

WHITEFISH CITY COUNCIL CLOSED EXECUTIVE SESSION

October 3, 2016

5:30 P.M.

Closed Session pursuant to §2-3-203 (4) MCA, Quarterly litigation update and strategy with City Attorney. Present were Councilors Hildner, Barberis, Frandsen, Sweeney and Williams. Mayor Muhlfeld was tardy, and Councilor Feury was absent. Staff present were City Attorney Jacobs, City Clerk Howke and City Manager Stearns. The meeting was called to order at 5:30 p.m. and adjourned at 6:10 p.m.

WHITEFISH CITY COUNCIL

October 3, 2016

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Hildner, Barberis, Frandsen, Sweeney, and Williams. Councilor Feury 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, Lieutenant Kelch and Fire Chief Page. Approximately 10 people were in the audience.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Mike Cronquist to lead the audience in the Pledge of Allegiance.

3) PRESENTATION - Update on City Hall/Parking Structure Construction progress – Mike Cronquist, Owner’s Representative (p. 35)

Mike Cronquist gave his report that is included in the packet on the website. The elevated ramp is in the process of being placed in the Parking Structure. The City Hall concrete is 95% complete, the HVAC equipment have been set, they are now in the process of piping into the system. The duct work is 90% complete, the interior framing is 90% complete, some of the drywall has been started along with interior insulation. The oversized brick is complete on the alley side of City Hall; the brick work should be complete in February. The roofing in about 95% complete, the building is close to being dried in, the mechanical, electrical and plumbing will continue. The electrical and plumbing are at 7% completion, mechanical is 50-60% complete. The alley will be closed the week of October 17th to remove the asphalt, and repaving to 1st Street; during that time a valley gutter will be placed on the north end of the alley. Councilor Frandsen stated there is concern the mortar on the east wall seems dark but is drying lighter. Mike said the mortar has coloring when placed and will lighten as it continues to cure. Councilor Hildner asked and Mike said the plumbing and electrical have been roughed in for the maternity room. Manager Stearns said there will be a time capsule, but he is not sure of a cornerstone. The windows are out about a month but visqueen will be placed to keep the interior dry.

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) (CD 14:38)

Rebecca Norton- 530 Scott Avenue- is opposed to keeping the building in Depot Park. She said that the underutilized kiosk that is located in the parking lot behind Casey's Bar could be moved to the Library or where the gazebo in the park will be placed. She feels the building should not be rented to a partisan group, or a lobbying group. Per Wikipedia the Chamber of Commerce is a partisan group and a lobbying group.

Marcus Duffy, 326 Somers Avenue, stated he is a homeowner, a business owner, a chamber member, a Board member of the Chamber and a CVB business member. He is in support of the Chamber of Commerce utilizing the building at Depot Park.

Kevin Gartland, Executive Director for the Chamber of Commerce stated the Depot Park is the best location for the Chamber of Commerce to better promote the community to tourists and families looking to relocate to Whitefish. The local Chamber of Commerce is not a lobbying organization, it is in the bylaws they do not take position on politics, they advocate pro-business and pro-community issues.

Rebecca Norton, 530 Scott Avenue, said there are over 2,000 business in town, only 8% are members of Whitefish Chamber of Commerce, they have had a political event that they have not invited one of the political parties to.

Don Kaltschmidt, 230 JP Road, supports the Chamber of Commerce leasing the building at Depot Park and feels it is a great location for the Chamber. He also asks that his property, 3B and 3BD, be removed from the wholly surround annexation along with the Morris property. He has given a letter to City Attorney Jacobs that was drafted from a local attorney regarding findings of wholly surround annexation. He says the properties will come into the City, this is not the right time. Mayor Muhlfeld stated the Council did receive a copy of the letter.

Chris Schustrom, 504 Spokane Avenue, a Board Member of the Heart of Whitefish and the Heart of Whitefish representative to the Depot Park Master Plan, asks the Council to continue to honor the Depot Park Master Plan and its implementation and remove the building in Depot Park.

