

WHITEFISH CITY COUNCIL MINUTES

March 4, 2013

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Hildner, Kahle and Hyatt. Mayor Muhlfeld announced that Councilor Anderson had to leave for a short while but will return; Councilor Anderson was seated at 7:50 p.m. Councilor Mitchell was 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, Recreation Director Cozad and Fire Chief Kennelley. Approximately 10 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Bayard Dominick to lead the audience in the Pledge of Allegiance.

3. PRESENTATIONS

3a. Update on High School construction project – Bayard Dominick

Bayard Dominick with Steeplechase Development Advisors is overseeing the construction and design of the High School. He gave an update of their progress. He said he has been working with Councilors Sweeney and Hildner on the Budget Oversight Committee and it has been great. He said they keep hearing that people want more communication. There is now a High School building project website so folks can keep up on the progress. They also created a Facebook page for updates. There are 3 bid packages. Bid Package 1 is the gym project; Bid Package 2 is out to bid right now and includes the site work, foundation, excavation and structural steel. Bid Package 3 is the vast majority of the new construction and demolition of the A and B wings and remodeling of the C wing. Package 1 bids came in 7% below the estimates so the funds not used can be moved into a contingency fund. The gym will be done by June because that is what the State grant requires. The design committee is planning for the wood from the bleachers to be reincorporated into other items in the new building. The flooring will be used as a fundraiser for the Hall of Fame. There were 69 bids on 23 scopes of work for Bid Package 1. In Bid Package 2 there are 3 scopes of work and 27 people attended the pre-bid meeting, which is exciting.

A newsletter was sent out to all the parents at Muldown because the traffic flow and bus pick-up locations will change during construction; along with a temporary relocation of the front door of the High School. The budget is 19.3 million dollars and he offered to email the detailed budget to the Councilors. They are hoping for competitive bids. Any excess will be set aside for contingency needs. They are actively putting together fundraising packages for people to help with specialty projects. GMP is the Guaranteed Maximum Price for the project and includes drop-dead completion dates with fines if not met. The project should be completed in the summer of 2014 and for the 2015 school year. Councilor Hyatt asked and Bayard Dominick said special projects are not fully funded, that is why they are working on fundraising. Councilor Sweeney asked if there has been a decision made about what kind of contingency the project is going to carry and Bayard Dominick said the usual is 3-5%. Mayor

Muhlfeld asked and Bayard Dominick said he would be glad to come back and update the Council again at a later date.

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)

Joan Vetter Ehrenberg, 744 Hidden Valley Drive, brought a copy of HB 483, by Ed Lieser, to the Council. The intent of this bill was to provide for the inspection of septic systems before the transfer of property. She showed the map that indicates the septic challenges on Whitefish Lake. She wondered if it was something the City could handle, since the State didn't pass the bill. She is in favor of voting by mail in this year's election; an item on tonight's agenda. She said it saves money for taxpayers and was pretty successful with turnout.

Thomas Gilfillan, 240 Central Avenue, brought to their attention that when he originally opened his shop 9 years ago he had the choice of purchasing the store front where Stumptown Art Studio is located, or his current location. He said he believes there is a law that says that no bars can be built south of 2nd Street. He said many owners built their businesses further down Central Avenue specifically because there are no bars there. He wondered if the boutique hotel was planning on having a bar. Manager Stearns said they would research that issue.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner said the Bike/Ped Committee met this morning. TD&H is working on alignment with all the issues for the Skye Bridge; then they will be working on the BNSF easement/right-of-way. The Committee is exploring possible alternatives for safe bicycle and pedestrian traffic on the Whitefish 93 West project. He said volunteers are looking at helping with re-painting the Monegan Bridge handrails and helping with the bike trail on the Dodger Lane. He said he met with BN & EPA personnel; he had a meeting with Dave Smith and Rob Hagler and Jennifer Chergo about the river cleanup and bike path and they expect to have it open the first week of July. He said Safe Routes to School will install a speed reader by Muldown to tell people how fast they're going; and pedestrian-activated crosswalk signals will be installed at 1st & Baker and 5th & Spokane intersections.

