



**CITY COUNCIL SPECIAL SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, MARCH 18, 2013 5:00 to 5:15 PM**

1. Call to Order
 2. Interviews for applicants

5:00 Ryan Purdy, Whitefish Community Wastewater Committee
 3. Public Comment
 4. Appointment - Whitefish Community Wastewater Committee – City Council appointment
 5. Adjourn
-

**CITY COUNCIL WORK SESSION
CITY COUNCIL CHAMBER CONFERENCE ROOM
MONDAY, MARCH 18, 2013 5:15 TO 7:00 P.M.**

1. CALL TO ORDER
2. 5:15 p.m. – **CLOSED EXECUTIVE SESSION** – Quarterly litigation update with City Attorney
3. 5:45 – 6:15 P.M. **CLOSED EXECUTIVE SESSION:** City Attorney annual evaluation. Pursuant to §2-3-203(3) MCA, the presiding officer may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceeds the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.
4. 6:15 – 7:00 P.M. **CLOSED EXECUTIVE SESSION:** City Manager annual evaluation. Pursuant to §2-3-203(3) MCA, the presiding officer may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceeds the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.
5. ADJOURNMENT

PUBLIC NOTICE

THE CITY OF WHITEFISH HAS POSITIONS OPEN
ON THE FOLLOWING VOLUNTEER COMMITTEE



AD HOC WHITEFISH COMMUNITY WASTEWATER COMMITTEE

– an ad hoc committee to identify, monitor, and coordinate issues of wastewater management, including identifying septic leachate contamination to the shoreline area of Whitefish Lake. Positions open for two (2) citizens, one (1) representative from each of the affected sampling areas: Lazy Bay and Point of Pines.

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. Interested citizens may submit a letter of interest to serve on the above committee to the Whitefish City Clerk's Office at 418 E. 2nd Street or mail to P.O. Box 158, Whitefish, MT 59937, by Monday, March 11th. Interviews will be scheduled for Monday, March 18th Thereafter, if vacancies still exist, letters of interest will be accepted until the positions are filled.

*****THANK YOU FOR YOUR INTEREST!*****



MORRISON & Frampton, PLLP

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DOUGLAS SCOTTI *
RYAN D. PURDY
LORI B. MILLER**
BRIAN JOOS

FRANK B. MORRISON, JR. (1937-2006)
FORMER MONTANA SUPREME COURT JUSTICE

* Licensed also in State of Louisiana
** Licensed also in States of
Washington and California

February 15, 2013

VIA E-MAIL and US MAIL DELIVERY

City of Whitefish
C/O Necile Lorang
nlorang@cityofwhitefish.org

Re: Whitefish Community Wastewater Committee

Mrs. Lorang;

I am a resident living at 623 Delray, Whitefish, MT. I have been asked by the Lazy Bay HOA, of which I am a member, and Mrs. Patti Scruggs to represent the interest holders of Lazy Bay on the aforementioned Committee. I would greatly appreciate being considered for such position and may be contacted at my office during normal business hours for further inquiry.

Thank you for your assistance in this matter. If you would like to further discuss these matters please feel free to call me at your earliest convenience.

Best regards,

Ss/Ryan D. Purdy

Ryan D. Purdy
Morrison & Frampton, PLLP

RP/ss

AD HOC WHITEFISH COMMUNITY WASTEWATER COMMITTEE – RES 12-15, Sunsets 7-31-2013

Ten (10) Voting Members:

- 1 - Mayor John Muhlfeld
- 2 – Councilor Bill Kahle
- 3 – Cal Scott, Flathead County Commissioner or designee, appointed by the Commissioners
- 4 – Jan Metzmaker, Flathead Basin Commission Board Member
- 5 – Vacancy, Lazy Bay area representative
- 6 – Jim Laidlaw, Lion Mountain area representative
- 7 – Ben Cavin, Carver Bay/East Lakeshore area representative
- 8 – Vacancy - Point of Pines area representative
- 9 – Andy Feury, Community Member at Large
- 10 – Denise Hanson, P.E., Community Member at Large

Up to nine (9) Ex-officio (non-voting) members:

- 1 – Rich Knapp, (City Manager designee)
- 2 – Greg Acton, (Public Works Department designee), Alternate – John Wilson
- 3 – Wendy Compton-Ring (Planning Department designee)
- 4 – Flathead County Health Department
- 5 – Tom Cowan, P.E. (pending) Septic-system Engineer (advertised for)
- 6 – Carl Denny, M.D., Whitefish Water District
- 7 – Mike Koopal, Whitefish Lake Institute
- 8 – Lori Curtis, Whitefish Lake Institute
- 9 -

RESOLUTION NO. 12- 15

A Resolution of the City Council of the City of Whitefish, Montana, establishing an ad hoc Whitefish Community Wastewater Committee.

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

Section 1: There is hereby established a Whitefish Community Wastewater Ad Hoc Committee (the "Committee").

Section 2: The purpose and duties of the Committee shall be as follows:

A. Identify, monitor, and coordinate issues of wastewater management for the Whitefish Community;

B. Identify spatial and temporal extent of septic leachate contamination to the shoreline area of Whitefish Lake;

C. Provide a scientific basis for identifying ecological threats to Whitefish Lake; and

D. Prepare an ad hoc committee report with recommendations to the Whitefish City Council regarding wastewater management, septic systems, nutrient trading, and wastewater conveyance issues including:

1. Timeline of deliverables that takes into account the complexity of the issues and timing of funding opportunities.
2. Address short-term goals (such as education and outreach) and long-term goals (such as management options and/or policy setting).
3. Review current funding options and grant application deadlines so the committee can position the City to meet important deadlines.
4. Monitoring component to assess and disseminate information from ongoing investigations by the Whitefish Lake Institute and other science-based and technical organizations.
5. Prepare a list of resource agencies and decision makers to be included on communications of the committee.

Section 3: Membership of the Committee shall be as follows:

A. The Committee shall have up to ten (10) voting members. Members shall consist of one (1) or two (2) Whitefish City Councilors and/or Mayor, appointed by the Whitefish City Council, one (1) Flathead County Commissioner (or designee) appointed by the Flathead County Commissioners, one (1) Flathead Basin Commission Board Member, one (1) representative from each of the affected sampling areas, Lazy Bay, Lion Mountain, Carver Bay/East Lakeshore, and Point of Pines (four (4) citizens), and two (2) at-large members from the community of Whitefish and its extraterritorial area.

The City Clerk shall make a notation of a member's representation category to facilitate appointment to categories not represented.

B. The Committee shall also have up to nine (9) ex-officio (non-voting) members as follows: the City Manager or designee, one (1) representative from Whitefish City Public Works, one (1) representative from Whitefish City Planning Department, one (1) representative from Flathead County Health Department, one (1) septic system engineer, one (1) representative from Whitefish Water District, and two (2) representatives from the Whitefish Lake Institute appointed by the Whitefish Lake Institute.

C. The City Council shall be entitled to appoint those individuals that it determines most qualified, regardless of representation category. The City Council may appoint one of its members to serve as an ex officio (non-voting) member of the Committee.

D. Committee members shall receive no compensation.

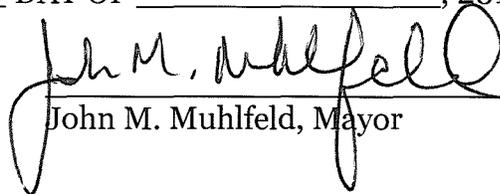
Section 4: The Committee shall begin its deliberations as soon as practical after creation of the Committee. The Committee shall be disbanded no later than of July 31, 2013, or earlier if the City Council completes its consideration of the Committee's report prior to that date.

Section 5: A member of the Committee may be removed by the City Council, after a hearing for misconduct or nonperformance of duty. 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 grounds 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 Committee Chair at least twenty-four (24) hours prior to any scheduled meeting.

Section 6: Any vacancy on the Committee shall be filled by the unexpired term in the same manner as the original appointment.

Section 7: 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, THIS 16th DAY OF JULY, 2012.



John M. Muhlfeld, Mayor

ATTEST:



Necile Lorang, City Clerk

CITY OF WHITEFISH
CITY ATTORNEY CONFIDENTIAL EVALUATION
DATE: _____

1. **General Performance:**
Has Mary done a good job of implementing City Council policy and accomplishing Council's objectives?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

2. **Interaction with the public:**
Is Mary's interaction with the public befitting that of a City Attorney? Is he respected and developing a beneficial relationship with the Community?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

3. **Ordinances and Policies:**
Does Mary do a good job of preparing City ordinances, contracts, and policies?
Does she negotiate, prepare, and present effective ordinances and contracts?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

4. Organizational Skills:

Does Mary present clear, well written and well articulated information to the City Council and the public for decision making? Does he keep the City Council well informed? Does he have a good command of information?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

5. Staff Interaction:

Does Mary seem to have a healthy and effective rapport with staff in general? Is communication open and effective?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

6. Problem solving and decision making:

Does Mary have appropriate problem solving skills and use them to assist the Council effectively? Does she make good decisions and exhibit good judgment that supports the Council's policy objectives?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

7. Accountability:
Is Mary accountable for her actions? Does she take responsibility for the consequences of her recommendations and actions?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

8. Does Mary provide effective recommendations to Mayor and Council when dealing with policy matters while also providing viable alternatives as needed from which to choose?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

9. Does Mary maintain effective relationships with City boards and committees and other governmental entities such as State agencies, County government, school district, etc?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

10. What things do you most appreciate that Mary as City Attorney is doing?

Comments: _____

11. Overall Job Performance and any other matters not specifically identified above.

Comments: _____

CITY OF WHITEFISH
CITY MANAGER CONFIDENTIAL EVALUATION
DATE: _____

1. General Performance:
Has Chuck done a good job of implementing City Council policy and accomplishing Council's objectives?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

2. Interaction with the public:
Is Chuck's interaction with the public befitting that of a City Manager? Is he respected and developing a beneficial relationship with the Community?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

3. Enforcement of Ordinances and Policies:
Does Chuck do a good job of enforcing and causing the enforcement of City ordinances, contracts, and policies? Does he negotiate, prepare, and present effective ordinances and contracts?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

4. **Organizational Skills:**
 Does Chuck present clear, well written and well articulated information to the City Council and the public for decision making? Does he keep the City Council well informed? Does he have a good command of information?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

5. **Staff Management:**
 Does staff morale seem appropriate? Does Chuck seem to have a healthy and effective rapport with his staff in general? Is communication open and effective?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

6. Budget Administration:

Does Chuck manage the City's resources well? Does he prepare and administer the budget well? Does he provide clear information and choices to Council for their deliberations?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

7. Problem solving and decision making:

Does Chuck have appropriate problem solving skills and use them to assist the Council effectively? Does he make good decisions and exhibit good judgment that supports the Council's policy objectives?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

8. Accountability:

Is Chuck accountable for his actions? Does he take responsibility for the consequences of his recommendations and actions?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

9. Does Chuck provide effective recommendations to Mayor and Council when dealing with policy matters while also providing viable alternatives as needed from which to choose?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

10. Does Chuck maintain effective relationships with other governmental entities such as State agencies, County government, school district, etc?

- Unsatisfactory
- Needs Improvement
- Acceptable
- Very good
- Excellent

Comments: _____

11. What things do you most appreciate that Chuck as City Manager is doing?

Comments: _____

12. Overall Job Performance and any other matters not specifically identified above.

Comments: _____

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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, March 18, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-04. Resolution numbers start with 13-04.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)
- 4) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 5) 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 March 4, 2013 Council regular session (p. 28)
 - b) Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (2nd Reading) (p. 40)
 - c) Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (2nd Reading) (p. 42)
- 6) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
 - a) Continuation of public hearing from February 19th - Consideration of a request by Dan Graves on behalf of Winter Sports Inc. for an extension to the Glades preliminary plat, phases 3-13 (p. 47)

7) COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 72)
- b) Other items arising between March 13th and March 18th
- c) Consideration of approving a lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1st Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot (p. 78)
- d) Discuss scheduling an extra work session to catch up on backlog of work session topics (p. 90)

8) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Letter from Greg Shaffer of Don K Whitefish regarding suggested modifications to the sign ordinance (p. 93)
- c) Reconsider decision not to place the overhead utilities on the East 2nd Street reconstruction project underground (p. 94)
- d) Set a date for a public hearing on considering constructing the future City Hall with a parking structure
- e) Email from Cheryl Watkins of Bookworks regarding a boutique hotel at 3rd and Central (p. 107)

9) 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



March 13, 2013

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

Mayor Muhlfeld and City Councilors:

Monday, March 18, 2013 City Council Agenda Report

There will be a special session for an interview beginning at 5:00 p.m. Following that, there will be closed, executive sessions for the quarterly litigation report and the annual evaluations of the City Attorney and City Manager. 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 March 4, 2013 Council regular session (p. 28)
- b) Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (2nd Reading) (p. 40)
- c) Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (2nd Reading) (p. 42)

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

Item a is an administrative matter; items b and c are legislative 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) Continuation of public hearing from February 19th - Consideration of a request by Dan Graves on behalf of Winter Sports Inc. for an extension to the Glades preliminary plat, phases 3-13 (p. 47)

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

Background:

At the February 19, 2013 public hearing, staff recommended extending three phases of The Glades preliminary plat. These phases – 4 (development Pod ‘P’), 6 & 7 (development Pod ‘R’) – were identified in the Big Mountain Neighborhood Plan as development areas, while the remaining areas of the original plat were either identified for new uses (Haskill Preserve or the Clinic) or were simply not included as development areas. The applicant, Dan Graves, agreed with staff’s assessment and formally requested a 24-month extension to only those phases, allowing the remaining phases to expire. Please see the attached letter and revised preliminary plat map.

At the public hearing, Council raised the following concerns/questions:

1. How close is the stream to the development? Specifically Units 56 and 57 and the end of the cul de sac were mentioned.

According to the materials and a ‘to scale’ drawing, the stream is approximately 70-feet from the closest proposed structure and the cul de sac. The current Water Quality Protection regulations require a 100-foot buffer that can be averaged over the project, but can be no less than 50-feet. Even though this particular project pre-dates the WQP regulations, the project appears to meet this standard.

2. Is the Council being asked to abandon the Neighborhood Plan?

No, the Neighborhood Plan was a cooperative planning process between the city, the mountain and the various property owners and was adopted as part of the City’s Growth Policy. This request further implements the Neighborhood Plan.

3. Can the Council extend only portions of the preliminary plat and let remaining phases expire?

Yes, as was described in the previous staff report, the amendments to the Subdivision Regulations gave Council maximum flexibility in extending preliminary plats.

It is important to note that additional conditions of approval cannot be added to an already approved preliminary plat. 76-3-610(2), M.C.A.

Background on The Glades Preliminary Plat

As was described in the February staff report, the preliminary plat was approved by the Flathead County Commissioners on March 22, 2005. Phase 1 was platted in 2003 under an earlier application. Phase 2 was platted in 2008 (Phase 2 was subsequently vacated, at the request of the owner, in 2011). Several extensions were granted and the remaining phases of the preliminary plat now expire August 18, 2013.

Current Report:

This is a residential subdivision with a combination of single family dwellings, townhouse and cabin-style units. The Phases being requested for the extension are

located northwest of Glades Drive, south of the Easy Rider chair and south of the clinic. The phases total 12.39 acres. Over 8 acres of the subdivision is maintained in open space. The phases include 52 townhouses and 22 cabins for a total of 74 units – a reduction from the original preliminary plat of 178 units. One new road with is being proposed and it meets the city’s private road standards. The project is served by the Big Mountain Water Company and the Big Mountain Sewer District.

Public Comment

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on February 1, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on January 30, 2013. As of the writing of this report, no comments have been received.

Financial Requirement

None known. The project will be served by private roads, the Big Mountain Water Company and the Big Mountain Sewer District.

RECOMMENDATION: Staff respectfully recommends the Council **approve** Phase 4, 6 and 7 of The Glades preliminary plat, as depicted on the revised preliminary plat map dated February 25, 2013 for 24 months, expiring on August 18, 2015 based on the following findings of fact:

Finding 1: The 178 units on 28-lot subdivision was approved by the Flathead County Commissioners on March 22, 2005. In 2008, the Council granted an extension, as provided for the subdivision regulations at the time, until March 20, 2009. In 2010, the Council granted an extension until August 18, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires August 18, 2013.

Finding 2: In 2006, the Whitefish City Council approved the Big Mountain Neighborhood Plan which sets out locations for development, land uses, range of densities and transportation linkages.

Finding 3: Phases 4, 6 and 7 support and implement the 2006 Big Mountain Neighborhood Plan.

Finding 4: The City of Whitefish has water rights on Haskill Creek including its reaches. The stream through this project, First Creek, is one of those reaches.

This item is a quasi-judicial matter.

COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 72)
- b) Other items arising between March 13th and March 18th

- c) Consideration of approving a lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1st Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot (p. 78)

At a February 4th work session, we discussed the possibility of leasing the five vacant lots at the NW corner of 1st Street and Central Avenue from Whitefish Frontiers, LLC for use as a temporary parking lot. The City would install landscaping at a cost estimated at \$15,000 – see the cost estimate in the packet. The City would also place asphalt millings from the Hwy 93 South milling project on the lot (approximate cost of \$2,000) to meet the air quality regulations. The City Council wanted to see a proposed layout of the parking and to be sure of the lease provisions with the owner.

I am attaching a proposed lease and a draft parking layout in the packet with this report. Mary VanBuskirk has modified the lease in consultation with the Chief Financial Officer and an attorney for Whitefish Frontiers, LLC. They have agreed to rent the lots to us for \$1.00 per year given our investment in the landscaping and millings. It is a two year lease that can be renewed if they do not put the property into development, but it is not automatically renewable.

I have talked with representatives of the neighboring property, Craggy Range, and they are excited about the temporary parking lot. They have tentatively agreed to provide a water connection for the landscaping and we would reimburse them for water consumed for irrigation.

In addition to the approximate \$17,000 development cost, we would likely have \$300 for curb stops, \$500 for painting and striping, and approximately \$1,000 to \$2,000 cost annually for maintenance and watering of landscaping and clearing snow from the sidewalks.

The development costs would be paid from the TIF fund. The Parks and Recreation Department would handle the landscaping and snow removal costs, but we could add some funding to their budget to handle the additional work.

RECOMMENDATION: Staff respectfully requests that the City Council consider and approve a lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1st Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot and authorize staff to proceed with the improvements.

This item is a legislative matter.

- d) Discuss scheduling an extra work session to catch up on backlog of work session topics (p. 90)

As described in the February 27th City Manager's report, the upcoming schedule of work sessions is quite full. The upcoming schedule is currently:

March 18th - One interview, Litigation Quarterly Report and City Attorney and City Manager evaluations in Executive Session

April 1 - Annual Goals setting session

April 15th - Somewhat open – right now planning Annexation and TIF work sessions

May 6th - Committee and Board interviews

May 20th - Committee and Board interviews

June 3rd - excess Committee and Board interviews and open

June 17th - one set of interviews and open

July 1st and beyond – open right now

Given a number of upcoming topics, I was wondering whether the City Council would want to have a special work session some evening in order to deal with several work session topics. Some of the work session topics pending are:

1. Northwest Energy Franchise Agreement discussion – I may put this topic into the April 15th meeting and eliminate annexation for the time being
2. Discussion of any charter amendments or referenda for fall ballot issue
3. Discussion of possibility of establishing new TIF Districts
4. Habitat For Humanity – they sent a letter requesting a work session or meeting on cooperating on housing projects

However, I need to remind you that some or all of you already have additional meetings coming up such as:

Real Estate Committee meetings on boutique hotel
 Early budget meetings with three Council members at a time
 Fifth Monday meeting on April 29th
 Budget work sessions on May 28th and June 10th
 Regular monthly committee meetings

So, if you feel that the schedule and topics above can wait, we may not need a special work session. However, other topics often arise (sign code, other items from Departments, other items from the Mayor and Council), so the upcoming schedule doesn't allow a lot of flexibility for new items.

RECOMMENDATION: Staff respectfully requests that the Mayor and Council discuss whether or not they would like to hold a special work session on an evening other than a Monday night and if so, please establish a date and time for such meeting. If not, we will just hold to the schedule above and delay or fit in topics as we can.

This item is an administrative matter.

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Letter from Greg Shaffer of Don K Whitefish regarding suggested modifications to the sign ordinance (p. 93)
- c) Reconsider decision not to place the overhead utilities on the East 2nd Street reconstruction project underground (p. 94)
- d) Set a date for a public hearing on considering constructing the future City Hall with a parking structure
- e) Email from Cheryl Watkins of Bookworks regarding a boutique hotel at 3rd and Central (p. 107)

ADJOURNMENT

Sincerely,



Chuck Stearns
City Manager

"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

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WHITEFISH CITY COUNCIL MINUTES

March 4, 2013

7:10 P.M.

1. CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Hildner, Kahle and Hyatt. Mayor Muhlfeld announced that Councilor Anderson had to leave for a short while but will return; Councilor Anderson was seated at 7:50 p.m. Councilor Mitchell was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Planning and Building Director Taylor, Recreation Director Cozad and Fire Chief Kennelley. Approximately 10 people were in attendance.

2. PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Bayard Dominick to lead the audience in the Pledge of Allegiance.

