

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 8, 1977

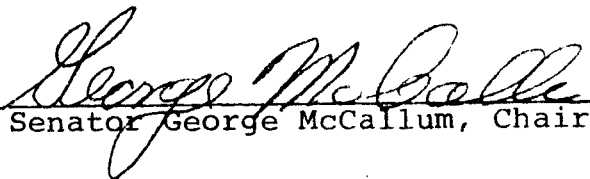
The meeting of the Local Government Committee was called to order by Chairman McCallum on February 8, 1977 at 9:40 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present except Senator Thiessen and Senator Thomas.

Cliff Christian, Montana Association of Realtors, presented amendments (attached) to Senate Bill 195.

Senator Story moved to adopt all the attached(2) amendments. Senator Lockrem seconded the motion. Motion carried unanimously. Senator Story moved Senate Bill 195 be given an "And As So Amended, Do Pass" recommendation. Senator Dunkle seconded the motion. Motion carried unanimously.

ADJOURN: The meeting adjourned at 10:40 A.M. with the next meeting to be Wednesday, February 9, 1977 at 9:30 A.M.


Senator George McCallum, Chairman

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1. Amend Line 6 in the title by striking after the word "demands", all words on Line 6.
2. Amend Line 7 in the title by striking the words "donations in lieu of dedication,".
3. Amend Line 6, Page 2 by striking the words "less than".
4. Amend Line 6, Page 2 by inserting the words "or fewer" after the word "parcels".
5. Amend Line 6, Page 2 by striking after the word "parcels and", the word "/or".
6. Amend Line 7, Page 2 by striking the words "ten thousand (10,000) square feet".
7. Amend Line 7, Page 2 by inserting the words "1 acre in size".
8. Amend Line 8, Page 2 by striking the words "of ten" after the word "lots".
9. Amend Line 9, Page 2 by striking the words "ten thousand (10,000) square feet".
10. Amend Line 9, Page 2 by inserting the words "1 acre" after the word "than".
11. Amend Line 14, Page 2 by inserting the word "size" after the word "of".
12. Amend Line 18, Page 2 by inserting after the word "plat", "accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated".
13. Amend Line 20, 21, and 22, Page 2 by striking the words "stating that due to topography, shape, location, or other circumstances, park dedication is undesirable".
14. Amend Line 22, Page 2 by inserting "For the purpose of this section, the fair market value is the value of the undivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the ^{purchase} of additional ^{park} lands or for the purpose of additional lands or for initial development of parks and playgrounds. Thirty percent of all cash in lieu of funds may be used for the maintenance of existing parks during the fiscal year".

12. Amend Line 6, Page 3 by inserting before the word "proceeds", "thirty percent of the".

16. Amend Line 6, Page 3 by striking the word "shall" and inserting the word "may".

17. Amend Line 8, Page 3 by inserting after the word "county", "during the fiscal year".

18. Insert a new section under Section number 3 by inserting after (3) the words "The governing body may ^{waive} ~~require neither~~ the dedication of park lands ~~on~~ ^{and} cash in lieu of dedication".

19. Amend Line 13, Page 3 by inserting after the word "dedication", "and cash donation".

20. Amend Line 21, Page 3 by inserting after the word "dedication", "and cash donation".

21. Change old Section 3 to Section 4. Change old Section 4 to Section 5. Change old Section 5 to Section 6. Change old Section 6 to Section 7.

Amendments to Senate Bill 195 - Local Government Committee

1. Amend title, lines 6 and 7.

Following: "demands"

Strike: "; to eliminate cash donations in lieu of dedication"

2. Amend page 2, section 1, line 6.

Following: "with"

Strike: "less than five ("

Following: "5"

Strike: ")"

Following: "parcels"

Insert: "or fewer"

Following: "and"

Strike: "/or"

3. Amend page 2, section 1, line 7.

Following: "than"

Strike: "ten thousand (10,000) square feet"

Insert: "1 acre in size"

4. Amend page 2, section 1, lines 8, 9 and 10.

Following: "lots of"

Strike: "ten thousand (10,000) square feet"

Insert: "1 acre"

Following: "dedicate"

Strike: "five hundred ("

Following: "500"

Strike: ")"

6. Amend page 2, section 1, line 14.

Following: "size,"

Insert: "size,"

7. Amend page 2, section 1, lines 20, 21 and 22.

Following: "dedicated"

Strike: "stating that due to topography, shape, location, or other circumstances, park dedication is undesirable."

Insert: "accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated. For the purpose of this section, the fair market value is the value of the undivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional park lands or for initial development of parks and playgrounds."

8. Amend page 3, section 1, line 7.

Following: "acquire"

Insert: "park"

9. Amend page 3, section 1, line 13.

Following: "dedication"

Insert: "and cash donation"

10. Amend page 3, section 1, line 21.

Following: "dedication"

Insert: "and cash donation"

STANDING COMMITTEE REPORT

February 8 1977
Journal

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 195

Respectfully report as follows: That Senate Bill No. 195,
introduced bill, be amended as follows:

1. Amend title, lines 6 and 7.

Following: "demands"

Strike: "; to eliminate cash donations in lieu of dedication"

2. Amend page 2, section 1, line 6.

Following: "with"

Strike: "less than five("

Following: "5"

Strike: ")"

Following: "parcels"

Insert: "or fewer"

Following: "and"

Strike: "/or"

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3. Amend page 2, section 1, line 7.

