

RESOLUTION 24-11195

**A RESOLUTION REPEALING RESOLUTION 90-16317
AND TERMINATING EXEMPTION OF PROPERTIES
LOCATED WITHIN HOGAN HOMESTEAD SUBDIVISION
FROM ANNUAL STORM SEWER SERVICE CHARGES**

WHEREAS, Sec. 22-804, BMCC, requires all premises within the City of Billings to pay an annual storm sewer service charge for the purpose of paying the cost of construction, operation, maintenance, depreciation and replacement of sewers to dispose of stormwater and divert it from the sewage disposal plant and prevent pollution of sources of water supply, including the principal of and interest on all revenue bonds to be issued for that purpose, as authorized by MCA Title 7, Chapter 7, Part 44, or Title 7, Chapter 13, Part 43; and

WHEREAS, the Subdivision Improvements Agreement for Hogan Homestead Subdivision (1982) requires a storm drainage system be installed to drain storm water to the City-County drain, Hogan Slough, and remaining street surface drainage and internal surface drainage carried to inlets leading to storm drains conducting the water to storm water retention basins located on site which shall be maintained with water circulating from and to the Hogan Slough and Canyon Creek Ditch; and

WHEREAS, City Council adopted Resolution 90-16317 exempting all properties within Hogan Homestead Subdivision from paying this annual storm sewer service charge upon finding, at the time, that the Hogan Homestead Subdivision did not discharge storm water into the City's storm sewer system and that "the City currently incurs no annual costs of maintenance, capital replacement, or any other activities related to storm drainage in this Subdivision"; and

WHEREAS, Resolution 90-16317 specifies properties within Hogan Homestead Subdivision are exempt from storm sewer assessments "for the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate" and will continue until terminated by City Council; and

WHEREAS, the City now maintains Hogan Slough and Canyon Creek Ditch as part of the City's storm sewer system; and

WHEREAS, Hogan Homestead Subdivision now discharges stormwater into the City's storm sewer system which incurs costs to the City of construction, operation, maintenance, depreciation and replacement of sewers to dispose of stormwater and divert it from the sewage disposal plant and prevent pollution of sources of water supply in contravention of the recitals supporting the exemption in Resolution 90-16317.

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

1. That Resolution 90-16317 is repealed in its entirety, and the exemption from assessment of annual storm sewer service charges for the properties located within Hogan Homestead Subdivision is terminated.
2. **NOTICE OF HEARING.** On Monday March 11 and Monday April 22, 2024, at 5:30 p.m., or as soon thereafter as the matter could be considered on the agenda in the Council Chambers of the City Hall, Billings, Montana, the City Council heard objections to the adoption of this resolution. The City Clerk published notice twice, at least five (5) days prior to the hearing, in the Yellowstone County News.
3. **EFFECTIVE DATE.** This resolution shall be effective July 1, 2024.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 22nd day of April, 2024.

CITY OF BILLINGS



By: William A. Cole
William A. Cole, Mayor

ATTEST:

By: Denise R. Bohlman
Denise R. Bohlman, City Clerk

City Council Regular

Date: 04/22/2024

Title: Public Hearing and Resolution to rescind Resolution 90-16317, exempting property within Hogan Homestead Subdivision from storm assessments

Presented by: Jennifer Duray

Department: Public Works

Presentation: Yes

Legal Review: Yes

Project Number: N/A

RECOMMENDATION

Staff recommends Council rescind and repeal Resolution No. 90-16317 exempting the property located within Hogan Homestead Subdivision from storm sewer assessments.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

On June 11, 1990, Council passed and approved Resolution No. 90-16317. This resolution exempted all property within Hogan Homestead Subdivision from storm sewer assessments as at that time, Hogan Homestead Subdivision did not discharge storm water into the City's storm sewer system. However, Hogan Homestead Subdivision currently discharges storm water into Hogan Slough. The City has maintenance responsibility for Hogan's Slough. In addition, the stormwater fee that is charged to all properties within the City is based on the stormwater system being an integral part of the street system. Streets cannot function effectively without a storm drain system whether that be pipes, swales, or otherwise, and so all properties are assessed regardless of their particular property discharge. Therefore, staff is recommending that Council rescind and repeal the 1990 resolution and begin charging properties within Hogan Homestead Subdivision for storm sewer effective July 1, 2024.

