

ORDINANCE #11-03

SOUTHSIDE WATER AND SEWER DISTRICT
BONNER COUNTY, IDAHO

122

AN ORDINANCE OF THE BOARD OF DIRECTORS OF SOUTHSIDE WATER AND SEWER DISTRICT, OF BONNER COUNTY, IDAHO; ANNEXING ADDITIONAL PROPERTY PURSUANT TO IDAHO CODE §42-3218; DESCRIBING AND SETTING FORTH THE TERMS AND CONDITIONS IMPOSED BY THE BOARD; APPOINTING THE DISTRICT ENGINEER TO APPROVE OF ALL IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF HOOKUP FEES/EQUITY BUY-IN TO THE EXISTING SYSTEM; PROVIDING FOR THE PAYMENT OF COSTS AND EXPENSES TO BE ASSESSED AGAINST THE PROPERTY TO BE INCLUDED WITHIN THE DISTRICT BOUNDARIES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF SOUTHSIDE WATER AND SEWER DISTRICT, BONNER COUNTY, IDAHO, AS FOLLOWS:

WHEREAS, SOUTHSIDE WATER AND SEWER DISTRICT (the District), of Bonner County, Idaho, is a water and sewer district operating and existing under and pursuant to the laws of the State of Idaho, and as such is authorized and empowered to change the boundaries of the District pursuant to Idaho Code Title 42, Chapter 32; and

WHEREAS, on or about the 10th day of August, 2011, the District received a formal Petition for Inclusion/Annexation into the District for purposes of receiving sewer service, which Petition was filed by property owners in a subdivision known as Birch Bay; and

WHEREAS, the District is authorized by I.C. §42-3218 to entertain a Petition for Annexation and to impose such Terms and Conditions under which such property may be included in the District, including the payment of a hookup fee, and the imposition of such costs and expenses as are deemed necessary; and

WHEREAS, after proper notice and public hearing held August 10, 2011, the Board approved of the Petition submitted by the Birch Bay property owners; and

WHEREAS, pursuant to I.C. §42-3218, the Board conditioned the approval subject to certain Terms and Conditions; and

WHEREAS, three of the Petitioners, having considered the Terms and Conditions, withdrew their names and properties from the annexation request; and

WHEREAS, the five remaining Petitioners having heard the Terms and Conditions and not objecting thereto, and the time for such objections having expired; and

WHEREAS, the Board determines it is in the best interest of the District to approve of the Petition for Annexation into the District for sewer services, subject to the Terms and Conditions identified and the Board wishes to reaffirm that decision by adoption of this ordinance.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED AND ORDERED AS FOLLOWS:

SECTION 1 DEFINITIONS

Unless the content specifically indicates otherwise, capitalized terms used in this Ordinance shall have the meanings provided in this section:

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neutered genders, and vice versa, words imparting the singular number shall include the plural numbers and vice versa unless the context shall otherwise indicate.

Board of Directors: (Hereinafter referred to as the Board) shall mean the Board of Directors of Southside Water and Sewer District of Bonner County, Idaho.

District: The Southside water and Sewer District as legally defined by its boundaries which may be modified from time to time as allowed by the laws of the State of Idaho.

District Map: District Map shall mean the official map of the District identifying the boundaries thereof, which map is filed of record with the Bonner County Recorder and is also filed with the Bonner County Assessor and the Idaho State Tax Commission.

District Sewer System: All property owned by the District to include sewer collector system, pump stations, treatment ponds, storage ponds, and aeration, chlorination, sprinkling facilities, plus any and all other systems and equipment used by the District for collection, treatment and disposal of sewage.

District Water System: All property owned by the District including the water mainline, pumping and chlorination facilities, water tank, and spring site, plus any and all other equipment used to provide potable water to District patrons.

Engineer: The engineer or engineering firm (or duly authorized employee or representative thereof) contracted or otherwise designated by the District from time to time to advise the Board with respect to sewer and water services provided through the District systems.

Equity Buy-In: Equity Buy-In shall mean an amount of money to be paid by a residential user of sewer services in order to reimburse the District for the value of the sewer system including, but not limited to, the various lift stations, main sewer lines, treatment facilities, storage lagoons and sprinkling systems. The amount of the Equity Buy-In is determined by the District from time to

time and for purposes of the current ordinance has been determined to be Twelve Thousand and 00/100 (\$12,000.00) Dollars.

Improvements: Improvements shall mean the necessary piping, pumps, grinders, holding tanks and assorted valves as deemed necessary by the District Engineer in order to provide sewer services to the Petitioners' property in compliance with the District Ordinances and requirements, as well as the other state and federal agencies exercising control over public sewer services.

Petition: Petition shall mean the Petition for Inclusion/Annexation into the District for purposes of receiving sewer services filed by Birch Bay property owners, which formal petition was received by the District on August 10, 2011.

