



City Commission Agenda

for

December 1, 2009

Please Note: The City Commission agenda format allows citizens to speak on each issue prior to Commission action. We encourage your participation. Please keep your remarks concise and to the topic under consideration.

CALL TO ORDER: 7:00 P.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

NEIGHBORHOOD COUNCILS

1. Swearing-In ceremony of Neighborhood Council representatives.
2. Miscellaneous reports and announcements.

PUBLIC HEARINGS

3. Castle Pines Addition, Phase VIII. (*Presented by: Mike Haynes*)
 - A. Res. 9867 and Res. 9868, Annexes property. Action: Conduct joint public hearing and adopt or deny Res. 9867 and Res. 9868 and approve the final plat and accompanying Annexation Agreement.
 - B. Ord. 3046, Assigns zoning classification of R-3 Single-family high density district. Action: Conduct joint public hearing and adopt or deny Ord. 3046.
4. Sale of City-Owned Park Land, 1000 17th Avenue South. Action: Conduct public hearing and approve or deny sale of Park land to the Salvation Army. (requires 4/5 majority vote) (*Presented by: Marty Basta*)

OLD BUSINESS

NEW BUSINESS

ORDINANCES/RESOLUTIONS

5. Res. 9872, Adopting an Identity Theft Prevention Program. Action: Adopt or deny Res. 9872. (*Presented by: Coleen Balzarini*)
6. Ord. 3047, Repealing Title 8, Chapter 7, of the Official Code of the City of Great Falls. Action: Accept Ord. 3047 on first reading and set public hearing for December 15, 2009. (*Presented by: Commissioner Bill Bronson*)

CONSENT AGENDA *The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.*

7. Minutes, November 17, 2009, Commission meeting.
8. Total Expenditures of \$1,082,287 for the period of November 7-19, 2009, to include claims over \$5000, in the amount of \$992,380.
9. Contracts list.

10. Set public hearing for January 5, 2010, on Res. 9870, Conditional Use Permit to allow a Worship Facility at 111 6th Street South.
11. Approve acceptance of a trail easement from Zara Renander for extension of the River's Edge Trail.
12. Set public hearing for December 15, 2009, for the CDBG/HOME community needs.

Action: Approve Consent Agenda or remove items for further discussion and approve remaining items.

BOARDS & COMMISSIONS

13. Appointments, Tourism Business Improvement District. Appoint one member to fill the remainder of a term through December 31, 2012, and reappoint Deryk Copperwheat for a four-year term through December 31, 2013.
14. Miscellaneous reports and announcements.

CITY MANAGER

15. Miscellaneous reports and announcements.

PETITIONS AND COMMUNICATIONS *(Public comment on any matter that is not on the agenda of the meeting and that is within the jurisdiction of the City Commission. Please keep your remarks to a maximum of 5 minutes)*

16. Miscellaneous reports and announcements.

CITY COMMISSION

17. Miscellaneous reports and announcements.

MOTION TO ADJOURN



Item: Public Hearing – Resolutions 9867 & 9868 to Annex and Ordinance 3046 to Assign City Zoning to Castle Pines Addition, Phase VIII

From: Charles Sheets, Planner I

Initiated By: Harold Poulsen, Property Owner and Developer

Presented By: Mike Haynes, Planning Director

Action Requested: City Commission adopt/approve Resolutions 9867 & 9868, Ordinance 3046, the final plat and Annexation Agreement all pertaining to Castle Pines Addition, Phase VIII.

Public Hearing:

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks the will of the Commission.

Suggested Motions: (Each motion to be separately considered)

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolutions 9867 and 9868 and approve the final plat of Castle Pines Addition, Phase VIII and the accompanying Annexation Agreement.”

and;

“I move that the City Commission (adopt/deny) Ordinance 3046.”

2. Mayor calls for a second, discussion, and calls for the vote after each motion.
-

Planning Board and Zoning Commission Recommendations: The Planning Board has recommended the City Commission approve the annexation and final plat of Castle Pines Addition, Phase VIII. The Zoning Commission has recommended the City Commission assign a zoning classification of R-3 Single-family high density district to Castle Pines Addition, Phase VIII, upon annexation to the City.

Background: The City Commission during a meeting held September 15, 2009, conditionally approved the Preliminary Plat of Castle Pines Addition, Phases VIII – IX. The developer now requests approval of the final plat and annexation of Phase VIII of said preliminary plat. The subdivision is between 15th and 16th Streets South along 29th Avenue South and consists of 14 single-family residential lots ranging in size from 7600 to 8326 square feet.

For additional information, please refer to the attached Vicinity/Zoning Map and reduced drawing portion of the Final Plat.

Similar to Castle Pines Addition, Phases III, V, VI and VII, the developer is working with NeighborWorks, which intends to acquire 10 or more lots in the subdivision to accommodate construction of “self-help” program homes. The remaining lots will be sold by the developer to others to build single-family residences. Those lots not involved with the “self-help” program will be annexed simultaneously with the filing of the final plat and the “self-help” program homes will not be annexed until after the homes are constructed.

Within the subdivision, 15th and 16th Streets South connect to 27th Avenue South, which extends west to 13th Street South. The future Phase IX of the preliminary plat will extend 29th Avenue South to the west and connect to 13th Street South. Roadways within the subdivision will be improved to City standards with paving, curb and gutter. Sidewalks will be installed as a part of the building permit for the single-family residences.

City water and sewer mains will be installed. Easements will be provided within the plat for the installation of private utilities. Based on land contours, the area generally slopes to the northwest. The Master Plan Agreement which accompanied Castle Pines Addition, Phase I indicates the developer of Phase I and the City participated jointly in the construction of a surface drainage control facility (south of the Multi-Sports Complex) and storm drain piping in 13th Street South to serve the area being developed as Castle Pines. City storm drainage has been extended south, with inlets in 27th Avenue South.

According to the Master Plan Agreement, the developer of Castle Pines Addition, Phase I paid to the City \$12,261 in lieu of dedicating park land for the area covered by the original master plan for Castle Pines Subdivision. Castle Pines Addition, Phase VIII is included within that original master plan area.

An Off-Site Improvement Trust Fund was established in conjunction with Castle Pines Addition, Phase I wherein as each lot is sold, a monetary amount is deposited in the trust fund to assist in the eventual improvement of 13th Street South and 24th Avenue South, including water main installation and providing a secondary water source to the Castle Pines area.

Subject property borders Castle Pines Addition, Phases VI and VII, which are being developed as single-family residential subdivisions. Castle Pines Addition, Phase VIII generally adheres to a conceptual plan that was prepared in 1995 for the area, in conjunction with a master plan for Castle Pines Addition.

Annexation of subject property will enhance health, safety and welfare through application of City Codes and provision of municipal services.

It is anticipated the planned single-family residential use of the property will be compatible with neighboring uses.

Section 76-2-304 Montana Code Annotated lists criteria and guidelines, which must be considered in conjunction with establishing municipal zoning on land:

- a) is designed in accordance with the growth policy (comprehensive plan);
- b) is designed to lessen congestion in the streets;
- c) will secure safety from fire, panic or other dangers;
- d) will promote health and the general welfare;
- e) will provide adequate light and air;
- f) will prevent overcrowding of land;
- g) will avoid undue concentration of population;
- h) will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- i) gives reasonable consideration to the character of the district;
- j) gives reasonable consideration to the peculiar suitability of the property for particular uses;
- k) will conserve the value of buildings; and
- l) will encourage the most appropriate use of land throughout the municipality.

Subject property is located on the fringe of the City, which has been attracting moderately priced single-family dwelling units. The subdivision is a natural projection of urban growth.

Goals of the land use element of the Great Falls Growth Policy include:

- To support and encourage efficient, sustainable development and redevelopment throughout the community.
- To support and encourage a compatible mix of land uses in newly developing areas.

Applicable policy statements include “Residential land uses should be planned and located so that they do not result in adverse impacts upon one another” and “Annexations should be logical and efficient extensions of the City’s boundaries and service areas”. Therefore, staff concludes the twelve criteria stated above are substantially met.

At the conclusion of a public hearing held August 25, 2009, the Zoning Commission passed a motion recommending the City Commission assign a zoning classification of R-3 Single-family high density district to Castle Pines Addition, Phases VIII - IX, upon annexation to the City. No citizens spoke as proponents or opponents during the hearing. The Planning Board during a meeting held October 13, 2009, recommended the City Commission approve the final plat and annex Castle Pines Addition, Phase VIII subject to fulfillment of the following conditions by the applicant:

- 1) The final plat of Castle Pines Addition, Phase VIII shall incorporate correction of any errors or omissions noted by staff and a notice of soil conditions.
- 2) The final engineering drawings and specifications for the required public improvements to serve Castle Pines Addition, Phase VIII shall be submitted to the City Public Works Department for review and approval prior to consideration of the final plat.

- 3) Annexation Agreement shall be prepared containing terms and conditions for annexation of Castle Pines Addition, Phase VIII including agreement by applicant to:
 - a) install within two years of the date of annexation, the public improvements referenced in Paragraph 2) above;
 - b) adhere to the Agreement dated November 7, 1995, pertaining to the previously mentioned Off-Site Improvement Trust Fund; and,
 - c) indemnify the City for any damages attributable to adverse soil or groundwater conditions.

- 4) All applicable fees owed as a condition of plat or annexation approval shall be paid upon final platting and annexation of Castle Pines Addition, Phase VIII, including:

a) annexation resolution fee	\$ 100.00
b) annexation agreement fee	200.00
c) final plat fee	300.00
d) storm sewer fee (\$250/acre x 3.664 acres)	916.00
e) recording fees for annexation documents (\$11 per page x 9 pages)	99.00

At the time of writing this report, items 2), 3) and 4) have been completed by the applicant and item 1) will be completed prior to filing the final plat.

Concurrences: Representatives from the City’s Public Works, Community Development, Park and Recreation, and Fire Departments have been involved throughout the review and approval process for this project.

Fiscal Impact: Providing services to the single-family lots in the subdivision is expected to be a negligible cost to the City. Any increased costs likely will be covered by increased tax revenues from improved properties.

Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments/Exhibits:

1. Resolution 9867
2. Resolution 9868
3. Ordinance 3046
4. Vicinity/Zoning map
5. Reduced copy of drawing portion of the final plat
6. Annexation Agreement

Cc: Jim Rearden, Public Works Director
 Dave Dobbs, City Engineer
 Harold Poulsen, P.O. Box 1376, Great Falls, MT 59403
 Woith Engineering, 1725 41st St S, Great Falls, MT 59405
 Al Henry, NeighborWorks, 509 1st Ave S, Great Falls, MT 59405

RESOLUTION 9867

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE CASTLE PINES ADDITION, PHASE VIII, **EXCEPT FOR LOTS 2 – 5, BLOCK 1, AND LOTS 1 – 6, BLOCK 2,** IN GOVERNMENT LOT 1, SECTION 19, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED HEREINBELOW; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED EXHIBIT “A” AND BY THIS REFERENCE MADE A PART HEREOF.

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

Castle Pines Addition, Phase VIII, **except for Lots 2 – 5, Block 1, and Lots 1 – 6, Block 2,** in Government Lot 1, Section 19, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana and containing 1.889 acres as shown on the attached as Exhibit “A” and by this reference made a part hereof, and according to the final plat of Castle Pines Addition, Phase VIII.

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and,

WHEREAS, the owner of the hereinabove described property has submitted a petition to have said property annexed to the City of Great Falls.

NOW, THEREFORE, the City Commission now finds that the herein requested annexation meets the criteria cited in Section 17.16.7.050 of the Unified Land Development Code of the City of Great Falls and that it is to the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the law and constitution of the State of Montana, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA;

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: "CASTLE PINES ADDITION, PHASE VIII, **EXCEPT FOR LOTS 2 – 5, BLOCK 1, AND LOTS 1 – 6, BLOCK 2,** IN GOVERNMENT LOT 1, SECTION 19, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA."

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

The Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tracts of land; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 1st day of December, 2009.

Dona R. Stebbins, Mayor

ATTEST:

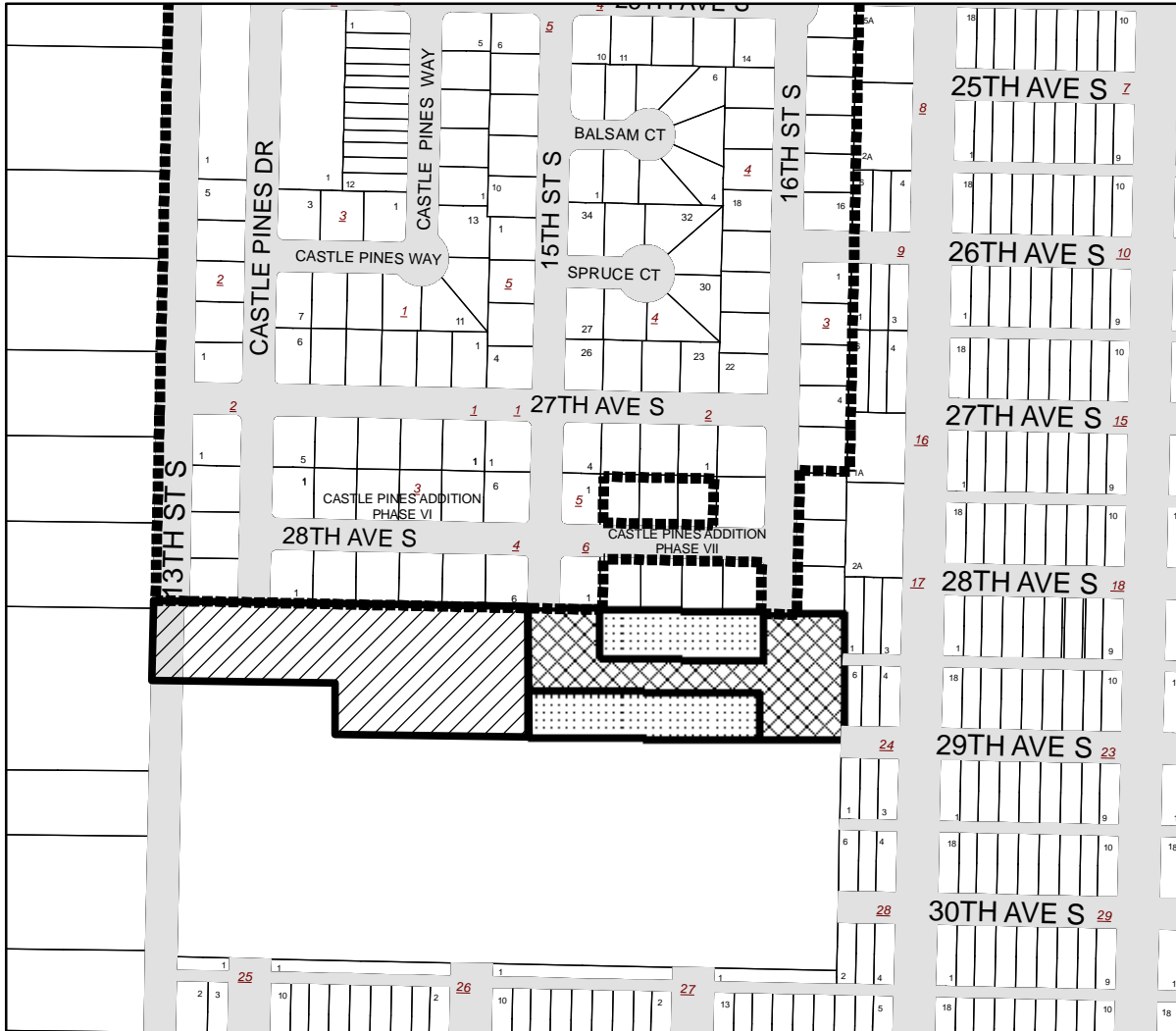
Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

City Attorney

RESOLUTION 9867 AMENDED EXHIBIT "A"



PROPERTY DESCRIBED IN RESOLUTION 9867



PROPERTY DESCRIBED IN RESOLUTION 9868



REMAINING PORTION OF THE AREA CONTAINED WITHIN THE PRELIMINARY PLAT OF CASTLE PINES ADDITION PHASES VIII - IX



CITY LIMITS

310 155 0 310 Feet



RESOLUTION 9868

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, TO EXTEND THE BOUNDARIES OF SAID CITY TO INCLUDE LOTS 2 – 5, BLOCK 1, AND LOTS 1 – 6, BLOCK 2, CASTLE PINES ADDITION, PHASE VIII, IN GOVERNMENT LOT 1, SECTION 19, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA, MORE PARTICULARLY DESCRIBED HEREINBELOW; ALL AS SHOWN ON THE MAP ATTACHED HERETO MARKED EXHIBIT “A” AND BY THIS REFERENCE MADE A PART HEREOF.

