

FINAL REPORT

Local Government Review

City of Hamilton Study Commission

August 16, 2005

Adopted at the Public Hearing of 8/16/05

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I. LETTER TO THE CITIZENS OF HAMILTON, MONTANA

To the Citizens of Hamilton:

The City of Hamilton Study Commission, elected by the voters on November 2, 2004, or thereafter appointed, present this final report to you, the citizens of Hamilton, Montana.

The purpose of the Study Commission, as defined in state law, is to study the existing form and powers of a local government, as well as the procedures for delivery of local government services, and then to compare them with other forms available under the laws of the State. After completing these phases of the study, it is the responsibility of the study commission to submit a tentative report to the voters of Hamilton, solicit public comments on that report, and then submit a Final Report recommending one of the following: a) no change, b) propose an amendment to the existing form, or c) offer an *alternative* form of government to the qualified electors.

In the conduct of this review, the study commission has sought advice and information from a number of people in the city of Hamilton. Opinions and recommendations were solicited from local government officials, city employees, and citizens. All meetings and work sessions of the study commission were open to the public. Four Public Hearings were held to gather public comments, and a "Citizen Input Form" was sent to you, the voters, asking for your ideas and concerns. Survey response was minimal, as was attendance at our public hearings.

Therefore, our recommendations herein will reflect the thoughts and opinions of those who participated in work sessions, those who attended our regular meetings, and those we have interviewed and consulted with, in addition to the independent efforts of this study commission. This Final Report has the same recommendations as those published in the Tentative Report, plus "updates" where appropriate.

In this Final Report, we present our recommendations for an amended form of our current government that we feel will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens, provide the opportunity for devising solutions to the local problems we currently face, and protect the rights of voters for years to come.

We appreciate the many words of encouragement, and the participation of those that took the time to join us in this review. We are honored to have had this opportunity to serve the wonderful citizens of Hamilton. We are proud of our accomplishments herein.

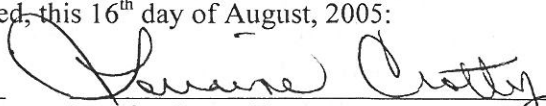
Respectfully submitted, this 16th day of August, 2005:



Bob Frost, Chairman



Ellen Prosser, Vice-Chairman



Lorraine Crotty, Treasurer



Dave Snell, Commissioner

The Hamilton City Study Commission

II. SUMMARY OF RECOMMENDATIONS

The City of Hamilton Local Government Review Study Commission, having thoroughly studied our present form of municipal government, and the alternative forms of government available to cities and towns under state law, and having considered the future governmental needs of this city, recommends the following:

1. The City of Hamilton should retain its present Commission-Executive (or Council-Mayor) form of government as ratified by the electorate of Hamilton on November 2, 1976, to include the sub-option change of "non-partisan" elections as approved by the voters on November 4, 1986. This is still the best form of government for Hamilton, even though it is not currently operating as efficiently or optimally as it could.
2. Under the only legally-ratified "Plan of Government" on file in the Election Administration Office of the Secretary of State, and due to the fact that the electorate formerly rejected any change to this provision, **the city Treasurer shall be elected**, as stated in the Hamilton Plan of Government dated November 2, 1976.
3. The question of who shall be the Presiding Officer of the City Council, shall be submitted to the voters of the City as a sub-option authorized in the present form of government under 7-3-221 MCA. It is our recommendation that the Presiding Officer of the Council be the Chairman of the Council, who may vote as other members of the Council. This action will remove the Mayor as the Presiding Office of the City Council.
4. If the above sub-option is approved by the electorate, the question of the size of the City Council shall be submitted to the voters of the City as a sub-option under the present form of government by 7-3-223 MCA. It is our recommendation that the City Council be comprised of 7 members, instead of 6, with the 7th member being elected at-large for a term of 2 years. This sub-option shall only become ratified if the question of Presiding Officer also becomes ratified. It is designed to balance the City Council with sufficient members to constitute a majority.

It is also the recommendation of this Study Commission that a Community Council be established to advise the City Council of the needs and concerns of their constituents. In each of the 3 Wards, at least one citizen will be elected to serve on this Council for a term of 3 years. Community Councils are already authorized in Hamilton's Plan of Government under 7-3-223(2) MCA, but no ordinance yet exists for their election, organization, or implementation.

5. The question of Supervision of Personnel shall be submitted to the voters of the City as a sub-option authorized in the present form of government under 7-3-213 MCA. It is the recommendation of this Study Commission that sub-option #2 be approved. This sub-option states that the executive/mayor may "appoint and remove, with the consent of a majority of the commission, all employees of the local government." Under Hamilton's current Plan of Government of 1976, sub-option #3 was ratified by the voters. Under this sub-option, the City Council was only allowed to approve department head appointments. The mayor had sole authority to remove the department heads, and appoint and remove all other department employees. It is this Study Commission's recommendation that the City Council be given more authority and responsibility regarding the selection and removal of all city personnel.

6. Under the statutory provision of 7-3-212 (2) MCA, the executive/mayor has the authority to appoint one or more administrative assistants to assist him/her in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the mayor. Hamilton is just one of two "Class 3" cities in Montana that employs this position, with the other being Red Lodge, where the position was recently upgraded to an Administrative Officer by direct voter approval, after a CEDS (Community Economic Development Strategy) evaluation was completed by consultants to the City. It is the recommendation of this Study Commission that the position of Administrative Assistant in Hamilton be considered secretarial in nature, with no supervisory or policy-making authority, or be abolished altogether.

A. Findings of the Study Commission

After an in-depth study of many months, it is the decision of the Study Commission to recommend changes in the structure and power of city government that will provide a governmental framework to meet the immediate and changing needs of this city.

The traditional Council-Mayor form of city government has existed in the city of Hamilton since the first study commission placed the question on the ballot in November, 1976, and possibly for many years prior. The original Plan of Government for Hamilton was, and continues to be, the "standard council-mayor" form as outlined in 7-3-113 MCA, with the exception of a voter-approved amendment to the "type of election" from partisan to non-partisan in 1986. This is still the most popular and successful government "form" for cities the size of Hamilton, all across Montana. We continue to believe that this form is the correct one for Hamilton, but certain structural changes need to be made to balance the powers of the executive and legislative branches, as well as return the Treasurer position to one of selection by, and accountability to, the citizens.

We recognize that the needs of city residents have changed since 1976. Population is increasing, developments are springing up all over, and demands for services are rising. This demand is placing heavy new requirements on city government to provide for urban services such as sewer, water, parks, cemetery, street repair, sidewalk repair, and city tree maintenance, as well as annexation and zoning considerations. To effectively respond to these growing needs, city government must modify its structure and authority. The Study Commission believes that a separation of legislative and administrative/executive functions is needed to provide "checks and balances", as well as a balance of power, in city government.

We began this study with the idea that Hamilton has become urban enough, and sophisticated enough, to warrant a Charter Government written by, and for, the citizens who reside here. Certain Study Commission members studied other charters within Montana, as well as other states, and found that the best overall documents were ones that were very detailed in structure and form, and that provided for specific powers and limitations in all branches and departments within the government it employs. It also became apparent that the best source of information for these details would be from the elected officials and actual employees who work within the city itself.

We designed complex questionnaires for each city Department Head, as well as a "General Questionnaire" for every one of the employees. These questionnaires asked the "hard" questions about the operation of each department, as well as the city in general. The answers to these questions were expected to be the framework for the Charter we had wanted to write early on.

Besides dealing with structural characteristics of government, a charter conveys "self-government powers". This means that a Charter Government can exercise any power that is not prohibited by the Montana Constitution, by state law, or by the Charter itself. This element, alone, allows much greater freedom to act by the local governing body. It also requires a certain level of maturity, accountability and integrity on the part of this governing body.

Within a week after distributing all 48 questionnaires to Department Heads and employees, we began to receive scathing negative phone calls and letters from various members of the city staff, stating that the questions were “too personal” or “too deep”, or “out of line” with what they felt were appropriate questions for citizens to ask city workers. To our amazement, the Mayor returned his in very small pieces, with a note demanding that our questions be cleared by the Local Government Center first. To-date, only two questionnaires were returned intact. At this point in time, we have not seen a level of maturity demonstrated by our city government officials that deserves the privileges that could be afforded it through a Charter Government. Additionally, we have not seen any demonstration of the level of accountability that would be required with self-governing powers. Self-governing powers are automatic within a Charter Government and these powers confer great duty and responsibility.

One of our basic and fundamental functions, as citizen representatives, would be to observe and document the way we are treated by city officials and employees. One would assume that if the Study Commissioners are treated well, so would all the citizens that we represent. From the very beginning of our study, we were met with resistance from nearly every employee we interacted with. We were denied access to our office for several weeks, and were not provided with a secretary, as mandated by State law. A very negative and disturbing letter-writing campaign was launched against us, both in the newspaper and through the mail. The City Council wrote an illegal Resolution limiting our office hours. And our posted public notices were removed, or defaced. Even our “red book” of all minutes, correspondence, and editorials, etc. was pillaged, with original letters and other documents removed without our knowledge. After preparing a very large volume of information, including the actual questions from the “questionnaires”, the Mayor refused to allow us to post this information on the City of Hamilton Website, to disseminate it to the citizens. We have been stone-walled at every juncture.

After we sent out the green information sheet, which compared Hamilton to other cities of similar size and population, the negative letter-writing smear campaign began again, this time from Department Heads, as well as their family members, who failed to understand the purpose of the mailout. As citizen representatives, we are now wondering exactly how the rest of the citizens are treated as they interact with city employees and elected officials.

****Update**:** On May 13, 2005, two Study Commission members filed a Restraining Order petition, against the majority membership, through the District Court in Missoula. This petition stated that the four majority members were having “illegal meetings” at undisclosed locations, were denying these other two members a chance to participate in the study, and other allegations. After weeks of legal work, and great expense, the TRO was dissolved on July 11, 2005. No evidence was ever provided, nor was there any proof that these alleged “illegal meetings” had actually taken place. It was evident that the intent of the TRO was to prevent the dissemination of the Tentative Report to you, the Hamilton voters. After the restraining order was dissolved, the Tentative Report was mailed to all voter households in late June, 2005. For more information on this, please see our correspondence and editorial files. The details of this story were heavily covered in the local newspaper. On July 26, 2005, both minority members resigned their seats on the Study Commission.

Additionally, on July 26, 2005, the mayor’s Administrative Assistant sent a letter to the Study Commission stating that City Council had denied payment of the legal fees incurred to defend against the Restraining Order. The legal fees were not paid because City Council claimed we had exceeded our budget, had not contacted the City Attorney, and had not contacted the city’s insurance company. The truth is, we have NOT exceeded our budget. The city attorney does not have the legal or statutory authority to defend us, he would have a conflict of interest, and he was out on an extended medical leave anyway. We had no knowledge that we were covered under the city’s insurance policy. If the City Council knew this, we feel they were obligated to tell us early on. Other bills were also not being paid. Further, the FY 05-06 budget, submitted by the Study Commission on June 10, 2005, was not included in the preliminary Hamilton City Budget. We will continue to update the citizens on these, and other, matters in future updates and mailouts.

For these reasons, it is the recommendation of the Study Commission that a Charter form of government be denied until such time as a higher level of development and maturity is reached and demonstrated to the citizens, by those providing city services. This would be a consideration for the next Study Commission in 2014.

Charter writing is an exacting and challenging activity, and one which requires much time and technical expertise. Without this burden upon us, the Study Commission then looked into the possibility of other “alternative” forms of municipal government, such as the Commission-Manager form. This form, within Montana law, provides that an appointed manager is the chief administrative officer of a local government. It leaves no doubt that this person is in charge of running the city on a daily basis. The manager is empowered to administer local governmental affairs, direct and supervise all departments, prepare and execute the budget, appoint, suspend, remove, and be responsible for all employees, and prepare the City Council agenda. The Council appoints the manager on the basis of merit for an indefinite term, and can dismiss the manager with a simple majority vote for any reason. All interactions with city staff must go through the manager, in a council-manager form of government, including any and all inquiries to the city treasurer, who would then be 2 levels of management down from the citizens. There would not be an official “mayor”, other than the Chairman of the council, who would act as the official “head of the city” for ceremonial purposes.

In our observation of Hamilton City government, it is apparent that a “pseudo-manager” form is already functioning in Hamilton without voter approval, and in complete contrast to the voter-approved Plan of Government for our city. This has been going on since 1980. The duties of a “manager” or “administrator” are virtually the same as the duties of the Mayor (see Hamilton City Code 2.12.050 and 2.12.010). As such, the voters of Hamilton have unknowingly elected Mayors who have delegated their duties, responsibilities, and supervisory authority, to someone the voters did NOT elect or approve.

The job descriptions of every department head, including the City Attorney, show that they report to the “city administrator” or the “administrative assistant”. They should be reporting to the mayor, only. The city of Hamilton does not have a city administrator or city manager. Hamilton has a Mayor. This blatant disregard for the laws governing the voter-approved Plan of Government cannot simply be dismissed by this Study Commission, nor was it overlooked by those who preceded us. The Administrative Assistant/”Administrator”/”City Manager” has too much power for a non-elected official.

While many citizens have expressed their desire to finally have professional management in our city government, few have realized that this *alternative* form is only marginally popular in Montana, with only 10 municipalities satisfactorily adopting it since 1976. It is, therefore, the recommendation of this Study Commission that the Commission-Manager form not be considered by the citizens at this time, and that the voters of Hamilton choose a Chief Executive/Mayor that is capable, and willing, to personally perform the duties of this office, without delegating either authority, duties or responsibility to an un-elected official.

****Update**:** Two current city council members expressed their desire to adopt a Commission-Manager form of government. We have carefully addressed this issue to the voters in great detail, both in the newspaper and in other writings. However, in our research of the 10 Montana municipalities that have a Commission-Manager form, we have found that most of these cities have a Charter, and are much larger in population than Hamilton. This is a major consideration in terms of cost. A City Manager is expensive. Most have advanced degrees in Public Administration or Political Science, and their starting salaries are upward of \$60,000 per year. Most have a “golden parachute” contract which requires a minimum of 6 months pay if they are terminated for any reason. Recruiting and relocation costs are also expensive. The cost to replace an unsatisfactory manager is very high. A City Manager can be terminated by city council for any reason, and many have been terminated simply because they did not fit in with the “culture” of the community or the “mindset” of city council. Even Missoula does not yet have a city manager form of government. But the final decision on this would still rest with the electorate, and we could only find a very small group of voters that were interested in adopting the Commission-Manager form at this time.

As the research of this Study Commission progressed further, a little known Montana Statute was introduced to us as another method of altering a local government’s form, function and power outside of the authority of a Study Commission or petition process. This statute, 7-3-103 MCA, enables the *local governing body*, by ordinance, to refer to the voters the question as to whether or not an adopted *alternative* plan of government should be altered or amended, or, whether or not the local government should adopt self-governing powers. The language of this statute

suggests that only those cities whose plan of government has been previously altered, may use the referral authority of their governing body to place the question of more alteration of the government, on the ballot.

Please note: Of importance in this Statute, is the fact that once an alternative Plan of Government is adopted by the electorate, City Council receives the authority to place changes to this Plan on the ballot for voter approval. Otherwise, only the petition method, or a Study Commission, can place amendments before the voters, to set the change process in motion. The ramifications of adopting any alternative form of government are obvious. If given license to change the Plan of Government on a whim, or because portions of it are not “liked”, the City Council could place amendments on the ballot, and gain support for change, without any amount of citizen review being done.

We do not recommend changing to any **alternative** form such as a Charter, or the Commission-Manager forms, because of the serious future consequences of doing so. This statute does not apply to simply “amending” the existing “standard” form that Hamilton currently has. This Study Commission believes that it would behoove every citizen of Hamilton to carefully understand this commentary in order to protect their rights in the future.

It should be noted here, that other areas of concern also emerged during the course of the study that affected the Study Commission’s choice to amend the existing form of government, rather than adopt an alternative form.

In our extensive research of City Council and Committee meeting minutes and notes, dating back for the last 3 years, we became concerned about decisions being made without regard to the impact they were making on the citizens of the city, about the quality of services (such as roads and sidewalks), about the level of taxes relative to services received, about the lack of leadership and statesmanship, about competency in financial reporting, and about citizen participation in city government. These frustrations, experienced by citizens and local officials alike, in addition to the changing role of city government, and growing needs of the city, led the study commission to identify these 6 basic goals which we will discuss in detail in the coming months:

1. Government that is responsive and respectful to its citizens
2. Government that is efficient and fiscally responsible
3. Government that respects and follows the laws of Montana, and of the City
4. A government structure that allows maximum participation by citizens
5. A government structure with adequate “checks and balances”
6. A return to the voter-approved standard 1976 Plan of Government, with amendments

B. Key Provisions of the Proposed Form

Presiding Officer of City Council

One needs only to attend a normal City Council meeting to observe the contentious relationship between the mayor and members of the City Council. While we recognize that personalities play a large part in the contention issue, the City Council meeting is not the proper forum to display disagreements, rudeness, harassment, power plays, and inappropriate behaviors from the mayor, the councilors, or between councilors and the mayor. In no other level of government do we see the chief executive officer as the presiding officer of the legislative branch of government. We have wondered what prompted the State Legislators to write such a thing into the municipal standard form of government back in 1976. We, therefore, make the recommendation that the mayor be removed from presiding over the city council meetings. If the voters of Hamilton approve this recommendation, the city council would need 7 members in order to have tie-breaking capabilities. Approval of this change would also abolish Hamilton City Ordinances 2.12.020 and 2.12.030.

****Update**:** To better understand this recommendation, it should be noted that our current mayor, Joe Petrusaitis, broke the tie of a city council vote 12 times, in the first 6 months of 2005. What this means is that his one vote decided the policy, or law, of the city on 12 separate occasions. This is not the job of a mayor. This is the responsibility and duty of the city council. The mayor’s job is to “carry out” the policy, and enforce the laws, that are enacted by the city council. While the

mayor DOES have “veto” power, his veto can be overridden by a 2/3 majority vote of the city council. When he breaks a tie with his vote, however, it cannot be overridden by council. We strongly object to the mayor having the authority to “make policy” for the City of Hamilton. To have authority over both the Legislative and Executive branches of government is too much power for one person to have. We ask that the Hamilton electorate object to this also, and vote to remove the mayor from this position.

Representation

Under the current districting system of the City, two councilors are elected from each of the 3 city “Wards”, allowing the interests of each Ward to be represented. The councilors are elected for a period of 4 years, with overlapping terms. This means that every 2 years, the voters elect a new councilor from each Ward. If the Hamilton voters approve removing the mayor as presiding officer of the city council, the Study Commission recommends that a 7th City Councilor be elected at-large. This would balance the Council to an uneven number for tie-breaking purposes, would have a 2-year term for the at-large member, and would provide one member with a city-wide perspective. This will provide a legislative body large enough to insure adequate representation and small enough to be efficient. The Presiding Officer of the Council would then be the “Chairman of the Council”, who would vote as any other member, sign the journals thereof, and approve all warrants on the city treasury. The Chairman of the Council is elected by the members of the Council from their own number for a term (usually 1 year) established by ordinance. In the absence of the Chairman/President, the council may appoint one of its number to act in his/her place.

****Update****: To have 7 city councilors would mean that the “majority” would consist of 4 votes. Right now, with 6 councilors, the majority consists of 4 votes also. With 7 councilors, any mayoral veto would stand, as long as 3 councilors agree with the mayor. Right now, with only 6 councilors, the mayor’s veto will stand as long as 3 councilors agree with him also. The only difference between having 6 or 7 councilors is how many votes it will take to override the mayoral veto. This is insignificant because, as previously stated, when the mayor has at least 3 councilors agreeing with him/her, they effectively control all aspects of the legislative and executive branches of government. Having 7 city council members would also provide for an extra member to serve on important “committees”, such as the Public Works and/or Finance Committees, given the concerns expressed by citizens over these city departments. This Study Commission recommends that all voters take an active interest in the November election. Get informed. Know the candidates that will represent you. Ask the hard questions. This city belongs to you, the Hamilton citizens.

It is also the recommendation of this Study Commission that Community Councils be established, and that 1 or more members be elected from each of the 3 established Wards in Hamilton, for overlapping terms of 3 years. The purpose of the Community Councils will be to maintain regular dialogue with the City Council, and to keep the City Council informed as to the needs and interests of the community and the Wards they represent. The number of members, and requirements for each, can change as the need arises, and as this system of representation evolves.

****Update****: Community Councils have long been authorized by the Hamilton Plan of Government. Several citizens have asked why they were never implemented. This still remains a mystery to the Study Commission. There are no ordinances or resolutions addressing this issue. Those citizens who would like to participate in a Community Council should contact their Ward Representative/Councilor, or the Study Commission, and start the process. These would be volunteer/elected positions, such as on the Study Commission. Missoula’s Community Councils have been very successful and helpful to the City Council and administration. Guidelines, minutes, and contact information is provided on the Missoula City website.

Supervision of Personnel

It is also the recommendation of this Study Commission that a change be made as to the supervision of city personnel. Under the current Plan of Government, the mayor has the authority to hire and remove all city personnel. City Council approval is only required when a new Department Head is hired. We believe that City Council approval should be required for hiring and removing any and all city staff, City Council is the final

determinant of the salaries of city personnel, and it just makes sense that they are involved in the hiring of new employees, which would also curtail nepotism and cronyism in hiring of employees. City Council approval should also be required for the involuntary termination of any city employee. This would reduce the potential liability of litigation and other risks to the citizens of Hamilton. The mayor retains the authority to control and supervise all departments and boards to the degree authorized by ordinance of the City Council.

Under Hamilton City Code 2.12.010, the mayor has the power to “nominate or suspend, and with the consent of the council, to appoint and remove, any/all non-elective officers”. This ordinance, which currently conflicts with Hamilton’s Plan of Government, shall be rewritten to include the City Council in the nomination, appointment, suspension, or removal of any employee in the city of Hamilton, if this sub-option is approved by the voters.

****Update**:** This sub-option is somewhat misunderstood, as it does not relate to the “supervision” of city personnel as much as the “hiring and firing” of them. The mayor is the chief executive/administrator of the city, and is responsible for the supervision of all departments and personnel under him. Recent national news stories from all over the U.S. have convinced this Study Commission that more oversight is needed in the hiring and firing of city personnel. The most recent story was from Chicago, where two of the mayor’s aides were arrested for giving numerous city jobs to people who contributed to the mayor’s election campaign. Similar stories of illegal hiring were reported in Washington, Oregon, and California. We do not want this to happen in Hamilton. While we do not desire this change to our Plan of Government to create gridlock, it would add another layer of control to the hiring process of city staff. A proper “Personnel Committee” of the city council should be established to assist the mayor and department heads in the evaluation of employment applications, resumes, interviews, and the hiring decision. This Committee should also be consulted when problems arise that may result in terminations. As we have said many times, this is just good business sense.

Administrative Assistant

The Administrative Assistant position within the current city structure, has become one of supervisory and policy-making authority. Since Hamilton is one of only two Class 3 cities in the State of Montana that employs an Administrative Assistant, we took great interest in this position, back to when it was established in 1977. Over the years, this position has grown into one of power, influence, and management authority. We believe this stems from the practice of electing part-time mayors, who needed assistance in the day-to-day activities of managing the city.

Unfortunately, this led to the creation of a “council-manager”- type of government, which is outside of the Plan ratified by the voters of Hamilton. The voters have always elected their “mayor” to be the chief executive/administrator of the city, and manage it on a day-to-day basis. The voters did not elect, or hire, the Administrative Assistant, who reports solely to the mayor, to perform these duties. It is the recommendation of this Study Commission that the Administrative Assistant position be permanently reduced, in responsibilities as well as salary, to that of general secretarial, with no supervisory or policy-making authority. This is a recommendation only, as the mayor has sole discretion as to how much authority he delegates to the administrative assistant, and this position would be an exception to the rule of Council approval in hiring and firing. However, we further strongly recommend that the voters of Hamilton take this into consideration when electing any future mayors.

****Update**:** Since the Tentative Report was published, the mayor has made changes to this position. A separate city Treasurer has been hired, and the Administrative Assistant is apparently no longer considered the Finance Officer for Hamilton. According to the minutes of the city council, dated June 7, 2005, however, the salary of the Administrative Assistant has not been adjusted to reflect this decrease in responsibilities.

City Treasurer/Finance Officer

The City Treasurer should be an elected position. After several months of research, looking through election canvass reports, reading old city council minutes from 1976 onward, speaking with various government agencies and authorities, and requesting legal opinions, this Study Commission has been unable to reconcile the current “appointed” Treasurer with the Plan of Government as ratified by the Hamilton voters in 1976.

According to Montana law, specifically 7-3-105 MCA:

“The approved plan filed with the secretary of state pursuant to subsection (3)(a) of section 14, Chapter 513, Laws of 1975, shall be the official plan and shall be a public record open to inspection of the public, and judicially noticeable by all courts.”

The Secretary of State’s office in Helena referred our Study Commission to the Election Administration office, which is a department under the authority of the Secretary of State. The Election Administration office keeps all ratified Plans of Government on file, as well as any ratified changes to these plans. This office was able to confirm to us that the Plan of Government dated November 2, 1976 is the official plan that they have on file, for the City of Hamilton.

This Plan states that the Treasurer “shall be elected.” Since 1980, however, the City of Hamilton has appointed its Treasurer, without voter approval, and contrary to the official Plan of Government filed with the Secretary of State’s Election Administration office, as well as contrary to State Statutes.

It is our decision, therefore, that no change to this section of the Official Plan needs to be put before the voters regarding the position of Treasurer. It has always been, and shall continue to be, an elected position. The elected Treasurer/Financial Officer shall have, at a minimum, the same qualifications as required for the office of Mayor.

These are:

- (a) is at least 21 years old
- (b) has been a resident of the state for at least 3 years; and
- (c) has been a resident for at least 2 years preceding the election to office, of the city, or an area which has been annexed by the city or town.
- (d) The office of treasurer is considered vacant if the individual elected as treasurer ceases to be a resident of the city.
- (e) According to Montana Statute 7-4-4701 MCA, and Hamilton Municipal Code 2.20.030, a city treasurer shall hold office for a term of 4 years, and until the qualification of his/her successor.

The title of Section 2.20.020 of the Hamilton Municipal Code, shall be changed to “Term of Office”, rather than term of appointment. See 7-4-4107 MCA for correct terminology.

The benefits of an elected treasurer revolve around the statutory rights of citizens to select the person who is responsible for handling their money. The current situation in Hamilton, where the Treasurer reports solely to the mayor, with limited qualifications and experience/education, plus no apparent checks & balances, and the added responsibility of being the mayor’s administrative assistant, needs to be corrected. An elected Treasurer reports directly to the citizens of Hamilton, and can be removed at will by those citizens either through a recall election or at the ballot box. This is currently not an option available to the voters of Hamilton.

To balance this position properly, we also recommend the addition of a licensed internal CPA auditor, on a bi-monthly contracted basis at a minimum, to oversee all financial transactions in the department, and to make corrections to the Hamilton financial records, upon approval of the Treasurer and Finance Committee of the City Council. At present, the current Financial Officer writes and signs all checks and approves all claims, with no secondary person auditing these transactions. Regardless of whether or not any inappropriate transactions are taking place, this is not proper accounting practices. This deficiency in handling public funds was also pointed out during the FY 2003-04 audit of city records. It is a very serious deficiency. Many more checks & balances need to be established and utilized in order to protect the funds belonging to the citizens of the city. We request that the voters of Hamilton support us in this recommendation.

****Update**:** We have been asked to put a recommendation on the ballot, asking the Hamilton voters if they would prefer an elected or appointed treasurer. In our view, this question was asked back in 1976, when the voters overwhelming chose an elected treasurer. Many citizens remember Clare Conroy, who was elected as city treasurer for 39 years, and retired in 1977. Many others commented that an elected treasurer has worked extremely well in Ravalli County for the past 30 years also. Only a handful of citizens expressed

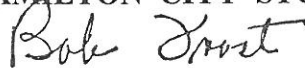
fear that the elected treasurer would not be qualified to do the job. We believe there are many qualified city residents who could effectively become city treasurer. There is also help from departments within the State agencies in Helena for newly elected treasurers. With an internal CPA auditor on staff, and a competent Finance Committee of the City Council, the treasurer should have adequate checks & balances to do this job well, with fiscal responsibility towards taxpayer funds.

Additionally, an important point to remember is that this Study Commission does not “recommend” an appointed treasurer. Since we are only putting “recommendations” on the ballot for your consideration, we would not want the voters to assume we are “recommending” anything but an elected treasurer. The only legal Plan of Government that exists for Hamilton, in the State of Montana, is the one from 1976. This one states that the Treasurer “shall be elected”. It is mandatory. And unless a Study Commission, or a petition, makes the recommendation to change it, it shall remain as “elected”.

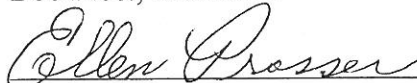
Within this Final Report are copies of the CURRENT and PROPOSED plans of government. In each case, the treasurer “shall be elected”. This is because we know this to be the legal sub-option selected by the voters since 1976, and we do not recommend changing it. We will not certify a Plan of Government that we know is fraudulent. To do so would put us in jeopardy of falsifying public documents. However, it will still be up to the city officials to follow the statutes and carry out the will of the people, in implementing this Plan.

In conclusion, this Final Report is being presented to you, the voters of Hamilton, as our statement of findings and recommendations after several months of intense research and study. We appreciate the opportunity to be of such noble service to our fellow citizens of Hamilton. The future of Hamilton is now in your hands, and we are proud of our accomplishments herein.

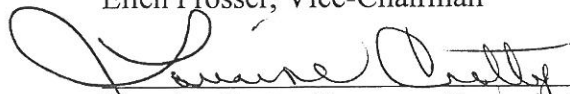
Respectfully Submitted, this 16th day of August, 2005:
THE HAMILTON CITY STUDY COMMISSION



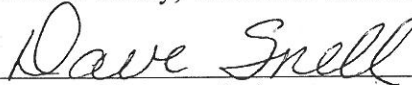
Bob Frost, Chairman



Ellen Prosser, Vice-Chairman



Lorraine Crotty, Treasurer/Commissioner



Dave Snell, Commissioner

**COMPARISON OF EXISTING FORM OF GOVERNMENT AND PROPOSED
FORM OF GOVERNMENT**

Hamilton, Montana

| CHARACTERISTIC | PRESENT FORM OF GOVERNMENT | PROPOSED FORM OF GOVERNMENT | COMMENTS |
|--|---|---|--|
| Form of Government | Commission-Executive | Commission-Executive | SAME |
| Powers | General Powers | General Powers | SAME |
| Governing Body | 6 City Councilors elected by Wards. Overlapping terms of 4 years. 2 councilors per Ward. | 7 City Councilors – 2 council members for each Ward, elected for 4 years. One member is elected at-large for a 2-year term. | Increase in size will allow greater representation. Mayor is removed from city council. Frees council to concentrate on policy-making role. Lessens dissention. |
| Presiding Officer of City Council | Mayor | Same as Chairman of Council and is elected by the members from their own number. | May vote as other members of the city council. Selected for term set by ordinance (usually 1 year). |
| Administrative Assistant | Reports to mayor only, with supervisory authority of city staff | Reports to mayor with no supervisory authority. | Recommend that this position be secretarial in nature only, with no supervisory or policy-making authority. Position could be abolished, as it is only 1 of 2 such positions in all class 3 city in Montana. |
| Supervision of Personnel | Mayor appoints dept. heads with Council approval, but can hire or remove any city employee. | City Council approves all mayoral appointments and removals of all city personnel | Provides checks and balances in hiring practices, reduces lawsuit liability on citizens, and curtails cronyism or nepotism. |
| Veto Power | Mayor can veto ordinances or resolutions subject to override by 2/3 vote of council. | Mayor can veto ordinances or resolutions subject to override of 2/3 vote of city council. | SAME |
| Preparation of Budget | Mayor prepares budget in consultation with City Council and dept. heads. | Mayor prepares budget in consultation with City Council and dept. heads. | SAME |
| Administrative Supervision and Control | Mayor exercises control of all departments and boards as authorized by City Council. | Mayor exercises control of all departments and boards as authorized by City Council. | SAME |
| Financial Officer | Shall be elected. | Shall be elected. | SAME |
| Type of Election | Non-partisan | Non-partisan | SAME |
| Community Councils | Authorized by statutes but never implemented | Members elected from city Wards. At least one from each Ward, for 3 years. | Citizens elected to advise councilors of needs, interest, and concerns of constituents. |

Exhibit A
CERTIFICATE
ESTABLISHING THE EXISTING RATIFIED PLAN OF GOVERNMENT
FOR THE CITY OF HAMILTON

If retained by the voters, the government of Hamilton, Montana shall remain organized under the following provisions of 7-3-113 M.C.A which authorized the municipal Commission-Executive form of government, (also known as Council-Mayor)

7-3-113 Statutory basis for municipal Commission-Executive government.

(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government which does not adopt a new form, shall be governed after May 2, 1977, by the following sections:

- (a) 7-3-201;
- (b) 7-3-202 (1);
- (c) 7-3-203;
- (d) 7-3-212 (2);
- (e) 7-3-213 (3);
- (f) 7-3-214 (2);
- (g) 7-3-215 (2);
- (h) 7-3-216 (2);
- (i) 7-3-217 (1);
- (j) 7-3-218 (2);
- (k) 7-3-219 (2); Amendment ratified at 1986 Local Government Review election
- (l) 7-3-220 (1);
- (m) 7-3-221 (3);
- (n) 7-3-222 (2);
- (o) 7-3-223 (2)

(2) This form has terms of four (4) years for all elected officials. The size of the commission/council shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government which shall be called the COMMISSION-EXECUTIVE form.

7-3-201 Commission-Executive form. The commission-executive form (which may also be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected council and one elected mayor who is elected at large.

7-3-202 Nature of Government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing GENERAL government powers.

7-3-203 Duties of the Executive/Mayor. The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required of him/her by law, ordinance, or resolution;
- (3) administer affairs of the local government;
- (4) carry out policies established by the commission/council;
- (5) recommend measures to the commission/council;
- (6) report to the commission/council on the affairs and financial condition of the local government.
- (7) execute bonds, notes, contracts, and written obligations of the commission/council subject to the approval of the commission/council;
- (8) report to the commission/council as the commission/council may require;
- (9) attend commission/council meetings and may take part in discussions;
- (10) execute the budget adopted by the commission/council;
- (11) appoint, with the consent of the commission/council, all members of boards; except the executive/mayor may appoint, without the consent of the commission/council, temporary advisory committees established by the executive/mayor.

(3) The plan of government shall further define the structural characteristics of the form by including the following:

7-3-212 Administrative Assistants. The executive/mayor may appoint one or more administrative assistants to assist him in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive/mayor.

7-3-213 Supervision of personnel. The executive/mayor may appoint, with the consent of a majority of the commission/council, all department heads. The executive/mayor may remove department heads and may appoint and remove all other department employees.

7-3-214 Veto Power. The executive/mayor may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission/council.

7-3-215 Preparation of budget. The executive/mayor may prepare the budget in consultation with the commission/council and department heads.

7-3-216 Administrative supervision and control. The executive/mayor may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission/council.

7-3-217 Financial officer. A Financial Officer (who may be called the "treasurer) shall be elected.

7-3-218 Selection of commission members. The commission/council shall be elected by districts in which candidates must reside, and which are apportioned by population.

7-3-219 Type of election. LOCAL GOVERNMENT ELECTIONS SHALL BE CONDUCTED ON A NON-PARTISAN BASIS, AS PROVIDED IN THIS TITLE. (approved in 1986)

7-3-220 Chairman of commission/council. The commission/council shall have a chairman who shall be elected by the members of the commission/council from their own number for a term established by ordinance.

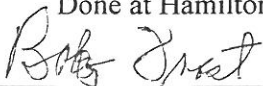
7-3-221 Presiding officer of the commission/council. The presiding officer of the commission/council shall be the executive/mayor who shall decide all tie votes of the commission/council, but shall have no other vote. The chairman of the council shall preside if the mayor is absent.

7-3-222 Terms of commission members. Commission/council members shall be elected for overlapping terms of office.

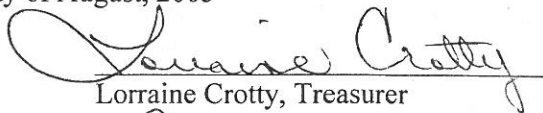
7-3-223 Size of commission/council and community councils. The size of the commission/council, which shall be a number not less than six (6) has been adopted by the voters, and community councils to advise council members may be authorized by ordinance.

We, the Study Commissioners of the City of Hamilton, do hereby certify that this is the ratified Plan of Government as established by Section 47A-3-205; Revised Codes of Montana 1947, further revised and codified by Section 7-3-113 M.C.A. 1977. In testimony whereof, we set our hands.

Done at Hamilton, Montana, this 16TH day of August, 2005



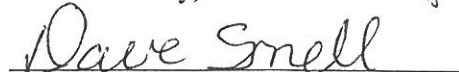
Bob Frost, Chairman



Lorraine Crotty, Treasurer



Ellen Prosser, Vice-Chairman



Dave Snell, Commissioner

ATTEST:



Rose Allen, City Clerk

Exhibit B
CERTIFICATE
ESTABLISHING THE **PROPOSED** PLAN OF GOVERNMENT
FOR THE CITY OF HAMILTON

Upon approval of the majority voters, the government of Hamilton, Montana shall be organized under the following provisions of 7-3-113 M.C.A, which is an amended form of the municipal Commission-Executive form of government, (also known as Council-Mayor)

7-3-113 Statutory basis for municipal Commission-Executive government.

(1) For the purpose of determining the statutory basis of existing units of local government, each unit of local government organized under the general statutes authorizing the municipal council-mayor form of government which does not adopt a new form, shall be governed after May 2, 1977, by the following sections:

- (a) 7-3-201;
- (b) 7-3-202 (1);
- (c) 7-3-203;
- (d) 7-3-212 (2);
- (e) 7-3-213 (2); Amendment ratified at 2005 Local Government Review election
- (f) 7-3-214 (2);
- (g) 7-3-215 (2);
- (h) 7-3-216 (2);
- (i) 7-3-217 (1);
- (j) 7-3-218 (2);
- (k) 7-3-219 (2); Amendment ratified at 1986 Local Government Review election
- (l) 7-3-220 (1);
- (m) 7-3-221 (1); Amendment ratified at 2005 Local Government Review election
- (n) 7-3-222 (2);
- (o) 7-3-223 (2) Amendment ratified at 2005 Local Government Review election

(2) This form has terms of four (4) years for all elected officials. The size of the commission/council shall be established by ordinance, but it may not exceed 20 members.

These sections establish the following form of government which shall be called the COMMISSION-EXECUTIVE form.

7-3-201 Commission-Executive form. The commission-executive form (which may also be called the council-executive, the council-mayor, or the commission-mayor form) consists of an elected council and one elected mayor who is elected at large.

7-3-202 Nature of Government. The plan of government submitted to the qualified electors shall determine the powers of the local government unit by authorizing GENERAL government powers.

7-3-203 Duties of the Executive/Mayor. The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required of him/her by law, ordinance, or resolution;
- (3) administer affairs of the local government;
- (4) carry out policies established by the commission/council;
- (5) recommend measures to the commission/council;
- (6) report to the commission/council on the affairs and financial condition of the local government.
- (7) execute bonds, notes, contracts, and written obligations of the commission/council subject to the approval of the commission/council;
- (8) report to the commission/council as the commission/council may require;
- (9) attend commission/council meetings and may take part in discussions;
- (10) execute the budget adopted by the commission/council;
- (11) appoint, with the consent of the commission/council, all members of boards; except the executive/mayor may appoint, without the consent of the commission/council, temporary advisory committees established by the executive/mayor.

(3) The plan of government shall further define the structural characteristics of the form by including the following:

7-3-212 Administrative Assistants. The executive/mayor may appoint one or more administrative assistants to assist him/her in the supervision and operation of the local government. Such administrative assistants shall be answerable solely to the executive/mayor.

7-3-213 Supervision of personnel. THE EXECUTIVE/MAYOR MAY APPOINT AND REMOVE, WITH THE CONSENT OF A MAJORITY OF THE COMMISSION/COUNCIL, ALL EMPLOYEES OF THE LOCAL GOVERNMENT.

7-3-214 Veto Power. The executive/mayor may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission/council.

7-3-215 Preparation of budget. The executive/mayor may prepare the budget in consultation with the commission/council and department heads.

7-3-216 Administrative supervision and control. The executive/mayor may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission/council.

7-3-217 Financial officer. A Financial Officer (who may be called the "treasurer") shall be elected.

7-3-218 Selection of commission members. The commission/council shall be elected by districts in which candidates must reside, and which are apportioned by population, (except for the single at-large member).

7-3-219 Type of election. LOCAL GOVERNMENT ELECTIONS SHALL BE CONDUCTED ON A NON-PARTISAN BASIS, AS PROVIDED IN THIS TITLE. (approved in 1986)

7-3-220 Chairman of commission/council. The commission/council shall have a chairman who shall be elected by the members of the commission/council from their own number for a term established by ordinance.

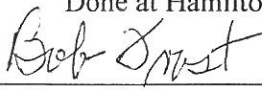
7-3-221 Presiding officer of the commission/council. THE PRESIDING OFFICER OF THE COMMISSION/COUNCIL SHALL BE THE CHAIRMAN OF THE COMMISSION/COUNCIL, WHO MAY VOTE AS OTHER MEMBERS OF THE COMMISSION/COUNCIL.

7-3-222 Terms of commission members. Commission/council members shall be elected for overlapping terms of office.

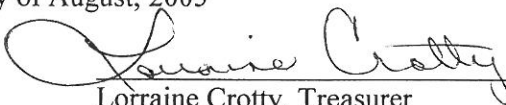
7-3-223 Size of commission/council and community councils. THE SIZE OF THE COMMISSION/COUNCIL, WHICH SHALL BE A NUMBER NOT LESS THAN SEVEN (7), WITH ONE ELECTED AT-LARGE FOR A 2-YEAR TERM, SHALL BE ESTABLISHED WHEN THE AMENDED FORM IS ADOPTED BY THE VOTERS, AND; COMMUNITY COUNCILS TO ADVISE COMMISSIONERS MAY BE AUTHORIZED BY ORDINANCE.

We, the Study Commissioners of the City of Hamilton, do hereby certify that this is the **PROPOSED** Plan of Government approved by the Hamilton City Study Commission. In testimony whereof, we set our hands.

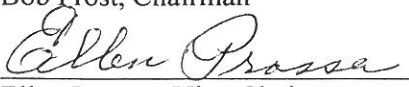
Done at Hamilton, Montana, this 16th day of August, 2005



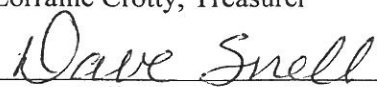
Bob Frost, Chairman



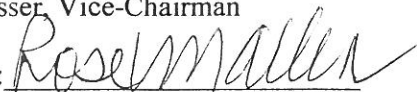
Lorraine Crotty, Treasurer



Ellen Prosser, Vice-Chairman



Dave Snell, Commissioner

ATTEST: 

Rose Allen, City Clerk

Exhibit C
EXISTING

City of Hamilton Organizational Chart

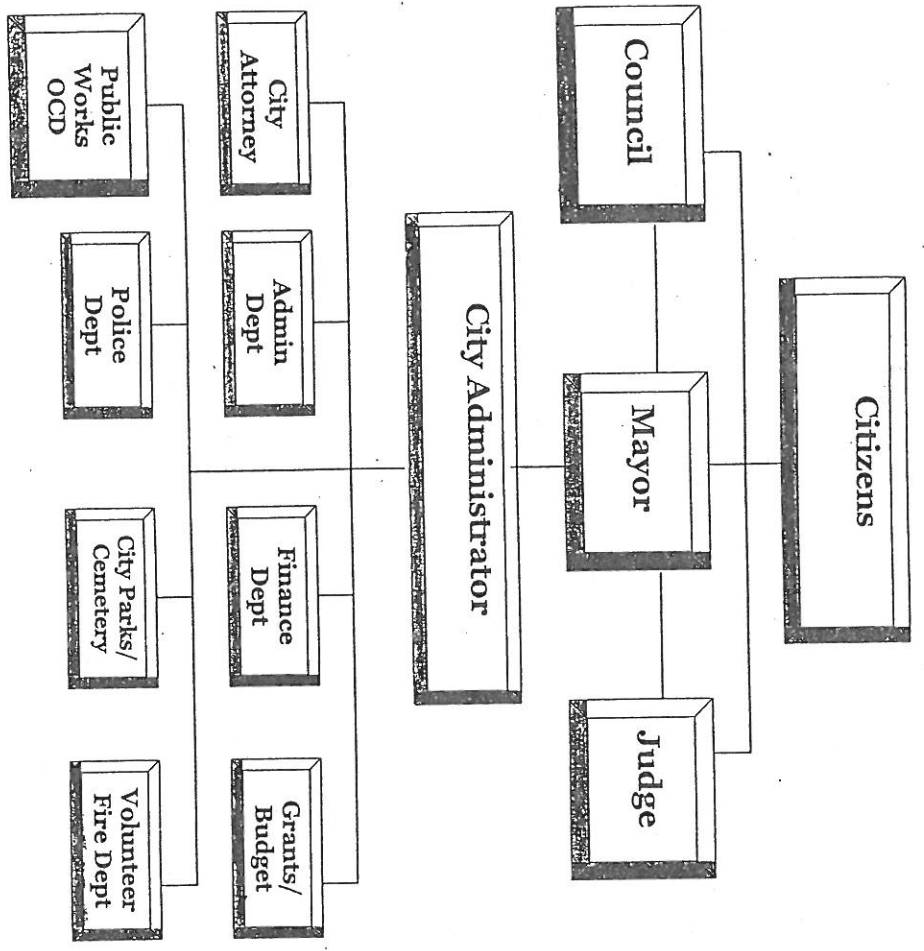


Exhibit C
PROPOSED ORGANIZATIONAL CHART

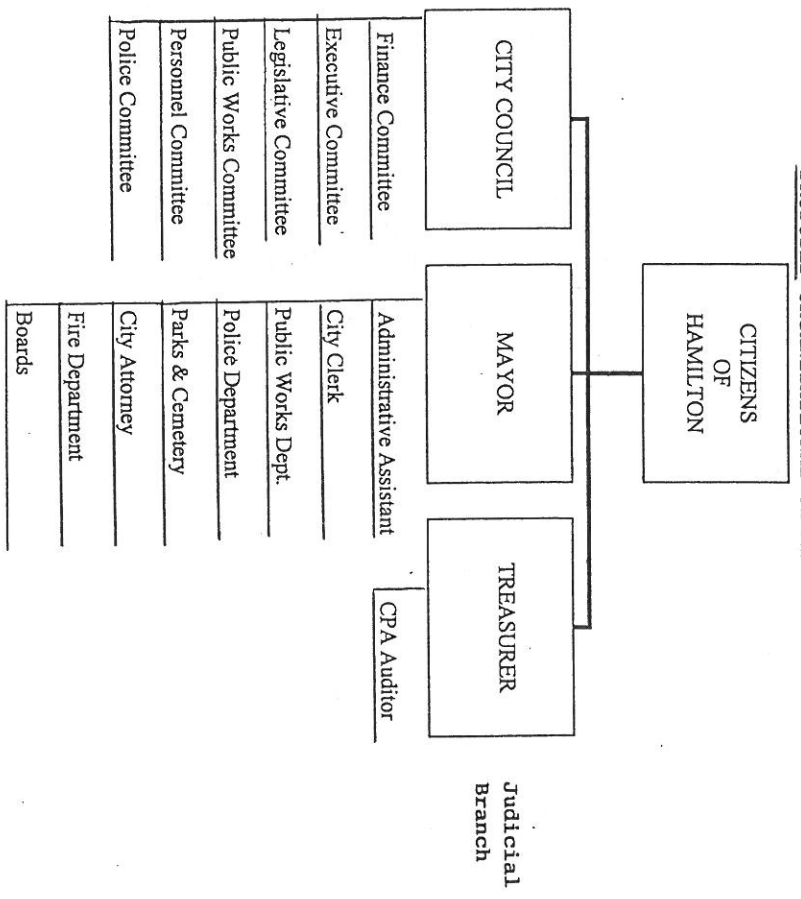


Exhibit D

CERTIFICATE

**ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH TIME THE AMENDED FORM OF GOVERNMENT
SHALL BE PRESENTED TO THE ELECTORS OF
HAMILTON, MONTANA**

The amended form of government proposed by the Local Government Study Commission shall be submitted to the voters of Hamilton, Montana at a special election to be held with the general election on November 8, 2005.



We, the Study Commission of the City of Hamilton, MT do hereby certify that this is the date of the special election approved by the Study Commissioners of Hamilton, Montana.

In testimony whereof, we set our hands.

Done at Hamilton, MT this 16th day of August, 2005

ATTEST: Rose Allen
Rose Allen, City Clerk
Hamilton, Montana

Bob Frost
Bob Frost, Chairman

Ellen Prosser
Ellen Prosser, Vice-Chairman

Lorraine Crotty
Lorraine Crotty, Treasurer

Dave Snell
Dave Snell, Commissioner

The Hamilton City Study Commissioners

Exhibit E
CERTIFICATE

Establishing the OFFICIAL BALLOT for the November 8, 2005 Special Election

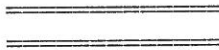
It is the official recommendation of the Hamilton City Study Commission that the Council-Mayor form be retained with the sub-option amendments indicated below:

Please vote on all Questions. Place an "X" in the boxes which express your preferences.

Question #1: The mayor may:

_____ appoint and remove, with the consent of a majority of the council all employees of the local government.

_____ *retain* the authority to appoint, with the consent of a majority of the council, all department heads. If this sub-option passes, the mayor retains sole authority to remove department heads, and may appoint and remove all other department employees, without City Council approval.



Question #2: If this question fails, question #3 is of no effect.

The presiding officer of the city council shall be:

_____ the chairman of the city council, who may vote as other members of the council. (a 7-member city council is required)

_____ the mayor, who shall *retain* the position of presiding officer of the city council, and who shall decide all tie votes of the council, but shall have no other vote.

Question #3: If this question fails, question #2 is of no effect.

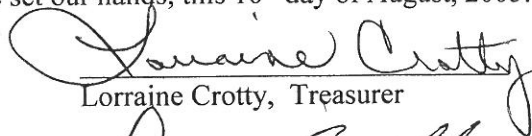
_____ The size of the City Council, which shall be a number not less than seven (7), with one member being elected at large, for a 2-year term, shall be established.

_____ The size of the City Council to *remain* at six (6)

We, the Study Commissioners of Hamilton, MT do hereby certify that this is the official ballot approved by us. In testimony whereof, we set our hands, this 16th day of August, 2005.



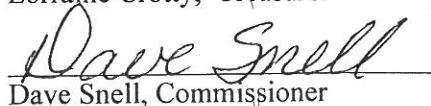
Bob Frost, Chairman



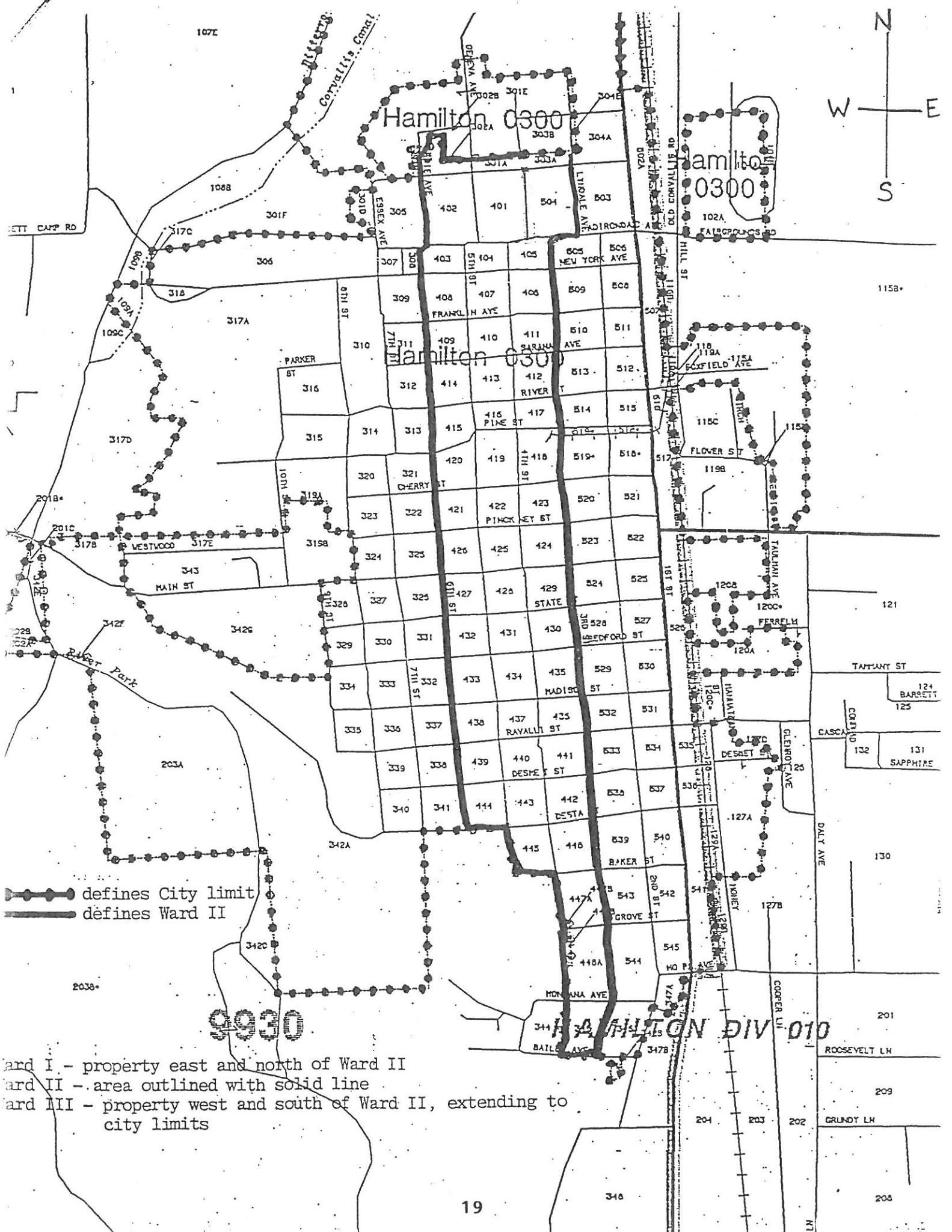
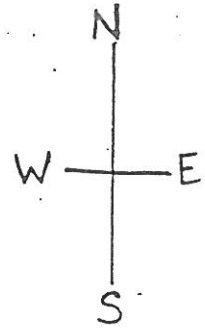
Lorraine Crotty, Treasurer





Ellen Prosser, Vice-Chairman



Dave Snell, Commissioner



 defines City limit
 defines Ward II

Ward I - property east and north of Ward II
 Ward II - area outlined with solid line
 Ward III - property west and south of Ward II, extending to city limits

Exhibit F
CERTIFICATE
WARD BOUNDARY DESCRIPTIONS

A. **Ward One.** All that part of the city, within the city limits, lying easterly of the area described as follows:

Commencing at the southern City limits of the City of Hamilton and the center line of Third Street, thence north along said center line to the center line of Adirondac Avenue, thence easterly along said center line to the centerline of Lyndale Avenue, thence north along said center line to the center of Pennsylvania Avenue, thence west along said center line to the western City Limits of the City of Hamilton, thence northerly along said City Limits to the eastern side of Highway 93.

And also the following lands within the City Limits of the City of Hamilton located on the east side of First Street (Highway 93) 1650+/- feet south of Golf Course Road described as "The west 180.6 feet of Lot 2 of Nicol's Addition No. 2 as recorded in Book 148 Deeds, Page 743 in the Recorders Office for Ravalli County, Montana.

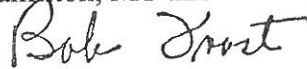
B. **Ward Two.** All that part of the city within the city limits, lying or situated south of a line located along the center of Pennsylvania Avenue between Ward One and Ward Three.

C. **Ward Three.** All that part of the city, within the city limits, lying westerly of the area described as follows:

Commencing at the southern City limits of the City of Hamilton and the center line of Sixth Street, thence north along center line to Adirondac Avenue, thence east along said center line to the center line of Erie Avenue, thence north along said center line to the center line of Pennsylvania Avenue to the westerly City Limits of the Cit of Hamilton.

We, the Study Commission of the City of Hamilton, MT do hereby certify that these are the correct Ward Boundary descriptions within the Hamilton city limits.

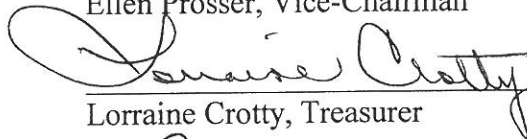
In testimony whereof, we set our hands.
Done at Hamilton, MT this 16th day of August, 2005.



Bob Frost, Chairman



Ellen Prosser, Vice-Chairman



Lorraine Crotty, Treasurer



Dave Snell, Commissioner

Exhibit G

CERTIFICATE

ESTABLISHING THE DATE OF THE FIRST GENERAL ELECTION FOR OFFICERS OF THE NEW GOVERNMENT OF HAMILTON, MONTANA, IF THE AMENDED PROPOSAL IS APPROVED

AND

ESTABLISHING THE EFFECTIVE DATE OF THE PROPOSAL, IF APPROVED.

The date of the general election for officers and councilor of the new amended government of Hamilton, Montana shall be held at a special election on April 4th, 2006.

The effective date of the amended plan of local government of Hamilton, Montana takes effect when the officers take office at 10:00 a.m. on July 5th, 2006.



We, the Study Commissioners of Hamilton, MT do hereby certify that these are the dates of the general election and the effective date of the amended plan of local government of the City of Hamilton, Montana, approved by the Study Commissioners of Hamilton, Montana.

In testimony whereof, we set our hands.

Done at Hamilton, MT this 16th day of August, 2005.

ATTEST:

Rose Allen
Rose Allen, City Clerk
Hamilton, MT

Bob Frost
Bob Frost, Chairman

Ellen Prosser
Ellen Prosser, Vice-Chairman

Lorraine Crotty
Lorraine Crotty, Treasurer

Dave Snell
Dave Snell, Commissioner

**Local Government Review
City of Hamilton Study Commission**

TENTATIVE MINORITY REPORT

We the undersigned members of the Hamilton City Government Review Study Commission do not agree with several of the findings and recommendations contained in the Study Commission's Tentative Report. We believe the process used by the Commission to gather information and evaluate the needs and desires of its citizens has been inadequate to support the findings and recommendations being reported. Input from city employees and incumbent city officials was not obtained. Input from city business owners was not solicited. And, a survey of city residents is being taken only after these findings and recommendations were completed.

In addition, the undersigned Study Commissioners were excluded from discussion and consideration of alternatives that might have gone into this Report. The ex-officio member of the Commission was even denied a signature block on the report.

Because of a flawed process and inadequate consideration of alternatives, we believe the recommended changes will not alter the form of Hamilton City Government sufficiently to make a difference in how Hamilton faces the challenges of the future. In fact, in several aspects, the changes recommended, if adopted, could make matters worse.

While this is a "Tentative" Report, we believe it would need to be changed substantially to make it acceptable and beneficial. Provisions where the Report needs be changed include:

1. Further discussion of the benefits of a charter form of government. While the potential content of a charter can and should be debated, the whole idea of a charter should not be dismissed because current government officials allegedly lack the maturity to handle a charter form of government.

2. The Report suggests that the current form of city government calls for an elected Finance Officer (Treasurer). In fact, two prior Study Commissions certified that the current form of city government calls for an appointed Finance Officer (Treasurer). This inconsistency between findings of prior Study Commissions and this Study Commission should be explained to the voters and the voters given an opportunity to express their will.

3. The presiding officer at city council meetings should be the president of the council rather than the mayor. A change in that direction may be helpful. However, given the changes facing the City of Hamilton in the next decade, a nominal change such as this would have little impact how the city faces those changes. Clearly, a change to a city council-manager form of government is worth discussion and consideration in this

Report.

4. Recommending that the City Council have the final word on hiring and firing all city employees destroys the separation of powers that must exist between the legislative and executive branches of government. Placing the City Council in charge of hiring and firing would lead to more strife and fighting between the Council and Mayor. We believe there has been quite enough of that already.

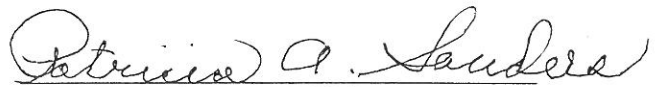
5. The Administrative Assistant should be a position that provides necessary executive assistance to the Mayor, especially when the Mayor serves part-time. The Study Commission serves another agenda when it suggests that the content of the position should depend on who wins the next election.

6. The proposed ballot questions #2 and #3 are stated to be mutually exclusive. They are not. Voters could choose to have the mayor be the presiding officer of the city council and still choose to have seven (7) council members. Or, the voters could choose to have the chairman of the council be the presiding officer and still choose to have six (6) council members.

This Tentative Minority Report may be further developed depending on the content of the Commission's Final Report takes. Meanwhile, please provide your comments to the Study Commission so that your opinions about what is best for Hamilton can be heard. Hamilton's future is in your hands.

Resectfully submitted this 14th day of June 2005.


Dan Rothlisberger, Commissioner


Pat Sanders, Ex-Officio Member

