

**FINAL REPORT
LOCAL GOVERNMENT REVIEW STUDY COMMISSION
CITY OF CUT BANK, MONTANA**

TABLE OF CONTENTS

- I. LETTER TO THE CITIZENS OF THE CITY OF CUT BANK**
- II. REPORT SUMMARY**
 - A. Findings of the Study Commission
 - B. Key provisions of the Proposed Form
 - 1. Self-government Powers
 - 2. Council Members Elected on Nonpartisan Basis
 - 3. Council Members Elected At Large
- III. COMPARISON OF EXISTING AND PROPOSED FORMS OF GOVERNMENT**
 - A. Existing Form - Description of General Characteristics
 - B. Proposed Form - Description of General Characteristics
 - C. Comparison of Specific Characteristics
 - D. Recommendations and Reasons
- IV. APPENDIX**
 - Certificate A: Certificate of plan of existing form of government
 - Certificate B: Certificate of proposed plan of form of government (City Charter)
 - Certificate C: Certificate establishing election date
 - Certificate D: Certificate establishing form of ballot

I. LETTER TO THE CITIZENS OF THE CITY OF CUT BANK

To the Citizens of the City of Cut Bank,

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

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study it is the responsibility of the study commission to submit a final report recommending no change, or propose an amendment to the existing form of government

or offer an alternative form of government to the qualified electors.


In every phase of this review this study commission sought advice and information from as many people in the City as possible. Opinions and recommendations were solicited from local government officials, community organizations and citizens. All meetings of the study commission were advertised and open to the public. Commission members visited with various members of the public to explain the work of the commission and also to hear the viewpoints, ideas, and concerns of community members. Public hearings were held.


Our recommendations reflect the thoughts and opinions of those who participated in public hearings, those who attended our regular meetings, and those who responded to our inquiry, in addition to the independent efforts of this study commission.

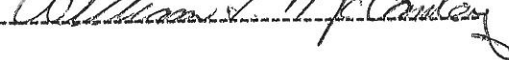
In this tentative report we present our recommendations for an alternative form of government that we feel will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems. We feel the citizens of the City of Cut Bank can achieve these goals by adopting the Charter form with self-government powers.

The question of adopting this alternative form of government will be placed on the ballot November 8, 2005.

Respectfully submitted,







Local Government Review Study Commissioners

II. REPORT SUMMARY

The City of Cut Bank Study Commission having thoroughly studied our present form of government and the alternative forms of government available to cities under state law, and having studied the future governmental needs of the city, recommends the following:

1. The City of Cut Bank should adopt, effective July 1, 2006, the charter form of government with "self-government powers".

A. Findings of the Study Commission

After a thorough study of the present form of government of the City of Cut Bank, it is the decision of the study commission to recommend a change in the form of government to a Charter form with self-governing powers for the following reasons: .

Finding # 1: MCA Section 7-3-219(1) states that local government elections shall be conducted on a partisan basis but for many years we have elected our City Council and Mayor on a nonpartisan ballot. The new charter will clarify this situation by specifically calling for nonpartisan elections of our local officials.

Finding #2: MCA Section 7-3-218(2) states that the city council shall be elected by ward. The City is presently divided into two wards with two council members elected from each ward. The Study Commission discovered that the ward system has hindered the City's ability to fill council seats that have been vacated before a member's term is up. For example, if a council member moves to another ward he or she would have to resign from the council even though they are still residents of the community and a replacement may only be appointed from that ward irrespective of all other qualifications. With at large elections all the voters in the community would have the opportunity to vote for all of the candidates for the city council.

Finding # 3: MCA Section 7-3-217(1) states that the city's financial officer (who may be called the treasurer) shall be elected. The treasurer for the City of Cut Bank has, since 1979, been appointed by the mayor with the consent of the council pursuant to 7-4-4102 M.C.A. which states that the city clerk-treasurer may be appointed by the mayor with the advice and consent of the council. This apparent conflict of state statues will be clarified within the proposed charter

by stating that the city clerk-treasurer will be appointed by the mayor with the consent of the council.

