

## WHITEFISH CITY COUNCIL

October 19, 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 and Planner Compton-Ring. Approximately 25 people were in the audience.

### 2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Nick Polumbus to lead the audience in the Pledge of Allegiance.

### 3) PRESENTATION

**a) Proclamation – Extra Mile day and recognition of Whitefish people or organizations that have gone the “extra mile”. (pg 56)**

Mayor Muhlfeld read the Proclamation declaring November 1, 2015 and recognizing Pat Jarvi and Jim and Lisa Stack for their personal efforts, volunteerism and service to the community.

### 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)

Mayre Flowers, Citizens for a Better Flathead (CBF) 35 4<sup>th</sup> Street West in Kalispell, said she had recently been on the River Trail and said it was so nice; she thanked all those who have worked on the trails – they are great. She addressed the proposal of the central recycling center (Agenda #9a) and said she recommends that cardboard recycling be set up and signed to be consistent with county-wide recycling. She spoke to her input she gave during public comment at the October 5, 2015 Council Meeting regarding Planning Board meetings on the implementation of Hwy 93W Corridor transitional zoning and asked that there be proper public notice and ample time for public review and public comment.

Heidi Van Everen, 4 Pine Place, and is the Executive Director of Whitefish Legacy Partners, thanked the Council and Mayor Muhlfeld for Proclaiming November 1<sup>st</sup> the Extra Mile Day for thanking and recognizing volunteers.

### 5) COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner said he was the Council’s representative at a session on accessibility hosted by the Summit Independent Living Center; also attending were Sherri Baccaro, Chuck Stearns and Craig Workman from the City. The discussion was around improving access for those with disabilities.

Rebecca Norton, 530 Scott Avenue, serves on the Local Government Review Commission, (Commission) and spoke again in support of a new position for an Ombudsperson proposed to be created that is on the ballot in this year’s election. It is one of the Commission’s proposed amendments

to the City Charter. She said Turner Askew, from the Commission, wrote a letter of support of the amendment to the paper and three letters were in the paper in opposition of the amendment. Those were from Chuck Stearns, Bill Dial and his wife, and Richard Hildner. She spoke to Councilor Hildner about his opposition and he said a charter amendment can't be reviewed again for another ten years and he felt that was a long time for an experiment. She said the Commission proposed the amendment because some of the public gave them the input that they didn't feel they had direct access to city officials. She said the Ombudsperson would be a citizen's advocate and would provide impartial and confidential services. She discussed the City's Ethics Policy and said a committee she worked on proposed changes to a previous Council, but no changes were made. She said the Ombudsperson position is common in the country however there aren't many in Montana; she spoke to the one in Helena who has the position at the state level. The Commission proposed the amendment as a solution to problems that some in the community felt existed; and she asked for voter's support.

Mayor Muhlfeld reported that he along with City Manager Stearns and City Attorney Jacobs met in Helena with the Fish, Wildlife & Parks, TPL and Stoltze to discuss the Haskill Basin Easement Agreement. He felt all the parties are in agreement of the terms and the draft easement and the Multiple Resources Management Plan will be reviewed and discussed at the Council's work session on November 2<sup>nd</sup>. Work sessions are open to the public. Mayor Muhlfeld reported that the Whitefish Lake Institute (WLI) is currently doing the Lion Mountain PER, sponsored by a DNRC Grant that the WLI and City cooperatively applied for addressing leachate issues. Carver Engineering was selected for the work. WLI is continuing their work on the Water Resources Report (status of the Whitefish Lake watershed and surrounding area) another project sponsored by a DNRC Grant; another partnership between the City and the WLI. The report will include compilation of decades of Whitefish Lake data as well as completed and ongoing water improvement projects. Following up on the Affordable Housing Summit, the Mayor reported he contacted Chamber of Commerce Director Kevin Gartland and the task force is being formed. The City will be participating in the project and knows that so far he, and Councilors Frandsen and Hildner will serve on that task force along with the Chamber and other business organizations. They will keep the Council updated as that project progresses.

- 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 October 5, 2015 City Council special meeting (p. 63)**
  - b) **Minutes from the October 5, 2015 City Council regular session (p. 24)**
  - c) **Resolution No. 15-46; A Resolution approving the Iron Horse Homeowners' Association's request to modify the entrance to the Iron Horse Subdivision subject to three conditions (p. 83)**

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

- 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 93 LLC to extend the preliminary plat for the 93 LLC subdivision on Hwy 93 North until November 1, 2017 (WPP 10-20/WPUD 10-21) (p.87) (CD 19:14)**