Petitioners: Petitioners shall mean the five property owners along Birch Bay Lane who have agreed to be annexed subject to certain Terms and Conditions. (The five property owners and their pre-consolidation lots are identified on Exhibit "A" attached hereto and incorporated herein by this reference.)

Terms and Conditions: Terms and Conditions shall mean those certain terms and conditions imposed by the Board at the August 10, 2011, Public Hearing, as part of the Board's approval of the annexation request.

SECTION 2 PROPERTY TO BE ANNEXED INTO THE DISTRICT

A. Project Description. The properties to be included within the District which shall be known as Birch Bay Annexation include ten (10) lots in Block 1 of Birch Bay Lake Lots, according to the plat thereof, recorded in Book 2 of Plats, Page 76, records of Bonner County, Idaho, and are known as Lots 1 and 2, Lots 6 and 7, Lots 8 and 9, Lots 10 and 11, and Lots 12 and 13. (See also Exhibit "A" attached.)

B. Consolidation of Lots. As one of the Terms and Conditions imposed by the Board, the Petitioners shall, within thirty (30) days of passage of this Ordinance begin the process to consolidate the ten (10) lots into five (5) lots through the Bonner County Planning and Zoning Department thereby resulting in Lots 1 and 2 being consolidated; Lots 6 and 7 being consolidated; Lots 8 and 9 being consolidated; Lots 10 and 11 consolidated; and Lots 12 and 13 being consolidated. The consolidation shall be completed before any of the improvements are installed and, in any event, shall be completed within one (1) year of passage of this Ordinance.

SECTION 3 ADDITIONAL TERMS AND CONDITIONS OF APPROVAL

The Board, at the August 10, 2011, Public Hearing, imposed the following additional "Terms and Conditions" as part of its approval of the annexation request:

A. Responsibility for Design and Improvements. At Petitioner's sole expense, the necessary infrastructure, equipment and improvements shall be designed, developed and installed at the direction of a certified Engineer and shall be in compliance with all Idaho public works statutes and the District ordinances and requirements. Before commencing construction, Petitioners shall present the plans to the District Engineer for approval. All improvements shall be inspected and approved by the District Engineer before connecting to the District's Main Sewer Line.

B. Isolation/Shut-off Valve. The District, at Petitioner's expense, will install a main isolation/shut-off valve at the Lakeshore Drive main sewer connection to ensure that the District has the ability to shut off the Birch Bay Lane sewer connection in the event of problems with Petitioner's individual sewer lines or violations of the rules, regulations, ordinances and resolutions of the District or such other involved governmental agency.

C. Nonrefundable Hookup Fee. Each Petitioner shall, within thirty (30) days of passage of this Ordinance, pay to the District a \$500.00 nonrefundable fee which represents the administrative cost of a hookup per residential unit.

D. Equity Buy-In. Within two (2) years of passage of this ordinance, Petitioners are required to complete construction of the infrastructure and to make physical connection to the main sewer line for the District, all in compliance with District requirements, the Panhandle Health District, the Division of Environmental Quality and any additional approvals by other state agencies. In addition, each of the Petitioners shall, at time of connecting to the main sewer line, pay to the District their Equity Buy-In fee of \$12,000.00 per residential unit. \$1,000.00 of each Equity Buy-In fee shall be used to satisfy a reimbursement obligation relating to Resolution No.'s 95-5 and 10-06.

E. Petitioner Subject to Ordinances and Requirements. Each of the Petitioners are subject to the ordinances, resolutions, rules and regulations of the District, as well as all Idaho public works statutes currently in place and as amended from time to time.

F. Maintenance. All of the infrastructure, equipment and improvements installed by Petitioners, including lift stations and grinder pumps, as well as individual sewer lines, shall be maintained at Petitioner's expenses.

G. Easement/License to Inspect. So long as Petitioners are connected to the District sewer line, the District representatives shall be entitled to an easement and/or an irrevocable license (at the discretion of the District) to come upon Petitioner's property in order to inspect the individual lift stations and the system in general. Infiltration and inflow may need to be measured, at Petitioner's expense, if the District observes abnormal conditions of use.

H. Abandonment of Septic Tanks. At the time each Petitioner makes connection to the main sewer line, they shall be required to abandon their existing septic tanks in compliance with the rules and regulations of Panhandle Health District. There shall be no septic tank effluent being diverted into the District system.

**SECTION 4
DISTRICT BOUNDARY MAP**

Petitioners shall be responsible for preparing, at their expense, an appropriate legal description for the property annexed as well as an official revised map of the District prepared in a draftsmanlike manner which shall plainly and clearly designate the boundaries of such District, as altered, which shall be recorded with the Bonner County Recorder, filed with the Bonner County Assessor, as well as the Idaho State Tax Commission. The legal description, as well as the altered map of the District shall be approved by the District Engineer prior to filing and recording.

