

## **WHITEFISH CITY COUNCIL**

**August 15, 2016**

**7:10 P.M.**

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

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Feury, Barberis, Frandsen, Sweeney, and Williams. 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. Approximately 35 people were in the audience.

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

Mayor Muhlfeld asked Brendon Friel to lead the audience in the Pledge of Allegiance.

### **3) 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)**

Rhonda Fitzgerald, 412 Lupfer Avenue, congratulated the Council on the good planning for the future of Whitefish. The Council adopted a Downtown Master Plan ten years ago and the result is a vibrant and healthy general business district. That is an awesome accomplishment, that we should all be proud of. This this week she read three different newspaper articles about three recent studies; school enrollment, wage growth in the valley, and top priorities for Flathead job seekers. She provided a handout that is appended to the packet on the website. As our business core expands we need to really look at our architectural guidelines and development standards, and our parking solutions need to be expanded. The new structure is a good start but perhaps consider establishing a parking committee of business people and residents who could look at some solutions. The new business district master plan updates call for providing opportunities for community serving businesses in the WB-3. The concept includes expanding retail and commercial capacity to meet the future demand, specifically Whitefish residents serving businesses should be fostered and especially in the Railway District, and the Central Avenue area south of third. The adopted master plan gives the Council the authority to implement these updates.

Janet Collins, 910 West 7<sup>th</sup> Street, commented on the workers on the reconstruction of West 7<sup>th</sup> St., they seem to be on schedule and are doing a great job. She is now 80 years old and has recently had a knee replacement and said the new bike path that is going to be next to her house is 10 feet wide and will be the length of her property which is equivalent to two football fields plus 15 yards. She feels like it is beyond what she can do to maintain the path in the winter. She asks the Council to consider expanding the Parks and Recreation budget to maintain the bike path. She thanked the Council.

Mayor Muhlfeld asked and Director Butts said at this time it is not planned nor budgeted to be maintained for plowing.

### **4) COMMUNICATIONS FROM VOLUNTEER BOARDS**

Councilor Hildner reported the Bike/Ped committee met for a Special Session to have an administrative review of the Bike/Ped Master Plan that is currently being developed. The next meeting will be September 6<sup>th</sup>, the public is invited and there will be an opportunity to have a look at the Master Plan and it will be posted on the City Website. A public meeting will be held on September 7<sup>th</sup> to go over the Master Plan.

**5) CONSENT AGENDA**

**a) Minutes from August 1, 2016 Regular Meeting (p. 46)**

**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 (Second Reading) (p. 60)**

**c) Resolution No. 16-37; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 0.39 acres of land known as Parcel C 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. 63)**

**RESOLUTION NO. 16-37**

**A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 0.39 acres of land known as Parcel C 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, has filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owner 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:

Parcel C 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 15, 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 15TH DAY OF AUGUST, 2016.

/S/ John M. Muhlfeld

John M. Muhlfeld, Mayor

ATTEST:

/S/ Michelle Howke

Michelle Howke, City Clerk

Councilor Hildner had a correction to the minutes to correct the spelling of Mike Jenson's name from 'Jensen' to 'Jenson' throughout the minutes.

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

**6) 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))

The Public Hearing regarding the FY17 Budget tax levy and assessments is a series of Resolutions that will be one motion relative to the items under agenda item 6b.

**a) Resolution No. 16-38; A Resolution amending the 2016 Fiscal Year annual budget to increase appropriations in four Funds of the City (p. 75)(CD 1 14:44)**

Finance Director Smith gave the staff report that was provided in the packet on the website. The Lighting District Fund #1, the residential lighting, was increased \$7,000 to cover

additional cost of utilities and repair maintenance supplies. The Tax Increment Revenue Bond Debt Fund was also over budget; due to unbudgeted issuance costs related to the City Hall bond. The SID 166 Bond Debt Fund is a \$50 increase for paying agent fees that we had not budgeted. The Water Fund looks more significant; however, it was expected at the time of the bond issue. At \$8,133,558.00, in the FY16 budget we had assumed to budget the debt issuance for the Haskill Basin Bond out of the Resort Tax Fund, after dealing with the process for applying for the loan and working with Bond Council and the Auditors, we were instructed to have that come out of the Water Fund. This increases the appropriations in the Water Fund directly with the amount of proceeds that came in as well. The conservation easement purchase of \$7.7 million is the big part of the \$8.1 million.