A map of Hogan Homestead Subdivision is attached as well as a list of current property owners. A public hearing for March 11, 2024, was advertised in the Yellowstone County News on March 1 and March 8, 2024. Additionally, a letter was mailed to all property owners within Hogan Homestead Subdivision to notify them of the public hearing regarding the repeal of the resolution exempting these properties from storm fees. Public Works was contacted by property owners within the Subdivision prior to the public hearing and asked to delay the public hearing until April 22, 2024, to give the property owners time to meet with Public Works. The public hearing was opened on March 11, 2024, as advertised and continued to April 22, 2024.

ALTERNATIVES

City Council may:

- Approve rescinding and repealing Resolution No. 16317; or,
- Not approve the Resolution and continue exempting properties within Hogan Homestead Subdivision from storm assessments.

FISCAL EFFECTS

All properties within Homestead Hogan Subdivision are zoned Corridor Mixed-Use 2 and the total square footage of the 47 properties is 4,725,001 square feet. At current storm sewer fee rates and current rate methodology using square footage and zoning, the total annual revenue generated from Hogan Homestead Subdivision would be \$64,964 if these properties were no longer exempted from storm fees. The average storm fee would be \$1,382.21 and the median is \$932.64. The largest property in the Subdivision (635,723 square feet) would be charged \$8,740.56 annually.

Attachments

1990 Resolution

Resolution to Repeal 1990 Resolution

Hogan Homestead Subdivision Property Owners

Hogan Homestead Subdivision Exhibit

Presentation

Res. 21-11195

COUNCIL ACTION	Approved
11-0	
APR 22 2024	
db	
CITY CLERK	



RESOLUTION NO. 90- 16317

A RESOLUTION OF THE CITY OF BILLINGS EXEMPTING THE PROPERTY LOCATED WITHIN HOGAN HOMESTEAD SUBDIVISION FROM STORM SEWER ASSESSMENTS.

WHEREAS, Hogan Homestead Subdivision does not discharge storm water into the City's storm sewer system; and

WHEREAS, Hogan Homestead Subdivision has an internal storm drainage system which is operated and maintained by and at the expense of the property owners of Hogan Homestead Subdivision; and

WHEREAS, the City currently incurs no annual cost of maintenance, capital replacement, or any other activities related to the storm drainage in this Subdivision; and

WHEREAS, pursuant to Section 22-804(e) of the Billings City Code, the City Council can adjust storm sewer charges for premises during the period of continuance of special circumstances which make the standard charges unfair, inequitable, unreasonable or inadequate; and

WHEREAS, under the aforementioned circumstances it would be unfair and inequitable to assess storm drainage charges to the properties in Hogan Homestead Subdivision at this time.

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

That the properties located within Hogan Homestead Subdivision are exempt from storm sewer reassessments. This exemption will continue until terminated by City Council.

PASSED by the City Council and APPROVED this 11th day of July, 1990.

CITY OF BILLINGS

SEAL
By Marvin L. Hogan
Mayor

ATTEST:

Marvin Hogan
City Clerk

RESOLUTION 24-_____

**A RESOLUTION REPEALING RESOLUTION 90-16317
AND TERMINATING EXEMPTION OF PROPERTIES
LOCATED WITHIN HOGAN HOMESTEAD SUBDIVISION
FROM ANNUAL STORM SEWER SERVICE CHARGES**

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WHEREAS, the City now maintains Hogan Slough and Canyon Creek Ditch as part of the City's storm sewer system; and

WHEREAS, Hogan Homestead Subdivision now discharges stormwater into the City's storm sewer system which incurs costs to the City of construction, operation, maintenance, depreciation and replacement of sewers to dispose of stormwater and divert it from the sewage disposal plant and prevent pollution of sources of water supply in contravention of the recitals supporting the exemption in Resolution 90-16317.

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3. **EFFECTIVE DATE.** This resolution shall be effective July 1, 2024.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the _____ day of _____, 2024.

