



**CITY COUNCIL SPECIAL SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, JANUARY 7, 2013
5:00 to 7:00 PM**

1. Call to Order

2. Interviews for applicants

- 5:00 Sandra McDonald – Whitefish Housing Authority
And Letter from Laura Rutherford, Resident at Mountain View Manor
- 5:09 Herb Peschel – Whitefish Lake and Lakeshore Protection Committee
- 5:18 Bick Smith, Board of Adjustment, Extra-territorial position
- 5:27 Mike Kelley – Board of Adjustment
Not here for interviews tonight, but letter in packet – Norm Nelson – Board of Adjustment
- 5:36 Rebecca Norton – City-County Planning Board and Board of Adjustment* (*see letter)
- 5:45 Zak Anderson – City-County Planning Board
- 5:54 Life Noell – City-County Planning Board
- 6:03 Scott Sorensen – City-County Planning Board
- 6:12 Chad Phillips – City-County Planning Board
- 6:21 Scott Freudenberger – City-County Planning Board
- 6:30 Bobby Young – City-County Planning Board
- 6:39 Myra Appel – Impact Fee Advisory Committee
- 6:48 Don Kaltschmidt – Impact Fee Advisory Committee

3. Public Comment

4. Appointments:

- 4a. Whitefish Housing Authority – Mayoral appointments (2)
- 4b. Whitefish Lake and Lakeshore Protection Committee – Council appointment (1)
- 4c. Board of Adjustment – Council appointments (4)
- 4d. City-County Planning Board – Mayoral appointment (1), Council appointment (1)
- 4e. Impact Fee Advisory Committee – Council appointments (2)

(Note: If time runs out before all appointment are made, appointments can be made during the Regular Council Session – Agenda #10.b)

5. Adjourn

PUBLIC NOTICE

VACANCIES ON CITY BOARDS



WHITEFISH CITY-COUNTY PLANNING BOARD – 2-Year terms. Two Positions - Applicants must reside within the Whitefish City Limits.

WHITEFISH LAKE & LAKESHORE PROTECTION COMMITTEE – 3-Year terms. One Position - Applicants must reside on, or own, lakefront property within the Whitefish City Limits.

HOUSING AUTHORITY - 5-Year terms - One Position - Open to city residents or residents within a 10-mile radius of the City of Whitefish.

IMPACT FEE ADVISORY COMMITTEE – 2-Year terms – Two Positions – The open positions are for a Certified Public Accountant and the Member at Large. Committee specifications require the applicant either lives or works within the Whitefish zoning jurisdiction. The Committee meets once a year.

BOARD OF ADJUSTMENT - 3-Year terms. Four Positions - Open to residents of the City or the Zoning Jurisdiction (One position is Extra-territorial)

Interested citizens may submit a letter of interest to serve on the above committees to the Whitefish City Clerk's Office at 418 E. 2nd Street or mail to P.O. Box 158, Whitefish, MT 59937, by **Friday December 21, 2012**. Interviews will be held **January 7th**. Thereafter, if vacancies still exist, letters of interest will be accepted until the positions are filled. If you have any questions please call the City Clerk's Office at 863-2400. This is also posted on the City's website:

www.whitefish.govoffice.com.

HOUSING AUTHORITY – MCA 7-15-4431 - City Resident or Within a 10 mile radius – 5 YEAR TERMS – MAYORAL APPOINTMENTS

| | | | TERM EXPIRATION DATE | |
|----------------------------------|---|--------------|----------------------|------------|
| Ralph Ammondson Vice-Chairman | Apt 222 – Mountain View Manor (Resident) 100 E. 4 th Street | 862-8160 | 12/31/2013 | 2 yr. Term |
| Laura E. Rutherford | Apt 107 – Mountain View Manor (Resident) 100 E. 4 th Street | 862-2401 | 12/31/2012 | 2 yr. Term |
| Myrna Fleming | 104 Railway Street | 862-3568 | 12/31/2016 | |
| Maureen Cleary RN | 116 Somers Avenue, WF | 862-6838 | 12/31/2015 | |
| Chris Miller | 180 Hidden Valley Drive | 862-4281 | 12/31/2014 | |
| Spencer Weimar, Chairman | 24 Iowa Avenue, WF | 862-3687 (W) | 12/31/2013 | |
| Sandra McDonald | PO Box 4722 | 862-9182 | 12/31/2012 | |

HOUSING AUTHORITY BOARD

MONTANA CODE ANNOTATED 2011

7-15-4431. Appointment of commissioners. (1) An authority consists of seven commissioners appointed by the mayor. The mayor shall designate the first presiding officer. A commissioner may not be a city official.

(2) Two of the commissioners must be directly assisted by the housing authority and are known as resident commissioners. The staff of the housing authority may not involve itself in the nomination or appointment of resident commissioners, except that the housing authority shall notify all of the households directly assisted by the housing authority when a resident commissioner position is vacant.

(3) The mayor shall file with the city clerk a certificate of the appointment or reappointment of any commissioner, and the certificate is conclusive evidence of the proper appointment of the commissioner.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part); amd. Sec. 2, Ch. 514, L. 1989; amd. Sec. 5, Ch. 472, L. 1997; amd. Sec. 1, Ch. 197, L. 2001.

7-15-4432. Term of office. (1) Subject to subsection (2), the commissioners who are first appointed must be designated by the mayor to serve for terms of 1, 2, 3, 4, and 5 years, respectively, from the date of their appointment. After the initial appointments, the term of office is 5 years.

(2) The resident commissioners who are first appointed shall serve for terms of 1 and 2 years, respectively, from the date of their appointment. After the initial appointments, the term of office is 2 years.

(3) A commissioner shall hold office until the commissioner's successor has been appointed and qualified.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part); amd. Sec. 3, Ch. 514, L. 1989; amd. Sec. 2, Ch. 197, L. 2001.

7-15-4433. Compensation of commissioners. A commissioner may not receive compensation for services, but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of authority duties.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part); amd. Sec. 621, Ch. 61, L. 2007.

7-15-4434. Vacancies. Vacancies shall be filled for the unexpired term.

History: En. Sec. 5, Ch. 140, L. 1935; re-en. Sec. 5309.5, R.C.M. 1935; R.C.M. 1947, 35-105(part).

5:00 pm

December 12, 2012,

City of Whitefish and Whitefish City Council,

I am writing today to express my interest in continuing to serve as a board member of the Whitefish Housing Authority. As a board member for the past five years as well as a board member for the WALT [Whitefish Area Land Trust] I have seen firsthand, the continued need for affordable housing in Whitefish and the positive impact on many people's lives who have been assisted by WHA.

As a real estate appraiser I feel I bring important knowledge to the authority that is helpful in assessing current trends in housing and assisting the board with housing needs, market data, pricing recommendations, etc... In addition, I am very excited about our new five year plan which lays out the framework for future goals for the authority.

There is much work to be done and feel that I am up for the challenge to help WHA to continue to grow in a positive direction. Community service is important to me and I ask that the City allow me to continue to serve as a board member so I may continue to assist our community in an area I feel very strongly about..... affordable housing.

Thank you for your time and consideration.

Sincerely,



Sandra McDonald

406 249-6433

Mountain View Manor
Resident

received
11/26/12
by mail



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, MT 59937
406-863-2400
nlorang@cityofwhitefish.org

October 29, 2012

Dear Laura Rutherford:

Your term on the Whitefish Housing Authority
expires this year on Dec. 31, 2012

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is November 26, 2012. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

If you are not planning to 're-up' for your position again, please let me know.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the Whitefish Housing

Laura E. Rutherford 863-2401
Signature Daytime Phone #

WHITEFISH LAKE & LAKESHORE PROTECTION COMMITTEE –WCC 13-4-1 - 3 YEAR TERMS
(2nd Wednesday; Planning & Building Department Conference Room)

*****City appointees – 2 minimum who own or reside on lakefront property*****

| | | | TERM EXPIRATION DATE | |
|---------------------|-----------------------|---------------------------|----------------------|-----------------------------------|
| *Marcia M. Sheffels | 450 Parkway Drive | 862-4576 | 12/31/2013 | City Lakefront owner |
| *Herb Peschel | 1404 W. Lakeshore Dr. | 862-4503 (H) 862-3839 (W) | 12/31/2012 | City Lakefront owner |
| Scott Ringer | 940 Dakota Ave | 863-2001, 871-0393 | 12/31/2014 | City |
| Ron Hauf | 2834 Rest Haven Dr | 862-1452 (C-270-7302) | 12/31/2014 | County Lakefront owner |
| Jim Stack | 2472 Birch Glen | 862-7777 FAX:862-7707 | 12/31/2012 | County Lakefront owner |
| Dennis Konopatzke | 2194 Houston Drive | 261-1174 | 12/31/2013 | County Lakefront owner |
| Helen Cates | 610 Blanchard Lake Rd | 863-9579, 270-4407 | 12/31/2012 | County Blanchard Lake |
| Greg Gunderson | PO Box 1043 | 863-9947 (W) | 12/31/2014 | Planning Board or other -2yr term |

LAKE AND LAKESHORE PROTECTION REGULATIONS

13-4-1: WHITEFISH CITY/COUNTY LAKE AND LAKESHORE PROTECTION COMMITTEE:

A. Creation, Composition And Compensation Of Members:

1. The Whitefish city/county lake and lakeshore protection committee is hereby created as a special planning board in compliance with section 75-7-211 Montana Code Annotated empowered to review and comment on all activities within the jurisdiction of the Whitefish lake and lakeshore protection regulations and shall be known as the lakeshore protection committee.

2. The committee shall consist of eight (8) voting members. Four (4) members shall constitute a quorum to conduct business.

a. The Whitefish city council shall appoint three (3) members. All members shall be residents of Whitefish and at least two (2) shall be lakefront property owners or residents.

b. The Flathead County board of commissioners shall appoint four (4) members. All members shall be residents of rural Flathead County and at least three (3) shall be lakefront property owners or residents. Of those three (3), at least one shall be a lakefront property owner or resident on Blanchard Lake.

c. The eighth member shall be appointed by the Whitefish city/county planning board. He/she shall serve for a two (2) year term unless he/she requests removal or is removed by a majority vote of the planning board. The eighth member may be a member of the planning board or may be a member at large, but in any event shall be a resident of Whitefish.

3. City appointees and county appointees shall each initially be appointed to a staggered term of one, two (2) and three (3) years. Thereafter, each succeeding term shall be three (3) years. Vacancies during the term shall be filled by the appropriate governing body for the duration of the unexpired term.

4. The committee members shall serve without compensation.

B. Duties: The committee shall:

1. Advise and work with potential applicants.

2. Review and give recommendations on projects requiring a lakeshore permit.

3. Review and offer amendments to the lake and lakeshore regulations, to keep them current, to improve efficiency and to address problems.

4. Report violations to the proper authorities.

C. Organization: The committee shall organize and adopt bylaws pursuant to these regulations establishing the operating policies and procedures of the committee. (Ord. 09-08, 7-20-2009)

5:09



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 29, 2012

Dear Herb:

Your term on the Lake & Lakeshore Protection Committee
expires this year on Dec. 31, 2012

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is November 26, 2012. Interviews with the Council will be scheduled for Monday, December 3, 2012; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the LPC

Herb 862-4503
Signature Daytime Phone #

BOARD OF ADJUSTMENT - WCC 2-3-1 - (As needed – 1st Tuesday, 7:00 p.m.) – 3 YEAR TERMS
(4 Members constitutes a quorum)

| Position # | | | | | TERM EXPIRATION DATE |
|------------|----------------|-----------------------|--------------------|--------------|------------------------------|
| 1. | Rebecca Norton | PO Box 762 | 862-0629 (H) | 862-8175 (W) | 12/31/2012 |
| 2. | Norm Nelson | 503 Somers Avenue | 862-4574 | | 12/31/2012 |
| 3. | Herb Peschel | 1412 W. Lakeshore Dr. | 862-4503 (H) | | 12/31/2014 Chairman |
| 4. | Stewart Cardon | PO Box 1890, WF | 249-4049 | | 12/31/2014 |
| 5. | Ralph Simpson | 615 Kaeding Creek Rd | 249-6678 © | 862-8184 (H) | 12/31/2014 Extra-territorial |
| 6. | Scott Sorensen | 285 Glenwood Road | 862-3669 | | 12/31/2012 Vice-Chairman |
| 7. | Bick Smith | 2451 Wolftail Pines | 862-9779, 253-9779 | | 12/31/2012 Extra-territorial |

BOARD OF ADJUSTMENT

2-3-1: BOARD ESTABLISHED:

There is hereby established a board of adjustment for the city, hereinafter referred to as the board. (Ord. 01-08, 3-5-2001)

2-3-2: PURPOSE, POWERS AND DUTIES:

A. The powers and duties of the board are set forth in Montana code 76-2-321 through 76-2-328, this chapter and rules of procedure adopted by the board.

B. The purpose of the board is to:

1. Hear and decide applications for appeals in which it is alleged that there is an error in an order, requirement, decision or determination made by the zoning administrator in the enforcement of these regulations.

2. Hear and grant or deny any application for a variance to the terms of the Whitefish zoning jurisdiction regulations, except where such regulations specifically limit the power of the board.

C. Decisions rendered by the board on applications for appeals and variances shall be made based upon written findings of fact establishing the reasons for each decision pursuant to the procedures for consideration established in either section 11-7-6 of this code, being the zoning jurisdiction regulations for appeals, or section 11-7-7 of this code, being the zoning jurisdiction regulations for variances. For each application whereupon the board renders a decision, the city clerk shall enter a copy of the findings of fact, along with the pertinent minutes of the board, into the public record.

D. The board of adjustment shall not by either variance or appeal process make any changes in the uses categorically permitted in any zoning classification or zoning district, or amend the zoning text or map. (Ord. 01-08, 3-5-2001)

2-3-3: MEMBERSHIP:

A. Appointments; Compensation: The board shall have seven (7) members. Members shall be appointed by the city council with at least one member residing in the extraterritorial jurisdiction and the remaining residing within the corporate limits of the city. Board members shall receive no compensation.

B. Terms Of Office: Board terms shall be three (3) years. There are hereby created positions numbered 1 through 7 inclusive of the members of the board. Members serving on the effective date of this chapter shall be assigned to positions that correspond with the expiration dates of their existing terms.

| Position Number | Term Expiration Date |
|-----------------|----------------------|
| 1 | December 31, 2004 |
| 2 | December 31, 2004 |
| 3 | December 31, 2005 |
| 4 | December 31, 2005 |
| 5 | December 31, 2005 |
| 6 | December 31, 2003 |
| 7 | December 31, 2003 |

As each of the above listed expiration dates has past, a member appointed to the position shall serve for a three (3) year term. Terms shall begin on January 1 following the initial expiration date of the preceding term. At the discretion of the city council, members may be appointed for more than one term. (Ord. 03-06, 4-7-2003)

C. Removal Of Member: A member of the board may be removed from the board by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of state statutes, city ordinances and the rules of procedures of the board, or absences from three (3) consecutive meetings, including regular and special work sessions, or absences from more than fifty percent (50%) of such meetings held during the calendar year, shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his inability to attend a specific meeting shall notify the chair or secretary of the board at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the board shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The city council may appoint members of the city council to temporarily fill vacant positions on the board, including the extraterritorial position. (Ord. 01-08, 3-5-2001)

2-3-4: ORGANIZATION:

At its first meeting after January 1 of each year, the board shall elect a chair, vice chair and secretary for the next twelve (12) month period. Upon the absence of the chair, the vice chair shall serve as chair pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chair, vice chair or secretary positions, the board shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the board and shall keep an accurate record of all board proceedings. (Ord. 01-08, 3-5-2001)

2-3-5: MEETINGS, RULES AND REGULATIONS:

Four (4) members of the board shall constitute a quorum. Not less than a quorum of the board may transact any business or conduct any proceedings before the board. The concurring vote of four (4) members of the board shall be necessary to decide any question or matter before the board, except a motion for a continuance and motions to elect a chair, vice chair and secretary may be decided by a simple majority vote of the board. The board shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. All meetings shall be open to the public. (Ord. 01-08, 3-5-2001)

2-3-6: EXPENDITURES:

The board shall have no authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds except as has been included in the city budget and after the city council shall have authorized the expenditure by resolution, which resolution shall provide the administrative method by which funds shall be drawn and expended. (Ord. 01-08, 3-5-2001)

5:18



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 29, 2012

Dear Bick Smith :

Your term on the Board of Adjustment
expires this year on Dec. 31, 2012

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is November 26, 2012. Interviews with the Council will be scheduled for Monday, December 3, 2012; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know.

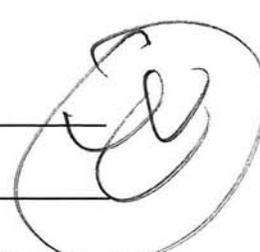
Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the

Very Interested Yes -! 

Bick Smith 862-9779
Signature Daytime Phone #

or 253-9779



Financial Services

received
12-21-12
City Council Office

5:27

807 Spokane Ave. Suite #100
Whitefish, MT 59937
406.863.3200
406.863.3205 Fax
MT License #000093

December 21, 2012

City of Whitefish
418 East 2nd Street
Whitefish, MT 59937

To Whom It May Concern,

The purpose of this correspondence is to submit my application for a position on the Board of Adjustments for the City of Whitefish.

I have been a resident of Whitefish for eight years. During these eight years I have watched Whitefish continue to experience an exponential rate of population and developmental growth. As a concerned member of our community, I feel it is imperative to maintain and preserve our local zoning and building regulations. Serving on the Board would allow me to do my part in ensuring that we - as a Community - maintain the unique character of our great town.

I hold a BA in Business Management from Fort Lewis College in Durango, CO and have worked as a Mortgage Loan Originator for Mann Mortgage for more than six years. As a successful Loan Originator in the Flathead Valley, I have extensive experience with the local housing industry. Foremost, I have the opportunity to work with many local professionals. On any given day, I interact with Flathead County Employees, Appraisers, Real Estate Agents, Insurance Agents, Bankers, Attorneys, Escrow Managers, Title Examiners, Financial Advisors, Underwriters, Builders, Surveyors, etc. I always enjoy the collaborative process of working together in order to get things done.

I believe the Board of Adjustments would benefit from my ability to find adequate and efficient solutions to challenging scenarios. Problem solving is an integral part of my job. In the arduous Lending environment, it is well known that anything can happen, and it usually does. Difficult scenarios come across my desk every day. Each loan I originate is unique and case – sensitive. It is vital to research, comprehend and implement a strategic plan adhering to stringent guidelines and restrictions.

Thank you for your consideration of my application for the Board of Adjustments. I look forward to the opportunity in serving our great community of Whitefish.

Mike Kelley

Licensed Loan Originator / Mann Mortgage, LLC.
406.863.2311 ~ Office
406.270.5030 ~ Cell
Mike.kelley@mannmortgage.com
MT License: #955
NMLS ID: #242420
Home Address:
6310 Locarno Drive / Unit G
Whitefish, MT 59937

Not available for interview on 1/7/13

received
12/4/12



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 29, 2012

Dear Norm Nelson
Your term on the Board of Adjustment
expires this year on Dec 31 2012

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is November 26, 2012. Interviews with the Council will be scheduled for Monday, December 3, 2012; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:
I am interested in serving another term on the BOA

Norman Nelson 2107474
Signature Daytime Phone #

5:36

Necile Lorang

From: "Rebecca Norton" <rannenorton@yahoo.com>
To: "Necille Lorang" <nlorang@cityofwhitefish.org>
Sent: Tuesday, December 18, 2012 1:43 PM
Subject: BOA and Planning Board applications

Hi Necile, I would like to be considered for the City-County Planning Board interviews. Do I need to submit a letter or will this email suffice?

I also talked to Wendy and was told that we don't have enough new applicants for the Board of Adjustment to meet in January, so would like to submit my name to be (temporarily) reappointed until another citizen feels called to the position. That way we can meet on the 9th and not hold the application up due to lack of a quorum. If necessary, I can stay on it, but I've done it for 4 years now and would like to move on to something else if someone else wants to serve. Thanks for keeping us organized! Rebecca Norton

WHITEFISH CITY-COUNTY PLANNING BOARD – WCC 11-7-4 - 2 YEAR TERMS – MEET 3RD THURSDAY

| | | | TERM EXPIRATION DATE | |
|--|-----------------------------|---------------------------|----------------------|-------------------|
| Zak Anderson | 122 Dakota Ave | 250-5256 | 12/31/2012 | City Mayoral Appt |
| Greg Gunderson | PO Box 1043 | 863-9947 (W) | 12/31/2013 | City Mayoral Appt |
| Vancancy | | | 12/31/2012 | City Council Appt |
| Mary Vail | 1017 Creekview Dr | 862-3562 | 12/31/2013 | City Council Appt |
| Rick Blake | PO Box 700, WF | 863-2201 | 12/31/2013 | County Member |
| Dennis Konopatzke | 2194 Houston Dr | 261-1174 | 12/31/2013 | County Member |
| Ole Netteberg (V-Chr) | 5491 Hwy 93 S | 862-3035, Cell # 261-8757 | 12/31/2012 | County Member |
| Diane Smith | 2060 Houston Dr | 250-4328 | 12/31/2012 | County Member |
| Member-At-Large – One Year Term, appointed by CCPB | | | | |
| Ken Meckel, Flathead Conservation District Rep. | 1129 W. 7 th St, | 862-5682 | 12/31/2013 | Member at Large |

Montana Code Annotated 2009

76-1-201. Membership of city-county planning board. (1) Except as provided in subsection (2), a city-county planning board consists of no fewer than nine members to be appointed as follows:

(a) two official members who reside outside the city limits but within the jurisdictional area of the city-county planning board to be appointed by the board of county commissioners, who may in the discretion of the board of county commissioners be employed by or hold public office in the county;

(b) two official members who reside within the city limits to be appointed by the city council, who may in the discretion of the city council be employed by or hold public office in the city;

(c) two citizen members who reside within the city limits to be appointed by the mayor of the city;

(d) two citizen members who reside within the jurisdictional area of the city-county planning board to be appointed by the board of county commissioners;

(e) the ninth member to be appointed by the board of supervisors of a conservation district provided for in 76-15-311 from the members or associate members of the board of supervisors, subject to approval of the members provided for in subsections (1)(a) through (1)(d).

(2) Subsection (1)(e) does not apply if there is no member or associate member of the board of supervisors of a conservation district who is able or willing to serve on the city-county planning board. In that case, the ninth member of the city-county planning board must be selected by the eight officers and citizen members pursuant to subsections (1)(a) through (1)(d), with the consent and approval of the board of county commissioners and the city council.

11-7-4: ZONING COMMISSION, Whitefish Municipal Code

A. Creation, Composition And Compensation:

1. The zoning commission for the city shall be the Whitefish city/county planning board, which shall then be referred to as the planning board.
2. The membership of the planning board shall consist of nine (9) members representative of areas, both within and without the incorporated limits of the city whose terms, etc., are set forth in state law, and the rules of procedure adopted by the Whitefish city/county planning board.
3. The members of the planning board shall serve without compensation, other than reimbursement for approved budgeted expenditures incurred in carrying out the functions of the zoning commission. (Ord. A-407, 3-15-1982)
4. It is hereby established as city policy that the city council shall not appoint to the city/county planning board or to the board of adjustment on a permanent basis any member of the Whitefish city council; provided, however, that members of the city council may be appointed to such boards on a temporary basis (not exceeding 3 consecutive months) in order to fill in for an absent board member or to fill a vacant position. (Ord. 02-02, 2-4-2002)

B. Powers And Duties: It shall be the duty of the planning board to hold public hearings where necessary and make recommendations to the city council on all matters concerning or relating to the creation of zoning districts, the boundaries thereof, the appropriate regulations to be enforced therein, the amendments of these regulations and any other matter within the scope of the zoning power. The planning board shall give to the city council, not less than biennially, a brief report of the state of the zoning ordinance and map. The planning board is also authorized to confer and advise with other city, county, regional or state planning or zoning commissions. (Ord. A-407, 3-15-1982)

Necile Lorang

From: "Rebecca Norton" <rannenorton@yahoo.com>
To: "Necille Lorang" <nlorang@cityofwhitefish.org>
Sent: Tuesday, December 18, 2012 1:43 PM
Subject: BOA and Planning Board applications

Hi Necile, I would like to be considered for the City-County Planning Board interviews. Do I need to submit a letter or will this email suffice?

I also talked to Wendy and was told that we don't have enough new applicants for the Board of Adjustment to meet in January, so would like to submit my name to be (temporarily) reappointed until another citizen feels called to the position. That way we can meet on the 9th and not hold the application up due to lack of a quorum. If necessary, I can stay on it, but I've done it for 4 years now and would like to move on to something else if someone else wants to serve. Thanks for keeping us organized! Rebecca Norton

5:45

received
11/24/12



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

October 29, 2012

Dear Zak:

Your term on the City-County Planning Board
expires this year on Dec. 31, 2012

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is November 26, 2012. Interviews with the Council will be scheduled for Monday, December 3, 2012; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the PLANNING BOARD

[Signature]
Signature

406 250 5256
Daytime Phone #

5:54

November 15th, 2012
Life Noell
lifenoell@yahoo.com
406.249.4870

Attention: Necile Lorang and to all else it may concern,

I am writing this letter in effort to express my eagerness in serving in the advertised seat on the Planning Board.

Recently I re-established residency after a very short stay in the county, and I have a great interest in offering more civic service to the city when selected to do so.

It troubles me that I gave up my seat on the Park Board due to my change in residency and I hope that you will strongly consider me as a valid candidate for this position.

I would like to thank you for your time and I look forward to hearing from you.

Very Sincerely,

Life Noell

received
11/26/12

NOVEMBER 25, 2012

DEAR COUNCIL,

I AM APPLYING FOR A POSITION ON THE WHITEFISH CITY-COUNTY PLANNING BOARD.

I HAVE SERVED FOUR TERMS ON THE BOARD.

I AM A RETIRED WHITEFISH HIGH SCHOOL TEACHER AND A FORMER SHOPPING CENTER EXECUTIVE, HAVING BEEN GENERAL MANAGER OF MISSOULA'S SOUTHGATE MALL.

I HAVE A BA AND MA FROM THE U OF M.

I WAS DEAN OF COMMUNITY SERVICES FOR CLACKAMAS COMMUNITY COLLEGE IN OREGON CITY , OREGON.

THANK YOU FOR YOUR CONSIDERATION.

SINCERELY,

SCOTT SORENSEN
285 GLENWOOD ROAD
862-3669

scott7777-2000-2000@yahoo.com

6:12

Necile Lorang

From: "Chad Phillips" <chad@phillipsarchitecture.com>
To: <nlorang@cityofwhitefish.org>
Sent: Tuesday, December 11, 2012 11:31 AM
Necile Lorang

It is my understanding that there is an opening on the city planning board. Please consider me as a candidate to fill this position. I have a strong passion to aid the growth of Whitefish to stay personable while also alleviating traffic worries etc. My background is the following:

1. Licensed Architect and formally educated at the time the leading Architecture and planning university of the country.
2. Construction family and began construction at an early age.
3. Developer since 1999.

I am fortunate to gain experience in a fast growing community from 1993 to 2009. The mountain resort community of Bend Oregon grew from 18,000 people to approximately 90,000 in that time period. A lot of what I experienced and served in Bend will be repeated here in Whitefish in the next growth cycle. To maintain the heart and joy of Whitefish I would be delighted to bring my past experience and passion to our community.

Thank you for your consideration,

Chad Phillips
Architect / Planner

Phillips Architecture & Planning, Inc
309 Wisconsin Avenue
Whitefish, MT 59937
P: 406-407-0247
F: 406-862-7451
www.Phillipsarchitecture.com

Res: 199 Vista Drive

6:21

received
12-17-12

City Clerk's Office

December 17, 2012

Whitefish City Clerks Office
418 East Second Street
Whitefish, MT 59937

To Whom it May Concern;

Please accept this as my letter of intent to serve a two year term on the Whitefish City-County Planning Board.

I am currently a member of the Whitefish Architectural Review Committee and would like to expand my contribution to our community. In my 13 years as a real estate appraiser in Whitefish and six years as a licensed real estate agent, I have gained experience in understanding and applying the zoning regulations in both the City of Whitefish and in Flathead County.

I believe I have the time, knowledge and desire to be a productive member of your committee. I look forward to an interview.

Respectfully;



Scott Freudenberger
239 Trestle View Court
Whitefish, MT 59937
406.253.6876
scott@frazierappraisal.com

6:30

received
12/21/12

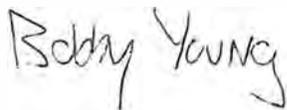
December 20, 2012

City of Whitefish
418 E. 2nd Street
Whitefish, Montana 59937

City of Whitefish,

I would like to be considered for the vacant position on the City-County Planning Board. I have been a full time resident of Whitefish since 2007 and I would like to donate my time and knowledge back to the community. I believe my extensive real estate background could bring some reasonable thoughts to the board. I have been involved with developers and understand what makes sense with annexations, subdivisions and zoning.

Best Regards,



Bobby Young
542 Labrie Drive
Whitefish, MT 59937
406-253-5707

IMPACT FEE ADVISORY COMMITTEE – WCC 2-13-1 – Two year terms Per Ordinance 10-03 – Annual Meetings

| | | | | |
|--------------------------------|--------------------|--------------------------|---------------------------|------------|
| 1. Development community | Bill Halama | 235 Good Medicine Dr, WF | 863-2301 | 12-30-2013 |
| 2. Certified public accountant | Myra A. Appel, CPA | PO Box 4223, WF | 862-4057 | 12-30-2012 |
| 3. City Councilor | Chris Hyatt | PO Box 158 | 261-7541 | 12-30-2013 |
| 4. Finance Director | Rich Knapp | PO Box 158 | 863-2405 | |
| 5. Member at Large | Don Kaltschmidt | 230 JP Rd | 862-2731 (W) 862-3665 (H) | 12-30-2012 |

IMPACT FEE ADVISORY COMMITTEE

2-13-1: ESTABLISHED:

There is hereby established a Whitefish impact fee advisory committee, hereinafter "committee". (Ord. 06-32, 11-20-2006)

2-13-2: PURPOSE, POWERS, AND DUTIES:

As provided in section 7-6-1604, Montana Code Annotated, the purpose and duties of the committee are to review and monitor the process of calculating, assessing, and spending impact fees. The committee shall serve in an advisory capacity to the city council. Nothing in this chapter shall be construed to empower the committee to authorize or prohibit the use of public funds. (Ord. 06-32, 11-20-2006)

2-13-3: MEMBERSHIP:

A. Appointment; Compensation: The committee shall have five (5) members. Members shall be appointed by the city council. At least one member shall be a representative of the development community, and shall reside or work within the Whitefish zoning jurisdiction. At least one member shall be a certified public accountant, and shall reside or work within the Whitefish zoning jurisdiction. One member shall be a city councilor. One member shall be the city finance director. One member shall be a member at large, but shall work within the Whitefish zoning jurisdiction. The city clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no compensation.

