

# CITY OF BILLINGS

**CITY OF BILLINGS MISSION STATEMENT:  
TO DELIVER COST EFFECTIVE PUBLIC SERVICES  
THAT ENHANCE OUR COMMUNITY'S QUALITY OF LIFE**

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## REVISED AGENDA

COUNCIL CHAMBERS

February 14, 2005

6:30 P.M.

CALL TO ORDER – Mayor Tooley

PLEDGE OF ALLEGIANCE-- Mayor Tooley

INVOCATION – Councilmember Vince Ruegamer

ROLL CALL

ELECTION OF DEPUTY MAYOR PRO TEMPORE

[\(Corresponding Staff Memo Z\)](#)

MINUTES – January 24, 2005

COURTESIES – Police Dept

PROCLAMATIONS – Mayor Tooley.

BOARD & COMMISSION REPORTS – Historic Preservation Board

ADMINISTRATOR REPORTS – Kristoff Bauer.

LEGISLATIVE REPORT – Kristoff Bauer

**PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Item: #1, and #4 ONLY. Speaker sign-in required.** (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

*(NOTE: For Items not on this agenda, public comment will be taken at the end of the agenda. Please sign up on the clipboard located at the back of the room.)*

### **CONSENT AGENDA:**

1. A. **Bid Awards:**

(1) W.O. 04-14: Billings Wastewater Treatment Plant Headworks Replacement. (Opened 1/11/05). (Delayed from 1/24/05). Recommend Williams Brother Construction LLC, \$5,089,708.00.  
[\(Corresponding Staff Memo A1\)](#)

**(2) SID 1358 – Lake Hills Subdivision.** (Opened 2/1/05). Recommend H. L. Ostermiller, \$1,433,122.15.  
[\(Corresponding Staff Memo A2\)](#)

**(3) W.O. 05-03: 2005 Street Maintenance, Contract #1.** (Opened 2/1/05). Recommend JTL Group, Inc. \$478,156.50.  
[\(Corresponding Staff Memo A3\)](#)

**(4) Detroit Diesel Engine Overhauls for 6V92, Series 40 and Series 50 Diesel Engines.** (Opened 2/8/05). Recommend delaying award to 2/28/05.  
[\(Corresponding Staff Memo A4\)](#)

**(5) Three (3) Year Mowing Contract for Billings Logan International Airport.** (Opened 2/8/05). Recommend delaying award to 2/28/05.  
[\(Corresponding Staff Memo A5\)](#)

**(6) Wastewater Plant Chemicals – Dry Polymer for Public Works Department.** (Opened 2/1/05). Recommend Polydyne Inc., \$1,905.00/1500-lb bag.  
[\(Corresponding Staff Memo A6\)](#)

**B. C.O. #8, W.O. 02-15: Billings Operations Center,** Hardy Construction, \$24,021.00.  
[\(Corresponding Staff Memo B\)](#)

**C. C.O. #10, W.O. 03-01: 2003 Schedule II Water and Sewer Line Replacement,** Chief Construction, \$33,044.06.  
[\(Corresponding Staff Memo C\)](#)

**D. Street Closures:**  
(1) HRDC St. Patrick's Day Celtic Celebration: N. 28<sup>th</sup> between 1<sup>st</sup> Ave N and 3<sup>rd</sup> Ave N on March 12, 2005.  
[\(Corresponding Staff Memo D1\)](#)

(2) HRDC St. Patrick's Day Parade: established downtown parade route on March 12, 2005.  
[\(Corresponding Staff Memo D2\)](#)

**E. Semi-Annual Investment Report.**  
[\(Corresponding Staff Memo E\)](#)

**F. Pledged Collateral on Certificates of Deposits, US Bank Repurchase Account and US Bank Municipal Investor Account.**  
[\(Corresponding Staff Memo F\)](#)

**G. Proposed adjustment of water and wastewater rates,** setting a public hearing date for 3/28/05.  
[\(Corresponding Staff Memo G\)](#)

**H. Confirmation of Officers:**

- (1) Darcy Dahle
- (2) Brad Ross

[\(Corresponding Staff Memo H\)](#)

**I. Contract with Yellowstone County** for animal control services; term: 7/1/05 to 6/30/06, \$55,000.00.

[\(Corresponding Staff Memo I\)](#)

**J. 2005 Cobb Field Stadium Turn Key Agreement.**

[\(Corresponding Staff Memo J\)](#)

**K. Acknowledging receipt of petition** to vacate right-of-way in Country Club Heights Subdivision described as: a portion of alley between Lots 1 and 28, Block 1, Country Club Heights Subdivision, and setting a public hearing date for 2/28/05.

[\(Corresponding Staff Memo K\)](#)

**L. Second/final reading of ordinance expanding the boundaries of Ward V to** include the recently annexed properties of Annex #04-13, described as a portion of the NW4 of Section 4, T1S, R25E, C/S 1877, Tracts 1 & 2. Jack and Robert Sukin, petitioners.

[\(Corresponding Staff Memo L\)](#)

**M. Second/final reading ordinance for Zone Change #749:** a Planned Development zone change changing the underlying Residential Multi-Family zoning to Neighborhood Commercial in the Parkland West PUD, on a tract described as Lot 5, Block 10, Parkland West Subdivision, 6<sup>th</sup> Filing and located on the west side of 32<sup>nd</sup> St West. Central Capital LLC, owner, Engineering, Inc. agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria.

[\(Corresponding Staff Memo M\)](#)

**N. Second/final reading ordinance for Zone Change #751:** a zone change Residential-7000 to Residential-7000-Restricted on a 100-acre parcel described as Tract 3A, C/S 3217 Amended, generally located on the north side of Mary Street between Hawthorne Lane and Bitterroot Drive. BRV Development, LLC, owner. City of Billings, petitioner. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria.

[\(Corresponding Staff Memo N\)](#)

**O. Second/final reading ordinance for Zone Change #752:** a zone change amending the official Zoning Map to show the extent of the Shiloh Corridor Overlay District, generally located 500 feet east and west from the centerline of Shiloh Road north from King Ave West to Rimrock Road. City of Billings, petitioner. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria.

[\(Corresponding Staff Memo O\)](#)

**P. Second/final reading ordinance for Zone Change #753:** a zone change from Residential-7000 and Residential-6000 to Public zoning, described as Lot 1, Block 27, Lake Hills Subdivision, 6<sup>th</sup> filing. Rocky Mountain College & Billings Heights Water District, owners, Engineering, Inc. agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria.

[\(Corresponding Staff Memo P\)](#)

**Q. Preliminary Plat** of Amended Lot 1, Block 17 of Daniel's Subdivision, Second Filing, generally located at the southeast corner of the intersection of Hawthorne Lane and Mary Street.

[\(Corresponding Staff Memo Q\)](#)

**R. Bills and Payroll.**

(1) January 7, 2005

[\(Corresponding Staff Memo R1\)](#)

(2) January 14, 2005

[\(Corresponding Staff Memo R2\)](#)

(3) January 21, 2005

[\(Corresponding Staff Memo R3\)](#)

**(Action:** approval or disapproval of Consent Agenda.)

**REGULAR AGENDA:**

**2. PUBLIC HEARING ON REALLOCATION OF CDBG FUNDS.** Staff recommends reallocation of CDBG funds and the transfer of \$100,000.00 from the CDBG Affordable Housing Development Fund to the First Time Homebuyers Program. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 2\)](#)

**3. PUBLIC HEARING FOR MET TRANSIT DOWNTOWN TRANSFER CENTER.** Staff recommends approval of the use of City-owned property located at 4<sup>th</sup> Avenue North and North Broadway for the construction of a transit center. **(Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 3\)](#)

**4. FIRST READING ORDINANCE FOR ZONE CHANGE #750:** a zone change from Residential-7000 to Residential Multi-Family Restricted and Neighborhood Commercial on Tract B2-A of C/S 1056 Amended, generally located at the southeast corner of the intersection of Wicks Lane and Bench Boulevard in the proposed King Place Subdivision. King Place LLC, Richard Dorn, owner, Engineering, Inc., agent. Zoning Commission recommends approval and adoption of the determinations of the 12 criteria. (Action delayed from 1/24/05). **(Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 4\)](#)

5. **PUBLIC HEARING ON CAPITAL IMPROVEMENTS PLAN (CIP).** Public hearing only tonight. Council action scheduled for 2/28/05. (Action: Public hearing only.)  
[\(Corresponding Staff Memo 5\)](#)
  
6. **PUBLIC COMMENT on Non-Agenda Items -- Speaker sign-in required.**  
(Restricted to ONLY items not on the printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.)

## **COUNCIL INITIATIVES**

## **ADJOURN**

AGENDA ITEM: **Z** Election of  
**Deputy Mayor Pro Tempore**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, Feb. 14, 2005**

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**TITLE:** Replacement of the Deputy Mayor Pro Tempore

**DEPARTMENT:** City Council

**PRESENTED BY:** Tina Volek, Assistant City Administrator

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**PROBLEM/ISSUE STATEMENT:** City Code Sec. 2-204 provides for the election of a Deputy Mayor Pro Tempore, who normally is named to a 2-year term by the Council at the first regular meeting of the new year following each city general election. In the absence or inability of the Mayor and Deputy Mayor, the Deputy Mayor Pro Tempore presides over meetings and discharges all the duties of the deputy mayor. Former Councilmember Jan Iverson was elected Deputy Mayor Pro Tempore in January 2003. Since she has resigned, she needs to be replaced in that position.

**ALTERNATIVES ANALYZED:**

- Elect a new Deputy Mayor Pro Tempore.
- Do not elect a new Deputy Mayor Pro Tempore.

**FINANCIAL IMPACT:** None.

**RECOMMENDATION**

Staff recommends that Council elect a Deputy Mayor Pro Tempore, to provide an orderly handling of meeting or other duties in the absence or inability of the Mayor or Deputy Mayor.

**Approved By:**      **City Administrator**            **City Attorney**      

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# A1

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

**TITLE:** W.O. 04-14 WWTP Headworks Building, Contract Award (Revised)  
**DEPARTMENT:** Public Works - Engineering  
**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** This project will reconstruct the City of Billings Wastewater Treatment Plant (WWTP) Headworks Building and construct improvements. The project is based on replacing the Headworks Building at its current location, pre-purchasing equipment as necessary to allow for construction sequencing and new primary influent flow split. This memorandum has been revised to reflect that Schedule II, Furnish Flow Meters, will not be awarded.

**FINANCIAL IMPACT:** Based upon the bids received, funding for the project would be available through CIP funding. Source of funding is Wastewater Construction Fund. Current approved amount is \$6,022,000 (FY 05).

Uncommitted CIP FY05 Wastewater Construction funding	\$6,022,000
Contract amount	<u>\$4,960,000</u>

**Remaining Uncommitted Funding** \$1,062,000

Bids were opened on January 11, 2005 with the following results:

<b>Firm</b>	<b>Bid</b>
COP Construction	\$6,085,565
Dick Anderson	\$5,946,565
Sletten Construction	\$5,676,000
Williams Brother	\$4,960,000
Engineers Estimate	\$5,135,100

### **RECOMMENDATION**

Staff recommends that Council award a construction contract for W.O. 04-14 to Williams Brother Construction, LLC in the amount of \$4,960,000.

**Approved By:** \_\_\_\_\_ **City Administrator** \_\_\_\_\_ **City Attorney** \_\_\_\_\_

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# A2

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

TITLE: SID 1358 Lake Hills Subdivision Bid Award  
DEPARTMENT: Public Works/Engineering  
PRESENTED BY: David D. Mumford, PE, Public Works Director

**PROBLEM/ISSUE STATEMENT:** Bids were received and evaluated for SID 1358 on February 1, 2005. This project will construct public improvements within Lake Hills Subdivision. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, sidewalk, street widening, and street improvements to Lake Hills Drive, Clubhouse Way, Black Diamond Road, Oakmont Road, Pebble Beach Road, Greenbriar Road, Inverness Drive, and Broadmoor Drive. The alternate is for the use of PVC storm drain pipe in place of the aluminized storm drain pipe bid.

#### ALTERNATIVES ANALYZED:

1. Award SID 1358 along with the alternate for PVC storm drain pipe, to H.L. Ostermiller in the amount of \$ 1,433,122.15; or
2. Not award SID 1358.

**FINANCIAL IMPACT:** The total estimated cost of the project will be recovered through direct assessments to property owners within the district boundary.

	<u>Total</u>	<u>Alternate</u>	<u>Total</u>
Engineer's Estimate	\$1,520,000.00	-\$ 4,308.00	\$1,516,156.58
H.L. Ostermiller	\$1,443,742.15	-\$10,620.00	\$1,433,122.15
AME, Inc.	\$1,542,468.55	-\$17,695.50	\$1,524,773.05
Empire Sand & Gravel	\$1,647,519.30	-\$ 4,083.90	\$1,643,435.40

#### RECOMMENDATION

Staff recommends that Council approve the construction contract for SID 1358 along with the alternate for PVC storm drain pipe with H.L. Ostermiller in the amount of \$1,433,122.15.

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# A3

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

**TITLE:** Work Order 05-03, 2005 Street Maintenance Contract No. 1  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

**PROBLEM/ISSUE STATEMENT:** Bids were received and evaluated for the 2005 Street Maintenance Contract No. 1 on February 1, 2005. This project will chip seal various streets throughout the city. Approximately 22 miles of residential and commercial streets will be chip sealed.

#### ALTERNATIVES ANALYZED:

1. Award Work Order 05-03, Contract No. 1, to JTL Group, Inc. in the amount of \$478,156.50;  
or
2. Not award Work Order 05-03, Contract No. 1.

**FINANCIAL IMPACT:** Funding for the 2005 Street Maintenance Program, Contract No. 1, will be provided from Gas Tax and Street Maintenance Funds. We received two bids for this project as follows:

	<u>Total</u>
Engineer's Estimate	\$ 510,000.00
JTL Group, Inc.	\$ 478,156.50
JEM Enterprises	\$ 504,721.17

<u>CIP Project #ENG98</u>	
CIP Budgeted Amount	\$ 1,167,000.00
Previous Encumbrances	\$ 636,630.00
Budget Fund Balance	\$ 52,213.50
(after this award)	

#### RECOMMENDATION

Staff recommends that Council approve the construction contract for the Street Overlay Maintenance Project with JTL Group, Inc. in the amount of \$478,156.50.

## **INTRODUCTION**

Bids were received for the Street Maintenance Chip Seal Project on February 1, 2005. JTL Group, Inc. is the apparent low bidder.

## **PROCEDURAL HISTORY**

If City Council chooses to award the chip seal contract, the project will move forward and be completed by September 15, 2005.

## **BACKGROUND**

This project is part of the ongoing Street Preventative Maintenance Program supported by the City Council since 1985. Annually, staff identifies streets proposed for preventative maintenance. Staff proposes to bid this work in two contracts. The first contract is for chip sealing, the second contract will be for crack sealing, and the third contract will be for overlay resurfacing. This project will chip seal various streets throughout the city. Approximately 22 miles of residential and commercial streets will be chip sealed.

## **ALTERNATIVES ANALYSIS**

Bids were received on February 1, 2005, with JTL Group, Inc. being the low bidder in the amount of \$478,156.50. JTL Group, Inc. was approximately 6.2% below the Engineer's Estimate.

## **RECOMMENDATION**

Staff recommends that Council approve the construction contract for the Street Chip Seal Maintenance Project with JTL Group, Inc. in the amount of \$478,156.50.

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# A4

AGENDA ITEM:

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## CITY COUNCIL AGENDA ITEM

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Delay Bid Award of MET Transit Engine Overhauls  
**DEPARTMENT:** Aviation/Transit Department  
**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation/Transit

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**PROBLEM/ISSUE STATEMENT:** To accomplish these overhauls in a timely manner, MET Transit annually solicits bids from engine repair vendors to perform mechanical and electronic engine overhauls on the three different types of transit bus engines. Bids are solicited to do overhauls on a 6V-92 DDEC II Detroit Diesel Engine (Schedule 1), a Series 50 Detroit Diesel Engine (Schedule 2), and a Series 40 Detroit Diesel Engine (Schedule 3). An agreement is awarded on an annual basis due to the vendor's inability to forecast parts and labor cost increases for a period exceeding one year. The annual agreement also enables the MET to update any agreement specifications for changes in emission standards.

Staff advertised for sealed bids on January 27 and February 3, 2005. Bid specifications were delivered to six vendors: Interstate Detroit Diesel, Big Sky Diesel, Billings Truck Center, Northwest Peterbilt Ford, Gary Field Service, and TriState Equipment. Bids were opened on February 8, 2005.

### **RECOMMENDATION**

Staff recommends that City Council postpone the award of the Engine Overhaul Bids to the February 28, 2005 City Council Meeting so that staff has sufficient time to review the bids.

**Approved By:**      **City Administrator**            **City Attorney**      

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# A5

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Postpone the Award of the Three Year Mowing Service Agreement  
**DEPARTMENT:** Aviation and Transit Department  
**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

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**PROBLEM/ISSUE STATEMENT:** Billings Logan International Airport will open competitive bids for the Three Year Mowing Service Agreement on February 8, 2005. Airport staff has not had the opportunity to fully evaluate the bids.

**RECOMMENDATION**

Staff recommends that City Council postpone the award of the Three Year Mowing Service Agreement to the February 28, 2005 Council meeting so that staff has sufficient time to review the bids.

**Approved By:**      **City Administrator**            **City Attorney**      

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# A6

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

**TITLE:** Award of Chemical Bid – Dry Polymer  
**DEPARTMENT:** Public Works  
**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** Public Works – Belknap uses chemicals, referred to as polymers, at the wastewater plant to aid in dewatering wastewater solids. Public Works periodically advertises for and accepts bids for the chemical. The subject bid award is for the 2005 calendar year with an option for annual renewal for up to three (3) years upon mutual agreement.

**FINANCIAL IMPACT:** Bids were received February 1, 2005 for dry polymer chemical as follows:

Polydyne Inc.      \$1,905.00 per 1500 pound bag

There are sufficient monies in the FY05 Chemical Supply Budget to purchase the polymer.

### **RECOMMENDATION**

Staff recommends that City Council award the wastewater plant chemical bid for dry polymer for calendar year 2005 to Polydyne Inc. in the amount of \$1,905.00 per 1500 pound bag with the option for annual renewal up to three (3) years upon mutual agreement.

**Approved By:**      **City Administrator**            **City Attorney**      

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# B

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

**TITLE:** Work Order 02-15, Billings Operations Center, Final Reconciling Change Order #8

**DEPARTMENT:** Public Works - Engineering

**PRESENTED BY:** Dave Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** The final reconciling change order (Change Order #8) to the construction contract with Hardy Construction addresses nineteen items as shown on the attached change order. Each of these items is critical to the functionality of the new Billings Operation Center. Note that three of the nineteen items on the change order show no additional cost. City Staff has met with the Architect (A&E Architects) and the firm has agreed to pay the contractor these costs which total approximately \$6,000. These costs are not included in the total cost for this change order.

**FINANCIAL IMPACT:** Public Works staff has met with City Finance staff to insure that adequate funding is available for this change order.

		<u>% of Contract</u>	<u>Cumulative %</u>
Original Contract	\$9,811,000.00		
Change Order One	\$73,944.00	0.75%	0.75%
Change Order Two	\$5,818.00	0.06%	0.81%
Change Order Three	\$64,344.00	0.66%	1.47%
Change Order Four	\$17,497.00	0.18%	1.65%
Change Order Five	\$18,572.00	0.19%	1.84%
Change Order Six	\$6,985.00	0.07%	1.91%
Change Order Seven	\$43,013.00	0.44%	2.35%
Final Reconciling Change Order (Change Order #8)	\$24,021.00	0.25%	2.59%
New Contract Sum	\$10,065,194		

## **RECOMMENDATION**

Staff requests that City Council approve the Final Reconciling Change Order (Change Order #8) to the contract with Hardy Construction for \$24,021.00.