To remedy and/or clarify the issues presented above, the Study Commission recommends a change to a charter form of city government that would resolve all of these issues.

B. Key Provisions of the Proposal

1. *Self-government Powers.* Under the 1972 State Constitution, the potential power and authority of local government has been changed. Traditionally, the power over governmental concerns of the city has been the prerogative of the state legislature. The legislature decided what city government should do and how it should do it.

The new constitution provides that "self-government powers" can be adopted by cities along with an alternative form of government. The adoption of self-government powers would mean greater flexibility in shaping governmental structure, greater power to solve our own problems, and more responsibility to recognize and deal with these problems.

2. *Nonpartisan elections.* Election of the City Council and Mayor will continue to be conducted on a nonpartisan basis.

3. *At large elections.* With at large elections all the voters in the community would have the opportunity to vote for all of the candidates for the city council.

III. COMPARISON OF THE EXISTING AND PROPOSED PLANS OF CITY GOVERNMENT FOR CUT BANK, MONTANA

A. Existing Form

The existing form of government of the City of Cut Bank is a typical council-mayor form of government with general powers. The City is divided into two wards and two council members are elected from each ward. Elections are conducted a non-partisan basis even though the statutory version of this plan of government requires partisan elections. City staff, including the finance officer (city clerk-treasurer), are appointed by the Mayor with the consent of the Council.

B. Proposed Form

The proposed plan of city government is set forth in a city charter which, if approved by the voters, would give the City self-governing powers. Self-governing powers provides the City government greater flexibility in dealing with unforeseen problems and opportunities.

The proposed plan also continues and regularizes the present practice of electing our City officials on a nonpartisan ballot.

Under the proposed charter with at large elections, all the voters in the community would have the opportunity to vote for all of the candidates for the city council.

C. Comparison of Specific Characteristics of the Existing and Proposed Forms of City Government

The chart on the following page compares characteristics of the existing form of city government with the proposed charter form of city government.

CITY OF CUT BANK
COMPARISON OF CHARACTERISTICS OF COUNCIL-MAYOR FORM OF GOVERNMENT
WITH THE
CHARTER FORM OF GOVERNMENT WITH MAYOR AND COUNCIL

| CHARACTERISTIC | PRESENT FORM OF GOVERNMENT | PROPOSED FORM OF GOVERNMENT | COMMENTS |
|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FORM OF GOVERNMENT | MAYOR-COUNCIL Elected council performs policy making functions. Elected mayor administers government with the advise and consent of the council. | CHARTER Elected council performs policy making functions. Elected mayor administers government with the advice and consent of council. | No change in the basic plan of government, but the charter clarifies the governing roles of the mayor and council. |
| POWERS | General government powers | Self-government powers | The charter limits the city's taxing authority to that of a general powers government and requires public hearings be held for any increase in fees and utility rates. Provides greater flexibility to city council to address unforeseen problems or opportunities . |
| GOVERNING BODY | Council and mayor responsible for all legislative, executive and administrative functions. | Council and mayor responsible for all legislative, executive and administrative functions. | No change. |
| Size | 4 council members elected from districts in non-partisan elections. | 4 council members elected at large in non-partisan elections. | Changes to at large election of council members but no change in number of council members. Regularizes nonpartisan election of local officials. |
| Term | Four year overlapping terms. | Four year overlapping terms. | No change. |
| Presiding Officer | Mayor | Mayor | No change. |
| CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER | The elected mayor administers the government on a part time basis. | The elected mayor administers the government on a part time basis. | No change. |
| Powers and Duties | The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions. | The mayor carries out the policies of the council, advises the council, executes the budget, and enforces laws, ordinances and resolutions. | No change. |
| Appointment Powers | The mayor appoints department heads and members of boards and commissions with the consent of the council. | The mayor appoints department heads and members of boards and commissions with the consent of the council. | No change. |
| Budget Preparation | Mayor prepares budget in cooperation with department heads. Budget is then modified and approved by the city council. | Mayor prepares the budget in cooperation with department heads. Budget is then modified and approved by the city council. | No change. |

CERTIFICATE A
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR THE
CITY OF CUT BANK, MONTANA

If retained by the voters, the government of Cut Bank shall remain organized under the following provisions of 7-3-113, M.C.A. which authorizes the municipal council-mayor form of government.