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 No. 16-38; A Resolution amending the 2016 Fiscal Year annual budget to increase appropriations in four Funds of the City as noted. The motion passed unanimously.**

- b) FY17 Budget, Tax Levy, and Assessments Public Hearing: (p. 80)(CD 1 21:41)**
- i) Resolution No. 16-39; A Resolution accepting and approving the Municipal Budget for the City of Whitefish for the 2017 Fiscal Year Commencing July 1, 2016, in its final form (p. 84)**
- ii) Resolution No. 16-40; A Resolution (1) budgeting property tax revenue, (2) determining the property tax mills to be levied on all taxable property within the corporate limits of the City of Whitefish, and (3) levying and assessing all special improvement assessments and other assessments on real estate within the Districts for the 2017 fiscal year (p. 206)**
- iii) Resolution No. 16-41; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Street Maintenance District to defray the costs of street improvements (p. 209)**
- iv) Resolution No. 16-42; A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 1 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p. 211)**
- v) Resolution No. 16-43; A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 4 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p. 213)**
- vi) Resolution No. 16-44; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Parkland and Greenway Maintenance District (p. 215)**
- vii) Resolution No. 16-45; A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Stormwater Improvement and Maintenance District (p. 217)**
- viii) Resolution No. 16-46; A Resolution levying and assessing a tax on each lot or parcel of land lying within the boundaries of Special Improvement District No. 166 (JP Road) to defray the cost of creation of said District and of the improvements therein (p. 219)**

- ix) **Resolution No. 16-47; A Resolution levying and assessing costs from certain properties within the City for the extermination and removal of noxious weeds pursuant to Title 4, Chapter 3, of the Whitefish City Code; and for the removal of ice, snow, slush or other impediments pursuant to Title 7, Chapter 2, of the Whitefish City Code (p. 233)**
- x) **Resolution No. 16-48; A Resolution levying and assessing costs from certain properties within the City for the collection of utility service charges pursuant to Title 8, Chapter 1, of the Whitefish City Code (p. 236)**

Manager Stearns gave his staff report that is provided in the packet on the website. The year-end cash balances as of June 30<sup>th</sup> are up higher than anticipated. The property tax base mill valuation came in almost where predicted at 3.1% increase in the taxable valuation and it came in at 3.02%. Last year when the voters increased the Resort Tax from 2% to 3%, 25% of the proceeds from that go into property tax reduction. The budget proposes to reduce the property tax mills by 15 mills which is 11.18% reduction in the property tax levy that the City levies. Total spending for the budget for FY17 is almost \$12 million, or 19% lower than FY16. Last year's budget there was two large capital projects; the Haskill Basin Conservation Easement, which was appropriation of over \$8 million in order to provide \$7.7 million of fund to help purchase the conservation easement, that project is 100% done. City Hall Parking Structure construction as of June 30 is approximately 33% complete, that appropriation is \$4 million less than a year ago.

Mayor Muhlfeld opened the Public Hearing.

Rebecca Norton, 530 Scott Avenue, said she would like to keep the lifeguard. She thinks it would be safer and likes the idea of enhancing the IT. She feels the email communication system is weird and not effective. She doesn't hear back when emailing. Other than that great job.

There being no further 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 Frandsen to approve the FY17 Budget tax levy and assessments, Resolution 16-39 through 16-48.**

Councilor Hildner complimented Manager Stearns and Director Smith on the budget, to do their very best to keep us at the 12%. It is significant that we are showing a reduction in the Mill Levy and a reduction in the budget at 11.18%. He thanked both for their effort.

