

WHITEFISH CITY COUNCIL
JUNE 1, 2015
EXECUTIVE SESSION 5:30 TO 7:00 PM

EXECUTIVE SESSION

Mayor Muhlfeld and Councilors Barberis, Frandsen, Feury and Hildner were present. Councilor Sweeney was absent. City Staff present were City Manager Stearns, City Attorney VanBuskirk and Planning and Building Director Taylor.

- a) Closed Executive Session Pursuant to Section 2-3-203 (4) - Quarterly litigation update and strategy with City Attorney
- b) Pursuant to §2-3-203(3) MCA, the presiding officer may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceeds the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

The meeting was adjourned at 7:00 p.m.

REGULAR SESSION 7:10 PM

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Feury and Hildner. Councilor Sweeney was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Finance Director Smith, Planning & Building Director Taylor, Senior Planner Compton-Ring, Interim Public Works Director Hilding, Parks and Recreation Director Butts, Police Chief Dial, and Interim Fire Chief Page. Approximately 24 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Paul Conrad 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)

Mayre Flowers, Citizens for a Better Flathead (CFBF), 35 4th Street West in Kalispell, reported CFBF just did a press release regarding the recent changes in Whitefish making local recycling easier and now recycling practices are consistent county-wide. Mayre made additional comments referencing Planning and Building Director Taylor's revised staff report for the Highway 93 West Corridor Plan that he sent out late just this morning where he included more detail on the changes recommended by CFBF and tracked changes made by the Council at their 4/20, 5/4, and 5/18 meetings, along with correcting some typographical errors. She asked the final adoption of the plan be pulled from the Consent Agenda. She said that getting this revised staff report so late in the day and just a few hours before tonight's meeting made it difficult to review completely, but what she did review she thought it mischaracterized CFBF's input – some of which had been left out, and was misinformation to the

Council. She felt there were still some inconsistencies within the Corridor Plan and between the Corridor Plan, the Growth Policy and the Downtown Master Plan; and that the public needed more time to review this latest redline version. She cited problems on pages 53, 54, 112, 40 and 41 regarding Coffee Shops and Sandwich Shops, Artisan Manufacturing, Mixed Uses, the initiation of Zone Changes, and the appearance of the term Limited Hotels and formula hotels and motels. She requested the Council table action to allow more public review, move it to a work session, and divide the Corridor Plan into two reports. (a) The public process, including the visioning sessions and reporting all of the public input that was gathered and (b) a streamlined version of the policy and goals that the Council has identified and endorsed as being appropriate for this corridor.

Turner Askew, 3 Ridge Crest Court, said he did not think there has been sufficient planning for maintenance costs and procedures for the new City Hall/Parking Structure project. He requested the Council to think about it.

Judy Hessellund, 7th Street, said she agreed with Turner Askew's comments, in addition she said it didn't seem like there had been enough opportunity for the public to give their input; there were only a couple public meetings at the O'Shaughnessy Center. She said for those sessions either not everyone came or didn't get notice or realize what was going on. She said during the Growth Policy development process, neighborhood meetings were held all over town. She said she was reading in the proposed FY16 Budget about the City's outstanding debt of \$28M, and she was against adding another \$14.7M for a City Hall. She listed projects from the last 10 years; Central School, High School, Emergency Services Center, the Downtown and Hwy 93W Corridor, 2nd Street, and The Wave (a public/private funded project), and said a lot of money has been going out and it would be nice to take a breather; because according to the article in the paper – the City needs money. She said the City Hall project should be shelved, gather more public input, and consider moving it and leave downtown for businesses and tourists; and provide costs and payment analysis.

Ben Cavin, 2130 Houston Drive, said he was a retired civil engineer, and commented regarding Agenda Item 8d. He read his written comments regarding the Whitefish Lake Institute's March 2012 report wherein "Areas with Confirmed Contamination, and High or Medium Risk of Contamination" included 5 high risk sites; and he said East Lakeshore was not one of the high risk sites and that the City should address the 'worst first'. His written comments are appended at the end of these minutes.

Beth Dunagan, 222 Lupfer Avenue, said the new City Hall is too big and too expensive for the City of Whitefish, considering its current financial status. It should be reviewed, downsized, or if it has to be that size, put it in a different location. She said this property could be used for more visitor-enticing purposes with dual parking levels and visitors information. She said it is expensive for the senior citizens in the area who live on fixed incomes to pay the taxes.

Hunter Homes, Midway Drive, served on the Hwy 93W Corridor Steering Committee and the Pedestrian/Bike Path Committee, and spoke in support of the final adoption of the Hwy 93W Corridor Plan. He said it is a template, a work in progress, and will continue to be molded as new development is implemented. He said it has been a multiple-year process with numerous meetings with the public and staff, and it is a good workable template that can be moved forward. He said if delayed again, it will be continued to be delayed again, and with the changes that have been made it is an appropriate plan for the area, and something developers can work with.

