

**Send comments and attend hearing at City Hall, on October 4th. At 6pm the Whitefish City Council will hold a workshop on possible solutions to this issue of representation. At 7:10 that same evening they will conduct a public hearing to get your input as well.**



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**Flathead County and the City of Whitefish are looking for a new way to get their “ducks in a row” on the issue of shared planning for the area surrounding the City of Whitefish, where the city and county have had in place a series of joint-planning agreements since 1967. But things aren’t so ducky. That’s why we’re sending this Alert. Due to a state legislative oversight, residents who live in the donut do not get to vote for the Whitefish City Council, who makes final decisions on planning issues in their area. This is a wrong that needs to be righted. **But in attempting to right this wrong, the city and county are looking at a proposed solution that goes much further than representation for donut residents. If approved, it creates a mechanism****



**for overturning important legislation that protects the Whitefish community! This solution allows for the reopening of landuse decisions adopted between 2005 and the present, giving donut citizens, unhappy with these decisions, another chance to ask the county to overturn them. This is not a ducky solution!**Up until about 2005, this joint planning was pretty “ducky” and things went along smoothly. But with rapid growth threatening to change the small town character of Whitefish, tough decisions came up, and things were less ducky. So in 2005 the city and county agreed to a new set of rules. The city agreed to shrink the area, over which they had planning input, to just two miles, from the previous four miles. In this “donut” surrounding Whitefish, the county and city agreed that

the city would have final decision-making authority on planning, zoning, and subdivision approval. Both parties acknowledged that Whitefish would be growing and extending services into the donut, so it made sense that the City of Whitefish should have the lead voice in how Whitefish grew. Further, it would be most cost-effective to have only one planning department for this area. Now this agreement, and all the planning that happened under it, is in jeopardy! Speak up now and tell the City Council not to support changes to the city/county agreement that **create a mechanism for overturning important legislation that protects the Whitefish community!**

**Use the enclosed card to send comments**

**Read inside about possible solutions**




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To: The Whitefish City Council  
P.O. Box 158  
Whitefish, MT 59937

# Now is the time to speak up

There are basically three solutions being proposed. Here are some basics and the pros and cons. Having researched these options and talked to city and donut residents, **CBF believes that Solution #3 below is not acceptable. We believe that a combination of solutions #1 and #2 best provides for local representation and allows the court to best resolve legal issues where both sides argue they are correct.**

(Interlocal Agreement (ILA))= the name for the current contract the city and county entered into that under Montana State law governs how land use decisions are made in the "extraterritorial" roughly two-mile area surrounding Whitefish. The latest contract was signed in 2005.