John Wallace, 246 4th Street West, owns properties on Ramsey Avenue and opposes the annexation of the properties that he owns. His family has owned the property since 1930, they have paid plenty of taxes in regards to the City equities. He doesn't think the wholly surrounded law is fair. If he is annexed into the City he loses restrictions to his property, such as open burning and building restrictions.

Jason Spring, 147 West Swift Creek Way, Kalispell, represents a business in Whitefish that is a member of the Chamber of Commerce and serves on the Board of the Chamber of Commerce. He supports the Chamber of Commerce to utilize the building in Depot Park.

Brenda Banning, 250 West 18th Street, asked the Council to postpone voting on the 44 properties to be annexed into the City until it has been decided what is happening at Houston Point.

Rita Hanson, 528 Ramsey Ave, agrees with Brenda Banning, and it would be interesting in what transpires with the Houston Point area. Cost increases, such as refuse, water, sewer and property taxes will impact her. She thinks there might be a historical aspect to Ramsey Avenue. She asks for possibly not an expedient decision but a total consideration of all the properties.

5) COMMUNICATIONS FROM VOLUNTEER BOARDS (CD 37:04)

Ron Brunk, 130 4th Street, Parks Board representative stated the Board encourages the Council to award the contract bid to Watson Excavating for the Riverside Tennis Courts and fund it through the Resort Tax Funds to meet the shortfall. The Park Board is in favor of the Depot Park building to stay but with a lease of five years. He personally feels a ten-year lease is a long time.

Councilor Hildner invited members of the community to meet at the Riverside Park October 4th at 5:30, and bring your bike to ride to Skye Park for the dedication of the Skye Park Bridge. He also encouraged the community to check out the new path behind the Pine Lodge and Stumptown Inn that connects to the Riverside Park. The Bike Pedestrian Master Plan is close to completion.

6) CONSENT AGENDA

- a) **Minutes from September 19, 2016 Regular Meeting (p. 45)**
- b) **Ordinance No. 16-18; An Ordinance rezoning certain tracts of recently annexed land on West Lakeshore Drive 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. 50)**
- c) **Resolution No. 16-53; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 1.31 acres of land known as 2045 Lion Mountain Loop Road, for which the owners have petitioned for and consented to annexation (p. 56)**

RESOLUTION NO. 16-53

A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 1.31 acres of land known as 2045 Lion Mountain Loop Road, for which the owners have petitioned for and consented to annexation.

WHEREAS, Alan Myers-Davis and Frances Montanye, 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:

TRACT 1 OF CERTIFICATE OF SURVEY NO. 17698, LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., FLATHEAD COUNTY, MONTANA.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF MONTANA BY DEED RECORDED JUNE 23, 2014 AS INSTRUMENT NO. 2014-000-11007.

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 October 3, 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 3RD DAY OF OCTOBER, 2016.

/S/ John M. Muhlfeld
John M. Muhlfeld, Mayor

ATTEST:

/S/ Michelle Howke
Michelle Howke, City Clerk

Councilor Sweeney made a motion, second by Councilor Barberis to approve the Consent Agenda. Councilor Hildner had a correction to the minutes on packet page 45, first paragraph, fourth sentence should add “same as previous years”, and on packet page 49, third sentence “...Councilor Sweeney to table...” should read “...Councilor Sweeney to postpone...” **The consent agenda passed as amended 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)

None

8) COMMUNICATIONS FROM PARKS AND RECREATION DIRECTOR (CD 43:34)
a) Consideration of awarding a construction contract award for the Riverside Tennis Courts reconstruction project (p. 68)

Parks and Recreation Director Butts gave her staff report that is provided in the packet on the website. The Department is not recommending moving forward with the bike path and landscaping.

Councilor Frandsen made a motion, second by Councilor Hildner to award the Riverside Tennis Court project to Watson Excavating and allocate additional \$63,258 of Resort Tax Funds to complete the project this fall. The motion passed unanimously.

9) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR (CD 52:34)

- a) Consideration of accepting Preliminary Engineering Report for the Wastewater Treatment Plant improvements design and authorizing its submittal to the Montana Department of Environmental Quality (p. 76)**

Public Works Director Workman gave his staff report that is provided in the packet on the website. Councilor Frandsen asked and Director Workman said as we move from a lagoon system to a mechanical plant, there is a number of different areas that we can control odors much more readily. With a mechanical plant, we have a variety of different aeration techniques, pumping techniques, returning techniques and ways to control odors. Some of the area in this new plant where the more odiferous processes will take place will be uncovered cells. There is the same probability of odors but much more operator control. Mayor Muhlfeld asked and Director Workman assumes there will be a pretty quick turn around on this report, he anticipates we will hear by the end of the year. Councilor Hildner asked and Director Workman said part of the PER does incorporate a nutrient trading plan that is associated with it for possible nutrient credits. Nutrient trading down the road will give us flexibility as we go to deal with future permits, and Burlington Northern (BN) will be the first place we look. Councilor Hildner also did not want to lose sight about the composting plant, as well as the possibility to convert a lagoon into a nursery that can be fertilized and watered from the waste water treatment plant.

Councilor Frandsen made a motion, second by Councilor Sweeney to accept the Preliminary Engineering Report for the Wastewater Treatment Plant improvements design and authorizing its submittal to the Montana Department of Environmental Quality. The motion passed unanimously.

10) COMMUNICATIONS FROM CITY MANAGER (CD 1:04:49)

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 92)**
b) Other items arising between September 28th and October 3rd

City Manager Stearns wanted to make sure the Council saw the City Hall Parking Structure budget update that in his manager report. This afternoon he received the August Resort Tax Report. August was up 27.7% or \$120,000 increase from last year, most of that being in Lodging which was up 78%.

- c) Resolution No. 16-54; A Resolution indicating its intent to consider annexing approximately 82.7 acres of wholly surrounded land into the City of Whitefish, Montana, describing the land to be so considered, providing for notice and publication as provided by law, providing for a date of hearing such proposed annexation, and approving the Report on Extension of Services (p. 97)**

City Manager Stearns gave his staff report that is provided in the packet on the website. Councilor Sweeney asked and Manager Stearns said at the time of the Public Hearing the Council can decide to remove properties, or delay properties for annexation. The decisions would need to be supported by findings or rational. Mayor Muhlfeld asked and Director Taylor said there will be a work session regarding the extension of services before the end of the year.

He also clarified with Rita Hanson, it is \$12,000 in new property tax revenue and additional \$16,310 related to our streets, greenway, street lights and storm water assessment for a total revenue of \$28,000.

Councilor Hildner made a motion, second by Councilor Barberis to approve Resolution No. 16-54; A Resolution indicating its intent to consider annexing approximately 82.7 acres of wholly surrounded land into the City of Whitefish, Montana, describing the land to be so considered, providing for notice and publication as provided by law, providing for a date of hearing such proposed annexation, and approving the Report on Extension of Services. The motion passed unanimously.

- d) Resolution No. 16-55; A Resolution of the City Council of the City of Whitefish, Montana, establishing "No Parking" Zones along portions of East 1st Street (p. 126)**

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

Councilor Sweeney made a motion, second by Councilor Frandsen to approve Resolution No. 16-55; A Resolution of the City Council of the City of Whitefish, Montana, establishing "No Parking" Zones along portions of East 1st Street.

Councilor Frandsen amended the resolution, second by Councilor Sweeney to state "No Parking to be allowed on both sides of East 1st Street from Baker Avenue eastward to the alley". The amendment to Resolution 16-55 passed unanimously.

The original motion to approve Resolution 16-55 was passed unanimously.

- e) Consideration of authorizing staff to proceed with a negotiated sale of SID #167 Bonds (Parking Structure SID) up to \$880,000.00 with First Interstate Bank and Glacier Bank (p. 135)**

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

Councilor Sweeney made a motion, second by Councilor Williams to authorize staff to proceed with a negotiated sale of SID #167 Bonds (Parking Structure SID) up to \$880,000.00 with First Interstate Bank and Glacier Bank. The motion passed unanimously.

11) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS (CD 1:32:32)

- a) Letter from Montana Municipal Interlocal Authority (MMIA) regarding receiving the Liability Loss Control Award for lowest incurred liability claims among 2nd Class cities in Montana during the past five years (p. 141)**

City Clerk Howke will be accepting the award at the Montana League of Cities and Towns.

