

WHITEFISH CITY COUNCIL MINUTES

MAY 19, 2014

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Anderson, Feury, Hildner and Sweeney. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Planning and Building Director Taylor, Public Works Director Wilson, Interim Parks and Recreation Director Loveless, Fire Chief Kennelly, and Police Chief Dial. Approximately 9 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Scott Sorensen 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) (CD 0:49)

Scott Sorensen, 285 Glenwood Road, asked when the lakeshore variance for an expanded marina would be coming to the Council; Planning & Building Director Taylor said it would be on the second Council meeting in June, June 16th.

Rebecca Norton, 530 Scott Avenue, spoke in support of the Mountain Mall's request, but expressed concern on the hotel request for Block 46 citing water problems if it included underground parking and also of concern is that the use was formerly a gas station.

Rick Baker, 2300 Lion Mountain Road, said he volunteered at the Soroptomist, and all who worked there were volunteers so they would like the City to mow their boulevard. He said he was a great friend of June's at the Food Bank. He was against a hotel at the former Wendy's site because he'd like to see more open spaces.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS (CD 4:24)

Police Chief Dial reported the 911 Board met last week and approved the FY15 Budget with a 4.2% overall increase which was mostly due to labor contracts. It is a barebones budget including only \$30,000 for capital improvements. The County Commissioners will have a county-wide funding proposal on the November ballot which is a more fair assessment and city residents won't be doubly assessed. He said the funding subcommittee, which City Manager Stearns sits on, did a good job.

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) (CD 5:50)

a) Minutes from the May 5, 2014 Council special meeting, executive session, and regular meeting (p. 48)

Councilor Feury offered a motion, second by Councilor Sweeney, to approve the Consent Agenda as presented. The motion pass unanimously.

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

- a) Resolution No. 14-14; A Resolution establishing fees for temporary food vendor permits as allowed by Whitefish City Code §11-3-23(B)(1), and to establish the fee for appeal of an Architectural Review Committee decision to the City Council as allowed by Whitefish City Code §2-10-2 (p. 59) (CD 6:05)**

Planning and Building Director Taylor said staff is proposing to amend two application fees for services provided by the Planning Department. One change revises the Food Vendor permit fee reflecting the recent code revision that allows a one-year permit. The other change is adding a fee to appeal an Architectural Review Committee (ARC) decision to City Council. The Code provides for the appeal process in 2-10-2.A; but a fee was never established. Staff had been treating appeals with the same fee as appeals of the Board of Adjustment which was \$990, the new proposed fee for ARC decision appeals is \$490.00. The table in the packet on pages 59 and 61 show the changes.

Following some questions for staff from Council, Mayor Muhlfield opened the Public Hearing. No one wished to speak and the Public Hearing was closed and the matter turned over to Council for consideration.

Councilor Sweeney offered a motion, second by Councilor Feury, to adopt Resolution No. 14-14 establishing fees for temporary food vendor permits as allowed by Whitefish City Code §11-3-23(B)(1), and to establish the fee for appeal of an Architectural Review Committee decision to the City Council as allowed by Whitefish City Code §2-10-2. The motion passed with five (5) aye votes and one (1) no vote, Councilor Frandsen voting in the negative.

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of amendment #2 to storm drainage engineering design contract with Robert Peccia and Associates (p. 64) (CD 17:10)**

Public Works Director Wilson said the City has a consultant agreement with Robert Peccia and Associates (RPA) for the 2013 Storm Drainage Improvement Project which included preliminary work for drainage at Crestwood, Birch Hill Drive and Armory Park areas, and to address bilge water pollution at the City Beach boat ramp (see page 90 in the packet). Preliminary work is done; the next phase is final design and construction. The memo in the packet on page 62 includes a recommendation for Council to approve an Amendment No. 2 to the RPA agreement. The original agreement was for \$41,700, Amendment No. 1 was a small amendment made administratively by City Manager Stearns for \$9600, and this Amendment No. 2 for an additional fee not to exceed \$25,700 is more than 60% of the original contract so requires Council approval. With Amendment No. 2, the contract ceiling will be \$77,000. If approved, costs will be paid out of the Stormwater Funds set aside in the FY 2014 budget.

