

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

March 13, 2006

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Mayor Tussing

ROLL CALL

MINUTES – February 13, 2006 and February 27, 2006

COURTESIES

PROCLAMATIONS

- Week of March 12th through March 18th – Sunshine Week

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1 ONLY.

Speaker sign-in required. (Comments offered here are limited to 1 minute per speaker. Please sign up on the clipboard located at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item.)

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

CONSENT AGENDA:

1. A. Mayor's Appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Library Board	3/13/06	12/31/09
2		Library Board	3/13/06	12/31/09

3.		Library Board	3/13/06	12/31/09
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New positions
[\(Corresponding Staff Memo A\)](#)

B. Bid Awards:

(1) W.O. 03-23: Turn Lane Construction for Yellowstone River Road and Hawthorne Lane. (Opened 2/28/06). Recommend delaying to 3/27/06.
[\(Corresponding Staff Memo B1\)](#)

(2) SID 1372 – Summerhill Subdivision. (Opened 2/28/06). Recommend delaying to 3/27/06.
[\(Corresponding Staff Memo B2\)](#)

(3) Water and Wastewater Treatment Plant Chemicals - Chlorine. (Opened 2/28/06). Recommend DPC Industries, 1 year contract with up to three 1-year renewals, \$80,605.00.
[\(Corresponding Staff Memo B3\)](#)

(4) (AIP) 30 – Commercial Ramp Improvements. (Opened 2/14/06). (Delayed from 2/27/06). Recommend declaring COP Construction bid non-responsive and awarding to JTL Group, Inc., \$2,421,505.65.
[\(Corresponding Staff Memo B4\)](#)

C. Approval of 2006 Cobb Field Stadium Turn Key Agreement between City of Billings and the Billings Mustangs, American Legion Baseball Program and MSU-B Men's Varsity Baseball Program, term: one year, \$27,144.00 revenue annually.
[\(Corresponding Staff Memo C\)](#)

D. Acknowledge receipt of petition to vacate portions of Falcon Ridge Subdivision, 1st filing and right-of-way and setting a public hearing date for 4/10/06.
[\(Corresponding Staff Memo D\)](#)

E. Acknowledge receipt of petition to annex #06-03: Tracts 1 & 2, C/S 3139, Tract 1, C/S 2379, two unplatte parcels located on the west side of 56th Street West, south of Grand Avenue, Douglas D. and Deborah Frank, Ronald E. Frank, petitioners, and setting a public hearing for 4/10/06.
[\(Corresponding Staff Memo E\)](#)

F. Resolution of Intent to create Park Maintenance District #4031, Copper Ridge Subdivision and setting a public hearing for 4/10/06.
[\(Corresponding Staff Memo F\)](#)

G. Second/final reading ordinance to expand Ward IV boundaries to include recently annexed property described as 63.543 gross acres including 5.502 acres of adjacent rights-of-way of 60th and 62nd Streets West and Rimrock Road, described as the

west half of Lots 5 and 28 and all of Lots 6, 26, 27, 38 and 40 of Sunnycove Fruit Farms, Thomas Romine and Paul Hoyer, petitioners. (Annex #06-01)
[\(Corresponding Staff Memo G\)](#)

H. Second/final reading ordinance providing that the BMCC be amended by revising Article 10-200: Judge allowing an elected municipal court judge, with the approval of the governing body of the city, to appoint a part-time assistant judge as allowed under state law.

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

I. Preliminary Plat of Greer Subdivision, Tract 1A1, C/S 1012 Amended, generally located on the southwest corner of Lake Elmo Road and the Hilltop Road ramp, Robert Greer, owner, Engineering, Inc., agent, conditional approval of the plat and adoption of the findings of facts.

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

J. Final Plat of Legacy Subdivision.

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

K. Final Plat of Riverfront Pointe Subdivision.

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

L. Bills and Payroll.

(1) February 10, 2006

[\(Corresponding Staff Memo L1\)](#)

(2) February 17, 2006

[\(Corresponding Staff Memo L2\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. PUBLIC HEARING AND FIRST READING ORDINANCE providing that the BMCC Section 24-411 be amended to limit RV parking on commercial lots. Staff recommends approval. **(Action:** approval or disapproval of Staff recommendation.)
[\(Corresponding Staff Memo 2\)](#)

3. 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, MARCH 13, 2006

TITLE: Boards & Commissions –Appointments

DEPARTMENT: City Administrator's Office

PRESENTED BY: wynnette Maddox, Administration

PROBLEM/ISSUE STATEMENT: Confirmation of appointments for new Board positions that were approved by the Interlocal Agreement dated 12/12/05.

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.		Library Board	3/13/06	12/31/09
2.		Library Board	3/13/06	12/31/09
3.		Library Board	3/13/06	12/31/06

Approved By: City Administrator ____ City Attorney ____

Attachment

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

B1

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 13, 2006

TITLE: Work Order 03-23, Turn Lane Design for Yellowstone River Road and Hawthorne Lane

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Bids were received and evaluated for W.O. 03-23 – Turn Lane Design for Yellowstone River Road and Hawthorne Lane. This project will construct an eastbound turn lane on Yellowstone River Road at Hawthorne Lane.

FINANCIAL IMPACT: Funding for this project will be provided from Arterial Fees, Gas Tax, Storm Drain Funds, and Developer Contributions. We received 2 bids for this project as follows:

	<u>Total</u>
Engineer's Estimate	\$ 287,816.55
JEM Contracting, Inc.	\$ 333,369.55
Winkler Excavating	\$ 449,957.95

CIP Project #ENG64

CIP Budgeted Amount	Available	\$279,993
Previous Expenses	\$39,293	
Contributions added from Paver	\$27,000	
Budget Fund Balance (after this award)	-\$65,669.55	
(Engineering Division is currently trying to find more funds)		

RECOMMENDATION

Staff recommends that Council delay action for the award of W.O. 03-23 – Turn Lane Design for Yellowstone River Road and Hawthorne Lane until the March 27 Council Meeting.

Approved By: City Administrator City Attorney

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B2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 13, 2006

TITLE: SID 1372 – Summerhill Subdivision

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Bids were received and evaluated for SID 1372 – Summerhill Subdivision on February 28, 2006. This project consists of installing sanitary sewer, water, storm drain and street improvements for a portion of Winter Green Drive, West Antelope Trail and Antelope Place located within Summerhill Subdivision.

FINANCIAL IMPACT: The costs of the Improvements are to be paid from the following sources: (1) \$242,000.00 of Special Improvement District bonds; and (2) \$225,315.67 of cash contribution by Jeff Essman, the owner of 12 of the 23 lots in the District. We received four bids for this project as follows:

	<u>Bids</u>
Engineer's Estimate	\$ 383,875.16
H.L. Ostermiller Const. Inc	\$ 443,729.25
Western Municipal Const. Inc.	\$ 486,178.00
A.M.E., Inc.	\$ 498,111.65
Chief Construction	\$ 520,555.00

RECOMMENDATION

Staff recommends that Council delay action for the award of SID 1372 – Summerhill Subdivision until the March 27 Council Meeting.

Approved By: City Administrator City Attorney

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B3

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, March 13, 2006

TITLE: Award of a Contract for Chlorine

DEPARTMENT: Public Works

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

PROBLEM/ISSUE STATEMENT: Our existing contract for liquid chlorine expires this month and a new contract is required. Public Works Water Treatment Division and Wastewater Treatment Division, and Parks, Recreation and Public Lands use the chlorine obtained through this contract for water, wastewater, and swimming pool disinfection. The proposed contract is for a one (1) year period with an option to renew the contract one (1) year at a time for up to a total of three years upon mutual agreement.

FINANCIAL IMPACT: Funding for this chemical is in the Water Production and Wastewater Operations Chemicals, Laboratory and Medical Supplies budgets. Sealed bids were opened on February 28, 2006. The bids for chlorine are as follows:

<u>Bidder</u>	<u>Bid Price per One-Ton Cylinder</u>	<u>Bid Price 150-lb Cylinder</u>	<u>Annual Estimated Cost for Chlorine*</u>
DPC Industries	<u>\$649.80</u>	<u>\$125.00</u>	<u>\$80,605.00</u>

* The total annual estimate in the bid documents was based upon 100 one-ton cylinders and 125 150-lb cylinders.

RECOMMENDATION

Staff recommends that Council award a contract for chlorine to DPC Industries for a one year period with the option to renew the contract one year at a time up to a total of three years.

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

ATTACHMENTS :

A: Contract, Chemicals - Chlorine – On file in the City Clerks Office

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 13, 2006

TITLE: Declare the Low Bid from COP Construction Non Responsive and Award the Airport Improvement Program (AIP) 30 Project Commercial Ramp Improvements to JTL Group, Inc.

DEPARTMENT: Aviation and Transit

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

PROBLEM/ISSUE STATEMENT: Included in the City's approved Capital Improvement Program, is the Commercial Air Carrier Ramp Improvement project, which is a Federal Aviation Administration (FAA) approved Airport Improvement Program (AIP) project. 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 beginning to break away at the edges. This deterioration generates loose aggregate, which must be frequently cleaned to prevent ingestion into jet engines. This project will remove the old concrete and replace it with a new full strength concrete slab. The concrete that is still in good condition will have the expansion joints re-sawn, and a flexible foam rod will be placed into the joints and mastic sealant applied. This project was advertised in the *Billings Times* for three weeks and appeared on the City's Web site. The bids received are as follows:

<u>CONTRACTOR</u>	<u>BID AMOUNT</u>
COP CONSTRUCTION	\$1,773,185.33
JTL GROUP, INC.	\$2,421,505.65
ESTIMATE	\$2,670,000.00

During staff's review of the bid proposals, it was discovered that COP Construction failed to complete the Bidders List required for compliance with the Disadvantaged Business Enterprise (DBE) Program. The bid documents specifically state that "a bidder who fails to provide complete Bidders List Information with his/her bid will be considered non-responsive and his/her bid will be rejected." We also discovered that COP exceeded the 15% limit permitted for mobilization costs as specified in our bid documents. When staff discussed these issues with COP Construction, they informed us that in addition to these errors they also made mathematical calculation errors in their takeoff quantities, which would result in a loss of anticipated revenue

and would compromise their ability to complete the project. For these reasons, COP Construction has requested in writing that they be permitted to withdraw their bid proposal without compromising their bid bond.

ALTERNATIVES ANALYSIS: The City Council has two options to consider.

- Declare the COP Construction bid non responsive because of the omissions on the Bidders List and award the project to the other bidder JTL Group, Inc.
- Permit COP Construction to simply withdraw their bid and award the project to the other bidder JTL Group, Inc.

While both options would essentially accomplish the same thing, staff recommends that the City Council declare the bid received from COP Construction as non responsive as required by our specifications and award the project to JTL Group, Inc. The City Attorney has reviewed the bid documents and COP's withdrawal request, and supports this recommendation.

FINANCIAL IMPACT: The total cost of this project is \$2,421,505.65, and will be funded through a 95% FAA AIP entitlement grant with a 5% local share match. The FAA's portion will be \$2,300,430.37, and the City's match is \$121,075.28. The source of the City's match is in the Department's Capital fund.

RECOMMENDATION

Staff recommends that the City Council declare the COP Construction bid non responsive and award the project to JTL Group, Inc. in the amount of \$2,421,505.65.

ATTACHMENTS

- A. Letter from COP Construction
- B. Recommendation Letter from the City's Contracted Engineering Firm for this Project, Morrison/Maierle

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

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C

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 13, 2006

TITLE: Approval of 2006 Cobb Field Stadium Turn Key Agreement

DEPARTMENT: Department of Parks, Recreation & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: This agreement is for the period from January 1, 2006 to December 31, 2006. The agreement is being recommended to be renewed annually until the November, 2006, Bond Issue election results become known. The Turn Key Agreement between the City of Billings and the Billings Mustangs, and American Legion Baseball Program has been changed to add the Montana State University for a Men's Varsity Baseball program. The agreement has been negotiated with and is acceptable to the three parties to it. The changes being recommended are to add the MSU-B baseball program to the agreement, as given on page 1, and in item 5.C.; to set the payment by the American Legion Baseball Program, as given in item 5.B.; and to clarify that the City of Billings is the owner of the stadium, as stated in the ANNOUNCEMENT in Paragraph 16.

