

**WHITEFISH CITY COUNCIL**  
**OCTOBER 5, 2015**  
**7:10 P.M.**

**1) CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Frandsen, Sweeney, and Fitzgerald. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney Jacobs, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Dial, Fire Chief Page, Senior Planner Compton-Ring and Planner Minnich. Approximately 30 people were in the audience.

**2) PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Mitchell Drachman to lead the audience in the Pledge of Allegiance.

**3) PRESENTATIONS**

**a) City Hall/Parking Structure – Design Update – Ben Tintinger, Mosaic Architecture**

Architect Ben Tintinger reported demolition started today at the Coldwell Banker Building. Also today he met with the Building Committee (Committee) with continuing discussions on interior details. The firm worked with the Committee on exterior design revisions all the way through to final building shell bid documents which have been released and slated to bid October 15<sup>th</sup>; based on feedback from some contractors that might be extended a few days. The interior bid package is slated to be out at the end of the month. To date bids are in on abatement, demolition, excavation and soil improvement system. Excavation bids came in last week and a couple issues came up with managing infrastructure so they are working on solutions with City Public Works. Another meeting with the Architectural Review Committee is scheduled for Tuesday (tomorrow) and are expecting to receive their final comments regarding the latest revisions of the Committee. By the end of the month the firm should have a compilation of all the bids so that final costs should be ready for the Council's November 2<sup>nd</sup> meeting.

Ben presented the current street elevations, described landscaped areas facing E. 2<sup>nd</sup> Street, Baker Avenue and a bulb-out at the corner of Baker Avenue and E. 1<sup>st</sup> Street. A brick façade building (intent of the brick color is to be in line with historical Whitefish brick buildings) with architectural features, aluminum storefront windows, underlit steel canopies all around (a bid alternate), with a special lighting detail at the front entry. The alley side of City Hall is utilitarian, not a lot of windows. Windows on the first floor where there are offices, but the second floor is the back wall of the Council Chambers. The face brick is wrapped around at the southeast and northeast corners of the building, Along Baker Avenue going north, at street level are storefront windows with perforated metal (allowing airflow for parking structure) and discussions have been that it could be an opportunity for historic screen-print, and storefront windows at the northwest corner for the lease-retail space. On the second floor of the parking structure, the arched windows are glass, the remaining windows are framed and open. The alley side of the parking structure is painted concrete block (will be painted to match the brick) with open windows. Two elevators in the parking structure at the northeast corner and the southwest corner which services a shared stairway for the parking structure and city hall. (The southwest elevator is a bid alternate).

The first floor of City Hall includes a lobby with an elevator that serves all floors, Administrative Customer Services, Parks and Recreation, Public Works and Building and Planning/Zoning Departments, and conference rooms. Second level has the Council Chambers with a separate smaller meeting room and work area, Administrative and Legal Department offices and conference rooms. Currently the third floor houses the mechanical floor and the Council Chamber skylights; and the infrastructure to accommodate a future third floor. He estimated the 3<sup>rd</sup> floor space would be about 5,000 square feet.

The 3,600 square-foot basement provides about 1,800 square-feet of storage. The parking structure ramps up three floors and provides 212 spaces; Ben said he is getting back with Kimley-Horn on a couple issues and may be able to increase to a couple more spaces. The space for a retail lease is almost 3,000 square feet and could accommodate one or two tenants. Councilor Sweeney had some questions on available storage space in the basement and Ben discussed the floor plan in more detail. Mayor Muhlfeld asked for the list of the bid alternates; Ben didn't have those in tonight's material but from memory listed finishing the basement, the southwest elevator of the parking structure, the canopies, finishing of the public restroom at the northeast corner of the parking structure, Council Chamber skylights, painting of the garage – both the east wall and the interior ceilings. Ben clarified that some items are listed as alternates to determine their individual costs, not necessarily to be taken away, but available for discussion if there are cost issues. City Manager Stearns said the Council had given lots of authority to the Building Committee and the purpose of this presentation is so the Council can see the progress so far. If this design brings up red flags, there is a short window for Council to bring up any of those issues. Ben said he will be scheduling some meetings next week with staff to discuss interior office details, so if there are comments about exterior or interior, he will be around part of next week.

**b) City Hall/Parking Structure – Project Update – Mike Cronquist, Owner's Representative (p. 30)**

Mike Cronquist said in follow-up to Ben's report; asbestos cleanup is complete in the Coldwell Banker building and the fire hall and demolition started at the north end of the complex today. Construction has occupied and secured the site and disconnected and secured utilities. Remaining abatement should be complete by October 23<sup>rd</sup>. An updated project schedule should be coming soon from Martel, demolition is expected to continue through the next 6 weeks and completed in mid-November, followed by the beginning of site preparation (excavation, back-fill and rammed aggregate piers (RAP). RAP scheduled for first of December, foundation scheduled for late December. Mike discussed the infrastructure issues that will require special attention, and said prior to demolition of the fire hall and city hall, Martel Construction continues to work with those who purchased the larger items at the auction that had to remain in place until this time. Mike said he still plans to have verbal updates the first Council meeting of each month and a written report for the second meeting each month, unless more activities require his attendance at more meetings. He did issue a press release to The Pilot, and will release them regularly when there is new activity to report. He acknowledged that they have been working closely with the City's Public Works Department and said they have been great to work with. He knew some public were interested in retrieving old bricks from city hall and said the current plan is to gather some up and place them in an adjacent parking lot for those who would like to come pick them up. Otherwise, unless sold at the auction, it is the property of Elder Demolition and further retrieval of items will be prohibitive so as not to delay progress moving forward. He said the entire construction site is fenced, so any visitors to the site need to park offsite, and

please do not enter the site without first checking in with Martel Construction at their trailer that is parked inside the fence on the closed section of East 1<sup>st</sup> Street.

(CD 29:00)

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

Paul McKenzie, Lands Resource Manager for FH Stoltz Land and Lumber Co. His comments pertain to the proposed resolution under Agenda #11b, that asks Flathead County to impose a 200-foot streamside setback for lands located upstream of the municipal water supply intake on Second Creek in Haskill Basin. He said there are roughly 3 miles of 2<sup>nd</sup> Creek and its tributaries that lie within Stoltz lands above the intake, so a 200-foot setback would equate to about 145 acres of their land that would be impacted by this buffer. Everyone is aware that the City, Stoltz, and the Department of Fish, Wildlife and Parks are working hard putting together a land management program for long-term security for Stoltz land in Haskill Basin, and protecting the City's water source in perpetuity; and Stoltz also worked with the City during the Critical Areas Ordinance (CAO) process. Stoltz takes their job of land stewardship in Haskill Basin very seriously and has done so for the last one hundred years. Although the outcome of the CAO was not perfect for them, they did feel that common ground had been met so they could continue to manage their forestlands in a manner that their land use was not a negative impact on the City's water quality. The draft conservation easement, the preparation of which is currently underway, takes a similar approach; that proper management of their land can insure long term forest health and vegetation which will likewise insure long term water quality for the City. The City's request to the County Commissioners pulls that 200-ft setback out separately; and without the accompanying provisions of the CAO takes away the process, the flexibility, the site-specific analysis and the specific exemption that allowed for their forest management to take place in those buffers. While they are unsure of how the County's regulations impact that 200 feet and their forest management; they have concern how this regulation could be interpreted in the future that would change it for them. It is important to them to be able to manage their lands, and they are not sure this provision insures the water quality the way Whitefish is hoping it will. They hope that all parties will work together to seek those goals.

