

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

July 11, 2005

6:30 P.M.

CALL TO ORDER – Mayor Tooley

PLEDGE OF ALLEGIANCE – Mayor Tooley

INVOCATION – Councilmember Ed Ulledalen

ROLL CALL

MINUTES – June 27, 2005

COURTESIES

PROCLAMATIONS

BOARD & COMMISSION REPORTS – Billings American Indian Homeownership Partnership

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #9 & #10

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. Mayor's Appointments:

Action delayed from 6/27/05.

	Name	Board/Commission	Term	
			Begins	Ends
1.		Human Relations	07/01/05	12/31/09
2.		Animal Control	07/01/05	12/31/09
3.		Board of Adjustments	07/01/05	12/31/09

1. Unexpired term of Gayle Tompkins.

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

B. Bid Awards:

(1) AIP 29 – Schedule I: Taxiway “G” Improvements. (Opened 6/28/05). Recommend Empire Sand and Gravel, \$1,486,988.05.
[\(Corresponding Staff Memo B1\)](#)

(2) AIP 29 – Schedule II: Commercial Ramp Improvements. (Opened 6/28/05). Recommend rejecting the sole bid and rebidding at a later date.
[\(Corresponding Staff Memo B2\)](#)

(3) Airport Wheel Loader. (Opened 6/28/05). Recommend RDO Equipment, \$135,000.00.
[\(Corresponding Staff Memo B3\)](#)

(4) W.O. 04-30: West Wicks Lane & Governors/Gleneagles Blvd. Traffic Signal Installation. (Opened 6/28/05). Recommendation to be made at meeting.
[\(Corresponding Staff Memo B4\)](#)

(5) W.O. 04-31: Gold Dust Drainage. (Opened 6/28/05). Recommend C & S Construction, \$29,085.36 and 21 calendar days.
[\(Corresponding Staff Memo B5\)](#)

C. Amendment #3, Professional Services Agreement, W.O. 04-12: Alkali Creek Road Reconstruction, Kadrmas, Lee & Jackson, Inc., up to \$10,000.00.
[\(Corresponding Staff Memo C\)](#)

D. Contract for IP-8 Building Mold Remediation, Environmental Contractors, \$27,175.80.
[\(Corresponding Staff Memo D\)](#)

E. Professional Services Contract, Library Building Renovation, A & E Architects, \$13,650.00.
[\(Corresponding Staff Memo E\)](#)

F. Renewal of Contract for Lobbyist Services, Jani McCall, term: 7/1/05 to 6/30/06.
[\(Corresponding Staff Memo F\)](#)

G. Extension of Animal Control Contract with Yellowstone County.
[\(Corresponding Staff Memo G\)](#)

H. Acceptance of AIP-29 grant from Federal Aviation Administration (FAA), \$3,111,250.00, City match is \$163,750.00.
[\(Corresponding Staff Memo H\)](#)

I. Declaring as surplus one used paratransit van and authorizing staff to negotiate a sale of the van to Eagle Mount.
[\(Corresponding Staff Memo I\)](#)

J. Amendment to Development Agreement with Faith Chapel, aka International Church of the Foursquare Gospel, and Douglas W. McGregor and Barbara G. McGregor, Trustees for right-of-way improvements on Shiloh Road.

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

K. Street closures:

(1) Billings Association of Realtors 2 and 5-Mile Run. August 27, 2005. Masterson Circle on Hwy 3 down Airport Road, right on 27th Street; right on Rimrock Road; left on Virginia Lane, through Pioneer Park; left on 3rd Street West; right on Parkhill; right on 32nd Street, to corner of 6th Avenue N. and 32nd. St.

[\(Corresponding Staff Memo K1\)](#)

(2) Big Sky State Games 5K Run. July 15, 2005. 3rd Street West at Grand Avenue and Parkhill Drive; and Virginia Lane, 3rd Street West and Parkhill Drive.

[\(Corresponding Staff Memo K2\)](#)

(3) Big Sky State Games Cycling Race. July 16, 2005. Usage of 62nd Street West up to Block 14 and Track 2 of Molt Road.

[\(Corresponding Staff Memo K3\)](#)

(4) Big Sky State Games Cycling Mountain Bike Race. July 17, 2005, regarding usage of Black Otter Trail.

[\(Corresponding Staff Memo K4\)](#)

(5) Big Sky State Games Triathlon. July 17, 2005. Heights area streets.

[\(Corresponding Staff Memo K5\)](#)

L. Resolution of Intent to Create SID 1368: Annandale Road improvements between Cherry Hills Road and Greenbriar Road and setting a public hearing for 8/8/05.

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

M. Resolution of Intent to Create PMD #4028: Vintage Estates Subdivision and setting a public hearing for 8/8/05.

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

N. Second/final reading ordinance amending the BMCC by adding Sections 18-1101 – 18-1116; prohibiting graffiti, defining terms, providing for a procedure whereby graffiti can be remediated, establishing an effective date and providing a severability clause.

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

O. Second/final reading ordinance for zone change #755: a zone change from Public to R-7,000 on a 14,673 square foot tract of land formerly known as Holfeld Park and located in the SW4 of Section 27, T1N, R26E, north of Swords Lane and south of Alkali Creek and the Billings Bench Water Association canal. Blake Laughlin and PRPL, owners, Engineering, Inc. agent.

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

P. Second/final reading ordinance relating to the Downtown Redevelopment District and the creation of a new Urban Renewal Area; authorizing the removal of certain property from the Downtown Redevelopment District, establishing such property as a new 27th Street Urban Renewal Area, adopting an Urban Renewal Plan, therefore including a Tax Increment provision, approving an Urban Renewal Project therein and authorizing the issuance of Tax Increment Urban Renewal Revenue Bonds.

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

Q. Final Plat of Cottonwood Grove Subdivision, 2nd Filing.

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

R. Bills and Payroll.

(1) June 10, 2005

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

(2) June 17, 2005

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

(3) June 27, 2005

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

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. PUBLIC HEARING AND RESOLUTION adopting the Pow Wow Park Master Plan. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)

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

3. PUBLIC HEARING AND RESOLUTION FOR ANNEXATION #05-04: a 10.52-acre parcel located near the northeast corner of Grand Avenue and 60th Street West intersection, known as Tract 123 of the Sunny Cove Fruit Farms property, aka the proposed Foxtail Village Subdivision, 2nd Filing. Mark Kennedy for Kenmark Corporation, petitioner. Staff recommends conditional approval of the annexation. **(Action:** approval or disapproval of Staff recommendation.)

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

4. PUBLIC HEARING AND RESOLUTON FOR ANNEXATION #05-06: a 116.17 acre parcel located on the north side of Rimrock Road at the intersection of 70th Street West and extending to the railroad property on the north and west, known as Tract 1, C/S 1871 and Tract 2A, C/S 2465. Larry Staley and Westward Ho Company, petitioners. Staff recommends denial of the annexation. **(Action:** approval or disapproval of Staff recommendation.)

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

5. PUBLIC HEARING AND FIRST READING ORDINANCE amending BMCC by adding Sections 10-401 through 10-403; providing for the assessment of administrative fees by municipal court as part of the disposition of all citations,

criminal and traffic complaints, and time payment contracts. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 5\)](#)

6. **PUBLIC HEARING AND RESOLUTION** expanding the boundaries of extended Park Maintenance District #4012 for the purpose of maintaining the existing and future park improvements in Circle 50 Subdivision to include Village West Subdivision, and improvements installed by the developer as part of a future construction phase of the subdivision. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 6\)](#)

7. **PUBLIC HEARING AND RESOLUTION** creating Park Maintenance District #4027 for the purpose of maintaining the public area improvements and other portions of improvements made in Ironwood Estates Subdivision. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 7\)](#)

8. **PUBLIC HEARING AND RESOLUTION** disposing of City-owned property described as Lots 5,6,8,9 and 10, Blk 92, O.T. and awarding the bid for purchase of the property. Staff recommends approval. (**Action:** approval or disapproval of Staff recommendation.)

[\(Corresponding Staff Memo 8\)](#)

9. **BID AWARD: \$2,520,000 Pooled Special Improvement District Bonds, Series 2005.** (SIDs 1358, 1365, 1366, and 1371). (Opened 7/11/05). Recommendation to be made at meeting.

[\(Corresponding Staff Memo 9\)](#)

10. **RECONSIDERATION OF ZONE CHANGE #757:** a zone change from R-7,000 to R-6,000 on property described as Lot 6, Block 1, Burnstead Sub., 2nd filing and located at 945 N. 19th St. Larry & Judith Hauk, owners. Zoning Commission recommends approval of the zone change and adoption of the determinations of the 12-criteria. (PH on 6/13/05; action delayed from 6/27/05). (**Action:** approval or disapproval of Zoning Commission recommendation.)

[\(Corresponding Staff Memo 10\)](#)

11. **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

A



**CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, JULY 11, 2005**

SUBJECT: Boards & Commissions –Appointments
DEPARTMENT: City Administrator's Office
PRESENTED BY: wynnette Maddox, Administration

PROBLEM/ISSUE STATEMENT: Confirmation of appointments for Board and Commission positions that are term expired or vacant due to resignations. Term expiration dates on these vacancies are 6/30/05 and the positions must be filled.

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tooley recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Human Relations	07/11/05	12/31/06
2		Animal Control Board	07/11/05	12/31/09
3		Board of Adjustments	07/11/05	12/31/09

1. Unexpired term of Gayle Tompkins.

Approved By: City Administrator City Attorney

Attachment

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Approval of the Award of Airport Improvement Project (AIP) 29 Schedule One – Taxiway "G"

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: One of this year's AIP projects included in the City's approved Capital Improvement Program, is the Taxiway "G" Improvement. Taxiway "G" provides the main access route to Taxiway "J" and the west cargo aprons for large cargo aircraft, and to the executive hangar area for corporate jet and large twin engine aircraft. The pavement on this Taxiway is over 40 years old and can no longer withstand the stress of the large jet cargo aircraft, corporate jets, and large twin engine aircraft in the executive hangar area. This project will remove 4" of asphalt pavement and replace it with new asphalt, reinforced with a layer of Petro mat reinforcement fabric. Also included in this project is the relocation and replacement of the old taxiway edge lights with new energy efficient lights and power cable. This project will provide a new full strength pavement surface and upgraded lighting for all aircraft using this taxiway. This project was advertised in the *Billings Times* for three weeks and was on the City's web site. In spite of these efforts, one bid was received for this project:

CONTRACTOR	BID
Empire Sand and Gravel	\$1,486,988.05
ESTIMATE	\$1,330,369

The difference in the engineer's estimate and the bid received is primarily related to the aggregate cost and the labor to install it in smaller work areas. We were required to break up the work areas on this project to ensure that we are able to maintain access to the executive hangar area, which is adjacent to this construction site. After reviewing the contractor's unit price and the specifications for the construction staging, our consulting engineers and staff feel that the unit costs are justified.

FINANCIAL IMPACT: The total cost of this project is \$1,486,988.05, and will be funded with a 95/5 AIP entitlement grant. The Federal Aviation Administration's (FAA) portion will be \$1,412,638.65, and the City's match is \$74,349.40. The source of the City's match is the Departments Capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the award of AIP 29 Schedule One – Taxiway "G" to the sole bidder Empire Sand and Gravel, in the amount of \$1,486, 988.05.

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Reject the Sole Bid for the Airport Improvement Project (AIP) 29
Schedule Two – Commercial Ramp Improvements

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: One of this year's AIP projects, included in the City's approved Capital Improvement Program, is the Commercial Air Carrier Ramp Improvements. The concrete next to the Terminal Building near the commercial aircraft parking ramps was installed in 1958. The surface is beginning to "spall" or chip off, and the control joints are breaking away at the edges. This deterioration generates Foreign Objects and Debris (FOD), which is catastrophic if it is ingested into jet engines. This project will remove the old concrete and replace it with a full strength concrete slab. This project was advertised in the *Billings Times* for three weeks, and was on the City's web site. In spite of these efforts, one bid was received for this project:

<u>CONTRACTOR</u>	<u>BID</u>
COP Construction	\$2,282,182.40
<u>ESTIMATE</u>	<u>\$972,880</u>

Due to the location of this construction site and our inability to close the air carrier ramp during the busy summer season, our specifications only permitted construction between the hours of 9:00 p.m. and 6:00 a.m. We also specified a detailed construction phasing plan so that only small sections of the ramp would be closed at one time. When reviewing the contractor and engineer's estimate the major cost differences occurred in the unit prices for mobilization, pavement removal, excavation, and the placement of the base gravel and concrete. Each of these areas had significant cost increases due to the night construction, the restricted work area and staging plan, and the necessity to use small equipment for the excavation and reconstruction work. Although our engineer made accommodations for these issues, they significantly underestimated the impact they would have on this project.

FINANCIAL IMPACT: The current budget for this project is \$972,880 and therefore we cannot proceed with this work until arranging for additional funding in the coming year.

RECOMMENDATION

Staff recommends that the City Council reject the sole bid due to the significant cost above the engineer's estimate. This project will be reviewed, revised where necessary, and rebid at a later date.

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

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B3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Award of the Airport Improvement Project (AIP) 29 Purchase of a New Wheel Loader for the Airport

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: This wheel loader will be used for airfield maintenance such as, small earth moving projects and material loading and unloading during the Summer, and snow removal and runway/taxiway sanding activities during the Winter. These activities are required to comply with Federal Aviation Administration (FAA) guidelines. This wheel loader will replace a 1982 Case wheel loader as identified in the City's approved equipment replacement program. We advertised for this equipment in the *Billings Times* and received the following bids:

<u>CONTRACTOR</u>	<u>BID</u>
RDO Equipment	\$135,000
Tractor and Equipment	\$160,285
Estimate	\$160,000

FINANCIAL IMPACT: The total cost of this equipment is \$135,000. This equipment is funded with a 95/5 AIP entitlement grant. The FAA's portion of this cost will be \$128,250; the City's match is \$6,750. The source of the City's match is the Department's Capital fund.

RECOMMENDATION

Staff recommends that the City Council award the New Wheel Loader to the low bidder RDO Equipment, for the amount of \$135,000.

Approved By: City Administrator City Attorney

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 11, 2005

TITLE: W.O. 04-30, Traffic Signal at Wicks & Governors, Contract Award
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Construction bids were opened on June 28, 2005, for the installation of a traffic signal at the intersection of Wicks Lane and Governors Boulevard. Work is expected to start on the project soon after contracts are signed and will be completed this fall.

FINANCIAL IMPACT: Funding for this project is provided from Gas Tax funds in the FY 06 budget as outlined below.

CIP Project #ENGP2

CIP Budgeted Amount	\$325,500.00
Less City purchased equipment (estimated)	\$ 62,200.00
Less this contract	<u>\$157,711.22</u>
Budget Fund Balance (after this award)	\$105,588.78

Bids were opened on June 28, 2005 with the following results:

Ace Electric	\$162,673.36
Midland Electric	Non-responsive bid*
Yellowstone Electric	\$157,711.22
Engineer's Estimate	\$202,120.70

*Contract specifications require the contractor to have "one or more individuals that possess an IMSA Traffic Signal Electrician Level II certification" for the traffic signal work. Midland Electric does not meet this requirement and therefore their bid is considered non-responsive.

RECOMMENDATION

Staff recommends that Council approve award of a construction contract to Yellowstone Electric, in the amount of \$157,711.22.

Approved By: City Administrator _____ City Attorney _____ [\(Back to Consent Agenda\)](#)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, July 11, 2005

TITLE: W.O. 04-31 – Gold Dust Drainage, Contract Award
DEPARTMENT: Public Works - Engineering
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: This project will replace an existing storm main with an upsized main to accommodate storm flows on Senora Street in the Heights. This project was designed and bid by the Engineering Division. The Engineering Division will perform the construction administration for this project as well. The bids exceeded the Engineer's Estimate but are within the project budget. Bids were opened for the project on June 28, 2005, and, by law, Council must act on the bid opening at this meeting.

FINANCIAL IMPACT: Funding for the project is available from Storm Drain funds.

Location of Work: Senora Ave.

Funding Sources: Storm Drain

Approved Dollar Amount for Project: \$40,000

Spent (and obligated) to date: \$ 0

Funding available: \$40,000

Bids were opened on June 28, 2005 with the following results:

Firm	Bid Sch. 1
C & S Construction	\$29,085.36
A.M.E., Inc.	\$37,610.00
Paradise Excavating	\$48,985.00
Matriarch Construction	\$49,440.00
<i>Engineer's Estimate</i>	\$23, 115.50

RECOMMENDATION

Staff recommends that Council award a construction contract for W.O. 04-31 – Gold Dust Drainage to C & S Construction for \$29,085.36 and 21 calendar days.

Approved By: City Administrator City Attorney

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C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: W.O. 04-12 - Alkali Creek Road Reconstruction, Professional Services Contract Amendment #3

DEPARTMENT: Public Works Department – Engineering Division

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

PROBLEM/ISSUE STATEMENT: Public Works staff has requested Kadrmas, Lee & Jackson, Inc. (KLJ) to be available for the Alkali Creek Road project for design changes if necessary due to unforeseen circumstances encountered in the field during construction. It is not unusual to encounter conditions requiring design changes once construction begins. These additions to the project scope would require additional efforts by the consultant, and a contract amendment will be needed to compensate them for their additional efforts, if any are required. The contract termination date will be extended to accommodate the duration of construction as well.

FINANCIAL IMPACT: A summary of this professional services contract is as follows:

Original contract amount	\$210,860	Approved by Council 4/26/04
Contract Amendment #1	\$ 25,394	Approved by Council 1/10/05
Contract Amendment #2	\$ 2,071	Approved by Council 3/28/05
<u>Contract Amendment #3</u>	<u>\$ 10,000</u>	(This memo)
Total Amended Contract	\$248,325	

Even including this amendment, the professional services contract remains within the amount presented to Council at the November 15, 2004 work session. Funding for this amendment is available from the project budget.

RECOMMENDATION

Staff recommends that Council authorize the Mayor to execute Amendment #3 to the Contract for Professional Services with Kadrmas, Lee & Jackson, Inc. for up to \$10,000.

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

ATTACHMENT

A. W.O. 04-12 - Alkali Creek Road, Professional Services Contract Amend. #3

AMENDMENT NO. 3

TO

CONTRACT FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES

CITY OF BILLINGS WORK ORDER 04-12,

Alkali Creek Road – Senators Blvd. To Airport Road

THIS AGREEMENT, made and entered into on _____, 2005, by and between the following:

CITY OF BILLINGS, a Municipal Corporation,
Billings, Montana 59103,
Hereinafter designated the City

and

Kadrmas, Lee & Jackson, Inc.
PO Box 80303
Billings, Montana 59108
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated April 26, 2004, for Contractor to provide engineering services to the City for Work Order 04-12, Alkali Creek Road – Senators Blvd. To Airport Road, and;

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the City has authority to contract for consulting engineering services, and;

WHEREAS, the Contractor represents that he is qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

Part 1, Section 3:

Contract, as amended, shall terminate at midnight, December 31, 2006.

Appendix A, Section 3 is amended as follows:

Add new section as follows:

Task 807:

For design engineering services, and related costs, as requested by the City, arising during construction. The City will provide a written request of services to be performed. Fee and expenses to be determined using Schedule of Professional Fees from Appendix D. The task cost is not to exceed \$10,000.

Appendix B, Section 1, Paragraph A is amended to include the following:

For Design Engineering Tasks 100 through 807 from Appendix A, as amended:

Road reconstruction, road improvements, storm water study & Direct expenses (Geotechnical subconsultant, other direct)	\$175,724.00
Water main extensions from Tumbleweed Drive to within 150 feet of Indian Trail	\$ 31,054.00
Sanitary sewer main extensions to provide service to the lots on the south side of the rural section of the road, and for service stubs to 4 lots near Senators Boulevard	\$ 41,547.00
Total Design Engineering	\$248,325.00

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT

NAME: _____
BY: _____
TITLE: _____
DATE: _____

CITY OF BILLINGS, MONTANA

BY: _____
Mayor

DATE: _____
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D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Award of the Airport Building IP-8 Mold Remediation Contract
DEPARTMENT: Aviation and Transit
PRESENTED BY: J. Bruce Putnam, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: During below zero temperatures in January of this year, a water pipe ruptured in an interior wall of the Airport's IP-8 building, which is leased to the Bureau of Indian Affairs (BIA). This building is used in conjunction with the Bureau of Land Management (BLM) as a Wild Lands Fire Fighting Operations Support Office. Since the pipe rupture occurred during a weekend when the building was empty, the water level reached two or three inches above the floor, and soaked into the sheet rock and insulation of the walls. While the restoration contractor was cleaning the carpets and drying out the building, they noticed mold growing within the walls and alerted staff. Staff had Northern Testing examine the building for mold growth and found that mold existed within the lower two feet of the walls and supplied staff with a remediation plan to remove the mold. We received the following bids for the remediation:

<u>CONTRACTOR</u>	<u>BIDS</u>
Environmental Contractors	\$19,425.80
Air Specialists, Inc.	\$21,813
Rocky Mountain Restoration	\$23,022

During the remediation work, Environmental Contractors discovered additional mold growing near the ceiling in the area near the pipe split. The cost of the change order for this unanticipated work to remediate the additional mold was \$7,750, which increased the total contract amount to \$27,175.80. It is for that reason we now seek City Council approval. Because of the importance of this building to the BIA and BLM wild lands fire fighting operations, staff had the contractor finish the work so that the BIA and BLM would have time to reestablish their office before they got busy with fire fighting activities. During the last few months, they have been working out of temporary office space in other BLM facilities at the Airport while the repairs were conducted.

FINANCIAL IMPACT: The total cost of this project is \$27,175.80. The budget authority and funding is available in the Airport's operating budget to pay for this repair.

RECOMMENDATION

Staff recommends that City Council award the Airport Business Park Building IP-8 Mold Remediation Contract to the low bidder Environmental Contractors in the amount of \$27,175.80.

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

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AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Professional Services Contract with A&E Architects for Library Renovation

DEPARTMENT: Public Works Department – Engineering Division

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

PROBLEM/ISSUE STATEMENT: This consultant contract will provide bidding and construction administration services throughout the project of renovating the Library Building to address the Fire Code violations submitted to the City on January 6, 2003. As part of a previous contract that expired October 1, 2004, the consultant has provided schematic design alternatives and cost estimates to address mechanical and structural issues. The cost estimates will be revised as part of the new contract to reflect current prices of labor and materials.

ALTERNATIVES ANALYZED:

1. Approve Professional Services Contract with A&E Architects. They were awarded and completed the original design contract, so they are the most familiar with what is required to make the building code compliant.
2. Do not approve Professional Services Contract with A&E Architects. This would cause the solicitation of professional services from other consultants that have little or no familiarity with the project, resulting in extended time frames and most likely higher costs.

FINANCIAL IMPACT: City Council has approved the budget for fiscal year 2006, which includes \$360,500 allotted for this project. These funds became available July 1, 2005, and are located in account 260-5512-455-2690.

FY '06 PROJECT BUDGET:	\$360,500
A&E ARCHITECTS PROFESSIONAL SERVICES:	(\$ 13,650)
BALANCE AVAILABLE FOR CONSTRUCTION:	\$346,850

RECOMMENDATION

Staff recommends that City Council approve a contract with A&E Architects in the amount of \$13,650 for professional services related to the Library Building renovation.

Attachments

Four (4) Copies of Professional Services Contract (23 Pages/Copy)

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F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Renewal of Contract for Lobbyist Services

DEPARTMENT: City Administrator's Office

PRESENTED BY: Tina Volek, Assistant City Administrator

PROBLEM/ISSUE STATEMENT: The City has contracted with Jani McCall since 1998 to provide lobbying services. Ms. McCall's previous contract expired July 1, and she has proposed a 1-year extension through June 30, 2006. The work for 2005-06 will focus on preparing for upcoming issues with interim legislative committees, the legislative delegation and other local governments; and on attending any special sessions held by the Legislature.

