

## **WHITEFISH CITY COUNCIL MINUTES**

**September 16, 2013**

**7:10 P.M.**

### **1. CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Sweeney, Hildner, Kahle and Hyatt. Councilor Anderson was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Public Works Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Assistant Fire Chief Page. Approximately 12 people were in attendance.

### **2. PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Toby Scott to lead the audience in the Pledge of Allegiance.

**3. COMMUNICATIONS FROM THE PUBLIC**—(This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Toby Scott, 1478 Barkley Lane, represented the North Valley Music School as the Board of Directors Chairman. They want to have a reader board in front of the school to keep people informed of events that are happening at the music school. He said the music school falls in a limbo and according to zoning regulations they can't have a reader board. Private and public schools K-12 can have reader boards, but that does not include a non-profit music school. He said they could request a variance, but the school operates on a thin budget. It costs \$1,980 to apply for a variance and the sign probably wouldn't cost half of that. He asked if the Council could create a ruling so non-profits could apply for variances at a lower price. They want a reader board similar to the one in front of the ice rink.

Dan Cutforth, 1255 Larch Lane, spoke on the Whitefish River proposed regulations for non-motorized traffic. He owns property on the river adjacent to 800 Spokane Avenue. He said this regulation is addressing a non-existent problem. He said he doesn't recall seeing many speeding boats on the river because there are submerged obstacles and logs. The proposed regulations would make a hardship for the elderly who don't want to go in a kayak or canoe. He said it shouldn't become a private waterway for certain groups. He said the high water spring runoff probably does more erosion damage than any boats. He said he thinks the no-wake zone is adequate, but they could set a 5-mph speed limit. He also wondered about enforcement.

Denise Hanson, 827 Kalispell Avenue, supported the idea of annual, incremental water and sewer rate increases. It is better than asking people to take a larger increase when they need funds for infrastructure projects. Large increases are hard on the public.

### **4. COMMUNICATIONS FROM VOLUNTEER BOARDS**

Councilor Hildner said the Bike/Pedestrian Path Committee met and they agreed that they need to remind event organizers to use non-permanent course markings. Director Cozad said he would get the word out and apparently he did because the Two Bear Marathon markings washing off quite nicely with the morning rain. He said that the easement has been approved for Skye Park and they are looking

for a 2014 construction date. The RFQ for the lift station on the west approach has been issued. The last 200 meters of the Dodger Lane path is scheduled for a 2014 completion. He said that the Bike/Ped Committee has volunteered to stain and sand the Rocksund Bridge rails this fall, weather permitting. Public Works has applied for a grant to include a bike path with the West 7<sup>th</sup> Street rebuild and one for the Geddes to West 6<sup>th</sup> Street tie. The committee requested that the Park Board send a letter to the three bike shops to ask their racers to slow down when using the bike path, particularly the Wisconsin segment.

Councilor Hyatt said the Park Board met and the recreations program had a great year. The summer day camp program brought in \$77,000. He asked and Director Cozad said 2,088 kids went through the camp. The programs have grown about 33% each year. Councilor Hyatt said they do a great job and he thanked them. Mayor Muhlfeld also thanked Director Cozad for doing a good job.

**5. CONSENT AGENDA**-(The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage-Section 1-6-2 (E)(3) WCC)

**5a. Minutes from the September 3, 2012 Council regular session (p. 45)**

**5b. Confirmation of appointment of representative, Bailey Minnich, to the Ice Rink Advisory Committee from the Curling group (p. 55)**

**Councilor Kahle offered a motion, seconded by Councilor Hildner, to approve the consent agenda. The motion passed unanimously.**

**6. PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

**6a. Resolution No. 13-26; A Resolution maintaining the Cash-In-Lieu Payment in connection with affordable housing at the current \$8,000.00 per unit (p. 57)**

Planning Director Taylor said the Whitefish Housing Authority completed their annual evaluation and they recommend keeping the cash-in-lieu fee at \$8,000/unit. With a PUD any developer can ask for a 50% density bonus if they want to provide affordable housing units or they can provide cash-in-lieu. No cash-in-lieu fees have been received to date. Councilor Sweeney asked at what point a contractor has to make payments to fulfill that obligation. Director Taylor said they haven't had it come up, but he would assume that once the PUD is approved there would need to be a contract. He would look into what has been set up. Councilor Sweeney said they have never received any cash, regardless of the number of projects. He wondered if all the units have to be built out for any cash-in-lieu. He wondered if it should be paid when the project is approved. Director Taylor said when all the requirements are met for final plat some fees are collected then; however some fees come in later during development. PUDs are different because there is no final plat, so agreements would have to be made. Councilor Mitchell said no one has chosen to do this. He asked how it works and Director Taylor said the developer gives 10% of the total lots or they give \$8,000/unit to the housing authority.