Manager Stearns replied to a few citizen comments. For plowing the path on 7<sup>th</sup> Street, the difficulty is we tend to plow just the main arterials, along Hwy 93 West and South, Wisconsin Ave and along the Railroad Loop. There are a number of other bicycle paths around that is not plowed such as Colorado Avenue. Ms. Collins is only required to do the 4-5-foot width as per the code. The Community Center does help provide some volunteers to help with shoveling. This budget kept the lifeguard budget the same, Director Butts has reduced the lifeguard hours on duty.

Councilor Feury said we get beat up in the paper a lot for being frivolous spenders and not being good stewards of the tax payer's money, but of the 14 cities with over 4,500 people in the State of Montana, Whitefish is ranked 13<sup>th</sup> in total number of mills levied. We have consistently done that over the last 25-30 years, it is a good testament of a lot of hard work by a great city staff and hardworking and fiscally responsible Councils. We do as good of job as anybody in the entire State and he is proud of that and proud to be a part of it.

**The motion passed unanimously.**

**c) Ordinance No. 16-14; An Ordinance amending Zoning Regulations in Whitefish City Code Title 11 to add recreational guides and outfitters to the list of Conditional Uses in WB-2 Secondary Business District (First Reading) (WZTA 16-02) (p. 240)(CD 1 36:10)**

Director Taylor gave his staff report that was provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing

Kim Brubaker, 309 Cougar Trail, is the co-owner of Lakestream Fly Shop. She is in support of the text amendment to the WB-2 zoning. She said they will be good stewards to the property, and of Whitefish wherever Lakestream lands. This is their community, their home where they chose to raise their family, they take great pride in this community. As an owner of two successful businesses, she embraces the growth, resilience and vitality of Whitefish. Our downtown is thriving, nothing is going to change that. This have been quite the process to say the least, she does not envy the Council's job, but it is time to move forward, and address one of the problems with the WB-2 zoning. Today it is the Council's job to take lead and make necessary changes to move forward and to be progressive. Desire to keep our town a viable option for new recreational guiding businesses as well as those 30-year-old businesses like Lakestream, that was born right here. Whitefish is not made up of just Central Avenue, the WB-2 is the perfect match for recreational guiding business.

Johnson England, 221 Old Tractor Lane, is in support of the text amendment. During the fourth grade he was able to take a fly tying class that was offered and taught by Larry Loroque. It was there he was first introduced to the sport of fly fishing. From there on out he became an almost permanent resident of Lakestream Fly Shop, so much so after so many years of being around, Justin decided to give him a job. As a 3<sup>rd</sup> generation Whitefish resident and a son of a railroader, he is very aware of how this town has transformed itself from its humbled beginning to where it is now. As an employee of Lakestream Fly Shop he has seen how important outfitting and outfitting based businesses are to this area and to our local economy. This is why he supports the zoning amendment, being in a town that identifies itself throughout recreation tourism, it only seems right to do everything we can to provide an appropriate space for these types of business to operate and to be successful. He hopes in the Council's decision they will think about how much our town can benefit by allowing businesses to thrive at their highest potential and bring people and business to our town.

Robert Knox, 120 Meadows Road, is in support of Justin and the fly shop. One of the best things he did for his business was to build his house on the south side of Western Building Center, so that he doesn't have to pull through town, especially since there are two seasons; tourist season and non-tourist season. As Justin knows there are a lot of times that he doesn't

want to venture downtown to get supplies, but he does want to support local businesses. The location he is talking about and with his truck and a boat behind it, his new location is going to be a great fit for him and many guys that are fishing. He is here to support him.

Justin Lawrence, 334 Central Avenue, the owner of Lakestream Fly Shop that has been in business in Whitefish for 30 years. Ownership, staff and guides are all Whitefish local that live, work and play in this community. Lakestream supports 27 independently contracted guides and outfitters, 7 shop employees and their families. They bring 220 people to Whitefish per year to fish with these guides. These customers stay in our hotels and rentals, eat and drink in our restaurants and bars and spend their dollars in our shops. Lakestream has been forced to make a decision to move from 334 Central Avenue. This location has been perfect for Lakestream for the last 11 years, and really the only location on or near Central Avenue that is at all suited for Lakestream or guide and outfitting business. Any outfitting business fits the intent of the WB-2; traffic, close to arterial roads, and parking solutions. He is here to ask the Mayor and Council for a zoning text amendment, to add recreational guides and outfitters to the permitted uses in the WB-2 district with the discussed conditions. He thanked all that have been involved in this process. He is willing to work with all sides on this matter.

