportunity. Look forward to it.

2. Resolution No. 21-2254: A Resolution of the Mayor and the City Council of the City of Meridian Reappointing Steven Yearsley to Seat 4 of the Meridian Planning And Zoning Commission through April 30, 2021 and Appointing Nathan Wheeler to Seat 4 of the Meridian Planning and Zoning Commission with an Effective Date of May 1, 2021 and Appointing Maria Lorcher to Seat 2 of the Meridian Planning and Zoning Commission; and Providing an Effective Date

Simison: Thank you, Zack. Welcome aboard. Council, next item on the agenda is Resolution No. 21-2254, which is reappointing Steven Yearsley to Seat 4 of the Meridian Planning and Zoning Commission through April 30th and appointing Nathan Wheeler to Seat 4 of the Meridian Planning and Zoning Commission with effective date of May 1st and appointing Maria Lorcher to Seat 2 of the Meridian Planning and Zoning Commission. Again, had an opportunity to sit down and interview great candidates for Planning and Zoning. You know, this has been -- this is one of those issues when you are a growing community -- community that you got to really take the time and find the people that are going to meet the -- meet the needs and have that feeling of what the community has experienced and -- and bring stuff to the table. With this -- with the resignation of some very qualified people, you know, start with Ryan Fitzgerald who opted not to seek -- to be reappointed and Steven Yearsley, who has been filling in, but has kind of said he wanted to do in a limited capacity, so it was really trying to replace two people in a very -- with very high -- two very high quality Planning and Zoning Commissioners with others. But I think we found a good balance in this. So, Ryan and Steven both came -- one came from the southeast and one is in the northwest, so our two highly growing areas. We want to try to maintain that as much as we could to keep that balance and it actually worked out perfectly, because Nathan Wheeler, who is working to be a chaplain right now, so he's -- he's not in the area for the first next couple months or -- and would only be able to maybe attend, but, you know, the Army has their own standards about when you are allowed to talk and do things and go to bed. So, he -- Steven agreed to stick -- stay on for a couple more months. That will give Nathan an opportunity to get back to the area, you know, and it really comes down to, you know, people's hearts for the community from that standpoint. So, we all know Steve. I'm not going to spend time really -- I just want to say thank you to Steven, quite frankly, for continuing to serve and be there when we need to. But Nathan has a background in land development. He's familiar with all aspects, you know, from real estate to the back end on the construction side. You know, really from a standpoint, though, of helping cost out projects. He lives in southeast Meridian. He is familiar with the area. He has really lived in that part of our community most of his life, whether it's Boise, Ada county, Meridian, kind of in that south -- southeast, southwest parts of the area and he -- we really talked about what's -- what's important to him in terms of good quality standards, good development. Talked about some of the things that he liked in our community and also give examples of some of the developments that we wasn't as excited about, so got a good flavor for that and why and, you know, he's -- he's

a champion of responsible growth and being mindful of the inputs and how that has impact. So, he's -- he's the one that -- moving forward to replace Steven Yearsley. Second up is Maria Lorcher. She comes from a long -- longtime Meridian resident and I think there is a real value towards having people with the real historical perspective of our community, about where it's been and where it's going and still want to be part of that from that standpoint. Been here since 1995 as a business owner. Currently owns property built in a subdivision and agricultural land in this area, property that will be impacted by the Highway 16 extension and, you know, really tries to balance the growing needs of the community, along with, really, the historic aspects that we all love. She talks about her love for downtown. Talked about the love for historic places and how do you incorporate that into a community that continues to evolve over time. But I think she will bring a great balance and perspective to it. She's shown that she is not afraid to get in the trenches and she's served on a -- a school district boundary committee, you know, from that standpoint. So, it's with great enthusiasm that I bring her forward as well for your consideration and with that I'm happy to answer any questions about these applicants.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I just want to say thank you to our applicants. I started off in the Planning and Zoning Commission. It's very dear to my heart and I -- I appreciate the desire to volunteer, first of all, but also to volunteer specifically for this and to use all the talents and skills that -- that have been acquired over years and years of service to our community in different capacities. I did carefully read through the applications. I was very curious about all of our new commissioners. The question I have for you, though, is just -- one of my -- the things that -- the thing that kind of surprised me was it seems like Mr. Shoemaker, who we just talked about, has -- has more of that new construction, maybe some planning experience and had applied for the Transportation Commission and yet Ms. -- Mrs. Lorcher seems to have that transportation experience and apply for the Planning and Zoning Commission. So, just wanted to hear a little bit more about that and I trust -- I trust the -- you, Mr. Mayor and -- and everyone who is involved in that interviewing process, but I just -- I was just curious about that. Thought you might share for us.

Simison: Sure. From a -- from a -- from an overall perspective -- and, you know, Mr. Shoemaker did express at one point time a potential maybe in the future interested in Planning and Zoning. He is involved in the development community. I think we always have to take a quick hard look at that as part of it and, yes, while Maria does have a -- her business is in the transportation world, that's really not -- I won't say that's not where her heart is, but in her service I think she's really -- it's a bigger viewpoint about a longtime Meridian resident who wants to be involved and connected to the changes in growth and being part of that and figuring out how she can help us move forward while maintaining our small town historical roots where appropriate. Any further questions? If not, do I have a motion?

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: A comment and, then, I will be happy to make a motion. Just, again, appreciate these nominations and I think you touched on something that I think is important for us on Council and important for consideration for future appointees. We focus so much on the value of people coming in that can understand the process, but I really applaud that you have went out and found some candidates that have some historical knowledge about our community. I think that's as important, if not more important, especially on our Planning and Zoning Commission. So, again, great appointees, a great slate, I'm really excited for our Planning and Zoning Commission who has been doing really really great work for a long time. Mr. Mayor, with that I move we approve resolution number 21-2254 reappointing Steve Yearsley, Nathan Wheeler -- appointing Nathan Wheeler and appointing Maria Lorcher to the Meridian Planning and Zoning Commission.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I second that motion.

Simison: I have a motion and a second. Is there any discussion on the motion? If not, all in favor signify by saying aye. Noes? The ayes have it and the resolution is agreed to.

MOTION CARRIED: ALL AYES.

Simison: And I believe we have two of the three with us at this point in time. Is that correct, Mr. Clerk?

Johnson: Mr. Mayor, believe we just have Maria.

Simison: Okay. All right. Maria, if you would like to unmute yourself and make any comments we would love to hear from you.

Lorcher: City Council and Mayor, thank you for the opportunity to be part of the Planning and Zoning Commission. I am excited to work with all of you and the future of Meridian.

ACTION ITEMS

3. Appointment and Swearing In of Tracy Basterrechea as Chief of the Meridian Police Department

Simison: All right. Thank you, Maria. Appreciate it very much. Okay. With that, Council, we will move on to our Action Items this evening. Yeah. That's -- that's a -- that's your guys's call on that one. It is on the agenda, so -- so, Council, the next item on the agenda

is appointment and swearing in of Tracy Basterrechea. This is chief of Meridian Police Department. So, first, I got to -- I guess I got to make my case for this from that standpoint.

Bernt: Mr. Mayor, I don't think you -- it shouldn't take you too long to make the case.

Simison: Okay. Well, I -- I appreciate that very much then. I will say a few things and -- and just from a practical standpoint I'm supposed to read his bio. You know, I'm going to skip the bio from -- from the practical perspective. It's been put in the news releases and whatnot. But I just want to, you know, say thank you to Tracy for agreeing to step in and take this role. I saw Chief Lavey here tonight and, you know, to make that transition to help prepare someone who can step up and have the support of the department, of the law enforcement community, the regular community and, then, be willing to step into that role it means a lot to the community and so I have appreciated the last month that we have spent, you know, on the phone, e-mails, exchanged documents, getting to know each other. You give me a book that I will read. I promise you I will read that book. For those that don't know me that's a big concession on my part in life to take that effort, but what you really have brought through these conversations and -- is talking about your vision moving forward and we know that with you that starts with the dignity and respect and we are really focused on that in terms of what that means to our community, you know, when the officers are out doing their work, what they can expect and that goes a long ways in saying this is the right way that we want to continue, because how we treat others, as you mentioned, is how they are going to treat our officers and that's -- that's a huge element to look at. You are forward thinking on the service and delivery. I know that you and former Chief Lavey really worked on what that -- what the future of the department was going to look like, because we know we are in that time of transition, both from a -- how service should be delivered, what service should be delivered and what our future of our department will look like as we are aging through our department and we will have change in people and leadership over that time and, you know, obviously, your connection to the community, the dynamics. You are connected, you have those relationships and you are going to continue on to be a great ambassador. So, with that, Council, would love to have any action on this confirmation or comments or questions.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I will make a comment, just that Tracy impressed me from when I first sat down with him before he was in the running to become our next police chief and I really ####felt how genuine he was in his care for the community and I can tell that he will really keep up with that philosophy of community policing and that he's so forward thinking on a lot of areas that are evolving really fast and I'm so excited that you nominated him. Thank you.

Simison: Council, any further questions or comments?

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: For me -- and I will be brief, but for me this was a no brainer decision for sure. I have known Tracy for a while and it -- it's very evident and plain as day that the chief has been prepared and groomed for this role for a very long time. It's evident that he has the support from his staff and his -- his -- his team at the Police Department. I can honestly say this, as long as I have been in the public sector, or even in the private, I can't remember a time that someone has received so much over -- overwhelming support as Tracy has received for this role. I think it boils down to his -- his vision and what he sees for Meridian going forward in the Police Department and I'm excited to see what that looks like. Excited to sit down and have more conversations with Tracy about that. But ultimately -- excuse me -- in my -- in my opinion what strikes me the most is his family values and his love for community. So, again, this is an easy decision for many of us, if not all of us tonight, so I am excited to see Tracy as our next police chief here in Meridian.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Yeah. I just wanted to say a few words. Number one, I want to point out a compliment to the city, to you and past leaders, for the city process that you put into place for succession planning. I mean to -- to grow our leaders from within, to develop people to their full potential and to have them now available to us and have a transition process that's smooth and -- and something we know what we are getting and we are pleased to get. But for really that to be successful you got to have quality people to start with and -- and -- and certainly when -- I don't know how long it took for the folks there in the Police Department to recognize Tracy and what he had, if it was just six months, a year, two years, to realize as a young man he had great potential and to develop that and to bring him along -- he's an outstanding individual, he's a great leader and, as you pointed out, his philosophy of treating people with dignity and respect no matter where they come from is one that certainly is something all of us need to -- need to follow and -- and to be better at and so in a job in law enforcement that really has just gotten tougher over the years, to have a quality leader who is going to do the right things, I know we are going to be -- be proud of Tracy and I think it was great to have you recognize that as well as you went through your process and bringing him before us tonight. So, kudos to you, Mayor.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: If I could -- could jump on the discussion here. I, too, applaud your efforts to get Tracy here in this appointment and Councilman Bernt hit it on the head with regards to the -- the amount of support that we have received. Tracy has been a fantastic role model in our Police Department and will be an exceptional leader. Amongst his traits that -- that I think make him and will make him extremely exceptional at the chief position is his adherence to accountability, amongst other things. He holds people accountable. He

holds himself accountable. It's true as a husband, as a father, as a friend, as a role model, as a mentor to younger officers and now as a leader of our community, he holds all accountable, starting with self. That's a sign of a true leader, a sign that -- that our community is certainly rallying behind him. Meridian is special in a lot of ways and this is -- tonight is a great example when you see this overwhelming support from friends and family, all the electeds, staff, colleagues, anyone who has crossed his path knows it's the right man at the right time for this position. So, hats off to you for bringing this appointment. God bless you, Tracy. We love you and we are excited to get you to -- to work as our chief.

