

## WHITEFISH CITY COUNCIL

August 1, 2016

7:10 P.M.

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

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Frandsen, Sweeney, and Williams. Councilor Barberis was absent. City Staff present were City Manager Stearns, City Clerk Howke, City Attorney Jacobs, Finance Director Smith, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Dial, Fire Chief Page, Senior Planner Compton-Ring, and Planner II Minnich. Approximately 40 people were in the audience.

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

Mayor Muhlfeld asked Brian Murphy to lead the audience in the Pledge of Allegiance.

### **3) PRESENTATIONS – City Hall/Parking Structure construction update – Owner’s Representative Mike Cronquist (p. 27)**

Mike Cronquist, Owner’s Representative gave his report that is provided in the packet on the website. Over 95% of the steel is complete, and should be complete this week. The two pours of the second deck are complete, the third pour is scheduled for Wednesday morning. The first placement of concrete for the Parking Structure slab on grade will be poured Wednesday morning. The alley is problematic, access to the structure becomes tighter and tighter, there will be periods the alley will need to be restricted. The closures may be daytime only and they will try to limit that. Martel and Mike has gone around to the merchants to get delivery schedules, and Martel will schedule work between deliveries. Relations continue to be positive.

Councilor Frandsen said she has had some members of the public comment to her about contractors parking very close to the job site instead of at the snow lot. Mike said he has addressed that with the site manager, right now there are 50 hands on site, parking is an issue and he is going to continue to work on finding more remote parking. There are some vehicles with necessity that need to be near the job site, such as the electrical contractor, fire protection contractor, and the plumbing contractor. Mayor Muhlfeld said a committee member of the steering committee would like to have a tour of the facility, Manager Stearns said he will be setting a tour date for Department Directors and also the Steering Committee.

### **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)**

Gary Stephens, 1470 Barkley Lane, had two issues to discuss with the Council. The first issue is in regards to the parking behind his store, The Toggery. Last month because of the City Hall Parking Structure construction they were cut off from parking, he had a parking ticket for parking in the street, and talked to the Judge and was dismissed because of the hardship. He feels The Toggery should be given two permits, because, two hours is the parking limit in town. If the alley is closed for any amount of time, he needs to have a place to park on the street temporarily, he

won't do it to impede customers, but he comes and goes, and he needs the convenience to get to the store. The delays will take longer than two hours, even though they try to coordinate, there has been a lot of disruption with the shipping too, and they are coming in to their fall shipping period and it is going to be heavy, and a lot is freight traffic. The second issue is with North Valley Refuse (NVR). They are almost like an independent contractor, and they are providing a service to those of us in Whitefish. In his private home, he hauls his own garbage, and NVR tells him he has to pay the same fee as his neighbor who is having his garbage hauled. He feels he should not have to pay for a service he is not receiving. The Toggery has two water services, and talked to NVR and said they only want one container, they said they couldn't do that. The Toggery doesn't need more than one container.

Mike Jensen, 919 Dakota Avenue, said he knows the City can perform services such as grass and weed cutting and bill the land owner. There is a situation out on West Second Street, that involves a property next door to his leased building. The building has been all but abandoned, nothing has been done this whole year, and the weeds are higher than his six-foot fence he installed last year. He would like to see the City follow up on either notifying the landowner or taking care of those weeds. He also wanted to bring it to the Council and the public's attention that he feels like they have been a bit abandoned by the City with regards to the refuse disposal. NVR refuses to assign billing to the renter. He thinks that is a big problem. This is still supposed to be a city function, leased it out to the point where it is out of the city's hands.

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

Councilor Hildner reported that with the Bike Ped Master Plan update, August 15, 2016 there will be an update of the Bike Ped Master Plan status at 8:30 a.m. at 1005 Baker Avenue, open to the public but mostly for the committee. Then on September 7<sup>th</sup> at 6:30 p.m. there will be a public meeting at 1005 Baker Avenue, on the Bike Ped Master Plan update. If you want current updates check the website and Facebook. The Skypark Bridge paving and landscaping are generally done.