- b) Discussion and possible consideration of a proposal from the Whitefish Chamber of Commerce to lease the Depot Park building after it is vacated (p. 142)**

Councilor Frandsen stated she is a member of the Chamber of Commerce and the agency of record for the Whitefish Convention and Visitors Bureau. She asked of the current build out schedule of the Master Plan and do we have the funds to build it out? Manager Stearns said based on the last CIP we would be able to finish the Depot Park Master Plan by the end of the TIF, a lot of that will depend on next year's property valuation. He thinks in this year's budget we would have enough to demolish the building next spring without starting on Phase II. Councilor Frandsen asked and Manager Stearns said to build out the Master Plan, the funds are within the TIF and they would have to be spent before 2020. Finance Director Smith said the remaining amount is \$1.7 million for the remainder of the entire plan, of that there is also additional \$100,000 that was moved to FY17. Late FY18 we could start using those funds. Councilor Frandsen asked and Director Butts said that if we are not moving forward with the Depot Park Master Plan now, we would not be putting in the angle parking on the south side of Depot Park.

Councilor Hildner asked and Manager Stearns said there would be sufficient funds to lay sod if the building were to be removed. He also thinks that before demolishing the building we would see if there was any interest in purchasing and moving the building. We don't have interest in reusing the building, but we would like somebody to reuse it before demolition.

Councilor Sweeney asked and Director Butts said T. Bauer is committed to donating funds at a reasonable rate to demolish the building. Manager Stearns said the Building Official looked at the building and stated his most concern was the roof. Mayor Muhlfeld clarified with Kevin Gartland that the Chamber would be responsible for the interior changes but not the exterior repairs of the building.

Councilor Hildner made a motion, second by Councilor Sweeney to deny the lease of the Depot Park building and continue with its removal from the Depot Park.

Councilor Hildner thinks the intent of the Master Plan and the intent of what goes on downtown was to make it an open space. The structure itself occupies roughly 20-25% of perhaps the most active corner of Depot Park. The removal of that building will open that amount of space in Depot Park. In comparing prices, \$14/square foot is the same as office space that is vacant and has been vacant for some time on the south edge of the core district. Once we approve and once we get into that habit of having that building there we will never take it down. He thinks now is the opportunity. The argument might be used later for city offices when City Hall is full, that is certainly not going to happen, based on our plans for City Hall as constructed for at least 50 years. He thinks 50 years is too long, ten years is too long, 5 years is too long to keep that building on the corner of Depot Park.

Councilor Frandsen thanked the Chamber for presenting a proposal to review. With that said this gives us numbers and an opportunity to weigh what stands before us. The bottom line is a ten-year revenue of about \$340,000, for a ten-year lease and weighing that against capital improvement cost, exterior maintenance costs, and the over whelming need to accomplish the remainder of the Depot Park Master Plan build out, within three years of our exit, that stands around \$1.5 million coming out of TIF which expires in 2020. She can't imagine how to come up with those funds in five years, or ten years. So with that she has to honor the original plan.

Councilor Sweeney thanked Councilor Frandsen for putting it in that light. For him this has been as much about economics as anything else. He hears the argument in some respects that this would be a good building to have just in case we run out of space at the new City Hall. He would make the argument that in five or ten years this building would have lived its life. The City Hall is designed to add a third floor to accommodate any growth, or unforeseen growth over the next fifty

years. This community has put an awful lot of effort into the Depot Park Master Plan; its approval from day one always called for that building being removed. He thinks we should honor the original vision for this park and the Master Plan. If we don't implement this Master Plan within the next three years, the funds will be very hard to come by. He supports Councilor Hildner's motion.

Councilor Williams said Councilor Frandsen has made a very sound argument, and has put her more on the fence with this issue. She still supports keeping the building, she said we need to save money where we can. We can make it a workable green space and we can cut costs in implementing the Depot Park Plan. We can generate revenue and look at a ten year or a five-year lease for this building, and then see where we end up. It would be a sound decision in terms of looking at our state of finance. She respects all the hard work the citizen's committees and staff have put into this entire process. This building still has youth, and use in a long term, and can provide and be a viable space for the Chamber and events to invite other organizations and provide an interface with the community. Instead of utilizing technology to introduce tourists to our town, we can have a human presence. That carries a lot of weight in a town that really prides itself in being authentic. She knows that the economic doesn't add up to as much as we thought, but it adds up to potential and leaves us with more viable options in the long run in saving money.

