

UPDATED AS OF 9/21/2016
ITEM 9 AND CLOSED EXECUTIVE SESSION ADDED
CITY OF BILLINGS

CITY OF BILLINGS VISION STATEMENT:

**“THE MAGIC CITY: A DIVERSE, WELCOMING COMMUNITY WHERE PEOPLE
PROSPER AND BUSINESS SUCCEEDS.”**

AGENDA

COUNCIL CHAMBERS

September 26, 2016

5:30 P.M.

CALL TO ORDER: Mayor Hanel

PLEDGE OF ALLEGIANCE: Mayor Hanel

INVOCATION: Councilmember Clark

ROLL CALL: Councilmembers present on roll call were:

RECESS TO CLOSED EXECUTIVE SESSION* (meeting will be called back to order at 6:30 P.M.)

*Note: The closed Executive Session is solely for the purpose of discussing litigation strategy in which the only parties are NOT public bodies or associations, as described in Section 2-3-203(1) and (2). The meeting is closed, as allowed by Section 2-3-303, MCA, "to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position" of the City of Billings.

MINUTES: September 12, 2016

COURTESIES:

PROCLAMATIONS:

ADMINISTRATOR REPORTS - TINA VOLEK

PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items: #1, #8 and #9 ONLY.

Speaker sign-in required. (Comments offered here are limited to one (1) minute for one item, or three (3) minutes for multiple items. Please sign in at the cart located at the back of the council chambers or at the podium. Comment on items listed as public hearing items will be heard ONLY during the designated public hearing time for each respective item. For Items not on this agenda, public comment will be taken at the end of the agenda.)

1. CONSENT AGENDA -- Separations:

A. Bid Awards:

1. Yellowstone Kelly Interpretative Site Improvements. (Opened 9/20/16)
Recommend delay of award until October 11, 2016.

2. W.O. 16-18, Demolition of New 911 Call Center Site. (Opened 9/13/16)
Recommend Yochum Contracting, Inc., \$67,620.00.

B. Specialized Transportation Contract with State of Montana Department of Public Health and Human Services - Developmental Disabilities Division; \$70,000, 1 year with 4 - 1 year extensions.

C. Acceptance of Street Tract of Certificate of Survey 1888, Hawthorne Lane from Ken Wolery

D. Approval of the purchase of twelve (12) patrol vehicles from Bison Ford Motor Company of Great Falls for \$27,561.18 each, or a total cost of \$330,734.16.

E. Application Request to submit Passenger Facility Charge (PFC) application to Federal Aviation Administration (FAA) for Billings Logan International Airport projects.

F. Bills and Payroll:

1. August 29, 2016

2. September 6, 2016

REGULAR AGENDA:

2. **PUBLIC HEARING AND RESOLUTION SPREADING ASSESSMENTS** for annual weed abatement. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
3. **PUBLIC HEARING AND RESOLUTION** approving reducing the Arterial Construction Fee assessment. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
4. **PUBLIC HEARING AND SITE DEVELOPMENT ORDINANCE VARIANCE #CC 16-01:** a variance from various site development codes at 2604 Belknap Avenue. Hi-Mile Tire, owner. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
5. **PUBLIC HEARING AND FIRST READING ORDINANCE FOR ZONE CHANGE #948:** a zone change from Public to Residential Professional on a 2-acre parcel of land described as: Lots 1 and 2, Block 4, Rocky Village Subdivision, generally located at the intersection of 17th St. West and Rimrock Road. Michael Larsen, Applicant; David Mitchell, Agent. Zoning Commission recommends approval and adoption of the findings of the 10 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
6. **PUBLIC HEARING AND SPECIAL REVIEW #947:** a special review to locate an all beverage license with gaming in a Highway Commercial (HC) zone, on a 38,928 square foot parcel of land described as: Lot 1A, Block 1 of Arrowhead Subdivision Amended, generally located at 1524 Main Street. Pauline Staley Family Trust, owner; Alex Tomerup - AT Architecture, agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
7. **PUBLIC HEARING AND SPECIAL REVIEW #948:** a special review to allow a beer and wine license with gaming for a proposed new Casino. Sapphire Plaza, LLC, owner; James Healow, Agent. Zoning Commission recommends conditional approval and adoption of the findings of the 3 criteria. (Action: approval or disapproval of Zoning Commission recommendation.)
8. **APPROVAL OF APPEAL** in Ernie Watters. et al.. vs. City of Billings. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)
9. **APPROVAL OF EMPLOYMENT AGREEMENT** for City Administrator, Tina Volek. Staff recommends approval. (Action: approval or disapproval of staff recommendation.)

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

COUNCIL INITIATIVES

ADJOURN

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

Reasonable accommodations will be made to enable individuals with disabilities to attend this meeting. Please notify Denise Bohlman, City Clerk, at 657-8210.

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Bid Award - Yellowstone Kelly Interpretative Site Improvements -
Recommend to Postpone

PRESENTED BY: Mike Whitaker, Parks, Recreation & Public Lands Director

Department: Parks/Rec/Public Lands

PROBLEM/ISSUE STATEMENT

Plans and specifications for improvements at the Yellowstone Kelly grave site were prepared and sent for bids on September 2, 2016. The bids were opened on September 20, 2016. State law requires the governing body to consider bids at the meeting immediately following a bid opening. Staff is requesting postponement of action for this item to the October 11, 2016 Council Meeting to give the consultant additional time to evaluate the bids and make a recommendation.

ALTERNATIVES ANALYZED

City Council may:

- Approve the staff recommendation to delay action on this item to the October 11, 2016 Council Meeting, or;
- Disapprove the staff recommendation and reject all bids.

FINANCIAL IMPACT

Funding for this project will come from private donations and pledges through the Billings Chamber of Commerce. Council has provided \$50,000 from Council Contingency funds.

RECOMMENDATION

Staff recommends that the Council postpone awarding a contract for the Yellowstone Kelly Interpretative Site Improvements to the October 11, 2016 meeting.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: W.O. 16-18 -- Site Demolition for New 911 Call Center, Construction Contract

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

The City purchased property at N. 25th and 9th Ave. N. on which a new 911 Call Center will be built. To make the property available and ready for the new construction, it must be cleared of all existing structures and site appurtenances. This portion of the project will provide complete demolition and removal of multiple buildings, all underground piping, shallow foundations and basements, surface materials (asphalt and concrete), trees and shrubs, and any other miscellaneous items presently on the site.

This contract was advertised August 18th, 25th, and September 1st, 2016, in *The Billings Times* and on the City's website. Bids were opened September 13th, 2016, and Council is asked to take action on the bids.

ALTERNATIVES ANALYZED

City Council may:

- Award a contract to the low bidder, Yochum Contracting, in the amount of \$67,620.00; or
- Reject all bids, which will delay the site demolition until spring, potentially affecting the entire project schedule and delaying when the new 911 Call Center will be available.

FINANCIAL IMPACT

The following bids were received and evaluated.

DEMOLITION CONTRACTOR (BIDDER)	LUMP SUM BID AMOUNT
JDR Solutions	\$201,534.00
Yochum Contracting Inc.	\$ 67,620.00
Donnes Inc.	\$129,544.80
Warren Transport Inc.	\$158,217.00
Asphalt Plus Inc.	\$ 69,200.00
LGI Construction	\$ 94,965.00
Cayton Excavation	\$142,202.00
Knife River -- Billings	\$164,425.00
CMG Construction -- Billings	\$169,050.00
Hanson Independent	\$193,250.00

Upon reviewing all bids, Yochum Contracting is deemed to have submitted the lowest responsible bid.

The project is being funded with 911 funds as approved in the FY 2017 budget. There are adequate funds available for the bid amount.

Original Budget	\$700,000
Previously Encumbered	\$7,945
This Contract	\$67,620
Amount Remaining	\$624,435

RECOMMENDATION

Staff recommends that the City Council award a construction contract to Yochum Contracting, Inc. for W.O. 16-18 -- Site Demolition for New 911 Call Center in the amount of \$67,620.00.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Approval of Contract with the State of Montana Dept. of Public Health and Human Services-Development Disabilities Division

PRESENTED BY: Kevin Ploehn, Director of Aviation and Transit

Department: Transit

PROBLEM/ISSUE STATEMENT

Since July 1997, the Montana Department of Public Health and Human Services - Developmental Disabilities Division (DD) has contracted with MET Transit to provide specialized transportation for developmentally disabled individuals to and from their respective DD 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 term of this contract is from July 1, 2016 through June 30, 2017. This contract contains a clause that allows service to be extended for four additional one-year periods, not to exceed a total contract term of five years.

This Contract is available for viewing in the City Clerk's office.

ALTERNATIVES ANALYZED

City Council may:

- Approve the contract to continue providing specialized transportation for our community's developmentally disabled individuals; or
- Disapprove the contract thus preventing MET Transit from providing specialized transportation for our community's developmentally disabled individuals.

FINANCIAL IMPACT

Through this contract the City's Transit Division may receive up to \$70,000 in revenue for the services provided in FY 2017.

RECOMMENDATION

Staff recommends that the City Council approve and authorize the Mayor to execute the Contract between the City's MET Transit Division and the State of Montana Department of Public Health and Human Services - Developmental Disabilities Division.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Acknowledgement and Acceptance of Street Tract of Amended Plat of Certificate of Survey 1888

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

The property owners of Certificate of Survey 1888 have amended their plat to include a street tract for Hawthorne Lane in the Heights. Hawthorne Lane currently exists over this tract. The property owner has agreed to quitclaim this tract to the City, and it becomes necessary for the City to accept this street tract in order to convey ownership to the City.

ALTERNATIVES ANALYZED

City Council may:

- Approve the acknowledgement and acceptance of the street tract, or;
- Do not accept the street tract. If not accepted, the portion of Hawthorne Lane will remain on private land.

FINANCIAL IMPACT

There is no financial impact to the City with approving the acknowledgement and acceptance for the street tract.

RECOMMENDATION

Staff recommends that the City Council approve the acknowledgement and acceptance of the street tract, Tract 4 of Amended Certificate of Survey 1888.

APPROVED BY CITY ADMINISTRATOR

Attachments

Quitclaim Deed

RETURN TO; KEN WOLERY
1630 PRIMROSE DR.
BILLINGS, MT. 59105

QUIT CLAIM DEED

FOR A VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY
ACKNOWLEDGED ON THIS 11TH DAY OF AUGUST, 2016, THE
UNDERSIGNED KEN WOLERY OF 1630 PRIMROSE DR., BILLINGS, MT. 59105

DOES HEREBY REMISE, RELEASE AND QUITCLAIM UNTO THE CITY OF BILLINGS
THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN A PORTION OF THE
SOUTH WEST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 14, T1N. R265E, P.M.M., CITY
OF BILLINGS, YELLOWSTONE COUNTY, MONTANA, BETTER KNOW AS THE TRACT
4 OF AMENDED CORRECTED CERTIFICATE OF SURVEY NO. 1888.ON FILE IN THE
YELLOWSTONE COUNTY, CLERK AND RECORDERS OFFICE UNDER DOCUMENT
NO. _____, SAID TRACT CONTAINS 3,861 SQ.FT.±

AS SHOWN ON EXHIBIT "A"

TO HAVE AND TO HOLD UNTO THE GRANTEE, ITS SUCCESSORS AND ASSIGNS
FOREVER.

IN WITNESS WHEREOF, THE GRANTOR HEREIN HAS EXECUTED THIS INSTRUMENT
THE DAY AND YEAR ABOVE WRITTEN.



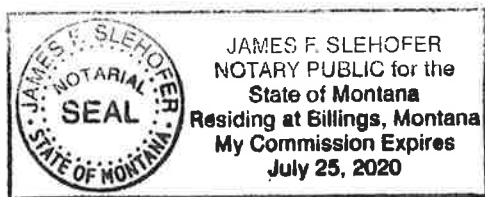
KEN WOLERY

STATE OF MONTANA)
) SS
COUNTY OF YELLOWSTONE)

ON THIS 11th DAY OF AUGUST, 2016, BEFORE ME, A NOTARY
PUBLIC FOR THE STATE OF MONTANA, PERSONALLY APPEARED KEN WOLERY,
KNOWN TO ME TO BE THE PERSON WHOSE NAME ARE SUBSCRIBED TO THE
FOREGOING INSTRUMENT AND WHO ACKNOWLEDGED TO ME THEY EXECUTED THE
SAME.



NOTARY PUBLIC IN AND FOR THE STATE OF MONTANA
PRINTED NAME: JAMES F. SLEHOFER



ACKNOWLEDGEMENT 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.

Thomas W. Hanel, Mayor, City of Billings

ATTEST:

By: _____
Denise R. Bohlman, 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 Thomas W. Hanel and Denise R. Bohlman known to me to be the Mayor and City Clerk, respectively, of the City of Billings, Montana, and acknowledged to me that they executed the foregoing instrument.

(Notarial Seal)

Notary Public for the State of Montana
Residing in Billings, Montana
My commission expires _____

AMENDED CORRECTED CERTIFICATE OF SURVEY NO. 1888

LOCATED IN THE SW1/4 OF THE SE1/4 OF SECTION 14, T1N, R26E, P.M.M., YELLOWSTONE COUNTY, MONTANA

FOR TROY BOUCHER &

KEN WOLERY

JUNE 2016

BY D. & J. SURVEYING
PH. 248-2812

LEGEND

- SET 5/8"X 30" REBAR WITH YELLOW PLASTIC CAP MARKED 11291 LS
 - FOUND 5/8" REBAR
- BASIS OF BEARING: THE EAST LINE OF C/S NO. 1888.

AREA SUMMARY

TRACT 1 = 12,394 SQ. FT.±
TRACT 2 = 14,161 SQ. FT.±
TRACT 3 = 14,000 SQ. FT.±
TRACT 4 = 3,861 SQ. FT.±
GROSS AREA = 44,416 SQ. FT.±
NET AREA = 40,555 SQ. FT.±

NOTE

THE PURPOSE OF THIS SURVEY IS TO GIVE TRACTS 1, & 2, TO MEMBERS OF MY FAMILY.

EXHIBIT "A"

LAND OWNERS STATEMENT

I KEN WOLERY OWNER OF TRACTS 1, 2, & 3 AND 4 OF AMENDED CORRECTED CERTIFICATE OF SURVEY NO. 1888, HEREBY CERTIFY THAT THIS SURVEY IS EXEMPT FROM REVIEW AS A SUBDIVISION PURSUANT TO SECTION 76-3-207(1)(b); "DIVISIONS MADE OUTSIDE OF PLATTED SUBDIVISIONS FOR THE PURPOSE OF A SINGLE GIFT OR SALE IN EACH COUNTY TO EACH MEMBER OF THE LANDOWNER'S IMMEDIATE FAMILY." AND THAT TRACT 1, OF THIS SURVEY IS A GIFT TO NYDA WOLERY, WHO IS MY WIFE, AND TRACT 2, OF THIS SURVEY IS A GIFT TO RANDAL WOLERY WHO IS MY SON AND PURSUANT TO ARM. 17-36-605(2)(b)(ii), "THE DIVISION OF LAND WILL NOT CAUSE APPROVED FACILITIES TO DEVIATE FROM THE CONDITIONS OF APPROVAL, IN VIOLATION OF 76-4-130, MCA." TRACT 4 WILL BE DEEDED TO THE CITY OF BILLINGS PURSUANT TO SECTION 76-3-201(1)(h) "IS CREATED FOR THE RIGHTS-OF-WAY OR UTILITY SITES. A SUBSEQUENT CHANGE IN THE USE OF THE LAND TO A RESIDENTIAL, COMMERCIAL, OR INDUSTRIAL USE IS SUBJECT TO THE REQUIREMENTS OF THIS CHAPTER."

KEN WOLERY

CERTIFICATE OF SURVEY

STATE OF MONTANA }
COUNTY OF YELLOWSTONE } SS

THIS IS TO CERTIFY THAT JAMES F. SLEHOFER A MONTANA REGISTERED LAND SURVEYOR, 11291 LS, BEING FIRST DULY SWORN, DEPOSES AND SAYS THAT DURING THE MONTH OF JUNE, 2016, A SURVEY WAS CONDUCTED, AND A PLAT WAS PREPARED UNDER HIS SUPERVISION OF A TRACT OF LAND KNOWN AS CORRECTED CERTIFICATE OF SURVEY NO. 1888, LOCATED IN THE SW1/4 OF THE SE1/4 OF SECTION 14, T1N, R26E, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, BEGINNING AT THE SOUTH EAST CORNER OF CORRECTED CERTIFICATE OF SURVEY NO. 1888; THENCE N88°57'04"W FOR A DISTANCE OF 346.25 FEET; THENCE N00°36'45"E FOR A DISTANCE OF 128.72 FEET; THENCE S88°53'54"E FOR A DISTANCE OF 344.71 FEET; THENCE S00°04'27"E FOR A DISTANCE OF 128.43 FEET, BACK TO THE POINT OF BEGINNING. THE GROSS AREA OF SAID TRACT OF LAND IS 44,416 SQ. FT.±

JAMES F. SLEHOFER PLS 11291 LS

STATE OF MONTANA }
COUNTY OF YELLOWSTONE } SS

ON THIS DAY OF 2016, BEFORE ME A NOTARY PUBLIC FOR THE STATE OF MONTANA, PERSONALLY APPEARED JAMES F. SLEHOFER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

NOTARY PUBLIC FOR THE STATE OF MONTANA
PRINTED NAME: KATHERINE M. SLEHOFER

CITY ENGINEERS OFFICE

I HEREBY CERTIFY THAT I HAVE EXAMINED THE ANNEXED PLAT FOR ERRORS AND OMISSIONS IN CALCULATIONS AND DRAFTING, ON THIS DAY, OF 2016.

CITY ENGINEERS OFFICE

COUNTY TREASURER CERTIFICATE OF TAX PAYMENT

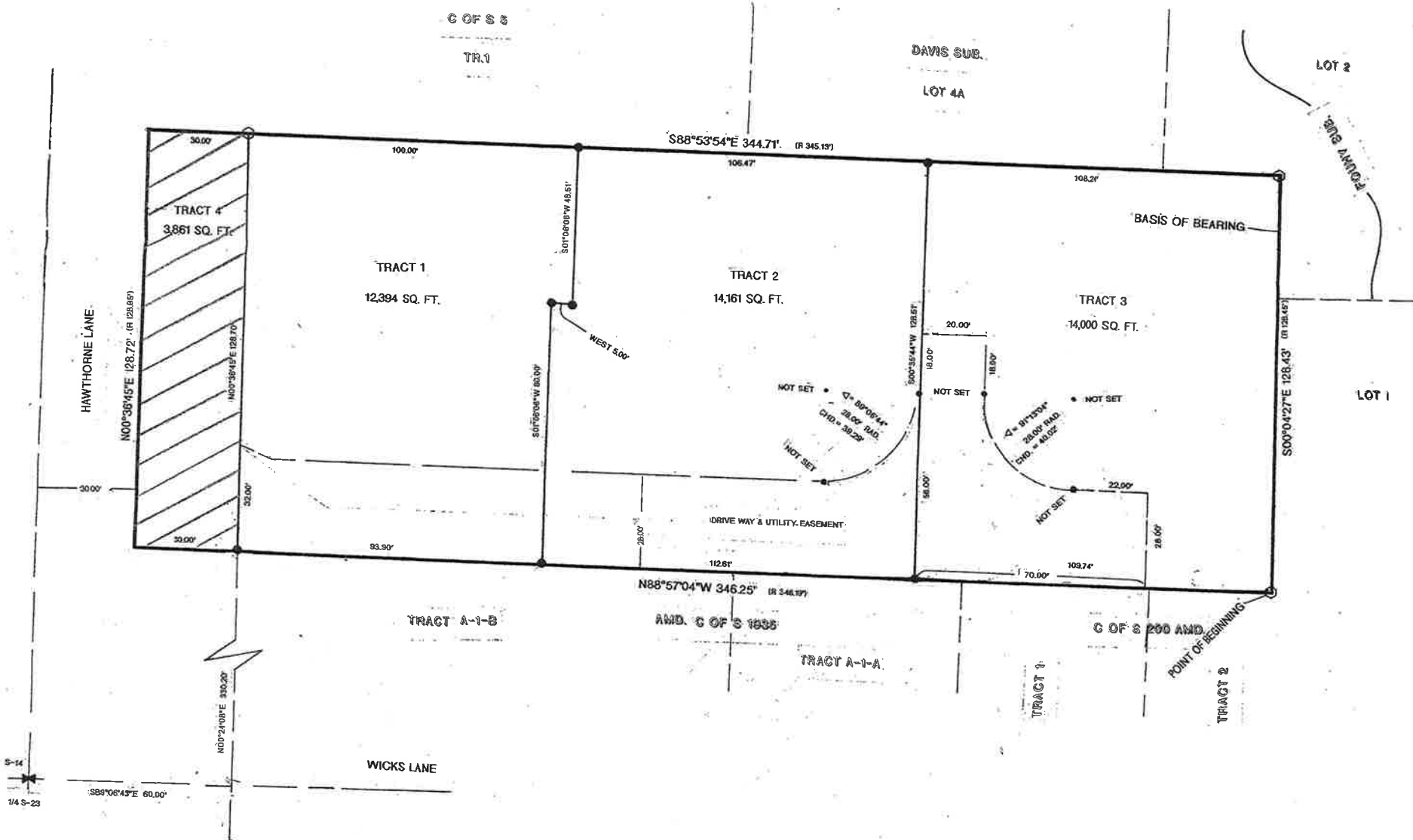
I HEREBY CERTIFY THAT ALL REAL PROPERTY TAXES OR SPECIAL ASSESSMENTS ON THE PROPOSED SURVEY HAVE BEEN PAID, PURSUANT TO MONTANA CODE ANNOTATED 76-3-611(1)(b)/76-3-207(3)

SIGNATURE OF COUNTY TREASURER DATE

CITY ATTORNEY

THIS CERTIFICATE OF SURVEY HAS BEEN REVIEWED BY THE CITY ATTORNEY'S OFFICE AND IS ACCEPTABLE AS TO FORM.

REVIEWED BY DATE



AMENDED CORRECTED CERTIFICATE OF SURVEY NO. 1888

LOCATED IN THE SW1/4 OF THE SE1/4 OF SECTION 14, T1N, R26E, P.M.M., YELLOWSTONE COUNTY, MONTANA

FOR TROY BOUCHER &

BY D. & J. SURVEYING
PH. 246-2812

KEN WOLERY

JUNE 2016

LEGEND

- - SET 5/8"X 30" REBAR WITH YELLOW PLASTIC CAP MARKED 11291 LS
 - - ROUND 5/8" REBAR
- BASIS OF BEARING; THE EAST LINE OF C/S NO. 1888.

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LAND OWNER STATEMENT

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Ken Wolery
KEN WOLERY

CERTIFICATE OF SURVEY

STATE OF MONTANA }
COUNTY OF YELLOWSTONE } SS

THIS IS TO CERTIFY THAT JAMES F. SLEHOFER A MONTANA REGISTERED LAND SURVEYOR, 11291 LS, BEING FIRST DULY SWORN, DEPOSES AND SAYS THAT DURING THE MONTH OF JUNE, 2016, A SURVEY WAS CONDUCTED, AND A PLAT WAS PREPARED UNDER HIS SUPERVISION OF A TRACT OF LAND KNOWN AS CORRECTED CERTIFICATE OF SURVEY NO. 1888, LOCATED IN THE SW1/4 OF THE SE1/4 OF SECTION 14, T1N, R26E, P.M.M., CITY OF BILLINGS, YELLOWSTONE COUNTY, MONTANA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, BEGINNING AT THE SOUTH EAST CORNER OF CORRECTED CERTIFICATE OF SURVEY NO. 1888; THENCE N88°57'04"W FOR A DISTANCE OF 346.25 FEET; THENCE N00°36'45"E FOR A DISTANCE OF 128.72 FEET; THENCE S88°53'54"E FOR A DISTANCE OF 344.71 FEET; THENCE S00°04'27"E FOR A DISTANCE OF 128.43 FEET, BACK TO THE POINT OF BEGINNING. THE GROSS AREA OF SAID TRACT OF LAND IS 44,416 SQ. FT.±

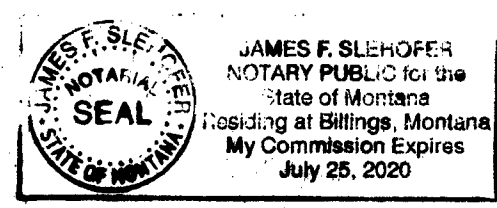
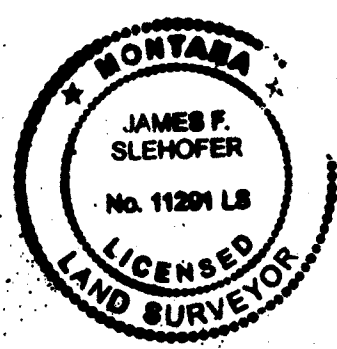
James F. Slehofer
JAMES F. SLEHOFER PLS 11291 LS

STATE OF MONTANA }
COUNTY OF YELLOWSTONE } SS

ON THIS 11th DAY OF August, 2016, BEFORE ME A NOTARY PUBLIC FOR THE STATE OF MONTANA, PERSONALLY APPEARED JAMES F. SLEHOFER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

Katherine M. Slehofer
NOTARY PUBLIC FOR THE STATE OF MONTANA
PRINTED NAME: KATHERINE M. SLEHOFER



STATE OF MONTANA }
YELLOWSTONE COUNTY }

ON THIS 11th DAY OF August, 2016, BEFORE ME A NOTARY PUBLIC FOR THE STATE OF MONTANA, PERSONALLY APPEARED KEN WOLERY, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FORGOING INSTRUMENT.

