

ORDINANCE NO. 1922

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, CREATING A CITY PLANNING BOARD, CONSISTENT WITH STATE LAW, AND REPEALING ORDINANCE NO. 1045.

WHEREAS, on December 16, 1957, the City Council enacted Ordinance No. 1045 providing that the City of Livingston shall "join with the County of Park in the creation and establishment of a City-County Planning Board; and

WHEREAS, thereafter Park County and the City of Livingston jointly created a City-County Planning Board with a jurisdictional area encompassing approximately 4½ miles around the City of Livingston; and

WHEREAS, Park County and the City of Livingston adopted a Comprehensive Plan for the jurisdictional area of the City-County Planning Area; and

WHEREAS, in 2001 Park County gave notice to the City of Livingston of its intent to withdraw from the City-County Planning Board thereby dissolving the City-County Planning Board; and

WHEREAS, Park County has passed a Resolution No. 781 stating its intent to withdraw from the City-County Planning Board and amend the jurisdictional area of the County Planning Board; and

WHEREAS, as a result of dissolving the City-County Planning Board, Park County will assume jurisdiction of the extraterritorial area around Livingston; and

WHEREAS, the City of Livingston has relied upon the City-County Planning Board for Subdivision Review and the creation of the comprehensive plan; and

WHEREAS, the dissolution of the City-County Planning Board will result in the need for the City of Livingston to create a City Planning Board for purposes of subdivision review and creation of a growth policy .

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana:

Section 1

That Chapter 27 be added to the Livingston Municipal Code which shall read as follows:

CITY PLANNING BOARD

Section 27-1 Established--Powers and duties.

Pursuant to and under the provisions of Title 76, Montana Code Annotated, the City Commission of the City of Livingston does hereby create and establish a city planning board to be known as the "Livingston Planning Board," and does by this chapter adopt by reference all of the sections of the laws of the State of Montana aforementioned that specifically pertain to a city planning boards, granting and delegating to the city planning board all of the rights, privileges, powers, duties and responsibilities thereto appertaining.

27-2 Jurisdictional Area.

The Livingston Planning Board shall have such jurisdiction in the corporate limits of the City of Livingston, as such limits may be amended from time to time and as may be provided by state law.

27-3 Membership of Planning Board, terms of office and qualifications.

(1) The Livingston Planning Board shall consist of seven (7) members, appointed to two year terms, as follows:

- A. One member appointed by the City Commission from its own membership;
- B. One member appointed by the City Commission who, at the Commission's discretion, may be an employee of the City of Livingston or hold public office in Livingston or Park County;
- C. One member appointed by the Chairman of the Commission, upon designation by the Board of County Commissioners of Park County; and
- D. Four citizen members appointed by the Chairman of the Commission who

shall be resident freeholders within the city of Livingston, who shall be qualified by knowledge and experience in matters pertaining to the development of the city and hold no other office in city government.

(3) The Recording Secretary shall certify the members appointed by the City Commission. The certificates shall be sent to and become a part of the records of the Livingston Planning Board. The Chairman of the Commission shall make similar certifications for the appointment of citizen members.

(4) Any citizen appointee may be removed from office by a majority vote of the City Commission.

(5) The planning board members shall receive no salary for serving on the planning board, but may be reimbursed for transportation and actual expenses incurred in attending planning board meetings. When the planning board determines that it is necessary for members or employees to attend a regional or national conference or interview in another city, county or state dealing with planning or related problems, the planning board may pay the actual expense of the attending members or employees provided the amount has been made available in the board's appropriation.

27-4 Organization and Administration.

(1) **Meetings.** The Planning Board shall fix the time for holding regular meetings, but shall meet at least once in the months of January, April, July and October. Special meetings of the planning board may be called by the president or by two members upon written request to the secretary. The secretary shall send to all members, at least 2 days written notice stating the purpose, time and place of the meeting.

(2) **Officers.** The Planning Board, at its first regular meeting in each year, shall hold annual elections to elect a president and a vice president who shall preside in the absence of the president.

(3) **Secretary.** The Planning Board may appoint and prescribe the duties and fix the compensation of a secretary, which may be the City Planning Officer, and such employees as are necessary for the discharge of the duties and responsibilities of the board. The board shall have the

power and duty to prescribe the qualifications of, appoint, remove and fix the compensation of the employees of the board and delegate to employees authority to perform ministerial acts in all cases, except where final action of the board is necessary.

(4) **Quorum.** A majority of members shall constitute a quorum. However, no action of the planning board is official unless authorized by a majority of the total membership of the board at a regular or properly called special meeting.

