

WHITEFISH CITY COUNCIL MINUTES

April 15, 2013

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Anderson, Hildner, Kahle and Hyatt. Councilor Sweeney was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Senior Planner Compton-Ring, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 21 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked John Frandsen to lead the audience in the Pledge of Allegiance.

3. PRESENTATIONS - None

4. 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)

Mayre Flowers, Citizens for a Better Flathead, talked about their goals and priorities. She said she attended the workshop and felt they listened to the public after they had come to their conclusions, which is problematic. She said they put the Sign Code on the priority list and she is concerned about the vagueness of that priority. She said if the Sign Code is a priority then it needs to go through the public process. It was a big issue for the community and the finished product has flexibility. She doesn't think it needs to be re-opened. She said if they are opening it for the businesses that have raised concerns then they need to ask why they don't use the zone change request process. She said she spoke with Don K and told him she gets plenty of advertising and service from them, so she is not interested in seeing more signs at the entrance to Whitefish. She said last week at the Council meeting they announced that Councilors Hyatt and Mitchell would go to the Planning Board to recommend changes. She said if those Councilors go and take a position at the meetings it will put them in an unethical position when it comes to voting on the issue. She showed the Planning staff report, but said none of the public has had a chance to look at things because it is not on the website. She said items like staff reports and applications also need to be included on the website so the public can have easier access to documents.

Councilor Anderson stated, as a point of privilege, that he had missed the goal-setting work session but does not agree with listing amendments to the Sign Code as a priority. He will have to leave during the meeting tonight, but if this comes up while he is here he will not vote for the goals as long as the 'Possible Amendments to the Sign Code' is in there.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Jan Metzmaker, Executive Director of the Whitefish Convention and Visitors Bureau (WCVB) introduced the Board and communications team. She presented the FY 14 Marketing Plan and the

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Public Bed Tax Fund Budget (dollars which they receive from the State). She said they partner with the State marketing program and are able to market in major national magazines. Their budget started out at about \$40,000 in 2006 and now their total operating budget including private and public funds is close to \$440,000. Bed tax collections were up 9%. They have achieved all of their goals for the year except one. She said the business members are appreciative of their efforts, especially during the shoulder seasons.

John Frandsen, Old Town Creative, said they are the advertising agency for the WCVB. Through paid advertising and cooperative efforts with independent and State marketing efforts the WCVB reached 4.9 million people through print advertising.

Lisa Jones said she and Brian Schott are the contracted public relations team for the WCVB. By December 2012, they had reached 54 million in ad equivalency through “earned media” providing information to national PR programs that are sent out in print, by radio, online, and on television. When these free promotionals are compared to the cost of traditional advertising, it is worth \$5,276,246 to date. She said these free promotionals reached over 979 million people since July 1, 2012. They hosted a project with the Montana Office of Tourism to bring in the TV program, “The Bachelor.” It was advantageous for the community. It cost about \$300,000 to bring in the show and \$30,000 was contributed by the WCVB for food for the crew. She said the show highlighted the beauty of our small town and Glacier National Park. She said the show reached 9 million people each of the four times it was shown. She said a 30-second ad during “The Bachelor” would be \$70,000.

She said the website normally gets 500 hits a day and got 5,000 on the day after the show. She said the Whitefish Lake Lodge site crashed 11 times because of all of the hits after the show; and many local businesses saw more hits on their websites and booked more reservations following the airing of the show. The Chamber of Commerce, our Whitefish Visitors’ Information Center, had a 29% increase in activity in February and March. She thanked all of the partners, including the City staff that supported them in this endeavor. (Councilor Anderson left the Council Chambers at this time). Councilor Mitchell asked if it was normal to have to pay the production costs and Lisa Jones said yes, they have to “pay to play.” Councilor Mitchell asked if Whitefish was a resort town or a tourist town and Lisa Jones said Whitefish is a mountain town; a small, vibrant community that is a gateway to national wonders. Nick Polumbus said that Whitefish is marketed as a wonderful community and that is a large appeal to visitors. Lisa Jones said people love the scenery and interacting with the locals. Councilor Hildner said the key measurable objectives seem like they might be over ambitious—but, they reached the goals in 2013. Lisa Jones said they are reaching the 55 million geo-travelers so they have a targeted market group and research shows that 80% of those visitors return. Rhonda Fitzgerald said they have out-performed their goals every year so she made a motion to move the bar up. She said Whitefish is unique—not a resort town.

