

CITY OF BILLINGS

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

AGENDA

COUNCIL CHAMBERS

October 9, 2007

6:30 P.M.

CALL TO ORDER – Mayor Tussing

PLEDGE OF ALLEGIANCE – Mayor Tussing

INVOCATION – Councilmember Brewster

ROLL CALL

MINUTES – September 24, 2007

COURTESIES

PROCLAMATIONS

- Fire Prevention Week – October 7–13, 2007
- Rimrock Opera's *The Girl of the Golden West Month* – October 2007
- National Community Planning Month – October 2007
- White Cane Safety Day – October 15, 2007

ADMINISTRATOR REPORTS – Tina Volek

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: 1, 5b, and 6 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:

A. (1) Purchase of Seven (7) 2008 Truck Cabs and Chassis with Refuse Compactor Bodies for the Solid Waste Division (Opened 9/11/07) Recommend:

Schedule I – Two Units, Tri-State Truck & Equipment, \$443,580.00

Schedule II – Two Units, Northwest Truck & Trailer, \$291,382.00

Schedule III – Three Units, Tri-State Truck & Equipment, \$667,092.00

[\(Corresponding Staff Memo A1\)](#)

(2) Replacement of 17 City Vehicles Scheduled in the City's Equipment Replacement Program for FY 2007/2008. (Opened 9/25/07)

Recommend:

Schedules I & IV with trades & Schedules II & VIII without trades, Archie Cochrane Ford, \$151,490.00.

Schedules VII & XI with trades & Schedules III, V, & VI without trades, Denny Menholt Chevrolet, \$141,309.00.

[\(Corresponding Staff Memo A2\)](#)

(3) Gasoline and Diesel Fuel Products Supply (Opened 9/25/07)
Recommend Town & Country Supply Association, \$2,019,550.50 based on Oil Pricing Information Services (OPIS).

[\(Corresponding Staff Memo A3\)](#)

(4) Cascade Pump 20 MF and 200 HP Motor – Wastewater Plant (Opened 9/25/07) Recommend Cascade Pump Company, \$91,000.00.

[\(Corresponding Staff Memo A4\)](#)

(5) SID 1379 – Utility and Street Improvements to King Avenue West from S. 31st Street West to Shiloh Road (Opened 9/25/07) Recommend JTL Group, Inc., \$4,971,752.50.

[\(Corresponding Staff Memo A5\)](#)

B. Declaring surplus property and authorizing the Aviation and Transit staff to sell two aircraft and rescue fire fighting trucks through a competitive bidding process.

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

C. Approval of lease renewal for storage space at the Billings International Airport to the Bureau of Land Management, revenue first year \$3,532.95, revenue subsequent years adjusted by CPI.

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

D. Assignment and Transfer of west end hangar ground lease from John M. and/or Marcia N. Nash to James C. and/or Gail G. Heatherly.

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

E. Acceptance of Internet Crimes Against Children (ICAC) grant award in the amount of \$250,000.00.

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

F. Approval of contract with the State of Montana Department of Public Health and Human Services, Developmental Disabilities Division, for MET Transit specialized transportation, revenue FY07/08 of up to \$161,039, with three possible annual extensions.

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

G. Maintenance Agreement between the City of Billings and the State of Montana for state-owned highway within the city limits, 2-year term (7/1/07-6/30/09), annual revenue \$500,000; and **Special Projects Contract Maintenance Agreement** between the City of Billings and the State of Montana, 2-year term (7/1/07-6/30/09), annual revenue \$300,000.

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

H. Acknowledging receipt of petition to annex #07-24: 5.0 acres of Tract 1B, Certificate of Survey 1335, Amended, generally located just south of the intersection of Wicks Lane and Hawthorne Lane, William Hanser, owner and petitioner, and setting a public hearing date of 10/22/07.

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

I. Acceptance of Donation: Approval and acceptance of in-kind volunteers and landscaping materials from Billings Heights Rotary Club for trees and shrubs for Castle Rock Park, \$2,000 landscape materials and 150 volunteer hours.

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

J. Second/final reading ordinance for Zone Change #823: A zone change from Residential 9600 to Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted located on the southwest corner of the intersection of Central Avenue and Brookshire Boulevard, Legacy Homes, Inc., owner; Engineering, Inc., representative. Approval of zone change and adoption of Findings of Fact.

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

K. Second/final reading ordinance for Zone Change #824: A zone change from Residential 9600 to Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted located west of the corner of the intersection of Central Avenue and Brookshire Boulevard, Lydia Kramer Real Estate Management Trust, Douglas and Raymond Kramer, Powers of Attorney, owners; Engineering, Inc., representative. Approval of zone change and adoption of determination of the 12 criteria.

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

L. Preliminary Plat of E. D. King Subdivision, 2nd Filing, generally located on the southeast corner of Avenue E and Zimmerman Trail, conditional approval of the plat and adoption of the Findings of Fact.

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

M. Final Plat of Central West Subdivision.

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

N. Final Plat of Amended Lots 5 and 6, Block 11, Lake Hills Subdivision, 17th Filing.

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

O. Final Plat of Amended Lots 15A, 15B, 15C, and 15D; Block 3; Vista Heights Subdivision, 2nd Filing.

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

P. Bills and Payroll

(1) September 7, 2007

[\(Corresponding Staff Memo P1\)](#)

(2) September 14, 2007

[\(Corresponding Staff Memo P2\)](#)

(3) August 1 – 31, 2007 (Municipal Court)

[\(Corresponding Staff Memo P3\)](#)

(Action: approval or disapproval of Consent Agenda.)

REGULAR AGENDA:

2. **CONTINUANCE OF PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #820:** A text amendment to Section 17-705(C), BMCC, Commercial Sign Regulations. (Continued from 9/24/07) Zoning Commission recommends approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

3. **CONTINUANCE OF PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #821:** A text amendment to Sections 27-703, 27-705(c), 27-706(b), and 27-708, Electronic Signs. (Continued from 9/24/07) Zoning Commission recommends approval. **(Action:** approval or disapproval of Zoning Commission recommendation.)

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

4. **PUBLIC HEARING AND AGREEMENT** with Lockwood Area/Yellowstone County Water and Sewer District for treatment and disposal of wastewater. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

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

5. **(a) PUBLIC HEARING AND APPROVAL** of quitclaim deed to Miller Trois, LLC, for property legally described as Lots 2A-2 and 2A-3, Block 1, of Amended Plat of Lot 2A of Amended Plat of Lots 2, 3, 4, & 5, Block 1, Miller Crossing Subdivision, at no cost to the City. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

(b) APPROVAL AND ACCEPTANCE of quitclaim deed from Miller Trois, LLC, for property legally described as Lot 2A-1, Block 1, of Amended Plat of Lot 2A of Amended Plat of Lots 2, 3, 4, & 5, Block 1, Miller Crossing Subdivision.

Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

[\(Corresponding Staff Memo 5\)](#)

6. **2007 CTEP PROJECT APPLICATIONS** funding construction of various community pedestrian and/or bicycle facilities. Staff recommends Council formulate a recommendation. (**Action:** approval or disapproval of staff recommendation.)

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

7. **PUBLIC HEARING AND RESOLUTION** creating Special Improvement Lighting Maintenance District 303 – King Avenue West from 31st Street West to Shiloh Road. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

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

8. **PUBLIC HEARING AND RESOLUTION** vacating a portion of South 12th Street West in exchange for dedication of an equal area of property from MDU at no cost to the City or MDU. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

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

9. **PUBLIC HEARING AND RESOLUTION** vacating a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North for a value of \$71,750.00. Billings Clinic, petitioner. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

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

10. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward II to include recently annexed property in Annex #07-10: a 400.94-acre parcel legally described as the S1/2 SE1/4 of Section 8, T1N, R26E and the S1/2 SW1/4 of Section 9, T1N, R26E, Tract 1 of Certificate of Survey 2017, generally located northwest of the Lake Hills Golf Course and north of Matador Avenue in Billings Heights. Frank Sindelar, petitioner. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

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

11. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Annex #07-21: an 8.868-acre parcel legally described as Tract 1C, Certificate of Survey 2991, generally located west of the intersection of Central Avenue and 29th Street West. Raymond and Douglas Kramer, Powers of Attorney for the Lydia Kramer Real Estate Management Trust, petitioners. Staff recommends approval. (**Action:** approval or disapproval of staff recommendation.)

[\(Corresponding Staff Memo 11\)](#)

12. **PUBLIC HEARING AND FIRST READING ORDINANCE** expanding the boundaries of Ward V to include recently annexed property in Annex #07-22: an

8.868-acre parcel legally described as Tract 1B, Certificate of Survey 2991, generally located on the southwest corner of the intersection of Central Avenue and 29th Street West. Todd Icopini, petitioner. Staff recommends approval. **(Action:** approval or disapproval of staff recommendation.)

[\(Corresponding Staff Memo 12\)](#)

13. **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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Approval of Award to Purchase Seven New 2008 Truck Cabs and Chassis with Refuse Compactor Bodies for the Solid Waste Division

DEPARTMENT: Public Works/Solid Waste Division

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

PROBLEM/ISSUE STATEMENT: The Solid Waste Division FY08 Budget includes funds to replace three older garbage trucks and add four additional trucks to the fleet. All are included in the approved Equipment Replacement Plan and they are scheduled for purchase this fiscal year.

Public Works is ordering three different styles of trucks. Automated “side load” trucks are used to pick up 90 and 300-gallon residential containers, automated “front load” trucks dump metal commercial dumpsters, and the “low entry drop frame automated/manual side load” trucks will be used to service residential yard waste containers. Trucks being added to the fleet include one additional automated side load truck and the three new trucks for yard waste recycling.

FINANCIAL IMPACT: The Solid Waste Division budgeted \$1,299,395 to purchase the seven garbage trucks. Bids were advertised August 30th and September 6th and ten bid packets were distributed to various truck and refuse compactor vendors. Bids were received and opened on September 11, 2007. Three vendors submitted a total of ten bids on the various schedules. The total low bids for the seven trucks are \$1,402,054, which exceeds the budgeted amount by \$102,659. The amount needed to purchase the yard waste trucks exceeded our estimates. When these trucks were budgeted, we were planning to use rear load trucks for the yard waste collection. However, they would have required two employees and the automated trucks that were bid will allow collection by one operator. The Solid Waste Division has sufficient reserves to cover purchasing the automated trucks for yard waste collection.

SCHEDULE I – Two (2) New Tandem Tilt Cabs, 2008 Model, 62,000 GVW Cab & Chassis with Dual Steering and 31-Cubic Yard Automated Side Loading Refuse Compactor Body with 5-Year Engine & Transmission Warranty.

	<u>Tri-State Truck & Equipment</u>	<u>Northwest Truck & Trailer</u>	<u>I-State Truck Center</u>
Brand	Mack w/Heil		Condor w/Heil
Total Bid-2 Units	\$468,580	No Bid	\$474,538
Less Trade #0128	(25,000)		(25,000)
Net Bid	\$443,580		\$449,538

SCHEDULE II – Two (2) New Tandem Tilt Cabs, 2008 Model, 62,000 GVW Cab & Chassis 40-Cubic Yard ½ Pack Front Load Refuse Compactor Body with 5-Year Engine & Transmission Warranty

	<u>Tri-State Truck</u>	<u>Northwest Truck</u>	<u>I-State Truck</u>	<u>Tri-State Truck</u>	<u>Tri-State Truck</u>
Brand	Mack with Heil	Peterbuilt with McNeilus	Condor with Labrie	Mack with McNeilus	Mack with Labrie
Total Bid-2 Units	\$412,840	\$401,382	\$403,470	\$412,604	\$395,536
Less Trade #0126	(39,000)	(55,000)	(36,901)	(55,000)	(36,901)
Less Trade #0127	(39,000)	(55,000)	(36,901)	(55,000)	(36,901)
Net Bid	\$334,840	\$291,382	\$329,668	\$302,604	\$321,734

SCHEDULE III – Three (3) New Tandem Tilt Cabs, 2008 Model, 62,000 GVW Low Entry Drop Frame Cab & Chassis with Dual Steering and 30-Cubic Yard Automated/Manual Side Loading Refuse Compactor Body with 5-Year Engine & Transmission Warranty

	<u>Tri-State Truck</u>	<u>Northwest Truck</u>	<u>I-State Truck</u>	<u>Tri-State Truck</u>
Brand	Mack with Heil		Condor with Labrie	Mack with Labrie
Total Bid-3 Units	\$707,730	No Bid	\$691,539	\$667,092

RECOMMENDATION

Staff recommends that Council award the contract for purchase of seven new 2008 truck cabs and chassis with refuse compactor bodies as follows:

Schedule I – Two Units – Tri-State Truck & Equipment	\$443,580
Schedule II – Two Units – Northwest Truck & Trailer	\$291,382
Schedule III – Three Units – Tri-State Truck & Equipment	\$667,092

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

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Award of bid for City Vehicles
 DEPARTMENT: Administration – Motor Pool
 PRESENTED BY: Larry Deschene, Motor Pool Manager

PROBLEM/ISSUE STATEMENT: Seventeen City Vehicles are scheduled for replacement in the City’s Equipment Replacement Program and were approved by City Council during the FY 07/08 budget process.

The bids are for the following types of vehicles:

- Three compact sedans (Building),
- One ½ ton mid-size extended cab pickup (1 Code Enforcement),
- Four mid-size sedans (3 Police/ 1 Fire),
- Four ¾ ton 2wd regular cab pickups with utility boxes (PW Belknap),
- One 1 ton regular cab 4x4 pickup (Airport),
- One 1-ton regular cab 2wd dual rear wheel pickup with flatbed (PW Belknap),
- One ¾ ton 2wd pickup (Street),
- One ½ ton 2wd regular cab pickup (Motor Pool),
- One 1-ton regular cab 2wd dual rear wheel cab and chassis (Street).

The Motor Pool Division advertised for sealed bids for City Vehicles on September 6 and 13, 2007, with a bid opening on September 25, 2007.

FINANCIAL IMPACT:

The City received three bids on the vehicles as outlined below. The low bid for Schedule V did not meet required specifications, therefore the next lowest bid was recommended.

<u>Bid Schedule I – Three Compact Sedans</u>			
<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$41,853.00	\$3,000.00	\$38,853.00
Archie Cochrane Ford	40,665.00	2,250.00	38,415.00
Rimrock Auto Group	49,820.04	2,400.00	47,420.04

Bid Schedule II – One Mid-size Ext. Cab 2WD Pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$17,178.00	\$1,000.00	\$16,178.00
Archie Cochrane Ford	15,945.00	500.00	15,445.00
Rimrock Auto Group	17,226.90	300.00	16,926.90

Bid Schedule III – Four Mid-size Sedans

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$65,056.00	\$1,500.00	\$63,556.00
Archie Cochrane Ford	74,140.00	1,600.00	72,540.00
Rimrock Auto Group	67,938.92	1,900.00	66,038.92

Bid Schedule IV – Four ¾ Ton 2WD Pickups With Service Bodies

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$94,232.00	\$9,000.00	\$85,232.00
Archie Cochrane Ford	93,380.00	12,000.00	81,380.00
Rimrock Auto Group	94,831.00	9,000.00	85,831.00

Bid Schedule V – One 1 Ton Regular Cab 4WD Pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$22,622.00	\$ 500.00	\$22,122.00
Archie Cochrane Ford	21,750.00	500.00	21,250.00
Rimrock Auto Group	22,805.88	400.00	22,405.88

Bid Schedule VI – One 1 Ton 2WD Regular Cab Pickup With Service Body

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$23,157.00	None	\$23,157.00
Archie Cochrane Ford	23,949.00	None	23,949.00
Rimrock Auto Group	23,252.85	None	23,252.85

Bid Schedule VII – One ¾ Ton 2WD Regular Cab Pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$18,170.00	\$3,000.00	\$15,170.00
Archie Cochrane Ford	17,650.00	800.00	16,850.00
Rimrock Auto Group	18,263.55	3,000.00	15,263.55

Bid Schedule VIII – One 1/2 Ton Regular Cab 2WD Pickup

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$17,256.00	\$ 500.00	\$16,756.00
Archie Cochrane Ford	15,750.00	750.00	15,000.00
Rimrock Auto Group	17,193.33	700.00	16,493.33

Bid Schedule XI – One 1 Ton Regular Cab 2WD Dual Rear Wheel Cab & Chassis

<u>Vendor</u>	<u>Total Bid</u>	<u>Trade In</u>	<u>Net Bid</u>
Denny Menholt Chevrolet	\$19,804.00	\$4,500.00	\$15,304.00
Archie Cochrane Ford	19,850.00	1,500.00	18,350.00
Rimrock Auto Group	20,124.08	1,200.00	18,924.08

RECOMMENDATION

Staff recommends awarding Schedules I & IV with trades and Schedules II & VIII without trades to Archie Cochrane Ford for the bid amount of \$151,490.00 and to award Schedules III, V & VI without trades and Schedules VII and XI with trades to Denny Menholt Chevrolet for the amount of \$141,309.

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

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CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, OCTOBER 9, 2007

TITLE: Award of bids for supply of Gasoline and Diesel Fuel Products
DEPARTMENT: Administration – Motor Pool
PRESENTED BY: Larry Deschene, Motor Pool Manager

PROBLEM/ISSUE STATEMENT: The Motor Pool Division administers the annual contracts for all gasoline and diesel fuel products for City equipment. The bid is for gasoline and diesel fuel with alternate bids for various blends of Biodiesel.

This year, the prices for gasoline and diesel fuel products are based on the OPIS (Oil Pricing Information Service) pricing index. OPIS is a nationwide information system which monitors and reports fuel prices per gallon and fluctuations at each terminal location on a daily basis. Daily fuel pricing will match the OPIS Daily Average Gross Rack price for each product. Since the OPIS/Rack price and Taxes are pre-established, only the “Vendor Markup” figure was listed by the vendor and only it was used to establish the bid award recommendation. The Vendor Markup includes: Cost of transportation; Vendor overhead costs; blending and additive fees; and the vendor’s margin of profit. The total amount listed is the Vendor Markup per gallon times the estimated annual usage.

The Vendor Markup bid is calculated as a plus or minus number in respect to the posted OPIS Daily Average Rack Price.

A fuel vendor has submitted a negative number for their vendor markup bid. The negative number is the amount per gallon the vendor will discount or subtract from the OPIS Daily Average Rack price. The negative bid number is made possible by refineries offering “Terminal Discounts” to distributors who in turn can pass the discounts on to their large volume customers with good payment histories.

Alternate bids for various blends of biodiesel were advertised to determine the availability and pricing of alternate fuel products. Bid prices listed are based on the same format as the gasoline and diesel fuel bids.

The OPIS Daily Average Rack price for Tuesday, September 25, 2007, for each product bid is included in this document for comparison purposes.

The bid award will be for one year with two one-year renewal options.

Staff advertised for sealed bids for Gasoline and Diesel Fuel Products on September 6 and 13, 2007, with a bid opening on September 25, 2007.

FINANCIAL IMPACT: All departments with City equipment budget for fuel expense. Two bids were received September 25, 2007, as outlined below:

SCHEDULE A - GASOLINE AND DIESEL FUEL PRODUCTS

Bid award is based on the Total Vendor Markup Bid

Vendor **GM PETROLEUM**

	Vendor Markup /Gal	Total Est. Gallons	Total Vendor Markup Bid	Clean up Fee Tax	L.U.S.T. Tax	Fed. Oil Spill Tax	State Tax	OPIS Price 9/25/07	Total Fuel Cost/ Gal	Total Est. Fuel Cost
Regular Unleaded	0.06	5000	300.00	0.0075	0.001	0.0012	0.27	2.3667	2.7064	13532.00
Mid-grade Unleaded	0.06	240000	14400.00	0.0075	0.001	0.0012	0.27	2.4353	2.7750	666000.00
Super Unleaded	0.06	5000	300.00	0.0075	0.001	0.0012	0.27	2.5208	2.8605	14302.50
Gasoline Total		250000	15000.00							693834.50
#1 Diesel	0.0275	50000	1375.00	0.0075	0.001	0.0012	0	2.8064	2.8436	142180.00
#2 Diesel Summer	0.0375	235000	8812.50	0.0075	0.001	0.0012	0	2.5941	2.6413	620705.50
#2 Diesel Winter	0.0375	235000	8812.50	0.0075	0.001	0.0012	0	2.5941	2.6413	620705.50
Diesel Total		520000	19000.00							1383591.00
Gasoline & Diesel Total		770000	34000.00							2077425.50

SCHEDULE A - ALTERNATE BIODIESEL FUEL BLENDS

	Vendor Markup /Gallon	Total Est. Gallons	Total Vendor Markup	Clean up Fee Tax	L.U.S.T. Tax	Fed. Oil Spill Tax	State Tax	OPIS Price 9/25/07	Total Fuel Cost/ Gal	Total Est. Fuel Cost
(6a)B2 SUMMER 98/2	NO BID	260000	NO BID							
(6b)B2 WINTER (6b) 49/49/2	NO BID	260000	NO BID							
B2 TOTAL		520000	NO BID							
(7a)B5 SUMMER 95/5	NO BID	260000	NO BID							
(7b)B5 WINTER 47.5/47.5/5	NO BID	260000	NO BID							
B5 TOTAL		520000	NO BID							
(8a)B10 SUMMER 90/10	NO BID	260000	NO BID							
(8b)B10 WINTER 45/45/10	NO BID	260000	NO BID							
B10 TOTAL		520000	NO BID							
(9a)B20 SUMMER 80/20	0.475	260000	123500.00	0.0075	0.001	0.0012	0	2.5638	3.0485	792610.00
(9b)B20 WINTER 40/40/20	0.475	260000	123500.00	0.0075	0.001	0.0012	0	2.6380	3.1227	811902.00
B20 TOTAL		520000	247000.00							1604512.00

SCHEDULE A - GASOLINE AND DIESEL FUEL PRODUCTS

Bid award is based on the Total Vendor Markup Bid

Vendor **TOWN & COUNTRY SUPPLY**

	Vendor Markup/ Gal	Total Est. Gallons	Total Vendor Markup Bid	Clean up Fee Tax	L.U.S.T. Tax	Fed. Oil Spill Tax	State Tax	OPIS Price 9/25/07	Total Fuel Cost/ Gal	Total Est. Fuel Cost
Regular Unleaded	-0.0175	5000	-87.50	0.0075	0.001	0.0012	0.27	2.3667	2.6289	13144.50
Mid-grade Unleaded	-0.0175	240000	-4200.00	0.0075	0.001	0.0012	0.27	2.4353	2.6975	647400.00
Super Unleaded	-0.0175	5000	-87.50	0.0075	0.001	0.0012	0.27	2.5208	2.7830	13915.00
Gasoline Total		250000	-4375.00							674459.50
#1 Diesel	-0.0375	50000	-1875.00	0.0075	0.001	0.0012	0	2.8064	2.7786	138930.00
#2 Diesel Summer	-0.0375	235000	-8812.50	0.0075	0.001	0.0012	0	2.5941	2.5663	603080.50
#2 Diesel Winter	-0.0375	235000	-8812.50	0.0075	0.001	0.0012	0	2.5941	2.5663	603080.50
Diesel Total		520000	-19500.00							1345091.00
Gasoline & Diesel Total		770000	-23875.00							2019550.50

SCHEDULE A - ALTERNATE BIODIESEL FUEL BLENDS

	Vendor Markup/ Gal	Total Est. Gallons	Total Vendor Markup Bid	Clean up Fee Tax	L.U.S.T. Tax	Fed. Oil Spill Tax	State Tax	OPIS Price 9/25/07	Total Fuel Cost/ Gal	Total Est. Fuel Cost
(6a)B2 SUMMER 98/2	0.02	260000	5200.00	0.0075	0.001	0.0012	0	2.5500	2.5797	670722.00
(6b)B2 WINTER (6b) 49/49/2	0.02	260000	5200.00	0.0075	0.001	0.0012	0	2.6409	2.6706	694356.00
B2 TOTAL		520000	10400.00							1365078.00
(7a)B5 SUMMER 95/5	0.05	260000	13000.00	0.0075	0.001	0.0012	0	2.5523	2.6120	679120.00
(7b)B5 WINTER 47.5/47.5/5	0.05	260000	13000.00	0.0075	0.001	0.0012	0	2.6405	2.7002	702052.00
B5 TOTAL		520000	26000.00							1381172.00
(8a)B10 SUMMER 90/10	0.10	260000	26000.00	0.0075	0.001	0.0012	0	2.5562	2.6659	693134.00
(8b)B10 WINTER 45/45/10	0.10	260000	26000.00	0.0075	0.001	0.0012	0	2.6397	2.7494	714844.00
B10 TOTAL		520000	52000.00							1407978.00
(9a)B20 SUMMER 80/20	0.20	260000	52000.00	0.0075	0.001	0.0012	0	2.5638	2.7735	721110.00
(9b)B20 WINTER 40/40/20	0.20	260000	52000.00	0.0075	0.001	0.0012	0	2.6380	2.8477	740402.00
B20 TOTAL		520000	104000.00							1461512.00

RECOMMENDATION

Staff recommends that City Council award Schedule A, the gasoline and diesel fuel products contract to Town and Country Supply Association for the next 12 months. The bid award amount for Vendor Markup is -\$23,875.00. The estimated annual fuel cost calculations, based on OPIS

pricing on 9/25/07 is \$2,019,550.50. The recommended bid is \$57,875.00 less than the second bid received.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Bid Award - Cascade Pump 20 MF and 200 HP Motor – Wastewater Plant
DEPARTMENT: Public Works Department
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: In order to move primary treated wastewater to the secondary treatment process, large pumps are required. This pump has been identified as being in need of replacement to ensure uninterrupted operation at the wastewater plant. This pump station is a critical part of the treatment process and reliable service is important. The pump is approximately 30 years old and the second of three aging pumps to be replaced with more efficient models.

FINANCIAL IMPACT: Bids were publicly advertised for the replacement of this pump on September 13 and 20, 2007. Bids were opened on September 25, 2007. This replacement is part of the approved CIP and there is adequate funding in the wastewater plant budget for this expenditure. The bid results are:

Cascade Pump Company \$91,000.00

The bidder is able to supply equipment matching the existing pumping equipment, which is deemed desirable for standardization.

RECOMMENDATION

Staff recommends that Council award the bid for the replacement of the Cascade Pump 20 MF and 200 HP Motor to Cascade Pump Company in the amount of \$91,000.00.

Approved By: City Administrator _____ City Attorney _____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: SID 1379 – Utility and Street Improvements to King Avenue West from S. 31st Street West to Shiloh Road

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Bids were received and evaluated for SID 1379 on September 25, 2007. This project consists of utility and street improvements to King Avenue West from approximately South 31st Street West to approximately Shiloh Road.

ALTERNATIVES ANALYZED:

1. Award SID 1379 to JTL, Group in the amount of \$4,971,752.50; or
2. Reject all bids and do not award SID 1379

FINANCIAL IMPACT: Construction assessments to property owners passed at the August 13th City Council Meeting were \$374,738.94. Shiloh Crossing Development shall be making a cash contribution in the amount of \$120,128.32 for their SID assessment and approximately \$138,701.00 for the roundabout construction. The remaining project costs are to be paid for from City funds. We received three bids for this project as follows:

<u>Project Costs</u>	<u>Bids</u>
Engineer's Estimate	\$ 6,336,463.92
JTL, Group	\$ 4,971,752.50
COP Construction	\$ 5,115,704.00
Western Municipal Construction	\$ 6,204,386.80

Any remaining funds for this project shall be used for construction administration, staking, landscape design and construction, purchase of City installed electrical equipment, structural analysis of homes and businesses near the dewatering area, and change orders. A breakdown of the project funds per the CIP and approved SID 1379 is listed below:

<u>SID 1379 Funding</u>	
SID Assessments	\$ 374,738.94
Shiloh Crossing Cash Contribution	\$ 120,128.32
Shiloh Crossing Roundabout Cash Contribution	\$ 138,701.00
Storm Drain Funds	\$ 634,450.19
Water/Sewer Funds	\$1,467,489.24
Arterial Funds	\$2,932,194.85
Contract Amount (This Memo)	<u>\$(4,971,752.50)</u>
Remaining Funds	\$ 695,950.04

RECOMMENDATION

Staff recommends that Council award JTL’s bid for SID 1379 in the amount of \$4,971,752.50

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Declaring Two Aircraft Rescue Fire Fighting Trucks Surplus
DEPARTMENT: Aviation and Transit
PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: The Aviation and Transit Department has recently taken delivery of two new Aircraft Rescue Fire Fighting (ARFF) trucks, which will replace two similar units that were purchased with a 1992 Airport Improvement Program Grant. Since the City's "Federal obligation" to retain and maintain the 1992 fire trucks has now expired, we request that the City Council declare these two trucks surplus and permit staff to advertise for competitive bids for these two trucks.

FINANCIAL IMPACT: The estimated value of each truck has been identified at approximately \$30,000–\$40,000. However, when considering the limited market for this type of equipment, the age of the trucks, and the transportation costs for the potential purchaser, we anticipate that receiving bids may be difficult. Subsequently, we are unsure of what amount these trucks may actually sell for.

RECOMMENDATION

Staff recommends that the City Council declare the two 1992 ARFF trucks (units 1712 and 1713) surplus, and permit staff to sell them through a competitive bidding process.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Lease Renewal for Storage Space at the Billings Logan International Airport to the Bureau of Land Management
DEPARTMENT: Aviation and Transit
PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: The Bureau of Land Management (BLM) Tanker Base and Wild Lands Fire Fighting units have requested to renew a lease for both cold storage space and secured bunker space at the Airport Business Park. The current Lease expires on October 31, 2007. The Lease includes 216 square feet of secured bunker space and 1,023 square feet of cold storage in the IP-5 building. The BLM will utilize this space to store wild land fire fighting equipment over the next five years or until the completion of its new fire station, which is in the planning and design stage at this time, whichever time comes first.

FINANCIAL IMPACT: The City will generate \$3,532.95 in the first year of the Lease. Subsequent years will be adjusted by the Consumer Price Index.

RECOMMENDATION

Staff recommends that Council approve this five-year Lease of storage space in IP-5 and a secured bunker to the BLM for the period beginning November 1, 2007, and ending October 31, 2012.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Assignment and Transfer of West End Hangar Ground Lease from John M. and/or Marcia N. Nash to James C. and/or Gail G. Heatherly
DEPARTMENT: Aviation and Transit
PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: On May 29, 2007, John M. Nash and/or Marcia A. Nash entered into two (2) twenty-year, West End Hangar Ground Leases with the City of Billings and subsequently built a 7,200 square foot duplex-style hangar containing two 3,600 square foot units on a leased parcel in Township 1 North, Range 25 East, Section 25 referred to as Lots 10 and 11. This is the second hangar of this size and style built by Mr. and Mrs. Nash. The Nashes have opted to sell one-half of this second hangar, Hangar unit #2805, to James C. and/or Gail G. Heatherly. This Assignment and Transfer will formally transfer the Ground Lease agreement on Lot 10 from John M. and/or Marcia N. Nash to James C. and/or Gail G. Heatherly.

FINANCIAL IMPACT: There is no financial impact from this action. The name on the Lease is all that changes with this Assignment and Transfer; all other terms and conditions remain in full force and effect.

RECOMMENDATION

Staff recommends that Council approve the Assignment and Transfer of the West End Hangar Ground Lease from John M. Nash and/or Marcia A. Nash to James C. and/or Gail G. Heatherly.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENT

- A. Assignment and Transfer

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Acceptance of Internet Crimes Against Children (ICAC) grant award in the amount of \$250,000

DEPARTMENT: Billings Police Department

PRESENTED BY: Chief Rich St. John

PROBLEM/ISSUE STATEMENT: Several months prior to the end of July application process, the U. S. Attorney's Office in Billings contacted the Billings Police Department requesting its assistance in applying for a grant. A law enforcement agency needed to make application for the grant, which assists state and local law enforcement agencies to join the front lines of the battle against the worldwide sexual exploitation of children via the Internet. This grant is for a period of 18 months (October 1, 2007 through April, 2009) and will provide monies to form a task force to serve the state of Montana, with satellite offices in Helena and Missoula; hire a task force Coordinator/Forensic Examiner on a contract basis; establish the Billings Office by using the existing Montana Cyber Crimes Task Force in the FBI Office (there currently is 1 Detective from the BPD on this Task Force); secure needed office furniture and equipment, training, conducting of Internet undercover operations of coercion and enticement cases against children; pay for overtime, training, supplies and phone services. The satellite offices will need to be established and will require office furniture, computer work stations, laptop computers, printers, fax, copiers, etc. On line application has been made and the Office of Juvenile Justice Delinquency Programs (OJJDP) verbally notified the City that we have been awarded the grant. Administration of the grant will be handled by the City. We are currently awaiting the award documents. Prior to the expiration of this grant, a continuation grant application will be made for the next 18 months. If the continuation grant is not awarded, all of the above mentioned from the initial grant, will go away. The City will not be expected to pick up any of the costs. City Council is being asked to approve the ICAC grant award in the amount of \$250,000, and when the award documents are received, authorize the Mayor to sign.

FINANCIAL IMPACT: There will be City dollars spent, but these expenditures will be reimbursed on a quarterly drawdown basis. No City match is required.

RECOMMENDATION

Staff recommends that Council approve the ICAC grant award in the amount of \$250,000, and when the award documents are received, authorize the Mayor to sign.

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

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Approval of Contract with the State of Montana Department of Public Health and Human Services – Developmental Disabilities Division
DEPARTMENT: Aviation and Transit Department
PRESENTED BY: Thomas H. Binford, A.A.E., Director of Aviation and Transit

PROBLEM/ISSUE STATEMENT: Since July 1997, the State of Montana Department of Public Health and Human Services (DPHHS) – Developmental Disabilities Division (DD) has contracted with MET Transit to provide specialized transportation for developmentally disabled individuals to and from their home or group home and their respective DD Division day/work programs. The service MET Transit provides improves the quality of life for persons with developmental disabilities. The contract payments for this service are based on a per-person, per-month ridership.

The contract term is from July 1, 2007 through June 30, 2008; however, the contract does contain a clause, which allows the service to be extended for up to three additional one-year periods, not to exceed a total contractual term of four years, if both parties agree. A copy of the contract is on file in the City Clerk's office.

FINANCIAL IMPACT: Through this contract the City's Transit Division could receive up to \$161,039 in revenue for FY 07/08 for the services provided. This anticipated revenue was budgeted in the FY 07/08 budget. Future year contract amounts are anticipated to remain at the same level.

RECOMMENDATION

Staff recommends that Council approve the one year contract and authorize the Mayor to execute the attached transportation contract between the City's MET Transit Division and the Montana Department of Public Health and Human Services – Developmental Disabilities Division.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Maintenance Agreement and Special Projects Contract Maintenance Agreement between the City of Billings and the State of Montana

DEPARTMENT: Public Works Department

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

PROBLEM / ISSUE STATEMENT: The City of Billings currently maintains the State-owned highway system within the Billings city limits. This is accomplished through a two-year agreement with the State of Montana. The City also completes special projects contract maintenance on state routes within the city limits

ALTERNATIVES ANALYZED:

1. Approve the Maintenance Agreement and Special Projects Contract Maintenance Agreement (term is from July 1, 2007, through June 30, 2009)
2. Allow the State to maintain its highway system within the Billings city limits

FINANCIAL IMPACT: The State of Montana will pay the City of Billings \$500,000 per year for regular street maintenance, including a contribution to the City's Equipment Replacement Program, and \$300,000 for special projects on the State highway system within the city limits. These revenues provide reimbursement for the costs of all actual street maintenance labor and materials, as well as for estimated overhead costs. Revenues, as well as the corresponding expenditures for street maintenance projects for FY 2008, are included in the approved FY 2008 budget and the FY 2009 revenues and expenditures will be included in the proposed FY 2009 budget.

RECOMMENDATION

Staff recommends that the City Council approve the Maintenance Agreement and Special Projects Contract Maintenance Agreement between the City of Billings and the State of Montana.

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

- ATTACHMENTS:** A – Maintenance Agreement between the City of Billings and the State of Montana (17 pages) (**Available for viewing in the City Clerk’s Office**)
- B – Special Projects – Contract Maintenance Agreement Between the City of Billings and the State of Montana (4 pages) (**Available for viewing in the City Clerk’s Office**)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Annexation Petition #07-24: Acknowledge Receipt of Petition and Set a Public Hearing Date
DEPARTMENT: Planning and Community Services
PRESENTED BY: Juliet Spalding, AICP, Planner II

PROBLEM/ISSUE STATEMENT: Owner and petitioner, William Hanser, is requesting annexation of a property legally described as Tract 1B, Certificate of Survey 1335, Amended, into the City of Billings pursuant to Section 7-2-4600 of the Montana Code Annotated (MCA). The subject property is located in the NE 1/4, Section 23, Township 1N, Range 26E, and is just south of the intersection of Wicks Lane and Hawthorne Lane. The petitioners are requesting annexation in order to obtain city water and sewer services for a residential development. The property is currently vacant land and is zoned Residential-7000 (R-70). At its September 24, 2007 meeting, at the petitioner’s request, the Council delayed acknowledgement of the petition as originally planned. The Council will acknowledge receipt of the petition at this meeting and sets a public hearing date for October 22, 2007; the Council will vote on the petition at that public hearing.

ALTERNATIVES ANALYZED: Section 7-2-4600, MCA, permits owners of more than 50% of a property to petition the City for annexation. The only alternative that is consistent with City Council policy is to acknowledge receipt of the petition and set a public hearing date. The subject property is wholly surrounded by properties within the City limits and is depicted on the adopted Limits of Annexations Map in an area proposed to be annexed within the next 5 years.

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

RECOMMENDATION

Staff recommends that the City Council acknowledge receipt of the annexation petition and schedule a public hearing for October 22, 2007, to consider annexing this property.

Approved by: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Property Data
- B. Annexation Petition
- C. Annexation Map

ATTACHMENT A
Property Data

Type of annexation:	Petitioned - MCA 7-2-4600
Petitioner:	William Hanser
Purpose of annexation:	To obtain City services for development
Property included:	Tract 1B, Certificate of Survey 1335
Location:	Just south of Wicks Lane, on the east side of Hawthorne Lane
Total area:	5.0 acres
Current zoning:	R-70
Current land use:	Vacant
Future zoning:	R-70
Future land use:	Residential Development

ATTACHMENT B
Annexation Petition

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

NOTICE TO PETITIONER

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

INSTRUCTIONS

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

RESIDENT FREEHOLDER ELECTORS

Date	Print Name	Name Signature	Address
8-15-07	William P. HANSEN	<i>William P. Hansen</i>	2916 Thousand Oaks Billings MT 59102
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(continued on separate page)

07-775
Revised 8/99

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: In-Kind Volunteers and Materials Donations from Billings Heights Rotary Club.

DEPARTMENT: Park, Recreation, and Public Lands

PRESENTED BY: Mike Whitaker, Director, PRPL Department

PROBLEM/ISSUE STATEMENT: The Billings Heights Rotary Club is interested in providing and planting more than 10 trees and 45 shrubs for Castle Rock Park around the pond at the corner of Wicks Lane and Nutter Blvd. Work is scheduled to take place on October 6, 2007. An estimated 20 volunteers will take part in the planting project. This project is consistent with the Castle Rock Park Master Plan and will enhance the landscape around the pond providing much needed shade in the area.

ALTERNATIVES ANALYZED:

- Accept the volunteer assistance and materials donations from The Billings Heights Rotary Club.
- Decline the donation of materials and volunteer time from The Billings Heights Rotary Club.

FINANCIAL IMPACT: This project will result in an estimated 150 volunteer hours donated to the City and \$2,000 in landscape materials for the projects. There will be no cost to the City for this work or for the plant materials.

- K. RECOMMENDATION:** Staff recommends that Council accept the donation of volunteer help and materials as listed from the Billings Heights Rotary Club.

Approved By: City Administrator _____ City Attorney _____

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Zone Change #823, 2nd Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone Tract 1B, Certificate of Survey 2991 from Residential 9600 (R-96) to Neighborhood Commercial (NC), Residential Professional (RP), and Residential Multi-Family Restricted (RMF-R). The subject property is located on the southwest corner of the intersection of Central Avenue and Brookshire Boulevard. The owner is Legacy Homes, Inc. and the representative is Engineering, Inc. The Zoning Commission conducted a public hearing on September 4, 2007, and forwarded a recommendation of approval on 5-0 vote. The City Council held a public hearing and approved the first reading of the zone change on a vote of 11-0 on September 24, 2007.

