

City of Livingston, City Planning Board Meeting Minutes
Date: January 6, 2021

A meeting of the City Planning Board is scheduled for January 6, 2020 at 5:30 PM. This will be a virtual meeting held via Zoom:

- <https://us02web.zoom.us/j/81833311657>
- Dial In: 669-900-9128
- Meeting ID: 818 3331 1657

5:32pm Start Roll Call and Torrey Lyons, Taya Cromley, Melissa Nootz, Stacy Jovick, Jessie Wilcox, Shannon Holmes, Courtney Lawellin City Attorney, Mathieu Menard, Deputy City Planning Director. Approval of Minutes (00:01:20) Stacy made motion to accept the December 16th meeting minutes, Melissa Seconded, none opposed, minutes accepted

(00:02:00) Public Comments (state your full name and physical address prior to speaking)
New Business:

(00:14:44) “Resident Freeholder” requirement for Planning Board membership
Courtney Lawellin, City Attorney, rationale for upholding the freeholder requirement: Sites the MT Rule 76.1.221, City Code 27-3, membership required by state statute. Hierarchy: Constitution, Federal then State, then our City laws. Review of City Code and State Rule which parallel each other.

The freeholder requirement and the word freeholder originates from the term “fee” title to own property- freeholder or fee simple ownership; why the City upholds the freeholder requirement: the short answer is because it’s the law, both state law and in our City code. The longer answer is this; there is an equal protection requirement, but these standards have different levels of scrutiny, whereas there is equal protection based on race or sex, for example, this is a heightened standard. Where there is not a protected category a different standard is used i.e. standard rational basis is used with regulating the use of land, land that is owned by people. The people who are charged with doing that are people who own land because it is regulation land planning. Distinguishing between arbitrary and rationale basis, there is a reason to give greater influence to those citizens who are more effective, (have property), quotes 1995 MT Supreme Court Case. Between rationale basis and legal requirement, that is the City’s position to uphold the freeholder requirement. Refer to 76.1.221 first sentence, we are a general powers government we can do anything the law says we can do, but cannot go beyond that vs a Charter power form of government which allows a City to do anything we say we can’t do, anything that is not prohibited, it is possible and we would have to change our city ordinance/law to do something other than 1a-1d in MCA. Not less than, allows for, under general powers there to be a change where people do not need to be freeholders, that could be a change, we would have to change our law in order to do that.

Board comments:

Shannon (00:25:33)

Melissa (00:25:57)

Stacy (00:26:00)

Jessie (00:28:37)

Torrey (00:28:47)

Taya (00:29:56)

Open to public for questions only:

Michelle Uberagua- Courtney and I have a different interpretation of the law, how do you square other jurisdictions that feel that the freeholder law is unconstitutional? Question to the Planning Board- have any of you done any research on the racist word 'freeholder'?

Board comments:

Shannon (00:37:55)

Melissa (00:38:55)

Stacy (00:41:50)

Courtney-Point of Order 2007-bill put forward to change freeholder to resident, died in committee.

Jessie (00:43:00)

Torrey (00:46:47)

Taya (00:48:00)

Brian (00:48:30)

(01:00:00) Stacy would like to make a motion to table this discussion of a "freeholder requirement" for more time to consider. Brian seconded. Shannon no, Melissa no, Stacy for, Jessie no, Torrey no, Taya no, Brian no. Motion fails.

(01:06:00) Shannon proposed an amendment to table and put this conversation on the next agenda 1.20.2021, Brian seconded. Vote: Shannon for, Melissa no, Stacy no, Jessie no, Torrey no, Taya no, Brian yes. Motion fails.

(01:10:12) Jessie made the motion to recommend the City Commission to reach out to legislators to oppose and remove the term 'freeholder' entirely and replace that with the word 'resident'. Torrey seconded the motion. No public comment.

(01:12:47) Vote: Unanimous, all in favor, motion passes.

Jessie to draft memo to the Commission, will cc Courtney and Mathieu for review.

(01:16:08) Officer elections (Chair, Vice Chair, and Recorder)

(01:18:35) Shannon made the motion to elect Brian as the Vice Chair, Taya seconded. Vote: unanimous approval, motion passes.

(01:20:04) Shannon made motion for Jessie to be the chair, Melissa seconded. Vote: unanimous, all in favor. Motion passes.

(01:21:59) Shannon made the motion for Stacy to be recorder, Taya seconded. Vote: unanimous, all in favor. Motion passes.

(01:25:11) Updates on any City Commission guidance/decisions for:

- Recommendation of Board members Stacy Jovick and Torrey Lyons selected to be permanent board members.
- Planning Board Request for Extension on a Growth Policy Recommendation, this was approved.
- 2020 Planning Board Annual Accomplishments Report to the Commission (Submitted 12/18/20)

(01:26:37) Growth Policy review schedule and process

Shannon (01:30:27)

Melissa (01:30:52)

Stacy (01:31:03)

Mathieu: Vote will need to be made on linguistic changes if we are requesting changes to document during the meeting. We do need majority consensus on changes to the document.

Jessie (01:38:55)

Mathieu: We do not need to notice in the agenda which chapters we are covering at each meeting, it can remain flexible and fluid.

Torrey (01:41:50)

Taya (01:43:16)

Growth Policy Review Schedule

01/20:

- Maps:
 - (Exhibit 3.4.) Future Growth Map
 - (Exhibit 11.1.) Recommended Future Land Use Map
 - (Exhibit 11.2.) Recommended Future Land Use Map (Detailed)
- Appendix A: Extra-Territorial Jurisdiction (ETJ) Plan

02/03:

- Appendix A: Extra-Territorial Jurisdiction (ETJ) Plan, continued if required
- Chapter 1: Introduction
- Chapter 2: Population & Community Character

02/17:

- Chapter 3: Land Use

- Chapter 11: Land Use Recommendations
- Chapter 4: Natural Resources

03/03:

- Chapter 5: Housing
- Chapter 6: Economy
- Chapter 8: Transportation

03/17:

- Chapter 7: Local Services
- Chapter 9: Public Facilities
- Chapter 10: Inter-Governmental Coordination
- Chapter 12: Implementation

04/07:

- Readability: Page Numbering, General Layout, etc.
- Other Appendices
- Final Clean-up

04/21:

- Public Hearing for Recommendation to the Commission

If PB makes a motion to request changes to the document the turn around time would be given to the Board within 1 week although he will have to talk with Burton as well. Will have a better idea after we go through the first chapter.

(01:58:42) Administrative Comments:

- Board Comments

(01:58:42) Shannon

(01:59:00) Melissa

(01:59:57) Stacy

(02:00:25) Jessie

(02:01:28) Torrey

(02:01:49) Taya

(02:02:05) Brian

- Next Meeting: 1/20/2021
- Meeting Adjournment 7:37pm