7-3-113. Statutory basis for municipal council-mayor 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(2); As authorized by 7-4-4102 (4)(c), MCA
- (j) 7-3-218(2);
- (k) 7-3-219(1);
- (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 4 years for all elected officials. The size of the commission shall be four members.

These sections establish the following form of government which shall be called the MUNICIPAL COUNCIL-MAYOR FORM.

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

7-3-202 (1). 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. The executive shall:

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

7-3-212 (2). Administrative assistants. The executive may appoint one or more administrative assistants to assist him in the supervision and operation of the local government, and such administrative assistants shall be answerable solely to the executive.

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

7-3-214 (2). Veto power. The executive may veto ordinances and resolutions, subject to override by a two-thirds vote of the commission.

7-3-215 (2). Preparation of budget. The executive may prepare the budget in consultation with the commission and department heads.

7-3-216 (2). Administrative supervision and control. The executive may exercise control and supervision of all departments and boards to the degree authorized by ordinance of the commission.

7-3-217 (1). Financial officer. A financial officer (who may be called the treasurer) shall be appointed by the mayor with the consent of the council.

7-3-218 (2). Selection of commission members. The commission shall be elected by districts in which candidates must reside and which are apportioned by population.

7-3-219 (1). Type of election. Local government elections shall be conducted on a partisan basis.

7-3-220 (1). Chairman of commission. The commission shall have a chairman who shall be elected by the members of the commission from their own number for a term established by ordinance.

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

7-3-222 (2). Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-223 (2). Size of commission and community councils. The size of the commission shall be four (4), and community councils to advise commissioners may be authorized by ordinance.

7-3-224. Terms of elected officials. The term of office of elected officials shall be four (4) years.

CERTIFICATE B
PROPOSED CHARTER
OF
THE CITY OF CUT BANK, MONTANA

PREAMBLE

WE, THE PEOPLE OF THE CITY OF CUT BANK, COUNTY OF GLACIER, STATE OF MONTANA, in accordance with Article XI, Section 5 of the Constitution of Montana, do hereby adopt this Charter.

ARTICLE I
POWERS OF THE CITY

SECTION 1.01 POWERS OF THE CITY

The powers of the government of the City of Cut Bank shall be self-government powers as provided by the laws and Constitution of the State of Montana. This government may exercise any power, or provide any service, or perform any function not expressly prohibited by the state constitution, law, or this charter.

The powers, services or functions granted under this charter include, but are not limited to, those which general power governments are granted or authorized. The limitations placed on general powers governments shall not apply to the providing of any service or performance of any function, except such limitations as are contained in this charter and the laws of the state which are specifically applicable to self-governed cities.

SECTION 1.02 INTERPRETATION OF POWERS

The powers and authority of this self-governing city shall be liberally construed. Every reasonable doubt as to the existence of a city power or authority shall be resolved in favor of the existence of that power of authority.

SECTION 1.03 RESTRICTIONS

1. The mill levy shall be limited to that of Montana municipal governments with general

government powers, except with the prior approval of a majority of the electors voting on the question in a general or special municipal election.

2. No change in any city license fee, user fee, permit fee or utility charge shall be made without a prior public hearing or hearings as prescribed by law.

SECTION 1.04 CHARTER SUPREMACY

As provided by Article XI, section 5 of the Constitution of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

ARTICLE II LEGISLATIVE BRANCH

SECTION 2.01 COMPOSITION

1. The City of Cut Bank shall have a city council of four (4) members elected at large from within the City of Cut Bank.
2. The compensation of council members shall be set annually by council resolution.