Simison: Council, any further comments?

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Council Member Bernt hit it on the head. It's a no brainer. Kudos to you, Mr. Mayor and Tracy, you both did your due diligence to make sure that Tracy is the right fit for our city, what we all knew, and, Tracy, you made sure this is the right fit for you, which we all hoped. I'm so excited to be here today. I -- oh, man. I must have caught the Treg Bernt disease tonight. I first learned about Tracy when I found out I was going to come work for the city. My father said -- oh -- you are going to work alongside Tracy. You are going to learn a lot from him. You are going to learn a lot about leadership. And for -- for somebody that I admire so much to have so much admiration for you meant a lot and his was awesome -- is that every instance, every encounter I have had with him has confirmed that. To me tonight's vote of confirmation isn't just confirming you, it's a vote for the department and a great future and I firmly believe you could go work anywhere in the world and they would be lucky to have you and we somehow tricked you to fall in love with us and I'm happy that you are here and, Mr. Mayor, unless there is any other comments, I'm happy to get the privilege maybe as being the liaison to make a motion.

Simison: Hold on for one second. Do we have any other Council Member would like to make any comments? Okay. Then I think that you are good to go, Councilman Cavener.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: It is with great pleasure and pride that I move that we confirm your appointment of Tracy Basterrechea to serve as the Meridian Police Chief, effective immediately.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: That's an easy second for me.

Simison: We have a motion and a second. Is there any discussion on the motion? If not, I think, Clerk, we will call the roll on this one.

Roll call: Bernt, yea; Borton, absolutely; Cavener, yea; Hoaglund, yea; Strader, yea; Perreault, yea.

Simison: All ayes. Motion carries. Congratulations on step one this evening.

MOTION CARRIED: ALL AYES.

Simison: So, we will do what we can to -- get close to the mic so that you can -- your words can be heard by all. But I just want to say welcome to everyone officially, because I'm sure you are here for this purpose tonight. It's great to see some of our -- obviously, the department, community members, former elected officials and others are here to support Tracy this evening. But I did want to give a special welcome to Tracy's family this evening. A special time for everybody. I know. Last thing I want to say to you, Tracy, before we do the oath, in today's world it takes a special person to do this job, especially to be the leader of the department, and I know you -- you have been preparing for this for your entire career and there is nobody better for this role and you have my complete trust and confidence and I hope to learn more from you than I can ever imagine, so that I can pass it along to others in the city and ways. So, with that I'm going to ask you to raise your right hand and repeat after me. I, Tracy Basterrechea, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution and laws of the state of Idaho, and the laws and ordinances of the City of Meridian. That I will abide by the Law Enforcement Code of Ethics and the policies and procedures of the Meridian Police Department. That I will obey the lawful orders and directives of those appointed over me and that I will to the best of my ability faithfully discharge all the duties of the Office of the Chief of Police in and for the City of Meridian, Idaho, so help me God.

(Repeated by Tracy Basterrechea.)

Simison: So, the last thing that we are going to be doing -- and I would ask Tracy's family to please come forward right now, his wife Andi and son Antonio. They will be doing the chief's badge at this point in time. I would just like to say that I think it's important for us all to remember in these roles how much of a role the family plays. You know, the sacrifices that they make on a given day for people they are willing to take on these -- these roles and responsibilities. So, with that I will let you go ahead and take it over from here. I would like to present our 15th Chief of Police Tracy Basterrechea for some words.

Basterrechea: Well, let's hope I can get through this. First of all, thank you, Honorable Mayor Simison and esteemed members of the City Council. It is my honor to be named the Chief of Police for the Meridian Police Department. I am extremely grateful for your support and guidance. I have honorably served the City of Meridian and the Police Department for 24 plus years and it is humbling to be named the Chief of Police of the agency I started my career with. An agency and community I love. I will not let you down and not to make this sound like an academy awards acceptance speech, but tonight really

isn't about me, it's about the people who help you get to where you get and I do have many people to thank. In this country we like to talk about self made men and self made women, but I do not believe there is such a person. Each and every one of us are where we are because somebody helped us along the way, whether it was through a piece of advice, a hand up, or just believing in us. Knowing this I want to take -- I want to thank those who have helped me during my journey. First I would like to thank the men and women of the Meridian Police Department and their families, who have worked hard to build the great relationship we have with our community and for their support they have shown me over the years. Especially want to thank the command staff who has always been there to humble me. And next thank you to all of my mentors in the law enforcement community. The instructors, supervisors, and just damn good cops who have helped to guide me. Too many to mention for fear I will leave someone out. Former chiefs Bill Gordon, Mike Worley, Bill Musser, and Jeff Lavey, who all taught and mentored me along the way. The late Mayor Robert Corrie who hired me and supported me more than he probably should have. Late Council Member Keith Bird, who taught me to play the long game, how to disagree without being disagreeable, and, more importantly, how to forgive. And former Council Member Charlie Rountree, who taught me to be prepared and to realize when someone is asking you questions they aren't trying to sabotage you, they are trying to get you to think and they are trying to understand. Former Mayor Tammy de Weerd, who taught me to welcome feedback and embrace disagreement. I would also like to thank the teachers, coaches, and mentors over the years, especially people like -- coaches like Tom Bingham, Jerry Sabala and Bob Milligan, among so many others. Countless friends who over the years have provided wise counsel and support. I would like to thank my hometown of Gooding, who taught me about community. Most importantly I would like to thank my family. My brothers Jeff and Rick, who have always supported and guided me, no matter what our differences may be, you will not come between the Basterrechea brothers. My niece Misty, who is like a sister to me, and has always made me feel more important than I am. I want to thank my mom Doris and my dad Luis. I wish nothing more for my mom to be here today. She hated that I was going to become a cop, but she supported my brothers and I without question and taught us every person has worth. My dad, who is here today, came to this country at the age of 17 on a sheep herding contract, coming from a country where he wasn't even allowed to speak his native language in public. He taught my brothers and I what loyalty and work ethic really means. He worked six and a half to seven days a week so we could live a better life. Most of all I want to say thank you and show my gratitude to my wife Andi and son Antonio. They have endured so much over my years as a police officer. Late nights and many nights that Andi spent sleepless wondering if I was going to come home, especially during my days working undercover. When we met she thought she was going to marry a teacher and a wrestling coach. Sorry about that. But thank you for your undying support throughout my career. And last I want to say thank you to the community for your support of our police officers. We have something special here and just know every decision we will make as a Police Department will be based around treating people with dignity and respect. Thank you.

Simison: Council, let's take a ten minute recess and we will reconvene at 6:50 with the regular City Council meeting.

(Recess: 6:37 p.m. to 6:51 p.m.)

4. Public Hearing Continued from December 15, 2020 for Spurwing Sewer Easement Annexation (H-2020-0087) by Shari Stiles, Engineering Solutions, LLP, Generally Located North of W. Chinden Blvd./Sh 20-26, Northeast of N. Ten Mile Rd.

- A. Request: Annexation of 0.60 of an acre of land with an R-4 zoning district.

Simison: Council, we will go ahead and come back in from recess. Next item on the agenda is public hearing continued from December 15th, 2021, for Spurwing Sewer Easement Annexation, H-2020-0087. We will return to this public hearing with staff comments. Turn this over to Sonya. Sonya, if you are there you are muted.

Johnson: Mr. Mayor, my apologies. We were muted. So, Sonya should be able to hear us now.

Simison: Okay. Sonya, we have reopened the public hearing and turn this over to you.

Allen: Good evening, Mr. Mayor, Members of the Council. Give me just a moment and I will share my screen. Can you all see the presentation?

Simison: We can see your notes.

Allen: I was afraid of that. Sorry about that. I'm not sure why I can't see my presentation. Let's go about this a different way here. Tell me when you can see it. Can you see it now?

Borton: No.

Allen: No?

Johnson: Mr. Mayor? Sonya, I'm bringing up your presentation here. I will give you control over the screen.

Allen: Thank you so much, Chris. It shows on my end that it's showing. I'm not sure why it's not. Tell me when you would like me to begin, Clerk, please.

Johnson: So, I have sent you information to take over control of the screen. You should see a pop up and be able to take control.

Simison: And once you feel comfortable you can go ahead and begin.

Allen: I do not see a pop up. I'm sorry, I must be having internet issues, Chris.

Johnson: Let me know when to advance, I will take care of it.

Allen: Thank you. Go ahead and advance, please. Mr. Mayor, Members of the Council, at the public hearing on December 15th the Council continued the subject annexation request to tonight's meeting in order for the applicant to work with the neighbors, the Tsengs specifically to determine landscaping that they would be amenable to between their property and the access road and for staff to clarify emergency access options via Chinden Boulevard with ITD. Sarah from ITD should be in attendance tonight to answer any questions Council has regarding this access. Staff did verify with ITD that if an access were granted by ITD solely on the Spurwing property via Chinden, the cross-access easement granted to the Wagners to the west, the Wagner's existing access via Chinden would be required to be removed, which isn't feasible at this time as Mr. Wagner does want to retain his existing access. An agreement was reached between the applicant and the Tsengs signed copy of which is included in the public record. The applicant has agreed to pay the Tsengs a sum of 15,000 dollars, the cost of a wrought iron fence between their property and the access road, upon approval of the subject application by City Council in exchange for the Tsengs withdrawing their objections to the application. One letter of testimony has been received since the last hearing from Greg Stock. He is requesting the annexation and emergency access road is denied for the reasons noted in his letter. Staff will turn it over to the applicant at this time. Thanks.

Simison: Council, any questions for staff at this time? Okay. With that I will ask the applicant to, please, come forward. State your name and address for the record and be recognized for 15 minutes.

