

WHITEFISH CITY COUNCIL MINUTES

February 4, 2013

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 Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 12 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Ross Pickert to lead the audience in the Pledge of Allegiance.

Mayor Muhlfeld asked for a moment of silence in memory of community leaders Gary Elliott and David Sobba who recently passed away.

3. PRESENTATIONS – Presentation of plaques of appreciation to Jim and Lisa Stack for their years of service to the Whitefish Lake and Lakeshore Protection Committee

Mayor Muhlfeld said Jim Stack was appointed over 20 years by the County Commissioners. Lisa Stack administered the program for over 13 years and never accepted reimbursement. Mayor Muhlfeld said Jim applied the regulations impersonally and fairly. When taxes sky rocketed on lakeshore property Jim worked in Helena with Senator DePratu to make sure longtime Whitefish residents could stay in their homes. He rescued a London visitor in Whitefish Lake and then, along with the Shaw family, purchased a hover craft for the City to facilitate emergency rescues. Mayor Muhlfeld said Jim and Lisa administered the Lakeshore Committee with integrity and he thanked them for their service to Whitefish and their efforts to protect Whitefish Lake. He honored them with plaques of appreciation.

Lisa Stack said she is humbled by the recognition. She said she has seen a lot of people serve on this committee and spend countless hours. She said this honor recognizes their work as well. Jim Stack said no one who applies to a volunteer board imagines that they'll apply over and over again. He didn't get on the Lakeshore Committee out of a love for the lake. He got involved after he and Lisa were in a lakeshore violation situation. He got on the committee and thought he was going to change the rules, but instead, the committee changed him. The lakeshore regulations are a delicate balance between property owner rights and Whitefish's greatest asset—a clean, beautiful lake. He is proud of the organization and structure of the committee. There is now consistency in application approvals or denials. He said enforcement is more of an issue. No one should be able to get something without it meeting all the standards. He is also happy their committee has been apolitical. He thinks the regulations are getting more political and that concerns him. He said the lakeshore regulations are not about development versus anti-development and he hopes the County Commissioners hear this clearly. It is not an easy task to serve on this committee, but the individual members care about the quality of Whitefish Lake. He hopes they keep focused on protecting the lake.

- 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)

No one wished to speak.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner reported that the Bike/Ped committee met today. He said they will need some funding to do survey and engineering analysis to complete the feasibility report on the Riverside Condo trail location. They are working on the rough design for Skye Bridge prior to meeting with BNSF on right-of-way easement agreements. He said the committee unanimously voted to support the curved design on Dodger Lane/Veteran's Way to allow the neighbors to keep as many trees as possible. They also approved a motion recommending a bike/ped path be included in the Dodger Lane project. Estimated cost is \$16,000 and the question is where the money will come from. Potential volunteer projects for spring include: filter fabric removal and weed control along bike paths, sand/stain bridge railings, and work at the hospital site. He said Safe Routes to Schools is coming up in the spring and crosswalk improvements are coming to crossings near Central School.

Councilor Sweeney said the Whitefish Trail Committee met with the DNRC last week to talk in detail about the hopes and plans for new trails this summer. They hope to construct 6 new miles of trails with some type of parking area. They'd like to get the plans in place and ready in case funds become available.

Turner Askew, with the 911 Board, said they are reviewing their committees and by-laws and that were set up at the beginning; they are finding out some things don't work exactly as they thought they would. They have to have more law enforcement people on one board to have access to Justice Department legal matters. The public is welcome to come to meetings. Mayor Muhlfeld said he appreciates Turner Askew's service on this committee.

- 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 January 22, 2013 Council regular session (p. 41)

Councilor Mitchell offered a motion, seconded by Councilor Hildner, 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. Continued Public Hearing - Recommendation from Impact Fee Advisory Committee to eliminate three Impact Fees established for city buildings – ESC, Park Maintenance Building, and future City Hall (p. 55)

Finance Director Knapp said he was available if they had questions. Councilor Hildner asked and Mayor Muhlfeld said they could ask questions of the committee.

Mayor Muhlfeld opened the public hearing.

Myra Appel, 61 Hummingbird Lane, represented the Impact Fee Committee. She said the Councilors have letters from Bill Halama and Don Kaltschmidt who also serve on the committee. She said she read the Florida Study where they suspended the Impact Fees for five years, but she didn't see how Whitefish compares to Florida.

