

# WHITEFISH CITY COUNCIL MINUTES

April 1, 2013

7:10 P.M.

## **1. CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Hildner, Kahle and Hyatt. Councilors Sweeney and Anderson were absent. 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 Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 7 people were in attendance.

## **2. PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Rebecca Norton 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)

John Sinrud, Executive Director of the Flathead Business and Industry Association at 118 Main Street, Kalispell, said they submitted a letter in regards to the sign code. He did some research and found the U.S. Sign Council who has done research on different signage on roads with difference speeds. He said someone from the organization would be willing to come up from Helena and work with the City on any sign amendments. He'd like to create a cooperative partnership to help provide information. He said the United States Sign Council may also have information that will help them with their planning.

Rebecca Norton, 530 Scott Avenue, said she likes the idea of a Corridor Study before they address signage. She said no one knows how long it will take to get the donut area issue resolved. She said she thinks Highway 93S should be a walking/biking area and there should be a lot more vegetation out there. She said it would be beneficial to the businesses if it looked a little more like the downtown corridor. She knows they're going to talk with the county, but she'd like to see the City work on a Corridor Study out there, too.

Ian Collins, 898 Blue Heron Drive, thanked the Councilors for their service. He spoke in support of the existing Sign Code. He said he doesn't think they'll ever be able to please everyone, but the Sign Code has worked to preserve and make Whitefish unique. He said it seems like this is being driven by the local car industry. He said cars and trucks display well from the Highway in his opinion. Most people don't want the visual pollution that signs and banners create. He cautioned against contacting the United States Sign Council because they work for the advancement of the sign industry. He said Whitefish should avoid sign standards that have been working their way across the United States because we don't want a generic look to Whitefish.

Mayre Flowers, Citizens for a Better Flathead, agreed with the points made by Rebecca Norton and Ian Collins. She said there is a good Sign Code in Whitefish and a lot of work and a lot of time went into creating it. She encouraged them to go forward with a Corridor Study before they make any Sign Ordinance changes. She was concerned about the request for a special committee with business owners and those directly involved with the Highway 93 South corridor. She said it is important for them to have input, but Whitefish is one community and the Sign Code affects all businesses and homeowners. She said education of the community is important. She said the Council has an obligation to let the public know about what the issues are before they make a decision on sign changes.

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

Councilor Hildner said the Bike/Ped Committee met and the bike lane striping is scheduled for May. The committee is continuing to review safe routes for pedestrian and bicycle traffic on the Hwy 93W Project. During Clean the Fish the committee will clean up the silt fence by the Rygg property. The committee discussed working with the Park Board on eliminating street paint for events and using markers instead. Councilor Hyatt said he hoped they read the letters from the Impact Fee committee members in support of the reduction of impact fees for smaller projects, an item on tonight's agenda. Mayor Muhlfeld said he and Councilor Hildner met with BNSF and Kennedy-Jenks about the river clean-up. This is the last round of river clean-up and they will have the trail open by July 1<sup>st</sup>. Councilor Mitchell asked and Councilor Hildner said the Clean the Fish project doesn't affect the BNSF clean-up.

**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 March 18, 2013 Council special session (p. 17)**

**5b. Minutes from the March 18, 2013 Council regular session (p. 18)**

**5c. Consideration of approving application for Whitefish Lake Lakeshore Permit (#WLP-13-W02) for Installation of Dry Set Stone Steps; Gravel Pathway; Beach Gravel; and Low Voltage Pathway Lights at 2500 East Lakeshore Drive subject to 16 conditions (p. 27)**

**5d. Consideration of approving application for Whitefish Lake Lakeshore Permit (#WLP-13-W03) for Installation of Dry Set Walkway, Stepping Stones & Low Voltage Pathway Lighting at 422 Dakota Avenue subject to 13 conditions (p. 37)**

**5e. Consideration of approving application for Whitefish Lake Lakeshore Variance (#WLV-13-W04) for Replacement of Existing Stone Wall and Stone Steps; Rock Lined Swales; Application of Beach Gravel; installation of native plants and erosion control measures as a subset of the wall replacement and drainage reconfiguration; dock reconfiguration to reduce overall constructed area at 920 Birch Point Drive subject to 39 conditions (p. 46)**

**Councilor Kahle 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)

(none)

**7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR****7a. Consideration of awarding a contract for the construction of Phase II of the 6<sup>th</sup> and Geddes Resort Tax street reconstruction project (p. 105)**