ALTERNATIVES ANALYZED: None

- Contract with Ms. McCall (recommended);
- Contract with another firm;
- Send staff to Helena as needed, which will require substantial amounts of time to become acquainted with legislators and issues;
- Engage in no lobbying at all, which leaves Montana's largest community with no formal communication with state government.

FINANCIAL IMPACT: The lobbyist is proposing the same terms as in the previous budget year, which is a retainer of \$525 per month, plus \$50 an hour for anything over 12 hours per month, and expenses. \$10,000 has been budgeted in account 010-1411-414.39-50 for this activity in FY '06.

RECOMMENDATION

Staff recommends that Council approve the renewal of lobbying services by Jani McCall and authorize the Mayor to sign the attached contract.

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

ATTACHMENTS

A – Contract for Lobbyist Services

Attachment A

CONTRACT FOR LOBBYIST SERVICES

Agreement made, effective as of July 1, 2005 by and between the City of Billings, Montana, referred to as CITY, and Jani McCall of 2331 Spruce St., Billings, Montana, 59101, referred to as LOBBYIST.

The parties agree as follows:

PURPOSE OF EMPLOYMENT

CITY employs LOBBYIST to provide lobbying services for CITY between legislative sessions. A scope of services to be provided by LOBBYIST is more specifically described in Exhibit "A" attached hereto and by this reference incorporated herein.

TERM

This term of Agreement shall be from July 1, 2005 through the last day of June 30, 2006.

COMPENSATION

In consideration of services provided, CITY agrees to pay LOBBYIST a retainer in the amount of \$525 per month. Any hours over 12 hours per month will be paid on an hourly basis of \$50 (Fifty Dollars) per hour. CITY will automatically pay the retainer on a monthly basis by the 15th of each month.

EXPENSES

In addition, CITY will pay all actual travel expenses, including CITY rates for lodging and per diem incurred by LOBBYIST and approved by the City Administrator. Travel by personal automobile will be reimbursed at the rate of thirty-eight cents (\$.38) per mile or the current rate set by CITY. Air travel must be pre-approved by the City Administrator and will be reimbursed on the actual cost to LOBBYIST, documented by receipts provided to CITY by LOBBYIST. Expenses will be submitted monthly to CITY by LOBBYIST and paid within 14 days of receipt of request for reimbursement.

INDEPENDENT CONTRACTOR

It is understood and agreed by the Parties that LOBBYIST is an independent contractor performing services for CITY pursuant to this Agreement and is not an employee of the CITY. LOBBYIST shall receive only the compensation and benefits described in this Agreement for services performed and shall not be entitled to any other compensation or benefits of any kind normally provided to employees of CITY. CITY shall not be responsible for withholding from payments due to LOBBYIST, any amounts for federal taxes, social security contributions, workman's compensation insurance, or state taxes. LOBBYIST shall not be covered by any CITY insurance policies including medical, dental insurance, workers compensation, liability or property insurance.

TERMINATION

Either Party upon fifteen (15) days written notice to the other may terminate this agreement.

IN WITNESS THEREOF, each Party of this Agreement has caused it be executed in Billings, Montana, on the date indicated below.

JANI MCCALL

DATE: _____

CITY OF BILLINGS

BY: _____
CHARLES F. TOOLEY, Mayor

DATE: _____

ATTEST:

MARITA HEROLD, CMC,
CITY CLERK

DATE: _____

EXHIBIT "A"

Following is a list of activities to be performed for CITY by LOBBYIST during the term of the contract.

1. Represent the City of Billings at all necessary interim legislative committee meetings, study committees and any other meetings as requested,
2. Attend any special sessions of the Legislature,
3. Testify and present written information to legislative committees,
4. Work closely with the Montana League of Cities and Towns, the Montana Municipal Insurance Authority and Montana Association of Counties,
5. Communicate closely and regularly with the Acting City Administrator,
6. Work with Department Directors and Administrators on identification of issues and research and development of legislative priorities to prepare early for the 59th Legislative Session.
7. Request assistance as needed on legislative matters of interest to the City,
8. Arrange for and coordinate lobbying efforts on specific legislative matters as needed,
9. Prepare and submit to the City Administrator monthly reports regarding legislative issues and activities,
10. Act as an informational resource and contact person to the Yellowstone Delegation,
11. Work with the Yellowstone Coalition as the representative for the City,
12. Work with and maintain good cooperation with state agencies in regards to legislative issues,
13. Prepare and maintain current licensure and reporting requirements with the Office of Political Practices.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Extension of Animal Control Contract with Yellowstone County**DEPARTMENT:** City Administrator's Office**PRESENTED BY:** Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: Yellowstone County decided to use a private provider for animal shelter services after its contract with the City of Billings Animal Shelter expired on June 30, 2005. However, on June 28, county staff members asked to extend the contract with the City Animal Shelter on a month-to-month basis for up to two months while they transition operations to the new provider.

The Mayor signed a temporary extension with Yellowstone County July 1 so that services could be provided until the next regular Council session. The extension would need to be ratified by the Council if the City is to continue providing the service.

ALTERNATIVES ANALYZED

- Ratify the extension on a month-to-month basis for up to two months; or
- Approve an extension for a different amount of time; or
- Do not ratify the extension.

FINANCIAL IMPACT: Yellowstone County has agreed to pay a prorated share of the \$55,000 contract originally proposed by the City for 2005-06 for the term of the extension (approximately \$4,583/month). If the extension is not ratified, the City will receive none of the budgeted income.

RECOMMENDATION

Staff recommends that Council ratify the contract extension so the Animal Shelter can provide service to Yellowstone County on a month-to-month basis for up to two months.

Approved By: City Administrator City Attorney **ATTACHMENTS****A:** Extension signed by Mayor.[\(Back to Consent Agenda\)](#)

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) 29 Grant

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: It is necessary to secure the City Council's approval and authorization for the Mayor to execute FAA AIP Grant 29 once it has been received from the FAA. Grant 29 contains this year's entitlement funds that will be used to undertake engineering, planning, and construction projects at the Airport. This year's projects include pavement replacement on Taxiway "G," the replacement of the concrete in the commercial aircraft ramp area, a study of the possible expansion of Runway 7/25, and the purchase of a front-end loader used for airfield maintenance operations. Staff anticipates the receipt of the grant very shortly.

FINANCIAL IMPACT: The total estimated costs of the construction, equipment purchase, and the engineering and planning services associated with this grant are \$3,275,000. The grant will fund 95% of this cost (\$3,111,250), and the City will be required to provide a 5% match (\$163,750). The necessary funds have been budgeted. The projects funded with this grant are included in the City's Capital Improvement program or Equipment Replacement program and are reflected in the FY06 Budget

RECOMMENDATION

Staff recommends that the City Council authorize the Mayor to execute Grant 29 when it is received from the FAA.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Sale of One Used Paratransit Van to Eagle Mount

DEPARTMENT: Aviation/Transit Department

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

PROBLEM/ISSUE STATEMENT: MET Transit has four used paratransit vans that are scheduled to be sold at the City Auction, which will be held in late August or September. The 1998 Ford vans scheduled for disposal each have over 100,000 miles on them, and have been removed from revenue service. Eagle Mount, a non-profit organization which provides opportunities in recreation and social integration for youth and adults with disabilities, has requested to purchase one of these paratransit vans as soon as possible.

Eagle Mount provides year round programming for over 500 individuals, and works closely with community groups and businesses to ensure that those they serve have access to all that the community has to offer, such as summer day camp, day trips, arts and crafts, skiing, swimming, golfing, etc. One of their most significant barriers to access continues to be transportation. A Community Needs Assessment conducted by Eagle Mount in 1994 indicated that transportation for the disabled was insufficient and inaccessible, significantly limiting their options. A similar study conducted just last fall revealed the same findings – current programs in place do not meet the demand for transportation. While several automobile dealerships and car rental companies loan Eagle Mount mini-vans periodically to help accommodate peak demand periods during the summer and winter months they are still short seats. Subsequently, Eagle Mount has requested to purchase one paratransit van, as soon as possible, for use in its upcoming summer programs. In order to accommodate this request and to help out in a very special cause, Council must first declare one van as surplus and allow staff to proceed with a negotiated sale of the van to Eagle Mount.

FINANCIAL IMPACT: The average amount received for similar vans sold at the City Auction in past years has been about \$3,000. The MET estimates that the van would sell at the auction this fall for \$2,500 to \$3,500.

RECOMMENDATION

Staff recommends that Council designate one of the 1998 Ford paratransit vans as surplus and grant staff permission to negotiate and proceed with the sale of one paratransit van to Eagle Mount.

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

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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Amendment to Development Agreement with Faith Chapel
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Faith Chapel entered into a Development Agreement with the City of Billings. The Development Agreement outlined all of the right-of-way improvements that Faith Chapel will need to construct on Shiloh Road. The improvements to Shiloh Road needed to be constructed when any of the following occurred: 1) when such improvements are installed by adjacent properties; 2) when City initiates the improvements on Shiloh Road between Broadwater Avenue and Central Avenue; or 3) June 30, 2005. Faith Chapel requested that the Development Agreement be amended to change the date they would have to install the improvements to June 30, 2007, due to the potential timing of the MDT Shiloh Road Project.

ALTERNATIVES ANALYZED:

1. Approve amendment to Development Agreement with Faith Chapel
2. Do not approve amendment to Development Agreement with Faith Chapel.

FINANCIAL IMPACT: There is no financial impact to the City with this amendment to the Development Agreement.

RECOMMENDATION

Staff recommends that Council approve the amendment to the Development Agreement with Faith Chapel.

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

ATTACHMENT

- A. Amendment to Development Agreement with Faith Chapel

AMENDMENT TO DEVELOPMENT AGREEMENT

THIS AMENDMENT TO THE JULY 1, 2001 DEVELOPMENT AGREEMENT
between the parties hereto is made this ____ day of _____, 2005, among **THE CITY OF BILLINGS, MONTANA**, a municipal corporation, c/o City Hall, Billings, Montana 59101, hereinafter referred to as the "City"; **INTERNATIONAL CHURCH OF THE FOURSQUARE GOSPEL**, P.O. Box 20674, Billings, Montana 59104-0674, hereinafter referred to as "Church"; and **DOUGLAS W. McGREGOR AND BARBARA G. McGREGOR, TRUSTEES OF THE BARBARA G. McGREGOR REVOCABLE TRUST DATED JUNE 20, 1986 AND DOUGLAS W. McGREGOR AND BARBARA G. McGREGOR, TRUSTEES OF THE DOUGLAS W. McGREGOR REVOCABLE TRUST DATED JUNE 21, 1986**, collectively said trustees and trusts are hereinafter referred to as the "McGregors"; and

WHEREAS, a development agreement between the City and Church and McGregors was executed on the 7th day of July, 2001, which identified improvements required and timing of the construction of those improvements on Shiloh Road.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties do hereby agree to amendment said development agreement as follows:

- A. Church and City agree that Paragraph A.1.a.(2) of the aforesaid development agreement dated July 7, 2001 shall be modified and amended to read as follows:

"(2) Frontage improvements adjacent to Tr. 1, C/S 2686 and Tr. 2, C/S 2686, shall include the same improvements and establish the same lane configurations listed in (1) above, except curb, gutter, drainage and walks need not be installed on Shiloh Road along the frontage of C/S 3107 Tract 1, Tract 2, and Tract 3 until the earlier of the following (i) when such improvements are installed along Shiloh Road adjacent to Tract 1, Certificate of Survey No. 2277, and Tract 2, Certificate of Survey No. 2337; (ii) when City initiates installation of curb, gutter, drainage, walk improvements on the east side of Shiloh Road between Broadwater Avenue and Central Avenue; or (3) June 30, 2007."
- B. All of the other terms and conditions of the aforesaid development agreement dated July 7, 2001 are specifically reaffirmed by the parties hereto, and shall remain in full force and effect as if set forth hereinbelow in their entirety.

IN WITNESS WHEREOF, the parties have executed this Amendment to Development Agreement as of the day and year first above written.

“CHURCH”

INTERNATIONAL CHURCH OF THE FOURSQUARE
GOSPEL, A RELIGIOUS CORPORATION OF THE
STATE OF CALIFORNIA

By: _____
President of International Church of the Foursquare Gospel

By: _____
Secretary of International Church of the Foursquare Gospel

STATE OF CALIFORNIA)
County of _____) : ss.

On this ____ day of _____, 2005, before me, a Notary Public for the State of California, personally appeared _____ and _____ known to me to be the President and Secretary, respectively, of INTERNATIONAL CHURCH OF THE FOURSQUARE GOSPEL who signed the foregoing instrument and acknowledged to me that they executed the same.

(Signature)

(SEAL) _____ (Printed Name)
Notary Public for the State of California
Residing in _____
My Commission Expires: _____

“CITY”

CITY OF BILLINGS, MONTANA

By: _____
Mayor

By: _____
City Clerk

STATE OF MONTANA)
County of Yellowstone) : ss.

On this ___ day of _____, 2005, before me, a Notary Public for the State of Montana, personally appeared _____ and _____ known to me to be the Mayor and City Clerk, respectively, of the City Of Billings who signed the foregoing instrument and acknowledged to me that they executed the same.

_____ (Signature)

(SEAL)

(Printed Name)
Notary Public for the State of Montana
Residing in _____
My Commission Expires: _____

“McGREGORS”

DOUGLAS W. McGREGOR AND BARBARA G.
McGREGOR, TRUSTEES OF THE BARBARA G.
McGREGOR REVOCABLE TRUST DATED JUNE 20,
1986 AND DOUGLAS W. McGREGOR AND
BARBARA G. McGREGOR, TRUSTEES OF THE
DOUGLAS W. McGREGOR REVOCABLE TRUST
DATED JUNE 21, 1986

By: _____
DOUGLAS W. McGREGOR, Trustee

By: _____
BARBARA G. McGREGOR, Trustee

STATE OF MONTANA

)

: SS.

County of Yellowstone

)

On this ____ day of _____, 2005, before me, a Notary Public for the State of Montana, personally appeared DOUGLAS W. McGREGOR and BARBARA G. McGREGOR, known to me to be the Trustees of the Barbara G. McGregor Revocable Trust dated June 20, 1986 AND the Douglas W. McGregor Revocable Trust dated June 21, 1986, and acknowledged to me that they executed the same on behalf of said trusts and as trustees thereof.

(Signature)

(SEAL)

(Printed Name)
Notary Public for the State of Montana
Residing in _____
My Commission Expires: _____

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K1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Billings Association of Realtors 2 and 5 Mile Run

DEPARTMENT: Parks, Recreation and Public Lands

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

PROBLEM/ISSUE STATEMENT: The Billings Association of Realtors request partial street closures on Saturday, August 27, 2005, from 6:00 am to 11:30 am for their 2 mile and 5 mile run. Their route begins at Masterson Circle on Hwy 3 (event coordinator is working with Hwy Dept as well for this section of race), runners will go down Airport Road; right on 27th Street; right on Rimrock Road; left on Virginia Lane; through Pioneer Park from Zimmerman Center to the SE corner of the park, left on 3rd Street West, right on Parkhill; right on 32nd Street; disbanding at the corner of 6th Avenue N. and 32nd Street in the Transwestern parking lot.

Recommended conditions of approval include Billings Association of Realtors:

- Have no alcohol consumption in the right of way
- Clean area to be used and provide and empty waste cans
- Notifying all emergency facilities, bus lines and media at least two weeks in advance of the event
- Provide a certificate of insurance naming City of Billings as additional insured
- Have traffic directors properly attired in orange vests or bright colored shirts
- Provide and install adequate traffic barricades and signs directing motorists around closure

ALTERNATIVES ANALYZED: Approve request to close streets for the event (recommended). Deny the street closures.

FINANCIAL IMPACT: Costs to the City of Billings include administrative time to process application.

RECOMMENDATION

Staff recommends that Council approve the temporary street closures for the Billings Association of Realtors 2 and 5 Mile Run.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

- A. Letter and brochure outlining event and course map (3 pages)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Certificate of insurance (2 pages)

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K2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Big Sky State Games 5K Run Street Closures

DEPARTMENT: Parks, Recreation and Public Lands

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

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests the temporary street closures of 3rd Street West at Grand Avenue and Parkhill Drive along with partial closures along Virginia Lane, 3rd Street West and Parkhill Drive (as outlined in the attached course map) from 6:00 pm to 7:15 pm on Friday, July 15, 2005, for its annual 5K Run.

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED: Approve request to close streets for the event (recommended). Deny the street closures.

FINANCIAL IMPACT: Costs to the City of Billings include administrative time to process application and the services of on-duty police officers to secure the street closure at Virginia Lane and Parkhill Drive.

RECOMMENDATION

Staff recommends that Council approve the temporary street closures of 3rd Street West at Grand Avenue and Parkhill Drive along with partial closures along Virginia Lane, 3rd Street West and Parkhill Drive (as outlined in the attached course map) from 6:00 pm to 7:15 pm on Friday, July 15, 2005.

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

ATTACHMENTS

A. Letter from Big State Games (2 pages)

- B. Right of Way Special Activity Permit Application (2 pages)
- C. Course map (1 page)
- D. Certificate of insurance (1 page)

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K3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Big Sky State Games Cycling Race Road Usage

DEPARTMENT: Parks, Recreation and Public Lands

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

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests the usage of 62nd Street West up to house block 14; and Track 2 of Molt Road up the division line stated as "unplatted" for its Cycling Race on Saturday, July 16, 2005, from 7:45 am to 1:00 pm. Map is attached.

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED: Approve request to use roads for the event (recommended). Deny the closure.

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process.

RECOMMENDATION

Staff recommends that Council approve the road usages described above.

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

ATTACHMENTS

- A. Letter from Big Sky State Games (2 pages)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Course Map (1 page)
- D. Certificate of insurance (1 page)

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K4

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Big Sky State Games Cycling Mountain Bike Road Closure

DEPARTMENT: Parks, Recreation and Public Lands

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

PROBLEM/ISSUE STATEMENT:

Big Sky State Games requests the temporary closure of Black Otter Trail from 6:00 am to 2:00 pm for its Mountain Bike Race on Sunday, July 17, 2005.

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED: Approve request to temporarily close trail for the event (recommended). Deny the closure.

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process.

RECOMMENDATION

Staff recommends that Council approve the street closures as described above.

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

ATTACHMENTS

- A. Letter from Big Sky State Games (2 pages)
- B. Right of Way Special Activity Permit Application (2 pages)
- C. Certificate of insurance (1 page)

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K5

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Big Sky State Games Triathlon Partial Street Closures

DEPARTMENT: Parks, Recreation and Public Lands

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

PROBLEM/ISSUE STATEMENT: Big Sky State Games requests partial street closures along several streets in the Billings Heights area, as outlined in the attached course map, for its Triathlon event on Sunday, July 17, 2005, beginning at 6:15 am until approximately 9:45 am. Big Sky State Games staff members will be manning the course to insure their participants' safety.

Recommended conditions of approval include Big Sky State Games:

- Have no alcohol consumption in the right of way
- Provide police assistance or private security car at Wicks and Cody St. intersection during biking leg of race
- Clean area to be used and provide and empty waste cans
- Notify all emergency facilities, bus lines and media as soon as possible
- Provide and install adequate traffic barricades and signs directing motorists around closure
- Provide a certificate of insurance naming City of Billings as additional insured

ALTERNATIVES ANALYZED: Approve request to partially close streets for the event (recommended). Deny the street closures.

FINANCIAL IMPACT: There are no costs to the City of Billings other than administrative time to process.

RECOMMENDATION

Staff recommends that Council approve the closure of several streets in the Billings Heights area, as outlined in the attached course map, for its Triathlon event on Sunday, July 17, 2005.

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

ATTACHMENTS

A. Letter from Big Sky State Games (2 pages)

- B. Right of Way Special Activity Permit Application (2 pages)
- C. Map outlining course (1 page)
- D. Certificate of insurance (1 page)

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: SID 1368 Annandale Road Resolution of Intent to Create District
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: Ron Hill, owner of 51 of the 77 lots proposed in the SID district boundary has the desire to construct public improvements on Annandale Road between Cherry Hills Road and Greenbriar Road. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, and street improvements to Annandale Road as shown on the attached exhibit. This project was approved in the CIP with a \$125,000 contribution from the City of Billings in FY'05 due to the fact that Annandale Road is classified as a minor arterial. This funding has been rolled over to FY '06.

ALTERNATIVES ANALYZED:

1. Approve the Resolution of Intent to Create SID 1368; or
2. Do not approve the Resolution of Intent to Create SID 1368.

FINANCIAL IMPACT: The total estimated costs of the Improvements are \$644,043.67. The costs of the Improvements are to be paid from the following sources: (1) \$227,000.00 of Special Improvement District bonds hereinafter described; and (2) \$292,043.67 of cash contribution by Ron Hill, the owner of 51 of the 77 lots in the District and \$125,000.00 of contribution by the City of Billings which is ENGP5 in the CIP.

RECOMMENDATION

Staff recommends that Council approve the Resolution of Intent to Create SID 1368 and set a public hearing date for August 8, 2005.

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

ATTACHMENT

- A. Boundary of Proposed Special Improvement District (1 page)
- B. Resolution of Intent to Create District

INTRODUCTION

Ron Hill, owner of 51 of the 77 lots within the proposed boundary of the SID, has a desire to develop lots on Annandale Road. In order to develop these lots, all the necessary street improvements need to be constructed on Annandale Road. These improvements generally consist of water, sanitary sewer, storm drain, curb and gutter, and street improvements. To complete the project, it is necessary to create a Special Improvement District.

PROCEDURAL HISTORY

- July 11, 2005 – Resolution of Intent to Create SID 1368.
- August 8, 2005 – Public Hearing and Resolution Creating SID 1368. Professional Services Contract Award.
- August 8, 2005 – Resolution Authorizing for Construction Bids and Construction Contract Award. (Proposed Schedule)

BACKGROUND

The boundary of this proposed special improvement district is as indicated on the attached map. The public improvements contemplated under the terms of this project include water, sanitary sewer, storm drain, curb and gutter, and street improvements to Annandale Road. Ron Hill, owner of 51 of the 77 lots in the District, and the City of Billings will pay a cash contribution to the project. The total cash contribution by all property owners is equal to \$417,043.67 and represents 64.75 percent of the construction and administrative costs of the improvements. This condition is necessary to satisfy the City's Special Improvement District Policy regarding raw land subdivision.

The public hearing will be held at the August 8, 2005, Council Meeting. If approved, it is anticipated that construction of SID 1368 will begin in the fall of 2005 and be completed by the spring of 2006.

RECOMMENDATION

Staff recommends that Council approve the Resolution of Intent to Create SID 1368 and set a public hearing date for August 8, 2005.

ATTACHMENTS

- A. Boundary of Proposed Special Improvement District (1 page)
- B. Resolution of Intent to Create District

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. _____, entitled: **RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1368; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND** (the Resolution" was duly adopted by the City Council of the City at a meeting on July 11, 2005 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 Councilmembers voted in favor thereof: _____;

voted against the same: _____;

or were absent: _____.

WITNESS my hand officially this _____ day of _____, 200____.

Marita Herold, CMC City Clerk

RESOLUTION NO. 05-_____

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT
NO. 1368; DECLARING IT TO BE THE INTENTION OF THE CITY
COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF
UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING
THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE
ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED
BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

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

Section 1. Proposed Improvements; Intention To Create District. The City proposes to undertake certain local Improvements (the "Improvements") to benefit certain property located in the City. The Improvements consist of the construction of Annandale Road, as more particularly described in Section 5. The total estimated costs of the Improvements are \$644,043.67. The costs of the Improvements are to be paid from the following sources: (1) \$227,000.00 of Special Improvement District bonds hereinafter described; and (2) \$292,043.67 of cash contribution by Ron Hill, the owner of 51 of the 77 lots in the District and \$125,000.00 of contribution by the City of Billings, as more particularly described in Sections 6 and 9(f). It is the intention of this Council to create and establish in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, a Special Improvement District (the "District") for the purpose of financing costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of Special Improvement District bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Bonds are \$227,000.00. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements.