* * * * *

WHEREAS, the City of Great Falls is a city incorporated under the laws of the State of Montana, and having a population of more than ten thousand (10,000) is a city of the first class; and,

WHEREAS, there is contiguous to said City, but without the boundaries thereof, certain tracts or parcels of land situated in the County of Cascade, State of Montana, and described as follows:

Lots 2 – 5, Block 1, and Lots 1 – 6, Block 2, Castle Pines Addition Phase VIII, in Government Lot 1, Section 19, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana and containing 1.775 acres as shown on the attached as Exhibit “A” and by this reference made a part hereof, and according to the final plat of Castle Pines Addition, Phase VIII.

WHEREAS, Section 7-2-4601, Montana Code Annotated, provides that whenever the owners of real property contiguous to any incorporated city of the first class petition to have said property made a part of the municipal corporation, such lands may be embraced within the corporate limits thereof and the boundaries of such city of the first class extended so as to include the same; and,

WHEREAS, the owner of the hereinabove described property has submitted a petition to have said property annexed to the City of Great Falls.

NOW, THEREFORE, the City Commission now finds that the herein requested annexation meets the criteria cited in Section 17.16.7.050 of the Unified Land Development Code of the City of Great Falls and that it is to the best interest of the City of Great Falls and its inhabitants to proceed with the incorporation of said territory into the City of Great Falls; and,

WHEREAS, all of the proceedings herein have been conducted in strict compliance with and in conformity to the law and constitution of the State of Montana, and all conditions, acts, and things required to be done precedent to and in the passage and adoption of this resolution have been properly and legally done, and performed;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA;

That the boundaries of the City of Great Falls, Montana, be and the same are hereby extended so as to embrace and include within the corporate limits of said city all of the land hereinabove described, included as: "LOTS 2 – 5, BLOCK 1, AND LOTS 1 – 6, BLOCK 2, CASTLE PINES ADDITION, PHASE VIII, IN GOVERNMENT LOT 1, SECTION 19, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA."

BE IT FURTHER RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

The Cascade County Clerk and Recorder is hereby authorized and directed to change the appropriate district boundaries of the City of Great Falls, Montana, to include said tracts of land; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective from and after the date of the filing of said document in the office of the Cascade County Clerk and Recorder.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 1st day of December, 2009.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

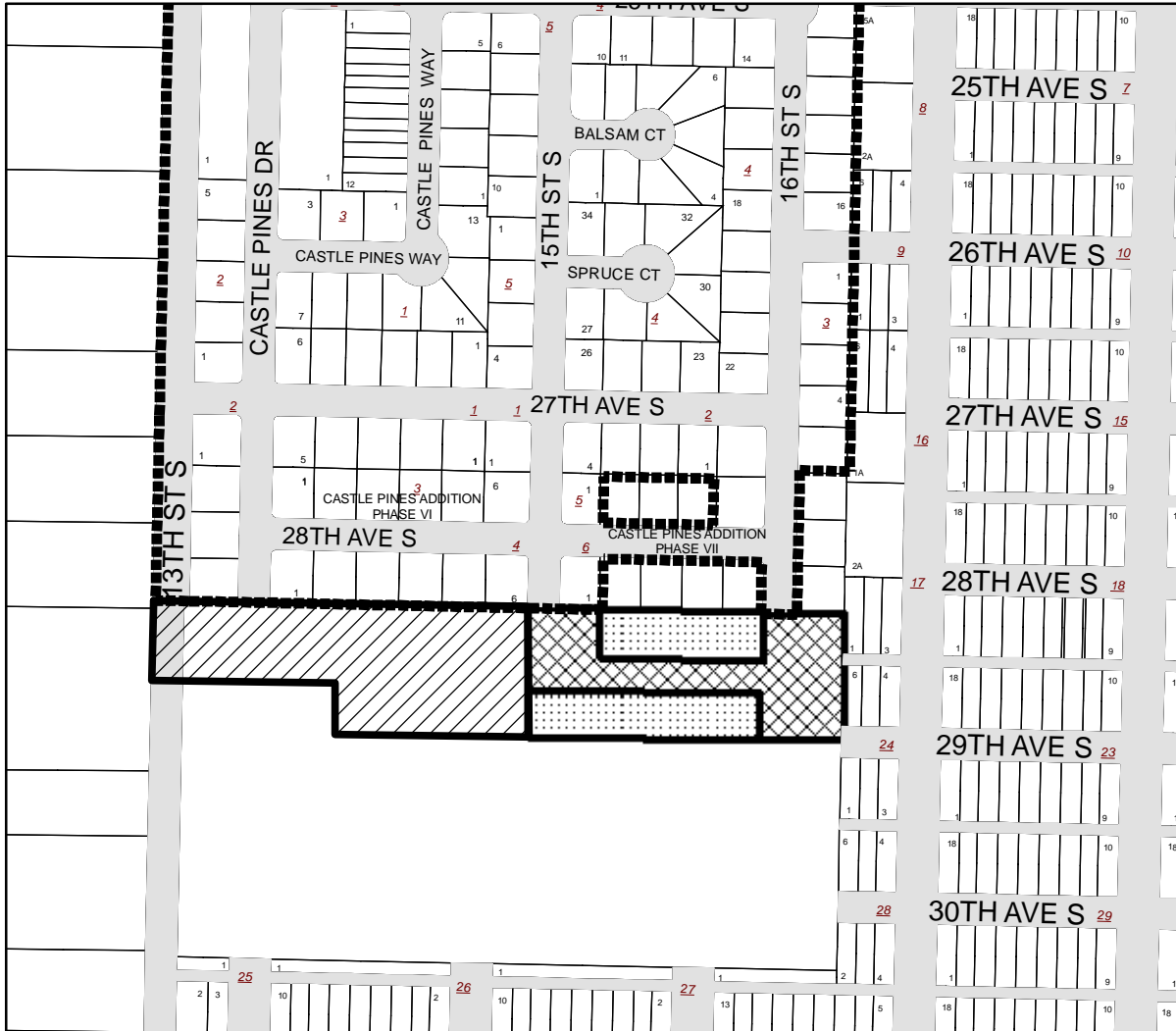
(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

City Attorney

RESOLUTION 9868

AMENDED EXHIBIT "A"



PROPERTY DESCRIBED IN RESOLUTION 9867



PROPERTY DESCRIBED IN RESOLUTION 9868



REMAINING PORTION OF THE AREA CONTAINED WITHIN THE PRELIMINARY PLAT OF CASTLE PINES ADDITION PHASES VIII - IX



CITY LIMITS

310 155 0 310 Feet



ORDINANCE 3046

AN ORDINANCE ASSIGNING A ZONING CLASSIFICATION OF R-3 SINGLE-FAMILY HIGH DENSITY DISTRICT TO CASTLE PINES ADDITION, PHASE VIII, IN GOVERNMENT LOT 1, SECTION 19, TOWNSHIP 20 NORTH, RANGE 4 EAST, P.M.M., CASCADE COUNTY, MONTANA

* * * * *

WHEREAS, Harold Poulsen is the owner of record of the property being platted as Castle Pines Addition, Phase VIII in Government Lot 1, Section 19, Township 20 North, Range 4 East, P.M.M., Cascade County, Montana; and,

WHEREAS, Harold Poulsen has petitioned the City of Great Falls to annex Castle Pines Addition, Phase VIII; and,

WHEREAS, Harold Poulsen has petitioned said Castle Pines Addition, Phase VIII be assigned a City zoning classification of R-3 Single-family high density district, upon annexation to City; and,

WHEREAS, notice of assigning a zoning classification of R-3 Single-family high density district, to Castle Pines Addition, Phase VIII was published in the Great Falls Tribune advising that a public hearing on this zoning designation would be held on the 1st day of December, 2009, before final passage of said Ordinance herein; and,

WHEREAS, following said public hearing, it was found and recommended that the said zoning designation be made.

NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF GREAT FALLS, STATE OF MONTANA:

Section 1. It is determined that the herein requested zoning designation will meet the criteria and guidelines cited in Section 76-2-304 Montana Code Annotated, and Section 17.16.40.030 of the Unified Land Development Code of the City of Great Falls.

Section 2. That the zoning of Castle Pines Addition, Phase VIII be designated as R-3 Single-family high density district classification.

Section 3. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the City Commission or upon filing in the office of the Cascade County Clerk and Recorder the resolutions annexing Castle Pines Addition, Phase VIII into the corporate limits of the City of Great Falls, Montana, whichever event shall occur later.

APPROVED by the City Commission on first reading November 3, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading December 1, 2009.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(CITY SEAL)

APPROVED FOR LEGAL CONTENT:

City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do certify that I did post as required by law and as prescribed and directed by the Commission, Ordinance 3046 in three conspicuous places within the limits of said City to-wit:










On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

Lisa Kunz, City Clerk

(CITY SEAL)

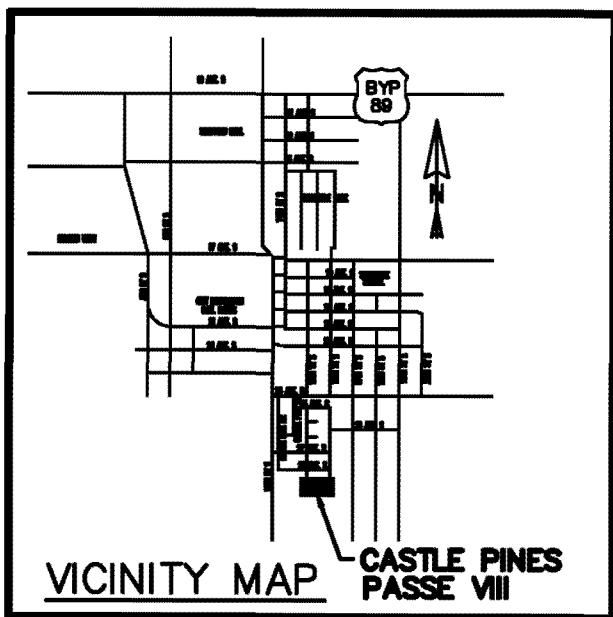
VICINITY/ZONING MAP



-  FINAL PLAT OF CASTLE PINES ADDITION PHASE VIII TO BE ANNEXED TO THE CITY AND ASSIGNED A CITY ZONING CLASSIFICATION OF "R-3" SINGLE-FAMILY HIGH DENSITY DISTRICT
-  REMAINING PORTION OF THE AREA CONTAINED WITHIN THE PRELIMINARY PLAT OF CASTLE PINES ADDITION PHASES VIII AND IX
-  City Limits
-  POS Parks and Open Space
-  I-1 Light Industrial
-  R-3 Single-family high density
-  PUD Planned unit development
-  U Unincorporated enclave
-  Tracts of land outside City

PLAT OF CASTLE PINES PHASE VIII

AN ADDITION TO THE CITY OF GREAT FALLS
A SUBDIVISION LOCATED IN G.L.O. LOT 1 OF SECTION 19,
T20N, R4E, P.M., MT, CASCADE COUNTY, MONTANA



LEGEND

- CURRENT ADDITION BOUNDARY
- CURRENT ADDITION LOT LINES
- CENTERLINE
- EXISTING PROPERTY LINE
- UTILITY EASEMENT
- STREET MONUMENT
- P.O.B. POINT OF BEGINNING
- SF SQUARE FEET
- FOUND IRON PIN