Councilor Hildner offered a motion, second by Councilor Frandsen, to approve Amendment No. 2 to the consultant agreement for the 2013 Storm Drainage Improvement Projects with Robert Peccia and Associates in the amount of \$25,700. The motion passed unanimously.

- b) Resolution No. 14-___; A Resolution authorizing the City transfer a 3.24 foot-wide strip of right-of-way located along the southern edge of Lots 1 and 2, a 36-square foot right-of-way on the southwest edge of Lot 1, and its interest in a roadway cul-de-sac easement located on the**

southeast corner of Lot 1 and southwest corner of Lot 2, Birch Point, in order to assist reconstruction and future work on the Birch Point Sewer Pump Station (p. 67)

This item was withdrawn by the City.

8) COMMUNICATIONS FROM CITY MANAGER (CD 19:14)

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 87) – None.**
- b) Other items arising between May 14th and May 19th**

City Manager Stearns said on page 88 in his report he addressed the 911 Center funding issues that Police Chief Dial discussed during his comments under Volunteer Boards. Along with the proposal to have a county-wide levy, a Special District fee or assessment for residential and commercial units, similar to the flat fee assessed by the landfill, is being considered. That still has to be proposed to the County Commissioners. The combination would build up the fund for more capital improvements and work better over time.

Manager Stearns, as a reminder, invited the Council and the Public to attend an Open House, Wednesday evening, at 7:00 pm at Grouse Mountain Lodge to meet and greet the four finalists who have applied for the Parks and Recreation Director, the committee will hold interviews on Thursday.

- c) Consideration of a request for \$400,000 of Tax Increment Funds to assist an exterior façade renovation at the Mountain Mall, 6475 Hwy 93 South (p. 106)**

Manager Stearns said for the last few months he and the Mayor have met with Tom Kraus, manager of the Mountain Mall (Mall), to discuss options regarding a Mall remodeling project being planned that they hope will attract a new large tenant in the Mall. The packet includes the request and calculations of the project. Mountain Mall is requesting \$400,000 of Tax Increments Funds (TIF) to assist with the exterior renovation. Since the TIF ends in 2020, there is limited time for repayment of the entire \$400,000 return to the taxpayers from increased property valuation and higher taxes; so the Mall projects the remainder would be recouped through increased Resort Tax collections. In addition, Carrington Company, owner of the mall, proposed to cover any shortfall at the end of 2020 with a check from them. Upon approval of this concept, details would be worked out in a Development Agreement which would be brought back to Council for their consideration. Manager Stearns said there are enough funds in the TIF for this project if the Council approves the concept.

Tom Kraus approached the Council with the presentation. He said the Mall, since its beginning in the 1980s, has historically had high vacancy rates and high tenant turnover and they are presented with an opportunity to stabilize the Mall and community economy. The project involves a remodel both internally and externally. Discussions with the Whitefish Chamber of Commerce led to the information that a moderate-priced general merchandise and clothing store is needed in Whitefish; so the Mall searched for companies to fill that need and are currently negotiating with ShopKo Hometown, a small town format of the ShopKo chain. The current agreement is contingent upon the Mall getting an exterior facelift. The current exterior has fallen into disrepair and has been described as “blighted” so they feel it fits the definition required to receive TIF. He said the proposal in the packet includes the cost estimates and projected returns on the investment through increased property taxes and increased Resort Tax collections, along with the promise from the Carrington Company to issue a check if there was any shortfall. He said the information in the packet was based on estimates and for illustrative purposes only. ShopKo has verbally agreed to the exterior remodeling plans but they will be contingent upon Whitefish Architectural Committee approval; and when asked by Councilor