3. PRESENTATIONS

3a. Update on High School construction project – Bayard Dominick

Bayard Dominick with Steeplechase Development Advisors is overseeing the construction and design of the High School. He gave an update of their progress. He said he has been working with Councilors Sweeney and Hildner on the Budget Oversight Committee and it has been great. He said they keep hearing that people want more communication. There is now a High School building project website so folks can keep up on the progress. They also created a Facebook page for updates. There are 3 bid packages. Bid Package 1 is the gym project; Bid Package 2 is out to bid right now and includes the site work, foundation, excavation and structural steel. Bid Package 3 is the vast majority of the new construction and demolition of the A and B wings and remodeling of the C wing. Package 1 bids came in 7% below the estimates so the funds not used can be moved into a contingency fund. The gym will be done by June because that is what the State grant requires. The design committee is planning for the wood from the bleachers to be reincorporated into other items in the new building. The flooring will be used as a fundraiser for the Hall of Fame. There were 69 bids on 23 scopes of work for Bid Package 1. In Bid Package 2 there are 3 scopes of work and 27 people attended the pre-bid meeting, which is exciting.

A newsletter was sent out to all the parents at Muldown because the traffic flow and bus pick-up locations will change during construction; along with a temporary relocation of the front door of the High School. The budget is 19.3 million dollars and he offered to email the detailed budget to the Councilors. They are hoping for competitive bids. Any excess will be set aside for contingency needs. They are actively putting together fundraising packages for people to help with specialty projects. GMP is the Guaranteed Maximum Price for the project and includes drop-dead completion dates with fines if not met. The project should be completed in the summer of 2014 and for the 2015 school year. Councilor Hyatt asked and Bayard Dominick said special projects are not fully funded, that is why they are working on fundraising. Councilor Sweeney asked if there has been a decision made about what kind of contingency the project is going to carry and Bayard Dominick said the usual is 3-5%. Mayor

Muhlfeld asked and Bayard Dominick said he would be glad to come back and update the Council again at a later date.

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)

Joan Vetter Ehrenberg, 744 Hidden Valley Drive, brought a copy of HB 483, by Ed Lieser, to the Council. The intent of this bill was to provide for the inspection of septic systems before the transfer of property. She showed the map that indicates the septic challenges on Whitefish Lake. She wondered if it was something the City could handle, since the State didn't pass the bill. She is in favor of voting by mail in this year's election; an item on tonight's agenda. She said it saves money for taxpayers and was pretty successful with turnout.

Thomas Gilfillan, 240 Central Avenue, brought to their attention that when he originally opened his shop 9 years ago he had the choice of purchasing the store front where Stumptown Art Studio is located, or his current location. He said he believes there is a law that says that no bars can be built south of 2nd Street. He said many owners built their businesses further down Central Avenue specifically because there are no bars there. He wondered if the boutique hotel was planning on having a bar. Manager Stearns said they would research that issue.

5. COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Hildner said the Bike/Ped Committee met this morning. TD&H is working on alignment with all the issues for the Skye Bridge; then they will be working on the BNSF easement/right-of-way. The Committee is exploring possible alternatives for safe bicycle and pedestrian traffic on the Whitefish 93 West project. He said volunteers are looking at helping with re-painting the Monegan Bridge handrails and helping with the bike trail on the Dodger Lane. He said he met with BN & EPA personnel; he had a meeting with Dave Smith and Rob Hagler and Jennifer Chergo about the river cleanup and bike path and they expect to have it open the first week of July. He said Safe Routes to School will install a speed reader by Muldown to tell people how fast they're going; and pedestrian-activated crosswalk signals will be installed at 1st & Baker and 5th & Spokane intersections.

Councilor Kahle said the Whitefish Wastewater Committee met and they are looking for a comprehensive, multi-jurisdictional solution to the septic leachate issue. Mayor Muhlfeld said he attended that meeting and heard a report from Planning Consultants AE2S on Montana's adopted nutrient trading program which describes Montana's trading program. Lori Curtis attended the WASCT training in Helena to help her prepare the uniform grant application to allow them to apply for DNRC and TSEP grant funds. He said Mike Koopal is working on an updated water quality status report which will be ready in spring 2014 for the Council's review.

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 February 19, 2013 Council regular session (p. 51)

Councilor Hildner offered an amendment to Minutes page 11, (packet page 61), paragraph 3, to replace “least” with “lease.” It should state, “She noted that a sale or lease of City property....”

Councilor Kahle offered a motion, seconded by Councilor Hildner, to approve the consent agenda as amended. 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. Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (1st Reading) (p. 66)

Jan Metzmaker, Director of the Whitefish Convention and Visitors Bureau (WCVB), said she sought the Council’s thinking about a change in the residency requirements for perhaps two of its committee members during Public Comment at the February 18, 2013 City Council meeting. The Councilors discussed the current residency requirement, which requires all nine members of the WCVB to reside within the Whitefish zoning jurisdiction. Metzmaker said this has been a sore point with some business owners who would like a voice on the Board but live out of town. The Board didn’t come to a consensus on the qualifications. The WCVB is the economic development arm of the City and a lot of the businesses live, breathe and bleed Whitefish. The Board does not fear that they will be taken over by outside interests. She felt there are some very good prospective members who cannot serve on the board because of where they live. She went to the City website and looked at other committees. The Resort Tax Committee and ARC committee do not require residency in the City. She asked them to allow these people to serve. She said the by-laws don’t say you have to be a member in good standing, but she would assume that would be included.

Councilor Kahle asked about the geographical boundary and Jan Metzmaker said it is just important to have someone who will attend and serve and help them have a quorum at meetings. Councilor Hyatt said if they aren’t in Flathead County then maybe they won’t make meetings.

Mayor Muhlfeld opened the public hearing.

Sandy Nogle, owner of 510 Wisconsin Avenue and McGarry’s Roadhouse said the WCVB is a volunteer group, with voluntary dues. She lives in Kalispell but her loyalty lies with the City of Whitefish and she uses the banks and lawyers and businesses here. She said it is important to open this to participation for people who can and will make a great contribution. She’d like to reconsider only allowing two positions. She asked them to look at this favorably and acknowledge their investment in their City.

Nick Polumbus, 303 Stumptown Loop, and Board Chairman of the WCVB said he is in favor of these changes. They are looking for a pool of talented people to participate. He said some may ask if they have the best interests of Whitefish at heart and he is hoping that will always be a question the Council will ask during interviews. He thinks they could select a person who lives anywhere.

Mayor Muhlfeld closed the public hearing. Councilor Anderson joined the meeting.

Councilor Hildner said he has a couple of questions on page 68 of the packet. He thought they should change “or managerial position.” He said he was open to them including only senior management. Councilor Kahle said he had the same concern until he heard Jan Metzmaker talk about the senior managers who want to be involved. He said he is OK as long as the appointments stay with City Council. Councilor Hyatt agreed that they don’t want to have the regulations so confining that they can’t include great people. Councilor Anderson said he doesn’t have an issue with the managerial position, but he thinks it should be the most senior individual at the property. He said just having a business in Whitefish doesn’t adequately address his concerns. He said it should have to have a brick and mortar aspect to it. Mayor Muhlfeld said there were 12 virtual businesses listed for one address on Wisconsin Avenue, so he would have a concern about that issue, too.

Councilor Sweeney said he wouldn’t want to limit this to the most senior manager because it would be too limiting. He would like to limit people to Flathead County for availability purposes. Councilor Hyatt said there are quite a few people who are not the senior managers on the board, so they could leave it to the Council when they complete the interviews. Councilor Hildner asked if it was necessary to codify brick and mortar businesses versus virtual businesses or could it be handled in the interview process. Manager Stearns said the policy question is up to the Council and they could clarify the wording. Mayor Muhlfeld asked if City Attorney VanBuskirk could review and change that wording before the 2nd reading and Manager Stearns said they could, but they need Council’s direction. Councilor Kahle said applicants have to be interviewed by Council and that will help them avoid the situation of someone with a virtual business. Councilor Anderson said sometimes an attorney’s office is a premise for a business. He said the language of the ordinance should state it is a bricks and mortar business. The Flathead County requirement should be incorporated into this as well.

Councilor Hildner offered a motion, seconded by Councilor Kahle, to continue this hearing to the next Council meeting with staff bringing back a redrafted ordinance.

Jan Metzmaker said their Board changes in May and if they change this ruling, then she needs to know so people can apply. Manager Stearns said ordinances go into effect 30 days after the 2nd reading. City Clerk Lorang said April 26th said is the deadline for applications. City Attorney VanBuskirk suggested a couple of amendments stating the member has an ownership interest or a senior managerial position at a business located within the City of Whitefish zoning jurisdiction.

Councilor Hildner and the second withdrew the motion.

Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve Ordinance No. 13-02; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (1st Reading).

Councilor Sweeney said they needed to include brick and mortar and not include senior managers. Manager Stearns suggested it states (bricks and mortar) with “business located and operating within the City of Whitefish.”

Councilor Anderson offered a friendly amendment to state a brick and mortar business within the City of Whitefish. The motion maker and second agreed.

Attorney VanBuskirk said it is possible to have a business in your spare bedroom and it would be a brick and mortar location. She suggested that it state, "Two members may reside in Flathead County, but outside the City's zoning jurisdiction as long as they have an ownership interest or managerial position with a business located and operating within the Whitefish zoning jurisdiction."

The motion maker and second agreed. The amendment passed unanimously.

The original motion, as amended, passed unanimously.

7b. Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (1st Reading) (p. 72)

Planning and Building Director Taylor reported that this proposed new section under Special Provisions and the corresponding new definition will provide a framework so the public can more easily understand the development requirements and restrictions for Short Term Rentals. The amendments also provide performance standards so there will be less impact on adjacent long term residents, as well as tools to aid enforcement of illegal rentals. It doesn't change where short term rentals are allowed, but it provides some restrictions on them and provides a place for people to find them in the code and provides for policing of violations.

Short term rentals, or vacation rentals, are commercial rentals of residential property for less than thirty days. Unlike a lot of resort communities that are now struggling with the proliferation of short term rentals and their impacts, Whitefish was pro-active about specifying they be allowed only in certain districts when the zoning code was created. Short term rentals are allowed in resort zoning districts WRR-1, WRR-2, WRB-1, and WRB-2, Big Mountain zoning WBMV and WBMRR, and in the WB-2 and WB-3 commercial zones. Neighborhoods that allow short term rentals include Crestwood, Baypoint, Suncrest, Mountain Harbor, Iron Horse, Ptarmigan, Orchard Point, Whitefish Mountain Resort and surrounding areas, Whitefish Lake Lodge condos and vicinity, and the neighborhood around the Grouse Mountain soccer fields. Rentals of less than thirty days are illegal in standard residential zones such as the WR-1, WR-2, etc.

The code defines residential purposes as "the intent to use and/or the use of a room or group of rooms for the living sleeping, and housekeeping activities of persons on a permanent or semi-permanent basis of intended tenure of one month or more", therefore rentals less than 30 days are considered a non-residential use and are subject to resort taxes and other regulations. The zoning code does not really have a specific section where you can find much information on short term rentals, although they are mentioned specifically as an allowed use in the resort residential and resort business zoning districts. Commercial zones such as the WB-2 and WB-3 permit them under the broad heading "hotels, motels, and other hospitality or entertainment uses."

In 2011, a private individual applied for a code amendment to allow the creation of short term rental 'overlay zones' so that short term rentals might be allowed after a public process in confined areas of other zoning districts besides resort and commercial. The City Council did not approve that amendment, citing concerns with impacts on affordable housing and the erosion of traditional residential neighborhoods. These potential performance standards and enforcement tools were discussed as part of

that process. After recent discussions with the City Manager and City Attorney, staff has now brought them forward on their own as a tool to better regulate existing and future short term rentals. There are benefits to short term rentals with resort taxes, but there are some concerns, too. While the benefits of short term rentals include expanded accommodation options for visitors, added resort and bed tax revenues, additional income for second home owners, and improved property values, there are some issues that they create. Short term rental impacts include:

- Degeneration of traditional family-oriented neighborhoods
- Potential for increased noise and traffic disturbances in residential neighborhoods
- A possible reduction in available on-street parking
- Possible reduced pool of available rental property and affordable housing
- The possibility that housing prices could be driven up in certain areas, forcing out local families

The Planning Board recommended approval and at the public hearing, three members of the public spoke. Ken Stein, 1495 Lion Mountain Drive addressed Monterra's HOA's efforts to curb illegal short term rentals. Jill Zignego, Five Star Rentals, generally supported the new regulations and asked that existing grandfathered properties be allowed to register. She also asked for a way for properties bordering resort districts to have an option to do short term rentals. Linda McCarthy, 432A Dakota, spoke and said she complied with all the requirements but had some concerns about taxes and costs.

RECOMMENDED AMENDMENTS TO TITLE 11

11-3-35 SHORT TERM RENTAL STANDARDS

Short Term Rentals

Certain zoning districts such the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

- A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:
1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
 2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
 3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
 4. Each unit shall meet the standards for off street parking found in §11-6. Currently, two spaces are required in most zones.
 5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.

6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.
9. The owner's (or local contact, if absentee per h above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
11. There will be no signage outside the unit advertising the short term rental of properties
12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.

- B. **Violations.** Operating a short-term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1), that the property owner or listing agent, or both, knew the standards and zoning; and, (2), that the operator of the short term rental within city limits knew the duty to collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

11-9-2 Definitions

Residential, Short Term Rental – The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

Director Taylor said the City Manager is good about keeping track of rentals within the city limits because he is responsible for making sure the City collects resort tax. The Whitefish City-County Planning Board held a public hearing on February 21, 2013. Following this hearing, the Planning Board recommended approval of the amendments (8-1, Konopatzke voting in opposition) with a change to the definition of Short Term Rentals to make it ‘.less than thirty consecutive days..’ and adopted the supporting findings of fact in the staff report.

Councilor Kahle asked about PUDs and Director Taylor said potentially a PUD could add this as a use. Councilor Kahle asked and Director Taylor said HOA standards would take precedence and it would be up to the HOA to enforce the standards. Attorney VanBuskirk said the HOA rules don't take precedence

over the City Code, but agreed it was up to the HOA to enforce their covenants. Councilor Kahle said a lot of homes formerly owned by permanent residents are now owned by temporary residents. Councilor Sweeney said in the instance of a HOA prohibiting short term rentals, even if the zoning of the area allows them; the HOA requirement would take precedence because it is a higher standard than what the City code allows but enforceable by the HOA and Attorney VanBuskirk agreed. Councilor Sweeney had a question under Section B. Violations. He thought they should be able to penalize both the business owner and the property caretaker. It should say, "and," not "or."

Councilor Hildner had a question on page 75. He wondered if staff had looked up short term rentals on the internet and Director Taylor said they did a crackdown several years ago and there were over 100 rentals that were illegal. He said since then they've been keeping up on compliance. He said he imagines there are a couple of dozen illegal ones now, but none of them were visible on VRBO. Manager Stearns said last fall he and Vanice Woodbeck worked on an enforcement campaign and found violators on VRBO and Craig's list. He said he wrote about 20 letters and got resort tax collection going for about half of those. Councilor Hildner said page on 78, #6 says the license is administered by Flathead County and Director Taylor said the applicant has to bring a document from the County proving that they are registered with the County. Councilor Hildner asked about the inspection fee and Director Taylor said the Fire Marshall said they are more than willing to do the inspections, but they could talk with him. Manager Stearns said the business license covers the cost of the annual fire inspection. Director Taylor said on Big Mountain their Fire Department will have to do the inspection. Mayor Muhlfeld asked about page 84 and comments at the Planning Board hearing. He wondered about grandfathering in properties that have been engaged in rentals for the past 40-50 years. He said when they addressed this in the past there was talk about doing it. Director Taylor said the standards have been in place since the 1980's, so in order to be exempt they would have to prove that they existed as short-term rentals before then.

Mayor Muhlfeld opened the public hearing.

Jill Zignego, 704 Baker Avenue, 5 Star Rentals, said it is a good idea to have more regulations. She likes that there is a plan to enforce problems. She has had this business for 18 years and she knows that she can only offer 8-12 weeks of rentals per year. She said there are 40 weeks of non-rental that have no impact on the neighborhoods. She said Whitefish gets a lot of money from visitors and most of their renters are families and only come with 1-2 cars. She was talking about units around the lake that are in the County, not the City, and the donut is still a question. She said if they don't have houses around the lake to house visitors then they will lose a lot of visitors that way.

Chris Schustrom, 504 Spokane Avenue, thanked Mary VanBuskirk and David Taylor for their work. He said keeping the residential areas intact is what makes Whitefish a viable place for families to live. He urged adoption.

Mayor Muhlfeld closed the public hearing.

Councilor Sweeney said he would like to address the idea of grandfathering. Director Taylor said properties that were unzoned in 2005, if they can show they were renting the home out before then, can have grandfather status. He said areas that don't allow short term rentals, but are in the County and the County hasn't enforced it, can't be grandfathered. Manager Stearns said to keep a non-conforming use they have to use it as that non-conforming use continuously or then it goes away. Director Taylor said that isn't easy to prove. If they could show that they had rental records then they could grant them status. Manager

Stearns said he thinks the chances of that are pretty remote. Councilor Kahle said on page 82 under short term rentals it lists four zoning districts that allow short term rentals. Resort Residential, Resort Business, and two of the three business zones--B2 and B3.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to approve Ordinance No. 13-03; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20; Staff Report WZTA-13-01. (1st Reading).

Councilor Sweeney asked that the “or” be changed to “and” and Attorney VanBuskirk said they used “or” because the property owner may conduct an action that the agent didn’t know about or vice versa. Councilor Sweeney said they should be watching what the other is doing.

Councilor Sweeney offered an amendment, seconded by Councilor Anderson, to change “or” to “and” so that it reads, “...property owner and listing agent.”

Councilor Kahle asked why they had “or” originally and Attorney VanBuskirk said it was possible one wouldn’t know. Councilor Anderson discussed Page 83, Section B, which says the presumption is that both the agent and owner know the standards in zoning. It is not that they are guilty of the offense. Councilor Hyatt asked how many units they would lose and Jill Zignego said all of the lake houses would be gone—and that’s 20-25 houses. Manager Stearns said it might have only been a function of when they were looking, but staff found only 4-5 vacation homes listed around the lake when they searched last fall. Councilor Hyatt said some of these homes bring a lot of money into the community. He is against this because it will tear into the fabric of what Whitefish does as a resort community.

The amendment passed 3-2 with Councilors Kahle and Hyatt voting in opposition.

Councilor Anderson said he is okay with discussing and determining what a grandfathered property is. He thinks that there is a cycle to renting and he wondered if there was a way they could address the issue around the lake for those who have been doing it a long time. Director Taylor said the Code addresses non-conforming uses and doesn’t allow gaps of non-use. He said there are some loopholes in the system, as in they can advertise 30 day minimums. Councilor Anderson said if they were renting before the zoning overlay and could be grandfathered, then he is fine with that. He said there isn’t a threat to the lake properties this way. Manager Stearns corrected a typo on page 74, Exhibit A, first sentence, “Certain zoning districts such as as the WB2, WB3, etc.” Councilor Kahle said there are certain homes that might have been acting outside of the law and they are trying to tighten up the standards. Councilor Hyatt said it is a huge source of revenue they have not accounted for and they will lose some of the people who are coming here. He said families don’t want to be in a hotel. He doesn’t think this is their best tool. Councilor Kahle said not only is it not right, it is not legal to illegally offer short term rentals.

The original motion, as amended, passed with Councilor Hyatt voting in opposition.

Attorney VanBuskirk noted a typo on page 75, #9, which should read “per 8 above.” The Council accepted the amendment.

8. COMMUNICATIONS FROM CITY MANAGER

8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 98)

Councilor Kahle said he is glad Police Officer Rob Veneman is back. Mayor Muhlfeld thanked Councilor Hildner for keeping up on the Whitefish River clean-up and said he asked Karin Hilding to set up a date to meet with BNSF and EPA to finalize the details for their clean-up of the infrastructure damage. Councilor Hildner agreed and said they need to discuss the care of the pipe that is fully exposed under the Baker Street Bridge. Mayor Muhlfeld suggested that he and Councilor Hildner meet to write up the issues that need to be discussed at that meeting.

Councilor Anderson said he is concerned that the bike path is going to be closed again this summer. The City spent a lot of time and money getting that in place and it has been closed a lot.

8b. Other items arising between February 27th and March 4th

Manager Stearns said it is possible that they have reached tentative agreement with the Police Union on a 3-year contract. He reminded the Council and Department Directors to get the Manager and Attorney evaluations turned into Mayor Muhlfeld; there will be an executive work session before the next meeting. The Highway 93 West Project bid results came in and the low bidder was LHC who did the project downtown; it was 8% less than the engineer's estimate. Construction will start this spring.

He said he got a letter that Optimum is being sold to Charter Communications, the 4th largest cable provider in the country. When we get the notification of transfer it will likely delay the current negotiations of our franchise agreement which started with Bresnan, moved to Optimum, and now will have to move to Charter Communications.

He asked when the Council would like a public hearing on the parking structure. Mayor Muhlfeld agreed that they needed to schedule it, but said they should set something up at the next meeting when they have a full Council.