ALL PROPERTY LINE CURVES
ARE 10' IN RADIUS UNLESS
OTHERWISE DIMENSIONED



0 50 100

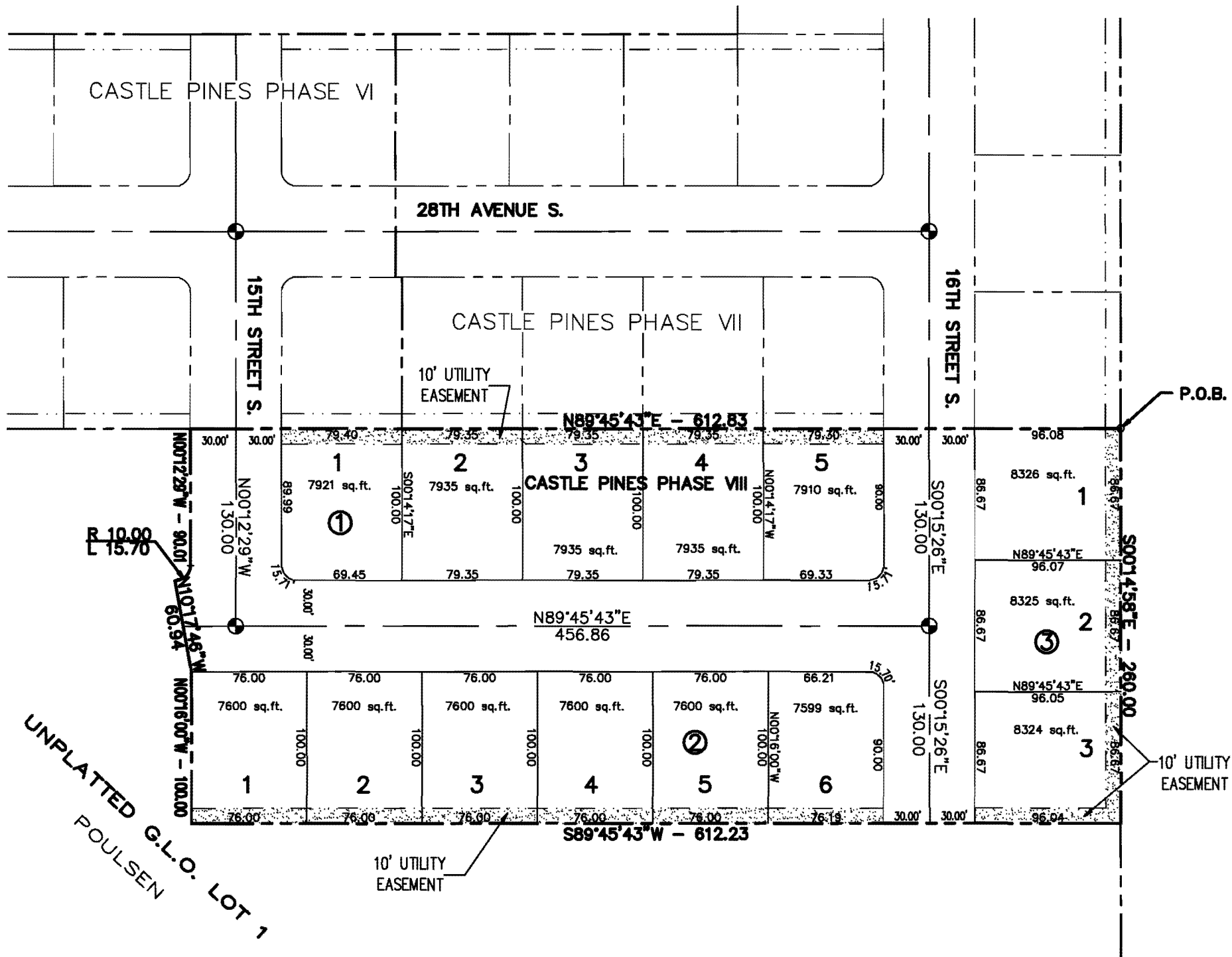
BASIS OF BEARING

BASIS OF BEARING IS TRUE NORTH
BASED ON GEODETIC INVERSES USING
SURVEY GRADE G.P.S. SYSTEM.

AREAS

STREETS -	49,378 SF = 1.134 ACRES
LOTS -	110,210 SF = 2.530 ACRES
TOTAL AREA -	159,588 SF = 3.664 ACRES

5/8"x24" IRON PIN AND CAP SET
AT ALL NEW PROPERTY CORNERS



**ANNEXATION AGREEMENT
FOR
CASTLE PINES ADDITION, PHASE VIII
IN GOVERNMENT LOT 1 OF SECTION 19,
TOWNSHIP 20 NORTH, RANGE 4 EAST,
CASCADE COUNTY, MONTANA**

1. PREFACE

The following is a binding Agreement dated this _____ day of _____, 2009, between HAROLD POULSEN, hereinafter referred to as “Owner,” and the CITY OF GREAT FALLS, MONTANA, a municipal corporation of the State of Montana, hereinafter referred to as “City,” regarding the requirements for filing the Final Plat and the annexation to the corporate limits of City, of CASTLE PINES ADDITION, PHASE VIII, in Government Lot 1 of Section 19, Township 20 North, Range 4 East, Cascade County, Montana, hereinafter referred to as “Subdivision.”

2. PREVIOUS AGREEMENTS

- A. Master Plan Agreement dated November 7, 1995, between Lone Tree, Inc., a Montana statutory close corporation, and the City of Great Falls, filed in the office of the Clerk and Recorder of Cascade County on Reel 285, Document 613.
- B. Off-Site Improvements Trust Fund Agreement, dated November 7, 1995, between Lone Tree, Inc., a Montana statutory close corporation, and the City of Great Falls, filed in the office of the Clerk and Recorder of Cascade County on Reel 285, Document 615.
- C. Economic Development Agreement, dated November 7, 1995, between Lone Tree, Inc., a Montana statutory close corporation, and the City of Great Falls, filed in the office of the Clerk and Recorder of Cascade County on Reel 285, Document 617.

3. PRIOR ACTIONS

The Preliminary Plat of Subdivision, prepared by Woith Engineering, was conditionally approved by City on September 15, 2009.

4. SUPPORTING DOCUMENTS

- A. A final plat of Subdivision prepared by Woith Engineering and filed of record in the Clerk and Recorder's Office of Cascade County, Montana.
- B. Final engineering drawings and specifications prepared by Woith Engineering consisting of documents for sanitary sewer mains, water mains, drainage improvements, paving, sidewalk, curb and gutter. Said drawings and specifications are on file in the City Engineer's office.
- C. Loan commitment letter dated June, 2008, by Stockman Bank of Great Falls, to indicate the capability of Owner to pay for the public improvements referenced in Paragraph 4.B. hereinabove. A copy of the same is filed in the office of the Great Falls City Planning Board.

5. AMENDMENTS

Minor changes to engineering documents and such revisions to the engineering drawings as are deemed appropriate and necessary by City's Engineer and City's Public Works Department and which do not materially affect the hereinabove mentioned final plat, can be made as follows:

- A. The proposed revision will be submitted to City's Public Works Department for review and, if approved, the City Engineer or Public Works Director will sign and adequately annotate the change.
- B. The annotated revision becomes a part of this Agreement upon City's Public Works Department approval.
- C. Changes during construction shall be made by change order approved by City's Public Works Department.
- D. "As Built" reproducible drawings shall be supplied to City's Engineer upon completion of the construction.
- E. All amendments to this Agreement, except as allowable above in this section, shall be in writing and approved by City and Owner.

6. FEES AND CHARGES

A. Prior to annexation of Subdivision, Owner shall, in addition to the Annexation Application Fee of \$100.00, Preliminary Plat Fee of \$800.00, Zoning Application Fee of \$700.00, Annexation Agreement Fee of \$200.00, Final Plat Fee of \$300.00, and Annexation Resolution Fee of \$400.00 which have been paid, pay the following required fee as provided by City policy, ordinances and resolutions:

Recording Fee (\$11 per page x 9 pages)	\$ 99.00
Storm Sewer Fee (\$250/3.664 acre)	\$ 916.00
<u>Total</u>	<u>\$1,015.00</u>

- B. Owner or its successors or assigns shall reimburse City for its expenses incurred in testing and acceptance of public utilities to serve Subdivision at the rates charged by City for said work at the time performed.
- C. Water tapping, water connection, sewer service tapping, and sewer connection fees will be assessed at the time of installation.

D. The absence of any fee from this agreement lawfully charged by the City in connection with construction activity associated with Subdivision shall not constitute a waiver by the City.

7. PUBLIC IMPROVEMENTS

Owner agrees to complete within two (2) years of the date of this Agreement, the installation of the sanitary sewer and water improvements, street paving and curb and gutter to serve Subdivision, according to plans referenced in Paragraph 4.B. above and filed in the City Engineer's office and in accordance with standards of City.

8. RESTRICTIONS ON BUILDING PERMITS AND OCCUPANCY

Building permits for lots in Subdivision shall not be issued until the contracts for installation of the public improvements have been executed. Owner acknowledges that City will not permit the occupancy of any residential structure in Subdivision until street improvement and water and sanitary sewer mains within Subdivision have been installed, tested and accepted by City, which acceptance will not be unreasonably withheld by City.

9. INDEMNIFICATION FOR SOIL CONDITIONS

Owner hereby agrees to indemnify and hold the City, its employees, agents and assigns harmless for and against all claims, attorney fees, judgments, demands and/or liability of every kind and nature, arising out of, or attributable to soil conditions and/or groundwater associated with the herein described property.

10. FUTURE STORM DRAINAGE FACILITIES

Owner hereby agrees to waive right to protest any future area wide special improvement district for storm drainage facilities and further agrees to pay for proportionate share of any future storm drainage improvements which service Subdivision that may be installed with or without an area wide special improvement district. The term "area wide" as used herein, means any area larger than that covered by Subdivision which is a contributor to the drainage sub-basin of which Subdivision is a part.

11. PUBLIC ROADWAY LIGHTING

Owner hereby agrees to waive its right to protest any future special lighting district for public roadway lighting facilities that service Subdivision, and further agrees to pay for proportionate share of the costs associated with roadway lighting which service Subdivision that may be installed with or without a special lighting district.

12. SIDEWALKS

It is hereby agreed that the following exception to the strict adherence of Subdivision requirements will be permitted: sidewalks serving and abutting any lot in Subdivision shall be installed as a condition of final occupancy by the then lot owner within six (6) months (allowing for unfavorable weather conditions only) of occupancy. It is understood that the above provision regarding sidewalks shall not preclude City from exercising its authority provided by Chapter 12.28, Municipal Code of the City of Great Falls pertaining to sidewalks.

13. ADHERENCE TO OFF-SITE IMPROVEMENTS TRUST FUND AGREEMENT

To assist in the eventual expenses in improving 13th Street South and 24th Avenue South in the vicinity of Castle Pines Addition Phase VIII, including water main installation and providing a secondary water source to the Castle Pines development area, a trust fund was created in conjunction with Castle Pines Addition, Phase I. Owner hereby agrees to deposit, as each lot is sold in Castle Pines Addition Phase VIII, \$1,457.00 in the trust fund referenced and established by the Off-Site Improvements Trust Fund Agreement referenced in Paragraph 2.B. above. Said monetary amount was determined by the provisions contained in said Off-Site Improvements Trust Fund Agreement, dated November 7, 1995.

14. WAIVER OF PROTEST OF ANNEXATION

Owner does hereby waive any and all statutory procedure notice on right of protest to annexation of Subdivision, as provided for by State law.

15. WARRANTY, OWNERSHIP AND INSPECTION OF UTILITY AND STREET IMPROVEMENTS

- A. After the public utilities and street improvements described in Paragraph 4.B. hereof have been installed and accepted by City, the same shall be in all respects treated, owned and maintained as though the same had been constructed and installed by City. However, to the extent installed by Owner, Owner or its contractor shall guarantee said improvements against defective work and materials for a period of two (2) years from date of acceptance of the completed improvements by City.
- B. Installation of the public utilities and street improvements described in Paragraph 7. hereof, shall be subject to City's infrastructure inspection policy in place at the time of installation.

16. ANNEXATION PREREQUISITES

Subdivision is contiguous to City; is not included within the boundary of any other incorporated municipality; and is not a part of any fire district existing or organized under any of the provisions of Chapter 33, Title 7, of the Montana Code Annotated. Subdivision, upon annexation to City, will be provided fire protection services by City comparable to that provided incorporated properties.

17. MAINTENANCE DISTRICTS

Owner waives its right to protest the lawful creation by City of maintenance districts for any proper purpose including, but not limited to, fire hydrant and street maintenance and shall pay the proportionate share of the costs associated with said maintenance districts as they may be applied to Subdivision.

18. CITY ACCEPTANCE AND ZONING

In consideration of the foregoing, City hereby accepts and approves the final plat of Subdivision and will approve the property contained within the boundaries of Subdivision for incorporation by annexation into the corporate limits of the City of Great Falls, Montana, as R-3 Single-family high density district zoning classification. It is hereby understood that the preceding language regarding zoning of lots in Subdivision

does not preclude City from reclassifying lots if an area wide reclassification is undertaken, in which event City agrees to reclassify said lots as a conforming use.

19. BINDING EFFECT

The provisions covenants and terms of this Agreement shall run with the land and bind the present owners, their devisees, heirs, successors, and assigns; and any and all parties claiming by, through, or under them, shall be taken to agree and covenant with each of the parties to the Agreement, their devisees, heirs, successors and assigns, to conform to the provisions, covenants and terms of this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

CITY OF GREAT FALLS

A Municipal Corporation of the State of Montana

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

REVIEWED FOR LEGAL CONTENT

City Attorney

OWNER

By: _____
Harold Poulsen

State of Montana)
 :ss.
County of Cascade)

On this _____ day of _____, in the year Two thousand and Nine, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Harold Poulsen, known to me to be the person whose name is subscribed to the instrument within and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana

Notary Public for the State of Montana (Printed)
Residing at _____
My commission Expires _____, 20_____

(NOTARIAL SEAL)



Item: Sale of City Owned Park Land: Lot 1 of Salvation Army Addition – 1000 17th Avenue S.

From: Marty Basta, Parks and Recreation Director

Initiated By: Parks and Recreation Department

Presented By: Marty Basta, Parks and Recreation Director

Action Requested: Conduct a Public Hearing and Approve or Deny Sale of Park Land

Suggested Motion:

1. Mayor conducts public hearing, calling three times each for opponents and proponents.
2. Mayor closes public hearing and asks for the will of the Commission.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission approve/deny the sale of Salvation Army Addition Park property to the Salvation Army, a California Corporation. (Approval requires a 4/5 majority.)
 2. Mayor calls for a second, discussion, and calls the motion and vote.
-

Staff Recommendation: Staff recommends that the City Commission conduct a public hearing for the consideration of the sale of Lot 1 of the Salvation Army Addition Park property located at 1000 17th Avenue South, and approve the sale.

Background: The Salvation Army, a California Corporation, has leased 3.68 acres of park land in the Highland Park Addition since July 1, 1974 at a cost of \$1.00 per year. They have since constructed a Family and Youth Center on the property as well as irrigation and improvements associated with a baseball field. The 35 year lease of the Park property expired July 1, 2009. The Salvation Army contacted the City to request a lease renewal for their facilities on Park property. The Salvation Army indicated that they would be interested in purchasing the Park land, for its appraised value, to provide long term security for the substantial investment made to the property since the original 1974 lease.

In accordance with Title 3, Chapter 4, Section 3.4.040 OCCGF “**Appraisal**” a fair market value was established for the Park land, previously leased by the Salvation Army, based on an appraisal prepared in accordance with Uniform Standards of Professional Appraisal Practices. The 3.68 acres leased by the Salvation Army was appraised at \$470,000.00.

A Minor Plat of the Salvation Army Addition Park property as well as a variance allowing access for Lot 2, the City Pet Cemetery, through an easement provided within Lot 1 of the said Minor Plat was approved by the City Commission on November 3, 2009.

Title 3, Chapter 4, Section 3.04.50 OCCGF “**Bidding**” states that “The sale trade or lease of said property must be made to the highest responsible bidder except:

1. Where there is no actual potential for more than one party interested in making a bid;”

The determination that there are “no actual potential bidders” is based on: 1) The length of the lease between the City and the Salvation Army (35 years); 2) Significant improvements made to the property by the Salvation Army (construction of the building and parking lot); 3) No other party has expressed an interest in leasing the area.

