

WHITEFISH CITY COUNCIL MINUTES
JANUARY 7, 2013
SPECIAL SESSION, 5:00 TO 7:00 PM

1. Call to Order

Mayor Muhlfeld called the meeting to order and wished everyone a Happy New Year. Councilors present were Anderson, Sweeney, Hildner, Kahle, Hyatt and Mitchell. City Staff present were City Manager Stearns, City Attorney VanBuskirk and City Clerk Lorang.

2. Interviews for applicants:

Council conducted interviews and considered the following applicants.

- 5:00 Sandra McDonald – Whitefish Housing Authority
And Letter from Laura Rutherford, Resident at Mountain View Manor
- 5:09 Herb Peschel – Whitefish Lake and Lakeshore Protection Committee
- 5:18 Bick Smith, Board of Adjustment, Extra-territorial position
- 5:27 Mike Kelley – Board of Adjustment
Norm Nelson – Board of Adjustment. Not in attendance for interviews tonight, but still interested in the position and his letter of application was in the packet.
- 5:36 Rebecca Norton – City-County Planning Board and Board of Adjustment. Rebecca noted in her letter and during interviews, that, although she preferred a seat on the City-County Planning Board, she would agree to serve temporarily on the Board of Adjustment until another applicant was found to fill the position.
- 5:45 Zak Anderson – City-County Planning Board
- 5:54 Life Noell – City-County Planning Board
- 6:03 Scott Sorensen – City-County Planning Board. Scott noted during his interview that if not appointed to the City-County Planning Board, he would be willing to serve again on the Board of Adjustment.
- 6:12 Chad Phillips – City-County Planning Board
- 6:21 Scott Freudenberger – City-County Planning Board
- 6:30 Bobby Young – City-County Planning Board
- 6:39 Myra Appel – Impact Fee Advisory Committee
- 6:48 Don Kaltschmidt – Impact Fee Advisory Committee had contacted staff right before the meeting that he would not be able to attend interviews but was still interested in the position and his letter of application was in the packet.

3. Public Comment - None.

4. Appointments

Councilor Mitchell offered a motion, seconded by Councilor Kahle, to appoint Myra Appel and Don Kaltschmidt to the Impact Fee Advisory Committee. The motion passed unanimously.

Mayor Muhlfeld appointed Sandra McDonald and Laura Rutherford to the Whitefish Housing Authority with Council consensus.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to appoint Herb Peschel to the Lake and Lakeshore Protection Committee. The motion passed unanimously.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to appoint Bick Smith, Mike Kelley and Norm Nelson to the Board of Adjustment. The motion passed unanimously.

The remainder of the appointments will be made during the Regular Council Session – Agenda #10b.

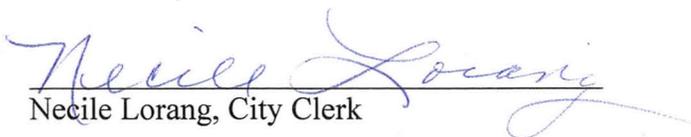
5. Adjourn

Mayor Muhlfeld adjourned the Special Session at 7:00 p.m.



Mayor Muhlfeld

Attest:



Necile Lorang, City Clerk

WHITEFISH CITY COUNCIL MINUTES

January 7, 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, Senior Planner Compton-Ring, Public Works Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 60 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)

Pat Jarvi, 1023 A Park Avenue, gave an update on the Oversight and Budget Committee and the High School building project. It has been broken into three bid packages and the gym has to be completed by June. The bid package will go out on the first of February. Construction will begin in March, which will add some challenges for the P.E. classes. The other two bid packages will go out later: the site foundation and structural steel package will go out about Feb. 26th. Package #3 will go out on the first of May. If anyone wants to see the day by day construction schedule they can get a copy from Councilors Sweeney or Hildner who are on the committee and dedicating intensive time to the project. During construction the student parking will be moved and students will enter through the east end of the High School.

Councilor Mitchell asked if there is any way for the public to get information online. Pat Jarvi said there is a construction link on the district web page and the High School web page. Councilor Mitchell said perhaps she could ask the school to post financial information in the paper so the public will be up to speed. He asked about the cuts and Pat Jarvi said this will not impact the 21st Century learning skills, but it may slow down the building of the center where video graphic work will be taught. Councilor Mitchell said he feels the public will be disappointed if those aren't completed because that is what the public was told they would have. Councilor Sweeney said the cuts aren't to the actual opportunities for the students, the cuts were to some proposed new types of programming that aren't necessarily available at any high schools today. They haven't been able to add them with budget right now. The proposed additions are over and above the original proposal. Councilor Mitchell said he disagreed.

Mike Prezeau, 320 Dakota Avenue, with the Bike/Ped Committee, spoke in favor of the Skye Park Bridge project. He said John Phelps is their chair and could not be here. He said they read that the Council rejected moving forward with Phase II and had questions for the Public Works Director. Those questions have been answered in a memo in the Council packet and the committee is in favor of the project. Over the past year they have identified all of the construction projects and prioritized them and this bridge project was their number one priority. The Committee would ask the Council to move forward with this project.

Jan Metzmaker, 915 Dakota Avenue, said she would also like to see them move forward with the bridge project. It would be good for visitors to the area.

Ron Brunk, 130 E. 4th Street, said he is on the Park Board and the Bike/Ped Committee and he is in favor of the bridge project. He said the BN Loop is incomplete because the intention is to connect it to City Beach. There is a section of gravel there and it wasn't completed because it will have to be dug up again with the construction of the Skye Bridge.

Life Noell, as a prior Park Board member and a member of the public, said the Skye Bridge project offers a safe alternative to getting downtown and to City Beach. He asked them to move forward on the project.