## **6) CONSENT AGENDA**

- a) Minutes from July 18, 2016 Special Meeting (p. 34)**
- b) Minutes from July 18, 2016 Regular Meeting (p. 35)**
- c) Confirmation of Police Officer Hunter Boll (p. 44)**
- d) Resolution No. 16-34; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 4.14 acres of land known as Parcels A, B and C of Certificate of Survey No. 20226, and Parcels A, B and D of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, records of Flathead County, Montana, for which the owners have petitioned for and consented to annexation (p. 46)**

### **RESOLUTION NO. 16-34**

**A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 4.14 acres of land known as Parcels A, B and C of Certificate of Survey No. 20226, and Parcels A, B and D of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31**

**North, Range 22 West, records of Flathead County, Montana, for which the owners have petitioned for and consented to annexation.**

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

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

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

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

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

Parcels A, B and C of Certificate of Survey No. 20226, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, records of Flathead County, Montana.

and

Parcels A, B and D of Certificate of Survey No. 20213, in the Southwest Quarter of the Northwest Quarter of Section 35, Township 31 North, Range 22 West, records of Flathead County, Montana.

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

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the August 1, 2016 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 1ST DAY OF AUGUST, 2016.

S/S John Muhlfeld, Mayor

ATTEST:

S/S Michelle Howke, City Clerk

- e) **Consideration of approving an application from Kerri K LLC for a final subdivision plat approval of the Kerri K subdivision at 315 West 2<sup>nd</sup> Street, a two lot subdivision between West 2<sup>nd</sup> Street and West 3<sup>rd</sup> Street (p. 64)**
- f) **Consideration of an application from Eric Mulcahy on behalf of Haugen Heights, LLC for a two-year extension of the Tamarack Ridge subdivision preliminary plat (p. 98)**

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

- 7) **PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) **Consideration an application from the Whitefish School District for a Conditional Use Permit for a greenhouse with classrooms at the Whitefish High School located at 1143 East 4<sup>th</sup> Street, subject to ten (10) conditions (WCUP 16-06) (p. 108) (CD1 19:40)**

Senior Planner Compton-Ring gave her staff report that is included in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Heather Davis Schmidt, Superintendent of Whitefish School District said this is something she is very excited and passionate about because of the instructional program related to this. This is an experiential learning center for the students to learn about and apply aspects of energy, agriculture, natural resources and entrepreneurial ship.

Shawn Watts, Chairman of the School District Board of Trustees, is also a member of the core team that has been meeting almost weekly for a better part of a year as they have been working their way through the design process. The board as a whole has received regular updates and are very supportive of the project to date.

Scott Elden, Montana Creative, said on page 117 of the packet is a great summary explaining the Conditional Use Permit is for the secondary use request. The project has many origins and one of the most notable was the students who rallied around a fundraising effort and really kick started the whole program.

There being no further Public Comment, the Mayor closed the Public Hearing and turned it over to Council for their consideration.

**Councilor Frandsen made a motion, second by Councilor Sweeney to approve a Conditional Use Permit (WCUP 16-06) for a greenhouse with classrooms at the Whitefish High School located at 1143 East 4<sup>th</sup> Street, subject to ten (10) conditions and the Finding of Fact in the staff report.**

Councilor Hildner asked the applicant how they plan to sustain beyond the enthusiasm amongst the student body and the faculty. Super Intendent Davis-Schmidt said that is an important question that they have looked at closely over the last year as this project has grown, but also starting a few years ago when the students have become very energetic and began the grass roots program to raise money. This program is expanded beyond high school and is a K12 program. As part of that they have developed a phase in plan to the school district general fund budget for the ongoing full time maintenance of the program and the facility. That is including 1.5 staff members. Councilor Hildner also asked if they have looked forward to even decommissioning if necessary, the greenhouse, the gardens and the orchards. Super Intendent Davis-Schmidt said they have not because they have indicated this is something they value and they will imbed within the general fund budget. Councilor Hildner asked if the glow from the greenhouse is dark skies compliant, and Scott Elden said the greenhouse will operate on solar energy, presently there is a small level of greenhouse lighting plan. The sustainable idea of the project is not only going from the growing cycle but the heating and cooling cycle. Late night winter glow from electric lights is minimized and are required to be dark sky compliant.

**The motion passed unanimously.**

- b) Ordinance No. 16-13; An Ordinance rezoning approximately 0.196 acres of land located at 1436 West Lakeshore Drive, in Section 26, Township 31 North, Range 22 West, P.M.M., Flathead County, from County R-3 (One Family Residential) to City WR-1 (One-Family Residential District) and adopting findings with respect to such rezone (First Reading) (WZC 16-05) (p. 153) (CD1 34:00)**

Planner II Minnich gave her staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing. There being no public comment, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for their consideration.