Councilor Kahle said the Whitefish Wastewater Committee met and they are looking for a comprehensive, multi-jurisdictional solution to the septic leachate issue. Mayor Muhlfeld said he attended that meeting and heard a report from Planning Consultants AE2S on Montana's adopted nutrient trading program which describes Montana's trading program. Lori Curtis attended the WASCT training in Helena to help her prepare the uniform grant application to allow them to apply for DNRC and TSEP grant funds. He said Mike Koopal is working on an updated water quality status report which will be ready in spring 2014 for the Council's review.

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 February 19, 2013 Council regular session (p. 51)

Councilor Hildner offered an amendment to Minutes page 11, (packet page 61), paragraph 3, to replace “least” with “lease.” It should state, “She noted that a sale or lease of City property....”

Councilor Kahle offered a motion, seconded by Councilor Hildner, to approve the consent agenda as amended. 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. Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (1st Reading) (p. 66)

Jan Metzmaker, Director of the Whitefish Convention and Visitors Bureau (WCVB), said she sought the Council’s thinking about a change in the residency requirements for perhaps two of its committee members during Public Comment at the February 18, 2013 City Council meeting. The Councilors discussed the current residency requirement, which requires all nine members of the WCVB to reside within the Whitefish zoning jurisdiction. Metzmaker said this has been a sore point with some business owners who would like a voice on the Board but live out of town. The Board didn’t come to a consensus on the qualifications. The WCVB is the economic development arm of the City and a lot of the businesses live, breathe and bleed Whitefish. The Board does not fear that they will be taken over by outside interests. She felt there are some very good prospective members who cannot serve on the board because of where they live. She went to the City website and looked at other committees. The Resort Tax Committee and ARC committee do not require residency in the City. She asked them to allow these people to serve. She said the by-laws don’t say you have to be a member in good standing, but she would assume that would be included.

Councilor Kahle asked about the geographical boundary and Jan Metzmaker said it is just important to have someone who will attend and serve and help them have a quorum at meetings. Councilor Hyatt said if they aren’t in Flathead County then maybe they won’t make meetings.

Mayor Muhlfeld opened the public hearing.

Sandy Nogle (Nogal), owner of 510 Wisconsin Avenue and McGarry’s Roadhouse said the WCVB is a volunteer group, with voluntary dues. She lives in Kalispell but her loyalty lies with the City of Whitefish and she uses the banks and lawyers and businesses here. She said it is important to open this to participation for people who can and will make a great contribution. She’d like to reconsider only allowing two positions. She asked them to look at this favorably and acknowledge their investment in their City.

Nick Polumbus, 303 Stumptown Loop, and Board Chairman of the WCVB said he is in favor of these changes. They are looking for a pool of talented people to participate. He said some may ask if they have the best interests of Whitefish at heart and he is hoping that will always be a question the Council will ask during interviews. He thinks they could select a person who lives anywhere.

Mayor Muhlfeld closed the public hearing. Councilor Anderson joined the meeting.

Councilor Hildner said he has a couple of questions on page 68 of the packet. He thought they should change “or managerial position.” He said he was open to them including only senior management. Councilor Kahle said he had the same concern until he heard Jan Metzmaker talk about the senior managers who want to be involved. He said he is OK as long as the appointments stay with City Council. Councilor Hyatt agreed that they don’t want to have the regulations so confining that they can’t include great people. Councilor Anderson said he doesn’t have an issue with the managerial position, but he thinks it should be the most senior individual at the property. He said just having a business in Whitefish doesn’t adequately address his concerns. He said it should have to have a brick and mortar aspect to it. Mayor Muhlfeld said there were 12 virtual businesses listed for one address on Wisconsin Avenue, so he would have a concern about that issue, too.

Councilor Sweeney said he wouldn’t want to limit this to the most senior manager because it would be too limiting. He would like to limit people to Flathead County for availability purposes. Councilor Hyatt said there are quite a few people who are not the senior managers on the board, so they could leave it to the Council when they complete the interviews. Councilor Hildner asked if it was necessary to codify brick and mortar businesses versus virtual businesses or could it be handled in the interview process. Manager Stearns said the policy question is up to the Council and they could clarify the wording. Mayor Muhlfeld asked if City Attorney VanBuskirk could review and change that wording before the 2nd reading and Manager Stearns said they could, but they need Council’s direction. Councilor Kahle said applicants have to be interviewed by Council and that will help them avoid the situation of someone with a virtual business. Councilor Anderson said sometimes an attorney’s office is a premise for a business. He said the language of the ordinance should state it is a bricks and mortar business. The Flathead County requirement should be incorporated into this as well.