Daniel Short, 420 Wisconsin Avenue, is in support of the text amendment. He works with outfitters and retailers in fly fishing across Idaho, Wyoming and Montana and he thinks we would be losing a huge service to our community by pushing Lakestream out of downtown Whitefish.

Bill Frazier, 557 Park Avenue, has read Director Taylors comments on the conditional use and he finds that he was extremely thorough, and considered every issue that is before the Council in changing the zone. He finds the applicant is in need of a location that fits the tourist traveler. He would hope the Council votes for the amendment.

Jessica Owens, 451 Woodland Place, said that the last meeting she attended was her first Council meeting and thanked the Council and administrators for their thoughtful questions and objective listening, she was impressed and grateful. She supports the text amendment. Heart of Whitefish has expressed concern about moving retail away from the downtown area that they have worked so hard over the last years to improve. They have succeeded. The downtown is the place to be for retail and restaurants. Outfitting with a small amount of retail is different. As an entrepreneur and a citizen of Whitefish she hopes they will set a precedent, that we give special consideration to businesses that have served us for many years and who offer unique things for our visitors and uphold the spirit and personality of Whitefish.

Dax Kara, 451 Woodland Place, is in support of the zoning amendment. Lakestream is not just a pay check for him, this is everything that he does, and he is in a very lucky position to be able to go to work and to make money. He sees other people come in to the shop and he sees how their faces change before leaving. He is asking the Council to let them continue the 30-year legacy of being of service to this town and its people.

Chris McCready, 11921 Rippling Water Road, Bigfork, is an outfitter for Lakestream Fly Shop. He could not be more proud to partner up with Justin Lawrence and the entire crew at Lakestream Fly Shop. His outfitter has impeccable record with DNRC, Fish Wildlife and

Parks, US Forrest Service, US Department of Agriculture, BLM and all agency they work with. Please allow to move business to continue on the legacy that he has brought to Whitefish.

Mayre Flowers, 35 4<sup>th</sup> Street West, Citizens for a Better Flathead, is here to bring the Council back to the topic focusing on the details of the policy part of the decision that is before the Council. This is difficult because there is a lot of emotion behind a particular business. The Council is working with a zoning code that is dated that lacks definitions and lacks standards that really need to be updated to address the quality growth that you have worked so hard to encourage and to maintain as the City continues to grow. She provided and reviewed comments that are appended to the packet on the website.

Rebecca Norton, 530 Scott Avenue, said that Lakestream is mentioned in every single comment so it is hard not to think this isn't a backdoor to spot zoning. We are not debating the popularity of a 30-year-old legacy, we are discussing all of the other businesses that will come after Lakestream moves and is successful in their new location. She likes the idea of adding a CUP. She has significant concerns about traffic in this corridor, and about the easement that City of Whitefish owns. She thinks we should take a little more time with it, because when and if this gets approved Council is setting a precedence that everybody else will be using and the whole other part of this designation. Could there be a limitation on how many boats can be there, and a traffic study? Create a short term committee to look at all the issues that might be relevant. Lakestream is a really wonderful business in town, highly popular, we all want the business to be successful, this is not about one business. Take a little bit more time to make sure the conditions that are going to be needed to allow downtown to grow.

Brendon Friel, 603 Pine Place, is in support of the text amendment and change in the WB-2 zoning to include outfitting and outfitting based businesses. This particular business has outgrown its particular location. We live in a wonderful town and that is part of the reason a lot of us are here. We all know this town is growing and we need to grow with it. The Planning Boards recommendation of this particular business being less than 5,000 square foot and the retail being no more than 30% of their revenue should quell any sort of apprehension people have about the big box stores coming in and taking over the quaintness of our small town. Cabela's is 100% retail business and they do not offer any guiding or outfitting businesses. He understands why the Heart of Whitefish might oppose it although he believes the heart of Whitefish start at the city limits signs, not just downtown. It is a very welcoming sight.