**Approved By:**      **City Administrator**             **City Attorney**       

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# C

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

**TITLE:** W.O. 03-01: 2003 Schedule II Water and Sewer Line Replacement Contract with Chief Construction-Change Order No. 10

**DEPARTMENT:** Public Works Department – Engineering Division

**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

**PROBLEM/ISSUE STATEMENT:** HKM Engineering, Inc. has submitted Change Order #10 to the construction contract with Chief Construction for the referenced project. Change Order #10 includes final quantity adjustments and additional taxes, bonds and insurance associated with the above referenced project.

**FINANCIAL IMPACT:** Funding for the proposed Change Order No. 10 is available from the Public Works Utilities Construction Funds FY 04 (Acct. No. 513-8591-625-9340, Sewer and Acct. No. 503-7591-609-9340, Water). The cost represents an increase of \$33,044.06 to the original contract. The following summarizes the financial impact to the project:

Original Construction Contract	\$1,988,346.00	<u>% Of Contract</u>	<u>Cumulative % Of Contract</u>
Change Order No. 1	\$87,541.00	4.40%	4.40%
Change Order No. 2	\$38,884.00	1.96%	6.36%
Change Order No. 3	\$32,760.00	1.64%	8.00%
Change Order No. 4	\$79,998.00	4.02%	12.02%
Change Order No. 5	\$20,213.05	1.02%	13.04%
Change Order No. 6	\$ 3,202.48	0.17%	13.21%
Change Order No. 7	\$31,862.85	1.60%	14.81%
Change Order No. 8	\$70,652.07	3.55%	18.36%
Change Order No. 9	\$187,036.02	9.41%	27.77%
Change Order No. 10 (final)	<u>\$33,044.06</u>	1.66%	29.43%
Total To Date	\$585,193.00		

## RECOMMENDATION

Staff recommends that Council approve Change Order No. 10 for Chief Construction, resulting in a net increase of \$33,044.06.

**Approved By:**      **City Administrator**             **City Attorney**       

**ATTACHMENT**

Change Order #10 (6 copies)

## **INTRODUCTION**

HKM Engineering, Inc. has submitted Change Order #10 to the construction contract with Chief Construction for the referenced project. Change Order #10 includes final quantity adjustments and additional taxes, bonds and insurance associated with the above referenced project.

## **BACKGROUND**

Change Order #10 includes the additional traffic control days as submitted by BCS to Chief Construction. The 56 days for this item equals the amount of Contract Time added by Change Orders 1 through 9. The unit cost of this item is \$250.00 per day, and the total cost of this item is \$14,000.00.

Secondly, Change Order #10 includes the taxes, bonds, and insurance for the additional work associated with all change orders except Change Order #9 (The additional taxes, bonds, and insurance were included with this change order). The unit cost of this item is calculated by dividing the total amount of taxes, bonds, and insurance from the original contract by the total cost of the original contract. This cost is 3.52% of the total cost of these change orders and totals \$13,638.09.

Lastly, this change order includes the final quantity adjustments. This information is detailed in the spreadsheet attached to each change order. The total amount of the quantity adjustments is \$5,405.97.

## **RECOMMENDATION**

Staff recommends that Council approve Change Order No. 10 for Chief Construction, resulting in a net increase of \$33,044.06.

## **ATTACHMENT**

Change Order #10 (6 copies)

[\(Back to Consent Agenda\)](#)

# D1

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

**TITLE:** HRDC St. Patrick's Day Celtic Celebration

**DEPARTMENT:** Parks, Recreation and Public Lands

**PRESENTED BY:** Don Kearney, Parks, Recreation and Public Lands Director

**PROBLEM/ISSUE STATEMENT:** Human Resources Development Council requests closures (excluding the intersections) of N. 28<sup>th</sup> between 1st and 3rd (traffic diverted right onto 29th St. and 3<sup>rd</sup> Ave.) from 8:00 am – 3:00 pm on Saturday, March 12, 2005, for a Celtic Celebration block party.

Recommended conditions of approval include, HRDC:

1. Having no alcohol consumption in the public right of way
2. Contacting all businesses and making them aware of the event
3. Cleaning the area to be used and providing and emptying waste cans
4. Notifying all emergency facilities, bus lines and media at least two weeks in advance of the event.
5. Providing a certificate of insurance naming City of Billings as additional insured

#### **ALTERNATIVES ANALYZED:**

1. Approve request to close streets for the event (recommended).
2. Deny the street closures

**FINANCIAL IMPACT:** Police, traffic control and litter removal for the block party are to be paid for by the HRDC.

#### **RECOMMENDATION**

Staff recommends that Council approve the closure of N. 28<sup>th</sup> between 1st Ave. and 3rd Ave. on Saturday, March 12, 2005 from 8:00 am to 3:00 pm for the HRDC Celtic Celebration.

**Approved By:**      **City Administrator** \_\_\_\_\_      **City Attorney** \_\_\_\_\_

#### **ATTACHMENT**

- A. Letter from HRDC (1 page).
- B. Special Activity Permit and Map (3 pages). [\(Back to Consent Agenda\)](#)

# D2

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, February 14, 2005

TITLE: HRDC St. Patrick's Day Parade  
DEPARTMENT: Parks, Recreation and Public Lands  
PRESENTED BY: Don Kearney, Parks, Recreation and Public Lands Director

**PROBLEM/ISSUE STATEMENT:** The Human Resources Development Council requests street closures at 9:00 am using the established downtown parade route for a St. Patrick's Day Parade on Saturday, March 12, 2005. The parade will assemble at 9:00 am, begin the parade at 11:00 am and disband by 2:00 pm.

Recommended conditions of approval include, HRDC:

1. Having no alcohol consumption in the public right of way.
2. Contacting all businesses and making them aware of the event.
3. Cleaning the area to be used and providing and emptying waste cans.
4. Notifying all emergency facilities, bus lines and media at least two weeks in advance of the event.
5. Providing a certificate of insurance naming City of Billings as additional insured.

**ALTERNATIVES ANALYZED:**

1. Approve request to close streets for the event (recommended).
2. Deny the street closures.

**FINANCIAL IMPACT:** In addition to the costs of administrative time to process the permit, HRDC requests the standard police support for the parade with a lead car and follow car and street cleaning if needed due to animals. Estimated costs for those services are as follows:

1. Post Parade Street Cleaning - \$523.84 per Street Department.
2. Police Services = use of two on-duty officers.

**RECOMMENDATION**

Staff recommends that Council approve closure of the established downtown parade route on Saturday, March 12, 2005, for the HRDC St. Patrick's Day Parade.

**ATTACHMENT**

- A. Letter of request from HRDC (1 page).
- B. Special Activity Permit and Map (3 pages). [\(Back to Consent Agenda\)](#)

E

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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TITLE: Semi Annual Investment Report  
DEPARTMENT: Administration-Finance Division  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** The City of Billings Investment Policy states the City Administrators Office shall submit semi-annually, an investment report describing the portfolio in terms of type, interest rate, maturity and market value. In addition, the investment policy requires the funds average maturity may not exceed 397 days. The rate of return on investments was calculated on the earnings for the period of 7/1/04 to 12/31/04. On December 31, 2004, the City had the following amounts invested:

Repurchase Agreements	\$ 3,337,533.62
Montana State Short Term Investment Pool	\$ 50,522,868.54
U.S. government and U.S. agency obligations	\$ 36,866,470.10
Certificates of deposit	\$ 9,804,551.77
US Bank Municipal Investor	\$ 620,725.89
 Total Investments	 \$ 101,152,149.92
 Funds Average Days to Maturity	 189.9 Days
 Rate of Return on Investments (7/1/04 to 12/31/04)	 1.92%

**RECOMMENDATION**

Staff recommends that Council approve the Semi-Annual Investment Report.

Approved By:      City Administrator \_\_\_\_\_      City Attorney \_\_\_\_\_

**ATTACHMENTS**

A – Investment Detail

		Market Values							
		Long Term Investments							
		as of							
		12/31/2004							
Institution and Type of Investment		Interest Rate		Value Carried by City	Market Values Per Institution				
		Due							
				12/31/2004					
<b>USB Financial</b>									
FHLB	2.2500	03/23/06	500,000.00	495,155.00 2,000,000.00 1,974,500.00					
FHLB	2.8750	10/15/05	2,028,120.00						
FHLB	2.5510	06/24/05	1,971,527.78						
Balance			4,499,647.78		4,469,655.00				
<b>Piper Jaffray</b>									
FHLB	2.2500	11/17/05	1,000,000.00	993,900.00					
Balance			1,000,000.00		993,900.00				
<b>D.A.D. &amp; Co.</b>									
US Treasury Note	6.5000	05/15/05	5,000.00	5,073.05 498,440.00 1,488,285.00 994,060.00 494,065.00 494,690.00 645,125.00 2,987,820.00 2,994,390.00 491,720.00 10,599.20 495,625.00 2,461,725.00 1,955,980.00 5,321.90 2,461,725.00 499,483.80 973,130.00 10,732.00 10,655.50 11,028.90 5,660.75 20,213,200.00 19,995,335.10					
FHLB	2.0000	06/24/05	500,000.00		498,440.00				
FHLB	2.0400	11/15/05	1,500,000.00		1,488,285.00				
FHLB	2.2500	11/17/05	1,000,000.00		994,060.00				
FHLMC	2.0000	02/23/06	500,000.00		494,065.00				
FHLB	2.1800	03/24/06	500,000.00		494,690.00				
FHLB	2.5000	04/28/06	650,000.00		645,125.00				
FHLB	2.8100	05/03/06	2,999,400.00		2,987,820.00				
FHLB	3.0500	06/16/06	2,998,800.00		2,994,390.00				
FHLB	2.2500	10/13/06	500,000.00		491,720.00				
US Treasury Note	6.5000	10/15/06	10,000.00		10,599.20				
FHLB	2.7500	11/24/06	500,000.00		495,625.00				
FNMA	2.4100	11/28/06	2,500,000.00		2,461,725.00				
FNMA	2.1000	12/19/06	2,000,000.00		1,955,980.00				
US Treasury Note	6.2500	02/15/07	5,000.00		5,321.90				
FHLB	2.5500	02/28/07	2,500,000.00		2,461,725.00				
Fed. Farm Credit	2.3500	03/26/07	510,000.00		499,483.80				
FHLB	2.2500	06/26/07	1,000,000.00		973,130.00				
US Treasury Note	6.1250	08/15/07	10,000.00		10,732.00				
US Treasury Note	5.5000	02/15/08	10,000.00		10,655.50				
US Treasury Note	6.0000	08/15/09	10,000.00		11,028.90				
US Treasury Note	6.5000	02/15/10	5,000.00		5,660.75				
Balance			20,213,200.00		19,995,335.10				
<b>RBC Dain Raucher</b>									
FNMA	2.5500	03/15/06	2,000,000.00	1,988,120.00					

	FNMA	2.5510	06/01/05	1,975,150.00	1,978,400.00	
	Balance			3,975,150.00	3,966,520.00	
	<b>Wachovia - Buchanan Capital</b>					
	FNMA	2.1650	09/29/06	500,000.00	490,480.00	
	FNMA	2.7000	04/12/06	1,999,600.00	1,988,380.00	
	FNMA	2.7500	05/11/06	2,000,000.00	1,988,420.00	
	FHLMC	2.0500	05/11/06	2,975,607.27	2,973,780.00	
	Balance			7,475,207.27	7,441,060.00	
	<b>Wells Fargo Bank</b>					
	CD	1.2500	02/25/05	4,000,000.00	4,000,000.00	
	CD	2.0700	06/19/05	500,000.00	500,000.00	
	Balance			4,500,000.00	4,500,000.00	
	<b>Miscellaneous</b>					
	STIP	2.3400			50,522,868.54	
	US Bank CDs	1.3700			1,000,000.00	
		1.5500			1,000,000.00	
		2.2460			3,100,000.00	
	MIA	2.3000			620,725.89	
	Credit Union CDs	2.3000			102,546.29	
		2.0000			102,005.48	
	Investment totals				97,814,616.30	
	Less Amortized premium and discounts				<u>3,729.43</u>	
					97,818,345.73	
	Total investments at cost				<u>98,111,351.25</u>	
	Investment Total including the Repurchase account				101,152,149.92	

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F

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Pledged Collateral on Certificates of Deposits, US Bank Repurchase Account, and US Bank Municipal Investor Account

**DEPARTMENT:** Administration-Finance Division

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** On December 31, 2004, the City had \$4,500,000 invested in Certificates of Deposit at Wells Fargo Bank N.A., Billings. On December 31, 2004, the City had \$5,100,000 invested in Cash and Certificates of Deposit at US Bank N.A.; \$620,725.89 invested in the U.S. Bank Municipal Investor Account; and \$3,337,533.62 in the Repurchase Account.

State law requires that the City Council approve the pledged collateral on securities.

Because Wells Fargo's net worth ratio is over 6%, the City is required to have 50% of the deposits covered by pledged securities. Wells Fargo has collateralized the City's deposits with 73.9% in pledged securities.

Because US Bank's net worth ratio is in excess of 6%, the City is required to have a minimum of 50% of the deposits covered by pledged securities. US Bank has collateralized the City's Certificates of Deposit and Municipal Investor Account with 195.86% in pledged securities and collateralized the Repurchase Account 102 % in pledged securities.

**RECOMMENDATION**

Staff recommends that Council approve securities pledged by Wells Fargo Bank and US Bank as collateral for their respective Certificates of Deposit and repurchase account.

**Approved By:**      **City Administrator**            **City Attorney**      

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# G

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Water/Wastewater Rate Adjustment – Public Hearing Date  
**DEPARTMENT:** Public Works  
**PRESENTED BY:** David D. Mumford, P.E., Public Works Director

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**PROBLEM/ISSUE STATEMENT:** The water and wastewater rates are no longer adequate to fund ongoing operation and maintenance costs and planned capital improvements. A rate study is currently underway to determine the amount of the rate adjustments that will be necessary to provide adequate revenue. To comply with the statutory rate adjustment process, the Council must follow the procedure as shown on the attached Schedule of Events with the first step being to designate a public hearing date for March 28, 2005. Staff will provide the Council with detailed information regarding the rate adjustments at a later time.

**FINANCIAL IMPACT:** There is no financial impact associated with the action of setting a public hearing date.

### **RECOMMENDATION**

Staff recommends that Council set a public hearing date of March 28, 2005 for the purpose of receiving public input on the proposed adjustment of the water and wastewater rates.

**Approved By:**      **City Administrator**            **City Attorney**      

### ATTACHMENTS

Attachment A      Schedule of Events

## SCHEDULE OF EVENTS

### ADOPTION OF WATER AND WASTEWATER RATES

ON

#### **MUNICIPAL UTILITY CUSTOMERS**

<u>DATE OF EVENT</u>	<u>EVENT</u>
1. February 7, 2005 – Monday	Council Work Session
2. February 14, 2005 - Monday	City Council to designate date, time and location of Public Hearing. (6:30 p.m., 3/28/05)
3. February 28, 2005 – Monday	Public Works Department to begin mailing of utility bills with notice of hearing, etc.
4. March 7, 2005 – Monday	Publish 1 <sup>st</sup> Notice of Public Hearing in newspaper.
5. March 14, 2005 – Monday	Publish 2 <sup>nd</sup> Notice of Public Hearing in newspaper.
6. March 21, 2005 – Monday	Final day for mailing notices with utility bills.
7. March 21, 2005 – Monday	Publish 3 <sup>rd</sup> and final Notice of Public Hearing in newspaper.
8. March 28, 2005 – Monday	Public Hearing at 6:30 p.m. in the Council Chambers at City Hall.
9. April 11, 2005 – Monday	City Council's decision to be filed with City Clerk.
10. April 21, 2005 – Thursday	City Council's decision concerning rates is final. File new rates with Montana Public Service Commission.

[\(Back to Consent Agenda\)](#)

H

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Confirmation of Probationary Police Officers Darcy Dahle and Brad Ross  
**DEPARTMENT:** Police Department  
**PRESENTED BY:** Ron Tussing, Chief of Police

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**PROBLEM/ISSUE STATEMENT:** On January 26, 2004, Officers Darcy Dahle and Brad Ross were hired by the Billings Police Department as probationary Police Officers. According to MCA 7-32-4113, their probationary period is for one year from date of hire. At this time Officers Dahle and Ross have completed their one year probation, and according to state statute, their names are to be submitted to City Council within 30 days for confirmation. All of the supervisor comments concerning Officers Dahle and Ross's performance are positive and indicate that they are doing a good job, and recommend confirmation.

**RECOMMENDATION**

City staff recommends Officers Darcy Dahle and Brad Ross be confirmed as Billings Police Officers.

**Approved By:**      **City Administrator**            **City Attorney**      

[\(Back to Consent Agenda\)](#)

AGENDA ITEM:

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Renewal of Contract for Animal Control Services with Yellowstone County

**DEPARTMENT:** Police Department (Animal Control Division)

**PRESENTED BY:** Ron Tussing, Chief of Police

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**PROBLEM/ISSUE STATEMENT:** The current contract for Animal Control Services with Yellowstone County will expire June 30, 2005. Past contract agreement fees no longer cover the cost to the City of Billings for providing these services to Yellowstone County. Increases to the Contract will be requested each year of \$5,000.00 for 7 (seven) to 10 (ten) years until all costs to the City for care of Yellowstone County Animals are recovered.

**FINANCIAL IMPACT:** Fees for cost of services have increased. Costs to the City of Billings as a result of the new facility, procedure for disposal of animal remains, and costs previously paid by the State now required of the Shelter have all contributed to these increased costs.

**ALTERNATIVES ANALYZED:**

- Do not renew Contract and no longer accept County animals.
- Do not renew the Contract and accept County animals at a cost to the City residents.
- Approve the Contract and receive reimbursement for handling and caring of County animals.

**RECOMMENDATION**

Staff recommends that Council approve the contract as written and annual increases to the amount of the contract will be requested until the actual cost for services provided has been reached.

**Approved By:**      **City Administrator**             **City Attorney**

**ATTACHMENTS**

- A** – Proposed Dog and Cat Agreement with Yellowstone County (4 pages)  
**B** – Cost justification (1 page)

## **INTRODUCTION**

The Dog and Cat Control Agreement between the City of Billings and Yellowstone County allows for the Animal Shelter to provide licensing and other services for Yellowstone County residents and the animals presented to the City Shelter from Yellowstone County.

## **BACKGROUND**

This agreement between the City of Billings and Yellowstone County provides for the City Animal Shelter to receive, handle and care for dogs and cats for Yellowstone County at an annual fee. The Shelter receives and handles approximately 1,200 animals per year from Yellowstone County. The previous contract agreement between the City of Billings and Yellowstone County in fiscal year 2002/2003 provided for an annual cost of \$50,000.00 per year to Yellowstone County. Continuing increases to the City for the housing and care of the animals at the Billings Animal Shelter warrant a \$5,000.00 increase of the amount from the previous contract last updated in fiscal year 2002/2003. Should Yellowstone County not agree to the terms of this contract, service cuts will be required.

## **ALTERNATIVES ANALYSIS**

- Do not renew Contract and no longer accept County animals.
- Do not renew the Contract and accept County animals at an increasing cost to the City residents.
- Approve the Contract and receive reimbursement for handling and caring of County animals.

## **STAKEHOLDERS**

Yellowstone County Commissioners have been made aware of the fee increase and will be forwarded the contract for their approval after Council Approval.

## **SUMMARY**

Continuing increases to the City of Billings for the housing and care of the animals at the Billings Animal Shelter warrant a \$5,000.00 increase of the amount from the previous contract last updated in fiscal year 2002/2003. Should Yellowstone County not agree to the terms of this contract, service cuts would be required.

In fiscal year 2003/2004 the cost to the City for handling of Yellowstone County animals was \$93,074.52. This dramatic increase is greatly due to the construction of the new facility, utility cost increases, fees previously paid by the State now required of the City, and carcass disposal procedures. Increasing the contract amount \$43,074.52 in one year would be a tremendous burden on Yellowstone County. Staff recommends increases of \$5,000.00 a year for the next 7 (seven) to 10 (ten) years to the Dog and Cat Control Agreement until the actual costs to the City are reflected in the Contract.

**RECOMMENDATION**

Staff recommends that Council approve the contract as written and annual increases to the amount of the contract will be requested annually until the actual cost for services provided have been reached.