Councilor Hildner offered a motion, seconded by Councilor Kahle, to continue this hearing to the next Council meeting with staff bringing back a redrafted ordinance.

Jan Metzmaker said their Board changes in May and if they change this ruling, then she needs to know so people can apply. Manager Stearns said ordinances go into effect 30 days after the 2nd reading. City Clerk Lorang said April 26th said is the deadline for applications. City Attorney VanBuskirk suggested a couple of amendments stating the member has an ownership interest or a senior managerial position at a business located within the City of Whitefish zoning jurisdiction.

Councilor Hildner and the second withdrew the motion.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (1st Reading).

Councilor Sweeney said they needed to include brick and mortar and not include senior managers. Manager Stearns suggested it states (bricks and mortar) with “business located and operating within the City of Whitefish.”

Councilor Anderson offered a friendly amendment to state a brick and mortar business within the City of Whitefish. The motion maker and second agreed.

Attorney VanBuskirk said it is possible to have a business in your spare bedroom and it would be a brick and mortar location. She suggested that it state, “Two members may reside in Flathead County, but outside the City’s zoning jurisdiction as long as they have an ownership interest or managerial position with a business located and operating within the Whitefish zoning jurisdiction.”

The motion maker and second agreed. The amendment passed unanimously.

The original motion, as amended, passed unanimously.

7b. Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (1st Reading) (p. 72)

Planning and Building Director Taylor reported that this proposed new section under Special Provisions and the corresponding new definition will provide a framework so the public can more easily understand the development requirements and restrictions for Short Term Rentals. The amendments also provide performance standards so there will be less impact on adjacent long term residents, as well as tools to aid enforcement of illegal rentals. It doesn’t change where short term rentals are allowed, but it provides some restrictions on them and provides a place for people to find them in the code and provides for policing of violations.

Short term rentals, or vacation rentals, are commercial rentals of residential property for less than thirty days. Unlike a lot of resort communities that are now struggling with the proliferation of short term rentals and their impacts, Whitefish was pro-active about specifying they be allowed only in certain districts when the zoning code was created. Short term rentals are allowed in resort zoning districts WRR-1, WRR-2, WRB-1, and WRB-2, Big Mountain zoning WBMV and WBMRR, and in the WB-2 and WB-3 commercial zones. Neighborhoods that allow short term rentals include Crestwood, Baypoint, Suncrest, Mountain Harbor, Iron Horse, Ptarmigan, Orchard Point, Whitefish Mountain Resort and surrounding areas, Whitefish Lake Lodge condos and vicinity, and the neighborhood around the Grouse Mountain soccer fields. Rentals of less than thirty days are illegal in standard residential zones such as the WR-1, WR-2, etc.

The code defines residential purposes as “the intent to use and/or the use of a room or group of rooms for the living sleeping, and housekeeping activities of persons on a permanent or semi-permanent basis of intended tenure of one month or more”, therefore rentals less than 30 days are considered a non-residential use and are subject to resort taxes and other regulations. The zoning code does not really have a specific section where you can find much information on short term rentals, although they are mentioned specifically as an allowed use in the resort residential and resort business zoning districts. Commercial zones such as the WB-2 and WB-3 permit them under the broad heading “hotels, motels, and other hospitality or entertainment uses.”

In 2011, a private individual applied for a code amendment to allow the creation of short term rental ‘overlay zones’ so that short term rentals might be allowed after a public process in confined areas of other zoning districts besides resort and commercial. The City Council did not approve that amendment, citing concerns with impacts on affordable housing and the erosion of traditional residential neighborhoods. These potential performance standards and enforcement tools were discussed as part of

that process. After recent discussions with the City Manager and City Attorney, staff has now brought them forward on their own as a tool to better regulate existing and future short term rentals. There are benefits to short term rentals with resort taxes, but there are some concerns, too. While the benefits of short term rentals include expanded accommodation options for visitors, added resort and bed tax revenues, additional income for second home owners, and improved property values, there are some issues that they create. Short term rental impacts include:

- Degeneration of traditional family-oriented neighborhoods
- Potential for increased noise and traffic disturbances in residential neighborhoods
- A possible reduction in available on-street parking
- Possible reduced pool of available rental property and affordable housing
- The possibility that housing prices could be driven up in certain areas, forcing out local families

The Planning Board recommended approval and at the public hearing, three members of the public spoke. Ken Stein, 1495 Lion Mountain Drive addressed Monterra's HOA's efforts to curb illegal short term rentals. Jill Zignego, Five Star Rentals, generally supported the new regulations and asked that existing grandfathered properties be allowed to register. She also asked for a way for properties bordering resort districts to have an option to do short term rentals. Linda McCarthy, 432A Dakota, spoke and said she complied with all the requirements but had some concerns about taxes and costs.