ALTERNATIVES ANALYZED: The alternatives analyzed were to:

- Continue agreement with minor changes as one year agreements, pending the voter response to the Bond Issue proposal in November 2006;
- Consider a proposed agreement that runs for a 3 year or longer period, unless terminated by the City or the baseball organizations, which eliminates annual preparation, review, and approval of the agreement.

FINANCIAL IMPACT: The Billings Mustangs and American Legion Baseball Program operations cost in excess of \$560,000 annually with a total attendance in excess of 125,000 during the baseball season, many from outside of the Billings area. The cost to the city of operating Cobb Field Stadium has been less than \$40,000 annually. As called for in the Agreement the baseball organizations paid \$3,000 from the Legion Program, and \$24,144 from the Mustangs for a total of \$27,144 to the city for the use of the stadium in 2005. Major repairs are funded by specific appropriations in addition to this amount. The agreement provides for the routine stadium and ball field maintenance to be performed by the Mustangs and the American Legion Program. The proposed compensation by the Ball Clubs is the same this year as in the 2005 agreement.

RECOMMENDATION:

Staff recommends that Council authorize the Mayor to sign the 2006 Turn Key Agreement for Cobb Field Stadium as proposed.

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

ATTACHMENTS:

- A. Agreement and Exhibit "A" showing the Area in Athletic Park covered by the agreement.
- B. Certificates of Insurance and Financial Statements for 2005.

INTRODUCTION

The City, the Billings Mustangs, and the American Legion Baseball Program have a turnkey agreement that is considered and renewed by the City Council every year. Since 2005 it also includes the MSU-B Men's Baseball program. It spells out the terms and conditions for the use of Cobb Field Stadium by the 3 Baseball programs.

PROCEDURAL HISTORY:

The steps for the renewal of the agreement were as follows:

- Preliminary meeting in mid-December, 2005, to discuss the agreement and other issues and concerns related to the stadium and use by the baseball organizations;
- Draft of this year's proposed agreement circulated to staff for comment;
- Draft sent to Baseball organizations with changes for review and comment
- Discussion in late-January, 2006, of the agreement and proposed changes;
- Negotiations of changes and wording;
- Final draft circulated to staff and then to the baseball organizations for signatures;
- Final draft to Parks, Recreation, and Cemetery Board for consideration and action, February 8th, 2006. The discussion concerned the following items:
 - Cleaning and repair of the public restrooms during the baseball season was a major concern of the PRC Board and more specific wording has been inserted to provide for routine monitoring and cleaning and more stringent enforcement by the PRPL department.
 - The agreement has insurance requirements for the baseball organizations as part of it and includes more specific liquor liability insurance requirements to cover the beer sales during Mustangs games.
 - Park, Recreation, and Cemetery Board action was approval of a motion to submit it to the City Council with a recommendation that it be approved, subject to the above changes.

BACKGROUND

With the establishment of the Billings Mustangs in the early 1930's, Athletic Park was acquired for the city by a group of businessmen, and Cobb Field Stadium constructed to house the team. It has also been the home for the 2 American Legion Baseball teams. Over the years, it has also been used for Little League Baseball, football by both the High School and MSU-Billings (then Eastern Montana College), and special events. The current agreement for the use of Cobb Field Stadium was put in place after the last major remodel of the stadium in the early 1980's. It has not changed significantly in that period between then and now, except as otherwise noted. With the possibility of a reconstruction of the stadium through a G.O. Bond Issue, it is likely that the agreement will need to be substantially restructured at that time, but the current agreement is appropriate until that issue is resolved in November, 2006. The goal with the agreement is to provide for the seasonal operation and maintenance of Cobb Field Stadium in the most cost effective way possible.

The Turn Key agreement contains the following requirements:

- Requires the Billings Mustangs and the American Legion Baseball Program to clean and maintain the stadium during the baseball season with an emphasis on better cleaning and maintenance of the public toilets;
- Provides for payment by both organizations into a fund to provide for stadium repairs and to go toward stadium renovation or reconstruction;
- MSU-B as in the 2005 Agreement will provide in-kind services to the City for the 2006 TK Agreement. In 2005, the MSU-B Baseball program did not use the stadium. The Men's Varsity will play its first games this season. The admission cost is \$5.00 for adults and \$3.00 for grades 7-12, and 6 and under are admitted free. MSU-B Students get in at no charge with their Student ID. The MSU-B home games at Cobb Field start on March 17th. There is no water in the stadium, and no locker rooms or other amenities available at the stadium until midway through their home schedule on April 18th, when the facility is turned on and all facilities checked and made operable for the season. They will provide portable toilets for their home games and have a concession trailer in the parking lot. They will pay, similar to the American Legion, \$250 per game to the Mustangs for stadium operation and field maintenance and preparation for their games. The compensation to the City is changed to include an alternative to Gym Use of twenty four (24) team hours to be spent on stadium repair projects such as painting and outfield fence repairs. The anticipated attendance is unknown until this first season is completed. A different compensation to the City will be determined for the next agreement period based on the season attendance this year.
- Requires the organizations to operate to meet fire and safety codes and regulations;
- Enhances the Billings and downtown area economy by providing top tier youth Baseball games, college level games, and professional level Baseball entertainment for the Billings Region; and
- Operates the existing stadium at a minimal cost to the City of Billings.

The agreement will be the same as last year except Paragraph 14. F which is added to require the Ball Clubs to operate and supervise the wheelchair lift during all games.

ALTERNATIVES ANALYZED:

- Continue agreement with minor changes as one year agreements, pending the voter response to the Bond Issue proposal in November, 2006;
 - Make no significant changes to the agreement between now and 2008, depending on the outcome of a proposed Bond Issue for stadium reconstruction.
 - This reflects the fact that the stadium and its operation are unchanged unless reconstruction takes place.
 - This is the Staff and PRC Board recommendation.

- Consider a proposed agreement that runs for a 3 year or longer period, unless terminated by the City or the baseball organizations, which eliminates annual preparation, review, and approval of the agreement;
 - This could be done, however, the reconstruction of Cobb Field, if approved would mean extensive changes in the operating conditions and needs for the stadium and can be expected to require extensive revision of the use agreement with the 2 baseball organizations at that time.
 - Continuing annually approved agreements will facilitate the re-negotiation process an extensive reconstruction of the stadium would result in.

RECOMMENDATION:

Staff recommends that Council authorize the Mayor to sign the 2006 Turn Key Agreement for Cobb Field Stadium as proposed.

ATTACHMENTS:

- B. Agreement and Exhibit "A" showing the Area in Athletic Park covered by the agreement.
- B. Certificates of Insurance and Financial Statements for 2005.

2006 TURNKEY AGREEMENT **COBB FIELD STADIUM IN ATHLETIC PARK**

THIS AGREEMENT, by and between the following:

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

and

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

and

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

WITNESSETH:

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

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

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

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

1. TERM: The term of this Agreement begins **January 1, 2006**, and ends **December 31, 2006**.
2. PREMISES: The premises hereby to be used are known as Cobb Field Stadium, which is located in Athletic Park at North 27th Street and 9th Avenue North, in Billings, Montana, as shown in **Exhibit “A”** attached. The premises included in this agreement are the stadium, the ballfield and the practice field area west of the stadium adjacent to North 27th Street and 10th Avenue North.
3. USE: The BALL CLUBS shall use the premises as follows:
 - A. The BALL CLUBS shall use the premises for baseball games, practice, and related functions from March 1 through October 30, 2006. Said premises shall be used exclusively by the BALL CLUBS during that period except when the CITY

may schedule events that will not interfere with the BALL CLUB uses. Such uses by the CITY shall be submitted to the Operation Committee in writing for approval at least fourteen (14) days prior to the proposed event. Approval or disapproval of the proposed use shall be the responsibility of the Operations Committee (See page 3, Section 6).

- B. During the period of October 31, 2006, through December 31, 2006, other events may be scheduled by both the CITY and the BALL CLUBS, with the approval of the Operations Committee, at least fourteen (14) days prior to the proposed event if such events shall not interfere with other uses or events already scheduled. Such events shall be subject to the CITY use requirements and policies for reserving park space and facilities for special uses.
- C. Any lost revenue or other expenses incurred by the BALL CLUBS as a result of an unapproved event scheduled by the CITY shall be reimbursed to the BALL CLUBS. Any lost revenue or other expenses incurred by the CITY as a result of an unapproved event scheduled by the BALL CLUBS shall be reimbursed to the CITY.

4. EXAMINATION: The BALL CLUBS have carefully examined the premises and all of its facilities and equipment, know the condition thereof, agree to accept the same in the condition which they are now, and agree to return the same in their present condition except for ordinary and reasonable wear and tear, and damage by the elements.

5. BALL CLUB RESPONSIBILITY: The BALL CLUBS shall, in consideration of their use of the Cobb Field Stadium:

- A. The **BILLINGS MUSTANGS** shall pay to the City an amount equal to 15% of gross ticket sale revenues for the season. Payment shall be made to the City no later than December 31, 2006, and be accompanied by a standard financial statement signed and certified by a Certified Public Accountant. All records shall be made available for an independent audit if requested by the City or its designee. All direct and related costs for such an audit shall be paid by the City.
- B. The **AMERICAN LEGION BASEBALL PROGRAM** from ticket sales shall pay to the City Three Thousand and No/100 Dollars (\$3,000) for the 2006 season. Payment shall be made to the City no later than December 31, 2006, and be accompanied by a standard financial statement signed and certified by a Certified Public Accountant. All records shall be made available for an independent audit if requested by the City or its designee. All direct and related costs for such an audit shall be paid by the City; and
- C. The **MONTANA STATE UNIVERSITY – BILLINGS** shall bear a proportionate share of stadium and field maintenance costs and also make available to the city twenty-four (24) hours of gymnasium time available in programmable blocks from January 1, 2006 to December 31, 2006. The dates and times for the gymnasium use to be planned between the city and MSU-B for mutual convenience for both parties. As an alternative, MSU-B may provide an equivalent number of hours on volunteer maintenance projects at the stadium.
- D. The BALL CLUBS assume an obligation and a duty to preserve and maintain the premises, including, but not limited to the payment of all operational maintenance expenses and improvements. This includes the care and marking of the infield, clean up, and removal of trash from the premises. There shall be priority given to the clean up and maintenance of the stands, entrances. BALL CLUBS shall monitor Public

restroom conditions hourly and provide cleaning as needed during games. Needed repairs in restrooms and other public areas in the Stadium shall be reported to the City within One (1) working day from when discovered. Other needed repairs shall be reported as discovered. All parties to this agreement will attempt to make such repairs within Twenty Four working hours of being reported.

- E. On or about June 29, July 20, and August 24, 2006, depending upon scheduled use, the BALL CLUBS shall wash the grandstand area with soap and water. An inspection of the washed area on these three occasions shall be made by the City Park Superintendent to insure that the grandstand area has been adequately cleaned. In the event the BALL CLUBS do not do this cleaning or the cleaning is not satisfactory, the City shall have the right to hire a third-party to perform such cleaning and charge the cost of this cleaning to the BALL CLUBS.
6. OPERATIONS COMMITTEE: A facility Operations Committee shall coordinate the operation, repair and further development of the Cobb Field Baseball Stadium. Said Committee shall consist of a representative of each BALL CLUB and a representative of the City, who shall be the Superintendent of Parks, or other representative appointed by the Director of Parks, Recreation and Public Lands. Meetings shall be no less often than once each year. All proposed uses, maintenance programs and capital improvement projects shall be approved by this Committee prior to such use, maintenance or improvement taking place.
7. CONCESSION REVENUE: The City shall receive no percentage of the gross revenue from the sale of concessions, no percentage of the gross revenue from the sale of outfield fence advertising, and no percentage of the gross revenue from special event productions, such as Little League Night, except as provided elsewhere.
8. ASSIGNMENT: This Agreement is not assignable by the BALL CLUBS in whole or in part without the prior written approval of the City Administrator for the City of Billings.
9. SCHEDULING GAMES: The BALL CLUBS recognize that foul balls hit out of the stadium over the backstop and stands can drop into the swimming pool area creating an unacceptable hazard for pool users. Because of this, between the dates of June 10th and August 20th, 2006, games played before 6:00 p.m. by the American Legion teams require the east half of the pool to be closed off, and games played before 6:00 p.m. by the Pioneer League teams require the closing of the entire pool. Therefore the BALL CLUBS agree to the following terms:
 - A. That batting cages will be used by all baseball players using the premises during all practice sessions.
 - B. That a copy of the scheduled baseball games will be supplied to the CITY Recreation Superintendent by April 10th of 2006.
 - C. The BALL CLUBS agree that no more than twenty (20) ball games shall be scheduled for daytime hours before 6:00 p.m. during the period from June 11th to August 21st, 2006. Other daytime ball games shall be allowed only with prior notification and approval of the additional games by the Operations Committee.
 - D. For this use period there shall be no practice on the stadium infield and adjacent turf areas in the spring prior to the activation and commencement of turf irrigation on that area, on or about April 7, 2006;

10. INDEMNIFICATION / INSURANCE: The **BALL CLUBS** shall each indemnify and have the duty to defend the CITY and hold it harmless from and against all claims, liabilities, damages, losses and expenses arising out of or resulting from the **BALL CLUBS**' negligent acts or omissions or those of a sub-contractor, agent, volunteer or anyone directly or indirectly employed by the **BALL CLUBS**.

