

WHITEFISH CITY COUNCIL

August 3, 2015

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Barberis, Frandsen, Feury, Sweeney, Fitzgerald and Hildner. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney Jacobs, Finance Director Smith, Senior Planner Compton-Ring, Interim Public Works Director Hilding, Parks and Recreation Director Butts, and Interim Fire Chief Page. Deputy City Attorney Curtis was in the audience. Approximately 18 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Heidi Desch to lead the audience in the Pledge of Allegiance.

ADMINISTRATION OF OATH

Mayor Muhlfeld said at this time he will administer the Oath to the new Deputy City Attorney Kristi Curtis who started with the City of Whitefish today. Following her Oath, Deputy City Attorney Curtis was welcomed to the staff.

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)

None

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner reported he had attended last week's Recreation/Conservation (a sub-committee of the Legacy Lands Advisory Committee) committee meeting. An issue that took up much of the discussion was parking at Spencer Lake. Also last week he attended the City Hall sub-committee meeting as the Council alternate where design elements of both the exterior and the interior were discussed. More discussion is scheduled for the next meeting. At this morning's Pedestrian and Bicycle Path Advisory Committee meeting they discussed trail signage along the new construction on Hwy 93 W for connection to the Lion Mountain Loop and Whitefish Trail. A sub-committee of stakeholders was formed to study solutions and he volunteered to be the Council's representative.

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)

a) Minutes from the July 20, 2015 City Council regular session (p. 12)

Councilor Sweeney made a motion, second by Councilor Hildner, to approve the Consent Agenda as presented. The motion passed 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) **Ordinance No. 15-13; An Ordinance rezoning approximately 3.6 acres of land located adjacent to Reservoir Road and Wheeler Lane, to become a part of 1735 East Lakeshore Drive, Section 24, Township 31 North, Range 22 West, Whitefish, Montana, from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) and adopting Findings with respect to such rezone. Staff Report WZC 15-02. (First Reading) (p. 25) (CD 04:25)**

Senior Planner Compton-Ring reported this is a procedure requested by the City of Whitefish to place Whitefish Zoning on land recently annexed into the City that is currently designated County RR-1. Staff's recommendation is to rezone the property to City WRR-1 (Low Density Resort Residential), based on Review and Findings of Fact in accordance with the Whitefish Zoning Regulations. Staff published notice of this zone change and notified adjacent property owners and no public comment has been received. The City County Planning Board considered the request in a public hearing at their meeting on July 16, 2015 and voted unanimously to approve the rezone.

Mayor Muhlfield opened the public hearing; and there being no public comment, Mayor Muhlfield closed the public hearing and turned it over to the Council for their consideration.

Councilor Sweeney made a motion, second by Councilor Fitzgerald, to approve Ordinance No. 15-13; An Ordinance rezoning approximately 3.6 acres of land located adjacent to Reservoir Road and Wheeler Lane, to become a part of 1735 East Lakeshore Drive, Section 24, Township 31 North, Range 22 West, Whitefish, Montana, from County RR-1 (Low Density Resort Residential) to City WRR-1 (Low Density Resort Residential District) and adopting Findings with respect to such rezone. Staff Report WZC 15-02. (First Reading) The motion passed unanimously.

- b) **Ordinance No. 15-14; An Ordinance rezoning approximately 9.99 acres of land located at 325 Monegan Road, Section 5, Township 30 North, Range 21 West, Whitefish, Montana, from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District) and adopting Findings with respect to such rezone. Staff Report WZC 15-01. (First Reading) (p. 43) (CD 07:20)**

Planner Compton-Ring reported that again, this procedure is requested by the City of Whitefish to place Whitefish Zoning on land recently annexed into the City that is currently designated with County zoning, in this case it is zoned County SAG-10. Staff recommends the property to be rezoned as City WA (Agricultural District) which is the same zoning the property carried when it had Whitefish zoning within the City's extraterritorial zoning districts. The recommendation is based on Review and Findings of Fact in accordance with the Whitefish Zoning Regulations; the City WA Zone is the most closely consistent zone with that area that is identified as Rural in the Whitefish City-County Growth Policy. Staff published notice of this zone change and notified adjacent land owners. One comment was received but it was a comment that was against the annexation and did not address the rezone; the comment was received after the annexation was already approved by Council. The owner had requested annexation of his property to connect to City water. The City County Planning Board considered the request in a public hearing at their meeting on July 16, 2015 and voted unanimously to approve the rezone.

