THE STATE OF MONTANA

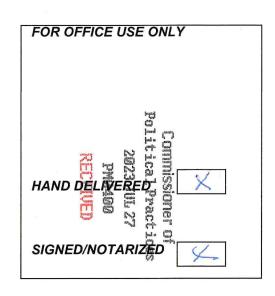
Commissioner of Political Practices 1209 Eighth Avenue Post Office Box 202401 Helena, MT 59620-2401 Phone: 406-444-2942

Fax: 406-444-1643

www.politicalpractices.mt.gov

Campaign Finance and Practices

Complaint Form (08/17)



Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

refeel bringing complaint (complainant).			
Complete Name	C.B. PERNSON		
Complete Mailing Address	Missour, MT 59802		
Phone Numbers: Work	Home 406-544-0037		
Person or organization against whom complaint is brought (Respondent): / / / / / /			
Complete Name	SER complaint Latter (Organization)		
Complete Mailing Address	724 Burlington Ave.		
	Missoula, MT 59801		
Phone Numbers: Work	(406)728-0560 Home		
Please complete the second page of this form and describe in			

Please complete the second page of this form and describe in detail the facts of the alledged violation.

Verification by oath or affirmation		
State of Montana, County of	•	
I,	being duly sworn, state that the information in this best of my knowledge and belief.	
SEAL SHAYLA DANIELSON NOTARY PUBLIC for the State of Montana Residing at Helena, Montana My Commission Expires	Signature of Complainant Subscribed and sworn to before me this 27th day of 2033.	
My Commission Expires: 1-3-2007	Notary Public Notary Public	

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

Ser Complaint Latter

Complaints must be:

- signed
- notarized
- · delivered in person or by mail.

July 27, 2023

Chris Gallus
Commissioner of Political Practices
State of Montana
1209 8TH AVE.
P.O. BOX 202401
Helena, MT 59620-2401

Dear Commissioner Gallus:

I am today filing this complaint.

I am doing this on my own behalf, not representing any organization or candidate or at the urging of any organization or candidate.

Based upon media reports, private disclosures of individuals, a copy of a text poll, and my professional experience of over four decades of involvement in electoral and campaign finance work, it is my opinion and allegation that in March, April and May the National Organization of Realtors and the Missoula Organization of Realtors completed a defined process and prepared a proposal to engage in an independent committee political campaign to help elect Mike Nugent for the Mayor of Missoula and have failed to disclose this activity and the cost of this activity as they should have under Montana law. They failed to report contributions – both in-kind and cash – as required by:

Title 13, Chapter 1, Part 1. General Provisions General Provisions 13-1-101. Definitions.

- (9) (a) "Contribution" means: (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or <u>anything of value</u> to support or oppose a candidate
- **13-37-225.** Reports of contributions and expenditures required -- electronic filing and publication. (1) (a) Except as provided in **13-37-206**, each candidate, political committee, and joint fundraising committee shall file with the commissioner periodic electronic reports of contributions and expenditures made by or on the behalf of a candidate, political committee, or joint fundraising committee.
- (4) A person who makes an election communication, electioneering communication, or independent expenditure is subject to reporting and disclosure requirements as provided in chapters 35 and 37 of this title.
- (e) the name and address of each political committee, candidate, or joint fundraising committee from which the reporting committee or candidate

received any transfer of funds, together with the amount and dates of all transfers;

13-37-229. Disclosure requirements for candidates, ballot issue committees, political party committees, and independent committees.

- b) the full name, mailing address, occupation, and employer, if any, of each person who has made aggregate contributions, other than loans, of \$50 or more to a candidate, political committee, or joint fundraising committee, including the purchase of tickets and other items for events, such as dinners, luncheons, rallies, and similar fundraising events. If a contribution is made by a joint fundraising committee to a participant in the joint fundraising committee, the participant shall disclose the information in this subsection (1)(b) for each contributor of the funds allocated to the participant by the joint fundraising committee.
- iii) the total sum of expenditures made by a political committee, candidate, or joint fundraising committee during the reporting period. If the expenditure is made by a joint fundraising committee, the joint fundraising committee shall report gross and net allocations to each participant.