Councilor Hildner reiterated a lease that starts mid-2017 and two and a half years later the TIF has expired, and seven ½ years later the building comes down, and given a reasonable rate inflation, he doesn't know where the City would come up with \$2 million to implement the plan. Now is the time to implement the plan and now is a prudent financial time to implement the plan and he thinks we are fiscally responsible in doing so and we would be fiscally irresponsible if we didn't. Manager Stearns said of the \$1.7 million we would still spend most of that before 2020. Most of the rest of Depot Park Master Plan development is the street on Spokane Avenue between the Library and Depot Park, new sidewalks on all four sides, and the bikeway promenade. Most of it would be spent before the TIF expires. If the building stays, the fourth corner would be finished after the TIF expires.

Councilor Hildner said whether the \$1.7 million goes to 90% or 80% of the completion, the park is a beautiful face in Whitefish, but if we leave that building on the corner, there will be a pimple in the middle of the nose.

Councilor Sweeney asked and Manager Stearns said that except for the hardscape in that corner and any green space outside of the bulb out, the big expense is Spokane Avenue between the Library and the Depot Park. You can do three of the four corners easily, all four streets, and then the green scapes. The biggest value is the green space and the visual intrusion of the building, but he doesn't see it as preventing the rest of the work. Councilor Sweeney stated the Park Board would be happy to tolerate up to a five-year lease in that park.

The motion passed with a 4-1 vote, Councilor Williams voting in opposition.

c) Any actions related to hiring of new City Manager

Mayor Muhlfeld stated an action will not be taken tonight. The Council met in an executive session after the top candidate turned down the offer due to a life decision, at which time the second top choice also voluntarily removed himself from the process. The mayor has been in touch with Kim Park and Edwin Meece and relayed to them the Council's direction is to re-advertise for the City Manager position and will continue to do that in house with Sherri Becarro in addition with the citizen advisory committee and City staff committee. Chuck has graciously offered to stay on board for at least a part time basis through March to help fill the gap. Manager Stearns said as

quickly as it can be filled will be appreciated. He did ask Sherri if the interviews could be in December, rather than January.

Council Comment

Councilor Sweeney stated that a couple of the issues that was dealt with tonight which included inclusionary activities of various properties of the City as well as the Depot Park Master Plan; there aren't a lot of right answers sometimes. He wants everybody to know we work these problems as hard as we can and try to come up with the right answer. He is very sensitive to what incorporating properties into the city does in respect to the taxes and what it does to the owners of the properties, he is sensitive to those issues particularly with individuals and families that have been here a long time. We need to help them plan as best we can, for the increase in their taxes, he doesn't know how to do that logically at this point but he wants us to be very sensitive to those issues as we move forward.

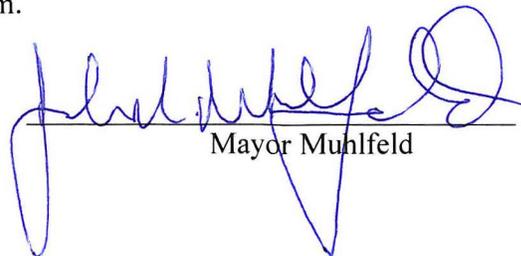
Councilor Frandsen apologized for missing the last meeting due to being ill.

Councilor Hildner added that Wednesday October 5th is bike and walk to school day, and please be aware of those young people and be careful. He will be absent November 21st meeting.

Mayor Muhlfeld reminded the Council the retreat will be November 15th, time and place to be determined. He will be traveling to Ferny to sit on a roundtable discussion as part of the Crown of the Continent Meeting. The top is going to be building sustainable communities and how local communities can help support the timber industry while achieving long term development goals. An annual meeting will be held within the next few months for the Haskill Basin Conservation.

12) 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 9:26 p.m.



Mayor Muhlfeld

Attest:



Michelle Howke, Whitefish City Clerk