AND IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

James F. Slehofer
NOTARY PUBLIC FOR THE STATE OF MONTANA
PRINTED NAME: JAMES F. SLEHOFER

COUNTY TREASURER CERTIFICATE OF TAX PAYMENT

I HEREBY CERTIFY THAT ALL REAL PROPERTY TAXES OR SPECIAL ASSESSMENTS ON THE PROPOSED SURVEY HAVE BEEN PAID, PURSUANT TO MONTANA CODE ANNOTATED 76-3-611(1)(b)/76-3-207(3)

SIGNATURE OF COUNTY TREASURER _____ DATE _____

CITY ATTORNEY

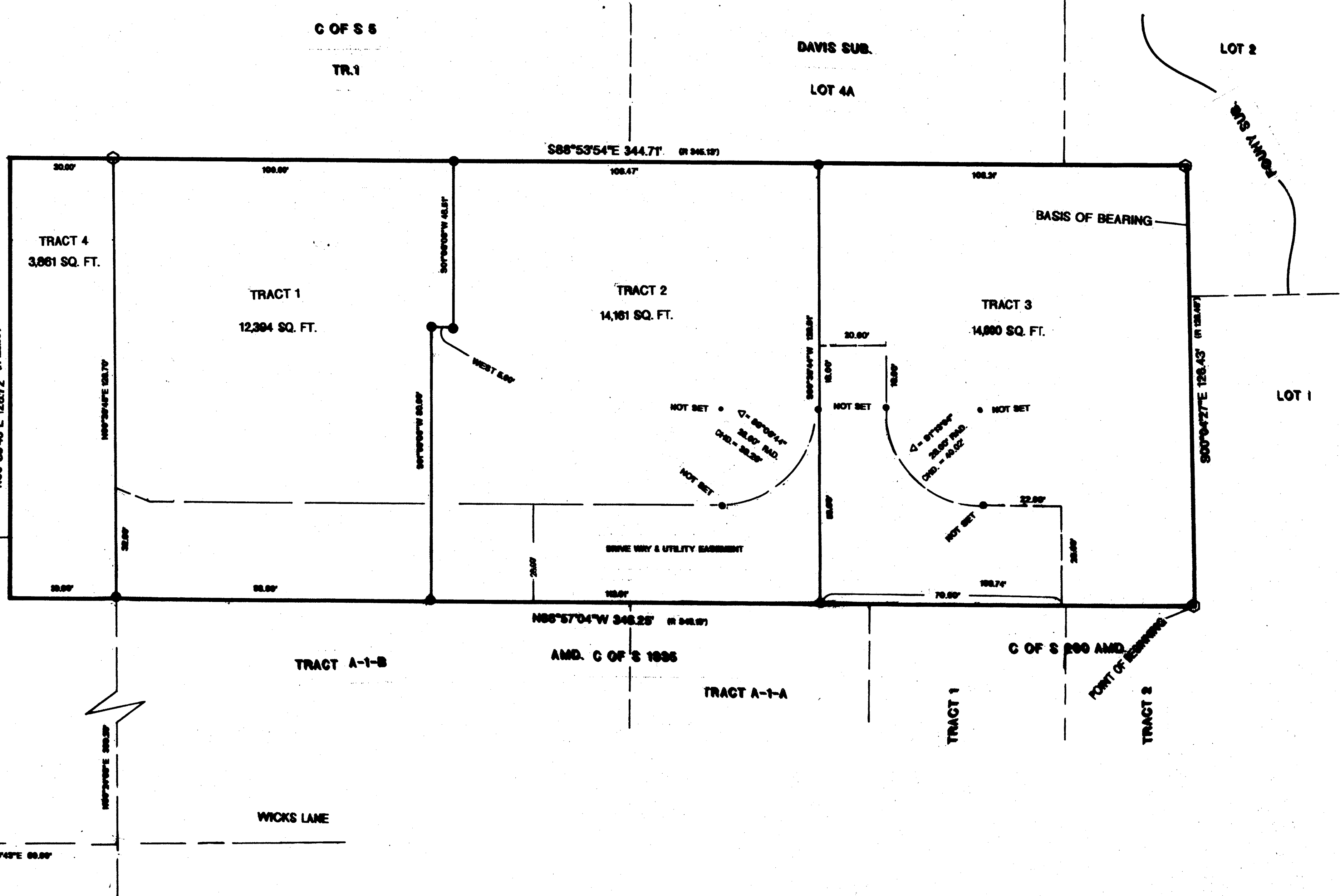
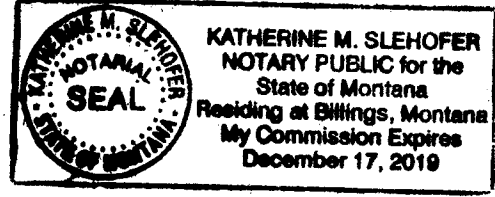
THIS CERTIFICATE OF SURVEY HAS BEEN REVIEWED BY THE CITY ATTORNEY'S OFFICE AND IS ACCEPTABLE AS TO FORM.

REVIEWED BY _____ DATE _____

CITY ENGINEERS OFFICE

I HEREBY CERTIFY THAT I HAVE EXAMINED THE ANNEXED PLAT FOR ERRORS AND OMISSIONS IN CALCULATIONS AND DRAFTING, ON THIS 26th DAY, OF AUGUST, 2016.

John A. Grant
CITY ENGINEERS OFFICE



Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Purchase Twelve (12) Police Vehicles

PRESENTED BY: Rich St. John, Police Chief

Department: Police

PROBLEM/ISSUE STATEMENT

The Police Department has nine patrol vehicles to replace in the FY17 Equipment Replacement Plan (ERP) and three patrol vehicles that were approved through a supplemental budget request. The State of Montana conducts an annual competitive bidding process for law enforcement vehicles. Local government agencies are allowed to use the same vendor that the State chooses. Bison Ford Motor Company, Great Falls, Montana, was selected as the vendor to provide the State of Montana with Ford Sedan Police Interceptors patrol vehicles in 2017. Local car dealers cannot usually compete on price due to the volume purchased through the State contract. Therefore, staff is requesting that the City Council approve purchasing twelve patrol vehicles from Bison Ford Motor Company of Great Falls for the price of \$27,561.18 each, or a total cost of \$330,734.16.

ALTERNATIVES ANALYZED

The City Council may:

- Approve the purchase of the 12 patrol vehicles from Bison Ford, or
- Not approve the purchase of the 12 patrol vehicles. Present patrol units will be retained and operated beyond their recommended replacement life, which will result in more down-time and higher repair costs.

FINANCIAL IMPACT

Nine replacement patrol vehicles are budgeted in the 2017 Equipment Replacement Fund budget and three patrol vehicles are budgeted in the FY17 Police budget.

RECOMMENDATION

Staff recommends that the City Council approve purchasing 12 patrol vehicles from Bison Ford Motor Company of Great Falls for the price of \$27,561.18 each, or a total cost of \$330,734.16.

APPROVED BY CITY ADMINISTRATOR

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: 2016 Passenger Facility Charge Application Approval

PRESENTED BY: Kevin Ploehn, Director of Aviation and Transit

Department: Airport

PROBLEM/ISSUE STATEMENT

From time to time the Billings Logan International Airport must submit a Passenger Facility Charge (PFC) application to the Federal Aviation Administration (FAA) to continue its PFC collections that can be used for Airport related projects. The PFC program was established by Congress through 14 CFR Part 158. The application process provides the FAA and the air carriers that serve Billings an opportunity to review and comment on the proposed projects. Once the application has been reviewed and a public comment period has been allowed, the application can be submitted to the FAA for approval. This application is for approximately \$1,050,755 and consists of project reimbursements for local share dollars already expended for projects that have been completed, many of which were mostly funded with Federal grants. The PFC rate for this application will continue at the \$3.00 level and is anticipated to go into effect January 1, 2017, and provide funding until February 1, 2018. These dates are dependent on the FAA approval date and the rate of collection that takes place. Table A from the airline notice letter is attached and provides a description of the projects for which the Airport is seeking funding.

To submit the application, City Council needs to authorize the Mayor to sign the application and agree that the City/Airport will comply with 14 CFR Part 158 and its related assurances. The Director of Aviation and Transit will submit the application and work with the FAA on any follow up needed.

ALTERNATIVES ANALYZED

City Council may:

- Approve submitting the PFC application to the FAA and authorize the Mayor to sign the application; or
- Disapprove submitting the PFC application, temporarily terminating the PFC program at the Billings Logan International Airport.

FINANCIAL IMPACT

The PFC collections at \$3.00 produce between \$1,000,000 and \$1,200,000 of funding per year for Airport related capital projects. Since this application is to basically recover local share funds previously expended, the revenue will be used to offset future local share needs for the Airport's Capital program.

RECOMMENDATION

Staff recommends that the City Council authorize the Mayor to sign the PFC application and allow the Billings Logan International Airport to submit the application for the \$3.00 PFC for the Airport's projects.

APPROVED BY CITY ADMINISTRATOR

Attachments

Table A

TABLE A

PROJECTS PROPOSED FOR FUNDING BY IMPOSING AND USING PASSENGER FACILITY CHARGES FOR DISCUSSION AT SEPTEMBER 1, 2016 AIR CARRIER MEETING BILLINGS LOGAN INTERNATIONAL AIRPORT BILLINGS, MONTANA

PASSENGER FACILITY CHARGE AMOUNT OF \$3.00

TOTAL PROPOSED PROJECTS: \$1,050,755

LOCAL SHARE MATCH FOR AIP FUNDED SLOT 4 CARGO RAMP \$244,723

JUSTIFICATION: During the Summer of 2013, the Billings Airport constructed the Slot 4 wide body cargo ramp using AIP funds. The 10% local share match would be reimbursed through PFC collections. This would be an impose and use project.

LOCAL SHARE MATCH FOR AIP 43 PROJECTS \$166,154

JUSTIFICATION: During 2013, AIP 43 included a number of different items including two snow plows with sanding and deicing units, a Pavement Condition Index pavement survey, the removal of the old Taxiway "G," a Runway Weather Information System that was installed during the 2013 runway overlay project, and new REILS for Runway 28R. The 10% local share match would be reimbursed through PFC collections. This would be an impose and use project.

LOCAL SHARE MATCH FOR AIP FUNDED RAMP PAVING \$116,107

JUSTIFICATION: During the Summer of 2014, the Airport repaved 27,000 square feet of asphalt ramp that abuts the air carrier parking ramp utilizing AIP funding. This asphalt was over 20 years old and had substantial cracking. The 10% local share match would be reimbursed through PFC collections. This would be an impose and use project.

LOCAL SHARE MATCH FOR AIP FUNDED GATE REPLACEMENT \$76,580

JUSTIFICATION: During the Summer of 2014, the Airport replaced 10 access control automatic vehicle gates that provide vehicle access to the airfield. These gates were all over 20 years old and becoming very unreliable. This project also added CCTV cameras at each gate location, replaced the 12 CCTV cameras that provide coverage of the air carrier ramp and updated the Access Control server and software. This project was funded utilizing AIP funding and the 10% local share match would be reimbursed through PFC collections. This would be an impose and use project.

AIRFIELD OPERATIONS BACKUP GENERATOR REPLACEMENT**\$277,073**

JUSTIFICATION: In 2015, the Airfield Operations Center's Backup Generator was replaced. The previous generator was over 20 years old and too small to meet the current electrical demands required during a power outage. The new generator greatly enhanced the ability for Airfield Operations and Aircraft Rescue Fire Fighting crews to respond to an emergency in the event of a simultaneous power outage. This reimbursement would be an impose and use project.

NORTH SIDE RAMP REPLACEMENT**\$113,265**

JUSTIFICATION: In the Summer of 2015, the Airport replaced a section of ramp area on the north side of the Airport. This ramp is used primarily for cargo operations, seasonal firefighting operations and for itinerant parking of larger aircraft. This project was funded through the AIP program and the 10% local share match would be reimbursed through PFC collections. This would be an impose and use project.

STORM WATER DETENTION POND FENCE**\$56,823**

JUSTIFICATION: Recent large rain events have made the Airport's Storm Water system and detention ponds a hot topic for the surrounding neighborhoods. Subsequently, there have been a lot of non-Airport people entering into the pond area. In order to prevent any accidents involving the ponds, the Airport fenced the ponds out from public access. This project reimbursement would be an impose and use project.

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Payment of Claims August 29, 2016

PRESENTED BY: Patrick M. Weber, Finance Director

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$1,877,248.31 have been audited and are presented for City Council payment approval. A complete listing of the claims dated August 29, 2016, is available in the Finance Department.

ALTERNATIVES ANALYZED

No other alternatives were analyzed.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

councilmemo_8.29.2016

Check Date	Check	Name	Amount	Account	Item Desc
08/29/2016	797325	Billings Depot Inc	\$ 5,648.67	6600-31100-405310	Rent
08/29/2016	797325	Billings Depot Inc	\$ 8,473.00	6700-31410-405310	Rent
08/29/2016	797330	Bruce Tall Construction and Design	\$ 2,700.00	0100-51120-403690	Concrete for Big Sky School area.
08/29/2016	797331	Bruco Inc	\$ 493.20	5610-71120-402240	Invoice #352638. Lotion Skin Cleanser
08/29/2016	797331	Bruco Inc	\$ 271.88	5610-71120-402240	Invoice #352887. Carpet Rinse, Vac Bags, Floor Pads
08/29/2016	797331	Bruco Inc	\$ 27.10	5610-71120-402450	Invoice #352989. Parts to riding sweeper
08/29/2016	797331	Bruco Inc	\$ 3,022.02	5610-71120-402450	Invoice #986428395. Exterior Ops lighting.
08/29/2016	797332	Business Tax Section	\$ 3,751.68	5030-75910-409340	WO 16-01 Schedule I - Will James Area Water Main
08/29/2016	797332	Business Tax Section	\$ 273.83	8730-51990-409370	Final tax payment for slides.
08/29/2016	797332	Business Tax Section	\$ 173.83	8730-00000-201100	Retainage release on Dick Anderson/High Tech Rose
08/29/2016	797332	Business Tax Section	\$ 16.85	5210-15920-409224	Concrete restoration project for City owned parking
08/29/2016	797332	Business Tax Section	\$ 347.67	5210-15930-409224	Concrete restoration project for City owned parking
08/29/2016	797332	Business Tax Section	\$ 103.23	8450-00000-201100	WO 15-12 Gabel Road & 32nd W Traffic Signal
08/29/2016	797332	Business Tax Section	\$ 108.55	5620-71200-409290	Baggage Claim Carpet Project
08/29/2016	797335	Civicplus	\$ 4,700.00	5610-71100-403590	Invoice #159879. Mobile App Setup & Annual Fee
08/29/2016	797338	Corval Constructors Inc	\$ 4,644.00	5610-71120-402450	Invoice #826179. Replace Header Valve
08/29/2016	797344	Dell Computer L P	\$ 933.83	1500-21500-402925	Dell OptiPlex 3040 Zach Police
08/29/2016	797344	Dell Computer L P	\$ 2,533.38	1500-21500-402925	(3)OptiPlex 3040 Police Balter
08/29/2016	797344	Dell Computer L P	\$ 1,219.55	1500-22210-402925	Dell OptiPlex 3020 Kelly FIRE
08/29/2016	797344	Dell Computer L P	\$ 1,845.52	6200-19130-402925	Dell Precision 3620 JOE IT GIS
08/29/2016	797344	Dell Computer L P	\$ 1,806.39	0100-43210-409410	Dell Latitude 14 Rugged 5404 (New Officer_
08/29/2016	797344	Dell Computer L P	\$ 73.49	0100-43210-409410	Dell 90W Auto Adapter
08/29/2016	797347	Downtown Billings BID, Inc.	\$ 25,000.00	2110-31320-402430	Traffic Signal Box - Anti-Graffiti Project
08/29/2016	797347	Downtown Billings BID, Inc.	\$ 3,092.79	7800-15750-407680	Paid July, distributed August 2016
08/29/2016	797349	Electric Lightwave	\$ 39.49	5610-71130-403450	Airport 2948370 Airport Alarm
08/29/2016	797349	Electric Lightwave	\$ 4,160.89	6060-19310-403450	Main Bill New Account # 330046
08/29/2016	797349	Electric Lightwave	\$ 230.86	6060-19310-403450	Main Bill T-1 New Account #330047
08/29/2016	797349	Electric Lightwave	\$ 40.10	1500-21110-403450	CPC line 247-8592 New Account # 330183
08/29/2016	797349	Electric Lightwave	\$ 46.00	0100-51120-403450	Dehler Park line 867-7275
08/29/2016	797349	Electric Lightwave	\$ 79.95	6200-19110-403452	IT Internet Connection New Account # 330046
08/29/2016	797349	Electric Lightwave	\$ 40.10	2910-65010-403450	Community Development Services FAX 406-294-7595
08/29/2016	797349	Electric Lightwave	\$ 40.10	2090-44510-403450	Building FAX 406-657-8252
08/29/2016	797349	Electric Lightwave	\$ 40.10	2400-43010-403450	Planning FAX 406-657-8327 New Account # 330183
08/29/2016	797352	Energy Laboratories Inc	\$ 1,200.00	5120-84000-403590	WWTP testing
08/29/2016	797352	Energy Laboratories Inc	\$ 225.00	5120-84000-403590	WWTP MPDES Monitoring
08/29/2016	797352	Energy Laboratories Inc	\$ 2,730.00	5020-74000-403590	WTP SDWA DBP monitoring
08/29/2016	797355	First Montana Title Co	\$ 15,000.00	2850-65810-407277	FTHB Sara Ostrum 404 South 34th Street
08/29/2016	797362	Graphic Imprints Inc.	\$ 2,778.70	0100-51250-402250	Staff shirts
08/29/2016	797365	HDR, Inc.	\$ 23,981.64	5030-74910-409390	WO 15-10 WTP Chemical Building/Disinfection
08/29/2016	797366	High Tech Construction	\$ 27,108.68	8730-51990-409370	Final payment
08/29/2016	797366	High Tech Construction	\$ 17,208.68	8730-00000-201100	Retainage release on High Tech/Dick Anderson Rose

Check Date	Check	Name	Amount	Account	Item Desc
08/29/2016	797369	I-State Truck, Inc.	\$ 149,871.00	5410-31220-409420	2017 Frieghtliner 114SD and advantage Chain Roll
08/29/2016	797369	I-State Truck, Inc.	\$ 25.01	5410-31220-402320	C251206383.01
08/29/2016	797369	I-State Truck, Inc.	\$ (345.00)	1500-22310-402320	C251206890.01
08/29/2016	797369	I-State Truck, Inc.	\$ 1,414.75	1500-22310-402320	C251205456:01
08/29/2016	797369	I-State Truck, Inc.	\$ 98.51	1500-22260-402320	C251205070.01
08/29/2016	797369	I-State Truck, Inc.	\$ 139.78	5410-31220-402320	C251205082.01
08/29/2016	797369	I-State Truck, Inc.	\$ 43.80	5410-31220-402320	C251205112.01
08/29/2016	797369	I-State Truck, Inc.	\$ 448.46	5410-31220-402320	C251205157.01
08/29/2016	797369	I-State Truck, Inc.	\$ 62.25	5410-31220-402320	C251205157.01
08/29/2016	797369	I-State Truck, Inc.	\$ 42.00	5410-31220-402320	C251205157.01
08/29/2016	797369	I-State Truck, Inc.	\$ 525.31	5410-31220-402320	C251205200.01
08/29/2016	797369	I-State Truck, Inc.	\$ 89.91	2110-31320-402320	C251205337.01
08/29/2016	797369	I-State Truck, Inc.	\$ 29.32	1500-22310-402320	C251205406.01
08/29/2016	797369	I-State Truck, Inc.	\$ 141.86	1500-22310-402320	C25105406.02
08/29/2016	797369	I-State Truck, Inc.	\$ 55.13	1500-22310-402320	C25105406.02
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 981.00	6200-19110-405370	HWMA 3573-L2U SN 78-D1025 07/31/2016-07/30/2017
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 695.00	6200-19110-405370	HWMA 2072-24E SN 78-00244 7/31/16-7/30/2017
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 1,303.00	6200-19110-405370	HWMA 9407-M15 SN 4B5B2 07/31/2016-07/30/2017
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 153.00	6200-19110-405370	HWMA 7377-ACI SN KQ-09AND 11/01/2016-07/30/2017
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 332.00	5120-84000-403660	HWMA 7944-ACI SN KQ-31M3D
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 149.00	6200-19110-405370	HWMA 7945ACI SN KQ-92ADD 07/31/2016-07/30/2017
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 447.00	2600-55180-403690	HWMA 7945-ACI SN KQ-94F8T Library
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 283.80	5020-73110-403553	HWMA 7979-ACI SN KQ-FWVZM PWU
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 189.20	5120-83110-403553	HWMA 7979-ACI SN KQ-FWVZM
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 8,720.00	6200-19110-409480	IBM Brocade Switch Licenses (Switch Upgrade)
08/29/2016	797373	Integrated Information Solutions Inc.	\$ 5,475.00	6200-19110-405370	Hardware Maintenance 9406-520 SN 10-7054D
08/29/2016	797375	Jacks Heavy Equipment Inc	\$ 560,984.00	5410-31220-409420	2-2016 Autocar ACX64
08/29/2016	797385	Land Design Inc	\$ 6,398.94	7690-51820-403560	Master Plan for Optimist Park.
08/29/2016	797389	Midland Implement Co Inc	\$ 146.96	0100-51120-402320	869195001
08/29/2016	797389	Midland Implement Co Inc	\$ 233.96	0100-51120-402320	869833001
08/29/2016	797389	Midland Implement Co Inc	\$ 16.98	0100-51120-402320	870552001
08/29/2016	797389	Midland Implement Co Inc	\$ 10,995.00	8730-51990-402920	Foley united 465 automated rotary blade grinder
08/29/2016	797391	MoAV Inc	\$ 8,664.78	2030-15130-407968	TIF partial reimbursement request
08/29/2016	797394	Montana Dakota Utilities Co	\$ 120.54	1500-21710-403440	169 233 1000 3
08/29/2016	797394	Montana Dakota Utilities Co	\$ 233.49	2600-55120-403440	219 924 4851 0
08/29/2016	797394	Montana Dakota Utilities Co	\$ 557.09	5120-84000-403440	293 780 1000 2
08/29/2016	797394	Montana Dakota Utilities Co	\$ 1,114.19	5120-84000-403440	293 780 1000 2
08/29/2016	797394	Montana Dakota Utilities Co	\$ 557.09	5120-84000-403440	293 780 1000 2
08/29/2016	797394	Montana Dakota Utilities Co	\$ 9.46	5020-74000-403440	373 580 1000 9
08/29/2016	797394	Montana Dakota Utilities Co	\$ 39.11	1500-22210-403440	885 880 1000 4
08/29/2016	797394	Montana Dakota Utilities Co	\$ 83.83	6500-15670-403440	929 780 1000 4

Check Date	Check	Name	Amount	Account	Item Desc
08/29/2016	797394	Montana Dakota Utilities Co	\$ 56.00	5710-71430-403440	962 880 1000 0
08/29/2016	797394	Montana Dakota Utilities Co	\$ 9.47	5020-74000-403440	373 580 1000 9
08/29/2016	797394	Montana Dakota Utilities Co	\$ 26.91	0100-51270-403440	437 780 1000 9
08/29/2016	797394	Montana Dakota Utilities Co	\$ 13.34	1500-21150-403410	514 117 0478 9
08/29/2016	797394	Montana Dakota Utilities Co	\$ 58.56	1500-22210-403440	533 653 1000 1
08/29/2016	797394	Montana Dakota Utilities Co	\$ 21.11	6600-31100-403440	595 373 1000 1
08/29/2016	797394	Montana Dakota Utilities Co	\$ 31.68	6700-31410-403440	595 373 1000 1
08/29/2016	797394	Montana Dakota Utilities Co	\$ 13.80	5210-15920-403440	717 353 1000 6
08/29/2016	797394	Montana Dakota Utilities Co	\$ 31.84	5120-85000-403440	735 453 1000 2
08/29/2016	797394	Montana Dakota Utilities Co	\$ 14.36	5210-15950-403440	799 152 1209 0
08/29/2016	797402	Morrison Maierle Inc	\$ 6,077.23	4050-71250-409691	AIP 54 Taxilane West Construction Project
08/29/2016	797402	Morrison Maierle Inc	\$ 675.25	4050-71250-409692	AIP 54 Taxilane West Construction Project
08/29/2016	797402	Morrison Maierle Inc	\$ 1,543.00	4050-71250-409687	AIP-50 Extend East Taxi Lane 400' - CA- Federal Share
08/29/2016	797402	Morrison Maierle Inc	\$ 171.46	4050-71250-409689	AIP-50 Extend East Taxi Lane 400' - CA - Local Share
08/29/2016	797402	Morrison Maierle Inc	\$ 5,415.48	4050-71250-409687	48" Micro Tunnel Under RW 10L/28R Design
08/29/2016	797402	Morrison Maierle Inc	\$ 601.72	4050-71250-409689	48" Micro Tunnel Under RW 10L/28R Design
08/29/2016	797402	Morrison Maierle Inc	\$ 2,188.14	4050-71250-409687	48" Micro Tunnel Under RW 10L/28R CA - Federal Share
08/29/2016	797402	Morrison Maierle Inc	\$ 243.13	4050-71250-409689	48" Micro Tunnel Under RW 10L/28R CA - Local Share
08/29/2016	797405	MT Waterworks	\$ 2,023.96	5020-00000-141000	SYSTEMS PO NUM 301278
08/29/2016	797405	MT Waterworks	\$ 1,425.49	5020-00000-141000	SYSTEMS PO NUM 301216
08/29/2016	797409	North West Floors	\$ 10,746.45	5620-71200-409290	Baggage Claim Carpet Project
08/29/2016	797411	Northwest Pipe Fittings	\$ (12,140.00)	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301222
08/29/2016	797411	Northwest Pipe Fittings	\$ 20.01	5020-74000-402450	staples
08/29/2016	797411	Northwest Pipe Fittings	\$ 149.46	5020-74000-402450	Flange
08/29/2016	797411	Northwest Pipe Fittings	\$ 549.47	5020-74000-402450	pipe for remote station
08/29/2016	797411	Northwest Pipe Fittings	\$ 22.10	2110-31320-402380	pvc coupling
08/29/2016	797411	Northwest Pipe Fittings	\$ 1,056.35	5020-73120-402380	Ecoder Pitset
08/29/2016	797411	Northwest Pipe Fittings	\$ 788.80	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301005
08/29/2016	797411	Northwest Pipe Fittings	\$ 12,140.00	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301010
08/29/2016	797411	Northwest Pipe Fittings	\$ 9,520.00	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301011
08/29/2016	797411	Northwest Pipe Fittings	\$ 44.65	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301023
08/29/2016	797411	Northwest Pipe Fittings	\$ 16,340.40	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301062
08/29/2016	797411	Northwest Pipe Fittings	\$ 150.94	5020-74000-402450	Tree farm
08/29/2016	797411	Northwest Pipe Fittings	\$ 23.20	5120-84000-402290	Sprinklers
08/29/2016	797411	Northwest Pipe Fittings	\$ 174.13	5120-84000-402450	misc
08/29/2016	797411	Northwest Pipe Fittings	\$ 128.63	5120-84000-402290	Sprinklers
08/29/2016	797411	Northwest Pipe Fittings	\$ 169.04	5020-74000-402450	IRRIGATION SYSTEM
08/29/2016	797413	NorthWestern Energy	\$ 51,531.64	5120-84000-403410	725 hwy 87
08/29/2016	797413	NorthWestern Energy	\$ 524.24	6600-31100-403410	Electricity
08/29/2016	797413	NorthWestern Energy	\$ 786.36	6700-31410-403410	Electricity