B. Terms; Positions: Committee terms shall be for two (2) years. There are hereby created positions numbered 1 through 5 inclusive of the members of the committee. The initial term of the committee members shall be staggered, with positions 1 through 3 serving two (2) year terms, and positions 4 and 5 serving one year terms. The initial term for members serving pursuant to this chapter shall begin upon appointment and terminate on the date specified below for each position: (ORD 07-14, 6-4-2007)

| <u>Position Number</u> | <u>Representation Category</u> | <u>Initial Expiration Date</u> |
|------------------------|--------------------------------|--------------------------------|
| 1 | Development community | December 31, 2009 |
| 2 | Certified public accountant | December 31, 2009 |
| 3 | City councilor | December 31, 2009 |
| 4 | City finance director | December 31, 2008 |
| 5 | Member at large | December 31, 2008 |

C. Removal Of Member: A member may be removed from the committee by majority vote of the city council for cause upon written charges and after a public hearing. Wilful disregard of this chapter and the rules of procedures of the committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the city council prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the committee at least twenty four (24) hours prior to any scheduled meeting.

D. Vacancy: Pursuant to subsections A and B of this section, any vacancy on the committee shall be filled by the city council acting in a regular or special session for the unexpired term of the position wherein the vacancy exists. The

city council may appoint members of the city council to temporarily fill vacant positions on the committee. (Ord. 06-32, 11-20-2006)

2-13-4: ORGANIZATION:

The committee, at its first meeting after July 1 of each year, shall elect a chairperson, vice chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice chairperson shall serve as chairperson pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice chairperson or secretary positions, the committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the committee and shall keep an accurate record of all committee proceedings. (Ord. 06-32, 11-20-2006)

2-13-5: MEETINGS, RULES AND REGULATIONS:

Three (3) members of the committee shall constitute a quorum. Not less than a quorum of the committee may transact any business before the committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the committee. The committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the city charter, ordinances and resolutions. The committee shall meet at least annually, and at such other times as the committee may determine. All meetings shall be open to the public. (Ord. 09-03, 2-2-2009)

2-13-6: STAFF SUPERVISION:

The committee shall have no supervisory control and shall not direct city staff in the performance of their official duties. (Ord. 06-32, 11-20-2006)

2-13-7: EXPENDITURES: The committee shall not have authority to make any expenditures on behalf of the city or disburse any funds provided by the city or to obligate the city for any funds. (Ord. 06-32, 11-20-2006)

6:39

SECOND NOTICE!

received
12/10/12



City of Whitefish, City Clerk's Office
418 E. 2nd Street, PO Box 158
Whitefish, Mt 59937
406-863-2400
nlorang@cityofwhitefish.org

December 4, 2012

Dear Myra Appel :

Your term on the Impact Fee Advisory Committee
expires this year on 12-30-12

As a matter of course, the City will also be advertising this position along with others also expiring at this time. The deadline to receive letters of application/and to receive your letter of interest if you want to reapply to serve another term, is December 21, 2012. Interviews with the Council will be scheduled for Monday, January 7, 2013; I will call you to set up your specific interview time if you are re-applying. If you wish, you can complete the blank lines below and return this notice to me in place of a new letter of interest.

WILL HAVE TO
BE AFTER
2:30 PM ON
THAT DAY.
(ML)

I have enclosed a copy of the ad we will be running.

If you are not planning to 're-up' for your position again, please let me know.

Thank you, and thank you for your service to the community of Whitefish!

Necile Lorang

Necile Lorang, CMC
Whitefish City Clerk

To Whitefish City Council:

I am interested in serving another term on the Impact Fee Advisory
Committee

Myra D. Appel, CPA 862-4054
Signature Daytime Phone #

6:48

Necile Lorang

From: "Don Kaltschmidt" <don@donk.com>
To: "Necile Lorang" <nlorang@cityofwhitefish.org>
Sent: Monday, November 05, 2012 5:11 PM
Subject: Impact fee Committee

Necile:

Please consider me a candidate to be considered for another term on the impact fee Advisory committee...thank you..

Donald Kaltschmidt
President
Don "K" Chevrolet-Subaru-Chrysler
Whitefish, Montana
406-862-2571 ext 225

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CITY COUNCIL REGULAR MEETING AGENDA

The following is a summary of the items to come before the City Council at its regular session to be held on Monday, January 7, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-01. Resolution numbers start with 13-01.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) PRESENTATIONS
- 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)
- 5) COMMUNICATIONS FROM VOLUNTEER BOARDS
 - a) Report and Recommendation from Impact Fee Advisory Committee (p. 40)
- 6) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) Minutes from the December 3, 2012 Council special session (p. 45)
 - b) Minutes from the December 3, 2012 Council Regular session (p. 46)
- 7) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) Consideration of an application for a Conditional Use Permit from Michael Bode for a recreation facility within an existing warehouse type building at 5932 Hwy 93 South (p. 60)
 - b) Resolution No. 13-___; A Resolution to establish an increase in the public usage fee schedule and the establishment of a new event support fee schedule for the public's use of City parks, facilities and grounds (p. 90)
 - c) Ordinance No. 13-___; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-3-11 regarding retaining walls (1st Reading) (p. 101)
- 8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
 - a) Consideration of an amendment to the engineering contract with TD&H Engineering for Phase II design of the Skye Park pedestrian bridge (p. 139)
 - b) Discussion of options to amend Utility Rules and Regulations for minor changes to base rate water and wastewater charges (p. 151)

9) COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 163)
- b) Other items arising between January 2nd and January 7th

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Appointments to Boards and Committees not made during tonight's Special Session
- c) Email from Jay Erickson regarding enforcement of shoveling of downtown sidewalks and City's shoveling of sidewalks along Hwy 93 South (p. 168)
- d) Letter from Lucretia Duncan that came with her water bill regarding base rate minimum billing (p. 170)

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



The following Principles for Civil Dialogue are adopted on 2/20/2007 for use by the City Council and by all boards, committees and personnel of the City of Whitefish:

- We provide a safe environment where individual perspectives are respected, heard, and acknowledged.
- We are responsible for respectful and courteous dialogue and participation.
- We respect diverse opinions as a means to find solutions based on common ground.
- We encourage and value broad community participation.
- We encourage creative approaches to engage public participation.
- We value informed decision-making and take personal responsibility to educate and be educated.
- We believe that respectful public dialogue fosters healthy community relationships, understanding, and problem-solving.
- We acknowledge, consider and respect the natural tensions created by collaboration, change and transition.
- We follow the rules and guidelines established for each meeting.

Adopted by Resolution 07-09
February 20, 2007

"Cheat Sheet" for Robert's Rules

| Motion | In Order When Another has the Floor? | Second Required? | Debatable? | Amendable? | Vote Required for Adoption | Can be reconsidered? |
|--|--------------------------------------|------------------|--------------------------------------|------------|--|---|
| Main Motion | N | Y | Y | Y | Majority unless other spec'd by Bylaws | Y |
| Adjournment | N | Y | N | Y | Majority | N |
| Recess (no question before the body) | N | Y | N | Y | Majority | N |
| Recess (question before the body) | N | Y | Y | Y | Majority | N |
| Accept Report | N | Y | Y | Y | Majority | Y |
| Amend Pending Motion | N | Y | If motion to be amended is debatable | Y | Majority | Y |
| Amend an Amendment of Pending Motion | N | Y | See above | N | Majority | Y |
| Change from Agenda to Take a Matter out of Order | N | Y | N | N | Two-thirds | N |
| Limit Debate Previous Question / Question | N | Y | N | Y | Two-thirds | Yes, but not if vote taken on pending motion. |
| Limit Debate or extend limits for duration of meeting | N | Y | Y | Y | Two-thirds | Y |
| Division of Assembly (Roll Call) | Y | N | N | N | Demand by a single member compels division | N |
| Division of Ques/ Motion | N | Y | N | Y | Majority | N |
| Point of Information | Y | N | N | N | Vote is not taken | N |
| Point of Order / Procedure | Y | N | N | N | Vote is not taken | N |
| Lay on Table | N | Y | N | N | Majority | N |
| Take from Table | N | Y | N | N | Majority | N |
| Suspend the Rules as applied to rules of order or, take motion out of order | N | Y | N | N | Two-thirds | N |
| Refer (Commit) | N | Y | Y | N | Majority | Neg. vote only |



January 2, 2013

The Honorable Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and City Councilors:

Monday, January 7, 2013 City Council Agenda Report

There will be special session for interviews beginning at 5:00 p.m. We will provide food.

The regular Council meeting will begin at 7:10 p.m.

CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

- a) Minutes from the December 3, 2012 Council special session (p. 45)
- b) Minutes from the December 3, 2012 Council Regular session (p. 46)

RECOMMENDATION: Staff respectfully recommends the City Council approve the Consent Agenda.

Both items are administrative matters.

PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

- a) Consideration of an application for a Conditional Use Permit from Michael Bode for a recreation facility within an existing warehouse type building at 5932 Hwy 93 South (p. 60)

From Senior Planner Wendy Compton-Ring's staff report:

Summary of Requested Action: Michael Bode is requesting an after-the-fact conditional use permit for a recreation facility, Big Mountain CrossFit, within an existing 4,000 square foot warehouse-type building at 5932 Highway 93 S. The property is currently developed with a the Big Mountain Cross Fit. The property is zoned SAG-5 (Suburban Agriculture). The Whitefish Growth Policy designates this property as "Rural Residential".

Planning Board Action: The Whitefish City-County Planning Board met on December 20, 2012 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with seven (7) conditions as contained in the staff report and adopted the staff report as findings of fact. (Vail was absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with seven (7) conditions set forth in the attached staff report.

There is a full staff report with pictures and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council consider the testimony at the Public Hearing, the staff report and recommendation, and the Planning Board recommendation and approve the application for a Conditional Use Permit from Michael Bode for a recreation facility within an existing warehouse type building at 5932 Hwy 93 South with 7 conditions.

This item is a quasi-judicial decision.

- b) Resolution No. 13-___; A Resolution to establish an increase in the public usage fee schedule and the establishment of a new event support fee schedule for the public's use of City parks, facilities and grounds (p. 90)

From Parks and Recreation Director Karl Cozad's staff report:

The City of Whitefish Parks and Recreation Department has established a use fee schedule for all public parks and facilities. The fee schedule is reviewed and adjusted annually and adopted by City Council based upon recommendation from the City of Whitefish Park Board and as required by Montana Code. Prior to 2010, the only fee associated with park use within the City of Whitefish Park System was a nominal application processing fee. In 2010, a fee schedule was adopted that was more reflective of recovering a portion of the costs associated with the operation and maintenance of the parks and facilities that fall within the jurisdiction of the Parks and Recreation Department. It is our intention to review such fees annually and make recommendation of any necessary adjustments in order to maintain a close relationship between the cost of producing the services and fees to be charged for such services. Generally speaking the vast majority of "fee paying users" are for special events that occur at one of our facilities, with the primary facility being Depot Park.

It is important to note that 96% of our Special Event users are from Non-Profit groups or organizations.

Staff has prepared the recommended modifications to the existing 2012 fee schedule (Attachment Exhibit A in the packet) and the adoption of two new fee schedules as provided below:

1. **Event Support Fee** for park use that involves multi-day events and requested electrical services or structural placement, i.e. tents, staging, etc. for any event, single day or multi-day event. On numerous occasions special events that are scheduled to occur over a number of consecutive days will require the assistance of city staff which may include specialists that are not normally involved with the services provided by park maintenance staff. In addition, such events will often require Parks Department staff to perform substantial repairs to facility infrastructure as a result of damages due to misuse of the facility and the requirement of placing large structures within the park. **The proposed Event Support Fee shall be \$500.00 per event, regardless of the number of days of the event.**
2. **Event Size Fee** shall be implemented for special events that involve vendors that are within park boundaries. The proposed fee schedule shall be as follows:

| | |
|---------------|-----------|
| 1-5 vendors | no charge |
| 6-15 vendors | \$100.00 |
| 16-25 vendors | \$200.00 |
| 26-35 vendors | \$300.00 |
| 36-45 vendors | \$400.00 |
| 46+ vendors | \$500.00 |

Currently the Parks and Recreation Department does not receive an individual fee from special event vendors that are located within the boundaries of our facilities when such special events are staged and sponsored by someone other than the Parks and Recreation Department. By comparison, the Parks and Recreation Department does sponsor special activities at City Beach on July 4th and we do charge a vendor fee of \$75.00 per vendor for the ability to stage their booth in the City Beach parking lot for the day. Again, when reviewing the use of our facilities and related impacts to our facilities from such use, the number of vendors is a strong indicator as to the size of the event and what related expenses will occur in our efforts to maintain our facilities to an acceptable standard.

In comparison to other communities within our area, the City of Kalispell charges both an “event size” based fee and a vendor’s fee for special events. For events that are larger than 500 participants a negotiated fee is determined, however for events that range from 200-500 the daily fee is \$360 plus individual vendor fees ranging from \$10-\$15 per event. In Columbia Falls, their rate schedule is also driven by the size of the event. For example an event that would draw 500 people would be \$400

per day plus a 10% administrative fee. When comparing our proposed rates to those communities in close proximity we are still the “best buy” in the valley.

Karl has included a comparison of 2012 charges and proposed fees to the historical events held at Depot Park for your reference. Again, please keep in mind the source of any new proposed fees and the relationship to what expenses are incurred as a result of their special event.

RECOMMENDATION - It is staff recommendation, along with that of the City of Whitefish Park Board, that the City Council, after considering testimony at the public hearing, approve the attached resolution approving the proposed fee adjustment to the established fee schedule and to establish the two proposed new fees as described.

This item is a legislative matter.

- c) Ordinance No. 13-___; An Ordinance amending Zoning Regulations in Whitefish City Code Section 11-3-11 regarding retaining walls (1st Reading) (p. 101)

From Senior Planner Wendy Compton-Ring’s staff report:

Summary of Requested Action: This application is a request by the City of Whitefish to amend the retaining wall regulations.

Planning Board Recommendation: The Whitefish City-County Planning Board held a public hearing on October 18, 2012 that was continued until November 15, 2012 and continued until December 20, 2012. Following this hearing, the Planning Board recommended approval of the amendments (4-3, Konopatzke, Blake and Smith voting in opposition) and adopted the supporting findings of fact in the staff report. (Vail was absent)

City Staff Recommendation: Staff recommended approval of the text amendment attached to the staff report.

There is a full staff report along with minutes and other documents in the packet.

RECOMMENDATION: Staff respectfully recommends the City Council consider the testimony at the Public Hearing, the staff report and recommendation, and the Planning Board recommendation and approve an Ordinance amending Zoning Regulations in Whitefish City Code Section 11-3-11 regarding retaining walls (First Reading).

This item is a legislative matter.

COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of an amendment to the engineering contract with TD&H Engineering for Phase II design of the Skye Park pedestrian bridge (p. 139)

From Public Works Director John Wilson's staff report:

On December 3rd, the City Council considered a staff recommendation to approve an amendment to our engineering contract with Thomas, Dean & Hoskins engineers (TD&H) for the Skye Park Bridge Project. The amendment provides for engineering services, including project management, preliminary and final design, cost estimating, and completion of all plans, specifications, construction contract documents, easements and approvals necessary to be ready to advertise for construction bids whenever the City Council decides to authorize bidding. This memo is in response to the City Council's request for more information. Copies of two previous staff memos related to this subject are attached in the packet.

The City Council has requested more information on:

- The scope of work, estimated costs and funding sources for this project;
- Why we would include access to the wastewater lift station with this project;
- The status of easement work and likelihood of acquiring an easement from BNSF;
- Other high priority TIF projects and the availability of TIF funds; and
- Bridge loading design criteria.

John Wilson has a staff report in the packet which addresses each of these items in more detail.

The City currently has an engineering design contract with TD&H for the Skye Park Bridge Project. The initial contract was approved with only a partial scope of work to ensure field data was collected before winter. The scope of work included topographic survey, geo-technical investigation, lab work and related tasks for a cost not to exceed \$15,310.

The proposal currently before the City Council is to amend that engineering contract to add work items including project management, preliminary and final design, cost estimating, and completion of all plans, specifications, construction contract documents, easements and approvals necessary to be ready to advertise for construction bids when the City Council is ready to advertise. Staff has negotiated a fee for these additional services in an amount not to exceed \$62,500. This would bring the total amount of our engineering contract to \$77,810.

We have identified three alternate funding sources that could provide as much as \$350,000 to \$375,000 for this project, potentially reducing the TIF cost share to something around \$300,000.

The financial requirement directly associated with the proposed engineering contract amendment is an amount not to exceed \$62,500. Staff proposes that amount be paid

using \$10,000 from line item 930 of the Wastewater Fund and up to \$52,500 from the Tax Increment Fund. While the City Council may want to consider using Federal CTEP and SAFETEA-LU trail earmark funds as part of the overall project financing plan, our circumstances and the programs' requirements combine to make these funds eligible only for construction.

RECOMMENDATION – Staff respectfully recommends the City Council approve an amendment to the engineering contract with Thomas, Dean and Hoskins, providing detailed design and related services for the Skye Park Bridge Project in an amount not to exceed \$62,500. This cost would be paid with \$10,000 from line item 930 of the Wastewater Fund and up to \$52,500 from the Tax Increment Fund.

This item is a legislative matter.

- b) Discussion of options to amend Utility Rules and Regulations for minor changes to base rate water and wastewater charges (p. 151)

The City Council adopted Resolution 11-51 on October 17, 2011, thereby amending the Rules and Regulations for the Water, Wastewater and Garbage Utility (Rules) and providing for year round base rate billing on accounts for all properties connected to the City water and sewer systems. Copies of the Finance Director's October 2011 staff memo, the Public Meeting Notice, Resolution 11-51 and selected pages from the current Rules are attached in the packet. Please be aware, the attached Public Notice also makes reference to a proposed increase for garbage collection rates. This was a separate issue that was addressed in a separate public hearing at the same City Council meeting.

This memo presents a staff proposal to amend the rules relevant to year round base rate billing to accommodate those buildings that are physically connected to City utilities, but have no foreseeable need to use water or sewer services. The goal is to apply the policy for base rate billing in a reasonable manner, while avoiding unwarranted charges.

If the City Council so directs, staff will prepare a resolution amending the Rules as described below for Council consideration at their next regular meeting on January 22nd.

A few customers have contacted the City Council and staff with complaints about year round base rate billing. They specifically object to being charged for utilities when there is no foreseeable need for water or sewer service at the property in question. For example:

- A house in the 100 block of Lupfer Avenue was converted to commercial storage and has not used water or sewer service for over a decade (a past letter from the owner to the City Council is attached),

- A mobile home next to a primary residence on Denver Street has been vacant and not used water or sewer service since 2002.
- We are aware of a few houses that appear vacant due to recent fires. The property owner(s) may benefit from the proposed rule changes if the house is not restored.

Similar circumstances may exist for other water and sewer accounts, but we expect the total number to be very few.

Staff proposes the following Rule changes to exempt from billing those properties which have no foreseeable intent or capacity to use water or sewer services. We propose editing the second paragraph of Rule X, Item 7 on Page 13 of the Rules, as shown below. Deleted text is indicated by strikeouts, while added text is indicated by underlines.

The monthly base rate billing for water or sewer service ~~base rate~~ will be discontinued for a building if:

- A. *the respective utility service line is abandoned in a manner acceptable to the Water Utility or*
- B. *all plumbing fixtures, including water valves, are permanently removed from the building in a manner approved by the Public Works Department. Such approval shall be issued before the work is performed and the completed work shall be verified and documented by City personnel. The property owner shall continue to be responsible for maintenance of the water and/or sewer service lines that remain connected to the City utility.*

Staff similarly recommends the following changes to Rule XV, Item 4 on Page 19.

The monthly base rate for water, sewer and/or garbage service shall apply to all ~~domestic~~ accounts during the discontinuance of service, except as provided under Rule X, Item 7 of these Rules.

We propose adding the word “service” to Rule XV, Item 4 for the sake of clarity. The word “domestic” was a clerical error in the Rules and should be deleted. The adopted Resolution 11-51, staff report, public notice and Council meeting minutes clearly refer to “all accounts”. There was no reference to or discussion about limiting the rule to domestic accounts.

If the City Council so directs, staff will prepare a resolution amending the Rules as described above for Council consideration at their next regular meeting on January 22nd.

RECOMMENDATION: Staff respectfully recommends the City Council consider staff’s proposal to amend certain provisions of the Rules and Regulations for the Water, Wastewater and Garbage Utility regarding year round base rate billing and direct staff as to how to proceed.

COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 163)
- b) Other items arising between January 2nd and January 7th

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Appointments to Boards and Committees not made during tonight's Special Session
- c) Email from Jay Erickson regarding enforcement of shoveling of downtown sidewalks and City's shoveling of sidewalks along Hwy 93 South (p. 168)
- d) Letter from Lucretia Duncan that came with her water bill regarding base rate minimum billing (p. 170)

Sincerely,

A handwritten signature in blue ink that reads "Chuck Stearns". The signature is written in a cursive, flowing style.

Chuck Stearns
City Manager

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Volunteer Board Report



To: Mayor John Muhlfeld and City Councilors
From: Impact Fee Advisory Committee
Date: December 24, 2012
Re: Recommendation to Discontinue Certain Impact Fees

History

On November 3, 2011, the Impact Fee Advisory Committee voted 3-1 to recommend to the City Council to terminate Water, City Hall, Emergency Service Center, and Parks Maintenance Building impact fees and retain Wastewater, Storm Water, and Paved Trail. This recommendation as well as the justification for impact fees was presented to the Council in February, 2012. The City Council decided to delay consideration of that recommendation to until the 5 year review of impact fees was complete.

On September 17, 2012, the Council held a work session regarding the 5 year review of impact fees and the Impact Committee recommendation. The 5 year update was accepted, however several questions arose that staff was not immediately able to answer, and consideration of the recommendation to eliminate certain impact fees was postponed. These questions were addressed during the November 19, 2012 Council work session. The Council also indicated they wanted to hear from Impact Fee Advisory Committee concerning the elimination proposal. On December 5, 2012 the Impact Fee Advisory Committee met for its annual meeting, and modified the original recommendation.

Current Report

The committee unanimously voted to recommend to the City Council to discontinue City Hall, Emergency Service Center, and Parks Maintenance Building impact fees. This would keep intact Water, Wastewater, Storm Water, and Paved Trail.

Some of the justification for the recommendation included:

- More competitive with Kalispell and Columbia Falls
- The perception that Whitefish is too expensive
- Perception of too many small fees charged by the city—keep it simple to encourage growth

The Council may decide to put this recommendation on a regular agenda in order to take action, or not schedule the recommendation and in effect not take the recommendation.

Impact Fee Advisory Committee Agenda

City Hall Staff Conference Room
Wednesday, December 5, 2012, 2:00 p.m.



1. Call to order – Don K, Myra Appel, Chris Hyatt, Bill Halama
2. Review Report – rich discussed report. State and city code requirements for reporting . last column (gray) cash balances discussed what projects money has been spent on. Chris Hyatt thanked rich for his report. Need to figure out when the advisory committee meets and presents something to council they need to find a way to do it quicker. Don K doesn't know where to go with impact fees, not spending the money collected and there doesn't seem to be support by staff/council to not have impact fees.

Chris - Discussion concerning maintenance of new facilities/infrastructure and using impact fees for that.

Rich – impact fees are used for capital, we don't use until there is growth. More taxpayers equals additional maintenance funds for maintenance of facilities.

Chris asked if the ESC impact fees were used for the garage doors recently purchased at the esc.

Donk questioned about the water/sewer impact fees – discussed how the fees are used/collected etc.

Donk asked what the purpose of all the other fees are for. Once you develop property taxes are being paid forever on the property.

Chris feels like you are being penalized for building/living here.

Rich - Esc was overbuilt for what is currently needed. Perfect example of new growth will pay for the new construction that is required to serve the public.

Bill – committee needs to make recommendation to council and it's up to them to make decision regardless of what/how the committee feels.

Rich – city hall buy in fee to new development or higher tax. Either way someone is paying for the project.

Chris – getting money from TIF that could be used vs. impact fee.

Myra – esc has been built and won't need expansion in many years. Will impact fees collected be used to pay down TIF...rich said yes. TIF will be done in 2020.

Rich stated base rate wat/sew could be reduced and each fixture unit price could be reduced.

Chris stated council will be working on changing the regulations to reduce fees for some projects like building apartment above garage, adding a sink or bathroom to a garage etc.

Discussed possibility of capping the impact fees for small project at a certain percentage.

3. Review Minutes

Chris moved/Myra second. Minutes approved unanimously

4. Recommendations to City Council.

Myra motioned – amend original suggestion to council, remove esc paved trail, city hall parks maintenance building. Keep water/sewer and stormwater. Seconded by bill. Chris keep paved trail because we have areas to connect trails. Myra- other funds can pay for paved trail. Rich said very little available from other funds. Myra how much left to build, Chris said there are a lot of trails that don't connect. Rich said easements are required for some trails. Bill discussed with Karin Hilding about trail by Walgreens. She suggested building the trail himself.

Donk what would the reason be for keeping paved trail in. Chris- only funded by resort tax and impact fees and grants. Rich – rate services provided and paved trails here are at the bottom. Don k stated there is a lot of philanthropy out there that would pay for trails.

Chris said the philanthropy people are not happy with Whitefish. Money goes where money is happy. They may give money to private development but not city.

Myra amended her motion to suggest add back in the paved trails. Motion will be to remove esc, city hall, parks maintenance building keep paved trails,

water, sewer and stormwater. Don K asked if there was any additional discussion. Don asked for a vote. Motion approved unanimously.

Don stated committee needs to have hard reason why committee wants to get rid of some of the impact fees. Chris stated the comparison to other cities is a strong one. Growth in original impact fee and level of service is much different than what was original projected. Myra -The perception whitefish is too expensive. Myra that you have to have growth. Bill - perception of small junk fees that are charged, keep it simple and concise to encourage growth. Bill – look into reducing fees or relief for small projects (studios in garage, apt above garage, coffee kiosk).

Don k when will council be able to address this. Chris – send recommendation with reasoning to council and have committee come back. Don k wants to see a vote on this for resolution.

5. Comments from Committee members.

6. Items for next agenda.

Proposal to council for removing some impact fees - worksession
Want to meet if they get a no vote with council?

7. Adjournment.

Committee Members:

| | |
|-------------------------|-----------------------|
| William Halama | Development Community |
| Myra Appel | CPA |
| Chris Hyatt | City Councilor |
| Rich Knapp | City Finance Director |
| Don Kaltschmidt (Chair) | Member at Large |

7-6-1604. Impact fee advisory committee. (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity.

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WHITEFISH CITY COUNCIL MINUTES
DECEMBER 3, 2012
SPECIAL SESSION, 5:00 TO 5:15 PM

1. Call to Order

Mayor Muhlfeld called the meeting to order. Councilors present were Anderson, Sweeney, Hildner, and Kahle. Councilors Mitchell and Hyatt were absent. City Staff present were City Manager Stearns, City Attorney VanBuskirk and City Clerk Lorang.

2. Applicants for Whitefish Community Wastewater Committee – City Council Appointment

Ben Cavin had applied and was interviewed by the Mayor and City Council. Mr. Cavin resides on Houston Drive so would be the Carver Bay/East Lakeshore area representative on this committee.

3. Public Comment

None.

4. Appointments

Councilor Kahle offered a motion, seconded by Councilor Anderson, to appoint Ben Cavin to the Whitefish Community Wastewater Committee as the Carver Bay/East Lakeshore area representative. The motion passed unanimously.

5. Adjourn

Mayor Muhlfeld adjourned the Special Session at 5:10 p.m.

Mayor Muhlfeld

Attest:

Necile Lorang, City Clerk

WHITEFISH CITY COUNCIL MINUTES
December 3, 2012
7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Mitchell, Sweeney, Anderson, Hildner, Kahle and Hyatt. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Planning and Building Director Taylor, Senior Planner Compton-Ring, City Engineer Hilding, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 28 people were in attendance.

Mayor Muhlfeld said Ryan Zinke withdrew his request under public hearing #7c, but the public was welcome to share comments during communications from the public.

2. PLEDGE OF ALLEGIANCE

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

3. PRESENTATION

3a. Arbor Day 2013 Proclamation (p. 19)

Mayor Muhlfeld read the Arbor Day Proclamation and said the community celebration will be held on the last Friday in April, which will be April 26, 2013. He encouraged citizens to participate in appropriate activities and take advantage of the parks and natural activities in the area.

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)

Rebecca Norton, 530 Scott Avenue, read about the Zinke hearing and said she was concerned about the two editorials that were placed in the paper. She said the people who wrote the letters were upset because they felt their voices weren't heard. She asked the Councilors to revisit the ethics policy. She said it is relevant to this project, because if the Council had adopted the new ethics policy then these people would have had a group of three to whom they could take their concerns. That group could walk these individuals through the ethics policy process. It could have prevented the big, negative public issue that is occurring. She asked them to adopt the revised ethics policy. She said the Council tabled the political signs issue and she would like to see that addressed now that the elections are over.

Laira Fonner, 328 W. 3rd Street, said she was one of the concerned neighbors who spoke up at the Planning Board hearing. Ryan Zinke's property abuts hers. Along with six neighbors she expressed her concerns about the proposal that would significantly impact their neighborhood. They felt like the Planning Board dismissed their concerns as well as the concerns of the staff planner, Wendy Compton-Ring, who recommended tabling the project. She said she is concerned about the integrity and ethics of the Planning Board. She said what she was witnessed was alarming and concerned her. She said she

will do more to ensure that ethical and unbiased people will be placed in leadership positions. She thanked the Council for their time and service to the community.

Life Noelle, 240 Dakota Avenue, said he recognized that Mr. Zinke has withdrawn his proposal. He said he doesn't have a dog in this fight, but he thought he should speak up. He spoke in favor of the proposal. He admired Mr. Zinke's transparency. He saw the potential for growth and prosperity. He thought the proposed hours of operation were reasonable and that noise could be controlled. He didn't think the neighbors would be negatively impacted. He asked that they give permission for approval if Mr. Zinke comes back to them. He felt Mr. Zinke worked hard to alleviate the concerns of his neighbors.