Following: "than"

Strike: "ten thousand (10,000) square feet"

Insert: "1 acre in size"

4. Amend page 2, section 1, lines 8, 9 and 10.

Following: "lots of"

Strike: "ten thousand (10,000) square feet"

Insert: "1 acre"

Following: "dedicate"

Strike: "five hundred ("

Following: "500"

Strike: ")"

6. Amend page 2, section 1, line 14.

Following: "size7"

Insert: "size,"

7. Amend page 2, section 1, lines 20, 21 and 22.

Following: "dedicated"

Strike: "stating that due to topography, shape, location, or other circumstances, park dedication is undesirable."

Insert: "accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that would have been dedicated. For the purpose of this section, the fair market value is the value of the undivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase of additional park lands or for initial development of parks and playgrounds."

8. Amend page 3, section 1, line 7.

Following: "acquire"

Insert: "park"

9. Amend page 3, section 1, line 13.

Following: "dedication"

Insert: "and cash donation"

10. Amend page 3, section 1, line 21.

Following: "dedication"

Insert: "and cash donation"

AND AS SO AMENDED, DO PASS

Henry M. Bell

SENATE BILL NO. 195
INTRODUCED BY Flynn Warren Lou Henry

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 11-3864, R.C.M. 1947, TO REQUIRE PARK AND PLAYGROUND DEDICATION ONLY WHEN DENSITY DEMANDS; TO ELIMINATE CASH DONATIONS IN LIEU OF DEDICATION, AND TO PROVIDE FOR THE SALE OF SUCH DEDICATED LANES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 11-3864, R.C.M. 1947, is amended to read as follows:

"11-3864. Dedications of portions of subdivisions to the public ~~---cash---donations---in---lieu---of---dedications---~~ waivers. (1) ~~A plat of a residential subdivision shall show that one-ninth--(1/9)--of the combined area of lots five--(5)--acres or less in size and one-twelfth--(1/12)--of the combined area of lots greater than five--(5)--acres in size, exclusive of all other dedications, is forever dedicated to the public for parks or playgrounds. No dedication may be required for the combined area of these lots in the subdivision which are larger than ten--(10)--acres exclusive of all other dedications. The governing body, in consultation with the planning board having jurisdiction, may determine suitable locations for such parks and playgrounds. The governing body~~

shall adopt, within the 6-month period following the effective date of this act, regulations for the dedication of land to the public for park land to serve the residents of the subdivision. All park requirements shall apply within the jurisdictional area of a city or county planning board. Subdivisions with less than five (5) parcels and/or lots of more than ten thousand (10,000) square feet are exempt from the provisions of this act. Subdivisions with lots of ten thousand (10,000) square feet or less shall dedicate five hundred (500) square feet per lot for park land. The amount of park land shall be computed on the total square footage of the subdivision less the square footage of roadways within the subdivision.

(2) Where, because of size, topography, shape, location, or other circumstances, the dedication of land for parks or playgrounds is undesirable, the governing body may, for good cause shown, make an order to be endorsed and certified on the plat accepting a cash donation in lieu of the dedication of land and equal to the fair market value of the amount of land that could have been dedicated stating that due to topography, shape, location, or other circumstances, park dedication is undesirable. For the purpose of this section, the fair market value is the value of the unsubdivided, unimproved land. Such cash donation shall be paid into the park fund to be used for the purchase

~~of additional lands or for the initial development of parks and playgrounds.~~ Any dedicated lands for park use may be sold by the city or county provided that they are sold at public auction to the highest bidder, but at a price not less than the average of three appraisals for market value. Proceeds of such sales shall be used to develop or maintain other parks or acquire lands adjacent to existing parks within the city or county.

(3) If the proposed plat provides for a planned unit development with land permanently set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside therein, the governing body may issue an order waiving land dedication and cash dedication requirements.

(4) If a tract of land is being developed under single ownership as a part of an overall plan and part of the tract has been subdivided and sufficient park lands have been dedicated to the public from the area that has been subdivided to meet the requirements of this section for the entire tract being developed, the governing body shall issue an order waiving the land dedication and cash dedication requirements for the subsequently platted area.

~~(5) The local governing body may waive dedication and cash dedication requirements where all of the parcels in a subdivision are five (5) acres or more in size and where the~~

1 subdivider enters a covenant to run with the land and
2 reversible only by actual consent of the governing body and
3 the property owner that the parcels in the subdivision will
4 never be subdivided into parcels of less than five (5) acres
5 and that all parcels in the subdivision will be used for
6 single-family dwellings.

7 (44) (5) The governing body may waive dedication and
8 cash donation requirements when the subdivider agrees to
9 create a property owners' association for the proposed
10 subdivision and to deed to the association land to be held
11 in perpetuity for use as parks or playgrounds. The area of
12 land to be deeded to the association shall equal the amount
13 that would otherwise have been dedicated to public use.

14 (47) (6) The governing body may waive dedication and
15 cash donation requirements for subdivision to be created by
16 rent or lease where the subdivider agrees to develop parks
17 or playgrounds within the subdivision for the common use of
18 the residents of the subdivision. The area of land to be
19 reserved for this purpose shall equal the amount that would
20 otherwise have been dedicated to the public."

-End-