

## WHITEFISH CITY COUNCIL

March 7, 2016

7:10 P.M.

### **1) CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Sweeney, and Williams. Councilor Frandsen was absent. City Staff present were City Manager Stearns, Customer Service Clerk Howke, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Dial, Fire Chief Page, Planner II Minnich, and City Clerk Lorang. Approximately 20 people were in the audience.

### **2) PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Doug Wise to lead the audience in the Pledge of Allegiance

### **3) PRESENTATION**

#### **a) Proclamation- National Service Day on April 5, 2016 (p. 93)**

Mayor Muhlfeld read the proclamation for National Service Day on April 5, 2016.

#### **b) Update on City Hall/Parking Structure construction – Owner’s Representative Mike Cronquist (p. 94)**

Mike Cronquist reviewed his report adding about 90 yards of concrete were poured last week and footings have been placed for the basement. They have been able to work through most of the contamination issues, and a plan is in place to put in a piping system to remove groundwater or vapors that may or may not be there. The site excavation is around 46% completed, concrete is about 18% completed and the overall project is at about 15% completed.

### **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)

Doug Wise, 1000 Birch Point Drive, thanked Necile Lorang for her great work and Maria Butts and her staff for their great work. He spoke regarding agenda item 8a. He represents the Park Board and mentioned the Depot Park is a gathering point for events for Whitefish and the gazebo will draw the crowd to the southeast corner of the park. Doug and the Park Board ask the council to approve the engineering contract with Robert Peccia and Associates.

Justin Lawrence, 343 Central Ave, owner of Lakestream Fly Shop is looking for a new location due to the lack of parking for his customers. He is petitioning the City Council and the City Planning to add outfitting and outfitting based businesses to the permitted uses or conditional use within the WB-2 zone.

Mayre Flowers, Citizens for a Better Flathead, 35 4<sup>th</sup> Street West, Kalispell. Mayre passed out comments to the Council and staff regarding Ordinance 16-06 that is on the consent agenda. She asked the Council to pull the agenda item off the consent agenda and revisit the non-formula/non-chain business issue. March 14<sup>th</sup> is the deadline for residents of the City and any county resident to submit comments regarding the zoning around Whitefish. She also mentioned some concern with the contract with Montana Waste Systems Inc. d/b/a North Valley Refuse such as to add mixed paper language; section 1.5, reporting on collection volumes, and the contract needs to reflect the location of the site is part of the contract, clarification on 2.1d, add “it is their duty to record the recycling that is collected”. She also mentioned it is really important that the City identifies if it is a Corridor Plan or a Neighborhood Plan for the Wisconsin Avenue Corridor Plan. The comments Mayre passed out is appended to the packet on the website.

Rhonda Fitzgerald, 412 Lupfer Avenue, agrees with Mayre Flowers to pull agenda item 6b off the consent agenda. She feels not prohibiting formula is a mistake when you maintain authentic character which drive the economic vitality. She also wanted to remind the Council that removing the building at Depot Park was the whole cornerstone of the Master Plan. The building is a blocker to connect people to the downtown area, it prohibits and inhibits people coming to the park.

Jeff Raper, 719 Kalispell Avenue, spoke on behalf of the Whitefish Chamber. The Chamber has an agreement with the use of the Middle School parking spaces, both off street and on Kalispell Avenue. That parking doesn't offset the parking space once available at Block 46, or the City Hall Parking Structure construction site. The Chamber is going to continue to come up with other alternative parking ideas. He also mentioned the Chambers sees a use for the building at the Depot Park, it is a great location for the Whitefish Convention and Visitors Bureau (WCVB) and the Chamber to locate as a focal point for people who are parking downtown and on foot, to get visitor information.