Mayor Muhlfeld opened the public hearing. No one wished to speak and the public hearing was closed.

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Councilor Kahle asked and Director Taylor said he thinks \$8,000 is a good middle ground between where they started at \$6,000 and then the high amount they reached of \$11,000; it was reduced back to \$8,000 in 2012.

**Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve Resolution No. 13-26; A Resolution maintaining the Cash-In-Lieu Payment in connection with affordable housing at the current \$8,000.00 per unit, adopting the staff report as findings of fact.**

Councilor Mitchell said he doesn't have a problem voting for this, but they have been doing this for 7 years and no one has taken advantage of it. Mayor Muhlfeld said the City Code requires them to set this amount every year. Councilor Mitchell said he would like to see it used once in awhile. He talked to Turner Askew about this, too. He thinks it is fine to pass it, but he has a hard time understanding why it is never used. Director Taylor said so much of this delay has happened because the market crashed. It is a voluntary program and the developers have to pencil it out to make sure it works. Councilor Sweeney said in his time on the Planning Board and the Council there has been some projects that were approved for development that offered cash-in-lieu for a density bonus. He said that because of the economy they never went forward to the point where they created the development. That's why he asked at what stage they are required to make their payment. He said the Council set this as a voluntary program.

**The motion passed unanimously.**

**Mayor Muhlfeld noted that item 9b. was removed by the High School late this afternoon, prior to tonight's meeting.**

**6b. Consideration of a request from Rob Pero to extend the Preliminary Plat approval of Great Northern Heights Phase 3A for an additional 24 months (p. 63)**

Senior Planner Compton-Ring reported that Sands Surveying, on behalf of Rob Pero, are requesting a 24-month extension for the Great Northern Heights, Phase 3A preliminary plat. The Great Northern Heights, phase 3A is a 15-lot (7 townhouses and 1 single family home) subdivision on 2.93 acres on Great Northern Drive.

The preliminary plat was approved by the Whitefish City Council on November 17, 2008. In 2011, the Council granted a 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires November 17, 2013.

This subdivision is located within the city limits and is zoned WR-1/PUD (One-Family Residential District) with a Planned Unit Development overlay. At the time of the public hearings, neighbors were concerned with weed abatement. According to the Planning Board and Council minutes, the applicant indicated he had entered into a weed abatement agreement with the city.

Planner Compton-Ring explained there is one change in the current standards (zoning or subdivision) that would change this subdivision:

1. Section§12-4-12I of the Subdivision Regulations direct developers to consider the design of townhouses to avoid the garage-forward design. The use of garage-forward designed two-unit homes are not permitted. The narrowness of these townhouse lots nearly requires the use of garage forward design. The Architectural Review standards do provide options to mitigate the

design of the garage-forward two-family home, which the existing townhouse buildings in this neighborhood have used and will continue to use.

A notice was mailed to adjacent landowners within 300-feet of the preliminary plat on August 23, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on August 28, 2013. Five letters have been received by neighbors. Planner Compton-Ring explained there are two requests for this neighborhood – this preliminary plat extension and a new preliminary plat that is coming to the Council in October. Many of the letters received address both requests. These letters will also be included in the preliminary plat request scheduled before the Council in October.

Concerns raised on the preliminary plat extension request include:

- Poor design of existing townhouse lots causing traffic problems and concern with more of these lots; and
- Residents would like to see detached single family lots, as they believe that type of development fits into the neighborhood better.

Staff recommends the Council approve the request to extend the Great Northern Heights, phase 3A preliminary plat for 24 months, expiring on November 17, 2015 based on three findings of fact in the staff report.