Rick Adams, 550 Stovepipe Road, supports the amendment to the WB-2 that would help Lakestream and other guiding and outfitting businesses. He thinks Lakestream is a great model. Downtown won't work, the last thing we need is more stuff on the sidewalk. The greenspace will get taken care of with regulations that are already in place. He said if this a text amendment, call it "Professionally State Licensed Guides and Outfitters". Don't say recreational guides or trained versus professional. Twenty-seven guides throughout the day is not going to impact the traffic if there are 10,000 to 15,000 people going through Whitefish. He read a comment from his phone that he took on a guide earlier this year. He supports the text amendment.

Shannon Dodrill, 646 Copperwood Court, supports Lakestream and echoes Dax Kara comments. Her family has learned to fish and tie flies. As a small business owner she would hate to see a precedent set where a valued part to our community and to our community

members and our visitors felt they were being pushed out of town because they couldn't function or to find a place in our town to continue to operate.

Ray Klaussen, 308 Cougar Trail, supports the text amendment to ensure the town stays a viable competitor in the outfitter industry. If we cannot offer responsible growth and placement for necessary and ever growing Montana industry it only seems reasonable to assume our neighbors will reap the benefits of these guides and recreational businesses. It would be a shame to deprive our city and our residents the opportunity that this amendment can offer us. If we cannot be effective and efficient with acknowledge that an immediate change to the WB-2 zone, we not only invite the growth to go elsewhere, we will tell our vested businesses to go with it.

Will Hagen, 160 Stageline Drive, is in support of the text amendment. The starting point is the intent and purpose of the WB-2 district. That is the important place to start because the use contemplated by this text amendment falls squarely within the four corners of the intent and purpose. Some of the permitted uses that the Council has already allowed for in this district; military surplus that has a sporting goods component, auto and boat recreational vehicles sales. This proposed use is closer to the intent and purpose of the zoning code than many of the existing permitting uses. Some of the big box pharmacy, Verizon store, the bowling alley, are businesses that help the economy but they are further than the intent and purpose that is contemplated here. The denial of this text amendment, especially in light of the revisions and the restrictions, especially in light of the permitted uses that are currently allowed, it would be very troubling for him to hear denial of this text amendment. He urges the Council to approve this test amendment.

Chris Schustrom, 504 Spokane Avenue, Officer and Board Member of the Heart of Whitefish, said the proposed text amendment as written remains too open ended and would allow retail flight into the WB-2 zone at the expense of other zones where those businesses are intended to locate. This would change the intent of the WB-2 zone; it would also make success for businesses intended to locate there more difficult. Retail flight into the WB-2 would do the same and the businesses intended to locate into the WB-2 district such as lumber yards, car lots, large display storage areas, rely on lower land cost to do business in those areas. Having that retail flight and increase in values would make it more difficult for those businesses intended to locate there. With conditional uses, there is an assumption of approval, it is extremely rare for the City Council to deny an application for conditional use permit. The statement that there is no place for guides and outfitters to locate in Whitefish has been thrown around more and more. There are at least four zones and up to seven zones currently where guides and outfitters can legally exist. The proposed text amendment would create a break with the tradition of logical planning and zoning in Whitefish. Planning and zoning that is based on adopted plans, that is on adopted agreements reached through community wide effort. The approval of this proposal would not be in the best interest of the City of Whitefish and its inhabitants. It would provide a benefit to one individual business, likely for a short amount of time and would be at the expense of other businesses that have located and successfully built their business in zones where they intended to locate. The proposed text amendment would set back years of recently adopted plans and agreements reached. Agreements adopted as findings of fact for the 2011 Council approval for updated zoning text amendments that resulted in a three-year process. The proposed language includes loosely defined terms open to interruption. There are adopted plans

in place. He asks the Council to deny the proposed text amendment and ask businesses to locate in the zone where they are allowed and they will more likely find success.