## **5) COMMUNICATIONS FROM VOLUNTEER BOARDS (CD 44:54)**

Councilor Hildner reported on the Bicycle Pedestrian Committee meeting. Rachel Dunlap from the Whitefish High School and a group of students are working on a “no idling” policy in front of the School to go along with their bike share program. There was unanimous approval of the West 7<sup>th</sup> Street lighting plan with the rebuild as written. There is also a recommendation to the Park Board for consideration of including a high school student on the Bicycle Pedestrian Path Committee. WGM Group gave an update to the Bicycle Pedestrian Master Plan. Theresa Majeski from the County Health Department is going to be working on the community engagement survey. David Downing of Avid Nine Graphics Lab has done some free artwork and built an impressive logo called Connect Whitefish that goes with the Bicycle Pedestrian Master Plan.

## **6) CONSENT AGENDA**

- a) Minutes from the February 16, 2016 Council regular meeting (p. 106)**
- b) Ordinance No. 16-06; An Ordinance amending Zoning Regulations in Whitefish City Code Title 11 to amend Section 11-2, Zoning Districts, to add 11-2W, WT-3 Neighborhood Mixed-Use Transitional District, and 11-2X WI-T Industrial Transitional District, as well as development requirements for Artisan Manufacturing, Micro-Breweries and Micro-Distilleries, and Live/Work Units in Special Provisions 11-3, and**

**new definitions for Artisan Manufacturing, Business Incubators, Coffee Shops/ Sandwich Shops, Live/Work Unit, Micro-Brewery, Micro-Distillery, Mixed-Use Environment, Mixed-Use Building, and Research Facilities in 11-9, as an implementation of the Highway 93 West Corridor Plan. (Second Reading) (p. 120)**

- c) Review and approve the Final Plat for a Boundary Line Adjustment (exempt subdivision) with the Murr Family to acquire approximately 0.75 acres of land adjacent to the Water Treatment Plant property (p. 145)**
- d) Review and approve the Final Plat for a Boundary Line Adjustment (exempt subdivision) with NxGen International to acquire approximately 0.003 acres of land adjacent to O'Brien Avenue as a gift of additional Right-of-Way for O'Brien Avenue (p. 171)**
- e) Review and approve the Amended Plat and deed for a Right-of-Way dedication (exempt subdivision) with the WAVE to acquire approximately 0.74 acres of land known as O'Brien Avenue as a gift of Right-of-Way for O'Brien Avenue (p. 174)**
- f) Consideration of an application from Dear Tracks Residences, LLC for the final plat approval of a 2-lot subdivision located on Highway 93 S – Whitefish Crossing apartment project (p. 177)**

**Councilor Sweeney moved to remove item 6b from the consent agenda.**

Councilor Sweeney asked Planning and Building Director Taylor for clarification regarding formula businesses. Director Taylor reported the two zones restrict sandwich shops and coffee shops from being a formula business. Retail uses are generally not allowed in those zones. The definition to formula retail is specific to retail. Formula hotels are not regulated in the City anywhere.

**Councilor Fuery made a motion, second by Councilor Sweeney to approve the consent agenda as amended removing agenda item 6b.**

Discussion followed between City Council and City Manager Stearns regarding agenda item 6c.

Mayor Muhlfeld said he wanted to disclose, his company donated time related to the survey work, with no compensation.

**The motion passed unanimously.**

**Councilor Feury made a motion, second by Councilor Sweeney to approve item 6b on the Consent Agenda.**

Discussion followed between City Councilors and Staff regarding clarification on formula businesses inside a hotel. Director Taylor said that a formula business could be approved as a Conditional Use inside a hotel at the discretion of the City Council and Planning Board.

**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 request by Averill Family Limited Partnership for a Conditional Use Permit to operate a bar in conjunction with an established lodging facility at 1385 Wisconsin Avenue. Staff Report WCUP 16-01 (First Reading) (p. 205) (CD 1:01:57)**

Planner II Minnich gave her staff report that is provided in the packet without any changes.

Mayor Muhlfeld opened the Public Hearing

Brian Averill, 1380 Wisconsin Avenue, stated this bar is located in the Viking Lodge. This Conditional Use Permit is for the full liquor license for the bar and grill designed for guest use. The liquor license is a sub license from the full Resort Liquor License and has been approved by the State.