9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

9a. Standing budget item - None.

9b. Confirm or revise dates for initial City Council budget work sessions (p. 105)

Mayor Muhlfeld said the budget work sessions are scheduled for May 13th and May 28th prior to the regular meetings. Several of the Councilors had scheduling conflicts. Manager Stearns said the budgets are distributed on May 6th, and they need a preliminary budget adopted by July 1st. Manager Stearns suggested May 28th and June 10th and the Council agreed.

9c. Consideration of 2014 Election – vote by mail or at polling stations (p. 107)

Mayor Muhlfeld opened this topic for discussion.

Councilor Hildner offered a motion, seconded by Councilor Sweeney, to allow for a vote by mail for the 2014 election.

Councilor Hyatt said he and his wife's ballot didn't make it to their house and then didn't make it back to the County. He said there are some worries about the mail-in ballot.

The motion passed 3-2 with Councilors Kahle and Hyatt voting in opposition.

9d. Consideration of appointing a City Council member to Employee Health Insurance Committee - Frank Sweeney's initial term has expired (p. 122)

Councilor Anderson moved, Councilor Kahle seconded, to re-appoint Councilor Sweeney to the Employee Health Insurance Committee. The motion passed unanimously.

Councilor Kahle said he was asked to bring up the undergrounding of power lines issue again. He heard a lot of comments that they aren't going to be getting the best bang for their buck. He said if it is a policy then it needs to be enforced for all. He asked Attorney VanBuskirk if he could bring it back up as an agenda item because he was the second on the motion. Attorney VanBuskirk said for a reconsideration he would have to ask someone from the prevailing side. Councilor Anderson said the policy is that all new utilities will be buried. East Second Street deals with existing utilities. He said he hears Councilor Kahle saying developers are getting treated differently. This isn't new construction, so it doesn't apply, but the City needs to look at how to apply the law to existing or old utilities.

Councilor Sweeney moved, Councilor Hyatt seconded, to reconsider this at the March 18th meeting. The motion to reconsider passed 3-2 with Councilors Kahle, Hyatt and Sweeney voting in favor.

Councilor Anderson said he has been thinking about the comments that Whitefish is a retirement and resort community. He looked at government sources to determine the economy of Whitefish and there is almost two times more manufacturing in Whitefish than compared to the State level. The jobs are more professional than the Montana State or US rates. One of the most interesting issues is that the rate of retail trade is less in Whitefish than the Montana State rate. Whitefish is not a resort/retirement community—it has a diverse culture and economy. It is a family community. He would encourage people to do their own research before they form an opinion on issues that effect policy. Councilor Hyatt said they need to come up with a new home page slogan because it says Whitefish is a resort/retirement community.

Mayor Muhlfeld said if they have language they'd like to see included they could forward it to him. He would also like to see the City commit money to the upgrade of the Whitefish website. Councilor Hyatt said he would like to work on that with the Mayor. Mayor Muhlfeld reminded the Council that he needs the evaluation forms before March 17th for the City Manager and Attorney VanBuskirk.

Mayor Muhlfeld asked about the Mike Goguen lots and Manager Stearns said he has this item tentatively scheduled on the next agenda. Mayor Muhlfeld said he appreciated Planner Compton-Ring and Attorney VanBuskirk's notes on the quasi-judicial issues coming. He thanked Rich Knapp for the information on Ipads and asked the Council to let him know if they wanted one. Mayor Muhlfeld said

he attended the donut meeting and thanked Terry Trieweiler for his representation of the City of Whitefish. He did an excellent job with his deliberations.

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

Mayor Muhlfeld adjourned the meeting at 9:26 p.m.

Mayor Muhlfeld

Jane Latus Emmert, Recording Secretary

Attest:

Necile Lorang, City Clerk

ORDINANCE NO. 13-02

An Ordinance of the City Council of the City of Whitefish, Montana, amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee.

WHEREAS, the City Council established the seven-member Convention and Visitor Bureau Committee as a standing committee by Ordinance No. 06-05, adopted on March 20, 2006; and

WHEREAS, the City Council expanded the membership of the Convention and Visitor Bureau Committee from seven to up to nine members on July 2, 2012, by Ordinance No. 12-10; and

WHEREAS, Section 2-12-3(A) provides that all nine members of the Convention and Visitor Bureau Committee shall reside within the City of Whitefish zoning jurisdiction; and

WHEREAS, the Convention and Visitor Bureau Committee desires to amend Section 2-12-3(A) and the Committee's By-Laws to allow up to two (2) members of the Convention and Visitor Bureau Committee to reside in Flathead County, as long as the member has an ownership interest or senior management position with a business located within the City of Whitefish zoning jurisdiction; and

WHEREAS, at a lawfully noticed public hearing on March 4, 2013, the Whitefish City Council received an oral report from the members of the Convention and Visitor Bureau Committee, invited public input, and revised and approved the requested amendment to Section 2-12-3(A); and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to accept the requested amendment.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: Section 2-12-3(A) is hereby amended in its entirety to provide as follows:

A. Appointment; Compensation: The committee shall have up to nine (9) members. Members shall be appointed by the city council. **All-At least seven (7) members shall reside in the city of Whitefish zoning jurisdiction. Two (2) members may reside in Flathead County, but outside the city of Whitefish zoning jurisdiction, as long as the member has an ownership interest or managerial position at a business located and operating within the City of Whitefish zoning jurisdiction.** The city council shall endeavor to appoint members

who represent one of the following business categories, and that have broad experience in and a current understanding of the following types of businesses:

Finance
Large lodging properties
Restaurant and bar business
Retail businesses
Small lodging properties
Transportation business
Whitefish golf course
Whitefish Mountain Resort

The city clerk shall make a notation of a member's representation category **and a member's residence** to facilitate appointment to categories not represented. However, the city council shall be entitled to appoint those individuals that it determines most qualified, regardless of representation category. The city council may appoint one of its members to serve as an ex officio (nonvoting) member of the committee. Committee members shall receive no compensation.

Section 2: All other provisions of Title 2, Chapter 12, shall remain unmodified.

Section 3: The Bylaws of the Convention and Visitor Bureau Committee shall be amended accordingly.

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, ON THIS _____ DAY OF _____, 2013.

John M. Muhlfeld, Mayor

ATTEST:

Vanice Woodbeck, Assistant City Clerk

ORDINANCE NO. 13-03

An Ordinance of the City Council of the City of Whitefish, Montana, amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-2.

WHEREAS, the City of Whitefish initiated an effort to amend the Zoning Regulations by preparing a new Title 11, Chapter 3, Section 35, Special Provisions, to address short term rentals and performance standards, and define Residential, Short Term Rental in Section 11-9-2, Definitions, attached as Exhibit "A"; and

WHEREAS, the City currently has ordinances and codes in effect for short term rentals and the proposed amendments were prepared to clarify regulations and establish performance standards for the public to further improve performance, neighborhood compatibility, and health and safety; and

WHEREAS, the proposed amendments address safety and enforcement issues and establish development requirements and restrictions for short term rentals, which will make it easier for the City to administer and enforce existing regulations; and

WHEREAS, the proposed amendments would not change where short term rentals are allowed in the zoning regulations; and

WHEREAS, the considerations in Section 11-7-10(E) are either met or are not applicable; and

WHEREAS, at a lawfully noticed public hearing on February 21, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Staff Report WZTA-13-01, dated February 21, 2013, invited public comment, and thereafter voted to recommend approval of the proposed text amendments as revised, attached as Exhibit "A", with the supporting findings of fact; and

WHEREAS, at a lawfully noticed public hearing on March 4, 2013, the Whitefish City Council received an oral report from Planning staff, reviewed Staff Report WZTA 13-01, dated February 21, 2013, 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-13-01 is hereby adopted as Findings of Fact.

Section 3: Whitefish City Code Section 11-3-35, SHORT TERM RENTAL STANDARDS, added as provided in the attached Exhibit "A", is hereby adopted.

Section 4: Whitefish City Code Section 11-9-2, DEFINITIONS, Residential, Short Term Rental, added as provided in the attached Exhibit "A", is hereby adopted.

Section 5: 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 6: 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:

Vanice Woodbeck, Assistant City Clerk

EXHIBIT "A"

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

11-3-35: SHORT TERM RENTAL STANDARDS

Short Term Rentals

Certain zoning districts such as the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:

1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
4. Each unit shall meet the standards for off street parking found in §11-6.
5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.
6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.

9. The owner's (or local contact, if absentee per (8) above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
 10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
 11. There will be no signage outside the unit advertising the short term rental of properties
 12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.
- B. **Violations.** Operating a short term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1) that the property owner and listing agent knew the standards and zoning; and (2) that the operator of the short term rental within city limits knew the duty to collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

Whitefish City Code Title 11, Chapter 9 ZONING REGULATIONS - DEFINITIONS

11-9-2: DEFINITIONS

Residential, Short Term Rental: The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty consecutive days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

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February 13, 2013

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

Mayor Muhlfeld and Councilors:

Request to Extend The Glades, Phases 4, 6 & 7 Preliminary Plat (FPP 04-44)

Background:

At the February 19, 2013 public hearing, staff recommended extending three phases of The Glades preliminary plat. These phases – 4 (development Pod ‘P’), 6 & 7 (development Pod ‘R’) – were identified in the Big Mountain Neighborhood Plan as development areas, while the remaining areas of the original plat were either identified for new uses (Haskill Preserve or the Clinic) or were simply not included as development areas. The applicant, Dan Graves, agreed with staff’s assessment and formally requested a 24-month extension to only those phases, allowing the remaining phases to expire. Please see the attached letter and revised preliminary plat map.

At the public hearing, Council raised the following concerns/questions:

1. How close is the stream to the development? Specifically Units 56 and 57 and the end of the cul de sac were mentioned.

According to the materials and a ‘to scale’ drawing, the stream is approximately 70-feet from the closest proposed structure and the cul de sac. The current Water Quality Protection regulations require a 100-foot buffer that can be averaged over the project, but can be no less than 50-feet. Even though this particular project pre-dates the WQP regulations, the project appears to meet this standard.

2. Is the Council being asked to abandon the Neighborhood Plan?

No, the Neighborhood Plan was a cooperative planning process between the city, the mountain and the various property owners and was adopted as part of the City’s Growth Policy. This request further implements the Neighborhood Plan.

3. Can the Council extend only portions of the preliminary plat and let remaining phases expire?

Yes, as was described in the previous staff report, the amendments to the Subdivision Regulations gave Council maximum flexibility in extending preliminary plats.

It is important to note that additional conditions of approval cannot be added to an already approved preliminary plat. 76-3-610(2), M.C.A.

Background on The Glades Preliminary Plat

As was described in the February staff report, the preliminary plat was approved by the Flathead County Commissioners on March 22, 2005. Phase 1 was platted in 2003 under an earlier application. Phase 2 was platted in 2008 (Phase 2 was subsequently vacated, at the request of the owner, in 2011). Several extensions were granted and the remaining phases of the preliminary plat now expire August 18, 2013.

Current Report:

This is a residential subdivision with a combination of single family dwellings, townhouse and cabin-style units. The Phases being requested for the extension are located northwest of Glades Drive, south of the Easy Rider chair and south of the clinic. The phases total 12.39 acres. Over 8 acres of the subdivision is maintained in open space. The phases include 52 townhouses and 22 cabins for a total of 74 units – a reduction from the original preliminary plat of 178 units. One new road with is being proposed and it meets the city's private road standards. The project is served by the Big Mountain Water Company and the Big Mountain Sewer District.

Public Comment

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on February 1, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on January 30, 2013. As of the writing of this report, no comments have been received.

Financial Requirement

None known. The project will be served by private roads, the Big Mountain Water Company and the Big Mountain Sewer District.

Recommendation:

Staff recommends the Council **approve** Phase 4, 6 and 7 of The Glades preliminary plat, as depicted on the revised preliminary plat map dated February 25, 2013 for 24 months, expiring on August 18, 2015 based on the following findings of fact:

Finding 1: The 178 units on 28-lot subdivision was approved by the Flathead County Commissioners on March 22, 2005. In 2008, the Council granted an extension, as provided for the subdivision regulations at the time, until March 20, 2009. In 2010, the Council granted an extension until August 18, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires August 18, 2013.

Finding 2: In 2006, the Whitefish City Council approved the Big Mountain Neighborhood Plan which sets out locations for development, land uses, range of densities and transportation linkages.

Finding 3: Phases 4, 6 and 7 support and implement the 2006 Big Mountain Neighborhood Plan.

Finding 4: The City of Whitefish has water rights on Haskill Creek including its reaches. The stream through this project, First Creek, is one of those reaches.

Sincerely,



Wendy Compton-Ring, AICP
Senior Planner

Att: Extension Request Letter, 2-24-13
 Preliminary Plat Map, 2-25-13
 Conditions of Approval, 3-22-05
 Minutes, Whitefish City Council, 2-19-13
 Map, 2006 Big Mountain Neighborhood Plan

c/w/att: Necile Lorang, City Clerk

c/w/o/att: Dan Graves, Whitefish Mountain Resort, PO Box 1400 Whitefish, MT
 59937



February 24, 2013

Wendy Compton-Ring
Senior Planner
City of Whitefish
PO Box 158
Whitefish, MT 59937

Re: Extension of Subdivision Preliminary Plat – The Glades (FPP-04-44)

Dear Wendy,

I apologize for any confusion at the city council meeting on February 19 about my request to extend The Glades preliminary plat. Perhaps the name of the plat “Glades Phases 3-13” caused the confusion.

As you know after this preliminary plat was approved in 2005, there was a collaborative effort with the City of Whitefish to create the 2006 Neighborhood Master Plan. (See the colored map you included in the packet to city council.) As a result of that 2006 Master Plan, only 3 phases were left to develop.

- Phase 3 (now 4) – Northwest of Glades Drive and south of the Easy Rider Lift (chair 9).
- Phase 6 – South of Glades Drive and the clinic building.
- Phase 7 – South of Phase 6

These are the remaining phases of the preliminary plat that WSI would like to request an extension. To that end, I'm having a new map created taking all phases out except the three mentioned above. Perhaps the city should change the name to Glades – phases 4, 6 & 7 for clarity?

Considering that the Master Plan was a collaborative effort, I would hope that all the studies and considerations of development from 2006 still apply. Regarding the proximity to water, I believe the zoning regulations do allow the reduction of a buffer if it is increased in other areas, but no less than 50-feet. I believe WSI is more than meeting the intent of this section and it complies with the Water Quality Protection regulations in place now. I request the city to take into consideration:

- The 69% reduction of units from the original plat including the establishment of the Haskill Preserve.

- The closest building (units 55 and 56) in Phase 6 and a nearby cul-de-sac appear to be setback 70-feet from the stream.
- WSI will take all necessary precautions to ensure sediment doesn't get into the stream and that the buffer will remain intact in a natural state for the life of the project.

Additionally, at some point during the council meeting the discussion shifted to eliminating the two condos discussed above in phase 6. I would like to remind everyone that this is a preliminary plat and the locations, shapes and sizes of all buildings are only conceptual and won't be finalized until the final plat approval phase. It felt a bit peculiar "redrawing" the map in the council meeting.

As far as the reasons for the extension request, all previously discussed reasons still apply especially that the real estate market for single family home lots "on the mountain" was the hardest hit in the real estate downturn. Again, I offer the following:

- 1) I don't see that extending plat will have any detrimental impact to the public health, safety, or the general welfare of adjoining property owners.
- 2) The extension will not cause an increase in public costs because all of the roads are private and will not be maintained by the City of WF, but instead by Whitefish Mountain Resort. The water is serviced by Big Mountain Water Company, and the sewer by the Big Mountain Sewer District.
- 3) The extension will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.
- 4) The financial impact of investing in these subdivisions to take to Final Plat at this time would be an unwise business decision and poor use of capital funds for WSI.

Please understand that WSI's development land is vital to the welfare of the company, to the community as the largest employer in the winter and a significant driver of resort tax revenue. WSI needs to continue to spend money wisely and well-timed. Right now this doesn't apply to this preliminary plat.

I look forward to hearing from you.

Best regards,



Dan Graves
President
Winter Sports Inc.

THE GLADES AT BIG MOUNTAIN PHASES 4, 6 & 7

IN THE NW 1/4 & SW 1/4 OF SECTION 1, T.31N., R.22W., P.M., M.
 FLATHEAD COUNTY, MONTANA

JOB# 23480 (201711.DWG GLADES2-PREPLAT.DWG)

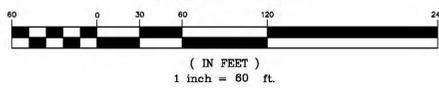
FOR: BIG MOUNTAIN DEVELOPMENT CO.

DATE: DECEMBER 6, 2004

REVISED: FEBRUARY 25, 2013

DESIGNED BY: DESIGN WORKSHOP INC.

GRAPHIC SCALE



DESCRIPTION:

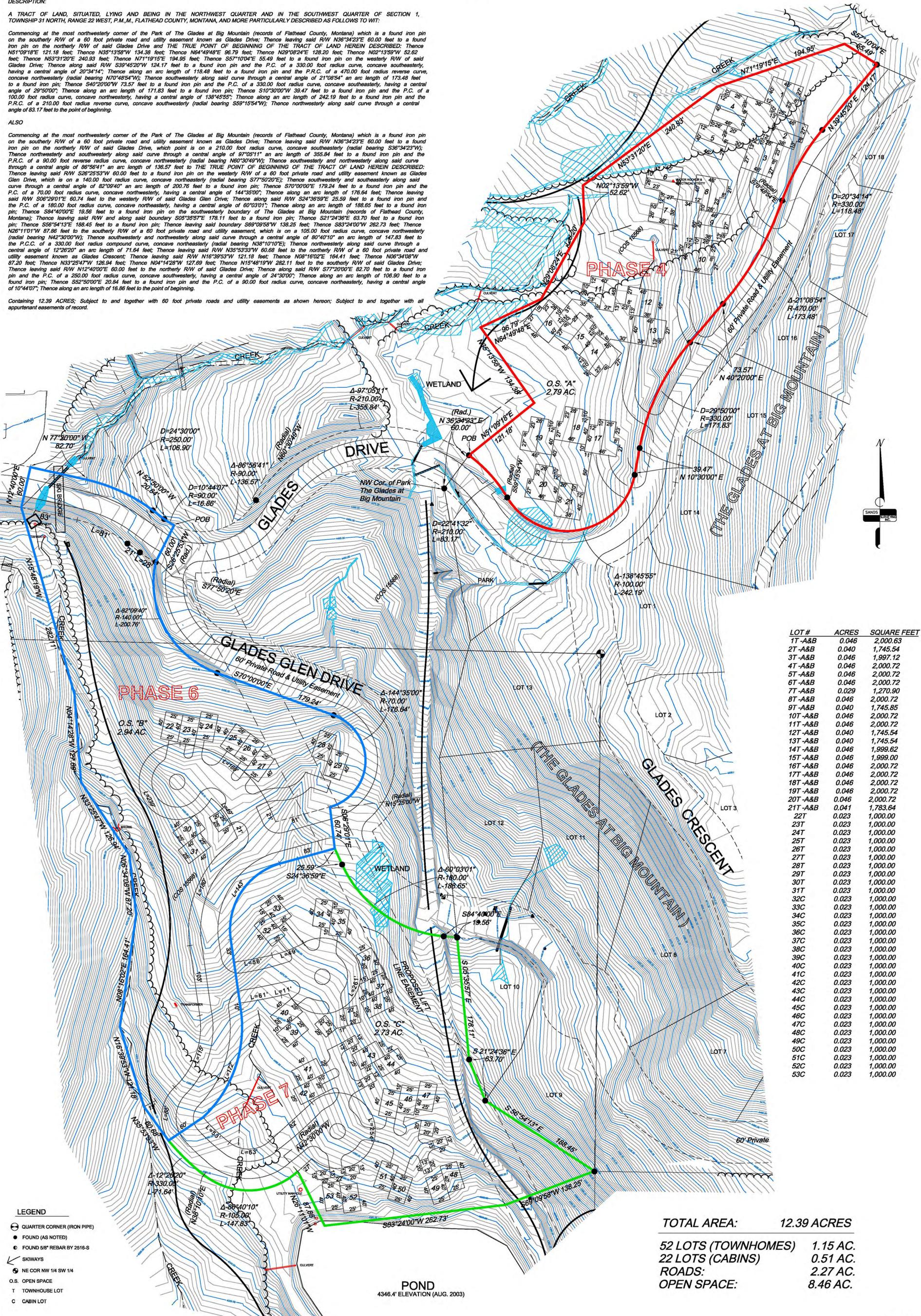
A TRACT OF LAND, SITUATED, LYING AND BEING IN THE NORTHWEST QUARTER AND IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

Commencing at the most northerly corner of the Park of The Glades at Big Mountain (records of Flathead County, Montana) which is a found iron pin on the southerly R/W of a 60 foot private road and utility easement known as Glades Drive; Thence leaving said R/W N36°34'23"E 60.00 feet to a found iron pin on the northerly R/W of said Glades Drive and the TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; Thence N51°09'18"E 121.18 feet; Thence N35°13'58"W 134.38 feet; Thence N64°49'48"E 96.79 feet; Thence N29°08'24"E 128.20 feet; Thence N02°13'59"W 52.62 feet; Thence N53°31'20"E 240.93 feet; Thence N71°19'15"E 194.95 feet; Thence S57°10'04"E 55.49 feet to a found iron pin on the westerly R/W of said Glades Drive; Thence along said R/W S39°45'20"W 124.17 feet to a found iron pin and the P.C. of a 330.00 foot radius curve, concave southeasterly, having a central angle of 20°34'14"; Thence along an arc length of 118.48 feet to a found iron pin and the P.C. of a 470.00 foot radius reverse curve, concave northwesterly (radial bearing N07°48'54"W); Thence southwesterly along said curve through a central angle of 21°08'54" to a found iron pin; Thence S40°20'00"W 73.57 feet to a found iron pin and the P.C. of a 330.00 foot radius curve, concave southeasterly, having a central angle of 29°50'00"; Thence along an arc length of 171.83 feet to a found iron pin and the P.C. of a 100.00 foot radius curve, concave northwesterly, having a central angle of 138°45'55"; Thence along an arc length of 242.19 feet to a found iron pin and the P.C. of a 210.00 foot radius reverse curve, concave southwesterly (radial bearing S89°15'54"W); Thence northwesterly along said curve through a central angle of 63.17 feet to the point of beginning.