Councilor Mitchell asked if the original request was for townhouses and Planner Compton-Ring said it was. There are no changes. Councilor Hildner said on Council Packet Page 63 the one thing that would change in the subdivision confused him. He asked and Planner Compton-Ring said the narrowness of the lots nearly requires a garage forward design. She said the lots are 28 feet wide. Councilor Kahle talked about the letter from Steward Cardon who purchased a lot in Phase 1 and he thought it was going to all be single family homes in Phases 3 and 4 and Planner Compton-Ring said he could ask the applicant to address that question.

Mayor Muhlfeld opened the public hearing.

Susan Robison, 320 Minnesota Avenue, expressed concerns about the extension. She said there are two townhomes and there is already a traffic problem and safety issue in her opinion. She said with the additional phases there could be a total of 32 units in this area and there is a safety issue with even four. She thinks it is a poor design for the neighborhood.

Councilor Hyatt asked and Susan Robison showed him a photo that illustrates her concerns. Planner Compton-Ring said that the photo relates to the next phase that will be before them in October. Susan Robison said there is not enough room for parking and people are parked on the street. She sees it as a safety issue, especially in a family oriented neighborhood.

Rob Pero, applicant, 1290 Birch Point Drive, said he has been working on this project since 2004. He said Phase 1 and Phase 3A were approved at the same time. He said he received a copy of that photo and those are contractor trucks because that house is being built. He said he has been on the Board of Directors of the Homeowners Association (HOA) of this development and they have never had a parking issue. No one is allowed to park their cars or boats in the street. He felt that it was a one-time occurrence. He said he can bond for this phase and build in November, but they have another project going and he would like two years. Councilor Kahle asked how many on street parking spaces are provided and Mr. Pero said there are none. Director Taylor said there are two on-site parking spaces

provided for each unit. Councilor Hildner discussed the photo in the packet and said garages tend to be for storage, not for cars. He looked at a photo and said the boat is parked out front and the vehicle is blocking the sidewalk. Councilor Hildner asked and Mr. Pero said they just turned the HOA over to the homeowners. He said the HOA would have to send that person a notice telling him he can't park the boat out there. He said these homes sit back far enough so that they can park one vehicle in the garage and two in the driveway. Councilor Mitchell asked and Mr. Pero said he doesn't remember any parking restrictions for on-street parking in Phase 1.

John Gerbozy, 150 Granite Drive, said he lives in the subdivision and owns a lot in Phase 2. He is not opposed to continuation of the plat. He said there is a lot of traffic and there are a lot of vehicles parking on the street and it makes one lane traffic. He agreed with Sue Robison that there is a concern for safety out there. He said the addition of Phase 3A is tied to the project coming up before the Planning Board next Thursday. He said it seems like a messy subdivision. He said a new HOA took over recently and there is some concern about the enforcement. He said he has concerns about Phase 3. He said it is interesting that they are approving 3A before Phase 3. Mayor Muhlfeld encouraged him to attend the Planning Board meeting, too, when the next phase is heard.

Mayor Muhlfeld closed the public hearing.

Councilor Hildner said this is one more request for an extension and here they have an opportunity to correct a situation. If they deny the plat extension it gives the developer an opportunity to put this thing together as a whole and to make a better development. Councilor Hyatt disagreed. He said the applicant isn't trying to fleece anyone, because everyone knew what was proposed. Councilor Hyatt said he lives near Columbia Avenue and that is the same parking situation they have there—people often park over the sidewalk and there are lots of students traveling in this neighborhood. Councilor Kahle said he thinks Mr. Pero made a campus-wide plan that was already approved. He said the only change would be the garage-forward design restrictions. He said if they were reviewing it today he feels it would be approved. If they pulled this plat out it would be extraordinarily expensive for the applicant. He didn't think it warranted the additional cost.

**Councilor Sweeney offered a motion, seconded by Councilor Kahle, to approve extending the Preliminary Plat of Great Northern Heights Phase 3A for an additional 24 months, adopting the staff report as findings of fact (WPP-08-56). The motion passed unanimously**

**6c. Ordinance 13-06; An Ordinance amending Whitefish City Code Title 11 Zoning Regulations and Title 12 Subdivision Regulations within the bounds of State law (First Reading) (p. 84)**

Planner Compton-Ring reported on a request by the City of Whitefish to amend the subdivision regulations to implement the various bills related to the Subdivision Regulations from the 2013 Legislative Session. Similar to the 2009 Legislative Changes, the City updated the Subdivision Regulations in 2010 and 2011.