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

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

FINANCIAL IMPACT: If the zone change is approved, future development of the property could increase the City's tax base.

RECOMMENDATION

The Zoning Commission, on a 5-0 vote, recommends that the City Council approve Zone Change #823 on 2nd reading and adopt the determinations of the 12 criteria.

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

ATTACHMENT:

A: Ordinance

ATTACHMENT A
ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Tract 1B, Certificate of Survey 2991, Containing
approximately 8.86 acres

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

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

2. DESCRIPTION. A tract of land known as Tract 1B, 2991, Containing approximately 8.86 acres and is presently zoned Residential 9600 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9600** to **Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading September 24, 2007.

PASSED, ADOPTED AND APPROVED on second reading October 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY:

City Clerk

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Zone Change #824, 2nd Reading of Ordinance
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The applicant is requesting to rezone Lot 1C, Certificate of Survey 2991 from Residential 9600 (R-96) to Neighborhood Commercial (NC), Residential Professional (RP), and Residential Multi-Family Restricted (RMF-R). The subject property is located west of the corner of the intersection of Central Avenue and Brookshire Boulevard. Lydia Kramer Real Estate Management Trust, Douglas and Raymond Kramer, Powers of Attorney are the owners and the representative is Engineering, Inc. The Zoning Commission conducted a public hearing on September 4, 2007, and forwarded a recommendation of approval on 5-0 vote. The City Council held a public hearing and approved the first reading of the zone change on a vote of 11-0 on September 24, 2007.

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

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

FINANCIAL IMPACT: If the zone change is approved, future development of the property could increase the City's tax base.

RECOMMENDATION

The Zoning Commission, on a 5-0 vote, recommends that the City Council approve Zone Change #824 on 2nd reading and adopt the determinations of the 12 criteria.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENT:

A: Ordinance

ATTACHMENT A
ORDINANCE NO. 07-

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION
FOR Tract 1C, Certificate of Survey 2991, Containing
approximately 8.86 acres

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

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

2. DESCRIPTION. A tract of land known as Tract 1C, 2991, Containing approximately 8.86 acres and is presently zoned Residential 9600 and is shown on the official zoning maps within this zone.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Residential 9600** to **Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Neighborhood Commercial, Residential Professional, and Residential Multi-Family Restricted** as set out in the Billings, Montana City Code.

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

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

PASSED by the City Council on first reading September 24, 2007.

PASSED, ADOPTED AND APPROVED on second reading October 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:
BY:
City Clerk

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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Preliminary Plat E. D. King Subdivision, 2nd Filing
DEPARTMENT: Planning and Community Services
PRESENTED BY: David Green, Planner I

PROBLEM/ISSUE STATEMENT: On September 4, 2007, the Planning Division received an application for a minor plat approval for E. D. King Subdivision, 2nd Filing, which contains two lots on approximately 178,596 square feet (4.10 acres) of land for commercial and professional development. The proposed subdivision is located on the south east corner of Avenue E and Zimmerman Trail. The owner is Latigo Development, Charles “Skip” King. The representing agent is Stephen Zabriskie with Engineering Incorporated.

ALTERNATIVES ANALYZED: In accordance with state law, the City Council has 35 working days to act upon this minor plat; the 35 working day review period for the proposed plat ends on October 23, 2007. 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: Should the City Council approve the preliminary plat, the subject property may further develop under private ownership, resulting in additional tax revenues.

RECOMMENDATION

Staff recommends conditional approval of the preliminary plat of E. D. King Subdivision 2nd Filing, 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. Site Photographs
- C. Findings of Fact
- D. Mayor's Approval Letter

INTRODUCTION

On September 4, 2007, the Planning Division received an application for a minor plat approval for E. D. King Subdivision, 2nd Filing, which contains two lots on approximately 178,596 square feet (4.10 acres) of land for commercial and professional development. The proposed subdivision is located on the south east corner of Avenue E and Zimmerman Trail. The surrounding property zoning is; North, Residential 8000 (R-80), South, Community Commercial (CC), East, R-80, and West, Agriculture Open (AO) property still in the county.

PROCEDURAL HISTORY

- The preliminary plat application was submitted to the Planning Division on September 4, 2007.
- The City Council will consider the preliminary plat application on October 9, 2007.

BACKGROUND

General location:	South east corner of Avenue E and Zimmerman Trail
Legal Description:	Tract C-1 of Amend Tract C of Amended Certificate of Survey (COS) 1011
Subdivider:	Skip King
Owner:	Same
Engineer and Surveyor:	Engineering Incorporated
Existing Zoning:	Residential Professional (RP) and Community Commercial (CC)
Existing land use:	Residential and Farming
Proposed land use:	Offices and Commercial
Gross area:	178,596 square feet
Net area:	178,596 square feet
Proposed number of lots:	2
Lot size:	Max: 91,476 square feet (2.10 acres) Min.: 87,120 square feet (2.00 acres)
Parkland requirements:	A parkland dedication is not required, as this is a subsequent minor subdivision.

ALTERNATIVES ANALYSIS

One of the purposes of the City's subdivision review process is to identify potential negative effects of property being 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 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 plat. (*Recommended by the Engineering Division*)
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
3. 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.

VARIANCES REQUESTED

None requested

STAKEHOLDERS

A public hearing is not scheduled for the City Council meeting; however nearby property owners may attend the City Council meeting. The Planning Department 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

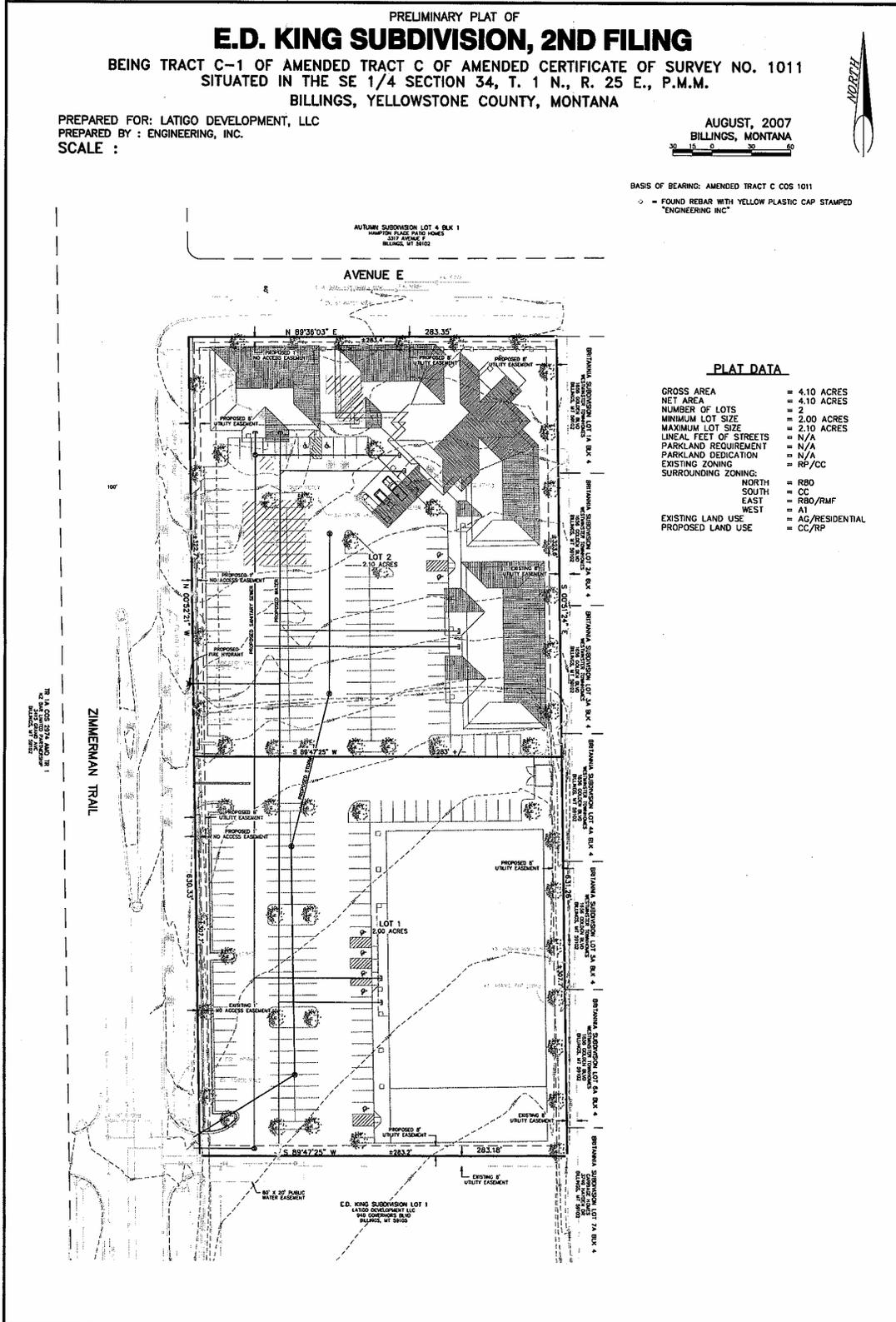
Staff recommends conditional approval of the preliminary plat of E. D. King Subdivision 2nd Filing, and adoption of the Findings of Fact as presented in the staff report to the City Council.

ATTACHMENTS

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

ATTACHMENT A

Preliminary Plat of E. D. King Subdivision 2nd Filing



ATTACHMENT B
Site Photographs



Looking north along existing property from Zimmerman Trail.



Looking east across subject property at existing homes to the east.

ATTACHMENT C
Findings of Fact

Staff is forwarding the recommended Findings of Fact for E. D. King Subdivision 2nd Filing 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 (Sections 23-304(c), 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 (23-302(H)(2), BMCC)]

1. Effect on agriculture and agricultural water user facilities

The subject property currently contains two residences; an approximate 2 acre farm field will be taken out of agricultural use. There is no anticipated effect on wildlife habitat.

2. Effect on local services

- a. **Utilities** – Water and sanitary sewer for Lot 2 shall come from the existing mains located in Avenue E. Lot 1 water and sanitary sewer shall tie into the services available from the lot to the south in the existing E. D. King Subdivision as shown on the preliminary plat but the services will not extend to Lot 2. The property owner will be responsible for all connection fees and improvement cost as stated in the SIA.
- b. **Storm water** – As specified in the submitted SIA, storm drainage shall be provided by a combination of surface drainage and curbs and gutter, drained to underground storm drains, and with discharge to the City of Billings storm drain system. All drainage improvements shall comply with the provisions of the Stormwater Management Manual and Section 23-706, BMCC.
- 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 proposed subdivision shall be from Zimmerman Trail. Currently along Avenue E there is no sidewalk or curb and gutter. The subdivider will be responsible for their share of the costs for improvements on Avenue E.
- e. **Emergency services** - The Billings Police and Fire Departments will respond to emergencies within the proposed subdivision. The nearest fire station is located at 604 South 24th Street West (Station #5). The subdivision is located within the ambulance service area of American Medical Response.
- f. **Schools** –Schools will not be affected by this subdivision as it is proposed to be a commercial development.
- g. **Parks and Recreation** - A parkland dedication is not required, as this is a commercial development.

3. Effect on the natural environment

The proposed subdivision should have only minor effects on the natural environment, as there will be short term air and noise pollution associated with construction on the property.

4. Effect on wildlife and wildlife habitat

The proposed subdivision should not affect wildlife or habitat. There are no known endangered or threatened species on the property.

5. Effect on the public health, safety and welfare

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

B. Was an Environmental Assessment required? (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 and 23-901, BMCC.

C. Does the subdivision conform to the Yellowstone County-City of Billings 2003 Growth Policy, the Urban Area 2000 Transportation Plan and the Heritage Trail Plan? (23-301, BMCC)

1. Yellowstone County-City of Billings 2003 Growth Policy

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

- a. Predictable land use decisions that are consistent with neighborhood character and land use patterns. (Land Use Element Goal, Page 5)
The proposed residential professional offices and commercial development on the site are consistent with the surrounding commercial uses and multi-family residential neighborhood. The RP area will provide a buffer between commercial uses and the existing residential neighborhood.
- b. New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites. (Land Use Element Goal, Page 6)
The subject property is zoned RP and CC. The property to the north is zoned R-80, to the east is zoned R-80, to the south CC and AO to the west. The proposed subdivision is consistent with the neighborhood for commercial and creates a buffer with the RP zoning to the north. The property owner has held neighborhood meetings to meet surrounding property owners concerns in an effort to be compatible with the character of the adjacent city neighborhoods.

- c. Contiguous development focused in and around existing population centers separated by open space. (Land Use Element Goal, Page 6)

The subject property is within the City and there are existing residential properties to the east and north with commercial developments to the south and south east; this could be considered infill development.

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

The Heritage Trail Master Plan has no trail through this portion of the subdivision. The trail is identified along the east side of the existing Zimmerman Trail along the frontage of this subdivision.

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

The proposed subdivision, with the proposed conditions, 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? [(23-408, BMCC)]

The property is served by City of Billings water, sewer and solid waste services.

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

The subject property is located within RP and CC zoning districts and complies 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 (23-410(A)(1), BMCC)]

The City Engineering Department 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 have 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? [MCA 76-3-608 (3) (d) and (23-406, BMCC)]

Accesses from Zimmerman Trail will provide legal and physical access to the lots.

CONCLUSIONS OF FINDING OF FACT

- The preliminary plat of E. D. King Subdivision 2nd Filing does not create any adverse impacts that warrant denial of the subdivision.
- The proposed subdivision conforms to several goals and policies of the 2003 Growth Policy and does not conflict with the 2005 Transportation Plan Update or the Heritage Trail Plan.
- 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, October 9, 2007

Ron Tussing, Mayor

ATTACHMENT E
Mayor's Approval Letter

October 9, 2007

Latigo Development
Skip King
2264 Central Avenue
Billings, Montana 59102

Dear Applicant:

On October 9, 2007, the Billings City Council conditionally approved the preliminary plat of E. D. King Subdivision 2nd Filing, 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 plat. *(Recommended by the Engineering Division)*
2. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Engineering Departments to clarify the documents and bring them into the standard acceptable format.
3. 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 Dave Green with the Planning Division at 247-8654 or by email at greend@ci.billings.mt.us.

Sincerely,

Ron Tussing, Mayor

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Final Plat of Central West Subdivision
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat for Central West Subdivision is being presented to Council for approval. On June 11, 2007, the City Council conditionally approved two lots on approximately 8.87 acres for residential and commercial development. The subject property is located on the southeast corner of the intersection of Central Avenue and Brookshire Boulevard and is addressed as 2810 Central Avenue. The owners are Design Builders, Inc. and the Engineer is HKM Engineering, Inc. The Central Business Park commercial office structure exists on the northern portion of the property along Central Avenue and is zoned Residential Professional (RP); the southern portion of the property has recently been rezoned to Residential Multi-Family Restricted and is proposed for condominium development. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

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

RECOMMENDATION

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

Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A: Plat

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Final Plat of Amended Lots 5 and 6, Block 11, Lake Hills Subdivision, 17th Filing
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: The final plat for Amended Lots 5 and 6, Block 11, Lake Hills Subdivision, 17th Filing is being presented to Council for approval. On May 29, 2007, the City Council conditionally approved three lots on approximately 28,824 square feet for residential development. The subject property is located southwest of the intersection of Lake Hills Drive and Greenbriar Road in the Heights and is zoned Residential 9600. The owner and subdivider is Ron Hill and the representing agent is Engineering, Inc. Upon City Council approval, these documents are appropriate as to form for filing with the Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Amended Lots 5 and 6, Block 11, Lake Hills Subdivision, 17th Filing.

Approved By: City Administrator ____ City Attorney ____

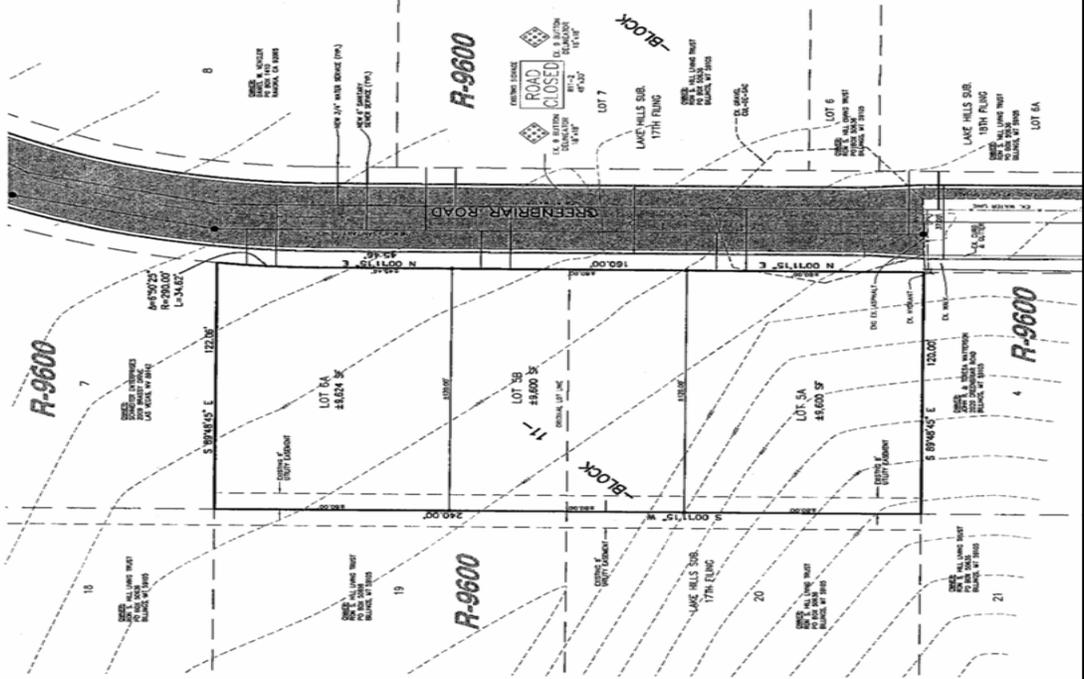
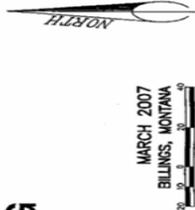
ATTACHMENT

A: Plat

ATTACHMENT A

PRELIMINARY AMENDED PLAT OF LOTS 5 & 6, BLOCK 11
LAKE HILLS SUBDIVISION, SEVENTEENTH FILING
 SITUATED IN THE NW 1/4 OF SECTION 16, T. 1 N., R. 26 E., P.M.M.
 YELLOWSTONE COUNTY, MONTANA

PREPARED FOR : RON S. HILL LIVING TRUST
 PREPARED BY : ENGINEERING, INC.
 SCALE : 1" = 20'



PLAT DATA

GROSS AREA	= 28,824 SQ. FT.
NET AREA	= 28,824 SQ. FT.
NUMBER OF LOTS	= 3
MINIMUM LOT SIZE	= 9,600 SQ. FT.
MAXIMUM LOT SIZE	= 9,624 SQ. FT.
LINEAL FEET OF STREETS	= N/A
PARKING REQUIREMENT	= N/A (PREVIOUSLY MET)
PARKLAND RELOCATION	= N/A
EXISTING ZONING	= R-9 600
SURROUNDING ZONING	= R-9 600
NORTH	= R-9 600
SOUTH	= R-9 600
EAST	= R-9 600
WEST	= R-9 600
EXISTING LAND USE	= RESIDENTIAL DEVELOPMENT
PROPOSED LAND USE	= RESIDENTIAL DEVELOPMENT

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



AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Final Plat of Vista Heights Subdivision, 2nd Filing, Amended Lots 15A, 15B, 15C, and 15D, Block 3

DEPARTMENT: Planning and Community Services

PRESENTED BY: Juliet Spalding, Planner II

PROBLEM/ISSUE STATEMENT: The final plat of Vista Heights Subdivision, 2nd Filing, Amended Lots 15A, 15B, 15C, and 15D, Block 3 is being presented to the City Council for approval. On July 23, 2007, the City Council conditionally approved the 2-lot preliminary minor plat on 3.22 acres of land located at the northwest corner of Wicks Lane and Main Street in the Heights. The subject property is zoned Highway Commercial (HC) and is being redeveloped since the furniture store complex was demolished. The owner and subdivider is Hawkins Companies, LLC and the representing agent is Interstate Engineering, Inc. The City Council conditions of approval have been satisfied and the City Attorney has reviewed and approved the subdivision plat and the associated documents. Upon City Council approval, these documents are appropriate as to form for filing with the Yellowstone County Clerk and Recorder.

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

RECOMMENDATION

Staff recommends that the City Council approve the final plat of Vista Heights Subdivision, 2nd Filing, Amended Lots 15A, 15B, 15C, and 15D, Block 3.

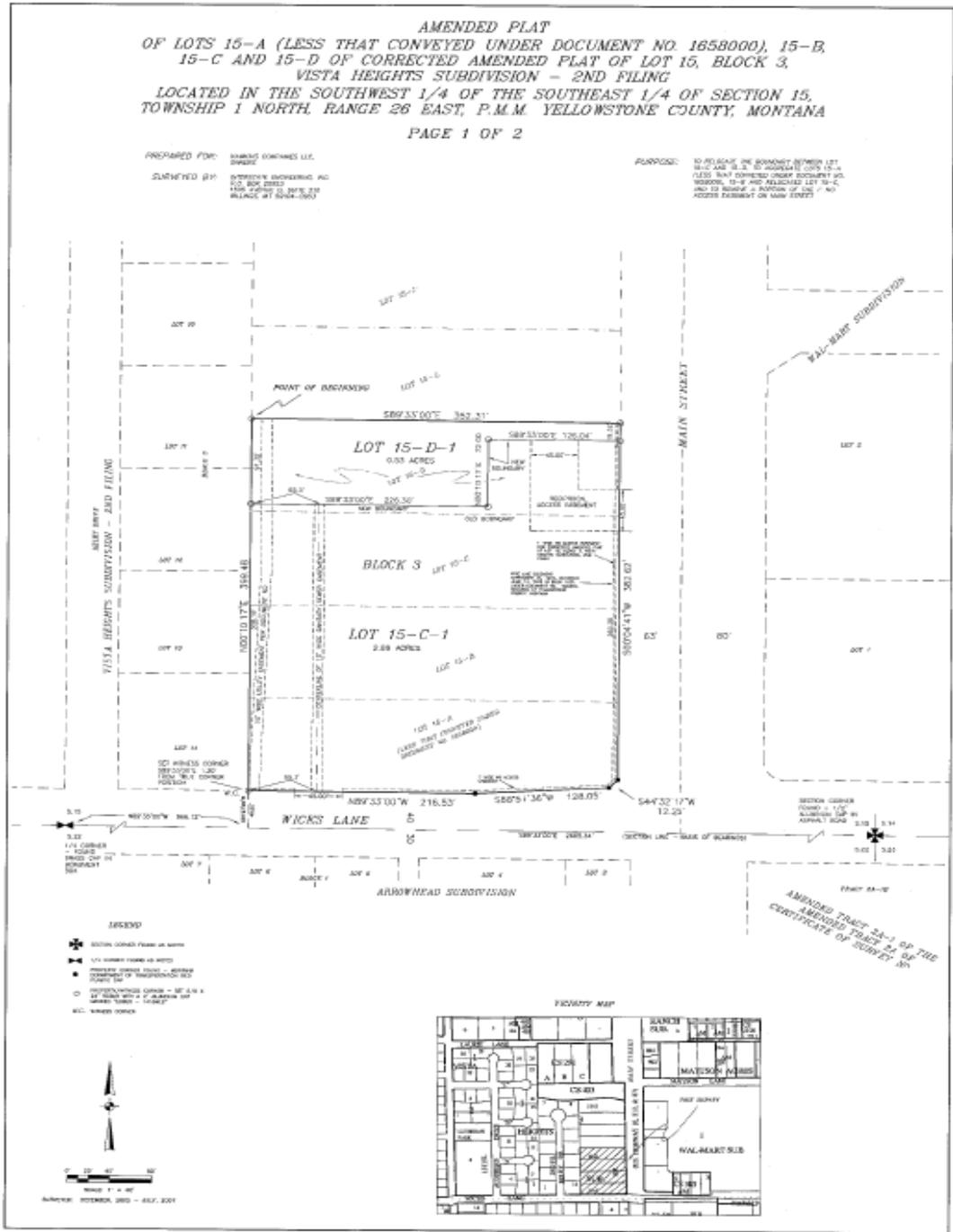
Approved By: City Administrator ____ City Attorney ____

ATTACHMENT

A: Final Plat

ATTACHMENT A

Final Plat



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,081,536.91 have been audited and are presented for your approval for payment. A complete listing of the claims dated September 7, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

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

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$1,654,054.78 have been audited and are presented for your approval for payment. A complete listing of the claims dated September 14, 2007, is on file in the Finance Department.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

SUBJECT: Payment of Claims
DEPARTMENT: Municipal Court
PRESENTED BY: Nikki R. Schaubel, Municipal Court Administrator

PROBLEM/ISSUE STATEMENT: Claims in the amount of \$191,405.15 have been audited and are presented for your approval for payment. A complete listing of the claims dated August 1, 2007 to August 31, 2007 is on file in the Municipal Court. Claims include payments to individual victims and businesses for restitution, disbursement of surcharges and revenues and return of bonds posted to ensure court appearance.

RECOMMENDATION

Staff recommends that Council approve Payment of Claims.

Approved By: City Administrator ____ City Attorney ____

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Zone Change #820 Public Hearing and 1st Reading of Ordinance –Text Amendment to Section 27-705(C), BMCC, Commercial Sign Regulations
DEPARTMENT: Planning and Community Services
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On July 16, 2007, the City Council approved an initiative directing staff to revise Section 27-705(C), BMCC, Commercial Sign Regulations. Since the commercial zoning districts are all contained within the same section of the regulations, the entire commercial sign portion of the code has been revised to reflect a more simplified version including specific regulations that apply only to the Central Business District (CBD). The City Zoning Commission conducted a public hearing on the amendment to the zoning regulations on September 4, 2007, and voted 5-0 to recommend approval to the City Council of the amendment. The City Council opened the public hearing on September 24, 2007, and voted to delay action on this item until October 9, 2007.

ALTERNATIVES ANALYZED: The City Zoning Commission conducted a public hearing on the proposed text amendment on September 4, 2007. No one testified in favor or in opposition to the proposed zone change. The City Zoning Commission is forwarding a recommendation of approval. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments.

FINANCIAL IMPACT: There should be no direct financial impact to the City as a result of the new zoning regulation.

RECOMMENDATION

The Zoning Commission on a 5-0 vote recommends that the City Council approve Zone Change #820, amending Section 27-705(C) of Billings, Montana City Code.

Approved by: _____ City Administrator _____ City Attorney

ATTACHMENT:

A: Ordinance

INTRODUCTION

On July 16, 2007, the City Council approved an initiative directing staff to revise Section 27-705(C), BMCC. Since the commercial zoning districts are all contained within the same section of the regulations, the entire commercial sign portion of the code has been revised to reflect a more simplified version including specific regulations that apply only to the Central Business District (CBD).

PROCEDURAL HISTORY

- On November 20, 2006, proposed revisions to the commercial portion of the sign regulations were presented at a Council Work Session. The Council had concerns regarding portions of the proposed amendment and requested staff to revise the sign regulations.
- On July 16, 2007, the proposed revisions to the commercial portion of the sign regulations were presented to the City Council and the Council initiated staff to move forward with the text amendment.
- On September 4, 2007, the City Zoning Commission conducted the public hearing for the text amendment.
- On September 24, 2007, the City Council opened the public hearing for the proposed zone change and continued the item until October 9, 2007.
- On October 9, 2007, the City Council will consider the text amendment for first reading.
- On October 22, 2007, if the text amendment is approved on first reading, the City Council will consider it for second reading.

BACKGROUND

Planning staff has been working with the Downtown Business Owners Association to revise signage regulations for the Central Business District (CBD). A group of citizens interested in revising signage for downtown businesses began changes to the sign code in October 2000. In the Fall of 2005, the regulations that were proposed in 2000, were again proposed, and the Urban Design Committee (UDC) started meeting with staff about completing a text amendment. Planning staff drafted a revised version of the commercial sign regulations for the Downtown Business Owners Association in the summer of 2006. At that time, the business owners decided to form another committee composed of those who had a property interest in the downtown area, as well as a member of the sign community, an architect, and a member of Planning staff. This group has created sign regulations that they feel adequately address the needs within the CBD, including a greater allowance for projecting signs into the right-of-way, less restrictions on the number of signs, and an additional allowance for “building identifier” signs (i.e. Wells Fargo, Crowne Plaza, First Interstate) for buildings greater than two stories. These specific regulations will only apply to the CBD. However, since the commercial zoning districts are all contained within the same section of the sign regulations, the entire commercial sign portion (Section 27-705(C)) of the code has been revised to reflect a more simplified version.

At the November 20, 2006, Council Work Session, revisions to signs within the CBD was initiated by the City Council. On March 5, 2007, staff attended a City Council Work Session and

presented the revisions to the regulations. The Council expressed concerns regarding the increased size of signs for building identifier signs and requested that staff provide visual images of signs as they exist and how they could be increased under the proposed regulations.

At the July 16, 2007, City Council Work Session, the Council initiated staff to revise Section 27-705(C), BMCC, to create a simplified version of the commercial portion of the sign code with no substantive changes. These regulations will only apply within the city limits. The following are clarifications and revisions added to the code:

- Section 27-705(C)(1)(c) - For any off-premises signs located within 660 feet of an interstate or state controlled highway, street, or road right-of-way, a copy of the Montana Department of Transportation (MDT) permit shall be required and submitted with the City of Billings permit application in accordance with Section 18.6.211, Administrative Rules of Montana (ARM).
- Section 27-705(C)(2) - A greater allowance for projecting signs into the right-of-way. The existing regulations permit signs to project 18-inches into the public right-of-way. The proposed regulations would allow for signs to project over 2/3 of the sidewalk, provided that an encroachment agreement is first obtained from the Engineering Division.
- Section 27-705 (C)(2) - There are an unlimited number of signs permitted for all commercial districts for each structure, provided that they do not exceed their allotted square footage for sign area.

ALTERNATIVES ANALYSIS

The City Council may approve, deny, or delay the adoption of the revisions to Section 27-705(C), BMCC.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 4, 2007, on the proposed changes to the zone change application regulations. No one spoke in favor or in opposition to the proposed ordinance. Planning staff explained the proposed changes to the Zoning Commission and encouraged discussion regarding the proposed revision to allow an unlimited number of wall signs, provided that businesses do not exceed the allotted square footage permitted based on the linear feet of building frontage. This would eliminate the confusion of primary entrance signs versus wall signs, as well as the transferring of square footage from one wall to another. The permitted square footage would regulate the signs. The Zoning Commission did have concerns regarding whether some buildings might visually clutter the wall faces of buildings with small signs. However, they did state that they felt that common sense would prevail, as businesses would not want to litter their buildings with numerous sign. Staff did specify that other communities similar in size to Billings have updated their signs codes to allow only a percentage of walls to be covered by signs or an unlimited number of signs. The Zoning Commission did

note that they would like to possibly review this section of the regulations in the future if it is determined that the intent of the regulations is not being followed.

RECOMMENDATION

The Zoning Commission on a 5-0 vote recommends that the City Council approve Zone Change #820, amending Section 27-705(C) of Billings, Montana City Code.

ATTACHMENT:

A: Ordinance

ATTACHMENT A

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 27-705(C); CLARIFYING THE EXISTING COMMERCIAL SIGN REGULATIONS WITH REVISIONS TO THE CENTRAL BUSINESS DISTRICT SIGN REGULATIONS

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

Section 1. That Section 27-705(c) of the Billings, Montana City Code be amended so that such section shall read as follows:

~~(c) Community commercial, neighborhood commercial, neighborhood commercial limited, controlled industrial, heavy industrial, highway commercial, and Central Business District. Within these zones, signs are permitted as follows:~~

~~(1) One (1) free-standing sign indicating only the name and nature of the occupancy for each developed parcel not to exceed three (3) square feet of sign area for each lineal foot of street frontage abutting the developed portion of the parcel, provided that:~~

~~a. Where a developed parcel has in excess of three hundred (300) feet of street frontage, one (1) additional free-standing sign may be erected for each additional three hundred (300) feet of street frontage in excess of the first three hundred (300) feet of street frontage abutting the developed portion of the parcel; Signs will be permitted as follows:~~

TABLE INSET:

<i>Frontage Feet-</i>	<i>Signs</i>
0-600-	1 free-standing sign-
601-900-	2 free-standing signs-
901-1200-	3 free-standing signs-
Over 1200-	3 free-standing signs plus, 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet-

- ~~b. Where a developed parcel is permitted to have more than one (1) free-standing sign under this article, the distance between the free-standing signs on each parcel shall be not less than one hundred fifty (150) frontage feet;~~
 - ~~c. The sign must be located five (5) feet behind all property lines except:

 - ~~(i) If the bottom of the structure is twelve (12) feet or higher above the establish grade, then the sign structure may be located up to one (1) foot behind the property line; or~~
 - ~~(ii) If the sign is in the Central Business District, then the sign structure can be located up to the property line.~~~~
 - ~~d. No free-standing sign shall exceed the height of thirty (30) feet except free-standing signs in the highway commercial zone and within the interstate corridor which shall not exceed the height of fifty (50) feet. No sign shall exceed one hundred seventy-five (175) square feet in sign area except for a parcel's first free-standing sign located within the interstate corridor which shall not exceed four hundred forty (440) square feet in sign area. Any additional free-standing sign authorized on a parcel shall not exceed one hundred seventy-five (175) square feet in sign area. One (1) measured side of the display shall compose the square footage;~~
 - ~~e. If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance between the bottom of the sign and the ground shall be seventeen (17) feet;~~
 - ~~f. No rotating free-standing sign shall rotate at a rate faster than six (6) revolutions per minute or have a minimum clearance lower than nine (9) feet between the bottom of the sign and the ground;~~
 - ~~g. When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection (c) shall apply to each frontage.~~
- ~~(2) One (1) wall or one (1) canopy sign and four (4) architectural blade signs indicating only the name and nature of the occupancy for each occupancy within the developed parcel as follows:~~
- ~~a. No sign shall exceed a total area of three (3) square feet of copy sign area for each lineal foot of building frontage of each occupancy except buildings over two (2) stories shall be allowed an additional~~

~~one (1) square foot of copy for each lineal foot of building frontage of each occupancy. The allowable sign area shall be reduced by the sign area for each wall sign installed over any primary public entrances pursuant to subsection (3) below;~~

- ~~b. If such occupancy is on a corner, one (1) wall sign or one (1) canopy sign will be permitted for each frontage face;~~
 - ~~c. A permitted wall sign(s) can be transferred from one wall to another wall provided the number of signs remain within the permitted number of signs and within allowable sign area;~~
 - ~~d. No wall or canopy signs shall project into the public right-of-way, except
 - ~~(i) In the Central Business District, wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk; and~~
 - ~~(ii) In the Central Business District, canopy signs may project up to two (2) feet to a vertical line from the curb face over the right-of-way.~~~~
 - ~~e. If the building includes a canopy, each tenant will be permitted one (1) under canopy sign per public entrance in lieu of the wall or canopy sign. Any signs attached to the underside of a canopy shall be perpendicular to the wall face of the building and shall not have a copy area greater than four (4) square feet or have a clearance lower than of eight (8) feet from the sidewalk.~~
- ~~(3) One (1) roof sign, in lieu of the wall or canopy sign authorized in section 27-705(c)(2) above, indicating only the name and nature of the occupancy for each developed parcel as follows:~~
- ~~a. The sign shall not extend above the highest plane of the roof;~~
 - ~~b. The supports, anchors, or braces for the roof sign shall be enclosed so that they are not visible from the street or other public or private property; and~~
 - ~~c. The sign is designed similar to a wall sign or projecting sign, and designed to look like part of the building or roof structure, rather than something suspended from or standing on the building.~~

~~(4) One (1) wall sign for each "primary public entrance" of the business indicating only name of the occupancy within the developed parcel provided:~~

~~a. The combined sign area of all signs over all primary public entrances does not exceed the sign area of one allowable wall sign; and~~

~~b. No wall or canopy signs shall project into the public right-of-way, except in the Central Business District wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk.~~

C. Permitted Signs: Community Commercial, Neighborhood Commercial, Highway Commercial, Controlled Industrial, Heavy Industrial, Central Business District

1. Freestanding Signs:

	<u>Number of Signs Permitted</u>	<u>Sign Area Permitted</u>	<u>Maximum Square Footage Per Sign</u>	<u>Maximum Height</u>	<u>Minimum Setbacks from all Property Lines</u>
<u>Freestanding Signs</u>	<u>One (1) per street frontage</u> <u>**</u>	<u>3 square feet per lineal foot of street frontage</u>	<u>175 square feet per side</u>	<u>30 feet</u>	<u>5 feet*</u>
<u>Freestanding Signs</u> <u>Central Business District Only</u>	<u>One (1) per street frontage</u> <u>**</u>	<u>3 square feet per lineal foot of street frontage</u>	<u>175 square feet per side</u>	<u>30 feet</u>	<u>0 feet for sign face</u>

* If the bottom of the sign face is twelve (12) feet or higher above the established grade, then the sign support structure may be located up to one (1) foot behind the property line.

** Where a developed property abuts more than 300 lineal feet of street frontage, one (1) additional free-standing may be erected for each additional 300 feet of street frontage. Where a developed parcel has frontage on more than one (1) public right-of-way or street, excluding alleys, driveways, and service ways the provisions of this subsection shall apply to each street frontage, as follows:

<u>Street Frontage</u>	<u>Number of Signs Permitted</u>
<u>0—599 feet</u>	<u>1 free-standing sign</u>
<u>600—900 feet</u>	<u>2 free-standing signs</u>

901—1200 feet	<u>3 free-standing signs</u>
<u>Over 1200 feet</u>	<u>3 free-standing signs, plus 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet</u>

- (a) Distance between signs. For properties where more than one (1) freestanding sign is permitted, the distance between freestanding signs shall be a minimum of 150 feet;
- (b) Sign height. No free-standing sign shall exceed the height of thirty (30) feet except free-standing signs in the highway commercial zone and within the interstate right-of-way which shall not exceed the height of fifty (50) feet.
- (i) If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance of 17 feet shall be maintained between the bottom of the sign edge and the established grade of the site;
- (ii) Rotating freestanding signs shall have a minimum clearance of nine (9) feet between the bottom of the sign edge and established grade of the site. Rotating, free-standing signs shall maintain no more than six (6) revolutions per minute.
- (c) Sign location For any off-premises signs located within 660 feet of an interstate or state controlled highway, street, or road right-of-way, a copy of the Montana Department of Transportation (MDT) permit shall be required and submitted with the City of Billings permit application in accordance with Section 18.6.211, Administrative Rules of Montana (ARM).

2. Wall, Canopy, or Projecting Signs:

Wall, canopy, projecting signs, roof signs or any combination thereof, indicating the name and nature of the occupancy for each occupancy located on a property is permitted, provided that they do not exceed the maximum square footage permitted.

	<u>Sign Area Permitted</u>	<u>Minimum Height</u>	<u>Minimum Setbacks from all Property Lines</u>
<u>Wall Sign</u>	<u>3 square feet per lineal foot of building frontage</u>	<u>N/A</u>	<u>0 feet</u>
<u>Canopy or Projecting Signs</u>	<u>3 square feet per lineal foot of building frontage</u>	<u>9 feet from approved grade</u>	<u>0 feet</u>

<u>Canopy or Projecting Signs</u> <u>Central Business District Only</u>	<u>3 square feet per lineal foot of building frontage</u>	<u>9 feet from approved grade</u>	<u>Maximum projection of 2/3 of the sidewalk*</u>
<u>Under Awning or Canopy Signs for Buildings with Awnings or Canopies over the Right-of-Way</u> <u>Central Business District Only</u>	<u>3 square feet per lineal foot of building frontage</u>	<u>8 feet from approved grade</u>	<u>Maximum Projection of 2/3 of the sidewalk*</u>
<u>Roof Sign</u> <u>One permitted in lieu of a wall sign</u>	<u>3 square feet per lineal foot of building frontage*</u>	<u>N/A</u>	<u>N/A</u>

*An encroachment permit shall be obtained from the City Engineering Department for any projecting or canopy sign that encroaches into the public right-of-way

** Primary entrance signs shall indicate only the name of the occupancy. The allowable sign area shall be reduced for each wall sign installed over any primary public entrance.

