

WHITEFISH CITY COUNCIL MINUTES

MAY 6, 2013

SPECIAL SESSION, 4:45 TO 7:00 PM

1. Call to Order

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Sweeney, Anderson, Hildner, and Kahle. Councilor Hyatt was absent. City Staff present were City Manager Stearns, City Clerk Lorang, and City Attorney VanBuskirk at 5:30 p.m.

2. Interviews for Ad-Hoc City Hall Steering Committee

The Mayor and Council conducted interviews with Heidi Van Everen, Jim Deherrera, Ray Boksich, Doug Wise and Terri Dunn for Park Board. Eric Matson was also interviewed for his application for the Park Board along with his interest in serving also on the Architectural Review Committee and the Ice Rink Advisory Committee. Michael Blubaugh was interviewed for his interest in the Architectural Review Committee, the Pedestrian/Bike Path Advisory Committee and the Whitefish Convention & Visitor's Bureau. Ross Doty and Trek Stephens were interviewed for the Police Commission. And Trek Stephens, Chris Schustrom and Duane Reisch were interviewed for the Resort Tax Monitoring Committee. Duane Reisch was also interviewed for his interest in serving on the Architectural Review Committee; along with interviews with Ian Collins and Kathryn Skemp for the Architectural Review Committee.

3. Appointments

Mayor Muhlfeld appointed Ross Doty for another term on the Police Commission and the Council concurred. Mayor Muhlfeld appointed Doug Wise and Terri Dunn each for another term on the Park Board and the Council concurred. Mayor Muhlfeld appointed Jim DeHerrera to the Park Board and the Council concurred.

Councilor Kahle offered a motion, seconded by Councilor Hildner, to reappoint Trek Stephens and Chris Schustrom, each for another term on the Resort Tax Monitoring Committee. The motion passed with four (4) aye votes and one (1) no vote; Councilor Mitchell voting in the negative.

Councilor Mitchell offered a motion to appoint Kathryn Skemp, Michael Blubaugh and Duane Reisch to the Architectural Review Committee. The motion died for lack of a second.

Councilor Anderson offered a motion, seconded by Councilor Kahle, to appoint Duane Reisch and Kathryn Skemp to the Architectural Review Committee; and to reappoint Ian Collins to the Architectural Review Committee for another term. The motion passed unanimously.

4. Adjournment

Mayor Muhlfeld adjourned the Special Session at 7:03 p.m.



Mayor Muhlfeld

Attest:



Necile Lorang, City Clerk

WHITEFISH CITY COUNCIL MINUTES

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7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Sweeney, Anderson, Hildner, Kahle and Hyatt. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Planning and Building Director Taylor, Public Works Utilities Supervisor Acton, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 19 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Ken Stein 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)

Rebecca Norton, 530 Scott Avenue, expressed concern that the City Council failed to adopt the recommendations of the Ethics Committee that was formed several years ago, in which there would have been an independent 3-person panel to review any ethics concerns. She would like the Council to discuss the decision by Councilors Hyatt, Kahle and Mitchell in voting against the City's panel that recommended the planning firm for the Highway 93 North project. Four applicants submitted applications and were interviewed by the City's two planners, the Building Director and the Mayor. All four of these people are intimately involved in the daily operations and growth of our City, and have been for many years. They all elected to have the top applicant do the work to plan the Highway 93 corridor. The Council had two Councilors absent at the time of the decision and Councilors Hyatt, Kahle and Mitchell elected to turn down the recommendation of the hiring committee and go with the second recommendation, which cost the taxpayers an additional \$4000. No other rationale was given for this decision except that the company had done previous work for the City. She said she spoke with the Building Director and asked how often the recommendations of a vetted bid process were not honored by the Council and this has only happened one other time. In the past, if the Council decided not to award a contract they re-opened the bidding process. She said she found this decision, which will greatly impact the City's future, to be "arbitrary and capricious." She questioned why the taxpayers should have to pay \$4000 more. She asked the Council to consider whether the decision was legal and ethical, and if not, the vote should re-occur with a full Council.

Mayor Muhlfeld said the action was legal. The only time they need a vote of four is when they are dealing with ordinances. He said hiring comes to the Council as a recommendation and the Council has the right to approve or deny the staff recommendations.

Ian Collins, 898 Heron Drive, thanked the Council for the Master Plan update. He said about 60 people from the community attended. He hoped they would consider keeping Crandall & Arambula involved to further flesh out the details of the proposals they made. He said when the Highway 93/Second Street project came as a result of the TIGER grant, the City was able to go to the table with

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the MDOT with a plan that worked for the commercial core and met their needs as well. He said Baker Avenue is a project that is coming. He doesn't see that the City has a shovel-ready plan like they did on Highway 93. He said there is a Safe Routes to School grant that will give them a pedestrian crossing, but they should have it pedestrian friendly like the intersection at Second Street and Highway 93.

Anne Shaw-Moran, 432 W. Third Street, thanked them for taking steps for the Highway 93 Neighborhood Plan. She said a coordinated planning event has benefits for everyone. She recommended that they take into account the mix-use possibilities. She said there is concern that the current make-up of the committee needs to include more neighbors and landowners. She said there are 44 properties, 6 of which are in professional or commercial use. She said buy-in from neighbors is crucial. She recommended a more balanced committee make-up. She said an industrial commercial entity (Idaho Timber) is proposed to have a specific seat on the committee. She suggested they also offer a seat to other non-contiguous properties. She said including the neighbors will help facilitate acceptance by the neighbors. Meaningful representation is important and will reduce discord. She thanked them for their consideration.

Susan Prilliman, 334 West 3rd Street, agreed with Anne Shaw Moran. She read a letter from Joel Toller, a neighbor. He thanked them for their service. He said he owns a property on W. 3rd that will be their retirement home. They like the quiet neighborhood and have concerns about the growth on 2nd Street. He asked them to have a balanced steering committee that includes people who live in close proximity to the development. He had concerns about the median scheduled in front of the Plaza office building and said it wasn't a good option for their clients. He said the Council's decisions would affect their quiet neighborhood. He said he was willing to serve on the Steering Committee. Susan Prilliman said she was also concerned about the recommended make-up of the committee. She said residential uses are the primary uses in this neighborhood and they need representation and a voice. She recommended at least 50% of the committee should be made up of residential owners. She also had concerns about the layout and wanted W. 4th Street included in the plan.

Mayre Flowers, Citizens for a Better Flathead, agreed with the previous two speakers. She said it is important that corridor planning look at the entrances into town. It is important to the community as a whole and she recommended that they include more members-at-large and from the WB-3 District. She said it is important to have varied viewpoints. She also had concerns about the boundaries and felt the W. 4th Street area should be included. She recommended evening meetings so the public can participate. She spoke about Rebecca Norton's concerns about the Councilor's vote on this project. She said if the Council is not going to accept a recommendation they should have 2/3 of the Council agree on that, especially if it is going to cost the public more money. She said it was important that they honor the public process.