SECTION 2.02 QUALIFICATIONS FOR OFFICE

Candidates for the city council must be qualified electors of and reside within the city limits of Cut Bank at the time of their election and during their entire term of office.

SECTION 2.03 TERM OF OFFICE

Two council members shall be elected every two (2) years for four (4) year overlapping terms of office.

SECTION 2.04 ELECTION

Elections for the council shall be nonpartisan. Council members shall be elected at large from within the City of Cut Bank.

SECTION 2.05 PRESIDENT/CHAIRMAN OF COUNCIL

The council shall have a chairperson who may be called president and who shall be elected by the members of the council from among their own number for a term established by resolution. The chairman of the council shall preside when the mayor is absent and may vote as other members of the council.

SECTION 2.06 VACANCY IN OFFICE

The office of council member becomes vacant as prescribed by law.

SECTION 2.07 REMOVAL FROM OFFICE

A council member may be removed from office by a finding, adopted by the affirmative vote of three (3) council members that the office has become vacant as prescribed by law, or by the recall of the council member or by the electors of Cut Bank, as prescribed by law.

SECTION 2.08 FILLING VACANCY ON COUNCIL

When a vacancy occurs in the office of council member, the position shall be considered open and subject to nomination and election at the next general municipal election, except the term of office shall be limited to the unexpired term of the person who originally created the vacancy. Pending such election and qualification, the council shall appoint, by affirmative vote of three (3) council members, a person possessing the qualifications for office required by law and this charter, within 30 days of the vacancy to hold the office until the successor is elected and qualified.

SECTION 2.09 POWERS AND DUTIES

1. The council shall be the legislative and policy determining body of the city. All powers of the city shall be vested in the city council except as otherwise provided by law or this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed by law or this charter.
2. The council may override the mayor's veto by the affirmative vote of three (3) members of the council.

SECTION 2.10 COUNCIL APPOINTMENTS

The president of the council shall nominate council members to committees of the council with the advice and consent of the council.

SECTION 2.11 RESTRICTIONS ON COUNCIL

Except where authorized by law, no council member shall hold any other city office or city employment for compensation

SECTION 2.12 LEGISLATIVE ACTION

The affirmative vote of two (2) members of the council shall be required for all official actions of the council. A minimum of three (3) council members must be present when official actions are taken by the council.

SECTION 2.13 PROCEDURE

The council shall establish its rules of procedure and time and place of meetings by resolution.

ARTICLE III EXECUTIVE BRANCH

SECTION 3.01 MAYOR

The mayor shall be the chief executive and administrative officer of the city.

SECTION 3.02 QUALIFICATIONS FOR OFFICE

Every resident elector in the City of Cut Bank who is 21 years of age or older and a citizen of Montana for at least three (3) years and a resident of Cut Bank for at least two (2) years preceding the election to office is eligible to hold the office of mayor

SECTION 3.03 TERM OF OFFICE

The mayor shall be elected for a four (4) year term of office.

SECTION 3.04 ELECTION

The mayor, who must reside within the city limits at the time of election and throughout the term of office, shall be elected on a nonpartisan basis.

SECTION 3.05 VACANCY IN OFFICE

The office of mayor becomes vacant as prescribed by law.

SECTION 3.06 REMOVAL FROM OFFICE

The mayor may be removed from office by a finding, adopted by an affirmative vote of three (3) council members, that the office has become vacant as prescribed by law, or by the recall of the mayor by the electors of Cut Bank as prescribed by law.

SECTION 3.07 FILLING VACANCY OF MAYOR

When a vacancy occurs in the office of mayor, the position shall be considered open and subject to nomination and elected at the next general municipal election, except the term of office shall be limited to the unexpired term of the person originally creating the vacancy. Pending such election and qualification, the council shall appoint, by an affirmative vote of three (3) council members, a person possessing the qualifications for office required by law and this charter within 30 days of the vacancy to hold the office until the successor is elected and qualified.