(b) Roof signs shall not extend above the highest plane of the roof.

(i) The supports, anchors, or braces for the roof sign shall be enclosed so that they are not visible from the street or other public or private property.

(ii) Signs shall be similar to a wall sign or projecting sign, and designed to look like part of the building or roof structure, rather than something suspended from or standing on the building.

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

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

Section 4. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 24th day of September, 2007.

PASSED, ADOPTED and APPROVED on second reading this 9th day of October, 2007.

CITY OF BILLINGS

By _____
Ron Tussing, Mayor

ATTEST:

By _____
Cari Martin, City Clerk

ZC#820 Amending Section 27-705(C)

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Zone Change #821 Public Hearing and 1st Reading of Ordinance – Electronic Signs – City Sign Code Amending Sections 27-703, 27-705(c), 27-706(b) and 27-708

DEPARTMENT: Planning and Community Services

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

PROBLEM/ISSUE STATEMENT: Section 27-701 of the Unified Zoning Regulations (City Sign Code) defines and regulates many types of commercial signs. The current code inadequately regulates signs that use newer technology. In January 2006, at a City Council Work Session, the City Sign Code was reviewed due to concerns about the regulation of electronic message displays. As a result, the City Council created the Electronic Sign Ad Hoc Committee in June, 2006. The committee was charged with specifically reviewing Section 27-708 (Prohibited Signs) to create sufficient criteria to regulate e-signs and to make a recommendation to the City Council on or before June 26, 2007. On July 30, 2007, the City Council accepted the recommendation of the Electronic Sign Ad Hoc Committee and initiated this amendment to the City Sign Code. The City Zoning Commission held a public hearing on the amendment to the zoning regulation on September 4, 2007, and voted 5-0 to recommend approval to the City Council of the amendment and that the City Council further consider amending the ordinance to include a minimum separation of e-signs from residential uses, minimum landscaping requirements for new e-signs and whether operational standards should be applied to existing e-signs. The City Council opened the public hearing on September 24, 2007 and voted to delay testimony and discussion to October 9, 2007.

ALTERNATIVES ANALYZED: The City Zoning Commission held a public hearing on the proposed text amendment on September 4, 2007. Five persons testified in favor and eight testified in opposition to the proposed zone change. The City Zoning Commission is forwarding a recommendation of approval and that the City Council consider three amendments to the ordinance: 1) provide a minimum separation of any new e-signs from residential uses; 2) consider a minimum landscaping requirement for new e-signs; and 3) consider whether

operational standards should apply to existing e-signs. The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments. The City Council may also indefinitely postpone action on the text amendment and direct the Planning Division or the City Attorney to make specific changes to the ordinance.

FINANCIAL IMPACT: There should be no direct financial impact to the City as a result of the new zoning regulation.

RECOMMENDATION

The Zoning Commission on a 5-0 vote recommends that the City Council approve Zone Change #821 and that the City Council further consider amending the ordinance to include a minimum separation of e-signs from residential uses, minimum landscaping requirements for new e-signs and whether operational standards should be applied to existing e-signs.

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

ATTACHMENTS:

- Attachment A: Draft of Text Amendment – E-sign regulations
- Attachment B: Memo from Assistant City Attorney Bonnie Sutherland
- Attachment C: Code comparison chart of existing City & County Sign Codes
- Attachment D: E-sign Inventory
- Attachment E: E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID
- Attachment F: Petitions and letters from concerned citizens received on or before the City Council Work Session July 30, 2007
- Attachment G: Written Testimony received by the Zoning Commission on September 4, 2007

INTRODUCTION

On June 26, 2006, the City Council created the E-Sign Ad Hoc Committee to review sections of the City Sign Code that pertain to or regulate full color electronic message display signs. The committee was charged with specifically reviewing Section 27-708 (Prohibited Signs) to create sufficient criteria to regulate e-signs and to make a recommendation to the City Council on or before June 26, 2007. The committee consisted of 12 members and members were appointed to represent certain interested parties including the community, sign owners as well as sign designers and manufacturers. In addition, the City Council appointed two city staff members and two City Council members as voting members of the committee. The E-sign Ad Hoc Committee met 15 times in public session and came to a consensus on a recommendation on May 31, 2007. The draft ordinance was compiled with the assistance of several committee members and review was provided by Bonnie Sutherland, Assistant City Attorney.

PROCEDURAL HISTORY

- On June 26, 2006, the City Council created the Electronic Signs Ad Hoc Committee to review parts of the Billings City Sign Code and make recommendations to the City Council in regard to City Code regulations for full-color display electronic message centers.
- The E-Sign Ad Hoc Committee held its first meeting on August 31, 2006, and its last meeting on May 31, 2007.
- On July 30, 2007, the City Council reviewed and accepted the recommendation from the E-Sign Ad Hoc Committee and forwarded the zone change to the Zoning Commission for public hearing and recommendation.
- On September 4, 2007, City Zoning Commission conducted the public hearing for the change to the City Sign Code regulations.
- The City Council held a public hearing and 1st reading of the ordinance on September 24, 2007, and voted to continue the public hearing to October 9, 2007.
- If the Zone Change ordinance is approved on first reading, the City Council will consider it for second reading on October 22, 2007.

BACKGROUND

The E-Sign Ad Hoc committee reviewed sign ordinances from Missoula, MT; Kalispell, MT; Bozeman, MT; Great Falls, MT; San Diego, CA; Kent, WA; Douglas County, CO; Kent, OH; Maple Valley, WA; Boise, ID; Champaign, IL; Urbana, IL; Cookeville, TN; Murray, KY; Burbank, CA; Oakridge, TN; Tukwila, WA; San Luis Obispo, CA; Mesa, AZ; West Hollywood, CA; SeaTac, WA; Tavares, FL and Seattle, WA. Selected sections of electronic message display sign codes from Missoula, Kalispell, Bozeman and Great Falls, MT as well as Boise, ID are included as **Attachment E**. These five codes regulate e-signs in several areas but all allow e-signs in some zoning districts. In Missoula, “changeable copy” signs may be electronic signs but may not change the message on the sign more than once per hour. “Changing signs” may also be electronic and may change more than once per hour. Both types of signs may be up to 32 square feet or 50% of the allowable sign area whichever is greater. Missoula sign regulations in general have lower maximum sizes for all signs than the Billings code currently allows. Kalispell allows

electronic signs as long as time and temperature are displayed every 30 seconds, is incorporated with a primary sign, is no greater than 25% of the sign area, the message does not change in increments of less than 5 seconds and does not flash or blink. Kalispell prohibits the use of red or green in an e-sign.

The committee also reviewed articles from the American Planning Association, the sign industry, the Federal Highway Administration, articles on legal issues with sign regulation and technical articles on measuring brightness. Dennis Harriman of the committee created a photographic inventory of the electronic message signs within the city limits. The Planning staff augmented this inventory with permit data to create a base of sign information. The inventory including the number of signs that may become nonconforming if the proposed text amendment passes is included as **Attachment D**.

The committee invited a representative of Daktronics, a leading manufacturer of electronic message signs, to discuss the technical aspects of measuring sign brightness and to demonstrate for the committee the capabilities of an electronic message sign. The committee also reviewed the seven separate sign codes that apply in various districts within the city and in Yellowstone County. A chart comparing these seven sign codes is included as **Attachment C**.

The Planning Division reviewed the proposed amendment as well as serving on the E-sign Ad Hoc Committee. The Planning Division recommended approval of the proposed text amendment with the addition of language concerning a compliance time period for the proposed operational standards that includes brightness, flashing or other sign animations proposed to be prohibited under the new language. Assistant City Attorney Bonnie Sutherland advised the committee and the Planning Division that operational standards can be applied to existing electronic signs provided the code allows a set period of time to bring those signs in to compliance with the new standards of operation. Bonnie Sutherland's memo is included as **Attachment B**.

The Zoning Commission conducted a public hearing on September 4, 2007, and heard testimony on the proposed changes. Written testimony was also received and reviewed by the Zoning Commission. Written testimony received at the September 4, 2007, is included as **Attachment G**. Written testimony received prior to the Zoning Commission hearing is included as **Attachment F**. The Zoning Commission voted 5-0 to recommend approval to the City Council of the amendment and that the City Council further consider amending the ordinance to include a minimum separation of e-signs from residential uses, minimum landscaping requirements for new e-signs and whether operational standards should be applied to existing e-signs.

ALTERNATIVES ANALYSIS

The City Council may choose to approve, deny or delay action for thirty (30) days on the proposed text amendments. The City Council may also indefinitely postpone action on the text amendment and direct the Planning Division or the City Attorney to make specific changes to the ordinance.

STAKEHOLDERS

The Zoning Commission held a public hearing on September 4, 2007, on the proposed changes to the City Sign Code. Thirteen persons testified on the proposed amendments. Five testified in favor of the amendments: Gordon Tryan, Brown's Automotive and Chairman of the E-Sign Ad Hoc Committee, Kelly Strobel, Lamar Inc., Lisa Gilbertson of Western Security Bank and E-Sign Ad Hoc Committee member, Ron Bachman, Permaletter Sign Company and E-Sign Ad Hoc Committee member, and Paul Cox, Sign Products, Inc. Eight persons testified in opposition to the proposed amendments: Josi Wilgus, Vice-Chairman of the E-Sign Ad Hoc Committee, Paul Whiting of Flat Iron Gallery and photographer, Theresa Keaveny of Montana Conservation Voters, Bruce MacIntyre, Director of Government Affairs for the Billings Chamber of Commerce, Michelle Cormier of Player's Paradise Casino, Angie Cormier of Cormier, Inc., Souther of the Billings Architectural Association and Rich Hageman of Dairy Queen.

Gordon Tryan testified the committee attempted to first deal with the complaints the city was receiving about e-signs including the brightness of signs, flashing and blinking. The committee focused on creating sufficient definitions and good operational standards for the sign code. Mr. Tryan emphasized that the section of e-sign billboards was to apply regulations where none currently exist although the current code would allow e-signs on billboards. There is one current off-premise billboard e-sign at King Avenue West and 24th Street West – the Big Bear Sports sign. Mr. Tryan testified the committee agrees that all existing e-signs should have to conform to the proposed operational standards and prohibitions. The committee attempted to draft the code so it would keep pace with any technology that might come along in the future. In addition, the committee carefully considered whether the standards and regulations were enforceable with current staff resources.

Kelly Strobel testified that his interest was the regulation of e-signs on off-premise billboard signs. He attended most of the E-Sign Ad Hoc Committee meetings and requested the committee allow a change in advertising message displays every six seconds for billboard signs. Some cities allow six seconds and some allow changes every 10 seconds. The committee agreed to recommend the six second standard.

Lisa Gilbertson testified that she currently operates eight e-signs in Billings for Western Security Bank. Ms. Gilbertson testified there is a steep learning curve for new sign owners and operators. What the operator sees on the computer screen in the office is not how it appears on the sign on the street. Ms. Gilbertson believes many of the original complaints to the city about flashing and bright e-signs were about the signs she was learning to operate. Ms. Gilbertson testified that she has applied the proposed code to all the signs she operates and the signs are very effective even with the limitations on flashing, brightness and video. Ms. Gilbertson stated that any sign owner can comply with the new code and still communicate effectively with the public.

Ron Bachman testified that e-signs are critical to Billings' small businesses. Consumers respond to visual images, not words and e-signs are very effective. The proposed code is understandable and was a negotiated result of nine months of meetings. Small businesses need this competitive edge in Billings to succeed. Mr. Bachman testified that the proposed 40% maximum for e-signs was a compromise and will prevent big "black box" signs from proliferating. E-signs are now

being used by businesses to replace other clutter-producing signs such as portable reader boards and banners. E-signs should result in less visual clutter not more.

Paul Cox testified that he has been in the sign business for more than 32 years and he believes the proposed amendment is a fair and equitable regulation.

Josi Wilgus testified that the committee never decided whether the existing code allowed e-signs or not. The committee should have discussed this issue prior to writing any new regulations. Ms. Wilgus testified the committee was one-sided in favor of sign companies and sign owners. The committee received copies of other city sign codes, but the merits of these codes were never discussed by the committee. Ms. Wilgus testified that appointing city staff members as voting members hampered their ability to present an unbiased professional opinion to the committee. Safety studies concerning the effect of e-signs on driver attention were dismissed as inconclusive by the committee. The committee ignored the goals and policies of the 2003 Growth Policy that has a goal of creating a visually appealing community, and reducing visual clutter. Ms. Wilgus stated there is no empirical evidence that e-signs improve businesses or attract more customers. Ms. Wilgus testified that the proposed amendments allow e-signs that are too large – up to 100 square feet in certain areas. Ms. Wilgus urged the Zoning Commission to reduce the maximum size of e-signs to 24 square feet for all areas, to include a minimum separation of 300 feet from a residential area and that new e-signs should have landscaping installed.

Paul Whiting testified that the ad hoc committee used a flawed process to propose the code amendments. The committee should have answered the question of whether e-signs are allowed under the current code. The committee did not answer this question and proceed to develop definitions and regulations. This action added legitimacy to the existing e-signs without deciding the legality of such signs. Mr. Whiting testified that one member of the ad hoc committee never attended a single meeting and the meetings were not well advertised to the general public. Mr. Whiting testified the Zoning Commission should recommend an entire new committee be appointed and that committee should be charged first with deciding the ambiguity of the existing code. Commissioner Ed Workman asked Mr. Whiting if he would prefer regulation of e-signs or to prohibit them. Mr. Whiting stated he would prefer a prohibition on e-signs. Mr. Whiting testified that he believes the existing code does prohibit e-signs from using any moving graphics at all.

Theresa Keaveny stated that Section 27-708 of the City Sign Code is contradictory and the ad hoc committee did not address this ambiguity at all. Ms. Keaveny urged the Zoning Commission to amend the ordinance to reduce the maximum size of e-signs to 24 square feet or 40% of the sign area whichever is less, impose a minimum separation from residential areas of 150 feet similar to off-premise billboard signs and require landscaping when new e-signs are installed. Ms. Keaveny testified that the make up of the committee was unusual in that two City Council members and two city staff were voting members. Only two of the twelve members truly represented community concerns. Ms. Keaveny testified the process did not pass the “smell test” and was biased towards signs companies and sign owners. The result is an amendment that does not represent the community interests.

Bruce MacIntyre testified that as a representative of the Billings Chamber of Commerce he should have been involved sooner in the process. He apologized to the Zoning Commission for not being involved while the ad hoc committee was discussing the proposal. He applauded the ad hoc committee for their efforts. Mr. MacIntyre testified that existing e-sign owners should be able to enjoy all of the capabilities of the signs including motion borders. Mr. MacIntyre questioned whether these types of advertising are a distraction or not for drivers. Signs are a large part of any business' annual advertising budget especially small businesses. Small business makes up 80% of all businesses in Montana and most employ 20 or fewer staff. Sign advertising helps small businesses succeed.

Michelle Cormier testified that before her new e-sign went up, her business was averaging 3 to 5 new customers a week. Since the sign went up, her business has attracted 125 new customers in less than 3 weeks. Ms. Cormier stated that 80% of the cost of her e-sign was to upgrade it for video. The proposed regulation will nullify that investment. Ms. Cormier stated her sign has an automatic dimmer installed. Ms. Cormier stated she has tried all types of advertising including radio, television and flyers. These advertising efforts are not effective for her business. The new e-sign really works to bring in new customers. She urged the Zoning Commission to not recommend enforcing the operational standards on existing e-signs.

Angie Cormier testified that persons opposed to this new technology should consider that Billings is a large city and should look and act like a big city. Businesses use new technology such as e-signs to increase their businesses. Ms. Cormier testified that just like "community representatives" only two of twelve ad hoc committee members were businesses that owned e-signs. The proposed ordinance most affects business owners and they should have a prominent seat on these committees. Businesses need good advertising to expand and benefit the community.

Souther testified that the Billings Architectural Association is concerned the proposed ordinance would continue to encourage sign blight. Souther read the statement sent to the ad hoc committee in October of 2006. The association urges the Zoning Commission to consider stricter regulations for e-signs. Sign blight has overcome some areas of Billings and signs dominate the streetscape. Signs should be sensitive to the area and should be reduced in height, bulk, scale and landscaping should be added. The Billings Architectural Association urges the Zoning Commission to acknowledge that the ad hoc committee did not adequately represent the community and send it back to the Planning Division for a revision and with a broader review of the City Sign Code.

Rich Hageman testified that the person most affected by this regulation will be the consumer. Mr. Hageman stated that a 24 square foot sign is too small to be effective. Mr. Hageman agreed that what Dennis Harriman stated at the July 30, 2007, City Council Work Session was true – "If the Council limits the maximum size to 24 square feet, you might as well prohibit e-signs altogether." Mr. Hageman testified that he believes it is a small minority of people who are trying to impose their sensibilities on the majority of the community. Mr. Hageman stated he

believes the ad hoc committee did a good job for the most part. He disagrees with imposing operational standards on existing e-signs. He stated that motion borders don't bother him and probably don't affect the majority of other drivers.

RECOMMENDATION

The Zoning Commission on a 5-0 vote recommends that the City Council approve Zone Change #821 and that the City Council further consider amending the ordinance to include a minimum separation of e-signs from residential uses, minimum landscaping requirements for new e-signs and whether operational standards should be applied to existing e-signs.

ATTACHMENTS:

- Attachment A: Draft of Text Amendment – E-sign regulations
- Attachment B: Memo from Assistant City Attorney Bonnie Sutherland
- Attachment C: Code comparison chart of existing City & County Sign Codes
- Attachment D: E-sign Inventory
- Attachment E: E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID
- Attachment F: Petitions and letters from concerned citizens received on or before the City Council Work Session July 30, 2007
- Attachment G: Written Testimony received by the Zoning Commission on September 4, 2007

ATTACHMENT A
ORDINANCE NO. 07-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 27-703, 27-705(c) AND 27-706, 27-708; PROVIDING THAT ELECTRONIC MESSAGE DISPLAY SIGNS BE DEFINED AND REGULATED.

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

Section 1. That Section 27-703 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 27-703. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Ambient Light Monitor: A device that is attached to an Electronic Message Display that measures on a continuous basis the brightness of light surrounding the sign. The monitor is connected to the system that controls the brightness of the Electronic Message Display. The brightness is then automatically adjusted based on the measured ambient light.

Animated Sign: Any sign that uses movement or change or lighting to depict action or create a special effect or scene.

Architectural blade sign: A wall sign or projecting sign with no legs or braces, on a structure or building larger than three (3) stories and designed to look as a part of the building structure, rather than something suspended from or standing on the building.
Awning, canopy or marquee: A roof-like shelter detached or extending from part or all of a [structure].

Balloon sign: Means any sign that is a balloon, inflatable figure, or inflatable structure. For purposes of this article, balloon signs do not include passenger hot air balloons used for air travel.

Building frontage: The linear length of a building facing the public access or right-of-way.

Canopy or marquee sign: Any sign attached to, constructed in or on a canopy or marquee or across a series of canopies or marquees located on the same building face.
Copy: The wording or message on a sign surface either in permanent or removable letter or panel form.

Electronic Message Display: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Flashing: The repetitive display of a single image (full or partial) interrupted by any other color, image or lack thereof at an interval of less than five (5) seconds. Motion borders fitting this definition are specifically included. (See Section 27-708(1) Prohibited Signs and Sign Structures)

Free-standing signs: Any sign supported by uprights or braces permanently placed upon the ground, and not attached to any building.

Frontage: The length of the property line of any one (1) premises along each public right-of-way it borders excluding alleys and serviceways.

Ground level means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the sign and property line or, when the property line is more than five (5) feet from the sign, between the sign and a line five (5) feet from the sign.

Height of sign: The vertical distance measured from the finish ground level grade to the highest point of the sign. Exaggerated or artificial berming to increase height of sign shall not be permitted.

Identification sign: A sign which is limited to the name, address and number of a building, institution or person and to the activity/service carried on in the building or institution, or the occupancy of the person.

Interstate corridor: means the area of the city which is within six hundred sixty (660) feet of the nearest edge of the right-of-way of a designated interstate highway and which area is not in a residential zone or used for residential purposes.

Maintain: To permit a sign, structure or any part of each to continue or to repair or refurbish a sign, structure or any part of either.

Medical campus: means a definable area owned, developed, occupied, and used by the owner for medical and medical related services, even though the area consists of two (2) or more city blocks, provided however, the blocks are contiguous.

Nameplates:

(1) Commercial nameplate: A nonelectric sign identifying only the name and occupation or profession of the occupant of premises on which the sign is located.

(2) Residential nameplate: A nonelectric sign identifying only the name and address of the occupant.

Neighborhood watch sign: Neighborhood watch is a national program based upon the idea that community members can prevent or help deter crimes in their neighborhoods. The neighborhood watch program is administered by local law enforcement. A neighborhood watch sign is a sign obtained through the local law enforcement agency that is posted on property within a residential or public zoning district.

Nonconforming sign (legal): Any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this article and any amendments thereto, and which fails to conform to all applicable regulations and restrictions of this article, or a nonconforming sign for which a special permit has been authorized.

Off-premise/Billboard Electronic Displays: An Off-premise/Billboard Electronic Display is a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means and which directs attention to a business, activity, products, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located, or which does not pertain to the premises upon which the sign is located. An Electronic Off-premise/Billboard Display shall not include any other visual effects including but not limited to animation, motion pictures, video, holograms, moving parts or the illusion of movement and shall not include any audible sound.

Off-premise/billboard sign: A sign which directs attention to a business, activity, products, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which this sign is located, or which does not pertain to the premises upon which the sign is located.

On-premise sign: means any sign identifying or advertising a business, activity, goods, products or services located on the premise where the sign is installed and maintained.

Owner: A person recorded as such on official records and including duly authorized agent.

Parcel: A single tract or parcel of land, no matter how legally described whether by metes and bounds, certificate of survey, and/or by lot or lots and block designation as in a recorded plat, which at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured and having frontage on or access to a public street over an easement approved by the city engineer.

Penthouse: A structure on top of a building roof such as houses, an elevator shaft, or similar form.

Premises: An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Primary public entrance: means an entrance to a business which is open to the public during its normal and customary hours of operations and the entrance is used as the primary ingress and egress to the business by the public.

Projecting signs: means a sign other than wall sign which is suspended from or supported by a building or wall and which projects more than twelve (12) inches.

Public right-of-way width: The perpendicular distance across a public street measured from property line to property line. When property lines on opposite sides of the public street are not parallel, the public right-of-way width shall be determined by the city engineer.

Roof sign: Means a sign erected, constructed and maintained upon, or connected to any roof of any building with the principal support on the roof structure. This definition excludes architectural blade signs.

Shopping center or mall: A shopping center is a mix of retailing land and service uses offering both essential and nonessential goods and services, with at least five (5) stores or one hundred thousand (100,000) square feet, and that attracts consumers from a region-wide market area.

Sign: Any identification, description, illustration or device illuminated or nonilluminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national flags. For the purpose of removal, signs shall also include all sign structures.

Sign administrator: The city administrator or his or her designated representative.
Sign area means the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.

Street: A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, land, place, or however otherwise designated which has been dedicated to or acquired for public use and extends the full width between right-of-way lines.

Temporary/portable sign: A sign advertising on an interim basis special business sales, new business openings, special events, goods, products, services, or facilities located on premise. A temporary sign is differentiated from a permanent sign in that a permanent sign is attached to a building or structure or affixed in the ground. A temporary/portable sign is mobile and free-standing. Any electrical temporary sign shall comply with all city electrical codes.

Under canopy sign: A sign suspended below the ceiling or roof of a canopy.

Unlawful sign: A sign which contravenes this article or which the administrator may declare as unlawful if it becomes dangerous to public safety by reason of dilapidation or abandonment or a nonconforming sign for which a permit required under a previous sign code was not obtained.

Use: The purpose for which a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

Video: Means the display of a succession of single images at a rate of twenty (20) frames per second or higher.

Wall sign means any sign painted on, mounted on, attached to or erected against the wall of a building and approximately paralleled to the face of a principal building wall and projecting not more than twelve (12) inches from the plane of the wall. Street graphic on the outside of a window is considered a wall sign.”

Section 2. That Section 27-705(c) of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 27-705. Signs permitted in zoning districts of city.

(c) Community commercial, neighborhood commercial, neighborhood commercial limited, controlled industrial, heavy industrial, highway commercial, and Central Business District. Within these zones, signs are permitted as follows:

(1) One (1) free-standing sign indicating only the name and nature of the occupancy for each developed parcel not to exceed three (3) square feet of sign area for each lineal foot of street frontage abutting the developed portion of the parcel, provided that:

c. Where a developed parcel has in excess of three hundred (300) feet of street frontage, one (1) additional free-standing sign may be erected for each additional three hundred (300) feet of street frontage in excess of the first three hundred (300) feet of street frontage abutting the developed portion of the parcel; Signs will be permitted as follows:

TABLE INSET:

<i>Frontage Feet</i>	<i>Signs</i>
0-- 600	1 free-standing sign
601-- 900	2 free-standing signs
901--1200	3 free-standing signs
Over 1200	3 free-standing signs plus, 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet

- b. Where a developed parcel is permitted to have more than one (1) free-standing sign under this article, the distance between the free-standing signs on each parcel shall be not less than one hundred fifty (150) frontage feet;
- c. The sign must be located five (5) feet behind all property lines except:
 - (ii) If the bottom of the structure is twelve (12) feet or higher above the establish grade, then the sign structure may be located up to one (1) foot behind the property line; or
 - (ii) If the sign is in the Central Business District, then the sign structure can be located up to the property line.
- d. No free-standing sign shall exceed the height of thirty (30) feet except free-standing signs in the highway commercial zone and within the interstate corridor which shall not exceed the height of fifty (50) feet. No sign shall exceed one hundred seventy-five (175) square feet in sign area except for a parcel's first free-standing sign located within the interstate corridor which shall not exceed four hundred forty (440) square feet in sign area. Any additional free-standing sign authorized on a parcel shall not exceed one hundred seventy-five (175) square feet in sign area. One (1) measured side of the display shall compose the square footage;
- e. If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance between the bottom of the sign and the ground shall be seventeen (17) feet;
- f. No rotating free-standing sign shall rotate at a rate faster than six (6) revolutions per minute or have a minimum clearance lower than nine (9) feet between the bottom of the sign and the ground;

- g. When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection (c) shall apply to each frontage.

(2) One (1) wall or one (1) canopy sign and four (4) architectural blade signs indicating only the name and nature of the occupancy for each occupancy within the developed parcel as follows:

- a. No sign shall exceed a total area of three (3) square feet of ~~copy~~ sign area for each lineal foot of building frontage of each occupancy except buildings over two (2) stories shall be allowed an additional one (1) square foot of copy for each lineal foot of building frontage of each occupancy. The allowable sign area shall be reduced by the sign area for each wall sign installed over any primary public entrances pursuant to subsection (3) below;
- b. If such occupancy is on a corner, one (1) wall sign or one (1) canopy sign will be permitted for each frontage face;
- c. A permitted wall sign(s) can be transferred from one wall to another wall provided the number of signs remain within the permitted number of signs and within allowable sign area;
- d. No wall or canopy signs shall project into the public right-of-way, except
 - (ii) In the Central Business District, wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk; and
 - (ii) In the Central Business District, canopy signs may project up to two (2) feet to a vertical line from the curb face over the right-of-way.
- e. If the building includes a canopy, each tenant will be permitted one (1) under canopy sign per public entrance in lieu of the wall or canopy sign. Any signs attached to the underside of a canopy shall be perpendicular to the wall face of the building and shall not have a copy area greater than four (4) square feet or have a clearance lower than of eight (8) feet from the sidewalk.

(3) One (1) roof sign, in lieu of the wall or canopy sign authorized in section 27-705(c)(2) above, indicating only the name and nature of the occupancy for each developed parcel as follows:

- a. The sign shall not extend above the highest plane of the roof;

- b. The supports, anchors, or braces for the roof sign shall be enclosed so that they are not visible from the street or other public or private property; and
- c. The sign is designed similar to a wall sign or projecting sign, and designed to look like part of the building or roof structure, rather than something suspended from or standing on the building.

(4) One (1) wall sign for each "primary public entrance" of the business indicating only name of the occupancy within the developed parcel provided:

- a. The combined sign area of all signs over all primary public entrances does not exceed the sign area of one allowable wall sign; and
- b. No wall or canopy signs shall project into the public right-of-way, except in the Central Business District wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk.

(5) Electronic Message Display Signs

a. Limitations on electronic message displays

i. An Electronic Message Display (EMD) may only be used in conjunction with an immediately adjacent wall sign or as part of a free standing sign and shall not be displayed on its own. The EMD shall not be larger than 40% of the total square footage of the permanent graphic portion of the sign when compared as separate components. For purposes of determining the allowable total sign area, the permanent graphic portion of the sign and the EMD shall be included in the same perimeter inclusive of any physical separation between the two components.

ii. Only one (1) Electronic Message Display (EMD) freestanding sign per developed parcel or one (1) EMD wall sign per street frontage may be allowed. Sign(s) must be included in the total number of signs allowed not in addition to the number of signs allowed.

iii. An Electronic Message Display (EMD) wall sign may only be used in conjunction with an immediately adjacent permanent graphic sign and not alone. EMD signs that are not enclosed within the primary wall sign will be required to have a frame to visually diminish the black box effect of the EMD. The frame shall be no less than eight (8) inches in width and no greater than 80% of the EMD cabinet depth or exceed 50% of the EMD area. The required frame area for EMD wall signs shall not count towards the maximum allowable sign area. The maximum height of an EMD wall sign shall be 40 feet from the building

wall grade. EMD wall signs shall not be placed less than two feet from the top of the wall it is installed on.

iv. An Electronic Message Display (EMD) may be allowed provided it does not flash, scintillate, blink, show motion borders or traveling lights or display video (unless specifically permitted in special sign districts).

b. Size of free standing electronic message displays:

<u>Street Type</u>	<u>Maximum Portion of Allowable Sign Area*</u>	<u>Maximum Total EMD Sign Size*</u>
<u>Principal Arterial</u>	<u>40%</u>	<u>100 square feet</u>
<u>Minor Arterial</u>	<u>40%</u>	<u>40 square feet</u>
<u>Collector</u>	<u>40%</u>	<u>40 square feet</u>
<u>Commercial Local Access</u>	<u>40%</u>	<u>40 square feet</u>

* - Maximum Portion of Allowable Sign Area or Maximum Total EMD sign size whichever is less

c. Size of electronic message display wall signs

<u>Street Type</u>	<u>Maximum Total EMD Sign Area*</u>
<u>Principal Arterial</u>	<u>80 square feet</u>
<u>Minor Arterial</u>	<u>50 square feet</u>
<u>Collector</u>	<u>50 square feet</u>
<u>Commercial Local Access</u>	<u>50 square feet</u>

* - Maximum Portion of Allowable Sign Area or Maximum Total EMD sign size whichever is less

d. Electronic Message Displays (EMDs) must be equipped with an automatic image dimming capability (ambient light monitors). This feature must be enabled at all times, allowing the display to automatically adjust brightness based on ambient light conditions. The sign must be operated at a brightness level no greater than the manufacturer's recommended levels.

e. The following conditions apply to all EMD sign permits. Failure to comply shall result in the sign ceasing operation until compliance occurs.

i. that the sign shall at all times be operated in accordance with City codes and that the owner or operator shall provide proof of such conformance within 24-hours of a request by the City;

ii. that a city inspector may access the property upon 24-hours notice to the owner, operator or permittee so that the City may verify that the EMD has the automatic image dimming capability engaged. In the event of a citizen complaint regarding the EMD brightness, the owner, operator or permittee may be required by the city inspector to manually reduce the brightness to a lower setting;

iii. that whether the sign is programmed from the site or from a remote location, the computer interface that programs the sign and the sign's operation manual shall be available to City staff upon 24-hours notice to the owner, operator or permittee.

f. Sign permit applications to install an EMD must include a certification from the owner or operator that the sign shall at all times be operated in compliance with the conditions set out in City code. The Owner, Operator or Permittee shall immediately provide proof of such conformance upon request of the City.

(d) Historic District zone.

(1) Statement of special purpose. This special code acknowledges the unique visual concerns associated with the Billings Townsite Historic District as defined in section 6-1103, and recognizes the benefits of restoring the district's visual appearance of prosperity, cohesiveness, and historic integrity, while continuing to promote business advertising variety, individuality, and growth.

(2) Signs permitted in historic district. Within the Billings Townsite Historic District, signs are permitted as follows:

- a. Signs and sign lettering within the Billings Townsite Historic District shall be designed and installed to compliment the architectural style.
- b. No sign will be permitted to obscure or cover any significant architectural detail or decorative element of the existing building.
- c. Only signs that advertise an activity, business, product or service conducted or available on the premises on which the sign is located, shall be allowed within the Billings Townsite Historic District.
- d. No new roof signs shall be permitted.
- e. Excluding window signs, one additional sign type per business is allowed, except for business with entrances on more than one street, in which case one sign type per street entrance is allowed.
- f. No off-premise signs are permitted.

- g. The size of signs in the historic district is limited to fifty (50) percent of that allowed in this article.
- h. Once the copy of an existing sign is changed it must come into compliance with the special provisions of the historic sign district and the existing sign code.

Section 3. That Section 27-706 of the Billings, Montana City Code be amended so that such section shall read as follows:

Sec. 27-706. Special circumstance signs.

- (a) Service station or convenience (gasoline) store signs. Regardless of which zoning district a service station or convenience (gasoline) store is located within, such uses shall be permitted the following signs:

- (1) One (1) free-standing sign indicating only the name and nature of the occupancy for each developed parcel not to exceed three (3) square feet of sign area for each lineal foot of street frontage abutting the developed portion of the parcel, provided that:

- a. Signs will be permitted as follows:

TABLE INSET:

<i>Frontage Feet</i>	<i>Signs</i>
0--600	1 free-standing sign
601--900	2 free-standing signs
901--1200	3 free-standing signs
Over 1200	3 free-standing signs plus, 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet

- b. Where a developed parcel is permitted to have more than one (1) free-standing sign under this article, the distance between the free-standing signs on each parcel shall be not less than one hundred fifty (150) frontage feet;
 - c. The sign must be located five (5) feet behind all property lines except:
 - (i) If the bottom of the structure is twelve (12) feet or higher above the establish grade, then the sign structure may be located up to one (1) foot behind the property line; or

(ii) If the sign is in the Central Business District, then the sign structure can be located up to the property line.

- d. No free-standing sign shall exceed the height of thirty (30) feet except free standing signs in the highway commercial zone which shall not exceed the height of fifty (50) feet. No signs shall exceed one hundred seventy-five (175) square feet in sign area. One (1) measured side of the display shall compose the square footage;
- e. No rotating free-standing sign shall rotate at a rate faster than six (6) revolutions per minute or have a minimum clearance lower than nine (9) feet between the bottom of the sign and the ground;
- f. When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection a. shall apply to each frontage.

(2) One (1) wall or one (1) canopy sign and four (4) architectural blade signs indicating only the name and nature of the occupancy for each occupancy within the developed parcel as follows:

- a. No sign shall exceed a total area of three (3) square feet of ~~copy~~ sign area for each lineal foot of building frontage of each occupancy except buildings over two (2) stories shall be allowed an additional one (1) square foot of copy for each lineal foot of building frontage of each occupancy;
- b. If such occupancy is on a corner, one (1) wall sign or one (1) canopy sign will be permitted for each frontage face;
- c. A permitted wall sign(s) can be transferred from one wall to another wall provided the number of signs remain within the permitted number of signs and within allowable sign area;
- d. No wall or canopy signs shall project into the public right-of-way, except:
 - (i) In the Central Business District, wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk; and
 - (ii) In the Central Business District, canopy signs may project up to two (2) feet to a vertical line from the curb face over the right-of-way.

- e. If the building includes a canopy, each tenant will be permitted one (1) under canopy sign. Any signs attached to the underside of a canopy shall be perpendicular to the wall face of building and shall not have a copy area greater than four (4) square feet or have a clearance lower than of eight (8) feet from the sidewalk.

(3) A maximum of four (4) wall signs may be located on or incorporated within the pump island canopy structure, whether attached or detached from the main structure/building. Such signs shall not project above the top of the canopy structure, shall not exceed a maximum area of twenty (20) square feet for each sign face, and each sign shall be limited in length to a maximum of fifty (50) percent of the long dimension of the canopy on which the sign is located. This section shall not prohibit the placement of trademark symbols on individual gasoline pumps.

(4) One (1) poster/price sign structure shall be permitted and shall not exceed four (4) feet in width and six (6) feet in height from the ground level. Such poster type signs shall be located at an approved site. Such signs may be used for price or special message advertising.

(5) Temporary signs shall be permitted pursuant to section 27-706(e).

(6) Electronic Message Display signs may be permitted pursuant to Section 27-705(c) 5.

(b) Off-premise/billboard signs.

(1) Purpose and intent: The purpose of this section is to regulate the impact of billboards on the community; to improve the appearance of I-90, Main Street, Highway 3, 27th Street and entryways; to enhance the urban design of the greater downtown area and the west end; to insure compatibility between billboards and adjacent land uses; and to limit the impact that billboards have on sign clutter in the community. The city recognizes that billboards are a necessary and appropriate advertising medium, and that there are acceptable and viable locations for billboards within the community.

It is the intent of this subsection to address the following specific concerns regarding the impact of billboards upon the community:

- a. The citizens of Billings, and others visiting or traveling through the city are very concerned about the urban design and visual integrity of the city.
- b. Billboards may be often incongruous with the city's natural setting and features due to their large-scale figures, numbers, letters, and colors.
- c. A billboard may dominate the view from vehicles and interfere with the occupants' enjoyment of the city's natural setting and features.

- d. A high concentration of billboards may create traffic safety problems and distract attention away from public safety signs.
- e. Billboards of excessive size or height should be downsized within a reasonable period of time.
- f. Billboards are incompatible with residential uses.
- g. The I-90, Highway 3, Main Street, 27th Street, other entryways, and Shiloh Road are major entryways to the city which are of particular importance in terms of urban design and public perception to citizens, visitors, and tourists.
- h. The downtown area defined in the Downtown Framework Plan is an area in which urban design significantly influences the health and vitality of the total community.

(2) No off-premise/billboard sign shall be constructed or erected in any district after the date of the enactment of this subsection 27-706(b) [Ord. No. 99-5107, enacted Nov. 22, 1999]. For each non-conforming off-premise/billboard sign face removed a conforming off-premise/billboard sign face may be erected. Therefore, if a proposed conforming off-premise/billboard sign face will replace an existing non-conforming off-premise/billboard sign face within the city limits, then such proposed off-premise/billboard sign face shall comply with all of the applicable regulations contained herein. When all non-conforming off-premise/billboard signs within the city have been removed pursuant to this section, then additional off-premise/billboard signs may be constructed in accordance with the regulations contained herein.

(3) Location standards: All billboards shall be located in accordance with the following standards:

- a. Zoning districts:
 - 1. Billboards shall be permitted as an allowed use in Highway Commercial (HC), Controlled Industrial (CI), and Heavy Industrial (HI) zoning districts.
 - 2. Billboards shall be permitted as an allowed use in Community Commercial (CC) zoning district provided that the structure is two hundred (200) feet or more from a residential zoning district.
 - 3. A special review shall be required for all billboards to be located in a CC zone if the structure is less than two hundred (200) feet but greater than one hundred-fifty (150) feet from a residential zoning district.

4. Billboards shall be permitted in Central Business District (CBD) upon approval of a special review.

5. No new billboards shall be permitted on, directed to, or within two hundred (200) feet of the following corridors:

- i. 27th Street from I-90 to Airport Road (excluding 27th Street North from Montana Avenue to 6th Avenue North).
- ii. Highway 3 (Airport Road) from Alkali Creek Road west to the city limits.
- iii. Shiloh Road from I-90 to Rimrock Road.
- iv. Yellowstone River.
- v. Any historic district registered on the National Register of Historic Places.

b. Locations standards:

1. Billboards shall be set back 20 feet from the front property line.
2. No billboard shall be placed on the roof of any building or structure.

c. Spacing standards:

1. Billboards shall be required to have the following spacing requirements:
 - i. Billboards located in CC shall have a minimum spacing of a 1,000-foot radius from any other off-premise structure.
 - ii. Billboards located in HC shall have a minimum spacing of a 600-foot radius from any other off-premise structure.
 - iii. Billboards located in CI and HI shall have a minimum spacing of six hundred (600) linear feet from any other off-premise structure.
2. No billboard shall be placed within one hundred fifty (150) feet of any residential zone.