Rhonda Fitzgerald, 412 Lupfer Avenue, agreed with Ian Collins that they need to take the Downtown plan and work with MDOT on the plan for Baker Avenue. They need the details and the drawings so they can work with MDOT. She said good planning netted them a large grant for the Highway 93 project and she hoped they could do something similar on Baker Avenue.

4. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner said that five Bike/Ped Path Committee members met and removed the silt fence from the ReMax office to the Baker Avenue bridge during "Clean the Fish." He said the Skye

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Park Bridge easement project is going well and the next step will be to meet with landowners who are affected. Dodger Lane will be constructed this summer. The Committee voted to request the City to complete the bike lane and pedestrian crossings markings by June 1, 2013. They also voted to recommend that the Second Street project-developer be required to construct a 5-foot wide sidewalk with a 5-foot boulevard according to City Standards. (Councilor Hildner pointed out he abstained from that vote because it will likely be coming before this Council). The Committee voted to recommend an 11-foot shared bike/pedestrian path on both sides of Highway 93 in lieu of the current design between 2nd & 8th (or 13th) Streets. They also voted to ask that City funds be budgeted for an ADA-compliant path from the new Hwy 93 West bridge to Miles Avenue; that documentation needs to be in place. His final comment was that Doug Adams is continuing to work on easement acquisition from the Stumptown Inn and Char Rygg to complete the path along that section of the river.

Councilor Mitchell said they planted trees out at the Sports Park and he thanked all those who were involved, especially Parks Director Cozad. Director Cozad said the money came from a DNRC grant as an Arbor Day Grant. He said the Tree Committee walked the Highway 93 W. project to discuss trees along that road.

Councilor Mitchell said they met with the two other cities and the County Commissioners and he doesn't understand the 9-1-1 capital costs and how they can fund it fairly. He said he learned a lot at the meeting.

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 April 15, 2013 Council regular session (p. 47)

5b. Consideration of approving application for Whitefish Lake Lakeshore Permit (#WLP-13-W09) to add an "L" Wing to dock; add EZ Port to Dock; install Shore Station with Canopy; Replace Wooden Stairs with Stone Steps install Dry Set Walkway, Stepping Stones & Low Voltage Pathway Lighting at 980 Packrat Lane subject to 28 conditions (p. 56)

5c. Consideration of approving application for Whitefish Lake Lakeshore Variance (#WLV-13-W06) to place Naturalized Riprap (exceeding stone size and no filter fabric), amended Revegetation Plan and Maintenance Plan for care of plants, addition of 28 square feet (4' x 7') to existing Stone Steps at East Lakeshore Beach Club subject to 34 conditions (p. 73)

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, 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. Consideration of an application from PMT Properties LLC ("Tupelo Grille") for a Conditional Use Permit to operate a bar/lounge at 17 Central Avenue. The subject property is zoned WB-3 (General Business District) and will operate as a restaurant which serves wine, beer and liquor. The restaurant currently serves wine and beer only. The property is legally described as Lots 16 and 17, Block 28, Whitefish Townsite, in Section 36, Township 31N, Range 22W, P.M.M., Flathead County, Montana (p. 112)

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Planning and Building Director Taylor reported that this item is a request by Bill Hileman, Jr. on behalf of PMT Properties LLC and Southern Cross, Inc., for a conditional use permit to expand from a cabaret-type beer and wine license to a full bar/lounge at Tupelo Grille, 17 Central Avenue. The property is zoned WB-3, General Business District. A conditional use permit is required due to the transfer of an existing all beverage license from the former Sherwood Bar. Staff recommended approval.

The Whitefish City-County Planning Board met on April 18, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with two (2) conditions as contained in the staff report and adopted the staff report as findings of fact. The applicant spoke at the public hearing and asked if they had any questions. Rhonda Fitzgerald, 412 Lupfer, spoke in favor of the project. Rebecca Norton, 530 Scott Avenue, spoke in favor of the project. Councilor Hildner asked if there would be a change in hours and Director Taylor said he could ask the applicant. Mayor Muhlfeld asked and Director Taylor said some communities have different standards on this issue. This process is consistent throughout the City's regulations. Councilor Mitchell asked and Director Taylor said it costs \$1980 to go through the CUP process.

Mayor Muhlfeld opened the public hearing.

William Hileman represented the applicants. He said that Missy Carlos, an owner, was also present. They thanked staff for their report and found them very professional to work with. He didn't have anything to add to their report and asked if the Council had any questions. Councilor Hildner asked if they would extend their hours of operation and Mr. Hileman said they are not planning to do that at this time.

Mayor Muhlfeld closed the public hearing.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve an application from PMT Properties LLC ("Tupelo Grille") for a Conditional Use Permit to operate a bar/lounge at 17 Central Avenue, subject to the conditions as recommended, and approve the findings of fact in Staff Report WCUP 13-02, including Exhibit A. The motion passed unanimously.

6b. Ordinance No. 13-04; An Ordinance approving a zone change for property identified as 1830 and 1840 Baker Avenue (First Reading) (p. 130)

Director Taylor reported on a request by Eric Mulcahy on behalf of Elaine Edwards and 1840 Baker LLC to amend the Whitefish zoning jurisdiction map from WI (Industrial and Warehousing) to WI/WB-2-SC (Industrial and Warehousing/Secondary Business with a Statement of Conditions) on two lots comprised of 1.870 acres of property addressed as 1830 and 1840 Baker Avenue. It is the site of the old Master Plumbing business. They are asking to amend the zoning to fit the uses they would like to have and there are "Conditional Zoning" provisions in the Code. They want to have some professional offices, furniture manufacturing/sales and perhaps auto detailing and sales. Rather than re-zone the property to WB-2, which is the same as the adjacent property, they are looking to keep industrial zoning and add some secondary business district uses.

As part of the Statement of Conditions, the property owner is asking for the following uses from the WB-2 zone to be permitted:

- Antique stores and auction barns
- Automobile and boat sales, parts, repair and service (automobile and boat service is already permitted in the WI zone)

- Furniture and floor covering stores
- Grocery stores
- Laundry and dry cleaning
- Machinery and equipment sales, rental, and repair
- Medical clinic and related therapeutic health services
- Restaurant

Under Conditionally permitted uses, the following would be added:

- Buildings greater than 15,000 square feet

The front yard setback would be 20' as required in the WB-2 District, while the side and rear yard setbacks would remain 5' as required in the WI district (no side or rear setbacks are required in the WB-2).