Check Date	Check	Name	Amount	Account	Item Desc
08/29/2016	797413	NorthWestern Energy	\$ 3,759.32	1500-22210-403410	0100476-1: FIRE STATION #1 / MONTHLY ELECTRIC
08/29/2016	797413	NorthWestern Energy	\$ 1,930.99	0100-51270-403410	Monthly electric charges for office.
08/29/2016	797413	NorthWestern Energy	\$ 7,996.44	5020-73140-403410	2251 BELKNAP
08/29/2016	797413	NorthWestern Energy	\$ 42,647.67	5020-74000-403410	2251 BELKNAP
08/29/2016	797413	NorthWestern Energy	\$ 159,928.77	5020-74000-403410	2251 BELKNAP
08/29/2016	797413	NorthWestern Energy	\$ 2,665.48	5120-83140-403410	2251 BELKNAP
08/29/2016	797413	NorthWestern Energy	\$ 366.90	5120-85000-403410	822 Shiloh Crossing Blvd Lift
08/29/2016	797413	NorthWestern Energy	\$ 1,832.27	5020-74000-403410	Airport Rd Waldo
08/29/2016	797413	NorthWestern Energy	\$ 62.54	5610-71130-403410	0719616-5. ARFF Facility Lights. August 2016
08/29/2016	797413	NorthWestern Energy	\$ 317.19	5610-71170-403410	0712792-1. IP-7. August 2016
08/29/2016	797413	NorthWestern Energy	\$ 17.44	5610-71170-403410	0712799-6. IP-8. August 2016
08/29/2016	797413	NorthWestern Energy	\$ 1,907.82	5610-71170-403410	0712800-2. IP-9. August 2016
08/29/2016	797413	NorthWestern Energy	\$ 97.49	5610-71170-403410	0712809-3. IP-11 Alpine Maintenance. August 2016
08/29/2016	797413	NorthWestern Energy	\$ 107.76	5610-71170-403410	07128176. IP-House. August 2016
08/29/2016	797413	NorthWestern Energy	\$ 214.51	6070-22350-403410	0721580-9
08/29/2016	797413	NorthWestern Energy	\$ 16.86	0100-51120-403410	0722237-5
08/29/2016	797413	NorthWestern Energy	\$ 7.90	0100-51120-403410	0722247-4
08/29/2016	797413	NorthWestern Energy	\$ 319.11	0100-51120-403410	0722251-6
08/29/2016	797413	NorthWestern Energy	\$ 95.35	0100-51120-403410	0722255-7
08/29/2016	797413	NorthWestern Energy	\$ 547.75	0100-51120-403410	0722257-3
08/29/2016	797413	NorthWestern Energy	\$ 355.53	0100-51120-403410	0722260-7
08/29/2016	797413	NorthWestern Energy	\$ 56.74	0100-51120-403410	0722261-5
08/29/2016	797413	NorthWestern Energy	\$ 53.78	0100-51120-403410	0722262-3
08/29/2016	797413	NorthWestern Energy	\$ 195.83	0100-51120-403410	0722263-1
08/29/2016	797413	NorthWestern Energy	\$ 210.96	0100-51120-403410	0722265-6
08/29/2016	797413	NorthWestern Energy	\$ 38.12	0100-51120-403410	0722266-4
08/29/2016	797413	NorthWestern Energy	\$ 20.46	0100-51120-403410	0722268-0
08/29/2016	797413	NorthWestern Energy	\$ 16.98	0100-51120-403410	0722269-8
08/29/2016	797413	NorthWestern Energy	\$ 12.30	0100-51120-403410	0722292-0
08/29/2016	797413	NorthWestern Energy	\$ 46.23	0100-51120-403410	0722293-8
08/29/2016	797413	NorthWestern Energy	\$ 17.23	0100-51120-403410	0722905-7
08/29/2016	797413	NorthWestern Energy	\$ 383.06	0100-51120-403410	0722933-9
08/29/2016	797413	NorthWestern Energy	\$ 392.43	0100-51120-403410	0723035-2
08/29/2016	797413	NorthWestern Energy	\$ 9.46	0100-51120-403410	0723036-0
08/29/2016	797413	NorthWestern Energy	\$ 195.72	0100-51120-403410	0723037-8
08/29/2016	797413	NorthWestern Energy	\$ 38.12	0100-51120-403410	0723038-6
08/29/2016	797413	NorthWestern Energy	\$ 56.85	0100-51120-403410	0723042-8
08/29/2016	797413	NorthWestern Energy	\$ 761.73	0100-51120-403410	0723044-4
08/29/2016	797413	NorthWestern Energy	\$ 123.62	0100-51120-403410	0723048-5
08/29/2016	797413	NorthWestern Energy	\$ 261.96	0100-51120-403410	0723050-1
08/29/2016	797413	NorthWestern Energy	\$ 45.14	0100-51120-403410	0723051-9

Check Date	Check	Name	Amount	Account	Item Desc
08/29/2016	797413	NorthWestern Energy	\$ 75.98	0100-51120-403410	0723052-7
08/29/2016	797413	NorthWestern Energy	\$ 734.13	0100-51120-403410	0723054-3
08/29/2016	797413	NorthWestern Energy	\$ 12.69	0100-51120-403410	0723055-0
08/29/2016	797413	NorthWestern Energy	\$ 73.11	0100-51120-403410	0723056-8
08/29/2016	797413	NorthWestern Energy	\$ 9.93	0100-51120-403410	0723057-6
08/29/2016	797413	NorthWestern Energy	\$ 30.35	0100-51120-403410	0723058-4
08/29/2016	797413	NorthWestern Energy	\$ 9.40	0100-51120-403410	0723090-7
08/29/2016	797413	NorthWestern Energy	\$ 7.55	0100-51120-403410	0723162-4
08/29/2016	797413	NorthWestern Energy	\$ 950.27	0100-51120-403410	0723170-7
08/29/2016	797413	NorthWestern Energy	\$ 7.55	0100-51120-403410	0723644-1
08/29/2016	797413	NorthWestern Energy	\$ 7.55	0100-51120-403410	0723645-8
08/29/2016	797413	NorthWestern Energy	\$ 35.49	0100-51120-403410	0789437-1
08/29/2016	797413	NorthWestern Energy	\$ -	0100-51120-403410	0723027-9
08/29/2016	797420	Public Utilities	\$ 1,208.53	5120-84000-403420	111176
08/29/2016	797420	Public Utilities	\$ 570.16	8720-51980-403420	136087
08/29/2016	797420	Public Utilities	\$ 855.25	0100-51120-403420	136087
08/29/2016	797420	Public Utilities	\$ 3,056.23	8720-51980-403420	164211
08/29/2016	797420	Public Utilities	\$ 21,226.35	8720-51980-403420	164212
08/29/2016	797420	Public Utilities	\$ 3,385.56	8720-51980-403420	166674
08/29/2016	797420	Public Utilities	\$ 4,047.00	8720-51980-403420	175850
08/29/2016	797420	Public Utilities	\$ 364.59	8720-51980-403420	176577
08/29/2016	797420	Public Utilities	\$ 1,935.51	8720-51980-403420	180090
08/29/2016	797420	Public Utilities	\$ 148.57	8720-51980-403420	180091
08/29/2016	797420	Public Utilities	\$ 12.22	8720-51980-403420	180092
08/29/2016	797421	Qwest	\$ 61.16	2250-22320-403450	Qwest 406-245-2296 911 Qwest
08/29/2016	797421	Qwest	\$ 49.16	5210-15920-403450	Qwest 406-252-2041 Park 2 Elevator Phone
08/29/2016	797421	Qwest	\$ 98.32	5610-71120-403450	Qwest 406-252-9412 Airport
08/29/2016	797421	Qwest	\$ 54.25	6010-15500-403450	Qwest 406-256-5047 Motor Pool
08/29/2016	797421	Qwest	\$ 51.36	5610-71140-403450	Qwest 406-256-7070 Airport
08/29/2016	797421	Qwest	\$ 60.45	6600-31100-403450	Qwest 406-259-7758 Measured Lines Depot
08/29/2016	797421	Qwest	\$ 52.06	5410-31230-403450	Qwest 406-256-7001 Solid Waste Scale House
08/29/2016	797421	Qwest	\$ 2,693.70	6060-19310-403450	Qwest 406-657-8377 Main System Centrex
08/29/2016	797421	Qwest	\$ 57.40	5610-71170-403450	Qwest 406-256-6014 Airport P9 Building
08/29/2016	797421	Qwest	\$ 62.90	5610-71150-403450	Qwest 406-252-0721 Airport 1FB Line
08/29/2016	797421	Qwest	\$ 108.81	6060-19310-403450	Qwest 406-657-3009 PUD Measured Lines
08/29/2016	797421	Qwest	\$ 34.66	5210-15920-403450	Qwest 406-657-3054 Park 1 Elevator Phone
08/29/2016	797421	Qwest	\$ 74.27	6060-19310-403450	Qwest 406-252-3774 BOC Measured Lines
08/29/2016	797421	Qwest	\$ 90.66	6700-31410-403450	Qwest 406-259-7758 Measured Lines Depot
08/29/2016	797421	Qwest	\$ 118.32	1500-22250-403450	Qwest 406-373-3742 Fire RR Crossing Alarm
08/29/2016	797421	Qwest	\$ 50.62	2250-22320-403450	Qwest 406-651-0282 Fire 5 911 Line
08/29/2016	797421	Qwest	\$ 36.00	2400-43010-407214	Qwest 406-656-9578 Planning Traffic Central Broadwater

Check Date	Check	Name	Amount	Account	Item Desc
08/29/2016	797421	Qwest	\$ 36.00	2400-43010-407214	Qwest 406-656-9604 Planning Traffic Central 9th
08/29/2016	797421	Qwest	\$ 34.54	0100-51120-403450	Qwest 406-657-3014 Parks 3890 Stillwater
08/29/2016	797425	RESTOCON Corporation	\$ 1,668.15	5210-15920-409224	Concrete restoration project for City
08/29/2016	797425	RESTOCON Corporation	\$ 34,419.33	5210-15930-409224	Concrete restoration project for City
08/29/2016	797428	Router Solutions Inc	\$ 4,780.00	5020-74000-403590	Will perform wireless site survey and prepare report
08/29/2016	797436	SRS Crisafulli, Inc	\$ 4,650.00	5020-74000-402320	NONSTOCKING ITEMS-P.U.D.
08/29/2016	797440	Stewart Title Company	\$ 15,000.00	2850-65810-407277	FTHB Krista Hood 3385 Granger Avenue South #64
08/29/2016	797449	Town & Country Supply Association	\$ 441.92	1500-22260-402310	219009: FIRE 5 - DIESEL DELIVERED 8/19/2016
08/29/2016	797449	Town & Country Supply Association	\$ 222.66	1500-22260-402310	219010 FIRE3 DIESEL DELIVERED 8/19/2016
08/29/2016	797449	Town & Country Supply Association	\$ 424.93	1500-22260-402310	219011 FIRE1 DIESEL DELIVERED 8/19/2016
08/29/2016	797449	Town & Country Supply Association	\$ 16,369.95	5610-71180-402313	Invoice #219073. QTA Car Rental Fuel
08/29/2016	797449	Town & Country Supply Association	\$ 11,331.09	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301226
08/29/2016	797449	Town & Country Supply Association	\$ 193.47	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301228
08/29/2016	797449	Town & Country Supply Association	\$ 253.13	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301279
08/29/2016	797449	Town & Country Supply Association	\$ 13,374.35	6010-00000-141000	221125 PO NUM 301320
08/29/2016	797451	TV Eyes Inc	\$ 3,240.00	5610-71100-403390	Invoice #2016-A4002. 1 Year Subscription for TV/Media
08/29/2016	797452	Tyco Fire Products LP	\$ 6,757.50	5610-71150-402290	265 Gallons 3% Mil Spec AFFF
08/29/2016	797454	Virtual Pictures Corporation	\$ 2,479.00	2190-22500-402120	CS1360 UPGRADE KIT FOR CANON DSLR CAMERAS
08/29/2016	797454	Virtual Pictures Corporation	\$ 349.00	2190-22500-402120	KENKO AMBIENT LIGHT METER. MODEL #KFM1100
08/29/2016	797454	Virtual Pictures Corporation	\$ 199.00	2190-22500-402120	POLAROID 320 LED DIMMABLE
08/29/2016	797454	Virtual Pictures Corporation	\$ 179.00	2190-22500-402120	MACK WARRANTY 3-YR DIAMOND COVERAGE
08/29/2016	797454	Virtual Pictures Corporation	\$ 744.00	2190-22500-402120	5-SEAT INSTALL PTG STITCHING SOFTWARE
08/29/2016	797454	Virtual Pictures Corporation	\$ 295.00	2190-22500-402120	VPiX PROJECT PACK.
08/29/2016	797454	Virtual Pictures Corporation	\$ 183.00	2190-22500-402120	SHIPPING/HANDLING/INSURANCE
08/29/2016	797457	Western Municipal Construction Inc	\$ 371,416.61	5030-75910-409340	WO 16-01 Schedule I - Will James Area Water Main
08/29/2016	797458	Wilbur Ellis Co	\$ 1,004.00	8730-51990-403650	Grass feed and fertilizer for parks.
08/29/2016	797458	Wilbur Ellis Co	\$ 2,120.00	8730-51990-403650	Grass feed and fertilizer for parks.
08/29/2016	797461	Yellowstone E-Waste Solutions Inc	\$ 7,595.00	5410-31230-403590	Electronic Waste Removal-3rd year of contract
08/29/2016	797462	Yellowstone Electric Co	\$ 10,218.01	8450-00000-201100	WO 15-12 Gabel Road & 32nd Street W Traffic Signal
08/29/2016	797463	Yellowstone Valley Animal Shelter	\$ 22,855.58	1500-21700-403990	contract 7-22-16/8-21-16
08/29/2016	797464	Yochum Contracting Inc	\$ 3,300.00	5050-75150-403671	curb valve 209 Ave E

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Payment of Claims September 6, 2016

PRESENTED BY: Patrick M. Weber, Finance Director

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

Claims in the amount of \$2,716,392.81 have been audited and are presented for City Council payment approval. A complete listing of the claims dated September 6, 2016, is available in the Finance Department.

ALTERNATIVES ANALYZED

No other alternatives were analyzed.

FINANCIAL IMPACT

Claims have a varying impact on department budgets, but are submitted by the departments and reviewed by Finance staff before being sent to the Council.

RECOMMENDATION

Staff recommends that Council approve the Payment of Claims.

APPROVED BY CITY ADMINISTRATOR

Attachments

councilmemo_9.6.2016

Check Date	Check	Name	Amount	Account	Item Desc
09/06/2016	797470	Advanced Traffic Products Inc	\$ 3,010.00	2110-31320-402430	Bulldog button latching led
09/06/2016	797475	Allstates Coating Company	\$ 16,615.50	2110-31320-402340	6 totes of yellow
09/06/2016	797475	Allstates Coating Company	\$ 11,077.00	2110-31320-402340	4 totes of white
09/06/2016	797475	Allstates Coating Company	\$ 2,508.00	2110-31320-402340	2 pallets of white 5 gallon buckets
09/06/2016	797477	American Title & Escrow	\$ 15,000.00	2850-65810-407277	FTHB Karen Parkins 1201 18th Street West #3
09/06/2016	797493	Business Tax Section	\$ 5,687.11	1990-15050-409340	WO 16-6 SBURD Sanitary Sewer Phase 2
09/06/2016	797493	Business Tax Section	\$ 4,114.81	5030-74910-409390	WO 15-10 WTP Chemical Bldg/Disinfection
09/06/2016	797493	Business Tax Section	\$ 271.67	0100-14120-409291	Cucancic Remodel
09/06/2016	797493	Business Tax Section	\$ 81.41	0100-00000-201100	Retainage Release
09/06/2016	797493	Business Tax Section	\$ 436.83	5130-85910-409340	WO 16-01 Schedule 4 - Southside Sanitary Sewer
09/06/2016	797493	Business Tax Section	\$ 20.45	5130-85910-409340	WO 16-01 Sch4 Southside Sanitary Sewer Replc; CO#1
09/06/2016	797493	Business Tax Section	\$ 28.26	5130-85910-409340	WO 16-01 Schedule 2A - Sanitary Sewer Replacement; CO#1
09/06/2016	797493	Business Tax Section	\$ 272.65	5130-85910-409340	WO 16-01 Schedule 2A - Sanitary Sewer Replacement; CO#2
09/06/2016	797493	Business Tax Section	\$ 9,691.28	2050-31310-409310	WO1603 Contract #2 City Overlay
09/06/2016	797493	Business Tax Section	\$ 789.08	8450-31860-409310	WO1603 Contract #2 City Overlay
09/06/2016	797498	Chicago Title of Montana LLC	\$ 10,000.00	2920-66800-407275	FTHB Ryan Haugen 640 Lambrecht Lane
09/06/2016	797499	Community Seven	\$ 17,070.50	0100-00000-229150	Peg Fees - 1st Qtr 2017
09/06/2016	797501	Cop Construction Co	\$ 2,797.49	5130-85910-409340	WO 16-01 Schedule 2A - Sanitary Sewer Replacement; CO#1
09/06/2016	797501	Cop Construction Co	\$ 26,992.60	5130-85910-409340	WO 16-01 Schedule 2A - Sanitary Sewer Replacement; CO#2
09/06/2016	797501	Cop Construction Co	\$ 563,023.68	1990-15050-409340	WO 16-06 SBURD Sanitary Sewer Phase 2
09/06/2016	797501	Cop Construction Co	\$ 407,366.08	5030-74910-409390	WO 15-10 WTP Chemical Bldg/Disinfection
09/06/2016	797506	Cucancic Construction Inc	\$ 4,206.51	7090-21910-409200	Police Department Range Building.
09/06/2016	797506	Cucancic Construction Inc	\$ 26,895.42	0100-14120-409291	City Hall 1st & 2nd Floor Remodel
09/06/2016	797506	Cucancic Construction Inc	\$ 8,060.24	0100-00000-201100	Retainage Release
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ 183.98	5120-85000-402320	004-30164
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ 171.33	5410-31220-402320	004-30218
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ 88.91	5410-31220-402320	004-30235
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ 25.00	5410-31220-402320	004-30235
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ 2,989.66	5710-71440-402320	AUTO &TRUCK MAINT.ITEMS
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ (500.00)	5710-71440-402320	AUTO &TRUCK MAINT.ITEMS
09/06/2016	797507	Cummins Rocky Mountain LLC	\$ 5.40	5710-71440-402320	AUTO &TRUCK MAINT.ITEMS
09/06/2016	797513	Downtown Billings Partnership, Inc.	\$ 14,000.00	2030-15130-407968	Stacked TIF project. DBP paid an invoice, so reimblursement
09/06/2016	797514	Dustbusters	\$ 6,052.75	2110-31320-404530	mag for use on gravel streets for dust suppressant
09/06/2016	797516	Ebms	\$ 1,535.00	6270-17520-403511	September 2016 Fee Breakdown
09/06/2016	797516	Ebms	\$ 25,244.90	6270-17520-403512	September 2016 Fee Breakdown
09/06/2016	797516	Ebms	\$ 48,821.88	6270-17520-403515	September 2016 Fee Breakdown
09/06/2016	797516	Ebms	\$ 700.00	6270-17520-403517	September 2016 Fee Breakdown
09/06/2016	797516	Ebms	\$ 1,923.00	6270-17520-403519	September 2016 Fee Breakdown
09/06/2016	797516	Ebms	\$ 4,046.25	6270-17520-405161	September 2016 Fee Breakdown
09/06/2016	797528	Gillig Corporation	\$ 3,554.28	5710-00000-141714	BUS MET PO NUM 301356

Check Date	Check	Name	Amount	Account	Item Desc
09/06/2016	797528	Gillig Corporation	\$ 1,995.93	5710-00000-141714	BUS MET PO NUM 301356
09/06/2016	797528	Gillig Corporation	\$ 1,400.78	5710-00000-141714	BUS MET PO NUM 301356
09/06/2016	797528	Gillig Corporation	\$ 186.48	5710-71440-402320	AUTO &TRUCK MAINT.ITEMS
09/06/2016	797531	Graybar Electric Company Inc	\$ 3,022.02	5610-71120-402450	Invoice #986428395. Exterior Ops lighting
09/06/2016	797538	Iaff	\$ 4,261.19	9000-00000-209920	Payroll Summary
09/06/2016	797545	Kadrmas Lee & Jackson	\$ 13,523.11	1990-15050-409310	WO 15-07 Orchard Lane; CO#1 01/25/2016
09/06/2016	797547	Kelly Services Inc	\$ 756.84	2090-44510-403590	I17-003091 Kelly Services Inc
09/06/2016	797547	Kelly Services Inc	\$ 932.14	2090-44510-403590	I17-003092 Kelly Services Inc
09/06/2016	797547	Kelly Services Inc	\$ 940.49	2090-44510-403590	I17-003470 Kelly Services Inc
09/06/2016	797547	Kelly Services Inc	\$ 159.00	1500-21120-402450	Invoice 33441015 - PD3 Cleaning for week ending 08/21/2016
09/06/2016	797548	Kenco Enterprises Inc.	\$ 17,357.06	2600-55120-409490	Upgrade existing security system
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 1,165.26	2110-31320-404520	1 1/2" crushed base
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 181.22	2110-31320-404520	1 1/2" crushed base
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 2,521.11	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 476.52	2110-31320-404520	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 4,791.99	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 6,263.16	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 466.83	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 312.83	2110-31320-404520	1 1/2" crushed base
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 2,108.43	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 2,314.77	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 55.79	2110-31320-404520	1 1/2" crushed base
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 3,195.99	2110-31320-404710	asphalt
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 959,436.17	2050-31310-409310	WO1603 Contract #2 City Overlay
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 78,118.92	8450-31860-409310	WO1603 Contract #2 City Overlay
09/06/2016	797551	Knife River (JTL Group Inc.)	\$ 1,096.46	2110-31320-404520	1 1/2" crushed base
09/06/2016	797553	Labor Ready Northwest, Inc.	\$ 2,506.18	5410-31230-403581	Paper Pickers for the Landfill
09/06/2016	797554	Land Design Inc	\$ 9,152.82	7690-51820-403560	Master Plan for Optimist Park.
09/06/2016	797555	Lenovo (United States) Inc	\$ 3,992.00	6200-19110-405370	(1) I173L2U TS3100 Tape Library Model L2U
09/06/2016	797555	Lenovo (United States) Inc	\$ 631.00	6200-19110-405370	(1)00TU887 3 Year Onsite Repair 9x5 Next Business Day
09/06/2016	797555	Lenovo (United States) Inc	\$ 1,843.00	6200-19110-405370	(1) 00NA117 6173 LTO Ultrium 6 Half High SAS Drive Sled
09/06/2016	797562	MoAV Inc	\$ 32,668.96	2030-15130-407968	Final reimbursement
09/06/2016	797565	Montana CS&ED	\$ 3,158.67	9000-00000-209926	Payroll Summary
09/06/2016	797572	Montana State Fireman's Assoc	\$ 3,530.54	9000-00000-209924	Payroll Summary
09/06/2016	797573	Morrison Maierle Inc	\$ 14,728.62	5130-00000-201100	WO1601 2016 Water/Sewer Replc; Sch 2 Sanitary Sewer
09/06/2016	797576	MT Waterworks	\$ 2,303.91	5020-00000-141000	SYSTEMS PO NUM 301285
09/06/2016	797576	MT Waterworks	\$ 3,372.48	5020-00000-141000	SYSTEMS PO NUM 301289
09/06/2016	797576	MT Waterworks	\$ 3,087.54	5020-00000-141000	SYSTEMS PO NUM 301292
09/06/2016	797576	MT Waterworks	\$ 190.30	5130-85910-409340	Clamps and Pipe for Sewer job
09/06/2016	797576	MT Waterworks	\$ 323.87	5020-75000-402380	Air Vacuum Release Valve

Check Date	Check	Name	Amount	Account	Item Desc
09/06/2016	797576	MT Waterworks	\$ 202.94	2110-31320-402380	riser/lids for barrett
09/06/2016	797576	MT Waterworks	\$ 226.20	5030-75910-409340	copper tube
09/06/2016	797576	MT Waterworks	\$ 375.84	5030-75910-409340	corp couplings
09/06/2016	797576	MT Waterworks	\$ 767.45	5020-00000-141000	WATER PARTS AND SUPPLIES PO NUM 301294
09/06/2016	797576	MT Waterworks	\$ 3,502.33	5020-00000-141000	SYSTEMS PO NUM 301294
09/06/2016	797576	MT Waterworks	\$ 907.20	2110-31320-402380	storm pipe for village lane and poly dr
09/06/2016	797578	Newman Traffic Signs	\$ 1,439.80	2110-31320-402420	School symbols
09/06/2016	797578	Newman Traffic Signs	\$ 268.50	2110-31320-402420	24 x 18 arrow
09/06/2016	797578	Newman Traffic Signs	\$ 193.50	2110-31320-402420	24 x 12 ahead sign
09/06/2016	797578	Newman Traffic Signs	\$ 368.10	2110-31320-402420	24 x 30 blank signs
09/06/2016	797578	Newman Traffic Signs	\$ 1,439.80	2110-31320-402420	school symbol sign
09/06/2016	797578	Newman Traffic Signs	\$ 387.00	2110-31320-402420	Left oblique down sign
09/06/2016	797578	Newman Traffic Signs	\$ 193.50	2110-31320-402420	Right oblique sign down
09/06/2016	797578	Newman Traffic Signs	\$ 158.40	2110-31320-402420	24 x 18 sign blank
09/06/2016	797578	Newman Traffic Signs	\$ 490.80	2110-31320-402420	24 x 30 sign blank
09/06/2016	797581	NorthWestern Energy	\$ 7,873.47	5020-74000-403410	3116 17th St W
09/06/2016	797581	NorthWestern Energy	\$ 7,873.47	5020-74000-403410	3116 17th St W
09/06/2016	797581	NorthWestern Energy	\$ 28,152.10	5610-71120-403410	0100482-9. Airport Main Vault. August 2016
09/06/2016	797581	NorthWestern Energy	\$ 7,792.97	6500-15670-403410	0100507-3
09/06/2016	797581	NorthWestern Energy	\$ 516.96	1500-22210-403410	0712537-0
09/06/2016	797581	NorthWestern Energy	\$ 98.15	0100-51410-403410	0712539-6
09/06/2016	797581	NorthWestern Energy	\$ 98.05	0100-51220-403410	0712683-2
09/06/2016	797581	NorthWestern Energy	\$ 25.28	5710-71480-403410	0712764-0
09/06/2016	797581	NorthWestern Energy	\$ 346.35	5210-15950-403410	0720829-1
09/06/2016	797581	NorthWestern Energy	\$ 2,078.58	5210-15920-403410	0720834-1
09/06/2016	797581	NorthWestern Energy	\$ 429.78	1500-22210-403410	0720840-8
09/06/2016	797581	NorthWestern Energy	\$ 1,805.37	5020-74000-403410	0722252-4
09/06/2016	797581	NorthWestern Energy	\$ 7,520.99	5020-74000-403410	0723043-6
09/06/2016	797581	NorthWestern Energy	\$ 7.55	0100-51120-403410	0831702-6
09/06/2016	797581	NorthWestern Energy	\$ 17.93	0100-51120-403410	0920801-8
09/06/2016	797581	NorthWestern Energy	\$ 165.66	6070-22350-403410	1006915-1
09/06/2016	797581	NorthWestern Energy	\$ 202.32	8720-51980-403410	1059093-3
09/06/2016	797581	NorthWestern Energy	\$ 245.29	0100-51120-403410	1141284-8
09/06/2016	797581	NorthWestern Energy	\$ 1,994.26	0100-51120-403410	1160780-1
09/06/2016	797581	NorthWestern Energy	\$ 7.55	0100-51120-403410	1230066-1
09/06/2016	797581	NorthWestern Energy	\$ 1,146.92	5210-15910-403410	1569636-2
09/06/2016	797581	NorthWestern Energy	\$ 1,040.23	5210-15920-403410	1594282-4
09/06/2016	797581	NorthWestern Energy	\$ 15.17	0100-51410-403410	1635289-0
09/06/2016	797581	NorthWestern Energy	\$ 101.58	5710-71480-403410	1784756-7
09/06/2016	797581	NorthWestern Energy	\$ 549.26	1500-21150-403410	1984150-1