**Councilor Feury made a motion, second by Councilor Sweeney to approve Ordinance No. 16-13; An Ordinance rezoning approximately 0.196 acres of land located at 1436 West Lakeshore Drive, in Section 26, Township 31 North, Range 22 West, P.M.M., Flathead County, from County R-3 (One Family Residential) to City WR-1 (One-Family Residential District) and adopting findings, staff report WZC 16-05 and public comment with respect to such rezone. The motion passed unanimously.**

- c) Resolution No. 16-35; A Resolution to establish an increase in the public usage fee schedule and the establishment of new commercial licensing boat launch permit fee**

**and special event support fee schedules for the public's use of City parks, facilities and grounds (p. 178) (CD1 36:40)**

Parks and Recreation Director Butts gave her staff report that was provided in the packet on the website. Mayor Muhlfeld noted on page 185 of the packet, the daily boat launch fees of \$5 per boat launched at City Beach, has not been increased since 2010. Related to City Beach since that time the City has incurred substantial costs related to the Aquatic Invasive Species Program (AIS) and from his perspective, those costs will continue to increase as AIS become more complicated and difficult to manage. He would like the Council to consider an increase to the daily boat launch fee, and a portion of that increase to be dedicated for the AIS program. Director Butts said they did originally consider increasing it to \$6 or \$7 but the reason they kept it at \$5 is because it is easy to hand over a \$5 bill. She agrees with Mayor Muhlfeld we are seeing the impact with the AIS program. Mayor Muhlfeld asked if there would be a way to track that increase in the daily fee and commit it specifically to the AIS program. Director Smith said that could be allocated to what the Council directs Staff. Manager Stearns said they could easily move the expenditure out of the water fund into Parks and Recreation and they would have the revenue at the time to help support those. It would depend whether talking this year or investigate it for the future. Mayor Muhlfeld said this has not been assessed since 2002 and right now City tax payers are the only ones paying for AIS, and probably 30-40% of the boat launches that occur from Whitefish Lake is non-resident users who should contribute equally to that program.

Councilor Frandsen said she would support that but feels it is a separate issue than what we are looking at tonight. She would like both the Park Board and the public have a better opportunity to review that. Councilor Sweeney also agreed it needs to be looked at and it is important for us to do.

Mayor Muhlfeld opened the Public Hearing. There being no public comment, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for their consideration.

**Councilor Hildner made a motion, second by Councilor Frandsen to approve Resolution 16-35, A Resolution to establish an increase in the public usage fee schedule and the establishment of new commercial licensing boat launch permit fee and special event support fee schedules for the public's use of City parks, facilities and grounds.** Councilor Hildner asked Director Butts to come back to the Council with some rationale for increasing the daily boat launch fee and take a look at AIS. **The motion passed unanimously.**

**d) Ordinance No. 16-13; An Ordinance amending Zoning Regulations in Whitefish City Code Title 11 to add recreational guides and outfitters to the list of Permitted Uses in WB-2 Secondary Business District (First Reading) (WZTA 16-02) (p. 197) (CD1 45:32)**

Director Taylor gave his staff report that is provided in the packet on the website. He addressed some of the concerns that were placed on the Council's desk that were appended to the packet on the website. Director Taylor stated that long range plans don't go into the specifics of uses, they look at broader considerations, commercial versus high density residential. He would rather save the implementation of the plan for the zoning document which goes into the specifics of the types of uses. Typically, they have a procedure where anybody can petition the planning board for

recommendation on additional uses if they are not in the code. A corridor plan for Highway 93 South is several years out. The classic definition of spot zoning is “the process of singling out a small parcel of land for a use classification totally different from that of a surrounding area for the benefit of owner of such property and to the detriment of other owners.” This is an application to amend the zoning code in general and add a use to an entire district rather than rezoning a specific parcel of land. As far as the stakeholder agreement of 2011, WB-2 zoning text amendment, that process was a considerable process that a lot of people were involved with. The purpose of the committee was to address the nonconforming uses that had cropped up in that district. It didn’t specifically look at future uses that might or might not be appropriate there. It was there mostly to legitimize existing uses, and never meant to set in stone uses that are occurring in that district. If this text amendment were to be approved, the applicant would be required to get a zoning compliance permit for any new location, at that time they would look at sign permit, available parking, landscaping requirement, etc. Currently within the zoning code there is conditional use requirements for personal services, that are specific to the WR-3 and WR-4 residential zones. One of the things it talks about is guides and outfitters being limited to one boat for display. That certainly is appropriate where it is in a residential zone, if this was a conditional use in the WB-2 we might look at expanding that since boat sales aren’t an allowed use and you wouldn’t want to restrict them for their outdoor display. Director Taylor read over the findings of fact that are provided on page 221-223 of the packet on the website.

