

## Billings City Administration Weekly Report

June 14, 2019

### 1) **Remaining Budget Schedule**

- a. Monday, June 17 – Regular City Council Work Session. Continue budget wrap up discussion from June 10 in anticipation of June 24, 2019 budget adoption.
- b. Monday, June 24 – Budget adoption

### 2) **Vuecrest Situation** – Today our team met to pull together documentation the city has pertaining to homes that have been discussed on Vuecrest. The plat for this subdivision (Bernstead Subdivision 2<sup>nd</sup> filing) was filed in February 1955 and can be found at the Yellowstone County Clerk & Recorder's office. The specific lots that are most immediately being impacted, were purchased in 2003 from Yellowstone County. Building permits were granted on May 27, 2005 and occupancy permits were given on March 6, 2006. Our files include a Geo Tech Report dated May 16, 2005 conducted by Womack & Associates. All of this information will be shared with the property owners upon request (I'm meeting with Mr. Kaiser this afternoon).

We are also confirming what steps the BBWA is taking to better understand this situation and any risks it may pose to the integrity of the ditch. KC Williams, Yellowstone County Disaster & Emergency Services Director is aware of the situation and has been on the site. We are being proactive in case of any significant flooding takes place.

### 3) **Candidate School Program at the Chamber** – 19 individuals attended the candidate program. I focused on Councilmember's responsibilities identified in the charter and I used a list of 8 Duties and Responsibilities I lifted from a MN city that I thought was a good summarization (enclosed).

### 4) **PD1 (Park District 1)** – enclosed are a series of documents to provide background information on the creation of PD1. In my short time with the city, I have heard a number of comments regarding the purpose of PD1 and limitations that were placed on it. I believe the enclosed Resolution of intent to create and the Resolution creating Park District 1 are very clear and consistent. Enclosed are the following:

- a. Resolution NO. 11-19125: Resolution of intent to create PD1, the staff report and Public Hearing minutes for November 14, 2011
- b. Affidavit of Mailing and Notice of Public Hearing dated November 16, 2011
- c. Resolution NO. 11-19130: Resolution creating PD1, the staff report and Public Hearing minutes for December 19, 2011

### 5) **KOA Meeting** – KOA continues to look for a building site in downtown. We met to discuss options and link KOA with Mehmet Casey our newly appointed Development Director for the Downtown Billings Alliance. It is critical to keep KOA in downtown.

6) **Parks Board Meeting** – During this week's Parks Board meeting the discussion focused on the proposed budget and PD1.

7) **Meetings/Task Forces/Presentations etc.**

- a. Monday, June 17 9 AM – 11 AM the Spa/Massage Ordinance Meeting will be held at the Police Barn.
- b. West End Task Force, Tuesday, June 18 7:00 PM at the Faith Evangelical Church, 3145 Sweet Water Drive, Room 130/131.
- c. Southside Task Force, Wednesday, June 20 6:30 PM at the St. Vincent de Paul Thrift Store, 3005 1<sup>st</sup> Avenue South.
- d. Central/Terry Task Force, Wednesday, June 20 7:00 PM at Bethlehem Lutheran, 40 10<sup>th</sup> Street West.

Have a great weekend!

## **Billings Chamber Candidate School**

### **Council Responsibilities**

June 11, 2019

The City of Billings is self-governed City directed by the City Charter, adopted by the voters in 1976. Billings uses the council–manager form of government, much like a publicly traded corporation. Under the form, the 11 member elected governing body is called the Council and is responsible for legislative functions, establishing policy, passing local ordinances, voting appropriations, and developing an overall vision for the City, similar to a corporate board of directors.

The legislative body appoints a professional manager to oversee the administrative operations, implement its policies, and advise it. The administrator position is similar to that of corporate chief executive officer (CEO), providing professional management to the board of directors. The position of “mayor” is a largely a ceremonial title, and is elected as an at-large council member with no executive functions, similar to a non-executive chair in a corporation.

City Council Essential Duties and Responsibilities:

#### **1) Thoroughly prepare for each City Council Meeting**

- ✓ Reads and reviews agenda materials supplied.
- ✓ Becomes familiar with the City Comprehensive Plans, City Budget, Capital Improvement Plan (CIP), City Policies, and other City documents that impact City policy.
- ✓ Conducts site visits as appropriate.
- ✓ Solicits and receives input from affected parties and the general public.
- ✓ Contacts affected parties to solicit input.
- ✓ Participates meaningfully in consideration of agenda items.
- ✓ Participates in discussion of issues, including requesting additional data and/or considering various personal perspective: both from a Council Members/Mayors personal perspective, as well as the citywide perspective and proposals before the Council.
- ✓ Actively listens to ensure a complete appreciation of each proposal and the respective positions of the petitioner, affected parties (businesses, residents, etc.), and the City staff.
- ✓ Responds to constituent requests for information or assistance with problem resolution.
- ✓ Acts as liaison between the City and the general public.

#### **2) Appoints the City Administrator and annually evaluates the administrator’s performance**

#### **3) Establishes a vision for the City**

#### **4) Establishes and modifies goals and objectives for the City**

- ✓ Sets administrative policies.
- ✓ Establishes public policy for the City.
- ✓ Ensures the enforcement of City ordinances.

**5) Reviews and approves the City's budget and associated taxes, fees and assessments**

**6) Reviews and approves the City's Capital Improvement Plan**

**7) Serves as Council Liaison to City Council or other outside agencies serving the Billings community.**

- ✓ Creates advisory boards, commissions and task forces.
- ✓ Participates in intergovernmental programs and the work of the Montana League of Cities and towns.
- ✓ Participates in civic events providing leadership and promoting new ideas and new programs to improve the community and its surrounding area.

**8) Sets and interprets rules governing its own proceedings**

- ✓ Preserves order at City Council meetings.
- ✓ Establishes rules of procedure.
- ✓ Identifies actual or potential conflicts of interest occurs and abstains from the related votes.

**CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE**

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: "A RESOLUTION DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, TO CREATE A SPECIAL DISTRICT AS AUTHORIZED BY TITLE 7, CHAPTER 11, PART 10 MCA, MORE SPECIFICALLY A CITY-WIDE PARK DISTRICT ENTITLED "CITY OF BILLINGS PARK DISTRICT NUMBER 1," TO ESTABLISH AN ANNUAL ASSESSMENT AND PROVIDE FOR A METHOD OF ASSESSMENTS FOR THE PURPOSES OF FUNDING AND/OR FINANCING COSTS ASSOCIATED WITH PROVIDING SERVICES INCLUDING BUT NOT LIMITED TO: (1) MAINTENANCE, REPAIR, REPLACEMENT, IMPROVEMENT, UPKEEP, INSTALLATION, OPERATIONAL ENHANCEMENT, CONSTRUCTION, RECONSTRUCTION, ACQUISITION OF LAND, AND/OR (2) IMPLEMENTATION OF MEASURES REQUIRED TO MAINTAIN PUBLIC HEALTH AND SAFETY OR MEET LEGAL OR REGULATORY REQUIREMENTS, AND/OR (3) PURCHASING, REPLACING, AND/OR MAINTAINING EQUIPMENT, TOOLS OR VEHICLES USED TO CARRY OUT THE FUNCTIONS, LABOR, SUPPLIES OR MATERIALS DESCRIBED HEREIN, AND/OR (4) ANY OTHER FUNCTIONS NECESSARY FOR MANAGEMENT OF CITY-OWNED FACILITIES, LANDS AND EQUIPMENT UNDER THE RESPONSIBILITY AND CARE OF THE CITY OF BILLINGS PARKS AND RECREATION DEPARTMENT INCLUDING BUT NOT LIMITED TO: PUBLIC PARKS, RECREATION FACILITIES, TRAILS, OPEN SPACE (AS DEFINED IN THE CITY OF BILLINGS URBAN AREA OPEN SPACE PLAN, URBAN FOREST, MEDIANS, BOULEVARDS, AND OTHER FACILITIES LOCATED IN THE CITY AND/OR OWNED BY THE CITY; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO." (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on November 14, 2011, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at such meeting, the following Council Members voted in favor thereof: Ronquillo, Gaghen, Pitman, Ruegamer, McCall, Ulledalen, Astle and Clark; voted against the same: Cimmino, McFadden; abstained from voting thereon: none; or were absent none.

WITNESS my hand officially this 14<sup>th</sup> day of November 2011.

(SEAL)



Cari Martin  
Cari Martin, City Clerk

RESOLUTION NO. 11-19125

A RESOLUTION DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, TO CREATE A SPECIAL DISTRICT AS AUTHORIZED BY TITLE 7, CHAPTER 11, PART 10 MCA, MORE SPECIFICALLY A CITY-WIDE PARK DISTRICT ENTITLED "CITY OF BILLINGS PARK DISTRICT NUMBER 1," TO ESTABLISH AN ANNUAL ASSESSMENT AND PROVIDE FOR A METHOD OF ASSESSMENTS FOR THE PURPOSES OF FUNDING AND/OR FINANCING COSTS ASSOCIATED WITH PROVIDING SERVICES INCLUDING BUT NOT LIMITED TO: (1) MAINTENANCE, REPAIR, REPLACEMENT, UPKEEP, INSTALLATION, IMPROVEMENT, OPERATIONAL ENHANCEMENT, CONSTRUCTION, RECONSTRUCTION, ACQUISITION OF LAND AND/OR (2) IMPLEMENTATION OF MEASURES REQUIRED TO MAINTAIN PUBLIC HEALTH AND SAFETY OR MEET LEGAL OR REGULATORY REQUIREMENTS, AND/OR (3) PURCHASING, REPLACING, AND/OR MAINTAINING EQUIPMENT, TOOLS OR VEHICLES USED TO CARRY OUT THE FUNCTIONS DESCRIBED HEREIN, AND/OR (4) ANY OTHER FUNCTIONS, LABOR, SUPPLIES AND/OR MATERIALS NECESSARY FOR MANAGEMENT AND MAINTENANCE OF CITY-OWNED FACILITIES, LANDS AND EQUIPMENT UNDER THE RESPONSIBILITY AND CARE OF THE CITY OF BILLINGS PARKS AND RECREATION DEPARTMENT INCLUDING BUT NOT LIMITED TO: PUBLIC PARKS AND PARK AREAS (AS DESCRIBED IN THE MASTER PARKS AND RECREATION PLAN FOR THE GREATER BILLINGS AREA), RECREATION FACILITIES, TRAILS, OPEN SPACE (AS DEFINED IN THE CITY OF BILLINGS URBAN AREA OPEN SPACE PLAN), URBAN FOREST, MEDIANS, BOULEVARDS, PATHWAYS, SIDEWALKS, PUBLIC EASEMENTS AND OTHER FACILITIES LOCATED IN THE CITY AND/OR OWNED BY THE CITY; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

CITY OF BILLINGS  
Yellowstone County, Montana

CITY OF BILLINGS PARK DISTRICT NUMBER 1

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

WHEREAS, the City of Billings, Montana (the "City") is a municipality duly organized and existing under and by virtue of the Constitution and laws of the State of Montana;

WHEREAS, the City Council of the City (the "Council") is authorized by Montana Code Annotated ("MCA"), Part 7, Chapter 11, Part 10, to create special districts to serve the inhabitants of the special district; and

WHEREAS, the Council has made the determination to initiate the creation of a special district;

WHEREAS, in accordance with MCA Section 7-11-1007, the Council has conducted a public hearing on November 14, 2011, prior to the passage of this Resolution of Intention to create a special district in the form of a City-wide park district;

NOW, THEREFORE IT IS HEREBY FOUND, DETERMINED AND ORDERED, as follows:

**Section 1. Proposed Services; Intention To Create District.** It is the intention of the Council to create and establish in the City a special district pursuant to MCA, Title 7, Chapter 11, Part 10, specifically a park district called the City of Billings Park District Number 1 (the "District") for the benefit of inhabitants of the District. The City proposes to establish the District for the purpose of providing services including but not limited to: (a) maintenance, repair, replacement, upkeep, installation, improvement, operational enhancement, construction, reconstruction, acquisition of land and/or (b) implementation of measures required to maintain public health and safety or meet legal or regulatory requirements; and/or (c) purchasing, replacing, and/or maintaining equipment, tools or vehicles used to carry out the functions described herein and/or (d) any other functions, labor, supplies and/or materials necessary for management and maintenance of City-owned facilities, lands and equipment under the responsibility and care of the City of Billings Parks and Recreation Department including but not limited to: public parks and park areas (as described in the Master Parks and Recreation Plan for the Greater Billings Area) recreation facilities, trails, open space (as defined in the City of Billings Urban Area Open Space Plan), urban forest, medians, boulevards, pathways, sidewalks, public easements, and other facilities which are located in the city limits and/or are owned by the City. The Council hereby determines that it is necessary to create the District in order to properly accomplish the purposes set forth in this Section 1.

**Section 2. Number of District.** The District, if created and established, shall be known and designated as the "City of Billings Park District Number 1."

**Section 3. Boundaries of District.** It is hereby declared to be the judgment of the City that the boundaries of the District are the current incorporated limits of the City as well as all properties later annexed thereto. In accordance with MCA Section 7-11-1006 (1) and (3), the current boundaries of the City are depicted on a map attached hereto as Exhibit "A" (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. In accordance with MCA Section 7-11-1006 (2) and (3), the Council will cause a legal description of the boundaries of the proposed District to be prepared in consultation with a professional land surveyor prior to the approval of the District.

**Section 4. Benefited Property.** It is hereby declared to be the judgment of the Council that the territory included within the boundaries of the District described in Section 3 of this Resolution and as shown on Exhibits "A" and "B" is hereby declared to be the territory which will benefit and be benefited by the maintenance of the existing improvements and future public area improvements proposed for the District and will be assessed for a portion of the costs of performing such services as described in Section 1 of this Resolution.

**Section 5. General Character of the Items to be Maintained/Improved.** The general character of the items to be maintained/improved includes but is not limited to: native and turf grasses, trees, shrubs, and other vegetation, lighting, restrooms, irrigation systems, irrigation system water services, drainage ways, groundwater drains, storm water facilities, weed and pest control, equipment, tools, vehicles, fences, recreation facilities and equipment, parking lots, support facilities, signage, trails, pathways, sidewalks, public amenities, public easements and/or other public improvements maintained and/or under the responsibility of the City Parks and Recreation Department.

**Section 6. Method of Governing the District.** The District shall be governed by the Mayor and Council pursuant to the general respective exercise of their duties, responsibilities and powers as respectively set forth in the City charter and the MCA.

**Section 7. Assessment Methods: Property To Be Assessed.** All eligible properties located in the District are to be assessed for a portion of the cost of services listed in Section 1. In accordance with MCA Section 7-11-1024, the costs to provide services in the District shall be assessed against each lot or parcel of land, including the improvements on the lot or parcel, for that part of the cost of the District that its taxable valuation bears to the total taxable valuation of the property in the District. Taxable value shall be determined by the Montana Department of Revenue. Such taxable valuation shall be based upon the last-completed assessment roll for state, city, county and school district taxes.

**Section 8. Estimated Cost of District and Method of Financing.** In fiscal year 2013, the Council estimates the cost of the services to be performed in the District to total \$2,000,000. In accordance with MCA Sections 7-11-1021 and 7-11-1025, prior to annually levying assessments necessary to carry out the services to be performed in the District, each year the City Administrator shall prepare, or cause to be prepared, a work plan, budget and estimate of expenses for the services to be performed in the District and the Council shall specify the method of assessment for the lots and parcels of land located in the District, provide for any methods of financing such services, publish notice, and conduct a public hearing on such assessments before finally adopting a resolution levying assessments against the lots and parcels of land in the District. The Council annually must adopt a resolution establishing the annual assessment for the District. The proposed 2013 assessment for the District is estimated to be 12.39 mills of each parcels taxable value. A \$200,000 home would pay approximately \$32.00 and a \$100,000 home would pay approximately \$16.00 annually for the District.