Councilor Hildner said on page 55 of the packet her report says the perception is that Whitefish is too expensive. He asked if she could quantify that and she said she couldn't quantify it. She would say they've heard it from many people in the community. Councilor Hyatt said he served on that committee and he worked for Habitat for Humanity and it was much more expensive to build in Whitefish than in Columbia Falls. Councilor Hildner asked about the comment in the report about "small fees charged by the City" and she said it was a perception that the committee had. Councilor Mitchell asked who collected the information on page 67 comparing the three towns and Finance Director Knapp said he did. Councilor Mitchell said water is similar in all three towns, but Whitefish has lower stormwater fees. He said he knows there is an upgrade coming and Director Wilson agreed and said Columbia Falls and Kalispell have recently had stormwater upgrades. Director Wilson said Kalispell has reporting and public education requirements that may make their charge higher. Councilor Mitchell said he doesn't think the City fees are too bad right now, but he thinks they'll go higher when they upgrade the stormwater system. Finance Director Knapp said he did the 5-year update on the stormwater and they could be charging \$2100 for wastewater, but the Council chose to leave it where it was. The ESC fee is similar to what Kalispell charges for Police and Fire.

Turner Askew said he hears from contractors that it is more expensive to build in Whitefish; if any of them have done a remodel or new construction they know the charges to build and develop in Whitefish are high. There are permit fees and project costs that add up. He said the contractors tell him Whitefish is more expensive, so they add 10% to their bids.

Rebecca Norton, 530 Scott Avenue, said she is opposed to the elimination of these development fees; as a citizen she doesn't want to have to pay for it.

Mayor Muhlfeld closed the public hearing.

Councilor Hildner said he has done a lot of research. The Florida study is instructive. If they don't make any change at all the difference between the three cities is not terribly great. He said Kalispell is looking at a 16% increase in their water which will increase their impact fees by \$350. Their minimum fee on wastewater will grow soon and they will end up with an impact fee of anywhere from \$8469 and \$13,365. He said that keeps Whitefish in the ballpark. Statistics show that developers are still building in Whitefish. In the Council packet on Nov. 19, 2012, page 3, a report talks about the census and the service population. He thinks they should hold the line and not increase or decrease the impact fees.

Councilor Hildner offered a motion, seconded by Councilor Anderson, to keep the impact fees as they are.

Councilor Mitchell asked for the dollar amount available in the TIF fund for City Hall and Director Knapp said about \$2.2 million in TIF funds and \$170,000 in Impact Fees. Councilor Mitchell asked about the Park Maintenance building and Finance Director Knapp said it was paid for from TIF funds and money from impact fees pays back that fund. Councilor Hyatt said the Impact Fee Advisory

Committee first presented their idea to remove these fees in November 2011. He said they've created fees to pay back a tax—the tax increment fund. That is why they recommended removing the three impact fees.

Councilor Anderson said sometimes it is hard to determine what is fueling growth. He said studies can be used to support or deny anything you want. He said recent figures in the Flathead Valley show that Whitefish is doing much better than the other communities, but it is hard to tell what is fueling that. He built here and it wasn't fun to write a check for the impact fees, but it didn't keep him from building here. He said there may be other ways to encourage growth, but he thinks it provides stability to leave the fees as they are; everybody pays their fair share. Councilor Sweeney said there might be a way to consolidate some of the fees. He said the impact fee total does not seem to be affecting growth in Whitefish. He doesn't see that Whitefish is at a disadvantage—they still have builders building here. He said impact fees help pay for the impacts of growth. Councilor Kahle said he respects the committee and the work they've done, but he disagrees that this is a growth-metering thing. He thinks each of the three fees discussed should be addressed individually. There is a number of funding mechanism ideas in the works for City Hall, and the ESC is already built. He wondered if the additional fees are being collected for expansion. He said they are paying back TIF funds for the Park Maintenance building and he thinks that is a reasonable action.

Mayor Muhlfeld asked Councilor Kahle if he wanted that discussion now because they do have a motion on the floor. Councilor Kahle said he was okay with seeing how the vote on the current motion goes.