Councilor Frandsen asked and Director Taylor said the application was signed and received on June 20, 2016. She also asked how the 30% threshold was calculated, and Director Taylor said it is based on what his particular needs are. Since retail use in the WB-2 is a concern, the WB-3 zone is designed to protect the retail interest of downtown. It was important to add a restriction on the amount of retail, and base that generally on the floor area of the main building. She also asked and Director Taylor said the state focusses on hunting and fishing guides and outfitters. We are a resort community with other types of guides, such as guided mountain biking, guided snowmobiling, back country skiing. She asked how the usage within the building is enforced and Director Taylor said a zoning compliance permit is required, at that time Planning will look at the lay out, floor plan and measure the percentages.

Councilor Feury asked City Attorney Jacobs, since 99% of the testimony is going to be for a specific piece of property, and a specific business that will specifically benefit from this decision; if we were to decide in the affirmative is that a defensible position that it is not a spot zone? Attorney Jacobs said she believes it is; since text amendments are petitioned. It applies unilaterally, everybody will have the opportunity if they want to have this type of business. It is not just benefiting one property owner in particular.

Councilor Hildner asked and Director Taylor said the WB-2 has specific zoning requirement based on the types of business it is, and the code outlines the number of parking spaces required based on the location. Councilor Sweeney said the parking requirements is dependent on the square foot of the foot print of the building. Taylor said that retail or personal services is one space for 300 square feet of gross floor area. Councilor Williams asked and Director Taylor said the outdoor space would not be calculated in the retail space. Hildner clarified only 30% of the floor space can be used for retail sales.

The Mayor opened the Public Hearing.

Justin Lawrence, 334 Central Avenue, Lakestream Fly Shop is the applicant. He is requesting the text amendment for the need to park and display boats, raft and trailers and currently there is no accommodation in any zone for a guide and outfitting business to exist in this town. The downtown Central Avenue business district has grown to the point where there is no room for these types of businesses to live or grow. The WB-2 is a great fit for these businesses because of the need for parking, large display and proximity to arterial streets and highways. Lakestream is an outfitting based fly shop and a 30-year business in Whitefish. The business model has changed dramatically from a Mom and Pop retail shop it once was. They are one of the largest fly fishing outfitters in the State of Montana and the largest in Northwest Montana. The retail component is fed by the outside world, that professionally licensed guides and independent outfitters have created. True retail is 25% of Lakestream's business, the rest is created by development of relationships garnered throughout the outfitter world. Lakestream supports 27 independent contracted guides and 7 shop employees and their families. It brings 2200 people to the town per year to fish with the guides. These customers stay in our hotels and rentals, eat in our restaurants and bars and spend their dollars in our shops. To not allow a business like this to exist and grow in our town because of an oversight in zone would affect all of us that do business in the town. It would be a great loss for our mountain town and community.

Turner Askew-3 Ridgcrest Court, was on the study committee for the South Whitefish zoning. He has watched Lakestream teach fly fishing in the middle of Central Avenue. Is that the right place for them?

Mike Jensen, 919 Dakota Avenue, said this is prompted by the current need for a place to allow outfitters and guides to operate in our community. Justin added the component of guided and outfitting into the business. It is necessary now tonight to define a place for this type of business to operate and succeed in our community. It was stated in the Planning Board meeting that nothing should happen until the stakeholder's agreement of a corridor study is completed. That may be years. The reason text amendment language exist in our zoning documents is to accommodate oversights and changes that need to be dealt with. This is one of them. This is to allow a service business in our community to actually stay in our community.

Rick Adams, 550 Stovepipe Road, is the owner of Flathead Fish and Seafood Company. He supports the fly shop and he thinks it is a great thing for Whitefish. Professional guides need to have licenses throughout the state. The fly shops need guided trips to survive. As he takes people down the river he talks about the beautiful area, his seafood company, and promotes Whitefish. Lakestream would be a great entrance business to the beginning of the heart of downtown of Whitefish.