They are also proposing to voluntarily remove the following allowed WI permitted uses:

- Boat and recreational vehicle storage
- Building supply outlets
- Contractor's yards
- Heavy equipment service
- Nurseries and landscaping materials, retail and wholesale
- Public utility buildings and storage yards
- Publically owned or operated buildings, uses, or recreational facilities
- Railroad yards
- Research laboratories and institutions

They are proposing to voluntarily remove the following conditionally permitted WI uses:

- Automobile and boat sales (added as permitted use per WB-2)
- Automobile wrecking yards
- Heavy equipment sales and rentals
- Heavy industrial manufacturing, fabricating, and processing
- Outdoor amusements
- Petroleum products, wholesale
- Sexually oriented businesses
- Tire retreading and recapping

The following uses would remain permitted as per the WI zone:

- Automobile sales and service
- Janitorial services
- Light industrial manufacturing, fabricating, processing, repairing, packing, or storage facilities
- Office space (less than 10,000 sq. ft.)
- Parcel delivery services
- Petroleum products, retail
- Tire sales

The following use from the WI would remain conditionally permitted:

- Microbreweries

The property formerly had an operating plumbing business as well as commercial retail sales of plumbing supplies and fixtures within the existing building. The new owner wishes to utilize that building as a multi-tenant mixed use facility, including professional offices, which could be done under the existing zoning up to 10,000 sq. ft., as well as furniture manufacturing and sales and other options. The larger of the two lots is currently vacant, but several future commercial buildings are planned. One building would potentially house a specialty food market and deli; another would have mixed uses,

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including high end automotive restoration and sales (indoors). The applicant is proposing to include several other uses permitted in the WB-2 to provide more flexibility for future tenants. Most of the uses being proposed are currently available in the neighborhood along Baker Avenue. No retail is being proposed that would potentially compete with the downtown WB-3 zoning district, nor are the WB-2 uses proposed completely reliant on highway frontage, large outdoor display areas, etc., as per the intent of the WB-2.

With this creative zoning technique the applicant has flexibility by giving up and or getting additional zoning rites as agreed upon by this process. He said the pool for industrial property is limited, so staff supports the request to keep that in this proposal. There were no comments from neighboring business owners. The applicant could have done a PUD, but there is a requirement to add something for the public and none of that is feasible in an industrially zoned property. Staff recommends approval. The request is reviewed in accordance with the Whitefish Zoning Regulations based on statute criteria on the purposes of zoning:

1. Conformity to the Growth Policy

11-7-11-D-3 has different standards for conditional zoning with regard to Growth Policy conformity in relation to standard zoning map amendments.

The city council, while reviewing the compatibility of the rezoning request with the considerations of subsection E1 of this section, shall consider compatibility of allowed uses and the performance of the conditional restrictions along with the intent of the underlying future land use shown for the parcel in the city-county growth policy maps rather than strict adherence to growth policy land use designations such as commercial and residential.

The Whitefish City-County Growth Policy Land Use Map designates the subject properties as Planned Industrial. An abbreviated description is as follows:

- For vital industries with low impacts to residential neighborhoods
- Centers of employment with less traffic from standard commercial, not dependent on drive by traffic for clientele
- Consistent with WB-4 and WI zones

The proposed zoning classification generally conforms to the Planned Industrial Residential designation as defined in Chapter 3 (page 66) of the Whitefish City-County Growth Policy in that the proposed use will provide for commercial and light industrial businesses with less traffic than standard commercial and the Statement of Conditions will limit the allowed uses to those most compatible with adjacent uses. The performance of the district will be compatible with the future land use designation.

The Whitefish City-County Planning Board met on April 18, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced rezone request and adopted the staff report as findings of fact.

Councilor Mitchell asked and Director Taylor said the applicants gave up some of the uses to gain some they wanted. He said the City used this for the Whitefish Motel a few years ago. He said it is typically used where two zoning areas abut each other. He said this applicant has the more intense use rights, but they are willing to give up some of the other uses they could have. Manager Stearns asked

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about page 139 about buildings greater than 15,000 square feet. He wondered if this was an attempt to get a larger than 15,000 square foot building in this zone. Director Taylor said it isn't limited in the Industrial Zone, but the applicant isn't asking for anything that large. Mayor Muhlfeld asked about signage and Director Taylor said the signage applies to the highway district, so it wouldn't change. Mayor Muhlfeld asked about automotive and boat sales and grocery stores. He said when they went through the WB-2 and WB-3 zone issues in past years it was because those businesses needed large display areas. He questioned whether this met the intent of the WB-3. Director Taylor said this is a blend of WB-2 and Industrial. He agreed that they need big parking for a grocery store, but this applicant is proposing a specialty meat store. Mayor Muhlfeld asked about the automobile and boat sales and Director Taylor said they are already in the code for Industrial as conditionally permitted uses and they will have to meet the parking standards. Director Taylor said the applicant is planning to sell parts, mostly, and all that activity will be indoors. Mayor Muhlfeld said they are going from conditional to permitted uses. Councilor Hildner said if they can have boat sales then they will also have boat storage. He said they would have the ability to store boats with their blue shrink-wrapped covers for winter storage. Director Taylor said in the industrial zone they are allowed to store boats. He said the applicant left it in at his recommendation, but they might be willing to remove it. He said all of their sales will be indoors. The goal of this code is to let the Council work with the applicant.

Mayor Muhlfeld opened the public hearing.

Eric Mulcahy, with Sands Surveying, represented the owners. He said Director Taylor did an excellent job with the staff report. He said South Baker Avenue is already a mix of uses. It is WB-2 on one side and W-I on the other side. He said it is also an area that hasn't seen a lot of investment. A lot of the buildings have deteriorated and these folks intend to invest in this area. Their uses don't necessarily fit specifically into the WB-2 or W-I. They want to do small furniture manufacturing and restoration of old, historical vehicles. He said they removed the auto storage and boat storage and RV storage with the conditional zoning so they wouldn't see a parking lot with old cars or blue tarps. The other business they would like to create is a small, specialty grocery and deli. They had removed boats, but boats and autos are tied throughout the code, so they left it the way it was. They are willing to remove boats from their request.

Councilor Anderson said one of the uses they were willing to remove was research labs or institutions and he wondered why. Mulcahy said the applicant has to give something up and they don't intend to have labs or anything that involves heavy industrial. He said they could keep it if that was what the Council desired. Councilor Anderson said he would like to see it included.

Mayor Muhlfeld closed the public hearing.

Councilor Anderson offered a motion, seconded by Councilor Hyatt, to approve Ordinance 13-04, approving a zone change for property identified as 1830 and 1840 Baker Avenue (First Reading) including the findings of fact, Staff Report WZC 13-02, including Exhibit A – Statement of Conditions, and adding back in the use of 'Research laboratories and institutions'.

Councilor Hildner asked what type of institutions he was envisioning and Councilor Anderson said he thought research labs and institutions are the same thing, though the institution might have an educational element to it.

The motion passed unanimously.

6c. Ordinance No. 13-05; An Ordinance adopting amendments to the City's Impact Fee Ordinance to reduce impact fees for small projects (First Reading) (p. 168)

Public Works Utilities Supervisor Acton reported that on April 1, 2013 the City Council considered a staff proposal to reduce impact fees for small construction projects by amending Section 10-2-12 of the City Code. Staff recommends adoption of the attached ordinance to that effect. A Notice of Public Hearing has been advertised. The intended purpose of this ordinance is to reduce water and wastewater impact fees for projects involving fewer than 20 fixture units. Acton said they reviewed the Whitefish Municipal Code and rules and regulations to see what could expedite small projects like coffee kiosks and small construction projects with low water demands (i.e. single bathroom).

