

# CITY-COUNTY PLANNING JURISDICTION INTERLOCAL AGREEMENT COMMITTEE

AT WHITEFISH BRANCH LIBRARY  
1<sup>ST</sup> STREET & SPOKANE AVENUE, WHITEFISH  
TUESDAY, SEPTEMBER 14, 2010, 5:30 P.M.

- 1. A quorum of the City Council Committee on the Planning Jurisdiction Interlocal Agreement is scheduled to attend a meeting with Flathead County Commissioner Jim Dupont and County doughnut area representatives to continue discussions on possibly renegotiating the Interlocal Agreement on the Planning Jurisdiction between Flathead County and the City of Whitefish**

City Committee Members

Bill Kahle, City Council  
Chris Hyatt, City Council  
City Manager Chuck Stearns

County Committee Members

Jim Dupont, County Commissioner

Doughnut Area Representatives

Lyle Phillips and Diane Smith

Bill Kahle called the meeting to order at 5:35 p.m. Approximately 40 people were in the audience. Bill Kahle said they wanted to open with comments from the public tonight.

- 2. Approval of Minutes from August 31, 2010 meeting.**

**Philips moved and Dupont seconded to approve the minutes. The motion passed unanimously.**

- 3. Public Comment**

Denny Rey wants to know what right Whitefish has to drive a stake in the ground without any authority. He said part of his land is in the donut. He said it is a precursor to tax the donut people and they have no right to vote. He doesn't want anything to do with Whitefish. They've made so many mistakes and he doesn't want to be part of them.

Greg Carter said he is proud to be in the City of Whitefish. He said it could be simplified if they went back to where it all started. It started with Commissioner Gary Hall speaking at a City Council meeting about the Critical Areas Ordinance and saying if they were going to impose this on the County people, without representation, he would lead a charge to end it. The people in the County have the right to have their elected County Commissioners review any ordinance that is going to apply to them. He asked if the City would allow everything to be reviewed by the County Commissioners if it affects the County people. He said if that isn't the case then it needs to go to Judge Kitty Curtis.

Larry Campbell agreed with Greg Carter. He said everything has to be reviewed. He does not believe in a super majority vote on issues. He said the people in the donut should have a vote. That would solve the problem. He said people on some of the committees feel like the City did right, but if you took a vote of all of the people in the donut area you'd have a different outcome. He said a lot of people don't get involved and that is too bad. He said he won't stop fighting until he has a vote.

Marilyn Bain said she owns property in the donut. She does not live in the City of Whitefish so she does not have a right to vote. She feels like discussions on this agreement should address the

underlying problem--the CAO and its impact on the property owners of the donut area. It should state that the CAO would not be for property in the donut. The jurisdictional area should not reach out for two miles from the City limits or it will be an ongoing problem. An informal vote was taken a few years ago asking who wanted to be under the control of Whitefish and she believes the majority did not want to be. She suggested they hold another vote so people can choose whether to be under this agreement or not. Otherwise, it is a taking of property. She said if this document moves forward then the County Commissioners must have the power to approve anything that affects property in this area.

Bick Smith said he is trying to sell a piece of property and wanted to give them a perspective of his situation. He had to sign a document that says zoning ordinances and regulations concerning the real property may or may not be valid in the donut. It also says, "Based on the City's determination of possible use the property price may vary significantly." It is hard to sell property with this uncertainty. He said he can't vote for anyone to change this document. He said if property owners like how the City is running the show and want to be under their control they can ask to be annexed.

Tom Thomas said when the annexation of the lake was passed they were told it wouldn't include any land past the high water mark. They lied. He said today he found out that Obama's health care bill includes a real estate tax that would equal about \$15,200 on a \$400,000 piece of property. He said people are upset. Enough is enough. He said there is a reason people downtown don't want to see the zoning changed on Highway 93 South. They want to protect their own businesses. It is called anti-trust. He said they don't need more people telling them what to do—they just need a vote. They need the lake re-zoned the way it was supposed to be. He said Whitefish needs to take care of the City and leave the people in the donut alone.

Bill Halama, who lives in the donut, said this is regulation without representation. He said the Revolutionary War was fought over this. He said it is elementary that you can't regulate without representation. All ordinances have to be approved by a majority of the County Commissioners. He said they won't solve anything if they don't include all of the ordinances or someone will be aggrieved and file a lawsuit again. He thought the community council idea was a monstrosity. He hasn't heard people speak in favor of more bureaucracy. He thinks the lawsuit will be lost by the City.