ALSO

Commencing at the most northerly corner of the Park of The Glades at Big Mountain (records of Flathead County, Montana) which is a found iron pin on the southerly R/W of a 60 foot private road and utility easement known as Glades Drive; Thence leaving said R/W N36°34'23"E 60.00 feet to a found iron pin on the northerly R/W of said Glades Drive, which point is on a 210.00 foot radius curve, concave southeasterly (radial bearing S36°34'23"W); Thence northwesterly and southwesterly along said curve through a central angle of 97°05'11" an arc length of 355.84 feet to a found iron pin and the P.C. of a 90.00 foot reverse radius curve, concave northwesterly (radial bearing N60°30'48"W); Thence southwesterly and northwesterly along said curve through a central angle of 86°56'41" an arc length of 136.57 feet to the TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED; Thence leaving said R/W S26°25'53"W 60.00 feet to a found iron pin on the westerly R/W of a 60 foot private road and utility easement known as Glades Glen Drive, which is on a 140.00 foot radius curve, concave northwesterly (radial bearing S77°50'20"E); Thence southwesterly and southwesterly along said curve through a central angle of 82°09'40" an arc length of 200.76 feet to a found iron pin; Thence S70°00'00"E 179.24 feet to a found iron pin and the P.C. of a 70.00 foot radius curve, concave northwesterly, having a central angle of 144°35'00"; Thence along an arc length of 176.64 feet; Thence leaving said R/W S06°29'01"E 60.74 feet to the westerly R/W of said Glades Glen Drive; Thence along said R/W S24°36'59"E 25.59 feet to a found iron pin and the P.C. of a 180.00 foot radius curve, concave northwesterly, having a central angle of 60°03'01"; Thence along an arc length of 188.65 feet to a found iron pin; Thence S84°40'00"E 19.56 feet to a found iron pin on the southwesterly boundary of The Glades at Big Mountain (records of Flathead County, Montana); Thence leaving said R/W N35°33'39"W 60.88 feet to the northerly R/W of a 60 foot private road and utility easement known as Glades Crescent; Thence leaving said R/W N16°39'53"W 121.18 feet; Thence N08°16'02"E 164.41 feet; Thence N06°34'08"W 87.20 feet; Thence N33°25'47"W 126.94 feet; Thence N04°14'28"W 127.89 feet; Thence N15°48'19"W 282.11 feet to the southerly R/W of said Glades Drive; Thence leaving said R/W N12°40'00"E 60.00 feet to the northerly R/W of said Glades Drive; Thence along said R/W S77°20'00"E 82.70 feet to a found iron pin and the P.C. of a 250.00 foot radius curve, concave southwesterly, having a central angle of 24°30'00"; Thence along an arc length of 106.90 feet to a found iron pin; Thence S52°50'00"E 20.84 feet to a found iron pin and the P.C. of a 90.00 foot radius curve, concave northeasterly, having a central angle of 10°44'07"; Thence along an arc length of 16.88 feet to the point of beginning.

Containing 12.39 ACRES; Subject to and together with 60 foot private roads and utility easements as shown hereon; Subject to and together with all appurtenant easements of record.



LOT #	ACRES	SQUARE FEET
1T-A&B	0.046	2,000.63
2T-A&B	0.040	1,745.54
3T-A&B	0.046	1,997.12
4T-A&B	0.046	2,000.72
5T-A&B	0.046	2,000.72
6T-A&B	0.046	2,000.72
7T-A&B	0.029	1,270.90
8T-A&B	0.046	2,000.72
9T-A&B	0.040	1,745.85
10T-A&B	0.046	2,000.72
11T-A&B	0.046	2,000.72
12T-A&B	0.040	1,745.54
13T-A&B	0.040	1,745.54
14T-A&B	0.046	1,999.62
15T-A&B	0.046	1,999.00
16T-A&B	0.046	2,000.72
17T-A&B	0.046	2,000.72
18T-A&B	0.046	2,000.72
19T-A&B	0.046	2,000.72
20T-A&B	0.046	2,000.72
21T-A&B	0.041	1,783.64
22T	0.023	1,000.00
23T	0.023	1,000.00
24T	0.023	1,000.00
25T	0.023	1,000.00
26T	0.023	1,000.00
27T	0.023	1,000.00
28T	0.023	1,000.00
29T	0.023	1,000.00
30T	0.023	1,000.00
31T	0.023	1,000.00
32C	0.023	1,000.00
33C	0.023	1,000.00
34C	0.023	1,000.00
35C	0.023	1,000.00
36C	0.023	1,000.00
37C	0.023	1,000.00
38C	0.023	1,000.00
39C	0.023	1,000.00
40C	0.023	1,000.00
41C	0.023	1,000.00
42C	0.023	1,000.00
43C	0.023	1,000.00
44C	0.023	1,000.00
45C	0.023	1,000.00
46C	0.023	1,000.00
47C	0.023	1,000.00
48C	0.023	1,000.00
49C	0.023	1,000.00
50C	0.023	1,000.00
51C	0.023	1,000.00
52C	0.023	1,000.00
53C	0.023	1,000.00

TOTAL AREA: 12.39 ACRES
52 LOTS (TOWNHOMES) 1.15 AC.
22 LOTS (CABINS) 0.51 AC.
ROADS: 2.27 AC.
OPEN SPACE: 8.46 AC.

- LEGEND**
- ⊕ QUARTER CORNER (IRON PIPE)
 - FOUND (AS NOTED)
 - FOUND 5/8" REBAR BY 2516-S
 - ← SKIWAYS
 - ⊕ NE COR NW 1/4 SW 1/4
 - S.S. OPEN SPACE
 - T TOWNHOUSE LOT
 - C CABIN LOT

POND
 4346.4' ELEVATION (AUG. 2003)

Flathead County
Board of Commissioners

(406) 758-5503

Joseph D. Brenneman
Gary D. Hall
Robert W. Watne



March 22, 2005

Ms. Johna Morrison, Interim Director
Flathead County Planning & Zoning Office
1035 1st Avenue West
Kalispell, Montana 59901

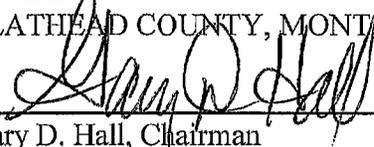
RE: Preliminary Plat for THE GLADES AT BIG MOUNTAIN, PHASES 2-13

Dear Ms. Morrison:

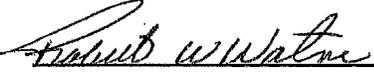
On this date, the Flathead County Board of Commissioners reviewed the preliminary plat of The Glades at Big Mountain, Phases 2-13. The Board of Commissioners has granted conditional approval to this request. A copy of the conditions, Exhibit A, is attached for your reference. This preliminary plat approval is in effect for three years and will expire on March 22, 2008.

Please be advised the applicant, if he so chooses, can appeal any of the conditions placed on this plat based on the Flathead County Subdivision Regulations, Section 7.6, as set forth in the attached Exhibit A-1.

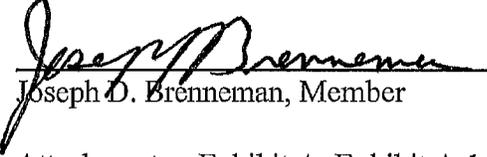
Sincerely,
BOARD OF COMMISSIONERS
FLATHEAD COUNTY, MONTANA



Gary D. Hall, Chairman



Robert W. Watne, Member



Joseph D. Brenneman, Member

Attachment: Exhibit A, Exhibit A-1

c: Glades Development, LLC
P. O. Box 1400
Whitefish, MT 59937

County Weed & Parks Dept.

Sands Surveying
2 Village Loop
Kalispell, MT 59901

County Road Dept.

EXHIBIT A

Conditions, upon which preliminary plat approval has been granted to The Glades at Big Mountain, Phases 2-13, this date of March 22, 2005, are as follows:

1. A secondary fire access road easement shall be obtained from the DNRC and recorded with the Clerk and Recorder. The road shall be constructed to minimum subdivision standards for emergency access roads. The road shall be completed prior to final plat.
2. All roads within the subdivision and the off-site portions providing access to the subdivision shall be constructed to comply with Flathead County Subdivision Regulations (Section 3.9) and shall be certified by a licensed professional engineer. All roads shall be paved.
3. All roads shall be privately owned and maintained, including snow removal to ensure safe two-way circulation year-round.
4. Road identification signs and traffic control devices such as stop and yield signs, shall be installed at each intersection in conformance with the requirements of the Flathead County Subdivision Regulations.
5. The following conditions shall be placed on the face of the final plat:
 - a. All house numbers shall be visible from the road either on the house or at the driveway entrance.
 - b. All lot owners shall provide and maintain "defensible space" in accordance with Flathead County Subdivision Regulations.
 - c. All structures shall have only Class A or B fire-resistant roofing materials as rated by the National Fire Protection Association.
 - d. Reasonable precautions shall be taken during construction and thereafter to prevent erosion and drainage problems. All disturbed areas shall be revegetated in accordance with a weed plan by Flathead County Weed & Parks.
 - e. All new utilities shall be installed underground.
 - f. Driveways shall not exceed 10% slope unless approved by the Big Mountain fire chief.

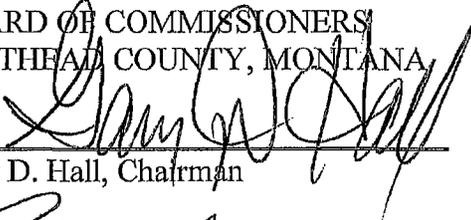
- g. Lot owners are advised that they are moving into an area frequented by large and potentially dangerous wild animals. As such, lot owners are strongly encouraged to contact the Montana Department of Fish, Wildlife & Parks and obtain information on living with wildlife.
- h. The feeding of birds or other wildlife is discouraged as it may attract large predatory animals such as lions and bears.
- i. Waiver of Protest
Participation in Special Improvement District

_____ (Owner) hereby waives any and all right to protest which it may have in regards to any attempt to be made by a local governmental entity, to initiate a Special Improvement District which includes _____ Subdivision, shown on the plat therefore, for any of the purposes related to roads, water facilities and systems, and sewer facilities and systems, set forth in Sections 7-12-2102 and 7-12-4102, M.C.A.; provided however that _____ understands that (he/she/it/they) retains the ability to object to the amount of assessment imposed as a result of the formation of a Special Improvement District, including the right to object on the basis that the property is not benefited by the Special Improvement District. _____ agrees that this covenant shall run to, with and be binding on the title of the real property described above and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the real property shown on the subdivision plat for _____ Subdivision.

- 6. A drainage and erosion control plan shall be prepared by a licensed professional engineer and shall be approved by the Montana Department of Health & Environmental Sciences. The drainage system shall direct roadway runoff to catchment basins and road sanding debris shall be prevented from entering streams during spring melt. The approved erosion control plan shall be implemented prior to and during any construction activities within the subdivision, which shall be certified by a licensed professional engineer.
- 7. Big Mountain Water & Sewer District shall serve the subdivision. Water and sewer facilities shall be reviewed and approved by the Big Mountain Water & Sewer District, Flathead City-County Health Department, and the Montana Department of Environmental Quality.
- 8. All new utilities shall be installed underground.

9. The number and placement of fire hydrants shall be reviewed and approved by the Big Mountain fire chief. The developer shall submit a letter from the fire chief stating all conditions have been met.
10. Open space of 27.85 acres shall be given in perpetuity to meet the parkland requirements of the Flathead County Subdivision Regulations.
11. A common mail delivery site(s) shall be provided for the subdivision at a location(s) approved by the Whitefish Postmaster and shall be calculated in the final plat. When mail delivery is provided on Big Mountain, provide common mailbox facilities and vehicular pull-off area in accordance with Flathead County Subdivision Regulations.
12. All addresses and road names will be in accordance with resolution #1626. All names and addresses will be reviewed and approved by the county plat room and will appear on the final plat.
13. Any wetlands and streams shall be delineated on the final plat. No structures shall be located in these portions. Any stream crossings may be subject to permitting from the Department of Natural Resources & Conservation.
14. The developer shall dedicate a walk path along one side of the roads from the residences to the ski hill.
15. This approval is valid for three (3) years from the date of preliminary approval.

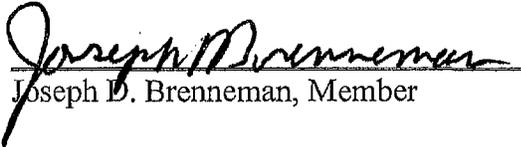
BOARD OF COMMISSIONERS
FLATHEAD COUNTY, MONTANA



Gary D. Hall, Chairman



Robert W. Watne, Member



Joseph D. Brenneman, Member

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve the request to extend the Big Mountain Village for 24 months, expiring on March 5, 2015, based on the findings of fact in the staff report.

Councilor Sweeney said he doesn't think the applicant would necessarily try to build according to the preliminary plat design if they were to build today. He asked if the goal of the extension request was to avoid the expense and cost of a new preliminary plat application sometime in the future when they are ready to develop the lots. Dan Graves said he arrived in November 2006 and the village planning was well underway. He said they've realized they should develop the building at Ed & Mully's Restaurant, the core of Chairs 1 and 2. They've learned that development without a rock solid understanding of the marketplace is fraught with danger. In 2007 the company was \$10 million in debt. They've paid back \$9 million of it. He said they've been good stewards of the land and protect the water. He said the extension request is a real estate decision and it is bad timing to build right now. Councilor Sweeney appreciated the response and he thinks WSI is a good steward up there. He said when they decide it is time to develop something they will probably come back with a different plan anyway. Dan Graves said he thinks the different phases are still good plans, but their buildings concepts have changes since 2007. Deputy Mayor Kahle asked and Director Taylor said city building permits are not required on the mountain because it is not in the city limits.

The motion passed unanimously.

6b. Consideration of a request by Dan Graves on behalf of Winter Sports Inc. for an extension to the Glades preliminary plat, phases 3-13 (p. 65)

Planner Compton-Ring reported that Dan Graves of the Whitefish Mountain Resort is requesting a 24-month extension for The Glades, Phases 3-13 preliminary plat. Phase 1 was platted in 2003 and Phase 2 was platted in 2008. Phase 2 was subsequently vacated, at the request of the owner, in 2011. Phases 3-13 are still remaining.

The preliminary plat now contains 21 single-family residential lots, 135 townhomes and 22 cabins on 55.73 acres located south of the Base Lodge on Big Mountain. The preliminary plat was approved by the Flathead County Commissioners on March 22, 2005, and expires August 18, 2013.

This development is a residential subdivision with a combination of single family dwellings, townhouse and cabin-style units. The development stretches from the east near the Easy Rider chair (also known as Chair 9) and existing Glades subdivision, phase 1 to the west and south of the Base Lodge. Over 23 acres of the subdivision is maintained in open space along the stream and pond. Several new private roadways are proposed within the project including a loop road to the south of the Base Lodge and several cul-de-sacs. All roadways meet the city's private road standards; the project is served by the Big Mountain Water Company and the Big Mountain Sewer District.

Change in Standards:

This subdivision was approved prior to the 2006 Big Mountain Neighborhood Plan, Water Quality Protection regulations and current subdivision regulations. Planner Compton-Ring gave a summary of phases and their relationship to the 2006 Neighborhood Plan.

Below is a summary of other pertinent items that have changed related to this preliminary plat:

- Most of the development is setback from the stream. The buffer of 125-feet with a 10-foot setback is generally being met with the project. The regulations provide the possibility to reduce buffers through averaging and enhancement, but the buffer could be no less than 50-feet.
- There are a series of wetlands in this subdivision. Again the buffer of 125-feet with a 10-foot setback is being met in some areas of the preliminary plat, but large portions of Phases 3, 4 and 7 are located within the buffer. Similar to streams, wetland buffers could be averaged provided buffers are no less than 50-feet.
- Some of the lots exceed 10%, requiring a geotechnical reconnaissance to determine whether or not further geotech review is warranted. Staff could not locate any geotechnical reports associated with the preliminary plat.

Of the eleven remaining phases of this preliminary plat, Phase 4 is the location of the current North Valley Clinic, Phases 2, 11 and 13 were removed from the neighborhood plan and Phases 8, 9, 10 and 12 are located wholly within the area designated as Haskill Creek Preserve. The Big Mountain Neighborhood Plan describes the Haskill Creek area:

“The Haskill Creek drainage below the Day Lodge is designated open space on the master plan. It is anticipated that this drainage will be utilized for hiking, walking, biking and ski trails. Structures other than resort related facilities supporting recreational activities or utilities are not anticipated within this green belt. The green belt varies from approximately 250-feet to 900-feet from either side of the streambed.”

Only Phases 3, 6 and 7 are located within the Neighborhood Plan as Development Pods ‘P’ and ‘R’.

Finally, this development lies in the upper reaches of 1st Creek, which is effectively the main channel of Haskill Creek. The confluences with 2nd Creek and 3rd Creek are a short distance downstream. The City of Whitefish has water rights on 1st, 2nd and 3rd Creeks and municipal water is currently drawn from 2nd and 3rd Creeks. The 1st Creek water right has been utilized in the past and continues to be available for municipal water supply. It is therefore important to protect the water quality of 1st Creek from degradation by human activities.

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on February 1, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on January 30, 2013. No comments have been received.

Staff has concerns with extending the entirety of The Glades preliminary plat since conditions have changed considerably since the plat was approved. Careful thought and consideration was put into the Neighborhood Plan, where development would be best located, the appropriate density and traffic circulation patterns. As the Neighborhood Plan was adopted as a part of the City’s Growth Policy, it makes sense to honor the planning work and approval the Council gave in 2006 with this extension request.

Staff recommends the Council approve extension of portions of the preliminary plat consistent with the Big Mountain Neighborhood Plan (phases 3, 6, and 7) for 24 months, expiring on March 5, 2015, based on the findings of fact in the staff report.

Councilor Anderson asked about the development of the Neighborhood Plan. Planner Compton-Ring said she started working for the City in 2005 and at that time the applicant had just proposed a plan to build a hotel in the vicinity of The Bierstube; and that plan complied with the Overall Development Plan (ODP) that had been approved by the County. Then the community decided ODP developed in the early 1990s wasn't adequate for the community, and that is when they created the Neighborhood Plan. Councilor Anderson asked and Planner Compton-Ring said WSI was the applicant and created the Neighborhood Plan. Councilor Anderson asked if the applicant was now asking to scrap the Neighborhood Plan and Planner Compton-Ring said no. Staff is recommending that the portions that are consistent with the Neighborhood Plan get extended and she believes the applicant is in favor of it. Deputy Mayor Kahle asked if the Council had the discretion to extend certain phases and not others and Attorney VanBuskirk said they do. Councilor Hildner asked about Phase 6 which most closely impacts First Creek and doesn't have the setbacks which would protect the water. Planner Compton-Ring said Phase 6 predates 2004 and any water protection regulations.

Deputy Mayor Kahle opened the public hearing.

Dan Graves said they were agreeing with staff's recommendation to utilize phases 3, 6 and 7 in the plat. There is water along the Chair 9 area and along Haskill Preserve so it isn't appropriate to build structures there. He said they would agree to the three Phases and that is what he would like to formally request the extension on. Councilor Mitchell asked and Planner Compton-Ring said staff agrees. Councilor Anderson asked and Planner Compton-Ring said staff is recommending approval of Phase 3, which is now called Phase 4, and Phases 6 and 7.

Ben Cavin, Houston Point Drive, said the water on the mountain is very important. He knows Mr. Graves is not ready to move on it now. He proposed that they deny the request and when Mr. Graves is ready to proceed he can submit new documentation with what he really wants to do.

Deputy Mayor Kahle closed the public hearing.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve an extension to the Glades preliminary plat, phases 3, 6 and 7, of approximately 40-60 units, adopting the findings of fact in the staff report.