Larry LaRoque, 365 Tamarack Creek Road, works at Lakestream Fly Shop. He moved to Whitefish 13 years ago and started working at Lakestream. They call 27 guides every day. A typical day is employees and guides scrambling to get out numerous boats while take up parking spaces. Tonight one of their guides was double parked in the middle of the road, this is typical of what they are doing. He encourages the council to approve the text amendment.

Drayton Osteen, 244 Cattail Drive, started guiding about 8 years ago. He said this is not only helping one business. There are 27 guides independently contracted with Lakestream, and 27 businesses and families are being supported by Lakestream Fly Shop.

Jessica Owen, 451 Woodland Place, supports the text amendment for Lakestream and other businesses who would like to offer guiding and outfitting services. She works downtown and also for the Historical Society, the motto in the 1950's was "year around playground". She urges the Council and the community to support businesses that offer a range of diverse and interesting activities and increase our tourism value.

Lisa Jones, 314 Blanchard Hollow Road, makes her living in outdoor recreation in conservation and tourism fields. She knows how important this field is to the community and to the economic health of the community. She promotes tourism and the target visitor is someone who is high quality low impact, so they like them to go out with guides and be with somebody that knows the rules and know which fish to throw back and know which native plants not to step on. Guiding and outfitters is a huge part of that whole picture. Anything we can do to help our businesses, within Whitefish that are providing that service is helping our entire community and economic health. She supports the text amendment.

Mayre Flowers, Citizen for a Better Flathead, 35 4<sup>th</sup> Street West, Kalispell, submitted comments that are included in the packet on the website. The building at 669 Spokane Avenue is not currently in compliance with the landscape standards and has encroachment issues, access issues, along with issues if West 7<sup>th</sup> Street is developed. Also look at the zoning text of 11-9-2, stating personal services should not involve retail sale except on an incidental basis. She encourages the Council to table this to allow opportunity to look at a conditional use rather than permitted use and defines guides.

John Middleton, 1285 Lion Mountain Drive, supports Lakestream, and said this is part of our economy, and it has been a boom for our community since Justin has taken over. It is not just one business; it is 27 independent contractors. We are not allowing special treatment for a singular entity, this is something that has been a part of our community for 30 years. It is impossible to compare a box store to Lakestream. Where would you place this business in the Central Avenue area? People come here to enjoy the outdoors. Lakestream is the shop to go to. Turning a blind eye to this will not only impact the community negatively it will impact 28 independent contractors and businesses negatively. He encourages the council to approve the text amendment.

Chris Schustrom, 504 Spokane Ave, is an officer and a board member of the Heart of Whitefish organization. Effective planning and zoning takes hard work and community wide efforts to succeed. After 30 years of efforts to recover from decision to empty out the retail core, the zoning in place today creates a foundation for well-planned efficient growth. Significant time and effort has been extended in terms of coming to find resolutions to non-conforming use zoning issues. Those culminated in 2011 after a 3-year process that resulted in an agreement with 19 stakeholders that represented a community interest. The council approved those text amendments and updates to resolve the issues and laid the foundation to move forward. Unfortunately, this application, the way it is put together, is the attempt to stretch and redefine the word in the WB-2 zone, and to redefine the intent of the entire WB-2 zone. The biggest concern, is if this is approved it will apply to the entire zone, and while Lakestream Fly Shop is a great owner operated business,

this zoning text amendment could allow Cabela's to come in and build a 14,999 square foot building and offer trained recreational guides and outfitters and have over 4,000 square foot of retail space. It is important for the City to understand what goes into play for the specific property with regard to city development standards, landscape standards, and city right-of-way. The city has 60-foot right-of-way south of the property. Chris presented to the Council a copy of the encroachment permit from MDOT which is provided in the packet on the website. The property is in violation of the permit; it is supposed to be 35 feet from the white shoulder line. He also handed a photo that is provided in the packet on the website. There are many problems with this property. It is important to encourage businesses to stay in the community, the council shouldn't repeat the mistakes of the past. It is important to honor the work that has been done, and to honor the zoning that is in place. The reason visitors come to Whitefish, not only for the outdoor recreation and fishing and the services provided by Lakestream Fly Shop, they love the fact we have a vibrant downtown. He asks the council to deny this text amendment, it is not because of an individual business, this is a zoning question.