Each of the **BALL CLUBS** shall carry **minimum** liability insurance, including liquor liability insurance as approved by the Billings City Attorney covering the Billings Mustangs and Mustangs Boosters beer and wine sales, that will be equivalent to the amount of **Seven Hundred and Fifty Thousand and No/100 Dollars (\$750,000)** per **claim, and One Million Five Hundred Thousand and no/100 Dollars (\$1,500,000)** per **occurrence (MCA Section 2-9-108(1)(2005))** in effect for the period of the season of practicing and playing at Cobb Field Stadium in 2006. Prior to the start of the use at Cobb Field in 2006, the **BALL CLUBS** shall each provide the City a **Certificate of Insurance made out to the City of Billings and naming the City of Billings as a primary, non-contributory insured**. The city shall be notified in writing thirty (30) days prior to any cancellation or nonrenewal of the policy. The notice of cancellation must be sent to the Director of the City Department of Parks, Recreation and Public Lands.

11. NON-DISCRIMINATION: The undersigned, either as an individual or on behalf of a group or organization, hereby agrees that this facility shall not be used in any manner that would discriminate against any person or persons on the basis of sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin.

12. RIGHT OF INSPECTION: The City shall have the right to inspect the premises at all times during the term of this Agreement.

13. MONTHLY INSPECTIONS REQUIRED: Monthly inspections shall be conducted during the operating season of housekeeping related to fire hazard and safety, of electrical wiring and equipment, fire extinguishers, storage arrangements, flammable liquids handling and storage, and observance of smoking restrictions. Records of each inspection shall be maintained and shall be available for review by the CITY, and authorized Safety and Risk Inspectors.

14. FIRE WATCH AND LIFE SAFETY CODES: Because the grandstand is constructed of wood and is susceptible to fire, the **BALL CLUBS** agree to post and conduct a fire watch during each event or occasion that the premises are in use, and for a period of no less than two (2) hours following each such use, which fire watch shall be conducted by two (2) or more responsible adults who shall, at least every thirty (30) minutes, inspect the areas under the grandstand, bleachers, and the kitchen for fire and/or fire hazards; such inspection shall be conducted pursuant to any reasonable instructions, training, and/or verification procedures as the City may require. In addition, the **BALL CLUBS** agree to comply with the Life Safety Code, and in specific, the following items:

A. Emergency lighting shall be provided as follows:

- (1) Two (2) units in the grandstand seating area and exit areas and two (2) units in the areas underneath the grandstand.
- (2) Illuminating exits are required by each exit. This includes angles in means of egress passage ways and stairways. The illuminating exit lights will meet the requirements for emergency lighting.

B. Any concession stand grill will have an approved hood system according to the codes in the National Fire Prevention Association Pamphlet No. 96.

- C. Fire extinguishers shall be inspected monthly and the date and initials of each inspection noted on an inspection card attached to each extinguisher. The present Class A fire extinguishers will be serviced and properly mounted. In addition, a Type K extinguisher will be placed in or near each cooking area. (FD)
- D. The fire hoses shall be inspected monthly during the operating season and all deteriorated hose and corroded hose connections will be replaced according to the Uniform Fire Codes. Compliance with the above Fire Codes will be done at BALL CLUB'S expense. (FD)
- E. Cobb Field Stadium is a smoke free facility and smoking shall not be permitted anywhere within the ticket booths and entrance fences, lower levels, stadium seating, and field areas, except in approved clearly designated and signed locations outside the stadium.
- F. The handicapped lift is classified and regulated as a freight elevator and as such shall be monitored, controlled, and supervised by assigned staff at all times during games and shall be operated by the assigned staff each time it is used to transport handicapped individuals, as required by the Montana Department of Labor and Industry Building Codes Bureau.

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

16. ANNOUNCEMENT: The BALL CLUBS agree to make the following announcement before each event that takes place at the Stadium:

"Ladies and Gentlemen:

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

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

These exits are located at (description of exits).

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

Thank you for your cooperation."

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

IN WITNESS WHEREOF, the Parties hereto have executed this _____ day of _____, 2006.

CITY:

CITY OF BILLINGS, a Montana
Municipal Corporation

By: _____
Mayor

APPROVED:

CITY ATTORNEY

ATTEST:

By: _____
City Clerk

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

By: _____

AMERICAN LEGION POST NO. 4

By: _____

MONTANA STATE UNIVERSITY – BILLINGS

By: _____

ATTACHMENT "A"

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

D

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Acknowledge Receipt of Petition to Vacate Portions of Falcon Ridge Subdivision, 1st Filing, Right-of-Way and Set a Public Hearing Date

DEPARTMENT: Public Works Department – Engineering Division

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: The plat of Falcon Ridge Subdivision, 1st Filing, was recorded on September 20, 2005. The owner of the subdivision has decided to reconfigure the lots and has submitted a new plat to be named Falcon Ridge Estates Subdivision. This subdivision will require right-of-way to be vacated for portions of the existing Falcon Ridge Subdivision, 1st Filing, plat. The attached Exhibit A shows the right-of-way to be dedicated and vacated.

ALTERNATIVES ANALYZED:

- Acknowledge receipt of petition to vacate portions of Falcon Ridge Subdivision, 1st Filing, right-of-way and set a public hearing date of April 10, 2006.
- Do not acknowledge receipt of petition to vacate portions of Falcon Ridge Subdivision, 1st Filing, right-of-way.

FINANCIAL IMPACT: Right-of-way will be dedicated with Falcon Ridge Estates Subdivision. There will be no financial impact to the City. The City Engineer's Office recommends the right-of-way be vacated at no cost.

RECOMMENDATION

Staff recommends that Council acknowledge receipt of the petition to vacate portions of Falcon Ridge Subdivision, 1st Filing, and set a public hearing date for April 10, 2006.

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

ATTACHMENT

A. Exhibit A

Exhibit A

Legal Descriptions for Right-of Way Vacations within Falcon Ridge Subdivision, First Filing

R.O.W. Vacation #1

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northeast corner of the parkland in Block 6 of Falcon Ridge Subdivision, First Filing; thence N 89°59'43" E a distance of 4.82 feet; thence S 00°04'00" E a distance of 62.24 feet; thence along a curve to the left having a radius of 411.34 feet a distance of 100.18 feet (chord bearing S 07°02'38" E, chord distance of 99.93 feet); thence S 24°50'04" W a distance of 7.84 feet; thence along a non-tangent curve to the right having a radius of 380.0000 feet a distance of 102.23 feet (chord bearing N 07°46'25" W, chord distance of 101.92 feet); thence N 00°04'00" W a distance of 67.56 feet to the point of beginning; said described tract having an area of 831 square feet.

R.O.W. Vacation #2

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 10, Block 5 of Falcon Ridge Subdivision, First Filing; thence along a curve to the left having a radius of 570.00 feet a distance of 11.67 feet (chord bearing S 51°29'59" W, chord distance of 11.67 feet); thence N 00°04'00" W a distance of 14.60 feet; thence along a non-tangent curve to the right having a radius of 570.00 feet a distance of 157.84 feet (chord bearing N 55°08'59" E, chord distance of 157.33 feet); thence S 67°06'41" E a distance of 13.04 feet; thence along a non-tangent curve to the right having a radius of 1470.00 feet a distance of 77.00 feet (chord bearing S 16°06'45" E, chord distance of 76.99 feet); thence N 19°08'21" W a distance of 52.47 feet; thence N 66°01'49" W a distance of 13.67 feet; thence along a non-tangent curve to the left having a radius of 570.00 feet a distance of 144.15 feet (chord bearing S 59°19'52" W, chord distance of 143.77 feet) to the point of beginning; said described tract having an area of 3,109 square feet.

R.O.W. Vacation #3

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northeast corner of Lot 9, Block 3 of Falcon Ridge Subdivision, First Filing; thence N 89°59'43" W a distance of 222.50 feet; thence along a tangent curve to the left having a radius of 570.00 feet a distance of 153.05 feet (chord bearing S 82°18'45" W, chord distance 152.59 feet); thence S 27°29'22" W a distance of 9.05

feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 24.86 feet (chord bearing N 17°21'17" W, chord distance of 24.86 feet); thence N 26°19'08" E a distance of 14.31 feet; thence along a non-tangent curve to the right having a radius of 570.00 feet a distance of 187.59 feet (chord bearing

N 80°34'35" E, chord distance of 186.75 feet); thence S 89°59'43" E a distance of 241.71 feet; thence S 00°04'00" E a distance of 38.70 feet; thence N 89°59'43" W a distance of 27.02 feet; thence S 00°04'00" E a distance of 136.76 feet; thence S 05°23'16" E a distance of 24.65 feet; thence N 89°59'43" W a distance of 20.09 feet; thence

N 05°23'16" W a distance of 23.69 feet; thence N 00°04'00" W a distance of 137.71 feet; to the point of beginning; said described tract having an area of 19,110 square feet.

R.O.W. Vacation #4

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northeast corner of Lot 1, Block 3 of Falcon Ridge Subdivision, First Filing; thence N 45°01'52" W a distance of 14.15 feet; thence

N 89°59'43" W a distance of 299.98 feet; thence N 00°04'00" W a distance of 38.70 feet; thence S 89°59'43" E a distance of 300.00 feet; thence S 44°58'50" E a distance of 14.14 feet; thence S 00°04'00" E a distance of 38.70 feet to the point of beginning; said described tract having an area of 11,995 square feet.

R.O.W. Vacation #5

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 8, Block 1 of Falcon Ridge Subdivision, First Filing; thence N 00°04'00" W a distance of 38.70 feet; thence

N 45°29'29" E a distance of 14.00 feet; thence along a non-tangent curve to the right having a radius of 270.00 feet a distance of 136.29 feet (chord bearing S 73°25'42" E, chord distance of 134.85 feet); thence along a curve to the left having a radius of 330.00 feet a distance of 177.94 feet (chord bearing S 74°24'52" E, chord distance 175.79 feet); thence S 00°04'00" E a distance of 38.70 feet; thence along a non-tangent curve to the right having a radius of 330.00 feet a distance of 179.12 feet (chord bearing

N 74°31'02" W, chord distance of 176.93 feet); thence along a curve to the left having a radius of 270.00 feet a distance of 135.11 feet (chord bearing N 73°18'12" W, chord distance 133.70 feet); thence S 45°37'00" W a distance of 13.97 feet to the point of beginning; said described tract having an area of 12,038 square feet.

R.O.W. Vacation #6

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 11, Block 3 of Falcon Ridge Subdivision, First Filing; thence S 19°08'21" E a distance of 27.04 feet; thence N 50°58'04" W a distance of 13.00 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 68.75 feet (chord bearing N 13°24'52" W, chord distance of 68.75 feet); thence S 19°08'21" E a distance of 52.41 feet to the point of beginning; said described tract having an area of 255 square feet.