Councilor Hildner said Phase 6 of the Glades concerns him most because the creek runs through here. He said that the water source is fragile and important and needs to be protected. This is the opportunity to provide a sufficient buffer along Haskill Creek. Councilor Mitchell said everything but lots 56 and 57 seem pretty well setback from the creek and Planner Compton-Ring agreed. Councilor Hyatt asked if they could just remove those two lots which are two condos. Dan Graves said he would be happy with that. Deputy Mayor Kahle said he fears on-the-fly re-design. He didn't know if they had options. He noted that there is a substantial cost to a preliminary plat application and that would be cumbersome. Attorney VanBuskirk said this plat doesn't expire until August so they could continue the hearing and sit down with the applicant to develop a specific proposal for consideration by the Council. She said they can't place additional conditions or standards on an existing preliminary plat that has already been approved.

Councilor Hildner asked and Councilor Mitchell and the second agreed to withdraw their motion.

Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to continue the public hearing and have Dan Graves and the City get together to work on a proposal for Council's consideration. The motion passed unanimously.

Manager Stearns clarified that they are talking about lots 55 and 56 in the buffer area; and the road that serves them, in addition, is well within the buffer area. He recommended that all should be considered in their alternate proposal. Council clarified with staff that the proposal will come back to the Council at their second meeting in March.

7. COMMUNICATIONS FROM CITY MANAGER

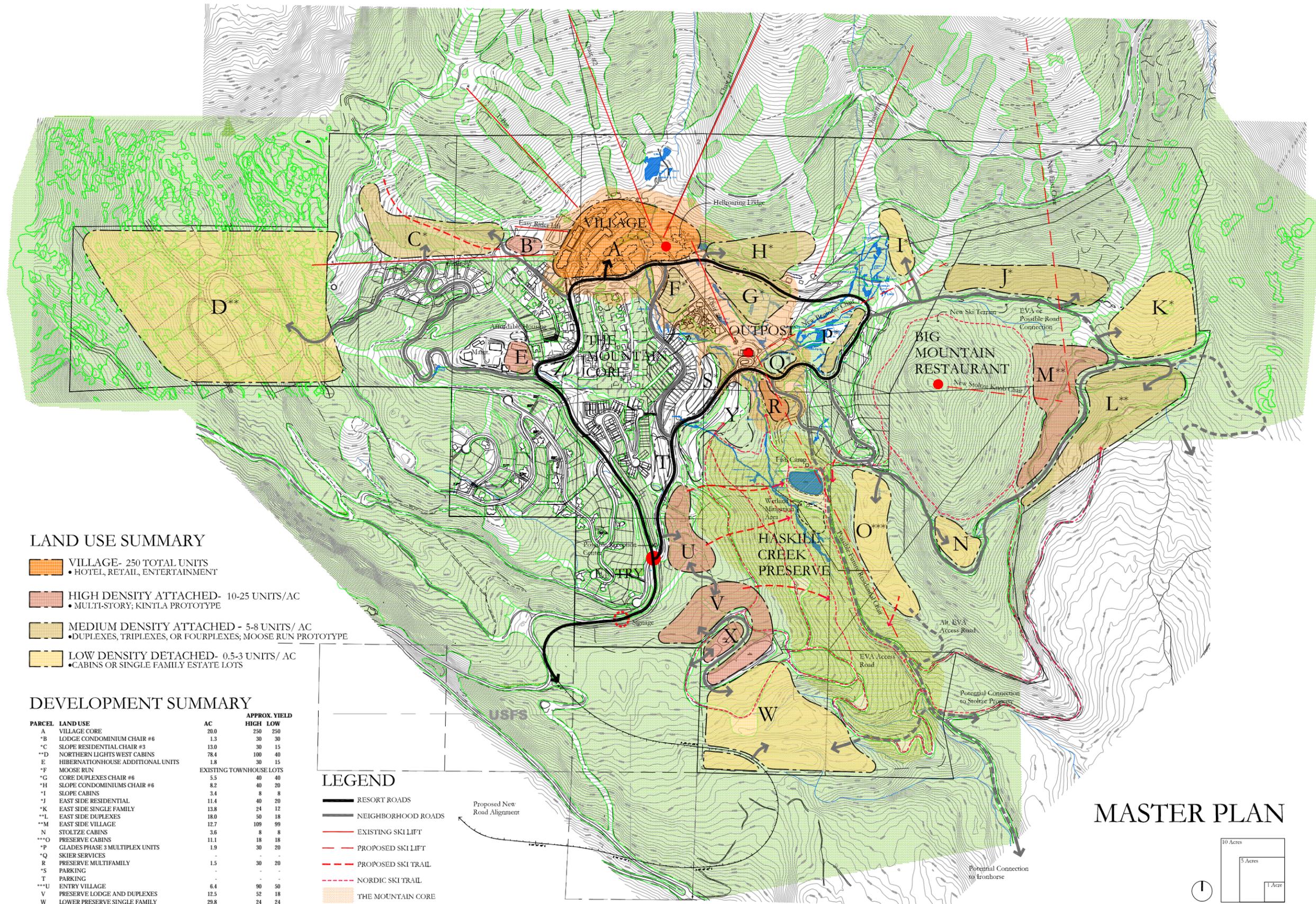
7a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 82)

Councilor Mitchell said he would be open to a 5th Monday meeting in April with Columbia Falls and the County. Manager Stearns said he'll give them more details as he gets them. Councilor Mitchell asked about the Whitefish Housing Authority houses and Manager Stearns said he doesn't think the consultant gave a specific recommendation on the two small houses; the Housing Authority is still deciding on how to proceed with them. Councilor Hyatt said the new pharmaceutical drop box is at the Emergency Services Building and he wondered if there was going to be advertising. Manager Stearns said Mayre Flowers is working with the City's utility billing to see about an insert.

7b. Other items arising between February 13th and February 19th

City Manager Stearns said at the March 4th meeting the work session will be with Kimerly-Horn, the parking consultants. Councilor Mitchell asked when it will come to Council and Manager Stearns said once the consultants complete their final report he thinks the next step would be to schedule a public hearing when the Council will make their determination of whether to proceed with either surface parking or a parking structure along with the new city hall. He said subsequent decisions will follow, but in his mind, Council's first decision will be to make that parking decision.

Manager Stearns said HB483 would allow local health boards to require inspections of septic systems prior to property transfers. The County Health Board would make that decision. He said they were asked to write a letter of support for this bill. He sent a copy of the bill to the Councilors. The letter of support would have to go out tomorrow, so he would like their input. Councilor Mitchell asked about the Flathead County Septic Board and Manager Stearns said they didn't show up at the hearing, so he doesn't know what they think. Manager Stearns said that if Flathead County chose to enact the regulations it would primarily affect the people in the donut areas. Councilor Mitchell said he isn't opposed to it, but without support or input from the County he couldn't support it. Councilor Sweeney said the proposed legislation only applies to counties that choose to utilize it. It doesn't require them to do anything. He thinks they ought to support it. Deputy Mayor Kahle said he sits on the Wastewater Committee and they face a septic leachate issue in Whitefish Lake. He said if they could deal with it during a transfer of ownership then it would be a good time to inspect and analyze septic systems. Councilor Hildner said he is in support of this because if the County chooses they can use this opportunity to help protect water quality. Councilor Anderson agreed that it would give the County a tool if they choose to adopt it. Councilor Hyatt supported the idea of sending a letter.



LAND USE SUMMARY

- VILLAGE- 250 TOTAL UNITS**
• HOTEL, RETAIL, ENTERTAINMENT
- HIGH DENSITY ATTACHED- 10-25 UNITS/AC**
• MULTI-STORY; KINTLA PROTOTYPE
- MEDIUM DENSITY ATTACHED - 5-8 UNITS/ AC**
• DUPLEXES, TRIPLEXES, OR FOURPLEXES; MOOSE RUN PROTOTYPE
- LOW DENSITY DETACHED- 0.5-3 UNITS/ AC**
• CABINS OR SINGLE FAMILY ESTATE LOTS

DEVELOPMENT SUMMARY

PARCEL	LAND USE	AC	APPROX. YIELD	
			HIGH	LOW
A	VILLAGE CORE	20.0	250	250
*B	LODGE CONDOMINIUM CHAIR #6	1.3	30	30
*C	SLOPE RESIDENTIAL CHAIR #3	13.0	30	15
**D	NORTHERN LIGHTS WEST CABINS	78.4	100	40
E	HIBERNATIONHOUSE ADDITIONAL UNITS	1.8	30	15
*F	MOOSE RUN	-	-	-
EXISTING TOWNHOUSE LOTS				
*G	CORE DUPLEXES CHAIR #6	5.5	40	40
*H	SLOPE CONDOMINIUMS CHAIR #6	8.2	40	20
*I	SLOPE CABINS	3.4	8	8
*J	EAST SIDE RESIDENTIAL	11.4	40	20
*K	EAST SIDE SINGLE FAMILY	13.8	24	12
**L	EAST SIDE DUPLEXES	18.0	50	18
**M	EAST SIDE VILLAGE	12.7	109	99
N	STOLTZE CABINS	3.6	8	8
**O	PRESERVE CABINS	11.1	18	18
*P	GLADES PHASE 3 MULTIPLEX UNITS	1.9	30	20
*Q	SKIER SERVICES	-	-	-
R	PRESERVE MULTIFAMILY	1.5	30	20
*S	PARKING	-	-	-
T	PARKING	-	-	-
**U	ENTRY VILLAGE	6.4	90	50
V	PRESERVE LODGE AND DUPLEXES	12.5	52	18
W	LOWER PRESERVE SINGLE FAMILY	29.8	24	24
X	LOWER AFFORDABLE HOUSING	2.1	100	100
Y	PARKING	-	-	-
Z	PARKING	-	-	-
TOTALS		286.5 (Excluding Village Average)	1103	825

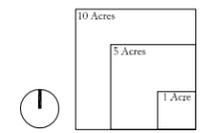
* DENOTES SKI-IN SKI-OUT PARCELS
 ** DENOTES SKI-IN PARCELS
 *** DENOTES SKI-OUT PARCELS

LEGEND

- RESORT ROADS
- NEIGHBORHOOD ROADS
- EXISTING SKI LIFT
- PROPOSED SKI LIFT
- PROPOSED SKI TRAIL
- NORDIC SKI TRAIL
- THE MOUNTAIN CORE
- HASKILL CREEK PRESERVE

Proposed New Road Alignment

MASTER PLAN



1/4 Mile
 APPROXIMATE 5 MIN. WALK
 1/2 Mile
 APPROXIMATE 10 MIN. WALK

BIG MOUNTAIN

WHITEFISH, MONTANA

MARCH 1, 2006



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



February 12, 2013

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

Mayor Muhlfeld and Councilors:

Request to Extend the Preliminary Plat for The Glades, Phases 3-13 (FPP 04-44)

Request/Background:

This office is in receipt of a letter from Dan Graves of the Whitefish Mountain Resort requesting a 24-month extension for The Glades, Phases 3-13 preliminary plat. Phase 1 was platted in 2003 and Phase 2 was platted in 2008. Phase 2 was subsequently vacated, at the request of the owner, in 2011. Phases 3-13 are still remaining.

The preliminary plat now contains 21 single-family residential lots, 135 townhomes and 22 cabins on 55.73 acres located south of the Base Lodge on Big Mountain. Attached to this report are the conditions of approval and the preliminary plat map.

The preliminary plat was approved by the Flathead County Commissioners on March 22, 2005. In 2008, the Whitefish Council granted an extension, as provided for in the subdivision regulations in place at the time, until March 20, 2009. The final plat for Phase 2 was approved by Council in August 2008. Pursuant to the Subdivision Regulations, the next phase of final plat was required to be filed within 2-years unless an extension was granted by the Council. The developer requested and received approval for an extension until August 18, 2011. Then on June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires August 18, 2013.

Current Subdivision Regulations:

Upon passage of HB 522 in 2011, the Council adopted amendments to the Subdivision Regulations providing two options for extensions – first, a simple 2-year extension is permitted provided the developer can show continued good faith in working toward final plat. Second, if additional time is needed, a subsequent request may be made along with justification for the request. There are no timeframes identified in the regulations with this type of request, providing maximum flexibility for both the Council and the developer. Such requests are reviewed by the Council during a public hearing.

Current Report:

This is a residential subdivision with a combination of single family dwellings, townhouse and cabin-style units. The development stretches from the east near the Easy Rider chair (also known as Chair 9) and existing Glades subdivision, phase 1 to the west and south of the Base Lodge. Over 23 acres of the subdivision is maintained in open space along the stream and pond. Several new private roadways are proposed within the project including a loop road to the south of the Base Lodge and several cul-de-sacs. All roadways meet the city's private road standards; the project is served by the Big Mountain Water Company and the Big Mountain Sewer District.

Change in Standards:

This subdivision was approved prior to the 2006 Big Mountain Neighborhood Plan, Water Quality Protection regulations and current subdivision regulations.

The Big Mountain Neighborhood Plan, adopted by the Whitefish City Council, sets out locations for development, land uses, range of densities and transportation linkages. It is anticipated, as development proposals are submitted, development review would be dictated by both the neighborhood plan and the Big Mountain zoning designations.

Below is a summary of phases and their relationship to the 2006 Neighborhood Plan:

Phase:	Proposed in the 2004 Glades Subdivision	2006 Adopted Big Mountain Neighborhood Plan Designations
2 (now phase 3)	14 townhouse units/1 lot	No development in this area
3 (now phase 4)	42 townhouse units/1 lot	Development Pod 'P' density 20-30 units
4 (now phase 5)	16 townhouse units/1 lot	Now the North Valley Clinic and designated on the neighborhood plan as 'skier services'
5 (renamed phase 2)	At the request of the developer, vacated by the Council in 2011 (4-lot subdivision)	
6	10 townhouse units/1 lot	Development Pod 'R' density 20-30 units
7	22 cabins/1 lot	
8	41 townhouse units/1 lot	No development in these areas: Haskill Creek Preserve
9	12 townhouse units/1 lot	
10	9 single family units/9 lots	

Phase:	Proposed in the 2004 Glades Subdivision	2006 Adopted Big Mountain Neighborhood Plan Designations
11	5 single family units/5 lots	No development in this area
12	5 single family units/5 lots	No development in this area: Haskill Creek Preserve
13	2 single family units/2 lots	No development in this area
Total:	178 units on 28 lots	40-60 units

Below is a summary of other pertinent items that have changed related to this preliminary plat:

- Most of the development is setback from the stream. The buffer of 125-feet with a 10-foot setback is generally being met with the project. The regulations provide the possibility to reduce buffers through averaging and enhancement, but the buffer could be no less than 50-feet.
- There are a series of wetlands in this subdivision. Again the buffer of 125-feet with a 10-foot setback is being met in some areas of the preliminary plat, but large portions of Phases 3, 4 and 7 are located with the buffer. Similar to streams, wetland buffers could be averaged provided buffers are no less than 50-feet.
- Some of the lots exceed 10%, requiring a geotechnical reconnaissance to determine whether or not further geotech review is warranted. Staff could not locate any geotechnical reports associated with the preliminary plat.

Of the eleven remaining phases of this preliminary plat, Phase 4 is the location of the current North Valley Clinic, Phases 2, 11 and 13 were removed from the neighborhood plan and Phases 8, 9, 10 and 12 are located wholly within the area designated as Haskill Creek Preserve. The Big Mountain Neighborhood Plan describes the Haskill Creek area:

“The Haskill Creek drainage below the Day Lodge is designated open space on the master plan. It is anticipated that this drainage will be utilized for hiking, walking, biking and ski trails. Structures other than resort related facilities supporting recreational activities or utilities are not anticipated within this green belt. The green belt varies from approximately 250-feet to 900-feet from either side of the streambed.”

Only Phases 3, 6 and 7 are located within the Neighborhood Plan as Development Pods ‘P’ and ‘R’.

Finally, this development lies in the upper reaches of 1st Creek, which is effectively the main channel of Haskill Creek. The confluences with 2nd Creek and 3rd Creek are a short distance downstream. The City of Whitefish has water rights on 1st, 2nd and 3rd Creeks and municipal water is currently drawn from 2nd and 3rd Creeks. The 1st Creek water right has been utilized in the past and continues to be available for municipal water supply. It is therefore important to protect the water quality of 1st Creek from degradation by human activities.

Public Comment

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on February 1, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on January 30, 2013. As of the writing of this report, no comments have been received.

Financial Requirement

None known. The project will be served by private roads, the Big Mountain Water Company and the Big Mountain Sewer District.

Recommendation:

Staff has concerns with extending the entirety of The Glades preliminary plat since conditions have changes considerably since the plat was approved. Careful thought and consideration was put into the Neighborhood Plan, where development would be best located, the appropriate density and traffic circulation patterns. As the Neighborhood Plan was adopted as a part of the City's Growth Policy, it makes sense to honor the planning work and approval the Council gave in 2006 with this extension request.

Staff recommends the Council **approve – portions of the preliminary plat consistent with the Big Mountain Neighborhood Plan (phases 3, 6, and 7)** for 24 months, expiring on March 5, 2015 based on the following findings of fact:

Finding 1: The 178 units on 28-lot subdivision was approved by the Flathead County Commissioners on March 22, 2005. In 2008, the Council granted an extension, as provided for the subdivision regulations at the time, until March 20, 2009. In 2010, the Council granted an extension until August 18, 2011. On June 6, 2011, the Council granted an additional 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires August 18, 2013.

Finding 2: In 2006, the Whitefish City Council approved the Big Mountain Neighborhood Plan which sets out locations for development, land uses, range of densities and transportation linkages.

Finding 3: Phase 3, 6 and 7 support and implement the 2006 Big Mountain Neighborhood Plan.

Finding 4: The City of Whitefish has water rights on Haskill Creek including its reaches. The stream through this project, First Creek, is one of those reaches.

Sincerely,



Wendy Compton-Ring, AICP
Senior Planner

Att: Extension Request Letter, January 23, 2013
 Conditions of Approval, March 22, 2005
 Preliminary Plat Map, December 6, 2004
 Preliminary Plat Map Marked with Neighborhood Plan Designations

c/w/att: Necile Lorang, City Clerk

c/w/o/att: Dan Graves, Whitefish Mountain Resort, PO Box 1400 Whitefish, MT
 59937



January 23, 2013

Wendy Compton-Ring
Senior Planner
City of Whitefish
PO Box 158
Whitefish, MT 59937

Re: Extension of Subdivision Preliminary Plats – Big Mountain Village (WPP-06-67) & Glades, phases 3-13 (FPP-04-44)

Dear Wendy,

As you know, the following two preliminary plats have been previously extended:

- Big Mountain Village Plan – March 5, 2013
- The Glades at Big Mountain – August 18, 2013

Unfortunately, the real estate market for single family home lots has not rebounded much up “on the mountain”, and as a result I’d like to request another EXTENSION to these preliminary plats.

I offer up the following reasons for the request.

- 1) I don’t see that extending plat will have any detrimental impact to the public health, safety, or the general welfare of adjoining property owners.
- 2) The extension will not cause an increase in public costs because all of the roads are private and will not be maintained by the City of WF, but instead by Whitefish Mountain Resort. The water is serviced by Big Mountain Water Company, and the sewer by the Big Mountain Sewer District.
- 3) The extension will not place the subdivision in nonconformance with any adopted zoning regulations, growth policy or other adopted policies or regulations.
- 4) The financial impact of investing in these subdivisions to take to Final Plat at this time would be an unwise business decision and poor use of capital funds for WSI.
 - a) The current real estate market on the mountain for single family home lots remains soft. WSI has sold only 2 lots since December 2007 in Northern Lights West - phase I. Currently, there are 8 lots remaining with 4 of these being prime lake view lots indicating the soft market.
 - b) WSI certainly has other priorities for spending cash. We are currently planning for two large expenditures: a new lift and trail system, potentially starting this summer 2013, along with an expansion to the Base Lodge. Both of these expenditures are to address crowding on high volume days, which have been steadily growing. We need to provide

faster food service, more seating, spread skiers out over greater acreage, and reduce congestion at variance points on the mountain. These "growing pains" take precedent over starting both of these Final Plats in a lack-luster real estate market. If we don't address these operational issues soon, we could lose momentum in our growth, which is always difficult to restart.

- c) WSI was in a severe economic crisis in 2007 for a variety of reasons with one of these being attributed to spending vast amounts of money on real estate development. We spent the last 5 years "digging" the company out of this vast debt and certainly do not want to repeat the same mistakes when the marketplace is still soft.

Please understand that WSI's development land is vital to the shareholders' value. The Village Plan is probably the most important piece of development land on the mountain and The Glades is also a critical company asset. I hope that staff and the city council will approve both of these preliminary plat extensions. Enclosed please see two checks each representing the \$750 fee for the preliminary plat extension requests.

I look forward to hearing from you.

Best regards,



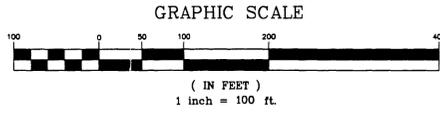
Dan Graves
President
Winter Sports Inc.