13-37-231. Reports to be certified as true, complete, and correct. (1) A report required by this chapter to be filed by a candidate or political committee must be verified as true, complete, and correct by the oath or affirmation of the individual filing the report. The individual filing the report must be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner.

Complaint: The National Organization of Realtors and/or the Missoula Organization of Realtors, and/or their political committee "Missoula Mayor" failed to report a series of activity including polling completed between April 1 and April 15th in either or both campaign finance reports filled with the Commissioner of Political Practices on June 29th and 30th. Further, both the National Organization of Realtors and the Missoula Organization of Realtors failed to report in-kind staff activity prior to the execution of the poll, during the poll period and following the poll execution and evaluation – I estimate that period to be between March 1 to April 15th 2023. These two entities are in violation of campaign finance laws by not reporting these cash and in-kind contributions.

In total I am alleging the violation of Montana Statues

13-37-225

13-37-226

13-37-229

13-37-231

Complainant

C.B. Pearson 5141 Elk Ridge Road Missoula, MT 59802 406-544-0032

Respondents

Missoula Organization of Realtors Treasurer, Judy Gudgel 724 Burlington Ave. Missoula, MT 59801 (406) 728-0560

National Association of Realtors Fund Treasurer, John Pierpoint 430 N. Michigan Ave Chicago, IL 60611 312-329-8443

Missoula Mayor Treasurer, Shannon Winterer 2814 Brooks Street, Box 203 Missoula, MT 59801 (406) 544-0506

Supporting Materials for Complaint

A Voter Poll of Missoula Voters has not been reported - Overview

The poll of Missoula voters was conducted in an on-line (text) format and over the phone. And, like most polls was a random sample of at least 400 voters but could have been up to 600 voters. Based upon my experience and in discussion with a professional pollster I estimate the low value of the poll is between \$15,000 to \$25,000 dollars not including time to prepare summary data and presentations and the time to prepare the poll, back and forth on questions and to present the findings of the survey to the staff and board members or committee members of the Missoula Organization of Realtors in April.

I have attached screenshots of the text portion of this poll to this complaint.

Both the Missoula Organization of Realtors and the National Organization of Realtors are very experienced and sophisticated lobbying and campaigning organizations and should have clearly

know that this activity should have been reported in their first C-4 Committee Campaign Finance Report filed with Commissioner of Political Practices on June 29, 2023 for the Missoula Organization of Realtors and June 30th, 2023.

Title 13, Chapter 1, Part 1. General Provisions General Provisions 13-1-101. Definitions.

(9) (a) "Contribution" means: (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance, deposit, payment, or distribution of money or <u>anything</u> <u>of value</u> to support or oppose a candidate

This poll clearly has value and is and has been used by the two committees National Organization of Realtors and Missoula Organization of Realtors and will be used by their joint campaign committee named Missoula Mayor.

No activity prior to May was reported and prior activity such as this poll which has and will be used to further the activity of both of these committees and the political committee they formed – Missoula Mayor - to further advocate with voters to vote for Mike Nugent For Mayor during the September primary ballot and the November ballot.

This poll has value and should have been put into the June report by all three committees. The staff and volunteers who engaged in this initial unreported work have decades of experience and know a poll has enormous value. They clearly spent time developing the poll, choosing pollster, drafting questions, reviewing questions, authorizing the poll execution, and reviewing the initial as well as the final analysis of the poll.

It is my allegation, based upon decades of ballot activity—including managing the polling process—and as an expert witness in a number of campaign finance lawsuits this omission was intended to hide both the money, its source and the timeline of activity to support the independent committee activity to support candidate Mike Nugent for Mayor.