Barberis if ShopKo has approved of the colors as presented, he said they had – the store front will not be their typical red, white, and blue. They'd like to update the outside of the Mall to compliment the recent facelift done by the Sportsman Ski Haus, this project would start there and go all down the front to the Super 1 Store. Councilor Hildner asked if the Sportsman Ski Haus did their remodel on their own and Mr. Kraus said the Mall gave them \$200,000. Councilors Anderson and Frandsen and Sweeney all expressed their concern that historically TIF development funds are used for public structures and infrastructure, and not to assist private enterprise. Mr. Kraus was asked why not a loan provided by the City's Business Rehabilitation Loan Program (packet page 119), as other businesses in Whitefish have done; and Mr. Kraus said the Mall considered the loan but it didn't work for them so they came back with the current proposal. Councilors Feury and Sweeney both expressed the concern on the mix of revenue streams; development funds from TIF then partial reimbursement to TIF from property taxes but the remainder from Resort Taxes. When asked by the Council about the risk being taken, if all the reimbursements fell short would there be a guarantee that they could count on for full payback, Mr. Kraus said the Carrington Company has 47 properties in 32 states. They have been a stable company for 40 years; they could be depended upon to fulfill the terms of the development agreement.

Councilor Frandsen offered a motion, second Councilor Anderson, to deny the request of \$400,000 of Tax Increment Funds towards the exterior improvements at the Mountain Mall.

Councilor Frandsen spoke to her motion saying this proposal sent up red flags for her; the proposal sets out strong projections so why couldn't it just go for traditional financing instead of tying up the TIF. The remodeling proposal seems to be outside the realm of what is needed for an agreement with ShopKo. If approved, this could be a slippery slope, opening up for more requests from private businesses for public funds when there could be other ways to do it. More discussion followed between Mr Kraus and Council.

The motion to deny the request was approved by four (4) aye votes and two (2) no votes. Councilors Feury and Barberis voting in the negative.

d) Consideration of a request from NDI Inc. (Sean and Brian Averill) for a preliminary commitment of Tax Increment Funds to relocate and improve infrastructure for a proposed boutique hotel on Block 46 – SE corner of 2nd Street and Spokane Avenue (Hwy 93) (p.121)

Manager Stearns said this request is similar to the last in that, again, it is a private enterprise requesting Tax Increment Funds (TIF) assistance. The applicants have met with both himself and Public Works Director Wilson regarding their request. The proposal is similar to one considered by Council last year from Orlan Sorenson, however the development plans are still in early stages. The assistance of TIF would go towards the relocation of the sewer main that runs under Block 46, and street improvements. Last year's cost estimates from the prior request may be lower than today's construction costs, but at that time the Council gave their preliminary commitment of \$543,345. This proposal does not included the extensive streetscape and parking capacity of the former proposal, so staff's recommendation is to limit their commitment up to \$513,633 in TIF if they agree this is an appropriate use of the funds.

Sean Averill said the designs in the packet starting on page 126 are just renderings of their basic idea for an 80-room boutique hotel on Block 46 at the SE corner of 2nd Street and Spokane Avenue. The request for TIF assistance is for a public private partnership to address the relocation of the 3rd Street sewer main and road reconstruction of E. 3rd Street and Kalispell Avenue. They plan to have a classic and historic design and provide the need for more rooms downtown. The increased tax base will repay the TIF and the project would provide community benefit in other ways as well, as clients of a boutique hotel shop, dine, and recreate off-

premise. Councilor Frandsen asked if this wouldn't be just taking customers from other hospitality establishments and Mr. Averill said it would boost Resort Tax revenue as evidenced by increased collections over the last 8 years since the Whitefish Lake Lodge has been open. He feels it won't "divide the pie", it will be a drawing card that increases visitors to Whitefish.

The Mayor and some on Council expressed concern if the plan included enough parking. Mr. Averill said they thought they had adequate parking planned but would be open to more parking if it can be squeezed in. The Council had more discussion and City Manager Stearns noted that the sewer line could stay where it is unless significant development needs it moved, but it is not currently a high priority job that the City will be doing on its own. Council's preliminary commitment will address assistance with sewer work and some streetscape. Mayor Muhlfeld said he supported the project last year; it is development that fits into the Master Plan and it deals with infrastructure and site improvements. Councilor Anderson said at this time he didn't feel comfortable as it isn't clear what they are committing to.

Councilor Feury offered a motion, second by Councilor Sweeney, to preliminarily commit up to \$513,633 in TIF funds for infrastructure assistance for a Block 46 boutique hotel, and direct staff to work with the applicant on a development agreement.

Councilor Feury said his motion is approving the concept, a development agreement will come back to the Council for final approval. This will get the ball rolling; the lot is currently blighted – it is a graveled lot that needs infrastructure improvements before development can happen, and this type of development is called for in the Master Plan. Councilor Hildner said he'd like a lot more parking.