RECOMMENDED AMENDMENTS TO TITLE 11

11-3-35 SHORT TERM RENTAL STANDARDS

Short Term Rentals

Certain zoning districts such the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

- A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:
1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
 2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
 3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
 4. Each unit shall meet the standards for off street parking found in §11-6. Currently, two spaces are required in most zones.
 5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.

6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
 7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
 8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.
 9. The owner's (or local contact, if absentee per h above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
 10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
 11. There will be no signage outside the unit advertising the short term rental of properties
 12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.
- B. **Violations.** Operating a short-term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1), that the property owner or listing agent, or both, knew the standards and zoning; and, (2), that the operator of the short term rental within city limits knew the duty to collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

11-9-2 Definitions

Residential, Short Term Rental – The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

Director Taylor said the City Manager is good about keeping track of rentals within the city limits because he is responsible for making sure the City collects resort tax. The Whitefish City-County Planning Board held a public hearing on February 21, 2013. Following this hearing, the Planning Board recommended approval of the amendments (8-1, Konopatzke voting in opposition) with a change to the definition of Short Term Rentals to make it ‘.less than thirty consecutive days..’ and adopted the supporting findings of fact in the staff report.

Councilor Kahle asked about PUDs and Director Taylor said potentially a PUD could add this as a use. Councilor Kahle asked and Director Taylor said HOA standards would take precedence and it would be up to the HOA to enforce the standards. Attorney VanBuskirk said the HOA rules don't take precedence

over the City Code, but agreed it was up to the HOA to enforce their covenants. Councilor Kahle said a lot of homes formerly owned by permanent residents are now owned by temporary residents. Councilor Sweeney said in the instance of a HOA prohibiting short term rentals, even if the zoning of the area allows them; the HOA requirement would take precedence because it is a higher standard than what the City code allows but enforceable by the HOA and Attorney VanBuskirk agreed. Councilor Sweeney had a question under Section B. Violations. He thought they should be able to penalize both the business owner and the property caretaker. It should say, "and," not "or."

Councilor Hildner had a question on page 75. He wondered if staff had looked up short term rentals on the internet and Director Taylor said they did a crackdown several years ago and there were over 100 rentals that were illegal. He said since then they've been keeping up on compliance. He said he imagines there are a couple of dozen illegal ones now, but none of them were visible on VRBO. Manager Stearns said last fall he and Vanice Woodbeck worked on an enforcement campaign and found violators on VRBO and Craig's list. He said he wrote about 20 letters and got resort tax collection going for about half of those. Councilor Hildner said page on 78, #6 says the license is administered by Flathead County and Director Taylor said the applicant has to bring a document from the County proving that they are registered with the County. Councilor Hildner asked about the inspection fee and Director Taylor said the Fire Marshall said they are more than willing to do the inspections, but they could talk with him. Manager Stearns said the business license covers the cost of the annual fire inspection. Director Taylor said on Big Mountain their Fire Department will have to do the inspection. Mayor Muhlfeld asked about page 84 and comments at the Planning Board hearing. He wondered about grandfathering in properties that have been engaged in rentals for the past 40-50 years. He said when they addressed this in the past there was talk about doing it. Director Taylor said the standards have been in place since the 1980's, so in order to be exempt they would have to prove that they existed as short-term rentals before then.

Mayor Muhlfeld opened the public hearing.

Jill Zignego, 704 Baker Avenue, 5 Star Rentals, said it is a good idea to have more regulations. She likes that there is a plan to enforce problems. She has had this business for 18 years and she knows that she can only offer 8-12 weeks of rentals per year. She said there are 40 weeks of non-rental that have no impact on the neighborhoods. She said Whitefish gets a lot of money from visitors and most of their renters are families and only come with 1-2 cars. She was talking about units around the lake that are in the County, not the City, and the donut is still a question. She said if they don't have houses around the lake to house visitors then they will lose a lot of visitors that way.