- *Senate Bill 40* does not allow jurisdictions to have a subdivision application submittal deadline. Also, an application is considered 'received' the date the application is submitted with any required fees. (§12-3-4A) She said the City likes to give recommended deadlines so people know what to expect for their application review process. The City is currently operating in this manner so it doesn't change the process.

- *Senate Bill 293* added language to identify if a subdivision is proposing a public water or sewer system and whether or not they are subject to the jurisdiction of the Public Service Commission. (§12-4-18, §12-4-19) She said Iron Horse is a local example.
- *Senate Bill 316* added language that if someone is proposing a subdivision with wells that the 100-foot isolation zone is located wholly within the boundaries of the subdivision unless the adjacent landowner authorizes the encroachment. (§12-4-18). Planner Compton-Ring said neither SB 293 nor SB 316 really applies to projects within the City.
- *Senate Bill 324* is the ‘fix’ for the attorney general opinion issued in 2012 concerning subdivisions for rent or for lease. The bill exempts jurisdictions such as Whitefish that have zoning from the provisions of Subdivisions for Lease or Rent unlike portions of the east side of the state who don’t have zoning. As such, the design standards for Manufactured Home Parks, Recreation Vehicle Parks and Campgrounds need to be moved into the zoning regulations. Staff is not proposing to make any changes, simply move them from the Subdivision Regulations to the Zoning Regulations.

The Whitefish City-County Planning Board held a public hearing on August 15, 2013. Following this hearing, the Planning Board unanimously recommended approval of the text amendments and adopted the supporting findings of fact in the staff report.

Staff has recommended approval of the proposed changes as attached to an Ordinance starting on Page 84 in the Council Packet.

Councilor Mitchell asked and Planner Compton-Ring said Senate Bill 40 requires them to establish a ‘received’ date, but they still do the standard review to determine if the applicant has all the elements for the application and whether it is sufficient for review and then they have 90 working days to come up with a decision. Councilor Mitchell asked if any of the proposed changes were other than items related to the Senate Bills and she said no, all changes relate to the Senate Bills.

Mayor Muhlfeld opened the public hearing. No one wished to speak and the public hearing was closed.

**Councilor Hildner offered a motion, seconded by Councilor Kahle, to approve Ordinance 13-06; An Ordinance amending Whitefish City Code Title 11 Zoning Regulations and Title 12 Subdivision Regulations within the bounds of State law (First Reading), adopting the staff report as findings of fact (WSUB 13-01). The motion passed unanimously**

## **7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**

### **7a. Consideration of amending the Sewer Plant Improvements contract with Anderson-Montgomery Engineers to provide for Nutrient Trading grant services and Watershed study for the DNRC grant (p. 187)**

Public Works Director Wilson said the City entered into a consultant contract with Anderson-Montgomery Consulting, Inc. in October 2012 for the Wastewater System Improvements Project. They have a long term agreement and they are in the planning stages. The City has been awarded two planning grants from the Montana Department of Natural Resources and Conservation for these closely related projects and

is currently finalizing those grant agreements. The grant amounts are \$100,000 for the Nutrient Reduction Plan and \$50,000 for the Whitefish Lake Watershed Assessment with a City contribution of \$10,000 in local wastewater funds.

Mayor Muhlfeld asked about the timeline for the nutrient trading plan and Director Wilson said he thought it will be done early next summer. Councilor Hildner asked if the study will encompass the time of maximum erosion and Director Wilson said it is a broader study to identify issues with some flexibility. The watershed assessment will set the stage for other grants.

The proposed amendment will increase the amount of the consultant contract for the Wastewater System Improvements Project by \$160,000, for a total contract amount of \$365,711. Funds for this amendment are included in the adopted FY14 Wastewater Budget.