David Baker, 226 West 6<sup>th</sup> Street, supports the text amendment. He wanted the Council to think about what sort of business embodies the City of Whitefish, what sort of businesses have worked for years to cultivate local grass roots people that know the area, know the community and know what this community needs. Outfitters and guides is what that is. People come here for the hiking, biking and fishing before the business, and the businesses are what enhance that experience.

Robert Wykar, 313 Cougar Trail, supports the text amendment change. He read the intent and purpose of the current WB-2 zoning regulation. Lakestream needs parking and proximity to the streets to get in and out of town, they sell boats; fishing is a recreational activity, they sell, rent and repair equipment. Guides do need to be licensed through the State.

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

Councilor Hildner asked and Director Taylor said the code for retail sales and services has the same requirement which is one parking space for every 300 square feet of gross floor area. Boats with trailers take up two spaces but some of that could be covered in a loading zone. Parking is more for the customers rather than the employees and the personnel.

Councilor Sweeney asked and Director Taylor said the way personal services is written if it's on a major arterial and there is an existing building they are moving into, then it is an administrative conditional use permit. The adjacent property owners are notified and advertised, if it can't be addressed, then it gets bumped to the Planning Board and the Council. Specifically, for personal services and professional offices, just for the WR-3 and the WR-4 residential districts is where it applies right now. Personal services are a use by right in the WB-3 and allowed with a conditional use in the WR-3 and WR-4. The specific criteria for personal services was crafted for residential zones, because that is where it is a conditional use. Potentially, that is what is going to apply because the language is not specific to any zone but that is what is was written for. Under the conditional use standard in the WB-2 it is a full conditional use permit.

Councilor Sweeney asked and Director Taylor said typically when there is a standard for outside display or storage it is something that would apply equally throughout all the businesses within the zone. Outside storage is a whole different matter that needs to be looked at further. Councilor Sweeney said it seems we would also want some standards for some requirements in terms of parking and circulation. Director Taylor said anytime there is a conditional use permit, the Council will review those standards that are part of the criteria.

Councilor Sweeney also mentioned WB-2 is a fairly large area, and the size of the lots and the facilities are different. Have we looked at whether or not these issues or uses should be condition in certain portions of the WB-2 zone or have those been discussed? Director Taylor said we haven't developed that, he knows when working with the stakeholder committee, it was brought up that there are differences. It gets difficult if you look at putting additional

restrictions and try to down zone somebody, taking away rights of certain property. It has been thought about, but not been developed.

Councilor Feury asked and Director Taylor said the number of boats is based on the size of their property and what they can accommodate within the setbacks that are required. If it becomes a conditional use, that standard would apply.

Councilor Sweeney said we are trying to add two uses in the WB-2, retail sales and personal services. The circulation requirements, any outfitting business needs are not necessarily addressed by a specific sight or by any sight. We are talking about making a significant change to the differences between the WB-2 and the WB-3, and what are permitted uses in those areas. There are potential other areas in town that these types of businesses could operate, and those areas don't seem to service the needs of a business like this.

Councilor Williams said to look at the style of business in terms of what it needs. The WB-2 Secondary Business District, is characterized by the need for large display or parking areas and that fits the need for part of this business. For her if we can find a way to actually make this fit into the WB-2, even as a conditional use permit she would be comfortable.

**Councilor Feury made a motion, second by Councilor Barberis to approve WZTA 16-02 as a non-administrative conditional use permit recreational guides and outfitters, limited to 5,000 square feet of gross floor area, no formula businesses, with no limitation on number of boats or similar equipment stored or displayed outside and adopt the definition of recreational guides and outfitters as: Business offering State licensed guides or outfitters as well as equipment and supplies for sale and/or rent for specialized outdoor activities such as fishing or hunting. Retail sales of supplies and equipment related to the primary activity are allowed up to thirty percent (30%) of the gross floor area in the WB-2 Secondary Business District.**

Councilor Feury said we don't have the tools without a conditioned use. This does meet the purpose and intent of the WB-2 zone. We typically see a lot of zoning text amendments that are use driven. That is the way they come to us. Unfortunately, we don't have the staff time, Council doesn't have the energy or the other extra time to do something where we bring things in and we vet them out twice a year to look at zoning text amendments. He does have an issue when things come to us and there is a face associated to the text amendment, it does make it very hard, and it does become more of an emotional issue. He doesn't see this as a danger of retail flight from downtown. It is always a struggle there and we know that, we can look at Resort Tax numbers and retail sales are down in downtown this year because we are not seeing the Canadian trade that we have in the past. This type of business does fit the purpose and intent of the zone.