Christina Trewieler-Schmidt, 614 Pine Ave, said it seems reasonable to her that if additional hotels are approved in the area, we also need to look at expanding what is allowed to include businesses that will build these hotels. Guides and outfitters will help keep those hotels filled throughout the year. She doesn't see where this would interfere with the Heart of Whitefish, and feels it would expand it. There are a number of other guides and outfitters that don't have a place in downtown Whitefish. She hopes this will be approved and she hopes there will be other outfitters that can open in the area and held to the same standards.

Will Hagen, 160 Stageline, he is in support of the text amendment. One of the big fears is a big box retail coming into WB-2, can't exist with less than a 1/3 of the total square footage being dedicated to retail. The property is not an issue, the city has proper procedures and proper remedies in place in the event the property is not compliant. This is not a variance, this is a text amendment to the zoning code that supports any recreation guide and outfitter to do business in the City of Whitefish. Recreational guides and outfitters are uniquely suited for the 93 corridor, where do you want these types of businesses? Each part of Whitefish, north of the viaduct to the Highway 93 South corridor helps support and nourish downtown Whitefish as a whole. Restricting business of this sort to a few city blocks in the core of whitefish would be economic isolation. He believes the text amendment fits the intent and purpose of the WB-2 snugly, comfortably.

Ryan Wigness, 312 Vintage Way, has lived in Whitefish for 14 years and has been a business owner for 14 years. The outdoor recreation business is important to what we are doing in this town to make it viable to give us our identity. He doesn't think downtown is the right place for these businesses based on his experience. The 93 corridor is the ideal place for this type of business.

Dan Short, 420 Wisconsin Avenue, owns an independent fly fishing agency and works with fly shops across Idaho, Montana and Wyoming. He said Lakestream does the best job of looking professional and great representation of what we have to offer. He shows his support for the text amendment.

Gary Stephens, 1470 Barkley lane, said this is not about Lakestream, this is about what the Council visualizes of Whitefish and what the Council thinks the community should be like. There always has been a vision that strong downtown core is essential to the community's health and

vitality, which has been proven to be true. This is a destination area; people want to come here. He doesn't want to lose Lakestream from downtown. If that is the only place they locate, they find a way to do that. The downtown traffic is a value to a business to be in that area. They can do van transfers to outside location, where there is mass storage of trailers. It doesn't have to be right in the downtown area. If you make a stand, they will find a way to handle it and do what they want to do. Make a conditional use permit in that zone, for this, then it is sight specific. He would like to see it in the WB-3 district. There is no reason an outfitter can't be located in a downtown building; provide service, and feed off the traffic and have a remote location for all the large scale uses.

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 said this is challenging, he agrees we should not be doing this for one business, at the same time as a community and a Council we have a responsibility for doing what we can to encourage and create the opportunity for growth for our local businesses. He is uncomfortable with the way this is structured and the way the idea that we would create a new permitted use for the WB-2 zone, without having thought through all the permutations of it.

**Councilor Sweeney made a motion, second by Councilor Frandsen to postpone to August 15, 2016 and direct Planning and Building Director Taylor to come back with a text amendment with the proposed use as conditionally approved versus a permitted use.**

Councilor Hildner agreed with Mike Jensen that it is important to find a place for this kind of business to operate and succeed and grow. This isn't just about Lakestream; it is about Lakestream being the vehicle during the discussions for a zoning text amendment. The assumption that this was specifically for the old DQ site is not the case; the text amendment would include all of the WB-2. He thinks the proper thing to do is within the time constraints to make sure we make the right decision not only for the businesses of Whitefish but for the community at large and the integrity for both WB-2 and WB-3 zones.

Councilor Frandsen said she has a very long list of reasons to support and a long list of reason of concerned. She can appreciate the concern the businesses have about a lack of proper identification for this particular kind of a business, and its suitability for specific zones in the code. She would like to see a maximum allowance for square foot footprint, she feels 30% is inadequate. We need to address personal services in code 11-9-2 as it relates to guides and outfitters and does that particular use carry over to the conditional use or how is that broken out. Regarding big box stores; we have no way to tell people we don't want this kind of business in our town. We have guidelines, things that speak to retail for formula businesses but no specific requirement in the WB-2 zone addressing guides and outfitters. We need to pay a little bit attention to that and how that might be an adverse reaction and how do we counter that. It was also brought up that we should address how this fits into the WB-3, and are there differences and what are those differences? Discussion followed between Councilor Frandsen and Justin Lawrence for clarification of daily duties of a guides and outfitters business as it relates to retail floor area use.