John Frandsen, Old Town Creative, said they don’t market themselves as a resort town; they market themselves as a vibrant town. He said the website had 198,000 hits in the past year. There is now a new web cam at City Beach and he thanked Director Cozad for his help with that project.

Councilor Kahle offered a motion, seconded by Councilor Hildner to approve the WCVB budget for FY 2014. The motion passed unanimously.

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Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve the WCVB marketing plan for FY 2014. The motion passed unanimously.

Councilor Mitchell said he was on the tree committee and the Rollie Smith Sports Park is part of the Arbor Day program and will get five trees at the park. They will be planted April 26, 2013.

6. 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)

6a. Minutes from the April 1, 2013 Council regular session (p. 106)

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

7. 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)

7a. Consideration of an application from Whitefish Mountain Resort, on behalf of Winter Sports Inc., for a variance to the Subdivision Regulations, §12-3-11I(1), in order to obtain a 2-year extension to a Subdivision Improvement Agreement for Northern Light West, Phase 2 subdivision. The property can be described as Lots 19-28, Northern Lights West, Phase 2 in S3, T31N, R22W (p. 114)

Senior Planner Compton-Ring said Dan Graves, on behalf of Winter Sports Inc., is requesting a variance to §12-3-11I(2)(a) of the Subdivision Regulations in order to extend the Subdivision Improvement Agreement for Northern Lights West, Phase 2, a second time for 24 months. The property is zoned WBMRR (Big Mountain Resort Residential District). This subdivision is within the 2006 Big Mountain Neighborhood Plan and this area is designated for single family residential.

Northern Lights West was approved by the Flathead County Commissioners on October 20, 2003. The project encompassed 102.7 acres and 28 single family lots. Phase 1 was finalized in 2007 and consisted of 18-lots. Phase 2 was finalized in 2008 and consisted of 10-lots. As part of the final plat application, WSI entered into a Subdivision Improvement Agreement (SIA) with the City to complete unfinished improvements including roads, water, sewer, drainage and other utilities. The SIA has been extended several times and is now set to expire on November 30, 2013.

When a preliminary plat is ready to be finalized, an application for final plat is submitted to the Planning Department. The application includes a list of the conditions of approval and how these conditions are met. Often when a developer is prepared to go to final plat, not all the infrastructure or other improvements are installed. In these cases, as part of the final plat application, a financial guarantee along with a Subdivision Improvement Agreement (SIA) is submitted. The SIA is an itemized list of outstanding items with a cost estimate for the total project plus 25%.

The Subdivision Regulations permit an SIA to be valid for 24-months at the time of final plat. The developer may request one 24-month extension from the City Council in order to complete the improvements. If a developer is unable to make the improvements, the City has the authority to cash out

the letter of credit and make the improvements. Staff placed a legal in the paper on March 6, 2013 and notified the adjacent land owners within 300-feet on March 1, 2013 and no comments have been received.

Planner Compton-Ring reviewed the criteria set forth in Section 12-2-5C of the City of Whitefish Subdivision Regulations. Variance language states no variance shall be granted unless the Council finds the following conditions are met or the conditions are found to be not pertinent to the particular case:

- 1. The granting of the variance will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

The project is served by Big Mountain Water Company, Big Mountain Sewer District and private roads. The private roads are extended to the northwest of the project boundary; however, there are no projects waiting to be served by the roads or utilities.

Finding 1: The granting of the variance to extend the Subdivision Improvement Agreement for an additional 24-months will not be detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

- 2. Due to the physical surroundings, shape or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner.**

Finding 2: This criterion is not pertinent to this particular request.

- 3. Undue hardship is not based exclusively on a personal or financial hardship or any hardship that is self-imposed.**

WSI, like the rest of the valley, has felt the effects of the recent recession. Instead of spending capital on more residential development, they have made the choice to spend resources on visitor services and would prefer, in the near-term, to invest in more visitor services. One could make the case that the choices WSI has made in the past has placed them in a position to be requesting a variance to further extend the Subdivision Improvement Agreement. However, one could also make the case that WSI prefers to use their resources strategically to get the most out of day visitor usage which may, in turn, promote interest in mountain real estate.

