

Memorandum

REPORT TO: City Commission

FROM: Kellen Gamradt, Engineer II
Shawn Kohtz, City Engineer
Mitch Reister, Public Works Director

SUBJECT: Resolution 5249, Intent to Create Special Improvement District (SID) Number 762 for the Purpose of Undertaking Certain Local Improvements to South 6th Avenue from Babcock Street to Cleveland Street and Financing the Costs Thereof

MEETING DATE: February 2, 2021

AGENDA ITEM TYPE: Resolution

RECOMMENDATION: Incorporating the information and findings in the staff memorandum, oral findings made by the Commission during the public hearing, information and findings contained in the proposed resolution, and after considering public comment, I hereby move to adopt Resolution 5249 declaring it to be the City's intention to create Special Improvement District (SID) No. 762.

STRATEGIC PLAN: 4.3 Strategic Infrastructure Choices: Prioritize long-term investment and maintenance for existing and new infrastructure.

BACKGROUND: In FY 2012, the City Commission authorized that additional street maintenance funds be set aside for street reconstruction projects. This street reconstruction money is in addition to the annual street maintenance projects the City funds with its gas tax allocation. It is used to finance a portion of the complete reconstruction of streets which have deteriorated beyond the point where they can be maintained. Current practice per Commission direction is to supplement these street reconstruction funds with a contribution from the residents adjacent to the street who are its primary users and therefore specially benefitted by the street improvements through the creation of an SID.

The street proposed for reconstruction this year is South 6th Avenue between Babcock Street and Cleveland Street. In February 2014 the Commission adopted Resolution 4507 which establishes policies regarding the local share for street reconstruction. The resolution contains a table which establishes the funding splits to be used based on traffic counts:

Funding Classification Average Daily Traffic (vehicles per day) Funding Split (SID/Reconstruction fund)

Local	Less than 800	75% / 25%
Minor Collector	800 - 1500	50% / 50%
Major Collector	1501 - 4500	15% / 85%
Arterial	More than 4500	100%

Traffic counts on the segment of S. 6th Avenue to be reconstructed are up to 217 vehicles per day. Applying the policies established by Resolution 4507 the funding split is 75% street reconstruction money and 25% local share which equates to an assessment of approximately \$293 per foot of street frontage for property owners within the district; however, the City's policy for funding local street reconstructions was revised by commission resolution 5174 in January of 2020. Resolution 5174 states that "...there shall be a maximum of \$138 per-lineal-foot assessed to an individual property and paid for through creation of a Special improvement district..."

Therefore, the assessment for this district shall be \$138 per-lineal-foot. In addition, property owners on South 6th Avenue have requested traffic calming measures to be included with the street improvements which will be 100% financed thru the special improvements district.

Proposed Resolution 5249, a Resolution of Intent to Create SID 762, is the first step in the process of creating an SID. The process of creating an SID is regulated by the Montana Code Annotated (MCA), Chapter 7-12, Part 41. The purpose of the Resolution of Intent to Create the SID is to inform the public of the City's intention to raise funds from adjacent property owners to pay for a portion of the authorized improvements. This resolution does not create the SID, it simply begins the process. The Resolution must do the following: 1) designate the number of the district; 2) describe the boundaries thereof; 3) state the general character of the improvements and the approximate estimated cost; and 4) state the method of assessment to be used.

The number of this SID will be 762. The boundaries of the district include all of the parcels of property directly fronting on South 6th Avenue between Babcock Street and Cleveland Street. The general character of the improvements consist of roadway improvements including repaving of the road, replacement of curbing, installation of storm drainage improvements, and pedestrian ramps.

There are four methods of assessment which are allowed by the MCA - the area method which is based on the area of the lot, the frontage method which is based on the lots width fronting the street, the assessed valuation method which uses the assessed valuation of the parcel and the equal shares method. As on the previous six Street Reconstruction projects: South 8th, East Story Street, North Wallace Avenue, East Olive Street, South Tracy Avenue and North Tracy Avenue, staff recommends using the lot frontage method of assessment for this SID.

Engineering Division staff have hosted two neighborhood meetings to present information about the proposed project to the local residents. At the

meetings staff discussed the project design elements, proposed schedule, estimated costs and proposed method of assessment.

The proposed schedule for this project is as follows:

Resolution of Intent to Create	February 2, 2021
Mail Notice of Public Hearing	February 5, 2021
Publish Notice of Public Hearing	February 7 and 14, 2021
(protest period begins upon first publication of the notice of passage of the resolution of intent)	
End of Protest Period	February 24, 2021
Public Hearing on Resolution of Creation	March 2, 2021
Advertise for Construction Bids	March 7 – March 28, 2021
Open Bids	March 30, 2021
Award Contract	April 11, 2021

The protest period begins upon first publication of the notice of the public hearing, in this case February 7, 2021. The 15 day protest period begins on February 7, 2021 and ends on February 24, 2021 (two additional days are added to the protest period for the intervening holiday).