McKay: Thank you, Mr. Mayor, Members of the Council. Becky McKay with Engineering Solutions. Business address 1029 North Rosario in Meridian. I'm here this evening representing the applicant on this application. I apologize that I was not -- could not be in attendance on the 15th with the first public hearing. I was stuck over in the city of Star. They did have me at the first of their agenda and I had hoped to be finished there, so that I could, then, rush to Meridian, but it -- it didn't transpire and so the burden fell upon Mr. Freeman to -- to, obviously, try to explain to the Council and the Mayor the history of this project. I have been working on this project for 14 years, believe it or not. The project that just keeps giving. When we initially got the project approved it was in 2007. The recession hit and hit hard and the project -- we had it all designed and was -- it was put on hold. One of the conditions that the Council had placed and the Fire Department upon this project was that we obtain a secondary vehicular access to the -- the development, since our single access came within -- off Balata Court in Spurwing Subdivision. So, we made it a priority and this is the actual right-of-way permit that I submitted in 2008. My signature is on the bottom and we submitted a design for that emergency access and it was approved and it's signed on the bottom by ITD. We, then, proceeded to install that access. This aerial here shows -- it's a 2008 aerial that came from ITD from Shona Tonkin and it shows that the emergency vehicle access -- you can see Mr. -- Mr. Wagner had two existing -- Mr. Wagner had two existing approaches to Chinden and here is our emergency access and we designed it and we paved it and it was finalized by ITD in 2008. Then we kind of sat and waited for the economy to -- to improve. We came through with

multiple time extensions. This particular project had five time extensions, which is my all time record. The last time extension I brought before the Council I promised that I will not come back again and give me just six months and we shall build this and record it and we did. Prior to that in 2012 Spurwing Greens development to the west of the golf course was, obviously, starting and, then, Spurwing Challenge that was bought by the Andersons to the east of the Spurwing golf course and the existing Spurwing development needed to extend Meridian sewer. So, my client Jock Hewitt provided an easement that went through our undeveloped property at the time and, then, went eastward to service Spurwing Greens. At that time there were -- was a gravel road that was constructed across our undeveloped property, which you can see here, and, then, they went in and installed access to the manholes that were in the golf course and the sewer came down, across, and, then, down this direction and you can kind of see that -- that gravel access road that went out to Balata Court. In 2014 I was contacted by Mr. Splett, who worked for District Three in right-of-way permits. He indicated that the Walmart had been approved by the City of Meridian and Ada County Highway District -- one of their conditions was that they would expand and signalize the Ten Mile-Chinden intersection and he informed me that ITD would be extinguishing our access -- or emergency access to Chinden and he said there is no way that we can retain it, because it conflicts with the signal pole location. So, then, this is what was built and you can see that they have -- they have a single turn lane, but they have striped it for a dual turn lane. They relocated Mr. Wagner's approach and, then, they removed the emergency access that we had constructed here along Chinden Boulevard. This is another picture, kind of shows you what that intersection looks like. I -- I did -- I did go to ITD when we submitted -- when all of this kind of started going sideways on us. The first thing I did is -- I had to figure out where is my secondary access going to be. So, I met with Perry Palmer, who was the fire chief at the time, and I said, Perry, I -- you know, we have got a -- we have got a situation here and he said, well, you -- you have a sewer access and we had extended Suez water with an additional easement going north and he said, you know, what about that as -- as an access -- as a secondary access, because you are required to have an all weather gravel surface that can handle 75,000 gross vehicle weight anyway. So, I did submit -- I did submit plans to -- these were the plans that we submitted to Mr. Palmer. We also submitted them to Public Works. We also submitted them to the Planning Department. They were approved by all entities and Mr. Palmer provided us this on February 17th of 2017, his approval of that emergency access. Then when we started to construct it, then, everything kind of went sideways and we got notification from Ada county that we had a stop work order, because we were installing a gravel emergency access road within the county. So, we had a meeting with the planning director at the time and their staff in the city -- and the county attorney and -- and I informed them -- I said, well, you know, we have received approval from Meridian Public Works, Meridian Fire, Meridian Planning and they said, well, you are not in the City of Meridian and they said we have -- this is on Spurwing golf course and -- and we in 1994 approved that project, which had no interconnectivity to any projects, and they said, therefore, you are going to have to do a traffic and development plan and a grading and drainage plan, so that we can approve it. So, we said okay. So, we stopped all work, didn't do anything, submitted the application, the construction plans they wanted, the staff denied it. So, then, we appealed to the county commissioners. We went before the county commissioners. We had significant

opposition from some of the neighbors on Balata Court. Primary discussion was the interconnectivity of the paved access with the automatic gates between Spurwing Greens and Balata Court. Old Spurwing. And I kept explaining this -- this -- we have nothing to do with that. This is totally independent of that. The county commissioners -- Commissioner Visser, Commissioner Kenyon, then, looked at me and said, well, you know, if Meridian wants emergency vehicle access they have utilities there, then, you should annex into Meridian and Commissioner Visser and Commissioner Kenyon questioned me multiple times -- well, why can't you just go to Meridian and so I said, well, I didn't think that we would need to do this, but I guess that's an option and so they went ahead and they denied our appeal. So, that's why we are here today. We met with your staff. I submitted to the county Warren Stewart's letter, the pictures of your vac trucks, how much they weigh. A letter from Suez, who has a water main in the same location as your sewer main and, then, we also got a letter from ITD, because the county transmitted to ITD and ITD's letter is very -- very informative and it -- and it basically states that there can be emergency access to Chinden with the following conditions: That, one, there is only a single approach. There can't be Mr. Wagner's and an emergency access. Two, there has to be a cross-access agreement between the Wagner's property and the approach has to be constructed in alignment with the outside westbound turning lane, so that that intersection will be in alignment. And, then, on the last page they -- they kind of inserted -- and they did specify that they eliminated our access in 2014 when PACLAND for Walmart came through with their application for intersection improvements and, lastly, it said ITD cannot -- cannot allow a second direct approach at the intersection of Chinden and Ten Mile, but we will consider the option of using a single approach. Mr. Wagner is here this evening. He was not able to attend the -- the meeting on the 15th. Mr. Wagner has no intentions of developing his property at this time. He wants to just live there in the house, like he and his wife and their grandson have done, and he has just basically put all development plans on hold, nor does he want to move his approach or grant any cross-access for our development. What we planned on doing is -- you can see in this aerial there -- that's an access to one of your manholes. So, there is a base. There is ribbon curb and that's what I was told by Chris Anderson, who -- they had -- they are the tenant on the golf course and he told me they won't allow me to come across the second hole to go to Chinden and he said we would prefer that you utilize and use this as a multi-use, because we have a sewer easement for the City of Meridian, a water easement for Suez, and that would be also used for an emergency access. He said on one condition. I want ribbon curb on one -- on each side of it. I want a base and, then, I want you to cap it with perma bark, so that it's aesthetically pleasing. So, that's what our plans indicated and one of the reasons that he gave me for not wanting any access out to Chinden was the fact that this hole here, they may want to redo it at some point in time and so one of the things that Mr. Hewitt did is we clipped this corner of our project, which would allow for the golf course to come around and, then, there -- they may move this hole to a different location and he said I will not have that flexibility and it would obviously degrade the quality of our golf course if you come across it. But if you stay along the side where we already have the Meridian sewer and Suez water, that would be less disruptive. So, this -- this is what we cut in and it's obviously over X'd. I mean it looks -- it -- when we go in and we X out for something we -- we take that -- take it down, we fill it with gravel, and, then, it will narrow up to the 20 foot maximum. That will be utilized for maintenance for sewer and

for water and for emergency vehicle access. The neighbors were concerned about pedestrians. We said at the Planning and Zoning Commission they put a condition on us -- sign it no access. Private property. We said fine. Put a gate on each end. Knox box. We said fine. Tony Tseng's property is right here. He is now -- Mr. Hewitt met with Tony, which the Council asked him. I read through your minutes. You said reach out to Mr. Tseng, see if you can come to an agreement. They have come to an agreement. You can see that there is a significant amount of vegetation there. Mr. Tseng did not want us to install the wrought iron. Instead he wanted us to pay him, so that if he chooses to install it he can place it where he wants it and he is no longer in opposition and he was the one that was most affected, that the Council obviously asked that -- that we reach out to and spend a significant amount of time. Here is a copy of the gate. There was a question what that gate looks like and, then, here is the letter from Mr. Bongiorno, who also asked that we construct this secondary access. May I answer any questions?

Simison: Thank you. Council, any questions?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Becky, is that gated at both ends of the emergency access or just one?

McKay: Mr. Mayor, Councilman Borton, it -- we were asked to put a gate at both ends with a Knox box.

Borton: Okay. Thank you.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: And, Becky, to confirm Tsengs just wanted dough? They just wanted -- they just wanted money? They are not going to -- they are not going to have you do anything and they are not going to --

McKay: I submitted to the public record the letter that -- that they signed -- both Mr. and Mrs. Tseng signed that they -- they said they -- they wanted the money instead of the fence. They didn't want us to install the fence. And in my conversations with Sonya she was concerned that if we installed the fence where would the fence go. She didn't want any no man's land. So, that seemed to work better for the staff, that then they would control where that fence went and when that fence goes up and if it goes up. But Mr. Hewitt and Mr. Tseng ended on good terms and I think -- I think we have a solution here and -- and that's -- that's what I'm hoping. I'm hoping that this 14 year adventure of mine ends this evening.

Simison: Council, any additional questions for the applicant?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Just one and, I don't know, maybe -- I don't know who else is speaking next, but the -- paying the fee and not paying the -- and not putting the wrought iron fence in -- the fence I thought was intended to alleviate some of the concern and whether it's this homeowner or a future homeowner of this property, it just seems odd that a fee would be paid and -- rather than actually put in a wrought iron fence, which is ultimately what was appropriate to try and remedy some of the concerns, so --

McKay: Mr. Mayor, Councilman Borton, I think that question is probably better suited for Mr. Freeman, because he also had conversations with Tony Tseng and -- and Mr. Freeman -- I was -- I was not a part of that conversation, so I would defer to Mr. Freeman to answer that question.

Borton: Okay.

Simison: Council, any additional questions for the applicant?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Thank you, Becky. I was not at the meeting on December 15th, but I have had time to go through the last meeting finally and did want to follow up. It seemed like there was a question regarding whether the police and the ambulances and other responders could use the same basically lockbox on the gate that the fire department uses. I think that was a Knox box. Is there going to be an opticom box? How does that -- maybe you are not the right person, I don't know, but how do we make sure that if this was to move forward that all emergency responders would be able to utilize this access?

McKay: Mr. -- Mr. Mayor, Council Woman Strader, that's a -- that's a good question. I -- I was always under the assumption that -- that the Knox box keys were available to any emergency services, because I know, you know, there is situations may arise where -- where the police may need to -- to get access. Obviously Public Works will need to get access. Suez will need to get access for maintenance purposes. So, I'm not sure if there -- if there is -- is some universal -- there is no universal. But we would be glad to work with -- with your emergency services, you know, to -- to make sure that everybody has access. Obviously, two -- two ways in -- two points of access into a development is what is preferred. I just had this conversation with Fire Chief Timinsky over in Star and -- and he is -- has talked about -- they have done a real poor job of interconnectivity between these older subdivisions and how they are making efforts to try to improve interconnectivity and he said in the event of a -- even a house fire he said we will send engines from two different directions, you know, to -- because we will hook to different hydrants and so forth. So, you know, this is, in my opinion, a life safety issue that -- that

we need to make sure we don't ignore and -- and that's my goal is to do what's right, but -- but we are -- we are open to suggestions. Maybe -- maybe chief -- you know, Mr. Bongiorno has a -- a solution. I don't know.

