

# CITY OF BILLINGS

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

## AGENDA

**CALL TO ORDER – Mayor Pro Tem Don Jones**  
**PLEDGE OF ALLEGIANCE-- Mayor Pro Tem Don Jones**  
**INVOCATION – Councilmember Dave Brown**

## ROLL CALL

## **MINUTES – May 9, 2005**

## MINUTES IN COURTESIES

## PROCLAMATIONS

#### ▪ **May: Foster Care Month**

BOARD & COMMISSION REPORTS – Animal Control Board

## **BOARD & COMMISSION RE: CITY - Animal ADMINISTRATOR REPORTS - Kristoff Bauer**

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Item: #1 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) Airport Business Park Pavement Rehabilitation.** (Opened 5/10/05). Recommend Harddrives Construction, Inc., \$119,431.00. (Corresponding Staff Memo A1)

**(2) Primary and Secondary Anaerobic Digester Cleaning Project.**  
(Opened 5/10/05). Recommend Walker Centrifuge Services, \$78,575.00.  
(Corresponding Staff Memo A2)

**B. Approval** of Recreational Trails Program Grant application for a maximum of \$70,000.00 for a portion of the Gabel Road Connector Trail Project. (20% match required, \$17,500 maximum).

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

**C. Approval** of the Coal Trust Fund Program Grant application for \$1,765,419.00 to construct a new access road, parking, utilities and related improvements in Coulson Park.

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

**D. Approval of Right-of-Way Agreements for Grand Avenue Widening:**

(1) W.O. 00-15, Parcel 111: Leann Davis Lane, Marilyn Davis Bunce and Gary L. Davis, A tract of land located in Lot 2, Block 1, Cellan Acre Tracts in SW4 of Section 31, T1N-R26E, \$0.00.

[\(Corresponding Staff Memo D1\)](#)

(2) W.O. 00-15, Parcels 138 & 139: Chris Bakwin, Parcel 138: A tract of land in the east 25 feet of Lot 12, Lot 13 and the west 17 feet of Lot 14, Block 2, Sunset Subdivision, 2<sup>nd</sup> filing., \$29,300.00. Parcel 139: a tract of land in Lot 14, except the west 17 feet, Lots 14-16, Block 2, Sunset Sub., 2<sup>nd</sup> Filing, \$62,950.00.

[\(Corresponding Staff Memo D2\)](#)

**E. Resolution** authorizing an interfund loan from the Solid Waste Fund to the Public Safety Fund for acquisition of land at 1524 54<sup>th</sup> Street West for the new Fire Station, \$200,000.00.

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

**F. Resolution of Intent** to expand Park Maintenance District #4005 in High Sierra Sub., 3<sup>rd</sup> and 4<sup>th</sup> Filings and setting a public hearing date for 6/13/05.

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

**G. Resolution of Intent** to expand Park Maintenance District #4014 in Goodman Sub., 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings and setting a public hearing date for 6/13/05.

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

**H. Resolution** de-annexing an approximate 2-acre parcel described as S2N2SW4NE4NE4 of Section 27, T1N-R26E from the City of Billings (Annex #04-14). Staff recommends approval of withdrawal of the application at the request of the applicant.

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

**I. Resolution** relating to refunding Special Improvement District Bonds, authorizing the issuance and calling for the public sale thereof.

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

**J. Street closure** for Yellowstone Art Museum *Arts and Crafts SummerFair*, July 8-10, 2005, north lane of 6<sup>th</sup> Avenue from 19<sup>th</sup> Street to 22nd Street.

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

**K. Street closure** for St. Vincent Healthcare's *Heart and Sole Race*, June 11, 2005, 12<sup>th</sup> Ave. N. by Yellowstone Medical Center entrance, Elevation Ave. and N. 29<sup>th</sup> and N. 30<sup>th</sup> Sts., Poly Dr. and Medical Center Dr, Grandview Blvd. and Ash St., Poly Dr. and University Ave, N. 32<sup>nd</sup> St. and Locust St., Poly Dr. and N. 27<sup>th</sup> St. to Virginia Ln. and N. 30<sup>th</sup> St. and Grandview Blvd. and Poly Dr. and 7<sup>th</sup> Ave. N.

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

**L. Street closure** for Jaycee's *Western Days Craft Fair and Street Dance*, June 18, 2005, N. 26<sup>th</sup> St. to N. 27<sup>th</sup> St. on 2<sup>nd</sup> Ave. N.

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

**M. Street closure** for Jaycee's *Western Days Car Show*, June 18, 2005, N. 25<sup>th</sup> St. to N. 26<sup>th</sup> St. on 2<sup>nd</sup> Ave. N.

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

**N. Street closure** for Jaycee's *Western Days Parade*, June 18, 2005, established downtown parade route.

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

**O. Final Plat** of OCSS Subdivision.

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

**P. Final Plat** of High Sierra Subdivision, 4<sup>th</sup> filing.

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

**Q. Bills and Payroll.**

(1) April 22, 2005

[\(Corresponding Staff Memo Q1\)](#)

(2) April 29, 2005

[\(Corresponding Staff Memo Q2\)](#)

(3) May 6, 2005

[\(Corresponding Staff Memo Q3\)](#)

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

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND FIRST READING ORDINANCE** extending the boundaries of Ward V to include the recently annexed properties in Annex #05-03: approximately 25 acres located south of the intersection of 52<sup>nd</sup> Street West and Grand Avenue. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

3. **PUBLIC HEARING AND FIRST READING ORDINANCE** extending the boundaries of Ward IV to include the recently annexed properties in Annex #05-02: a portion of the W2W2SW4 of Section 32, T1N-R25E containing 40.5 acres located on the east side of 54<sup>th</sup> Street West, north of Grand Avenue. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 3\)](#)
4. **PUBLIC HEARING AND RESOLUTION** creating PMD 4026, Uinta Park Subdivision. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 4\)](#)
5. **PUBLIC HEARING AND RESOLUTION** approving use of Council Contingency Funds up to \$46,000 for Police Department deep cleaning/repairs. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 5\)](#)
6. **PUBLIC HEARING AND RESOLUTION ADOPTING A DEANNEXATION POLICY.** Staff recommends adoption of the deannexation policy. **(Action:** approval or disapproval of Staff recommendation.)  
[\(Corresponding Staff Memo 6\)](#)
7. **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**

# A1

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 23, 2004

**TITLE:** Airport Paving Project

**DEPARTMENT:** Aviation and Transit

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

**PROBLEM/ISSUE STATEMENT:** The Airport is bidding two paving projects together to achieve better pricing for a larger piece of work. The two paving projects, included in the City's Capital Improvement program, are the Business Park paving and the Expansion of the Rental Car Return Lot. The Business Park Paving project is the next portion of a multi-year program to rehabilitate the pavement in the Airport Business Park. This project will replace the asphalt paving on North View Drive from Gate 29 to Rimtop Drive, and will rehabilitate the asphalt in the vehicle staging area north of the Interagency Fire Operations Building, which is used to store equipment and supplies for the Bureau of Land Management's wildfire fighting operations. The asphalt paving in the Airport Business Park complex is over 20 years old and has deteriorated into loose gravel and potholes, and needs to be replaced. The Expansion of the Rental Car Return Lot paving is the result of the new Air Traffic Control Tower project requiring a secured parking area for Federal Aviation Administration (FAA) staff. To accomplish this, the parking area that was utilized by the rental car agencies was incorporated into the FAA Lease, for which a negotiated reimbursement was received to pay for the paving needed to reestablish a paved return lot for the car rental agencies. The following bids were received on this project:

| <b><u>CONTRACTOR</u></b>      | <b><u>BID AMOUNT</u></b> |
|-------------------------------|--------------------------|
| Harddrives Construction, Inc. | \$119,431                |
| Empire Sand and Gravel        | \$130,925                |
| Engineers Estimate            | \$149,725                |

#### **FINANCIAL IMPACT:**

The total cost of this project is \$119,431. Sufficient funds are budgeted in the Airport's Capital Improvement Program to cover the cost of this project.

**RECOMMENDATION**

Staff recommends that the City Council award the Airport Paving Project to the lowest bidder Harddrives Construction, Inc., for the amount of \$119,431.

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

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# A2

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 23, 2005

**TITLE:** Award for Primary and Secondary Anaerobic Digester Solids Removal, Hydrowashing and Dewatering Project

**DEPARTMENT:** Public Works

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

**PROBLEM/ISSUE STATEMENT:** The anaerobic digestion process results in a buildup of inorganic solids and sludges that are not able to be treated by the equipment at the plant. The secondary digester has not been cleaned since it was placed in service in 1985. The primary digester has not been cleaned in six years. This project will provide for the removal of solids and sludges, washing of the digesters and dewatering of the solids and sludges for disposal at the landfill.

**FINANCIAL IMPACT:** Bids were opened on May 10, 2005 and the results are as follows:

|                            | Lump Sum     | Deduct*     |
|----------------------------|--------------|-------------|
| Trimax Residuals           | \$206,208.54 | \$30,923.56 |
| Merrell Bros.              | \$187,812.00 | No Deduct   |
| Walker Centrifuge Services | \$ 78,575.00 | \$18,310.00 |

\* The bid documents included a deduction for the primary digester in the event the Lump Sum bid exceeded budgeted funds. Because the Lump Sum bid from the low bidder did not exceed budgeted funds, the Deduct will not be exercised and the bid will be awarded based on the Lump Sum.

### **RECOMMENDATION**

Staff recommends that Council award the Primary and Secondary Anaerobic Digester Solids Removal, Hydrowashing and Dewatering Project to Walker Centrifuge Services in the amount of \$78,575.00. There are sufficient funds in the FY05 budget to cover this expense.

**Approved By:**  **City Administrator**  **City Attorney**   
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# B

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

#### CITY OF BILLINGS, MONTANA

#### Monday, May, 23 2005

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**TITLE:** Recreational Trails Program Grant application for Gabel Road Connector

**DEPARTMENT:** Planning and Community Services Department, Ramona Mattix, AICP, Director

**PRESENTED BY:** Darlene Tussing, Alternate Modes Coordinator

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**PROBLEM/ISSUE STATEMENT:** The City of Billings is seeking supplemental funding for a portion of the Gabel Road Connector Trail that will run from King Ave. to Shiloh (ZooMontana) with a side leg running east to connect to the Midland Subdivision Trail behind Big Bear and Best Buy that was already privately constructed. A portion of the project has already been approved for CTEP (Community Transportation Enhancement Program) funding of \$100,000, which would provide \$36,000 from the 2003 allocation and \$64,000 from the 2004 allocation. This funding will complete the TransTech section of the trail. The Recreational Trails Program (RTP) grant for the year 2006 is due on July 1, 2005, so the City Council is being asked for approval to submit this grant application. The RTP grant is designated for the development of trails and has a maximum grant amount of \$70,000. The RTP grant provides reimbursement after monies have been expended for construction and requires a 20% match. The match of \$17,500 could be provided through the 1999 GO Bond or a request could be submitted to the BikeNet group for the matching dollars as BikeNet members have been raising money for trail project matches with the Ales for Trails fund raising event.

**FINANCIAL IMPACT:** The Recreational Trails Program Grant is being written to provide supplemental funding for a portion of the Gabel Road Connector Trail. The application will request \$70,000 which is the maximum amount the City can receive. The RTP grant will be submitted for the portion of trail that runs from 29<sup>th</sup> St. east to connect to the piece built by the developers along Midland Subdivision. The City is currently acquiring the easement or right of way for this trail segment. This grant provides reimbursement after monies have been expended for the development and requires a 20% match. The match, which will not exceed \$17,500 can be awarded from the 1999 GO Bond with the approval of the City Council. The 1999 GO Bond was identified for the development of the west end trail and was approved by the voters to be used for matching dollars for the trails. As of April 14, 2005, just under \$80,000 was available in the GO Bond account that has not been spent or has not been committed to trail related projects.

## **RECOMMENDATION**

Staff recommends that Council approve the submittal of a Recreational Trails Program grant for a portion of the Gabel Road Connector Trail Project.

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

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C



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, MAY 23, 2005**

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**SUBJECT:** Coal Trust Fund Program Grant Application

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

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

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**PROBLEM/ISSUE STATEMENT:** The City of Billings Parks, Recreation and Public Lands Department would like to have authorization to proceed to seek grant funds to construct a new access road, parking, utilities and related improvements in Coulson Park.

**FINANCIAL IMPACT:** The financial impact of the project is anticipated to be \$1,765,419 to complete the project. There is no matching fund requirement from the City of Billings so there is no City cash outlay anticipated.