Further in an interview with Daily Montanan in an article published on July 12th 2023 (https://dailymontanan.com/2023/07/12/national-association-of-realtors-pushing-funds-into-missoula-race/) – Missoula Organization of Realtors Chief Executive Officer and Missoula Mayor Deputy Treasurer Jim Blanchard – stated that the National Organization of Realtors have a defined process and application. So, it is clear there was money spent and that a public opinion poll was highly likely a part of the application for funds – and that it is highly likely that both the Missoula Organization of Realtors and the National Organization of Relators engaged in a 30 to 45 day process of assessment, including the poll, that began in March and continue through April. All prior to interviews by the Missoula Organization of Realtors of candidates for the Missoula Mayor seeking the endorsement of the Missoula Organization of Realtors.

As reported on the Missoula Organization of Realtors website - 2023 milestones:

https://www.missoularealestate.com/candidate-endorsements/

The mayor endorsement process started on in early April with questionnaires sent on April 13th to all announced candidates before the filing deadline. It is entirely possible that the polling was completed by April 13th with the raw data and the assessment of that data was likely completed and a review of that assessment by both organizations prior to the timeframe questionnaires where due from the candidates on May 2nd to the Missoula Organization of Realtors. Note that the National Organization of Realtors filed a Statement of Organization (C-2) on May 3, 2023.

It seems highly likely that both the Missoula Organization of Realtors and National Organization of Realtors both prepared and executed a public opinion poll for their <u>pre-selected candidate</u> <u>privately</u> while the Missoula Organization of Realtors <u>publicly continued to execute a candidate</u> questionnaire and interview process.

Supporting my complaint are two individuals who want to remain anonymous at this point – one who was received a phone call and completed a survey over the phone on April the 3rd 2023 and another who received a text and completed that text poll on April 6th. Note a copy of the text poll is attached to this complaint.

I will gladly provide the Commissioner of Political Practices this contact information for these two individuals for interviews. I have confidence in this two individuals and have no reason to believe they would not be accurate in their statements. Based upon my discussions with the person who completed the phone survey – the phone survey and the text survey were nearly identical.

I am certain there are a number of other individuals who received these texts and phone calls. Both are willing to attest to this activity in any form the Commissioner requests and at the appropriate time.

A copy of the text poll provided to me by one of the individuals is attached to this complaint. That poll includes 36 slides – a number of which are demographic and assessment questions.

The poll clearly shows a bias for candidate Mike Nugent and asked several overall questions, questions about a potential set of candidates, and then spends <u>seven questions</u> of the slides specially designed to drill down and refine a message for their advocacy – mailers, advertisements, etc. – that would encourage Missoula voters to cast their ballot for Mike Nugent. This data would help define message, targeting and other key aspects of the independent committee campaign effort. These seven questions are a significant portion of the poll.

Here is one of the seven questions focused on Mike Nugent that appeared in the text poll:

Here is a reason why some people are voting for Mike Nugent.

Nugent knows that property taxes are too high and make the cost of housing even higher. He will work towards local tax reform as mayor and encourage the legislature to use the billion-dollar state budget surplus for property tax relief.

How convincing of a reason is that for you?

Very convincing Somewhat convincing A little convincing Not at all convincing

This example appears on page 23 of the text poll attached to this document.

This is clearly of benefit to the two committees who contributed to the primary committee – Missoula Mayor – that is the PAC running the independent expenditure campaign.

The fact that this expenditure is missing is a clear violation of Montana law of 13-37-225 and 13-37-229 Disclosure Requirements and perhaps others. Further there is no time allocated for staff time in March and April on any of the reports a period in which both organizations engaged in a set of activity to prepare a proposal and review a proposal for funding the Nugent for Mayor independent committee campaign—utilizing the poll and other information.

As is almost always the case it is hard to identify a clear funding of poll while the over the phone and text polling is being completed. Both of the individuals made an effort to identify the respective source of company or companies completing the effort. My research of the text poll indicates is was completed by Opinion Counts https://www.opinioncounts.net/ Opinion Counts, a survey program hosted by Bellomy Research https://www.bellomy.com/ - I ascertain they executed the text poll on behalf of another firm.