(4) Area, height, face, and pole standards: All billboards shall conform to the following standards:

a. Sign area: New billboards faces and supporting framework shall not exceed the following sign areas:

1. New billboards shall be a maximum of two hundred fifty (250) square feet.

2. New billboards located within the Interstate Corridor shall not exceed four hundred eighty (480) square feet.

b. Height:

1. The maximum overall height shall be thirty-five (35) feet above the road grade to which the billboard reads.

2. The minimum distance between grade and the bottom of the billboard shall be fifteen (15) feet.

c. Faces:

1. There shall be no more than a total of two (2) faces per supporting structure.

2. All structures must be single face, back-to-back, or "v" type of construction.

d. Pole construction: All structures must be of single pole construction.

(5) Lighting: Lighting will not cause hazardous or unsafe driving conditions for motorists and will not glare, reflect, or spill onto adjacent business or residential areas.

(6) Maintenance and discontinuance:

a. Maintenance:

1. All sign supports, braces, guys and anchors, shall be kept in good repair. Faces of all signs shall be kept neatly painted or posted at all times. The city shall notify the sign owner or its agent, in writing, of any sign that is not in proper state of repair. If corrective action is not taken within (30) days of written notice, the city official may order the removal of the sign.

2. Off-premise/billboards signs that are damaged or destroyed by more than fifty (50) percent of the value of the sign structure shall not be reconstructed and shall be removed.

3. All areas around the sign structure shall be kept litter and weed free.

b. Discontinuance: The city may order the removal of any billboard, without compensation, upon which the advertising or other message has been discontinued for more than sixty (60) days continuous days. The owner shall either advertise upon or remove said billboard within thirty (30) days of written notification by the city.

(7) Special review requirements for off-premise/billboard signs in CC and CBD. The following criteria will be used in reviewing the proposed structure:

- a. That the location and placement of the sign will not endanger motorists or pedestrians and does not interfere with the clear vision triangle at street, railroad, or street driveway intersections.
- b. That the signs in the CBD will not cover or blanket any prominent view of a structure or facade of historical or architectural significance.
- c. That the sign will not obstruct views of users of adjacent buildings to side yards. This requirement does not include views of distant vistas.
- d. That the sign cannot be seen from churches, schools, the Yellowstone River or any city, county, or state park or if it can be seen it must be located at two hundred fifty (250) feet from the boundaries of such places.
- e. That the height of signs located in undeveloped areas (no buildings within 300-foot radius) shall not exceed twenty-six (26) feet above grade. The minimum clearance of a sign shall never be less than fifteen (15) feet.
- f. That the sign's lighting will not cause hazardous or unsafe driving conditions for motorists and will not glare, reflect, or spill onto adjacent business or residential areas.

8) Off-premise/Billboard Electronic Displays may be allowed on any off-premise/billboard sign face provided it conforms to all of the standards and requirements of the City Sign Code including the limitation on replacement of nonconforming off-premise billboard signs in Section 27-706(b)(2) and the maintenance and repair of nonconforming off-premise/billboard signs in Section 27-706(b)(6). An Off-premise/Billboard Electronic Display may be used as the only sign area on an off-

premise/billboard sign face. An Off-premise/Billboard Electronic Display shall not change from one still image to another still image more than once every six (6) seconds. An Off-premise/Billboard Electronic Display shall not include any other visual effects including but not limited to animation, motion pictures, video, holograms, moving parts or the illusion of movement and shall not include any audible sound.

(c) Shopping center or mall signs.

(1) One (1) free-standing sign indicating only the name and nature of the occupancy for each developed parcel not to exceed three (3) square feet of sign area for each lineal foot of street frontage abutting the developed portion of the parcel, provided that:

a. Signs will be permitted as follows:

TABLE INSET:

<i>Frontage Feet</i>	<i>Signs</i>
0-- 600	1 free-standing sign
601-- 900	2 free-standing signs
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Over 1200	3 free-standing signs plus, 1 additional sign for each 300 lineal street frontage feet over 1200 frontage feet

- b. Where a developed parcel is permitted to have more than one (1) free-standing sign under this article, the distance between the free-standing signs on each parcel shall be not less than one hundred fifty (150) frontage feet;
- c. The sign must be located five (5) feet behind all property lines except:
 - (i) If the bottom of the structure is twelve (12) feet or higher above the establish grade, then the sign structure may be located up to one (1) foot behind the property line; or
 - (ii) If the sign is in the Central Business District, then the sign structure can be located up to the property line.
- d. No free-standing sign shall exceed the height of thirty (30) feet except freestanding signs in the highway commercial zone which shall not exceed the height of fifty (50) feet. No signs shall exceed four hundred (400) square feet in sign area. One (1) measured side of the display shall compose the square footage;
- e. If a free-standing sign projects over a private vehicular driveway or parking lot aisle, the minimum clearance between the bottom of the sign and the ground shall be seventeen (17) feet;

- f. No rotating free-standing sign shall rotate at a rate faster than six (6) revolutions per minute or have a minimum clearance lower than nine (9) feet between the bottom of the sign and the ground;
- g. When a developed parcel fronts on more than one (1) public right-of-way or street, excluding alleys and serviceways, the above provisions of subsection (c) shall apply to each frontage.

(2) One (1) wall or one (1) canopy sign and four (4) architectural blade signs indicating only the name and nature of the occupancy for each occupancy within the developed parcel as follows:

- a. No sign shall exceed a total area of three (3) square feet of copy for each lineal foot of building frontage of each occupancy except buildings over two (2) stories shall be allowed an additional one (1) square foot of copy for each lineal foot of building frontage of each occupancy;
- b. If such occupancy is on a corner, one (1) wall sign or one (1) canopy sign will be permitted for each frontage face;
- c. A permitted wall sign(s) can be transferred from one wall to another wall provided the number of signs remain within the permitted number of signs and within allowable sign area;
- d. No wall or canopy signs shall project into the public right-of-way, except:
 - (i) In the Central Business District, wall signs may project eighteen (18) inches over the right-of-way, subject to a minimum height limit of nine (9) feet from the sidewalk; and
 - (ii) In the Central Business District, canopy signs may project up to two (2) feet to a vertical line from the curb face over the right-of-way.
- e. If the building includes a canopy, each tenant will be permitted one (1) under canopy sign. Any signs attached to the underside of a canopy shall be perpendicular to the wall face of building and shall not have a copy area greater than four (4) square feet or have a clearance lower than eight (8) feet from the sidewalk.

(3) Interior mall signs shall be regulated by the mall association or owner.

(4) Electronic Message Display signs may be permitted pursuant to Section 27-705(c) 5. A shopping center that has frontage on more than one (1) public right-of-way may have one (1) Electronic Message Display (EMD) free standing sign on each public right-of-way frontage.

(d) Medical corridor and South 27th Street corridor signs.

(1) Statement of special purpose.

a. Medical corridor. The Billings Medical Corridor Permit Zoning District as set forth in article 27-900 (the "medical corridor") is a unique, distinct and separately identifiable area of the city. Over time, a majority of the medical corridor has developed a campus environment that is separate and distinct from the surrounding area. The large scale buildings, the complexities of the medical campuses, the needs and abilities of those seeking medical and emergency services, and the diversification of services offered within the medical corridor create a need for flexibility in establishing clear way-finding and informational signage. Accordingly, this special medical corridor sign code is adopted to facilitate, enhance, encourage and promote the following purposes:

1. To facilitate and foster complementary uses servicing the healthcare community, including hospitals, clinics, medical office buildings, laboratories, and related or supporting uses;

2. To promote a unique, attractive and distinctive healthcare campus environment with limited retail uses;

3. To encourage creativity and continuity in design, quality, and the character of new signage;

4. To anticipate and recognize the needs of patients and visitors in the medical corridor;

5. To safeguard and enhance property values, and to protect public and private investment in the medical corridor;

6. To promote those qualities in the visual environment which bring economic value to the community;

7. To encourage the design of signs that are in harmony with the principal activities and structures that they serve and that are compatible with the overall healthcare campus environment;

8. To alleviate the burdens of complex compliance and enforcement responsibilities; and

9. To promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic within the medical corridor.

The medical corridor is primarily occupied by regional healthcare providers that draw patients and visitors from a multi-state region. The medical corridor sign code recognizes that patients and visitors to the medical corridor need to be able to easily and conveniently locate, identify, and find their way to hospitals, medical groups, clinics, medical departments, laboratories, physicians, and other healthcare points of interest. The primary purpose of the medical corridor is healthcare, with very limited retail uses. Accordingly, the medical corridor sign code recognizes that the primary purpose of signs in the medical corridor is not for retail purposes, yet retains historical restrictions for retail establishments within the medical corridor.

The caliber of the development of the medical campuses within the medical corridor over time has demonstrated a commitment to maintaining architecturally sound and aesthetically pleasing signage, as well as uniform appearance of signage within parcels under common ownership. Healthcare and healthcare providers are constantly evolving and changing. One of the express purposes of the medical corridor sign code is to provide healthcare providers with flexibility with respect to both way-finding and informational signage.

- b. South 27th Street corridor. This section acknowledges the architectural visual concerns associated with the South 27th Street corridor zoning district as set forth in article 27-800. This section further recognizes the needs and benefits of limited sign standards that will adequately serve the uses in this zoning district and those who utilize their services, and at the same time, recognizes the need to protect the remaining residential areas within, adjacent and surrounding these zoning districts from the intrusion of unsightly, excessive and confusing sign usage.

(2) Healthcare purposes sign definition. As used within this section, the term healthcare purposes sign shall mean any sign located in the medical corridor (excluding prohibited signs) that:

- a. Identifies a hospital, clinic, medical building, healthcare facility, emergency room, trauma center, healthcare provider or ancillary healthcare service (as defined herein below), and/or associated parking areas located in the medical corridor; or
- b. Provides direction to a hospital, clinic, medical building, healthcare facility, emergency room, trauma center, healthcare provider or ancillary healthcare service, and/or associated parking areas located in the medical corridor.

For the purposes of this definition, the phrase "ancillary healthcare service" shall not include restaurants, hotels, motels, churches, and gas stations.

(3) Except as provided in subsection (4), within the medical corridor and the South 27th Street corridor, signs are permitted per developed parcel as follows:

- a. Two (2) monument type signs, provided the two (2) monument signs are located on separate public street frontages and located at least one hundred (100) lineal frontage feet apart, measured along property line, as follows:
 1. One (1) main identification free-standing sign not exceeding forty (40) square feet in sign area nor be over twelve (12) feet in height;
 2. One (1) secondary identification free-standing sign not exceeding thirty-two (32) square feet in sign area nor be over eight (8) feet in height.
- b. One (1) identification wall sign placed flat against a building or designed as part of an architectural feature for each public street frontage for each developed parcel not to exceed fifty (50) square feet in sign area.
- c. Free-standing directory signs shall not exceed eight (8) square feet in sign area nor be over five (5) feet in height. Wall directory signs shall not exceed eight (8) square feet in sign area.

(4) Healthcare purposes signs permitted.

- a. Except for those signs specifically prohibited by subsection (5), all healthcare purposes signs shall be permitted in all portions of the medical corridor except for the area west of North 30th Street.
- b. Emergency room and trauma center signs. All emergency room and trauma center signs shall be permitted in the medical corridor as healthcare purposes signs.

(5) Prohibited signs and lighting. The following signs and lighting shall be prohibited in the medical corridor:

- a. Strobe lights;
- b. Searchlights;
- c. Balloon signs;

- d. Portable signs;
- e. Flashing neon signs;
- f. Third party signs;
- g. Billboards;
- h. Flashing incandescent lamps;
- i. Vehicles used as signs (provided that this provision shall not be construed as prohibiting the identification of a healthcare services entity or provider);
- j. Signs projecting into rights-of-way;
- k. Window signs;
- l. Signs exceeding twenty (20) feet in height;
- m. Signs exceeding one hundred seventy-five (175) square feet of area;
- n. Signs which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices;
- o. Signs that create a safety hazard for pedestrian or vehicular traffic;
- p. Signs attached to or placed on a motor vehicle or trailer parked on public or private property, provided that this provision shall not be construed as prohibiting the identification of a firm or its product on a vehicle operating during the normal course of business;
- q. Any electronic reader board sign or animated sign that is otherwise prohibited by the city sign code.
- r. Wall signs which, individually or collectively, cover more than twenty-five (25) percent of the surface area of any wall. The surface area of a wall shall be determined by measuring the building height and multiplying it by the length of the wall, without deduction for doors and windows.

(6) Electronic Message Display signs may be permitted pursuant to Section 27-705(c) 5.

(e) Church, school and other institutional use signs. Regardless of which zoning district a church, school or other institutional use, including fraternal organizations, are located within, such uses shall be permitted the following signs:

(1) One (1) free-standing monument announcement sign or bulletin board not to exceed five (5) feet in height, or eight (8) feet in length, inclusive of supporting structure; and

(2) Two (2) wall signs placed flat against a building or designed as a part of an architectural feature not to exceed thirty-two (32) square feet per sign. Additional signs may be authorized by special review of the city council.

(3) Electronic Message Displays may be allowed provided they do not flash, scintillate, blink, show motion borders or traveling lights or display video. One (1) Electronic Message Display (EMD) as part of a free-standing monument sign or a wall sign may be permitted provided the EMD does not exceed 50% of the sign area for a free-standing sign or 10 square feet for a wall sign. An EMD may only be used in conjunction with an immediately adjacent wall sign or as part of a free standing sign and shall not be displayed on its own. An EMD wall sign must be placed near the primary public entrance. The maximum height of an EMD wall sign shall be 12 feet from the building wall grade. EMD wall signs shall not be placed less than two feet from the top of the wall it is installed on.

Section 4. That Section 27-708 of the Billings, Montana City Code be amended so that such section shall read as follows:

SEC. 27-708. Prohibited Signs and Sign Structures.

The following types of signs and sign structures are expressly prohibited in all districts, except as otherwise provided by this article.

- (1) *Animated and intensely lighted signs:* No signs shall be permitted which are animated by means of flashing, scintillating, blinking, or traveling lights or displaying video or any other means not providing constant illumination (unless specifically permitted in special sign districts). Public service information signs and other electronic message centers classified as "changing signs" are permitted. Electronic Message Displays may be allowed provided they do not flash, scintillate, blink, show motion borders or traveling lights or display video.
- (2) *Abandoned signs:* Such business signs that advertise an activity, business, product or service no longer conducted or available on the premises on which the sign is located.
- (3) *Parking of advertising vehicles prohibited:* No person shall park any vehicle or trailer on a public right-of-way or public property or on private property so that it is visible from the public right-of-way and which has attached thereto

or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises. This section is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettered on a motor vehicle, or company vehicle signs.

- (4) *Swinging signs*: Signs installed on an arm or spar, that is not, in addition, permanently fastened to an adjacent wall or upright pole. See section 27-709(i).
- (5) *Unclassified signs*: The following signs are also prohibited, which:
 - a. Bear or contain statements, words or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful;
 - b. Are painted on or attached to any fence or any wall which is not structurally a part of a building, except to identify a residence or residence structure by means of posting the name of the occupant or structure, and the street address;
 - c. Operate or employ ~~any stereopticon or motion picture projection or media in conjunction with any advertisements,~~ or have visible moving parts or any portion of which moves, or give the illusion of motion except as permitted in this article;
 - d. Emit audible sound, odor or visible matter; or
 - e. Signs which, by reason of their size, location, movement, content, coloring or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency or road equipment vehicle, or which hide from view any traffic or street sign or signal or device.

Section 5. COMPLIANCE FOR EXISTING ELECTRONIC MESSAGE DISPLAY SIGNS. Electronic Message Display Signs shall comply with the limitations and prohibitions in this ordinance that affect the operation and manner of display specifically Sections 27-705(c)5.a.iv; 27-705(c)5.d and 27-708(1). All existing Electronic Message Display Signs will comply with these specific sections on the effective date. All other adopted revisions may make existing Electronic Message Display Signs a legal nonconforming sign as specified in Section 27-711 of the City Sign Code.

Section 6. EFFECTIVE DATE. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

Section 7. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 8. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this _____ day of _____, 2007.

PASSED, ADOPTED and APPROVED on second reading this _____ day of _____, 2007.

CITY OF BILLINGS

By _____
Ron Tussing, Mayor

ATTEST:

By _____
Cari Martin, City Clerk

Zone Change #821 – Electronic Signs, Section 27-700, City Sign Code

Attachment B – Zone Change #821
Memo from Assistant City Attorney Bonnie Sutherland



CITY OF BILLINGS
CITY ATTORNEY'S OFFICE
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MEMORANDUM

TO: Nicole Cromwell
Zoning Coordinator/Planner II

FROM: Bonnie Sutherland
Assistant City Attorney

RE: Questions from Electronic Sign Ad Hoc Committee

DATE: January 25, 2007

The Electronic Sign Ad Hoc Committee requested legal review of the proposed electronic sign amendments that you forwarded. Of particular concern are: the legality of allowing "no notice" inspections to check brightness and whether the new definition of "flashing" could be enforced against existing e-signs. I reviewed the proposed language, researched the issue, compared your language with some other cities, and have the following advice.

The proposed "no notice" inspections of signs to determine brightness compliance are warranted if there is an immediate life or safety issue. That is not the case here. Requiring sign owners to allow inspection without notice as a condition of receiving a permit is unreasonably intrusive. An acceptable condition of the permit would be that city staff can inspect the sign at a reasonable time upon notice to the owners.

As an adjunct to the brightness issue, I noticed that the standards for maximum allowed brightness are not set. I understand that the Zoning Division receives complaints on the brightness of signs. You mentioned that most signs have an "automatic dimming feature." If the Committee is addressing brightness, then specific brightness levels must be set for enforcement to be possible.

Attachment B – Zone Change #821 - continued
Memo from Assistant City Attorney Bonnie Sutherland

The new definition of "flashing" is confusing to me. The repetitive display of a single image at intervals of less than 5 seconds is prohibited, but apparently the repetitive display of multiple different flashing images would be allowed. The definition should be broad enough to cover all possible situations and simple enough to be understandable. I can provide better feedback when I know exactly what types of "flashing" the Committee is trying to address.

I also suggest that you look to other cities for ideas. I provided you with an internet link for ordinances in the State of Washington, and I am sure there are many other examples available from other states. Our codifier, Municipal Code Publishing, has a website at Municode.com that allows you to search many ordinances across the country. Drafting clear legislation can be difficult, especially in an area such as signs that is subject to constitutional protection. Looking to other cities for ideas may save considerable time. For discussion purposes, I found some other "flashing" definitions that may assist you. They lack some clarity, but perhaps part of the language can be used. Examples:

Missoula, Montana – "Flashing sign" means any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or any externally mounted intermittent light source. Automatic changing signs such as public-service time, temperature and date signs or electronically controlled message centers are classed as "changing signs," not "flashing signs".

"Changing sign (automatic)" means a sign such as an electronically or electrically controlled public-service time, temperature and date sign, message center or readerboard, where different copy changes are shown at a frequency of more than once per hour."

Pawtucket, Rhode Island – "Flashing Sign - A sign whose illumination is not kept at constant intensity at all times when in use, and which exhibits changes in light, color, direction, message or animation. Illuminated signs which indicate the date, time and temperature will not be considered flashing signs." Section 410-84(b), Pawtucket, Rhode Island.

Great Falls, Montana – Prohibited Signs: "Signs that flash, spin, rotate or have similar motion-based devices. This includes signs with moving parts, flashing lights or any kind and/or sound, but does not prohibit permanent electronic message boards or permanent electronic changeable copy signs as long as they do not flash. The display on electronic message boards must be synchronized so that any flashing text must remain for a minimum of three seconds."

Attachment B – Zone Change #821 - continued
Memo from Assistant City Attorney Bonnie Sutherland

The definition of “electronic off-premise/billboard displays” excludes visual effects including animation, motion pictures, video, holograms, moving parts or the illusion of movement, etc. In contrast the definition of “flashing” would seem to allow motion borders (this term should also be defined) and flashing of images at intervals of 5 seconds or greater. Finally, the definition of “electronic message display” includes animated graphics and video, which seems to mean they are allowed. Off-premise billboards are prohibited from changing images more than once every 8 seconds, while other e-signs are allowed to every 5 seconds (see the “flashing” definition). The Committee should either make the animation/video/flashing prohibition or allowance consistent for both off-premise billboards and electronic message display signs or state the basis for treating the issue differently.

As the Committee considers changes to operational portions of e-signs, it should also articulate why the changes are being implemented, such as aesthetics, promoting traffic safety by limiting driver distractions, etc. Sign regulations that impact First Amendment speech must be content-neutral and narrowly tailored to serve a substantial governmental interest. The Committee’s reasons for the changes should be included in the amendments.

The issue of how to implement changes to minor operational aspects of e-signs, such as “flashing” or “brightness,” is one of first impression in Montana. Traditionally, when new regulations result in a taking of property, the existing allowed use is either classified as a legal nonconforming use or the use is allowed for a certain number of years and amortized out. The e-sign regulation is somewhat different. The sign itself continues to be allowed; just the allowed manner of displaying the message is changed. If the amendments only change the manner of the display to eliminate certain types of flashing, regulate brightness, etc., then the impact is minimal. The sign is still allowed, and the electronic display is still allowed. For most of the e-signs, the changes can be easily implemented with minor adjustments to the software programs that come with the e-sign.

Because this is an issue of limited legal precedent, I cannot give legal direction based on clear-cut law. However, minor changes to the allowed manner for displaying messages on e-signs should be legally acceptable without the necessity for amortization or other allowance. The proposed changes are content-neutral, allow the e-sign owners’ messages to remain unchanged, and allow the signs to remain intact. The e-sign owners should be given a reasonable amount of time to come into compliance. This conclusion applies only to e-signs that require simple adjustments to settings. If the changes impact an older sign that is incapable of reprogramming or prohibit a particular existing sign, then a separate legal review is warranted.

Attachment B – Zone Change #821 - continued
Memo from Assistant City Attorney Bonnie Sutherland

Finally, the definitions and regulations for flashing or animated signs are handled somewhat differently in the various districts, including the Interchange/Entryway Zoning District, Shiloh Corridor Overlay District, and others. I recommend that you review all of the sections of the Sign Code that deal with e-signs to ensure that definitions are consistent throughout.

Please let me know if I can be of further assistance.

c: Brent Brooks

**Attachment C – Zone Change #821
Code Comparison Chart**

Definition/Regulation	City Code	Med. Corridor & S. 27 th Street	County Code	Entryway	Montana Ave	North Shiloh	South Shiloh
Definition: Animated Sign	NONE	NONE	Any sign that uses movement or change or lighting to depict action or create a special effect or scene. (Article X, Section 2)	Any sign that uses movement or change or lighting to depict action or create a special effect or scene. {Section 27-1009(b)}	Any sign that uses movement or change of lighting to depict action or create a special effect or scene. (Section 27-733)	NONE	NONE
Proposed Definition:	Same as Entryway						
Definition: Changeable Copy Sign	NONE	NONE	A sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types: Manually Activated: Signs whose alphabetic, pictographic or symbolic information content can be changed or altered by manual means. Electrically Activated: Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two types: a. Fixed Message Electronic Signs: Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming. b. Computer controlled Variable Message Electronic Signs: Signs whose informational content can be changed or altered by means of computer-driven electronic impulses. (Article X, Section 2)	A sign whose informational content can be changed or altered by manual or electric, electro-mechanical or electronic means. Changeable signs include the following types: 1. Manually Activated: Signs whose alphabetic, pictographic or symbolic information content can be changed or altered by manual means. 2. Electrically Activated: Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Electrically activated signs include the following two (2) types: a. Fixed Message Electronic Signs: Signs whose basic informational content has been pre-programmed to include only certain types of information projections, such as time, temperature, predictable traffic conditions or other events subject to prior programming. b. Computer Controlled Variable Message Electronic Signs: Signs whose informational content can be changed or altered by means of computer-driven electronic impulses. {Section 27-1009(b)}	NONE	NONE	NONE
Proposed Definition:	NONE						

Attachment C – Zone Change #821 - continued
Code Comparison Chart

Definition/Regulation	City Code	Med. Corridor & S. 27 th Street	County Code	Entryway	Montana Ave	North Shiloh	South Shiloh
Definition: Electronic Message Display	NONE	NONE	See Definition above: Changeable Copy Sign	See Definition above: Changeable Copy Sign	NONE	<i>Electronically changeable message sign</i> means a computer programmable, microprocessor controlled electric display utilizing a means of illumination (light bulb, LED, fiber optics, etc) upon which alphanumeric characters, graphics, electronic animations, symbols and words can be displayed. Message and symbols that have the capability of alternating, traveling and animating along with any other of a variety of change, appear and disappear methods are allowed. This definition does not include video boards. (Section 27-1411)	<i>Electronically changeable message sign</i> means a computer programmable, microprocessor controlled electric display utilizing a means of illumination (light bulb, LED, fiber optics, etc) upon which alphanumeric characters, graphics, electronic animations, symbols and words can be displayed, such as a programmable display system. Message and symbols that have the capability of alternating, traveling and animating along with any other of a variety of change, appear and disappear methods are allowed. (Section 27-1438)
Proposed Definition: Electronic Message Display (EMD)	<i>Electronic Message Display:</i> A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. This includes animated graphics and video.	<i>Electronic Off-premise/Billboard Displays:</i> A sign which directs attention to a business, activity, products, commodity, service, entertainment or communication which is not conducted, sold, or offered at the premises on which the sign is located or which does not pertain to the premises upon which the sign is located. An Electronic Off-premise/Billboard Display is a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. An Electronic Off-premise/Billboard Display shall not include any other visual effects including but not limited to animation, motion pictures, video, holograms, moving parts or the illusion of movement and shall not include any audible sound.					

Attachment C – Zone Change #821 - continued
Code Comparison Chart

Definition/Regulation	City Code	Med. Corridor & S. 27 th Street	County Code	Entryway	Montana Ave	North Shiloh	South Shiloh
Definition Flashing Sign	NONE	NONE	NONE	NONE	<p><i>Lighting:</i> Flashing action (animation). Neon and incandescent lamps may flash in the following ways.</p> <p>(1) <i>Alternating.</i> One (1) section comes on as another goes off.</p> <p>(2) <i>Scintillating.</i> Random sections go on and off with part of the lighting on at all times.</p> <p>(3) <i>Chasing.</i> one (1) section comes on at a time and is followed by one section going off at a time. Part of the sign is on at all times.</p> <p>(4) <i>Sweeping (filling).</i> The lighting sections individually go on until all of the sections are on, then the entire group goes off and then the process is repeated.</p> <p>(5) <i>On-off action.</i> Not allowed. Lighting that goes all on and then all off.</p> <p>(Section 27-733)</p>	<p><i>Flashing sign</i> means an electrical sign or portion thereof which changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern.</p> <p>(Section 27-1411)</p>	<p><i>Flashing sign</i> means an electrical sign or portion thereof which changes light intensity in a brief, brilliant, or sudden and transient outburst of light causing a steady on and off, glittering, sparkling, or scintillating pattern.</p> <p>(Section 27-1438)</p>
Proposed Definition Flashing Sign	<p><i>Flashing:</i> The repetitive display of a single image (full or partial) interrupted by any other color, image or lack thereof at an interval of less than five (5) seconds. Motion borders fitting this definition are specifically included. (See Section 27-708(1) Prohibited Signs and Sign Structures)</p>						

Attachment C – Zone Change #821 - continued
Code Comparison Chart

Definition/Regulation	City Code	Med. Corridor & S. 27 th Street	County Code	Entryway	Montana Ave	North Shiloh	South Shiloh
Prohibited Signs	<p><i>Animated and intensely lighted signs</i>: No signs shall be permitted which are animated by means of flashing, scintillating, blinking or traveling lights or any other means not providing constant illumination (unless specifically permitted in special sign districts). <u>Public service information signs and other electronic message centers classified as "changing signs" are permitted.</u></p> <p>{Section 27-708(1)}</p> <p>Operate or employ any stereopticon or motion picture projection or media in conjunction with any advertisements, or have visible moving parts or any portion of which moves, or give the illusion of motion except as permitted in this article;</p> <p>{Section 27-708(5)c.}</p> <p>Signs which, by reason of their size, location, movement, content, coloring or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency or road equipment vehicle, or which hide from view any traffic or street sign or signal or device.</p> <p>{Section 27-708(5)e.}</p>	<p>Flashing neon signs (Med Corr. Section 27-706(d)5.e.)</p> <p>Flashing incandescent lamps (Med. Corr. Section 27-706(d)5.h.)</p> <p>Signs which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices; (Med. Corr. Section 27-706(d)5.n.)</p> <p>Any electronic reader board sign or animated sign that is otherwise prohibited by the City of Billings Sign Code. (Med. Corr. Section 27-706(d)5.q.)</p>	<p>Animated signs (Article X, Section 3.02)</p>	<p>Animated signs {Section 27-1009(c)}</p>	<p>Electronic message centers.</p> <p>Changeable copy signs, except for the use on a theater marquee.</p> <p>Intermittent or flashing lights.</p> <p>(Section 27-743)</p>	<p>Signs which by coloring, shape, wording or location resemble or conflict with traffic control signs or devices.</p> <p>Flashing signs.</p> <p>Video boards.</p> <p>(Section 27-1413)</p>	<p>Signs which by shape, wording or location resemble or conflict with traffic control signs or devices.</p> <p>Signs with special or auxiliary flashing lights which are not a part of the sign's message.</p> <p>(Section 27-1440)</p>

Attachment C – Zone Change #821 - continued
Code Comparison Chart

Definition/Regulation	City Code	Med. Corridor & S. 27 th Street	County Code	Entryway	Montana Ave	North Shiloh	South Shiloh
Allowed Signs	<u>Public service information signs and other electronic message centers classified as "changing signs" are permitted.</u> {Section 27-708(1)}	Any electronic reader board sign or animated sign that is not otherwise prohibited by the City Sign Code (Med. Corr. Section 27-706(d)5.q.)	Unless otherwise specified by this Article, any sign herein allowed may use manual or fixed message electronic sign. Computer controlled variable message electronic signs shall be permitted provided that the bottom of the message center is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall be permitted only in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI) and Heavy Industrial (HI). (Article X, Section 3.08)	Unless otherwise specified by this section, any sign herein allowed may use manual, or fixed message electronic sign. Computer controlled variable message electronic signs shall be permitted provided that the bottom of the reader board is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall not be permitted in the Entryway Light Commercial (ELC) and the Entryway Mixed Use (EMU) zones. {Section 27-1009(h)}	Flashing action (animation). Neon and incandescent lamps may flash in the following ways. Alternating. One section comes on as another goes off. Scintillating. Random sections go on and off with part of the lighting on at all times. Chasing. One section comes on at a time and is followed by one section going off at a time. Part of the sign is on at all times. Sweeping (filling). The lighting sections individually go on until all of the sections are on, then the entire group goes off and then the process is repeated. <u>On-off action--not allowed.</u> Lighting that goes all on and then all off. (Section 27-741(h)6.)	<i>Electronically changeable message sign.</i> Electronically changeable message signs shall be permitted in community commercial, highway commercial, controlled industrial, heavy industrial, entryway general commercial, and entryway light industrial zones in accordance with the standards of sections 27-1417 through 27-1423 and their definitions. {Section 27-1414(6)}	<i>Electronically changeable message sign.</i> Electronically changeable message signs shall be permitted in community commercial, highway commercial, controlled industrial, heavy industrial, entryway general commercial, and entryway light industrial zones in accordance with the standards of sections 27-1417 through 27-1423 and their definitions. {Section 27-1441(6)}

Attachment D – Zone Change #821 E-Sign Inventory

October 2006 updated January 2007	Inventory of Existing E-Signs &	Year installed	Zoning	Free standing sign	Total Sign	E-sign size	E-sign size	E-sign size	E-sign size	% of total
Street Address	Business Name		District	or Wall sign	Area (square feet)	(square feet)	(square feet)	(square feet)	(square feet)	sign area
1	2812 1st Ave N	unknown	CBD	Wall Sign	unknown	unknown	unknown	unknown	unknown	100%
2	2812 1st Ave N	unknown	CBD	Wall Sign	unknown	unknown	unknown	unknown	unknown	100%
3	3416 1st Ave North	2006	CC	Free standing sign	91 SF	32 SF	32 SF	32 SF	32 SF	35%
4	4024 1st Ave South	unknown	CI	Free standing sign	unknown	unknown	unknown	unknown	unknown	~20%
5	1105 4th Ave N	2005	CI	Free standing sign	156 sf	35 sf	35 sf	35 sf	35 sf	22%
6	1125 4th Ave N	2005	CI	Free standing sign	56 sf	24 sf	24 sf	24 sf	24 sf	43%
7	1st Ave N & Main St (309 6th Ave N)	2007	Public	Free standing sign	522 sf	189 sf	189 sf	189 sf	189 sf	36%
8	4th Ave N & Main St (309 6th Ave N)	2007	Public	Free standing sign	522 sf	189 sf	189 sf	189 sf	189 sf	36%
9	109 5th St West	unknown	CC	Projecting Sign	unknown	unknown	unknown	unknown	unknown	~35%
10	1307 12th St West	1999	CC	Free standing sign	162 sf	14 sf	14 sf	14 sf	14 sf	7%
11	1413 13th St West	2002	CC	Free standing sign	159 sf	39 sf	39 sf	39 sf	39 sf	24%
12	717 16th St West	2004	CC	Free standing sign	44 sf	12 sf	12 sf	12 sf	12 sf	27%
13	6 24th St West	2003	CC	Free standing sign	108 sf	48 sf	48 sf	48 sf	48 sf	44%
14	805 24th St West	2002	CC	Free standing sign	112 sf	12 sf	12 sf	12 sf	12 sf	11%
15	1111 24th St West	2005	CC	Free standing sign	130 sf	20 sf	20 sf	20 sf	20 sf	15%
16	111 S 24th St West	2004	CC	Wall Sign	52 sf	34 sf	34 sf	34 sf	34 sf	65%
17	324 S 24th St West	2002	CC	Free standing sign	173 sf	60 sf	60 sf	60 sf	60 sf	35%
18	611 N 27th St	2004	CC	Free standing sign	51 sf	15 sf	15 sf	15 sf	15 sf	29%
19	530 S 27th St	2006	S 27th St	Free standing sign	40 sf	24 sf	24 sf	24 sf	24 sf	60%
20	502 N 30th St	unknown	CBD	Free standing sign	unknown	unknown	unknown	unknown	unknown	~40%
21	3 Broadwater Ave	1991	Public	Wall Sign	92 sf	38 sf	38 sf	38 sf	38 sf	41%
22	1144 Broadwater Ave	2006	CC	Free standing sign	132 sf	32 sf	32 sf	32 sf	32 sf	24%
23	1425 Broadwater	1998	CC	Free standing sign	112 sf	18 sf	18 sf	18 sf	18 sf	16%
24	1918 Broadwater Ave	2003	RP	Free standing sign	32 sf	16 sf	16 sf	16 sf	16 sf	50%
25	1030 Central Ave	1991	CC	Country Market	100 sf	48 sf	48 sf	48 sf	48 sf	72%
26	1245 Central Ave	2005	CC	Free standing sign	72 sf	16 sf	16 sf	16 sf	16 sf	22%
27	2209 Central Ave	1995	CC	Free standing sign	128 sf	36 sf	36 sf	36 sf	36 sf	28%
28	2244 Central Ave	2004	CC	Free standing sign	175 sf	105 sf	105 sf	105 sf	105 sf	60%
29	245 Central Ave	1991	CC	County Market	112 sf	20 sf	20 sf	20 sf	20 sf	18%
30	2501 Central Ave	1997	CC	Free standing sign	100 sf	24 sf	24 sf	24 sf	24 sf	17%
31	3212 Central Ave	2005	CC	Free standing sign	52 sf	32 sf	32 sf	32 sf	32 sf	61%
32	1431 Country Manor Blvd	2006	CC	Free standing sign	56 sf	28 sf	28 sf	28 sf	28 sf	50%
33	625 Grand Ave	1998	CC	Free standing sign	65 sf	28 sf	28 sf	28 sf	28 sf	43%
34	526 Grand Ave	2005	CC	Free standing sign	36 sf	10 sf	10 sf	10 sf	10 sf	33%
35	1045 Grand Ave	2006	CC	Free standing sign	149 sf	26 sf	26 sf	26 sf	26 sf	17%
36	1212 Grand Ave	2003	CC	Free standing sign	78 sf	18 sf	18 sf	18 sf	18 sf	23%
37	1313 Grand Ave	2004	CC	Free standing sign	219 sf	24 sf	24 sf	24 sf	24 sf	11%
38	1444 Grand Ave	2004	CC	Free standing sign	104 sf	24 sf	24 sf	24 sf	24 sf	23%
39	1532 Grand Ave	1998	CC	Free standing sign	150 sf	60 sf	60 sf	60 sf	60 sf	40%
40	1744 Grand Ave	1998	CC	Free standing sign	88 sf	32 sf	32 sf	32 sf	32 sf	36%
41	1918 Grand Ave	2000	CC	Free standing sign	82 sf	32 sf	32 sf	32 sf	32 sf	30%
42	2401 Grand Ave	2005	CC	Free standing sign	159.5 sf	44 sf	44 sf	44 sf	44 sf	28%
43	2658 Grand Ave	1997	CC	Free standing sign	55 sf	20 sf	20 sf	20 sf	20 sf	28%
44	2955 Grand Ave	unknown	CC	Free standing sign	unknown	unknown	unknown	unknown	unknown	~35%
45	3925 Grand Ave	2006	CC	Free standing sign	121.5 sf	32 sf	32 sf	32 sf	32 sf	26%
46	2300 Grant Rd	2000	HC	Free standing sign	32 sf	6 sf	6 sf	6 sf	6 sf	19%
47	520 Hansen Lane	2004	HC	Free standing sign	195 sf	30 sf	30 sf	30 sf	30 sf	15%
48	1775 High Sierra Blvd	unknown	Public	Wall Sign	unknown	unknown	unknown	unknown	unknown	~50%
49	934 J & Highway 67 E	2006	HC	Free standing sign	55.75 sf	40 sf	40 sf	40 sf	40 sf	72%
50	2424 King Ave West	1992	CI	Free standing sign	175 sf	102 sf	102 sf	102 sf	102 sf	58%
51	2615 King Ave West	unknown	CI	Free standing sign	unknown	unknown	unknown	unknown	unknown	~30%
52	2675 King Ave West	2005	CI	Free standing sign	92 sf	44 sf	44 sf	44 sf	44 sf	48%
53	2851 King Ave West	2003	CI	Free standing sign	175 sf	27 sf	27 sf	27 sf	27 sf	15%
54	3025 King Ave West	2002	CC	Free standing sign	53 sf	21 sf	21 sf	21 sf	21 sf	26%
55	3141 King Ave West	1992	CC	Free standing sign	112.5 sf	29 sf	29 sf	29 sf	29 sf	26%
56	3150 King Ave West	2006	CI	Free standing sign	88 sf	20 sf	20 sf	20 sf	20 sf	23%
57	5516 Laurel Frontage Road	2004	CI	Free standing sign	88 sf	24 sf	24 sf	24 sf	24 sf	27%
58	251 Main St	2004	HC	Free standing sign	161.5 sf	42.5 sf	42.5 sf	42.5 sf	42.5 sf	26%
59	345 Main Street	2004	HC	Free standing sign	61 sf	16 sf	16 sf	16 sf	16 sf	26%
60	401 Main St	2004	HC	Free standing sign	152 sf (+sep)	30 sf	30 sf	30 sf	30 sf	16%
61	495 Main St	unknown	HC	Free standing sign	unknown	unknown	unknown	unknown	unknown	~35%
62	1214 Main St	unknown	HC	Free standing sign	unknown	unknown	unknown	unknown	unknown	~20%
63	1432 Main St	2006	HC	Free standing sign	156 sf	96 sf	96 sf	96 sf	96 sf	61%
64	1445 Main St	2004	HC	Free standing sign	126 sf	20 sf	20 sf	20 sf	20 sf	16%
65	1546 Main St	2004	HC	Free standing sign	100 sf	44 sf	44 sf	44 sf	44 sf	44%
66	2350 Main St	2006	CC	Free standing sign	150.5 sf	40 sf	40 sf	40 sf	40 sf	26%
67	1212 Mullowney Lane	1998	HC	Wall Sign	36 sf	36 sf	36 sf	36 sf	36 sf	100%
68	1223 Mullowney Lane	1994	HC	Free standing sign	223 sf	45 sf	45 sf	45 sf	45 sf	20%
69	2775 Old Hardin Rd	1985	EGC	Free standing sign	86 sf & 1106 sf	24 sf and 205 sf	24 sf and 205 sf	24 sf and 205 sf	24 sf and 205 sf	28% & 21%
70	2850 Old Hardin Rd	2000	EGC	Free standing sign	108 sf	22.5 sf	22.5 sf	22.5 sf	22.5 sf	22%
71	3800 Pierce Parkway	unknown	ELI	Free standing sign	unknown	unknown	unknown	unknown	unknown	~40%
72	2 Polly Drive	2001	Med Care	Free standing sign	71 sf	42 sf	42 sf	42 sf	42 sf	58%
73	2201 St. John's Ave	1998	Public	Free standing sign	143 sf	46 sf	46 sf	46 sf	46 sf	32%
74	4902 Southgate Dr	unknown	EGC	Free standing sign	unknown	unknown	unknown	unknown	unknown	~20%
75	3145 Sweetwater Dr	2006	R96	Free standing sign	40 sf	14 sf	14 sf	14 sf	14 sf	35%
76						38+ over 24 sf	24+ over 32 sf	17+ over 40 sf	8+ over 48 sf	20+ signs over 40% max
						50%+ of existing signs	32%+ of existing signs	22%+ of existing signs	10%+ of existing signs	26% of existing signs
						44+ signs over max size of 24 sf or max 40% or both	35+ signs over max size of 32 sf or max 40% or both	31+ signs over max size of 40 sf or max 40% or both	26+ signs over max size of 48 sf or max 40% or both	26% of existing signs
						58% of existing signs	46% of existing signs	41% of existing signs	34% of existing signs	

Attachment E – Zone Change #821

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Missoula Zoning Ordinance – Chapter 19.90

Sign Code

19.90.010 Short title.	19.90.100 Special signs: design review.
19.90.020 Purpose.	19.90.110 Sign design review board.
19.90.030 Definitions.	19.90.120 Board of adjustment: designated
19.90.040 Signs not requiring a permit.	19.90.130 Board of adjustment powers and duties
19.90.050 Signs prohibited.	19.90.140 Administration and enforcement
19.90.060 General signage allowance by district	19.90.150 Stricter provisions to govern.
19.90.070 Special sign allowances.	19.90.160 Violation: penalty.
19.90.080 Maintenance and removal	19.90.170 Severability.
19.90.090 Nonconforming signs.	