Section 2. Number of District. The District, if the same shall be created and established, shall be known and designated as Special Improvement District No. 1368 of the City of Billings, Montana.

Section 3. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as Exhibit A hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on Exhibit B hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing of each of the properties in the District is shown on Exhibit F hereto (which are hereby incorporated herein and made a part hereof).

Section 4. Benefited Property. The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits A, B, and F are hereby declared to be the Special Improvement District and the territory which will benefit and be benefited by the Improvements and will be assessed for the costs of the Improvements as described in Section 7.

Section 5. General Character of the Improvements. The general character of the Improvements, as shown in Exhibit E, is the construction of curb and gutter, sanitary sewer mains, sanitary sewer services, water mains, water services, and necessary street improvements and widening fronting Lots on Annandale Road within Lake Hills Subdivision.

Section 6. Engineer and Estimated Cost. Engineering, Inc.; P.O. Box 81345; Billings, MT 59108-1345, shall be the engineer for the District. The Engineer has estimated that the costs of the Improvements, including all incidental costs, are \$644,043.67.

Section 7. Assessment Methods.

7.1. Property to be Assessed. All properties within the district are to be assessed for the costs of the Improvements, as specified herein. The costs of the Improvements shall be assessed against the property in the District benefiting from the Improvements based on the equal amount methods described in Section 7-12-4162, M.C.A., as particularly applied and set forth in this Section 7.

7.1.1 Equal Amount Method.

Assessment #1 will include water improvements to be constructed on Annandale Road between Cherry Hills Road and Greenbriar Road. The properties to be assessed for these improvements include Lake Hills Subdivision 13th Filing, Block 44, Lots 6, 11 & 12; Lake Hills Subdivision 13th Filing, Block 45, Lots 2, 6-8, 10, & 11. For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving water improvements, shall equally bear the costs of the water improvements as set forth in Part III hereto to arrive at an equal cost for the water improvements. The total estimated cost of Assessment #1 is \$24,703.70 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving water improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$2,744.8555.

Assessment #2 will include sanitary sewer improvements to be constructed on Annandale Road between Cherry Hills Road and Greenbriar Road. The properties to be assessed for these improvements include Lake Hills Subdivision 13th Filing, Block 44, Lots 6 & 11-12; Lake Hills Subdivision 13th Filing, Block 45, Lots 2, 6-8, 10, & 11. For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving sanitary sewer improvements, shall equally bear the costs of the sanitary sewer improvements as set forth in Part III hereto to arrive at an equal cost for the sanitary sewer improvements. The total estimated cost of Assessment #2 is \$47,453.56 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving sanitary sewer improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$5,272.6178.

Assessment #3 will include storm drain improvements to be constructed in Annandale Road between Greenbriar Road and Boca Raton Road. The properties to be assessed for these improvements include Lake Hills Subdivision 13th Filing, Block 44, Lots 6, 11 & 12; Lake Hills Subdivision 13th Filing, Block 45, Lots 2, 6-8, & 10-14; Lake Hills Subdivision 14th Filing,

Block 45, Lots 16 & 16A; Block 46, Lots 1, 3, 21, & 26; Block 47, Lots 2, 5, 6, 14, 18, & 20; Lake Hills Subdivision 15th Filing, Block 19, Lots 5 & 6; Block 46, Lot 14. For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving storm drain improvements, shall equally bear the costs of the storm drain improvements as set forth in Part III hereto to arrive at an equal cost for the storm drain improvements. The total estimated cost of Assessment #3 is \$61,858.02 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving storm drain improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$2,379.1545.

Assessment #4 will include street improvements to be constructed on Annandale Road between Cherry Hills Road and Greenbriar Road. The properties to be assessed for these improvements include Lake Hills Subdivision 13th Filing, Block 44, Lots 6, 11 & 12; Lake Hills Subdivision 13th Filing, Block 45, Lots 2, 6-8, 10, & 11. For the purposes of equitably apportioning special benefit to each lot, tract or parcel of land in the District, as above-mentioned, the Engineer has determined that each lot, tract, or parcel of land, receiving street improvements, shall equally bear the costs of the street improvements as set forth in Part III hereto to arrive at an equal cost for the street improvements. The total estimated cost of Assessment #4 is \$92,984.72 and shall be assessed against each lot, tract, or parcel of land within the District, as above-mentioned, receiving street improvements, on an equal amount basis based on the bid price to be received. The equal amount assessment is estimated to be \$10,331.6359.

7.2. Assessment Methodologies Equitable and Consistent With Benefit. This Council hereby determines that the methods of assessment and the assessment of costs of the specific improvements against the properties benefited thereby as prescribed in this Section 7 are equitable in proportion to and not exceeding the special benefits derived from the respective improvements by the lots, tracts, and parcels to be assessed therefore within the District.

Section 8. Payment of Assessments. The special assessments for the costs of the Improvements shall be payable over a term not exceeding 15 years, each in equal semiannual installments of principal, plus interest, or equal semiannual payments of principal and interest, as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Property Owners have the right to prepay assessments as provided by law. Further, all owners shall have the opportunity to prepay their assessments prior to sale of the SID bonds.

Section 9. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The City will issue the Bonds in an aggregate principal amount not to exceed \$227,000.00 in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the properties in the District. This Council further finds it is in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the city to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) **Estimated Market Value of Parcels.** The estimated market value of the lots, parcels, or tracts in the District as of the date of adoption of this resolution, as estimated, by the County Assessor for property tax purposes ranges from \$1,824 to \$2,488, and is set forth in Exhibit F. The average market value is \$2,424.71 with the median being \$2,141. The special assessments to be levied under Section 7 against each lot, parcel, or tract in the District is less than the increase in estimated value of the lot, parcel, or tract as a result of the construction of the Improvements.

(b) **Diversity of Property Ownership.** There are a total of 77 parcels within the district boundaries. No improvements, public or private, are located on any of the parcels within the District. Fifty-one (51) of these parcels are owned by Ron Hill. The remaining 26 parcels are owned by separate owners.

(c) **Comparison of Special Assessments and Property Taxes and Market Value.** Based on an analysis of the aggregate amount of the proposed, any outstanding special assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a parcel in the District) against each lot, parcel, or tract in the District in comparison to the estimated market value of such lot, parcel, or tract after the Improvements, the City concludes that, overall, the estimated market value of the lots, tracts, or parcels of land in the District exceeds the sum of special assessments, delinquent property taxes, and current assessments and is set forth in Exhibit F.

(d) **Delinquencies.** An analysis of the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against the properties in the District shows that of 77 properties, zero (0) properties were delinquent, and is set forth in Exhibit F.

(e) **The Public Benefit of the Improvements.** The total estimated costs of the Improvements are \$644,043.67. The costs of the Improvements are to be paid from the following sources: (1) \$227,000.00 of Special Improvement District bonds hereinafter described; and (2) \$292,043.67 of cash contribution by Ron Hill, the owner of 51 of the 77 lots in the District and \$125,000.00 of contribution by the City of Billings. The majority of the properties within the District are zoned R-9600, however six properties are zoned community commercial, 4 properties are zoned Residential Multi-Family, and two properties are zoned Residential 6000. The public improvements contemplated under the terms of this proposed District are required by the City Subdivision, Site Development and Zoning Ordinances in order for the parcels to develop.

(f) **Other Factors.** As previously noted, Ron Hill, owner of 51 of the 77 lots in the District, and the City of Billings will pay a cash contribution to the project. The total cash contribution is equal to \$417,043.67 and represents 64.75 percent of the construction and administrative costs of the Improvements. This condition is necessary to satisfy the City's Special Improvement District Policy regarding raw land subdivision.

Section 10. Reimbursement Expenditures.

10.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of

which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

10.02. Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

10.03. Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$227,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

10.04. Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

10.05. Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 11. Public Hearing Protests. At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution,

any owner of real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the City Clerk until 5:00 p.m., M.T., on the expiration date of said 15-day period (July 29, 2005), written protest against the proposed Improvements, or against the extension or creation of the District or both, and this Council will at its next regular meeting after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said, regular meeting will be held on Monday the 8th day of August 2005, at 6:30 p.m., in the Council Chambers, at 220 North 27th Street, in Billings, Montana.

Section 12. Notice of Passage of Resolution of Intention. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the Billings Times, a newspaper of general circulation in the county on July 14 and July 21, 2005, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 11th day of July 2005.

Mayor

Attest:

City Clerk

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AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Resolution of Intent to Create - Park Maint. District No. 4028, Vintage Estates Subdivision

DEPARTMENT: Department Of Parks, Recreation, & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: Vintage Estates Subdivision contains approximately 2.1 acres of dedicated park and public open space. It includes parkland, boulevard improvements, and a 20-foot wide trailway strip along the southern edge of the subdivision, which will provide a corridor for the Heritage Trail. 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 public area improvements. As a condition of the Vintage Estates Subdivision final plat approval, the lots must establish a park maintenance district. The Resolution of Intent to Create the District is the first step in the process to include all lots of Vintage Estates Subdivision in Park Maintenance District No. 4028.

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 public area improvements are estimated to be \$3,235.00 for the first year. The assessment rate for this amount is \$36.47 per lot in District 4028. The assessment for the lots is shown in "Exhibit D" of the attached PMD documents for the coming year.

RECOMMENDATION

Staff recommends Council approve the Resolution of Intent to Create Park Maintenance District No. 4028 to provide a date for the Public Hearing and consideration of the Resolution to Create the District at the August 8th, 2005, City Council meeting.

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

ATTACHMENT

A: Resolution of Intent to Create Park Maintenance District No. 4028; and Exhibits A-D thereto attached.

INTRODUCTION

Approval of the Resolution of Intent to Create Park Maintenance District No. 4028 for the maintenance of Vintage Estates Subdivision public areas is the first step in creating the Park Maintenance District by setting a date for the Public Hearing, considering the Resolution to Create the district, and to notifying the property owners included within the district of the intended action.

PROCEDURAL HISTORY

- The Vintage Estates Subdivision final plat was approved at the April 11th, 2005, City Council meeting.
- The Resolution of Intent To Create the Park Maintenance District 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 Create the district at the August 8th, 2005, regular City Council meeting.

BACKGROUND

To provide the funding needed to develop and to 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. It assures that there are well maintained parks in new areas of Billings without increasing the demand on the expenditures of the city general fund and to relieve the pressures on existing developed parks that adding new subdivisions to the city results in. The Vintage Estates Subdivision, Improvement Agreements call for the park improvements to be made and the Park Maintenance District to be created. The proposed maintenance district includes all lots included in Blocks 1 through 9 of Vintage Estates Subdivision. Waivers of Protest for the formation of the park maintenance district are on file for all lots within Vintage Estates Subdivision.

Approval of the Resolution of Intent to Create Park Maintenance District No. 4028 for Vintage Estates Subdivision is the first step in the creation process. The Resolution of Intent to Create the district provides for advertisement and mailing of a public notice to affected property owners explaining the protest and comment procedures. The Public Hearing and consideration of the Resolution to Create the district will take place at the August 8th, 2005, City Council Meeting.

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 commences. The approved Subdivision Improvements Agreements call 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 the development and maintenance of the public areas in Vintage Estates Subdivision.
- 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. 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 Districts 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 of Intention to Create Park Mntce. District No. 4028 and set August 8th, 2005 as the date for the Public Hearing and consideration of the Resolution to Create Park Maintenance District 4028 for Vintage Estates Subdivision.

ATTACHMENT

A: Resolution to Create Park Maintenance District No. 4028; and Exhibits A-D thereto attached.

RESOLUTION 05-_____

A RESOLUTION DECLARING IT TO BE THE INTENTION OF THE
CITY COUNCIL TO CREATE PARK MAINTENANCE DISTRICT NO.
4028 FOR THE PURPOSE OF MAINTAINING EXISTING AND FUTURE
PUBLIC AREA IMPROVEMENTS IN *VINTAGE ESTATES SUBDIVISION*,
CITY OF BILLINGS, MONTANA

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

Section 1. Proposed Park Maintenance District; Intention To Create Park Maintenance District. The City proposes to maintain certain special improvements to benefit certain property located in the City of Billings, Montana. The Improvements consist of landscaping, trails, drainageways, storm water detention facilities, irrigation systems, and other public area improvements that may be identified in the future, as more particularly described in Section 5. It is the intention of the Billings City Council to create and establish in the City under Montana Code annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, a special improvement maintenance district (the "Special Improvement Maintenance District") for the purpose of financing the maintenance costs for the hardscaping, landscaping, drainageways, weed control, and other portions of the improvements made with the development of Vintage Estates Subdivision. The estimated annual costs for the maintenance of the special improvements to be set by Resolution of the Council each year.

Section 2. Number of District. The District, if the same shall be created and established, shall be known and designated as the Park Maintenance District No.4028 of the City of Billings, Montana.

Section 3. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as "Exhibit A" hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on "Exhibit B" hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing of each of the properties in the District is shown on "Exhibit C" hereto.

Section 4. Benefited Property. The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits "A" and "C" are hereby declared to be the Park Maintenance District and the territory which will benefit and be benefited by the maintenance of the Vintage Estates Subdivision public area improvements, and will be assessed for a portion of the costs of the maintenance as described in Section 1.

Section 5. General Character of the Improvements to be Maintained. The general character of the Improvements to be maintained is as follows: landscaping, trails, trees, irrigation systems, irrigation system water services, storm water detention facilities, and other park equipment and public area improvements installed by the developer, Parks Department and/or as part of a future Special Improvement District.

Section 6. Assessment Methods; Property To Be Assessed. All properties within the District are to be assessed for a portion of the costs of maintaining the Vintage Estates Subdivision public area improvements, as specified herein. The costs of maintaining the Improvements shall be assessed against the property in the District benefiting from the Vintage Estates Subdivision, Public Area Improvements.

Section 7. Assessable Area. All properties in the District will be assessed for their proportionate share of the costs of maintaining the Vintage Estates Subdivision public area improvements. The total number of assessable units in the District to be assessed for the first year is 112 units. The costs of maintaining the Improvements per lot for the first year shall be \$36.47/lot, as shown in Exhibit "D" (which is hereby incorporated herein and made a part hereof).

Section 8. Payment of Assessments. The assessments for the costs of maintaining the Vintage Estates Subdivision, Public Area Improvements shall be payable, as prescribed in Section 7-12-4162 through 7-12-4165, M.C.A.

Section 9. Public Hearing; Protests. At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the proposed District subject to assessment and taxation for the cost and expense of maintaining the Vintage Estates Subdivision public area improvements may make and file with the City Clerk until 5:00 p.m. M.D.T., July 22nd, 2005 on the expiration date of said 15-day period, written protest against the proposed Special Improvement Maintenance District No. 4028, and this Council will at its next regular meeting after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said regular meeting will be held Monday, August 8th, 2005, at 6:30 p.m. M.D.T., in the Council Chambers, located on the Second Floor of the City Hall at 220 North 27th Street, in Billings, Montana.

Section 10. Notice of Passage of Resolution of Intention. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the Billings Times, a newspaper of general circulation in the County on July 14th and July 21st, 2005, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said Notice to every person, firm, corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for State, County, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this ____ day of _____, 2005.

THE CITY OF BILLINGS:

BY: _____

Charles F. Tooley, MAYOR

ATTEST:

BY: _____

Marita Harold, CMC, CITY CLERK

EXHIBIT “D”						
ESTIMATE OF PROBABLE COST						
SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 4028						
VINTAGE ESTATES SUBDIVISION						
PARK MAINTENANCE DISTRICT						
1. The costs to create the maintenance district are estimated to be <u>\$850</u> .						
2. The City Parks and Recreation Department estimates the maintenance of the improvements for the first year at <u>\$3,235</u>						
The first year's assessment is estimated as follows:						
CITY OF BILLINGS - PARK MAINTENANCE DISTRICT NO. 4028						
ESTIMATE OF ANNUAL MAINTENANCE COSTS						
PMD Description: Vintage Estates Subdivision Parks						
PMD Number:		4028				
Date:		6/21/ 2005				
						ESTIMATE D
	BA	SUB	ACCOUNT DESCRIPTION			MAINTENANCE
	SUB	ELE	OBJ			COSTS
				Creation documents and Exhibits`		\$850.00
				Operations and Supplies		
	34	10		Electricity		\$0.00
		20		City Water		\$0.00
		50		Ground Maintenance		\$500.00
	39	65		Other Service/Finance Charges		\$325.00
		90		Parks Charge for Services		\$650.00
	54	10		Special Assessments		\$410.00
				Total Operations and Supplies,		\$2,735.00

					Etc.		
					Capital E/I Reserve	\$500.00	
					Total Vintage Estates Subdivision Park O & M Annual Cost Estimate	\$4,085.00	
					Equal Assessment Per Lot	112	
					1st year Assessment (Per Lot)	\$36.47321	

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Graffiti Ordinance 2nd reading of ordinance

DEPARTMENT: Planning & Community Services

PRESENTED BY: Nicole M. Cromwell, AICP, Zoning Coordinator, Planner II

PROBLEM/ISSUE STATEMENT: Graffiti vandalism is becoming a significant property crime in the City Of Billings. Graffiti defacement happens to buildings, utility installations, railroad cars and property and on bridge abutments on a regular basis. The current City Of Billings municipal code does not address this type of property crime. The Code Enforcement Division, the Police Department and City Legal Services have proposed a city ordinance to more effectively handle graffiti vandalism. The City Council passed the proposed ordinance on 1st reading on June 27, 2005.

ALTERNATIVES ANALYZED: The Code Enforcement Division has considered graffiti vandalism codes and ordinances from other communities and adapted one to fit the needs of this community. The City Council may choose to approve the ordinance as proposed, amend the ordinance prior to approval or not approve the ordinance.

FINANCIAL IMPACT: There should not be any negative financial impacts from the adoption of this ordinance.

RECOMMENDATION

Staff recommends that Council adopt the Graffiti Ordinance on 2nd reading.

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

ATTACHMENTS

A: Ordinance

Attachment A – Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTIONS TO BE NUMBERED 18-1101 THROUGH 18-1116; PROHIBITING GRAFFITI, DEFINING TERMS, PROVIDING FOR A PROCEDURE WHEREBY GRAFFITI CAN BE REMEDIATED, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING A SEVERABILITY CLAUSE.

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

SECTION 1. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1101, to read as follows:

Section 18-1101. Purpose and Intent.

The City Council of Billings, Montana is enacting this Ordinance to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property. The Council is authorized to enact this Ordinance pursuant to its police powers, as specified in Section 1.01 of the City Charter and Montana Code Annotated Sections 7-1-101, 7-5-4101, and 7-5-4104 that authorize the City to have all power possible for a self-government city as fully and as completely as though they were fully enumerated in the Charter, to exercise any power not prohibited by the Constitution or laws of the State of Montana, to make and pass all laws not repugnant to the Constitution or laws of the State of Montana necessary for the government or management of the affairs of a city or town, and to define and abate nuisances and impose fines on persons guilty of creating, continuing or suffering nuisances to exist on premises they occupy or control.

The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then

become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

The City Council intends, through the adoption of this Ordinance, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement. The Council does not intend for this Ordinance to conflict with any existing anti-graffiti state laws.

SECTION 2. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1102, to read as follows:

Section 18-1102. Definitions.

For the purposes of this Ordinance, the following words shall have the meanings respectively ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) *Graffiti* means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the City Council.

(b) *Graffiti implement* means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or man-made surface.

(c) *Owner* means any entity or entities have a legal or equitable interest in real or personal property including but not limited to the interest of a tenant or lessee.

(d) *Paint stick or graffiti stick* means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and leaving a mark of at least one-eighth (1/8th) of an inch in width.

(e) *Person* means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(f) *Property* means any real or personal property and that which is affixed, incidental or appurtenant to real property including but not limited to any structure, fence, wall, sign or any separate part thereof whether permanent or not.

(g) *Responsible party* means an owner or entity or person acting as an agent for an owner by agreement who has authority over the property or is responsible for the property's maintenance or management. Irrespective of any arrangement to the contrary with any other party, each owner shall always be a responsible party for the purposes of this chapter. There may be more than one responsible party for a particular piece of property.

(h) *Unauthorized* means without the consent of the responsible party.

SECTION 3. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1103, to read as follows:

Section 18-1103. Prohibited Acts.

Defacement. It shall be unlawful for any person to apply graffiti to any natural or man-made surface on any city-owned property or, without the permission of the owner or responsible party, on any non-city-owned property.

SECTION 4. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1104, to read as follows:

Section 18-1104. Penalties.

(a) Fines and Imprisonment. Any person violating this Ordinance shall be punished as provided in Section 1-110 of this Code.

(b) Restitution. In addition to any punishment specified in this Section, the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the court.

(c) Community Service. In-lieu of, or as part of, the penalties specified in this Section, an offender may be required to perform community service as described by the court based on the following minimum requirements:

- (1) The offender shall perform at least thirty (30) hours of community service.
- (2) The entire period of community service shall be performed under the supervision of a community service provider approved by the Municipal Court.
- (3) Reasonable effort shall be made to assign the minor or adult to a type of community service that is reasonably expected to have the most rehabilitative effect on the offender, including community service that involves graffiti removal.

SECTION 5. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1105, to read as follows:

Section 18-1105. Rewards and Reimbursements for Information.

(a) The City may offer a reward in an amount to be established by resolution of the City Council for information leading to the identification and apprehension of any person who willfully damages or destroys any public or private property by the use of graffiti. In the event of damage to public property, the offender or the parents or legal guardian of any unemancipated minor must reimburse the City for any reward paid. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it shall deem appropriate.

(b) Claims for rewards under this Section shall be filed with the City in the manner specified by the City Council.

(c) No claim for a reward shall be allowed unless the City investigates and verifies the accuracy of the claim and determines that the requirements of this Section have been satisfied.

SECTION 6. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1106, to read as follows:

Section 18-1106. Graffiti as Nuisance.

(a) The existence of graffiti on public or private property in violation of this Ordinance is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified in this Ordinance.

(b) It is the duty of both the owner of the property to which the graffiti has been applied and any responsible party to at all times keep the property clear of graffiti.

SECTION 7. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1107, to read as follows:

Section 18-1107. Removal of Graffiti by Perpetrator.

Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the City or private owner of the property involved. Such removal shall be done in a manner prescribed by the Chief of Police, the Director of the Department of Public Works, or any additional City department head, as authorized by the City Council. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this Ordinance.

SECTION 8. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1108, to read as follows:

Section 18-1108. Removal of Graffiti by Property Owner or City.

If graffiti is not removed by the perpetrator according to [Section 7], graffiti shall be removed pursuant to the following provisions:

(a) Property Owner Responsibility. It is unlawful for any person who is the owner or responsible party of property to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding;

(3) A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time the City will declare the property to be a public nuisance, subject to the abatement procedures in City Code Section [Section 14 of this ordinance].

(4) An information sheet identifying any graffiti removal assistance programs available through the City and private graffiti removal contractors.

SECTION 9. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1109, to read as follows:

Section 18-1109. Failure to comply.