Check Date	Check	Name	Amount	Account	Item Desc
09/06/2016	797581	NorthWestern Energy	\$ 616.38	1500-21150-403410	1984155-0
09/06/2016	797581	NorthWestern Energy	\$ 8.86	2110-31320-403410	2047000-1
09/06/2016	797581	NorthWestern Energy	\$ 9.22	2110-31320-403410	2047011-8
09/06/2016	797581	NorthWestern Energy	\$ 19.12	0100-51120-403410	3020837-5
09/06/2016	797581	NorthWestern Energy	\$ 1,313.62	5210-15940-403410	3067416-2
09/06/2016	797581	NorthWestern Energy	\$ -	5210-15950-403410	3279035-4
09/06/2016	797581	NorthWestern Energy	\$ 1,755.74	0100-51260-403410	0720841-6
09/06/2016	797581	NorthWestern Energy	\$ 11.09	5020-74000-403410	0722249-0
09/06/2016	797581	NorthWestern Energy	\$ 7.67	0100-51120-403410	0722253-2
09/06/2016	797581	NorthWestern Energy	\$ 216.47	0100-51120-403410	0722256-5
09/06/2016	797581	NorthWestern Energy	\$ 9.74	0100-51120-403410	0722258-1
09/06/2016	797581	NorthWestern Energy	\$ 26.03	0100-51120-403410	0722259-9
09/06/2016	797581	NorthWestern Energy	\$ 9.56	0100-51120-403410	0722272-2
09/06/2016	797581	NorthWestern Energy	\$ 6.36	8720-51980-403410	0722272-2
09/06/2016	797581	NorthWestern Energy	\$ 22.10	0100-51120-403410	0722273-0
09/06/2016	797581	NorthWestern Energy	\$ 13.11	0100-51120-403410	0722274-8
09/06/2016	797581	NorthWestern Energy	\$ 108.39	0100-51120-403410	0722275-5
09/06/2016	797581	NorthWestern Energy	\$ 38.68	0100-51120-403410	0722277-1
09/06/2016	797581	NorthWestern Energy	\$ 31.77	0100-51120-403410	0722278-9
09/06/2016	797581	NorthWestern Energy	\$ 16.59	0100-51120-403410	0722279-7
09/06/2016	797581	NorthWestern Energy	\$ 7.67	0100-51120-403410	0722280-5
09/06/2016	797581	NorthWestern Energy	\$ 7.67	0100-51120-403410	0722281-3
09/06/2016	797581	NorthWestern Energy	\$ 7.67	0100-51120-403410	0722283-9
09/06/2016	797581	NorthWestern Energy	\$ 7.67	0100-51120-403410	0722284-7
09/06/2016	797581	NorthWestern Energy	\$ 16.59	0100-51120-403410	0722808-3
09/06/2016	797581	NorthWestern Energy	\$ 9.74	0100-51120-403410	0722862-0
09/06/2016	797581	NorthWestern Energy	\$ 81.75	0100-51120-403410	0723005-5
09/06/2016	797581	NorthWestern Energy	\$ 7.67	0100-51120-403410	0723025-3
09/06/2016	797581	NorthWestern Energy	\$ 7.55	0100-51120-403410	0723046-9
09/06/2016	797581	NorthWestern Energy	\$ 21.49	0100-51120-403410	0723049-3
09/06/2016	797581	NorthWestern Energy	\$ 12.30	0100-51120-403410	0723053-5
09/06/2016	797581	NorthWestern Energy	\$ 19.20	0100-51120-403410	0723064-2
09/06/2016	797581	NorthWestern Energy	\$ 19.20	0100-51120-403410	0723065-9
09/06/2016	797581	NorthWestern Energy	\$ 73.08	5120-85000-403410	0723383-6
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723384-4
09/06/2016	797581	NorthWestern Energy	\$ 9.37	8720-51980-403410	0723385-1
09/06/2016	797581	NorthWestern Energy	\$ 9.37	8720-51980-403410	0723386-9
09/06/2016	797581	NorthWestern Energy	\$ 9.37	8720-51980-403410	0723387-7
09/06/2016	797581	NorthWestern Energy	\$ 9.37	8720-51980-403410	0723388-5
09/06/2016	797581	NorthWestern Energy	\$ 9.37	8720-51980-403410	0723392-7

Check Date	Check	Name	Amount	Account	Item Desc
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723394-3
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723395-0
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723396-8
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723397-6
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723398-4
09/06/2016	797581	NorthWestern Energy	\$ 7.67	8720-51980-403410	0723835-5
09/06/2016	797581	NorthWestern Energy	\$ 9.74	8720-51980-403410	0723836-3
09/06/2016	797581	NorthWestern Energy	\$ 363.22	5120-85000-403410	0723878-5
09/06/2016	797581	NorthWestern Energy	\$ 175.62	8720-51980-403410	0723879-3
09/06/2016	797581	NorthWestern Energy	\$ 19.20	0100-51120-403410	0723887-6
09/06/2016	797581	NorthWestern Energy	\$ 323.01	0100-51120-403410	0793134-8
09/06/2016	797581	NorthWestern Energy	\$ 1.31	0100-51120-403410	1409394-2
09/06/2016	797589	Public Utilities	\$ 513.41	8720-51980-403420	136082
09/06/2016	797589	Public Utilities	\$ 4,761.36	8720-51980-403420	136090
09/06/2016	797589	Public Utilities	\$ 12.22	8720-51980-403420	136091
09/06/2016	797589	Public Utilities	\$ 3,861.15	8720-51980-403420	136095
09/06/2016	797589	Public Utilities	\$ 16.34	8720-51980-403420	136096
09/06/2016	797589	Public Utilities	\$ 9.67	8720-51980-403420	136098
09/06/2016	797589	Public Utilities	\$ 1,136.67	8720-51980-403420	136099
09/06/2016	797589	Public Utilities	\$ 506.80	8720-51980-403420	136100
09/06/2016	797589	Public Utilities	\$ 628.12	8720-51980-403420	136101
09/06/2016	797589	Public Utilities	\$ 8,513.11	8720-51980-403420	136103
09/06/2016	797589	Public Utilities	\$ 589.48	8720-51980-403420	148074
09/06/2016	797589	Public Utilities	\$ 3,257.39	8720-51980-403420	148398
09/06/2016	797589	Public Utilities	\$ 1,698.89	8720-51980-403420	148654
09/06/2016	797589	Public Utilities	\$ 318.48	6500-15660-403420	158260
09/06/2016	797589	Public Utilities	\$ 122.11	8720-51980-403420	163944
09/06/2016	797589	Public Utilities	\$ 212.46	8720-51980-403420	177710
09/06/2016	797589	Public Utilities	\$ 9.67	5120-85000-403420	180645
09/06/2016	797589	Public Utilities	\$ -	8720-51980-403420	163614
09/06/2016	797589	Public Utilities	\$ 91.73	0100-51120-403420	137793
09/06/2016	797589	Public Utilities	\$ 1,020.19	8720-51980-403420	148423
09/06/2016	797592	Qwest	\$ 34.54	5610-71120-403450	Qwest 406-245-1044 Airport Terminal Power M
09/06/2016	797592	Qwest	\$ 50.56	5710-71470-403450	Qwest 406-245-1789 Transit STS
09/06/2016	797592	Qwest	\$ 61.35	5410-31230-403450	Qwest 406-245-7193 Solid Waste Landfill
09/06/2016	797592	Qwest	\$ 106.46	5410-31230-403450	Qwest 406-245-9820 Solid Waste Landfil
09/06/2016	797592	Qwest	\$ 34.54	2110-31320-403450	Qwest 406-245-9906 PW Traffic Signal 4th 27
09/06/2016	797592	Qwest	\$ 50.56	5710-71410-403450	Qwest 406-254-7038 MET Transit
09/06/2016	797592	Qwest	\$ 7,310.44	2250-22320-403450	Qwest 406-255-9700 E911
09/06/2016	797592	Qwest	\$ 49.16	0100-51400-403450	Qwest 406-652-0269 Cemetery FAX Line

Check Date	Check	Name	Amount	Account	Item Desc
09/06/2016	797592	Qwest	\$ 50.61	0100-51120-403450	Qwest 406-652-5507 Parks
09/06/2016	797592	Qwest	\$ 35.52	2110-31320-403450	Qwest 406-652-8104 PW Traffic Signal 24 Central
09/06/2016	797592	Qwest	\$ 37.25	0100-51210-403450	Qwest 406-652-8403 Stewart Park Batting Cages
09/06/2016	797592	Qwest	\$ 49.16	1500-22250-403450	Qwest 406-655-0728 Fire Maintenance Shop
09/06/2016	797592	Qwest	\$ 76.53	6060-19310-403450	Qwest 406-248-9124 Met Measured Lines
09/06/2016	797592	Qwest	\$ 71.04	6060-19310-403450	Qwest 406-248-3329 Airport Measured Lines
09/06/2016	797592	Qwest	\$ 34.79	1500-21110-403450	Qwest 406-245-6600 Crime Prevention Alarm
09/06/2016	797592	Qwest	\$ 2.08	2250-22320-403450	Qwest 406-255-9702 E911 Backup Line 4 Call Reroute 2250-
09/06/2016	797592	Qwest	\$ 143.08	2600-55120-403450	Qwest 406-245-1579 Library 6 lines
09/06/2016	797592	Qwest	\$ 70.82	6060-19310-403450	Qwest 406-245-1579 Library 6 lines
09/06/2016	797592	Qwest	\$ 35.25	6200-19110-403450	Qwest 406-245-4437 Kenco Security Alarm IT Alarm
09/06/2016	797592	Qwest	\$ 35.52	1500-22210-403450	Qwest 406-245-1743 Fire Elevator 1500-22210-403450
09/06/2016	797594	Riverstone Health	\$ 11,250.00	0100-14110-403931	Quarterly Air Pollution Control - July - September 2016
09/06/2016	797598	Rotational Molding Inc	\$ 4,420.00	5410-31220-402290	Lids for 300 gallon alley barrels
09/06/2016	797601	Sanderson Stewart	\$ 40,587.08	5030-75910-409340	WO 16-01 2016 Water/Sewer Replc; Sch 3 17th St Wtr
09/06/2016	797601	Sanderson Stewart	\$ 5,721.78	8450-31860-409310	62nd and Rimrock Road Intersection Improvements
09/06/2016	797610	Stacked In Montana LLC	\$ 27,000.00	2030-15130-407968	TIF project
09/06/2016	797617	The Countertoppers	\$ 3,130.00	5610-71120-402450	Invoice #12071. RSVP Counters
09/06/2016	797620	Town & Country Supply Association	\$ 7,164.21	6010-00000-141000	219151 PO NUM 301360
09/06/2016	797620	Town & Country Supply Association	\$ 19,508.73	6010-00000-141000	219174 PO NUM 301361
09/06/2016	797620	Town & Country Supply Association	\$ 3,653.95	5710-00000-141000	BUS MET PO NUM 301370
09/06/2016	797620	Town & Country Supply Association	\$ 10,729.19	5710-00000-141000	BUS MET PO NUM 301370
09/06/2016	797626	Value Line Publishing	\$ 3,950.00	2600-55190-403380	Invoice JO-178237-16
09/06/2016	797627	Van Arsdale Construction	\$ 5,284.62	2910-66980-407275	FORECLOSURE PROGRAM - 619 Custer
09/06/2016	797629	Western Municipal Construction Inc	\$ 43,245.97	5130-85910-409340	WO 16-01 Schedule 4
09/06/2016	797629	Western Municipal Construction Inc	\$ 2,025.55	5130-85910-409340	WO 16-01 Sch4 Southside Sanitary Sewer Replc CO#1
09/06/2016	797633	Yellowstone Valley Elec	\$ 2,984.33	5020-74000-403410	2085 Santiago Blvd
09/06/2016	797634	Yochum Contracting Inc	\$ 4,500.00	5050-75150-403671	903 Princeton fixed leak

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Public Hearing & Resolution for Weed Assessments

PRESENTED BY: Pat Weber

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

The annual weed assessments have been completed by the Finance Department and are ready to be spread on the tax rolls by the attached resolution.

Pursuant to the Billings Montana City Code (BMCC), Section 25-304, property owners are notified in writing and given ten (10) days from the date of the notice of noncompliance to exterminate weeds or tall grass from their property. If owners fail to cut the vegetation, the City may cut it and assess the costs to the real property, together with an additional administrative fee of 25% of the cost of removal, plus a \$25 penalty. If the charges are not paid within a given time, the costs and penalties constitute a lien on the property and special assessments may be levied. The General Fund initially pays the costs, so the collected assessments reimburse those expenses.

The properties on the attached list had weeds removed from them during the growing season, the owners didn't pay the charges and the properties may be assessed to recover the costs, penalty and fee.

ALTERNATIVES ANALYZED

The Council must hold a public hearing and then may:

- Approve the resolution; or
- Not approve the resolution, in which case the property owners will not be assessed, and the General Fund will be responsible for paying for the weed removal.

FINANCIAL IMPACT

The assessments total \$3,465.00 and the payments will reimburse the General Fund.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and pass the attached assessment resolution.

APPROVED BY CITY ADMINISTRATOR

Attachments

RESOLUTION NO. 16_____

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

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

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

1. LEVYING OF SPECIAL ASSESSMENT. That for the purpose of collecting funds to defray the cost of cutting and removing of weeds, there is hereby levied an assessment upon the owners and the lots or parcels described on the list attached hereto.
2. ASSESSMENT AND COLLECTION. Said assessment shall be placed upon the assessment rolls and collected in the same manner as other assessments.
3. DISPOSITION OF COLLECTIONS. All monies collected from the assessment shall be paid to the General Fund of the City of Billings.
4. NOTICE OF HEARING. On **Monday, September 26th, 2016**, at 6:30 o'clock p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the final adoption of this resolution. The City Clerk published notice hereof twice, on September 8th and September 15th, 2016, in The Billings Times.

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

ADOPTED and APPROVED by the City Council on the **26th** day of **September, 2016.**

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, MAYOR

ATTEST:

BY: _____
Denise R. Bohlman, CITY CLERK

Attachment A

STAAB, MONA	314 24TH STREET WEST	#A06220	177.50
STANLEY, BARBARA	5506 BOBBY JONES BLVD	#C03262	177.50
KAUTZMAN, JEROME	835 MILES AVENUE	#A03432	177.50
STOCKTON, MYKEL	804 CENTRAL AVENUE	#AD01396	177.50
DEGOES, BRIAN	244 TERRY AVENUE	#A15910	290.00
KEITH, DOUGLAS W.	2215 DAHLIA LANE	#A16869	290.00
DUBRAY, RICHARD	1239 LYNN AVENUE	#A09486	290.00
ZITUR, STEVE	344 ALDERSON	#A18118	352.50
BALSAM, WADE	4215 AUDUBON,	#C09129	290.00
JCF PROPERTIES	2134 REHBERG LN	#A18637	177.50
WEBB, JACK	4124 MURPHY AVENUE	#A22951	177.50
VEATCH, WENDY	148 JEFFERSON	#A14701	177.50
OSTERMILLER, RALPH	608 S. 2ND ST	#A01597	177.50
BRENNEISEN, VICTOR	424 MILES AVENUE	#A19153	177.50
SCHAFF, MARIE	2234 HEWITT DRIVE	#A07945	177.50
WARE, JAMES H & CYNTHIA	1522 AVENUE F	#A12664	177.50

GRAND TOTAL	3,465.00
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Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Public Hearing and Resolution Relating to Petitions for Reduction of Arterial Construction Fee

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

The City Council adopted Ordinance 05-5322 and Ordinance 08-5478 which allow commercial property owners and Residential Manufactured Home (RMH) zoned property owners to petition for reduced arterial fee assessments if the parcel is used solely as an owner-occupied, single family residence. The relief in both of these situations is in the form of capping the parcel square footage at 9,600 square feet and calculating the assessment based on the R-9600 zoning rate instead of commercial or RMH zoning rates. As of August 31, 2016, the Public Works Department received 75 signed petitions involving 75 parcels. There were 74 parcels that met the criteria specified in Ordinances 05-5322 and 08-5478 for a reduction of the Arterial Construction Fee assessment. One parcel with tax code A13766, owned by Brent Badura, did not meet the criteria because the parcel has a business in conjunction with the house. The house is not used solely as a home and Ordinance 08-5478 only allows parcels used solely as a single family residence to petition for a reduction of their Arterial Construction Fee assessment.

ALTERNATIVES ANALYZED

City Council may:

- Approve the resolution reducing the Arterial Construction Fee assessments for the seventy-four (74) parcels meeting the criteria of Ordinance 08-5478; or,
- Not approve the resolution if the Council finds that the properties do not meet the criteria.

FINANCIAL IMPACT

By reducing the Arterial Construction Fee assessments on the seventy-four (74) parcels, the City will collect \$5,145.61 less for FY2017 than if the parcels were assessed according to their zoning instead of their single-family occupancy.

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and approve the proposed resolution reducing the Arterial Construction Fee assessments for the seventy-four (74) parcels meeting the criteria of Ordinance 08-5478.

APPROVED BY CITY ADMINISTRATOR

Attachments

Reduction of Arterial Construction Fee Assessments Resolution

RESOLUTION NO. 16-_____

**A RESOLUTION OF THE CITY OF BILLINGS RESPONDING TO
SUBMITTED PETITIONS FOR REDUCTION OF ARTERIAL
CONSTRUCTION FEE ASSESSMENTS THAT WOULD APPEAR ON
THE 2016 PROPERTY TAX STATEMENTS**

WHEREAS, the City Council adopted Ordinance 05-5322 on April 11, 2005, in part to provide relief to commercially-zoned properties being used solely as owner-occupied single family residences, and

WHEREAS, Ordinance 05-5322 states, "*The City Council may provide an exemption to commercially zoned properties that are currently owner-occupied as a single-family residence. The property owner must annually request the exemption through the Public Works Department by August 31 of each year.*", and

WHEREAS, the City Council adopted Ordinance 08-5478 on September 8, 2008, in part to provide relief to Residential Manufactured Home (RMH)-zoned properties being used solely as owner-occupied single family residences, and

WHEREAS, the City Council may provide relief to property owners meeting the criteria of Ordinance 05-5322 and Ordinance 08-5478 by capping the parcel square footage at 9,600 square feet and calculating the assessment based on the R-9600 zoning rate instead of commercial or RMH zoning rates, and

WHEREAS, the Public Works Department received 75 completed and signed petitions by the August 31, 2016, deadline and

WHEREAS, the Public Works Department verified that 74 petitions involve properties meeting the criteria and 1 petition not meeting the criteria of Ordinance 08-5478, and

WHEREAS, reducing the assessments on these 74 parcels would affect the Arterial Construction Fee assessments appearing on the tax statements Yellowstone County will print and mail in October 2016, and

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

1. REDUCTION OF ASSESSMENTS: The Arterial Construction Fees assessments on the following 74 parcels shall be adjusted by Public Works Department staff and placed upon the assessment rolls and collected in the same manner as other City of Billings assessments.

<i>TAX CODE</i>	<i>ZONE</i>	<i>LAST NAME</i>	<i>FIRST NAME</i>	<i>PARCEL ADDRESS</i>	<i>Assessment if Petition IS Approved</i>
A00163	EBCW	Erickson	Patricia	315 N. 17th Street	\$33.95
A00169	EBCW	Kyland	Anton	310 N. 17th Street	\$33.95
A00561	EBRSV	Roller	Vickie & Paul	115 North 20th Street	\$33.95
A00698	CC	Boland	Julie	121 N. 35th Street	\$33.95
A01238	PZD	Bargar	Margaret	504 S. 26th Street	\$33.95
A01383	CC	Meza	Ryan	412 S. 28th Street	\$33.95
A01743	PZD	Nava	Irene	821 S. 28th Street	\$25.46
A07030	CC	Deibele	Sheila	112 Rhea Lane	\$41.05
A08539	CC	Miller	Theresa	1037 Hansen Lane	\$63.05
A08754	CI	Bustos	Jose	109 South 37th Street	\$33.95
A08810	CI	Munoz	Benjamin	109 S. 38th Street	\$42.44
A09447	HC	Bury	Joyce	530 Josephine Drive	\$46.56
A09448A	HC	Lynch	Patrick & Carol	516 Josephine Drive	\$54.32
A09950	HC	Rivera	Esther	451 Josephine Drive	\$46.56
A10631	CC	Leichner	Beatrice	1637 Alderson Ave	\$33.95
A11609	MCPZD	Heidenreich	Charles	1022 N. 30th Street	\$46.56
A11613	MCPZD	Llewellyn	Leonard Lee	1038 N. 30th Street	\$33.95
A11635	MCPZD	Nilson	Terry	922 N. 30th Street	\$33.95
A11959	NC	Allen	Tiffany & William	45 Grand Ave	\$25.46
A11960	NC	Lee	Sylvia	39 Grand Ave	\$33.95
A14841	NC	Deters	Tyson & Anelise	601 Grand Ave	\$46.56
A15527	NC	Peter	Jay	620 Grand Ave	\$33.95
A15530	NC	Golden	Mary	608 Grand Ave	\$33.95
A15849	CC	Doney	Albert	111 Terry Ave	\$33.95
A15853	CC	Dodge	Tamala	121 Terry Ave	\$16.98
A17766	NC	Scheley	Elizabeth	28 Grand Ave	\$33.95
A17791	NC	Keller	Anton	124 Grand Ave	\$33.95
A18074	NC	Gardner	Ann	234 Grand Ave	\$33.95
A18097	NC	Thompson	Dana Jo	334 Grand Ave	\$33.95
A18098	NC	Schanaman	Betty	332 Grand Ave	\$33.95
A18901	NC	Cox	Heith	703 Custer Ave	\$46.56
A19393	RMH	Jaeger	Carl&Patsy	822 West Radford Sq.	\$46.56
A19396	RMH	Steiber	Donna	844 West Radford Sq.	\$46.56
A19397	RMH	Solem	Curt & Shirley	852 West Radford Sq.	\$46.56
A20268	RMH	Buttman	Evelyn	216 Nash Lane	\$46.56
A20286	RMH	Willems	John	315 Reda Lane	\$46.56
A20271	RMH	Harper	Ronald	234 Nash Lane	\$46.56
A20272	RMH	O'Connor	Maurice	240 Nash Lane	\$46.56
A20283	RMH	Sengl	Robert	333 Reda Lane	\$46.56

A21270	RMH	Schessler	Alice	263 Windsor Circle S	\$35.33
A21271	RMH	Fisher	Pauline	273 Windsor Circle S	\$34.93
A21274	RMH	Smith	Patrick & Carol	303 Windsor Circle S	\$31.91
A28960	RMH	Hubbard	Lana	452 Katherine Ann Drive	\$42.96
A28961	RMH	Reitler	Breanne	456 Katherine Ann Drive	\$29.10
A28970	HC	Herem	Michael	545 Sharron Lane	\$46.56
A29122	RMH	Rieke	Kristi	803 Joyce Circle	\$33.17
A29126	RMH	Etchart	Colette	821 Joyce Circle	\$33.23
A29129	RMH	Carson	Mark	831 Joyce Circle	\$37.90
A29138	RMH	Lux	Sharon	625 Clause Circle	\$32.01
A29143	RMH	Nottingham	Glennis	605 Clause Circle	\$34.87
A29144	RMH	Bohlman	Denise	602 Clause Circle	\$32.06
A29156	RMH	Racine	Mitzi	836 Joyce Circle	\$34.63
A29157	RMH	Bell	Lonnie & Martha	858 Joyce Circle	\$32.01
A29158	RMH	Veatch	Wynona	862 Joyce Circle	\$32.01
A29160	RMH	Steinbach	Kara	870 Joyce Circle	\$32.01
A29161	RMH	Kidd	Annette	874 Joyce Circle	\$35.43
C00707	HC	Kane	Pam	702 Key City Drive	\$46.56
C00723	HC	Hjort	Violet	709 Key City Drive	\$46.56
C01075	RMH	Jensen	Debra	451 S. Lakeview Drive	\$46.56
C01078A	RMH	Paul	Craig	2280 Richards Road	\$28.32
C01078B	RMH	Paul	Craig	2280 Richards Road	\$26.88
C01104	HC	Fisher	Patricia	704 Logan Lane	\$46.56
C01230	HC	Anttila	Stanley	642 Lambrecht Lane	\$46.56
C01352	RMH	Moats	Steve & Shelly	541 Sharron Lane	\$46.56
C01379	RMH	Pearson	Eugene	624 Pemberton Lane	\$46.56
C01384D	RMH	Gillett	Mark	458 Pemberton Lane	\$42.84
C01454A	RMH	Bauer	Dennis & Taya.	437 Roxy Lane	\$46.56
C01485	RMH	Pope	Michael	428 Kathy Lane	\$46.56
D01463	CC	Ybarra	Robert	1134 Central Ave	\$30.56
D01492	CC	Gray	Jonathan	114 Rhea Lane	\$45.49
D01504	CI	Keyser	Darcy & Russell	236 Prickett Lane	\$46.56
D01811A	CC	Walter	Kenneth&Barbara	416 Garden Ave	\$46.56
D05200	HC	Moats	Melville	2112 Main Street	\$46.56
D05202	HC	Hatveldt	Art	2104 Bench Blvd	\$46.56

2. DENIAL OF ASSESSMENT REDUCTION: There will be no reduction to the Arterial Construction Fee assessments for the following parcel:

Tax Code A13766, Badura, Brent, 1121 Central Ave.

3. **NOTICE OF HEARING:** On Monday, **September 26, 2016**, at 6:30 p.m., or as soon thereafter as the matter may be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council will hear objections to the final adoption of this resolution. The City Clerk is hereby directed to publish notice on September 15, 2016, and September 22, 2016, in **The Billings Times**.

4. **EFFECTIVE DATE:** This resolution shall be effective upon final adoption.

ADOPTED and APPROVED by the City Council this **26th** day of **September 2016**.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: _____
Denise R. Bohlman, City Clerk

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Public Hearing - Hi-Mile Tire - Variance #CC 16-01 from Curb Cut Requirements

PRESENTED BY: David Mumford, Public Works Director

Department: Public Works

PROBLEM/ISSUE STATEMENT

Hi-Mile Tire is proposing to construct a new store at 2604 Belknap Avenue. The company is seeking a variance from the following City Codes.