Councilor Hildner said this is difficult when he looks at the audience and sees neighbors and friends and people he does business with and he thinks about what is best for his community. He sees this as two different and distinct businesses, one is a retail fly shop the other is an outfitting business. We are trying to fit the two of them into this conditional use of WB-2. He disagreed with Councilor Feury that this is the intent of WB-2 to try and combine

those two elements. It is with great angst and difficulty; he would not support it as we look at it now.

**Councilor Frandsen made an amendment, second by Councilor Feury to the definition: business offering state licensed guides or outfitters. The motion passed unanimously.**

Councilor Sweeney asked and Director Taylor said retail space is defined by the gross floor area within the walls of the building that is heated, anything that is sold to the general public that is not specifically related to the use. This would not include rental of equipment.

Councilor Feury said a recreational guide and outfitter and retail sales operation are joined at the hip. He believes they are one business.

Discussion followed between Councilors and Mayor Muhlfeld regarding specific conditions to WB-2. Conditional use permits are sight specific, and have an over lying set of conditions and standards for development or use of a particular piece of property within a zone, and have to also consider the growth policy compliance, and compliance with regulations.

**The original motion passed on a 5-1 vote, with Councilor Hildner opposing.**

**7) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR (CD 2 28:53)**

**a) Ordinance No. 16-15; An Ordinance repealing the portion of Ordinance No. 14-13 that established Whitefish Animal Group, Inc. as an advisory committee to the Board of Park Commissioners (First Reading) (p. 326)**

Director Butts gave her staff report that is provided in the packet on the website.

**Councilor Sweeney made a motion, second by Councilor Feury to approve Ordinance No. 16-15; An Ordinance repealing the portion of Ordinance No. 14-13 that established Whitefish Animal Group, Inc. as an advisory committee to the Board of Park Commissioners. The motion passed unanimously.**

**8) COMMUNICATIONS FROM CITY MANAGER (CD 2 32:53)**

**a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 332) – None**

**b) Other items arising between August 10<sup>th</sup> and August 15<sup>th</sup>**

Manager Stearns said the Mayor and Council have been invited to take a tour of the Firebrand Hotel Monday August 22<sup>nd</sup>, from 5 – 6 pm. Councilors Frandsen, Barberis, Williams and Mayor Muhlfeld will be attending. As of now it looks like there will be no Work Session on September 6<sup>th</sup>.

**c) Quarterly Financial Report – 4<sup>th</sup> Quarter and year end FY16 – Finance Director (p. 351)**

Director Smith gave her staff report that is provided in the packet on the website. Mayor Muhlfeld commended Director Smith for a very thorough, concise and easy to read report.

**9) COMMUNICATIONS FROM CITY ATTORNEY (CD 2 44:40)**

- a) **Ordinance No. 16-16; An Ordinance extending the Interim Ordinance imposing a moratorium on allowing the averaging of residential density across underlying zoning districts when a Planned Unit Development overlays more than one district (Emergency Ordinance – only 1 Reading) (p. 366)**

City Attorney Jacobs gave her staff report that is provided in the packet on the website.

**Councilor Hildner made a motion, second by Councilor Sweeney to approve Ordinance No. 16-16; An Ordinance extending the Interim Ordinance imposing a moratorium on allowing the averaging of residential density across underlying zoning districts when a Planned Unit Development overlays more than one district.** Director Taylor said currently there are no PUD applications. **The motion passes unanimously.**

**10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 2 49:45)**

- a) **Letter from Montana Board of Investments regarding Short Term Investment Pool annual confirmation of authorized City representatives (p. 373)- None**

**Council Comments**

Councilor Frandsen said she would like to address the snowplowing of bike trails and sidewalks. She would like to work towards being able to plow the main bike pathways across town. She doesn't know if we can do that before 2020 when the TIF expires. She feels like we are behind the curve on planning and Hwy 93 South was a high priority as was Wisconsin Avenue. There are demands on both of those. She would like to see us look a little harder about how we can get started on Hwy 93 South Corridor planning before FY17 and look into a Work Session at the beginning of the year.