Concurrences: The Park Advisory Board approved the sale of the Salvation Army Addition Park property at their August 10, 2009 meeting. Neighborhood Council #6 also endorsed the sale of the property at their November 4, 2009 meeting. This transaction has been reviewed and approved by the City Attorney.

Fiscal Impact: The sale of that portion of the Salvation Army Addition previously leased by the Salvation Army will provide revenue to the Park Trust Fund.

Alternatives: The City Commission could reject the sale of the Salvation Army Park property and authorize staff to renew the lease of the Park property to the Salvation Army.



Item: Resolution 9872, Adopting an Identity Theft Prevention Program for the City of Great Falls

From: Martha Capps, Operations Supervisor

Initiated By: Compliance with Federal Trade Commission Regulation 16 CFR § 681.2

Presented By: Coleen Balzarini, Fiscal Services Director

Action Requested: Adoption of Resolution 9872

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (adopt/deny) Resolution 9872”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

Staff Recommendation: Staff recommends adoption of Resolution 9872, adopting an Identity Theft Prevention Program for the City of Great Falls.

Background: Beginning January 1, 2008, the Federal Trade Commission (FTC) required businesses and organizations which regularly defer payments for goods or services, or provide goods or services and bill customers later, to implement a written Identity Theft Prevention Program designed to detect, prevent and mitigate the warning signs or “Red Flags” of identity theft in the day to day operations. The City of Great Falls utilities fall under this classification as we bill customers for utility services after the usage or service has already been provided. During the August 4, 2009 City Commission Work Session, the City Commission was briefed on the history, requirements, and proposed implementation of the program.

Fiscal Impact: The anticipated annual cost of \$1,000 incurred to implement the use of a third party identity verification and customized credit risk assessment agency would be offset by the decrease in the amount of dollars written off or submitted to an outside collections agency.

Alternatives: The City Commission could deny adopting Resolution 9872. Although the FTC does not conduct routine compliance audits, the City of Great Falls could, in response to a consumer complaint, be subject to enforcement action and penalties if found to be in violation of the Red Flag Policies established by the FTC.

Attachments/Exhibits: Identity Theft Protection Program

RESOLUTION NO. 9872

**A RESOLUTION ESTABLISHING AN IDENTITY THEFT PREVENTION PROGRAM
FOR THE CITY OF GREAT FALLS, MONTANA**

WHEREAS, pursuant to federal law the Federal Trade Commission (the “FTC”) adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy information and the detection, prevention and mitigation of identity theft;

WHEREAS, the FTC regulations, adopted as 16 CFR § 681.2, require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS, 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends, renews or continues credit, and defines ‘credit’ in part as the right to purchase property or services and defer payment therefore;

WHEREAS, the FTC regulations include utility companies in the definition of creditor;

WHEREAS, the City of Great Falls (the “City”) is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears;

WHEREAS, the FTC regulations define ‘covered account’ in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS, the City provides water, sewer and refuse collection services for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are considered ‘covered accounts’;

WHEREAS, the FTC regulations require each creditor to adopt an Identity Theft Prevention Program (the “Program”) which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS, the FTC regulations, adopted as 16 CFR § 681.1, require users of consumer credit reports to develop policies and procedures relating to address discrepancies between information provided by a consumer and information provided by a consumer credit company;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1. The City recognizes the responsibility to safeguard personal customer information within the workplace.

Section 2. The creation and implementation of an Identity Theft Prevention Program will identify, detect, mitigate, and update red flags that signal the possibility of identity theft in connection with the opening of a ‘covered account’ or any existing ‘covered account’.

Section 3. This program will utilize guidelines set forth in the Federal Trade Commission “Red Flags Rules and Address Discrepancy Rules” under the Fair and Accurate Credit Transaction Act of 2003 (FACTAct Red Flag Policy 2003).

The Red Flag Policy and Identity Theft Protection Program, attached as Exhibit A, is hereby adopted and approved. This Resolution shall be in full force and effect upon its passage and adoption.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana,
December 1, 2009.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

Chad Parker, Acting City Attorney

Identity Theft Protection Program

1. Definitions. For purposes of this Policy, the following definitions apply ¹;

(A) 'City' means the City of Great Falls, Montana

(B) 'Covered account' means (i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a utility account; and (ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers, or to the safety and soundness of the financial institution or creditor, from identity theft including financial, operational, compliance, reputation, or litigation risks.

(C) 'Credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

(D) 'Creditor' means any person who regularly extends renews or continues credit; any person who regularly arranges for the extension renewal or continuation of credit, or any assignee of an original creditor who participates in the decision to extend renew or continue credit and includes utility companies.

(E) 'Customer' means a person that has a covered account with a creditor.

(F) Identity theft means a fraud committed or attempted using identifying information of another person without authority.

(G) 'Person' means a natural person, a corporation, government or governmental subdivision, or agency, trust, estate, partnership, cooperative, or association.

(H) 'Personal Identifying Information' means a person's credit card account information, debit card information, bank account information, and drivers license information, and for a natural person, includes their social security number, mother's birth name, and date of birth.

(I) 'Red flag' means a pattern practice or specific activity that indicates the possible existence of identity theft.

(J) 'Service provider' means a person that provides a service directly to the City.

¹ Other than 'City' and 'Personal Identifying Information', definitions provided in this section are based on the definitions provided in Federal Trade Commission regulation 16 CFR § 681.2.

2 . Findings.

(A) The City is a creditor pursuant to 16 CFR § 681.2, due to its provision or maintenance of covered accounts for which payment is made in arrears.

(B) The processes of opening a new covered account, restoring an existing covered account, making payments on such accounts have been identified as potential processes in which identity theft could occur.

(C) The City limits access to personal identifying information to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered into the City's Utility Billing system and the contract is filed in a secure area.

(D) The City determines that there is a *low risk* of identity theft occurring in the following ways:

- (1) Use by an applicant of another person's personal identifying information to establish a new covered account;
- (2) Use of a previous customer's personal identifying information by another person, in an effort to have service restored in the previous customer's name;
- (3) Use of another person's credit card bank account or other method of payment, by a customer to pay such customers' covered account or accounts;
- (4) Use by a customer desiring to restore such customer's covered account, of another person's credit card bank account or other method of payment.

3. Process of Establishing a Covered Account.

(A) As a precondition to opening a covered account in the City, each applicant shall provide the City with any personal identifying information necessary, as may be reasonably requested by the employee opening said account, to help authenticate customers and monitor account transactions, including address changes. Such information shall be entered into the City's Utility Billing system and the contract then filed in a secure area. As a part of the identification process, the City will be utilizing a third party identity verification and customized credit risk assessment agency. The initial agency will be "ONLINE UTILITY EXCHANGE".

(B) Each account shall be assigned an individualized account number based on customer name, billing address and location address.

4. Access to Covered Account Information

(A) Access to customer accounts shall be limited to authorized City personnel.

(B) Any unauthorized access to, or other breach of customer accounts is to be reported immediately to the Operations Supervisor and appropriate actions taken depending on the extent of the breach.

(C) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the Operations Supervisor and the City Attorney.

(D) For any account holder of a covered account, for which the above information is not already on file at City of Great Falls Utilities, the customer will be contacted within a reasonable period of time, after discovering the missing information, to obtain the necessary information.

5. Credit Card Payments.

(A) Credit card payments, which are currently allowed over the Internet, are processed through a third party service provider, initially 'Authorize.net'. This third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.

(B) All credit card payments taken over the telephone by authorized City personnel shall be entered directly into the customer's account information in the Utility Billing database.

(C) Receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

6. Sources and Types of Red Flags

(A) All employees responsible for or involved in the process of opening a covered account, restoring a covered account or accepting payment for a covered account, shall check for red flags as indicators of possible identity theft and such red flags may include:

(1) Alerts from consumer reporting agencies fraud detection agencies or service providers. Examples of alerts include but are not limited to:

- a. A fraud or active duty alert that is included with a consumer report;
- b. A notice of credit freeze in response to a request for a consumer report;
- c. A notice of address discrepancy provided by a consumer reporting agency;
- d. Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer such as:
 - i. A recent and significant increase in the volume of inquiries;
 - ii. An unusual number of recently established credit relationships;
 - iii. A material change in the use of credit especially with respect to recently established credit relationships; or
 - iv. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(B) Suspicious documents. Examples of suspicious documents include:

(1) Documents provided for identification that appears to be altered or forged;

(2) Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;

(3) Identification on which the information is inconsistent with information provided by the applicant or customer;

(4) Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor such as a signature card or a recent check; or

(5) An application that appears to have been altered or forged or appears to have been destroyed and reassembled.

(C) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:

(1) Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:

- a. The address does not match any address in the consumer report or
- b. The Social Security Number (SSN) has not been issued or is listed on the Social Security Administration's Death Master File.

(2) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer such as a lack of correlation between the SSN range and date of birth.

(3) Personal identifying information or a phone number or address is associated with known fraudulent applications or activities as indicated by internal or third party sources used by the financial institution or creditor.

(4) Other information provided such as fictitious mailing address, mail drop Addresses, jail addresses, invalid phone numbers, pager numbers, or answering service is associated with fraudulent activity.

(5) The SSN provided is the same as that submitted by other applicants or customers.

(6) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers.

(7) The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.

(8) Personal identifying information is not consistent with personal identifying information that is on file with the financial institution or creditor.

(9) The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(D) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activities include:

(1) Shortly following the notice of a change of address for an account, City receives a request for the addition of authorized users on the account.

(2) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:

The customer fails to make the first payment or makes an initial payment, but no subsequent payments.

(3) An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

Nonpayment when there is no history of late or missed payments;

A material change in purchasing or spending patterns.

(4) An account that has been inactive for a long period of time is used, taking into consideration the type of account, the expected pattern of usage, and other relevant factors.

(5) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account.

(6) The City is notified that the customer is not receiving paper account statements.

(7) The City is notified of unauthorized charges or transactions in connection with a customer's account.

(8) The City is notified by a customer, law enforcement, or another person that it has opened a fraudulent account for a person engaged in identity theft.

(E) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

7. Prevention and Mitigation of Identity Theft

(A) In the event that any City employee responsible for, or involved in an application for a new account becomes aware of red flags indicating possible identity theft with respect to, restoring an existing covered account, or accepting payment for a covered account, such employee shall use their discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in their discretion, such employee determines that identity theft or attempted identity theft is likely or probable such employee shall immediately report such red flags to the Finance Director. If in their discretion such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags the employee shall convey this information to the Finance Director who may in their discretion determine that no further action is necessary. If the Finance Director, in their discretion, determines that further action is necessary a City employee shall perform one or more of the following responses as determined to be appropriate by the Finance Director:

Application for a new account:

- (1) Request additional identifying information from the applicant
- (2) Deny the application for the new account
- (3) Notify law enforcement of possible identity theft or
- (4) Take other appropriate action to prevent or mitigate identity theft

Restoring an existing account, or accepting payment for a covered account:

- (1) Contact the customer.
- (2) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:
 - (a) change any account numbers passwords security codes or other security devices that permit access to an account; or
 - (b) close the account.
- (3) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector or collections agency in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;
- (4) Notify a debt collector or collections agency within 72 hours of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector or collections agency in the event that a customer's account has been sold to a debt collector or collections agency prior to the discovery of the likelihood or probability of identity theft relating to such account;
- (5) Notify law enforcement in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or
- (6) Take other appropriate action to prevent or mitigate identity theft.

8. Program Administration

(A) The Operations Supervisor is responsible for oversight of the program, and for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account, or accepting payment for a covered account with respect to the implementation and requirements of the Identity Theft Prevention Program.

(B)The Operations Supervisor will report to the Fiscal Services Director and City Attorney at least annually on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:

- (1) The effectiveness of the policies and procedures of City in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts
- (2)Service provider arrangements
- (3) Significant incidents involving identity theft and management response; and
- (4) Recommendations for material changes to the Program.

(C)The Fiscal Services Director and City Attorney are responsible for reviewing reports prepared by the Operations Supervisor regarding compliance with red flag requirements and with recommending material changes to the program as necessary, in their discretion, to address changing identity theft risks and to identify new or discontinued types of covered accounts.

9. Updating the Program

(A) The determination to make changes and update the Administrative Rules for the Identity Theft Prevention Program, along with any relevant red flags in order to reflect changes in risks to customers, or to the safety and soundness of the City and its covered accounts from identity theft will be brought before the City Commission, by the Fiscal Services Director, for final approval. In so doing, the City Commission shall consider the following factors and exercise its discretion in amending the program:

- (1)The City's experiences with identity theft;
- (2) Updates in methods of identity theft;
- (3) Updates in customary methods used to detect prevent and mitigate identity theft;
- (4) Updates in the types of accounts that the City offers or maintains; and
- (5) Updates in service provider arrangements.

10. Outside Service Providers

(A) In the event that the City engages a service provider to perform an activity in connection with one or more covered accounts, the Operation Supervisor shall exercise their discretion in reviewing such arrangements in order to ensure, to the best of their ability, that the service provider's activities are conducted in accordance with policies and procedures agreed upon by contract that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

(B) Any contracts entered into with outside service providers will be approved in accordance with City policies regarding contract execution.

11. Treatment of Address Discrepancies

(A) Pursuant to 16 CFR § 681.1, the purpose of this section is to establish a process by which the City will be able to form a reasonable belief that a consumer report relates to the consumer about whom it has requested a consumer credit report, when the City has received a notice of address discrepancy.

(B) In the event that the City receives a notice of address discrepancy the City employee responsible for verifying consumer addresses for the purpose of providing the municipal service or account sought by

the consumer shall perform one or more of the following activities as determined to be appropriate by such employee:

- (1) Compare the information in the consumer report with:
 - (a) Information the City obtains and uses to verify a consumers identity in accordance with the requirements of the Customer Information Program rules implementing 31 U.S.C § 5318(1);
 - (b) Information the City maintains in its own records such as applications for service change of address notices other customer account records or tax records; or
 - (c) Information the City obtains from third party sources that are deemed reliable by the relevant City employee; or
- (2) Verify the information in the consumer report with the consumer.

12. Furnishing Consumers Address to Consumer Reporting Agency

(A) In the event that the City reasonably confirms that an address provided by a consumer to the City is accurate, the City is required to provide such address to the consumer-reporting agency from which the City received a notice of address discrepancy with respect to such consumer. This information is required to be provided to the consumer-reporting agency when:

- (1) The City is able to form a reasonable belief that the consumer report relates to the consumer about whom the City requested the report
- (2) The City establishes a continuing relation with the consumer; and
- (3) The City regularly and in the ordinary course of business provides information to the consumer-reporting agency from which it received the notice of address discrepancy

(B) Such information shall be provided to the consumer-reporting agency as part of the information regularly provided by the City to such agency for the reporting period in which the City establishes a relationship with the customer.

13. Methods of Confirming Consumer Addresses

(A) The City employee charged with confirming consumer addresses may, in their discretion, confirm the accuracy of an address through one or more of the following methods:

- (1) Verifying the address with the consumer
- (2) Reviewing the City's records to verify the consumers address
- (3) Verifying the address through third party sources or
- (4) Using other reasonable processes.