**RECOMMENDATION**

Staff recommends that Council approve the grant application to Montana Coal Board in the amount of \$1,765,419.

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

**ATTACHMENTS**

Attachment A: Copy of letter and grant application (3 pages)

Attachment B: Cost Estimate (1 page)

Attachment C: Coulson Park Master Plan (1 page)

**ATTACHMENT A**

May 20, 2005

Ms. Ellen Hanpa  
Program Assistant, Montana Coal Board  
Dept. of Commerce  
301 S. Park  
P.O. Box 200523  
Helena, MT 5960-0523

Dear Ms. Hanpa:

On behalf of the City of Billings please accept the following application for funding through the Montana Coal Board Grant Program.

We are extremely excited about our project and think that our Coulson Park project fits nicely with your grant program due to its proximity to the Corette Plant and other refineries in the immediate area of Coulson Park.

Should you need additional information please contact Don Kearney, Parks, Recreation & Public Lands Director at 406-657-8369.

Sincerely,

Charles F. Tooley, Mayor

## **MONTANA COAL BOARD APPLICATION**

- 1. Name of Applicant:** City of Billings, Montana
- 2. Citation of Applicants Authority:** The City of Billings was incorporated on March 10, 1885 and is authorized to make expenditures to provide for government services and facilities under MCA 7-1-101 and MCA 7-1-102.
- 3. Name of Designated Administrative Official:** Don Kearney, Parks, Recreation & Public Lands Director
- 4. Estimated Total Project cost and Source of Funding:**

|                      |             |
|----------------------|-------------|
| a. Coal Impact Funds | \$1,765,419 |
|----------------------|-------------|
- 5. Project Completion Date:** 12 Months
- 6. Scope of Proposed Project:** The project will construct 3,525' of paved roadway and related improvements in Coulson Park. This is a capital project that would start at the South end of the park and finish on the north end of Coulson Park culminating at the Interstate 90 East Yellowstone River Bridge. The project would be a two lane road with curb and gutter, parking and related amenities. It would also extend utilities to the park which would include potable water, sewer, and electric services.
- 7. Proposed Projects Relationship Coal Development:** Billings is the commercial hub of a geographic region that includes many of Montana's coal producing Counties: Big Horn, Rosebud, and Mussleshell. Residents of these Counties frequent Billings for shopping, entertainment and medical services and benefit from City facilities and amenities. The City of Billings provides many services to these visitors at the expense of City taxpayers including street repair and maintenance, police and fire protection, and parks and recreation facilities and programs. Coulson Park is a regional park, uniquely accessible from the Interstate that can provide a relaxing refuge for the out-of-town visitor. The park also directly serves a coal-related industry by providing immediately adjacent open-space and recreation opportunities to employees of the Corette plant, a one-unit coal-fired plant that employs 33 people. Corette uses low-sulfur coal and a low nitrogen oxide burner system.
- 8. Is the Project for Multi-Jurisdictional Area?** Yes
  - a. Does the project affect more than one unit of local government or special district?** The project once complete would serve the Billings region once developed as envisioned. (See Master Plan Enclosed) One example of this multi-jurisdiction affect was when the City of Billings in cooperation with Yellowstone County and Fish, Wildlife and Parks recently completed a Coulson Park boat ramp project through the Local Government Boating Improvement Grant Program to better serve the recreational boating needs in Montana's Urban Areas.

**b. Is the project sponsored by a combination of jurisdictions? No**

**9. Project Priority: (2)**

**10. Does the State or Federal Law Require the Project? No**

**11. Cite Statute(s) Either Requiring or Exempting Application from Requiring**

**Submission of Bids.** The City of Billings is required to solicit bids for any construction project in excess of \$25,000 as specified in MCA 7-5-4302.

**12. Signatures:**

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**Charles F. Tooley, Mayor**

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# D1

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 23, 2005

**TITLE:** WO 00-15 Grand Avenue Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis

**DEPARTMENT:** Public Works/Engineering

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

**PROBLEM/ISSUE STATEMENT:** Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified with Work Order 92-11 but was further defined on the design plans for the project and must be acquired prior to construction. Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis, owners of the property at 11<sup>th</sup> and Grand, have agreed to donate the necessary right-of-way as shown on the attachment. The City Engineer's Office is working on a subdivision plat which will dedicate the right-of-way.

#### **ALTERNATIVES ANALYZED:**

1. Approve the Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis and authorize the mayor to sign the subdivision plat once completed.
2. Do not approve the Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis or authorize the mayor to sign the subdivision plat once completed.

**FINANCIAL IMPACT:** The Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis have agreed to donate right-of-way for a handicap ramp at 11<sup>th</sup> Street West and Grand Avenue.

#### **RECOMMENDATION**

Staff requests that Council approve the Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis and authorize the mayor to sign the subdivision plat dedicating the right-of-way once completed.

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

**ATTACHMENT**

A. Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis

## **INTRODUCTION**

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction.

## **PROCEDURAL HISTORY**

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

## **BACKGROUND**

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadrmas, Lee, & Jackson.

## **ALTERNATIVES ANALYSIS**

Approve the Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis and authorize the mayor to sign the subdivision plat once completed. Under this option, the City Engineer's Office will complete the subdivision plat dedicating the right-of-way and the right-of-way agreement and the plat will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis or authorize the mayor to sign the subdivision plat once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

## **RECOMMENDATION**

Staff requests that Council approve the Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis and authorize the mayor to sign the subdivision plat dedicating the right-of-way once completed.

## **ATTACHMENTS**

- A. Right-of-Way Agreement with Leann Davis Lane, Marilyn Davis Bunce, and Gary L. Davis

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# D2

## AGENDA ITEM:



### CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, May 23, 2005

**TITLE:** WO 00-15 Grand Avenue Right-of-Way Agreements with Chris Bakwin  
**DEPARTMENT:** Public Works/Engineering  
**PRESENTED BY:** David D. Mumford, PE, Public Works Director

**PROBLEM/ISSUE STATEMENT:** Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified with Work Order 92-11 but was further defined on the design plans for the project and must be acquired prior to construction. Chris Bakwin, owner of the properties at 910, 912, and 922 Grand Avenue has agreed to sell the necessary right-of-way as shown on the attachments and grant temporary construction easements. The City Engineer's Office is working on the subdivision plats which will dedicate the right-of-way.

#### ALTERNATIVES ANALYZED:

3. Approve the Right-of-Way Agreements with Chris Bakwin and authorize the mayor to sign the subdivision plats once completed.
4. Do not approve the Right-of-Way Agreements with Chris Bakwin or authorize the mayor to sign the subdivision plats once completed.

**FINANCIAL IMPACT:** The cost of the right-of-way and construction easement from Chris Bakwin is \$92,250.00 which matches the right-of-way agreements. This will be paid out of Gas Tax in which \$595,000 has been allocated in FY '05 for Grand Avenue.

#### RECOMMENDATION

Staff requests that Council approve the Right-of-Way Agreements with Chris Bakwin and authorize the mayor to sign the subdivision plats for Chris Bakwin dedicating the right-of-way once completed.

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

ATTACHMENT

B. Right-of-Way Agreements with Chris Bakwin

## **INTRODUCTION**

Work Order 00-15 Grand Avenue will widen Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West. The City Engineer's Office has been negotiating for the necessary Right-of-Way from the adjacent property owners for the last year. The Right-of-Way needed was identified on the design plans for the project and must be acquired prior to construction. There are fourteen properties on Grand Avenue in which the City needs to purchase right-of-way.

## **PROCEDURAL HISTORY**

The City Engineer's Office obtained appraisals for all the necessary right-of-way on Grand Avenue and started negotiations with the property owners. The City Engineer's Office then requested and got approved in a Council Work Session to offer land value plus full value for any signs within the requested right-of-way. Once all of the right-of-way properties have been acquired, the City Engineer's Office will begin the construction process, which is anticipated to start in the spring of 2006.

## **BACKGROUND**

The City Engineer's Office has been negotiating with property owners on Grand Avenue from 8<sup>th</sup> Street West to 12<sup>th</sup> Street West for the necessary right-of-way to widen Grand Avenue to a 5-lane section for the last year. There are a number of driveways on Grand Avenue and to accommodate frequent left-turns and traffic volumes, it is necessary to widen Grand Avenue to include a two-way left-turn lane. The design for this project has been completed by Kadrmas, Lee, & Jackson. Once all of the right-of-way has been acquired, construction will begin and is anticipated to take six months to complete.

## **ALTERNATIVES ANALYSIS**

Approve the Right-of-Way Agreements with Chris Bakwin and authorize the mayor to sign the subdivision plats once completed. Under this option, the City Engineer's Office will complete the subdivision plats dedicating the right-of-way and the right-of-way agreements and the plats will be recorded with the Clerk and Recorder's Office.

Do not approve the Right-of-Way Agreement with Chris Bakwin or authorize the mayor to sign the subdivision plats once completed. Under this option, negotiations might fail and further negotiations with other property owners could be in jeopardy.

## **RECOMMENDATION**

Staff requests that Council approve the Right-of-Way Agreements with Chris Bakwin and authorize the mayor to sign the subdivision plats for Chris Bakwin dedicating the right-of-way once completed.

## **ATTACHMENTS**

B. Right-of-Way Agreements with Chris Bakwin

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E

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

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**TITLE:** Inter-Fund Loan from Solid Waste Fund to Public Safety Fund  
**DEPARTMENT:** Administration-Finance Division  
**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

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**PROBLEM/ISSUE STATEMENT:** On May 9, 2005, the City Council approved the purchase of land at 1524 54<sup>th</sup> Street West, on which to build a fire station. As discussed at the budget work session on May 2, 2005, the purchase must be financed because there is not sufficient cash in the Public Safety Fund. The Solid Waste Fund has enough cash in its reserve to finance the land purchase.

**ALTERNATIVES ANALYZED:** The City could borrow funds from a financial institution at a slightly higher interest rate and pay associated loan costs.

**FINANCIAL IMPACT:** The Solid Waste Fund will benefit from additional interest earnings on the loaned funds and the Public Safety Fund will recognize savings in loan fees and in lower interest costs. Interest will be the City's annual rate of return for the previous year ending June 30 plus one-half of one percent applied to the unpaid principal amount. For example using the current City rate of return and the current State lending rate, the interest rate would be 2.636% (2.136% plus .500%) compared to 3.75% if borrowed from the state. In this example, over the life of the loan, the Public Safety Fund would recognize savings of \$6,684 and the Solid Waste Fund would earn an additional \$3,000.

**RECOMMENDATION**

Staff recommends that the City Council approve the Resolution to authorize an inter-fund loan from the Solid Waste Fund to the Public Safety Fund in the amount of \$200,000 to be used for the acquisition of land at 1524 54<sup>th</sup> Street West for the new Fire Station.

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

**ATTACHMENT**

A- Resolution Relating to an Inter-fund Loan and Approving the Terms and Conditions of the Loan

**ATTACHMENT A**

RESOLUTION NO. 05-\_\_\_\_\_

RESOLUTION RELATING TO AN INTER-FUND LOAN AND  
APPROVING THE TERMS AND CONDITIONS OF THE LOAN

BE IT RESOLVED by the City Council (the “Council”) of the City of Billings, Montana (the “City”), as follows:

Section 1. Authorization.

1.01. This Council has approved the purchase of land on which to construct a fire station. The cost of the land will total \$200,000. In order to pay land costs, the Council determined that it was necessary and desirable and in the best interests of the City to finance such costs through an inter-fund loan from the Solid Waste Fund to the Public Safety Fund - Fire Department.

Section 2. Terms.

2.01. The Public Safety Fund will make five annual principal and interest payments to the Solid Waste Fund, commencing on August 1, 2006. The principal portion of each payment will be \$40,000 and interest portion will be the City’s annual rate of return for the previous year ending June 30 plus one-half of one percent applied to the unpaid principal amount.

Passed by the City Council of the City of Billings, Montana, this 23<sup>rd</sup> day of May, 2005.

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Mayor

Attest: \_\_\_\_\_  
City Clerk

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

F

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

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**TITLE:** Resolution Of Intent To Expand Park Maintenance District No. 4005  
**DEPARTMENT:** Department Of Parks, Recreation, & Public Lands  
**PRESENTED BY:** Don Kearney, Director

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**PROBLEM/ISSUE STATEMENT:** The existing Park Maintenance District No. 4005 contains 403,000 square feet (9.25 acres) of dedicated parkland. The expansion of Park Maintenance District No. 4005 to include High Sierra Subdivision, 3<sup>rd</sup> and 4<sup>th</sup> Filings will not add park or public area to the district. Therefore, there will be no additional development or improvement of park area. As a condition of the High Sierra Subdivision, 4<sup>th</sup> Filing final plat approval, the lots must be included in the park maintenance district. The Resolution of Intent to Expand the District is the first step in the process to include all lots of High Sierra Subdivision, 3<sup>rd</sup> and 4<sup>th</sup> Filings in Park Maintenance District No. 4005. It provides for notification of the property owners of the Intent, schedules a public hearing and council consideration of the Resolution to Expand the PMD.