The recommended action would not require any additional expenditure, although it would result in slightly lower revenues from water and wastewater impact fees. While the reduction in annual fees is difficult to predict, staff estimates that it would be less than \$10,000 per year for each fund.

Councilor Mitchell asked and Utilities Supervisor Acton said it could be \$10,000 if construction really picked up, but right now it is minimal. Councilor Mitchell said the property has to stay with one owner and Supervisor Acton agreed, but said that was included in item 6d. on the agenda.

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

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve Ordinance 13-05 adopting amendments to the City's Impact Fee Ordinance to reduce impact fees for small projects (First Reading). The motion passed unanimously.

6d. Resolution No. 13-05; A Resolution amending Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utilities and repeal of Title 8, Chapter 3, Section 2 of the City Code to enable common water service connections and sewer service connections for multiple structures in certain instances (p. 181)

Utilities Supervisor Acton reported that on April 1, 2013 the City Council considered a staff proposal to amend the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utilities to relax the requirements for separate service connections to separate buildings as a means of reducing costs for utility customers in certain instances. The intended purpose of this resolution is to relax current requirements for separate water and sewer service connections for each separate building or structure, and thereby reduce costs for projects when such multiple structures are under single ownership and located on property which cannot be further subdivided.

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 adopt Resolution 13-05 amending Rule X and Rule XI of the Rules and Regulations for the City of Whitefish Water, Wastewater and Garbage Utilities and repeal of Title 8, Chapter 3, Section 2 of the City Code to

enable common water service connections and sewer service connections for multiple structures in certain instances. The motion passed unanimously.

7. COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR

7a. Resolution No. 13-06; A Resolution approving an agreement that permits the Glacier Hockey Association, Inc., to construct additional locker rooms at the Stumptown Ice Den (p. 188)

Parks and Recreation Director Cozad said that the goal is to enhance the facilities at the Stumptown Ice Den. He said the Glacier Hockey Association, Inc. has the funds in hand and this is an excellent public/private partnership to build two locker rooms in a 32x32 space. This facility gets a lot of use and the locker rooms are needed.

Councilor Kahle asked if the total rink footprint will increase and Director Cozad said it will expand to the south. Councilor Mitchell asked and Director Cozad said the City will provide \$7500 from the Parks budget. Councilor Mitchell asked how the City avoids any liability and City Attorney VanBuskirk said their agreement states there will be no encumbrances or liens placed on the property so we are protected by the contract. Councilor Hildner asked if it will cause a conflict with ice time use and Director Cozad said there is a limited capacity in this facility and the hockey team knows it. Councilor Sweeney said there is a 10% contingency before the contractor can proceed, so that protects the City. Councilor Hyatt said the Park Board has discussed this for a couple of years and they are very excited that this is moving forward.

Councilor Kahle offered a motion, seconded by Councilor Anderson, to adopt Resolution 13-06 approving an agreement that permits the Glacier Hockey Association, Inc., to construct additional locker rooms at the Stumptown Ice Den.

Mayor Muhlfeld thanked the anonymous donor and Murray Craven for his work on this project.

The motion passed unanimously.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 197)

Councilor Sweeney asked if they were going to have a podcast as well as an audio file and Manager Stearns said people can download the audio file and listen to it like a podcast. Councilor Kahle thanked Karin Hilding for all of her work on the Safe Routes to School projects. Councilor Hyatt asked and Manager Stearns said this will be the final grant for Safe Routes to School. It was a special funding project in the old transportation act. He said it will be combined under the CTEP program and they will have to go for a competitive grant for trails from now on. Councilor Kahle recognized that the library had received the 2013 Excellent Library Service Award from the Montana State Library Commission. He said it was something the new library could be proud of.

8b. Other items arising between May 1st and May 6th - None.

8c. Resolution No. 13-07; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.) (p. 201)

Manager Stearns said that in 2002, at the petition and request of property owners adjacent to Scott Avenue between 8th and 9th Streets, the City vacated and abandoned the northern 180 feet of Scott Avenue between 8th and 9th Streets. Part of the intent of this 2002 street vacation was to permit Rob Pero to re-subdivide and develop some lots he owned adjacent to Scott Street into the O'Brien Meadows subdivision. In return for that re-platting, Mr. Pero dedicated an additional 30 feet of O'Brien Avenue to the City.

However, the entire length of Scott Avenue between 8th and 9th Streets was not vacated. The southern 75 feet of Scott Avenue between 8th and 9th Streets was not vacated at the time and remains the property of the City of Whitefish.

Last summer, an adjacent property owner, Dorothy Kvigne, contacted the City wanting to know if the City would vacate the remaining portion of Scott Avenue. After talking with City staff, there seems to be no reason to retain that remainder parcel in City ownership given that the northern portion of Scott Avenue was previously vacated. Staff felt that the entire length of Scott Avenue between 8th and 9th Streets should have been vacated in 2002.

Staff felt that the City should try to obtain the additional 30 feet of right-of-way (R-O-W) from the owners of Lot 6 of the South Whitefish Addition (renamed Lot A in the attached draft plat in the packet) so as to have a unified width of R-O-W on O'Brien Avenue between 8th and 9th Streets.

Manager Stearns began discussions with the owners of Lot 6 of the South Whitefish Addition (see attached letter in packet). They agreed that the vacation of the back portion of their Lot 6 would improve their property and they also agreed to dedicate the equivalent 30 foot wide parcel of O'Brien Avenue to the City in exchange for the vacation. However, once the City had the property surveyed with stakes, the owners realized how far the 30 feet of R-O-W on O'Brien Avenue would come into their property. Staff therefore agreed to consult with them in the future about any plans to bury utilities or otherwise improve that 30-foot portion of O'Brien Avenue R-O-W for as long as they owned the lot. Staff also extended that consultation to them on their residence which is Lot 4 of O'Brien Meadows, adjacent to and north of Lot 6 of the South Whitefish Addition. That consultation is contained in a plat note on the plat. The staking remains on the property if the Councilors decide to drive by the lot at the NW corner of 9th Street and O'Brien Avenue.

All of the property owners adjacent to this proposed vacation of 75 feet of Scott Avenue have agreed to the vacation and have petitioned the City to do the vacation. These petitions are contained in the packet. Moreover, the owners of Lot 6 of South Whitefish Addition (renamed Lot A in the attached draft plat in the packet) have agreed to dedicate 30' of land along O'Brien Avenue in exchange for the City vacating the 60 feet width of Scott Avenue. In any street vacation, one half of the width goes to each adjacent property owner, so the owner of Lot 6 will gain the exact amount of land at the back of their lot for what they are giving up in the front of their lot along O'Brien Avenue.

He said that Attorney VanBuskirk has prepared a Revised Resolution of Intention to start the process for this vacation of Scott Avenue and that Resolution has been distributed to the Council. City

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Attorney VanBuskirk said in Section 2 it says the information will be published twice in the Whitefish Pilot. If the City Council adopts the Resolution of Intention, as staff is recommending, then there will be a public hearing on May 20th on this proposed street vacation and amended plat.