Anne Shaw Moran said she appreciated that the PUD was withdrawn. She has worked professionally in planning and the real estate market. She had concerns about the findings that were found in the Planning Board meeting. She planned to express comments regarding the City's criteria for Whitefish PUDs. She hoped they would look at the 11 criteria as a whole. For the Zinke application there were three criteria that were not met, 5 weren't applicable, and only 4 really applied, so it wasn't really a PUD. They need to address whether something is a zoning change or a PUD. She would like to see some corridor planning to see what would be beneficial for the stakeholders and the community. She thinks Ryan Zinke has good intentions and she would like to see him work with them on a corridor plan.

Mayre Flowers, Citizens for a Better Flathead, said they had planned to make comments tonight on the Zinke PUD. She said it became clear that a corridor plan is needed and timely. She wondered how the neighbors could move forward on a plan. She said Citizens for a Better Flathead has some specific ideas they would like to propose for a future corridor study. She said the Waste Not project has hosted an annual electronic waste recycling event in the past. Now, Pacific Steel has branched into the electronic recycling business, so residents will have the opportunity to take in TVs, computers and small electronics. The material will be processed in the U.S. and recycled in an environmentally sound manner.

Chris Schustrom, 504 Spokane Avenue, said he is helping to coordinate the downtown Christmas Decorations. He thanked the City, especially staff members Mark Heider, Necile Lorang and Chuck Stearns for their help getting the decorations ready this year. He said they have transitioned to all LED bulbs which use 90% less electricity on all the decorations; LED bulbs last at least 50,000 hours.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Jan Metzmaker, 915 Dakota Avenue, said the Whitefish Convention and Visitor Bureau by-laws require an annual meeting and they will hold it at the Lodge at Whitefish Lake on December 10th starting at 4:00 p.m. and will celebrate what has occurred this year. The 20% Amtrak ride to Whitefish began this Saturday and is good for travel through March 31, 2013. She said there will be a webcam at City beach so people can see what the lake and mountain look like on any given day. The National Geographic Traveler has a great photo of Whitefish Mountain Resort in it. They are getting a lot of comments in Portland and Seattle about this great advertising campaign.

5a. Update on Spencer Mountain Land Use License with DNRC

Councilor Anderson said he is part of the Legacy Trail Committee and one of the projects they hope to conclude this month is a land use license on Spencer Mountain and it fits with the transactions they just concluded on the other side of the highway. There will be free ride bike trails and a connector trail that extends the length of Spencer Mountain. They are close to finalizing this part of the project, it will be a public process and there will be more details shortly.

Councilor Hildner said the Bike/Ped Committee met with some potential volunteer projects that would involve construction of some new pieces of the bike path. He said there was a uniform and unanimous vote of support to continue with Skye Park Bridge Phase II.

Councilor Sweeney said the Whitefish Trails Committee met last week and they are prioritizing what trails they want to get built next year and in the future. They hope to get that list narrowed down over the next several months. The DNRC has asked for that report by mid-January so they can decide if they need to do further studies.

6. CONSENT AGENDA-(The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

6a. Minutes from the November 19, 2012 Council regular session (p. 21)

6b. Ordinance No. 12-13; An Ordinance amending Subdivision Regulations with respect to expiration standards within the bounds of State law (Second Reading) (p. 26)

6c. Consideration of approving application from James D. Hill for Whitefish Lake Lakeshore Variance (#WLV-12-W39) to H-pile and precast concrete panel tie-back retaining wall faced with mortared stone and rip rap, with a variance for the rip rap not extending up to within 6” of the top of wall. The project will also install native plants and erosion control measures. Some materials will be temporarily stored in the LPZ during construction at 2726 Plaza Road subject to 35 conditions (p. 30)

6d. Consideration of approving application from Whisler Revocable Trust for Whitefish Lake Lakeshore Variance (#WLV-12-W40) Removal of gabion baskets (while re-using the rock) and installation of H-pile and precast concrete panel tie-back retaining wall faced with mortared stone and rip rap, with a minor variances for the rip rap not extending up to within 6” of the top of at 2722 Plaza Road subject to 35 conditions (p. 60)

Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve the consent agenda. 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)

7a. Conditional Use Permit – Application from Mountain Digital Enterprises to put a Wireless Facility for WiMAX Broadband, including a 100' tall green-painted monopole, on a 44.7 acre tract of vacant land owned by the F.H. Stoltze Land and Lumber Company in the WA Zone, described as Tract 1, Section 17, T 31 N, R 22 W (p. 88)

Planning and Building Director Taylor reported that this application is for 100' tall tower for broadband telecommunications, with the dishes attached to a flat dark green painted mono-pole. It would mostly be accessed from Northwoods and over gated F.H. Stoltz roads. It is near Iron Horse properties, but hidden from view. Power will be run up adjacent to the access road from the Northwoods area. The tower will be fenced with a security fence with a locked gate. There is no associated equipment building. The tower will be on a forested side-hill of a nearly 45 acre lot. A Conditional Use Permit is required for wireless service facilities that are not collocated on an existing tower or attached to existing buildings in the WA zoning designation (WCC 11.3.24.B). It will be difficult to see from Whitefish. This proposal meets the general conditions for conditional uses.

The use of the proposed tower is to provide for the expansion of broadband communication needs of to benefit dozens of Whitefish area businesses including North Valley Hospital. Unlike Wireless, WiMAX broadband requires line of sight between existing towers. This location provides them with line-of-site to their other towers in the area. The applicant inquired about co-location on the existing tower on Lion Mountain, but the homeowners association there apparently will not allow additional dishes on that facility. They also checked to see if a tower by an existing Stoltze lookout a little more than a mile away from the proposed location would work, but it did not provide adequate line of sight to their other towers.

The tower location has been proposed to minimize impacts on adjacent properties and visual impacts from the community. There is only one nearby house that could potentially see the top of the tower, and it is currently owned by Bank of America. The tower site is in a forested, hilly location obscured from residences by existing trees and slopes. Only the top of the tower will be visible above the adjacent 70' tall evergreens, and since it will not be at the top of a hill and painted green to match, it will blend in adequately with the adjacent terrain. As evidenced by photos of a similar tower above Bigfork, the tower will be difficult to see unless one knows exactly where to look. It will not impede the view from town. Two others can co-locate here. The project meets the setbacks of zoning district. The Planning Board voted unanimously to approve it. The applicant met with a couple of Iron Horse people and their concerns were appeased. Staff is recommending 8 conditions for approval, as shown in the staff report.

Councilor Kahle asked what criteria there were for co-location. He wondered if they ran the risk of having towers all over. Director Taylor said he doesn't know what happened on the Lion Mountain tower. He said he would have to look up the history. He didn't know if they could force a homeowner's association to allow co-location. Councilor Hildner said on packet page 91, under project and scope, 4th paragraph talks about the Lion Mountain HOA which won't allow additional dishes on that pole. He would hope that they could require applicants to document those rejections. Councilor Mitchell asked about the location of this pole and Director Taylor it is on a gated road past the water treatment area. They can have two other dishes on the same tower. Councilor Sweeney asked if they can protect the City from organizations who don't want to co-locate so the City ends up with more towers. Director Taylor said he thinks they can hold their feet to the fire because of the conditions in this approval. Councilor Sweeney said he suspects that the Council who approved the tower on Lion Mountain assumed that other companies could co-locate on that tower. Councilor Anderson asked and Director Taylor said the Council could get a copy of the requirements on the Lion Mountain tower.

Mayor Muhlfeld opened the public hearing.

Chris Galloway, 535 5th Avenue East in Kalispell, said he represents the broadband company Mountain Digital Enterprises. He said they are reaching out to Verizon to share the tower because they are running fiber to the facility. Councilor Mitchell asked how they decide who goes on the tower. Mr.

Galloway said businesses prefer co-locating; it is a lot less expensive for new companies and it helps the host company to get some of their investment back. Councilor Hildner said the surfaces of the antennas are reflective and wondered if they can dampen that reflection. Chris Galloway said they intend to paint the antennas green. Councilor Hildner said page 121 shows a large nest on the tower platform down in Bigfork and Mr. Galloway said that was intentional. Birds don't affect their towers.

Brian Hobday, a forester for FH Stoltze, said they own the parcel where the applicant wants to put the tower. He said that property is used primarily for silvaculture and Stoltze has it opened for public use. This request does not impact their uses, so FH Stoltze is in favor of the proposal.

Mayor Muhlfeld closed the public hearing.

Councilor Anderson offered a motion, seconded by Councilor Kahle, to approve the Mountain Digital Enterprises CUP to put a Wireless Facility for WiMAX Broadband, including a 100' tall green-painted monopole, on a 44.7 acre tract of vacant land owned by the F.H. Stoltze Land and Lumber Company in the WA Zone, described as Tract 1, Section 17, T31N, R22W, (WCUP 12-12).

Councilor Mitchell asked and Chris Galloway said the fence will be about 25' x 25', 50 square feet.

The motion passed unanimously.

7b. Conditional Use Permit – Application from Randy Bradley to develop an 11-unit condominium project with five professional office spaces on 1.3 acres at 514 and 526 W 2nd Street (p. 129)

Senior Planner Compton-Ring reported that Randolph (Randy) Bradley is requesting a conditional use permit to develop two lots with eleven condominiums units with five professional office spaces. The property is currently developed with a single family home, which will remain as part of the development and be one of the professional office spaces. The project will consist of five new buildings with two condominiums in each building. One building will front on W 2nd Street and have its own access to W 2nd Street. This building will also have professional office space on the ground floor. The other buildings, including the existing single family home, will be served by an internal 20-foot wide driveway that will connect to W 1st Street. The other proposed professional office space will be within the building located on the north end of Lot 7 off W 1st Street. The project is 1.3 acres and surrounded by residential. It is served by all City services. The property is zoned WR-3, Low Density Multi-Family Residential District.

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on October 29, 2012. A notice was emailed to advisory agencies on October 26, 2012. A notice of the public hearing was published in the *Whitefish Pilot* on October 31, 2012. Staff received one letter from the adjacent neighbor to the west. This neighbor was concerned with the condition of the sewer system and wondered if the line was adequate to serve this project. Additional concerns include access to W 1st Street for future development, locating snow storage on top of the sewer easement, density of the development and including the professional office spaces.

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per Section 11-7-8(J) of the Whitefish Zoning Regulations. The proposed use complies with Growth Policy Designation of High Density Residential. The property is zoned WR-3, Low Density Multi-Family Residential District. The development proposal is consistent with the purpose and intent of the applicable regulations.

The subject parcel is 1.3 acres in size. There is adequate space for the proposed structures to meet all required setbacks. The maximum permitted lot coverage in this zoning district is 40% and the project is well under this standard.

The site suitability for the subject property is addressed through the large lot size and open space to address the need for adequate usable land area. There are no environmental hazards present in the subject area for construction. The proposed access should provide adequate emergency access to the site and buildings.

The proposed site plan shows adequate parking for the residential uses, but not enough for the professional office spaces; however, as conditioned, the project will meet the off-street parking requirements. A conceptual landscaping plan has been submitted along with the application. A number of mature trees are being retained to the extent possible.

There is a sewer easement that runs east-west through the property and an 8-inch sewer line is located within this easement. The public works department recently completed a slip line project on this sewer line in the summer of 2011. TV inspection after the project showed good condition of the line and it is adequate to accommodate this project. The public works department is not concerned with snow storage on the sewer line. Separate sewer service is required for each unit.

According to the application, the southerly basin will drain to the new MDT drainage system and the northerly basin will drain toward a storm pond on the north end of Lot 7. The storm water plan shall be reviewed and approved by the city prior to its installation. In 2013, W 2nd Street will be improved by the state of Montana. This includes the installation of a sidewalk on this project's frontage along with curb, gutter and lighting.

The project should generate an average of 90 trips per day at full build-out of the condominiums and the professional offices. With the rebuild of Highway 93 W, the new design and improvements should be able to handle the additional traffic. The density of the project comes in at six dwelling units per acre.

Architectural Review approval is required for all buildings. Internal signage shall be installed to direct employees and users of the professional office to the main external roads and not the internal roadway. The existing single family, proposed to be partially converted into a professional office, will need a professional design. This design shall be reviewed and approved by the Building Department. A phasing plan shall be submitted with the first building. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

The Whitefish City-County Planning Board met on November 15, 2012 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with eleven (11) conditions as contained in the staff report and adopted the staff report as findings of fact.

Councilor Mitchell asked and Planner Compton-Ring said the driveway will be connected to the parking area where Idaho Timber is right now. Councilor Mitchell asked and Planner Compton-Ring said there are 11 units all together. Councilor Hildner asked about page 143 in the packet regarding the neighborhood impact and traffic generation. He was confused because it says 40 square feet per office, but Planner Compton-Ring said it was supposed to read a “400” square foot unit. Councilor Hildner said page 195 in the packet said the outflow on the north end discharges into the right-of-way. He wondered if it would create a bog. Planner Compton-Ring said the drainage plan will be required for the project that will be reviewed and approved by the city. Councilor Kahle said page 174 shows the building on Second Street is the only one designed for office buildings. Planner Compton-Ring said the building just off of W. First Street also has an office plan designed. Councilor Sweeney asked about access and Planner Compton-Ring said the goal is to use the exterior roads so the residential units in the interior wouldn’t have the extra traffic. He asked if people would observe that kind of nuance and she said she didn’t know.

Mayor Muhlfeld opened the public hearing

Randy Bradley, 746 Tree Line Trail, Helena, said the existing corridor is already a multi-use development. There are triplexes across the street. He is asking for the same thing that already exists in this neighborhood. He said someone raised a question on the flow of water. He said all of the flow currently goes to the north and ends up in the Whitefish River. The new storm drain MDT will put in will handle the drainage of 6 out of the 10 units on this property. There will be less flow going into the river with the use of MDT’s storm drain. Councilor Hildner said he was worried about young children playing in this area if there is commercial use. Randy Bradley said the City is asking for proper signage and that is how they’ll handle it. Councilor Hildner asked if speed bumps were an option and Mr. Bradley said they would consider it. Councilor Mitchell asked and Mr. Bradley said he didn’t have a problem requesting that the commercial customers use the entrance off Karrow Avenue.

Mayor Muhlfeld closed the public hearing.

Manager Stearns asked about the northern egress. He thought the applicants were going to go out on W 1st Street and Planner Compton-Ring said Idaho Timber improved that portion of W 1st Street.

Councilor Hildner offered a motion, seconded by Councilor Kahle, to approve Bradley CUP to develop an 11-unit condominium project with five professional office spaces on 1.3 acres at 514 and 526 W 2nd Street, (WCUP 12-11) The motion passed unanimously.

- 7c. Ordinance No. 12-___; Consideration of application from Ryan Zinke on behalf of Continental Divide Inns LLC and Double Tap LLC requesting approval of a Nonresidential Planned Unit Development to overlay three parcels on W 2nd Street in order to develop a bed and breakfast and microbrewery/tap room at 340, 409 & 415 W 2nd Street (1st Reading) (WPUD 12-03) (p. 206)**

This item was withdrawn by the applicant.

8. COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR**8a. Consideration of an amendment to the engineering contract with TD&H Engineering for Phase II design of the Skye Park pedestrian bridge (p. 316)**

Karin Hildner, Senior Project Engineer, wished Public Works Director Wilson a Happy Birthday and said she was here in his place tonight. She reported that the City Council approved a Phase I consultant agreement for the Skye Park Bridge Project on November 5th. The scope of work included topographic survey, geotechnical investigation, lab work and related tasks.

This amendment to that agreement provides for additional consultant services including project management, preliminary and final design, cost estimating and completion of all documents, easements and approvals necessary to advertise for bids next spring. The proposed amendment is in an amount not to exceed \$62,500, which will be paid out of the Tax Increment Fund.

In addition to the task set for a “typical” trail and bridge design, this project also involves easement negotiations with BNSF and unique challenges posed by steep topography on either end of the project. Past negotiations for easements on the BNSF Loop Trail lead staff to expect these easement negotiations could be very time consuming. Although staff has budgeted the consultant’s time accordingly, they will bill the City only for the actual hours necessary to complete the task. With respect to steep grades, the goal is not only to accommodate ADA standards, but to build a trail that will also provide much needed vehicular access for the Birch Point sewer pump station. A smaller emergency vehicle will also be able to access Birch Point in case of emergencies. The topography and small available area are such that a substantial design effort may be necessary to achieve these goals. Again, staff has negotiated a project budget with this in mind but will only be billed for the actual hours necessary to complete the task. The proposed amendment is for an amount not to exceed \$62,500.

Councilor Mitchell asked and Engineer Hilding said the lift station is not easy to get to at this time and the City will be adding an emergency generator to that station. Councilor Mitchell said he needed to know what size vehicle they were considering for this bridge. Engineer Hilding said they talked with the consultants about that and each consultant said when they design a pedestrian/bike bridge they also have to design it for a small vehicle. They anticipate that a small vehicle may come onto the bridge, so they build it for safety. The consultants said it wouldn’t add a lot of cost. Councilor Hildner said the engineering groups said the design could handle the small fire trucks. Councilor Hyatt asked and Mayor Muhlfeld said Phase I cost about \$13,000. Councilor Hyatt said he’d like to see that financial picture as they move along. Councilor Mitchell asked what a small emergency vehicle is and Councilor Hildner said it was at least 4 tons. Chief Kennelley said they have a 6x6 that fits over the bridges. Councilor Mitchell said he is concerned that the price will go way up. He doesn’t want the bridge cost to come in at a high price. Councilor Hildner said he thinks when they get done with Phase II they will know all the design specs. He said TD&H has designed the other two bridges on Whitefish paths and they are all able to handle small trucks in an emergency. He said if they come in way over budget they can still say no. He said the engineers seem to think they can include the access to the pump station as part of the project. Councilor Kahle asked if this phase was part of the original engineer’s estimate and Engineer Hilding said it might be slightly higher than the original estimate. She said Director Wilson said it had to do with the anticipated time to get the easement from BNSF and some of the challenges of the steep topography.

Mayor Muhlfeld said the numbers they've been considering have ranged from \$7-800,000 for this project and the design bid is still within a 10% estimate for design work. Councilor Hyatt said that's why it would be nice to see the whole financial picture. Councilor Hildner said he talked with Doug Wise who thought that the Birch Point landowners might be willing to make a contribution to the construction costs because of the opportunity to have an emergency egress from Birch Point if the main road was blocked by trains. Councilor Kahle said he thinks they need to be really careful about making any agreements like that. Councilor Sweeney said his concern is that they seem to be burdening this project with Public Works projects that aren't related to the total project. He suspected that dealing with BNSF could be a time suck, but wondered if it made sense for the City, because of past experience, to deal with BNSF instead of leaving it to consultants. Engineer Hilding said City staff will be involved in this as well. She said the Public Works project isn't a large addition to the trail project and the City needs better access to the lift station. The consultants said they have to over-design the bridges because of safety. She said they'll provide information about the weight of the vehicle as they move along.

Councilor Anderson said funding this project is an issue for him. He doesn't know if this is a TIF priority. He said they had approved a preliminary design and wondered if that was done. Engineer Hilding said the geotech work and topographic survey have been done. Councilor Anderson said he is inclined not to approve this project. Mayor Muhlfeld said they are not intending for this bridge to be a cut-across to Birch Grove. The goal is to provide an alternative emergency access for Birch Point. It is not an additional road for daily use. Councilor Hyatt said they have concerns that weren't brought to their attention before this meeting. He likes the project and thinks it is important, but he wants more information. Mayor Muhlfeld said he thinks that is fine, but they need to articulate what is deficient in the staff report so Public Works Director Wilson can bring it back. Councilor Hildner said they approved Phase I and Phase II is the next step. He sees it as part of a package. He said the Bike/Ped Committee is in favor of it, and it is #3 on the TIF priorities. He thinks they should move forward on it.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to approve a contract amendment for the Skye Park Bridge Project – Phase II Consultant Design in an amount not to exceed \$62,500.

Councilor Mitchell said perhaps they should start the process to see if they can get an easement from BNSF before they pay for the engineering. Councilor Kahle said he would like to get clearly articulated concerns from the Councilors. He said they owe that to the Public Works department. He has concerns that they are spending a little bit of money for each phase and they need to quit dancing around to be clear if they want to go forward with this project. Councilor Hildner said that during consultant selection, the decision in favor of TD&H was partly because of their stated success and ability to work with BNSF in acquiring right-of-ways. He said that is one of the many reasons why they should go forward. Manager Stearns said on Nov. 5th Phase I was approved for \$15,310. He said normally it would be one bid, but Public Works Director Wilson split the bid because they wanted to get some stuff done before winter hit. Director Wilson didn't have time to negotiate the rest of the contract at that time. Mayor Muhlfeld suggested they vote on the motion, but Councilor Kahle said the discussion may influence his vote.

Councilor Hyatt said he would like to see the numbers of what they've done so far. He asked and Manager Stearns said Director Wilson estimated that the bid would be about \$50,000. At \$62,500, the bid is within the bounds of a reasonable engineering estimate. Councilor Hyatt agreed with Councilor Mitchell and said he didn't want to design a bridge without the easement rights from BNSF. Councilor Anderson said he has had concerns about the Skye Bridge project all along. There is a limited

amount of TIF dollars and they just got done with a work session about a parking structure. He has concerns about the programmed spending of the TIF dollars. He said they have money set aside for City Hall, they are contemplating something for a parking garage, but it is in the early stages. Then, they've got Depot Park and its development. He said after they authorize spending this much money for engineering and design they have to plan for the cost of the bridge, which sounds like it will be at least \$800,000. The staff report doesn't contain any information on spending the TIF dollars or what other projects would be affected. He can't support using TIF money for this project. Manager Stearns said they need information from this Phase II in order to make the bigger decision on whether to construct and when to construct. He said sooner or later they have to make decisions on what goes first with the TIF funds. He said it is like getting a parking feasibility study. He said they should get the engineering done and then figure out the timing of the construction.

Councilor Sweeney said contracts are based on time spent and deliverables; the easements are deliverable. He said he is in favor of this project and isn't opposed to getting the engineering answers they'll need. He said the budget dollars associated with the project need to be allocated to the appropriate beneficiaries. He said the additional projects need to be separated out of this project for the use of TIF funds. Councilor Mitchell said he thinks the Skye Bridge is going to come in at \$800,000 or more. He is in favor of the bridge if it is reasonable and not over \$800,000. He wondered if they had to go through an engineer to find out if BNSF would give them an easement. Manager Stearns asked where the BNSF easements would be and Engineer Hilding said she believed it would be to connect into Birch Point Road. Engineer Hilding said once TD&H does their design work and the Council sees the cost of the bridge, there is \$200,000 CTEP money for bike/ped path improvements that is not allocated yet and it is possible that could be used on this project. Mayor Muhlfeld said the concerns they've raised include:

- More detailed cost summary and overview on all phases and construction costs
- Probability that the City will acquire the BNSF easements
- Use of TIF dollars and impact on other TIF projects
- In general, there are staff report deficiencies
- Cost (funds) allocations more defined for the project

Councilor Anderson said he is hesitant to spend any money toward a project that they are not sure they want to build. He wants to review the TIF budget. They need money for City Hall at \$5 million, Parking Structure at \$5 million, this could be \$800,000 and that leaves only \$2 million in the TIF fund. He is not comfortable because they have priorities, but no second step. Councilor Kahle asked if they've had any discussions with BNSF about the easements and Manager Stearns said they have not, but he doesn't anticipate a big risk or issue; it just takes time. Manager Stearns asked and Engineer Hilding said she doesn't know if there is any public access over there. Engineer Hilding said she liked the idea of starting to work on the easement issue. She said it will probably take some coordinating with the engineers, so it would be nice to utilize their skills.

Councilor Mitchell acknowledged Herb Peschel.

Herb Peschel, 1404 W. Lakeshore Drive, said as a neighbor in that project area, he supports the project. He said people use the railroad bridge to get home from downtown and he felt sure BNSF would prefer that they didn't walk on it. Manager Stearns said the County GIS mapping makes it look like there is a portion of the BNSF property they would have to cross to get to Birch Point. Councilor Hildner said they have kicked around the cost of this bridge, but they only way they're going to find out

is to complete the engineering. Councilor Kahle said he thinks it is critical that they have a discussion with BNSF first. Councilor Mitchell said he is not pleased with the staff report—there are too many questions. He doesn't think anyone is opposed to the bridge, but the process is not right yet. Councilor Sweeney asked about the timing if they approve it now versus January or February. Engineer Hilding said she didn't think there was anything super critical about the timing. It would be helpful to get started working on the easement. She said she looked at it with Daryl Braun from the local BNSF and he seemed supportive. Councilor Anderson wondered if they should table this to a date certain when they have more information on the right-of-way issues and the issue of spending of funds on Public Works projects. He is fine with staff bringing it back; he thinks the easement is a lesser issue.

Councilor Hildner asked and Attorney VanBuskirk said the motion to table is superior to the existing motion. Councilor Hildner said he didn't want to withdraw the motion.

The motion failed 4-2 with Councilors Sweeney and Hildner voting in favor.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to send their concerns to staff to bring it back before the Council at a later date, prior to the end of February.

Councilor Sweeney said he'd like to see it sooner than later.

The motion passed 5-1 with Councilor Hildner voting in opposition.

Councilor Mitchell asked and Manager Stearns said staff would work on the easement issue.

9. COMMUNICATIONS FROM CITY MANAGER

9a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 132)
None.

9b. Other items arising between November 28th and December 3rd - None.

Councilor Mitchell said the vapor intrusion information is good news. Councilor Hildner said it bothers him that they thought the positive tests were because they were painting in the O'Shaughnessy. He suggested they retest. Manager Stearns said this was the second test and the first did not show any vapor intrusion.

10. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

10a. Standing budget item – None.

Councilor Mitchell wished Happy Birthday to John Wilson. Councilor Hyatt thanked everyone who put up decorations.

Councilor Kahle said he thinks a corridor study on Highway 93 West out to the Golf Course is necessary. He would like to know what that procedure is and when it should start. Director Taylor said part of the issue is funding and staffing. He said they have \$25,000 in their budget for a corridor study, but it was intended for Highway 93 South. That area has been put on hold because of the donut issue.

He said there are interests in commercial development along Highway 93 West and they would probably have to use a consultant because of lack of staff. Councilor Anderson said it would make sense to have staff do the Corridor Study because they are so familiar with the issues. He wondered if it would make sense to hire someone to do other projects to free Director Taylor and Planner Compton-Ring to work on the Corridor Study. Director Taylor said that would be his preference. Councilor Kahle asked if Director Taylor could bring an estimate on what an outside consultant would cost versus staff. Director Taylor said it is the Manager's call.

Manager Stearns said there are pros and cons to both options. He said if they want to reprogram \$25,000 for the contract consultant they could do that, but hiring staff to free up Director Taylor or Planner Compton-Ring is a little more complicated. They have to be careful how they add staff. He said the concern he has about in-house employees, is that if they get a lot of applications then they have to pull the staff off of the Corridor Study because there are deadlines for completing applications. He said hiring staff was a decision better made during the budget process. Councilor Kahle said he would like to see the City planners work with the consultants. Manager Stearns suggested they let Director Taylor think about it and work with Manager Stearns. Mayor Muhlfeld suggested they put this on a future agenda and Director Taylor agreed to have it by sometime in February.

Councilor Sweeney voiced his concern about the Planning Board and the concerns that were raised this evening. He was concerned about the reactions by the citizens. He thought the Planning Board findings were erroneous, at best. He thought it might be appropriate for the City Attorney to meet with the Planning Board to discuss findings-of-fact issues. City Attorney VanBuskirk said there might be an opportunity for a joint meeting for both the Planning Board and Council.

Councilor Mitchell said he hoped they would do a traffic study for the new City Hall. Mayor Muhlfeld said during the retreat they gave staff direction to put that on hold for now. If the Council has changed their mind they need to direct staff on it. Manager Stearns said they put it off until after they heard tonight's work session on the Parking Feasibility Study. The Council can now direct them on whether to proceed or not. He said once the feasibility study is done the Council faces the decision of moving forward with surface parking versus structure parking. It would help them determine the viability of a parking structure on this block. Councilor Kahle said they have a City Hall Committee and they put a lot of designers on the committee for a reason. He said the decision to have parking structures versus surface parking will heavily affect the City Hall design. Councilor Mitchell said the City Hall Committee is trying to look for direction on the parking from the Council. Mayor Muhlfeld is on the committee, too, and he agreed that they were waiting until the feasibility study was done so they would know what the Council wanted. Engineer Hilding said that as part of the Tiger Project; MDT worked with WGM on a model for the traffic study. That was used to program the signals. Manager Stearns said WGM was also going to do the traffic study so they have that model.

Mayor Muhlfeld said a traffic study would help guide their decision about whether to build a parking structure. He'd like to proceed with the study to help inform the decision they are going to make. Councilor Anderson asked and Manager Stearns said the traffic study will look at turning movements and traffic volume on First Street. Engineer Hilding said WGM knows that MDT wants to get the traffic through town, so they will look at whether it will impact the flow of Highway 93 traffic. Councilor Anderson asked if the design would look at the two different traffic patterns. Manager Stearns said the ingress and egress to the parking structures remain the same. Mayor Muhlfeld said they've already seen some savings with the feasibility study because they are only working on two designs. Manager Stearns said it will be an additional \$18,000. Councilor Hyatt said people get stuck on

Central Avenue. Manager Stearns asked and Engineer Hilding said they had the WGM engineers do an analysis of the signals and they have some recommended adjustments. Those recommendations were sent on to MDOT.

Councilor Kahle said he supports a traffic study, but it doesn't mean he supports a structure. Councilor Anderson said a traffic study would be a good thing to have. Councilor Mitchell said he is opposed until they know if they want a parking structure. Councilor Sweeney supported doing the study. Councilor Kahle said it was his understanding that the traffic study would benefit them either way. Councilor Hildner was in favor and Councilor Hyatt was opposed. Mayor Muhlfeld said the majority were in favor so the study will move forward.

Councilor Mitchell said he thinks the City didn't do a good job deciding whether the PUD would be the best process for the Zinke proposal. He thinks they did a disservice to Zinke. He is disappointed. Mayor Muhlfeld disagreed and said he thought Planner Compton-Ring made a professional recommendation and told Mr. Zinke it didn't comply with the zoning.