**ALTERNATIVES ANALYZED:**

- Do not expand Park Maintenance District No. 4005
- Expand the Park Maintenance District to include all lots of High Sierra Subdivision 3<sup>rd</sup> and 4<sup>th</sup> Filings, which will be assessed for a portion of the cost of maintaining the existing park areas of the district. (Recommended)

**FINANCIAL IMPACT:** There is no additional cost associated with maintenance in the expansion area. The expansion area's portion of the maintenance cost for the existing park land is estimated to be \$7,356.88, including the cost for the expansion of \$1,950, for the FY 2006 to be assessed in November of 2005. The assessment rate for this amount is \$0.00545 per square foot of property in District 4005. The assessment for the added lots is shown in "Exhibit D" of the attached PMD documents for the coming year. Individual lot assessments will be reduced by about 40% annually as a result of the district being expanded.

## **RECOMMENDATION**

Staff recommends Council approve the Resolution of Intent to Expand Maintenance District No. 4005 to provide a date for the Public Hearing and consideration of the Resolution to Expand the District at the June 13<sup>th</sup>, 2005, City Council meeting.

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

### **ATTACHMENTS:**

- A: Res. Of Intent To Expand Maintenance District No. 4005;
- B: Exhibit A – Map of Proposed Expanded District;
- C: Exhibit B – Metes and Bounds Description of the Proposed Expanded District;
- D: Exhibit C – Property Owners within Proposed Expanded District;
- E: Exhibit D – Estimate of First Year of Cost for Expanded District.

## **INTRODUCTION**

Approval of the Resolution of Intent to Expand Park Maintenance District No. 4005 is the first step in the process to include all lots of High Sierra Subdivision, 3<sup>rd</sup> and 4<sup>th</sup> Filings in Park Maintenance District No. 4005.

## **PROCEDURAL HISTORY**

- The original High Sierra Subdivision Maintenance District 4005 was created through Resolution to Create District Number 86-15207 approved at the January 27<sup>th</sup>, 1986 City Council meeting to provide for the maintenance of approximately 14.2 acres of park and public area in High Sierra Subdivision, 1<sup>st</sup> Filing, installed in accordance with the Subdivision Improvement Agreement for the subdivision.
- The Resolution of Intent To Expand the PMD provides for advertisement and mailing of a public notice to affected property owners explaining the protest and comment procedures and protest period and setting a date for a Public Hearing and Council consideration of the Resolution to Expand the district at the June 13<sup>th</sup>, 2005, regular City Council meeting.

## **BACKGROUND**

To provide the funding needed to develop and maintain park areas in new subdivisions, subdivisions annexed and platted since 1982 have been required to develop parks and to create a Park Maintenance District to maintain them. This assures that the parks are well maintained without increasing the demand on the expenditures of the city general fund and relieves the pressure on existing developed parks. High Sierra Subdivision dedicated all the parkland and constructed the required improvements for park with the 1<sup>st</sup> Filing to include all future filings within High Sierra Subdivision. The High Sierra Subdivision, 3<sup>rd</sup> and 4<sup>th</sup> Filings, Subdivision Improvements Agreements required the lots to be added to the existing Maintenance District. The proposed expanded maintenance district includes 153 additional lots. There are Waivers of Protest on file for the formation of the park maintenance district for all lots within the High Sierra Subdivision.

Approval of the Resolution to Create Expanded Park Maintenance District No. 4005 for High Sierra Subdivision, 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings is the last step in the creation process.

## **ALTERNATIVES ANALYSIS**

- Do not expand the maintenance district at this time and maintain the park improvements as they are currently.
- Expand the Park Maintenance District now to assure assessments can be collected from the expanded lots in November, 2005. The High Sierra Subdivision, 3<sup>rd</sup> and 4<sup>th</sup> Filings assessments for park maintenance are discussed herein.

## **STAKEHOLDERS**

- The developer has agreed to expand the existing Park Maintenance District to include all lots of High Sierra Subdivision, 3<sup>rd</sup> and 4<sup>th</sup> Filings.
- The residents in the subdivision will be aware of the assessment for park maintenance when they purchase a lot or home, and/or a public notice will be advertised and mailed to all property owners within the expansion area informing them of the Intention to Expand Park Maintenance District No. 4005 and of the protest process and Public Hearing scheduled for the June 13<sup>th</sup>, 2005, City Council meeting.
- Few protests are received annually for the Park Maintenance District assessments that are levied throughout the city.
- Park Maintenance Assessments to each lot will be reduced by about 40% with the expanded district.

## **CONSISTENCY WITH ADOPTED POLICIES AND PLANS**

The extension of quality landscape maintenance services to new subdivision parks through the use of Special Improvement Districts and maintaining them through Park Maintenance Districts continues the Parks 20/20 plan recommendations, and conforms to city policy adopted in 1982 regarding new subdivision parks. The use of Park Maintenance Districts has allowed the use of the PRPL Parks grounds keeping staff to provide professional level maintenance to areas of public grounds and landscaping in new subdivisions as they develop and are brought into the city. This has improved the environment, increased the quality of life for Billings' residents, and increased the value of surrounding private property. The revenue provided helps support the overall park operations in all of the general fund supported parks by allowing better trained, more competent staffing and providing added support for state of the art operations and equipment that would be otherwise be limited by General Fund revenue constraints.

Maintaining this park with a maintenance district continues the process of extending maintenance services to the developing areas of Billings even though the revenue growth of the city General Fund has not been adequate to provide for the maintenance of these new parks. Park Maintenance District revenue is estimated to be \$486,683 to offset maintenance expenses in the upcoming 2006 FY PRPL Parks Operation and Maintenance budget and is projected to equal over 25% of the total Parks Division O & M budget this year.

## **RECOMMENDATION**

Staff recommends Council approve the Resolution of Intent to Expand Maintenance District No. 4005 to provide a date for the Public Hearing and consideration of the Resolution to Expand the District at the June 13<sup>th</sup>, 2005, City Council meeting.

**ATTACHMENTS:**

- A: Res. Of Intent To Expand Maintenance District No. 4005;
- B: Exhibit A – Map of Proposed Expanded District;
- C: Exhibit B – Metes and Bounds Description of the Proposed Expanded District;
- D: Exhibit C – Property Owners within Proposed Expanded District;
- E: Exhibit D – Estimate of First Year of Cost for Expanded District.

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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** Resolution Of Intent To Expand Park Maintenance District No. 4014  
**DEPARTMENT:** Department Of Parks, Recreation, & Public Lands  
**PRESENTED BY:** Don Kearney, Director

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**PROBLEM/ISSUE STATEMENT:** The existing Park Maintenance District No. 4014 contains 279,532 square feet (6.42 acres) of dedicated parkland. It includes a rectangular park area in the northwest corner of the district, along with linear park area along the Big Ditch and miscellaneous park access strips throughout. The expansion of Park Maintenance District No. 4014 to include Goodman Subdivision, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings will not add park or public area to the district. Therefore, there will be no additional development or improvement of park area. As a condition of the Goodman Subdivision, 4<sup>th</sup> Filing final plat approval, the lots must belong to a park maintenance district. The Resolution of Intent to Expand the District is the first step in the process to include all lots of Goodman Subdivision, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings in Park Maintenance District No. 4014. It provides for notification of the property owners of the Intent, and schedules a public hearing and council consideration of the Resolution to Expand the PMD for June 13, 2005.

**ALTERNATIVES ANALYZED:**

- Do not expand Park Maintenance District No. 4014
- Expand the Park Maintenance District to include all lots of Goodman Subdivision 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings, which will be assessed for a portion of the cost of maintaining the existing park areas of the district. (Recommended)

**FINANCIAL IMPACT:** There is no cost associated with maintenance in the expansion area. The expansion area's portion of the maintenance cost for the existing park land is estimated to be \$7,625, including the cost for the expansion of \$1,900, for the FY 2006 to be assessed in November of 2005. The assessment rate for this amount is \$0.00206 per square foot of property in District 4014. The assessment for the added lots is shown in "Exhibit D" of the attached PMD documents for the coming year. The addition of the Goodman Subdivision 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Filings to PMD 4014 will result in about a 1/3<sup>rd</sup> reduction in assessments in the entire district annually.

## **RECOMMENDATION**

Staff recommends Council approve the Resolution of Intent to Expand Maintenance District No. 4014 to provide a date for the Public Hearing and consideration of the Resolution to Expand the District at the June 13<sup>th</sup>, 2005, City Council meeting.

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

### **ATTACHMENTS:**

- A: Res. Of Intent To Expand Maintenance District No. 4005;
- B: Exhibit A – Map of Proposed Expanded District;
- C: Exhibit B – Metes and Bounds Description of the Proposed Expanded District;
- D: Exhibit C – Property Owners within Proposed Expanded District;
- E: Exhibit D – Estimate of First Year of Cost for Expanded District.

## **INTRODUCTION**

Approval of the Resolution of Intent to Expand Park Maintenance District No. 4014 is the first step in the process to include all lots of Goodman Subdivision, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings in Park Maintenance District No. 4014.

## **PROCEDURAL HISTORY**

- The June 14, 2000, Subdivision Improvements Agreement adopted by the Billings City Council for Rush Subdivision committed the developers and the owners of the property within the Rush and Shiloh Point Subdivisions to the development of a 4 acre park at Poly Drive and Larchwood Lane and the creation of a Park Maintenance District to maintain it. Waivers of Protest to the development of the park and the creation of a park maintenance district are on file for the property within the proposed district as part of the Subdivision Improvements Agreement.
- The original Resolution of Intent 02-17917 to Create District 4014 was approved at the October 15, 2002, City Council meeting but could not meet the procedural requirements to advertise and mail out a Public Notice of Intent within the specified time limits. That Resolution was repealed as part of the action on the November 25, 2002, Resolution of Intent.
- It was agreed in the Subdivision Improvement Agreement that the larger 4-acre main park would be developed when 90% of the lots within the 2 subdivisions have been built on.
- The original Rush and Shiloh Point Subdivision Maintenance District 4014 was created through Resolution to Create District Number 03-17943 approved at the January 13<sup>th</sup>, 2003, City Council meeting to provide for the maintenance of park and street frontage in Rush Subdivision, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Filings, and Shiloh Point Subdivision, installed in accordance with the Subdivision Improvement Agreements for the two subdivisions.
- The Goodman Subdivision Improvements Agreement for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Filings agreed to include the area within the 4014 Rush and Shiloh Point Subdivisions Park Maintenance District and that Cash would be paid in lieu of park dedication.
- The Resolution of Intent To Expand the PMD provides for advertisement and mailing of a public notice to affected property owner explaining the protest and comment procedures and protest period and setting a date for a Public Hearing and Council consideration of the Resolution to Expand the district at the June 13<sup>th</sup>, 2005, regular City Council meeting.

## **BACKGROUND**

To provide the funding needed to develop and maintain park areas in new subdivisions, subdivisions annexed and platted since 1982 have been required to develop parks and to create a Park Maintenance District to maintain them. This assures that the parks are well maintained without increasing the demand on the expenditures of the city General Fund and relieves the

pressure on existing developed parks. The Goodman Subdivision Improvements Agreement calls for cash-in-lieu to be provided for its parkland dedication requirement. As a result, it is desirable that the lot owners in Goodman Subdivision be responsible for a portion of the maintenance costs associated with other usable parkland areas in their neighborhood. The proposed expanded maintenance district includes 57 additional lots. There are Waivers of Protest on file for the formation of the park maintenance district for all lots within the Goodman Subdivision.

Approval of the Resolution to Create Expanded Park Maintenance District No. 4014 for Rush, Shiloh Point and Goodman Subdivisions is the last step in the creation process.

## **ALTERNATIVES ANALYSIS**

- Do not expand the maintenance district at this time and maintain the park improvements as they are currently.
- Expand the Park Maintenance District now to assure assessments can be collected from the expanded lots in November, 2005. The Goodman Subdivision 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings assessments for park maintenance are discussed herein, but will result in reduced assessments in the entire district. This is the staff recommendation.