19.90.030 Definitions

2. "Animated sign" means any sign which includes action or motion other than barber poles, flashing signs or changing signs which are separately defined.

10. "Changeable-copy sign (manual)" means a sign on which copy is changed manually in the field, i.e., reader boards with changeable letters, changeable pictorial panels, or electronically displayed message centers where the message does not change more than once per hour.

11. "Changing sign (automatic)" means a sign such as an electronically or electrically controlled public-service time, temperature and date sign, message center or reader board, where different copy changes are shown at a frequency of more than once per hour.

18. "Flashing sign" means any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Automatic changing signs such as public-service time, temperature and date signs or electronically controlled message centers are classed as "changing signs," not "flashing signs."

19.90.050 Signs prohibited. This chapter is intended to be exclusionary and any sign not specifically listed as permitted shall be prohibited. The following signs are specifically prohibited in all zones:

A. Signs which resemble an official traffic sign or signal, and signs which resemble traffic signs because they predominately display the words "STOP," "GO SLOW," "CAUTION,"

"DANGER," "WARNING," or similar words which are commonly used by agencies of government and construction contractors to draw attention to traffic or roadway hazards;

B. Strings, lines or streamers of exposed light bulbs, except Christmas decorations;

C. Exposed light bulbs exceeding twelve watts;

D. Flashing, blinking or scintillating signs;

E. Animated signs;

F. Roof signs, except as outlined in Section 19.90.090;

G. Signs which are located so as to obstruct the view of traffic-control devices or automobiles at intersections or pedestrians at marked crosswalks. Additionally, no sign shall be erected in the shaded area (shown at right) formed at the street intersection and/or driveway access intersection

Attachment E – Zone Change #821 - continued

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Missoula – Sign Code – continued

with the street. Any material placed in these areas shall provide an unobstructed cross-visibility at a level between three (3) feet and six (6) feet above street surface elevation.

H. Signs which are written upon, temporarily or permanently placed upon or attached to a motor vehicle or trailer, which advertises the price of any product or service, indicate hours of business, or advertise special business events or sales. This restriction is intended to prohibit the use of an automobile or trailer for on-premises or off-premises advertising. This restriction shall not be construed to prohibit signs on vehicles which carry a firm name, telephone number, address of business, major enterprise, principal products or service; and this restriction shall not be construed to limit political signs mounted on vehicles.

I. Temporary (portable) changeable copy (change panel) signs, searchlights, banners, flags, pennants, streamers, spinners or other types of wind signs may be used to announce and advertise the grand opening of a new business or business under complete new ownership for a period not to exceed two weeks. Portable change copy signs shall not be located within the public right-of-way, within the area of a required parking space or within any driving lane, or within any area designated for landscaping on an approved site plan.

19.90.070 Special sign allowances.

F. Changeable Copy Sign.

Changeable-copy signs designed to convey a limited message other than the name of the business are permitted for certain types of public and commercial uses.

1. Commercial and Public Uses, generally. One changeable-copy sign per parcel may be incorporated into the signage of any business or businesses subject to the following:

- a. The changeable-copy portion of the sign must be contained within the border of the primary wall or pole sign permitted under other sections of this chapter,
- b. The changeable copy portion of the sign shall not exceed thirty-two (32) square feet or fifty (50) percent of the total area of the sign, whichever is greater, and shall be computed as part of the total sign size.
- c. Internal or indirect lighting is used which does not cause glare or illumination into the public right-of-way;

[d. Side glow fiber optic cable used to change color background behind lettering may change at a maximum of one time per hour: OPN 1/23/96]

G. Changing Sign (Automatic).

Signs designed to provide time and temperature information as a public service are permitted subject to all regulations for the district in which the signs are located and are limited to twenty-five watt lamps.

Attachment E – Zone Change #821 - continued

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Kalispell Zoning Ordinance – Chapter 27.24

Sign Code

27.24.010 Purpose

27.24.020 Scope

27.24.030 Signs Prohibited

27.24.040 Permits Required

27.24.050 Signs Not Requiring Permits

27.24.060 General Standards for all Signs

27.24.070 Sign Area Allowances

27.24.080 Regulations for Specific Categories of Signs

27.24.090 Permitted Signs in Zones R-1, R-2, R-3, and R-4

27.24.100 Permitted Signs in Zones R-5, RA-1, RA-2, RA-3, B-1, P-1, and PUD

27.24.101 Permitted Signs in Zone H-1

27.24.110 Permitted Signs in Zones B-2, B-3, B-4, B-5, I-1, and I-2

27.24.120 Construction Standards

27.24.130 Maintenance

27.24.140 Sign Permit

27.24.150 Non-Conforming Signs and Signs Without Permits

27.24.151 Exemption for Historic Signs

27.24.160 Violations

27.24.170 Enforcement and Remedies

27.24.180 Removal of Signs by the Administrator

27.24.190 Appeals

27.24.200 Variances

27.24.030: Signs Prohibited. The following types of signs are prohibited in all districts:

No permit shall be issued for the erection of any signs prohibited by this section.

(1). Abandoned Signs.

(2). Inflatable signs, searchlights, beacons or other gas filled or air filled figures. (except as allowed in Section 27.24.050(1)(c))

(3). Banners on public property or rights-of-way (moved for clarity), except as otherwise permitted by other city standards or policies.

(4). Signs imitating or resembling official traffic or government signs or signals.

(5). Snipe signs or signs attached to trees, telephone/electrical poles, public benches, streetlights, or placed on any public right-of-way.

(6). Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. (This does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business.)

(7). Roof Signs unless architecturally incorporated into the facade of the building on a parapet wall or similar extension of an exterior wall.

(8). Any temporary or portable signs except as otherwise permitted in Section 27.24.050(1).

(9). Mechanically animated and/or flashing signs. See also Section 27.24.060(1)

(10). Any temporary or portable sandwich board signs or other portable signs located on public sidewalks or in the public right-of-way.

Attachment E – Zone Change #821 - continued

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Kalispell – Sign Code – continued

27.24.060: General Standards for all Signs.

- (1). Signs shall not rotate, move, flash, change or blink, except if utilized by a government agency for public safety or information.
- (2). An electronic message board provided it displays time and temperature a minimum of every 30 seconds. The sign must be incorporated into the primary sign shall not comprise more than 25% of the primary sign area. The electronic message shall not change in increments of less than five seconds and shall not use flashing or blinking characters. The use of colors, which can be confused with traffic signs such as red or green, are prohibited.

27.24.070: Sign Area Allowances. The maximum sign area allowance for a particular property shall be calculated as per subsection (1) or (2) below unless otherwise specified in this Chapter. Sign area allowances shall only be applicable to developed properties, and shall include all conforming and nonconforming signage for which permits have been issued per Section 27.24.150.

(1). Building Frontage Length.

- (a). When building frontage is less than 200 feet, the maximum sign area for the property shall be equal to three square feet for each lineal foot of building frontage length.
- (b). When building frontage exceeds 200 feet, the maximum sign area shall be equal to 600 square feet plus one square foot for each additional lineal foot of frontage beyond 200 feet.

City of Bozeman Unified Development Ordinance – Chapter 18.52 & 18.80 Sign Code

18.52.030 Prohibited Signs

All signs not expressly permitted under this chapter, or exempt from regulation, are prohibited in the City. Such signs include, but are not limited to:

- A. Portable signs (except as allowed under Title 12, Chapter 22, BMC);
- B. Roof signs;
- C. Revolving signs;
- D. Beacons, spot lights;
- E. Flashing, blinking, or animated signs, electronic messaging signs except for time and temperature or incidental signs as defined in Chapter 18.80, BMC;
- F. Pennants, streamers, wind socks, pinwheels, or similar items;
- G. Stringed flags;
- H. Inflatable signs and tethered balloons (except as permitted per §18.52.040, BMC); and
- I. Signs located in public rights-of-way (except for those permitted in §18.52.050.C and §18.52.060.D.4, BMC).

18.80.1430 Incidental Sign

A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message, which is designed with the intent to be legible from a position off the zone lot on which the sign is located, shall be considered incidental.

Attachment E – Zone Change #821 - continued

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Great Falls Zoning Ordinance – Chapter 17.60

Sign Code

1. General provisions
2. Prohibited signs and signs exempt from permit
3. Temporary signs
4. On-Premise signs
5. Off-premise signs
6. Design/construction requirements
7. Permit, inspections and licenses
8. Enforcement

17.60.2.010 Prohibited signs and exceptions

The following signs are prohibited within the City of Great Falls:

- A. Signs located on public property, except light pole banners for community events and authorized Central Avenue banners. Sandwich boards are allowed on public property in the Central Business Core District only.
- B. Portable changeable-copy signs.
- C. Signs that flash, spin, rotate or have similar motion-based devices. This includes signs with moving parts, flashing lights of any kind and/or sound, but does not prohibit permanent electronic message boards or permanent electronic changeable copy signs as long as they do not flash. The display on electronic message boards must be synchronized so that any flashing text must remain for a minimum of three seconds.
- D. Light beams, holograms and rotating beacons or signs that simulate traffic signals or emergency response equipment or cause a traffic distraction.
- E. Roof signs which extend more than half way up the roof to the ridge line. (See Exhibit 60-1 page 20 of this chapter.)
- F. Signs advertising a product, service or business that are carried, worn or otherwise supported by a person or animal except during licensed parades and community events. This does not apply to uniforms and corporate wear.
- G. Signs on City trees, utility poles, street lights, traffic control boxes or other public property. This does not apply to official government signs.
- H. Vehicles used as on-premise or off-premise signs. Vehicles and trailers existing for the primary purpose of advertising are prohibited. Such vehicle-signs are not permitted in public rights-of-way, on public property or on private property where such objects are visible from the public right-of-way. This restriction is intended to prohibit the use of vehicles for the singular purpose of on-premise or off-premise advertising. This restriction shall not be construed to prohibit normal advertising on commercial vehicles, e.g. firm name, telephone number, business address, major enterprise, principal products or services. This restriction shall not be construed to limit political signs mounted on vehicles. Commercial transportation vehicles that are licensed, self-propelled, in compliance with State and City statute and/or ordinance requirements and are operating in the function for which they are intended are not subject to this prohibition.

Attachment E – Zone Change #821 - continued

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Boise, ID Municipal Code – Chapter 11-11

Sign Code

- 11-11-01 STATEMENT OF PURPOSE
- 11-11-02 DEFINITIONS FOR SIGNS
- 11-11-03 PROCEDURES
- 11-11-04 SIGNS FOR WHICH A PERMIT IS NOT REQUIRED
- 11-11-05 CLASSIFICATION AND STATUS OF EXISTING SIGNS
- 11-11-06 PROHIBITED SIGNS
- 11-11-07 GENERAL PROVISIONS AND REQUIREMENTS
- 11-11-08 REGULATION OF SIGN TYPES
- 11-11-09 SIGNS PERMITTED IN ZONING DISTRICTS
- 11-11-10 ADMINISTRATION
- 11-11-11 APPEALS
- 11-11-12 ENFORCEMENT
- 11-11-13 LIABILITY, CONFLICT, SEVERABILITY AND VALIDITY

Section 11-11-02 Definitions for Signs

The following definitions, in addition to those in Section 11-01-03.1, are set forth for the purpose of further defining signs.

Animated Sign:

Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Changeable Copy Panel (Reader Board):

Manual (Reader board) - A sign on which copy is changed manually.

Automatic (Electric) - A sign on which copy changes automatically.

Section 11-11-06 Prohibited Signs

The following types of signs are prohibited in all districts:

A. Miscellaneous Signs and Posters: Signs or posters which are visible from a public way and are tacked, pasted, or otherwise affixed to or upon the walls of buildings, barns, sheds, or upon trees, poles (including, but, not limited to power poles), posts, fences, bridges, or other structures.

B. Public Area Signs: Except as provided in 11-11-08.J (Portable Signs in the C-5 District), signs placed on any street right-of-way, curb, sidewalk, post, pole, electroller, hydrant, bridge or tree, except official public notices posted by a public officer.

C. Banners, pennants, portable signs, strings of lights, ribbons, streamers, spinners, twirlers or propellers, balloons, bubble machines and similar devices of a carnival nature except as may be permitted by section 11-11-04 and 11-11-08 of this sign ordinance.

D. Signs which purport to be, or are, an imitation of, or resemble an official traffic sign or signal, or which bear the words "stop", "caution", "danger", "warning", or similar words.

E. Signs which, by reason of their size, location, movement, content, coloring or manner of illumination may be confused with or construed as a traffic control sign, signal, or device, or the light of an emergency or road equipment vehicle; or which obstruct the visibility of any traffic or street sign or signal devise.

F. Signs which emit any sound, odor or visible matter.

G. Visible angle iron frames or structure to support projecting signs.

Attachment E – Zone Change #821 - continued

E-sign Regulations from Missoula, Kalispell, Bozeman, Great Falls, MT & Boise, ID

City of Boise, ID - Sign Code - continued

H. Abandoned signs. See Section 11-11-07.A.

I. Roof sign.

J. Strobe light.

K. Any sort of sign used to advertise or display any visually communicated message by letter or by picture, of any kind, on any seating bench, or in direct connection with any bench unless authorized by the regional public transportation system authority as permitted from the Planning Director.

L. Any sign not expressly exempted or permitted by this Code shall be prohibited.

(6514, Amended, 10/31/2006; 6513, Amended, 10/31/2006; 5821, Amended, 10/28/1997; 5691, Amended, 12/27/1995; 5586, Amended, 11/15/1994)

Section 11-11-07 General Provisions and Requirements

The following requirements shall apply to signs in all zoning districts:

D. Signs Adjacent to Residentially Zoned Areas: Any sign or structure located on a lot which is adjacent to a residentially zoned lot shall be set back so as to meet the side, rear and front yard setback requirements of said adjoining residential district if such residential setback requirements exceed those of the commercial district. In any event, no sign surface or area facing the side or rear lot line of an abutting residentially zoned lot shall be located within fifty feet (50') of such side or rear lot line. Flashing and/or

animated signs shall be prohibited within one hundred feet (100') of any residentially zoned property. Distance shall refer to the linear measurement in either direction on the street to which the sign faces only. No sign shall be designed or located such that more than one-half (1/2) foot-candle of lightfall occurs at ground level at the property line of residentially zoned property.

J. Animation:

1. Animation is prohibited on all signs in the R-1, R-2, R-3, L-O, R-O, T-1 and U zoning districts.
2. Within the C-1 zone, animation is allowed for a maximum of 10% of sign background area. Signs may not revolve.
3. Within the C-2, C-3, C-4, C-5, M-1 and M-2 zones, animation is allowed for a maximum of 20% of the sign background area. Signs may revolve.
4. Direct light sources shall not exceed 40 watts or 60 milliamps. Flashing and or animated signs shall be prohibited within one hundred feet (100') of any residentially zoned property.

Attachment F– Zone Change #821

Letters and Petitions received concerning E-sign Code after May 31, 2007

Theresa M. Keaveny
2005 Clark Avenue Billings, MT 59102

July 30, 2007

To: Billings City Council

RE: Proposed electronic sign ordinances

Dear Mayor Tussing and Members of the Billings City Council,

I appreciate the efforts of the Electronic Sign Ad-hoc Committee, and the staff, in preparing recommendations on billboard electronic sign displays for the City Sign Code. However, I encourage you to amend the proposed electronic sign ordinances before proceeding. Suggested amendments are to:

1. Reduce the size allowed for electronic signs. One suggestion is to limit the electronic message to 40 percent of the sign size, and not to exceed 24 sq. ft.
2. Address the issue of the distance of electronic signs from residential areas. Consider a 300 foot buffer. The committee's recommendations are silent on this topic, which allows for aesthetically poor distractions that may infringe on peoples' homes.
3. Increase the time between sign displays from six seconds to eight seconds, thereby helping to avoid a blinking effect that can cause an annoyance and/or a safety hazard. I understand that the original proposal did call for an eight second interval.
4. Consider requiring landscaping and other means to blend signs into their surroundings, to reduce their impact and make them more aesthetically appealing.

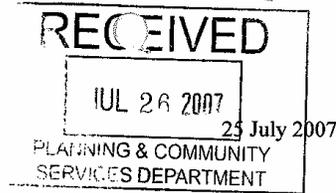
The ordinances should set a workable framework based on a vision for how we want Billings to grow and develop. As proposed, however, the ordinances are a missed opportunity to promote an image of Billings as "the magic city."

Finally, the composition of the committee was quite unbalanced. By including three people from sign companies, three from businesses with signs, and only two others from the general public, the committee was limited in its ability to fashion proposals that represent a cross section of Billings' interests. While Council members Ronquillo and Brewster and two city staff members were also voting members of the committee, it is unusual to see such a skewed committee. Moreover, it isn't necessarily in the public's interest for city staff members to be voting members of a committee.

Thank you for considering my comments.

Sincerely,

Theresa M. Keaveny



Dear Nicole,

I am unable to attend the Council work session as I will be with my children at our church camp at Lucock Park. I know that the sign industry will be at this work session in full force. Although they seem to be overpowering, remember that they represent a small portion of the community with a very specific and special interest in mind. The dialog so far has been very one sided (special interest). The public really hasn't weighed in either by lack of awareness or complacency.

I was asked to be one of the representatives of the community of Billings on this committee. I realize now that my lack of experience hindered me. I should have tried harder to get more citizens involved with this issue and communicate more with you and Councilmembers Jim Ronquillo and Larry Brewster. I must say that it was a bit intimidating to participate on a committee with such adversity. As you know, the makeup of the committee was heavily one-sided towards the sign industry. At some meetings, it was all I could do to get enough courage to show up. Again, I always appreciated your calming presence there. Still, most of my comments were washed over by some of the other committee members. Other than you, Nicole, these committee members do not have experience with urban planning. Have they studied planned communities? Have they heard of Frederick Law Olmsted, Ian McHarg or Kevin Lynch or what they contributed to the understanding of landscape and planning? What do they know of issues related to health, safety and welfare? Yet many of them, the sign representatives, shape the image of our city with their signs and have a strong impact in the design of our streetscape. The only control the city has over them is the sign code. I understand the need to have the sign industry having an input into these decisions but they shouldn't be in total control of the policy that governs them.

I just returned from a road trip to Nebraska and was again shocked at how many new signs have been added to several communities and how they have been transformed, not for the better. I haven't yet heard one person claim, "What a beautiful electronic sign". (Note: one electronic sign was advertising real estate, with pictures of properties being flashed on the sign. I'm wondering what some of them will show during the 2008 election.) These electronic signs in these small communities really reflect a lack of sophistication or an overall lack of an intelligent plan. Billings should reflect something more, such as an appreciation of our natural features, views and an attractive streetscape. Signage should not interfere or override views of the Rims, mountains or river.

These signs by their very nature are distracting. If we are going to allow them in our community, there should be limitations on the size to alleviate some of their distraction. The sign industry will argue freedom of speech. What about our freedom? I can turn off my television at home but I cannot do anything about these huge signs illuminating in front of me on the street. They are very difficult to ignore.

If the decision is to allow these types of signs in, they shouldn't be allowed to dominate our environment but participate in the built environment by not overpowering or flashing. I am asking the council to ask the planning staff to limit these signs to 40 % of the primary sign with a 24 sq.ft. maximum which is more than adequate for property owners to communicate their message. (The controversial electronic sign at Lee's Casino on 27th Street is 24 sq. ft.; the Dairy Queen sign on Grand is 26 sq. ft. They are both very large signs. With the proposed ordinance, the electronic portion could be a 70 sq.ft sign on a 175 sq.ft. static face on arterials such as Grand,

Main, and Broadwater Ave. Prestige Toyota on Grand has a 60 sq.ft. electronic sign.) Keep in mind that the premise of these signs is that they change messages, therefore they should be smaller than the standard manual reader board. 24 sq.ft is more than enough area to convey variable messages. These signs should also be limited in height and kept at least 200 ft. away from a residential zone.

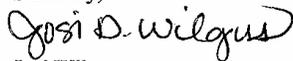
As I participated on this committee and took a look at the sign code, it became very evident that the overall sign code has many problems and should be changed. I know that you heard me state this several times. Under current code, property owners gain 3 sq.ft per 1 ft. of linear street frontage of property which accumulates very fast. Current code limits one freestanding sign to 175 sq.ft. and 30' high. This is an enormous size and height for just one sign. Dennis Harriman admitted that 175 sq.ft. was originally supposed to include the total of all signs on the property. This mistake should be corrected and the height of the signs should be brought down to a more reasonable height.

When I first came to town in 1994, I attended a public meeting pertaining to signs along Grand Avenue. I can only describe the attendance of the sign industry as a bunch of bullies. Honestly, it was ugly. They allowed no opposing arguments to theirs and degraded the planning staff and anyone else with a different opinion to theirs. It was a total embarrassment to have that kind of behavior take over a public meeting. I hope that this will not be the case on the 30th.

I am encouraging the council members to strive for more restrictions on the use of these signs. This is a real opportunity for positive change in the appearance of our community which is needed for growth and to attract new businesses. The primary goals and objectives of the 2003 Growth Policy states under Aesthetics, Issue 3, "Urban interstate corridors throughout the County are unattractive." The objective states to "Improve signage standards".

Thanks, Nicole, for coming and speaking at the Montana Conservation Voters meeting last week. I am not a member of the Montana Conservation Voters but was asked to provide information about the Ad-Hoc Committee. I was encouraged by their interest. I have written similar letters to the council members.

Sincerely,



Josi Wilgus
Member of the Electronic Signs Ad-Hoc Committee
Community Representative
2010 Virginia Lane
Billings, MT 59102
406-259-0290 wilgus5@bresnan.net

RECEIVED

JUL 27 2007

July 25, 2007

Mayor

Dear Mayor Tussing,

How true it is! "A PICTURE IS WORTH A THOUSAND WORDS".

Another extremely important truism: **THE MOST VALUABLE AND MOST EFFECTIVE FORM OF ADVERTISING THAT A BUSINESS CAN HAVE IS ITS BUSINESS SIGN.**

We are writing to ask your very careful consideration and perception regarding the proposed revisions to the sign code, especially as they pertain to the new electronic message displays.

We are extremely concerned (and disappointed) with what we consider to be some excessive and even unnecessary proposed restrictions on this wonderful new technology that is finally becoming affordable to small businesses like ourselves.

We have read opinions regarding traffic safety because of alleged distractions, but have not seen any statistics in this regard, except for a recent Pennsylvania study reported in the Billings Gazette that found no differences in accident rates because of electronic billboards. We also have read comments referring to Las Vegas and its huge video billboards. That just might be a good source for traffic statistics.

The first proposed revision we question is the limitation to 40% of the total display, and only in conjunction with an immediately adjacent permanent graphic sign. WHY?

We foresee the logical sign of the future as an electronic display that stands by itself. It can easily display a company logo along with pictures or messages. It surely would be prettier than faded, backlit plastic and metal, (often with a couple fluorescent tubes burned out.)

We also ask you to question the desire to prohibit movement in the displays. As we drive around some of our commercial areas, we are impressed with some of the clever and artistic displays that we have seen, including a cute little bouncing puppy. And NEVER, have we considered any of the motion to be distracting to our driving. There is far more attraction to traffic at hand. (Drivers with cell phones, on the other hand.....)

Moving boarders around messages, fading pictures, traveling words: these are all very useful methods of making a sign prettier and un-boring. We fondly remember the old movie theaters with the traveling lights on their big signs out front. (Did they cause accidents??) Without valid statistics regarding their effects on traffic, we wonder if this proposed restriction might be based on opinion and preference.

We are especially concerned about some vocal people that we have become aware of who seem to be putting their own personal tastes ahead of the livelihoods of small businesses and employees. Our signs are lifeblood for the success of our businesses, and this new technology goes a long way in helping the small businesses compete with the big box stores.

We ask you.....no.....we BEG you, to please use your best logic when considering these proposed changes that only handcuff small businesses that are doing their best in a very competitive environment to attract customers to the valuable services that they are offering to our community.

We eagerly anticipate our city to be moving forward into the 21st century with exciting new technology, a merchant friendly environment, and a vibrant economy.

Sincerely,



Rich and Bev Hageman
Dairy Queen Operators

p.s. How better could we show a potential customer a slice of our new blizzard cake??

Tussing, Ron

From: Paul Whiting [paulwhiting@bresnan.net]
Sent: Sunday, July 29, 2007 6:11 PM
To: Tussing, Ron; Gaghen, Peggie; Ronquillo, Jim; Stevens, Joy; Brewster, Larry; Veis, Shoots; Ruegamer, Vince; Boyer, Nancy; Ulledalen, Ed; Clark, Richard; Jones, Donald
Subject: the proposed electronic sign ordinance

I would like to address the proposed ordinance regulating electronic message signs, recently developed by the Ad Hoc Electronic Message Sign Committee.

I question the validity of the ordinance, for two main reasons, the membership of the committee and the nature of the committee's charge.

The make-up of the committee was, in my view, weighted in favor of sign companies and businesses using these signs. There were six of these individuals and only two representing the community at large. Other members included city council members, planning staff and a representative from School District 2. Starting in December of 2005, I had contacted the mayor and three city council members expressing concern about the proliferation of these signs and was told a committee was being formed. I didn't hear anything further until the fall of 2006 when I found out in a chance conversation with a former council member that the committee had been put together and had been meeting since August! Furthermore, the District 2 representative apparently had never attended and that chair remained empty.

I did attend one meeting and spoke during the public committee period. I expressed my view, that I would just as soon see none of these signs but I was told the committee had not been charged with whether or not they were allowed, but only charged to regulate them. My question is, why did the fundamental question of whether they were allowed not get addressed? Here's how the ordinance reads:

Sec. 27-708. Prohibited Signs and Sign Structures

The following types of signs and sign structures are expressly prohibited in all districts, except as otherwise provided by this article.

(1) Animated and intensely lighted signs: No signs shall be permitted which are animated by means of flashing, scintillating, blinking or traveling lights or any other means not providing constant illumination (unless specifically permitted in special sign districts). Public service information signs and other electronic message centers classified as "changing signs" are permitted.

The last sentence seems to negate the first part of the ordinance. It is my understanding that this was added at some later date. Why was it added? And why did this sentence become the governing statement rather than the first part? Why wasn't the first part of the ordinance honored?

These questions should have been addressed when the first permit for one of these signs was granted, rather than wait until about a hundred have been erected.

Another concern I have is that video boards will be allowed in the Shiloh area just off the Interstate.

7/30/2007

Many citizens worked long hours to assure that visitors to Billings would gain a favorable impression of our city as they entered. Video boards would not provide the image of the city we would like. Why are they allowed here and not elsewhere? Shouldn't the entry standards be stricter? This defies logic.

This is not a free speech issue. If you were to rent a sound truck, would you be allowed to go up and down our streets at 2 am making an announcement on its sound system? Of course not, it disturbs the peace. Communities have a right to regulate themselves. Would your freedom of speech be threatened? Again, the answer is clearly no. Similarly with signage, communities have a right to regulate themselves, and courts have long upheld that right and do not consider such action to violate freedom of speech.

In conclusion, for some reason unknown to me, whenever other cities are mentioned by way of setting a higher standard, there is resentment to that comparison. Some residents respond, "Well, we're Billings." What does that mean? Don't we deserve a city as attractive as others?

How to proceed to now? I'm suggesting all permits for these signs now pending be frozen and that a moratorium constructing new ones be established until a new committee is formed, one that ascertains the intent of the original ordinance and one that truly represents the entire community. It may be that the existing signs will be non-conforming.

7/30/2007

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

Petition summary and background	A committee working on rules governing electronic signs will present recommendations to the City Council in late July. The recommended additions to the city's sign code would ban flashing and blinking signs and video, set limits on electronic message displays and establish guidelines for how bright signs can be. The rules would also ban the use of video, animation, or illusion of movement. Existing electronic signs would be grandfathered in only in terms of size. The video options that came with the sign purchase will not be grandfathered in. Existing signs with video would have the video portion banned if the new code is adopted.
Action petitioned for	We, the undersigned, are concerned citizens and business owners who urge our leaders to act now to allow business the FREEDOM to use modern animation and video technology to advertise products, services and local events on electronic signs.

Printed Name	Signature	Address	Phone	Date
Ciulla Randall	<i>Ciulla Randall</i>	Concert Ln 59105	245-9452	7-25-07
SUS NACE	<i>Sus Nace</i>	59101		7-25-07
Samuel K. Post	<i>Samuel K Post</i>	301 Burlington ^{Billings} 59104	245-6772	7-26-07
DAVID L. ATKINSON	<i>David Atkinson</i>	825 Botsworld 59105	252-1637	7-27-07
Judy Baker	<i>Judy Baker</i>	1202 W 24 5901	245-3183	7-27-07
Richard Preston	<i>Richard Preston</i>	602 Custer 59101	254-2151	7-30-07
Jemie Mathis	<i>Jemie Mathis</i>	2224 HURST 59148	601-9121	7-30-07
Tom Birch	<i>Tom Birch</i>	2119 Concord Mall Ln TN.	245-5373	7-30-07

Allow business to use modern animation and video technology to advertise products, services and events.

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Printed Name	Signature	Address	Phone	Date
TOD FEARIS	[Signature]	2090 Hole Circle	406-652-7550	7/20/07
Angie Morris	[Signature]	2539 Gaskin Ave	406-652-2079	7/20/07
George L. Simon	[Signature]	431 Cur R	402-257-7531	7/24/07
Debbie Mitchell	[Signature]	2143 Fair Park Dr.	406-860-3543	7/20/07
Bob Bakko	[Signature]	1511 Carlton Blvd	406-252-6849	7/20/07
Bill Keller	[Signature]	Box 70 Quate Road Blount Co, AL	406-556-4259	7/20/07
Nebbie Holmes	[Signature]	3351 Duck Creek Rd	406-366-2179	7/20/07
Susie Bova	[Signature]	1511 Barton Blvd	406-252-6849	7/20/07
Lloyd Conant	[Signature]	6-Queen Victoria	406-855-4033	7/22/07
Connie Green	[Signature]	236 Parkland Dr.	406-697-9930	7/22/07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
LAT BEIN	<i>[Signature]</i>	311 10 th St W Billings	856-0600	7/22/07
Ronald Hooper	<i>[Signature]</i>	2417 Creste Dring	2591030	7/22/07
Julie Laher	<i>[Signature]</i>	3015 Beech Ave Bldg	672-2310	7/22/07
Magnum Day	<i>[Signature]</i>	4612 Mitchell	690-2421	7/22/07
Katy Snek V	<i>[Signature]</i>	910 th Broadwater Ave	855-1518	7/22/07
Nancy White	<i>[Signature]</i>	4520 Old Hardin Pl Twp	860-4081	7/22/07
LAT HILL	<i>[Signature]</i>	1550 E. W. Montgomery	531 2689	7/23/07
Swanson, Justin D	<i>[Signature]</i>	818 S. 29 th St	598-0694	7/23/07
Rebecca White	<i>[Signature]</i>	104 W. 2 nd B	250-0262	7/24/07

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Printed Name	Signature	Address	Phone	Date
AUST DINE	<i>[Signature]</i>	1722 Wyming	697-3794	7-20
Sally Ness	<i>[Signature]</i>	4908 Dewbed	598-1449	7-28
TERRY MULLINS	<i>[Signature]</i>	507 S MILLBURN ST	259-2632	7-20
JACIE R BARRITT	<i>[Signature]</i>	238 1/2 Mueas	855-2186	7-30
TESS FLETCHER	<i>[Signature]</i>	631 Terry Ave	677-3690	7-30
Toshua Thomas	<i>[Signature]</i>	840 Terry Ave	806-4374	7-30
Dannd Vester	<i>[Signature]</i>	1820 Golden Ave	855-8801	7-30
Dyana Lemmer	<i>[Signature]</i>	43 Jackson	(410) 861-6466	7-30
Allice Davis	<i>[Signature]</i>	4124 Morgan	256-2133	7-30
Kim Speas	<i>[Signature]</i>	1622 Virginia Ln	254-2852	7-30

Allow business to use modern animation and video technology to advertise products, services and events. 1

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

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Action petitioned for

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Printed Name	Signature	Address	Phone	Date
Scott D. Henberg				7/20
Matt Andre		3827 Sesselloo	416-651-4225	7/20
Douglas M. Johnson		18 Bermania		7/20
Matt Kinade		2822 Niles	404.598-8086	7/20
THOMAS GABER		4305 HAMMOCK LN.	416-670-0998	7/20
ANN ZORN		2829 Belvedere	406-653-7190	7/21
MARIEA REINKF		1636 Pondrunner		7/20
BOBIE RONE		112 5th 33rd St	406-598-0274	7/20
Jim Kealey		1116 29th St West	406-564-7118	7/20
Naer Smith				7/21

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Heather Smith	<i>Heather Smith</i>		719 231 0908	
Bruce Restad	<i>Bruce Restad</i>	2352 Keeble Dr	656-4181	22 July 07
Lynne Restad	<i>Lynne Restad</i>	3025 Edison Blvd	810-26047	7-22-07
Charles W Moore	<i>Charles W Moore</i>	1283 Sleg Country Dr	571-5641	7-23-07
Ann's Berg	<i>Ann's Berg</i>	6 McArthur Dr	598-2236	7-23-07
Darin Bird	<i>Darin Bird</i>	3800 Olympic Blvd #2204	651-9964	7-24-07
Misty Thompson	<i>Misty Thompson</i>	10810 N 14th St	852-03106	7-26-07
Rita Ponce	<i>Rita Ponce</i>	112 S. 33rd St.	6090-9844	7/27/07
Brian Braun	<i>Brian Braun</i>	59 Avenue View Dr	598-2770	7/29/07
Katie Cravston	<i>Katie Cravston</i>	3323 Victory Dr	698-0454	7-30-07
Cindy Oberg	<i>Cindy Oberg</i>	6900 Shookay Bluff Huntly	672-1675	7-30-07

Allow business to use modern animation and video technology to advertise products, services and events.

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Printed Name	Signature	Address	Phone	Date
Dean Clark	<i>Dean Clark</i>	5104 Collier Rd.	402-422-4114	7/20/07
Lanier Peterson	<i>Lanier Peterson</i>	38 Foster Lane	(406) 245-6764	7/20/07
Tony Onidoli	<i>Tony Onidoli</i>	41620 Clifview Circle	406-692-2568	7-20-07
Ken Emmerich	<i>Ken Emmerich</i>	248 So. Saffron Ave	406-656-9644	7/20/07
Brandon Miller	<i>Brandon Miller</i>	220 Nort 29th St	406-861-8832	7/20/07
Robert Salinas	<i>Robert Salinas</i>	2024 Allison	406-697-4123	7-20-07
Tina Mackay	<i>Tina Mackay</i>	421 14th St. W	406-256-5830	7/20/07
Chris Manning	<i>Chris Manning</i>	3229 Fairmount	406-652-1126	7/20/07
Dane Smith	<i>Dane Smith</i>	805 Aurora	406-861-0026	7-20-07

Allow business to use modern animation and video technology to advertise products, services and events.

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

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Printed Name	Signature	Address	Phone	Date
Rayne St. Lewis	<i>[Signature]</i>	1030 Dogbite Pass	406-254-9468	7/26/07
Kerry Baker	<i>[Signature]</i>	1071 Kay Dr	406-860-0944	7/24/07
Terry Matril	<i>[Signature]</i>	3505 Hagsford Dr	406-855-9443	7/27/07
Carol Schawing	<i>[Signature]</i>	846 Starlight Cir	406-690-0094	7/27/07
Tammie Classen	<i>[Signature]</i>	1933 Canary Ave	406-698-1918	7/27/07
<i>[Signature]</i>	<i>[Signature]</i>	643 AVE 3	406-671-1346	7/27/07
<i>[Signature]</i>	<i>[Signature]</i>	2811 Missouri	406-860-3217	7/27/07
<i>[Signature]</i>	<i>[Signature]</i>	2811 Pacer	406-238-7850	7/27/07
<i>[Signature]</i>	<i>[Signature]</i>	608 Crawford Dr	406-238-7866	7/27/07
<i>[Signature]</i>	<i>[Signature]</i>	1745 Mariposa	406-238-7855	7/30/07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Bud Bert	<i>Bud Bert</i>	912 D'ym	252-5180	7/30
Nichole Stidham	<i>Nichole S.</i>	1030 Dogate	254-2468	
Tom Hanon	<i>Tom Hanon</i>	1662 Augsburg	245-7126	7/30
Sim Orley	<i>Sim Orley</i>	1909 Bonhairs	248-3705	7/30
WED KLEIN	<i>W Klein</i>	2085 S H ANDREAS	861-2725	7/30
Bon Larson	<i>Bon Larson</i>	2003 mican	323-2800	7-30

Allow business to use modern animation and video technology to advertise products, services and events.