Finding 3: The hardship is not based exclusively on a personal or financial hardship.

- 4. The variance will not cause a substantial increase in public costs.**

Finding 4: The project is served by private infrastructure. An extension of the Subdivision Improvement Agreement will not affect the public.

- 5. The variance will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.**

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The variance request is not to any design standards. The project layout and design are established and will not be changing with this request. The request in and of itself will not place the subdivision into any nonconformity.

Finding 5: The variance request will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.

Planner Compton-Ring said there are several issues to consider with this request:

This project was approved 10-years ago by Flathead County before it was in the City's planning jurisdiction under different zoning and subdivision standards. WSI has requested a number of extensions on this project. At what point, is it time to simply require a plat to be vacated?

On the other hand, as a community, the success of the Mountain is an important aspect of our community. The Mountain has a number of employees and is a draw to our town in the wintertime and other times of the year. If the Mountain believes delaying the installation of infrastructure in order to focus on day users of the Mountain and the variance to extend the SIA 'does no harm' the City should support that request.

She said the Planning Board held a public hearing on March 21st and recommended approval with two conditions:

1. An updated Subdivision Improvement Agreement (SIA) with revised engineering estimates shall be submitted to the City for review and approval.
2. A revised letter of credit or other form of financial guarantee shall be submitted to the city in an amount of 125% of the SIA and shall have an expiration date of 30-days past the date of the SIA.

Councilor Hildner asked and Planner Compton-Ring said the letter of credit will cover 125% of the SIA.

Mayor Muhlfeld opened the public hearing.

Dan Graves, Whitefish Mountain Resort, said the bond of 125% has already been guaranteed by the bank and they will get the updated estimates on the infrastructure. He said this is similar to the other single family preliminary plats he has brought before them. He said the single family market is slow so they are working on guest service improvements which will further promote tourism. He asked them for their continued patience so they can get through this period.

Mayor Muhlfeld closed the public hearing.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve a variance to the Subdivision Regulations, §12-3-11I(1), in order to obtain a 2-year extension to a Subdivision Improvement Agreement for Northern Light West, Phase 2 subdivision subject to two conditions and findings of fact in the staff report (WSV 13-01). The motion passed unanimously.

8. COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

8a. Consideration of approving a consultant contract for the Whitefish Hwy 93 West Corridor Plan project (p. 132)

Planner Compton-Ring said the City Council authorized staff to pursue Request for Proposals (RFP) for a Highway 93 West Corridor Plan at the January 22nd meeting. There were four responses to the RFP. Proposals were received from Applied Communications, WGM Group, Design Workshop, and CTA. A selection committee comprised of Mayor Muhlfeld, John Wilson, Wendy Compton-Ring, and Dave Taylor ranked all four proposals on a scale of 1-100. This team also interviewed all four firms on March 25 and ranked the interview presentations on a scale of 1-100.

Three of the four reviewers ranked Applied Communications, LLC first, while the other had them at a close second. It is the recommendation of the selection committee to award a contract for the Highway 93 West Corridor Plan to Applied Communications, LLC. Applied Communications, LLC, which is made up of professional planners Kathleen McMahon and Robert Horne, will team up with GSBS Richman as well as Geodata Services for this project. The majority of the selection committee felt that they had the strongest proposal. As a local firm, they have the most flexibility to attend steering committee and other meetings, have a great familiarity with Whitefish and our adopted long range plans, as well as the necessary experience for a successful project. The interview committee also unanimously felt their proposal for evaluating the economic performance of the district was the strongest of all the applicants. They were also tied for least expensive proposal at \$50,000 and can complete the project within a 22 week timeline, slightly less than six months.

Staff respectfully recommends the City Council award a contract for the Highway 93 West Corridor Plan to Applied Communications, LLC in the amount of \$50,000.

Councilor Hildner offered a motion to award a contract for the Highway 93 West Corridor Plan to Applied Communications, LLC in the amount of \$50,000. The motion failed for lack of a second.