**ATTACHMENTS**

**A** – Proposed Dog and Cat Agreement with Yellowstone County (4 pages)

**B** – Cost justification (1 page)

## **AGREEMENT ON DOG & CAT CONTROL**

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by the following:

THE CITY OF BILLINGS, MONTANA, a duly organized Montana municipal corporation, hereinafter referred to as "City",

and

THE COUNTY OF YELLOWSTONE, a political subdivision of the State of Montana, hereinafter referred to as "County",

WITNESSETH:

WHEREAS, pursuant to Title 16, Chapter 46, Revised Codes of Montana, 1947, as amended, the Board of County Commissioners of Yellowstone County, Montana, on the 15<sup>th</sup> day of April 1975, passed a resolution to license and control the stray dog population and to prevent dogs from running at large and in packs; and

WHEREAS, the State Legislature has passed Senate Bill #264 which authorized county governing bodies to enact dog control ordinances, and this law became effective July 1, 1979, and Yellowstone County has subsequently adopted a dog control ordinance dated the 4<sup>th</sup> day of March 1980; and

WHEREAS, the County Commissioners of Yellowstone County will employ their own agents for dog control in areas in Yellowstone County, and these agents will be picking up dogs running at large; and

WHEREAS, it is the desire of the Parties to cooperate in the control of dogs in the urban area in and around Billings, Montana;

**AGREEMENT ON DOG & CAT CONTROL**

Page 2

NOW, THEREFORE, it is hereby agreed as follows:

1. **TERM:** That this agreement shall commence on July 1, 2005 and continue through June 30, 2006 with an option for the City of Billings to renew the contract for one year at a time up to a total of three (3) years if the price for services are unchanged and mutually agreed upon, or unless terminated as provided herein.

2. **PAYMENT FOR SERVICES:** As full payment for all the services specified herein, the County shall pay to the City Fifty Five Thousand & No Hundredths Dollars (\$55,000.00) annually while this Agreement remains in force and effect. The annual payment shall be paid in two equal installments as follows:

- a. \$27,500.00 on December 30, 2005, and
- b. \$27,500.00 on June 30, 2006.

3. **CITY RESPONSIBILITIES:** The City, through its agents, shall have the following responsibilities:

The City will receive, handle, and care for all dogs and cats only, impounded on behalf of or by any sheriff, deputy sheriff, policeman, game warden, county animal control officer, other law enforcement officer, or county resident in Yellowstone County, Montana beyond the city limits of the City of Billings, Montana. These dogs and cats shall be accepted at all hours that employees are scheduled at the Billings Animal Shelter. All impounded county dogs and cats will be cared for under the procedures and rules of the Animal Shelter and shall be disposed of according to said rules and procedures.

County Animal Control Officers will be required to fill out all impound information necessary on appropriate forms provided by the City. Description of animal including species, breed, gender, age, color and any identification such as collar, tags, tattoos, visible scars, implanted microchips, any owner name, address, home or work phone numbers if known shall be listed on these forms. County Animal Control Officers will be required to place a dog or cat in an appropriate kennel when impounding and all required forms and information shall be turned into Animal Shelter personnel.

County Animal Control Officers shall be responsible for all Veterinarian care of animals prior to impoundment. No animal shall be impounded which requires Veterinarian care until such services have been provided.

## **AGREEMENT ON DOG & CAT CONTROL**

Page 3

4. TERMINATION: This Agreement may be terminated by either party giving to the other party notice in writing at least 60 days prior to the end of the term or any renewal term. Said notice shall be mailed via certified mail, return receipt requested or personally served.

5. IMPOUND RECEIPTS: When a dog or cat is impounded by a County Animal Control Officer, any fee received for impounding the dog or cat shall be paid to Yellowstone County. Said fees shall be deposited monthly in the proper account of the Yellowstone County Treasurer's office. All other boarding or adoption fees for the care of the animal while at the Animal Shelter shall be retained by the City.

6. LICENSES: The City agrees to sell County dog licenses at the Animal Shelter at prices that shall be determined by the Board of County Commissioners, and shall be subject to change from time to time as determined by the Board of County Commissioners. All such fees shall be deposited in the proper account at the County Treasurer's office.

7. LICENSING OF IMPOUNDED DOGS: All dogs impounded on behalf of the County shall be licensed before leaving the Animal Shelter. All fees should be deposited in the proper account at the County Treasurer's office.

8. INDEMNIFICATION: The City of Billings agrees to hold harmless and indemnify the County of Yellowstone from and against all claims, losses, damages, legal liability and any incurred attorney's fees and other litigation expenses arising from the negligence of the City or its employees or agents.

Yellowstone County agrees to hold harmless and indemnify the City of Billings from and against all claims, losses, damages, legal liability and any attorney's fees and other litigation expenses arising from the negligence of the County or its employees or agents.

In the event of claims or litigation arising from the concurrent negligence of both the City and County, both parties agree to indemnify and hold harmless the other party to the extent previously provided in this paragraph, but only to the extent of the negligence of that party or its employees or agents as may be comparatively apportioned.

**AGREEMENT ON DOG AND CAT CONTROL**

Page 4

AGREEMENT DATED this \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

**CITY OF BILLINGS, MONTANA**

ATTEST: \_\_\_\_\_  
CITY CLERK \_\_\_\_\_  
MAYOR \_\_\_\_\_

(SEAL)

**BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA**

ATTEST: \_\_\_\_\_  
CLERK & RECORDER \_\_\_\_\_  
CHAIRMAN \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

114.Animal Control Agreement

**City costs for impound and boarding of animals;**

7/1/03 – 6/30/04 Budget

Total Costs

Administration	\$174,450.00
Facilities	273,994.00
Enforcement	188,593.00
Capitol Costs	<u>25,770.00</u>
	\$662,807.00

Total Cost \$662,807.00

**County costs for housing and caring of animals;**

Total Cost \$662,807.00

City expenditures omitted from these costs,

Adoption

Microchips	- 8,000.00
Vaccinations	- 5,000.00
Spay/Neuter Certificate Refunds	-

56,129.00

Police Department Canine Unit Food Purchases

1,300.00

Enforcement

(30% of time spent in kennels/office) -

132,016.00

Capitol ACO vehicle

- 17,150.00  
\$219,595.00

\$662,807.00  
-219,595.00

Total costs to be figured for housing of County animals  
\$443,212.00

Considering 4,807 animals handled  
during fiscal year 2003/2004 and 1,009  
or 21% of these animals handled from Yellowstone County  
\$443,212.00

X 21%  
\$ 93,074.52

These costs reflect a need to increase the Contract amount currently held with Yellowstone County. Dramatic increase costs are a result of the construction of the new facility, increases of utility costs, and changes in procedure for disposal of animals.

County Contract:

Current; \$50,000.00 yearly

Proposal; \$55,000.00 yearly

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J

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

---

**TITLE:** Approval of 2005 Cobb Field Stadium Turn Key Agreement

**DEPARTMENT:** Department of Parks, Recreation & Public Lands

**PRESENTED BY:** Don Kearney, Director

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**PROBLEM/ISSUE STATEMENT:** This agreement is for the period from January 1, 2005 to December 31, 2005. The Turn Key Agreement between the City of Billings and the Billings Mustangs, and American Legion Baseball Program has been changed to add the Montana State University for a Men's Varsity Baseball program. The agreement has been negotiated with and is acceptable to the three parties to it. The changes being recommended are to add the MSU-B baseball program to the agreement, as given on page 1, and in item 5.C.; to set the payment by the American Legion Baseball Program, as given in item 5.B.; and to clarify that the City of Billings is the owner of the stadium, as stated in the ANNOUNCEMENT in Paragraph 16.

**FINANCIAL IMPACT:** The proposed Turn Key Agreement with the Billings Mustangs requires 15% of gross ticket sale revenue which is the same payment to the city that was approved in the 2003 agreement. The American Legion amount is changed to a flat \$3,000 amount in payment to the City for their use, and the MSU-B consideration will be to provide 24 hours of use of MSU-B gym and recreation facilities to the City of Billings PRPL Recreation Division that is expected to be equivalent to their use of Cobb Field.

**RECOMMENDATION:**

Staff recommends that Council authorize the Mayor to execute the 2005 Turn Key Agreement for Cobb Field Stadium as proposed.

**Approved By:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENT:**

A. Agreement and Exhibit "A" showing the Area in Athletic Park covered by the agreement.

## **2005 TURNKEY AGREEMENT** **COBB FIELD STADIUM IN ATHLETIC PARK**

THIS AGREEMENT, by and between the following:

THE CITY OF BILLINGS, a Montana Municipal Corporation, Billings, Montana, by and through its duly constituted Park and Recreation Department, hereinafter designated as CITY,

and

THE BILLINGS MUSTANGS BASEBALL CLUB, a Montana corporation, Billings, Montana; AMERICAN LEGION POST NO. 4, Billings, Montana;

and

THE MONTANA STATE UNIVERSITY – BILLINGS Athletics Department;  
hereinafter designated as the BALL CLUBS;

WITNESSETH:

WHEREAS, the CITY owns a certain premises known as Cobb Field Stadium, which is suitable for baseball games; and

WHEREAS, the BALL CLUBS engage in the sport of playing and business of playing baseball games; and

WHEREAS, the CITY desires to provide Cobb Field Stadium to the BALL CLUBS; and the BALL CLUBS desire to play their baseball games at Cobb Field Stadium.

NOW THEREFORE, in consideration of this Agreement for the use of the same premises, the payments to be received hereunder, the mutual covenants, promises and representations herein made, the Parties agree as follows:

1. TERM: The term of this Agreement begins **January 1, 2005**, and ends **December 31, 2005**.
2. PREMISES: The premises hereby to be used are known as Cobb Field Stadium, which is located in Athletic Park at North 27th Street and 9th Avenue North, in Billings, Montana, as shown in **Exhibit "A"** attached. The premises included in this agreement are the stadium, the ballfield and the practice field area west of the stadium adjacent to North 27<sup>th</sup> Street and 10<sup>th</sup> Avenue North.
3. USE: The BALL CLUBS shall use the premises as follows:
  - A. The BALL CLUBS shall use the premises for baseball games, practice, and related functions from March 1 through October 30, 2005. Said premises shall be used exclusively by the BALL CLUBS during that period except when the CITY may schedule events that will not interfere with the BALL CLUB uses. Such uses by the CITY shall be submitted to the Operation Committee in writing for approval

at least fourteen (14) days prior to the proposed event. Approval or disapproval of the proposed use shall be the responsibility of the Operations Committee (See page 3, Section 6).

- B. During the period of October 31, 2005, through December 31, 2005, other events may be scheduled by both the CITY and the BALL CLUBS, with the approval of the Operations Committee, at least fourteen (14) days prior to the proposed event if such events shall not interfere with other uses or events already scheduled. Such events shall be subject to the CITY use requirements and policies for reserving park space and facilities for special uses.
  - C. Any lost revenue or other expenses incurred by the BALL CLUBS as a result of an unapproved event scheduled by the CITY shall be reimbursed to the BALL CLUBS. Any lost revenue or other expenses incurred by the CITY as a result of an unapproved event scheduled by the BALL CLUBS shall be reimbursed to the CITY.
4. EXAMINATION: The BALL CLUBS have carefully examined the premises and all of its facilities and equipment, know the condition thereof, agree to accept the same in the condition which they are now, and agree to return the same in their present condition except for ordinary and reasonable wear and tear, damage by the elements..
5. BALL CLUB RESPONSIBILITY: The BALL CLUBS shall, in consideration of their use of the Cobb Field Stadium:
- A. The **BILLINGS MUSTANGS** shall pay to the City an amount equal to 15% of gross ticket sale revenues for the season. Payment shall be made to the City no later than December 31, 2005, and be accompanied by a standard financial statement signed and certified by a Certified Public Accountant. All records shall be made available for an independent audit if requested by the City or its designee. All direct and related costs for such an audit shall be paid by the City.
  - B. The **AMERICAN LEGION BASEBALL PROGRAM** from ticket sales shall pay to the City Three Thousand and No/100 Dollars (\$3,000) for the 2005 season. Payment shall be made to the City no later than December 31, 2005, and be accompanied by a standard financial statement signed and certified by a Certified Public Accountant. All records shall be made available for an independent audit if requested by the City or its designee. All direct and related costs for such an audit shall be paid by the City; and
  - C. The **MONTANA STATE UNIVERSITY – BILLINGS** shall provide to the city twenty-four (24) hours of gymnasium time available in programmable blocks from January 1, 2005 to December 31, 2005. The dates and times for the gymnasium use to be planned between the city and MSU-B for mutual convenience for both parties.
  - D. The BALL CLUBS assume an obligation and a duty to preserve and maintain the premises, including but not limited to the payment of all operational maintenance, expenses and improvements. This includes the care and marking of the infield, clean up, and removal of trash from the premises. There shall be priority given to the clean up and maintenance of the stands, entrances, and restrooms, and such shall be clean, sanitary, and in a safe condition during all games. Additionally, repairs made to damaged seats, restrooms and other public areas shall be done on a day-to-day basis and receive priority over all other maintenance.
  - E. On or about June 29, July 20, and August 24, 2005, depending upon scheduled use, the BALL CLUBS shall wash the grandstand area with soap and water. An inspection of the

washed area on these three occasions shall be made by the City Park Superintendent to insure that the grandstand area has been adequately cleaned. In the event the **BALL CLUBS** do not do this cleaning or the cleaning is not satisfactory, the City shall have the right to hire a third-party to perform such cleaning and charge the cost of this cleaning to the **BALL CLUBS**.

6. **OPERATIONS COMMITTEE:** A facility Operations Committee shall coordinate the operation, repair and further development of the Cobb Field Baseball Stadium. Said Committee shall consist of a representative of each **BALL CLUB** and a representative of the City, who shall be the Superintendent of Parks, or other representative appointed by the Director of Parks, Recreation and Public Lands. Meetings shall be no less often than once each year. All proposed uses, maintenance programs and capital improvement projects shall be approved by this Committee prior to such use, maintenance or improvement taking place.
7. **CONCESSION REVENUE:** The City shall receive no percentage of the gross revenue from the sale of concessions, no percentage of the gross revenue from the sale of outfield fence advertising, and no percentage of the gross revenue from special event productions, such as Little League Night, except as provided elsewhere.
8. **ASSIGNMENT:** This Agreement is not assignable by the **BALL CLUBS** in whole or in part without the prior written approval of the City Administrator for the City of Billings.
9. **SCHEDULING GAMES:** The **BALL CLUBS** recognize that foul balls hit out of the stadium over the backstop and stands can drop into the swimming pool area creating an unacceptable hazard for pool users. Because of this, between the dates of June 13th and August 21st, 2005, games played before 6:00 p.m. by the American Legion teams require the east half of the pool to be closed off, and games played before 6:00 p.m. by the Pioneer League teams require the closing of the entire pool. Therefore the **BALL CLUBS** agree to the following terms:
  - A. That batting cages will be used by all baseball players using the premises during all practice sessions.
  - B. That a copy of the scheduled baseball games will be supplied to the CITY Recreation Superintendent by April 10th of 2005.

The **BALL CLUBS** agree that no more than twenty (20) ball games shall be scheduled for daytime hours before 6:00 p.m. during the period from June 11th to August 21st. Other daytime ball games shall be allowed only with prior notification and approval of the additional games by the Operations Committee.

- C. For this use period there shall be no practice on the stadium infield and adjacent turf areas in the spring prior to the activation and commencement of turf irrigation on that area, on or about April 7, 2005;
10. **INDEMNIFICATION / INSURANCE:** The **BALL CLUBS** shall each indemnify and have the duty to defend the CITY and hold it harmless from and against all claims, damages, losses and expenses arising out of or resulting from the **BALL CLUB**'s negligent acts or omissions or those of a sub-contractor, agent or anyone directly or indirectly employed by the **BALL CLUBS**. Each of the **BALL CLUBS** shall carry **minimum** liability insurance equivalent to the amount of **Seven Hundred and Fifty Thousand and No/100 Dollars (\$750,000) per claim, and One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000) per occurrence (MCA Section 2-9-108(1)(2003))** in effect for the period of the season of practicing and playing at Cobb Field Stadium in 2005. Prior to the start of the use at

Cobb Field in 2005, the **BALL CLUBS** shall each provide the City a **Certificate of Insurance made out to the City of Billings and naming the City of Billings as an additional party insured.**

11. **NON-DISCRIMINATION:** The undersigned, either as an individual or on behalf of a group or organization, hereby agrees that this facility shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin.
12. **RIGHT OF INSPECTION:** The City shall have the right to inspect the premises at all times during the term of this Agreement.
13. **MONTHLY INSPECTIONS REQUIRED:** Monthly inspections shall be conducted during the operating season of housekeeping related to fire hazard and safety, of electrical wiring and equipment, fire extinguishers, storage arrangements, flammable liquids handling and storage, and observance of smoking restrictions. Records of each inspection shall be maintained and shall be available for review by the CITY, and authorized Safety and Risk Inspectors.
14. **FIRE WATCH AND LIFE SAFETY CODES:** Because the grandstand is constructed of wood and is susceptible to fire, the **BALL CLUBS** agree to post and conduct a fire watch during each event or occasion that the premises are in use, and for a period of no less than two (2) hours following each such use, which fire watch shall be conducted by two (2) or more responsible adults who shall, at least every thirty (30) minutes, inspect the areas under the grandstand, bleachers, and the kitchen for fire and/or fire hazards; such inspection shall be conducted pursuant to any reasonable instructions, training, and/or verification procedures as the City may require. In addition, the **BALL CLUBS** agree to comply with the Life Safety Code, and in specific, the following items:
  - A. Emergency lighting shall be provided as follows:
    - (1) Two (2) units in the grandstand seating area and exit areas and two (2) units in the areas underneath the grandstand.
    - (2) Illuminating exits are required by each exit. This includes angles in means of egress passage ways and stairways. The illuminating exit lights will meet the requirements for emergency lighting.
  - B. Any concession stand grill will have an approved hood system according to the codes in the National Fire Prevention Association Pamphlet No. 96.
  - C. Fire extinguishers shall be inspected monthly and the date and initials of each inspection noted on an inspection card attached to each extinguisher. The present Class A fire extinguishers will be serviced and properly mounted. In addition, a No. 10 dry chemical extinguisher will be placed in or near each cooking area.
  - D. The fire hoses shall be inspected monthly during the operating season and all deteriorated hose and corroded hose connections will be replaced according to the Uniform Fire Codes. Compliance with the above Life Safety Code will be done at **BALL CLUB'S** expense.
  - D. Cobb Field Stadium is a smoke free facility and smoking shall not be permitted anywhere within the ticket booths and entrance fences, lower levels, stadium seating,

and field areas, except in approved clearly designated and signed locations outside the stadium.

15. COOKING: The BALL CLUBS agree that they will not permit any cooking of food or beverage preparation without first meeting the standards of the City Health, Fire and Building Codes, at the BALL CLUB'S expense. The BALL CLUBS agree that no frying will take place on the stoves in the concession area that will involve food that emits grease onto the grills or into the air.
16. ANNOUNCEMENT: The BALL CLUBS agree to make the following announcement before each event that takes place at the Stadium:

**"Ladies and Gentlemen:**

**We would like welcome you to Cobb Field, owned by the City of Billings and managed in partnership with the Billings Mustangs, American Legion Baseball and Montana State University – Billings.**

**The City of Billings, for your safety, would like you to take a moment to familiarize yourself with the exits to be used in case of fire or other emergencies.**

**These exits are located at (description of exits).**

**Also, we would like to remind you that the Stadium is a SMOKE-FREE facility by order of the Billings City Council.**

**Thank you for your cooperation."**

17. UTILITIES: The CITY will pay for the water used in the Stadium, turn on all Stadium water lines and connect restroom and shower facilities. The CITY will drain and disconnect the same in the Fall. The BALL CLUBS shall be responsible for all other utilities.
18. REPAIRS AND IMPROVEMENTS: Repairs and improvements to the premises shall be mutually agreed upon by the BALL CLUBS and CITY representatives in the Operations Committee. The BALL CLUBS agree to make capital improvements only after review and approval by the CITY. The CITY reserves the right to make repairs and improvements on the premises; provided that such changes and improvements do not interfere with the BALL CLUBS use of the premises.
19. BREACH: Should this Agreement be violated, a notice thereof in writing shall be issued; and if said breach is not corrected within (5) days of said notice, this Agreement may be terminated at the option of the Party wronged without further notice; provided, however, that this clause shall not necessitate the termination of this Agreement, nor shall it prevent the issuance of any other remedy at law or in equity.
20. ATTORNEY'S FEES AND COSTS: In the event it becomes necessary for any Party to this Agreement to retain an attorney to enforce any of the terms or conditions of the Agreement, then the prevailing party shall be entitled to a reasonable attorney's fee and costs.
21. AMENDMENTS AND MODIFICATION: The Parties hereby agree that any amendments or modifications to this Agreement or any provisions herein shall be made in writing and executed in the same manner as the original document and shall, after execution, become a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement this \_\_\_\_\_  
day of \_\_\_\_\_, 2004.