Senior Planner Compton-Ring reported on the request for a 24-month extension of a preliminary plat. The preliminary plat for 26 lots; 22 single family dwelling lots and 30 condominiums

on 4 lots) fronts on Highway 93 West of town, just past the golf course. The project got original approval in 2007, an amended preliminary plat decreasing density was approved in 2010 and in November 2013 the Council granted a 24-month extension until November 1, 2015. This is the area along the recent highway improvement project and the developer has worked with the state on access into their development. Staff review has found the preliminary plat, as amended in 2010, complies with the current Water Quality Protection regulations; and as the amendment in 2010 reduced the overall density of the project there are no requirements for cash in lieu of affordable housing. Now that the state highway project along the front of this project is nearly complete, the developer is ready to move forward to secure all necessary permits to move forward to final plat; and thereby showing continued good faith in working toward final plat which Staff found to be compliant with code and recommends approval of granting the additional extension. Upon public notice of this request by the developer, no public comment has been received. The Staff report includes four Findings of Fact to support the recommendation for approval. Planner Compton Ring noted typos in the staff report – the project is on a total of 23.16 acres, located on the south side of Hwy 93 W to the west of State Park Road (not Big Mountain Road), and “Staff recommends the Council approve the request to extend the 93 llc preliminary plat. . .”.

Mayor Muhlfeld opened the public hearing.

The developer, Reto Barrington, who lives in British Columbia, Canada, addressed the Council. He said he didn't have anything to add to Planner Compton-Ring's staff report but is here to address anything, if necessary, that comes forward during the public hearing.

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

**Councilor Feury made a motion, second by Councilor Barberis, to approve the request to extend the 93llc Preliminary Plat for 24 months, to expire November 1, 2017. Councilor Barberis said her second includes the correction of the typographical errors in the staff report. The motion passed unanimously.**

## **8) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR**

### **a) Update on Ice Den Management Agreement negotiations (p. 103) (CD 24.52)**

Parks and Recreation Director Butts said her memo in the packet includes a detailed explanation of the ongoing negotiations with the Whitefish Sports Facility Foundation (WSFF) for their management for operations of the Stumptown Ice Den. Negotiations are nearly complete and ready to present to the Park Board for their approval at the November 10, 2015 meeting. She said as the Council will see in the report, current negotiations are for a five-year term with a 6 month probationary period. In addition, WSFF is interested in the purchase and installation of the Programmable Logic Controller, the estimated cost was around \$30,000, but now the quote for purchase and installation of the unit ranges from \$50,000 - \$64,050. Therefore, staff has recommended that WSFF fundraise for this equipment and Council will see a communication from them a little later on tonight's agenda. Councilor Sweeney, Councilor Representative on the Park Board, said the WSFF is anxious to get on board; and he was in support of the change to a five-year term for the agreement and said that should benefit the City as well.

**9) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**

- a) Consideration of approving proposal for a central recycling center on the northwest corner of the snow storage lot at Columbia Avenue and Railway Street (p. 106)**  
(CD 20:09)

Public Works Director Workman said a diagram of the recycling site is on page 108 in the packet. Director Workman said this proposal for centralized recycling is based on information gathered from the Council during their work session on this item held September 8, 2015. The satellite facilities will be phased out, with plenty of notice given on those sites directing users to the centralized site. One cardboard recycling facility may be kept open in an alley near City Hall, currently operating on a test basis. The centralized site is at the northwest corner of a city lot; accessed by Columbia Avenue, and should provide good access for both those dropping off and picking up recycled products. Preliminary site preparation and setup of recycling containers will be done this fall; and if all goes well over the winter and seems to work well for the city residents; Public Works will come to the Council next spring for final approval. Upon final approval, final improvements will take place including asphalt and/or concrete paving, permanent fencing and landscaping.

Council had some questions and discussion; and temporary fencing was discussed for the south and east side of the site during this preliminary stage. Roger Bridgeford from North Valley Refuse answered some questions for the Council as well. He said this new proposal includes larger recycling bins that should prevent the overflow that is seen over the weekends at the other sites; and Monday through Friday he has a crew that cleans up around recycling sites. Cardboard recycling will be consistent with county-wide recycling. City Manager Stearns said he had sent notice of this proposal and tonight's agenda to a resident in this neighborhood that is always concerned about the City's use of this property. The resident acknowledged the receipt of the notice but did not raise any protest. Councilor Hildner said he would like the Council to consider starting to require that projects of four or more units are required to provide onsite recycling consistent with City Standards.

**Councilor Hildner made a motion, second by Councilor Fitzgerald, for approval of the Public Works Department to perform the first phase of work to create the centralized recycling site, as described in the staff report in the packet. The motion passed unanimously.**

**10) COMMUNICATIONS FROM CITY MANAGER (CD 44:50)**

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 110)**  
**b) Other items arising between October 14<sup>th</sup> and October 19<sup>th</sup>**

Manager Stearns said the letter he wrote in opposition to the charter amendment creating an Ombudsperson position he wrote as a taxpayer, not as a city employee. He wrote the letter at home on his own computer, he signed it as a resident, and gave his home address.

- c) Resolution No. 15-47; A Resolution approving an Interlocal Agreement for temporary commercial building plan reviews and possible building inspections with the City of Kalispell (p. 120)**

Manager Stearns gave his report from the written report on packet page 130. This provision for services outside of City Staff is necessary because of a temporary shortage of staff due to medical leaves in our Building Department. Currently two of our building officials are out of the office, one for a shorter term medical leave and one for a longer duration. The City of Kalispell has indicated that their building officials can give us assistance in our time of need, to perform commercial building plan review services; we have two large projects started – a hotel and the City Hall/Parking Structure. And

we know of at least a couple more projects coming along soon. The agreement also provides that Kalispell officials will assist with building inspections if our current staff still in office gets overloaded, for inspections both in Whitefish and our obligations in Columbia Falls for inspections under the terms of a current agreement with Columbia Falls. Kalispell and Whitefish management and the City Attorney's from both cities have reviewed and agree on the terms of the contract including the financial terms that are according to industry standards in the International Building Code. Plan review fees for commercial projects is 65% of the building permit fee; and this agreement provides that the City of Whitefish will retain 15% of that 65%; and the remainder will go to the City of Kalispell for their services. In the past, when it was necessary, Building Official Bench has contracted out with a couple other Plan Review Companies out of state; but Manager Stearns said he was glad that Kalispell has agreed to perform these services to keep the business locally.

**Councilor Frandsen, made a motion, second by Councilor Fitzgerald, to approve Resolution 15-47; Approving an Interlocal Agreement for temporary commercial building plan reviews and possible building inspection with the City of Kalispell. The motion passed unanimously.**

**d) First review of a Water System and Road Access Easement from the F.H. Stoltze Land and Lumber Company for perpetual access and easements for water lines, water intakes, and related appurtenances. (p.134) (52:18)**

Manager Stearns said for over 100 years the City has a handshake agreement with F.H. Stoltze (Stoltze) for access easements to the City's water sources on their lands. The goal of the final documents will provide the necessary easements for the City's waterlines and road access to maintain the water system intakes, headgates, and waterlines in Haskill Basin. Talks about these documents have been ongoing between the City and Stoltze for about the last five years. These documents will go hand in hand with the Haskill Basin Conservation Easement and the Multi-Resource Management Plan (MRMP) that are forthcoming that Mayor Muhlfeld discussed earlier in the meeting under public comments. The staff report with the attached exhibits explain that there will be an exchange of two City parcels (one 2-acre parcel and one .569-acre parcel) that are isolated in Haskill Basin but not on water intake lands; for three Stoltze parcels that are the actual water intake sites. In addition to that land exchange the City will gain the following:

- a perpetual easement on three, one acre parcels of lands on the actual physical location of the headgates and screens for the intakes at First, Second, and Third (three acres of land)
- a perpetual easement on a 40 foot swath of land along our entire system of waterline in the Stoltze lands in Haskill Basin which equals 7.69 acres of land
- a perpetual easement on a 30 foot swath of land along the entire roads which Stoltze owns in the 3,020 acres of Haskill Basin land and that is subject to the future Conservation Easement and which equals 30.99 acres of land

Manager Stearns pointed out the 3 parcels that will be transferred as well as the easements are diagrammed in the Council Packet on pages 161 – 166; and described where each of these were in the easement document that starts on page 152 in the packet. He said the Public Works Department have been onsite and reviewed these parcels and easements to assure they will be sufficient for access and maintenance of our waterlines, from our water intakes down to our water treatment plant; at first under the direction of former Public Works Director Wilson then with the assistance of Supervisor Greg Acton who has been overseeing the process since Director Wilson left. Manager Stearns noted that at the top of page 155 in the packet, the agreement includes provisions for the city to pay part of the cost

of maintaining the easements; no costs are identified within this document – those costs will be determined annually as needed. Provisions for insurance start on page 156 in the packet, and the provisions therein are in concordance with the City’s Insurance coverage. Indemnification provisions are on packet page 157. He noted that this document provides City access to the City’s water system, not public use. Public Use will be covered by the subsequent documents; the Conservation Easement and MRMP; however this document in paragraph #27 does acknowledge the existence of the Conservation Easement.

Some of the Council had some questions that were answered by staff. Mayor Muhlfeld said that along with the Conservation Easement there is a separate Trails Corridor Easement that is currently being worked on by Legacy Partners, Stoltze, Iron Horse and Winter Sports Inc., that is planned for final agreement after the first of next year. And, if final agreement isn’t reached; at least provisions for those documents will be in place for the City.

