

NOTE: SUPPORTING DOCUMENTS FOLLOW AGENDA

CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

***“THE MAGIC CITY – A VIBRANT, WELCOMING PLACE WHERE
PEOPLE FLOURISH AND BUSINESS THRIVES.”***

AGENDA

COUNCIL CHAMBERS

February 23, 2009

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember McCall

ROLL CALL

MINUTES – February 9, 2009

COURTESIES

PROCLAMATIONS – National Nutrition Month – March 2009

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 2 and 8

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

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

CONSENT AGENDA:

1. A. Mayor’s appointments:

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Douglas Ruebke	Animal Control Board	02/23/09	01/31/13
2.	Diana Bachmann	Animal Control Board	02/23/09	01/31/13
3.		Board of Appeals	02/23/09	01/31/13

4.	Emily Shaffer	Community Development Board	02/23/09	01/31/13
5.		Emergency Medical Advisory	02/23/09	01/31/13
6.	*	Emergency Medical Advisory	02/23/09	12/31/09
7.	*J. Stephen Begley	Energy & Conservation Commission	02/23/09	12/31/10
8.	Larry Gaalswyk	Homelessness Committee	02/23/09	01/31/13
9.	Patrick Chapel	Homelessness Committee	02/23/09	01/31/13
10.		Housing Authority	02/23/09	01/31/13
11.	*Everall Fox	Human Relations Commission	02/23/09	12/31/10
12.		Parking Advisory Board	02/23/09	01/31/13
13.	*	Parking Advisory Board	02/23/09	12/31/10
14.	Todd Royal	Parks/Recreation/Cemetery	02/23/09	01/31/13
15.	Darwin George	Parks/Recreation/Cemetery	02/23/09	01/31/13
16.	*Gary Gray	Parks/Recreation/Cemetery	02/23/09	12/31/09
17.	*Postponed by Conservation Board	Yellowstone Conservation District Board	1/12/09	06/30/11

- 6. *Unexpired term of Dr. John Kominsky
- 7. *Unexpired term of Bernard Rose
- 11. *Unexpired term of Shoshana Tom
- 13. *Unexpired term of Gary Temple
- 16. *Unexpired term of Wanda Walker
- 17. *Unexpired term of Gay Easton

B. Bid Award:

(1) Airport Improvement Program (AIP) Project for Taxiway F Construction (Opened 2/10/09) Recommend Riverside Sand & Gravel; \$1,185,272.10.

C. Acceptance of Federal Aviation Administration Airport Improvement Grants for 2009 - \$4,707,652; City Match - \$247,364.

D. Approval of grant application with the Montana Department of Transportation for paratransit operating assistance and the purchase of two paratransit vans; up to \$180,107 FY10 revenue for paratransit administrative,

maintenance, and operating costs; and up to \$161,069 for two new vans; total local match - \$26,221.

E. Approval of request from Downtown Billings Partnership, Inc. for matching funds from the North 27th Street TIFD to fund the professional services needed to complete the expansion of the Billings Historic District; up to \$15,000.

F. Street Closures:

(1) St. Patrick's Day Parade and Celtic Street Fair. Parade: established downtown parade route, 11:00 a.m. – 12:00 noon. Celtic Street Fair: North Broadway between 1st and 3rd Avenues North, 9:00 a.m. to 2:00 p.m. on March 14, 2009.

(2) Yellowstone Rimrunners Shamrock Run, beginning at 3rd Street West and Avenue B, north onto 3rd Street West, west onto Parkhill to Nordbye, turning around going east on Parkhill, right on 3rd Street West, ending at Pioneer Park, 12:30 p.m. to 1:45 p.m. on March 15, 2008.

G. Preliminary Plat of Golden Acres Subdivision generally located on the northwest corner of 62nd Street West/Molt Road and Rimrock Road and legally described as Tract 6A of Amended Certificate of Survey 2465; Golden Acres Partners, owner; Engineering, Inc., agent; conditional approval of the plat and adoption of the Findings of Fact.

H. Preliminary Subsequent Minor Plat of Barrett Subdivision located at 314 Calhoun Lane and legally described as Barrett Subdivision being Tract 1, Retzlaf Acreage Tracts Subdivision less Deeded Parcels Document #705093; C.E. Barrett, owner; City of Billings, agent; conditional approval of the plat and adoption of the Findings of Fact.

I. Bills and Payroll

- (1) January 23, 2009
- (2) January 30, 2009

REGULAR AGENDA:

2. **RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT 1384, AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE OF BONDS.** A resolution authorizing the sale of up to \$495,000 in bonds for financing the Yellowstone Club Estates project. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
3. **PUBLIC HEARING AND RESOLUTION** approving the FY10-FY14 Capital Improvement Plan (CIP); Equipment Replacement Plan (ERP); and Technology Replacement Plan (TRP). Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

4. **PUBLIC HEARING AND SALE OF CITY-OWNED PROPERTY** described as the south 132 feet of Lot 4 in the SW ¼ of Section 9, Township 1 South, Range 26 East more commonly known as South Billings Boulevard. Approval of sale delayed from 1/12/09. Recommendation to be made at meeting. (**Action:** approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND RESOLUTION CREATING SILMD 306** – King Avenue East from South Billings Boulevard to Orchard Lane. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
6. **PUBLIC HEARING AND SPECIAL REVIEW #874:** A special review to allow two 9-unit multifamily dwellings on a 39,600 square foot parcel in a Residential 6000 zone described as the south 10 feet of Lot 8 and all of Lot 7 of Willis Subdivision and addressed as 307 Washington Street. Dave Hagstrom, owner. Zoning Commission recommends conditional approval. (**Action:** approval or disapproval of Zoning Commission recommendation.)
7. **PUBLIC HEARING AND RESOLUTION** levying annual weed assessments for the 2nd half of FY2009. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
8. **RESOLUTION** approving the list of city projects to be considered under the American Recovery and Reinvestment Act of 2009. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)
9. **PUBLIC COMMENT on Non-Agenda Items** -- Speaker sign-in required. (*Restricted to ONLY items not on this printed agenda; comments limited to 3 minutes per speaker. Please sign up on the clipboard located at the back of the Council Chambers.*)

Council Initiatives

ADJOURN

Additional information on any of these items is available in the City Clerk's Office.

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please contact Cari Martin, City Clerk, at 657-8210.



Agenda Item:

A1

CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, FEBRUARY 23, 2009

TITLE: **Boards & Commissions –Appointments**

DEPARTMENT: **City Administrator's Office**

PRESENTED BY: **wynnette Maddox, Administration**

PROBLEM/ISSUE STATEMENT: Confirmation of appointments for Board and Commission positions that are vacant due to the lack of applications in December and resignations.

FINANCIAL IMPACT: No financial impact involved.

RECOMMENDATION

Mayor Tussing recommends that Council confirm the following appointments:

	Name	Board/Commission	Term	
			Begins	Ends
1.	Douglas Ruebke	Animal Control Board	02/23/09	01/31/13
2.	Diana Bachmann	Animal Control Board	02/23/09	01/31/13
3.		Board of Appeals	02/23/09	01/31/13
4.	Emily Shaffer	Community Development Board	02/23/09	01/31/13
5.		Emergency Medical Advisory	02/23/09	01/31/13
6.	*	Emergency Medical Advisory	02/23/09	12/31/09
7.	*J. Stephen Begley	Energy & Conservation Commission	02/23/09	12/31/10
8.	Larry Gaalswyk	Homelessness Committee	02/23/09	01/31/13
9.	Patrick Chapel	Homelessness Committee	02/23/09	01/31/13
10.		Housing Authority	02/23/09	01/31/13
11.	*Everall Fox	Human Relations Commission	02/23/09	12/31/10
12.		Parking Advisory Board	02/23/09	01/31/13

13.	*	Parking Advisory Board	02/23/09	12/31/10
14.	Todd Royal	Parks/Recreation/Cemetery	02/23/09	01/31/13
15.	Darwin George	Parks/Recreation/Cemetery	02/23/09	01/31/13
16.	*Gary Gray	Parks/Recreation/Cemetery	02/23/09	12/31/09
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- 6. *Unexpired term of Dr. John Kominsky
- 7. *Unexpired term of Bernard Rose
- 11. *Unexpired term of Shoshana Tom
- 13. *Unexpired term of Gary Temple
- 16. *Unexpired term of Wanda Walker
- 17. *Unexpired term of Gay Easton

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: Award of Airport Improvement Program (AIP) Project for Taxiway F Construction

DEPARTMENT: Aviation and Transit

PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: One of the Airport's approved Capital Improvement Program projects is the Construction of Taxiway F. This new Taxiway will replace the existing Taxiway G, which does not meet the Federal Aviation Administration's (FAA) grade/slope criteria. Taxiway G will be removed and the material will be reused as the base material for the new Taxiway's asphalt pavement surface. The new Taxiway will be constructed perpendicular to the main air carrier Runway 10R/28L, and will provide safer access between the runway and taxiway system.

This project has been advertised in the *Billings Times* for three weeks, and was on the City's Web site. On February 10, 2009, we received the following bids for this project:

<u>CONTRACTOR</u>	<u>BID</u>
Riverside Sand & Gravel, Inc.	\$1,185,272.10
Knife River – Billings	\$1,441,295.67
JEM Contracting, Inc.	\$1,871,948.62
ESTIMATE	\$1,600,000.00

FINANCIAL IMPACT: The total cost of the project is \$1,185,272.10, and will be funded through a 95% Federal Aviation Administration (FAA) AIP entitlement grant, with a 5% local match. The FAA portion is \$1,126,008.56, and the City's match is \$59,263.60, which is budgeted in the Airport Capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the award of the AIP funded Taxiway F Construction project to the low bidder Riverside Sand & Gravel, Inc., for the amount of \$1,185,272.10.

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 23, 2009

TITLE: Acceptance of Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants for 2009

DEPARTMENT: Aviation and Transit

PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: It is necessary to secure the City Council's approval and authorization for the Mayor to execute this year's Federal Aviation Administration (FAA) Airport Improvement Program (AIP) Grants. This year's Grants provide the entitlement funding needed to undertake the engineering, planning, and construction projects at the Airport. As required by the FAA, the Grant offer is based on the estimated amounts for construction and engineering for these projects. This year's projects include the Taxiway F Rehabilitation, Taxiway A Straightening, and Taxilane Rehabilitation in the Executive and General Aviation Hangar areas.

Typically, the annual AIP Grant projects are funded with a single FAA Grant. However, since the FAA funding is received through the annual Congressional Transportation Appropriations Bill, which unfortunately was not passed for 2009, the FAA funding for this year has been subjected to the prorated annual amount authorized by the Continuing Resolutions that Congress has twice passed to keep the Federal Government operating. Subsequently, the annual grant allocations are impacted and it is expected that the Airport will receive their total annual grant amount for this year's construction in more than one allocation. The first allocation is anticipated to be approximately \$1,479,492.

FINANCIAL IMPACT: The total estimated costs for the engineering services and construction associated with this year's Grants are \$4,955,016. The combined Grants will fund 95% of this cost (\$4,707,652) and the City will be required to provide a 5% match (\$247,364). The first grant allocation will be approximately \$1,479,492 with a local share amount of \$77,868, which will be used for the Taxiway F Rehabilitation project. This is the first project in a series of taxiway system projects that needs to be completed before the upcoming main runway rehabilitation project that is scheduled for completion in 2013. Additional Grants are expected later this Spring. The source of the City's match is the Department's Capital fund.

RECOMMENDATION

Staff recommends that the City Council approve the acceptance of this year's Grants and authorize the Mayor to execute up to \$4,707,652 of FAA AIP Grants, as they are provided by the FAA.

Approved By: City Administrator City Attorney



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, February 23, 2009**

TITLE: Submittal and Acceptance of Grant Application to the Montana Department of Transportation (MDT) for Paratransit Operating Assistance and Grant Funding for the Purchase of Two Paratransit Vans

DEPARTMENT: Aviation and Transit Department

PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: The Aviation and Transit Department, MET Transit Division, is seeking assistance from the Montana Department of Transportation (MDT) – Transit Section, for paratransit operating assistance and the purchase of two paratransit vans. The deadline for filing this application is March 2, 2009.

The MDT Transit Section has four grant programs, TransADE (operations only), Section 5310 (capital only), Section 5317 New Freedom, and Section 5316 Job Access Reverse Commute (JARC). MET Transit would apply for funding from all four grant programs. The first portion of the applications are requests for State funds for paratransit operating assistance in the amount of \$180,107, coming from TransADE (\$50,021), 5317 New Freedom (\$10,000), and 5316 JARC (\$120,086). While the TransADE and Section 5310 capital grants have been available on a yearly basis for some time, the New Freedom and JARC grants have just recently become a source of funds available to MET. All programs must be applied for annually and MET is awarded the grants based on available funds on a year-to-year basis. The State recognizes the rising costs of transporting elderly and disabled citizens and the significant impact this has on operating budgets. The intent of this funding is to encourage all agencies to provide coordinated transit service to the elderly and disabled citizens. In addition, this funding will help supplement operating expenses for paratransit service provided to newly annexed areas of the City and to serve low income, disabled citizens of Billings.

The second portion of the grant applications is for capital assistance for the purchase of two paratransit vans. MET Transit will be applying for funding for two vans from Section 5310 funds. Should this funding be awarded, the State would provide \$161,069 (86%) for the cost of the vans and the local match would be \$26,221 (14%). Both vans will be included in the FY 10 Transit capital budget. The documentation for this item is available for

viewing at the office of the City Clerk, and it is anticipated that the outcome from this grant request will be known by May 2009.

FINANCIAL IMPACT: Through these grants, the City's Transit Division could receive up to \$180,107 of revenue for FY 10 for paratransit administrative, maintenance, and operating costs, and up to \$161,069 of the cost of two new paratransit vans. Should all requests be funded, the total local match would be \$26,221. The local share portion needed for the purchase of the vans is included in the Transit Capital fund and the local share needed for the operating grants would be covered by actual "in-kind" daily expenditures that are regularly incurred.

RECOMMENDATION

Staff recommends that Council approve the submittal of this grant application and the subsequent execution, by the Mayor, of a grant agreement(s) with the Montana Department of Transportation upon receipt of the grant offer(s).

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: Downtown Billings Partnership Request for N. 27th Street Tax Increment District Project Funding

DEPARTMENT: Administration

PRESENTED BY: Bruce McCandless, Asst. City Administrator

PROBLEM/ISSUE STATEMENT: The Downtown Billings Partnership Board of Directors is requesting up to \$15,000 from the N. 27th Street Tax Increment District (TID) to match grant funds that will assist the Minnesota Avenue property owners achieve Historic District designation. In November, 2008, the City Council accepted a grant offer from the State of Montana for an \$11,750 Preserve America grant. Local match is required and the N. 27th Street District was identified as a possible match source when the Council accepted the grant. The section of Minnesota Avenue that is the object of the Historic District designation is within the N. 27th Street TID. The N. 27th Street TID plan identifies Historic District expansion as an eligible project. The Historic District designation requires extensive documentation and a complex application. The grant and TID funds will be used to pay a company or individual to complete these steps.

FINANCIAL IMPACT: The N. 27th Street TID was created in 2005, expanded in 2006 and expanded again in 2008. Tax collections from the district total \$135,000 to date. This would be the first project expenditure from the account.

RECOMMENDATION

Staff recommends that Council approve the request from the Downtown Billings Partnership Board of Directors for up to \$15,000 from the N. 27th Street TID to match a Preserve American grant that will be used to achieve Historic District designation for properties on Minnesota Avenue.

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: St. Patrick's Day Parade and Celtic Street Fair
DEPARTMENT: Public Works-Engineering Division
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The Big Sky Senior Services and Save Our Parade requests street closures for the annual St. Patrick's Day Parade and street fair on Saturday, March 14, 2009. The parade will assemble at 9:00 am, begin at 11:00 am and disband by 12:00 pm using the established downtown parade route. The street fair will be held on North Broadway between 1st Ave North and 3rd Ave North from 9:00 am until 2:00 pm.

Recommended conditions of approval include, Big Sky Senior Services and Save Our Parade:

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

ALTERNATIVES ANALYZED:

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

FINANCIAL IMPACT: Big Sky Senior Services and Save Our Parade requests the standard police support for the parade with a lead car and follow car and street cleaning if needed due to animals. Police, traffic control and litter removal are to be paid for by Big Sky Senior Services and Save Our Parade.

RECOMMENDATION

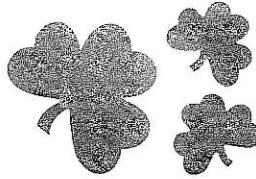
Staff recommends that Council approve closure of the established downtown parade route on

Saturday, March 14, 2009, for the St. Patrick's Day Parade and Celtic Street Fair.

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

ATTACHMENT

- A. Special Activity Permit application
- B. Map
- C. BID Event Kit of Parts Usage Packet
- D. Certificate of insurance



January 22, 2009

Downtown Billings
2815 2nd Ave. North
Billings, MT 59101

Attention: Sherri Sjolseth

On March 14, 2009, Big Sky Senior Services in partnership with the Save Our Parade Committee is planning the annual St. Patrick's Day Parade and Celtic Street Fair. The parade will begin at 11:00am with staging beginning around 9:00am and will follow the traditional parade route. We request to close North Broadway between 1st and 3rd Ave. and 2nd Ave between 29th and 27th from 8:00am until 3:00pm. The actual street fair will run from 9:00am until 2:00pm.

We are arranging for the street closure devices and clean up afterwards. We request the usual police department support for the parade with a lead car and a follow car. Also, we request adequate bicycle and foot patrol presence if available.

Thank you for your time in this matter. If more information is needed please call Becky Stanek at Big Sky Senior Services, 259-3111 or Kelly McCann at Save our Parade, 861-3417.

Thank you again for your help with our event.

A handwritten signature in black ink, appearing to read "Becky Stanek".

Becky Stanek
Big Sky Senior Services



City of Billings RIGHT-OF-WAY ACTIVITY PERMIT

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure Block Party

Submit this application with attachments to either the: Public Works office, 2224 Montana Ave., Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Becky StaneK

ORGANIZATION MAKING APPLICATION Big SKY Senior Services /Save our Parade
PHONE 259-3111

ADDRESS 3 1/2 N 35th Billings, MT 59101

CITY

STATE

ZIP

EMAIL ADDRESS ba.staneK@bigSKYSeniorServices.org

APPROXIMATE TIME EVENT WILL: Parade 11:00am Parade 12:00pm
Assemble 8:00am Start Street Fair 9:00am Disband Street fair 2:00pm

DATE OF EVENT March 14, 2009

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

The St. Patrick's Day Parade and Street Fair is a traditional event
Celebrating Irish heritage in our community.

EVENT ROUTE DESIRED (IF APPLICABLE): (Please attach map.)

We will use the standard parade route and the street fair
will be held on N. Broadway between 1st and 3rd ave N.

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

CLEAN UP IMPLEMENTATION: (Company contracted or services you will provide)

We will contract with DBA for clean up and provide trash bags
for the trash cans.

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per claim/\$1.5 million per occurrence general liability, and (2) the City of Billings named on the Certificate of insurance as the additional insured. (Refer to the sample insurance copy. Please note a certificate of insurance is not required for Block Parties)

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

FOR DOWNTOWN EVENTS: YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT.

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "safe or hold harmless agreements" from all participants in its activity protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE. Becky St DATE 1/22/09

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES NO
(IF YES, ATTACH COPY)

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY



BID Event Kit of Parts Usage Packet

Below you will see a step by step process that must be implemented in order to close streets and hold an event. You may stage and implement your own event downtown and make use of the BID's "Kit of Parts." You must obtain your own street closure permission and provide your own liability insurance.

STEP 1: Make sure your have a PLAN AND that your block neighbors are "on board" with the idea...or, at least, do not object to your plan.

-Date(s) of Event: Saturday March 14th, 2009

-Does this event require any Street Closure? Yes No

-Do you have Liability Insurance that will cover this event? Yes No

(You will be required to provide a "Binder" to the City of Billings showing coverage)

-Will you be serving alcoholic beverages? Yes No

(A permit may be required from the Billings Police Department)

What Blocks will be closed: (Example: The 200 Block of N. Broadway)

List all: * 2nd Ave N, From 27th to 27th
* the 100 - 300 block of N. Broadway (Street Fair)
* 3rd Ave N between 24th St. N and 32nd St. N
* North 33rd St. between 3rd Ave N and 2nd Ave. North
* 2nd Ave North between N. 33rd and North 26th

Briefly Describe Your Event Activity/Participants:

St. Patrick's Day Parade consisting of floats, walkers and animals

Celtic Street Fair with vendors supplying food, drinks and a variety of goods for sale

3/14/09 Parade & Staging area

-Specify the exact date and TIME the blocks noted above will be CLOSED: From 9:00am, 8:00pm Streetfair

-Specify the exact date and TIME the blocks noted above will be REOPENED: noon, Parade, 3:00 Streetfair

-Indicate your traffic re-route plan: **BE SPECIFIC...SEE EXAMPLE**

(Example if closing the 200 Block of N. Broadway...Northbound traffic on N. 28th would be diverted west at 1st Ave. North then resume northbound at N. 29th & southbound traffic on N. 26th would be diverted east at 2nd Ave. North then resume southbound at N. 27th)

North Broadway - Traffic on 1st & 3rd Ave N. will not be effected except they will not be allowed to turn N. from 1st or South from 3rd to N. 28th

2nd Ave from alley will be diverted east of N. 27th to N. 29th (traffic diverts left only to N. 29th)

-List All of the Businesses impacted by the closure and have them "sign off" on the event:

BUSINESS NAME:

ADDRESS:

SIGNATURE:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____



CITY OF BILLINGS
Parks, Recreation and Public Lands Department
390 North 23rd Street
Billings, MT 59101
(406) 657-8371 / 657-8372
Fax (406) 247-8641
Website - www.prpl.info



Dear Event Coordinator:

Events that use City parks or streets/rights of way carry an inherent risk of property damage and/or bodily injury. So that losses are not subsidized by all city taxpayers, the City requires at least \$1,500,000 per occurrence of liability insurance coverage for events that use City property. In an effort to support those events and because that level of coverage may not be available or may be too expensive for some organizations, the City offers access to a Comprehensive General Liability insurance policy that provides the required coverage. The City does not sell the insurance and does not profit from its sale. The City encourages all event sponsors to secure their own liability insurance coverage and to use this optional insurance program as a last resort.