## **STAKEHOLDERS**

- The developer has agreed to expand the existing Park Maintenance District to include all lots of Goodman Subdivision, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Filings.
- The residents in the subdivision will be aware of the assessment for park maintenance when they purchase a lot or home, and/or a public notice will be advertised and mailed to all property owners within the expansion area informing them of the Intention to Expand Park Maintenance District No. 4014 and of the protest process and Public Hearing scheduled for the June 13<sup>th</sup>, 2005, City Council meeting.
- Few protests are received annually for the Park Maintenance District assessments that are levied throughout the city.
- The addition of the Goodman Subdivision 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Filings will reduce the cost to each property in the district by about 1/3<sup>rd</sup> of the annual assessments each year.

## **CONSISTENCY WITH ADOPTED POLICIES AND PLANS**

The extension of quality landscape maintenance services to new subdivision parks through the use of Special Improvement Districts and maintaining them through Park Maintenance Districts continues the Parks 20/20 plan recommendations, and conforms to city policy adopted in 1982 regarding new subdivision parks. The use of Park Maintenance Districts has allowed the use of the PRPL Parks grounds keeping staff to provide professional level maintenance to areas of public grounds and landscaping in new subdivisions as they develop and are brought into the city. This has improved the environment, increased the quality of life for Billings' residents, and increased the value of surrounding private property. The revenue provided helps support the overall park operations in all of the General Fund supported parks by allowing better trained,

more competent staffing and providing added support for state of the art operations and equipment that would be otherwise be limited by General Fund revenue constraints.

Maintaining this park with a maintenance district continues the process of extending maintenance services to the developing areas of Billings even though the revenue growth of the city General Fund has not been adequate to provide for the maintenance of these new parks. Park Maintenance District revenue is estimated to be \$486,683 to offset maintenance expenses in the upcoming 2006 FY PRPL Parks Operation and Maintenance budget and is projected to equal over 25% of the total Parks Division O & M budget this year.

## **RECOMMENDATION**

Staff recommends Council approve the Resolution of Intent to Expand Maintenance District No. 4014 to provide a date for the Public Hearing and consideration of the Resolution to Expand the District at the June 13<sup>th</sup>, 2005, City Council meeting.

### **ATTACHMENTS:**

- A: Res. Of Intent To Expand Maintenance District No. 4014;
- B: Exhibit A – Map of Proposed Expanded District;
- C: Exhibit B – Metes and Bounds Description of the Proposed Expanded District;
- D: Exhibit C – Property Owners within Proposed Expanded District;
- E: Exhibit D – Estimate of First Year of Cost for Expanded District.

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**Agenda item:**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**MONDAY, MAY 23, 2005**

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**TITLE:** Resolution of De-Annexation – AN#04-14

**DEPARTMENT:** Planning and Community Services, Ramona Mattix, AICP, Planning Director

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

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**PROBLEM/ISSUE STATEMENT:** Owner and petitioner Bill Dunlap is requesting that the City Council exclude an approximate 2-acre parcel legally described as the S $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 27, T1N, R26E from the City of Billings in accordance with Section 7-2-4803 of the Montana Code Annotated (MCA).

- A Resolution of Intent to conduct a public hearing on the de-annexation request was approved by the City Council on January 24, 2005.
- On February 28, 2005, the City Council continued the public hearing to May 23, 2005, to allow sufficient time for the property to be sold. At that public hearing, the potential property owner requested that the property remain in the city.
- On April 7, 2005, Planning staff received a letter from the applicant requesting to withdraw the application, as the sale of the property has been completed.

**RECOMMENDATION**

Staff recommends that the City Council **approve** the withdrawal of this application for exclusion from the City of Billings.

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

**ATTACHMENTS**

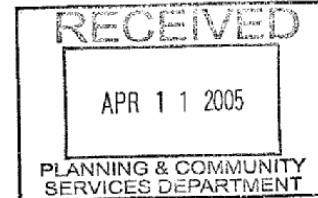
A: Applicant's Withdrawal Request

## **ATTACHMENT A**

April 7, 2005

Aura Lindstrand  
Planning and Community Services Department  
510 North Broadway  
Billings, MT 59101

Property: 637 Lincoln Lane – de-annexation



Dear Ms. Lindstrand:

I am hereby withdrawing my application for de-annexation of this property. The property has been sold and the new owners want the property to remain in the City for future development.

Thank you.

Sincerely,

Bill Dunlap  
P.O. Box 23104  
Billings, MT 59104

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AGENDA ITEM:

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** Resolution Relating to Refunding of Special Improvement Districts and Authorizing the Issuance of Bonds and Calling for the Public Sale Thereof

**DEPARTMENT:** Administration-Finance Division

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

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**PROBLEM/ISSUE STATEMENT:** Refund any SID and Sidewalk bonds that are eligible for refunding and meet the state law requirement of saving .5%. The interest rates are still low and this would save some property owners in their assessment amount. Springsted (the City's financial advisor) will call prospective purchasers for a quote. The attached resolution authorizes the City Administrator or designee to select the purchaser based on Springsted's recommendation and set the terms of the bonds. The sale is a negotiated sale and will need to be finalized prior to May 27<sup>th</sup> in order to send call statements to the bond holders.

**ALTERNATIVES ANALYZED:**

1. Don't refund the bond issues
2. Refund the five bond issues that qualify for refunding

**FINANCIAL IMPACT:** Not refunding the bonds would not save any property owners money in assessments. Refunding will save five bond issues a little over \$60,000.

**RECOMMENDATION**

Staff recommends that Council approve the resolution relating to refunding special improvement districts.

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

**ATTACHMENT**

**A – Resolution prepared by Dorsey & Whitney**

## **INTRODUCTION**

The Finance Division wants to take advantage of a favorable interest rate market for debt and review all SID and Sidewalk bond issues for refunding.

## **BACKGROUND**

Finance, along with our financial consultant and bond council, reviewed 29 SID and 29 sidewalk bond issues. There were two criteria each issue had to meet to qualify for refunding. First, they had to be callable on July 1<sup>st</sup> per the official statement. Second, each issue had to realize a net interest savings of .5%. There were five bond issues that qualified for refunding in the amount of \$1,360,000. Using a loan from the SID revolving fund money another seven bond issues will be called in the amount of \$272,000. The assessments from the seven districts will repay the revolving fund. There was not a significant savings in refunding the sidewalk bond issues.

## **ALTERNATIVES ANALYZED:**

1. Don't refund the bond issues.
2. Refund the five bond issues that can be refunded.

## **RECOMMENDATION**

Staff recommends that Council approve the resolution relating to refunding special improvement districts.

## **ATTACHMENTS**

A – Resolution prepared by Dorsey & Whitney

**ATTACHMENT A****CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE**

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Yellowstone County, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 05-\_\_\_\_\_, entitled: "RESOLUTION RELATING TO POOLED SPECIAL IMPROVEMENT DISTRICT REFUNDING BONDS, SERIES 2005; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE REDEMPTION OF CERTAIN OTHER SPECIAL IMPROVEMENT DISTRICT BONDS OF THE CITY" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on May 23, 2005, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: \_\_\_\_\_; voted against the same: \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_ day of May, 2005.

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\_\_\_\_\_  
City Clerk

RESOLUTION NO. 05-

RESOLUTION RELATING TO POOLED SPECIAL IMPROVEMENT  
DISTRICT REFUNDING BONDS, SERIES 2005; AUTHORIZING THE  
ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE  
REDEMPTION OF CERTAIN OTHER SPECIAL IMPROVEMENT DISTRICT  
BONDS OF THE CITY

BE IT RESOLVED by the City Council of the City of Billings, Yellowstone County, Montana (the "City"), as follows:

**Recitals.** The City, pursuant to Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended (the "Act"), has issued its special improvement district bonds (the "Outstanding Bonds") drawn against the funds of, and to finance the costs of improvements in, the following special improvement districts of the City: Special Improvement District Nos. 1327, 1332, 1334, 1335 and 1340 (the "Districts"). All of the improvements financed from the proceeds of the Outstanding Bonds have been completed and all proceeds of the Outstanding Bonds and investment income thereon to be applied to costs of the improvements have been so applied or have been applied to the partial redemption of the Outstanding Bonds drawn on the respective Districts, except for certain proceeds of certain of the Outstanding Bonds on deposit in the Special Improvement District Revolving Fund of the City (the "Revolving Fund").

**Authorization.** Montana Code Annotated, Section 7-12-4194 authorizes the issuance of special improvement district bonds under the Act to provide money needed to pay principal of and interest on outstanding bonds if the rate of interest on the refunding bonds is not less than one-half of one percent (0.50%) a year less than the rate of interest on the bonds to be refunded. Section 7-12-4193 authorizes the pooling of bonds of more than one special improvement district if the pooling is in the best interest of the city and the respective districts and will facilitate the sale of the bonds under more advantageous terms or with lower interest rates and if the pooled bonds are secured by the special improvement district revolving fund of the City. In addition, the City is authorized by Section 7-12-4204(1) to sell special improvement district bonds at a price less than the principal amount thereof, but including interest thereon to the date of delivery, if this Council determines that such sale is in the best interests of the district and the City.

**Pooling and Issuance of Refunding Bonds.** It is hereby determined that it is in the best interests of the City and the owners of property in the Districts for the City to sell its pooled special improvement district refunding bonds, pursuant to Montana Code Annotated, Sections 7-12-4193 and 7-12-4194, in order to provide funds to be used, with other available funds in the district funds relating to the Districts, to refund the Outstanding Bonds in advance of their stated maturities. Such bonds shall be denominated "Pooled Special Improvement District Refunding Bonds, Series 2005 (the "Bonds"), and shall be issued in an aggregate principal amount not exceeding the outstanding principal amount of the Outstanding Bonds. This Council hereby finds that the pooling into a single refunding bond issue of the bond issues required to refund each issue of the Outstanding Bonds is in the best interest of the City and each of the Districts and will facilitate the sale of the Bonds because the size of the issue will attract more interest in the marketplace and thus help to lower interest rates on the Bonds, and because a single refunding issue will reduce the costs and expenses of the refunding. Because the Bonds will be

issued in a principal amount not greater than the outstanding principal amount of the Outstanding Bonds, no public hearing is required to establish the desirability of issuing the Bonds to refund the Outstanding Bonds.

The reason for issuing the Bonds is to achieve debt service savings for each of the Districts, now estimated in the aggregate on a present value basis (using 4.011% as the discount rate) at \$60,043. The savings will benefit each of the Districts and the owners of property therein by reducing the total cost of the improvements financed therein and will benefit the City by reducing the liability of the Revolving Fund with respect to the Outstanding Bonds.

Pursuant to the authority described in Section 2, this Council hereby determines to fix the minimum price for the Bonds at ninety-nine percent (99.0%) of the principal amount thereof, plus interest accrued thereon, if any, to the date of delivery, as further provided in Section 5. Such minimum bid will enable the Purchaser (as hereinafter defined) to sell the Bonds more efficiently based on actual market conditions without adjusting the interest rates thereon to provide compensation for its purchase of the Bonds. This procedure will facilitate the sale of the Bonds at the lowest interest rates, which is in the best interests of the Districts and the City.

**Pledge of Revolving Fund.** In the resolutions of intention to create each of the Districts, this Council found that it was in the public interest, and in the best interest of the City and the respective Districts, to secure payment of the principal of and interest on the Outstanding Bonds by the Revolving Fund, on the basis of factors required to be considered under Section 7-12-4225 of the Act. It is hereby found, determined and declared that it is in the public interest and in the best interest of the City and the Districts, to secure payment of the principal of and interest on the Bonds by the Revolving Fund, and the findings made in the resolutions of intention in respect of the pledge of the Revolving Fund for each of the Districts (i.e., in Section 9 of Resolution No. 95-16934 in respect of District No. 1327, in Section 9 of Resolution No. 96-17107 in respect of District No. 1332, in Section 9 of Resolution No. 97-17223 in respect of District No. 1335, in Section 9 of Resolution No. 96-17180 in respect of District No. 1334, and in Section 9 of Resolution No. 99-17453 in respect of District No. 1340) are hereby ratified and confirmed; no material adverse condition relevant to the pledge of the Revolving Fund in any of the Districts having occurred since the Outstanding Bonds were issued and the liability of the Revolving Fund to be reduced as a result of issuance of the Bonds.