(5) **Administration of Board.** The Planning board shall have the power and duty to:

- (a) exercise general supervision of and make regulations for the administration of the affairs of the board;
- (b) prescribe uniform rules pertaining to investigations and hearings;
- (c) keep an accurate and complete record of all departmental proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the board;
- (d) make recommendations and an annual report to any governing bodies represented on the board concerning the operation of the board and the status of planning within its jurisdiction;
- (e) prepare, publish and distribute reports, proposed ordinances and proposed resolutions and other material relating to the activities authorized by law.

Section 2

Repealer.

Ordinance No. 1045 and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict with the application of this ordinance are hereby repealed.

Section 3

Severability.

If any provisions of this ordinance or the application thereof to any person or circumstances is

held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

Section 4

Savings Provision.

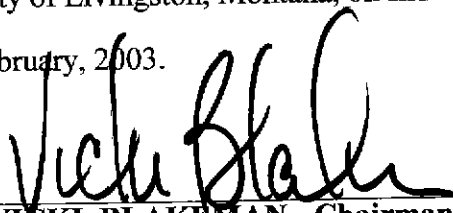
This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

Section 5

Effective Date.

This ordinance shall be in full force and effect thirty (30) days from final passage.

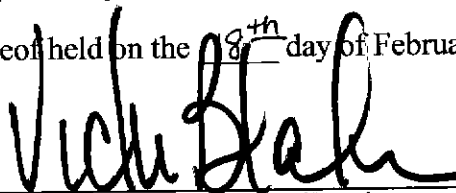
PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the 3rd day of February, 2003.


VICKI BLAKEMAN - Chairman

ATTEST:


PAM PAYOVICH
Recording Secretary

PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston,
Montana, on second reading at a regular session thereof held on the 8th day of February, 2003.



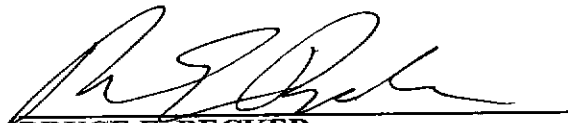
VICKI BLAKEMAN - Chariman

ATTEST:



PAM PAYOVICH
Recording Secretary

APPROVED AS TO FORM:



BRUCE E. BECKER
City Attorney

MEMO

Date: 2/20/03

To: City Commission

From: City Attorney

Re: City County Planning Ordinance

Second Thoughts. I believe amending the Ordinance No. 1922 to designate that a citizen member of the City Planning Board may be a member of the Historic Preservation Committee was in error. 76-1-224 MCA provides that a citizen member of the City Planning Board must:

- “(a) be qualified by knowledge and experience in matters pertaining to the development of the City; and
- (b) **hold no other office in city government.**”

Section 27-3 (D) of Ordinance No. 1922 incorporated this statutory language. Clearly, a member of the Historic Preservation Committee holds an office in city government. For this reason, this amendment was in error. The intent of the citizen member statutory qualifications appears to require that the citizen must have knowledge and experience, but no connection to city government. Note that 76-1-221(b) MCA which is set forth in Ordinance No. 1922, section 27-3(B) provides that one member appointed by the City Commission, “may be an employee of the City of Livingston or hold public office.” Under this section, a member of the historic preservation committee could be appointed.

Conclusion. Ordinance No. 1922 should be reconsidered by deleting the amendment which provided that a citizen member may be a member of the Historic Preservation Committee.

4. (a) A motion to reconsider any action taken by the Commission, may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed and reconvened session thereof. Such a motion shall be made by a member of the prevailing side, but may be seconded by any member, and may be made at any time and have precedence over all other motions or while a member has the floor; it shall be debatable.

(b) Nothing herein shall be construed to prevent any member of the Commission from making or remaking the same or any other proper motion at a subsequent meeting of the Commission, but the matter must be an agenda item.

March 3, 2003
Agenda Item #6, A:

Revisit Ordinance No. 1922 – Creating a City Planning Board, consistent with State Law, and repealing Ordinance No. 1045.

Enclosed is a February 20, 2003 memo from the City Attorney, Bruce Becker identifying second thoughts relating to providing that a citizen member "may be a member of the Historic Preservation Committee". He suggests that this reference be deleted from the Ordinance. Information relating to the process of revisiting an Ordinance is attached to his memo.

RECOMMENDATION:

Reconsider Ordinance No. 1922 with the deletion of the amendment providing that "a citizen member may be a member of the Historic Preservation Committee."