Item: Ordinance 3047, Repealing Title 8, Chapter 7, of the OCCGF

Initiated By: Great Falls City Commission (Based on discussion held at the Commission Agenda Meeting November 24, 2009)

Presented By: Commissioner Bronson

Action Requested: Approve Ordinance 3047 on first reading, and set public hearing for December 15, 2009

Suggested Motion:

1. Commissioner moves:

"I move the City Commission (approve/deny) Ordinance 3047 on first reading, and set a public hearing for December 15, 2009.

2. Mayor calls for a second, discussion amongst the Commissioners, inquiries from the public, and calls for the vote.

Recommendation: That the City Commission approve Ordinance 3047 on first reading, and set a public hearing for December 15, 2009.

Background: The Montana Legislature has adopted what is commonly referred to as the "Montana Clean Indoor Air Act," Mont. Code Ann. §§ 50-40-101 through -115 ["the Act"], which is designed to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment. The Montana Department of Public Health and Human Services has adopted regulations to carry out the purposes and intent of the Act. The focus of the Act and regulations adopted pursuant to the Act is avoidance of smoke in enclosed public places.

Prior to 2006, the City of Great Falls had its own smoking ordinance, first adopted in 1999, following extensive public discussion. The ordinance was incorporated in Title 8, Chapter 7, of the Official Code of the City of Great Falls. In the late fall of 2006, the Great Falls City Commission adopted Ordinance 2956, which largely repealed most of Title 8, Chapter 7, as being in conflict with or inconsistent with several provisions of the Act, which was substantially amended by the 2005 session of the Montana Legislature.

As part of Ordinance 2956, the Commission adopted language prohibiting smoking within a minimum distance of twenty feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited, so as to ensure that tobacco

smoke does not enter the area through entrances, exits, open windows, or other means. Much of the reasoning behind the so-called “twenty-foot rule” was to provide relief to parties entering and exiting the south entrance of the Civic Center, near the offices of the Great Falls Municipal Court.

Based on recent presentations to the City Commission at the Work Session held November 17, 2009, the Commission is concerned that provisions of the current ordinance may be duplicative of state law and regulation, to the extent that public health authorities are already empowered under the Act to sanction parties that allow infiltration of smoke into enclosed public places, regardless of the distance between the origin of the smoke and the entrances, exits, open windows, and ventilation intakes serving an otherwise enclosed public area. Furthermore, the Commission is also concerned that enforcement of the current provisions of Title 8, Chapter 7, are problematic, in that the ordinance cannot be enforced in certain instances where the twenty-foot distance requirement extends beyond the property of the owner of an enclosed place, and that a uniform distance requirement is otherwise unrealistic in certain instances.

For these reasons, the Commission proposes repeal of the existing ordinance. In making this proposal, the Commission is not expressing opposition to the Montana Clean Indoor Air Act or the regulations adopted in conformance with the Act; rather, there is an expectation that state law and regulations will be enforced appropriately. Furthermore, it is anticipated that owners of enclosed public places will be free to adopt such policies as they deem necessary not only to be in compliance with state law, but as they may find appropriate to address concerns with smoking immediately outside their premises. For example: businesses with sufficient property immediately outside enclosed buildings could adopt and enforce their own 20-foot rule if they so choose. They could also adopt a more stringent rule if that is their desire and if such adoption is practical. Conversely, businesses that do not have that much property immediately outside of their entrances or exits will not have to be concerned that they will be subject to enforcement of a rule that is impractical given their circumstances. They will, however, still be subject to state law, and they will have to be careful not to allow smoke infiltration in to their building.

The Commission also anticipates separately directing the City Manager to adopt a policy continuing the 20-foot distance rule for the Civic Center, and possibly other city-owned buildings as well.

Alternatives: The City Commission could choose to deny Ordinance 3047.

Attachment: Ordinance 3047

ORDINANCE 3047

AN ORDINANCE REPEALING TITLE 8, CHAPTER 7, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS

WHEREAS, the Montana Legislature has adopted what is commonly referred to as the “Montana Clean Indoor Air Act,” Mont. Code Ann. §§ 50-40-101 through -115 [“the Act],” which is designed to protect the public health and welfare by prohibiting smoking in enclosed public places and places of employment; and

WHEREAS, the Montana Department of Public Health and Human Services has adopted regulations to carry out the purposes and intent of the Act; and

WHEREAS, the focus of the Act and regulations adopted pursuant to the Act is avoidance of smoke in enclosed public places; and

WHEREAS, in 2006, the Great Falls City Commission largely repealed most of Title 8, Chapter 7, of the Official Code of the City of Great Falls, dealing with smoking in public places, as being in conflict with or inconsistent with several provisions of the Act; and

WHEREAS, in 2006, the Great Falls City Commission adopted Ordinance 2956, which prohibits smoking within a minimum distance of twenty feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited, so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means; and

WHEREAS, much of the reasoning behind the so-called “twenty-foot rule” was to provide relief to parties entering and exiting the south entrance of the Civic Center, near the offices of the Great Falls Municipal Court; and

WHEREAS, the provisions of the ordinance are duplicative of state law and regulation, to the extent that public health authorities are empowered under the Act to sanction parties that allow infiltration of smoke into enclosed public places, regardless of the distance between the origin of the smoke and the entrances, exits, open windows, and ventilation intakes serving an otherwise enclosed public area; and

WHEREAS, the Great Falls City Commission finds that enforcement of the current provisions of Title 8, Chapter 7, is also problematic, in that the ordinance cannot be enforced in certain instances where the twenty-foot distance requirement extends beyond the property of the owner of an enclosed place; and that a uniform distance requirement is otherwise unrealistic in certain instances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That the provisions of Title 8, Chapter 7, of the Official Code of the City of Great Falls, are hereby repealed.

APPROVED by the City Commission on first reading December 1, 2009.

PASSED, APPROVED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on second reading December 15, 2009.

Dona R. Stebbins, Mayor

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

APPROVED FOR LEGAL CONTENT:

Chad Parker, Acting City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Lisa Kunz, City Clerk of the City of Great Falls, Montana, do hereby certify that I did post, as required by law and as prescribed and directed by the City Commission, Ordinance 3047 in three places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Court House;
On the Bulletin Board, Great Falls Public Library

(Seal of the City)

Lisa Kunz, City Clerk

Regular City Commission Meeting

Mayor Stebbins presiding

CALL TO ORDER: 7:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL: City Commissioners present: Dona R. Stebbins, Bill Bronson, John Rosenbaum and Bill Beecher. Also present were the City Manager, Assistant City Manager, Acting City Attorney, Directors of Community Development, Fiscal Services, Park and Recreation, Planning and Public Works, the Administrative Library Assistant, Fire Chief, Police Chief, and the City Clerk.

NEIGHBORHOOD COUNCILS

NC 8.

1. Karen Grove, Chair NC 8, invited everyone to attend their joint neighborhood council meeting with NC 4 at the Pre-Release Center on Thursday, November 19, 2009, at 6:30 p.m., for a one hour presentation on neighborhood resources in times of emergency mapping.

PUBLIC HEARINGS

OLD BUSINESS

**MOU – City/ULRR
Water & Sewer District
3. Approved.
OF 1354.3.**

2. MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND UPPER/LOWER RIVER ROAD WATER AND SEWER DISTRICT FOR SERVICE DISTRICT #3.

Planning Director Michael Haynes reported that, after a majority of property owners voted in favor on November 3, 2009, the Upper/Lower River Road Water and Sewer Service District is prepared to move forward with installation of water and sewer infrastructure for Service District #3, which comprises 34 single family homes. The District and the property owners in Service District #3 will be responsible for paying the cost of the water and sewer infrastructure which is estimated to cost \$1,378,000.

The MOU sets forth conditions for properties in Service District #3 to connect to City water and sewer and for the subsequent annexation of the 34 homes into the City.

Mr. Haynes noted that this MOU is consistent with MOUs for Service Districts #1 and #2, approved by City Commission on November 3, 2004, and January 16, 2007, respectively. Approval was followed by annexation of 196 parcels (115 + 81).

Each MOU is followed by an inter-local agreement that addresses specific implementation procedures.

Mr. Hayes requested that the City Commission approve the MOU for Service District #3 and authorize the City Manager to execute the agreement.

Board President of the Upper/Lower River Road Water and Sewer District, John Stephenson-Love, reported that the process began eight years ago due to severe problems with water pollution. He explained the history of Districts 1 and 2, annexations of said districts, and funding sources. He also provided an overview of funding sources and a projected timeframe for District 3. The balance of the City contributed CDBG funds will be expended during phase 4 of the project. As a result of the completion of new water and sewer lines, there has been significant development in the area since 2006. Mr. Stephenson-Love thanked the City for its assistance with this project.

Commissioner Bronson moved, seconded by Commissioner Rosenbaum, that the City Commission approve the Memorandum of Understanding between the City and Upper/Lower River Road Water and Sewer District for Service District #3 and authorize the City Manager to execute the agreement.

Mayor Stebbins asked if there was any discussion amongst the Commissioners.

Commissioner Rosenbaum commented that this was a great project for development, growth and increasing the tax base.

Mayor Stebbins thanked Mr. Stephenson-Love for his years of hard work on this project.

Mayor Stebbins asked if there were any inquiries from the public. No one responded.

Motion carried 4-0.

NEW BUSINESS

ORDINANCES/RESOLUTIONS

**Consent Agenda.
Approved.**

CONSENT AGENDA

3. Minutes, November 3, 2009, Commission meeting.
4. Total expenditures of \$1,989,807 for the period of October 26 through November 10, 2009, to include claims over \$5,000, in the amount of \$1,831,934.
5. Contracts list.
6. Lien release list.
7. Set public hearing for December 1, 2009, for consideration of the sale of

- the Salvation Army Addition park property.
8. Accept DOE Energy Efficiency & Conservation Block Grant award in the amount of \$570,100.
 9. Approve final payment in the amount of \$4,593.63 to United Materials of Great Falls and the State Miscellaneous Tax Division for Central Avenue – 7th to 9th Street Mill and Overlay. **OF 1573.2**

Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission approve the Consent Agenda as presented.

Mayor Stebbins asked if there was any discussion amongst the Commissioners. No one responded.

Mayor Stebbins asked if there were any inquiries from the public.

Ron Gessaman, 1006 36th Avenue NE. With regard to Item 4, Mr. Gessaman referred to the payment to Burns & McDonnell and commented that their report was overdue. City Manager Doyon responded that the payment was a partial payment for the services rendered. Their report is substantially complete. Burns & McDonnell have been provided with information throughout this process and are working on that to provide recommendations and insight. Mr. Doyon reported that he gave them an extension, but it will not result in additional cost to the City. He did note that two trips to Great Falls were allocated which Burns & McDonnell have already used for their initial conversations with staff and customers of ECP, and the public meeting. Depending on how the Commission wants the report presented, there may be an additional trip expense. Mr. Doyon anticipated having the report by the end of the month.

Mr. Gessaman asked for an explanation regarding the payment to MMIA for general liability deductible recoveries. Fiscal Services Director Coleen Balzarini explained that the entire payment is made when claims are processed through MMIA. The deductible amount that the City is responsible for is paid to MMIA.

With regard to Item 7, Mr. Gessaman discussed appraisal values and his perception that the City didn't get "top dollar" for the sale of a parcel by the Civic Center in August compared to the sale of the Salvation Army property. He inquired about the determination that there were no potential bidders because of the length of the lease between the City and the Salvation Army. Park and Recreation Director Marty Basta responded that when the lease expired in July, the Salvation Army expressed interest in purchasing property. The Park Board supported extending the lease pending finalization of the terms of the sale.

With regard to Item 8, Mr. Gessaman assumed there were warranties and inquired why a project on the list was to replace 19 fogged window panes

in the City/County Health Building. Commissioner Rosenbaum responded that normally a warranty on commercial construction is one year.

Motion carried 4-0.

BOARDS & COMMISSIONS

10. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

CITY MANAGER

11. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

City Manager Gregory T. Doyon thanked the Commissioners for their patience while he was absent the last two meetings due to a death in the family and attending an OEA conference. He reported that he received notice from Mike Rattray that he will be retiring effective the end of December. Mr. Doyon expressed appreciation for Mike's services. Mr. Doyon also presented Assistant City Manager Cheryl Patton with an ICMA award recognizing her for 30 years of public service.

PETITIONS AND COMMUNICATIONS

12. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Stebbins opened the meeting to Petitions and Communications.

12A. Ron Gessaman, 1006 36th Avenue NE, suggested that the City take adequate steps to rectify the drainage problem on River Drive South near the Wave Rider. He also discussed a November 15th *Tribune* article regarding preparation of a list of City park property. Before a list becomes final, Mr. Gessaman suggested meetings with neighborhood councils and a public hearing.

CITY COMMISSION

13. MISCELLANEOUS REPORTS AND ANNOUNCEMENTS.

Mayor Stebbins thanked Sacajawea Elementary School for their invitation to read to the children. She commented that they were the most well behaved 300+ youngsters that she has ever seen. They were very appreciative and she had a lot of fun.

She also thanked Mr. Rattray for his many years of service, and that he and Ms. Patton deserve high praise.

In response to Mr. Gessaman, Mr. Doyon followed-up that he directed Mr. Basta to prepare a list because there are miscellaneous parcels not on the tax

rolls and not being used by the City. He thought it would be appropriate to put a list together for Commission consideration.

ADJOURNMENT

Adjourn.

There being no further business to come before the Commission, **Commissioner Bronson moved, seconded by Commissioner Beecher, that the regular meeting of November 17, 2009, be adjourned at 7:35p.m.**

Motion carried 4-0.