**Sale of Bonds; Bond Purchase Agreement.** Pursuant to Sections 7-12-4194(3) and 7-12-4204(1) of the Act, this Council hereby determines that it is in the best interests of the City to sell the Bonds at a private negotiated sale to \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_ (the "Purchaser"), in consultation with Springsted Incorporated, financial consultant to the City in respect of the Bonds. The Bonds shall be sold to the Purchaser on terms and at a purchase price within the following limitations: (1) the principal amount of the Bonds shall not exceed the outstanding principal amount of the Outstanding Bonds (\$1,360,000); (2) the purchase price shall not be less than ninety-nine percent (99.0%) of the original principal amount of the Bonds and the compensation to be paid to the Purchasers, realizable from underwriter's discount or net original issue premium, does not exceed one percent (1.00%) of the original principal amount of the Bonds; and (3) the interest rates on the Bonds are such that the average annual rate of interest on the Bonds is not greater than \_\_\_\_\_ percent (\_\_\_\_%) per annum and debt service payable on the Bonds is such that the net present value of debt service savings

to be achieved by the refunding is not less than \_\_\_\_\_ % of the principal amount of the Outstanding Bonds, using the yield of the Bonds as the discount factor, calculated over the term of the Outstanding Bonds.

The City Administrator or another officer of the City as his designee is hereby authorized and directed to select the Purchaser and to approve the principal amount, purchase price, maturity dates (provided that the final maturity date is not later than July 1, 2015), principal amounts, interest rates and redemption provisions of the Bonds, subject to the limitations contained in the preceding paragraph and the Act. Upon approving such terms, the City Administrator or designee is hereby authorized and directed to approve, execute and deliver to the Purchaser a bond purchase agreement (the "Bond Purchase Agreement"), containing the agreement of the City to sell, and the agreement of the Purchaser to purchase, the Bonds on the terms so approved, and containing such other provisions as the City Administrator or his designee and the Financial Services Manager and the City Attorney shall deem necessary and appropriate. The execution and delivery by an appropriate officer of the City of the Bond Purchase Agreement shall be conclusive as to the approval of such officer of the terms of the Bonds and the agreement of the City to sell the Bonds on such terms in accordance with the provisions thereof.

The form of the Bonds and the security therefor shall be prescribed by a subsequent resolution to be adopted by this Council.

**Preliminary Official Statement.** The Financial Services Manager and other officers of the City, in cooperation with bond counsel, the financial consultant and the Purchaser, are authorized to prepare a Preliminary Official Statement relating to the Bonds to be distributed by the Purchaser to potential purchasers of the Bonds. The Financial Services Manager, on behalf of the City, is hereby authorized and directed to deem the Preliminary Official Statement a "final" official statement as of its date, in accordance with Rule 15c2-12(b)(1) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

**=Notice of Redemption.** The Financial Services Manager is hereby authorized to give notice of redemption of the Outstanding Bonds with stated maturities after July 1, 2005, in accordance with the respective resolutions authorizing issuance of the Outstanding Bonds. Such Outstanding Bonds shall be called for redemption on July 1, 2005, subject to the condition that such notice is subject to revocation by the City on or before June 20, 2005, in the event the Bonds are not theretofore sold to the Purchaser or for some other reason deemed to be in the best interest of the City by the Financial Services Manager.

**Redemption of Certain Other Outstanding Special Improvement District Bonds.** In addition to the Outstanding Bonds, other special improvement district bonds of the City are outstanding in comparatively small principal amounts or as to which the debt service savings as a result of a refunding would not be significant, as follows:

| <u>Special Improvement District No.</u> | <u>Outstanding Principal Amount</u> |
|---|-------------------------------------|
| 1338                                    | \$13,000                            |
| 1331                                    | 18,000                              |

|      |         |
|------|---------|
| 1324 | 15,000  |
| 1326 | 50,000  |
| 1329 | 6,000   |
| 1339 | 145,000 |
| 1342 | 25,000  |

Because of the administrative costs involved while such bonds are outstanding, because such bonds are subject to optional redemption on July 1, 2005, and because there are surplus funds available in the Revolving Fund to pay the redemption price of such Bonds not payable from the collection of special assessments in such districts, this Council hereby authorizes and directs the Financial Services Manager to give notice of redemption of such bonds with stated maturities after July 1, 2005, in accordance with the respective resolutions authorizing issuance of such bonds.

**Effective Date.** This resolution shall be in full force and effect from and after its passage.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 23rd day of May, 2005.

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Mayor

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CityClerk

(SEAL)

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

J

**AGENDA ITEM:**



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** Yellowstone Art Museum Arts and Crafts Summerfair Street Closure  
**DEPARTMENT:** Parks, Recreation and Public Lands  
**PRESENTED BY:** Don Kearney, Parks, Recreation and Public Lands Director

---

**PROBLEM/ISSUE STATEMENT:**

The Yellowstone Art Museum requests temporary street closure of the north lane of 6<sup>th</sup> Avenue from 19<sup>th</sup> Street to 22<sup>nd</sup> Street from 10:00 am on Friday, July 8, until 5:00 pm on Sunday, July 10, 2005, for its annual Arts and Crafts Summerfair. Map is attached.

Recommended conditions of approval include that the Yellowstone Art Museum:

1. Contact all businesses and make them aware of the event 60 days in advance
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Obtain proper permit from the Police Department for alcohol consumption
5. Obtain a Park Use permit from the Recreation Division for the use of North Park
6. Provide and install adequate traffic barricades and signs directing motorists around closure
7. The closure of the north lane of 6<sup>th</sup> Avenue is to be used for exhibitor parking for loading and unloading only. Double parking will not be allowed in the closed lane
8. Make provisions for emergency access in park
9. Provide a certificate of insurance naming the 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:** There are no costs to the City of Billings for this event other than administrative time to process the permit. Police, traffic control and litter removal are to be paid for the Yellowstone Art Museum.

## **RECOMMENDATION**

Staff recommends that Council approval the temporary closure of the north lane of 6<sup>th</sup> Avenue from 19<sup>th</sup> Street to 22<sup>nd</sup> Street from 10:00 am on Friday, July 8, until 5:00 pm on Sunday, July 10, 2005, for the annual Arts and Crafts Summerfair.

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

## **ATTACHMENTS**

- A. Right of Way Special Activity Permit (2 pages)
- B. Letter from Yellowstone Art Museum (1 page)
- C. Course map (1 page)
- D. Certificate of insurance (2 pages)

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

K

AGENDA ITEM:



**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** St. Vincent's Health Care "Heart and Sole Race" Street Closures  
**DEPARTMENT:** Parks, Recreation and Public Lands  
**PRESENTED BY:** Don Kearney, Parks, Recreation and Public Lands Director

---

**PROBLEM/ISSUE STATEMENT:** St. Vincent's Health Care requests temporary street closures as outlined in the attached event route maps on Saturday, June 11, 2005, from 6:30am to 12:30pm for their annual Heart and Sole Race.

Recommended conditions of approval include St. Vincent's Health Care:

1. Have no alcohol consumption in the right of way
2. Clean the area to be used and provide and empty waste cans
3. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
4. Provide and install adequate traffic barricades and signs directing motorists around closure
5. Provide 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:** There are no costs to the City of Billings for this event other than administrative time to process the permit. Police, traffic control and litter removal are to be paid for by St. Vincent's Health Care.

**RECOMMENDATION**

Staff recommends that Council approval the temporary closure of the streets named above.

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

## ATTACHMENTS

- A. Right of Way Special Activity Permit (2 pages)
- B. Letter and supporting documents from St. Vincent Health Care outlining event (3 pages)
- C. Course maps (2 pages)
- D. Certificate of Insurance (1 page)

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

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** Jaycee's Western Days Craft Fair and Street Dance Street Closure  
**DEPARTMENT:** Parks, Recreation and Public Lands  
**PRESENTED BY:** Don Kearney, Parks, Recreation and Public Lands Director

---

**PROBLEM/ISSUE STATEMENT:** The Billings Jaycees request street closures from 7:00 am to 1:00 am from 26<sup>th</sup> Street to 27<sup>th</sup> Street on 2<sup>nd</sup> Avenue for its Western Days Craft Fair and Street Dance on Saturday, June 18, 2005. The Craft Fair starts at 10:00 am and the Street Dance starts at 7:00 pm, ending at 1:00 am.

Recommended conditions of approval include Jaycees:

1. Obtain the proper permit from the Police Department if alcohol will be consumed in the public right of way
2. Contact all businesses and make them aware of the event 30 days in advance
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Provide and install adequate traffic barricades and signs directing motorists around closure
6. Provide certificate of insurance naming City of Billings as additional insured

**ALTERNATIVES ANALYZED:**

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

**FINANCIAL IMPACT:** There are no costs to the City of Billings other than administrative time to process permit. Police, traffic control and litter removal are to be paid for by the Billings Jaycees.

**RECOMMENDATION**

Staff recommends that Council approve the closure named above for the Western Days Craft Fair and Street Dance on Saturday, June 18, 2005.

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

**ATTACHMENTS**

- A. Right of Way Special Activity Permit (2 pages)
- B. Letters from Jaycees outlining event (2 pages)
- C. Event map (1 page)
- D. Certificate of insurance (1 page)

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# M

## AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

### Monday, May 23, 2005

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**TITLE:** Jaycee's Western Days Car Show Street Closure

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

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

---

**PROBLEM/ISSUE STATEMENT:** The Billings Jaycees request street closures from 12:00pm to 3:00pm from 25<sup>th</sup> Street to 26<sup>th</sup> Street on 2<sup>nd</sup> Avenue for its Western Days Car Show on Saturday, June 18, 2005. The car show will assemble at 12:00 pm, start at 1:00 pm and disband by 3:00 pm.

Recommended conditions of approval include Jaycees:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event 30 days in advance
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Provide and install adequate traffic barricades and signs directing motorists around closure
6. Provide certificate of insurance naming City of Billings as additional insured

**ALTERNATIVES ANALYZED:**

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

**FINANCIAL IMPACT:** There are no costs to the City of Billings other than administrative time to process permit. Police, traffic control and litter removal are to be paid for by the Billings Jaycees.

**RECOMMENDATION**

Staff recommends that Council approve the closure named above for the Western Days Car Show on Saturday, June 18, 2005.

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

**ATTACHMENTS**

- A. Right of Way Special Activity Permit (2 pages)
- B. Letters from Jaycees outlining event (2 pages)
- C. Event map (1 page)
- D. Certificate of insurance (1 page)

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

N

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** Jaycee's Western Days Parade Street Closure

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

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

---

**PROBLEM/ISSUE STATEMENT:** The Billings Jaycees request street closures from 7:00 am to 1:00 pm using the established downtown parade route for its annual Western Days Parade on Saturday, June 18, 2005. The parade will assemble at 7:00 am, start at 11:00 am and disband by 1:00 pm.

Recommended conditions of approval include Jaycees:

1. Have no alcohol consumption in the public right of way
2. Contact all businesses and make them aware of the event 30 days in advance
3. Clean the area to be used and provide and empty waste cans
4. Notify all emergency facilities, bus lines and media at least two weeks in advance of the event
5. Provide and install adequate traffic barricades and signs directing motorists around closure
6. Provide 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, the Jaycee's request 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
2. Police Services = Use of two on-duty officers

**RECOMMENDATION**

Staff recommends that Council approve closure of the established downtown parade route on Saturday, June 18, 2005, for the Western Days Parade.

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

**ATTACHMENTS**

- A. Right of Way Special Activity Permit (2 pages)
- B. Letters from Jaycees outlining event (3 pages)
- C. Course maps (2 pages)
- D. Certificate of insurance (1 page)

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

O

AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** OCSS Subdivision --Final Plat

**DEPARTMENT:** Planning and Community Services

**PRESENTED BY:** Juliet Spalding, Planner II

---

**PROBLEM/ISSUE STATEMENT:** This final plat is being presented to the City Council for approval. The preliminary plat was approved by the Council on April 11, 2005. The subject property is zoned Controlled Industrial and is located on the southeast corner of Lampman Drive and Carbon Street. The subdivision will create 2 lots for commercial use. All of the conditions for final plat approval have been met by the subdivider.

The City Attorney reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing.

**FINANCIAL IMPACT:** The creation of 2 commercial lots will increase the City's tax revenue on this parcel.

**RECOMMENDATION**

Staff recommends that the City Council the final plat of OCSS Subdivision.