Public Works Director Wilson said the Public Works Department has opened construction bids for Phase II of the 6th and Geddes Street Reconstruction Project, involving street reconstruction and related utility improvements along Geddes, Jennings and Good Avenues between West 2nd and 5<sup>th</sup> Streets. Work is scheduled to begin on June 17th and continue through mid-August. Five bids were received with prices ranging from 15% below to 26% above the engineer's estimate of \$901,564. The low bid was submitted by LHC, Inc. of Kalispell, and staff recommends that a construction contract be awarded to LHC, Inc. of Kalispell in the amount of \$765,533. LHC was also the low bidder on Phase I of MDT's Whitefish West Reconstruction Project, which will go to construction this summer. Working with a single contractor on these two jobs in close proximity should benefit both the City and the State. Project costs will be paid out of the Resort Tax Fund which has a sufficient balance.

Councilor Mitchell said there was a healthy difference in the bids and Director Wilson said in this case he didn't think it was a cause for concern. Councilor Mitchell asked what is being done on Highway 93 West this year and Director Wilson said the contractor will start in mid-April with utility work, then the temporary bridge and in mid-to-late summer the heavy utility construction will begin. Councilor Mitchell said that because it is a major corridor they need to provide better information to the public. Director Wilson said MDT is in charge of this project so they will be in charge of press releases. Director Wilson said they will find out more at the pre-construction meeting scheduled for this week.

Councilor Hyatt asked and Director Wilson said LHC did three projects last summer—the overlay on Baker Avenue, the Second Street reconstruction, and a pump station on 6<sup>th</sup> Avenue.

**Councilor Kahle offered a motion, seconded by Councilor Hyatt, to award a construction contract for Phase II of the 6th and Geddes Street Reconstruction Project to LHC, Inc. in the amount of \$765,533.12, adopting the staff report. The motion passed unanimously.**

**7b. Consideration of amendment #1 to the engineering contract with Anderson – Montgomery for the Wastewater System Improvements Project engineering design consultant agreement (p. 107)**

Director Wilson said on October 15, 2012 the City Council approved a contract with Anderson Montgomery Consulting Engineers for the City's Wastewater Permitting and Facility Improvements Project. Staff is recommending Amendment No 1 to the consultant contract for engineering services to evaluate, recommend measures and prepare applications for grant funds to reduce clear water flowing into the wastewater collection and treatment system. As was discussed on October 15th, this is a complex, long term project that will involve many different aspects of planning, design, grant writing, permitting procedures and negotiations with the Department of Environmental Quality for several years into the future. Staff is pursuing TSEP and DNRC grants for this project.

The scope of work subject to this amendment includes project management evaluation of existing data, field work / data collection and grant writing with the goal of eliminating continuing

inflow and infiltration (I&I) of clear water into the wastewater collection system. This work and subsequent construction work to mitigate I&I are vital to the City's long range mission of upgrading the wastewater treatment plant. Continuing I&I is the source of huge seasonal increases in flows to the wastewater treatment plant; with unwanted clear water contributing up to 2.5 times the volume of base flows at certain times. This surge during spring snow melt and rainfall events has significant impacts on biological treatment processes, as well as the capacities and costs for facilities to treat higher flows. By reducing I&I, staff can stabilize the character of the influent to be treated and reduce future construction costs.

The Public Works Department has negotiated a fee not to exceed \$69,210 for the scope of services described above. The cost will be paid out of the Wastewater budget which has sufficient funds for work to be completed in FY 13. Although this work was not anticipated in the initial FY 13 Wastewater budget, the fund balance is adequate due to a generator project which is getting a late start. Staff will include funds for continuing I&I mitigation work in the FY 14 budget proposal.

Councilor Mitchell asked and Director Wilson said as part of this phase they will research all the past studies and help staff develop a monitoring plan. Staff is prepared with three portable, in-pipe recording flow meters to monitor conditions in various part of the collection system. This information will be critically important for preparing a sampling to address the areas that need work. Councilor Hildner asked and Director Wilson said the City owns two meters and rents one from the consultant. Mayor Muhlfeld said a few years ago they did I&I work and Director Wilson agreed and said it is all related to the current project.

**Councilor Hildner offered a motion, seconded by Councilor Hyatt, to approve Amendment No. 1 for the Wastewater Permitting and Facility Improvements consultant contract in an amount not to exceed \$69,210, adopting the staff report. The motion passed unanimously.**

**7c. Consideration of revisions to the Rules And Regulations For The City Of Whitefish Water, Wastewater And Garbage Utility to reduce impact fees for small types of projects and to eliminate the requirement for separate water and sewer connections for accessory dwelling units (p. 115)**

Director Wilson reported that staff is looking for input from the Council and whether they might want this issue to go to the Impact Fee committee. The City Council recently expressed concerns about water and sewer impact fees for small construction projects. The Public Works staff has evaluated utility impact fees and regulations regarding service connections and is recommending two changes that may reduce costs for small projects. Those recommendations are to 1) update the method of calculating minimum water and sewer impact fees and 2) amend the utility regulations to relax requirements for separate water and sewer services to separate structures.

