

WHITEFISH CITY COUNCIL
DECEMBER 7, 2015
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Frandsen, and Sweeney. Councilor Fitzgerald was absent. 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, Fire Marshal Kennelly, Senior Planner Compton Ring, Planner II Minnich, and Assistant City Clerk Woodbeck. Approximately 60 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Chris Schustrom to lead the audience in the Pledge of Allegiance.

3) PRESENTATIONS

a) Proclamation – Arbor Day 2016 (p. 58)

Mayor Muhlfeld read the Proclamation declaring Friday, April 29, 2016 as Arbor Day and encouraged citizens to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in our 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)

Ed Lieser, 1355 Lion Mountain Drive, said he is a member of the Fire Service Area Board and he spoke in support of the Agreement that is Agenda Item 8c. The proposed 5-year Agreement follows several months of negotiations and represents benefits to both residents inside the City Limits and residents outside the City Limits in the Rural Fire Service Area. Negotiations were serious, intense, and productive to come up with an Agreement that serves and benefits all parties. He said he would stay and be available during Council's consideration of this item to answer any questions. He thanked the Council for their time.

Heidi Van Everen, 4 Pine Place, had comments regarding the Haskill Basin Conservation Easement that the Council will be considering over the next few months including a public hearing on January 19th. She thanked the City for their support and participation in conservation and recreation within the community. The Whitefish Trail and Spencer Mountain Recreation Area have been successful projects the City has partnered in; successful because of the hard work towards finding solutions through the cooperation of the City, the community, and the DNRC. The Haskill Basin Conservation Easement will need the City and its partners to again seek creative solutions. She is concerned that the Department of Fish, Wildlife and Parks (FWP) will not be the responsible agency supporting the public's right of access to these lands; which they make clear in a published notice on November 25th stating they are responsible for the fish, the wildlife, and the general conservation values of the area. She encouraged the City to support community recreation interests actively now instead of waiting for the January 19th public hearing. She said there are some

perceived conflicting issues within the community that need to be addressed before that date. She said the project is important to the community, the economy, and this wonderful place, and she thanked the Council.

Noah Bodman, 269 Hare Trail, a board member of Flathead Fat Tires (FFT), a local mountain bike advocacy group; said his comments will be toward the Haskill Basin Conservation Easement which both he personally and the FFT support. The Easement will be protection for this land next to the City. He said there are some issues in the recreation component of the Easement and he said he has spoken regarding these issues in various public forums. To clarify, their group is not asking for specific authorization of trails, nor do they condone illegal trail-building activity that previously occurred. But, moving forward, they are hoping for solutions for continued recreation on the lands. The public has enjoyed recreation on these lands in the past, and they anticipate the continued and increased use; and thanks to Stoltze for allowing the public to recreate on their land. All indications are that Stoltze will continue to be accommodating and a good neighbor. Bodman said the Easement, as now drafted, does not provide a foundation addressing that continued and increased recreational use or related management issues. He said those issues should be reviewed and addressed before the January 19th public hearing; solutions would minimize future conflicts and benefit all parties. He thanked the Council for their consideration.

Vik Keuylian, PO Box 5270 in Whitefish, said he is the project manager for The Mix in Whitefish. He requested reconsideration of a denial of a zone change for their properties on Baker Avenue that the Council did not approve at their last meeting. He showed maps of the land and said they purchased the lots of 1830 through 1848 Baker Avenue in 2014 for their offices. At that time the former Master Plumbing building was posted for lease. Their plan was to put in a mechanic's shop but received many requests for retail space, arts studio and office space so they decided against a mechanic's shop. After reconsidering possibilities, they decided to 'build to suit' to insure success. They have tenants and buyers for all three buildings and a buyer for a hotel; one who owns several other boutique hotels. As designed, this project should provide 65 new jobs and bring in over \$7M to the economy including thousands of dollars in permits and hookup fees; with continued revenue generated over time. They heard requests for low-income housing but after meeting with the SBA and local banks they feel sure they can provide low-cost opportunities for relocation of small local businesses, including space for industrial uses. They did not receive any complaints from adjacent land owners regarding the hotel or a restaurant. They engaged the opinion from outside law firms who disagree with the merit of CBF comments; and Mr. Keuylian said he like to know the City Attorney's opinion. He pointed out that, according to the CBF website, none of their board members reside in the City of Whitefish. He said his group does; the applicant he represents owns at least 15 other properties in Whitefish including four homes. He asked for a reconsideration to place the item back on a January or February agenda giving time for them to work with Council and Staff for a better understanding of their project. In addition, he showed a drawing of their planned improvements for the Moore Cabinet building in comparison to a picture of the building as it stands currently; he said it would better the community. He said he has the support of local businesses for this project, and hoped the Council would consider his request for a reconsideration.

Mayor Muhlfeld clarified the procedure for reconsideration.

Dave Grady, 785 Northwoods Drive, said he wanted to address the Haskill Basin Conservation Easement. He said he lives right across the street from what has become, over time, the defacto access to Haskill Basin, although he knows of other accesses as well. He has been reading the comments between FWP and Stoltze and FFT regarding management of the recreation component. Historically, he said, Stoltze had a general hands-off approach, which has worked

although there are issues regarding access points he said. His concern that the trend is going forward making this more of an official recreational area and if management issues are not addressed it could lead to future problems at access points and within the Basin. He is not aware that the City's stance on the recreational aspects of the Easement has been issued; and whether or not the City will weigh in on these management issues. He thought it important information to know prior to the January 19th hearing, his concerns are as a user of the land and a neighbor to the land. He hopes that all parties can come to an agreement.

Jeff Russell, 235 W. 6th Street, is the general manager and partner in the Great Northern Pasta Company. Five years ago they started in the Railway District and in a couple years outgrew that space and moved to their current location at 235 Baker Avenue. They have been there about three years; it has worked out well for them. He and their staff both live and work in Whitefish. He said his comments will address the zoning request for The Mix project on Baker Avenue because it impacts his business. Again they are looking for a location where they can continue to grow as they are outgrowing their current location. After looking around for options in Whitefish and not finding anything affordable they increased their search to greater Flathead areas; but then met the Keuylians and learned of their proposal for a project on south Baker Avenue. This project seems to offer the opportunity for their Pasta Company to find affordable space in Whitefish to expand their business, and they have been working on development plans toward that end. However, the Council's denial of the zone change does impact their business so he also requested the Council give the project reconsideration. He showed a diagram with a brief description of their plans.

Joy Keuylian, PO Box 5270 in Whitefish, said her comments would be towards the zoning request for The Mix that was denied at the Council's last meeting; and said there were some misconceptions she would like to clarify. At the last meeting it was stated the project was adjacent to a dump; but it isn't. The property is adjacent to a former gravel pit that is undergoing reclamation at this time. She has been back on that land and there hasn't been any dumping there. She said she'd be happy to meet anybody out there if they would like to take a look. Other adjacent uses; 1840 Baker Avenue – formerly Master Plumbing, is now the Montana Shirt Company and Sweet Peaks has their production kitchen in the back of the building. Their group owned that building and recently spent over \$300,000 on a major renovation. The remodel turned out so well that the Montana Shirt Company wanted to purchase it. The Mix purposely chose this building for their first upgrade of the area to show their standards for future improvements there. For 3 years they have been working on their vision for this land; working with local business members, professionals, City Staff of several departments and the Architectural Review Committee. Their next improvement project is the remodel of the former Moore Cabinet Shop on 1820 and 1822 Baker Avenue which they can do upon approval of their zone-change request. She said it would be a great improvement over the junk-car yard that is north on Baker Avenue. They have businesses interested if the zone change is approved; the Great Northern Pasta Company and a new brewery from out of state; and the these businesses will probably look for locations in other towns if they can't relocate here. The proposed boutique hotel was the idea of another new business that would like to move into The Mix; as accommodations for their clients and guests. Planning for The Mix project has been ongoing for three years, following all steps and procedures as required. She said if the Council would reconsider this request and it does get approved this area will become a productive property with new or improved older buildings, attracting small businesses like the current occupants – The Montana Shirt Company and Sweet Peaks, it will create jobs and opportunities for Whitefish residents and attract visitors from out of town. It will be an improvement to this part of Baker Avenue and hopefully creates a domino effect for adjacent properties to take pride in ownership and upgrade as well. The improvements will be a benefit to the community and to their investment in this property. The alternative, without a zone change, is to use the property for storage yard as that is an approved use

in the current zoning. They have collected over 750 signatures over the last few day from people supporting their project as they have envisioned it. She concluded with her request of reconsideration and submitted the petition to the City Clerk for the public record. (The petition is appended to the 12-7-15 packet as After Packet Materials).