Councilor Hyatt said the numbers between WGM and Applied Communications were rated very equitably and he felt WGM already was involved with the project. Planner Compton-Ring said WGM was the engineering team for the project out there. Councilor Hyatt said this team already has a great idea of what is going on to date. Councilor Kahle said he agreed that the WGM group has continuity for the project. He said he talked with people on that committee who feel like the relationship with WGM and the existing homeowners is vital.

Councilor Kahle offered a motion, seconded by Councilor Mitchell, to award the contract for the Highway 93 West Corridor Plan to the WGM Group in an amount not to exceed \$54,185.

Councilor Hildner said it made good sense to go with professional planners and not an engineering group. He said they needed to honor the team that went through the process and recommended Applied Communications. He can't recommend a 2nd place application when the steering committee voted unanimously for Applied Communications. Councilor Hyatt disagreed with Councilor

Hildner's comments. He said Director Taylor rated WMG group above Applied Communications. He would like to keep similarity in the project.

Councilor Hildner recognized Bob Horne in the audience.

Bob Horne, with Applied Communications, 151 Wedgewood Lane, said this is not an engineering project. The RFP said the engineering was a given. This is a planning project to evaluate the existing growth policy and zoning and to do a build-out scenario. He said the RFP said they wanted a regulatory framework and a Neighborhood Plan that is adoptable. He said the different businesses competed and the committee liked the economic basis of the Applied Communications approach and he asked that they be allowed to negotiate the contract with the City.

The motion passed 3-1 with Councilor Hildner voting in opposition.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 145)

9b. Other items arising between April 10th and April 15th

Manager Stearns said he went down to attend a meeting with the County Commissioners about the highway corridor study, but their agenda was rearranged and he missed the agenda item. He said they told him that their County Attorney said they cannot participate in the Hwy. 93 South Corridor study until the donut litigation is settled. Mayor Muhlfeld said David DeGrandpre has been hired by some of the land owners out on Highway 93 and wanted to know what the City's intentions were, so he would let him know that the City's hands are tied right now. Councilor Mitchell said he hoped the donut issue would move forward, but it is not moving forward now.

Manager Stearns said there will be a 5th Monday meeting in Columbia Falls and when he gets the agenda he will let the Councilors know.

9c. Resolution No. 13-04; A Resolution establishing annual goals for the City (p. 148)

Councilor Kahle said the short term goal about the Sign Ordinance has been an issue since he got on the Council. No one wants to gut the Sign Ordinance, but it is a dynamic document and they need to look for ways to improve it. He said they have asked the Planning Board to bring up certain areas of the Code they are not happy with. He said this goal is not in response to what the businesses on Highway 93 South are saying. Mayor Muhlfeld agreed. Councilor Hildner said it has been on the goals list for 3 years, but they've dealt with several of the issues through revisions using the variance process. He would be more comfortable, especially since they can't move forward with the Highway 93 South Corridor study, if they took it off the goals list for now.

Councilor Hildner offered a motion to adopt the list of annual goals with the exception of the goal to amend the Sign Ordinance. The motion died for lack of second.

Councilor Kahle said the variance section of the code is costly, especially for small businesses. He would like to have a discussion and work session with the Planning Board. Councilor Mitchell said they have asked the Planning Board for updates and the Council was going to meet with them. Mayor

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Muhlfeld said they were waiting for a list and Planner Compton-Ring said she submitted a list to go before the Planning Board this Thursday; they have been keeping a running list of areas that seem problematic from both staff and the Planning Board, and she included 3 items from Councilor Hyatt. Councilor Mitchell said they can work on it. He said Mayre Flowers' comment that said he was going to attend the Planning Board meeting and go with an agenda was not true. He said he thinks there is value in reviewing this issue.

Councilor Hyatt offered a motion, seconded by Councilor Mitchell, to approve Resolution 13-04; A Resolution establishing annual goals for the City for FY 2013. The motion passed 3-1 with Councilor Hildner voting in opposition.