To the best of my knowledge no group or individual has reported this poll in any campaign finance reports to date. The Missoula Organization of Realtors and the National Organization of Realtors are the only likely entities to have executed this poll and engaged in this activity – this in confirmed by Missoula Organization of Realtors Chief Executive Officer and Missoula Mayor Deputy Treasurer Jim Blanchard – stated that the National Organization of Realtors have a <u>defined process and application</u> but would not share that information with the Reporter

"Bachand, deputy treasurer for the committee receiving the \$125,000, said the national association has a defined process for any local requests, and the local committee made its case for the money it needed to support Nugent in an application. He declined to release the application Friday."

<u>Likely</u> Timeline of Activity by both the Missoula Organization of Realtors and the National Organization of Realtors.

Estimated Dates and Timeline with Anticipated Activity

March 1, 2023 – Missoula Organization of Realtors decides it wants to engage in an independent Campaign to Elect Mike for Mayor and Begins the Assessment Process and Approaches the National Organization of Realtors. The National Organization of Realtors maintains a:

RPAC: REALTORS® Political Action Committee

Since 1969, the <u>REALTORS® Political Action Committee</u> (RPAC) has promoted the election of pro-REALTOR® candidates across the United States

And activity by Missoula Organization of Realtors with the RPAC in the past. https://www.missoularealestate.com/rpac-issues-mobilization/

March 2nd to April 1 – The Staff, Board members and committee members of the Missoula Organization of Realtors engage in a process of assessment and preparing a proposal for funding to the National Organization of Realtors. There are multiple conversation including the selection of a firm to conduct a public opinion poll of likely voters on potential candidates for the office of Missoula Mayor between the Missoula Organization of Realtors and the National Organization of Realtors, what candidates will likely be on the ballot, what questions to ask, etc.

April 1 to April 15th – A public opinion poll is finalized competed – an initial review and analysis is completed. Both the Missoula Organization of Realtors Staff and Board or Committee members meet with the National Organization of Realtors staff to develop and execute poll with a profession firm.

April 16th **to April 30**th – Missoula Organization of Realtors and the National Organization Realtor review data and work together to complete an assessment to prepare a request for funding of \$125,000.

May 1 to May 30th – Missoula Organization of Realtors prepares a comprehensive request for funding to the National Organization of Realtors. There is back and forth, discussion, meetings and a final request was made and approved. On May 3rd, 2023 the National Organization of

Realtors file a C-2 Statement of Organization with the Montana Commissioner of Political Practices in anticipation of giving money to the Missoula Mayor's election.

June 1 to July 1 – Missoula Mayor committee formed when C-2 is filed for the formation of the Committee on June 1, 2023. Missoula Mayor C-4 committee report is filed on June 29, 2023 showing a \$125,000 contribution from the National Organization of Realtors on June 13, \$10,000 cash contribution from the Missoula Organization of Realtors on June 2, 2023 and an in-kind contributions of \$202.75 for staff time in May and June reported on June 25, 2023 – no specific dates or individual amounts reported for each month. Missoula Organization of Realtors filed a C-2 on June 29th, 2023 and on the June 29, the Missoula Organization of Realtors filed a C-4 of contributions to Missoula Mayor PAC on June 29th of the same contributions - \$202.75 in in-kind and \$10,000 in cash.

These campaign reports are all identified as initial reports.

It is for all these reasons I ask the Commissioner of Political Practices to accept this complaint and to quickly complete a review of contributions and activity by Missoula Mayor, Missoula Organization of Realtors, and the National Organization of Realtors and to make an affirmative ruling of violations and to assess the maximum penalty to prevent this sort of activity from occurring again.

Thank you for your consideration.

I hope to hear from you soon. I am willing to provide any addition information you may require in a timely fashion.