Manager Stearns said this is the Council’s first review, and if anyone should see any red flags or have any questions to please call him; because the next time it comes to Council will be for approval, unless something is brought forward for more discussion.

#### **11) COMMUNICATION FROM MAYOR AND CITY COUNCILORS (CD 1:16:34)**

##### **a) Email from Whitefish Sports Facility Foundation requesting Tax Increment Funding assistance for 50% of the Ice Den Management/Alarm System (p. 168)**

Mayor Muhlfeld said this request from Whitefish Sports Facility Foundation (WSFF) is for \$27,625 City of Whitefish TIF funds to facilitate the purchase and installation of a Programmable Logic Controller (PLC); and asked Director Butts for details on the portion that WSFF says they can provide within 6 months of this agreement. Director Butts said there is at least an 8-week lead time between ordering the system and having it delivered and installed; and it is WSFF’s request that the City fronts the full price of the order and WSFF will pay back their 50% that they will fundraise for, within 6 months. Finance Director Smith said our City Attorney advised that could be added to the current management agreement so that it is binding; but in the meantime she feels the Park Fund could pay for 1/2 the purchase but deferred to Manager Stearns. Manager Stearns said TIF could pay the full purchase then be reimbursed by WSFF for half; and TIF funds can be used for this purchase under Public Facilities – it has an economic development aspect because the facility does bring people to Whitefish. It could also be considered infrastructure. More discussion followed between Council and Staff regarding funding sources; along with discussions regarding the benefits of this new system.

**Councilor Fitzgerald made a motion, second by Councilor Frandsen, to approve the City fronting the full purchase price of a PLC for the Ice Rink from TIF Funds, 50% of which will be reimbursed by WSFF within 6 months of purchase; and to include this purchase and reimbursement as a provision of the management agreement with WSFF.** Prior to a vote on the motion, Councilors Sweeney and Fitzgerald and the Mayor discussed funding options and the proportionate share of the purchase. **The motion passed on a vote of five ayes to one no, Councilor Barberis voting in opposition.**

#### **COUNCIL COMMENTS:**

Councilor Fitzgerald asked Director Workman if he had looked into more details regarding the request from Glacier Twins for off-season relief on their water bill. Director Workman said he had

done some research and is working with Glacier Twins; they have a 1 1/2" meter in their concession stand. Based on their fixture count they could replace it with just a 1" meter and it would reduce their base rate by about \$120/month. So the Department is working with Glacier Twins in an effort to give them the most economical base rate. The other component of the utility bill is the refuse charge based on the containers they have onsite, and those may be able to be reduced for a better rate. She thanked Director Workman for working with that customer.

Councilor Fitzgerald also reported the new playground equipment was installed and ready for use; and was met with enthusiasm by at least 20 or 30 kids right after school the first day it could be used. It is a great amenity for that side of town; she thanked the Parks and Recreation Department for that smart investment.

Councilor Hildner responded to Rebecca Norton's public comment regarding his published letter to the Editor with his views on a proposed change in the Charter. He said he was not responding as a City Councilor, but was responding as a candidate for re-election. He did not say it was too drastic for a 10-year experiment, what he said was that if voters approved the Ombudsperson, it would be 10 years before the next Government Study Commission could review the issue.

Mayor Muhlfeld said some months ago Manager Stearns and Planning Director Taylor and Planner Compton-Ring were involved in discussions with BNSF regarding a potential new cell tower on the BN right-of-way near Texas Avenue. At that time City Staff conveyed their concerns to BNSF over that location because of its proximity to our historic Depot Building and its impact on the Whitefish viewshed which is part of the review that the City does for all cell towers. Subsequently, BNSF did turn down the request for that new cell tower; but BNSF contacted the Mayor this morning that they are preparing to issue a temporary permit to Team Mobile for a mobile communications tower (it is on wheels). The Mayor invited Matt Jones (BNSF) to attend a Council meeting to update them on this project. Director Taylor said he has a scheduled meeting with a Team Mobile representative and they are going to look together at some possible tower sites around town for a permanent site. The Mayor said he would pass that along to Matt.

**12) ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)  
(CD 1:43:13)

Mayor Muhlfeld adjourned the meeting at 8:55 p.m.



Mayor Muhlfeld

Attest:



Necile Lorang, Whitefish City Clerk

Please return to Necile

**PUBLIC HEARINGS**

**PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 10/19/15**

**PLEASE PRINT NAME and ADDRESS**

Request to extend the preliminary plat for the 93 LLC Subdivision (Hwy 93 North)

1. Roger Bridgford / North Valley Reserp

2. ~~Bob & Jepsen 350 Grouse Ridge Dr~~

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\*CUP = Conditional Use Permit