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West in Kalispell, said she was taking this opportunity to remind everyone of the two hearings to be held by the Flathead County Commissioners on December 17, 2015, at 10:30 am and 11:00 am to consider changes proposed by the Flathead County Planning Board to amend the text of the Flathead County Zoning Regulations to add new use districts to the County Zoning Regulations and to consider changes the creation of a new zoning district to be known as the Rural Whitefish Zoning District regarding lands that are generally a two-mile area around Whitefish. She said the City had already commented along with many others at the September Planning Board meeting. The Planning Board did make some changes following their September hearing, and have now submitted their recommendation to the Commissioners. The meetings on December 17th will be a new opportunity to speak on the final recommendations. Ms. Flowers distributed copies of the public notice of those meetings and maps and texts regarding the changes. She pointed out the areas in green on the maps that were currently zoned Whitefish Agricultural with a minimum 15 acres and the County is proposing to zone them down to a 10-acre minimum (SAG 10). In addition, the County is proposing to rezone the properties within the Highway 93 South Corridor that has been zoned Whitefish B-2 to a County zone that will allow more retail uses. Another area she called attention to were lands along Karrow Avenue that have historically been zoned for 10-acre and 20-acre lots may be downzoned to allow 2.5-acre and/or 5.0-acre lots. A chart is included showing changes from lot sizes between City and County zoning. Included in the information she distributed were the revised Staff Reports submitted by the County Planning Board to the County Commissioners. She suggested this information be posted on the City's website for the public's information. (The information distributed to the Council is appended to the 12-7-15 packet as After Packet Materials).

Ms. Flowers commented, as follow-up to other public comment made tonight, regarding the zoning issue at the south end of Baker Avenue; CBF's concern on the issue is the zoning tool being utilized to implement that project. CBF's position is that there are other proper zoning tools to use; CBF's position is that the tool the City proposed to use in this instance could be used elsewhere in the City and would set a precedent. She said to work with the developer but with the appropriate tools for this development. She thanked the Council.

Brad Lampson, 1022 Horseman's Way, Columbia Falls, requested, in regards to the Haskill Basin Easement, that the City works with FWP and Stoltze to include the user groups; i.e. Legacy Partners, FFT, and others, to come up with an understanding and solutions to benefit all the different recreational users groups in the area. The purpose is to secure the land for future public use.

Rhonda Fitzgerald, 412 Lupfer Avenue, had comments regarding the City Hall/Parking Structure project's budget consideration in Agenda Item 8e. She said she agrees with the Council and their intent to keep the total budget for the total project under \$14.9M, but with that in mind she thought a couple essential elements were under consideration to be cut and she thought it is premature to do so. She felt there were opportunities for funding options and costs still to be considered. For her, two essential elements are the part of the canopies on Baker Avenue from the retail space to City Hall (150 feet), and the SW Elevator. She said if all Baker Avenue has the canopy the advantages are; it makes it pedestrian friendly, grows the downtown district to the west, creates activity, and enhances the appearance of the western elevation of the building because, without it, it will look like a parking garage. And in all the public meetings over the years, the

community has said it does not want to build an ugly parking garage in the middle of our downtown. The other awnings downtown create an invitation to pedestrians and that stretch of Baker Avenue should have the awnings as well. 150 feet of canopy is \$53,000 and she hopes the Council keeps it in the project. The SW Elevator is essential to the function of the parking garage. This parking garage will serve a lot of businesses to the west of Baker Avenue and south of City Hall, and easy to get to accesses are essential to retail parkers; and for those drivers who are leasing parking spaces this will be their safe and lit access to their cars especially if they work a late shift and have to get to their cars in the dark. These are key pieces to the function of the parking garage and need to be kept in the project to make it effective for everyone. The SW Elevator is not a luxury, but necessary for the function of a retail parking structure. She thought funding options to be considered should include value engineering proposals not yet identified within the project, use the contingency, make use of unused ancillary costs already in the budget, the use of Resort Tax for sidewalks and streetscape if approved by that advisory committee, and possibly other resources. Possibly the parking leases revenue could be considered for helping the project move forward. It has been suggested that the elevator shaft will be constructed and the elevator added later but she thought that would be at an even higher expense later than at the time of construction. She said it is early in the project and felt there was time for more consideration; several things have already been cut out of this building that would have been nice to have, but these two things she has just discussed are essential. She thanked the Council.

Chris Schustrom, 504 Spokane Avenue, said he also had comments regarding Agenda item 8e, changes to the budget level for the City Hall/Parking Structure project. The Heart of Whitefish participated in the Parking SID working group and he personally met with over 65 business informing them about the parking structure project and they all confirmed their support for a retail parking structure downtown. A key element of a retail parking structure are the two elevators, one at the northeast corner off of East First Street and one at the southwest corner off Baker Avenue. He said in comparison, the cost of one elevator compared to the effective cost of loss of accessibility to the parking structure by at least half of the business district; some of those businesses who had confirmed their support may reconsider and not be in support, and reconsider whether or not to lease parking spaces in the structure. In addition, he said, to add to Rhonda's comments regarding the awnings; within the zoning regulations for downtown it encourages active retail edges that contribute to a vibrant downtown. A canopy over the entire length of the Baker Avenue elevation would be that active edge connecting the City Hall/Parking Structure to the north and south on Baker and to the west into the Railway District. If the canopy and streetscape and landscaping is deleted – that connectivity will be lost as well. Both of these elements, if cut, would be costly to the overall effectiveness of the project. He thanked the Council for the opportunity to comment.

5) COMMUNICATIONS FROM VOLUNTEER BOARDS – None.

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 November 16, 2015 City Council regular session (p. 60)

b) Resolution No. 15-52; 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 1750 and 1770 US Highway 93 West, for which the owners have petitioned for and consented to annexation (p. 69)

RESOLUTION NO. 15-52

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 1750 and 1770 US Highway 93 West, for which

the owners have petitioned for and consented to annexation.

WHEREAS, Philip Mitchell and Belinda Mitchell, have filed Petitions 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 petitions 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 and has been providing 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 Petitions 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 Petitions 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: Tract 1 and Tract 2 of Certificate of Survey No. 19517
Section 35, Township 31 North, Range 22 West
(except roads and right of ways)

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 December 7, 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 7TH DAY OF DECEMBER, 2015.

S/S John M. Muhlfield, Mayor

ATTEST:

S/S Necile Lorang, City Clerk

- c) **Resolution No. 15-53; A Resolution affirming the denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1844, and 1848 Baker Avenue (p. 88)**

- d) **Consideration of an application from Whitefish Lakefront Estates Condo Owners Association c/o Shane Roest for Whitefish Lake Lakeshore Permit (#WLP-15-W30) at 22, 24, and 26 Woodland Place for an after the fact Permit for Revegetation and Landscaping within the Lakeshore Protection Zone subject to 20 conditions (p. 91)**
- e) **Consideration of approving an application from Launching Eagle c/o Joseph Gregory for Whitefish Lake Lakeshore Permit (#WOP-15-W36) at 830 Dakota Avenue for repair of damages existing boat ramp within the Lakeshore Protection Zone subject to 17 conditions (p. 116)**

Councilor Hildner requested Item 6d. be removed from the Consent Agenda. Mayor Muhlfeld said that doesn't require a second and asked if Councilor Hildner would like to address it separately at this time.

Councilor Hildner made a motion, second by Councilor Sweeney, to amend Recommended Conditions of Approval (page 92): Condition #1 to read "This permit is valid until June 30, 2016 (instead of for a period of one year from the date of issuance.) Amend the first sentence of Condition #8 to read "Any existing or disturbed areas inside the lakeshore zone 'shall' (instead of 'may') be revegetated. Add a Condition #21 to read: "No signs are permitted within 20 feet of the high water elevation per Lakeshore Regulation §13-2-3(N), and including that the current "No Trespassing" sign currently posted in the lakeshore protection zone must be removed. Add a Condition #22 to read: "The permittee must comply with all applicable provisions of the Whitefish Water Quality Ordinance."