Upon first failure, neglect or refusal to remove the graffiti during the prescribed period, the city shall give notice to the noncomplying owner, agent or occupant thereof. Such notice shall provide as a minimum:

- (1) That the noncomplying owner, or agent thereof, is allowed ten (10) days from the date of notice of noncompliance to remove;
- (2) That upon failure to comply the city may by its own work forces or by contract cause the graffiti to be removed and the cost thereof shall be assessed against the noncomplying real property together with an additional administrative cost equal to twenty-five (25) percent of the cost of removal and a twenty-five dollar (\$25.00) penalty;
- (3) If the owner or agent of the property continues to neglect to maintain the property free from graffiti, the city may at its sole discretion remove the graffiti again as needed without additional notice of any kind. Charges as in subsection (2), including penalty, will be assessed for each time the city removes the graffiti;
- (4) That the assessed amount together with costs and penalties shall constitute a lien on the noncomplying real property and will be taxed as a special assessment against the real property.
- (5) Appeal.

The owner or agent may appeal any determination that they have failed to comply with the requirements of any order to the Director of the City-County Planning Department.

(6) Notice.

Notice under this article is sufficient if served upon the Owner or Responsible Person personally or mailed regular mail to the last known address Owner or Responsible Person or the last address of the Owner shown on the tax rolls of the county. Upon mailing, the city clerk shall execute an

affidavit of mailing. Notice shall be deemed given when deposited in a United States Postal Service receptacle.

SECTION 10. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1110, to read as follows:

Section 18-1110. Failure to comply misdemeanor.

Any person who willfully fails to comply with the provisions of this article is guilty of a misdemeanor and upon a signed complaint shall be punished as provided in section 1-110.

SECTION 11. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1111, to read as follows:

Section 18-1111. Exceptions to Property Owner Responsibility.

The removal requirements of subsection (a) above shall not apply if the property owner or responsible party can demonstrate that:

- (1) The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or
- (2) The property owner or responsible party has an active program for the removal of graffiti and has scheduled the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of ten (10) days after service by first class mail of notice of the defacement.

SECTION 12. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1112, to read as follows:

Section 18-1112. Right of City to Remove.

- (1) Use of Public Funds. Whenever the City becomes aware or is notified and determines that graffiti is located on publicly or privately owned property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the

graffiti, or for the painting or repairing of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the City Administrator, or the designee of the City Administrator, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, or unless the property owner or responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

(2) Right of Entry on Private Property. Prior to entering upon private property or property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this Section, the City shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified below.

SECTION 13. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1113, to read as follows:

Section 18-1113. Abatement and Cost Recovery Proceedings.

Assessment.

(a) Annually the city shall prepare a list of all lots, tracts and parcels of real property within the city from which and adjacent to which graffiti was removed by the city and for which such charges and penalties have not yet been paid, the list shall include as a minimum the following:

(1) Name as shown by the tax rolls, common address if known;

- (2) Tax code of the property;
- (3) Legal description of the lot, tract or parcel;
- (4) Cost of the graffiti removal for that property;
- (5) Administrative costs;
- (6) Penalty assessed.

(b) The assessment list shall be incorporated into a special assessment resolution in proper form which resolution shall be presented to the city council for consideration. From and after passage of the resolution, the assessments stated therein, together with administrative costs and penalty shall constitute a special assessment, as provided in MCA Sections 7-1-101 and 7-5-4123 and a lien on the real property shown on the assessment list. A copy of the resolution after passage shall be certified to the official collecting the city taxes and assessments.

SECTION 14. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1114, to read as follows:

Section 18-1114. Ease of Removal Provisions.

- (a) Common Utility Colors and Paint-type. Any gas, electric, telephone, water, sewer, cable, telephone and other utility operating in the City shall paint its above-surface metal fixtures with a uniform paint type and color that meets with the approval of the City Administrator.
- (b) Condition Encroachment Permits. All encroachment permits issued by the City shall, among such other things, be conditioned on:
 - (1) The permittee's application of an anti-graffiti material to the encroaching object of a type and nature that is acceptable to the City Administrator, or the City Administrator's designee;
 - (2) The permittee's immediate removal of any graffiti;
 - (3) The City's right to remove graffiti or to paint the encroaching object; or

(4) The permittee's providing the City with sufficient matching paint and/or anti-graffiti material on demand for use in the painting of the encroaching object containing graffiti.

SECTION 15. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1115, to read as follows:

Section 18-1115. Prevention Provisions.

(a) Retro-Fit Existing Graffiti-Attracting Surfaces; Non-Residential Structures. The following provisions may be incorporated in a graffiti eradication order:

(1) At Owner's Expense. Any surface of a structure on a parcel of land used for non-residential purposes that has been defaced with graffiti more than five (5) times in twelve (12) months shall be declared a public nuisance and required to be retrofitted, at the cost of the property owner, with features or qualities as may be established by the City as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti. In exercising the authority hereunder, the City may not impose a cost on the property owner of greater than THREE THOUSAND AND NO/100 DOLLARS (\$3000.00).

(2) At City's Cost. If the property owner or responsible party of property used for non-residential purposes on which is located a surface of a structure that has been defaced with graffiti more than five (5) times in twelve (12) months lacks the financial ability to make modifications, the owner or responsible party shall permit the City to enter the property and, at the City's cost, make modifications as necessary to reduce the attractiveness of the surface for graffiti, or as necessary to permit more convenient or efficient removal of graffiti.

(3) Appeal. The owner or agent may appeal any determination that they are required to retrofit the property with features or qualities necessary to reduce the attractiveness of

the surface for graffiti or to permit more convenient or efficient removal of graffiti to the Director of the City-County Planning Department.

SECTION 16. That the Billings, Montana City Code be amended by adding a section to be numbered 18-1116, to read as follows:

Section 18-1116. Anti-Graffiti Fund.

The City Council hereby creates the City of Billings Anti-Graffiti Fund. Costs recovered for graffiti removal and penalties assessed in Billings Municipal Court against violators of this Ordinance shall be placed in the fund, along with any monetary donations received from persons wishing to contribute to the fund. The Council shall direct the expenditures of monies in the fund. Such expenditures shall be limited to the payment of the cost of graffiti removal, the payment, at the discretion of the City Council, of rewards for information leading to the conviction of violation of the Ordinance, the costs of administering the Ordinance, and such other public purposes as may be approved by the Council by resolution.

SECTION 17. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

SECTION 18. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this _____ day of _____, 2005.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2005.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

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AGENDA ITEM:

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Zone Change #755 2nd Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Nicole Cromwell, AICP, Planner II, Zoning Coordinator

PROBLEM/ISSUE STATEMENT: This is a zone change request from Public to R-7,000 on 14,673 square foot tract of land formerly known as Holfeld Park. The subject property is generally located in the S/W ¼ of Section 27, T1N, R26E, north of Swords Lane and south of Alkali Creek and the Billings Bench Water Association Canal. The property owner is Blake Laughlin and PRPL and the agent is Engineering, Inc. The Zoning Commission held a public hearing on May 17, 2005, and voted 3-0 to recommend approval. The City Council held a public hearing on June 27, 2005, and passed the zone change on 1st reading.

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

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

FINANCIAL IMPACT: This zone change should increase the City's tax base when the property is transferred to the ownership of Blake Laughlin and the new zoning takes effect.

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change #755 on 2nd reading and adopt the determinations of the discussed 12 criteria.

Approved by: _____ **City Administrator** _____ **City Attorney**

ATTACHMENTS:

- A: Zoning Commission Determination
- B: Ordinance

ATTACHMENT A
Zoning Commission Determinations

ALTERNATIVES ANALYSIS

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

1. *Is the new zoning designed in accordance with the Growth Policy?*
The new zoning will allow a variety of housing types. The residential zones will be located away from this arterial street intersection of Airport Road and Alkali Creek Road and will help preserve the water quality of Alkali Creek. The 2003 Growth Policy and the Heritage Trail Plan (2004) supports the development of a variety of housing types, the protection of water quality and developing access to parkland areas.
2. *Is the new zoning designed to lessen congestion in the streets?*
The new zoning will increase the traffic generated from this site. Currently the parcel is vacant. This property is bordered on the south by Swords Lane (Alkali Creek Road) and the main access will be Holfeld Lane. The adjacent streets should be able to accommodate the increase in traffic from this development.
3. *Will the new zoning secure safety from fire, panic and other dangers?*
These lots have or will have public street frontage and are served by the City Fire Department. Additionally, in the master plan and site plan review process, the Fire Department will review the layout of the proposed access roads to ensure that fire protection can be provided to all new structures.
4. *Will the new zoning promote health and general welfare?*
The new zoning contains restrictions on uses allowed and provides for minimum setback requirements for structures.
5. *Will the new zoning provide adequate light and air?*
The new zoning provides for sufficient setbacks for structures to allow for adequate light and air.
6. *Will the new zoning prevent overcrowding of land?*
The new zoning, as all districts, has limits on the maximum percentage of lot that can be covered with structures. The maximum number of dwelling units would be 11 two-family units or a mixture of single-family and two-family units. These features should prevent overcrowding of the land. The new park land is nearly four times what currently exists and will protect the creek bed and flood plain from encroachment.

7. *Will the new zoning avoid undue concentration of population?*
The new zoning of Residential-7,000 allows single-family detached dwellings and duplexes, based on minimum lot areas. The new zoning should avoid undue concentration of population.
8. *Will the new zoning facilitate the adequate provisions of transportation, water, sewerage, schools, parks, fire, police, and other public requirements?*
Transportation: The new zoning will increase the traffic generated from this site. Traffic mitigation will be reviewed at the time of site plan review.
Water and Sewerage: The City has adequate facilities to serve this property.
Schools and Parks: The tax records state that children from this development would attend Bench Elementary, Castle Rock Middle and Skyview High Schools. The parkland swap will increase the existing dedicated parkland from 14, 673 square feet to 56,082 square feet. Additional dedication of parkland is not required for this development.
Fire and Police: The subject property will be served by the City of Billings fire and police departments. Provisions for adequate service will be reviewed and ensured at the time of site plan review for the condominium development.
9. *Does the new zoning give reasonable consideration to the character of the district?*
The area north of this property across Alkali Creek has been developed as single family homes. The area south and east of the property has been developed for commercial sites and multifamily housing. Given the proximity to arterial streets and the Alkali Creek trail and parkland the proposed zoning is not out of character with the district.
10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*
The subject property is suitable for the requested zoning district.
11. *Was the new zoning adopted with a view to conserving the value of buildings?*
The new zoning is not expected to appreciably alter the value of buildings in the area.
12. *Will the new zoning encourage the most appropriate use of land throughout such county or municipal area?*
Yes, the new zoning will allow for more dense development on lots that are currently served with City water and sanitary sewer.

**ATTACHMENT B
ORDINANCE NO. 05-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION ON HOLFELD PARK in the Southwest 1/4, Section 27, of Township 1 North, Range 26 East, a 14,673 square foot parcel of land. **THE SUBJECT PROPERTY IS LOCATED NORTH OF SWORDS LANE, WEST OF HOLFELD LANE AND SOUTH OF ALKALI CREEK.**

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

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

2. **DESCRIPTION.** A tract of land known as Holfeld Park, Lot 3 Holfeld Subdivision containing 14,673 square feet of land, more or less and is presently zoned Public and is shown on the official zoning maps within this zone.

3. **ZONE AMENDMENT.** The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Public** to **Residential-7,000** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential-7,000** zones as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading June 27, 2005.

PASSED, ADOPTED AND APPROVED on second reading July 11, 2005.

CITY OF BILLINGS:

BY: _____

Charles F. Tooley, Mayor

ATTEST:

BY:

Marita Herold, CMC/AAE, City Clerk

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AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Second Reading Ordinance for a new 27th Street Tax Increment Finance District, establishing a Boundary, and revising the boundary of the original district

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Deputy City Administrator

PROBLEM/ISSUE STATEMENT: On June 27 the City Council adopted on first reading an ordinance creating this single purpose tax increment district. The Council will consider approving the ordinance on second and final reading. The district will allow the tax increment to be used to support the Sandstone redevelopment project in the 100 block of N. 27th Street.

FINANCIAL IMPACT: The district will produce about \$200,000 per year in tax increment based on the present property valuation estimate. That annual tax increment will be used to pay debt service for bonds that will be issued for the project. The exact amount of bonds to be issued will be determined later when the bonds are marketed but are the expected amount is approximately \$2,000,000.

RECOMMENDATION

Staff recommends that Council approve on second reading the ordinance that creates the N. 27th Street Tax Increment Finance District.

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

ATTACHMENTS

A: Ordinance

ATTACHMENT A

ORDINANCE NO. 05 _____

**ORDINANCE RELATING TO THE DOWNTOWN REDEVELOPMENT DISTRICT
AND THE CREATION OF A NEW URBAN RENEWAL AREA; AUTHORIZING
THE REMOVAL OF CERTAIN PROPERTY FROM THE DOWNTOWN
REDEVELOPMENT DISTRICT, ESTABLISHING SUCH PROPERTY AS A NEW
27th STREET URBAN RENEWAL AREA, ADOPTING AN URBAN RENEWAL
PLAN THEREIN INCLUDING A TAX INCREMENT PROVISION, APPROVING AN
URBAN RENEWAL PROJECT THEREIN AND AUTHORIZING THE ISSUANCE
OF TAX INCREMENT URBAN RENEWAL REVENUE BONDS OF THE CITY TO
FINANCE COSTS THEREOF**

Recitals:

WHEREAS, this Council on _____, 2005, conducted a public hearing on a proposal to remove certain property (as hereinafter defined, the "Property") from the Downtown Redevelopment District, an existing urban renewal area of the City (the "Redevelopment Area"), and to establish such removed property as a new urban renewal area to be designated as The 27th Street District Urban Renewal Area (the "District") and to adopt an urban renewal plan therefor and undertake an urban renewal project therein, as authorized by Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

WHEREAS, the Property is depicted on the attached Schedule 1-A and legally described on the attached Schedule 1-B (each of which is hereby incorporated herein and made a part hereof). Pursuant to this Ordinance, the boundaries of the Redevelopment Area are being modified to reflect the removal of the Property from the Redevelopment Area. The Redevelopment Area, as modified, is depicted on the attached Schedule 2-A and legally described on the attached Schedule 2-B (the "Resulting Redevelopment Area") (each of which is hereby incorporated herein and made a part hereof). The Resulting Redevelopment Area is contiguous.

WHEREAS, opportunities have been presented to the City that make it desirable for the City to consider an urban renewal project within the District consisting of the acquisition of certain vacant or blighted properties, demolishing the blighted structures thereon, improving such properties with, landscaping, utilities, and other similar improvements, assembling such properties, and making the properties so improved available for private redevelopment in accordance with the Act, including the public solicitation of redevelopment proposals (the "Project"). The project to consist of a public parking garage, a private parking garage combined into one facility and a Commercial/Condominium Apartment complex. The parking structure is estimated to cost \$2,914,189 and the Commercial/Condominium Apartment complex is estimated to cost \$14,519,346. The private portion of this facility to be financed from the proceeds of Tax Increment Urban Renewal Bonds in a principal amount not to exceed \$2,000,000 (the "Bonds").

WHEREAS, an urban renewal plan entitled the Urban Renewal Plan of the 27th Street District is attached hereto as Exhibit C (which is hereby incorporated herein and made a part hereof) (the "Plan"). The Plan contains a tax increment provision and will govern the operation and administration of the District.

WHEREAS, the Plan has been reviewed and approved by the Yellowstone County Planning Board, as evidenced by the copy of the letter attached hereto as Exhibit D (which is hereby incorporated herein and made a part hereof). The Plan contains a description of the Project and its estimated costs.

Ordinance:

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Billings, Montana, as follows:

1. Findings. This Council hereby finds, determines and declares, based on the comments received at the public hearing and other studies and information available to this Council, that:

- a. The Property presently contains a structure and property that are in a state of substantial deterioration, are obsolete or defective, pose unsanitary or unsafe conditions, are vacant and unused, and have inappropriate uses, the present condition of the Property substantially impairs the sound functioning of the downtown area of the City and its environs, is conducive to juvenile delinquency and crime, poses the threat of vandalism or mischief and fire or loss, constitutes an economic and social liability, and is a menace to the public health, safety, and welfare of the residents of the City. Accordingly, the Council finds that the Property is a blighted area within the meaning of Section 7-15-4210 of the Act. This Council finds that the rehabilitation, redevelopment or a combination thereof of the Property is necessary in the interest of the public, health, safety, morals or welfare of the residents of the City. This Council finds that undertaking measures to eradicate or diminish the blight affecting the Property will help to foster a more dynamic, livable, and vibrant downtown.
- b. No housing element or structure is disturbed by this District making no relocation necessary;
- c. The Plan conforms to the Growth Policy and Framework plan or parts thereof of the City for the municipality as a whole;
- d. The Plan will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment of the District by private enterprise;
- e. A sound and adequate financial program exists for the financing of the Project, which program includes the sale and issuance by the City of the Bonds in an amount not to exceed the costs of the Project and other projects hereafter approved by this Council, including administration costs, reserve fund deposits, capitalized interest and costs of issuance of the Bonds, in proportions yet to be determined, for the purpose of financing all or a portion of the costs of the Project as set forth above; and
- f. The Project constitutes an urban renewal project within the meaning of the Act and is authorized to be undertaken by the City.

2. Plan Adoption. The Plan is hereby adopted and approved in all respects, including without limitation, the segregation and application of tax increments as provided in Sections 7-15-4282 through 7-15-4293 of the Act as provided therein.

3. Project Approval. The Project is hereby approved.

4. Bonds. This Council approves financing the costs of the Project, or a portion thereof, with proceeds of the Bonds. The City is hereby authorized and directed to undertake activities and analysis ordinarily prerequisite to the issuance of tax increment urban renewal revenue bonds in a principal amount not to exceed \$2,000,000 for financing of the costs of the Project or portion thereof

5. Resulting Redevelopment Area. The City is in receipt of a report from an Independent Financial Consultant that satisfies the requirements of Sections 7.8 and 7.10 of Resolution No. 12937, adopted February 26, 1979 (the "Bond Resolution"). From and after the effective date-set forth below, the Property is removed from the Redevelopment Area and the Redevelopment Area shall consist of that area and those improvements situated on, in, and under the Resulting Redevelopment Area. Accordingly, all references to "Renewal Area" or "Downtown Redevelopment District" or "District" in the Bond Resolution or related resolutions made prior to this Ordinance (such as, without limitation, Resolution Nos. 12107 and 12303), or in the Downtown Redevelopment District Plan, or in all documents referencing the Redevelopment Area (such as, without limitation, documents relating to Tax Increment Urban Renewal Bonds Refunding Series 1993A and 1993B), shall mean the Resulting Redevelopment Area, as such area may be modified from time to time. The amendment to the Renewal Area evidenced by this Section shall be achieved by this Ordinance without any further undertaking; however, the City is hereby authorized to amend separately any of the documents referenced in the preceding sentence, including, without limitation, the Downtown Redevelopment District Plan, by a separate written amendment reflecting the detraction of the District or by republication of the entire relevant document, with the definition of the redevelopment area limited to the property described on the attached Schedules B-1 and B-2.

6. Conditional Commitment. The adoption of the Plan does not constitute a guarantee or a firm commitment that the City will issue the Bonds or undertake the Project. If, based on comments or information made available to or obtained by the City, it appears that the issuance of the Bonds or the Project is not in the public interest or consistent with the purposes of the Act, the City reserves the right not to issue the Bonds or undertake the Project.

7. Effective Date. This Ordinance shall be in full force and effect from and after the date that is 30 calendar days after the date set forth below.

APROVED by the City Council of the City of Billings, Montana on first reading this 27th day of June, 2005.

ADOPTED by the City Council of the City of Billings, Montana, on second reading this _____ day of 2005.

Mayor

ATTEST:

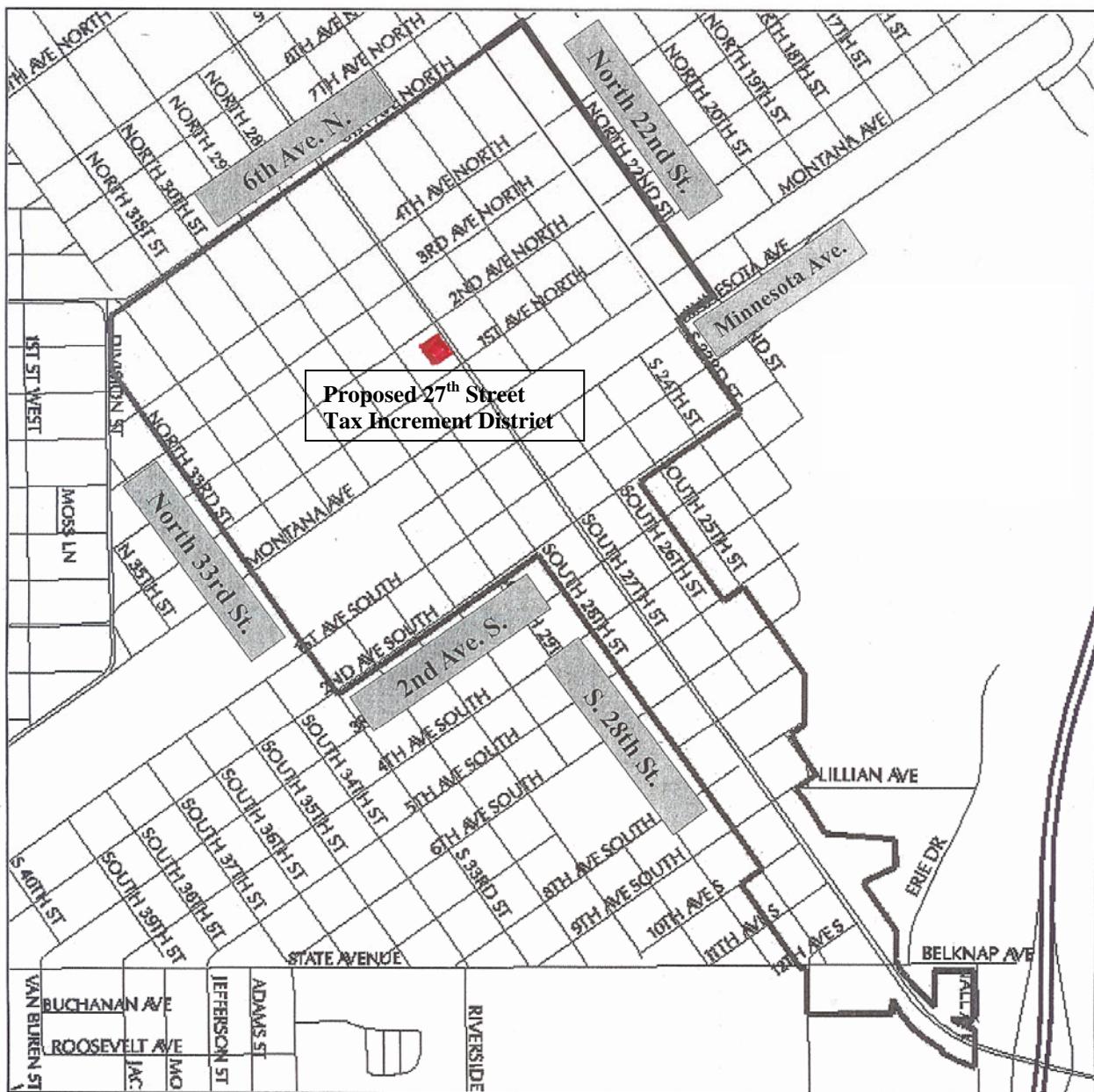
City Clerk

SCHEDULE 1-A

Map of the District

a. Map of the existing Tax Increment Financing District showing existing boundaries and the area to be removed to form the Downtown Tax Increment District.