Mayor Stebbins

City Clerk

Minutes Approved: December 1, 2009



ITEM: \$5,000 Report
 Invoices and Claims in Excess of \$5,000

PRESENTED BY: Fiscal Services Director

ACTION REQUESTED: Approval with Consent Agenda

TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:

MASTER ACCOUNT CHECK RUN FOR NOVEMBER 11, 2009 TO NOVEMBER 18, 2009	728,852.05
MUNICIPAL COURT ACCOUNT CHECK RUN FOR NOVEMBER 7, 2009 TO NOVEMBER 13, 2009	42,373.00
WIRE TRANSFERS FROM NOVEMBER 11, 2009 TO NOVEMBER 19, 2009	311,062.07
TOTAL: \$	<u>1,082,287.12</u>

SPECIAL REVENUE FUND

PLANNING

GREAT FALLS TRANSIT DISTRICT	REIMBURSEMENT 4TH QUARTER	17,914.78
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STREET DISTRICT

DICKMAN EXCAVATING	SANDING MATERIAL	40,869.68
GREAT FALLS REDI-MIX, INC.	ASPHALT	33,074.79

PARK & RECREATION SPECIAL REVENUE

MIRACLE RECREATION EQUIPMENT CO	PURCHASE PLAYGROUND STRUCTURE RUSSELL PARK THROUGH NEIGHBORHOOD COUNCIL	10,161.35
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ENTERPRISE FUNDS

WATER

PHILLIPS CONSTRUCTION	PMT #4 3RD, 4TH & 5TH AVENUES NORTH WATER MAIN REPLACEMENT	201,067.20
LARSON DATA COMMUNICATIONS	INSPECTION, CALIBRATION & TRAINING FOR WTP RADIO TELEMTRY SYSTEM	7,044.55

SEWER

VEOLIA WATER NORTH AMERICA	MONTHLY WWTP OPERATION CONTRACT	237,651.09
VEOLIA WATER NORTH AMERICA	MONTHLY CONTRACTED CAPITAL IMPROVEMENTS	12,500.00
HD SUPPLY WATERWORKS	BAY DRIVE FORCE MAIN REPAIRS	28,539.00

ELECTRIC			
SOUTHERN	PMT OF ENERGY SUPPLY EXPENSE OCT 09		86,945.90
	CASH ON DEPOSIT OCT 09		26,690.62
CIVIC CENTER EVENTS			
GREAT FALLS SYMPHONY	PAYOUTS CIRQUE DREAMS		6,340.30
TD BANKNORTH	MOSCOW BALLET NUTCRACKER		18,206.71
INTERNAL SERVICES FUND			
HEALTH & BENEFITS			
BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS NOV 3-NOV 09, 2009		156,298.24
BLUE CROSS/BLUE SHIELD	HEALTH INS CLAIMS NOV 10-NOV 16, 2009		52,007.39
CENTRAL GARAGE			
MOUNTAIN VIEW CO-OP	FUEL		16,231.12
TRUST AND AGENCY			
COURT TRUST MUNICIPAL COURT			
CITY OF GREAT FALLS	FINES & FORFEITURES COLLECTIONS		40,837.00
CLAIMS OVER \$5000 TOTAL:		\$	<u>992,379.72</u>

CITY OF GREAT FALLS, MONTANA

AGENDA: 9

COMMUNICATION TO THE CITY COMMISSION

DATE: December 1, 2009

ITEM: CONTRACT LIST
Itemizing contracts not otherwise approved or ratified by City Commission Action
(Listed contracts are available for inspection in the City Clerk’s Office.)

PRESENTED BY: Lisa Kunz, City Clerk

ACTION REQUESTED: Ratification of Contracts through the Consent Agenda

MAYOR’S SIGNATURE: _____

CONTRACT LIST

	DEPARTMENT	OTHER PARTY (PERSON OR ENTITY)	PERIOD	FUND	AMOUNT	PURPOSE
A	Public Works – Central Garage	Northwest Fuel Systems	FY 09-10	631-Central Garage	\$12,988	Repair concrete and fuel system plumbing at the Public Works site to bring site into DEQ compliance
B	Park and Recreation/ Mansfield Events	K & J Convention Services, LLC	March 22-27, 2010	571	\$8,974.50	Contract for services to promote Made In Montana Marketplace



Item: Resolution 9870 for Conditional Use Permit to allow a Worship Facility on the South 51 feet of Lots 1 and 2, Block 373, Original Townsite to Great Falls (111 6th Street South)

From: Charles Sheets, Planner 1

Initiated By: River of Hope Church, Pastor Victor Garza

Presented By: Mike Haynes, Planning Director

Action Requested: City Commission set public hearing for Resolution 9870.

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission set a public hearing for January 5, 2010 to consider adoption of Resolution 9870.”

2. Mayor calls for a second, discussion, inquires from the public, and calls the vote.

Zoning Commission Recommendation: At the conclusion of a public hearing held November 10, 2009, the Zoning Commission passed a motion recommending the City Commission grant a conditional use permit to allow the South 51 feet of Lots 1 and 2, Block 373, Original Townsite to Great Falls, addressed as 111 6th Street South, to serve as a worship facility.

Background: River of Hope Church leases the building, addressed as 111 6th Street South, from the Stanley C Anderson, Trust, which is represented by Steven Allen Anderson. The leasee and owner have applied for a conditional use permit to allow the worship facility at this location.

Subject property is zoned C-4 Central business core district wherein a worship facility is permitted upon processing and approval of a conditional use permit. (See attached Vicinity/ Zoning map.)

The definition in the Unified Land Development Code for worship facility is “a place and/or building, or portion thereof, that has tax-exempt status and that is used or is intended as a place where people can regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, rectories, and day care centers within the same structure. The term does not include community

recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.”

The applicants have stated that the church currently has 30 members and anticipates a growth of 10 to 20 members. The church members gather on Sundays 11:00 a.m. – 2:00 p.m., Tuesdays 7:00 p.m. – 8:30 p.m. and Saturdays 6:00 p.m. – 7:30 p.m. The subject building has two off street parking spaces normally used by the pastors. Members of the church use the on street parking. The services conducted on Tuesdays and Saturdays after normal business hours, so as not to conflict with surrounding businesses. The owner and worship facility have obtained permission from the manager of KTGF and Pats Auto Body to use the parking lots just south of the alley.

Neighborhood Council No. 7 has discussed the conditional use permit application. As of the time of writing this report, the Council had not provided comment. However, the City Neighborhood Council Coordinator stated that Council 7 was supportive of the conditional use permit allowing a worship facility at 111 6th Street South if the City parking requirements are met.

Attached is a Memorandum from the City Parking Supervisor, dated October 22, 2009, stating that the City parking requirements are met. (See attached memo.)

Casinos are a permitted use in the C-4 Central business core zoning district. Approval of the conditional use permit for a worship facility will preclude a casino from locating within 600 feet of the subject property although any existing legal gaming operation within that range would be allowed to continue operation.

The procedure for processing a conditional use is identical to that for a City zone change. Following a public hearing and recommendation by the Planning Board, the City Commission shall conduct a public hearing and arrive at a final decision regarding the conditional use application. The City Commission may, through a written agreement with the applicant, establish such conditions and restrictions upon the construction, maintenance and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with standards and requirements.

The City Zoning Code lists the seven following criteria to be applied to a request for a conditional use for evaluation purposes.

1. The conditional use is consistent with City’s growth policy and applicable
2. That the establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the health, safety, morals, comfort or general welfare.
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the neighborhood.
4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

A goal in the land use element of the Growth Policy is “to preserve and enhance the character, quality, and livability of existing neighborhoods”. The Growth Policy states proposed land use changes should be evaluated according to the type of neighborhood affected, which in this case, is established and stable. Land use changes should be compatible with the type, scale, and physical character of the neighborhood.

The on streets parking spaces in the vicinity of the worship facility appear to incur minimal use. In addition, there are existing off-site parking lots to the north and south of the worship facility that can absorb additional parking.

Staff concludes no significant negative aspects, associated with the seven above mentioned criteria, should result from the approval of the conditional use permit, provided that the Church and the neighboring businesses continue to share parking.

Vacant commercial structures in the vicinity of the central business district have been an attraction for new and/new growing religious congregation searching for floor space.

During the public hearing held by the Zoning Commission, Mr. Steve Anderson, representing the owner of the property, and Mr. Victor Garza, pastor of the River of Hope Church, spoke in support of the conditional use permit. No opponents spoke. The State and local code requirement for a 600 foot separation between churches and casinos was discussed at length by the Zoning Commission. The Zoning Commissions primary concern was whether or not property owners within the C-4 zoning district and within 600 feet of the subject property realize that approval of the conditional use permit allowing the church would preclude placement of any new casinos within that radius. The Zoning Commission, at the conclusion of the public hearing, passed a motion recommending approval of the conditional use permit with strong emphasis on noting the impact that allowing smaller worship facilities downtown may have on establishments involved with serving alcohol and/or gaming. A copy of the minutes of the Zoning Commission hearing will be provided to the City Commission prior to the hearing on January 5, 2010.

Concurrences: Representatives from the Community Development Department have been involved throughout the review and approval process for this project.

Fiscal Impact: No change in providing services due to conditional use permit.

Alternatives: If there are justifiable reasons to do so, the City Commission could deny the requested action to the extent allowed in City Code and State Statute.

Attachments/Exhibits: Resolution 9870, Vicinity/Zoning Map, Memo from City Parking and Supervisor, dated October 22, 2009

Cc: Mike Rattray, Community Development Director
Kim McCleary, City Parking Supervisor
River of Hope Church, P.O. Box 6234, Great Falls, MT 59406
Steven Allen Anderson, 701 51st St S, Great Falls, MT 59405

RESOLUTION 9870

A RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW A WORSHIP FACILITY
ON THE SOUTH 51 FEET OF LOTS 1 AND 2, BLOCK 373,
ORIGINAL TOWNSITE TO GREAT FALLS,
ADDRESSED AS 111 6TH STREET SOUTH

* * * * *

WHEREAS, the Stanley C Anderson, Trust, represented by Steven Allen Anderson, presently own the South 51 feet of Lots 1 and 2, Block 373, Original Townsite to Great Falls, addressed as 111 6th Street South; and

WHEREAS, said South 51 feet of Lots 1 and 2 are occupied by a commercial structure, which previously accommodated a window sales and repair shop; and

WHEREAS, River of Hope Church, Pastor Victor Garza, recently leased subject building to utilize as a worship facility; and

WHEREAS, said South 51 feet of Lots 1 and 2 is presently zoned C-4 Central business core district wherein a worship facility is permitted upon processing and approval of a conditional use application; and

WHEREAS, Steven Allen Anderson and River of Hope Church have applied for a conditional use permit to allow the commercial structure on subject South 51 feet of Lots 1 and 2 to serve as a worship facility; and

WHEREAS, the Great Falls Zoning Commission conducted a public hearing on November 10, 2009, to consider said conditional use permit application and at the conclusion of said hearing, passed a motion recommending a conditional use permit be granted to allow a worship facility on the South 51 feet of Lots 1 and 2, Block 373, Original Townsite to Great Falls, addressed as 111 6th Street South.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

That a conditional use permit to allow a worship facility on the South 51 feet of Lots 1 and 2, Block 373, Original Townsite to Great Falls, addressed as 111 6th Street South is hereby passed and approved; and,

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective immediately upon its passage and approval.

PASSED AND APPROVED by the City Commission of the City of Great Falls, Montana, on this 5th day of January, 2010.

Michael J. Winters, Mayor

ATTEST:

Lisa Kunz, City Clerk


(SEAL OF CITY)




Approved for legal content:

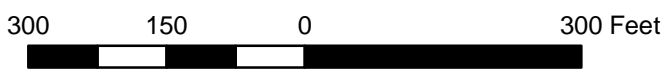
City Attorney

VICINITY/ZONING MAP




 111 6TH STREET SOUTH, REQUESTED TO BE GRANTED A CONDITIONAL USE PERMIT TO ALLOW A WORSHIP FACILITY

 R-9 Mixed residential  C-4 Central business core  C-5 Central business periphery



Community Development Department

Memo

To: Charlie Sheets, Planner 1
From: Kim McCleary, Parking Supervisor 
Date: 10/22/2009
Re: River of Hope Church, 111 6th St S

The City Land Development Code allows for shared parking facilities provided that there is no substantial conflict or overlap in the principal operating hours, and the location of the shared parking facilities are within 400 feet of each other. Since the church has demonstrated that their services are opposite hours of the surrounding businesses that have given their approval for sharing their parking facilities, and I have assurance from the current property owner that he will handle any parking conflicts created by the tenant (church), I believe the City parking requirements for the new use of the building located at 111 6th St South are met.

If you have any questions or need additional information, please let me know.

cc: Property file (111 6th St South)



AMENDED

Item: Trail Easement Donation
From: Marty Basta, Park & Recreation Director
Initiated By: Park & Recreation Department/Planning Department/Recreational Trails, Inc.
Presented By: Marty Basta, Park & Recreation Director
Action Requested: City Commission approve acceptance of trail easement

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission (approve/deny) the acceptance of a trail easement from Zara Renander for the extension of River’s Edge Trail.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation: That the Commission concur in staff’s recommendation to accept a trail easement from Zara Renander for the extension of River’s Edge Trail.

Background: The River’s Edge Trail is an award-winning system of urban and rural trails, extending more than 31 miles along the Missouri River in and around the City of Great Falls. In addition to the 18 miles of urban paved trail, the system also includes more than 23 miles of rural gravel and dirt trails.

For more than 15 years, the City of Great Falls has been committed to development and expansion of the Trail system, both urban and rural. The expansion of urban, paved trails continues with development of the Bay Drive Trail segments as well as neighborhood connections like the 38th Street trail and the Warden Park connector trail. Rural trails have extended downriver, in cooperation with our trail partners such as the Montana Department of Fish, Wildlife and Parks and PP&L Montana.

In 1996, the City of Great Falls purchased 300 acres of land along the south shore of the Missouri River in the interests of native land conservation, open space protection and extension of the Trail system. However, the Trail has not been able to expand past that parcel. In recent months, the owner of the land immediately downstream from the City’s land has offered to provide a trail easement along the River to Recreational Trails, Inc. (RTI).

Acquisition of the easement would provide a 50 feet wide, 1.89 mile extension of the Trail’s “single-track”, dirt trail system downstream to the south end of Ryan Dam. The single-track system provides trails for the more advanced mountain bicyclist, as well as the hiker looking for a more challenging outing. The views from this proposed trail segment are spectacular, and could be a valuable contribution to recreational tourism in Great Falls.

Although RTI has offered to pay for the acquisition of the easement, it cannot own property due to its non-profit status. The City of Great Falls is the logical easement holder, due to its interest in the Trail as well as the immediate proximity of the trail to the City-owned property.

Management of the Trail easement would be through a partnership with the Montana Department of Fish, Wildlife and Parks, City of Great Falls, Recreational Trails, Inc. and the Great Falls Bicycle Club.

Concurrences: The Trails Working Group, Recreational Trails, Inc. and the Great Falls Bicycle Club support City acceptance of the proposed trail easement.

The City Attorney's Office has reviewed the easement and concurs in the language and conditions. The City Risk Specialist has considered the impact of the acquisition and has determined there will be no negative impact or additional cost to the City's insurance requirements or rates, or related liability.

Fiscal Impact: There would be no fiscal impact to the City, other than staff time to process the easement. Recreational Trails, Inc. has agreed to commit \$30,000 that has been raised for such purchases, should the City accept the easement.

Alternatives: The City Commission could alternatively deny acceptance of the easement.

Attachments: 1) Easement ~~(Not available online; on file in City Clerk's Office)~~
2) Easement Location Map

EASEMENT AGREEMENT AND GRANT OF EASEMENT

**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE
MONTANA UNIFORM ARBITRATION ACTION**

THIS INDENTURE is made the ____ day of December, 2009 by and between **ZARA RENANDER** of No. 2201, 1920 South First Street, Minneapolis, Minnesota 55454 ("Transferor"), **THE CITY OF GREAT FALLS, MONTANA** of No. 2 Park Drive S., P.O. Box 5021, Great Falls, Montana 59403 ("Transferee") and **HUGH H. GWIN** a Successor Trustee of the **GWIN FAMILY TRUST, U/A DATED SEPTEMBER 20 1991** of 430 Second Street, Hudson, Wisconsin 54016-1510 ("Mortgagee").