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

**ATTACHMENTS**

A: Final Plat



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

## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** High Sierra Subdivision, 4<sup>th</sup> Filing Final Plat  
**DEPARTMENT:** Planning and Community Services  
**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

---

**PROBLEM/ISSUE STATEMENT:** This final plat is being presented to the City Council for approval. The preliminary plat was conditionally approved by City Council on November 24, 2003. The subject property is zoned Residential 9,600 and is located on the west side High Sierra Boulevard, north of Skyview High School. The subdivision will create 149 single family residential lots. The subdivider has met the conditions for final plat approval. The City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

**FINANCIAL IMPACT:** The creation of 149 residential lots will increase the City's tax revenue from these parcels.

**RECOMMENDATION**

Staff recommends that the City Council approve the final plat of High Sierra Subdivision, 4<sup>th</sup> Filing.

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

**ATTACHMENT**

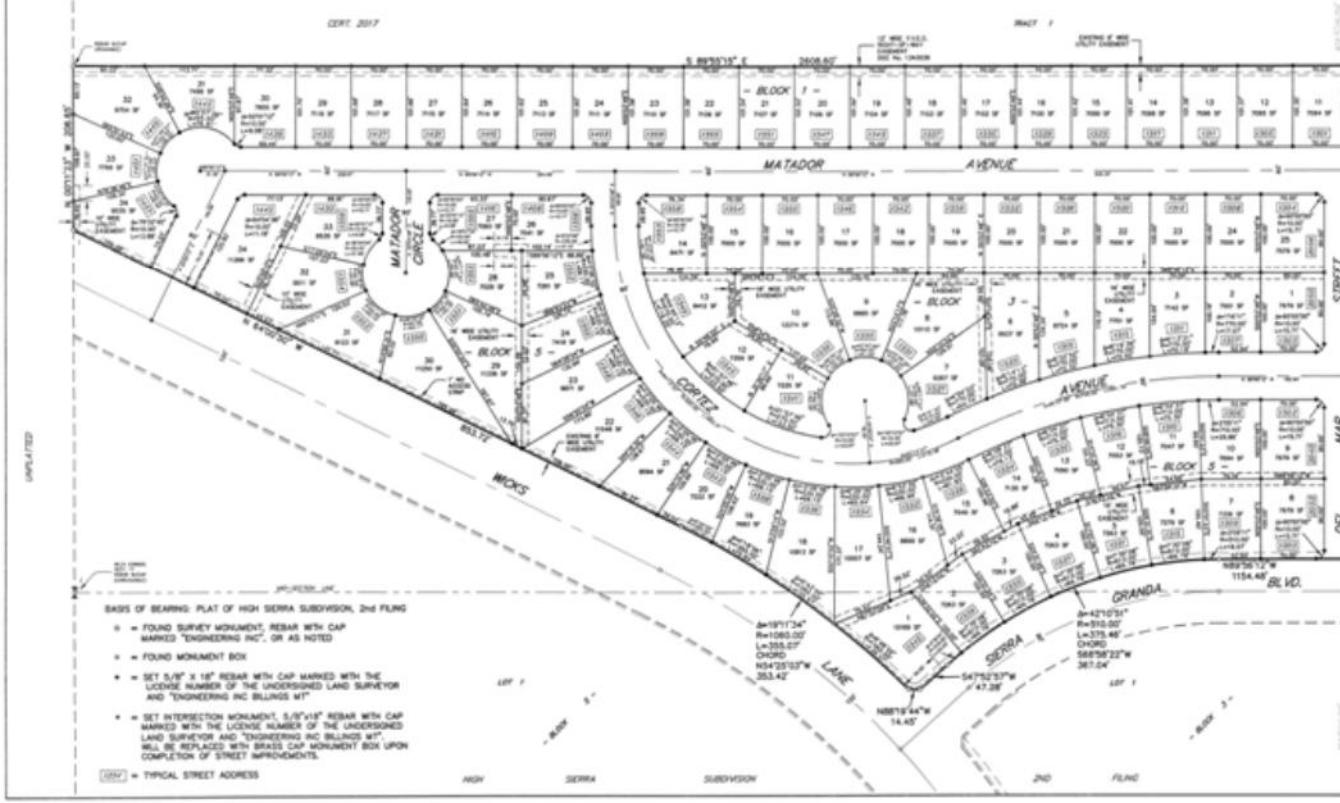
- A. Final plat of High Sierra Subdivision, 4<sup>th</sup> Filing.

PLAT OF  
**HIGH SIERRA SUBDIVISION, 4th FILING**

BEING LOT 1, BLOCK 1, HIGH SIERRA SUBDIVISION, 2nd FILING  
SITUATED IN THE NW1/4 AND THE SW1/4 OF SECTION 17, T. 1 N., R. 26 E., P.M.M.  
YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : HIGH SIERRA II, INC.  
PREPARED BY : ENGINEERING, INC.  
SCALE : 1"=60'

FEBRUARY, 2005  
BILLINGS, MONTANA





# Q1

## AGENDA ITEM:

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## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

### Monday, May 23, 2005

---

**TITLE:** Payment of Claims  
**DEPARTMENT:** Administration – Finance Division  
**PRESENTED BY:** Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$641,430.78 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 29, 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

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

# Q2

## AGENDA ITEM:



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### CITY COUNCIL AGENDA ITEM

#### CITY OF BILLINGS, MONTANA

#### Monday, May 23, 2005

---

TITLE: Payment of Claims  
DEPARTMENT: Administration – Finance Division  
PRESENTED BY: Patrick M. Weber, Financial Services Manager

---

**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$923,529.34 have been audited and are presented for your approval for payment. A complete listing of the claims dated April 22, 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

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

# Q3

AGENDA ITEM:



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## CITY COUNCIL AGENDA ITEM

### CITY OF BILLINGS, MONTANA

### Monday, May 23, 2005

---

**TITLE:** Payment of Claims

**DEPARTMENT:** Administration – Finance Division

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

---

**PROBLEM/ISSUE STATEMENT:** Claims in the amount of \$1,378,082.38 have been audited and are presented for your approval for payment. A complete listing of the claims dated May 6, 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, May 23, 2005**

---

**TITLE:** Public Hearing and First Reading of an Ordinance expanding Ward V  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Candi Beaudry, AICP, Planning Division Manager

---

**PROBLEM/ISSUE STATEMENT:** On May 9, 2005 the City Council adopted Resolution No. 05-18263 annexing approximately 25 acres located south the intersection of 52<sup>nd</sup> Street West and Grand Avenue (Annexation #05-03). The property must be added to one of the City's election wards. This ordinance will add the property to Ward V.

**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, Tract 3, Recorded April 20, 1979, Under Document No. 1125965, Records of Yellowstone County, Montana; including all adjacent right-of-way of 52 Street West and Broadwater Avenue, containing 24.828 gross acres and 22.763 net acres, more or less. See Exhibit "A" Attached.

(Annexation (# 05-03)

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 23<sup>rd</sup> day of May, 2005.

PASSED by the City Council on the second reading this 13<sup>th</sup> day of June, 2005.

THE CITY OF BILLINGS:

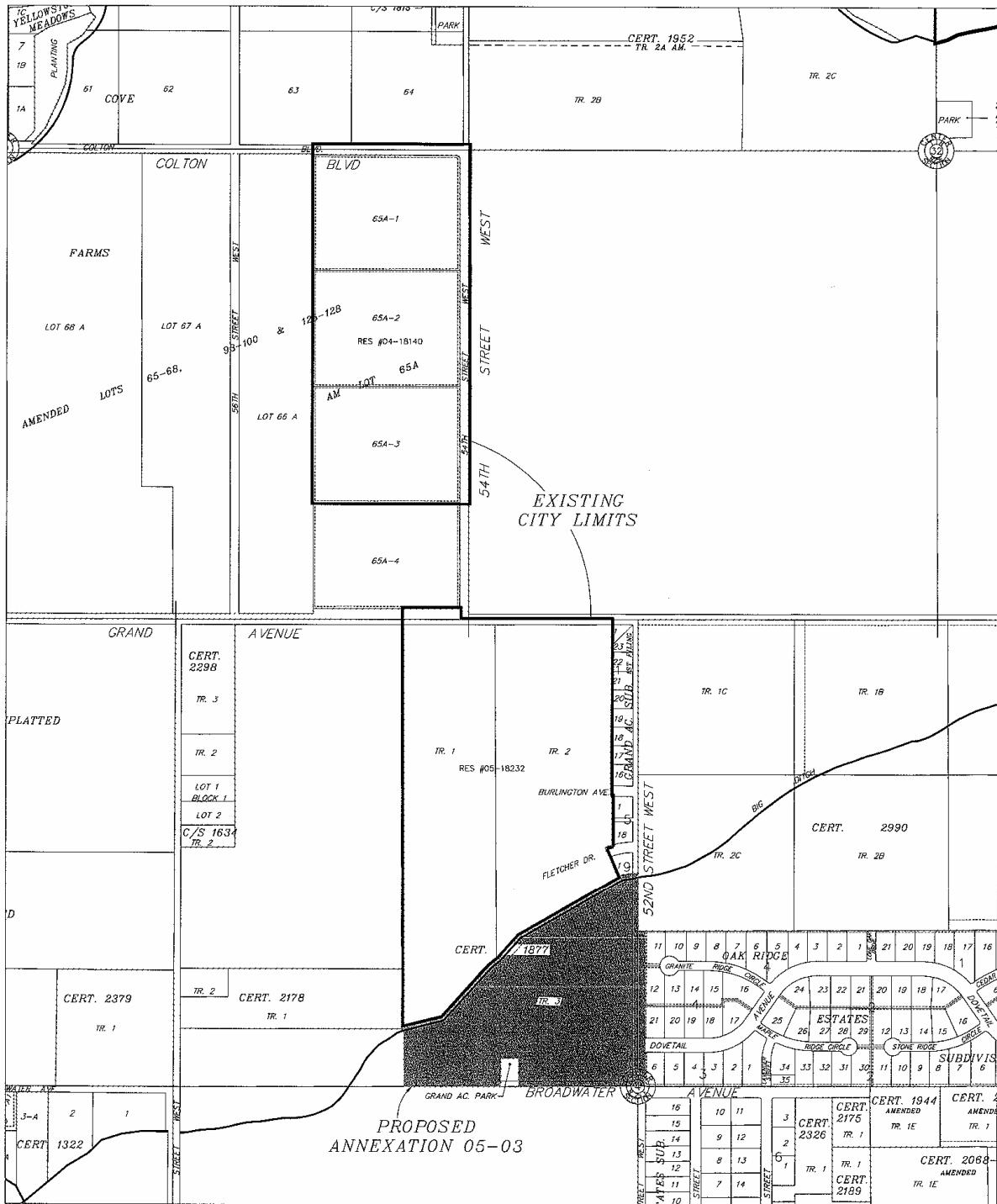
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Charles F. Tooley, MAYOR

ATTEST:

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

*EXHIBIT* <sup>99</sup> *A* <sup>99</sup>



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## AGENDA ITEM:



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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

---

**TITLE:** Public Hearing and First Reading of an Ordinance expanding Ward IV  
**DEPARTMENT:** Planning and Community Services Department  
**PRESENTED BY:** Nicole M. Cromwell, AICP, Planner II, Zoning Coordinator

---

**PROBLEM/ISSUE STATEMENT:** On May 9, 2005 the City Council adopted Resolution No. 05-18262 annexing a portion of the W1/2,W1/2,SW1/4 Section 32, T. 1N, R. 25 E., containing approximately 40.5 acres located on the east side of 54<sup>th</sup> Street West, north of Grand Avenue (Annexation #05-02). The property must be added to one of the City's election wards. This ordinance will add the property to Ward IV.

**ALTERNATIVES ANALYZED:** City Code requires the Council to approve an ordinance to amend Ward boundaries in the event of annexations that change the configuration of City limits (Sec. 11-102(c), BMCC). Council may approve or defer the approval of the Ward boundary change.

**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 IV.

**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 IV 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:**

3. **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 Ward IV the following described real property:

A tract of Unplatted land that is the W1/2 W1/2 SW1/4 of Section 32 T.1N., R.25E., P.M.M., Yellowstone County, Montana; Being bounded on the south side by Certificate of Survey No 1877, on the west side by Amended Plat of Lot 65A of the Amended Lots 65-68, 93-100 and 125-128 of Sunny Cove Fruit Farms, and on the north by Certificate of Survey No 1952.

Containing 40.568 gross and net acres, more or less.

(Annexation #05-02) See Exhibit "A" Attached

4. **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 23<sup>rd</sup> day of May, 2005.

PASSED by the City Council on the second reading this 13<sup>th</sup> day of June, 2005.