Downtown Billings Tax Increment District



SCHEDULE 1-B

Legal Description of the Existing District

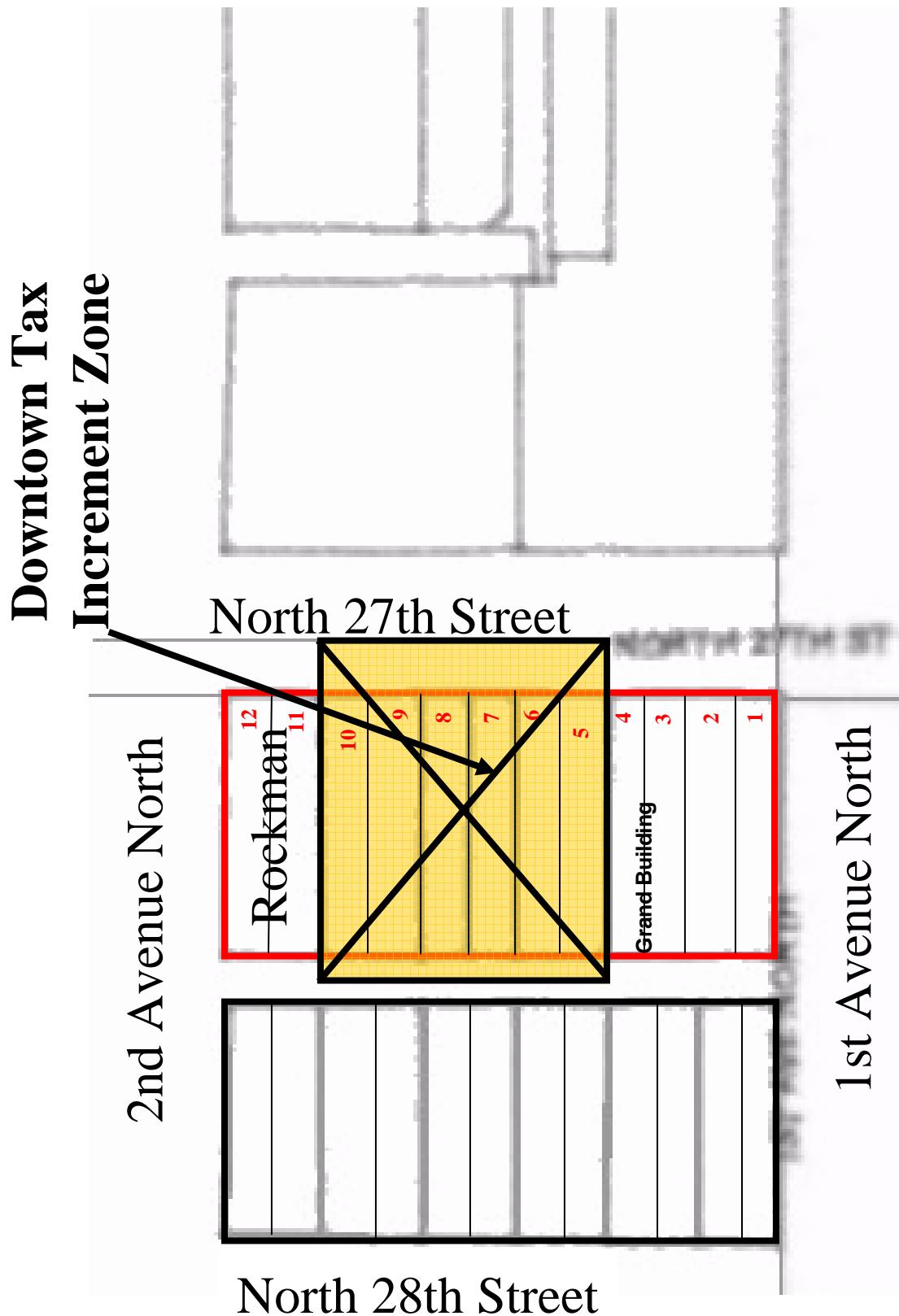
Beginning at the street centerline intersection of 6th Avenue North and North 22nd Street of Original Town of Billings, Recorded September 1, 1884, Under Document No. 16312, Records of Yellowstone County, Montana; thence Southeasterly along the street centerline of North 22nd Street, across the Montana Northern Railroad Inc. Right-Of-Way to the street centerline intersection of South 22nd Street and Minnesota Avenue; thence Southwesterly along the street centerline of Minnesota Avenue to the street centerline intersection of South 23rd Street and Minnesota Avenue; thence Southeasterly along the street centerline of South 23rd Street to the street centerline intersection of South 23rd Street and 2nd Avenue South; thence Southwesterly along the street centerline of 2nd Avenue South to the street centerline intersection of 2nd Avenue South and the projected east alley Right-Of-Way line of Block 162 Billings Original Town; thence Southeasterly along the East alley Right-Of-Way line of Blocks 162, 171 and 181 of Billings Original Town to the north Right-Of-Way line of 5th Avenue South; thence Northeasterly along the north Right-Of-Way line of 5th Avenue South to the southwest corner of Block 180 of Billings Original Town; thence southeasterly along the east Right-Of-Way line of South 25th Street to a point on the west boundary of Lot 1, Post Office Addition, Recorded June 26, 1973, Under Document No. 937654 Records of Yellowstone County, Montana; thence southerly along the west boundary line of said Post Office Addition where it intersects the street centerline of 9th Avenue South; thence southwesterly along the street centerline of 9th Avenue South to the street centerline intersection of 9th Avenue South and the projected east alley Right-Of-Way line of Block 230 of Billings Original Town; thence southeasterly along the east alley Right-Of-Way line of Block 244, of Sugar Factory Addition, Recorded November 20, 1906, Under Document No. 2000011, Records of Yellowstone County, Montana, to the northwest corner of Tract D of Corrected Tracts C & D of The Amended Certificate of Survey No. 152, Recorded April 30, 1979, Under Document No. 1126883, Records of Yellowstone County, Montana now being with in Lot 2, Block 1 of Vernwood Subdivision, Recorded May 30, 1996, Under Document No. 1830655, Records of Yellowstone County, Montana; thence Southeasterly to the northeast corner of Lot 1, Block 1 of said Vernwood Subdivision; thence southeasterly to the southeast corner of said Lot 1, Block 1 of Vernwood Subdivision; thence Southwesterly to the northwest corner of said Tract C of said Certificate of Survey No. 152; thence southeasterly to the south corner of Tract C of said Certificate of Survey No. 152; thence south to a point common to Certificate of Survey 1405, Recorded April 30, 1974, Under Document No. 961631, Records of Yellowstone County and Lot 24, Block 29 of said Sugar Factory Addition; thence Southwesterly along boundary line common to said Certificate of Survey 1405 and said Sugar Factory Addition to a point on the east Right-Of-Way line of South 27th Street; thence Southeasterly along the east Right-Of-Way line of South 27th Street to the northwest corner of Tract 1 of Certificate of Survey 1404, Recorded April 30, 1974, Under Document No. 961630, Records of Yellowstone County, Montana; thence Southeasterly along the east Right-Of-Way line of South 27th Street to a corner common to the south corner of said Tract 1 of Certificate of Survey 1404 and Lot 4A, Amended Plat of Lot 4 Clark Subdivision, Recorded August 7, 1972, Under Document No. 913310, Records of Yellowstone County, Montana; thence north to the northwest corner of said Lot 4A, Clark Subdivision; thence east to the northeast corner of said Lot 4A, Clark Subdivision; thence south to the southeast corner of said Lot 4A, Clark Subdivision; thence west along the south lot line of Lot 4A, Clark Subdivision to the intersection of the east Right-Of-Way line of South 27th Street; thence along the northeasterly Right-Of-Way

line of South 27th Street to the street intersection of Nall Avenue; thence south to the southwesterly Right-Of-Way line of South 27th Street at the intersection of Nall Avenue; thence northwesterly along the southwesterly Right-Of-Way line of South 27th Street to the north corner of Tract 2A of Amended plat of Tract 2, of Certificate of Survey No. 1404, Recorded November 27, 1974, Under Document No. 976470, Records of Yellowstone County, Montana; thence south to the southeast corner of southerly 65 feet of the N1/2 of Lot 2 of Clark Subdivision, Record of Survey, Recorded November 24, 1975, Under Document No. 1003804, Records of Yellowstone County, Montana; thence westerly along the south line of the said Record of Survey of Clark Subdivision to the east Right-Of-Way line of Sugar Avenue; thence north along the east Right-Of-Way line of Sugar Avenue to the northwest corner of Lot 1, of said Record of Survey of Clark Subdivision; thence northwesterly to the intersection of the north Right-Of-Way line of State Avenue and the west alley Right-Of-Way of Block 250, of Billings Original Town; thence northwesterly along the west alley Right-Of-Way line of Blocks 250 and 246, of Billings Original Town to the intersection of the north Right-Of-Way line of 10th Avenue South and the west alley Right-Of-Way line of Block 242, of Billings Original Town; thence northeasterly along the north Right-Of-Way line of 10th Avenue South to the southeast corner of Block 242, of Billings Original Town; thence northwesterly along the west Right-Of-Way line of South 28th Street to the intersection of the west Right-Of-Way line of South 28th Street and the street centerline of 2nd Avenue South; thence southwesterly along the street centerline of 2nd Avenue South to the street centerline intersection of 2nd Avenue South and South 33rd Street; thence northwesterly along the street centerline of South 33rd Street across the Montana Northern Railroad Inc. Right-Of-Way, continuing northwesterly along the street centerline of North 33rd Street to the street centerline intersection of North 33rd Street and Division Street; thence north along the street centerline of Division Street to the street centerline intersection of Division Street and 6th Avenue North; thence northeasterly along the street centerline of 6th Avenue North to the street centerline intersection of 6th Avenue North and North 22nd Street to the Point Of Beginning, all inclusive; excluding Lots 5 through 10, Block 92, along with the east half of adjacent alley Right-Of-Way and the west half of the adjacent North 27th Street Right-Of-Way, of Original Town of Billings, Recorded September 1, 1884, Under Document No. 16312, Records of Yellowstone County, Montana.

SCHEDULE 2-A

Map of the Resulting Redevelopment Area

a. Drawing of the area showing an enlarged drawing of the area to be removed from the overall district and reformed as the new Tax Increment District.



SCHEDULE 2-B

Legal Description of the Resulting Redevelopment Area

The entire tax increment district lies within Block 92, City of Billings, County of Yellowstone, State of Montana. It consists of Lots 5 through 10, and the portion of North 27th Street, the length of the property to a 40' depth consistent of the center line of North 27th Street and a portion of the alley dividing Block 92 consisting of a strip of land the length of the property to a 10' depth to the center line of the alley.

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

Q

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Cottonwood Grove Subdivision, 2nd Filing --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 March 14, 2005. The subject property is zoned Residential-7000 and is located on the west side of 54th Street West, just north of Grand Avenue. The subdivision will create 104 lots for residential use. The owner of the property is Mary Kramer and the subdivider is DKW, LLC (Jim Kisling). 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 104 residential lots will increase the City's tax revenue on this parcel.

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Cottonwood Grove Subdivision, 2nd Filing.

Approved By: City Administrator City Attorney

ATTACHMENTS

A: Final Plat

PLAT OF
COTTONWOOD GROVE SUBDIVISION, SECOND FILING

BEING LOTS 65A-2 & 65A-3 OF THE AMENDED PLAT OF LOT 65A OF THE PLAT OF
AMENDED LOTS 65-68, 93-100, AND 125-128 OF SUNNY COVE FRUIT FARMS
SITUATED IN THE SE1/4 OF SECTION 31, T. 1 N., R. 25 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : VIC DONOVAN & JIM KISLING
PREPARED BY : ENGINEERING, INC.

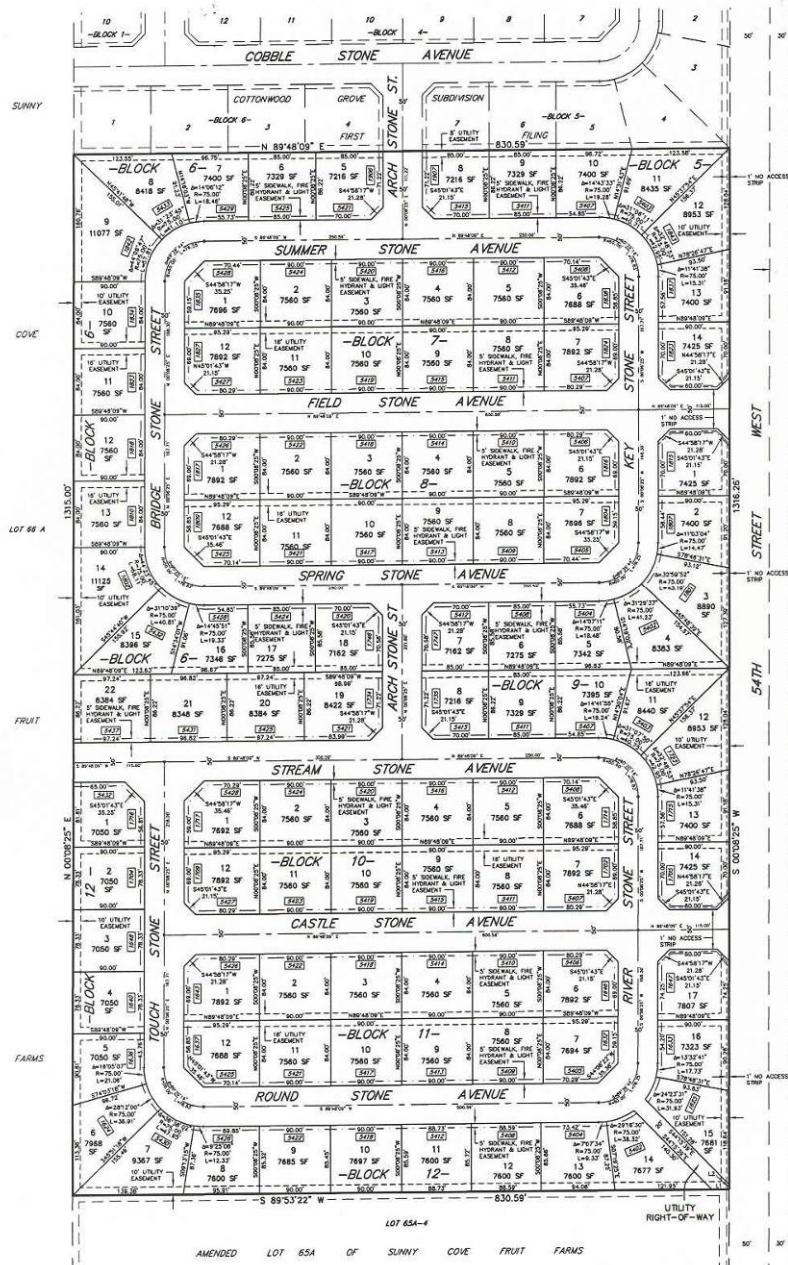
SCALE : 1" = 60'

APRIL, 2005
BILLINGS, MONTANA



VICINITY MAP
NOT TO SCALE

NOT TO SCALE



LINE TABLE		
LINE	BEARING	DISTANCE
11	N 89°33'22" E	21.97
12	N 00°00'25" E	8.00

BASIS OF BEARING PLAT OF AMENDED LOTS 55-68, 83-100 & 123-128 OF SUNNY COVE FRUIT FARMS.

- FOUND REBAR WITH CAP MARKED "ENGINEERING INC" OR OTHER MONUMENT AS NOTED.
- ✓ SET 5 1/8" X 16' REBAR AND CAP MARKED WITH THE LICENSE NUMBER OF THE REGISTERED LAND SURVEYOR AND "ENGINEERING INC BILLINGS MT".
- SET REBAR AND CAP, TO BE REPLACED BY BRASS CAP IN SURVEY BOX UPON COMPLETION OF STREET IMPROVEMENTS.

SHEET 1 OF 2

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

R1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 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 \$826,425.33 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 10, 2005 is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

ATTACHMENT:

A -- List of claims greater than \$2500

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

R2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 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 \$705,277.63 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 17, 2005 is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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

ATTACHMENT:

A -- List of claims greater than \$2500

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

R3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 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 \$1,093,064.66 have been audited and are presented for your approval for payment. A complete listing of the claims dated June 27, 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:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 11, 2005****SUBJECT:** Public Hearing and Resolution to Adopt the Pow Wow Park Master Plan**DEPARTMENT:** Department of Parks, Recreation & Public Lands**PRESENTED BY:** Gene Blackwell, Acting Director of PRPL

PROBLEM/ISSUE STATEMENT: The final draft of the Master Plan for Pow Wow Park is presented for review and for the adoption. The Master Plan is necessary to control development and provide guidance for management of the 47.8 acre park. The Master Plan ensures that Pow Wow Park will be an integral part of the overall Billings park system, considers the interests and the needs of adjacent neighborhoods, the Billings Heights, and the overall community, and includes the most appropriate trail design and alignment in the park to connect with the Heritage Trail system. The plan was prepared by Peaks to Plains Design, P.C., and Interstate Engineering, Inc. The final plan incorporates significant public input from 3 public meetings and extensive staff input. Public opportunity to review the plan alternatives and comment has also been available on the Peaks to Plains Design P.C. website, at www.peakstoplains.com/powow.htm. The primary objectives of the plan, based on the public input and staff review are to provide for adequate and appropriate public access, maintain the park in as natural a condition as possible and protect and enhance the natural resources found there, and provide for connecting links to the Heritage Trail System.

FINANCIAL IMPACT: The trail and bridge components of the plan have funds available for construction. There are no other funds currently budgeted or that have been proposed in the CIP to construct other parts of the proposed park plan at this time. The estimated cost of maintenance for the park will at this time be limited to any trail that is constructed, if approved. The cost estimate to implement the plan is estimated to be \$650,000. There is currently \$410,000 available for trail construction in Alkali Creek.

RECOMMENDATION:

The PRPL Staff recommends that the Council approve the Pow Wow Park Master Plan, as approved and recommended by the Parks, Recreation and Cemetery Board at the June 8, 2005 meeting, as the master plan for the development of Pow Wow Park.

ATTACHMENTS

- A – Master Plan Resolution to Adopt
- B – Pow Wow Park Master Plan Recommendation
- C – Narrative Master Plan Report and Cost Estimates

INTRODUCTION

The PRPL staff and consultant, Peaks to Plains Design, P.C., have developed a final draft plan and supporting narrative that considers three alternatives for the Pow Wow Park Master Plan. The staff feels that the recommended plan is the best development option because it best protects and preserves the park, allows for needed public access, and best meets the community needs for public safety and maintenance of the park. The action will be for the City Council to consider for approval the plan recommended by the Park, Recreation, and Cemetery Board and PRPL staff.

PROCEDURAL HISTORY

- In 2002 City County Planning applied for and received \$500,000 in Recreational Trail funds to be used in the Alkali Creek corridor. Initial efforts to plan and design the trail construction with that funding was halted to allow the development of a park master plan for Pow Wow Park.
- The goal of the Park Master Plan is to provide a guideline that shows appropriate development and management needs and the required funding needed if implemented.
- Consultant selected to do the Master Plan is Peaks to Plains Design, P.C. of Billings. The process follows the Public Park planning process adopted in 1980 and consists of state, federal, and city staff providing technical input that focuses on the opportunities, needs, constraints and limitations affecting a park, such as the Billings Parks 20/20 Plan, the Heritage Trail Plan, Billings transportation and growth plans, considers community and neighborhood needs, terrain limitations, easements, public utility installations, federal, state and local rules and regulations. That information is used to develop a base map and preliminary set of plan options.
- Three Town Hall meetings were held on March 29th, April 27th, and May 26th, 2005, at Alkali Creek Elementary School. Public input was received regarding the development of Pow Wow Park at the March 29th and April 27th meetings.
- Staff met and reviewed comments and concerns received at the March 29th and the April 27th meetings. Staff and consultants then reviewed the three possible alternatives, starting with the requests to do nothing, then considering the development of just soft surface trails in and through the park, and, finally, the construction of hard surface trails in and through the park was considered.
- Upon review of the design criteria, neighborhood and community desires and concerns, the staff recommended alternative 2, as outlined below, and this was presented for discussion at the May 26th meeting. Comments and concerns were recorded from the public regarding this recommendation.
- The final draft plan was presented to the Park, Recreation, and Cemetery Board at the June 8, 2005, regular meeting, at the Billings Community Center. After it was explained by the design consultant with clarifications by staff, comments were taken from members of the public present at the meeting. Twelve persons spoke. Seven of those speaking supported a hard surface trail (although 4 of them would accept a soft surface trail). A 6 foot soft surface trail was supported by 6 persons (although 4 of those expressed actual preference for a hard surface trail); and no development at all was supported by 3 persons.
- After discussion, the Park, Recreation, and Cemetery Board approved by a 6 to 2 vote a motion to recommend approval of the Master Plan as outlined, but that the choice of trail

surface be contingent on Federal Funding based on which surface would be the least expensive for the City, considering the local match amount that might be required.

- The final draft plan and the Parks, Recreation, and Cemetery Board recommendation will be considered for adoption, after a Public Hearing, with or without changes, by the City Council at the July 11th, 2005, regular meeting.
- The Public Hearing was advertised on June 30th and July 7th, and Public Service Announcements were distributed to all media by mail and at City Hall on July 1st and July 8th.

BACKGROUND

Pow Wow Park consists of 6 parcels of property acquired by the City through subdivision park dedication requirements and 2 purchases in the late 1980's. There are 53.3 total acres within the park. The park does not yet have a Master Plan adopted by the City Council to define and control the development of the park. City policy for Park Master Plan preparation as outlined in the Neighborhood Parks Planning Process, followed by the PRPL Department since 1980, requires that a park may not be developed until a Master Plan has been prepared and adopted by the Billings City Council. Once adopted, all park development and proposals for the development of portions of parks or facilities within parks must be consistent with an approved Master Plan. It is prepared by a qualified park planning consultant, and considers surrounding zoning and land uses and local and general park and recreation needs as well as specific requests from interested users. This is to assure development of parks and recreation facilities to a minimum set of standards, and to assure that adequate public input is included in the planning, development, sale, or use, of Billings' parklands. Any proposed modification to a park that will be a significant departure from the approved Master Plan requires a revision of the Master Plan following the above process. Only if it is determined that the proposed change is acceptable and appropriate for that park is it allowed to move forward. The Pow Wow Park Master Plan, as presented, is the final draft reviewed by the PRC Board and for presentation to the City Council.

The basic elements of the Pow Wow Park Master Plan that were determined to be necessary for the needs and desires of the neighborhood, the Billings Heights area, and the community were as follows:

- Assure that there are links between the park and the Heritage Trail segments that will go along and to and from the Alkali Creek corridor;
- Allow a maximum amount of the park to remain natural, undeveloped, open space;
- Protect and conserve the park by providing an all weather, soft-surfaced, trail:
 - that is appropriately located and constructed to lessen user impacts on sensitive physical features and biological resources there;
 - that discourages the random off-trail path making now taking place through-out the park by providing a suitable access and travel routes in the park;
 - that allows better control of uses and activities that disturb and degrade areas within the park;
- Allow an appropriate level of access into and through the park as required by the 1992 U.S. Americans with Disabilities Act laws, the Billings Growth Policy, the Parks 20/20 Plan, and the Heritage Trail Plan, and that also meets neighborhood, area, and community desires; and
- Provide a plan that is consistent with a strong desire by many nearby residents to limit development and use of the park as much as possible;

ALTERNATIVE ANALYSIS

The staff considered the following 3 primary alternatives:

- ALTERNATIVE 1: Do not develop the park at all except for a bridge across Alkali Creek between the school and the park, and depend on the existing random footpath system in the park to provide access around and through the park. Staff does not consider this a viable option because of the following:
 - Impacts from the ever increasing amount of public use the park can expect to experience will result in deterioration of fragile features;
 - The continued proliferation of random pathways with resulting washouts and wind erosion on ridges and side-hills, and disturbance of wildlife;
 - The level of use by children attending Alkali Creek School results in a level of liability exposure to the city that a well planned trail located for safe movement in and through the park will relieve;
 - the adverse impacts of such random uncontrolled use throughout the park area; and
 - accessibility issues the city is required to mitigate in its parks.
- ALTERNATIVE 2: Keep Pow Wow Park as a natural resource park but with a good bridge access between the school and the park and allow construction of soft surface trail 6 feet in width (as recommended by the Heritage Trail Plan Design Standards for soft surface recreational trails) from the bridge providing a fully accessible segment of trail that will link to a recreational soft surface trail from Black Pine Lane to Judicial Lane. This is the recommendation of the staff because:
 - It preserves the natural resource designation of the park;
 - It protects the park by concentrating the bulk of the park use on an appropriately sized, designed and located trail allowing good views of the park resources;
 - It minimizes the wear and tear resulting from uncontrolled park use by the majority of those entering the park and working their way through it along the web of randomly located pathways now there;
 - It protects wildlife and plants sensitive to disturbance by routing the majority of human activity onto a single appropriately located corridor through the park;
 - It provides an acceptable level of access to all users regardless of their mobility;
 - It provides for a high level of use by the School for educational activities and by students traveling to and from the school through the park.
 - It provides a trail constructed to standards that provide safe travel for users, and meets the design constraints of the varied steepness of the terrain that is in the park.
- ALTERNATIVE 3: Keep Pow Wow Park as a natural resource park but with a good bridge access between the school and the park with a fully accessible hard-surface interpretive trail segment into the park from the bridge and a hard surface fully accessible trail 10 feet in width through the park from Black Pine Lane to Judicial Lane. Staff does not recommend this option for several reasons.
 - The steep and rugged park terrain makes construction of such a trail very difficult and would result in extensive excavation and grading to accomplish.