**Section 9. Payment of Assessments.** The special assessments for the costs of providing services in the District shall be payable as provided in MCA Sections 7-11-1024 through 7-11-1028.

**Section 10. List of Properties Available.** In accordance with MCA Section 7-11-1007(3)(b), the Council hereby declares the official list of those properties subject to potential assessment, fees or taxation under the creation of the District is on file and available for public inspection in the City Clerk's Office, and further that such list is the last completed county assessment roll of the lots or parcels of land including improvements thereon, within the boundaries of the District provided in Section 3. The list may not be distributed or sold for use as a mailing list in accordance with MCA Section 2-6-109.



**Section 11. Public Hearing; Protests.** MCA Section 7-11-1008 provides for a 30-day period from the date of the first publication of the notice of passage and approval of this Resolution of Intention to make written protest against the proposed program or improvements. At any time prior to 5:00 p.m., Mountain Time, on December 15, 2011, any owner of real property within the District subject to assessment and taxation for the costs of the services proposed hereunder may make and file with the City Clerk written protest against the creation of the District. At its regular meeting on December 19, 2011, at 6:30 p.m., Mountain Time in the City Council Chambers, 220 North 27<sup>th</sup> Street, Billings, Montana, the Council will proceed to hear and determine all such protests so made and filed.

**Section 12. Notice of Passage of Resolution of Intention.** The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this Resolution in the *Billings Gazette*, a newspaper of general circulation in Yellowstone County on November 15, 2011, and November 22, 2011, in the form and manner prescribed by MCA Section 7-1-4127, and to mail or cause to be mailed a copy of such notice to every person, firm, corporation or the agent of such person, firm or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, city, county and school district taxes, at his or her last-known address, on or before the same day such notice is first published, in the form and manner prescribed by MCA Section 7-1-4129. Such notice shall conform to the requirements of MCA Section 7-11-1007(3)(c) and shall be in substantially the same form as Exhibit "C" attached hereto.

**PASSED AND ADOPTED** by the City Council of the City of Billings, Montana, this 14th day of November, 2011.

CITY OF BILLINGS

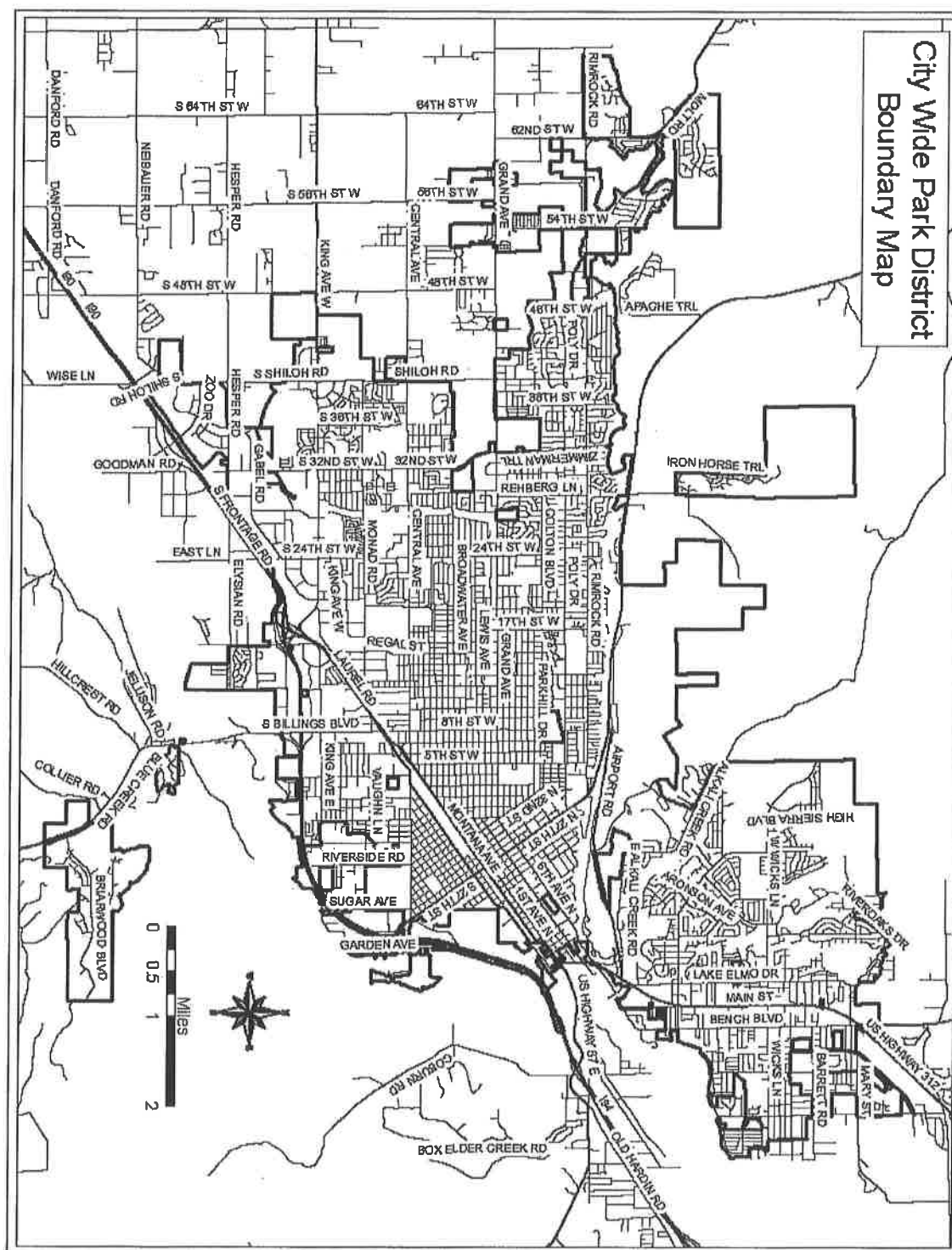
BY: Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk

(S E A L)



City Wide Park District  
Boundary Map

## **EXHIBIT "B"**

The Park District boundary is described as the incorporated boundary of the City of Billings in accordance with City Council municipal annexation resolutions and municipal annexation ordinances filed in the City of Billings City Clerk's public records as well as all properties later annexed thereto. Parcels within the boundary are the current parcels subject to the City of Billings property taxes as shown in the tax rolls of the Montana Department of Revenue.

## **EXHIBIT "C"**

### **NOTICE OF PUBLIC HEARING**

The City Council of the City of Billings, Montana (the "Council"), will hold a public hearing and take action on a Resolution of Creation (the "Resolution") to create a City-Wide Park District designated as the "City of Billings Park District Number 1" (the "District").

The Council will hold a public hearing on the Resolution to create the District on Monday, December 19, 2011, at 6:30 p.m. in the City Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, MT. Copies of the Resolution and more information are available at [http://www.prpl.info/parks/park\\_district.html](http://www.prpl.info/parks/park_district.html) or at the City Clerk's Office. The Resolution describes the District's nature, boundaries, location, the improvements or maintenance that can be funded, and other particulars.

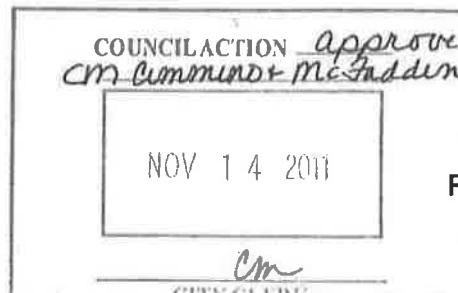
The proposed 2013 assessment for the District is estimated to be 12.39 mills of each parcels taxable value. A \$200,000 home would pay approximately \$32.00 and a \$100,000 home would pay approximately \$16.00 annually for the District.

Written protests against the District must be signed by all property owners and delivered to the City Clerk, 210 North 27<sup>th</sup> Street, Billings, MT 59101, by December 16, 2011, at 5:00 p.m. Please include your name and tax code (upper left hand corner of tax bill) and address of the property you own on any written protest.

For further information, contact Mike Whitaker at 406-657-8369.

*Billings Gazette*  
Publish:

November 16, 2011  
November 23, 2011



Res # 11-19125  
Regular 3.

**Regular City Council Meeting**

**Meeting Date:** 11/14/2011

**TITLE:** Public Hearing For The Intent Of Creating A City-wide Park District

**PRESENTED BY:** Mike Whitaker

**Department:** Parks/Rec/Public Lands

**PROBLEM/ISSUE STATEMENT**

Due to lack of resources, the Parks, Recreation and Public Lands Department (PRPL) has closed or removed several facilities (gazebo and wading pool at South Park, tennis courts at Castle Rock Park, playground equipment at Pioneer Park, etc.) in parks over the past three years. Park facilities will continue to close unless additional revenue is raised. With little to no increases in the department operations and maintenance budget for the past 10 years, maintenance in the general fund parks (Pioneer Park, South Park, North Park, etc.) is continuing to decrease. It was calculated in 2010 that PRPL has over \$9 million in deferred maintenance in parks city-wide.

At the June 20, 2011 work session, the Parks, Recreation and Cemetery (PRC) board recommended that City Council establish a park district and an annual assessment to fund a wide variety of park improvements and maintenance. That recommendation was contingent on completing the Library bond election. Creating a district is a two step process, this one being the first. If Council approves the Resolution of Intent, all Billings property owners will receive notice of it and have 30 days to protest the district's creation. The second step is for the City Council to conduct another public hearing (12/19) and consider adopting a resolution that will actually create the district.

The PRC board and the Billings Chamber of Commerce/CVB recommend that three years after the creation of a city-wide park district the Parks, Recreation and Public Lands Department submit a plan to City Council on how to dissolve/reduce existing park maintenance districts that are not funding unique enhancements. The Board and Chamber also recommend that funds generated from the park district should not supplant existing parks funds received from the city's general fund.

The Parks, Recreation and Public Lands Department and the PRC Board developed a three-year spending plan (see attached) on how to start addressing the deferred maintenance and improve maintenance. The PRC Board recommends that property owners be assessed \$2 million annually. A person with a property valued at \$100,000 would pay an estimated \$16 annual assessment. If the district is approved December 19, 2011 the department would start receiving funds December, 2012.

**ALTERNATIVES ANALYZED**

Staff and the City of Billings Park, Recreation and Cemetery Board have analyzed the following alternatives.

1) Approve the Resolution of Intent to Create a city-wide park district and set a public hearing for December 19, 2011.

2.) Do not approve the Resolution of Intent to Create a city-wide park district. Maintenance will not improve and facilities that deteriorate will continue to be closed or removed from the parks.

**FINANCIAL IMPACT**

The proposed fiscal year 2013 assessment for the district is estimated to be 12.39 mills. A \$200,000 home owner would pay approximately \$32.00 and a \$100,000 home owner would pay approximately \$16.00 annually. The goal is for the assessments to produce \$2 million per year.

**RECOMMENDATION**

Staff and the Parks, Recreation and Cemetery Board recommend that Council approve the Resolution of Intent to Create a city-wide park district and set a public hearing date for December 19, 2011.

**APPROVED BY CITY ADMINISTRATOR**

---

**Attachments**

Spending Plan

Resolution of Intent

# What does a \$100,000 homeowner get for \$16 a year?

## (First year of assessments)

• <b><u>One time park improvements</u></b>	
— Replace existing water slides at Rose Park	\$300,000
— Replace South Park playground equipment	\$180,000
— Rebuild Castle Rock tennis courts	\$275,000
— Replace batting cage equipment	\$50,000
— Emergency and general maintenance (roofs, pumps, irrigation systems, etc.)	\$248,500
— 9 three-season restrooms (renovations/replacements)	\$450,000
	<b>Sub Total</b>
	<b><u>\$1,503,500</u></b>
• <b><u>Ongoing improvements</u></b>	
— Trail maintenance (Includes Volunteer Coordinator)	\$94,000
— Improved park maintenance (Includes 2 maintenance staff)	\$90,000
— Keep park restrooms open 3 months longer a year (three seasonal employees)	\$15,000
— Weed management in general fund parks	\$245,000
— Annual picnic table replacement (75 tables)	<u>\$52,500</u>
	<b>Grand Total</b>
	<b><u>\$2,000,000</u></b>

# What does a \$100,000 homeowner get for \$16 a year?

## (Second year of assessments)

• <u>One-time park improvements</u>	
– South Park Sprayground	\$500,000
– Rebuild Pioneer Park tennis courts	\$355,000
– Amend Park water service upgrades	\$250,000
– Upgrade playground fall protection (36 sites)	\$360,000
– Emergency and general maintenance (roofs, pumps, irrigation systems, etc.)	\$38,500
	<hr/>
<b>Sub Total</b>	<b>\$1,503,500</b>
• <u>Ongoing improvements</u>	
– Trail maintenance (Includes Volunteer Coordinator)	\$94,000
– Improved park maintenance (Includes 2 maintenance staff)	\$90,000
– Keep park restrooms open 3 months longer a year (three seasonal employees)	\$15,000
– Weed management in general fund parks	\$245,000
– Annual picnic table replacement (75 tables)	<u>\$52,500</u>
<b>Grand Total</b>	<b>\$2,000,000</b>



# What does a \$100,000 homeowner get for \$16 a year?

## (Third year of assessments)

- **One-time improvements**

– A large event shelter at Pioneer Park	\$200,000
– Cemetery Restroom	\$50,000
– Emergency and general maintenance (roofs, pumps, irrigation systems, etc.)	\$53,500
– Stewart Park infrastructure improvements (roads, parking, etc.)	\$1,200,000
	<b>Sub Total</b>
	<b><u>\$1,503,500</u></b>

- **Ongoing improvements**

– Trail maintenance (Includes Volunteer Coordinator)	\$94,000
– Improved park maintenance (Includes 2 maintenance staff)	\$90,000
– Keep park restrooms open 3 months longer a year (three seasonal employees)	\$15,000
– Weed management in general fund parks	\$245,000
– Annual picnic table replacement (75 tables)	<u>\$52,500</u>
	<b>Grand Total</b>
	<b><u>\$2,000,000</u></b>

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**November 14, 2011**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Thomas Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Cimmino gave the invocation.

### **ELECTION OF DEPUTY MAYOR (simple majority of the whole Council required)**

Attorney Brent Brooks provided the following five points concerning the election of the Deputy Mayor.

- Election conducted during the next regular meeting after a General Election.
- Deputy Mayor to serve a 2-year term under city ordinance.
- Vote conducted by a roll call voice vote per BMCC 2-204 and MCA 7-5-4121(2).
- Simple majority of entire council required to elect deputy mayor (at least 6 votes) per MCA 7-5-4121(1).
- If Mayor is unable to complete term of office, the Deputy Mayor shall serve unexpired term of Mayor per City Charter 3.09(D).

Councilmember Astle nominated Councilmember Ed Ulledalen, seconded by Councilmember Clark. Councilmember Ruegamer asked that anyone who wanted to be Deputy Mayor explain why. Councilmember Cimmino nominated Councilmember Denis Pitman, seconded by Councilmember Ronquillo. Councilmember Ulledalen said the one defined role was to function in the event of the inability of the Mayor to function and not something to further a future political campaign. He said the Deputy Mayor was someone the Council chose to represent them. He said an undefined role was the Deputy Mayor would speak for the Council in times of turmoil or difficulty. He said they had seen that in the not too distant past when problems arose and someone had to speak in somewhat of a unified voice. He said he would represent the Council in the best way he could. Councilmember Pitman said the role of Deputy Mayor was to assist the Mayor. He said the current Mayor was attending so many functions, and it was hard to be at different places at the same time. He said he attended a lot of functions and would like to continue representing the Council and the Mayor's Office in public. Councilmember Pitman said he thought Councilmember Ulledalen had done a great job. He said Councilmember Ulledalen was in his final term on the Council, but he felt it was time to allow someone else to fill those shoes. He said Councilmember Ulledalen also served on the Policy Coordinating Committee, and they were loading him up with quite a bit of responsibility so he would be happy to take some of the responsibility and be a representative for the people of Billings. On a roll call vote, Councilmembers Ronquillo, Pitman, Cimmino, McCall, and Mayor Hanel voted for Councilmember Pitman; and Councilmembers Gaghen, McFadden, Ruegamer, Ulledalen, Astle, and Clark voted for Councilmember Ulledalen. Councilmember McCall said she felt Councilmember

Ulledalen had done a tremendous job, and the main reason she would like to see a change was because other people on the Council should have an opportunity to be in leadership positions. She told Councilmember Ulledalen he had been an excellent City Councilmember and was in a very good position to mentor someone in his last two years because he had so much knowledge. Councilmember Ulledalen was elected on a 6 to 5 vote.