Sincerely,

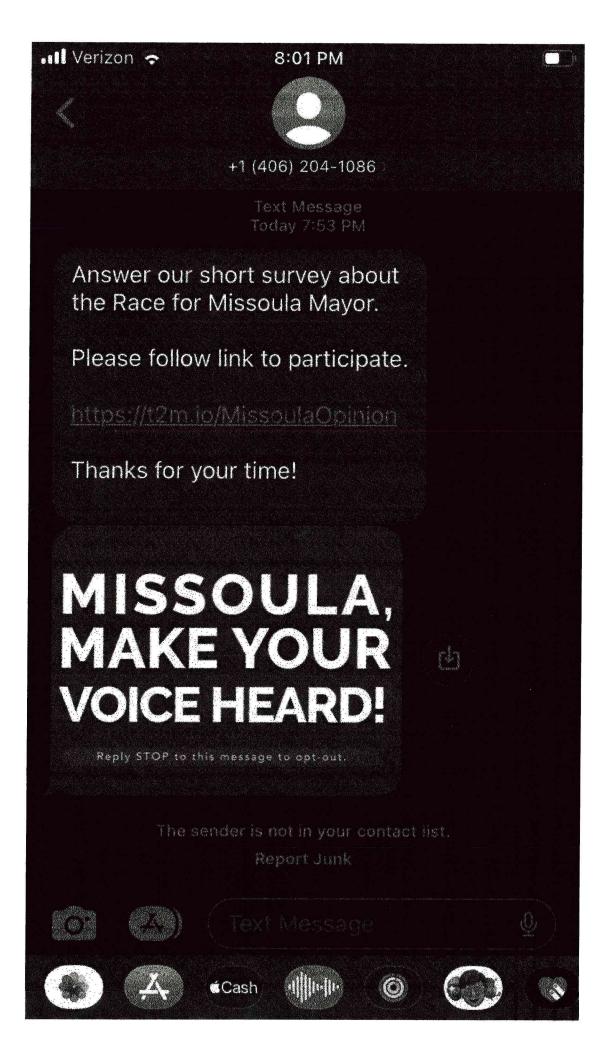
C.B. Pearson

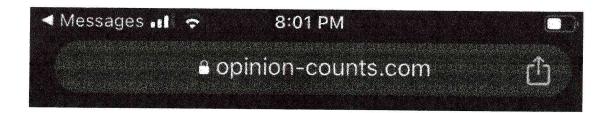
5141 Elk Ridge Road

Missoula, Montana 59820

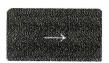
406-544-0032

cbpearson1889@gmail.com





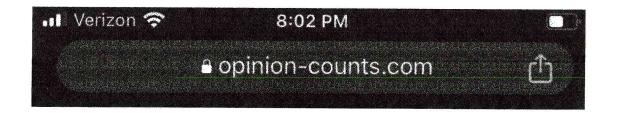
Hello! We are conducting a public opinion boll on issues in Missoula. All of your answers are confidential. Please click below f you agree to take this survey.



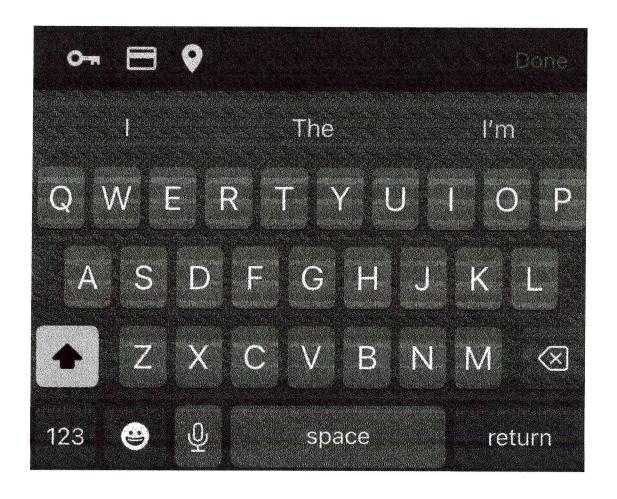


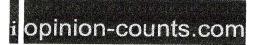






To start the survey, in the space provided below, please enter your cell phone number the same number we texted to reach you:







First of all, are you registered to vote in Missoula?

Yes

No











t's a long way off, but what are the chances that you will vote in the Primary election for Missoula mayor and city council on September 12th - are you almost certain to vote, will you probably vote, are he chances 50-50, or do you think you will not vote?