1. City Code allows two curb cuts along each frontage (Section 6-1208(h)(3). With this development, they are proposing to have three curb cuts along Nall Avenue.
2. Curb cuts cannot be greater than 40 feet in width (Section 6-1208(h)(5) for businesses requiring trucking. The development is proposing the middle approach to be wider than 40 feet. This is to allow garage stalls to be placed immediately adjacent to Nall Avenue.
3. City Code also does not allow backing into public right-of-way (Section (I)(7). The development is proposing a loading dock adjacent to Nall Avenue. They will have to either back into it or out of it in order to load.
4. The developer is also asking for a variance from having to construct sidewalk along Nall Avenue. This area will have few or no pedestrians because there is only one of other property on Nall Avenue, south of this development and the street ends at that property.

The new Hi-Mile Tire will be constructed at the corner of Belknap Avenue and Nall Avenue, which is located east of South 27th Street and near Interstate 90. The Interstate terminates Belknap and Nall Avenue is a dead-end street south of Belknap Avenue. There are only three properties utilizing Nall Avenue for access. Due to the extremely low volume of traffic on Nall Avenue, Engineering is recommending approval of the variances.

ALTERNATIVES ANALYZED

The Council may:

- Approve the variance which allows the applicant to construct a tire store at 2604 Belknap Avenue as proposed; or
- Do not approve the variances. If the variances are not approved, the site plan will have to be re-designed to meet City Code. The applicant has stated that this would be difficult for this site.

FINANCIAL IMPACT

The administrative cost of the variance is offset by the application fee.

RECOMMENDATION

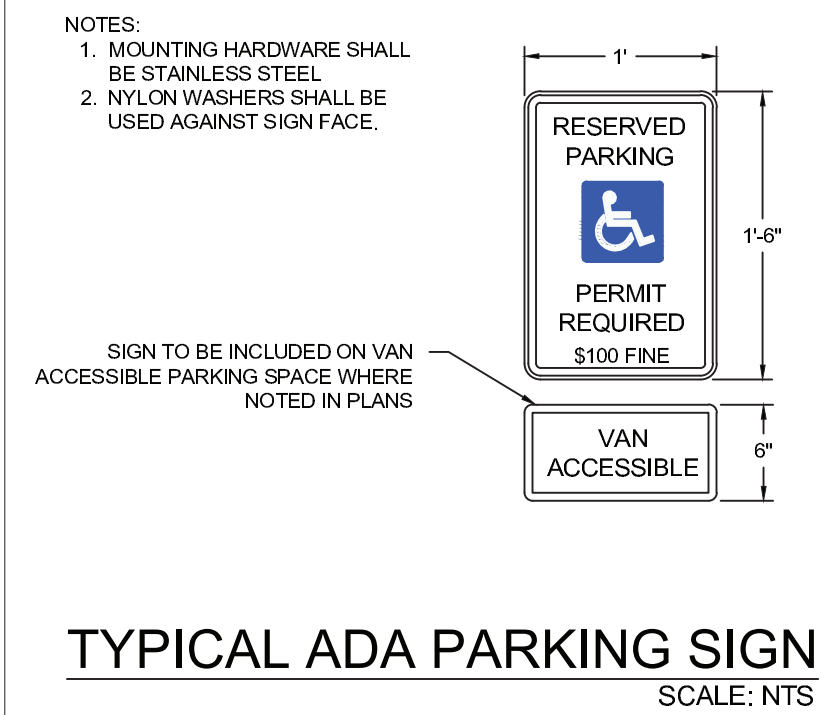
Staff recommends that the City Council approve the variances from the site development code for the proposed tire store at 2604 Belknap Avenue.

APPROVED BY CITY ADMINISTRATOR

Attachments

Site Plan

Letter from Applicant



REVISIONS					 PERFORMANCE ENGINEERING & CONSULTING 2101 OVERLAND AVE BILLINGS, MT 59102 OFFICE - 406-384-0282 www.performance-ec.com	 CRAIG DALTON No. 38372 PE MONTANA LICENSED PROFESSIONAL ENGINEER	CPD DESIGNED BY _____	HI-MILE TIRE COMMERCIAL		PROJECT NUMBER 2016-008
NO.	DESCRIPTION	DATE	BY	CHECKED BY			JMD DRAWN BY _____	2504 BELKNAP AVENUE BILLINGS, MT 59101		SHEET NUMBER 5 OF 16
							3/28/16 DATE			
							QUALITY ASSURANCE			
							CPD CHECKED BY _____			
							4/5/2016 DATE	PROPOSED SITE MAP		DRAWING NUMBER G1.3



7100 Commercial Ave., Suite 4 • Billings, MT 59101 • 406-384-0080

To: The City of Billings, Engineering Department
From: Scott Aspenlieder, PE, Project Manager
Date: September 1, 2016
Subject: 2604 Belknap Ave. – Hi-Mile Tire Variance Request

On behalf of Hi-Mile Tire, Performance Engineering and Consulting (PEC) is respectfully requesting approval of four variances from City Code. The variances are all directly related to Nall Avenue bordering the subject property to the west. Due to the nature of the facility being built and its location, the owner is seeking the following variances:

1. Limits on the number of approaches a commercial facility can have,
2. Width of the commercial approaches,
3. Sidewalks located along public right-of-way, and
4. Ability to back directly into a public street.

The proposed facility will house Hi-Mile Tire which consists of a retail tire store, tire repair facility, commercial tire facility, warehouse, tire recap facility, and storage. Hi-Mile Tire is currently located at 4318 State Ave. and has outgrown its current facilities. The requested variances will assist Hi-Mile Tire in maximizing the use of the available space on the proposed lot.

Nall Avenue is a dead end public street which services one lot south of the Hi-Mile Tire location. Currently the southern lot consist of a private shop used for storage and large vehicle parking. Nall Avenue cannot be extended due to the 27th street bridge exit off of Interstate 94. There is no thru traffic on Nall Avenue as it only services the subject property and private lot to the south.

To maximize the usable space on the lot we are requesting the ability to place one typical access on Nall Avenue in the northwest corner of the property. In addition to that we are proposing to install a second approach of which the width would run from the northwest corner of the proposed building the length of the property to the southern boundary. A ribbon curb or laydown curb will be installed to support stormwater flows and maintain the asphalt edges of Nall Avenue.

Due to the lack of connectivity on Nall Avenue and Belknap Avenue the owner is requesting a variance from installation of sidewalks around the site. Belknap dead ends on the eastern boundary of the property and has no pedestrian connectivity nor the potential for it to the east. Similarly Nall dead ends near the southern boundary of the lot with no opportunity for extension or pedestrian connectivity in the area. Furthermore, Hi-Mile Tire is not a business that sees a large amount of pedestrian “foot” traffic nor do the adjacent businesses. Sidewalk currently ends at the corner of Nall and Belknap.

The final variance request would allow for parked traffic to back into Nall Avenue from the designated parking spots on the western edge of the property. This variance will allow for the construction of a separate covered tire facility for truck and trailer maintenance and repair. Without allowing for vehicles to park against the building and back out into Nall Avenue there is not sufficient space within the existing lot to incorporate the truck and trailer facility as a part of the business plan. Due to the low traffic volumes on Nall Avenue there should be minimal safety concerns with this proposal.

We appreciate your consideration and interest in the Hi-Mile Tire Facility project and would appreciate your favorable review of the requested variances. Hi-Mile Tire is excited about the potential for continued growth and contribution to the Billings community. Feel free to contact Scott Aspenlieder with any questions or concerns at 406-384-0080 or scott@performance-ec.com. Thank you for your consideration and coordination in our project.

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Zone Change 948 - Public Hearing and 1st Reading

PRESENTED BY: Nicole Cromwell

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

This is a zone change request from Public (P) to Residential Professional (RP) on Lots 1 and 2, Block 4, Rocky Village Subdivision, 2nd Filing, a 2 acre parcel of land. A pre-application neighborhood meeting was held at the subject property on July 25, 2016. The Zoning Commission conducted a public hearing on September 6, 2016, and is forwarding a recommendation of approval and adoption of the findings of the 10 criteria on a 5 to 0 vote.

Zone Change applications are reviewed using statutory criteria referenced in the Alternatives Analyzed section of this memo. Zone Changes require approval through an ordinance. Zone Changes allow the change from one type of zoning district to another types of zoning – e.g. residential single family to residential multi-family or residential to commercial. A Zone Change cannot have conditions of approval and if approved, permits the owner to use the land for any purpose allowed within the zoning district.

ALTERNATIVES ANALYZED

City Council may:

- Approve the zone change and adopt the findings of the 10 criteria as recommended by the Zoning Commission;
- Deny the zone change and adopt different findings of the 10 criteria;
- Allow the applicant to withdraw the zone change; or
- Delay action on the zone change request for up to 30 days.

The Planning Division reviewed the zone change and the 10 criteria for the application and recommended approval to the Zoning Commission. The Zoning Commission concurred. The proposed zoning is in conformance with the recently adopted 2016 Growth Policy for Billings by encouraging and sustaining development within the City limits, providing essential services within neighborhoods, and promoting prosperity through the retention and expansion of a diversity of careers and jobs in the local economy. The proposed zoning will promote the health and general welfare by sustaining an existing professional office building in its current location and gives consideration to the character of the area and the suitability of the property for the existing and proposed uses.

Prior to making a decision on the zone change request the City Council shall consider the following:

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

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- Essential Investments: Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed zoning would allow the existing development to include other professional offices in addition to the current medical and dental offices. This will ensure the building remains occupied and continues to provide essential services to the surrounding neighborhood.

- **Strong Neighborhoods:** Implementation of the Infill Policy to encourage development of under-utilized properties.

The proposed zoning will allow the building owners to fill unused tenant space by expanding the opportunity for similar and complimentary professional offices.

- **Prosperity:** Retaining a strong, skilled and diverse workforce and supporting existing business sustains a healthy economy.

The proposed zoning will support existing businesses and retain and diversify career opportunities at this location.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. The existing building has 2 vacant units and recruitment of additional medically-related office space users is difficult. The proposed zoning would allow the unit owners to broaden the market to other professions including financial advisors, real estate brokers, engineers, designers and lawyers. Vacant tenant space can depreciate property values and can lead to dis-investment by property owners. A well-maintained business property benefits the surrounding property owners.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning will have little impact on the surrounding transportation systems. Businesses allowed in this zoning district typically operate between 8:00 am and 5:00 pm daily and do not generate more traffic than is usual for the existing development.

Water and Sewer: The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.

Schools and Parks: Schools and parks should be unaffected by the proposed zone change.

Fire and Police: The subject property is served by City public safety services. The Police and Fire Departments had no concerns with the zone change.

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

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*

The new zoning will have no effect on vehicle and pedestrian traffic. The property is fully developed with adjacent sidewalks and drive approaches. These will not change.

7. *Will the new zoning promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow a greater variety of professional office spaces and is compatible with the existing urban growth pattern.

8. Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use.

9. Will the new zoning conserve the value of buildings?

The property is currently developed with a multi-unit office building. The value of this building will be preserved by the proposed zoning of Residential Professional (RP).

10. Will the new zoning encourage the most appropriate use of land throughout the City of Billings?

The proposed zoning will permit professional office spaces in an existing building already used for medical office space. The existing and proposed uses in this building at the intersection of 2 arterial streets is the most appropriate use of land.

FINANCIAL IMPACT

If the zone change is approved, the fees assessed based on zoning, will change and increase revenue to the City. If the zone change is approved, the marketability of the units will improve and will stabilize the taxable value of the property. If the zone change is not approved, the fees will remain the same and the taxable value of the units may not be stabilized.

BACKGROUND

This is an application to change the zoning of a developed parcel of land at the intersection of 17th St. West and Rimrock Road from Public to Residential Professional (RP). The property was developed approximately 30 years ago with an office building for dentists. Subsequently, the City approved an expansion to include additional offices for medical practices. The current Public zone does not allow other professional offices such as law practices, real estate, financial services, or other typical 9:00 am to 5:00 pm businesses. The proposed RP zoning will expand the current number of allowed uses to secure the financial viability of the existing office buildings. The proposed RP zoning does not allow any retail establishments.

The surrounding zoning is either Residential 9,600 (R-96) for single family homes or Public for the RMC Campus. At the intersection of Poly Drive and 17th St. West to the south of the subject property, the City has approved zone changes from R-96 to RP and NC to accommodate new development of professional offices including the Morledge Eye Center, a plastic surgeon practice, and law offices. The Poly Conoco on the southwest corner of this intersection is still in a R-96 zone and is considered a legal non-conforming use.

Rimrock Road and 17th St. West are both classified as arterial streets and serve as connectors between residential areas and other parts of the City and County. Rimrock Road carries about 12,000 vehicle trips per day and 17th St. West carries about 7,000 vehicles per day. These approximate numbers are based on a 3-year rolling average. Vehicle trips represent 1 vehicle in either direction of travel during a 24-hour period. Increases in travel on both streets have been steady throughout the last 10 years, increasing about 2% every year. Improvements to Rimrock Road have been made as well as minor improvements to the intersection of 17th St. West.

The property is developed as a unit ownership building and until recently all units have been occupied with medical or dental offices. Two units are currently not occupied. The property owners conducted a pre-application neighborhood meeting on July 25, 2016, at the subject property. No objections to the proposed zone change were raised by the surrounding owners. The Zoning Commission received one letter in support for the zone change from an adjacent property owner.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 6, 2016, and received the staff recommendation and testimony from the applicant, Dr. Michael Larsen, and the agent, David Mitchell. Jared Wood, a patient of Dr. Larsen, testified in favor of the application. No other testimony was received.

On a motion by Board Member Mike Boyett, seconded by Board Member Michael Larsen (no relation to the applicant), the Zoning Commission is forwarding a recommendation of approval and adoption of the findings of the 10 criteria for Zone Change 948, on a 5 to 0 vote.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

The Consistency with Adopted Policies or Plans is discussed in the Alternatives Analyzed section above.

RECOMMENDATION

The Zoning Commission recommends approval and adoption of the findings of the 10 criteria for Zone Change 948 on a 5 to 0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Ordinance ZC 948
Zoning Map and Site Photos
Applicant Letter and pre-app materials
Letter of Support

ORDINANCE NO. 16-_____

AN ORDINANCE AMENDING THE ZONE CLASSIFICATION FOR Lots 1 and 2, Block 4, Rocky Village Subdivision, 2nd Filing, a 2-acre parcel of land, generally located at 1690 Rimrock Road.

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 ten (10) 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 ten (10) criteria required by state law.

2. DESCRIPTION. That Lots 1 and 2, Block 4, Rocky Village Subdivision, 2nd Filing, a 2-acre parcel of land, generally located at 1690 Rimrock Road, is presently zoned **Public (P)** and is shown on the official zoning maps within these zones.

3. ZONE AMENDMENT. The official zoning map is hereby amended and the zoning for **the above described parcel** is hereby changed from **Public (P) to Residential Professional (RP)** and from the effective date of this ordinance, shall be subject to all the rules and regulations pertaining to **Residential Professional (RP)** 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 26, 2016.

PASSED, ADOPTED AND APPROVED on second reading October 11, 2016.

CITY OF BILLINGS:

BY: _____
Thomas W. Hanel, Mayor

ATTEST:

BY: Denise R. Bohlman, City Clerk

Zone Change 948 – 1690 Rimrock Road

1690 Rimrock RD ZC 948



Subject Property

R-6

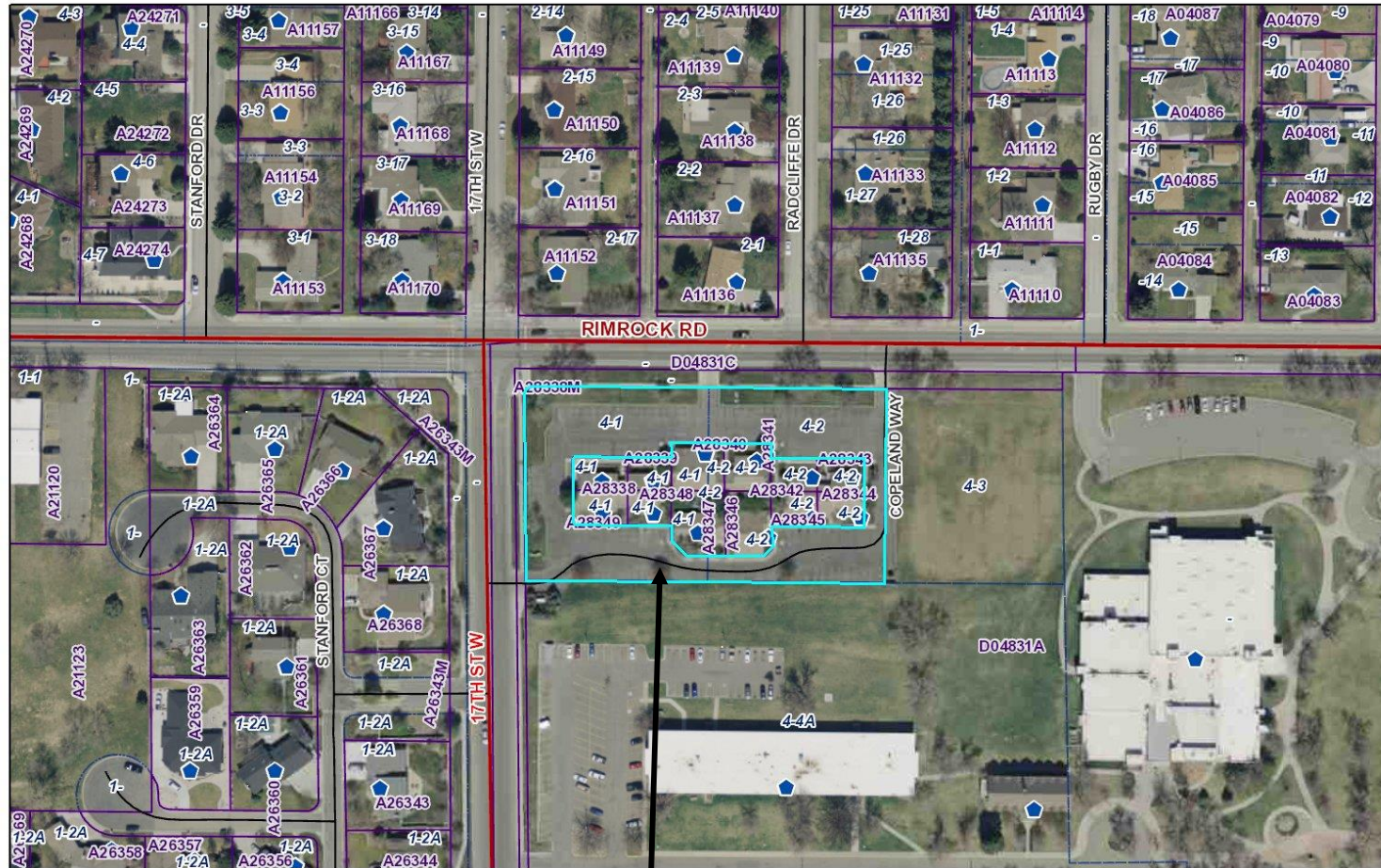
Rocky Mountain
College – Public

0.0225 0.045 0.09 mi

0 0.035 0.07 0.14 km

1:2,701

1690 Rimrock Rd ZC 948



Subject Property



Subject Property from Rimrock Road



View west along Rimrock Road



View north east across Rimrock Road



View north across Rimrock Road



View east along Rimrock Road



View south and west across subject property

Applicant letter and pre-application meeting notes
Zone Change #948 – 1690 Rimrock Road

Zone Change Application

A.) Per the concerns voiced by residents previously, our proposed zone change does not allow commercial businesses to fill the vacant suites in our building. The proposed zone change would actually allow traffic to decrease to the area if the building is owned by businesses with less need for daily office visits. Because of this, the zone change not only supports the adopted growth policy but it actually inhibits future business growth.

B.) Currently, two suites in our building are sitting vacant and another will be vacated within the next year. By our current zoning laws, only medical facilities may purchase these spaces and this stipulation is creating a problem for our neighborhood.

According to the Center for Disease Control, Americans made over 928 million visits to physicians' offices last year alone. As access to healthcare and insurance coverage has become more available, medical facilities have seen a surge in patients. This evolution in healthcare has rendered our suites and surrounding parking areas unfit for many medical practices and their burgeoning patient base.

Since expansion of the parking areas and work space is impossible, the best solution to decrease visits to the area and keep traffic flowing smoothly would be to allow businesses outside the medical field to fill suites in our building. In order for this to happen, we recommend the zoning for the two acre area surrounding our building be changed from Medical to Residential Professional.

This change would allow businesses like lawyers, stock brokers, financial consultants and architect firms to operate in our building. By the nature of their business, these offices maintain a much smaller client base that requires fewer visits to the office as well as fewer staff members.

Pre-Application Neighborhood Meeting for Zone Change

July 25, 2016

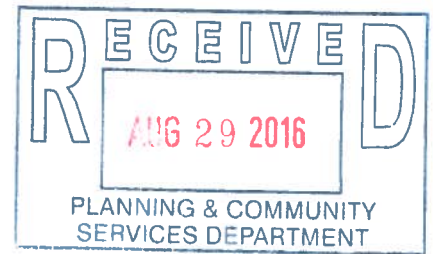
The Pre-Application Neighborhood Meeting was held at 1690 Rimrock Road, Suite E, at 6:00 pm, on July 25, 2016. There were six people that attended the meeting, including one neighbor and two doctors that are tenants in the same complex. Marty Connall is the neighbor that attended and he is 100% in favor of the zone change. The process of rezoning was reviewed in the meeting and why we are trying to rezone the complex. Time was given for a question and answer period.

Pre-Application Neighborhood Meeting for Zone Change
Monday, July 25, 2017 at 6:00pm
1690 Rimrock Road, Suite E

Attendance List

David Mitchell
Marty Cornwall
Gayle A. Roset
Paul C. Williams DDS (Suite J)
Jared Wood
Matt Gunn

Marty Connell



August 25, 2016

The Zoning Commission of the City of Billings
Planning Division
2825 3rd Ave N
Billings, MT 59101

Re: Zone Change #948

My name is Martin Connell and my wife is Mary Lee Connell and we reside at 2903 Radcliffe Drive which is on the corner across the street from the proposed zone change. We were involved with the property owners before and during the constructions of their project. They have been the best possible & responsive neighbors.

We support the zone change for the following reasons:

Allowing more professional usage will promote the most appropriate use of the land; and,

The new zoning will preserve the quality of the property and keep it occupied; and,

The new zoning will be most compatible with Rocky College and the surrounding neighborhood; and,

The zone change will have no effect on traffic; and,

Providing full occupancy will provide to the care and quality of the buildings; and,

The proposed zoning change is compatible with the City of Billings growth policy.

Thank you for the opportunity to comment.

Sincerely,

Mary Lee Connell

Martin Connell

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Special Review #947 - 1524 Main Street - All Beverage License with Gaming

PRESENTED BY: Wyeth Friday

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

This is a special review request to locate an all beverage license with gaming in a remodeled and expanded building (6,150 square feet total) in a Highway Commercial (HC) zone, on Lot 1A, Block 1 of Arrowhead Sub Amended, a 38,928 square foot parcel of land. The property is requesting a waiver of the 600-foot separation distance from Arrowhead Park. Tax ID: A02526.

Special Review applications are reviewed using City Code criteria referenced in the Alternatives Analyzed section of this memo. Special reviews do not require an ordinance for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the City prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

ALTERNATIVES ANALYZED

City Council may:

- Approve the request
- Conditionally approve the request
- Deny the request
- Allow the applicant to withdraw the request
- Delay action on the request for up to 30 days

The Planning Division reviewed this application, recommends conditional approval and the Zoning Commission concurs. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations; 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2016 Growth Policy; and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria, in so far, that it is in a district that allows a casino with an all beverage license. The proposed building, landscape requirements, and solid waste storage requirements will meet the code requirements for this zone. New landscaping will be installed around the building and along the street frontage and in the parking lot. The property will have access off of Main Street as well as Crow Lane. The application meets criteria from the second requirement as it is consistent with some of the objectives of the 2016 growth policy as outlined below. It also meets the third criteria in that it is compatible with surrounding land uses in the area. It is a business proposal on a very busy road and will provide some screening from Main Street for the residential properties that are west of the subject property. It currently

has mature trees to the west that will continue to screen it from the existing residential property and the front of the building faces east away from the residential properties to the west.

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

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

The proposed special review is consistent with the following guidelines of the 2016 Growth Policy:

- Essential Investments: Infill development and development near existing City infrastructure may be the most cost effective.

The proposed special review will provide infill development in an existing empty building with updated parking lot and landscaping. The reuse will retain existing infrastructure and not add new burden to the system.

- Strong Neighborhoods: Implementation of the Infill Policy is important to encourage development of underutilized properties.

The proposed special review will allow the applicant to reuse an existing empty structure by remodeling and expanding the building and putting a new business in a currently unused building.

- Prosperity: A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.

The proposed special review will support a new business in an existing location and retain and diversify career opportunities at this location.

RECOMMENDATION:

The Zoning Commission is forwarding a recommendation of conditional approval.

1.The special review is limited to Lot 1A, Block 1 of Arrowhead Sub Amended, generally located at 1524 Main Street.

2.The special review approval is for the remodeling and construction of a 6,150 square foot building for a casino with an all beverage license with gaming. No other use or development configuration is intended or implied by this approval.

3.Any expansion of the proposed building or parking lot greater than 10 percent of what is shown on the submitted site plan will require an additional special review approval.

4.All exterior lighting, including security lighting, shall have full cut-off shields so no part of the fixture or lens projects below the cut-off shield. The maximum height of any light pole in the outdoor areas shall be 20 feet above grade.

5.No construction or demolition activity will occur before 7 am or after 8 pm daily.

6.New trees shall not be any of the following species: Carolina poplar, other populus subspecies including any variety of aspens, elms, lombardy poplar, silver leaf poplar, weeping willow, or box elder. All installed trees will be continuously maintained and replaced as necessary by the owner.

7.Any centralized solid waste storage shall be enclosed by a wall on 3 sides and a closing gate or gates. The wall and gates for the solid waste storage shall be similar or complimentary in color to the adjacent buildings and shall be sight-obscuring. The wall and gates shall be tall

enough that no part of the interior dumpster(s) are visible from the outside.

8.The site will be developed in substantial conformance with the submitted site plan including landscaping, parking and building locations and also includes the blocking off of the existing drive up service lane.

9.Any outdoor announcement system shall be operated so it is not audible beyond the property lines.

10.These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.

11.The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

FINANCIAL IMPACT

If the special review is approved, the property will re-develop, which will increase the property's taxable value and help to support the City services that the property will need.