Councilmember Cimmino offered a City Council initiative. She said in light of the fact they just held the motion to nominate the Deputy Mayor, she would like to spearhead a pilot program for anyone on the governing body to serve as Mayor for the day. She said they could start the program next year with the provision that they understood all of the responsibilities Mayor Hanel faced on a daily basis. She said she thought it would be a wonderful learning experience. Mayor Hanel said he respected it and thought it deserved comments and conversation and asked if Council would prefer to act on it at that time or wait until the Initiatives portion of the agenda. After a brief discussion, it was decided to wait until the Initiatives portion of the agenda.

**ROLL CALL:** Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, Astle, and Clark.

**MINUTES:** October 24, 2011 – Councilmember Cimmino moved for approval of the minutes as submitted, seconded by Councilmember Astle. On a voice vote, the motion was unanimously approved.

**COURTESIES:**

- Mayor Hanel introduced incoming Councilmembers Ken Crouch and Becky Bird who were in attendance.
- Mayor Hanel recognized Public Works Director Dave Mumford and his department for the recent completion of a portion of Rimrock Road and for the improvements of the intersections on 32<sup>nd</sup> Street West.
- Councilmember Cimmino extended congratulations to Councilmembers Pitman and McCall on their re-election.

**PROCLAMATIONS:**

- Councilmember McFadden announced that the City's winter parade would be held downtown on Friday, November 25.

**ADMINISTRATOR REPORTS - TINA VOLEK**

Ms. Volek referenced the following items:

- Item B1, Bid Award for Upgrades to the Airports West End Office Building and Item D, Approval of 5-Year Lease with TSA and Supplemental Agreement on the 2008 Lease. Ms. Volek advised the Airport was asking that action on both items be delayed until November 28, 2011.
- Item 3, Resolution of Intent to Create a City-Wide Park District. Ms. Volek advised as of 4 p.m. that day Mayor and Council had received seven e-mails

protesting the district and one e-mail in favor of the district. She said Councilmember Pitman had received two e-mails protesting the district that he forwarded to staff. She said copies of the e-mails were filed in the ex-parte notebook for the public's inspection. Councilmember Gaghen said she had received a copy of a letter from the Board of Realtors. She said she received it with her Friday packet. Several of the Councilmembers said they did not receive the letter. It was agreed the letter would be read with the agenda item.

**PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items: #1 ONLY.**

**Speaker sign-in required.** (Comments offered here are limited to one (1) minute. 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. For Items not on this agenda, public comment will be taken at the end of the agenda.)

The public comment period was opened. There were no speakers, and the public comment period was closed.

**1. CONSENT AGENDA**

**A. Boards and Commissions**

**1. Approval** of correction to term expiration date from 12/31/11 to 12/31/12 for Curtis Haney on the Exchange City Golf Corporation Board.

**B. Bid Awards:**

**1. Upgrades for the Airport's West End Office Building Project.** (Opened 10/25/2011) Recommend High Tech Construction & Properties, Inc.; \$45,400.

**2. W.O. 09-28, Water Treatment Facility Back-Up Power, Phase II.** (Opened 10/25/2011) Recommend delay of award until 11/28/2011.

**3. Seven (7) 2012 Truck Cabs and Chassis with Refuse Compactor Bodies.** (Opened 10/25/2011) Recommend Schedule I: 3 Autocar Truck and Wayne Curtender Body (Side Load) from Jack's; \$718,944; Schedule II: 2 Pete Truck and New Way Packer Body (Front Load) from Montana Peterbuilt; \$320,963; and Schedule III: 2 Freightliner Truck and Advantage Roll-Off Hoist from I-State; \$305,652.

**4. Tracked Excavator for Distribution and Collection Division, Public Works Department.** (Opened 10/25/2011) Recommend Tractor & Equipment; \$62,744.87.

**5. Two (2) 8-Yard Dump Trucks for Distribution and Collection Division, Public Works Department.** (Opened 10/25/2011) Recommend Motor Power Equipment Company; \$225,368.

**6. Purchase of five (5) city vehicles in the car and light truck class.** (Opened 11/1/11) Schedule I: Recommend Menholt Chevrolet without trade - \$71,396.80; Schedule II: Recommend Fremont Motors with trade - \$30,352.82.

**C. Contract** with Kompan, Inc. for design, procurement, and installation of playground equipment and fall protection materials for Yellowstone Family Park funded through SID 1392. No cost to City.

**D. Approval** of 5-year Building Lease with Transportation Security Administration for term of 12/1/2011-11/30/2016, total revenue - \$682,830.60; and Supplemental Agreement on the 2008 Lease restating term of 3/1/08-11/30/11.

**E. Approval** of the Yellowstone County All Risk Mutual Aid Agreement.

**F. Approval** of Downtown Revolving Loan Committee's recommendation of loan to Steven and Joni Harman for renovation of building located at 2511-2613 Minnesota Avenue; up to \$100,000.

**G. Approval** of Downtown Revolving Loan Committee's recommendation of loan to DB Squared for renovation of 2nd floor of Yellowstone Garage Building located at 2303 Montana Avenue; up to \$250,000.

**H. Resolution of Intent #11-19123** to de-annex Lots 26, 27, the west half of Lot 28, Lot 38, and Lot 40 of the Sunny Cove Fruit Farms from the Billings City Limits and set a public hearing for December 12, 2011.

**I. Second/Final Reading Ordinance #11-5545** for a permanent ordinance defining medical marijuana "storefront" businesses and prohibiting the operation of medical marijuana storefronts in the City of Billings.

**J. Amended Plat of Harvest Subdivision, 4th Filing, Block 40, Amended Lots 3 and 4**, generally located west of 32nd Street West off of King Avenue West.

**K. Final Plat Approval** of Montana Sapphire Subdivision, Block 1, Amended Lots 8 & 9A-5.

**L. Bills and Payroll:**

- 1.** October 11, 2011
- 2.** October 17, 2011
- 3.** October 24, 2011
- 4.** July 1, 2011 - September 30, 2011 (Municipal Court)

Councilmember Astle separated Consent Agenda Items B1, B3, and D.  
Councilmember Cimmino separated Consent Agenda Items L2 and L3. Councilmember Ronquillo moved for approval the Consent Agenda with the exception of Items B1, B3,

D, L2, and L3, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember Astle referenced Schedule I of Item B3 and said he received a complaint there was a lower bid that did not quite meet the specifications. Public Works Director Dave Mumford advised there was a low bid that did not meet the specs of the arm weight, as well as other issues they had experienced in the past such as a low vision problem when turning and backing up. Mr. Mumford said they were going with vehicles they believed would operate more efficiently. Mayor Hanel also said the location of the air conditioning unit in the vehicle was a factor. Councilmember Astle moved for approval of Item B3, seconded by Councilmember Clark. On a voice vote, the motion was unanimously approved.

Councilmember Astle moved to delay Items B1 and D until the meeting of November 28, 2011, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.

Councilmember Cimmino referenced Item L2, Invoice #749792, and Item L3, Invoice #749978, and said she would be abstaining due to her employment. Councilmember Pitman moved for approval of Items L2 and L3, seconded by Councilmember Ronquillo. On a voice vote, the motion was approved 10 to 0.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION #11-19124 creating SILMD 310, Bench Boulevard from Main Street to approximately 1,000 feet east of the intersection. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Public Works Director Dave Mumford said the streetlight maintenance district was for the new Bench Connector across MetraPark. He said the only property being assessed was Yellowstone County, and there was no protest. Councilmember Clark asked if it was county or city property. Mr. Mumford said once the project was completed, the State would be turning it over to the City for ownership.

The public hearing was opened. There were no speakers, and the public hearing was closed. Councilmember Cimmino moved for approval of the resolution creating SILMD 310, seconded by Councilmember Pitman. On a voice vote, the motion was unanimously approved.

**3. PUBLIC HEARING AND RESOLUTION OF INTENT #11-19125 to create a city-wide park district establishing an annual assessment to provide funding for a wide variety of park improvements and maintenance; and setting a second public hearing for the creation of the district for December 19, 2011. Staff and the Parks, Recreation and Cemetery Board recommend approval. (Action: approval or disapproval of staff and Parks, Recreation and Cemetery Board recommendation.)** Parks Director Mike Whitaker advised the Parks and Recreation Board had held five special meetings to discuss how to fund the deferred maintenance, and they had presented to the Council on two occasions. Mr. Whitaker recognized the following board members who were in attendance: Cathy Grott, Margy Bonner, Tom Iverson, Darwin George, Rick DeVore, and Rachael Cox.

Mr. DeVore said the goal that evening was to provide information on the problems in the parks and what they believed was a very strong solution towards repairing and maintaining the parks in the future. Mr. DeVore said the maintenance of the parks, skatepark, baseball stadium, Par 3, and the Senior Center was all done by 11 full-time employees and two supervisors. He said, in comparison, the City of Great Falls had half the park land of Billings and had the same number of full-time people maintaining its parks as Billings. Mr. DeVore began his PowerPoint presentation showing 2007 survey results of the use of the city's parks. He said according to the survey, the most used parks were Amend Park, Pioneer Park, Rose Park, Riverfront Park, and Stewart Park and said they were all maintained only through the General Fund. Mr. DeVore showed information provided by the Board of Realtors on the value of the parks and said property values were higher in areas with parks across the street or with an adjacent green belt. He said a developed park reduced storm water run-off issues, attracted business, prevented crime, and promoted an active lifestyle for all ages. Mr. DeVore said the 2009 Parks and Recreation Needs Assessment indicated that 97% of the households in Billings believed that well-maintained parks added to the quality of life and community. He said 83% of the households believed that Parks and Recreation was an essential service in the community; 54% felt that Parks and Recreation needed more funding to do a better job serving the community, 25% did not feel it needed more, and 21% did not know. Mr. DeVore said the last mill levy passed for parks was in 2002. He said the parks were supported 61% from the General Fund, 24% from fees and charges for the recreation programs, and 15% from park maintenance districts. Mr. DeVore said they could not adequately fund Parks and Recreation with the monies received from the General Fund, therefore, over time they had accumulated \$9 million worth of deferred maintenance. He said the maintenance levels continued to decrease and there was no present mechanism to fund any major maintenance or capital projects in the parks system; so as a result they had to remove the wading pool from South Park because of new swimming pool regulations and deteriorating conditions, the South Park gazebo was torn down because of safety issues, and the Castle Rock tennis courts had to be closed due to a large crack in the playing surface. He said in Pioneer Park the merry-go-round had to be removed because it had been repaired so many times it was no longer safe, a rocket ship had to be removed, a slide would soon be removed because the metal had fatigued and developed holes in the middle which was nothing that could be fixed, and the legs of a swing set arch had rusted away and broken from the foundation. Mr. DeVore said if the water slide at Rose Park was not fixed within the next couple of years, it would have to be closed because of stress and fatigue in the fiberglass. Mr. DeVore said 50% of parks restrooms did not meet current ADA requirements, and he showed pictures of restrooms in need of repair and maintenance.

Mr. DeVore said the solution the Parks Board and Parks staff came up with was a city-wide park maintenance assessment district. He said they would like to look at raising \$2 million for the first three years of the assessment based on property values. He said they looked at a 3-year spending plan and after that, the plan would be updated on a year-by-year basis and approved by Council. He said they wanted to begin knocking down the \$9 million worth of deferred maintenance the first three years and after that, the dollar amount could be changed at the Council's discretion. He said they

put together a priority matrix based on requirements and priorities. He said in the first year they would look at the water slide in Rose Park, playground equipment in South Park, tennis courts at Castle Rock, replacement of the batting cage at Stewart Park, general maintenance in the playground equipment at Pioneer Park, and renovation of nine restrooms. He said ongoing improvements would include a coordinator and money to keep the trails maintained, improved park maintenance with the addition of two staff people, keeping restrooms open for an additional three months a year, weed management, and picnic table replacement. He said in the second year they would add a spray ground at South Park, rebuild the Pioneer Park tennis courts, do water service upgrades at Amend Park, and upgrades to playground fall protection at 36 sites to meet ADA and Consumer Product Safety Commission standards. He said in the third year they would like a large event shelter at Pioneer Park, public restroom at the cemetery, emergency and general maintenance, and Stewart Park infrastructure improvements.

Councilmember Astle asked if the batting cage at Stewart Park and the slides at Rose Park made money. Mr. Whitaker advised on a good year they made roughly \$35,000 at the batting cage and \$40,000 to \$45,000 at the water slides. Councilmember Astle asked if the two facilities would need additional help if the revenue was kept instead of putting it into the regular park fund. Mr. Whitaker said both facilities could be self-funded if they could keep the revenue.

Mr. DeVore continued his presentation with discussion of park maintenance districts. He said they would ask the Parks Board to study and provide to Council a plan within a 3-year period on how to dissolve or reduce the current park maintenance districts. He said their first intent and goal was to come up with a plan to fund the deferred maintenance. He said he hoped to have Council move forward with the intent to create the district that evening and if that happened a letter would be sent out on November 16 to all property owners within the district who would have 30 days in which to respond. He said if 50%, plus one vote was received during the protest period against the initiative, the proposal would automatically fail. He said if that did not happen, on December 19 another public hearing would be held and Council would have to take action to create the district.

Mayor Hanel asked who would receive and tabulate the responses. Mr. Whitaker advised the responses would be received by the City Clerk. He said the Parks and Recreation Department would assist her, if necessary.

Councilmember Cimmino referenced the 2007 survey and asked how many people actually responded. Mr. Whitaker advised it was considered a statistically valid survey, and they had approximately 16% return the survey. Councilmember Cimmino said the replacement cost of the gazebo in South Park was \$180,000 and the playground equipment would also cost another \$180,000. She asked who came up with the prices. Mr. Whitaker said Parks staff worked together to come up with a budget number. He said until it was actually bid, there was no exact number. He said they had several bad experiences trying to find replacement parts for the playground equipment at South Park and the fall protection was sand, so it needed major rehab.

Councilmember Gaghen asked for the life of playground equipment. Mr. Whitaker said older playground equipment lasted 15 to 20 years or more because it was made from steel. He said the new playground equipment was made out of plastic, and they were replacing slide parts in 8 to 10 years because the longevity was no longer there.



Councilmember Gaghen asked if it was no longer possible because of safety regulations to get the older, sturdier types of equipment. Mr. Whitaker said they could get metal slides, but metal held heat and it was easy for kids to get burned so they had turned to plastic.

Councilmember Pitman asked if a notice was ready to be mailed if the resolution of intent was passed that evening. Mr. Whitaker said a notice was ready, and he would give the mailing service the go-ahead if the resolution passed.

Councilmember Ulledalen pointed out because there were safety, ADA, and legal issues, equipment was not something that could be purchased at Wal-Mart and put in the parks. He said there were standards to maintain, which meant it would be much costlier than what could be installed at a home.

Councilmember McCall said she had talked with several people by phone about the protest process, and the question was how many times there really was a majority of homeowners who actually responded. Mr. Whitaker advised roughly 35 to 38 percent responded with the recent Yellowstone Family Park.

Councilmember Astle asked Mr. Whitaker to explain the fall protection material. Mr. Whitaker advised there were two good choices. He said one was an engineered wood fiber that was a clean wood chip that met ADA specs; and the second was a rubberized surface, which they currently had at Central Park and were looking at putting in at Yellowstone Family Park. He said the engineered wood fiber was initially cheaper, but required more ongoing maintenance. He said the rubberized surface was good for 25 to 30 years and required maintenance every two to three years.