**SECTION 5
VALIDITY OF ISSUANCE**

The annexation of the property involved with this Ordinance is approved pursuant to I.C. §42-3218. This recital is conclusive evidence of the validity of the Petition and the regularity of its issuance.

**SECTION 6
DETERMINATION**

The Board does hereby find, determine and declare that it is in the best interest of the District and its inhabitants as well as the best interest of the public at large to approve of the annexation requested.

**SECTION 7
SEVERABILITY**

If one or more of the provisions provided in this Ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provisions shall be null and void and shall be deemed separable from the remaining provisions in this Ordinance and shall in no way affect the validity of the other provisions hereof.

**SECTION 8
PUBLICATION**

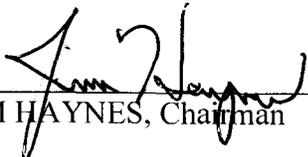
Pursuant to I.C. §50-1727, this Ordinance, or a summary thereof, in compliance with I. C. §31-715A Idaho Code shall be published once in the official newspaper of the District. Any contest or proceeding to question the validity or legality of this Ordinance shall be brought in court by any person for any cause whatsoever prior to the expiration of thirty (30) days from publication of this Ordinance and after such time, the validity, legality and regularity of this Ordinance shall be conclusively presumed.

SECTION 9
EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided herein.

PASSED AND ADOPTED this 12th day of October, 2011.

SOUTHSIDE WATER & SEWER DISTRICT
Bonner County, Idaho



JIM HAYNES, Chairman

ATTEST:



JACQUIE ALBRIGHT, Secretary



STATE OF IDAHO, COUNTY OF
BONNER ss.
ON THIS 12TH DAY OF OCTOBER 2011
BEFORE ME, JACQUELINE F
ALBRIGHT, APPEARED JIM HAYNES
KNOWN TO ME

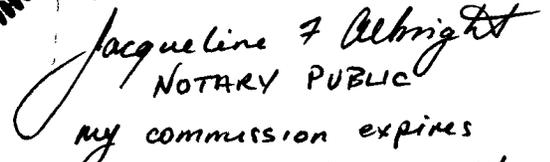
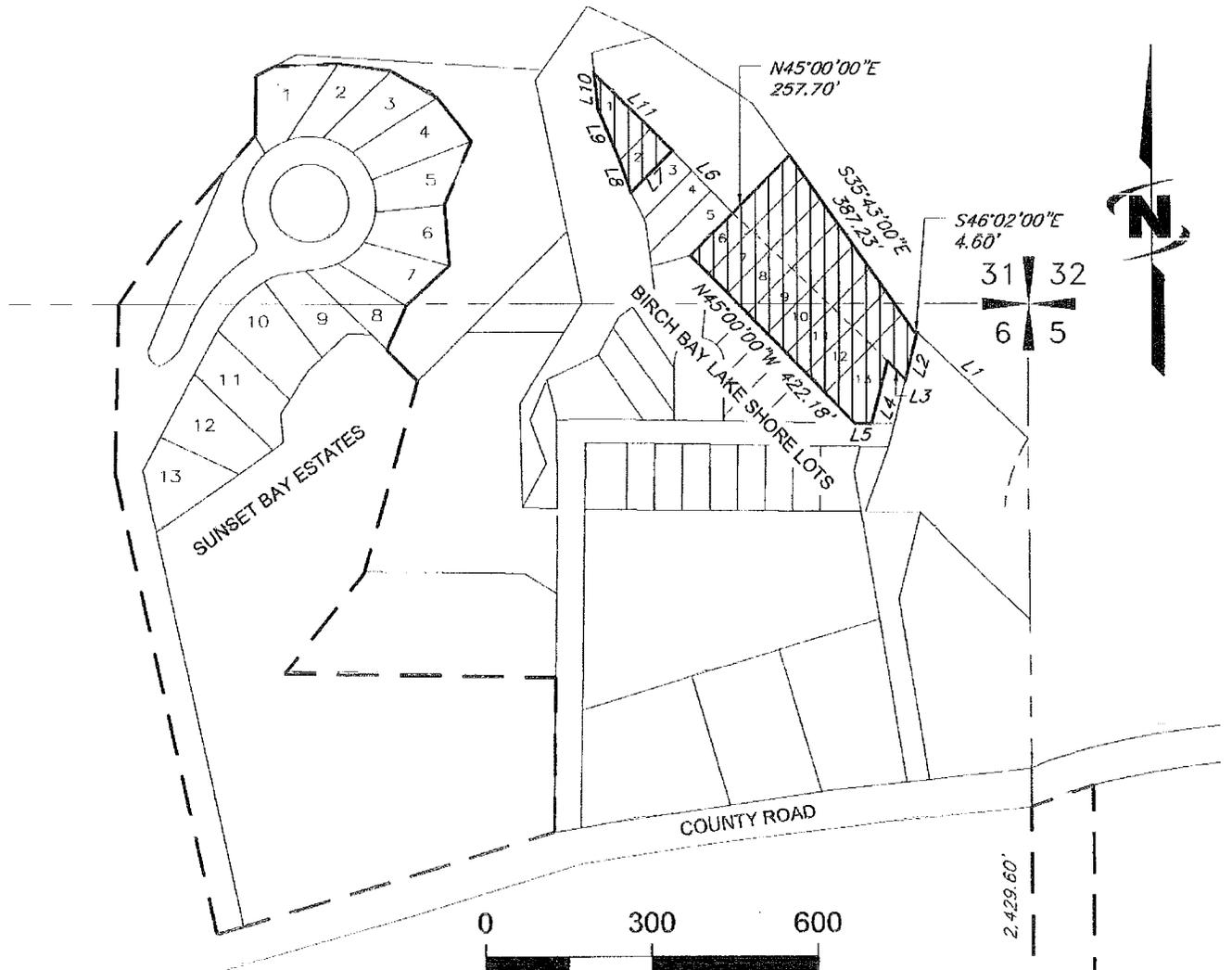