Elizabeth Askew, Colorado Avenue, said she thought there were other beneficial uses for this property where the current City Hall is. Something else, instead of a new City Hall, should be built here that would benefit the City because Whitefish is a tourist town. There is a shortage of parking and she knew the parking structure is planned, but she thought there was so much more that could be done with this property. She said everyone she talks to agrees with her – they don't want City Hall here, even though that was part of the Master Plan – Master Plans can be changed, she said. She said the Council should seek more public input and she thinks they will find most people agree City Hall should be moved down the street and do something different with this property.

Richard Atkinson, 404 Dakota Avenue, said he was here for the topic of the night. He spoke against having a new City Hall at this current location, because he said this ½ city block is probably the most valuable real estate in the city district and should be used for something that raises money. He said it would be more logical to move City Hall outside the business district, by the Fire Department for example, then you wouldn't have to build the parking structure and save \$6M. He said there would be the cost to buy another lot, but that would be recouped and more with the sale of this downtown lot, he thought by \$2M. He thought this site, fully developed, would bring \$1M/year revenue to the City; he said in 50 years that is \$50M. He discussed cost of maintaining the parking structure, estimating it at \$250,000/year plus staffing full-time employees and he said over 50 years that is \$12.5M that wouldn't have to be spent if the City Hall is built outside the city district. With the new City Hall built at the current site, he thinks the City will be looking for an additional \$500,000/year to cover costs and he said that will have to come from the taxpayers; new teachers, new firemen, new policemen, and they won't be able to afford those taxes. He said City Hall should be built outside the business district and asked City Attorney VanBuskirk if he could call for a referendum on the placement of City Hall. Mayor Muhlfeld said that typically, the Mayor, Council and Staff do not respond to questions during Public Comment, but Mr. Atkinson could contact the City Attorney during office hours.

Leve Johnson, 1122 Meadowlark Lane, said this room should be packed tonight because everybody that she talks to says the money being spent on City Hall is too extravagant. People will be forced out of their homes when taxes increase \$600/year, many people have already been forced off the lake because of high taxes. She said we don't need a city hall that costs \$14M.

Ian Collins, 898 Blue Heron Drive in Whitefish, said that instead of the City Hall being the topic of the night he thought it had been the topic for the last five years, if not longer. He disagreed that there had not been adequate opportunity for the public to give input and he reviewed the number of times and events where there has been opportunities starting in 2004-2005 and continuing on to present time. And he said during those sessions the comments that were supported by most was to keep City Hall downtown, where the City already owns the land, reinvest in the land where City Hall has been for nearly the last one hundred years. He said the headlines in the Daily Interlake on the article on the proposed FY16 Budget were, he felt, a disservice to the Council; however there was a sort of a retraction the following Sunday on the Opinion Page but that doesn't receive as much public attention as front and center headline. In that Opinion the Editor did state the Whitefish City Council "...consistently gets community involvement before embarking on any project." And Mr. Collins said that has also been true on this project for both the site selection and the development and the design for a new City Hall and Parking Structure. He thought eleventh hour comments against the project were irresponsible, especially since some of those who commented know what it takes to plan a project this size and the timeline it involves. He said the cost analysis for the project has been done diligently all through the project from the beginning, by the staff, Mayor and Council, and sub-committees; including

site development and construction costs and future maintenance costs. He said instead of the \$250,000/year maintenance costs plus full-time employees as stated during public comment, research as shown annual maintenance should be more in the ballpark of \$50,000 to \$75,000 annual maintenance costs (from other parking structures in Montana) and it is not currently planned to be a staffed parking structure. He views the improvement of this property with the new City Hall and Parking Structure to be economic development; and he hopes the Council stays the course on this project. He said the same late, eleventh hour comments came in prior to the downtown improvement project; and that project has been successful and not the downfall of the town as was projected by some.

Nan Askew, Ridge Crest Court, commented to Mr. Collins that not everybody has lived here as long as he has and thought some of his comments were mean. Mrs. Askew read from her letter which is appended at the end of these minutes. She spoke against building a new City Hall and Parking Structure on the current City Hall site, and said a new City Hall would be better by the Justice Center, and if City Hall was moved out of downtown it would free up 60-70 parking spaces for Whitefish citizens and guests. She said City Hall is not the anchor as it was in the past, and that it was not too late to move the location out of downtown.

As there was no further public comment, Mayor Muhlfeld closed that portion of the meeting.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS (CD 38:10)

Councilor Hildner reported the business from today's Pedestrian and Bicycle Path Advisory Committee. A contractor/volunteer combined project will continue the Rygg Path up to the Pine Lodge. The stairs for 2nd Street and the Stumptown Inn are currently being manufactured, and should be installed without too much more delay. Public Works is researching possible extension of the Willowbrook path to the Armory, and Interim Public Works Director Karin Hilding will see if the striping and crosswalk markings can be moved up in the schedule. And this afternoon he heard from Karin that the Montana Department of Transportation approved and authorized the City to advertise for bids for the Skye Park Bridge Construction Project. If things go as scheduled, the Council will award that bid at their July 20th meeting.