Mayor Muhlfeld said he was involved with the 2007 Henderson study when they came up with the Impact Fees. In 2010 the City offered to rebate a portion of the impact fees for residential remodels, additions or small commercial projects. They only had three applications, so it didn't make a difference for those who wanted to build in Whitefish. He looked at the Kelly report for 2012 and Whitefish had 51 new single family homes compared to 54 in Kalispell. There has been an increase of 26.4% in Whitefish over Kalispell. The Whitefish fees are only \$86 higher than Kalispell. He said he appreciates the committee's time and effort spent on this, but he thinks it comes down to philosophical issues.

The motion was tied with Councilors Hildner, Anderson and Sweeney voting in favor and Councilors Mitchell, Kahle and Hyatt voting in opposition. Mayor Muhlfeld voted in favor and the motion passed 4-3.

8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

8a. Consideration of approving an expanded scope of work for the East 2nd Street Reconstruction Project to include the construction and extension of Dodger Lane from Armory Road to East 2nd Street (p. 86)

Public Works Director Wilson said this has been mentioned before in a newsletter and one public meeting. In looking at construction issues, the need became apparent to relieve congestion during construction. For mitigation they are proposing a road that won't have curbs, gutters and lights; it is a 2-lane road with a bike/ped path on the east side. He said the engineer prepared a rough estimate to add the path, and came up with an additional \$16,000. He said Director Cozad thought there would be money by 2014 in the park portion of the Resort Tax to fund this bike path. He said the alignment idea came out of the 2007 Parks Master Plan. Staff foresees enough flexibility with pending projects and

sufficient funds available to include the Dodger Lane extension in the Street, Water and Stormwater budgets for FY14.

Councilor Anderson asked if the neighbors have been contacted and Director Wilson said he has talked with Chet Wram and the engineer spoke to Kyle Schellinger. Both neighbors have misgivings about increasing traffic, but they haven't expressed strong objections. The project engineers held a pre-construction public information meeting at the Armory last fall. Councilor Mitchell asked and Director Wilson said the \$16,000 will cover the bike/ped path. Councilor Hildner complimented Public Works for looking at Dodger Lane and working to protect the ponderosa pines. It is neighborly and improves the look of the road. He hopes they can come up with the money for the bike/ped path. Director Wilson said it was the Parks Department and Bruce Boody's design teams who came up with the good road design idea in their Master Plan.

Councilor Hildner offered a motion, seconded by Councilor Hyatt, to approve an expanded scope of engineering and construction work for the East 2nd Street Reconstruction Project to include the construction and extension of Dodger Lane from Armory Road to East 2nd Street, including a bike/ped path on the east side.

Councilor Anderson said page 87 indicates they'll allocate funds in 2014 and Director Wilson agreed. Manager Stearns said this also includes an amendment for Peccia and Associates for engineering design.

Councilors Hildner and Hyatt agreed to include Amendment No. 2 in their motion to approve the consultant contract with Robert Peccia and Associates, in an amount not to exceed \$51,500, for engineering design, bidding, construction engineering and related services necessary to complete this work as recommended by staff.

The motion, as amended, passed unanimously.

Councilor Kahle said he would like to re-visit the under-grounding of power lines from Armory Road down Second Street. He asked the Councilors to add an agenda item to discuss this at a future date with the Resort Tax Monitoring Committee because putting power underground during new construction is a City policy. The Councilors showed unanimous approval and Manager Stearns said he would contact members of the Resort Tax Monitoring Committee.

8b. Discussion of initiating a stormwater project on East 4th Street north of the high school and south of Memorial Park in conjunction with the high school's upcoming stormwater improvements as part of the high school reconstruction (p. 90)

Director Wilson presented a concept developed by the School District's engineering consultant for the New High School project, Jackola Engineering, and Public Works staff to improve storm drainage facilities along east 4th Street, north of the school. Although construction will not occur until FY14, he said a commitment is needed at this time if the City wishes to participate. Improvements will be paid out of Stormwater Fund.

It would be beneficial to both the School District and the City to improve drainage on East 4th Street as part of the New High School construction project. Drainage from the north high school parking lot and 4th Street currently flow directly to Cow Creek with no treatment. The drainage

improvements proposed by Jackola Engineering would collect drainage along Fourth Street and pipe it through the school property to Pine Avenue. The proposed system would collect drainage from most of the new high school project. The stormwater directed to Pine Avenue would then drain to the City's existing wetland detention pond at the south end of Pine. This pond would provide treatment and detention before releasing to Cow Creek.