BACKGROUND

This is a request to allow the remodeling and addition to an existing building for a casino with an all beverage license. The property is approximately 0.89 acres and is located south of the intersection of Main Street and Wicks Lane. The subject property is surrounded mostly by commercial uses with residential uses to the east and southeast. Directly surrounding the property is Western Security Bank to the north, Valet Today Cleaners to the south, Ace Hardware across Main Street to the east, and a parking lot to the west. Farther west of the parking lot are residential uses. On the northwest corner of the intersection of Sioux Lane and Main Street is Play Inn Steakhouse and Casino. Play Inn Steakhouse and Casino is closer than the 600-foot separation from a playground in a park similar to the situation of the subject property. The Play Inn has been in use as a casino since 1963, which was before the current zoning requirements.

This application does not meet one of the requirements of Section 27-612 (a)(1) Billings Montana City Code (BMCC), which is the required separation of 600 feet between property lines from an eating and drinking establishment with on premise consumption of alcohol from any building that is predominantly used as a church or school, or from a public park that contains a children's play area. The 600-foot separation is between property lines. Measuring from the southwest corner of the subject property to the northeast corner of the public park is approximately 314 feet.

In Section 27-612(a)(1), BMCC there are some exceptions that may be considered to allow the City Council to waive the separation requirement. The exceptions include: An Arterial Street separates the properties; A building or buildings obstruct the view between the separate uses; and there is no direct physical access that exists between the two uses. One criterion that may be applied in this case by the City Council in consideration of waiving the 600-foot separation is, "A building or buildings obstruct the view between the separate uses." The existing structure is not visible from the playground area in Arrowhead Park. There is a restroom building in the park that obstructs views in the direction of the proposed casino and several houses beyond the restroom building also obstruct direct view. It is not possible to see the subject property of this special review where the new casino would be located from the playground area in Arrowhead Park.

A second criterion for consideration of a waiver of the 600-foot distance is "No direct physical access that exists between the two uses." There are no sidewalks between the two uses. Crow Lane is paved but has no curbs, gutters or sidewalks. Flathead Street is a gravel street with no pedestrian facilities. Therefore, this application meets two of the three exceptions for the waiver of the 600-foot separation requirement, and the Council may consider waiving the separation requirement.

The BMCC is more restrictive than the State Law (MCA 16-3-306) requiring a similar separation distance. The City requirement measures the distance from property line to property line and the state requirement measures from entrance door to entrance door, provided both locations are on the same street.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 6, 2016, and received the staff recommendation and testimony from the agent, Alex Tomerup. No other testimony was received. On a motion by Board Member Dennis Ulvestad, seconded by Board Member Michael Larson, the Zoning Commission is forwarding a recommendation of approval and adoption of the findings of the 3 criteria for Special Review 947, on a 5 to 0 vote.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with Adopted Policies and Plans is discussed in the Alternatives Analyzed section above.

RECOMMENDATION

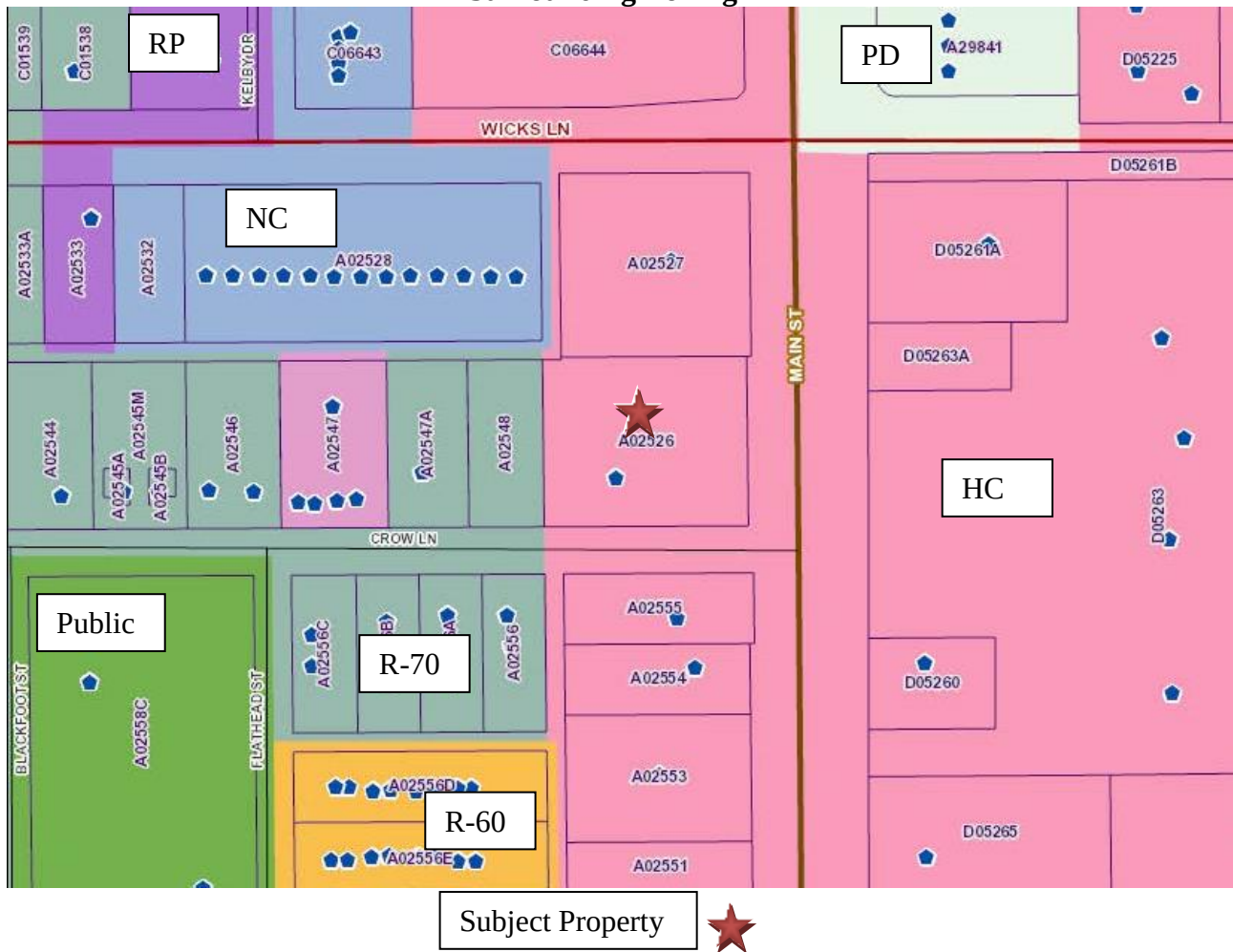
The Zoning Commission is recommending conditional approval and adoption of the findings of the 3 review criteria for Special Review 947 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Map and Site Photos
Site Plan and Applicant Letter

Surrounding Zoning



Site photos



Subject Property – Viewed from Main Street



View north from subject property



View south from subject property



View west across Main Street from subject property



View from south west corner of subject property to Arrowhead Park



View of Arrowhead park from the intersection of Flathead Street and Crow Lane



Picture of play structure on the south end of Arrowhead Park



View north from play structure in Arrowhead park in the direction of proposed casino.



LOOK WEST FROM EAST



LOOK NORTHWEST FROM SE



LOOKING FROM SOUTH



LOOKING NORTH FROM SW



LOOKING SOUTH FROM NW



LOOKING SW FROM NE

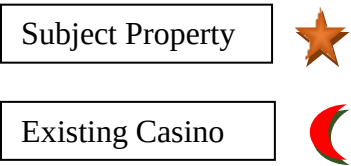
Pictures provided by applicant.



PHYSICAL BARRIER DOCUMENTATION

requesting a waiver based on Section 27-612 (a)(1)b.2 & 3. of the Unified Zoning Regulations.

Picture provided by applicant



Site Plan



Applicant Letter



July 6, 2016

Planning & Community Services Department
4th Floor
2825 3rd Ave North
Billings, MT 59102

RE: Request for Special Review For
Casino, Bar & Liquor Store
1524 Main Street
Billings, MT 59105

Planning Staff:

Town Pump, Inc, which is an operating company for casinos is looking to remodel the existing building and adding onto it to house a liquor store, bar & casino where Kentucky Fried Chicken used to be on Main Street in the Heights. This project will include remodel of the existing building, an addition and redesigning and landscaping the develop-able site. See attached Site Plan – Exhibit I. The following outlines the data requested by your application instructions.

A. Forward:

This land consists of the Lot 1A of the Arrowhead Subdivision which has a total of 38,928 SF and is zoned Highway Commercial. The vacant building, which will be remodeled with an addition was originally built in 1980. The proposed building will include a casino floor with bar, 'cage' area, liquor store, offices, restrooms & storage room to meet the requirements of the Building Code.

The lot's location for the casino/bar/liquor store SW property corner is a little over 300' from the NE property corner of Arrowhead Park (the parking area). The Park has a children's Play area which is about 380' south of that NE corner and a baseball field about 160' from that NE corner. Since the defined separation is 600' from property line to property line, the view is entirely obstructed by buildings and trees and there is no direct physical access, we are requesting a waiver based on Section 27-612 (a)(1)b.2 & 3. of the Unified Zoning Regulations.

1. Questions:

- A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy? (Answer to Instructions 1.A)

1. Economic Development - This new building will increase the economy of the area by remodeling and adding to the old structure and making it a more attractive structure with vibrant business potential. The casino and the Liquor Store will also employ additional full time people at this location to manage the businesses. This new facility will help strengthen the area economy through the creation of a viable business which has attracted a steady clientele in the region. This will help support the Billings job markets and the economy of area businesses.
2. Aesthetics - The site will be redesigned, landscaped and constructed on as a new and attractive building and grounds as well landscaped and traditionally maintained in great condition. A new and attractive sign will be updated which will be a nice addition for the facility identification for potential clients and the neighboring businesses. The new building will improve the appearance of the area.
3. Natural Resources - Their casinos keep their site area free of weeds, well landscaped, etc. which helps with fire management.
4. Public Services - This new casino will provide an the increasing population that uses these facilities to not only gamble, buy their beverage of choice and also to spend time with their adult family & friends in the bar & casino.
5. Land Use Element - This building will carry a compatible land use to the neighbors such as the motels & restaurants nearby.

B. Why is there a need for the intended use of the property on this location. (Answer to Instructions 1.B)

Town Pump has operated casinos in the City and has seen an increase at all of it's locations. This one would provide a facility in this area where the demand for this type of business has increased. This facility will also include a liquor store and bar which there has not been a new one completed for quite some time in this local area. It is a great location for existing customers as well as first time customers to discover the Town Pump family of businesses.

C. How will the public interest be served if this application is approved? (Answer to Instructions 1.C)

This project will address many issues of public concern including providing a business that operates in an abandoned site & building. It will provide for maintenance of the grounds including parking lot & landscaping. Also the service that it provides meets the needs of the area as well as it is located in a neighborhood of businesses that it is very compatible with.

D. Prepare a written statement addressing what is intended to be done with the property, and why the special review is being sought. (Answer to Instructions 1.D)

The proposed use is a casino, bar & liquor store which will include a casino floor, a cage, a bar & the store for services to the clientele, expanded restrooms, an office, a

Request for Special Review
Casino, Liquor Store & Bar
1524 Main Street, Billings, MT
7/6/16

cooler and back room for supplies, storage and utilities. The exterior will be an attractive & inviting structure and the signage will be new displaying the Town Pump brand of casinos per the City sign requirements.

The current facility is zoned Highway Commercial. A casino is allowed under a special review approval.

Sincerely,

A handwritten signature in black ink that reads "Alex Tommerup". The signature is stylized with a large, bold "A" and "T".

Alex Tommerup, AIA

AT Architecture
848 Main Street Suite 7
Billings, Montana 59105
406-245-2724

cc: Planning and Community Services Department w/ enclosures (1)
Dan Sampson, Town Pump, Construction and Development Manager (1)

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Special Review #948 - 4010 Montana Sapphire Drive - All Beverage License with Gaming

PRESENTED BY: Wyeth Friday

Department: Planning & Community Services

PROBLEM/ISSUE STATEMENT

This is a special review request to locate an all beverage license with gaming in a 3,534 square foot tenant space in a new multi-tenant building, with an outdoor patio in an Entryway Light Industrial (ELI) zone, on Lot 8C of Block 1, Montana Sapphire Subdivision, a 1.939-acre parcel of land. The property received a previous special review to locate a beer and wine license with gaming (SR 930). T

Special Review applications are reviewed using City Code criteria referenced in the Alternatives Analyzed section of this memo. Special Reviews do not require an ordinance for approval, are not zone changes on property; rather, are tied to specific uses that are allowed in a given zoning district but are subject to a review by the City prior to the use being allowed. Special Reviews, unlike zone changes, may be conditioned to mitigate possible impacts from the use on the subject property or surrounding properties.

ALTERNATIVES ANALYZED

City Council may:

- Approve the request
- Conditionally approve the request
- Deny the request
- Allow the applicant to withdraw the request
- Delay action on the request for up to 30 days

The Planning Division reviewed this application and recommends conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) the application complies with all parts of the Unified Zoning Regulations; 2) the application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2016 Growth Policy; and 3) is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria, in so far, that it is in a district that allows a casino with an all beverage license. The proposed building, landscape requirements and solid waste storage will meet the code requirements for this zone. The property will have access off of Montana Sapphire from Shiloh Road.

The application meets criteria from the second requirement as it is consistent with some of the objectives of the 2016 Growth Policy:

- Essential Investments: Infill development and development near existing City infrastructure

may be the most cost effective.

The proposed special review will provide development in an existing new building in a development that is still building out with other businesses and high density residential in area that already has City services and infrastructure. This will provide an additional service to those residents within the neighborhood.

- Prosperity: A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.

The proposed special review will support a new business and provide employment opportunities at this location.

The application also meets the third criteria in that it is compatible with surrounding land uses in the area. It is a business proposal on a very busy road and is in a newly developing part of town with a lot of commercial uses surrounding it. There is dense multi-family development further west. It currently has mature trees to the west that will continue to screen it from the existing residential property and the front of the building faces east away from the residential properties to the west. The Montana Sapphire Subdivision is not yet fully developed so additional businesses and residents will help to improve the area. The new Shiloh Conservation Area is an amenity for this subdivision.

RECOMMENDATION:

The Zoning Commission is forwarding a recommendation of conditional approval.

PROPOSED CONDITIONS:

1. The special review approval is for the location of an all beverage license with gaming on Lot 8C of Block 1, Montana Sapphire Subdivision and no other use is intended or implied.
2. Any expansion of the casino or patio greater than 10% will require an additional special review approval.
3. The outdoor patio shall have a continuous 4-foot fence around the perimeter with "exit only" gates as required for public safety. There will be no direct entrance from the parking area to the fenced patio area except through the restaurant.
4. There shall be no outdoor public address system or outside announcement system, whether permanent or temporary, of any kind.
5. The patio is allowed to have background music or un-amplified live music. Background music is defined as amplified music that is not audible beyond the patio perimeter.
6. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
7. The proposed development shall comply with all other limitations of Section 27-613, of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

FINANCIAL IMPACT

If the special review is approved, the property will develop, which will increase the property's taxable value and help to support the City services that the casino will need.

BACKGROUND

This is a special review request to allow a beer and wine license with gaming for a proposed new Casino, Sapphire Lounge and Casino, at 4020 Montana Sapphire Drive. The property has frontage along Shiloh Road and is directly south of the former Steak and Shake Restaurant at 4002 Montana Sapphire Drive. The property is within the South Shiloh Corridor Overlay District so additional landscaping, building design and signage standards apply to the development. The 10,502 square foot building will have multiple tenants. Dotty's Casino occupies 4,000 square feet of the north end of the building. Sapphire Lounge and Casino will occupy 3,534 square feet on the south end of the building. They are also proposing an outdoor patio on the south end of the building between the building and parking lot. There are no churches, parks with playing fields or playgrounds, or schools within 600 feet of this proposed location.

Shiloh Road carries about 10,000 vehicles per day on this section of the roadway. This volume of traffic is similar to Rimrock Road, Poly Drive and S. 32nd Street West. The traffic volume on Shiloh Road has been steadily increasing since its reconstruction was completed in 2010. As additional dwellings and businesses are developed along the corridor, the traffic volume should increase. Access to the property is from Montana Sapphire Drive, a private street, that connects to Shiloh Road to the northeast. The intersection at Shiloh Road is a stop controlled intersection access. Exiting traffic must travel south bound on Shiloh Road and continue to the roundabout at Shiloh Crossing Boulevard to travel north bound on Shiloh Road. North bound traffic on Shiloh Road has a left turn west onto Montana Sapphire Drive and south bound traffic has a right turn west. There are no left turns to exit Montana Sapphire Drive and go directly north on Shiloh Road. A center raised median prevents any U-turns or illegal left turns onto Shiloh Road.

STAKEHOLDERS

The Zoning Commission conducted a public hearing on September 6, 2016, and received the staff recommendation and testimony from the agent, James Healow. No other testimony was received. On a motion by Board Member Mike Boyett, seconded by Board Member Michael Larson. The Zoning Commission is forwarding a recommendation of conditional approval and adoption of the findings of the 3 criteria for Special Review 948, on a 5 to 0 vote.

CONSISTENCY WITH ADOPTED POLICIES OR PLANS

Consistency with Adopted Policies and Plans is discussed in the Alternatives Analyzed section above.

RECOMMENDATION

The Zoning Commission is recommending conditional approval and adoption of the findings of the 3 review criteria for Special Review 948 on a 5-0 vote.

APPROVED BY CITY ADMINISTRATOR

Attachments

Zoning Map and Site Photos
Site Plan and Applicant Letter

Surrounding Zoning



Subject Property



Site photos



Subject Property – Viewed from Shiloh Road side.



View north from subject property



View east from subject property



View east across parking lot to subject building on subject property

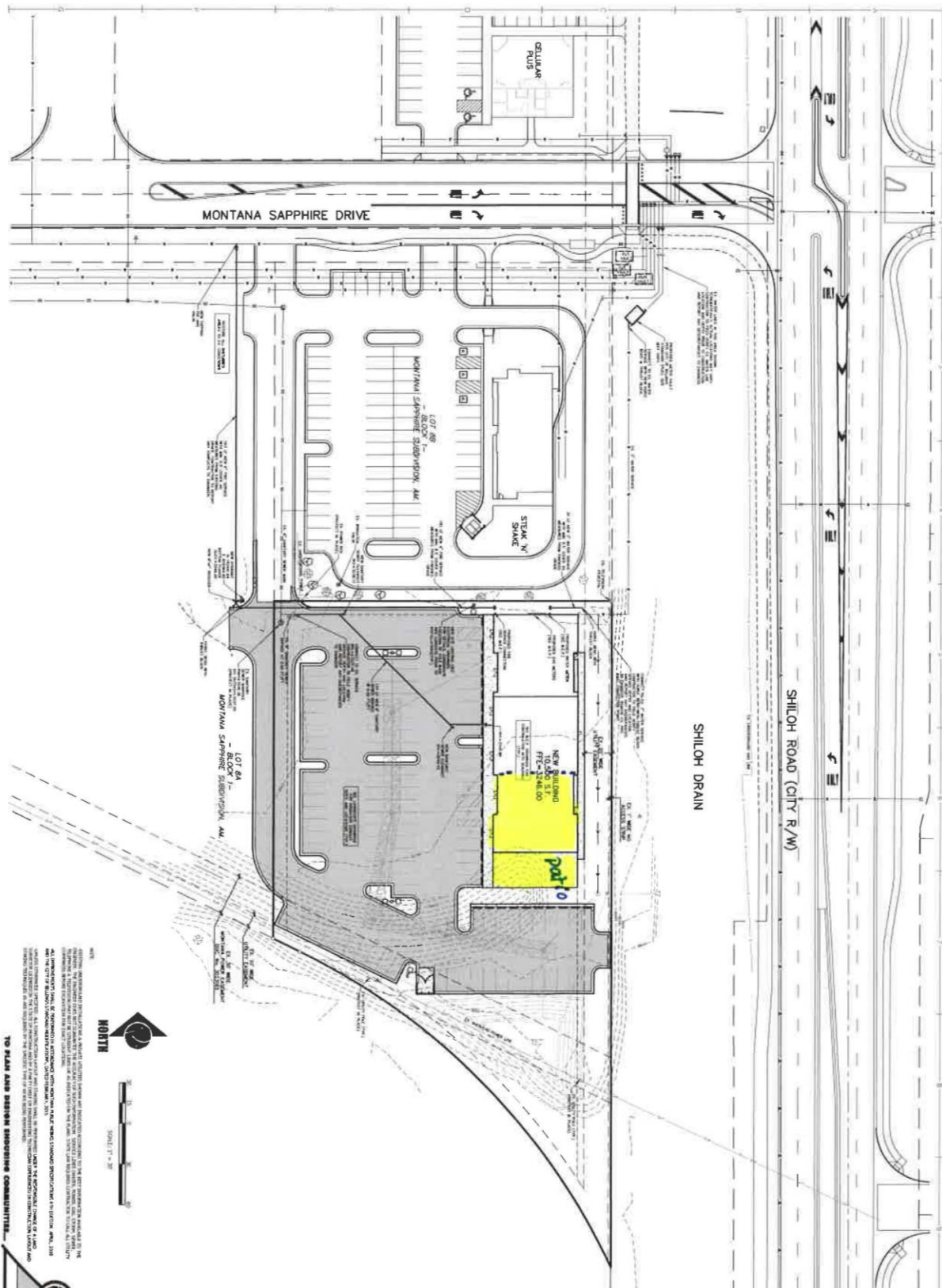


View west across vacant lot to surrounding businesses



View north across parking lot to businesses to the north

Site Plan



Applicant Letter
SAPPHIRE LOUNGE

- A. Special Review as requested by Sapphire Lounge and Casino is consistent with the Primary Goals and Objectives of the Growth Policy in the following respects:
- The land use is consistent with the neighborhood character. This facility will occupy a portion of a now vacant newly-built strip mall facing Shiloh Road. This stretch of Shiloh is essentially all retail oriented. There are no residences in the immediate vicinity. The closest housing is a large rental complex, and there are already several licensed establishments situated closer to that complex than this facility will be.
 - New businesses are encouraged to locate in gateway areas. This facility will be a new business, and will sit in an emerging retail area on a gateway into the west end of town.
 - Visual appeal is a goal of the growth plan. Photos submitted with the application demonstrate that the structure is visually appealing.
 - This low-roofed facility is consistent with the goal of maintaining unobstructed views of the rimrocks.
 - Green spaces on the facility grounds will be fully landscaped, consistent with the goal of controlling weed populations.
 - There is no direct access from the facility to Shiloh Road, entry to the facility is only a short distance from Shiloh road, and traffic to and from the Sapphire will be a miniscule fraction of the heavy traffic flow on Shiloh—all conditions of which are consistent with the goal of maintaining safe traffic speeds constituent with surrounding uses.
 - The same conditions promote the goal of a safe and efficient transportation system.
 - There is no pedestrian traffic on the west side of Shiloh road, but rather only on the east side, consistent with the goal of maintaining safe sidewalks.
- B. There is a need for the intended use as a casino and liquor store at this location because the area is a busy and thriving retail area and the many people using the area for their retail needs have a demand for the entertainment goods and services that the Sapphire Casino and Liquor Store will make available.
- C. The public interest will be served if this application is granted in that persons utilizing the retail establishments at this developing area will have more readily available entertainment opportunities, and will not have to travel further distances to satisfy their entertainment desires.
- D. The Sapphire Casino and Liquor Store will occupy 2 suites of a now vacant newly-constructed strip mall in the Shiloh corridor. The casino will include a lounge. The liquor store will make package sales more convenient to many people who have to travel considerable distances from the Shiloh corridor in order to make package purchases of alcoholic beverages.

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: Approval of Appeal in Ernie Watters, et al., vs. City of Billings

PRESENTED BY: Tina Volek, City Administrator

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

A Final Order and Judgment was filed Sept. 8, 2016, in District Court in the wage claim case of Ernie Watters, et al., vs. the City of Billings. The verdict ordered the City to pay the plaintiffs \$932,960.90 in back wages and benefits; \$1,026,256.99 in penalties; \$653,072.63 in plaintiffs' attorney fees; and \$125,854.60 in plaintiffs' costs.

City attorneys and staff believe that significant errors of fact and law were made in the decision, especially in the ruling that a police officer should be paid longevity from his or her first day of employment. Longevity, which recognizes employment experience, traditionally was paid after completion of one year of employment in previous collective bargaining agreements (CBAs) and is paid after the completion of six years for employees hired after approval of the current CBA.

The City has 60 days from the entry of the Judgment to appeal the case to the Montana Supreme Court.

ALTERNATIVES ANALYZED

City Council may:

- Approve an appeal in the case; or
- Decide not to appeal, and pay the judgment.

FINANCIAL IMPACT

The City's insurance does not cover the case, so the City would be liable for the entire amount of the judgment if it does not appeal.

If it does appeal, there will be additional attorneys' fees for the City, which could be offset by a favorable decision.

RECOMMENDATION

Staff recommends that the City Council authorize staff to appeal to the Montana Supreme Court in the case of Watters, et al., vs. the City of Billings.

APPROVED BY CITY ADMINISTRATOR

Attachments

Watters Judgment

Brenda R. Gilbert
Presiding District Judge
414 East Callender
Livingston, MT 59047
Telephone: (406) 222-4130

CLERK OF THE
DISTRICT COURT
KRISTIE LEE DOELTER
DOCKETED
2016 SEP 8 AM 8 45

FILED
BY JB
DEPUTY

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

ERNIE WATTERS, <i>et al</i> ,	)	Cause No. DV 09-0043
and all others similarly situated,	)	
	)	Judge: Brenda R. Gilbert
Plaintiffs,	)	
	)	
-vs-	)	
	)	
CITY OF BILLINGS,	)	
	)	
Defendant.	)	

FINAL ORDER AND JUDGMENT

The above-captioned civil action came on for trial before the Court, sitting without a jury, on December 19, 2013. Plaintiffs appeared through their attorneys, L. Randall Bishop and Lawrence A. Anderson. The Defendant appeared through counsel, W. Anderson Forsythe, Afton Ball and Emily Jones. Plaintiffs called their expert, CPA John Myers, to testify. Upon the conclusion of Mr. Myers's testimony, Plaintiffs rested. Thereafter, the City presented limited testimony from Kevin Iffland, Kon Kunneman, Timothy O'Connell, Karla Stanton (direct examination only) and David Cardillo. The Court then adjourned for the day.

The trial resumed at 9:00 a.m., December 20, 2013, at which time Plaintiffs moved the Court to adjourn the trial and reopen discovery, citing extraordinary circumstances. Hearing no objection and acknowledging good cause, the Court granted Plaintiffs' motion.

Upon completion of necessary additional discovery, trial reconvened November 12, 2014, at which time the parties advised the Court that they had reached agreement in principle to compromise the amounts claimed by each officer for unpaid longevity and overtime on hourly pay (both straight-time and overtime paid bi-weekly), plus retirement fund contributions on all such amounts. The court agreed and the first of two written stipulations was filed November 24, 2014, setting forth a schedule for submission of additional stipulated facts and affidavits. The second stipulation, with spreadsheets attached, was entered into by the parties on August 10, 2015, and then filed with the Court.