- The overwhelming opinion expressed during the public input meetings was that the park should be kept in as natural a state as possible.
- The recreational nature of the uses that could be expected to predominate in the park are best served with a soft-surface, less formal trail construction that preserves the natural resource designation the park has.

CONSISTENCY WITH ADOPTED POLICIES AND PLANS

The Pow Wow Park master plan follows recommendations contained in the Neighborhood Park Planning Process, adopted in 1980; Parks 20/20 Plan adopted in 1996; the Billings Heritage Trails Plan, adopted by the city in 2004 and the City of Billings Growth Policy Adopted in 2004.

SUMMARY

In summary, the staff recommended plan is to maintain Pow Wow Park as a natural resource park but with a good bridge access between the school and the park. It allows construction of a soft surface trail 6 feet in width (as recommended by the Heritage Trail Plan Design Standards for soft surface recreational trails) from the bridge providing a fully accessible segment of trail that will link to a recreational soft surface trail from Quiet Water Lane to Judicial Lane. The Park, Recreation, and Cemetery Board recommends approval of the Master Plan as outlined, but that the choice of trail surface be contingent on Federal Funding based on which surface would be the least expensive for the City, considering the local match amount that might be required. The proposed Resolution adopting the Master Plan may be approved as presented, with the conditions as recommended by the Parks, Recreation, and Cemetery Board, and/or with other changes.

RECOMMENDATION

The PRPL Staff recommends that the Council approve the Pow Wow Park Master Plan, as approved and recommended by the Parks, Recreation and Cemetery Board at the June 8, 2005, meeting, as the master plan for the development of Pow Wow Park.

ATTACHMENTS

- A – Master Plan Resolution to Adopt
- B –Recommended Pow Wow Park Master Plan
- C – Master Plan Narrative

RESOLUTION NUMBER 05-

**A RESOLUTION ADOPTING A MASTER PLAN FOR THE
DEVELOPMENT AND MANAGEMENT OF POW WOW
PARK AND FOR ALKALI CREEK TRAIL ALIGNMENTS IN
THE BILLINGS HEIGHTS, BILLINGS, MONTANA**

WHEREAS, the public interest requires the creation and adoption of a Master Plan for Pow Wow Park located south of Highway 318 and east of Alkali Creek Road in Billings, Montana;

WHEREAS, a Master Plan controls and guides the development and management of the park in accordance with the needs of the surrounding neighborhoods and the community, recognizes the limitations and constraints of the lands within the park, and provides for improvements suited to and appropriate for the park and the surrounding neighborhoods;

WHEREAS, a Master Plan assures development to acceptable standards, according to Federal, State, local regulations, and adopted plans including the Billings Parks 20/20 Plan, adopted in 1997; and the Billings Heritage Trail Plan, adopted in 2004, and the Billings Growth Policy, adopted in 2003; and

WHEREAS, on March 29, April 27, and May 26, 2005, Town Hall Meetings were conducted to obtain verbal and written comments regarding the development of the park, and additional written comment was obtained on a Pow Wow Park website, for review and evaluation; and

WHEREAS, it is in the public interest and necessary that the management and development of the park shall conform to the adopted master plan:

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

1. *Master Plan.* The master plan for Pow Wow Park attached and labeled as *Attachment "A"* is hereby made the official Master Plan for the park. The purpose of the plan is to control the development, and guide the management, of the park. The Master Plan shall be on file and available at the office of Director of Parks, Recreation, and Public Lands;
2. *Park Designation.* Pow Wow Park is hereby designated a Community Natural Resource Park, as provided for in the Billings Parks 20/20 Plan, to be maintained in as natural a condition as possible consistent with *Attachment A*;
3. *General Character of Improvements Provided for by the Plan.* The general character of the improvements approved for the park are signs, trails, amenities, and park enhancements as are in keeping with the natural and recreational resources located there, as shown on *Attachment "A"*.

4. *Changes.* Any uses, installations, and improvements not consistent with the adopted master plan as outlined are prohibited. Any proposal to construct improvements or make use of the park not consistent with the adopted Master Plan shall not be allowed unless approved by the Billings City Council in a revised Park Master Plan.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, this _____ day of _____, 2005.

CITY OF BILLINGS

By: _____
Charles F. Tooley Mayor

ATTEST:

By: _____
Marita Herold, CMC City Clerk

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

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Public Service Report, Public Hearing and Resolution for Annexation 05-04, Foxtail Village Subdivision, 2nd Filing

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: Mark Kennedy, for Kenmark Corporation, is requesting approval of the petition to annex Tract 123 of the Sunny Cove Fruit Farms property, also known as the proposed Foxtail Village Subdivision, 2nd Filing. The 10.52-acre property is located near the northeast corner of Grand Avenue and 60th Street West intersection. The owner is requesting annexation in order to obtain municipal sewer and water for a proposed 31-lot residential subdivision in accordance with 7-2-4601 et. seq., MCA. This public service report describes the City's capacity to serve the proposed development.

ALTERNATIVES ANALYZED: The City Council may approve or disapprove a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City can provide service to this property. While the annexation will increase the City's tax base, in general, the costs of providing service to residential properties exceed the revenues generated from property tax.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure

improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

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

ATTACHMENT

A. Resolution

INTRODUCTION

The owner submitted a petition for annexation for a 10.52-acre property located northeast of the intersection of Grand Avenue and 60th Street West on May 19, 2004. The owner also intends to submit a 31-lot preliminary subdivision plat application in the near future. Upon annexation the zoning of the property will automatically convert from Agricultural-Suburban to Residential-9,600. However, the owner plans to rezone this property to Residential-9,600 and Residential 7,000 for a mix of single family and duplex residences. The City approved expansion of the Urban Planning Area on June 27, 2005, to include this property.

PROCEDURAL HISTORY

- Petition for annexation and subdivision submitted May 19, 2005.
- Request for Urban Planning Area expansion approved June 27, 2005.
- City Council voted to acknowledge receipt of the petition for annexation and set a date for public hearing on June 27, 2005.
- If the Council approves the petition for annexation, it shall hold the First Reading and Public Hearing on a resolution to adjust the City Council Ward boundaries on July 25, 2005, and the Second Reading on August 8, 2005.

BACKGROUND

The Urban Planning Study that incorporated this property was previously approved by City Council in June, 2005. The approval of the Study and expansion of the Urban Planning Area is required prior to annexation of any property to the City of Billings. This petition for annexation is for a 10.52-acre parcel located north of Grand Avenue between 58th and 60th Streets West. The property is adjacent to existing City limits that encompass a noncontiguous annexed property; Foxtail Village Subdivision, 1st Filing.

ALTERNATIVES ANALYSIS

The City Council has expressed concerns about how annexations may affect the City's ability to provide services to annexed property without diminishing the services provided to existing City residents. To address these concerns, Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation *complies* with the recently adopted Annexation Policy criteria as follows:

1. The area is located within the Limits of Annexation and within the Urban Planning Area.
2. The City is able to provide adequate services.
3. The proposed improvements meet City standards.
4. Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.
5. Upon approval of the final subdivision plat, the owners will form a Park Maintenance District.
6. Residential densities will be approximately 4 dwelling units per acre.
7. With the exception of being contiguous to existing City limits, the proposed annexation meets the goals of the City-County Growth Policy.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan

including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City departments and Yellowstone County were given the opportunity to comment on this annexation. School District #2 and Yellowstone County were also notified of this annexation. All City departments responded favorably. No comments were received from School District #2 or Yellowstone County.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

Water: Water service will be extended from the east through the Foxtail Village Subdivision, First Filing. The water service originates from a water main located in 58th Street West.

Sewer: Sewer lines will also be extended from a sanitary sewer line located in 58th Street West through Foxtail Village Subdivision, First Filing. The future subdivision will connect to City sewer and pay the required construction and system development fees. Individual services will be required to pay connection fees.

Stormwater: Stormwater runoff will be retained on-site. The developers propose to widen the existing Birely Drain to an area sufficient to retain stormwater discharge from both the 1st and 2nd Filings. The Birely Drain Company has approved this design. The stormwater collection facilities will be designed and constructed in accordance with City regulations at time of development.

Transportation: The study area adjoins Grand Avenue, a principal arterial, to the south and is 1/8th of a mile west of 58th Street West, a collector. Both streets are expected to be affected by the future development of Foxtail Village Subdivision, 2nd Filing as are 56th Street West, a principal arterial and 54th Street West, a minor arterial. It is estimated that the development would produce approximately 400 trips on an average weekday.

The conceptual plan for the proposed subdivision shows two accesses onto Grand Avenue and access through Foxtail Village Subdivision, 1st Filing onto 58th Street West. There would be no cost to the City for constructing these approaches or the interconnecting internal streets. Grand Avenue right-of-way will be included in the annexation.

Fire Station: The study area is within the Billings Urban Fire Service Area and currently served by the Billings Fire Department. Interim fire protection will be provided to this property after annexation from Fire Station No. 3 at Parkhill and 17th Street West and Fire Station No. 5 at 24th Street and Rosebud prior to the construction of a new station. Land has been purchased for a new fire station at the intersection of Grand and 54th Street West. The station is scheduled for construction in 2008 and will service this area at that time. Based on 2002 statistics, the Fire Department responded to approximately 85 incidents per 1000 people. At this level of impact, the development could generate approximately 6 incidents per year at full buildout.

Parks: The study area lies within the influence area of the future Cottonwood Park, located approximately 3/4 of a mile to the northeast. The future subdivision would contribute cash-in-lieu of parkland for the development of Cottonwood Park and participate in a Park Maintenance District for the continued maintenance. The conceptual plan presented to the

Planning staff showed an open area to be maintained for stormwater retention along the Birely Drain. While this area is not conducive to active recreation, it would provide some measure of open space for the development. It would be maintained through a Park Maintenance District. The Parks, Recreation and Public Lands Department requested that the subdivider form a Park Maintenance District at the time of final plat approval. This request is included in the resolution of annexation.

Bicycle and pedestrian facilities: The area proposed for annexation is not affected by the Heritage Trail Plan.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property.

Transit: MET does not regularly serve this area, but paratransit services will be provided. MET had no problem with the petition to annex.

Fire: The property is currently within the Billings Urban Fire Service Area (BUFSA) and is served by the Billings Fire Department. After annexation, the Billings Fire Department will continue to serve this area. The Fire Department did not object to this annexation.

Police: The Police Department had no objection with this annexation request.

Ambulance Service: The City does not provide ambulance service but dictates the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. This annexation is within the area of acceptable response time.

Legal and Finance: General Fund services such as Legal and Finance have indicated that they will not be negatively impacted.

Other Departments: City/County services such as Library, Planning, and Environmental Health are only slightly affected by the annexation since they will serve new development if it is in the City or if it remains in the County.

STAKEHOLDERS

The annexation by petition method does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Gazette. The Planning Division has received no comments on this proposed annexation.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The recently adopted Northwest Shiloh Land Use Plan provides guidance as to the preferred future development patterns of this area. The study area falls within an area suitable for urban densities of 1 dwelling unit per 9,600 square feet as identified in the plan.

There are two other land use plans that guide development in the vicinity of the study area; The West Billings Plan and the 2003 Growth Policy.

The Urban Planning Area expansion is consistent with the following Growth Policy goals:

- Affordable housing for all income levels dispersed throughout the City and County (Land Use Element Goal, page 6).
- More housing and business choices within each neighborhood (Land Use Element Goal, page 6)
- Safe traffic speeds consistent with the surrounding uses (Transportation Element Goal, page 9).

The Urban Planning area expansion partially meets these goals:

- New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (Land Use Element Goal, page 6). *The study area is adjacent to a similar land use pattern, although is higher density to the older, County development.*
- Contiguous development focused in and around existing population centers separated by open space (Land Use Element Goal, page 6). *The study area is contiguous to noncontiguous City territory.*

The annexation is generally consistent with the West Billings Plan's policies.

RECOMMENDATION

Staff recommends that City Council approve the Resolution of Annexation with the following conditions:

1. That prior to development of the site the following shall occur:
 - a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
 - b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

ATTACHMENT

- A. Resolution

RESOLUTION NO. 05-

**A RESOLUTION OF THE CITY OF BILLINGS
APPROVING PETITIONS FOR ANNEXATION
AND ANNEXING TERRITORY TO THE CITY.**

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. **TERRITORY ANNEXED.** Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the SW1/4 of Section 31, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as: Sunny Cove Fruit Farms, Lot 123, Recorded April 27, 1910, Under Document No. 21540, Records of Yellowstone County, Montana; including all adjacent right-of-way of 60th Street West and Grand Avenue. Containing 10.532 gross and 9.328 net acres, more or less.

(# 05-04) See Exhibit "A" Attached

2. **CONDITIONS.** The annexation is approved subject to the following conditions:

That prior to development of the site the following shall occur:

- a. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
- b. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific

infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District at the time of subdivision.

3. **PROCEDURE.** All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 11th day of July, 2005.

THE CITY OF BILLINGS:

BY: _____

Charles F. Tooley, MAYOR

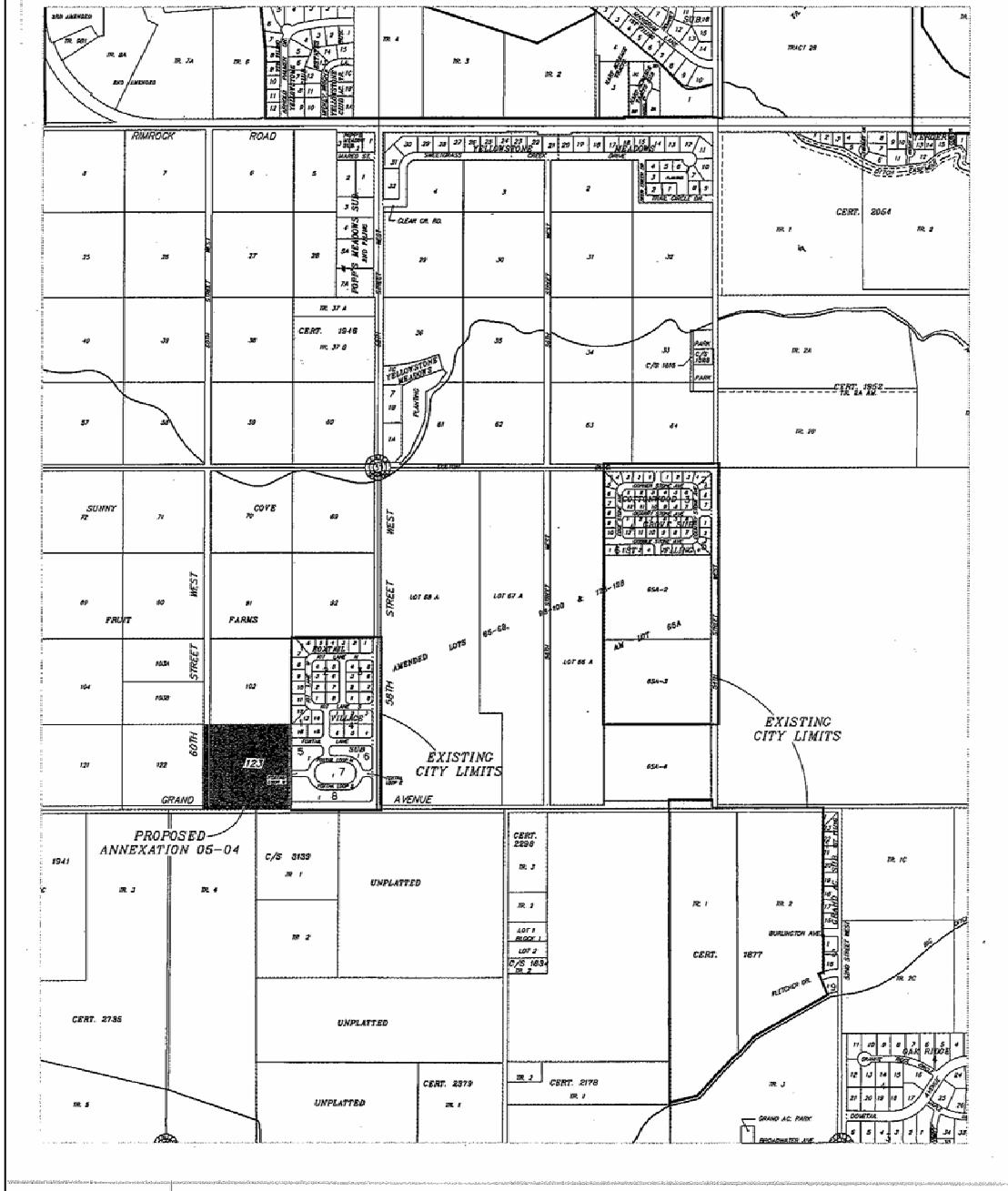
ATTEST:

BY: _____

Marita Herold, CMC/AAE CITY CLERK

(AN 05-04)

EXHIBIT A



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

AGENDA ITEM:

**CITY COUNCIL AGENDA ITEM****CITY OF BILLINGS, MONTANA****Monday, July 11, 2005**

TITLE: Public Service Report, Public Hearing and Resolution for Annexation 05-06, Staley/Westward Ho Property

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: Larry Staley and the Westward Ho Company, are petitioning for annexation of Tract 1 of Certificate of Survey 1871 and Tract 2A of Certificate of Survey 2465 containing approximately 116.17 acres. The property is located on the north side of Rimrock Road at the intersection of 70th Street West and extends to the railroad property on the north and west. The owners are requesting annexation in order to obtain municipal sewer and water for a proposed residential subdivision in accordance with 7-2-4601 et. seq., MCA. This public service report describes the City's capacity to serve the proposed development.

ALTERNATIVES ANALYZED: The City Council may approve or disapprove a petition submitted by owners of 50% of the real property in the area to be annexed (7-2-4601 (3)(b), MCA).

FINANCIAL IMPACT: The City can provide service to this property. While the annexation will increase the City's tax base, in general, the costs of providing service to residential properties exceed the revenues generated from property tax.

RECOMMENDATION

Staff recommends that City Council deny the petition to annex Tract 1 of Certificate of Survey 1871 and Tract 2A of Certificate of Survey 2465 containing approximately 116.17 acres. In the event that Council approves the petition, a resolution of annexation is attached.

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

ATTACHMENT

B. Resolution

INTRODUCTION

The owner submitted a petition for annexation for a 116.17-acre property located north of the Rimrock Road at the intersection of 70th Street West on May 18, 2005. The owner also intends to submit a preliminary subdivision plat application in the near future. Upon annexation the zoning of the property will automatically convert from Agricultural-Open Space to Residential-9,600. However, the owner plans to rezone this property to Residential-7,000-Restricted and develop the property for single family residences. The City Council denied the request to expand the Urban Planning Area to include this property on June 27, 2005.

PROCEDURAL HISTORY

- Petition for annexation and subdivision submitted May 18, 2005.
- Request for Urban Planning Area expansion denied June 27, 2005.
- City Council voted to acknowledge receipt of the petition for annexation and set a date for public hearing on June 27, 2005.
- If the Council approves the petition for annexation, it shall hold the First Reading and Public Hearing on a resolution to adjust the City Council Ward boundaries on July 25, 2005, and the Second Reading on August 8, 2005.

BACKGROUND

The Urban Planning Study that incorporated this property was previously approved by City Council in June, 2005. The approval of the Study and expansion of the Urban Planning Area is required prior to annexation of any property to the City of Billings. This petition for annexation is for a 116-acre parcel located north of Rimrock Road at the intersection of 70th Street West. The property is adjacent to existing City limits that encompass the Copper Ridge Subdivision.

ALTERNATIVES ANALYSIS

The City Council has expressed concerns about how annexations may affect the City's ability to provide services to annexed property without diminishing the services provided to existing City residents. To address these concerns, Council adopted an annexation policy that lists criteria for suitable annexations. The proposed annexation *does not comply* with the recently adopted Annexation Policy criteria because it is located outside the Limits of Annexation and the City cannot provide adequate services at this time.

Although MCA 7-2-4600 allows the municipality to waive the requirement of an annexation public services plan, it is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. State law lists the required contents of a public services plan including a 5-year (minimum) plan that outlines how and when services and infrastructure will be extended to the annexed area and how they will be financed. This report follows that general format.

Departmental Response: City departments and Yellowstone County were given the opportunity to comment on this annexation. School District #2 and Yellowstone County were also notified of this annexation. Most City departments responded that the petition should be denied because it is outside the City's Limits of Annexation. No comments were received from School District #2 or Yellowstone County.

City Facilities: The following improvements and facilities are necessary to provide adequate services to the subject property.

Water: Water service would be extended within Rimrock Road from where it terminates to serve the Copper Ridge Subdivision. The size of line is yet undetermined. If the City Public Works Department determines that the line would need to be increased in size to serve this development, as well as future development to the south, the City would be responsible for the cost of upsizing that line. The County is reviewing a subdivision directly south of this property that is proposing to install community water and sewer to serve 34 lots.

Sewer: Sewer lines would also be extended from a sanitary sewer line located in Rimrock Road. The City has not determined the size of the line or the need for other sewer collection facilities, such as a pump station. As is the case with water, if the City Public Works Department determines that the line would need to be increased in size to serve this development, as well as future development to the south, the City would be responsible for the cost of upsizing that line. The future subdivision would be required to pay the required construction and system development fees. Individual services will be required to pay connection fees.

Stormwater: There are no City stormwater facilities in the vicinity. Nearby subdivision developments have retained stormwater drainage onsite.

Transportation: The area to be annexed adjoins Rimrock Road at 70th Street West. West of 70th Street, Rimrock Road does not exist and is not classified because it lies outside the Transportation Urban Planning Area. East of 70th, Rimrock Road is classified as a collector to 62nd Street West and as a principal arterial east to North 27th Street. The proposed loading onto the westward extension of Rimrock Road may require the expansion of the Urban Planning Area and a reclassification of Rimrock Road in this vicinity.

Because there is no conceptual plan for this development, the location of approaches to the principal arterials is unknown, although 70th Street West would be one logical location. The development would be required to construct Rimrock Road to local street standards at a minimum. The City may be responsible for upgrading the road in the future to collector standards if traffic volumes warrant. The developer will also be responsible for contributing their proportionate share to any offsite improvements identified through a Traffic Accessibility Study.

