

**Proposed Resolution for establishing a
Whitefish-County Community Council for the extra-territorial joint-planning
jurisdiction surrounding and outside of the city limits of the City of Whitefish**

WHEREAS, the Flathead Board of Commissioners and the City of Whitefish through the authority found in MCA 7-11-101, the Interlocal Cooperation Act, did enter into a revised agreement on February 1, 2005, which among other things, provided for a new planning jurisdictional area of generally two miles outside the city limits of Whitefish;

WHEREAS, beginning in 1967, the parties have cooperated in creating and administering the Whitefish City-County Planning Board (the "Planning Board") and the Planning Board's jurisdictional area, as permitted by Montana law;

WHEREAS, this Interlocal Agreement (IA), gave to the City of Whitefish for the first time the sole authority to administer all planning and zoning, subdivision review, lakeshore protection regulations, and floodplain regulations within this extra-territorial area outside the city limits of Whitefish, as set forth in the IA;

WHEREAS, this Interlocal Agreement (IA), retained the nine-member City-County Planning Board as provided for under MCA 76-1-201, with its four county commissioner appointed members, four city appointed city members, and one member from the conservation district, as the advisory board to the City of Whitefish;

WHEREAS, the Whitefish City-County Planning Board serves as only an appointed (non-elected) advisory voice of residents of the extra-territorial joint planning jurisdiction and as an advisory voice of residents of the City of Whitefish (who are also county residents) to the City of Whitefish City Council; and

WHEREAS, county residents residing in the extra-territorial joint planning jurisdiction outside of the Whitefish City limits cannot vote for the City of Whitefish City Council members, who under this IA have final decision making power for all planning and zoning, subdivision review, lakeshore protection regulations, and floodplain regulations within this extra-territorial area outside the City limits of Whitefish, as set forth in the IA;

WHEREAS, the Flathead County Commissioners have the authority under MCA 7-3-111 and 7-3-417(2) to establish elected Community Councils, which may be authorized by ordinance;

WHEREAS, the Flathead County Commissioners have exercised this authority under MCA 7-3-111 and 7-3-417(2) to establish elected Community Councils for the Bigfork planning area and for the Lakeside planning area;

WHEREAS, Flathead County and the City of Whitefish have the authority to amend the February 1, 2005, Interlocal Agreement, under MCA 7-11-101, the Interlocal Cooperation Act, to include a new provision whereby approval by the Whitefish City Council to adopt or amend the Whitefish Growth Policy provisions, or to adopt Zoning Text Amendments, or to Re-Zone a property in the extra-territorial planning jurisdiction outside of the Whitefish City limits, would follow a process with additional input from the Community Council. This process would provide that once the City Council gave tentative approval to adoption or amendment of a Growth Policy, a Re-zone, or to a

Zoning Text Amendment, affecting the extra-territorial jurisdiction, the measure would then be sent to the Community Council for its review and input. The Interlocal Agreement would provide that if the Community Council declined to approve the measure (or recommended against it) then the City Council would not give final approval to the measure, and the measure would be dropped.

WHEREAS, the establishment of an elected Community Council for the extra-territorial planning jurisdiction outside of the Whitefish City limits in conjunction with a new provision to the Interlocal Agreement setting forth a process that if the Community Council declined to approve the specified Growth Policy or Zone Change as proposed to be applied in the extra-territorial planning jurisdiction (or recommended against it) then the City Council would not give final approval to the measure, and the measure would be dropped, would provide direct and meaningful neighborhood voting representation for county residents in the extra-territorial planning jurisdiction outside of the Whitefish City limits;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Flathead County Commissioners shall establish an elected Community Council for the extra-territorial joint planning jurisdiction outside the city limits of Whitefish, which was established under an Interlocal Agreement adopted by the City of Whitefish and the Flathead County Commissioners on February 1, 2005. This Whitefish/County Community Council shall meet as needed to review, take public comment, vote, and forward minutes, findings, and recommendations to the Whitefish City Council on the adoption or amendment of provisions of the Whitefish Growth Policy, or the adoption of Zoning Text Amendments or the Re-Zoning of a property, as proposed for application in the extra-territorial planning jurisdiction outside of the Whitefish City limits.

BE IT FURTHER RESOLVED that this elected Community Council shall consist of seven voting members elected at large with filing for six of those positions to be by districts that shall be established to provide geographical districts representing 1) the East Lakeshore area, 2) the Big Mountain Neighborhood Plan area, 3) the Northwoods to East Edgewood area which includes Haskill Basin, 4) the southeast area of Whitefish north of Hwy 40, 5) the Karrow-Blanchard Lake area including Hwy 93 west to Hwy 93 south, and 6) the Lion Mountain, Hwy 93 west to the lake area. A professional planner from the Whitefish Planning Office shall serve as an ex-officio, non-voting member of the council. Council members shall serve for four-year terms and may be elected to successive terms. The terms of council members shall be staggered so that 3 members shall be elected every 2 years with the at large member being elected in the second of the 2 year cycles. Immediately after the initial election, initial terms for reelection shall be established by drawing of lots.

BE IT FURTHER RESOLVED that Community Council members must be registered voters within their district for a minimum of two years. Persons meeting the qualifications, who wish to be nominated for election to the Community Council, shall file a nominating petition containing the signatures of 5 citizens registered to vote in their district and in Flathead County with the Flathead County Elections Department no earlier than 135 days before the election and no later than 75 days before the election. The seven Community Council members shall be elected following the procedures as set forth in MCA 13-1-104 (3) and 13-1-401, and at the school election held on the first Tuesday after the first Monday of May of each year. Vacancies shall be filled by the Whitefish City Council from qualified applicants from that district within 30 days.

BE IT FURTHER RESOLVED that before this process is first implemented, the whole process would be submitted by the City and County, jointly, to the Attorney General for an opinion on whether the process is legal, and if not, what changes would be necessary to make it legal.