R.O.W. Vacation #7

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 13, Block 3 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 630.00 feet a distance of 35.69 feet (chord bearing S 05°36'48" E, chord distance of 35.69 feet); thence N 89°59'43" W a distance of 31.34 feet; thence N 46°14'45" W a distance of 14.45 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 181.28 feet (chord bearing N 06°04'40" W, chord distance of 181.17 feet); thence N 40°10'22" E a distance of 12.90 feet; thence S 89°59'43" E a distance of 6.40 feet; thence S 19°08'21" E a distance of 39.47 feet; thence along a tangent curve to the right having a radius of 630.00 feet a distance of 130.88 feet (chord bearing

S 13°11'16" E, chord distance 130.64 feet) to the point of beginning; said described tract having an area of 6,273 square feet.

R.O.W. Vacation #8

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of Lot 19, Block 3 of Falcon Ridge Subdivision, First Filing; thence N 05°23'16" W a distance of 24.41 feet; thence S 89°59'43" E a distance of 20.09 feet; thence S 05°23'16" E a distance of 18.76 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 37.32 feet (chord bearing S 75°57'01" E, chord distance of 36.61 feet); thence

S 00°00'17" W a distance of 91.75 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 21.18 feet (chord bearing S 67°33'16" W, chord distance of 21.05 feet); thence along a curve to the left having a radius of 10.00 feet a distance of 10.03 feet (chord bearing S 49°51'05" W, chord distance 9.62 feet); thence along a curve to the left having a radius of 270.00 feet a distance of 68.63 feet (chord bearing S 13°50'03" W, chord distance 68.44 feet); thence N 89°59'43" W a distance of 60.32 feet; thence along a non-tangent curve to the right having a radius of 330.00 feet a distance of 98.38 feet (chord bearing N 13°53'57" E, chord distance of 98.02 feet); thence along a curve to the left having a radius of 10.00 feet a distance of 8.30 feet (chord bearing N 01°20'30" W, chord distance 8.07 feet); thence along a curve to the right having a radius of 55.00 feet a distance of 84.87 feet (chord bearing

N 19°04'57" E, chord distance 76.70 feet) to the point of beginning; said described tract having an area of 13,295 square feet.

R.O.W. Vacation #9

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 21, Block 3 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 55.00 feet a distance of 38.06 feet (chord bearing S 03°55'49" W, chord distance of 37.30 feet);

thence N 00°00'17" E a distance of 44.30 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 7.54 feet (chord bearing S 19°49'05" E, chord distance of 7.53 feet) to the point of beginning; said described tract having an area of 139 square feet.

R.O.W. Vacation #10

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southeast corner of Lot 5, Block 1 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 55.00 feet a distance of 33.36 feet (chord bearing S 63°04'57" E, chord distance of 32.85 feet); thence along a non-tangent curve to the left having a radius of 50.50 feet a distance of 29.98 feet (chord bearing N 72°59'35" W, chord distance of 29.54 feet); thence N 89°59'43" W a distance of 36.99 feet; thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 37.19 feet (chord bearing N 80°10'18" E, chord distance of 36.48 feet) to the point of beginning; said described tract having an area of 286 square feet.

R.O.W. Vacation #11

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 1, Block 1 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 970.00 feet a distance of 53.52 feet (chord bearing N 05°47'23" E, chord distance of 53.51 feet); thence N 48°50'07" E a distance of 15.06 feet; thence S 89°59'43" E a distance of 73.01 feet; thence S 47°33'10" E a distance of 14.76 feet; thence along a non-tangent curve to the left having a radius of 50.50 feet a distance of 75.50 feet (chord bearing S 53°37'16" E, chord distance of 68.66 feet); thence along a non-tangent curve to the right having a radius of 55.00 feet a distance of 16.06 feet (chord bearing S 81°38'07" W, chord distance of 16.00 feet); thence S 89°56'00" W a distance of 129.30 feet; thence S 47°13'08" W a distance of 14.69 feet to the point of beginning; said described tract having an area of 286 square feet.

R.O.W. Vacation #12

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 24, Block 3 of Falcon Ridge Subdivision, First Filing; thence S 89°56'00" W a distance of 40.00 feet; thence along a tangent curve to the right having a radius of 998.66 feet a distance of 40.00 feet (chord bearing N 88°55'09" W, chord distance 40.00 feet); thence N 45°56'15" E a distance of 13.89 feet; thence N 00°04'00" W a distance of 189.59 feet; thence

S 89°59'43" E a distance of 60.00 feet; thence S 00°04'00" E a distance of 189.96 feet; thence S 45°04'00" E a distance of 14.14 feet to the point of beginning; said described tract having an area of 12,096 square feet.

R.O.W. Vacation #13

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the southwest corner of Lot 15, Block 3 of Falcon Ridge Subdivision, First Filing; thence along a curve to the right having a radius of 998.66 feet a distance of 27.04 feet (chord bearing N 73°27'00" W, chord distance of 27.04 feet); thence N 33°39'41" W a distance of 15.60 feet; thence along a non-tangent curve to the left having a radius of 1530.00 feet a distance of 131.88 feet (chord bearing N 02°24'29" E, chord distance of 131.84 feet); thence N 44°52'41" E a distance of 14.11 feet; thence S 89°59'43" E a distance of 31.64 feet; thence along a non-tangent curve to the right having a radius of 630.00 feet a distance of 151.62 feet (chord bearing

S 07°27'18" W, chord distance of 151.25 feet); thence S 29°34'02" E a distance of 14.30 feet to the point of beginning; said described tract having an area of 5,628 square feet.

R.O.W. Vacation #14

A tract of land situated in the SE1/4 of Section 25, T. 1 N., R. 24 E., P.M.M., Yellowstone County, Montana, said tract being more particularly described as follows, to-wit:

Beginning at a point being the northwest corner of Lot 18, Block 4 of Falcon Ridge Subdivision, First Filing; thence S 63°05'28" W a distance of 14.61 feet; thence along a non-tangent curve to the left having a radius of 970.00 feet a distance of 121.92 feet (chord bearing S 16°06'58" W, chord distance of 121.84 feet); thence along a curve to the left having a radius of 1530.00 feet a distance of 122.80 feet (chord bearing

N 10°12'58" E, chord distance 122.76 feet); thence N 57°20'57" E a distance of 12.96 feet; thence along a non-tangent curve to the left having a radius of 1058.66 feet a distance of 14.76 feet (chord bearing S 73°42'04" E, chord distance of 14.76 feet) to the point of beginning; said described tract having an area of 649 square feet.

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E

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Annexation petition #06-03: Acknowledge Receipt of Petition and Set a Public Hearing Date

DEPARTMENT: Planning and Community Services

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: Douglas and Ronald Frank, property owners, submitted a petition to annex land to the City of Billings under 7-2-4600 MCA. The 50-acre subject property is located on the west side of 56th Street West, south of Grand Avenue. The property contains a residential dwelling and the remainder is used for agricultural purposes. The property owners are requesting annexation in order to obtain city water and sewer services to develop the property for residential units. The City Council's policy is to consider annexations at two separate Council meetings. At the first meeting, the Council acknowledges receipt of a petition and sets a public hearing date. At the second meeting the Council conducts the hearing and decides if it will annex the property.

ALTERNATIVES ANALYZED: MCA, Section 7-2-4600 allows owners of more than 50% of the property to petition the city for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date.

FINANCIAL IMPACT: A fiscal impact analysis and staff recommendation will be prepared and presented at the public hearing.

RECOMMENDATION

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for April 10, 2006 to consider annexing this property.

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

ATTACHMENTS

- A. Property data
- B. Annexation petition
- C. Map

ATTACHMENT A

Annexation #06-03 Property Data

Type of annexation: Petitioned - MCA 7-2-4600

Petitioner: Douglas D. and Deborah Faye Frank,
Ronald E. Frank

Purpose of annexation: Obtain City services

Property included: Tracts 1 and 2, Certificate of Survey 3139,
Tract 1, Certificate of Survey 2379, 2
unplatted parcels.

Location: West of 56th Street West, south of Grand
Avenue

Total area: 50 acres

Current zoning: Agricultural-Open Space

Current land use: residential/agriculture

Future land use: residential

ATTACHMENT B
Annexation Petition #06-03

**PETITION
FOR ANNEXATION
TO THE CITY OF BILLINGS**

NOTICE TO PETITIONER

This is a Petition to the City of Billings requesting the annexation of property to the City, pursuant to MCA Title 7, Chapter 2, Part 46. Procedures for annexation are governed by the Statutes of the State of Montana. This Petition requires the signatures of more than 50% of the Resident Freeholder Electors to be considered for annexation.

INSTRUCTIONS

1. All items must be completed or provided. Please type or print. You may attach additional pages if more space is needed.
2. Prepare a map drawn to a scale adequate and legible to show the property requesting annexation and all other property within one-quarter (1/4) mile.
The map must show:
 - a. The present and proposed boundaries of the municipality;
 - b. The present streets, major trunk water mains and sewer mains;
 - c. The zoning of the property requesting annexation and the property immediately adjacent to it.
3. The Petition may be submitted to the Planning Department, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., located on the 4th Floor of Parmly Billings Library at 510 North Broadway, Billings, Montana. Upon presentation, the Petition will be checked for completeness. Once accepted, the Petition will be routed to the following City Departments: Public Works, City-County Planning, Public Utilities, Fire Department, City Attorney, Police Department, and Finance Department. If no problems with the Petition have been noted by the departments, the City Clerk will schedule the Petition for City Council action.
4. By filing the petition for annexation, the Petitioner(s) agree that only those City services which are available to the general area shall be provided to Petitioner, and that additional services as may become available to the general area shall be made available to Petitioner(s) in the same manner as said services are made available to other residents of the City. Petitioner(s) specifically waive the right to the report and plans for extension of services as provided in MCA Title 7, Chapter 2, Part 47.
5. A description of the territory to be annexed to the City is legally described on a document attached hereto.

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
_____	Ronald E. Frank	Ronald E. Frank	5816 Grand Avenue
_____	Douglas D. Frank	Douglas D. Frank	Billings, MT 59106
_____	_____	_____	708 S. 56th St. West
_____	_____	_____	Billings, MT 59106
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(continued on separate page)

Revised 6/99

(Should be completed prior to obtaining signatures of resident freeholder electors)

