

WHITEFISH CITY COUNCIL MINUTES

April 7, 2014

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Hildner, Feury, Barberis and Frandsen. Councilor Anderson was absent. City Staff present were City Manager Stearns, City Clerk Lorang, Assistant City Manager/Finance Director Swisher, City Attorney VanBuskirk, Planning and Building Director Taylor, Senior Planner Compton-Ring, Planner II Minnich, Public Works Director Wilson, Parks and Recreation Superintendent/Interim Director Loveless, Police Chief Dial, and Fire Chief Kennelly. Approximately 60 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Don Spivey to lead the audience in the Pledge of Allegiance.

3. COMMUNICATIONS FROM THE PUBLIC—(This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Chris Schustrom, 504 Spokane Avenue, thanked the City for their commitment to avoiding aquatic invasive species by helping to fund the Coram check station. He is a board member of Trout Unlimited and they have also committed to funding \$3000 toward that effort this year.

Rhonda Fitzgerald, 412 Lupfer Avenue, said it is time for Farmer's Market again and the application is online for applicants. She thanked the City for their support and said the Farmer's Market is a success because of their partnership. She said the new restrooms at the O'Shaughnessy will be a nice addition. She said the Police Department is so helpful with clearing the parking area and the Fire Department comes and bring their shiny truck so the kids can spray the hose. It is in its 11th year and is a great event, but it couldn't happen without their support. She thanked them.

Bradley Joseph Tutsch, 114 Wisconsin Avenue, said he is a vet who has two honorable discharges. He said he is 54 years old and has post traumatic stress disorder and bi-polar issues. He said he represents the Veteran's Administration and possibly, the Army. He would like the police report on his incident. He has requested the report from the City Police Department and the City Prosecutor Caleb, but Caleb wasn't very helpful. He feels he has the rights to those reports.

4. COMMUNICATIONS FROM VOLUNTEER BOARDS

4a. Annual review and consideration of approval for Whitefish Convention and Visitor Bureau marketing plan and lodging tax budget for FY15 (p.20)

Councilor Frandsen recused herself from this issue due to a conflict of interest.

Erica Coffman, Chair of the Whitefish Convention and Visitor Bureau (WCVB), said they were here tonight to present the Fiscal Year 2015 Budget and Marketing Plan. She introduced the Board

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members: Rhonda Fitzgerald, Nick Polumbus, Luke Walrath, Jake Cook, Zak Anderson, Bruce Haller, Barb Brandt and Scott Ringer. She recognized Jan Metzmaker as their Founding Director and Director for over seven years. She thanked Jan for her service. She introduced Dylan Boyle, the new Whitefish Convention and Visitor Bureau Director.

Dylan Boyle, Director, represented the WCVB and said State Law requires the WCVB to present and receive City approval of their Marketing Plan and Public Budget for FY15. He said they promote Whitefish as a charming small town that provides exhilaration by day and relaxation by night. He said they target markets in Chicago, Minneapolis, Seattle and Portland where they attend ski and trade shows. He said they have a plan to reach almost 13 million targeted viewers through their paid advertising. They plan on a ¼ million visitors to their website. In 2013 they reached over 500 million people. He said they were the first to sponsor local Olympic Team-member Maggie Voisen, and the town of Whitefish has received a lot of press because of her story. There is a new web portal called “Where the Locals Go, Montana.” It was a public relationships partnership with the Montana Office of Tourism. Their target ads are outperforming the media standards and it translates into real economic growth for Whitefish. He said 558,000 non-resident travelers spent at least one night in Whitefish. He said Whitefish Mountain broke its previous record with over 345,000 skier visits this year. The Marketing Plan and Public Budget has been included in tonight’s Council packet and he requests Council approval.

Mayor Muhlfeld asked and Dylan Boyle said the tax collections were down 7% in October, and 5% in September due to the closing of Glacier National Park. Councilor Sweeney said the report cites some of the challenges in marketing—lack of creative pricing for air access and transportation challenges. He said he thinks they need to focus on this. Dylan Boyle said there is a new local organization, AERO (Airline Enhancement and Retention Organization), chaired by Paul Johannsen, and the goal is to have a fund to utilize grants and local fundraising for a revenue base to get airlines to provide more service to the Flathead Valley. He noted that there are new seasonal flights to Portland and Los Angeles.

Councilor Sweeney offered a motion, seconded by Councilor Hildner, to approve the Whitefish Convention and Visitor Bureau Marketing Plan and Public Budget for FY15. The motion passed unanimously, with Councilor Frandsen abstaining per her recusal.

(see more Volunteer Board Reports on the next page)

5. CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council’s action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

5a. Minutes from the March 17, 2014 Council regular meeting (p. 55)

5b. Consideration of approving application from Curt Trillium Shores LLC for Whitefish Lake Lakeshore Variance (#WLV-14-W03) to add a 100’ floating walkway to the end of an existing dock at 434 Dakota Avenue subject to 12 conditions (p. 63)

Councilor Hildner offered a correction on 7th page of the minutes, 4th paragraph, to state that Councilor Hildner said the amount had gone up \$60,000, not \$600,000.

Councilor Sweeney offered a motion, seconded by Councilor Frandsen, to approve the Consent Agenda as amended. The motion passed unanimously.