The Court entered its Findings of Fact, Conclusions of Law and Order, which were filed on January 28, 2016 after having considered evidence in the form of exhibits and testimony presented live, by deposition and by affidavit, and after having considered the stipulations and post-trial arguments of the parties.

Plaintiffs filed their Motion for Determination of Class Member Identities and Entitlements, Statutory Penalties, Attorney Fees and Costs, and Entry of Final Judgment. The Defendant responded and when the Motion was fully briefed a hearing was held on June 22, 2016. Plaintiffs were represented by L. Randall Bishop and Lawrence A. Anderson. The Defendant was represented by W. Anderson Forsythe and Afton Ball. Plaintiffs presented the testimony of CPA John Myers, attorney Donald L. Harris and attorney Randall Bishop. The Defendant presented the testimony of CPA Leo O'Brien. Thereafter, the Court directed post-hearing submissions and the hearing was adjourned.

The Court has reviewed the Plaintiffs' Proposed Order and Judgment, The Defendant's Proposed Findings, Conclusions, and Judgment, and Defendant's Memorandum in Support of City of Billings Proposed Findings.

Good cause exists for entry of the following Decision and Final Order which clarifies and resolves some disputed matters of interpretation of the Court's Findings of Fact, Conclusions of Law, and Order filed on January 28 2016 and the final Judgment that follows.

DECISION

A. CLASS MEMBER IDENTITIES AND ENTITLEMENTS

1. Retired Officers

In its Findings of Fact 20 and 29, the Court determined that the City's omission of longevity and annual pay in determining the regular hourly rate resulted in underpayment of wages, overtime and retirement contributions of each member of the class, and that the amount of unpaid retirement contributions due on the annual pay for each member of the Class was shown in Column 7b of Myers' September 3, 2014 Summary Spreadsheet.

In Finding of Fact 31, the Court held that longevity and retirement pay due on banked (accumulated) comp time, sick time and vacation time, respectively, for each member of the Class was shown in Columns 8, 9, and 10 of Myers' September 3, 2014 Summary Spreadsheet.

Similarly, the Court's Findings of Fact 34 and 35 accepted Plaintiffs' computation of the retirement contributions owed by the City to each member of the Class. In addition, this Court concluded that "wages" means "any money due an employee from an employer . . ." and specifically that "the pension programs are either contracted for benefits, or benefits provided by law; and as such, they are "wages". (See Conclusions of Law N and O)

The City was required to make correct calculations, reports and contributions to MPERA because it had the duty to ensure that the employees' wages were calculated correctly, such that their pension benefits, (which are also defined by law as "wages") would be calculated and paid correctly. The City breached this duty and a claim for that breach accrued, each and every

month, when its retired police officers received their monthly pension checks. Accordingly, each member of the class who had not left the employment of the City through resignation or termination more than six months prior to the date on which this action was filed has a timely filed claim and is entitled to recover unpaid wages looking back eight years from the date this action was filed. (See Conclusion of Law H).

To the extent that Conclusion of Law I is inconsistent with Conclusion of Law H, Conclusion of Law I should be amended, in particular because the Court clarifies its conclusions to define wages as including pension benefits. Accordingly, Conclusion of Law I should be amended to provide as follows:

- I. Monthly pension paychecks constitute wages. Each such pension paycheck represents a wage payment that does not comport with the City's contracts or Montana law. The six-month statute of limitations accrues anew when such pension paycheck comes due and is issued. Thus, the claims of retired officers who received pension paychecks within six months of the date this action was filed have timely claims.

2. Promoted Officers

Promoted officers who did not leave the employment of the City through resignation or termination more than six months prior to the date on which this action was filed have timely claims. Contract statutes of limitation apply to accumulated wages. Where an employer fails to comport with Montana's wage laws on a monthly basis, the employee's wage claims accrue on a monthly basis. (See Conclusion of Law D) Each wage payment that the City made to its promoted officers is legally significant because it marks the City's failure to make up for that officer's continuing underpayment. *Craver v. Waste Mgt. Partners of Bozeman*, 265 Mont. 37, 874 P.2d 1, 5 (1994). Every paycheck issued by the City that failed to make up for past wages

due to that officer constitutes a miscalculated paycheck within the meaning of that phrase as used in Conclusion of Law J. The claim of each officer was renewed every time the City issued a paycheck to that officer but failed to make up for the accumulated unpaid wages or benefits that were due.

B. LONGEVITY AND RETIREMENT CONTRIBUTIONS ON BANKED HOURS THAT WERE CARRIED ON THE CITY'S BOOKS AS OF JUNE 30, 2009.

Each member of the class in this case is entitled to "longevity pay, wages, retirement contributions and any other claims dependent upon longevity pay . . ." See *Order Denying Defendant's Motion To Dismiss and To Compel Arbitration*, Sept. 1, 2009, p. 5 (emphasis added). Leave for vacation, paternity, sickness, holidays, emergencies, personal days and military duty are all bargained for, and agreed to by the parties in the CBAs and are, by definition, "wages." *Langager v. Crazy Creek Products, Inc.*, 1998 MT 44, ¶20, 287 Mont. 445, 954 P.2d 1169. Leave time payments such as these are to be added to each officer's regular wages when taken as time off, before they separate from service. The City has withheld 9% on these distributions whenever taken by the officers during the relevant time-frame in this case.

It is this Court's task to determine the actual value of the wages and benefits the City failed to pay, as of the date this action was filed. Columns 8, 9 and 10 of Exhibit 1 show the value of longevity and retirement due on banked hours as shown on the City's books as of June 30, 2009. Those officers who still have all or some of the hours that were in their "bank" as of June 30, 2009, are entitled to an increase in the value of those hours, and, if taken as comp time, increased retirement contributions as well. Officers who have cashed out their banked hours are not entitled to such increases. However, the computation of unpaid longevity and retirement contributions set forth in Columns 8, 9 and 10 of Exhibit 1 is directly relevant for purposes of

determining penalties and attorneys' fees, even if every member of the Class has cashed out his or her bank entirely.

C. PAYMENT OF PENSION BENEFITS ON EXTRA PAY HOURS

The evidence is well-established that, throughout the entire relevant time-frame, the City did not make pension contributions on the straight time portions of certification pay, specialty pay, physical fitness pay and degree pay. The City objects to the inclusion of these pension contributions in the Spreadsheet and relies upon §19-9-104(1) (b) (iii), MCA which provides that "compensation" does not include bonuses provided after July 1, 2013, that are one-time temporary payments in addition to and not considered part of base pay. This statutory language did not come into existence until 2013 and prior to the date of this amendment, bonuses and other one-time payments including certification pay, specialty pay, fitness pay and degree pay were properly included in the definition of "compensation" in computing retirement contributions.

The relevant time-frame in this case ends on June 30, 2009, four years before §19-9-104(1) (b) (iii), MCA was passed. Accordingly, Plaintiffs are entitled to pension contributions on the straight time portions of certification pay, specialty pay, physical fitness pay and degree pay.

D. STATUTORY PENALTY

§ 39-3-206(1), MCA states:

Penalty for failure to pay wages at times specified in law. (1)
An employer who fails to pay an employee as provided in this part or who violates any other provision of this part is guilty of a misdemeanor. *A penalty must also be assessed against and paid by the employer to the employee in an amount not to exceed 110% of the wages due and unpaid.*

(emphasis added).

The Commissioner of the Montana Department of Labor has issued rules governing the mandatory penalty provision of §39-3-206, MCA. Admin. R. Mont. § 24.16.7556 sets out the “special circumstances” that mandate imposition of the 110% penalty.

- (1) The following conduct by the employer constitutes special circumstances that justify the imposition of the maximum penalty allowed by law:

* * *

(c) the employer has previously violated similar wage and hour statutes within three years prior to the date of filing of the wage claim; or

* * *

- (2) *The maximum penalty is mandatory under the above circumstances and may be reduced only upon the written mutual agreement of the parties and the department.*

Admin. R. Mont. § 24.16.7556 (emphasis added).

It is clear that this Court must apply the above-quoted administrative rule. *Reier Broadcasting Co., Inc. v. Reier*, 2000 MT 120, ¶30 ¶32, 299 Mont. 463, 1 P.3d 940; *Kuhr v. City of Billings*, 2007 MT 201, ¶28, 338 Mont. 402, 168 P.3d 615. §7-32-4121, MCA, does not prohibit assessment of penalties pursuant to § 39-3-206(1), MCA, and Plaintiffs’ claim for penalties under the Wage Protection Act cannot fairly or accurately be characterized a claim for punitive damages.

It is a matter of public record that the City of Billings failed to pay wages to its firefighters in accordance with its collective bargaining agreements and the Wage Protection Act going as far back as 1995. See *Kuhr v. City of Billings*, 2007 MT 201, 338 Mont. 402, 168 P.3d 615. It was not until after August 15, 2007, that this Defendant finally paid its firefighters the

wages they had earned under their post-1995 CBAs. During the entirety of the intervening twelve years, 1995 to August, 2007, the City consistently failed to comport with Montana's wage laws.

Plaintiffs' Complaint was filed in January, 2009, and claimed that the City failed to properly account for and pay wages and employment benefits due under Montana law, including the Wage Protection Act, and the plain language of the collective bargaining agreements, between the years 2000 and 2009. See Findings of Fact, ¶¶ 3, 4, 5 and 6, pp. 3, 4. Here, as in *Kuhr*, the City has continually failed to comport with Montana's wage laws. Its police officers, like its firefighters, have gone without payment of wages owed by the City throughout the years 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and continuing to this day. Given these facts, the City's argument that it has not engaged in similar conduct within the three years of Plaintiffs' claim must be rejected. Montana law mandates imposition of the 110% penalty on all unpaid wages. Pension benefits are wages, as a matter of law. Thus, the total of unpaid wages is shown in Column 11, Exhibit 1.

E. ATTORNEYS' FEES AND COSTS

Plaintiffs' contingency fee contract is properly used to determine the amount of attorneys' fees a successful litigant is entitled to recover where, as here, the amount of attorneys' fees is reasonable. *Stimac v. State*, 248 Mont. 412, 812 P.2d 1246, 1249 (1991). At the hearing, the unrefuted testimony of attorney Donald Harris established the reasonability of Plaintiffs' claim for attorneys' fees in view of the novelty and difficulty of the legal and factual issues involved in this civil action, the time and labor required to perform the legal service properly, the character and importance of the litigation, the result secured by Plaintiffs' attorneys, the experience, skill, and reputation of the attorneys, the fees customarily charged for similar legal

services at the time and place where the services were rendered, the ability of the client to pay for the legal services rendered and the risk of no recovery. In short, each of the *Stimac* factors has been considered, and indeed, established without opposition. The contingent attorney fee claim presented by Plaintiffs is reasonable and is properly applied to the full amount of the recovery obtained whether characterized as unpaid longevity, overtime, retirement benefits or penalties.

Substantial costs have been incurred by Plaintiffs because the City refused to undertake any calculations of past due wages and benefits. This required Plaintiffs' expert CPA, John Myers, to review wage data and perform detailed calculations for each member of the Class. Plaintiffs' request for reimbursement of litigation expenses is fully supported by the affidavits of John Myers, Randall Bishop and Lawrence Anderson and the testimony provided at the June 22, 2016 hearing by Mr. Myers and Mr. Bishop. The City's challenge to the amount of the time and expense incurred by Plaintiffs' expert CPA, John Myers, appears disingenuous under the circumstances and is expressly rejected.

F. INTEREST

Pursuant to §2-9-317 MCA, no judgment interest may be assessed against a governmental entity so long as the governmental entity pays a judgment within 2 years after the day on which the judgment was entered. Accordingly, no pre-judgment nor post-judgment interest shall run as to the Court's judgment herein, so long as the City fully satisfies the judgment within two years of its entry.

Based upon the foregoing Decision, good cause exists for entry of the following Order and Judgment:

FINAL ORDER

1. Conclusion of Law I set forth in the Court's Findings of Fact, Conclusions of Law and Order filed January 28, 2016 is amended to provide as follows:

Monthly pension paychecks constitute wages. Each such pension paycheck represents a wage payment that does not comport with the City's contracts or Montana law. The six-month statute of limitations accrues anew when such pension paycheck comes due and is issued. Thus, the claims of retired officers who received pension paychecks within six months of the date this action was filed have timely claims.

To the extent that the Court's Decision and Order herein further modifies or clarifies the Court's Findings of Fact, Conclusions of Law and Order filed January 28, 2016, said modification and clarifications shall supersede that Order.

2. The identity and entitlement of each member of the class is set forth in the Spreadsheet attached to this Final Order as Exhibit 1. As shown in Column 11, Exhibit 1, unpaid wages and benefits is \$932,960.90. Each of Defendant's legal objections to particular aspects of this Spreadsheet is overruled for the reasons explained below. Upon issuing such payments, Defendant City of Billings will submit amended reports to MPERS identifying on a year-by-year basis all re-computed longevity and annual or other pay for which retirement pay was not previously computed.

3. § 39-3-206(1), MCA and § 24.16.7556, ARM, mandate assessment of statutory penalties in the amount of \$1,026,256.99, which represents 110% of each class member's total entitlement listed in Column 11, Exhibit 1.

4. Plaintiffs' claim for attorneys' fees in the full amount called for in the contingent fee agreement entered into with their attorneys is reasonable. At this stage of these proceedings, Plaintiffs are entitled to recover from the City of Billings a contingent fee in the amount of \$653,072.63, which represents 33-1/3% of the amounts stated in paragraphs 1 and 2, above.

5. Plaintiffs' are entitled to recover from Defendant, City of Billings, the full amount of their litigation costs, \$125,854.60.

6. No pre-judgment nor post-judgment interest shall be payable on the Judgment if the City fully satisfies the Judgment within two years from the date of its entry. Any portion of the Judgment not satisfied within two years from the date of its entry shall be subject to assessment of pre-judgment and post-judgment interest.

JUDGMENT

Based upon the Court's Decision and Final Order set forth herein,

JUDGMENT is hereby entered in favor of the Plaintiffs and against the Defendant, awarding past due wages and benefits to each member of the Class in the specific amounts set forth in Exhibit 1, attached hereto, totaling \$932,960.90, to be reported as directed in the Final Order above.

JUDGMENT is further entered in favor of the Plaintiffs and against the Defendant in the amount of \$1,026,256.99 for penalties, representing 110% of the amount of unpaid wages and benefits.

JUDGMENT is further entered in favor of the Plaintiffs and against the Defendant in the sum of \$653,072.63, representing their reasonable attorneys' fees and in the sum of \$125,854.60, representing the Plaintiffs' allowable costs incurred herein.

DATED this 7th day of September, 2016.

By: Brenda R. Gilbert
Brenda R. Gilbert, District Judge

CC: L. Randall Bishop
Lawrence A. Anderson
W. Anderson Forsythe
Afton Ball

CERTIFICATE OF SERVICE

This is to certify that the forgoing in the above-entitled action was duly served by mail/hand/email upon the parties or their attorneys of record at their last known address this 8 day of Sept., 2016.

KRISTIE LEE BOELTER,
Clerk of District Court

By: Daniel Broadhead
Deputy Clerk

Walters et al v City of Billings
Summary of Last Compensation and Unpaid Wages per Court Order
January 18, 2001 - June 30, 2009

Source:	6a Document	6b Col. 6a X 1078 Retirement Pay on Stipulated Longevity Calculation	6c Document	7a Worksheet Unpaid Overturn on Annual Overturn (Bonus) Pay	7b Worksheet Unpaid Straight- Time Annual (Bonus) Pay	7c Worksheet Unpaid Retirement on Annual (Bonus) Pay	8 Worksheet Longevity and Retirement Pay on Accumulated Comp Time	9 Worksheet Longevity and Retirement Pay on Accumulated Sick Leave	10 Worksheet Longevity and Retirement Pay on Vacation Time	11 Worksheet (Col. 6b X 7c + 7a X 1078 + 10) Total Unpaid Compensation	12 Col. 6a X 7a + (8 X 1078 + 10) 1,437.61 Stipulated Hour Pay	13 Col. 6a X 7a + (8 X 1078 + 10) 1,437.61 Overtime Pay	14 Col. 12 X 13 Gross Pay
Police Officer													
1 Aguilar, Jordan D	\$ 2,146.45	\$ 1,027.28	\$ 319.85	\$ 340.80	\$ 612.40	\$ 3,099.12	\$ 275.42	\$ 420.40	\$ 35.99	\$ 8,558.50	\$ 3,584.80	\$ 635.43	\$ 4,220.23
5 Ballantyne, Richard W	\$ 4,172.53	\$ 1,870.51	\$ -	\$ 884.79	\$ 712.80	\$ 4,617.06	\$ -	\$ -	\$ -	\$ 12,657.79	\$ 4,985.43	\$ 584.70	\$ 5,570.13
6 Bechtold, Terry L	\$ 4,555.03	\$ 1,994.19	\$ 180.28	\$ 1,181.17	\$ 626.71	\$ 4,574.99	\$ 770.61	\$ 2,013.56	\$ 570.28	\$ 16,457.41	\$ 7,500.27	\$ 1,372.05	\$ 8,872.32
7 Beckers, Michael C	\$ 2,808.37	\$ 1,228.50	\$ 9.95	\$ 326.47	\$ 628.33	\$ 4,556.16	\$ 596.38	\$ 5,417.29	\$ 1,420.93	\$ 16,885.20	\$ 8,044.42	\$ 338.42	\$ 8,382.84
8 Bente, Allen S	\$ 2,144.28	\$ 938.77	\$ 17.57	\$ 252.56	\$ 0.14	\$ 1,563.41	\$ 1.14	\$ 356.91	\$ 164.85	\$ 5,443.55	\$ 2,101.97	\$ 263.09	\$ 2,365.06
9 Becker, Brett A	\$ 540.63	\$ 235.09	\$ -	\$ -	\$ -	\$ -	\$ 22.16	\$ 60.39	\$ 32.64	\$ 892.31	\$ 620.61	\$ -	\$ 620.61
10 Best, Jacob A	\$ 252.03	\$ 110.34	\$ -	\$ -	\$ -	\$ -	\$ 0.31	\$ 29.82	\$ 29.82	\$ 431.65	\$ 293.16	\$ -	\$ 293.16
11 Bruever, Matthew M	\$ 2,105.99	\$ 921.83	\$ 424.13	\$ -	\$ -	\$ -	\$ 161.84	\$ 918.72	\$ 100.20	\$ 4,993.51	\$ 3,938.81	\$ 424.88	\$ 4,363.69
12 Bruever, Ralph D	\$ 3,730.48	\$ 1,659.99	\$ -	\$ 199.52	\$ 535.05	\$ 3,562.42	\$ -	\$ -	\$ -	\$ 9,688.81	\$ 4,367.18	\$ 199.62	\$ 4,566.80
13 Brown, Daniel J	\$ 3,027.48	\$ 1,316.57	\$ 25.17	\$ 53.83	\$ 610.77	\$ 4,300.19	\$ 213.49	\$ 1,261.88	\$ 825.27	\$ 15,933.16	\$ 7,231.83	\$ 970.07	\$ 8,201.90
14 Brown, Mitchell D	\$ 3,490.62	\$ 691.59	\$ 15.66	\$ 297.71	\$ 283.79	\$ 3,533.55	\$ 165.38	\$ 655.00	\$ 214.78	\$ 7,510.29	\$ 3,647.88	\$ 334.47	\$ 3,982.35
15 Bunting, Tawnee L	\$ 382.88	\$ 167.62	\$ -	\$ -	\$ -	\$ -	\$ 31.78	\$ 40.84	\$ 30.19	\$ 633.31	\$ 440.47	\$ -	\$ 440.47
16 Buschman, Kathy R	\$ 4,523.09	\$ 1,832.84	\$ -	\$ 1,407.27	\$ 332.22	\$ 6,883.17	\$ 925.14	\$ 9,608.10	\$ 1,620.94	\$ 25,869.66	\$ 13,215.55	\$ 1,407.27	\$ 14,622.82
17 Cagle, Harley B	\$ 170.30	\$ 74.58	\$ 489.89	\$ 240.80	\$ 178.81	\$ 1,132.59	\$ 280.45	\$ 358.23	\$ 64.88	\$ 2,945.82	\$ 801.48	\$ 704.12	\$ 1,505.60
18 Campbell, Earl C	\$ 1,864.57	\$ 816.31	\$ 864.14	\$ 234.77	\$ 469.51	\$ 1,071.35	\$ 230.90	\$ 742.64	\$ 823.61	\$ 8,137.79	\$ 3,257.11	\$ 580.91	\$ 3,838.02
19 Owen, John	\$ 54.65	\$ 23.88	\$ -	\$ 46.09	\$ -	\$ 306.46	\$ 4.76	\$ 11.60	\$ 14.40	\$ 461.57	\$ 76.10	\$ 46.09	\$ 122.19
20 Chaney, Matthew J	\$ 1,770.72	\$ 773.21	\$ 889.41	\$ 276.42	\$ 185.31	\$ 2,042.48	\$ 34.26	\$ 95.50	\$ 88.92	\$ 6,130.25	\$ 3,088.82	\$ 1,156.88	\$ 4,245.70
21 Charter, Jeff J	\$ 2,871.18	\$ 1,225.43	\$ 96.19	\$ 1,873.88	\$ 987.79	\$ 4,248.69	\$ 444.81	\$ 2,844.46	\$ 730.66	\$ 16,488.63	\$ 6,013.33	\$ 1,709.92	\$ 7,723.25
22 Compton, Kelly J	\$ 1,557.78	\$ 681.09	\$ 285.61	\$ 257.92	\$ 385.48	\$ 3,727.35	\$ 338.05	\$ 595.20	\$ 308.50	\$ 7,697.81	\$ 2,841.76	\$ 823.48	\$ 3,665.24
23 Conrad, Scott	\$ 1,870.62	\$ 818.96	\$ 197.33	\$ 1,478.08	\$ 320.70	\$ 4,347.66	\$ 185.75	\$ 1,135.28	\$ 358.37	\$ 10,911.78	\$ 5,097.66	\$ 1,026.39	\$ 6,124.05
24 Crockett, Gary W	\$ 2,756.88	\$ 1,266.98	\$ -	\$ 191.84	\$ 325.43	\$ 4,841.41	\$ -	\$ -	\$ -	\$ 9,222.97	\$ 4,023.21	\$ 181.64	\$ 4,204.85
25 Cunningham, James F	\$ 6,810.45	\$ 2,981.62	\$ -	\$ 1,043.75	\$ 449.33	\$ 5,627.74	\$ -	\$ -	\$ -	\$ 16,912.69	\$ 7,258.81	\$ 1,043.75	\$ 8,302.56
26 Curry, Patrick A	\$ 2,072.92	\$ 907.32	\$ 75.19	\$ 737.29	\$ 399.71	\$ 4,576.81	\$ 179.70	\$ 1,180.55	\$ 467.23	\$ 10,675.32	\$ 3,641.22	\$ 612.48	\$ 4,253.70
27 Dabbs, Dorey K	\$ 1,204.94	\$ 827.32	\$ 919.87	\$ 312.63	\$ 159.03	\$ 1,978.29	\$ 161.61	\$ 25.30	\$ 78.34	\$ 4,267.48	\$ 1,544.90	\$ 712.30	\$ 2,257.20
28 Dandley, Jeremy J	\$ 448.93	\$ 194.18	\$ -	\$ -	\$ -	\$ -	\$ 71.58	\$ 78.21	\$ 54.29	\$ 841.38	\$ 541.28	\$ -	\$ 541.28
29 Dierfeldt, David L	\$ 2,148.81	\$ 998.43	\$ 198.15	\$ 214.53	\$ 1,341.60	\$ 7,593.31	\$ 413.85	\$ 444.23	\$ 830.38	\$ 23,568.89	\$ 4,313.63	\$ 432.88	\$ 4,746.51
31 Dubert, Keith	\$ 773.83	\$ 3,107.93	\$ -	\$ 1,669.75	\$ 507.19	\$ 4,228.20	\$ 850.09	\$ 8,189.58	\$ 1,394.42	\$ 20,977.77	\$ 15,701.41	\$ 1,669.75	\$ 17,371.16
32 Eklund, Curtis L	\$ 3,412.13	\$ 1,453.18	\$ 10.70	\$ 451.80	\$ 617.41	\$ 5,216.06	\$ 709.59	\$ 5,446.71	\$ 1,300.45	\$ 18,618.02	\$ 9,155.75	\$ 502.50	\$ 9,658.25
33 Ellison, Robert M	\$ 2,060.00	\$ 1,010.99	\$ 33.83	\$ 496.85	\$ 673.51	\$ 4,938.77	\$ 280.74	\$ 811.27	\$ 545.85	\$ 10,281.13	\$ 5,505.05	\$ 590.51	\$ 6,095.56
34 Ewell, Ronald E	\$ 3,391.50	\$ 2,747.48	\$ 41.64	\$ 286.36	\$ 243.04	\$ 2,359.02	\$ -	\$ -	\$ -	\$ 9,669.10	\$ 4,134.54	\$ 328.82	\$ 4,463.36
35 Fausch, Steven W	\$ 4,078.88	\$ 2,785.73	\$ 1,085.41	\$ 1,199.79	\$ 681.05	\$ 4,765.65	\$ 322.77	\$ 1,874.91	\$ 476.28	\$ 16,211.48	\$ 8,619.83	\$ 2,225.20	\$ 10,845.03
36 Foster, Seth M	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2.83	\$ 8.18	\$ 7.44	\$ 16.42	\$ 11.67	\$ -	\$ 11.67
37 Fox, Rhonda M	\$ 1,821.37	\$ 797.40	\$ 505.41	\$ 1,549.26	\$ 772.30	\$ 4,555.85	\$ 85.59	\$ 478.06	\$ 330.80	\$ 10,985.33	\$ 3,215.41	\$ 2,144.47	\$ 5,359.88
38 Gertner, James L	\$ 1,177.99	\$ 553.52	\$ 110.73	\$ 192.18	\$ 494.85	\$ 3,450.20	\$ 0.24	\$ 1,432.08	\$ 528.67	\$ 9,340.47	\$ 4,036.71	\$ 302.51	\$ 4,339.22
39 Goulier, Gary D	\$ 2,512.10	\$ 1,099.36	\$ 194.36	\$ 768.34	\$ -	\$ 3,881.27	\$ 63.39	\$ 295.15	\$ 293.22	\$ 9,075.39	\$ 2,943.54	\$ 907.59	\$ 3,851.13
40 Goulier, Terence E	\$ 2,643.19	\$ 1,157.19	\$ 357.76	\$ 1,463.15	\$ 285.58	\$ 6,172.14	\$ 217.74	\$ 1,837.13	\$ 213.52	\$ 13,897.39	\$ 4,193.47	\$ 1,010.51	\$ 5,203.98
41 Giluly, Michael J	\$ 2,754.36	\$ 1,205.86	\$ 202.41	\$ 603.57	\$ 1,157.85	\$ 5,303.78	\$ 251.08	\$ 941.95	\$ 148.77	\$ 12,559.63	\$ 4,045.44	\$ 865.28	\$ 4,910.72
42 Gilmore, Richard J	\$ 54.87	\$ 24.02	\$ -	\$ -	\$ -	\$ -	\$ 1.24	\$ 9.90	\$ 12.02	\$ 102.06	\$ 70.98	\$ -	\$ 70.98
43 Guadagnolo, Shaun R	\$ 554.11	\$ 242.39	\$ -	\$ -	\$ -	\$ -	\$ 101.78	\$ 98.35	\$ 140.34	\$ 1,133.18	\$ 789.82	\$ -	\$ 789.82
44 Gundor, Glenn	\$ 216.77	\$ 187.41	\$ -	\$ 78.18	\$ 9.38	\$ 347.25	\$ 189.74	\$ 234.32	\$ 164.92	\$ 1,670.86	\$ 722.61	\$ 70.18	\$ 792.79
45 Guy, Michael A	\$ 3,095.61	\$ 3,358.70	\$ 175.53	\$ 819.36	\$ 218.51	\$ 4,040.50	\$ 149.68	\$ 32.73	\$ 122.46	\$ 9,494.29	\$ 3,523.23	\$ 494.69	\$ 4,017.92
46 Hafner, Casey G	\$ 1,452.34	\$ 638.83	\$ 218.51	\$ 685.88	\$ 518.89	\$ 5,163.18	\$ 264.83	\$ 798.05	\$ 719.59	\$ 10,184.16	\$ 2,773.56	\$ 281.49	\$ 3,055.05
47 Hageman, Phil D	\$ 2,892.61	\$ 1,316.88	\$ -	\$ 180.09	\$ 489.58	\$ 4,313.35	\$ 15.97	\$ 5,648.48	\$ 1,008.57	\$ 16,844.76	\$ 8,003.35	\$ 188.09	\$ 8,191.44
48 Hager, Rebecca	\$ 2,547.81	\$ 1,115.43	\$ -	\$ 70.12	\$ 410.36	\$ 4,499.23	\$ -	\$ -	\$ -	\$ 9,641.06	\$ 2,554.17	\$ 70.12	\$ 2,624.29
49 Halligan, Mark R	\$ 58.84	\$ 30.34	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 88.88	\$ 68.84	\$ -	\$ 68.84
50 Hark, Orin M	\$ 820.39	\$ 340.27	\$ -	\$ 168.09	\$ 240.35	\$ 1,614.33	\$ 331.61	\$ 282.32	\$ 298.60	\$ 1,390.75	\$ 1,155.22	\$ 163.69	\$ 1,318.91
51 Haynes Jr., Lynden L	\$ 1,840.50	\$ 710.30	\$ 193.69	\$ 219.59	\$ -	\$ 3,053.29	\$ 43.42	\$ 716.55	\$ 519.54	\$ 7,145.70	\$ 2,530.83	\$ 423.67	\$ 2,954.50
52 Hider, Mitchell R	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
53 Hoeger, Tim M	\$ 2,087.14	\$ 894.99	\$ 602.11	\$ 381.71	\$ 757.17	\$ 2,384.19	\$ 81.80	\$ 645.32	\$ 68.87	\$ 5,872.01	\$ 2,777.58	\$ 683.81	\$ 3,461.39

Walters et al v City of Billings
Unpaid Straight-time and Overtime
Pay by Officer Per Court Order

EXHIBIT
1

PERCUT-Appenzel, N. L.

