

**Fairway Boulevard Townhouses  
Homeowners' Association, Inc.  
PO Box 9073  
Kalispell, Montana 59904  
406-257-1302**

Leland "Wally" Walbruch, President  
Randy Johnson, Vice President  
Jane Gronley, Secretary  
Gil Conrad, Director

Craig Coburn, Director  
Gary Ruppel, Director  
Ron Trippet, Director  
David Roberts, Manager

February 19, 2021

Partick Jentz, PE Engineer 2  
Kalispell City Public Works  
201 1st Ave E  
Kalispell, MT 59901

I again wanted to express our thanks to our Public Works staff and city engineers for taking the time to provide the Fairway Boulevard Homeowners Association with the proposed plans to relocate Lift Station #9 from the base of the FBHOA bluff to the area just off of the street Fairway Boulevard. I reviewed your letter of January 29, 2021 and addressed its contents with our FBHOA Board of Directors and our legal counsel.

We conducted an extensive review of the many FBHOA plats, and this review did not provide, from our perspective, substantial evidence of an easement that would allow the lift station relocation decision that would have a significant impact on the aesthetic of our residential area and, in turn, jeopardizing our Association members investment.

The problem we have identified in the plats is the inconsistency with respect to language on the plats and whether they actually create easements. For instance, the FBHOA Plat Phase VI dated May 29, 1991, includes very specific easement language under the heading entitled "Certificate of Utility Easement". This language includes the grant of an easement and such easement is noted on the plat as a 28' private road and utility easement. This very specific language is in contrast to the vague notation of "all common area is also available as an easement for utility purposes." Your letter indicates that you are relying on this vague description in your proposal for the lift station relocation. Please provide any documentation that shows the city actually entered into an easement with the property owners of a traditional easement that includes a grant of the easement and a reasonably specific description of the location and purpose of the easement. It is our view that the vague language on the plat indicating that the common areas are "available" may not have created an easement at all as it is our understanding that there must be some sort of grant language for similar easements and the descriptions must be reasonably clear.

I request a more definitive examination of these documents by the City on this proposed action. These findings should be provided to me so I can address any additional information with the FBHOA Board of Directors.

Sincerely,

*Wally*

Leland "Wally" Walbruch, President  
Fairway Boulevard Townhouse Homeowners' Association  
Kalispell, Montana 59901  
[walbruchsofmont@centurylink.net](mailto:walbruchsofmont@centurylink.net) or [info@fairwayblvd.com](mailto:info@fairwayblvd.com)

*DRAFT*

**Fairway Boulevard HOA Executive Summary  
of February 4, 2021, Virtual Meeting with  
Colleen Donohue & Board of Directors**

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February 4, 2021

The Board of Directors of Fairway Boulevard Homeowners Association met via "Virtual Zoom" due to COVID-19 Restrictions at 7:00 pm. Wally Walbruch, President and president, Randy Johnson, Vice President and Jane Gronley, Secretary, and Board members, Ron Trippet, Craig Coburn, Gil Conrad, Gary Ruppel, David Roberts, Property Manager and Attorney at Law, Colleen Donohue, P.C.

This meeting was called to discuss our Board's next steps to address the proposed replacement of lift station #9 from the bluff base to an FBHOA common area within the City of Kalispell easement. Wally provided screen views of three plats to which the City has an easement.

An extensive discussion was held with many Board member's concerns raised. Some of those included; relocating this lift station in a developed neighborhood, electrical noise, smell during pumping, affect on property values and esthetics. Numerous questions from the Board members were directed to our Attorney, Colleen Donohue. It was suggested that Board members become lift station detectives. The Board directed Attorney Donohue to begin work on our behalf. Colleen will do initial research into the easement.

Respectfully submitted

S/Jane Ann Gronley

Jane Ann Gronley, Secretary



January 29, 2021

Leland "Wally" Walbruch  
President Fairway Boulevard HOA  
PO Box 9073  
Kalispell, Montana 59904

Dear Mr. Walbruch,

Thank you for your further inquiry into the City's planned capital improvement project for Lift Station #9. The City has reviewed your letter dated January 19, 2021 and this letter explains the basis for the City's authority to relocate the existing lift station within the FBHOA easement.

All property lines, easements, common areas, etc. for a subdivision are identified on the subdivision plat. This is the road map for identifying the extent of property ownership for each lot, what properties are associated with which rights, where easements are located, etc. The Fairway Boulevard Subdivision was developed in several different phases and has several different plats that comprise the overall Fairway Boulevard Subdivision. These plats are publicly available on the plat room section of the Flathead County Website under the scanned surveys and subdivisions link ([https://flathead.mt.gov/plat\\_room/subdivisions.php](https://flathead.mt.gov/plat_room/subdivisions.php)). If you would like help locating this please do not hesitate to contact me. The county plat room can also be reached by phone at 758-5510.

The City is proposing to move the existing Lift Station from its current location up closer to the Fairway Boulevard Road. The location of the new lift station is within the common area of the Fairway Boulevard development.

The subdivision plats for Phases 5 – 8 of the Fairway Boulevard Subdivision have the following text printed on them: "All common area is also available as an easement for utility purposes." This text is taken to refer to the entirety of the common area for the subdivision as the common area was consistently reduced with each phase as lots were platted in this area and a portion of the common area was assigned to each lot.