Fire Station: The area to be annexed is within the Billings Urban Fire Service Area and currently served by the Billings Fire Department. Interim fire protection will be provided to this property after annexation from Fire Station No. 3 at Parkhill and 17th Street West and Fire Station No. 5 at 24th Street and Rosebud prior to the construction of a new station. Land has been purchased for a new fire station at the intersection of Grand and 54th Street West. The station is scheduled for construction in 2008 and will service this area at that time. Based on 2002 statistics, the Fire Department responded to approximately 85 incidents per 1000 people. At this level of impact, the development could generate approximately 72 incidents per year at full buildout.

Parks: No detailed plans were provided on the future provision for parks and recreation. Phipps Ranch Park is located northeast of the property, but there is no direct access. The railroad separates the property from the park. Robert Trent Jones Park is located approximately 1.5 miles east of the subdivision but this park is located in the Yellowstone Country Club Subdivision and is undeveloped. Future development of this property will be required to dedicate either parkland or cash in lieu of parkland.

Bicycle and pedestrian facilities: The area proposed for annexation is not affected by the Heritage Trail Plan.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. Some of the service providers objected to the annexation of this property.

Transit: MET does not regularly serve this area. MET had no problem with the petition to annex.

Fire: The property is currently within the Billings Urban Fire Service Area (BUFSA) and is served by the Billings Fire Department. After annexation, the Billings Fire Department will continue to serve this area. The Fire Department did not object to this annexation.

Police: The Police Department indicated that they did not have enough information to determine the impact of this annexation.

Ambulance Service: The City does not provide ambulance service but dictates the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. This annexation is within the area of acceptable response time.

Legal and Finance: City Legal and Finance Departments both indicated that this area was outside our limits of annexation and should not be annexed.

Other Departments: City/County services such as Library, Planning, and Environmental Health are only slightly affected by the annexation since they will serve new development if it is in the City or if it remains in the County.

City departments that provide some level of service directly to the property, such as waste collection, fire and police protection, code enforcement, street maintenance, and utility meter reading may be negatively affected. The distance required to reach this property, regardless that it is contiguous to the City limits, may mean that service to the existing City residents will be delayed or the level of service may decrease.

STAKEHOLDERS

The annexation by petition method does not require notification of adjoining landowners but does require the City Council to hold a public hearing. Notice of the public hearing was posted on the property and published in the Billings Gazette. The Planning Division has received no comments on this proposed annexation.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The City Annexation Policy and accompanying Limits of Annexation map provides some guidance to the Planning Board and City Council when reviewing requests for annexation in this area. The overriding intent of the policy was to limit annexation to areas that can be immediately served by existing services without added costs to the City. In the absence of a development plan, it can only be presumed that the request to expand the Urban Planning Area is consistent with this policy in the following ways:

1. The proposed improvements meet City standards.
2. Upon approval of the final subdivision plat, the owners will sign a Waiver of Right to Protest the Creation of Special Improvement Districts.

3. Upon approval of the final subdivision plat, the owners will form a Park Maintenance District.
4. Residential densities will be at least 4 dwelling units per acre.
5. With the exception of being partially contiguous to existing City limits, the proposed annexation meets the goals of the City-County Growth Policy.

The request conflicts with the Annexation Policy in that:

1. None of the property is located within the Limits of Annexation.
2. The City cannot provide adequate services without increasing funding to many City Departments that provide service directly to the property. The annexation may possibly require reprogramming the Capital Improvements Plan to extend sewer and water and construct Rimrock Road to collector standards.

The property is also outside the area covered by the West Billings Plan and the recently adopted Northwest Shiloh Land Use Plan so there is no guidance as to the preferred future development patterns of this area.

RECOMMENDATION

Staff recommends that City Council deny the petition to annex Tract 1 of Certificate of Survey 1871 and Tract 2A of Certificate of Survey 2465 containing approximately 116.17 acres. In the event that Council approves the petition, a resolution of annexation is attached.

ATTACHMENT

B. Resolution

RESOLUTION NO. 05-

**A RESOLUTION OF THE CITY OF BILLINGS
APPROVING PETITIONS FOR ANNEXATION
AND ANNEXING TERRITORY TO THE CITY.**

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law, and

WHEREAS, annexation of said territory would be in the best interest of the City.

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

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of land situated in the SW1/4 of Section 31, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

A tract of land situated in the SW1/4 of Section 25, T.1N., R.24E., and also in the S1/2 of Section 26, T.1N., R.24E., P.M.M., Yellowstone County, Montana, more particularly described as: Certificate of Survey 1871, Tract 1, Recorded March 14, 1979, Under Document No. 1121922, Records of Yellowstone County, Montana; also Certificate of Survey 2465, Tract 2A of Amended Tracts 2 and 3, Certificate of Survey 2465, Recorded September 16, 1996, Under Document No. 1845641. Containing 116.176 gross and net acres, more or less.

05-06 (See Exhibit "A" Attached)

2. CONDITIONS. The annexation is approved subject to the following conditions:

That prior to development of the site the following shall occur:

- c. A Development Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and provide guarantees for said improvements; or
- d. A Subdivision Improvements Agreement (SIA) and Waiver of Protest the Creation of an SID shall be approved and filed that will stipulate specific infrastructure improvements and provide guarantees for such infrastructure improvements. The subdivider will be responsible for forming a Park Maintenance District and developing the dedicated park as a condition of subdivision approval.

3. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

PASSED by the City Council and APPROVED this 11th day of July, 2005.

THE CITY OF BILLINGS:

BY: _____

Charles F. Tooley, MAYOR

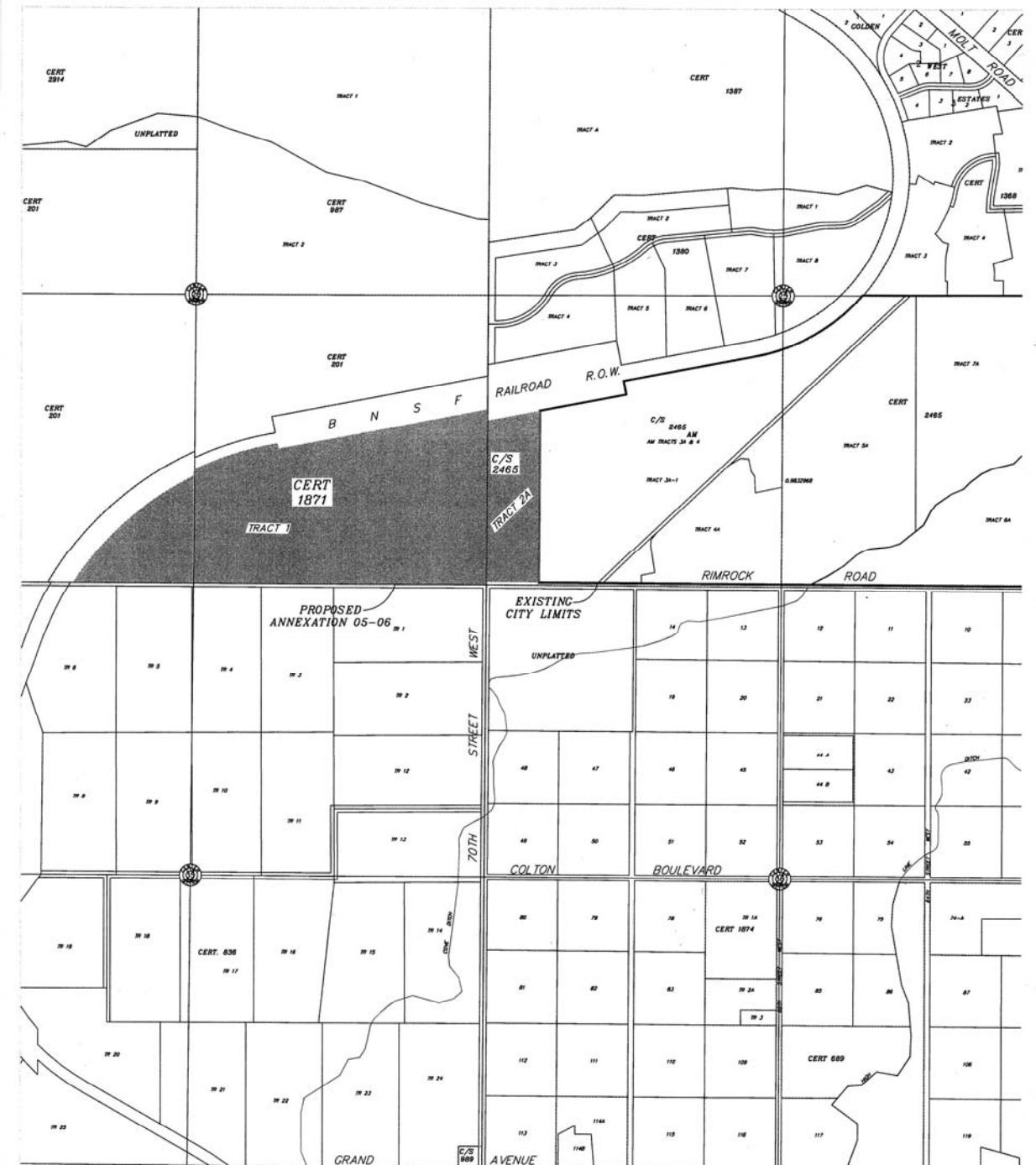
ATTEST:

BY: _____

Marita Herold, CMC/AAE CITY CLERK

(AN 05-06)

EXHIBIT A



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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

TITLE: Public Hearing and First Reading of an Ordinance Authorizing a \$10.00 Municipal Court Disposition Administrative Fee and a \$10.00 Municipal Court Time Pay Contract Administrative Fee

DEPARTMENT: Municipal Court and Administration-Finance Division

PRESENTED BY: Mary Jane Knisely, Municipal Court Judge; Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The attached ordinance authorizes two \$10.00 fees to help defray Municipal Court related administrative and processing fees and costs incurred by the City for processing misdemeanor criminal offenses and time payment contracts. The Council agreed to consider this fee when it adopted the FY 2006 budget because the fee pays for budgeted expenses in the Court, Public Defender, Legal and Police Departments.

FINANCIAL IMPACT: The Municipal Court disposition administrative fee will produce approximately \$120,000 general fund revenue. The time pay administrative fee can't be accurately estimated at this time because imposing the fee may reduce the number of defendants that request time pay arrangements.

RECOMMENDATION

Staff recommends that Council approve the attached ordinance that establishes Municipal Court disposition and time pay administrative fees.

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

ATTACHMENT
A: Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY ADDING SECTIONS TO BE NUMBERED 10-401 THROUGH 10-403; PROVIDING FOR THE ASSESSMENT OF ADMINISTRATIVE FEES BY MUNICIPAL COURT AS PART OF THE DISPOSITION OF ALL CITATIONS, CRIMINAL AND TRAFFIC COMPLAINTS, AND TIME PAYMENT CONTRACTS.

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

Section 1. That the Billings, Montana City Code be amended by adding a section to be numbered 10-401, to read as follows:

Sec. 10-401. Purpose and Intent.

The City Council enacts this ordinance to help defray Municipal Court related administrative and processing fees and costs incurred by the City for processing misdemeanor criminal offenses and time payment contracts.

Section 2. That the Billings, Montana City Code be amended by adding a section to be numbered 10-402, to read as follows:

Sec. 10-402. Establishment of Municipal Court Disposition Administrative Fee.

There is hereby established administrative fees and charges to be assessed by the Municipal Court as part of the disposition of all citations and complaints, criminal and traffic, for which there is a conviction, bond forfeiture, nolo contendre plea, or plea of guilty entered. An administrative processing fee for any citation or complaint in the Billings Municipal Court of ten dollars (\$10.00) shall be assessed each citation or complaint in addition to the regular fines, surcharges and fees at the time the defendant pleads or is convicted of any charges. The amount of the administrative processing fee may be modified by resolution of the City Council.

Section 3. That the Billings, Montana City Code be amended by adding a section to be numbered 10-403, to read as follows:

Sec. 10-403. Establishment of Municipal Court Time Pay Contract Administrative Fee.

The Municipal Court shall assess a fee on all time payment contracts allowed the defendant for payment of fines, costs and charges in Municipal Court on an installment basis at an amount of ten dollars (\$10.00). The amount of the administrative processing fee may be modified by resolution of the City Council.

Section 4. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 5. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 6. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this _____ day of _____, 2005.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2005.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Public Hearing and Resolution To Create Expanded Park Maintenance District No. 4012

DEPARTMENT: Department Of Parks, Recreation, & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: The existing Park Maintenance District No. 4012 contains 183,823 square feet (4.22 acres) of dedicated parkland and adjacent street right-of-way. The expansion of Park Maintenance District No. 4012 to include Village West Subdivision, 1st and 2nd Filings will add street landscaping along the east side of 38th Street West as public area to be maintained to the district, in addition to the 4.5 acres of Country Manor Park. As a condition of the Village West Subdivision, 2nd Filing annexation and final plat approval, the lots must be included in Park Maintenance District 4012, with Circle 50 Subdivision. Waivers of Protest for the inclusion in PMD 4012 are in place on all of the property within the proposed district expansion. The Resolution to Create the Expanded District is the final step in the process that will include Village West Subdivision, 1st and 2nd Filings as part of Park Maintenance District No. 4012. The Resolution of Intent to Create the expanded district was considered and approved at the June 13th, 2005, Council Meeting. A Public Notice of Intent was advertised on June 16th and June 23rd, and was mailed to all property owners within the Village West Subdivision informing them of the required legal period for protest and comment from June 17th through July 1st, 2005, and of the Public hearing and Council consideration to take place at the regular Council Meeting on July 11, 2005. A report of comments received will be provided at the Council Meeting before the Public Hearing.

ALTERNATIVES ANALYZED:

- Do not expand Park Maintenance District No. 4012
- Expand the Park Maintenance District to include all lots of Village West Subdivision, 1st and 2nd Filings, which will be assessed for a portion of the cost of maintaining the existing park areas of the district. (Recommended)

FINANCIAL IMPACT: The additional cost associated with maintenance in the expansion area for the street landscaping and the expansion area's portion of the maintenance cost for the

existing Country Manor Park is estimated to be \$5,589.42 for the FY 2006, to be assessed in November of 2005. The assessment rate for this amount is \$0.0057 per square foot of property in District 4012. The assessment for the added lots is shown in "Exhibit D" of the attached PMD documents for the coming year.

RECOMMENDATION

Staff recommends Council approve the Resolution to Create Expanded Park Maintenance District No. 4012 as proposed.

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

ATTACHMENTS:

A. Resolution to Create Expanded Park Maintenance District No. 4012 (Including Exhibits "A" through "D").

INTRODUCTION

Approval of the Resolution to Create the Expanded Park Maintenance District No. 4012 is the final step in the process to include all lots of Village West Subdivision, 1st and 2nd Filings, in Park Maintenance District No. 4012 as agreed to by the developers in the Annexation and Subdivision Improvements Agreement.

PROCEDURAL HISTORY

- The original Circle 50 Subdivision Maintenance District 4012 was created through Resolution to Create District Number 99-17481 approved at the July 12th, 1999, City Council meeting to provide for the maintenance of approximately 4.22 acres of park and public area in Circle 50 Subdivision, installed in accordance with the Subdivision Improvement Agreement for the subdivision.
- The Subdivision Improvements Agreement approved for the annexation and development of Village West Subdivision requires that the subdivision become a part of Park Maintenance District 4012 along with the Circle 50 Subdivision to provide maintenance for Country Manor Park and the Village West landscaping along the east side of 38th Street West.
- The Resolution of Intent To Expand PMD 4012 was approved at the June 13th, 2005 City Council Meeting.
- The required Public Notice of Intention to Create the expanded district was advertised on June 16th and June 24th, 2005.
- The Public Notice of Intention to Create the expanded district was mailed to affected property owners explaining the protest and comment procedures and provided for a protest period from June 17th through July 1st, 2005, and informed them of the date for the Public Hearing and Council consideration of the Resolution to Expand the district at the July 11th, 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. Village West Subdivision, 1st and 2nd Filings, provided cash-in-lieu to fulfill the required parkland dedication. The Village West Subdivision, 1st and 2nd Filings, Subdivision Improvements Agreements required the lots to be added to the existing Park Maintenance District 4012. The proposed expanded maintenance district includes 91 additional lots. There are Waivers of Protest on file for the formation of the park maintenance district for all lots within the Village West Subdivision, 1st and 2nd Filings.

Approval of the Resolution to Create Expanded Park Maintenance District No. 4012 for Village West Subdivision, 1st and 2nd Filings completes the expansion of the district to include the Village West Subdivision, 1st and 2nd Filings in PMD 4012, according to the Subdivision Improvements Agreement.

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 Village West Subdivision, 1st and 2nd Filings assessments for park maintenance are discussed herein. Staff recommends this alternative.

STAKEHOLDERS

- The developer has agreed to expand the existing Park Maintenance District to include all lots of Village West Subdivision, 1st and 2nd Filings.
- The residents in the subdivision will be informed 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. 4012 and of the protest process and Public Hearing scheduled for the July 11th, 2005, City Council meeting.
- Few protests are received annually for the Park Maintenance District assessments that are levied throughout the city.

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 to Create Expanded Park Maintenance District No. 4012 as proposed.

ATTACHMENTS:

- A. Resolution to Create Expanded Park Maintenance District No. 4012 (Including Exhibits “A” through “D”).

RESOLUTION 05-_____

**A RESOLUTION TO EXPAND THE BOUNDARIES OF EXTENDED
SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 4012 FOR
THE PURPOSE OF MAINTAINING THE EXISTING AND FUTURE
PARK IMPROVEMENTS IN CIRCLE 50 SUBDIVISION TO INCLUDE
VILLAGE WEST SUBDIVISION**

WHEREAS, City Council of Billings, Montana hereby finds, determines and declares that:

1. The public interest and convenience require expanding the boundaries of Special Improvement Maintenance District No. 4012 created by *Resolution 99-17481 on July 11, 1999*.
2. All lands are benefited and no lands that are not benefited have been included within the district. All lands within the district will be enhanced in value to the extent of the assessments to be levied upon such lands, and all lands included within the district should be assessed accordingly to pay the cost and expenses of the district.

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

1. *Jurisdiction and Creation:* Extended Special Improvement Maintenance District No.4012 is of more than local or ordinary public benefit. The Council has acquired jurisdiction to order the improvements and it does hereby expand the boundaries of Extended Special Improvement Maintenance District No. 4012. All lands included in the expanded boundaries of Extended Special Improvement Maintenance District No. 4012 are benefited and no lands that are not benefited have been included in said district.
2. *General Character of Improvements and Maintenance:* The general character of the improvements to be maintained is as follows: landscaping, trees, irrigation systems, irrigation system water services, and other park equipment and improvements installed by the developer, Parks Department and/or as part of a future Special Improvement District.
3. *Boundaries:* The boundaries of the district are described and designated on Exhibit "A" attached hereto.
4. *Maintenance Estimate:* The estimated cost of the proposed expansion maintenance for the current year shall be **\$5,589.42** as described in the Maintenance Estimate attached hereto as Exhibit "D".
5. *Assessment Method:* All of the costs and expenses of the district will be assessed against the entire district. Assessments for each lot during the first year will be approximately **\$0.0057** per square foot of lot area. In accordance with 7-1-1479 MCA, the assessment for each lot in each ensuing year will be set by the City Council by resolution.

6. *Payment of Assessment:* The assessments for all maintenance and costs of the district shall be paid in equal annual installments, provided that the payment of one-half of said annual assessment may be deferred to May 31 of the year following the assessment. All money derived from the collection of said assessments otherwise shall constitute the existing fund known as Fund of Special Improvement Maintenance District No. 4012.
7. *Bonds for Improvements:* There will be no bonds sold for this district as it is for maintenance only.
8. *Engineering:* No engineering will be required for the maintenance of the district.
9. *District Accounts:* The Director of Finance is hereby authorized and directed to establish the necessary accounts to govern the receiving of all revenues and the expenditures of the same district.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana and
APPROVED, this
11th day of July, 2005.

CITY OF BILLINGS

By: _____
Charles F. Tooley Mayor

ATTEST:

By: _____
Marita Herold, CMC/AAE City Clerk

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Public Hearing and Resolution To Create Extended Park Maintenance District No. 4027, Ironwood Subdivision

DEPARTMENT: Department Of Parks, Recreation, & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: Ironwood Estates Subdivision contains approximately 47.84 acres of dedicated park and public open space. It includes 20-foot wide trailway strips throughout the subdivision, which provide connectivity between the many large public park areas. 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 public area improvements. As a condition of the Ironwood Estates Subdivision, 3rd Filing final plat approval, the lots must establish a park maintenance district. The Resolution of Intent to Create the District is the first step in the process to include all lots of Ironwood Estates Subdivision in Park Maintenance District No. 4027. The Resolution to Create District 4027 completes the process to provide for the maintenance of the Ironwood Subdivision parks by creating Park Maintenance District No. 4027, as agreed upon in the Subdivision Improvements Agreement for the annexation and development of the subdivision. On June 17th, 2005, Property Owners received the Notice of Passage of the Resolution of Intent at the June 13th City Council Meeting, and were provided the information on the 15 day period for protest from June 17th through July 1st, 2005, and of the public hearing and consideration of the Resolution to Create the Ironwood Subdivision PMD at the July 11, 2005, City Council Meeting. A report of protests and comments received during the protest period will be provided to the Council on July 11th, 2005.

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 public area improvements are estimated to be \$22,830.00 for the first year. The assessment rate for this amount is \$0.00421 per square foot of property in District 4027. The assessment for the lots is shown in “Exhibit D” of the attached PMD 4027 documents for the coming year.

RECOMMENDATION

Staff recommends Council approve the Resolution to Create Park Maintenance District No. 4027 for Ironwood Estates Subdivision as proposed.

ATTACHMENT:

Resolution To Create the Expanded Park Maintenance District No. 4027 (Including Exhibits “A” through “D”).

INTRODUCTION

Approval of the Resolution to Create Park Maintenance District No. 4027 for the maintenance of Ironwood Estates Subdivision public areas is the final step in creating the park maintenance district as required by the Annexation and Subdivision Improvement Agreement for the subdivision. The approval process includes a Public Hearing and then consideration of the Resolution to Create the district.

PROCEDURAL HISTORY

- The Ironwood Estates Subdivision, 1st through 3rd Filings have been approved and filed. The final 4th Filing of Ironwood Estates Subdivision is being submitted to the Planning Department June 1st, 2005.
- The Master Plan for the construction of the public area improvements was developed with the PRPL Department and adopted by the City Council as Resolution 04-18118 on April 26th, 2002.
- The Resolution of Intent To Create the Park Maintenance District was considered and approved and the June 13th, 2005, meeting of the City Council.
- A Public Notice of Intention to Create PMD 4027 was advertised on June 16th and June 23rd, 2005.
- A copy of the Public Notice of Intention to Create PMD 4027 was sent to all affected property owners within the proposed district explaining the 15 day period from June 17th through July 1st for protest and comment and the procedures for such action.
- The Public Notice of Intention to Create PMD 4027 called for a Public Hearing and Council consideration of the Resolution to Create the district at the July 11th, 2005, regular City Council meeting.

BACKGROUND

To provide the funding needed to develop and to 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. It assures that there are well maintained parks in new areas of Billings without increasing the demand on the expenditures of the city general fund and to relieve the pressures on existing developed parks that adding new subdivisions to the city results in. The annexation agreement and Subdivision Improvements Agreement for Ironwood Estates Subdivision call for the park improvements to be made and the Park Maintenance District to be created. The proposed maintenance district includes all lots included in Blocks 1 through 12 of Ironwood Estates Subdivision. Said lots shall not be eligible for assessment until such time as the final plat of the lot property is filed and the Restrictions on Transfers and

Conveyances are lifted. All filings have or will have on file Waivers of Protest for the formation of the park maintenance district for all lots within Ironwood Estates Subdivision.