Mayor Muhlfeld said they spoke with Rick Stauffer with BNSF from Billings about the concept of possibly trading like properties, but BNSF just invested \$1 million in heating the ramps. It is not a priority for them to relocate, but they will get back with the City in January.

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 9:28 p.m.

Mayor Muhlfeld

Jane Latus Emmert, Recording Secretary

Attest:

Necile Lorang, City Clerk

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PLANNING & BUILDING DEPARTMENT
510 Railway Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



December 31, 2012

Mayor and City Council
City of Whitefish
PO Box 158
Whitefish MT 59937

RE: EH Bode Properties – Big Mountain Cross Fit; (WCUP 12-13)

Honorable Mayor and Council:

Summary of Requested Action: Michael Bode is requesting an after-the-fact conditional use permit for a recreation facility, Big Mountain CrossFit, within an existing 4,000 square foot warehouse-type building at 5932 Highway 93 S. The property is currently developed with a the Big Mountain Cross Fit. The property is zoned SAG-5 (Suburban Agriculture). The Whitefish Growth Policy designates this property as “Rural Residential”.

Planning Board Action: The Whitefish City-County Planning Board met on December 20, 2012 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with seven (7) conditions as contained in the staff report and adopted the staff report as findings of fact. (Vail was absent)

Planning & Building Department Recommendation: Staff recommended approval of the above referenced conditional use permit with seven (7) conditions set forth in the attached staff report.

Public Hearing: The applicant and a member of the public spoke at the hearing in support of the application. The draft minutes for this item are attached as part of this packet.

This item has been placed on the agenda for your regularly scheduled meeting on January 7, 2012. Should Council have questions or need further information on this matter, please contact the Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in cursive script that reads "Wendy Compton-Ring".

Wendy Compton-Ring, AICP

Senior Planner

Att: Exhibit A: Recommended Conditions of Approval
Draft Minutes of 12-20-12 Planning Board Meeting

Exhibits from 12-20-12 Staff Packet

1. Staff Report, 12-13-12
2. Adjacent Landowner Notice, 11-30-12
3. Advisory Agency Notice, 11-30-12
4. Letter, Notice of Violation, 10-9-12
5. SAG-5 zoning chapter

The following exhibits were submitted by the applicant:

6. Conditional Use Permit Application & Supporting Materials, 11-5-12

c: w/att Necile Lorang, City Clerk

c: w/o att EH Bode Properties llc, 915 Columbia Avenue Whitefish, MT 59937
Michael Bode, 1039 Columbia Avenue Whitefish, MT 59937

Exhibit A
Bode
WCUP 12-13
Whitefish City-County Planning Board
Recommended Conditions of Approval
December 20, 2012

1. The project shall be constructed in compliance with the plan submitted on November 5, 2012, except as amended by these conditions. Any significant deviation from the plans shall require approval.
2. The applicant shall hire a septic consultant and meet with Flathead County Environmental Health Department no later than February 1st to update the septic permit. Submit verification of this meeting to the Whitefish Planning Department.
3. The applicant shall obtain a valid septic permit for the proposed use, if the County is unable to approve a septic permit, the applicant shall either annex into the city and connect to City sewer or this permit shall be null and void and the building shall be vacated within 60-days of the Health Department decision.
4. The unlawful sign shall be removed within 30-days of Council action and a valid sign permit shall be obtained for a sign that meets the sign code.
5. All unlawful on-site lighting shall be brought into conformance within 30-days of Council action. All new lighting shall meet the outdoor lighting standards.
6. Any changes to the building (including painting) shall require Architectural Review approval.
7. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.

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between protecting the lake and protecting property owner's rights. He recommended they choose someone who has experience and who would care about the lake. He said he would urge the Planning Board to vote for someone who would come on the committee without an agenda.

OLD BUSINESS

None.

BODE CONDITIONAL USE PERMIT REQUEST

A request by Michael Bode for a Conditional Use Permit for a recreation facility in an SAG-5 zone located at 5932 Highway 93 S.

STAFF REPORT WCUP 12-13

Planner Compton-Ring reported that Michael Bode is requesting an after-the-fact conditional use permit for a recreation facility, Big Mountain CrossFit, within an existing 4,000 square foot warehouse-type building at 5932 Highway 93 S. Recreation facilities (low and high-impact facilities) are conditionally permitted within the SAG-5 zoning.

On October 9, 2012, City staff notified the landowner and tenant that a Conditional Use Permit was required prior to opening the business. As such, the property owner is requesting an after-the-fact permit approval.

A notice was mailed to landowners within 150-feet, but no comments were received. There is adequate usable land area; access to the site exists off an easement that also provides access to the Bridge Medical Center and a residential use to the west.

Flathead County Zoning Regulations (§6.08) require ten parking spaces and the project has sixteen parking spaces. There is a flat area to the west of the building that could also be developed into addition parking area, if needed.

This particular location is within the Residential District for signage. According to the sign regulations, a nonresidential use in a residential district is permitted one freestanding/monument sign with a maximum of 10 square feet and no taller than 4-feet.

There currently is one large wall/banner sign located on the east elevation of the building that was placed without a permit and exceeds the standards for this sign district. This unlawful sign needs to be removed and a valid sign permit needs to be obtained prior to the installation of any lawful sign.

There is existing exterior lighting near the front door on the east side of the building and on the back of the building. These lights, known as 'wall packs', do not meet the city's outdoor lighting standards. These lights should have been brought into compliance before August 17,

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2009; therefore, staff will recommend a condition of approval that all exterior lights be updated to meet the outdoor lighting standards.

This property is served by an on-site septic system. As this is a change in use, Flathead County Environmental Health Department requires an updated septic permit for the new use this has not occurred with the current tenant. In 1989, the County approved a one-bedroom single family home septic. In addition, there were a number of limitations placed on the system due to its close proximity to the well serving the property and the high groundwater in this location. These issues need to be addressed immediately. Staff will recommend that upon approval from the Council, the applicant will hire a consultant and meet with the County no later than February 1st. If the County is unable to approve the change in use, the applicant will either need to connect to city services, which are approximately 1,168-feet from the subject parcel, or abandon the use.

No excessive traffic generation is expected. The hours of operation are not inconsistent with the hours in the neighborhood.

Staff recommends approval subject to seven conditions of approval. Staff covered a couple of key conditions.

#2 The applicant shall hire a septic consultant and meet with Flathead County Environmental Health Department no later than February 1st to update the septic permit. Submit verification of this meeting to the Whitefish Planning Department.

#3 The applicant shall obtain a valid septic permit for the proposed use, if the County is unable to approve a septic permit, the applicant shall either annex into the city and connect to City sewer or this permit shall be null and void and the building shall be vacated within 60-days of the Health Department decision.

#4 The unlawful sign shall be removed within 30-days of Council action and a valid sign permit shall be obtained for a sign that meets the sign code.

#5 All unlawful on-site lighting shall brought into conformance within 30-days of Council action. All new lighting shall meet the outdoor lighting standards.

#6 Any changes to the building (including painting) shall require Architectural Review approval.

Anderson asked if February 1st was too soon to get a valid permit and Planner Compton-Ring said staff is only requiring that they meet with the County by that date. Blake asked if the prior businesses had

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septic approval. She said the church that wanted to move in there couldn't get the septic approved.

Gunderson asked and Planner Compton-Ring said the County recommended a septic consultant to address the issue.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

Michael Bode, 915 Columbia Avenue, said he didn't realize he was dealing with the City when he bought the property a year ago. He met with County sanitation in the past few days and he'll meet with County Sanitation next week. He would be glad to address the lighting if they let him know the requirements.

Stephanie Smith, 1039 Columbia Avenue, said the form says the well is too close, but they need clarification on this. The well is 112 feet and that is safe. Planner Compton-Ring said Flathead County Environmental Health made those comments, so they need to work directly with them.

Patrick McCracken, 1015 4th Street East, said he works out at this building and it would be a shame for this business to have to be shut down for any amount of time. He asked that they work to keep the business open.

PUBLIC HEARING

No one else wished to speak and the public hearing was closed.

MOTION

Gunderson moved and Smith seconded to adopt the findings of fact in staff report WCUP 12-13 and recommend to the Whitefish City Council to approve the Bode Conditional Use Permit for a recreation facility in an SAG-5 zone located at 5932 Highway 93 S. with 7 conditions, as recommended by staff.

VOTE

The motion passed unanimously on a vote by acclamation. (Scheduled to go to Council on January 7, 2013.)

CITY OF WHITEFISH TEXT AMENDMENT REQUEST

A request by the City of Whitefish to amend §11-3-11B concerning retaining walls.

STAFF REPORT WZTA 12-05

Planner Compton-Ring reported that this came before the Board in October. Some comments and concerns were raised and they are included in purple in the report. She said staff is trying to make it more flexible. Retaining walls are necessary, but the regulations are difficult to understand right now.

[The Planning Board held a public hearing on October 18, 2012 on the proposed retaining wall text amendments. Concerns raised](#)

**MICHAEL BODE
CONDITIONAL USE PERMIT
WCUP 12-13
DECEMBER 13, 2012**

This is a report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a request for a conditional use permit for a recreation facility. This application has been scheduled before the Whitefish City-County Planning Board for a public hearing on Thursday, **December 20, 2012**. A recommendation will be forwarded to the City Council for a subsequent public hearing and final action on Monday, **January 7, 2013**.

PROJECT SCOPE

Michael Bode is requesting an after-the-fact conditional use permit for a recreation facility, Big Mountain CrossFit, within an existing 4,000 square foot warehouse-type building at 5932 Highway 93 S. Recreation facilities (low and high-impact facilities) are conditionally permitted within the SAG-5 zoning.

On October 9, 2012, city staff notified the landowner and tenant that a Conditional Use Permit was required prior to opening the business. As such, the property owner is requesting an after-the-fact permit approval. The applicant is using the existing building, built in 1990, and paved parking area to serve the site. No other changes to the site or building are being proposed.

A. OWNER:

EH Bode Properties llc
915 Columbia Avenue
Whitefish, MT 59937

REPRESENTATIVE:

Michael Bode
1039 Columbia Avenue
Whitefish, MT 59937

B. SIZE AND LOCATION OF PROPERTY:

The project is located at 5932 Highway 93 S and can be legally described as Tract 7E (S12-T30N-R22W).



C. EXISTING LAND USE:

The subject property is currently developed with a recreation facility and associated parking facility.

D. ADJACENT LAND USES AND ZONING:

North: Medical Office SAG-5

West: Residential SAG-5

South: Residential SAG-5
East: Vacant SAG-5

E. ZONING DISTRICT:

SAG-5 (Suburban Agriculture)¹

F. WHITEFISH CITY-COUNTY GROWTH POLICY DESIGNATION:

The Growth Policy designation for this area is 'Rural Residential' which corresponds to the WCR and WA-10 (yet to be adopted by the City Council). This designation is intended for lots already divided into 2.5 to 10 acres. "Its intent is to preserve rural character while allowing existing large-lot residential areas to continue without becoming non-conforming as to minimum lot size. Applicable zoning districts include WCR and WA-10. Rural residential is not seen as a desirable future development option, and this Growth Policy does not advocate designating additional areas for rural residential beyond what is already depicted on the Future Land Use Map."

G. UTILITIES:

Sewer: on-site
Water: on-site
Solid Waste: North Valley Refuse
Electric: Flathead Electric Co-op
Phone: CenturyLink
Police: Flathead County Sheriff
Fire: Whitefish Fire Department

H. PUBLIC COMMENTS:

A notice was mailed to adjacent land owners within 150-feet of the subject parcel on November 30, 2012. A notice was emailed to advisory agencies on November 30, 2012. A notice of the public hearing was published in the *Whitefish Pilot* on December 5, 2012. As of the writing of this report, no comments have been received.

REVIEW AND FINDINGS OF FACT

This application is evaluated based on the "criteria required for consideration of a Conditional Use Permit," per §2.06.080 of the Flathead County Zoning Regulations.

¹ This property is outside the city limits but within the city's planning jurisdiction. SAG-5 is a Flathead County zone that city continues to implement through the Interlocal Agreement.

A. **Site Suitability. The site must be suitable for the proposed use or development, including:**

Adequate usable land area: The subject parcel is 5.01 acres in size. There is adequate space for the use and there are no proposed changes to the structure or parking area.

Access that meets the standards set forth in these regulations, including emergency access: Access to the site is existing off an easement that also provides access to the Bridge Medical Center and the residential property to the west.

Absence of environmental constraints that would render the site inappropriate for the proposed use or development, including, but not necessarily limited to floodplains, slope, wetlands, riparian buffers/setbacks, or geological hazards: The proposed development is not located within the 100-year floodplain, the already developed site is only moderately sloped, does not contain any water bodies or stormwater conveyances.

Finding 1: The site suitability for the subject property is addressed through the large lot size and open space to address the need for adequate usable land area. There are no environmental hazards present in the subject area. Access to the site is existing and meets highway standards.

B. **Appropriateness of Design:**

Parking locations and layout: Flathead County Zoning Regulations (§6.08) require one parking space per 400 square feet of private clubs, athletic clubs and the like. At 4,000 square feet, the proposal requires ten parking spaces and the project has sixteen parking spaces along the east side of the lot between the building and the highway. There is a flat area to the west of the building that could also be developed into addition parking area, if needed.



Traffic Circulation: The site is accessed via Highway 93 S onto an existing private easement. Parking lot circulation shown on the site plan is adequate. The proposed use should not impact traffic circulation on the existing highway.

Open space: The site plan has adequate open space.

Fencing/Screening: Fencing and screening are not required by the County zoning regulations.

Landscaping: Landscaping is not required by the County zoning regulations.

Signage: As described earlier in the report, through the Interlocal Agreement, the city is implementing the County's zoning (SAG-5) and other Flathead County zoning regulations until such time as the zoning is changed to a Whitefish zone and all zoning standards apply. Unlike the land use chapters, when the Interlocal Agreement was put into place, the city placed the entire planning jurisdiction under the umbrella of the Whitefish Sign Regulations. This particular location is within the Residential District for signage. According to the sign regulations, a nonresidential use in a residential district is permitted one freestanding/monument sign with a maximum of 10 square feet and no taller than 4-feet.

There currently is one large wall/banner sign located on the east elevation of the building that was placed without a permit and exceeds the standards for this sign district. This unlawful sign needs to be removed and a valid sign permit needs to be obtained prior to the installation of any lawful sign. Staff will propose a condition to this effect.

Lighting: There is existing exterior lighting near the front door on the east side of the building and on the back of the building. These lights, known as 'wall packs', do not meet the city's outdoor lighting standards. Similar to the Sign Regulations, the Outdoor Lighting Regulations apply to the entire planning jurisdiction. These lights should have been brought into compliance before August 17, 2009; therefore, staff will recommend a condition of approval that all exterior lights be updated to meet the outdoor lighting standards.

Finding 2: There is adequate parking, traffic circulation and open space to serve the proposed use. The existing signage is unlawful, needs to be removed and a sign permit needs to be obtained. The existing outdoor lighting does not meet the outdoor lighting standards and needs to be brought into compliance.

C. **Availability and Adequacy of Public Services and Facilities.**

Sewer: This property is served by an on-site septic system. As this is a change in use, Flathead County Environmental Health Department requires an updated septic permit for the new use. Staff contacted Flathead County and found that this has not occurred with the current tenant. In 1989, the County approved a one-bedroom single family home septic. In addition, there were a number of limitations placed on the system due to its close proximity to the well serving the property and the high groundwater in this location. These issues need to be addressed immediately. Staff will recommend that upon approval from the Council, the applicant will hire a consultant and meet with the County no later than February 1st. If the County is unable to approve the change in use, the applicant will either need to connect to city services, which are approximately 1,168-feet from the subject parcel, or abandon the use.

Water: A private well serves the site. As described above, the current well is located quite close to the septic system and was required to have annual monitoring. The County does not have any records that this monitoring has occurred. This will be addressed at the time the applicant meets with Flathead County Environmental Health to review the septic permit.

Storm Water Drainage: Storm water drainage plans will not be required due to the property being outside of city limits. There is adequate space on the property to handle any run-off from the parking areas.

Fire Protection: The Whitefish Fire Department serves the site and response times and access are good. The proposed use is not expected to have significant impacts upon fire services.

Police: The Flathead County Sheriff's office serves the site.

Streets: The subject property is accessed via private easement.



Finding 3: On-site water and sewer services are currently in use. Flathead County requires a septic permit for this change in use. Stormwater can be managed on-site. Response times for sheriff and fire are not anticipated to be affected due to the proposed development. The property has adequate access to the highway.

D. Neighborhood/Community Impact:

Excessive Traffic Generation: The project should generate an average of 50 trips per weekday. The highway and the access to the highway are adequate according to Montana Department of Transportation.

Noise or Vibration: No additional noise or vibration is anticipated to be generated from the proposed use.

Dust, Smoke, Glare, or Heat: No impact is anticipated beyond what would be expected from the use currently onsite.

Smoke, Fumes, Gas, and Odor: No impact is anticipated with regard to smoke, fumes, gas or odors.

Inappropriate Hours of Operation: The Big Mountain CrossFit offers a variety of classes Monday through Saturday starting as early as 5:30 AM and as late as 5:30

PM. These hours are not inconsistent with the hours in the neighborhood. The application indicates that the facility is only open when classes are in session which could be as late as 11:00 PM. As it is located along Highway 93 S these later hours shouldn't have much impact on the neighborhood.

Finding 4: The proposed development is not anticipated to have a negative neighborhood impact. Negative impacts on noise, dust, smoke, odor or other environmental nuisances are not expected.

SUPPLEMENTAL FINDINGS:

Finding 5: Recreation facilities are a conditionally permitted use in the SAG-5 zone.

Finding 6: The project complies with the Growth Policy as it is a conditionally permitted use in the SAG-5 zone.

Finding 7: The existing building will have minimal changes, and it is currently compatible with the existing uses in the neighborhood and consistent with the designs, size and density of the immediate area.

RECOMMENDATION

It is recommended that the Whitefish City-County Planning Board adopt the findings of fact within staff report WCUP 12-13 and that this conditional use permit be recommended for **approval** to the Whitefish City Council subject to the following conditions:

1. The project shall be constructed in compliance with the plan submitted on November 5, 2012, except as amended by these conditions. Any significant deviation from the plans shall require approval.
2. The applicant shall hire a septic consultant and meet with Flathead County Environmental Health Department no later than February 1st to update the septic permit. Submit verification of this meeting to the Whitefish Planning Department.
3. The applicant shall obtain a valid septic permit for the proposed use, if the County is unable to approve a septic permit, the applicant shall either annex into the city and connect to City sewer or this permit shall be null and void and the building shall be vacated within 60-days of the Health Department decision.
4. The unlawful sign shall be removed within 30-days of Council action and a valid sign permit shall be obtained for a sign that meets the sign code.
5. All unlawful on-site lighting shall be brought into conformance within 30-days of Council action. All new lighting shall meet the outdoor lighting standards.

6. Any changes to the building (including painting) shall require Architectural Review approval.
7. The conditional use permit is valid for 18 months and shall terminate unless commencement of the authorized activity has begun.



Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Michael Bode is requesting a Conditional Use Permit for a recreation facility. The property is being used the Cross-Fit recreation facility and is zoned SAG-5. The property is located at 5932 Highway 93 S and can be legally described as Tract 7EA in Sec 12, T30N, R22W, P.M.M.

You are welcome to provide comments on the project. Comments can be in written or email format. The City-County Planning Board will hold a public hearing for the proposed project request on:

**Thursday, December 20, 2012
6:00 p.m.
Whitefish City Council Chambers, City Hall
402 E. Second Street, Whitefish MT 59937**

The City-County Planning Board will make a recommendation to the City Council, who will then hold a public hearing and take final action on Monday, January 7, 2013 at 7:10 p.m., also in the Whitefish City Council Chambers.

On the back of this flyer is a site plan of the project. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at wcompton-ring@cityofwhitefish.org. Comments received by the close of business on Monday, December 10, 2012, will be included in the packets to the Planning Board members. Comments received after the deadline will be summarized to the Planning Board members at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

PLANNING & BUILDING DEPARTMENT
PO Box 158
510 Railway Street
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



Date: November 30, 2012
To: Advisory Agencies & Interested Parties
From: Whitefish Planning & Building Department

**WHITEFISH CITY-COUNTY PLANNING BOARD
NOTICE OF PUBLIC HEARING**

The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, December 20, 2012 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearings on Monday, January 7, 2013. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Michael Bode for a Conditional Use Permit for a recreation facility in an SAG-5 zone located at 5932 Highway 93 S. (WCUP 12-13) Compton-Ring
2. A request by the City of Whitefish to amend §11-3-11B concerning retaining walls. (WZTA 12-05) Compton-Ring

Documents pertaining to this agenda item is available for review at the Whitefish Planning & Building Department, 510 Railway Street during regular business hours. Inquiries are welcomed. Interested parties are invited to attend the hearing and make known their views and concerns. Comments in writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: dtaylor@cityofwhitefish.org. For questions or further information regarding this proposal, phone 406-863-2410.

EXHIBIT

3

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, November 30, 2012 8:47 AM
To: 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dale Lauman (dlauman@flathead.mt.gov)'; 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; 'Kate Orozco (orozcok@wfps.k12.mt.us)'; 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; 'Peter Steele (psteele@flathead.mt.gov)'; 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears '; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'
Cc: David Taylor
Subject: December City-County Planning Board
Attachments: 12-2012_PB meeting.pdf

Attached please find the Whitefish City-County Planning Board notice for December.

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

PLANNING & BUILDING DEPARTMENT
Code Enforcement Officer
PO Box 158 510 Railway St
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409
pholmes@cityofwhitefish.org



October 9, 2012

E.H. Bode Properties LLC
915 Columbia Avenue
Whitefish, Montana 59937

RE: Land Use (Conditional Use Permit)

The building and property located at 5934 HWY 93 S is in the Whitefish Zoning Jurisdiction where a recreational facility would require a conditional use permit.

Please make arrangements to apply for a conditional use permit through the Whitefish City Planning Department by **October 19, 2012**.

If you have any questions or concerns please contact Wendy Compton-Ring (Senior Planner) or myself at 863-2410.

Sincerely,

A handwritten signature in black ink, appearing to read "Phil Holmes".

Phil Holmes
Code Enforcement Officer

cc: Wendy Compton- Ring
Senior Planner

EXHIBIT

4

SECTION 3.08 SAG-5 SUBURBAN AGRICULTURAL

3.08.010 Definition.

A district to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development.

3.08.020 Permitted Uses (SAG-5).

1. Agricultural/horticultural/silvicultural uses.
2. Class A and Class B manufactured homes (See Chapter VII – Definitions).
3. Cluster housing (See Chapter V – Performance Standards).
4. Day care homes.
5. Dwellings, single-family.
6. Guest houses.
7. Home occupations (See Chapter V- Performance Standards and Chapter VII – Definitions).
8. Homeowners parks and beaches.
9. Nurseries, landscaping materials.
10. Parks and publicly owned recreational facilities.
11. Produce stands.
12. Public transportation shelter stations.
13. Public utility service installations.

3.08.030 Conditional Uses (SAG-5).

1. Airfields.
2. Aircraft hangars when in association with properties within or adjoining an airport/landing field.*
3. Animal hospitals, veterinary clinics.
4. Bed and breakfast establishments.
5. Camp and retreat center (See Chapter IV – Conditional Use Standards and Chapter VII – Definitions).
6. Caretaker’s facility.*
7. Cellular towers.*
8. Cemeteries, mausoleums, columbariums, crematoriums.
9. Churches and other places of worship.
10. Community center buildings operated by a non-profit agency.
11. Community residential facilities.**
12. Contractor’s storage yards (See Chapter IV – Conditional Use Standards).*
13. Dwellings, family hardship.*
14. Electrical distribution stations.
15. Extractive industries.
16. Golf courses.
17. Golf driving ranges.
18. Kennels, commercial (See Chapter IV-Conditional Use Standards).
19. Manufactured home parks.
20. Recreational facilities, high-impact.
21. Recreational facilities, low-impact.
22. Recreational vehicle parks.

- 23. Schools, primary and secondary.
- 24. Stables, riding academies, and rodeo arenas.
- 25. Temporary buildings or structures.*
- 26. Water and sewage treatment plants.
- 27. Water storage facilities.

*Administrative Conditional Use Permit (See Section 2.06.045)

**Administrative Conditional Use Permit, eight or fewer.

3.08.040

Bulk and Dimensional Requirements (SAG-5).

- 1. Minimum Lot Area: 5 acres.
- 2. Minimum Lot Width: No parcel or lot shall have an average depth greater than three times its average width unless the average lot width is more than 300 feet.
- Cul-de-Sacs: 60 feet.
- 3. Setbacks:
 - A. Minimum Yard Requirements for Principal Structure:
 - Front: 20 feet.
 - Side:* 20 feet each.
 - Side Corner:** 20 feet.
 - Rear: 20 feet.
 - B. Detached Accessory Structures:
 - Front: 20 feet.
 - Side:* 5 feet each.
 - Side Corner:** 20 feet.
 - Rear: 5 feet.
 - * For non-conforming properties with lot widths of less than 150 feet, the side yard setback shall be 10 feet each. For non-conforming properties with lot widths of less than 50 feet, the side yard setback shall be 5 feet each.
 - ** For non-conforming properties with lots with average widths of less than 200 feet, the side corner setback shall be 15 feet.
 - C. A 20-foot setback is required from streams, rivers and unprotected lakes, which do not serve as property boundaries.
 - D. Increase yard requirements as follows when property fronts:
 - County Road:* 20 feet.
 - * Classified as a collector or major/minor arterial as defined in the County Master Plan or City-County Master Plan.
- 4. Maximum Height: 35 feet.
- 5. Permitted Lot Coverage: 25% (Residential Uses).

6. Maximum Fence Height (Residential Uses):
 - Front: 6 feet.
 - Side: 6 feet.
 - Rear: 6 feet.

7. Off-Street Parking: See Chapter VI – Parking and Loading.

playgrounds, and other similar uses whether the use of such area is limited to private membership or open to the public upon payment of a fee or service charge.

7.17.030

Recreational Area, Non-Commercial – An area devoted to facilities and equipment for recreational purposes, such as swimming pools, tennis courts, playgrounds, community club houses, and other similar uses maintained and operated by a non-profit club, homeowners association or other corporate structure and in which membership is limited to the residents within the area.

7.17.040

Recreational Facility – A structure or use of property not otherwise listed in these regulations to accommodate the enjoyment, healthful activities, and leisure of the facility’s users. Such a use may be enclosed by walls and roof (indoor) or an open-air (outdoor) arrangement. Recreational facilities are also defined as being either “high impact” or “low impact”, based on the following criteria:

1. Land Intensity – the amount of land necessary to operate the facility.

Examples: High impact – golf course, ski area
Low impact – archery range, video game arcade

Threshold: Facility requires more than twice the “minimum lot size” determined by district classification.

2. Traffic Generation – the amount of motor vehicle traffic created by use.

Examples: High impact – water slide, fairgrounds
Low impact – golf driving range, dude ranch

Threshold: Traffic greater than or equal to 20 trips per hour at peak hours or 75 trips per day.

3. Visibility – the visual impact of the facility; how obvious its presence is.

Examples: High impact – water slide, ski area
Low impact – dude ranch, day camp

Threshold: Structures unusual compared to surrounding uses are visible from adjacent roadways.

4. Risk – the possibility of danger to adjacent landowners or property.

Examples: High impact – zoos, rifle ranges
Low impact – bike rental, fishing

Threshold: Reasonable chance of danger or damage to nearby property or people.

If a facility is determined to have a “high” rating in any of these categories, it shall be considered a “high-impact” recreational facility.

7.17.050

Recreational Space – Open space for both passive and active recreation. Passive recreation facilities include outdoor sitting areas in the form of sun decks, balconies, or



SECTION 4.15 RECREATIONAL FACILITIES

4.15.010 Due to the diverse nature of the potential recreational facilities that may be proposed or developed in the planning jurisdiction, no specific standards are established. However, proposed uses that must obtain a Conditional Use Permit may be reviewed subject to a number of criteria. These criteria may include, but are not limited to, traffic generation, parking availability, impact on surrounding uses, landscaping, noise generation, and accessibility. Mitigation strategies for the possible impacts of recreational facilities that must obtain a Conditional Use Permit may be submitted with the permit application materials.

SECTION 4.16 TEMPORARY USES

4.16.010 Temporary uses not exceeding 12 months in duration may be approved by the issuance of an Administrative Conditional Use Permit from the Zoning Administrator. Such an administrative permit shall not be renewable. Any extension to the permit must be granted by an application to and permit approval by the Board of Adjustment.

4.16.020 Temporary uses of a duration exceeding 12 months shall be approved in writing through the granting of a temporary Conditional Use Permit by the Board of Adjustment. Conditions may be placed on the use to promote neighborhood compatibility and to mitigate health and safety issues.

4.16.030 Temporary uses shall comply with all setback requirements of the district.

4.16.040 A Class B manufactured home on a temporary foundation or RV may be allowed on an occupied site when either a building or demolition permit (when applicable) has been secured for that lot and the occupants of the temporary use are actively involved in demolishing and clearing the site or constructing a new primary building.

4.16.050 Temporary uses must be connected to approved water and sewer utilities, where appropriate.

4.16.060 Seasonal temporary uses such as fireworks stands, Christmas tree sales and produce stands shall have specific and definable time frames to coincide with the particular season and shall be considered to be permitted uses in non-residential districts during the appropriate time frame.

Whitefish Planning & Building
PO Box 158
510 Railway Street
Whitefish, MT 59937
Phone: (406) 863-2410 Fax: (406) 863-2409

APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF WHITEFISH

WCHP
12.13

FEE ATTACHED \$1,980- (See current fee schedule)

OWNER(S) OF RECORD:

Name: MICHAEL BODE

Mailing Address: 1039 COLUMBIA AVENUE

City/State/Zip: WHITEFISH, MT 59937 Phone: 612-819-9066 *

PERSON(S) AUTHORIZED TO REPRESENT THE OWNER(S) AND TO WHOM ALL CORRESPONDENCE IS TO BE SENT:

Name: STEPHANIE SKINNER

Mailing Address: 1039 COLUMBIA AVENUE

City/State/Zip: WHITEFISH, MT 59937 Phone: 406-261-8430

LEGAL DESCRIPTION OF PROPERTY (Refer to Property Records):

Street Address: 5932 US HWY 93 S Sec. 12 Town-ship 30N Range 22W

Subdivision Name: CD # 19068 Tract No(s) 7EA Lot No(s) _____ Block No. _____

DESCRIBE PROPOSED USE: RECREATIONAL FACILITY

ZONING DISTRICT: SAG 5 (COUNTY)

CHAPTER 7 OF TITLE 11 WHITEFISH ZONING REGULATIONS REQUIRES THE FOLLOWING:

A. FINDINGS - The following criteria form the basis for approval or denial of the Conditional Use Permit. The burden of satisfactorily addressing these criteria lies with the applicant. Review the criteria below and, on a separate sheet of paper, discuss how the proposal conforms to the criteria. If the proposal does not conform to the criteria, describe how it will be mitigated.