4. continued - CONTINUATION OF VOLUNTEER BOARD REPORTS

Councilor Frandsen, reporting on the Whitefish Arts Council, said that on May 15 and June 13 there are two more opera events and the public is invited to attend. She said the Whitefish Arts Council is opening up a conversation with arts groups on May 20, so if there are questions please contact Carol Atkinson.

Councilor Frandsen reported on the Montana West Economic activities and said they are participating in the AERO campaign and FCEDA is making a \$100,000 pledge and asking local businesses to contribute to that fund. FCEDA is looking at applying for grant money.

Councilor Hildner said the Park Board discussed improvements to the Ice Den. It will be a continuing effort to put all of the pieces together. They may have a work session with the various user groups. He said the Bike/Ped committee met and received reports from Karin Hilding and Chuck Stearns who both attended the "Building Active Communities" seminar. He said there is a slight hold up on the Skye Park Bridge project due to an easement issue with the adjoining property owner.

Mayor Muhlfeld asked and City Manager Stearns said the Skye Park Bridge project got involved with a pump station down there because of the bridge landing. To work on the lift station the City will have to encroach on the neighbor's land when while working on the project. The neighbor doesn't want to grant an easement, but has suggested an exchange of land for part of the right-of-way adjacent to his property on Birch Point Drive. Mayor Muhlfeld asked if it would delay construction and Public Works Director Wilson said he hopes they'll have enough information to move ahead after the next Council meeting.

Chief Dial said the 911 Committee met to talk again about the budget and a followup meeting is scheduled for next week. He said they asked the staff to pare down their budget requests. Proposed increases include money the Board has no control over due to increased worker's comp, insurance and contracted salary raises. He said the facility has been running for about 4 years and maintenance needs are coming up. He said that about 75% of their phone calls are from cell phones and there is an organization called Smart 911 which allows people to set up a profile on their smart phones. He talked to Mike Pence and representatives from the County and it looks like the funding source issue will come before the public in the fall for a vote. He said it is important to find a viable way to fund this so that Whitefish, Kalispell and Columbia Falls are not being double taxed on 911 services.

Chad Goodwin, from the Whitefish Skating Club and Skating Academy, said he is on the rink advisory board at the Ice Den. He said they have looked at how they can enhance the Stumptown Ice Den. He noted that City Manager Stearns stated concerns in last year's budget message about continued subsidies for the Ice Den and his concern regarding lack of capital improvements. The advisory committee has looked at possible ways to get improvements without having to use tax dollars. The Skating Club hired consultants to look at the mechanical equipment of the ice rink to see if it is capable of running year around and determined that up to 1.5 million gallons of water could be saved with a cooling evaporator. Approximately \$180,000 would buy a cooling evaporator and a low E ceiling. They are trying to raise the funds. He started with the program in 2011 and there were 25 members and a 6.5 month season. Now they have Glacier Skate Academy with expanded programs and competitive programs including power skating programs and learn-to-skate programs. They held a 3-week summer camp and hosted an average of 75 students each week. He said two of the families who attended their camp actually bought homes in Whitefish because of the camp.

6. PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

6a. Consideration of a request from Elk Highlands, LLC for a two year extension to Wapiti Woods final plat (p. 93)

Senior Planner Compton-Ring said the preliminary plat was approved by the Whitefish City Council on August 17, 2009. In 2012, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires August 17, 2014. Several letters were received with concerns and late last Friday the applicant asked to withdraw the request until he could talk with the neighbors. Neighbors were advised of the requested postponement.

Councilor Hildner asked if they will run into time constraints and Mayor Muhlfeld said the other extension lasts until August. Councilor Sweeney asked that the applicant and neighbors be notified to understand that they may run up against the August 17, 2014 deadline if they wait until July to make the presentation.

Councilor Sweeney offered a motion, seconded by Councilor Feury, to continue this to the first meeting in July and to keep the public hearing open.

Mayor Muhlfeld opened the public hearing. No one wished to speak. Mayor Muhlfeld said, with Council approval, the public hearing will be continued to the July 7, 2014 meeting.

The motion passed unanimously.

6b. Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-3 to identify private postal services and shipping services as a conditional use in the Secondary Business District (WB-2) (First Reading) (p.121)

Planner Compton-Ring said that at the City Council meeting on March 17, 2014, the Council tabled the text amendment for 'shipping and packaging services' as a conditional use in the WB-2. The Council directed staff to develop more robust findings in order to support the text amendment and change the use to 'private postal services and shipping services' to be consistent with other areas of the zoning regulations. Tonight's staff report in the packet includes the Council Proposal to add the following conditional use to §11-2K-3:

Private postal services and shipping services, along with the substantiating findings. In conclusion the staff found it is in the best interest of the City of Whitefish to amend the Secondary Business District (WB-2) to add 'private postal services and shipping services' as a conditional use.

Mayor Muhlfeld opened the public hearing.

Attorney Sean Frampton said he represents Bill Halama and the UPS store. He learned that there is another shipping and packaging store that was approved for the mall, so it seems fundamentally unfair to approve a new store and then to question the rights of the UPS store. It is the same zone, the same street, and only 1/8 of a mile away. He said he doesn't believe the grandfathering policy exists in this

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situation. If anything, the grandfathered rights should go with the UPS store and their investment. He said the mall is grandfathered, but he doesn't think grandfathering is for a new business to come into town.

Karen Baker, with the Whitefish Chamber, said the Chamber voted at their last meeting to encourage the Council to legitimize the rights of the UPS store to exist in the new location with no extra costs.