Councilor Sweeney asked Director Taylor regarding the property on Hwy 93 South, north of Super 1 that is covered with noxious weeds and it has not been mowed and is untreated. Director Taylor said in the past years we have gotten him to mow or we have mowed it ourselves. We are in an enforcement bind with two people short in the department and two people on vacation every week. It is one of the properties at the top of the priority list. Councilor Sweeney would like the Council be conscious of the fact that as we add street lighting in the city we are increasing the taxes on our citizens. He would also like to address the the difference between 7<sup>th</sup> street and a lot of the other sidewalks and other areas where we have bike paths with large lots. You have people like Janet Collins who now, have a football field plus of 10-foot-wide sidewalk that is being required to maintain. He doesn't think it is reasonable even if she were 25. We need to be cognoscente about a way to address her concerns.

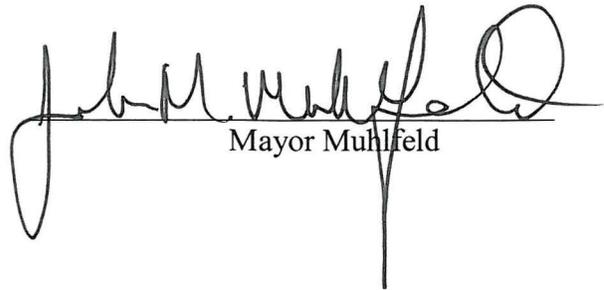
Councilor Feury said the committee met Friday and reviewed the City Manager applications, and picked four applicants to interview. The Real Estate Advisory committee also met on Friday, there was only one proposal for the retail space in the parking structure. As a result, they agreed to extend it with hopes as the building goes up it might create more excitement and

somebody could get more vision as to what the space is going to be. He also said after looking at the picture of the Grizzly bear eating out of the cherry tree on Dakota Avenue, he counted no fewer than six garbage cans out on Dakota Avenue on Wednesday night between Skyles Place and LaBrie Drive. The roll out ordinance is not either being enforced or observed. As we start heading into the fall we need to either get that out in city newsletter or get it in the paper again. He hates to see bears destroyed because we are not responsible citizens.

Mayor Muhlfeld will not be present at the September 6<sup>th</sup> meeting.

**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 10:21pm.



Mayor Muhlfeld

Attest:



Michelle Howke, City Clerk

PUBLIC HEARINGS

PLEASE SIGN IN TO SPEAK ON A SPECIFIC PUBLIC HEARING 8-15-2016

NAME AND ADDRESS	6a) Res. 16-__; Amending FY16 annual budget to increase appropriations in four Funds	6b) FY17 Budget, Tax Levy & Assessment Resolutions	6c) Ord 16-__; Amending Zoning Regulations to add recreational guies and outfitters to the list of Conditional Uses in WB-2	
Janet Collins 910 W <del>Seventh</del> St Whitefish		Parks Budget		
Kim Brubaker			✓	
Jonson England			✓	
Robert Knox			✓	
JUSTIN Lawrence			✓	
Daniel M. Short			✓	
BILL FRAZIER			✓	
Jessica Owen 451 Woodland Whitefish			✓	
Dax KARA 751 WOODLAND PLACE			✓	
Chris McCarty LACESTRAEM OUTFITTER			✓	
Marty Flowers, CFBF			✓	
REBECCA NORTON			✓	
BRENDON FUEL			✓	

RICK ADAMS

Please return to Michelle

SHANNON ?

ROB KUTZEL

RAY KLASSEN

DAVID BARTER

WILL HAZAN

CHRIS SCHUSTROM, H.O.W.

\* CUP=Conditional Use Permit