Chris Schustrom, 504 Spokane Avenue, thanked Mary VanBuskirk and David Taylor for their work. He said keeping the residential areas intact is what makes Whitefish a viable place for families to live. He urged adoption.

Mayor Muhlfeld closed the public hearing.

Councilor Sweeney said he would like to address the idea of grandfathering. Director Taylor said properties that were unzoned in 2005, if they can show they were renting the home out before then, can have grandfather status. He said areas that don't allow short term rentals, but are in the County and the County hasn't enforced it, can't be grandfathered. Manager Stearns said to keep a non-conforming use they have to use it as that non-conforming use continuously or then it goes away. Director Taylor said that isn't easy to prove. If they could show that they had rental records then they could grant them status. Manager

Stearns said he thinks the chances of that are pretty remote. Councilor Kahle said on page 82 under short term rentals it lists four zoning districts that allow short term rentals. Resort Residential, Resort Business, and two of the three business zones--B2 and B3.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to approve Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20; Staff Report WZTA-13-01. (1st Reading).

Councilor Sweeney asked that the “or” be changed to “and” and Attorney VanBuskirk said they used “or” because the property owner may conduct an action that the agent didn’t know about or vice versa. Councilor Sweeney said they should be watching what the other is doing.

Councilor Sweeney offered an amendment, seconded by Councilor Anderson, to change “or” to “and” so that it reads, “...property owner and listing agent.”

Councilor Kahle asked why they had “or” originally and Attorney VanBuskirk said it was possible one wouldn’t know. Councilor Anderson discussed Page 83, Section B, which says the presumption is that both the agent and owner know the standards in zoning. It is not that they are guilty of the offense. Councilor Hyatt asked how many units they would lose and Jill Zignego said all of the lake houses would be gone—and that’s 20-25 houses. Manager Stearns said it might have only been a function of when they were looking, but staff found only 4-5 vacation homes listed around the lake when they searched last fall. Councilor Hyatt said some of these homes bring a lot of money into the community. He is against this because it will tear into the fabric of what Whitefish does as a resort community.

The amendment passed 3-2 with Councilors Kahle and Hyatt voting in opposition.

Councilor Anderson said he is okay with discussing and determining what a grandfathered property is. He thinks that there is a cycle to renting and he wondered if there was a way they could address the issue around the lake for those who have been doing it a long time. Director Taylor said the Code addresses non-conforming uses and doesn’t allow gaps of non-use. He said there are some loopholes in the system, as in they can advertise 30 day minimums. Councilor Anderson said if they were renting before the zoning overlay and could be grandfathered, then he is fine with that. He said there isn’t a threat to the lake properties this way. Manager Stearns corrected a typo on page 74, Exhibit A, first sentence, “Certain zoning districts such as as the WB2, WB3, etc.” Councilor Kahle said there are certain homes that might have been acting outside of the law and they are trying to tighten up the standards. Councilor Hyatt said it is a huge source of revenue they have not accounted for and they will lose some of the people who are coming here. He said families don’t want to be in a hotel. He doesn’t think this is their best tool. Councilor Kahle said not only is it not right, it is not legal to illegally offer short term rentals.

The original motion, as amended, passed with Councilor Hyatt voting in opposition.

Attorney VanBuskirk noted a typo on page 75, #9, which should read “per 8 above.” The Council accepted the amendment.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 98)

Councilor Kahle said he is glad Police Officer Rob Veneman is back. Mayor Muhlfeld thanked Councilor Hildner for keeping up on the Whitefish River clean-up and said he asked Karin Hilding to set up a date to meet with BNSF and EPA to finalize the details for their clean-up of the infrastructure damage. Councilor Hildner agreed and said they need to discuss the care of the pipe that is fully exposed under the Baker Street Bridge. Mayor Muhlfeld suggested that he and Councilor Hildner meet to write up the issues that need to be discussed at that meeting.

Councilor Anderson said he is concerned that the bike path is going to be closed again this summer. The City spent a lot of time and money getting that in place and it has been closed a lot.

8b. Other items arising between February 27th and March 4th

Manager Stearns said it is possible that they have reached tentative agreement with the Police Union on a 3-year contract. He reminded the Council and Department Directors to get the Manager and Attorney evaluations turned into Mayor Muhlfeld; there will be an executive work session before the next meeting. The Highway 93 West Project bid results came in and the low bidder was LHC who did the project downtown; it was 8% less than the engineer's estimate. Construction will start this spring.