**Councilor Hildner offered a motion, seconded by Councilor Sweeney, to approve an amendment to the Wastewater System Improvements Project consultant contract with Anderson-Montgomery Consulting in the amount of \$160,000, contingent upon the execution of associated grant agreements with the Montana Department of Natural Resources and Conservation funded as indicated in the staff report. The motion passed unanimously.**

**7b. Discussion and direction for implementing annual inflationary increases of 5.7% for water and sewer rates and 3% for garbage/solid waste rates (Two motions) (p. 190)**

Director Wilson said they saw this same request last year. In 2006 and 2007, the City Council adopted Resolutions 6-51 and 7-12, which generally provide for water and sewer rates to be adjusted on October 1<sup>st</sup> of each year “based on the increase, if any, in the U.S. Department of Labor’s Water, Sewer and Trash Collection Services Consumer Price Index for All Urban Consumers for the twelve-month period ending the preceding December 31.” He said they are looking for direction at this point. Manager Stearns said they couldn’t get the resolution done for the packet because some of the staff was out of town, so they want direction on this item tonight and then they will have a resolution for the public hearing at the next meeting.

Councilor Hyatt asked and Director Wilson said they always use the CPI for this rate. Councilor Hyatt said if there is a 5.7% increase for 5 years it would be 25%. He said 5.7% is a large chunk during financial difficult times. He said it would be a cumulative \$330 over 5 years.

Mayor Muhlfeld asked the Council to split this and consider the trash collection increase first.

From the Staff Report: Resolution 11-52 was adopted in October 2011, approving a new five year contract for solid waste hauling services and providing a 3% annual increase for contract fees, as well as a 3% annual increase for user rates. In the course of adopting Resolution 11-52 for solid waste services, the City Council indicated a preference to forego the annual 3% user rate increase in those years when cash reserves are sufficient to cover the increased charges for contract hauling. Reports show the Solid Waste Fund currently has approximately \$78,000 in cash reserves, with projections for that amount to increase slightly under the current rate schedule in FY14. If enacted, a 3% rate increase would result in an additional charge of approximately \$0.25 per month for a typical single family home.

Councilor Mitchell said they agreed in the past to raise rates only if they need to do it and since they have a reserve he doesn’t think they need to do it this year. Councilor Sweeney said it makes sense to increase it annually so they stay ahead of any significant bumps they might encounter. Councilor Kahle asked and Director Wilson said their contract with North Valley Refuse increases by 3% annually. Director Wilson said things come up and right now they need to deal with bear issues and they may need to increase the number of

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bear resistant containers. Councilor Kahle said he is okay with the increase since they are passing on an increase they have to meet from the contractor. Councilor Hyatt asked and Director Wilson said with the 3% the total revenue would be about \$748,170; a change of about \$22,445. Manager Stearns said they need to remember that those balances are affected by the major projects in process and a pass-through amount to pay for the contracted services. Councilor Hildner said he agreed with Director Wilson that this allows them an opportunity to get ahead of the bear resistant container need City-wide. He said it would also give them money to work toward improving their recycling program. Manager Stearns said on packet page 203 he shows the summary budget of each of the funds. He said solid waste began with a \$75,000 cash balance and this would add to the cash reserves by about \$9,000. Based on Council's indication, they will prepare the resolution for a 3% increase for solid waste for the public hearing at the next meeting, he said.

Councilor Hildner said they have some major expenses coming up in the near future for the wastewater plant so he thinks they need to make this incremental raise this year. He said they don't have to recommend a 5.7% wastewater increase each year. Councilor Hyatt agreed that they need to do something, but he was only willing to go up 3%. Councilor Kahle said he needs to justify it with the cost to the City and he is not willing to commit to a specific amount before the public hearing. Director Wilson said their budget is mixed with capital projects but he thinks the CPI is a reasonable process. He said there was resistance to raising this last year, but there was discussion that they have a big wastewater project coming and they will either have to borrow millions of dollars in the future to deal with it and raise the rates dramatically, or they can raise them incrementally. Councilor Sweeney said he thinks that for fiscal soundness they need to consider the increase and he thinks the CPI gives them a pretty accurate basis for setting the fees. He would be in support of an increase. Councilor Mitchell said he would agree to a minimal increase; he thinks they have one of the highest water rates in the State of Montana. Director Wilson said they had a \$6 million debt for the water treatment plant and that is why the rates are so high. He said he would like to see incremental raises to prepare for the costs. Director Wilson said at issue is the imposition of the EPA standards and the increased cost to cities in Montana. Councilor Hyatt said the economy hasn't come back as well in Whitefish as it has in other places in the state, like Billings. He said they gave the employees a 3.7% raise so he thought this was a little out of the realm. Councilor Hildner said he doesn't have any figures to compare their economy to Billings. Mayor Muhlfeld said that in summarizing their comments he would say that they are indicating support, after they hear from the public, for an increase of from 3-5.7%. He said the Council had dedicated money for City Hall and wondered if this \$10-\$15 million project should have funding set aside annually in anticipation of these capital expenses. Director Wilson said he intends to ask the engineering team to prepare a timeline for improvements and estimated costs. He said there are needs that they have annually in addition to the big projects. He said it will be part of the feasibility study.