Councilmember Pitman asked if the vote would be a one person, one vote or a weighted vote. City Attorney Brooks advised it was a weighted vote per property value. Attorney Brooks advised a written protest must be submitted in order for it to be considered a valid protest.

Councilmember McFadden asked if it would be possible for the Council to decide to do that type of vote only switch it around so that those who did not respond would be giving a 'no' vote instead of a 'yes' vote. Attorney Brooks said it would not be possible because they were restricted to what the statute provided.

Finance Director Pat Weber advised it was a weighted average and in proportion to the amount of the assessment. He said in order to come up with the percentage they would take all of the protests and the dollar amounts being assessed.

Councilmember Ulledalen asked about the homeowners in existing park maintenance districts already supporting neighborhood parks. He said they were talking about more expensive homes, so those people not wanting another park district assessment would get a higher valuation of their protest than others. Mr. Weber said that was correct. He said the value of a home would give more weight toward the vote. Mr. DeVore commented it was the General Fund maintenance parks that needed the help and not the parks getting the special treatment people were paying extra for.

Mayor Hanel asked Mr. Whitaker to explain how the parks ended up in the condition they were in and why it was now necessary to come forward to the citizens for the funding to bring them back to standard. Mr. Whitaker advised for the past ten years they had not had a major increase in their operation and maintenance except for gas and energy. He said other than through Supplemental Budget Requests for special projects, they had not been able to address major maintenance in the parks because

the funding had not been made available. Ms. Volek advised the City Council and the City of Billings could not vote to increase the city's general fund mill levy. She said it had been capped for many, many years at 74 mills and could be addressed only by a special election that amended the charter. She said 55% of the General Fund went immediately to Public Safety to supplement adopted mill levies and the remaining funds were split among the Administrative Departments, Municipal Court, and the Parks and Recreation Department. She said the Council had routinely adopted a 5-year Capital Improvements Plan for departments such as Airport and Public Works that had other sources of funding who could identify reasonable projects and could fund the projects on an organized basis. She said Parks and Recreation could come into the Capital Improvements Plan with a large number of projects and only one or two may be able to be funded. She said Parks and Recreation was competing for the limited amount of money remaining. Mr. Whitaker said another reason they were in the current situation was because they had an aging park infrastructure that was at least 40 to 50 years old. He said over the past several years they had added several miles of trails with no additional funds to help maintain them. He said as they brought on new park land through Park Maintenance Districts (PMD), they had not added more employees but instead taken employees from the General Fund parks and moved them to the PMD parks. Mayor Hanel asked if the funds would be used specifically for the purposes being described. Ms. Volek said they would.

Councilmember Ulledalen said previous Councils had not made Parks a priority so the parks had been allowed by deliberate decision to degrade and now they were faced with a mess that would take a lot of money to fix. He said former Councils had given raises to other departments and transferred money from Parks to other departments, and they needed to determine if it was their responsibility to fix. He asked if they needed to step up to the plate and fix it or come up with a new strategic initiative about parks to say the model they inherited was not the model they wanted to carry forward.

Councilmember Ruegamer asked how many acres of City park land they had that could not or would not be developed. Mr. Whitaker said currently they had roughly 2,700 acres, and 1,100 acres were developed. Councilmember Ruegamer asked how much they were worth. Mr. Whitaker said it was hard to say. He said there were parcels that no one wanted because they could not be developed or had no commercial value. He said they did have some parcels with commercial value. Councilmember Ruegamer asked if it would be right to say they had from \$0 to \$5,000 an acre value. Mr. Whitaker said it was very hypothetical. Councilmember Ruegamer asked how many acres of park land they had sold the last six years. Mr. Whitaker said they had sold one to one and a half acres.

Councilmember Ronquillo commented South Park had lost the wading pool and the gazebo mainly because the maintenance was never done. He said vandalism also contributed to the problem and cost a lot of money. He said if they wanted quality parks, they needed to step up to the plate and put money back into them.

Mr. DeVore finished his presentation with a recommendation to approve the resolution of intent to create a city-wide park district and set a public hearing for December 19, 2011, with the idea that the resolution would provide the Council and Councils to come the ultimate flexibility on an annual basis to increase or decrease the

dollar amount to provide the maintenance of the parks in the future. He said if they fixed the problem with no maintenance fund, they would end up with deferred maintenance again.

Councilmember Ulledalen said he wanted to make it clear the Council directed the Parks Board to prioritize the issues in the parks because they recognized there was a problem. He said the Parks Board came up with the matrix and priorities and Council asked them to look at all parts of town so the money would be spread around. He said they had held three or four meetings on it previously, and it was not a new issue.

Councilmember Gaghen said she had heard from a number of people that the timing and getting the information to the public was not terribly wise in light of the new library bond issue and receipt of tax statements. Mr. DeVore commented they first came to the Council on February 22. He said they had been to a work session, another Council session, and met with the Library Board. He said they graciously deferred to the Library Board because the Parks Board understood the need for a quality community and the need for a library. He said they felt they did not want to fight the library election but they already had their plan in place by the time they met with the Library Board. He said they also wanted to make sure the plan was brought back to the current council.

Councilmember Cimmino said she understood the dilemma but technically it was an entirely different process. She said the library initiative went to the vote of the people. Mr. DeVore said it was also going to the vote of the people. He said every property owner in the district would receive a letter. He said it was no different than sending out a ballot except they were saving money.

Councilmember McCall said she supported Mr. DeVore's statement. She said many people preferred it go to a vote of the people but once the valid protest process was explained they began to understand it. She said the article in the Gazette did not explain it very well. She said the key was communication.

Ms. Volek said since the issue of an election had been raised, she felt Council needed to be aware of the very unusual parameters of the district collection by election that were set out in the same statutes that authorized the protest period. She asked Attorney Brooks to explain. Attorney Brooks referenced MCA 7-11-1011 that said Council could submit the issue of the special district to election and likely pass a resolution. He said the statute also provided the ballot language and determined who could or could not vote. Attorney Brooks said he would forward the entire statute to the Council.

Councilmember Clark asked if the proposed process meant only property owners in the district could protest but if it was put to an actual ballot, people who did not own property or pay property taxes could vote. Ms. Volek said that was correct.

Councilmember Clark asked if there was a way to guarantee that the same percentage of General Funds would continue to go to Parks if the proposed district passed.

Councilmember Ulledalen said several months ago he had asked Ms. Volek for a presentation on projected budget deficits by department, and they still had not received it. Ms. Volek said she thought they had. Councilmember Ulledalen said what they received concerned him because there was a bold line between FY15 and FY16 which indicated a major shift. He said in FY16 and FY17 it indicated a 46% reduction in the General Fund transfer to the Parks Department. He said it was Ms. Volek's answer for

balancing the budget, but that was not what he had asked for. Councilmember Ulledalen asked how they would firewall the money to make sure it was not siphoned off into another department to meet pay raise demands or cost of employees if the parks district was passed. He said they needed to make a deal with the public that the money would go to exactly what it was intended for. Ms. Volek said as Council was aware they were looking at Priority Based Budgeting that would address some of the issues and help Council and staff to identify priority items. Mayor Hanel said in simple terms they were exploring future budgetary matters and with the changes in budgeting procedures with Priority Based Budgeting, at this time it was a question that could not be answered and there was no guarantee based on the decisions of the Council. Ms. Volek said that was correct.

Mayor Hanel read a letter, dated November 8, 2011, addressed to the City Council from the Billings Association of Realtors generally in support of the city-wide park district. The letter indicated they had the following concerns with implementation of the resolution.

- Double taxation of those within the 36 existing park maintenance districts and no clear path for dissolving those districts.
- Undeveloped park land that was either unusable or not planned for development that could be sold.
- The need to address the requirement for park land dedication or cash in lieu policy.

Councilmember Ulledalen commented that he felt it would be somewhat difficult to make the existing park maintenance districts just go away. He said they were contracts between the City and neighborhoods, master plans were done, and maintenance requirements and standards were set in place. He said he felt they would have an equity issue to those already supporting parks at a higher level than what the city-wide level would apply.

Councilmember McCall said she agreed but they needed to keep in mind that the 36 park maintenance districts were for neighborhood parks that had a different use than the community regional parks.

The public hearing was opened.

- **Joe White, Billings, MT**, said he supported the parks but was concerned about public health diseases in the parks. He said diseased birds were in Riverfront Park, and he would like to see flush toilets and running water in the parks. He said he felt the resolution of intent should be delayed. He said parks attracted drugs and vandalism, and they needed programs on how to prevent crime.
- **David Sellers, 3903 Palisades Park Drive, Billings, MT**, said he was a property owner. He said it was a tough situation for Parks and Recreation, the Council, and property owners. Mr. Sellers said there was fiscal irresponsibility and neglect going on as a result of poor management. He said as a taxpayer, the burden was becoming unbearable.

- **Al Koelzer, 2828 Westwood, Billings, MT**, said he was aware of the tremendous amount of activity in the city parks. He said they were popular places and were getting worn out. Mr. Koelzer said he was representing the Billings Park Foundation whose job was to raise money for parks and park improvements, and his message was not to count on them. He said their job was to raise money and in the last nine years they had raised \$400,000, but the last year they had raised none. He said they were building a better team, had ideas, and were working harder but they would be raising money for picnic tables, trees and shelters and not \$9 million. He encouraged Council to support the formation of the district.
- **Trish Rugg, 1021 Burlington, Billings, MT**, asked where the money already budgeted for Parks would go. She asked if in three years the assessment would go down after the improvements or continue to go up. She said she was confused about the 50% vote and opposed the method used to gather the votes. Mayor Hanel advised the existing funds currently sustained what they already had and the funds generated through the proposed district would be for future and existing maintenance. Attorney Brooks said in order to be counted as a protest, a protest letter needed to be submitted. He said state law dictated the process.
- **Jim Berg, 233 Wicks Lane, Billings, MT**, said during the current period of economic stress and stagnant home values, Billings voters approved bond issues for new technology at the high schools and a new library. Mr. Berg mentioned the recent increase in deferred street maintenance and asked what other unfunded liabilities were not yet disclosed and would be relying on homeowners to pay. Mr. Berg said they needed to choose carefully between wants and needs and said he opposed the voting process.
- **John Brewer, President of Billings Chamber of Commerce Convention and Visitors Bureau**, thanked Council for looking at the plan. He said a community with a vibrant and well-maintained park system would attract businesses and economic growth. Mr. Brewer said the Chamber had spent two months visiting with Park staff examining and understanding the proposal. He said they endorsed the implementation with the following.
  - City Council should have the authority to develop the district provided there was due process involving the public;
  - Funds generated from the district should not supplant existing parks funds received from the General Fund;
  - Parks and Recreation should submit a 3-year plan to Council showing annual proposed adjustments to the tax and how the revenue would be expended.
  - Following the third year, the open, due process involving the public would be required to renew the parks district for another three years;
  - The financial impact to homeowners in existing park maintenance districts must be resolved. The 3-year plan must show the dissolution of the 31 general (non-unique enhancement) park maintenance districts within the first three years.

Councilmember McFadden asked if business properties would be affected in addition to the homeowners. Ms. Volek advised it would affect every taxable property. Mr. Brewer said they felt the value and impact to future growth and opportunities significantly outweighed the assessment.

Councilmember Cimmino asked if Mr. Brewer was endorsing that the 1,200 businesses pay the assessment, as well. Mr. Brewer said that was correct. He said developing the park system and trails was a priority because it created a viable workforce, drew people to the community and grew business opportunities.

Councilmember McCall asked Mr. Brewer if he supported the formal protest process that had been established. Mr. Brewer said he did.

Councilmember McCall asked if he was indicating he would like to see a 3-year sunset or if it should be part of the plan to review at the end of three years and look forward to the next three. Mr. Brewer said it should be reviewed every three years and analyzed for effectiveness and opportunities for the next three years.

Councilmember Gaghen asked if it would be assessed each year and if Council would see a progress report each year. Mr. Whitaker advised every year during the budget cycle, staff would bring a recommendation to Council as it related to the district.

- **Marion Dozier, 3923 3<sup>rd</sup> Avenue South, Billings, MT**, said she was concerned because the park district assessment was open-ended; unlike the Library where she knew she would be paying \$17 for 20 years. Ms. Dozier talked about the increase in her streetlight district and street maintenance fees each year. She said she opposed the process and felt the public should vote by ballot like they did for the Library and the ball park.

- **Tom Zurbuchen, 1747 Wicks Lane, Billings, MT**, acknowledged that he knew the parks were in a horrible situation and needed lots of attention that equated to money. He said the city-wide district was not appropriate. He said the City Charter was capped and said raising taxes needed to be voted on by the people.

- **Larry Seekins, 380 Camel Place, Billings, MT**, said he would vote for a city-wide recreation district. He said he was impressed with the Board's presentation; however, he was very concerned about the process being proposed. He said it appeared to be a clever way to fund a city project without the support of the majority of the taxpayers. He said if they were going to do it right, they needed to do it with the vote of the people.

- **Connie Wardell, 1302 24<sup>th</sup> Street West, Billings, MT**, said she was pleased with the process because she owned properties that she rented out and managed rental properties for others. She said property owners would have the opportunity to object. She said it was a vote that included far more people and the people who would pay the tax.

- **Bill Cole, 3733 Tommy Armour Circle, Billings, MT**, said he wanted to support the proposition because they all knew the desperate need the parks were in. He said he wanted to make a suggestion to the recommendation proposed by the Parks Board and the Chamber. He said the recommendation called for a review after three years about what to do with the existing park

maintenance districts. He said his neighborhood currently had a park construction district assessment and a neighborhood park assessment, and this would be #3. He said he was concerned the Council would find out what it meant to have things hit the fan when people realized they had gone from two assessments to three, not to mention the Library and accelerated pace with which it was coming before the community. Mr. Cole recommended that they not wait three years but give authority in the resolution to the Parks Board to examine the issue no later than three years. He said if things became a real concern, they could come back and have the resolution modified if necessary. He said his concern was basic fairness.

- **Tom Iverson, Parks Board Chairman**, said the recommendation was coming from the Parks Board. He said they worked a long time and very hard on it. He publicly thanked the members of the Board and city staff for all the work. He said parks could not stay the way they were, and asked Council to pass the resolution of intent to get the conversation going to take the next step.

Councilmember Pitman said they have had the problem for a long time and asked how urgent it was. Mr. Iverson said they were at the point where they were going to discuss the priorities of the Parks Department and it needed to be decided. He said they could not keep putting it off and now was the time.

There were no other speakers, and the public hearing was closed.

Councilmember Cimmino moved that the City Council put the park maintenance district to the vote of the people for the June 2012 primary ballot, seconded by Councilmember Pitman. On a voice vote, the motion failed 8 to 3. Councilmembers Pitman, Cimmino, and McFadden voted in favor. Councilmembers Ronquillo, Gaghen, Ruegamer, McCall, Ulledalen, Astle, Clark and Mayor Hanel voted in opposition.

Councilmember Ulledalen asked staff how they even knew it was a priority. He said he was a skeptic on the priority based budgeting. He asked if it made sense to do the priority based budgeting first, decide if it were a priority, get a broader look at the General Fund, and then come back and possibly still have time to put it on the June ballot. Attorney Brooks said he could check with Bret Rutherford the following morning regarding the deadline to put something on the June ballot. Ms. Volek said it was normally 70 days out from ballot, so they would be backing up to the beginning of March. Councilmember Ulledalen asked how long the process would take. Ms. Volek said they would need to talk to whoever was selected for the priority based budgeting services. She said it would be a 3-year plan that would at least address the immediate deferred maintenance. She said the question was if they should defer maintenance now and close facilities because they were waiting to see how operations were going to change. Mayor Hanel said the priority based budgeting was very involved and not a simple process evaluating programs and budgetary matters related to the programs. He said after sitting through the training and knowing what he knew about deferred maintenance with the parks, he felt it would probably rise to the top of priority based budgeting.