Almost certain

Probably

50-50

Don't think will vote



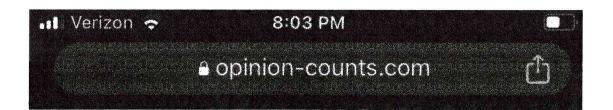












Generally speaking, do you think that things n Missoula are going in the right direction, or do you feel things have gotten off on the wrong track?

Right direction

Wrong track











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elow is a list of concerns that many people have. Please indicate which ONE of these concerns is the most important for you in deciding your vote for mayor.

Property taxes

Climate change

Land use and zoning

Housing costs

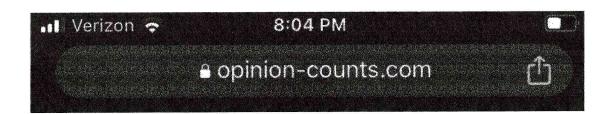
Crime and public safety

Jobs and economic development

Road maintenance

Homelessness

Public transportation



Would you say that the pace of COM MREIAL growth and development in M sisoula is happening:

Too fast

Too slow

About the right pace



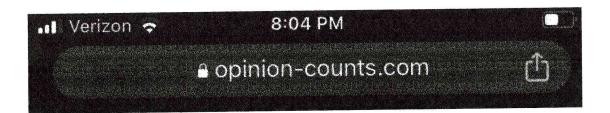












Would you say that the pace of RESIDENTIAL growth and development in Missoula is happening:

Too fast

Too slow

About the right pace



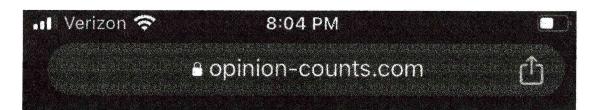












Overall, would you say you have a very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable opinion of

Jordan Hess?

f you have no opinion or have never heard of Jordan Hess before now, please indicate **30.**

Very favorable

Somewhat favorable

Somewhat unfavorable

Very unfavorable

No opinion/neutral









Overall, would you say you have a very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable opinion of Sean McCoy?

f you have no opinion or have never heard of Sean McCoy before now, please indicate so.

Very favorable

Somewhat favorable

Somewhat unfavorable

Very unfavorable

No opinion/neutral









Overall, would you say you have a very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable opinion of Andrea Davis?

f you have no opinion or have never heard of Andrea Davis before now, please indicate **30.**

Very favorable

Somewhat favorable

Somewhat unfavorable

Very unfavorable

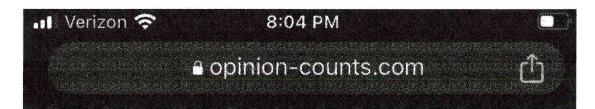
No opinion/neutral











Overall, would you say you have a very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable opinion of

Jacob Elder?

f you have no opinion or have never heard of Jacob Elder before now, please indicate so.

Very favorable

Somewhat favorable

Somewhat unfavorable

Very unfavorable

No opinion/neutral











i opinion-counts.com



Overall, would you say you have a very avorable, somewhat favorable, somewhat unfavorable, or very unfavorable opinion of Mike Nugent?

f you have no opinion or have never heard of Mike Nugent before now, please indicate so.

Very favorable

Somewhat favorable

Somewhat unfavorable

Very unfavorable

No opinion/neutral











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Overall, how do you feel about the job Jordan Hess is doing as mayor?

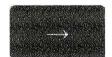
Approve strongly

Approve somewhat

Disapprove somewhat

Disapprove strongly















CIJ

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Now thinking again about the primary election for mayor on September 12th. If the election were held today, for whom would you vote?

Jordan Hess

Sean McCoy

Jacob Elder

Andrea Davis

Mike Nugent

Undecided















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How certain are you that you would vote for Jordan Hess, are you very certain, somewhat certain, or not certain at all?

Very certain

Somewhat certain

Not certain at all











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Here is some more information about one of the candidates for mayor.