The motion was approved with five (5) aye votes and one (1) no vote. Councilor Anderson voting in the negative.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 1:39:50)

a) Email from Heather Mull regarding Birch Point Drive railroad crossing quiet zone and City Manager's response (p.144)

Mayor Muhlfeld thanked City Manager Stearn's for his response to the letter. Mayor Muhlfeld said they are still waiting to hear from the BNSF engineers with an updated cost estimate. Councilor Barberis asked if the repayment for this improvement couldn't be shared by more properties than just those in Birch Point as the benefit of a quiet zone would be shared by many others close by. The sound of the train's whistles is heard way beyond Birch Point. Manager Stearns said the wider the area that is involved, the harder is it to get approval for a special improvement district.

b) Discussion and direction on when and how to proceed with Hwy 93 South Corridor study (p. 146)

Director Taylor said that staff is currently bringing forward the mandatory two-year review of the 2007 Growth Policy which will come to the Council in July following the City-County Planning Board's review. Part of that includes the Board's recommendation of implementation of major projects including the Highway 93 South Plan, along with recommendations for other implementation of prioritized projects. Councilor Anderson said it is a short term goal under Resolution 14-11 wherein the Council adopted their annual goals, and it has been pending for six years – he would like to get specific dates set for steps of the process and have it in place by the end of next year. Discussion followed concerning the uncertainty of jurisdiction while waiting for a decision from the Montana Supreme Court on the doughnut issue, other

projects out there like the Wisconsin Corridor Study and other projects on the table, staff's available time as normal business is on the increase, and the necessity of working with and budgeting for outside consultants.

The Council took a brief recess at 9:04 p.m. and reconvened at 9:07 p.m.

Director Taylor said it is up to the Council, staff could put something together that mirrored the Hwy 93 West Corridor Study and Councilor Anderson said he would be okay with that.

Councilor Frandsen offered a motion, second by Councilor Anderson, to direct Staff to prepare a preliminary scope and outline for a corridor study for the Hwy 93 S. Corridor and a Wisconsin Corridor Study, with projected costs.

Councilors discussed with Director Taylor when that could come back to Council – Director Taylor said it will have to include elements required by the Master Plan. Councilor Feury said the 93 W Corridor Study needs to be completed, the Downtown Master Plan update and the Growth Policy review and this just added, so all of those need to be entered into a timeline to give the Council a realistic picture. Director Taylor noted it will be Council's decision what to include in the Hwy 93 S Corridor Study as there are sections; a portion starting at 6th Street, then down to and including the intersection of Hwy 40, and south of that intersection. Both the maker of the motion and the second said they'd like to see those parts. They agreed that as development increases the staff gets busier but a plan needs to be in place. Mayor Muhlfeld said it could be presented in a simple outline.

The motion passed unanimously.

c) **Committee/board appointments not made during prior Special Meeting – None.**

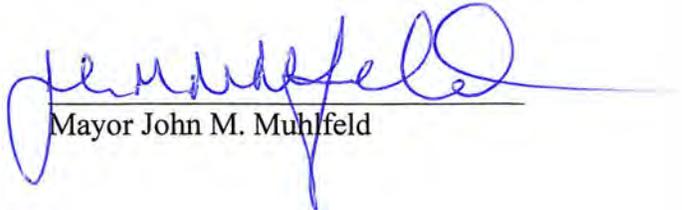
Council Comments:

Councilor Feury said work needs to be done to clarify private concessions and rentals at City Beach. He believes there are some misconceptions of the process. Mayor Muhlfeld asked if any new business licenses have been issued recently and Director Taylor said he hadn't signed on anything new.

Councilor Hildner said he is still on a mission to get the bridge monument properly aligned and Public Works Director Wilson said he has been in contact the MDOT and the project contractors, all agree it is out of plumb. Councilor Hildner said something should be in writing that it will be corrected before they sign off on the project.

10) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 2:04:40)

Mayor Muhlfeld adjourned the meeting at 9:18 p.m.



Mayor John M. Muhlfeld

Attest:



Necile Lorang, Whitefish City Clerk