CITY OF BILLINGS

By: _____
William A. Cole, Mayor

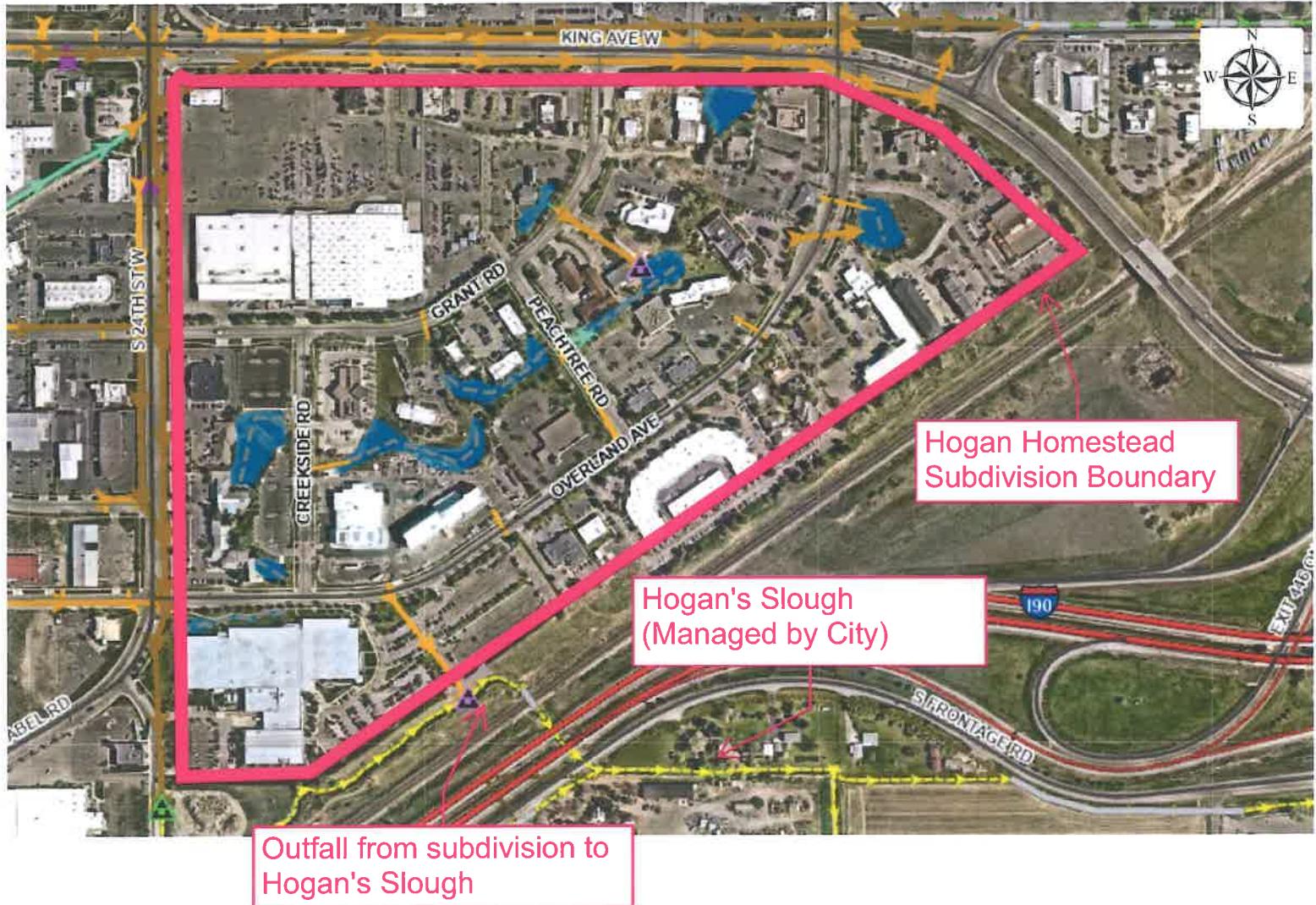
ATTEST:

By: _____
Denise R. Bohlman, City Clerk

Hogan Homestead Subdivision

Tax Code	Address	Owner Info	County Legal
A24982	2324 OVERLAND AVE	WELLS FARGO BANK NA	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 1A, & LTS 2,3A & 4A-1 AMND (02)
A24986	2180 OVERLAND AVE	D & S PROPERTIES LLP	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 4B1, AMND (98)
A24986A	2170 OVERLAND AVE	CIRCLE P RANCH LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 5A, (95)
A24987	2110 OVERLAND AVE	RIGLER RANCH PARTNERSHIP LLP	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 6 - 8
A24990	2070 OVERLAND AVE	JOB CONNECTION, INC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 9A1, AMND LT 9A
A24990A	2060 OVERLAND AVE	MAJERUS, JAMES C & CHERYL L	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 9A2, AMD
A24990B	2050 OVERLAND AVE	YELLOWSTONE BOYS & GIRLS RANCH	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 9A3, AMND LT 9A
A24990C	2048 OVERLAND AVE	ESPY, JIM	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 9A4, AMND
A24991A	2036 OVERLAND AVE	BILLINGS HOSPITALITY LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 10A2, AMND LT 10-A-2.9D AC
A24991B	2038 OVERLAND AVE	RYAN, WILLIAM O & BEVERLY R	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 10-A-3, AMD
A24992	2000 OVERLAND AVE	YELLOWSTONE BANK	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 11
A24993	1006 CREEKSIDE RD	VEEDER HOMESTEAD LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 2, Lot 1A1, AMD (99)
A24993A	1001 S 24TH ST W	5OUND VENTURE LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 2, Lot 2A
A24994	2300 GRANT RD	BROADSTONE BPS MONTANA LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 3, Lot 1A, (2001)
A24994A	2294 GRANT RD	TALLMAN MEDICAL BUILDING LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 3, Lot 1B1, AM (21)
A24996	2173 OVERLAND AVE	UNITED WAY OF YELLOWSTONE COUNTY INC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 3, Lot 3A, AMD (20)
A24997	2255 OVERLAND AVE	VEEDER HOMESTEAD LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 3, Lot 4A1, AMD (21)
A24997A	2225 OVERLAND AVE	VEEDER HOSPITALITY ASSOCIATES	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 3, Lot 4B1A, AMD (21)
A24998	2250 GRANT RD	DOUGLAS, HARLAN D & MAXINE H	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 1A1, AMND (I-67B HERE US POST OFFICE)
A24998A	2240 GRANT RD	GRANT LAND CO LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 1A2, AMND LT 1-A
A24999	2220 GRANT RD	MORTON, CHRISTOPHER L &	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 2A, AMND LT 2
A25000	2204 GRANT RD	RJVL PROPERTIES LLC (50%) & MONAD ROAD LLC (50%)	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 3A1, AMD (24)
A25000A	2212 GRANT RD	RJVL PROPERTIES LLC (50%) & MONAD ROAD LLC (50%)	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 3A1, AMD (24)
A25001	2001 OVERLAND AVE	GREENLEAF LAND & LIVESTOCK CO	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 4A
A25001A	2011 OVERLAND AVE	3KDB LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 4B
A25001B	2021 OVERLAND AVE	BILLINGS ASSOCIATION OF REALTORS INC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 4C
A25002	2045 OVERLAND AVE	COWLES MONTANA MEDIA COMPANY	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 5A, AMND LT 5-6
A25003B	2075 OVERLAND AVE	LARSON FAMILY PROPERTIES LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 6A1 - 6A3, AMND 174,192 SQ FT (2002)
A25003C	2101 OVERLAND AVE	OVERLAND OFFICE LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 6A4, AMND LT 6-A
A25003D	2147 OVERLAND AVE	MONTANA DISTRICT COUNCIL OF THE ASSEMBLY OF GOD CHURCHES	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 4, Lot 6A5, AMND
A25004	2290 KING AVE W	COSTCO WHOLESAL	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 1-A-1-A, AMND LT 1-A
A25004A	2300 KING AVE W	GRIZZLY-RENDEZVOUS LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 1-A-1-B, AMND LT 1-A-1
A25004B	2250 KING AVE W	BELLEAU, WAYNE A	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 1-A-1-C, AMND LT 1-A-1
A25005	2201 GRANT RD	FCPT RESTAURANT PROPERTIES LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 2A, AMND LT 2-3
A25005	2235 GRANT RD	NORWEST BANK BILLINGS NA	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 3A
A25007	905 S 24TH ST W	905 S 24TH ST W OWNER LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 4A1, AMD (11)
A25007A	2350 KING AVE W	KING AVENUE BILLINGS LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 5, Lot 4A2, AMD (11)
A27799	2010 OVERLAND AVE	BENNY'S RE II LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 10A1A1, AMND LT 10A (95)
A27800	2020 OVERLAND AVE	BILLCO INVESTMENT LLC INC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 10A1B1, AMND LT 10A (95)
A27801	2026 OVERLAND AVE	YELLOWSTONE ACCOMMODATIONS LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 10A-1-C, AMND LT 10A-1 (1.868 ACRES)
A27802	2030 OVERLAND AVE	MIDWEST HOTELS, LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 1, Lot 10A-1-D, AMD LOT 10A (1.557 ACRES)
A29340	2270 GRANT RD	3'S AWAY LLC	WILLOW CREEK OFFICE PARK, S18, T01 S, R26 E, UNIT A, 33.333% COMMON AREA INTEREST, LOC @ LT 2 BLK 3 HOGAN HOMESTEAD SUB
A29341	2280 GRANT RD	WILLOW CREEK LLC	WILLOW CREEK OFFICE PARK, S18, T01 S, R26 E, UNIT B, 33.333% COMMON AREA INTEREST, LOC @ LT 2 BLK 3 HOGAN HOMESTEAD SUB
A29342	2290 GRANT RD	HII LLP	WILLOW CREEK OFFICE PARK, S18, T01 S, R26 E, UNIT C, 33.333% COMMON AREA INTEREST, LOC @ LT 2 BLK 3 HOGAN HOMESTEAD SUB
A29401	993 S 24TH ST W	MCS PROPERTIES, LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 2, Lot 3A1A, (2000)
A29402	985 S 24TH ST W	UGLY MUG CRIBS LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 2, Lot 3A1B, (2000)
A29403	2360 GRANT RD	VEEDER HOMESTEAD LLC	HOGAN HOMESTEAD SUBD, S18, T01 S, R26 E, BLOCK 2, Lot 3A1C, (2000)