John Frandsen said it makes sense to move to the next phase on the Skye Bridge. It will provide extra access for emergencies and he thinks it is important.

Fire Chief Tom Kennelly introduced the new Assistant Fire Chief Joe Page. Mayor Muhlfeld thanked Chief Kennelly and the Fire Staff for taking up the slack for the past year and half as they worked without an assistant fire chief.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

5a. Report and Recommendation from Impact Fee Advisory Committee (p. 40)

Myra Appel, CPA of the Impact Advisory Committee said in 2007 Henderson, Young and Co. provided a study on the feasibility of impact fees in Whitefish. She was one of the original members of the original Impact Advisory Committee. Whitefish was in the midst of a large growth spurt. She referred to a copy of that study; on page 6 there is a decision tree and the #1 consideration was "Is significant new development anticipated in Whitefish?" Back then the answer was "yes." Page 7 of the study said growth was expected. Estimated population was expected to reach 8,598 by 2011 but Whitefish grew 2,214 less than what was projected. The permanent population decreased by about 900 people. If consultants reviewed the same data today, they would probably feel impact fees would not be a good decision. The Impact Advisory Committee recommends removing three fees: EMS fee, City Hall fee, and Park Maintenance facility fee. They recommend retaining the paved trails fees. The cash balance from these fees is a small percent of the budget (less than 1%.) They recommend the City abolish these fees in the future; that action could reduce an impact fee by \$1,557. There is the impression that you can build more for less in Kalispell or Columbia Falls or the County. There is a ghost market of foreclosed properties so many don't want to build. The economy has been slow to

recover. The predicted growth in Whitefish may not come for many years. The Impact Fee Advisory Committee recommends eliminating these fees.

Councilor Mitchell asked and Myra Appel said they report annually to the Council. Councilor Sweeney asked if the committee did any comparison to total impact fees in other towns and how Whitefish compares. She said they did. Their comparison showed \$6443 in Whitefish, \$6351 in Kalispell, and \$4700 in Columbia Falls

Mayor Muhlfeld said they need to decide whether they want to have this as a future agenda item. Manager Stearns said this wasn't set as an action item on the agenda so their discussion could wait until they hold a public hearing to decide whether they want to eliminate any of these fees.

Councilor Hildner said the Bike/Ped Committee met this morning and unanimously supported Skye Park Phase II. He said the bike path on E. 2nd was delayed while Flathead Electric dealt with the power lines, but that has been resolved and will move forward. He said this committee will take on a spring project to clean up the silt fence and debris along the trails. He said safe routes for school will probably get less federal money in the future.

Councilor Sweeney said the High School oversight committee is meeting on a regular basis and have work to do on the budget. They are in the bid phase and hope the bids will come in within budget. They are managing the best they can given the timing and circumstances. He said they need to inform the public better to eliminate confusion. There were some new opportunities proposed, and the goal is to provide the 21st learning environment and structure that was promised when the bond was sold. When they get the 2nd budget /bid in then they will know where they stand financially. He is conceptually comfortable with where they are, but feels they need to inform the public better. Councilor Mitchell said this is the biggest project going on in Whitefish for the next couple of years so communication is vital. Councilor Sweeney said he will be glad to give them an update at each of the Council meetings. He agreed that this is important to the community and they can't mess it up. He said he and Councilor Hildner have talked about creating the website so they can get information out to the public. Councilor Hildner agreed and said they've requested a special website.

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 December 3, 2012 Council special session (p. 45)

6b. Minutes from the December 3, 2012 Council Regular session (p. 46)

Councilor Hildner offered an amendment on packet page 53, paragraph 3, to read "trail" not "trial."

Councilor Kahle offered a motion, seconded by Councilor Anderson, to approve the consent agenda as amended. The consent agenda 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 for a Conditional Use Permit from Michael Bode for a recreation facility within an existing warehouse type building at 5932 Hwy 93 South (p. 60)

Senior Planner Compton-Ring reported that Michael Bode is requesting an after-the-fact conditional use permit for a recreation facility, Big Mountain CrossFit, within an existing 4,000 square foot warehouse-type building at 5932 Highway 93 S. Recreation facilities (low and high-impact facilities) are conditionally permitted within the SAG-5 zoning.

On October 9, 2012, city staff notified the landowner and tenant that a Conditional Use Permit was required prior to opening the business. As such, the property owner is requesting an after-the-fact permit approval. The applicant is using the existing building, built in 1990, and paved parking area to serve the site. No other changes to the site or building are being proposed.

The property is zoned SAG-5 (Suburban Agriculture) which is a county designation. The Growth Policy designation for this area is 'Rural Residential'. A notice was mailed to adjacent land owners within 150-feet of the subject parcel on November 30, 2012. A notice was emailed to advisory agencies on November 30, 2012. A notice of the public hearing was published in the *Whitefish Pilot* on December 5, 2012. No comments have been received.

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per Flathead County Zoning Regulations. The subject parcel is 5.01 acres in size and adequate parking is being provided.

This particular location is within the Residential District for signage. One large wall/banner sign located on the east elevation of the building was placed without a permit and exceeds the standards for this sign district. This unlawful sign has been removed and a valid sign permit needs to be obtained prior to the installation of any lawful sign.

There is existing exterior lighting near the front door on the east side of the building and on the back of the building. These lights, known as 'wall packs', do not meet the city's outdoor lighting standards. These lights should have been brought into compliance before August 17, 2009; therefore, staff will recommend a condition of approval that all exterior lights be updated to meet the outdoor lighting standards.