Manager Stearns said there are other needs in water and sewer for capital expenditures. He said Councilor Anderson started to bring up the discussions on smaller capital improvement projects. They need to look at the big projects and the annual improvements. Sooner or later there will be a rate increase. Manager Stearns said he heard from their discussions that there were two Councilors who want 5.7% increase, one who is reserving judgment until after the public hearing and two who are recommending a lower rate. He said the resolution leaves it at 5.7% unless they change it. He said staff could show an exhibit to the Council on the effect on rates at the various percentage rate increases from 3-5.7%. The FY14 adopted budget does not include any rate increases.

### **8. COMMUNICATIONS FROM CITY MANAGER**

**8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 205) -**  
None.

**8b. Other items arising between September 11<sup>th</sup> and September 16<sup>th</sup>**

Manager Stearns said he attended a 911 Board Meeting and one item on the agenda was to provide them with an update on future funding. Two years ago a committee recommended a county wide property tax levy and the city's would get out of an annual contribution. One option is a flat fee similar to the landfill fee. He said the county attorney would look into that because a tax levy might raise a lot of opposition and this might be fairer. They followed up on a letter from Mayor Tammi Fisher from Kalispell about the board structure. She recommended that it be made up by the county sheriff, three city managers and the county administrator. The County had concerns because they would be outvoted by the cities. In the end the Board voted not to make any recommendation to change the Board structure. They feel the funding should be revised and if the funding goes to a county level then it could be handled by a county office. Mayor Muhlfeld said he will step down from the 911 Board and is recommending that they fill his position with Chief Dial leaving Turner Askew to continue as the alternate. That will be on a future agenda.

Councilor Mitchell asked and Manager Stearns said the committee has an elected official or designee from each of the cities, the county sheriff, a county commissioner and a county attorney. There has been some concern that a 6 member committee doesn't allow for breaking of ties. Councilor Mitchell said he liked that they could send an elected individual from each city. Chief Dial said he was in Billings last week and they talked about funding. Gallatin County just passed a county wide levy and he said people are pro-emergency services right now. He said Yellowstone County has meth possession cases they are going to have to dismiss because they don't have enough staff to handle it.

Manager Stearns said the City had a problem with the outgoing email system since Friday. He said Greg Acton is working on this problem and he hopes they will get it resolved by tomorrow. He apologized that people may have been waiting on information from the City.

## **9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

**9a. Standing budget item - None.**

**9b. Letter from Kate Orozco, Superintendent of Whitefish School District 44 requesting reimbursement of impact fees assessed on the high school project in the amount of \$66,714.69 (p. 210) - Withdrawn**

**9c. Letter from Mary (Muldown) Ronfeldt, Michael Jennings Muldown, Anne (Jennings) Jackson, Charles Timothy Jennings, and Margaret (Muldown) Koonce regarding proposed annexation of Jennings Lakeside Road properties (p. 211)**

Councilor Mitchell said he wished they had a way to get more people to join the sewer system to help the lake. Every time they annex they get negative feedback because it costs folks a lot. He wishes there was a reward for those who hook up early. Manager Stearns said this goes back to the concerted effort in 1997-1998 the City made for those property owners on city services. The City was sued and in 2004 the City won the lawsuit and those properties were brought into the City. There are a number of properties that were spared the annexation since 1997 so they've had 17 years of being on city services without being in the City; but, he said, that will never satisfy people. He asked them to think about the Whitefish Wastewater Committee work. They might propose that if people are not on the sewer system we might make a contribution if they connect within a year. It could be between \$100 and \$500. When he worked with Missoula they rebated \$1200 at \$100/year to defray their SID for connecting onto the sewer system. He said people won't connect to City sewer because the cost is too high for connecting and also being annexed. He said everyone's taxes will go up approximately 19% - 20% and those are