CITY:

CITY OF BILLINGS, a Montana  
Municipal Corporation

By: \_\_\_\_\_  
Mayor

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

ATTEST:

By: \_\_\_\_\_  
City Clerk

BALL CLUBS: THE BILLINGS MUSTANGS BASEBALL CLUB,  
A Montana Corporation

By: \_\_\_\_\_

AMERICAN LEGION POST NO. 4

By: \_\_\_\_\_

MONTANA STATE UNIVERSITY – BILLINGS

By: \_\_\_\_\_

**ATTACHMENT "A"**

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# K

AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Receipt of Petition and Set Public Hearing Date for Right-of-Way Vacation in Country Club Heights Subdivision

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** Mona Clark and Bruce Anderson submitted a petition to vacate a portion of a 25-foot wide alley between their lots located on Lots 1 and 28, Block 1, Country Club Heights Subdivision. The petitioners propose to shift the original alley 15 feet west. The purpose of relocating the alley is to increase the side yard area for Lot 28. The existing structure on Lot 28 encroaches into the required side yard setback. The vacation and relocation of the walkway will bring the structure into conformance with the zoning requirements.

City Council is required to acknowledge receipt of petition and set a date for the public hearing.

**FINANCIAL IMPACT:** There will be no financial impact to the City as a result of this right-of-way vacation. No appraisal was conducted for this action because the City is receiving identical amount of property adjacent to the original alley. The value of the vacated property is the same as the dedicated property.

### **RECOMMENDATION**

Staff recommends that Council acknowledge receipt of the petition for vacation of the alley between Lots 1 and 28, Block 1, Country Club Heights Subdivision and set February 28<sup>th</sup> as the date for the public hearing on this item.

**Approved By:**      **City Administrator**             **City Attorney**       

### **ATTACHMENTS**

A. Petition to Vacate Public Right-of-Way

[\(Back to Consent Agenda\)](#)



**AGENDA ITEM:**

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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Second Reading of an Ordinance Expanding Ward V

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** On January 10, 2005, the City Council adopted Resolution No. 05-18232 annexing 50 acres located near the intersection of 52<sup>nd</sup> Street West and Grand Avenue (Annexation #04-13). The property must be added to one of the City's election wards. This ordinance will add the property to Ward V. The first reading and public hearing for this ordinance was done on January 24, 2005. This is the second reading of the ordinance.

**FINANCIAL IMPACT:** There are no direct financial impacts if this ordinance is approved.

**RECOMMENDATION**

Staff recommends that the City Council hold a public hearing and approve the first reading of this ordinance that adds property to City Ward V.

**Approved by:** City Administrator \_\_\_\_\_ City Attorney \_\_\_\_\_

**ATTACHMENT**

**A:** Ward Ordinance and Exhibit A

**ORDINANCE NO. 05-\_\_\_\_\_**

AN ORDINANCE OF THE CITY OF BILLINGS, AMENDING BILLINGS MUNICIPAL CODE, CHAPTER 11, ELECTIONS, IN PARTICULAR, SECTION 11-102(c), WARD BOUNDARIES; AND CHANGING THE WARD BOUNDARIES ESTABLISHED THEREIN BY ADDING CERTAIN NEWLY ANNEXED REAL PROPERTY TO WARD V PROVIDING FOR CERTIFICATION AND REPEALING OF ALL ORDINANCES AND RESOLUTIONS INCONSISTENT THEREWITH.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:**

1. **AMENDMENT.** Pursuant to Billings Municipal Code, Section 11-102(c) and the State Law, Billings Municipal Code, Section 11-102(c) Ward Boundaries is hereby amended by adding to the following designated Ward the following described real property:

A tract of land situated in the E1/2 NW1/4 of Section 4, T.1S., R.25E., P.M.M.,

Yellowstone County, Montana, more particularly described as:

Certificate of Survey 1877, Tracts 1 and 2, Recorded April 20, 1979, Under Document No. 1125965, Records of Yellowstone County, Montana; containing 50.101gross acres and 49.853 net acres, more or less (see Exhibit A).

(# 04-13)

2. **CERTIFICATION.** Pursuant to M.C.A. Section 13-3-103, the above change and alteration is hereby certified to the election administrator by the City Council, and the City Administrator or his designee is hereby directed to certify the changes and alterations and to deliver a map showing the boundaries of the ward, the streets, avenues and alleys by name and the ward by number, to the election administrator not more than ten (10) days after the effective date of this ordinance.
3. **REPEALER.** All other ordinances, sections of the Billings Municipal Code and ordinances inconsistent herewith are hereby repealed.

PASSED by the City Council on the first reading this 24<sup>th</sup> day of January, 2005.

PASSED by the City Council on the second reading this 14<sup>th</sup> day of February, 2005.

THE CITY OF BILLINGS:

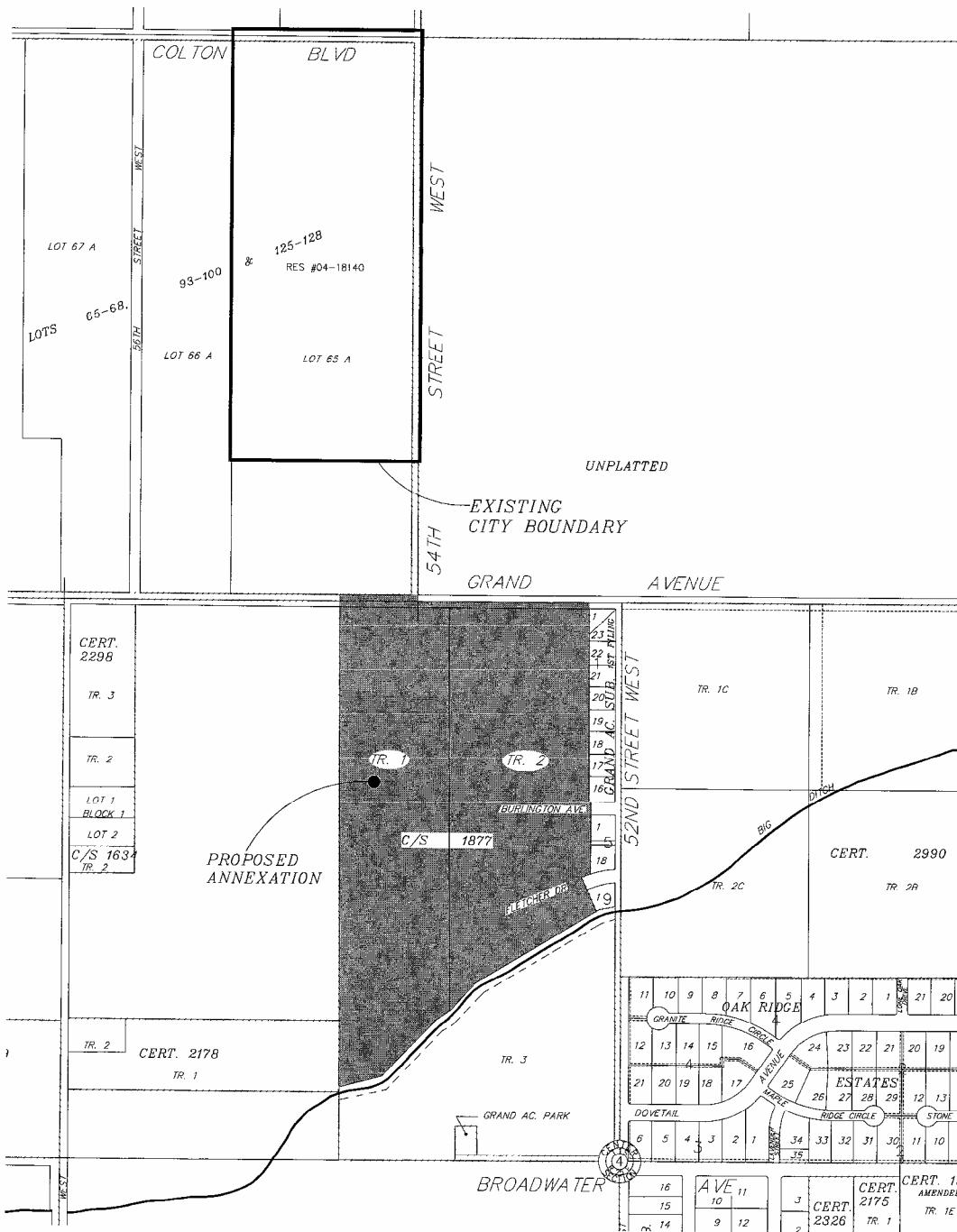
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Charles F. Tooley, MAYOR

ATTEST:

BY: \_\_\_\_\_  
Marita Herold, CITY CLERK

*EXHIBIT* "A"



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# M

**AGENDA ITEM:**



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## **CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**

**Monday, February 14, 2005**

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**TITLE:** Zone Change #749, 2<sup>nd</sup> Reading

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** NICOLE M. CROMWELL, AICP, Planner II

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**PROBLEM/ISSUE STATEMENT:** This application is a request for a Planned Development zone change changing the underlying Residential Multifamily zoning to Neighborhood Commercial in the Parkland West PUD, Lot 5 of Block 10, Parkland West 6<sup>th</sup> Filing Subdivision. The property owner is Central Capital, LLC and the agent is John Stewart, P.E. of Engineering, Inc. The property is generally located south of the intersection of Central Avenue and 32<sup>nd</sup> Street West. The Council held a public hearing on this application on January 24, 2005 and passed the ordinance on first reading. This is the second reading of the ordinance.

**ALTERNATIVES ANALYZED:** State Law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approval of Zone Change; or
2. Denial of Zone Change.
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** There are no anticipated financial impacts to the City resulting from the Council's action.

**RECOMMENDATION**

The City Zoning Commission, on a vote of 3 to 0 recommends that Council approve the Planned Development zone change request, #749 and adopt the determinations of the twelve discussed criteria.

**Approved By:**      **City Administrator**             **City Attorney**       

**ATTACHMENT**

- A:      Twelve Criteria for Zone Changes  
B:      Ordinance

Attachment A – Twelve Criteria for Zone Changes

The City Zoning Commission shall consider the following 12 criteria for zone changes:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The new zoning is in conformance with the Growth Policy by:

- Predictable land use decisions within existing neighborhoods
- Contiguous development focused in and around existing populations
- Attractive and accessible communities

2. *Is the new zoning designed to lessen congestion in the streets?*

The new zoning will facilitate the location of neighborhood services into this growing area of West Billings. The new zoning and development plan should not increase the traffic on local streets. A new drive approach will be designed and located to city standards for access onto 32<sup>nd</sup> Street West, a principle arterial street. The existing right-of-way of Cape Cod Drive north off Banff Drive will become a permanent dead-end and vehicles will not be able to access the site except through the drive approach off 32<sup>nd</sup> Street West.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

The new zoning has required setbacks for buildings, access for emergency vehicles and conformance with city-adopted commercial building codes. On submittal of building plans, the Fire, Police, and Building Departments will review the proposed development for compliance with applicable codes.

4. *Will the new zoning promote health and general welfare?*

The proposed zoning allows uses that are commercial but allows less square footage for some uses compared to other commercial zones. In addition, no liquor licenses are allowed in this zone. The property is adjacent to PUD-R9600 to the south and west and PUD-Community Commercial to the north. The new zone is adjacent to an existing Community Commercial zone to the north and should not adversely affect the health and general welfare.

5. *Will the new zoning provide adequate light and air?*

Sufficient setbacks are required within the proposed zoning that will allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The proposed zoning has allowable lot coverage of up to 50% but should not overcrowd the lot or adjacent properties.

7. *Will the new zoning avoid undue concentration of population?*

The proposed zoning permits uses that attract customers from a neighborhood area in and around Central Avenue and 32<sup>nd</sup> Street West. The zone does allow Residential Multi-family (Restricted) uses and this size lot might support up to 80 dwelling units but it is not the intent of the development plan to include any residential units on this lot.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* The traffic generated from the new zoning has been accounted for in previous traffic studies. The current zoning of PUD-Residential Multifamily could allow 40 dwelling units. The new zoning traffic generation should be equal to or less than the current multifamily zone. Pedestrian access will be gained to the site from sidewalks along 32<sup>nd</sup> Street West and through Cape Code Drive north of Banff Drive.

*Water and Sewerage:* Municipal water and sewer services are available at the site and have the capacity to serve the subject property.

*Schools and Parks:* The proposed zoning will not further impact area schools and parks.

*Fire and Police:* The Fire Department reviews commercial building permit applications and will determine any potential issues at that time.

9. *Does the new zoning give reasonable consideration to the character of the district?*  
The proposed zoning will give reasonable consideration to the character of the district by locating a commercial use closer to the intersection of two arterial streets near an existing commercial zone. The potential commercial uses will be geared to neighborhood services and not regional markets.
10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*  
Staff finds that the subject property is suitable for the requested zoning district. The uses permitted within Neighborhood Commercial are compatible with the surrounding residential and planned commercial uses.
11. *Was the new zoning adopted with a view to conserving the value of buildings?*  
Staff finds that the proposed zoning will not alter the value of the existing residences south, east or west of the subject property. Landscaping and screening will buffer the development from adjacent uses.
12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*  
Staff finds that the proposed zoning, which will permit small commercial and retail outlets, will promote the most appropriate use for the subject property.

Attachment B Ordinance  
**ORDINANCE NO. 04-**

**AN ORDINANCE MAKING A MAJOR CHANGE TO THE  
PARKLAND WEST SUBDIVISION MASTER PLAN AND  
PLANNED UNIT DEVELOPMENT AGREEMENT ON Lot 5,  
Block 10 of Parkland West 6<sup>th</sup> Filing Subdivision.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. **RECITALS.** Whereas, M.C.A. 76-2-304 and the City Zoning Ordinance No. 3797, as amended by Ordinance 4102, Section 7.01, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed amendments for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. **DESCRIPTION.** That the **PROPERTY GENERALLY LOCATED SOUTH OF CENTRAL AVENUE AND WEST OF SWEETWATER DRIVE** situated in NE ¼ Section 11, T.1 S., R.25 E., P.M.M., Yellowstone County, Montana, more particularly described as:

**LOT 5 OF BLOCK 10, PARKLAND WEST 6<sup>TH</sup> FILING SUBDIVISION**

Is presently zoned **Planned Development** (Ordinance No. 82-4422 and 82-4424) and is shown on the official zoning map within this zone.

3. **ZONE AMENDMENT.** That Ordinance No. 82-4422 and 82-4424 and the official zoning map are hereby amended and the Master Plan and Planned Unit Development Agreement for **the above described parcels** is hereby amended and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining **Planned Development (with multiple underlying zoning districts)** as defined in the Zoning Ordinance and the Billings Montana City Code (BMCC).

4. **REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. **EFFECTIVE DATE.** This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#749

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N

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**

**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2004**

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**TITLE:** Zone Change #751, 2<sup>nd</sup> Reading of Ordinance  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Juliet Spalding, Planner II

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**PROBLEM/ISSUE STATEMENT:** This is the second reading of an ordinance that will change the zoning from Residential-7000 to Residential-7000-Restricted of a 100-acre property described as Tract 3A, C/S 3217 Amended. This is a *City Council initiated* zone change. The subject property is generally located on the north side of Mary Street, between Hawthorne Lane and Bitterroot Drive. The property owner is BRV Development, LLC. The City Council held a public hearing on January 24, 2005 and voted to approve the ordinance on first reading.

**ALTERNATIVES ANALYZED:** State law at MCA 76-2-304 requires that all zone changes be reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

- Approve the zone change request
- Deny the zone change request
- Allow withdrawal of the application
- Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** This zone change should not have a substantial financial impact.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #751 and adopt the determinations of the discussed 12 criteria.

**Approved by:** \_\_\_\_\_ **City Administrator** \_\_\_\_\_ **City Attorney**

**ATTACHMENTS:**

- A: 12 Criteria  
B: Ordinance  
C: Map

## ATTACHMENT A

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes must be evaluated using the 12 criteria that are set out in MCA 76-2-304. The 12 criteria and the Zoning Commission's determinations are listed below.

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is in compliance with the following goals of the 2003 City/County Growth Policy.

- New development that are sensitive to and compatible with the character of adjacent City neighborhoods
- Contiguous development focused in and around existing population centers separated by open space.
- Affordable housing for all income levels dispersed throughout the City and County.
- Unobstructed views of the rimrocks surrounding the City of Billings.

The new zoning is an area that is currently served by municipal utilities and fire and police protection. In addition, it is bordered on two sides by Principal Arterial streets. The proposed zoning is compatible with existing zoning to the north and south of the property, and may provide for a more affordable housing choice with slightly smaller lot sizes.

2. *Is the new zoning designed to lessen congestion in the streets?*

The new zoning will not increase the traffic generated from this site. Developing the site under R-7000-R zoning will not allow any additional units per acre than R-7000 zoning, but would in fact allow less due to the restriction on duplex housing.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

The property currently has public street frontage and is served by the City Fire Department. Additionally, in the subdivision review process, the Fire Department will review the layout of the proposed subdivision to ensure that fire protection can be provided to all new structures.

4. *Will the new zoning promote health and general welfare?*

The new zoning contains restrictions on uses allowed and provides for minimum setback requirements for structures.

5. *Will the new zoning provide adequate light and air?*

The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. In addition, the proposed development will be required to dedicate 11% of the developed property as parkland, or provide cash in lieu of land dedication, to provide for area parks. These features should prevent overcrowding of the land.

7. *Will the new zoning avoid undue concentration of population?*

The new zoning of Residential-7000-Restricted allows only single-family detached dwellings based on minimum lot areas. The parcel is adjacent to developments of similar density.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* The new development will substantially increase the traffic generated from this site. However, development of the site at densities allowed under the current R-7000 zoning would do the same. Also, the property adjoins Mary Street and Bitterroot Drive which are both designated as Principal Arterial Street in the Transportation Plan. Traffic mitigation will be reviewed with each filing of the subdivision.

*Water and Sewerage:* Public water service will be provided by the Heights Water District. Existing water mains are located within the rights of way of Hawthorne Lane and Mary Street adjacent to the property to be annexed. The City of Billings will provide sanitary sewer service using the sewer mains that are located in the Mary Street and Bitterroot Drive rights of way. A 12-inch main is also located within the old Burlington Northern Railroad right of way which connects to a lift station 500' north of the property to be annexed.

*Schools and Parks:* At a certain build-out (51%) of the subdivision development, the developers will be required to develop an extensive park network throughout the property. The tax records state that children from this development would attend Eagle Cliffs Elementary, Castle Rock Middle and Skyview High.

*Fire and Police:* The subject property is currently served by the City of Billings fire and police departments. Provisions for adequate service will be reviewed and ensured at the time of subdivision review.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The new zoning will restrict development of the property to single-family housing. To the south of the proposed zone change request is single-family residential development

zoned R-7000 and the Heights Assembly of God church. Most of the residential lots are less than 9600 square feet in size, and the new zoning would promote a development that is consistent with the character of the surrounding properties to the south. Parcels to the north, east and west are currently either vacant agricultural land, or large lot residential.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The subject property is suitable for the requested zoning district; it is a reclaimed gravel mine adjoining two Principal Arterial streets.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The new zoning should not negatively affect the value of the surrounding buildings/homes.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

This property is located adjacent to urban density development to the south, and is served by City services. The 2003 Growth Policy supports new development that is contiguous to existing populations, as well affordable housing choices which this development may offer with the slightly smaller lot sizes allowed by this new zoning. Redeveloping the abandoned gravel mine in this way seems to be an appropriate use of the land.