The recommendation concerning impact fees has not been presented to the Impact Fee Advisory Committee, but staff can do so if the Council wishes. The means to implement these recommendations would be by resolution. If the Council so desires, staff can prepare resolutions for consideration at a future City Council meeting. Current City Code provides minimum water and sewer impact fees of \$1563 and \$1575, respectively, for projects with 20 or fewer fixture units. A home with 20 water and 14 sewer fixture units (as defined by the Uniform Plumbing Code) might typically have one full bathroom,

a kitchen sink, a dishwasher, a clothes washer, a mop/utility sink and two outside hose bibs. Currently, those same minimum fees would apply to a small business with a toilet and one sink.

Staff recommends replacing the current minimum water and sewer impact fees with unit fees of \$78.15 per water fixture unit and \$78.75 per sewer fixture unit. Under this proposal, the fee for 20 fixture units would match the current minimum, while the lower fee for small projects would better represent the impact to the water and sewer systems. Staff proposes amending Section 10-2-12 of the City Code as shown on Attachment A that was provided in the packet.

The Rules and Regulations for the Water and Wastewater Utility currently require that each separate structure must be serviced by separate water and sewer service lines. This provision is intended to enable prompt payment and accountability payments and maintenance on utility accounts under separate ownership. In certain instances, such as the provision of services for an accessory dwelling unit in addition to a primary residence on the same lot, accountability is ensured by common ownership and we recommend relaxing the requirement for separate services. The effect would be to reduce the cost of construction for certain small projects and avoid unnecessary excavation of City streets and alleys.

Staff recommends amending certain provisions of Title 8, Chapters 2 and 3 of the City Code, regarding Water and Wastewater Regulations, if the Council wishes to implement such a change. If the Council is supportive, staff will go through the regulations and come back with a Resolution for the Council to consider.

Councilor Mitchell asked about the fixture limit based on water line capacity. Director Wilson said if there is a large addition proposed then staff runs a calculation based on the size of the service line versus the number of fixtures. Councilor Hyatt asked about the 5/8 meter size—he thought the City had gotten rid of those, but Director Wilson said there are still a number of 5/8 meters in the system. Councilor Hyatt asked and Director Wilson said he doesn't deal with the rules every day, but he thinks 5/8 meters are still appropriate in some places. Director Wilson said they are talking about going away from two hook-ups to a single hook-up for two units on the same property. Councilor Hildner said when they have the same owner for a house and an accessory unit, the City doesn't have a good handle on what happens if the owner rents both units. Mayor Muhlfeld said one of the units needs to be occupied by the owner. Manager Stearns said the neighbors usually help them monitor that. The Council indicated a willingness to have this on a future agenda.

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

### **8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 121)**

Mayor Muhlfeld said he won't be at the 5<sup>th</sup> Monday meeting in April. Councilor Mitchell talked about the bids for fire apparatus. He said he feels like they have solved the union issues with some departments, but they need to get salaries with the Fire Department resolved before they move forward on this. Councilor Mitchell talked about the capital expenditures on packet page 125 and Finance Director Knapp said the plan is to take on debt; he will do a more detailed report for the Council. Councilor Hyatt asked and Director Knapp said the Rural Fire Department was going to put in \$70,000 for the brush engine. Manager Stearns said the City will also take \$70,000 from the \$300,000 the RFD gave the City a few years ago to use for the water tender. Councilor Hildner said while he agreed that it

is important to get the contracts and wages met, he doesn't think it is related to capital purchases and he thinks they need to get the new equipment.

**8b. Other items arising between March 27<sup>th</sup> and April 1<sup>st</sup>**

Manager Stearns (in answer to Councilor Hildner's comment about prohibiting the use of paint to mark routes for special events on paths) said event paint is an issue and the City requires that the event sponsors use washable paint or chalk. Every event tends to blame others for residue. He said a deposit is an idea, but it may face some resistance. He said he would like to work on educating them some more.