PROPOSED FINDINGS: Should the Commission move to adopt Resolution 5249, we suggest incorporating the following findings in addition to any oral findings entered into the record by the Commission at the public hearing:

1. South 6th Avenue and associated infrastructure improvements, were constructed between 1889 and 1927 as part of the Capital Hill Addition to the City of Bozeman, the Park Addition to the City of Bozeman, and Special Improvement Districts 84, 88, 105, 156 and 261.
2. Over the following decades, the city continued to develop and expand and in 1969, a trunk sewer main was constructed in South 6th Avenue between Babcock Street and Story Street.
3. By the early 2000's South 6th Avenue had fallen into a failed condition as a result of age and an increase in heavy vehicular traffic. The original street section was not designed for modern vehicle loading and the curb and gutter did not meet current city standards. In addition, most of the water and sewer lines were past their useful lives.
4. In 2013, the City hired a consultant to perform a citywide inventory of our street pavement conditions. The results of the survey indicated that North Tracy Avenue was among the worst streets for pavement condition in the City and was placed on a list for a local street reconstruction.
5. An engineering design was completed earlier this year to reconstruct South 6th Avenue to a City Standard Local Street and install new water, sewer and storm drainage utilities.
6. The planned Improvements will preserve public safety by providing through lanes and drive approaches for those who reside along this street or use the street to access their residences and businesses. Safety will be improved, especially for those properties within the District, by

reconstructing roadway that has deteriorated beyond the point where it can be maintained and by installing pedestrian ramps and traffic control signage. The planned storm water collection improvements will benefit properties within the district by improving drainage and reducing the risk of flooding caused by major storm events.

UNRESOLVED ISSUES: As discussed above, SID creation is subject to protest by the property owners to be assessed. The sufficiency of protest is outlined in 7-12-4113, MCA. Simply stated, if protest is made by property owners to be assessed for more than 50% of the costs of the proposed work, further proceedings are barred for six months. Should this occur, our plan is to move on to the next street which needs reconstruction. There are more than enough streets requiring reconstruction to keep us busy for a number of years to come. However, at some point in the future, the community at large will not be able to absorb the displaced traffic that will result from the failure to reconstruct local streets that are a critical component of the City's street network. At that time, the Commission will be asked to provide direction on how to finance local street improvements in the face of local opposition to SIDs.

ALTERNATIVES: As suggested by the City Commission.

FISCAL EFFECTS: **Current Budget:** The FY22 Approved Budget anticipated the reconstruction of W. Harrison Street (between Wilson and S. 8th Avenue) with a total project cost of \$1,436,474; 25% from the Street Reconstruction Funds (\$359,118) and 75% SID financed through the SID (\$1,077,355). Homeowners did not accept this project and the project has been moved to the bottom of the list of local street improvement projects. The South 6th Avenue project was moved forward. If SID 762 is created a budget amendment will be needed to increase the total appropriation by \$755,526 to \$2,192,000.

Project Costs: The total estimated cost of the street and storm drain improvements are \$2,192,000. The City can commit, per its policy, \$1,410,870.02 from the Street Reconstruction fund to reduce the costs to the SID, leaving \$781,129.98 to be funded by the SID. In addition, the SID will be responsible for an estimated \$1,000 in incidental costs related to the creation of the SID for a total of \$781,129.98.

If the Commission adopts Resolution 5249 based on the recommended method of assessment, that is, linear feet lot frontage, then for an average residential lot with 60 ft. of frontage, the total estimated assessment would be \$8,464.20. At the current estimated interest rate of 2% (1.5% estimated interest on the interfund loan discussed below, plus 0.5% simple interest on assessments in accordance with 7-12-4189, MCA), a typical property would be assessed including interest approximately \$515.56 annually over a period of twenty years.

Financing. Costs and expenses of construction of the Improvements will be paid for by assessments levied against benefitted properties; we propose to finance the initial construction costs by transferring excess money in the

City's SID Revolving Fund to the General Fund and then loaning these monies to the North Tracy SID.

Years ago, the City created an SID Revolving Fund, the purpose of which is to "secure prompt payment of any special improvement district bonds or warrants issued in payment of improvements made." See 7-12-4221, MCA. State law does not authorize the City to loan money directly from the SID Revolving Fund to a SID construction fund to finance improvements to be paid for by assessments on properties. State law does authorize transferring excess funds of the SID Revolving Fund to the General Fund. See 7-12-4227, MCA. The City's SID Revolving Fund has cash in excess of the statutorily required amount (10% of outstanding SID debt). The minimum amount the City must maintain in the Revolving Fund to comply with statutory requirements for this project is \$51,050.

For this SID, we recommend transferring a portion of this excess in an amount equal to the portion of the improvements to be assessed against benefitted property in the District to the General Fund to be deposited into a new SID fund within the General Fund. The purpose of the transfer is to have the General Fund underwrite the SID's share of the costs of the Improvements through an "interfund loan" to the SID 762 construction fund with a 20-year repayment term at 2.0% interest.

An interfund loan has a number of benefits, including a lower interest rate for the District property owners, and avoidance of the costs and time-consuming work of underwriting a bond sale. The SID Fund within the General Fund will be paid back as property owners make their payments over time, with interest.

Should SID 762 be created, we will present the Commission a proposed resolution approving the transfer of the excess SID Revolving Fund to the General Fund, a resolution approving the interfund loan documents, and a proposed budget amendment resolution for the Street Reconstruction Fund.

Attachments:

[RES 5249.docx](#)

[Exhibit A.pdf](#)

[Exhibit B.pdf](#)

[Exhibit C.pdf](#)

[Letter to Property Owners - Exhibit D.doc](#)

[NOTICE OF PASSAGE OF RESOLUTION OF INTENT - Exhibit E.doc](#)

[PROTEST FORM Special Improvement District Creation.docx](#)

Report compiled on: January 20, 2021