ATTACHMENT B

ORDINANCE NO. 04-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION  
ON Tract 3A, of Amended Tracts 1, 2, and 3, Certificate of  
Survey 2317 in the SE  $\frac{1}{4}$  of Section 11, Township 1 N, Range  
26 E. **THE SUBJECT PROPERTY IS LOCATED AT THE  
NORTHWEST CORNER OF MARY STREET AND  
BITTERROOT DRIVE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. A tract of land situated in the SE  $\frac{1}{4}$  of Section 11, Township 1 N, Range 26 E, P.M.M., Yellowstone County, Montana, more particularly described as: Tract 3A, of Amended Tracts 1, 2, and 3, Certificate of Survey 2317 is presently zoned Residential-7000 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential-7000** to **Residential-7000-Restricted** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential-7000-Restricted** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_

Charles F. Tooley, Mayor

ATTEST:

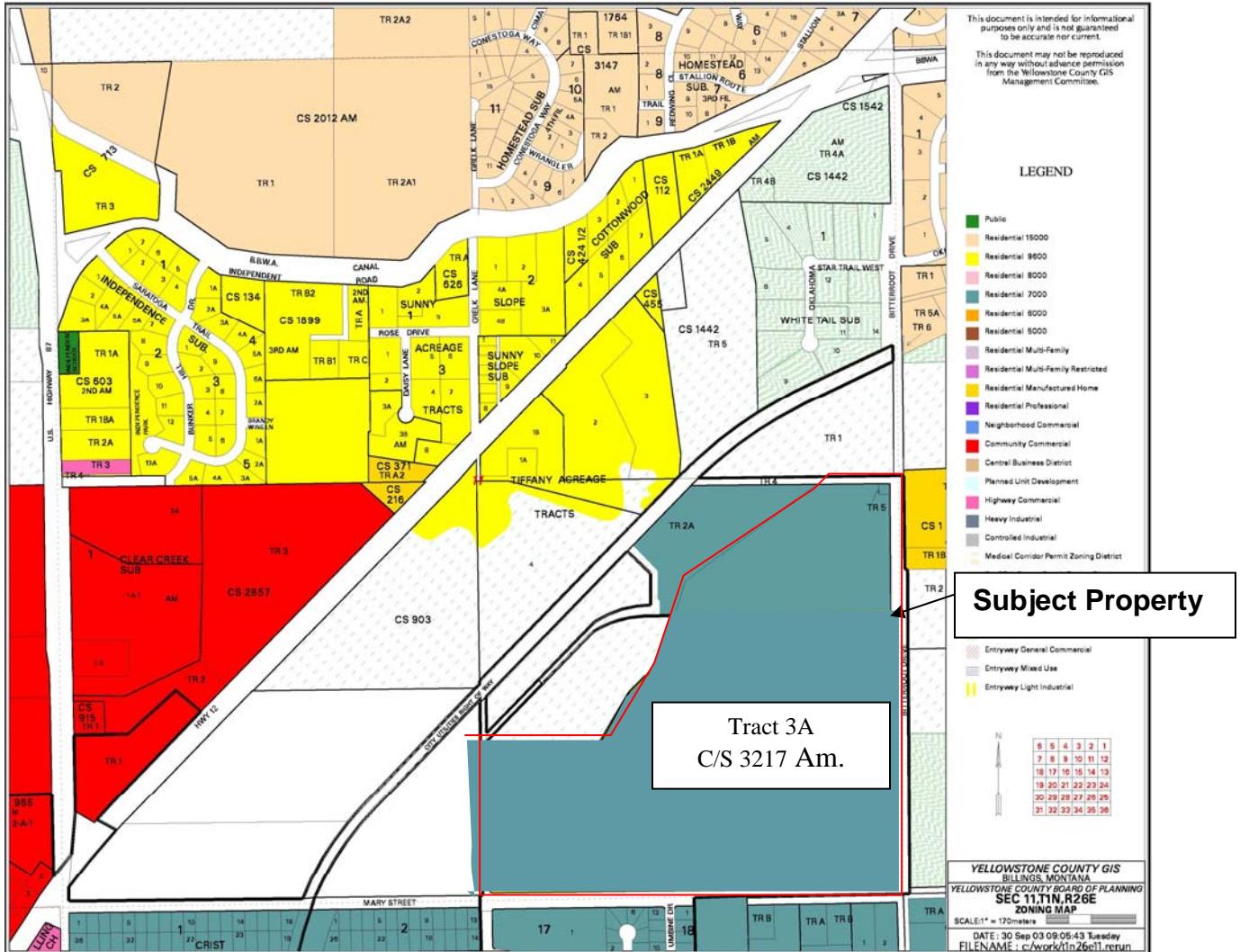
BY:

Marita Herold, CMC/AAE, City Clerk

ZC#751

## ATTACHMENT C

### Zoning map – Zone Change #751



[\(Back to Consent Agenda\)](#)



## AGENDA ITEM:

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### CITY COUNCIL AGENDA ITEM

**CITY OF BILLINGS, MONTANA**

**Monday, February 14, 2005**

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**TITLE:** Zone Change #752, Shiloh Corridor Overlay District – North, Second Reading of Ordinance

**DEPARTMENT:** Planning and Community Development Services

**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

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**PROBLEM/ISSUE STATEMENT:** This is a zone change initiated by City Council for the lands affected by the recently adopted Shiloh Corridor Overlay District regulations. The purpose of the zone change is to increase notification to the affected landowners and the surrounding property owners of the new Shiloh Corridor Overlay District regulations and afford those landowners the option of a valid protest. Also, the zone change amends the Official Zoning Map to show the extent of the Shiloh Corridor Overlay District. The City Council conducted a public hearing on this item on January 24, 2005 after which the ordinance was adopted by Council on 1<sup>st</sup> reading.

**ALTERNATIVES ANALYZED:** State law and local regulations require zone changes reviewed in accordance with 12 criteria. Using the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** There should be no appreciable financial impact as a result of this zone change. The zone change does not affect the uses allowed under the existing zoning.

#### **RECOMMENDATION**

The City Zoning Commission recommends, on a vote of 3 in favor and none opposed, that the City Council approve Zone Change #752 and adopt the determinations of the 12 criteria.

**Approved By:**      **City Administrator**             **City Attorney**       

#### **ATTACHMENT**

- A. Review Criteria
- B. Ordinance

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes must be evaluated using the 12 criteria that are set out in MCA 76-2-304. The 12 criteria and the Zoning Commission's determinations are listed below.

The City Zoning Commission, prior to any recommendation, shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The Overlay District was specifically developed to implement both the Growth Policy and the West Billings Plan.

2. *Is the new zoning designed to lessen congestion in the streets?*

The Overlay District will not affect the volume of traffic. It may have a positive effect on traffic flow within developments because of the new parking lot requirements.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

The increased setbacks and other site design elements should contribute to lessening dangers on the property.

4. *Will the new zoning promote health and general welfare?*

The Overlay District enhances the aesthetics of development which should promote health and general welfare.

5. *Will the new zoning provide adequate light and air?*

Enhanced landscaping and building design will improve light and air quality.

6. *Will the new zoning prevent overcrowding of land?*

The Overlay District does not affect residential development and does not dictate densities. There will be no effect on the population densities.

7. *Will the new zoning avoid undue concentration of population?*

The Overlay District will not affect population concentrations.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

The Overlay District has provisions to enhance development by encouraging public amenities such as pedestrian and bicycle paths, park benches, transit stops and increased landscaping. These amenities should facilitate the provision of public services.

9. *Does the new zoning give reasonable consideration to the character of the district?*

Considerable thought was given to the character of the area in the development of the Overlay District regulations. Specific design elements were included, such as scale and size of building to encourage compatibility with adjacent development. Bufferyard requirements are also imposed on commercial developments that adjoin residential uses.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

The Overlay District applies only to industrial, commercial, and mixed use developments along Shiloh Road. Shiloh Road is a principal arterial and a main entryway to the City. The District regulations are designed to improve the suitability of commercial development in context of the character of Shiloh Road.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

The increased quality of development resulting from the Overlay District standards should have a positive effect on the value of surrounding buildings and property.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Yes, the Overlay District will encourage high quality commercial and mixed use development along a principal arterial.

## ORDINANCE NO. 05-

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP TO SHOW THE EXTENT OF THE SHILOH CORRIDOR OVERLAY DISTRICT 500 FEET FROM THE CENTERLINE OF SHILOH ROAD FROM KING AVENUE NORTH TO RIMROCK ROAD REGULATING DEVELOPMENT STANDARDS, LANDSCAPING STANDARDS, BUILDING DESIGN STANDARD AND OTHER SITE DEVELOPMENT STANDARDS, AND SIGN STANDARDS FOR COMMERCIAL, INDUSTRIAL AND MULTIFAMILY DEVELOPMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC,* provide for amendment to the Official Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. The Shiloh Corridor Overlay District extends 500 feet on either side of the centerline of Shiloh Road from King Avenue to Rimrock Road. The properties affected include all properties that are within the City limits and are zoned or used for commercial, industrial or multifamily purposes.

3. ZONE AMENDMENT. The official zoning map is hereby amended and all City properties within the Shiloh Corridor Overlay District that are zoned or used for commercial, industrial or multifamily purposes, shall be subject to all the rules and regulations pertaining to the **Shiloh Corridor Overlay District** as set out in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#752

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Zone Change #753, Second Reading of Ordinance

**DEPARTMENT:** Planning and Community Services Department

**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** This is a second reading for a zone change application to modify the zoning on a property described as Lot 1, Block 27, Lake Hills Subdivision 6<sup>th</sup> Filing from Residential 7000 (northern portion) and Residential 9600 (southern portion) to Public zoning. This rezone is being processed in order to fulfill the conditions of approval, as required by the preliminary plat of Kreitz Heights Subdivision, which includes the subject property. The property owners are Rocky Mountain College and the County Water District of Billings Heights; the representing agent is Engineering, Inc. On January 4, 2005, the Zoning Commission conducted a public hearing on the proposed rezone and voted 3-0 to forward a positive recommendation to the City Council. The City Council opened the public hearing on January 24, 2005, and approved the zone change on the first reading.

**ALTERNATIVES ANALYZED:** State law requires that all zone changes be reviewed in accordance with 12 criteria (MCA 76-2-304). Utilizing the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** The proposed zone change will not provide any additional revenue for the City at this time.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #753 and adopt the determinations within the 12 criteria. On January 24, 2005, the City Council

conducted a public hearing and first reading for the proposed zone change and approved the zone change on the first reading.

**Approved By:**      **City Administrator**             **City Attorney**       

**ATTACHMENT**

- A. 12 Review Criteria for Zone Changes
- B. Ordinance

## **ATTACHMENT A**

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes shall be evaluated using the 12 criteria within Section 76-2-304 of the Montana Code Annotated (MCA), as follow:

Prior to forwarding a recommendation to the City Council, the City Zoning Commission shall consider the following 12 criteria for zone changes:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The Growth Policy does not provide specific information regarding the location of Public zoning within the City and County; however staff finds that the subject property is suitable for this type of zoning.

While only landscaping is proposed at this time, Public zoning would provide for limited Public uses, such as administrative offices or public utilities. Chapter 3: Community Goals and Objectives of the Growth Policy specifies that there is a desire for more mixed uses within neighborhoods. Staff finds that the permitted uses within this type of zoning would be compatible with the adjacent residential uses and would promote a mix of uses within the neighborhood.

2. *Is the new zoning designed to lessen congestion in the streets?*

The subject property is bordered on the west by St. Andrews Drive and Almadin Lane, which is proposed to extend through the center of the property. As no structures are proposed for the site, staff finds that these streets will sufficiently serve the subject property.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

At this time, only landscaping is proposed for the site, however should the subject property be developed in the future, the Fire, Police, and Building Departments will review the proposed building plans for compliance with applicable codes.

4. *Will the new zoning promote health and general welfare?*

The proposed zone change will have no adverse impacts on health and general welfare.

5. *Will the new zoning provide adequate light and air?*

Sufficient setbacks are required within the proposed zoning that will allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

At this time, only landscaping is proposed, therefore no overcrowding is anticipated.

7. *Will the new zoning avoid undue concentration of population?*

No additional structures are proposed at this time, which will preclude any undue concentrations of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* The existing streets are sufficient to accommodate the proposed use of entryway landscaping for the subject property.

*Water and Sewerage:* Municipal water and sewer services are available at the site and have the capacity to serve the subject property.

*Schools and Parks:* No structures or uses other than landscaping are proposed at this time, therefore there will be no impact to schools.

*Fire and Police:* The proposed street (Almadin Lane) that will extend through the center of the property was reviewed by the Fire and Police Department with the preliminary plat application; no comments were received. At this time, no additional structures are proposed for the site, therefore no impact to police and fire protection is expected.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The proposed zoning will provide for a landscaped entryway to the proposed Kreitz Heights Subdivision, maintaining a buffer between the proposed street (extension of Almadin Lane) and the adjacent single-family residence to the north.

If development is proposed in the future, the size of the remainder parcels would preclude large structures onsite, therefore any offices or other public uses proposed would have minimal impact on the surrounding residential neighborhood.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

Staff finds that the subject property is suitable for the requested zoning district.

While no structures are proposed at this time, the owners of the subject property may develop at a later date. At that time the building plans will be reviewed for consistency

with required setbacks and maximum lot coverage permitted by Section 27-309 of the Unified Zoning Regulations.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

Staff finds that the proposed zoning will not alter the value of existing structures within the immediate vicinity of the subject property.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Staff finds that the proposed zoning will provide for the most appropriate use of this property, as the remainder parcels created by the proposed road do not satisfy the lot size minimums required for the R-9600 and R-7000 zoning districts. The rezone to Public will bring these remainder lots into conformance with the zoning regulations.

**ATTACHMENT B**

**ORDINANCE NO. 04-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR LOT 1, BLOCK 27, LAKE HILLS SUBDIVISION 6<sup>TH</sup> FILING, LOCATED WITHIN SECTION 16, TOWNSHIP 1N, RANGE 26E, P.M.M, YELLOWSTONE COUNTY, MONTANA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. RECITALS. *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC*, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.

2. DESCRIPTION. Lot 1, Block 27, Lake Hills Subdivision 6<sup>TH</sup> Filing is presently zoned **Residential 7000 on the northern portion and residential 9600 on the southern portion** and is shown on the official zoning map within these zones.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 7000 and Residential 9600** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Public** as set forth in the Billings, Montana City Code.

4. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading January 24, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 14, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#753

[\(Back to Consent Agenda\)](#)

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AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Preliminary Plat of Amended Lot 1, Block 17 of Daniel's Subdivision, Second Filing

**DEPARTMENT:** Planning and Community Services

**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** The applicant is requesting preliminary plat approval of Amended Lot 1, Block 17 of Daniel's Subdivision Second Filing, which was submitted on January 6, 2005. Pursuant to Section 23-404(c) of the Billings City Code, the City Council shall act on a preliminary minor plat within 35 working days of the application submittal.

**ALTERNATIVES ANALYZED:** State and City subdivision regulations require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. The City Council is required to:

1. Approve
2. Conditionally Approve; or
3. Deny the Preliminary Plat

**FINANCIAL IMPACT:** Should the City Council approve the preliminary plat, the subject property may further develop, resulting in additional tax revenues for the City.

**RECOMMENDATION**

Staff recommends that the City Council conditionally approve the Preliminary Plat of the Amended Plat of Lot 1, Block 17 of Daniel's Subdivision Second Filing and adopt the Findings of Fact as presented in the staff report.

**Approved by:** **City Administrator** \_\_\_\_\_ **City Attorney** \_\_\_\_\_

**ATTACHMENTS**

- A: Plat
- B: Site Photographs
- C: Mayor's Approval Letter
- D: Findings of Fact

## **INTRODUCTION**

The proposed subdivision would create five (5) lots, each containing 7,277 square feet for residential use and one (1) remainder lot containing 4.03 acres. Lot 1 contains the existing Heights Assembly of God Church and the five (5) proposed lots are vacant. The subject property is located along the southeast corner of the intersection of Hawthorne Lane and Mary Street and is zoned Residential 7000 (R-7000). The subject property is bordered on the north by vacant land, and on the south, east, and west by single-family residences.

This application is being processed as a Minor Subdivision, as a remainder parcel is permitted per the City Subdivision Regulations, provided that the remainder is retained by the landowner. (Section 23-1501(g)(1)) In this case, the existing church is contained on Lot 1, which is evidence that the landowner intends to retain ownership of the remainder. As such, the remainder parcel is not subject to review with this application or the surveying requirements. A major plat application will be required for any further subdivision of the remainder parcel. (Section 23-1501(g)(2))

## **PROCEDURAL HISTORY**

- The subject property was annexed into the City on November 11, 1988.
- A Special Review for the existing church was approved on October 19, 1992.
- The preliminary plat application was submitted to the Planning Department on January 6, 2005.
- The City Council will consider the application on February 14, 2005.

## **BACKGROUND**

General location:	Southeast corner of the intersection of Hawthorne Lane and Mary Street
Legal Description:	Amended Lot 1, Block 17 of Daniel's Subdivision, Second Filing
Subdivider/Owner:	Heights Assembly of God Church
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	R-7000
Surrounding zoning:	North: R-7,000; South: R-7000; East: R-7000; West: R-7000
Existing land use:	Proposed Lots 1A – 1E are vacant Lot 1 (the remainder) contains the existing church
Proposed land use:	Single-Family Residence

Gross area:	4.87 acres
Lots:	Five (5), each containing 7,277 SF and a remainder parcel containing 4.03 acres
Dedications:	None – previously satisfied with Second Filing

### **ALTERNATIVES ANALYSIS**

One of the purposes of the subdivision review process is to identify potentially negative impacts of a subdivision on adjacent properties. When negative impacts are identified, it is the subdivider's responsibility to mitigate those impacts. Various City departments, utility companies and other agencies have reviewed this application and provided input on potential impacts and mitigation. The Findings of Fact, which are presented as Attachment D, discuss the potential negative impacts that have been identified by the reviewing agencies. The following conditions are recommended as a measure to mitigate any negative impacts:

### **RECOMMENDED CONDITIONS**

1. A statement shall be added to Item E(2) of the Subdivision Improvements Agreement (SIA) that the proposed lots are subject to the Wastewater System Development Fee in effect at the time of obtaining a wastewater service connection permit. (*Recommended by the Public Works Department*)
2. A note shall be added to the SIA, the “Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife and Parks Division does not provide damage assistance in this area.” (*Recommended by Montana Fish, Wildlife, and Parks*)
3. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

### **STAKEHOLDERS**

A public hearing is not scheduled for the City Council meeting; however nearby property/business owners may attend the City Council meeting. The Planning Department has received no public comments or questions regarding the proposed subdivision.

### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

The subdivision is consistent with the 2003 Yellowstone County/City of Billings Growth Policy, the 2000 Transportation Plan and the Heritage Trail Plan. Specific conformance is discussed within the Findings of Fact.

### **RECOMMENDATION**

Staff recommends that the Billings City Council conditionally approve the preliminary plat of the Amended Lot 1, Block 17 of Daniel's Subdivision, Second Filing.