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 40:03)

- a) **Minutes from the May 18, 2015 City Council special session (p. 19)**
- b) **Minutes from the May 18, 2015 City Council regular session (p. 20)**
- c) **Ordinance No. 15-09; An Ordinance amending the Whitefish City Code Title 2, Title 12, Title 13 and Title 14 pertaining to the Lake and Lakeshore Protection Regulations, remove references to the extraterritorial planning jurisdiction, the Whitefish City-County planning board, and Blanchard Lake, and define city limits (Second Reading) (p. 41)**
- d) **Ordinance No. 15-10; An Ordinance creating the Whitefish Lake and Lakeshore Protection Committee as a standing committee in Title 2, Chapter 16, to the Whitefish City Code and repealing Section 13-4-1 of the Whitefish City Code (Second Reading) (p. 51)**
- e) **Resolution No. 15-___; A Resolution adopting the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy) (p. 54)**

- f) **Resolution No. 15-12; A Resolution further amending Resolution No. 11-05, which established an Ad Hoc Cemetery Committee, to extend the duration of the Committee through June 30, 2016 (p. 175)**

Councilor Hildner requested item 5e be pulled from the Consent agenda for discussion following approval of the remainder of the Consent Agenda.

Councilor Frandsen made a motion, second by Councilor Barberis, to approve Consent Agenda items 5a, 5b, 5c, 5d, and 5f as presented. The motion passed unanimously.

- 5e) **Resolution No. 15-13; A Resolution adopting the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy) (p. 54)**

Councilor Hildner asked Planning and Building Director Taylor if he would please review his updated staff report that he had distributed today and go over the latest changes made to the Whitefish Highway 93 West Corridor Plan (The Plan) as directed by Council on May 18 which were based on suggestions from Citizens for a Better Flathead in their public comments delivered on May 18. Director Taylor summarized those additions and deletions line item by line item, and those changes made by dates, typographical errors that were corrected, along with two additions included by staff reflecting motions made and approved by Council. Following his review, the Mayor and Council had some questions and discussion for clarification. The Mayor asked if there were any inconsistencies in The Plan regarding initiation of developing the zoning districts. Director Taylor said the only recommended changes are in the WT-3 and WIT districts; and those were part of the date-specific changes that are the redlined changes in his report. Director Taylor also clarified that restrictions regarding formula hotels was an idea brought forward from a citizen during a work session, but no formal action had been taken on that item. The Council could consider it and add it if it is approved. Director Taylor's updated Staff Report has been appended to the Council Packet.

Councilor Barberis made a motion, second by Councilor Frandsen, to approve Resolution No. 15-13; A Resolution adopting the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy).

Discussion. Director Taylor clarified changes can be made through the public hearing process; and as all other plans, there is a two-year review. There was additional discussion regarding staff's recommended changes added as summaries to changes.

Councilor Frandsen made an amendment, second by Hildner, on page 53 of The Plan, to strike the first two sentences in the paragraph that reads "Microbreweries, coffee shops and sandwich shops, assisted living facilities, private railcar storage, small grocery stores, and limited hotels were added as recommended land uses by City Council. Resort residential was recommended by the public and later removed by City Council."; and keep the last sentence which reads: "No short term rentals are allowed on railcars." The amendment passed unanimously.

Councilor Feury made an amendment, second by Councilor Frandsen, on page 45 of The Plan, strike the paragraph that reads "Resort Residential and coffee shops and sandwich shops

were recommended by the public and later removed by City Council. Alcohol production was also removed from the definition of artisan manufacturing by City Council. Professional artist studio and gallery was added by City Council. Short term rentals were removed as a recommended use by City Council.” The amendment passed unanimously.

The original motion to approve Resolution No. 15-13; A Resolution adopting the Whitefish Highway 93 West Corridor Plan as an amendment to the 2007 Whitefish City-County Master Plan (2007 Growth Policy), as amended above, passed unanimously.

Mayor Muhlfeld thanked everybody for all their hard work on this corridor study.

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) Consideration of an application from Cattail Farms, LLC for a Conditional Use Permit for an accessory apartment at 448 LaBrie Drive (WCUP 15-06) (p. 178) (CD 1:08:45)

Senior Planner Compton-Ring gave the staff report, detailing this application is for an accessory apartment adjacent to a new home under construction, and above a proposed two-car garage. The application is in compliance with the Zoning District WR-2, and with the Whitefish City-County Growth Policy designation; and with development standards. Adjacent property owners were notified and a notice was placed in the paper and no public comment was received. The application comes to the Council with staff and Planning Board recommendation for approval subject to four conditions.

Mayor Muhlfeld opened the public hearing.

Paul Conrad, owner and applicant, said they will be living in the home and renting out the apartment. The stairs to the apartment are in a separate entry inside the garage so they are safe and out of the weather. They are in full agreement with all the conditions for approval.

The Council had some more questions for the applicant and he talked more about his plans for renting out the accessory apartment. The two-car garage will be for his own use and the carport is for the accessory apartment.

Councilor Frandsen made a motion, second by Councilor Barberis, to approve a Conditional Use Permit for Cattail Farms, LLC for an accessory apartment at 448 LaBrie Drive, (WCUP 15-06). The motion passed unanimously.

b) Consideration of an application from Keith & Julie Hansen, Rod & Trish Teske, and Steve & Kelly Roslinski for a Conditional Use Permit to construct an accessory apartment 634 Somers Ave (WCUP 15-07) (p. 210) (CD 1:14:57)

Planner Compton-Ring gave the staff report , detailing this application is for an accessory apartment adjacent to an existing single family home, above a proposed two-car garage. The application is in compliance with the Zoning District WR-2, and with the Whitefish City-County Growth Policy designation. The plans included a “future bath” on the 1st floor of the proposed garage, which is not within development standards, so its removal is required by the recommended Conditions of Approval. Also in the conditions the applicant shall demonstrate three (3) off-street parking spaces can be achieved. With compliance with those conditions, the application is in compliance with

development standards. Adjacent property owners were notified and a notice was placed in the paper and one letter was received with comments concerning the future bath on the first floor of the proposed garage and rental of the apartment. The application comes to the Council with staff and Planning Board recommendation for approval subject to six conditions.

Mayor Muhlfeld opened the public hearing.

Kevin Treece, Custom Residential Design Inc., representing the owners/applicants who are three Canadian families, addressed the Council. He said the owners are in agreement with all standards and conditions, and he was here to answer any questions.

There being no further public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration. There was Council discussion regarding rental of the apartment or the main home, and Planner Compton-Ring explained there will be a deed restriction (or a restrictive covenant) that the accessory apartment may only be rented if the owners maintain permanent residence in the primary structure. Further discussion clarified that either the apartment or the home could be rented out, but not both.

Councilor Feury made a motion, second by Councilor Barberis, to approve a Conditional Use Permit for Keith & Julie Hansen, Rod & Trish Teske, and Steve & Kelly Roslinski to construct an accessory apartment 634 Somers Ave, adopting Staff Report WCUP 15-07 and subject to the six (6) Conditions of Approval attached thereto. The motion passed unanimously.

- c) Consideration of a request from High Point on 2nd, LLC to amend Condition No. 12 of the Preliminary Plat approval and the Preliminary Plat for the High Point on Second subdivision (formerly known as Second Street Residences subdivision) regarding the condition for a through street to East 2nd Street (WPP 14-03) (p. 234) (CD 1:25:50)**

Planner Compton-Ring handed out copies of an aerial view of the proposed new road to East 2nd Street that Interim Public Works Director received today; a copy of which has been appended to the Council packet. Planner Compton-Ring read Condition of Approval #12 as it was approved back in June of 2014. "Ponderosa Court shall not terminate in a cul-de-sac. Prior to final plat approval for Phase III, Ponderosa Court shall be constructed as a through road, either by connecting back to Armory Road or to the east and intersect with E. 2nd Street. The final location and alignment shall be approved by the Public Works Department." The subdivision regulations do not allow dead-end roads and state that cul-de-sacs are only allowed when there are no other alternatives. In addition, the cul-de-sac as originally proposed did not meet engineering standards, as it was too long. The developers had requested a variance for their cul-de-sac but it was not granted. The developers have been working on their plan getting ready to bring it forward for the final plat, and they have come forward with tonight's proposal for the road to come out as a T-intersection on E. 2nd Street. The developers state this road as proposed does meet sight-distance requirements so staff supports their proposal still with the condition that the final design is approved by the Public Works Department. Adjacent landowners within 300 feet were noticed and a legal notice was placed in the Pilot and at the writing of the staff report no comments had been received, but just yesterday several comments were received and those have been brought forward to the Council tonight, (and have been appended to the packet). Comments pertain to safety of the proposed intersection. Another comment pertained to the City's notice of property owners and Planner Compton-Ring said notice was proper to standards, however during the planning process

of this development, the developers had engaged conversations with a larger area of the neighborhood, but that area is outside the City's notification standards. Planner Compton-Ring said staff is recommending the following amendment for Condition #12 to read: "Ponderosa Court shall not terminate in a cul-de-sac. Prior to final plat approval for Phase III, Ponderosa Court shall be constructed as a through road ~~either by connecting back to Armory Road or to the east and intersection with~~ to E. 2nd Street. The final location and alignment shall be approved by the Public Works Department." Planner Compton-Ring further explained that the 'approval by the Public Works Department' will include a detailed traffic engineer's study including sight distances and road grades.

Mayor Muhlfeld opened the public hearing.

Jeff Swenson, Whitefish resident and one of the project managers for the development, agreed with Planner Compton-Ring's report that this proposed development has gone through many iterations. The developers tried in vain to contact the adjacent landowners to the east so going through their property as a second exit failed. The road as now proposed is a cooperative effort with their traffic engineer and City Staff. He said they have worked hard to make this a good development with dedicated parkland and an effort to maintain old-growth trees as much as possible.

Barb Brant, 1658 E. 2nd Street, asked the Council to postpone any decision tonight and allow the neighborhood time to look over this newly proposed intersection on E. 2nd Street.

Scott Brant, 1658 E. 2nd Street, read a letter from his neighbor Kathy Spangenberg, 1665 E. 2nd Street, which was one of the letters received by the City earlier today and distributed to the Council tonight and has been appended to the packet. Her letter is in opposition to the road as proposed to be a T-intersection with E. 2nd Street, due to safety concerns, and requested the Council deny the proposal. Following reading her letter, Mr. Brant also commented against the proposal, the proposed street comes out on E. 2nd Street where E. 2nd Street is too steep for traffic to stop and start going into a subdivision. He has lived there nearly 30 years and knows what it is like when it gets icy. He asked the Council to postpone any decision on this tonight and allow the neighbors to work again with the developer, which worked well before.

Carol Nelson, 1590 E. 2nd Street, said she agreed with both Barb and Scott Brant's comments. It is a dangerous spot on that road, even with the newly constructed street, the grade is still steep. She requested the Council postpone action tonight.

Dave Kauffman, said this has been quite a process and said he is thankful he is not trying to develop this project. He said the developers have bent over backwards trying to appease the neighborhood, and have modified their plans, at their own expense, at least three times, and now it appears that the neighborhood wants to second-guess them again. Mr. Kauffman said there comes a time when you need to respect the professionals in the development group and allow them to move forward with their project.

Jeff Swenson, rose to speak again and thanked the Brants for their comments. He said to follow-up with Dave Kauffmans's comments; yes, they have worked hard to meet the neighborhood's concerns and have met many times with professionals and city staff who have come out to the site with them, in an effort to meet conditions and standards. From those meetings, this latest proposal has come forward. They will continue to work with professionals and city staff to make this a safe intersection.

Barb Brant rose to speak again to the Council, saying she appreciated all comments said tonight but again asked for no action tonight to allow the community the time to review the proposal.

There being no further public comment, the Mayor closed the public hearing and declared a recess at 9:10 p.m. The Council reconvened at 9:23 p.m.

Interim Public Works Director Hilding addressed the Council reporting she talked to the engineers who had worked on the City's East 2nd Street Reconstruction project, and they agreed there should be a field survey for actual site distance calculations. She also addressed regulations in the City's Engineering Standards that must be met. Section 8.4 in the regulations address hilltop intersections and maximum grade of intersections is also addressed in the standards. Whether or not those standards are met will be determined by a field survey. Councilor Frandsen asked for and received clarification of an amendment with Planner Compton-Ring.

Councilor Frandsen made an amendment, second from Councilor Feury, to amend Condition #12 of the Preliminary Plat approval and the Preliminary Plat for the High Point on Second subdivision (formerly known as Second Street Residences subdivision) by removing "to the east and", so that Condition #12 shall read: "Ponderosa Court shall not terminate in a cul-de-sac. Prior to final plat approval for Phase III, Ponderosa Court shall be constructed as a through road, either by connecting back to Armory Road or intersect with E. 2nd Street. The final location and alignment shall be approved by the Public Works Department." And adopting the Findings of Fact as recommended by staff on packet page 235. The motion was approved unanimously.

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of awarding the construction contract for the Birch Point Lift Station to Sandry Construction in the amount of \$398,000.00 (p. 253) (CD 2:04:55)**

Interim Director Hilding said the recommendation is coming forward to Council following a public advertisement for bids for which two bids were received, and Sandry Construction was the low bidder. Funds are budgeted for this project from the Wastewater Fund in the FY16 Preliminary Budget.

Councilor Hildner made a motion, second by Councilor Feury, to approve awarding a contract for the Whitefish Birch Point Lift Station Project to Sandry Construction in the amount of \$398,000. The motion passed unanimously.

- b) Consideration of awarding the construction contract for 2015 street overlays to LHC, Inc. in the amount of \$446,468.98 (p. 257) (CD 2:09:37)**

Interim Director Hilding said following public advertisement, three bids were received for this project; two below and one above the engineer's estimate of \$532,600. The low bidder was LHC at \$446,468.98 and funds are appropriated for this project in the street maintenance fund in the FY16 Preliminary Budget. The work is scheduled to begin once school is out and to be completed in 45 days. The roads to be overlaid are shown on the map on page 258 in the packet.

Councilor Hildner made a motion, second by Councilor Feury, to award the construction contract for 2015 street overlays to LHC, Inc. in the amount of \$446,468.98. The motion passed unanimously.

8) COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 262) – None.

Mayor Muhlfeld welcomed April O’Neal, the new Assistant to the Public Works Director, to our staff.

- b) Other items arising between May 27th and June 1st (CD 2:11:49)

City Manager Stearns reported the sub-committee of the Ad Hoc New City Hall Steering Committee met last Friday and continues to work with Mosaic Architecture on design details and cost issues. There will be a work session followed by Council action at the June 15th meeting; more information will be included in that next packet.

- c) **Resolution No. 15-14; A Resolution relating to \$7,183,000 Tax Increment Urban Renewal Revenue Refunding Bonds, consisting of \$3,591,500 Series 2015A Bond and \$3,591,500 Series 2015B Bond; Authorizing and directing the issuance, confirming the sale and prescribing the form and terms thereof and the security therefor (p. 265)**

Manager Stearns’ staff report (Council Packet page 319) explains this resolution follows Council’s action on May 18, 2015 wherein they approved Resolution 15-11 establishing the parameters of this refunding and refinancing of our Tax Increment Fund (TIF) bond; to be financed through two local banks so there is a Series A and a Series B, each for \$3,591,500. On May 21, 2015, a 2.62% interest was locked in at the signing of the Bond Purchase Agreements with the two banks. Approval and execution of this refinancing should result in saving \$414,114.14 of interest costs over the remaining five years of the TIF bond. The City’s Bond Counsel, Dorsey and Whitney of Missoula, has prepared the documents and will be overseeing the execution and completion of the transactions.

Councilor Hildner made a motion, second by Councilor Frandsen, to approve Resolution No. 15-14; A Resolution relating to \$7,183,000 Tax Increment Urban Renewal Revenue Refunding Bonds, consisting of \$3,591,500 Series 2015A Bond and \$3,591,500 Series 2015B Bond; Authorizing and directing the issuance, confirming the sale and prescribing the form and terms thereof and the security therefor. The motion passed unanimously.

Mayor Muhlfeld thanked City Manager Stearns for his hard work on this project and thanked the two local banks for financing the refund and refinancing.

- d) **Resolution No. 15-15; A Resolution authorizing matching funds for planning grant applications to the Treasure State Endowment Program (TSEP) And Renewable Resource Grant And Loan Program for wastewater/septic Preliminary Engineering Reports (PER) For The East Lakeshore Drive and Lion Mountain Areas (p. 347)**

Manager Stearns said, from his staff report starting on page 349 in the packet, that this Resolution is a formal statement in writing containing Council’s action on January 20, 2015, wherein

the Council approved contributing funding of up to \$60,000.00 for two preliminary engineering report planning grants from the Treasure State Endowment Program (TSEP) and the DNRC Renewable Resource Grant and Loan Program (RRGL) that other eligible entities will submit for a report on East Lakeshore Drive and Lion Mountain areas, as detailed in his report. TSEP requires the Council's approval in a Resolution, rather than just having a copy of the minutes of their approval last January.

Councilor Feury made a motion, second by Councilor Frandsen, to approve Resolution No. 15-15; A Resolution authorizing matching funds for planning grant applications to the Treasure State Endowment Program (TSEP) And Renewable Resource Grant And Loan Program for wastewater/septic Preliminary Engineering Reports (PER) For The East Lakeshore Drive and Lion Mountain Areas. The motion passed unanimously.

Mayor Muhlfeld said the Whitefish Lake Institute has received two grants for the Lion Mountain PER, a DNRC RRGL Planning Grant and a TSEP Planning Grant, for a total of \$25,000.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 2:22:22)

- a) Letter from Pat LaTourelle regarding proposed tax increases and City Hall/Parking Structure (p. 354) – No additional comment.**

- b) Discuss and approve schedule for appointing a replacement for Councilor John Anderson (p. 356)**

Manager Stearns said under the Charter, which is included in the packet, the Council has 30 days to appoint and fill the vacancy from the date Councilor Anderson resigned. The time remaining allows an appointment to be made at the June 15, 2015 meeting, or at a special meeting. City Clerk Lorang has prepared and submitted a draft of a notice for the Pilot, and can complete that with the paper tomorrow morning with more details from the Council. It will be in this weeks' and next week's papers. Manager Stearns said at issue is; the June 15th work session has already been set aside to interview and appoint applicants to serve on the new Lake and Lakeshore Protection Committee, and a session with the design and construction team for the new City Hall. If the Council wants to also interview applicants for City Council that night, one of those items will have to be delayed and rescheduled, or the Council could start earlier in the evening to get it all done. Of course at this time, we don't know the number of applicants we will have for any of those positions. The 2nd option, would be to schedule a Special Session to interview and appoint to fill the Council vacancy. The Council agreed to start earlier on June 15th as it looked like four of five Councilors and the Mayor will be attending meetings on June 15th. Manager Stearns said applicants for the Council vacancy can submit letters of interest to the City Clerk up to noon Friday, June 12th; then he will send a supplemental packet out with the list of applicants and a schedule for their interviews. It was also decided that if the number of applicants for lakeshore is too much to get done on the 15th, they will be moved to July 6th.

COUNCIL COMMENTS: (CD 2:29:15)

Councilor Feury expressed his disappointment in public comment that included throwing around numbers regarding City Finances and Projects that were completely erroneous with no basis of fact, and hopes that the general public understands that and will take the time to become completely informed.

Rec'd at Meeting 6-1-15

Benton C. Cavin
PO Box 965
Whitefish, MT 59937
{406}862-3733

Monday June 1, 2014

Mayor Muhlfeld & City Council
City of Whitefish
Whitefish, MT 59937

**RESOLUTION FOR FUNDING OF TWO ENGINEERING
REPORTS City Priority Areas: Priority Should Be
WORST FIRST
RE: YES FOR LION MOUNTAIN- NO FOR EAST LAKESHORE DRIVE!**

Mayor Muhlfeld & City Council,

My name is Ben Cavin. Civil Engineer, retired, I live at 2130 Houston Drive in the Houston Lakeshore Tract, formerly part of the donut.

On this evening's agenda you have a proposed resolution authorizing funds for Preliminary Engineering for Wastewater/Septic. Whitefish Lake Institute's *Investigation of Septic Leachate Report for Whitefish Lake*, Report RRG-11-1474 is the City's "bible" on this topic. This report identified 5 high risk sites for contamination, copy attached. East Lakeshore is not one of the high risk sites. City money should be spent on correcting the **WORST FIRST**.

Thank you.



Benton C. Cavin

Copy: Sean Frampton, Morrison and Frampton, Whitefish, MT

Councilor Hildner said three things: (1) He wanted to encourage attendance to the City Beach Tour scheduled for Wednesday at 10 a.m.; the tour of the Ice Rink was interesting and informative and he was looking forward to the tour at City Beach to be the same. The tour is open to residents as well as Council and Staff. (2) He asked about scheduling a public hearing on ice rink rates. (3) He asked about the outcome of Thursday and Friday's Mass Casualties Exercise with BNSF and wondered if there was a report. Interim Chief Page said he was unable to attend the exercise, but he will get the information from the County Office of Emergency Management and he will get it to the Mayor and Council.

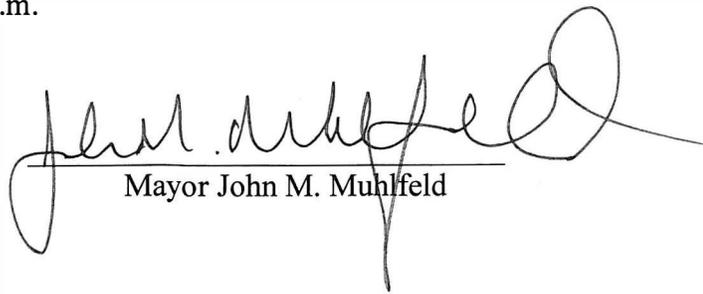
Councilor Frandsen said there is concern with a rezoning request for property adjacent to the City located at 4435 Highway 40W. It is 62 acres currently zoned SAG-10, with a request for SAG-5. She asked if the rest of the Council agree to direct staff to further document the City's opposition to that County rezone request of 4435 Highway 40W, and advise the Flathead County Commissioners that the City opposes the rezone based on the statutory criteria and guidelines of the Montana Code §76-2-203 have not been met. Mayor Muhlfeld asked for a showing of hands for those in agreement and it was unanimous.

Mayor Muhlfeld said in regards to Councilor Hildner's request for a public hearing on ice rink rates; he has been in discussion with Manager Stearns and Director Butts and Greg and Chad and they are all meeting again this week to discuss it further. The Mayor said Councilor Hildner is welcome to attend that meeting as well. Manager Stearns explained further that a public hearing was originally scheduled for July 6th as requested by Councilor Anderson, but now that Councilor Anderson has resigned it was discussed about moving up the public hearing. But before that public hearing, the Mayor asked for time to explore more options.

Mayor Muhlfeld asked Interim Director Hilding the status of a limited contract authorized with RPA for researching the Birch Point Quiet Zone SID. Hilding said she did not have anything new to report at this time; in the last meeting she had with RPA and Manager Stearns, they discovered that the project might not be able to be funded by an SID. Manager Stearns said it is on his and City Attorney VanBuskirk's plate but each have been very busy on other projects; they have to research some of the legal issues. It is on his to-do list and the Mayor said he totally understood. Councilor Frandsen asked since it looks like the SID may not be a possibility, she would like to look again at the cost of the wayside horn. Manager Stearns said that is part of the research; the neighborhood prefers the quiet zone but it just might not be cost effective.

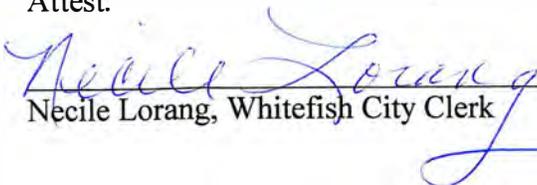
10) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority) (CD 2:39:54)

Mayor Muhlfeld adjourned the meeting at 10:07 p.m.



Mayor John M. Muhlfeld

Attest:



Necile Lorang, Whitefish City Clerk

Rec'd at 6-1-15 MHg

From: Nancy Askew griismontana@gmail.com
Subject: City Council !
Date: June 1, 2015 at 1:06PM
To: Nancy F Askew

A MISTAKE CAN BE FIXED

Please use Wisdom and do not continue this path because of past decisions that have been made. You are pursuing a course of action that this town doesn't want, can't afford and in reality doesn't need to. Your past decisions aren't all in vain. A refocused building plan adapted to a site near the Justice Center would place all Whitefish business in one area. The very costly parking structure would not have to be built by the City and Tax payers. Maintenance of a parking structure is another continual costly item. If City employees left downtown, this would free up 60-70 parking spaces for Whitefish Citizens and guest to our City to park and shop or have a delicious meal.