City staff agreed to bear all costs for the amended plat for this street vacation because of the additional R-O-W that the City will gain along O'Brien Avenue where it is more useful to the City than the dead-end R-O-W of the South 75 feet of Scott Avenue. The estimate cost of preparing, surveying, and recording is approximately \$2,000. The surveying and preparation of the amended plat cost \$1,700 by itself.

Councilor Mitchell asked and Manager Stearns said the road narrows down on 7th street due to a tree that encroaches. He said they will eventually have to widen O'Brien because it is not a safe intersection. Councilor Hildner discussed the need for bike trails and Manager Stearns said he hasn't seen any plans for that.

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve the amended Resolution No. 13-07; A Resolution declaring it to be the intention to vacate and abandon a portion of Scott Avenue and to widen a portion of O'Brien Avenue, lying between 8th Street and 9th Street of Block 6, First Addition to South Whitefish, the City of Whitefish (SW1/4 of Section 36, T.31 N., R. 22 W., P.M.M.) The motion passed unanimously.

8d. Resolution No. 13-08; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O'Shaughnessy Center seating (p. 212)

Manager Stearns said the Whitefish Theatre Company (WTC) is embarking on a fundraising and capital improvement project at the O'Shaughnessy Center. Ultimately this project will involve a remodeled entry area and an expansion of rehearsal space on the south side of the O'Shaughnessy Center. The first phase of the project for this summer is to replace the seating on the main floor of the O'Shaughnessy Center. Because the existing seating is a fixture in the building, according to our lease, that property belongs to the City of Whitefish. Manager Stearns said they have to do a resolution to declare that property as surplus and the WTC will need to hold a public auction to sell the old seats. The City has no financial obligation related to the sale of the old seating or for the purchase of the new seating.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to approve Resolution No. 13-08; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property – O'Shaughnessy Center seating. The motion passed unanimously.

Mayor Muhlfeld called a 10-minute recess from 8:35 to 8:45 p.m.

8e. Consideration of a request from Bruce Boody representing Orlan Sorensen for commitment of Tax Increment Funds for sewer line relocation and sidewalk and parking infrastructure associated with his proposed boutique hotel on Block 46 (p. 215)

Manager Stearns said that Orlan Sorensen, a local resident and owner of Landmark Builders, is under contract to purchase Block 46 in Whitefish, which is where the City has a lease for a temporary

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parking lot at 3rd Street and Spokane Avenue, across the street from Third Street Market. Mr. Sorensen has talked with the Mayor and some Council members individually about his proposal to develop a boutique hotel on that block. He and his consultant, Bruce Boody, have talked with staff on several occasions about the need to abandon and relocate the sewer line which runs underneath the property. They have also talked with and are beginning the process for the necessary Planning and Building Department approvals. They have also talked with Manager Stearns about the potential for asking the City Council to use Tax Increment Funds to pay for the cost of relocating the sewer line under Block 46 and for sidewalk, parking, and street amenities in the Right-of-Way (ROW) surrounding Block 46. Bruce Boody, on behalf of the owner and developer, Orlan Sorensen, has submitted a letter requesting the Tax Increment Financing (TIF) Fund assistance for the costs of the sewer line relocation and the sidewalk, parking, and street trees and amenities for the four blocks of street surrounding Block 46. The letter and the accompanying exhibits are attached in the packet.

Manager Stearns said other than the building permit stimulus project several years ago where the City used TIF funds to pay for the impact fees of new building permits in the TIF district for one building season, the City of Whitefish has typically not directly assisted specific, individual development projects. Rather, the City of Whitefish has typically done public projects that benefit a large number of people and properties such as street projects, parking projects, trail projects, the land and infrastructure for the Library, O'Shaughnessy Center, and the WAVE, the Emergency Services Center, etc. However, most cities do use Tax Increment Funds to provide associated infrastructure costs and development necessary to enable a specific development project to go forward. Often the test and justification for such economic development assistance is use of the "but for" doctrine, whereby, "but for" the assistance, the project would not go forward. He said it is common to upgrade infrastructure to help a project go forward. The hotel could not be built over the sewer line, so it would be a much different project if the alley had to remain.

As shown in the letter from Bruce Boody in the packet, Mr. Sorensen is requesting that the City commit \$514,245 of tax increment funds for the sewer line relocation and the sidewalk, landscaping, and parking improvements on the four blocks of street surrounding Block 46. He said the proposal requests angled parking on Kalispell Avenue and on Third Street adjacent to Block 46. As shown in a letter from Robert Peccia and Associates in the packet, if contamination is found when we dig in 3rd Street near Spokane (as we found when we did the Downtown Street Improvements Project on 3rd Street), that would add another \$29,100 to this cost estimate for a total of \$543,345.

The developer, Mr. Sorensen, has indicated that the cost estimates for the boutique hotel that he will build are estimated at \$10,000,000 for the building and \$1,900,000 for personal property – FFE (furniture, fixtures, and equipment). As shown in a spreadsheet in the packet that Manager Stearns prepared, this improvement would normally result in new tax increment funds of approximately \$155,000 per year until the TIF District expires in 2020 or a total of \$930,000 (the spreadsheet shows \$157,035 per year, but the City does not get TIF on the 6 mills for property tax levies for the statewide University system). Thus, in normal economic development analysis, our investment of up to \$543,345 would be repaid within 3.5 years.

However, Mr. Sorensen has indicated that he plans to apply for tax incentives allowed in State law under Section 15-24-1401 et. seq. (descriptions in packet). Mr. Sorensen says he received such tax incentives for new and expanding industries for hotels he is building in Shelby and Sidney. It is Manager Stearns' understanding that Flathead County and the City of Columbia Falls have typically approved such tax incentives, but staff could not find any evidence of the City of Whitefish having ever been

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approached for or considered such incentives. When Manager Stearns worked for the City of Missoula (1984-1994), the City of Missoula often approved such tax incentives.

In discussions with Mr. Sorensen last week, he indicated that, if the City Council approves using TIF for some of the infrastructure associated with his project, he would **not** come to the City Council for tax incentives. However, he did indicate that he would likely apply to Flathead County for the property tax incentives. Under state law, when an applicant applies to either the city or the county for the tax incentives, if approved by either the City or County, the incentives extend to the mills levied by that jurisdiction (city and/or county) and the school district. Thus, if Mr. Sorensen applies to Flathead County for the property tax incentives, if granted, the incentives will apply to the mills levied by Flathead County and Whitefish School District #44.

If tax incentives are pursued and approved by Flathead County, the tax increment revenues that the City would receive from the project are reduced from \$930,000 to \$580,687 (as shown in cell R-44 of the spreadsheet). Thus the \$543,345 of possible cost for the sewer line, street, and sidewalk improvements would use 94% of the project TIF revenues the City would receive from the project.

It is very important for the City Council to consider carefully how much of the TIF funds to commit to the infrastructure associated with this project as this decision will be a precedent and future private projects might request the same proportion of assistance. However, the sewer line relocation is the type of assistance that TIF exists for – to remove or relocate infrastructure that needs to be improved. It is very similar to the improvements done in the Downtown Street Improvements projects on Central Avenue.

