

WHITEFISH CITY COUNCIL MINUTES

October 21, 2013

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Anderson, Kahle and Hyatt. Councilors Hildner and Mitchell were absent. City Staff present were City Manager Stearns, Assistant City Clerk Woodbeck, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Planner Minnich, Public Works Director Wilson, Police Chief Dial, and Fire Chief Kennelly. Approximately 40 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Steve Lull to lead the audience in the Pledge of Allegiance.

Mayor Muhlfeld said item #7 has been postponed at the request of the applicant.

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)

None.

4. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Kahle said the Resort Tax Committee met and addressed the priority list. He heard from the property owners out on 7th Street with concerns about re-building that road. He said there has been a substantial increase in the collection of Resort Tax because it was a good summer.

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 October 7, 2013 Council regular session (p. 18)

5b. Consideration of approving application from Irene Hurly Jones and Dick Hurly for Whitefish Lake and Lakeshore Permit (#WLP-13-W34) at 1350 Wisconsin Avenue to install a 480 square foot I-shaped EZ dock subject to 11 conditions (p. 31)

5c. Consideration of approving an application from Ross A & Coleen H Pickert for a final plat for Park Place subdivision, a 2-lot subdivision located at 1035 Park Avenue (p. 54)

5d. Consideration of approving an application from Bevill Limited Partnership for a final plat for Orchard Lane 2 subdivision, a 2-lot subdivision located at 463 & 465 Colorado Avenue (p. 85)

Councilor Anderson offered a motion, seconded by Councilor Hyatt, to approve the consent agenda. The motion passed unanimously.

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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. Ordinance No. 13-07; An Ordinance rezoning a parcel of land known as 6010 Highway 93 S, approximately 5.766 acres, from County Suburban Agriculture and City Agriculture to Whitefish Country Residential (1st Reading) (p. 118)

Senior Planner Wendy Compton-Ring reported on a request by Colleen Turner to rezone one lot with three zoning designations from WB-2 (Secondary Commercial District), WA (Agricultural District) and SAG-5 (County Suburban Agriculture); to WB-2 (Secondary Commercial District) and WCR (Country Residential District) in order to facilitate a two-lot subdivision. The lot is 5.766 acres at 6010 Highway 93 S.

The tract is zoned WB-2 (Secondary Commercial District) along the front nearly half of the lot. The applicant is proposing to retain the commercial designation. The back part of the lot is zoned both WA (Agricultural District) and SAG-5 (Flathead County Suburban Agriculture). The applicant is proposing to change the two residential zoning designations to WCR (Country Residential) in order to facilitate a future two-lot subdivision with the commercial zone on one lot and the residential zone on another lot. This complies with the Growth Policy which identifies this property as both Suburban Residential and Rural Residential. The subject property is located outside the city limits of Whitefish, but within the Whitefish Planning Jurisdiction.

Notice was mailed to adjacent land owners within 150-feet of the subject properties on August 30, 2013. A notice was published in the *Whitefish Pilot* on September 4, 2013. A notice was emailed to advisory agencies on August 30, 2013. One email was written in support of the application.

Planner Compton-Ring reviewed the findings and noted the proposed zone change is in conformance with the Growth Policy which promotes public interest, health, comfort and general welfare. The proposed change has no impact on fire and other dangers. The property is located outside city limits in a rural area and will not be connecting to municipal water and sewerage. As described above, the applicant intends to do a two-lot subdivision and construct one single family home which should have minimal impact on the schools, parks and other public facilities. Zoning and other city standards will prevent the overcrowding of the land. The proposed zone change will not affect motorized and nonmotorized transportation systems. The suitability of the zone change is in conformance with the Growth Policy and existing development in the area.

The Whitefish City-County Planning Board met on September 19, 2013 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

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

Councilor Anderson offered a motion, seconded by Councilor Kahle, to adopt the staff report (WZC 13-04) as findings of fact and approve Ordinance No. 13-07; An Ordinance rezoning a parcel of land known as 6010 Highway 93 S, approximately 5.766 acres, from County Suburban

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Agriculture and City Agriculture to Whitefish Country Residential (1st Reading). The motion passed unanimously.

6b. Ordinance No. 13-08; An Ordinance rezoning a parcel of land known as 6200 Highway 93 S, approximately 13.888 acres, from Whitefish Agriculture to Whitefish Estate Residential and Whitefish Secondary Business (1st Reading) (p. 145)

Senior Planner Wendy Compton-Ring reported on a request by Sands Surveying on behalf of Eagle Enterprises llc for a rezone of two lots with two zoning designations (WA – Agricultural District and WB-2 – Secondary Commercial District); to two zoning designations (WER – Estate Residential and WB-2 – Secondary Commercial). The property is located at 6200 Highway 93 S and is 13.888 acres. The properties are developed with a funeral home on the front parcel and a single family home in the back. The Growth Policy identifies these properties as both General Commercial and Suburban Residential.

Notice was mailed to adjacent land owners within 150-feet of the subject properties on August 30, 2013. A notice was published in the *Whitefish Pilot* on September 4, 2013. A notice was emailed to advisory agencies on August 30, 2013. No comments have been received.

The Growth Policy designates Tract 3BD as General Commercial. This tract is 1.92 acres. Tract 3B, 11.26 acres, has two Growth Policy designations – Suburban Residential and General Commercial. The boundary between the General Commercial and Suburban Residential falls along the front of the property thereby splitting the lot into two designations. The WER (Estate Residential District) proposed for the back approximate 700 feet would be in conformance with the Suburban Residential land use designation. The Suburban Residential land use designation is consistent with WCR (Country Residential District) WSR (Suburban Residential District) and WER (Estate Residential District).