This property is served by an on-site septic system. As this is a change in use, Flathead County Environmental Health Department requires an updated septic permit for the new use. Staff contacted Flathead County and found that this has not occurred with the current tenant. In 1989, the County approved a one-bedroom single family home septic. Staff will recommend that upon approval from the Council, the applicant will hire a consultant and meet with the County no later than February 1st. If the County is unable to approve the change in use, the applicant will either need to connect to city services, which are approximately 1,168-feet from the subject parcel, or abandon the use. Staff was contacted by Flathead County Environmental Health today and they met with the applicant and he is in process of hiring an environmental consultant.

Planner Compton-Ring said she talked to MDOT and they were satisfied with the existing access. The Planning Board held a public hearing on December 20th, and unanimously recommended approval subject to the conditions outline in the staff report.

Mayor Muhlfeld asked and Director Taylor said the business licenses are only required in the City limits and if the property is in the county they have to rely on the applicants to come to them.

Councilor Hildner asked and Planner Compton-Ring said staff gave the applicant a deadline to come in for a CUP and the applicant did. Councilor Hildner asked about the difference in the septic approval from when it was proposed to be a church to now. Planner Compton-Ring said the church wasn't able to get a septic permit. Councilor Hildner asked if there were fewer people getting exercise than attending church on one day. He said the map shows two drain field locations, but he doesn't see the location of the well. Planner Compton-Ring said the applicant could perhaps answer that for him. Councilor Hildner said he has some concerns about the traffic issue out there. Planner Compton-Ring said MDT did not think it would increase traffic significantly. Councilor Mitchell said the septic decision will be made by the county. Councilor Sweeney confirmed that the approval is conditional upon the applicant getting septic approval from the county and Planner Compton-Ring agreed.

Mayor Muhlfeld opened the public hearing.

Mike Bode, 915 Columbia Avenue, said he owns this property and he apologized for not getting the permit in sooner. He thought he was dealing with the county. He said their business is much smaller than the church. He said they hired a septic consultant and will put in a new septic if required. He said the sign has been taken down and the new lights will be up soon. Councilor Hildner asked and Mike Bode said the county said they can continue to operate until they get approval.

Mayor Muhlfeld closed the public hearing.

Councilor Mitchell offered a motion, seconded by Councilor Kahle, to approve a Conditional Use Permit (WCUO 12-13); Michael Bode's recreation facility within an existing warehouse type building at 5932 Hwy 93 South with the 7 conditions recommended by staff. The motion passed unanimously.

7b. Resolution No. 13 ____; A Resolution to establish an increase in the public usage fee schedule and the establishment of a new event support fee schedule for the public's use of City parks, facilities and grounds (p. 90)

Parks and Recreation Director Cozad said Doug Wise, the President of the Park Board, is present tonight. He said the parks fee schedule addresses all of the facilities they manage. They work to provide quality service and community experiences at these facilities. It is their objective to support these events; special events are a positive part of this community. The proposed fees are based on the impact to the facilities. The fee makes up about 4% of the Parks budget. They spend close to \$20,000 maintaining facilities and 55% comes from general funds, 41% is from greenway assessment and 4% is from event fees. They expect that the groups that use the facilities contribute to the support and rehabilitation of those facilities based on the impact. He said Depot Park is the crown jewel of the City parks system. Last year there were 11-12 major events that occurred at that sight in about 16 weeks. He said Councilor Sweeney once said they are loving this park to death. He said the challenge was how to

equitably charge each group. He said there is Farmer's Market that has 19 dates at 3 hours/date. Other events are 3-4 consecutive days. There isn't any one event that has a severe impact, but the accumulation of events doesn't allow for recovery time. He said this proposal was unanimously approved by the Park Board. The proposed Event Support Fee will be \$500.00 per event, regardless of the number of days of the event. The proposed Size Fee will be based on the number of even vendors (some require additional staff time and effort.) Some vendors and/or events have a negative impact to the infrastructure—driving stakes and/or running over sprinkler heads. Other communities charge by the number of vendors. He said the key point is that their charge is to maintain and protect these outstanding amenities in the community. He said that when the Park Board came up with this proposed fee schedule they forgot to include an hourly rate—they included half days and full days. He developed an alternative proposal that assigns an hourly rate to Depot Park that would bring the fees more in line with what they are used to, and he handed out a copy to the Council. He said Farmer's Market has a street closure and a per vendor charge that the City would only charge to the Farmer's Market once/year.

Manager Stearns clarified that Farmer's Market uses the park 3 hours/week. Director Cozad said it is exciting to have these events occur in Whitefish.

Councilor Mitchell asked about the fact that there is no impact fee for Farmer's Market and Director Cozad said it is because there are no additional staff hours required for the market—it is all handled by volunteers. Councilor Mitchell asked and Director Cozad said the electricity is included in the fee. Councilor Mitchell asked about the Special Events charge and Director Cozad said it is charged once/year by the administration. Councilor Mitchell asked and Director Cozad said the fees are in line with the other communities. Councilor Mitchell asked about the Master Plan and Director Cozad said the question is whether it is going to be an open green space or a place to host events. Councilor Mitchell said he knows grass won't work. He'd like to consider a fair amount of hardscape to allow them to have more events. Director Cozad said they identified using the street for hardscape, but some issues have come up that have changed that opportunity. Councilor Mitchell said he would like them to consider whether the Master Plan fits what the Council wants for the park. Councilor Sweeney said he is concerned that there is damage by some of the vendors and wondered if the City gets compensated. Director Cozad said they required a deposit to pay for damages in the past, but it is hard to determine where or when the damages occur. Councilor Sweeney talked about the fact that the tent occupies the park, but they aren't charged except for the days they use it. Councilor Kahle asked about the greenway assessment fee and Manager Stearns it is charged to all properties per front foot and goes toward park maintenance costs.