Ben Cavin, who lives in the donut, agreed that representation is the overriding issue. He thought the community council sounded like a good idea because it would give them representation.

Dick Zoellner said everyone talks about representation and that is all the community council is trying to do. He can't imagine why the Council and Commissioners don't want to look at it. He said if they give everyone a vote it gets off everyone's back. It is the fairest thing they can do.

Pam Holmquist said she supports Commissioner Dupont's efforts to solve this issue. She thinks they need to give a vote to those who have been affected.

Karen Reeves said no one has talked about what planning is and what can happen if there is no planning. She said if they don't give the City the tools to handle setbacks from water in the donut then you've got the same problems, only magnified. Whitefish took the steps to actually create a cohesive area where regulations might have a positive impact on the waters and they're getting vilified for it. She said the planning issue is huge and they are ignoring it by saying let anything go up to the City limits.

Frank Sweeney, City resident, voiced his concern that the point of the committee was to deal with the issue of representation. The most important representation is that which is closest to the constituency whom they represent. He said the Commissioners represent a lot of people. It is important for the donut area to have the community council to get representation in a practical way. He

encouraged them to add that council as part of the Interlocal Agreement. He said establishing it will take a little longer, but they could write it in. He said if that's not how they want it to go he'd be glad to let Judge Kitty Curtis make her decision.

Derek Skees said everyone has their opinions and they need to take their hats off to these people who are working together to try to avoid a lawsuit. He said there are problems in the State Law that deal with interlocal agreements and he would like a chance to work on them.

Dan Weinberg, who lives in the City, said the community council idea makes sense because it gives people a vote that need a vote. He said Karen Reeves is the only one so far who has talked about the environment. If we don't improve and maintain the environment and water quality then it is a "taking" from all of us. He said the quality of the community is the environmental quality and it is the most precious thing they have.

Andie Reno, donut resident, said she also cares about the environment. She also cares about her right for representation and that is the first thing they need to address. If they don't do that first then they've taken any sense of worth out of the governmental process. She thanked the committee for their time and efforts. She said they need to go back to having a vote for how people are regulated. If they don't go back and give them the vote she'd be happy to be put back in the County. She said that's what they did wrong and that's what they need to amend. She said just because they want a vote doesn't mean they don't care about the environment. She agrees that it is a waste of money to go to court. She loves the idea of working together and she applauds them for that.

Richard Hildner, City resident, said it is interesting to hear both sides of the issues. He said at Council meetings he hears donut people often say they like their representation by the City Council. He said the community council is worth their considered discussion and to include that in the mix. He said Alternative D would address the issue by leaving it in Judge Curtis' hands.

Leslie Marquardt said they live in the City and own a piece of property on a hill that is affected by the Critical Areas Ordinance (CAO). She voiced support for the donut people, but said she wanted to address the environmental issues. She is a fourth generation Whitefish person and said it is important to protect the environment, but the CAO has put setbacks on the original setbacks the lot was built with and it makes the lot unbuildable and worthless. She said the original building envelope was appropriate and didn't encroach on the seasonal creek. Now their lot is worthless. If they can't sell it or build on it they will hear from her again.

Sean Frampton said he doesn't believe the community council is legal and the interveners won't agree to it.

Tom Thomas said the County does a good job protecting the environment. He said he was trying to do a family transfer in the County and they've been sent back to Whitefish for approval, too, so it's a double dip.

Marye Flowers, Citizens for a Better Flathead, said they need to remember that the joint planning area has worked well for over 40 years. It's only recently that there's been a bump in the road, but they can resolve it with creative thinking. She said the community council proposal is that kind of thinking. She said the interlocal statutes were passed by the State Legislature to encourage cost effective government and that has happened here in the Flathead. She brought additional suggested language for the community council proposal for them and passed it out to the committee. She said the County Commissioners have already done something similar to this for Bigfork and Lakeside. It is established and elected by residents of the district. They suggest six different districts in the donut area, each with a

representative. She said the Bigfork and Lakeside councils are advisory only. She said the court could approve the agreement and not be held up by the interveners. She said if an action that affected property in the doughnut came before the City the City could take public comment from everyone and make an advisory ruling which they would send to the community council for an opinion. If they approved it with a majority vote, it could move forward and be adopted. If they were opposed to it the City could stop moving forward or they could go to the County Commissioners to approve it for the donut area. She said that is a framework that merits their consideration.