We return v. City of Billings
Unpaid Storage-time and Overdim
ray by Officer PerCousins, p. 47.

2

Walters et al v City of Billings
Summary of Lost Compensation and Unpaid Wages per Court Order
January 14, 2001 - June 30, 2009

Source:	5a Document	5b Col 5+3, 4378 Retirement Pay on Stipulated Longevity Calculation	5c Document	7 Worksheet Unpaid Overtime on Annual (Bonus) Pay	7a Worksheet Unpaid Straight- Time Annual (Bonus) Pay	7b Worksheet Unpaid Retirement on Annual (Bonus) Pay	8 Worksheet Longevity and Retirement Pay on Accumulated Comp Time	9 Worksheet Longevity and Retirement Pay on Accumulated Sick Leave	10 Worksheet Longevity and Retirement Pay on Vacation Time	11 Worksheet (Col. 6a+7a 7a+8+9+10) Total Unpaid Compensation	12 Col. 6a+7a [(8+9+10)/ 1.4376] Straight- Time Pay	13 Col. 6a+7 Overtime Pay	14 Col. 12+13 Gross Pay
Police Officer													
218 Schwartz, Anthony D	\$ 54.65	\$ 23.93	\$ -	\$ 81.72	\$ 9.58	\$ 459.69	\$ 5.73	\$ 9.63	\$ -	\$ 644.72	\$ 74.71	\$ 81.72	\$ 156.43
220 Sheldon, Shena	\$ 823.97	\$ 360.71	\$ 7.87	\$ 11.54	\$ 72.26	\$ 225.58	\$ 79.29	\$ 64.97	\$ 102.03	\$ 1,737.02	\$ 1,066.38	\$ 139.41	\$ 1,205.79
221 Simpson, Christopher S	\$ 2,237.75	\$ 979.69	\$ 453.26	\$ 601.86	\$ 204.15	\$ 4,123.09	\$ 280.72	\$ 564.56	\$ 452.91	\$ 9,928.93	\$ 3,363.58	\$ 1,053.12	\$ 4,416.70
223 Smith, Jerry D	\$ 1,777.14	\$ 778.03	\$ 354.12	\$ 488.93	\$ 113.95	\$ 3,639.23	\$ 75.31	\$ 342.84	\$ 368.88	\$ 6,794.43	\$ 2,399.87	\$ 843.04	\$ 3,242.91
224 Spaulding, Wanda K	\$ 912.24	\$ 390.82	\$ 157.48	\$ 282.70	\$ 0.72	\$ 1,853.91	\$ 169.43	\$ 410.23	\$ 269.30	\$ 4,873.81	\$ 1,507.24	\$ 361.88	\$ 1,869.12
225 Swanson, Steve R	\$ 1,793.20	\$ 705.06	\$ 104.82	\$ 241.25	\$ 157.08	\$ 4,650.69	\$ 393.75	\$ 830.41	\$ 494.32	\$ 9,453.88	\$ 3,247.58	\$ 346.07	\$ 3,593.64
226 Tate, John P	\$ 61.88	\$ 27.09	\$ -	\$ 3.75	\$ 18.75	\$ 229.85	\$ 3.03	\$ 10.70	\$ 19.29	\$ 370.45	\$ 100.88	\$ 8.75	\$ 109.63
227 Theada, Cobay D	\$ 3,794.88	\$ 1,648.26	\$ -	\$ 156.22	\$ -	\$ 1,267.94	\$ -	\$ -	\$ -	\$ 6,817.30	\$ 3,764.88	\$ 156.22	\$ 3,921.10
228 Tucker, Bradley A	\$ 1,847.89	\$ 809.01	\$ 419.16	\$ 492.12	\$ 908.76	\$ 2,827.64	\$ 42.22	\$ 404.49	\$ 204.90	\$ 7,206.38	\$ 2,709.99	\$ 861.28	\$ 3,571.27
229 Tui, Kenneth D	\$ 1,464.41	\$ 641.12	\$ 258.20	\$ 1,308.31	\$ 242.47	\$ 5,881.68	\$ 308.67	\$ 919.01	\$ 525.62	\$ 11,040.48	\$ 3,913.59	\$ 1,551.34	\$ 5,464.93
231 Walters, Daniel J	\$ 4,413.58	\$ 1,932.47	\$ 734.33	\$ 489.88	\$ 801.25	\$ 4,494.16	\$ 787.60	\$ 3,575.16	\$ 1,307.75	\$ 18,026.37	\$ 6,158.29	\$ 723.21	\$ 6,881.50
232 Warchena, Shawn D	\$ 1,395.98	\$ 611.50	\$ 83.74	\$ 59.99	\$ 285.32	\$ 3,775.18	\$ 58.51	\$ 213.53	\$ 24.18	\$ 6,509.01	\$ 2,096.11	\$ 137.73	\$ 2,233.84
233 Ward, James T	\$ 912.34	\$ 196.74	\$ -	\$ -	\$ -	\$ -	\$ 10.18	\$ 2.83	\$ 46.19	\$ 305.19	\$ 358.10	\$ -	\$ 393.20
234 Watson, Joel G	\$ 1,604.52	\$ 762.04	\$ 180.73	\$ 346.35	\$ 489.68	\$ 4,709.68	\$ 168.83	\$ 99.33	\$ 223.21	\$ 9,317.71	\$ 3,000.71	\$ 504.89	\$ 3,505.60
235 Walters, Ernest H	\$ 2,988.02	\$ 1,308.16	\$ -	\$ 530.28	\$ 211.61	\$ 5,018.53	\$ 375.29	\$ 1,288.91	\$ 588.19	\$ 16,215.00	\$ 5,541.89	\$ 698.28	\$ 6,240.17
237 Watt, Nathan E	\$ 363.52	\$ 159.15	\$ -	\$ -	\$ -	\$ -	\$ 8.97	\$ 28.68	\$ 17.46	\$ 570.56	\$ 385.83	\$ -	\$ 385.83
238 Wilson, Rusty L	\$ 799.76	\$ 350.33	\$ -	\$ 17.31	\$ -	\$ 101.03	\$ -	\$ -	\$ -	\$ 1,260.23	\$ 799.76	\$ 173.1	\$ 972.86
239 Winden, Shane M	\$ 1,461.07	\$ 889.88	\$ -	\$ 90.68	\$ 46.04	\$ 607.87	\$ 178.67	\$ 498.72	\$ 98.82	\$ 3,503.62	\$ 2,020.86	\$ 90.68	\$ 2,111.54
240 Wrenschel, Craig C	\$ 2,946.22	\$ 1,289.86	\$ 65.73	\$ 146.52	\$ 345.40	\$ 2,861.53	\$ 2.90	\$ 80.71	\$ 228.26	\$ 7,988.33	\$ 3,507.13	\$ 232.27	\$ 3,739.40
241 Young, Blw/M/L	\$ 1,404.89	\$ 684.82	\$ 370.80	\$ 352.47	\$ 6.49	\$ 2,361.21	\$ -	\$ -	\$ -	\$ 5,248.78	\$ 1,510.68	\$ 728.07	\$ 2,238.75
242 Zorabli, George B	\$ 319.28	\$ 223.36	\$ 106.23	\$ 23.68	\$ 2.16	\$ 781.06	\$ 81.33	\$ 99.91	\$ 143.44	\$ 1,972.35	\$ 788.17	\$ 128.90	\$ 917.07
	\$ 234,534.80	\$ 101,678.39	\$ 23,703.50	\$ 51,158.95	\$ 35,311.80	\$ 877,526.09	\$ 18,138.68	\$ 107,429.28	\$ 34,186.25	\$ 912,952.91	\$ 302,716.41	\$ 71,262.45	\$ 373,978.86

Regular City Council Meeting

Meeting Date: 09/26/2016

TITLE: City Administrator Employment Agreement 2016-2017

PRESENTED BY: Bruce McCandless, Assistant City Administrator

Department: City Hall Administration

PROBLEM/ISSUE STATEMENT

The City Council recently conducted the annual City Administrator performance evaluation. Based on the evaluation's positive outcome and the City Administrator's request, the Council will consider a one (1) year employment agreement; dated October 1, 2016 through September 30, 2017. The current and all previous Billings City Administrators were retained under employment agreements and these agreements are commonplace nationally. The Council hired local attorney Tom Singer to prepare this agreement and he did so after consulting with Councilmembers Cimmino and Clark about the details. A draft agreement is attached. Changes from the 2012-2016 agreement are indicated by strike-through and underline.

ALTERNATIVES ANALYZED

City Council may approve, request changes to or disapprove the employment agreement.

FINANCIAL IMPACT

The agreement proposes to continue the current salary and benefits but to negotiate increases before the end of the year. The changes would be retroactive to October 1, 2016, or for 3/4 of the fiscal year. The FY 2017 budget is sufficient to fund the current agreement and negotiated salary and benefit increases.

RECOMMENDATION

Staff recommends that the City Council consider and approve a City Administrator Employment Agreement.

APPROVED BY CITY ADMINISTRATOR

Attachments

Draft Agreement 2016-2017

Employment Agreement

Introduction

This Agreement, made and entered into effective October 1, ~~2012~~2016, by and between the City of Billings, Montana, a municipal corporation, (hereinafter called "Employer") and Christina F. Volek (hereinafter called "Employee"), an individual who has the education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Term

~~The term of this agreement shall be for an initial period of two years, from October 1, 2012 to September 30, 2014. This Agreement shall automatically be renewed on its anniversary date for an additional 2-year term unless notice is given by the Employer at least twelve (12) months before the expiration date that the Agreement shall be terminated. The term of this agreement shall be for a period of one (1) year, from October 1, 2016 through September 30, 2017.~~

Section 2: Duties and Authority

Employer agrees to employ Christina F. Volek as City Administrator to perform the functions and duties specified in Section 4.03 of the City Charter of the City of Billings, Montana. Section 4.03 provides:

Section 4.03. City Administrator: Powers and Duties.

The Administrator shall:

- A. carry out policies established by the City Council;
- B. perform the duties required by law, ordinance, resolution, or this Charter;
- C. enforce laws, ordinances, and resolutions;
- D. administer the affairs of the City;
- E. direct, organize, establish, supervise, and administer all departments, agencies, and offices of the City;
- F. appoint, suspend, and remove all employees of the local government;
- G. prepare and present the City budget to the Council for its approval and administer the budget adopted by the Council;
- H. Report publicly to the Council at least quarterly on the financial conditions of the City;
- I. recommend measures to the Council;
- J. report to the Council as the Council may require;
- K. attend Council meetings and take part in the discussion, but shall have no vote;
- L. appoint with the approval of the City Council a qualified acting administrator to exercise the powers and perform the duties of the Administrator during temporary absences.

Section 3: Compensation

~~A. Base Salary: Employer agrees to pay Employee in the first year of this Agreement an annual base salary of \$130,560.00, payable in biweekly installments at the same time that the other management employees of the Employer are paid. Before each anniversary date of this contract, Employer will evaluate Employee's base salary and make adjustments it deems appropriate. Employer will continue to pay Employee at her current salary. On or before December 31, 2016, Employer and Employee will evaluate and increase Employee's salary as they deem appropriate. The salary increase will be retroactive to October 1, 2016.~~

Section 4: Health, Disability and Life Insurance Benefits

A. Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and her dependents equal to that which is provided to other employees of the City of Billings, Montana.

B. Employer shall pay the amount of premium due for term life insurance in the amount of the Employee's two-year annual base salary if employee elects to apply for such insurance. The Employee shall name the beneficiary of the life insurance policy.

C. Should Employee die while on travel for the Employer, the Employer shall cover the full cost of retrieving and transporting the Employee's remains back to the custody of the Employee's family.

Section 5: Vacation and Sick Leave

On the effective date of this agreement, Employee shall be credited with her existing sick and vacation leave earned to date. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to any other employees. Upon termination of employment for any reason, Employee shall be compensated for accrued vacation and sick leave according to Montana law.

Section 6: Automobile

Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$4,800 per year, payable monthly, as a vehicle allowance to be used to purchase, lease or own, and operate and maintain a vehicle. The amount of the vehicle allowance may be increased in the future by mutual consent of the parties. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee on the basis of gasoline receipts for any business use of

the vehicle beyond the greater Billings area. For purposes of this Section, use of the car within the greater Billings area is defined as travel to locations within a 50-mile radius of Billings.

Section 7: Retirement

A. Employer agrees to contribute the statutorily required percentage of the Employee's annual salary into the Montana Public Employees' Retirement System (MPERS) or its successor. Employee will contribute the statutorily required percentage of her annual salary to MPERS.

B. In addition to Employer's payment to MPERS as referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation [ICMA-RC] or other Section 457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees will continue to pay ICMA-RC ~~an the~~ amount ~~of 10.8% from October 1, 2012, through September 30, 2014~~ currently contributed, or any greater amount that the parties may agree on when negotiating Employee's salary. Any increase in contributions will be retroactive to October 1, 2016. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

Section 8: General Business Expenses

A. Employer agrees to budget for and to pay for:

1. Professional dues and subscriptions of the Employee for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.
2. Reasonable travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.
3. Reasonable travel and subsistence expenses of Employee for short courses, institutes, and seminars for the Employee's professional development and for the good of the Employer.

B. Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations reasonably related to Employee's duties. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 9: Termination

- A. This agreement may be terminated: By resignation or retirement on terms mutually agreed by the Employee and City Council, including a release of all obligations and claims;
- B. Immediately upon Employee becoming unable to perform Employee's duties and obligations under this Agreement by reason of death or permanent disability;
- C. "For Cause" determined by the City Council after Employee has an opportunity for a fair hearing with the right to legal counsel at Employee's expense and at least twenty (20) days advance written notice of the cause, which must constitute reasonable job-related grounds for dismissal, meaning: (1) failure to satisfactorily perform job duties, (2) disruption of employer's operation; or (3) other conduct that is prejudicial to the City Council or the City, including without limitation: insubordination, neglect of duty, breach of contract, immorality, unfitness, failure to comply with City Council directives, or any violation of law other than minor traffic violations;
- D. "Without Cause" if: (1) the City Council in its sole discretion as the elected governing body of the City of Billings decides by a simple majority vote of its members to terminate this Agreement; or (2) the role, powers, duties, authority, or responsibilities of the Employee's position, or the form of Billings city government are changed substantially, and the Employee declares that such change constitutes termination without cause.

Section 10: Liquidated Damages.

A. If the Employee is terminated "without cause," the Employer shall pay as liquidated damages in one lump sum an amount equal to one year salary at the current rate of pay, make a contribution to the Employee's deferred compensation account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation, and for one year following termination, pay for the following benefits:

- 1. Health insurance for the employee and all dependents as provided in Section 4A;
- 2. Life insurance as provided in Section 4B; and
- 3. Out-placement services should the employee desire them in an amount to be negotiated at time of separation.

However, in the event Employee obtains other employment and thereby becomes eligible for comparable health and life insurance benefits before the end of one year, then Employer's obligation to provide health and life insurance coverage will terminate on the date Employee becomes eligible for the other insurance.

B. If the Employee is terminated "for cause," the Employee is not entitled to liquidated damages under this section.

Section 11: Resignation

If the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise.

Section 12: Performance Evaluation

Employer shall meet with Employee semi-annually to review the performance of the Employee using the attached Exhibits A ~~and B~~ as the performance evaluation criteria for the reviews or using another process for the evaluation which shall be mutually agreed upon by the Employer and Employee.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

Section 14: Residency

Employee agrees to maintain residence within the corporate boundaries of the City of Billings.

Section 15: Indemnification

Employer shall defend, save harmless and indemnify Employee as provided in the current version of Montana Code Annotated Section 2-9-305 (2011) which is set forth in its entirety below. This obligation shall survive and extend beyond the Employee's separation from Employer and Employee shall be indemnified and held harmless for any post-separation costs or expenses incurred in connection with the investigation or defense of any claim related to her employment.

1. It is the purpose of this section to provide for the immunization, defense, and indemnification of public officers and employees civilly sued for their actions taken within the course and scope of their employment.
2. In any noncriminal action brought against any employee of a state, county, city, town, or other governmental entity for a negligent act, error, or omission, including alleged violations of civil rights pursuant to 42 U.S.C. 1983, or other actionable conduct of the employee committed while acting within the course and scope of the employee's office or employment, the governmental entity employer, except as provided in subsection (6), shall defend the action on behalf of the employee and indemnify the employee.
3. Upon receiving service of a summons and complaint in a noncriminal action against him, the employee shall give written notice to his supervisor requesting that a defense to the action be provided by the governmental entity employer. If the employee is an elected state official or other employee having no supervisor,

the employee shall give notice of the action to the legal officer or agency of the governmental entity defending the entity in legal actions of that type. Except as provided in subsection (6), the employer shall offer a defense to the action on behalf of the employee. The defense may consist of a defense provided directly by the employer. The employer shall notify the employee, within 15 days after receipt of notice, whether a direct defense will be provided. If the employer refuses or is unable to provide a direct defense, the defendant employee may retain other counsel. Except as provided in subsection (6), the employer shall pay all expenses relating to the retained defense and pay any judgment for damages entered in the action that may be otherwise payable under this section.

4. In any noncriminal action in which a governmental entity employee is a party defendant, the employee shall be indemnified by the employer for any money judgments or legal expenses, including attorney fees either incurred by the employee or awarded to the claimant, or both, to which the employee may be subject as a result of the suit unless the employee's conduct falls within the exclusions provided in subsection 6.
5. Recovery against a governmental entity under the provisions of parts 1 through 3 of this chapter constitutes a complete bar to any action or recovery of damages by the claimant, by reason of the same subject matter, against the employee whose negligence or wrongful act, error, or omission or other actionable conduct gave rise to the claim. In any such action against a governmental entity, the employee whose conduct gave rise to the suit is immune from liability by reasons of the same subject matter if the governmental entity acknowledges or is bound by a judicial determination that the conduct upon which the claim is brought arises out of the course and scope of the employee's employment, unless the claim constitutes an exclusion provided in (b) through (d) of subsection (6).
6. In a noncriminal action in which a governmental entity employee is a party defendant, the employee may not be defended or indemnified by the employer for any money judgments or legal expenses, including attorney fees, to which the employee may be subject as a result of the suit if a judicial determination is made that:
 - (a) the conduct upon which the claim is based constitutes oppression, fraud, or malice, or for any other reason does not arise out of the course and scope of the employee's employment;
 - (b) the conduct of the employee constitutes a criminal offense as defined in Title 45, chapters 4 through 7;
 - (c) the employee compromised or settled the claim without the consent of the government entity employer; or
 - (d) the employee failed or refused to cooperate reasonably in the defense of the case.
7. If no judicial determination has been made applying the exclusions provided in subsection (6), the governmental entity employer may determine whether those exclusions apply. However, if there is a dispute as to whether the exclusions of

subsection (6) apply and the governmental entity employer concludes it should clarify its obligation to the employee arising under this section by commencing a declaratory judgment action or other legal action, the employer is obligated to provide a defense or assume the cost of the defense of the employee until a final judgment is rendered in such action holding that the employer had no obligation to defend the employee. The governmental entity employer has no obligation to provide a defense to the employee in a declaratory judgment action or other legal action brought against the employee by the employer under this subsection.

Section 16: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 17: Other Terms and Conditions of Employment

A. Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

B. Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other exempt employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 18: Notices

Notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 19: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall be effective as of October 1, ~~2012~~2016.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not effect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Approved as to Form:

T. Thomas Singer, Axilon Law Group, PLLC
Attorney for Billings City Council

Approved this ____ day of _____, ~~2012~~2016

The City of Billings

By:

Thomas W. Hanel, Mayor

Attest:

~~Cari Martin~~Denise R. Bohlman, City Clerk

Christina F. Volek, Employee

Exhibit A

CITY OF BILLINGS

CITY ADMINISTRATOR PERFORMANCE EVALUATION

This form shall be completed by each member of the Council to evaluate the City Administrator's performance in each of the areas noted below. Performance levels can be noted, based on the following scale:

- 1 = Poor (rarely meets expectations).
- 2 = Below average (usually does not meet expectations).
- 3 = Satisfactory (meets performance expectations).
- 4 = Above average (generally exceeds performance expectations).
- 5 = Excellent (almost always exceeds expectations and performs at very high standard).

Each member of the Board should sign the form and forward it to the Mayor, who will be responsible for compiling the comments.

EVALUATION PERIOD: _____ **TO:** _____

1. **PERSONAL**

- _____ Invests sufficient effort toward being diligent and thorough in the discharge of duties.
- _____ Composure, appearance, and attitude fitting for an individual in his executive position.

2. **PROFESSIONAL SKILLS AND STATUS**

- _____ Knowledgeable of current developments affecting the management field and affecting city governments.
- _____ Respected in management profession.
- _____ Has a capacity for and encourages innovation.
- _____ Anticipates problems and develops effective approaches for solving them.
- _____ Willing to try new ideas proposed by Council Members or staff.

3. **RELATIONS WITH MAYOR/CITY COUNCIL**

- _____ Carries out directives of the Council as a whole rather than those of any one Council member.
- _____ Assists the Council in resolving problems at the administrative level to avoid unnecessary Board action.
- _____ Assists the Council in establishing policy, while acknowledging the ultimate authority of the Council.
- _____ Responds to requests for information or assistance by the Council.
- _____ Informs the Council of administrative developments.
- _____ Receptive to constructive criticism and advice.

4. **POLICY EXECUTION**

- _____ Implements Council action in accordance with the intent of the Board.

- _____ Supports the actions of the Council after a decision has been reached.
- _____ Enforces City policies.
- _____ Understands City's laws and ordinances.
- _____ Reviews enforcement procedures periodically to improve effectiveness.
- _____ Offers workable alternatives to the Council for changes in the law when an ordinance or policy proves impractical in actual administration.

5. **REPORTING**

- _____ Provides the Council with reports concerning matters of importance to the City.
- _____ Reports are accurate and comprehensive.
- _____ Reports are generally produced through own initiative rather than when requested by the Council.
- _____ Prepares a sound agenda which prevents trivial administrative matters from being reviewed by the Council.

6. **CITIZEN RELATIONS**

- _____ Responsive to complaints from citizens.
- _____ Dedicated to the community and its citizens.
- _____ Skillful with the news media, avoiding political positions and partisanship.
- _____ Has the capacity to listen to others and to recognize their interests--works well with others.
- _____ Willing to meet with members of the community to discuss their real concerns.
- _____ Cooperates with neighboring communities.
- _____ Cooperates with the County, State, and Federal governments.
- _____ Cooperates with other organizations within the City, such as Chamber, School Districts, and BSEDA.

7. **STAFFING**

- _____ Recruits and retains competent personnel for City positions.
- _____ Aware of staff weaknesses and works to improve their performance.
- _____ Accurately informed and concerned about employee relations.
- _____ Professionally administers the merit system.

8. **SUPERVISION**

- _____ Encourages Department Heads to make decisions within their own jurisdictions without City Administrator approval, yet maintains general control of administrative operations.
- _____ Instills confidence and initiative in subordinates and emphasizes support rather than restrictive controls for their programs.
- _____ Has developed a friendly and informal relationship with the work force as a whole, yet maintains the prestige and dignity of the City Administrator's office.
- _____ Evaluates personnel periodically, and points out management weaknesses and strengths.

9. **FISCAL MANAGEMENT**

- _____ Prepares a balanced budget to provide services at a level directed by the Council.
- _____ Makes the best possible use of available funds, conscious of the need to operate the City efficiently and effectively.
- _____ Prepared budget is in an intelligent but readable format.
- _____ Possesses awareness of the importance of financial planning and control.

10. What would you identify as the results achieved during the evaluation period as representative of the strengths of the City Administrator?

11. What performance areas would you identify as needing improvement? Why? What constructive, positive ideas can you offer the City Administrator to improve these areas?

12. Other comments?

Signature: _____

Date: _____