THE CITY OF BILLINGS:

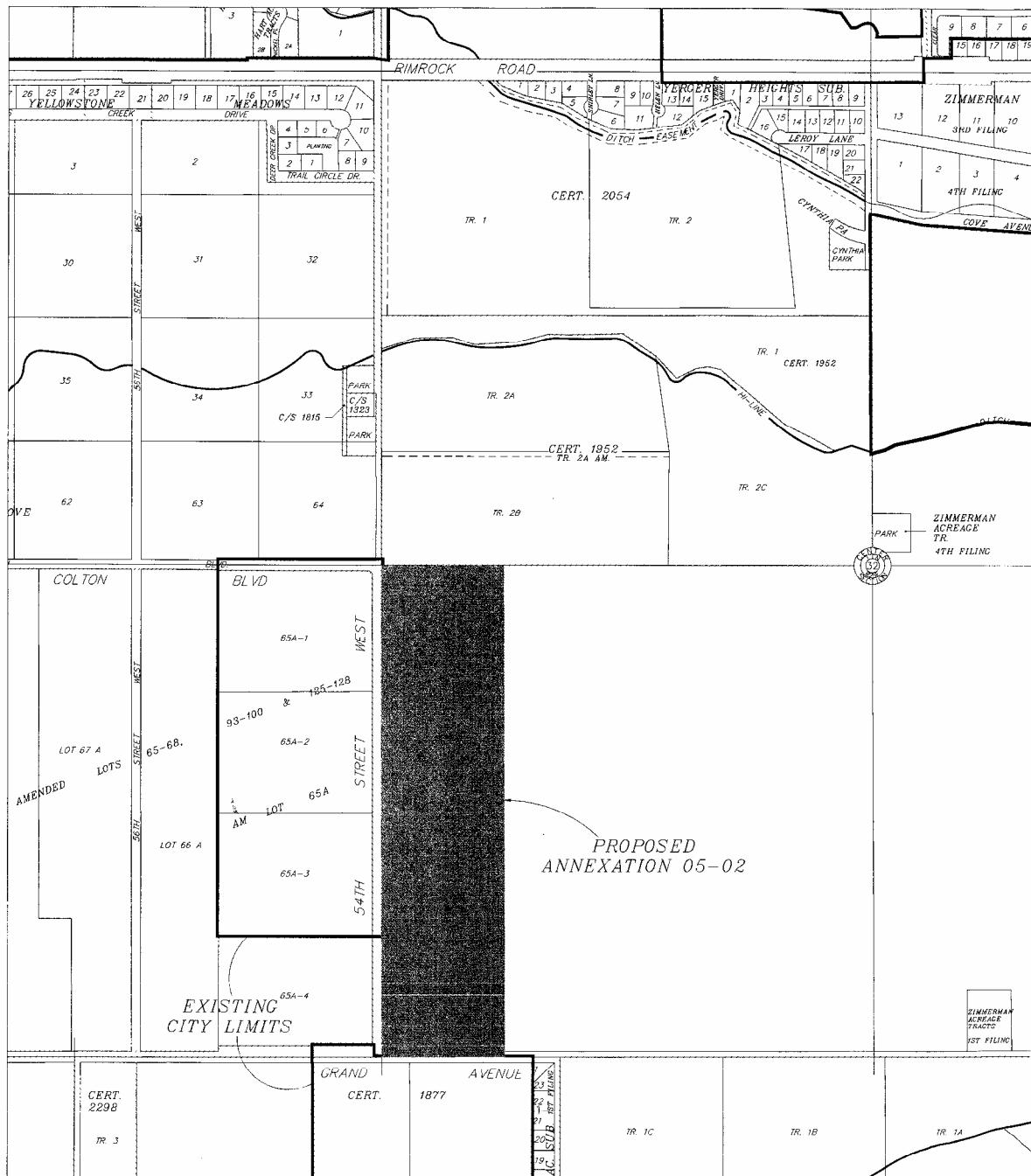
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Charles F. Tooley, MAYOR

ATTEST:

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

*EXHIBIT* "A"



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**AGENDA ITEM:**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

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**TITLE:** Public Hearing and Resolution to Create PMD No. 4026, Uinta Park Sub.

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

**PRESENTED BY:** Don Kearney, Director

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**PROBLEM/ISSUE STATEMENT:** Uinta Park Subdivision contains 4.5 acres of dedicated park and public open space, of which 3.8 acres in main subdivision park located at Mirror Lake Lane and Uinta Park Drive are being developed. The development and improvement of the park will be by the developer through private contract. The Park Maintenance District needs to be created at this time to provide for the maintenance of the park improvements that are to be completed by late summer 2005. All property in the proposed district has on file valid Waivers of Protest to the creation of this district. The City Council approved a Resolution of Intent at the April 25, 2004 Council meeting, and a Public Notice of Intent was advertised as required. The Protest period was from April 28, 2005, through May 13, 2005. The number of comments and valid protests received will be reported at the start of the Public Hearing. Consideration of the Resolution to Create Park Maintenance District No. 4026 to provide funds for the maintenance of Uinta Park will complete the creation process.

**ALTERNATIVES ANALYZED:**

- Create the Park Maintenance District now to assure assessments can be collected in November, 2005, to pay costs of maintenance as the park is developed. This is the requirement approved in the Subdivision Improvement Agreement and the staff recommendation.
- Do not create the Park Maintenance District at this time.

**FINANCIAL IMPACT:** The maintenance costs for the park improvements are estimated to be \$11,518 for the first year. The subdivision is all single family residences and will allow the assessments to be equalized since there is equal benefit to each residence regardless of actual lot size. The assessment for each of the 169 lots will be \$68.15 per lot for the first year.

## **RECOMMENDATION**

Staff recommends Council approve the Resolution to Create Park Maintenance District No. 4026 as provided for in the Uinta Park Subdivision Improvements Agreement.

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

### **ATTACHMENTS:**

- A: Resolution to Create Park Maintenance District No. 4026;
- B: Exhibit A – Map of Proposed District;
- C: Exhibit B – Metes and Bounds Description of Proposed District;
- D: Exhibit C – Property Owners List; thereto attached;
- E: Exhibit D – Estimate of the First Year Costs for the Proposed District.

## **INTRODUCTION**

Approval of the Resolution to Create Park Maintenance District No. 4026 for the maintenance of Uinta Park in the Subdivision of that name located at the intersection of Uinta Park Drive and Broadview Drive west of Lake Elmo Road in the Billings Heights neighborhood is the final step in the process required to create the park maintenance district to pay for the costs of maintaining Uinta Park.

## **PROCEDURAL HISTORY**

- Uinta Park Subdivision was annexed into the City and the plat approved in December, 2000. The subdivision contains 4.5 acres of park open space with 3.8 acres in the main park that will be constructed during Phase III of the subdivision development. The park trail strip along the BBWA is part of the Heritage Trail Plan to be constructed later.
- The Master Plan for the construction of the park was developed with the PRPL Department and adopted by the City Council March 26<sup>th</sup>, 2001.
- The Resolution of Intent for creating the Uinta Park Maintenance District was passed by the Billings City Council at the April 25, 2005, council meeting.
- A Public Notice of Intent was advertised for 2 consecutive weeks, April 28<sup>th</sup>, 2005 and May 5<sup>th</sup>, 2005, and a copy of the Public Notice of Intention to Create District 4026 was sent to each property owner in the Uinta Park Subdivision. The Notice stated the procedure for filing protests or comments, and set the dates of the protest and comment period to be from April 28<sup>th</sup>, 2005 through May 13<sup>th</sup>, 2005.
- The Public Hearing and the Resolution to Create the Park Maintenance District 4026 will be the final step to create Park Maintenance District 4026 for the maintenance of Uinta Park.

## **BACKGROUND**

The Uinta Park Subdivision Improvements Agreement calls for the park improvements to be made and the Park Maintenance District to be created during the Phase III development of the subdivision, as agreed to in the Subdivision Improvements Agreement for Uinta Park Subdivision. The proposed maintenance district for the park includes 169 single family residential lots. There are on file Waivers of Protest for the formation of the park maintenance district for all lots within the Uinta Park Subdivision.

## **ALTERNATIVES ANALYSIS**

- Create the Park Maintenance District now to assure assessments can be collected in November 2005, to pay costs of maintenance for the spring and summer of 2006 as the park development is completed later in the summer of 2005. The approved Subdivision Improvements Agreement calls for development at this time and requires a Park Maintenance District to be created for maintaining it. This is the staff recommendation.
- Do not create the Park Maintenance District at this time.

## **STAKEHOLDERS**

- The developers have agreed to develop planned improvements in the Uinta Park Subdivision parks and to create a park maintenance district to maintain them.
- The 169 lots in Uinta Park Subdivision consist of single family residences and the residents and property owners have agreed to the development. Many are strongly supportive of the parks and funding its ongoing maintenance. The rapid build out that is taking place is attributed to the fact that the open space and park amenities will be quickly developed.
- Billings residents would see increasingly heavy use of the existing developed parks and park facilities if not for the requirement that new subdivisions provide developed parks for their residents to mitigate that problem.

## **CONSISTENCY WITH ADOPTED POLICIES AND PLANS**

The extension of quality landscape maintenance services to new subdivision parks through the use of Special Improvement Districts and maintaining them through Park Maintenance Districts continues the Parks 20/20 plan recommendations, and conforms to city policy adopted in 1982 regarding new subdivision parks. The use of Park Maintenance Districts has allowed the use of the PRPL Parks grounds keeping staff to provide professional level maintenance to areas of public grounds and landscaping in new subdivisions as they develop and are brought into the city. The revenue provided helps support the overall park operations in general fund supported parks by allowing better trained, more competent staffing and providing added support for state of the art operations and equipment that would be otherwise be limited by General Fund revenue constraints.

Maintaining this park with a maintenance district continues the process of extending developed parks and maintenance services to the developing areas of. Park Maintenance District revenue is estimated to be \$486,683 to offset maintenance expenses in the upcoming 2006 FY PRPL Parks Operation and Maintenance budget and is projected to equal over 25% of the total Parks Division Operations & Maintenance budget this year.

## **RECOMMENDATION**

Staff recommends Council approve the Resolution to Create Park Maintenance District No. 4026 as provided for in the Uinta Park Subdivision Improvements Agreement.

## **ATTACHMENTS:**

- A: Resolution to Create Park Maintenance District No. 4026;
- B: Exhibit A – Map of Proposed District;
- C: Exhibit B – Metes and Bounds Description of Proposed District;
- D: Exhibit C – Property Owners List; thereto attached;
- E: Exhibit D – Estimate of the First Year Costs for the Proposed District.

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**AGENDA ITEM:**

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**CITY COUNCIL AGENDA ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23, 2005**

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**TITLE:** Public Hearing and Resolution Approving Council Contingency Appropriation

**DEPARTMENT:** Administration

**PRESENTED BY:** Bruce McCandless, Deputy City Administrator  
Darrell Bell, Acting Chief of Police

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**PROBLEM/ISSUE STATEMENT:** The Council is being asked to consider appropriating Council Contingency for unanticipated deep cleaning and repairs in the Police Department. The cleaning and repairs are recommended responses to employee complaints about irritated skin, noses and eyes and to comply with a Montana Dept. of Labor Workplace Safety Order. In order to expend Council Contingency, the Council must conduct a public hearing and adopt a resolution that appropriates the money for a specific purpose.

**ALTERNATIVES ANALYZED:** Due to the Workplace Safety Order, there are no alternatives to deep cleaning the police areas. Staff is recommending the minimum amount of repair work necessary to keep costs low but still provide a clean and healthful workplace.

**FINANCIAL IMPACT:** If the Police Department pays for the work, it will probably require a budget amendment. The FY 2005 Council Contingency budget is \$75,000 and there have been no expenditures from the account this fiscal year.

**RECOMMENDATION**

Staff recommends that Council conduct a public hearing and adopt a resolution that appropriates up to \$46,000 for Police Department deep cleaning and repairs.

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

**ATTACHMENTS**

A:      Resolution

## **INTRODUCTION**

The Council is being asked to approve up to \$46,000 of Council Contingency for deep cleaning and repairs in the Police Department. In order to expend these funds the Council must conduct a public hearing and adopt a resolution.

## **BACKGROUND**

Late last year Police Department clerks on the first floor began complaining about skin, eye and nose irritation. Some skin redness/rash was observed and some employees sought medical attention. The symptoms' cause could not be determined. The Facilities Manager contacted an industrial hygienist and the Montana Department of Labor, Safety Bureau. The hygienist observed the work area and HVAC system and found no obvious problems except in the evidence processing area. The Safety Bureau conducted air quality and contact contaminant tests but the tests were negative for any of the common contaminants such as mold, pollen, asbestos, carbon monoxide or carbon dioxide. Despite the negative observations and test results, the symptoms persisted.