Staff, Planner Minnich, clarified some of the language of Councilor Hildner's amendments; and Council Hildner said the amendments were made to hold the applicant accountable for violations in the lakeshore protection zone. (A supplemental memo from Planner Minnich and pictures of the area distributed to the Council is appended to the 12-7-15 packet as After Packet Materials).

The amendments were approved unanimously.

Councilor Hildner made a motion, second by Councilor Sweeney, to approve the Consent Agenda as amended above.

Councilor Frandsen noted that during public comment there had been a request for the Council to reconsider their denial of a zone change for properties identified as 1820, 1822, 1824, 1830, 1840, 1842, 1844 and 1848 Baker Avenue, and for public clarification she stated the subject property is currently zoned WI (Industrial and Warehousing) which allows for the majority of uses proposed by the applicant, including manufacturing. Each Councilor gives hours of preparation of study and careful consideration to packet information, then attended the meeting; and following Staff's presentation and the Public Hearing, considered that application as a whole and unanimously voted for the denial of the application.

Manager Stearns clarified the numbering of the Resolutions as Resolution Nos 15-50 and 15-51 had to be preassigned to two resolutions that follow later in this agenda; the Resolutions in the Consent Agenda start with Resolution Number 15-52, followed by 15-53.

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) **Continuation of public hearing on a request by Elaine Edwards, on behalf of 1840 Baker LLC, 1822 Baker LLC & 1820 Baker LLC, for a Conditional Use Permit in order to develop a project with multiple principle structures. The property is zoned WI/WB-2-SC (Industrial/Secondary Business Districts with Special Conditions), located at 1842, 1844, 1846 & 1848 Baker Avenue (WCUP 15-14) (p. 134) (CD 56:10)**

Senior Planner Compton-Ring reported the Council voted at their November 16, 2015 to postpone their action to this meeting so staff could update the Staff Report and Findings of Fact to reflect current zoning. Staff requested an updated site plan (packet page 192) with uses removed that are not allowed in the current zoning (the applicant's original site plan as seen packet page 162 was submitted based on a pending zone change application that was denied). The Staff Report still includes the Planning Board's recommendation for approval. The revised staff report reflects the deletion of a proposed hotel and states there will be a variety of commercial and industrial uses consistent with the existent zoning. Six additional parking spaces have been added within the updated site plan. The revised staff report updates the total acres of the project to 1.74 acres and the section, township, and range have been corrected. The staff report includes information on the 2013 zone change because there were some questions about it at the last meeting, but it is not really related to this application; which is a request for a conditional use permit for multiple buildings. The zoning administrator has determined that the applicant has been proceeding diligently toward completion of the project by obtaining permits which are listed on page 145 in the packet. The traffic study is included on packet page 168. Based on these revisions and additional information, staff recommends approval of the application.

Mayor Muhlfeld opened the public hearing.

Vik Keuylian, PO Box 5270 in Whitefish, said he is the project manager for The Mix on Baker Avenue and is here tonight for this presentation instead of Eric Mulcahy from Sands Surveying who had a conflicting meeting. There is a letter from Eric included in the packet on page 201. Their revised site plan is based on comments from the Council from the November 16th meeting. He described the revised site plan (packet page 192) saying the hotel has been removed replaced by an office building, and the removal of the street parking on Baker Avenue to allow for future street and boulevard improvements; sidewalks have been discussed. Their request remains the same – is it an application for a conditional use permit to have four buildings.

Mayre Flowers, Citizens for a Better Flathead (CBF), 35 4th Street West in Kalispell, said she just distributed additional comments to her comments already included in the packet. These additional comments included 10 points but to save time she would skip over some of them. (1) CBF believes this to be an infill project, and CBF supports quality infill development; but CBF did not believe that Whitefish Zoning Regulations supported the type of zone change requested by this applicant (on November 16, 2015) and makes the conditional use request before the Council tonight problematic. CBF believes the concept of blended zoning as proposed for this development is not supported by city zoning regulations and therefore illegal. (2) CBF asks the city and developer to continue to work with zoning regulations because CBF agrees this site would benefit from redevelopment. (5) CBF listed the possible multiple principle uses allowed per the zone change that was done in 2013, they are WB-2 uses. However, CBF believes that by the Council approving Resolution 15-53 earlier tonight disallows these multiple principle uses from WB-2. (6) CBF believes that Finding 2 in the revised staff report should be removed as CBF believes it is an unsupported statement. (7) CBF believes that Finding 5 should include sidewalks as a condition of approval. (8) CBF questions if striping on the parking lot surfaces meets city standards regarding accommodating pedestrians within a multiple use project. (9) Condition of Approval #1 in the staff

report refers to a site plan dated September 1, 2015 but the revised site plan presented by the applicant tonight is dated November 30, 2015, so the revised site plan date, whatever it is, should be stated when adopted. (10) The size and boundary of the parcel is confusing and should be clarified. (A copy of the written comments from CBF that were distributed to the Council are appended to the 12-7-15 packet as After Packet Materials).

Don Spivey, 117 Park Knoll Lane, said he still cares very much about Whitefish Zoning; he has reviewed and concurs with the comments from Mayre Flowers.

Vik Keuylian, PO Box 5270 in Whitefish, spoke responding to comments of Mayre Flowers that she continually calls the project illegal. He said if it is illegal they don't want to do it and he asked if the City Attorney thought it was illegal. He disagreed with Flowers that the zoning decision of 2013, precludes the project utilizing any of the 15 or so permitted uses in the WI Zone; and said her comments confuses the public. Councilor Hildner requested that all public comment remain respectful and follow the Principles for Civil Dialogue that are printed and attached to each Council Agenda. Mr. Keuylian said he had completed his comments.

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

Councilor Hildner made a motion, second by Councilor Sweeney, to add Condition #13 to require sidewalks constructed to City Standards. The motion passed unanimously.

Mayor Muhlfeld asked City Attorney Jacobs if she had any response or concerns with comments from CBF. Attorney Jacobs said she agreed with Planner Compton-Ring that the conditional use permit is separate from the zoning application that was denied; this application is for the conditional use permit and not the underlying zoning. Clarification was asked for and it was clarified that the revised staff report contains the correct acreage of 1.74 acres (due to a recent annexation of a strip of part of the land), and that it is correctly stated as land in Section 1, Township 30N, Range 22W.

Councilor Hildner made a motion, second by Councilor Sweeney, to amend Condition #1 to change the date of the plans from September 1, 2015 to November 30, 2015 as shown specifically on page 192 in the December 7, 2015 packet. The amendment passed unanimously.

Councilor Feury made a motion, second by Councilor Frandsen, to approve WCUP 15-14 according to the amended Staff Report and Findings of Fact, subject to Conditions of Approval, as recommended by the Whitefish Planning Board, added to and amended by the Council, now thirteen (13) Conditions of Approval. The motion passed unanimously.

- b) Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements (First Reading) (WSUB 15-01) (p. 225) (CD 1:19:52)**

Planner Compton-Ring reported this is a culmination of work done by staff per Council direction in February 2015 to review how parkland dedication is handled for small urban infill projects, regarding the Cash in Lieu calculations instead of parkland dedication. Staff met several times with the Park Board for their considerations and recommendations and the Council was updated on the proposed amendments at an October work session. The Planning Board had a work session and two public hearings on these amendments; and their final recommendation of approval comes forward to the Council from the November 19, 2015 Planning Board Meeting. The proposed amendments base calculations for Cash in Lieu on the fair market value, the appraised land value as determined by the

State of Montana Department of Revenue for the most current tax year at the time of final plat submittal. A provision is proposed for agricultural or forest lands requiring the applicant submit a private appraisal to determine the fair market value. There are still concerns about equity between projects with similar density with different ownership patterns (i.e., condominiums or rental units versus townhouses). Condominiums are not required to have subdivision review. Open space requirement for those projects that do not fall under subdivision review is still on the worklist for the Planning Department. The recommendation deletes "In subdivisions that have an average lot size of ten thousand (10,000) square feet or less, the subdivider shall provide a cash or land dedication equal to .03 acres per lot." And replaces it with:

1. Eleven percent (11%) of the net acreage of the subdivision to be divided into lots one-half (1/2) acre and smaller;
2. Seven and a half percent (7.5%) of the net acreage of the subdivision to be divided into lots larger than one-half (1/2) acre and not larger than one acre in size;
3. Five percent (5%) of the combined area of the net acreage of the subdivision into lots larger than one acre and not larger than three (3) acres in size;
4. Two and a half percent (2.5%) of the net acreage of the subdivision to be divided into lots larger than three (3) acres and not larger than five (5) acres in size.