There are a number of aspects, issues, and policy implications associated with this request. Staff would want to be sure that the City's commitment of Tax Increment Funds is only done if the project gets all its approvals and begins construction. On the other hand, it is difficult for the developer to begin construction on the project until the sewer line is relocated and abandoned. Thus, Manager Stearns thinks that the City Council should discuss and debate the level of TIF investment for infrastructure they want to provide in conjunction with the Boutique Hotel project and then authorize Manager Stearns to begin negotiations with the developer on a Development Agreement which binds both parties to their respective investments.

Councilor Mitchell asked and Director Taylor said it is zoned WB-3, and one quarter of the block is WB-4. Councilor Mitchell asked and Manager Stearns said there are about 72 parking spots on site. Councilor Mitchell asked and Director Taylor said WB-3 doesn't require parking. Mayor Muhlfeld said the applicant is also proposing angled parking on two streets. Councilor Anderson said Bruce Boody's letter focused on TIF funds as well as Resort Tax money. Manager Stearns said TIF funds are used for infrastructure to help projects move forward. He said Resort Tax money has an 8+ year queue already lined out, so he focused on the TIF funds for this project. He said it is their legal prerogative to use Resort Tax money, but it will delay other projects. Councilor Hyatt asked about the 19 angled parking spots and Manager Stearns said the sidewalk will come a little into their property. Bruce Boody said the parking comes 2-3 feet into the property. Councilor Mitchell asked about the use of TIF funds downtown and Manager Stearns said the TIF funds were used for the parking lot at Second and Spokane, but Resort Tax was used for downtown improvements.

Councilor Mitchell asked and Orlan Sorensen, 101 Washington Avenue, said there would be approximately 30 employees. Councilor Mitchell asked and Mr. Sorensen said they would take up the

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whole block. He said they are creating 13 more spots by using the angled on-street parking. He said there will be \$180,000 more in Resort Tax money so he thought it would be good to use that source, but it is tied up 8+ years out. He said removing and relocating the old sewer line will solve sewer and runoff issues. Mayor Muhlfeld asked and Mr. Sorensen said the anticipated Resort Tax income would be \$80,000 in non-accommodations money. He said it is a calculated estimate of the number of guests and the money spent in the community. Mayor Muhlfeld said he met with the downtown planning consultants and they had concerns about the angled parking for pedestrian flow. Mr. Sorensen said he thought the idea was contradictory. They want to encourage more parking, but they don't like the angled parking. He said there is angled parking downtown and the City needs more parking. Councilor Anderson asked about the new revenue to the Resort Tax Fund and Mr. Sorensen said it was an annual projection. Councilor Anderson said if they used the Resort Tax money the projects might not be delayed more than 12 months because this is new money into the fund. Councilor Anderson asked and Mr. Sorensen said they hope to be operational by June 2014. Councilor Hyatt said there is \$580,000 coming in from this project and they are asking for \$544,000. He said that without this project, what do they have coming into the TIF. Manager Stearns said they are putting almost 100% back into the infrastructure for the project. They usually want some net revenue to the City. He said the Resort Tax money could be the blue sky. Manager Stearns said if they did the street and sidewalk improvements out of the Resort Tax, the City would have to do the work. He said they would delay things a little bit due to the cash flow. He said next spring they would spend \$350,000+ and they wouldn't get that back for two years. He said he wasn't sure if that would affect the Second Street project. The policy question is whether they want the street project paid out of Resort Tax. He said in his opinion TIF is where they should do economic development. Councilor Hyatt asked if they use the TIF money can they tie up the money unless the project is completed. Manager Stearns said the City would do the sewer lines, but the street and sidewalk work is still to be determined. He said the City usually does the infrastructure improvements in the right-of-way. He said some of the sidewalk and angled parking is on their property. He said they can put any conditions on the use of the money that they want. He said they would condition any assistance on the project going vertical. He said they could argue that they need to get the sewer line out from under this property anyway. Mayor Muhlfeld said the main reason they used Resort Tax revenue on the infrastructure downtown, is because the downtown association paid the majority of the money into the Resort Tax funds. He agreed with Manager Stearns that it made sense to use TIF funds for this project.

Councilor Hildner said the Bike/Ped committee wanted to avoid the two-way bike path on the sidewalk and would rather see 11-foot sidewalks along Spokane Avenue. He asked and Bruce Boody said this project has the curb and gutter, a 2 foot buffer and then a 10-foot wide, 2-way bike lane and then a 4-foot planter. Behind that planter and adjacent to the building there would also be a 10-foot sidewalk and awnings like Central Avenue. Councilor Hildner said he is uncertain about what projects it might preclude if they use TIF funds. Manager Stearns said they are only considering committing new TIF revenues to this project and he wasn't sure if that would delay some other projects. Manager Stearns said they could borrow for an upcoming TIF project. He said two weeks from now the Council will get the new TIF fund flow report. He said they would take the future revenues from this project and pour it into infrastructure for this project which could make some of the TIF money tight for a few years. Councilor Anderson asked about the 70% occupancy estimate and Mr. Sorensen said it is usually 95% occupancy in the summer and about 40% during the slow seasons. He said this project is creating a market by building a classy hotel. They will also cater to corporate businesses. Councilor Kahle asked and Mr. Sorensen said there will be 80 rooms and some will have kitchen suites. There will be retail space along Spokane Avenue and room for a bar and restaurant. He said there is an outdoor café area, too. Councilor Kahle asked if it will be a motel franchise chain and Mr. Sorensen said he is involved

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with a group that has 8 hotels across Montana. He chose not to go with a franchise this time, so he could design it to fit Whitefish better. Councilor Anderson said it is close to Central School and he questioned whether a bar could be allowed and Mr. Sorensen said they checked the regulations with City Attorney VanBuskirk and Attorney Bill Hileman and their location for a bar is legal.

Manager Stearns said Crandall and Arambula had comments about the angled parking. They feel it extends the parking lot and the visual affect of the parking lot into the public right-of-way. He said there is an additional cost to the angled parking, so it would decrease the City's cost if they only allowed parallel parking. He said he knows they are trying to offset the loss of parking spaces on the existing lot. He said they are meeting tomorrow with the ARC committee; so far they haven't seen any elevations for the property. Since they are considering providing financial assistance that will make this project happen the Council might want more input into the architectural elements. He said ARC is limited to what it can control and change. Manager Stearns said the risk is that once it is approved and built and if the City has helped make it happen then people could come forward and complain. He thought it was good for the Council to look at the elevations, because people will expect that the Council had some involvement in it.