BY: SANDS SURVEYING INC.
2 VILLAGE LOOP
KALISPELL, MONTANA 59901
PH:(406) 755-6481

PRELIMINARY PLAT OF THE GLADES AT BIG MOUNTAIN PHASES 2-13

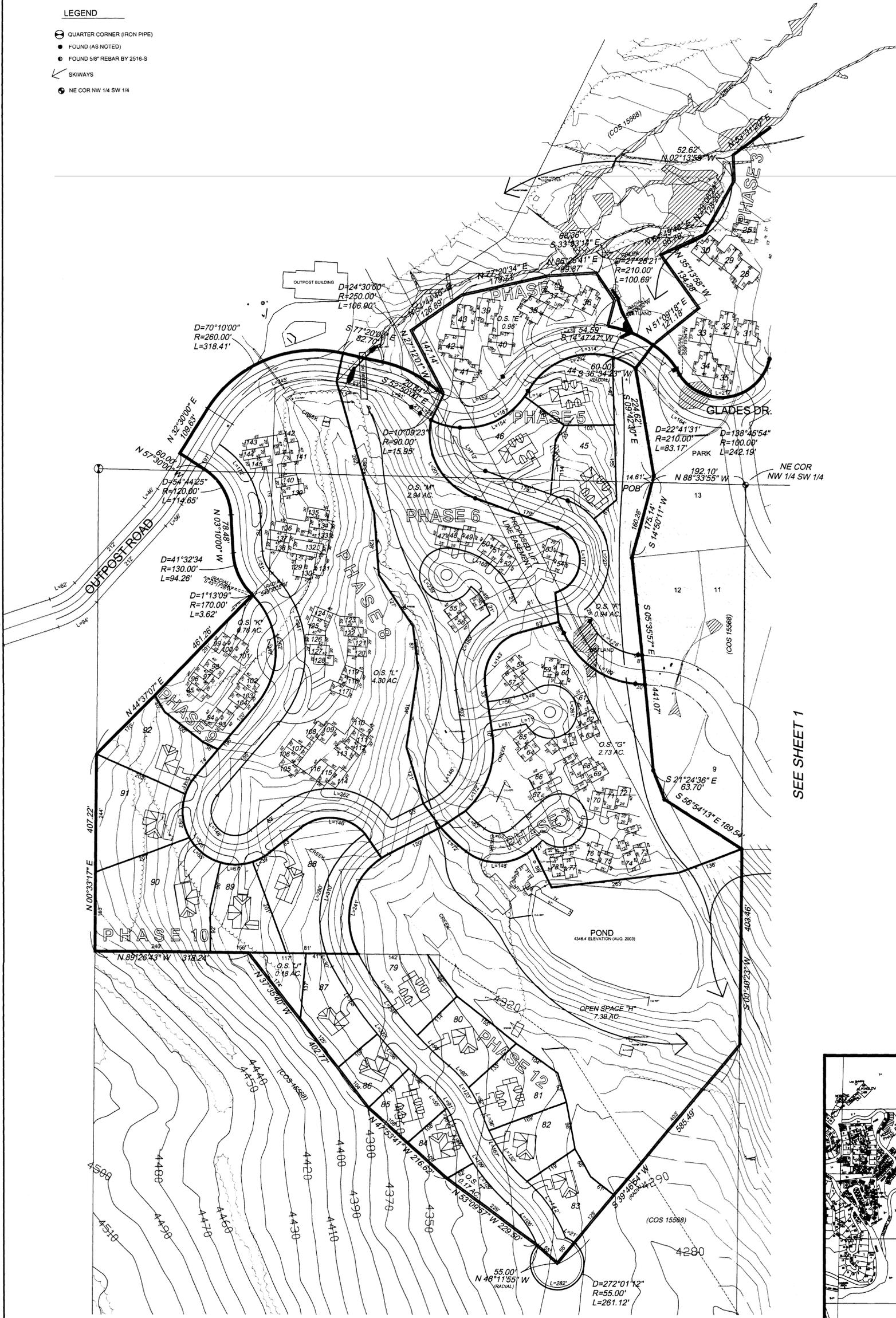
IN THE NW 1/4 & SW 1/4 OF SECTION 1, T.31N., R.22W., P.M., M.
FLATHEAD COUNTY, MONTANA

JOB# 23480 (201711.DWG, GLADES2-PREPLAT.DWG)
FOR: BIG MOUNTAIN DEVELOPMENT CO.
DATE: DECEMBER 6, 2004
DESIGNED BY: DESIGN WORKSHOP INC.



LEGEND

- ⊙ QUARTER CORNER (IRON PIPE)
- FOUND (AS NOTED)
- FOUND 5/8" REBAR BY 2516-S
- ← SKIWAYS
- ⊙ NE COR NW 1/4 SW 1/4



SEE SHEET 1



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MANAGER REPORT

March 13, 2013



BAKER AVENUE MILLING AND OVERLAY DURING 2013 BY MDT

The Montana Department of Transportation (MDT) is planning to do a milling and overlay of Baker Avenue from 2nd Street northward to the intersection of Edgewood Place later this summer. MDT will also install new traffic signals at the intersection with Edgewood Place. The estimated cost of the project is \$1,000,000.00 and MDT pays the entire cost of this project.

Public Works staff is working with MDT to schedule this work after Labor Day, but MDT also wants to be sure there is enough time to complete the work. This work will complicate traffic in the downtown area as the MDT Whitefish West project will also be under construction on Hwy 93 North between Lupfer and Karrow during this time. Public Works staff will work with MDT on appropriate traffic control and detours for this Baker Avenue work.

CLOSEOUT OF SENATOR TESTER HOMELAND SECURITY GRANT

On Friday March 1st, we closed out the Senator Tester Homeland Security grant, Homeland Security Grant Program #2010-EO-MX-0035, for equipment for the Emergency Services Center to operate as a backup 911 Emergency Operations Center. Highlights of this grant included all of the equipment and radio communications for the ESC to act as a 911 Emergency Operations Center if the main 911 Center has problems. We also received a new and 4th radio channel for countywide emergency services use, a solar hot water system, and a lot of technology and equipment to update the police and fire departments. The original grant was \$900,000 of federal funds and \$300,000 of local matching funds. The State of Montana took \$45,000 for administration and we ended up spending \$676,506.33 of the federal funds and \$225,502.11 of local funds. The entire grant was not spent because the solar project was originally budgeted at \$250,000.00, but we only spent \$58,205.47 after the original bids were too high and the project was scaled back. The grant expired at the end of December, 2012. Mayor Muhlfeld and I will prepare and send a letter to Senator Tester to thank him for obtaining this important grant.

RESORT TAX

Resort tax revenues continued to increase again in January. Collections for January were \$119,889 which is 18.7% or \$18,863 higher than January of 2012. For the year-to-date, we have collected \$1,276,495 which is 10.4% or \$120,057 higher than the same seven months of collections ending with January, 2012. A chart showing monthly collections and trends is included in the packet.

MEETINGS

Mayors and Managers Executive Forum training (3/6-3/7) – I attended this annual training session in Helena last Wednesday and Thursday. The agenda was expanded beyond annual training for Mayors to include subjects specifically for Montana’s city managers. A copy of the agenda is included in the packet. There was no registration cost so the only cost was travel and lodging. The best part was to discuss topics with other managers, especially labor relations and what they are thinking of for pay increases in FY14.

Collective Bargaining Workshop (6/8) – Rich and I both attended a collective bargaining workshop put on here in Whitefish by attorneys Michael Dahlem, Cindy Walker, and Rick D’Hooge. This workshop was well attended with probably over 50 people in attendance. The information presented along with a 71 page handout was tremendous. Rich and I both think it was the best labor negotiations training either of us has had.

UPCOMING SPECIAL EVENTS

REMINDERS

April 29th - 5th Monday meeting with other jurisdictions. Details to be announced

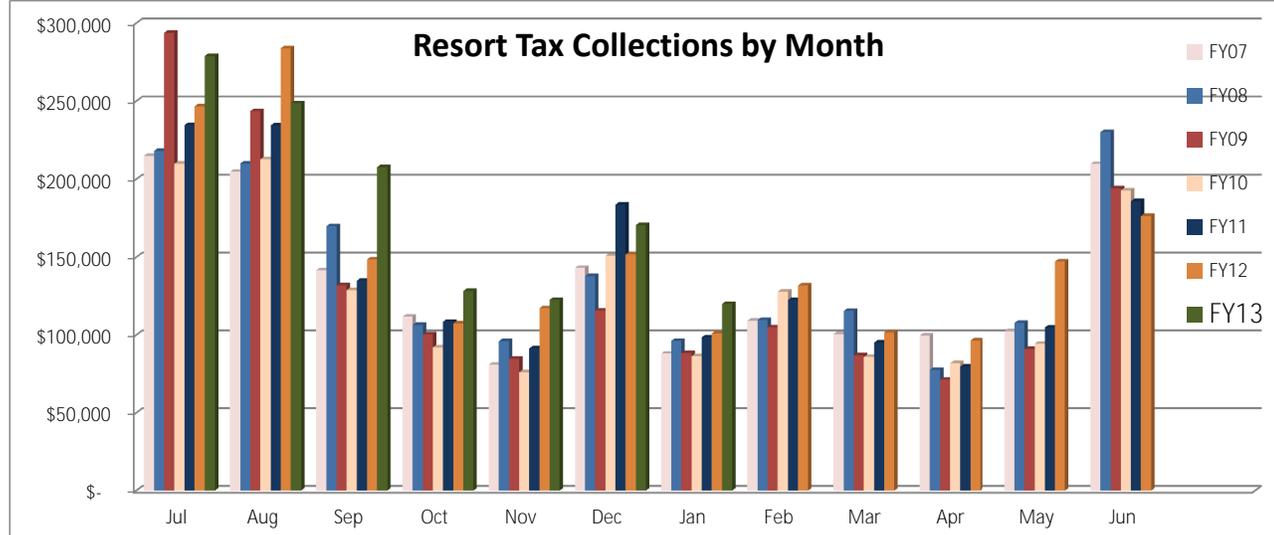
Respectfully submitted,



Chuck Stearns
City Manager

Resort Tax Report
Reported in the Month Businesses Paid Tax

Month/Year	Lodging	Bars & Restaurants		Retail	Collected	% Chng Mnth to Pr Yr Mnth	% Chng Quarter to Pr Yr Quarter	Interest	Total
		Restaurants	Restaurants						
Jan-08	11,046	42,091	43,037	96,175			3,341	99,515	
Dec-08	9,787	45,089	60,863	115,739	-16%	-11.6%	8,635	124,374	
Jan-09	8,160	38,948	41,320	88,428	-8%		1,532	89,960	
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%	Compared to Prv Yr		TaxableSales FY09	\$ 84,571,113	
Nov-09	8,147	34,146	33,709	76,002	or	-4.1%	5,571	81,573	
Dec-09	9,602	45,090	96,087	150,778	\$	(67,919)	5,433	156,211	
Jan-10	6,901	39,401	40,031	86,333			3,120	89,452	
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%	Compared to Prv Yr		TaxableSales FY10	\$ 81,019,064	
Oct-10	17,637	44,457	46,418	108,512	or	-4.2%	6,551	115,063	
Nov-10	7,248	45,396	38,718	91,362	\$	(67,489)	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	
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%	Compared to Prv Yr		TaxableSales FY11	\$ 88,085,492	
Jul-11	56,106	90,212	100,325	246,642	or	8.7%	\$ 979	\$ 247,621	
Aug-11	85,621	91,408	106,860	283,889	\$	134,262	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	
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	
Total First 7 Months	228,739	420,706	506,993	1,156,438			578	132,371	
Feb-12	14,585	56,427	60,780	131,793			557	102,200	
Mar-12	11,008	42,952	47,682	101,643			610	96,987	
Apr-12	9,353	39,367	47,657	96,377			6,993	154,187	
May-12	15,461	51,207	80,526	147,194			625	177,085	
Jun-12	35,584	68,403	72,472	176,460					
Total FY12	\$ 314,731	\$ 679,063	\$ 816,110	\$ 1,809,903			\$ 20,785	\$ 1,830,688	
FY11 vs FY12	15%	4%	9%	8.1%	Compared to Prv Yr		TaxableSales FY12	\$ 95,258,076	
Jul-12	69,418	94,341	115,149	278,908	or	8.1%	\$ 643	\$ 279,551	
Aug-12	53,361	92,463	102,812	248,636	\$	136,279	444	249,080	
Sep-12	57,000	77,503	73,232	207,734			533	208,267	
Oct-12	24,519	54,631	49,137	128,288			434	128,722	
Nov-12	8,099	40,326	74,122	122,547			393	122,941	
Dec-12	15,490	66,046	88,956	170,492					
Jan-13	13,152	51,930	54,806	119,889					
Total FY13	\$ 241,039	\$ 477,241	\$ 558,215	\$ 1,276,495			\$ 2,447	\$ 988,561	
YTD vs Last Year	5.4%	13.4%	10.1%		YTD Compared to Last Year		TaxableSales FY13	\$ 67,183,927	
FY13 % of Collections	19%	37%	44%		or	10.4%	\$ 742,968	\$ 19,510,104	
Grand Total	\$ 3,866,049	\$ 8,120,061	\$ 9,887,659	\$ 21,873,768	\$	120,057	\$ 742,968	\$ 19,510,104	
% of Total Collections	18%	37%	45%				3.4%	Average interest	



Total Taxable Sales Since 1996	\$ 1,151,250,966
Total Collected	\$ 23,025,019
5% Admin	\$ 1,151,251
Public Portion	\$ 21,873,768



2013 Executive Forum
 For Mayors and City Managers
Holiday Inn Downtown
 March 6-7, 2013 ▪ Helena, MT
AGENDA



(With the exception of the Mayor-to Mayor and City-Manager-to-City Manager session, participants may choose to attend the break-out sessions of most interest to them.) A more detailed description of the sessions is available on the Local Government Center website <http://www.msulocalgov.org/services/training/municipal/electeds/mayors/forum/information13.html>

Wednesday, March 6

11:00-11:30 Registration

11:30-12:00 Lunch

12:00-12:30 Welcome and Introductions

12:30-2:00 Legislative Update and Discussion
 Alec Hansen, Executive Director, MLCT; Alan Hulse, CEO, MMIA

2:00-2:15 Break

2:15-3:30 Reservation of Rights and the Basic Legal Process
 Stan Kaleczyc, Attorney, Browning, Kaleczyc, Berry & Hoven, P.C.
 General Counsel for MMIA makes a determination on liability coverage based on the allegations in a complaint. Often, a reservation of rights letter is sent to the MMIA member because it can be difficult to determine if there is a coverage for an allegation until the matter is better developed as litigation proceeds. The reservation of rights letter serves as a notice to the member that the MMIA is reserving its rights to potentially deny coverage at a later date based on the terms of the memorandum of liability. This session will review the need for the letter and the process for determining coverage.

3:30-4:15 The Real Deal of Federal Healthcare
 You've heard opinion after opinion on the impacts of the Federal Healthcare Reform law. Now come hear the facts and what should concern you when it comes to your employees and their benefits.
 Amber Ireland, Employee Benefits Program Development Specialist, MMIA

Break-out Sessions

4:14-5:15	Mayor-to Mayor (for mayors) What's on your mind and happening in your community? Facilitated by MMIA & LGC Staff	City Manager-to-City Manager (for managers) What's on your mind and happening in your community? Facilitated by MMIA & LGC Staff
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6:00-8:00 Reception – Holiday Inn Ballroom

Thursday, March 7

Break-out Sessions

8:00-9:00	Internet Security and Cyber Liability Securing your network from hackers and the ramifications of a breach of information. John Craig, Deputy CEO, Property Program Mgr, MMIA; Linda Coombs, Liability Property Claims Sup, MMIA;	The Human Rights Bureau What happens when a complaint of discrimination or harassment occurs against your city or town? Presenter TBD
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9:00-10:00	<p>Understanding Municipal Debt - Part I Broadening your access to financial markets. Hear how Dillon entered the public market place in 2003 and learn about current public and private financial markets available to local MT governments. P. Jonathan Heroux, Public Services Group Managing Director, Piper Jaffray Denver office; Cynthia M. Weed, Attorney at Law, K & L Gates Seattle office; Ty Cobb, Treasurer, City of Dillon.</p>	
10:00-10:15	Break	
	Break-out Sessions	
10:15-11:15	<p>Municipal Debt - Part II A detailed timeline and the step-by-step financing process will be discussed. The "Dillon Dream Team"</p>	<p>Transportation Investment & Land Use Decision Making Improving community health and safety and stimulating local economies. Cathy Costakis, Senior Consultant – Built Environment, NAPA Program</p>
11:15-12:15	<p>The Municipal Audit Does the thought of an audit strike fear in your heart? Come learn the REAL objectives of a governmental audit. Rick Reisig, CPA, Anderson ZurMuehlen</p>	
12:15-1:00	Lunch	
1:00-2:30	<p>Improving Council Relations/Managing Conflict Mayors and City Mangers will be grouped together by their office to discuss leading questions pertaining to effective practices in relationship building and conflict resolution. Dan Clark, Director, MSU Local Government Center</p>	
2:30-2:45	Break	
	Break-out Sessions	
2:45-4:15	<p>Corrective Action and Discipline Implementing corrective action and discipline appropriately in your local government. John Cummings, HR and Risk Mgmt Programs Manager, MMIA; Betsy Webb, MSU Professional Development & Training Manager</p>	<p>The Collective Bargaining Grievance Process How to effectively manage a union grievance. Stacy Collette, Chief Strategy Officer, Element 8, Inc.</p>
4:15-4:30	Wrap up and Adjourn	

FOURTH ANNUAL COLLECTIVE BARGAINING WORKSHOP

presented by

**Cindy Walker, Rick D’Hooge,
and Michael Dahlem**

AGENDA

Friday, May 11, 2012

8:30 to 9:30	The law of collective bargaining
9:30 to 10:30	Collective bargaining strategies and techniques
10:45 to 11:45	Recent labor law cases/Legislative proposals
11:45 to 1:00	Lunch on your own
1:00 to 2:00	Impasse/Mediation/Fact finding/Interest arbitration/Unfair labor practices
2:00 to 3:00	Employee compensation issues
3:15 to 4:15	Collective bargaining Q & A

OUTLINE

I. The law of collective bargaining	1
II. Collective bargaining strategies and techniques.....	23
III. Recent labor law cases/Legislative proposals.....	37
IV. Impasse/Mediation/Fact finding/Interest arbitration/ Unfair labor practices	49
V. Employee compensation issues.....	60

PARKING LOT LEASE

THIS LEASE, entered this ____ day of March, 2013 at Whitefish, Flathead County, Montana, between:

WHITEFISH FRONTIERS, LLC, a Montana LLC; Lessor; and

THE CITY OF WHITEFISH, Montana, a Montana self-government powers municipality, Lessee.

FOR AND IN CONSIDERATION of timely performance of the covenants and obligations by Lessee, Lessor leases to Lessee the real property described as Lots 6, 7, 8, 9, and 10 of Block 27 of Whitefish Original in Whitefish, Montana, (hereinafter "PARKING LOT").

TO HAVE AND TO HOLD the same with all the appurtenances unto the said Lessee for public parking use from the 1st day of April, 2013 through the 31st day of March, 2015. This lease may be terminated by either party with ninety (90) days prior written notice. Within ninety (90) days after receiving or providing such notice, the Lessee shall surrender the property in accordance with Section 1.7 of this agreement.

ARTICLE I

THE LESSEE HEREBY COVENANTS AND AGREES WITH THE LESSOR AS FOLLOWS:

- 1.1. *Insurance.* To the extent of its liability under Montana law and for negligent acts covered by the Montana Tort Claims Act, MCA Sections 2-9-101, *et seq.*, as amended, the Lessee shall indemnify the Lessor for injury or damage to any person or property caused by or arising out of Lessee's negligent or willful conduct with respect to the PARKING LOT. The Lessee shall name Lessor and Michael Goguen as additional covered parties under the Montana Municipal Interlocal Authority Memorandum of Liability Coverage. In consideration of the terms and conditions of this Lease, Lessor and Lessee rely upon all of the rights, limitations, and immunities against liability to the fullest extent of state law, and any successor provisions, and any other applicable provisions of law, including the Montana Tort Claims Act, MCA Sections 2-9-101, *et seq.*, as amended.
- 1.2. *Use and Care of Premises.* Lessee shall have exclusive use of the leased premises and may occupy and use the leased premises as a public parking lot during the Lease period and shall provide maintenance including landscaping, irrigation, litter clean up and snow removal upon the premises and adjacent sidewalks.
- 1.3. *Alterations.* Lessee shall provide labor, equipment and materials and establish a milled asphalt surfaced parking lot with perimeter, landscaped berms along Central Avenue and 1st Street sides on the property. Lessee shall make no other alternations to the leased property without the prior written consent of the Lessor, which consent shall not be unreasonably withheld.

- 1.4. *Liens.* Lessee shall keep the leased premises free and clear of all liens of any kind.
- 1.5. *Property Loss and Damage* Lessor shall not be liable in any way or to any extent for or on account of any damage, injury, or theft of any property at any time in the demised premises or belonging to the Lessee or otherwise, unless caused by the negligence or intentional actions or inactions of the Lessor or its agents.
- 1.6. *Assignment.* Lessee shall not assign, sell, or encumber this lease, nor sublet the premises, other than as specifically provided in Section 1.8 of this agreement.
- 1.7. *Surrender of Premises.* Lessee shall quit and surrender the leased premises upon the expiration of the term of this lease, or upon ninety (90) day advance written notice as provided above, in as good a state and condition as when received, reasonable wear and tear and permitted alterations excepted. Lessee shall remove all signs, delineators, barriers and appurtenances installed by Lessee and leave the site as a well graded gravel lot.
- 1.8. *Rent.* The annual rent payment for this use of the premises shall be \$1.00 per year, payable on or before April 15th of each year.