NOTARY PUBLIC
my commission expires
MAY 8 2014

Exhibit "A"
to
Ordinance #11-03

Name & Address	Legal Description
Rodney D. Raabe Debra L. Raabe 6316 S. Auer Street Spokane, WA 99223	Lots 12 & 13 in Block 1 of Birch Bay Lake Lots, according to the plat thereof, recorded in Book 2 of Plats, Page 76, records of Bonner County, Idaho. (125 Birch Bay Lane, Sagle, ID)
Birch Bay Ventures, L.L.C. by Kirk Kappen, Member 695 N. Legacy Ridge Drive #301 Liberty Lake, WA 99019	Lots 10 & 11 in Block 1 of Birch Bay Lake Lots, according to the plat thereof, recorded in Book 2 of Plats, Page 76, records of Bonner County, Idaho. (141 Birch Bay Lane, Sagle, ID)
Thomas R. Walley Tamey J. Walley E. 7408 Uhlig Spokane, WA 99217	Lots 8 & 9 in Block 1 of Birch Bay Lake Lots, according to the plat thereof, recorded in Book 2 of Plats, Page 76, records of Bonner County, Idaho. (159 Birch Bay Lane, Sagle, ID)
M & L Family, LLC c/o Mike & Linda Jensen P. O. Box 3708 Spokane, WA 99220	Lots 6 & 7 in Block 1 of Birch Bay Lake Lots, according to the plat thereof, recorded in Book 2 of Plats, Page 76, records of Bonner County, Idaho. (175 Birch Bay Lane, Sagle, ID)
Ann L. Allen Randy D. Allen 2239 E. Hayden View Drive Coeur d'Alene, ID 83815	Lots 1 & 2 in Block 1 of Birch Bay Lake Lots, according to the plat thereof, recorded in Book 2 of Plats, Page 76, records of Bonner County, Idaho. (230 Birch Bay Lane, Sagle, ID)



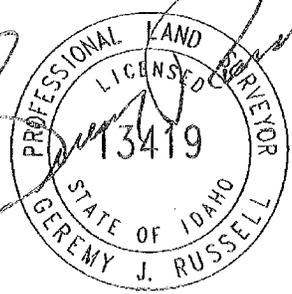
SCALE IN FEET

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N46°02'00"W	300.00'
L2	S14°20'00"W	87.70'
L3	N45°00'00"W	46.50'
L4	S14°20'00"W	115.19'
L5	N89°10'00"W	29.98'
L6	N45°00'00"W	150.00'
L7	S45°00'00"W	105.56'
L8	N19°07'00"W	61.02'
L9	N23°09'00"W	99.20'
L10	N5°45'00"W	66.46'
L11	S45°00'00"E	198.47'

LEGEND

--- EXISTING SOUTHSIDE SEWER DISTRICT BOUNDARY

 AREA TO BE ANNEXED INTO SOUTHSIDE SEWER DISTRICT

Jeremy J. Russell
 4/11/12


N00°12'00"E 2,429.60'

6 5



ANNEXATION to SOUTHSIDE SEWER DISTRICT

A PORTION OF BIRCH BAYS SHORE LOTS,
 LOCATED IN SEC. 6, T 56N, R 2W, AND SEC. 31,
 T 57N, R 2W, B.M., BONNER COUNTY, IDAHO