Finance Director Pat Weber said he wanted to clarify that it would be like all other assessments, such as street maintenance, and every year Council would have the

opportunity to lower the fee. He said his intention was to put the money into its own fund so it was not mingled with the General Fund and anyone from the public could come in and see how it was being spent.

Councilmember Pitman asked how bound they were to valid protests. Mr. Weber advised anything over 50% and it was done. He said if it came in under 50%, Council still had the opportunity to vote no.

Councilmember Cimmino asked how many households and how many businesses made up the City of Billings jurisdiction that could actually write a letter in opposition or in favor. Mr. Whitaker said a little over 39,000 that would receive letters. Councilmember Cimmino asked for the current population of Billings. Mr. Whitaker said roughly around 103,000.

Councilmember Astle commented they should not be discussing it without a motion, so he made a motion to approve the resolution of intent to create a city-wide park district, seconded by Councilmember McCall.

City Attorney Brooks pointed out that if the Council chose the protest option and there was sufficient protest, no further action could be taken for 12 months.

Councilmember Ulledalen asked when the assessments would be collected. Ms. Volek advised the assessments would go on the taxes in November 2012.

Councilmember Ruegamer said the double taxation issue needed addressed. He said they needed to know how much it would cost if the other park maintenance districts were eliminated. Mr. Whitaker said currently they received \$772,000 through park maintenance assessments. Councilmember Ruegamer said he was concerned about the way they were going about the vote and he was not against putting it on the ballot. He said he would rather do a regular vote. He said the timing was bad, but asked when the timing would be good. He said they had 450 acres of parks that could be sold and they needed to try to sell them before asking for more tax money. He said he would not support it until they took positive steps to sell the 450 acres.

Councilmember McFadden said he would support a general vote of the people because he did not think the return of a negative letter would constitute a vote. He said he did not feel it was a democratic process.

Councilmember Astle asked if a ballot vote would be restricted to the property owners only. Attorney Brooks said an election of the people had to follow the statute, which allowed residents and/or owners of taxable real property to vote.

Councilmember Gaghen asked if a regular ballot vote sent in June would be based on one person, one vote and not be a weighted ballot. Attorney Brooks said as far as he could tell, that was correct but he would need to check.

Councilmember Pitman asked for the cost and staff time and asked if valid protests would become public documents. Attorney Brooks said the protests would become public documents. Mr. Whitaker said the direct cost of the mailing would be a little under \$10,000. He said the City Clerk and Parks staff felt they could work through it. Councilmember Cimmino asked where the \$10,000 would be coming from. Mr. Whitaker said it would come from the Parks Department. Councilmember Cimmino said the City Clerk worked by herself and decided this year in the budget process not to hire an assistant. She asked if help would come from the Parks support staff. Mr. Whitaker said that was correct.



Councilmember McCall said Mr. DeVore had indicated that if it were to go to a ballot initiative, it would be about four times the cost. Mr. Whitaker said \$40,000 was the number he had. Ms. Volek advised if it were on a general election ballot, it would be a proportionate amount.

Councilmember Cimmino said she would not be supporting the measure because every single member of the Council was voted in by the people. She referenced a postcard her son received in the mail as a registered voter before the election last week asking him to vote yes for the library endorsed by Mayor Hanel and unanimously supported by the Billings City Council. She said she also received her tax bill, and she paid \$4,000 per year which meant she had to budget \$334 a month in order to pay her taxes. Councilmember Cimmino said they lived in a democratic society where the vote of the people counted and they were not going that route, which was why she was voting against the particular motion.

On a roll call vote, the motion was approved 9 to 2. Councilmembers Ronquillo, Gaghen, Pitman, Ruegamer, McCall, Ulledalen, Astle, Clark and Mayor Hanel voted in favor. Councilmembers Cimmino and McFadden voted in opposition.

**PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign up on the clipboard located at the podium.*)

The public comment period was opened. There were no speakers, and the public comment period was closed.

### **COUNCIL INITIATIVES**

- **Cimmino:** Advised she would bring forward the Mayor for the day initiative at a later date.
- **Ruegamer:** Moved to receive Police reports in 90-day increments on the number of warnings and tickets issued for use of cell phones while driving, seconded by Councilmember Gaghen. He said the reason was because he was receiving complaints that they had gone back to where they were before. He said if that was so, the Police needed to be directed to start issuing tickets. On a voice vote, the motion was unanimously approved.
- **Ulledalen:** Moved to receive a presentation from Public Works regarding MDT construction issues with Shiloh Road and State Avenue, seconded by Councilmember Astle. He said the Public Works Director informed him of significant issues and he said MDT needed to explain to them what they looked at when designing a project and explain if it was an intelligent use of public money. On a voice vote, the motion was unanimously approved.
- **Astle:** Asked Ms. Volek to ask Mr. Mumford if there was anything that could be done with the intersection of 17<sup>th</sup> Street West and Grand Avenue. He said the intersection had become quite rutted and was dangerous.
- **Hanel:** Asked Ms. Volek if there had been any discussion about the project at 17<sup>th</sup> and Poly regarding sufficient parking, the size, and the occupancy expected in the building. He said he had been told there was a request for a parking

variance for additional on-street parking. Ms. Volek advised the variance was scheduled for the next agenda. Assistant City Administrator McCandless advised the owner of the property had requested a variance from 42 to 37 on-site parking spaces, not on-street parking. Councilmember Ulledalen said there was also a bit of an issue whether it would be two or three stories. He said in reality it was three stories and because of the design they used, they were able to get three stories within the 34 feet. He said that was another part of the whole process upfront that was loose in terms of how they handled the approval.

There was no further business, and the meeting adjourned at 9:32 p.m.



CITY OF BILLINGS

BY: Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk

STATE OF MONTANA )

ss.

AFFIDAVIT OF MAILING

County of Yellowstone )

MERLE PEIFFER, being duly sworn, deposes and says:

That he ~~she~~ is and was at all times hereinafter mentioned a citizen of the United States, over the age of 21 years, and a resident of the City of Billings, Yellowstone County, Montana and is the CEO OF MAILING TECHNIQUES, INC. ~~with the City of Billings,~~ (position)

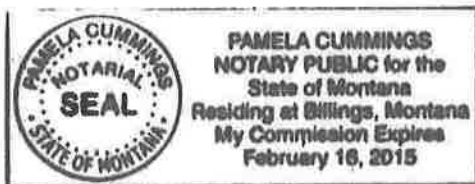
That on the date of 16<sup>th</sup> of Nov. 2011, he ~~she~~ mailed by United States mail, postage prepaid, a true copy of the attached document to every person, firm or corporation or the agent of such person, firm or corporation, having real property within this District or as described on the attached document, subject to State, County or School District taxes, at the last known address of such person, firm or corporation as stated in the attached address list.

That a copy of the attached document was mailed to each and every person, firm and corporation named at the addresses set forth by their respective names on the Tax Assessment Rolls for the City of Billings, County of Yellowstone, Montana.

[Signature]  
(Affiant)

SUBSCRIBED AND SWORN to before me this 6<sup>th</sup> day of December, 2011.

(SEAL)



Pamela Cummings  
Notary Public for the State of Montana  
Pamela Cummings  
Typed or Printed Name of Notary  
Residing in Billings, Montana  
My Commission Expires: Feb 16, 2015

Project: \_\_\_\_\_

**Postage Statement -- Standard Mail**

Transaction Number: 201132018513713 M1		CAPS Transaction Number:		Postage Statement Number: 124383502	
Mailing Group	Mailing Group ID 101535029			Mailing Job Number CITY OF BILLINGS	
	Preparer 3563-MT-MAILING TECHNICAL SERVICES			Origin PSW - Mailer Entered	
	Job Description				
Mailer	Permit Holder's Name and Address and Email Address, If Any  MAILING TECHNICAL SERVICES PO BOX 1753 BILLINGS, MT 59103-1753 Contact Name: MERLE (406)245-1234 jyarbrough@montana.net  CAPS Customer Ref. No: CITY OF BILLINGS  CRID: 2441667		Name and Address of Mailing Agent (If other than permit holder)  MAILING TECHNICAL SERVICES PO BOX 1753 BILLINGS, MT 59103-1753 Contact Name: MERLE (406)245-1234 jyarbrough@montana.net  CRID: 2441667		Name and Address of Individual or Organization for Which Mailing Is Prepared (If other than permit holder)  MAILING TECHNICAL SERVICES PO BOX 1753 BILLINGS, MT 59103-1753 Contact Name: MERLE (406)245-1234 jyarbrough@montana.net  CRID: 2441667
Mailing	Post Office of Mailing BILLINGS MT 59101-9998	Processing Category Letters	Mailer's Mailing Date 11/16/11	Federal Agency Cost Code	Statement Seq. No.
	Type of Postage Metered		Weight of a Single Piece 0.0312 lbs.		Total Pieces 33,248
	Permit # 3563	For Mail Enclosed Within Another Class	If Sacked, Based On [ ]125 pcs [ ]15lbs. [ ]Both		Total Weight 1039.0000 lbs.
					No. & type of Containers Sacks: 0 1 ft. Letter Trays: 4 2 ft. Letter Trays: 46 EMM Letter Trays: 0 Flat Trays: 0 Pallets: 0 Other: 0
	For Automation Rate Pieces, Enter Date of Address Matching and Coding / /	For Carrier Route Pieces, Enter Date of Address Matching and Coding / /	For Carrier Route Pieces, Enter Date of Carrier Route Sequencing / /	For pieces bearing a simplified address enter date of delivery statistics file or alternative method / /	
Move Update Method: NCOALink					
Postage	Parts Completed <b>A, B</b>				
	[ ] Mailpiece is a product sample.		Subtotal Postage (Add parts totals)		
	[ ] Letter-size or flat mailpiece contains DVD/CD or other disc.				
	Complete if the mailing includes pieces bearing metered or precanceled stamps.				
	Rate at Which Postage Affixed Lowest		33,248 pcs. Postage Affixed		
	Incentive/Fee	(% or \$0.00)	x Total Postage or Pieces as applicable		\$0.00
Net Postage Due					
For USPS Use Only: Additional Postage Payment (State reason)					
Total USPS Adjusted Postage					
Certification	Incentive Claimed: _____				
	<p>The mailer certifies acceptance of liability for and agreement to pay any revenue deficiencies assessed on this mailing, subject to appeal. If an agent certifies that he or she is authorized on behalf of the mailer then that mailer is bound by the certification and agrees to pay any deficiencies. In addition, agents may be liable for any deficiencies resulting from matters within their responsibility, knowledge, or control. The mailer hereby certifies that all information furnished on this form is accurate, truthful, and complete; that the mail and the supporting documentation comply with all postal standards and the mailing qualifies for the prices and fees claimed; and that the mailing does not contain any matter prohibited by law or postal regulation. I understand that anyone who furnishes false or misleading information on this form or who omits information requested on this form may be subject to criminal and/or civil penalties, including fines and imprisonment.</p> <p>Privacy Notice: For information regarding our Privacy Policy visit <a href="http://www.usps.com">www.usps.com</a></p>				

This postage statement was verified and accepted under the PostalOne! program. No postal signature or round stamp is required.

## NOTICE OF PUBLIC HEARING

||||| ..||| ..||| ..|||

Sample

McCrone, Elina G  
PO Box 101  
Absarokee MT 59001-0101

Dear Property Owner(s),

Anticipated assessment for the following Tax ID's: A00838

The City Council of the City of Billings, Montana (the "Council"), will hold a public hearing and take action on a Resolution of Creation (the "Resolution") to create a City-Wide Park District designated as the "City of Billings Park District Number 1" (the "District").

The Council will hold a public hearing on the Resolution to create the District on Monday, December 19, 2011, at 6:30 p.m. in the City Council Chambers. Copies of the Resolution and more information are available at [http://www.prpl.info/parks/park\\_district.html](http://www.prpl.info/parks/park_district.html) or at the City Clerk's Office. The Resolution describes the District's nature, boundaries, location, the improvements or maintenance that can be funded, and other particulars.

The proposed 2013 assessment for the District is estimated to be 12.39 mills of each parcel's taxable value. A \$200,000 home would pay approximately \$32.00 and a \$100,000 home would pay approximately \$16.00 annually for the District.

Written protests against the District must be signed by all property owners and delivered to the City Clerk, 210 North 27<sup>th</sup> Street, Billings, MT 59101, by December 16, 2011, at 5:00 p.m. Please include your name and tax code (upper left hand corner of tax bill) and address of the property you own on any written protest.

For further information, contact Michael Whitaker at 406-657-8371.

## **NOTICE OF PUBLIC HEARING**

The City Council of the City of Billings, Montana (the "Council"), will hold a public hearing and take action on a Resolution of Creation (the "Resolution") to create a City-Wide Park District designated as the "City of Billings Park District Number 1" (the "District").

The Council will hold a public hearing on the Resolution to create the District on Monday, December 19, 2011, at 6:30 p.m. in the City Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, MT. Copies of the Resolution and more information are available at [http://www.prpl.info/parks/park\\_district.html](http://www.prpl.info/parks/park_district.html) or at the City Clerk's Office. The Resolution describes the District's nature, boundaries, location, the improvements or maintenance that can be funded, and other particulars.

The proposed 2013 assessment for the District is estimated to be 12.39 mills of each parcel's taxable value. A \$200,000 home would pay approximately \$32.00 and a \$100,000 home would pay approximately \$16.00 annually for the District.

Written protests against the District must be signed by all property owners and delivered to the City Clerk, 210 North 27<sup>th</sup> Street, Billings, MT 59101, by December 16, 2011, at 5:00 p.m. Please include your name and tax code (upper left hand corner of tax bill) and address of the property you own on any written protest.

For further information, contact Mike Whitaker at 406-657-8371.

Cari Martin  
City Clerk  
City of Billings  
PO Box 1178  
Billings, MT 59103

Dept: Parks  
5 copies  
Dates: 11/16 & 11/23/2011

**AFFIDAVIT OF PUBLICATION  
THE BILLINGS GAZETTE**

401 N 28<sup>th</sup> St  
Billings, MT 59101  
Phone: (406) 657-1212 Fax: (406) 657-1345

Ad Number: 20409070

**NOTICE OF PUBLIC HEARING**

The City Council of the City of Billings, Montana (the "Council"), will hold a public hearing and take action on a Resolution of Creation (the "Resolution") to create a City-Wide Park District designated as the "City of Billings Park District Number 1" (the "District").

The Council will hold a public hearing on the Resolution to create the District on Monday, December 19, 2011, at 6:30 p.m. in the City Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, MT. Copies of the Resolution and more information are available at [http://www.nrml.info/parks/park\\_district.html](http://www.nrml.info/parks/park_district.html) or at the City Clerk's Office. The Resolution describes the District's nature, boundaries, location, the improvements or maintenance that can be funded, and other particulars.

The proposed 2013 assessment for the District is estimated to be 12.39 mills of each parcel's taxable value. A \$200,000 home would pay approximately \$32.00 and a \$100,000 home would pay approximately \$16.00 annually for the District.

Written protests against the District must be signed by all property owners and delivered to the City Clerk, 210 North 27th Street, Billings, MT 59101, by December 16, 2011, at 5:00 p.m. Please include your name and tax code (upper left hand corner of tax bill) and address of the property you own on any written protest.

For further information, contact Mike Whitaker at 406-657-8371.

Carl Martin  
City Clerk  
City of Billings  
PO Box 1173  
Billings, MT 59103

November 16, 23, 2011

Tammy Haar

, being first duly sworn, deposes and says. That she is the principal clerk of The Billings Gazette, a newspaper of general circulation published daily in the City of Billings, in the County of Yellowstone, State of Montana, and has charge of the Advertisements thereof.