### **ATTACHMENTS**

- A: Preliminary Plat
- B: Site Photographs
- C: Mayor's approval letter
- D: Findings of Fact

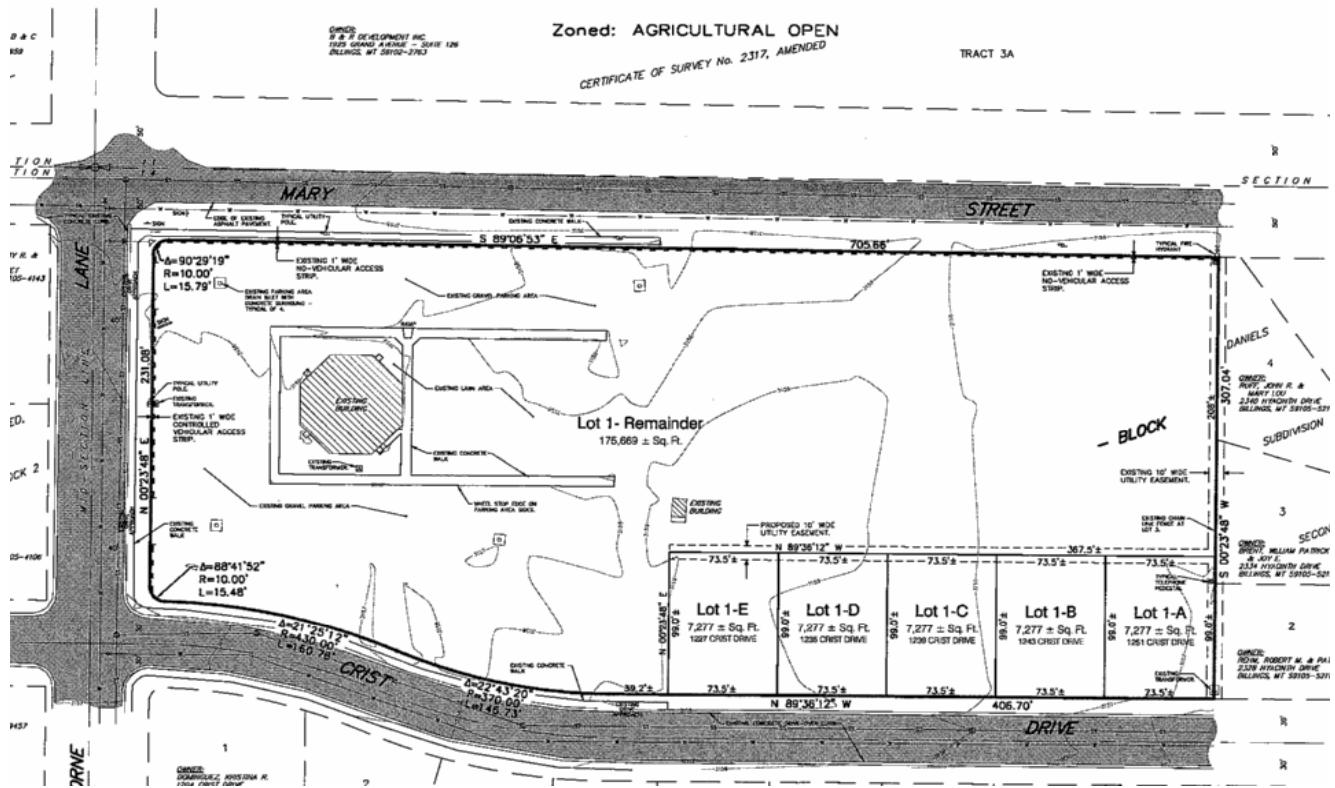
## ATTACHMENT A

Preliminary plat of Amended Lot 1, Block 17, Daniel's Subdivision Second Filing

PRELIMINARY AMENDED PLAT OF LOT 1, BLOCK 17,  
**DANIELS SUBDIVISION SECOND FILING**  
SITUATED IN NE 1/4, SECTION 14, T. 1 N., R. 26 E., P.M.M.  
CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HEIGHTS ASSEMBLY OF GOD  
PREPARED BY : ENGINEERING, INC.  
SCALE : 1" = 40'

JANUARY, 2005  
BILLINGS, MONTANA  
20° 9° 40° 80°



ATTACHMENT B - Site Photographs



Figure 1: View looking east across existing gravel parking area (located on the northern portion of the property) lot toward single family residences.



Figure 2: View from the existing parking area (located on the northern portion of the property) looking west toward the intersection of Mary Street and Hawthorne Lane.



Figure 3: View from the parking area (located on the north portion of the property) looking south toward single-family residences along Crist Drive. The existing church is depicted in the photograph.



Figure 4: View from existing parking lot (located on the northern portion of the property) looking east. Mary Street (depicted in the photograph) is located along the north property line of the subject property

ATTACHMENT C  
Mayor's approval letter  
Amended Lot 1, Block 17, Daniel's Subdivision Second Filing

February 14, 2005

Heights Assembly of God Church  
2345 Hawthorne Lane  
Billings, Montana 59105

Dear Property Owner:

On February 14, 2005, the Billings City Council approved the preliminary plat of the preliminary plat of Amended Lot 1, Block 17, Daniel's Subdivision Second Filing, subject to the following conditions of approval:

1. A statement shall be added to Item E(2) of the Subdivision Improvements Agreement (SIA) that the proposed lots are subject to the Wastewater System Development Fee in effect at the time of obtaining a wastewater service connection permit. (*Recommended by the Public Works Department*)
2. A note shall be added to the SIA, the "Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife and Parks Division does not provide damage assistance in this area." (*Recommended by Montana Fish, Wildlife, and Parks*)
3. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
4. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions regarding the conditions of approval, please contact Aura Lindstrand with Planning and Community Services at 247-8663 or by email at [lindstranda@ci.billings.mt.us](mailto:lindstranda@ci.billings.mt.us).

The Governing Body's decision may be appealed within 30 days to the Montana District Court for Yellowstone County.

Sincerely,

---

Charles F. Tooley, Mayor

Cc: Peter Knapp, Engineering, Inc.

**ATTACHMENT D**

**Findings of Fact**

Amended Lot 1, Block 17, Daniel's Subdivision Second Filing  
February 14, 2005

**A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health, safety and welfare? [BMCC 23-304(c) (1) and MCA 76-3-608(3) (a)]**

**1. Effect on agriculture and agricultural water users' facilities**

The proposed subdivision should have no effect on agriculture or agricultural water users' facilities. The subject property is not currently used for agriculture and is bordered on three sides by residential development. No irrigation facilities are apparent on the subject property.

**2. Effect on local services**

- a. Utilities – Water and sewer lines (8 inch water lateral and 8 inch sewer lateral) and a storm drain are in place on Crist Drive. Condition #1 specifies that the subject lots are subject to the Wastewater System Development Fee in effect at the time of obtaining a wastewater service connection permit.
- b. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for the additional waste.
- c. Streets - No street dedication or construction is proposed for this subdivision. The proposed lots are to be accessed via private driveways from Crist Drive.
- d. Emergency services – Billings Police and Fire Departments (Billings Heights) will respond to emergencies within the proposed subdivision. The nearest fire station is located at 1601 St. Andrews Drive (Station #6). The subdivision is located within the ambulance service area of American Medical Response.
- e. Schools – The proposed subdivision is located within School District #2. Staff finds that the student population impact of any proposed residential development will be minimal. No comments were received by the school district regarding this application.
- f. Parks and Recreation – There is no parkland dedication requirement, as this is a minor plat. Staff finds that there should be no negative impact on parks and recreation.
- g. MET Transit – The proposed subdivision is not located within a MET transit route at this time.

### 3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment, as there will be short term air and noise pollution associated with construction on the property. However, the property is within an urbanized portion of the city and these effects should be minimal.

### 4. Effect on wildlife and wildlife habitat

The proposed subdivision is within close proximity to prime deer habitat as specified in the review received by the Montana Fish, Wildlife and Parks Division. Potential homeowners should be aware that damage to landscaping may occur and that the Montana Fish, Wildlife and Parks Division does not provide damage assistance in this area.

### 5. Effect on the public health, safety and welfare

The subdivision should not negatively affect public health or safety. The subject property is not within a mapped floodway or flood zone. There are no obvious threats to public health, safety or welfare.

## **B. Was an Environmental Assessment required? [(MCA 76-3-603 and BMCC 23-304(c) (1)]**

An Environmental Assessment is not required, as this is a minor plat.

## **C. Does the subdivision conform to the 2003 Growth Policy and the Urban Area 2000 Transportation Plan? [BMCC 23-304(c) (3)]**

### 1. Growth Policy

The proposed subdivision conforms to the following land use goals of the *Yellowstone County – City of Billings 2003 Growth Policy*.

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns.

*Staff finds that the proposed subdivision is consistent with the neighborhood character, as single-family border the subject property on three (3) sides and single-family residences are proposed for the property to the north.*

- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.

*Staff finds that the proposed development is compatible with the surrounding single-family residences.*

### 2. Urban Area Transportation Plan

The proposed subdivision adheres to the goals and objectives of the 2000 Transportation Plan and preserves the street network and street hierarchy specified within the plan.

**3. Heritage Trail Plan**

The subdivision is not on the Heritage Trail Plan for the preservation of future trail system. Hawthorne Lane is identified as a secondary bikeway; however a striped bike path is not in place at this time. No improvements are required for this subdivision.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [MCA 76-3-608(3) (b) and BMCC 23-304(c) (4)]**

The proposed subdivision satisfies the requirements of the Montana Subdivision and Platting Act and the local subdivision regulations. The subdivider and the local government have complied with the subdivision review and approval procedures set forth in the local and state subdivision regulations.

**E. Does the subdivision conform to sanitary requirements? [BMCC 23-304 (c) (5)]**

The property is served by municipal water, sewer, storm drain and solid waste services, which will be extended from Crist Drive to proposed Lots 1A through 1E upon development; the Remainder Parcel already contains these city services. All services are approved and regulated by state and federal authorities.

**F. Does the proposed subdivision conform to all requirements of the zoning in effect? [BMCC 23-304(c) (6)]**

The subject property is located within the Residential 7000 (R-70) zoning district and conforms to the requirements set forth by Article 27-300. Zoning Districts and Official Map of the Unified Zoning Regulations.

**G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 (c) (7)]**

A 10-foot wide utility easement has been provided along the northern boundary of the proposed lots for the provision of utilities.

**H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608(3) (d) and BMCC 23-304(c) (8)]**

Access to the proposed lots will be via private driveways from Crist Drive, a 60-foot wide City right-of-way.

**CONCLUSIONS OF FINDING OF FACT**

- The proposed Amended Plat of Lot 1, Block 17 of Daniel's Subdivision Second Filing does not create any adverse impacts that warrant denial of the subdivision.

- There should be no adverse impacts on local services, as this is an infill development and services are already provided to the subject property and surrounding properties.
- The proposed subdivision conforms to the goals and policies of the 2003 Yellowstone County/City of Billings Growth Policy and does not conflict with the Transportation or Heritage Trail Plan.
- The proposed subdivision complies with State and local subdivision regulations, sanitary requirements, zoning and provides legal and physical access to each parcel.

**Approved by the Billings City Council on February 14, 2005**

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Charles F. Tooley, Mayor

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# R1

AGENDA ITEM:

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14th, 2005**

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**TITLE:** Payment of Claims

**DEPARTMENT:** City Administrator's Office

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,144,218.99 have been audited and are presented for your approval for payment. A complete listing of the claims dated January 7<sup>th</sup>, 2005 is on file in the Finance Department.

**RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

**Approved By:** City Administrator        City Attorney       

**ATTACHMENT:**

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)

# R2

AGENDA ITEM:

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## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

### Monday, February 14th, 2005

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**TITLE:** Payment of Claims

**DEPARTMENT:** City Administrator's Office

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$895,865.97 have been audited and are presented for your approval for payment. A complete listing of the claims dated January 14<sup>th</sup>, 2005 is on file in the Finance Department.

### **RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

**Approved By:** City Administrator        City Attorney       

### **ATTACHMENT:**

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)

# R3

AGENDA ITEM:

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## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

### Monday, February 14th, 2005

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**TITLE:** Payment of Claims

**DEPARTMENT:** City Administrator's Office

**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$587,440.39 have been audited and are presented for your approval for payment. A complete listing of the claims dated January 21st, 2005 is on file in the Finance Department.

### **RECOMMENDATION**

Staff recommends that Council approve Payment of Claims.

**Approved By:** City Administrator        City Attorney       

### **ATTACHMENT:**

A -- List of claims greater than \$2500

[\(Back to Consent Agenda\)](#)

**Agenda Item:**

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**City Council AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Public Hearing and Action on Re-allocation of CDBG funds

**DEPARTMENT:** Planning & Community Development Division

**PRESENTED BY:** John Walsh, Community Development Manager  
Ramona Mattix, Planning Director

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**PROBLEM/ISSUE STATEMENT:** Since July 1<sup>st</sup> the City First Time Homebuyer Program has assisted 28 homebuyers achieve homeownership and expending available HOME funding for the program. In January the City received \$75,000 in American Dream Downpayment Initiative funding for its First Time Homebuyers activities. These funds have been committed to 10 lower income families and will be expended by the end of February. Additional funding for the program is needed to meet the needs of lower income homebuyers in Billings between now and June 30. There is currently a waiting list of 13 families that have applied to the First Time Homebuyers program. These families are waiting for funds to be available to sign a Buy/Sell Agreement to purchase their first home. Applications continue to arrive daily. New funding for First Time Homebuyer activities will not be available until July 1, 2005 program but CDBG funds from the Affordable Housing Fund are available immediately to assist these families. The City's CDBG Citizen Participation Plan requires a public hearing on amendments in excess of \$25,000.

**ALTERNATIVES ANALYZED:** (1) Reallocate the CDBG funds to the City's First Time Homebuyers Program to provide the resources to meet the current needs and expend the funds in a timely manner or; (2) Continue to reserve the CDBG funds for the Affordable Housing Development Fund.

**FINANCIAL IMPACT:**

The recommendation would result in the utilization of existing funds already allocated to the Affordable Housing Development Fund for First Time Homebuyers. There is currently \$370,454 in HOME Entitlement funds available in the Affordable Housing Development Program funding and \$116,000 in CDBG funds. Transfer of the \$100,000 CDBG funds to the First Time Homebuyer Program, would still leave sufficient HOME funds available to assist developers in creating affordable housing opportunities between now and June 30, 2005, when new funding is available.

**RECOMMENDATION**

CD Board and Staff recommend City Council (1) Hold a public hearing on the reallocation of CDBG Affordable Housing Fund to the First Time Homebuyers activities and (2) approve the transfer of

\$100,000 from the CDBG Affordable Housing Development Fund to the First Time Homebuyers Program.

**Approved By:**      **City Administrator**            **City Attorney**      

[\(Back to Regular Agenda\)](#)

**AGENDA ITEM:**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Public Hearing for the MET Transit Downtown Transfer Center

**DEPARTMENT:** Aviation and Transit

**PRESENTED BY:** J. Bruce Putnam, A.A.E., Director of Aviation and Transit

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**PROBLEM/ISSUE STATEMENT:** The issue is the approval of the site for the MET Downtown Transit Center. A final decision must be made to select the site so that planning and design may proceed. A decision needs to be made in order to allow for the timely use of Federal Transit Administration funds of over \$4.4 million. While we can apply for an extension, funds should be committed within this fiscal year to ensure that the initial grant of \$983,679 does not lapse. Approval of the site will allow MET staff to move forward to complete the environmental review and design of the facility. It is important to note that if City property is not utilized the use of eminent domain is likely to be necessary with respect to any other suitable downtown site.

Public Hearing notices were advertised February 3 and February 10, 2005 in the Billings Times for a public hearing on February 14, 2005.

**ALTERNATIVES ANALYZED:** An exhaustive review process resulted in a detailed analysis of 15 locations throughout Downtown Billings. Areas that could be improved aesthetically to improve economic development was one significant criteria utilized. The MET Transit Center Study identified the top locations as sites adjacent to the Federal Court House and city-owned land adjacent to the library. Through a process involving a Review Committee, MET staff, and LSC Transportation Consultants, Inc., the library site was selected as the preferred location. This recommendation was presented to City Council on December 6, 2004.

**FINANCIAL IMPACT:** Non-action could result in needing to submit a request to extend the time limit for the use of these federal funds. Sites other than the city-owned land will require the purchase of land and the relocation of existing businesses or residences. This may increase the cost of the project by as much as \$1.6 million for the land alone and very possibly the use of eminent domain.

Funding for the project will be from the MET capital fund and Federal Transit Administration grants. The city-owned land could be used to provide the required local match equal to 20 percent of the total project.

Every effort will be made to design a cost effective structure while allowing for the flexibility to accommodate a broad range of future development.

**RECOMMENDATION**

Staff recommends that Council that Council approve the use of city owned property located at 4th and Broadway for the construction of a transit center.

**Approved By:**      **City Administrator**             **City Attorney**       

**ATTACHMENTS**

A.      Downtown Transit Center Conceptual Drawing

## **INTRODUCTION**

The purpose of this agenda item is to seek formal approval of City Council on the location of the new MET Downtown Transit Center. The location of the new Transit Center is proposed for a site adjacent to the library on Broadway, at the corner of Broadway and 4<sup>th</sup> Avenue North. The site is presently owned by the City of Billings and is currently being used as parking. There are two vacant buildings which will be demolished. The new MET Transit Center will allow up to 14 buses to use the center at the same time, increasing the efficiency of the transit system by improving transfer connections. MET is planning on replacing the parking lot with a parking deck above the new MET Transfer Center. Above the parking deck, there will be an opportunity to have additional development of downtown housing, retail, library expansion, and/or commercial office space. The new MET Transit Center is estimated to cost \$5.8 million, of which \$1.6 million could be the local match contributed through the use of City-owned land at the proposed site.

## **PROCEDURAL HISTORY**

- LSC Transportation Consultants, Inc. with RNL Design and Terracon was selected as the consultant team to work with MET staff to recommend a preferred site and complete the environmental reviews.
- A Study Review Committee was formed in August 2002 to work with staff and the consultant team. At the initial meeting of the Study Review Committee, facility requirements and site selection criteria were developed.
- The site selection criteria were then applied to these sites. The criteria included the potential for economic development. Areas that could be improved aesthetically to improve economic development were given special attention. Other important criteria included adequate size, access, proximity to downtown for passenger convenience, adjacent uses, and consistency with the Downtown Framework Plan.
- Staff and LSC identified 15 potential sites within downtown for consideration. These were presented to the Study Review Committee in September 2002. The Committee visited each of the sites and provided input regarding the suitability of each site.
- A two-day working session was held in the Conference Room at the offices of the Downtown Billings Association and the Downtown Partnership in October 2002. The initial review of the 15 sites was presented by the consultant team at the beginning of the two days. Seven sites were selected for more detailed comparison. Site concepts and the context of each site were developed and then presented to the Study Review Committee at the end of the two days. The Study Review Committee recommended further consideration of three candidate sites.
- The three sites were presented to Council in January 2003. Council directed staff to move forward with acquisition and development on one of three sites.
- The environmental analysis was completed for the vacant lot located between North 25<sup>th</sup> Street, North 24<sup>th</sup> Street, 3<sup>rd</sup> Avenue North, and 4<sup>th</sup> Avenue North. Development on that site precluded use of the site.
- The environmental analysis was completed for the site adjacent to the Federal Courthouse. Two appraisals and a review appraisal were completed. The documentation was

submitted to the Federal Transit Administration and a Categorical Exclusion was granted under the National Environmental Protection Act.

- Staff presented the site evaluation and recommendations to Council on November 1, 2004. Staff was directed to reconsider the site adjacent to the Federal Courthouse and the site adjacent to the library.
- Staff met with the Study Review Committee on November 30, 2004 to present the comparison of the two sites. The Study Review Committee recommended the library site with consideration for future development above the transit center.
- Staff presented the Study Review Committee recommendation to Council on December 6, 2004. Council concurred with the Committee recommendation and staff has begun to move forward to obtain FTA approval for the site adjacent to the library.

## **BACKGROUND**

The Transit Center will provide a facility which will improve the capability for passengers to transfer between buses. MET operates as a timed-transfer pulse system. Buses meet at two transfer points—Downtown and Stewart Park. As a pulse system, many passengers must transfer between routes at these transfer centers. Currently, approximately 25 percent of all passengers make transfers as part of their trip. The Downtown Transit Center also serves as the primary bus stop location in the downtown area.

Although an average of 600 boardings, half of which are transfers, occur daily Downtown, there is no facility. All buses stop at on-street bus stops along four block faces. Passengers may have to walk up to two blocks, crossing two streets, to transfer between routes. The street crossings are at signalized intersections, but the time required to make transfers detracts from the system's efficiency and is very inconvenient for passengers. Passengers with disabilities in particular have difficulty transferring at the Downtown location. Because of the one-way streets, drivers often drop passengers off at an earlier stop in order to make the connection. Drivers must frequently alert one another by radio to wait for transferring passengers.

