

**RESOLUTION NO. 03-4**

**A RESOLUTION OF BAYVIEW WATER AND SEWER DISTRICT, OF KOOTENAI COUNTY, IDAHO, HEARING, CONSIDERING AND DISPOSING OF PROTESTS REGARDING THE ASSESSMENT ROLL FOR LOCAL IMPROVEMENT DISTRICT NO. 2; CONSIDERING THE ENGINEER'S REPORT THEREFOR; MAKING AMENDMENTS AND FINAL DISPOSITION OF PROTESTS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO**

**BAYVIEW WATER AND SEWER DISTRICT  
Kootenai County, Idaho**

**LOCAL IMPROVEMENT DISTRICT NO. 2**

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BAYVIEW WATER AND SEWER DISTRICT, of Kootenai County, Idaho, as follows:

WHEREAS, Bayview Water and Sewer District, of Kootenai County Idaho, (the "District"), is a municipal corporation operating and existing under and pursuant to the provisions of the Constitution and laws of the State of Idaho, and as such is authorized and empowered to create local improvement districts and to construct improvements pursuant to Idaho Code, Title 50, Chapter 17; and

WHEREAS, the Board of Directors of the District, (the "Board"), by Ordinance No. 98-1, adopted on July 21, 1998, duly created Local Improvement District No. 2 ("LID No. 2"), provided for certain improvements to be made therein, and provided that a portion of the cost and expense of said improvements be assessed against the property benefited thereby; and

WHEREAS, at the direction of the Board, the District's Engineer has created an assessment roll (the "Assessment Roll") apportioning the costs of said improvements among the lots, parcels, and other property located within LID No. 2; and

WHEREAS, a public hearing has been duly noticed and called for the date hereof, at which hearing all material submitted was reviewed and all those persons desiring to be heard were heard and considered on September 12, 2003 which has been continued to September 16, 2003; and

WHEREAS, the Board has now disposed of the protests; and

WHEREAS, it now appears to the Board that each lot, tract, parcel, and other property included within LID No. 2 will be specially benefited by the doing and making of the improvements within said LID No. 2 at least in an amount equal to, as to such lot, parcel of land and other property, the specific amount set opposite each such lot, parcel of land and other property upon the Assessment Roll heretofore filed; and

WHEREAS, each and all of said assessments are strictly in accordance with the benefits derived and are in amount and apportionment in accordance with Idaho Code 50-1712, and the ordinances and resolutions of the District, and said Assessment Roll and each and all of the assessments set forth therein are correct and proper in every respect; and

WHEREAS, the Board has also considered the Engineer's Report with respect to the apportionment and correctness of the assessments with respect to the amounts levied on any particular lot or parcel of land, including the benefits accruing thereon, and the proper apportionment of the total cost of the improvements to be borne thereby, and the inclusion of any lot or parcel of land in LID No. 2;

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

**Section 1:     PROTESTS TO ASSESSMENT ROLL**

The protests to the Assessment Roll, as described in Exhibit "A" attached hereto and incorporated herein by this reference, were presented, in writing or verbally, at or prior to the public hearing.

**Section 2:     DISPOSITION OF PROTESTS**

Disposition is hereby made, as set forth in Exhibit "B" attached hereto and incorporated herein by this reference, concerning each of the protests set forth in Exhibit "A" attached hereto and referred to in Section 1 hereof.

**Section 3:     FINDING OF BENEFIT FROM IMPROVEMENTS**

Each and all of said lots, parcels of land and other property within said LID No. 2, as the same are described in the Assessment Roll, will be especially benefited by the making and doing of said improvements in excess of the costs and expenses of said improvements.

**Section 4:     DETERMINATION OF AMOUNT OF BENEFIT**

Each and every lot or parcel of land is benefited in the amount of the assessment now levied thereon.

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**Section 5: SUFFICIENCY OF ASSESSMENT ROLL**

The Assessment Roll and the amount levied on each lot or parcel of land, including the benefits accruing thereon, and the proper proportionate share of the total cost of the improvements to be borne by each lot or parcel of land, are proper, regular, sufficient, and correct.

**Section 6: LIMITATION ON INCREASE OF ASSESSMENTS**

No single assessment has been increased in an amount greater than twenty percent (20%) of the amount of the assessment as set forth in the Notice of Hearing.

**Section 7: SEVERABILITY**

If any section, paragraph, clause, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of each section, paragraph, clause, or provision shall in no manner affect any remaining provision of this Resolution.

**Section 8: EFFECTIVE DATE OF RESOLUTION**

This Resolution shall take effect and be in force and effect from and after its passage and approval.