These are the standards the City used prior to the change in 2009, and these standards (as listed above) are from State Law. The standard in No. 1 above, the 11% for lots one-half (1/2) acres and smaller, is the lot-size that the majority of new subdivided lands are in town; so it treats all of those the same way. The amendments delete references to condominiums as State Law has changed. The amendments add an option for a micropark along with design standards and addresses the use of the fair market value for residential lands as determined by the State of Montana Department of Revenue or determination of the fair market value for agricultural and forest lands by private appraisal. Planner Compton-Ring described the new concept of microparks. The Park Board discourages dedication of parkland of less than one acre, unless the land is immediately adjacent to an existing or planned future park in order to allow the city to maintain the park in an efficient and cost effective way. But, if appropriate and pre-approved by the Parks and Recreation Department and Park Board, a developer can use this option to provide a small public space that can include amenities such as: street furniture (a bench, a landscaping wall for seating, a drinking fountain or a bike rack), a work of art, an information kiosk, a share library, or a S.N.O.W. bus shelter, if in a location identified as a stop or future stop. Microparks would be appropriate when adjacent to existing or planned future park or public area.

Mayor Muhlfeld opened the public hearing.

Mark Van Everen, 4 Pine Place, has a current townhome project that is shown as one of the examples on the comparison chart on page 264 in the packet. He spoke in opposition to the proposed amendments as he views them as an inadequate solution. His project has been completed and he has received his certificate of occupancy, however the indecision on the park land and open space requirements still hangs over his project. His project is an infill project. With these proposed amendments it would cost him about \$2400/door; his is a 3-unit project and the total cost would be \$7,160.00. The examples on that comparison chart show that a 4-unit project pays about \$1800/door and a 20-unit project pays about \$550/door. How can these fees be congruent with the Master Plan's policy that the City supports infill projects? These examples show that the smallest lot/project is paying the highest fees per door and the largest is paying the least. He supports using the State's market value to determine the fees but disagrees with staff's recommendation to further convert the total into a per-acre value, he didn't think that was supported by State Law. Staff's conversion to a per-acre value creates inequities. He proposed a simpler solution; charge small project development (on lots one acre

or less) a flat fee of \$500/door that is tied to an inflation index. He said that is simple, equitable, it makes sense and supports infill projects. He thanked the Council and Staff for all their hard work and time spent on seeking a solution to this dilemma.

There being no further public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration. Discussion among Council regarding options and equities followed. Zoning was discussed; lands zoned for denser development have the potential for developers to build to meet the high density and yield profits accordingly. Planner Compton-Ring reminded the Council that the standard in State Law bases calculation on the fair market value which is determined by the State; and lands across the valley are valued differently depending on their location.

Councilor Sweeney made a motion, second by Councilor Feury, to approve Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements, first reading. The vote was three (3) votes for the motion and two (2) votes against the motion (Councilors Frandsen and Barberis voted in opposition).

Manager Stearns pointed out that Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC), as noted on the agenda printed under Public Hearings. Mayor Muhlfeld agreed and said the motion to approve Ordinance 15-19 therefore failed. Councilor Hildner said the result would be to revert back to the current standard of cash or land dedication equal to 0.03 acres per lot and the Mayor agreed. Discussion followed among Council the reasoning for the votes in opposition. Councilor Frandsen explained that to her it was not equitable to ask developers of smaller lots, that are trying to do infill projects which the City does encourage, to pay a fee of 11% of the net acreage and at the same time only require 2.5% of the net acreage from developers of larger projects who are dividing properties into between 3 and 5 acre lots. Councilor Sweeney said going back to the 0.03 per lot doesn't lessen the burden so Councilor Frandsen asked if the percentages couldn't be revisited. Planner Compton-Ring said the percentages were straight out of State Law.

Councilor Frandsen made a motion, second by Councilor Barberis, to reconsider Agenda Item 7b, Ordinance 15-19. The motion to reconsider passed unanimously.

Councilor Hildner made a motion, second by Councilor Feury, to reaffirm the original motion as proposed by Councilor Sweeney, to approve Ordinance No. 15-19; An Ordinance amending Subdivision Regulations in Whitefish City Code Title 12 to amend parkland dedication requirements, first reading. The motion passed unanimously.

- c) Consideration of a request by 2nd Street Lofts LLC for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater than 7,500 square feet at 214 E. 2nd Street (WCUP 15-17) (p. 266) (CD 1:48:46)**

Planner Compton-Ring reported this request is for a conditional use permit for a three-story multiuse building that will include office/retail space and two live-work units on the first floor and thirteen (13) residential units within the 2nd and 3rd floors. The required parking is provided both by enclosed garages and carports. The frontage along E 2nd Street has already been improved to standards within the Highway 93 West improvement project; and this project includes improvement of the O'Brien Avenue frontage to standards. The project is proposed for land that is currently vacant and surrounded by both residential and commercial uses. Staff found the project to be in compliance with the Whitefish City-County Growth Policy and Zoning Regulations. The project was publically noticed

as required by law and as of this public hearing no written comments have been received. The project does require an engineered stormwater plan; which is required as part of the conditions of approval. Staff recommends approval subject to eleven (11) Conditions of Approval and she reviewed those. The Planning Board held a public hearing on November 19, 2015 to consider the application; draft minutes of that meeting are attached in the packet. During their consideration the Board had discussion regarding environmental assessments performed on the property by Applied Water Consultants; and the Board asked that report be submitted for the record. That report is included in the tonight's packet (see pages 309 – 402). Applied Water Consultants have submitted construction suggestions pursuant to their environmental study, and a summary of the construction suggestions from Applied Water Consulting LLC dated December 4, 2015 was distributed to the Council tonight. (Appended to the 12-7-15 Packet as After Packet Materials). The Planning Board has forward a recommendation of approval to the Council, subject to the eleven (11) Conditions of Approval as found in the staff report.

Mayor Muhlfeld opened the public hearing.

Bruce Boody, Landscape Architect, 301 E. 2nd Street, addressed the Council as the Site Planner for this project saying they are also working with the Consultant Roger Noble, Applied Water Consultants, and RPA Engineers. Bruce said the development team is basically in agreement with all the Findings of Facts in the Staff Report and the Conditions of Approval, and would be happy to answer any questions if there are any.

Ken Huff, Solus Architecture, 1032 Klondike Loop in Somers, spoke to the Council as the project architect. He said he agreed with Bruce that they are in agreement with all the Conditions of Approval; they will just add value to the project. Project owner Mark Panissidi is present here tonight and wants the community to know it is his intent to create something special that will be an asset to this side of town. The project includes an open patio along E. 2nd Street, an open public space designed to be open and inviting to everyone. They are here tonight if there are any questions.

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

Councilor Sweeney made a motion, second by Councilor Barberis, to approve a request by 2nd Street Lofts LLC for a Conditional Use Permit in order to develop a mixed-use multi-family project with fifteen dwelling units and a footprint greater than 7,500 square feet at 214 E. 2nd Street, WCUP 15-17, along with the Finding of Fact in the staff report and subject to eleven (11) Conditions of Approval as recommended by the Whitefish Planning Board.

Councilor Hildner made an amendment, second by Councilor Frandsen, to add Condition #12 to read: "An area for recycling for the exclusive use of the tenants of this project be integrated into the plan." The amendment was approved unanimously.

The original motion to approve WCUP 15-17 as amended, was approved unanimously.