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

Petition Statement and Background

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Printed Name	Signature	Address	Phone	Date
Charles Helmsen	<i>Charles Helmsen</i>	1400 Olympic Blvd	406) 655-8122	7-26
Rick Vance	<i>Rick Vance</i>	1707 E Wynn Road	406) 208-6462	7-26
Nelody Houston	<i>Nelody Houston</i>	6 MacArthur	406-258-3618	7-26
Michelle Burrows	<i>Michelle Burrows</i>	717 Remrock	406-696-4121	7-26
Joseph Smirgoff	<i>Joseph Smirgoff</i>	3109 15th Ave N	406 259 2109	7-26
Brandon Krivec	<i>Brandon Krivec</i>	8455 Black Rock Dr.	406) 655-0510	7-26
Angela Cotti	<i>Angela Cotti</i>	412 S 25th	(406) 248-3124	7-26
Royal Robertson	<i>Royal Robertson</i>	52 Prina Gardens	245-10078	7-26
Justin Potter	<i>Justin Potter</i>	819 Heights Ln	697-9545	7-26
Josh Moran	<i>Josh Moran</i>	303 Ashcroft	591-5480	7-26

Allow business to use modern animation and video technology to advertise products, services and events. 1

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

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Printed Name	Signature	Address	Phone	Date
Rebecca Ostrum		4236 JACKSON AVE	406 671-0177	7/19
Wes Martin		342 PROSPECTORS LN.	406-678-9163	7-19
Angela Wilson		4680 CREEK VIEW CR	406-660-7053	7/19
John Smucker		203 3rd St N	406-348-2593	7/19
Sal Hankley		2607 HOVERN	406-259-8785	7/19
Kirk Lasater		4188 MORGAN	406-259-7116	7/19
Dana Peters		1885 MARCO	406-245-7217	7/19
Natasha Carson		4620 City View Cir	406-656-7653	7/19
Larry Davis		850 LAKE ELM	406-670-4063	

Allow business to use modern animation and video technology to advertise products, services and events.

Clark H.

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

Petition summary and background	A committee working on rules governing electronic signs will present recommendations to the City Council in late July. The recommended additions to the city's sign code would ban flashing and blinking signs and video, set limits on electronic message displays and establish guidelines for how bright signs can be. The rules would also ban the use of video, animation, or illusion of movement. Existing electronic signs would be grandfathered in only in terms of size. The video options that came with the sign purchase will not be grandfathered in. Existing signs with video would have the video portion banned if the new code is adopted.
Action petitioned for	We, the undersigned, are concerned citizens and business owners who urge our leaders to act now to allow business the FREEDOM to use modern animation and video technology to advertise products, services and local events on electronic signs.

Printed Name	Signature	Address	Phone	Date
Karen K McLaughlin	<i>[Signature]</i>	Keel in mt - 1335 Main	656-5594	7-20-07
Denise Schneider	<i>[Signature]</i>	381 Montclair Dr.	656-3320	7-20-07
Bill Fenlow	<i>[Signature]</i>	90 Ravine St W	601-2194	7-20-07
Karen Klumpp	<i>[Signature]</i>	1032 Lake Ethna	259-2677	7-20-07
Todd Archer	<i>[Signature]</i>	923 Yellowstone Rnd	598-0833	
Dee Seafur	<i>[Signature]</i>	30 Bmg St. North	208-3318	7-20-07
Bethy Orvik	<i>[Signature]</i>	933 Pell. Riv Rd	245-7948	7-20-07
Brandi L Vogel	<i>[Signature]</i>	78 N 22nd St	820-3479	7-20-07
Don W Vogel	<i>[Signature]</i>	718 N 22nd St	820-3479	7-20-07
Don F. [unclear]	<i>[Signature]</i>	1500 [unclear] St	859-9439	7-20-07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Kathryn James	Kathryn James	466 1/2 Johnson Ln Bldg	252 1968	7-20-07
Ray Zucco	Ray Zucco	1686 Weakest Billings Mt.	534 3585	7/20/07
Sharon Deffner	Sharon Deffner	1686 Weakest Dr #2	534-3585	7/20/07
Korie Helen	Korie Helen	112 S 35th	860-2093	7/20/07
Tim George	Tim George	863 Radford Sq. N	860-3318	7-20-07
Victor Hoggard	Victor Hoggard	844 W 27th St	252-5555	7-20-07
Debra Land	Debra Land	821 N 21st St	252-5555	7/20/07
Rick Rein	Rick Rein	8333 Leung Ave	610 7428	7-20-07
Lee Harg	Lee Harg	410 Westward Trail	855-8772	7-20-07
MARY WOOD	Mary Wood	51 North 20th St #12	695-1987	7/20/07
Stacie Peterson	Stacie Peterson	839 Avenue St	670-0942	4/20/07
Thomas Jarvis	Thomas Jarvis	443 WILGUTH TR	248-8786	7/20/07
Mary Moore	Mary Moore	132 Summit	254-4824	7/20/07
Robert Bryan	Robert Bryan	1543 Linda Ln	672-4946	7-20-07
Phyllis Lawson	Phyllis Lawson	126 Fayette Dr.	259-6165	7-21-07
James Lawson	JAMES D. LAWSON	121 LAWRETTA DR	259-6165	7-22-07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Ann Cunningham	<i>Ann Cunningham</i>	908 Wilcox St. Ste. 908 Wilcox R.D. #1 H. K. (Mo)	466 534-1051	7/21/07
James Y. Keith	<i>[Signature]</i>	908 Wilcox R.D. #1 H. K. (Mo)	578-3702	7/21/07
Jim Miller	<i>Jim Miller</i>	1005 Brock	406 248-7120	7/21/07
Lawrie Lundell	<i>L. Lundell</i>	P.O. Box 327 Big Springs	325-3609	7/21/07
Mike Swanson	<i>Mike Swanson</i>	14 Firce Ann	598-0344	7/21/07
DEBRA JEST	<i>Debra Jest</i>	743 Westfield	325-1129	7/21/07
Margie Babbel	<i>Margie Babbel</i>	1250 Ogilvie Ln.	661-1811	7/21/07
Edward Weiss	<i>Ed Weiss</i>	422 5007 25th St.	697-4688	7/21/07
Mary Berbricht	<i>Mary Berbricht</i>	1333 Spruce	348-4211	7/21/07
Dale Gabel	<i>Dale Gabel</i>	72 Sena Blvd	252-2345	7-21-07
Arnold Ziegler	<i>Arnold Ziegler</i>	709 Anchor	860-2273	7-21-07
Dennis Ziegler	<i>Dennis Ziegler</i>	1385 Hwy 87 E #19	281-1800	7-21-07
April Bakker	<i>April Bakker</i>	527 Code 497 B	896-0603	7/21/07
Jerry Gernshind	<i>Jerry Gernshind</i>	511 N 28th #46	325-2742	7-22-07
Sylvia Davis	<i>Sylvia Davis</i>	6334 12 mile Rd.	860-2951	7-22-07
Dick Fletcher	<i>Dick Fletcher</i>	2636 Alkali Cr.	856-3621	7-22-07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Kurt Harneth	<i>[Signature]</i>	6334 17 mile Rd.	860-2951	7-22-07
ROD WALKER	<i>[Signature]</i>	549 WASH TOWN	328-1589	7-22-07
Pick Foley	<i>[Signature]</i>	3502 ALKOX	945-5399	7-22-07
Deanne James Deanne	<i>[Signature]</i>	1114 4th St West	1072-8703	7-22-07
Aurea Grewille	<i>[Signature]</i>	124 Highland SWN	208-3697	7-22-07
Deanne James Deanne	<i>[Signature]</i>	1100 Porttown St	859-9429	7-22-07
Ani Kenner	<i>[Signature]</i>	363 Windsor Cir. SWN	252-0274	7-22-07
Timothy Amos	<i>[Signature]</i>	983 Windsor Circle South	252-0276	04-22-05
Shirley Messer	<i>[Signature]</i>	P.O. Box 328 8lys.	323-3340	7/22/07
Bernie Mearns	<i>[Signature]</i>	" " "	" "	" "
Allison Schupp	<i>[Signature]</i>	133 Paul Renee	254-7348	11
Liz Gior	<i>[Signature]</i>	1120 N. Zueck	259-8097	11
TRENTE Scheck	<i>[Signature]</i>	4230 Amber gate	245-7601	11
Angela Searcy	<i>[Signature]</i>	" " "	21 771	11
Laura Hales	<i>[Signature]</i>	Shpherd Turnmill Rd	794 1085	7-23-07
Julie Ward	<i>[Signature]</i>	4500 Skidway 30	375-3713	7-23-07

Allow business to use modern animation and video technology to advertise products, services and events.

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

Petition summary and background	A committee working on rules governing electronic signs will present recommendations to the City Council in late July. The recommended additions to the city's sign code would ban flashing and blinking signs and video, set limits on electronic message displays and establish guidelines for how bright signs can be. The rules would also ban the use of video, animation, or illusion of movement. Existing electronic signs would be grandfathered in only in terms of size. The video options that came with the sign purchase will not be grandfathered in. Existing signs with video would have the video portion banned if the new code is adopted.
Action petitioned for	We, the undersigned, are concerned citizens and business owners who urge our leaders to act now to allow business the FREEDOM to use modern animation and video technology to advertise products, services and local events on electronic signs.

Printed Name	Signature	Address	Phone	Date
Diana Peters	<i>Diana Peters</i>	2210 Burlington	215 5043	7/29/07
Diane Chalker	<i>Diane Chalker</i>	8035 84th St NW	651-9294	7/29/07
Larry Craker	<i>Larry Craker</i>	2835 24th St NW	651-9294	7-29-07
Cliff Gay	<i>Cliff Gay</i>	603 S 3rd		7-29-07
Kirk Eide	<i>Kirk Eide</i>	2139 Alderson Rd	652-5084	7-29-07
Henry Green	<i>Henry Green</i>	2200 St Johns	656-5438	7-29-07
Mary Belzer	<i>Mary Belzer</i>	237 Ave E	259-3225	7-29-07
Tessamine Foss	<i>Tessamine Foss</i>	18 Birchington Ave	860-7437	7-29-07
Sue Strick	<i>Sue Strick</i>	1639 Yellowstone		7-29-07
Dick Sticks	<i>Dick Sticks</i>	1639 Yellowstone	652-3020	7-29-07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Douglas Vee	<i>[Signature]</i>	3440 Corde	459-6350	7-29-07
Michael Beck Jr	<i>[Signature]</i>	503 Fir Ave	628-5970	7-28-07
Matthew Lane	<i>[Signature]</i>	503 Fir Ave B	670-3058	7-28-07
Anthony Skoobok	<i>[Signature]</i>	503 Fir Ave	608-5970	7-28-07
<i>[Signature]</i>	<i>[Signature]</i>	1216 Ronald		7-28-07
Wick Leaver	<i>[Signature]</i>	1016 N. 23 rd E		7/30/07
Ursula Kussel	<i>[Signature]</i>	516 Oak	696-4631	7-24-07
Thomas Russell	<i>[Signature]</i>	254 Crest	670-2947	7-29-07
Jacob Kunt	<i>[Signature]</i>	808 Ave D	945-1413	7-29-07
Dustin Alburn	<i>[Signature]</i>	808 Ave S	945-1413	7-29-07
Lia Pressley	<i>[Signature]</i>	317 Miles Ave	253-0905	7-29-07
Kodrey Lee	<i>[Signature]</i>	419 Missouri Ave	n/a	7-29-07
LARRY DAVENTAUER	<i>[Signature]</i>	1616 Ave F	(406) 208-2828	7-29-07
Michelle Cormier	<i>[Signature]</i>	1203 Lyons Av.	245-4717	7-30-07
	<i>[Signature]</i>	1616 Ave F	(406) 661-2200	7/30/07

Allow business to use modern animation and video technology to advertise products, services and events.

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Petition to Allow Use of Animation, Video and Motion on Electronic Signs

<p>Petition summary and background</p>	<p>A committee working on rules governing electronic signs will present recommendations to the City Council in late July. The recommended additions to the city's sign code would ban flashing and blinking signs and video, set limits on electronic message displays and establish guidelines for how bright signs can be. The rules would also ban the use of video, animation, or illusion of movement. Existing electronic signs would be grandfathered in only in terms of size. The video options that came with the sign purchase will not be grandfathered in. Existing signs with video would have the video portion banned if the new code is adopted.</p>
<p>Action petitioned for</p>	<p>We, the undersigned, are concerned citizens and business owners who urge our leaders to act now to allow business the FREEDOM to use modern animation and video technology to advertise products, services and local events on electronic signs.</p>

Printed Name	Signature	Address	Phone	Date
ROSE STRAUF	<i>[Signature]</i>	2004 Hwy 87 #29		7-27
ROSE HERBST	<i>[Signature]</i>	5233 King Quee.		7-28
Joyce Bird	<i>[Signature]</i>			7-28
Mike Macbuck	<i>[Signature]</i>	518-Laurie Ln		7-28
Kay Detum	<i>[Signature]</i>			7-28
Bruce Lockman	<i>[Signature]</i>	152 W. Lowland		7-28
Jennie Robinson	<i>[Signature]</i>	2337 Yellowstone		7-28
1-349 LAS Rd	<i>[Signature]</i>	2337 Yellowstone		7-28
TAKL Young	<i>[Signature]</i>	2316 Pine		7-28
[Signature]	<i>[Signature]</i>			7-28

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Tina Tracy				7/28-07
Christina Bayer	Christina Bayer			7/28-07
Tosha Lee		8410 Blue Marsh Dr		7/28
Micki Marcus	Bill Jones	1637 Dickey Rd #4		7/28/07
Teresa Hoshovist	Donna Hoshovist	581 N 27th St #378		7/28/07
Kenan Shank	Zachary	511 Clark		7/28/07
ATLE MOORE	ATLE MOORE	311 CLARK		7/28/07
David Jones		3402 Gallatin Pl		7/28-07
Jessie Rogers	Jessie Rogers	215 Athens Rd TR3		7-28-07
Karen Grimm	Karen Grimm	1830 Parkland Dr.		7-28-07
Don Farkota	Don Farkota	*41 Prince of Wales		7-28-07
Ferris Van Schuyt	Seville Gung	1847 N Yellow Pine		7-28-07
Bill Meyer	Bill Meyer	944 Custer		7-28-07
Deb Meyer	Deb Meyer	944 Custer		7-28-07
Amy Mitchell	Amy Mitchell	3220 Bancroft Ave		7-28-07
Gail S. McLellan	Gail S. McLellan	" "		7-28-07

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
Donna GALL	Donna Gall	2601 Howard		7-28
Alvin Gail	Alvin Gail	2601 Howard		7-28
Ashley Rabek	Ashley Rabek	144 Custer		7-28
Joe Webb	Joe Webb	144 Custer		7-28
Penny Reichel	Penny Reichel	Laurel		7-28
Amy Reichel	Amy Reichel	Laurel		7-28
Mary Seifert	Mary Seifert	Blg		7-28
Mary Seifert	Mary Seifert			
Michael Larson	Michael Larson	Blg		7-28
Terri Leite	Terri Leite	1101 19 th St Blg		7-28
EDWARD R. NASH	Edward R. Nash	827 Howard Av		8-28
DAVID THORN	David Thorn	204 Ryebro Dr		7/28
Frank Masel	Frank Masel	43 MARSON AVE		7/28
BETH NOWER	Beth Nower	21st Anderson Ave		7/28
Calvin Bush	Calvin Bush	2004 Alderson Ave		7/28
Magic Luffman	Magic Luffman	1113 7th Ave		" "
Orville Koberstein	Orville Koberstein	801 6th St W		7/28

Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
SHAWN SUNDER	<i>Shawn Sunder</i>	41 MONROE		7-29
Thodore Emvrae	<i>Thodore Emvrae</i>	712 Cottage Grove		7-29
Alsey Zimmerman	<i>Alsey Zimmerman</i>	324 Pauls Dr		7-27-07
Robert Lewis	<i>Robert Lewis</i>	324 Pueblo DR		7-28-07
ED MORRIS	<i>Ed Morris</i>	BILLINGS		7-29-07
Rob Johnson	<i>Rob Johnson</i>	Billings		7-29-07
Roger Mungard	<i>Roger Mungard</i>	Blgs,		7-29
Wendy Burt	<i>Wendy Burt</i>	218 Monroe		7-29
Erin Mungard	<i>Erin Mungard</i>	218 Monroe		7-29
LAIE Beckm	<i>Laie Beckm</i>	Billings, MT		7/29/07
Arthur Barkman	<i>Arthur Barkman</i>	Billings, MT		7/29/07
Coey Cote	<i>Coey Cote</i>	Billings MT		7/29/07
Knudde	<i>Knudde</i>	Billings MT		7/29/07
Jim Cote	<i>Jim Cote</i>	''		7/29/07
Shad Henry	<i>Shad Henry</i>	Billings MT		7/29/07
Deanne Brone	<i>Deanne Brone</i>	Blgs		7-29-07

Allow business to use modern animation and video technology to advertise products, services and events.

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Action petitioned for	We, the undersigned, are concerned citizens and business owners who urge our leaders to act now to allow business the FREEDOM to use modern animation and video technology to advertise products, services and local events on electronic signs.		

Printed Name	Signature	Address	Phone	Date
Timothy D. Cresson		1420 Cliffside Circle	406-656-7653	7/30/07
Christina McLarty		3401 W. Ave S. Billings	406-256-6227	7/30/07
Shene Gaffney		2039 Oak Ave Sigs	406-652-5912	7/30/07
Jason K. McNeal		228 N 16 th St Billings	406-248-2434	7/30/07
David Gignoux		912 12 th Ave Laurel	406-628-7757	7/30/07
Heidi Verdon		1015 St Johns Ave	406-672-6180	7/30/07
William Hendricks		2616 Old Harbor Rd. #32	406-371-5347	7/30/07
Jeff Weisel		836 Wines	406-652-3239	7/30/07
Kelley Verdo		616 St. Johns Ave.	406-671-9906	7-30-07
Mark Mussetter		2414 Meadowood St	406-656-1275	7-30-07

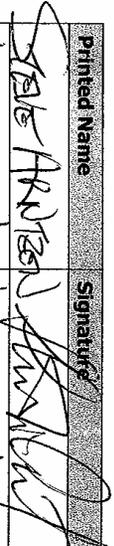
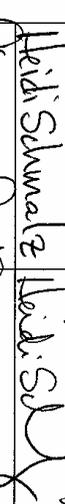
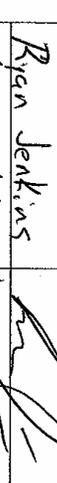
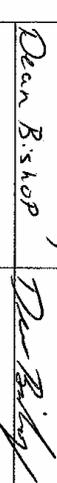
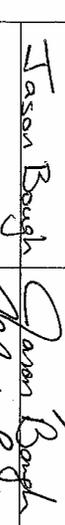
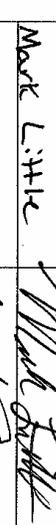
Allow business to use modern animation and video technology to advertise products, services and events.

Printed Name	Signature	Address	Phone	Date
GUEL LEFENE		121 JACOBY BARNARDS	406-256-9295	7-20-07
BRAD BOURN		320 W. 25th #300	591-8741	7/20/07
MELU FANK		285 S. 41st ST W	651-0987	7-20-07
Roky Colazzo		229 Memorial St, Billings	406-861-5500	7-30-07
Michael Sulko		P.O. Box 80493 Billng, MT 59108	406-580-0006	7-30-07
Stacy S. Hagan		3635 Meadowmist Dr Shelby 85019	873-9254	8/24/07
DAVID W. MOORE		4040 B F H (Red Trail) # Billings MT 57106-9455	245-7337	7/30/07
Henry R. Fries		3040 CENTRAL AVE ART 4202 GREAT FALLS, MT 59102	570-490-2696	7/30/07
Josie Ohren		2901 Monard Rd #144 Billings, MT 57102	406-651-1791	7/30/07
Doug Hayes		2801 Monard rd # 79 Billings, MT 57102	406-656-4359	7/30/07
JAMES LAMSON		1240 N. 25th ST BILLINGS, MT 57101	406.670.0669	7/30/07

Allow business to use modern animation and video technology to advertise products, services and events.

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Printed Name	Signature	Address	Phone	Date
State Arnold Kennedy		850 Seneca Sq105	259-6134	7/19
Heidi Schwalz		3727 Laura Cr 59102	656-9438	7/19
Christie Paris		3330 Sherandoah Dr. 59102	656-4052	7/19
Ryan Jenkins		4150 Murphy Ave 59101	245-4164	7/19
Shawna Kennedy		3106 Stillwater Dr 59102	658-0489	7/18
Dean Bishop		3049 Hunters Ridge loop	591-4193	7/20
Tyson Bough		2206 Green Terrace Dr. 59102	252-5460	7/20/07
Mark Little		1104m A 59044	697-2074	7/20/07
DeL KETTELSON		2130 FAIRMONT DR.	698-8662	7/20/07
Tacey Luicst		319 Montana Ave 57044	628-6778	7/20/07

Allow business to use modern animation and video technology to advertise products, services and events. 1

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Printed Name	Signature	Address	Phone	Date
Diana Drivers	<i>Diana Drivers</i>	705 COCKRUE	406-671-4825	072007
Four M. Age	<i>Four M. Age</i>	1228 Cass	406-295-5496	7-20-07
Melissa Dye	<i>Melissa Dye</i>	1228 Geist	706-245-5416	7-20-07
JOSE RIOS	<i>Jose Rios</i>	5745 HOSKIN RD 5 Mile	406-259-2595	7/21/07
James Schack	<i>James Schack</i>	P.O. Box 914 Bryant	252-6988	7-21-07
Georgia Botsch	<i>Georgia Botsch</i>	1616 Lake Evans	252-2089	7-22-07
GERALD WALTER	<i>Gerald Walter</i>	166 LARK FLEND	252-2089	7-22-07
John Bradley	<i>John Bradley</i>	3117 Conestoga way	696-9667	7-22-07
Wendy Taylor	<i>Wendy Taylor</i>	2224 US Hwy 87E	534-3804	7-22-07
John McInerney	<i>John McInerney</i>	308 Windsor Circle N.	248-9841	7-22-07

Allow business to use modern animation and video technology to advertise products, services and events.

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Printed Name	Signature	Address	Phone	Date
Ashley Christerson	<i>Ashley Christerson</i>	2102 ARISTOCRAT DRIVE	(402) 670-5806	07/23/09
Ken Mente	<i>Ken Mente</i>	1690 PENNY DR.	234-8809	7/24/09
Jonathan Saunders	<i>J Saunders</i>	202 Aristocrat Dr	208-5850	7/24
TONY STEPHAN	<i>Tony Stephan</i>		257-803	7-35-07
Beth Venti	<i>Beth Venti</i>	1485 Westchester ST	245-9131	7-27-07
JASON AVITABE	<i>Jason Avitabe</i>	2244 WYBURN DR	406 524 3004	7-27-09
Non Jensen	<i>Non Jensen</i>	1745 Mauris	406-687-3064	7-27-07
Brett Jensen	<i>Brett Jensen</i>	1745 Maurine	406-687-3743	7-27-07

Allow business to use modern animation and video technology to advertise products, services and events.

7441 NW
 (PLEASE SIGN)

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

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Printed Name	Signature	Address	Phone	Date
JANINE NIXEY		6411 Miles Ave	690-3715	7/26
Greg O'Donnell		1013 Terry Ave	256-7083	7/26
Louis Lichtenman		508 Tappan Pl	896-9924	7/26
Shauna Ewell		1802 Sun Valley Rd	856-7237	7/26
Rita Farrow		707 Aquinas Pl.	896-1224	7/26
Dendy Koszuta		100 S. Light Circle	800-0839	7/26
Mike Peshak		3636 Lakin Dr.	690-6689	7/26
KEN LUSHING		510 Roman Dr	690-3651	7/26
Leo Gonzalez		302 Clark Ave	690-3661	7/26
Daniel Gonzalez		1228 Ave E	690-3663	7.26

Allow business to use modern animation and video technology to advertise products, services and events. 1

Petition to Allow Use of Animation, Video and Motion on Electronic Signs

Petition summary and background
 A committee working on rules governing electronic signs will present recommendations to the City Council in late July. The recommended additions to the city's sign code would ban flashing and blinking signs and video, set limits on electronic message displays and establish guidelines for how bright signs can be. The rules would also ban the use of video, animation, or illusion of movement. Existing electronic signs would be grandfathered in only in terms of size. The video options that came with the sign purchase will not be grandfathered in. Existing signs with video would have the video portion banned if the new code is adopted.

Action petitioned for
 We, the undersigned, are concerned citizens and business owners who urge our leaders to act now to allow business the FREEDOM to use modern animation and video technology to advertise products, services and local events on electronic signs.

Printed Name	Signature	Address	Phone	Date
Breck Goswami	<i>Breck Goswami</i>	FI B	255-5820	7/30
Chris Brady	<i>Chris Brady</i>			7/30
Senie Keller	<i>Senie Keller</i>			7/30
Joy Crowell	<i>Joy Crowell</i>			7/30
Emily Burdette	<i>Emily Burdette</i>			7/30
STEPH COOK	<i>Stephanie Cook</i>			7/30
Shelly Moken	<i>Shelly Moken</i>			7/30
Chris Chi Hou	<i>Chris Chi Hou</i>			7/30/07
<i>Stephanie Cook</i>	<i>Stephanie Cook</i>			7/30/07

Allow business to use modern animation and video technology to advertise products, services and events.

Attachment G– Zone Change #821

Written Testimony Received by the Zoning Commission September 4, 2007

This hearing is about the very essence of the zoning - the identification and acknowledgement of location role and function and its protection from outside forces. The imperative is to appreciate, understand and embrace the role of functioning commercial zoning to adequately protect it from damage- no matter how well intentioned.

Role of Billings in market and small business in Billings

Billings is the largest city in Montana. It got that way while occupying no special geographical location, No major navigable waterway or other major crossroads or railroads of more or less importance than many others in the area. The difference was, and still is, the assertiveness and effectiveness of its business community.

Billings has continued to grow and thrive into a market of some 125,000 square miles by the continued efforts of its business people. That in the face of increased competition and pressure from the Internet and the proliferation of Big Box stores here and throughout Montana.

The "flavor" of Montana, in large part, is shaped by small business. That flavor is extremely important to Billings- located at the long end of the "wide open spaces" but not in the mountains. Tourists have the same Big Box stores at home. Here we have an opportunity to share what it means to live in Montana.

The success of small business is imperative to Montana's livelihood and Billings as a viable trade center. The typical small business owner's largest investment is not the NYSE but directly in Montana- and it isn't their house! Small business people and their employees are the middle class. The wages, the taxes, the profits and the capital investment stay here to be spent, reinvested and returned to the local economy.

When people in this trade area 'go to town', they are talking about Billings. The Chamber of Commerce foreshadows and echoes a phrase uttered hundreds, if not thousands of times a day in this region- "It's In Billings". There is no shame in that.

Location presence and advertising value

Small business comes in infinite varieties some of which require the access and protection of commercial zoning. This is the very basis of property values. Each business plays a role. Some cater to impulse, convenience and incidental commerce. Zoning groups these businesses of common visual and attraction needs into a common area where they benefit from each other's draw of customers. This effect, combined with the inherent cost effectiveness of signs and the value of point of purchase exposure are important to the success of all. It is the very model of a business district.



Big Box and franchise stores have the benefit of national sized image and advertising promotion budgets and tactics. Small business's smaller advertising budgets and location-centric needs require specialized tools to compete. Electronic Message Units are one of those vital tools. The users of these displays can attest to the success of their EMC advertising demonstrating implicit acceptance and approval of the media by the public.

Government effect and affected

Government has a vested interest in the ongoing success and encouragement of small business. The wages paid by small business are often higher than national chains providing the house buying, tax paying middle class of Billings. Taxes paid directly by small business and owners are too numerous to number. The one tax directly related to zoning protection involves the correlation between location, accessibility and visibility- and driving property value. The aforementioned positive effect of EMC's on business makes property more valuable.

In light of the importance of small business to the life and lifestyle of Billings, it's disheartening to hear such vibrant and expanding commercial areas as Grand Avenue and 24th Street W. referred to as "lost battles" by local government representatives (while expanding Grand to accommodate the traffic load borne of this "failure").

Following public response and testimony regarding the effectiveness and value of EMC's by end users last year, the City Council appointed an Ad Hoc committee to address code clarification, enforceability and other community concerns including size, brightness and flashing. The result, recommended by the Planning Department for approval, is before you. All of the topics have been addressed in thoughtful and moderate discussion and negotiation with special consideration of safety issues, the personality and responsibility of Billings in the market, resulting in a document that is enforceable by staff.

Aging population, rural clientele

Billings faces unique and common challenges. Billings, and Montana generally, have aging populations. With the 4th oldest population in the U.S. and a continuing exodus of our youth, we have some serious challenges to address for our future, not the least of which is how to attract and retain a younger workforce while indulging the whims of Baby Boomers used to having their way?

EMC's are a direct result of our information based economy and first nature to younger workers. A picture is mentally processed much more instinctually, and therefore quickly, than words. It takes less time for those unfamiliar with their surroundings- or with aging eyes- to prioritize a picture than words. Slower reaction time and less dexterity in older drivers make messages including graphic images vital to timely recognition and comprehension*. Part of that effectiveness

also requires display sizing commensurate with safe viewing distances** (also addressed in the Ad Hoc committee proposal).

Billings has a responsibility to its market. Obviously, the vast majority of our business and client base resides outside of Billings. It is important to keep our structure as inviting, user friendly and accessible as possible to continue to draw those people to us. This is important to mitigate the "800 pound" gorilla affect of a vibrant commercial center as well as dispel the "Community Burqa" effect by keeping our access user friendly and as painless as possible for infrequent viewers. Further, providing some city lights and life for those that make Billings a success, is good business on our part.

Summary

This is Billings Montana. We are citizens of a community proud to be the center of the largest market area in the country. We have become that role through the hard work and perseverance of small business and the fruits thereof.

We are not Missoula or Bozeman. Our middle class can afford to live in the same town they work in. Our greatest asset, the envy of the rest, is that we embrace our role as host and provider- moderation versus extremism. Our choice is to be Billings. We embrace a future that enables our economic engine to lead, rather than withdraw from, our hard won heritage and market role. To refuse to succumb to the ironic urban elitism lately espoused by a boisterous, if not numerous minority.

The Ad Hoc committee has delivered a balanced, moderate and progressive proposal that honors the charge of the Council for your consideration. It disallows flashing, controls brightness and protects the local flavor of Billings by initiating a formula for proportion and size appropriate to zone. It successfully balances form and function as well as safety based on the concerns expressed by citizenry, supported by documentable standards and studies. Chairman Tryan afforded repeated opportunities for all parties to demonstrate support for their positions.

This hearing is about the very essence of the zoning. This proposal, as written, offers balance and direction without side door attempts to render EMC's effectively unsafe and unusable through arbitrary downsizing without basis. We look to you of the Zoning Committee to protect us from such affronts to appropriate signs in the appropriate zones, regardless of their source. Thank you.

Sincerely,

Ron Bachman
2549 Wyoming Ave.

Billing, MT 59102

*Transportation Research Board of the National Academies, TRB-07-2219 EMC Study. "Adding Graphics to Dynamic Message Sign Messages".

**Signage Sourcebook, Chapter "Conspicuity and Readability Issues" (Available through the SBA)

ADDING GRAPHICS TO DYNAMIC MESSAGE SIGN MESSAGES

by

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ABSTRACT

A human factors study was conducted to assess the effects of adding graphics to dynamic message sign (DMS) messages. Two approaches employed in the assessment, a questionnaire survey and a video-based driving simulation experiment, are reported here along with their findings. The questionnaire surveyed drivers' preferences regarding the addition of graphics to text message, color of the message, alternative graphic images, placement of graphic image, image contrast, flashing and framing of graphic images. One hundred and twenty-seven subjects from Rhode Island participated in the survey. Statistical analysis on the survey results showed strong preference of graphic-aided messages over text-only messages; amber-color messages over green and red-color ones; and messages with graphic on the left side over others. The analysis also identified specific graphics to accompany certain text messages. Based on the survey results, a video-based driving simulation experiment was designed to test drivers' responses to selected DMS messages surveyed in the questionnaire. Forty-eight subjects from different age groups with different native language backgrounds partook in the experiment. Results of the experiment showed that graphic-aided messages displayed in amber or green were responded to significantly faster than other settings. Older drivers responded slower and less accurate than others, however, their responses improved significantly when the DMS messages were enhanced by graphics. It also found that graphic-aided DMS messages helped improve the responses of non-native English speaking drivers.

Keywords: Graphic-aided message, Dynamic message sign, Video-based Driving simulation, Human factors, Users, Design of experiment.

I believe this electronic sign committee has been a flawed process from the start. There are two reasons: one, the ambiguous code upon which these signs were permitted in the first place and two, the make-up of the committee.

First, here's the code:

“Sec. 27-708 PROHIBITED SIGNS AND SIGN STRUCTURES reads (1) Animated and intensely lighted signs: No signs shall be permitted which are animated by means of flashing, scintillating, blinking or traveling lights or any other means not providing constant illumination (unless specifically permitted in special sign districts). Public service information signs and other electronic message centers classified as “changing signs” are permitted.”

The first part clearly prohibits the kind of signs we now see all over Billings. But the permits were issued on the basis of the last sentence. My question is why was that sentence given priority over the first part? Why wasn't the first part honored as the governing principle? There were two ways to interpret this ordinance. When the very first application of such signs was submitted, alarms should have gone off. Clearly, it was a poorly written ordinance and the permit should not have been issued until there was clarity. Furthermore, the Ad Hoc Committee was not charged with addressing the ambiguity of the ordinance and attempting to get at its original intent. The work of the committee was limited to define what was meant by the various terms such as flashing and so on. By focusing on these definitions, legitimacy was lent to these signs. The implication of this limited charge to the committee was that these signs were allowed in the first place - and that was not clear, as I have stated. This is one reason I found the process flawed.

The second reason: Out of twelve voting members, six had a vested interest in these signs. Two were members of the planning staff, a questionable practice. Two were city council members. Two members were from the community at large, and in practice only one of these two voiced strong opposition to what was going on. Therefore the votes were often 9-1, 10-1, etc. depending on attendance. And by the way, one committee member never appeared. There should have been some provision on attendance. That seat could have been filled by another community representative, helping to address some of the committee's imbalance. The meetings were not well publicized - notice was given in the Billings Times, a periodical of limited distribution and readership.

My suggestion to the City Council is appoint a new committee, one which a) addresses the ambiguity of the ordinance and strives to find its original intent. Wide publicity needs to be given these meetings. Perhaps a visual preference survey would help determine the opinions of the all segments of the city's population. And b) the committee should be one with true balance, giving equal voice to citizens at large.

Paul Whiting
September 4, 2007

Theresa M. Keaveny
2005 Clark Avenue Billings, MT 59102

September 4, 2007

To: Billings City Zoning Commission RE: Proposed electronic message display signs

Dear Zoning Commission Members,

I appreciate the efforts of the Electronic Sign Ad-hoc Committee, and the staff, in preparing recommendations on billboard electronic sign displays for the City Sign Code. However, I am concerned that the basic sign ordinances (Section 27-708) are contradictory, in that the first section prohibits electronic signs unless specifically permitted in special sign districts, but the second section allows public service information signs and electronic "message" centers. The Committee failed to address this conflict and instead proposed ordinances that appear to be in conflict with the first part of this code. I recommend that, first and foremost, the contradictory language in the code be addressed by the City Council or other appropriate decision-making body.

If you chose to move forward with the ordinances without addressing this fundamental conflict, at the very least, I urge you to amend the proposed electronic sign ordinances as follows:

1. Reduce the size allowed for electronic signs. One suggestion is to limit the electronic message to 40 percent of the sign size, and not to exceed 24 sq. ft.
2. Address the issue of the distance of electronic signs from residential areas. Consider a 150 foot buffer. That's currently the requirement for bill boards, and at the very least, should apply to electronic signs. The committee's recommendations are silent on this topic, which allows for aesthetically poor distractions that may infringe on peoples' homes.
3. Require drought tolerant, low maintenance landscaping and other means to blend signs into their surroundings, to reduce their impact and make them more aesthetically appealing. At a minimum, the city's landscaping requirements should kick in when an electronic sign application is submitted.

The ordinances should set a workable framework, based on a vision for how we want Billings to grow and develop. As proposed, however, the ordinances are a missed opportunity to promote an image of Billings as "the magic city."

Finally, the composition of the committee was quite unbalanced. By including three people from sign companies, three from businesses with signs, and only two others from the general public, the committee was limited in its ability to fashion proposals that represent a cross section of Billings' interests. While Council members Ronquillo and Brewster and two city staff members were also voting members of the committee, it is unusual to see such a skewed committee. Moreover, it isn't in the public's interest for city staff members to be voting members of a committee.

Thank you for considering my comments.

Sincerely,

Theresa M. Keaveny

AIA Billings Architectural Association

A Section of
The American Institute of Architects
Montana Chapter



October 28, 2006



To: Electronic Signs Ad-Hoc Committee

President
Suzanne Belser, AIA

V. President
Kathleen Armstrong, AIA

Secretary
Alex Tommerup, AIA

Treasurer
Jim Beal, AIA

First Chair
Jeff Fox, Associate AIA

Second Chair
Souther, AIA

Third Chair
Van Hagestad, AIA

Past President
Eric Simonsen, AIA

The Billings Architectural Association (BAA) would like to address the Electronic Signs Ad-Hoc Committee and encourage them to explore stricter signage regulations for electronic message centers. The character of our community and streets should reflect and support our natural surroundings such as the rimrocks, the mountains and the Yellowstone River. Signs should not compete with the built environment but integrate with and support it. Signage should be in scale with the buildings that they represent.

Sign blight which has overcome many parts of our community is a result of broad standards, competition of some businesses and insensitive sign applications from the sign industry. This has resulted in the visual clutter, chaos and confusion manifesting itself in our city. The signs have become the dominant feature of our streets blocking the built and natural environment. Improved signage regulations would help to enhance the character of our streetscapes.

Higher standards of aesthetic integration and goals of contextualism should be addressed. Specific regulations pertaining to height, bulk, scale, siting, landscaping, materials, texture and color are needed. Electronic signs should be limited in number, size and application. Great sensitivity should be exercised in allowing electronic message centers to exist. They should not be allowed to overpower or dominate our community for their singular goal of advertising at the detriment of the community.

Sincerely,

Billings Architectural Association Board

P.O. Box 763
Billings, MT 59103

August 30, 2007



Dear Members of the Zoning Commission:

We are writing to request special consideration as you consider Items #4 and #5 regarding the City Sign Code (specifically electronic message displays) at your meeting on September 4, 2007.

As businesspeople who offers goods and services to our large consumer community, we have found great value to us, but more importantly, to our customers, in the use of our recently purchased electronic message display. We find that it allows us to be more informative, and also truly believe that it is a far prettier sign than the old black-letter readerboard that we used to have to work with.

We are very concerned with several items in Section 27-705(c) paragraph (5a) in the proposed amendments to the sign code. Sub-paragraphs i. And iii. seriously handcuff this innovative technology that may soon have EMD's in various shapes (even spheres?) and background colors that will render the old metal and plastic structures obsolete. We strongly request that you remove the 40% of square footage limitation and the requirement for immediately adjacent permanent graphic signage. As fast as this technology is advancing, we expect to see very functional and beautiful stand alone EMD's in the not too distant future.

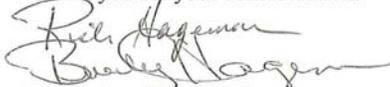
We also very strongly request that you remove the prohibition of motion borders and traveling lights that is contained in sub-paragraph iv. of this same paragraph. We believe that these two functions add to the attractiveness of the display and it could be argued, eliminate the boring effect of the message. As an example, one of our current messages with the moving outlined border as shown below, would be illegal under the proposed code.



We hope that you will give very careful consideration to long term effects of these proposed changes/additions, as they will have a great effect on the 100,000 plus consumers in our extended city in addition to the great many consumers from Wyoming and our outlying communities that look for the businesses providing the goods and services that they have traveled here to purchase.

We are concerned for our business, yes, but actually, the real loser will be the citizen/consumer if excessive restrictions are placed on our ability to serve these people.

Thank you for your consideration.


Richard and Beverly Hageman
Dairy Queen on Grand

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearing and Agreement - Lockwood Sewer District Wastewater
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, P.E., Public Works Director

PROBLEM/ISSUE STATEMENT: The City approved an agreement for wastewater service with the Lockwood Water & Sewer District (District) on September 13, 1999. After multiple failed bond elections the agreement was terminated when the District was unable to meet certain agreement conditions. At the District's request, the Council reconsidered the agreement at the August 14, 2006, meeting and subsequently disapproved the agreement. In preparation for pursuing a bond election the District has again requested that the City enter into a new agreement for wastewater service. The Council discussed this latest agreement at the September 17, 2007 work session and directed staff to place the agreement on the October 9 regular meeting agenda with those modifications discussed at the work session. The agreement before the Council includes those modifications. The District has not had the opportunity to review the agreement as presented to the Council.