Attached to this form is a list of covered events. Coverage is available if your type of event is specifically listed. Liability insurance premium prices can be determined and given to you after you complete the City permit and the insurance application and City personnel consult with the insurance agent. If your type of event is not listed, an individual assessment of risk and pricing must be made by the agent and underwriter who produce the policy. Please provide all of the information requested on the application form and be as complete as possible. The named applicant should be the organization that is sponsoring the event and not the person who represents the organization. All checks must be written to: Hoiness LaBar Insurance.

As with all insurance there are policy limits and exclusions. The liability limit is \$2 million per occurrence. Property damage has a \$250 deductible that will be paid by the event sponsor if there is a claim payment. There is no deductible for bodily injury.

Please Note:

- (1) The policy does **NOT** cover event participants; it only protects the City and the event sponsor; and,
- (2) Liquor sales or distribution is **NOT** covered. If your organization is planning to sell and/or serve alcoholic beverages during your event, you or a vendor you are utilizing must obtain separate, additional "liquor liability" insurance that names the City as an additional insured.

Please initial in the following spaces, acknowledging that liquor and participant coverage are not provided by this policy.



I acknowledge that the event insurance that I may obtain pursuant to this application does **NOT** provide coverage for liability that results from LIQUOR SALES OR DISTRIBUTION.



I acknowledge that the event insurance that I may obtain pursuant to this application does **NOT** provide coverage for liability that results from claims made by EVENT PARTICIPANTS.

Becky Stu
Event Coordinator

SPECIAL EVENT LIABILITY APPLICATION

Applicant Name: Big Sky Senior Services, INC. / Save our Parade Committee

Address: 3 1/2 N. 35th

City, State, Zip: Billings, MT 59101

Home Number: 259-3111 Cell Number: 690-9865

Name of Event: St. Patrick's Day Parade and Celtic Street Fair

Location of Event: Standard Parade Route and between 1st and 3rd Ave on N. Broadway (street fair)

Dates Requested: From 3/14/09 To 3/14/09 Time of Event: 9:00am-2:00pm

Description of Event: (If printed material is available, attach) The St. Patrick's Day Parade is an annual event benefiting Big Sky Senior Services. Set up begins at 9:00am with the parade starting at 11:00am ending about 12:00pm. There will be approximately 50 parade entries. The street fair set up begins at 8:00am with the event starting at 9:00am ending at 2:00pm, with takedown until 3:00pm.

Any Additional Important Information Regarding the Event:

UNDERWRITING INFORMATION

Estimated Attendance: 2,500 Per day _____ Total all Days _____

about

Number of Participants: (If applicable) 50 groups Gross Receipts: \$ 5,000.00

Describe Seating Arrangements: (type, capacity, etc.) Street Side Viewing

Describe All Set-up Exposures: (electrical, special effects, etc.) The Celtic Street Fair participants will have the option of using the downtown electrical boxes located between 1st & 3rd on N. Broadway

Food or Beverage Sold or Served by Applicant? Y If Yes, Give Details: We will have a booth at the Street Fair selling pastries in accordance with the YCCHD.

Please Provide Complete Description of Event: The annual St. Patrick's Day Parade is a multi-cultural event benefiting Big Sky Senior Services. The Parade will follow the standard route beginning @ 11:00am. The Street Fair will operate until 2:00pm. There will be approximately 50 parade entries and 20-30 vendors.

Applicants Signature: Becky Sto Date: 1/9/07

Producer Name & Address: Hoiness LaBar Insurance/C. Hoiness
PO Box 30638
Billings, MT 59107-0638

BIG SKY SENIOR SERVICES, INC.		ROCKY MOUNTAIN BANK	11721
3 1/4 NORTH 35TH STREET 259-3111		2615 KING AVENUE	
BILLINGS, MT 59101		BILLINGS, MT 59102	
		(406) 255-3140	
		99-121/929	
			1/15/2009
PAY TO THE ORDER OF		HOINESS LABAR INSURANCE	\$ *435.00
Four Hundred Thirty-Five and 00/100			DOLLARS
HOINESS LABAR INSURANCE P. O. BOX 30638 BILLINGS, MT 59107-0638		 	
MEMO	09 ST. PAT PARADE INS #PAC6638093		
 SECURITY FEATURES INCLUDED. DETAILS ON BACK.			

BIG SKY SENIOR SERVICES, INC.

HOINESS LABAR INSURANCE
70064 · ST. PAT DAY EXPENSE

09 PARADE INSURANCE

1/15/2009

435.00

11721

Rocky Mountain Bank 09 ST.PAT PARADE INS #PAC6638093

435.00

Client#: 200

CITYOFBI

ACORD™ CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
01/27/09

PRODUCER Holness LaBar Insurance A Member of Payne Financial Group P.O. Box 30638 Billings, MT 59107-0638		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED City Of Billings %Human Resources Dept P.O. Box 1178 Billings, MT 59104		INSURERS AFFORDING COVERAGE	NAIC #
		INSURER A: Penn-American Insurance Co.	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

COVERS

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

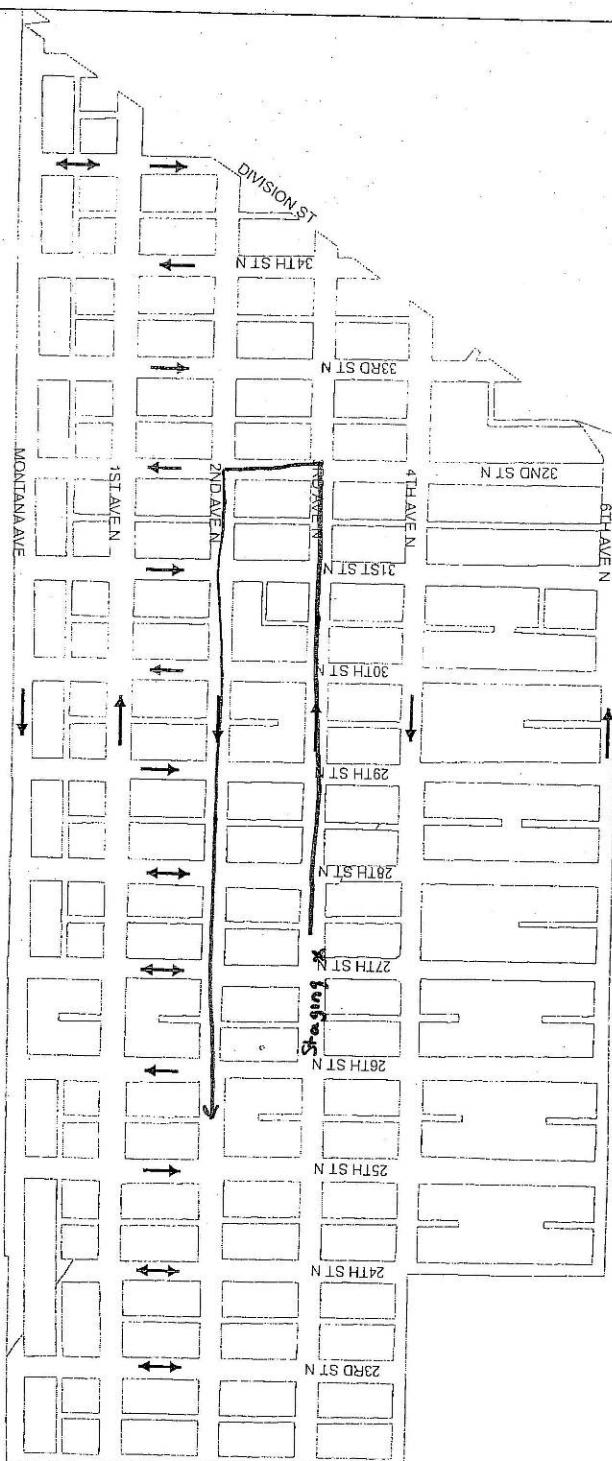
INSURANCE ADDED LTR. INSSC	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS																		
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> PD Ded:250 GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	PAC6638093	04/01/08	04/01/09	<table border="1"> <tr><td>EACH OCCURRENCE</td><td>\$2,000,000</td></tr> <tr><td>DAMAGES TO RENTED PREMISES (Ex. OCCURRENCE)</td><td>\$100,000</td></tr> <tr><td>MEG EXP (Any one person)</td><td>\$5,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td>\$2,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td>\$2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td>\$2,000,000</td></tr> </table>	EACH OCCURRENCE	\$2,000,000	DAMAGES TO RENTED PREMISES (Ex. OCCURRENCE)	\$100,000	MEG EXP (Any one person)	\$5,000	PERSONAL & ADV INJURY	\$2,000,000	GENERAL AGGREGATE	\$2,000,000	PRODUCTS - COMP/OP AGG	\$2,000,000						
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	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				<table border="1"> <tr><td>COMBINED SINGLE LIMIT (Ex accident)</td><td>\$</td></tr> <tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr> </table>	COMBINED SINGLE LIMIT (Ex accident)	\$	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$										
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E.L. DISEASE - POLICY LIMIT	\$																						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER																						
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS Holder is listed as Additional Insured on policy for St. Patrick's Day Parade and Celtic Street Fair on March 14, 2009 in downtown Billings, MT.																							

CERTIFICATE HOLDER

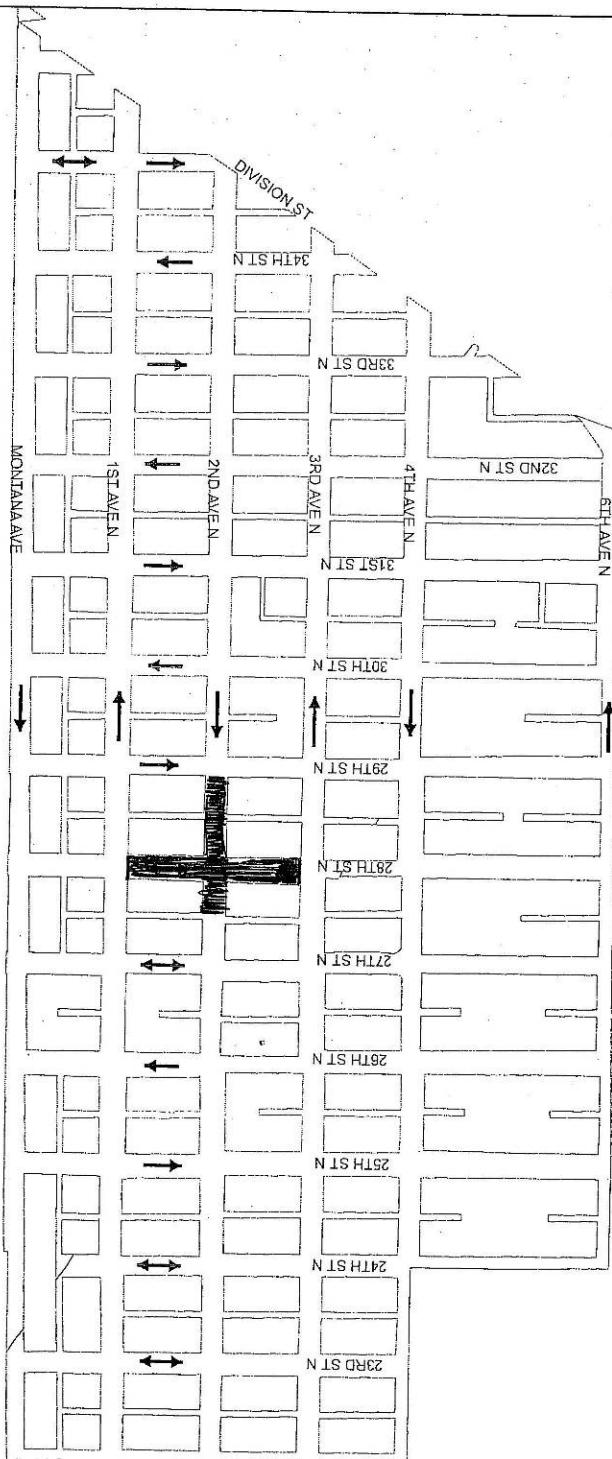
CANCELLATION

Big Sky Senior Services, Inc./Save our Parade Committee 3 1/2 N. 35th St. Billings, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL, ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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Downtown Billings Street Direction Map



Downtown Billings Street Direction Map



I/We understand that there will be a street closure on Saturday, March 14, 2009 for the St. Patrick's Day Parade and Street Fair. All proceeds from the parade and street fair will benefit Big Sky Senior Services.

<u>BUSINESS</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Prarie Blossom	225 N. Broadway	Jay & Tricia
Native American	221 N. Broadway	Jeanne Smith
Denvers Merc Corp.	219 N. Broadway	Brett Work
Big Sky's Rentals	217 N. BROADWAY	Shelly A.R.
BELLEZHA SALON	213 N. Broadway	Barbara Wagner
Edward Jones	207 N. Broadway	Carolyn Whalen
Valley Fed Credit Union	207 N. Broadway	Colleen Whalen
Native American Art	201 N. Broadway	
Buchanan Capital	117 N. Broadway	Doreen (252-9200)
Homesite Designers	105 N. Broadway	Jeff & Marci
Brew Pub	111 N. Broadway	(248-7115)
Advertising Design	100 N. Broadway	Chris
Crystal	108 N. Broadway	677-2106
Makava / Rocke Gear	112 N. Broadway	Mitch
Scrap place	124 N. BROADWAY	Heather
In Step Shoes	128 N. Broadway	Glover
Jackets + Co.	124 N. BROADWAY	H. Kinal
Fork Creek coffee	128 N. Broadway	Suzi
J.A. Davidson	128 N. Broadway	Terri Haack
JMSL BILLINGS	124 N. BROADWAY	Shelly
DOWNTOWN P.C.	124 N. BROADWAY	Shadieh - Dietrich

2nd Av

I/We understand that there will be a street closure on Saturday, March 14, 2009 for the St. Patrick's Day Parade and Street Fair. All proceeds from the parade and street fair will benefit Big Sky Senior Services.

<u>BUSINESS</u>	<u>ADDRESS</u>	<u>SIGNATURE</u>
Paula's Edibles	2712 2nd Ave. N.	<i>Sarah Ferris</i>
Gallery Interiors	2702 2nd Ave N	<i>S. Booth</i>
Gene Rockman	2704 3rd Ave N	<i>Gene Rockman</i>
Mortigree's	2810 2nd Ave N.	<i>Deeann Schmitz</i>
CRICKET	2814 2nd Ave N	<i>Beth Murphy</i>
3rd Merchant	2818 2nd Ave N.	<i>John</i>
<i>Hoff</i>	2820 2nd Ave N	<i>John</i>
Goldsmith Gallery	2821 2nd Ave N	
NECCES		
Desmonds	2819 2nd Ave N	<i>Trish Blake</i>
Muddy Waters	2817 2nd Ave N.	<i>Genia Broyles</i>
C.S.R. Room	2817 2nd Ave N	<i>Lam Blaf</i>

Jun 20 08 09:38a

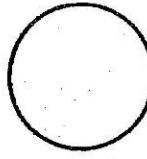
406 247 8641
City of Billings - Prpl D 406-247-8641

P.002

P.2



Department of Parks, Recreation & Public Lands
390 North 23rd Street
Billings, Mt 59101
(406) 657-8371



APPLICATION FOR PORTABLE COMMUNITY SOUNDSTAGE RENTAL

APPLICANT

Application Date 1/22/09

Organization Big Sky Senior Services

Event Chairman Becky Stoenk Day Phone 259-3111 Night Phone

Address 3 1/2 N. 35th, Billings, MT 59101

COMMUNITY SOUNDSTAGE SPECIFICATIONS

The Community Soundstage is a self-contained trailer which converts into a portable band shell or stage. It can be used for a variety of purposes for the performing arts such as plays, concerts, etc. The trailer itself is 33'6" long, 9' wide, and 13'1" high. The actual size of the stage is 14' deep by 28' wide. It is equipped with a P.A. system which has two microphones and a CD player, overhead fluorescent lighting, eight colored can type floodlights, and has multiple receptacles for electrical use with a total amperage draw based on the electrical power source.

RENTAL RATES

At the time of application, a 50% deposit of the total rental amount is required to secure a date for reservation.

	ONE DAY	TWO DAYS (Same Location)
BASIC STAGE RENTAL	\$300.00 <input checked="" type="checkbox"/>	\$400.00 <input type="checkbox"/>
PA SYSTEM & CD PLAYER	\$ 50.00 <input checked="" type="checkbox"/>	\$ 75.00 <input type="checkbox"/>
*COLORED CAN SPOTLIGHTS	\$100.00 <input type="checkbox"/>	\$150.00 <input type="checkbox"/>

(Rental rates for longer periods of time will be negotiable.)

* Available for night time shows only. Requires a separate 120 volt receptacle plug-in on a different circuit breaker than the one being used to power the stage receptacles.

EVENT

Type or name of event St. Patrick's Day Parade & Street Fair

Contact or person in charge DAY OF EVENT Kelly McCann

Address 3 1/2 N. 35th Day Phone Night Phone

Date(s) of event 3/14/09 Day(s) of event

Event starting time Set up 8:00am Event ending time 2:00 pm

Time Soundstage must be set up by 8:30 am

**Earliest time Soundstage can be dismantled? 2:15 pm

Time to meet person in charge the day of event for setup instructions? 8:30 am

PA System/CD Player needed? Yes Colored can spotlights needed?

**See terms of Rental Agreement

(Please complete back of application)

F2

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 23, 2009

TITLE: Yellowstone Rimrunners Street Closures for Shamrock Run

DEPARTMENT: Public Works-Engineering

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

PROBLEM/ISSUE STATEMENT: The Yellowstone Rimrunners request the temporary street closures on Sunday, March 15, 2009, from 12:30 pm to 1:45 pm, for their annual Shamrock Run. The route is as follows: Beginning at 3rd Street West and Avenue B, go north on 3rd Street West then west onto Parkhill up to Nordbye, turn around and go east onto Parkhill, turning right on 3rd Street West and then ending at Pioneer Park.

Recommended conditions of approval include Yellowstone Rimrunners:

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

ALTERNATIVES ANALYZED:

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

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

RECOMMENDATION

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

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

ATTACHMENTS

- A. Letter from Yellowstone Rim Runners outlining event
- B. Right of Way Special Activity Permit
- C. Course map
- D. Certificate of insurance



**City of Billings
RIGHT-OF-WAY ACTIVITY
PERMIT**

Please check the type of activity you are applying for:

Parade Run/Walk/Procession Street/Alley Closure Block Party

Submit this application with attachments to either the Public Works office, 2224 Montana Ave., Billings, MT 59101 or Downtown Billings office, 2815 2nd Ave North, Billings, MT 59101. Application packet should be turned in at least 60 days prior to the date of the proposed event for approval.

PERSON MAKING APPLICATION Dave Coppock

ORGANIZATION MAKING APPLICATION Yellowstone Rimrunners

PHONE 406-591-9598

ADDRESS Box 2424 CITY Billings STATE MT ZIP 59103

EMAIL ADDRESS run-msub@hotmail.com

APPROXIMATE TIME EVENT WILL:

Assemble 12:30 pm Start 1:00 pm Disband 1:45 pm

DATE OF EVENT March 15, 2009 - Sunday

PURPOSE/DESCRIPTION OF EVENT: (Description and detail of the event.)

5 kilometer (3.1 mile) road race and 1 mile kids run

EVENT ROUTE DESIRED (IF APPLICABLE): (Please attach map.)

3rd St. West from Ave-13 to Parkhill, Parkhill to 12th St. West and return (back track) to Park.

BLOCK PARTY STREET LOCATION (IF APPLICABLE):

CLEAN UP IMPLEMENTAION: (Company contracted or services you will provide)

CERTIFICATION OF INSURANCE WHICH MUST SHOW: (1) The limits of liability coverage for the period of this agreement as a minimum of \$750,000 per claim/ \$1.5 million per occurrence general liability, and (2) the City of Billings named on the Certificate of Insurance as the additional insured. (Refer to the sample insurance copy. Please note a certificate of insurance is not required for Block Parties)

NOTICE: ANY MARKINGS (NO PAINT ALLOWED) TO BE PLACED ON PUBLIC RIGHT-OF-WAY MUST BE APPROVED BY THE CITY TRAFFIC/ENGINEERING DEPARTMENT PRIOR TO PLACEMENT, BE ENVIRONMENTALLY SAFE, AND NOT CONFLICT WITH EXISTING MARKINGS.

FOR DOWNTOWN EVENTS: YOU OR THE ORGANIZATION YOU REPRESENT MUST "ASSIGN" THE FIRST TWO BLOCKS OF THE DOWNTOWN EVENT ROUTE FOR NO PARKING TWO HOURS PRIOR TO YOUR EVENT USING THE ROUTE SIGNS PROVIDED BY THE CITY. IT IS YOUR RESPONSIBILITY TO PROVIDE THE APPROPRIATE BARRICADES FOR THE STREET CLOSURE.