- d) Consideration of a request by Whitefish West Ltd Partnership for an amended Preliminary Plat in order to develop five (5) duplex lots into ten (10) townhouse lots at 265 Haugen Heights Road (Maple Ridge formerly known as Timber Ridge subdivision) (WPP 14-14A) (p. 404) (CD 1:59:05)**

Planner Compton-Ring reported to the Council that this is an application to amend a preliminary plat that was previously approved on August 4, 2014 and called Timber Ridge Subdivision; a 15 lot

subdivision. It was the developer's intent to build single family homes on the west side of the road and have the lots on the east side of the road as lots for duplexes and townhouses; but none of the lots on the east side of the road were platted for townhouses. This amended preliminary plat now call Maple Ridge Subdivision only amends lots 11-15 of the original plat; making each of the lots of 11-15 now two lots, for a total of 20 lots in the amended subdivision, all accessed off of a public street. The property is zoned WR-2, (Two-Family Residential District); and the proposed amended preliminary plat complies with Zoning Regulations, the Growth Policy and local and state Subdivision Regulations. As the City Council adopted the staff report and the findings of fact in 2014, staff updated the 2014 report with the new information based on the proposed amended plat; there were not many changes. Timber Ridge Subdivision preliminary plat was approved subject to 19 Conditionals of Approval one of which required annexation of the property prior to final plat. The property is now annexed so the preliminary plat of Maple Ridge is now subject to only 18 Conditions of Approval. Work on the subdivision has moved forward; roads and infrastructure are nearly complete. The applicant is proposing to pay cash in lieu to meet the parks and open space requirement; and for this subdivision the requirement is 0.6 acres which has been approved by the Park Board. The public and adjacent landowners were notified of this proposed amendment and a sign was posted on the property, all according to the required process. Prior to the Planning Board meeting one letter was received regarding a concern this would change the character of the neighborhood and that letter is in the packet (see page 472). Following the Planning Board's public hearing they voted to adopt the staff report and findings of fact and recommend approval of the preliminary plat. Council and staff held some discussion that the road is only alley width so there is no room for on-street parking; Planner Compton-Ring said the situation can be monitored to see if there are problems.

Mayor Muhlfeld opened the public hearing. There being no public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration. Councilor Frandsen acknowledged the public comment from a concerned nearby resident but it was clarified in the Staff Report that this doesn't change the density.

Councilor Feury made a motion, second by Councilor Hildner, to approve WPP 14-04A along with the Findings of Fact in the staff report and the eighteen (18) conditions of approval as recommended by the Whitefish Planning Board. The motion was approved unanimously.

- e) **Consideration of a request from Sparrow's Nest of NW Montana for a Conditional Use Permit for a Type I Community Residential Facility to house five unaccompanied homeless high school students at 200 Colorado Avenue (WCUP 15-180 (p. 484) (2nd CD 05:10)**

Planner Compton-Ring reported the request is for use of an existing home as a residential facility to house five unaccompanied high school students with an on-site resident manager, from Sparrow's Nest of NW Montana, a nonprofit organization. No exterior modifications are proposed. The property is zoned WR-4, High Density Residential District, so the proposal is in compliance with the Zoning Regulations and the Growth Policy designation of High Density Residential. The public and adjacent landowners were notified of this application and a public notice was published in The Pilot, all according to the required process. A number of comments and letters were received and are included in the packet. Many comments were in support, and many had concerns including diminished home values, ways to measure if standards of conduct are maintained, code enforcement processes, and questions about the on-site manager and screening of the students. The application met the criteria required for consideration of a Conditional Use Permit as set out in the Zoning Regulations. Staff found the application in compliance with regulations and forwarded a recommendation of approval to the Planning Board subject to six (6) conditions of approval. Following the Planning Board's meeting with

a public hearing on this application on November 19, 2015, a record thereof is included in the packet, the Board voted to forward the recommendation of approval to the Whitefish City Council, subject to six (6) conditions of approval. Planner Compton-Ring reviewed the conditions of approval from page 486 in the packet.

Mayor Muhlfeld opened the public hearing.

Laura Kochis, has lived at 12 Willowbrook Close for 23 years, said she would start with her comments, and as there were many here tonight to support the project she would be asking them to stand to show their support instead of individually speaking. For background information, she said about three years ago the principal of Flathead High spoke to their parents' group making them aware that several of their students were homeless. The Christmas break was approaching and school meals and the warmth of school walls would not be open to them. Stacy Schultz (a board member of Sparrow's Nest) got together with other parents and provided those students with gift cards so they could at least buy food. Similarly, at spring break when the same conditions arrived, a high school student ask her Mom (Marcia Bunke, chairperson of Sparrow's Nest) if she could bring home a couple of friends for the break. The family found out these two friends of hers were homeless, so they invited them to stay at their home until the end of the school year when they graduated. These two ladies, Stacy and Marcia, started talking to more school staff and more parents and found out this situation was not just a few students at Flathead High School, but many students at many schools; and they also discovered there were no provisions for shelters for these homeless high school students. There are backpack programs for food during the week and weekends, and clothes and other provisions, but no shelter. The group Sparrow's Nest was formed to assist in finding shelters so the students can finish school and graduate. This past summer St. Peter's Lutheran Church contacted Sparrow's Nest offering a house they have on the back of their church-lot for a shelter. It is the Church's parsonage but not being used by their pastor who lives on his own property. The Church and Sparrow's Nest have worked out an agreement that the parsonage will house 5 students that are eligible for this program, and one resident manager who lives there full time; and other support staff will come and go to help out but not reside there. Whitefish students will be considered first but the house will be considered for any eligible student in a Flathead County school. There is a strict screening process to make the selection with continuing oversight; with the main prerequisite being that the student remains in school with the goal of completing for graduation. Not only will the students be working towards that goal but they must abide by house rules and share in household duties; and they will be encouraged to get involved in neighborhood and community programs. Sparrow's Nest strives to be a good neighbor and have notified the adjacent neighbors and property owners of their plans, they have answered many phone calls and have met with several of them personally. She said their proposal fits right in with the criteria listed in the Whitefish Growth Policy where it addresses support of social services. She asked for those in the audience who supported this request to stand, and about 30 people stood in support. She submitted signed petitions in support of the project to the City Clerk which has been appended to the 12-7-15 packet as After Packet Materials.

St. Peter's Lutheran Church's Pastor Michael Flannery, 201 Wisconsin Avenue, explained that he and his wife reside on their own property instead of the Church's Parsonage; so he and his church members discussed how the vacant house could be used for the benefit of the community and through United Way they found Sparrow's Nest. The Church is a nonprofit organization so no rent will be charged. He supported the terms of the agreement that the Church and Sparrow's Nest have agreed upon and said his congregation will be there as support to the student's as well.

Gail Shay Linne, 106 Murray Avenue, spoke in support of the project. She had submitted a letter that was included in the packet on page 530 and she read from that letter. This project will ensure

safe local housing for homeless youth. She is a former teacher and knows this is a need; there are more than five homeless students that would qualify to stay here, but this is a good start she said. She said the Council's support for this project is an investment in the future of these students.

Robert Sandman, President of St. Peter's Lutheran Church, 201 Wisconsin Avenue. The Church owns the lot that the church sits on as well as the house on the back of the lot at 200 Colorado Avenue. He said the special use agreement that they just entered into with Sparrow's Nest does not transfer ownership; the Church retains ownership; it is just an agreement for them to use the house similarly as their pastors have used the house since it was built about 20 years ago. The Church is happy to be able to serve the community in this way and he urged the public that if they ever have any concerns about the project they can contact himself or the church. He has confidence that Sparrow's Nest will run a successful program and he asked for Council's support and approval.

Heather Davis Schmidt, superintendent of Whitefish School District, spoke in support of Sparrow's Nest and this project in Whitefish, which supports the needs of students.

Sherry Stevens, 40 E. Nevada in Kalispell, said she was the Executive Director for United Way in Northwest Montana. She said United Way supports this project; the need for this type of project is valley-wide. United Way is currently the fiscal agent for Sparrow's Nest. All revenue for Sparrow's Nest runs through United Way; and a special fund has been set up to separately manage these funds. United Way, in conjunction with the Church, will be providing insurance for the property. She hopes the Council will approve the project and that it is embraced by the community towards supporting the needs of these students.

Marcia Sheffels, 450 Parkway, said she was the previous Flathead County Superintendent of Schools. She had the privilege of watching and working with this group of compassionate citizens in their endeavor to help these homeless students. She thanked the original working group along with all those who are here tonight in their support. Through their commitment and hard work, tonight we have their mission coming to reality. She urged the Council to approve this request.