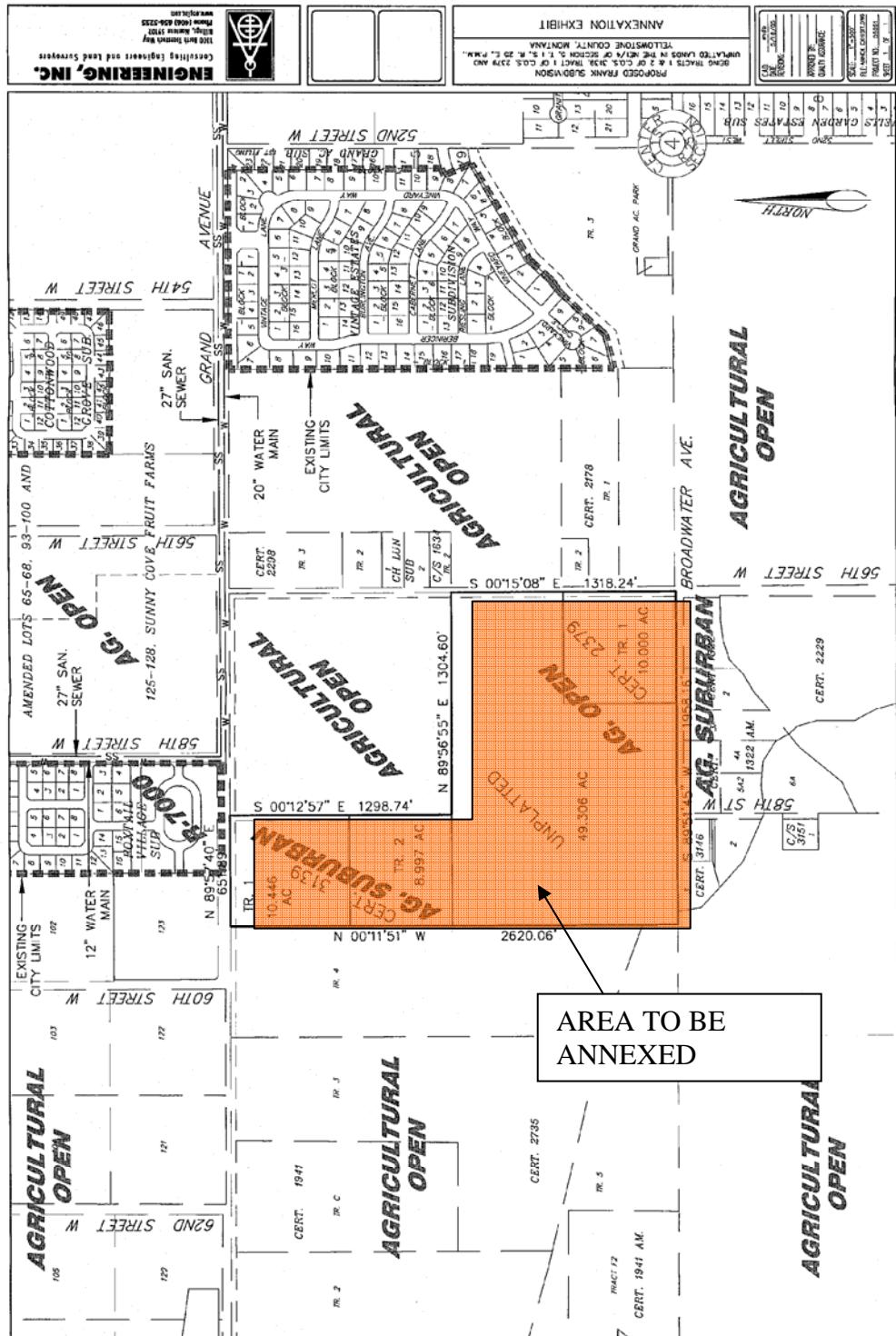
DESCRIPTION OF THE TERRITORY TO BE ANNEXED TO THE CITY OF BILLINGS

Legal Description	Tax Code	Address of General Location	Use of Property	Legal Property Owners	Address	Phone
Tract 1, Certificate of Survey No. 3139	D003376	Southwest of 58th Street West/Grand Avenue Intersection	Rural Farmstead	Ronald E. Frank	5816 Grand Avenue Billings, MT 59106	406/652-7412
Tract 2, Certificate of Survey No. 3139	D12829	Southwest of 58th Street West/Grand Avenue Intersection	Agricultural	Douglas D. and Deborah Faye Frank	708 56th Street West Billings, MT 59106	406/656-3601
Unplatted, N2E25WNE N2SENE	D003376A	Northwest of 56th Street West/Broadwater Avenue Intersection	Agricultural	Ronald E. Frank	5816 Grand Avenue Billings, MT 59106	406/652-7412
Unplatted, S2E25WNE S25FNE (Less COS 2379)	D003376B	Northwest of 56th Street West/Broadwater Avenue Intersection	Agricultural	Douglas D. and Deborah Faye Frank	708 56th Street West Billings, MT 59106	406/656-3601
Tract 1, Certificate of Survey No. 2379	D003376C	Northwest of 56th Street West/Broadwater Avenue Intersection	Rural Farmstead	Douglas D. and Deborah Faye Frank	708 56th Street West Billings, MT 59106	406/656-3601

ALL ITEMS BELOW SHALL BE COMPLETED BY STAFF

Date Submitted: 2-13-06 Received By: C. Lin Baudry Petition Number: AJ06-03
Fee Paid: 200⁰⁰

ATTACHMENT C - Annexation Map – Annexation #06-03



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

F

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Resolution of Intent to Create - Park Maint. District No. 4031, Copper Ridge Subdivision

DEPARTMENT: Department Of Parks, Recreation, & Public Lands

PRESENTED BY: Gene Blackwell, Acting Director

PROBLEM/ISSUE STATEMENT: Copper Ridge Subdivision contains approximately 14.56 acres of dedicated park and public open space. It includes trail greenways throughout the subdivision, which provides 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 Copper Ridge Subdivision, 1st Filing final plat approval, a park maintenance district must be established. The Resolution of Intent to Create the District is the first step in the process to include all lots of Copper Ridge Subdivision in Park Maintenance District No. 4031.

ALTERNATIVES ANALYZED:

- Create the Park Maintenance District now to assure assessments can be collected in November 2006, 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 \$18,198.00 for the first year. The assessment rate for this amount is \$233.31 per unit in District 4031. 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. 4031 to provide a date for the Public Hearing and consideration of the Resolution to Create the District at the April 10, 2006, City Council meeting.

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

ATTACHMENT

A: Resolution of Intent to Create Park Maintenance District No. 4031; and Exhibits A-D thereto attached.

INTRODUCTION

Approval of the Resolution of Intent to Create Park Maintenance District No. 4031 for the maintenance of Copper Ridge 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 Copper Ridge Subdivision, First Filing, is in the process of being approved and filed. The remaining filings will be submitted to the Planning Department in the near future.
- The Master Plan for the construction of the public area improvements was developed with the PRPL Department and adopted by the City Council with the approval of the Subdivision Plan
- 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 April 10th, 2006, 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 Copper Ridge 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 and blocks of Copper Ridge Subdivision. Said lots 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. All filings have or will have on file Waivers of Protest for the formation of the park maintenance district for all lots within Copper Ridge Subdivision.

Approval of the Resolution of Intent to Create Park Maintenance District No. 4031 for Copper Ridge 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 April 10th, 2006, City Council Meeting.

ALTERNATIVES ANALYSIS

- Create the Park Maintenance District now to assure assessments can be collected in November 2006, to pay costs of maintenance for the spring and summer of 2006 as the public area 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 Copper Ridge Subdivision.
- The 78 lots initially included in the PMD in Copper Ridge 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 subdivision's public area 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 \$485,837 to offset maintenance expenses in the upcoming 2007 FY PRPL Parks Operation and Maintenance budget and is projected to equal 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. 4031 and set April 10, 2006 as the date for the Public Hearing and consideration of the Resolution to Create Park Maintenance District 4031 for Copper Ridge Subdivision.

ATTACHMENT

A: Resolution to Create Park Maintenance District No. 4031; and Exhibits A-D thereto attached.

RESOLUTION NO. 06-

A RESOULTION CREATING SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 4031 FOR THE PURPOSE OF MAINTAINING EXISTING AND FUTURE PUBLIC AREA IMPROVEMENTS IN COPPER RIDGE SUBDIVISION, CITY OF BILLINGS, MONTANA

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.* Special Improvement Maintenance District Number 4031 is of more than local or ordinary public benefit. The Council has acquired jurisdiction to order the proposed improvement, and it does hereby create Special Improvement Maintenance District Number 4031. All lands included within Special Improvement Maintenance District Number 4031 are benefited and no lands that are not benefited have been included in said district.
2. *General Character of Improvement and Maintenance.* The general character of the improvements to be maintained is as follows: landscaping, trails, trees, lighting, 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. 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 \$233.33/lot for 78 lots 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 existing and future Copper Ridge 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. The costs of maintaining the Improvements shall be assessed against the property in the District benefiting from the Copper Ridge Subdivision, Public Area Improvements, based on the assessable area method of assessment described in Section 7-12-4162 through 7-12-4165, M.C.A., as particularly applied and set forth herein.
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 Special Improvement Maintenance District Number 4031.
8. *Bonds for Improvement.* There will be no bonds sold for this district as it is for maintenance only.
9. *Engineering.* No engineering will be required.
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 _____, 2006.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Harold, CMC, CITY CLERK

EXHIBIT "B"

BOUNDARY DESCRIPTION PARK MAINTENANCE DISTRICT No. 4031 COPPER RIDGE SUBDIVISION PARK MAINTENANCE DISTRICT

Meets and Bounds Description:

Beginning at a point on the north right-of-way line of Rimrock Road, said point being the southwest corner of Tract 5A, Certificate of Survey No 2465 Amended; thence from said point of beginning, along said north right-of-way line, S 89°21'04" W a distance of 0.58 feet; thence, continuing along said north right-of-way line, S 89°52'07" W a distance of 2260.09 feet to the southeast corner of Tract 2A, Certificate of Survey No 2465 Amended; thence, along the east line of said Tract 2A, N 01°35'22" E a distance of 1587.78 feet to a point on the south right-of-way line of the Burlington Northern Santa Fe railroad; thence, along said south right-of-way line the following four courses:

N 79°13'57" E a distance of 873.67 feet,
N 10°46'03" W a distance of 125.00 feet,
N 79°13'57" E a distance of 1196.08 feet

and along a curve to the left with a radius of 1712.04 feet a distance of 241.92 feet (chord bearing N 75°11'04" E, chord length 241.72 feet) to the northwest corner of Tract 5A, Certificate of Survey No 2465 Am.; thence, along the west line of said Tract 5A, S 00°43'07" W a distance of 2153.43 feet to the point of beginning; said described tract containing a gross area of 96.8467 acres.

EXHIBIT
“D”

ESTIMATE OF PROBABLE COST

SPECIAL IMPROVEMENT MAINTENANCE DISTRICT NO. 4031

COPPER RIDGE SUBDIVISION

PARK MAINTENANCE DISTRICT

1. The costs to create the maintenance district are estimated to be \$ 1,200.

2. The City Parks and Recreation Department estimates the maintenance of the improvements for the first year at \$ 17,498.

The first year's assessment is estimated as follows:

CITY OF BILLINGS - PARK MAINTENANCE DISTRICT NO. 4031

ESTIMATE OF ANNUAL MAINTENANCE COSTS

PMD Description: Copper Ridge Subdivision Parks

PMD Number:		4031						ESTIMATED MAINTENANCE COSTS
BA	SUB	ACCOUNT DESCRIPTION						
SUB	ELE	OBJ						
Operations and Supplies								
	34	10	Electricity					\$300.00
		20	City Water					\$6,598.00
		50	Ground Maintenance					\$250.00
	39	65	Other Service/Finance Charges					\$715.00
		90	Parks Charge for Services					\$6,635.00
	54	10	Special Assessments					\$2,500.00
						Total Operations and Supplies, Etc.		\$16,998.00
						Maintenance District Creation Costs		\$1,200.00

						Total Copper Ridge Subdivision Park O & M Annual Cost Estimate	\$18,198.00	
						Equal Assessment Per Unit	\$233.31	
						1st year Assessment (Per Unit)	\$233.31	

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G

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM CITY OF BILLINGS, MONTANA Monday, March 13, 2006

TITLE: Second Reading of an Ordinance Expanding Ward IV

DEPARTMENT: Planning and Community Services Department

PRESENTED BY: Candi Beaudry, AICP, Interim Director

PROBLEM/ISSUE STATEMENT: On February 13, 2006, the City Council approved the annexation of the west half of Lots 5 and 28, and all of Lots 6, 26, 27, 38, and 40 of Sunnycove Fruit Farms, totaling 63.543 gross acres including 5.502 acres of adjacent rights-of-way of 60th and 62nd Streets West and Rimrock Road (Annexation #06-01). The petition for annexation was submitted by Thomas Romine and Paul Hoyer, owners of properties. After annexation, the property must be added to one of the City's election wards. Council held a public hearing and approved on first reading, the ordinance to add the property to Ward IV on February 27, 2006. A second reading of the ordinance is the final step in the procedure to expand the ward boundaries.

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

RECOMMENDATION

Staff recommends that the City Council approve the second reading of this ordinance that adds property to City Ward IV.

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

ATTACHMENT

A: Ward Ordinance and Exhibit A

ORDINANCE NO. 05-_____

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

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

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

A tract of land situated in the NE1/4 of Section 36, T.1N., R.24E., and the NW1/4 of Section 31, T.1N., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as: Sunny Cove Fruit Farms, the West ½ of Lots 5 and 28 and all of Lots 6, 26, 27, 38 and 40, Recorded April 27, 1910, Under Document No. 21540, Records of Yellowstone County, Montana; including all adjacent right-of-way of Rimrock Road, 60th Street West and 62nd Street West. Containing 63.543 gross and 58.041 net acres, more or less.

(# 06-01) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 27th day of February, 2006.

PASSED by the City Council on the second reading this 13th day of March, 2006.