Simison: Yeah. I think we would be -- that's a great question. Because I -- now that -- especially if we start bringing Suez into the equation, I don't know that our Public Works Department has the -- I'm sorry, what is it, Lieutenant Leslie? The motocons? I don't know -- opticoms. Opticoms. I don't think those are on Public Works. So, I don't -- this is going to be a humdinger. I'm trying to figure out how you can get multiple people in.

Bongiorno: Mr. Mayor?

Simison: Yes, deputy chief.

Bongiorno: So, typically what we do for some -- because this is a gate, we will be putting a Knox padlock on there and typically when you have multiple people that are trying to access a gate, what we usually do is we lock our -- our padlocks together and so that way if I get there I can unlock the gate and drop the chain. If Public Works gets there they can unlock their lock and drop the chain. So, they are chained -- they are locked together. That's one of the better ways of doing it with a gate or chain, so we can just lock all of our locks together, so everybody has access. Now, as far as PD goes, we can work with the Police Department on -- the Police Department does not carry Knox keys in their vehicles. So, typically what we do is if there is some type of an incident we will -- our battalion chiefs carry keys -- all of our units carry keys. I carry keys. Both my inspectors carry keys that are locked in our vehicles and so we can give PD a key if there is an incident going on and they don't want us in the area. So, we will give them a key. They -- they have the protection that they carry with them and -- and they can unlock the lock as well and, then, worst case scenario as with any lock a pair of bolt cutters works great.

Simison: Thank you. Any additional questions for the applicant? Okay. Thank you very much. Mr. Clerk, do we have anyone signed up to provide testimony?

Johnson: Mr. Mayor, we have two sign up in advance. First is Patricia Liddell.

Simison: If you can state your name and address for the record, please.

Liddell: Sure. My name is Patricia Liddell and my business address is 6149 Meeker in Boise. 83713. Hi, Treg. I am a representative for the homeowners in Olive Tree. I am the community manager for those homeowners that -- that live there and we tried to seek some information from the homeowners as to whether or not they were in support of this application and I would say that, yes, I have -- we -- we don't have a fully built out or occupied subdivision at this time, but we reached out to the homeowners and I have 15 of the homes that have signed letters of support and I wasn't sure if you want me to give that to you guys -- submit it as information or -- but I have them here for you if you would like. So, at this point my -- I don't have all the history, obviously, that the engineers and the legal people have. However, my question to you all is -- I'm sure that you live in a

subdivision and I'm sure that your concern for your family's safety and security would be top of mind and I believe that having a secondary access and the homeowners believe that the secondary access is really important for their safety and security, so I would just ask that you would consider approval of this easement annexation and, then, we can just move forward and keep those folks safe. So, I don't know if you have any questions for me, if that's appropriate, but I would be happy to try and answer them.

Simison: Thank you. Council, any questions?

Liddell: Okay. Great. Thank you.

Johnson: Mr. Mayor, next is Rick Mauritzson representing the Spurwing HOA. He will correct me on that if I'm wrong.

Mauritzson: Mr. Mayor, Members of the Council. My name is Rick Mauritzson. I represent the Spurwing HOA board, as well as the Balata residents. I want to start off with a few discussions regarding Ms. McKay's presentation, so I'm going to jump to what was presented in December. Ms. McKay has repeatedly over -- through Ada county and through Meridian city meetings claimed that this road has always existed and at least in a gravel form and that is very false. The 2007 plot map shows no existing road. Adjacent property owners in December submitted substantial photos confirming this. The satellite views provided by the developer are intended to mislead Meridian P&Z and City Council. The recent claim to be a nonmaintained road is simply disturbed earth from the installation of the sewer lines. If you recall from December this was shared -- you can see there on both photos what Ms. McKay's claiming as a previously existing road. That is simply disturbed earth from installation of the sewer line and from construction traffic during that installation. You can see there is also what appears to be -- if that's a gravel road there is also a gravel road running horizontal across the fairway, which we know does not exist. Again, it's disturbed earth from the installation of sewer line. Moving on to Commissioner Visser. I think it's a little misleading, Ms. McKay's comments there, but here on the first main bullet why Ada County Commissioner Visser had suggested the developer could pursue annexation with Meridian city, it should be made clear that the Board of Ada County Commissioners was not in favor of the proposed road. He had asked during the commissioners meeting, you know, why not, but that was the extent of it that she's referring to. In regards to the Anderson's denial of the road in its original location, point you here to the first main bullet. The Club at Spurwing has no authority on this matter as they are tenants and leased the property in 2011 with full knowledge of the planned emergency access road in that original location. Jumping back to tonight's presentation, the Spurwing HOA and Balata residents have argued against the proposed road for -- location for three reasons. The new proposed location imposes a significant negative impact to the adjacent homeowners' property value and quality of life. Two. A road is simply not required. Installation of the fire sprinklers in remaining Olive Tree homes has been proposed by both Meridian P&Z and the fire marshal's acceptable alternative solution. The developer can pursue the solution without Meridian annexation. The Meridian fire -- police chief stated during the December meeting that a secondary emergency access, such as the one proposed, has never been used to his knowledge.

Fire sprinklers are much more practical and likely to be used versus a secondary access. And why go against Ada county's ruling and negatively impact Balata homeowners for a road that is simply not necessary. There was a question in December. Why do Balata residents care if they are not -- you know, the couple residents at the end of the cul-de-sac. Well, those -- they care because, one, number three, which I haven't gotten to, the safety concerns, but also in regards to number two. A lot of them are members of the course and they prefer no road. So, no road and the fire sprinkler option would be the preferred option from the Balata residents. And, number three, if a road is dictated by Meridian, the original 2000 -- 2007-2008 approved emergency access location is still the safest, least redundant, and quickest approach. With the pending home sale of the adjacent resident, number one is less of an issue. I noticed that Ms. McKay completely left that piece of fact out, that the resident is selling. That's why he has signed and agreed to the road. However, the HOA has not changed its stance regarding its recommendation against the proposal for the reasons above. So, the Tsengs have agreed to a new road location only because they are fed up with the current situation and have decided to move a few blocks away. They are not moving due to job or relocation, they are moving a few blocks away because of this catastrophe here that's happened. If they were -- if they were not moving they would still be steadfast against the proposal. The developer has negatively impacted the Tsengs and all Balata residents with a relocation repurposing of a previously emergency access road that now generates 500 to 600 cars a day down the once quiet Balata cul-de-sac and there is more information in the exhibits and Ms. McKay touched on that. A lot of the Balata residents don't trust this developer that you won't do the same with this other road. But it's kind of beside the point. But this is why the Tsengs are fed up and for the past one and a half years on top of that already injury, more salt in the wound, they have been tormented with the negative impact of this new road constructed along their property line that was relocated and constructed by the same developer without permit. It's obvious the developer thought it would be easier to ask for forgiveness versus permission at the expense of the Tseng's quality of life. The Tsengs had to relocate one of their dogs, deal with continuous foot and bike traffic, and live with an eyesore deteriorated -- deteriorated view of the golf course for the past one and a half years. Ada county, after a very thorough investigation into the matter, ruled against the new road, but Meridian Planning and Zoning rushed to developer's rescue with a rubber stamped staff report recommendation, based solely on the developer's narrative with several incorrect facts and assumptions. It's no surprise the residents have had enough. This is Ada county's documentation and research. There is eight pages per page here. There is a lot of research they put into this and very little that -- as far as what I can tell is referenced by the P&Z staff. Throughout this process developer has manipulated the system and his actions should not be rewarded when alternate solutions do exist. Regard to the Meridian staff claims, the staff report claims that it's due to the county's denial of the site modification and the city's requirement for an access to maintain the public utility is the reason why they support this request. Ada county has already demanded with pending litigation that the sewer access stub roads be reinstalled to satisfy public utility access and, by the way, that won't require any lockboxes, Knox boxes or opticom locks, et cetera. A continuous road is not necessary, nor required for utility access as detailed in the December presentation. The staff also claimed that due to the Ten Mile-Chinden Road improvements that the intersection -- you know, to that intersection it now

necessitates an alternative location. As shown in Exhibits 3 and 4 shown in December, the original proposed location is still viable and this was confirmed by ITD in December 2019. The developer has simply chosen not to pursue this option. An alternate location is not even necessary. Staff states that the developer can pursue fire sprinklers in additional homes and this option does not require annexation. In summary, Ada county has been very clear that the new proposed road location would be injurious and a nuisance to adjacent property owners, while the most impacted residents have lost hope and decided to move. The new proposed location is still not the logical safest location and still impacts, although to a lesser degree, adjacent residents, such as the Kleins that reside exactly opposite the cul-de-sac from the Tsengs. They look out their front door and can see this road and the gate where it would reside and where it connects to Balata. A continuous road is not required for sewer and water access. Ada county has pending litigation forcing the developer to restore the original stub roads. No action needs to be taken by Meridian to restore sewer or water maintenance access. The original 2007 proposed and approved emergency access location is the safest, least redundant, and quickest approach. The current approach uses 60 percent of the entryway of the primary access and it passes by the Club at Spurwing, which is your most likely choke -- most likely choke point for any traffic issues or for emergency vehicles to get through there. An alternate solution has been proposed by Meridian Planning and Zoning, with fire marshal approval, involving installation of fire sprinklers in the remaining Olive Tree homes. Balata residents support this solution to the problem. Annexation is not required for this option, nor should it proceed until developer returns the land back to its original state, as demanded by Ada county. Please do not allow the developer to circumvent Ada county's decision and ruling on this matter. And it's been brought up several times about the traffic and this is a typical scene during rush peak hours of the traffic. This is taken from the front yard of the Tsengs. This is unrelated to this particular request, I understand that, but you got to understand this is why they are fed up. This developer is now routing 500 to 600 cars a day past the Tseng's house and, then, on top of that they have had to live a year and a half with a partially constructed road, which was put in without permit and they are just tired of fighting on this. I don't have anything further tonight. I'm open for questions or be able to go into more detail if you would like.

Simison: Thank you. For the record can you state your address.

Mauritzson: 3028 West Balata Court.

Simison: Thank you. Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you for being here this evening. I -- I'm just curious your thoughts on in this presentation, as well as the one from December -- well, we now know that ITD has for sure confirmed that they are not comfortable with two accesses. So, it seems like that option is taken off the table. I'm wondering if you could share your thoughts on that.