Chris Krager, Executive Director of Samaritan House for the past 17 years at 124 9th Avenue West in Kalispell, spoke to the Council in support of this project. He said theirs is a homeless shelter and is nearly 99% full every night. That is 90 to 105 people/night; they serve 1400 people annually. He said of those 100 people he is currently serving nightly, 5 of them are kids that would fit into this project proposed for Whitefish. Samaritan House is committed to support Sparrow's Nest to have a successful program.

City Clerk Lorang noted a letter had come into the offices this afternoon and was distributed to the Council regarding this project and Mayor Muhlfield requested she read it for the record. The letter is from Tom Muri, 668 Copperwood Court. He wrote in support of the Sparrow's Nest, the house is in his neighborhood, basically in his backyard he said. He recommended some trees be planted and that appropriate shades and curtains be installed as it is easy to see into the house in the evening. The letter is appended to the 12-7-15 packet as After Packet Materials.

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

Councilor Hildner made a motion, second by Councilor Frandsen, to approve WCUP 15-18 with the Findings of Fact in the staff report and the six (6) conditions of approval as recommended by the Whitefish Planning Board. Councilor Hildner said congratulations; as a

former school teacher he know of these needs for these students. Councilor Frandsen agreed, a great project, and encouraged the neighborhood to get involved to help with its success. **The motion passed unanimously.**

Mayor Muhlfeld declared a recess at 9:49 p.m. and the Council reconvened at 10:00 p.m.

f) Ordinance No. 15-18; An Ordinance reaffirming the prior approval of the City Hall project and Parking Structure project, designating the projects as urban renewal projects and approving the financing thereof (Second Reading) (p. 533) (2nd CD 34:28)

City Manager Stearns said tonight's second reading and public hearing on this ordinance follows the first reading of the ordinance and a resolution of intent that was approved by Council at their November 2, 2015 meeting. The City's Bond Council, Dorsey and Whitney of Missoula, advised us to follow this procedure to amend the City's Urban Renewal Plan (adopted by Ordinance 87-3 in 1987) to include the City Hall and Parking Structure projects, located on the ½ block between East 1st and 2nd Streets and bounded on the west by Baker Avenue and on the east by the alley running north/south from East 1st and 2nd Streets on Lots 13-24 of Block 36, Whitefish, according to the recorded plat thereof, records of Flathead County, Montana; and designate these projects specifically as Urban Renewal Projects, and approve the financing of the projects with a \$9,800,000 Tax Increment Bond. The 1987 Urban Renewal Plan (packet pages 540-687) included the development of a new City Hall, but it was called out in a different location at that time. Land northeast of the Library was designated as a new City Hall site in the 1987 Plan. In addition, parking problems were identified in the 1987 Plan along with the mention of a parking structure, but no location was specifically identified for a parking structure. With our Resolution of Intention, Resolution No. 15-48, and the first and second readings of this Ordinance No.15-18, the Council is reaffirming the prior approval of the City Hall Project and Parking Structure Project as urban renewal projects and approving the financing thereof. The schedule for the issuance of the Tax Increment Bond is on packet page 538. Funding sources for the bond include Tax Increment Funds (TIF) on hand and accumulated in the City Hall/Parking Structure Construction Fund that was established by Resolution 03-63 whereby funds have been set aside annually toward construction of a new City Hall, Impact Fees, and \$750,000 from the Parking Structure. (See Sources & Uses page 692 in the packet). The term sheets from both local banks who are sharing the financing (approved by Council 4-20-15) start on page 699. The proforma statement (Financial Plan) is on packet page 705, which the Council may refer to later on in tonight's agenda when they discuss the City Hall/Parking Structure budget. Starting on page 688 in the packet, Manager Stearns included a memo from earlier this year dated July 14, 2015, that is a historical chronology of the City Hall and Parking Structure projects starting in 1987; including listing meetings, milestones and important decision points of the projects.

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

Councilor Feury made a motion, second by Councilor Frandsen, to adopt Ordinance No. 15-18; An Ordinance reaffirming the prior approval of the City Hall project and Parking Structure project, designating the projects as urban renewal projects and approving the financing thereof, on its second reading. The motion passed unanimously.

g) Resolution No. 15-54; A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery (p. 707) (2nd CD 41:17)

City Clerk Lorang gave the staff report that the City Cemetery has a new bronze memory wall that was installed earlier this year giving family and friends an opportunity to have a written memorial

for their loved ones. The addition of the memory wall along with the new columbarium expands the services of the City's cemetery; both of which have been added to help accommodate the demand on a full facility. A space on the wall and a memorial nameplate can be purchased; and the proposed resolution establishes the City's fee for the space for the nameplate at \$60.00. The cost of the actual nameplate, the engraving and the installation of the nameplate on the wall, is done by an outside vendor. Currently that fee is \$290.00 but it is not included in this resolution as the outside vendor will establish that cost based on their cost of services. The City will collect that cost and pass it through to the vendor. The \$60.00 per space for the remaining 102 spaces on the wall will yield \$6,120 to the City and will help towards the purchase price of the next memorial wall when needed.

Mayor Muhlfeld opened the public hearing. There being public comment, the Mayor closed the public hearing and turned the matter over to the Council for their consideration.

Councilor Hildner made a motion, second by Councilor Frandsen, to approve Resolution No. 15-54; A Resolution establishing rates charged to purchase the space for a nameplate on a Memory Wall in the Whitefish Cemetery. The motion passed unanimously.

8) COMMUNICATIONS FROM CITY MANAGER (2nd CD 44:00)

- a) Written report enclosed with the packet. Questions from Mayor or Council?(p. 711) None.**
- b) Other items arising between December 2nd and December 7th**

Manager Stearns said that at a previous meeting Councilor Frandsen had asked about the City's snow removal policy and the department's plan for staffing for snow removal. In answer to that request Public Works Director Workman prepared a memo on Winter Street Maintenance which is attached to the City Manager's Report and is on page 713 of the packet. The Resort Tax Revenue for October came in late last week and reflect a 17.9% increase in collections over the prior year. October isn't usually a big revenue month; but last month before this report the year to date totals were down compared to the prior year to date. Now through the end of October the reports show being even with and even a little bit above last year's pace.

- c) Resolution No. 15-55; a Resolution approving an Interlocal Agreement with the Whitefish Fire Service Area (WFSA) for a new 5 ½ year contract for fire protection services in the WFSA (p. 717) (2nd CD 46:15)**

Manager Stearns said the Council received information on this new contract at a work session just prior to this meeting tonight. For the public's information; Manager Stearns reported that the current 5-year contract with the Fire Service Area Board (WFSA) for fire protection services outside the City Limits and within their district boundaries, expires December 31, 2015. Discussion and negotiations between the City and the WFSA have been ongoing since late spring. The WFSA did go before the Flathead County Board of Commissioners, to request and got approval for, an increase in their rate structure for fees that go on rural taxpayers tax bills for fire protection services. The residential rate that was \$90/year was increased to \$144/year for a single residence. The rates for multifamily buildings and commercial buildings increased proportionately as well. The outcome of negotiations is that the WFSA agreed to increase their annual contribution with a 2% annual inflationary increase to the base fee calculation and add another \$16,000/year to that contribution for the equivalent of the cost of ½ of the debt service of the Water Tender. A spreadsheet on packet page 736 gives the revenue calculations and the loan debt service schedule, and compares the cost of fire protection services between similarly valued homes inside the City and outside the City. With the increase in the WFSA fees to rural property taxpayers; there is now an equity between what city residents and rural residents pay for fire service protection which has long been a basis of the City's negotiations. Details

of the negotiations are included in the staff report in the packet. Manager Stearns felt both parties were negotiating in good faith, both parties compromised, and the result is a fair agreement for all parties. He had originally proposed a larger (4%) inflationary increase and more assistance for two pieces of equipment instead of just one; but he recognizes the WFSA's willingness to meet part way on the City's requests, so his recommendation is for approval of the Interlocal Agreement with the WFSA proposal of a 5 ½ year contract for fire protection services in the rural district outside of City Limits.

Councilor Frandsen made a motion, second by Councilor Sweeney, to approve Resolution No. 15-55; a Resolution approving an Interlocal Agreement with the Whitefish Fire Service Area (WFSA) for a new 5 ½ year contract for fire protection services in the WFSA.

