

RESOLUTION NO. 676

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER & SEWER DISTRICT, WHATCOM COUNTY,
WASHINGTON, FOR PRELIMINARY ACCEPTANCE OF THE BENEFIT AREA OF
WHITEHORN WAY SUBJECT TO FINAL REVIEW FOLLOWING PUBLIC HEARING

WHEREAS, the Birch Bay Water and Sewer District ("District") and Cary-Mary Anderson Trust/TR Michael Wayte and Jacqueline Baker, Bill and Robin Blais, Sergey and Svetlana Yarovoy herein referred to as "Developer/Owner", respectively, entered into a Developer Extension Agreement, in accordance with which the Developer completed installation of sewer extension facilities to a project known as "Whitehorn Way Sewer Extension"; and

WHEREAS, portions of the sewer extension facilities installed by Developer appear to benefit real property other than Whitehorn Way project; and

WHEREAS, Developer is generally entitled to reimbursement from benefited real property owners seeking connection to such sewer extension facilities, for the cost of such facilities in excess of Developer's fair pro rata share therefor; and

WHEREAS, the District and Developer may enter into a Reimbursement Agreement ("Agreement", attached hereto at Exhibit 1); and

WHEREAS, it is contemplated the Agreement may set forth the reimbursement amount to which Developer is entitled to upon connection to the sewer extension facilities by the benefited property depicted in Exhibit C of the Agreement ("Benefited Property"); and

WHEREAS, the foregoing recitals are a material part of this Resolution;

NOW, THEREFORE, be it resolved by the Board of Commissioners ("Board") of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: The property shown on Exhibit C of Exhibit 1 is hereby preliminarily determined to be benefited by the Whitehorn Way Sewer Extension project. It is further preliminarily determined that the owners of the Benefited Property, upon connection to the District sewer extension facilities, should be required to pay the following charges:

<u>Identifier</u>	<u>Tax Parcel No.</u>	<u>Sewer Facility</u>
Parcel A	395102275030	\$26,345.94
Parcel B	395102258009	\$25,819.02
Parcel C	395102310008	\$23,711.34

The District shall schedule a public hearing to determine whether the Benefited Property has been properly identified as benefited from the Whitehorn Way Sewer Extension project, the appropriate charge for reimbursement, and whether there are any other properties so benefited. Subject to further consideration and a final decision following a public hearing, the District

General Manager may be authorized by the Board to enter into an Agreement on behalf of the District with Developer substantially as set forth in Exhibit 1.

Section 2: In the event the District decides to enter said Agreement with Developer, it is anticipated that the District would collect the above-listed charges from the owners of the Benefited Property and that such charges will be the sole source of funds from which reimbursement to the Developer can and will be made by the District, only as and when the same are collected.

Section 3: In the event the District decides to enter into the Agreement with Developer, the District's right to collect reimbursement charges and the Developer's right to receive reimbursement shall terminate upon expiration of the Agreement, which shall be fifteen (15) years after the date of final acceptance of title to the extension facilities by the District.

Section 4: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Commissioners hereby declare that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 6: This Resolution shall be effective immediately.

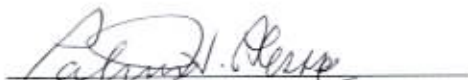
ADOPTED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 26th day of February, 2009.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 676 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on February 26th, 2009.


SECRETARY