He said he got a letter that Optimum is being sold to Charter Communications, the 4th largest cable provider in the country. When we get the notification of transfer it will likely delay the current negotiations of our franchise agreement which started with Bresnan, moved to Optimum, and now will have to move to Charter Communications.

He asked when the Council would like a public hearing on the parking structure. Mayor Muhlfeld agreed that they needed to schedule it, but said they should set something up at the next meeting when they have a full Council.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Standing budget item - None.

9b. Confirm or revise dates for initial City Council budget work sessions (p. 105)

Mayor Muhlfeld said the budget work sessions are scheduled for May 13th and May 28th prior to the regular meetings. Several of the Councilors had scheduling conflicts. Manager Stearns said the budgets are distributed on May 6th, and they need a preliminary budget adopted by July 1st. Manager Stearns suggested May 28th and June 10th and the Council agreed.

9c. Consideration of 2014 Election – vote by mail or at polling stations (p. 107)

Mayor Muhlfeld opened this topic for discussion.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to allow for a vote by mail for the 2014 election (Clerk's Note: 2013 Election for 2014 terms).

Councilor Hyatt said he and his wife's ballot didn't make it to their house and then didn't make it back to the County. He said there are some worries about the mail-in ballot.

The motion passed 3-2 with Councilors Kahle and Hyatt voting in opposition.

9d. Consideration of appointing a City Council member to Employee Health Insurance Committee - Frank Sweeney's initial term has expired (p. 122)

Councilor Anderson moved, Councilor Kahle seconded, to re-appoint Councilor Sweeney to the Employee Health Insurance Committee. The motion passed unanimously.

Councilor Kahle said he was asked to bring up the undergrounding of power lines issue again. He heard a lot of comments that they aren't going to be getting the best bang for their buck. He said if it is a policy then it needs to be enforced for all. He asked Attorney VanBuskirk if he could bring it back up as an agenda item because he was the second on the motion. Attorney VanBuskirk said for a reconsideration he would have to ask someone from the prevailing side. Councilor Anderson said the policy is that all new utilities will be buried. East Second Street deals with existing utilities. He said he hears Councilor Kahle saying developers are getting treated differently. This isn't new construction, so it doesn't apply, but the City needs to look at how to apply the law to existing or old utilities.

Councilor Sweeney moved, Councilor Hyatt seconded, to reconsider this at the March 18th meeting. The motion to reconsider passed 3-2 with Councilors Kahle, Hyatt and Sweeney voting in favor.

Councilor Anderson said he has been thinking about the comments that Whitefish is a retirement and resort community. He looked at government sources to determine the economy of Whitefish and there is almost two times more manufacturing in Whitefish than compared to the State level. The jobs are more professional than the Montana State or US rates. One of the most interesting issues is that the rate of retail trade is less in Whitefish than the Montana State rate. Whitefish is not a resort/retirement community—it has a diverse culture and economy. It is a family community. He would encourage people to do their own research before they form an opinion on issues that effect policy. Councilor Hyatt said they need to come up with a new home page slogan because it says Whitefish is a resort/retirement community.

Mayor Muhlfeld said if they have language they'd like to see included they could forward it to him. He would also like to see the City commit money to the upgrade of the Whitefish website. Councilor Hyatt said he would like to work on that with the Mayor. Mayor Muhlfeld reminded the Council that he needs the evaluation forms before March 17th for the City Manager and Attorney VanBuskirk.

Mayor Muhlfeld asked about the Mike Goguen lots and Manager Stearns said he has this item tentatively scheduled on the next agenda. Mayor Muhlfeld said he appreciated Planner Compton-Ring and Attorney VanBuskirk's notes on the quasi-judicial issues coming. He thanked Rich Knapp for the information on Ipads and asked the Council to let him know if they wanted one. Mayor Muhlfeld said

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he attended the donut meeting and thanked Terry Trieweiler for his representation of the City of Whitefish. He did an excellent job with his deliberations.

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

Mayor Muhlfeld adjourned the meeting at 9:26 p.m.



Mayor Muhlfeld



Jane Latus Emmert, Recording Secretary

Attest:



Necile Lorang, City Clerk