The primary problem that both investigators found is housekeeping. The air quality testing showed excessive amounts of fibers and human skin cells. Flooring in the first floor work space is soiled and stained and can no longer be effectively cleaned. The third floor evidence processing area has years of accumulated dust and chemicals and an air hood that must be removed now that evidence processing has moved to the Midland Road evidence building. Many of the ceiling tiles are dirty or show evidence of past roof or plumbing leaks. The suggestion for deep cleaning was jointly developed by the hygienist that we hired and the Safety Bureau. The Bureau issued a Work Place Safety Order that requires the City to clean the area thoroughly and we must report our progress. The consensus decision is that thoroughly cleaning the areas and replacing flooring and ceiling tiles should eliminate any irritants, even if they can't be identified through standard testing. The Police Department has committed to a better standard of housekeeping that should help similar problems from recurring.

The estimated costs for the various tasks are:

|  |          |
|--|----------|
| Cleaning 1 <sup>st</sup> floor and 3 <sup>rd</sup> floor evidence area | \$15,500 |
| Flooring   | \$15,500 |
| Ceiling tiles  | \$ 5,000 |
| HVAC changes, additional labor & contingency                           | \$10,000 |

## **ALTERNATIVES ANALYSIS**

There are no viable alternatives to cleaning the police areas because a Montana Department of Labor, Safety Bureau Workplace Safety Order requires the City to deep clean the areas and report on our progress. The alternatives are what level of replacement work to do and how to pay for it. The staff recommends that the carpet be replaced in most areas but in high traffic areas such as hallways and near the front counter, that a vinyl material be installed after the carpet is removed. Replacing all ceiling tiles would nearly quadruple and estimated cost to replace the worst soiled tiles. The Police Department could pay for the work from its budget, but since other unanticipated expenses have occurred, such as the AICP study, the cost of this work would probably require a budget amendment. The Council contingency account is established annually so that the Council can respond to unanticipated costs or opportunities. Since no funds have been expended from the account this year, the full \$75,000 budget is available for appropriation.

## **RECOMMENDATION**

Staff recommends that Council conduct a public hearing and adopt a resolution that appropriates up to \$46,000 for Police Department deep cleaning and repairs.

## **ATTACHMENTS**

A: Resolution

**RESOLUTION NO. 05-\_\_\_\_\_**

**A RESOLUTION TO ADJUST APPROPRIATIONS PER 7-6-4236  
MCA AS AMENDED, AND PROVIDING AUTHORIZATION FOR  
EXPENDITURES AS INDICATED BELOW.**

**WHEREAS**, the City Council of the City of Billings, upon proper resolution, duly passed at a regular meeting and entered into its Minutes, may authorize expenditure of funds; and

**WHEREAS**, it is necessary to authorize said expenditures.

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

That the following FY 2005 appropriation be approved as follows:

|       |  |          |
|-------|--|----------|
| FROM: | Non-departmental / Council Contingency | \$46,000 |
| TO:   | Human Resources / City Hall Maint.     | \$46,000 |

To pay for cleaning, replacing flooring and ceiling tiles and miscellaneous repairs in the Police Dept., 1<sup>st</sup> and 3<sup>rd</sup> floors

**APPROVED** by the Billings City Council this 23<sup>rd</sup> day of May, 2005

**CITY OF BILLINGS**

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

ATTEST:

By:\_\_\_\_\_  
Marita Herold, CMC, City Clerk

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**CITY COUNCIL WORK SESSION ITEM**  
**CITY OF BILLINGS, MONTANA**  
**Monday, May 23 2005**

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**TITLE:** Public Hearing and Action on Deannexation Policy

**DEPARTMENT:** Planning and Community Services

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

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**PROBLEM/ISSUE STATEMENT:** City Council requested staff to prepare a Deannexation Policy to provide guidance in making decision on whether to approve or deny a petitioner's request to deannex from the City of Billings. Staff reviewed state law regarding the exclusion of territory from municipalities (7-2-4800, MCA) and analyzed previous deannexation decisions to develop recommended criteria.

**ALTERNATIVES ANALYZED:** The City Council is authorized by state statute to determine whether a request for deannexation is in the best interest of the City. State law lists a few requirements that must be met before Council can act to exclude territory from the City but does not define what would be considered "in the best interest of the City". Staff is recommending that a property must meet all the following criteria to establish when exclusion of territory may be considered in the best interest of the City:

1. Is not currently connected to City water, wastewater or storm drainage facilities, and cannot connect to these facilities without an unreasonable expenditure of personal or public funds, and
2. Is not adjacent to public rights-of-way, and
3. Is not encumbered by any indebtedness of any improvement district of which the territory is a part, and
4. Is located on the outer perimeter of the City limits and upon exclusion of the property will not result in a parcel wholly surrounded by City limits, and
5. Is not adjacent to acceptable limits of annexation as defined on the most recent update of the Limits of Annexation Map.

**FINANCIAL IMPACT:** Exclusion of property from the City inherently decreases property tax revenues. The recommended criteria weigh the cost of providing services to City properties against the loss of revenue resulting from deannexation.

**RECOMMENDATION**

Staff recommends that Council adopt the proposed Deannexation Policy.

**ATTACHMENT**

A. Proposed Deannexation Policy

## **INTRODUCTION**

As a result of several requests for deannexation, City Council requested staff to develop a policy to guide them in its deannexation decisions. Until now, the City of Billings has had no such policy and has relied on state law for direction. State law is not explicit on when properties may be excluded from a municipality, but it does provide general guidelines. Staff prepared additional criteria to consider when evaluating deannexation requests. These criteria are based on the rationale Council used in making previous deannexation decisions.

## **PROCEDURAL HISTORY**

There is no existing Deannexation Policy but recent deannexation requests have provided some insight on how Council considers this issue. The deannexation requests included:

- Solberg: Approved, February 9, 2004.
- Wood: Denied, December 3, 2004.
- Dunlap: Withdrawn, April 7, 2005

## **BACKGROUND**

The Billings City Council has the authority to exclude territory from the City in accordance with 7-2-4800, et seq, MCA. In doing so, the City Council must find that:

1. A petition, signed by a majority of electors or by owners of not less than three-fourths in value of territory to be excluded, has been filed with the City Clerk; and
2. The territory to be excluded is within the existing City limits and on the border of the City; and
3. Granting the petition is in the best interest of the City; and
4. The exclusion of the territory will not mar the symmetry of the City.

Items 1 and 2 are not discretionary and must be met regardless. Item 4 has no bearing for the City of Billings, which in its current configuration cannot be considered “symmetrical”. Item 3 leaves the determination of what is in the best interest of the City to the discretion of City Council. Staff evaluated the Council’s reasoning used when acting on three previous requests for deannexation to determine those factors that must be met in order to determine the deannexation is in the best interest of the City. Deannexation may be considered in the best interest of the City if the territory:

1. Is not currently connected to City water, wastewater or storm drainage facilities, and cannot connect to these facilities without an unreasonable expenditure of personal or public funds, and
2. Is not adjacent to public rights-of-way, and
3. Is not encumbered by any indebtedness of any improvement district of which the territory is a part, and
4. Is located on the outer perimeter of the City limits and upon exclusion of the property will not result in a parcel wholly surrounded by City limits, and
5. Is not adjacent to acceptable limits of annexation as defined on the most recent update of the Limits of Annexation Map.

Factor 1. takes into account the provision of City utilities. If the property currently receives utility service, the property should continue to pay City taxes that help offset administrative and financial costs of providing these services. It is also important that the property continues to receive representation through its Councilperson. In cases where the property is not connected to these services, but the costs of providing these services are reasonable (less than three times the cost of an approved onsite water or sewer system), there are strong reasons to eventually extend these services. The provision of City water and sewer can improve groundwater quality, encourage infill, and help maintain the quality and efficiency of the entire City water and sewer systems.

Factor 2 is important because properties with existing public access are directly provided street maintenance, and police and fire protection. The City has an obligation to provide these services to its residents. Without proper access, the City's ability to serve and protect the property is impaired or service costs are greater. It would benefit of the City taxpayers to not have to bear these additional costs.

Factor 3 requires the property to be free of any special assessments that pay for improvements benefiting the property. Once a property is excluded from the City, the owners are no longer obligated to pay City taxes which offset costs to administer the assessment. The property owner will still be required to pay the assessment.

Factor 4 addresses the statutory requirement that the property must be on the border of the City limits. Wholly surrounded County properties impede the City's ability to provide efficient and cost effective service to the surrounding properties. In theory, City service to these "County islands" stops at the property boundary and this is generally true for garbage collection and utilities. In reality, other City taxpayers typically pick up the cost for providing many services like street maintenance, stormwater, and animal control to these properties.

Factor 5 addresses the potential for adjoining properties to annex to the City. Annexation is acceptable if those properties fall within the limits of annexation. It would be inconsistent if properties within the limits of annexation are encouraged to *annex*, while properties already within the City, adjacent to acceptable limits of annexation are allowed to *deannex*.

The following table compares how the recent deannexation request met or did not meet the recommended deannexation criteria.

| Deannexation Request | Council Action | Factor 1 – City Utilities               | Factor 2 – Public Access | Factor 3 – Existing SIDs | Factor 4 – County Island | Factor 5 – Limits of Annexation |
|----------------------|----------------|---|--------------------------|--------------------------|--------------------------|---------------------------------|
| <b>Solberg</b>       | Approved       | None existing - \$60 - \$70K to connect | None                     | None                     | No                       | Not adjacent                    |
| <b>Wood</b>          | Denied         | None existing - \$10 - \$20K to connect | Available                | None                     | No                       | Adjacent                        |

|               |           |  |           |      |    |          |
|---------------|-----------|--|-----------|------|----|----------|
| <b>Dunlap</b> | Withdrawn | Sewer in adjacent r-o-w –<br>Heights water | Available | None | No | Adjacent |
|---------------|-----------|--|-----------|------|----|----------|

The table demonstrates that the Solberg request for deannexation met all the recommended criteria and was approved. The Wood request met three of the five criteria and was denied. The Dunlap request was withdrawn but met only two of the five criteria. The Council's actions were consistent with the recommended criteria.

### **RECOMMENDATION**

Staff recommends that Council adopt the proposed Deannexation Policy.

### **ATTACHMENT**

A. Proposed Deannexation Policy

RESOLUTION NO \_\_\_\_\_

A RESOLUTION ESTABLISHING A POLICY RELATED TO THE EXCLUSION OF TERRITORY FROM THE CITY OF BILLINGS OTHERWISE REFERRED TO AS “DEANNEXATION”, PURSUANT TO MANDATORY PROVISIONS OF SELF-GOVERNING LOCAL GOVERNMENTS, 7-1-114, MCA AND EXCLUSION OF TERRITORY, 7-2-4801, ET. SEQ., MCA.

WHEREAS, The City of Billings is subject to all state laws providing for the exclusion of territory from the City pursuant to 7-1-114, MCA, and

WHEREAS, The City Council desires a policy to determine when exclusion of territory is in the best interest of the City pursuant to 7-2-4801, et. seq., MCA,

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

That the City of Billings is committed to providing cost effective services to all territories within the City. It is recognized that in some instances the City may be incapable of providing these services to certain territories without unreasonably burdening the existing taxpayers or the individual landowner. In those cases, it may be in the best interest of the City and City residents to exclude these territories from the municipality.

The Billings City Council has the authority to exclude territory from the City in accordance with 7-2-4801, et seq, MCA. In doing so, the City Council must find that:

1. A petition, signed by a majority of electors or by owners of not less than three-fourths in value of territory to be excluded, has been filed with the City Clerk; and
2. The territory to be excluded is within the existing City limits and on the border of the City; and
3. Granting the petition is in the best interest of the City; and
4. The exclusion of the territory will not mar the symmetry of the City.

Exclusion of the territory may be considered in the best interest of the City if the territory:

1. Is not currently connected to City water, wastewater or storm drainage facilities, and cannot connect to these facilities without an unreasonable expenditure of personal or public funds, and
2. Is not adjacent to public rights-of-way, and
3. Is not encumbered by any indebtedness of any improvement district of which the territory is a part, and
4. Is located on the outer perimeter of the City limits and upon exclusion of the property will not result in a parcel wholly surrounded by City limits, and
5. Is not adjacent to acceptable limits of annexation as defined on the most recent update of the Limits of Annexation Map.

Passed by the City Council, this 23<sup>rd</sup> day of May, 2005

THE CITY OF BILLINGS:

BY: \_\_\_\_\_  
Charles F. Tooley  
MAYOR

ATTEST:

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

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