SECTION 3.08 POWERS AND DUTIES

The mayor shall:

1. Enforce laws, charter, ordinances, and resolutions
2. Perform duties required of the mayor by law, charter, ordinance or resolution
3. Administer affairs of city government
4. Carry out policies established by the council
5. Recommend measures to the council
6. Report to the council on the affairs and financial condition of the city government
7. Execute bonds, notes, contracts, and written obligations of the council, subject to the approval of the council
8. Report to the council as the council may require
9. Chair council meetings and may take part in discussion
10. Execute the budget adopted by the council
11. Appoint, with consent of the council, all members of boards and committees

SECTION 3.09 ADMINISTRATIVE DUTIES

The mayor may:

1. Prepare the budget in consultation with the council and department heads
2. Appoint one or more administrative assistants to assist in the supervision and operation of the local government and such administrative assistant shall be answerable solely to the mayor
3. Appoint and remove with the affirmative vote of three (3) members of the council all department heads, including a city clerk-treasurer, and may appoint and remove all other department employees

4. Exercise control and supervision of all departments and boards

SECTION 3.10 LEGISLATIVE AUTHORITY

The mayor shall decide all tie votes of the council but shall have no other vote. The mayor may veto ordinances and resolutions, subject to override by the affirmative vote of three (3) members of the council.

SECTION 3.11 COMPENSATION

The compensation of the mayor shall be set annually by council resolution.

SECTION 3.12 ABSENCE OF MAYOR

The mayor must receive the consent of the council for an absence from the city for ten (10) or more consecutive days. The council may appoint a person meeting the qualifications in section 3.02 to serve as acting mayor during the absence of the mayor.

SECTION 3.13 CITY ATTORNEY

There shall be a legal officer of the city, appointed by the mayor, with the approval of the council, who shall serve as chief legal advisor to the council, the mayor, and all city departments, offices and agencies. The chief legal advisor shall represent the city in all legal proceedings unless otherwise determined by the council, and shall perform any other duties prescribed by ordinance or resolution. The chief legal officer, who will be called the city attorney, shall have the status of department head, and may not be removed or suspended by the mayor without the consent of the council.

**ARTICLE IV
JUDICIAL BRANCH**

SECTION 4.01 CITY COURT

There shall be a city court as provided by law.

**ARTICLE V
DEPARTMENT STRUCTURE**

SECTION 5.01 ORGANIZATION OF DEPARTMENTS

1. The organization of city departments shall be prescribed by ordinance..
2. The complete plan or organization and structure of the city government which shall include department organizations, the nature and scope of responsibilities of each department, and all required rules and procedures for department operation and the procedures regarding boards, commissions or any other government activities shall be prescribed by ordinance.

SECTION 5.02 PERSONNEL MANAGEMENT SYSTEM

The city personnel management system shall be established which shall include:

1. A salary schedule
2. Provisions for vacation, sick leave, insurance and other employee benefits,
3. Procedures for employees to be heard upon their request pending discharge, suspension or any disciplinary action or grievance.
4. Such other procedures as are appropriate for the conduct of an efficient personnel management system.

**ARTICLE VI
MISCELLANEOUS PROVISIONS**

SECTION 6.01 AMENDMENT OF CHARTER

This charter may be amended only with the approval of the voters as prescribed by state law.

SECTION 6.02 EFFECTIVE DATE

This charter shall become effective on July 1, 2006.

SECTION 6.03 OATH OF OFFICE

Before entering upon the duties of office, all elected officials shall take and subscribe to the oath of office as prescribed in Article III, section 3 of the Constitution of Montana

SECTION 6.04 RECALL

The elected officers of city government may be recalled by the qualified electors of Cut Bank as prescribed by law. No person may be recalled for performing a mandatory duty of the office he or she holds or for not performing any act that, if performed, would subject him or her to prosecution for official misconduct.