Marilyn Nelson, donut resident, said she looks at this ordinance list as a hit list. She said she has been to almost all the meetings and was told it was not about the ordinances and past rulings; it was about process and fixing the interlocal agreement. She said it has not yet been proved illegal. She said the list has 65 ordinances that have been approved since January 2005 with thousands of hours of community input and effort. She said the ordinances that apply to the donut are part of the reason why Whitefish is a great place to live. She said the chain of events proposed by many people tonight could lead to the dismantling of all of these ordinances that benefit their community. She doesn't think that the County Commissioners can spend the time and effort it takes to look at these as intensely as the community of Whitefish already has. She wants local representation.

Dick Zoellner said he went back through the minutes and committee members have repeatedly said they aren't going to fix the CAO or the zoning, just work on the concepts of the agreement, yet now they're talking about tackling 65 ordinances.

Larry Campbell asked if he was given an opportunity to vote for anyone who created the CAO regulations. He agreed they should just have a vote asking if people want to be under City control or County control.

#### **4. Review revised draft interlocal agreement. Possible consideration of recommending a revised interlocal agreement to the Flathead Board of County Commissioners and the Whitefish City Council**

Lyle Phillips said at the City's invitation they as a committee were asked to address the representation issue. He said the Land Use Advisory Council is a diversion to the process. It may have merit, but it has to have the vote of the donut people. It is a County issue. This committee is looking for a compromise that allows the City and County to have a cooperative Interlocal Agreement that allows for a chance to review what is happening in the donut.

Bill Kahle agreed and said this isn't about fixing the CAO. It is about fixing the process by which the CAO and other ordinances were approved. He said the process is more contentious than the specific issues. Some of the issues may have to go back through the system. He said the process needs to be fixed to provide representation and re-establish trust between the City and County. He supports the idea of bringing the representation closer to home. He has also been told that to set it up with regulatory power is not legal. He said advisory boards exist in Lakeside and Bigfork and that is like the City's Planning Board.

Chris Hyatt said he is supportive of bringing an idea of a local council forward, but it has to be created with the County, not the City. He said he thinks that's for a later date.

Jim Dupont said they started this to get over a lawsuit. He understands that people want to be represented and he agrees with that 100%. He said the advisory idea may bring up more problems. The people in the County and donut area have to take the initiative and create an advisory council. That's not what they're here for today. He said if they want to focus on creating a community council they

could suspend the CAO and the Interlocal Agreement and drop the lawsuit. He said they don't need the Interlocal Agreement if they're going to a community council. He said if they don't do that then the only choice he sees is to go to court and let Judge Curtis make a decision. He said that solves the problem of people knowing what to do with their property rights while the different bodies go into the next phase of fixing this issue.

Chuck Stearns said he supports the Land Use Advisory Council (LUAC) concept, but he doesn't think it belongs in the Interlocal Agreement. He said they can't create a LUAC by an Interlocal Agreement. It is a process beyond this. It can't be created by what they do. He said after they make a recommendation on the Interlocal Agreement they could consider support of a LUAC and that might have some influence when it comes before the County Commissioners. He said it doesn't belong in the Interlocal Agreement and won't be created by the time the Interlocal Agreement is finalized. He said the LUAC can continue independently. Lyle Phillips said that is not the charge of this committee. If it is going to happen it needs to come from the donut people to the County Commissioners. He said they should make the Interlocal Agreement work or get out of it.

Bill Kahle agreed with Jim Dupont on the Interlocal Agreement--that they shouldn't leave everyone in limbo. He thought they should discuss the options they were tasked with. If it is legal and enacted then the authority would transfer from the County Commissioners to the LUAC. Diane Smith said they are a long way from there. There are landowners feeling double-dinged and like their land is devalued. She said the more they can give those people certainty the better it will be. She said there has been a lot of compromise from both sides on this issue and she thinks it is a good document if they can clear up a couple of the last outstanding issues.