Billings completed a detailed route and schedule analysis in 2002. The analysis considered four different operating scenarios. Based on a detailed evaluation and public input, the recommended system is to retain the pulse with convenient transfers at Stewart Park and Downtown.

Downtown is a major destination and, with its orientation to the Billings street network, is well-suited as a location for a transfer center.

Billings has received over \$4.4 million for development of the Downtown Transit Center. The funds have been received in three grants through the Federal Transit Administration. Use of these funds is limited to development of a Transit Center. The first grant will potentially lapse at the end of this Federal fiscal year if the funds are not committed to an approved site, and would require that we request a time extension from the Federal Transit Administration.

MET staff completed an analysis of 15 alternate sites within Downtown Billings. The original 15 sites and the recommended 3 candidate sites were presented to Council in January 2003. Council directed staff to proceed with acquisition and development on one of the three sites.

Staff submitted the site selection report and environmental documentation to the Federal Transit Administration in 2004 for the site adjacent to the Federal Courthouse. The Federal Transit Administration granted a Categorical Exclusion and approval to proceed with development of that site.

Questions were raised by Council regarding the site which would require purchase of the land and facility owned by the Billings Federal Credit Union. Staff presented the site selection process and recommendations to Council on November 1, 2004. Council directed staff to reconsider the site adjacent to the library and the Federal Courthouse site.

Considerations for the library site have changed significantly since the original site selection process. Initially the site had scored quite high but because of “pending development” the site was taken out of further consideration. Additionally, at that time one of the major pieces of property was not under City ownership. The development plans have not been pursued and the site is now available for redevelopment as part of the Downtown Framework Plan.

Staff prepared a direct comparison between the two sites and presented the comparison to the Study Review Committee on November 30, 2004. After review of the site selection criteria and much discussion, the Committee recommended use of the 4<sup>th</sup> and Broadway site. Use of the 4<sup>th</sup> and Broadway site is supported with the condition that future development be incorporated above the transit center. Staff also met with the Library Director to discuss issues related to development of the site and impacts on the library.

Staff presented the recommendation of the Study Review Committee which was the recommendation of the 4<sup>th</sup> and Broadway site to Council on December 6, 2004. Council concurred with the recommendation and directed staff to move forward on the library site.

Additionally, on Tuesday, January 4, 2005, the Aviation/Transit Commission voted to support construction of a transit facility at 4<sup>th</sup> and Broadway.

## **ALTERNATIVES ANALYSIS**

The full analysis of the alternatives consisting of the 15 sites is presented in the Site Selection Report submitted to the Federal Transit Administration and available from MET staff. The following provides the comparison of the two sites by the library and by the Federal Courthouse.

<u>Criteria</u>	<u>Federal Bld.</u>	<u>Library</u>
Size	45,000 Square Feet	45,000 Square Feet
Shape	Rectangular ½ block	Rectangular ½ block
East/West Access	Very Good	Good
Access to Major Streets	3 <sup>rd</sup> Avenue North 4 <sup>th</sup> Avenue North	4 <sup>th</sup> Avenue North North 28 <sup>th</sup>
Proximity to Downtown	Within 5 minutes	Within 5 minutes
Adjacent Uses	Courthouse Offices Apartments	Motel Library Church Offices
Environmental Issues	Review Complete FONSI Appropriate Use	No Review Completed Noise Issue Review Required Site More Favorable For Redevelopment
Consistency with Framework Plan	Good	Good
Visibility	Demolish two structures	Demolish two structures
Site Preparations	Credit Union	None on the primary site
Relocation of Uses	Diamond Parking	
Displaced Parking	-93 With one deck: 0	-154 With one deck: -35
Estimated Cost	\$3,520,000*	\$3,250,000*
Estimated Cost with Parking Structure	\$5,101,000	\$5,273,000
Land Cost	\$1,663,000**	City Owned***
Total	\$5,183,000 to \$6,764,000	\$3,250,000 to \$5,273,000

\*Costs include the transit platform and associated costs and a 4,000 square foot building.

\*\*Current Appraised Value.

\*\*\*Significant Advantage.

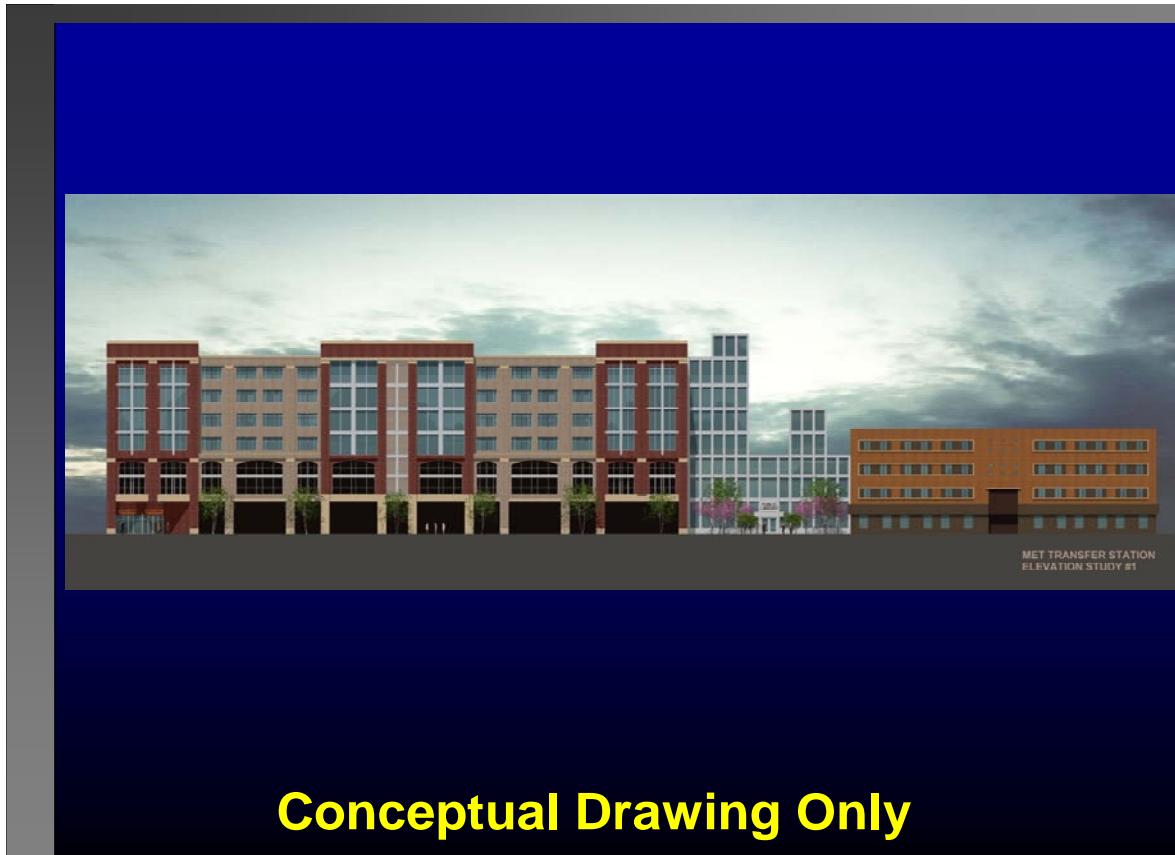
### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Development of a Downtown Transit Center is consistent with the Downtown Framework Plan and with zoning in Downtown. Both sites are consistent with plans for Downtown. The library site has been identified for possible redevelopment and use of this site should include development above the transit center.

It is staff's intention to solicit for appropriate A&E firms to insure a cost effective design that provides the ability to accommodate future development. In addition, special attention will be paid to forming a review committee representing all interested parties to aid in the design and implementation of the project.

## **RECOMMENDATION**

Staff recommends that Council approve the use of city owned property located at 4th and Broadway for the construction of a transit center.



**Conceptual Drawing Only**

[\(Back to Regular Agenda\)](#)

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Zone Change #750 - 1<sup>st</sup> Reading of Ordinance

**DEPARTMENT:** Planning and Community Services

**PRESENTED BY:** Aura Lindstrand, Planner II

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**PROBLEM/ISSUE STATEMENT:** A rezone request of Tract B2-A of Certificate of Survey 1056 Amended (final plat approved on December 13, 2004, for Lots 1-4 of King Place Subdivision) from Residential-7000 (R-7000) to Residential Multi-Family Restricted (RMF-R) and Neighborhood Commercial (NC). The City Zoning Commission conducted a public hearing on January 4, 2005, and is forwarding a recommendation of approval to the City Council.

**ALTERNATIVES ANALYZED:** Section 76-2-304 of the Montana Code Annotated (MCA) requires that all zone changes be reviewed in accordance with 12 criteria. Utilizing the 12 criteria to determine the appropriateness of the zone change request, the City Council may:

1. Approve the zone change request
2. Deny the zone change request
3. Allow withdrawal of the application
4. Delay action for up to thirty (30) days

**FINANCIAL IMPACT:** The proposed zone change would permit commercial and multiple family residential units on the subject property, which would increase the taxable value of the property.

**RECOMMENDATION**

The Zoning Commission recommends that the City Council approve Zone Change #750 and adopt the determinations of the discussed 12 criteria. A valid protest has been filed against the proposed zone change, therefore a two-thirds (2/3) favorable vote of the present City Council members is required for approval (Section 76-2-305(2), MCA).

**Approved by:** \_\_\_\_\_ **City Administrator** \_\_\_\_\_ **City Attorney**

**ATTACHMENTS:**

- A: Zoning Map
- B: Zoning Exhibit/Zoning Comparison Table
- C: Protest Petition – Valid Protest (dated January 3, 2005)
- D: 150 Foot Radius Map for Protest Petition
- E: Site photographs
- F: Ordinance

## **INTRODUCTION**

The applicant is requesting to rezone of Tract B2-A of Certificate of Survey 1056 Amended (final plat approved on December 13, 2004, for Lots 1-4 of King Place Subdivision) from Residential-7000 (R-7000) to Residential Multi-Family Restricted (RMF-R) and Neighborhood Commercial (NC).

## **PROCEDURAL HISTORY**

- Yellowstone County ZC #80 on Tract B from Residential-7000 (R-7000) to Community Commercial was denied in 1976.
- The subject property was annexed into the City of Billings in July of 1984.
- ZC# 646 - A zone change from R-7000 to Neighborhood Commercial (NC) and Public (P) zoning on portions of Tract B was withdrawn on April 26, 1999.
- The Zoning Commission conducted a public hearing on December 7, 2004, and voted 4-0 to continue this item to the January 4, 2005, Zoning Commission meeting.
- The City Council approved the final plat for Lots 1-4 of King Place Subdivision (previously Tract B2-A of Certificate of Survey 1056 Amended) on December 13, 2004. To date, the final plat has not been recorded.
- The Zoning Commission conducted a public hearing on January 4, 2005, and voted 3-0 to forward a positive recommendation to the City Council for the proposed zone change.
- The City Council conducted a public hearing on January 24, 2005, and deferred action to the February 14, 2005, City Council meeting in order for staff to organize a neighborhood meeting with applicant and the surrounding property owners.
- The neighborhood meeting will be conducted on February 9, 2005.
- Should the ordinance be approved on first reading, the City Council will consider the zone change for a second reading on February 28, 2005.

## **BACKGROUND**

The applicant is requesting to rezone Tract B2-A of Certificate of Survey 1056 Amended (final plat approved on December 13, 2004, for Lots 1-4 of King Place Subdivision) from R-7000 to NC and RMF-R. The subject property contains approximately 8 acres; 2.68 acres (proposed Lots 1 and 2) to be rezoned to Neighborhood Commercial (NC) and 5.23 acres (proposed Lots 3 and 4) to be rezoned to Residential Multi-Family Restricted (RMF-R). The purpose for the rezone is to provide for limited commercial uses on proposed Lots 1 and 2 and to provide residential apartments for median income tenants on proposed Lots 3 and 4.

Staff finds that the proposed rezone would provide a transitional zone between the existing Community Commercial (CC) zone located on the southwest corner of Wicks Lane and Bench Boulevard and the Residential 7000 (R-7000) zone directly adjacent to the north and south of the subject property. The proposed multi-family zoning will further provide a buffer between the adjacent single-family residential uses to the south and the existing and proposed commercial uses to the west and north of this portion (proposed Lots 3 and 4) of the subject property.

A Protest Petition was submitted to the Planning Department on January 3, 2005, and is included as an attachment. Pursuant to Section 76-2-305(2) of the Montana Code Annotated (MCA), a

protest petition against a zone change shall be signed by 25% or more of the surrounding property owners within 150 feet of the subject property for the proposed zone change. The submitted Protest has been determined valid, as 47% of the owner's signatures within 150 feet of the subject property (15 surrounding properties identified within 150 feet) have been included. As such, the MCA specifies that such petitioned zone changes shall only be approved if two-thirds (2/3) of the present and voting members of the Council vote favorably for the application.

Due to comments and concerns received at the January 24, 2005, City Council meeting, staff has completed a comparison analysis of the potential density of the subject property as it is currently zoned and the potential density of the proposed RMFR zoning on the southern portion of the property (depicted in Attachment B). The NC zoning proposed for the northern portion of the property would permit for generally small scale commercial uses, as any structure containing more than 3,000 square feet would require a Special Review to examine the compatibility and mitigate impacts on the surrounding residential neighborhood. In addition, liquor licenses are not permitted within the NC zoning district, therefore no structures containing gaming or the sale of alcohol will be constructed on the site.

### **ALTERNATIVES ANALYSIS**

The City Council may approve, deny, delay or allow withdrawal of the zone change. All zone changes shall be evaluated using the 12 criteria within Section 76-2-304 of the Montana Code Annotated (MCA), as follows:

Prior to forwarding a recommendation to the City Council, the City Zoning Commission shall consider the following 12 criteria for zone changes:

1. *Is the new zoning designed in accordance with the Growth Policy?*

Chapter 3: Community Goals/Objectives of the Growth Policy Plan specifies that there is a desire for more housing and business choices within neighborhoods. Staff finds that the proposed zoning will further provide the surrounding residential and commercial neighborhoods with commercial amenities within a close walking distance. The proposed zoning will allow for a mix of residential and commercial uses.

Additionally, the proposal is an infill development that helps to control urban sprawl. The primary utility services and street system are in place, therefore the property will utilize existing infrastructure which reduces the public cost of new developments.

3. *Is the new zoning designed to lessen congestion in the streets?*

Wicks Lane is located along the northern portion of the subject property and Bench Boulevard abuts the western boundary of the property. Staff finds that these streets are sufficient to accommodate the proposed commercial and multi-family uses, as the applicant is proposing limited street improvements with the proposed subdivision application. Furthermore, a Traffic Accessibility Study identifying specific traffic

generation for the site will potentially be required upon further development of this property.

3. *Will the new zoning secure safety from fire, panic and other dangers?*

At this time, no structures are proposed for the site, however upon submittal of a subdivision application and/or building plans, the Fire, Police, and Building Departments will review the proposed development for compliance with applicable codes.

4. *Will the new zoning promote health and general welfare?*

The proposed Neighborhood Commercial zoning permits more limited uses than those permitted on the adjacent Community Commercial zoning. The proposed multiple family uses to be located on the southern portion of the site will create a buffer zone between the neighboring single-family residential uses.

5. *Will the new zoning provide adequate light and air?*

Sufficient setbacks are required within the proposed zoning that will allow for adequate light and air.

6. *Will the new zoning prevent overcrowding of land?*

The proposed zoning, as well as all zoning districts, provide restrictions on the maximum percentage of lot area that can be covered with structures. Furthermore, retail structures greater than 3,000 square feet within the Neighborhood Commercial zoning district require a Special Review in order to determine compatibility with surrounding land uses. The above restrictions will help to prevent crowding within the proposed zoning.

7. *Will the new zoning avoid undue concentration of population?*

Staff finds that the proposed commercial and residential uses should not create an undue concentration of population.

8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*

*Transportation:* In regard to traffic generation, staff finds that the proposed zoning is no more intense than the commercial uses (Wal-Mart) and the medical office structures to the west of the subject property. A Traffic Accessibility Study identifying specific traffic generation for the site will potentially be required upon further development of this property.

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*Water and Sewerage:* Municipal water and sewer services are available at the site and have the capacity to serve the subject property.

*Schools and Parks:* The proposed subdivision is located within School District #2. Staff finds that the student population impact of any proposed residential development will be minimal. With the uses proposed for the commercial zoning there will be no impacts to schools. No comments were received by the school district regarding this application.

There is no parkland dedication requirement for Lots 1 and 2, as they are proposed for commercial development. However, Lots 3 and 4 will be developed as multi-family residential units and are subject to the parkland requirement. The applicant has indicated that they will pay a cash-in-lieu for the proposed parkland requirement as necessary for the final plat.

*Fire and Police:* The Police and Fire Departments review subdivision applications and will determine potential impacts upon submittal of a Preliminary Plat application.

9. *Does the new zoning give reasonable consideration to the character of the district?*

The proposed zoning will give reasonable consideration to the character of the district by providing a transition zone between the multi-family residential uses proposed for the southern portion of the property and the proposed commercially zoned northern portion of the property, as well as the existing commercial properties to the west.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*

Staff finds that the subject property is suitable for the requested zoning district. The uses permitted within the Neighborhood Commercial and the Residential Multi-Family Restricted zoning districts are compatible with the surrounding residential and commercial uses.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*

Staff finds that the proposed zoning will not alter the value of existing structures within the immediate vicinity of the subject property, as the property is bordered on the west by commercial development and on the north and east by churches that tend to generate commercial traffic volumes on a limited basis.

Due to an increase in traffic volume on Wicks Lane by over 60% within the last 10 years, there has been some depreciation in value of the existing single-family residences along

this section of Wicks Lane. However, as a principle arterial, the land use along Wicks Lane is anticipated to be a mix of commercial and residential uses. The proposed zone change is intended to provide neighborhood services for the existing and developing subdivisions within this area. Such services may include, but not be limited to office uses, a convenience store, or a restaurant that does not provide alcohol or gaming.

The proposed zone change should not further depreciate the value of the existing single-family uses within the area.

12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*

Staff finds that the proposed zoning for the northern portion of the subject property, which will permit limited commercial development, will promote the most appropriate use for the subject property. Furthermore, the proposed multi-family zoning for the southern portion of the property will create a buffer zone between the surrounding residential uses to the north and south of the subject property.

## **STAKEHOLDERS**

The Zoning Commission conducted a public hearing on January 4, 2005, for the proposed zone change request and recommended 3-0 to forward a positive recommendation to the City Council.

The City Council conducted a public hearing for the proposed zone change on January 24, 2005, and voted to defer action to the February 14, 2005, City Council meeting in order for staff to conduct a neighborhood meeting.

There were several surrounding property owners present at both hearings with the following concerns regarding the potential zone change:

- Increased traffic on both Wicks and Bench, specifically with the proposed access points to King Place Subdivision.
- Public safety for children in the neighborhood walking to school with a commercial use on this corner, as the property is bordered on the north and south by residences. Additionally, there were concerns regarding the number of children that would be located within the subdivision, as Bitterroot Elementary School is already overcrowded.
- An increase in the crime rates in this portion of the city with the proposed multi-family development on the southern portion of the site.
- Concerns on the type of development proposed for the northern portion of the site. The applicant has stated that a bank is proposed for one (1) of the lots, however there are no specific plans for the other commercial lot (NC will somewhat limit the uses and require Special Reviews on any structure greater than 3,000 square feet.

- A decrease in property values due to the commercial uses that may be developed on the site.

Rod Wilson (owner) and Kurt Thomson of Engineering Inc. (agent) were present at the hearing to answer questions.

#### **CONSISTENCY WITH ADOPTED POLICIES OR PLANS**

Consistency with the 2003 Growth Policy Plan is discussed in the Alternatives Analysis section of this report.