1. Describe how the proposal conforms to the applicable goals and policies of the Whitefish City-County Growth Policy.
2. Describe how the proposal is consistent with the purpose, intent and applicable provisions of the regulations.

EXHIBIT

5

Revised 2-22-10

C. SITE PLAN

Submit a site plan, either drawn to scale or with dimensions added, which shows in detail your proposed use, your property lines, existing and proposed buildings, traffic circulation, driveways, parking, landscaping, fencing, signage, and any unusual topographic features such as slopes, drainage, ridges, etc. Where new buildings or additions are proposed, building sketches and elevations shall be submitted.

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as a part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be untrue, I understand that any approval based thereon may be rescinded, and other appropriate action taken. The signing of this application signifies approval for the Whitefish Planning & Building staff to be present on the property for routine monitoring and inspection during the approval and development process.

Michael Bode
Applicant's Signature

10-22-12
Date

MICHAEL BODE
Print Name

Conditional Use Permit Application- Big Mountain Crossfit
Michael Bode
5932 Hwy 93 S.
Whitefish, MT 59937

This is a request to the Whitefish City-County Planning Board regarding a request for a conditional use permit to allow a recreational use facility at 5932 Highway 93 South.

1. There is an existing 50x80 metal building that was formally a piano store that is the site of a proposed athletic club. The zoning district is SAG-5, Suburban Agricultural, which is part of the old 2005 Flathead County Zoning Code. The purpose of this district is intended to “provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development”. Recreational facilities are allowed as a conditional use. The Whitefish City-County Growth Policy designation for this area is Rural Residential, which would be compatible.
2. The proposed is consistent with the current commercial and professional buildings along the Hwy 93 S corridor. The Growth Policy states the designated SAG-5 county zoning corresponds with the WCR and WA zoning districts.
3. The property is a lot totaling 5 acres and is located at 5932 Hwy 93 South. The existing structure meets all required setbacks. The site suitability for the proposed is addressed through the large lot size and open space to address the need for adequate usable land area. The site, although sloped, provides plenty of room for required off-street parking. Access to the site is existing off of an easement that also provides access to the Bridge Medical Center and the Pollack’s residential property. The developed site is only moderately sloped, does not contain any water bodies or stormwater conveyances and is not in the 100-year flood plain.
4.
 - a. Parking within the Flathead County Zoning Regulations is addressed in Section 6.09.010 and requires 1 space per 300 sq. ft. of gross floor area. The proposed building with 4000 sq. ft. total would be required by Flathead Zoning Regulations to have 13 parking spots. The current status of the property has 20 parking spaces.
 - b. Traffic Circulation; the site is accessed via an adequate highway “suicide” lane onto an existing paved private approach road.
 - c. Open Space; the site plan shows adequate open space over 5 acres.
 - d. Fencing/Screening; Currently there are approximately 60 trees/shrubs along the south boundary of the lot. Any further requirements may be placed on the permit to address that requirement.
 - e. Landscaping; Since the property is on a county zoned lot, the request is to be exempt from the requirements associated with WF City landscaping.
 - f. Signage; Signage larger than city guidelines of 2 sq. ft. if mounted on the building or a 4’x4’ freestanding sign shall need a separate permit and will be up to the tenant.
 - g. Undergrounding of new/existing utilities; There are utilities existing on site for the building.
5.
 - a./b. Sewer & Water; a private well and septic system serve the site.
 - c. Stormwater; storm water drainage plans will not be required due to the property being outside of city limits.
 - d. Fire Protection; The Whitefish Fire Department serves the site and response times and access are good. The proposed use is not expected to have significant impacts upon fire services.
 - e. Police Protection; The Flathead County Sheriff’s office serves the site.
 - f. Street; the subject property is accessed via a paved easement.

- h. Sidewalks; There are not sidewalks current in place along the west side of Hwy 93 South.
- i. Bike/pedestrian ways; There are plans for a bike path in the Growth Policy along the east side of Hwy 93 South, not affecting the subject property.

6. Traffic may be generated during hours of operation, currently there are 70 members that would like usage of the facility. The current parking situation has been adequate for the building to date. The approach of the private access road to Hwy 93 appears adequate for dealing with the volume.

There may be some noise from cars entering and exiting the building, consistent with prior commercial usage at that site. To date, there have been no noise complaints from any neighboring properties.

No impact is anticipated beyond in regards to smoke, fumes, gas, odors with the usage proposed.

7. The hours of operation will be 7 days a week from 7am-11pm, but only during which time formulized classes are in operation. There is not an employee or staff present from 7am-11pm and the building is only open when a class is in session. Currently there 5-6 classes per day plus personal training sessions.

8. a. Structural bulk and massing; There will be no structural or size changes to the existing structure.

b. Scale; There are no changes being proposed to the existing building.

c. Context of existing neighborhood; The existing neighborhood is a mix of single family residential and light commercial such as professional offices. The proposed use is not expected to impact or change the character of the existing neighborhood. The proposed is consistent with the zoning and uses allowed and in place.

d. Density; The design of the structure is similar to other buildings in the area. The density is not out of character with the area.

e. Community Character; Since there will be no changes to the existing building, impacts to this will be little.

| | | | | | |
|---------------------|---|--|--|--|--|
| SECTION 6.07 | | | FOOD AND BEVERAGE PLACES PARKING REQUIREMENTS | | |
| 6.07.010 | Drive-in restaurants | | 1 space per 80 square feet of gross floor area with 10-space minimum | | |
| 6.07.020 | Restaurants, cafeterias, food and beverage establishments | | 1 space per 4 seats plus 1 space per employee on maximum shift. Drive-through windows must be provided with 5 stacking spaces per window | | |
| SECTION 6.08 | | | BANKS AND FINANCIAL INSTITUTIONS PARKING REQUIREMENTS | | |
| 6.08.010 | Banks and financial institutions | | 1 space per 400 square feet of gross floor area. Drive-in windows must be provided with 4 stacking spaces per window | | |
| 6.08.020 | Offices. | | 1 space per 400 square feet of gross floor area | | |
| 6.08.030 | Offices not providing customer services | | 1 space per 4 employees, but not less than 1 per 400 square feet of gross floor area | | |
| 6.08.040 | Medical and dental offices | | 1 space per 150 square feet of gross floor area | | |
| SECTION 6.09 | | | BUSINESSES PARKING REQUIREMENTS | | |
| 6.09.010 | Retail or personal service stores | | 1 space per 300 square feet of gross floor area | | |
| 6.09.020 | Service stations | | 3 spaces per service bay and 1 space per 2 fuel pumps | | |
| SECTION 6.10 | | | MANUFACTURING AND WAREHOUSING PARKING REQUIREMENTS | | |
| 6.10.010 | Manufacturing uses, research testing and processing, assembling, all industries | | 1 space per 2 employees on maximum shift | | |
| 6.10.020 | Warehouse, storage and wholesale business and freight terminals | | 1 space per 2 employees on maximum shift | | |
| SECTION 6.11 | | | R-1, R-2, R-3, R-4, R-5, AND RA-1 PARKING REQUIREMENTS SPECIAL CONDITIONS | | |
| 6.11.010 | No driveway in the front yard setback shall be wider than 22 feet. | | | | |

OK. map 5/10
11/2010

TR 12-0805356 TR 12-0805357

Owners: Sam and Lourdes Escio Pollack F & H Land Surveying, Inc.
Date: September 15, 2010
Job#: 10-050

CERTIFICATE OF SURVEY

S 1/2 NW 1/4 SE 1/4 SECTION 12, T.30 N., R.22 W., P.M.,M.
FLATHEAD COUNTY, MONTANA



For: Sam and Lourdes Escio Pollack

PURPOSE OF SURVEY: BOUNDARY LINE ADJUSTMENT

TRACT 1

DESCRIPTION

That portion of the South one-half of the Northwest one-quarter of the Southeast one-quarter (S1/2 NW1/4 SE1/4) of Section Twelve (12), Township Thirty North (T.30 N.), Range Twenty two West (R.22 W.), Principal Meridian Montana, Flathead County, Montana, more particularly described as follows: Commencing at the northwest corner of said (S1/2 NW1/4 SE1/4) of Section Twelve (12); thence S00°30'33"E along the westerly boundary of said S1/2 NW1/4 SE1/4 339.34 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; thence leaving said westerly boundary thence N89°54'04"E 940.57 feet; thence N00°30'33"W 121.32 feet; thence N89°49'16"E 125.00 feet; thence S00°42'41"E 265.84 feet; thence S89°54'04"W 1252.54 feet to said westerly boundary; thence N00°30'33"W for 144.08 to the point of beginning and containing 5.010 acres of land more or less. Together with a private drainfield easement and subject to a private drainfield easement for the benefit of Tract 2 as shown hereon. Subject to and together with all easements of record. All as shown hereon.

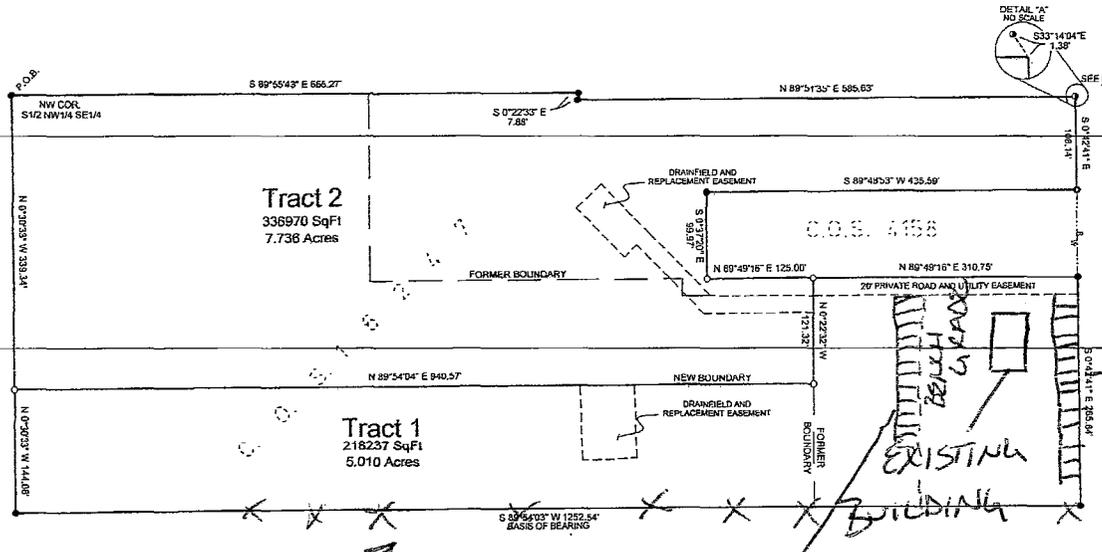
TRACT 2

That portion of the South one-half of the Northwest one-quarter of the Southeast one-quarter (S1/2 NW1/4 SE1/4) of Section Twelve (12), Township Thirty North (T.30 N.), Range Twenty two West (R.22 W.), Principal Meridian Montana, Flathead County, Montana, more particularly described as follows: Beginning at the northwest corner of said (S1/2 NW1/4 SE1/4) of Section Twelve (12); said point being the TRUE POINT OF BEGINNING of the tract of land herein described; thence along the northerly boundary of said S1/2 NW1/4 SE1/4 S89°55'43"E 665.27 feet; thence S00°22'33"E 7.88 feet; thence N89°51'35"E 585.63 feet to the westerly right-of-way of U.S. Highway 93; thence along said westerly right-of-way S00°42'41"E 108.14 feet; thence leaving said westerly right-of-way S89°48'53"W 435.59 feet; thence S00°37'20"E 99.97 feet; thence N89°49'16"E 125.00 feet; thence S00°22'32"E 121.32 feet; thence S89°54'04"W 940.57 feet to the westerly boundary of said S1/2 NW1/4 SE1/4; thence along said westerly boundary N00°30'33"W 339.34 feet to the point of beginning and containing 7.736 acres of land more or less. Together with a private drainfield easement and subject to a private drainfield easement for the benefit of Tract 1 as shown hereon. Subject to and together with all easements of record. All as shown hereon.

We, Sam and Lourdes Escio Pollack, the undersigned property owners, hereby certify that the purpose for this division of land is to relocate common boundary lines between adjoining properties and no additional parcels are hereby created; therefore this division of land is exempt from review as a subdivision pursuant to Section 76-3-207 (1)(a), M.C.A.

We further certify that these parcels have no existing facilities for water supply, wastewater disposal, or solid waste disposal other than those that were previously approved by the reviewing authority (E.O. 02-1442) under Title 76, chapter 4, part 1, M.C.A. or that were exempt from such review, if:
(i) no new facilities will be constructed on the parcel; and
(ii) the division of land will not cause approved facilities to violate any conditions of approval, and will not cause exempt facilities to violate any conditions of exemption.

Sam Pollack
Lourdes Escio Pollack



STATE OF MONTANA)
County of Flathead)

On this 5 day of November 2010, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Sam and Lourdes Escio Pollack, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same. In witness whereof, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana
Residing at Flathead County, Montana
My Commission expires 2-27-2013

CERTIFICATE OF SURVEYOR
Brian F. Sullivan
Registration No. 9095LS
APPROVED 10/15/2010
Examining Land Surveyor Reg. No. 51285
STATE OF MONTANA)
County of Flathead)
Filed on the 20 day of Nov
A.D. 2010 at 11:48 o'clock A.M.
Paula Robinson
Clerk and Registrar
BY: Paula Robinson
Deputy
INSTRUMENT REC. NO. 201000027768

- FOUND 1/2" REBAR W/ PLASTIC CAP MKD "BLOCK 79185"
- FOUND 5/8" REBAR W/ PLASTIC CAP MKD "SMITH 47405"
- FOUND 5/8" REBAR W/ 2 1/2" AC MKD "ES 394"
- FOUND 5/8" REBAR
- SET 5/8" x 24" REBAR W/ PLASTIC CAP MKD "SULLIVAN 9095LS"

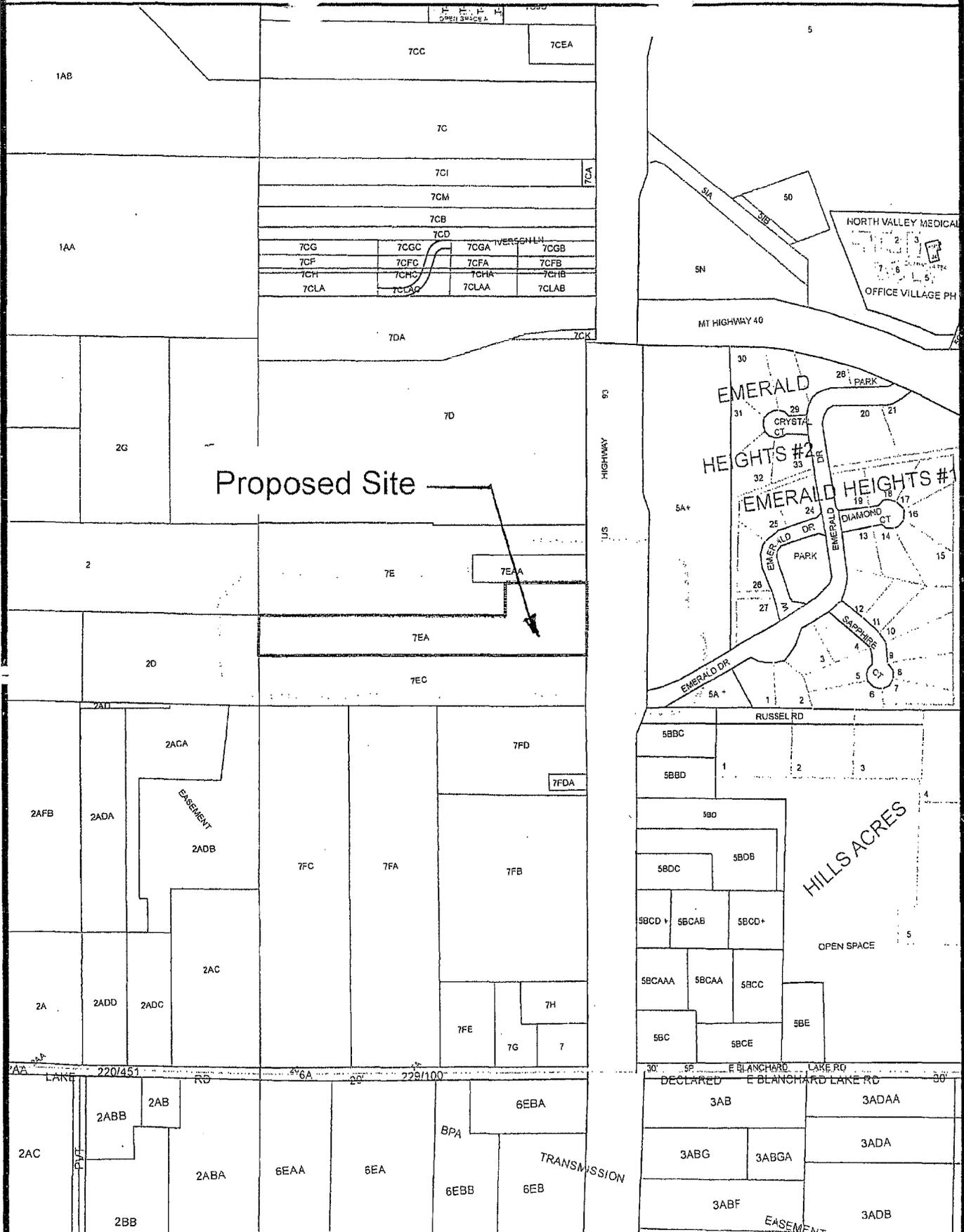
16 PROPOSED PARKING SPACES

LANDSCAPING IN PLACE ALONG SOUTH BOUNDARY w/ 60 TREES / SHRUBS

PROPOSED SITE FOR ADDITIONAL PARKING
COS# 19068
201000027768 Fees: \$6.00 by: DD
by F&H LAND SURV
Date 11/30/2010 Time 11:48 AM
Paula Robinson, Flathead County Montana

6-
CERTIFICATE OF SURVEY NO. 19068
Pollack

150 FOOT OWNERSHIP



-34-

| | | | | |
|--------------|------------------|----------|--|---------------------------------------|
| PROJECT | 150 FOOT SUPPLER | COMMENTS | FLATHEAD COUNTY GIS DEPARTMENT | |
| DATE PLOTTED | 02/27/2011 | | 400 S MAIN ST KALISPELL MT 59901 | PH: 406-355-5539 FAX: 406-759-5540 |
| PROJECT LEAD | | | <small>This file is generated by ArcView and the ESRI software. It contains only what is shown on the map. It does not contain any other information. If you need more information, please contact the GIS Department.</small> | |
| SCALE | | | | |

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RESOLUTION NO. 13-_____

A Resolution of the City Council of the City of Whitefish, Montana, to establish an increase in the public usage fee schedule and the establishment of a new event support fee schedule for the public's use of City parks, facilities and grounds.

WHEREAS, Sections 7-1-4123(7) and 7-6-4013, MCA, empower municipalities to impose a fee for the provision of a service with the authority to regulate, establish and change fees and classifications that are imposed for services, which must be reasonable and related to the cost of providing such a service; and

WHEREAS, Section 7-16-420, MCA, and Sections 2-2-4, and 7-3-1, Whitefish City Code, authorize the Board of Park Commissioners to protect, manage and control City parks and grounds and to make all rules for the use of the parks by the public; and

WHEREAS, following public notice, public comment, and review of staff reports, the Board of Park Commissioners reviewed past fees for the use of public parks, facilities and grounds, and recommended fee schedule increases and a new event support fee schedule as set forth on Exhibit "A," attached hereto and incorporated herein by reference having determined such fee schedules to be reasonable and related to the cost of providing City services; and

WHEREAS, as required by Section 7-6-4013, MCA, public notice of a public hearing before the City Council at its January 7, 2013 meeting on the City's proposed increase in the public usage fee schedule and new event support fee schedule for the use of public parks, facilities and grounds, was published on December 19 and December 26, 2012; and

WHEREAS, at a lawfully noticed public hearing on January 7, 2013, after receiving public comment, reviewing staff reports, and having considered the cost of operation, equipment and use of public parks, facilities and grounds, the Whitefish City Council reviewed the recommendations made by the Board of Park Commissioners for usage fee schedule increases and the establishment of a new event support fee schedules and determined that the increased public usage fees and event support fee schedules for parks, facilities and grounds to be reasonable and related to the cost of providing City services.

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

Section 1: The increased public usage fee schedule and the establishment of a new event support fee schedule for the use of public parks and grounds and services are hereby adopted as set forth on Exhibit "A," attached hereto and incorporated herein by reference.

Section 2: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
WHITEFISH, MONTANA, ON THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT "A"
2013 Proposed Fee Schedule
City of Whitefish Department of Parks and Recreation

| | <i>Nonprofit</i> | | | | <i>Community</i> | | | |
|---|---------------------------|----------------------------|----------------------------|-----------------------------|---------------------------|----------------------------|----------------------------|-----------------------------|
| | Current Daily - Nonprofit | Proposed Daily - Nonprofit | Current Hourly - Nonprofit | Proposed Hourly - Nonprofit | Current Daily - Community | Proposed Daily - Community | Current Hourly - Community | Proposed Hourly - Community |
| Facility: | | | | | | | | |
| <i>Armory Athletic Fields (per field)</i> | \$45.00 | \$70.00 | \$10.00 | \$15.00 | \$55.00 | \$80.00 | \$12.00 | \$25.00 |
| <i>Gazebos</i> | \$35.00 | \$35.00 | N/A | N/A | \$40.00 | \$45.00 | N/A | N/A |
| <i>Jack Zerr Baseball Fields</i> | \$45.00 | \$45.00 | \$10.00 | \$10.00 | \$55.00 | \$55.00 | \$12.00 | \$12.00 |
| <i>Roy Duff Armory Building</i> | \$175.00 | \$200.00 | \$25.00 | \$25.00 | \$220.00 | \$250.00 | \$30.00 | \$35.00 |
| <i>Saddle Club</i> | \$65.00 | \$65.00 | \$15.00 | \$20.00 | \$85.00 | \$85.00 | \$20.00 | \$25.00 |
| <i>Soccer Fields (per field)</i> | \$50.00 | \$80.00 | \$15.00 | \$25.00 | \$60.00 | \$100.00 | \$15.00 | \$40.00 |
| <i>Stumptown Ice Den</i> | \$430.00 | \$430.00 | \$40.00 | \$40.00 | \$540.00 | \$540.00 | \$55.00 | \$55.00 |
| <i>Tennis Courts</i> | \$50.00 | \$55.00 | \$10.00 | \$15.00 | \$60.00 | \$70.00 | \$15.00 | \$20.00 |

| | <i>Nonprofit</i> | | | | <i>Community</i> | | | |
|-------------------------|---------------------------|----------------------------|-----------------------------|------------------------------|---------------------------|----------------------------|-----------------------------|------------------------------|
| | Current Daily - Nonprofit | Proposed Daily - Nonprofit | Current 1/2 Day - Nonprofit | Proposed 1/2 Day - Nonprofit | Current Daily - Community | Proposed Daily - Community | Current 1/2 Day - Community | Proposed 1/2 Day - Community |
| Park: | | | | | | | | |
| <i>Baker Park</i> | \$75.00 | \$100.00 | \$40.00 | \$50.00 | \$100.00 | \$150.00 | \$50.00 | \$75.00 |
| <i>Depot Park</i> | \$150.00 | \$225.00 | \$75.00 | \$115.00 | \$200.00 | \$300.00 | \$100.00 | \$150.00 |
| <i>Kay Beller Park</i> | \$40.00 | \$50.00 | \$20.00 | \$25.00 | \$50.00 | \$75.00 | \$25.00 | \$35.00 |
| <i>Riverside Park</i> | \$75.00 | \$100.00 | \$40.00 | \$50.00 | \$100.00 | \$150.00 | \$50.00 | \$75.00 |
| <i>Soroptimist Park</i> | \$40.00 | \$50.00 | \$20.00 | \$25.00 | \$50.00 | \$75.00 | \$25.00 | \$35.00 |

2013 Proposed Event Support Fee Schedule
City of Whitefish Department of Parks and Recreation

\$500.00 Event Support Fee For park use that involves multi-day events and requested electrical services or structural placement, *i.e.*, tents, staging, etc., for any event, single day or multi-day.

Event Size Based Fee For special events within park boundaries that involve vendors:

| | | |
|-----------|----------|---------|
| No charge | 1 to 5 | Vendors |
| \$100 | 6 to 15 | Vendors |
| \$200 | 16 to 25 | Vendors |
| \$300 | 26 to 35 | Vendors |
| \$400 | 36 to 45 | Vendors |
| \$500 | 46+ | Vendors |



January 7, 2013

Mayor Muhlfeld and Whitefish City Council
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Members of Whitefish City Council,

Recommendation to Increase Existing Park Use Fees and Establish New Park Use Fees for 2013

Introduction/History

The City of Whitefish Parks and Recreation Department has established a use fee schedule for all public parks and facilities. The fee schedule is reviewed and adjusted annually and adopted by City Council based upon recommendation from the City of Whitefish Park Board, and as required by Montana Code that governs the operation of local municipalities. Prior to 2010, the only fee associated with park use within the City of Whitefish Park System was a nominal application processing fee. In 2010, a fee schedule was adopted that was more reflective of recovering a portion of the costs associated with the operation and maintenance of the parks and facilities that fall within the jurisdiction of the Parks and Recreation Department. It is our intention to review such fees annually and make recommendation of any necessary adjustments in order to maintain a close relationship between the cost of producing the services and fees to be charged for such services. Generally speaking the vast majority of "fee paying users" are for special events that occur at one of our facilities, with the primary facility being Depot Park.

It is important to note that 96% of our Special Event users are from Non-Profit groups or organizations.

Current Report

Staff has prepared the recommended modifications to the existing 2012 fee schedule (**Attachment Exhibit A**) and the adoption of two new fee schedules as provided below:

1. Event Support Fee for park use that involves multi-day events and requested electrical services or structural placement, i.e. tents, staging, etc. for any event, single day or multi-day event. On numerous occasions special events that are scheduled to occur over a number of consecutive days will require the assistance of city staff which may include specialists that are not normally involved with the services provided by park maintenance staff. In addition, such events will often require Parks Department staff to perform substantial repairs to facility infrastructure as a result of damages due to misuse of the facility and the requirement of placing large structures within the park. **The proposed Event Support Fee shall be \$500.00 per event, regardless of the number of days of the event.**

2. **Event Size Fee** shall be implemented for special events that involve vendors that are within park boundaries. The proposed fee schedule shall be as follows:

| | |
|---------------|-----------|
| 1-5 vendors | no charge |
| 6-15 vendors | \$100.00 |
| 16-25 vendors | \$200.00 |
| 26-35 vendors | \$300.00 |
| 36-45 vendors | \$400.00 |
| 46-+ vendors | \$500.00 |

Currently the Parks and Recreation Department does not receive an individual fee from special event vendors that are located within the boundaries of our facilities when such special events are staged and sponsored by someone other than the Parks and Recreation Department. By comparison, the Parks and Recreation Department does sponsor special activities at City Beach on July 4th and we do charge a vendor fee of \$75.00 per vendor for the ability to stage their booth in the City Beach parking lot for the day. Again, when reviewing the use of our facilities and related impacts to our facilities from such use, the number of vendors is a strong indicator as to the size of the event and what related expenses will occur in our efforts to maintain our facilities to an acceptable standard.

In comparison to other communities within our area, the City of Kalispell charges both an "event size" based fee and a vendor's fee for special events. For events that are larger than 500 participants a negotiated fee is determined, however for events that range from 200-500 the daily fee is \$360 plus individual vendor fees ranging from \$10-\$15 per event. In Columbia Falls, their rate schedule is also driven by the size of the event. For example an event that would draw 500 people would be \$400 per day plus a 10% administrative fee. When comparing our proposed rates to those communities in close proximity we are still the "best buy" in the valley.

I have included a comparison of 2012 charges and proposed fees to the historical events held at Depot Park for your reference. Again, please keep in mind the source of any new proposed fees and the relationship to what expenses are incurred as a result of their special event.

Financial Requirement

There is no financial requirement for implementing the new fee schedule or adopting the new fees.

Recommendation

It is staff recommendation, along with that of the City of Whitefish Park Board, that the City of Whitefish City Council approve the attached resolution approving the proposed fee adjustment to the established fee schedule and to establish the two proposed new fees as described.

Sincerely,

Karl Cozad, Parks and Recreation Director

2013 Fee Proposal and comparisons from past users and fees paid

Farmers Market

| | | | | |
|----------|------------|--|---------|--------------------------|
| 2012 | 19 dates @ | *\$60.00 per date | | \$1,140 total |
| 2013 | 19 dates @ | \$115.00 per date | \$2,185 | |
| Proposed | 19 dates @ | Vendor fee \$200 (25 vendors in park) | \$3,800 | \$5,985 total |

July 4th Art Show

| | | | | |
|----------|-----------|--|-------------------------|--------------------------|
| 2012 | 4 dates @ | \$150 per date | | \$600 total |
| 2013 | | | | |
| Proposed | 4 dates @ | \$225 per date Vendor fee (46 + vendors in park) Impact Fee | \$900 \$500 \$500 | \$1,900 total |

Huckleberry Days

| | | | | |
|----------|-----------|---|----------------|--------------------------|
| 2012 | 4 dates @ | \$150 per date | | \$600 total |
| 2013 | 4 dates @ | 225 per date | \$900 | |
| Proposed | | Vendor fee (46+ vendors in park) Impact Fee | \$500 \$500 | \$1,900 total |

Oktoberfest

| | | | | |
|----------|-----------|----------------|---------|--------------------------|
| 2012 | 7 dates @ | \$150 per date | | \$1,050 total |
| 2013 | 7 dates @ | \$225 per date | \$1,575 | |
| Proposed | | Impact Fee | \$ 500 | \$2,075 total |



Depot Park Management & Maintenance Plan and Policy

Objective

We all recognize that Depot Park is a valuable asset to the City of Whitefish park system and is in constant demand for use by numerous community organizations for staging a variety of special events. The purpose of the Depot Park Management and Maintenance Plan and Policy is to protect and maintain Depot Park and to find a balance in scheduling such special events while minimizing negative impacts to the park. The Depot Park Management and Maintenance Plan and Policy recognizes that a number of special events have historically occurred in Depot Park over the past several years, and as such have been taken into consideration in the development of this document.. Such events include the Farmers Market, July 4th Art Show, Huckleberry Days, and Oktoberfest.

Scheduling Plan

The most critical element of the Depot Park Management and Maintenance Plan and Policy is the establishment of scheduling limitations and recovery time between events. Typically, a multi-day event will need the day before the event to set up and the day following the event to breakdown, which further impacts our ability to provide the necessary maintenance tasks to preserve the quality of Depot Park. For example, a three day event translates to 5 days without irrigation, mowing, etc. occurring at Depot Park.

The following scheduling limitations will be imposed upon the future use of Depot Park:

1. Limitation of only one "multi-day event" scheduled per month (June thru September)
2. Limitation of only one weekend "single-day event" per week (June thru September)
3. Multiple weekend events where facility set up remains are subject to additional impact fees.
4. Weekly events are subject to rotation of space to be used.
5. One weekend each month will be kept open with no scheduled events

(Preferably the weekend following the monthly major event)

Park Facilities Available for Use

The area as defined as Depot Park will be available for use. **However, this does not include the Parks/Planning/Building Department office building or the supporting small parking lot to the east along Railway St.** In the past the parking lot has been utilized for a number of purposes including the placement of port-a-potties, events sponsors' automobile display, performers prep area, etc. Unfortunately this has become disruptive to the operation of the departments that utilize this space for day-to-day operations, therefore any security fencing that needs to be established will not include this area, nor will it be available for event set-up or breakdown.

Park Layout for Use (rotation of space)

In an effort to further minimize impacts to Depot Park from overuse, we have divided Depot Park into three general areas. The first being the area along Spokane Ave. between Railway St. and Depot St. and proceeding west to the edge of the existing pond, the next area is along Central Ave. from Depot St. and going south to the pond and east to the edge of the pond, and the third area is along Central Ave. from the corner of Railway St. and proceed north to the pond and east to the edge of the pond. The purpose of these designated areas is more for the weekly Farmers Market event than other special events. For the staging of the Farmers Market we would always have the east side of the park available but would rotate the two western sections along Central Ave. This would maintain their connection to Central Ave. and Depot Park and still allow for attendees to walk thru the park to the east side.

We will install a temporary path with organic materials between the office building and the pond. This path would be in place until the final improvements are made to Depot Park per the approved Depot Park Master Plan.

Scheduling Process (Timeline to accept applications)

Applications for the reservation of Depot Park will be received starting January 1 of each year. Reservation requests will be received the entire month of January before any acknowledgment of secured dates will be made. On February 1 of each year, those submitting requests will be notified of secured dates, any requests following the Feb. 1 date will be handled on a first-come, first serve basis.

Fee Schedules

Fee schedule is addressed annually and presented to the Whitefish City Council for adoption through the established process including public notice and public hearing. This will typically occur at the December or January meeting.

A facility Event Support Fee of \$500.00 shall be implemented with the purpose being to cover any and all costs associated with the operation of a multi-day event, or any event, be it single day or multiple days that involves securing structures of any type or additional electrical services. Such requests will also require a “walk-thru” with Park Department staff within a minimum of 7 days prior to the event.

In the past Depot Park has experienced a number of punctures to irrigation lines and electrical lines serving the irrigation system. In addition, a number of irrigation heads have been damaged as a result of vehicular traffic on the park. On a number of occasions vehicles were left on the park grounds during the operation of the events. This shall not be allowed in the future use of Depot Park.

***Vendor Based Events and related fees**

We shall charge the event sponsor a fee based upon the number of vendors in the event. (See rate table)

Event Vendor Fee Schedule by size of event (applicable to all classification of events)

| <u>Number of Vendors</u> | <u>Vendor fee to be paid by event applicant</u> |
|--------------------------|---|
| 1-5 | no charge |
| 6-15 | \$100 |
| 16-25 | \$200 |
| 26-35 | \$300 |
| 36-45 | \$400 |
| 46+ | \$500 |

***fee schedule must be approved by City Council action**

Definitions of User Groups

Public -Commercial – for-Profit Events

Event is presented as open to the public with or without an admission charge and all proceeds generated from the operation of the event go to the event applicant and vendors. Event examples, but not limited to: musical concerts presented by promoters, businesses; commercial events such as car shows, etc.

Non-Profit Events

Event is presented as a fund raising event for a specified and confirmed 501.c.3 organization. Event may or may not be open to the public and it may or may not have an admission fee. Any and all events requesting non-profit status must provide proof of their 501.c.3 status or a letter from the 501.c.3 that will be receiving proceeds from the event and we shall make contact with said 501.c.3 following the event to verify the amount of funds donated from the operation of the event.

Private/ Family Events

Event is limited to a family activity that is restricted to invited attendees, no admission is charged and no vendors are involved in the event.

Depot Park Maintenance Plan and Timeline

Schedule of Tasks

Sod replacement- This will occur in early spring and early fall as deemed necessary from use or prescribed improvement plans. Should an event result in substantial turf damage, part of the impact deposit fee will be held to cover such costs as sod replacement.

Over-seeding and aeration - This will occur during the spring months and late summer and early fall

Fertilizing- Typically we fertilize in the spring months and again in the early summer, we will add a late summer/early fall application in the future.

Irrigation- The irrigation schedule for Depot Park is set for each day and occurs between midnight and 7am.

Tree pruning and removal- Typical tree pruning will occur in the spring as will tree removal that is found to be necessary due to the health of the tree, or in accordance with the approved Depot Park Master Plan.

Mowing- Mowing is part of the weekly maintenance program at Depot Park.

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ORDINANCE NO. 13-____

An Ordinance of the City Council of the City of Whitefish, Montana, amending Zoning Regulations in Whitefish City Code Section 11-3-11 regarding retaining walls.

WHEREAS, the City of Whitefish initiated an effort to amend the Zoning Regulations to address minor issues associated with various sections of Section 11-3-11, Special Provisions: Fences and Retaining Walls; and

WHEREAS, in response to the proposal to amend Title 11, Chapter 3, Section 11B, in the Whitefish City Code, the Whitefish Planning and Building Department prepared Staff Report WZTA 12-05, dated October 11, 2012, and updated November 8, 2012; and

WHEREAS, at a lawfully noticed public hearing on October 18, 2012, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Staff Report WZTA 12-05, invited public comment, and thereafter recommended amendments be made by the Whitefish Planning and Building Department; and

WHEREAS, at a lawfully noticed public hearing on November 15, 2012, the amendments were tabled until December 20, 2012, due to time constraints of the meeting; and

WHEREAS, at a lawfully noticed public hearing on December 20, 2012, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed amended Staff Report WZTA 12-05 dated November 8, 2012, and thereafter voted to recommend approval of the proposed text amendments, attached as Exhibit "A"; and

WHEREAS, at a lawfully noticed public hearing on January 7, 2013, the Whitefish City Council received an oral report from Planning staff, reviewed Staff Report WZTA 12-05, invited public input, and approved the text amendments, attached as Exhibit "A;" and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to adopt the proposed text amendments.

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

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: Staff Report WZTA-12-05 is hereby adopted as Findings of Fact.

Section 3: Amendments to Whitefish City Code Section 11-3-11B, RETAINING WALLS, as provided in the attached Exhibit "A," with insertions shown underlined and deletions shown with strikethrough, are hereby adopted.

Section 4: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 5: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Necile Lorang, City Clerk

EXHIBIT "A"

Whitefish City Code Title 11, Chapter 3
ZONING REGULATIONS - SPECIAL PROVISIONS

11-3-11: FENCES AND RETAINING WALLS:

B. Retaining Walls: Retaining walls help facilitate development of lots with steep terrain by leveling certain areas or inhibiting sloughing. Retaining walls can help reduce the steepness of slopes enabling the development of a lot. The purpose of these retaining wall standards is to ensure the natural topography is maintained to the greatest extent possible, that exceedingly tall walls are not constructed, that landscaping is implemented to mitigate the effects of terracing and that the scale and texture of the retaining wall compliments the character of the neighborhood.

1. Retaining walls twenty four inches (24") in height or less, above the original grade, shall be exempt from the terms of these regulations. All retaining walls in the city limits shall require a building permit unless clearly a wall installed for landscaping purposes.

2. Retaining walls over twenty four inches (24") in height above the original grade shall be considered and regulated as an accessory structure and shall require a building permit. For the purpose of preserving the natural terrain, no individual retaining wall or combination of retaining walls shall exceed four feet (4') in height above the preexisting ground contour. Retaining walls shall not exceed four feet (4') measured from adjacent finish grade on the downhill side. Where greater heights must occur, the project shall use a series of terraced or stepped walls. The width of a retaining terrace shall be no less than three feet (3') and shall incorporate landscaping.

a. Retaining walls necessary to accommodate vehicle or pedestrian access to a building may be up to eight feet (8') in height from finished grade. Such retaining walls are not subject to the terracing described above.

3. If the retaining walls needed for a particular project are unable to meet the standards in subsection 2 due to extreme topography or other unique land features, a proposal may be submitted to the zoning administrator for a waiver to these standards. Such a request shall include the following information:

a. A grading plan;

b. A draining plan;

c. Section drawings;

d. A landscaping plan;

e. An elevation showing the proposed materials; and

f. Any other items needed to show the full extent of the proposal.

34. Retaining walls in the lakeshore protection zone shall be exempt from these regulations and shall be regulated by the appropriate lake and lakeshore protection regulations.

PLANNING & BUILDING DEPARTMENT
510 Railway Street, PO Box 158, Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



December 31, 2012

Mayor and City Council
City of Whitefish
PO Box 158
Whitefish, MT 59937

Re: Text Amendment – Retaining Walls: WZTA 12-05

Honorable Mayor and Council:

Summary of Requested Action: This application is a request by the city of Whitefish to amend the retaining wall regulations.

Planning Board Recommendation: The Whitefish City-County Planning Board held a public hearing on October 18, 2012 that was continued until November 15, 2012 and continued until December 20, 2012. Following this hearing, the Planning Board recommended approval of the amendments (4-3, Konopatzke, Blake and Smith voting in opposition) and adopted the supporting findings of fact in the staff report. (Vail was absent)

City Staff Recommendation: Staff recommended approval of the text amendment attached to the staff report.

Public Hearing: At the public hearing, no one from the public spoke on the proposed amended draft ordinance. The draft minutes of the Planning Board hearing are included.

This item has been placed on the agenda for your regularly scheduled meeting on January 7, 2013. Should Council have questions or need further information on this matter, please contact the Whitefish City-County Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in cursive script that reads "Wendy Compton-Ring".

Wendy Compton-Ring, AICP
Senior Planner

Att: Minutes, October 18, 2012
Draft minutes of the 12-20-12 Planning Board meeting
Exhibit A, Planning Board recommendation, 12-20-12

Exhibits from 12-20-12 Staff Packet to Planning Board

1. Staff Report, 11-8-12
2. Sample of Mountain Town Retaining Wall Standards
3. Photos of Retaining Walls in Whitefish
4. Advisory Agency Notice, 9-28-12

c: w/att Necile Lorang, City Clerk

Exhibit A
Retaining Wall Standards
WZTA 12-05
Whitefish City-County Planning Board
Recommendation
December 20, 2012

11-3-11: FENCES AND RETAINING WALLS:

B. Retaining Walls: Retaining walls help facilitate development of lots with steep terrain by leveling certain areas or inhibiting sloughing. Retaining walls can help reduce the steepness of slopes enabling the development of a lot. The purpose of these retaining wall standards is to ensure the natural topography is maintained to the greatest extent possible, that exceedingly tall walls are not constructed, that landscaping is implemented to mitigate the effects of terracing and that the scale and texture of the retaining wall compliments the character of the neighborhood.

1. All retaining walls Retaining walls twenty four inches (24") in height or less, above the original grade, shall be exempt from the terms of these regulations in the city limits shall require a building permit unless clearly a wall installed for landscaping purposes.
2. Retaining walls shall not over twenty four inches (24") in height above the original grade shall be considered and regulated as an accessory structure and shall require a building permit. For the purpose of preserving the natural terrain, no individual retaining wall or combination of retaining walls shall exceed four feet (4') measured from adjacent finish grade on the downhill side in height above the preexisting ground contour. Where greater heights must occur, the project shall use a series of terraced or stepped walls. The width of a retaining terrace shall be no less than three (3) feet and shall incorporate landscaping.
 - a. Retaining walls necessary to accommodate vehicle or pedestrian access to a building may be up to 8-feet in height from finished grade. Such retaining walls are not subject to the terracing standard described above.
3. If the retaining walls needed for a particular project are unable to meet the standards in subsection 2 due to extreme topography or other unique land features, a proposal may be submitted to the zoning administrator for a waiver to these standards. Such a request shall include the following information:
 - a. A grading plan;

- b. A drainage plan;
- c. Section drawings;
- d. A landscaping plan;
- e. An elevation showing the proposed materials; and
- f. Any other items needed to show the full extent of the proposal.

34. Retaining walls in the lakeshore protection zone shall be exempt from these regulations and shall be regulated by the appropriate lake and lakeshore protection regulations.

houses. Stein asked if this could be an administrative decision and Planner Compton-Ring said they would need to change the Code. Stein said it is ridiculous that it comes before the Planning Board because it is allowed in the zoning.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

PUBLIC HEARING

No one else wished to speak and the public hearing was closed.

MOTION

Gunderson moved and Stein seconded to adopt the findings of fact in staff report WCUP 12-09 and recommend to the Whitefish City Council to approve the Payne conditional use permit subject to five conditions, as recommended by staff.

VOTE

The motion passed unanimously on a vote by acclamation. (Scheduled to go to Council on November 5, 2012.)

CITY OF WHITEFISH TEXT AMENDMENT REQUEST

A request by the City of Whitefish to amend §11-3-11B concerning retaining walls.

STAFF REPORT WZTA 12-05

Planner Compton-Ring reported retaining walls are regulated under both the zoning and the building code. The building code reviews the structure and the zoning has certain development standards. She said they've had some difficulty with these regulations. The current regulations exempt retaining walls less than 24 inches. The building department has been in a lot of discussions with folks about where the 24-inches is measured. Staff would recommend that retaining walls be regulated unless they are clearly a landscaping feature.

Because it is regulated as an accessory structure it means it has to be set back 6 feet from the lot line and that doesn't always make sense.

The current regulations in the zoning have caused some difficulty and; therefore, city staff is proposing some amendments to resolve these problems. Staff has identified the following issues:

- Exempting retaining walls that are less than 24-inches. In the field, staff has encountered much negotiating about where to measure the 24-inches, where the original grade is, etc. in an effort to avoid obtaining a permit. The reality is the wall itself goes down, in many cases a foot or more below the grade of the ground in order to hold up the wall and retain the dirt behind it. Staff would recommend all retaining walls be regulated through the zoning and building permit unless it is clearly a landscaping feature.
- Regulating a retaining wall as an accessory structure. An accessory structure has a setback requirement of 6-feet. In

some cases this requirement has been difficult to implement due to the narrowness and steepness of a lot or in one case two neighbors worked together to build one retaining wall.

- The height requirement language is confusing and doesn't work well in every situation. We aren't entirely certain what the 'any combination of retaining walls cannot exceed 4-foot' section actually means. There are a number of retaining walls around town, including those built by the city along with road improvements where retaining walls exceed this height. In addition, some of the very steep and small lots have a difficult or impossible time adhering to these standards, especially when creating parking or egress. The only recourse was to go before the Board of Adjustments, which is an arduous process.

The requirement for lower walls was adopted to ensure the natural topography is being maintained; however the 'any combination of retaining walls' standard isn't promoting the use of terracing. It is just a difficult standard to meet.

Staff included a summary of a variety of how other mountain towns handle retaining walls. Some cities regulate the height of retaining walls, the number of retaining walls; have standards for terracing and some other interesting standards.

Staff proposes the following amendments: develop a purpose and intent section, clarify the standards, propose more implementable standards and allow for one to propose alternatives to the standards to the zoning administrator if they are unable to meet the standards. Staff went over the proposal. In addition, staff met with the Building Inspector Virgil Bench and got his input and approval, too.

Staff recommends the Planning Board approve the recommendations set forth in the staff report to amend Title 11, Chapter 3 of the Zoning Regulations and adopt the findings of fact and transmit the same to the Whitefish City Council for further action.

Konopatzke said in Iron House they use stacked stones as retaining walls. He doesn't think any of those are less than 4 feet tall. Director Taylor said if it is for parking or egress the proposed regulations would allow it. Smith said they aren't enforcing those right now and Director Taylor said it is a section that hasn't made a lot of sense so it's been difficult to interpret. The new proposal gives the zoning administrator room to review proposals with different conditions and make decisions that are smart. Director Taylor said there is a provision for steep lots to get administrative approval. Smith asked and Director Taylor said the donut folks have the same requirements, but folks would have the ability to go to the

zoning administrator as opposed to the Board of Adjustments. Smith said the City wasn't doing anything before, but now, for a retaining wall there are all kinds of requirements. Planner Compton-Ring said subsection 3 is only required if they can't meet subsections 1 and 2.

Director Taylor said the zoning ordinance still applies everywhere, but it is more difficult to enforce in the donut because no zoning permits are required. It won't change how they enforce this, but it will make it easier for people to comply. Gunderson asked and Planner Compton-Ring said the intent is that if the walls are over 4 feet then they will landscape it. Gunderson said that might only be two feet above ground. Director Taylor said it should say from finished grade. Gunderson said it is good to address retaining walls because they can get out of hand. He said the stepped back feature looks better. Konopatzke said he just wants flexibility because of the complications on some of these lots. Someone might need a big retaining wall to protect their neighbor's property as they build a driveway. Director Taylor said this does give them flexibility. Netteberg asked if the ARC would have the authority to say they couldn't just pour a tall concrete retaining wall and Planner Compton-Ring said they would not. Smith said she was worried that the donut people will have to do stuff they aren't required to do right now, like landscaping plans and tiered retaining walls. Netteberg said the landscaping plan isn't a big deal.

Gunderson said this all needs to be almost site specific on some lots. Konopatzke said the slopes on Lion Mountain and Iron Horse face special challenges because of their slopes. Smith said all of the serious slopes happen in the donut and she is reluctant to be telling those folks what they can and cannot do. Netteberg said retaining walls really are site specific. Smith said she wasn't worried about someone building a \$2 million home; she was worried about the folks building a \$200,000 home who didn't need extra expenses. Anderson said this has some language that makes sense and has some form of follow-up. He said the 8' height seems to give the flexibility they need. He wondered if they should add language for finished grade from the downhill side in #2. Planner Compton-Ring said under #B.1 it should say all retaining walls are subject to rules and require a building permit.

Director Taylor said they're seeing people create their building pad by making giant retaining walls. That is one situation they are trying to avoid. Smith asked if that would have been allowed and Director Taylor said one question is 'what is considered a retaining wall.' He said stacked rip-rap along the shoreline does erosion control, but it's not a retaining wall. Smith said this is all in the donut area. Stein said the Lakeshore Protection Committee has no control over these sites.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

PUBLIC HEARING

No one else wished to speak and the public hearing was closed.

MOTION

Gunderson moved and Stein seconded to adopt the findings of fact in staff report WZTA 12-05 and recommend to the Whitefish City Council to approve §11-3-11B concerning retaining walls amending it to state the walls shall be measured from the finished grade on a downhill side, to require a building permit in the City, and on subsection 2—remove the requirement for the landscaping plan, as recommended by staff.

BOARD DISCUSSION

Konopatzke said he just wants to make sure they aren't putting themselves in a box. Smith said if they wanted to make it more flexible they could have talked about big retaining walls, but they're talking about any retaining wall over 2 feet tall. She said she represents the folks in the donut and she thinks they will be ticked off by having more regulations. She will vote against this. Stein asked if there was another height that would suffice, like 6 feet. He has some concerns about starting at 24 inches. Planner Compton-Ring said the building department wants to look at all of the retaining walls because the wall can be as much as 2-feet below grade. Director Taylor said anything just for landscaping is exempt. Planner Compton-Ring said, for example, Missoula allows 8-feet, some cities allow less and some don't regulate retaining walls at all. Smith said she appreciates the work that goes into it, but Whitefish is not Missoula. Planner Compton-Ring said she looked at a lot of mountain towns in Montana, Idaho, Wyoming and Colorado and included them in the packet. Director Taylor said they've had the terraced requirements since the 1980's. Konopatzke said if some cities don't regulate it, maybe they don't need to regulate it. Planner Compton-Ring said it is a community value decision, 'does the community want to maintain the topography and look of the mountainous terrain or is it acceptable to have large retaining walls.'

Gunderson asked if they should send this back to building department staff for more review. Director Taylor said staff could consider some exemptions for walls that don't require a building permit, and then bring it back to the Board. Netteberg said they are about 6 months before anyone is going to be building a retaining wall now. Konopatzke said he thinks they need to do it right and since there's no rush, he'd like to wait.

WITHDRAWAL OF MOTION

Stein withdrew his second to the motion.

BOARD DISCUSSION

The members of the Board agreed that they need to send this back to staff to consider the height issue.

MOTION

Stein moved and Konopatzke seconded to table.

VOTE

The motion passed unanimously on a vote by acclamation.

NEW BUSINESS

None

GOOD AND WELFARE

1. Matters from Board

Vail asked about permission for banners. The Theater Company paid \$50 to put up a banner on the library, but they shouldn't have had to because it is a public building and a public event. Planner Compton-Ring said they received approval from the city manager for a community event and they are reimbursing the Theater Company.

Gunderson said he is involved with the Whitefish Trail and they are going to have a grand opening for a new recreation area out East Lakeshore Drive close to Swift Creek. It is called the Swift Creek Trailhead. He said it is an old growth forest and feels more like a National Park. He thinks November 14th at 4 p.m. there will be a mini-opening out there.

2. Matters from staff

Director Taylor said the City Council wants to do a work session in January about the Sign Ordinance. Director Taylor said the Council wants the Planning Board Members to compile their concerns before that meeting, so he'd like them to bring specific concerns to the November meeting. Smith said she thought the purpose was that if they were predominately a resort town they might approach the sign ordinance one way, and if they were into economic development they might want to approach it another way. She said Aspen has a different Sign Ordinance than Frisco. Director Taylor said they could send an email with their concerns to Planner Compton-Ring or Director Taylor. Konopatzke wanted to address the ski beacon issue again. Smith asked how Casey's lights are not a sign, but the idea of a ski beacon is a sign. Netteberg and Smith are due to re-up for their positions on the Planning Board. Director Taylor said he would look to see who was due to re-up from the City.

- 1. Poll of Board members available for next meeting (November 15, 2012.) All members indicated they would be available except Anderson.

COMMITTEE REPORTS

There were none.

ADJOURNMENT

The meeting was adjourned by motion at approximately 7:17 p.m. The next regular meeting of the Whitefish City-County Planning Board will be held on November 15, 2012.

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septic approval. She said the church that wanted to move in there couldn't get the septic approved.

Gunderson asked and Planner Compton-Ring said the County recommended a septic consultant to address the issue.

PUBLIC HEARING

The public hearing was opened to those who wished to speak on the issue.

Michael Bode, 915 Columbia Avenue, said he didn't realize he was dealing with the City when he bought the property a year ago. He met with County sanitation in the past few days and he'll meet with County Sanitation next week. He would be glad to address the lighting if they let him know the requirements.

Stephanie Smith, 1039 Columbia Avenue, said the form says the well is too close, but they need clarification on this. The well is 112 feet and that is safe. Planner Compton-Ring said Flathead County Environmental Health made those comments, so they need to work directly with them.

Patrick McCracken, 1015 4th Street East, said he works out at this building and it would be a shame for this business to have to be shut down for any amount of time. He asked that they work to keep the business open.

PUBLIC HEARING

No one else wished to speak and the public hearing was closed.

MOTION

Gunderson moved and Smith seconded to adopt the findings of fact in staff report WCUP 12-13 and recommend to the Whitefish City Council to approve the Bode Conditional Use Permit for a recreation facility in an SAG-5 zone located at 5932 Highway 93 S. with 7 conditions, as recommended by staff.

VOTE

The motion passed unanimously on a vote by acclamation. (Scheduled to go to Council on January 7, 2013.)

CITY OF WHITEFISH TEXT AMENDMENT REQUEST

A request by the City of Whitefish to amend §11-3-11B concerning retaining walls.

STAFF REPORT WZTA 12-05

Planner Compton-Ring reported that this came before the Board in October. Some comments and concerns were raised and they are included in the report. She said staff is trying to make it more flexible. Retaining walls are necessary, but the regulations are difficult to understand right now and assume a one-size fits all standard.

The Planning Board held a public hearing on October 18, 2012 on

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the proposed retaining wall text amendments and raised the following concerns:

The city is adding regulations to those within the Planning Jurisdiction. Staff pointed out that the current zoning regulations already have retaining wall standards that apply planning jurisdiction-wide. Currently, no permit is required in the planning jurisdiction and the proposed regulations will not require a permit either, but one can ask for a waiver from the standards if the standards cannot be met. Currently, if someone in the planning jurisdiction or in the city limits cannot meet the standards, they are required to go to the Board of Adjustments. This proposed regulation allows more flexibility and a quicker timeframe for requesting a deviation to the standards.

Where is the Retaining Wall Measured? It was initially proposed that the wall be measured from the subgrade finish elevation so the entire structure would be measured and not just that which is above the finish grade. As result of Planning Board direction, the revised regulations propose the wall be measured on the downhill side from finished grade.

Is the proposed 4-feet the Right Height? Could it be Taller? The concern was that the maximum height of four (4) feet was not tall enough – especially when measured from the subgrade. In the October proposed regulations, staff proposed maintaining the same height as the current regulations, but allow for additional flexibility currently not allowed in the code. If the way a retaining wall is measured is changed, perhaps the height in the regulations could stay the same. If the Planning Board would like to increase the maximum height of retaining walls, staff would recommend 5-feet.

Staff had originally deleted the setback requirements, but now would suggest that a setback equal to the height of the wall be required. The ‘one-size fits all’ setback standard in the current zoning regulations has been problematic. We would also suggest that retaining walls necessary for building egress and required parking be exempt from this setback requirement.

Meckel said they used to have a slope requirement. Director Taylor said there are requirements under subdivision regulations and adjacent to water. Blake asked why this is in zoning. He said the universal building code has guidelines. He asked and Compton-Ring said it is in the Building Code. Compton-Ring said the question is whether there is a community value to retain the integrity of the hillside topography. She said Building Code is focused on the actual construction. Smith asked Planner Compton-Ring if it is about aesthetics and Compton-Ring said it is her guess that it was a

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community value when this was first designed.

Blake said he didn't see anything about engineers. He said the liability would fall back on the engineer, if they required an engineer, and the wall failed. Compton-Ring said if it needs a building permit within City limits, the Building Official can require an engineer. Gunderson said there is a new retaining wall out on E. Lakeshore Drive and it looks really nice. It is terraced, and it's an egress so these regulations don't apply. Planner Compton-Ring said an applicant could request a deviation from the setback or the height. Gunderson said it is somewhat arbitrary. Konopatzke said he thought this would be more appropriate in the Building Code. He was concerned about steep slopes on mountainsides. Gunderson said he's into the aesthetic considerations.

Director Taylor said Building Code addresses the specifics of how a retaining wall is built. Director Taylor said this was hard to administer the way it was written based on original contour. He said the issue is how often has the contour changed. The goal is to avoid high retaining walls. This is their attempt to make something easier to administer. Blake said he liked the look of the retaining wall on Dakota Avenue. Meckel said he likes the flexibility in this proposal. He said sometimes terracing is not as effective as one mass wall. He asked how they define a landscape wall versus a retaining wall and Director Taylor said a retaining wall holds back dirt that would slough off without it. Smith said if the big problem is that people have to go before the Board of Adjustments, why don't they just change that situation. Director Taylor said any deviation from zoning has to come before the Board of Adjustments. It saves people from paying over \$900 for the variance. Director Taylor said there is a setback because a retaining wall affects runoff, like a building does, to the neighbors. Konopatzke asked about the setback on fences and Director Taylor said they can be built right on the property line.

Gunderson said he can understand the setbacks, because it protects an individual's property rights. A retaining wall changes the shape of the earth and effects water run-off. He said this issue really addresses the look and feel of retaining walls. Smith said she is concerned on behalf of the donut people. They don't have to get a building permit, but they have these same standards. Smith said she doesn't know that the donut people want to be tied to the Whitefish aesthetics, especially since they can't vote for the Council. Director Taylor said they are already subject to the standards, and this is making it easier. Meckel said it is difficult to go before the Board of Adjustments, so this is easier for people. Gunderson said on E. Blanchard Lake Road you see an 8-10' retaining wall for the storage units on Highway 93. He said there should have been a setback. Blake said sometimes a long, straight wall is stronger.

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PUBLIC HEARING The public hearing was opened to those who wished to speak on the issue.

PUBLIC HEARING No one else wished to speak and the public hearing was closed.

MOTION Meckel moved and Anderson seconded to adopt the findings of fact in staff report WZTA 12-05 and recommend to the Whitefish City Council to amend §11-3-11B concerning retaining walls, as recommended by staff.

VOTE The original motion passed 4-3 with Konopatzke, Blake and Smith voting in opposition on a vote by acclamation. (Scheduled to go to Council on January 7, 2013.)

NEW BUSINESS Discussion of Whitefish Sign Code Issues with Planning Board

Director Taylor said during the Growth Policy the Planning Board had a meeting with the City Council and a couple of Planning Board members said they'd like to address concerns they have about the Sign Code.

On January 17, 2013 they will hold a joint workshop on the Sign Code and the Council asked for a list of specific concerns. Planner Compton-Ring passed out the resolution by the Council on the goals of the Sign Code.

She said she emailed out the Sign Regulations and appendixes and definitions to the Planning Board. She said in 2000 the Council adopted a 3-year review. Director Taylor said the last time the Sign Code was amended it took about 3 years of meetings with Council members, Planning Board members and business owners.

She said there is the Old Town Sign District, the Highway District, Community Business And Resort District, BSD District, which is Highway 40 and Dillon/Conn Rd. and everything else is residential. The Highway District has larger, free-standing signs. Downtown, the signs are smaller and pedestrian oriented.

Director Taylor said one of the major changes, in 2000, when they adopted the Dark Skies Ordinance as well, required external lighting, two posts or a solid base. He said these decisions were made with a lot of community input. He said most sign codes follow the zoning district, but there are unique boundaries in Whitefish that don't follow the underlying zoning. Blake asked and Director Taylor said within the Sign Code there are exemptions for non-conforming uses or allowed commercial uses. Gunderson said asked and Compton-Ring said the planning boundaries changed.

**PROPOSED CODE AMENDMENTS
TITLE 11-3-11B RETAINING WALLS
STAFF REPORT WZTA 12-05
November 8, 2012**

This is an updated staff report to the Whitefish City-County Planning Board and Whitefish City Council regarding code amendments to amend the section related to retaining walls. The Planning Board public hearing is scheduled for November 15, 2012 and a subsequent hearing is scheduled before the City Council on January 7, 2013. Draft regulations are below for review and recommendation. The updates in this staff report are underlined in purple.

BACKGROUND INFORMATION

The Planning Board held a public hearing on October 18, 2012 on the proposed retaining wall text amendments. Concerns raised included:

Concerns with adding regulations to those within the Planning Jurisdiction. The current zoning regulations have retaining wall standards that apply planning jurisdiction-wide. Currently, no permit is required in the planning jurisdiction and the proposed regulations will not require a permit either, but one can ask for a waiver from the standards if the standards will not be met. Currently, if someone in the planning jurisdiction or in the city limits cannot meet the standards, they are required to go to the Board of Adjustments. This proposed regulations allows more flexibility and a quicker timeframe for requesting a deviation to the standards.

Where is the Retaining Wall Measured? It was initially proposed that the wall be measured from the subgrade finish elevation so the entire structure would be measured and not just that which is above the finish grade. As result of Planning Board direction, the revised regulations propose the wall be measured on the downhill side from finished grade.

Is the proposed 4-feet the Right Height? Could it be Taller? The concern was that the maximum height of four (4) feet was not tall enough – especially when measured from the subgrade (Concerned described above). In the October proposed regulations, staff proposed maintaining the same height as the current regulations, but allow for additional flexibility currently not allowed in the code. If the way a retaining wall is measured is changed (described above), perhaps the height in the regulations could stay the same. This is one option for the Planning Board to consider. The language in the draft regulations has not been changed. If the Planning Board would like to increase the maximum height of retaining walls, staff would recommend 5-feet.

We had originally deleted the setback requirements, but now would suggest that a setback equal to the height of the wall be required. The 'one-size fits all' setback standard in the current zoning regulations has been problematic. We would also

suggest that retaining walls necessary for building egress and required parking be exempt from this setback requirement.

Retaining walls are regulated under both the zoning and the building code. The building code reviews the structure and the zoning has certain development standards.

Current Language:

11-3-11B Retaining Walls:

1. Retaining walls twenty four inches (24") in height or less, above the original grade, shall be exempt from the terms of these regulations.
2. Retaining walls over twenty four inches (24") in height above the original grade shall be considered and regulated as an accessory structure and shall require a building permit. For the purpose of preserving the natural terrain, no individual retaining wall or combination of retaining walls shall exceed four feet (4') in height above the preexisting ground contour.
3. Retaining walls in the lakeshore protection zone shall be exempt from these regulations and shall be regulated by the appropriate lake and lakeshore protection regulations.

The current regulations in the zoning have caused some difficulty and; therefore, city staff is proposing some amendments to resolve these problems. Staff has identified the following issues:

- Exempting retaining walls that are less than 24-inches. In the field, staff has encountered much negotiating about where to measure the 24-inches, where the original grade is, etc. in an effort to avoid obtaining a permit. The reality is the wall itself goes down, in many cases a foot or more below the grade of the ground in order to hold up the wall and retain the dirt behind it. Staff would recommend all retaining walls be regulated through the zoning and building permit unless it is clearly a landscaping feature.
- Regulating a retaining wall as an accessory structure. An accessory structure has a setback requirement of 6-feet. In some cases this requirement has been difficult to implement due to the narrowness and steepness of a lot or in one case two neighbors worked together to build one retaining wall.
- The height requirement language is confusing and doesn't work well in every situation. We aren't entirely certain what the 'any combination of retaining walls cannot exceed 4-feet' section actually means. There are a number of retaining walls around town, including those built by the city along with road improvements where retaining walls exceed this height. In addition, some of the very steep and

small lots have a difficult or impossible time adhering to these standards, especially when creating parking or egress.

The requirement for lower walls was adopted to ensure the natural topography is being maintained; however the 'any combination of retaining walls' standard isn't promoting the use of terracing. It is just a difficult standard to meet.

Upon review of other municipalities, most are silent on retaining wall standards – they exclusively use the building code. On the other hand, many mountainous cities regulate the height of retaining walls, the number of retaining walls; have standards for terracing and some other interesting standards. Attached to this report, please find a summary of a variety of these standards. In addition, included are photos of a variety of retaining walls around the city.

PROPOSAL

Staff proposes the following amendments: develop a purpose and intent section, clarify the standards, propose more implementable standards and allow for one to propose alternatives to the standards to the zoning administrator if they are unable to meet the standards.

11-3-11: FENCES AND RETAINING WALLS:

B. Retaining Walls: Retaining walls help facilitate development of lots with steep terrain by leveling certain areas or inhibiting sloughing. Retaining walls can help reduce the steepness of slopes enabling the development of a lot. The purpose of these retaining wall standards is to ensure the natural topography is maintained to the greatest extent possible, that exceedingly tall walls are not constructed, that landscaping is implemented to mitigate the effects of terracing and that the scale and texture of the retaining wall compliments the character of the neighborhood.

1. All retaining walls Retaining walls twenty four inches (24") in height or less, above the original grade, shall be exempt from the terms of these regulations in the city limits shall require a building permit unless clearly a wall installed for landscaping purposes.
2. Retaining walls shall not over twenty four inches (24") in height above the original grade shall be considered and regulated as an accessory structure and shall require a building permit. For the purpose of preserving the natural terrain, no individual retaining wall or combination of retaining walls shall exceed four feet (4') measured from adjacent finish grade on the downhill side in height above the preexisting ground contour. Where greater heights must occur, the project shall use a series of terraced or stepped walls. The width of a retaining terrace shall be no less than three (3) feet and shall incorporate landscaping.

a. Retaining walls necessary to accommodate vehicle or pedestrian access to a building may be up to 8-feet in height from finished grade. Such retaining walls are not subject to the terracing standard described above.

3. If the retaining walls needed for a particular project are unable to meet the standards in subsections 1-2 due to extreme topography or other unique land features, a proposal may be submitted to the zoning administrator for a waiver to these standards. Such a request shall include the following information:

a. A grading plan;

b. A drainage plan;

c. Section drawings;

d. A landscaping plan;

e. An elevation showing the proposed materials; and

f. Any other items needed to show the full extent of the proposal.

34. Retaining walls in the lakeshore protection zone shall be exempt from these regulations and shall be regulated by the appropriate lake and lakeshore protection regulations.

REVIEW AND FINDINGS OF FACT

The proposed changes shall be evaluated based on the criteria for consideration for amendments to the provisions of the Zoning Regulations per Section 11-7-10E.

1. *Zoning Regulations Must Be:*
 - a. *Made in Accordance with a Growth Policy*

Finding 1: The Growth Policy is silent on retaining walls. However, the Growth Policy is supportive retaining the character and qualities of Whitefish. Retaining the existing topography and ensuring oversized walls are not constructed and compliment the neighborhood supports this objective. Therefore, the proposed amendments are in accordance with the Growth Policy

- b. *Designed to:*
 - i. *Secure safety from fire and other dangers*

Finding 2: The proposed code amendment has no impact on security from fire and other dangers.

- ii. *Promote public health, public safety and general welfare*

Finding 3: This criterion is met as the city is attempting to ensure all retaining walls within the city are reviewed under the building department to protect public safety.

iii. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements

Finding 4: The proposed code amendment has no impact on the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

2. *In the adoption of zoning regulations, the city shall consider:*

a. Reasonable provision of adequate light and air

Finding 5: This criterion is not applicable to this code amendment.

b. The effect on motorized and nonmotorized transportation systems

Finding 6: The proposed code amendment has no impact on motorized and nonmotorized transportation systems.

c. Promotion of compatible urban growth

Finding 7: The proposed code amendment has no impact on compatible urban growth.

d. The character of the district and its particular suitability of the property for the particular uses

Finding 8: This criterion is not applicable to this code amendment as it pertains more to site development than community wide zoning regulations.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and

Finding 9: The proposed code amendments do not affect the value of buildings.

f. That historical uses and established uses patterns and recent change in use trends will be weighed equally and consideration not be given one to the exclusion of the other.

Finding 10: This criterion is not applicable to this code amendment as it pertains more to site development than community wide zoning regulations.

OVERALL RECOMMENDATION:

Staff recommends the Planning Board **approve** the recommendations set forth in the staff report to amend Title 11, Chapter 3 of the Zoning Regulations and adopt the findings of fact and transmit the same to the Whitefish City Council for further action.

Retaining Walls: Sample of Mountain Town Retaining Wall Standards

| <u>Height of Retaining Wall</u> | <u># of Retaining Walls</u> | <u>Standards for Terracing</u> | <u>Other Standards</u> |
|---|--|---|---|
| <ul style="list-style-type: none"> • 5-feet, if taller needs to terraced and terraces need to be a minimum of 3-foot width (Durango) • Total overall height 11-feet (Steamboat Springs) • 8-foot (Mt Crested Butte) • 6-feet (Missoula) • 8-feet to accommodate vehicle/pedestrian access (Missoula) | <ul style="list-style-type: none"> • No more than 3: lower and middle no more than 4-feet tall and top 3-feet tall (Steamboat Springs) • No more than 2 (Missoula) | <ul style="list-style-type: none"> • 3-feet (Durango) • 3 to 4-feet (Steamboat Springs) • 4-feet (Mt Crested Butte) • 4-foot tall retaining walls – 3-foot width terrace; taller than 4-foot retaining walls – 5-foot width of terrace (Missoula) | <ul style="list-style-type: none"> • Combination of retaining wall with fence on top (or within 3-feet of a retaining wall) not to exceed the fence heights (6 1/2-feet) if the fence is setback further than 3-feet from the retaining wall – the fence can be the standard height. (Boulder) • Waivers to the standards in the zoning may be permitted with the approval of the zoning administrator • Design standards – blend in with the natural features of the setting – use native rock or other masonry that conveys a scale and texture similar to that of traditional rock or traditional materials found within the neighborhood. (Durango/Mt Crested Butte) • Terraced areas shall be landscaped with 1 tree and 4 shrubs for 10-foot linear wall (Mt Crested Butte) • Retaining walls may exceed height for lots with excessive slope and other unique land features as part of a grading plan (Jackson) |



10/11/2012



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MILCOCH

VANDERBILT
CERAVO

DEANE
TAYLOR

WILKINSON

LIBERT
OSTEN

ESPERANZA
BERRY

FERN

10/11/2012



10/11/2012



10/11/2012



10/11/2012



10/11/2012

PLANNING & BUILDING DEPARTMENT
PO Box 158
510 Railway Street
Whitefish, MT 59937
(406) 863-2410 Fax (406) 863-2409



Date: November 30, 2012
To: Advisory Agencies & Interested Parties
From: Whitefish Planning & Building Department

**WHITEFISH CITY-COUNTY PLANNING BOARD
NOTICE OF PUBLIC HEARING**

The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, December 20, 2012 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearings on Monday, January 7, 2013. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Michael Bode for a Conditional Use Permit for a recreation facility in an SAG-5 zone located at 5932 Highway 93 S. (WCUP 12-13) Compton-Ring
2. A request by the City of Whitefish to amend §11-3-11B concerning retaining walls. (WZTA 12-05) Compton-Ring

Documents pertaining to this agenda item is available for review at the Whitefish Planning & Building Department, 510 Railway Street during regular business hours. Inquiries are welcomed. Interested parties are invited to attend the hearing and make known their views and concerns. Comments in writing may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: dtaylor@cityofwhitefish.org. For questions or further information regarding this proposal, phone 406-863-2410.

Wendy Compton-Ring

From: Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>
Sent: Friday, November 30, 2012 8:47 AM
To: 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dale Lauman (dlauman@flathead.mt.gov)'; 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; 'Peter Steele (psteele@flathead.mt.gov)'; 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears '; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'
Cc: David Taylor
Subject: December City-County Planning Board
Attachments: 12-2012_PB meeting.pdf

Attached please find the Whitefish City-County Planning Board notice for December.

Wendy Compton-Ring, AICP
Senior Planner
City of Whitefish
406-863-2418

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December 20, 2012

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Approve an Amendment to the
Engineering Contract for the Skye Park Bridge Project**

Introduction/History

On December 3rd, the City Council considered a staff recommendation to approve an amendment to our engineering contract with Thomas, Dean & Hoskins engineers (TD&H) for the Skye Park Bridge Project. The amendment provides for engineering services, including project management, preliminary and final design, cost estimating, and completion of all plans, specifications, construction contract documents, easements and approvals necessary to be ready to advertise for construction bids whenever the City Council decides to authorize bidding. This memo is in response to the City Council's request for more information. Copies of two previous staff memos related to this subject are attached.

Current Report

The City Council has requested more information on:

- The scope of work, estimated costs and funding sources for this project;
- Why we would include access to the wastewater lift station with this project;
- The status of easement work and likelihood of acquiring an easement from BNSF;
- Other high priority TIF projects and the availability of TIF funds; and
- Bridge loading design criteria.

Scope of Work, Costs and Funding Sources

The scope of work for this project is to design and construct a new 10 foot wide bicycle and pedestrian trail, along with a 10 foot wide steel truss bridge spanning the Whitefish River, to connect the east end of Birch Point Drive with the south end of Oregon Avenue. The design will follow ADA standards to the greatest possible extent.

The trail leading down from Birch Point Drive to Skye Park will be designed to provide access for maintenance vehicles and heavy equipment, as necessary for the on-going operations and future reconstruction of the Birch Point sewage pump station. Special provisions will include longer curve radii and additional structural capacity to accommodate construction vehicles and equipment.

Discussions at past Council workshops and the Council's adoption of the FY 13 budget led staff to understand there was majority support for the use of Tax Increment funds on this project. Recent Council discussions remind us that some Council members are reluctant to commit TIF dollars at this time.

Some highly inflated cost figures were tossed about at the December 3rd Council meeting, so it would be good to remember we have a reasonably well considered conceptual cost estimate in the amount of \$668,000. That includes \$550,000 for construction, \$86,000 for engineering and \$32,000 (5%) for contingencies.

Staff is aware of three funding sources other than TIF which could be used on this project. These include Community Transportation Enhancement Program (CTEP) funds, which come to communities in the form of 13% matching grants administered by the Montana Department of Transportation. Whitefish receives an annual allocation of approximately \$35,000, based on population, and the current uncommitted balance of our CTEP account in Helena is right around \$140,000.

Also available, is a remaining balance of \$210,700 from a 2006 Federal Highways SAFETEA-LU earmark appropriation for Whitefish trails. These are grant funds, available with no match requirement.

Given that some of these improvements will benefit the Birch Point sewer pump station, it seems justifiable that some costs be borne by the Wastewater Fund. Staff recommends the Council approve \$10,000 from the Wastewater Fund for design expenses. An appropriate share of construction expenses would be determined during design and recommended to the City Council prior to bidding.

BNSF Easement

The existing route between Birch Point Drive and Skye Park runs across BNSF property. This rough "road" is impractical for most sewer maintenance equipment and the new trail will be a benefit for on-going maintenance as well as upcoming sewer construction work. This route lies outside the existing BNSF easement for Birch Point Drive and an additional easement will be needed. A photo showing the potential easement area and the approximate location of the proposed bridge is attached.

Although a few City employees have established working relationships with some BNSF staff at the local level and the City Manager has had some recent dealings with BNSF officials at higher levels, BNSF is a huge corporation and their local employees have surprising little involvement in the easement application and approval process. BNSF contracts with a real estate management firm in Fort Worth, Texas and they process the railroad's occupancy permits, easements and licenses.

The individual relationships we've built with BNSF's representatives have never lasted very long. We've worked with three different real estate management consultants over the past 8 or 9 years, and employees at BNSF and their consultant firms are constantly being transferred, retiring or moving around in one way or another.

Some engineering consultants have fairly frequent contact with BNSF's real estate managers, by virtue of their involvement with numerous projects for various clients, and tend to develop more substantial working relationships than we have enjoyed to date. In fact, TD&H stood out in this respect during the engineering selection interviews and that was a significant factor in ranking them as the top engineering candidate for this project.

City staff and the engineering consultant both have roles in the easement acquisition process. The engineer will develop options for the trail alignment and geometry, based on our needs and their understanding of BNSF's requirements. City staff will then choose a preferred option and the consultant will prepare the application. BNSF may ask for clarification or require changes to the plans or exhibits. It's hard to predict how much time might be required for this follow-up, but we should be prepared to respond.

TD&H first contacted BNSF's real estate managers on November 15th to discuss our needs for a temporary occupancy permit and a long term easement. The permit will authorize City staff and our representatives to enter BNSF property, as may be necessary during design and construction, while the easement will actually allow us to build the trail on BNSF property.

The proposed trail will not have any direct impact on the railroad and we expect BNSF's review and approval will be mostly a matter of process. We're told the easement should be issued within 90 days after they receive our application and a complete, orderly document will move through the process more smoothly.

High Priority TIF Projects and Available Funds

At a recent workshop, the Council designated Downtown Parking, the Depot Park Master Plan improvements and the Skye Park Bridge as their top priorities for major tax increment projects, in that order. Although the preferred options for the parking and Depot Park projects have not been chosen, the City Manager believes sufficient funds will be available to meet all these goals. The spreadsheet with future TIF cash flows from last spring is enclosed with this report. Another TIF workshop will be held in late winter or early spring to discuss priorities and funding in more detail.

Bridge Design Loading Criteria

And finally, there's been some discussion about the bridge design loading criteria and concern about additional costs. The City has two bicycle and pedestrian bridges crossing the Whitefish River and both were designed with 10 foot wide decks to accommodate two-way bicycle traffic. We propose a 10 foot wide deck for this bridge, as well.

Based on information provided by a large designer and manufacturer of pedestrian bridges, we've learned it is standard engineering practice to design these bridges to support the deck fully loaded with people. The standard design load for this condition is 85 pounds per square foot.

Consider a 10 foot wide pedestrian bridge designed to carry 85 pounds per square foot. Take a 16 foot long section of that bridge (the length of a recent model Ford F-150 pickup) and you have a 160 square foot area of deck that is designed to safely carry 13,600 pounds. Chief Kennelly tells us the maximum loaded weight of any emergency vehicle the Fire Department expects to drive over this bridge would be well under 10,000 pounds, and probably under 8000 pounds.

So, the controlling factor is the safe design load for the bridge packed with people and there would be no extra cost to accommodate this type of emergency vehicle and equipment.

Summary

The City currently has an engineering design contract with TD&H for the Skye Park Bridge Project. The initial contract was approved with only a partial scope of work to ensure field data was collected before winter. The scope of work included topographic survey, geo-technical investigation, lab work and related tasks for a cost not to exceed \$15,310.

The proposal currently before the City Council is to amend that engineering contract to add work items including project management, preliminary and final design, cost estimating, and completion of all plans, specifications, construction contract documents, easements and approvals necessary to be ready to advertise for construction bids when the City Council is ready to advertise. Staff has negotiated a fee for these additional services in an amount not to exceed \$62,500. This would bring the total amount of our engineering contract to \$77,810.

We have identified three alternate funding sources that could provide as much as \$350,000 to \$375,000 for this project, potentially reducing the TIF cost share to something around \$300,000.

We started in on this project with the understanding that the bridge enjoyed majority support from the City Council and staff had sufficient direction to move forward. The Public Works staff, TD&H and several other engineering candidates have invested considerable time and expense, working in good faith, to complete the consultant selection process and prepare an engineering services contract.

We respectfully ask the City Council to approve the recommended contract amendment and allow design to proceed under staff direction. We appreciate the Council's desire to avoid unnecessary design expenses in the event the easement application is denied and will proceed accordingly.

We trust this memo provides the information requested at the December 3rd City Council meeting. If anyone has more questions, we strongly encourage you to contact the Public Works Department as soon as possible so we can provide that information to all the City Councilors before the meeting on January 7th.

Financial Requirement

The financial requirement directly associated with the proposed engineering contract amendment is an amount not to exceed \$62,500. Staff proposes that amount be paid using \$10,000 from line item 930 of the Wastewater Fund and up to \$52,500 from the Tax Increment Fund. While the City Council may want to consider using Federal CTEP and SAFETEA-LU trail earmark funds as part of the overall project financing plan, our circumstances and the programs' requirements combine to make these funds eligible only for construction.

Recommendation

We respectfully recommend the City Council approve an amendment to the engineering contract with Thomas, Dean and Hoskins, providing detailed design and related services for the Skye Park Bridge Project in an amount not to exceed \$62,500. This cost would be paid with \$10,000 from line item 930 of the Wastewater Fund and up to \$52,500 from the Tax Increment Fund.

Sincerely,

A handwritten signature in blue ink, appearing to read "John C. Wilson".

John C. Wilson
Public Works Director



October 30, 2012

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Award a Contract for
Phase I Engineering Services on the Skye Park Bridge Project**

Introduction/History

The Public Works Department has advertised a Request for Statements of Qualifications (RFQ) for the Skye Park Bridge Project and received four responses from engineering firms with local offices. Those responses were scored in accordance criteria provided with the RFQ and the top three firms were invited to interviews on October 25th.

The top ranked firm following the interviews was Thomas Dean & Hoskins Engineers of Kalispell/Great Falls. The other firms interviewed were Eclipse Engineering of Whitefish/Missoula and Beaudette Consulting Engineers of Kalispell/Missoula. The fourth firm was Stelling Engineers of Kalispell/Great Falls.

This memo is to recommend a contract for Phase I engineering services be awarded to Thomas Dean and Hoskins Engineers in an amount not to exceed \$15,310.

Current Report

With winter fast approaching, we have negotiated Phase I services and fees for preliminary field work to start immediately and ensure final design will continue through the winter months. The Phase I scope of work includes topographic survey, geotechnical investigation, laboratory work and related tasks.

Negotiations are underway for the remaining design phase services and we expect to recommend a Phase II contract amendment to the City Council on November 19th.

Financial Requirement

The fee for Phase I engineering services has been negotiated in an amount not to exceed \$15,310 and would be paid out of the Tax Increment Fund.

Recommendation

We respectfully recommend the City Council award a contract for Phase I engineering services on the Skye Park Bridge Project to Thomas Dean & Hoskins Engineers in an amount not to exceed \$15,310.

Sincerely,



John C. Wilson
Public Works Director

COPY



November 27, 2012

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Approve a Contract Amendment for the
Skye Park Bridge Project - Phase II Consultant Design**

Introduction/History

The City Council approved a Phase I consultant agreement for the Skye Park Bridge Project on November 5th. The scope work included topographic survey, geotechnical investigation, lab work and related tasks.

This memo is to recommend an amendment to that agreement, providing for additional consultant services including project management, preliminary and final design, cost estimating and completion of all documents, easements and approvals necessary to advertise for bids next spring. The proposed amendment is in an amount not to exceed \$62,500.

Current Report

The Public Works Department has negotiated a scope of work and "cost not to exceed" fee for Phase II design of the Skye Park Bridge Project as described above. In addition to the task set for a "typical" trail and bridge design, this project also involves easement negotiations with BNSF and unique challenges posed by steep topography on either end of the project.

Past negotiations for easements on the BNSF Loop Trail lead us to expect these easement negotiations could be very time consuming. Although we've budgeted the

consultant's time accordingly, they will bill us only for the actual hours necessary to complete the task.

With respect to steep grades, our goal is not only to accommodate ADA standards, but to build a trail that will also provide much needed vehicular access for the Birch Point sewer pump station. The topography and small available area are such that a substantial design effort may be necessary to achieve our goals. Again, we have negotiated a project budget with this in mind but will only be billed for the actual hours necessary to complete the task.

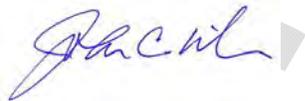
Financial Requirement

The proposed amendment is for an amount not to exceed \$62,500, which will be paid out of the Tax Increment Fund.

Recommendation

We respectfully recommend the City Council approve a contract amendment for the Skye Park Bridge Project – Phase II Consultant Design in an amount not to exceed \$62,500.

Sincerely,



John C. Wilson
Public Works Director



Approximate Location of Proposed Skye Park Bridge

Potential Easement Area

LEGEND

- Administrative Tract Line
 - 0
 - Easement
 - Easement Containing
 - Hydrology
 - Quarter Section
 - Slough
- Tract Line
 - 0
 - BBook
 - District Boundary
 - City Limit
 - Condo
 - Condo Boundary
 - County Boundary
 - Easement
 - Highway
 - Hydrology
 - Improvement
 - Lines In Lake
 - Lot
 - Miscellaneous
 - Parcel
 - Parcel (Unknown)
 - Railroad
 - Road
 - Section
 - Subdivision



No warranty is made by Flathead County for the use of GIS data for purposes not intended by Flathead County.

800 South Main
Kalispell MT, 59901
(406) 758-5540

| | A | S | T | U | V | W | X | Y | Z | AA | AB | AC | Al | AE |
|----|---|---|---|---|---|---|---|---|---|----|----|----|----|----|
| 36 | | | | | | | | | | | | | | |
| 37 | TIF Financial Plan July 2011 through July 2020 | | | | | | | | | | | | | |
| 38 | | | | | | | | | | | | | | |
| 39 | Beginning Cash Balance | | | | | | | | | | | | | |
| 40 | | | | | | | | | | | | | | |
| 41 | Revenues | | | | | | | | | | | | | |
| 42 | Property Taxes ¹ | | | | | | | | | | | | | |
| 43 | State Entitlement Payment | | | | | | | | | | | | | |
| 44 | Special Assessments | | | | | | | | | | | | | |
| 46 | Total Revenues | | | | | | | | | | | | | |
| 47 | | | | | | | | | | | | | | |
| 48 | Expenditures | | | | | | | | | | | | | |
| 49 | TIF Bond Debt Service | | | | | | | | | | | | | |
| 50 | Semi-annual School Payment ¹ | | | | | | | | | | | | | |
| 51 | Transfer to City Hall Fund ² | | | | | | | | | | | | | |
| 52 | Salaries and O&M | | | | | | | | | | | | | |
| 53 | Business Rehab Loan | | | | | | | | | | | | | |
| 54 | Match for Senator Tester Appropriation | | | | | | | | | | | | | |
| 55 | Land Purchase | | | | | | | | | | | | | |
| 56 | Urban Renewal Projects | | | | | | | | | | | | | |
| 57 | Misc Urban Renewal Projects | | | | | | | | | | | | | |
| 58 | 93W Lights, Riverside Lights | | | | | | | | | | | | | |
| 59 | High School TIF project | | | | | | | | | | | | | |
| 60 | Depot Park (\$2 million) (phase 5 for \$550k not included) | | | | | | | | | | | | | |
| 61 | Depot Park snow lot | | | | | | | | | | | | | |
| 62 | Ped-Bike bridge to Skye Park (\$668,000 - \$700,000?) | | | | | | | | | | | | | |
| 63 | Enhance 2nd Street Bridge - Whitefish West (up to \$75k) | | | | | | | | | | | | | |
| 64 | Wayfinding Sign Project | | | | | | | | | | | | | |
| 65 | Other Real Estate Committee Land Purchase Options | | | | | | | | | | | | | |
| 66 | Develop additional downtown parking (\$2 - \$5 million) | | | | | | | | | | | | | |
| 67 | Assist Private Developer - Boutique Hotel | | | | | | | | | | | | | |
| 68 | Assist Private Developer - Idaho Timber | | | | | | | | | | | | | |
| 69 | Assist Private Developer - N. Valley Hospital | | | | | | | | | | | | | |
| 70 | Install/refurbish water and sewer lines throughout district | | | | | | | | | | | | | |
| 71 | Assist Private Developer - Other Redevelopment | | | | | | | | | | | | | |
| 72 | Other - WAVE - up to \$600k grant/loan | | | | | | | | | | | | | |
| 73 | Other - Chamber (\$96k) | | | | | | | | | | | | | |
| 74 | Other - Housing Authority (\$50k?) | | | | | | | | | | | | | |
| 75 | Other - Cow Creek Sewer | | | | | | | | | | | | | |
| 76 | Other - City Beach Lot | | | | | | | | | | | | | |
| 77 | Miscellaneous | | | | | | | | | | | | | |
| 78 | Contingency | | | | | | | | | | | | | |
| 79 | Total Approximate Non-Committed | | | | | | | | | | | | | |
| 80 | Total Expenditures | | | | | | | | | | | | | |
| 81 | | | | | | | | | | | | | | |
| 82 | Revenues less Expenditures | | | | | | | | | | | | | |
| 83 | | | | | | | | | | | | | | |
| 84 | Ending Cash Balance | | | | | | | | | | | | | |
| 85 | | | | | | | | | | | | | | |
| 86 | 1 Assumes 3% growth per year | | | | | | | | | | | | | |
| 87 | 2 Assumes City Hall construction for \$5,000,000 in 2014 | | | | | | | | | | | | | |
| 88 | | | | | | | | | | | | | | |
| 89 | | | | | | | | | | | | | | |

Prepared 1/18/2012



December 31, 2012

Mayor Muhlfeld and City Councilors
City of Whitefish
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Amend the
Rules and Regulations for the Water, Wastewater and Garbage Utility
With Respect to Year Round Monthly Base Rate Billing**

Introduction/History

The City Council adopted Resolution 11-51 on October 17, 2011, thereby amending the Rules and Regulations for the Water, Wastewater and Garbage Utility (Rules) and providing for year round base rate billing on accounts for all properties connected to the City water and sewer systems. Copies of the Finance Director's October 2011 staff memo, the Public Meeting Notice, Resolution 11-51 and selected pages from the current Rules are attached. Please be aware, the attached Public Notice also makes reference to a proposed increase for garbage collection rates. This was a separate issue that was addressed in a separate public hearing at the same City Council meeting.

This memo presents a staff proposal to amend the rules relevant to year round base rate billing to accommodate those buildings that are physically connected to City utilities, but have no foreseeable need to use water or sewer services. The goal is to apply the policy for base rate billing in a reasonable manner, while avoiding unwarranted charges.

If the City Council so directs, staff will prepare a resolution amending the Rules as described below for Council consideration at their next regular meeting on January 22nd.

Current Report

A few customers have contacted the City Council and staff with complaints about year round base rate billing. They specifically object to being charged for utilities when there is no foreseeable need for water or sewer service at the property in question. For example:

- A house in the 100 block of Lupfer Avenue was converted to commercial storage and has not used water or sewer service for over a decade (a past letter from the owner to the City Council is attached),
- A mobile home next to a primary residence on Denver Street has been vacant and not used water or sewer service since 2002.
- We are aware of a few houses that appear vacant due to recent fires. The property owner(s) may benefit from the proposed rule changes if the house is not restored.

Similar circumstances may exist for other water and sewer accounts, but we expect the total number to be very few.

Staff proposes the following Rule changes to exempt from billing those properties which have no foreseeable intent or capacity to use water or sewer services. We propose editing the second paragraph of Rule X, Item 7 on Page 13 of the Rules, as shown below. Deleted text is indicated by strikeouts, while added text is indicated by underlines.

The monthly base rate billing for water or sewer service base-rate will be discontinued for a building if:

- A. the respective utility service line is abandoned in a manner acceptable to the Water Utility or***
- B. all plumbing fixtures, including water valves, are permanently removed from the building in a manner approved by the Public Works Department. Such approval shall be issued before the work is performed and the completed work shall be verified and documented by City personnel. The property owner shall continue to be responsible for maintenance of the water and/or sewer service lines that remain connected to the City utility.***

Staff similarly recommends the following changes to Rule XV, Item 4 on Page 19.

The monthly base rate for water, sewer and/or garbage service shall apply to all domestic accounts during the discontinuance of service, except as provided under Rule X, Item 7 of these Rules.

We propose adding the word “service” to Rule XV, Item 4 for the sake of clarity. The word “domestic” was a clerical error in the Rules and should be deleted. The adopted Resolution 11-51, staff report, public notice and Council meeting minutes clearly refer to “all accounts”. There was no reference to or discussion about limiting the rule to domestic accounts.

If the City Council so directs, staff will prepare a resolution amending the Rules as described above for Council consideration at their next regular meeting on January 22nd.

Financial Requirement

None

Recommendation

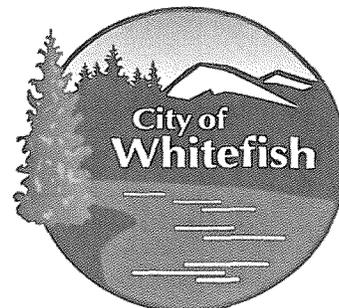
We respectfully recommend the City Council consider staff’s proposal to amend certain provisions of the Rules and Regulations for the Water, Wastewater and Garbage Utility regarding year round base rate billing and direct staff as to how to proceed.

Sincerely,



John C. Wilson
Public Works Director

Staff Report



To: Mayor Mike Jenson and City Councilors
From: Rich Knapp, Assistant City Manager/Finance Director *RK*
Date: October 11, 2011
Re: Water Sewer Garbage Year Round Base Rate

The current base rate, \$47 at the low end, for water, sewer and garbage pays for fixed costs such as infrastructure maintenance and replacement. This proposal is every account pays for water, sewer and garbage availability, or the base rate, even if there is no use; i.e. even if the customer has temporarily turned water off and there is no occupancy.

History

Rates for water and sewer are derived from cost of service analysis. The cost of service analysis is based off forecasted expenses and historic data. Each expense line item is evaluated to determine how much of the expense is fixed costs and how much is associated with volume and use. The fixed costs are paid for by the base rate and volume is paid for by the usage rate.

Fixed costs include some payroll, debt service, water rights, supplies, insurance, regulatory compliance, infrastructure maintenance and replacement, and other costs that enables the city to have these services ready for use and infrastructure in place. The lowest and most common base rate for water is \$21, sewer \$17.20, and garbage \$8.50 for a total of \$46.70. The base rate varies on size of meter and number of lift stations. The base rate is charged regardless of use, so if the customer has no use for a month, their bill will still be a minimum of \$46.70.

Under the current rate structure any customer may turn off their city utilities, not be billed, and pay a \$25 fee to turn it back on. So if one knew they were going to be gone for a month, instead of paying the minimum \$47 in base fees, their cost would be only \$25. Ultimately, the other rate payers pick up this cost and subsidize those people who turn their water off.

Current Report

The proposed year round base fee would assess the base fee on all accounts, on or off. A year round base fee for all accounts, whether active or not, would be a more equitable policy because all properties benefit from having these services available yet, under current policy, only the active accounts pay the base fees. The city currently has 212 snowbirds that actually turn their services off for a season. Of the 212 snowbirds, 17 are on the senior rate which is billed only 25% of the base rate when connected. The year round base rate would also affect any rental property that had no tenants for a period of time. The property owner would be directly billed for the base rate, until a new tenant moves in. Also affected, would be any customer who turns off their account for any period of time as they would still be charged the

base rate. The year round base rate will not apply to a separate irrigation meter. Summer sprinkling has its own seasonal base rate and fees.

Staff did meet with most of the property management firms and discussed our intentions to bring this proposal to the Council. The firms were not enthusiastic, but all seemed to accept the fairness of charging the fee.

Solid Waste-Base Rate

The city will be able to hold garbage rates flat until October 2012, if we agree with MWS to charge a base rate on garbage. As the Montana Waste Systems will charge the city a fee per site, even if there was nothing to pick up, the entire garbage fee would be a fixed cost, and therefore included in the base rate. MWS has fixed costs associated with having the service available, which is the reason they are willing to hold fees even. A base rate for garbage will reduce utility billing's workload, as they will no longer need to track and communicate with MWS changes in account status.

Financial Requirement

The increased revenue from a proposed year round base rate is very difficult to calculate. The software does not have queries to count how many times accounts have historically been turned off and on and what base rate those accounts are charged. If snowbirds are assumed gone for seven months and assumed to be on the lowest rates, then this would generate \$66,000, \$16k of which would go to contracted garbage company. The number of accounts turning off for less than a season is probably low and the amount generated from renter turnover would probably be low. Lastly, this proposed year round base rate will eliminate the subsidy provided by year round rate payers.

Recommendation

Staff recommends the City Council adopt a year round base rate for water, sewer, and garbage.

CITY OF WHITEFISH NOTICE OF PUBLIC HEARING



NOTICE IS HEREBY GIVEN that at its regular meeting on Monday, October 17, 2011, at 7:10 PM, in the Whitefish City Council Chambers, located at 402 East Second Street, Whitefish, MT, the Whitefish City Council will conduct a public hearing for the purpose of receiving public input regarding the City's proposed fee changes for City water, sewer, and garbage collection services as follows:

- All accounts will be charged the monthly base rate, year round.
- Beginning October 2012, garbage collection rates will increase 3% annually for four years.
- As explained on the attached schedule, garbage collection accounts will be charged for additional and special containers, pickups, and services.

Monthly Base Rate. Currently, every active account pays a base rate. All customers benefit from having the necessary infrastructure, maintenance and replacement for water, sewer and garbage collection services available. It is proposed that these fixed costs be billed as a monthly base rate to all accounts even if there is no use or occupancy or the account is inactive.

Garbage Collection. The City estimates garbage collection for residential customers will increase by \$0.25 in October 2012. The attached fee schedule reflects current fees, with any changes or additions listed under a "proposed" heading.

Individuals may appear or submit written testimony at the hearing to comment on the proposed fee changes and increases. Written comments may be delivered or mailed to the Whitefish City Clerk, 418 East Second Street, PO Box 158, Whitefish, MT, or emailed to nlorang@cityofwhitefish.org. Additional information regarding the proposed fee increases may be obtained by visiting the City Clerk's Office or by calling 406-863-2400.

RESOLUTION NO. 11- 51

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ESTABLISHING A YEAR ROUND MONTHLY BASE RATE FOR ALL CUSTOMERS OF CITY WATER, WASTEWATER, AND GARBAGE COLLECTION SERVICES.

WHEREAS, Sections 7-1-4123(7) and 7-13-4304, MCA, authorize the governing body of the municipality operating a municipal water and wastewater system and providing garbage collection services to fix, establish and collect rates and charges for the services, facilities, and benefits, directly or indirectly, taking into account services provided and benefits received; and

WHEREAS, as required by Section 7-13-4307, MCA, the rates and charges established by the City's system must be sufficient in each year to provide income and revenues adequate for the payment of the reasonable expense of operation and maintenance and the expenditures for depreciation and replacement of its system, as determined by the City Council; and

WHEREAS, the cost of services study for municipal water, wastewater and garbage collection services determines the current minimum monthly base rate or availability rate, based on the fixed costs for all classifications of users served by the City; and

WHEREAS, staff has recommended all domestic classifications and zones, but not summer watering, be assessed the year round monthly base rate because all customers benefit from having these services available, while only the active accounts pay the base rate charges; and

WHEREAS, as required by Section 69-7-111, MCA, public notice on the City's proposed fee changes for City water, wastewater, and garbage collection was published on September 21, September 28, and October 5, 2011. Further proper notice concerning the year round monthly base rate and hearing was mailed to City customers at least seven (7) days and not more than thirty (30) days prior to the hearing, and to the Montana Consumer Counsel; and

WHEREAS, at a lawfully noticed public hearing on October 17, 2011, after receiving public comment and reviewing a staff report recommending the year round monthly base rate, and having considered the fixed cost of operation and services, the Whitefish City Council reviewed the recommended monthly base rate for City water, wastewater, and garbage collection and found them reasonable and necessary.

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

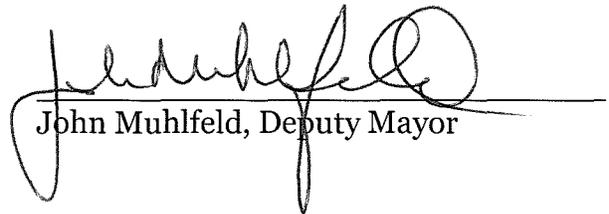
Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The year round monthly base rate is established for all customers of City water, wastewater, and garbage collection services.

Section 3: The monthly base rate is approved as just, reasonable, and necessary for the sound operation and the billing of garbage collection services.

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor or Deputy Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 17TH DAY OF OCTOBER, 2011.


John Muhlfeld, Deputy Mayor

ATTEST:


Necile Lorang, City Clerk

5. Size and Location. The size and location of all service lines will be determined by the Water and Wastewater Utility.
 6. Separate Service Lines. Service lines shall be so arranged that the supply of each separate building, house, or premises, is controlled by a separate curb cock and curb box, except as provided for by these rules and regulations.
 7. Abandonment of Service. Whenever a building served by water and sanitary sewer ceases to exist, both services shall be abandoned. The sanitary sewer shall be abandoned at the main. Abandonment of the water service shall require disconnection at the water main. At the discretion of the Water and Wastewater Utility, however, and depending upon whether water service is anticipated to be renewed within one year, temporary removal from service may be controlled with an operative curb stop.
-
8. Water and Sewer Service Line Replacement. Whenever improvements are made to the property that require an increase in the service pipe size. The Water and Wastewater Utility will require replacement of the entire service line and replacement of meter that is inside of the building to an outside meter pit. Any time that repairs are required to service lines, and the material does not conform to existing City Standards the entire service line must be replaced and the meter that is inside of the building shall be moved to an outside meter pit.

RULE XI: METERING

1. Providing Meters. All water furnished by the Water Utility, except as provided by these rules and regulations, shall be metered. Upon payment of all fees in accordance with the rate schedule, these rules and regulations and applicable City ordinances, the Water Utility shall provide, operate, and maintain all such meters, except as provided by these rules and regulations.
2. Size of Meters. The Water Utility shall be the sole judge of the size of any meter installed. Judgment shall be based on comparative usage of the facility to be served to other similar type facilities served, or by the flow demand of the facility to be serviced in accordance with American Water Works Association Manual M22, "Sizing Water Service Lines and Meters."
3. Replacement of Meters. The Water Utility may replace, or remove for testing, any meter it deems necessary.
4. Location of Meters. All new meters shall be installed outside of the structure being served, unless approved by the Water Utility. Meters shall be installed in a meter pit or vault approved by the Water Utility: (1) in front of the premises to be served, adjacent to the edge of a street right-of-way or utility easement

suitable arrangements with the Water and Wastewater Utility for payment, the Water and Wastewater Utility shall mail by regular mail a notice indicating the amount due and the date of disconnection. Accounts with charges for service not paid by the 20th day of the month shall be assessed a late payment penalty to defray the cost of administering delinquent accounts, including mailing of late notices. The date of disconnection shall be no less than ten calendar days following the mailing of the notice, excluding the date of mailing. The Water and Wastewater Utility shall keep record of all notices. In the case of a property manager or a tenant, all of the notices regarding delinquent accounts or potential discontinuance of service shall be sent to the customer and property manager or tenant.

The Water and Wastewater Utility will not discontinue service on Fridays, Saturdays, Sundays, national holidays, or if an emergency affecting health exists. A written statement from a physician or health agency must be presented to the Water and Wastewater Utility prior to the date of disconnection or it will be assumed no health condition exists and the Water and Wastewater Utility cannot be held liable.

4.



5. Charge for Reconnection. Whenever the supply of water is turned off, or scheduled for turn off, for violation of these rules and regulations, including nonpayment of bills, dangerous conditions, or fraudulent usage, the offending situation shall have to be rectified to the satisfaction of the Water and Wastewater Utility and payment of a service charge, plus any late payment penalties and all other charges for service, must be paid before the water will be turned on.

RULE XVI: CHANGES IN CHARACTER OF SERVICE

In the event the Water Utility makes changes in the system which would cause a 10 pound per square inch (psi) or more increase or decrease in the system pressure the Water Utility shall notify the affected customers. The customer shall be responsible for the adjustment of appliances and equipment, or installation of pressure reduction devices to accommodate the change in system pressure.

RULE XVII: ADEQUACY OF FACILITIES

The Water and Wastewater Utility shall construct, operate, and maintain its entire water supply and sewage collection system, but not private mains, in a condition that will furnish safe, adequate and continuous service. The Water and Wastewater Utility shall comply with the rules of the United States Environmental Protection Agency and the Montana State Department of Health and Environmental Sciences governing purity of water, testing of water and sewer effluent, quality of effluent, operation of treatment

received
9-26-12
City Clerk's Office

September 26, 2012

Dear Mr. Mayor & Whitefish City Council,

Our family owns a small lot at 127 Lupfer Avenue here in Whitefish. I was recently informed by the Whitefish City Water Department that although there has been no water or sewer hook up to this property for several years, we were now going to be billed \$45.98 a month for water, sewer and garbage use. I have to ask why this monthly charge is being billed to us now and what expense the city is accruing that justifies this charge? Since we have no water service to this property, have no toilet to create any sewer use, and no garbage or garbage can to have a need or use of garbage service, how can this new charge be considered fair?

I would appreciate an explanation of this new monthly charge, how it was determined and how the city can justify this as fair and equitable to us, the property owners. Thank you very much.

Sincerely Yours



Ron Brunk
130 4th Street
Whitefish, MT 59937

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MANAGER REPORT

January 2, 2013



HIRING OF ASSISTANT FIRE CHIEF

After an advertisement and hiring process, Fire Chief Tom Kennelly offered the position of Assistant Fire Chief/Fire Marshall to Joseph Page of Pine, Colorado on December 14th and Mr. Page has accepted the offer. Four candidates were interviewed by phone and the interview committee was comprised of the following people:

Tom Kennelly, Chief, Whitefish Fire Department
Dave Dedman, Chief, Kalispell Fire Department
Rob Ehlert, (retired Division Chief) Green Bay Fire/Whitefish Fire Volunteer
Scott Alexander, President, Local 3995 IAFF, PM/FF Whitefish Fire
Travis Tveidt, Captain, C Shift, Whitefish Fire
Justin Woods, Captain, B Shift, Whitefish Fire

Mr. Page's first day of work will be January 7th and we will plan to introduce him to the City Council at that evening's meeting. Tom has been without an Assistant Fire Chief for a year and a half.

RESORT TAXES

October's Resort Taxes collected equaled \$128,288 which is \$20,815 or 19.37% higher than October of 2011. This October was the highest October in history. For the year to date, we are at \$863,567 collected which is 9.8% or \$77,044 ahead of the same four months in 2011. A chart and graph of recent Resort Tax collection history is attached in the packet.

WAYFINDING SIGNS BIDDING

After meeting with the Wayfinding Sign committee and then some of the vendors who had bid or expressed interest in bidding on the Wayfinding Signs in the first bidding, I put the bid packet back out for bidding on December 7th. We will open bids on January 15th and hopefully have a recommendation for the Mayor and City Council at the Tuesday, January 22nd City Council meeting. I added vendors to the mailing list and also put the bids out to the Northwest Plans Exchange and the Montana Association of Planners RFP/RFQ website. We will hopefully get more than one bid from our efforts.

PUBLIC WORKS DUMP TRUCK

Public Works had budgeted \$85,000 for a new 6 yard dump truck and that cost was split three ways among the Street, Water, and Wastewater funds. They were able to find a good used dump truck that was exactly what they were looking for at a purchase price of \$25,000 plus additional costs of about \$16,000 for a plow, new tires, radio, beacon light etc. The color was white which matched our fleet and it only had 45,000 miles on it.

WASTEWATER DISCHARGE PERMIT RENEWAL PROCESS STARTED

As the Mayor and City Council know, we selected the engineering firm of Anderson – Montgomery for the next phase of Wastewater Treatment Plant improvements and to help with the next discharge permit renewal. Discharge permits are approved by the Montana Department of Environmental Quality (DEQ) under authority of the federal EPA and the Clean Water Act. Discharge permits are typically five years in length, however, staffing and renewal delays at DEQ often extend their duration. In December, we began the discharge permit renewal process with an application and \$4,800 application fee.

It is this discharge permit where we anticipate DEQ will increase discharge requirements and decrease levels for nutrients in the wastewater plant discharge because of nutrient levels in Flathead Lake. Thus, as the process goes forward, once nutrient discharge levels from our plant are required to be reduced, we will have to design and construct new plant improvements to meet those requirements. It is these plant improvements, which may include changing from our lagoon system to a mechanical system of wastewater treatment, that could cost millions of dollars. The requirements will likely involved a phased implementation of improvements over the next decade.

MEETINGS

WAVE Board (12/5 & 12/19) – I attended a WAVE budget committee meeting on December 5th and the full WAVE Board meeting on December 19th. We approved a budget for 2013 with no dues increase at this time. Planning continues on an expansion on the west side of the building which could occur next year.

HazMat Spill Drill (12/11) – I participated in an all day drill which simulated a leak of toxic material from a railroad car in the rail yard on December 11th. This exercise was coordinated by Flathead County Office of Emergency Services and our Fire Department and included many agencies such as our Police Department, North Valley Hospital, BNSF, School District #44, and many others. I was asked to participate as Chief Public Information Officer so I reviewed my federal NIMS training beforehand. The exercise was very useful in simulating an actual emergency which included a lockdown of the Middle School and an influx of patients to North Valley Hospital.

Future City Hall Location Steering Committee (12/13) – I attended this Committee’s meeting as a member. The Committee reviewed the very preliminary conceptual drawings of what a City Hall could look like as attached to a parking structure. They also reviewed a draft of a Request for Qualifications (RFQ) for an architectural selection, but the RFQ will wait until after the City Council makes a final decision on whether a parking structure will be attached to City Hall.

Meeting with area Legislators (12/14) – I attended a meeting organized by MWED and the City of Columbia Falls as the three cities always try to meet with Legislators prior to a state Legislative session. Frank Sweeney also attended the meeting. Topics discussed were unemployment insurance costs, pensions, CDBG funds which were diverted to eastern Montana, and other topics.

UPCOMING SPECIAL EVENTS

January 19th – Winter Carnival Coronation and Parade – 7:00 p.m.

REMINDERS

Second City Council meeting in January is Tuesday, January 22nd because of Martin Luther King, Jr. holiday on Monday, January 21st.

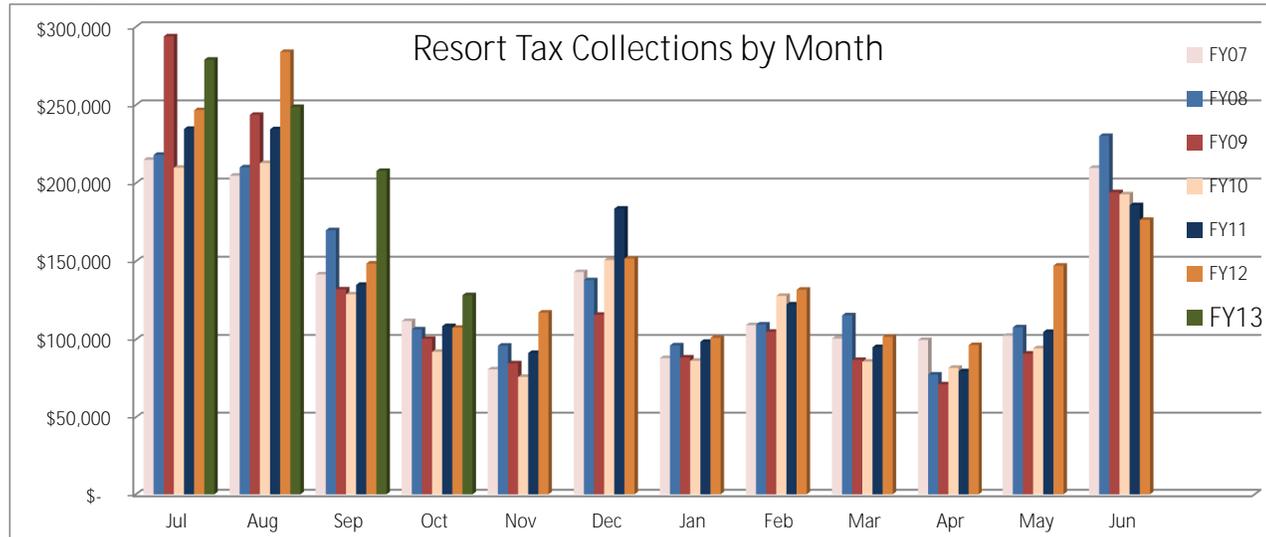
Respectfully submitted,



Chuck Stearns
City Manager

Resort Tax Report
Reported in the Month Businesses Collected the Tax

| Month/Year | Lodging | Bars & Restaurants | | Retail | Collected | % Chng Mnth to Pr Yr Mnth | % Chng Quarter to Pr Yr Quarter | Interest | Total |
|------------------------|---------------------|---------------------|---------------------|----------------------|-----------|---------------------------------|---------------------------------------|-------------------|-----------------------|
| | | Restaurants | Collected | | | | | | |
| Oct-07 | 15,149 | 45,176 | 46,116 | 106,442 | | | | 4,924 | 111,366 |
| Oct-08 | 17,810 | 42,988 | 39,601 | 100,399 | | | | 47,588 | 147,987 |
| Total FY09 | \$ 269,389 | \$ 587,889 | \$ 749,573 | \$ 1,606,851 | | | | \$ 139,585 | \$ 1,746,436 |
| FY08 vs FY09 | -4.1% | -7.2% | -1.5% | -4.1% | | | | TaxableSales FY09 | \$ 84,571,113 |
| Aug-09 | 66,996 | 69,472 | 76,330 | 212,798 | | | | 3,513 | 216,311 |
| Sep-09 | 23,722 | 50,162 | 54,958 | 128,841 | | | | 1,571 | 130,412 |
| Oct-09 | 13,603 | 35,938 | 42,507 | 92,048 | | | | 7,116 | 99,165 |
| Total FY10 | \$ 245,171 | \$ 563,798 | \$ 730,393 | \$ 1,539,362 | | | | \$ 53,679 | \$ 1,593,041 |
| FY09 vs FY10 | -9.0% | -4.1% | -2.6% | -4.2% | | | | TaxableSales FY10 | \$ 81,019,064 |
| Jul-10 | 54,499 | 81,857 | 98,267 | 234,624 | | | | \$ 2,423 | \$ 237,047 |
| Aug-10 | 69,698 | 79,873 | 84,842 | 234,413 | | | | 1,023 | 235,436 |
| Sep-10 | 28,487 | 52,206 | 54,203 | 134,896 | | | | 1,342 | 136,238 |
| Oct-10 | 17,637 | 44,457 | 46,418 | 108,512 | | | | 6,551 | 115,063 |
| Nov-10 | 7,248 | 45,396 | 38,718 | 91,362 | | | | 17,292 | 108,654 |
| Dec-10 | 14,380 | 70,881 | 98,404 | 183,664 | | | | 1,413 | 185,077 |
| Jan-11 | 8,686 | 40,117 | 49,679 | 98,482 | | | | 1,276 | 99,758 |
| Feb-11 | 15,283 | 51,605 | 55,478 | 122,365 | | | | 1,151 | 123,516 |
| Total FY11 | \$ 274,688 | \$ 651,321 | \$ 747,615 | \$ 1,673,624 | | | | \$ 38,004 | \$ 1,711,629 |
| FY10 vs FY11 | 12.0% | 15.5% | 2.4% | 8.7% | | | | TaxableSales FY11 | \$ 88,085,492 |
| Jul-11 | 56,106 | 90,212 | 100,325 | 246,642 | | | | \$ 979 | \$ 247,621 |
| Aug-11 | 85,621 | 91,408 | 106,860 | 283,889 | | | | 7,833 | 291,722 |
| Sep-11 | 28,154 | 58,830 | 61,535 | 148,519 | | | | 593 | 149,112 |
| Oct-11 | 17,944 | 45,919 | 43,610 | 107,473 | | | | 496 | 107,969 |
| Total First 4 Months | 187,825 | 286,368 | 312,330 | 786,523 | | | | | |
| Nov-11 | 14,351 | 39,054 | 63,758 | 117,162 | | | | 479 | 117,641 |
| Dec-11 | 16,531 | 51,195 | 84,000 | 151,726 | | | | 526 | 152,252 |
| Jan-12 | 10,032 | 44,089 | 46,905 | 101,026 | | | | 515 | 101,541 |
| Feb-12 | 14,585 | 56,427 | 60,780 | 131,793 | | | | 578 | 132,371 |
| Mar-12 | 11,008 | 42,952 | 47,682 | 101,643 | | | | 557 | 102,200 |
| Apr-12 | 9,353 | 39,367 | 47,657 | 96,377 | | | | 610 | 96,987 |
| May-12 | 15,461 | 51,207 | 80,526 | 147,194 | | | | 6,993 | 154,187 |
| Jun-12 | 35,584 | 68,403 | 72,472 | 176,460 | | | | 625 | 177,085 |
| Total FY12 | \$ 314,731 | \$ 679,063 | \$ 816,110 | \$ 1,809,903 | | | | \$ 20,785 | \$ 1,830,688 |
| FY11 vs FY12 | 14.6% | 4.3% | 9.2% | 8.1% | | | | TaxableSales FY12 | \$ 95,258,076 |
| Jul-12 | 69,418 | 94,341 | 115,149 | 278,908 | | | | \$ 643 | \$ 279,551 |
| Aug-12 | 53,361 | 92,463 | 102,812 | 248,636 | | | | 444 | 249,080 |
| Sep-12 | 57,000 | 77,503 | 73,232 | 207,734 | | | | | |
| Oct-12 | 24,519 | 54,631 | 49,137 | 128,288 | | | | | |
| YTD vs Last Year | 8.8% | 11.4% | 9.0% | | | | | | |
| Total FY13 | \$ 204,298 | \$ 318,938 | \$ 340,331 | \$ 863,567 | | | | \$ 1,087 | \$ 528,631 |
| FY13 % of Collections | 24% | 37% | 39% | | | | | TaxableSales FY13 | \$ 45,450,877 |
| Grand Total | \$ 3,829,308 | \$ 7,961,758 | \$ 9,669,774 | \$ 21,460,840 | | | | \$ 742,968 | \$ 19,510,104 |
| % of Total Collections | 18% | 37% | 45% | | | | | | 3.5% Average interest |



| | |
|---------------------------------------|------------------|
| Total Taxable Sales Since 1996 | \$ 1,129,517,916 |
| Total Collected | \$ 22,590,358 |
| 5% Admin | \$ 1,129,518 |
| Public Portion | \$ 21,460,840 |

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Chuck Stearns

From: Necile Lorang [nlorang@cityofwhitefish.org]
Sent: Monday, December 24, 2012 9:21 AM
To: cstearns@cityofwhitefish.org
Subject: Letter & Photo - WF Sidewalks
Attachments: photo (6).jpg

----- Original Message -----

From: [Jay S. Erickson](mailto:Jay.S.Erickson)
To: nlorang@cityofwhitefish.org
Sent: Sunday, December 23, 2012 9:20 AM
Subject: Whitefish sidewalks

Dear Mayor and Whitefish City Council Members,

I am writing in regards to the poor upkeep of Whitefish sidewalks and snow removal. I have had the opportunity over the past two weeks to guide my 90 year old father downtown to eat and shop numerous times. The snow and ice on the sidewalks downtown for over a 10 day period was appalling. There appeared to be no attempt to remove this snow, using shovels or ice melt. The corner of 1st and Central was classic. All four sidewalks leading into this intersection were covered with snow during this time period. I imagine now since it has warmed this problem may have been solved. As we have transitioned to a town dependent upon tourism, I would expect a better effort from the business owners and the city of Whitefish.

Yesterday my heart broke as I was walking on the snow covered sidewalks of Hwy 93 near the mall and saw this disabled person needing to walk in traffic in order to navigate Hwy 93. I was wearing ice cleats and able to work my way through the ice, snow and muck. I often see tourists and others forced to walk in the street since these sidewalks are not cared for. As a physician and someone interested in the big picture of public health I see the lack of care for our winter sidewalks as a public health issue. I like to think that my city, Whitefish would be able to address this issue in an appropriate, pedestrian centered fashion. Thanks for your attention to this matter.

Regards,

Jay

Jay S. Erickson M.D.
Assistant Dean-WWAMI Clinical Phase/Montana
Clinical Professor
University of Washington School of Medicine

MT WWAMI Clinical Office
525 Railway, Suite 204
Whitefish, MT 59937

O: 406-862-3810
F: 406-862-3819
C: 406-253-0596



received

12/27/12

Dear Council,

How can you sleep
at night, when you
are duping the public

I own the house in
Whitefish at 145 Lakeside Blvd.

I pay my taxes, but I'm
not in the habit of
giving away money for
no services.

What's with you people
Can't you see that
you are stealing
from people?

Lucretia
Runcorn