WHEREAS, **Transferor** owns the following real property lying and being in Cascade County, Montana, more particularly described as follows:

Township 21 North, Range 5 East, P.M.M.

Section 19 Government Lots 9, 10, 11 & 12
Section 20 Government Lots 4 & 5, SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 30 Government Lot 6

(the "Burdened Land");

WHEREAS, **Transferee** owns and/or operates a system of trails for use by the public in and around the City of Great Falls known as the River's Edge Trail System which runs to the Burdened Land;

WHEREAS, **Mortgagee** holds the following mortgages on the Burdened Land:

1. **Mortgage** executed by **Zara Renander**, as Mortgagor, to Hugh F. Gwin and Edna H. Gwin, Trustees of the **Gwin Family Trust u/a dated**

September 20, 1991, as Mortgagee, dated March 4, 2003, recorded March 7, 2003, on Document R0048721, records of Cascade County, Montana, given to secure payment of a note for \$60,000.00, together with interest thereon.

2. **Mortgage** executed by **Zara Renander**, as Mortgagor, to Hugh F. Gwin and Edna H. Gwin, Trustees of the **Gwin Family Trust u/a dated September 20, 1991**, as Mortgagee, dated March 12, 2003, recorded April 24, 2003, on Document R0052620, records of Cascade County, Montana, given to secure payment of a note for \$60,000.00, together with interest thereon. (Covers said premises and other property).

3. **Mortgage** executed by **Zara Renander**, as Mortgagor, to Hugh F. Gwin and Edna H. Gwin, Trustees of the **Gwin Family Trust u/a dated September 20, 1991**, as Mortgagee, dated June 12, 2003, recorded July 8, 2003, on Document R0059625, records of Cascade County, Montana, given to secure payment of a note for \$115,000.00, together with interest thereon. (Covers said premises and other property).

(the "Mortgages").

WHEREAS, **Transferor** has agreed to grant Transferee an easement which will extend the Rivers Edge Trail System through the Burdened Land according the terms and conditions stated herein.

NOW, THEREFORE, the parties agree as follows:

1. **Grant of Easement.** Transferor transfers and conveys unto **Transferee** a perpetual nonexclusive easement and right-of-way on, over and across the Burdened Land for the purpose of constructing, maintaining, repairing, using and replacing an unpaved path or trail for non-motorized use (hereinafter referred to as the "Trail") within the Corridor, as defined below, (hereinafter referred to as the "Easement Area"), together with monuments, informational and directional signs, for use by the general public, subject to the conditions and limitations set forth herein.

2. **Scope of Easement.** Subject to the restrictions and limitations set forth in paragraph 3 below, use of the Trail shall be limited to pedestrian and non-motorized vehicle traffic and shall exclude any and all motorized/mechanized wheeled/track recreational vehicles of any kind, except wheelchairs (including motorized chairs and mobility scooters), emergency and maintenance vehicles which shall be permitted. Traffic shall be limited to an existing trail not to exceed ten (10) feet in width which is generally depicted on Exhibit "A". The Corridor is an area 25 feet on either side of the center line of the Trail. The Corridor and/or Trail location may be altered from time to time by mutual consent of the parties or their successors in interest. Transferor reserves the right to cross and/or use the Trail and Corridor for herself and her heirs, successors and assigns.

3. **Other Access.** This Easement shall also include Transferee's right of entrance to and exit from Transferor's adjacent lands on established trails and roads whenever possible for the purpose of allowing Transferee, through either vehicular or pedestrian access, to build, maintain and repair its trail system. Transferee shall be responsible for any damages it causes to roads or other improvements while exercising the rights granted by this paragraph. However, Transferor shall have no obligation to regularly maintain the access roads and trails, nor shall Transferee have obligation to regularly maintain access roads.

The parties agree that during the term of this Easement, Transferee may need to cross Transferor's property (above described as the "Burdened Land") to respond to emergency situations. Before entering the property, Transferee shall attempt to contact Transferor. If Transferor cannot be reached, then Transferor, through this agreement, authorizes Transferee to cross the property, using established roads and trails where possible to handle the emergency situation.

The parties recognize that they have not specifically described the location or the dimensions of the right granted under this paragraph; this is by necessity. Such a refined description would be inappropriate in this situation. The parties intend that Transferee should exercise its rights reasonably and that it choose locations that are least onerous to Transferor.

4. **Mediation/Arbitration.** If a dispute arises out of or relates to this Easement or the breach this Easement, and if the dispute cannot be settled through negotiation, the parties agree to first to try in good faith to settle the dispute by mediation administered by a mutually agreed mediator before resorting to any other dispute resolution procedure. The Mediation shall terminate upon the written request of either party. If the parties are unable to resolve the dispute through mediation, the parties shall settle by arbitration in accordance with the Montana Uniform Arbitration Act. The parties shall select one arbitrator by mutual agreement. If the parties fail to agree upon an arbitrator within 30 days after service of the initial demand for arbitration, the arbitrator shall be appointed as provided in Montana Code Annotated § 27-5-211. The arbitration hearing shall take place within 60 days after the selected arbitrator's acceptance of the appointment. Judgment upon the arbitration award may be entered in any court having jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement, as the case may be. Arbitration shall be held in the City of Great Falls, County of Cascade, State of Montana, and any question of law shall be decided in accordance with the laws of the State of Montana.

5. **Indemnification.** The Transferee agrees to indemnify, hold harmless, and defend the Transferor and its successors and assigns from and against claims, losses, damages, expenses, fees (including without limitation attorneys fees) or liability arising out of the use by the public of the easement property. Transferee assumes all risk arising out of the use of the easement property by the public. The obligation of the Transferee to indemnify the Transferor shall include the duty to provide a defense of

claims against the Transferor related to the use of the easement property by the public within the easement corridor boundaries.

6. **Uses, Restrictions and Limitations.** This Easement is given for the following uses and subject to the following restrictions and limitations:

- a. Transferee shall have the right, in its sole discretion, to restrict or limit public use of and access to the Trail and the Corridor.
- b. Transferee accepts the Corridor and Trail in its present condition. Transferee acknowledges that Transferor has no obligation or duty to improve or maintain the Corridor or the Trail. Transferee may maintain, grade, repair, improve, and modify the Trail, so long as such activities do not alter the location of the center line of the trail or relocate the trail outside the Corridor.
- c. Transferee shall have the right to erect reasonable signs, blazing or other markings within the Corridor to inform the public of the Trail location, other Trail features or permitted uses of the Trail. Transferor shall not erect fences, barriers, structures or signs that impede access to or use of the Trail.
- d. Transferee shall designate the Trail as the "Doug Wicks Trail Segment" in honor of the extraordinary time, effort and resources committed by Doug Wicks to the development and maintenance of the Rivers Edge Trail.
- e. Transferee may use motorized vehicles and equipment within the Corridor to construct, relocate, maintain, repair and patrol the Trail, and for emergencies. Transferor and Transferee shall not use or permit the use of motor vehicles within the Corridor, except as specifically provided in this Easement Agreement; i.e., Transferee may permit motor-driven wheelchairs, scooters or all terrain vehicles, as defined in Montana Code Annotated § 61-1-101(20) or any other motorized wheelchair or other mobility device which is mechanically propelled and is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person, within the Corridor.
- f. Transferee shall use reasonable efforts to maintain the Trail, discourage littering and other acts that would encroach upon the natural features of the trail corridor or diminish its attractiveness, take steps to educate users in trail etiquette, and include guidelines for users in maps and other trail publications.
- g. The parties intend that the general purpose of this Easement is to create and control access, as described here, to the Trail and the Corridor, as well as to the southern boundaries of Cochrane and Ryan reservoirs that are a part of the FERC license No. 2188. More specifically, neither Transferee nor Transferor nor their successors, assigns, permittees, licensees, nor any other third person may utilize the easement herein granted for any of the following purposes:

- i. The construction or placing of buildings, houses, camping trailers, house trailers, mobile homes, boat docks, swimming docks, or boat ramps of any kind, or other structures of any kind on or above the easement;
- ii. Dumping or placing of soil or other substance or material as land fill or dumping or placing trash, waste, or unsightly or offensive materials;
- iii. Removal or destruction of trees, shrubs or other vegetation except for noxious weed control or that may be reasonably necessary in the course of trail construction, maintenance or repair;
- iv. Excavation, dredging or removal of loam, peat, gravel, soil, rock other material substance, except for minor grading for the purpose of trail construction, maintenance or repair;
- v. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat and preservation; or,
- vi. Any other acts or uses detrimental to such retention of land or water areas in their existing conditions.

7. **Intent of the Parties.** The parties intend that the Easement granted and described herein constitutes a positive easement, not a restrictive covenant nor a grant of a fee simple absolute. If a court or other authority deems any part of this Easement to be invalid or construes the Easement in such a manner to frustrate the parties' intent, Transferors and Transferee shall redraft the agreement or do whatever is necessary to effect the parties' intent, consistent with then applicable law. Notwithstanding, those portions of the easement or agreement creating the easement, which are not expressly determined to be invalid, shall continue to have force and effect and will be considered valid.

8. **Survey Rights.** At any time it deems appropriate, Transferee shall have the right to more precisely locate the Trail and the Corridor by a survey or the right to survey a baseline from which a more detailed survey could be calculated. Prior to recording any such survey, Transferors shall have the right to review and contest any the survey for a period no less than thirty (30) days. Transferors and Transferees shall work together to resolve any differences of opinion concerning the survey. Costs of any additional survey shall be paid equally by Transferor and Transferee.

9. **Easement to Run with Land.** The easement contained herein shall run with the land and shall be binding upon and shall inure to the benefit of the parties to this agreement, their respective successors, personal representatives or assigns. The term "Transferor" shall include the heirs, successors and assigns of the original Transferor.

10. **Assignment.** Transferee may not assign this Easement without the prior written consent of Transferor.

11. **Termination.** This Easement shall terminate and be of no further force and effect if Transferee ceases to operate and maintain the Trail as a public trail. Said cessation shall be established by a duly passed resolution or ordinance of Transferee's governing body. In this event, any and all right associated with this Easement shall revert to the Burdened Land.

12. **Acceptance by Transferee.** In accepting this easement, Transferee agrees to be bound by the terms and conditions of the easement as stated herein.

13. **Time of Essence.** Time is of the essence in performance and observance of all obligations and duties under this Easement Agreement.

14. **Notice.** Any notice or other communication required or permitted under this Purchase and Sale Agreement shall be in writing and delivered by one of the following methods: (i) personal delivery, (ii) deposited in the United States mail, certified or registered, return receipt requested, addressed as set forth below, or (iii) delivered to a private delivery service, such as Federal Express, addressed as set forth below:

TO TRANSFEROR

Zara Renander
No. 2201, 1920 South First Street
Minneapolis, Minnesota 55454

TO TRANSFEREE

City of Great Falls, Montana
No. 2 Park Drive S.
P.O. Box 5021
Great Falls, Montana 59403

Notice shall be deemed to be given upon the date of delivery in person or by private delivery service, or, if mailed, upon the earlier of receipt or three days from the date of postmark. Any party may change its address by giving written notice of the change to the other parties in the manner provided in this section. Unless otherwise directed, Transferee may send notice to Transferor's successors in interest at the publically listed address for Transferor's successor in interest for real property tax purposes.

TO HAVE AND TO HOLD unto Transferee, and the heirs, successors and assigns of Transferee, *for the time period as contained herein.*

Transferor will forever *WARRANT AND DEFEND* all right, title and interest in and to the premises and the quiet and peaceful possession thereof unto Transferee against all acts and deeds of Transferor and any person who may lawfully claim the premises.

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day, month and year first hereinabove written.

Zara Renander

State of Wisconsin)
 :SS.
County of St. Croix)

This instrument was acknowledged before me on the ____ day of December, 2009 by ZARA RENANDER.

Print Notary Name
Notary Public for the State of Wisconsin
Residing at _____
My Commission Expires _____

(NOTARIAL SEAL)

Remainder of Page Intentionally Left Blank

CITY OF GREAT FALLS

A Municipal Corporation of the State of Montana

Gregory T. Doyon, City Manager

ATTEST:

Lisa Kunz, City Clerk

(Seal of the City)

REVIEWED FOR LEGAL CONTENT

City Attorney

CONSENT & SUBORDINATION OF MORTGAGEE

HUGH H. GWIN Successor Trustee of the **GWIN FAMILY TRUST U/A DATED SEPTEMBER 20, 1991**, Mortgagee, of 430 Second Street, Hudson, Wisconsin 54016-1510, consents to the foregoing Easement by **ZARA RENANDER** of No. 2201, 1920 South First Street, Minneapolis, Minnesota 55454 to **THE CITY OF GREAT FALLS, MONTANA** of No. 2 Park Drive S, P.O. Box 5021, Great Falls, Montana 59403. Mortgagee does hereby agree that the lien of each of the Mortgages shall be junior to and inferior in priority to this Easement Agreement. Mortgagee's consent and subordination shall not otherwise affect the lien of the Mortgages which shall, except as to this Easement Agreement, remain in full force and effect and prior to all other liens claimed or asserted against the property described therein.

Dated the _____ day of December, 2009.