**Councilor Hildner made a motion, second by Councilor Barberis to approve Staff Report WCUP 16-01, a Conditional Use Permit to operate a bar in conjunction with an established lodging facility at 1385 Wisconsin Avenue subject to 7 conditions and Findings of Fact. The motion passed unanimously.**

- 8) **COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR (CD 1:08:24)**
  - a) **Consideration of approving Amendment #1 to the engineering consulting contract with Robert Peccia and Associates for design, bidding, and construction services for the Depot Park Master Plan project, Phase II - Gazebo (p. 230)**

Parks and Recreation Director Butts reviewed the staff report with a correction. The initial drawings of the final draw of the Depot Park Master Plan is going to be presented to the Park Board March 8th, not the finalized Master Plan as stated in the report. Director Butts also learned recently that the Rotary has offered \$5,000 on top of the original \$10,000 donation.

Councilor Hildner had concerns of the language in the contract regarding Construction Administration and Observation. Both Director Butts and Public Works Director Workman stated those concerns would be addressed as specifications in the construction contract.

Councilor Sweeney reported the Park Board had concerns about the total cost including the engineering fees that would be associated with this particular gazebo. There is one large line item which is elevating the gazebo. The Park Board is unanimous if the preliminary bids exceed the \$161,700, they will not do the project.

**Councilor Barberis made a motion, second by Councilor Williams to approve Amendment #1 to the engineering consulting contract with Robert Peccia and Associates for design, bidding, and construction services for the Depot Park Master Plan project, Phase II-Gazebo. Councilor Sweeney with permission from Councilor Williams amended to not exceed \$34,900. The motion passed unanimously.**

- 9) **COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR (CD 1:21:18)**
  - a) **Consideration of approving the selection of and authorizing the contract with Applied Communications LLC for consulting services on the Wisconsin Avenue Corridor Plan (p. 255)**

Planning and Building Director Taylor reported the City Council prioritized Wisconsin Avenue as the next Corridor Plan as per the Growth Policy. Applied Communications LLC is the only firm that responded to the advertised RFP in January. Applied Communications LLC is partnering with Robert Peccia and Associates. Director Taylor is asking the Council's approval to negotiate a contract not to exceed \$50,000.

Discussion followed between Mayor Muhlfeld and Councilor Hildner and Director Taylor regarding the structure of the steering committee and also clarification between a Corridor Plan and a Neighborhood Plan. A Neighborhood Plan looks at an area that is self-contained, a Corridor Plan looks at access, transportation, pedestrian access and land use along the corridor.

**Councilor Feury made a motion, second by Councilor Sweeney to award the contract for the Wisconsin Avenue Corridor Plan to Applied Communications LLC. in the amount not to exceed \$50,000. The motion passed unanimously.**

**10) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD 1:28:38)**

- a) Resolution No. 16-13; A Resolution approving a contract with Montana Waste Systems, Inc., d/b/a North Valley Refuse for solid waste collection and disposal (p. 286)**

Public Works Director Workman reviewed the staff report. Director Workman agrees with Mayre Flowers to change the language in section 1.5 to read "mixed paper" as opposed to "newspaper and magazines"; in 9.1 and 9.2, the intention of the contract is for North Valley Refuse to report recycling collection as well as solid waste going to the landfill; 2.1d emphasizes there will be no charge at the central recycling location, however residents and business owners are also allowed to contract for curb side collection at their own cost.

**Councilor Hildner made a motion, second by Councilor Feury to approve Resolution 16-13, a Resolution approving a contract with Montana Waste Systems, Inc. d/b/a North Valley Refuse for solid waste collection and disposal subject to changes suggested by Public Works Director Workman and approval by City Attorney Jacobs.**

City Manager Stearns confirmed with Mayor Muhlfeld that the previous contract was 3% inflation in rates per year for five years.