expensive properties, so they will feel the sting. He said people like living un-annexed because they don't want to pay property tax, but they like to use City services. Councilor Mitchell asked and Manager Stearns said those who aren't annexed pay higher rates for sewer services, determined by the number of lift stations and/or the complexity of their system. Councilor Mitchell said on Houston Drive there are 3 properties that are not in the City so he wondered how they could be annexed. Manager Stearns said Houston Drive would be annexed because the area is wholly surrounded. Councilor Mitchell asked and Attorney VanBuskirk said it is appropriate according to Montana Law. Councilor Kahle agreed that these folks haven't been annexed for 17 years, but they paid to connect to the sewer and protect the lake, and they paid higher sewer fees, so they've provided a benefit to the City by being connected to the sewer and not to aging septic tanks. He sits on the ad hoc Whitefish Community Wastewater Committee where they have discussed a number of different methods and strategies. Mayor Muhlfeld said when they extended the East Lakeshore sewer main in the 1990's was paid for primarily by grants and it was a big project that cost the City a lot. He thinks people in Rest Haven connected because they knew their fields were failing.

**9d. Letter from Thomas Q. Johnson regarding proposed annexation of residence on Jennings Lakeside Road (p. 212) - None.**

**9e. Select two elected officials for engineering selection committee for two projects**

Director Wilson said there are two consultant processes: one is the water main improvement and infrastructure improvements—design, water line replacement on Somers Avenue and Columbia Avenue Bridge. He said their plan is to improve drainage. The second is the Birch Point lift station project and Miller Lift station at the end of City Beach. Mayor Muhlfeld asked and Director Wilson said it is important to move forward with surveying work before winter.

Councilor Hildner volunteered for the sewer improvement projects. Councilor Mitchell asked and Director Wilson said they have the BNSF easements for the lift station. Director Wilson said they didn't need a new easement with BN; they just amended an easement they already have on Birch Point Drive. Councilor Sweeney volunteered for the water improvement projects; meeting on the 23<sup>rd</sup>.

**9f. Consideration of requesting that Montana Department of Transportation perform a speed study on Wisconsin Avenue (p. 213)**

Director Wilson said a member of the Council has requested, but he needs the Council's direction, before he asks MDOT to conduct a speed study on Wisconsin Avenue. Mayor Muhlfeld said the flashing pedestrian light at Whitefish Lake Lodge doesn't work. Councilor Hildner said the solar collector is on the wrong side of the sky bridge. Director Wilson said the speed limit could go up if 85% of the drivers are going faster. Manager Stearns agreed. He said the current speed limit is 45 mph, but it could go up and they are stuck with what they find. Councilor Kahle said he thought that once they get past the Lodge it should increase. Mayor Muhlfeld said the biggest problem is from Hidden Moose Lodge because of the Reservoir Road traffic pulling out. The Councilors agreed to approve for Director Wilson to ask for a speed limit study on Wisconsin Avenue.

**9g. Letter and update on activities from Montana West Economic Development Corp. (p. 216)**  
None.

**9h. Consideration of continuing the annual tradition of cancelling the December 16, 2013 City Council meeting**

Mayor Muhlfeld asked and there was consensus to cancel the December 16, 2013 meeting.

Council Comments:

Councilor Hyatt said, as a Park Board member, they would like to request that Staff prepare a resolution creating a committee to develop a master plan for Mountain Trails Park. Director Cozad said it was similar to the committee they had for Depot Park. The Councilors indicated their consent.