Mayor Muhlfield opened the public hearing; and there being no public comment, Mayor Muhlfield closed the public hearing and turned it over to the Council for their consideration. Prior to final approval of the motion there was discussion with staff regarding their recommendation for this rezone.

Councilor Hildner made a motion, second by Councilor Frandsen, to approve Ordinance No. 15-14; An Ordinance rezoning approximately 9.99 acres of land located at 325 Monegan Road, Section 5, Township 30 North, Range 21 West, Whitefish, Montana, from County SAG-10 (Suburban Agriculture) to City WA (Agricultural District) and adopting Findings with respect to such rezone. Staff Report WZC 15-01. (First Reading) The motion passed unanimously.

- c) Consideration of an application from Whitefish Partners 1 LLC for a Conditional Use Permit to develop Phase II of Monterra with 54 units in four (4) buildings and complete Phase I with 12 units in one (1) building. The project is unaddressed and is bounded by Monterra on the north, Highway 40 on the south, Riverlakes Parkway on the west and Kallner Lane on the east. Staff Report WCUP 15-10. (p. 63) (CD 11:00)**

Planner Compton-Ring gave background information from the staff report. This project is part of the Riverside at Whitefish, a development of about 230 acres created as a neighborhood plan and was an amendment to the Whitefish City County Master Plan in 1993, followed by a series of Planned Unit Development (PUD) amendments, one of which included the Monterra Condominiums. Phase 1 of the Monterra Condominiums was developed almost completely, with the exception of two buildings with 6 units. This application requests to complete Phase 1 either with one 12-unit building, or two 6-units buildings; along with request for approval for Phase II of Monterra with 54 new units in four buildings and additional amenities. Staff recommends approval of the project following their review of the application and found it in compliance with the Whitefish Zoning Regulations and the Whitefish City-County Growth Policy. She reviewed the compliance and elements of the project for the Council from the Staff Report and highlighted some of the conditions of approval which are in the packet starting on page 65. A public notice of the application was published and notice was mailed as required; several comments were received and are included in the packet. Other comments received after the packet have been distributed to the Council tonight and will be posted at the end of the packet as 'after packet' materials. The City Planning Board held a public hearing on this matter on July 16, 2015, and following the hearing recommended approval of the project subject to eleven (11) Conditions of Approval as contained in the staff report and adopted the staff report as Findings of Fact.

Mayor Muhlfeld opened the public hearing.

Jim McLeod from Whitefish Partners, the applicant, addressed the Council, saying he was here, talking to the City Council, eleven years ago when the project started in 2004. Units sold well in 2005 and 2006, but sales dwindled in 2007 with the recession so any new construction was stopped. They have been a member of and have been attending the Homeowners Association (HOA) meetings since 2007; so over the interim they have been hearing what the current condominium owners need and want. Since 2013 the Whitefish Partners have been working on completing the development plans, and including the HOA in those discussions. From the HOA they have gathered input regarding the placement of buildings to complete Phase 1 and possibly relocating the current tennis court in Phase II. They are willing to work with the HOA and have agreed to let the HOA vote on this issue. He said he has a good working relationship with the Monterra residents, he knows that is important and will work to keep it that way.

Eric Hummel, 6204 Monterra Unit K, said his family own 3 units in Monterra and he has lived there from the beginning. His experiences with the developer have been positive, and found him to be true to his word. He said the future development of Phase II has always been apparent, they have the right to do that, and he spoke in support of the project. He also spoke of his appreciation that the developer is willing to

allow the HOA to have a vote in the possible rearrangement of a new tennis courts with buildings.

Tom Patterson, 6005 Unit 1, said he has been an owner in Monterra since 2005 when he bought his property and met the Whitefish Partners. Now he is a fulltime resident, but for 25 years he was a part-time resident while he was still working in real estate in Nashville, TN, where he worked with a lot of developers. He said working with Whitefish Partners has been a positive relationship, and he was aware of Phase II plans when he bought into the project in 2005. He spoke in support of the project and said he was sure the Whitefish Partners will continue to work cooperatively with the HOA.

Tim Frye, 6205 Davos Lane, said he knew the Council had his letter in front of them. He said it was good to hear the developer say they will allow the HOA to vote on the position of the additional building in Phase 1; it will change the landscape and views for some and could have a negative impact on property values.

Bill Mitchell, from San Diego, CA, said he has been coming to Monterra for the last five years. They enjoy coming up here every year and are now one of the perspective buyers for a condo in the new construction. His experience with this group of people in Monterra has been pleasant, and he looks forward to becoming an owner in the project, and spoke in support of its approval.

June Hanson, 6205 Davos Lane, Unit L, said she was also one of the first buyers (pre-construction) ten years ago. She also was a part-time resident, but now a full-time resident in Whitefish and a potential buyer of a unit in Phase II. She said her experiences with this developer have been very positive and spoke of the cooperative relationship between the developers and the HOA.

There being no further public comment, Mayor Muhlfeld closed the public hearing and turned it over to the Council for their consideration.

Councilor Feury made a motion, second by Councilor Frandsen, to approve Conditional Use Permit WCUP 15-10, adopting Findings of Fact and Staff Report, and subject to eleven (11) Conditions of Approval.

Council had questions for and discussed items with Jim McLeod, developer, regarding the tennis courts, the clubhouse, and construction operations and management. And a question for staff regarding amendments to conditional use permits; Planner Compton-Ring explained the Zoning Regulations does allow minor changes without having to return to Council, but those are reviewed by Staff who determines if the changes are significant enough to required additional public and Council review.

The motion passed unanimously.

7. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of approving Amendment #2 to engineering contract with WGM Group for construction management services for the Monegan Road stormwater project (p. 113) (CD 41:04)**

Interim Public Works Director Hilding reported the proposed Amendment No. 2 to the contract with WGM Group in an amount not to exceed \$25,430 is for construction management of the Monegan Road Storm Drainage Project overseeing the construction pursuant to the contract that

Council awarded at their July 20th meeting to Downing Construction. Appropriation for this contract has been included in the FY16 Budget in the Stormwater Fund. In answer to a question from Mayor Muhlfeld, construction time should be 45 calendar days from their start date and a construction meeting is tentatively scheduled for Monday, August 10th.

Councilor Feury made a motion, second by Councilor Frandsen, to approve Amendment No. 2 to the Monegan Road Storm Drainage Project consultant contract with WGM Group in an amount not to exceed \$25,430. The motion passed unanimously.

8) COMMUNICATIONS FROM CITY MANAGER (CD 44:45)

- a) **Written report enclosed with the packet. Questions from Mayor or Council? (p. 121)**
None.
- b) **Other items arising between July 29th and August 3rd**

Manager Stearns said the City received its FY16 Certified Taxable Value from the Montana Department of Revenue today at 4:35 p.m. As we anticipated, our taxable value is down, but it is down less than we anticipated in the preliminary budget, so it is some good news. All those numbers will be put together this week in preparation for the next budget work session that is scheduled for August 10th. The Tax Increment Valuation is quite a bit better than anticipated, so our projected revenue in the preliminary budget will change some; but again, the numbers will have to be reviewed and it will be discussed at the next budget work session.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 48:54)

- a) **Letter from Jan Gordon of 1930 East Lakeshore Drive regarding whose responsibility it is for trimming trees in the right-of-way under overhead electrical wires (p. 124)**

Mayor Muhlfeld asked Interim Director Hilding to comment; she said trees under powerlines are managed by Flathead Electric Coop. Parks and Recreation Director Butts added that trees within 10' of powerlines are managed by Flathead Electric and property owners with questions about tree maintenance within 10' of powerlines are directed by their Department to contact Flathead Electric. Manager Stearns added that in the Municipal Code it is stated trees in the right-of-way are the responsibility of the adjacent landowners, just as boulevards and sidewalks. That is similar to many other Municipal Codes. Our Parks and Recreation Department staff has occasionally addressed problem trees, if it poses a public safety hazard, and will take care of it if it is brought to their attention. But generally, trees, boulevards and sidewalks, are the adjacent property owners' responsibility. In addition, trees do sometimes interfere with powerlines; and become the responsibility of Flathead Electric Coop.

Council Comments:

Councilor Sweeney added to those comments on trees; the benefits and responsibilities are a mixed bag. Sometimes the management of the Coop of trees near a powerline is a bad-trimming or cutting down of the whole tree. He said if the homeowner has the opportunity to manage those trees, the outcome could be more pleasing in the long run. He also addressed comments he has heard about equipment at the ice rink and that what was feared is coming to fruition – the equipment is suffering under the hard use; and he appreciated the efforts of the Park and Recreation Administration and their management of the operations and maintenance.

Councilor Hildner also commented on trees. He said in his tours around town he has noticed that many of the newer boulevard trees that have been planted with upgraded landscaping and rebuilt

boulevards are extremely stressed and need water! He encouraged adjacent landowners to give them a drink, and asked Heidi if she could put something in the paper to encourage better care of those trees. Councilor Hildner requested the Council go into an executive session at the end of this regular meeting to discuss pending litigation. That request was considered by staff and City Attorney Jacobs advised it could be delayed until August 17th.

Councilor Fitzgerald clarified that the time of the next budget work session on August 10th is 5:30 p.m. She also commented about things needing water; the grass is dead on the new Bike Path along last year's new construction of Hwy 93 W. Interim Director Hilding said it is still under contract warranty and the contractor will have to fix it or replant it either this fall or next spring. Councilor Fitzgerald said the new street – Dodger Lane, needs No Parking signs. It was designed for no-parking, but there aren't signs so people are parking half on the street and half on the bike path, sometimes wholly on the bike path. Interim Director Hilding said she would check into that. Just before adjournment, Councilor Fitzgerald told Director Butts she would help find volunteers to lay down lines this weekend.

Mayor Muhlfeld said he would like to share an email from a Canadian visitor who is also a homeowner, Kay Alison. In her email she compliments Parks' Programs that her grandchildren attend, and compliments the friendly and helpful staff at both the main offices, City Hall downtown, and the Park's Office on Railway Street. Her email said to keep doing what is being done because it is a good example how a community works together. Mayor Muhlfeld said he wanted to share that because often times the hard work and commitment of employees goes unnoticed, and it seems mostly what they hear are complaints. But he wanted all to know that the hard work and commitment is noticed and appreciated by visitors and residents, and he thanked all on behalf of the Council.

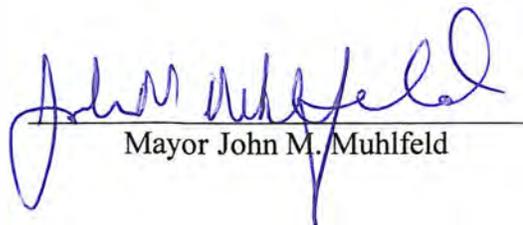
The Mayor also wanted the illegal use of motorized vehicles on the bike paths to be enforced.

10. ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)
(CD 1:06:32)

Mayor Muhlfeld adjourned the meeting at 8:18 p.m.

Attest:


Neelie Lorang, Whitefish City Clerk


Mayor John M. Muhlfeld

Please return to Necile

PUBLIC HEARINGS

PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 8/3/15

PLEASE PRINT NAME and ADDRESS

Rezone following Annexation of land
to be part of 1735 E. Lakeshore Drive

Rezone following Annexation
Land at 325 Monegan Road

Conditional Use Permit Application to Develop
Phase II of Monterra with 54 Units/4 Buildings
and to complete Phase 1 with 12 Units/1 Building

	Rezone following Annexation of land to be part of 1735 E. Lakeshore Drive	Rezone following Annexation Land at 325 Monegan Road	Conditional Use Permit Application to Develop Phase II of Monterra with 54 Units/4 Buildings and to complete Phase 1 with 12 Units/1 Building
1. ✓ Eric Hummel 6204 Monterra #1C			X
2. ✓ Tom Patterson 6005 Monterra I			X
3. ✓ Tim Frye 6205 Davos #F			X
4. ✓ Bill Mitchell 6205 Davos I - Tenant			X
5. JUNE HANSON 6205 DAVOS LN			
6. Jim McLeod			X
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