Andrea Davis knows how to work with the community to make change happen. She is he executive director of Homeward, a non-profit that creates sustainable homes that people can afford. Davis also helped establish Valor House, providing apartments and support services to veterans experiencing homelessness. Davis is running for mayor to ensure that all Missoulians have a prosperous future - from housing, to transportation, to childcare and economic development.

What are the chances you would vote for his candidate?

Good chance











•al Verizon -:-

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Here is some more information about one of the candidates for mayor.

Iordan Hess is the current mayor of Missoula. He previously served on the city council for nine years. Hess has led the city's efforts to expand public transit and to make it easier to walk and bike. He was instrumental in acquiring the city's water utility from a private owner, and in in implementing the city's zero-waste and clean energy goals. If re-elected, Hess will prioritize housing, the climate crisis, tax reform, equity, and serving people in crisis with dignity.

What are the chances you would vote for his candidate?

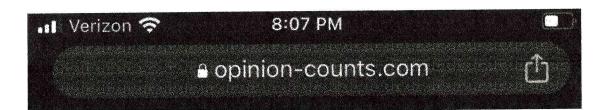
Good chance











Here is some more information about one of the candidates for mayor.

Mike Nugent owns a small business and serves on the city council. He is running for nayor to help the city grow while preserving Missoula's beauty and unique character.

Nugent will work to build new housing that s inclusive and environmentally responsible, o expand the trail system and public transit, o improve parking, and tax reform. Nugent s a consensus builder who will listen to all riewpoints and welcome all opinions.

What are the chances you would vote for his candidate?

Good chance

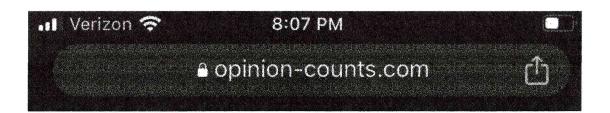
Fair chance











After hearing more information, if the election were held today, for whom would you vote?

Jordan Hess

Sean McCoy

Jacob Elder

Andrea Davis

Mike Nugent

Undecided













Nugent will streamline the permitting process to make it easier to open a pusiness, maintain your home, plan an event, start a club, or enjoy the outdoors. These are the things that make Missoula a unique and vibrant community, and we need to make it easier for all residents to join in.

How convincing of a reason is that for you?

Very convincing

Somewhat convincing

A little convincing









Verizon -:-

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Here is a reason why some people are roting for Mike Nugent.

Nugent will continue to push Missoula to be carbon neutral by encouraging homeowners o make energy efficiency upgrades, expanding alternative energy production like the solar panels at the waste water reatment plant, and improving our recycling system to work towards zero-waste.

How convincing of a reason is that for you?

Very convincing

Somewhat convincing

A little convincing









8:09 PM

i opinion-counts.com



Here is a reas on why some people are roting for Mike Nugent.

Nugent knows that property taxes are too nigh and make the cost of housing even nigher. He will work towards local tax reform as mayor and encourage the legislature to use the billion-dollar state budget surplus for property tax relief.

How convincing of a reason is that for you?

Very convincing

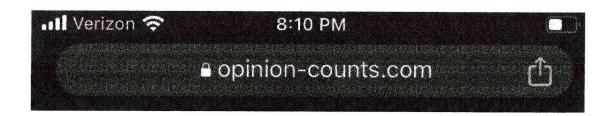
Somewhat convincing

A little convincing









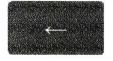
Nugent understands that if we want to ransition away from cars, we need to build out infrastructure to encourage people to valk, bike, and use public transit. He will ncrease bus service, make streets safer for pedestrians and bikes, and expand the trail system.

How convincing of a reason is that for you?

Very convincing

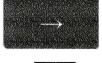
Somewhat convincing

A little convincing



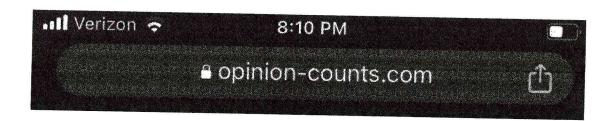












Nugent understands that we must build more housing to meet population growth, or also housing prices will continue to rise. As mayor, he will work to build more housing that Missoulians can afford.