That the: 49 line legal regarding:  
a true copy of which is hereto annexed, was published in said newspaper on the following dates: via:

November 16, 23, 2011

Making all 2 publication(s)

Mark below if certification for the State of Montana

I hereby certify that I have read sec. 18-7-204 and 18-7-205, MCA, and subsequent revisions, and declare that the price or rate charged the State of Montana for the publication for which claim is made in the attached papers in the amount of \$ \_\_\_\_\_ is not in excess of the minimum rate charged any other advertiser for publication of advertisement, set in the same size type and published for the same number of insertions, further certify that this claim is correct and just in all respects, and that payment or credit has not been received

[Signature]  
STATE OF MONTANA  
County of Yellowstone

On this day of November 23, 2011 before me, the undersigned, a Notary Public for the State of Montana, personally appeared Tammy Haar known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first above written.

[Signature]  
NOTARY PUBLIC for the State of Montana  
Residing at Billings, MT

My commission expires:

February 8, 2015



KATIE LEHMAN  
NOTARY PUBLIC for the  
State of Montana  
Residing at Billings, Montana  
My Commission Expires  
February 08, 2015

Page : 1 of 1 11/15/2011 09:04:42

Order Number : 20409070  
PO Number :  
Customer : 60010383 CITY OF BILLINGS  
Contact : Carl Martin / City Clerk  
Address1 : PO BOX 1178  
Address2 :  
City St Zip : BILLINGS MT 59103  
Phone : (406) 657-8210  
Fax :  
Printed By : Teresa Cox  
Entered By : Teresa Cox  
Keywords : Notice of Public Hearing  
Notes :  
Zones :

Ad Number : 11224569  
Ad Key :  
Salesperson : R19 - Tersesa Cox R19  
Publication : Online  
Section : Class Liner  
Sub Section : Class Liner  
Category : 2250 LEGAL NOTICES  
Dates Run : 11/16/2011-11/17/2011  
Days : 2  
Size : 1 x 4.39, 49 lines  
Words : 246  
Ad Rate : Legal 2day  
Ad Price : 244.74  
Amount Paid : 0.00  
Amount Due : 244.74

#### NOTICE OF PUBLIC HEARING

The City Council of the City of Billings, Montana (the "Council"), will hold a public hearing and take action on a Resolution of Creation (the "Resolution") to create a City-Wide Park District designated as the "City of Billings Park District Number 1" (the "District").

The Council will hold a public hearing on the Resolution to create the District on Monday, December 19, 2011, at 6:30 p.m. in the City Council Chambers located on the second floor of the Police Facility, 220 North 27th Street, Billings, MT. Copies of the Resolution and more information are available at [http://www.prol.info/parks/park\\_district.html](http://www.prol.info/parks/park_district.html) or at the City Clerk's Office. The Resolution describes the District's nature, boundaries, location, the improvements or maintenance that can be funded, and other particulars.

The proposed 2013 assessment for the District is estimated to be 12.39 mills of each parcel's taxable value. A \$200,000 home would pay approximately \$32.00 and a \$100,000 home would pay approximately \$16.00 annually for the District.

Written protests against the District must be signed by all property owners and delivered to the City Clerk, 210 North 27th Street, Billings, MT 59101, by December 18, 2011, at 5:00 p.m. Please include your name and tax code (upper left hand corner of tax bill) and address of the property you own on any written protest.

For further information, contact Mike Whitaker at 406-657-8371.

Carl Martin  
City Clerk  
City of Billings  
PO Box 1178  
Billings, MT 59103

November 16, 2011



**CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE**

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a resolution entitled: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, CREATING THE CITY OF BILLINGS PARK DISTRICT NUMBER 1 FOR THE PURPOSE OF PROVIDING CERTAIN MAINTENANCE, PURCHASING AND IMPROVEMENT SERVICES FOR CITY-OWNED FACILITIES, LAND AND EQUIPMENT UNDER THE RESPONSIBILITY AND CARE OF THE CITY OF BILLINGS PARKS AND RECREATION DEPARTMENT; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on December 19, 2011, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at such meeting, the following Council Members voted in favor thereof: Ronquillo, Gaghen, Ruegamer, McCall, Ulledalen, Clark; voted against the same: Pitman, Cimmino, McFadden; abstained from voting thereon: none; or were absent: Astle.

WITNESS my hand officially this 19<sup>th</sup> day of December, 2011.

Cari Martin  
Cari Martin, City Clerk

(S E A L)



**RESOLUTION NO. 11-19130**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, CREATING THE CITY OF BILLINGS PARK DISTRICT NUMBER 1 FOR THE PURPOSE OF PROVIDING CERTAIN MAINTENANCE, PURCHASING AND IMPROVEMENT SERVICES FOR CITY-OWNED FACILITIES, LAND AND EQUIPMENT UNDER THE RESPONSIBILITY AND CARE OF THE CITY OF BILLINGS PARKS AND RECREATION DEPARTMENT; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.**

**CITY OF BILLINGS  
Yellowstone County, Montana**

**CITY OF BILLINGS PARK DISTRICT NUMBER 1**

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

WHEREAS, the City of Billings, Montana (the "City") is a municipality duly organized and existing under and by virtue of the Constitution and laws of the State of Montana;

WHEREAS, the City Council of the City (the "Council") is authorized by Montana Code Annotated ("MCA"), Part 7, Chapter 11, Part 10, to create special districts to serve the inhabitants of the special district;

WHEREAS, pursuant to MCA Section 7-11-1007, the Council conducted a public hearing on November 14, 2011, regarding the intent of the City to create a special district in the form of a City-wide park district;

WHEREAS, pursuant to MCA Section 7-11-1007, the City adopted Resolution No. 11-19125 on November 14, 2011, (the "Resolution of Intention") declaring its intention to create a special district to be known as the "City of Billings Park District Number 1" (the "District") for the purpose of providing services including but not limited to: (1) maintenance, repair, replacement, upkeep, installation, improvement, operational enhancement, construction, reconstruction, acquisition of land; and/or (2) implementation of measures required to maintain public health and safety or meet legal or regulatory requirements; and/or (3) purchasing, replacing, and/or maintaining equipment, tools or vehicles used to carry out the functions described herein; and/or (4) any other functions, labor, supplies and/or materials necessary for management and maintenance of City-owned facilities, lands and equipment under the responsibility and care of the City of Billings Parks and Recreation Department including but not limited to: public parks and park areas (as described in the Master Parks and Recreation Plan for the Greater Billings Area) recreation facilities, trails, open space (as defined in the City of Billings Urban Area Open Space Plan), urban forest, medians, boulevards, pathways, sidewalks, public easements, and other facilities which are located in the City limits and/or are owned by the City (collectively, the "Services and Improvements");

WHEREAS, pursuant to the Resolution of Intention, the Council declared the estimated costs of the Services and Improvements and declared its intention to finance the costs of the Services and Improvements with assessments against each lot or parcel of land within the District, including the improvements on the lot or parcel, for that part of the cost of the District that its taxable valuation bears to the total taxable valuation of the property in the District;

WHEREAS, a copy of the notice of passage of the Resolution of Intention was published in the *Billings Gazette*, a newspaper of general circulation in Yellowstone County, on November 16, 2011, and November 23, 2011, in the form and manner prescribed by MCA Section 7-1-4127;

WHEREAS, a copy of the notice of passage of the Resolution of Intention was mailed to every person, firm, corporation or the agent of such person, firm or corporation having real property with the District listed in his or her name upon the last completed assessment roll for state, City, county and school district taxes, at his or her last-known address, on or before the same day such notice was first published. A copy of the notice of passage of the Resolution of Intention was also mailed to those owners of property where the Montana Department of Revenue has not assigned a taxable value. Such notice conformed to the requirements of MCA Section 7-11-1007(3)(c);

WHEREAS, pursuant to MCA Section 7-11-1008, the City must provide to an owner of property that is liable to be assessed for the improvements in the District within a 30-day period from the date of the first publication of the notice of passage of the Resolution of Intent to make a written protest against the proposed improvements;

WHEREAS, the protests must be in writing, identify the property in the District owned by the protestor, and be delivered to the City Clerk, who shall endorse on the protest the date of receipt;

WHEREAS, 4,619 protests were filed within the protest period as determined pursuant to MCA Section 7-11-1008. The protests filed represented 8.54 percent of the total estimated costs of the District and the Services and Improvements to be financed, in accordance with the methods of assessment in the Resolution of Intention;

WHEREAS, a public hearing was held on December 19, 2011, during a regular meeting of the Council; and

WHEREAS, at such hearing the Council considered all such written protests regarding the creation of the District;

NOW, THEREFORE IT IS HEREBY FOUND, DETERMINED AND ORDERED, as follows:

**Section 1. Insufficiency of Protests.** The Council hereby finds that protests against the creation of the District filed during the protest period are insufficient to prevent the creation of the District.

**Section 2. Creation of the District.** The District is hereby established and created within the City in accordance with the terms of the Resolution of Intention. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed. A map and description of the boundaries of the District are attached hereto as Exhibits "A" and "B."

**Section 3. Certificate of Establishment.** Pursuant to MCA Section 7-11-1013, the City Clerk, or her designee, is hereby authorized to prepare and deliver certified copies of this Resolution to both the Secretary of State of the State of Montana and the Clerk and Recorder of Yellowstone County and to take any and all other actions necessary in order to receive a Certificate of Establishment for the District.

**Section 4. Ratifier.** All actions not inconsistent with the provisions of this Resolution heretofore taken by the City and its employees with respect to the creation of the District are hereby in all respects ratified, approved and confirmed.

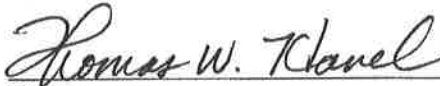
**Section 5. Repealer.** All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and shall have no further force or effect.

**Section 6. No Personal Recourse.** No recourse shall be had for any claim based on this Resolution against any Council member or the City, nor any officer or employee, past, present or future, of the City or of any successor body as such, either directly or through the City or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise.


**Section 7. Effective Date.** This Resolution shall be in full force and effect from and after its date of adoption.

**PASSED AND ADOPTED** by the City Council of the City of Billings, Montana, this 19<sup>th</sup> day of December, 2011.

CITY OF BILLINGS

  
Thomas W. Hanel, Mayor

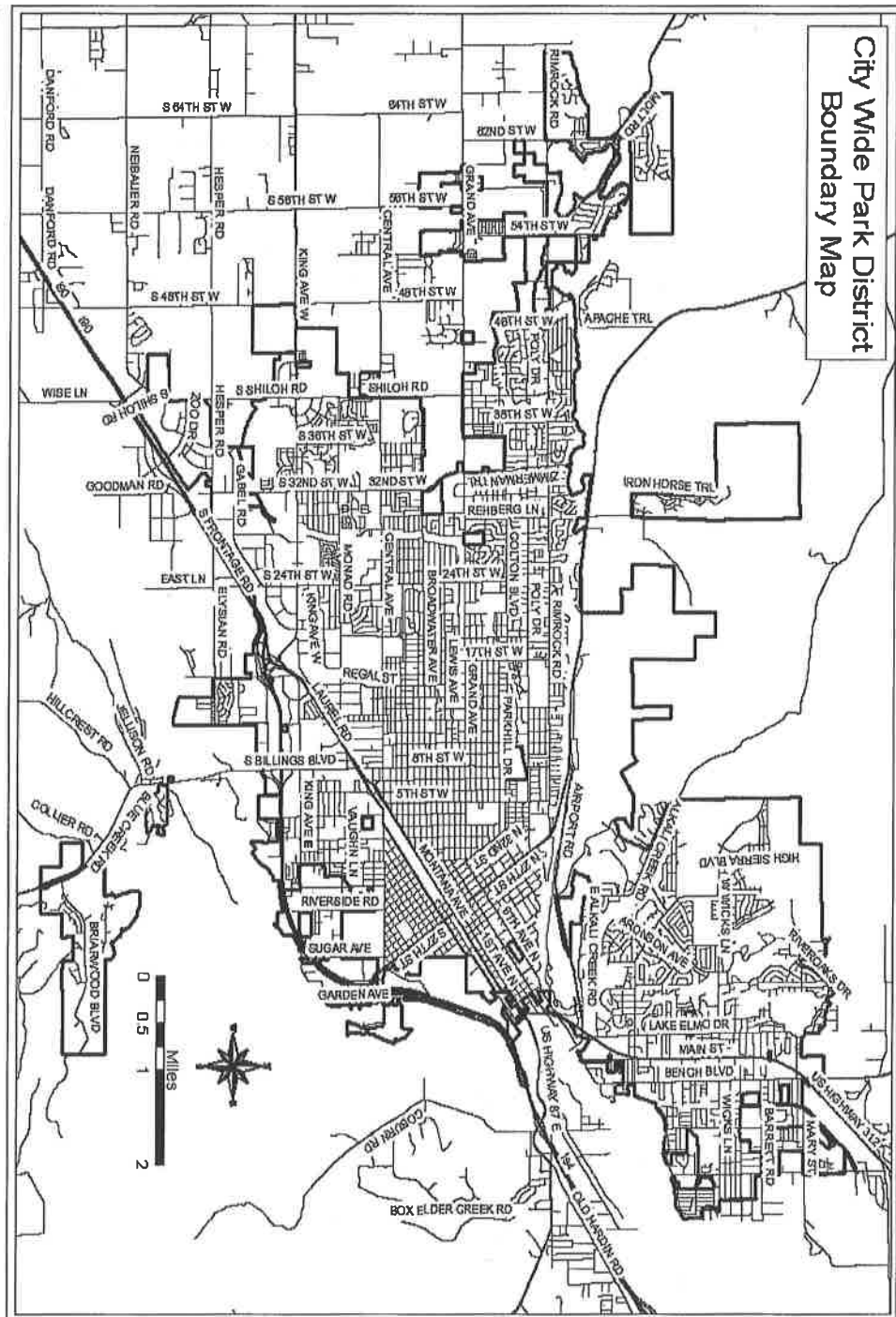
ATTEST:

  
Cari Martin, City Clerk

(SEAL)

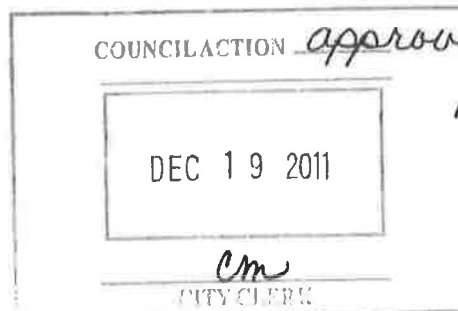


Exhibit A



## Exhibit B

The Park District boundary is described as the incorporated boundary of the City of Billings in accordance with City Council municipal annexation resolutions and municipal annexation ordinances filed in the City of Billings City Clerk's public records as well as all properties later annexed thereto. Parcels within the boundary are the current parcels subject to the City of Billings property taxes as shown in the tax rolls of the Montana Department of Revenue.



*Res #11-19130*

Regular 2.

**Regular City Council Meeting**

**Meeting Date:** 12/19/2011

**TITLE:** Public Hearing and Resolution approving the creation of a city-wide park district

**PRESENTED BY:** Mike Whitaker

**Department:** Parks/Rec/Public Lands

---

**Information**

**PROBLEM/ISSUE STATEMENT**

Due to lack of resources, the Parks, Recreation and Public Lands Department (PRPL) has closed or removed several facilities (gazebo and wading pool at South Park, tennis courts at Castle Rock Park, playground equipment at Pioneer Park, etc.) in parks over the past three years. Park facilities will continue to close unless additional revenue is raised. With little to no increases in the department operations and maintenance budget for the past 10 years, maintenance in the general fund parks (Pioneer Park, South Park, North Park, etc.) is continuing to decrease. It was calculated in 2010 that PRPL has over \$9 million in deferred maintenance in parks city-wide.

At the June 20, 2011 work session, the Parks, Recreation and Cemetery (PRC) board recommended that City Council establish a City-wide park district and an annual assessment to fund a wide variety of park improvements and maintenance. That recommendation was contingent on completing the Library bond election.