**Councilor Sweeney included in his motion the Public Hearing remains open. Councilor Frandsen being the second agreed. The original motion with the amendment passed unanimously.**

**8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD2 18:27**

- a) Consideration of initiating a notification and public hearing process for water and wastewater rate increases consistent with 69-7-111 MCA (p. 255)**

Public Works Director Workman gave his staff report that is provided in the packet on the website.

**Councilor Frandsen made a motion, second by Councilor Hildner to direct staff to initiate a notification and public hearing process for water and wastewater rate increases consistent with 69-7-111 MCA.** Mayor Muhlfeld asked if a map of the user classes could be included in the packet. Director Workman said there will be an elaborate mailing that MCA requires for all the rate payers. He is not sure the map will fit into that mailing, but could refer property owners to a webpage for a breakdown of how it affects their property. **The motion passed unanimously.**

**9) COMMUNICATIONS FROM CITY MANAGER (CD2 25:35)**

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 264)- None**
- b) Other items arising between July 27<sup>th</sup> and August 1<sup>st</sup> - None**
- c) Consideration of approving Changeorder #1 to the City Hall/Parking Structure construction contract with Martel Construction for \$123,641.00 and to increase the project budget (p. 274)**

Manager Stearns gave his staff report that is provided in the packet on the website.

**Councilor Feury made a motion, second by Councilor Frandsen to approve Changeorder #1 of \$123,641 to Martel's construction contract and \$219,537 to the overall project budget to cover all contaminated soil costs leaving \$150,000 in the contingency account. The motion passed unanimously.**

- d) Resolution No. 16-36; A Resolution approving an Interlocal Agreement to provide temporary police services for the City of Columbia Falls (p. 307)**

Manager Stearns gave his staff report that is in the packet on the website.

**Councilor Hildner made a motion, second by Councilor Williams to approve Resolution No. 16-36; A Resolution approving an Interlocal Agreement to provide temporary police services for the City of Columbia Falls. The motion passed unanimously.**

**10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD2 42:03)**

Council Comment

Councilor Hildner has received comments and calls regarding the increased persistence and belligerence and aggressiveness of the transient population outside businesses downtown. He said we need to look in to the comments Gary Stephens made regarding the container issue with NVR. He would like to address Mike Jensen's concerns regarding the weed issue, and he has noticed the weeds in the empty lot north of Super 1 need to be treated and or abated. He has received a call from a woman who is on W. 7<sup>th</sup> street and will have 600 feet of sidewalk, she is elderly, with a fixed income, and wondering if we can come up with some senior assistance snow removal program other than ask your neighbor to help.

Councilor Frandsen asked and Director Taylor said he has a big pile of weed complaints on his desk and he is trying to get to them based on the order they come in. He said they are advertising for another code enforcement officer.

Councilor Sweeney said he would also like to follow up with Mike Jensen's complaint regarding the billing with NVR and also an issue with recycling curbside pickup. Director Workman said the issue regarding the tenant versus owner billing has been contested since day one. The contract is clear that NVR will bill the property owner. They lobbied to get that in there because they were nervous about liability. They didn't want to lose the ability to bill the owner when having multiple tenants. NVR has a form similar to the form the City of Whitefish requires the owners to sign that gives them the authority to bill the tenants. The contract with NVR only regulates the central recycling site, not the curb side collect. Councilor Sweeney feels we need to start managing NVR a bit better, he is concerned with the relationship they are building or not building with our residents.

Councilor Feury said he has the same issue as Gary Stephens, with the number of water meters and cans. Director Workman said he knows the billing is based on meters, but is should also be an address portion of that. He will look into that with NVR. Councilor Feury also said that after the approval of the Marriott Hotel, and the blanket universal disappoint he heard from almost every citizen of the community, we need to take a look at the WB-2 zone and formula businesses. Otherwise, it is going to be a problem. The Council agreed to a work session on formula businesses. Manager Stearns was concerned with the work load on the Planning Department. Director Taylor said it could be done in the next month but his concern was he knows you can limit formula businesses in certain zones but not city wide.