ARTICLE 2

THE LESSOR HEREBY COVENANTS AND AGREES WITH THE LESSEE AS FOLLOWS:

- 2.1 *Ownership of Premises.* That Lessor is the sole owner, in fee simple, of the leased premises, and has full right and power to lease the same for the term aforesaid.
- 2.2 *Taxes.* Lessor agrees to pay all real property taxes and special assessments levied on the premises.
- 2.3 *Right to Tow.* Lessor hereby grants Lessee, for the term of this lease, the absolute right and authority to monitor, in the City's discretion, and in furtherance of public safety and convenience, all parking of vehicles upon the PARKING LOT, causing any and all such vehicles which are parked illegally or blocking other vehicles to be ticketed and/or towed.
- 2.4 *Signage.* Lessor hereby grants Lessee the right to place signs and banners to denote and regulate public parking and other public activates on the site. The Lessor retains the right to post a "For Sale" or similar sign on the property. The sign shall conform to all applicable City and State rules and regulations. The Lessor and Lessee shall agree on a location compatible with the parking layout and intersection sight distance requirements. The Lessor shall maintain the signage in good condition.

ARTICLE 3

THE LESSOR AND THE LESSEE HEREBY MUTUALLY COVENANT AND AGREE AS FOLLOWS:

3.1 *Default.*

A. The following shall constitute default by Lessee under this lease:

(1) Lessee's failure to pay any installment of rent, other charge, or money obligation hereunder if such failure continues for a period of fourteen (14) days.

(2) Lessee's failure to comply with any term, provision, or covenant of this lease which continues for a period of fourteen (14) days after written notice thereof to Lessee.

(3) Lessee's abandonment or vacation of any substantial portion of the leased premises.

(4) The filing or creation of a lien on the leased premises as a result of Lessee's action or inaction.

B. In the event of any default by either party under this lease, the innocent party shall have the right to cancel this lease in the following manner:

(1) The non-defaulting party shall give to the defaulting party written notice of such default.

(2) The defaulting party shall have fourteen (14) days from the date of such notice to correct said default, and if said default remains uncured for fourteen (14) days after the date of said notice, this lease shall be fully terminated.

(3) In the event of a default by Lessee, the Lessor, in addition to other rights and remedies it may have, shall have the immediate right to remove all persons and property from said premises and terminate this lease agreement with no refund of the remaining rent to the Lessee.

3.2 *Rights Are Cumulative.* All rights and remedies hereby created for the benefit of the Lessor are cumulative and the exercise of any one remedy shall not be taken to exclude or waive the right of the Lessor to make use of any other remedy.

3.3 *Knowledge of Contents.* The parties to this lease by the execution hereof acknowledge that they have read the same and every section hereof, and have expressed

an explicit knowledge and understanding of all matter, things, conditions, stipulations, promises, covenants, and agreements herein set forth.

3.4 *Notices.* A notice, when required hereunder, shall be deemed given when deposited in the United States registered or certified mails, return receipt requested, or when hand-delivered to the following addresses:

A. As to Lessor:
WHITEFISH FRONTIERS, LLC
1399 Wisconsin Avenue
Whitefish, MT 59937

B. As to Lessee:
City Manager
City of Whitefish
P. O. Box 158
418 East Second Street
Whitefish, MT 59937

3.5 *Applicable Law.* This lease is entered into at Whitefish, Flathead County, Montana, and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this lease shall be in the District Court of Flathead County, Montana. If this lease, any of the rules and regulations or application, or any other instruments by way of reference incorporated herein shall contain any term or provision which shall be invalid or unenforceable, the remainder of the lease, the application, the rules or regulations, and other instruments, as the case may be, shall not be affected hereby, and each and every term and provision otherwise valid shall remain valid and be enforced to the fullest extent permitted by law.

3.6 *Renewal or Extension.* The parties hereto may renew or extend this lease upon such terms as Lessor and Lessee may agree by subsequent written agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

LESSOR:
WHITEFISH FRONTIERS, LLC

LESSEE:
CITY OF WHITEFISH, MT

By:

By: Charles C. Stearns, City Manager



MEMORANDUM

#2013-018

To: Mayor John Muhlfield
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Consideration of approving a lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1st Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot

Date: March 12, 2013

Introduction/History

At a February 4th work session, we discussed the possibility of leasing the five vacant lots at the NW corner of 1st Street and Central Avenue from Whitefish Frontiers, LLC for use as a temporary parking lot. The City would install landscaping at a cost estimated at \$15,000 – see the cost estimate in the packet. The City would also place asphalt millings from the Hwy 93 South milling project on the lot (approximate cost of \$2,000) to meet the air quality regulations. The City Council wanted to see a proposed layout of the parking and to be sure of the lease provisions with the owner.

Current Report

I am attaching a proposed lease and a draft parking layout in the packet with this report. Mary VanBuskirk has modified the lease in consultation with the Chief Financial Officer and an attorney for Whitefish Frontiers, LLC. They have agreed to rent the lots to us for \$1.00 per year given our investment in the landscaping and millings. It is a two year lease that can be renewed if they do not put the property into development, but it is not automatically renewable.

I have talked with representatives of the neighboring property, Craggy Range, and they are excited about the temporary parking lot. They have tentatively agreed to provide a water connection for the landscaping and we would reimburse them for water consumed for irrigation.

Financial Requirement

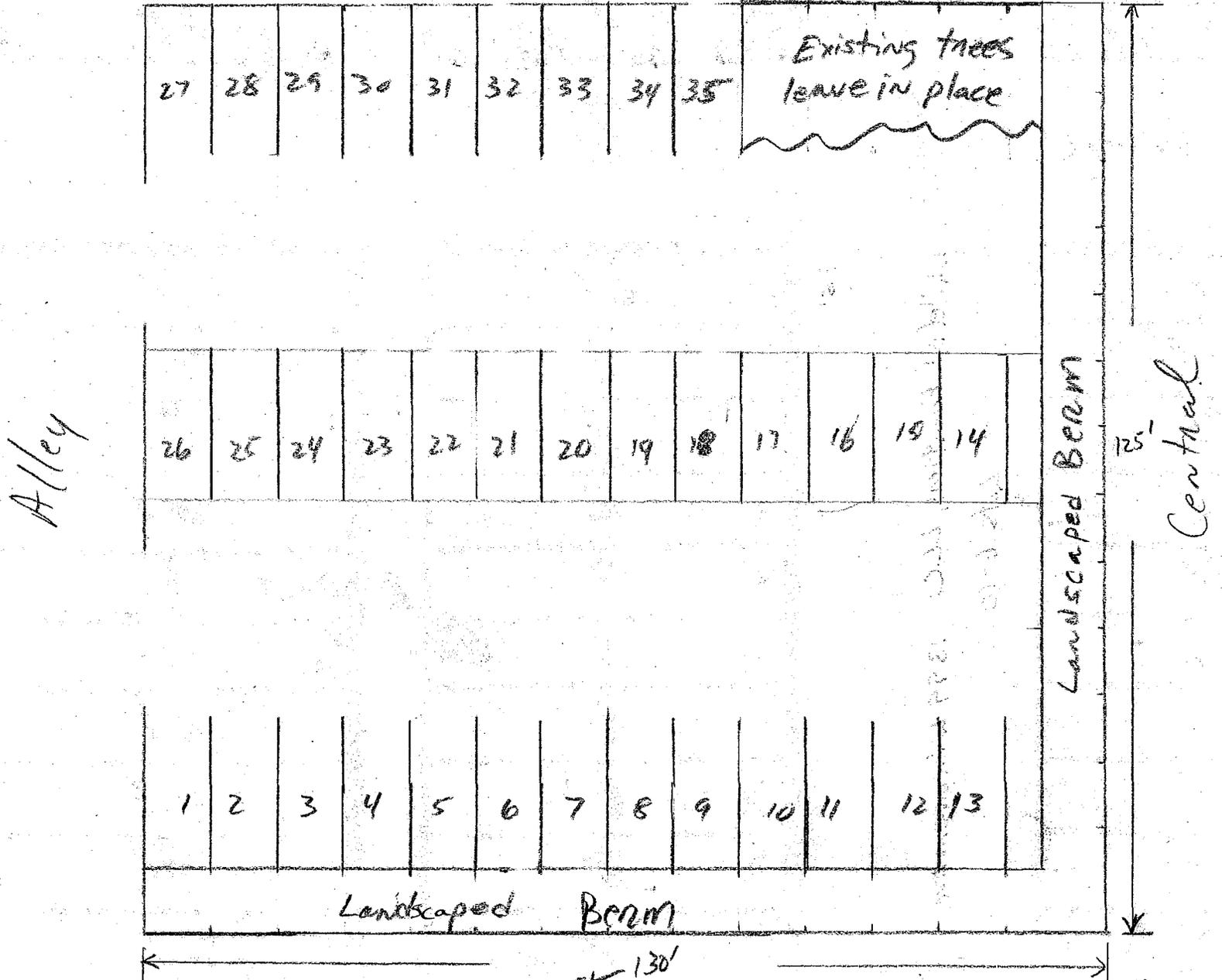
In addition to the approximate \$17,000 development cost, we would likely have \$300 for curb stops, \$500 for painting and striping, and approximately \$1,000 to \$2,000 cost annually for maintenance and watering of landscaping and clearing snow from the sidewalks.

The development costs would be paid from the TIF fund. The Parks and Recreation Department would handle the landscaping and snow removal costs, but we could add some funding to their budget to handle the additional work.

Recommendation

Staff respectfully requests that the City Council consider and approve a lease with Whitefish Frontiers, LLC to lease the five vacant lots at the NW corner of 1st Street and Central Avenue (Lots 6-10 of Block 27) for use as a temporary parking lot and authorize staff to proceed with the improvements.

Standard space
9x20



70'

20
19
18
17
16
15
14
13
12
11

1	25
2	25
3	25
4	25
5	25
6	25
7	25
8	25
9	25
10	25

80'

1	25
2	25
3	25
4	25
5	25
6	25
7	25
8	25
9	25
10	25

Whitefish Frontiers, LLC 1399 Wisconsin Ave.
Lots 6-10

25'



IRON MOUNTAIN

24
23
22
21

1	25
2	25
3	25
4	25

1	25
2	25
3	25
4	25

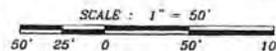
By: SANDS SURVEYING, Inc.
2 Village Loop
Kalispell, MT 59901
(406) 755-6481

LOTS 6-10, BLK. 27 WHITEFISH

CERTIFICATE OF SURVEY

in NW1/4NE1/4 SEC. 36, T.31N., R.22W., P.M.M., FLATHEAD COUNTY, MONTANA

JOB NO: 207905
DATE: DECEMBER 18, 2006
FOR: BOB BOWDEN
OWNERS: JOHN A. ELMORE II, JAMES A. RISHER
OLD TOWN DEVELOPMENT LLC



PURPOSE: RETRACEMENT



DESCRIPTION:

FIVE TRACTS OF LAND, SITUATED, LYING AND BEING IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 31 NORTH, RANGE 22 WEST, P.M.M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

LOT 6

Lot 6, Block 27, of WHITEFISH (records of Flathead County, Montana), and containing 0.075 ACRES. Subject to and together with all appurtenant easements of record.

LOT 7

Lot 7, Block 27, of WHITEFISH (records of Flathead County, Montana), and containing 0.075 ACRES. Subject to and together with all appurtenant easements of record.

LOT 8

Lot 8, Block 27, of WHITEFISH (records of Flathead County, Montana), and containing 0.075 ACRES. Subject to and together with all appurtenant easements of record.

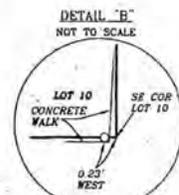
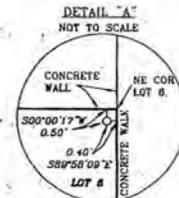
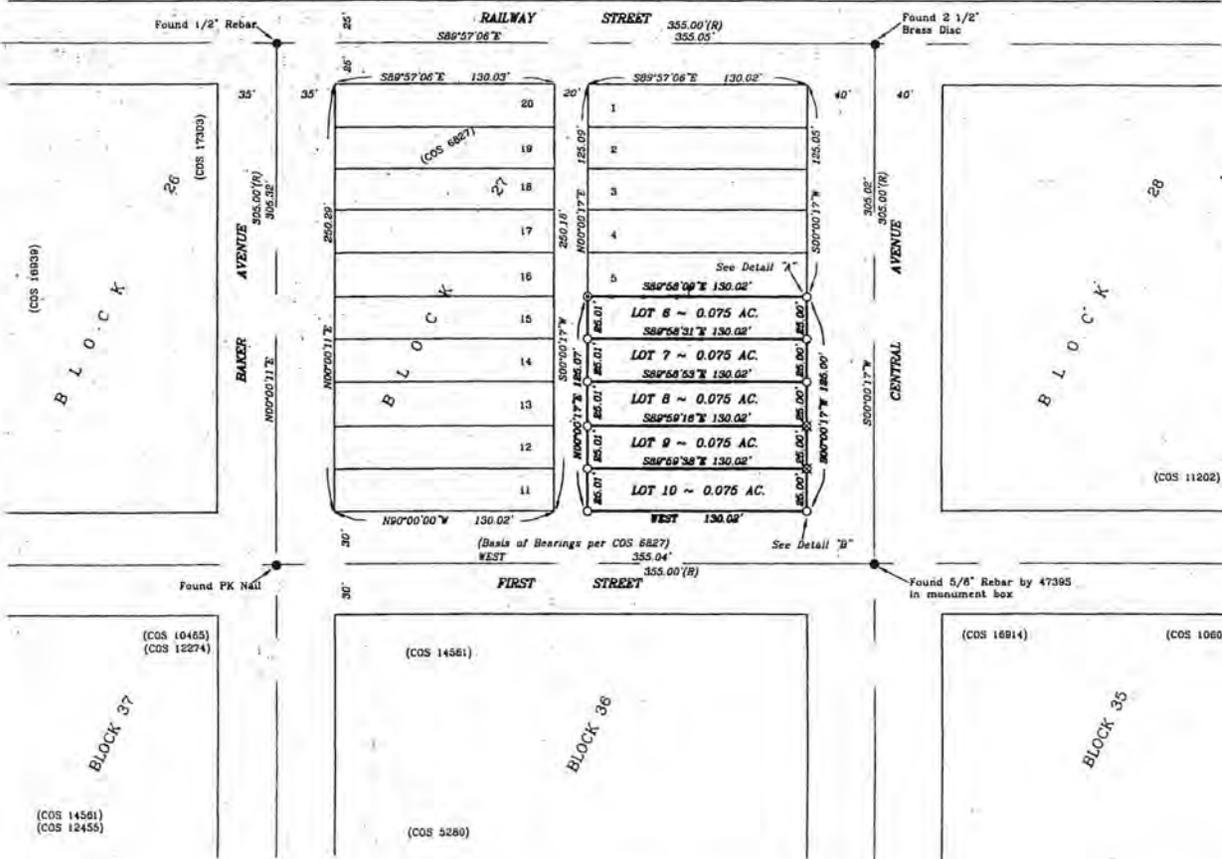
LOT 9

Lot 9, Block 27, of WHITEFISH (records of Flathead County, Montana), and containing 0.075 ACRES. Subject to and together with all appurtenant easements of record.

LOT 10

Lot 10, Block 27, of WHITEFISH (records of Flathead County, Montana), and containing 0.075 ACRES. Subject to and together with all appurtenant easements of record.

(AND PLAT LOTS 1A&B AND PLAT LOT 1 DEPOT SQUARE)



- LEGEND:
- ⊕ Section corner (as noted)
 - ⊙ 1/4 Corner (as noted)
 - ⊙ Center section (as noted)
 - ⊙ 1/16 Corner (as noted)
 - ⊙ Set 1/2"x24" Rebar & Cap (79753)
 - ⊗ Chiseled "X" in Concrete Walk
 - ⊙ Set Spike & Cap (79755) in 8" diameter wood post
 - Found (as noted)
 - (R) Record Information
 - ⊗ Existing Fenceline

CERTIFICATE OF SURVEY

THOMAS E. SANDS 79755

APPROVED: 1/24 2007

EXAMINING LAND SURVEYOR
REG. No. 64285

STATE OF MONTANA
COUNTY OF FLATHEAD, SS

FILED ON THE 26 DAY OF Jan 2007
AT 3:05 PAID FEE 7.50

Paula Roten
CLERK & RECORDER

BY: Jim
DEPUTY

INSTRUMENT REC. No. 200702615050

SHEET 1 OF 1 SHEETS

MAYLAWN & HOME CARE INC

Box 4296 Whitefish MT 59937

Jake: 261-9515 Yvonne: 261-8480

YOUR FULLY INSURED, REGISTERED, AND
LICENCED LAWNCARE AND LANDSCAPE
SPECIALISTS.

Estimate

Name / Address

City of Whitefish
Box 158
Whitefish, MT 59937

Date	Estimate #
1/22/2013	1340

Description	Qty	Project	
		Cost	Total
PARKING AREA ON CENTRAL			
GRADE			
Sandy Loam Soil	98.00	7.25	710.50
Delivery Charges	9.00	95.00	855.00
Bobcat Work with Operator - spread and shape soil for berm	12.00	70.00	840.00
Landscaping Labor - spread and shape berms	16.00	42.00	672.00
Subtotal			3,077.50
NOTE: to build a 1.5' tall berm on south(allowing for driveways), on east side , and west side. This will allow for a 7' depth of planter bed			
PLANTS			
Deciduous Trees - 2" tree	8.00	156.25	1,250.00
Three-way Soil	2.00	30.50	61.00
Bobcat Work with Operator - move trees	2.75	70.00	192.50
Mini hoe use - move trees and plant	2.75	70.00	192.50
Landscaping Labor - pick up and plant trees	21.00	42.00	882.00
Shrubs and Grasses 2 gallon	180.00	16.50	2,970.00
Three-way Soil	1.75	30.50286	53.38
Landscaping Labor - pick up and install shrubs	30.00	42.00	1,260.00
Subtotal			6,861.38
IRRIGATION			
Drip Pipe	520.00	0.30	156.00
Irrigation Labor - install drip pipe	7.50	42.00	315.00
Sleeves for crossing driveways	2.00	30.00	60.00
Mini hoe use - dig in sleeves	3.00	70.00	210.00
NOTE: irrigation is a to stubbed out for hose tie in as temporary means to water.			
		Total	

Signature _____

Signature _____

This estimate is good for 30 days from date. A signature and/or deposit of 25% of estimate total is required for job confirmation.

**MAYLAWN &
HOME CARE INC**

Box 4296 Whitefish MT 59937

Jake: 261-9515 Yvonne: 261-8480

YOUR FULLY INSURED, REGISTERED, AND
LICENCED LAWNCARE AND LANDSCAPE
SPECIALISTS.

Estimate

Name / Address

City of Whitefish
Box 158
Whitefish, MT 59937

Date	Estimate #
1/22/2013	1340

Description	Qty	Project	
		Cost	Total
MULCH			
Mulch - Shredded Cedar	44.00	32.00	1,408.00
Delivery Charges	4.50	95.00	427.50
Bobcat Work with Operator	7.00	70.00	490.00
Landscaping Labor	14.00	42.00	588.00
Subtotal			3,654.50
DESIGNING			
Design Labor - producing plans for City's approval	18.00	75.00	1,350.00
Subtotal			1,350.00
		Total	\$14,943.38

Signature _____

Signature _____

This estimate is good for 30 days from date. A signature and/or deposit of 25% of estimate total is required for job confirmation.



MEMORANDUM

#2013-017

To: Mayor John Muhlfield
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Discuss scheduling an extra work session to catch up on backlog of work session topics

Date: March 12, 2013

Introduction/History

As described in the February 27th City Manager's report, the upcoming schedule of work sessions is quite full. The upcoming schedule is currently:

- March 18th - One interview, Litigation Quarterly Report and City Attorney and City Manager evaluations in Executive Session
- April 1 - Annual Goals setting session
- April 15th - Somewhat open – right now planning Annexation and TIF work sessions
- May 6th - Committee and Board interviews
- May 20th - Committee and Board interviews
- June 3rd - excess Committee and Board interviews and open
- June 17th - one set of interviews and open
- July 1st and beyond – open right now

Current Report

Given a number of upcoming topics, I was wondering whether the City Council would want to have a special work session some evening in order to deal with several work session topics. Some of the work session topics pending are:

1. Northwest Energy Franchise Agreement discussion – I may put this topic into the April 15th meeting and eliminate annexation for the time being
2. Discussion of any charter amendments or referenda for fall ballot issue
3. Discussion of possibility of establishing new TIF Districts
4. Habitat For Humanity – they sent a letter requesting a work session or meeting on cooperating on housing projects

However, I need to remind you that some or all of you already have additional meetings coming up such as:

Real Estate Committee meetings on boutique hotel
Early budget meetings with three Council members at a time
Fifth Monday meeting on April 29th
Budget work sessions on May 28th and June 10th
Regular monthly committee meetings

So, if you feel that the schedule and topics above can wait, we may not need a special work session. However, other topics often arise (sign code, other items from Departments, other items from the Mayor and Council), so the upcoming schedule doesn't allow a lot of flexibility for new items.