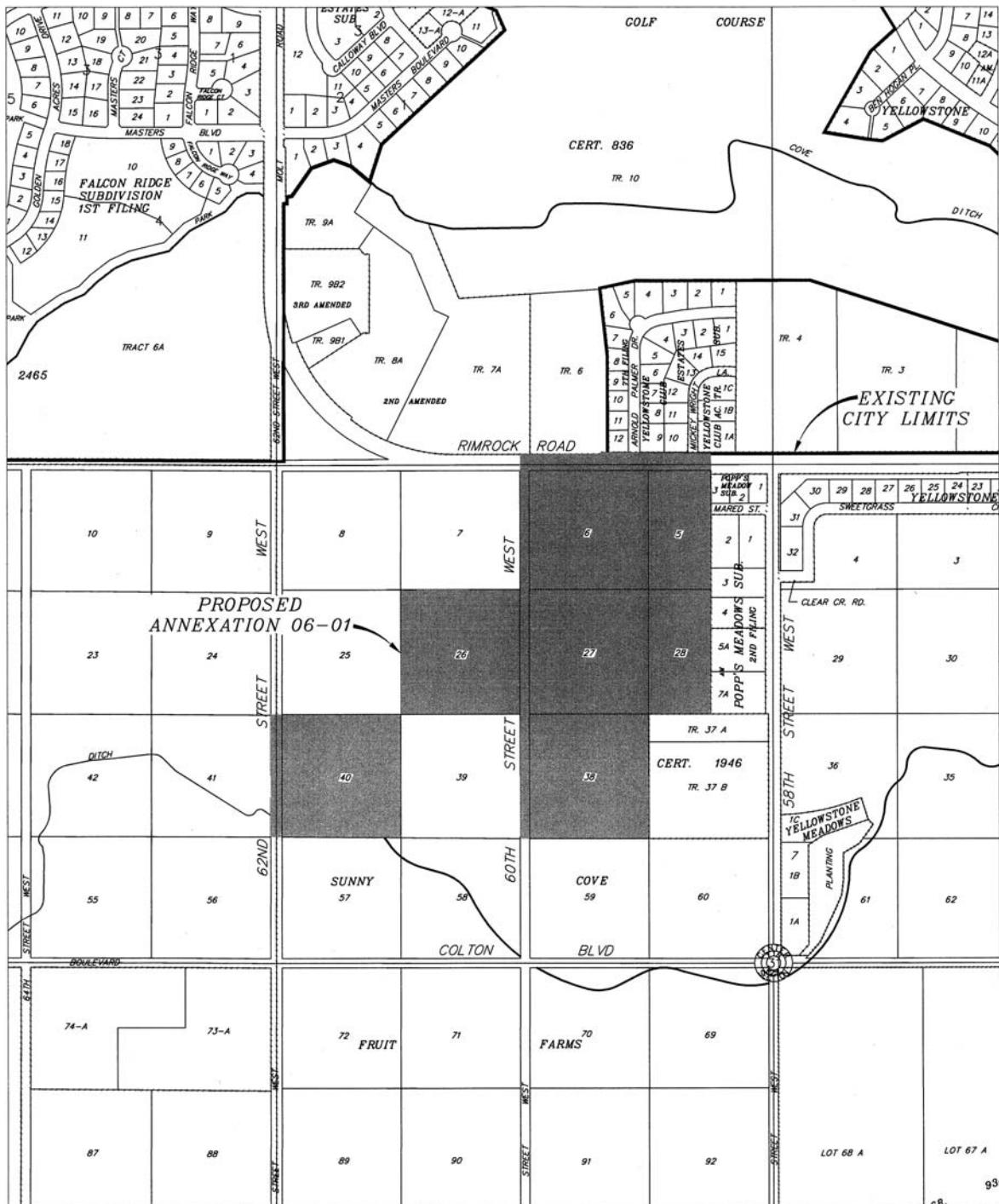
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Marita Herold, CITY CLERK

EXHIBIT "A"



H

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Second Reading, Part-time Assistant Judge Ordinance
DEPARTMENT: Billings Municipal Court
PRESENTED BY: Mary Jane Knisely, Municipal Court Judge

PROBLEM/ISSUE STATEMENT: Each year, approximately 30,000 cases are filed in Billings Municipal Court. The City of Billings currently has only one elected Municipal Court judge to handle these matters. For over a decade, the City has made the decision to utilize the services of pro tem judges on a regular basis to handle the overflow of cases and to reduce the time citizens must spend waiting to have their case adjudicated. In an effort to codify the City's authority to use part-time judges until the Council felt the caseload warranted another full-time municipal judge, the City sponsored legislation in 2005 to allow the appointment of a part-time assistant judge. Amending Article 10-200 of the City Code codifies the authority for appointment of a part-time assistant judge. The proposed modifications also update the Code sections governing the municipal court to make them consistent with state law. At the City Council Meeting on Monday, February 27, 2006, the first reading was completed and the Council voted unanimously to approve passage.

ALTERNATIVES ANALYZED: 1. Council may APPROVE the ordinance to allow for a part-time assistant judge and offer the first reading. 2. Council may DENY approval of the ordinance to allow for a part-time assistant judge.

FINANCIAL IMPACT: The approved appropriation for the part-time assistant judge is \$35,734.40 in the FY06 budget. No additional funding will be required in this fiscal year. In FY07, the part-time assistant judge base salary will remain the same, while an additional \$15,000 will be necessary to fund benefits, training, licensing and equipment. With the implementation of a part-time assistant judge, \$10,000 may be reallocated from the pro tem budget to cover the majority of these expenses. However, it is essential that \$10,000 of the pro tem line item remain intact to employ the services of a pro tem to hear court proceedings when the presiding judge and the part-time assistant attend semi-annual training as mandated by the Supreme Court, in cases of illness or in cases in which either judge has been recused due to conflict. The net increase in budget will be \$5000.00.

RECOMMENDATION

Staff recommends that Council offer the second reading and approve the ordinance for a part-time judge.

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

ATTACHMENTS

A: Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 10-201, 10-202, 10-203 AND 10-205; AUTHORIZING A PART-TIME ASSISTANT MUNICIPAL COURT JUDGE; UPDATING QUALIFICATIONS

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

Section 1. That Section 10-201 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 10-201. Qualifications.

A municipal court judge must have the same qualifications as a judge of a district court, as set forth in Article VII, section 9, of the 1972 Montana constitution, except that a municipal court judge need only be admitted to the practice of law in the state for at least three (3) years prior to the date of appointment or election. A municipal court judge must reside in Yellowstone County for one (1) year next preceding his election or appointment.

Section 2. That Section 10-202 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 10-202. Municipal Court Judges.

- (1) There shall be one (1) full-time elected municipal court judge. The judge's term commences on the first Monday in January following the election. The judge shall hold office for the term of four years and until a successor is elected and qualified.
- (2) The elected municipal court judge may, with the approval of the City Council, appoint a part-time assistant judge, who must have the same qualifications as a judge pro tempore, to serve during the elected judge's term of office. An order by a part-time assistant judge has the same force and effect as an order of a municipal court judge.

Section 3. That Section 10-203 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 10-203. Qualifications of a judge pro tempore.

When a judge of the municipal court has been disqualified or is sick or unable to act, the judge shall call in a sitting or retired judge of a court of record or an attorney who has been a member of the state bar of Montana for five or more years to act as a judge pro tempore. The judge pro tempore has the same power and authority as the municipal court judge.

Section 4. That Section 10-205 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 10-205. Annual salary; expenses.

- (a) Pursuant to § 3-6-203 M.C.A., the salary of the Billings Municipal Court Judge and any part-time judge must be fixed by ordinance or resolution.
- (b) In addition to the foregoing, the Billings Municipal Court Judge shall receive his or her actual and necessary traveling expenses and all other necessary expenses as budgeted in the city's annual budget.

Section 5. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 6. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. 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 20th day of February, 2006.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2006.

CITY OF BILLINGS

By _____
Mayor

ATTEST:

By _____
City Clerk

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Preliminary Plat of Greer Subdivision

DEPARTMENT: Planning and Community Services, through Candi Beaudry, AICP, Interim Planning Director

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: The preliminary minor plat of Greer Subdivision is being presented to the City Council for approval. The proposed subdivision would create two (2) commercial lots on the southwest corner of Lake Elmo Road and the Hilltop Road ramp. The .91 acre subject property is zoned Community Commercial and currently has a convenience store located on one of the lots. The owner is Robert Greer and the agent is Engineering, Inc. The City Council must act on the preliminary minor plat within 35 working days of its submittal.

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

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

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

RECOMMENDATION

Staff recommends that the City Council conditionally approve the Preliminary Plat of Greer Subdivision and adopt the Findings of Fact as presented in the staff report.

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

ATTACHMENTS

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

INTRODUCTION

The proposed Greer Subdivision is a minor preliminary plat that would create two lots for commercial use. The subject property is zoned Community Commercial and Lot 2 has an existing gas station/convenience store on it. The subject property is located on the west side Lake Elmo Road where it intersects with the Hilltop Road on-ramp.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Department on February 1, 2006.
- The City Council will consider the preliminary plat application at its meeting on March 13, 2006.

BACKGROUND

General location:	730 Lake Elmo Road
Legal Description:	Tract 1A1, Certificate of Survey 1012 Amended
Subdivider/Owner:	Robert Greer
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	Community Commercial
Surrounding zoning:	Neighborhood Commercial, Community Commercial, R-9600
Existing land use:	Commercial
Proposed land use:	Commercial
Gross area:	.9102 acres
Lots:	2
Max.	21,800 square feet
Min.	17,850 square feet
Dedications:	None – previously met

ALTERNATIVES ANALYSIS

One of the purposes of the subdivision review process is to identify potentially negative impacts of a subdivision on adjacent properties. When negative impacts are identified, it is the subdivider's responsibility to mitigate those impacts. Various City departments, utility

companies and other agencies have reviewed this application and provided input on potential impacts and mitigation. The Findings of Fact, which are presented as Attachment D, discuss the potential negative impacts that have been identified by reviewers. Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact.

RECOMMENDED CONDITIONS

1. In order to mitigate impacts on local services, access to both lots shall be restricted to the existing approaches off of Lake Elmo Drive. The following conditions shall be met (*Recommended by the Engineering Division*):
 - a. A one-foot no-access strip shall be shown on the face of the final plat along the Hilltop Road frontage.
 - b. Sections III.A.4., III.E.1. and III.E.2. of the Subdivision Improvements Agreement (SIA), language shall be updated to reflect that access for Lot 1 shall be from Lake Elmo Drive, and no access shall be granted from Hilltop Road.
 - c. The lot corner at Lake Elmo Drive and Hilltop Road shall be shown with a 10-foot chamfer.
2. In order to mitigate impacts on local services, Section VI. Utilities of the SIA shall be re-written to follow the standard language and format as recommended by Public Works—Distribution & Collection Division, and to indicate that water service is provided by the Heights Water District in accordance with their rules and regulations. (*Recommended by the Distribution & Collection Division*)
3. In order to meet provisions for utilities, a 12-foot utility easement shall be shown on the final plat along the southern property line of Lot 2. (*Requested by MDU*)
4. In order to be consistent with the Heritage Trail Plan, Section III.F.1. of the SIA shall be amended to state that a 20-foot trail easement is recommended along the western property line of Lot 1, adjacent to the BBWA canal.
5. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES

No variances requested.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

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

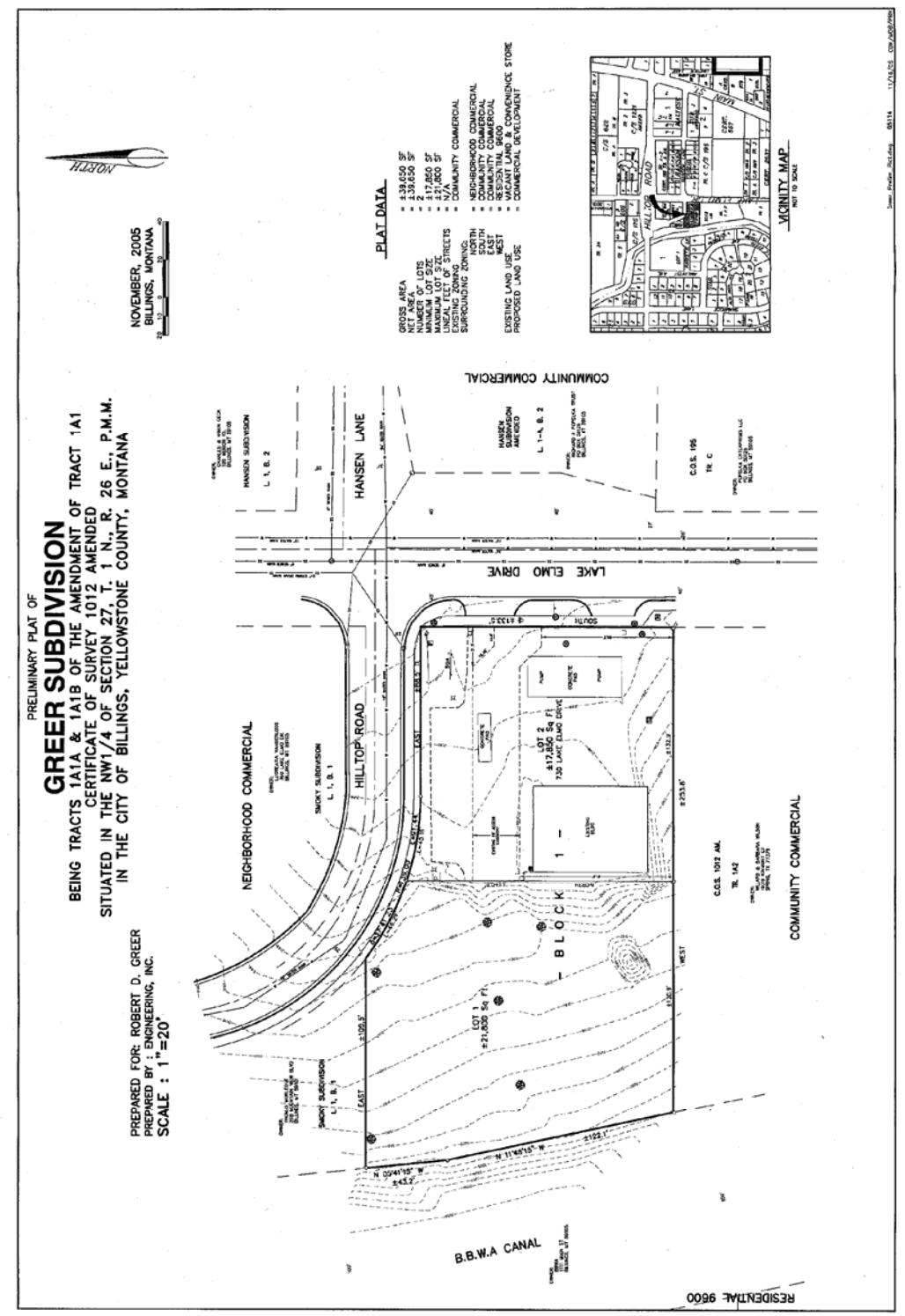
RECOMMENDATION

Staff recommends that the City Council conditionally approve the Preliminary Plat of Greer Subdivision and adopt the Findings of Fact as presented in the staff report.

ATTACHMENTS

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

ATTACHMENT A
Preliminary plat of Greer Subdivision



ATTACHMENT B
Site Photographs



Figure 1: Subject property. Lot 2 has C-store/gas station; Lot 1 is vacant field behind store.



Figure 2: From corner of Lake Elmo and Hilltop ramp looking west.



Figure 3: From corner of Lake Elmo/Hilltop looking south at 2 existing drive approaches.

ATTACHMENT C
Mayor's approval letter
Greer Subdivision

March 14, 2006

Robert Greer
4776 Emerald
LaVerne, CA 91750

Dear Property Owner:

On March 13, 2006, the Billings City Council approved the preliminary plat of Greer Subdivision, subject to the following conditions of approval:

1. In order to mitigate impacts on local services, access to both lots shall be restricted to the existing approaches off of Lake Elmo Drive. The following conditions shall be met:
 - a. A one-foot no-access strip shall be shown on the face of the final plat along the Hilltop Road frontage.
 - b. Sections III.A.4., III.E.1. and III.E.2. of the Subdivision Improvements Agreement (SIA), language shall be updated to reflect that access for Lot 1 shall be from Lake Elmo Drive, and no access shall be granted from Hilltop Road.
 - c. The lot corner at Lake Elmo Drive and Hilltop Road shall be shown with a 10-foot chamfer.
2. In order to mitigate impacts on local services, Section VI. Utilities of the SIA shall be re-written to follow the standard language and format as recommended by Public Works—Distribution & Collection Division, and to indicate that water service is provided by the Heights Water District in accordance with their rules and regulations.
3. In order to meet provisions for utilities, a 12-foot utility easement shall be shown on the final plat along the southern property line of Lot 2.
4. In order to be consistent with the Heritage Trail Plan, Section III.F.1. of the SIA shall be amended to state that a 20-foot trail easement is recommended along the western property line of Lot 1, adjacent to the BBWA canal.
5. Minor changes may be made to the SIA and final documents, as requested by the Planning and/or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
6. The final plat shall comply with all requirements of the City Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions regarding the conditions of approval, please contact Juliet Spalding with Planning and Community Services at 247-8684 or by email at spaldingj@ci.billings.mt.us.

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

Sincerely,

Ron Tussing, Mayor

pc: Engineering, Inc.

ATTACHMENT D

Findings of Fact
Greer Subdivision

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

1. Effect on agriculture and agricultural water users' facilities

The proposed subdivision should have no effect on agriculture or agricultural water users' facilities. The subject property is not currently used for agriculture and no irrigation facilities are apparent on the subject property. The BBWA canal is located just west of this property within its own right of way.

2. Effect on local services

- a. Utilities – Lot 2 is currently being served by Height Water District and the City of Billings' sanitary sewer service. Lot 1 can be served water from the water main in Hilltop Road, and sanitary sewer service can be obtained from Lake Elmo Drive. The City Public Works—Distribution and Collection Division has requested that an easement be established over Lot 2 for the provision of sanitary sewer service to Lot 1 on the final plat. This is recommended as a condition of approval (**Condition #2**).
Electric and gas services can also be provided to both lots in this subdivision. MDU has requested an additional twelve-foot (12') wide utility easement along the southern property line of Lot 2. This is also recommended as a condition of approval (**Condition #3**).
- b. Solid waste – The City provides solid waste collection and disposal. The City's landfill has adequate capacity for the additional waste.
- c. Streets – Currently Lot 2 has two accesses onto Lake Elmo Drive and there is an existing 25-foot wide access easement that provides access to Lot 1 from Lake Elmo Drive also. The proposed Subdivision Improvements Agreements indicates that the subdivider would like an additional access for Lot 1, presumably from Hilltop Road. City Engineering staff has reviewed this proposal and the history on the access control for the Hilltop Road ramp. Their research indicates that the Montana Department of Transportation (MDT) imposed limited access conditions on Hilltop Road and the proposed additional access along this portion of Hilltop Road does not appear to be allowed. Therefore, staff is recommending access for both lots is obtained from the existing access approaches off of Lake Elmo Drive and that a one-foot no-access easement be shown on the face of the final plat along the Hilltop Road frontage. These items are recommended as conditions of approval (**Condition #1**). No further street dedication for either Lake Elmo Drive or Hilltop Road are necessary at this time. Also no further street improvements are proposed or needed, but a waiver of right to protest future SID's for such improvements will be filed with the final plat.

- d. Emergency services – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is Fire Station #6, located at Wicks and St. Andrews. The subdivision is located within the ambulance service area of American Medical Response (AMR).
- e. Schools – The proposed subdivision is located within School District #2. However, given that this is a commercial subdivision, it will not have an impact on schools.
- f. Parks and Recreation – There is no parkland dedication requirement, as this is a minor plat.
- g. MET Transit – The subject property is serviced by MET transit as it is located on a Lake Elmo Drive which is a MET route.

3. Effect on the natural environment

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

4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property.

5. Effect on the public health, safety and welfare

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

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

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

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

1. Growth Policy

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

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

- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites.
- c. Contiguous development focused in and around existing population centers separated by open space.
- d. A safe and efficient transportation system characterized by convenient connections and steady traffic flow.

2. Urban Area Transportation Plan

Lake Elmo Drive is identified on the functional classification map as a collector street. No improvements are necessary for Lake Elmo Drive as a result of this subdivision.

3. Heritage Trail Plan

The Heritage Trail Plan identifies Lake Elmo Drive as a primary on-street bikeway. Additionally, the BBWA canal, which parallels the west side of this property, is identified as a potential trail corridor. The Plan does not specifically identify which side of the canal that a trail should be developed, therefore staff is recommending that a 20-foot wide easement is added to the final plat along the west property line of Lot 1 in order to preserve the potential for a future trail connection. It is a recommended condition of approval that a *recommendation* statement be added to the SIA to address the Plan's vision (**Condition #4**).

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

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

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

The subject property is served by Heights Water district water, and the City of Billings' sewer, storm drain and solid waste services. All services are approved and regulated by state and federal authorities.

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

The subject property is located within the Community Commercial zoning district. There is an existing convenience store/gas station on Lot 2. The development of Lot 1 will be reviewed at the time of building permit submittal to insure its compliance with zoning.

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

MDU has requested an additional utility easement along the southern property line of Lot 2. This request is a recommended condition of approval (**Condition 3**).

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

Legal and physical access will be provided by two existing approaches and an access easement across Lot 1 from Lake Elmo Drive.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Greer Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- There should be small effects on local services because this is an in-fill project and the subdivider will be responsible for most of the capital facilities that are needed to serve the property.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and doesn't conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations and satisfies sanitary, easement and zoning requirements. Legal and physical access is provided to the parcel.

Approved by the Billings City Council on March 13, 2006

Ron Tussing, Mayor

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

J

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Final Plat of Legacy Subdivision
DEPARTMENT: Planning and Community Services, Candi Beaudry, AICP, Interim Planning Director
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Legacy Subdivision is being presented to the City Council for approval. On August 22, 2005, the City Council conditionally approved the 58-lot preliminary major plat on 23 acres for residential uses. The subject property was annexed to the City on June 14, 2005, is zoned Residential 9600, and is generally located on the west side of 52nd Street West midway between Grand Avenue and Central Avenue. The owner is DC Capital Real Estate, LLC and the agent is Engineering, Inc. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Legacy Subdivision.

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

ATTACHMENT

A: Final Plat

ATTACHMENT A

Final Plat

K

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Final Plat of Riverfront Pointe Subdivision

DEPARTMENT: Planning and Community Services, Candi Beaudry, AICP, Interim Planning Director

PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Riverfront Pointe Subdivision is being presented to the City Council for approval. On May 9, 2005, the City Council conditionally approved the 179-lot preliminary major plat on 74.56 acres for residential and commercial uses; four (4) lots are proposed for commercial uses, approximately 10 lots are proposed for multi-family residential uses, and 165 lots are proposed for single-family and duplex uses. The subject property is zoned Highway Commercial and is located south of the West Billings Interchange between Mullowney Lane and South 12th Street West at the northeast of the intersection of Elysian Road and Mullowney Lane. The owner is Regal Land Development, Inc. and the agent is Engineering, Inc. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Riverfront Pointe Subdivision.