ALTERNATIVES ANALYZED: Staff has identified the following alternatives:

1. Approve.
2. Approve with modifications.
3. Do not approve.

FINANCIAL IMPACT: Staff has identified the following financial impacts:

1. **Approve as requested:** The financial impact of this action is that, per the agreement, the City will undertake a rate study to determine the rates to be charged to the District. This study would not be undertaken until it was assured that the District was proceeding with their project. Staff estimates this study will cost \$40,000 to \$50,000. The contract provides that this cost will be paid by the District directly or through the rate structure. The agreement also provides for a minimum 15% rate of return on investment to the City. The 15% would be applied to the rate base, which generally consists of plant in service

less accumulated depreciation; plus construction work in progress, materials and supplies, and working capital; and less contributions in aid of construction, and customer advances. This return will provide revenue over and above the cost to treat the District's wastewater.

2. **Approve with modifications:** The financial impacts related to this action will depend on the modifications the Council may incorporate; however, as a minimum, the cost of a rate study as mentioned in the above alternative would also apply here. This action will also include the minimum 15% rate of return.
3. **Do not approve:** There is no financial impact associated with this action.

RECOMMENDATION

Staff recommends that Council approve the wastewater service agreement with the Lockwood Water and Sewer District.

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

ATTACHMENTS Attachment A – Wastewater Service Agreement

INTRODUCTION

The City approved an agreement for wastewater service with the Lockwood Water & Sewer District (District) on September 13, 1999. After multiple failed bond elections the agreement was terminated when the District was unable to meet certain agreement conditions. At the District's request, the Council reconsidered the agreement at the August 14, 2006 meeting and subsequently disapproved the agreement. In preparation for pursuing a bond election the District has again requested that the City enter into a new agreement for wastewater service. The Council discussed this latest agreement at the September 17, 2007 work session and directed staff to place the agreement on the October 9 regular meeting agenda with those modifications discussed at the work session. The agreement before the Council includes those modifications. The District has not had the opportunity to review the agreement as presented to the Council.

Staff recommends that Council approve the wastewater service agreement with the Lockwood Water and Sewer District.

PROCEDURAL HISTORY

- The Public Utilities Board recommended approval of the original service agreement on August 26, 1999.
- The City Council approved the original agreement on September 13, 1999.
- The District requested a 3 year extension of the agreement and waiver of the reserve plant capacity charge by letter dated March 11, 2004.
- City Administrator Kristoff Bauer responded to the District on November 1, 2004 indicating that, for various reasons, the agreement should be allowed to lapse.
- The Public Utilities Board, at the June 15, 2006 meeting, recommended approval by the City Council of a new agreement, which was requested by the District.
- At the July 10, 2006 meeting the Council delayed action on the agreement for one month to allow further discussion. The Council further discussed the agreement at the July 31, 2006 work session with District board members in attendance.
- The District requested reconsideration of an agreement at the August 27, 2007 council meeting.
- The Council discussed an agreement at the September 17, 2007 work session and directed staff to place the agreement on the October 9 regular agenda.
- The action before the Council is to act upon the agreement at the October 9 meeting.

BACKGROUND

The District has conducted multiple, unsuccessful bond elections to build a wastewater system for Lockwood. They wish to conduct another bond election and have asked the City to enter into a new service agreement. The new agreement mirrors that considered by the Council at the August 14, 2006, meeting with the following modifications:

- System Development Fees (Section 21) – in addition to the normal wastewater rates the District will be subject to system development fees to be assessed on a per-connection basis due and payable at the time of the individual connection to the District system. The rate expert may recommend an alternate method of assessment if deemed appropriate, subject to city approval. The fees will be determined through a study and the rate expert will determine the most appropriate methodology to use in determining the level of the fee. However, if the rate expert does not recommend a particular method, the method to be used will be one most advantageous to the City with the City making the final determination.
- Reserve Capacity (Section 4) – the base year that is used to establish the wastewater plant reserve capacity has been updated to the year 2020. The 1999 agreement and all subsequent versions included a section specifying the amount of wastewater plant capacity the City will set aside for use by the District. The 1999 agreement used the estimated wastewater flows and loadings based on the year 2010 to establish this capacity. This was never updated and due to the long time lapse of this ongoing issue, this did not allow a reasonable time for the District to develop their system, particularly in light of the most recent proposal to use a phased approach with sub-district concept.

ALTERNATIVES ANALYSIS

Approve: Council approval of the agreement will provide the District with a continued opportunity to pursue construction of a wastewater system. There is sufficient capacity in the wastewater treatment plant to accommodate Lockwood with current average wastewater flows into the plant of approximately 16 mgd as compared to an average plant design flow capacity of 26 mgd. The City's discharge permit for the wastewater plant was renewed in November 2006 and will expire in 2011. For the most part, the permit carried forward the historic discharge limits. However, indications are that the next permit cycle will include limits requiring a higher degree of treatment, which will necessitate modifications to the treatment process and facilities at a future time. While the detail and extent of these modifications have not been identified, staff believes that the city's service requirements will drive the need for these modifications with or without the Lockwood flow contribution.

Approve with modifications: Approval of the agreement with modifications as the Council may determine will, as a minimum, provide the District with the continued opportunity mentioned above. The remaining benefits to the District will, of course, depend upon the nature of the modifications. Such modifications could include a provision for future annexation. This could be addressed by requiring property owners to waive their right to protest annexation at the time of connection to the wastewater system. While the Council has determined that near-term annexation is not desirable, this type of provision could give future councils the ability to rethink the annexation issue. It also addresses the City's current goal of providing for either immediate or future annexation when furnishing municipal services. Staff has concerns with this in that such a system would be difficult to administer since the City would not be directly issuing the

connection permits as happens within the city system. Based on the media coverage during past District bond elections staff expects annexation will be a controversial issue.

Do not approve: This action will not provide the District with the flexibility and time they need to consider further options.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The City's annexation policy anticipates that property receiving municipal services will be annexed as a condition of receiving services. The recent staff report and subsequent council action established that it is not desirable for the City to annex the Lockwood area in the near-term. However, while not allowing for immediate annexation, a provision for waivers of annexation, should the Council choose to include such a provision, will give the City the option for future annexation.

An opposing perspective to the city's normal annexation requirement is to view the new agreement as a business transaction and contract for service. A benefit of such an arrangement is to provide a needed health-related service to an area that is part of the global community.

RECOMMENDATION

Staff recommends that Council approve the wastewater service agreement with the Lockwood Water and Sewer District.

ATTACHMENTS Attachment A – Wastewater Service Agreement

Wastewater Service Agreement

THIS AGREEMENT made and entered into this _____ day of _____, 2007, by and between the City of Billings, Montana, a municipal corporation, hereinafter referred to as "CITY," and the Lockwood Area/Yellowstone County Water and Sewer District, a county water and sewer district organized and existing under the laws of the State of Montana, hereinafter referred to as "DISTRICT";

W I T N E S S E T H

WHEREAS, the CITY is authorized under state law to establish, construct, reconstruct, extend, operate and maintain a municipal wastewater utility with a plant for the treatment and/or disposal of wastewater and to regulate, establish and change the rates, charges, and classifications imposed on persons served by the municipal wastewater utility; and

WHEREAS, the DISTRICT is authorized under state law to construct, purchase, lease, acquire, operate and maintain a wastewater system to benefit the inhabitants of the DISTRICT; and

WHEREAS, the DISTRICT has determined that it would be cost effective at this time for the DISTRICT to transport its wastewater to the municipal wastewater system and to contract with the CITY for the treatment and disposal of said wastewater; and

WHEREAS, the CITY has determined that it has sufficient capacity in the municipal wastewater system to treat and dispose of the DISTRICT'S wastewater in a manner that meets all the effluent limitations set forth in the CITY'S current Montana Pollutant Discharge Elimination System Permit, MT-0022586.

NOW, THEREFORE, BE IT RESOLVED that in consideration of mutual covenants to be performed by the parties hereto, it is hereby agreed as follows, inclusive of the referenced Exhibits and Attachments:

1. **Contractual Relationship:** Approval of this wastewater service agreement (Agreement), including payment by the DISTRICT of system development fees, does not create in behalf of the DISTRICT and/or the DISTRICT'S users any ownership rights in the municipal wastewater system, nor is any joint venture, partnership, cooperative or other legal relationship between the CITY and the DISTRICT and/or the DISTRICT'S wastewater users created hereby. The only relationship established by this Agreement shall be that of municipal wastewater utility (Public Works Department) and contractual

customer (DISTRICT), subject to the conditions set forth herein. Also, approval of this Agreement does not authorize any infringement of federal, state or local laws by either party.

2. **Service Area:** This Agreement obligates the CITY to accept for treatment domestic wastes that are contributed from the DISTRICT'S users whose properties are situated entirely within the boundaries of the DISTRICT at the time of its creation under County Resolution #96-83, dated August 22, 1996, and as more specifically described and shown on Exhibit "A" and Exhibit "B," respectively. Said area will hereinafter be referred to as "Service Area." It is further understood between the parties hereto that the DISTRICT shall not expand its Service Area to include any additional properties without first obtaining the CITY'S written consent to do so and that CITY has sole discretion to withhold such consent.

3. **Point of Connection:** The DISTRICT'S force main shall connect to the municipal wastewater system at or near the site of the municipal wastewater treatment plant, with the exact location subject to the written approval of the Public Works Director (Director). A professional engineer licensed to practice in the State of Montana shall design the method of connection. The Director and the Montana Department of Environmental Quality (DEQ) shall approve in writing the detailed plans and specifications for the connection prior to its construction. The DISTRICT shall bear all costs associated with construction, operation, maintenance and replacement of the DISTRICT'S force main and appurtenances, including the connection of its force main with the municipal wastewater system.

4. **Reserve Capacity:** Exhibit "C" is a January 22, 1998 Memo from Bill Enright, Morrison-Maierle, Inc., to Al Towleron, Public Utilities Department. Therein the District's engineering consultant estimates the per capita contributions for various wastewater constituents. Exhibit "D" is an excerpt from the Lockwood Water and Sewer District Facility Plan Report, which was subsequently supplied to Alan Towleron, Public Works Department, by Carl Anderson of Morrison-Maierle, the DISTRICT'S engineering consultant. Therein, the projected population for Lockwood is 9,119 for the year 2020. Applying the per capita contributions to the projected population shows that for the Year 2010, the DISTRICT'S average daily wastewater flow will be 0.82 0.91 million gallons per day (mgd), its maximum daily flow of wastewater will be 2.53 2.74 mgd, and its maximum day to average day peaking factor will be 3.1 (2.53/0.82) utilizing a 3.0 peaking factor. Said engineering consultant also estimates therein that for the Year 2010, the DISTRICT'S average Biochemical Oxygen Demand (BOD) Loading will be 1,715 1,915 pounds per day and its average Total Suspended Solids (TSS) Loading will be 1,707 2,006 pounds per day. The aforementioned flows, loadings and

peaking factors shall constitute the amount of capacity that the CITY will reserve in the municipal wastewater system for the sole benefit and use of the DISTRICT. The rates and billing methodologies developed for these flows and loadings, as outlined in paragraphs 19 and 20 shall be complied with by the DISTRICT. If there are flows or loads exceeding the limits specified in this section that have not been previously negotiated the CITY shall notify the DISTRICT of such noncompliance. If the DISTRICT does not restrict the flows or loads exceeding the limits within 5 days, the rates for these flows and loadings shall be tripled.

Each time this Agreement is renegotiated, the DISTRICT may, at its sole discretion, decrease the amount of the reserve capacity set forth herein. Any increase in the reserve capacity at that time, however, shall be subject to the approval and acceptance of the CITY. Said renegotiated adjustments in the reserve capacity shall be taken into account the first time the CITY adjusts the rates that it charges the DISTRICT for treatment of the DISTRICT'S wastewater following such renegotiations. In any event, the CITY reserves the right to require the DISTRICT to contribute up-front for the construction cost of any additional reserve capacity that may be renegotiated.

The DISTRICT shall not sell nor transfer to any other party all or any portion of this reserve capacity. Any reserve capacity not being used by the DISTRICT at the termination of this Agreement (measured by utilizing the last 365 days of flow data as well as BOD and TSS Loading data) shall revert back to the CITY at no cost or charge to the CITY.

The DISTRICT may not at any time exceed the reserve capacity the CITY has set aside for the DISTRICT. In the event that the DISTRICT should exceed such reserve capacity, The DISTRICT shall accept no new customers or service line connections into its system and will immediately commence design and construction of pretreatment and/or I/I storage facilities to reduce flows and loads received by the CITY below the reserve capacity. Such facilities shall be completed within two years of notification by the CITY and if not completed, this contract will be terminated and service will be disconnected within an additional two years.

5. Compliance with Regulations: The DISTRICT hereby agrees to accept and abide by the following regulations governing wastewater service:

A. All applicable provisions of the Billings Montana City Code and the CITY'S Rules and Regulations Governing Wastewater Service or any future amendments thereto;

B. All state, federal and local regulations governing the discharging of wastewater and industrial wastes into the municipal wastewater system and any future amendments thereto; and

C. Any special conditions set forth in this Agreement.

If DISTRICT violates any of said codes, regulations and/or special conditions, the indemnification provisions set forth in Paragraph 28 29 shall apply.

6. Flow Measurement: The DISTRICT, at its sole expense, shall install, operate and maintain any flow measuring facilities designated by the Director. The DISTRICT shall keep said facilities in good operating condition at all times. The flow measuring facilities shall, as a minimum, accurately and continuously indicate and record at the municipal wastewater treatment plant the rate of flow and volume of all wastewater passing through the DISTRICT'S force main and into the municipal wastewater system.

All such flow measuring facilities shall be calibrated at least annually under the direct supervision of a professional engineer who is licensed to practice in the State of Montana. Said professional engineer shall be mutually acceptable to both the DISTRICT and CITY. The professional engineer shall certify in writing to the CITY and DISTRICT within thirty (30) days of performing the calibration that the flow measuring facilities, including the wastewater meter, have been properly calibrated according to the manufacturer's recommendations and are operating within approved accuracy limits. All costs associated with the annual calibration of the flow measuring facilities, including the wastewater meter, shall be borne by the DISTRICT. Reasonable, estimated flow adjustments shall be made for any incorrect meter readings. The DISTRICT agrees to verify the calibration of the flow measuring facilities, at its sole expense and at the request of the CITY, in the event flow information deviates from normal indicating a problem with the facilities.

7. Testing and Sampling: The DISTRICT, at its sole expense, shall install, operate and maintain all sampling facilities designated by the Director. As a minimum, the DISTRICT shall install sampling and testing facilities at or near the point of connection of the DISTRICT'S force main with the municipal wastewater system and prior to the mixing of the CITY'S and DISTRICT'S wastewater. Such facilities shall be designed by a professional engineer, licensed to practice in the State of Montana. The facilities shall be located above ground and shall be designed to meet appropriate safety

regulations and to satisfactorily operate under all weather conditions. The DISTRICT and the CITY shall have equal access at all times to said facilities.

The Director shall determine the type of tests to be performed, frequency of sampling, limits for test compliance, and methods and points of sampling on the DISTRICT'S influent wastewater. Said parameters are subject to change from time to time at the Director's sole discretion. Such changes do not require renegotiations of this agreement. (See Attachment I)

A mutually acceptable DEQ-certified testing laboratory (CTL) shall perform all the sampling and testing of the District's wastewater required under this Agreement. The CTL shall perform said sampling and testing in accordance with 40 Code of Federal Regulations (CFR) Part 136, *Guidelines Establishing Test Procedures for the Analysis of Pollutants*. The CTL shall provide the CITY and DISTRICT with a written copy of the results of each test within 30 days of performing the test. The DISTRICT shall bear all costs associated with such testing and sampling. Reasonable, estimated adjustments shall be made for incorrect test results.

8. Test Noncompliance: Test results on samples of the DISTRICT'S wastewater that are in noncompliance with specified limits shall automatically trigger repeat sampling and testing by the CTL. If the follow-up test results remain out of compliance, the DISTRICT shall forthwith begin an in-depth investigation to determine the cause of noncompliance. Upon making such determination, the DISTRICT shall take immediate steps to correct the problem and regain full compliance. The DISTRICT shall, as a result of such noncompliance, make timely payment to the CITY of all costs, damages and penalties imposed by this Agreement and/or by any other applicable codes and regulations.

9. Sewer Use Regulations: The DISTRICT shall adopt sewer use regulations to regulate the use of its wastewater system. Said regulations shall be subject to the Director's written approval prior to their adoption by the DISTRICT. The sewer use regulations shall, as a minimum, be equivalent to the CITY'S adopted sewer use regulations and the model sewer use ordinance set forth in WPCF Manual of Practice No. 3, *Regulation of Sewer Use*, 1975. The DISTRICT shall aggressively enforce such regulations at all times, especially as it relates to prohibited pollutants and/or any limited pollutants allowed to enter the DISTRICT'S wastewater system. The DISTRICT agrees to adopt and enforce any sewer use regulations of the CITY as they may change from time to time.

The sewer use regulations shall also specifically prohibit the discharging of septage into the DISTRICT'S wastewater system. The DISTRICT shall assure, both through regulation and practice, that the discharging of any nondomestic and/or nonmetered wastes into the DISTRICT'S wastewater system from vehicular washing facilities, recreational vehicle (RV) dumps, and floor drains located in facilities utilized to maintain, repair or house vehicles and other motorized equipment shall conform with all policies, practices, administrative orders, rules and regulations, resolutions and ordinances of the CITY. The DISTRICT shall also prohibit in its sewer use regulations the discharge of any unpolluted waters into its wastewater system, such as storm water, groundwater, roof runoff, subsurface drainage, cooling water or industrial process waters.

10. Construction Standards: The DISTRICT shall adopt the CITY'S construction, testing and inspection standards that govern the installation of its sanitary sewers, the purpose of which shall be to ensure proper installation of said sewers and to ensure compliance with infiltration/inflow (I/I) requirements set forth herein. Plumbing systems and building sewers serving property within the DISTRICT'S Service Area shall comply with the Uniform Plumbing Code prior to connection with the DISTRICT'S wastewater system. I/I in the DISTRICT'S sanitary sewers and building sewers shall not exceed, at any time, 100 gallons per day, per inch-diameter, per mile of sewer pipe.

The DISTRICT shall maintain adequate records (such as inspection reports, test results, as-built drawings, permits, etc.) to document that its facilities have been properly inspected, tested and constructed during installation.

11. Operation and Maintenance: Failure by DISTRICT to properly operate and maintain its wastewater system can substantially influence the volume, rate of flow, and characteristics of the wastewater discharged by DISTRICT into the municipal wastewater system. Accordingly, the DISTRICT shall at all times operate and maintain its wastewater system in a manner that is consistent with good utility practice, as set forth in *Water Environment Federation Manual of Practice 7, Wastewater Collection systems Management*, latest edition. The DISTRICT shall maintain adequate records to document its compliance with this section.

To ensure access to the DISTRICT'S wastewater system for operation and maintenance purposes, the DISTRICT'S sanitary sewer lines shall be located in street right-of-way and easement locations shall be kept to a minimum. In any event, all such easements shall guarantee DISTRICT unrestricted access to its sanitary sewers for such purposes at all times and under any weather conditions.

12. **Conservation:** The DISTRICT shall actively encourage its users to conserve water and to utilize flow reduction measures, such as reduced-flow shower heads, toilets, and faucets. The DISTRICT shall maintain an ongoing educational program for this purpose.

13. **Pretreatment Program:** The DISTRICT shall not permit any person to discharge industrial wastes into the DISTRICT'S wastewater system without first adopting a Pretreatment Program, which shall be subject to the prior written approval of the Director and the EPA Regional Pretreatment Coordinator. The Director's approval shall be withheld until such time as the DISTRICT legally adopts enforceable pretreatment standards and requirements equal to or exceeding that adopted and enforced by the CITY and those set forth in 40 CFR Part 403. For further information and details regarding this issue as well as information regarding significant industrial users, see BMCC 26.611.

14. **Odor and Corrosion Control:** The DISTRICT recognizes the CITY'S concern of the potential for odor generation and facility corrosion at the point of connection between the DISTRICT'S force main and the municipal wastewater system as well as downstream thereof. Accordingly, the DISTRICT shall construct adequate facilities to control such odors and corrosion using the Best Available Technology prior to beginning discharge of its wastewater into the municipal wastewater system. All odor and corrosion facility plans shall be reviewed and approved by the CITY prior to construction.

15. **Enlargements and Modifications:** The DISTRICT shall obtain the Director's written approval prior to enlarging or modifying any of its wastewater facilities which would change the character, volume, or rate of discharge of its wastewater entering the municipal wastewater system over and above that specified in this Agreement.

16. **Access, Records and Contact Person:** The DISTRICT shall grant the Director access at all times to DISTRICT'S wastewater system facilities for the purpose of inspecting, sampling, and studying the DISTRICT'S wastewater and permission to contact any individual users. Also, the DISTRICT shall, on request, provide the Director with copies of any flow, sampling and testing records that the Director may deem appropriate for said purposes or for the purpose of checking DISTRICT'S compliance with sewer use, industrial waste and/or pretreatment regulations. Prior to beginning the discharge of wastes into the municipal wastewater system, the DISTRICT shall also advise the Director in writing of the name, telephone number and mailing address of its official representative, who shall be authorized to make decisions on the DISTRICT'S

behalf regarding the terms of this Agreement and to receive any notices, service bills, correspondence, etc. required herein.

17. Notification: The DISTRICT shall immediately notify the Director and the CITY'S wastewater treatment plant in the event of any accident, negligence, or other occurrence that occasions discharge to the municipal wastewater system of any waters or wastes not covered by this Agreement as well as any accidental slug discharges of authorized pollutants. In addition, the DISTRICT agrees to file with the Director, within five (5) working days of such discharge, a written report explaining why said discharge occurred. The report shall also identify in detail the DISTRICT'S plan of action to prevent reoccurrence of such type discharge. The DISTRICT shall be responsible for all damages, costs, and fines of the CITY due to unauthorized or negligent discharges.

18. Degree of Treatment: It is understood by the parties hereto that the CITY can only treat the DISTRICT'S wastewater to the extent the CITY is presently capable of treating said wastewater utilizing the existing municipal wastewater treatment facilities. In the event that DEQ, EPA or other agency requires a greater degree of treatment, the CITY shall comply with such requirements and DISTRICT shall be assessed a higher rate for the disposal as agreed by the parties or as set forth in paragraph ~~21~~ 22 and ~~22~~ 23 herein.

19. Billing: The DISTRICT shall pay to the CITY a monthly charge for the treatment and disposal of the DISTRICT'S wastewater. Monthly payments shall begin at the time the DISTRICT commences discharge of wastewater into the municipal wastewater system. Payments are due and payable in full no later than thirty (30) days from the date of billing. Payments not received within thirty (30) days shall become delinquent and subject to a late-payment interest charge. The late-payment interest charge shall be the amount stated in the CITY'S wastewater special fees and charges. If agreed by the DISTRICT and CITY, system development fees may be included in this billing process and, if so, will be subject to all provisions contained herein.

20. Future Wastewater Rate Making Methodology: It is the intent of the parties hereto that during the life of this agreement, the DISTRICT shall pay reasonable and just rates for treatment of its wastewater and that the CITY, in turn, shall receive a reasonable and just compensation for the treatment of the DISTRICT'S wastewater. Accordingly, the wastewater rate charged to the DISTRICT in the future for treatment of its wastewater shall be based upon cost-of-service principles as set forth in 40 Code of Federal Regulations (CFR) Part 35, *Guidelines for User Charges*. When calculating the cost-of-service rate to be charged the DISTRICT for treatment of its wastewater, the CITY'S rate expert shall use the "utility approach" to determine revenue requirements

and the industry standards when allocating costs of service to cost components. In addition, the rate expert shall, among other things, take into consideration the following when calculating the cost-of -service rate to be charged the DISTRICT:

A. The amount and level of service that the CITY is providing the DISTRICT as well as any contributions the DISTRICT has made for the construction of the CITY'S wastewater treatment facilities.

B. The amount of contributions made by inside-city customers towards facilities utilized to serve the DISTRICT.

C. The amount of reserve capacity that the CITY has set aside for the DISTRICT in the municipal wastewater system.

D. The costs of any construction improvement required for increases in reserve capacity requested by the DISTRICT.

E. The cost of performing the rate study, unless arrangements are made between the CITY and DISTRICT for payment otherwise.

The rate expert shall also take into consideration the fact that the DISTRICT is classified as a non-owner customer under this Agreement, and as such, it should pay a return on investment to the CITY'S owner customers throughout the life of the Agreement. Moreover, the return on investment paid by the DISTRICT shall be based, among other things, upon the depreciated cost of the facilities needed to provide the reserve capacity the CITY has set aside for the DISTRICT'S exclusive use. Finally, the rate of return to be used to calculate the return on investment shall be a minimum of 15% in order to recognize the risks incurred by the CITY in serving the DISTRICT as well as the fact that the replacement cost of the reserve capacity the CITY has set aside herein for the DISTRICT will greatly exceed its original cost as a result of inflation, etc.

The DISTRICT shall pay its proportionate share of any federal, state or local fees assessed the municipal wastewater utility. Such fees shall be due and payable as set forth in Section 19, above.

In the event the strength of the pollutants (BOD, TSS, etc.) contained in the DISTRICT'S wastewater are determined to exceed those normally present in domestic wastes, the CITY may charge the DISTRICT reasonable fees for the treatment of such extra-strength wastes.

The rates the CITY charges the DISTRICT for the treatment of any special wastes and/or permitted industrial wastes shall be determined on a case-by-case basis. Determination of such rates requires separate study and negotiation. (See BMCC 26-106 for additional information regarding special agreements and payments for unusual wastewater treatment.) In any event, such rates shall be charged to the DISTRICT in addition to any other rates set forth herein.

The CITY reserves the right to periodically adjust the rates set forth herein ~~under the procedures set forth~~ in conformance with the provisions of paragraph Section 20, ~~21~~ 22 and ~~22-23~~.

21. **System Development Fees:** In addition to the wastewater rates the DISTRICT shall pay to the CITY wastewater system development fees with the amount of the fee to be determined by the CITY'S rate expert. The rate expert shall determine the methodology to be used to calculate the fees that is most fitting for this AGREEMENT; however, lacking such a determination by the rate expert, the methodology used shall be one most advantageous to the CITY as determined by the CITY.

The fees shall be assessed on a per-connection basis and shall be due at the time of connection to the DISTRICT'S sewer system; however, the rate expert may recommend an alternate assessment method if deemed appropriate to this AGREEMENT, provided, however, that any alternate method must be approved by the CITY. The DISTRICT shall maintain sufficient records to document connections to their system and information necessary to determine the system development fees to be paid by the DISTRICT. Such records shall be available to the CITY upon request. Failure to properly maintain records and pay the system development fees due will be grounds for termination of this AGREEMENT. Details of the procedure to accomplish this process shall be cooperatively determined by the DISTRICT and CITY.

21.22. **Wastewater Rate Study:** With respect to any wastewater rate study that would affect the wastewater rate charged to the DISTRICT, the CITY shall give the DISTRICT advance notice of its intent to have a rate expert undertake such a study. The rate expert's draft report(s), work papers and any underlying data used to generate such report(s) shall be available upon request to the DISTRICT. The CITY'S rate expert shall be available to meet at reasonable times with the DISTRICT and/or its rate experts during this process or the DISTRICT Manager or member of the DISTRICT'S staff, but not to include counsel. The DISTRICT agrees to provide any information relevant to determining the DISTRICT'S customer service characteristics.

Once the CITY'S rate expert has completed its written report, the CITY shall promptly provide a copy of that report to the DISTRICT, and the DISTRICT shall respond to that report within forty-five (45) days after receiving the report by submitting a written response to the Director.

If the CITY and DISTRICT are unable to agree on a reasonable and just wastewater rate to be charged the DISTRICT, then the CITY and DISTRICT shall have thirty (30) days from the date of submission of the DISTRICT'S response to the CITY'S wastewater rate study within which to informally attempt to reach an agreement through non-binding mediation. The CITY and DISTRICT agree to work together in good faith in attempting to reach an agreement on a reasonable and just rate.

22.23. **Wastewater Rate Arbitration Procedure:** If, after the consultation described in Section ~~21~~ 22, the DISTRICT and the CITY are still unable to agree on a reasonable and just wastewater rate to be charged to the DISTRICT, then the matter(s) in dispute shall be submitted to binding arbitration. The CITY'S wastewater rate expert, who conducted the study and participated in the negotiation described in Section ~~21~~ 22, and a wastewater rate expert retained by the DISTRICT shall mutually agree and appoint a third wastewater rate expert who shall be the sole neutral arbitrator of the dispute. The appointment of the arbitrator shall be made within twenty (20) days of the conclusion of the negotiation period described in Section ~~21~~ 22. The arbitrator shall be neutral, shall never have been a resident of Yellowstone County, shall never have worked for either of the parties, and shall be a qualified wastewater rate expert.

A. Within twenty (20) days of the appointment of the arbitrator, the parties shall exchange expert disclosure statements containing the information set forth in Rule 26(b)(4), Mont. R. Civ. P., together with any draft report(s), work papers, and underlying data generated and/or used by any expert, and shall provide a list of all lay witnesses and the substance of their testimony.

B. The arbitration hearing shall be held no later than sixty (60) days following the appointment of the arbitrator, and the arbitrator shall render a decision no later than thirty (30) days after the hearing.

C. Both the CITY and the DISTRICT shall present their respective positions to the arbitrator. Following the arbitration hearing, the arbitrator shall be limited to adopting that party's position which best represents the intent of this agreement, but shall be prohibited from adopting any alternative rates.

D. The arbitration hearing shall be conducted according to such procedure as the arbitrator may choose so as to allow each party to fully present its position and may be formal or informal.

E. The cost of the arbitrator shall be borne equally by both parties.

~~23.~~24. **Annexation and Dissolution of District:** Should fifty-five (55) percent or more of the property within the DISTRICT'S Service Area become annexed either voluntary or by election into the corporate city limits, the DISTRICT shall take, at the CITY'S sole discretion and with the CITY'S written consent, whatever steps are legally necessary to transfer its assets and liabilities to the CITY and dissolve the DISTRICT. Failure to timely comply with this section shall be sufficient grounds to terminate this agreement.

24.25. **Term of Agreement:** The term of this Agreement is fifteen (15) years. This Agreement is renegotiable at any time if both parties so consent in writing. Either party may terminate this agreement by giving the other party eight (8) years written notice. If no notice to terminate is received at least one (1) year prior to the expiration of this Agreement, then this Agreement will renew for an additional ten (10) years. This Agreement may be subsequently renewed three more times for an additional ten (10) years each, subject to the preceding clause.

25.26. **Milestones:** The DISTRICT shall have two (2) years from the date this agreement is initially signed to successfully approve a financing program that will allow construction of a wastewater system. Construction of the wastewater improvements shall commence within three (3) years from the date this agreement is initially signed. Should the DISTRICT fail to meet either of these milestones, this agreement shall terminate immediately.

26.27. **Non-Binding Mediation:** As a prerequisite to commencing litigation on any unresolved dispute arising from this Agreement, the parties agree that, with the exception of wastewater rate adjustment matters, all unresolved claims, demands, disputes, controversies and differences that may arise between the parties concerning the content of this Agreement shall first be submitted to non-binding mediation. The parties shall confer and agree upon selection of a mediator for such purposes; however, if they cannot agree, each party shall select a mediator and both mediators shall then agree upon and select a third mediator before whom all disputes shall be presented. Thereafter, either party may pursue litigation and shall have a right to file an action if mediation does not result in a final agreement and release between the parties which resolves all disputes pending at that time. Jurisdiction of all litigation shall be in Montana State District Court

and venue shall be in Yellowstone County, Montana. Each party shall bear its own internal costs of mediation including attorney fees and costs, if any. Each party shall pay 50% of any and all fees and costs charged by the selected mediator.

In lieu of the above paragraph, the parties may agree and stipulate to binding arbitration in lieu of mediation. The arbitrator shall be selected, the arbitration conducted and the arbitration ruling shall be pursuant to the Montana Arbitrators' Association. Binding arbitration shall preclude litigation in District Court by either party on any issue decided by the arbitrator. Each party shall bear their own attorney fees and related costs and expenses if binding arbitration is selected as the dispute resolution method.

The Court shall be authorized to award the prevailing party reasonable attorney fees and costs should the parties proceed with litigation as described above in District Court.

27.28. Definitions: Terms/phrases used herein this Agreement (such as but not limited to Biochemical Oxygen Demand (BOD), customer, domestic wastes, industrial wastes, Montana Pollutant Discharge Elimination System (MPDES) Permit, municipal wastewater system, municipal wastewater treatment plant, municipal wastewater utility, pollutant, pretreatment, public works department, public works director, rules and regulations, septage, service agreement, Total Suspended Solids (TSS), infiltration/inflow (I/I), user, wastewater, and wastewater meter) shall be defined as set forth in the Billings Montana City Code or the CITY'S Rules & Regulations Governing Wastewater Service, or any future amendments thereto.

28.29. Indemnification: The DISTRICT agrees to indemnify, hold harmless, and defend the CITY from and against all liabilities, claims, penalties, forfeitures, suits, and costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees) which the CITY may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders, to the extent that such damage is caused by; (1) the DISTRICT breach of this Agreement; or (2) any negligent or willful act or omission of DISTRICT or its employees or agents in the performance of services.

The CITY agrees to indemnify, hold harmless, and defend the DISTRICT from and against all liabilities, claims, penalties, forfeitures, suits, and costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which the DISTRICT may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations

or orders, to the extent that such damage, is caused by; (1) the CITY'S breach of this Agreement; or (2) any negligent or willful act or omission of the CITY or it's employees or agents.

29.30. Severability: In the event any provision of this Agreement is declared void, invalid or contrary to law, the parties hereto agree that the remaining provisions shall continue and remain in full force and effect.

IN WITNESS WHEREOF, each of the Parties has executed and delivered this Agreement as of the date first above written.

City of Billings, Montana

Lockwood Area/Yellowstone
County Water & Sewer District

By: _____
Mayor

By: _____
Chairman

By: _____
City Attorney

By: _____
District Attorney

Attest:

City Clerk

Attest:

Secretary

ATTACHMENT I

Pursuant to the Agreement between the City of Billings (City) and the Lockwood Area/Yellowstone County Water and Sewer District (District), this Attachment sets forth the tests to be performed by District on the wastewater it discharges into the municipal wastewater system. This Attachment also sets forth the frequency of sampling, the limits for test compliance and the methods of sampling. The following parameters and other criteria are subject to periodic change by the Director, at his sole discretion:

Test Parameter	Parameter Limit	Sample Frequency	Type of Sample
BOD ₅	300 mg/l	Weekly ¹	Composite
TSS	300 mg/l	Weekly ¹	Composite
pH	5.5 - 9.0	Daily	Grab
Total Oil & Grease ^{2,5}	100 mg/l	2x/week	Grab
TPH (Total Petroleum Hydrocarbons)	100 mg/l	Bi-monthly	Grab
Total Phosphorus (as P)		1x/Quarter	Composite
Total Ammonia (as N)		1x/Quarter	Composite
Nitrate & Nitrite (as N)		1x/Quarter	Composite
TKN (Total Kjeldahl Nitrogen)		Quarterly	Composite
Temperature		Weekly	Instantaneous
Volatile Organics ^{3,4}		Annually	Grab
Organic Acids ^{3,4}		Annually	Composite
Base/Neutral Organics ^{3,4}		Annually	Composite
Pesticides ^{3,4}		Annually	Composite
Antimony (Total)		Quarterly	Composite
Arsenic (Total)	2.5 mg/l	Quarterly	Composite
Beryllium (Total)		Quarterly	Composite
Cadmium (Total)	13.9 mg/l	Quarterly	Composite
Chromium (III)		Quarterly	Composite
Chromium (VI)		Quarterly	Grab
Chromium (Total)	35.3 mg/l	Quarterly	Composite
Test Parameter	Parameter Limit	Sample Frequency	Type of Sample
Lead (Total)	2.2 mg/l	Quarterly	Composite
Mercury (Total)	0.15 mg/l	Quarterly	Composite
Nickel (Total)	26.8 mg/l	Quarterly	Composite

Selenium (Total)	< Detection Limit	Quarterly	Composite
Silver (Total)	1.1 mg/l	Quarterly	Composite
Thallium (Total)		Quarterly	Composite
Zinc (Total)	1.1 mg/l	Quarterly	Composite
Cyanide (Total)	2.6 mg/l	Quarterly	Grab
BTEX (Benzene, Toulene, Ethelbenzene, Xylene)		Monthly	Grab
Tetrachloroethylene		Quarterly	Grab

Footnotes:

- 1 A 24-hour, composite sample to be taken on progressive days each sampling event.
- 2 A visual sheen shall be considered a violation.
- 3 Minimum parameters to be tested for as determined by the Director.
- 4 A minimum of every 5 years, or sooner if determined necessary by the Director; monthly analysis for parameters designated by Director shall be done in support of local limits re-evaluation.
- 5 In addition to the visual sheen criteria set forth in Footnote 2, above, oil and grease shall not cause any interference or obstruction in the municipal wastewater system.

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Quitclaim Deeds with Miller Trois, LLC
DEPARTMENT: Public Works
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: The amended subdivision plat of Miller Crossing Subdivision contains a common line boundary relocation between Certificate of Survey 2655 and Lots 2A-1 and 2A-3. Certificate of Survey 2655 is owned by the City of Billings and the remaining lots are owned by Miller Trois, LLC. There is an equal exchange of land area with the lot line relocation. In order to approve this plat, it becomes necessary to accept a quitclaim deed from Miller Trois, LLC and execute a quitclaim deed to Miller Trois, LLC.

ALTERNATIVES ANALYZED:

- 1. Approve Quitclaim Deeds both to the City of Billings and to Miller Trois, LLC.
- 2. Do not approve the Quitclaim Deeds.

FINANCIAL IMPACT: There is an equal exchange in land area, therefore, there is no value of the exchange.

RECOMMENDATION

Staff recommends that Council approve the Quitclaim Deeds for the Miller Crossing Subdivision.

Approved By: City Administrator _____ City Attorney _____

ATTACHMENTS

- A. Quitclaim Deed to Miller Trois, LLC
- B. Quitclaim Deed to City of Billings
- C. Exhibit of Amended Plat of Miller Crossing Subdivision

QUIT CLAIM DEED

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned:

Miller Trois, LLC
4507 Palisades Park Drive
Billings, MT 59106

Does hereby remise, release and quitclaim unto:

The City of Billings, Montana, a municipal corporation
P.O. Box 1178
Billings, MT 59101

All interest in the following described real property situated in the NW1/4 of Section 16, T. 1 S., R. 26 E., P.M.M.,
County of Yellowstone, State of Montana:

Lot 2A-1, Block 1 of the Amended Plat of Lot 2A of Amended Plat of Lots 2, 3, 4, & 5, Block 1, Miller
Crossing Subdivision, according to the official plat thereof on file in the office of the Clerk and Recorder of
Yellowstone County, Montana, under Document No. _____.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantors herein have executed this instrument this ____ day of _____,
20__.

Miller Trois, LLC.

By: _____ By: _____

Title: _____ Title: _____

STATE OF MONTANA)
 : ss.
County of Yellowstone)

On this ____ day of _____, 20__, before me, a Notary Public for the State of Montana,
personally appeared _____ and _____,
known to me to be the persons who signed the forgoing statement as _____ and
_____ of Miller Trois, LLC., and who acknowledge to me that said corporation
executed the same.

NOTARY PUBLIC FOR THE STATE OF MONTANA
PRINTED NAME _____
RESIDING AT _____
MY COMMISSION EXPIRES _____

ACKNOWLEDGMENT AND ACCEPTANCE OF CONVEYANCE

The Mayor and City Council of the City of Billings acknowledges receipt of this deed and hereby accepts the property interest conveyed through this instrument.

Mayor, City of Billings

ATTEST:

City Clerk

STATE OF MONTANA)
 :SS
County of Yellowstone)

On this _____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____ and _____, known to me to be the Mayor and City Clerk of Billings, respectively, and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial seal the day and year hereinabove written.