County Commissioner Phil Mitchell, said he has been a resident in Whitefish for 42 years, and is a former City Councilor. He distributed a handout, a copy of the Flathead County Development Code – Chapter 4- Subdivision Regulations (5 pages), to the Council, which has been appended to the packet. His comments also pertain to the proposed resolution under Agenda #11b. Section 4.7.11 of the County Regulations is Stream Riparian Protection Requirements. He and Mayor Muhlfeld finally got a chance to discuss this issue, and he said with his comments tonight he is not representing the other Commissioners, just giving his thoughts as a County Commissioner. He said the proposed resolution does pertain to lands where the City does not have jurisdiction because it is in the donut; and to that issue he said, as a City Councilor, he was never personally in favor of having that jurisdiction go to the County. His purpose of meeting with Mayor Muhlfeld and for coming to the Council tonight is to see if the City and County can possibly work together to resolve some issues. Commissioner Mitchell said he likes the way the County Regulations addresses Stream Riparian Protection and does not agree with a blanket 200-ft setback. After talking with Mayor Muhlfeld, he asked if the Mayor would come down and talk to all three of the Commissioners and explain more in detail the work that Whitefish has done on this issue. Commissioner Mitchell agrees that water quality is very important; and hopes that

common ground can be found to accomplish that goal. He asked the Mayor and Council to review the County Regulations.

On other issues; he was glad to hear the City had selected Martel Construction for the City Hall and Parking Structure; he said the County has worked with Martel Construction and they are great do work with. However, he said, he was not is support of the City Hall and Parking Structure as proposed. He had an update on the Aluminum Plant; removal of buildings and cleanup is nearly finished and the goal is to not have this be a superfund site – but to get it cleaned up just one step below that. He thought it was going really well and said there is an open house at the Columbia Falls High School this Thursday evening from 5:30 to 8:30 if anyone is interested in learning more about that project. He complimented the new construction of Hwy 93 West, it was a huge project, a long two years, but it turned out great. Residents out there are pleased – it is finally safe to ride a bike into town. He thanked the City of Whitefish for whatever part they had in the project.

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4<sup>th</sup> Street West in Kalispell, also distributed printed material to the Council which has been appended to the packet. She said she appreciated Commissioner Mitchell’s comments and pointed out that the Stream Riparian Protection Requirements he handed out were from the Subdivision Regulations, and did not apply to issues under zoning. She said earlier today she had sent an email to the Mayor and Council containing the adopted staff reports and recommendations and maps from the County Planning Board regarding County Zoning adjacent to City boundaries. Their public hearings are likely scheduled for December 17<sup>th</sup> starting at 10:30 am, the public notice of it will be November 19<sup>th</sup>. Two hearings; one on the text amendment and one on the zoning; CBF will be requesting an extended and enough time for all the public comment; written public comment should be submitted as soon as possible.

The printed material she had given the Council tonight were comments subsequent to attending the City Planning Board’s workshop on September 17<sup>th</sup>, a workshop regarding the Westside Corridor Zoning. She said another workshop is scheduled for October 15<sup>th</sup> and CBF requests it be postponed until there is time to consider this issues in her handout, which are:

1. Adequate and legal notice
2. Clarification and resolution of non-public record ex parte communications
3. Clarification, disclosure, and resolution of potential conflicts of interest
4. Identification of the scope of changes that the planning board has been asked by this council to consider in proposing zoning for this area
5. Direction on steps needed to avoid the potential of “spot zoning” to meet the interests of a single or small group of individuals in this area over the interest of the city as a whole in this zoning process
6. Given that the Idaho Timber Property has been recently placed on the market for sale, it may be timely for the council to reconsider the importance of this plan area for meeting affordable housing needs that have been the focus of a recent conference and media
7. Schedule works sessions with significant important issues at a convenient time for the public
8. Requested Council reconsider the overall policies of the Planning Office, the City Manager, and the Council of providing adequate and consistent notice for hearings that rise to the level of excellence and fairness that the public expects of the city

She said CBF would like a public workshop to discuss these items, issues and concerns in more detail.

Dan Graves, CEO, Whitefish Mountain Resort, said he is a board member of the Chamber of Commerce and is here as their representative tonight. He said thank you for the beautiful paving job on Wisconsin Avenue and thank you for the improvement project on Hwy 93 West, "you did yourself proud."

Mayor Muhlfeld said after he talked to Commissioner Mitchell the day before, and hearing more public comment on the issue tonight, that he would be encouraging the Council to table any action tonight on Agenda Item 11b; a Resolution supporting his September 19, 2015 letter to the Flathead County Commissioners regarding streamside setbacks along Second Creek in Haskill Basin; because he agreed with Commissioner Mitchell to meet with the other County Commissioners and see if they can work together towards a solution. Therefore, he said if any of those making public comment on that issue, or were considering staying around for that action that falls late on tonight's agenda; that was his intention so, unless they wanted to stay around for any other part of the meeting they should feel free to go.

## **5) COMMUNICATIONS FROM VOLUNTEER BOARDS**

Rebecca Norton, 530 Scott Avenue, reported to the Council as a member of the Government Study Commission (Commission), distributed a handout from the Commission which has been appended to the packet. The handout explains the proposal from the Commission to add an Ombudsperson to City Staff, which she said she is in favor of. She said that position would be the one citizens could go to with questions about city processes and procedures; and she thought the City could afford a half-time position. Their decision was based on information they gathered through their public meetings; she said many people do not feel comfortable contacting individual Council members or navigating through City Departments for their own issues. She said it is getting busier in town and she thinks people are getting less inclined to get involved. She encourages voters to approve this position, it is a new thing but she thinks it would be helpful as the City grows.

Ken Williams, 325 Glenwood Road, said he served as Chair of the Commission; and he read from the memo that was just distributed. In summary, he said over the last year the Commission met twice a month, conducted a community survey and held several public hearings; and he thanked all those who gave them public comments. The Commission decided to place two issues on the ballot; the first updates the Charter, addressing housekeeping issues allowing the City to be current with demand. The second is to vote, or not, to have an Ombudsperson; a common position in other regions found in public, business, educational and military institutions, including the State of Montana. The Commission feels this person will work as the citizen's advocate to clarify process and deal with complaints and inquiries. The position would be answerable to the City Council and empowered to conduct independent findings, work to resolve issues of government, misinformation, ethics, complaint, and foster public goodwill. It is the hope of the Commission that this position could help prevent the City being involved with litigation and those costs. If the issue should pass, it would be the City Council's role to define this position and retain a person; the initial position and cost would be based on demand. The Commission's goal is to provide better governance, foster goodwill and a cost-effective way to govern. He said their ballot measure in no way to be construed as critical; but growth demands continue to be placed on city government and its means. The Commission is submitting these issues for a vote, intended to promote better, more effective government. He thanked the Council for their time.

Councilor Hildner said he attended this morning's monthly Pedestrian and Bicycle Path Advisory Committee meeting and the main thing to report was that delivery of the Skye Park Bridge is expected soon; it should be set on October 19<sup>th</sup> and completed by the year end.

Councilor Frandsen, as Council's representative on the Montana West Economic Development Board, and as an interested Councilor, said she attended last week's summit that was sponsored by the Whitefish Chamber of Commerce on Workforce/Affordable Housing. A task force will be organized to move forward to research issues on both affordable housing and workforce housing and progress reports should be coming to Council in the near future.

- 6) **CONSENT AGENDA** (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) **Minutes from the September 8, 2015 City Council regular session (p. 33)**
  - b) **Minutes from the September 21, 2015 City Council regular session (p. 40)**
  - c) **Resolution No. 15-43; A Resolution specifying water and wastewater services inflationary rate increases beginning October 1, 2015 (p. 47)**
  - d) **Ordinance No. 15-16; An Ordinance amending Title 14, Flood Control, of the Whitefish City Code (2nd Reading) (p. 51)**
  - e) **Ordinance No. 15-17; An Ordinance adopting new Flood Insurance Rate Maps for the City of Whitefish (2nd Reading) (p. 118)**
  - f) **Consideration of an application from High Point on 2<sup>nd</sup> LLC, for approval of the final plat for the High Point on 2<sup>nd</sup> Street subdivision (p. 129)**
  - g) **Resolution No. 15-44; A Resolution extending the corporate limits of the City of Whitefish, to annex within the boundaries of the City a portion of a certain tract of land known as 2422 and 2424 Carver Bay Road, for which the owner has petitioned for and consented to annexation (p. 238)**

Councilor Hildner made a motion, second by Councilor Frandsen, to approve the Consent Agenda as presented. The motion passed unanimously.

#### RESOLUTION NO. 15-44

**A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City certain tracts of land known as 2422 and 2424 Carver Bay Road, for which the owners have petitioned for and consented to annexation.**

WHEREAS, Charles P. and Teresa A. Grenier, have filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owners of real property representing 50% or more of the total area to be annexed. Therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

WHEREAS, services to the annexed area will be provided according to the City of Whitefish Extension of Services Plan, adopted by the City Council by Resolution No. 09-04 on March 2, 2009, as required by and in conformity with §§7-2-4610 and 7-2-4732, MCA, available at the office of the City Clerk; and

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish that the City is able to provide municipal services to the area proposed for annexation.

Further, it is hereby determined by the Whitefish City Council to be in the best interest of the City of Whitefish, and the inhabitants thereof, as well as the current and future inhabitants of the area to be annexed described herein, that the area be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate boundaries of the City of Whitefish be extended to include the boundaries of the area described in the Petition for Annexation within the limits of the City of Whitefish.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petition for Annexation, according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally described as:

LOTS NINE (9) AND TEN (10) OF WHITEFISH LAKE SUMMER HOMES, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

Section 2: The minutes of the City Council of the City of Whitefish, Montana, incorporate this Resolution.

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the October 5, 2015 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to §7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5TH DAY OF OCTOBER, 2015.

S/S John M Muhlfeld Mayor

ATTEST:

S/S Necile Lorang, City Clerk

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

- a) **Consideration of a request from the Iron Horse Homeowners Association for a modification to their subdivision to permit a reconfiguration of their guardhouse on the side of Iron Horse Drive to a welcome center in a median in the center of the road – Staff Report WPP 97-01A. (p. 251) (CD 1:05:05)**

Senior Planner Compton-Ring gave the staff report saying the Council did see this project earlier this spring and it was scheduled to be heard again at the May 4<sup>th</sup> meeting but the applicants had requested a continuation to this meeting on October 5<sup>th</sup>. The Iron Horse Homeowners' Association is proposing to remove the existing guard house and replace it with a single story welcome center in a landscape median in the center of Iron Horse Drive; see the drawings on pages 276 and 277 in the packet. The new design eliminates two roads coming into Iron Horse Drive and replaced by one intersection and provides four parking spaces within the landscape median and consolidates the golf cart crossings. All of the improvements are within the Iron Horse Drive right-of-way, a private road inside the subdivision that is open to the public. The packet includes updated

information from their traffic engineer and an email from the Whitefish Fire Department allowing the minimum road width of 14' for one-way traffic, and includes grade and fire hydrant requirements (packet page 275). The packet includes updated information from the Homeowners' Association and a letter and revised design with updated drawings. The Council considered this application in February and tabled action requesting the applicant give reconsideration to the intent of the project, safety issues, staffing of the information center, and concerns with bicyclists riding shoulder to shoulder. This new design provides for parking near the building so that if motorists wish to stop for information they park beside the building and can walk inside without having to traverse any traffic lanes. Their traffic engineer reports the new proposal provides the reduced travel-lane width with neck down/curb bulbs, narrowed travel lanes, mid-block median, chicanes and larger landscaped median as traffic calming measures. As it exists, there is a stretch of straight line of vision which can cause drivers to increase their speed, and the new design requires a driver to reduce speed in order to make a slight turn while driving. The Council also had concerns about the design of the building that included a window facing uphill traffic that might have given the impression that a motorist should stop at it before proceeding forward. The new design (see page 277) took away the window and added a front porch under an overhang, to give the impression that traffic does not have to stop.

Planner Compton-Ring concluded the staff report saying that staff is supportive of the safety measures to calm traffic, but continues to be concerned with the security building being located to the center of the road; it gives the appearance that the roads and subdivision are not open to the public and therefore does not support it. The Council approved Resolution 14-48 on October 6, 2014 (packet pages 265-267) establishing a policy on gated communities within the City limits. The policy states: "No subdivision or other residential neighborhood shall gate its streets off from public access. No features, temporary or otherwise shall give the impression to the public of a gated neighborhood." Staff is concerned the building in the center of the road 'gives the impression' of a gated neighborhood. She noted that several letters in support of the project have been received and are included in the packet, and more letters of support were received after the packet was printed that have been distributed to the Council this evening. (Those letters received after the packet was printed have been appended to the packet.)

Mayor Muhlfield opened the public hearing.