The project would also include paving the gravel portion of 4th Street (along the north edge of the road). This area is currently used for student parking and special events. The proposed drainage system has been designed to facilitate the eventual reconstruction of Fourth Street. These drainage improvements will increase the life of the pavement and make it less expensive to rebuild. Standing water is a major cause of asphalt deterioration on streets throughout town.

The estimated cost of construction for the Fourth Street drainage improvements, including a 15% contingency, is \$126,666. The School District proposes the City participate in the cost upsizing a currently designed 8 inch stormwater main to 12 inch, as necessary to serve the expanded drainage area. This would be consistent with City policy and our Design Standards. The approximate cost of \$5,456 to upsize the pipe is included in the cost estimate shown above.

The FY13 Stormwater budget includes an estimated Ending Available Cash balance of \$1,044,744. Staff therefore anticipates sufficient funds to include this project in the upcoming FY14 budget. Construction of these drainage improvements is expected to occur during the summer and fall of 2013. He said the City would be required to pick up engineering costs which would be 10% or about \$12,500, bringing the total cost up to approximately \$138,000. Councilor Mitchell asked if they approve this will it affect the school's budget and Director Wilson said it won't change the cost to the school.

Toby Macintosh, with Jackola Engineering, said the new parking lot will drain across Fourth Street. They looked at keeping the drain water in Fourth Street, but it is too shallow. They have to go through the school site to have any slope. Councilor Anderson asked and Director Wilson said this street could use work, but it isn't on the horizon of their reconstruction priorities. He said they want to stop discharging directly into Cow Creek. Councilor Anderson asked if the school would have to do this anyway and Director Wilson said they would. Councilor Anderson asked and Director Wilson said everything in pink is the school's project on the map in their packet. The school would not upsize the pipe normally—it is what the City needs for drainage. It is to the City's advantage to upsize the pipe. Councilor Anderson said they have already given over \$2 million in TIF funds to the school and he wants to be sure they are not making any further contribution to the school. Director Wilson said the City is not doing the work for the school; they are just paying for a bigger pipe. Councilor Hildner said the cost to upsize from 8 to 12 inches is only \$5456. He said the City is including more paved parking for the school. Toby Macintosh said if this project doesn't go forward the school will improve the boulevard and put in curbs. He said they are approaching the City to ask if they want to improve the drainage all along Fourth Street. He said if the City doesn't want to do anything there is no impact to the school. Councilor Hildner asked and Director Wilson said this is definitely the best route. If they put the pipes in and leave gravel it will affect water quality down the road. He said the intent is to position it so it will line up with future curbs on Fourth Street.

Mayor Muhlfeld said they have received many public comments about the safety issues on Fourth Street in the past. Director Wilson said this is not a new paved roadway project. Councilor Mitchell asked and Director Wilson said the pipes will be extended and cement will be laid there.

Councilor Mitchell said Fourth Street is one of the worst roads and there is no drainage there. He said they need to at least increase the pipe size at this point. Councilor Hildner asked about the status on the stormwater retention pond and whether it needed rehabilitation. Director Wilson said they will look at the capacity issue. He said that under the City's construction standards there is no basis to require the high school to improve treatment downstream. They aren't increasing parking surface area. Mayor Muhlfeld said he thought the school project would be subject to a DEQ permit. Director Wilson said there may be a construction permit required. Toby Macintosh said there are some State stormwater regulations that they will have to comply with.

Councilor Kahle offered a motion, seconded by Councilor Mitchell, to authorize a commitment to the School District, whereby the City would participate in construction of the 4th Street Drainage Improvements Project at an estimated cost of \$126,666 plus an additional 10% for engineering costs in FY14 from the Stormwater Fund.

Councilor Mitchell said this is a good project. Councilor Hildner asked if the Fourth Street collector would take surface run-off from the fertilized athletic fields and Director Wilson said it will just be for run-off from the impervious surfaces. Councilor Anderson said the treatment of the water is a plus and Mayor Muhlfeld agreed. Mayor Muhlfeld said he met with Director Wilson about an upcoming RFQ asking that the Pine Street water treatment pond be evaluated, and Director Wilson said he talked with Mike Koopal today about this pond.

The motion passed unanimously.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 132)

Councilor Mitchell asked about the 1.7% CPI and wondered what they used last year. Manager Stearns said it was 2.7% last year and the Council agreed to the COLA of 3.7% for this year.