Notary Public in and for the State of Montana
Printed name: _____
Residing at Billings, Montana
My commission expires: _____

QUIT CLAIM DEED

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the undersigned:

The City of Billings, Montana, a municipal corporation
P.O. Box 1178
Billings, MT 59101

Does hereby remise, release and quitclaim unto:

Miller Trois, LLC
4507 Palisades Park Drive
Billings, MT 59106

All interest in the following described real property situated in the NW1/4 of Section 16, T. 1 S., R. 26 E., P.M.M.,
County of Yellowstone, State of Montana:

Lots 2A-2 and 2A-3, Block 1 of the Amended Plat of Lot 2A of Amended Plat of Lots 2, 3, 4, & 5, Block 1,
Miller Crossing Subdivision, according to the official plat thereof on file in the office of the Clerk and
Recorder of Yellowstone County, Montana, under Document No. _____.

TO HAVE AND TO HOLD unto the Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantors herein have executed this instrument this ____ day of _____,
20__.

The City of Billings, Montana

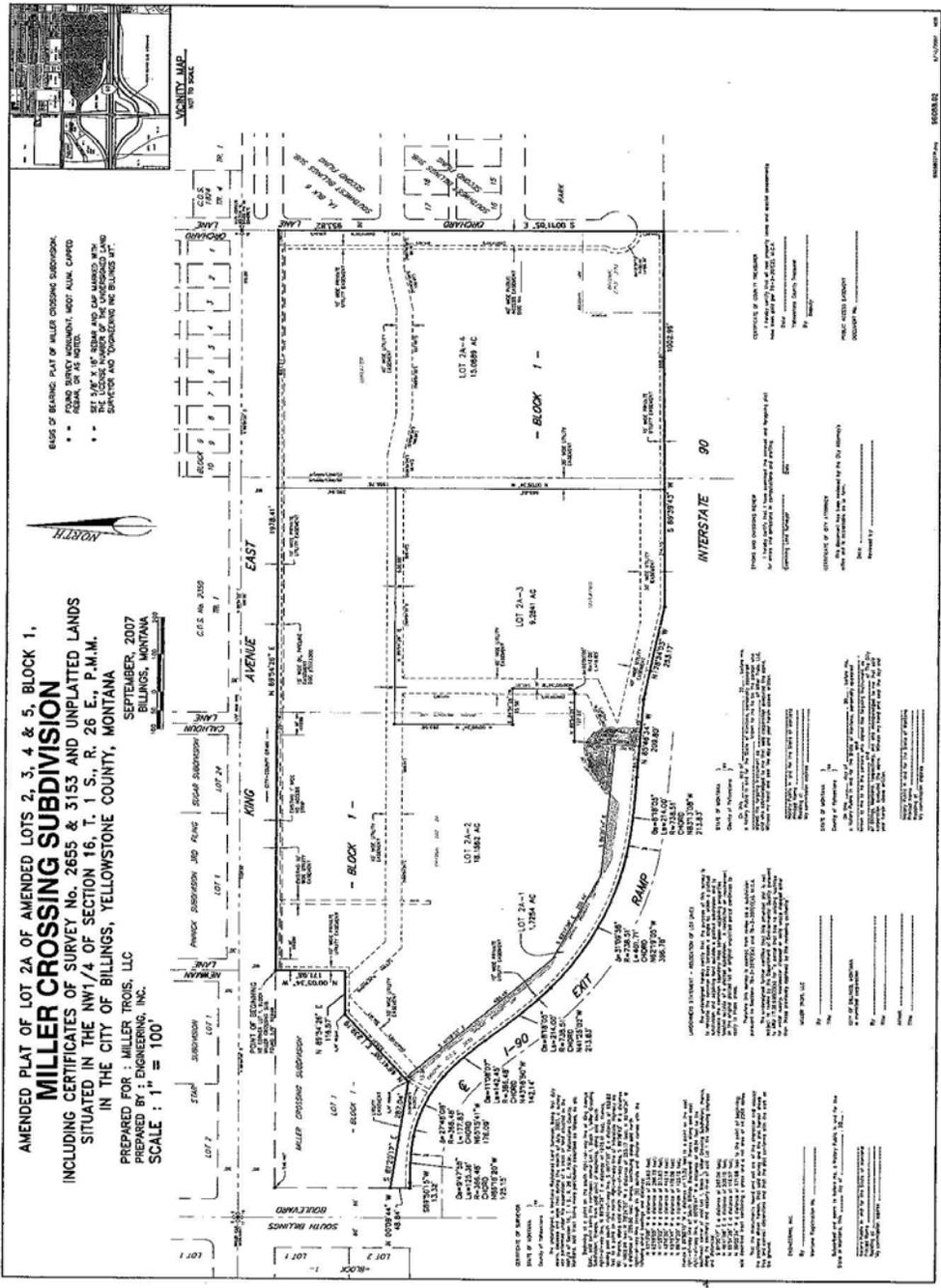
By: _____
Mayor

Attest: _____
City Clerk

STATE OF MONTANA }
 : ss.
County of Yellowstone }

On this ____ day of _____, 20__, before me, a Notary Public for the State of Montana,
personally appeared _____ and _____, known to
me to be the Mayor and City Clerk of Billings, Montana, respectively, and who acknowledge to me that they
executed the same.

NOTARY PUBLIC FOR THE STATE OF MONTANA
PRINTED NAME _____
RESIDING AT _____
MY COMMISSION EXPIRES _____



P:\CADD\1003-518Y-PRO\A\60688_02 Miller_Crossing_Plat_SVA.dwg 9/21/2007 1:08:59 PM substation 11.17 1.24802

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: 2007 CTEP Project Applications
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Scott Walker, Transportation Planner

PROBLEM/ISSUE STATEMENT: Each year Billings submits projects to the Montana Department of Transportation for funding from the Community Transportation Enhancement Project (CTEP) program. These projects typically represent construction of pedestrian and/or bicycle facilities in the community. Council must formulate a recommendation to the Policy Coordinating Committee (PCC).

ALTERNATIVES ANALYZED:

- Approve the CTEP applications for submission as recommended by TAC.
- City Council formulate their own project list.
- Do not approve the CTEP applications for submission. This would result in the loss of CTEP funding for this year.

FINANCIAL IMPACT: These projects were budgeted and planned to utilize CTEP funding. Failure to approve the applications would result in the loss of the CTEP funding. As a result, the projects would not be fully funded, and additional funding would need to be allocated in order to proceed with construction.

RECOMMENDATION

Staff recommends that Council formulate a recommendation so the Mayor can bring it with him to the Policy Coordinating Committee (PCC) meeting tentatively scheduled for the first part of November.

Approved By: City Administrator ____ City Attorney ____

INTRODUCTION

Each year, projects are submitted for Community Transportation Enhancement Project (CTEP) funding, to offset some of the construction costs. These projects are typically pedestrian and/or multi-modal transportation projects that include construction of sidewalks, bike lanes and bike paths.

Other categories eligible for CTEP funding include; acquisition of scenic easements, landscaping, rehabilitation of historic buildings, establishment of transportation museums, historic preservation, archeological planning and research, mitigation of water pollution due to highway runoff, preservation of abandoned railroad corridors, control and removal of outdoor advertising, educational and safety programs.

In order for CTEP funding to be authorized, an application must be submitted and each application must go through a local selection process. This process includes a recommendation from the Technical Advisory Committee (TAC), and recommendations from the Planning Board, County Commission and City Council. Projects are then submitted to the Montana Department of Transportation (MDT) for final approval.

PROCEDURAL HISTORY

- Completed Items
 - 8/1/07; CTEP project applications received
 - 8/22/07; Technical Advisory Committee (TAC) reviews applications and makes recommendation on which projects to fund and their priority
 - 8/13/07; Council receives information and presentation of CTEP projects at Work Session
 - 9/18/07; County Commissioners review the applications and approve/revise TAC's recommendation and prioritization list

- Future Items
 - 9/25/07; Planning Board reviews applications and approves/revises TAC's recommendation and prioritization list
 - 10/9/07; City Council reviews applications and approves/revises TAC's recommendation and prioritization at their regular meeting
 - To Be Determined; Policy Coordination Committee reviews the applications and action taken by the other groups and determines the final recommendation and prioritization
 - The final recommendation and prioritization are reviewed by the Montana Department of Transportation (MDT)
 - MDT forwards the recommendation and prioritization to the Highway Commission for final approval
 - Highway Commission approves the recommendation and prioritization
 - MDT creates the project specific agreements and forwards them to the City

- City Council accepts and executes the project specific agreements
- The executed agreements are returned to MDT
- The Highway Commission approves the project agreements
- MDT authorizes the City to begin project development
- Project development and design
- Project construction
- Project close-out

BACKGROUND

Each CTEP project must follow an established approval procedure before funding is allocated. The first step of the process is the submission of project applications. All the applications are reviewed and prioritized through a previously approved process. The process includes a review by Council. The applications are consistent with previous CTEP project agreements accepted and executed by Council.

If Council does not approve the submission of the applications, then no CTEP funding can be allocated from this year's allocation for these projects. It would be a full year before CTEP applications could be submitted again. This could cause lengthy project delays or require Council to allocate additional funding to the projects in order to remain on schedule.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Council has previously approved the recommended projects during the approval of the Capital Improvement Plan. All the projects will proceed through the established CTEP project approval process for the City of Billings and Yellowstone County.

BACKGROUND

It should be noted that project request this year totals \$1,016,648 and CTEP funding available is \$581,000. Current projects and recommendations are as follows:

F.Y. 2007 CTEP PROPOSALS

- **Broadwater Crossing**
This project would construct a bike/pedestrian crossing on Broadwater Avenue connecting Descro Park and Lillis Park. This crossing will include a refuge island and provide path connections to both parks.

CTEP Funds: \$82,251 City of Billings/Local Match: \$12,749 Project Cost: \$95,000

- **2007 Poly Drive-Westfield to Shiloh (Sidewalks)**

This project would fund sidewalks along high priority school walking routes on Poly Drive from Westfield to Shiloh Road. This would include approximately ¼ of a mile of new sidewalks and drive approaches.

CTEP Funds: \$66,000 City of Billings/Local Match: \$10,231 Project Cost: \$149,306*

* This total includes \$73,075 in additional local funding.

- **Lampman Strip Park Trail**

This project would construct a 10' wide, approximately ½ mile, hard surface path in Lampman Park from Monad road to the Famous Dave's path.

CTEP Funds: \$268,830 City of Billings/Local Match: \$41,669 Project Cost: \$330,499*

*\$20,000 was secured from the Recreational Trails Program

- **On-Street Bike Lanes**

This project would stripe bike lanes on various street segments through out the City of Billings.

CTEP Funds: \$110,390 City of Billings/Local Match: \$17,110 Project Cost: \$127,500

- **Swords Park Trail - Phase II**

This project would construct approximately 1 mile of hard surfaced path extending the existing trail connection that was built from the west side of Swords Park to where it currently ends at the fork in the Black Otter Trail Road. Phase II will continue the trail access to the east end of Swords Park and eventually make the connection to the north to the pedestrian underpass that will be built as part of the Airport Road project.

CTEP Funds: \$489,177 City of Billings/Local Match: \$75,823 Project Cost: \$565,000

F.Y. 2007 CTEP APPLICANT REQUESTS

\$ 1,016,648

F.Y. 2007 CURRENT CTEP DOLLARS AVAILABLE

\$ 581,000

TAC RECOMMENDATION

PROJECT	CTEP REQUEST	RECOMMENDED FUNDING
Broadwater Crossing	\$82,251	\$82,251
2007 Poly Drive-Westfield to Shiloh (Sidewalks)	\$66,000	\$66,000
Lampman Strip Park Trail	\$268,830	\$268,830
On-Street Bike Lanes	\$110,390	\$100,000
Swords Park Trail - Phase II	\$695,236	\$63,919
TOTAL	\$1,016,648	\$581,000

ISSUES

The Technical Advisory Committee (TAC) is recommending that Broadwater Crossing, Poly Drive Sidewalks and Lampman Park be funded at the requested amounts. Further TAC recommends that the On Street Bike Lanes be funded at \$100,000 and the remaining funds of \$63,919 be allocated to the design of the Swords Park Trail TAC feels that all of the CTEP projects this year are great “community tying” proposals, and they all add a level of aesthetics and safety to our city and county. The County Commission at their September 19th meeting concurred with the TAC recommendation.

RECOMMENDATION

Staff recommends that Council formulate a recommendation so the Mayor can bring it with him to the Policy Coordinating Committee (PCC) meeting tentatively scheduled for the first part of November.

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearings and Resolutions to Create Light Maintenance Districts
 SILMD 303 – King Avenue West from 31st to Shiloh

DEPARTMENT: Public Works Department

PRESENTED BY: David D. Mumford, Public Works Director

PROBLEM/ISSUE STATEMENT: On September 10, 2007, the City Council passed the Resolution of Intent to Create a new lighting district and established a public hearing on creation of the proposed district for October 9, 2007. Legal notices and a letter explaining the districts and the protest procedure were mailed to each of the landowners in the proposed new districts on September 13th, 2007. Information on the number and percentage of property owner protests received will be presented at the public hearings. SILMD 303 was created on a square foot basis with an average lot depth of 260-feet. There are 28 properties in the district, with an average assessment of \$659.21. The largest assessment of \$4,706.60 is assessed to Golden Meadows Mobile Home Park and the smallest assessment of \$50.95 is assessed to a individual residential property.

ALTERNATIVES ANALYZED:

1. Create SILMD 303 to provide a source of funding for operation & maintenance of the street lights
2. Do not create SILMD 303 and do not install lighting.

FINANCIAL IMPACT: All costs for this proposed light district will be paid for by assessments against properties within the districts. City properties within the districts will be assessed their proportionate share of the costs for that particular district. City-owned properties within the proposed districts are parks along King Avenue West (estimated annual assessment \$1,201.85).

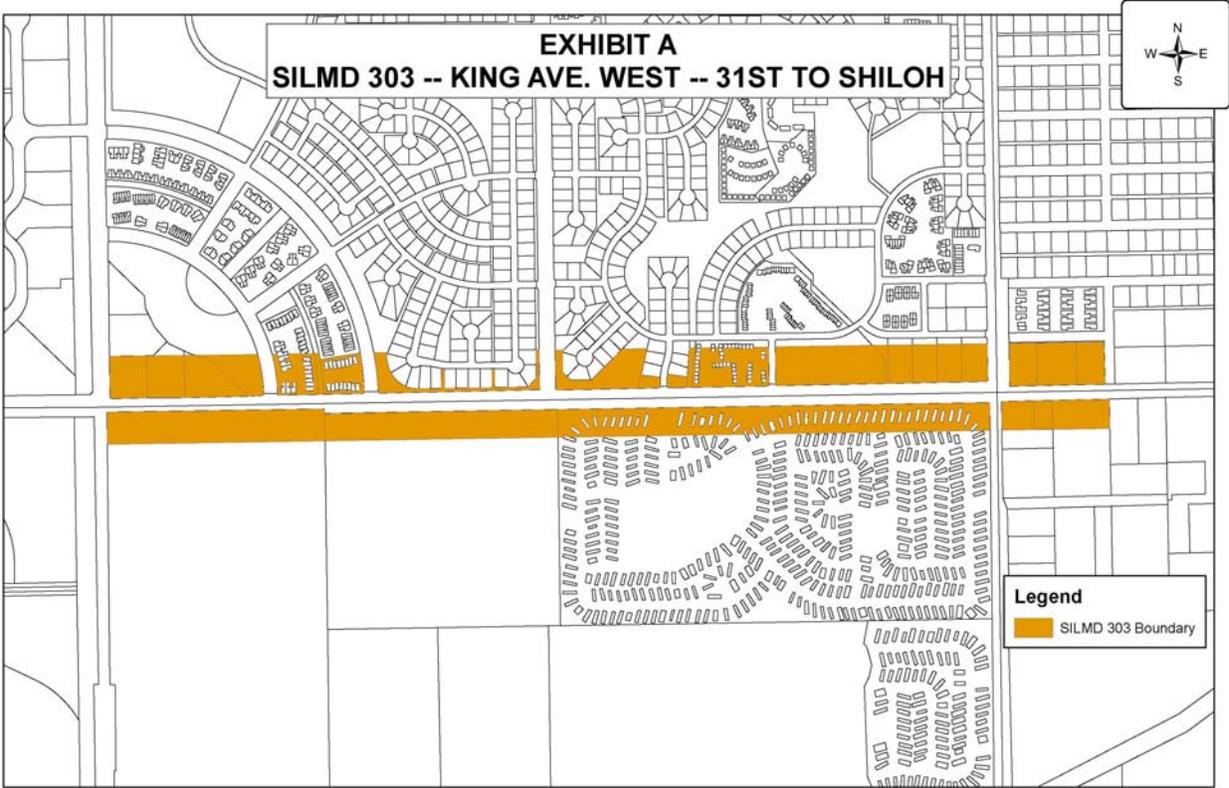
RECOMMENDATION

Staff recommends that Council pass Resolutions creating SILMD 303

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. District Boundary Map SILMD 303
- B. Resolution Creating SILMD 303



RESOLUTION NO. 07-_____

A RESOLUTION CREATING SPECIAL IMPROVEMENT LIGHTING MAINTENANCE DISTRICT NO. 303 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 10th day of September, 2007, passed Resolution 07-18599, a Resolution of Intention to Create a Special Improvement Lighting Maintenance District designated as No. 303, 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. 303, 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. 07-18599, 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 \$10.61 per 250 watt unit in accordance with the rate schedule ELDS-1 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 \$18,457.99, 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 \$0.00712987 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 \$21,064.47 or approximately \$0.00813669 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. 303 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 9th day of October, 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

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AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearing to Vacate a Portion of South 12th Street West
DEPARTMENT: Public Works/Engineering
PRESENTED BY: David D. Mumford, PE, Public Works Director

PROBLEM/ISSUE STATEMENT: MDU (Montana Dakota Utilities) is constructing a new building at the corner of South 12th Street West and Southgate Drive. In the rear of their property, a pedestrian walkway was constructed along the City-County Drain. This walkway is located on MDU's property; however it is a good location away from the drain. Along the west side of MDU's property is right of way that is just a boulevard. MDU is requesting that the city swap a portion of the South 12th Street West boulevard for a sufficient amount of right of way on the north side to have the walkway in right of way instead of private property. Moving the walkway would only install it closer to the drain. The amount of property to be vacated is the same size as the property to be dedicated. After the South 12th Street West right of way is vacated, a subdivision plat will be completed aggregating the right of way with their parcel and dedicating the necessary right of way for the walkway.

ALTERNATIVES ANALYZED:

3. After holding a public hearing approve the vacation of the above-mentioned right-of-way.
4. After holding a public hearing do not approve the vacation of the above-mentioned right-of-way.

FINANCIAL IMPACT: The right of way being vacated is the exact size as the right of way that will be dedicated. It would be an even swap at no cost to the City or MDU.

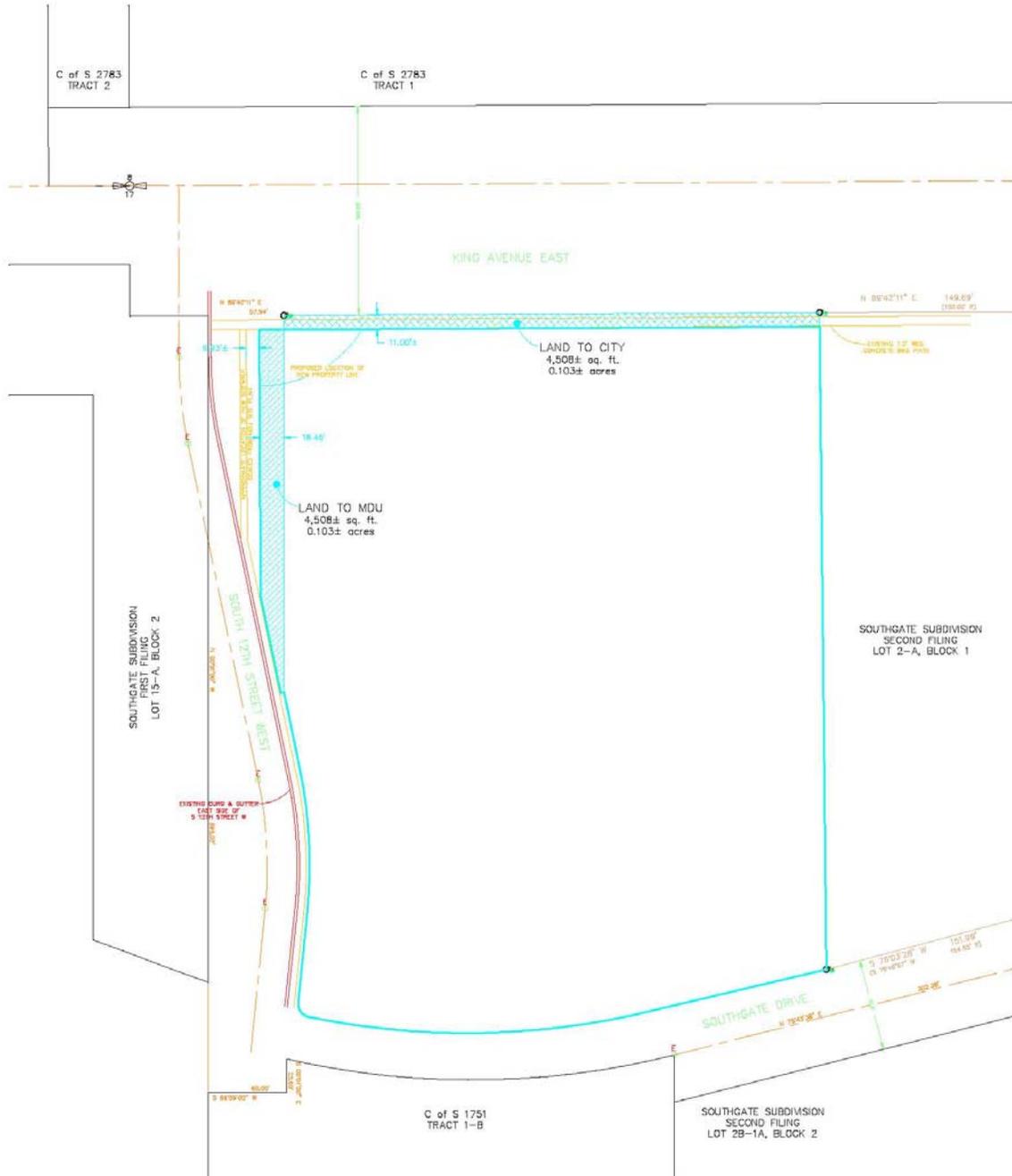
RECOMMENDATION

Staff recommends that Council approve the vacation of a portion of South 12th Street West and authorize the mayor to sign the subdivision plat dedicating the Right of Way north of MDU's property.

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

ATTACHMENTS

- D. Map Depicting Area to be Vacated
- E. Resolution to Vacate



RESOLUTION NO. 07-_____

A RESOLUTION OF THE CITY OF BILLINGS,
MONTANA, DISCONTINUING AND VACATING **portion of
South 12th Street West.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **portion of South 12th Street West** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

1. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **portion of South 12th Street West** more particularly described as follows:

DESCRIPTION OF RIGHT OF WAY TO BE VACATED:

A portion of South 12th Street West south of King Avenue East Commencing at the northwest corner of Lot 1-A, Block 1, Southgate Subdivision, Recorded October 31, 2006, Under Document No. 3398817, Records of Yellowstone County, Montana; thence S 00°01'00" E for a distance of 11.00 feet to the True Point of Beginning; thence S 00°01'00" E for a distance of 277.80 feet; thence S 78°14'37" W for a distance of 2.55 feet; thence N 11°45'23" W for a distance of 78.08 feet; thence N 00°01'00" W for a distance of 201.78 feet; thence N 89°42'11" E for a distance of 18.38 feet to the Point of Beginning.
Said tract containing 4,508 square feet.

Is hereby discontinued, abandoned and vacated.

2. **PUBLIC INTEREST.** The discontinuance, vacation and abandonment of the above described **portion of South 12th Street West** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 9th day of October 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearing to Vacate a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North

DEPARTMENT: Public Works/Engineering

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

PROBLEM/ISSUE STATEMENT: Billings Clinic has petitioned to vacate a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North. Billings Clinic owns all of the property abutting the proposed right-of-way and is proposing to develop the property in the future. There is currently a sanitary sewer main within the alley in which Billings Clinic is proposing to relocate.

ALTERNATIVES ANALYZED:

5. After holding a public hearing approve the vacation of the above-mentioned right-of-way.
6. After holding a public hearing do not approve the vacation of the above-mentioned right-of-way.

FINANCIAL IMPACT: Billings Clinic is willing to accept the same value established by an appraisal completed for North 28th Street between 11th Avenue North and 12th Avenue North. The appraisal established the value of the right-of-way at \$20.50 per square foot for unencumbered right of way and \$10.25 per square foot for right of way encumbered with public utilities. The total value of the proposed vacated property (7,000 square feet) to be paid to the city from Billings Clinic is \$71,750.00 at the \$10.25 per square foot price for encumbered right of way.

RECOMMENDATION

Staff recommends that Council approve the vacation of a portion of an alley between N. 29th Street and N. 30th Street north of 10th Avenue North.

Approved By: City Administrator ____ City Attorney ____

ATTACHMENTS

- A. Map Depicting Area to be Vacated
- B. Resolution to Vacate

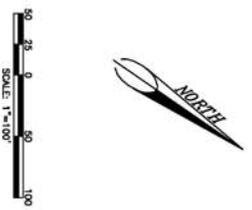
EXHIBIT "A"

RIGHT-OF-WAY VACATION FOR A PORTION OF THE ALLEY WAY WEST OF AND PARALLEL TO NORTH 29TH STREET BEGINNING AT THE NORTH R.O.W. LINE OF TENTH AVENUE NORTH AND ENDING AT THE NORTH LINES OF LOT 35 NORTH ELEVATION SUBDIVISION BLOCK 2, AND LOT 14 NORTHSIDE SUBDIVISION BLOCK 6



DESCRIPTION OF ALLEY WAY VACATION

A parcel of land situated in the Southeast 1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana; more particularly described as follows, to-wit: Beginning at a point which is the Southeast corner of Lot 48, block 2 North Elevation Subdivision; Thence N 34°36'30" W a distance of 350.00 feet along the Easterly line of Lots 48, 47, 46, 45, 44, 43, 42, 41, 40, 39, 38, 37, 36, and 35 to the Northeast corner of said lot 35, North Elevation Subdivision Block 2; Thence N 55°23'30" E a distance of 20.00 feet to the Northwest corner of Lot 14, Block 2 Northside Addition Subdivision; Thence S 34°36'30" E along the Westerly line of Northside Addition Subdivision, Block 2 a distance of 350.00 feet to the Southwest corner of said Subdivision; Thence S 55°23'30" W a distance of 20.00 feet to the Point of Beginning, said described vacation having an area of 7,000 square feet.



N NO. 07-_____

A RESOLUTION OF THE CITY OF BILLINGS, MONTANA, DISCONTINUING AND VACATING **portion of Alley between North 29th Street and North 30th Street North of 10th Avenue North.**

WHEREAS, a proper petition was filed with the City Council of the City of Billings, Montana, as per Section 22-601 BMCC, requesting discontinuance and vacation of **portion of Alley between North 29th Street and North 30th Street North of 10th Avenue North** as described hereinafter; and

WHEREAS, a public hearing was properly noticed and held as required by law.

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

3. **DISCONTINUANCE AND VACATION.** Pursuant to Sections 7-14-4114 and 7-14-4115, M.C.A., **portion of Alley between North 29th Street and North 30th Street North of 10th Avenue North** more particularly described as follows:

DESCRIPTION OF ALLEY TO BE VACATED:

A parcel of land situated in the Southeast 1/4 of Section 32, T. 1 N., R. 26 E., P.M.M., Yellowstone County, Montana, more particularly described as follows, to-wit: Beginning at a point which is the Southeast corner of Lot 48, block 2 North Elevation Subdivision; Thence N 34°36'30" W a distance of 350.00 feet along the Easterly line of Lots 48 through 35 to the Northeast corner of said lot 35, North Elevation Subdivision Block 2; Thence N 55°23'30" E a distance of 20.00 feet to the Northwest corner of Lot 14, Block 6 North Side Addition; Thence S 34°36'30" E along the Westerly line of North Side Addition, Block 6 a distance of 350.00 feet to the Southwest corner of said Lot 1, Block 6, North Side Addition; Thence S 55°23'30" W a distance of 20.00 feet to the Point of Beginning, said described vacation having an area of 7,000 square feet.

Is hereby discontinued, abandoned and vacated.

4. PUBLIC INTEREST. The discontinuance, vacation and abandonment of the above described **portion of Alley between North 29th Street and North 30th Street North of 10th Avenue North** is in the best interest of the public and can be done without any public detriment.

PASSED by the City Council and APPROVED this 9th day of October 2007.

THE CITY OF BILLINGS:

BY: _____
Ron Tussing MAYOR

ATTEST:

BY: _____
Cari Martin CITY CLERK

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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearing and First Reading of an Ordinance Expanding Ward II for Annexation 07-10 Property
DEPARTMENT: Planning and Community Services
PRESENTED BY: Wyeth Friday, AICP, Planning Division Manager

PROBLEM/ISSUE STATEMENT: On September 24, 2007, the City Council approved the annexation of Tract 1, Certificate of Survey 2017; S1/2 SE1/4, Section 8, T1N, R26E; S1/2 SW1/4, Section 9, T1N, R26E, (Annexation #07-10) containing 400.94 acres. The property is located northwest of the Lake Hills Golf Course and north of Matador Avenue in the Billings Heights. After annexation, the property must be added to one of the City’s election wards. The first reading and public hearing on the ordinance to add the property to Ward II will be held on October 9, 2007. The second reading of the ordinance is scheduled for Council action on October 22, 2007.

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

RECOMMENDATION

Staff recommends that the City Council hold the public hearing and approve the first reading of this ordinance that adds this property to City Ward II.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

- A. Ward Ordinance and Exhibit A

ORDINANCE NO. 07-_____

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

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

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

Tracts of land situated in the SE1/4 of Section 8, the SW1/4 of Section 9 and the N1/2 of Section 17, T.1N, R.26E, P.M.M., Yellowstone County, Montana, described as follows:

Being the S1/2 of the SE1/4 of Section 8, T.1N., R.26E., P.M.M., Yellowstone County, Montana; the S1/2 of the SW1/4 of Section 9, T.1N., R.26E., P.M.M., Yellowstone County, Montana; Tract 1 of Certificate of Survey 2017, Recorded September 30, 1980, Under Document No. 1178050, Records of Yellowstone County. Containing 400.944 gross and net acres, more or less. (# 07-10) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of October, 2007.

PASSED by the City Council on the second reading this 22nd day of October, 2007.

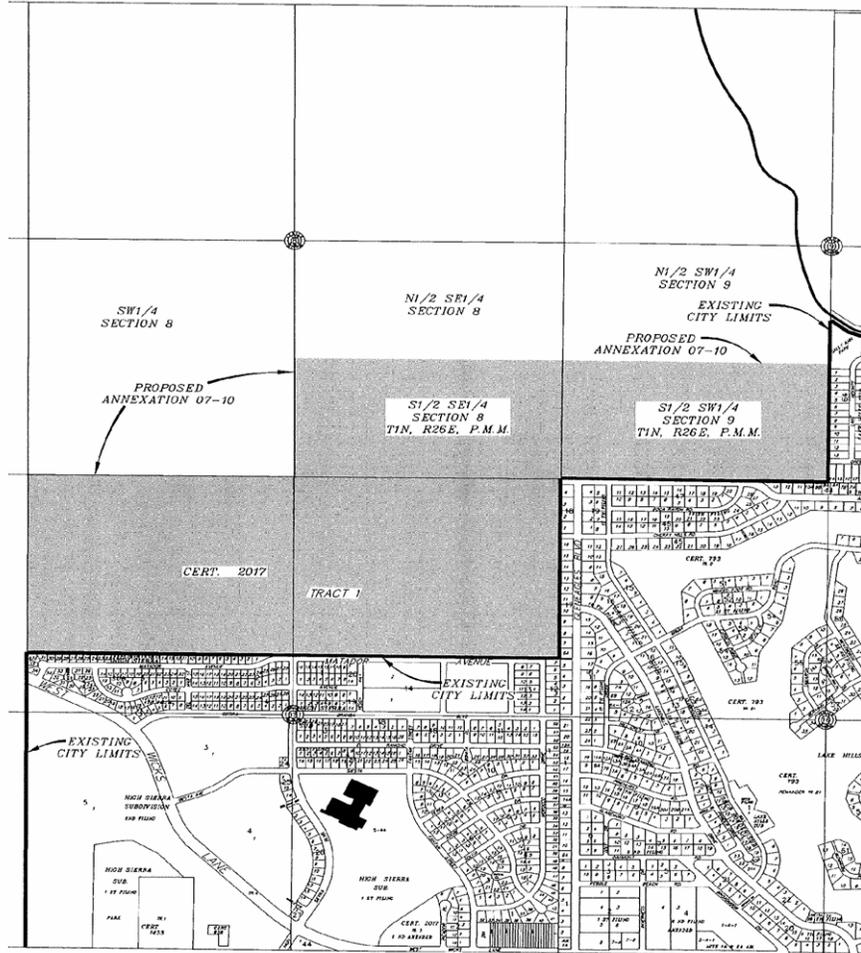
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearing and First Reading of an Ordinance Expanding Ward V: Annexation #07-21
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On September 24, 2007, the City Council approved the annexation of an approximate 8.868-acre parcel legally described as Tract 1C, Certificate of Survey 2991. The request for annexation was submitted by Raymond and Douglas Kramer (Power of Attorney for the Lydia Kramer Real Estate Management Trust), the owners of property. Upon annexation, the property must be added to one of the City’s election wards. The first reading and public hearing on the ordinance to add the property to Ward V will be conducted at this meeting. The second reading of the ordinance will be conducted on October 22, 2007.

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

RECOMMENDATION

Staff recommends that the City Council hold the public hearing and approve the first reading of this ordinance that adds property to City Ward V.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

- B. Ward Ordinance and Exhibit A

ATTACHMENT A

ORDINANCE NO. 06-_____

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

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

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

A tract of land situated in the NW1/4 of Section 12, T.1S., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Tract 1-C, Certificate of Survey No. 2991, Recorded December 29, 1998, Under Document No. 3033373, Records of Yellowstone County, Montana.

Including all adjacent right-of-way of Central Avenue.

Said Tract containing 8.869 acres.

(# 07-21) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of October, 2007.

PASSED by the City Council on the second reading this 22nd day of October, 2007.

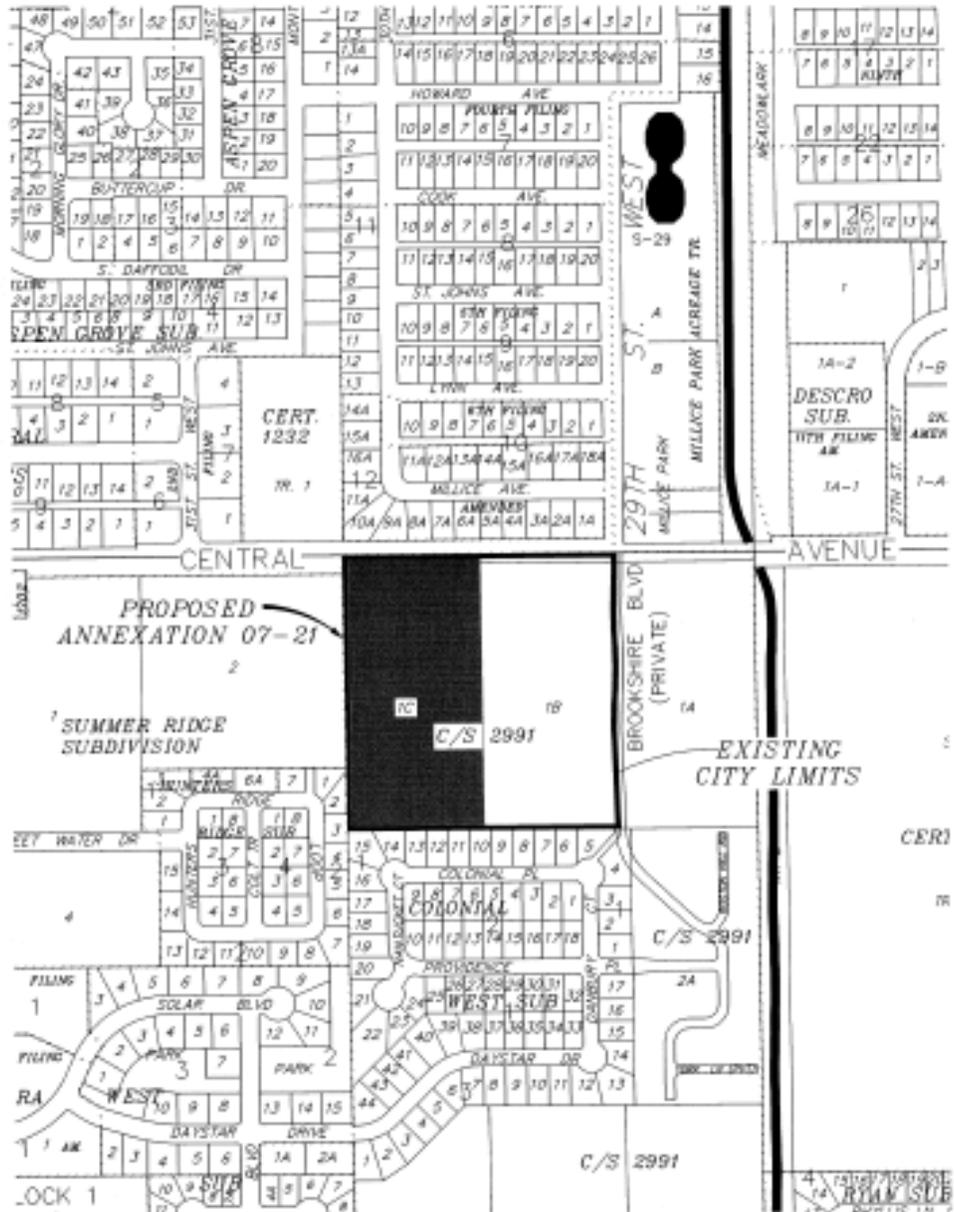
THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

EXHIBIT A



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

AGENDA ITEM:



CITY COUNCIL AGENDA ITEM
CITY OF BILLINGS, MONTANA
Tuesday, October 9, 2007

TITLE: Public Hearing and First Reading of an Ordinance Expanding Ward V: Annexation #07-22
DEPARTMENT: Planning and Community Services Department
PRESENTED BY: Aura Lindstrand, Planner II

PROBLEM/ISSUE STATEMENT: On September 24, 2007, the City Council approved the annexation of an approximate 8.868-acre parcel legally described as Tract 1B, Certificate of Survey 2991. The request for annexation was submitted by Todd Icopini, Legacy Homes, the owner of property. Upon annexation, the property must be added to one of the City’s election wards. The first reading and public hearing on the ordinance to add the property to Ward V will be conducted at this meeting. The second reading of the ordinance will be conducted on October 22, 2007.

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

RECOMMENDATION

Staff recommends that the City Council hold the public hearing and approve the first reading of this ordinance that adds property to City Ward V.

Approved by: City Administrator _____ City Attorney _____

ATTACHMENT

- C. Ward Ordinance and Exhibit A

ATTACHMENT A

ORDINANCE NO. 06-_____

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

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

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

A tract of land situated in the NW1/4 of Section 12, T.1S., R.25E., P.M.M., Yellowstone County, Montana, more particularly described as:

Tract 1-B, Certificate of Survey No. 2991, Recorded December 29, 1998, Under Document No. 3033373, Records of Yellowstone County, Montana.

Including all adjacent right-of-way of Central Avenue.

Said Tract containing 8.869 acres.

(# 07-22) See Exhibit "A" Attached

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

PASSED by the City Council on the first reading this 9th day of October, 2007.

PASSED by the City Council on the second reading this 22nd day of October, 2007.

THE CITY OF BILLINGS:

Ron Tussing, MAYOR

ATTEST:

BY: _____
Cari Martin, CITY CLERK