Mauritzson: There was a -- I got two thoughts on that. There was a question from a Council Member in December about whether or not the Wagners had a secondary access and if it would be landlocked. They do have a secondary access. Ms. McKay showed that. So, it's not completely clear. I don't know what ITD's rights are, if they can mandate a -- you know, force a particular solution there. But that's up to ITD. But it should be noted that there is a secondary access onto Chinden from the Wagner property. If that is not a solution, again, you know, I think our primary focus is that the fire sprinklers is the win-win solution for all. Andersons are happy. They don't have a road going across the golf course where Ms. McKay pointed out. The property owners aren't impacted that are going to move into the Tseng's residence. The golfers don't have to deal with the road on either side and, to be honest, the sprinklers are far more likely to be used than that secondary access anyway and some in more useful.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I definitely get the impression that there is a deep trust issue because of what happened with the previous emergency access. Is there anything, you know, for example, if we were to specify that this is emergency access or put it into the development agreement, is there anything that would help give, you know, your HOA comfort that that will not be the case here? That was a different situation, but it feels like there is just a mistrust or a real concern. You know, would that help overcome that concern?

Mauritzson: There is -- there is absolutely a mistrust there. You know, the developer has proposed as much as possible, you know, in regards to it's going to be gated, it's not going to be ever converted in the future to through traffic. I don't know what more can be asked. But you are right, there is a distrust. I mean that road was put in, again, with assistance of Ada county and Meridian city for that matter. If you look at the Meridian city zoning commission report, it says that that road is not intended for through traffic and yet we have five to six hundred cars a day, a car every minute and a half from 7:00 a.m. to 7:00 p.m. drives by the residents on that dead end cul-de-sac. That's ACHD traffic studies.

Simison: Council, any additional questions to --

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Rick, just curious if you and the applicant had any communication after that December meeting, they reach out to you, you reach out to them, any way, shape, or form?

Mauritzson: No shape or form. They did reach out, as Ms. McKay said, to the Tsengs regarding landscape, but that was it.

Simison: Thank you, Rick. And, Council, we do have ITD on as well if anyone would like to direct any questions to them. This is a public hearing. We have gone through those that have all signed up. At this point in time if there is anybody in the audience that would like to come forward and provide testimony you can do so now or if we have anybody -- I guess we just -- the only person we have is ITD from the public that's present. Seeing no one --

Arjona: Hello?

Simison: Yes. Sarah, would you like to provide testimony?

Arjona: Just to clarify that the previous presentation --

Simison: Sarah.

Arjona: -- stated that that was a minimal -- hello?

Simison: Sarah, if you could state your name and address before you speak.

Arjona: Oh, yes. Sarah Arjona. I am representative of Idaho Transportation Department. I live in Boise. So, 10370 West Landmark Court.

Simison: Okay. Go ahead.

Arjona: I just wanted to be available to the Council in case they had questions for clarification. ITD does not have the right to take away the access from the Wagners, unless -- you know, unless they go to develop there is no reason for them to come into compliance with the new rules, because they were previously approved under different circumstances and different rules since before 2012. So, as far as the emergency access ITD is, like I said earlier, would be willing to consider a single approach to line up with the intersection and it was also stated earlier that a cross-access agreement could not be arranged. So, any questions?

Simison: Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I don't know why my video isn't working. I apologize for that. I'm curious. It seems to me like we wouldn't be here having this conversation if the original emergency access wasn't removed when -- when that intersection was -- was improved. So, I'm just -- I guess please help me understand. This is, obviously, not my field, how it was permissible to remove that emergency access, but not to now remove the Wagner's. You said that they are under a different set of circumstances. But if you are able to share any of that history with us or how it was possible to remove the original emergency access

with the intersection improvement without approval or agreement from the landowner at that time.

Simison: Sarah, are you there?

Arjona: Sorry. It was muted. So, the Walmart project expanded the Ten Mile intersection and both approaches as existing could not stay in their original configurations at that point for safety reasons. So, during the project they had agreed upon -- so, in the plans that there is shown an approach where it was rebuilt that was supposed to be a shared approach. I can't tell you what circumstances caused it not to go through. There should have been an agreement there. Our understanding was that it was meant to be shared for both uses essentially. So, at this point in time ITD cannot make them give a cross-access agreement. Again, this was determined during the project process and those considerations were taken in -- I'm sorry, I don't have the background of that particular project.

Simison: Council, any further questions? Is there anybody else that would like to provide testimony at this time? If you would state your name and address for the record, please.

Wagner: Rod Wagner. 3240 West Chinden in Meridian. I just want to reiterate that I have no plans to do any development at this time and I do not want to give up any of my two small two acres that I have and I'm just going to stay there just like it is. Just want to state that again. I have stated it in the last three hearings and I don't think this project has anything to do with my property, so -- and, then, I just -- if you have any questions.

Simison: Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you, Mr. Wagner, for being here this evening. I'm curious if you are under the same understanding as what Sarah just shared, which was that their originally was an intent for there to be a shared access at the time that the -- the access was removed with the improvement of the intersection. She said she wasn't able to really give us some history on why that intended shared access agreement never came to be. I thought you might be able to share some history for us.

Wagner: Try that again. What are you asking exactly? Because they moved my -- my driveway over. They only needed -- they can only have one, because of the safety issue. My driveway was in that intersection and that's why they moved it over, as far as I can remember.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Mr. Wagner, did you have an opportunity to hear what Sarah from Idaho Transportation Department just shared with us right before you came up to the --

Wagner: Yes.

Perreault: Did you hear her say that she was of the understanding that there was intended to be a shared access agreement with -- with the applicant -- with the developers and you to share that emergency access and she wasn't sure why that never came to be.

Wagner: I don't -- I never accepted any agreement like that. I don't think there is one exists.

Perreault: Thank you.

Simison: Council, any further questions? Thank you. Is there anyone else that would like to provide testimony at this time? If not I would ask the applicant to come forward for final comments.

McKay: Mr. Mayor, Members of the Council, Becky McKay. Mr. Freeman would like to say a couple words, too. I just want to reiterate to the Council -- I have been coming -- been coming before this body for 28 years now. You know, these county subdivisions that were done in the '90s, they always seem to come back to haunt us due to their lack of interconnectivity, lack of services. All those lots are on septic systems. My husband in 1994 built Spurwing Subdivision. He built the golf course. McKay Construction. He was also a founding member of the golf course. So, I'm fully aware of all the history that transpired and there was no interconnectivity. It was just dead end cul-de-sacs that ended and, then, there was emergency access easements on the old plat between the two cul-de-sacs. An opportunity when Spurwing Greens came in was provided to get some interconnectivity and secondary access. Obviously, it has changed Balata Court, but that is independent of my project. I am not putting any trips onto that interconnectivity between Spurwing Greens and Balata Court. Mr. Mauritzson says, well, let's just sprinkle those houses. We already have 30 homes that are constructed. They are not sprinkled. What if they catch fire? What if there is a -- necessitates a second engine coming in from a second direction? That could be problematic and this body has always looked at, one, protecting the City of Meridian and its citizens. Two, protecting its utilities. I have an e-mail here dated July 8 from 2020 from Bruce Freckleton to my civil engineer on this project and it says: Let's make sure that the required compacted gravel access road over the sewer main is in place, please. That's what this e-mail says. I have never ever had a project in the City of Meridian where I had your sewer facilities and water facilities outside a public right of way that I did not construct an all weather surface gravel access, nor have I ever had a project that had more than 30 lots that did not have a secondary access. Mr. Mauritzson, you know, he -- he claims, well, there was never any gravel in between the two manholes. I got the information from Chris Anderson with Sundance Company, whose contractor put it in. He indicated to me that there was gravel there and it just sank down into the mud. All we are trying to do is we are trying to solve a life safety issue and at the same time make sure there is adequate access to your sewer and Suez's water

facilities, which is what we do on every project and this could be precedent setting. Hey, don't need -- don't need them. Don't need a gravel access over the sewer and water. You know, they will -- Public Works we will have to get four wheel drives and -- you know. And Warren's comment to me was, you know, we get one of those vac trucks stuck we got a big problem. We are going to have to get a huge wrecker to get it out. So, you know, this is important and the county did not understand that. The county commissioners don't do sewer, they don't do water. They had no grasp of this and it was very obvious. Commissioner Lachiondo says I have no idea what you are talking about and no understanding. I'm just voting no because staff recommended no. And Commissioner Visser and Commissioner Kenyon said this is a Meridian problem. This is a Meridian subdivision. These is Meridian sewer. Meridian secondary access. Annex to Meridian. We are just going to deny you. You can go to Meridian. So, we are doing exactly what they have instructed us to do. We are not trying to circumvent any rules. We got all of our approvals that we thought we needed to have until we received a stop work for Ada county and I talked to Warren and he says we have sewer and water running through Ada county outside city limits all over. We have never ever been required to get a permit or get a grading -- or a traffic and development plan or a grading and drainage plan. I mean, you know, this -- this blindsided us. This is not misrepresentation. This is not something where we are in the middle of the night building this facility. We were doing what we were told to do by the Public Works Department, the Planning and Fire Department and I hope that the Council supports their staff.

Freeman: Mr. Mayor. Council. Mark Freeman. Foley & Freedman Attorneys. Attorney for the applicant. 953 South Industry Way in Meridian. Thank you for your attention this evening. Try to make it quick. Mr. Borton -- or Councilman Borton asked a question earlier about the applicant. We are definitely not hiding the fact that the applicant's house is for sale and I -- apparently he has located another buyer. I -- most of the communications with the applicant were via me and the applicant Mr. Tseng. Tony Tseng. Speaking on the phone. We had several numerous conversations. We got to go back a little bit on the history. How did the fence come up? Well, the fence came up because at some point in time Tony Tseng asked Mr. Hewitt during a phone call you got to give me something. How about if we -- how about a fence, will you pay for a fence. That's where the fence started. We put the -- so, that's where the fence came from. The landscaping came from what we thought -- I think it was a mistaken impression that that's what people wanted. So, in one of Becky's updated -- or, actually, Jock got a landscape plan from someone, they updated it and they put some landscaping in and, then, we heard from the neighbors, oh, well, we don't want that landscaping, it obstructs our view of the golf course. So, I spoke with Mr. Tseng. He made the offer. He -- he is -- represented to me that he is making the offer not just for himself, but for the future owner of that parcel and that they are going to use the funds that -- that my client agreed to pay upon approval to resolve the issues of the fence and the location of that easement. So, my understanding from what Mr. Tseng represented to me is that -- is that the new owner is not going to come in and be shocked that there is an emergency access there, that these funds -- somehow they have negotiated that -- they have worked that out. So, I think we have the -- we have the approval and no objection from the person who is the most affected by the project. I wanted to make that point -- point first. I don't have a lot of points to make. Mr.