9b. Other items arising between January 30th and February 4th. None.

10. COMMUNICATIONS FROM CITY ATTORNEY

10a. Resolution No. 13-02; A Resolution further amending Resolution No. 11-05, which established an Ad Hoc Cemetery Committee, to expand the Committee's general purpose and to extend its duration an additional two years (p. 102)

City Attorney VanBuskirk said following the January 22, 2013 work session between the Council and this Committee, it was determined more time was needed for the Committee to work on their project. This resolution would expand the duration of this committee for two years and expands their purpose. They will evaluate possible additional services in the current location and continue searching for additional locations for the Whitefish Cemetery.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve Resolution No. 13-02; A Resolution further amending Resolution No. 11-05, which established an Ad Hoc Cemetery Committee, to expand the Committee's general purpose and to extend its duration an additional two years.

Councilor Mitchell asked what they decided about the parcel they looked at and Manager Stearns said a committee met last Friday and decided to go forward with water testing this spring. Mayor Muhlfeld said they are also looking at a market analysis of that property.

The motion passed unanimously.

11. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

11a. Standing budget item - None.

11b. Letter from Brian Averill of Averill Hospitality requesting to begin negotiations with the City of Whitefish on the possibility of constructing a boutique hotel on City owned land at 3rd Street and Central Avenue (p. 107)

Manager Stearns said all letters are placed on the agenda for informational purposes or for Council to give direction to staff if needed. He said if the Council wants staff to do so, they can establish a resolution to create a committee to negotiate with the applicants. If so, they would look for guidance on the composition of that committee. Councilor Mitchell asked and Manager Stearns said Manager Stearns, Finance Director Knapp and a few elected officials (2-3) would be good. Mayor Muhlfeld said he would like to remain part of the committee because he has been informally involved. He recommends a broad spectrum of the Council. Councilor Kahle asked and Manager Stearns said it would be about a one-year committee term. Mayor Muhlfeld said they are not committing the City to anything at this point. Councilor Mitchell said he would be in favor of a discussion. He thinks this would be good for the town. Councilor Kahle said he has met with the Averills on this and he would like to stay involved.

Councilor Sweeney said he would be happy to participate, but he thinks Councilor Anderson has some background in this and would be a great fit. Mayor Muhlfeld said one person could be an alternate. Councilor Anderson said he would like to get the resolution prepared and then they can talk about who should be seated there. Mayor Muhlfeld agreed. Councilor Anderson said a Mayor and two Councilors would be a good size. Councilor Hildner said there will be a fair amount of interest about this topic and he expects a lot of public input. He asked and City Attorney VanBuskirk said the request to set up a subcommittee is a legislative matter. Councilors may be contacted directly by the public about any legislative matter. Legislative matters differ from quasi-judicial matters. Non-public communications need to be avoided in quasi-judicial matters, which involve an applicant seeking a particular outcome concerning his or her land use. Manager Stearns said at this point the City is involved because they are the owners of the land. Hotels are a use by right in this zoning district. He said at this point any and all lobbying is fine. Councilor Hyatt said he thinks Mayor Muhlfeld needs to stay involved and he thinks two other Councilors will be adequate. Councilor Anderson abstained, but the rest of the Councilors indicated agreement to have the resolution creating the committee brought back to the Council.

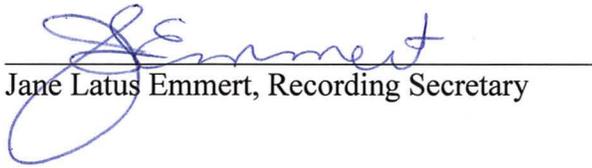
Councilor Hyatt said the Winter Carnival Parade was wonderful. Councilor Sweeney said there have been no high school meetings since the Council last met. Councilor Hildner asked if there was a budget oversight meeting and Councilor Sweeney said they are in the process of preparing bid packages for Phase I which is the gym project and is separate from the bond. Councilor Mitchell said he spent a couple of hours today listening to an angry builder. He talked to the Building Department and wanted to thank them for their assistance; Krista was a great help.

12. 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 8:40 p.m.



Mayor Muhlfeld



Jane Latus Emmert, Recording Secretary

Attest:



Necile Lorang, City Clerk