Richard Hamm, 2330 Dillon Road, said he had questions about conditional uses. He gets his mail at the Pack, Ship and Post at the UPS store and it doesn't seem fair to him. He wondered what was left to settle this situation. Mayor Muhlfeld said he thought the Council would address those questions in their comments.

Mayre Flowers, Citizens for a Better Flathead (CBF), said she has spoken to them on this issue previously. She said CBF recognizes that the UPS store is caught in a difficult situation and the Council is trying to come up with a fair decision. She said CBF proposes amending the ordinance and findings in a more legitimate way than the current proposed ordinance and findings of fact. She referenced her email she had sent to the City late this afternoon, copies of which have been distributed to the Council; with the proposed findings. CBF questions the finding that this service is an "auto oriented business." She said that Kintla Copy, downtown, provides shipping services. The issue is not whether this is an automobile oriented use, the issue is whether it is an acceptable use in the WB-2. It isn't, but she thinks there are other reasons for justifying it. She said her premise is based on Council's findings related to their adoption of Ordinance 11-05 back in May of 2011; especially three of them she thought appropriate for the decision before them tonight. She thought it was important that they recognize in their findings that they are allowing a non-conforming use to apply for consideration as a conforming conditional use. She said this is the unfortunate result of a staff error and that needs to be included in their findings.

Pete Olson, 216 Spencer Trail, and UPS store owner said he listens to people who talk before the Council who have no idea what they do at the UPS store. He suggested that they come down and visit the business. He said they have dragged him and his wife through the dirt for nothing and he is fed up. They are in the same zone they have been in for 22 years. He said the people in this town support them. He said they didn't think they were doing anything wrong. He thanked them.

Rebecca Norton, 530 Scott Avenue, said this is a very unfortunate situation. She is sorry the owners felt like they were run through the wringer. She said sometimes people deliberately misinterpret the rules. She said they have rules that people have to follow. She wished there was a way to address those concerns as well. She said sometimes there is a disregard from the community and the way they follow the rules. She said sometimes people ask for forgiveness instead of permission and that bugs her.

Rhonda Fitzgerald, 412 Lupfer Avenue, said she too regrets that a zoning change has become about a specific person or business. She said things can happen in the Mountain Mall that can't happen anywhere else and she thinks the community needs to understand that. She said this is about allowed uses in the WB-2 zone. She said the findings by Mayre Flowers are a good solution for them. She has a lot of trouble with stating that a business is appropriate in the WB-2 if it is auto-served. She said the businesses in the commercial core are all dependent upon vehicle access and parking. She said the new findings provide a good compromise and will allow everyone to move forward.

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Brad Stoghill, 180 McDowell Dr., owner of the Bigfork UPS Store and a franchisee for the state of Montana, said Pete and Patty are dear to his heart. They moved to Whitefish from Wisconsin because they loved the community. This is not a new business, it has been here for 22 years and they are ranked second in Montana for sales. He said they didn't mean to do anything wrong—they thought they did everything right.

Don Kaltschmidt, 230 JP Road, said as a fellow business owner he stood in support of the staff recommendation for approval of this request. He understands the goal to not exceed the standards of the WB-2 zone. He said this business requires more than automobile access—it requires access for large carrier trucks. He said space downtown is precious and this business needs to be in the WB-2 and not the downtown district. He asked them to approve it.

Mayor Muhlfeld closed the public hearing.

Councilor Sweeney offered a motion to approve Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-3 to identify private postal services and shipping services as a conditional use in the Secondary Business District (WB-2) (First Reading) but not without amending the existing findings of fact in the staff report. He would like to review the proposed findings of fact from Citizens for a Better Flathead, stating that automobile traffic is not a differentiating rationale.

Mayor Muhlfeld said they have to have findings of fact in place.

The motion died for lack of second.

Councilor Hildner said it is important to get to resolution tonight. Councilor Hildner said he would like this to be a permitted use. He finds it consistent with the Growth Policy. Mayor Muhlfeld asked and the Council agreed that they need to work through the findings of fact.

Councilor Frandsen suggested that on page 2 of 6 in the Staff Report WZTA 14-03 (packet page 124), second paragraph, strike the whole sentence that reads “A ‘private postal services and shipping services’ use is an auto-oriented service use with primary access by automobile and parking provided on site.” On that same page in Finding #1, strike the portion of the first sentence starting with because and ending with automobiles, so that paragraph of Finding #1 reads: “The proposed amendment is in accordance with the Growth Policy, it promotes diversification and promotes the existing uses of the neighborhood.” Councilor Sweeney said that in Finding #8 on page 5 of 6 of the Staff Report WZTA 14-03 (page 127 of the packet), strike the first sentence that deals with auto-oriented service; so that paragraph of Finding #8 reads: “The proposed code amendment is not related to the particular suitability of the property for the particular use is not applicable to this code amendment because it pertains more to site development than community wide zoning regulations.”

Councilor Hildner offered a motion, seconded by Councilor Barberis, to approve Ordinance No. 14-03; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-2K-2 to identify private postal services and shipping services as a permitted use in the Secondary Business District (WB-2) (First Reading), subject to the revised findings of fact as discussed during this evening's meeting.

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Manager Stearns said they would be giving direction for Attorney VanBuskirk to change the ordinance to include the revisions for the second reading.

The motion passed unanimously.