Councilor Hyatt said he has a child who is a student at the North Valley Music School and wondered if they could bring it up at a future date. Manager Stearns asked what their request would be. Councilor Hildner said it is a major change in the Sign Ordinance with possible widespread effect and he thinks it will require more than just a simple meeting. He thinks they need to go through the Sign Ordinance process. Councilor Hyatt said that the other schools are allowed to have these signs and wondered if they could have a sign. Director Taylor said they can get a banner permit for special events, but no reader board. Councilor Kahle asked and Director Taylor said churches and schools and public facilities can have reader boards. Any other reader boards they see around town were grandfathered in. Councilor Kahle said the school is a non-profit. He sees the difference between a public facility and a karate or music school, but he sees it as a slippery slope. Councilor Sweeney agreed with Councilors Kahle and Hildner. He said there are piano and dance schools who might want one, too. Councilor Mitchell asked and Director Taylor said he thinks the regulation specifies public and private schools for grades K-12. Director Taylor said performing arts centers are in their own section in the Code. Councilor Mitchell said they are treating public facilities different than private facilities. He wondered if they could change it to \$500 for the variance fees. Mayor Muhlfeld said the Planning Department has 90 requests in the hopper; he doesn't think it is time to burden staff with the request to investigate changes to the sign code.

Councilor Mitchell said he appreciated Don Cutforth's comments on the river restrictions. They don't want a river just for kayakers. He agreed that they could set restrictions based on minimal horsepower. Councilor Mitchell asked and Director Cozad said they opened the Ice Rink on September 1<sup>st</sup> at the request of a specific group who paid the fee up front for the time.

Councilor Mitchell said there was a work session coming up on the parking garage. He said they made a motion to have a BID instead of an SID. He was disappointed because former Mayor Jenson said that they were trying to see if there was a buy-in from Heart of Whitefish. If that wasn't going to happen they were going to look at whether they were doing a parking garage. He said if they pass an SID it can be challenged by the people in the SID district and Attorney VanBuskirk agreed. Then, he said, the people of Whitefish would end up paying for the parking garage. He said there was talk about leasing 100 spaces for \$40/month would generate \$65,000. If they don't fill all those spaces, they won't get that much money. He thought they should ask for a BID from the sub-committee, not an SID. He said if the City builds the structure then he thinks the BID should pay for the maintenance. Mayor Muhlfeld said the working group is comprised of Chuck Stearns, two representatives from the Chamber, two from Heart of Whitefish, City Clerk Lorang and Finance Director Knapp was on it. He said the Council has indicated they don't want to spend any more money until they figure out the financing for the maintenance. He said it would be valuable for every business to free up parking for customers. Councilor Hyatt said he thought they wanted a BID because it was beneficial to the downtown and it had different boundaries.

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Manager Stearns said the boundaries that are the same for an SID or a BID. Councilor Kahle asked and Attorney VanBuskirk said by statute there are particular expenses or activities that can be under an SID or a BID. She said a BID needs an application from 60% of the businesses, but the SID is created by the Council with a protest level that has to be greater than 50%. Councilor Kahle said the funding of the operation and maintenance of the parking structure was reasonable from the people who are going to be benefiting from the parking structure. Mayor Muhlfeld said he thought a BID was more appropriate for operations and maintenance (O and M) for funding, but now we are considering that a SID might be better. He also wants the buy-in of the downtown businesses; either way, we need the funding. Councilor Mitchell said the motion talked about a BID for funding for O and M and it passed. He expected the committee to come back with a BID. Manager Stearns said that motion was made before the Council really understood what a BID was. The committee got more information, and thought they came back with a better idea with an SID. He said at the next work session they can discuss it again. Councilor Hildner said he seconded that motion. They moved to consider it; it was not a decision. He thought they needed to consider the new information to come up with the best decision. Councilor Hyatt said he mentioned an SID or a BID in the minutes. Mayor Muhlfeld said that as Manager Stearns indicated the Council didn't have all the information on the night the initial motion was made, but it is coming back.

Mayor Muhlfeld said he attended a meeting on the Crown of the Continent up in East Glacier. They are working for large landscape conservation. He was able to discuss the Whitefish Trail project, the Neighborhood Plan and the Haskill Basin project with the DNRC. He said he left feeling proud of the work Whitefish has done to protect open spaces and water quality; there aren't many communities doing what they have accomplished. He said he also attended the Woods Lake Trail opening. He gave kudos to the Whitefish Legacy Partners, Karl Cozad, Mary VanBuskirk and Councilor John Anderson for all their hard work.

**10. ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)

Mayor Muhlfeld adjourned the meeting at 9:35 p.m.

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Mayor Muhlfeld

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Jane Latus Emmert, Recording Secretary

Attest:

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Necile Lorang, City Clerk