Mauritzson may not know -- he made a statement that there has been no effort to contact him. That may be correct. But my client -- my client's president, Mr. Jock Hewitt, made an attempt, reached out, left a voice message for the actual president of the homeowners association, who is Eric Epperson. He is the board of the Spurwing HOA. He's never received a return call. So, it wasn't that -- that we just ignored the Spurwing board, my client called the president and said, hey, I'm supposed to talk to you, I'm happy to talk to you, and never received a return call back. I think the point's been probably beat -- beat in well enough to everybody that these -- some of the neighbors on Balata have a -- maybe a legitimate -- they have a legitimate right to complain about whatever they want, but they are upset about the traffic on their court and that's not this applicant. It's not Mr. Hewitt. That's the -- that's the development over at Spurwing Greens and that connectivity issue, that's a total different issue. We have been saying that all along. I know they are upset about that. I respect that. But that's not why we are here. This emergency access is going to be restricted. It will only be emergency access. It's never intended to be a -- any kind of public access and we have had testimony at various times that people had to move or they -- they -- there were dogs and people walking through. Well, there is no gates. There is no gates on it. It was just a field and a road that sort of went through it. Anybody could walk it. When this is done there is going to be at least two gates. My understanding that there was going to be -- or are going to be three gates at that -- at the -- at the location -- at the cul-de-sac in Olive Tree. My client didn't want vehicles like pull in the emergency access, even before it gets to the Knox gates and so he is going to install an extra gate there. So, there is actually three gates. It's a golf course. It's -- it's not public property. People get thrown off the golf course all the time for walking on the golf course at this location or other locations. They are never supposed to be on it, unless they are playing golf. So, it's never permissible for anybody to ride a bike on the golf course, walk through the golf course. You can't do that. It's not allowed. And this is no different. But the point is this will never be used for anything other than emergency vehicles and I guess my final point is -- if I can wrap this up really quick. Fire suppression devices, like Becky said, really aren't an option. These people that bought homes in Spurwing or in Olive -- Olive Tree, they bought into a subdivision that had an emergency access and it doesn't have one and even if we sprinkler the remaining homes there is no secondary emergency access. The -- the -- some of the opposition is, well, everybody's going to drive in off of Spurwing Road or whatever that main entrance to Spurwing is, but if that road is blocked how do we get to here through the emergency access, we come in through Meridian Greens and I think it's important to know that. So, there is a valid -- there are other ways to get into the property if you allow this emergency access. And I will stand for questions if you have any.

Simison: Thank you.

McKay: If I could just say one last word.

Simison: Really quick.

McKay: Usually what we are doing is going -- when it's finished it will look exactly like what you see on the screen there. That's the access to the manhole. That is the perma

bark cap with the ribbon curb on each side. So, it's not going to look any different than what's there and over on the west side. It's going to be identical esthetically.

Simison: Council, any -- are there -- or any last questions of the applicant?

Hoaglund: Mr. Mayor?

Simison: Councilman Borton.

Borton: If I could ask a question of -- of Fire. If Chief Bongiorno is available.

Simison: He's here and ready.

Borton: Hi, Joe. So, in the -- in the door number two option of fire sprinklers, when a project such as this goes ahead and constructs 20 some odd homes before you get to that fork in the road, how is fire sprinklers an option in that? Does it apply only to the homes 31 and on or do you have to go back and retrofit the first 30 homes as well?

Bongiorno: No. Mr. Mayor, Councilman Borton, we can't go -- make them go back and sprinkler the houses that are already built. That's a done deal. So, what -- what we can shoot for from this point forward is anything that gets built from this point forward will have to have fire sprinklers in it. Again, it's not ideal, but it will at least give us that advantage if there is a fire in one of those homes, that the sprinkler system is going to do its job and keep the fire in check until we can get there. So, that's -- that will help.

Strader: Mr. Mayor?

Simison: If I could follow up with a sideways question. A hypothetical. If this would have been approved for 50 homes with no secondary access, would all 50 of the homes have been required sprinklers as an option or only 20 of the 50 if this is a brand new other application.

Bongiorno: If we can get it ahead of time -- I think it would depend on water supply and how the subdivision is laid out. You know, what's the distance that we would have to go. Honestly, I would have to look at it. Typically what we try and do is -- you know, if we need to the whole thing should be sprinklered. If -- but, again, it's going to depend on what's our travel time to get there. If it's -- if we are outside of our five minute goal, then, the best option is going to be to sprinkler the whole thing. But we have had some areas where we have had some offshoots, you know, from the main sub and -- and I have told them if you go ahead and just fire sprinkler that little offshoot, we will be good, because that way the extra time it's going to take to get to that area, the -- the sprinkler system should do its job and keep the fire in check.

Simison: Thank you. Council Woman Strader.

Strader: Question for Bill Nary. I'm not sure we would normally do this, but -- and it's a

totally different situation. So, the folks at Balata Court had an unfortunate situation with an emergency access road that was totally different than this, but is there anything we could do as the easement holder that would help assure them that this will remain an emergency access road in perpetuity and -- and is there anything we can legally do that would give them some extra assurance that this will not turn into a new thoroughfare next to their home?

Nary: So, Mr. Mayor, Members of Council, Council Woman Strader, yes. So, this would be part of -- since it would be an annexation, we would have a development agreement that would require that. We would put in language that this could only be used as an emergency access road. They would be required to put the gates in and the locks in and, then, we have -- between -- whether it's a de-annexation, which is the ultimate hammer, of de-annexing the property out of the city if they won't comply. Secondly, Planning has to approve any additional buildings or anything related to the subdivision. So, if, for example, the 32nd house they want to build and they still haven't put the gates in, they won't issue permits. So, they won't be able to build out the subdivision without turning this into what they are proposing. If they were, for example, to build out the remainder homes and somehow for some bizarre reason they took out the gates, because of -- for whatever reason, we could sue them to enforce the contract of their development agreement. So, we do not sleep on these things. So, when people raise to us the concerns about how the development agreement is not being followed or how they are not getting compliance, whether it's landscaping, whether it's parking, whether it's -- whether it's this gate's access. Yeah, we have code enforcement, we have planning and we can sue them and so we definitely have the legal recourses to assure the residents that that is what's intended here and that's what it will be. So, I don't know how to give them more comfort level. I recognize there is a trust issue here, because of the other one and that wasn't what was anticipated at that time. But here it's clear this has to be pretty concrete on what this agreement says and that we will have the tools to enforce it if needed.

Strader: Perfect. Thank you.

Simison: Any further questions?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: To kind of close the loop with Planning staff, was there any condition within your staff report -- I'm looking at it now -- that at least updated as of today that -- that you believed remained unresolved going into today's hearing that you needed specific direction on?

Allen: Mr. Mayor, Councilman Borton, Council, I don't believe so. The updated staff report included conditions for gates at each end that meet the Fire Department requirements. Signage to be installed stating that public access is prohibited beyond the gated area.

So, unless there is any other items Council would like included, that's what's currently in the report.

Borton: Okay. Thank you.

Allen: Thank you.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Sorry. Maybe this is a silly question for -- for Sonya, but would the DA include the language that Mr. Nary just talked about? So, that specific language that -- that it would only be used as emergency access, so that would be very clear.

Allen: I'm just looking at the wording right now. We can certainly state that to be absolutely clear.

Nary: Mr. Mayor, Members of the Council, we can work with Planning to make sure that's written in there.

Allen: We could -- we could actually change DA provision 1-B that says signage shall be provided stating the public access is prohibited beyond the gated area and, then, just add to that that it's for emergency access only, if that's what's desired by Council. I should add -- and for maintenance by Public Works of the sewer. Thank you.

Simison: And water.

Allen: Yes. Thank you.

Simison: Council, any discussion or I will entertain a motion to close the public hearing. Or we could take a recess if people would like a recess.

Bernt: Mr. Mayor?

Cavener: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: This question would be toward the applicant before we close the public hearing. If I could just have someone from the representation -- that's representing the applicant answer this question in regard to -- if someone could just walk me through the process of why the applicant -- or the -- Mr. Hewitt decided to start building that road without any type permit or any type of permission or -- if that could just be clarified and help me understand, bring some clarity to that issue.

McKay: Mr. Mayor, Councilman Bernt, we -- we submitted construction plans to Public Works -- Meridian Public Works, the Planning Department, and the Fire Department for the off-site emergency access sewer and water maintenance roadway. Those plans were approved. We precon'd the project with the City of Meridian and Ada County Highway District and, therefore, we had the approvals and they had approved the specifications with the gates and so our construction was approved by the entity in which we thought we needed approval from.

Bernt: My next question is to staff. Why would we give approval to something like this when it's not even part of our city? I understand that our -- you know. If someone could just -- just clarify that for me as well.

McKay: Mr. Simison, Commissioner Bernt, since the City of Meridian had a sewer easement, part of that easement document talks about maintenance, providing an all weather surface access, that the city has the right to go in there or have work done. There are instances where -- and Mr. Hewitt owns the golf course. The Andersons have the lease on the golf course. We had obtained approval. Obviously, Mr. Hewitt had given his approval, since he is the developer and we had met with Chris Anderson, who is the lessor and he had given approval. So, we thought we had obtained approvals from all entities. The Fire Department -- everyone to construct. It was not until someone complained to the county that we were -- we had started that -- that roadway. That, then, we received a stop work. I have never encountered this issue and I asked Warren Stewart -- I said have you ever -- have you ever been stopped from installing an emergency access or maintenance roadway over your sewer and water outside the city limits in the county, have you ever gotten a permit from Ada county. He said, no, never. It's our sewer. It's our sewer easement. We have the right to make any improvements in there that we see fit for proper maintenance. So, it's not like we intentionally violated the rules. We thought we had all the necessary approvals.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: When this was brought to your attention what was the communication to the Planning Department? I appreciate your communication with Warren, but this all should have -- if this all went through the Meridian Planning Department --

McKay: Yes, sir.

Cavener: -- I mean you have been doing this longer than -- than I have. If I get a call from the county saying, hey, you are building on our land, I would be going to the city saying why did you give me approval and -- it's not about blaming anybody, but if a mistake occurred I think that's the piece that I have struggled to wrap my head around with is how you all who do this all the time, are the experts, thought you were okay to go do it and that's the piece that might help me is how the city responded when you brought this to their attention.

McKay: Yeah. Mayor Simison, Councilman Cavener, we went all through the city approvals, I guess not knowing that we needed any other -- the city did not indicate that we need to pursue any approvals at the county and since that was an existing sewer line that had been there since 2012 and here we were in 2020 installing it as per the requirements of Public Works for an all weather maintenance roadway, I mean I have never encountered -- this is the first time I have ever had sewer that ran outside the city limits and -- and we thought that we had all the necessary approvals from the city. No one raised any red flag and said go to the county. But once we were stopped, then, we went and I contacted your Public Works Department.

Cavener: What about our Planning Department?

McKay: Contacted Planning.