Councilor Sweeney said he hesitates to get involved because there is the ARC review and it is pretty detailed. He said it might be more of a burden than the Council wants to take on. Mayor Muhlfeld said he doesn't think the intent is to have the Council micro-manage the design process. He thought representation by the Council on the ARC, or having it come back before the Council would be prudent. Councilor Kahle said he doesn't want to micro-manage, but it would be a public/private partnership and he thought it would be good if they were involved. Councilor Hyatt said he doesn't want to hold up the project. Councilor Kahle said they might have to establish a new protocol because this is a new project. Mr. Sorensen said they would be more than welcome to attend the ARC. He said they do have some time constraints to get this done before winter. Mayor Muhlfeld said they could still have that review process and not hold him up. Councilor Anderson asked and Manager Stearns talked about the 94% return. He said the TIF ends in 2020. Manager Stearns said the project would use 94% of the money it generates. Councilor Anderson asked and Manager Stearns said financing of projects may require some cash flow constraints. Councilor Anderson asked if it would take about a 2-year return if they took money from both funds and Manager Stearns agreed. Mr. Sorensen said the only figures they included were the figures from the hotel rentals.

Councilor Anderson said he doesn't want to wait 7 years for a return on the investment. Manager Stearns said there are several aspects that would go into drafting a development agreement—the source of funds, the amount of funds, perspectives on the angled parking and architectural involvement. Councilor Hyatt said the City needs parking and this development is going to provide parking. It is not the only angled parking they have, so he is in favor of more angled parking here and Councilor Kahle agreed. He said the angled parking is fine because it is on the two quieter streets. Councilor Mitchell said he supported angled parking. He serves on the ARC committee and they could give the elevations to the Councilors to review. He said the ARC Committee reviews things carefully and has a diverse make-up. Councilor Mitchell said the utilities have to be done through the City, not the developer. He thought it should come from the TIF funds. Councilor Sweeney said it was all Resort Tax money for the downtown project. Councilor Mitchell said he is amazed at having the developer provide 72 parking spots and he thanked the developer. His preference is to take \$543,239 out of the TIF funds. Councilor Anderson said because of the staggering of the development it might take 30 months before it becomes a positive figure. Councilor Kahle asked and Manager Stearns said if Mr. Sorensen goes to the County for a property tax incentive benefit then they will have a tighter time frame;

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he can't apply for that from the county until he has a building permit; so it wouldn't happen in this tax year. It wouldn't benefit the taxes until two years from now. Councilor Kahle asked and Manager Stearns said the County typically approves these types of requests. Councilor Kahle asked what would happen if they said no to the TIF and said yes to assistance with taxes. Manager Stearns said the upfront capital assistance is much more important to him than tax breaks down the road. He said Column F on page 233 shows the value of the City tax reductions. Councilor Kahle asked if the project is contingent upon support from the county and Mr. Sorensen said the projects in Sidney and Shelby have been very well supported because it brings new business into town.

Councilor Hildner said Kalispell Avenue is probably a bike-way for kids so he has some concerns about angled parking there. Manager Stearns said it would help to take one item at a time. Attorney VanBuskirk said there is an important zoning decision to make first before the City commits any TIF money. Mayor Muhlfeld said Manager Stearns is looking to get approval for an agreement so he wanted to review specific items. Mayor Muhlfeld asked if the Council is supportive of providing capital for the parking and street amenities and the Council indicated support for the TIF funding mechanism. Councilor Sweeney supported funding from TIF and Resort Tax. Councilor Kahle said he would like to explore the possibility of both funds. He doesn't want to delay Resort Tax projects. Councilor Hyatt said he was concerned that if they split it in half then the sidewalks wouldn't be done in a timely manner. Mayor Muhlfeld asked about angled parking and some of the Councilors agreed with the concept; Councilor Hildner was in opposition. Councilor Hyatt said the kids always ride on the sidewalk. Mayor Muhlfeld asked about the funding request for \$543,000, plus or minus. Councilor Anderson said there need to be milestones to make sure the money goes to a finished project. He generally agreed with Mr. Boody's breakdown. Mayor Muhlfeld asked about input for the design standards and Councilor Kahle said one of the Councilors sits on the ARC committee and if they get that input before the next meeting then it will be a good start. Councilor Sweeney said it is a very preliminary meeting with ARC. Councilor Sweeney said they have had other good projects come before them and a number of those projects don't start and he thinks it needs to be part of their agreement. Councilor Mitchell agreed, but there is already a sewer problem under this property at the church anyway. Manager Stearns said it would make the project tougher to develop. He said they ought to consider pulling it back out from under this property. He said that could be a different decision if this project doesn't go. Manager Stearns said if the boutique hotel development goes forward, the next steps would be the development agreement, and then the applicant would pull the building permit and start digging. He said the applicant will probably have to do certain things for the DEQ standards, too.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Standing budget item - None.

9b. Consideration of letter from Megan Olson regarding request to operate an ice cream truck on various city streets and in various neighborhoods during spring and summer months (p. 237)

Councilor Kahle invited Megan Olson to speak. She said she wants to have an old-fashioned ice cream truck in Whitefish. She said she won't compete with the businesses in Whitefish. Councilor Hildner asked if this is subject to the resort tax and Manager Stearns said it is, and a business license is required. Councilor Anderson asked and Manager Stearns said the Council is authorized by Code Section 6-2-1:A to allow ice cream wagons in certain neighborhoods. Manager Stearns said Director Cozad said he has concerns about the Dog Park, Smith Park and the City Beach where concession stands currently operate. Councilor Hyatt said he thinks it is a great idea.

Councilor Mitchell said it should only be allowed at Smith Fields with their permission, so he'd like to have Smith Fields taken off and add in The Lakes Development. Councilor Anderson said those fundraising concessions for organizations so he wouldn't want her business to compete. He said they could condition it so it wasn't operated when the concessions are being operated at Smith fields and City Beach.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve operating an ice cream truck on the streets she listed, adding the Lakes Development and Smith's fields with permission, conditioning it so it isn't operated when the concessions are being operated at Smith fields and City Beach. The motion passed unanimously.

9c. Email from Lyndsay Schott of 708 Lupfer Avenue regarding increased traffic on 7th Street from Hwy 93 construction (p. 241)

Mayor Muhlfeld said he thinks staff has been dealing with it to the best of their ability. Police Chief Dial said from April 15th until today they have run 47 extra patrols along Karrow Avenue. The Judge said it will be a straight conviction because folks are avoiding a construction zone. He said maybe in the future the Council should provide extra money for enforcement. Councilor Sweeney said he commutes that way and the increased traffic is amazing. Chief Dial said he does surveys in an unmarked vehicle and only 3% are actually speeding and they get tickets.

9d. Email from Doug Adams regarding maintenance of the landscaping on Hwy 93 S. (pg 242)

Councilor Hildner said they need to explore the possibility to get the funding they need to keep this infrastructure beautiful.

9e. Letter from Robert Horne regarding selection of consultant for Hwy 93 West Corridor Plan (p. 244) No discussion.

9f. Letter from Doug Wise and Janice Moore regarding a request for a quiet zone railroad crossing at Birch Point Drive (p. 245)

Mayor Muhlfeld said back in 2007 the City contracted with Railroads Control Limited to evaluate 3 public crossings to determine how to make quiet crossing zones. The crossings on East Second Street and State Park Road are now quiet zones. A lot of the electrical and signaling was already in place; and the road configuration at these two crossings made the quiet zones more feasible and affordable to the parties involved. The folks at Birch Point have asked for a quiet crossing before and they are asking again. He said Doug Wise and Ryan Zinke have contacted him about the safety issue at Birch Point, too, due to the added elements of the Veteran's Peace Park and the Skye Park Bridge project. He said there is a letter from the Birch Point residents asking for support in looking at the feasibility of creating a quiet zone. In the past it has been a combination of MDOT, City and BNSF funds, sometimes, with a SID; the funding is yet to be determined. He said Ryan Zinke has volunteered to discuss the project with BNSF when he goes to Texas next month. Mayor Muhlfeld said he would like to draft a letter indicating the City's support of studying the feasibility of establishing a quiet zone. The Councilors all showed support.

9g. Discussion of options for dealing with Aquatic Invasive Species (p. 246)

Mayor Muhlfeld said this is very timely with summer arriving. Zebra shell mussels were found on boats that were intended to work in Whitefish Lake and in the river. He said this issue didn't get too much more support from the legislative session. He said Mike Koopal prepared a conceptual management plan. The Council authorized \$40,000 toward AIS efforts and Mr. Koopal is requesting funding from the 2013 budget for seven (7) items in his plan as outline in the packet.

- 1 – Partner with Bureau of Reclamation (BOR) and Flathead Basin Commission for Hwy 2 Boat Inspection Station (\$20,000)
- 2 – Support Flathead Basin Commission Technical Consultant (\$5,000)
- 3 – Beaver Lake Eurasian Watermilfoil (EWM) Monitoring/Control (\$5,000)
- 4 – Early AIS Plant Detection Monitoring of Nearby Lakes (\$5,000)
- 5 – Environmental DNA Analysis (\$5,000)
- 6 – City Beach AIS Inspection Program (Additional cost to the City could come from increasing staff hours at City Beach and a potential increase to Police Department operations)
- 7 – Yellow Flag Iris (the report says that the City Public Works Department is spraying the Yellow Flag Iris in the fall before the first frost for at least three years).

Mayor Muhlfeld asked the Council to take a pro-active step to provide early detection and control of AIS levels. Councilor Kahle said he thinks they should pursue all 5 options. He said none are as effective as Option 6 for protecting Whitefish Lake. He would like to see vessels inspected before they go into the lake. He said they could perhaps increase the boat launch fees to offset the cost of an inspector. He'd also like to see buy-in from other stakeholders around the lake.

Councilor Kahle offered a motion, seconded by Councilor Hildner, to approve \$40,000 for the AIS prevention by the Whitefish Lake Institute, as outlined in the packet, contingent upon the station on Hwy 2 (Item No. 1) opening.

Councilor Mitchell said he wants to know the cost of Option 6. Director Cozad said they will cover the boat launch by adding hours from 8 a.m. to noon so there will be additional cost. Councilor Kahle said he thinks option 6 needs to be pursued. Councilor Mitchell wants reports so they know whether they are using their money wisely. Councilor Hyatt said the Police Chief is expected to be involved and Chief Dial said he was not aware of it. Mayor Muhlfeld said there are inspections coming at the Clearwater Junction and at the Roosville border crossing.

The motion passed unanimously.

9h. Discussion with Planning Director regarding composition of Hwy 93 West Corridor Plan steering committee (p. 248)

Director Taylor said they are creating the plan with the WGM Group. He said they came up with a list of representatives that includes the public, MDOT, Idaho Timber, and representatives of residential and commercial properties. Councilor Mitchell said he would like 2 residential owners and to remove one member-at-large. Director Taylor said the scope is limited to those adjacent to the highway or one street over. They included 3rd Street because those homes are all on septic, but not 4th Street because it is out of range from the corridor. Councilor Sweeney said the Corridor Study is going to affect the residents of the neighborhoods up to 7th Street. He said they may want to include people from a broader expanse. Director Taylor said he wasn't sure how many applicants they would get. Councilor Kahle said he thought they should add a second residential member without removing the member-at-large.

WHITEFISH CITY COUNCIL MINUTES

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Councilor Anderson said he is balancing representation versus an unwieldy committee. He said two residents would be good and he thinks they need representation from the WB-3 zone, too. Councilor Hildner said they need to address the idea that one member is adjacent to the study area. He would like someone who has nothing to do with the property or businesses along there. Councilor Mitchell said he disagreed with that idea because that person has no stake in that neighborhood. Councilor Mitchell said he heard the residential property owners say they didn't feel like they had enough say. Councilor Sweeney said he would like to keep the at-large member. Mayor Muhlfeld suggested adding someone from the WB-3 area and having 11 members.

Councilor Anderson offered a motion, seconded by Councilor Sweeney, to add one owner-residential property owner, to keep the one at-large committee member and to add one from the WB-3 district.

Councilor Hildner said he would like one more open position.

The motion passed 5-1 with Councilor Mitchell voting in opposition.

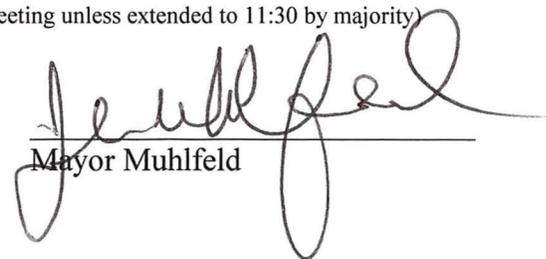
9i. Appointments to Committees and Boards that were not made at tonight's Special Session before the meeting. Appointments were all made during the Special Session.

Councilor Comments:

Councilor Hildner said MDOT may be open to eliminating medians on Highway 93. He said it is a safety island for people trying to cross the highway. Councilor Anderson said he recently started a new legal office and handles work for Mike Goguen's interests and that might mean he has to abstain from a vote now and then. Councilor Mitchell said he went to the Master Plan meeting with Crandall and Arambula and they would like the Park Board to look at how to get Farmer's Market off the road. He asked and Manager Stearns said in 2007 the architect estimated the cost for City Hall at \$175-185 per foot. Right now in the TIF pro-forma it is at \$4.8 million for City Hall. The estimated increase is an additional 4% each year from that date. Councilor Mitchell said the Highway 93 construction is going well and LHC has done a good job of getting people through and he thanked them. Mayor Muhlfeld said Attorney VanBuskirk's contract needs to be renewed. Councilor's Kahle and Hyatt have agreed to work on that contract. Mayor Muhlfeld said he went to the Free Flow project fundraiser for the High School and the students came out for the fundraiser; he thinks they raised about \$1600. He thanked Erick Schattle and the Whitefish Lake Lodge working together to raise money for new GIS equipment. Councilor Hildner said he attended a seminar on Open Space opportunities and would share information with them in the future.

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

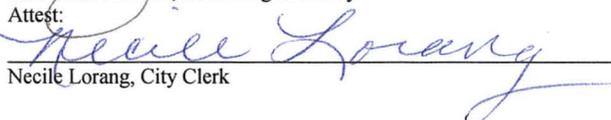
Mayor Muhlfeld adjourned the meeting at 10:50 p.m.



Mayor Muhlfeld



Jane Latus Emmert, Recording Secretary

Attest:


Necile Lorang, City Clerk