#### **RECOMMENDATION**

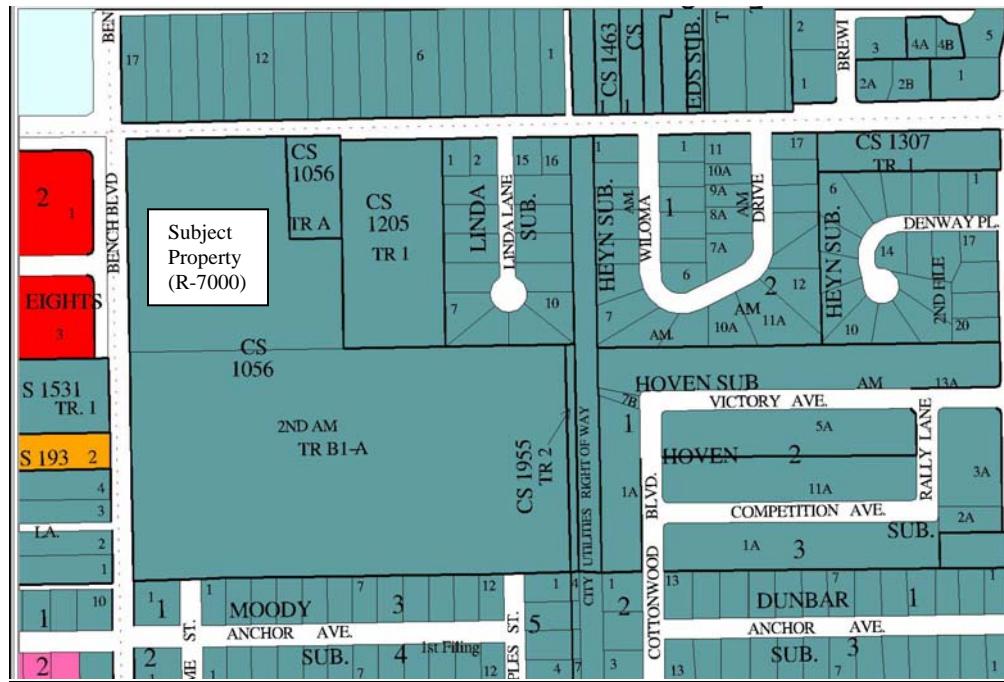
The Zoning Commission recommends that the City Council approve Zone Change #750 and adopt the determinations of the discussed 12 criteria.

**\*\*NOTE\*\* Due to the submitted valid protest against this zone change application, a two-thirds (2/3) favorable vote of the present City Council Members is required for approval (Section 76-2-305(2), MCA).**

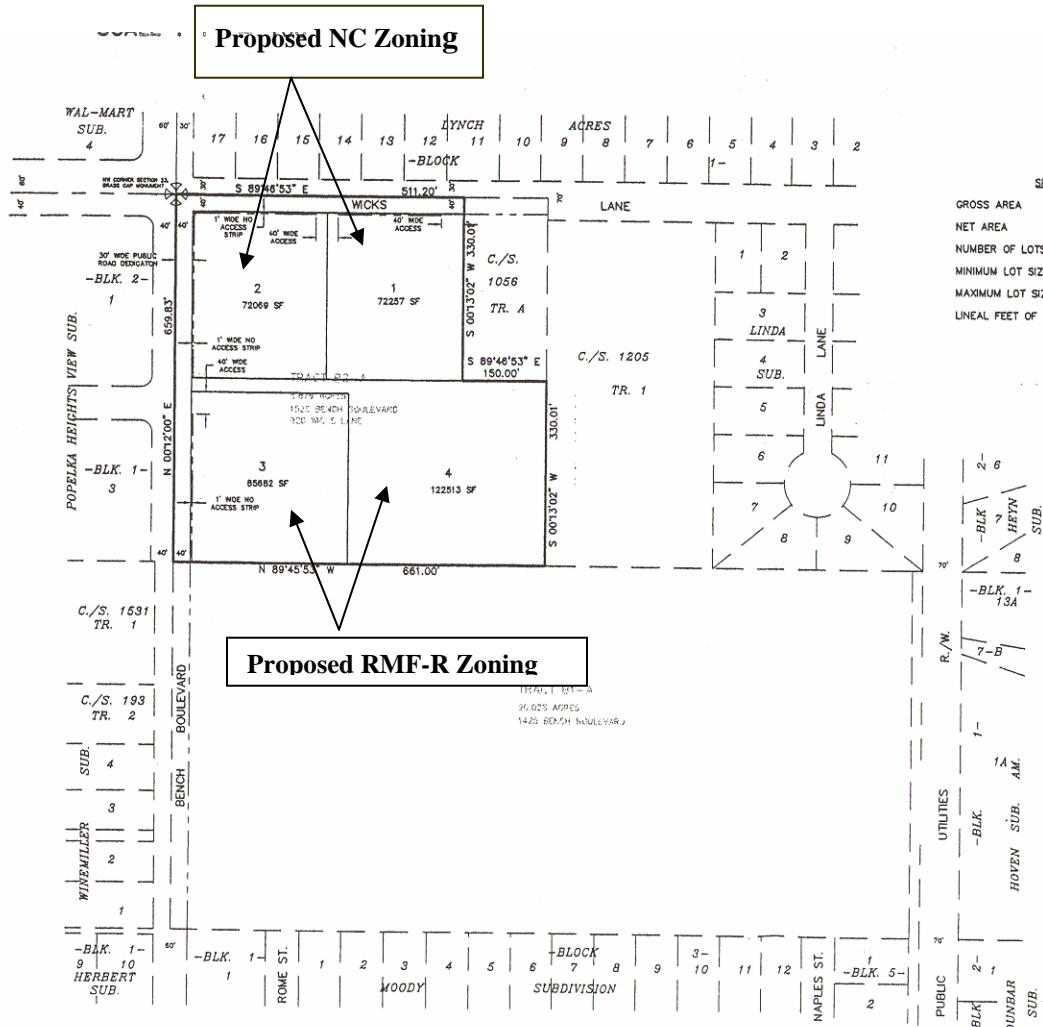
#### **ATTACHMENTS:**

- A: Zoning Map
- B: Zoning Exhibit /Zoning Comparison Table
- C: Protest Petition – Valid Protest (dated January 3, 2005)
- D: 150 Foot Radius Map for Protest Petition
- E: Site photographs
- F: Ordinance

**Attachment A**  
Surrounding Zoning



## Attachment B Zoning Exhibit



### ZONING COMPARISON TABLE

	Potential Density for the Entire Site Currently Zoned R-7000*	Potential Density for the Southern Portion of the Site Proposed Zoning RMFR*
<b>Gross Square Footage (Acreage)</b>	352,721 SF (8.09 acres)	208,395 SF (4.78 acres)
<b>Potential Residential Density</b>	44 Single-Family Residences 32 Duplexes (64 Dwelling Units)	109 Units

\* Please note that these calculations are based on potentially one (1) 60-foot wide right-of-way (approximately 40,000 square feet) dissecting the property (as depicted on the above plat) and does not account for additional accesses, right-of-ways, maximum lot coverage, required landscaping, etc.

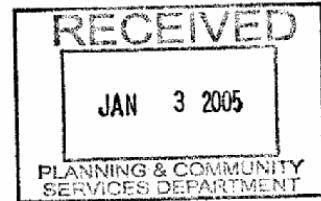
**Attachment C**  
Protest Petition

**PETITION AGAINST CITY ZONE CHANGE #750: PROJECT #04-00000545**

A zone change for tract B2-A of Certificate of Survey 1056 Amended (proposed Lots 1-4 of King Place Subdivision) from Residential 7000 (R-7000) zoning to Neighborhood Commercial (NC) zoning for the northern portion of the subject property and Residential Multi-Family-Restricted (RMFR) zoning for the southern portion of the subject property. The subject property is located along the southeast corner of Bench Boulevard and Wicks Lane; property owner: King Place, LLC.

We feel that the rezoning of this area from R7000 to NC and RMFR is not in keeping with the character of the neighborhood and neighborhood plans, and oppose the Planning Department opinions on their following criterion:

1. A. We already have sufficient commercial amenities within 1 block.
  - a. Wal-Mart
  - b. Deaconess Billings Clinic
  - c. Post Office
  - d. Best Friends Animal Hospital
  - e. mini mall
  - f. gas station with convenience store
  - g. eateries
  - h. Big Lots & Dollar Store
- B. To control urban sprawl it would be better kept as R7000 for single dwelling and duplex homes.
2. When you add the proposed zone change to the high congestion of Wal-Mart you certainly will increase the street congestion dramatically.
3. With the addition of RMFR, which drastically increases density, and a possible 24 hour commercial operation, the threat of drugs and crime increase is certainly a concern of all the home owners who now live in the lowest crime rate area in the city.
4. There already is a buffer --- Bench Boulevard. To allow this zone change would set a precedent as there are NO commercial structures on the east side of Bench Blvd. at this time.
6. The zone change will certainly create more crowding than R7000.
8. A. Transportation: When you add Wal-Mart to the proposed traffic generation, we feel the result will be a dramatic increase.  
C. Schools: The closest school (Bitterroot Elementary) is already 2 classes



above capacity and buses kindergarten children. Changing R7000 to RMFR ( 3 story apartment buildings ) would drastically increase the school aged population. Also, it would not be compatible to NC as the children would have to go by or through the NC area.

9. Absolutely not. The present character east of Bench Blvd. is a peaceful neighborhood with the lowest crime rate in the city. This zoning change will definitely change that character of our neighborhood.

11. This criterion is completely untrue. This area is absolutely NOT surrounded on 3 sides by commercial property. There is NO commercial development east of Bench Blvd. We have contacted 5 Real Estate agents and they have all confirmed our worst fears that the property values of the existing homes next to the proposed change as well as those on Anchor St. and Linda Lane will become much lower.

12. We feel that the most appropriate use of this property is to have it remain R7000 and keep Bench Blvd. as the buffer between single/duplex dwellings and commercial development. We now live in the lowest crime rate area of the city and sincerely hope to keep it this way.

We appreciate the opportunity to air our deepest concerns and hope that you will consider them carefully because we live here, we care about our neighborhood, and want to continue to live and raise our families in our present pleasant environment.

Sincerely,

Dec. 30 & 31, 2004

name	address	phone #
Anthony L. Samse	427 Wicks Ln	244-2328 ✓
Rey M. Redel	821 Wicks Ln	252-0842
Georgene H. Coble	835 Wicks Lane	254-2548 ✓
John C. Cope	835 Wicks Lane	671-1880 ✓
Barbara K. Hob	1448 Bench	245-3646 ✓
Orpha C. Richards	855 Wicks	✓
Lillian Bergam	845 Wicks Ln.	256-8521 ✓
David Lucker	1605 Bench Blvd	256-1913 ✓

Sincerely,

name	address	phone #
Brian Burgesson	1528 Linda Lane	252-2989
David Koffler	815 Wicks	252-0501V
Wenigh Jarmal	827 Wicks Ln	248-2328V

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## NEIGHBORHOOD PETITION

This petition is in support of the Petition Against City Zone Change # 750:  
Project # 04-00000545.

We feel that the rezoning of this area from R7000 to NC and RMFR is not in keeping with the character of the neighborhood and neighborhood plans, and oppose the Planning Department opinions.

Although we do not live within 150 feet of the proposed zone change, we feel that the long range effect of this zone change will drastically alter the entire neighborhood. Increased traffic, population density, crime rate increase, school crowding, and property value decrease are a grave concern and we hope you will consider the ENTIRE neighborhood and NOT just one small section.

Dec. 30 & 31, 2004

name

address

Mitchell Ratz	1432 BENCH ST NW
Kim Dill	924 Wicks Ln
Benjamin E. Kaiser	940 Wicks Ln
Maurina L. Bryan	1543 Linda Ln
Joyce Hayes	1536 Linda Ln.
Luth Zader	1535 Linda Lane <sup>59105</sup>
David Spence	1514 Linda Lane
Neal Keithley	1504 Linda Lane
Chris Petersen III	945 Wicks
Jim Ostermiller	945 Wicks
Pat Brenner	927 Wicks
C MARTINEZ	915 WICKS LANE

Name

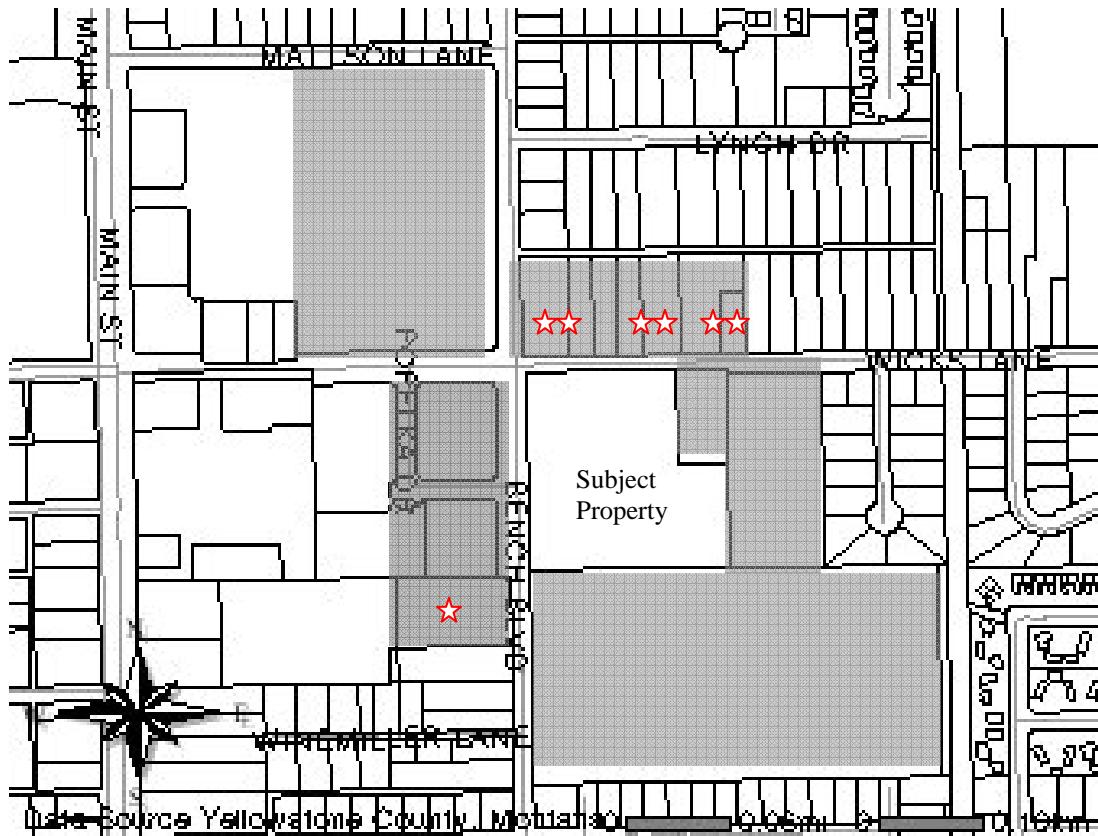
Address

Lyann Coxe	903 Wicks Ln
Krische Boelter	939 Wicks Ln
Brian Boehler	939 Wicks Ln
Lisa Wart	1503 Linda Lane

<u>Name</u>	<u>Address</u>
Lola Yukonich	830 Anchor Ave.
James P. Vukovich	830 Anchor Ave.
Robert J. Harpster	806 anchor ave
Ada R. Harpster	806 anchor ave
Craig Boyd	1331 Rome ST
G. Don Martin	828 Anchor Ave.
Kathleen Lienzen	904 Anchor Ave.
Normand Lienzen	904 Anchor Ave
Dan McMullen	920 Anchor Ave
Mary McMullen	920 Anchor Ave.
Carolyn Ocean Jr	1330 Naples
Lynd K. Christ	1347 Naples St.
<del>John K. May</del>	909 Anchor Ave.
<del>Carolyn May</del>	834 ANCHOR AVE.
Michael J. O'Day Jr	824 Anchor Ave
Tom D. Martin	824 Anchor Ave.
Jeffrey M. Duncan	912 Anchor Ave
Thomas E. Duncan	912 Anchor
Kathleen Owens	1330 Naples
Charles F. Miller	1347 Naples St.
Donna MC Martin	916 Anchor St
Zack Gustav	838 Anchor ST.
David K. Sheehee	1527 Linda Ln.
Kathy Strecken	1527 Linda Lane

<u>Name</u>	<u>Address</u>
Ed Ellard	835 Anchor Ave.
Ed Ellard	827 Anchor St.
Ryan Sherrard	823 Anchor St
Tabitha Sherrard	823 Anchor St.
Butly P. Lind	831 Anchor St.
Chris Sjoholm	105 Anchor St
Leo & Dorothy Ebach	909 Anchor
Ed Taylor	1341 Naples St.
Mail Rogeness	" "
Alma Smith	1335 Naples, Billings 59105
Michael Smith	1335 Naples, 59105
Louise Ellard	835 Anchor
Fidel Gutierrez	1503 Linda LN Billings MT

**Attachment D**  
150 foot Radius Map for Protest Petition



■ Represents approximate boundaries of properties within 150 feet

☆ Property owners that signed the Protest Petition

\* As calculated, 47% of the property owners within 150 feet of the subject property signed the petition.

**Attachment E**  
Site Photographs



**Figure 1:** From northwest corner of the subject property looking east toward a church and residential uses.  
(Wicks Lane is located along the northern border of the property in the photograph)



**Figure 2:** From the northwest corner of the subject property looking south toward the adjacent single-family residential uses.  
(Bench Boulevard is along the western boundary of the property in the photograph)



**Figure 3:** From the northwest corner of the property looking northwest the intersection of Bench and Wicks and the adjacent commercial use (Wal-Mart).



**Figure 4:** From the northwest corner of the property looking north toward a church and single-family residences.  
(Wicks Lane is along the northern boundary of the property in the photograph)

**Attachment F**

**ORDINANCE NO. 04-**

**AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Tract B2-A of Certificate of Survey 1056 Amended located within Section 23, Township 1N, Range 26E, P.M.M, Yellowstone County, Montana.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. **RECITALS.** *Title 76, Chapter 2, Part 3, MCA, and Sections 27-302 and 27-1502, BMCC, provide for amendment to the City Zoning Map from time to time. The City Zoning Commission and staff have reviewed the proposed zoning for the real property hereinafter described. The Zoning Commission and staff have considered the twelve (12) criteria required by Title 76, Chapter 2, Part 3, MCA. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the twelve (12) criteria required by state law.*

2. **DESCRIPTION.** Tract B2-A of Certificate of Survey 1056 Amended, Section 23, Township 1N, Range 26E, P.M.M., Yellowstone County, Montana, the property is presently zoned Residential 7000 and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 7000 to Residential Multi-Family Restricted on the south half of the property and Neighborhood Commercial on the north half of the property** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential Multi-Family Restricted and Neighborhood Commercial** as set forth in the Billings, Montana City Code.

4. **REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

5. **EFFECTIVE DATE.** This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading February 14, 2005.

PASSED, ADOPTED AND APPROVED on second reading February 28, 2005.

CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley, Mayor

ATTEST:

BY:  
Marita Herold, CMC/AAE, City Clerk

ZC#750

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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, February 14, 2005**

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**TITLE:** Public Hearing and Resolution Approving the CIP

**DEPARTMENT:** City Administration/Public Works

**PRESENTED BY:** Tina Volek, Asst. City Admin. & Vern Heisler, City Engineer

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**PROBLEM/ISSUE STATEMENT:** The 2006-11 Capital Improvements Program (CIP) is scheduled to be reviewed by the City Council at a February 7, 2005, work session. Based on the outcome of that meeting, the Council is asked to hold a public hearing on the CIP on February 14, and consider final adoption on Feb. 28, 2005.

**ALTERNATIVES ANALYZED:**

- Hold a public hearing and defer action to February 28.
- Hold a public hearing, amend the program to include any desired projects, and defer final action to February 28, so an appropriate adopting resolution can be prepared.
- Hold a public hearing and postpone action indefinitely.

**FINANCIAL IMPACT:** The CIP prioritizes major capital projects for funding in 2006-11. However, the availability of dollars to fund projects, especially those related to bonds that require elections or to projects from the General Fund, is unknown at this time.

**RECOMMENDATION**

Staff recommends that Council hold a public hearing, amend the program to include any desired projects, and defer final action to February 28 so an appropriate adopting resolution can be prepared.

**Approved By:**      **City Administrator**            **City Attorney**      

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