Cavener: And what was their response? That's -- that's the piece that I --

McKay: They were shocked. They said why would the county care that -- it's our -- it's our sewer facilities. It's our emergency vehicle access. There is Suez water. And I said, well, obviously, they are upset about it and they want us to go through this permitting process and that's when Mr. Stewart indicated to me we have -- we have sewer outside city limits all over Ada county and I have never ever been required to obtain a permit or permission from the county.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Question for Sonya. Sonya, any insight you can give us on this? I mean what's the scenario that plays out where the city approves construction of a road that's not land that's been annexed into the city?

Allen: Mr. Mayor, Councilman Cavener, Council, I -- I really honestly don't know what Planning's role was in this. Planning shouldn't be approving a Public Works access road. There may have been discussions over my head with management that I'm not aware of. But I personally was not involved in any approvals on this.

Cavener: Thanks.

Simison: Maybe, Mr. Nary, from your perspective and knowledge any -- any insight -- even moving forward in the future should we be obtaining permits from the county for installation of our -- our works and what goes on top?

Nary: Mr. Mayor, Members of Council, I haven't -- I didn't speak to the county attorneys about that particular issue and Mr. Dolsby is on the call, too. I mean he may have some insight from Public Works. But I would agree with Becky, I have never heard of this before. I mean, again, it may land in the county, but this is private property, this is an access road,

it's not a public road, it's a limited use road and the property owner gave permission to install it. So, I don't know if Mr. Hewett did this road himself he has to go get a permit. I don't know what the county requires if you are going to pave a road on your property and whether they require that. So, how they got involved with it -- I understand they -- they chose to be involved with it, but I'm not certain what -- what the rationale is, because, again, it's not a public road. I mean they even had ACHD look at it to make sure, but, again, it's not a public road, it's a limited road, it's really, essentially, a driveway for manholes. So, I have never seen it either.

McKay: Mr. Mayor, Councilman Cavener, Mr. Nary is correct. I -- I live on five -- five acres in Ada county and I can build a gravel road in my pasture or I -- we have a paved driveway that goes to our barn. No permitting is required under the Ada county code. None whatsoever. Because it's a -- it's a -- it's an improvement on private property. I'm --

Cavener: I get that. I guess Mr. Mayor?

McKay: So, yeah, this -- this is a unique situation.

Cavener: It is.

Simison: Councilman Cavener.

McKay: Very -- very strange.

Cavener: I guess, Mr. Mayor, question, then, for Mr. Nary or for the planning staff is Ms. McKay has provided testimony that the city approved -- the Planning Department approved this -- this plan. So, I'm trying to, again, wrap my head around what plan the city approved and how we approved a plan that allowed for construction to occur on land that has not been annexed into the city. So, what was approved, who gave it, and what was the justification? Let me -- and I think that may be a question for another day. I think that is separate from this. But that, again, we all have -- it's not about casting blame on anyone, but I somewhat feel like at least this element of the trust that we have heard from -- from Rick and the homeowners association. If the city would have said, well, this isn't our call to make, you need to go to the county, this would have resolved 97 percent of what we have been talking about for the past four hours over the past two months. So, that's -- that's a piece that I would like to get to the bottom of, whether that's tonight or in the future, because I don't think it's fair to the residents, I don't think it's fair to the applicant and the Council that we are playing referee with the county on this.

McKay: Yeah. Councilman Cavener, the -- the approved plans were part of my PowerPoint. They are signed and approved by Meridian Public Works.

Nary: And, Mr. Mayor, I can answer part of what the staff is evaluating, because we do get engage with that occasionally, is they are -- they are -- they are approving location, not the owners -- not the owner -- you have to get ownership to access the property. They are just approving that the roadway meets the standards for the fire truck. That it

meets the standard for the vac truck, for Public Works, it meets those construction standards is what they are approving. So, if, for example, they trespassed to do this -- we didn't approve them to trespass on the property. That's on them. That's their responsibility. Again, we would have been unaware that the county decided that a permit was required, because generally permitting is not required in the county to construct a driveway and that's really all this is. But that's -- again, that's on the applicant. We are not consenting to them building in the county, we are saying this is what's needed to protect our -- our easement. Yes, you can build that. Again, you will get approval to build it and I think all Ms. McKay is saying is they were not aware, because the county normally doesn't require permits.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Becky, I have a question about prior to actually making the improvements were any of the neighbors contacted and given -- given notice? I know it might not have been officially required by any government entity, but I'm just wondering if there was a courtesy given to them.

McKay: Mr. Mayor, Council Woman Perrault, to my knowledge I do not believe they were contacted.

Perreault: Becky, can you speak up.

McKay: Oh. Sorry. To my knowledge I do not believe that they were contacted.

Johnson: Mr. Mayor. Becky, you won't be able to change the screen, because it's mine. Not that one. That one is logged out. So, if you would let me know what you need to bring up I can.

McKay: Go to the construction plans. Right there. Those are the approved construction plans that you see here. And so we showed -- if you -- if you look you show the emergency access road coming out the back of Crantini Place -- oh, I don't have control over it. No wonder I -- so, you can see that -- that it was shown on the plan and, then, it was shown in the cut sheet next to the plan going up and, then, connecting to -- to the paved drive that goes between Spurwing --

Perreault: Becky, I can't hear you. I'm sorry.

McKay: Oh, I'm sorry. It -- you can show that there was two -- there were two sheets. One -- one that showed it going up and connecting to -- to the paved access between Balata Court and Spurwing Greens and, then, the other cut sheet showed it coming out of Crantini Court. These plans were reviewed by Public Works. They were submitted with our final plat. I mean I thought we had covered all our bases. I had had conversations with Fire, Public Works, and Planning to discuss this -- this change in order to meet my

condition of approval for secondary access and had I known -- I mean, like I said, I -- I had no idea that such a firestorm would be started by this. All I want to do is solve the problem and -- and move on. Fourteen years is a long time on one project. Thank you.

Simison: Just so we can maybe close this out just a little bit, Mr. Dolsby if you can unmute yourself. To your knowledge do you -- does the city traditionally need permits from the county when we install our infrastructure? How does that work? What does that relationship look like?

Dolsby: Mr. Mayor, Members of the Council, I think Mr. Nary put it very well when he said we don't need permits typically to put the sewer out in the county. Subdivisions routinely construct offsite sewer improvements to serve their subdivisions and I'm not aware of any permits you get from the county to do such. We require easements, as has been stated several times during the hearing, to construct the sewer. We also need access, especially to manholes. Prefer a gravel access road over the whole thing, but we have negotiated access as is shown here. So, we can at least get to our manholes with the vac trucks. But I have not -- I'm not aware of any permits that we have had to acquire from the county to do any of these activities in the past.

Simison: Thank you.

Borton: Mr. Mayor?

Simison: Mr. Borton.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: It may be a question for Clint or Bill as we wrap this up. If, in fact, the -- the sewer easement and the maintenance road rights that come with a sewer easement are of sufficient scope to also include a roadway that would serve as an emergency access and the easement rights themselves confer both the ability to construct both, it sounds like that's what the applicant believes is true and if that's the case why are we needing to annex this property at all? Why wouldn't the applicant just merely proceed with what they believe to be their existing easement rights and continue to construct what they believe they have an existing right to do and utilize this -- this access road as an emergency access. It feels as though -- even though it might not be the intent -- that there is -- there is blame that's being placed upon the city as though this is somehow our fault that we lead them down this path and it's probably not the intent, but it's sure what it feels like and that's why I think we are all struggling with this. But if, in fact, the applicant thinks that they can utilize this for emergency access and the county is, therefore, wrong to deny it or interfere with it and go prevail in court and continue to build what you think you can already build, then, you don't need to annex it. You only need to annex it if you need a right that you don't already have. So, this got me sideways and now I'm confused with what appears to be some cross-positions.

Nary: So, Mr. Mayor, Members of the Council, my recollection is is that emergency access that came off of Chinden was a service road that existed at the time. It was actually the link to Olive Tree to the city. It was the only connecting point to the City of Meridian at that point in time was that road. So, that was the basis of the annexation. So, Ms. McKay is correct, I mean they have that right to have an emergency access. I think, Mr. Borton, your question is what the basis of the lawsuit that's pending is about, because, again, I'm not certain what the county's interest is here and whether or not they actually have the right they are claiming they have. Obviously, there is a difference of opinion that's ongoing about that. Again, they don't normally require permitting. This is not a public roadway. It is just essentially a driveway for emergency access and some utility access. I don't disagree with you that they could prevail and that this is a -- this is a way to avoid that issue if the city so chooses to do that. It does provide some city needs and that's kind of the reason I think why the staff and Public Works were supportive of the application, because, again, it erases the concern we have of access to both the utilities and emergencies. It does -- there is no question any longer with that. If -- if say to play out your scenario that it goes to a lawsuit, it prevails that the county does have the right to do that and prohibit the access there and there is issues about how the access could be used, maybe there is some ability to get there for utilities, maybe not the same level for emergencies, we may have this issue again in the future. So, I think the intent here is to simply get this resolved now, get these accesses cleaned up, cleared up, there is no question where they -- what they are used for and I think the concessions are the reason Public Works and Planning were supportive, because the limitations that are being placed on it with the gates, so that it's clear no one else is going to use this. It won't be abused as it was on the Balata Court issue with Spurwing West -- or Spurwing Greens and so I think that's really the answer. So, you are not wrong. I mean if we deny this that lawsuit will have to play itself out and they will have to figure out whether or not they have that right. So, that really is a question for another day, but -- but you are not -- not incorrect in that analysis, that there is another option, but I think the staff would like to not have this sort of in limbo and that's the reason they were supportive of the request.

Borton: Okay. Mr. Mayor?

Simison: Councilman Borton.

Borton: To kind of close out that thought and -- and -- and maybe this -- this application discussion. So, I go down that path, I didn't contemplate that our sewer easement and the maintenance road rights that go along with it also would be of such a degree that it could be utilized as an emergency access. I thought that that would be a larger, more intense use in scope, that a mere maintenance road access wouldn't contemplate and that is what necessitated this application, which that may be the case. Maybe it's not now, but -- but that's what I believed to be true, which, then, makes sense why they need to annex to get this additional right to construct something that couldn't otherwise construct. So, if they go to the county -- if they have that fight with the county and they win with an existing right to -- to build the access road with -- as part of this easement, then, it gets built and if they lose, then, they come back to the city and do what we are doing now, request to annex to gain the right they didn't have to build an access road.

So, we are back here either way addressing a road getting built as an emergency access. So, the choices today are this emergency access is going to be constructed or you are going to require the remaining homes to be sprinkled.