Hogan Homestead Subdivision: Discharge to Hogan's Slough

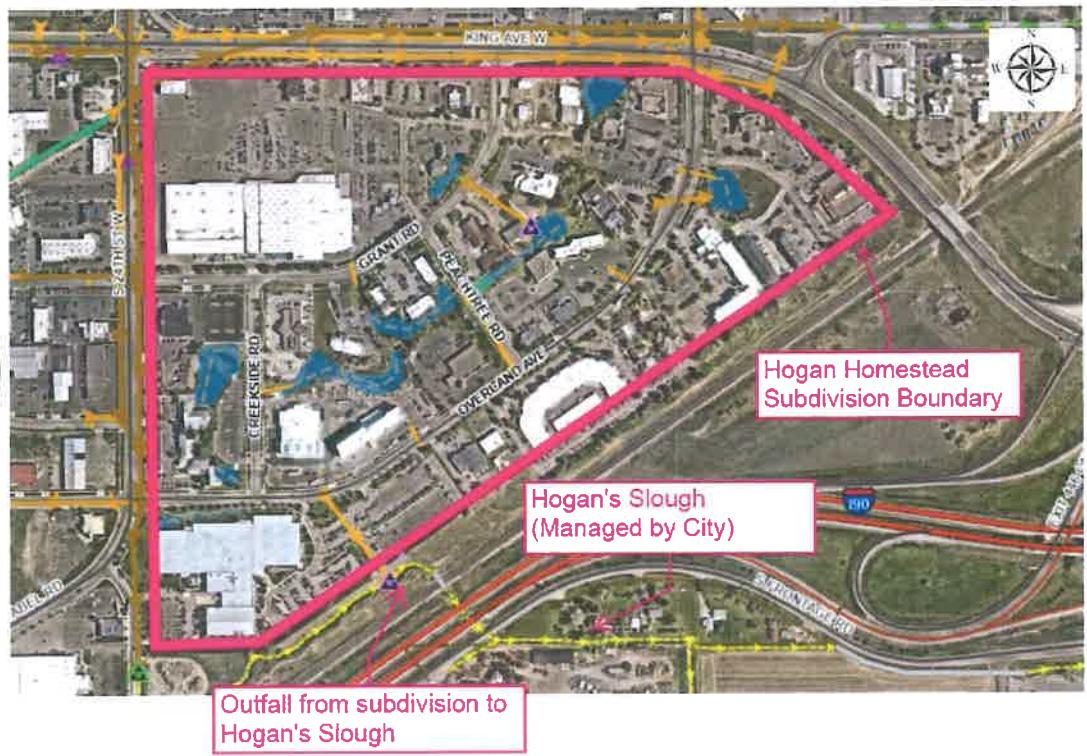




Hogan Homestead Subdivision

Resolution to Rescind Resolution
90-16317, exempting property
within Hogan Homestead
Subdivision from Storm Sewer
Assessments

Hogan Homestead Subdivision: Discharge to Hogan's Slough



Basic Premise of 1990 Resolution

- Hogan Homestead Subdivision does not discharge storm water into the City's storm sewer system
- The Subdivision has an internal storm drainage system which is operated and maintained by and at the expense of property owners in the Subdivision.
- City incurs no annual cost of maintenance, capital replacement, or any other activities related to the storm drainage in the Subdivision.