The PRC board and the Billings Chamber of Commerce/CVB recommend that within three years after the creation of a city-wide park district the Parks, Recreation and Public Lands Department submit a plan to City Council on how to dissolve/reduce existing park maintenance districts that are not funding unique enhancements. The Board and Chamber also recommend that funds generated from the park district should not supplant existing parks funds received from the City's general fund.

The Parks, Recreation and Public Lands Department and the PRC Board developed a three-year spending plan (see attached) that starts to address the deferred maintenance and to improve maintenance. The PRC Board recommends that property owners be assessed \$2 million annually. A person with a property valued at \$100,000 would pay an estimated \$16 annual assessment. If the district is approved December 19, 2011 the department would start receiving funds December, 2012.

The City Council approved a Resolution of Intent to create the district at its November 14 meeting. Notices were mailed to all property owners in the district (city). State law provides that if owners of property that will be assessed for over 50% of the total assessment submit written protests to the district's creation, the City Council may not create it and may not reconsider the issue for 12 months. Staff will report at this meeting about the protests and their effect on the Council's actions. If the City receives an insufficient protest, the Council will be asked to approve the attached Resolution that creates the district.

**ALTERNATIVES ANALYZED**

Staff and the City of Billings Park, Recreation and Cemetery Board have analyzed the following alternatives.

- 1) Approve the Resolution to Create a city-wide park district.
- 2.) Do not approve the Resolution to Create a city-wide park district. Maintenance will not improve and facilities that deteriorate will continue to be closed or removed from the parks.
- 3) Do not approve the Resolution to create a city-wide park district and direct staff to prepare a proposal for Council review that would establish a referendum/public vote on whether to create the park district.

#### **FINANCIAL IMPACT**

The proposed fiscal year 2013 assessment for the district is estimated to be 12.39 mills. A \$200,000 home owner would pay approximately \$32.00 and a \$100,000 home owner would pay approximately \$16.00 annually. The goal is for the assessments to produce \$2 million per year. The assessment is intended to supplement and not to replace the present funding for parks.

#### **RECOMMENDATION**

Staff and the Parks, Recreation and Cemetery Board recommend that Council approve the Resolution to Create a city-wide park district.

#### **APPROVED BY CITY ADMINISTRATOR**

---

#### **Attachments**

3-year Spending Plan

Resolution of Creation



# Proposed 3-year Spending Plan

# What does a \$100,000 homeowner get for \$16 a year?

## (First year of assessments)

- **One time park improvements**

– Replace existing water slides at Rose Park	\$300,000
– Replace South Park playground equipment	\$180,000
– Rebuild Castle Rock tennis courts	\$275,000
– Replace batting cage equipment	\$50,000
– Emergency and general maintenance (roofs, pumps, irrigation systems, etc.)	\$248,500
– 9 three-season restrooms (renovations/replacements)	\$450,000

**Sub Total    \$1,503,500**

- **Ongoing improvements**

– Trail maintenance (Includes Volunteer Coordinator)	\$94,000
– Improved park maintenance (Includes 2 maintenance staff)	\$90,000
– Keep park restrooms open 3 months longer a year (three seasonal employees)	\$15,000
– Weed management in general fund parks	\$245,000
– Annual picnic table replacement (75 tables)	<u>\$52,500</u>

**Grand Total    \$2,000,000**

# What does a \$100,000 homeowner get for \$16 a year?

## (Second year of assessments)

• <b><u>One-time park improvements</u></b>	
– South Park Sprayground	\$500,000
– Rebuild Pioneer Park tennis courts	\$355,000
– Amend Park water service upgrades	\$250,000
– Upgrade playground fall protection (36 sites)	\$360,000
– Emergency and general maintenance (roofs, pumps, irrigation systems, etc.)	\$38,500
	<b>Sub Total</b>
	<b><u>\$1,503,500</u></b>
• <b><u>Ongoing improvements</u></b>	
– Trail maintenance (Includes Volunteer Coordinator)	\$94,000
– Improved park maintenance (Includes 2 maintenance staff)	\$90,000
– Keep park restrooms open 3 months longer a year (three seasonal employees)	\$15,000
– Weed management in general fund parks	\$245,000
– Annual picnic table replacement (75 tables)	<u>\$52,500</u>
	<b>Grand Total</b>
	<b><u>\$2,000,000</u></b>

# What does a \$100,000 homeowner get for \$16 a year?

## (Third year of assessments)

- **One-time improvements**

– A large event shelter at Pioneer Park	\$200,000
– Cemetery Restroom	\$50,000
– Emergency and general maintenance (roofs, pumps, irrigation systems, etc.)	\$53,500
– Stewart Park infrastructure improvements (roads, parking, etc.)	\$1,200,000
	<b>Sub Total</b>
	<b><u>\$1,503,500</u></b>

- **Ongoing improvements**

– Trail maintenance (Includes Volunteer Coordinator)	\$94,000
– Improved park maintenance (Includes 2 maintenance staff)	\$90,000
– Keep park restrooms open 3 months longer a year (three seasonal employees)	\$15,000
– Weed management in general fund parks	\$245,000
– Annual picnic table replacement (75 tables)	<u>\$52,500</u>
	<b>Grand Total</b>
	<b><u>\$2,000,000</u></b>

## **REGULAR MEETING OF THE BILLINGS CITY COUNCIL**

**December 19, 2011**

The Billings City Council met in regular session in the Council Chambers located on the second floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana. Mayor Thomas Hanel called the meeting to order at 6:30 p.m. and served as the meeting's presiding officer. Councilmember Gaghen gave the invocation.

**ROLL CALL:** Councilmembers present on roll call were: Ronquillo, Gaghen, Pitman, Cimmino, McFadden, Ruegamer, McCall, Ulledalen, and Clark. Councilmember Astle was excused.

### **MINUTES:**

- November 28, 2011 – Councilmember Cimmino moved for approval of the minutes, as submitted, seconded by Councilmember Ronquillo. On a voice vote, the motion was unanimously approved.
- December 12, 2011, pending

### **COURTESIES:**

- Councilmember Ruegamer presented Mayor Hanel with a water pitcher he felt was "more elegant" than the plastic pitcher currently being used.
- Councilmember Ulledalen acknowledged the fact that the inserts regarding the distracted driving ordinance were finally in the water bills for December.
- Mayor Hanel presented outgoing Councilmembers Gaghen, Ruegamer, and Clark with plaques on behalf of the City of Billings and thanked them for their service.
- Mayor Hanel recognized Councilmember Pitman and Councilmember McCall on their re-election to the City Council.
- Mayor Hanel thanked the Salvation Army for their bell ringers and the Marines for their Toys for Tots Program and the community for their contributions to both causes.
- City Administrator Volek thanked Councilmembers Gaghen, Ruegamer, and Clark for their service on the Council the past eight years and their many contributions to the City of Billings.

**PROCLAMATIONS:** None

### **ADMINISTRATOR REPORTS - TINA VOLEK**

City Administrator Volek commented on the following items.

- **Item 1A1 - Bid Award for Hybrid Diesel-Electric Bookmobile.** Per the staff report, a recommendation was to be made at the meeting. She said a memo from Bill Cochran, Library Director, recommending bid award to OBS, Inc. for \$278,630 was on Council's desks. She noted a copy was filed in the ex-parte notebook.
- **Item 2 – Public Hearing and Resolution Creating a City-Wide Park District.** As of 5:00 that day, 67 e-mails had been sent to Mayor and Council in favor of creation of the district, 70 e-mails had been sent to Mayor and Council in opposition to the creation of the district, and 8 protest letters had been received after the protest deadline of 5:00 p.m. on December 16th. She noted copies were filed in the ex-parte notebook. She said 4,619 valid protests had been received, for a taxable valuation percentage of 8.54. Councilmember Clark asked how many protest letters came in without signatures. Ms. Volek advised 31 unsigned letters were received. She said staff tried to contact the property owners and eight letters were resubmitted with signatures.

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

**Speaker sign-in required.** (Comments offered here are limited to one (1) minute. 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. For Items not on this agenda, public comment will be taken at the end of the agenda.)

The public comment period was opened. There were no speakers, and the public comment period was closed.

**1. CONSENT AGENDA**

**A. Bid Awards:**

**1. Hybrid Diesel-Electric Bookmobile.** (Opened 12/13/2011) Recommendation to be made at meeting.

**2. Concessionaire to Operate a Public Parking Concession at Billings Logan International Airport.** (Opened 12/06/2011) (Delayed from 12/12/2011)  
Recommend Standard Parking for a five-year contract (1/2/2012 - 1/1/2017).

**B. Change Order #2 - Naval Reserve Demolition,** CTA Architects and Engineers, \$3,000.

**C. Contract** with Center for Priority Based Budgeting to conduct a priority-based budgeting process for the City of Billings; \$38,000, plus travel expenses.

**D. Agreement** with Billings Housing Authority to fund one Police Officer; 1/1/2012 through 6/30/2012.

**E. Agreement** transferring ownership, maintenance, and operation of 12-inch water line located in Riverside Road from State Avenue to King Avenue East and in King Avenue East from Riverside Road to east of the Yellowstone County Detention Facility; 8-inch water line located in King Avenue East from Riverside Road west to near the Yegen Drain; and 10-inch sanitary sewer line along King Avenue East to the southeast corner of the Yellowstone County Detention Facility from Yellowstone County to the City of Billings. Transfer includes \$25,500 operation and maintenance fund from the County to the City.

**F. Confirmation of Probationary Police Officers Clint Anglin and Benjamin Beck.**

**G. Subordination of Housing Rehabilitation Loan** for Julie Ann Galles, \$20,000.

**H. Subordination of Housing Rehabilitation Loan** for Linda K. Wetzel, \$20,000.

**I. Approval** of extension of preliminary plat approval date for three years for Golden Acres Subdivision; setting a new expiration date of February 23, 2015.

**J. Final Plat Approval**

1. Sunny Cove Fruit Farms, Amended Lot 6A
2. Sheldon Wolf Subdivision

**K. Bills and Payroll:**

1. November 28, 2011

Councilmember McCall separated Consent Agenda Item 1A1. Councilmember Clark moved for approval of the Consent Agenda with the exception of Item 1A1, seconded by Councilmember Ruegamer. On a voice vote, the motion was unanimously approved.

Councilmember McCall moved to accept the recommendation from Bill Cochran to award the bid for the Hybrid Diesel-Electric Bookmobile to OBS, Inc., seconded by Councilmember Gaghen. Councilmember Cimmino asked for a brief overview of the vehicle.

DeeAnn Redman, Assistant Library Director, said the proposed bookmobile would provide environmental advantages and alternative energy. She said the bookmobile would be a test for other city vehicles and would be the first hybrid vehicle in the city fleet. She said they were including as many environmental features as possible, including recycled materials. Ms. Redman said the current bookmobile had been in service since 1995. Councilmember Gaghen asked for the current mileage. Ms. Redman said she did not have that information with her. She said the bookmobile also served outlying areas such as Broadview, Custer, and Pompey's Pillar so the mileage was not all from in-town driving. Councilmember Gaghen asked if the current bookmobile would be sold. Ms. Redman advised through the Equipment Replacement

Plan (ERP) they arranged to retain the vehicle to use for determining a good location for a future branch library. She said it would serve as a mini branch, particularly in the Heights area.

Mayor Hanel asked City Administrator Volek to explain for the public's benefit where the money would come from to keep the vehicle and where the money would come from for the new vehicle. Ms. Volek advised part of the new bookmobile was being paid for through a Federal grant in excess of \$1M received for energy efficiency projects. She said the City had an Equipment Replacement Plan that charged departments over a period of time to build up funds necessary to buy large pieces of equipment without having to borrow money. She said instead of having the money from the sale of the old vehicle to go towards the purchase price of the new vehicle, the Library would begin again to compile money for future bookmobile replacement. She confirmed none of the funds for construction of the new library would be used to purchase the new bookmobile. She said the library construction would be funded by contributions from private individuals in the amount of \$5 million and General Obligation Bonds issued by the City of Billings. She said the bonds were strictly controlled and dedicated only to the construction of the library.

On a voice vote, the motion was unanimously approved.

## **REGULAR AGENDA:**

**2. PUBLIC HEARING AND RESOLUTION #11-19130 creating a city-wide park district. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)** Parks Board Member Rick DeVore advised that the Parks Board was a group of dedicated, hardworking volunteers who had spent the past 18 months at the direction of City Council to come up with a plan to try to solve the dilemma of how to fix the parks. He said they held 18 different meetings to come up with a plan to present to Council so they could receive some direction.

Councilmember Ruegamer asked why the vote was done on a weighted basis. Finance Director Pat Weber said the weighted averages were used based on the method of assessment. He said if they would have chosen square footage of a lot, it would have been a one-to-one vote; but since it was done on taxable value, a single residence would have a lot smaller taxable value than a big box store. He said the big box store had a higher taxable value and a larger percentage of the total taxable value. Councilmember Ruegamer asked if the method of assessment was based on state law. Mr. Weber said that was correct.

Mr. DeVore said the reason for developing a city-wide park district was because the General Fund parks averaged over one million visitors each year, which created a lot of wear and tear. He said since 2003 there had been no funding increases for parks except for energy and wages. He said since then they had acquired 27 new parks through subdivisions, park maintenance districts, and development. He said they had been given 30 miles of multi-use trails to maintain; they had incurred increased costs due to inflation for gasoline and wear and tear on the vehicles, and they had not had adequate funding for preventative maintenance in the parks, which all added up to the \$9 million of deferred maintenance. Mr. DeVore said the 2009 Parks and Recreation Needs Assessment, which was a "statistically valid survey" of Billings residents, showed



that 97 percent of the households in Billings believed that well-maintained parks added to the quality of life in the community. He said 83 percent of the households in Billings believed that Parks and Recreation was an essential service. Mr. DeVore advised that the City Council had acknowledged the need to repair and maintain the parks by approving the Resolution of Intent to Create a Park District on November 14, 2011, based upon the information the Parks Board and Parks staff had presented. He said as of last Friday 8.54 percent of the assessed values of the properties in the proposed district protested the assessment. Mr. DeVore said the assessment method was not new. He said similar methods were used and approved by the City Council on an annual basis to fund street maintenance, fire hydrant repairs, and even the Yellowstone Family Park in April 2011. Mr. DeVore commented they paid approximately \$9,000 to have the notices sent to the property owners versus having to pay between \$30,000 and \$60,000 for a public election. He said the public election dollar amount would depend on whether it was included on the ballot with another item or if it were the only item on the ballot. Mr. DeVore said the Parks Board was asking for Council to do the right thing, which was to save the parks. He said the proposal was about repairing and maintaining the parks and not about the method of assessment. He said even though there was controversy about the approval method, there was little controversy about the need to fund, repair, and maintain the parks.

Councilmember Ulledalen asked for an explanation on how the 27 new parks were created and funded. Parks Director Mike Whitaker explained most of the new parks came from developers putting parks in new subdivisions. He said they had to pull staff from the General Fund parks to maintain the subdivision parks and even though the park maintenance districts paid to have the staff there, it decreased the number of staff available to maintain the General Fund parks.

Mayor Hanel asked Mr. Whitaker to explain the difference between general use parks and other parks. Mr. Whitaker advised the parks were funded by two methods – (1) The General Fund, which funded the community and larger, regional parks such as Pioneer Park, South Park, North Park, and Optimist Park, and (2) Park Maintenance Districts funded mainly small neighborhood parks developed over the past ten years. Mr. Whitaker said that evening they were discussing a city-wide assessment district to better fund the General Fund parks.

Councilmember Ruegamer commented that Mr. DeVore made two points that needed to be emphasized – (1) The Parks Board was made up of common citizens interested in parks and not a special interest group; and (2) It was not about the process but about saving the parks. He said they would hear a lot of negative testimony that evening about the process.