**8c. Consideration of a request from North Valley Food Bank to allow temporary parking on West 15<sup>th</sup> Street during their building construction (p. 128)**

Manager Stearns said he received a request from the North Valley Food Bank requesting that they and contractors be allowed to park on West 15<sup>th</sup> Street during the construction of their building this spring, summer, and fall. Currently there is no parking on either side of West 15<sup>th</sup> Street, west of Baker Avenue. According to City Code, the City Council may, from time to time by motion, when it determines it advisable to do so, establish other and different limited parking areas within the City. He said he discussed this request with Department Directors on March 19<sup>th</sup> and it was the unanimous consensus that allowing parking on one side of West 15<sup>th</sup> Street (west of Baker Avenue) would not cause any traffic or emergency vehicle problems if construction did not extend into winter. Manager Stearns checked with Jerry Quinn, Board Chair for the Food Bank, and he confirmed that their construction should be done by December 1<sup>st</sup>. There will be a small labor cost to take down 2-3 existing No Parking signs and replace them with signs limiting no parking areas to the clear vision triangles at intersections.

**Councilor Mitchell offered a motion, seconded by Councilor Kahle, to approve allowing temporary construction parking on the south side of West 15<sup>th</sup> Street (west of Baker Avenue) except in the clear vision triangles at intersections from May 15, 2013 to December 1, 2013 for the North Valley Food Bank construction project. The motion passed unanimously.**

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

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

**9b. Letter from Greg Schaffer and Don Kaltschmidt of Don K Whitefish regarding the sign ordinance (p. 135)**

**9c. Letter from Richard DeJana, President and John Sinrud, Executive Director of the Flathead Business and Industry Association regarding the sign ordinance (p. 138)**

**9d. Email from Bart DePratu of DePratu Ford Whitefish regarding sign ordinance (p. 139)**

Mayor Muhlfeld grouped the three letters about the Sign Ordinance. Councilor Mitchell said there will be a joint meeting with the Planning Board, so he thinks it needs to be advertised to let the public know. He thinks no one wants a lot of balloons and junk that he sees in larger towns, but they need to look at a few issues. He thanked the individuals for their letters. Manager Stearns said in the letter from Greg Schaffer and Don K he thinks they misunderstand aspects of the Sign Code. On pages 136 and 137 in the packet he addresses the limited discretion the City Manager has for allowing signs

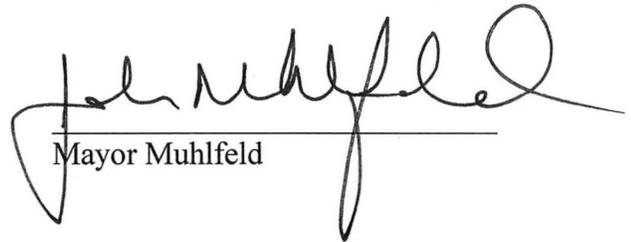
April 1, 2013

for community-wide events. He has allowed them for flu shots, fundraisers and some special events. He said temporary signs are reviewed by the zoning administrator, Dave Taylor. He said the Sign Code is 39 pages long and the comments by Greg Shaffer and Don K only apply to one paragraph. He heard Mayre Flowers say that sometimes the Sign Code is changed incrementally without looking at the whole code and he is sympathetic to that concern, too. Mayor Muhlfeld said he is open to sitting down with the Planning Board. He said he feels that the Council has been open to variance requests and has been willing to address issues on a site specific basis. Councilor Mitchell agreed.

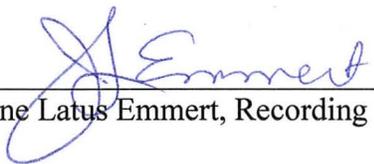
Mayor Muhlfeld said he met with folks up in West Glacier on protecting the North Fork Watershed. There is a Protection Act proposed regarding permanently withdrawing future mining, oil and gas drillings, and geothermal development on Federal Lands in the North Fork area. He said Congressman Steve Daines and Senators Baucus and Tester are all behind this bill. He thanked the Council for all of their work outside of the regularly scheduled meetings. He thanked Councilor Hildner for all the hard work he put into researching his water-way proposal. He said he met with residents of Birch Point, including Ryan Zinke and Doug Wise, to discuss the Skye Park Bridge, Veteran's Park and the emergency access needed to the Birch Point subdivision. He also met with staff to address some of the concerns and it will come before the Council 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 8:10 p.m.

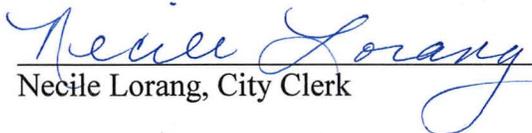


\_\_\_\_\_  
Mayor Muhlfeld



\_\_\_\_\_  
Jane Latus Emmert, Recording Secretary

Attest:



\_\_\_\_\_  
Necile Lorang, City Clerk