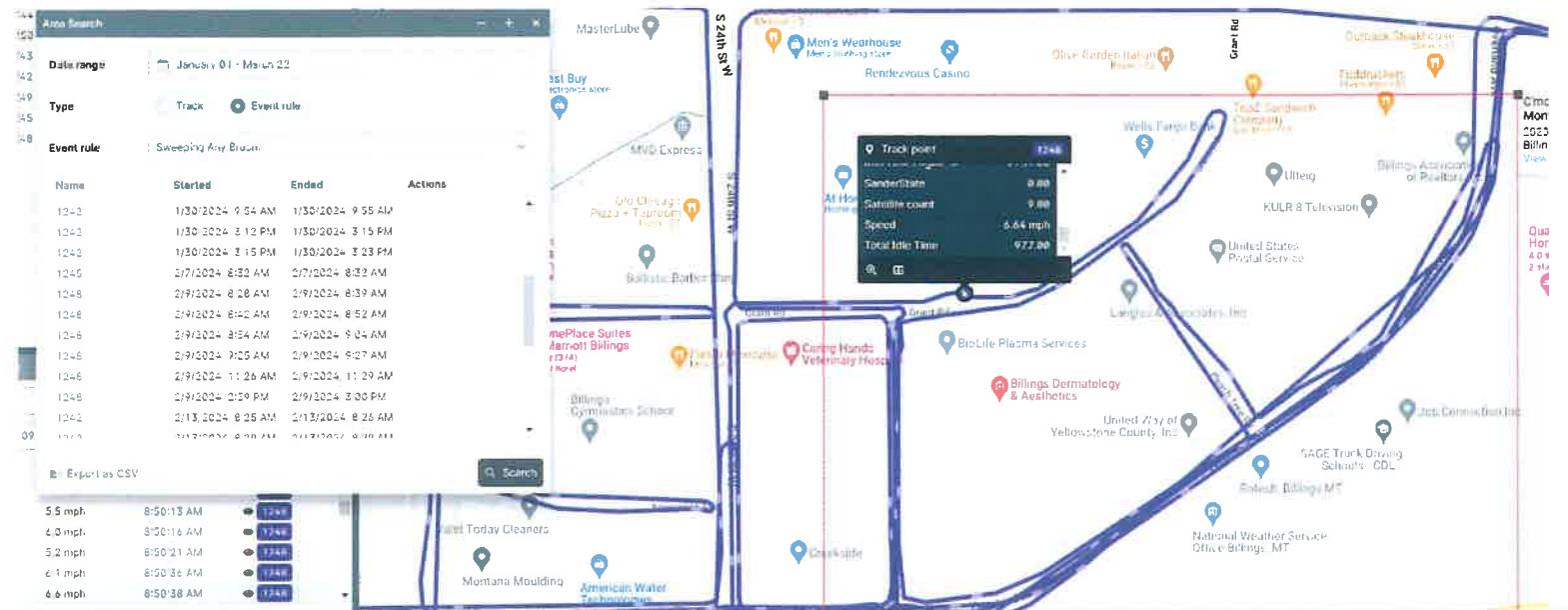


Current Situation

- Hogan Homestead Subdivision does not discharge storm water into the City's storm sewer system
- The Subdivision has an internal storm drainage system which is operated and maintained by and at the expense of property owners in the Subdivision.
- City incurs no annual cost of maintenance, capital replacement, or any other activities related to the storm drainage in the Subdivision.



Meeting With Property Owners



Recommendation to Repeal Resolution

-  All subdivisions are required to retain stormwater on site
-  City has maintenance responsibility for Hogan's Slough
-  City has maintenance responsibility within subdivision (sweeping, inlets, etc.)
-  All properties are charged the stormwater fee because storm is part of the street system
-  This is the only subdivision that is currently exempt from stormwater fees
-  Other properties currently subsidizing this subdivision. If subdivision is charged, fees for others decrease.