Approval of the Resolution to Create Park Maintenance District No. 4027 for Ironwood Estates Subdivision completes the process.

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 commences. The approved Subdivision Improvements Agreements call 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 the development and maintenance of the public areas in Ironwood Estates Subdivision.
- The 223 lots initially included in the PMD in Ironwood Estates Subdivision consist of single-family residences. 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. 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 Operations & Maintenance budget this year.

RECOMMENDATION

Staff recommends Council approve the Resolution to Create Park Maintenance District No. 4027 for Ironwood Estates Subdivision as proposed.

ATTACHMENT:

Resolution To Create the Expanded Park Maintenance District No. 4027 (Including Exhibits "A" through "D").

RESOLUTION 05-_____

A RESOULTION CREATING PARK MAINTENANCE

**DISTRICT NO. 4027 IN IRONWOOD ESTATES SUBDIVISION
FOR THE PURPOSE OF MAINTAINING THE PUBLIC AREAS
AND ASSOCIATED TRAIL SYSTEM AS IDENTIFIED AND
CONSTRUCTED IN IRONWOOD ESTATES SUBDIVISION**

WHEREAS, the City Council of Billings, Montana, hereby finds, determines and declares that:

1. The public interest and convenience require the creation of the above named district.
2. That said district is of more than local or ordinary public benefit.
3. All lands are benefited and no lands that are not benefited have been included within the district. All lands within the district will be enhanced in value to the extent of the assessments to be levied upon such lands, and all lands included within the district should be assessed accordingly to pay the costs and expenses of the district.

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

1. *Jurisdiction and Creation.* Park Maintenance District Number 4027 is of more than local or ordinary public benefit. The Council has acquired jurisdiction to order the proposed improvement, and it does hereby create Park Maintenance District Number 4027. All lands included within Park Maintenance District Number 4027 are benefited and no lands that are not benefited have been included in said district.
5. *General Character of Improvement and Maintenance.* The general character of the improvements to be maintained is as follows: landscaping, trees and deadfall, irrigation systems, irrigation system water services, storm detention facilities, street lighting and signage, weed control, pest control, and other park equipment and improvements installed by the developer and the Parks Department located in the public area of Ironwood Estates Subdivision as shown on Exhibit "A" attached hereto. The purpose of said district is to provide perpetual maintenance of the above-mentioned items.

3. *Boundaries.* The Boundaries of the district are described and designated on Exhibit “B” attached hereto.
4. *Ownership.* The ownership records of all properties within the said district are described and designated in Exhibit “C” attached hereto.
5. *Maintenance Estimate:* The estimated cost of the proposed maintenance for the first year will be \$22,830.00 as described in the Maintenance Estimate attached hereto in Exhibit “D”.
6. *Assessment Method:* All eligible properties within the District are to be assessed for a portion of the costs of maintaining the Ironwood Estates Subdivision, Public Area Improvements, as specified herein. Said properties shall not be eligible for assessment until such time as the final plat of the property is filed and the Restrictions on Transfers and Conveyances are lifted. The costs of maintaining the Improvements shall be assessed against the property in the District benefiting from the Ironwood Estates Subdivision, Public Area Improvements. Assessments for each lot during the first year will be approximately \$0.00421 per square foot. In accordance with 7-1-1479 MCA, the assessment for each lot in each ensuing year will be set by the City Council by resolution.
7. *Payment of Assessment.* The assessments for all maintenance and costs of the district shall be paid in equal annual installments, provided that payment of one-half of said annual assessment may be deferred to May 31 of the year following the assessment. All money derived from the collection of said assessments otherwise shall constitute a fund to be known as Fund of Park Maintenance District Number 4027.
8. *Bonds for Improvement.* There will be no bonds sold for this district as it is for maintenance only.
9. *Engineering.* The park improvements shall be installed under a private contract in accordance with the Park Masterplan for Ironwood Estates Subdivision, approved by the Billings City Council. All design and engineering has been completed under a private contract.
10. *District Accounts.* The Director of Finance is hereby authorized and directed to establish the necessary accounts to govern the receiving of all revenues and the expenditures of the same district.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this _____ day of _____, 2005.

THE CITY OF BILLINGS:

BY: _____
Charles F. Tooley, MAYOR

ATTEST:

BY: _____
Marita Harold, CMC, CITY CLERK

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Public Hearing and Resolution to Dispose of City-Owned Property – Lots 5,6,8,9 and 10, Block 92, Original Town, and award of bid for purchase of the property.

DEPARTMENT: Administrative Services – Parking Division

PRESENTED BY: Liz Kampa-Weatherwax, Parking Division Director

PROBLEM/ISSUE STATEMENT: The City of Billings requested bids for the purchase of city-owned property consisting of two surface parking lots, located in the 100 block of North 27th Street; more particularly described as Lots 5, 6, 8, 9, and 10, Block 92, Original Town, Billings, Montana. The request for bids was in response to an entity expressing interest in purchasing the property for a multi-use development project. The City advertised for bids on June 26 and July 3, and bids were opened on July 5, 2005. The award of bid will be recommended by staff at the July 11, 2005, City Council meeting.

A market analysis was completed on May 2, 2005. A total value was estimated at \$448,000 or \$26.50/square foot for the property. On June 13, 2005, 2005, the City Council approved a Resolution stating the City's intent to dispose of the property and scheduled a public hearing for July 11, 2005. The public hearing for the disposal of this property was advertised on June 23 and 30, 2005. Staff has mailed a copy of the advertisement for the public hearing to all property owners in a 300' radius of the city-owned property for sale. An affidavit of mailing was completed and notarized.

ALTERNATIVES ANALYZED: City staff has considered the following alternatives for the above-referenced property: (1) Accept a bid by a qualified buyer; (2) Reject all bids and re-advertise the sale of the property; or, (3) determine not to sell the above-referenced property.

FINANCIAL IMPACT: The land was acquired to be used as surface lot parking. This sale would allow a multi-use development to proceed in the area. Any funds acquired by the bid would add to the Parking Division's revenue for possible use toward this or other development projects.

RECOMMENDATION

Staff recommends that the Council approve the attached resolution authorizing the sale of the property. Staff will make a recommendation regarding the award of bid at the July 11, 2005, City Council meeting.

Approved By: City Administrator City Attorney

ATTACHMENT

A. Resolution (1)

RESOLUTION 05 - _____

**A RESOLUTION PURSUANT TO BILLINGS,
MONTANA CITY CODE, ARTICLE 22-900: SALE,
DISPOSAL OR LEASE OF CITY PROPERTY,
DESCRIBING THE PROPERTY TO BE DISPOSED
OF, DECLARING THE INTENT OF THE CITY TO
DISPOSE OF THE PROPERTY AND
AUTHORIZING CITY OFFICIALS TO PROCEED.**

WHEREAS, the City of Billings owns and desires to dispose of the public property located in the 100 block of North 27th Street, currently two surface parking lots; and,

WHEREAS, the location of the public property to be disposed of is more particularly described as follows:

Public Property, Lots 5, 6, 8, 9 and 10, Block 92, in the City of Billings, located in Yellowstone County, Montana, according to the official plat on file and of record in the office of the Clerk and Recorder of Yellowstone County, Montana; and

WHEREAS, the notice required by Section 22-902 of the Billings Montana City Code has been duly published and mailed; and

WHEREAS, the public hearing required by Section 22-902 of the Billings Montana City Code was duly held on the 11th day of July, 2005;

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

That the City staff is authorized to proceed with the sale of Lots 5, 6, 8, 9 and 10, Block 92, Original Twn, under the requirements of Section 22-902 of the Billings, Montana City Code.

APPROVED AND PASSED by the City Council of the City of Billings, Montana this _____ day of _____, 2005.

THE CITY OF BILLINGS:

**BY: _____
CHARLES F. TOOLEY, MAYOR**

ATTEST:

MARITA HEROLD, CMC/AAE , CITY CLERK

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CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, July 11, 2005

SUBJECT: Awarding Sale of Bonds Relating to \$2,520,000 Pooled Special Improvement District Series 2005

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City Council has previously approved the authorization for the sale of bonds relating to Pooled Special Improvement District Series 2005. This staff memo recommends award of the sale of bonds totaling \$2,520,000 for the financing of construction for SID 1358,1365, 1366 and 1371.

BACKGROUND INFORMATION: Bids on \$2,520,000 in bonds will be received July 11, 2005, and a report will be made at the Council meeting.

RECOMMENDATION

A recommendation on the award of the bond bid will be made at the meeting

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

ATTACHMENTS

A – Bid Form

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, July 11, 2005

TITLE: Reconsideration of Zone Change #757 -- 1st Reading of Ordinance

DEPARTMENT: Planning and Community Services

PRESENTED BY: Nicole Cromwell, AICP, Planner II, Zoning Coordinator

PROBLEM/ISSUE STATEMENT: On June 27, the Council voted to reconsider a zone change request from R-7,000 to R-6,000 on Lot 6, Block 1 of Burnstead Subdivision 2nd Filing. The subject property is located at 945 N 19th Street in the North Park neighborhood. The property owners are Larry & Judith Hauk. The Zoning Commission held a public hearing on May 17, 2005, and voted 3-0 to recommend approval. The City Council held a public hearing on June 13, 2005, and the zone change was rejected because there was not the 2/3 vote majority necessary because of a valid protest.

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

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

FINANCIAL IMPACT: This zone change should not affect the City's tax base but will preserve the existing property value.

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change #757 and adopt the determinations of the discussed 12 criteria.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENTS:

- A: Site photographs
- B: Map
- C: Ordinance
- D: Protest Petition

INTRODUCTION

This is a zone change request from Residential 7,000 to Residential 6,000 on Lot 6 of Block 1 of Burnstead Subdivision 2nd Filing. The subject property is located at 945 N 19th Street and has 11,911 square feet in lot area and currently is developed as a 4-unit apartment building. The applicant discovered the underlying zoning district was R-7,000 when they entered an agreement to sell the property. The buyer's lender asked the Planning Department to verify the zoning and if the building could be reconstructed if damaged. The Planning Department informed the lender that the building as constructed was a nonconforming use of the property under R-7,000 zoning and could not be reconstructed as a 4-unit apartment. This lot area and zoning only allows a duplex unit to be constructed on the property.

PROCEDURAL HISTORY

- On April 5, 2005 the Planning Department received the request for a zone change.
- The Zoning Commission held a public hearing on May 17, 2005, and voted 3-0 to recommend approval of the requested Zone Change.
- The City Council held a public hearing on June 13, 2005, and the zone change, which required a 2/3 majority because of a valid protest, failed on a 5-5-1 vote.
- The City Council voted June 27, 2005, to reconsider the item on July 11, 2005.

BACKGROUND

The building at 945 N 19th Street was originally constructed as a 3-unit apartment building in 1954 and a fourth unit was added in 1984. According to Planning Department records, this parcel has been zoned R-7,000 since May of 1972 (current zoning code). The building official in 1984 mistakenly determined the zoning was R-6,000 and allowed the fourth unit to be constructed. The applicant would like to have the zoning match the existing use of the property. The R-6,000 zone would allow (by special review) the construction of a new 4-unit apartment building. The applicant does not intend to expand the existing building or increase the number of units on the property. Any additional dwelling units to the existing building would require special review approval by the City Council.

The Planning Department reviewed the application and recommended approval based on the attached twelve (12) criteria for zone changes. The property is adjacent to R-6,000 to the east and the current use of the property has fit in well with the existing neighborhood. The North Park Neighborhood Plan does indicate the need to maintain the R-7,000 zoning within this area; however, the property has supported and can continue to support a multi-family dwelling without being detrimental to the R-7,000 district.

The City Zoning Commission reviewed this application and held a public hearing on May 17, 2005. The Zoning Commission voted 3-0 to recommend approval based on the attached twelve (12) criteria for zone changes.

ALTERNATIVES ANALYSIS

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

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

The new zoning will bring an existing multifamily dwelling into conformance with the zoning district. The 2003 Growth Policy and the 1993 North Park Neighborhood Plan supports the development of a variety of housing types. While the 1993 North Park Neighborhood Plan specifies that the existing R-7,000 zoning should be protected from increases in development density, this multifamily dwelling has been in existence for over 50 years and the applicant does not intend to increase the number of units in the building.

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

The new zoning will not increase the traffic generated from this site. Currently the parcel is developed with a 4-unit apartment building. The applicant does not plan any additional dwelling units. The lot area could allow for one additional unit in this building but would require a special review approval from the City Council. The existing streets can handle the amount of traffic generated from the site.

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

This lot has public street frontage and is served by the City Fire Department and Police Departments. No public health or safety issues have been raised with this application.

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

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

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

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

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

The new zoning, as do all districts, have limits on the maximum percentage of lot that can be covered with structures. The R-6,000 allows for maximum lot coverage of 40 percent or 4,764 square feet on this 11,911 square foot lot. The existing lot coverage of ~16 percent will remain the same since no new building is contemplated by the applicant. These features should prevent overcrowding of the land.

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

The new zoning of Residential-6,000 allows single-family detached dwellings and multifamily units, based on minimum lot areas and special review approval of the City Council. The new zoning should not create an undue concentration of population.

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

Transportation: The new zoning will not affect the adjacent streets or traffic patterns.

Water and Sewerage: The City current provides water and sewer service to the property and has adequate facilities to serve this property.

Schools and Parks: There should be no effect on parks or schools from this rezoning

Fire and Police: The property is served by existing services and there should be no effect on these services from the new zoning.

9. *Does the new zoning give reasonable consideration to the character of the district?*
This area of the City has a number of dwelling densities including single family homes on lots of 7,000 square feet up to 24 units on a 26,000 square foot lot (2022 Burnstead Drive). This lot is on the boundary between a single and two family zoning district (R-7,000) to the west and a single, two family and multifamily zoning districts (R-6,000 and Residential Multifamily-Restricted) to the north and east. Within 600 feet of this property the majority of dwellings are single family or two family homes. To the north and east there are six properties that have been developed at higher densities including an 8-plex in an R-7,000 zoning district.

10. *Does the new zoning give consideration to peculiar suitability of the property for particular uses?*
The subject property is suitable for the requested zoning district.

11. *Was the new zoning adopted with a view to conserving the value of buildings?*
The new zoning is not expected to appreciably alter the value of buildings in the area. The existing building on the property will retain its value by making it conforming to the zoning regulations.

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

STAKEHOLDERS

The Zoning Commission held a public hearing on May 17, 2005 on this zone change. No surrounding property owners attended the public hearing. A protest petition was received on May 16, 2005, and was signed by 23 property owners surrounding the subject property. One letter in favor of the zone change was received by the owner of property at 988 N 18th Street, Elizabeth O'Toole. Mrs. O'Toole attended the public hearing and testified in favor of the zone change. The Planning Department has determined the protest petition is a valid protest of the proposed zone change. This reconsideration will require a 2/3 vote of the present and voting members of the City Council to pass the zone change request.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

RECOMMENDATION

The Zoning Commission recommends that the City Council approve Zone Change #757 and adopt the determinations of the discussed 12 criteria.

ATTACHMENTS:

- A: Site photographs
- B: Map
- C: Ordinance
- D: Protest Petition

ATTACHMENT A
Site Photographs – Zone Change #757



Subject property view east from N 19th Street



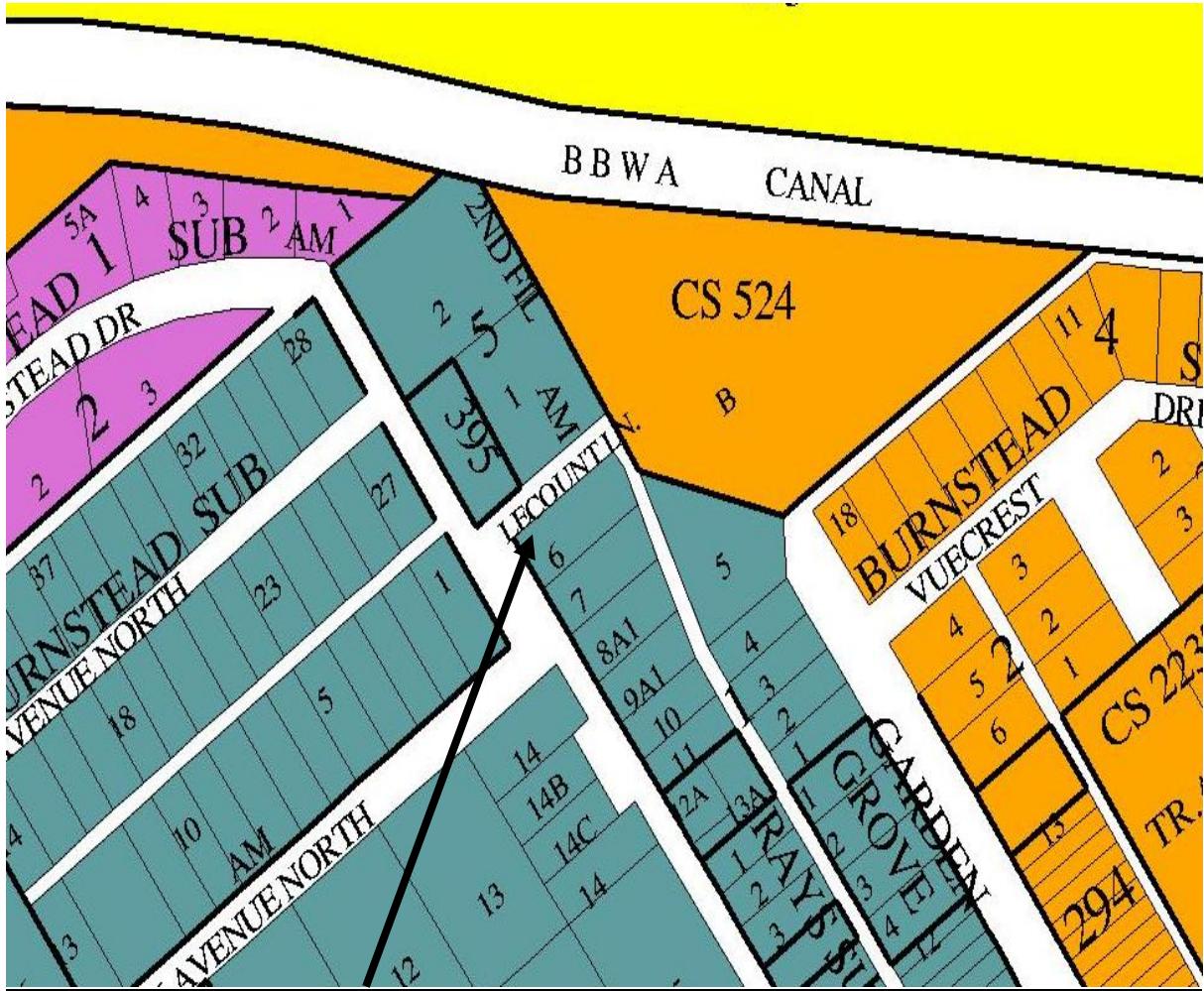
Subject property view of parking area north of existing building



View north on N 19th Street from intersection of Lecount Lane
Multifamily structures in background on Burnstead Drive

ATTACHMENT B

Zoning Map



**ATTACHMENT C
ORDINANCE NO. 05-**

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
ON Lot 6 of Block 1 Burnstead Subdivision 2nd Filing an 11,911
square foot parcel of land. **THE SUBJECT PROPERTY IS
LOCATED AT 945 N 19TH STREET.**

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

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

2. DESCRIPTION. Lot 6 of Block 1 Burnstead Subdivision 2nd Filing containing 11,911 square feet of land, more or less and is presently zoned Residential-7,000 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential-7,000** to **Residential-6,000**, and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential-6,000** zones as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading July 11, 2005.

PASSED, ADOPTED AND APPROVED on second reading July 25, 2005.

CITY OF BILLINGS:

BY: _____
Charles F. Tooley, Mayor

ATTEST:

BY:

Marita Herold, CMC/AAE, City Clerk

ZC#757

ATTACHMENT D
Protest Petitions and validation Zone Change #757

AGAINST ZONE CHANGE #757

The property owners whose signatures appear on this petition are against proposed Zone Change #757 which would change the current zoning for Lot 6, Block 1 of Burnstead Subdivision 2nd filing from Residential-7,000 to Residential 6,000. The property is located at 945 North 19th Street.

Signature	Street Address	Phone
1. <i>Calley Wickison</i>	1103 N. 19th	252-5942
2. <i>Gary Wickison</i>	1103 North 19 th	252-5942
3. <i>Patricia Sapping</i>	1912 11 th AVE North	259-4917
4. <i>Aura M. Larson</i>	1906 11 th AVE N	1071-8433
5. <i>Seth D.</i>	940 N. 18th St.	672-0221
6. <i>Bob Felt</i>	930 N. 18th St	248-8401
7. <i>Rod Den</i>	920 N. 18 th St	243-0455
8. <i>Maryann Sjolstad</i>	917 N. 19th St.	860-0961
9. <i>Mark</i>	919 N. 19 St.	248-3017
10. <i>Pat Boland</i>	915 N 19th	860-2784
11. <i>Jacob W. Madsen</i>	943 N. 19 th	672-6936
12. <i>Ernest C. Miller</i>	1901 10 th Ave N	259-9650
13. <i>Linda M. Miller</i>	1901 10 th Ave N.	259-9650

ATTACHMENT D, Continued
Protest Petitions and Validation Zone Change #757

AGAINST ZONE CHANGE #757

The property owners whose signatures appear on this petition are against proposed Zone Change #757 which would change the current zoning for Lot 6, Block 1 of Burnstead Subdivision 2nd filing from Residential-7,000 to Residential 6,000. The property is located at 945 North 19th Street.

Signature	Street Address	Phone
14. Donald J O'Brien	1913 10 AVE NORTH	259-1006
15. Barbara O'Brien	1913 10 th Ave. No.	259-1006
16. M. Joann Blodoe	1916 10th ave n	259-2241
17. Sheila Clark	1905 10 th Ave. N	
18. Donna Heist	40922 N 19 th ST.	252-7352
19. Hubert Patterson	1918-10 th AVE, N	243-3885
20. David Neidum	111 North 19 th ST	259-4627
21. Paul Engle	1819 LeCount Ln.	252-0574
22. Carol Engle	1819 LeCount Ln	252-0574
23. Shirley Vashler	1902 11 th AVE. N	251-3619
24.		
25.		
26.		

ATTACHMENT D, Continued
Protest Petitions and Validation Zone Change #757

Zone Change #757 - 945 N 19th Street

Record #	Geocode	Tax ID #	Street Address	Record Property Owner
1	3103333215440000	D05870	N18TH ST	Billings Bench Water Association
2	3103333215090000	A03981	1819 LECOUNT LN	Justin & Carol Engle
3	3103333215100000	D05860	1103 N 19TH ST	Gary & Colleen Wichman
4	3103333212200000	A03950	1902 11TH AVE N	Shirley Vashler
5	3103333215110000	A03967	945 N 19TH ST	Subject Property
6	3103333215420000	A03966	988 N 18TH ST	Elizabeth O'Toole
7	3103333215120000	A03967A	943 N 19TH ST	Jack Nickels & Robert Hedrick
8	3103333212190000	A03924	1901 10TH AVE N	Everett & Linda Miller
9	3103333215130000	A03968	929 N 19TH ST	John Gountanis
10	3103333212180000	A03925	1905 10TH AVE N	Sheila Clarke
11	3103333215140000	A03968A	921 N 19TH ST	John Gountanis
12	3103333209240000	D05802	924 N 19TH ST	Karl Giebink
Valid Protest?				

Yes - 50% of property owners with 150 feet of the subject property have signed a protest against the zone change

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