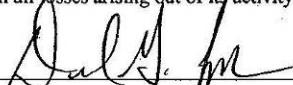
IF USING THE ESTABLISHED EVENT ROUTE, THE CITY WILL PROVIDE TWO POLICE OFFICERS WITH VEHICLES TO START THE EVENT, AND A STREET SWEEPER, IF NECESSARY, TO FOLLOW THE EVENT.

COORDINATOR OF EVENTS AT WHICH ALCOHOL WILL BE CONSUMED IN PUBLIC RIGHT-OF-WAY ARE REQUIRED TO OBTAIN AN OPEN-CONTAINER PERMIT FROM THE POLICE DEPARTMENT

UPON SIGNING OF THIS APPLICATION, THE APPLICANT AGREES NOT TO VIOLATE ANY STATE OR CITY CODES IN THE PRESENTATION OF THE REQUESTED SPECIAL ACTIVITY.

In consideration for permission to conduct its activity as requested, applicant agrees to indemnify, defend and hold harmless the City of Billings, its officers, agents, employees and volunteers from damage to property and for injury to or death of any person and from all liability claims, actions or judgments which may arise from the activity.

Applicants also agree to obtain valid "save or hold harmless agreements" from all participants in its activity, protecting the City of Billings from all losses arising out of its activity, including damages of any kind or nature.

APPLICANT SIGNATURE  DATE 1/25/09

APPLICATION APPROVED _____ DATE _____

APPLICATION DENIED _____ DATE _____

ADDITIONAL RESTRICTIONS OR SPECIAL CONDITIONS: YES NO
(IF YES, ATTACH COPY)

FOR CITY USE ONLY

FEE: _____

APPLICANT NOTIFIED BY: _____

DATE: _____

COPIES TO:
CITY ADMINISTRATOR
DEPUTY CITY ADMINISTRATOR
POLICE CHIEF
FIRE CHIEF
FIRE MARSHALL
MET TRANSIT MANAGER
STREET/TRAFFIC SUPERINTENDANT
TRAFFIC ENGINEER
PRPL DIRECTOR
PARKING SUPERVISOR
CITY ATTORNEY

Yellowstone Rim Runners
P.O. Box 2424
Billings MT 59103

January 25, 2009



Billings Parks, Recreation and Public Lands
390 North 23rd Street
Billings MT 59101

Dear Sir or Madam:

The Yellowstone Rim Runners are requesting a permit for the Shamrock Run which will be held on Sunday, March 15, 2009. The race will be a 5 kilometer (3.1 mile) race on 3rd Street West and Parkhill Drive.

The race route will be the same as last year. The start line for the race will be at 3rd Street West and Avenue B. Runners will head north on 3rd to Parkhill, then west on Parkhill to the turn around point near the intersection of Parkhill and Nordbye. Runners will then head back east on Parkhill and south on 3rd. Runners will enter Pioneer Park on the service road at the south edge of the park and finish inside the park.

Registration will be held at the Zimmerman Center in Pioneer Park from 11:30 to 12:30. Runners will begin to assemble at the start at about 12:30. The race will begin at 1:00 P.M. All runners will be off the street by 1:45 P.M.

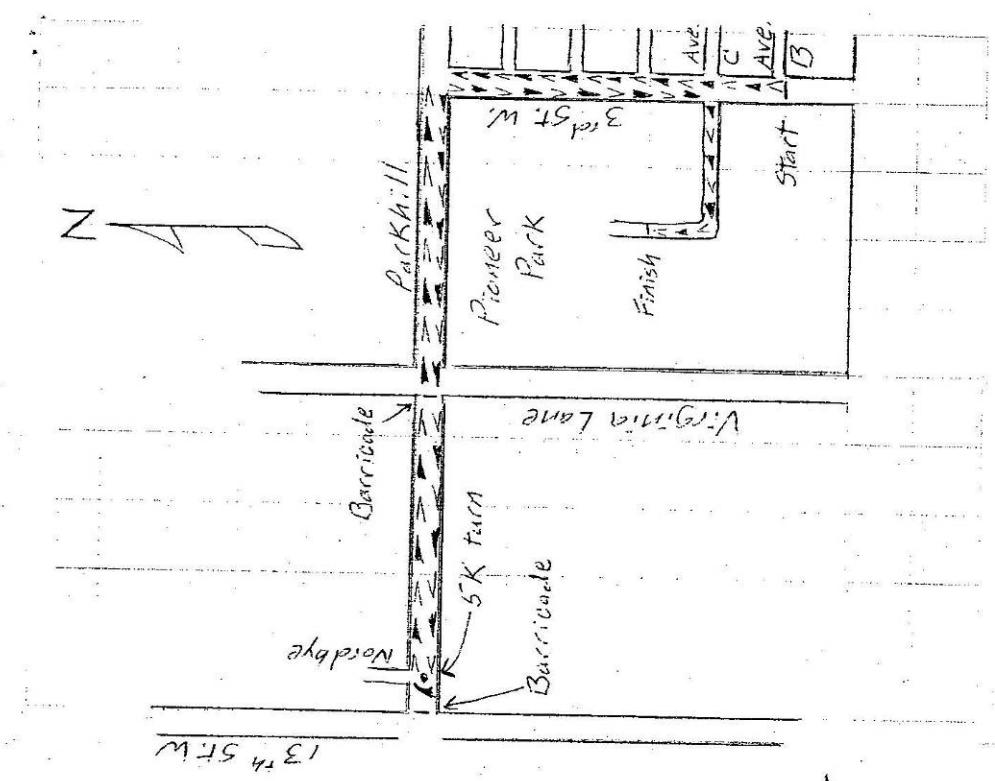
Barricades will be placed at 3rd Street West and Grand Avenue, 3rd Street West and Parkhill, Virginia and Parkhill, and 13th Street West and Parkhill. Barricades will also be placed at intersections one block off of the race course, such as on 2nd Street West, Avenue F, and so forth. The barricades are between two and three feet wide, so intersections will not be completely blocked. Course guards will be stationed at most of the intersections along the race route. Course guards will allow traffic through intersections when there is a sufficient gap between runners to allow traffic to pass without endangering runners.

A 1 mile Kids' Race will be held on the sidewalks around Pioneer Park after the 5K is completed. Awards will be given at the Zimmerman Center after the race.

Please call me at 591-9598 if you have any questions. Thank you for your assistance.

Sincerely,

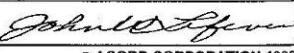

Dave Coppock
President



SHAMROCK RUN
ROUTE
Not To Scale

5K

ACORD™ CERTIFICATE OF LIABILITY INSURANCE						DATE (MM/DD/YYYY) 12/31/2008
PRODUCER (260) 467-5690 FAX: (260) 467-5651 STAR Insurance - Fort Wayne Office 2130 East DuPont Road			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERNS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
Fort Wayne IN 46825			INSURERS AFFORDING COVERAGE		NAIC #	
INSURED ROAD RUNNERS CLUB OF AMERICA AND ITS MEMBER CLUBS 6434 POUND APPLE COURT COLUMBIA MD 21045			INSURER A: NATIONAL CASUALTY COMPANY			
			INSURER B: NATIONWIDE LIFE			
			INSURER C:			
			INSURER D:			
			INSURER E:			
COVERAGES						
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR ADD'L LTR INSR'D	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> LEGAL LIAB. TO PART. \$1,000,000 GENL AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	KRO0000000172601	12/31/2008 12:01 A.M.	12/31/2009 12:01 A.M.	EACH OCCURRENCE \$ 1,000,000	
	DAMAGE TO RENTED PREMISES (EA occurrence) \$ 300,000					
	MED EXP (Any one person) \$ 5,000					
	PERSONAL & ADV INJURY \$ 1,000,000					
GENERAL AGGREGATE \$ NONE						
PRODUCTS - COMPOP AGG \$ 1,000,000						
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	KRO0000000172601	12/31/2008 12:01 A.M.	12/31/2009 12:01 A.M.	COMBINED SINGLE LIMIT (EA accident) \$ 1,000,000	
	BODILY INJURY (Per person) \$					
	BODILY INJURY (Per accident) \$					
	PROPERTY DAMAGE (Per accident) \$					
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$	
	OTHER THAN EA ACC \$					
	AUTO ONLY: AGG \$					
	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$	
	AGGREGATE \$					
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	SPX000003566300	12/31/2008 12:01 A.M.	12/31/2009 12:01 A.M.	WC STATUTORY LIMITS \$	
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DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS						
MEMBER CLUB CERTIFICATE						

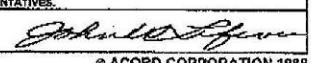
CERTIFICATE HOLDER	CANCELLATION
YELLOWSTONE RIM RUNNERS ATTN: DAVE COPPOCK PO BOX 2424 BILLINGS, MT 59103	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE John Lefever/JR 

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Page 1 of 2

ACORD CERTIFICATE OF LIABILITY INSURANCE						DATE (MM/DD/YYYY) 2/3/2009
PRODUCER (260) 467-5690 FAX: (260) 467-5651 STAR Insurance - Fort Wayne Office 2130 East DuPont Road			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERs NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
Fort Wayne IN 46825			INSURERS AFFORDING COVERAGE			NAIC #
INSURED Yellowstone Rim Runners P O Box 2424			INSURER A: NATIONAL CASUALTY COMPANY			
			INSURER B:			
			INSURER C:			
			INSURER D:			
Billings MT 59103			INSURER E:			
COVERAGES						
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INER ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR				EACH OCCURRENCE \$	\$
					DAMAGE TO RENTED PREMISES (ER EXCLUDED)	\$
					MED EXP (Any one person)	\$
					PERSONAL & ADV INJURY	\$
					GENERAL AGGREGATE	\$
					PRODUCTS - COMP/OPP AGG	\$
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	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident)	\$
					BODILY INJURY (Per person)	\$
					BODILY INJURY (Per accident)	\$
					PROPERTY DAMAGE (Per accident)	\$
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					OTHER THAN EA ACC	\$
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	OTHER					
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED FOR THE 03/15/09 SHAMROCK RUN, 5K ROAD RACE AND 1 MILE KID'S RUN.						

CERTIFICATE HOLDER	CANCELLATION
03/15/09 CITY OF BILLINGS ATTN: DANA JEFFERSON 390 N. 23RD STREET BILLINGS, MT 59101	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.
	AUTHORIZED REPRESENTATIVE John Lefever/JR 
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**CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009**

TITLE: Preliminary Plat of Golden Acres Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: On September 2, 2008, the subdivider, Golden Acres Partners, applied for preliminary plat approval for Golden Acres Subdivision. The proposed minor subdivision creates 4 new lots for commercial and multi-family residential use. The subject property is generally located at the northwest corner of 62nd St. W./Molt Road and Rimrock Road. The currently vacant property is zoned Residential-Multi-Family (RMF), Community Commercial (CC), and Residential Professional (RP) and surrounding lots are developed in single-family and duplex residential uses. The representing agent is Engineering, Inc. The City Council will review the preliminary plat, and approve, conditionally approve, or deny the proposed subdivision at the February 23, 2009, meeting.

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

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

RECOMMENDATION

Planning staff recommends conditional approval of the preliminary plat of Golden Acres Subdivision, and adoption of the Findings of Fact as presented in the staff report to the City Council.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENTS

- A. Preliminary Plat
- B. Findings of Fact
- C. Mayor's Approval Letter

INTRODUCTION

On September 2, 2008, the subdivider, Golden Acres Partners, applied for preliminary plat approval for Golden Acres Subdivision. The proposed minor subdivision creates 4 new lots for commercial and multi-family residential use. The subject property is generally located at the northwest corner of 62nd St. W./Molt Road and Rimrock Road. The currently vacant property is zoned RMF, CC, and RP and surrounding lots are developed in single-family and duplex residential uses.

PROCEDURAL HISTORY

- A pre-application meeting was held on July 3, 2008, to discuss the proposal.
- The preliminary plat application was submitted to the Planning Division on September 2, 2008.
- The applicant requested extensions to the preliminary review period three times, in order to accommodate further study of the Molt Rd./Rimrock Rd. intersection.
- The City Council will consider the preliminary plat on February 23, 2009.

BACKGROUND

General location:	Northwest corner of 62 nd St. W./Molt Rd. and Rimrock Rd.
Legal Description:	Tract 6A of Amended Certificate of Survey 2465, located in SE ¼ of S25, T1N, R24E
Subdivider/Owner:	Golden Acres Partners
Engineer and Surveyor:	Engineering, Inc.
Existing Zoning:	RMF-R, CC, RP
Existing land use:	vacant
Proposed land use:	Commercial and multi-family residential
Gross area:	39.4 acres
Net area:	38.24 acres
Proposed number of lots:	4
Lot sizes:	Max: 15.27 acres Min.: 3.68 acres
Parkland requirements:	2.12 acres of parkland dedication are required for the multi-family zoned lots; cash in lieu is proposed

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potentially negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments reviewed this application and provided input on effects and mitigation. The Planning Division staff develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat.
2. To minimize effects on local services, minor amendments to Section V. of the Subdivision Improvements Agreement (SIA), as requested by City Public Works-Distribution and Collection Division, shall be made to clarify the development responsibilities and to eliminate references to construction fees that no longer exist.
3. To minimize effects on public health and safety, a note shall be added to Section II. of the SIA indicating potential corrective measures necessary based on the Geotechnical Report findings, and the need for future geotechnical studies based on proposed site development.
4. To minimize effects on local services, an additional 35-foot by 35-foot triangle shall be dedicated as street right-of-way on the final plat at the northwest corner of 62nd St. W. and Rimrock Rd. intersection beyond the dedication shown on the preliminary plat.
5. To minimize effects on local services, a one-foot limited access strip shall be shown on the final plat along the eastern property line of Lot 1 to allow for final determination of private access onto Molt Rd./62nd St. West in the future. Future considerations shall include:
 - The southern access from Lot 1 onto 62nd St. W. shall only be allowed after elimination of the existing curve on Molt Rd. and reconfiguration of the 62nd St. W./ Rimrock Rd. intersection to a standard 4-leg intersection similar to the concept presented in Alternatives 4 or 5 in the Intersection Study dated January 2009.
 - The above-mentioned access shall be relocated to a point approximately half-way between Rimrock Rd. and the access on the lot line between Lots 1 & 4.

Sections III.A.2. and 3. of the SIA shall be amended to reflect these requirements.

6. To minimize effects on local services, the design, construction and final location of all private accesses onto 62nd Street West, Molt Road, or State Secondary 302 need to be reviewed and approved by both the City Engineer's Office and the Montana Department of Transportation. Sections III.A.2. and 3. of the SIA shall be amended to reflect this requirement.
7. To minimize effects on local services, documentation of how the dollar amounts for off-site intersection improvements in Section IX of the SIA were calculated shall be submitted to and approved by the City Engineers' Office prior to final plat approval.
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

VARIANCES REQUESTED

None

STAKEHOLDERS

A public hearing is not required for minor subdivisions. However, any interested party may review the proposal and make comments. The Planning Division has received no public input on this proposal at the time this staff report was completed.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the Transportation Plan and Heritage Trail Plan is discussed within the Findings of Fact.

RECOMMENDATION

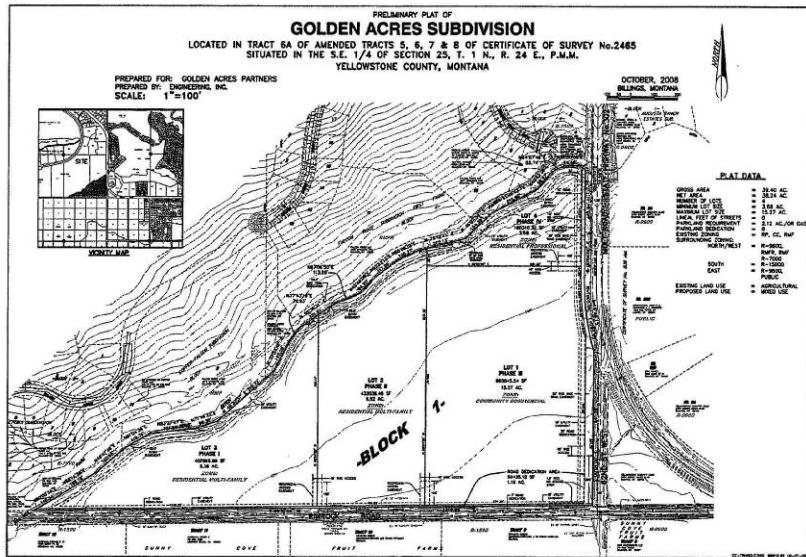
Planning staff recommends conditional approval of the preliminary plat of Golden Acres Subdivision, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

- A. Preliminary Plat
- B. Findings of Fact
- C. Mayor's Approval Letter

ATTACHMENT A

Preliminary Plat of Golden Acres Subdivision



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ATTACHMENT B

Findings of Fact

The Planning staff is forwarding the recommended Findings of Fact for Golden Acres Subdivision for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (23-303(H)(2), BMCC).

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

1. Effect on agriculture and agricultural water user facilities

The land to be subdivided was historically used for pasture land and dryland crops. The 39-acre parcel lies south of the Cove Ditch, at the northwest corner of 62nd St. W/Molt Road and Rimrock Road. The property was annexed into the City limits in 2002 along with approximately 200 adjacent acres. Because of the dryland nature, the agricultural lands north of Rimrock Road in this area have become more valuable as residential and commercial properties, and their development may have possibly alleviated some development pressure on irrigated agricultural lands to the south. The Cove Ditch is preserved in an easement, as it passes along the north property line. For these reasons, the development of the subject property should have minimal effects on agriculture and agricultural water user facilities in the area.

2. Effect on local services

- a. **Utilities** – Water services can be provided by the City for the new lots. There are existing water main lines in Molt Road and Rimrock Road. The developer will extend, at his expense, water mains and/or individual services to the property at the time of development.

The City's sanitary sewer service can be provided by connecting to the existing sewer lines in Rimrock Road, 62nd St. West, and Molt Road. The developer will extend, at his expense, sewer mains and/or individual services to the property at the time of development. City Public Works- Distribution and Collection Division has requested some minor changes to the SIA language to clarify the development responsibilities and to eliminate references to construction fees that no longer exist. This is recommended as a condition of approval (**Condition #2**).

MDU will provide gas services, and Yellowstone Valley Electric Cooperative will provide electric services to the subdivision in the future. Easements have been provided along lot lines on the preliminary plat, and will be finalized prior to final plat approval (**Condition #1**).

- b. **Storm water** – There are no storm drain lines in the area at this time, so stormwater will need to be retained on-site in detention ponds or boulder pits. All

improvements shall satisfy the criteria set forth by the *City of Billings Stormwater Management Manual* and will be subject to review and approval by the Engineering Department. This subdivision may be required to participate in the costs of area-wide storm water improvements, and this is acknowledged and included in the waiver document attached to the SIA.

- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** –The subject property is located at the northwest corner of Rimrock Road and 62nd Street West/Molt Road. Rimrock Road functions as a paved, 2-lane road, built to County road standards. Because this is identified as a Collector Road on the Transportation Classification map, an additional 7 feet of right-of-way is being dedicated for the north half of Rimrock Road as it fronts the subdivision to provide the required 37-foot half width right-of-way. No improvements to Rimrock Road are anticipated at this time, but may be required at the time of individual lot development or through the creation of a special improvement district in the future.

62nd Street West and Molt Road are located along the eastern frontage of this subdivision. 62nd St. W. is within the City's jurisdiction, while Molt Road is a State highway (State Secondary 302). Both streets are identified as Principal Arterial Streets on the Transportation Classification map and necessitate additional right-of-way dedications to allow for 70-foot wide half widths. These are shown on the face of the plat. Additionally, careful consideration has been given in regard to the future configuration of the Molt Road curve, since this intersection has been identified by State and City traffic engineers as having a limited level of service in the future. In order to evaluate this intersection, Engineering, Inc. provided an Intersection Study for Rimrock Road and 62nd Street West, dated January 2009, with several alternatives outlined for consideration. City and State staff have reviewed the study and alternatives and feel there are acceptable traffic control solutions presented. Specifically the City and State will collaborate when future traffic volumes warrant, to remove the curve on Molt Road, and reconstruct a 4 leg intersection at Molt Rd./62nd St. W./Rimrock Rd. with either a stop light or roundabout. In order to accommodate this improvement, an additional 35-foot by 35-foot triangular right-of-way parcel is requested at this time at the northwest corner of Rimrock Road and 62nd St. West (**Condition #4**).

In terms of lot access, three shared approaches are proposed on the common lot lines of Lots 1 & 2, 2 & 3, and 1 & 4. One additional access is proposed for Lot 1, which is the commercial-use parcel. Based on the Intersection Study results, City Engineering staff are recommending that the southern access from Lot 1 onto 62nd Street West shall only be allowed after elimination of the existing curve on Molt Road and reconfiguration of the 62nd/Rimrock intersection to a standard 4-leg intersection similar to the concept presented in Alternatives 4 or 5 in the Intersection Study and the access shall be relocated to a point approximately half-way between Rimrock and the access on the lot line between lots 1 & 4 (**Condition #5**). Staff is

recommending a limited access strip be placed on the final plat along the east side of Lot 1 to allow for the final determination of access onto 62nd St. West to be made at a future date (**Conditions #5 & 6**).

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at the corner of 54th St. West and Grand Ave. (Station #7). The subdivision is located within the ambulance service area of American Medical Response.
- f. **Schools** – School District #2 provides educational services to elementary through high school students. It is uncertain which schools will ultimately serve the children in this subdivision, however, nearby subdivisions recently platted have been assigned to schools other than those originally projected. For example, high school students typically are assigned to Senior, rather than West; middle school students have been assigned to Lewis and Clark, rather than Will James, and elementary students have been assigned to Boulder rather than Arrowhead. There are no schools within walking distance, and bussing would be necessary.
- g. **Parks and Recreation** – A parkland dedication of 2.12 acres is required for Lots 2 and 3, Block 1, as they are zoned for and proposed for multi-family uses. No parkland is proposed within the subdivision, and cash in lieu of land dedication is proposed for the 2.12 acres.
- h. **Mail Delivery** - The United States Postal Service will provide postal service to the subdivision and centralized mail delivery boxes are proposed. Plans for locations of those boxes will be reviewed and approved at the time of lot development.

3. Effect on the natural environment

The subject property consists of approximately 39 acres of non-irrigated grassland gently sloping to the southeast. A preliminary Geotechnical Investigation Report was performed and submitted for review by Rimrock Engineering. While this report acknowledged the need for additional site-specific reports prior to construction, it provided some general information about the site limitations. First, the soils encountered were generally lean clays overlain by a shallow layer of tilled top soil. These soils could present issues with foundations if they are not designed properly. Additionally, groundwater levels were found at 4.0 to 7.5 feet below the existing service elevation in four of the five borings. This could necessitate dewatering during utility installation, and may limit full basement construction. As a result of these concerns, it is recommended as a condition of approval that a note be added to the Conditions that Run with the Land section of the SIA indicating these challenges, and the need for future geotechnical studies based on proposed site development (**Condition #3**).



4. Effect on wildlife and wildlife habitat

There are no known endangered or threatened species on the property. There is a note in the SIA that warns future lot owners of the presence of deer and antelope in the area, which may cause damage to their landscaping.

5. Effect on the public health, safety and welfare

The subdivision is located in an area with no known natural hazards.

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

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy, the Urban Area 2005 Transportation Plan Update and the Heritage Trail Plan? [BMCC 23-304 (c) (3)]

1. Yellowstone County-City of Billings 2008 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

- a. **Goal: More housing and business choices within each neighborhood (p. 9).**
The subdivision would provide options for both commercial and multi-family development in an area where neither currently exist.
- b. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 8).**

This subdivision is within the City limits and would promote development of property where City infrastructure and services currently exist.

c. **Goal: Affordable housing for all income levels dispersed throughout the City and County.**

Lots 2 & 3 of this subdivision are zoned for multifamily development which is typically a more affordable housing choice.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

The proposed subdivision lies within the jurisdiction of the Heritage Trail Plan. A 20-foot wide bike trail easement is proposed along the 62nd St. West/Molt Rd. frontage, as recommended in the Plan. A 20-foot wide trail dedication along the north side of the Cove Ditch was previously provided, so no additional dedication is necessary at that location.

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

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

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

The subdivision will eventually utilize the City's water and sanitary sewer systems, and the City's solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

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

The subject property is located within the RMF, CC, and RP zoning districts and shall comply with the standards set forth in Section 27-308, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? [MCA 76-3-608 (3) (c) and BMCC 23-304 9 (c) (7)]

The subdivider will provide utility easements as requested by MDU and YVEC.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? [MCA 76-3-608 (3) (d) and BMCC 23-304 9 (c) (8)]

Legal and physical access is provided to the proposed lots from Rimrock Road, 62nd Street West, and Molt Road.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Golden Acres Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, February 23, 2009.

Ron Tussing, Mayor

ATTACHMENT C
Mayor's Approval Letter

February 24, 2009

Golden Acres Partners
Attn: Jim Barker
3020 Farnam Road
Billings, MT 59101

Dear Applicant:

On February 23, 2009, the Billings City Council conditionally approved the preliminary plat of Golden Acres Subdivision. The conditions of approval are as follows:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat.
2. To minimize effects on local services, minor amendments to Section V. of the Subdivision Improvements Agreement (SIA), as requested by City Public Works-Distribution and Collection Division, shall be made to clarify the development responsibilities and to eliminate references to construction fees that no longer exist.
3. To minimize effects on public health and safety, a note shall be added to Section II. of the SIA indicating potential corrective measures necessary based on the Geotechnical Report findings, and the need for future geotechnical studies based on proposed site development.
4. To minimize effects on local services, an additional 35-foot by 35-foot triangle shall be dedicated as street right-of-way on the final plat at the northwest corner of 62nd St. W. and Rimrock Rd. intersection beyond the dedication shown on the preliminary plat.
5. To minimize effects on local services, a one-foot limited access strip shall be shown on the final plat along the eastern property line of Lot 1 to allow for final determination of private access onto Molt Rd./62nd St. West in the future. Future considerations shall include:
 - The southern access from Lot 1 onto 62nd St. W. shall only be allowed after elimination of the existing curve on Molt Rd. and reconfiguration of the 62nd St. W./ Rimrock Rd. intersection to a standard 4-leg intersection similar to the concept presented in Alternatives 4 or 5 in the Intersection Study dated January 2009.
 - The above-mentioned access shall be relocated to a point approximately half-way between Rimrock Rd. and the access on the lot line between Lots 1 & 4.

Sections III.A.2. and 3. of the SIA shall be amended to reflect these requirements.

6. To minimize effects on local services, the design, construction and final location of all private accesses onto 62nd Street West, Molt Road, or State Secondary 302 need to be reviewed and approved by both the City Engineer's Office and the Montana Department of Transportation. Sections III.A.2. and 3. of the SIA shall be amended to reflect this requirement.
7. To minimize effects on local services, documentation of how the dollar amounts for off-site intersection improvements in Section IX of the SIA were calculated shall be submitted to and approved by the City Engineers' Office prior to final plat approval.
8. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
9. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of the City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact Juliet Spalding with the Planning Department at 247-8684 or by email at spaldingj@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

Pc: Dennis Randall, Engineering, Inc.



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: Preliminary Subsequent Minor Plat of Barrett Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On January 15, 2009, the preliminary subsequent minor plat application of Barrett Subdivision was submitted to the Planning Division. The proposed plat would create two lots on approximately 6.4 acres of land. The subject property is zoned Residential 6000 (R-60) and is located at 314 Calhoun Lane. The purchase of the 20-foot wide permanent sewer main easement along the north property line of Lot 1 was approved by Council and signed by the Mayor on 7/23/07; it was recorded on 8/1/07 (Document No. 3432501). In accordance with the easement Right-of-Way Agreement (also approved by Council and signed by the Mayor on 7/23/07), the City is paying the fees associated with this Subdivision Plat. Also in accordance with the Agreement, the City has paid Mr. C. E. Barrett for the value of the easement. Mr. Barrett has paid the City for the construction and system development fees to obtain water and sewer service to Lot 2. The property owner is C. E. Barrett and the agent is the City Engineering Division, Randy Straus.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this subsequent minor plat; the 35 working day review period for the proposed plat ends on March 6, 2009. State and City subdivision regulations also require that preliminary plats be reviewed using specific criteria, as stated within this report. The City may not unreasonably restrict an owner's ability to develop land if the subdivider provides evidence that any identified adverse effects can be mitigated. Within the 35 day review period, the City Council is required to:

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

FINANCIAL IMPACT: The property currently has a home on proposed Lot 2 with the remaining property being vacant land. The proposed subdivision will separate the

developed portion of the existing property from the remaining acreage and will not increase tax revenue for the City.

RECOMMENDATION

Staff recommends conditional approval of the preliminary subsequent minor plat of Barrett Subdivision, and adoption of the Findings of Fact as presented within the staff report to the City Council.

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

ATTACHMENTS

- A. Preliminary Plat
- B. Findings of Fact
- C. Mayor's Approval Letter

INTRODUCTION

On January 15, 2009, the preliminary subsequent minor plat application of Barrett Subdivision was submitted to the Planning Division. The proposed plat would create two lots on approximately 6.4 acres of land. The subject property is zoned Residential 6000 (R-60) and is located at 314 Calhoun Lane. The purchase of the 20-foot wide permanent sewer main easement along the north property line of Lot 1 was approved by Council and signed by the Mayor on 7/23/07; it was recorded on 8/1/07 (Document No. 3432501). In accordance with the easement Right-of-Way Agreement (also approved by Council and signed by the Mayor on 7/23/07), the City is paying the fees associated with this Subdivision Plat. Also in accordance with the Agreement, the City has paid Mr. C. E. Barrett for the value of the easement. Mr. Barrett has paid the City for the construction and system development fees to obtain water and sewer service to Lot 2.

PROCEDURAL HISTORY

- A pre-application meeting was held on this property on August 14, 2008 with another one pre-application meeting on December 4, 2008.
- The completeness review was submitted on December 15, 2008 and completed on January 1, 2009.
- The preliminary plat application for this subdivision was submitted to the Planning Division on January 15, 2009.
- The City Council will consider the preliminary plat application on February 23, 2009.

BACKGROUND

General location:

314 Calhoun Lane

Legal Description:

Barrett Subdivision being Tract 1, Retzlaf Acreage Tracts Subdivision, less Deeded Parcels Document #705093

Subdivider/Owner:

C. E. Barrett

Engineer and Surveyor:

City of Billings Engineering Division

Existing Zoning:

R-60

Existing land use:

Residential/Vacant

Proposed land use:

Residential/Vacant

Gross area:

6.4 acres

Net area:

6.4 acres

Proposed number of lots:

2

Lot size:	max. 5.9 acres min. .5 acres
Parkland requirements:	A parkland dedication is not required, as this is a minor subdivision.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of property subdivision. When negative effects are identified it is the subdivider's responsibility to mitigate those effects. Various City departments have reviewed this application and provided input on effects and mitigation. The Planning Division staff develops and recommends conditions of approval that are based on departmental comments. The Findings of Fact, which are presented as an attachment, discuss the potential negative impacts of the subdivision and the following conditions of approval are recommended as measures to further mitigate any impacts.

RECOMMENDED CONDITIONS OF APPROVAL

Pursuant to Section 76-3-608(4), MCA, the following conditions are recommended to reasonably minimize potential adverse impacts identified within the Findings of Fact:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat. (*Recommended by the Engineering Division*)
2. To ensure the correct language in the SIA concerning wildlife in the area, the applicant shall include language in Section II Conditions That Run with the Land, in the SIA to alert prospective future owners of possible interaction with wildlife. (*Recommended by the Montana Fish, Wildlife and Parks*)
3. To ensure the correct language in the SIA concerning public improvements, curb, gutter and sidewalks, the applicant shall add language to the SIA in Section III Transportation A1 Streets, and A2 Sidewalks that identifies there are currently none of these on Calhoun Lane. Language shall be added that the applicant is not being required to install them at this time but they are included in the Waiver of Right to Protest for future installation when additional development occurs, or with the creation of a Special Improvements District. (*Recommended by the City Engineering Division*)
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

STAKEHOLDERS

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

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with the Growth Policy, the 2005 Transportation Plan Update, and Heritage Trail Plan are discussed within the Findings of Fact.

RECOMMENDATION

Staff recommends conditional approval of the preliminary subsequent minor plat of Barrett Subdivision, and adoption of the Findings of Fact as presented within the staff report to the City Council.

ATTACHMENTS

- A. Preliminary Plat
- B. Findings of Fact
- C. Mayor's Approval Letter

ATTACHMENT A

ATTACHMENT B

Findings of Fact

Staff is forwarding the recommended Findings of Fact for Barrett Subdivision, for review and approval by the City Council. These findings are based on the preliminary plat application and supplemental documents and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the City of Billings Subdivision Regulations (Article 23-100, BMCC).

A. What are the effects on agriculture and agricultural water user facilities, local services, the natural environment, wildlife and wildlife habitat and public health and safety? (76-3-608 (3)(a), MCA) (23-302(H)(2), BMCC)

1. Effect on agriculture and agricultural water user facilities

There are no agricultural uses on this property or surrounding properties.

2. Effect on local services

- a. **Utilities** – A 12 inch water line located in Calhoun Lane currently provides water to proposed Lot 2 of this subdivision. Any future development would also connect to this 12 inch water line. There is currently an 8 inch sanitary sewer line in a 20 foot easement that runs along the north property line of proposed Lot 1 of this subdivision. The existing home on proposed Lot 2 is currently connected to the water and sewer lines. There is no planned development of proposed Lot 1 at this time. New water and sanitary sewer services will have to be installed when they are developed in the future. The location of the existing utilities and connection to them are outlined in the SIA.
- b. **Stormwater** – Storm drainage for the existing single home on proposed Lot 2 have been addressed. Any future development of proposed Lot 1 shall comply with the provision of the Stormwater Management Manual and section 23-706 BMCC. A stormwater management plan will be submitted to and approved by the City Engineering Division before being installed.
- c. **Solid waste** – The City of Billings will provide solid waste collection and disposal. The City's landfill has adequate capacity for this waste.
- d. **Streets** – Access to the lots will be via private driveway from Calhoun Lane. Calhoun Lane is a paved street without curb, gutter or sidewalks along the front of the subdivision. The submitted plat shows Lot 2 with 50 feet of street frontage on Calhoun Lane. There will be no additional right-of-way required from this subdivision. Sidewalks, curb and gutter will be installed with future development as required by the City Engineering Division. Conditions 3 request additional information is added to Section III Transportation, A. Streets and B. Sidewalks, of the SIA to ensure accurate information is provided to prospective owners.

- e. **Emergency services** – The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 476 6th Street West (Station #4). The subdivision is located within the ambulance service area of American Medical Response (AMR).
- f. **Schools** – The subdivision is located within School District #2. Since this subdivision is separating a parcel for an existing house and there is no immediate plans to develop the proposed Lot 1 it is anticipated that there will be no effect on the schools at this time. No input was received from School District #2.
- g. **Parks and Recreation** – A parkland dedication is not required for this subsequent minor subdivision.

3. Effect on the natural environment

A geotechnical report was not submitted to the Building Division with the subdivision application.

No streams, lakes or reservoirs will be altered by the subdivision.

4. Effect on wildlife and wildlife habitat

As this is a residential neighborhood within the city, there are no known endangered or threatened species on the property. However, Montana Fish Wildlife and Parks do identify this area of Billings as being in close proximity to good deer habitat. In the SIA, under Conditions That Run with the Land, the applicant will need to include information about this area being in good deer habitat and let the prospective future owners know in advance (See Condition #2).

5. Effect on the public health, safety and welfare

There are no known health or safety hazards on the property. This property is not within a mapped floodway or flood zone and should not create flooding hazards for surrounding properties.

B. Was an Environmental Assessment required? (76-3-210, MCA) (23-901, BMCC)

The proposed subdivision is exempt from the requirement for an Environmental Assessment pursuant to Section 76-3-210, MCA.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the 2005 Transportation Plan Update, and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2008 Growth Policy

The proposed subdivision is consistent with the following goals of the Growth Policy:

b. **Goal: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans. (p. 8).**

The proposed subdivision will provide the opportunity for future infill development in a residential area within this portion of the city and is compatible with the surrounding developed residential properties.

d. **Goal: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites (p. 8).**

The subject property is surrounded by single family dwellings and some commercial development. Development on the property will remain as it currently is with no new building anticipated at this time.

e. **Goal: Contiguous development focused in and around existing population centers separated by open space (p. 8).**

The subject property has an existing home on it with the remaining property vacant.

2. Urban Area 2005 Transportation Plan Update

The proposed subdivision adheres to the goals and objectives of the 2005 Transportation Plan Update and preserves the street network and street hierarchy specified within the plan.

3. Heritage Trail Plan

No specific trails are identified in this area and none are proposed with this subdivision.

D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? (76-3-608 (3)(b), MCA) (23-301, BMCC)

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

F. Does the subdivision conform to sanitary requirements? (23-408, BMCC)

The subdivision will utilize City water, City sanitary sewer, and solid waste collection and disposal services. All services are approved and regulated by state and federal authorities.

F. Does the proposed subdivision conform to all requirements of the zoning in effect? (23-402, BMCC)

The subject property is located within R-60 zoning and shall comply with the standards set forth in Section 27-309, BMCC.

G. Does the proposed plat provide easements for the location and installation of any utilities? (76-3-608 (3)(c), MCA) (23-410(A)(1), BMCC)

The City Engineering Division will work with the utility companies to provide easements in acceptable locations on the plat. The City maintains that utility easements provided on front lot lines creates conflicts with sanitary water and sewer lines and has requested that they be located on the rear and sides of lots for public health and safety. Condition #1 requires the subdivider to work with the City Engineering Division and the private utility companies to provide acceptable utility easements on the plat.

H. Does the proposed plat provide legal and physical access to each parcel within the subdivision and notation of that access on the plat? (76-3-608 (3)(d), MCA) (23-406, BMCC)

Access to the lots will be via driveways from Calhoun Lane.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of Barrett Subdivision does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2008 Growth Policy and does not conflict with the Transportation or Heritage Trail Plans.
- The proposed subdivision complies with state and local subdivision regulations, local zoning, and sanitary requirements and provides legal and physical access to each lot.
- Any potential negative or adverse impacts will be mitigated with the proposed conditions of approval.

Approved by the Billings City Council, February 23, 2009

Ron Tussing, Mayor

ATTACHMENT C
Mayor's Approval Letter

February 24, 2009

C. E. Barrett
314 Calhoun Lane
Billings, MT 59101

Dear Applicant:

On February 23, 2009, the Billings City Council conditionally approved the preliminary plat of Barrett Subdivision, subject to the following conditions of approval:

1. To ensure the provision of easements and minimize effects on public health and safety, the subdivider shall work with the City Engineering Division and the private utility companies to determine suitable locations for utility easements. These easements shall be depicted on the final plat. (*Recommended by the Engineering Division*)
2. To ensure the correct language in the SIA concerning wildlife in the area, the applicant shall include language in Section II Conditions That Run with the Land, in the SIA to alert prospective future owners of possible interaction with wildlife. (*Recommended by the Montana Fish Wildlife and Parks*)
3. To ensure the correct language in the SIA concerning public improvements, curb, gutter and sidewalks, the applicant shall add language to the SIA in Section III Transportation A1 Streets, and A2 Sidewalks that identifies there are currently none of these on Calhoun Lane. That the applicant is not being required to install them at this time but they are included in the Waiver of Right to Protest for future installation when additional development occurs or with the creation of a Special Improvements District. (*Recommended by the City Engineering Division*)
4. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Departments to clarify the documents and bring them into the standard acceptable format.
5. The final plat shall comply with all requirements of the City of Billings Subdivision Regulations, rules, regulations, policies, and resolutions of City of Billings, and the laws and Administrative Rules of the State of Montana.

Should you have questions please contact David Green with the Planning Division at 247-8654 or by email at greend@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, February 23, 2009**

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,328,278.41 audited and are presented for your approval for payment. A complete listing of the claims dated January 23, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, February 23, 2009**

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$2,020,187.68 audited and are presented for your approval for payment. A complete listing of the claims dated January 30, 2009 in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

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



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 23, 2009

TITLE: Resolution Relating to \$495,000 Special Improvement District 1384, Authorizing the Issuance and Calling for the Public Sale Thereof

DEPARTMENT: Administration-Finance Division

PRESENTED BY: Patrick M. Weber, Financial Services Manager

PROBLEM/ISSUE STATEMENT: The City Council has previously approved this project for the Yellowstone Club Estates sanitary sewer extension. The following resolution authorizes the sale of \$495,000 in bonds for financing of the project.

FINANCIAL IMPACT:

Yellowstone Club Estates sanitary sewer extension	\$495,000
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RECOMMENDATION

Staff recommends City Council approve the attached resolution.

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

ATTACHMENT

A - Resolution

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: “RESOLUTION RELATING TO \$495,000 SPECIAL IMPROVEMENT DISTRICT NO. 1384 BONDS; AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF AND AUTHORIZING THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF” (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 regular meeting on February 23, 2009, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand and seal officially this _____ day of February, 2009.

(SEAL)

City Clerk

RESOLUTION NO. _____

***RESOLUTION RELATING TO \$495,000 SPECIAL IMPROVEMENT DISTRICT NO. 1384 BONDS;
AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE
THEREOF AND AUTHORIZING THE PLEDGE OF THE REVOLVING FUND TO
THE SECURITY THEREOF***

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

Section 1. Recitals.

(a) This Council has duly and validly created and established in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended (the “Act”), a special improvement district, designated as Special Improvement District No. 1384 (the “District”), for the purpose of financing costs of certain public improvements of special benefit to the properties within the District (the “Improvements”) and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds of the City drawn on the District (the “Bonds”) in the aggregate principal amount of \$495,000, the creation and administration of the District, and the funding of a deposit to the City’s Special Improvement District Revolving Fund (the “Revolving Fund”). The total estimated costs of the Improvements, including such incidental costs, are \$495,000. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements in an amount not less than \$495,000.

(b) The City is authorized by Montana Code Annotated, Section 7-12-4204(1) to sell the Bonds at a price less than the principal amount thereof, but including interest thereon to the date of delivery, if this Council determines that such sale is in the best interests of the District and the City.

(c) Subject to Subsection 1(b), it is necessary that the Bonds be issued and sold in an aggregate principal amount of \$495,000 to finance the costs of the Improvements, including incidental costs, described in Subsection 1(a). The costs of the Improvements are currently estimated to be as follows:

Construction	\$450,220.95
Engineering	4,950.00
City SID Administration/ Finance Fees	12,375.00
Revolving Fund	24,750.00
Costs of Issuance	2,704.05
TOTAL	\$495,000.00

Section 2. Determination of Public Interest in Allowing Bond Discount. Pursuant to the authority described in Section 1, this Council hereby determines to fix the minimum price for the Bonds at \$495,000 (100% of par), plus interest accrued thereon to the date of delivery. Such minimum bid will enable bidders to bid more efficiently for the Bonds by permitting them to submit their bids based on actual market conditions without adjusting the interest rates thereon to provide compensation for their purchase of the Bonds. This procedure will facilitate the sale of the Bonds at the lowest interest rates, which is in the best interests of the District and the City.

Section 3. Findings and Determination To Pledge the Revolving Fund. In the Resolution of Intention To Create the District, adopted on January 12, 2009, this Council found it to be in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and authorized the City to enter into the undertakings and agreements authorized in the Act in respect of the Bonds, based on the factors required to be considered under Section 7-12-4225(4) of the Act. Those findings and determinations were ratified and confirmed in the resolution adopted by this Council on February 9, 2009, creating the District, and are hereby ratified and confirmed. It is hereby covenanted and recited that the City has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Bonds.

Section 4. Terms of the Bonds. This Council hereby authorizes the issuance and sale of the Bonds, to be denominated "Special Improvement District No. 1384 Bonds," of the City in the aggregate principal amount of \$495,000 for the purpose of financing the costs of the Improvements and costs incidental thereto. The Bonds shall be dated, as originally issued, as of April 1, 2009, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2010, at a rate or rates designated by the successful bidder at public sale and approved by this Council. If issued as serial bonds, the Bonds shall mature on July 1 in each of the following years and amounts:

Year	Principal Amount	Year	Principal Amount
2010	35,000	2018	35,000
2011	35,000	2019	35,000
2012	35,000	2020	35,000
2013	35,000	2021	35,000
2014	35,000	2022	35,000
2015	35,000	2023	35,000
2016	35,000	2024	5,000
2017	35,000		

If issued as amortization bonds, the Bonds will be issued as a single bond or divided into several bonds, as the Council may determine at the time of the sale, and the principal of and interest on the Bonds shall be payable semiannually in equal payments on each January 1 and July 1, commencing January 1, 2010, and concluding July 1, 2024, unless the Bonds are earlier redeemed. Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, Financial Services Manager and the City Clerk. The Bonds shall be secured by the Revolving Fund.

Section 5. Public Sale. All bids for the Bonds shall be submitted to the Financial Services Manager until 11:30 a.m., MT, on March 23, 2009 at which time bids will be opened or accessed and tabulated by the Financial Services Manager. The tabulation of bids will be presented to the City Council at a regular meeting of this Council on March 23, 2009, at 6:30 p.m., MT. This Council will consider the bids and, if a responsive and acceptable bid is

received, award the sale of the Bonds. The City will receive sealed bids for the Bonds and the Bonds will be sold in accordance with the Official Terms and Conditions attached hereto as Exhibit A (which is hereby incorporated and made a part hereof). The Financial Services Manager is hereby authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106, in *The Billings Times*, once each week for two successive weeks preceding the week which contains the date of sale. The notice of sale shall be published and mailed in substantially the form set forth as Exhibit B to this resolution (which is hereby incorporated herein and made a part hereof) and this Council hereby adopts the terms and conditions set forth in such notice of sale as the terms and conditions of the sale of the Bonds.

Section 6. Informational Materials. The Financial Services Manager and other officers of the City are hereby authorized and directed to prepare and distribute on behalf of the City an Offering Circular or summary of the transaction, to the extent deemed necessary or appropriate.

Passed by the City Council of the City of Billings, Montana, this 23rd day of February, 2009.

Mayor

ATTEST:

City Clerk

EXHIBIT A
TERMS AND CONDITIONS

\$495,000
SPECIAL IMPROVEMENT DISTRICT NO. 1384 BONDS
CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City of Billings, Montana (the "City"), will sell to the lowest responsive bidder for cash, as evidenced by sealed bids, the above-described Bonds drawn against the district fund of Special Improvement District No. 1384 in the aggregate principal amount of \$495,000.

Sealed bids for the purchase of the Bonds will be received at the office of the Financial Services Manager in Billings, Montana, at 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, until 11:30 a.m., MT, on Monday, March 23, 2009, at which time the bids will be opened or accessed and tabulated. The City Council of the City will meet at 6:30 p.m., MT, on the same day in the Council Chambers to consider the bids and the award of sale of the Bonds and, if a responsive and acceptable bid is received, award the Series 2008 Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC) to the City.

Purpose and Security

The Bonds will be issued for the purpose of financing the cost of construction of certain local improvements (the "Improvements") within or for the benefit of Special Improvement District No. 1384 (the "District"), in accordance with the provisions of Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended (the "Act"). The Bonds will be special, limited obligations of the City and do not constitute general obligations of the City.

The Bonds are payable primarily from the collection of a special assessment which is a lien against the assessable real property within the District benefited by the Improvements to be undertaken therein or therefor. The special assessments are payable in semiannual installments over a term not exceeding 15 years, each in semiannual installments of principal, plus interest, with unpaid installments of the special assessments bearing interest at a rate equal, from time to time, to the sum of (i) the average rate of interest borne by the then outstanding Bonds, plus (ii) one-half of one percent (0.50%) per annum.

The Bonds are secured by the Special Improvement District Revolving Fund of the City (the "Revolving Fund") into which \$24,750 will be deposited from the proceeds of the Bonds. The City will agree to make a loan from the Revolving Fund to the District Fund to make good any deficiency then existing in the principal and interest accounts therein and to provide funds for the Revolving Fund by levying a tax or making a loan from the City's general fund to the extent and for the period authorized by the Act.

Date and Type

The Bonds will be dated, as originally issued, as of April 1, 2009, and will be issued as negotiable investment securities in registered form as to both principal and interest.

Maturities and Form

If issued as serial bonds, the Bonds shall mature, subject to redemption, on July 1 in the following years and amounts:

Year	Principal Amount	Year	Principal Amount
2010	35,000	2018	35,000
2011	35,000	2019	35,000
2012	35,000	2020	35,000
2013	35,000	2021	35,000
2014	35,000	2022	35,000
2015	35,000	2023	35,000
2016	35,000	2024	5,000
2017	35,000		

If issued as amortization bonds, the Bonds will be issued as a single bond or divided into several bonds, as the Council may determine, and the principal of the Bonds shall be payable semiannually on each January 1 and July 1, commencing January 1, 2010, and continuing through July 1, 2024, subject to prior redemption. Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, Financial Services Manager and the City Clerk.

Redemption

Mandatory Redemption. If on any interest payment date there will be a balance in the District Fund after payment of the principal and interest due on all Bonds drawn against it, either from the prepayment of special assessments levied in the District or from the transfer of surplus money from the Construction Account to the Principal Account, outstanding Bonds, or portions thereof, in an amount which, together with the interest thereon to the interest payment date, will equal the amount of such funds on deposit in the District Fund on that date are subject to mandatory redemption on that interest payment date. The redemption price shall equal the amount of the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption.

Optional Redemption. The Bonds are subject to redemption, in whole or in part, at the option of the City from sources of funds available therefor other than those described under "Mandatory Redemption" and other than from any amounts on deposit in a Reserve Account (e.g., from proceeds of refunding bonds) on the terms of this paragraph. The Bonds

with stated maturities on or after July 1, 2018 will be subject to redemption on July 1, 2017, and any date thereafter, at the option of the City, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium.

Selection of Bonds for Redemption. If less than all of the Bonds are to be redeemed, Bonds shall be redeemed in order of the stated maturities thereof. If less than all Bonds of a stated maturity are to be redeemed, the Bonds of such maturity shall be selected for redemption in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair.

Interest Payment Dates, Rates

Interest will be payable each January 1 and July 1, commencing January 1, 2010, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. All Bonds of the same stated maturity must bear interest from the date of original issue until paid at a single, uniform rate. Each rate must be expressed in an integral multiple of 1/8 or 1/20 of 1%. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Individual interest rates may be no higher than 6.50%, with the difference between the highest and lowest rate being no greater than 4.50%. No supplemental or "B" coupons or additional interest certificates will be allowed.

Bond Registrar, Transfer Agent and Paying Agent

The City shall select a bond registrar, transfer agent and paying agent (the "Registrar") in connection with the Bonds. The bond register will be kept, transfers of ownership will be effected and principal of and interest on the Bonds will be paid by the Registrar. The City will pay the charges of the Registrar for such services. The City reserves the right to remove the Registrar and to appoint a successor.

Delivery

Within 30 days after the sale, the City will deliver to the Registrar the printed Bonds ready for completion and authentication. The original purchaser of the Bonds must notify the Registrar, at least five business days before issuance of the Bonds, of the persons in whose names the Bonds will be initially registered and the denominations of the Bonds to be originally issued. If notification is not received by that date, the Bonds will be registered in the name of the original purchaser and, if serial bonds, will be issued in denominations corresponding to the principal maturities of the Bonds. On the day of closing, the City will furnish to the purchaser the opinion of Bond Counsel hereinafter described, an arbitrage certification and a certificate stating that no litigation in any manner questioning the validity of the Bonds is then pending or, to the knowledge of officers of the City, threatened. Payment for the Bonds must be received by the City in immediately available funds at its designated depository on the day of closing. The successful bidder shall submit to the City Clerk not earlier than 48 hours after the award of sale and not later than the day of closing a certificate, in form satisfactory to Bond Counsel, as to the

initial reoffering price of each stated maturity of the Bonds and stating that at least ten percent of the principal amount of such Bonds of each stated maturity has been sold at such respective prices.

Legal Opinion

An opinion as to the validity of the Bonds and the exclusion of the interest thereon from gross income for federal income tax purposes and Montana individual income tax purposes will be furnished by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as Bond Counsel. The legal opinion will state that the Bonds are valid and binding special, limited obligations of the City enforceable in accordance with their terms, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

Type of Bid and Good Faith Deposit

Sealed for not less than \$495,000 (100% of par) and accrued interest on the principal sum of \$495,000 must be mailed or delivered to the undersigned and must be received at the office of the Financial Services Manager prior to the time stated above. Bidders must bid for all or none of the Bonds. Each bid must be unconditional. Except for a bid by or on behalf of the Board of Investments of the State of Montana, a good faith deposit (the "Deposit") in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the federal deposit insurance corporation or a financial surety bond in the sum of \$9,900 payable to the order of the City is required for a bid to be considered. If money, cashier's check, certified check, bank money order, or bank draft is used, it must accompany the bid and be delivered to the Financial Services Manager. If a financial surety bond is used, it must be from an insurance company licensed and qualified to issue such a bond in the State of Montana and such bond must be submitted to the Financial Services Manager, or the City's financial advisor prior to the opening of the bids. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit its Deposit to the City in the form of a cashier's check (or wire transfer such amount as instructed by the City or its financial advisor) not later than 1:00 p.m., Mountain Daylight Time, on the next business day following the award. If such Deposit is not received by that time, the financial surety bond may be drawn by the City to satisfy the Deposit requirement. No interest on the Deposit will accrue to the purchaser. The Deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the Deposit will be retained by the City as liquidated damages. The Deposit of the unsuccessful bidders will be returned immediately on award of the Bonds to the purchaser or after rejection of all bids. Instructions for wiring the Deposit may be obtained from the City's Financial Services Manager, Pat Weber, 210 North 27th Street, Billings, Montana 59101, telephone (406) 657-8209.

Award

The City will consider sealed bids . The bid having the lowest true interest cost (TIC) (the net present value of the total interest on all Bonds from April 1, 2009, to their

maturities, less any premium or plus any discount), will be deemed the most favorable. In the event that two or more bids state the lowest true interest cost, the sale of the Bonds will be awarded by lot. No oral bid will be considered. The City reserves the rights to reject any and all bids, to waive informalities in any bid and to adjourn the sale.

Informational Materials

The Financial Services Manager and other officers of the City will prepare and distribute on behalf of the City an Offering Circular or summary of the transaction, to the extent deemed necessary or appropriate.

CUSIP Numbers

The City will assume no fee or obligation for the assignment or printing of CUSIP numbers on the Bonds or for the correctness of any numbers printed thereon, but will permit such numbers to be assigned and printed at the expense of the purchaser, if the original purchaser waives any delay in delivery occasioned thereby.

Dated: February 23, 2009.

BY ORDER OF THE CITY COUNCIL

Cari Martin, City Clerk
City of Billings, Montana

EXHIBIT B

NOTICE OF BOND SALE

\$495,000

SPECIAL IMPROVEMENT DISTRICT NO. 1384 BONDS CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City Council (the “Council”) of the City of Billings, Montana (the “City”), will receive sealed bids for the purchase of \$495,000 Special Improvement District No. 1384 Bonds (the “Bonds”) through the City Clerk at 210 North 27th Street, Billings, Montana, or bids for the purchase of the Bonds will be received at the office of the Financial Services Manager in Billings, Montana, at 1st Floor of Park III, at 210 North 27th Street, Billings, Montana, until 11:30 a.m., MT, on Monday, March 23, 2009, at which time the bids will be opened or accessed and tabulated. The bids will be presented to the City Council at a regular meeting at 6:30 p.m. on the same day in the Council Chambers, at which time the Council will consider the bids received, and if a responsive and acceptable bid is received, the Council will award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

The Bonds are being issued for the purpose of financing the cost of construction of certain local improvements (the “Improvements”), or reimbursing the City the cost thereof, within Special Improvement District No. 1384 (the “District”); and paying costs associated with the sale and issuance of the bonds. The Bonds shall mature, subject to redemption, on July 1 in the following years and amounts:

Year	Principal Amount	Year	Principal Amount
2010	35,000	2018	35,000
2011	35,000	2019	35,000
2012	35,000	2020	35,000
2013	35,000	2021	35,000
2014	35,000	2022	35,000
2015	35,000	2023	35,000
2016	35,000	2024	5,000
2017	35,000		

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, Financial Services Manager and the City Clerk. The Bonds shall be secured by the City’s Revolving Fund.

Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities.

The Bonds shall be dated, as originally issued, as of April 1, 2009, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2010, to the registered owners of the Bonds as such appear in the bond register as of the

close of business on the 15th day (whether or not a business day) of the immediately preceding month. No interest rate may exceed 6.50% per annum, and the difference between the highest and lowest rate of interest may not exceed 4.50% per annum. No supplemental or "B" coupons or additional interest certificates are permitted and rates shall be expressed in integral multiples of 1/8 or 1/20 of one percent per annum. The Bonds with stated maturities on or after July 1, 2018 will be subject to redemption on July 1, 2017, and any date thereafter, at the option of the City, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium. The Bonds are also subject to mandatory redemption on an interest payment date if the amounts in the District Fund, either from prepayment of assessments or transfers from the Construction Account to the Principal Account, are sufficient to pay outstanding Bonds, or portions thereof, with interest thereon to that interest payment date.

The Bonds will be sold for not less than \$495,000 (100% of par) with accrued interest on the principal amount of the Bonds to the date of their delivery. The Council reserves the right to reject any and all bids, to waive any informality in any bid, and to adjourn the sale.

A good faith deposit in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of 2% of the aggregate principal amount of the Bonds (\$9,900) payable to the order of the City is required for each bid to be considered, as further specified in the Official Terms and Conditions of Sale.

Copies of the Official Terms and Conditions of Sale and additional information may be obtained from Financial Services Manager, Pat Weber, 210 North 27th Street, Billings, Montana 59101, telephone (406) 657-8209. Prospective bidders should consult the Official Terms and Conditions of Sale for a detailed description of the Bonds, the security therefor, and the form of legal opinion proposed to be rendered by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as bond counsel.

Dated: February 23, 2009.

BY ORDER OF THE CITY
COUNCIL

/s/ Cari Martin
Cari Martin, City Clerk
City of Billings, Montana

Publish: 2/ 26/ 2009 and 3/5 2009



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: Public Hearing and Resolution Approving the FY 2010 – FY 2014 Capital Improvement Plan (CIP), Equipment Replacement Plan (ERP), and Technology Replacement Plan (TRP)

DEPARTMENT: City Administration

PRESENTED BY: Tina Volek, City Administrator

PROBLEM/ISSUE STATEMENT: The final drafts of the FY 2010-2014 Capital Improvement Plan (CIP), Equipment Replacement Plan (ERP), and Technology Replacement Plan (TRP) were presented to the City Council at the February 2, 2009, Work Session. Based on the outcome of that meeting, the Council is being asked to hold a public hearing and consider final adoption of the CIP, ERP, and TRP on February 23, 2009.

ALTERNATIVES ANALYZED:

- Hold a public hearing and defer action to March 9, 2009.
- Hold a public hearing, amend the Program to include any desired projects and changes, and adopt the CIP, ERP, and TRP as amended.
- Hold a public hearing and postpone action indefinitely.
- Hold a public hearing and adopt the CIP, ERP, and TRP as presented.

FINANCIAL IMPACT: The CIP, ERP, and TRP are financial tools that indicate the City's priorities when budgets are prepared. For the Fiscal 2010 budget, the proposed CIP would result in expenditures totaling \$78,140,603, if fully funded, the ERP would result in expenditures totaling \$3,261,636, and the TRP would result in expenditures totaling \$889,424. Projects are identified and proposed by staff; however, Council amendments and the availability of funds in FY 2010 and future years could affect the actual costs. Copies of the CIP, ERP, and TRP are on file in the City Clerk's Office.

RECOMMENDATION

Staff recommends that Council approve as presented, the FY 2010 ERP and TRP, and the FY 2010–2014 CIP.

Approved By: City Administrator City Attorney

RESOLUTION 09-_____

A RESOLUTION ADOPTING THE 2010-2014
CAPITAL IMPROVEMENT PLAN, EQUIPMENT
REPLACEMENT PLAN, AND TECHNOLOGY
REPLACEMENT PLAN

WHEREAS, the Capital Improvement Plan (CIP), Equipment Replacement Plan (ERP), and Technology Replacement Plan (TRP) are financial tools adopted by the City Council as an indication of its priorities for funding projects in future budget years; and

WHEREAS, the City of Billings held three (3) public input/comment meetings on the CIP on December 3, 2008, December 4, 2008, and December 10, 2008, at various locations in the community, and

WHEREAS, the City Council of the City of Billings was presented on February 2, 2009, with staff recommendations for a 2010-2014 CIP, ERP, and TRP; and

WHEREAS, the City Council held a public hearing on the proposed Plans at its February 23, 2009, meeting.

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

Section 1: The 2010-2014 CIP, ERP, and TRP are hereby adopted as presented by staff on February 23, 2009.

Section 2: City staff is hereby directed to utilize the adopted plans to prepare the FY 2010 departmental budgets that will be incorporated into the comprehensive FY 2010 City of Billings budget, which will be presented for City Council review and approval at a future City Council meeting.

APPROVED AND PASSED by the City Council of the City of Billings this 23rd day of February 2009.

THE CITY OF BILLINGS:

BY: _____
RON TUSSING, MAYOR

ATTEST:

CARI MARTIN, CITY CLERK



CITY COUNCIL AGENDA ITEM

CITY OF BILLINGS, MONTANA

Monday, February 23, 2009

TITLE: Public Hearing and Sale of the South 132 ft. of Lot 4 in the SW $\frac{1}{4}$ Section 9, Township 1 S, Range 26 E as Specified in Resolution #09-18784

DEPARTMENT: Public Works Department

PRESENTED BY: David Mumford, P.E.

PROBLEM/ISSUE STATEMENT: On January 12, 2009, the City Council approved Resolution 09-18784 authorizing the sale of City-owned property on South Billings Boulevard that contains storm drain piping owned and maintained by the Public Works Department. The property is described as the South 132 feet of Lot 4 in the SW $\frac{1}{4}$ Section 9, Township 1 S, Range 26 E. Selling the property provides the City of Billings an opportunity to dispose of excess property and place the property on the tax rolls. The Public Work Department will require a 40 foot easement on the property, centered on the storm drain pipe.

We advertised for bids February 5 and 12, 2009. Bids were due by noon on February 18, 2009.

ALTERNATIVES ANALYZED:

1. Do not approve the sale of the property on South Billings Blvd.
2. Proceed with the sale of the property on South Billings Blvd. to one of the parties who submitted a bid and/or Buy-Sell Agreement by the February 18, 2009, deadline.

FINANCIAL IMPACT: The Public Works Department contracted for a market analysis of the property, which determined the value of the parcel at \$125,000.

RECOMMENDATION

Staff will make a recommendation at the meeting based on the bids received by the February 18, 2009, deadline. Staff recommends that the funds be placed in the City's Storm Water Maintenance fund to be used to improve the City's storm drain system.

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

ATTACHMENTS

- A. January 29, 2009, letter to property owners within 300' radius
- B. Public Notice published February 5 and 12, 2009



City of Billings

Public Works Administration

Public Works Department
2224 Montana Avenue – 2nd Floor
Billings, MT 59101
Office (406) 657-8230
Fax (406) 237-6291



January 29, 2009

Dear Property Owner:

This letter is to advise you that the Billings City Council approved Resolution #09-18784 on January 12, 2009, which allows the City to proceed with the sale of City-owned property on South Billings Boulevard described as the South 132 feet of Lot 4 in the SW ¼ Section 9, Township 1 S, Range 26 E. The City of Billings will accept bids until 12:00 noon on Wednesday, February 18, 2009. Bids are to be submitted to the following address:

Public Works Department

2224 Montana Avenue

Billings, MT 59101

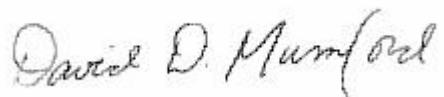
Selling the property provides the City of Billings an opportunity to dispose of excess property and place the property on the tax rolls. The Public Work Department will require that a 40 foot easement be placed on the property, centered on the existing storm drain piping.

Attached is a copy of the Public Notice that will be published in the *Billings Times*.

Please contact me at 657-8232 if you have questions.

Sincerely,

PUBLIC WORKS ADMINISTRATION

A handwritten signature in black ink that reads "David D. Mumford". The signature is fluid and cursive, with "David" on the first line and "D. Mumford" on the second line.

David D. Mumford, P.E.

Public Works Director

DDM:TLR

Attachment

PUBLIC NOTICE

Notice is hereby given that the City of Billings is disposing of property on South Billings Boulevard. The property is described as the South 132 feet of Lot 4 located in the SW $\frac{1}{4}$ Section 9, Township 1 South, Range 26 E. The City of Billings will accept bids until 12:00 noon on Wednesday, February 18, 2009. Bids are to be submitted to the following address:

**Public Works Department
2224 Montana Avenue
Billings, MT 59101**

Please contact the Public Works Director at 657-8232 for more information.

Dated this 29th day of January, 2009.

CARI MARTIN
CITY CLERK
CITY OF BILLINGS
PO BOX 1178
BILLINGS, MT 59103

PUBLISH: February 5 and February 12, 2009

5 copies

Public Works Administration



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: Public Hearing and Resolution to Create Light Maintenance District
SILMD 306 – King Avenue East from S. Billings Blvd. to Orchard
Lane

DEPARTMENT: Public Works Department

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: At the January 26, 2009, City Council meeting, Council passed the Resolution of Intent to create a new lighting district and established a public hearing for creation of the proposed district for the February 23, 2009, Council meeting. Legal notices and a letter explaining the district and all protest procedures were mailed to each of the landowners in the proposed new district on January 29, 2009. Information on the number and percentage of property owner protests received will be presented at the public hearing. SILMD 306 was created on a square foot basis. Properties directly benefiting from a lit King Avenue East will be assessed under this light district. The assessments to each property within the district are based on high-pressure sodium lights. There are 26 properties within the district, with an average yearly assessment of \$333.30. The largest yearly assessment of \$2,154.89 is assessed to Sam's Club and the smallest yearly assessment of \$21.45 is assessed to individual home owners residing on the north side of King Avenue East.

PROCEDURAL HISTORY BACKGROUND:

1. January 26th, Resolution of Intent to create SILMD 306 approved
2. January 29th, legal notices mailed to all affected property owners, 15-day protest period begins
3. January 29th and February 5th, legal notices published in the *Billings Times*
4. February 13th, 15-day protest period ends
5. February 23th (this meeting), Public hearing and creation of SILMD 306
6. November 2009, initial assessments appear on tax statements

ALTERNATIVES ANALYZED:

1. Create SILMD 306 to provide a source of funding for operation and maintenance of the street lights.
2. Do not create SILMD 306 and either discontinue power to the currently operational lights, or continue to have the City of Billings pay all SILMD costs.

FINANCIAL IMPACT: All maintenance and energy costs for this proposed light district would be paid for by assessments against properties within the district. As the creation of SILMD 306 will be based on actual energy costs and actual number of lights installed instead of the typical estimation, Staff was able to better estimate annual assessments.

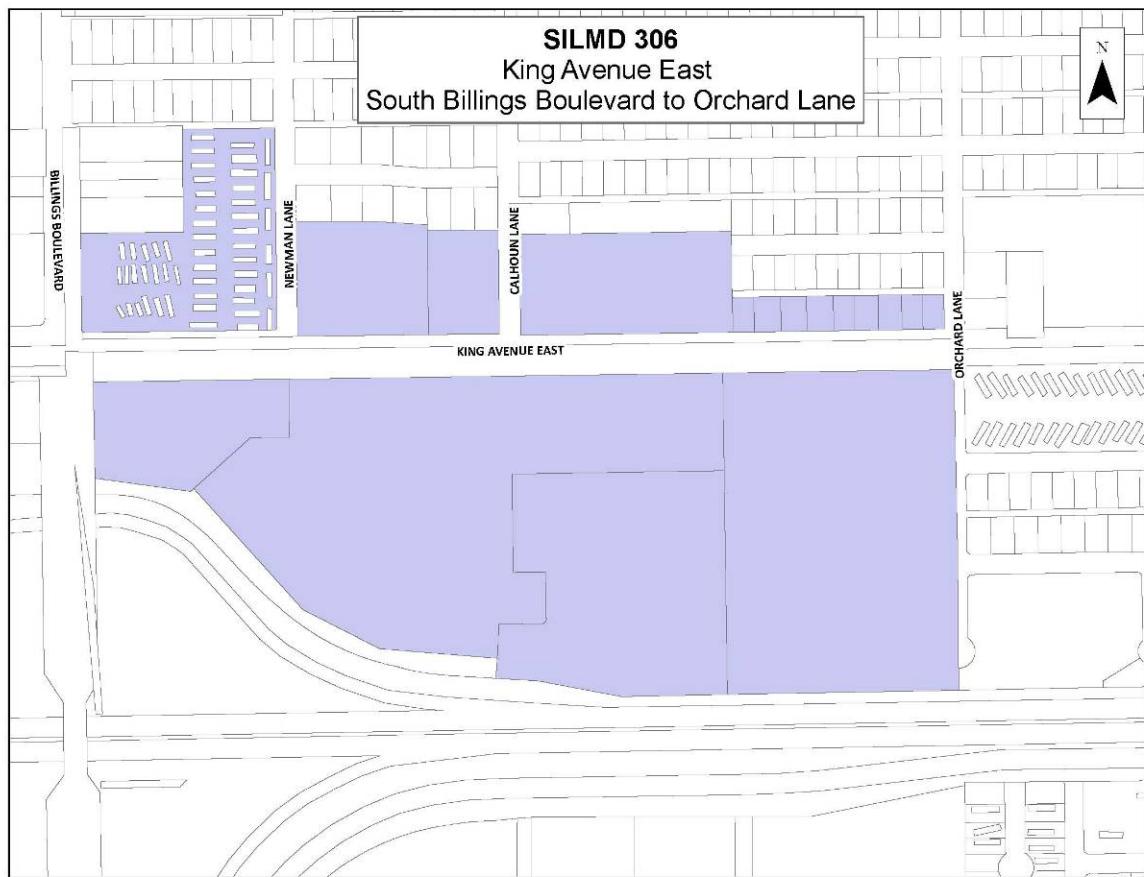
RECOMMENDATION

Staff recommends that Council pass Resolution Creating SILMD 306.

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

ATTACHMENTS

- A. District Boundary Map SILMD 306
- B. Resolution Creating SILMD 306



RESOLUTION NO. 09-_____

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 306 OF THE CITY OF BILLINGS, MONTANA, FOR THE PURPOSE OF SECURING AND PROVIDING ENERGY AND MAINTENANCE FOR NEW HIGH PRESSURE SODIUM VAPOR LIGHTS, SETTING THE BOUNDARIES THEREOF, STATING THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE, ESTABLISHING THE ESTIMATED RATE FOR ENERGY AND MAINTENANCE THEREOF, AN APPROXIMATE ESTIMATE OF THE COST OF MAINTAINING SUCH LIGHTS AND SUPPLYING ELECTRICAL CURRENT THEREFORE FOR THE FIRST YEAR, AND THE PROPORTION OF THE COST TO BE ASSESSED AGAINST THE ABUTTING PROPERTY, AND THE METHOD OF ASSESSMENT OF SAID COSTS.

WHEREAS, the City Council of the City of Billings, Montana, on the 26th day of January, 2009, passed Resolution 09-18788, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 306, setting the hearing on the creation of said District and hearing of protests against the extent and creation of said District, or any matter pertaining thereto, and thereafter gave notice by publication and mailing, all as required by law, and at said hearing which was held at the time and place specified in said Notice, all protests were heard and considered; and

WHEREAS, the City Council finds that the protests are insufficient to stop the creation of said district, and the protests are overruled and denied.

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

SECTION 1:

That the City Council of the City of Billings, Montana does hereby create a District, to be known and designated as Special Improvement Lighting Maintenance District No. 306, hereinafter called the District, for the purpose of securing and providing energy and maintenance for new street lights for lighting said District.

SECTION 2:

That the boundaries of the District are as set forth in Resolution of Intention No. 09-18788, hereinafter called the Resolution, on file in the office of the City Clerk of Billings, Montana, and by this reference is incorporated herein and made a part hereof.

SECTION 3:

That the City Council hereby finds and determines that each of the lots, blocks, pieces and parcels of land, situated within the boundaries of the District, are especially benefited and affected by said improvements, and each and all of the lots, blocks, pieces and parcels, more particularly described in the Resolution are hereby declared to be the property to be assessed for the cost and expense of the electrical energy for and maintenance of said District.

SECTION 4:

That the general character of the improvements to be made is hereby declared to be as described in the Resolution and is by this reference incorporated herein and made a part hereof.

SECTION 5:

That the City of Billings intends to establish the approximate contract rate for supplying electrical energy as \$10.27 per 250 watt unit in accordance with the appropriate rate schedule approved by the Montana Public Service Commission. That NorthWestern Energy shall provide energy to the lighting fixtures. The City shall provide normal maintenance to lighting

fixtures, poles, cables and other incidental equipment, and at all times own said lighting fixtures, poles, cables and other incidental equipment. Property owners within said district shall be assessed for the costs thereof.

SECTION 6:

That based upon the above figures, the estimate of the cost of the District for one year is the sum of \$8,665.78, and that the entire cost of said District shall be paid by the owners of property within said District. The estimated cost of the District per year for the property owners is on the basis of approximately \$0.00327854 per square foot per year. Due to the difference in the time the lighting service started and the time assessments can be levied, the first assessment will cover a period of operation of the District greater than one year and is estimated to total \$9,984.98 or approximately \$0.00377763 per square foot. All of such costs of said District shall be paid by the owners of the property within the District with each lot, parcel or piece of land within said District to be assessed for that portion of the whole cost which its assessable area bears to the assessable area of the entire District, exclusive of streets, avenues, alleys, and public places.

SECTION 7:

That the entire cost of the District shall be paid by an annual assessment against the property in the District. That all monies derived from the collection of such assessments shall be paid into a fund to be known as the "Special Improvement Lighting Maintenance District No. 306 Maintenance Fund", and warrants shall be drawn on said fund for the payment of such cost of maintaining said lights and supplying electrical current therefore.

SECTION 8:

That reference is hereby made to the Resolution, the maps, specifications, boundaries, perimeter and data pertaining to the District, on file in the offices of the City Clerk and City Engineer, for further particulars, all of which are made a part hereof.

PASSED by the City Council of the City of Billings, Montana and approved this 23rd day of February, 2009.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

Exhibit C
LED vs. HPS Cost Comparison

A formal analysis showing the life-cycle cost comparison between Light-Emitting Diode (LED) street lighting verses High-Pressure Sodium (HPS) lighting will follow in the final packet presentation. Also included will be a chart depicting the payback period. Below are the numbers intended to be used for the life-cycle analysis:

	<u>LED</u>	<u>HPS</u>
Initial Costs:	\$1300 per fixture	\$250 per fixture
Replacement Costs:	\$150 per lamp	\$25 per lamp
Energy:	50% of HPS	100% of HPS
Lamp Life:	11-years	3-years
Maintenance Per Replacement:	\$100/visit	\$100/visit



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Monday, February 23, 2009

TITLE: Public Hearing for Special Review #874 – 307 Washington Street
DEPARTMENT: Planning and Community Services
PRESENTED BY: Nicole M. Cromwell, AICP, Zoning Coordinator, Planner II

PROBLEM/ISSUE STATEMENT: This is a special review request to allow two nine-unit, multifamily dwellings on a 39,600 square foot parcel in a Residential 6,000 (R-60) zone, on the south 10 feet of Lot 8 and all of Lot 7 of Willis Subdivision. The property has an address of 307 Washington Street and is owned by Dave Hagstrom. The Zoning Commission held a public hearing on this request on February 3, 2009, and is forwarding a recommendation of conditional approval to the City Council on a 3-1 vote.

ALTERNATIVES ANALYZED: Before taking any action on an application for a Special Review use, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The Council shall take one of the following actions:

- Approve the application;
- Conditionally approve the application;
- Deny the application;
- Allow withdrawal of the application; or
- Delay the application for a period not to exceed thirty (30) days.

FINANCIAL IMPACT: Approval of this special review should increase the City's tax base.

RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #874 on a 3-1 vote.

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

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs
- C. Site Plan
- D. Letters and Petitions opposed to the special review

INTRODUCTION

This is a special review request to allow 2 nine-unit multifamily dwellings at 307 Washington Street. The property is zoned Residential 6,000 (R-60) zone and a single family home built in 1910 currently exists on the property. The existing home would be moved to another lot and two nine-unit apartment buildings constructed. The zoning allows single family and two-family homes without special review approval. Three-family dwelling units up to 10-unit multifamily dwelling units may be allowed by special review approval. Prior to 1997, multifamily dwellings were allowed without special review approval in all R-60 zoning districts. Several examples of multifamily dwelling units are located in this area of Southwest Billings. These include a four-plex at 3730 Roosevelt Avenue on a 9,375 square foot parcel and a seven-plex at 211 Washington Street on a 19,537 square foot parcel.

PROCEDURAL HISTORY

- A special review application to allow the multi-family use was received on January 5, 2009.
- The City Zoning Commission held a public hearing on February 3, 2009, and is forwarding a recommendation of conditional approval on a 3-1 vote.
- The City Council will conduct a public hearing and consider this application on February 23, 2009.

BACKGROUND

The applicant, Dave Hagstrom, is proposing to construct two nine-unit multifamily dwellings on the property. One unit in each building is proposed as a fully handicapped accessible, one-bedroom dwelling. The remaining eight units are proposed as two-bedroom apartments. The buildings are planned for two-stories with off-street parking and landscaping. The site plan shows the required number of off-street parking spaces (26), as well as acceptable landscaping, lot coverage, building setbacks and height for this zoning district.

The property is located on the boundary of the city limits and is primarily surrounded by low density residential uses, pasture to the east and southwest and some commercial uses to the south on property zoned Community Commercial (CC) located in the county. Riverside Middle School is north and west across Washington Street. A parcel to the south west is zoned Residential Multi-Family, but is located outside the city limits and has remained undeveloped since the zoning was approved in 1982. To the west, there are townhouses in the 300 block of Jackson Street, Monroe Street and Jefferson Street. This development was constructed in 1977 and 1978. At the time, the zoning regulations allowed multifamily dwellings in an R-60 zoning district. The development of the row houses, now called townhouses, required a variance from the required lot area and side yard setback requirements since each dwelling unit is divided by a property line. Three months after the Board of Adjustment granted approval of the variances for these townhouses, the City Council amended the zoning regulations to require a special review for townhouses in R-60 zoning districts. This townhouse development averages 13 dwelling units per acre.

Most of the surrounding property is a mixture of zoning districts including commercial, low density and high density residential, as well as public zoning for Riverside Middle School.

Public sewer is available in Washington Street, however public water lines end at the intersection of Washington Street and Madison Avenue approximately 350 feet north of this property. A 12-inch water main will need to be constructed and a water supply lateral constructed from the new 12-inch water main in the street into the property.

Washington Street is considered a residential street and is not designated as a collector or arterial street in the Billings Transportation Plan. A residential street is designed to handle low volumes of traffic at a lower speed limit (25 mph typical). No traffic count numbers are available for Washington Street. Traffic counts on State Avenue near the Washington Street intersection to the north average 6,500 vehicle trips per day. Riverside Road, a north/south collector street parallel and 1/4-mile east of Washington Street, handles approximately 1,300 vehicle trips per day. The proposed development could add between 90 and 180 additional vehicle trips per day to Washington Street. It will not require any traffic accessibility study due to this low volume of additional traffic.

The Planning Division received a letter from the Southwest Corridor Task Force recommending denial of the special review due to the lack of information provided by the applicant and the concerns of surrounding property owners expressed at their meeting on January 22, 2009. The applicant was not able to attend the task force meeting. In addition, the Planning Division has received letters of opposition from the Plumbers and Pipefitters Union that owns property directly south of the subject property, POP POP Miller, LLC a land owner to the east and a petition signed by 58 people that live in or near the subject property. The letters of opposition and the petition are included as Attachment D. The Zoning Commission considered these letters, petitions and testimony at the public hearing prior to forwarding their recommendation of conditional approval.

Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria; 1) the application complies with all parts of the Unified Zoning Regulations, 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2003 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts. This application conforms to the first criteria in so far that it is within one of the zoning districts (R-60 zone) where multifamily dwellings are allowed by special review approval. The form of the application is correct and the submitted site plan appears to be in conformance with site development and zoning regulations for multifamily dwellings.

The application also conforms to the second and third criteria. The zoning regulations adopted by the City Council have the purpose of promoting health, safety and general welfare. The proposed site plan will meet these criteria and conditions of approval are recommended to mitigate any potential adverse impacts. The zoning regulations adopted by the City Council have designated the R-60 as a district where multi-family dwelling may be allowed. The R-60 zone is intended to *“provide for medium density residential dwellings on lots served by public water and sewer services, with provisions for multi-family dwellings with a maximum of ten (10) dwelling units per structure.”*

The proposed use is in a zoning district that allows this use with a special review. The City Council has granted two multi-family development requests in the South Side and Southwest Billings area since 2001. Those projects are the Southern Lights apartments on South 28th Street and proposed townhouses for Habitat for Humanity at 34-38 Washington Street. The Planning Division reviewed the application with other city departments and recommended conditional approval to the Zoning Commission for two six-unit multifamily dwellings. The Planning Division recommendation for a total of 12 dwelling units rather than two nine-unit apartments was based on surrounding examples of multifamily dwellings and townhouses. The applicant testified at the Zoning Commission hearing and stated the lot area would allow up to 18 dwelling units and given the financial cost of bringing water service to the property, less density was not an option for the project.

ALTERNATIVES ANALYSIS

Section 27-1503(D) specifies that all Special Reviews shall comply with the following three (3) criteria:

1. Complies with all requirements of this Article (27-1500).
This application does comply with the requirements of the zoning regulations.
2. Is consistent with the objectives and purposes of Chapter 27 BMCC and the Growth Policy.
This application is consistent with the purposes of Chapter 27- Unified Zoning Regulations and the 2008 Growth Policy. The application is appropriate in this particular district based on all the circumstances of the location. The application does encourage predictable land use decisions that are consistent with the neighborhood character and land use patterns. The application does encourage new developments that are sensitive to and compatible with the character of the adjacent neighborhood.
3. **Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.**
The proposed location for the two nine-unit dwellings is appropriate and conditions of approval are recommended.

Further, the City Council shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

Based on the above criteria, the Zoning Commission is forwarding a recommendation of conditional approval of Special Review #874 on a 3-1 vote.

CONDITIONS OF APPROVAL

1. The special review approval shall be limited to the South 10 feet of Lot 8 and all of Lot 7 Willis Subdivision, as shown on the site plan submitted with the application.
2. This special review approval is for the construction of two nine-plex multifamily dwellings and no other use or expansion of this use is approved or implied with this conditional approval.
3. Development of the site shall be in substantial conformance with the site plan submitted with the application, unless specifically modified by these conditions. Deviations from the approved site plan that change the location of buildings or increase the number of dwelling units will require additional special review approval.
4. The maximum distance from a paved surface to any exterior portion of the structures shall be 150 feet or as required by the Billings Fire Department.
5. This approval shall be limited to 18 dwelling units in two structures as shown on the submitted site plan.
6. Any expansion of the gross floor area of the building(s) or number of parking stalls greater than 10 percent will require an additional special review approval as required by Section 27-613(c) of the Unified Zoning Regulations.
7. Landscaping shall be provided as shown on the site plan, and as required by Section 27-1100, of the Unified Zoning Regulations.
8. A 6-foot high sight-obscuring fence shall be constructed along the entire length of the north and south property lines excluding any required clear vision area. The fence shall be constructed of standard fencing materials. No chain link or wire fencing will be used for a sight-obscuring fence. The fence will shield the development from the commercial development to the south and the single family developments to the north.
9. These conditions of special review approval shall run with the land described in this special review approval and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
10. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City regulations that apply

NOTE Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

STAKEHOLDERS

A public hearing before the City Zoning Commission was held on February 3, 2009. Staff forwarded a recommendation of conditional approval for two, six-unit multifamily dwellings. Dave Hagstrom appeared before the Zoning Commission and explained the

proposed development. Twenty persons testified in opposition and one person, other than the applicant, testified in favor of the application.

Dave Hagstrom testified he was interested in building a project to provide quality affordable housing in a good neighborhood. Mr. Hagstrom stated he has developed similar affordable housing projects on Billings South Side and Southwest neighborhoods and he has an excellent track record as a property manager and developer. He stated he disagreed with the Planning staff recommendation to reduce the density to 12 dwelling units. He stated it is not density that has an effect on surrounding property but how the property is managed once it is constructed. He stated his projects are never sold, that he retains ownership and manages all his affordable rental properties very well. Mr. Hagstrom reviewed the letters of opposition and petitions and believes that those in opposition have a misapprehension that multi-family housing and higher densities always result in higher crime, graffiti, and trash filled yards and alleys. Mr. Hagstrom stated that higher density does not automatically lead to higher crime, drug-dealing and trash but poor oversight by owners and managers leads to these problems. Mr. Hagstrom stated he has an excellent track record for property management and no one at the hearing could dispute this fact. He testified his current project, Chrysalis Acres, is an affordable home-ownership project just two blocks west of this property and that project is a good example of quality affordable housing. Commission member Larson asked Mr. Hagstrom why he did not meet with the Southwest Corridor Task Force. Mr. Hagstrom stated the last two meetings in 2008 were during the holidays and the January 2009 meeting was scheduled when he was out of town. He testified he did not believe a meeting would help the neighborhood better understand the project. Mr. Hagstrom stated he went to the task force three times when he was proposing Chrysalis Acres and all three times the task force recommended denial.