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

ATTACHMENT

A: Final Plat

ATTACHMENT A

Final Plat

PLAT OF
RIVERFRONT POINTE SUBDIVISION

BEING TRACT 1 OF CERTIFICATE OF SURVEY No. 3180 AND THE UNPLATED LANDS
SITUATED IN THE SW 1/4 OF SECTION 17, T. 1 S., R. 26 E., P.M.M.
IN THE CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA

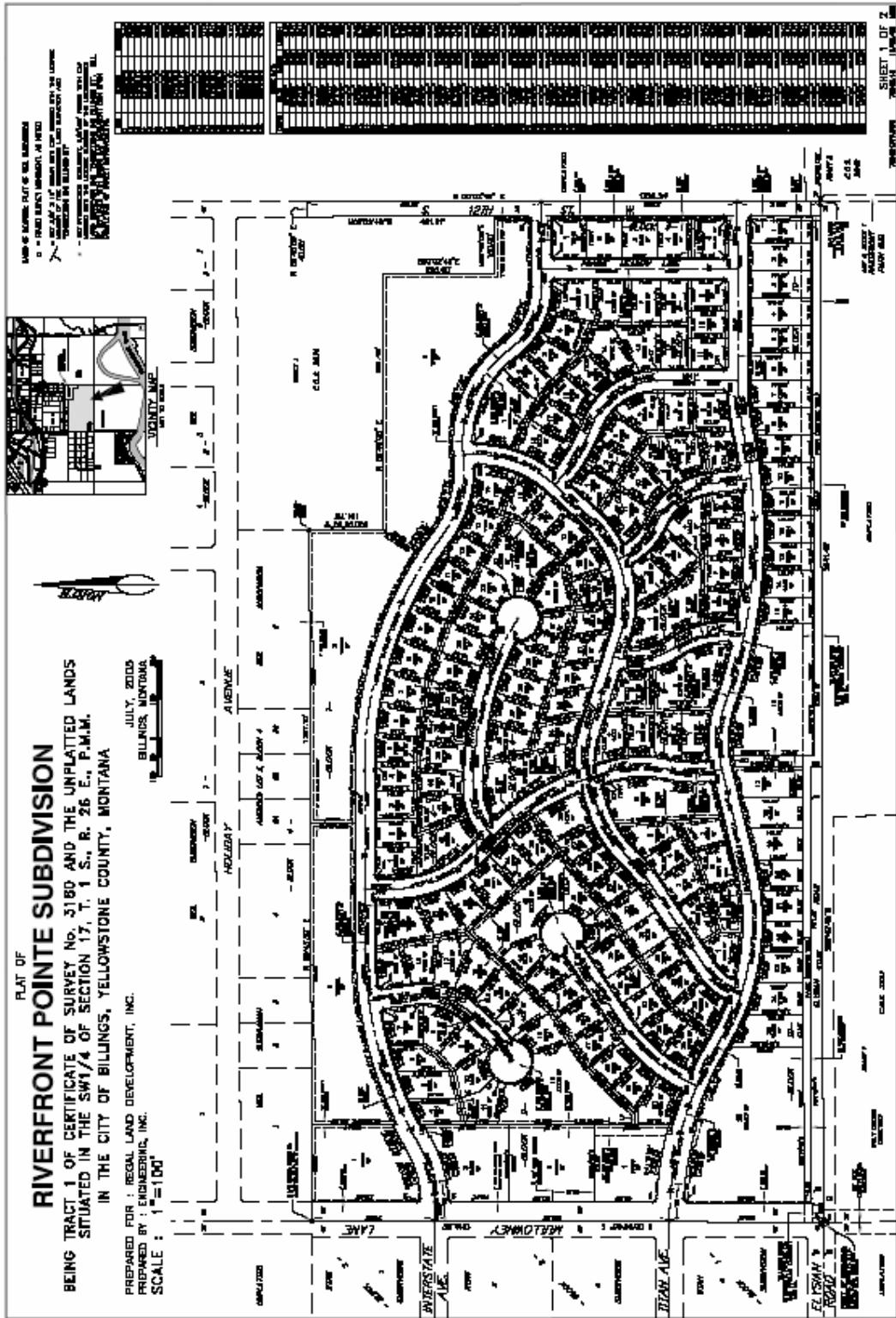
PREPARED FOR : REGAL LAND DEVELOPMENT, INC.

PREPARED BY : ENGINEERING, INC.

SCALE : $1'' = 100'$

JULY, 2010

BILLINGS, MONTANA



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$684,706.95 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 10, 2006, 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

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

L2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, March 13, 2006

TITLE: Payment of Claims

DEPARTMENT: Administration – Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,480,152.64 have been audited and are presented for your approval for payment. A complete listing of the claims dated February 17, 2006, 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, March 13, 2006

TITLE: Public Hearing & First Reading – Amendments to the City’s Camping Ordinance

DEPARTMENT: City Administrator’s Office

PRESENTED BY: Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: The City Council created an Ad-Hoc RV Task Force to review BMCC Sec. 24-411, Parking for Camping Purposes, which limits any parking of motor vehicles for camping in the City to an authorized tourist park. The Task Force has recommended that the City Council amend the ordinance to allow 6-hour rest stops for travelers’ safety in the lots of commercial businesses that would permit it, but would require longer-term visitors to continue to use the city’s authorized tourist parks.

ALTERNATIVES ANALYZED:

- Approve the amended ordinance as proposed by the Ad-Hoc RV Task Force;
- Modify the amendments as proposed;
- Take no action, resulting in continuing enforcement of the current ordinance on a complaint-driven basis.

FINANCIAL IMPACT: None anticipated.

RECOMMENDATION

Staff recommends that Council hold a Public Hearing and approve the amended ordinance as proposed by the Ad-Hoc RV Task Force.

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

ATTACHMENTS

A: Proposed amended ordinance

INTRODUCTION

The City Council created an Ad-Hoc RV Task Force to review BMCC Sec. 24-411, Parking for Camping Purposes, which limits any parking of motor vehicles for camping in the City to an authorized tourist park. The Task Force has recommended that the City Council amend the ordinance to allow 6-hour rest stops for travelers' safety in the lots of commercial businesses that would permit it, but would require longer-term visitors to continue to use the city's authorized tourist parks.

PROCEDURAL HISTORY

The current ordinance, BMCC Sec. 24-411, was adopted in 1967. It states: "It is unlawful for any person to park any motor vehicle for camping purposes in the city except in an authorized tourist park."

The City has used a procedure for providing a short-term exemption from the ordinance for special events. However, the City Council began receiving many comments about the ordinance from the national recreational vehicle (RV) community in summer 2005, when complaint-based enforcement began in commercial parking lots such as those owned by Wal-Mart.

On Sept. 12, 2005, the Council appointed a 7-member committee, consisting of Councilmember Nancy Boyer; Robert Felt, representing RV owners; Kevin Flock and Mike Ray of Wal-Mart, representing retail operators; Mike Gast of Kampgrounds of America (KOA), representing campground owners; Robert Pierce of Pierce RV Center, representing RV suppliers; and Karen Sanford-Gall, Chamber of Commerce president. Staff from the Planning and City Administrator's Office attended the meetings, as did members of the public.

After several meetings, the Task Force recommended amendments to the existing ordinance at a Feb. 22, 2006, Council work session.

BACKGROUND

RV use has soared nationally, and is expected to continue to grow. At least one survey indicates that Montana is the 4th-most-popular destination for RV campers in the country. RV drivers regularly visit local businesses to purchase gas, food and other supplies on their journeys.

Part of the tradition of RV camping includes using the lots of retail outlets, especially Wal-Mart, for overnight parking at no cost. The lots offer lighting, security and 24-hour store operations. RV drivers report that they often pull into Wal-Mart lots to rest for short periods so they can continue on their journeys safely. They say they should not have to pay a campground fee for such limited use.

Wal-Mart managers at the two stores in Billings appreciate the business brought in by RV customers, but sometimes face overcrowding of a limited number of spaces for customers when extensive camping occurs. One store has commercial covenants that prohibit long-term parking and already hosts a park-and-ride for employees being bussed to a nearby mine; the other Wal-Mart has the capacity to seek a permit for camping on its lot, but has not chosen to do so.

Managers of both stores have said they would prefer not to be long-term hosts to campers, which take up several spaces each. In response to a complaint, City Code Enforcement officers counted 27 RVs parked in a lot attached to one of these stores in an early morning check in June 2005. As proposed, the ordinance amendment would allow more travelers the privilege of taking a short rest in Wal-Mart and other retail lots that choose to participate.

Billings also is the headquarters for KOA and several campgrounds that provide water, dump tanks, trash services and other amenities necessary to RV users. The campgrounds pay the state's bed tax for each vehicle accommodated, which in turn supports the state's tourism efforts.

The City of Billings has health- and welfare-related concerns about waste tanks or litter being dumped in the city by drivers who do not use the campground services. As a result of complaints, the City began enforcing the ordinance, asking the stores to post signs and distribute flyers warning RV drivers that they could be subject to a \$500 fine if they camped in the commercial lots. While to the staff's knowledge, no one ever was actually cited for violation, the enforcement resulted in e-mail and letter protests from hundreds of RV users.

In addition to the ordinance amendments, the Task Force has recommended a program in which visitors' packages would be provided to the retail outlets that choose to welcome short-term RV campers. These packages would be distributed by the retailers to RV campers. The Chamber of Commerce would consist of bags that include coupons provided by local merchants and a 1-page letter, outlining the amended ordinance and offering information on nearby campgrounds to the visitors.

The Task Force did not consider its charge to include addressing BMCC Sec. 27-601, which regulates the storage of RVs, campers and similar equipment, and prevents occupancy of such vehicles while in storage.

ALTERNATIVES ANALYSIS

- Approve the amended ordinance as proposed by the Ad-Hoc RV Task Force;
- Modify the amendment as proposed;
- Take no action, resulting in continuing enforcement of the current ordinance on a complaint-driven basis.

STAKEHOLDERS

These concepts were reviewed with Wal-Mart and campground owners, and were agreed upon as a mutually acceptable compromise.

RECOMMENDATION

Staff recommends that Council approve the amended ordinance as proposed by the Ad-Hoc RV Task Force.

ATTACHMENTS

- A. Proposed amended ordinance.
- B. Proposed flyer for distribution to visitors

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTION 24-411; PROVIDING THAT PARKING OR CAMPING IN PRIVATE PARKING LOTS IS ALLOWED FOR NO MORE THAN SIX (6) CONTIGUOUS HOURS

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

Section 1. That Section 24-411 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 24-411. Parking for camping purposes.

It is unlawful for any person to park any motor vehicle for camping purposes in the city except in an authorized tourist park. Overnight parking or camping in private parking lots within the city limits of Billings is prohibited. However, a rest period of no more than six (6) hours shall be allowed, providing it is permitted by the owner of the parking lot. The rest period shall consist of six (6) contiguous hours, after which time the vehicle must be removed from the parking lot.

Section 2. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 3. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 4. 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 _____, 2006.

PASSED, ADOPTED and APPROVED on second reading this _____
CITY OF BILLINGS

By: _____
Ron Tussing, Mayor

ATTEST:

By: _____
Marita Herold, CMC/AAE
City Clerk

PARKING YOUR VEHICLE WHILE VISITING BILLINGS

The City of Billings, along with its great merchants, welcomes you to the Magic City.

We hope you take advantage of all Billings and the Greater Yellowstone Valley area has to offer during your stay with us.

You should be aware that, for public safety reasons and to ensure availability of parking for your fellow shoppers and RV travelers, the City of Billings does not allow overnight parking or camping in any parking lots within the city limits.

However, in an attempt to accommodate owners of recreational vehicles who seek only a “rest stop” of a few hours in Billings, a rest period of no more than six hours is allowed, providing it is permitted by the owner of the parking lot. We ask that you honor the six-hour rest stop limit, so that there will be adequate space for your fellow travelers who may also be in need for a rest break from their travels.

The current city ordinance is printed in full at the bottom of this page.

For those of you planning an extended stay in Billings, two beautiful campgrounds are conveniently located along Garden Avenue, just off Interstate 90 at Exit 450 (see map on next page).

The campgrounds are the Yellowstone River Campground, 309 Garden Avenue, (406) 259-0878; and the Billings KOA Kampground, 547 Garden Avenue, (406) 252-3104.

Both campgrounds offer a full range of services and rates and are both a great “home base” for you and your family as you explore the Billings area.

We've also include a number if discount coupons from Billings merchants and restaurants that we hope will help you better enjoy your stay.

We hope you enjoy your stay in Billings, and plan to come again soon!

Billings City Ordinance

It is unlawful for any person to park any motor vehicle for camping purposes in the city except in an authorized tourist park. Overnight parking or camping in private lots within the city limits of Billings is prohibited. However, a rest period of no more than six hours shall be allowed, providing it is permitted by the owner of the parking lot. The rest period shall consist of six contiguous hours, after which time the vehicle must be removed from the parking lot.

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