Chris Hyatt said in option A.a and A.b the County has asked for 24 months for reviewing anything back to 2005. He said that seems like a long time to him. He wondered why they wouldn't look at it in 90 days. He said obviously there are a few problems that are more issue oriented. He said let's figure out which ordinances the County thinks are problems and then deal with those first. He'd like to see the County come with a list of problem issues in 90 days and then they can discuss what they need to do with those priorities.

Jim Dupont said when he looked at the 65 issues he thought it would take awhile, but the time frame is not a deal breaker. Diane Smith said she thought 180 days was more reasonable. Bill Kahle said they may talk about issues later that affect the time issue. He suggested that if they're talking about amending existing legislation passed after 2005 they include the statement that says, "Accompanying this notice shall be a list of suggested modifications from the County Commissioners to the existing legislation to gain their approval." He said no one would read these ordinances unless they pertained to them. He said would like that to be part of their consideration. Jim Dupont said they would have to notice the public on all of those ordinances and take input before they can look at specific ones. Diane Smith said the theory is to streamline as much of this as possible and only review the ones that are tough issues. The County could come back with what they think needs to be addressed.

Lyle Phillips said if any of the ordinances are reviewed by the County Commissioners it does not change the status of those to the City residents. He said they aren't talking about affecting the City's ordinances. Bill Kahle said he has heard complaints about the CAO that it needs to be streamlined. Some changes might affect both the City and the donut residents. Manager Chuck Stearns said this framework says the County triggers a City review which allows the County to then go into a review. That is a legal point. There is concern from the lawyers about how to look at prior ordinances. He said the Council can initiate a review of the CAO at any time. He believes in the power of the Interlocal Agreement and if they agree to give up some of that authority then the County can initiate a review and the City can review it. It might survive a legal challenge. Bill Kahle asked if the County could ask the

City to consider initiating a review. Manager Stearns said they could, but it might not be enough for the County. Lyle Phillips said the County initiates it, but the City gets to hold the review.

Chris Hyatt addressed fair cost. Diane Smith said this is an important point. The County is willing to bear reasonable costs, but they were trying to avoid a poison pill effect where the City says sure you can review it but it will cost you a million dollars. Manager Stearns said the fees he presented were only for one new policy. If the County initiated a new review they could put in some cost limit per ordinance reviewed. He asked City Planner David Taylor what it would cost and Taylor said it would depend on how many hearings needed to be held. Manager Stearns said they could also limit the costs per year or per ordinance. Bill Kahle said there is the CAO and then there are County regulations, so there is coverage, environmentally, either way. He said the County is already telling people what they can do on their property as well, so that's not going to solve the problem for people who don't want any control. Diane Smith said there are plenty of subject matter experts they should be taking input from like those who sat on the CAO committee. Bill Kahle said they could address cost based on time estimates from the Planning Departments in the City and the County. He likes the idea of cooperation.

Manager Stearns said there is a significant procedural difference in the options: A.b is County review; A.a is the County initiating a City review. Lyle Phillips said the people in the donut will have an issue with one of the ordinances and they'll go to the County Commissioners to express their concerns. Manager Stearns said if the County initiates a City review then the Planning Department would get busy. If they had to do a cost estimate for the County they would and when they got agreement, they would start. He outlined the chain of review: Planning Department, WCCPB, City Council and then a reenactment would send it back to the County for their review and consent. He said it was a good idea to list the major problem areas to keep the review focused. Diane Smith one of the differences between A.a and A.b is the question of who is holding the ball and how long are they holding it while the analysis goes on. She said if the County sent a message to the County Commissioners that they didn't want Dark Skies from 1-6 a.m. then the City could decide whether to apply it in the City as well as the donut. She said if it goes to the City and they decide to study it then it could go on and on. The question is to decide what happens when. She said Jim Dupont said the County Commissioners will tell you what they don't like and what they think needs to be changed within a set time frame so it doesn't get bogged down. The City could say they'd do the same thing. She said Whitefish is strapped in their Planning Department. All of this should require multiple cooperative phone calls.