6c. Ordinance No. 14-04; An Ordinance approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on 4.156 acres of a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel (First Reading) (Staff Report WPUD 14-01) (p. 168)

Senior Planner Compton-Ring said Larry Lambert, on behalf of Lambert Hotels, is requesting a planned unit development (PUD) and a conditional use permit (CUP) in order to develop a hotel at 6340 Highway 93 S. The three-story hotel is proposed to have 76 rooms with 82 on-site parking spaces. The project consists of one parcel with two zoning designations. The eastern half is WB-2 (Secondary Business District) and western half is WLR (One-Family Limited Residential District). There are two Growth Policy designations on the project. The eastern half is General Commercial and western half is Suburban Residential. Since the footprint of the building exceeds 15,000 square feet, the applicant is also required to obtain a Conditional Use Permit. These requests are being reviewed together, as the review criteria are nearly the same.

The applicant is proposing to exceed the maximum building height, blend the zoning designations to push the WB-2 zone to the eastern edge of the Baker Avenue extension and only overlay the PUD on the portion of property between Highway 93 S and the Baker Avenue extension. In exchange for the building height zoning deviation, the applicant is proposing to dedicate right-of-way through the property to facilitate the future Baker Avenue extension. This right-of-way dedication will connect with the right-of-way recently dedicated by the Dear Tracs subdivision to the north.

No development plans are proposed for the remainder of the property. The applicant has shown a possible future building area behind the hotel, but any future development will require an amended PUD. In addition, the applicant has no immediate plans for the residential property to the west of Baker Avenue, but the applicant doesn't want to encumber the residential property with the PUD overlay.

The Whitefish City-County Planning Board held a public hearing on March 20, 2014 to consider the request. Following the hearing, the Planning Board recommended approval of the above referenced PUD/CUP, subject to twelve conditions as contained in the staff report and adopted the staff report as findings of fact (4-1, Phillips voting in opposition; Anderson and Gunderson were absent).

At the public hearing, the applicant spoke on behalf of the project. Also, four members of the public spoke at the hearing. One was in support of the application. The other three had concerns with the requested height of the building, the additional commercial property and the proposed Baker Avenue extension alignment. As proposed, the Baker Avenue right-of-way would cross Park Knoll Lane near the bottom of a hill that comes out of the Park Knoll neighborhood. It was pointed out that the street crossing might be safer if the road was further to the east.

Due to the public comments regarding the future alignment of Baker Avenue extension, staff has included a copy of the South Whitefish Transportation Plan map (adopted 2/2000) on page 222 and Transportation Plan map (adopted 2/2010) on page 221. Senior Planner Compton-Ring reviewed the conditions for approval and said that all Fire Department standards need to be met. The Big Box

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building standards need to be met, along with approval from the Architectural Review Committee (ARC). A parking plan needs to be submitted. Any further development of the lot will need an additional PUD. An 80 foot right-of-way shall be dedicated to the City before issuing a building permit.

The applicant submitted an official application to the Architectural Review Committee (ARC), which was reviewed on April 1st. The application was tabled in order for the applicant to address certain material issues. The applicant has worked with the Committee to work within the guidelines and progress has been made. Concerns have been voiced by a couple of member regarding the height; however if the applicant receives approval from the Council regarding the height, the ARC is OK with the mass and scale and the look of the materials.

Councilor Sweeney asked and Planner Compton-Ring said the parking is in the residential area and the building will be in the commercial section. Councilor Frandsen asked and Planner Compton-Ring showed where the zoning line is on the map – near the location of the existing sewer line. Councilor Sweeney asked and Director Wilson said the proposed alignment is the least obtrusive at this point. Councilor Hildner asked where the stormwater outlet is and Director Wilson said that hasn't been proposed yet. Councilor Frandsen asked and Chief Kennelly said they have had three meetings and have come up with adaptations for access. Councilor Frandsen asked if there would be any adverse implications of requiring them to stay at 43 feet and Mayor Muhlfeld said the applicant could answer that question.

Mayor Muhlfeld opened the public hearing.

Larry Lambert, President of Lambert Hotels Corporation, thanked them for the opportunity to submit this application for Council's consideration. He appreciates all of the help they've received from the City staff. He said they want to build a 76-room Hampton Suite Inn. They are requesting a variance to bring the building up to 45 feet, but their actual design is just under 43 feet tall. They are asking for additional WB-2 zoning up to the right-of-way. They don't want to touch the WLR zoning because it makes a nice buffer between the hotel and the Park Knoll Estates. They have worked closely with the ARC committee and the designs they've chosen fit with the architectural designs that already exist in Whitefish. Their goal was to break up the mass of the building. The hotel is about 300 feet from the highway and the storm water run-off area is about the size of the existing Wendy's. He said they want to do a lot of landscaping to make an impressive entrance. He said the right-of-way is located to match the existing right-of-way on an adjacent property. In regards to the proposed Baker Avenue extension, they are trying to avoid a cross road at the base of the steep road from Park Knoll Estates.