9d. Third Quarter Financial Report – Assistant City Manager/Finance Director (p. 152)

Finance Director Knapp gave the financial report and said the total property tax supported funds' cash increase from last Q3 was \$158k or 16%. The Parks Department cash is lower than normal due to large capital purchases early in the year and unexpected costs. Fire and Ambulance cost is lower because they haven't received funds yet from Medicare. He said the High School permit income hasn't been received yet. He said the numbers reflect the Police Department's Union pay raises but the Fire Department union pay increases have not taken effect yet. He said building permits income is the highest since 2007. He said water and sewer charges are 6-7% higher and planning fees are at 110% of budget. Revenue from impact fees has doubled from last year. The City is now generating hydroelectricity so it is decreasing that cost for the City.

Councilor Hyatt asked about the payment of the TIF money to the High School and Finance Director Knapp said the City will pay the full \$1 million later this week. Councilor Mitchell had a question on page 158, line 159 regarding the cash balance. Finance Director Knapp said they paid for the water improvements for the U.S. Highway 93 project with cash. Councilor Mitchell asked what amount in cash reserves is needed to reach 15% and Finance Director Knapp said he could look that up. Manager Stearns said the budget is \$150-\$170,000 ahead of last year. He said cash levels are higher, but they haven't received the largest permit fee for the high school. He said all the money for the fire equipment debt won't show up in this year's budget. Finance Director Knapp told Councilor Mitchell they need \$1.3 million to have a 15% cash reserve.

10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

10a. Standing budget item - None.

10b. Selection of an elected official to serve on the Stormwater Improvement Project engineering selection committee.

Councilor Hyatt volunteered to serve on the committee.

10c. Email from Douglas Chadwick on sign code (p. 160)

10d. Email from Nancy Nei on sign code (p. 162)

Councilor Kahle said he believes that the Sign Ordinance review needs to be and will be a public process. They are looking for more clarification so they can fix a few problem areas.

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Councilor Hyatt said Clean the Fish is April 20th, 8:30 a.m. at Glacier Bank parking lot. He invited the public to attend.

Councilor Mitchell said at the parking work session meeting he brought up the idea of sending information out to people in the TIF district to get their ideas on a parking garage. He asked if it was possible and Manager Stearns said anything is possible and there are a number of ways to get it done; if they decide on a survey, he thinks it will be hard to agree on how and what questions to ask. He said they have a list of all of the properties in the TIF, but he doesn't have a list of only commercial properties. He thought the County could come up with that list. Councilor Mitchell said it is an important issue for the public and will be an important issue for the whole town. He said Chris Schustrom commented that Councilor Mitchell didn't know the Growth Policy. He said he has spent hours reading the regulations and would appreciate being treated with respect.

Mayor Muhlfeld said during the work session it sounded like there is a need to update the TIF spreadsheet and Manager Stearns said staff was waiting to roll it out at a work session. He said they will get it updated as soon as they can, however the budget preparation is their current priority. Mayor Muhlfeld said it would be good if the Council could get the update before the May 20 meeting. Manager Stearns said it probably won't be a work session item until July.

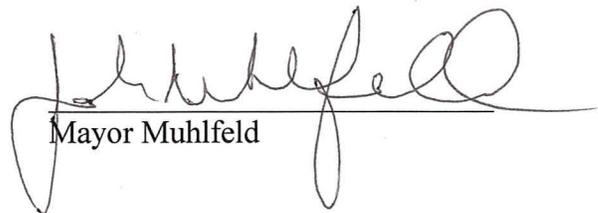
Councilor Hyatt addressed the parking structure issue and said he asked for a similar survey to go out because only 28 people voiced their opinion about putting the City Hall on the existing site. He would like to hear from the public at large. Mayor Muhlfeld said unfortunately they only hear from people who come to public hearings. Councilor Hyatt said people talk to him every place but at the Council meetings. He said people who talk to him know there are people with an agenda at the meetings and they don't want to stand up as a lone voice speaking out against an issue. It is too intimidating. Mayor Muhlfeld said they need to encourage everyone to show up for the public meetings.

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 9:46 p.m.

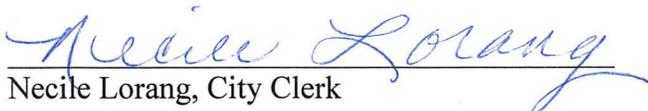


Jane Latus Emmert, Recording Secretary



Mayor Muhlfeld

Attest:



Necile Lorang, City Clerk