Councilor Frandsen thanked Manager Stearns for accomplishing the rate equity reached within the agreement for city and rural residents for fire protection services provided by the Whitefish Fire Department.

The motion passed unanimously.

- d) Update on City Hall/Parking Structure project (p. 742) (2nd CD 52:57)**
i) Mike Cronquist – Owner's Representative

Mike Cronquist reported that the demolition is mostly complete, sheet piling is approximately 70% complete, an old sewer line that ran under the old Fire Hall and City Hall has been capped and abandoned, and the Rammed Aggregate Pier equipment is on-site and has started their installation. Those site-preparations continue; following installation of the remaining sheet piling that equipment will be demobilized. Installation of underground utilities has started and will be ongoing. Within the next three weeks and before the end of December it is planned that foundation work will get started; Carver Engineering has been retained to perform foundation monitoring. They continue to keep the public informed of activities through press releases and personal visits to businesses. They continue to monitor the work that is in close proximity to the gas main in the alley; and are working closely with Northwestern Energy, meeting their requirements in order to avoid any incidents.

- ii) Ben Tintinger – Mosaic Architecture**

Ben Tintinger, Mosaic Architecture, said he would review the budget and items they have been working with the City Hall Building Subcommittee (Building Committee) that may have some variables with value engineering (VE) and bid alternates on Bid Package #5 which is the shell package. The Subcommittee made some cost-cutting decisions on the exterior of the building and he can show how those decisions changed the exterior appearance. Over the last month it has become apparent that, with the shell portion of the project, costs are over budget. Mosaic, through Martel, has asked all the subcontractors to review their scope of work and identify any red flags and reconsider if anything can be done differently. The same thing has been asked of the project's engineers (mechanical, electrical, structural). They took the spreadsheets in the packet on page 751-752 to the Building Committee with items listed that were separated by options (1) Keep as originally specified, (2) More discussion required, or (3) Modify specification to accept VE. It walks through details all the way from concrete to electrical work, identifying them as one of the classifications listed as just described. After Martel consulted with the subcontractors a list of post-bid revisions was established as seen on packet page 760 that shows savings through VE and bid adjustments. Project alternates are decisions in design that are more difficult. Skylights (in the Council Room and in above the main stairway), Basement Finish, Building Canopies (a portion mid-block on Baker Avenue), Cornice Detail (on four towers), Oversized

Brick Veneer; these items all totaled involve \$139,128. In the Parking Garage a decision whether or not to keep the Southwest Elevator could save \$90,000. That elevator was designed to accommodate an emergency gurney from both City Hall and the Parking Structure. So, if deleted, the City Hall elevator will have to be resized to meet those requirements and it would also not be as accessible to the Parking Structure. Ben reviewed each of these in detail and showed some images on the overhead screens on those items that change the appearance of the building exterior.

Manager Stearns referred to his report for the next item on the budget as more background information that may be helpful for the Council, however a subsequent bid package on interior finish that went out after his report has changed some of these numbers; where his report shows a \$227,687 shortfall it is now more like \$518,769. During a construction meeting today additional costs came forward that were not included in other bid packages for architectural and furniture costs, increasing that number. Factors in these high costs include the bad soil and the need for the rammed aggregate piers; the City was aware of the clay soils here but the mitigating cost is \$370,000. The exterior façade around the Parking Structure contributes heavily to the budget; but it has been a community goal throughout this whole process not to end up with a gray parking structure in the middle of downtown. It is designed to fit in with the character of downtown. The bidding and construction method established by the Council to do a construction manager at risk process versus design, bid, build - like was done on the Emergency Services Center. The decision was made with the advantage in mind that the contractor and architect could design to bring down costs and also to resolve building conflicts that if not resolved earlier ends up in change orders that are costly. This alternative method has the aspect of resulting in a higher quality finished product because it is not at the whim of the lowest bid. Another contributing factor may have been the accelerated construction; we still do not have a guaranteed maximum price which is usually received with the completion of the construction drawings, which are close to completion but not entirely. But that factor changes the typical construction manager at risk process. It is a tighter construction and labor market and steel and concrete prices may be up; there have been some discussion about concrete bid and whether or not it should be rebid as only one contractor submitted a bid. But, if concrete doesn't get started this month it would probably result in shutting down the project until next spring. Ben said in our area, and with such a specialized project as a parking structure, it is difficult to get contractors to bid on that type of work. Martel was the one bidder on the concrete but within that bid are a number of sub-bids on the raw materials from subcontractors and suppliers. He said they could try to re-bid it but he thinks it will be difficult to find contractors to fit it. He said in summary and overall, a lot of the individual elements came in in line with expectations, the largest difficulty with this project is the amount of effort it has taken to get out of the ground including abatement processes and demolition, dealing with local soil-types and site-prep. The project is close to \$1M over even before the concrete work can start. Yes, he said, they were all aware of these elements and had planned for them; but the earlier budgets from years ago that the City had been anticipating for a city hall and parking structure certainly did not include all of this type of work.

Tony Martel, Martel Construction, said their concrete bid was done in October which he reviewed and did a cost analysis. Cost of concrete materials (including rebar and formwork) and a mix design are contributors; but he has been emailing his subcontractors who are working on value engineering and he would like to have more time to see if they can bring the costs back down to the budget to the greatest extent as possible. He said 60% of the total cost is made up from items they buy; materials and labor. His said time is not on this project's side; one of the things that has been slowing the project down has been the process of having to go through the Building Committee. He thinks if the City goes out for re-bids, the cost will probably go up.

- e) **Consideration of changes to the budget level for the City Hall/Parking Structure project (CD 1:31:09) (p. 744)**

Manager Stearns said that concrete bid under discussion is on the top of page 759 in the packet.

Councilor Frandsen made a motion, second by Councilor Hildner, to extend the meeting beyond 11:00 p.m. The motion passed unanimously.

Manager Stearns continued and said it might be helpful if the Council refers back to his staff report on pages 745-746 where he lists 4 items for Council's discussion and consideration; and #2 of that list refers to 6 items also listed on page 745 that had been discussed and voted on by the Building Committee. There are still some value engineering that might change, but there are still outstanding costs yet to be determined as we just found out; so maybe the Council should consider giving Mosaic Architects and Martel Construction more time to review to see if there are other cost saving measures.

Councilor Frandsen gave some discussion and said in the looking at the overall scheme of things the shortfall is only about a 7%-8% overage and she would like to move forward, continue to consider value engineering and look for solutions to do the right thing which is to finish this project in a quality way so there won't be remorse or add-on costs in the future.

(The motion on this item was made during the discussion of the next Agenda Item (f); see below.)

f) Consideration of Amendment No. 3 to the master construction contract with Martel Construction, Inc. for City Hall/Parking Structure project for most of the remaining construction costs of \$10,294,553.76 (CD 1:39:36) (p. 754)

Manager Stearns said the contract for Council's consideration tonight for \$10,294,553.76 covers most of the rest of the project other than the interior finishing for which the bids were just received last week. It does include concrete costs at \$933,000 over the July estimate, so the Council could consider a deduction in that amount but that is fairly arbitrary. The Council should proceed with some amount so the contractors can continue with plumbing and underground electrical components. Ben Tintinger said approving this contract does not establish the final price of the building because they are continuing the evaluation process where pluses and minuses come along that will still help the budget. He said in discussions with Manager Stearns on these budget issues cuts to this amendment was proposed but he did not support that at this time. With this contract amendment the project is still under the cost threshold and another amendment will follow which can serve to reconcile items that are still under consideration; the reconciliation will either be adding more dollars to the budget or finding value engineering or something else, but together a final cost will be determined. This amendment is the entire shell package; we can still vet the concrete and the interior package received last week.