Jim Dupont said several residents in the County have talked about ways the CAO has affected their properties. He said they should be able to come up with a modification in some way. He said they don't want to spend any more time on this than necessary. Bill Kahle said people feared that it would blanket wipe out existing legislation. Jim Dupont said they have resolution in this new agreement so they can get out of it without the Supreme Court. Lyle Phillips said if the County wins the lawsuit then all 65 of those ordinances go out the door. He said the best way to get a win-win is to give and take. Chris Hyatt asked if they were going to vote. Bill Kahle said he thought they'd vote to send this back to their respective bodies for a vote and public input. Lyle Phillips asked and Chris Hyatt said they need to agree on time and money. Manager Stearns said there are more legal problems with A.b than A.a. Diane Smith asked and Sean Frampton said there are structural language problems in each. He is not interested in A.a, but A.b is a maybe. He said the three attorneys should weigh in together.

City Attorney Mary VanBuskirk said they certainly want predictability and constancy. There are some opinions on whether the jurisdiction can be shared. There will be legal issues. The purpose is not to have winners and losers. The goal is to work cooperatively and develop language that will sustain a legal attack. Lyle Phillips said it needs to be worded correctly. He wondered how they could move forward when they don't know what that wording is. Jim Dupont said the concept of A.b is good, but

maybe the wording needs to be looked at by the attorneys. He said they are willing to change the time frame. They want the representation as the number one goal and the others can be fixed. The super majority is out. The Interlocal Agreement must apply to the existing regulations so people can be heard. They think a reasonable cost as outlined by Manager Stearns is fair. Bill Kahle asked what is more appealing about A.a. Diane Smith said A.b puts the burden on the County and provides for the feedback on suggested modifications. Existing regulations shall remain until the County revokes consent. It's a big concession on the County's part and it speeds the process along. Lyle Phillips said it provides consistency for what they know now. Diane Smith said it puts more of the responsibility on the County. If they want to do the other approach then they need to set up time limits. She said they were looking at the most cost efficient process.

Bill Kahle said they need a cost piece in A.b. Diane Smith said they could include the sentence that states in the event the County Commissioners undertakes a review they pay an agreed upon cost. She said option A.a doesn't have a lot of City cost. Jim Dupont said he doesn't expect City staff to drive to Kalispell on these issues; the Commissioners would come to Whitefish. Manager Stearns said it is important that the City enacted it first; it is their authority to reenact it to give the County the authority to review it. He asked what happens to the people who like the regulations and the County revokes them. Some people think A.b is less legal than A.a. Jim Dupont said the County is not telling the City what to do in a given situation; they'll just withdraw consent in the donut area. He said they'd hold a public hearing and hear from those who are in favor and those who are opposed. Manager Stearns said the attorneys could clean up the language. Bill Kahle asked if they could take the concepts back to their respective bodies. Lyle Phillips said they should make a directive to their respective bodies to help them make a decision. Jim Dupont said they could present A.b to their bodies and let them vote yes or no. Manager Stearns said the committee may just need to give their rough concepts to their bodies and then the City and County Attorneys could review the wording. He is worried that there will need to be a legal process for the County and City to adopt the same language. It is currently the City's jurisdiction. He said it is important to give the County an opportunity to review and give consensus to re-enact ordinances.

Chris Hyatt asked and Attorney VanBuskirk said in the litigation the interveners and legislators said the authority cannot be shared. Diane Smith said in her viewpoint there are three scenarios—either the ordinance applies, it doesn't apply or it is getting modified. She said the ordinance will apply while it is being reviewed so it is not in the County's hands. Then the County gives their opinion on what needs to be changed and the City chooses whether they change the regulations in the donut. She said they have to deal with stuff and move it forward quickly. Bill Kahle said A.a more closely mirrors the process of the new legislation. Diane Smith does not agree. She said nothing happens with an ordinance until the County says yes or no for the donut people. She thinks it is most efficient if the County explains why they would say no. Bill Kahle said in A.a. the burden is still on the City. He thinks it plugs existing legislation back into the process they've already set up—or at least that should be their goal. Diane Smith said she thinks A.b does that more efficiently. She said the people in the donut who like an ordinance can pitch their case before the City and the County. She didn't understand why they would want to go through the process of reenactment. It could take a long time. It would put the City of Whitefish under some outside imposed time limits. She thinks they'd rather keep the time burden on the County.