Shawn Welch of 609 Washington Street testified in opposition to the application. He stated the neighborhood along Washington Street was anchored by Riverside Middle School on the north and DanWalt Gardens on the south. He stated the area is mostly single family with a few two family homes and the notable exceptions of the seven-plex and the trailer park at 37 Washington Street. He stated the area is middle class not low income and the 18 unit multi-family development would essentially change the character of the neighborhood. The apartments would decrease his property value and badly impact the area.

Bob Papin of 2039 Avenue B testified as the agent for the Plumbers and Pipefitters Union that has owned a training facility and union hall south of the location for over 34 years. He stated the area has been quiet and no one has ever bothered their property. He testified that multi-family would create more opportunity for mischief on their property including graffiti, vandalism, theft of equipment and similar problems to what has happened around the rowhouses on Jackson Street. Mr. Papin stated that since Mr. Hagstrom purchased the property this past summer, there have been people from next door parking in their lot, partying, and the people have not taken care of the land around the house.

Marion Schaaf of 145 Washington Street testified in opposition to the proposal. She stated that other multi-family and higher density areas on Washington have always caused problems. Police are regularly called to those locations and drug dealing and gang activity

are common in these higher density areas. She testified there is no reason to believe this apartment development would not be similar to the existing apartments in the neighborhood.

Alan Rennich of 4029 Kratz Lane testified in opposition to the application. He stated the reason the owner has not developed the Residential Manufactured Home zoned lot to the south of the school was because he only had a 15 foot access to a public street. He also noted that the ditch crossing Washington Street is the Grey Eagle Ditch and would require at least a 15 foot setback for maintenance access. Mr. Rennich also stated there is a ditch lateral that runs along the north property line of 307 Washington.

Steve Sullivan of 221 Washington Street testified in opposition. Mr. Sullivan was concerned about who would pay for the new water to the property – the developer or everybody south of Madison Avenue. He stated that when the rowhouses were built off Jackson the intent was for quality affordable housing but the area is now just a haven for criminals and drugs. He stated everyone has tried to build value in their property on Washington Street but there is already mischief and vandalism in the area. He stated his fence is constantly being torn down and graffiti is springing up everywhere. Mr. Sullivan stated that Habitat for Humanity did not build the townhouses at 38 Washington because of high groundwater. He stated that when the ditch is running there is groundwater at 4 feet. He stated these two-story apartments could not be built on this ground with those conditions.

Abram Hagstrom of 324 S 31st Street testified in favor of the proposal. He stated he was testifying on behalf of the future residents of the apartments. He stated that crime and graffiti come in to an area because of poor property management not because of apartments. He stated the future residents of the apartments would be good neighbors just like all of the people at the hearing.

Clyde Lees of 465 Washington Street testified in opposition. He stated that he has had windows shot out of his home recently. No one was hurt but the trouble is all caused by the trailer park at 37 Washington Street, the rowhouses on Jackson and the two drug houses on the north end of the street. He stated that high density housing tends to attract this type of crime. Mr. Lees stated he owned a home at 346 Monroe, but after the rowhouses were built he eventually had to sell the house for a dollar.

Dan Jellison of 748 Washington Street and owner of DanWalt Gardens testified in opposition. He stated he has noticed a serious decline in the neighborhood in the past several years but his efforts as well as other neighbors have been trying to turn this around. He stated he was opposed to the apartments because there will be no reason for these people to try and maintain the area or improve Washington Street. The new residents will have no investment in the area. He stated that Dan Walt Gardens is having a positive impact on the area and has grown in popularity. Last summer they had visitors from as far away as Israel and Italy. This location is not appropriate for multi-family development.

Geoff Lesmeister of 355 Washington Street testified in opposition. He stated he purchased his property about six years ago and has tried to improve the area. He purchased a junk yard next door so he could clean up the area and to have more land to enjoy in his retirement. He enjoys not having close neighbors and being able to see the mountains, the rims, and the wildlife in the area. His house has been shot at too because of some bad elements already in the neighborhood. He stated Washington Street does not need the impact of traffic from this new apartment building. There will be no pedestrian safety for the kids. Washington Street has no sidewalks and barely any shoulder. Mr. Lesmeister stated the schools certainly don't need any more students and the other impacts from this development including the garbage, noise and clutter are not what the area needs.

Jacque Schlenz of 455 Washington testified in opposition. She stated they chose this area to build a retirement place and have a bit of room for a big garage and no close neighbors. She stated the multi-family uses would destroy the type of neighborhood Washington Street is starting to become. Everyone is trying to build up their property values and this would just force everyone to give up and move away.

Janelle Lesmeister of 355 Washington Street testified in opposition. She stated she and her husband bought the property to increase the value of the area. She recommended the Zoning Commission drive through 37 Washington Street if they wanted to see what high density rental housing looks like in Southwest Billings. She stated the conditions would shock everyone. She stated that police cars are always at 37 Washington and the other apartments and duplexes. She stated that since Mr. Hagstrom bought the property, the renters have been horrible. They have 3 little kids that she has found running around on the street, swimming in the ditch and the parents always have some excuse when she tries to tell them the children will be hurt by their neglect. The renters are always having parties and do not take care of the property at all. Mrs. Lesmeister stated this type of attitude is not what she wants in a neighbor and if Mr. Hagstrom is bringing more of these types of renters, she is against it 100 percent.

Linda Pettengill of 140 Washington Street testified in opposition to the application. She stated she lives across from the 3 duplexes at 129 Washington and the police are always there on a call and there are too many cars parked around the area. The owners don't care because they don't live there. Junk vehicles and trash accumulate there all the time.

Pam Berqmeier of 132 Washington Street testified in opposition. She stated she knows many more sex offenders and violent offenders have moved in to the area recently. Rental apartments will just attract more of these types of people to the area.

Dennis Lapierre of 618 Washington Street testified in opposition. He stated he does not see the need for this project at this location and is totally opposed.

Kevin Nelson of 4235 Bruce Avenue testified in opposition. He stated he was a member of the Southwest Corridor Task Force when Mr. Hagstrom brought Chrysalis Acres forward to the city. He stated the task force was not opposed to quality affordable housing but was opposed to Mr. Hagstrom proposal to do high density R-60 multi-family housing. The city

eventually approved Chrysalis Acres as a single family and two family developments and changed the R-60 to R-70. Mr. Nelson stated that it only takes one bad group of people to move in to a neighborhood to make everyone else feel less safe. Mr. Nelson stated that most of the area had good neighbors but it only takes one group to make it an unsafe neighborhood.

Richard Peltier of Franklin Lane testified in opposition. He stated he agreed with all the other speakers in opposition and it was too high density for this area of Washington Street.

Lisa Sellsby of 543 Washington testified in opposition. She stated she agreed with other speakers and is totally opposed to any multi-family.

Ron Hartman of 441 Riverside Road testified in opposition. He runs a business at this location and has had several incidents of vandalism. He never files a report because the damage is too minor for an insurance claim. The perpetrators are mostly kids and he would like to do something but then he would be the bad actor. This project will only lead to more vandalism of his property.

Leanne Lees of 465 Washington Street testified in opposition. She stated the proposal was too high density for the neighborhood.

Ken Byers of 475 Washington Street testified in opposition. He stated he likes the neighborhood but even his daughter has been chased home from school by thugs in the area. He can't do anything about that because he would get in trouble himself. He stated it was the wrong type of development for this area.

Gay Stein of 609 Washington Street testified in opposition. She stated there was already too much danger in the neighborhood from graffiti, from theft, drive-by shootings and other crime. This project would only add to that problem.

Mr. Hagstrom provided rebuttal to the testimony in opposition. He stated that he will abide by the rules of the Grey Eagle Ditch company and that he understands that these ditches can attract children. He stated that there would be too little traffic generated by the 18 dwelling units to even notice the impact. He stated that every project he has done has raised property values for his property as well as neighboring property. He stated that if the city thought this project was a good deal then he would move forward with the construction. He stated he has asked the Community Development Division to grant CDBG funding to extend the water line down Washington Street. The cost of the water main would be about \$108,000. He stated without grant funding from Community Development, he would not be able to build the two nine-unit apartments. He stated the project would not "pencil out" without the density and water line funding.

Commission member Larson asked whether Mr. Hagstrom would like an additional 30 days to meet with the neighbors and discuss their concerns. Mr. Hagstrom stated he did not believe he could address the concerns of the neighborhood even with a 30 day delay.

Commission member Workman asked Mr. Hagstrom to clarify his intent to build two nine-

unit dwellings and why a lower density would not work for this site. Mr. Hagstrom stated that development costs even with funding for the water line required 18 units to make it a viable project. Mr. Hagstrom requested the Commission go forward with his original request. Commission member Hawkins asked Mr. Hagstrom whether he had looked at the alternative of five duplexes. Mr. Hagstrom stated that he could not achieve the quality of construction with that many exterior walls. Mr. Hagstrom stated again that he would be the owner of the buildings and they would not be sold to individual owners through a condominium or unit ownership. He would personally manage the property and assure the integrity of the residents and the property.

The Zoning Commission considered the testimony and the staff recommendation of conditional approval. The Zoning Commission moved to recommend conditional approval of the special review request for two nine-unit multi-family buildings and voted 3-1 to forward this recommendation to the City Council. Commission member Hawkins stated she understood the concerns of the neighborhood about crime and vandalism but these issues were not land use issues. She stated the 18 unit density on the property was not unreasonable given the zoning and some of the other higher density multi-family developments in the area. Commission member Workman stated that he would support the motion since it represented a compatible and desirable use for the area. Affordable housing demand is very high in Billings. Commission member Larson stated he would not support the motion. He agreed with the Planning staff recommendation for a 12 unit maximum density based on the surrounding area. Commission Chair Daily stated he believed this area would increase in new housing including rental housing due to the developments on King Ave East including the new Cabelas and Sam's Club. The neighborhood will change over the next ten years. He sympathized with the neighbors about the incidents of crime and vandalism but these were not dependent on land uses. He urged them to form a neighborhood watch and work with the police department to reduce these occurrences. He stated that not only is the applicant part of the process but that private property owners as well. He thanked them for their articulate and passionate testimony. He reminded the audience the Commission is only advisory to the City Council and that another hearing would be held on February 23rd. The Commission voted 3-1 in favor of conditional approval for 2 nine-unit multi-family dwellings.

CONSISTENCY WITH ADOPTED PLANS AND POLICIES

Consistency with plans and policies is discussed in the Alternatives Analysis section above.

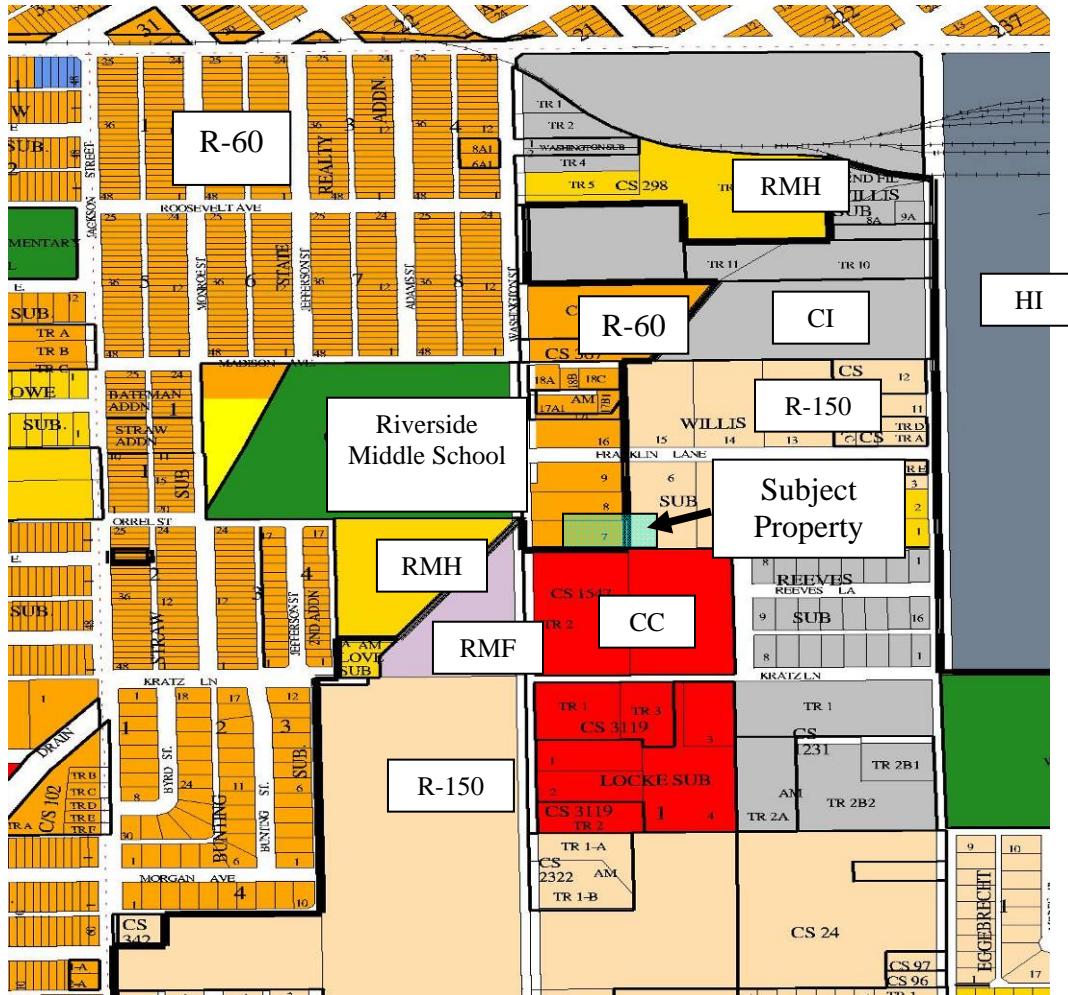
RECOMMENDATION

The Zoning Commission is forwarding a recommendation of conditional approval of Special Review #874 on a 3-1 vote.

ATTACHMENTS

- A. Zoning Map
- B. Site Photographs
- C. Site Plan
- D. Letters and Petitions opposed to the special review

ATTACHMENT A



ATTACHMENT B
Site photos –Special Review #874



Subject Property 307 Washington Street



View north and east of subject property

Attachment B, continued

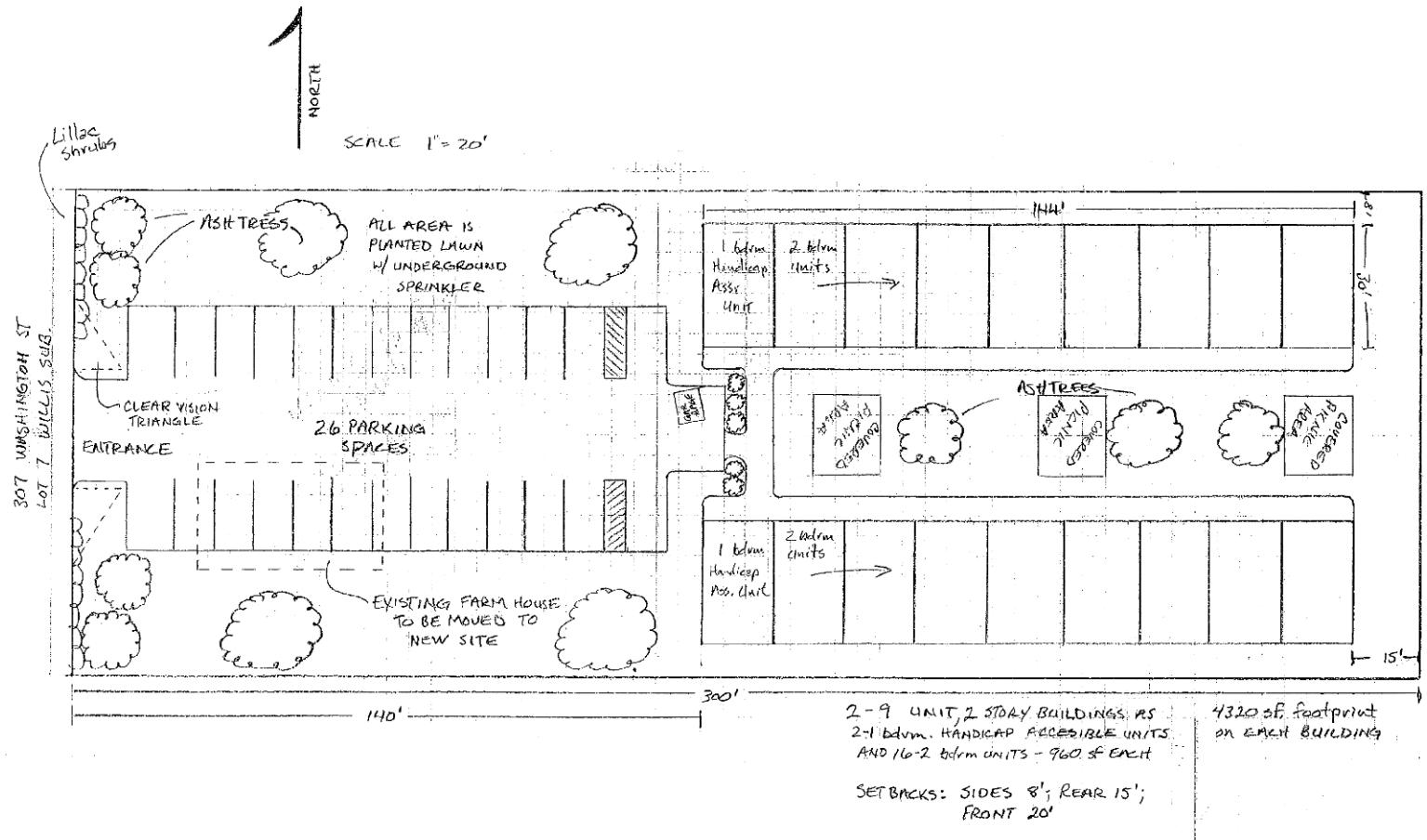


View north and west – Riverside Middle School



View south and east – Union Hall property adjacent to south

ATTACHMENT C
Site Plan –Special Review #874



Attachment D
Letters of opposition and petition against – Special Review #874

Southwest Corridor Neighborhood Taskforce

P.O. Box 80441
Billings MT 59107
670-4395
Chair: Tom Ruschkevicz, Vice Chair: Floyd Martin
Treasurer: Darlene Derksen, Secretary: Barbara Prewett

January 22, 2009

Planning & Community Services Dept
510 North Broadway 4th Floor
Billings MT 591011



RE: City Special Review #87
307 Washington

Planning & Community Services Dept:

This letter is to let you know that a motion was made at our meeting for the Southwest Corridor Taskforce to write a letter opposing the request for a City Zoning Variance. We are opposing the special review to allow 2 nine-plex apartment buildings to be built on Lot 7 and the South 20 feet of Lot 8 Willis Subdivision. Tax ID A18559. We are opposing this because of the lack of information that we have and also because of the concerns of the numerous members/property owners that attended our January Meeting.

At this time the Southwest Corridor Taskforce does not support this project in our area.

If you have any questions, please call.

Sincerely,



Tom Ruschkevicz

Chair Person

CC: City Council
Tina Volek
City Zoning Commission



UNITED ASSOCIATION

of Journeymen and Apprentices of the
Plumbing and Pipe Fitting Industry of
the United States and Canada

Founded 1889

Letters should
be confined to
one subject

Plumbers and Pipefitters Local 30

UA Local Union: P.O. Box 30616 – Billings, MT 59107-0616
Ph: (406) 252-9371 – Fax: (406) 252-9373

Subject:

January 23, 2009

South Side Task Force
Billings, Montana



Members of the South Side Task Force:

On behalf of the 320 members of Plumbers and Pipefitters Local Union #30, who collectively own the property at 317 Washington Street, south to Kratz Lane, please accept our letter of opposition for the proposed construction of 18 two-story, box-type apartments to be located at 307 Washington Street.

Our reasons for opposition are as follows:

- 1) The proposed (18) two-story apartments are adjacent to our property, to the north. All of our offices with windows are on the north side of our building, which would completely eliminate our existing view.
- 2) An apartment complex at this location would, without a doubt deflate the current value of our property.
- 3) Apartment buildings in this area would, without question increase the potential for vandalism, graffiti, trespassing, break-ins, etc. Within a matter of time, this area would resemble the Jackson Street apartments, and we are all aware of the problems that exist there.

During the past 34 years, we have operated our union hall and training center at this location with only a few mischievous incidents. We have enjoyed the neighbors, the reasonable quietness frequented by pheasants, ducks, deer, squirrels and farm animals. To allow the construction of 18 two-story, box-type apartment buildings would certainly destroy the atmosphere that we have grown to enjoy and appreciate over the years.

We therefore would very much appreciate any assistance you might render.

Sincerely,

Robert L. Papin
Business Manager



We the undersigned voice our protest against Special Review #874 and Project Number: 08-1005, which is located at 307 Washington Street, Billings, MT. We are against the Special Review because the increase in population density will bring increased traffic, graffiti, drug trafficking (which the area is noted for), garbage, mischief, robberies, trespassing, and will devalue existing property in the larger area. In addition, if the City contemplates extending city services to this property without demanding that the developer pay the full cost of same, it amounts to a subsidy for the developer and an unfair cost to the taxpayer. This area is noted for relatively low density, and quasi-agricultural land uses. We do not believe that the area should be targeted for "affordable" income housing. Low-income high-density housing has already been constructed on Jackson, Monroe, and Jefferson Streets to the west. That development continues to exhibit high-crime, drugs, gang activity, trash strewn streets, alleys, and yards.

Name	Address	Telephone No.
Walt Williams	748 Washington St	208-5672
Don A. Pollio	720 Washington St	248-4003
Carol D. Miller	731 Washington St	245-3082
Rollie Neamley	710 Washington	252-4028
John Williams	789 Washington	248-4461
Winnie & Dennis Larson	618 Washington St	256-3717
Shawn Welch	609 Washington	861-9820
Kaye Stein	609 Washington	850-0082
Justine Sato	543 WASHINGTON ST	545 8537
John Tolle	547 Washington	671-7788
John B. S.	475 Washington	254-8518
Lydie F. Leas	465 Washington	252-0304
Jacqueline Schillig	455 Washington	256-6381
Anne Kelly	455 Washington ST	256-6381
Olga Remal	4029 KRAPZ	252-6181
Franklin	GRAY EAGLE Ditch	670-6781
Dee P. L.	650 WASHINGTON ST	406 855-9581

RECEIVED
JAN 26 2000
FBI - BILLINGS
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

We the undersigned voice our protest against Special Review #874 and Project Number: 08-1005, which is located at 307 Washington Street, Billings, MT. We are against the Special Review because the increase in population density will bring increased traffic, graffiti, drug trafficking (which the area is noted for), garbage, mischief, robberies, trespassing, and will devalue existing property in the larger area. In addition, if the City contemplates extending city services to this property without demanding that the developer pay the full cost of same, it amounts to a subsidy for the developer and an unfair cost to the taxpayer. This area is noted for relatively low density, and quasi-agricultural land uses. We do not believe that the area should be targeted for "affordable" income housing. Low-income high-density housing has already been constructed on Jackson, Monroe, and Jefferson Streets to the west. That development continues to exhibit high-crime, drugs, gang activity, trash strewn streets, alleys, and yards.

Name	Address	Telephone No.
<u>Donald R. Karp</u>	<u>4039 Keatz</u>	<u>252-1905</u>
<u>U. McJohn</u>	<u>4037 Keatz</u>	<u>671-0175</u>
<u>D. J. Z. Shet</u>	<u>4037 Keatz</u>	<u>698-7128</u>
<u>26700</u>	<u>148 Washington</u>	<u>248-4689</u>
<u>Howard Shute</u>	<u>144 Washington St.</u>	<u>252-6242</u>
<u>Tim Berkman</u>	<u>132 Washington St.</u>	<u>259-1648</u>
<u>James Lair</u>	<u>132 Washington</u>	<u>259-1648</u>
<u>Al Mowen</u>	<u>118 Washington</u>	<u>534-2590</u>
<u>Marion Schaeff</u>	<u>145 Washington</u>	<u>252-2526</u>
<u>James Franklin</u>	<u>203 Washington</u>	<u>954-1367</u>
<u>Clark Perkins</u>	<u>107-119 Washington</u>	<u>252-1453</u>
<u>Geoffrey L. Trout</u>	<u>355 Washington</u>	<u>256-6123</u>
<u>Oprenelle B. Beamerlin</u>	<u>355 Washington</u>	<u>256-6123</u>
<u>Steve Suckow</u>	<u>221 Washington</u>	<u>861-8595</u>
<u>Deb. Neimayr Penning</u>	<u>4029 Knob Ln</u>	<u>252-6181</u>
<u>Sophie Forrest</u>	<u>3421 Franklin</u>	<u>Billings</u>
<u>Robert E. Donatt</u>	<u>3421 FRANKLIN</u>	<u>259-5312</u>

1 JAN 26 2009

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Name

Address

Telephone No.

<u>Howard Law Eller - 1012 Franklin</u>	<u>Stree</u>	<u>706 534-3763</u>
<u>Jeff Richardson</u>	<u>41 Washington</u>	<u>254-6189</u>
<u>Michael LeSmith</u>	<u>26 Washington</u>	<u>839-1425</u>
<u>Shirley & John Perez</u>	<u>44 Washington</u>	<u>253-2805</u>
<u>Francesca & Mark Peters</u>	<u>44 Washington</u>	<u>688-5830</u>
<u>Paula Pittman</u>	<u>140 Washington</u>	<u>cell 307-2021055</u>
<u>Shirley & Ron Hansen</u>	<u>134 Washington</u>	<u>252-5319</u>
<u>Tom Witz</u>	<u>3724 Roosevelt</u>	<u>248-1867</u>
<u>Janice Utel</u>	<u>503 Washington St</u>	<u>687-8700</u>
<u>Marie Miller</u>	<u>30 Washington</u>	<u>Blg 252-2050</u>
<u>Jolyn Kuhn</u>	<u>236 Riverside Rd</u>	<u>Blg 406 439-4364</u>
<u>Theresa Dutcher</u>	<u>236 Riverside Rd</u>	<u>Blg 406 259-4502</u>
<u>Islanda Lee</u>	<u>701 Washington</u>	<u>861-9255</u>
<u>Deann Willard</u>	<u>709 Washington</u>	<u>360-2417</u>
<u>Paul Law</u>	<u>651 Washington</u>	<u>861-6428</u>
<u>Charles & Juanita Lowmyer</u>	<u>911 Washington St</u>	<u>259-8152</u>

10/23/2009

PETITION AGAINST SPECIAL REVIEW #874

We the undersigned voice our protest against Special Review #874 and Project Number: 08-1005, which is located at 307 Washington Street, Billings, MT. We are against the Special Review because the increase in population density will bring increased traffic, graffiti, drug trafficking (which the area is noted for), garbage, mischief, robberies, trespassing, and will devalue existing property in the larger area. In addition, if the City contemplates extending city services to this property without demanding that the developer pay the full cost of same, it amounts to a subsidy for the developer and an unfair cost to the taxpayer. This area is noted for relatively low density, and quasi-agricultural land uses. We do not believe that the area should be targeted for "affordable" income housing. Low-income high-density housing has already been constructed on Jackson, Monroe, and Jefferson Streets to the west. That development continues to exhibit high-crime, drugs, gang activity, trash strewn streets, alleys, and yards.

Name	Address	Telephone No.
Archie Barnard	324 Riverside	(406) 661-1384
Colby Moore	336 Riverside	(406) 259-2374
Ronald Harmon	441 Riverside	406-652-5181
Andrea Harmon	441 Riverside	406-652-5181
Todd Harmon	441 Riverside	406-652-5181
Mark Harmon	654 Riverside Rd.	406-896-1561



PETITION AGAINST SPECIAL REVIEW #874

We the undersigned voice our protest against Special Review #874 and Project Number: 08-1005, which is located at 307 Washington Street, Billings, MT. We are against the Special Review because the increase in population density will bring increased traffic, graffiti, drug trafficking (which the area is noted for), garbage, mischief, robberies, trespassing, and will devalue existing property in the larger area. In addition, if the City contemplates extending city services to this property without demanding that the developer pay the full cost of same, it amounts to a subsidy for the developer and an unfair cost to the taxpayer. This area is noted for relatively low density, and quasi-agricultural land uses. We do not believe that the area should be targeted for "affordable" income housing. Low-income high-density housing has already been constructed on Jackson, Monroe, and Jefferson Streets to the west. That development continues to exhibit high-crime, drugs, gang activity, trash strewn streets, alleys, and yards.

Name	Address	Telephone No.
Alex Miles	535 Washington st	982-0052

POP POP Miller, LLC

1423 S. Uinta Ct.
Denver, CO 80231

January 29, 2008

Planning & Community Services Department
510 North Broadway, 4th Floor
Billings, Montana 59101

RE: Special Review #874
Project Number: 08-1005



Dear City/County Planning Department:

Upon reviewing the letter and enclosures sent on January 16, 2009 as well as additional information requested and forwarded to us via email by the Planning and Community Service Department regarding Project Number 08-1005, all members of the Pop Pop Miller, Limited Liability Company who own lots 004, 005, 013, 014 of the Willis Subdivisions voted and unanimously oppose the construction of the two six-plex multifamily dwellings.

We request that the Planning Division openly listen and address the concerns of our neighborhood with respect to this type of facility and its direct impact to our community. None of the conditional "approval recommendations" listed under Proposed Conditions adequately addresses the concerns of our neighborhood. The proposed site is currently surrounded by an acceptable blend of single family homes, business, pasture, open land as well as schools. The Planning & Community Service Department stated that our area is recorded as a lower income community. However, as you can see by the overwhelming response of our neighborhood, we have rallied together to support our desire to continue to improve our neighborhood by requesting that this project be denied.

Our concerns are not that of the structure that is required to be built to code and zoning rules, but the fact that rent for these apartments are expected to be for individuals and families that earn less than 60% of the area median income. The statistics provided by the Planning & Community Services Department for this areas median income is \$34,650. In doing the math and looking at statistical information for similar areas supporting this type of housing, we feel we have a valid concern for decreased property value and increased crime. This would greatly diminish the ability for our community to attract more desirable neighbors and business.

Please accept this as our strong opposition to this proposed project.

Respectfully,


Bethann Sigman
Managing Member
Pop Pop Miller, LLC


Bill Miller
Managing Member
Pop Pop, Miller, LLC

CC: all additional members of
Pop Pop Miller LLC



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, February 23, 2009**

SUBJECT: Public Hearing and Resolution - Annual Weed Assessments for 2nd Half FY 2009

DEPARTMENT: Planning and Community Services and Administration

PRESENTED BY: Candi Beaudry, AICP, Director

PROBLEM/ISSUE STATEMENT: The second half of the annual weed assessment has been completed by the Finance Division and is ready to spread on the tax rolls by Council resolution. The first half annual weed assessment was adopted by Council resolution on November 10, 2008.

Pursuant to City code 25-304, the property owner is notified in writing and given ten (10) days from the date of the notice of noncompliance to remove nuisance weeds. Upon failure to comply to the written notification the City may, by its own work forces or by contract, cause the weeds to be exterminated, removed or cut, and the cost would be assessed against the non-complying real property together with an additional administrative cost equal to 25% of the cost of removal and a \$25 penalty. If the charges are not paid within a given time, the costs with penalties shall constitute a lien on the non-complying real property and will be taxed as a special assessment against the real property.

Weed removal was done on the attached list of properties with the General Fund bearing the actual cost. These assessments will reimburse the General Fund.

RECOMMENDATION

Staff recommends the Council hold a public hearing and approve the Resolution on February 23, 2009.

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

ATTACHMENTS

- A. Weed Cutting & Removal Annual Assessment Resolution
- B. Weed Removal Properties

RESOLUTION NO. 09-_____

A RESOLUTION LEVYING A SPECIAL TAX UPON PROPERTY
WITHIN THE CITY OF BILLINGS, MONTANA, TO DEFRAY THE
COST OF CUTTING AND/OR EXTERMINATING WEEDS.

WHEREAS, Billings, Montana City Code, Section 25-307, provides that the City Clerk shall prepare and present a resolution containing a list of all parcels of land in the City, from which and adjacent to which, the weeds were cut, exterminated and/or removed, and such list shall contain opposite the number of such lots or description of such parcels of land, the name of the owner, if known, and the amount of cost for cutting and removing such weeds.

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

1. LEVYING OF SPECIAL TAX. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied and assessed a special tax upon the owners and the lots or parcels described on the list attached hereto.

2. ASSESSMENT AND COLLECTION. Said tax shall be placed upon the assessment rolls and collected in the same manner as other taxes.

3. DISPOSITION OF COLLECTIONS. All monies collected from taxes shall be paid to the General Fund of the City of Billings.

4. NOTICE OF HEARING. On Monday, **February 23, 2009** at 6:30 o'clock p.m a public hearing was held and the matter was considered on the agenda in the Council chambers of the City Hall, Billings, Montana, and the City Council heard the objections to the final adoption of this resolution.

5. CERTIFICATION. The City Clerk is hereby directed upon final passage and approval of this resolution to certify a copy thereof to the City Administrator of the City of Billings, Montana, who shall certify a copy to the Yellowstone County Clerk and a copy to the Yellowstone County Assessor.

5. EFFECTIVE DATE. This resolution shall be effective upon adoption.

ADOPTED and APPROVED by the City Council on the 23rd day of **February, 2009**.

CITY OF BILLINGS:

BY: _____
Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

2008 Assessments

First Name	Last Name	Company Name	Address Cut	Cost to be Assessed
Presiding Bishop		Church of Jesus Christ of LDS	1065 Siesta Ave	511.25
		New Southside Properties LLC	Orchard Lane	1,573.75
		BHG Billings Midland LP	4841 Midland Rd	511.25
		New Hope Enterprises Inc	1337 Crystal Lake Lane	546.25
		New Hope Enterprises Inc	1323 Crystal Lake Lane	403.75
		Dan Lowe Construction	5325 Vintage Lane	511.25
		Dorn Property & Homes LLC	5445 Vintage Lane	511.25
		Dorn Property & Homes LLC	1245 Vineyard Way	511.25
		Dorn Property & Homes LLC	1265 Vineyard Way	511.25
		Dorn Property & Homes LLC	5345 Merlot Lane	511.25
Susan M.	Daly		1205 Sierra Granda Blvd	323.75
Tamara F.	Ellis		213 S. 33rd St.	323.75
Kathleen	Gilluly		904 S. 31st St.	323.75
		DCL Ventures LLC	1250 Vineyard Way	511.25
		DCL Ventures LLC	5315 Merlot Lane	511.25
		Montana Assets LLC	1846 Venus Circle	475.00
Loretta A.	Giacomini		205 S. 39th St.	273.75
		Margaret Johnson Living Trust	4249 Vaughn Ln.	323.75
Terry	Mace		907 S. 29th St.	403.75
		Alice S. Klundt Living Trust	165 Windsor Cir N.	150.00
		Alice S. Klundt Living Trust	185 Windsor Cir N	150.00
Wendy	Riojas		309 S. 35th St.	323.75



CITY COUNCIL AGENDA ITEM**CITY OF BILLINGS, MONTANA****Monday, Feb. 23, 2009**

TITLE: Resolution on the American Recovery and Reinvestment Act of 2009

DEPARTMENT: City Administrator's Office

PRESENTED BY: Dave Mumford, Public Works Director
Tina Volek, Interim City Administrator

PROBLEM/ISSUE STATEMENT: The American Recovery and Reinvestment Act of 2009 was passed by Congress and was scheduled to be signed by President Obama on Feb. 21. The offices of Sen. Baucus and Sen. Tester have asked the City of Billings for a list of projects that the City would like to have considered under the plan. The broad outlines of the national plan and its impact on Montana are shown on Attachment B, The Jobs Bill, which was distributed at a listening session held by the Senators on Feb. 16. Council approval is sought for the list of proposed requests for the City of Billings.

ALTERNATIVES ANALYZED:

- Approve the resolution;
- Amend the resolution;
- Do not approve the resolution, which would result in projects being funded later from other sources or not being undertaken.

FINANCIAL IMPACT: While not all projects are likely to be funded, the City is requesting \$53,470,000 worth of funding for projects that would be "shovel ready" in 120 days; \$14.8 million of additional projects in 6-9 months; and \$28 million in 12-18 months. Some of these projects are duplications of the 2009 Federal Projects Funding Requests, which hopefully will increase the likelihood of being funded from one source or another. City staff will continue to work with the Congressional delegation's staff on the process by which the Recovery and Reinvestment Act will be appropriated.

RECOMMENDATION

Approve the Resolution.

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

ATTACHMENTS:

A – Resolution

B – The Jobs Bill List

RESOLUTION 09-

**A RESOLUTION OF THE CITY OF BILLINGS CALLING FOR AN EQUITABLE
DISTRIBUTION OF THE PROPOSED FEDERAL STIMULUS PACKAGE AS
PART OF THE ONGOING INFRASTRUCTURE INVESTMENT IN MONTANA .**

WHEREAS, the City of Billings in coordination with the Montana League of Cities and Towns are requesting Federal funding from the proposed Stimulus Package be equitably distributed to the local communities.

WHEREAS, infrastructure and capital projects have been carefully reviewed to ensure they would provide immediate stimulus and benefit the residents of the City of Billings and Montana.

WHEREAS, the City of Billings is requesting the following projects be recommended for funding in the Federal Stimulus Package infrastructure program.

Projects ready to bid in 120 days:

Transit:

Para-transit Vans Replacement - \$200,000 Purchase 2 new Para-transit Vans

Bus Wash Renovations - \$315,000 Renovate 1983 facility

Airport:

Runway Sweeper - \$540,000 New 20' Sweeper for Snow removal.

Rehabilitate Taxiway 'A' East - \$1,500,000 Replaces Asphalt Surface on Taxiway.

Taxiway 'A' Obstruction Removal and Realignment/Reconstruction - \$4,000,000.

PRPL:

Wading Pool Replacements	3 Spray grounds -	\$1,050,000
Rose Park Pool Renovations		\$ 360,000
Irrigation System Upgrades	Cemetery	\$ 1,595,000
Road Paving	Cemetery	\$ 647,000
Playground Accessibility Improvements		\$ 910,000

Public Works:

Water/Wastewater;	
Zone 4 Reservoir	\$ 6.5 million
Water & Wastewater Pipe Rehabilitation	\$12.0 million
Water Treatment Plant Backup Power	\$ 1.2 million
Water Treatment Plant SCADA Upgrade	\$ 0 .6 million

Storm water:

Nutter & BBWA to Hilltop Storm water Improvements	\$5.5 million
Midland Road Improvements	\$1.5 million
East End Industrial (3 rd to Yegen Drain)	\$4.5 million

Roadway:

Alkali Creek Road Stabilization	\$4.8 million
Pavement Overlay & Rehabilitation Project	\$4.4 million
Polly Drive & Zimmerman Traffic Signal	\$ 0 .5 million

Ready 6 – 9 Months

Storm water:

Sharptail Pond at Hogan Slough Confluence	\$4.0 million
Hogan Slough and Suburban Ditch Upgrade	\$3.2 million

Landfill:

Hazardous Waste Storage Facility	\$0.6 million
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Roadways:

Rimrock Road (17 th to Shiloh)	\$6.2 million
Central Avenue (32 nd to Shiloh)	\$5.1 million

Water:

Zone 3 Reservoir	\$3.5 million
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Ready 12- 18 Months

Fire Department:

Fire Training Center	\$12,000,000
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Communication Center	\$ 4,000,000
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Public Works:

Inner Belt Loop 6.5 miles of Arterial Roadway	\$ 12,000,000
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NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS MONTANA AS FOLLOWS:

That the City Council requests the afore mentioned projects be considered for inclusion in the Federal Stimulus Package. Funding for the projects would be distributed to the local government.

APPROVED AND PASSED by the City Council of the City of Billings this 23rd day of February 2009.

THE CITY OF BILLINGS:

By: _____
Ron Tussing Mayor

ATTEST:

BY: _____
Cari Martin, MMC City Clerk

The Jobs Bill

The American Recovery and Reinvestment Act

QUICK FACTS:

- Invests **\$789 billion** to help rebuild America's economy:
 - **\$285 billion** in tax breaks (business, individual, energy)
 - **\$311 billion** in discretionary spending (infrastructure, education)
 - **\$193 billion** in mandatory spending (health care, unemployment insurance)
- Will create or save **3.5 million jobs nationwide** by the end of 2010 (11,100 jobs in Montana)
- There are no earmarks in this bill

TOTAL MONTANA FUNDING: \$625,913,635

- **Montana highway funding:** \$211,793,391
- **Montana transit formula funding:** \$15,611,710
- **Montana Stabilization Fund (assists states and local governments for education, public safety and other needs):** \$121,371,174
- **Montana water systems:** \$39,188,800
- **Montana Head Start and education for the disadvantaged:** \$46,094,661
- **U.S. Department of Education funding for Montana:** \$38,588,400
- **Montana education technology:** \$4,839,000
- **Montana energy and weatherization programs:** \$52,747,681
- **Housing in Montana:** \$18,645,064
- **Montana Child Care and Development block grants:** \$5,747,006
- **Montana Community Services Block Grants:** \$4,544,915
- **Montana food and shelter assistance:** \$51,228,591
- **Montana's drug task forces and other community justice funding:** \$6,645,076
- **U.S. Department of Labor grants for Montana:** \$8,868,166

NATIONAL FUNDING AFFECTING MONTANA

- **Bureau of Reclamation (Water and Environmental infrastructure):** \$1 billion
- **U.S. Army Corps of Engineers:** \$4.6 billion
- **National Park Service:** \$750 million
- **U.S. Forest Service:** \$1.15 billion (includes \$500 million for wildfire management)
- **Indian Country:** \$2.5 billion for tribal projects
 - \$450 million for BIA Construction projects
 - \$415 million for Indian Health Facilities
 - \$510 million for Indian Housing Block Grants
 - \$245 million for Tribal Law Enforcement programs
 - \$310 million for Indian Reservation Roads (transportation)
 - \$2.4 billion in tribal taxation/tax incentive authority
- **Veterans Administration facilities:** \$1.2 billion

TAX BREAKS AND DIRECT SPENDING

- 95 percent of Americans will receive a tax cut from the Jobs Bill. The bill includes:
 - The "Making Work Pay" tax credit (\$400 per individual, \$800 per couple)
 - A one-time payment of \$250 in the pockets of retired and disabled Montanans on Social Security, Railroad Retirement and Veterans Disability.
 - A temporary tax hold on some unemployment benefits, to help unemployment checks stretch further.
 - A new "American Opportunity" tax credit of up to \$2,500 to help Montanans pay for college.
- The Jobs Bill also includes an additional \$170 million for Medicaid funding in Montana