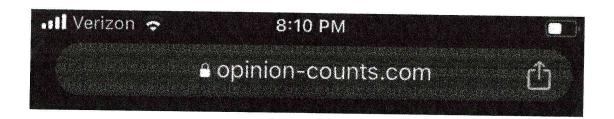
How convincing of a reason is that for you?

Very convincing

Somewhat convincing

A little convincing





Nugent knows that parking is a problem. He vill push the city to accurately project parking needs for new businesses and nousing, and prioritize underground parking parages where possible.

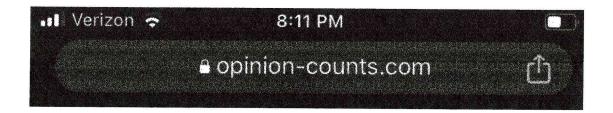
How convincing of a reason is that for you?

Very convincing

Somewhat convincing

A little convincing





Nugent will protect recent investments in nfrastructure by plowing more side streets, illing potholes, and coordinating road naintenance with water system upgrades.

How convincing of a reason is that for you?

Very convincing

Somewhat convincing

A little convincing

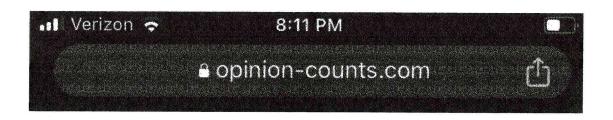












inally, just a few questions for statistical purposes.

Generally speaking, do you think of yourself as:

Democrat

Independent

Republican

Other

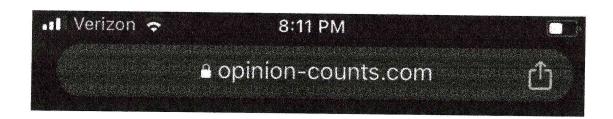












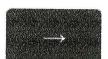
To you think of yourself as:

Closer to Democrats

Closer to Republicans

Neither/independent















8:12 PM

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Which of the following do you feel best describes your political perspective:

Moderate

Liberal

Libertarian

Progressive

Conservative











•al	Verizon -:-
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n what year were you born?

(--------









What is the last year of schooling that you nave completed?

1st-11th grade

High school graduate

Vocational, technical, or trade school

Community college, 2-year degree, or some college coursework

4-year college graduate

Post-graduate school or degree including medical school, law school, master's degree, or PhD/doctorate



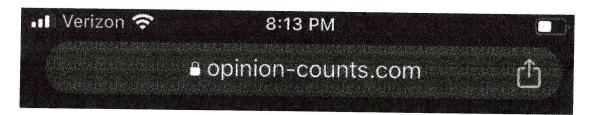












And do you currently own your home, rent /our home, or are you living with friends or family?

Own

Rent

Living on campus

Living with friends or family

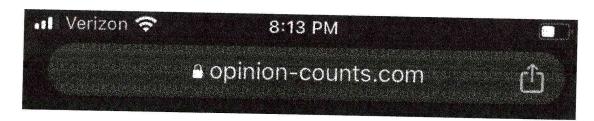












Are you:

Male

Female

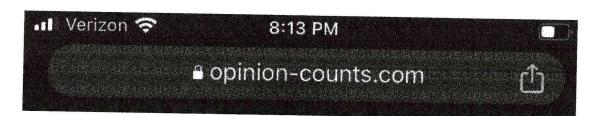
Non-binary











And do you consider yourself to be:

White

Native American

African American or Black

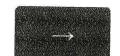
Hispanic or Latino

Asian or Pacific Islander

Multiracial

Another race not listed



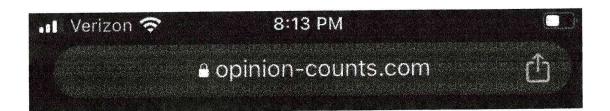












We thank you for your time spent taking this survey.

Your response has been recorded.