Councilor Hildner said they need to look at what the Master Plan says about Depot Park and its stated purpose. He appreciates that the new plan now includes at least some rest time for the park. Councilor Anderson said he also understood that the primary purpose was open space, with limited use. He said the management and maintenance plan is critical. He asked and Director Cozad said they propose to utilize a rotating system of layouts to give areas time to rest. The last thing the Park Board wants to do is be an obstacle to a successful event. Right now there are four multiple-day events planned in this park with rehabilitation time in between. Councilor Anderson asked and Director Cozad said there were 10-12 major events last year. Councilor Anderson asked what problems the fees are intended to solve. Director Cozad said the cumulative effect of events requires rehabilitation of facilities. Councilor Anderson said he understood that the use was causing higher maintenance costs. He said if the use goes down then perhaps the expense would be less.

Mayor Muhlfeld said the revised fee schedule from Director Cozad has hourly fees so the cost for Farmer's Market would be \$1140/year compared to \$5085/year. Director Cozad said the Farmer's Market got their application in early enough so they got to use the 2011 rate last year. Councilor Mitchell asked about the difference in fees and Director Cozad said the hourly rates give a more equitable rate for different events. Councilor Mitchell asked if Director Cozad thinks the park will grow grass and he said with proper management and care he hopes they can make it work. Councilor Kahle asked if the fee structure covers the actual impact to the Park and Director Cozad said they haven't broken down the parks budget by facility so it is difficult to assign a dollar value. He said they will bring the budget to the Council this year with a breakdown of where they spend their money by facility. Councilor Hyatt asked and Director Cozad said they spent about \$14,000 to re-sod Depot Park last year. He said it is about \$1/square foot prepped, installed and laid. He said the community may be willing to have a sod laying party, like they did in the Dog Park. Mayor Muhlfeld said from an equity point of view the alternative option is more appropriate.

Doug Wise, Park Board Chairman, said they have total support for Director Cozad and his staff for the jewels they provide and protect for the community. They have discussed how to maintain Depot Park as the crown jewel of this City. He said they are only asking a vendor to pay \$2.14/week. He said for Huckleberry Days or Whitefish Arts Festival they are only asking for \$19/vendor. These will help maintain the park. The board wants an equitable plan to maintain the park at a level the City wants.

Mayor Muhlfeld opened the public hearing and requested that each speaker hold their comments to the 3-minute limit as there is a large number in attendance who wish to speak.

Rhonda Fitzgerald, 412 Lupfer Avenue, said she has been the co-chair of the Downtown Farmer's Market committee. It is an incredible committee of volunteers and they partner with the City for this event. Economic Development offices may work to develop projects like this, but since Whitefish doesn't have an economic development department the volunteers have created this event. The market is a "third place," a desirable entity, an anchor for community interaction because it is free, highly accessible, offers food and drink, and is a meeting place for friends. There are three purposes to the market: proximity and synergy to businesses, social gathering place, and civic engagement that helps our community thrive. If the committee has funds left at the end of the year they help provide for money for the flower baskets, bike racks and other projects. She said there are 50 vendors on the lawn and it would be a \$500/hit. She said the Farmer's Market is a visible barometer and an emblem of community pride. She asked them not to raise the fees.

Jen Frandsen, 1648 West Lakeshore, said this will be her 3rd year volunteering for the market. She said the National Farmer's Market Coalition uses this market for their model. She said setting up the market downtown creates a place where the community wants to go. Farmers are able to bring their produce by trucks, park on the street, and because of the location near Depot Park it still allows a park-like atmosphere for those who attend. Locals sell their foods and crafts at the event. Children sell their painted rocks. This is a carefully orchestrated market that is highly organized by volunteers. If the fee is raised many of the locals, who often don't make very much money, will quit. She asked them not to break the market or the community.

Todd Kotila, Headmaster at Whitefish Christian Academy, said they run the Whitefish Arts Festival each year, but he wanted to speak as a member of the public. He said he agrees that the park is a wonderful asset. He said he understands that the term fee is a synonym for a tax and he doesn't think

that the fee at \$2/vendor is insignificant. He loves the Parks Department and Doug Wise. He asked, as Councilor Anderson did, what problem the fee structure solves. If the problem is money then he would ask the Council to fund the maintenance of the parks. He said resort tax revenue was up in town, so he suggested they use it to fund the maintenance. He said as a member of the public he opposes fees. He said to be equitable they would have to charge fees for dogs that poop in the dog park and wheel damage that occurs on the skate parks. He asked them not to raise the fees. Mayor Muhlfeld clarified that resort tax cannot be used for park maintenance; and only 5% of the revenues are allotted for park capital improvements.

Kevin Gartland, 307 Spokane Avenue, is the Director of the Chamber of Commerce and said if the intent of the policy is to kill off some of the seasonal events that bring people and money into Whitefish, then they are heading on the right track. He said they raised the fees 20% on Depot Park last year and now they want to raise it 50% and then add additional fees. He said the Council is looking at lowering impact fees because it impacts growth, then they are looking at raising fees for events that help bring people into the community. The City is digging into the pockets of the non-profits. He is disturbed that this project has come this far without more input from those affected. The Chamber urges them to reject the increase in fees and the maintenance plan fees. He said lower rates should be offered to the Chamber as well as to 501(c)3 organizations. He said the only additional staff time he is aware of is for wiring the park for electricity for special events. He asked whether the \$500 fee would go away when the park is updated and has electricity on site. He asked them to reject it.