Mayor Hanel thanked Mr. DeVore and the Parks Board Members for their service. Mr. DeVore recognized Parks Board Members Darwin George, Cathy Grott, Tom Iverson, Rachael Cox, Margy Bonner, Todd Royal, Gary Gray, and School District No. 2 representative Mark Wahl.

Councilmember Cimmino asked Mr. DeVore about the 18 meetings he said were held where the park maintenance district concept was presented to the general public. She said she had copies of all of the minutes for the past two years and she saw only five meetings where the proposed park maintenance district was discussed. Mr. DeVore said there were a lot more than five meetings. Councilmember Cimmino asked if the

minutes were available on the city website. Mr. DeVore said Melanie Trang was the secretary who kept notes at every one of the meetings, but he was not sure how it was put on the city website. Mr. Whitaker advised the minutes from the board meetings were on the city website and the Parks and Recreation website. Mr. Whitaker confirmed there were 18 meetings and said he would pull up the dates. He said there was a lot of discussion on all possible funding sources, so the agendas may not be specific to the park district. Councilmember Cimmino referenced the "statistically valid survey" where 97 percent of households maintained that parks were an absolute amenity to the community and asked how many people actually responded to the survey that made up the 97 percent. Mr. DeVore said he could not remember for sure, but he thought between 3,000 to 4,000 surveys were sent. He said the 97 percent was based on the people who returned the form. Mr. Whitaker added that Cathy Grott, who served on the Parks and Recreation Board, taught a methods class in research and was available to answer any questions on a statistically valid survey.

Councilmember Pitman asked Mr. Whitaker to define deferred maintenance. Mr. Whitaker said deferred maintenance was maintenance they could not do with the current budget such as fixing the cracks on the tennis courts and repairing slides at the pool. Councilmember Pitman said he became frustrated when he heard the comments that the parks were falling apart or were downgraded. He said he felt the city had incredible parks, and they had invested a lot of money in them. He said he was concerned they were trying to show a trail maintenance volunteer coordinator, two more staff for park maintenance, and keeping the restrooms open longer as deferred maintenance. He said they might be things they would like to have but were not fully deferred maintenance. Mr. Whitaker said there were two categories in the spending report – (1) one-time park improvements, which were truly deferred maintenance; and (2) ongoing improvements, which would keep them from getting into the same situation again. He said they looked at the needs assessment, and the community told them it loved the trails. He said they worked with the Chamber on an asset management plan, and that was how they came up with the numbers to maintain the trails they had.

Councilmember Gaghen asked if many of the deferred maintenance needs were related to safety. Mr. Whitaker said they were, and if they shut down a waterslide, it would be from a safety prospective. He said as fiberglass aged, there was more risk for splinters. He said another example would be playground equipment they had to remove due to safety issues. Mr. Whitaker said the Parks Board looked at safety as one of their top concerns.

Councilmember Pitman said as many things that had been taken out of the parks, they had put a lot back in and asked how many new playgrounds and equipment had been installed in the parks. He said he did not want the public to think that everything was being drained out of the parks with nothing being put back. Mr. Whitaker said they were able to replace the playground equipment at Central Park using a block grant, and other relatively new playground sites were in park maintenance district parks. He said Ironwood recently put in a playground as part of its park development. Councilmember Gaghen said North Park had relatively new playground equipment installed possibly five or six years ago. Mr. DeVore commented that the majority of the new park maintenance district parks had new equipment, but the homeowners who lived within the bounds of the parks were paying for it. He said if something fell apart, it

would be fixed by the Parks Department staff, but the homeowners would pay for it and it would not come out of the General Fund.

Councilmember Gaghen asked for the number of people currently paying into park maintenance districts. Mr. Whitaker said the number was approximately 5,500.

Mayor Hanel requested clarification on the two resolutions Council received. City Administrator Volek said the first version was distributed with the agenda packet, and it did not have a specific dollar amount for the money to be raised, no sunset provision, and no indication what the commitment of the City was to the General Fund for the ongoing contribution to Parks. She said several councilmembers asked for an alternate ordinance setting a \$2 million cap, including a 5-year sunset provision, and pledging the City would not, except under ordinary circumstances, decrease the amount currently given to the Parks Department through the General Fund. Ms. Volek asked that the motion and vote be specific to either the original resolution or the alternate resolution.

Councilmember Cimmino asked Ms. Volek to state for the record what the actual budget was for the Parks Department from the General Fund approved by Council for FY2012. Ms. Volek advised it was \$4.1 million. Councilmember Clark asked if that included the funds from the park maintenance districts. Mr. Whitaker said it did not. Councilmember Gaghen asked what additional funds the park maintenance districts provided. Mr. Whitaker said the approximate amount was \$750,000, or 15 percent of Parks' existing budget.

Mayor Hanel said he believed there were 36 existing park maintenance districts and asked if all the properties within those districts were being assessed. Mr. Weber said he hired an intern two summers ago to work with the GIS Coordinator and check the boundaries with all the tax codes to see who was paying and who was not. He said at that time there were properties within the districts that were not paying, but it had been taken care of and all were accounted for.

The public hearing was opened.

The following people testified in favor of the creation of the park district. Their comments included that the parks meant a lot to them, a strong vibrant park system was good for Billings, parks and trails provided recreational and health benefits, parks and green spaces increased property values, and the City needed to look to the future by taking care of its current parks.

- Russ Fagg, 3053 Thousand Oaks, Billings, MT
- Mike Penfold, 3552 Prestwick Road, Billings, MT
- Marcia Clausing, 3016 Gloxinia Drive, Billings, MT
- Mike Garvey, 2923 Montys Circle, Billings, MT
- Leslie Modrow, 320 Clark Avenue, Billings, MT
- Cara Schaer, 1109 N. 32<sup>nd</sup> Street, Billings, MT
- Jack Johnson, 1562 38<sup>th</sup> Street West, Billings, MT
- Brad Coutant, 223 Wyoming Avenue, Billings, MT
- Bob Jones, 3203 Laredo Place, Billings, MT
- Margy Bonner, 4613 Toyon Drive, Billings, MT
- Nash Emrich, 230 Avenue C, Billings, MT

- William Dimich, 2917 Lohof, Billings, MT
- Doug Habermann, 3209 Durland Drive, Billings, MT
- Spencer Stone, 1101 N. 22<sup>nd</sup>, Billings, MT
- Patrick Neary, 322 Future Circle, Billings, MT
- Karen Sanford Gall, 3110 E. MacDonald, Billings, MT
- Paul Cox, 2159 N. Slope Trail, Billings, MT
- Doug Ruebke, PO Box 30834, Billings, MT
- David Strong, 206 Avenue B, Billings, MT
- Rick DeVore, 2614 Park Ridge Lane North, Billings, MT
- Darlene Tussing, 3033 Demaret, Billings, MT
- Cathy Grott, 1225 Juniper Drive, Billings, MT
- Becky Bird, 117 Ardmore Drive, Billings, MT
- Darwin George, 2113 Alderson Avenue, Billings, MT
- Rachel Cox, 2159 N. Slope Trail, Billings, MT
- Tom Iverson, 2717 Hoover, Billings, MT

The following people testified in opposition to the creation of the park district. Their comments included that they supported recreation and the parks but did not approve of the protest process, felt it was unfair, felt the matter should be taken to the vote of the people via ballot, felt they did not use the parks so should not have to pay for them, felt they could not afford the assessment, and felt the City was being financially irresponsible.

- Dave Bovee, 424 Lewis Avenue, Billings, MT
- Mike Brockie, 545 Beverly Hill Boulevard, Billings, MT
- Calvin Hertoghe, 2719 Hoover Avenue, Billings, MT
- Ken Peterson, 424 48<sup>th</sup> Street West, Billings, MT
- Boyd Strissel, 3323 Harlou Drive, Billings, MT
- Burt Gigoux, 1710 Janie Street, Billings, MT
- Larry Seekins, 380 Camel Place, Billings, MT
- Gary Carter, 4104 Jansma, Billings, MT
- Doug Kary, 415 W. Wicks Lane, Billings, MT
- Bruce Simon, 217 Clark Avenue, Billings, MT
- Tom Binon, 127 Antelope Trail, Billings, MT
- Dan Thelen, 1124 Avenue D, Billings, MT
- Kim Mathiason, 1205 Howard Avenue, Billings, MT
- Jim Berg, 233 Wicks Lane, Billings, MT
- Roxie Blinco, 526 Beverly Hill Boulevard, Billings, MT
- Madeline McCaslin, 2642 Clark Avenue, Billings, MT
- Dean Kile, 1619 Cook Avenue, Billings, MT
- Bob Spangel, 330 Cape Cod, Billings, MT
- Frank Ewalt, 2131 Phoebe Drive, Billings, MT
- Joy Stevens, 531 Indian Trail, Billings, MT
- Carroll Smith, 1828 Alderson Avenue, Billings, MT

- Marion Dozier, 3923 3<sup>rd</sup> Avenue South, Billings, MT
- Kevin Nelson, 4235 Bruce Avenue, Billings, MT
- Don Jones, 1945 Clark Avenue, Billings, MT
- Ron Hill, 2242 West Skokie, Billings, MT
- Gary Finn, 2036 Fairway Drive, Billings, MT

(Mayor Hanel called for a recess at 9:00 p.m. The meeting was called back to order at 9:15 p.m.)

There were no other speakers, and the public hearing was closed.

Councilmember Ulledalen moved for approval of Item 2 with the original resolution, seconded by Councilmember McCall. Councilmember Ulledalen said they could approve to create the district that evening and asked how much time they would have to set the levy and work on the details. Finance Director Pat Weber said what they were doing that evening was creating the district, and they would have until the first meeting in September to discuss the levy and the other details. Councilmember Ulledalen said there were a lot of details that needed to be gone over, and the accountability for them belonged with the Council. He said they should bring it back on the agenda in a reasonable amount of time and discuss all of their questions, issues, and the limits they would like to see imposed. He said he was concerned with the 5,000 plus homes already paying into a park maintenance district, and there should be some offset or trade-off for them. He said they needed to bring it all back and fine tune it.

Councilmember Ruegamer said he would support the motion. He said he had commented he would not support it until the City sold some parkland, and the City was in the process of selling parkland headed up by Al Koelzer. He said he thought the district should sunset so the people could vote on it again. Councilmember Ruegamer said the Parks staff was going to have to show people what they had done with the money. He said he thought there should be a cap on the amount and the resolution should include language about not cutting from the General Fund. Councilmember Ruegamer said after reviewing the list, he felt they could cut some of the maintenance costs, and the revenues from the waterslides and the batting cage should be used for maintenance on the waterslides and batting cage.

Councilmember Ronquillo said he agreed with Councilmembers Ruegamer and Ulledalen that they should take another look at the repairs and sharpen their pencils. He said they usually repaired equipment by putting band-aids on it and they always had to go back and redo it. He also commented there were no transients living under the 6<sup>th</sup> Street West bridge as someone had indicated, and they should charge a toll on the "bridge to nowhere" being built on Minnesota Avenue, South 25<sup>th</sup>, and Montana Avenue so the people using it would pay for the maintenance of it. Councilmember Ronquillo said he would support the motion.

Councilmember Pitman asked what the hurry was to approve the resolution that night if they had a lot of questions and needed to fill in some blanks. He said when their questions were answered it would not take much of a process to get it set up. He said they had time, and he hated passing something with a lot of blank lines in it.

Councilmember McFadden said he felt it was very important to raise money for the parks and maintain them properly; however, it was far more important that they upheld and defended certain democratic principles. He said he could not support it unless it went to the vote of the people.

Mayor Hanel said he had heard through testimony that evening that it was not a democratic method, and he strongly disagreed. He said he thought it was one of the best and most democratic meetings they had held since he became mayor. He said he respected and appreciated all of the testimonies. He said Billings was a beautiful city, and there was never an appropriate time to ask the taxpayers for money. Mayor Hanel said he would support the motion.

Councilmember McCall said she supported the motion, and they were making an important commitment to the future vitality of the city's parks. She said she thought every property owner had the opportunity to voice whether they wanted to support it or not. She said they had a lot of work ahead of them, but tonight was the night to make the commitment to the parks.

Councilmember Cimmino said they had listened to testimony from 6:55 p.m. to 11:10 p.m. She said she loved to read and do research and when the issue surfaced, she did a lot of research and read every single master plan the Parks Department had for community parks including the Briarwood Park, the Parks 2020 Plan, the Castlerock Master Plan, Centennial Park, High Sierra Park, Howard Heights Park, etc. She said she was specifically looking for how the maintenance considerations were being addressed. She read the following quote from a consultant study: *"Inadequate funding for operations and maintenance is probably the most critical issue facing park and recreation agencies today. Without an ongoing commitment to maintenance of facilities a vicious cycle of deferred maintenance and premature replacement sets in, resulting in an even greater cost burden to taxpayers. The City of Billings has been directly affected by decreased funding and manpower while trying to operate and maintain an ever-growing park system. This erosional process must be arrested at a minimum, or optimately reversed, if we are to maintain a functional parks and recreation program. In the case of new development, this means that a commitment to realistic operations and maintenance funding must go hand-in-hand with any construction funding."* She said the source was the Amend Park Master Plan completed on November 7, 1984, by Sandy Fischer of Fischer & Associates, which was 27 years ago. She said the reality had been with the Billings community based on the viewpoint of one consultant study for 27 years, and the deferred maintenance had not happened overnight. She said she supported the parks, used the parks, and raised her family in Billings, but she also supported the vote of the people and would vote against the motion.

Councilmember Clark said he had been on the Council a long time and this was the most difficult decision to come before them. He said he had listened and it was tough to decide. He said the parks needed to be taken care of.

Councilmember Gaghen said she echoed Councilmember Clark's comments on the difficulty of the decision. She said she appreciated the e-mails and phone calls. She said it was very vital to get on with the issue facing them for far too long. She said the dollars needed to be watched carefully and assessed periodically. She said overall they needed to keep the City vibrant and looking ahead to the future generations so she would be supporting the motion.

Attorney Brooks pointed out that MCA 7-11-1013(2) indicated that if a special district was created, there had to be a resolution passed within 30 days of the end of the protest period, which was December 16.

On a roll call vote, the motion was approved 7 to 3. Councilmembers Ronquillo, Gaghen, Ruegamer, McCall, Ulledalen, Clark and Mayor Hanel voted in favor. Councilmembers Cimmino, Pitman, and McFadden voted in opposition.

**PUBLIC COMMENT** on Non-Agenda Items -- Speaker Sign-in required. (*Restricted to ONLY items not on this printed agenda. Comments here are limited to 3 minutes. Please sign up on the clipboard located at the podium.*)

The public comment period was opened. There were no speakers, and the public comment period was closed.

### **COUNCIL INITIATIVES:**

- **Ronquillo:** Referenced the residence that burned at 309 S. 38<sup>th</sup> Street. He said it had been boarded up but someone removed the plywood and the blue tarp. He said it was still a hazard, and they needed to get it cleaned up. Ms. Volek advised she would notify staff.
- **Mayor Hanel:** Said he had not received the overtime report he had requested several times. Ms. Volek advised she sent it to him late that afternoon. Mayor Hanel said he had requested that all councilmembers receive a copy. Ms. Volek said she would see that they received a copy.
- **Cimmino:** Referenced receipt of the city credit card policy she had requested. She said the policy she received went into effect October 2010 and asked if there was a policy in place before that date. Ms. Volek advised she would need to do some research.
- **McFadden:** Asked for the history on the decorated tree in Founder's Park. Parks Superintendent Jon Thompson said the tree was planted in 1934 as a city Christmas tree. He said it was intended to be lit every Christmas season but the tradition stopped during World War II. He said the tradition started up again about three years ago. He said there was a plaque by the tree providing the date it was planted and that it was meant to be the community Christmas tree. He said the lights and electrical lines were donated, and the City paid for the electricity. He said they used LED lights, so the cost was minimal.

There was no further business, and the meeting adjourned at 11:33 p.m.



CITY OF BILLINGS

BY: Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk