

CHECKLIST OF PROCEDURES FOR ROAD ABANDONMENT PETITIONS

Original signed petition must be submitted to the Clerk and Recorder along with a map showing the entire area of the road under consideration and property within a 1 mile radius (please refer to County GIS if a map is needed). Stamp the date received on the petition. Get name and phone number of contact person for questions.

NAME Lauren Coleman PHONE 763-4735

- 1) Determine if petition has sufficient information for processing. (Copy to County Attorney.) It should address all the pertinent information listed in:
 - a) The form petition
 - b) Section 7-14-2602
 - c) Identify owners abutting the road to be abandoned (7-14-2604)
 - d) Owners of private land to which the road gives access (7-14-2615(4))
- 2) Determine if there are sufficient qualified signatures as per 7-14-2601: 2616
- 3) Complete "Report of Qualified Signatures".
- 4) Schedule the first hearing on the petition on Commissioner's agenda. DATE: 3/20/12
 - a) Prepare draft resolution appointing viewing committee and assigning Petition # 832.852
 - b) Forward copy to county attorney for review
- 5) Make copies of petition and Report of Qualified Signers. Forward to: 3/8/12
 - County Attorney (attach note of date on Commissioner's agenda)
 - County Road Superintendent (attach note of date on Commissioner's agenda)
 - County Commission (3 copies)
- 6) Commissioners receive petition and assign viewing committee at first hearing via resolution.
- 7) Viewing committee (7-14-2603) completes road report and report is received. DATE: 4/29 met
- 8) County Attorney and other county staff identify owners abutting the road to be abandoned and owners of private land to which the road gives access See 7-14-2616
- 9) Schedule public hearing on Commissioner's agenda and prepare notices. DATE _____
- 10) a) Type regular mail envelopes for:
 - 1) All landowners named on the petition
 - 2) All signers on the petition + ted border
 - 3) All landowners determined by viewing committee and county staff abutting the road to be abandoned and landowners of private land to which the road gives access.
 - 4) The postmaster of the areab) Type and prepare certified mail envelopes for:
 - 1) All landowners abutting the road to be abandoned and landowners of private land to which the road gives access.
 - 2) The postmaster of the area
- 11) Publish public hearing legal notice two times in Chronicle for a county road (7-1-2121) and if necessary in another newspaper. DATES 10/20 10/27 Two consecutive weeks
- 12) Post notice in 5 public places 30 days prior to hearing and prepare affidavit of posting. At least 2 of the postings should be on or near the portion of road to be abandoned on yellow notice signs.
- 13) Post a copy of the viewing committee report and public hearing notice to the following online and with County Commission staff. Press releases on line
- 14) Prepare draft resolution for Commissioners to consider at next public hearing. Email to County Attorney for review.
- 16) Commissioners hold public hearing to grant or deny petition and pass resolution if granted.
- 17) Within 10 days of passage of resolution send copies of resolution to all persons listed in #10b (BY CERTIFIED MAIL) and forward certified copy to County Road Superintendent (per 7-14-2613).
- 18) Type affidavit of mailing for petition file (regarding the boards' decision).
- 19) If the petition is granted, a certified copy of the resolution must be recorded.
- 20) Scan petition file and file away in basement drawer for road petitions.

PETITION TO ABANDON COUNTY ROAD

TO: THE BOARD OF COUNTY COMMISSIONERS, GALLATIN COUNTY, MONTANA

COME NOW the undersigned freeholders of the road district consisting of Gallatin County, Montana, in its entirety and petition this Board pursuant to Title 7, Chapter 14, Part 26 MCA, to abandon a county road or right-of-way ("road") located in Gallatin County, Montana and represent as follows:

- 1. The road or portion of the road to be abandoned: ALLEY BETWEEN
S 1/2 of Lots 1+2 Block 5 + N 40 feet of Lots 11+12 Block 5 Gallatin Gateway MT
- 2. The general route of the road or portion of road to be abandoned is described as follows (please include a map(s) that shows the location of the road or portion of the road to be abandoned and shows all property within a 1 mile radius):
Alley is currently landscaped ~~down~~ Please see map

3. The lands and owners affected by the abandonment (include names and addresses of property owners which abut the road or portion of the road to be abandoned or owners of private land to which the road gives access): (do not sign in this section)

LANDOWNER(S) (please print)	MAILING ADDRESS
1. <u>LAUREN COLEMAN</u>	<u>PO Box 340</u> <u>Gallatin Gateway MT 59730</u>
Legal Description of Property <u>S 1/2 of Lots 1+2 Block 5 - Gallatin Gateway (Salesville)</u>	<u>MT</u>
2. <u>BRAID E. CARPENTER</u>	<u>PO Box 696</u> <u>Gallatin Gateway MT 59730</u>
Legal Description of Property <u>N 40 feet of Lots 11+12 Block 5 GALLATIN GATEWAY (SALESVILLE)</u>	<u>MT</u>
3. <u>GWEN ROBIN ALLEN</u>	
Legal Description of Property <u>Lots 7-10 Block 5 GALLATIN GATEWAY (SALESVILLE)</u>	<u>MT</u>
4. <u>VERA E. SPRING</u>	
Legal Description of Property <u>Lots 3-6 Block 5 GALLATIN GATEWAY (SALESVILLE)</u>	<u>MT</u>
5. _____	
Legal Description of Property _____	

RECEIVED

MAR 01 2012

Clerk & Recorder
Gallatin County, Mont.

15. _____

Legal Description of Property _____

4. Do all the landowners who abut the road to be abandoned or owners of private land to which the road gives access listed in Section 3 above consent to the abandonment? yes If no, list those landowners and their reasons for not consenting:

5. If an abutting landowner listed in Section 3 cannot be found to determine the landowner's consent, identify the landowner and state the efforts made to locate the landowner:

6. The necessity for and advantage of the abandonment is as follows:

I, Lauren Coleman, have lived here 25 years and the alley between myself and my neighbor was always landscaped since I moved here. There are two mature spruce trees on my property which have grown over into the alley space and which I would not want to lose. Brad Carpenter on the other side of the alley has an outbuilding which is ^{built} partially on the alley. Our properties are small and our houses are built near the alley and we would like to conserve that space as yard. Our adjoining neighbors have no problem with our abandoning our portion of the alley.
(Currently the alley behind us is also landscaped + has a building)

7. Is the road providing access to public lands or waters? If yes, explain and provide location of public lands and waters on the attached map.

NO

8. Does the road or portion of the road contain any utilities?

Gas line

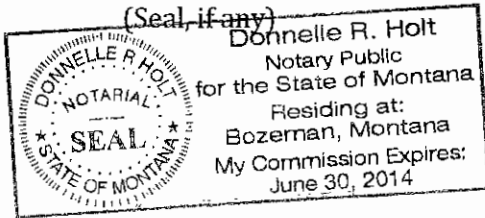
State of Montana
County of Gallatin

I swear that the information contained herein is correct and complete to the best of my knowledge.

Lauren Coleman

(Signature of petition gatherer.)

Signed and sworn to (or affirmed) before me on March 7th 2012
by Lauren Coleman.



Donnelle R. Holt

Signature of notarial officer

Donnelle R. Holt

Name - typed, stamped, or printed

Notary

Title (and Rank)

Bozeman, Montana

Residing at

My commission expires: June 30, 2014

The undersigned state that they are freeholders in the Gallatin County Road District and petition to abandon the road set forth herein. If more than 10 freeholders sign, use additional pages.

1. Lauren Coleman PO Box 340 Adams St 2 hrs N of Bible Church
Signature LAUREN COLEMAN Address Gallatin Gateway MT 59730
Printed Name 2-15-12 City, State, Zip
Date
Legal Description of Property S 1/2 of Lots 1 & 2 Block 5 Salisville

2. Brian E. Carpenter 217 North Adams Street
Signature BRIAN E. CARPENTER Address PO Box 696 Gallatin Gateway
Printed Name February 15, 2012 Address Gallatin Gateway, MT 59730
Date City, State, Zip
Legal Description of Property N 40 feet of Lots 11 & 12 Block 5 Salisville

3. Ewen Cullen 309 Bozeman St / P.O. Box 753
Signature Ewen Cullen Address Gallatin Gateway, MT
Printed Name 2-16-12 City, State, Zip 59730
Date
Legal Description of Property Lots 7-10 Block 5 Gallatin Gateway (Salisville) MT 59730

4. Vera E. Spring 209 Bozeman St. (P.O. Box 270)
Signature VERA E. SPRING Address GALLATIN GATEWAY, MT 59730
Printed Name 2-28-12 City, State, Zip
Date
Legal Description of Property Lots 3-6 Block 5 Gallatin Gateway (Salisville) MT 59730

5. _____
Signature Address
Printed Name City, State, Zip
Date
Legal Description of Property _____

6. _____

State of Montana

County of Gallatin

Bozeman



AFFIDAVIT OF MAILING

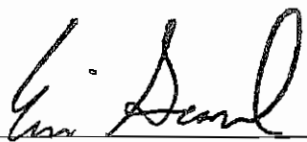
STATE OF MONTANA)
) ss
COUNTY OF GALLATIN)

ERIC SEMERAD, BEING FIRST DULY SWORN ON OATH, deposes and says:

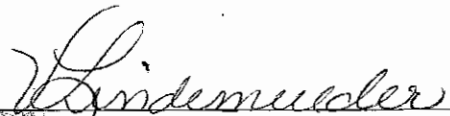
That he is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of Resolution #2019-141, a Resolution made pursuant to Road Abandonment Petition No. 852 (formerly No. 832) to discontinue a portion of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana, was mailed to the following landowners on December 9, 2019.

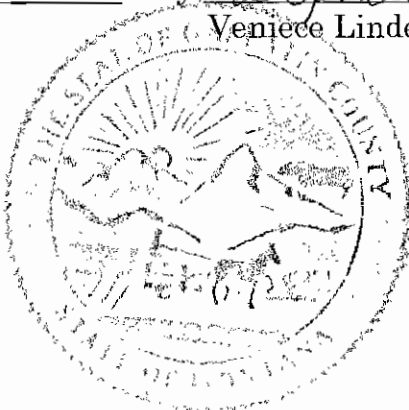
Public Land/Water Access Association	PO Box 80987	Billings	MT	59108
Susan B. Swimley	1807 W. Dickerson, Unit B	Bozeman	MT	59715
Vera E. Spring	31 Clinton Ln.	Belgrade	MT	59714
Gwen Robin Allen	PO Box 753	Gallatin Gateway	MT	59730
Brad E. Carpenter	PO Box 696	Gallatin Gateway	MT	59730
Ted Border	PO Box 330	Gallatin Gateway	MT	59730
Loren Coleman	PO Box 340	Gallatin Gateway	MT	59730



ERIC SEMERAD
Clerk and Recorder
Gallatin County, Montana

By: 

Veniece Lindemulder, Deputy



RESOLUTION NO. 2019- 141

A RESOLUTION MADE TO ASSIGN NEW PETITION NUMBER 852 AND TO DISCONTINUE A PORTION OF THE ALLEY IN BLOCK 5 OF THE TOWNSITE OF GALLATIN GATEWAY (SALESVILLE)

This Resolution was introduced by CLERK & RECORDER ERIC SEMERAD; moved by Commissioner MACFARLANE and seconded by Commissioner SKINNER. This Resolution was adopted UNANIMOUSLY. COMMISSIONER SEIFERT EXCUSED.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on March 1, 2012, to abandon a portion of the alley located in Block 5 of the Townsite of Gallatin Gateway (Salesville)(hereinafter referred to as the "Alley"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated; and

WHEREAS, the Alley is described as a portion of Block 5 of the Townsite of Gallatin Gateway (Salesville), a twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana; and,

WHEREAS, on March 8, 2012, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2616, MCA; and

WHEREAS, according to M.C.A. §7-14-2603, the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of a petition to abandon a county road. Also per § 7-14-2603, the investigation shall be sufficient to properly determine the merits or demerits of the petition.

WHEREAS, on March 20, 2012, the Board of Gallatin County Commissioners received the Petition, assigned it number 832 and appointed Commissioner Steve White and County Surveyor Charlotte Mills to the Viewing Committee; and

WHEREAS, petition number 832 had already been assigned to another road abandonment petition in 2009 and the next available petition number is 852; and

WHEREAS, on April 24, 2012, the Viewing Committee met and viewed the road, raised concerns that the alleyway would be used for the proposed sewer system in Gallatin Gateway, and decided that the abandonment request should be tabled until the sewer lines were installed to see how the alley was used in the project; and

WHEREAS, in April 2018, the petitioners contacted Recording Supervisor Eric Semerad and requested the County resume consideration of the petition to abandon the Alley.

WHEREAS, On October 26, 2018, the Viewing Committee met with Eric Semerad, Recording Supervisor, and Bill Brownell, Road Supervisor, to view the alley again and decided that the Gallatin Gateway Water & Sewer District should be contacted before proceeding with the abandonment to see if it would be willing to accept another form of easement other than the platted alley for its utility;

WHEREAS, On February 22, 2019, the petitioners sent clarification of their original petition stating that their request is made pursuant to 7-14-2616 MCA (“Procedure to Discontinue Street”), which authorizes a county commission to discontinue an alley or any part of an alley in an unincorporated town or townsite upon the petition in writing of all owners of lots on the alley and if the discontinuance can be done without detriment to the public interest;

WHEREAS, the attorney for the Gallatin Gateway Water & Sewer District proposed the County record a Notice of Utility Easement document to memorialize that a vacation under § 7-14-2616 does not affect the right of any public utility, such as the Gallatin Gateway Water & Sewer District, to continue to maintain its plant and equipment in such alley;

WHEREAS, Northwestern Energy has requested that the County grant a utility easement for the gas line operated by Northwestern Energy prior to the discontinuance;

WHEREAS, the Commission appointed a new Viewing Committee on March 26, 2019, as original members Commissioner Steve White and Surveyor Charlotte Mills were no longer with the County. The new Viewing Committee consisted of County Commissioner Scott MacFarlane and Clerk and Recorder/Surveyor Eric Semerad and viewed the alley on April 26, 2019, along with Road Supervisor Bill Brownell;

WHEREAS, the Viewing Committee submitted its Viewers Report to the County Commission on November 7, 2019;

WHEREAS, the Viewing Committee recommended discontinuing the described portion of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville);

WHEREAS, the Viewing Committee found that this portion of alleyway does not provide legal access to public lands or waters because there are multiple other streets and alleys in Gallatin Gateway that provide access to the Gallatin River and Block 5 does not front the River directly;

WHEREAS, the Viewing Committee further found that two or more landowners do not use this portion of the alleyway to access private property. All landowners adjacent to the alley have signed the petition requesting the discontinuance. Thus, the Alleyway can be discontinued without detriment to the public;

WHEREAS, the County Commission considered and approved the Utility Right-of-Way Easement requested by Northwestern Energy to memorialize an easement for a gas line in the Alley; and

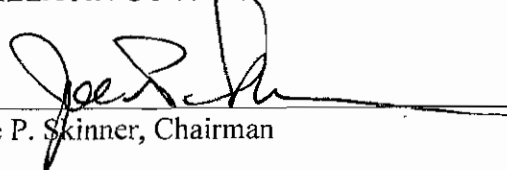
WHEREAS, the County Commission will consider the Notice of Utility Easement requested by the Gallatin Gateway County Water & Sewer District for the existing sewer line after the Petition and discontinuance are granted.

NOW THEREFORE BE IT RESOLVED:

1. The County Commission reassigns petition number 852 to the March 1, 2012 petition to discontinue the Alley;
2. All that part of the twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder, is hereby discontinued.
3. The Commission hereby requests the Clerk and Recorder, within ten (10) days from the date of passage of this Resolution, to send a copy by certified mail to all owners of land abutting on the abandoned street. The owners shall be those listed on the last county assessment roll.
4. The Clerk and Recorder shall notify the county road supervisor by furnishing a certified copy of this Resolution to the supervisor.

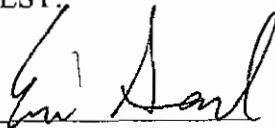
DATED this 12th day of November, 2019.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Joe P. Skinner, Chairman

ATTEST:



Eric Semerad
Clerk and Recorder
Gallatin County

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Petition To Establish, Alter, Or Abandon A County Road

7-14-2601. Petition to establish, alter, or abandon a county road. (1) Any 10, or a majority, of the freeholders of a road district taxable therein for road purposes may petition the board in writing to open, establish, construct, change, abandon, or discontinue any county road in the district.


(2) When the road petitioned for is on the dividing line between two counties, the same procedure must be followed except that a copy of the petition must be presented to each board. The two boards shall act jointly.

(3) As used in this part, unless the context requires otherwise:

(a) "board" means the board of county commissioners;

(b) "abandonment" means cessation of use of right-of-way (easement) or activity thereon with no intention to reclaim or use again and is sometimes called "vacation".

History: (1), (2)En. Sec. 8-202, Ch. 197, L. 1965; Sec. 32-4002, R.C.M. 1947; (3)En. Sec. 2-101, Ch. 197, L. 1965; amd. Sec. 69, Ch. 316, L. 1974; Sec. 32-2203, R.C.M. 1947; R.C.M. 1947, 32-2203(part), 32-4002(part).

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TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION


Part 26. Establishment, Alteration, and Abandonment of County Roads

Contents Of Petition

7-14-2602. Contents of petition. The petition must set forth:

- (1) the particular road or roads to be opened, established, constructed, changed, abandoned, or discontinued;
- (2) the general route thereof;
- (3) the lands and owners affected;
- (4) whether the owners who can be found consent thereto;
- (5) where consent is not given, the probable cost of the right-of-way;
- (6) the necessity for and advantage of the petitioned action.

History: En. Sec. 8-203, Ch. 197, L. 1965; R.C.M. 1947, 32-4003.

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads


Investigation Of Request Concerning Road -- Decision

7-14-2603. Investigation of request concerning road -- decision. (1) At its next regular or special meeting or in any case at a date within 30 days after filing of any petition, the board shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

(2) No more than one member of the board and the county surveyor shall make the investigation.

(3) After considering the petition and the results of the investigation, the board shall make an entry of its decision on the minutes.

History: En. Sec. 8-204, Ch. 197, L. 1965; R.C.M. 1947, 32-4004(1), (2).

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TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Opening Of County Road

7-14-2605. Opening of county road. If the petition is for the opening of a county road and the board grants the prayer ordering the road opened, it shall proceed at once to have it opened to the public and declare it to be a county road.

History: En. Sec. 8-205, Ch. 197, L. 1965; R.C.M. 1947, 32-4005(part).

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION


Part 26. Establishment, Alteration, and Abandonment of County Roads

Survey Of Road

7-14-2606. Survey of road. (1) The board may order the county surveyor or, if the county surveyor is not a professional land surveyor, some other professional land surveyor to survey and plat the road. The surveyor shall file the surveyor's field notes with the county clerk and recorder.

(2) As used in this section, "professional land surveyor" has the meaning provided in [37-67-101](#).

History: En. Sec. 8-205, Ch. 197, L. 1965; R.C.M. 1947, 32-4005(part); amd. Sec. 584, Ch. 61, L. 2007; amd. Sec. 16, Ch. 262, L. 2015.

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION


Part 26. Establishment, Alteration, and Abandonment of County Roads

Damages Resulting From Establishment Or Alteration Of Road

7-14-2607. Damages resulting from establishment or alteration of road. (1) Whenever the board makes an order establishing or changing any road, it shall determine the amount of damages sustained by each owner or claimant of lands or improvements affected by the road. Damages must be determined by estimating the benefits and damages accruing. The sum estimated as benefits must be deducted from the sum estimated as damages, and the remainder, if any, must be the amount of damages awarded.

(2) Damages must be paid to the owner or claimant, if known, upon the owner or claimant showing or establishing the right or title to the lands or improvements and furnishing proper deeds and releases.

History: En. Sec. 8-206, Ch. 197, L. 1965; R.C.M. 1947, 32-4006(1), (2); amd. Sec. 585, Ch. 61, L. 2007.

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CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Effect Of Acceptance Or Rejection Of Award Of Damages


7-14-2608. Effect of acceptance or rejection of award of damages. (1) If all awards are accepted, the board shall declare the road a county road and open it.

(2) (a) If any award of damages provided for in **7-14-2607** is not accepted within 20 days after the date of the award, it shall be deemed rejected by the owner.

(b) The board shall by order direct that proceedings to procure the right-of-way be instituted under Title 70, chapter 30 by the county attorney against all nonaccepting landowners.

(c) In such proceedings it shall be made to appear that the board shall have declared by resolution that the right-of-way was necessary and desirable.

History: (1)En. Sec. 8-206, Ch. 197, L. 1965; Sec. 32-4006, R.C.M. 1947; (2)En. Sec. 8-207, Ch. 197, L. 1965; Sec. 32-4007, R.C.M. 1947; R.C.M. 1947, 32-4006(3), 32-4007(1), (3).

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT


CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Effect Of Failure To Give Notice

7-14-2609. Effect of failure to give notice. The proceedings provided for in **7-14-2608** shall in no way be affected or invalidated by the failure of the board to give any notice or do any act provided for in this part. Failure to give any such notice shall not be considered by any court as a defense in any proceedings for procuring right-of-way.

History: En. Sec. 8-207, Ch. 197, L. 1965; R.C.M. 1947, 32-4007(2).

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Payment Of Damages And Expenses

7-14-2610. Payment of damages and expenses. All awards of damages estimated by the board or made by the proper court and all expenses, including those of the members of the board and their per diem authorized by **7-4-2107** and **7-4-2108**, shall be paid out of the county road fund on the order of the board.

History: En. Sec. 8-208, Ch. 197, L. 1965; R.C.M. 1947, 32-4008.

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TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Abandonment Or Vacation Of County Roads

7-14-2615. Abandonment or vacation of county roads. (1) All county roads once established must continue to be county roads until abandoned or vacated by:


- (a) operation of law;
- (b) judgment of a court of competent jurisdiction; or
- (c) the order of the board.

(2) An order to abandon a county road is not valid unless preceded by notice and public hearing.

(3) The board may not abandon a county road or right-of-way used to provide existing legal access to public land or waters, including access for public recreational use as defined in [23-2-301](#) and as permitted in [23-2-302](#), unless another public road or right-of-way provides substantially the same access.

(4) The board may not abandon a county road or right-of-way used to access private land if the access benefits two or more landowners unless all of the landowners agree to the abandonment.

History: En. Sec. 8-214, Ch. 197, L. 1965; R.C.M. 1947, 32-4014; amd. Sec. 3, Ch. 107, L. 1999; amd. Sec. 1, Ch. 168, L. 2005.

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Montana Code Annotated 2017

TITLE 7. LOCAL GOVERNMENT

CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Procedure To Discontinue Street

7-14-2616. Procedure to discontinue street. (1) The county commissioners may discontinue a street or alley or any part of a street or alley in an unincorporated town or townsite upon the petition in writing of all owners of lots on the street or alley if it can be done without detriment to the public interest.

(2) Where the street or alley is to be closed for school purposes, a petition signed by 75% of the lot owners on the whole street or alley to be closed is required.

(3) Before acting upon the petition, a notice must be published as provided in **7-1-2121**, stating when the petition will be acted on and what street or alley or part of a street or alley is asked to be vacated.

History: (1), (2)En. Sec. 429, 5th Div. Comp. Stat. 1887; amd. Sec. 5030, Pol. C. 1895; re-en. Sec. 3479, Rev. C. 1907; re-en. Sec. 5306, R.C.M. 1921; amd. Sec. 1, Ch. 13, L. 1929; re-en. Sec. 5306, R.C.M. 1935; amd. Sec. 1, Ch. 1, L. 1941; amd. Sec. 1, Ch. 36, L. 1945; Sec. 11-2801, R.C.M. 1947; (3)En. Sec. 429, 5th Div. Comp. Stat. 1887; amd. Sec. 5031, Pol. C. 1895; re-en. Sec. 3480, Rev. C. 1907; re-en. Sec. 5307, R.C.M. 1921; re-en. Sec. 5307, R.C.M. 1935; Sec. 11-2802, R.C.M. 1947; R.C.M. 1947, 11-2801(part), 11-2802; amd. Sec. 48, Ch. 354, L. 2001.

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TITLE 7. LOCAL GOVERNMENT


CHAPTER 14. TRANSPORTATION

Part 26. Establishment, Alteration, and Abandonment of County Roads

Discontinuance Of Street Not To Affect Utility Easements

7-14-2617. Discontinuance of street not to affect utility easements. The vacation authorized by [7-14-2616](#) shall not affect the right of any public utility to continue to maintain its plant and equipment in any such street or alley.

History: En. Sec. 429, 5th Div. Comp. Stat. 1887; amd. Sec. 5030, Pol. C. 1895; re-en. Sec. 3479, Rev. C. 1907; re-en. Sec. 5306, R.C.M. 1921; amd. Sec. 1, Ch. 13, L. 1929; re-en. Sec. 5306, R.C.M. 1935; amd. Sec. 1, Ch. 1, L. 1941; amd. Sec. 1, Ch. 36, L. 1945; R.C.M. 1947, 11-2801 (part).

Created by **LAWS** 

RESOLUTION NO. 2012- 020

A RESOLUTION MADE TO ASSIGN THE VIEWING COMMITTEE AND PETITION NUMBER FOR A ROAD ABANDONMENT PETITION TO ABANDON A PORTION OF THE ALLEY IN BLOCK 5 OF THE TOWNSITE OF GALLATIN GATEWAY (SALESVILLE)

This Resolution was introduced by Eric Semerad Recording Supervisor; moved by Commissioner Skinner and seconded by Commissioner Murdock. This Resolution was adopted unanimously.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on March 1, 2012, to abandon a portion of the alley located in Block 5 of the Townsite of Gallatin Gateway (Salesville)(hereinafter referred to as the "Alley"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated; and

WHEREAS, the Alley is described as a portion of Block 5 of the Townsite of Gallatin Gateway (Salesville), a twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana; and,

WHEREAS, on March 8, 2012, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2616, MCA; and


WHEREAS, according to Section 7-14-2603, MCA, the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the Petition. The investigation shall be sufficient to properly determine the merits or demerits of the Petition. No more than one member of the board and the county surveyor shall make the investigation; and

NOW THEREFORE BE IT RESOLVED:

1. The Board hereby accepts the petition for abandonment of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville) for consideration.
2. The petition is assigned Road Petition Number 832.
3. Commissioner White and County Surveyor Charlotte Mills are assigned to investigate the feasibility, desirability, and cost of granting the prayer of the Petition, and to report their findings back to the Board.


DATED this 20th day of March, 2012.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



R. Stephen White, Chairman

ATTEST:



Charlotte Mills
Clerk and Recorder
Gallatin County

Semerad, Eric

From: Susan Swimley <swimley@swimleylaw.com>
Sent: Tuesday, November 13, 2018 1:39 PM
To: Arnold, Erin
Cc: Semerad, Eric
Subject: Alley Abandonment- Gallatin Gateway / Salesville
Attachments: Notice of Utility Easement.doc

Good Afternoon:

Eric gave me a call this morning about a petitioned alley abandonment in Gallatin Gateway (Salesville) which has been waiting for Gallatin Gateway County Water and Sewer to put the lines in so the County would know if the alley was going to be used or not.

Eric tells me the alley is used. I recognize the law says that the utility easement continues even if the alley is abandoned. However, discretion being the better part of valor, it is advisable for the County to issue a notice that the utility easement is not abandoned.

I don't have a "survey" but most likely can get one since the District used the alley.

Thinking that editing is easier than initial drafting, I put the attachment together. I am not wedded to the language; it is just a starting point.

Once you have had a moment to consider this, please give me a call or shoot me an email. Frankly, I am not wedded to the idea of a Notice either. What I want to avoid is a fight in 50 years as to what the law was at the time of abandonment **and** would like something that the title companies can pick up on the record.

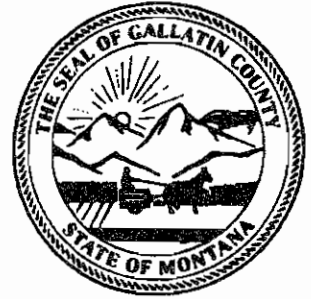
Susan B. Swimley
Attorney and Counselor at Law
1807 West Dickerson, Unit B
Bozeman, Montana 59715
(406) 586-5544 (telephone)
(406) 586-3130 (fax)

The information contained in this communication may be confidential; is intended for the use of the recipient(s) above; and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any viewing, dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you received this communication in error, please return it to the sender immediately and delete the original and any copy from your computer system. If you have any concerns about this message, please contact the sender.

State of Montana

County of Gallatin

Bozeman



October 7, 2019

Board of County Commissioners
Gallatin County Courthouse
Bozeman, MT 59715

RE: Petition to discontinue a portion of an alley in Gallatin Gateway

Legal Description: That portion of the alley in Block 5 directly adjacent to Lots 1, 2, 11 and 12 located in the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana.

Dear Board,

The petition to abandon the described portion of the alley in Block 5 was received on March 1 2012, and was certified, by the Gallatin County Clerk and Recorder, on March 8, 2012. The petition states that the necessity for abandonment is as follows: "I, Lauren Coleman, have lived here 25 years and the alley between myself and my neighbor was always landscaped since I moved here. There are two mature spruce trees on my property which have grown over into the alley space and which I would not want to lose. Brad Carpenter on the other side of the alley has an outbuilding which is built partially on the alley. Our properties are small and our houses are built near the alley and we would like to conserve that space as yard. Our adjoining neighbors have no problem with our abandoning our portion of the alley."

According to M.C.A. §7-14-2603 the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of a petition to abandon a county road. Also per § 7-14-2603, the investigation shall be sufficient to properly determine the merits or demerits of the petition.

The Board of Gallatin County Commissioners accepted the petition and assigned the viewing committee at a public meeting held on March 20, 2012, assigned it number 832 and appointed Commissioner Steve White and County Surveyor Charlotte Mills to the Viewing Committee. On April 24, 2012, the Viewing Committee met and viewed the road, raised concerns that the alleyway would be used for the proposed sewer system in Gallatin Gateway, and decided that the abandonment request should be tabled until the sewer lines were installed to see how the alley was used in the project.

In April 2018, the petitioners contacted Eric Semerad and requested the County resume consideration of the petition to abandon the described portion of the alley in Block 5 of the Salesville Townsite.

On October 26, 2018, the Viewing Committee met with Eric Semerad, Recording Supervisor, and Bill Brownell, Road Supervisor, to view the alley again and decided that the Gallatin Gateway Water & Sewer District should be contacted before proceeding with the abandonment to see if it would be willing to accept another form of easement other than the platted alley for its utility;

On February 22, 2019, the petitioners sent clarification of their original petition stating that their request is made pursuant to 7-14-2616 MCA ("Procedure to Discontinue Street") which authorizes a county commission to discontinue an alley or any part of an alley in an unincorporated town or townsite upon the petition in writing of all owners of lots on the alley and if the discontinuance can be done without detriment to the public interest.

Susan Swimley, attorney for the Gallatin Gateway Water & Sewer District, proposed the County record a Notice of Utility Easement document to memorialize that a vacation under § 7-14-2616 does not affect the right of any public utility, such as the Gallatin Gateway Water & Sewer District, to continue to maintain its plant and equipment in such alley.

Northwestern Energy has requested that the County grant a utility easement for the gas line operated by Northwestern Energy prior to the discontinuance. While the additional value of the easement is not certain, the County can grant an easement for whatever interest it has in the alley. Northwestern Energy will likely ask for an easement from the adjacent landowners as well.

The Commission appointed a new Viewing Committee on March 26, 2019, as original members Commissioner Steve White and Surveyor Charlotte Mills were no longer with the County. The new Viewing Committee consisted of County Commissioner Scott MacFarlane and Clerk and Recorder/Surveyor Eric Semerad and viewed the alley on April 26, 2019, along with Road Supervisor Bill Brownell.

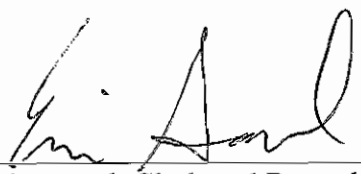
The Viewing Committee finds that this portion of alleyway does not provide legal access to public lands or waters because there are multiple other streets and alleys in Gallatin Gateway that provide access to the Gallatin River and Block 5 does not front the River directly. Also, two or more landowners do not use this portion of the alleyway to access private property. All landowners adjacent to the alley have signed the petition requesting the discontinuance. An easement for both the existing sewer line and gas line would be preserved per 7-14-2617 MCA, which can also be memorialized by a notice of utility easement. Thus, the Alleyway can be discontinued without detriment to the public

Accordingly, we recommend discontinuing the described portion of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville). Prior to the discontinuance, the County Commission should consider the Notice of Utility Easement and the Utility Right-of-Way Easement requested by the Gallatin Gateway Water & Sewer District and Northwestern Energy, respectively.

Respectfully submitted,



Scott MacFarlane, County Commissioner

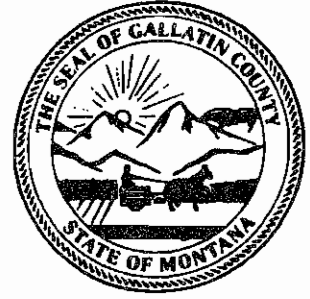


Eric Semerad, Clerk and Recorder/Surveyor

State of Montana

County of Gallatin

Bozeman



AFFIDAVIT OF MAILING

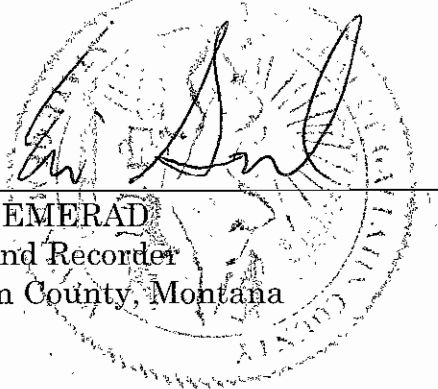
STATE OF MONTANA)
) ss
COUNTY OF GALLATIN)

ERIC SEMERAD, BEING FIRST DULY SWORN ON OATH, deposes and says:

That he is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of the attached Notice of Public Hearing and the viewing Committee report regarding abandoning the same, according to Road Petition Number 832 to discontinue a portion of an alley in Gallatin Gateway located in Block 5 of the Townsite of Gallatin Gateway (Salesville), more particularly described as a portion of the alley in Block 5 directly adjacent to Lots 1, 2, 11 and 12, was mailed to those listed below on October 17, 2019.

Name	Address		
Public Land/Water Access Association	PO Box 80987	Billings	MT 59108



ERIC SEMERAD
Clerk and Recorder
Gallatin County, Montana

State of Montana

County of Gallatin

Bozeman



AFFIDAVIT OF MAILING

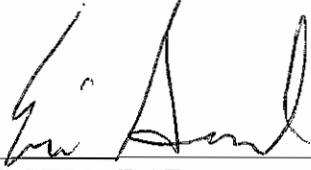
STATE OF MONTANA)
) ss
COUNTY OF GALLATIN)

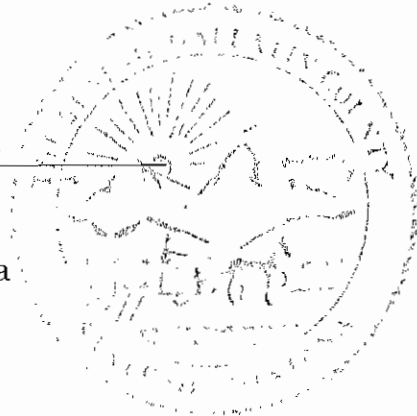
ERIC SEMERAD, BEING FIRST DULY SWORN ON OATH, deposes and says:

That he is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of the attached Notice of Public Hearing and the viewing Committee report regarding abandoning the same, according to Road Petition Number 832 to discontinue a portion of an alley in Gallatin Gateway located in Block 5 of the Townsite of Gallatin Gateway (Salesville), more particularly described as a portion of the alley in Block 5 directly adjacent to Lots 1, 2, 11 and 12, was mailed to those listed below on October 11, 2019.

Name	Address			
Susan B. Swimley	1807 West Dickerson Unit B Bozeman	MT	59715	
Vera E. Spring	PO Box 270	Gallatin Gateway MT	59730	
Gwen Robin Allen	PO Box 753	Gallatin Gateway MT	59730	
Brad E. Carpenter	PO Box 696	Gallatin Gateway MT	59730	
Ted Border	PO Box 330	Gallatin Gateway MT	59730	
Loren Coleman	PO Box 340	Gallatin Gateway MT	59730	
Gallatin Gateway Postmaster	4 Rabel Lane	Gallatin Gateway MT	59730	


ERIC SEMERAD
Clerk and Recorder
Gallatin County, Montana



State of Montana

County of Gallatin

Bozeman



AFFIDAVIT OF POSTING

STATE OF MONTANA)
) ss
COUNTY OF GALLATIN)

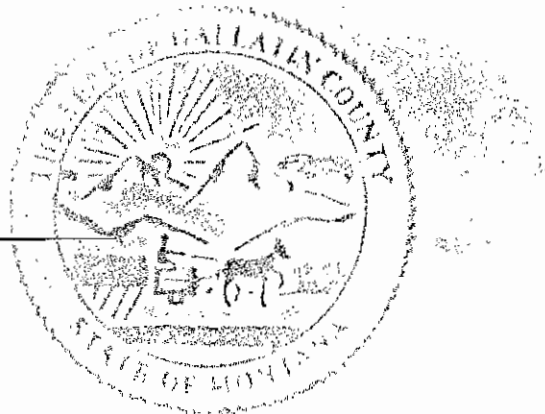
ERIC SEMERAD, BEING FIRST DULY SWORN ON OATH, deposes and says:

That he is the duly elected, qualified and acting County Clerk and Recorder of Gallatin County, Montana.

I hereby certify that a copy of the **NOTICE OF PUBLIC HEARING** to abandon portion of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville) in Gallatin County, Montana, pursuant to a Road Abandonment Petition, was posted by October 11, 2019 in the following four (4) public locations:

1. Intersection of the Alley in Block 5 of the Townsite of Gallatin Gateway (Salesville) with Adams Street.
2. Gallatin Gateway Post Office.
3. Gallatin County Courthouse Lobby.
4. Office of the Gallatin County Clerk & Recorder.

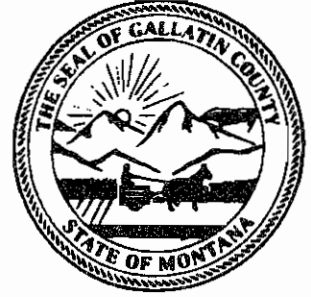
ERIC SEMERAD
Clerk and Recorder
Gallatin County, Montana



State of Montana

County of Gallatin

Bozeman



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Board of Gallatin County Commissioners will conduct a public hearing on November 12, 2019, at 9:00 A.M., in the Community Room, 311 W. Main, Bozeman, Montana. Public opinion shall be heard regarding a road petition to abandon an alley located in Block 5 directly adjacent to Lots 1, 2, 11 and 12 in the Townsite of Gallatin Gateway (Salesville), being in the NW¼ of Section 11, Township 3 South, Range 4 East P.M.M. Gallatin County, Montana. All interested parties are encouraged to attend. Further information may be obtained from Gallatin County Clerk and Recorder/Surveyor Eric Semerad at 311 W. Main, Room 203, Bozeman, Montana 59715, telephone 582-3050.

Dated this 10th day of October, 2019

A handwritten signature in black ink, appearing to read "Eric Semerad".

Eric Semerad

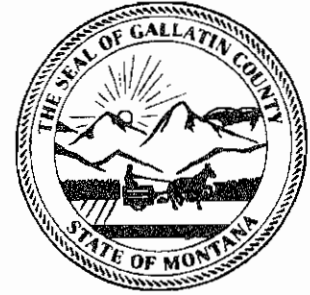
Clerk and Recorder

Gallatin County, Montana

State of Montana

County of Gallatin

Bozeman



**CERTIFICATE OF THE COUNTY CLERK AND RECORDER
RELATING TO
QUALIFICATIONS OF THE SIGNERS**

Statement of Purpose: Petition to abandon a portion of the alley in Block 5 of Gallatin Gateway (Salesville).

Legal Description: That portion of the alley in Block 5 directly adjacent to Lots 1, 2, 11 and 12 located in the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana.

STATE OF MONTANA)
)ss
COUNTY OF GALLATIN)

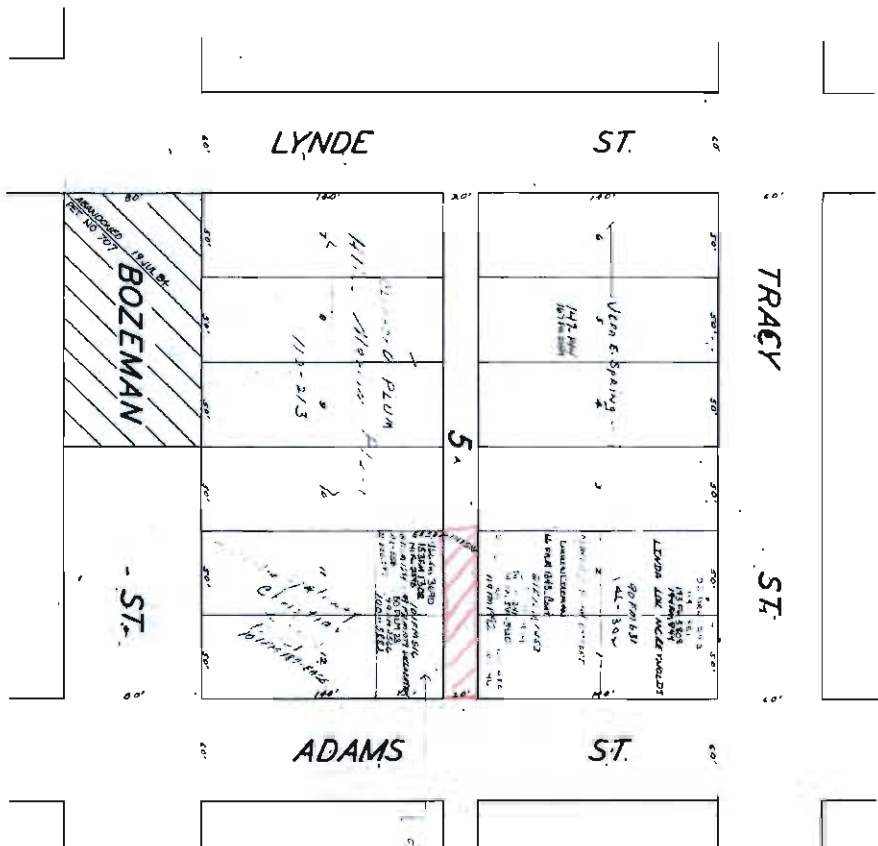
I, Charlotte Mills, do hereby certify that I am the qualified and acting County Clerk and Recorder for Gallatin County, State of Montana; that I have examined the petition to which this certificate is attached, and that pursuant to Section 7-14-2616 M.C.A. 2011, it contains the signatures of all the owners of lots on the street or alley to be closed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of my office at Bozeman, the County Seat of Gallatin County, State of Montana, this 7th day of March 2012, A.D.

Charlotte Mills

Charlotte Mills
Clerk and Recorder
Gallatin County, Montana





DISCLAIMER: This plan is based on information provided by the applicant and is not a warranty. No liability is assumed by the surveyor for any errors or omissions.

GALLATIN GATEWAY

area of proposed abandonment

CLINT G. COOK

RESOLUTION NO. 2019- 029

A RESOLUTION MADE TO ASSIGN A NEW VIEWING COMMITTEE FOR A ROAD ABANDONMENT PETITION NO. 832 TO DISCONTINUE A PORTION OF THE ALLEY IN BLOCK 5 OF THE TOWNSITE OF GALLATIN GATEWAY (SALESVILLE)

This Resolution was introduced by Clerk & Recorder Eric Semerad; moved by Commissioner Seifert and seconded by Commissioner MacFarlane. This Resolution was adopted unanimously.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on March 1, 2012, to abandon a portion of the alley located in Block 5 of the Townsite of Gallatin Gateway (Salesville)(hereinafter referred to as the "Alley"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated; and

WHEREAS, the Alley is described as a portion of Block 5 of the Townsite of Gallatin Gateway (Salesville), a twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana; and,

WHEREAS, on March 8, 2012, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2616, MCA; and

WHEREAS, on March 20, 2012, the Board of Gallatin County Commissioners received the petition, assigned it number 832 and appointed Commissioner Steve White and County Surveyor Charlotte Mills to the Viewing Committee; and

WHEREAS, on April 24, 2012, the Viewing Committee met and viewed the road, raised concerns that the alleyway would be used for the proposed sewer system in Gallatin Gateway, and decided that the abandonment request should be tabled until the sewer lines were installed to see how the alley was used in the project; and

WHEREAS, between 2012 and 2018, the Gallatin Gateway Water & Sewer District did install a sewer line in the alley in question; and

WHEREAS, on October 26, 2018, the Viewing Committee met with Eric Semerad, Recording Supervisor and Bill Brownell Road Supervisor to view the alley again and decided that the Gallatin Gateway Water & Sewer District should be contacted before proceeding with the abandonment to see if they would be willing to accept another form of easement other than the platted alley for their utility; and

WHEREAS, on February 22, 2019, the petitioners sent clarification of their original petition stating that their request is made pursuant to 7-14-2616 MCA (“Procedure to Discontinue Street”); and

WHEREAS, § 7-14-2616, MCA, authorizes a county commission to discontinue an alley or any part of an alley in an unincorporated town or townsite upon the petition in writing of all owners of lots on the alley and if the discontinuance can be done without detriment to the public interest; and

WHEREAS, § 7-14-2617, MCA, specifically recognizes that a vacation under § 7-14-2616 does not affect the right of any public utility, such as the Gallatin Gateway Water & Sewer District, to continue to maintain its plant and equipment in such alley; and

WHEREAS, the only requirement at § 7-14-2616, MCA, for discontinuing an alley is that a notice must be published per § 7-1-2121, MCA, stating when the petition will be acted on and what alley or part thereof is asked to be vacated; and

WHEREAS, the Board of Gallatin County Commissioners desires to follow the standard procedures for discontinuing the Salesville alley as normally would apply to an abandonment petition under § 7-14-2601, MCA; and

WHEREAS, Viewing Committee members County Surveyor Charlotte Mills and Commissioner Steve White are no longer with Gallatin County; and

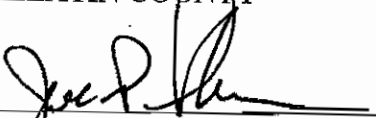
WHEREAS, according to Section 7-14-2603, MCA, the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the Petition. The investigation shall be sufficient to properly determine the merits or demerits of the Petition. No more than one member of the board and the county surveyor shall make the investigation; and

NOW THEREFORE BE IT RESOLVED:

1. Commissioner MacFarlane and County Surveyor Eric Semerad are assigned to investigate the feasibility, desirability, and cost of granting the prayer of the Petition, and to report their findings back to the Board.

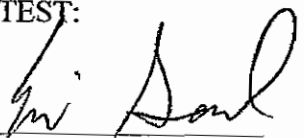
DATED this 26th day of March, 2019.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Joe P. Skinner, Chairman

ATTEST:



Eric Semerad
Clerk and Recorder
Gallatin County

RESOLUTION NO. 2019- ____

A RESOLUTION MADE TO ASSIGN NEW PETITION NUMBER 852 AND TO DISCONTINUE A PORTION OF THE ALLEY IN BLOCK 5 OF THE TOWNSITE OF GALLATIN GATEWAY (SALESVILLE)

This Resolution was introduced by _____; moved by Commissioner _____ and seconded by Commissioner _____. This Resolution was adopted _____.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on March 1, 2012, to abandon a portion of the alley located in Block 5 of the Townsite of Gallatin Gateway (Salesville)(hereinafter referred to as the "Alley"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated; and

WHEREAS, the Alley is described as a portion of Block 5 of the Townsite of Gallatin Gateway (Salesville), a twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana; and,

WHEREAS, on March 8, 2012, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2616, MCA; and

WHEREAS, according to M.C.A. §7-14-2603, the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of a petition to abandon a county road. Also per § 7-14-2603, the investigation shall be sufficient to properly determine the merits or demerits of the petition.

WHEREAS, on March 20, 2012, the Board of Gallatin County Commissioners received the Petition, assigned it number 832 and appointed Commissioner Steve White and County Surveyor Charlotte Mills to the Viewing Committee; and

WHEREAS, petition number 832 had already been assigned to another road abandonment petition in 2009 and the next available petition number is 852; and

WHEREAS, on April 24, 2012, the Viewing Committee met and viewed the road, raised concerns that the alleyway would be used for the proposed sewer system in Gallatin Gateway, and decided that the abandonment request should be tabled until the sewer lines were installed to see how the alley was used in the project; and

WHEREAS, in April 2018, the petitioners contacted Recording Supervisor Eric Semerad and requested the County resume consideration of the petition to abandon the Alley.

WHEREAS, On October 26, 2018, the Viewing Committee met with Eric Semerad, Recording Supervisor, and Bill Brownell, Road Supervisor, to view the alley again and decided that the Gallatin Gateway Water & Sewer District should be contacted before proceeding with the abandonment to see if it would be willing to accept another form of easement other than the platted alley for its utility;

WHEREAS, On February 22, 2019, the petitioners sent clarification of their original petition stating that their request is made pursuant to 7-14-2616 MCA (“Procedure to Discontinue Street”), which authorizes a county commission to discontinue an alley or any part of an alley in an unincorporated town or townsite upon the petition in writing of all owners of lots on the alley and if the discontinuance can be done without detriment to the public interest;

WHEREAS, the attorney for the Gallatin Gateway Water & Sewer District proposed the County record a Notice of Utility Easement document to memorialize that a vacation under § 7-14-2616 does not affect the right of any public utility, such as the Gallatin Gateway Water & Sewer District, to continue to maintain its plant and equipment in such alley;

WHEREAS, Northwestern Energy has requested that the County grant a utility easement for the gas line operated by Northwestern Energy prior to the discontinuance;

WHEREAS, the Commission appointed a new Viewing Committee on March 26, 2019, as original members Commissioner Steve White and Surveyor Charlotte Mills were no longer with the County. The new Viewing Committee consisted of County Commissioner Scott MacFarlane and Clerk and Recorder/Surveyor Eric Semerad and viewed the alley on April 26, 2019, along with Road Supervisor Bill Brownell;

WHEREAS, the Viewing Committee submitted its Viewers Report to the County Commission on November 7, 2019;

WHEREAS, the Viewing Committee recommended discontinuing the described portion of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville);

WHEREAS, the Viewing Committee found that this portion of alleyway does not provide legal access to public lands or waters because there are multiple other streets and alleys in Gallatin Gateway that provide access to the Gallatin River and Block 5 does not front the River directly;

WHEREAS, the Viewing Committee further found that two or more landowners do not use this portion of the alleyway to access private property. All landowners adjacent to the alley have signed the petition requesting the discontinuance. Thus, the Alleyway can be discontinued without detriment to the public;

WHEREAS, the County Commission considered and approved the Utility Right-of-Way Easement requested by Northwestern Energy to memorialize an easement for a gas line in the Alley; and

WHEREAS, the County Commission will consider the Notice of Utility Easement requested by the Gallatin Gateway County Water & Sewer District for the existing sewer line after the Petition and discontinuance are granted.

NOW THEREFORE BE IT RESOLVED:

1. The County Commission reassigns petition number 852 to the March 1, 2012 petition to discontinue the Alley;
2. All that part of the twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder, is hereby discontinued.
3. The Commission hereby requests the Clerk and Recorder, within ten (10) days from the date of passage of this Resolution, to send a copy by certified mail to all owners of land abutting on the abandoned street. The owners shall be those listed on the last county assessment roll.
4. The Clerk and Recorder shall notify the county road supervisor by furnishing a certified copy of this Resolution to the supervisor.

DATED this 12th day of November, 2019.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY

Joe P. Skinner, Chairman


ATTEST:

Eric Semerad
Clerk and Recorder
Gallatin County

TO: THE BOARD OF COUNTY COMMISSIONERS, GALLATIN COUNTY, MONTANA

The undersigned owners of the lots on the alley in Block 5 of the unincorporated townsite of Gallatin Gateway (Salesville) sought to be discontinued hereby petition this Board pursuant to Section 7-14-2616, MCA, to discontinue the portion of the alley adjacent to Lots 1, 2, 11 and 12.

The original petition was filed on March 1, 2012. It requested the abandonment pursuant to Title 7, Chapter 14, Part 26 MCA, to abandon a county road or right-of-way. Decision on the original petition was delayed while the Gallatin Gateway County Water & Sewer District installed their sewer lines. This addendum is to clarify the specific statute the abandonment is requested under.



Lauren Coleman
PO Box 340
Gallatin Gateway, MT 59730
S1/2 of Lots 1 and 2 Block 5 Townsite of Gallatin Gateway (Salesville)

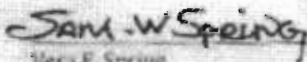


15, JAN 2019

Brad E. Carpenter
PO Box 696
Gallatin Gateway, MT 59730
N 4th of Lots 11 and 12 Block 5 Townsite of Gallatin Gateway (Salesville)

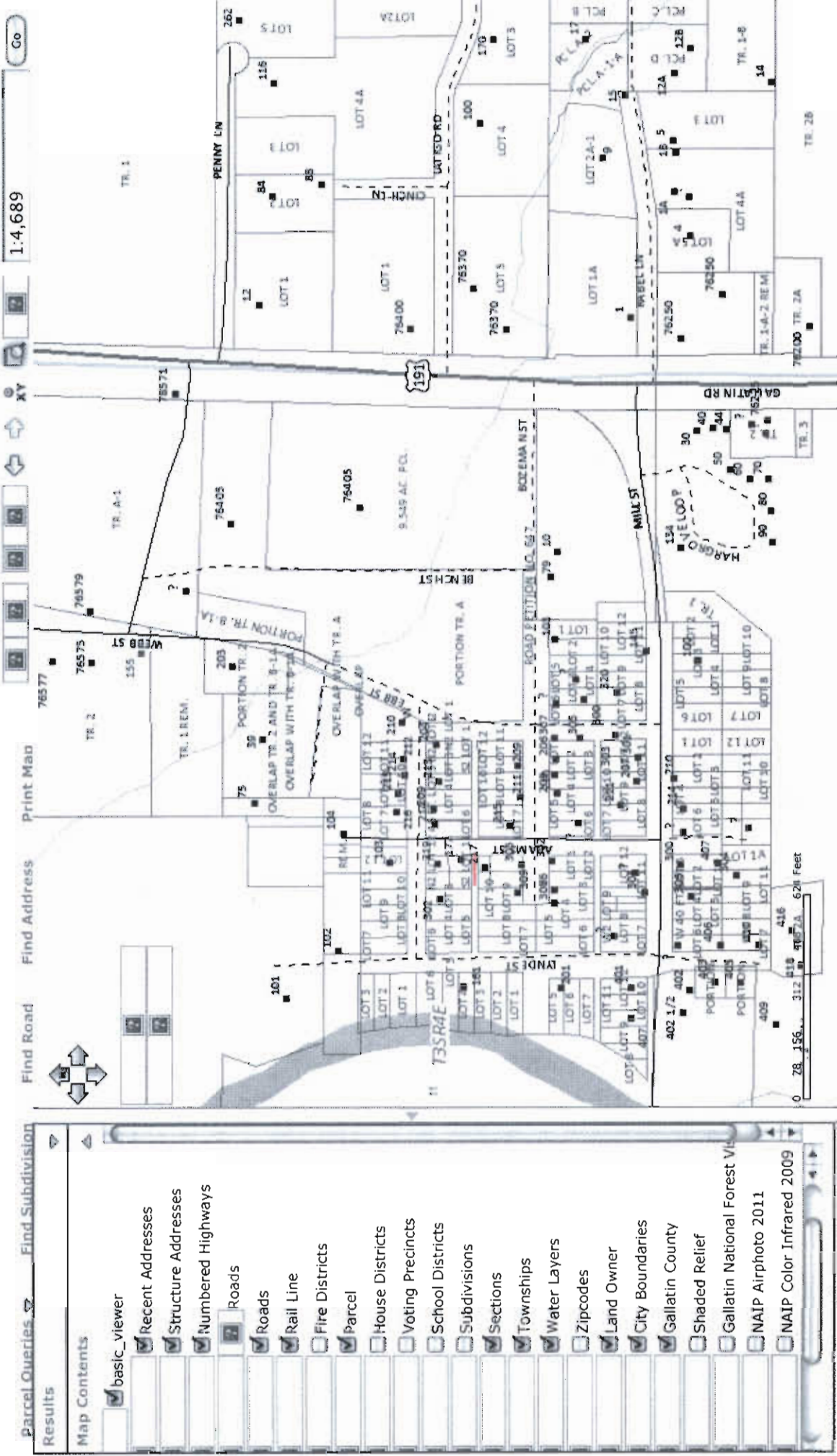


Owen Allen
PO Box 753
Gallatin Gateway, MT 59730
Lots 7-10 Block 5 Townsite of Gallatin Gateway (Salesville)



Vera E. Spring
PO Box 270
Gallatin Gateway, MT 59730
Lots 3-6 Block 5 Townsite of Gallatin Gateway (Salesville)

Gallatin County GIS Map Viewer



Red line shows proposed abandonment

- Parcel Queries: Find Subdivision
- Results
- Map Contents
- basic_viewer
 - Recent Addresses
 - Structure Addresses
 - Numbered Highways
 - Roads
 - Roads
 - Rail Line
 - Fire Districts
 - Parcel
 - House Districts
 - Voting Precincts
 - School Districts
 - Subdivisions
 - Sections
 - Townships
 - Water Layers
 - Zipcodes
 - Land Owner
 - City Boundaries
 - Gallatin County
 - Shaded Relief
 - Gallatin National Forest VI
 - NAIP Airphoto 2011
 - NAIP Color Infrared 2009

2664848

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Eric Semerad - Gallatin County, MT MISC



RESOLUTION NO. 2019- 141

A RESOLUTION MADE TO ASSIGN NEW PETITION NUMBER 852 AND TO DISCONTINUE A PORTION OF THE ALLEY IN BLOCK 5 OF THE TOWNSITE OF GALLATIN GATEWAY (SALESVILLE)

This Resolution was introduced by CLERK & RECORDER ERIC SEMERAD; moved by Commissioner MACFARLANE and seconded by Commissioner SKINNER. This Resolution was adopted UNANIMOUSLY. COMMISSIONER SEIFERT EXCUSED.

WHEREAS, the Gallatin County Clerk and Recorder received a Petition on March 1, 2012, to abandon a portion of the alley located in Block 5 of the Townsite of Gallatin Gateway (Salesville)(hereinafter referred to as the "Alley"), pursuant to Title 7, Chapter 14, Part 26 Montana Code Annotated; and

WHEREAS, the Alley is described as a portion of Block 5 of the Townsite of Gallatin Gateway (Salesville), a twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana; and,

WHEREAS, on March 8, 2012, the Gallatin County Clerk and Recorder certified that the Petition contained sufficient signatures as required by Section 7-14-2616, MCA; and

WHEREAS, according to M.C.A. §7-14-2603, the Board of County Commissioners shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of a petition to abandon a county road. Also per § 7-14-2603, the investigation shall be sufficient to properly determine the merits or demerits of the petition.

WHEREAS, on March 20, 2012, the Board of Gallatin County Commissioners received the Petition, assigned it number 832 and appointed Commissioner Steve White and County Surveyor Charlotte Mills to the Viewing Committee; and

WHEREAS, petition number 832 had already been assigned to another road abandonment petition in 2009 and the next available petition number is 852; and

WHEREAS, on April 24, 2012, the Viewing Committee met and viewed the road, raised concerns that the alleyway would be used for the proposed sewer system in Gallatin Gateway, and decided that the abandonment request should be tabled until the sewer lines were installed to see how the alley was used in the project; and

WHEREAS, in April 2018, the petitioners contacted Recording Supervisor Eric Semerad and requested the County resume consideration of the petition to abandon the Alley.

WHEREAS, On October 26, 2018, the Viewing Committee met with Eric Semerad, Recording Supervisor, and Bill Brownell, Road Supervisor, to view the alley again and decided that the Gallatin Gateway Water & Sewer District should be contacted before proceeding with the abandonment to see if it would be willing to accept another form of easement other than the platted alley for its utility;

WHEREAS, On February 22, 2019, the petitioners sent clarification of their original petition stating that their request is made pursuant to 7-14-2616 MCA ("Procedure to Discontinue Street"), which authorizes a county commission to discontinue an alley or any part of an alley in an unincorporated town or townsite upon the petition in writing of all owners of lots on the alley and if the discontinuance can be done without detriment to the public interest;

WHEREAS, the attorney for the Gallatin Gateway Water & Sewer District proposed the County record a Notice of Utility Easement document to memorialize that a vacation under § 7-14-2616 does not affect the right of any public utility, such as the Gallatin Gateway Water & Sewer District, to continue to maintain its plant and equipment in such alley;

WHEREAS, Northwestern Energy has requested that the County grant a utility easement for the gas line operated by Northwestern Energy prior to the discontinuance;

WHEREAS, the Commission appointed a new Viewing Committee on March 26, 2019, as original members Commissioner Steve White and Surveyor Charlotte Mills were no longer with the County. The new Viewing Committee consisted of County Commissioner Scott MacFarlane and Clerk and Recorder/Surveyor Eric Semerad and viewed the alley on April 26, 2019, along with Road Supervisor Bill Brownell;

WHEREAS, the Viewing Committee submitted its Viewers Report to the County Commission on November 7, 2019;

WHEREAS, the Viewing Committee recommended discontinuing the described portion of the alley in Block 5 of the Townsite of Gallatin Gateway (Salesville);

WHEREAS, the Viewing Committee found that this portion of alleyway does not provide legal access to public lands or waters because there are multiple other streets and alleys in Gallatin Gateway that provide access to the Gallatin River and Block 5 does not front the River directly;

WHEREAS, the Viewing Committee further found that two or more landowners do not use this portion of the alleyway to access private property. All landowners adjacent to the alley have signed the petition requesting the discontinuance. Thus, the Alleyway can be discontinued without detriment to the public;

WHEREAS, the County Commission considered and approved the Utility Right-of-Way Easement requested by Northwestern Energy to memorialize an easement for a gas line in the Alley; and

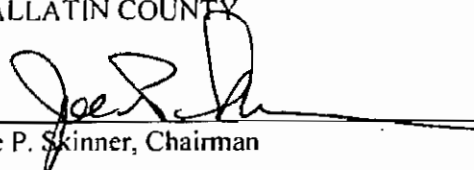
WHEREAS, the County Commission will consider the Notice of Utility Easement requested by the Gallatin Gateway County Water & Sewer District for the existing sewer line after the Petition and discontinuance are granted.

NOW THEREFORE BE IT RESOLVED:

1. The County Commission reassigns petition number 852 to the March 1, 2012 petition to discontinue the Alley;
2. All that part of the twenty foot-wide dedicated alley which is more particularly described as follows: That portion of the alley directly adjacent to Lots 1, 2, 11 and 12 in Block 5 of the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the Gallatin County Clerk and Recorder, is hereby discontinued.
3. The Commission hereby requests the Clerk and Recorder, within ten (10) days from the date of passage of this Resolution, to send a copy by certified mail to all owners of land abutting on the abandoned street. The owners shall be those listed on the last county assessment roll.
4. The Clerk and Recorder shall notify the county road supervisor by furnishing a certified copy of this Resolution to the supervisor.

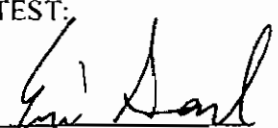
DATED this 12th day of November, 2019.

BOARD OF COUNTY COMMISSIONERS OF
GALLATIN COUNTY



Joe P. Skinner, Chairman

ATTEST:



Eric Semerad
Clerk and Recorder
Gallatin County



After recording return to:
Gallatin County Clerk & Recorder
311 W. Main St. Rm. 203
Bozeman, MT 59715

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Eric Semerad - Gallatin County, MT MISC



NOTICE OF UTILITY EASEMENT

WHEREAS, on March 1, 2012, Petitioners sought the decision of the Gallatin County Commission, 311 West Main Street, Bozeman MT, 59715 ("Gallatin County") to discontinue, in accordance with MCA 7-14-2616, the following:

That portion of the alley in Block 5 directly adjacent to Lots 1, 2, 11 and 12 located in the Townsite of Gallatin Gateway (Salesville), Gallatin County, Montana (hereinafter referred to as the "Alley")

and

WHEREAS, on November 12, 2019, Gallatin County considered the petition and the Viewers' Report and all public comment, if any, and granted the petition; and

WHEREAS, Montana Code Annotated Section 7-14-2617 (2017) states:

The vacation authorized by 7-14-2616 shall not affect the right of any public utility to continue to maintain its plant and equipment in any such street or alley;

and

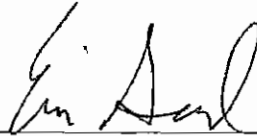
WHEREAS, the Gallatin Gateway County Water and Sewer District has installed, operates and maintains a sewer line in the discontinued Alley.

NOW THEREFORE, Gallatin County, HEREBY GIVES NOTICE and confirms, pursuant to Montana Code Annotated 7-14-2617, that the public utility easement continues in the said discontinued Alley.

Gallatin County, Montana

By: 
Its: Chairman

Attested:

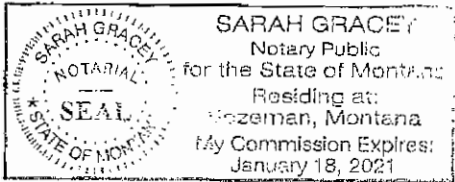


By: Eric Semerad
Its: Clerk and Recorder

STATE OF MONTANA)
 : ss.
County of Gallatin)

On this 12th day of November, 2018, before me, the undersigned, a Notary Public of the State of Montana, personally appeared Joe P. Skinner, the Chairman of the Gallatin County Commission and Eric Semerad the Clerk and Recorder of Gallatin County, known to me to be the persons who executed the within instrument on behalf of Gallatin County Montana and acknowledged to me they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.





NOTARY PUBLIC for the State of Montana
Printed Name: Sarah Gracey

After Recording, Return to:
NorthWestern Energy
Lands & Permitting
11 East Park St.
Butte, MT 59701

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Eric Semerad - Gallatin County, MT MISC



UTILITY RIGHT-OF-WAY EASEMENT

GALLATIN COUNTY, MONTANA, of 311 West Main St., Bozeman, MT 59715, "GRANTOR", in consideration of \$1.00 and other good and valuable consideration, in hand paid, the receipt of which is acknowledged, does grant and convey to **NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY**, a Delaware corporation, 11 East Park St., Butte, Montana 59701, "GRANTEE", its successors, assigns, and apportionees, an easement 20' feet in width upon which to construct, operate, maintain, replace, upgrade, and remove electric powerline's, natural gas pipeline's, and a communications system's, together with necessary appurtenances, over, under, along, and across that certain real property located in Gallatin County, Montana, and particularly described as follows:

The alley in Block 5 of Salesville (now called Gallatin Gateway), located in the SW4NW4 of Section 11, Township 3 South, Range 4 East, P.M.M., in Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.

As described on Exhibit "A" attached hereto and made part of.

TOGETHER with reasonable right of access to and from the easement area over lands of the Grantor using existing roads and trails where practicable; the right to use and keep the easement area free and clear of any and all obstructions or structures, except fences; and the right to clear and remove all timber, brush, or vegetation from the easement area that may in the Grantee's opinion may endanger the powerline, gas line, communications systems, or necessary appurtenances.

DATED this 12th day of November, 2019.

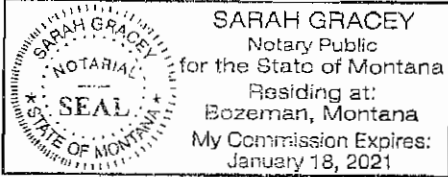
A handwritten signature in black ink, appearing to read "Joe P. Skinner".

Joe P. Skinner, Chair
Board of Gallatin County Commissioners

STATE OF Montana)
COUNTY OF Gallatin)ss.

This instrument was acknowledged before me on November 12, 2019, by **Joe P. Skinner**, known to me to be the Chairman of the Board of the Gallatin County Commission.

NOTARY SEAL



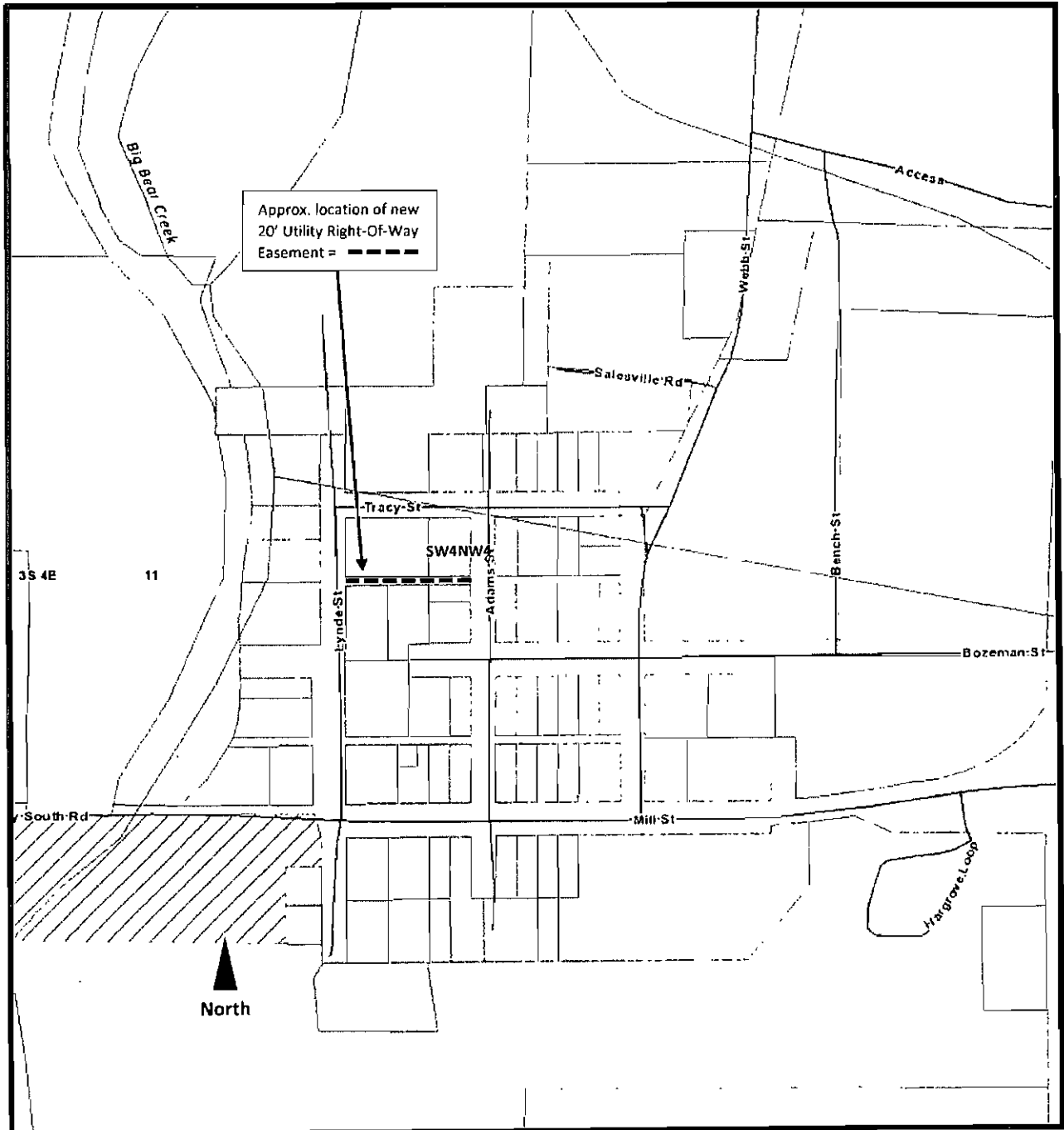
Sarah Gracey
NOTARY PUBLIC for the State of Montana
Print Name: Sarah Gracey

Project: Easement for Alley Abandonment
Order No. 23157709-0010
Agent: Dylan Swanson
Engineer: N/A
QRM No. _____

Exhibit "A"

The following is made a part of that certain Utility Right-Of-Way Easement, dated 11/12/19 by and between Gallatin County, Montana as "Grantor" and Northwestern Corporation D/B/A NorthWestern Energy as "Grantee".

All distances, areas and measurements shown below are approximate and not to scale.



The alley in Block 5 of Salesville (now called Gallatin Gateway), located in the SW4NW4 of Section 11, Township 3 South, Range 4 East, P.M.M., in Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.