SECTION 6.05 SEVERABILITY

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter, or any part of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

SECTION 6.06 PUBLIC PARTICIPATION IN GOVERNMENT

1. All meetings of the city council must be open to the public unless otherwise provided by law.
2. Citizens are entitled to inspect and copy public writings of the City of Cut Bank unless otherwise provided by law

SECTION 6.07 CAPITAL IMPROVEMENT PROGRAM FUND

The council shall cause to be established and maintained a capital improvement program (CIP) fund for the purpose of replacement and acquisition of general fund property, plant or equipment.

An amount from the all purpose levy, not to exceed the amount provided by law, and such other non tax resources as the council may from time to time cause to be deposited in the capital improvement project fund, may be deposited in this fund.

The money held in the capital improvement fund must be invested according to law and the interest earned must be credited to this fund.

SECTION 6.08

The budget shall be balanced each fiscal year as required by law.

**ARTICLE VII
TRANSITION PROVISIONS**

SECTION 7.01 GENERAL TRANSITION

1. Transition to this form of government shall be as prescribed by law. The Cut Bank Study Commission shall provide for such transition with an advisory plan consistent with law.
2. The provisions of the Transition Article shall not be published as part of the charter after July 1, 2006.

SECTION 7.02 CONTINUATION IN OFFICE

No city employee or elected official currently holding a city office shall lose employment or elected position solely because of the adoption of this charter. Existing elected officials may continue in office until the end of the term for which they were elected.

SECTION 7.03 FINANCIAL OBLIGATIONS

Financial obligations of the city of Cut Bank shall not be altered as the result of the adoption of this charter.

CERTIFICATE C
ESTABLISHING THE DATE OF THE ELECTION
AT WHICH THE ALTERNATIVE FORM OF GOVERNMENT
SHALL BE PRESENTED TO THE ELECTORS OF THE
CITY OF CUT BANK

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

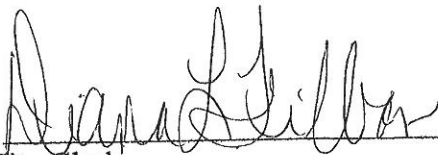
We, the Study Commissioners of the City of Cut Bank do hereby certify that this is the date of the special election approved by the Study Commissioners of the City of Cut Bank.

In testimony whereof, we set our hands.

Done at Cut Bank , Montana this 5th day of August, 2005.

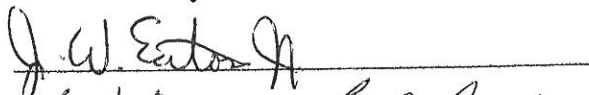
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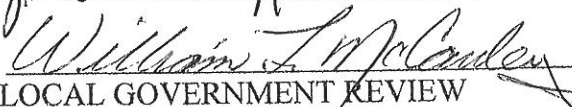
ATTEST:



City Clerk






LOCAL GOVERNMENT REVIEW
STUDY COMMISSIONERS

CERTIFICATE D
ESTABLISHING THE OFFICIAL BALLOT FOR
THE NOVEMBER 8, 2005 GENERAL ELECTION

Instruction to voter: Place an "X" in the boxes which express your preferences.

OFFICIAL BALLOT
ON THE ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One.

For adoption of the self-government charter (including the present mayor-council plan of government) proposed for the City of Cut Bank by the Cut Bank Local Government Review Study Commission

For the existing form of government.

We, the Study Commissioners of the City of Cut Bank do hereby certify that this is the date of the special election approved by the Study Commissioners of the City of Cut Bank.

In testimony whereof, we set our hands.

Done at Cut Bank, Montana this 5th day of August 2005.

SEAL

ATTEST:

Diana Gilman
City Clerk

Kathy Campbell

J. W. Entorf

William L. McCauley

LOCAL GOVERNMENT REVIEW
STUDY COMMISSIONERS