#1 Keep the existing 2005 Interlocal Agreement and let the courts decide its legality.	#2 Amend the existing 2005 Interlocal Agreement to add an elected Community Council for the donut.	#3 Approve the proposed Restated Interlocal Agreement now before the Council and Commissioners.
<p><b>Background:</b> In 2009 the county sought to unilaterally end the ILA in response to donut residents who complained about city regulations imposed upon them without them having a vote. The new Critical Areas Ordinance, designed to better protect water quality, and the new Whitefish Growth Policy with its emphasis on "in -fill" were targeted as examples. The City maintained they had listened to those opposed and in favor of these policies and had made reasonable compromises.</p>	<p><b>Background:</b> Local representation for donut residents would be through the formation of an elected Community Council, similar to elected advisory councils in Lakeside and Bigfork. This new solution calls for adding wording to the ILA that would both establish this elected community council and a process whereby if the city proposed a planning policy affecting the two mile area outside the city limits and the elected community council for that area did not vote to support it, the county commissioners would have the ability to either veto the proposal or to approve it if they agreed with the city's findings and basis for the new policy.</p>	<p><b>Background:</b> This is the solution that is being proposed by a city/county subcommittee representing parties to the current lawsuit. It amends the existing 2005 ILA to (1) allow either the county or the city to withdraw from the agreement with one year's notice, (2) requires a five-year termination unless both parties agree to renew it, (3) allows the county to review and potentially overturn up to 65 existing land use ordinances which currently apply in the donut, including the Critical Areas Ordinance, the Growth Policy, the Dark Skies and Big Box ordinances, and Lakeshore Protection regulations for both Whitefish and Blanchard Lakes.</p>
<p><b>In Favor: Just let the courts decide.</b> (1) If the county can withdraw whenever they or a group of dissatisfied residents don't like a decision the city makes, this creates a costly lack of predictability for property owners. Taxpayers' money invested in developing guidelines is wasted. (2) Land use decisions are often contentious. Decisions should be based on fairness and findings of fact - not on the needs of a vocal minority. (3) A Supreme Court ruling would permanently resolve the issue of whether such agreements made between governing entities are enforceable. (4) Many reputable attorneys believe the city has a good chance of winning this lawsuit.</p>	<p><b>In Favor: Keep the 2005 ILA in place and add an elected community council as described above.</b> (1) A locally elected community council gives a more direct voice to residents who call Whitefish home. (2) Many feel that the commissioners don't have the time or local knowledge to represent their neighborhood specific concerns and that a locally elected community council would do a better job of this. (3) Many like the planning that the city has been doing, but just want to have a more direct voice in the process. (4) While attorneys representing those who want the county to have a veto of city planning proposals argue this option isn't possible or legal, a number of other attorney's argue this is legal.</p>	<p><b>In Favor: Give the County final say over what happens in the donut.</b> (1) While the city would still be responsible for planning and zoning in the donut, the county would have final veto power over any decisions made by the city. (2) This solution allows for the reopening of land use decisions adopted between 2005 and the present, giving donut citizens unhappy with these decisions another chance to ask the county to overturn them. (3) This solution returns control of the donut to the County, which historically has had a more "hands off" approach to planning and zoning than the City of Whitefish.</p>
<p><b>Opposed: Settle Out of Court.</b> (1) If the county wins this lawsuit, they may not be willing to cooperate with the city in future joint planning efforts. (2) Some feel it's better for the city to settle in order to retain some voice rather than risk having no voice.</p>	<p><b>Opposed: This solution doesn't provide an immediate process to re-open and reconsider land use decisions made from 2005 to present.</b> (1) Attorneys for the county and interveners question if as proposed a community council i is legal, and say it is not a solution that will settle the current lawsuit.</p>	<p><b>Opposed: This solution does not provide local elected representation and it will lead to the dismantling of important legislation which protects Whitefish.</b> (1) Allowing the county veto over planning policies since 2005 is unreasonable and a waste of taxpayers' money and time. (2) This solution gives a greater voice to developers and those who flatly oppose planning regulations. (3) It's unfair to ask Whitefish to shoulder the cost of planning, while giving the county final say.</p>



**Dear Whitefish City Council,**

Please accept my comments below for your Oct 4th public hearing which will consider proposed revisions to the City/County 2005 Interlocal Agreement (ILA). I have reviewed the three basic recommendations before you as listed below and have indicated my opinion:

- #1 - Keep the 2005 Interlocal Agreement and let the courts decide its legality.  In Favor  Opposed
- #2 - Amend the existing 2005 ILA to add an elected Community Council for the donut.  In Favor  Opposed
- #3 - Approve the proposed Restated ILA now before the Council - allowing Commissioners:  In Favor  Opposed  
**To withdraw unilaterally, to exercise veto power over new legislation, and to overturn existing land use policies in the donut, including the CAO, Growth Policy, Dark Skies and Big Box ordinances, and Lakeshore Protection Regulations over Whitefish and Blanchard Lakes.**

Additionally: \_\_\_\_\_

Sincerely,

Signature \_\_\_\_\_ Name Printed \_\_\_\_\_ Address \_\_\_\_\_ City, State, Zip \_\_\_\_\_