He noted that about 12% of the roofline is above 40 feet. Approximately 56% of the building is between 35-40 feet and 31% is under 35 feet. He said they talked to the Fire Department about ease of getting on the roof, so they made a full-sized room where the fire fighters could walk right out on to the roof. That is the reason a portion of the building is 42 feet high. He said they will employ 18-20 people and they believe they will bring a lot of people into Whitefish. He said they will have some conference space and thinks it will increase visitor use. They estimate that they will bring in over \$100,000 in taxes for Whitefish annually. He showed images of other buildings in town that are 41' tall. The Pine Lodge on Spokane Avenue has four stories and is probably over 40'. The high school is at 41' and has a solid roof line. Their proposed hotel is 18,000 square feet and has an articulated roof line. He said portions of Whitefish Lake Lodge are over 50 feet, but they've done a great job of breaking up the massing. He showed their design concept and how it matches existing architectural looks in Whitefish. He said they have to start by July 1, 2014 due to a 1031 exchange process, and their bank loan is dependent on getting

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the commercial zoning. He said they want to help address the right-of-way concern off the Park Knoll hill. He introduced Matthew Sease, General Manager, who will run the building when it opens.

Matthew Sease, 226 Lake Drive, Bozeman, said he moved to Columbia Falls in 2008, but couldn't find a job, so he moved to Bozeman and began working for Lambert Hotels. He said that he and Mr. Lambert are very involved with tourism committees in the State and the communities in which they live. He said a project like this benefits the economy, puts people to work and brings out the best in the community. He is looking forward to coming back to the Flathead Valley.

Jan Metzmaker, 915 Dakota Avenue, said she is not opposed to a new hotel. When she was the director of the WCVB they talked to many hoteliers. She is opposed to the height amendment because it defines their town. She wondered how they can say that the tallest building in the neighborhood (the hotel) would fit in the neighborhood. She said once they make an amendment to building heights then other buildings will want to push the community height limitations. She said the additional rooms will increase traffic on the Highway 93 corridor. She challenged the idea that they couldn't build a beautiful building without height variances. She asked about the PUD and said they mentioned office spaces and commercial uses. She wondered if the City would have control over this area or whether it would become another strip mall. She asked them not to approve the additional height.

Don Spivey, 117 Park Knoll Lane, said he was representing the Park Knoll Homeowner's Association. He said they don't have a problem with the hotel; they had a problem with the proposed location of Baker Avenue where it crosses Park Knoll Lane. He said it doesn't make sense to have Baker Avenue intersect Park Knoll Lane at the base of the hill. The road should be moved east to be as close as possible to the current zoning boundary. He said the PUD overlay includes converting the land to commercial and aligning the right-of-way easement. He said it could easily be moved closer to the highway and would relieve the safety issues. He asked them to hold in abeyance the right-of-way until they really figure out the location of the Baker Avenue extension. He urged them to change the PUD process a bit in their decision tonight.

Rebecca Norton, 530 Scott Avenue, said this is the first time she has heard about high ground water and she was worried about whether the hotel would displace water to other properties. She agreed with Don Spivey that the City should decide where they are going to put the road extension before they approve this. She doesn't see any reason to go beyond the existing height restrictions. She said Chad Phillips, an architect on the Planning Board offered some suggestions that would lower the height, but that wasn't done. She said all of the nearby businesses are single story businesses. She said they need to work to tie in the downtown scale and cuteness with the strip. If they allow huge buildings they won't be able to draw in other low-level buildings. She said it is better for the community if they adhere to the City's existing height standards.

Mayor Muhlfeld closed the public hearing.

Councilor Frandsen asked and Director Wilson said the reason that the road layout is scrambled on the property for Baker Avenue is to work around property owners who don't want to give up their property. He said JP Road was the target, but maybe the goal is just to meet Park Knoll Lane. Councilor Sweeney asked if this was a spot that could be used for eventual alignment of Baker Avenue and Director Wilson said the Park Knoll people won't work with the City if it comes in at the steep pitch of the hill. Director Wilson said the initial target was the west line of the church property. He said they might be able to work with their design engineers to look at avoiding the steep pitch on Park Hill Drive.

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He said he doesn't know if they'll ever get Baker Avenue out to JP Road. He said it is important that they make a choice that will have some chance in the future, but they don't have any money for building roads and there are many other easements that would be required, so he doesn't see this as happening in his career. He said they need to move this road to the southeast. He said he can ask some engineers to look at a curved alignment for the road.

Manager Stearns said if they move Hampton Inn easement and want to curve the road, then it runs into the Morris' property and they aren't willing to give an easement. He said they have to look at which is tougher to get. Director Wilson said they may be able to re-grade the Park Knoll Road to also alleviate this problem. Councilor Hildner asked the applicant about the location of the ½ acre right-of-way and what affect it would have if they moved it to the east. Lambert said the biggest hurdle would be their time constraint if they would have to move the easement. He said it might be more reasonable to put a jog in this right-of-way and to divert it away from Mr. Darwin Lee's property. He said there is a condition to work it out with the Public Works, and they could do that in a timely manner. Director Wilson said another challenge is that they would leave an odd-shaped property that is of no use to the applicant.

Councilor Hildner said he has concerns about the height requirement and whether they stick to 35 feet. He said if 42 feet is sufficient they should limit it to 42 feet to prevent these things from growing. He suggested that they add Condition #13 so that the area between Highway 93 west to the front of the proposed hotel be dedicated on the plat as open space so it could not be developed later.

Councilor Frandsen said she is not opposed to a height extension of 42 feet, but she was disappointed to hear that over 50% of the building is over 35 feet. She asked and Larry Lambert said 68% of the building is between 35-40 feet tall. Frandsen said she hates to extend a zone out into an area that has no immediate plans, so she wouldn't be in favor of a zone extension. Councilor Barberis said she is also opposed to the zone extension and the height variance.

Councilor Sweeney said they need to take the height variance under scrutiny, but with the topography here he thinks they would be less happy with a flat line roof than the additional height. It is set back from the highway and backs into a steep hill so he thinks it will be less noticeable. He said he does have problems with the alignment of the Baker Avenue extension. He thinks this is a good project and he would like to be able to figure out how to get this thing done.

Mayor Muhlfeld asked about the conversion of the portion of the property from WLR to WB-2 and asked how important it is to the applicant, because, typically, a zone change request ties to a defined use. Lambert said they need the additional zoning for the building they have. The extra 1.25 acre is not an integral part of their project and they don't have any plans to do anything with it. He said they may need to add a little more parking, though, and they would like to have that option open to them. Mayor Muhlfeld asked if a surface parking lot was allowed under the WLR and Planning and Building Director Taylor said it wouldn't be a permitted use in the WLR. Lambert said that if they are told during the permitting process that they need an additional 10 parking spaces then they have no place to put it. Councilor Sweeney asked about parking requirements and Planner Compton-Ring said it is one space per room and one space per two employees on the maximum shift.

Mayor Muhlfeld asked if there was a way to avoid the steep pitch on Park Knoll Lane and Director Wilson said he wasn't sure exactly where it was. Don Spivey said he could show them exactly where the slope was. He suggested that they approve the zoning extension that would cover the parking,

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but initiate a study on where the right-of-way is going. Manager Stearns said that the Deer Tracs people have put utilities in their property so they aren't going to want to move their road dedication.

Councilor Feury offered a motion, seconded by Councilor Sweeney, to approve Ordinance No. 14-04; An Ordinance approving a commercial Planned Unit Development Overlay including a conditional use permit and zoning deviations on 4.156 acres of a 5.766 acre parcel at 6340 Highway 93 South to develop a hotel subject to 12 Conditions of Approval. (First Reading)

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #13 to dedicate the storm water pond area as open space. The amendment passed unanimously.

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #14 to amend the western boundary of the WB-2 zone to the western boundary of the parking lot for the WB-2 extension. The amendment passed unanimously.

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #15 to amend the 80' right-of-way to state that the location would not be specified at this time, and to deed restrict the property between the western boundary of the WB-2 zone and what is shown as the western boundary of the right-of-way maintaining the existing WLR. (Clerk's note – the remaining westerly portion of the property remains WLR).

Councilor Feury said he worked on the Southern Whitefish Transportation Plan and there are a lot of issues, even giving the northern alignment that could take care of the problem on Park Knoll Road. He said this amendment allows Mr. Lambert to move forward without having to specify where the road easement will be located, and it gives the City a dedicated right-of-way for the future. Manager Stearns asked if a plat note was better than a deed restriction because the plat note exists on the plat. City Attorney VanBuskirk said both documents would be recorded so either would work.

The amendment passed unanimously.

Councilor Feury offered an amendment, seconded by Councilor Sweeney, to add Condition #16 to amend Section 3 of the Ordinance to state the Council approves the commercial use for development of a 42' tall hotel. The amendment passed unanimously.

Planner Compton-Ring said they probably need to remove condition #11 if they are adding #15. Attorney VanBuskirk said they could incorporate condition #15 into #11 and the Councilors agreed. Councilor Frandsen asked about the stormwater drainage and Director Wilson said the applicant knows they have to submit a storm drainage plan for approval from Public Works.

The original motion, as amended, passed 4-1 with Councilor Barberis voting in opposition.

6d. City's proposed applications to the 2015 Legislature for TSEP and DNRC grants for a wastewater system project to diminish groundwater and stormwater inflow and infiltration into the wastewater system collection pipes (p. 224)

Director Wilson said the City retained Anderson Montgomery Consulting Engineers (AMCE) in 2012 to provide planning, grant writing and engineering services for the Wastewater Facility Improvements Project. While the ultimate focus of this project is to design and construct a new

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wastewater treatment plant, that facility is but one part of the City's overall wastewater system. Efficient operation of the wastewater collection system is crucial to the future plans for the treatment plant and an important aspect of that efficiency is a need to reduce the infiltration and inflow of clear water.

Toward that end, AMCE and the Public Works Department have prepared a Preliminary Engineering Report (PER) and applied for grants in support of the Whitefish Wastewater Infiltration and Inflow Mitigation Project. These grant applications will be submitted to the Treasure State Endowment Program (TSEP) and the Department of Natural Resource and Conservation Renewable Resource Grant and Loan Program (RRGL) in May. The Public Hearing tonight allows staff to present the PER findings and recommendations to the City Council and general public.

Director Wilson said the need is to reduce clear water coming into the collection system and reaching the wastewater treatment plant. Treatment plants are made to treat strong wastewater and the more diluted it is the less efficient the system is. He said they have to hydrologically handle the increased flow. Reducing clear water flow is a good financial step before they build the new treatment plant. The most cost effective improvements have to do with leaking manholes. They have several solutions: to line the manhole with a curative epoxy liner, to replace the cracked chimneys and to re-seal them. Some manholes are in drainage ditches and this causes major in-flow issues. They will divert stormwater away from the manholes and seal the incoming sewer pipes which will also reduce clear water inflow. Environmental impact is a required part of the application. The estimated project cost is \$1,141,000. The funding will come from a TSEP Grant, a DNRC Grant, a Low Interest Loan and Local Reserves. They don't expect a rate increase as part of this project.