Life Noell, 240 Dakota Avenue, said he speaks with full confidence in Director Cozad. He said when he worked on the Park Board he was discouraged that only about a dozen people attended Board meetings over the year. He said it is the second Tuesday of the month and people could attend. He asked for clarification if it is viable for the city to cover the \$20,000 for preserving the parks and the grass. He asked if they could use alternative locations for the Farmer's Market. He said there are 10 parks in town they could use. He said recreation is vital and he supports these events. He supports that they are a city of parks, but there is a cost to maintain them. He asked the community to keep an open mind about alternative locations. Depot Park is important and they need to take some of the burden off the Parks and Recreation Department.

Jan Metzmaker, 915 Dakota Avenue, said the Park Board has a lot of responsibilities heaped on them and they don't always get the funding they need. She said they have created a sustainable Farmer's Market committee and they are going to try to have a greener event. She hoped they wouldn't make the market unfeasible.

Shannon Fremont-Smith, 551 Haskill Basin, Whitefish Arts Festival director, said they are 100% volunteer run and they bring a lot to the community. She said the fee increase seems to focus on the damage to the park and not the benefits the event brings to the community. She said the new fees are terrible. They are already paying for 3.5 days and should not have to pay an additional fee. She said their applications went out in October and if she asked for an additional \$20 now, she would get calls. She said they would lose vendors. It is a substantial amount of money to the vendors. She said some organizations turned in their registrations today to avoid fees and she thinks to make it fair, new fees shouldn't go into effect until the first of a new year.

Ron Brunk, 130 E. 4th Street, said he is on the Park Board. He said they were asked to come up with a maintenance plan for the parks. Contrary to popular opinion they aren't out to shut down

Farmer's Market. He encouraged them to look at Director Cozad's hourly structure proposal. He said if they don't want to raise fees the Council could fund the budget so they can take care of \$14,000 worth of sod at Depot Park and all of the other parks. He said they asked Director Cozad how he came up with the fees and he said they are based on the events and the maintenance required for the events.

Rebecca Norton, 530 Scott Avenue, said she thinks they should keep talking about this after tonight. She doesn't think the fees are the best solution. She said Director Cozad started talking about this about 3 years ago. Maybe the people who are most impacted could work on the solutions to figure out how to finance the impact.

Tim Good, 230 Dakota Avenue, owner of the Cuisine Machine, said Farmer's Market is very busy for him. He said that is the only day of the week that they sell food to the public. He said the small vendors are part of what makes Farmer's Market special and the fees would affect them. He asked them not to make it hard for the little people to be there.

Ken Stein, 1495 Lion Mountain Drive, agreed with everyone about Farmer's Market. He said some of the other City facilities that are rented for birthdays need to be kept at a fee that is manageable for families or they will lose more revenue. He likes the idea of more hardscape.

Terry Feury, 930 Pack Rat Lane, said she is a volunteer for the Farmer's Market and raises money for the live music. She said the local businesses love to support live music for the community and for the children. She also sells her bread there and people come from as far as Eureka and Polson. They say they plan their whole trips into town based on the Farmer's Market event. She is opposed to the fee increase.

John Frandsen, 1648 West Lakeshore, read a letter from Marcus Duffy, who is in opposition. He said Jen spends 5 hours/week volunteering for the Farmer's Market. He said he doesn't know how this will be effective financially. He said it mixes up a process that works. He said the increase in fees may cause a net loss of revenue in the long run.

Judy Owsowitz, 6505 Farm to Market Road, said she appreciates the attempt Director Cozad has made to try to keep the fees reasonable. She said this is a great community-building event as Rhonda Fitzgerald said. She said businesses know they need to make the most money they can per square foot, but it doesn't happen everywhere in a store. There are some things that draw people into the business and some that make more money than others. She suggested that perhaps they charge more for people from out of state who launch their boats at City beach.

Sarah Lamb, 1545 Karrow Avenue, said she is a vendor at the market and her children are fourth generation Montanans. She said she is on the board for the Kalispell market and if they raise the fees 5x then they will not be comparable to the fees at the Kalispell or Columbia Falls markets. She said they will lose the local vendors who are the heart of the markets.

Pam Gerwe, 170 Blanchard Lake Drive, said she is a vendor at Farmer's Market and is involved in a lot of the agricultural events in the state. She said a lot of cities sponsor the infrastructure of the community's Farmer's Markets because they are a great asset to the community.

Ian Collins, 898 Blue Heron Drive, and Chair of the Heart of Whitefish, said Nancy Svenningsen and Rhonda Fitzgerald are the people who make the market happen. He said the Farmer's Market would have a \$14,000 increase if the original fees were charged. He was disappointed that this went on at the Park Board level without input from the people who run the Farmer's Market. It hurt the good will in the community. He hoped they would send a message to volunteer boards that when they are looking at serious issues like this that they include people who are being affected by them.

Matthew Smeltzer, 630 W. 3rd Street, said he runs competitive timing races and he has concerns about the fees he pays for his races. He said maybe they could break out the fees per event happening. He said if they sell beer, they pay \$10. If they break it down into individual items perhaps they could associate fees more equitably. He liked the ideas from Kevin from the Chamber. He hoped they would mull over ideas they've heard tonight. He agreed with Rhonda Fitzgerald that it is OK to treat different events differently. He said Director Cozad said this is 4% of the Parks budget and he doesn't think they need to make a big deal about this. He thought those who break something should pay for it. He thanked Director Cozad for working with them on events.

Chris Schustrom, 504 Spokane Avenue, read a letter, previously referred to, from Marcus Duffey. Marcus Duffey said Great Northern Brewing company has firsthand experience with the success and growth of the weekly downtown Farmer's Market. He said they've witnessed its growth and success and have been fortunate to have had its abundance overflow through their doorway. The Farmers' Market is a microcosm of what many want and believe to be right for Whitefish—a gathering of community to support one another and the businesses we operate here. He said the wear and tear on Depot Park is very apparent at times. He proposes that they allocate dollars that have already been collected by the businesses of Whitefish. He urged them to support events like the Farmer's Market and to exam current budget allocations.

Chris Schustrom said he thinks about raising funds for community events. He said you don't fund the Parks Department by raising fees in this manner. He served on the Park Board in the past. The Parks have grown and flourished and he urged the Council to provide better funding for the parks. He believes there should be fees based on whether it is a community event or a commercial event. He asked them to send this back to the Park Board to get community input on funding the parks and maintenance. He said they have had a lot of great community events and have improvements that need to take place, but those take maintenance money.

Mayor Muhlfeld closed the public hearing.

Mayor Muhlfeld called a recess from 9:30-9:40.

Councilor Anderson thanked everyone for their input. He said he appreciates the intense public opinions. Councilor Hyatt said he is on the Park Board and he has addressed this issue at the last few meetings. They know that 20,000 people impact Depot Park and there is a financial impact. They know there is a need to make sure the parks are maintained and funded. They keep adding projects to the Parks Department. This plan is the attempt to deal with maintaining the parks. He thinks they need to figure out how to fund this as a community. They know they need to have green grass. Councilor Sweeney said this brings up the reality that if they are going to have parks they need to figure out how to pay to maintain them. This provides a good discussion point. The fee increases may change the character of the events.

Councilor Sweeney said he would like to table this issue and find different ways to fund this. Councilor Kahle said he loves the public process. He loves the Farmer's Market. He thinks the fees are vital and have to be based on the impact to the park. He said perhaps Director Cozad could help them with that information. Councilor Mitchell said he doesn't go to Farmer's Market, but he is glad they have it. He said they are trying to deal with a usage fee. He questions the Master Plan's call for green space, because he would like to see this park used more. He said they can fund this with taxes. He said at some point the City budget is going to break because they keep trying not to raise taxes, but they will need to. He said it will hurt families. He said they feel like some of their venues should be treated differently. He read a comment from an attorney who said it is violating the basics of law to treat one group differently than another. He said it is wrong to prefer one over another. He also thinks the Park Board has been open about these meetings and Councilor Hyatt has been telling them this was an issue they were dealing with. He said if Farmer's Market is a boon for downtown then the businesses should chip in to help Farmer's Market with the fees. He said they have to have usage fees or raise taxes. He would like the public to come to the budget meetings as they try to figure out how to pay for things.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to postpone action on this Resolution No. 13-____; A Resolution to establish an increase in the public usage fee schedule and the establishment of a new event support fee schedule for the public's use of City parks, facilities and grounds until after the work session on the third Tuesday in February to bring the Council and Park Board together to figure this out.

Councilor Mitchell asked and Director Cozad clarified that current applicants pay the fees that are established at the date of their application, so everyone can come in at the rate they have right now, without a rate increase, if the Council postpones their action tonight. Councilor Kahle asked if they have the discretion to stop taking applications until the rate is determined. Manager Stearns said they can, but it will have an affect on all of those organizations that are trying to plan their events this year. Councilor Kahle said the Park Board didn't just pull this number out of their hat. The proposal was reached after a lot of discussion and thought by the Park Board. He thinks they need to decide on this sooner than later. Councilor Anderson said they can keep the fees where they are for a year, get more information from the staff on the actual impact and costs, and continue to take applications for this year. The businesses need some certainty moving forward. He would prefer that the Park Board analyze these things with robust public input. Councilor Hildner said he appreciated the input. If they postpone the decision it gives them time to consider the alternative proposal Director Cozad came up with at the beginning of his presentation. He said some people slipped their applications in today so it was under the old fee schedule, so he would like to see them hold the fee steady for a year so it is fair to all organizations.

Councilor Mitchell said if this gets postponed would it affect the number of events and Director Cozad said it would not because the Park Board makes the operations policies. They have already decided on a schedule that limits use to protect the park. Councilor Mitchell said the Park Board spent months on this. Councilor Kahle said if they use the previous fee schedule for this year, they need to create the new schedule and give everyone plenty of notification. He would like a work session in February. Councilor Sweeney said the key to this thing is the new Park Board management plan.

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

7c. Ordinance No. 13-01; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-3-11 regarding retaining walls (1st Reading) (p. 101)

Senior Planner Compton-Ring said staff identified some issues regarding retaining walls and proposed some amendments. In the field, staff has encountered a lot of confusion about the 24" height, the required setbacks and where to measure the height. Staff would recommend that all retaining walls be regulated through building permits unless it is clearly landscaping. They've had neighbors who wanted to share a retaining wall to create a parking area on a steep lot, but they couldn't under the current zoning regulations due to required setbacks. There is also a height requirement that limits walls to 4' in height. She isn't sure where that came from or what it meant – it is poorly written. Staff believes it is intended to protect the natural topography. One of the issues is where the 4' is measured, so staff recommended changing it to the wall from the downhill side on finished grade. Staff would recommend a setback requirement, equal to the height of the wall, if the Council thinks it is appropriate.

The Whitefish City-County Planning Board held a public hearing on October 18, 2012 that was continued until November 15, 2012 and then continued until December 20, 2012. Following this hearing, the Planning Board recommended approval of the amendments (4-3, Konopatzke, Blake and Smith voting in opposition) and adopted the supporting findings of fact in the staff report. No comments from the public were received. The draft includes a purpose and intent statement. The goal is that the retaining walls should retain some of the natural topography. A building permit is required for all retaining walls unless it is clearly for landscaping purposes. They developed clearer standards on where to measure, including the standards if terracing will happen. Retaining walls for traffic access can be up to 8' in height. They added an administrative section so folks will not have to go to the expense and time to go to the Board of Adjustments.

Councilor Mitchell asked and Planner Compton-Ring said that they are proposing these changes because some things are not working. She gave the example of two folks who wanted to share a retaining wall for shared parking. She said for steep lots they have to exceed the 4' height limit to have vehicular access. Councilor Mitchell asked about page 103, B2, about terracing. He said sometimes the applicant will need to do a wall without terracing and he thinks the homeowner should be able to decide. Mayor Muhlfeld said Section 3 allows a Zoning Administrator waiver to provide for flexibility. Councilor Mitchell said he disagrees with it. Councilor Hyatt said page 112 from the Planning Board meeting talks about the retaining walls and what the community wants. He didn't like that the people have to come back to the City for permission. He said the building permit would require an engineer. Planner Compton-Ring said without this resolution people would have to go to the Board of Adjustment, so this saves people time and money. Councilor Hyatt asked and Planner Compton-Ring said if the past Councils didn't care about the visual impact of retaining walls there wouldn't be a regulation like this. Councilor Kahle said if someone wants to appeal what do they do and Planner Compton-Ring said they would appeal to the Board of Adjustment.

The public hearing was opened and no one wished to speak, and the public hearing was closed.

Councilor Anderson offered a motion, seconded by Councilor Sweeney, to approve Ordinance No. 13-01; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-3-11 regarding retaining walls (1st Reading) (WZTA 12-05). The motion passed 4-2 with Councilors Hyatt and Mitchell voting in opposition.

8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**8a. Consideration of an amendment to the engineering contract with TD&H Engineering for Phase II design of the Skye Park pedestrian bridge (p. 139)**

Public Works Director Wilson said he reviewed the questions and concerns from the December 3rd Council meeting and staff recommends and hopes they'll approve the recommended amendment to the contract. Staff respectfully recommends the City Council approve an amendment to the engineering contract with Thomas, Dean and Hoskins, providing detailed design and related services for the Skye Park Bridge Project in an amount not to exceed \$62,500. This cost would be paid with \$10,000 from line item 930 of the Wastewater Fund and up to \$52,500 from the Tax Increment Fund.

Mayor Muhlfeld said the staff report was very beneficial to the Council and he thanked Director Wilson for the report. He said the report showed that there are potentially some additional funding sources up to \$375,000 that could be available and he wanted to be sure the Councilors had noted that information. Councilor Anderson thanked Director Wilson for the report. He asked if there was a time requirement for beginning construction based on the grant standards. Director Wilson said this item wouldn't trigger a timeline, but on the \$210,000 grant they should submit the paperwork so the money doesn't go back to the federal government. It puts the funds on hold for 2-3 years. Councilor Mitchell said they asked staff to talk to BN about the right-of-way for the property. Director Wilson said the consultant has been talking to BN and they expect this will be a straightforward process that will take about 90 days. Councilor Mitchell asked what will happen if they say no. Director Wilson said staff has to proceed on many projects like this and they don't see any reason to expect failure. Councilor Mitchell said he hates the idea that they might waste money on the design work without the easement in place.

Councilor Hyatt asked about the timing and Director Wilson said the first phase was the topographical survey, but he figures the application will occur within the next couple of weeks. Councilor Kahle thanked Director Wilson for the staff report and said it was a good template for future reports.

Councilor Anderson offered a motion, seconded by Councilor Sweeney, to approve an amendment to the engineering contract with Thomas, Dean and Hoskins, providing detailed design and related services for the Skye Park Bridge Project Phase II in an amount not to exceed \$62,500.

Councilor Hildner asked about the \$200,000 in TSEP funds. Director Wilson said there was some confusion on that. On the state's books there is \$140,000 that is not committed right now from Second Street, but the other \$200,000 in the federal money is available.

The motion passed unanimously.

8b. Discussion of options to amend Utility Rules and Regulations for minor changes to base rate water and wastewater charges (p. 151)

Director Wilson said there have been some issues raised about billing procedures. Staff feels this is a straightforward way to address the monthly base rate billing. If plumbing fixtures are removed then

there are no charges. It would be useful to state that if there is any use of water it will return to regular billing. Councilor Mitchell asked if the owner could just cap the line. Director Wilson said he thought this would be more user-friendly so they wouldn't have to do excavation. Councilor Hildner said this is a good compromise. He said there is probably some cost involved with inspection. He thought it should be equal to one month of the base rate. Director Wilson said with most of their other fees they try to estimate staff time involved. He said they can figure that out and include it in the resolution. Councilor Kahle said it would be great if staff had discretion to address situations when moving the plumbing fixtures was impossible, but it was clear that no water was being used. Councilor Sweeney said discretion has to be based on some standards so it isn't arbitrary and capricious. Mayor Muhlfeld said it appears there is consensus so they will see it at a future Council meeting.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 163)

Councilor Hyatt asked if there was a new packet for the way finding sign bidding and Manager Stearns said it was about 95% the same. They are bidding two alternatives—one where the vendor installs the signs, the other where City staff installs them.

9b. Other items arising between January 2nd and January 7th

Manager Stearns reminded the Council that there is a joint work session with the City County Planning Board scheduled on January 17th to work on sign issues. Mayor Muhlfeld said he would like to postpone this until they get some direction from the Planning Board. Councilor Anderson said if they're not seeing any issues then he doesn't see any reason to meet. Mayor Muhlfeld said he read the Planning Board meeting minutes and he didn't see anything significant. The Councilors agreed to the postponement.

10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

10a. Standing budget item - None.

10b. Appointments to Boards and Committees not made during tonight's Special Session.

Mayor Muhlfeld said three applicants were appointed to the Board of Adjustments and they had several applicants for the City County Planning Board.

Councilor Sweeney offered a motion, seconded by Councilor Anderson, to appoint Zac Anderson to the City County Planning Board. The motion passed unanimously.

Mayor Muhlfeld appointed Chad Phillips for the City County Planning Board, Mayoral appointee.

Councilor Mitchell said it isn't customary to hear from staff about applicants. Councilor Anderson said he appreciated the memo from Director Taylor. Mayor Muhlfeld said he is looking for a balanced Planning Board and he was pleased with Chad Phillips' skill set.

Councilor Kahle offered a motion, seconded by Councilor Mitchell, to appoint Scott Sorensen to the Board of Adjustment. The motion passed unanimously.

Councilor Hyatt said Scott Sorensen applied for the Planning Board and wanted to be sure if it was OK for him to be appointed to the Board of Adjustment instead. Mayor Muhlfeld noted that they also have an incumbent who applied for this board. Councilor Kahle said the incumbent, Rebecca Norton, only reapplied because she wanted to be sure there was a quorum at the meeting this month. If there was another interested applicant she was willing to step aside. Councilor Kahle said Rebecca Norton said she would also take a temporary appointment. City Attorney VanBuskirk said she didn't see any reason why they couldn't appoint Scott Sorensen to the Board of Adjustment. She said the Council may act as a temporary member of the Board, so they could appoint a Councilor to attend as a temporary member to assure a quorum. The Council appointed Councilor Mitchell to the Board of Adjustment for this week's meeting.

10c. Email from Jay Erickson regarding enforcement of shoveling of downtown sidewalks and City's shoveling of sidewalks along Hwy 93 South (p. 168)

Councilor Hildner said he thinks Dr. Erickson deserves a comment on this issue and the City's policy for clearing sidewalks. He said Central Avenue and Second Street really ice up sometimes, too. Director Wilson said he doesn't want to make excuses, but he will write Jay Erickson a letter explaining the City's policies.

10d. Letter from Lucretia Duncan that came with her water bill regarding base rate minimum billing (p. 170)

Councilor Hildner thinks a letter of response is important. She needs to know the Council took action on it. Mayor Muhlfeld said at prior Council meetings they decided staff does not have time to respond to every letter. Assistant City Manager Knapp said he called her and addressed her concerns.

Councilor Kahle offered a motion, seconded by Councilor Mitchell, to extend the meeting to 11:10. The motion passed.

Councilor Hildner said he is concerned about the sandwich boards that have grown in girth by Cooper's, Casey's and the Red Caboose. It creates single lane pedestrian traffic. At the last Council meeting the issue was raised about the Ethics Committee and he would like to see that issue raised and reviewed again. Councilors Sweeney and Anderson agreed to put it back on the agenda, but it takes four Councilors in agreement when adding agenda items, so it will not come back to the agenda at this time. Councilor Hildner said there is no contingency fee for construction of the High School and that concerns him.

Councilor Hyatt said the Impact Fee Advisory Committee has been working on this since 2011 and they want to remove several things from the impact fees including: City Hall, the EMS building and the Parks Maintenance building. Mayor Muhlfeld said they need four Councilors to add this as a future agenda item. The majority of the Council agreed to add this as an agenda item.

Councilor Hyatt said he got a phone call about snowplowing. Councilor Anderson said this was the most rewarding meeting since he's been on the Council because of the community input. He said

January 7, 2013

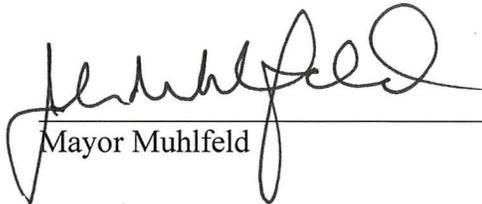
Mike Prezeau was speaking to him from the podium instead of the other way around and that was fun. Councilor Kahle said he is continually reminded of what a great town they live in. He attended a Feet by Feet dance show and the variety of talent was incredible. Tonight's meeting was another reason he loves to live here. Councilor Mitchell asked and Councilor Hildner said there is no 5% contingency fund. Councilor Mitchell said he serves 6000 people in Whitefish and 1/3 of the crowd present tonight is not from the City itself. He said he gets frustrated that 98% of the people aren't involved. Councilor Mitchell said he is concerned about the Spencer Mountain project. He is worried about insurance and the legality of it because it is in the county. He is not opposed to what they are doing out there; he just wants to be sure they are crossing their t's. He has asked Attorney VanBuskirk to look into this for him.

Mayor Muhlfeld said he attended the Land Board meeting about the Spencer Lake Timber Sale South which was approved by the Land Board. They were well received. It was a win-win for the City and the DNRC. He thanked Assistant Fire Chief Joseph Page for attending the meeting and welcomed him on staff.

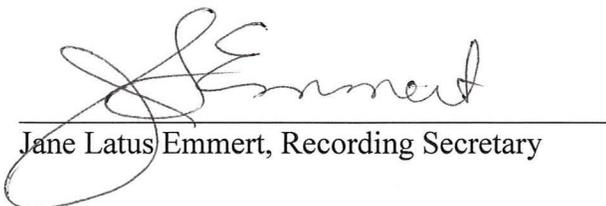
Mayor Muhlfeld asked and Manager Stearns said at the first work session in March they will complete a performance review of the City Attorney and City Manager. He handed out a confidential review form and said they are due Feb. 19th in Mayor Muhlfeld's box. He said Don DuBeau purchased the NV Hospital site for a potential educational facility. Mayor Muhlfeld asked about the issue of tablets for the Council and Assistant City Manager Knapp said he is waiting for better versions to come out.

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 11:10 p.m.



Mayor Muhlfeld



Jane Latus Emmert, Recording Secretary

Attest:



Necile Lorang, City Clerk