The applicant would like to expand the WB-2 (Secondary Commercial District) so the depth of the commercial equals what is on the other side of the highway at 450-feet. This would require an expansion of approximately 70 to 100 feet toward the west. The applicant contends that the commercial line should match the depth of the commercial across the street. When reviewing the commercial zoning it appears that it lines up with the parcels to the south that are zoned commercial (Midway Rental parcels) so as to not align with the residential lots of Great Northern Heights, as this could potentially be in conflict with the residential uses. However, there is considerable topographic change between the Great Northern Heights subdivision at that location. In addition, creating a straight line that parallels the front property line could make planning for development (residential and commercial) easier. The applicant doesn't have a proposal at this time, but he has plenty of room for development. At the time of development all of the issues would be reviewed to confirm compliance with the Growth Policy.

The Whitefish City-County Planning Board met on September 19, 2013 and considered the requested rezone. Following the public hearing, the Planning Board unanimously recommended approval of the above referenced rezone and adopted the staff report as findings of fact.

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

Councilor Sweeney offered a motion, seconded by Councilor Hyatt, to adopt the staff report (WZC 13-05) as findings of fact and approve Ordinance No. 13-08; An Ordinance rezoning

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a parcel of land known as 6200 Highway 93 S, approximately 13.888 acres, from Whitefish Agriculture to Whitefish Estate Residential and Whitefish Secondary Business (1st Reading). The motion passed unanimously.

6c. Ordinance No. 13-09; An Ordinance rezoning a parcel of land known as 320 Haugen Heights, approximately 35.359 acres, from Whitefish Country Residential to Whitefish Estate Residential (1st Reading) and approval of the Preliminary Plat for Tamarack Ridge (Two motions – One on rezoning ordinance and one to approve Preliminary Plat) (p. 170)

Mayor Muhlfeld said that a valid zoning protest was filed with the City; 25% of the property owners with 150 feet protested requiring 4 votes for it to be approved. The signatures were verified by the City's Clerk's office.

Senior Planner Wendy Compton-Ring said she would combine her staff report to cover the zone change and then the preliminary plat.

ZONE CHANGE

Senior Planner Compton-Ring said this is a request by Sands Surveying on behalf of Haugen Heights llc for a rezone of two lots with the zoning designation of WCR (Country Residential District) to WER (Estate Residential District). The property is located at 320 Haugen Heights Road to the west/northwest of the Old Town neighborhood and is 35.359 acres. These two parcels of land are zoned WCR (Country Residential District) and have a Growth Policy Land Use designation of Suburban Residential. The applicant is proposing to change the zoning to WER (Estate Residential District) in order to facilitate a subdivision (WPP 13-04). The subject properties are located outside the city limits of Whitefish, but within the Whitefish Planning Jurisdiction and are expected to annex into the City as part of the subdivision development. The minimum lot size for WER is 20,000 square feet (.459 acres.) The properties are developed with one single family home that will remain and be located on its own lot.

The WER (Estate Residential District) proposed would be in conformance with the Suburban Residential Growth Policy designation. The Suburban Residential land use designation is consistent with WCR (Country Residential District) WSR (Suburban Residential District) and WER (Estate Residential District). She said the previous 1997 and 1986 Master Plans were consistent with these standards. The proposed zone change will not increase dangers from fire or panic. The applicant is proposing to extend water and sewer as part of the subdivision development. Parkland development will also be addressed as part of the subdivision application. The proposed zoning designation includes setbacks, maximum building height and lot coverage. In addition, all future construction will require conformance with the Building Code, as the subdivision will be annexed into the City limits. The applicant submitted a traffic impact analysis along with the subdivision application. The project is located in an area with proposed bike paths to downtown that will be constructed as part of the Highway 93 W project. In addition, State Park Road is on the City's list of streets to be reconstructed. As of 2011, State Park Road is scheduled for 2019-2021 construction between Highway 93 W and the railroad tracks.

The applicant is proposing a subdivision that is a transition from the urban development to the east and more suburban-scale development with larger lots to the west, but still connected to public services and facilities. The proposed development is more acceptable than expanding into valuable rural

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areas, as it is next to urban-scale development with access to all public services and facilities. The applicant has considered the character of the development by preserving trees and limiting their removal. They are proposing private streets with very low-level lighting to be a transition neighborhood from the urban-scale development to more rural areas to the west.

She noted that a zoning protest was filed with the City and if 25% of the property owners within 150 feet protest then it requires 4 votes of the Council for it to be approved. The signatures were verified by the City's Clerk's office.

A joint zone change and preliminary plat notice was mailed to adjacent land owners within 300-feet of the subject properties on August 30, 2013. A notice was published in the *Whitefish Pilot* on September 4, 2013. A notice was emailed to advisory agencies on August 30, 2013. As of the writing of the staff report, three emails not in support of the rezone were received.

The Whitefish City-County Planning Board met on September 19, 2013 and considered the requested rezone. Following the public hearing, the Planning Board recommended approval of the above referenced rezone and adopted the staff report as findings of fact. Neighbors to the project spoke at the Planning Board public hearing. Comments were related to both the rezone request and the accompanying preliminary plat request. Comments specific to the rezone include: the current zoning is a better fit for the neighborhood and concerned that the rezone will facilitate the subdivision.

PRELIMINARY PLAT

The applicant is proposing a 32-lot subdivision on a total of 29.676 acres. Gross density of the subdivision is 0.927 dwelling units per acre. With the exception of six lots that front Haugen Heights Road, a public street, all homes will be served by a private street system internal to the subdivision that will terminate in two cul de sacs – one toward the northwest and one toward the southeast. The private streets will have a 5-foot wide sidewalk on one side which will continue down Haugen Heights and connect to the sidewalk adjacent to the Old Town neighborhood. In lieu of dedicating parkland, the applicant is proposing to provide cash-in-lieu that is equivalent to 1.736 acres. The applicant has appeared before the Park Board and they are recommending the Council accept the cash-in-lieu of the land dedication. In making their determination, the Park Board found the location would be undesirable for a public park. The cash will be paid at the time of final plat and will be used within the district of the subdivision to acquire or develop parkland.

A subdivision variance is being requested.