Financial Requirement

There is no financial impact unless a small cost if the City Council wants us to provide food.

Recommendation

Staff respectfully requests that the Mayor and Council discuss whether or not they would like to hold a special work session on an evening other than a Monday night and if so, please establish a date and time for such meeting. If not, we will just hold to the schedule above and delay or fit in topics as we can.

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Whitefish City Counsel,

03/07/2013

I am requesting to be part of the agenda of the Monday March 18th counsel meeting.

My presentation would include the counsel's consideration to amend the verbiage in the sign ordinance that has to do with Temporary signs. The exact paragraph is in the ordinance 11-5-4-A-18.

My commitment to this amendment not only affects our business here at Don K, but all business's along Highway 93 where traffic is flowing at 45 plus miles per hour and our right of way is twice what it is when the highway switches to single lane and 35 MPH.

The sentence I will be referring to is on line 18. Approximately half way thru that paragraph it states: "Display of banners up to twenty four(24) square feet, pennants, festoons, balloons, tethered objects, strings of flags, streamers, (inflated objects), (or any other device intended as an "attractant") which is (affected by the natural movement of the air) may be temporarily allowed under this section.

The part I would like to be amended is the (affected by the natural movement of the air). Reason being is the wind does not always blow during the 30 consecutive days. It is the luck of the draw and mother nature if I or any other business has an event and the wind blows those days.

It is not consistent and equal to all temporary sign permits. The other reason is it takes signs being able to move by air or mechanical devises to draw attention to a sign or banner that has to be displayed 30 feet off the highway where traffic is moving at 45 plus miles per hour.

I do believe and this is entirely your choice to have this amendment provided only for those businesses that are on a state highway where speed limits are in excess of 40 MPH and right of way's are over 15 feet. You have made these exceptions in the past such as "Barber poles", Old Town District, Campaign and election signs, Public and Private Schools, and Civic centers.

I will bring a known sign (Attractant) (Device) to the meeting to demonstrate the actual movement that I am referring to. I would greatly appreciate the time you would give me as well as the 70 plus employees at this dealership that count on our marketing to keep them employed.

Respectfully,
Greg Shaffer
Don K Whitefish



November 19, 2012

John Wilson, PE and Karin Hilding, PE
 City of Whitefish
 P.O. Box 158
 Whitefish, MT 59937

Dear John & Karin:

As requested, RPA has coordinated with Flathead Electric Coop (FEC) to determine a cost estimate to place the existing overhead utilities along E. 2nd Street underground. In meeting with FEC, it was determined to develop two cost estimates: 1) Underground utilities maintaining overhead services and 2) Underground utilities and converting overhead services to underground.

For option 1, which maintains the overhead services, there will still be power poles to feed the overhead services. This option does not require construction permits and coordination with the nine (9) customers that have existing overhead services. Option 2, which converts everything to underground, would require that we coordinate with the customers, trench across their properties and replace the service on their houses. This requires substantially more work and coordination.

Below are the costs estimates for relocating the utilities underground. PLEASE NOTE THAT WE HAVE ESTIMATED THE COSTS FOR PHONE AND CABLE AT THIS TIME, BASED ON OTHER PROJECTS.

Option 1: \$269,682.00 (Underground utilities maintaining overhead services)

Option 2: \$330,804.00 (Underground utilities and converting overhead services to underground)

Please let us know if you wish to pursue this, and if so which option you would prefer.

If the decision is made to proceed with relocating the utilities underground, RPA will have to revisit the alignment and profile that has been established for this project. The preferred alignment and profile that has been chosen, was done so trying to avoid the existing power poles. If they are to be removed, there might be a better alignment/typical section for this corridor.

Additionally, if Option 2 is chosen, there will be a substantial amount of work to coordinate with each customer and secure a temporary construction permit for providing underground services to their homes.

HELENA, MT
 P.O. Box 5653
 825 Custer Avenue
 Helena, MT 59604
 Tele 406.447.5000
 Fax 406.447.5036

KALISPELL, MT
 P.O. Box 5100
 102 Cooperative Way, Suite 300
 Kalispell, MT 59903
 Tele 406.752.5025
 Fax 406.752.5024

FORT COLLINS, CO
 400 Remington Street,
 Suite B
 Fort Collins, CO 80524
 Tele 970.484.3206
 Fax 970.484.3209

John Wilson

To: Bill Kahle
Subject: RE: Field Meeting on the East 2nd Street Project

From: Bill Kahle [<mailto:bkahle@bresnan.net>]
Sent: Wednesday, December 12, 2012 3:37 PM
To: 'John Wilson'; 'Doug and Nikki Reed'; 'Chris Schustrom / Garden Wall Inn'; 'Trek Stephens'; 'Julia Olivares'; 'Joe Vail'; 'Brian Averill'
Cc: 'Rich Knapp'; 'Ryan Mitchell'
Subject: RE: Field Meeting on the East 2nd Street Project

Good afternoon everyone,

I'm sorry that I wasn't there this morning, but I appreciate the opportunity to weigh in on the project.

I have spoken with Doug and John Wilson about this morning's meeting, and it seems like the most pressing issue was "undergrounding" the power lines along 2nd street, and that there was consensus on the committee to not require the City to underground the lines. I have a different opinion. We have a policy in the City that requires power lines to be put underground. I know this from my experience as a real estate developer. The laundry list of reasons given to me by the City went far beyond aesthetics for this requirement, and was not limited to the property owned by my partnership, but extended for several blocks of the City's right of way along O'Brien Avenue and included several existing homes. The cost was significant, but we did the work.

My concern is certainly not personal, but we have a City policy that private citizens need to abide by, so for consistency's sake the City should abide by the guidelines of the policy as well whenever possible. I understand that this is a much broader issue than our consideration of the 2nd Street project, and better suited for a Council discussion, so I am comfortable forwarding a recommendation to proceed with the 2nd St. project without the requirement that the power lines be placed underground. My vote, however, would be no, and I will make my argument at the council meeting about the policy in general, not specifically for this project.

Thanks again for your consideration,

Bill

John Wilson

To: Doug and Nikki Reed
Subject: RE: Field Meeting on the East 2nd Street Project

From: Doug and Nikki Reed [<mailto:nreed@bresnan.net>]
Sent: Wednesday, December 12, 2012 5:12 PM
To: 'Bill Kahle'; 'John Wilson'; 'Chris Schustrom / Garden Wall Inn'; 'Trek Stephens'; 'Julia Olivares'; 'Joe Vail'; 'Brian Averill'
Cc: 'Rich Knapp'; 'Ryan Mitchell'
Subject: RE: Field Meeting on the East 2nd Street Project

Good evening Bill, Chris, Julia and John,

Thank you Bill for weighing in on the decision and I we appreciate your thoughts and opinion on the matter. What you are speaking of is definitely a larger matter than our committee is asked to deal with but definitely brings up a good subject and debate for City and Council.

Just so that Council has direction on this project, I think it is safe to say after this morning's meeting and with Bill's vote that our committee recommends to Council **NOT** to proceed with placing utilities underground on the East 2nd Street project with the vote being 4 in favor and 1 against.

Committee members please respond to me with a yeah or nay on the statement above. If you have changed your mind since this morning on your vote, please let me know. Otherwise, I will proceed forwarding our recommendation after I hear from you.

Thank you,
Doug

John Wilson

To: Chris Schustrom / Garden Wall Inn
Subject: RE: Field Meeting on the East 2nd Street Project

From: Chris Schustrom / Garden Wall Inn [<mailto:chris@gardenwallinn.com>]
Sent: Wednesday, December 12, 2012 9:04 PM
To: 'Doug and Nikki Reed'; 'Bill Kahle'; 'John Wilson'; 'Trek Stephens'; 'Julia Olivares'; 'Joe Vail'; 'Brian Averill'
Cc: 'Rich Knapp'; 'Ryan Mitchell'
Subject: RE: Field Meeting on the East 2nd Street Project

Doug, et al,

I vote "yay" to recommend to the City Council that utilities not be placed underground for the E. Second Street project.

I am open to projects in the future having strong consideration given to underground placement of utilities.

Bill, perhaps a good starting point for a discussion of this at the council level would be to request a policy by Public Work moving forward that on each street project, a cost project-specific comparison of underground vs. overhead utilities be undertaken at the beginning of each project and prior to design work being done.

Thanks,

Chris

John Wilson

From: Doug and Nikki Reed [nreed@bresnan.net]
Sent: Thursday, December 13, 2012 9:14 AM
To: 'John Wilson'
Cc: 'Chuck Stearns'
Subject: 2nd Street East

John,

Looks like our committee recommends to Council 4-1 to **not** burying the utilities on the East 2nd Street project.

Thank you,
Doug

John Wilson

From: John Wilson [jwilson@cityofwhitefish.org]
Sent: Thursday, December 13, 2012 4:33 PM
To: Kahle Bill (bkahle@cityofwhitefish.org); 'Doug and Nikki Reed'
Cc: 'Chuck Stearns'
Subject: Policy regarding overhead utilities on City street projects
Attachments: RE: Field Meeting on the East 2nd Street Project

Good Afternoon Bill

We have a bit of a dilemma on this question of policy for overhead utilities on City street projects. While the RTMC “voted” on the specific question of overhead utilities on East 2nd Street, it was the committee that raised the question about the 2nd Street project and it doesn’t warrant a Council agenda item to discuss what amounts to an internal committee discussion and non-action. Unfortunately, the committee did not deliberate or vote on the overall policy question that is understandably important to you. Chris made a constructive suggestion in his email last night (see attachment), but the committee didn’t vote on that.

So based on my understanding of the procedure to place an item on the City Council agenda, along with the lack of a pertinent recommendation from the RTMC – I’m not sure where we go next with your question about the overhead utility policy and I’m concerned this continues to leave the design on hold.

I understand you, or any City Councilor, can ask the City Manager to put an issue on the Council agenda if three Council members so desire. If the overhead utility policy should find its way onto the next agenda, I suspect the Council will want to know the RTMC’s position, but they haven’t had any substantive deliberation on the overall policy.

So ... I’ve copied Doug and Chuck on this email. I also left a couple of voice mails for Doug, but we haven’t had a chance to talk. I very much want to move forward with design. I see us all in a unique situation where we don’t want to disrespect your concerns, but the timing of the question and the convoluted recommendation/decision process has left us treading water for a month and counting. RPA started this project in good faith and established various job schedules and work assignments with due consideration of our East 2nd Street design contract. This is substantial part of their winter work load and we have left them idling for weeks now. The question of whether to leave utilities overhead or move them underground is fundamental to the overall project design and must be resolved before they can get back to work.

I want to respectfully ask you to consider Chris’ suggestion in the attached email. That would be for the East 2nd Street project to proceed with the current policy of leaving those utilities overhead, then initiate a policy discussion with the RTMC and City Council to give staff direction for future projects.

I wonder if I’m over-thinking this and then I think I’m not. But please let me know your thoughts in this regard and feel free to give me a call at 863.2455.

John Wilson
Whitefish Public Works Director
P.O. Box 158
418 East Second Street
Whitefish, MT 59937

John Wilson

From: John Wilson [jwilson@cityofwhitefish.org]
Sent: Tuesday, December 18, 2012 11:19 AM
To: Kahle Bill (bkahle@cityofwhitefish.org); 'Bill Kahle'
Cc: 'Chuck Stearns'; 'khilding@cityofwhitefish.org'; 'Doug and Nikki Reed'
Subject: RE: Policy regarding overhead utilities on City street projects

Bill

I apologize for my confusion – as demonstrated once again in my email a few minutes ago - but Karin just showed me where your December 12th email indicates you're comfortable proceeding with the East 2nd St project, leaving the utilities overhead, and that you will pursue the larger policy question at the City Council level. I could have saved everyone the trouble of reading my December 13th email if I'd read your message more carefully.

So, we are moving forward with the East 2nd Street Project on that basis. As explained in my December 13th email, this was a question asked and answered at the committee level and so it will not be on the January 7th Council agenda. We welcome a discussion about the overall policy for overhead utilities whenever the Council chooses to take it up.

Sorry about the confusion.

John Wilson
Whitefish Public Works Director
P.O. Box 158
418 East Second Street
Whitefish, MT 59937
Phone 406.863.2455

<http://www.whitefish.govoffice.com>

the confusion.

John Wilson

From: Rich Knapp [rknapp@cityofwhitefish.org]
Sent: Friday, January 25, 2013 4:52 PM
To: jwilson@cityofwhitefish.org; 'Chuck Stearns'
Subject: Rich's Argument for Not Necessarily Sinking Power Lines

A new developer is required to underground power lines. This makes the subdivision more marketable, plus the people that directly benefit from it pay for it, because the developer passes on the cost to the property buyers.

In an old development with overhead power lines. To sink their lines is a cost born by the city as a whole and not the area directly (unless an SID is used). This ups the value of the property in their specific area with the general dollars of the city. Also, the overhead power is what everyone bought into when the houses were originally built and sold down to anyone that buys them now—it's valued in the market price.

I think this argument should be considered in such discussions.

Rich

From: John Wilson [<mailto:jwilson@cityofwhitefish.org>]
Sent: Friday, January 25, 2013 10:19 AM
To: Ashley Keltner
Subject: Question about O'Brien Bluffs subdivision

Good Morning Ashley

I'm trying to recall some history about electrical infrastructure in Whitefish, particularly the underground power installed along O'Brien Avenue in conjunction with the O'Brien Bluffs subdivision during the summer of 2008.

We're having a discussion about whether the City should move the overhead utilities underground on in-house street reconstruction projects, as our Standards require for new development projects. I take the position that it's easier and less expensive to install underground utilities on an undeveloped subdivision site than to bury existing utilities in a developed neighborhood. It's been pointed out that the developers of the O'Brien Bluffs subdivision were required to bury the overhead utilities along O'Brien Avenue, beyond their project boundary up to 10th St.

I don't remember that decision process, but it would be unusual for the City to require that sort of work beyond the subdivision. Perhaps it was a case of new electrical infrastructure needed to serve the subdivision? I'm wondering if you recall anything about that electrical installation along O'Brien Avenue, between the O'Brien Bluffs subdivision and 10th St.

Thanks

John Wilson
Whitefish Public Works Director
P.O. Box 158
418 East Second Street
Whitefish, MT 59937
Phone 406.863.2455

<http://www.whitefish.govoffice.com>

John Wilson

To: A.Keltner@flathead.coop
Subject: RE: Question about O'Brien Bluffs subdivision

From: A.Keltner@flathead.coop [mailto:A.Keltner@flathead.coop]
Sent: Friday, January 25, 2013 11:09 AM
To: jwilson@cityofwhitefish.org
Subject: RE: Question about O'Brien Bluffs subdivision

Good morning John,

There is not a specific Flathead Electric Cooperative policy that requires relocation projects to be put underground. In certain instances they are encouraged but usually at the developer's expense. In the case of O'Brien Bluffs subdivision it was a matter of the road being widened without much right of way. This caused conflicts with the existing pole locations. In order to move the poles to the back of the right of way, the overhead conductors would become too close to trees on private property. This is much the same issue that we once looked at on the WF West MDOT project. We could move our poles to the back of the R/W, but still need 10 feet of clearance from trees on private property to our overhead conductors. The decision was made on the O'Brien Bluffs project to bury the line instead of getting permission to cut down private trees. As you could see there are many areas where houses are close to the road and taking the trees out was not a popular idea with the residents.

I would certainly agree with your position that burying existing overhead utilities is more difficult than putting in new underground. One thing to consider is that even if you bury everything in the right of way, there is still the issue of the customer owned service entrance equipment on the houses. If this is not addressed, there are still going to be poles set for the utilities to come back overhead to get to most houses (again the same issue we have on WF West).

I hope this sheds some light Flathead Electric's reasoning. If you have any other questions please let me know.

Thanks,

Ashley Keltner

Systems Engineer
Flathead Electric Cooperative
2510 US Hwy 2 East

Kalispell, MT 59901
Direct Line: (406)751-4478
Cell: (406)261-0459
a.keltner@flathead.coop

12-4-29: UTILITIES AND EASEMENTS:

- A. Easements shall be provided for all utilities and indicated on the final plat. All new utilities shall be placed underground.
- B. Easements for public utilities which cross private property shall be delineated and dedicated on the final plat. Water, sewer and storm sewer easements shall be twenty feet (20') wide for a single pipeline with the pipe centerline no less than five feet (5') from one easement edge. With two (2) pipelines, the minimum width shall be twenty five feet (25') with each pipe centerline no less than five feet (5') from the easement edge. Easements for all other utilities, not adjacent to rights of way, shall be twenty feet (20') wide unless specified otherwise by the utility company.
- C. Only water, sanitary sewer, storm sewers and street lighting elements may be placed within the street right of way. No underground utilities, except service sweeps from the utility trench to utility boxes, pedestals, vaults or transformers shall be placed in the planting strip between the back of curb and sidewalk or within a sidewalk itself. No utility boxes, pedestals, vaults or transformers shall be placed within the planting strip, the radial extension of an easement, proposed roadway, accessway to any city facility, or within ten feet (10') of fire hydrants or curb boxes unless approved by the public works department.
- D. There shall be reserved along the front lot line and side street lot line of each residential lot a ten foot (10') wide utility easement along, contiguous and adjacent to the lot line to provide an area between the sidewalk and easement line for the placement of privately owned underground utilities, including power, phone, gas, cable, etc. No private utilities shall be located in water or sewer trenches. Utilities must maintain a minimum of five feet (5') of undisturbed soil between water or sewer utility trenches. If approval is obtained in advance from both the appropriate utility companies and the public works department or city engineer, electric, phone and cable facilities may be placed under the sidewalk. In this case, a five foot (5') wide utility easement would be required along the front lot line for the installation of natural gas lines.
- E. Utility lines shall be designed by a professional engineer or by the utility firms in cooperation with the subdivider. All applicable laws, rules and regulations of appropriate regulatory authority having jurisdiction over such facilities shall be observed. Location of all proposed utilities must be shown on the construction plans for review and approval by the public works department.
- F. If television, telephone or natural gas is not installed at the time of development, provisions shall be made for installation at a later date without the cutting of paved roadways or sidewalks.

G. In addition to showing the location of the utility easements on the plat an easement statement shall appear on the final plat with the developer's signature. See appendix G, attached to the ordinance codified herein, for the required statement. (Ord. 09-23, 11-16-2009; amd. Ord. 12-04, 2-6-2012)

Chuck Stearns

From: Mark Svennungsen [svennmark@gmail.com]
Sent: Saturday, March 09, 2013 8:38 PM
To: Chuck Stearns
Subject: EAST SECOND STREET UTILITIES

Dear Mr. Stearns:

For the next forty, fifty years the citizens and visitors of Whitefish will be saddled with the Council's decision in regard to the utility lines and poles along East Second Street. I certainly hope our Whitefish City Council has the foresight to realize the importance of going UNDERGROUND with the new utilities.

Our City fathers have had the foresight to mandate proposed subdivisions must have UNDERGROUND utilities installed; thank goodness. Can you imagine promoting a new subdivision with unsightly OVERHEAD utility lines? The expense incurred by the developer to install the underground utilities is more than covered by the increased value of each lot and appeal of the project.

How many of us have seen the beautiful scenic snapshot, and then someone comments about those ugly power poles and wires?

The projected added expense to install underground utilities is close to \$300,000. That pencils out to approximately \$7,500 per year for the forty years of not having the third world overhead power poles and lines along the East Second Street corridor; pretty good investment for our fine, beautiful city.

Maybe a one year, community approved, extra one percent resort tax. One year, one year only. Some \$700,000 in added revenue would be realized so we could continue installing underground utilities on our other corridors as they come on board.

If this major re-do of our 93 N corridor was just for the next three, four years, okay. But this will be our ENTRANCE and DEPARTURE for the next forty, fifty years. A long term INVESTMENT.

Thanks for your time and consideration; Mark Svennungsen.

Sent from my iPad HD=

Chuck Stearns

From: Necile Lorang [nlorang@cityofwhitefish.org]
Sent: Monday, March 04, 2013 2:01 PM
To: cstearns@cityofwhitefish.org
Subject: Fw: boutique hotel

----- Original Message -----

From: [Bookworks](#)
To: nlorang@cityofwhitefish.org
Sent: Monday, March 04, 2013 1:32 PM
Subject: boutique hotel

Greetings,

I am truly amazed with the speed the hotel is being pushed through. I also don't understand why the location at Third and Central is so important. The lot at Third and Spokane has been for sale. It is larger and would handle the amount of parking required, without using street parking. To expect downtown tourists and employees to park in a lot across from the post office is absurd! No downtown shopper will park there and walk two blocks to shop.

If the hotel takes 36 parking spaces plus workers, where are they going?? You can start checking into a hotel by 2 in the afternoon and not leave until 11 or 12 the next day. Have you lost your math ability??? It would take at least 10-15 people to work during the day, maybe 4-5 at night. If there is already a buy/sell on the church/jccs building, leave it alone. I hope there is nothing going on that is not public knowledge for this land swap to occur.

Cheryl Watkins