**The motion passed unanimously.**

**11) COMMUNICATIONS FROM CITY MANAGER (CD 1:34:56)**

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 310)**

City Manager Stearns reported the Tax Exempt Bonds for the Tax Increment Fund for the City Hall Parking Structure were issued March 1<sup>st</sup>, for 4 ½ years at 2.21%.

- b) Other items arising between March 2<sup>nd</sup> and March 7<sup>th</sup>**

City Manager Stearns reported Resort Tax collections are up 28% for January collections. He mailed ten certified letters to ten vendors for December collections. Year to date Resort Tax is up about 2.11%.

**c) Resolution No. 16-14; A Resolution authorizing participation in the Board of Investments of the State of Montana Short Term Investment Pool (STIP) and authorizing the execution and delivery of documents related thereto (p. 314)**

Finance Director Smith reported the Short Term Investment Pool (STIP) is an investment program that Cities and other local governments are allowed to invest in when they have cash reserves available to invest. The Montana Board of Investments has a new requirement this year, that a Resolution is passed by the governing body allowing participation in STIP as well as delegating an authorized representative to transact STIP as well as authorizing the earnings distribution within the Resolution. In this Resolution, Council is allowing the representative to make changes to earnings, distribution method, and appoint other delegates or change the bank account information. The Finance Director is the authorized representative and if approved will hold through the term of the Finance Director. This program follows the City's investment policy.

**Councilor Sweeney made a motion, second by Councilor Feury to approve Resolution No. 16-14; A Resolution authorizing participation in the Board of Investments of the State of Montana Short Term Investment Pool (STIP) and authorizing the execution and delivery of documents related thereto. The motion passed unanimously.**

**12) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 1:44:15)**

**a) Consideration of a letter from LeAnne and Marie Nordahl regarding the possibility of the City vacating and abandoning the East 7<sup>th</sup> Street Right-of-Way between Spokane Avenue and Kalispell Avenue (p. 326)**

City Manager Stearns called Ms. Nordahl to inform her of tonight's work session, she was out of town and would try to send a representative. City Manager Stearns told her the City would not be inclined to vacate the Right of Way. He will follow up with her.

**b) Email from L. Greg Magone about not putting street lights on West 7<sup>th</sup> Street Resort Tax project (p. 330)**

Councilor Sweeney agrees with Mr. Magone.

**c) Discussion of initiating a process to consider changing the Depot Park Master Plan so as to consider not demolishing the existing building in Depot Park (p. 331)**

City Manager Stearns stated that this subject was brought up while going through the finances for the new City Hall Parking Structure. Until the building is demolished, the option is available to lease the building out. To make any changes to the Master Plan, Council would have to amend the Master Plan. Some options are; once vacated the City could lease the building and put money into the City Hall Parking Structure project, put it back into TIF, or the General Fund. The other points are in the future if space is needed in the new City Hall, Parks and Recreation Department could move back into the Depot Park building.

Mayor Muhlfeld has talked with many Councilors individually, and he and Councilor Sweeney have met with the Chamber of Commerce, the WCVB, Big Mountain Commercial Association and Whitefish Legacy Partners. They brought forth the concept of retaining the building in Depot Park. Mayor Muhlfeld feels the building would best suit the Chamber of Commerce and WCVB. The building is sound and will provide the City some flexibility in the future with overflow without having to build a third floor to City Hall. He also feels in bringing this back to the Park Board there is some value in having the Chamber of Commerce and the WCVB occupy the building, given the proximity of the downtown as well as the Depot.

Councilor Hildner thinks a lot of hard work and heartache has gone into the Depot Park Master Plan. One of the overriding objectives of the entire project was that the park would be an open space. He is reluctant to think we could generate revenue from the Chamber of Commerce and the WCVB sufficient enough to make any kind of a movement in our revenue stream as a City. He feels we need to stick to the original intent of the Depot Park Master Plan.