- Street standards from a local residential public street section to a private street section with LID (low impact development) swales, a 5-foot sidewalk on one side of the road with an alternative lighting plan and no street trees. This road would be open to the public, but maintained by the Phase 3 Homeowners' Association. The application points to the rural/wooded nature of the property and its location on the edge of the urban area as a factor requesting the alternative design.

A notice with the plan was mailed to adjacent land owners within 300-feet of the subject parcel on August 30, 2013. A sign was posted on the property on September 3, 2013. Advisory agencies were

noticed on August 30, 2013. A notice was published in the Whitefish Pilot on September 4, 2013. Seven letters were received with the following concerns:

- Noticing of neighborhood;
- Traffic;
- Character of neighborhood;
- Emergency access and exiting;
- Honor past land use decisions;
- Drainage;
- Water pressure in adjacent neighborhood;
- Consideration for traffic calming devices on Haugen Heights;
- Concern for additional taxes and fees;
- High groundwater; and
- Impact on wildlife.

Two letters were received today from folks who were in support of the project.

The Whitefish Fire Marshal reviewed and will approve the placement and design of all fire hydrants prior to their installation and emergency access for the proposed private streets. The Fire Department is satisfied with road and cul de sac layout.

The property is at the base of Lion Mountain and a portion of the property, near Haugen Heights, has been thinned in recent years. There are a number of standards within the Subdivision Regulations that address the Wildland Urban Interface in order to protect the residents of the proposed neighborhood and the adjoining neighborhoods. Planning Board recommended these as conditions of approval.

The subdivision is proposed to access off Haugen Heights Road, a public street. This public street will be improved as it is currently not paved. The applicant is proposing a 5-foot sidewalk on one side that would connect to the sidewalk along the side of the Old Town subdivision, as there is limited right-of-way and it is off-set from the Haugen Heights Road section adjacent to Old Town. The applicant will need to work with the Public Works Department to determine an acceptable design and alignment for this roadway. All roads within the subdivision are proposed to be privately owned and maintained, but open to the public.

According to the Traffic Impact Study, the project will generate 306 total daily trips – 32 trips during the PM Peak Hour (between 4:30 and 5:30 PM). The streets affected by the proposal are operating at a Level ‘A’ and will continue to do so after build-out of the development.

The area is not mapped by the Montana Department of Fish, Wildlife and Parks as important winter range for big game. Nor is the area mapped by the Montana Natural Heritage Program as an area containing plant or animal species of concern. However, it is likely that deer and other animals use the site. The developer will extend Municipal water and sewer to the subdivision thereby minimizing any potential impacts to the groundwater.

The site is sloping from the west to the east and, according to the Environmental Assessment, drops a total of 170-feet. By using narrower streets and a detached sidewalk on one side of the street,

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they are attempting to limit the cut and fill needed to install the streets and maintain the natural topography of the property. The applicant is proposing to install swales on either side of the streets and on the several lots with drainage easements. The preliminary plan does not show any identified stormwater/open space/common areas for stormwater facilities. This plan will be reviewed by the City and will be required to meet all current stormwater standards.

The project proposes to utilize the City water system. The extensions from the main will be designed and constructed to City specifications to ensure minimum domestic and fire flow capability. The City received comments from neighbors regarding the domestic flows in homes in the Old Town neighborhood. According to the Public Works Department, this development will not reduce their water flow. The City has plans to extend a waterline from the Grouse Mountain neighborhood under Highway 93 W to Mountain Park. The line installation under the highway will occur with the next phase of the highway project, but the actual connection of the pipes to the water system will not occur immediately. This connection should help to alleviate some of the pressure issues.

The Whitefish Growth Policy designates this area as Suburban Residential which corresponds to WCR, WSR and WER zoning. The existing WCR and proposed WER both comply with the Growth Policy. The project complies with the Zoning regulations. Planner Compton-Ring reviewed some of the conditions for approval.

Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The improvements (water, sewer, roads, street lights, trails, driveways, etc.) within the development shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish's design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works. (City Engineering Standards, 2009)

Approval of the preliminary plat is subject to approval of detailed design of all on and off site improvements, including drainage. Through review of detailed road and drainage plans, applicant is advised that the number, density and/or location of building lots, as well as the location and width of the road right-of-way, and widths of rights-of-way shown on the preliminary plat may change depending upon constructability of roads, pedestrian walkways, and necessary retaining walls within the right-of-way, on-site retention needs, drainage easements or other drainage facilities or appurtenances needed to serve the subject property and/or upstream properties as applicable. This plan shall include a strategy for long-term maintenance. Fill on-site shall be the minimum needed to achieve positive drainage, and the detailed drainage plan will be reviewed by the City using that criterion. (City Engineering Standards, 2009)

Street and other on-site lighting shall be dark sky compliant and meet the requirements of the City's Outdoor Lighting ordinance. (Zoning Regulations §11-3-25)

The Whitefish City-County Planning Board met on September 19, 2013 and considered the requested preliminary plat. Following the public hearing, the Planning Board recommended approval of the preliminary plat and adopted the staff report as findings of fact. Neighbors to the project spoke at the Planning Board public hearing. Comments were related to both the rezone request and the

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accompanying preliminary plat request. Comments specific to the preliminary plat included: change in the character of the neighborhood, noise, dust, safety, traffic, loss of wildlife and their habitat, loss in value of their homes, loss in quality of life, urban wildland interface, lack of infrastructure to support projects in Whitefish, lack of parkland open space, and questions concerning the maintenance of the roads.

Ian Collins, 898 Blue Heron Drive, thanked the Council for their service and the opportunity to present the project tonight. He said John Collins, his partner is here, and Eric Mulcahy with Sands Surveying, and Tom Cowan with Carver Engineering, who was also the engineer on the Old Town project. He thanked Planner Compton-Ring for her report and said she has been very helpful.

Ian Collins showed the history of the project with a Powerpoint presentation. They want to create a suburban setting with large lots. Preservation of trees was an important part of their process. They think people will like the privacy as well as the convenience to downtown. There are great amenities available on this western section of town. In the southwest corner there is a 5.6 acre tract with a large home that remains in the design. There are a series of benches on the property which are suitable for home sites included in the design to preserve the wooded character of the property and tree buffers. One of the primary goals was to preserve the old forest feeling. They wanted to expand on the existing road and minimize the amount of disturbance to the existing trees. There would be a 20-foot paved road to replace the existing gravel road. They want to make a pedestrian path like Iron Horse has so it will allow them to meander around trees or other natural features. It would negate the need for retaining walls and cement and complement the forested nature of the site. The trails will be open to the public.

Eric Mulcahy, with Sands Surveying, showed the preliminary plat. He said they have ample room in their subdivision to expand the right-of-way to line the entrance road up with the southern boundary. They are confident they can make it work. The engineer developed the road crossing section for Haugen Heights so he is well aware of the issues that revolve around that. He reviewed the zoning adjacent to the property; one subdivision, zoned WR-2, is higher density, and the other, zoned WR3, is to the south east. Lion Mountain is WLR, so there is a mix of densities from urban to more rural densities. Their plan was to create a subdivision that was sensitive to the Growth Plan and transitioned those densities. The Growth Policy map shows this as suburban and urban designations so they are well within those provisions. He showed a map comparing the neighboring subdivisions and their density compared to their proposed density. Their proposal is less dense. He showed a recently approved subdivision on the edge of town called O'Brien Bluffs which is a dense urban development. He compared it to Creekwood which has 60% more lots than their proposal. He showed the design of the cul-de-sacs, which have been approved by the fire department. He noted that the Growth Policy supports their density, but the Growth Policy also has other components. One is water quality and looking at serving new developments with sewer and water services. They've selected this density to allow them to bring those services in to help protect water quality. If the density was 2.5 acres then they would probably have individual septic systems.

Ian Collins said they have put a lot of time and thought into this project. He said Whitefish needs attractive neighborhoods. The Tamarack Ridge is a tasteful project and he hopes they will support them as they move forward.

Mayor Muhlfeld opened the public hearing.

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Michael Dailey, 331 Stumptown Loop, thanked them for their service. He said intent means “plan or purpose.” He said they moved here with the intent of having quiet tranquility. They were told the property above them was zoned for 11 homes. The intent of the zoning was to avoid over developing the land. It has been designated suburban residential WCR with intent. He said the Growth Policy was developed with the public’s input. The attributes that the citizens of Whitefish care about are in direct conflict to this zoning proposal. He said the *Whitefish Pilot* included comments from City officials stating that the infill policy discourages urban sprawl. Whitefish has about 1,000 lots that could be built on that are already platted with utilities. In 2011 and 2012 they only built about 100 lots. It is not time to propagate additional build up. He asked them to listen to the wishes and wants of the neighbors. They believe they will be impacted by water run off and safety issues.

Becky Normile, 210 Trestle View Court, is on the board for Old Town. She is not in favor of changing the zoning from WCR to Estate Residential. She said traffic is an important issue. She said 306 extra trips have an impact on Haugen Heights and State Park Road. She said Old Town isn’t finished yet and that hasn’t been figured into the traffic study. This property is prime fox, bear, deer and mountain lion habitat. The current zoning for 11 lots would have less impact. The goal is to preserve open spaces and a 32-lot subdivision doesn’t accomplish that. She said Mr. Collins said 11 lots doesn’t pencil out for him. She was insulted by that statement. She said his pocketbook is not the City’s or the neighbor’s responsibility. It would impact the neighbors with noise, child safety and extreme traffic would make anyone think twice about purchasing existing properties. They don’t feel this subdivision respects the neighbors.

John Collins, 3080 E. Lakeshore Drive, thanked the City staff for their help and thanked the Council. He said Ian Collins and Eric Mulcahy have gone over the specifics, but he wanted to let them know that he and his son, Ian Collins, want to create a development that will be an asset to Whitefish. They are very sensitive to the comments they’ve heard and they’ll do everything they can to mitigate the impact and issues that arise during the development process. They want Tamarack Ridge to be a development the Council can be proud of approving. They think this is the right way to develop property and will serve as a model for how development can be economically feasible, sensitive to the land and to the interests of the community. He said there will be some traffic impact, but it is well within the structure of the road system. He said even at peak hour traffic they are only talking an 8-9 second average delay for getting onto State Park Road. He said it will have minimal impact. He thinks a lot of the comments are being blown out of proportion. He asked the neighbors to be reasonable about their concerns.

Ed Nissen, 190 Cliff Creek, said they currently live out of town and are trying to get into town. He said there is a lack of inventory similar to this project. They are attracted to the lot sizes and the preservation of natural forest. He said the City needs inventory like this and he thinks it will be a fantastic project. He thinks there are people trying to get away from higher density to something like this.

Steve Lull, 2440 Dillon Road, said the last time he came before them was to ask for the Dog Park and he thinks it worked really well. He said he is sympathetic to the neighbors. He has no connection to the development community, but he is here on his own volition. He said he lived in a suburb in Seattle that was below a .9 acre lot horse subdivision. It happened that in this subdivision the surrounding houses were built with an economy of scale. The homes immediately adjacent to the development had increases in their value across the board. In his experience the home prices would go

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up in value. He said he lives in the donut on 5 acres because he couldn't find a one acre lot in the City of Whitefish, especially one that was on the edge of town. He is surprised at how well thought out this project is. He said people in the adjacent Seattle neighborhood were allowed access to the new neighborhood and it appears that will happen with this proposal, too. He said this will be a financial net to the City because they will tie into the City system and maintain their own roads. He likes that they will provide connectivity to the bike system in the future. He likes that they are minimizing impervious surfaces. He thinks this subdivision serves the greater community well.

Shelly Means, 438 Ice House Terrace, said she is adjacent to the development. She thanked the Council. She said when they bought their lot in 2009 they chose very carefully. She said they were told that the property behind them could not be subdivided smaller than 2.5 acres. She said this development could decrease their home value. She said there are concerns about potential flooding from the subdivision being developed above them. She said increased traffic is a concern for those who have children in the neighborhood. She said the meadow behind them is a potential wetland. She disagreed with the previous speakers. She doesn't think they need more developments if there are over 900 lots available in town. She thinks they need to infill these lots first and avoid sprawl. She asked the Council to keep the zoning the same. She said that the areas to the north, south and west are large tracts of land with larger homes. She said their smaller lots would segue well into a subdivision with 2.5 acre lots. Wolf Tail Pines has large lots and large homes. Whitefish is unique and quaint because it has minimal sprawl. She asked them to deny the proposal.

Dave Means, 438 Ice House Terrace, said they are on the east lot line of the proposed development. He talked about the significant water issues in the area. There is high ground water, and both underground and above ground springs. On Meadowlark Lane there is a spring that runs year around. He said a 3 acre meadow behind their home is saturated with water through July. The soil in the area is consistent with wetland consideration. He said four homes are proposed for this wetland property. He said houses on Ice House Terrace have sump pumps due to high water table issues. He said high density could create significant water issues for surrounding properties. He said the water issue needs to be addressed more thoroughly and the density is too high. He suggested a comprehensive water analysis of the wetlands.

Mike Jenson, 919 Dakota Ave., said Ian Collins has always done a good job with development. He said there are few developers who kept developing through the recession. He said he and Ian Collins don't always see eye to eye, but he would consult with him about any issue because he has is level-headed and understands what needs to be done. He said if issues demand attention to climate or safety, Ian Collins is there. He said character doesn't warrant approval of any project, but it does point to quality. He said change is almost always controversial. Where would Whitefish be if they never approved changes? He said in the mid 1980's there were many vacancies in downtown Whitefish. He said all things change and they have the chance to guide change and to do it right. He said that Ian Collins will be involved in the sale and development of the lots—he isn't going to go away. This will have the largest lots of any neighborhood around it. He urged them to approve.

Robin Dailey, 331 Stumptown Loop, lives in Old Town, said she believes they should stick with the original vision for Old Town and the existing neighborhoods. She said building 32 homes is over-development. They are concerned about water runoff into their neighborhood and even into the lake. She said 306 more trips from this subdivision, plus the homes yet to be developed in Old Town, will make it become a busy, unsafe thoroughfare. She said at the Planning Board hearing they recommended

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a traffic slowing measure, but it won't change the amount of traffic. They had 65 original signatures of Old Town and surrounding neighbors on a petition in opposition to the zone change and she handed the Council a petition. She asked them to vote against the zone change.

Bob Melcer, 214 Trestle View Court, spoke in opposition. He isn't against the development with the existing zoning. He said the Planning Board was concerned it wouldn't pencil out, but that is not the basis for making a decision. He said neighbors believe it will have a negative impact on their neighborhoods and their safety. He said he believes it will impact the value of their existing homes. He said the proposed increase in density will triple the allowable impervious surfaces. Between the roofs, roadways and elimination of forest if there was a one inch rain event they could fill up two swimming pools worth of water. He said Whitefish Lake and Whitefish Golf Course and his home are all below this development. He said watersheds are an important issue and they need to control run-off. He said Mountain Park subdivision's retention pond ended up not working. He lived in Northwoods and it is a hillside community as well. He said the experts designed plans for run-off and many of them failed. He said he spoke with Virgil Bench who commented on how unpredictable water issues have been in this area. He said the increase in density is unacceptable and the City has no compelling reason to develop the property. This developer knew what the density was when he bought the property.

Meg Olson, 205 Trestle View Court, spoke in opposition to the re-zoning proposal. She cited safety concerns. She said Haugen Heights cannot handle another 306 trips today. She is concerned about potential traffic accidents. She said the director of the State Park said 60,000 people have entered Whitefish State Park so far this year. She said the entrance onto State Park Road was inadequate. She said other areas are not close to being built-out so they can't even realize the traffic impact. She said she had reasonable concerns after thorough research. She wants to sustain the tranquil life in Whitefish.

Nick Polumbus, 303 Stumptown Loop, lives on the corner of Haugen Heights. He said he is in favor of the development and annexation. He is against the rezoning. He thanked the developers. He said knowing that Ian Collins is involved gives him good feelings about the project; he just is opposed to the increased density. Zoning is developed through a thoughtful process. He knows change happens, and he thinks there are good reasons to rezone sometimes, but it needs compelling reasons. He doesn't see a compelling reason to rezone this property. He thinks WCR zoning works. He wasn't sure if the 2.5 acre size prevents them from hooking up to public services. He said infill is to be the primary reason for zoning. He doesn't see how this fits the Growth Policy goals, especially on the traffic issue. He said an additional 306 trips prevents a space for kids to ride bikes. He said traffic mitigation is an issue and Chief Kennelly said the Fire Department would not approve speed bumps. He said State Park Road is an urban collector now and he wondered if the extra traffic would turn them into a residential collector street. He hasn't heard that they are working to mitigate the traffic there. He is concerned about speeding. He discussed the water quality issue and he said the annexation was smart. He said he respected the developer, but he would like them to vote no because he hasn't seen enough compelling reasons.

Joel Sheehan, who owns property at 400 Ice House Terrace, thanked the Council and staff. He said he is concerned about the increase in traffic down the sloped road. He said drainage is a concern to him. He appreciated their efforts to make change happen appropriately.

Shawn Haas, 1026 Meadowlark Lane, said he is part of a group that owns Phase 3 of Old Town. He wondered if they change the zoning could the density be increased for their property, too. He said

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they bought their parcel thinking they could build 15-16 lots and he hopes they would stop him if they came in asking for 30 lots. He said everyone has their own opinion and it is a hard decision.

Alan Elm, 425 Glenwood Road, said he wanted to straighten out the comments on real estate numbers. There were 212 lots under \$175,000. In the last year 130 lots have sold. He said 30-40% of those are under contract now. There are only two lots available in O'Brien Bluffs right now. He appreciates that the neighbors came out and spoke up. He said whenever there is a proposed subdivision the neighbors come out with their concerns. He said the City staff has a mandate that prevents them from approving things that impact the neighbors in a negative way. He said Whitefish is going to change, but they need to change thoughtfully. He said if they only build 11 lots up there then they would put up 11 septic systems and that would not be good.

Paul Conrad, 902 Colorado Avenue, spoke to Ian Collin's capabilities. He said he has shared a property line with him for the last 5 years. They talk a lot about water issues and wildlife issues. He said he has had business deals with Ian in the past and they have been top notch. He said Ian Collins is a good sportsman and an honorable man. Any project Ian Collin gets behind, he would stand behind it. He said he lives below Iron Horse and it is an excellent area for them to recreate and use the bike paths and hiking trails. He said there are very few available lots in Whitefish, so there is a need to have a project that is done with integrity, honesty and hard work. He is in favor of the project.

Ken Williams, 325 Glenwood Road, said he has been on the Council and Planning Board in the past. He said he is interested in growth and change in Whitefish. He said everyone hates to speak in front of the Council. He said they are talking about growth and change. There are extraordinary demands before them tonight because it requires a super majority. He said it only took 10 people to put this up to a super majority vote. He said everyone is concerned about the quality of life for their families. They want uncluttered streets and access to forest lands. He said a lot of the people who spoke tonight live in surrounding subdivisions with smaller lots and higher densities. He said they all have straight roads and no traffic calming, yet they are complaining about a subdivision tonight with .81 acre lot sizes. He said the developer has looked at the rules and regulations and he would not have invested time, money and effort if he didn't think it was a responsible, viable approach to this property. He said they will have nicer homes and larger lots above them and it will create a rising tide that will lift all of their boats. He said people are worried about sketchy water issues in the subdivisions they live in. He said they now have stricter Public Works standards because of the issues Mountain Park subdivision had in the past. He said this project works with existing roads and avoids tearing down more trees. He said it is an opportunity to stay as green and natural as possible. He said change is going to happen in Whitefish. If they can accept that growth then change will happen, then the City is going to have to look at all of the roads and infrastructure. He asked them to approve this development.

Lovie Johnson, 1122 Meadowlark Lane, said their crawl space was flooded. She has 3 friends who live in Mountain Park development who have had to put in extra sump pumps. She said no one has come to their rescue. They were impacted by the development above them.

Mayor Muhlfeld called a 5 minute recess.

Tom Cowan, 153 Ridge View Drive, with Carver Engineering, is working with the developers on this project and wanted to clarify some mis-statements. He said he didn't work on Mountain Park or any of the developments south of this. He worked on Old Town Phases 1 and 2 and they created a

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drainage system that helped Mountain Pines and can handle run-off from Old Town Phases 1 and 2 plus the excess from the proposed development. He said they knew there were groundwater problems in Old Town Phase 2 and they created drainage solutions to collect run-off. They've monitored four test holes on the proposed property and dug four additional test holes in an area that was called a wetland and then went down to 10 feet, but there was no groundwater. The test soils were moist below 6 feet. He said there is a lot in Mountain Pines with a spring and it was part of the cause for problems. The owner cut into the spring when he built his foundation. It now drains into the system Carver Engineering designed. They intend to use the same design for Tamarack Ridge, but it will be easier because of the larger lots and smaller road surfaces. He said Tamarack Ridge is doing its part for traffic calming. He said Haugen Heights was created at 32 feet, and they are transitioning it to 24 feet with swales. He said they are required to follow City standards, which are stringent. He has visited the site 2-3 times with City Engineer Hilding. They won't have any run-off impact on their downstream neighbors.

Mayor Muhlfeld closed the public hearing.

Councilor Kahle said this is the first time he has seen such a well thought out argument on both sides. He said some of the questions deserve answers, especially the runoff issue. He said the greatest designs can have failures. He said it is their responsibility to make sure they are looking at design solutions up front that will take care of the problems from the start.

Councilor Sweeney asked and Director Taylor said the traffic studies look at the level of service of a road and what the new development will activate. Eric Mulcahy said page 15 of the traffic study, on page 378 in the packet, said the study looked at the development potential and build-out of the potential subdivisions in the area of influence. They came up with 128 homes and that is how they made their model and built their projections. Councilor Sweeney asked and Mulcahy said there will be 306 trips from Tamarack Ridge subdivision, but they anticipated all of the adjacent subdivision's traffic in their study as well. Councilor Sweeney asked about the groundwater testing in the other subdivisions and Engineer Tom Cowan said he wasn't involved with Mountain Park or Mountain Pines. There was a groundwater study in Old Town Phases 1 and 2 and there was some water in the test holes when they did the study in 2006 and they planned their drainage system accordingly. In Tamarack Ridge there are four existing test holes and they looked at them in May. They dug four additional holes during the end of July. They were looking at slope stability and there is a geo-tech report from CMG that states there were no slope stability problems.

Councilor Kahle asked about annexation and Director Taylor said if the City extends water and sewer that will be a requirement. Councilor Kahle said he also heard that if they did the 11 lots they would have septic systems and wells. He asked if that was a financial decision and Director Taylor said it would be cost prohibitive to bring water and sewer up there for 11 lots. Under county regulations they can put a septic system in on each of the 2.5 acre sites.

Councilor Anderson asked about the traffic impact study that said there will be 30 homes on Tamarack Ridge, but they are also analyzing every lot within the study area. He asked about the 20/20 table on page 18 in the traffic study. He wondered if it included all 128 lots or just the Tamarack Ridge lots. Eric Mulcahy said page 14 has the year 2020 no build scenario and that might be the table they are alluding to on page 15. He said the traffic counts on page 16 correspond to the full build-out. Councilor Anderson asked if the numbers on the bottom of page 18 include all the lots and Mulcahy said he believes it does. Councilor Sweeney said if they change the zone and there was no preliminary plat,

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would it allow for higher density and Planner Compton-Ring said it could be twice as much. Councilor Sweeney asked if they could change the zone and restrict the potential number of homes to 32. Planner Compton-Ring said they have created conditions on past projects saying there can be no further subdividing. Councilor Sweeney said if the plat goes away then the zone change is still there and he wondered if they could restrict the zone change from adding any higher density. Director Taylor said the developer can offer that up as a condition, but the City can't require it.

Councilor Kahle asked about the benches throughout the property as building sites and asked if they were mandated sites. Ian Collins said they plan to require specific building envelopes on the sites. Councilor Kahle asked about mitigating the water run-off concerns. Ian Collins said they first stepped on the property in late March. He went up to the property during a heavy rain and saw no problems. He said they will work with Public Works and the City engineer to create a system without problems. He said Andre and Henry wrote a letter in support of the project and he was humbled by their support. He said drainage needs to be featured in their design. They are committed to the long term follow-through. Councilor Kahle said there is some concern about the traffic in this area. Ian Collins said he met with the Fire Marshall and Fire Chief and discussed their goal to decrease impervious surface. He said they also proposed 20-foot roadways, like Houston Point has, because you naturally don't drive fast there. He said Public Works want them to build the road to 24 feet. They aren't opposed to traffic calming, but it came out of a Planning Board discussion, not staff recommendations. Councilor Kahle said Dave Means told stories of flooding basements and other run-off issues. He asked how this project could be set up to not aggravate that situation. Tom Cowan, Carver Engineering, said the problem in Mountain Pines and Mountain Park is straight curb and gutter with detention facilities that flooded properties below them. They were allowed to redesign their system to come into the system he designed in Old Town. He said Dave Means said Old Town Phase 2 has drainage problems. There are seasonal ground water problems on sloped properties in Whitefish. He said they will have drainage swales and small retention areas that fit the topography. There is a curtain drain that will collect surface water and then drain into a former gravel pit in Old Town. He said there is overflow capacity there, so they aren't discharging any water into the State Park right-of-way. According to City standards they can't discharge water at a higher rate than currently exists prior to development, so they have to control the rates of discharge through their system, or they can't develop.

Councilor Anderson said the Chamber of Commerce once asked the audience what they wanted for Whitefish and the common theme about what they didn't want Whitefish to be was that they didn't want to be like Vail or Aspen. He said he has thought about urban planning and the mistake a lot of towns make is that they want to keep things the way they are. He complimented the Collin's on what they are doing here and said if you combine it with the future phases of Old Town and other developments, then they are adding a variety of real estate options. He thinks that forcing larger lots is like surrounding the community with green space and the net result is the opposite of what they are trying to do. This offers variety in the real estate market. His concerns about water pressure, stormwater and traffic have been answered adequately. He said this fits the Growth Policy and the variance criteria are satisfied. He said his one concern is that he doesn't want the zone change to allow density over 32 home sites.

Ian Collins said they would definitely be willing to add that as a restriction. This is a development they want to do well. It is uncharacteristic of proposed developments, but they are not shooting for the moon. He said 32 lots makes the project doable.

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Robin Dailey, 331 Stumptown Loop, said when they attended the planning meeting the report said that the 306 daily trips is based only on traffic from Tamarack Ridge. Manager Stearns said the chart on the end of page 118 said the traffic would remain at level A for the build out of all 128 possible homes in that area.

Councilor Hyatt said a lot of his concerns have been answered. He said safety is very important to him. He is glad to hear that the Collins are willing to limit it to 32 lots. Mayor Muhlfeld said he wanted to clarify the infill policy. He said when it was adopted in 2007 it required that 50% of the entitlement units be developed before they change the underlying land use designation. This proposal does not change the underlying land use designation, so this is not subject to the 50% infill policy.

Councilor Sweeney offered a motion, seconded by Councilor Hyatt, to adopt the staff report (WZC 13-06) as findings of fact and approve Ordinance No. 13-09; An Ordinance rezoning a parcel of land known as 320 Haugen Heights, approximately 35.359 acres, from WCR (Whitefish Country Residential) to WER (Whitefish Estate Residential) (1st Reading).

Councilor Sweeney offered an amendment to his motion, to limit the rezone to allow no more than 32 building sites regardless of the zoning regulation. The second agreed to the amendment.

The original motion, as amended, passed unanimously.

Councilor Sweeney offered a motion, seconded by Councilor Hyatt, to adopt the staff report (WPP 13-04) as findings of fact and approve the Preliminary Plat for Tamarack Ridge subdivision along with 17 conditions.

Councilor Kahle said stormwater mitigation was a concern for him. He asked and Director Wilson said Public Works will not approve any design that does not assure there will not be any impact down stream. Councilor Kahle said the density blend in the area is important. He said there is much more dense development adjacent to this. He thinks traffic safety is still a concern.

Councilor Hyatt asked and Director Wilson said a stop sign wouldn't be appropriate at Ice House Terrace because it wouldn't meet warrants. Manager Stearns said there are better traffic calming measures than stop signs. He said Public Works can look into that. Manager Stearns said there may be more effective ways to design the street. Director Wilson said a misapplication of stop signs generates a disservice. Director Wilson said it would be more practical to ask for a traffic calming system to be approved by Public Works and Emergency Services.

Councilor Kahle offered an amendment, seconded by Councilor Sweeney, to add Condition #18, stating that the applicant will study the feasibility of a traffic calming device to slow the traffic on Haugen Heights Road, and that the device must be approved by Public Works.

The amendment passed unanimously.

Councilor Kahle offered an amendment, seconded by Councilor Anderson, to add Condition #19, stating, "Fire flows for hydrants serving the subdivision shall be a minimum of 1000 gallons per minutes, while maintaining a residual pressure of at least 20 psi throughout the

distribution system. If the hydrants cannot meet the minimum fire flow requirements then residential structures shall include residential fire sprinkler systems.”

Councilor Kahle asked if the last few homes would have low flow. Tom Cowan said the flow is required at the hydrants, so they will know it before the homes get built. Director Wilson said staff will ask for modeling results and then staff will test the flow of the hydrants.

The amendment passed unanimously.

Councilor Kahle recognized Dave Means.

Dave Means said further study needs to be done especially about the calming device and water issues. He said it is apparent that they don't have the information to make a decision.

Councilor Anderson said if Public Works and Emergency Services can come up with a traffic calming device then the builder shall implement it.

The original motion, as amended, passed unanimously.

7. COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

7a. Consideration of application from Whitefish Credit Union, on behalf of Lookout Ridge Investors, LLC, for a two year extension of the Lookout Ridge Preliminary Plat (p. 403)

This item has been postponed at the request of the applicant.

8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

8a. Consideration of authorizing up to \$30,000 of tax increment funds to build a stairway to the Whitefish River Trail by Stumptown Inn in exchange for a trail easement (p. 444)

Public Works Director Wilson said that in order to continue an existing bicycle and pedestrian path along the Whitefish River south of 6th Street, the City requires a 20 foot easement from the owner of the Stumptown Inn. The attached figure on page 446 in the packet shows the location of the future path and easement. The path would follow a relatively flat bench above an existing sewer line.

The owner of the Stumptown Inn has requested that the City provide access to the future path, in exchange for the easement, by installing a metal staircase. He has also requested stairs extending beyond the path to the river. The Public Works Department has collected estimates on the cost to install the metal staircase. The staircase would consist of 5 to 6 foot wide grip strut metal stairs with hand rails on each side. The location of the proposed stairs is shown on the attached figure.

There are two sections of the staircase that have been requested by the owner of the Stumptown Inn, Dan Cutforth, in exchange for the easement. The upper section would extend from the Stumptown parking lot to the bike path. The lower section would extend from the path to the river. The upper section is estimated to cost up to about \$30,000 to fabricate and install (including concrete pads) when the trail is constructed at some point in the near future. To construct and install the entire requested

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staircase, from the parking lot to the river, is estimated to cost about \$40,000. He said that subsequent to the staff report prepared for the Council Packet, Doug Adams has done some work and they believe it would be a cost not to exceed \$15,000.

The Public Works Department is requesting authorization from the City Council to proceed with easement negotiations with the Stumptown Inn. Acquiring the easement will involve a commitment from the City to build the metal stairs.

Councilor Anderson offered a motion, seconded by Councilor Hyatt, to approve authorizing up to \$15,000 of tax increment funds to build a stairway to the Whitefish River Trail by Stumptown Inn in exchange for a trail easement. The motion passed unanimously.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 448)

None.

9b. Other items arising between October 16th and October 21st

None.

9c. Resolution No. 13-32; A Resolution adopting a revised and reformatted Personnel Policy (p. 455)

Manager Stearns said that he, Mary VanBuskirk, Rich Knapp, and Necile Lorang have worked on revisions and updates to the City's Personnel Policy on and off for the past two to three years. They finally completed their work and had the insurance provider, MMIA, review the document. MMIA has given its tentative approval to our draft revised Personnel Policy. Then the Department Directors reviewed the draft policy and staff incorporated some changes based on their suggestions. Finally, staff scheduled five (5) two hour review meetings for employees and unions to ask questions and make comments. The Council reviewed the changes in a work session before the Council meeting tonight. He said there is a memo on page 456 in the packet outlining the major changes proposed.

Councilor Hyatt offered a motion, seconded by Councilor Anderson, to approve Resolution 13-32; A Resolution adopting a revised and reformatted Personnel Policy. The motion passed unanimously.

Mayor Muhlfeld thanked Attorney VanBuskirk and Manager Stearns for their work on this.

10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

10a. Standing budget item. None.

10b. Consideration of appointment to County Solid Waste Board (p. 508)

Manager Stearns said that Greg Acton would like to continue in this position.

Councilor Kahle offered a motion, seconded by Councilor Anderson, to appoint Greg Acton to the County Solid Waste Board. The motion passed unanimously.

10c. Letter from Steve Thompson regarding bears getting into trash on Ramsey Avenue (p. 512)

Councilor Sweeney said Steve Thompson is right on about this issue. This occurred as an issue about a part time resident who wasn't paying attention to bear-wise precautions.

Chief Dial said he has a volunteer who puts out on warnings on trash cans. After someone gets three warnings they get a citation for \$50-\$500. He said that is working. Councilor Anderson said his understanding is that folks can't pull the can to the curb until after four o'clock in the morning or they need to buy a bear proof container. He has seen signs that there are bears right there in Creekwood, too. Councilor Hyatt asked and Manager Stearns said they have sent out notices with the fees that are charged for violations.

Councilor Sweeney said he feels sympathy for the concerns people have about the Tamarack Ridge proposal. He said this land is going to be developed and he doesn't think they could have gotten a better design proposal for the lot. It enhances the character of their neighborhood. He said that none of us have guarantees that there won't be increased traffic wherever we move. He said this is a win for the neighborhood. He thinks this will serve the City and the neighbors well. It is important not to have septic systems up there. He has every confidence, given the track record of Ian Collins that this will be done right and the people will be glad to have it. He said they heard the complaints this evening, but they couldn't manage this any better.

Mayor Muhlfeld said he met with Kevin Gartland with the Chamber of Commerce who wanted him to announce the following events:

- October 24th - Thursday from 6-9p.m. - Economic development for Whitefish 20/20 plan.
- October 30th - Council Candidate forum at 11:30 a.m. at Casey's.

Mayor Muhlfeld welcomed Bailey Minnich to the staff as their new planner.

11. 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 10:50 p.m.

Mayor Muhlfeld

Jane Latus Emmert, Recording Secretary

Attest:

Vanice Woodbeck, Assistant City Clerk