Manager Stearns said he doesn't think A.b is legal, but he thinks A.a has more legal basis. He said the reenactment is just a mechanism to get it before the County. A.b is more expedited than A.a. Sean Frampton said A.b more closely aligns the idea of concept and legislation. A.a. just says here's an example of what we don't like and doesn't offer any remedies whether the City does it or doesn't. City Attorney VanBuskirk said she would try to accelerate the County's time frame. The City can then make a decision on whether to act on those and get it back to the County. Jim Dupont said there are so many

issues they need to look at initially they will need more time, but then they can narrow it down to 90 days. BJ Grieves said from an administrative point of view they need at least one year to review. Manager Stearns said he thinks it will only be two or three ordinances. Jim Dupont said if both bodies agree they can talk again. Sharon Morrison said option Aa. doesn't send it back to the County. Manager Stearns said reenactment triggers it under new legislation and it is a new ordinance and would come before the County. Sharon Morrison said the goal is to have the County have final say on issues that affect the donut people. Manager Stearns said review is insufficient, they need reenactment to get it back to the County. Manager Stearns said in Option A new legislation does not include individual rezonings or other site-specific development applications. He said they could include individual rezoning, but he thinks that would open up a lot more ordinances. Bill Kahle agreed and said they are creating a rule book. Lyle Phillips said there is concern on where they have to go to have their concerns heard. They don't want to go to the Board of Adjustments.

Attorney VanBuskirk likes A.a with the additional language in Ab. which states, "Accompanying this notice shall be a summary of necessary modifications to the existing legislation to gain consent of the County Commission." Diane Smith asked if they can include timeframes and Manager Stearns said the City can match the timeframes the agreement places on the County. Bill Kahle said the Growth Policy took a long time to get approval. It is due for another review. That process is time consuming so the more input they can get the better. Diane Smith said if the County had strong concerns and it was cumbersome to the City, how long would the City have to work on it. Bill Kahle said the stopwatch should stop while they create an ad hoc committee that includes donut residents. She said that works better for a new ordinance. Manager Stearns said the County gets a year to decide what to review and the City gets one year from the date they give the City notice. Planning Taylor said any changes need to go through the Planning Board and that adds time. A major issue like the CAO could take at least a year. Bill Kahle said he doesn't think they're talking about eliminating, they're talking about amending. He said giving one year each way seems practical.

Diane Smith wondered if there was a way to do it faster because folks are waiting for resolution. Bill Kahle said the status quo holds in the meantime. Big issues take a long time. He said they could say it has to be activated within 90 days and completed in up to a year. Manager Stearns said the County can accelerate whatever is the biggest issue—like the CAO and then the City would work on it. He said it is hard to think the review would take less time than initiating the review. Lyle Phillips asked and Manager Stearns said the City could offer a reenacted ordinance to the County before they go into the public process. It is legislative, not quasi-judicial. Chris Hyatt said he truly believes they are working toward cooperation. The idea is to solve the problem and move forward. No one wants to hold it up. Bill Kahle said they figured that some of this would have to be looked at and go back to the County--that's not a surprise. Diane Smith said she would appreciate a 6-month timeline with an allowance for extensions. She is worried that there won't be a sense of urgency. Jim Dupont said that would be acceptable. Manager Stearns said it is hard to imagine there would be less time for the review than the amount of time it takes to initiate the review. He said the issue is not that the City would drag their feet; it is a work load issue.

**Bill Kahle called a recess from 7:45-7:55 p.m.**

Bill Kahle said he heard concerns about time frames from the Planning Departments. Attorneys said they can present blocks of ordinances at a time. They'll know what the hot button issues are and start to create a list. He said the County could draft a memorandum of understanding of the problematic legislation and a suggested recommendation with an automatic extension. Then, the City would initiate the new legislation option in Option A. Lyle Phillips said there has to be a word for existing and new. Manager Stearns said they could define new legislation as anything enacted after 2005. Attorney VanBuskirk said it could just say legislation, not existing or new. Sharon Morrison said it could say

legislation that was passed after 2005. Manager Stearns said he thought they were talking about problems since February 1, 2005 when the interlocal agreement was enacted. Lyle Phillips said it would open up a can of worms if they went beyond 2005. Manager Stearns said it could be defined as any legislation that affects the donut area after 2/1/05. Bill Kahle said the planners are saying this is a ton of work and a best case scenario is 8 months and now they are talking about multiple ordinances. He said they need adequate time. Director Taylor said if they are talking about one item at a time then one year is enough, but if there are multiple issues on top of their regular duties they can't move forward quickly. BJ Grieves said once the County initiates a review it starts a 12-month review. Bill Kahle said he would like to see the items prioritized and staggered to give City staff a change to catch up. Lyle Phillips said a lot of them would get immediate consent. Director Taylor said specific concerns and suggestions would help.