He said there are several areas they want to look at including Birch Point, City Beach, Iron Horse, Sun Crest and River Lakes. He reviewed the project schedule and said they hope to make these improvements in the summer of 2015. He said that there is no action required at this time. A Resolution authorizing the applications will be on the April 21st meeting agenda.

Mayor Muhlfeld opened the public hearing. No one wished to speak and the public hearing was closed.

7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

7a. Consideration of awarding a construction contract for the East 2nd Street reconstruction and trail project (two motions) (p. 235)

Director Wilson reported that the Public Works Department opened construction bids for Phase II of the East 2nd Street Reconstruction Project on March 27th. Staff recommends the City Council approve a funding package for remaining work on the project and authorize the City Manager to execute a construction contract with the low bidder, Knife River Construction, in the amount of \$2,020,020. He said there was a \$3000 spread on a \$2 million bid, which was excellent, but he noted that they are spending the Resort Tax down. Work is scheduled to begin in early June and be completed by the end of October.

Staff recommends the project be constructed with a combination of Resort Tax funds, CTEP grant money and Stormwater funds. The Resort Tax Fund has approximately \$2,170,000 available through the construction period. This is a conservative estimate based on balances in the current Resort

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Tax budget plus anticipated revenue in FY 2015. The CTEP grant program will contribute \$132,000 toward the trail construction, giving a potential total of \$2,302,000 from those two sources.

Outstanding obligations for this project include payment for the recently completed Phase I construction, the balance of our engineering services contract, reimbursement to CenturyLink for the relocation of their telephone infrastructure, plus the proposed contract with Knife River for Phase II construction; all for a total of \$2,330,450 without providing for contingencies.

This leaves the City with obligations exceeding Resort Tax and CTEP resources by about \$28,450. To rely on only these two funds would also drain the Infrastructure portion of Resort Tax fund through June 2015, leaving no money to start design on the West 7th Street project. In any event, the status of the Resort Tax fund appears to be such that construction on West 7th Street project must wait until after 2015.

The Stormwater Fund cash balance is expected to be over \$750,000 at the end of this fiscal year, without this allocation, and \$55,000 in additional revenue is predicted for FY 2015. Public Works therefore recommends the following funding package for remaining payments to be made on the East 2nd Street Reconstruction Project, including Phase I and Phase II construction contracts, engineering services, and reimbursement to private utility companies for relocating their infrastructure. These obligations total \$2,330,450 plus contingencies.

That recommendation includes \$1,850,000 from the Resort Tax Fund, \$350,000 from the Stormwater Fund and \$132,000 from the CTEP grant program, with contingencies to be covered by the Resort Tax Fund. These resources total \$2,332,000 without providing for contingencies. This proposal includes revenue from the FY 2015 Resort Tax Fund Budget which has not been approved. A summary of this information is attached in spreadsheet form.

Councilor Hildner offered a motion, seconded by Councilor Frandsen, to approve a funding package for the remaining work on the East 2nd Street Reconstruction project to include \$1,850,000 from the Resort Tax Fund, \$350,000 from the Stormwater Fund and \$132,000 from the CTEP grant program, with contingencies to be covered by the Resort Tax Fund. The motion passed unanimously.

Councilor Sweeney offered a motion, seconded by Councilor Barberis, to approve a construction contract for Phase II of the East 2nd Street Reconstruction Project to Knife River Construction in the amount of \$2,020,020, contingent upon approval by the CTEP grant program. The motion passed unanimously.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 243)

8b. Other items arising between April 2nd and April 7th

8c. Resolution No. 14-08; A Resolution approving a Real Estate Purchase and Sale Agreement with respect to Lots 13, 14, 15, 16, 17, and 18, of Block 58, of Whitefish, Montana (p. 266)

Manager Stearns said several years ago, when the City budgeted for the possible dredging of Riverside Pond in Riverside Park, the Mayor and City Council members had more concerns about Riverside Pond beyond just dredging. There were concerns about algae in the pond and possible

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aeration options, possible ways to improve the storm drainage outflow from the pond to the river, noxious weeds around the pond, and ownership of the pond because it was known that BNSF owned some land under the pond. Since that time, staff has worked on a number of these areas and had discussions with BNSF about the possible purchase of their land under part of Riverside Pond.

Riverside Pond (see attached maps) is not really an original pond, but a storm drainage detention pond which takes much of the street runoff from downtown and the east side and lets stormwater accumulate there and sediment settle out before flowing into the Whitefish River. As he understands it, the pond was constructed a number of years ago, possibly by the Montana Department of Highways, for the storm drainage runoff of Hwy 93 South.