Discussion followed regarding the obligation the City is taking on by approving this contract tonight; and also the bid process on the concrete; along with the intricacies of contracts being based of designs – if an amount is deducted off of a contract price – it would require new design – a post-bid addendum telling the contractor what is eliminated from the project. Manager Stearns said the theory of cutting some of the total was it was buying the City time, the project could still move forward but with time to evaluate all the issues. The Council can approve the contract and this amount and take Mosaic and Martel at their word that they will help us find more cost savings. The Mayor asked when the City could expect the Guaranteed Maximum Price (GMP) and Ben said that could be ready today if the project was under budget, but instead it is working backwards to try to shave costs to get back down to budget. Optimistically, by the first meeting in January, but that is with decisions made of what can be or can't be cut from the project to get to that budget number. Discussion followed regarding the

5% Contingency and how it figures in to the GMP. Manager Stearns said a project budget analysis from Mosaic Architects was prepared at the end of last week (on 12-4-15) that shows the \$518,769 overage. He distributed the analysis to the Council, a copy of which is appended to the 12-7-15 packet as After Packet Materials. It lists the original project budget in one column and the current bids for those items are in another column; but the \$420,000 for furniture is not anywhere on this page. The Mayor said he is looking for direction on what the Council needs to do tonight to keep the project moving forward; a lot of information has been submitted tonight part of which is new to several Council members if they have not had the advantage of sitting in on Building Committee meetings; it is a difficult situation for the Council, and the Architects, Engineers and Contractors. Manager Stearns said they need to address the contract (Amendment No. 3), either wholly or partially; or postpone their decision tonight to give more time for consideration and meet again on December 21st. More discussion followed.

Councilor Hildner made a motion, second by Councilor Barberis, to extend the meeting beyond 11:30 p.m. The motion passed unanimously.

Tony Martel said he would have to check, but bids are usually valid for a period of time, so he needs to verify the date these bids are good to. Holding off may cause additional increases; he recommended the Council move forward with this contract tonight and let the team work together toward further reconciliation of the budget issues. The Construction Team (Martel & Mosaic) explained if any items were deleted from the project that currently show on the Contract Spreadsheet as a deduction; it would be a credit, so the associated contract fees would go down. The Council discussed those items listed in the staff report (page 745), items 1-6 brought forward from the Building Committee.

Councilor Feury made a motion, second by Councilor Frandsen, to approve Amendment No. 3 to the master construction contract with Martel Construction, Inc. for City Hall/Parking Structure project for most of the remaining construction costs of \$10,294,553.76. The motion passed unanimously.

Action on agenda item 8e:

Councilor Hildner made a motion, second by Councilor Frandsen, to move forward with the Elevator in the SW corner. The motion was approved on a vote of 4 (four) to 1 (one); Councilor Feury voted in the negative.

- g) Resolution No. 15-50; Resolution relating to \$120,000 Water System Revenue Bond (DNRC Drinking Water State Revolving Loan Program), Series 2015 Bond; authorizing the issuance and fixing the terms and conditions thereof (p. 816) (2nd CD 2:02:00)**

Finance Director Smith said the subject resolution relates to the water service lines within the Highway 93W Phase II project from Karrow Avenue to Mountainside Drive; it is payable over 20 years with an interest rate of 2.5%. The breakdown on costs and payments to the Montana Department of Transportation (MDT) are included in the staff report in the packet.

Councilor Frandsen made a motion, second by Councilor Hildner, to approve Resolution No. 15-50 as presented in the packet. The motion passed unanimously.

- h) Resolution No. 15-51; Resolution relating to \$960,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Authorizing the**

issuance and fixing the terms and conditions thereof (p. 869)

Finance Director Smith said the subject resolution relates to the same project as the resolution above but for the sewer service lines. The staff report details the costs and payments to MDT. As in the previous resolution it is payable over 20 years with an interest rate of 2.5%. She noted no rate increases will be required at the passage of either Resolution Nos. 15-50 or 15-51 because the City's Net Revenues currently meet the 110% coverage requirement.

Councilor Frandsen made a motion, second by Councilor Feury, to approve Resolution No 15-51 as presented in the packet. The motion passed unanimously.

9) COMMUNICATION FROM MAYOR AND CITY COUNCILORS (2nd CD 2:06:45)

- a) Email from Marti Bruce regarding existing single track mountain bike trails in proposed Haskill Basin Conservation Easement area (p. 921) – No additional comments.**
- b) Letter from Dziko Zuckert regarding the housing situation in Whitefish (p. 922) – No additional comments.**
- c) Consideration of appointment to volunteer boards and committees not made during the special session preceding tonight's meeting (p. 1) - All appointments were made during the Special Session.**

COUNCIL COMMENTS (CD 2:07:00)

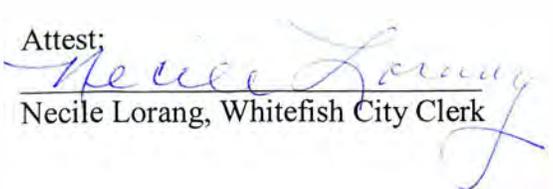
Councilor Sweeney expressed his thanks to all the hard work that has gone into the City Hall/Parking Structure Project, but was also frustrated at the current state and the pressure the Council is under moving forward. The Construction Team stated tonight that it is partly due and the fault of our Building Committee process and that disturbed him because all along he felt they were under the impression that our process was a good process and things were moving along appropriately.

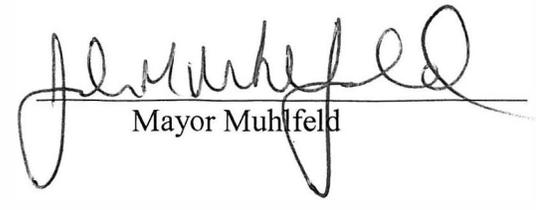
Councilor Hildner said there are 60 seconds remaining in December 7th, Pearl Harbor Day, and he would like to recognize the greatest generation as well as all the service people who have served our country so nobly, and recognize their valor and contribution to the United States of America.

Mayor Muhlfeld said he will attend the Fish & Game Commission on Thursday when the Haskill Basin Conservation Easement is on their agenda. He also continues to meet with the user groups, some of whom made comments earlier tonight, on the details of what will be the Management Plan for the Conservation Easement; and he said he will continue those meetings up to the time the Council has those items on the agenda in January. After our new Councilor Williams is sworn in Mayor Muhlfeld would like the Council's Retreat to be scheduled for some time in February or March so that it is in advance of the April goal setting sessions. Mayor Muhlfeld said he will give an update following the Thursday meeting with Fish & Game.

10) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)
(2nd CD 2:09:15) Mayor Muhlfeld adjourned the meeting at 12:03 a.m.

Attest:


Necile Lorang, Whitefish City Clerk


Mayor Muhlfeld

PUBLIC HEARINGS

PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 12/7/15

PLEASE PRINT NAME and ADDRESS

Continuation of Hearing for CUP* Application - Multiple Principle Structures 1842-1848 Baker Ave	Subdivision Regulations Text Amendment, RE: Parklands	Application for CUP*-214 E. 2nd St. Mixed-use multi family project	Preliminary Plat Amendment-Townhouse Lots, 265 Haugen Heights Rd - Maple Ridge (formerly known as Timber Ridge)	Application for CUP*-200 Colorado Ave. Type I Community Residential Facility	Reaffirm Prior Approval City Hall/Parking Structure as Urban Renewal Projects	Cemetery Fee for space on Memory Wall
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4101 Bayer 7376 th Ave E				✓		
Marcia Bunte 55 W Borer Ct Kalispell				✓		
Sherry Stevens 40 E Nevada Kalispell 59101						
Michael L. Flannery 1181 Old Stone Rd. Whitefish 59937				✓		
Chuck Jensen 283 La Kevia Dr. Lake Park						
Vik Keutlian P.O. Box 5270 Whitefish MT						
ELaine EDWARDS P.O. Box 5270 Whitefish						
JOY KEUTLIAN						
Vik Keutlian 59937						
GAIL Linner, 106 Murray Ave 59937				✓		
JEFF RUSSELL 235 6th St WF 59937						
Ed Lieser 1355 Lion Mt Dr, WF 59937						
Christophe Kraeger 124 9th Ave. W, Kalispell				✓		
Claire Anderson				✓		
Stacy Schultz 304 Stony Brook Dr. Kalispell, MT						
Rod Stell 1035 2nd Ave W Kal.						
Casey Tate 605 Columbia Ave Whitefish						
Mukul Jullis 2288 Harts Pt Dr. WF						
Marcia Shuffels 450 Parkway Dr. WF						
Laura Kochis - 12 Willowbrook - Whitefish				✓		
Frank Barnes - Whitefish				✓		

*CUP = Conditional Use Permit