Jim Dupont said setting a specific time frame is good, but sometimes they might need extensions and they need to talk about it. Manager Stearns said the agreement set parameters on bad behavior—you don't have to legislate good behavior. Both sides want to work on this. Manager Stearns said they are close on option A.a and the attorneys can clean it up. Bill Kahle said they are talking about a finite number of projects. Manager Stearns asked if they are recommending taking out A.a. and A.b with a memorandum of understanding. Diane Smith asked if they can complete the Interlocal Agreement without the memorandum of understanding. The County needs an executed document. Manager Stearns said they are proposing option A.a with 12-months for the County and then 12 months for the City, with accompanying notice and a set maximum cost of \$10,000 per ordinance. Jim Dupont questioned the amount. Manager Stearns said the CAO took \$150,000. Diane Smith said it seems high to her. One of the options needs to be for the County to say we'll eliminate a regulation for the donut because it is more financially efficient. Bill Kahle said that lacks the whole concept of cooperative agreement. Lyle Phillips said they have to count new dollars—overtime, not regular salaries. Manager Stearns said the City Council will be paying the planners and want them to be working on their projects. Jim Dupont said they could say "up to a reasonable limit." Bill Kahle said they can take it back to their respective bodies for a suggestion for a reasonable amount. Manager Stearns said it could be an aggregate number, too. Manager Stearns suggested that the option will read:

"The parties agree that the County Commission may initiate a City of Whitefish review and re-enactment of a cooperative Interlocal Agreement of any specific examples of such defined legislation listed above which the City enacted between February 1, 2005 and the date of execution of this agreement. The County Commission must notify the City of Whitefish of its request to initiate such review within twelve months of the execution of this agreement. Accompanying this notice shall be a summary of suggested modification to the existing legislation to gain consent of the County Commission. In the event the County Commission requests such a review, it agrees to pay the entire cost of the City's labor, materials, public notices and other direct costs of such review up to a reasonable amount. After the County initiates the review the City has twelve months to act or consent will be deemed withdrawn. Existing legislation shall remain in effect in the extra-territorial jurisdiction outside the city limits until the County Commission revokes consent."

He said he'll submit the summary to the committee members for review and comments tomorrow via email.

**Kahle moved and Dupont seconded to accept Interlocal Agreement Amendment #3, including the underlined changes and the above recommendation by Manager Stearns, and to take it back to their governing bodies for comment.**

Lyle Phillips asked if the Interlocal Agreement had the word cooperative in it and Attorney VanBuskirk said they could add it to the title.

**The motion passed unanimously.**

**Manager Stearns moved and Bill Kahle seconded to have a second motion that the committee would support the concept of a local Land Use Advisory Council provided the details were subject to State law and County Commission approval.**

**Lyle Philips offered a friendly amendment to say the local Land Use Advisory Council proposal has to be initiated through the County residents to the County Commissioners. The motion maker and second agreed to the amendment.**

Bill Kahle said representation closer to home is important. The committee is trying to say they are in support of this idea. Jim Dupont said it has to be a citizen activated procedure. Lyle Phillips said if they have a motion to support this then it could delay the whole Interlocal Agreement process. Bill Kahle said there is a lawsuit in the wings and it motivates them to move forward. Diane Smith said if a majority of the donut people wants this and that is their will, then supporting it is easy. Chris Hyatt said he thinks they're muddying the water. They have said they'll deal with the Interlocal Agreement issue first. Manager Stearns said he wanted to show support for their process as they go down the line. Chris Hyatt said he'd rather have them come back after this process is done. This is what the Council asked them to get done. Manager Stearns said it just gives encouragement and support.

**The motion failed 5-1 with Manager Stearns voting in favor.**

**5. Consideration of scheduling another meeting if necessary**

The next meeting will be determined via email.

**6. Other business**

**7. Adjournment**

The meeting was adjourned at 8:30 p.m.