Manager Stearns said there was one budget item to discuss from the work session and he wanted to reconfirm the Police part time salary's for \$10,000 increase. Basically if the taxable value provided so more leeway we would consider the \$10,000 increase to the police part time salaries, if it was at or below where we had it in the budget; it would not be in. Councilor Hildner said we don't like it but that is what was discussed. Mayor Muhlfeld said the reality of it is at the end of the year, they are going to spend more paying for overtime help than they would if that \$10,000 was allocated to part time wages. Manager Stearns said they are limited to both line items and they are not supposed to spend those, however if we do give them the leeway if they are going to under spend especially in salary's then we don't care as much if they over spend overtime or part-time. That is not necessarily true, he still has to live within the budget as a total and we do look at personal services or payroll as a total. He has some flexibility but we can't just go over in all three items. Mayor Muhlfeld acknowledge Chief Dial to the podium. Chief Dial said it is good to remember good business practices. We are paying a part time person about \$30/hour with

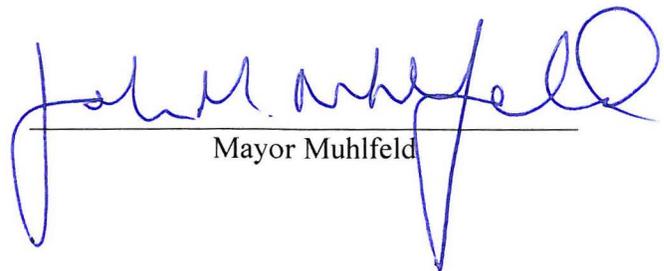
benefits, and a regular full time officer \$45- \$50/hour depending on experience. Also in this environment, he doesn't want one guy out there and that is what is going to happen. The Police Department is not an office staff; police are out there risking their lives. Part-time are people are there to help and back up the officers. Would the Council like to go to a domestic at 2:00 a.m. by themselves? That is what is going to happen. With the environment we have in the United States right now, he doesn't want his people to work by themselves.

Councilor Sweeney asked and Manager Stearns said we might already be below the 12% with the addition of the Judges salary, and Managers salary increase. Councilor Williams said as much as she would like to see us keep our cash reserves and cash balance as high as possible, her personal opinion dropping that below 12% in lieu of public safety and recognizing our services in law enforcement is much more valuable at this time given everything we've stood for in the past two weeks.

The Council agreed to drop the year end cash balance below 12% to address Chief Dials concerns.

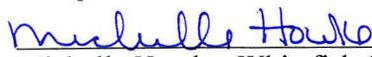
**11) ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)

Mayor Muhlfeld adjourned the meeting at 10:30 p.m.



Mayor Muhlfeld

Attest:



Michelle Howke, Whitefish City Clerk

PUBLIC HEARINGS

PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 8-01-2016

NAME AND ADDRESS	7a)CUP-Whitefish High School greenhouse	7b)Ord 16-__ ; Rezone 1436 W. Lakeshore Dr R-3 to WR-1	7c) Res. 16-__ ; increase in Parks fee schedule	7d)Ord 16-__ ; Amending Zoning Regs in WB-2 to add recreational guides and outfitters
Kim Brubaker 309 Congar Trl				✓
Draughton Osteen 244 Cattail Dr				✓
Sean Hard 45 Fir Ave				✓
Brian Murphy 1032 Creek View				✓
Will Hays 160 S. Starline Dr.				✓
Cew Patterson Whitefish				✓
Geoff Osden Mslg				✓
<del>XXXXXXXXXX</del>				
Courtney Baker				✓
JOHN BRUBAKER				✓
DAN BAKER				✓
Larry LaRoque Whitefish				✓
Dax Kora				✓
JUSTIN LAWRENCE				✓

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Jessica Owen 451 Woodland Pl. <sup>Whitefish</sup> MT				✓
Janson England <sup>221 Old Tracto</sup>				✓
Don MacKenzie				✓
TUNNEY ASKEW				✓
MIKE JENSON				✓
RICK ADAMS	✓			✓
LARRY LAMOCK				✓
DRAKE NOSTINE				✓
Jessica Owen				✓
LISA JONES				✓
MARY FLOWERS				✓
JOHN MIDDLETON				✓
CHRIS SCHUSMAN				✓
CHRISTINA McEWELLEN				✓
WILL HATTON				✓

RYAN WIGNESS  
 Please return to Michelle  
 DAN SIBERT  
 CARMY STEPHENS

\* CUP=Conditional Use Permit