Andy Moshier, 132 Woodland Star Circle, is the president of the Homeowners' Association (HOA). He said after the meeting in February they made the decision to delve into issues further and hire all the professionals needed to look into the issues and come up with solutions for those concerns. Items addressed were the safety concerns of the HOA, have a design that meets the City's Subdivision Regulations – in particular the one that would have any feature temporary or otherwise that gives the impressions of a gated neighborhood, and to make sure the design meets the Condition of Approval #20 of the original plat in 1997 that stated the roads will be private, and will be open to public use. "Public use means that the general public will have the same rights of usage as owners and residents of the project". They have asked for a design of a building that does not look like a deterrent to the public in any way, shape or form; and he asked their architect, Scott Elden to come forward and speak to that design.

Scott Elden from Montana Creative, 158 Railway Street, said the new design proposed tonight improves on the February design with traffic calming measures including the (1) Intersection is realigned and consolidated, (2) Center Island Narrowing – single lane and one way, (3) Bulb out-pollway at cart path, (4) intersection neck down, and (5) Chicane in both lanes. Scott said the chicane addresses the HOA's concern of speeding downhill traffic. The new design with the chicane

will force downhill traffic to reduce their speed to navigate a slight turn to the right; and the congestion of multiple intersections has been eliminated down to one. He said during the consideration of their redesign they looked at the first entryway into the subdivision at the south end of Murdock Lane, starting with a split-traffic entry there exist several features already that kept traffic slower until reaching a stretch of wider road where traffic tended to increase speed going both uphill and down. To address that situation, they re-used the idea of the entryway that split uphill and downhill traffic with another island. Their solution uses all their existing right-of-way, removing and replacing the existing building to the middle of a larger median that narrows the roadway and provides for a traffic pattern that is not a straight-away. They had to consult with the Fire Department for the minimum width requirement. The redesign of the building removes the window facing traffic and adds a front porch with landscaping in front of it; if a motorist wants to stop for information they have to actually pull off the road and park their car and walk into the building. Montana Creative feels the redesign fulfills the HOA's request to mitigate downhill speeding traffic with the chicane, the bulb outs and unified intersection and at the same time meets the spirit of the ordinance to not have a feature that implies the appearance of a gated community. They also created parking for both uphill and downhill traffic that would like to stop to make inquiries, and will not have to cross any traffic lanes to do so. They feel their proposal is the best way to meet all concerns and conditions. Their proposal also allows the use of existing infrastructure and conserves a considerable amount of existing trees. He said the drawing on page 276 shows existing multiple intersections of streets and cart paths (blue lines), that have been eliminated by the unified intersection (dark black lines).

Council had some questions how safety issues were addressed and the purpose/need of a welcome center. Scott said reduction of multiple intersections lessens confusions and traffic crossing over each other; now the one intersection and other measures mentioned above are all above the building, at the top of the hill where traffic tended to increase speed going downhill. The cart path will be signed and there will be one-way traffic signs. The building that exists houses a staff person providing several services that the homeowners have become accustomed to; it also is helpful during summertime special events so those attending can get correct directions to the events. The new building is designed to be even more inviting to those people who wish to stop and make inquiries. New signage will be installed per City requirements along the roadway and there will be a 'welcome station sign' placed on the building for uphill traffic to see, the exact wording and placement of that sign can come back for the City's review to make sure it meets requirements.

Rebecca Norton, 530 Scott Avenue, said after the last public hearing she revisited the subdivision. She said it already has a decorative gate that could be closed that is below the subject area being discussed tonight. She said she is not in favor of setting a precedent against the current policy prohibiting gated subdivisions or communities in our town. She visited the bike shop; and then talked to some residents in Iron Horse that were not aware a bicyclist was killed on Big Mountain Road in a collision with a vehicle. She is unaware of the liability issues regarding people up and down hills, but thinks Iron Horse should look into that. She doesn't think anything will change – she said those who like to do it for a good workout will continue to do so. She spoke against the request. She said it is called a welcome center, but it is the only place in town that records license numbers of passing traffic. She spoke again to the guard that she had talked with earlier, who spoke honestly with her, she thought, when she was doing the research for the item to be presented to the Planning Board; and he said he almost got fired for speaking to her before. That gave her pause again to consider state laws about street intimidation and other things. She said her opinion is this would set a precedent that this community should not go to. She said she might be the only person to speak out in opposition but she wanted the Council to know that she takes it seriously.

Dan Graves, CEO, Whitefish Mountain Resort, said it should be noted and this neighborhood be acknowledged for all the good will it does for the community. For the public who uses the roads, they are beautifully kept, sealed, nicely landscaped, and a safe place to go. The property taxes out of that development benefits this community and so many things the public utilizes. Also recognize the charitable giving to public facilities – The WAVE, the middle school and the high school, and the list goes on, he said. He thought it was inappropriate to say this welcome center is not welcoming to the community, and he spoke in favor of its approval.

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

Council discussion; and Andy Moshier approached the bench to answer. He said the intent is not to stop traffic; they want traffic to keep going but at a safe speed. They have designed it in such a way to give the feeling the traffic is welcome, to keep traffic going, but safely. No speed studies have been conducted, the speed limited is signed 25 mph. The whole new design of the wider median in the middle has been with the intent to add features to slow traffic down, and the building's presence, which has its purposes for services, has been minimalized with the new design and landscaping.

**Councilor Frandsen made a motion, second by Councilor Sweeney, to approve the request from the Iron Horse HOA for a modification to their subdivision to permit a reconfiguration of their guardhouse on the side of Iron Horse Drive to a Welcome Center in a median in the center of the road; removing Finding 6 of the January 8, 2014 Staff Report (packet page 282) which she feels is subjective based on current public input and might be more based in the past and not the present. And to add a condition to require additional signage saying the road is open to the public and additional signage for safety reasons on the north end as traffic comes downhill, preparing drivers for the pedestrian crossing ahead.**

Councilor Frandsen spoke to her motion and Council discussion followed. Manager Stearns brought the Council's attention to suggested added conditions (packet pages 282-283) from the Planning Department if the Council was moving forward with approval; and they are:

1. The applicant shall obtain Architectural Review approval prior to obtaining a building permit. (§ 11-3-3)
2. Prior to the start of any road work, the applicant shall submit engineering plans to the Public Works Department for review and approval. (Whitefish Engineering Standards, 2009)

**Councilor Frandsen said her motion should include the two conditions as stated above and Councilor Sweeney, the second of the motion, agreed.**

Mayor Muhlfeld said he had contacted City Attorney Jacobs earlier today, not knowing what action would be taken by the Council tonight, but just to get clarification from her regarding issues around the Findings.

Attorney Jacobs advised that the motion on the table covers the issues, it is important that the Findings of Fact reflect that the modifications, as now proposed by Iron Horse, do not give the appearance or impression of a gated neighborhood in violation of City Policy as stated in Resolution 14-48. She advised Council could track the language of their own resolution in addition to

Councilor Frandsen's motion that included the additional two conditions as recommended in the Staff Report.

Mayor Muhlfeld asked if any of the Council would like to so amend the motion on the floor to include "the modifications, as now proposed by Iron Horse, do not give the appearance or impression of a gated neighborhood in violation of City Policy"

**Councilor Frandsen said she would move that amendment, second by Councilor Sweeney.**

**The amendment passed unanimously.**

Mayor Muhlfeld asked if there was any more discussion before voting on the original motion for approval, as amended, including the Findings of Fact and Staff Report.

Council discussion.

**Councilor Feury amended the motion, second by Councilor Sweeney, to amend Condition #1 and transmit to the Architectural Review Committee, that visual screening on the downhill side of the building will be adequate to minimize the view of the building to approaching traffic. The amendment passed unanimously.**

More Council discussion.

**The vote on the original motion, as amended, was a tie vote. Councilors Frandsen, Sweeney and Feury voted in favor of the motion; Councilors Barberis, Fitzgerald and Hildner voted against the motion. Mayor Muhlfeld voted in favor of the motion and the motion, as amended, was approved on a four (4) to three (3) vote.**

Mayor Muhlfeld called for a break; the Council reconvened at 9:10 p.m.

**b) Consideration of an application from Peggy & Josh Hertlein for a Conditional Use Permit to construct an Accessory Apartment at 265 Texas Avenue – WCUP 15-12 (p. 347) (CD 1:45:05)**

Planner Minnich summarized the staff report for a proposal for new construction of an accessory apartment over a new two-car garage, adjacent to an existing single-family residence. The proposed construction complies with setback and lot coverage requirements. The property is zoned WLR, One-Family Limited Residential, and the Growth Policy designation for this area is 'Urban', which corresponds to the WLR; so it is in compliance with the Growth Policy, the Zoning Regulations, and complied with the required criteria review. As Staff found the application in compliance with regulations, the recommendation is for approval subject to eight (8) Conditions of Approval. The Planning Board met on September 17, 2015 to consider the request and following the public hearing voted unanimously for approval as recommended by staff. Council had two follow-up questions for Planner Minnich.

Mayor Muhlfeld opened the public hearing. There was no public comment and Mayor Muhlfeld closed the public hearing and turned it over to the Council for their consideration.

**Councilor Feury made a motion, second by Councilor Fitzgerald, to approve WCUP**

**15-12 with the Findings of Fact in the staff report and the eight conditions of approval, as recommended by the Whitefish Planning Board. The motion passed unanimously.**

**c) Consideration of an application from Jason Pohlman of Mindful Designs for a Conditional Use Permit to construct a mixed use triplex at 50 West 2<sup>nd</sup> Street – WCUP 15-13 (p. 373) (CD 1:49:05)**

Planner Compton-Ring reported this request is to develop multiple primary uses on one lot. Currently a professional office, with parking, is established on the south portion of the lot, which will remain; and the new development is to construct a residential triplex on the north portion of the lot. Whitefish Zoning Regulations permit only one primary use per lot unless a Conditional Use Permit (CUP) is obtained. The property is zoned WR-3, Low Density Multi-family Residential District, and is along Hwy 93 W where professional offices are allowed with a CUP, which was obtained for this property in 1995. The design includes access on an existing driveway, provides adequate parking and a walking trail from the triplex to the Whitefish River. Staff reviewed the application based on the criteria required for consideration of a CUP and found it to be in compliance with the Growth Policy and Zoning Regulations because the applicant has received approval for a variance to the side yard setbacks from the Board of Adjustment in August of 2015. The existing building is not in compliance with setback requirements but as this development does not include any change to the existing building footprint, no requirements are applied. There are plans to improve the exterior façade and do some interior remodeling on the existing building. Any façade update must first be approved by the Architectural Review Committee prior to the building permit. As this property is located on Whitefish River the project must comply with Water Quality Protection regulations, and it is part of the Conditions of Approval. Any development within the floodplain is subject to the City's floodplain regulations and a permit is required, and that is included in the Conditions of Approval. Other Conditions of Approval include, but are not limited to, Architectural Review Committee approval, an engineered drainage plan and a landscaping plan. The Planning Board met on September 17, 2015 to consider the request and following the public hearing voted unanimously for approval as recommended by staff, and the Planning Board added Condition No. 12.

Council had some questions clarifying the site plan, Planner Compton-Ring answered some and said the applicant may be able to give them additional information.

Mayor Muhlfeld opened the public hearing.

Jason Pohlman, Mindful Designs, 325 Moonridge Drive, addressed the driveway. During the reconstruction of Hwy 93 West, an extra-wide curb cut was made at the existing driveway that exceeded this property's boundary; but he has an agreement with the property owner to the west for a shared driveway easement up to the first tree shown on the site plan. Following the Planning Board Meeting they prepared the application for the 310 Permit which was submitted today; and they are preparing the other plans required by the Conditions of Approval. He said their plans are to improve the façade on the existing professional building and said the newly constructed triplex is an infill-residential complex that is within walking distance to town and access to the pedestrian/bike trails, and their added feature of the river access. Their plan for that trail to the river is to be a no maintenance-native grass area, more like a game trail down to the river; and that is all part of the 310 Permit and their landscaping/restoration plan. He said they are not in the floodplain. He said they have been proactively talking to their neighbors regarding their project plans. For clarification to Council, no storage building is designed north of the triplex, all storage is south of the triplex.

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

The Mayor and Council had discussion with the applicant and staff on the engineered drainage plan including factors for consideration of type of treatment mitigating runoff.

**Councilor Barberis made a motion, second by Councilor Sweeney, to approve the development of multiple primary uses on one lot, WCUP 15-13 along with the Findings of Fact in the staff report and the attached twelve (12) Conditions of Approval. The motion passed unanimously.**

**d) Consideration of an application from Lakeshore Group LLC for a Conditional Use Permit to construct six (6) condominiums in two (2) buildings at 1340 Wisconsin Avenue – WCUP 15-11 (p. 400) (CD 2:07:50)**

Planner Compton-Ring said the Planning Board first heard this application in August and the proposal was for nine condominiums. At that public hearing there was a lot of public input against the proposal with concerns about density, the impact on the lake, the units above the garages, the grade of the site, run-off and groundwater. The Planning Board continued that public hearing to their next meeting in September when the applicant came back with a revised proposal eliminating 3 units and reconfiguring the site plan; this is the proposal before the Council tonight. This proposal has 6 condos in one building, built 30' from the mean high water mark of Whitefish Lake and an accessory building to the east, built near the north boundary line of the lot, housing 6 indoor vehicle parking on the ground floor, with 2<sup>nd</sup> floor bonus spaces. The bonus spaces do not have kitchens, which is the element that defines whether it is a dwelling unit or not. Adequate parking is proposed; the access is off of Wisconsin Avenue and a driveway that has been designed to preserve many of the trees. The property is currently undeveloped, zoned WR-3 and the Growth Policy designates this property as "High Density Residential." The project complies with the Growth Policy and Zoning Regulations either by design or by meeting the Conditions of Approval. The development is setback to comply with the Lakeshore Protection Regulations, and a Condition will require a Water Quality Plan designed by a qualified professional to address stormwater management, impervious surface, grading, filling and vegetation within 75-feet of the Ordinary Mean High Water Mark. The property has an existing dock, as permitted by a lakeshore construction variance; any future development in the lakeshore area will require a new lakeshore permit and full compliance with the lakeshore regulations. The property is subject to Floodplain Regulations and compliance and permits are within the Conditions of Approval. The development is subject to Architectural Review Committee approval. Following their 2<sup>nd</sup> public hearing on this project, the Planning Board voted to approve the project subject to sixteen (16) Conditions of Approval as they amended, including their amendment to Condition No. 8 which now reads:

*8. Prior to the issuance of the building permit, a deed restriction shall be recorded stating the bonus spaces above the garage may not be separately rented and no kitchens, kitchenettes, or bathroom beyond a ½ bath shall be installed.*

*Other amendments made by the Planning Board were in Condition #3 "an approved stormwater culvert where the driveway pad at Wisconsin Avenue is located. Condition #4, added "prior to any ground disturbing activities". Condition #5, adding "property installed" to control of erosions and siltation. And in Condition #11 added "area for recycling bins for cardboard, paper and plastic".*

Council discussed the language added to Condition #11.

Mayor Muhlfeld opened the public hearing.

Aaron Wallace, 311 Blanchard Hollow, and is the Principal Architect at Montana Creative, spoke representing the applicant. He said he would explain their solutions to issues that arose during the process. The site is now vacant, the home that was on the land has been removed. There is a great stand of large, native trees; and their design preserves many of those while utilizing the open space. In the spring before the frost leaves some water is retained in the southeast corner; there is no evidence of surface water that flows to the lake. A geotechnical report was done for the site and they have designed their buildings accordingly with proper soil preparation. At the lakeshore they will be allowed to minimally clean up the treed area (removal of dead branches, etc.), but no large improvements are planned at the lakeshore, keeping it as natural as possible. An engineered stormwater system, designed by TD & H, will manage stormwater according to Whitefish Regulations. WR-3 Zoning allows up to 11 units on this property and they are only requesting 6. The two properties to the north have the same zoning, but the properties to the south are zoned for single family dwellings. He spoke to the bonus space explaining it was a space for flexible use and it is helpful to be allowed to install ½ baths. They'd like to request permission to install a full bath and a kitchen/kitchenette area – with a sink and refrigerator but no stove. Those items are all permitted in the zoning regulations so they feel they have been held to conditions more restrictive than regulations allow. The project will be overseen by a manager to insure those areas are not separately rented out, but they would like to have those added amenities. After meeting with the condo group to the south they moved the garage building and other parking areas to the north of the property which maintains the trees and a landscaped area along the south boundary; and the group had concerns about large south windows facing into their buildings so those windows were minimized. Those improvements were met favorably with that group and no other concerns have been heard from them. Councilor Hildner clarified that the project is now requesting additional plumbing in the bonus areas than what was discussed at the Planning Board; and Aaron said yes, just what the zoning allows.

Donna Emerson addressed the Council saying she is the President of the Wildwood Condo HOA, the condominium that is on the next property south of this one. She said the request for additional plumbing fixtures in the bonus areas was news and a surprise to her. When they talked to the developers earlier, kitchens were not part of the proposal; and that is one of the main concerns of her HOA. The HOA understood the original premise of the bonus areas but with kitchens added it then becomes a more livable space separate from the condos. She said upon inquiry again for more feedback from the members of their HOA; they were appreciative of the developers listening to their concerns and making adjustments to their plans that helped their concerns, but it was also there opinion that the property should just be developed with 4 units.

Koel Abell, 355 Lost Coon Trail, and is on the Lakeshore Committee, said he had some comments to the application. On packet page 449, #3 – it says there are two vacant lots to the north which isn't true. Both of those lots have homes on them and there are people living in them. He said he didn't think those lot owners were here tonight, but he has concerns about setting precedent. If more than 4 units as regulated by the zoning are allowed here tonight by a conditional use permit, opens the door for the owners of the next two lots that are zoned the same to come in with a similar request. On page 451, #6 regarding impact on adjacent properties; the response indicates the Wildwood Condos next door to the south have 16 units, then says on the other side is the Whitefish Lake Lodge, a large multi-use commercial hotel complex – so they conclude their project is not

changing or modifying the existing nature of the neighborhood. However – the applicant fails to mention that the nearest neighbors to the north are the two lots with single family homes on them. On down that same page under #8 – the application asks: How is the proposal compatible with the surrounding neighborhood and community in general in terms of structural bulk and massing, scale, context of existing neighborhood, density and community character. The applicant’s response states their project is similar to Wildwood to the South and much smaller to the Lodge to the North. Koel said his point is they keep calling out Wildwood in their application, those condos are named on several other pages of the application. Koel said Wildwood has been at the location for over 40 years, prior to when these four lots were zoned WR-3. He likened it to someone coming in for a lakeshore construction permit to build a boathouse, saying their neighbor has a boathouse – they want a boathouse. Koel said the City has put zoning in place and updated regulations over time to correct wrongs that had happened earlier. He said when this applicant compares his project to an older project next door – it isn’t apples to apples since the one next door was in place before the current zoning. In addition, in the site plans in the application, the applicant shows their project in comparison with the Wildwood Condominiums next door, but don’t show any comparisons with the single family homes on the two lots next door on the north. Koel questioned the 40% lot coverage requirement in the WR-3 Zone – is that impervious surface so that it includes paving – or what? Staff responded that it is only the building footprints. He also questioned if any of the project exceeds the 35-foot height limit. Koel called the Council’s attention to language on page 445 and the picture on 428. On page 445 the applicant calls the lakeshore in front of the project the “existing predominately gravel beach”, but as the picture on page 428 shows – there is no natural gravel on the lakeshore – it is mud. He said he grew up 50’ from this property – and the beach is mud, silt build up from Swift Creek. Lastly, Koel asked the public officials – what is the benefit the community will receive with this CUP – increased traffic on Wisconsin? Does it increase the amount of affordable housing in our community? Does a new large 6-plex increase the water quality in Monk’s Bay, a bay that is already over-trafficked and busy?

Rebecca Norton, 530 Scott Avenue, serves on the Planning Board and said she was one of the no-votes on this project, and that was mainly due to environmental issues. She spoke to both Mike Koopal and Charlotte Battin about their properties in this area and they have water backing up on their properties, so there is already drainage issues in the area. She is concerned about the amount of impervious surface with this project and not sure the trees will survive the impact. She also had concerns about the mushy beach area and how usable it would be for traffic from the condos to the dock; and she also had heard public comment that the dock had been illegally improved – without permits and she would like Staff to check those historic dock records for verification.

Marsha Sheffles, 450 Parkway Drive, said her concern is lake quality. Monk’s Bay is very shallow, and over the years there has been increased development and density. Her home is five lots south of this lot for proposed development, and encouraged the Council to only permit what the zoning allows, which is four units; and no addition of kitchenettes and bathrooms to bonus rooms because – for sure – that will become 10 units instead of 6. She said she spoke to the previous homeowner of that lot who said they consistently had mold problems while living there; so that means there is water there even though it has not been identified. She passed around a picture that she took last week of the lakeshore on the subject property (the picture has been appended to the Council packet). She said when she served on the Lakeshore Committee in the past years they would often consult the Lake Tahoe Model Regulations. She said it isn’t comparing apples and oranges, but she read from the 1989 Lake Plan. “The Lake Tahoe Study stated regional water quality and planning agencies increased their focus on human-induced erosion in Lake Tahoe as the crucial variable in the lake’s water quality trend.” And “Increasingly, Lake Tahoe was being viewed as a resource to be preserved, rather than exploited.” She said it is her feeling that this corner of their

bay is being exploited. Thirdly, from the study: “Monitoring made the impact of urbanization on water quality, in particular, very clear. Research showed that a direct positive relationship existed between increased urban land coverage and land disturbance and decreased water quality.” She said we must look to the future and consider this; density development in that bay is high and there isn’t much water in that bay right now and encouraged the Council to only allow the minimum density on the property.

Mayre Flowers, Citizen’s for a Better Flathead, 35 4<sup>th</sup> Street West in Kalispell, said the application had not been reviewed in depth but she had a few comments. She agrees with the previous comments in favor of only allowing what the zoning allows (4 units) and not permit increased density with the conditional use permit. She did not feel the Findings of Facts in the staff report provided adequate justification to allow the increased density. She did not agree that it was in compliance with the Growth Policy, and she called out a statement on page 30 in the Growth Policy: “It should be the policy of the City of Whitefish to make preservation, enhancement and management of environmental sensitive areas a priority in the development and implementation of regulations and programs, and in capital facility planning and budgeting.....It is a policy of the City that no development or construction along rivers, lakes, streams and adjacent banks shall be allowed to – among other things – create a visual impact discordant with the predominant natural scenic values.” She said there is more, but she said by saying this is appropriate by compliance with high density residential ignores important water quality and environmental consideration. She disagreed with the statement of compliance with Residential Density in the Staff Reports 2<sup>nd</sup> Finding, and again where density was address in Finding 7. She also had concerns about building height issues after fill. She felt the findings did not give the information needed for Council’s consideration of the application. Regarding the Planning Boards added language to Condition #11, metal should have been included. She suggested alternate language according to current City Collection Services.

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

Council followed with discussion among themselves and staff on issues regarding bonus space, accessory uses, total number of units being proposed, and the additional request to add kitchenettes and full bathrooms, what and if plumbing implies living space, condition of beach and lakeshore and existing dock, neighborhood density, building height, the site may not be suitable for this dense of development and the impact to the critical area might not be able to be mitigated, which is against Finding 3.

**Councilor Frandsen made a motion, second by Councilor Feury, to deny the request for a Conditional Use Permit to construct 6 condo units at 1340 Wisconsin Avenue. The motion passed unanimously.**

## **8) COMMUNICATIONS FROM FIRE CHIEF**

### **a) Consideration of approving a contract for self-contained breathing apparatus (SCBA) for the Fire Department (p. 474) (CD 3:02:06)**

Fire Chief Page’s report said the Fire Department opened bids on September 28<sup>th</sup>, and is recommending the City Council award the contract to Municipal Emergency Services, Inc. (MES) in the amount of \$233,455.00 for 32 SCBA units. The new equipment replaces 12 and 15 year old units that are at least two revisions out of specification and starting to reach their end of life cycle. Funding for this purchase is in the FY16 Budget at \$275,000, funded by a 5-year Intercap Loan.

In clarification of a question from Council, Chief Page said all new SCBA is built according to specifications that are standard for Fire Departments, so all will be able to refill equipment. Those in this area that have not yet acquired the updated equipment have plans to move forward as Whitefish is doing. Life Cycle is 10 to 12 years – 15 years is when they go out of use.

**Councilor Hildner made a motion, second by Councilor Feury, to approve the contract as described by Chief Page. The motion passed unanimously.**

**9) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**

- a) Resolution No. 15-45; A Resolution authorizing the City transfer of 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. 478) (CD 3:05:55)**

Public Works Director Workman said the Council saw this a couple meetings ago and had directed staff to proceed with the documents, starting with this resolution tonight. The resolution authorizes the execution of the agreement, easements and deeds with the Hagggs to accomplish a land transfer of equal square-feet (equal shares) of land, giving the City and contractors additional working and staging area at the site of the Skye Park Bridge and adjacent Birch Point Lift Station, and additional room for the City's Public Works Department for ongoing maintenance. Director Workman said the Public Works Department is requesting Council approve the attached resolution so the land transactions can move forward.

**Councilor Feury made a motion, second by Councilor Frandsen, to approve Resolution 15-45. The motion passed unanimously.**

**10) COMMUNICATIONS FROM CITY MANAGER (CD 3:08:22)**

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 494)**

Mayor Muhlfeld congratulated Fire Chief Page on his appointment to Fire Chief. Chief Page has served as Interim Fire Chief for the past year and Manager Stearns gave notice of the change in his Manager's Report. Mayor Muhlfeld welcomed him in his new status.

- b) Other items arising between September 30<sup>th</sup> and October 5<sup>th</sup> – None.**

- c) Consideration of approving Impact Fee annual report for FY 15 (p. 502)**

Finance Director Smith said this Annual Impact Fee Report is presented annually to the City Council as required by the City Code. The Impact Fee Advisory Committee has not reviewed this report; the Committee cannot meet for lack of a quorum. The vacancies on the Committee have been advertised, but no applications have been received to fill the vacancies. The report has two sections – the non-Enterprise Funds (Paved Trails, Park Maintenance Building, Emergency Services Center, City Hall and Stormwater), and the Enterprise Funds (Water and Wastewater). The Cash Balance (as of June 30, 2015) for the non-Enterprises Funds is \$400,304; and in the Enterprise Funds: Cash Balance for Water is \$768,640 and Wastewater is \$473,940. On both sections of the report the revenue trend is going up which is consistent with increased local construction activity. Besides new construction, Water and Wastewater Impact Fees are collected when customers add additional fixtures/connections to established accounts.

The report includes expenditures and the table included in the report is a record of expenditures from FY08-FY15. Impact fees may be spent for public improvements including, but not limited to, planning, land acquisition, right of way acquisition, site improvement, necessary off-site improvements, construction, engineering, architectural, permitting, financing, administrative expenses, applicable impact fees or mitigation costs, and any other expenses which can be capitalized. Impact fees cannot be used on operation or maintenance costs. She noted the Expenditure Table on page 504 shows expenditures in FY15 for Paved Trails, Park Maintenance Building, Emergency Services Center and City Hall. She said City Hall Impact Fees have been being collected over time preparing for the new city hall and parking structure and those were transferred at the end of FY15 to help the new construction start. She also called attention to the expenditure of Water Impact Fees (\$3,333); all of the previously collected Plant Investment Fees have been used so expenditures will start coming out of Impact Fees. The Wastewater Impact Fee Expenditure of \$295,715 was used to pay costs of the infrastructure on the Hwy 93 W improvement project. FY16 Budget includes expenditures from Paved Trails Impact Trees on the Path Stairways and Skye Park Bridge. Director Smith said she will answer any questions and asked the Council to review and accept the annual report on impact fees.

**Councilor Hildner made a motion, second by Councilor Fitzgerald, to accept the Annual Impact Fee Report for FY15. The motion passed unanimously.**

**11) COMMUNICATION FROM MAYOR AND CITY COUNCILORS (CD 3:14)**

- a) Consideration of a letter from Kevin Slaybaugh, President of the Glacier Twins Board of Directors requesting a waiver or reimbursement for the base charges for water, wastewater, and garbage fees during the winger (p. 507)**

Discussion. Parks and Recreation Director said their lease does run continually through the year, including the time they do not use the facility. Manager Stearns explained that a number of years ago the Council adopted the policy of a year-round base fee for utilities based on the need to support the infrastructure year-round. Prior to that change the Public Works Department saw numerous calls for turn-offs/turn-ons for utility services if customers were leaving for a time – sometimes even for two weeks. He said if Council started granting waivers, they will receive many more similar requests. In this case, the Glacier Twins Board of Directors receive the full proceeds of the cell-tower lease on that property, that the Council granted to them to help with their maintenance costs; which could be seen as monies for them to cover their utility costs. The Mayor said if there was no action tonight it could be acted on at another meeting.

- b) Resolution No. \_\_\_; A Resolution supporting Mayor Muhlfeld's September 19, 2015 letter to the Flathead County Commissioners and requesting that Flathead County maintain the current 200-foot streamside setback for lands located upstream of the municipal water supply intake on Second Creek in Haskill Basin (p. 508)**

Mayor Muhlfeld reiterated, as he said earlier tonight during the Public Comment section of the meeting; that it is his intention to meet with all three County Commissioners to see if there can be a cooperative and mutual agreement on how to best handle the setbacks on 2<sup>nd</sup> Creek above the municipal water supply. He noted, for the record, that the 200-ft streamside setback is not a new regulation, but a request to the County to honor a setback that had been in place for over eight years since adoption of our current Water Quality Ordinance. He asked the Council to table this resolution until further notice.

**Councilor Hildner made a motion, second by Councilor Frandsen, to table the proposed resolution in support of the Mayor's September 19, 2015 letter to the Flathead County Commissioners; giving Mayor Muhlfeld latitude to explore ways to work with the County. Then if ever a time comes for the need to bring this back at any time it would require agreement from four Councilors. The motion passed unanimously.**

**c) Consideration of a motion to reaffirm the City Council's approval of two Mayor letters from the September 21<sup>st</sup> City Council meeting (p. 510)**

Mayor Muhlfeld said the letters were (1) the letter to the Flathead County Commissioners regarding Stream Setbacks for Second Creek in Haskill Basin, and (2) letter to the Montana Fish, Wildlife & Parks in support of their project in conjunction with the Trust for Public Land on 15,344 acres north of Whitefish Lake.

**Councilor Feury made a motion, second by Councilor Frandsen, in support of the two Mayor letters from the September 21<sup>st</sup> City Council meeting. The motion passed unanimously.**

**d) Consideration of cancelling the 2<sup>nd</sup> City Council meeting on December 21<sup>st</sup>.**

**Councilor Hildner made a motion, second by Councilor Sweeney, to cancel the 2<sup>nd</sup> Council Meeting in December, unless one is necessary. The motion passed unanimously.**

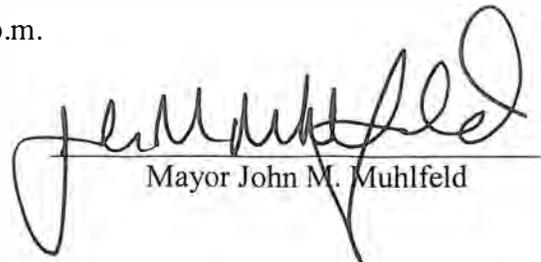
COUNCIL COMMENTS

**Councilor Fitzgerald made a motion, second by Councilor Sweeney, directing staff to review and bring a recommendation back to Council regarding a new required standard in the Subdivision Code for new development to provide recycling bins. The motion passed unanimously.**

Councilor Feury congratulated the Chamber of Commerce on another successful Octoberfest. He said it was very busy this year and hoped they did well. He noted to Chief Dial that on Wisconsin, since the upgrade the State just completed with nice pavement out on wider shoulders, people are using the shoulder to pass vehicles on the right that are waiting to turn left; and those passing on the right are getting very close to the edge of, and nearly on, the pedestrian/bicycle path. He asked if Officers witnessed any driver doing it, that the Officer stop to talk to the driver; it could be dangerous for the pedestrian or the bicyclist.

**12) ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)  
(CD 3:26:33)

Mayor Muhlfeld adjourned the meeting at 10:50 p.m.

  
\_\_\_\_\_  
Mayor John M. Muhlfeld

Attest:

  
\_\_\_\_\_  
Necile Lorang, Whitefish City Clerk

Please return to Necile

**PUBLIC HEARINGS**  
**PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 10/5/15**

PLEASE PRINT NAME and ADDRESS

Iron Horse HOA – Requesting  
Modification & Relocation  
of Guardhouse to a Welcome Center

Application for CUP\* - Hertlein  
Accessory Apt/265 Texas Ave.

Application for CUP\* – Pohlman  
Mixed use 3-plex/50 W. 2<sup>nd</sup> St.

Application for CUP\*- Lakeshore  
Group LLC - 6 Condos/2 Bldgs  
1340 Wisconsin Avenue

	Iron Horse HOA – Requesting Modification & Relocation of Guardhouse to a Welcome Center	Application for CUP* - Hertlein Accessory Apt/265 Texas Ave.	Application for CUP* – Pohlman Mixed use 3-plex/50 W. 2 <sup>nd</sup> St.	Application for CUP*- Lakeshore Group LLC - 6 Condos/2 Bldgs 1340 Wisconsin Avenue
1. Andy Mosher	✓			
2. Paul McKenzie	General Public Comment.			
3. Rebecca Norton	✓ ?			✓
4. Jason Pohlman			✓	
5. Koel Abell				✓
6. Scott Elden	Montana Creative			
7. <del>Donna Emerson</del>				TE
8. Dan Graves	✓			
10. Aaron Wallace				✓
11. DONNA EMERSON / WOODWOOD				✓
12. Mireia Steffens				✓
13. MARY FLOWERS				
14.				
15.				
16.				

\*CUP = Conditional Use Permit