PASSED at a special meeting of the Board of Directors of Bayview Water and Sewer District, held on the 16<sup>th</sup> day of September, 2003.

BAYVIEW WATER AND SEWER DISTRICT,  
Kootenai County, Idaho

ATTEST:

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Chair, Board of Directors

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Secretary

( S E A L )

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I, the undersigned, Secretary of Bayview Water and Sewer District, of Kootenai County, Idaho, hereby certify that the foregoing Resolution is a full, true, and correct copy of a Resolution duly adopted at a regular meeting of the Board of Directors of the District, duly and regularly held at the regular meeting place thereof on September 16, 2003, of which meeting all members of said Board had due notice and at which a majority thereof were present; and that at said meeting said Resolution was adopted by the following vote:

AYES, and in favor thereof, Boardmembers:

NAYS, Boardmembers:

ABSENT, Boardmembers:

ABSTAIN, Boardmembers:

I further certify that I have carefully compared the same with the original Resolution on file and of record in my office; that said Resolution is a full, true, and correct copy of the original Resolution adopted at said meeting; and that said Resolution has not been amended, modified, or rescinded since the date of its adoption, and is now in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the official seal of the District on September 16, 2003.

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Secretary

( S E A L )

**EXHIBIT "A"**

**BAYVIEW WATER AND SEWER DISTRICT  
Kootenai County, Idaho**

**LOCAL IMPROVEMENT DISTRICT NO. 2**

The following protests to the Assessment Roll for Local Improvement District No. 2 were presented, in writing or verbally, at or prior to the public hearing held on September 12, 2003:

<u>Name of Protester</u>	<u>Parcel Number</u>	<u>Nature of Protest</u>
John Wheeler	19457 Assessment No. 57	Property will not benefit from the improvement
Jim McBride	Assessment No. 39 – Parcel No. 0-1-20-001-001A	Charged for meter and did not receive one
Christopher Ashenbrener	Parcel B-4900-001-008-0 Parcel B-4900-001-007-0	Cannot benefit from waterline because cannot hook up.
Larry French	Assessment No. 148 0-1020-003-001-0 Lot 1, Blk 3 Capehorn	Will not ever use the hook up so will not benefit from the improvement
Howard House	Parcel B-4900-001-009-0 Lot 9, Blk 1, Sonic Bay Tracts	Not really an objection but asking for an explanation and confirmation of payment
Donald J. Ciavola	Parcel No. 54 N 02 W-36-4470 Assessment No. 58 Tax No. 18861	Does not plan to develop property and use hook up
David and Patricia Bennett		Objects to formula used for assessments and asks that it be reconsidered
Barbara and Michael Truax		Do not waive right to object to any increase after the September 12, 2003 meeting
Marlene Irwin		Objects to installation of new meters and paying for them
Kelly Fromm	54 N 02 W-3605590	Has own water system and does not want to hook up to the new one
C. Michael and Karla Falter	Assessment No. 19 54 N 02 W-36-5680	Believes assessment is too high
David and Teri Tomberg		Concern about the installation of rock wall adjacent to their property.

**EXHIBIT "B"**

**BAYVIEW WATER AND SEWER DISTRICT  
Kootenai County, Idaho**

**LOCAL IMPROVEMENT DISTRICT NO. 2**

The following disposition is made concerning the protests to the Assessment Roll for Local Improvement District No. 2 which were presented, in writing or verbally, at or prior to the public hearing held on September 12, 2003:

<u>Name of Protester</u>	<u>Parcel Number</u>	<u>Disposition of Protests</u>
John Wheeler	19457 Assessment No. 57	Deny
Jim McBride	Assessment No. 39 – Parcel No. 0-1-20-001-001A	Granted in part and assessment reduced by \$550.00
Christopher Ashenbrenner	Parcel B-4900-001-008-0 Parcel B-4900-001-007-0	Deny
Larry French	Assessment No. 148 0-1020-003-001-0	Deny
Howard House	Lot 1, Blk 3 Capehorn Parcel B-4900-001-009-0 Lot 9, Blk 1, Sonic Bay Tracts	No action required, as not an objection
Donald J. Ciavola	Parcel No. 54 N 02 W-36-4470 Assessment No. 58 Tax No. 18861	Deny
David and Patricia Bennett Barbara and Michael Truax		Deny Assessments not raised, no need to respond
Marlene Irwin		Deny
Kelly Fromm	54 N 02 W-3605590	Deny
C. Michael and Karla Falter	Assessment No. 19 54 N 02 W-36-5680	Deny
David and Teri Tomberg		Not an objection, but did note concern and responded.

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