Lift Station #9 is part of the sewer collection system that services several subdivisions and developments along Whitefish Stage Road and Evergreen Drive, in addition to the Fairway Boulevard Subdivision. Rebuilding this outdated lift station increases system reliability equating to fewer potential issues (such as sewer service interruption, backups, odors, etc.) for your subdivision and in the other areas that are served by the sewer collection system. The location near the Fairway Boulevard Road provides better access for maintenance to reduce future service problems. In addition to the new location enabling the City to provide a higher level of service, the construction along with future maintenance will be economically responsible, benefiting all sewer collection system customers served by City of Kalispell.

The City is operating within the legal bounds of the plat and is seeking to utilize land set aside for the purpose of a utility easement. If you have further questions, please do not hesitate to reach out to me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Patrick Jentz", written in a cursive style.

Patrick Jentz, PE  
Engineer 2

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Ron Trippet, Director  
David Roberts, Manager

January 19, 2021

Susie Turner, Director  
Kalispell City Public Works  
201 1st Ave E  
Kalispell, MT 59901

I again wanted to express our thanks to you and our city engineers for taking the time to provide the Fairway Boulevard Homeowners Association with the proposed plans to relocate Lift Station #9 from the base of the FBHOA bluff to the area just off of the street Fairway Boulevard. We completely understand your concerns about the present facility, age, access, and capacity, and its need for replacement as we have been living with the smell during specific periods for many years.

We held our January 2021 BOD meeting on Thursday, January 14, 2021, and this agenda topic created considerable angst among the board. After an extensive discussion, collective review of the available documents, and considerable board frustration, the following position was taken. The BOD directed me to gather a complete understanding of where the City of Kalispell has the authority to relocate a lift station from one FBHOA location at the base of our bluff (off the golf course) to another site within the FBHOA easement.

Susie, I request your assistance in identifying where I can find these pertinent city documents so I can provide the FBHOA board with what they request. Is this something City Attorney Harball might assist us with?

Unfortunately, in our Association leadership's eyes, we only see this relocation as having a significant negative impact on our Association members. In our opinion, usually, these types of utilities are pre-located in industrial or residential areas prior to property owners/homeowners purchasing them. These individuals go into these transactions with full knowledge of what their property environment is. Our members buy property in Fairway Boulevard because of its location, direct access to Buffalo Hill Golf course, the attractive appeal of the variety of residential units, the Association/homeowners' willingness to update their property and our care for our common areas.

Given our concerns about this relocation's aesthetic impact and, in turn, jeopardizing their investment, we feel our members will make the Association a part of any future legal processings.

Sincerely,

*Wally*

Leland "Wally" Walbruch, President  
Fairway Boulevard Townhouse Homeowners' Association  
Kalispell, Montana 59901      [walbruchsofmont@centurylink.net](mailto:walbruchsofmont@centurylink.net) or [info@fairwayblvd.com](mailto:info@fairwayblvd.com)

## **Fairway Boulevard HOA Executive Summary of January 06, 2021, Virtual Meeting with Kalispell Public Works and the Association**

In attendance: City of Kalispell Public Works Director Susie Turner, Keith Haskins, PE, City Engineer 1, & Patrick Jentz, PE, Engineer 2, and FBHOA members Leland "Wally" Walbruch; President, Jane Gronley; Secretary, Ron Trippet, Gary Ruppel, Craig Coburn, Gil Conrad, and David Roberts, Property Manager.

This summary is intended to outline major topics, concerns, and issues raised at this meeting rather than actual minutes and is to be shared with all parties.

Kalispell City Public Engineer Patrick Jentz requested this gathering to discuss the proposed replacement of lift station #9 from the bluff base below unit 182 to an upper FBHOA common area. This meeting is an opportunity to examine, discuss, review city engineering recommendations, and discuss the next steps. Patrick provided the FBHOA with a presentation (attached). Wally also emailed Kalispell City Sanitary Sewer System design standards and wastewater pumping station details to the FBHOA Board of Directors before this meeting.

It was made clear that this meeting's impetus was to lay the groundwork for the proposed relocation of Lift Station # 9 to an area off of the street Fairway Boulevard but within the Kalispell City Utility Easement. The City explained that the present lift station is nearly 30 years old. Its size is under capacity to handle current flows and located off the Buffalo Hill Course, creating access restrictions due to the required maintenance vehicle size. Unfortunately, the existing facility can not be upgraded to meet the current and future sewer needs. The main trunk line that runs through this utility easement encompasses the housing developments north of us to West Reserve Drive. Patrick outlined the limitations of the present lift station: short term peak flows are 27% over the allowable capacity, and full buildout short term peak flows are 47% over permissible capacity. The City is very concerned about future capacity and has identified lift station #9 as a "high priority replacement" project.

An extensive discussion was held on what these lift stations look like and the various components that make them up. The Association expressed its concerns about the esthetics of this relocation considering the current facility density within the development. The City is willing to adhere to FBHOA architectural standards as much as possible. The Association will provide the City with a copy of our CCR's. Keith Haskins, PE, City Engineer 1 stated that some lift station specifics are required; such as security fencing and site/ building illumination and maintenance access. FBHOA also expressed concern about the potential noise and smell. The Association was assured that these new structures and the latest technology overcome these concerns. The street Fairway Boulevard will require some sewer pipe rework for this project within the new lift station area. The old lift station will be removed, and the site returned to its original state.

FBHOA member Gil Conrad has flagged off the proposed lift station relocation area using the prescribed dimensions for a more concrete view. Patrick also forwarded additional examples of lift stations for our examination.

The City proposes that 2021 will be used for the design phase and that construction begins in 2022.

The Association appreciates the openness of the Public Works Department and your willingness to meet in the evening. FBHOA will discuss this topic at its next BOB meeting.