Over the past year, the Real Estate advisors of Mayor Muhlfeld, Frank Sweeney, Rich Knapp, and Manager Stearns have discussed the acquisition of the lots from BNSF as they knew it was property that BNSF did not really want. At first we thought BNSF might just give the City the lots in order to rid themselves of the lots, much of which are under water or encumbered by Riverside Pond and to rid themselves of possible liability concerns. However, when we contacted them and they investigated the six lots, they felt that the two northernmost lots had enough value to sell them. After some discussions and negotiations, they responded with the following offer for all six lots:

2 Lots = 6,500 SF @ \$8.00/SF = \$52,000
 Remaining 4 Lots = \$2,500 (under water or the slope to the water)
 Administrative Fee = \$2,000
 Total = \$56,500

BNSF would not give up mineral rights, but if they did any mineral extraction it would be 100 feet below the surface. The final agreement conditions that the City maintains the lands for municipal or public purposes. Funding would come from the TIF fund as parkland acquisition. Real Estate advisors Mayor Muhlfeld, Councilor Sweeney, along with staff feels that this proposal is a very good deal given that most people think that this land is already part of Riverside Park. If you look at the attached LIDAR map, you can see that the existing trail goes through lots 16 and 17. The six lots are 19,500 square feet or .45 acres, so the purchase price is \$2.90 per square foot or \$9,416.66 per lot overall.

Councilor Frandsen offered a motion, seconded by Councilor Barberis to adopt a Resolution approving a Real Estate Purchase and Sale Agreement with respect to Lots 13, 14, 15, 16, 17, and 18, of Block 58, of Whitefish, Montana.

Councilor Sweeney said one of his concerns with the agreement with BNSF was that they were difficult and he felt they were overreaching. He said the City has used this as parkland for years, so he is willing to move forward. He thinks that the City and BNSF had a lot in common but they asked for some strange conditions of the sale.

The motion passed unanimously.

8d. Consideration of approving a revised Interlocal Agreement with the Whitefish Housing Authority to revise the Payment-In-Lieu-of-Taxes (PILT) procedures (p. 272)

Manager Stearns said that last November, the City Council approved a request from the Whitefish Housing Authority (WHA) regarding appropriating an amount equal to the Payment-In-Lieu-

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of-Taxes (PILT) which the WHA pays to the City for Mountain View Manor. WHA requested that, given the federal cutbacks in their funding, they would continue to pay the City the PILT money, but asked that the City appropriate an equal amount in their annual appropriations and return that amount to the WHA for use in their programs. The City Council approved that request last November 18th and a copy of the minutes from that meeting are in the packet.

Since that meeting, Manager Stearns has drafted, Mary VanBuskirk has reviewed, and the WHA Board has approved a revised Interlocal Agreement which is contained in the packet. The only changes made to the agreement were to revise the PILT provisions in Section 4 and to change the name of WHA's Executive Director.

The City would be returning approximately \$6,900.00 per year to the WHA in addition to the one-time payment of their amount in arrears of \$38,717.30 as of January 1. The \$6,900 per year formerly went into the General Fund.

Councilor Feury offered a motion, seconded by Councilor Hildner, to approve a revised Interlocal Agreement with the Whitefish Housing Authority to revise the Payment-In-Lieu-of-Taxes (PILT) procedures. The motion passed unanimously.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Resolution No. 14-09; A Resolution in support of the proposed amendment to ARM 12.11.645 pertaining to the Whitefish River before the Fish, Wildlife and Parks Commission of the State of Montana (p. 279)

Councilor Hildner offered a motion, seconded by Councilor Frandsen, to approve Resolution No. 14-09; A Resolution in support of the proposed amendment to ARM 12.11.645 pertaining to the Whitefish River before the Fish, Wildlife and Parks Commission of the State of Montana.

Councilor Hildner said that the former Council asked the FWP for this approval and it will now go to a public hearing. He said he hopes FWP will see it as an enhancement to the amenities of Whitefish.

The motion passed unanimously.

9b. Letter from Flathead Basin Commission regarding funding for Aquatic Invasive Species (AIS) (p. 321)

Mayor Muhlfeld said the letter thanked the Council for their part in the AIS check station in Coram.

Councilor Comments:

Councilor Hildner asked if there was anything they could do to help the Vet with any documents he was asking for and Attorney VanBuskirk said she would contact the prosecutor's office and request that all public documents be turned over.

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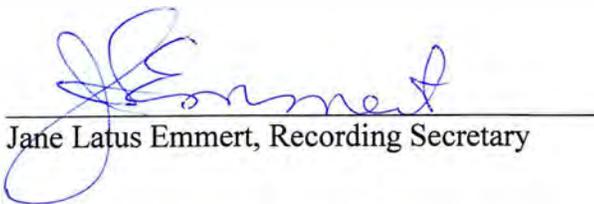
Mayor Muhlfeld asked if Chad Goodwin, from the ice rink, was coordinating his efforts with other entities. He appreciated that they have made a big effort toward fundraising. Manager Stearns said the Park Board said they won't go forward until they have all of the money for the evaporator cooler and low E ceiling. Parks Superintendent Loveless said this group is working aggressively and they are bringing an amended proposal to the Park Board tomorrow. Mayor Muhlfeld said there will be additional cost to the City for staff and maintenance if they stay open for a longer season and that needs to be covered, too. The City has been subsidizing the Ice Den for years now and he doesn't want to see that grow. He hoped that was being articulated back to that committee. Manager Stearns said the proposal for summer rink use with this group is that the property would be leased just to them under a private ice rental concept. Councilor Sweeney said the club proposed a set of upgrades that would be supported by public contributions. They have never suggested to the Parks Board that there would be a guarantee of the Ice Den being open in the summer. The group hopes to eliminate the need for the City to have to subsidize the Ice Den at all.

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 10:55 p.m.



Mayor Muhlfeld



Jane Latus Emmert, Recording Secretary

Attest:



Necile Lorang, City Clerk