Councilor Sweeney stated we are in a different place than we were several years ago when the Depot Park Master Plan was approved. The needs for the City has changed, keeping the building for a period of time, during that time the building is useful to the City. It can produce revenue that would help subsidize the excess money that has been taken from the TIF to support the new City Hall Parking Structure. He would like to re-examine given current needs and expectations.

Councilor Williams would also support initiating the process as well. She understands a lot of hard work has gone into the Depot Park Master Plan, but circumstances have changed and we need to be fiscally responsible if we have organizations who want to utilize the space.

Councilor Barberis also agrees to initiate the process to keeping the building.

Councilor Feury is comfortable about initiating the process, even though he doesn't like to second guess committees and boards that do a lot of hard work. He doesn't have a problem with the building being there, and he thinks it could serve a purpose in the future.

Mayor Muhlfeld reported the building could generate \$35,000 to \$45,000 a year in revenue.

City Manager Stearns wanted to confirm that the Council is not committing and they have not made up their minds tonight, just evaluating the options and making a decision after a future public process.

Councilor Sweeney is glad to see the City Hall Parking Structure is going smoother. He would like an Ordinance prepared and reviewed for a public hearing that would include a non-discrimination policy with respect to the gay, lesbian and transgender citizens of Whitefish. He is asking Council support and he would like it brought to the next meeting. Four Councilors showed support to add this to next month's agenda. City Manager Stearns said he would check with City Attorney Jacobs if she could have it for the next meeting.

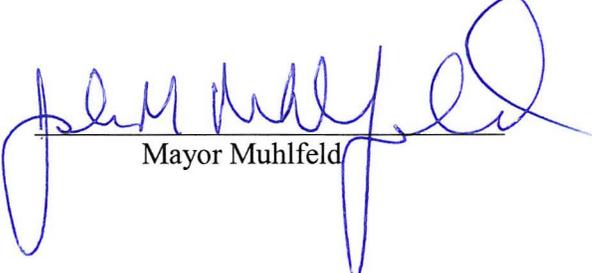
Mayor Muhlfeld stated that March 21<sup>st</sup>, the proposed funding request for the Aquatic Invasive Species (AIS) plan will be included in the packet along with results of the 2015 AIS efforts the

City helped fund. He asked and Director Taylor agreed to work together to draft a letter to the Commissioners regarding the zoning surrounding Whitefish. Councilor Hildner supports the letter, but it is important to state our position in regards to the Karrow Avenue downzone. Mayor Muhlfeld asked and Public Works Director Workman agreed to follow up with Vicki Crnich and James Freyholtz with MDOT regarding funding for the access control study. Mayor Muhlfeld asked and Director Taylor said he would draft a letter to the Commissioners asking them to consider for future subdivision approvals to consider dedicating right of ways for in the future for east to west connection between Baker Avenue and Karrow Avenue. He also wanted to give a big Congratulations to the local Firefighters and to Sarah Peterson who did the bulk of the fundraising for proceeds that go towards Leukemia Lymphoma Research as well as the Kalispell Firefighters. Eleven local Firefighters finished third among 1800 competing in Sundays Firefighters Stair Climb Race in Seattle.

Councilor Feury wanted to welcome new City Clerk Howke to her first Council meeting. Councilor Hildner also mentioned a goodbye to current City Clerk Lorang

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

Mayor Muhlfeld adjourned the meeting at 9:30 p.m.

  
\_\_\_\_\_  
Mayor Muhlfeld

Attest:

  
\_\_\_\_\_  
Michelle Howke, Whitefish City Clerk

**PUBLIC HEARINGS**

**PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 3/07/16**

**PLEASE PRINT NAME and ADDRESS**

Conditional Use Permit for 1385 Wisconsin Ave

1.	Daniel D Johns	review of trans plan
2.	Tom Downing	Extension of Whitefish Ave to Shiloh.
3.	John Chaney	Trans. Plan
4.	<del>Monteen Feldt</del>	6
5.	Brian Averitt	
6.		
7.		
8.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		

\*CUP = Conditional Use Permit