A City Hall should not be an anchor as it was in the past. The majority of business is done on line and if it were necessary to visit City Hall, by moving the site, parking would be easier for this business person. This present City Hall site does not bring in any taxes and this is a prime site in downtown Heart of Whitefish ! Also, City employees would not have to be moved twice which is an added and unnecessary expense !!!

I've had the privilege of traveling in many countries from Canada, Mexico, South America, China, Russia, England, Europe, and the Country of Georgia. In one Official Capacity, we were part of a delegation that took the WMCA Charters back behind the Iron Curtain after the Cold War ended. In all of my travels we have never had City Hall pointed out to us or visited one. We always looked for delicious local food and shopped in the many fascinating shops. A permanent mistake has not been made yet. It's the people that make a town and not an Office Building that closes at five or five thirty on week days and is not open on the week-end !!! Nan Askew

BEN CAVIN

Investigation of Septic Leachate to the Shoreline Area of
Whitefish Lake, Montana
RRG-11-1474

Final Report



Prepared by:

Whitefish Lake
INSTITUTE

635 Denver
Street
Whitefish, MT
59937

Prepared
for:

Whitefish County Water District
P.O. Box
1755
Whitefish, MT
59937
1 March
2012

Investigation of Septic Leachate to the Shoreline Area of Whitefish Lake, Montana

The stormwater system currently consists of fifteen outfalls to the Whitefish River, three outfalls to Whitefish Lake and six outfalls to Cow Creek. There are approximately 500 catch basins, 300 manholes, 8,100 lineal feet of 8-inch pipe, 25,000 lineal feet of 12-inch pipe, 2,100 lineal feet of 15-inch pipe, 12,000 lineal feet of 18-inch pipe, 1,900 lineal feet of 21-inch pipe, 7,580 lineal feet of 24-inch pipe, 800 lineal feet of 36-inch pipe and 140 lineal feet of 42-inch pipe in the system (Montgomery *et al*, 2006). Stormwater conveyance to creeks around Whitefish Lake generally takes place in well vegetated areas, resulting in the trapping of sediment and filtering of nutrients. However, contamination from stormwater cannot be ruled out as a possible contributor. (Addendum 7.4).

GIS Databases

A more robust county database of septic and sewer systems, more frequent data collection and maintenance, and enhanced data integration using multiple data sources are three actions that could improve not only the quality of the existing data, but also the ability of those charged with monitoring and enforcing water quality for Whitefish Lake. Improvements to the data have recently been made, but a more thorough update and an ongoing review process would be beneficial. In some cases older permits were issued for single "dwelling units." One dwelling unit is equal to a three bedroom house. As properties changed hands, the same permit and septic system were sometimes used where new, much larger homes were built. In such instances, small septic systems- designed to treat the waste of a small household- may be inefficient for treating the waste of numerous occupants. This heavier demand can lead to premature system breakdowns and wastewater making its way into groundwater and to the lake. Septic system type, functionality, and density around the lake may also be misrepresented. Septic systems are identified as dots on a map. However three six-bedroom homes, noted as three dots on a septic density map, could contribute twice the wastewater effluent as three three- bedroom homes, also noted as three dots on the density map.

4.3 Developments in Areas with Confirmed Contamination, and High or Medium Risk of Contamination

Three confirmed sites of contamination include Site 3: City Beach Bay, Site 5: Viking Creek, and Site 13: Lazy Bay. The two sites with high contamination potential include Site 12: Lazy Channel and Site 18: Dog Bay State Park. The four sites with medium contamination potential are 2: City Beach Seep, 4: SE Monk's Bay, 11: Brush Bay, and the East Lakeshore from Gaines Point south to north Monk's Bay, including Site 8: Carver Bay and Site 7: SE Houston Pt. This information, combined with GIS led to the development of breakout maps of general areas of concern. The development in those areas is described below, along with the most probable scenario of contamination.

Area Including Site 2: City Beach Seep and Site 3: City Beach Bay

City Beach Seep and City Beach Bay are located in an area with homes built mostly from the mid-1930s and on, including numerous subdivisions. Although many homes were built prior to the development of the City sewer system, almost all homes in this area are now connected to that system. In 2010, the City abandoned and removed the sewer line

Please return to Necile

PUBLIC HEARINGS
PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 6/2/15

PLEASE PRINT NAME and ADDRESS

Application for Conditional Use Permit
Accessory Apartment – 448 LaBrie Dr

Application for Conditional Use Permit
Accessory Apartment – 634 Somers Ave

Request to amend Condition
High Point on 2nd St re:Streets

1. ~~Harold Turner ASKED~~

2. BARB BRAUT

3. Dave Kauffman

4. Jeff Swenson

5. Carol R. Nelson

6. Scott BRAUT

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Please return to Necile

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1. KEVIN TREECE KAZISPELL
197



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