GWIN FAMILY TRUST U/A DATED
SEPTEMBER 20 1991

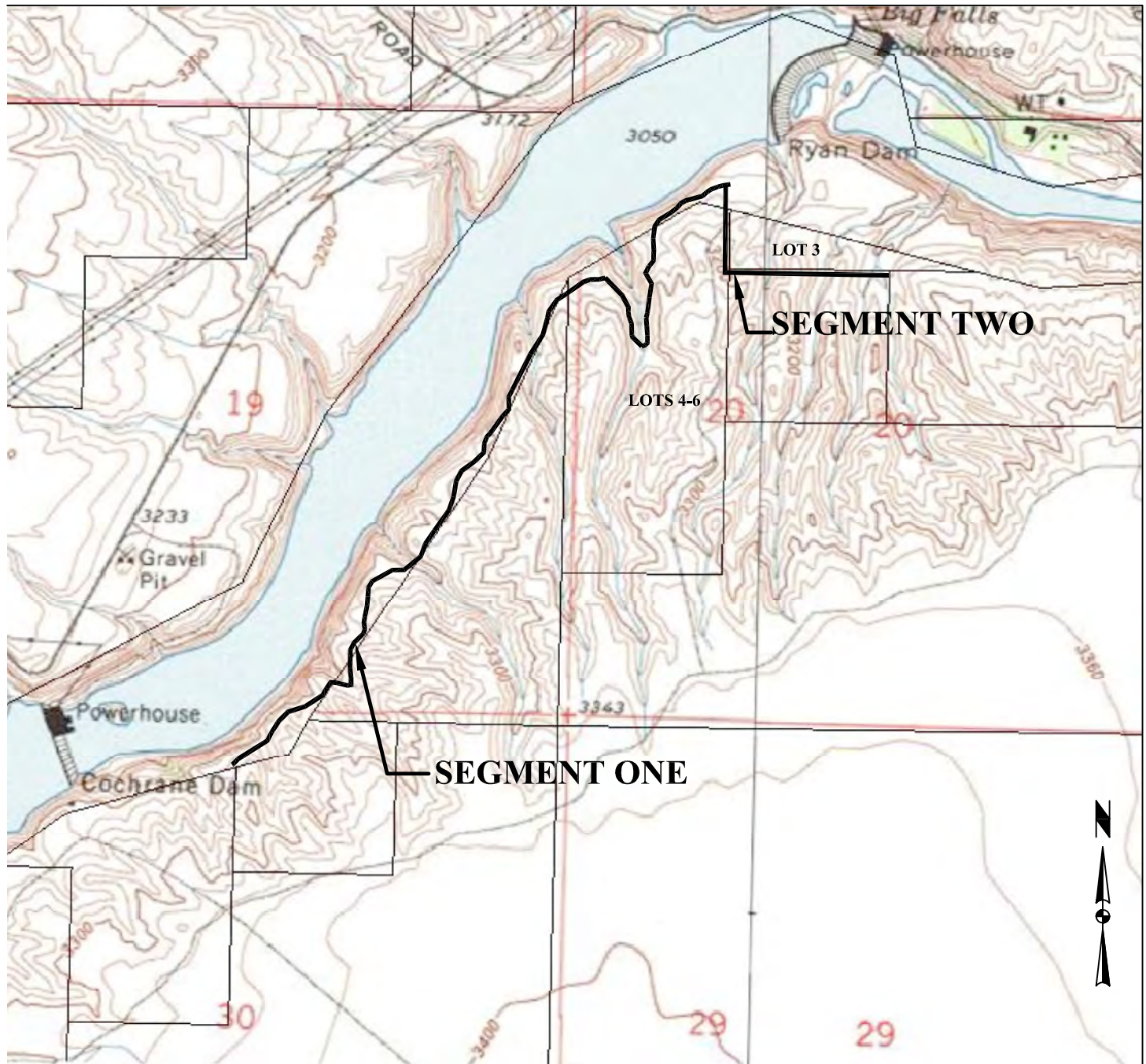
By _____
Hugh H. Gwin, Successor Trustee

State of Wisconsin)
 :SS.
County of St. Croix)

This instrument was acknowledged before me on the ____ day of December, 2009 by Hugh H. Gwin as Successor Trustee of the Gwin Family Trust U/A Dated September 20 1991.

Print Notary Name _____
Notary Public for the State of Wisconsin
Residing at _____
My Commission Expires _____

(NOTARIAL SEAL)



TRAIL EASEMENT LOCATION

EASEMENT DESCRIPTION

SEGMENT ONE:

A 50 FOOT WIDE TRAIL EASEMENT LOCATED IN GOVERNMENT LOT 6, SECTION 30, GOVERNMENT LOTS 9-12, SECTION 19, AND GOVERNMENT LOTS 4 & 5, SECTION 20, TOWNSHIP 21 NORTH, RANGE 5 EAST, P.M.M., CASCADE COUNTY, MONTANA, AND THE CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID GOVERNMENT LOT 6, SECTION 30, WHICH INTERSECTS WITH THE UNIVERSAL TRANSVERSE MERCATOR (UTM) ZONE 12 NORTH COORDINATES SHOWN ON PAGE 2 OF THIS EXHIBIT A; THENCE FOLLOWING SAID UTM COORDINATES AND ENDING ON THE EASTERLY LINE OF SAID GOVERNMENT LOT 4, SECTION 20.

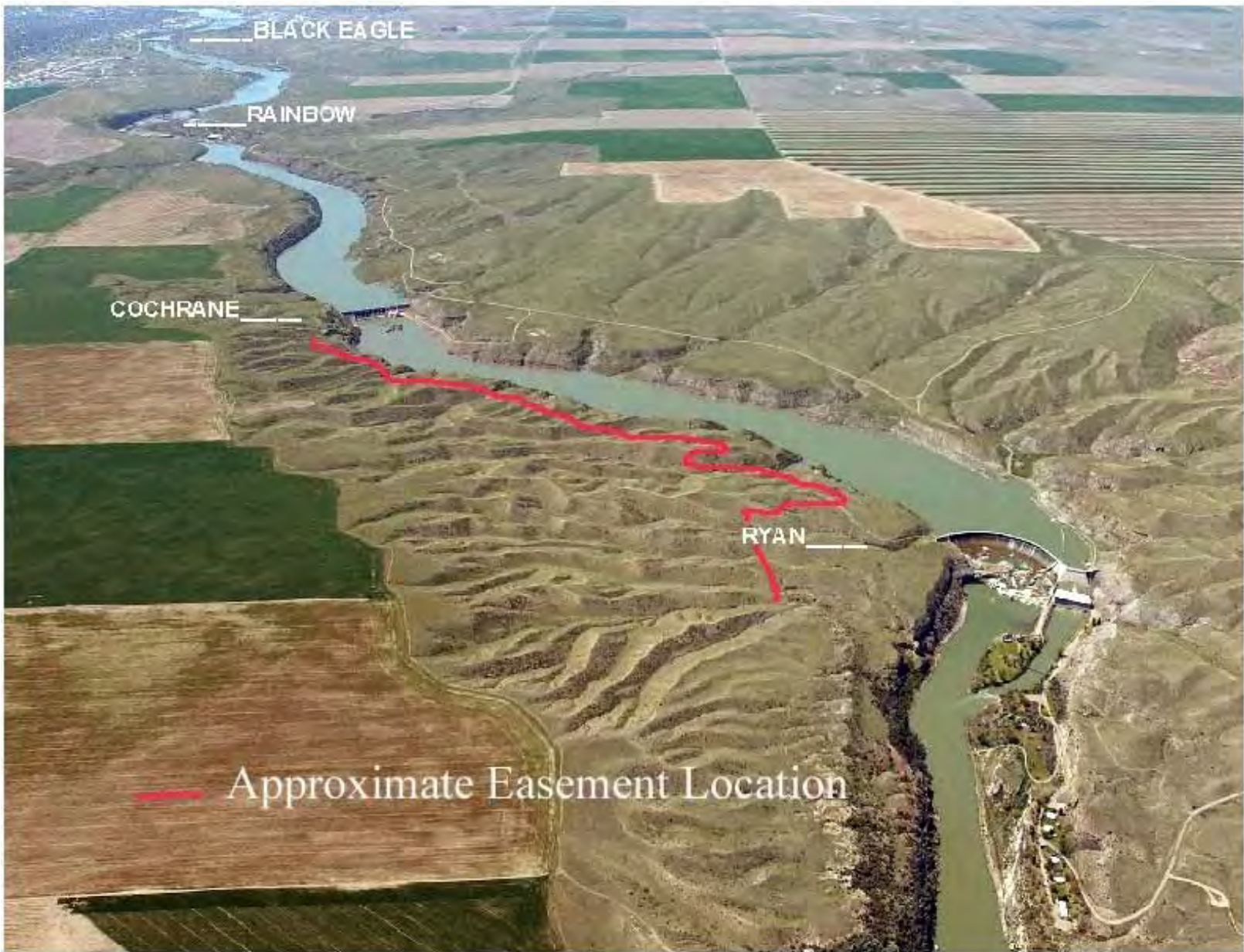
SEGMENT TWO:

A 50 FOOT WIDE TRAIL EASEMENT LOCATED IN GOVERNMENT LOTS 4-6 AND THE SE1/4 OF THE NW1/4 OF SECTION 20, TOWNSHIP 21 NORTH, RANGE 5 EAST, P.M.M., CASCADE COUNTY, MONTANA, AND THE CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 95 FEET WEST OF THE EASTERLY LINE OF SAID LOT 4 AT THE INTERSECTION WITH THE CENTERLINE OF THE SEGMENT ONE TRAIL EASEMENT; THENCE SOUTH, PARALLEL AND 95 FEET WEST OF THE EASTERLY LINE OF LOT 3, SAID SECTION 20; THENCE EAST, PARALLEL AND 95 FEET SOUTH OF THE SOUTHERLY LINE OF SAID LOT 3 TO THE NORTHERLY LINE OF SAID LOT 6.

SEGMENTS ONE AND TWO TRAIL EASEMENTS BEING 1.890 MILES IN LENGTH, ENCOMPASSING 11.454 ACRES.

Point			Point		
No.	Northing	Easting	No.	Northing	Easting
1	1213091	1567505	58	1210854	1565028
2	1213102	1567472	59	1210776	1564945
3	1213110	1567414	60	1210701	1564841
4	1213117	1567335	61	1210614	1564795
5	1213128	1567239	62	1210483	1564775
6	1213128	1567214	63	1210370	1564734
7	1213126	1567199	64	1210199	1564612
8	1213111	1567121	65	1210091	1564539
9	1213095	1567030	66	1209982	1564498
10	1213086	1566994	67	1209870	1564362
11	1213062	1566934	68	1209866	1564259
12	1213038	1566897	69	1209773	1564091
13	1213007	1566862	70	1209720	1564060
14	1212969	1566722	71	1209645	1564055
15	1212946	1566682	72	1209565	1564048
16	1212911	1566651	73	1209472	1564028
17	1212870	1566601	74	1209424	1564020
18	1212808	1566499	75	1209370	1564030
19	1212752	1566462	76	1209332	1564015
20	1212650	1566450	77	1209257	1563938
21	1212555	1566456	78	1209199	1563908
22	1212465	1566453	79	1209043	1563904
23	1212419	1566416	80	1208962	1563913
24	1212360	1566386	81	1208903	1563913
25	1212273	1566436	82	1208898	1563883
26	1212155	1566418	83	1208920	1563793
27	1212026	1566402	84	1208926	1563743
28	1211987	1566390	85	1208876	1563708
29	1211915	1566396	86	1208818	1563676
30	1211838	1566401	87	1208723	1563529
31	1211774	1566402	88	1208676	1563383
32	1211756	1566383	89	1208599	1563306
33	1211746	1566353	90	1208505	1563246
34	1211822	1566278	91	1208435	1563211
35	1211840	1566271	92	1208281	1562965
36	1211938	1566269	93	1208234	1562918
37	1211990	1566248	94	1208174	1562811
38	1212034	1566241	95	1208133	1562773
39	1212074	1566242	96	1208067	1562750
40	1212176	1566188	97	1207968	1562664
41	1212321	1566046	98	1207978	1562500
42	1212308	1565998	99	1207949	1562406
43	1212306	1565918	100	1207934	1562344
44	1212286	1565861	101	1207894	1562240
45	1212188	1565723	102	1207808	1562057
46	1212135	1565639	103	1207773	1561854
47	1212038	1565573	104	1207644	1561781
48	1211986	1565562	105	1207588	1561754
49	1211843	1565523	106	1207443	1561580
50	1211681	1565420	107	1207345	1561511
51	1211380	1565267	108	1207188	1561285
52	1211320	1565237	109	1207102	1561173
53	1211217	1565239	110	1206989	1561096
54	1211160	1565187	111	1206903	1561078
55	1211015	1565080	112	1206788	1561019
56	1210986	1565053	113	1206737	1561032
57	1210931	1565032	114	1206685	1561064



BLACK EAGLE

RAINBOW

COCHRANE

RYAN

— Approximate Easement Location



Item: SET CDBG/HOME Community Needs Public Hearing
From: Community Development Department
Initiated By: Chris Imhoff, CDBG/HOME Administrator
Presented By: Chris Imhoff, CDBG/HOME Administrator
Action Requested: Set Public Hearing for December 15th, 2009

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission set the public hearing for December 15, 2009, to obtain comments on the community development needs of the City of Great Falls”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation:

Staff recommends the City Commission set December 15, 2009, as the public hearing date for citizen comments regarding needs of the community that may be addressed with Community Development Block Grant and HOME grant funds.

Background:

Significant Impacts

Not applicable

Citizen Participation

The Citizen Participation Plan, which is required by the U.S. Department of Housing and Urban Development, dictates that the City hold a public hearing to receive citizen input regarding the issues and needs of the community.

Workload Impacts

Not applicable

Purpose

Public input helps identify federal grant funding opportunities in the community.

Project Work Scope

Not applicable

Evaluation and Selection Process

The U. S. Department of Housing and Urban Development requires public input, especially input from lower income citizens and agencies representing them, as to the issues and needs of the community. The Commission will be asked to give consideration to citizen comments received during this public hearing when determining funding priorities for the Community Development Block Grant Program and the HOME Grant Program.

Conclusion

The public hearing provides citizens an important opportunity to identify before the City Commission, community development needs particularly those impacting low to moderate income households in Great Falls.

Concurrences: Not applicable

Fiscal Impact: Conducting the public hearing is a pre-condition for the city receiving its annual allocation of HUD CDBG and HOME grant funds.

Alternatives: The hearing is a required for the city to be awarded 2010-2011 CDBG and HOME funding.

Attachments/Exhibits: Not applicable



Item: Appointments to the Tourism Business Improvement District

From: City Manager's Office

Initiated By: City Commission

Presented By: City Commission

Action Requested: Reappoint one member and appoint one member to fill the remainder of a term to the Tourism Business Improvement District

Suggested Motion:

1. Commissioner moves:

“I move that the City Commission appoint _____ to fill the remainder of a term through December 31, 2012, and reappoint Deryk Copperwheat for a four-year term through December 31, 2013, to the Tourism Business Improvement District.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls the vote.

Staff Recommendation: It is recommended that the City Commission reappoint Deryk Copperwheat for a four-year term through December 31, 2013, and appoint one member to fill the remainder of a term through December 31, 2012, to the Tourism Business Improvement District.

Background: Deryk Copperwheat and Mark Mehta were appointed to staggered terms to the Tourism Business Improvement District Board of Trustees on December 16, 2008, by Resolution 9806 as initial appointments to the Board. Mr. Copperwheat is interested in reappointment. Mr. Mehta has resigned from the Board.

Purpose

The Tourism Business Improvement District was created by Resolution 9792 in December of 2008, for the purpose of promoting tourism, conventions, trade shows, and travel to the City of Great Falls. The Board of Trustees was created by Resolution 9806 on December 16, 2008. The Board consists of seven members. Trustees must be an owner of property within the district or their assignee.

Continuing members of this board are:

Sandra Thares
Pamela Volk
Bob Dompier

Ryan Carroll
David Buckingham

Applications received:

Malissa R. Hollan (authorized representative of Holiday Inn Express & Suites)

Concurrences: Not applicable.

Fiscal Impact: Not applicable.

Alternatives: Seek alternative citizen interest.

Attachments/Exhibits: None.