Hoaglund: And Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Yes. And Joe framed it -- or Councilman Borton framed it very well, but -- and I have issue with, okay, we require the remaining homes be sprinkled, that leaves nearly 30 homes without sprinklers and adequate emergency access, which we -- we require for our community and -- and that's where the rub is for me on not providing that access. So, it's -- you know, one of those things that, you know, Chief -- Deputy Chief Bongiorno talked about, you know, the sprinklers buy time and that sort of thing, but what about the ones -- what if it's not that house with the sprinkler that catches fire. There is no time to be bought. So, other -- other options have been brought forward. The access coming off Ten Mile that no longer exists. Mr. Wagner refused. And that is certainly within his right to do so. So, that is -- that is not a possibility. We have a utility and Suez has a utility that we require certain standards to be met for how that's covered, how it can be accessed, how a large truck can go over the top and it's -- to me there might be a little difference in weight, but I bet you there -- a fire truck or an engine would be close to what the sewer truck is, so making sure that is adequate to have that emergency access is a small leap to say, hey, you bump up the standards with another half inch and we are fine running a fire truck on it. So, it's -- I -- I do agree with Mr. Borton, too, that we may have been presented a problem that isn't our problem and now we are called upon to solve it, but as Councilman Borton points out, once again, that either way it's going to come back to the Council for resolution. So, I'm in favor of taking action tonight and moving forward. We can do analysis on -- on the issues and permits and our processes to determine how we do this in the future to see if there is going to be issues or if we need to change some things or have conversations with the county, but -- but I'm for making sure we can move ahead, protect our assets and provide access and meet the standards that we require in our community.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: If I'm remembering correctly, last -- on the 15th of December when we had this discussion last, I believe that's -- I don't remember if it was someone from Planning or if it was someone from Public Works, they said that ultimately they could -- because of the easement they -- maybe it was Public Works. I think it was maybe Warren that said this. Yeah. It was a Warren said that they -- they could have -- they don't need, you know, that -- what is being requested from the applicant to, you know, hypothetically fix potential problems with our assets and our utilities that are within that easement.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: That's correct. Warren testified that they are able to serve our current sewer needs as is. So, whether there was an action taken last week or tonight, they are in a position that they can serve the sewer, because I think the vast majority of our conversation last month really gravitated towards the emergency access piece, because at least the bulk of us felt satisfied the sewer access question had been addressed for what it's worth. You are correct, Council Member Bernt.

Simison: Yeah. We are ultimately discussing a secondary emergency access that we hope will never have to be used ever. Ever. Because it would take something happening pretty dire at that exact intersection all by a need other places.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: I was -- I was there last time and I'm still there. I agree with -- with Councilman Hoaglund. As we wrap this up I think all things considered this application is appropriate to go forward providing the secondary access is required. I don't think we can act otherwise in light of that public safety need. Hopefully it's never needed. Never used. But I just don't -- I see that as a -- this is a more viable solution than the sprinkler solution that is behind the curve. So, I agree with Councilman Hoaglund to proceed.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I agree with my -- with my fellow Council Members and I would -- I would just like to add to the applicant directly that it sounds like that -- that -- that they have made a commitment to do all they can to make sure that that isn't being used for -- for a purpose other than what it's intended. So, I would request that the -- it sounds like that there are not -- that individuals are not permitted to use the course or any -- any area around the course to be walking, riding bicycles and whatnot, but it doesn't sound like that's really appropriately being enforced. So, I would -- I would just like to encourage the applicant to do all they can to -- you know, signs are great and gates are great, but they are not -- they are not gating the entire length of this -- of this easement, it's just at the -- at both entrances and so it's really not cutting back on pedestrian traffic truly. So, I just would really like to encourage the owner and lessee of that property of the course to -- to do all they can to prohibit trespassing in that location.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Question maybe for Council Member Perreault. Do you have any other

recommendations, aside from gates and signage, that you would like to see included?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Okay. Councilman Cavener, I'm under the assumption that the course has some sort of policy or process, both maybe, that they take to prevent, quote, unquote, trespassing or individuals on the course that are not golfing, because that's -- that's something that was mentioned that already exists. So, I would just expect them to -- to continue to enforce it.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I think Councilman Hoaglund has summed it up well. I think that the danger to the future homeowners and the ones that wouldn't be sprinkled outweighs the concerns that the neighbors may have adjacent to this road, which I believe will not be horrible. It will be smaller than depicted in the horrible picture of the giant dirt road, but I like the idea of specifying that DA provision that it's for emergency access only, if nothing else than to give the neighbors at Balata Court comfort that, you know, the city is going to step up on their behalf if any of this doesn't happen and that we are going to ensure that it's only for emergencies and for accessing our utilities and maintenance and Suez.

Hoaglund: So, Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I would move that we close the public hearing on H-2020-0087.

Cavener: Second.

Simison: I have a motion and a second to close the public hearing. Is there any discussion on the motion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it.

MOTION CARRIED: ALL AYES.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: After considering all staff, applicant, and public testimony, I move that we approve file H-2020-0087 as presented in the staff report for the hearing date of January 26th, 2021, and to make sure conditions are in the DA that point to -- that two gates be

installed, one at each end of the emergency access, that there would be signage prohibiting access of appropriate language and that language also be included that shows this as emergency access only and for maintenance by public water and -- Public Works and water services at this site.

Cavener: Second.

Simison: I have a motion and a second. Is there any discussion on the motion? If not, Clerk will call the roll.

Roll call: Bernt, yea; Borton, yea; Cavener, yea; Hoaglund, yea; Strader, yea; Perreault, yea.

Simison: All ayes. Motion carries and the item is agreed to.

MOTION CARRIED: ALL AYES.

ORDINANCES [Action Item]

- 5. Ordinance No. 21-1913: An Ordinance (H-2020-0092 Goddard Creek Community) for Rezone of a Parcel of Land being Lot 2, Block 1 of Goddard Creek Subdivision as Filed in Book 114 of Plats at Pages 17060 through 17062 and a Portion of the SE ¼ of the SW ¼ of Section 26, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho; Establishing and Determining the Land Use Zoning Classification of 5.03 Acres of Land from R-4 (Medium Low Residential) Zoning District to R-15 (Medium High Residential) Zoning District in the Meridian City Code; Providing that Copies of this Ordinance Shall be Filed with the Ada County Assessor, the Ada County Recorder, and the Idaho State Tax Commission, as Required By Law; and Providing for a Summary of the Ordinance; and Providing for a Waiver of the Reading Rules; and Providing an Effective Date**

Simison: Thank you very much for all -- everyone's work on this and, Mr. Nary, if you can put this on your to do to follow up with the county appropriately on any steps that we may need to address in the future if we are not taking the right ones. With that we will move on to Item 5, Ordinances, and ask the clerk to read Ordinance No. 20-1913 by title.

Johnson: Thank you, Mr. Mayor. This is an ordinance related to H-2020-0092, Goddard Creek Community, for rezone of a parcel of land being Lot 2, Block 1 of Goddard Creek Subdivision as filed in Book 114 of Plats at pages 17060 through 17062 and a portion of the SE ¼ of the SW ¼ of Section 26, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho; establishing and determining the land use zoning classification of 5.03 acres of land from R-4 (Medium Low Residential) Zoning District to R-15 (Medium High Residential) Zoning District in the Meridian City Code; providing that copies of this

ordinance shall be filed with the Ada County Assessor, the Ada County Recorder, and the Idaho State Tax Commission, as required by law; and providing for a summary of the ordinance; and providing for a waiver of the reading rules; and providing an effective date.

Simison: You have heard this ordinance read by title. Is there anybody that would like it read in its entirety? If not, do I have a motion?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I move that we approve Ordinance no. 21-1913 with the suspension of rules.

Cavener: Second the motion.

Simison: I have a motion and a second to approve the item under suspension of the rules. Is there any discussion on the motion? If not, all those in favor signify by saying aye. Opposed nay. The ayes have it and the ordinance is agree to.

MOTION CARRIED: ALL AYES.

- 6. Ordinance No. 21-1914: An Ordinance (H-2020-0097 – 2810 E. Franklin) for Annexation of a Parcel of Land Situated in a Portion of the Southeast ¼ of Section 8, Township 3 North, Range 1 East, Boise Meridian, Ada County, Idaho, as Described in Attachment “A” and Annexing Certain Lands and Territory, Situated in Ada County, Idaho, and Adjacent and Contiguous to the Corporate Limits of the City of Meridian as Requested by the City of Meridian; Establishing and Determining the Land Use Zoning Classification of 1.006 acres of Land from RUT to C-G (General Retail and Service Commercial) Zoning District in the Meridian City Code; Providing that Copies of this Ordinance Shall be Filed with the Ada County Assessor, the Ada County Recorder, and the Idaho State Tax Commission, as Required by Law; and Providing for a Summary of the Ordinance; and Providing for a Waiver of the Reading Rules; and Providing an Effective Date**

Simison: Next item is Item 6, Ordinance No. 20-1914. Asked the Clerk to read this ordinance by title.

Johnson: Thank you, Mr. Mayor. It's an ordinance related H-2020-0097, 2810 East Franklin, for annexation of a parcel of land -- parcel of land situated in a portion of the Southeast ¼ of Section 8, Township 3 North, Range 1 East, Boise Meridian, Ada County, Idaho, as described in Attachment “A” and annexing certain lands and territory, situated in Ada county, Idaho, and adjacent and contiguous to the corporate limits of the City of Meridian as requested by the City of Meridian; establishing and determining the land use

zoning classification of 1.006 acres of land from RUT to C-G (General Retail and Service Commercial) Zoning District in the Meridian City Code; providing that copies of this ordinance shall be filed with the Ada County Assessor, the Ada County Recorder, and the Idaho State Tax Commission, as required by law; and providing for a summary of the ordinance; and providing for a waiver of the reading rules; and providing an effective date.

Simison: Council, you have heard this item read by title. Is there anyone that would like to read it in its entirety? Hearing none, do I have a motion?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I move that we approve Ordinance No. 21-1914 with the suspension of rules.

Cavener: Second the motion.

Simison: I have a motion and a second. Is there any discussion on the motion? If not, all those in favor signify by saying aye. Opposed nay. The ayes have it and the item is agreed to.

MOTION CARRIED: ALL AYES.

FUTURE MEETING TOPICS

Simison: Do we have anything under future meeting topics?

EXECUTIVE SESSION

7. Per Idaho Code 74-206A(1)(a) To deliberate on a labor contract offer or to formulate a counteroffer.

Simison: If not we are at Item 7.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I should -- we should have removed this from the -- the agenda earlier. I believe that we don't -- we have taken care of this business in our -- this -- we don't need to go into Executive Session. So, I move that we strike Item No. 7 from the agenda.

Cavener: Second.

Simison: I have a motion and a second to strike Item 7 from the agenda. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it.

MOTION CARRIED: ALL AYES.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I move that we adjourn the meeting this evening.

Cavener: Second.

Simison: Motion and second to adjourn. All in favor signify by saying aye. Opposed nay? And we are adjourned.

MOTION CARRIED: ALL AYES.

MEETING ADJOURNED AT 8:41 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

MAYOR ROBERT SIMISON

_____/_____/_____
DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK