



**CITY COUNCIL WORK SESSION  
CITY COUNCIL CHAMBER CONFERENCE ROOM  
MONDAY, SEPTEMBER 16, 2013, 5:30 to 7:00 PM**

1. Call to Order
2. Work session with Whitefish Housing Authority
  - a. Overview and discussion of federal cutbacks on housing authority funds and grants
  - b. Options for renovation of BNSF houses on 1<sup>st</sup> Street and discuss possibility of Tax Increment Funding for such housing rehabilitation
  - c. Review cash-in-lieu memos for Resolution on agenda for regular meeting
  - d. Other topics
3. Public Comment
4. Adjournment

**The Whitefish Housing Authority**  
PO Box 1237, 100 4<sup>th</sup> Street, Whitefish, MT 59937  
Phone: 862-4143 Fax: 862-4170  
[lcollins@cityofwhitefish.org](mailto:lcollins@cityofwhitefish.org)

**RE: Housing Worksession Presentation and Request for Investment**

September 5, 2013

Dear Mayor Muhlfeld and Whitefish City Councilors,

On Monday, September 16<sup>th</sup>, I will be present at the regularly scheduled worksession to ask you to approve the request of funds for the costs of demolition and construction of two homes on the lots donated to the housing authority from BNSF. The Whitefish Housing Authority is seeking an approximate amount of \$200,000.

At the council worksession on 6/10/13, WHA presented an option for rehabilitation of the two homes in the Railway District at a cost of approximately \$34,000 and \$37,000 per home. A few of you asked for information on options for the lots and a more specific cost breakdown. Towards this end, the WHA has worked with two reputable builders in Whitefish, JS Builders & Artisan Construction, who agree on the cost for rehabilitation as stated above. Since that time, the board has held numerous worksessions on this project and has come to the realization that a new construction build is more cost effective and would better suit the long term goals of the housing authority and the Railway District as a whole.

My goals at the worksession are:

1. To present the work we do in the community of Whitefish and to demonstrate the important role of the Whitefish Housing Authority in the area of housing and community development. A Program Information sheet is included with information on all four of our current housing programs; and
2. To show the need for support from the City of Whitefish to rebuild these two homes as rental units that will help moderate and low income households in our town to work, live and stay in Whitefish as well as aid WHA in becoming more financially stable and independent and continue our mission of helping those in need of affordable housing opportunities in Whitefish.

I have included a copy of the three program budget for the upcoming fiscal year. The combined total budget is approximately \$475,000 (which is significantly decreased from last year's budget of \$896,000) and is budgeted as follows:

- Public Housing Program: \$248,722
- Housing Choice Voucher Program: \$84,793
- Development and Homeownership Programs: \$139,560

I am presenting our budget as a tool to help you understand the complex funding sources we utilize and our need for funding.

The public housing and housing choice voucher rental programs are federally funded programs. Funds received through these programs cannot be used to support operation costs of other housing activities. Of note is that, these funds have been severely cut due to sequestration and we do not see much change in the future. It is not good news for the housing authority in these economic times and much of our plans for sustainability are in jeopardy. Rental prices are rising sharply and the need for housing assistance is growing. Our waiting list for rental assistance is 3+ years long. The last household we were able to assist had an application from 2008. Rental prices have increased over the past several years to the point where half of renters currently pay more than half of their income for housing according to Housing and Urban Development Department data. Sequestration is expected to result in an estimated 9.1 percent across-the-board cut to federal housing assistance. The Whitefish Housing Authority is confronting deep cuts to our most important housing and community development programs and I expect the trend to continue into 2014 and beyond. The plans we made for sustainability included sources of funds such as the payment in lieu of housing from the Inclusionary Zoning Ordinance that are not currently viable. Until about 2008, we were able to cover the operating expenses of our Development and Homeownership Programs. Since 2008, the funding for these activities has been very difficult. The Development and Homeownership Programs are only able to be funded through grant writing and other activities and support from the City of Whitefish. The city funds we are seeking on September 16<sup>th</sup> will be used to fund the reconstruction of the two donated homes in the Railway District that, in the end, will bring in much needed funds that would be used for operation costs of non-PHA programs, such as the Homeownership Program, the Housing Rehabilitation Program and the WHA Rental Program.

The Whitefish Housing Authority was founded in 1967 to address the growing housing needs in Whitefish, Montana. The Mountain View Manor opened in 1970 and was our first project and our only housing project for the first 40 years. In the last ten years WHA has expanded our activities and now we are finding it difficult to continue those non public housing activities and seek city funds to continue. I hope that our track record helps you see that you invest city funds with integrity with your local housing authority. I respectfully ask you to approve the total funding of \$200,000 to the Whitefish Housing Authority to aid in the continuation of our housing and community development activities.

Respectfully,

Lori Collins  
Executive Director

# **The Whitefish Housing Authority**

PO Box 1237, Whitefish, MT 59937

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## **Program Information Sheet #1**

### **Topic: Public Housing**

#### **MOUNTAIN VIEW MANOR**

The Whitefish Housing Authority operates Mountain View Manor, 50 apartments for the elderly and disabled. Mountain View Manor is located at 100 East Fourth Street, down the street behind the post office on the river. Mountain View Manor was completed in 1970 and is the first project of the Whitefish Housing Authority.

Mountain View Manor is public housing and as such the calculation of rent is based on federal guidelines. Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. There are approximately 1.3 million households living in public housing units in the US, managed by some 3,300 Housing Authorities. The U.S. Department of Housing and Urban Development (HUD) administers Federal aid to local housing agencies (HAs) that manage the housing for low-income residents at rents they can afford.

The Whitefish Housing Authority receives a subsidy from HUD (currently an approximate \$22,000 yearly) for the management of public housing. The \$22,000 subsidy represents a near 70% cut to our funding from two years ago. The HUD subsidy is used to bridge the gap between our operation costs and the rent that we receive from tenants. As public housing, we cannot increase rent to cover our costs as rent is based on income.

#### **HOW IS RENT DETERMINED?**

Rent is based on a household's anticipated gross annual income less medical cost deductions, if any.

The average rent at Mountain View Manor is \$308, including utilities. Mountain View Manor is full at this time and fills its vacancies from a wait list.

#### **FUNDING SHORTGAGES PROJECTED**

We are confronting deep cuts to our HUD funding for public housing. A 17% cut to our operating subsidy is projected. This cut follows a 65% cut in the previous year. Capital Funds are facing a 40% cut in the budget. Mountain View Manor is a well managed, well maintained building and the rent received covers 74% of our operating costs at the MVM. At this time the Mountain View Manor is able to make ends meet but we do have serious doubts about the funding for public housing at the national level.

WHA is prohibited from using funds from public housing to pay for non public housing activities. WHA has a finding in our audit for questionable costs for having done so.

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### **Program Information Sheet #2**

#### **Topic: Housing Choice Vouchers**

The Section 8 Housing Choice Voucher Program is a federally funded program which assists very low-income households secure decent affordable housing in the community at large. The program "creates affordable rents" by paying a portion of the eligible rent directly to the landlord. Eligible participants are issued a voucher, which authorizes them to locate rental units on the open market. One goal of this program is to deconcentrate low-income renters. Tenant-based vouchers increase affordable housing choices for very low-income families. Families with a tenant-based voucher choose and lease safe, decent, and affordable privately-owned rental housing.

Whitefish Housing Authority took over 16 vouchers in August 2004 after the sale of the Chair III Apartments. Since that time WHA has managed the small voucher program sufficient to aid 16 households each month with rental costs.

#### **HOW MUCH RENT WILL THE VOUCHER COVER?**

The Housing Authority pays the owner the difference between 30 percent of adjusted family income and a Housing Authority determined payment standard or the gross rent for the unit, whichever is lower.

For example: A household of five with one wage earner brings home \$1200 a month. Rent is 30% of income, or \$400 in this case. The rent is \$900. So the household pays \$400 and the Program pays \$500. After six years, I have never calculated anything like a success rate. We have however seen many a household find stability in housing lead to stable jobs, and they have moved on from needing any rental assistance. Some households will always need assistance due to a variety of reasons including disability.

#### **# OF VOUCHERS AND AVERAGE ASSISTANCE**

Whitefish Housing Authority manages 16 vouchers. On average, WHA pays \$500 per month per participant. Total payments to landlords are approximately \$6,000 a month.

#### **FUNDING**

This is a federally funded program. The program is currently under funded and receives \$682 monthly for operation costs to run the program. Our true cost is approximately \$1000 monthly.

#### **PARTICIPANTS AND LOCATIONS**

The participants vary and currently include elderly households, single parent households, disabled households, and very low-income two wage earner households. Participating landlords at this time include Mountain Apartments, Mountain Senior Apartments, and private single-family homes. The Whitefish Housing Authority utilizes a preference for local households, locally employed households and victims of domestic violence.

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### **Program Information Sheet #3**

#### **Topic: Whitefish Housing Rehabilitation Program**

This is a City of Whitefish housing program created in 1998. The Whitefish Housing Authority manages the program under an Interlocal Agreement.

The program aids eligible low-income homeowners finance the repairs to their homes to eliminate safety hazards, bring the house up to code, and increase energy efficiency. The goals of the program include preserving our existing housing stock, and maintaining affordability to existing homeowners by decreasing the energy and maintenance costs of their homes.

#### **FUNDING**

This program was originally funded by federal, state, and local grants. This program has received approximately \$390,000 in grants since 1998. All current project funding is either invested in the homes in Whitefish or has been repaid and is in the revolving fund for re-use. Many loans have been repaid over the years, which enabled this program to continue without further grant assistance since 2003. WHA recently received a \$30,000 USDA Housing Preservation Grant.

#### **HOMEOWNER LOANS AND THE REVOLVING FUND**

Assistance is in the form of a loan. The homeowner has two options for repayment. They may elect a silent second plan in which case it is a 3% loan secured by a lien on the home and due in full at sale, refinance or transfer of title. Or they may elect to make payments in which case it is a no interest loan secured by a lien on the home. Senior households with project costs below \$200 are not subject to repayment.

#### **HOW MANY HOUSEHOLDS HAVE BEEN AIDED UNDER THIS PROGRAM?**

Approximately 50 households have benefited from this program with loans ranging from \$2,000 to \$42,000.

#### **WHAT KIND OF REPAIRS?**

Completed projects include replacement of heating systems, new windows, foundation repairs, new roofs, new kitchens, electrical upgrades, insulation, etc.

#### **WHAT IS THE STATUS OF THE PROGRAM?**

This is a first come first serve wait list.

#### **DOES WHA RECEIVE FUNDS FROM THE CITY TO RUN THIS PROGRAM?**

The last city funds WHA received from the city for this program was in July 2004 under an Interlocal Agreement. The funding was for management of the rehab program and the establishment of a homeownership program. Following the guidelines from the funding sources, WHA captures a 12% admin fee on all completed projects for operating costs.

#### **GRANT FUNDING TO DATE**

The Whitefish Housing Authority has been awarded approximately \$390,000 in grant funding for the Housing Rehabilitation Program, including our newest \$30,000 USDA grant. The Program currently holds approximately \$210,000 under repayment plans to be repaid in full upon resale, refinance or transfer of title. Repaid funds are used to aid the next household.

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### **Program Information Sheet #4**

#### **Topic: Homeownership Program**

The Whitefish Housing Authority created the Homeownership Program in 2004 and by 2005 had aided the first six households purchase a home in Whitefish. The program assists low and moderate income homebuyers purchase a home in Whitefish through the use of a subsidy that buys down the price of the home to a mortgage affordable to working wage / low and moderate income households. This program is primarily funded through federal grants for which the housing authority competes at the state level.

WHA has aided 28 low and moderate income households purchase a home in Whitefish to date. All but one of the working households assisted are employed in Whitefish. Nine of the households have children in Whitefish Schools. WHA's affiliate, Whitefish Housing Development built eight of the 28 homes by redeveloping three blighted properties with eight new units in two locations in Whitefish.

#### **PERMANENT AFFORDABILITY**

The Whitefish Housing Authority founded the Whitefish Area Land Trust in 2008 to create affordable homes that would remain affordable at each subsequent resale. The permanent affordability is created by supplying subsidy at first purchase sufficient to create an affordable mortgage. In exchange for the benefit of the affordable mortgage on a home that they would otherwise not be able to afford, they agree to leave the affordability in the home when they sell. Under the current program, at resale the homeowners receive all of the earned principle plus 25% of the increase in the appraised value. Using this method, the home itself is preserved as affordable for each subsequent low and moderate income buyer forever.

#### **WHA HAS A GOAL TO AID FIVE HOUSEHOLDS BECOME HOMEOWNERS EACH YEAR**

WHA is seeking to aid approximately 50% of the needs that were identified in the 2008 Housing Needs Assessment.

#### **QUALIFICATIONS**

Eligible households earn no more than 80% AMI, will occupy the home on a full time basis, have good credit and are able to secure a bank loan. Homebuyers must also attend a homebuyer education course and review the resale restriction with an attorney. WHA also serves households up to 120% of area median income but this program is currently unfunded.

#### **THE WAIT LIST AND THE LOCAL PREFERENCE**

WHA maintains a wait list for this program. Applicants are placed on the main wait list in date order. All things being equal, locally employed households are given preference.

#### **GRANT FUNDING TO DATE**

The Whitefish Housing Authority has been awarded approximately \$1.7 million dollars in grant funding for the Homeownership Program. Of this total, approximately \$1.3 million is secured by liens that will either be repaid at resale (Down payment Assistance Program 2005-2008) or will be left in the home to hold the home itself affordable at resale (Permanent Affordable Program 2008 and forward).

|     | A  | B             | C             | D                 | E | F                                   |
|-----|--|---------------|---------------|-------------------|---|-------------------------------------|
| 1   | <b>Housing Choice Voucher Program BUDGET FYE 6/30/2014</b> |               |               |                   |   |                                     |
| 2   | <b>Original submission to board</b>                        |               |               | working 3/18/2013 |   |                                     |
| 3   |  |               |               |                   |   |                                     |
| 4   | <b>Accounts</b>  | <b>Totals</b> | <b>HCV</b>    | <b>0k</b>         |   |                                     |
| 5   |  |               |               |                   |   |                                     |
| 6   | <b>OPERATING RECEIPTS</b>                                  |               |               |                   |   |                                     |
| 7   | 3110 Rent  | 0             | 0             |                   |   |                                     |
| 8   | 3120 Excess Utilities                                      | 0             | 0             |                   |   |                                     |
| 9   | 3610 Interest on General Funds                             | 0             | 0             |                   |   |                                     |
| 10  | 3690 Other Operating Receipts                              | 0             | 0             |                   |   |                                     |
| 11  | 3690 Capital funds for Operations                          | 0             | 0             |                   |   |                                     |
| 12  | <b>TOTALS</b>  | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 13  |  |               |               |                   |   |                                     |
| 14  | <b>OPERATING SUBSIDIES</b>                                 |               |               |                   |   |                                     |
| 15  | 3110 HCV HAP Payments                                      | 76,570        | 76,570        |                   |   | as of 3/18 proration for admin is a |
| 16  | 3110.01 HCV Administrative                                 | 7,664         | 7,664         |                   |   | From the HCV leasing and spendi     |
| 17  | 8020 Public Housing Operating                              | 0             | 0             |                   |   | 61.97 per voucher per month is th   |
| 18  | <b>TOTALS</b>  | <b>84,234</b> | <b>84,234</b> | <b>X</b>          |   |                                     |
| 19  |  |               |               |                   |   |                                     |
| 20  | <b>GRANT FUNDS (CDBG, HOME, AHP, CI</b>                    |               |               |                   |   |                                     |
| 21  | GRANT FUNDS (CDBG, HOME, AHP,                              | 0             | 0             |                   |   |                                     |
| 22  | Grant funds for admin costs                                | 0             | 0             |                   |   |                                     |
| 23  | Grant funds for professional services                      | 0             | 0             |                   |   |                                     |
| 24  | 12% Rehab funds for Admin                                  | 0             | 0             |                   |   |                                     |
| 25  | Rehab Program Income                                       | 0             | 0             |                   |   |                                     |
| 26  | Homeownership Program Income                               | 0             | 0             |                   |   |                                     |
| 27  | Homeownership Program Income / Adm                         | 0             | 0             |                   |   |                                     |
| 28  | <b>TOTALS</b>  | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 29  |  |               |               |                   |   |                                     |
| 30  | <b>FEES</b>  |               |               |                   |   |                                     |
| 31  | WHA Admin Fees / Homeownership Ad                          | 0             | 0             |                   |   |                                     |
| 32  | Program Fees   | 0             | 0             |                   |   |                                     |
| 33  | City of Whitefish  | 0             | 0             |                   |   |                                     |
| 34  | <b>TOTALS</b>  | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 35  |  |               |               |                   |   |                                     |
| 36  | <b>INCOME TOTALS</b>                                       | <b>84,234</b> | <b>84,234</b> |                   |   |                                     |
| 37  |  |               |               |                   |   |                                     |
| 38  | <b>OPERATING EXPENDITURES / ADMIN</b>                      |               |               |                   |   |                                     |
| 39  | 4110 Admin Salaries  | 6,000         | 6000          |                   |   | \$500 per month                     |
| 40  | 4130 Legal Expense   | 0             | 0             |                   |   |                                     |
| 41  | 4140 Training  | 0             | 0             |                   |   |                                     |
| 42  | 4150 Travel  | 50            | 50            |                   |   | cut 50% due to proration for FYE 2  |
| 43  | 4170 Acct Fees   | 600           | 600           |                   |   |                                     |
| 44  | 4171 Auditing Fees   | 300           | 300           |                   |   | approx 3% of \$8900                 |
| 45  | 4190 Sundry Other  | 100           | 100           |                   |   | cut 50% due to proration for FYE 2  |
| 46  | 4190:90 Admin services contract                            | 100           | 100           |                   |   | Portion of accounting fo HCV work   |
| 47  | 4190.4 Rent  | 0             | 0             |                   |   |                                     |
| 48  | 4190.5 dues and Subscriptions                              | 0             | 0             |                   |   |                                     |
| 49  | 4190.09 Advertising  | 0             | 0             |                   |   |                                     |
| 50  | 4190.6 Telephone   | 0             | 0             |                   |   |                                     |
| 51  | 4190.7 Postage   | 150           | 150           |                   |   | 16 stamps per month + applicator    |
| 52  | 4190.8 Office Supplies                                     | 75            | 75            |                   |   | check costs and ink mainly          |
| 53  | <b>TOTALS</b>  | <b>7,375</b>  | <b>7,375</b>  | <b>X</b>          |   |                                     |
| 54  |  |               |               |                   |   |                                     |
| 55  | <b>TENANT SERVICES</b>                                     |               |               |                   |   |                                     |
| 56  | 4210 Tenant Services Salaries                              | 0             | 0             |                   |   |                                     |
| 57  | 4220 Recreation, Other Services                            | 0             | 0             |                   |   |                                     |
| 58  | 4230 Training, contract costs                              | 0             | 0             |                   |   |                                     |
| 59  | <b>TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 60  |  |               |               |                   |   |                                     |
| 61  | <b>HOUSING ASSISTANCE PAYMENTS</b>                         |               |               |                   |   |                                     |
| 62  | HAP  | 76,570        | 76,570        |                   |   | This will be difficult and WHA will |
| 63  | <b>TOTAL</b>   | <b>76,570</b> | <b>76,570</b> | <b>X</b>          |   |                                     |
| 64  |  |               |               |                   |   |                                     |
| 65  | <b>UTILITIES - Moutain View Manor Only</b>                 |               |               |                   |   |                                     |
| 66  | 4310 Water   | 0             | 0             |                   |   |                                     |
| 67  | 4320 Electric  | 0             | 0             |                   |   |                                     |
| 68  | 4330 Gas   | 0             | 0             |                   |   |                                     |
| 69  | 4390 Sewer   | 0             | 0             |                   |   |                                     |
| 70  | 4390 Garbage & Flathead County                             | 0             | 0             |                   |   |                                     |
| 71  | <b>MVM TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 72  |  |               |               |                   |   |                                     |
| 73  | <b>UTILITIES - Central Office</b>                          |               |               |                   |   |                                     |
| 74  | Central Office Utilities                                   | 0             | 0             |                   |   |                                     |
| 75  | <b>TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 76  |  |               |               |                   |   |                                     |
| 77  | <b>MAINTENANCE AND OPERATION</b>                           |               |               |                   |   |                                     |
| 78  | 4410 Labor   | 0             | 0             |                   |   |                                     |
| 79  | 4420 Materials   | 0             | 0             |                   |   |                                     |
| 80  | 4430 Contract Costs  | 0             | 0             |                   |   |                                     |
| 81  | <b>TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 82  |  |               |               |                   |   |                                     |
| 83  | <b>GENERAL EXPENSE</b>                                     |               |               |                   |   |                                     |
| 84  | 4510 Building Insurance - MVM                              | 0             | 0             |                   |   |                                     |
| 85  | 4520 PILOT   | 0             | 0             |                   |   |                                     |
| 86  | 4530 Terminal Leave Payments                               | 0             | 0             |                   |   |                                     |
| 87  | 4540 EBC   | 1,848         | 1848          |                   |   | 28% to EBC                          |
| 88  | <b>TOTAL</b>   | <b>1,848</b>  | <b>1,848</b>  | <b>X</b>          |   |                                     |
| 89  |  |               |               |                   |   |                                     |
| 90  | <b>NON ROUTINE EXPENSE</b>                                 |               |               |                   |   |                                     |
| 91  | 4610 Extraordinary Maintenance                             | 0             | 0             |                   |   |                                     |
| 92  | 7520 Replacement of Nonexpendable E                        | 0             | 0             |                   |   |                                     |
| 93  | <b>TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 94  |  |               |               |                   |   |                                     |
| 95  | <b>HOMEOWNERSHIP PROGRAM</b>                               |               |               |                   |   |                                     |
| 96  | Unit Subsidies   | 0             | 0             |                   |   |                                     |
| 97  | Professional Services                                      | 0             | 0             |                   |   |                                     |
| 98  | <b>TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 99  |  |               |               |                   |   |                                     |
| 100 | <b>HOUSING REHABILITATION PROGRAM</b>                      |               |               |                   |   |                                     |
| 101 | Rehab loans  | 0             | 0             |                   |   |                                     |
| 102 | <b>TOTAL</b>   | <b>0</b>      | <b>0</b>      | <b>X</b>          |   |                                     |
| 103 |  |               |               |                   |   |                                     |
| 104 |  |               |               |                   |   |                                     |
| 105 |  |               |               |                   |   |                                     |
| 106 | <b>TOTAL OPERATING EXPENDITURES</b>                        | <b>85,793</b> | <b>85,793</b> |                   |   |                                     |
| 107 | <b>OPERATING INCOME</b>                                    | <b>84,234</b> | <b>84,234</b> |                   |   |                                     |
| 108 | <b>RESIDUAL RECEIPTS OR DEFICIT</b>                        | <b>-1,559</b> | <b>-1,559</b> |                   |   |                                     |

|     | A   | B              | C                     | D | E   |
|-----|---|----------------|-----------------------|---|---|
| 1   | <b>Public Housing: BUDGET FYE 6/30/2014</b> |                |                       |   |   |
| 2   | <b>Original submission to board</b>         |                |                       |   | <b>Notes</b>  |
| 3   |   |                |                       |   |   |
| 4   | <b>Accounts</b>                             | <b>Totals</b>  | <b>Public Housing</b> |   |   |
| 5   |   |                |                       |   |   |
| 6   | <b>OPERATING RECEIPTS</b>                   |                |                       |   |   |
| 7   | 3110 Rent                                   | 176,220        | 176,220               |   | is an average rent of 14685 month. Dec = \$15,353; Jan = \$14,274;  |
| 8   | 3120 Excess Utilities                       | 400            | 400                   |   |   |
| 9   | 3610 Interest on General Funds              | 500            | 500                   |   |   |
| 10  | 3690 Other Operating Receipts               | 12,000         | 12,000                |   | \$3500 laundry coin; 1200 other income; 3840 other tenant rev + 20  |
| 11  | 3690 Capital funds for Operations           | 49,000         | 49,000                |   | 2011 = 44,894 (81%); 2012 = 31,157 (63%); 2013 = \$25,000 (50%)     |
| 12  | <b>TOTALS</b>                               | <b>238,120</b> | <b>238,120</b>        |   |   |
| 13  |   |                |                       |   |   |
| 14  | <b>OPERATING SUBSIDIES</b>                  |                |                       |   |   |
| 15  | 3110 HCV HAP Payments                       | 0              | 0                     |   |   |
| 16  | 3110.01 HCV Administrative                  | 0              | 0                     |   |   |
| 17  | 8020 Public Housing Operating               | 37,440         | 37,440                |   | 36,825 Per the worksheet last year, left the same.                  |
| 18  | <b>TOTALS</b>                               | <b>37,440</b>  | <b>37,440</b>         |   |   |
| 19  |   |                |                       |   |   |
| 20  | <b>GRANT FUNDS (CDBG, HOME, AHP, CI</b>     |                |                       |   |   |
| 21  | GRANT FUNDS (CDBG, HOME, AHP,               | 0              | 0                     |   |   |
| 22  | Grant funds for admin costs                 | 0              | 0                     |   |   |
| 23  | Grant funds for professional services       | 0              | 0                     |   |   |
| 24  | 12% Rehab funds for Admin                   | 0              | 0                     |   |   |
| 25  | Rehab Program Income                        | 0              | 0                     |   |   |
| 26  | Homeownership Program Income                | 0              | 0                     |   |   |
| 27  | Homeownership Program Income / Adm          | 0              | 0                     |   |   |
| 28  | <b>TOTALS</b>                               | <b>0</b>       | <b>0</b>              |   |   |
| 29  |   |                |                       |   |   |
| 30  | <b>FEES</b>                                 |                |                       |   | Any fees for PHA are late fees and go into #3690                    |
| 31  | WHA Admin Fees / Homeownership Ad           | 0              | 0                     |   |   |
| 32  | Program Fees                                | 0              | 0                     |   |   |
| 33  | City of Whitefish                           | 0              | 0                     |   |   |
| 34  | <b>TOTALS</b>                               | <b>0</b>       | <b>0</b>              |   |   |
| 35  |   |                |                       |   |   |
| 36  | <b>INCOME TOTALS</b>                        | <b>275,560</b> | <b>275,560</b>        |   |   |
| 37  |   |                |                       |   |   |
| 38  | <b>OPERATING EXPENDITURES / ADMIN</b>       |                |                       |   |   |
| 39  | 4110 Admin Salaries                         | 42,672         | 42,672                |   |   |
| 40  | 4130 Legal Expense                          | 5,000          | 5,000                 |   |   |
| 41  | 4140 Training                               | 2,000          | 2,000                 |   |   |
| 42  | 4150 Travel                                 | 1,500          | 1,500                 |   |   |
| 43  | 4170 Acct Fees                              | 6,750          | 6,750                 |   | \$150 month plus fees for subsidy calc, etc.                        |
| 44  | 4171 Auditing Fees                          | 7,200          | 7,200                 |   | estimated at 9000 with 80% to PHA                                   |
| 45  | 4190 Sundry Other                           | 700            | 700                   |   | Overall, at \$9,400 the sundry account is 900 less than FYE 6/30/13 |
| 46  | 4190:90 Admin services contract             | 2,000          | 2,000                 |   | Monthly bookkeeping / local   |
| 47  | 4190.4 Rent                                 | 0              | 0                     |   |   |
| 48  | 4190.5 dues and Subscriptions               | 500            | 500                   |   | NAHRO, Yahoo, etc   |
| 49  | 4190.09 Advertising                         | 300            | 300                   |   |   |
| 50  | 4190.6 Telephone                            | 4,000          | 4,000                 |   |   |
| 51  | 4190.7 Postage                              | 700            | 700                   |   |   |
| 52  | 4190.8 Office Supplies                      | 1,200          | 1,200                 |   |   |
| 53  | <b>TOTALS</b>                               | <b>74,522</b>  | <b>74,522</b>         |   |   |
| 54  |   |                |                       |   |   |
| 55  | <b>TENANT SERVICES</b>                      |                |                       |   |   |
| 56  | 4210 Tenant Services Salaries               | 10,000         | 10,000                |   |   |
| 57  | 4220 Recreation, Other Services             | 0              | 0                     |   |   |
| 58  | 4230 Training, contract costs               | 0              | 0                     |   |   |
| 59  | <b>TOTAL</b>                                | <b>10,000</b>  | <b>10,000</b>         |   |   |
| 60  |   |                |                       |   |   |
| 61  | <b>HOUSING ASSISTANCE PAYMENTS</b>          |                |                       |   |   |
| 62  | HAP   | 0              | 0                     |   |   |
| 63  | <b>TOTAL</b>                                | <b>0</b>       | <b>0</b>              |   |   |
| 64  |   |                |                       |   |   |
| 65  | <b>UTILITIES - Moutain View Manor Only</b>  |                |                       |   |   |
| 66  | 4310 Water                                  | 7,000          | 7,000                 |   |   |
| 67  | 4320 Electric                               | 12,500         | 12,500                |   |   |
| 68  | 4330 Gas                                    | 9,000          | 9,000                 |   |   |
| 69  | 4390 Sewer                                  | 4,000          | 4,000                 |   | Average of 330 month x 12 = 3960                                    |
| 70  | 4390 Garbage & Flathead County              | 5,000          | 5,000                 |   | 2018 x 2 to landfill plus monthly trash fee at city                 |
| 71  | <b>MVM TOTAL</b>                            | <b>37,500</b>  | <b>37,500</b>         |   |   |
| 72  |   |                |                       |   |   |
| 73  | <b>UTILITIES - Central Office</b>           |                |                       |   |   |
| 74  | Central Office Utilities                    | 0              | 0                     |   |   |
| 75  | <b>TOTAL</b>                                | <b>0</b>       | <b>0</b>              |   |   |
| 76  |   |                |                       |   |   |
| 77  | <b>MAINTENANCE AND OPERATION</b>            |                |                       |   |   |
| 78  | 4410 Labor                                  | 35,000         | 35,000                |   |   |
| 79  | 4420 Materials                              | 32,000         | 32,000                |   | had 7 increased by 25 of CFP \$                                     |
| 80  | 4430 Contract Costs                         | 10,000         | 10,000                |   |   |
| 81  | <b>TOTAL</b>                                | <b>77,000</b>  | <b>77,000</b>         |   |   |
| 82  |   |                |                       |   |   |
| 83  | <b>GENERAL EXPENSE</b>                      |                |                       |   |   |
| 84  | 4510 Building Insurance - MVM               | 7,700          | 7,700                 |   |   |
| 85  | 4520 PILOT                                  | 11,000         | 11,000                |   |   |
| 86  | 4530 Terminal Leave Payments                | 1,500          | 1,500                 |   |   |
| 87  | 4540 EBC                                    | 27,000         | 27,000                |   |   |
| 88  | <b>TOTAL</b>                                | <b>47,200</b>  | <b>47,200</b>         |   |   |
| 89  |   |                |                       |   |   |
| 90  | <b>NON ROUTINE EXPENSE</b>                  |                |                       |   |   |
| 91  | 4610 Extraordinary Maintenance              | 0              | 0                     |   |   |
| 92  | 7520 Replacement of Nonexpendable E         | 2,500          | 2,500                 |   |   |
| 93  | <b>TOTAL</b>                                | <b>2,500</b>   | <b>2,500</b>          |   | Rick increased by 2000, and I am ok with that and will propose to b |
| 94  |   |                |                       |   |   |
| 95  | <b>HOMEOWNERSHIP PROGRAM</b>                |                |                       |   |   |
| 96  | Unit Subsidies                              | 0              | 0                     |   |   |
| 97  | Professional Services                       | 0              | 0                     |   |   |
| 98  | <b>TOTAL</b>                                | <b>0</b>       | <b>0</b>              |   |   |
| 99  |   |                |                       |   |   |
| 100 | <b>HOUSING REHABILITATION PROGRAM</b>       |                |                       |   |   |
| 101 | Rehab loans                                 | 0              | 0                     |   |   |
| 102 | <b>TOTAL</b>                                | <b>0</b>       | <b>0</b>              |   |   |
| 103 |   |                |                       |   |   |
| 104 |   |                |                       |   |   |
| 105 |   |                |                       |   |   |
| 106 | <b>TOTAL OPERATING EXPENDITURES</b>         | <b>248,722</b> | <b>248,722</b>        |   |   |
| 107 | <b>OPERATING INCOME</b>                     | <b>275,560</b> | <b>275,560</b>        |   |   |
| 108 | <b>RESIDUAL RECEIPTS OR DEFICIT</b>         | <b>26,838</b>  | <b>26,838</b>         |   |   |

| Development and Homeownership BUDGET FYE 6/30/2014 |   |                                 |              |               |          |              |
|--|---|---------------------------------|--------------|---------------|----------|--------------|
| Original submission to board                       |   |                                 |              |               |          |              |
| Accounts   | Totals  | New Rental and/or Homeownership | Rehab        | BNSF Homes    | WBRP     | City Support |
| <b>OPERATING RECEIPTS</b>                          |   |                                 |              |               |          |              |
| 3110 Rent  | 9,000   | 0                               | 0            | 9,000         | 0        | 0            |
| 3120 Excess Utilities                              | 0   | 0                               | 0            | 0             | 0        | 0            |
| 3610 Interest on General Funds                     | 0   | 0                               | 0            | 0             | 0        | 0            |
| 3690 Other Operating Receipts                      | 0   | 0                               | 0            | 0             | 0        | 0            |
| 3690 Capital funds for Operations                  | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTALS</b>                                      | <b>9,000</b>  | <b>0</b>                        | <b>0</b>     | <b>9,000</b>  | <b>0</b> | <b>0</b>     |
| <b>OPERATING SUBSIDIES</b>                         |   |                                 |              |               |          |              |
| 3110 HCV HAP Payments                              | 0   | 0                               | 0            | 0             | 0        | 0            |
| 3110.01 HCV Administrative                         | 0   | 0                               | 0            | 0             | 0        | 0            |
| 8020 Public Housing Operating                      | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTALS</b>                                      | <b>0</b>  | <b>0</b>                        | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| <b>GRANT FUNDS (CDBG, HOME, AHP, CIT)</b>          |   |                                 |              |               |          |              |
| Donations  | 0   | 0                               | 0            | 0             | 0        | 0            |
| GRANT FUNDS (CDBG, HOME, AHP, C                    | 0   | 0                               | 0            | 0             | 0        | 0            |
| Grant funds for admin costs                        | 0   | 0                               | 0            | 0             | 0        | 0            |
| Grant funds for professional services              | 0   | 0                               | 0            | 0             | 0        | 0            |
| 12% Rehab funds for Admin                          | 500   | 0                               | 500          | 0             | 0        | 0            |
| Rehab Program Income                               | 1,000   | 0                               | 1,000        | 0             | 0        | 0            |
| Homeownership Program Income                       | 52,800  | 52,800                          | 0            | 0             | 0        | 0            |
| Homeownership Program Income / Admi                | 5,200   | 5,200                           | 0            | 0             | 0        | 0            |
| <b>TOTALS</b>                                      | <b>59,500</b>   | <b>58,000</b>                   | <b>1,500</b> | <b>0</b>      | <b>0</b> | <b>0</b>     |
| Bank loan for operations                           | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>FEES and CITY SUPPORT TIF</b>                   |   |                                 |              |               |          |              |
| WHA Admin Fees / Homeownership Adn                 | 2,100   | 2,100                           | 0            | 0             | 0        | 0            |
| Program Fees                                       | 0   | 0                               | 0            | 0             | 0        | 0            |
| City of Whitefish                                  | 70,000  | 0                               | 0            | 70,000        | 0        | 0            |
| <b>TOTALS</b>                                      | <b>72,100</b>   | <b>2,100</b>                    | <b>0</b>     | <b>70,000</b> | <b>0</b> | <b>0</b>     |
| <b>INCOME TOTALS</b>                               | <b>140,600</b>  | <b>60,100</b>                   | <b>1,500</b> | <b>79,000</b> | <b>0</b> | <b>0</b>     |
| <b>OPERATING EXPENDITURES / ADMIN</b>              |   |                                 |              |               |          |              |
| 4110 Admin Salaries                                | 3,000   | 500                             | 500          | 2,000         | 0        | 0            |
| 4130 Legal Expense                                 | 500   | 500                             | 0            | 0             | 0        | 0            |
| 4140 Training                                      | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4150 Travel  | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4170 Acct Fees                                     | 500   | 500                             | 0            | 0             | 0        | 0            |
| 4171 Auditing Fees                                 | 600   | 0                               | 100          | 500           | 0        | 0            |
| 4190 Sundry Other                                  | 870   | 500                             | 120          | 250           | 0        | 0            |
| 4190-90 Admin services contract                    | 500   | 100                             | 100          | 300           | 0        | 0            |
| 4190.4 Rent  | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4190.5 dues and Subscriptions                      | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4190.09 Advertising                                | 300   | 100                             | 100          | 100           | 0        | 0            |
| 4190.6 Telephone                                   | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4190.7 Postage                                     | 90  | 50                              | 20           | 20            | 0        | 0            |
| 4190.8 Office Supplies                             | 150   | 50                              | 50           | 50            | 0        | 0            |
| <b>TOTALS</b>                                      | <b>6,510</b>  | <b>2,300</b>                    | <b>990</b>   | <b>3,220</b>  | <b>0</b> | <b>0</b>     |
| <b>TENANT SERVICES</b>                             |   |                                 |              |               |          |              |
| 4210 Tenant Services Salaries                      | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4220 Recreation, Other Services                    | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4230 Training, contract costs                      | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>0</b>  | <b>0</b>                        | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| <b>HOUSING ASSISTANCE PAYMENTS</b>                 |   |                                 |              |               |          |              |
| HAP  | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>0</b>  | <b>0</b>                        | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| <b>UTILITIES - Moutain View Manor Only</b>         |   |                                 |              |               |          |              |
| 4310 Water   | 150   | 0                               | 0            | 150           | 0        | 0            |
| 4320 Electric                                      | 200   | 0                               | 0            | 200           | 0        | 0            |
| 4330 Gas   | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4390 Sewer   | 150   | 0                               | 0            | 150           | 0        | 0            |
| 4390 Garbage & Flathead County                     | 150   | 0                               | 0            | 150           | 0        | 0            |
| <b>MVM TOTAL</b>                                   | <b>650</b>  | <b>0</b>                        | <b>0</b>     | <b>650</b>    | <b>0</b> | <b>0</b>     |
| <b>UTILITIES - Central Office</b>                  |   |                                 |              |               |          |              |
| Central Office Utilities                           | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>0</b>  | <b>0</b>                        | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| <b>MAINTENANCE AND OPERATION</b>                   |   |                                 |              |               |          |              |
| 4410 Labor   | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4420 Materials                                     | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4430 Contract Costs                                | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>0</b>  | <b>0</b>                        | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| <b>GENERAL EXPENSE</b>                             |   |                                 |              |               |          |              |
| 4510 Building Insurance - BNSF                     | 700   | 0                               | 0            | 700           | 0        | 0            |
| 4520 PILOT   | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4530 Terminal Leave Payments                       | 0   | 0                               | 0            | 0             | 0        | 0            |
| 4540 EBC   | 1,400   | 500                             | 500          | 400           | 0        | 0            |
| <b>TOTAL</b>                                       | <b>2,100</b>  | <b>500</b>                      | <b>500</b>   | <b>1,100</b>  | <b>0</b> | <b>0</b>     |
| <b>NON ROUTINE EXPENSE</b>                         |   |                                 |              |               |          |              |
| 4610 Extraordinary Maintenance                     | 1,000   | 0                               | 0            | 1,000         | 0        | 0            |
| 7520 Replacement of Nonexpendable Ed               | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>1,000</b>  | <b>0</b>                        | <b>0</b>     | <b>1,000</b>  | <b>0</b> | <b>0</b>     |
| <b>HOMEOWNERSHIP PROGRAM</b>                       |   |                                 |              |               |          |              |
| Unit Subsidies                                     | 57,300  | 57,300                          | 0            | 0             | 0        | 0            |
| Professional Services                              | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>57,300</b>   | <b>57,300</b>                   | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| <b>HOUSING REHABILITATION PROGRAM</b>              |   |                                 |              |               |          |              |
| Rehab loans  | 0   | 0                               | 0            | 0             | 0        | 0            |
| <b>TOTAL</b>                                       | <b>0</b>  | <b>0</b>                        | <b>0</b>     | <b>0</b>      | <b>0</b> | <b>0</b>     |
| BNSF Rehabilitation                                | 70,000  | 0                               | 0            | 70,000        | 0        | 0            |
| Debt to WHA  | 2,000   | 0                               | 0            | 2,000         | 0        | 0            |
| <b>TOTAL</b>                                       | <b>72,000</b>   | <b>0</b>                        | <b>0</b>     | <b>72,000</b> | <b>0</b> | <b>0</b>     |
| <b>TOTAL OPERATING EXPENDITURES</b>                | <b>139,560</b>  | <b>60,100</b>                   | <b>1,490</b> | <b>77,970</b> | <b>0</b> | <b>0</b>     |
| <b>OPERATING INCOME</b>                            | <b>140,600</b>  | <b>60,100</b>                   | <b>1,500</b> | <b>79,000</b> | <b>0</b> | <b>0</b>     |
| <b>RESIDUAL RECEIPTS OR DEFICIT</b>                | <b>1,040</b>  | <b>0</b>                        | <b>10</b>    | <b>1,030</b>  | <b>0</b> | <b>0</b>     |
| 172800   | Homeownership Budget is based on one current house for resale and the sale of three homes with HOME non competitive program |                                 |              |               |          |              |
|  | Bank loan of \$30,000 with \$500 monthly payment estimated.   |                                 |              |               |          |              |
| 20500  | Min needed for Dev and Homeownership for operations   |                                 |              |               |          |              |
|  | And remember, RCAC said to call operations for a project a project cost   |                                 |              |               |          |              |

# Artisan Construction

PO Box 81, Whitefish, MT 59937  
Phone: 406-250-3664 Fax: 406-862-5647

## PROJECT BUDGET

Job Name: Whitefish Housing Authority  
Address: Railroad Houses

| PHASE # | PHASE DESCRIPTION         | CATEGORY # | CATEGORY DESCRIPTION         | Original      | Additions         | Current       | Costs to Date | Remaining     |        |      |
|---------|---------------------------|------------|------------------------------|---------------|-------------------|---------------|---------------|---------------|--------|------|
|         |                           |            |                              | BUDGET AMOUNT | BUDGET AMOUNT     | BUDGET AMOUNT | BUDGET AMOUNT | BUDGET AMOUNT |        |      |
| 100     | General Requirements      | 103        | Architecture                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 104        | Engineering                  |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 105        | Job Site Office Expense      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 106        | Closing Costs                |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 110        | Plans & Printing             |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 115        | Building Permits             | \$ 340.00     | 0.00              | \$ 340.00     | \$0.00        | \$ 340.00     |        |      |
|         |                           | 118        | Interest                     |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 120        | Insurance                    | \$ 162.50     | 0.00              | \$ 162.50     | \$0.00        | \$ 162.50     |        |      |
|         |                           | 123        | Testing & Surveying          |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 130        | Temporary Utilities          |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 135        | Construction Toilets         | \$ 100.00     | 0.00              | \$ 100.00     | \$0.00        | \$ 100.00     |        |      |
|         |                           | 140        | Trash Removal                | \$ 220.00     | 0.00              | \$ 220.00     | \$0.00        | \$ 220.00     |        |      |
|         |                           | 145        | Equipment Rental             |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 147        | Progress Clean               | \$ 240.00     | 0.00              | \$ 240.00     | \$0.00        | \$ 240.00     |        |      |
|         |                           | 149        | Snow Removal                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 150        | Final Clean                  | \$ 225.00     | 0.00              | \$ 225.00     | \$0.00        | \$ 225.00     |        |      |
|         |                           | 200        | Site Work                    | 160           | Supervision Labor |               | 0.00          | \$ -          | \$0.00 | \$ - |
|         |                           |            |                              | 170           | Interior Design   |               | 0.00          | \$ -          | \$0.00 | \$ - |
| 180     | Contingency               |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 210     | Demolition                |            |                              | \$ 450.00     | 0.00              | \$ 450.00     | \$0.00        | \$ 450.00     |        |      |
| 220     | Clear/Grade/Fill/Excavate |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 230     | Rock Wall Labor           |            |                              | \$ 360.00     | 0.00              | \$ 360.00     | \$0.00        | \$ 360.00     |        |      |
| 240     | Rock Wall Materials       |            |                              | \$ 250.00     | 0.00              | \$ 250.00     | \$0.00        | \$ 250.00     |        |      |
| 250     | Hot Tub                   |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 255     | Water Feature             |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 280     | Landscaping               |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 300     | Concrete & Masonry        | 282        | Stone Patio                  |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 285        | Paving                       |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 290        | Utilities Installation       | \$ 1,050.00   | 0.00              | \$ 1,050.00   | \$0.00        | \$ 1,050.00   |        |      |
|         |                           | 320        | Foundation                   |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 323        | Foundation Waterproof/drain  |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 325        | CMU Stem/Piers               |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 327        | Concrete Slab(Interior)      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 330        | Concrete Slab(Exterior)      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 370        | Exterior Stone (L&M)         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 380        | Woodstove/Install            |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 400     | Framing & Rough-Ins       | 390        | Isokerns                     |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 410        | Framing Material             | \$ 680.00     | 0.00              | \$ 680.00     | \$0.00        | \$ 680.00     |        |      |
|         |                           | 412        | Prefab Truss                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 415        | Framing Labor                | \$ 1,430.00   | 0.00              | \$ 1,430.00   | \$0.00        | \$ 1,430.00   |        |      |
|         |                           | 417        | Deck Construction            | \$ 620.00     | 0.00              | \$ 620.00     | \$0.00        | \$ 620.00     |        |      |
|         |                           | 418        | Deck Railing                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 419        | Rubber Membrane              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 420        | Structural Steel             | \$ 200.00     | 0.00              | \$ 200.00     | \$0.00        | \$ 200.00     |        |      |
|         |                           | 422        | Flashing and Sheetmetal      | \$ 75.00      | 0.00              | \$ 75.00      | \$0.00        | \$ 75.00      |        |      |
|         |                           | 425        | Consumables                  | \$ 110.00     | 0.00              | \$ 110.00     | \$0.00        | \$ 110.00     |        |      |
|         |                           | 430        | Propane Tank Install         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 440        | Fireplaces/BBQ (add'l frame) |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 450        | Roofing                      | \$ 132.50     | 0.00              | \$ 132.50     | \$0.00        | \$ 132.50     |        |      |
|         |                           | 460        | Gutters                      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 500     | MEP & Front End Trades    | 480        | Windows/Ext. Doors           | \$ 3,100.00   | 0.00              | \$ 3,100.00   | \$0.00        | \$ 3,100.00   |        |      |
|         |                           | 485        | Timber Frame Material        | \$ -          | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 490        | Timber Frame Labor           |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 531        | E-One Hookup/Install         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 510        | HVAC                         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 520        | Electrical                   | \$ 3,282.58   | 0.00              | \$ 3,282.58   | \$0.00        | \$ 3,282.58   |        |      |
|         |                           | 525        | Electrical Fixtures          | \$ 292.50     | 0.00              | \$ 292.50     | \$0.00        | \$ 292.50     |        |      |
| 600     | Finishes                  | 527        | Water Sump System            | \$ 632.50     | 0.00              | \$ 632.50     | \$0.00        | \$ 632.50     |        |      |
|         |                           | 528        | Radiant System               |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 530        | Plumbing                     | \$ 3,600.00   | 0.00              | \$ 3,600.00   | \$0.00        | \$ 3,600.00   |        |      |
|         |                           | 535        | Plumbing Fixtures            |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 540        | Low-Volt(Alarm/Sound)        |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 550        | Fire Sprinklers              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 560        | Insulation                   | \$ 1,900.00   | 0.00              | \$ 1,900.00   | \$0.00        | \$ 1,900.00   |        |      |
|         |                           | 565        | Gypcrete                     |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 570        | Central Vac System           |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 575        | Gas Piping                   |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 600     | Finishes                  | 641        | Cabinet Hardware             |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 610        | Drywall                      | \$ 700.00     | 0.00              | \$ 700.00     | \$0.00        | \$ 700.00     |        |      |
|         |                           | 611        | Ext Fcia/Sofit/Side/Trim(L)  | \$ 550.00     | 0.00              | \$ 550.00     | \$0.00        | \$ 550.00     |        |      |
|         |                           | 612        | Ext Fcia/Sofit/Side/Trim(M)  | \$ 425.00     | 0.00              | \$ 425.00     | \$0.00        | \$ 425.00     |        |      |
|         |                           | 613        | Caulking/Chinking            |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 615        | Paint/Stain Interior         | \$ 1,900.00   | 0.00              | \$ 1,900.00   | \$0.00        | \$ 1,900.00   |        |      |
|         |                           | 617        | Paint/Stain Exterior         | \$ 2,800.00   | 0.00              | \$ 2,800.00   | \$0.00        | \$ 2,800.00   |        |      |
|         |                           | 620        | Tile Work (L)                |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 621        | Tile Work (M)                |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 625        | Carpet                       |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 627        | Floors                       | \$ 1,000.00   | 0.00              | \$ 1,000.00   | \$0.00        | \$ 1,000.00   |        |      |
|         |                           | 630        | Suspended Ceilings           |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 640        | Cabinets                     | \$ 500.00     | 0.00              | \$ 500.00     | \$0.00        | \$ 500.00     |        |      |
| 643     | Countertops & Granite     | \$ 200.00  | 0.00                         | \$ 200.00     | \$0.00            | \$ 200.00     |               |               |        |      |

|     |               |     |                            |             |      |             |         |             |
|-----|---------------|-----|----------------------------|-------------|------|-------------|---------|-------------|
|     |               | 645 | Closets                    | \$ 140.00   | 0.00 | \$ 140.00   | \$ 0.00 | \$ 140.00   |
|     |               | 650 | Doors (Interior)           |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 651 | Doors-Garage               |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 652 | Door Hardware              | \$ 242.50   | 0.00 | \$ 242.50   | \$ 0.00 | \$ 242.50   |
|     |               | 653 | Interior Finish (L)        | \$ 1,400.00 | 0.00 | \$ 1,400.00 | \$ 0.00 | \$ 1,400.00 |
|     |               | 655 | Interior Finish (M)        | \$ 625.00   | 0.00 | \$ 625.00   | \$ 0.00 | \$ 625.00   |
|     |               | 656 | Interior Railing           |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 657 | Special Fixtures           |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 660 | Mirrors                    | \$ 37.50    | 0.00 | \$ 37.50    | \$ 0.00 | \$ 37.50    |
|     |               | 665 | Bath/Hdw & Accessories     | \$ 75.00    | 0.00 | \$ 75.00    | \$ 0.00 | \$ 75.00    |
|     |               | 690 | Appliances                 |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
| 700 | Miscellaneous | 710 | Crane/Lift                 |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 715 | Steam Room/Shower          |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 717 | Sauna                      |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 720 | Rec Room                   |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 725 | Elevator/Conveyance        |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 730 | Theater/Home Entertainment |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |

**TOTALS**

SUB TOTAL                   \$ 30,047.58                   0.00   \$ 30,047.58

CONTRACTOR FEE (10%) \$ 3,004.76   \$ -   \$ 3,004.76

**TOTAL                   \$ 33,052.34   \$ -   \$ 33,052.34**

Total costs to date                   \$0.00

Remaining in Budget           \$ 33,052.34

Budget numbers are estimates based on historical figures and may be higher or lower than actual construction costs.

# Artisan Construction

PO Box 81, Whitefish, MT 59937  
Phone: 406-250-3664 Fax: 406-862-5647

## PROJECT BUDGET

Job Name: Whitefish Housing Authority  
Address: Railroad Houses

| PHASE # | PHASE DESCRIPTION         | CATEGORY # | CATEGORY DESCRIPTION         | Original      | Additions         | Current       | Costs to Date | Remaining     |        |      |
|---------|---------------------------|------------|------------------------------|---------------|-------------------|---------------|---------------|---------------|--------|------|
|         |                           |            |                              | BUDGET AMOUNT | BUDGET AMOUNT     | BUDGET AMOUNT | BUDGET AMOUNT | BUDGET AMOUNT |        |      |
| 100     | General Requirements      | 103        | Architecture                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 104        | Engineering                  |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 105        | Job Site Office Expense      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 106        | Closing Costs                |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 110        | Plans & Printing             |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 115        | Building Permits             | \$ 340.00     | 0.00              | \$ 340.00     | \$0.00        | \$ 340.00     |        |      |
|         |                           | 118        | Interest                     |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 120        | Insurance                    | \$ 162.50     | 0.00              | \$ 162.50     | \$0.00        | \$ 162.50     |        |      |
|         |                           | 123        | Testing & Surveying          |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 130        | Temporary Utilities          |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 135        | Construction Toilets         | \$ 100.00     | 0.00              | \$ 100.00     | \$0.00        | \$ 100.00     |        |      |
|         |                           | 140        | Trash Removal                | \$ 220.00     | 0.00              | \$ 220.00     | \$0.00        | \$ 220.00     |        |      |
|         |                           | 145        | Equipment Rental             |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 147        | Progress Clean               | \$ 240.00     | 0.00              | \$ 240.00     | \$0.00        | \$ 240.00     |        |      |
|         |                           | 149        | Snow Removal                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 150        | Final Clean                  | \$ 275.00     | 0.00              | \$ 275.00     | \$0.00        | \$ 275.00     |        |      |
|         |                           | 200        | Site Work                    | 160           | Supervision Labor |               | 0.00          | \$ -          | \$0.00 | \$ - |
|         |                           |            |                              | 170           | Interior Design   |               | 0.00          | \$ -          | \$0.00 | \$ - |
| 180     | Contingency               |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 210     | Demolition                |            |                              | \$ 450.00     | 0.00              | \$ 450.00     | \$0.00        | \$ 450.00     |        |      |
| 220     | Clear/Grade/Fill/Excavate |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 230     | Rock Wall Labor           |            |                              | \$ 360.00     | 0.00              | \$ 360.00     | \$0.00        | \$ 360.00     |        |      |
| 240     | Rock Wall Materials       |            |                              | \$ 250.00     | 0.00              | \$ 250.00     | \$0.00        | \$ 250.00     |        |      |
| 250     | Hot Tub                   |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 255     | Water Feature             |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 280     | Landscaping               |            |                              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 300     | Concrete & Masonry        | 282        | Stone Patio                  |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 285        | Paving                       |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 290        | Utilities Installation       | \$ 1,100.00   | 0.00              | \$ 1,100.00   | \$0.00        | \$ 1,100.00   |        |      |
|         |                           | 320        | Foundation                   | \$ 2,800.00   | 0.00              | \$ 2,800.00   | \$0.00        | \$ 2,800.00   |        |      |
|         |                           | 323        | Foundation Waterproof/drain  |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 325        | CMU Stem/Piers               |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 327        | Concrete Slab(Interior)      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 330        | Concrete Slab(Exterior)      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 370        | Exterior Stone (L&M)         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 380        | Woodstove/Install            |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 400     | Framing & Rough-Ins       | 390        | Isokerns                     |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 410        | Framing Material             | \$ 680.00     | 0.00              | \$ 680.00     | \$0.00        | \$ 680.00     |        |      |
|         |                           | 412        | Prefab Truss                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 415        | Framing Labor                | \$ 1,430.00   | 0.00              | \$ 1,430.00   | \$0.00        | \$ 1,430.00   |        |      |
|         |                           | 417        | Deck Construction            | \$ 620.00     | 0.00              | \$ 620.00     | \$0.00        | \$ 620.00     |        |      |
|         |                           | 418        | Deck Railing                 |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 419        | Rubber Membrane              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 420        | Structural Steel             | \$ 1,600.00   | 0.00              | \$ 1,600.00   | \$0.00        | \$ 1,600.00   |        |      |
|         |                           | 422        | Flashing and Sheetmetal      | \$ 75.00      | 0.00              | \$ 75.00      | \$0.00        | \$ 75.00      |        |      |
|         |                           | 425        | Consumables                  | \$ 110.00     | 0.00              | \$ 110.00     | \$0.00        | \$ 110.00     |        |      |
|         |                           | 430        | Propane Tank Install         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 440        | Fireplaces/BBQ (add'l frame) |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 450        | Roofing                      | \$ 132.50     | 0.00              | \$ 132.50     | \$0.00        | \$ 132.50     |        |      |
|         |                           | 460        | Gutters                      |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 500     | MEP & Front End Trades    | 480        | Windows/Ext. Doors           | \$ 3,100.00   | 0.00              | \$ 3,100.00   | \$0.00        | \$ 3,100.00   |        |      |
|         |                           | 485        | Timber Frame Material        | \$ -          | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 490        | Timber Frame Labor           |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 531        | E-One Hookup/Install         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 510        | HVAC                         |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 520        | Electrical                   | \$ 2,006.08   | 0.00              | \$ 2,006.08   | \$0.00        | \$ 2,006.08   |        |      |
|         |                           | 525        | Electrical Fixtures          | \$ 292.50     | 0.00              | \$ 292.50     | \$0.00        | \$ 292.50     |        |      |
| 600     | Finishes                  | 527        | Water Sump System            | \$ 632.50     | 0.00              | \$ 632.50     | \$0.00        | \$ 632.50     |        |      |
|         |                           | 528        | Radiant System               |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 530        | Plumbing                     | \$ 1,725.00   | 0.00              | \$ 1,725.00   | \$0.00        | \$ 1,725.00   |        |      |
|         |                           | 535        | Plumbing Fixtures            |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 540        | Low-Volt(Alarm/Sound)        |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 550        | Fire Sprinklers              |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 560        | Insulation                   | \$ 1,700.00   | 0.00              | \$ 1,700.00   | \$0.00        | \$ 1,700.00   |        |      |
|         |                           | 565        | Gypcrete                     |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 570        | Central Vac System           |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 575        | Gas Piping                   |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 600     | Finishes                  | 641        | Cabinet Hardware             |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 610        | Drywall                      | \$ 350.00     | 0.00              | \$ 350.00     | \$0.00        | \$ 350.00     |        |      |
|         |                           | 611        | Ext Fcia/Sofit/Side/Trim(L)  | \$ 550.00     | 0.00              | \$ 550.00     | \$0.00        | \$ 550.00     |        |      |
|         |                           | 612        | Ext Fcia/Sofit/Side/Trim(M)  | \$ 425.00     | 0.00              | \$ 425.00     | \$0.00        | \$ 425.00     |        |      |
|         |                           | 613        | Caulking/Chinking            |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 615        | Paint/Stain Interior         | \$ 1,900.00   | 0.00              | \$ 1,900.00   | \$0.00        | \$ 1,900.00   |        |      |
|         |                           | 617        | Paint/Stain Exterior         | \$ 4,400.00   | 0.00              | \$ 4,400.00   | \$0.00        | \$ 4,400.00   |        |      |
|         |                           | 620        | Tile Work (L)                |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 621        | Tile Work (M)                |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 625        | Carpet                       |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
| 600     | Finishes                  | 627        | Floors                       | \$ 1,000.00   | 0.00              | \$ 1,000.00   | \$0.00        | \$ 1,000.00   |        |      |
|         |                           | 630        | Suspended Ceilings           |               | 0.00              | \$ -          | \$0.00        | \$ -          |        |      |
|         |                           | 640        | Cabinets                     | \$ 750.00     | 0.00              | \$ 750.00     | \$0.00        | \$ 750.00     |        |      |
|         |                           | 643        | Countertops & Granite        | \$ 325.00     | 0.00              | \$ 325.00     | \$0.00        | \$ 325.00     |        |      |

|     |               |     |                            |             |      |             |         |             |
|-----|---------------|-----|----------------------------|-------------|------|-------------|---------|-------------|
|     |               | 645 | Closets                    | \$ 140.00   | 0.00 | \$ 140.00   | \$ 0.00 | \$ 140.00   |
|     |               | 650 | Doors (Interior)           |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 651 | Doors-Garage               |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 652 | Door Hardware              | \$ 242.50   | 0.00 | \$ 242.50   | \$ 0.00 | \$ 242.50   |
|     |               | 653 | Interior Finish (L)        | \$ 1,400.00 | 0.00 | \$ 1,400.00 | \$ 0.00 | \$ 1,400.00 |
|     |               | 655 | Interior Finish (M)        | \$ 625.00   | 0.00 | \$ 625.00   | \$ 0.00 | \$ 625.00   |
|     |               | 656 | Interior Railing           |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 657 | Special Fixtures           |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 660 | Mirrors                    | \$ 32.50    | 0.00 | \$ 32.50    | \$ 0.00 | \$ 32.50    |
|     |               | 665 | Bath/Hdw & Accessories     | \$ 75.00    | 0.00 | \$ 75.00    | \$ 0.00 | \$ 75.00    |
|     |               | 690 | Appliances                 |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
| 700 | Miscellaneous | 710 | Crane/Lift                 |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 715 | Steam Room/Shower          |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 717 | Sauna                      |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 720 | Rec Room                   |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 725 | Elevator/Conveyance        |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |
|     |               | 730 | Theater/Home Entertainment |             | 0.00 | \$ -        | \$ 0.00 | \$ -        |

**TOTALS**

|                      |                     |             |                     |
|----------------------|---------------------|-------------|---------------------|
| SUB TOTAL            | \$ 32,616.08        | 0.00        | \$ 32,616.08        |
| CONTRACTOR FEE (10%) | \$ 3,261.61         | \$ -        | \$ 3,261.61         |
| <b>TOTAL</b>         | <b>\$ 35,877.69</b> | <b>\$ -</b> | <b>\$ 35,877.69</b> |

Total costs to date \$0.00

Remaining in Budget \$ 35,877.69

Budget numbers are estimates based on historical figures and may be higher or lower than actual construction costs.

## RAILWAY DISTRICT BUSINESS/RESIDENT QUESTIONNAIRE BNSF HOMES

Are you a business owner or resident in the neighborhood?

- a) Business owner
- b) Resident
- c) Both

In your opinion, what is the highest and best use of the homes/land that was donated to the Whitefish Housing Authority by BNSF?

- a) Rehabilitate existing structures
- b) Demolish and construct new residences consistent with surrounding development

Would you rather see two single family homes or one multi-family structure?

- a) Single family
- b) Multi-family

In their present condition, what impact do you think the homes have on the neighborhood?

Parking if rentals creates a challenge to keep the street  
passable, a cleared of snow during the winter months

In a rehabilitated and/or new condition, what impact do you think the homes would have on the neighborhood?

Obvious impact is a better value of Area real estate.  
also safety of the neighborhood w/ Respectful Rentals

Would you be willing to provide your opinion before the Whitefish City Council?

- a) Yes
- b) No

**RAILWAY DISTRICT BUSINESS/RESIDENT QUESTIONNAIRE BNSF HOMES**

Are you a business owner or resident in the neighborhood?

- a) Business owner
- b) Resident
- c) Both

In your opinion, what is the highest and best use of the homes/land that was donated to the Whitefish Housing Authority by BNSF?

- a) Rehabilitate existing structures
  - b) Demolish and construct new residences consistent with surrounding development, especially if it were possible to provide parking. Or, would sell it 2 years.  
Would you rather see two single family homes or one multi-family structure?
- a) Single family *Whatever seems to work best. Parking will be important*
- b) Multi-family *important*

In their present condition, what impact do you think the homes have on the neighborhood?

*Very little. They may not look beautiful, but they are "quiet" unlike previous tenants.*

In a rehabilitated and/or new condition, what impact do you think the homes would have on the neighborhood?

*If the new tenants are relatively quiet, and tidy, they should have a very positive impact. (I can't spell)*

Would you be willing to provide your opinion before the Whitefish City Council?

*I will probably write some of them a letter.*

- a) Yes
- b) No

*Whatever happens please do a complete and thorough job. Thank you.*

Responses to Railway District questionnaire:

Ian Collins, (406) 270-7047

*-Are you a business owner or resident in the neighborhood?*

a.) Business owner

*-In your opinion, what is the highest and best use of the homes/land that was donated to the WHA by BNSF?*

I don't think either of the options is great for the neighborhood or the housing authority. Instead, I think the property would most suitably be developed as mixed-use with 2 small (studio or 1 bedroom) residential units over commercial space. I think the WHA would be better served to sell the property and use the proceeds to acquire land and/or build housing in a residential neighborhood. Mixed-use structures are expensive to build.

*-In their present condition, what impact do you think the homes have on the neighborhood?*

The boarded up condition of the homes has a negative impact on surrounding properties and neighborhood character. I haven't been over there for a while, but the lawns also usually look pretty dismal.

*-In a rehabilitated and/or new condition, what impact do you think the homes would have on the neighborhood?*

A new structure would obviously have some positive impact on the neighborhood, but parking will pose a serious challenge, and if handled poorly could have a really negative impact on the pedestrian experience and aesthetic of the structure. Two new residences, either single or multi-family, would require 2 off-street parking spaces each. Because these lots are truncated, that means the driveway(s) would require curb cuts, which are discouraged (or not allowed?) in the code. Rear-loading of parking is critical parking; just look at projects like Conductor's Row or the Old Town Condos (across from Pescado Blanco), where required off-street parking took away as much on-street parking. It is also typical to see cars or trucks parked in front of their garages blocking the pedestrian right-of-way. A mixed-use structure, with residential over commercial, would only require two parking spaces which is probably easier to accommodate on such small lots.

Afterthought: rehabilitating the existing structures- raising them up and putting them on new foundations, etc- would not trigger any parking requirement because it would be an existing non-conforming use. I own the home across the street, which is virtually identical in size. I bought the home after it was put on a new foundation, but then I did a complete interior and exterior remodel. Now I have a very livable 500 SF, 1 Bedroom 1 bathroom ground floor space with no off-street parking. This would allow you to still have cute front porches, which are an asset to the neighborhood, and complete use of the back yard space.

*-Would you be willing to provide your opinion before the Whitefish City Council?*

Yes, I will definitely provide public comment. I am not in favor of spending commercial Tax Increment funds on a two-unit affordable housing project, because I can't see the multiplier effect this project would have on investment in the neighborhood.

Aaron + Scott  
Wallace Elden

RAILWAY DISTRICT BUSINESS/RESIDENT QUESTIONNAIRE BNSF HOMES

Are you a business owner or resident in the neighborhood?

- a) Business owner
- b) Resident
- c) Both

In your opinion, what is the highest and best use of the homes/land that was donated to the Whitefish Housing Authority by BNSF?

- a) Rehabilitate existing structures
- b) Demolish and construct new residences consistent with surrounding development

Would you rather see two single family homes or one multi-family structure?

- a) Single family
- b) Multi-family

In their present condition, what impact do you think the homes have on the neighborhood?

Provide new single family homes in same character + style + size as existing structures. or put enough into it to make it a viable building into future

In a rehabilitated and/or new condition, what impact do you think the homes would have on the neighborhood?

Positive getting more people living in neighborhood

Would you be willing to provide your opinion before the Whitefish City Council?

- a) Yes
- b) No

## **FY 2014 Approps, Senate vs. House: Public Housing**

On June 27, 2013, both the House and Senate Appropriations Committees passed their versions of the FY 2014 Transportation, Housing and Urban Development (THUD) spending bills. This article is a comprehensive summary of the bill's treatment of Public Housing programs. As you will see, there is potential for more [fairly dramatic] cuts to all housing programs.

### **Operating Fund**

The House and Senate bills provide \$4.262 and \$4.6 billion respectively for the Operating Fund for 2014. The President's FY 2014 budget also requested \$4.6 billion, estimating that this figure represents 90 percent of estimated eligibility under the Operating Fund formula. NAHRO estimates that the House bill would provide PHAs with about 83 percent of their subsidy eligibility. For 2013, after taking into account the impacts of sequestration, the Operating Fund received \$4.055 billion, resulting in a proration of approximately 82 percent.

The President's budget also proposed to adjust allocations based on recommended changes to both flat rents and the threshold for claiming medical deductions. These two changes, along with an increase in the minimum rent that does not appear in the FY 2014 bills, were previously proposed by the administration in last year's budget submission. The Senate bill adopts the proposed requirement that PHAs set their flat rents no lower than 80 percent of FMR, though these increases would be phased in to ensure that a household's rental payments do not increase by more than 35 percent per year as a result of this change. While last year HUD estimated that this change would reduce PHAs' subsidy eligibility by \$150 million, this year the Department is estimating that it will result in only \$40 million of savings. While the House bill also instructs the Secretary to take into account reductions to eligibility based on changes to the flat rent, no such changes are actually included in the bill. NAHRO has strongly opposed this requirement, noting that such an across-the-board policy fails to account for the actual market value of the public housing based on its physical condition and surroundings.

The House also adopted the President's proposal to raise the threshold for deducting medical expenses from income for purposes of rent determinations from 3 to 10 percent of the family's annual income. This is anticipated to reduce eligibility by only \$23 million, down from the FY 2013 estimate of \$37 million.

### **Public Housing Capital Fund**

The House bill proposes only \$1.5 billion for the Public Housing Capital Fund, \$289 million less than the post-sequestration enacted FY 2013 level. This would, once again, represent a new historic low for the program. The Senate bill matches the President's budget request of \$2.0 billion, though all of these proposals continue to fall far short of the \$3.4 billion in annually accruing capital needs estimated by the 2010 Abt Associates Capital Needs Assessment study.

#### *Capital Fund Set-asides*

*REAC and Receiverships:* As in past years, both the House and Senate bills provide a set-aside under the Capital Fund of \$8 million to support the Public Housing Financial and Physical Assessment activities. Unlike past years, neither of the bills provides funding for the cost of

administrative and judicial receiverships for FY 2014 due to large carryover balances from previous years.

*Emergency Capital Needs:* Both the House and Senate bills maintain a set-aside of \$20 million for emergency capital needs resulting from natural disasters or unpreventable emergencies except those with Presidential declarations. In addition, despite repeated attempts by the administration to have such language stricken, both bills include language making needs resulting from safety and security emergencies eligible uses of the funding.

*ROSS:* The Senate bill preserves the traditional \$50 million set-aside for the Resident Opportunities and Supportive Services (ROSS) program. The House bill, as recommended by the administration, provides no funding for the program. Unlike previous years, both bills provide stand-alone funding for a new combined Housing Choice Voucher (HCV) and PH FSS program. The Senate bill provides \$75 million for the consolidated program, equivalent to the combined historic funding for both programs, while the House bill provides \$60 million, equivalent to the historic funding of only the HCV FSS program.

*Jobs-Plus Pilot:* Both the House and Senate bills allow for a set-aside of up to \$15 million for a Jobs-Plus Pilot based on the Jobs-Plus demonstration carried out from 1998-2003. These funds would be awarded as competitive grants to partnerships between PHAs and local workforce investment boards or other agencies. According to an evaluation, participants earned an average of an additional \$1,300 every year.

### **Public Housing Subsidy Flexibility**

Although the President's budget included legislative language that would permanently amend the US Housing Act of 1937 to provide all PHAs, regardless of size, the flexibility to use Operating and Capital Funds interchangeably, neither the House nor Senate bill includes such a provision.

### **Rental Assistance Demonstration**

For FY 2014, the Senate bill provides \$10 million as requested in the President's budget for the Rental Assistance Demonstration (RAD) authorized by the FY 2012 appropriations act. These funds are intended to supplement subsidy costs of converting assistance for public housing projects that cannot be converted at current funding levels and are located in areas deemed integral to the success of the administration's broader efforts to revitalize and transform high-poverty areas, including so-called "Promise Zones." HUD estimates that the \$10 million in incremental subsidies will support the conversion of approximately 3,300 public housing units. The House bill provides no incremental funding.

Both bills also increased the 60,000 unit cap set by the FY 2012 act. The House bill mirrors the President's FY 2014 budget request to increase the authorization to 150,000 units, while the Senate bill would increase the cap to 120,000 units. The bills also exempt Mod Rehab units converted under the program from the cap.

### **HOPE VI/Choice Neighborhoods**

For FY 2014, the House bill eliminates funding for the Choice Neighborhoods Initiative, and rescinds the unobligated \$120 million appropriated through the FY 2013 Continuing Resolution.

The House report notes that the program remains unauthorized, and “urges the Administration to work with the authorizing committees prior to requesting new programs in the budget request.”

The report goes on to say that the “Committee believes that many of the objectives of the Choice Neighborhood Initiative, including affordable housing and community development, are commendable, but can only be achieved in the current budget environment through more comprehensive reforms that bring down the escalating costs of renewals across a host of programs across the Department.”

The Senate bill provides \$250 million for the program, more than double the FY 2013 appropriation but less than the \$400 million requested by the administration’s FY 2014 budget. The Senate bill reserves \$165 million, or two-thirds of the funds, for housing authorities. In its report, the Senate also discourages HUD from limiting “applicants to a narrowly defined set of neighborhoods since it may prevent the replacement of eligible and worthy public or assisted housing projects that are outside such designated neighborhoods from competing for funding.”

These instructions likely relate to the planned Promise Zones first introduced in this year’s State of the Union address.

### **Exemption from Asset Management**

Both the House and Senate bills preserve language exemption PHAs that own and operate 400 or fewer units of public housing with the ability to "elect to be exempt from any asset management requirement imposed by the Secretary of [HUD] in connection with the operating fund rule."

### **PHA Employee Compensation**

The House bill carries forward the restriction, first introduced in FY 2012, prohibiting PHAs from using any Tenant-Based Voucher, Operating Fund, or Capital Fund dollars to pay any amount of salary above the base rate of pay for level IV of the Executive Schedule, the salary grade of the Assistant Secretary for Public and Indian Housing, or \$156,300 for FY 2013.

Unlike in previous years, however, the House bill places the restriction not only on FY 2014 funds, but also on funds provided in any other years. This restriction applies to salaries for each PHA’s FY 2014.

The Senate bill adopted a new set of restrictions as proposed in the President’s FY 2014 budget that would peg PHA employees’ salaries to the federal General Schedule (GS), including a locality adjustment. Unlike previous efforts aimed at limiting PHA employee compensation, this change would amend the US Housing Act of 1937, making the new compensation restrictions permanent rather than a feature of an annual appropriations act.

Under the Senate bill, for PHAs with fewer than 250 combined public housing and Section 8 units, salaries would be capped at the GS-11 step 10 rate, currently \$65,703 before taking into account the locality adjustment. For PHAs with 250 to 1,249 combined units, salaries would be capped at the GS-13 step 10 rate, currently \$93,641 before the locality adjustment. Finally, for employees of PHAs with 1,250 or more combined units, the cap would be \$130,168, reflecting the current GS-15 step 10 before the locality adjustment. Any amounts in excess of these caps

would have to be paid from “non-Federal non-Act sources,” meaning that any funds that were originally appropriated for programs authorized under the Housing Act of 1937, including Public Housing and Section 8, cannot be used to fill such a gap. NAHRO remains deeply concerned by federal efforts to intervene in what we believe to be a local issue.

### **Physical Needs Assessment**

The House bill prohibits any of the funding provided under the bill to be used to “require or enforce” the Green Physical Needs Assessment.

### **FY 2014 Approps, Senate vs. House: Section 8**

On June 27, 2013, both the House and Senate Appropriations Committees passed their versions of the FY 2014 Transportation, Housing and Urban Development (THUD) spending bills. This article is a comprehensive summary of the bill’s treatment of Section 8 programs, including the Housing Choice Voucher and Project-Based Rental Assistance programs.

### **Section 8 Tenant-Based Voucher Programs**

*Base Voucher Housing Assistance Payment (HAP) Funds:* The Senate Committee bill provides \$17.6 billion in direct funding for Housing Assistance Payments renewals compared with \$17 billion in the House bill. During the House Appropriation Committee’s mark-up of the bill, Rep. Ed Pastor (D-Ariz.) cautioned his colleagues by saying that the \$17 billion funding level for FY 2014, already assumes the reduction of approximately 100,000 fewer voucher-assisted households in calendar 2013 due to cuts under the sequester. Although a myriad of factors go into forming the HAP pro-ration percentage each year, NAHRO’s tentative estimates of the proration that would result from the direct funding in the Senate Committee bill is approximately 98.1 percent pro-ration, while the House Committee’s mark-up would result in a proration of approximately 95 percent. By comparison base voucher HAP renewals were funded at \$17.242 billion in FY 2012, and at \$16.349 billion under sequestration in FY 2013 and HUD’s FY 2014 budget which would make available \$17.968 billion in direct appropriations. NAHRO’s recommended base voucher HAP renewal funding level for FY 2014 is \$18.540 billion, which if enacted would enable PHAs to lease the percentage of authorized vouchers leased in FY 2012 plus incremental vouchers awarded since that time.

*Base Voucher HAP Renewal Formula:* The Senate Committee and House Committee bills both contain a base voucher HAP renewal funding formula based on each PHAs’ calendar year 2013 voucher leasing and HAP costs (with MTW agencies being funded according to their respective MTW agreements). MTW agencies would receive the same HAP pro-ration in FY 2013 as non-MTW agencies.

*HAP Set-Aside Adjustment Fund:* Of the amount provided for HAP renewal funding, both the Senate Committee and House Committee’s HAP set aside fund includes up to \$50 million for HAP set-aside adjustments down from \$103 million in FY 2013.

*Excess HAP Offset:* The Senate Committee bill does not include an offset of PHAs’ “excess” HAP Reserves. The House Appropriations Committee bill includes an offset of PHAs’

(including MTW PHAs) “excess” Housing Assistance Payment (HAP) Reserves as of December 31, 2013 to: 1) assist PHAs in preventing termination of rental assistance for families as the result of insufficient funding; and 2) to avoid or reduce the proration of renewal funding allocations.

*Adjustments to PHAs’ Base Voucher HAP Renewal Funding and HAP Eligibility Reduction Measures:* For both non-MtW and MtW PHAs, both bills adopt HUD’s FY 2014 budget proposes a series of HAP eligibility reduction measures including: 1) broadening the definition of “extremely low-income” to apply to families with incomes that are the higher of 30 percent of area median income or the federal poverty level; and 2) determining utility allowances based on the bedroom size of the voucher for which a household qualifies under the PHA subsidy standards regardless of size of unit leased.

*Program Reform and Relief Measures:* “[NAHRO Sends Recs to Appropriators](#)” includes specific details regarding NAHRO’s concerns and recommendations related to the administration’s proposed subsidy eligibility reduction measures for Section 8 tenant-based, Section 8 Project-Based and Public Housing programs regarding HUD’s proposed changes to medical expense deductions for elderly households, the timing and mechanics of changes in income targeting. Either as drafted or with a few modifications NAHRO’s recommendations to House and Senate Appropriators included the following provisions. In one form another all of these provisions are included in the Senate Committee’s bill, which includes: targeting assistance to extremely low-income households, biennial HQS inspections, other passed inspection in lieu of PHA HQS inspection for both initial units and existing voucher-assisted units, and utility allowances.

*Moving-to-Work (MTW) PHAs:* If enacted, the different provisions in each bill relating to adjustments to MtW PHAs’ base voucher HAP renewal funding and HAP eligibility reduction measures (described above) as well as the House Committee provision on offsets to “excess” HAP Reserves to MtW PHAs, would allow HUD to effectively override MTW agencies’ contractual agreements with the Department which could lead to reductions in the amount of funding they would otherwise receive to account for the savings realized from these proposed programmatic reforms. HUD’s FY 2014 budget, and in differing ways, both Senate Committee and House Committee bills propose significant legislative changes that could supersede existing MTW agencies’ 10-year contract agreements. This means that rather than limiting offsets of excess HAP Reserves to special purpose vouchers outside of MTW agencies’ MTW contracts as has been the case in the past, HUD would be able to offset MTW PHAs’ HAP Reserves for Housing Choice Vouchers within their 10-year contract agreements. Neither Senate Committee or House Committee bill includes an increase to the number of Moving to Work (MTW) agencies.

*HCV Family Self-Sufficiency (FSS):* The Senate Committee bill would combine funding for both HCV FSS and Public Housing programs at \$75 million rather, which is the same amount that had previously funded each separate FSS program at \$60 million and \$15 million respectively. By comparison, the House Committee bill would combine funding for both HCV FSS and Public Housing programs at \$60 million rather. NAHRO’s recommended funding to accompany and authorization to merge the HCV FSS and Public Housing FSS programs at \$87 million.

*HUD-VASH:* Like the House Committee bill, HUD's FY 2014 budget request and NAHRO's recommendation, the Senate Committee bill provides \$75 million for 10,000 new HUD-Veterans Affairs Supportive Housing (HUD-VASH) vouchers to support the goal of ultimately ending homelessness among veterans. The Senate Appropriation Committees' report regarding HUD-VASH move-in costs states, "[t]he Committee notes that move-in costs can present a problem for homeless veterans trying to secure housing as part of the HUD-VASH program. The Committee recognizes this challenge and urges HUD to work with the VA, as well as local and national organizations to identify resources that can be used to assist homeless veterans with these expenses."

*Tenant Protection Vouchers:* The Senate Committee bill provides \$150 for first-time renewal funding of tenant-protection vouchers, compared with \$75 million in the House Committee bill and \$150 million in HUD's FY 2014 budget request. Within their funding allotment, the House Committee bill provides a set-aside of \$5 million to ensure that vulnerable tenants living in buildings with maturing mortgages do not lose their housing or become severely rent burdened, while the Senate Committee bill does not contain this provision.

*Section 811 Tenant-Based Vouchers:* Both Senate Committee and House Committee bills include \$111 million for the renewal of Section 811 tenant-based vouchers, the same amount as HUD's FY 2013 budget request.

*Section 8 Ongoing Administrative Fees:* The Senate Committee bill provides \$1.670 billion for ongoing Section 8 administrative fees compared with the House Committee bill which provides \$1.350 billion. Our initial estimate of the Senate Committee bill is 83 pro-ration percent and approximately 67 percent for the House Committee bill. All MTW PHAs will be funded under their MTW contract agreements and are subject to the same uniform downward pro-rations in administrative fees. By comparison HUD's FY 2014 budget proposed to increase funding for ongoing administrative fees to \$1.635 billion. HUD's FY 2014 Congressional Budget Justifications state that the requested amount is sufficient to fund 82 percent of PHAs' fee eligibility. NAHRO's ongoing administrative fee recommendation for FY 2014 is \$1.994 billion with \$50 million in additional special administrative fees for the same purposes outlined in the bill.

*Additional Administrative Fees:* The Senate Committee, House Committee, and HUD's FY 2014 budget request, all provide an additional \$15 million for additional administrative fees for administrative costs associated with Section 8 tenant-protection vouchers, disaster-related vouchers, and HUD-VASH vouchers. The Senate Committee bill contains an additional eligible purpose for other incremental special purpose vouchers.

### **Section 8 Project-Based Rental Assistance Programs**

*Section 8 Project-Based Rental Assistance (PBRA):* The Senate Committee bill provides \$10.8 billion for the Section 8 project-based rental assistance program for the renewal of project-based contracts. This level of funding is \$500 million above HUD's budget request and \$1.45 billion above the fiscal year 2013 enacted level of \$8.852 billion. The House Committee bill provides

\$9.451 billion. The bill would reduce funding in this account by \$324 million below FY 2013 enacted level and \$1.3 billion below HUD's budget request. The PBRA account includes the Moderate Rehab program. Of the total amount for the Section 8 project-based account, \$265 million is provided in the Senate Committee bill and \$200 million in the House Committee bill for the Project-Based Contract Administrator (PBCA) program Compared with HUD's FY 2014 budget request of up to \$265 million. Both bills adopt a number of HUD's proposed legislative provisions to the PBRA program, including but not limited to including but not limited to: applying residual receipts to offset assistance payments for new and old regulations contracts; limiting exception rent levels to the operating cost adjustment factor [OCAF]; applying Small Area Fair Market Rents as a benchmark for rents subject to comparability; and shortening vacancy payments."

*Project-Based Section 8 Contract Administration:* The House Appropriations Committee agreed with GAO's finding "that a HAP contract payment by HUD to a property owner cannot be considered as the transfer of a thing of value to a public housing authority (PHA). The Committee also agrees with GAO that any administrative fees paid to PHAs in conjunction with Section 8 housing assistance payment (HAP) contract administration is compensation for the provision of a service that would otherwise be performed by HUD, and that such fees are not provided as general assistance to PHAs in performance of their mission... The Committee expects HUD to take responsibility for the administration of its contracts and either administer the contracts itself or outsource the provision of this service through procurement processes that are truly competitive and comply with Federal law. In light of the above conclusions, the Committee directs HUD to administer contracts funded under this heading through the Office of Housing and, to the extent it is necessary to outsource contract administration, to carry out GAO's recommendation to solicit the provision of HAP contract administration services for the Project-Based Section 8 Rental Assistance Program through a procurement instrument that will result in the award of contracts." The Senate Appropriation Committee's report states, "[p]erformance-based contract administrators (PBCAs), which are typically public housing authorities or State housing finance agencies, are responsible for conducting on-site management reviews of assisted properties; adjusting contract rents; and reviewing, processing, and paying monthly vouchers submitted by owners. The Committee notes that PBCAs are integral to the Department's efforts to be more effective and efficient in the oversight and monitoring of this program. The Committee is also aware of ongoing litigation that will affect the future of these entities and will continue to monitor development."

aware of ongoing litigation that will affect the future of these entities and will continue to monitor development."

#### **FY 2014 Approps, House vs. Senate: CPD**

On June 27, 2013, both the House and Senate Appropriations Committees passed their versions of the FY 2014 Transportation, Housing and Urban Development (THUD) spending bills. This article is a comprehensive summary of the bill's treatment of Community Planning and Development programs.

**Community Development Fund and CDBG: The House bill eviscerates the Community Development Fund for FY 2014, providing just \$1.697 billion. The administration's budget**

requests a total of \$3.143 billion for the Community Development Fund for FY 2014, essentially level funding compared to the FY 2013 enacted level under sequestration. The Senate bill improves upon the administration's request by providing \$3.295 billion for the Community Development Fund.

The administration's budget provides only \$2.798 billion for the Community Development Block Grant (CDBG) program, a proposed reduction of approximately \$300 million compared to the FY 2013 level under sequestration. The House mark proposes to gut the program further, providing a historically low funding level of \$1.637 billion for CDBG. The Senate bill would increase CDBG funding to \$3.15 billion for FY 2014.

The House bill includes only one additional set-aside under the Community Development Fund: \$60 million for the Indian CDBG program. The Senate bill sets aside \$70 million for Indian CDBG, with \$10 million reserved for "grants for mold remediation and prevention in Native American housing." The Senate bill also sets aside \$75 million for "Integrated Planning and Investment Grants," essentially the administration's proposed replacement for the Sustainable Communities Initiative.

Neither the House bill nor the Senate bill adopts the administration's proposed revisions to CDBG entitlement funding eligibility. The administration had proposed to establish a minimum CDBG entitlement grant threshold and eliminate the current entitlement community "grandfathering" provision.

The Senate bill includes language prohibiting a CDBG grantee from selling, trading, or otherwise transferring all or any portion of its funding to another grantee. The Senate bill also includes a provision imposing strict underwriting standards on economic development projects that involve providing CDBG funding to for-profit entities.

*Section 108:* For the fifth year in a row, the administration is proposing to eliminate the direct appropriation to cover the credit subsidy costs of the Section 108 Community Development Loan Guarantee Program. The administration again offers legislative language authorizing HUD to collect fees from Section 108 borrowers in amounts that would result in a credit subsidy cost of zero. HUD's FY 2014 budget also proposes to raise the loan guarantee limit to \$500 million.

The House mark adopts the administration's requests for the program and also permanently rescinds all unobligated balances remaining from funds previously appropriated to HUD to cover the program's credit subsidy costs. The Senate bill adopts the fee-based structure but does not include a rescission.

**HOME Program:** The House mark provides only \$700 million for the HOME Investment Partnerships Program. The President's budget requests \$950 million in formula funding for the HOME Investment Partnerships program for FY 2014, the same amount of funding provided for the program for FY 2013 under sequestration. The Senate bill would increase HOME funding to \$1 billion for FY 2014.

The Senate bill includes language proposed by the administration to facilitate the eviction of certain HOME rental unit tenants "who pose an imminent threat," a change long supported by

NAHRO and other industry groups. Neither bill adopts the administration's proposed statutory changes to "establish a single qualification threshold of \$500,000 irrespective of the appropriation amount" for HOME entitlement eligibility and revise the program's "grandfathering" provisions in a manner that would make an existing Participating Jurisdiction ineligible for continued entitlement funding if its allocation falls below the new \$500,000 threshold for three years or more out of a five-year period.

*Homeless Assistance Grants and HOPWA:* The administration's budget proposes a total of \$2.381 billion in funding for HUD's Homeless Assistance Grant programs for FY 2014, a significant increase compared to the effective level of approximately \$1.93 billion for FY 2013 under sequestration. The House bill provides \$2.088 billion, with at least \$1.882 billion designated for the Continuum of Care and the new Rural Housing Stability Assistance Program (RHSP) and at least \$200 million designated for the Emergency Solutions Grant (ESG) program. The Senate bill provides \$2.261 billion, with at least \$1.910 billion designated for the Continuum of Care and the new Rural Housing Stability Assistance Program and at least \$336 million designated for ESG. The Senate bill would require that \$50 million in ESG funding be designated "for rapid re-housing for high need communities, as determined by the Secretary."

The administration's FY 2014 budget proposes \$332 million in funding for Housing Opportunities for Persons with AIDS (HOPWA), which is funded at \$315 million for FY 2013 under sequestration. The House bill provides \$300 million, while the Senate bill matches the administration's request.

Maybe not. And here's why.

Spending bills will get done, but other priorities, such as immigration reform, are waiting for attention as well. The August recess, when all members are desperate to leave town to get back home with constituents and or to head overseas to see things first-hand, means less time in Washington, D.C. to work on these spending bills. Even if both houses were here working in August, Congress would have to first reach agreement on a joint budget resolution. This could be difficult because the House and Senate are currently miles apart on permissible spending levels for 2014 and on such things as CDBG. This is and or will be a big obstacle to moving the process forward, and this is especially true if both sides cannot find common ground on a budget resolution both can live under. So really, if Congress returns after the August recess following the Labor Day holiday without having approved T-HUD bills for 2013, there isn't much time before October 1 to reach agreement, especially if both sides remain so far apart on spending.

If the ball hasn't moved before the August recess, then the likelihood that we will see yet another Continuing Resolution (CR) of some undetermined duration is very high. In this regard, I would also say with some assurance that many members of the House majority, save the most fiscally conservative, do not want to have to vote on and have to explain a budget that effectively guts the CDBG program and or reduces the number of available vouchers. Unless each side is willing to give ground and take a step backward in terms of additional discretionary spending cuts over and above the current sequestration water mark, then I do not at this point see a way to avoid another CR much as much as I hate to say it. This is important to many housing authorities whose reserves are or have been depleted and who, as a result, do not have the levels of funds

necessary to serve current residents properly or to properly operational-ize programs. How long will the CR last? At this point, no one can be sure.

This warning track metaphor may also be applicable when it comes to reform legislation. There are emerging signs that a voucher reform bill might actually move forward this year. A good MTW hearing in the House is one reason for new optimism but, come late October or November, if nothing much happens before then, I would say we'd be likely to have hit the warning track in that game as well. In the last eight years, sadly we've run into a number of walls as the ball sailed out of reach. It might be best at this point to temper expectations (at least for now) to see how much room we really have left on the field this fall.

In frustration, some might say, "Forget all this metaphor stuff and just call this what it is: another highly partisan abdication from doing what is right and necessary to help vulnerable families. "

Harsh, but not necessarily all wrong either. Maybe I'm not ready to write off the system yet, so baseball becomes a metaphor to minimize the harsh reality behind all this. This might be the case, but it is also true that when we are unable to catch the ball and we hit the outfield wall again and again, people in need continue to get hurt, injured and desperate. There is reason to be concerned that we may be on the warning track again and more than enough reason to recommit to speaking up, lest the system remain irreparably broken.

And three, commit some of these basic facts of our business to memory so that you're always ready to challenge the urban myths of our work. Despite the strong poll numbers, we need a much stronger and better educated public to really change the tide. For those Americans who perceive our customers as lazy and dependent, let's tell them this:

- We are a nation of low-paying jobs. Half of the jobs in the US pay less than \$34,000 per year and almost 25% pay below the poverty line (\$22,000).
- Over 61 million people, 20% of Americans, live in poverty. In gross numbers, white is the color of poverty. About 28.5 million Americans in poverty are white, 12.8 million are African-American, 17.1 million are Hispanic, and 5.1 million are Asian-American or Other.
- Poverty lasts for a relatively short period for most households. Half of households experiencing poverty do so for less than one year and 75% for less than 4 years.
- The average length of stay in public housing is 4.6 years and the average length of stay in the voucher program is 3.2 years.
- Of all Americans helped with federal rental assistance, 33% are adults with children; 32% are elderly and 23% are disabled adults.

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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, September 16, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-06. Resolution numbers start with 13-26.

- 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 September 3, 2013 Council regular session (p. 45)
  - b) Confirmation of appointment of representative, Bailey Minnich, to the Ice Rink Advisory Committee from the Curling group (p. 55)
- 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) Resolution No. 13-\_\_\_; A Resolution maintaining the Cash-In-Lieu Payment in connection with affordable housing at the current \$8,000.00 per unit (p. 57)
  - b) Consideration of a request from Rob Pero to extend the Preliminary Plat approval of Great Northern Heights Phase 3A for an additional 24 months (p. 63)
  - c) Ordinance No. 13- \_\_\_; An Ordinance amending Whitefish City Code Title 11 Zoning Regulations and Title 12 Subdivision Regulations within the bounds of State law (First Reading) (p. 84)

- 7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR
  - a) Consideration of amending the Sewer Plant Improvements contract with Anderson-Montgomery Engineers to provide for Nutrient Trading grant services and Watershed study for DNRC grant (p. 187)
  - b) Discussion and direction for implementing annual inflationary increases for of 5.7% for water and sewer rates and 3% for garbage/solid waste rates (Two motions) (p. 190)
  
- 8) COMMUNICATIONS FROM CITY MANAGER
  - a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 205)
  - b) Other items arising between September 11<sup>th</sup> and September 16<sup>th</sup>
  
- 9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS
  - a) Standing budget item
  - b) Letter from Kate Orozco, Superintendent of Whitefish School District 44 requesting reimbursement of impact fees assessed on the high school project in the amount of \$66,714.69 (p. 210)
  - c) Letter from Mary (Muldown) Ronfeldt, Michael Jennings Muldown, Anne (Jennings) Jackson, Charles Timothy Jennings, and Margaret (Muldown) Koonce regarding proposed annexation of Jennings Lakeside Road properties (p. 211)
  - d) Letter from Thomas Q. Johnson regarding proposed annexation of residence on Jennings Lakeside Road (p. 212)
  - e) Select two elected officials for engineering selection committee for two projects
  - f) Consideration of requesting that Montana Department of Transportation perform a speed study on Wisconsin Avenue (p. 213)
  - g) Letter and update on activities from Montana West Economic Development Corp. (p. 216)
  - h) Consideration of continuing the annual tradition of cancelling the December 16, 2013 City Council meeting
  
- 10) 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

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September 11, 2013

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

Mayor Muhlfeld and City Councilors:

**Monday, September 16, 2013 City Council Agenda Report**

There will be a work session at 5:30 p.m. with the Whitefish Housing Authority regarding the BNSF Railway District houses, their budget, and federal budget cutbacks. Food will be provided.

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 September 3, 2013 Council regular session (p. 45)
- b) Confirmation of appointment of representative, Bailey Minnich, to the Ice Rink Advisory Committee from the Curling group (p. 55)

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

**Items a and b are administrative items.**

**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) Resolution No. 13-\_\_\_; A Resolution maintaining the Cash-In-Lieu Payment in connection with affordable housing at the current \$8,000.00 per unit (p. 57)

From Planning Director Dave Taylor's staff report:

Section 11-2S-3(B)(1) of the code provides that the Cash-in-Lieu fees for affordable housing be reviewed annually by the City Council. Attached in the packet is a memo from Lori Collins, Director of the Whitefish Housing Authority, as well as a housing price index and a chart of lessee purchase prices and maximum unit subsidies. In 2008, the Council raised the per unit fee from \$6,000 to \$11,000. In 2011, the City Council lowered the fee to \$8,000. The Housing Authority is recommending keeping the fee at the existing rate of \$8,000 per unit.

The Planned Unit Development District (PUD), Chapter 2, Title 11 of the Whitefish City Code, contains voluntary provisions that allow a 50% density bonus if affordable housing is provided at a rate of at least 10% of the project. Paragraph B.1 provides that the density bonus may also be taken by providing “cash-in-lieu” in an amount set by City Council resolution. That number is currently \$8,000 per unit.

An “affordable” unit is defined as one which can be purchased by someone earning up to 120% of the median family income in Flathead County, without being cost-burdened. Generally, a homeowner is considered cost-burdened when mortgage payments (PITI) exceed 30% of his monthly income. The Whitefish Housing Authority and the Whitefish Area Land Trust operate permanent affordable housing programs which buy down the price of a home to the affordable mortgage price. According to the numbers provided in the attached memo from the Whitefish Housing Authority, a payment in lieu amount of \$8,000 per market rate unit makes up 100% of the difference between an affordable mortgage and a market rate home mortgage.

**RECOMMENDATION:** Staff respectfully recommends the City Council, after considering testimony at the public hearing, citizen correspondence, the staff recommendation, and the Planning Board recommendation, adopt a Resolution maintaining the Cash-In-Lieu Payment in connection with affordable housing at the current \$8,000.00 per unit.

**This item is a legislative matter.**

- b) Consideration of a request from Rob Pero to extend the Preliminary Plat approval of Great Northern Heights Phase 3A for an additional 24 months (p. 63)

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

This office is in receipt of a letter from Sands Surveying, on behalf of Rob Pero, requesting a 24-month extension for the Great Northern Heights, Phase 3A preliminary plat. The Great Northern Heights, phase 3A is a 15-lot (7 townhouses and 1 single family home) subdivision on 2.93 acres on Great Northern Drive. Attached to this report are the conditions of approval and the preliminary plat map.

The preliminary plat was approved by the Whitefish City Council on November 17, 2008. In 2011, the Council granted a 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires November 17, 2013.

This subdivision is located within the city limits and is zoned WR-1/PUD (One-Family Residential District) with a Planned Unit Development overlay. At the time of the public hearings, neighbors were concerned with weed abatement. According to the Planning Board and Council minutes, the applicant indicated he had entered into a weed abatement agreement with the city.

*Change in Standards:*

The following standards changed in the current standards (zoning or subdivision) that would change this subdivision:

1. This section of the Subdivision Regulations direct developers to consider the design of townhouses to avoid the garage-forward design. The use of garage-forward designed two-unit homes are not permitted. (§12-4-12I) The narrowness of these townhouse lots nearly require the use of garage forward design. The Architectural Review standards do provide options to mitigate the design of the garage-forward two-family home, which the existing townhouse buildings in this neighborhood have used and will continue to use.

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on August 23, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on August 28, 2013. As of the writing of this report, 5 letters have been received by neighbors. There are two requests for this neighborhood – this preliminary plat extension and a new preliminary plat. Many of the attached letters address both requests. These letters will also be included in the preliminary plat request scheduled before the Council in October.

Concerns raised on the preliminary plat extension request include:

- Poor design of existing townhouse lots causing traffic problems and concern with more of these lots; and
- Residents would like to see detached single family lots, as they believe that type of development fits into the neighborhood better.

**RECOMMENDATION:** Staff respectfully recommends the City Council, after considering testimony at the public hearing, citizen correspondence, the staff recommendation, and the Planning Board recommendation, approve the request to extend the Great Northern Heights, phase 3A preliminary plat for 24 months, expiring on November 17, 2015 based on the following findings of fact:

**Finding 1:** The 15-lot preliminary plat was approved by the Council on November 17, 2008. In 2011, the Council granted a 24-month extension under HB 522 that

provided local jurisdictions additional flexibility. The preliminary plat now expires November 17, 2013.

**Finding 2:** No other development or third party will be harmed if the preliminary plat is extended.

**Finding 3:** A legal notice was placed in the *Whitefish Pilot* on August 28, 2013 and public notice was mailed to property owners within 300-feet on August 30, 2013. As of the writing of this report, five letters have been received.

**This item is a quasi-judicial matter.**

- c) Ordinance No. 13- \_\_\_\_; An Ordinance amending Whitefish City Code Title 11 Zoning Regulations and Title 12 Subdivision Regulations within the bounds of State law (First Reading) (p. 84)

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

**For the Subdivision Chapter Amendments - Summary of Requested Action:** This application is a request by the city of Whitefish to amend the subdivision regulations to implement the various bills related to the Subdivision Regulations from the 2013 Legislative Session.

- *Senate Bill 40* does not allow jurisdictions to have a subdivision application submittal deadline. Also, an application is considered 'received' the date the application is submitted with any required fees. (§12-3-4A)
- *Senate Bill 293* added language to identify if a subdivision is proposing a public water or sewer system and whether or not they are subject to the jurisdiction of the Public Service Commission. (§12-4-18, §12-4-19)
- *Senate Bill 316* added language that if someone is proposing a subdivision with wells that the 100-foot isolation zone is located wholly within the boundaries of the subdivision unless the adjacent landowner authorizes the encroachment. (§12-4-18)
- *Senate Bill 324* is the 'fix' for the attorney general opinion issued in 2012 concerning subdivisions for rent or for lease. The bill exempts jurisdictions such as Whitefish that have zoning from the provisions of Subdivisions for Lease or Rent.

**For the Zoning Chapter Amendments - Summary of Requested Action:** This application is a request by the city of Whitefish to amend the zoning text regulations to implement Senate Bill 324 from the 2013 Legislative Session. As described in the WSUB 13-01 staff report, the state legislature amended the state Subdivision and Platting Act to exempt jurisdictions that have zoning regulations from the provisions of Subdivision for Lease or Rent. As such, the design standards for Manufactured

Home Parks, Recreation Vehicle Parks and Campgrounds need to be moved into the zoning regulations.

**RECOMMENDATION:** Staff respectfully recommends the City Council, after considering testimony at the public hearing, citizen correspondence, the staff recommendation, and the Planning Board recommendation, approve an Ordinance amending Whitefish City Code Title 11 Zoning Regulations and Title 12 Subdivision Regulations within the bounds of State law at First Reading.

**This item is a legislative matter.**

#### COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) Consideration of amending the Sewer Plant Improvements contract with Anderson-Montgomery Engineers to provide for Nutrient Trading grant services and Watershed study for DNRC grant (p. 187)

From Public Works Director John Wilson's staff report:

The City entered in to a consultant contract with Anderson-Montgomery Consulting, Inc. in October 2012 for the Wastewater System Improvements Project. This is a long term agreement which will involve several amendments over the coming years as we work through on-going discharge permit requirements, application and negotiation with DEQ for a new wastewater discharge permit, long range planning and, ultimately, design and construction of major wastewater treatment improvements to comply with emerging standards for nutrient removal.

This memo is to recommend Amendment No 2 to that consultant contract in the amount of \$160,000 for engineering analysis, field work and report writing for the Whitefish Nutrient Reduction Plan and the Whitefish Lake Watershed Assessment.

The City has been awarded two planning grants from the Montana Department of Natural Resources and Conservation for these closely related projects and is currently finalizing those grant agreements. The grant amounts are \$100,000 for the Nutrient Reduction Plan and \$50,000 for the Whitefish Lake Watershed Assessment.

The Nutrient Reduction Plan will investigate nutrient sources in the Whitefish, Stillwater and Flathead River drainages, as well as Flathead Lake in such locations as may be eligible for nutrient trading agreements relevant to permit requirements for the Whitefish wastewater treatment plant. This study is expected to include the Whitefish River up to the lake.

The focus of the Whitefish Lake Watershed Assessment will be to evaluate water quality in Whitefish Lake and its primary tributaries. Issues identified thus far relate to sediments, nutrients, bacteria, metals and PCBs. The lake assessment work will be

largely performed by the Whitefish Lake Institute as a subcontractor to Anderson-Montgomery.

The proposed amendment will increase the amount of the consultant contract for the Wastewater System Improvements Project by \$160,000, for a total contact amount of \$365,711. Funds for this amendment are included in the adopted FY14 Wastewater Budget and consist of a \$100,000 Nutrient Reduction Plan Grant, a \$50,000 Whitefish Lake Watershed Assessment Grant, and \$10,000 in local wastewater funds.

**RECOMMENDATION:** Staff respectfully recommends the City Council approve an amendment to the Wastewater System Improvements Project consultant contract with Anderson-Montgomery Consulting in the amount of \$160,000, contingent upon the execution of associated grant agreements with the Montana Department of Natural Resources and Conservation.

**This item is a legislative matter.**

- b) Discussion and direction for implementing annual inflationary increases for of 5.7% for water and sewer rates and 3% for garbage/solid waste rates (Two motions) (p. 190)

From Public Works Director John Wilson's staff report:

In 2006 and 2007, the City Council adopted Resolutions 6-51 and 7-12, which generally provide for water and sewer rates to be adjusted on October 1<sup>st</sup> of each year "based on the increase, if any, in the U.S. Department of Labor's Water, Sewer and Trash Collection Services Consumer Price Index for All Urban Consumers for the twelve-month period ending the preceding December 31." Copies of those resolutions are attached.

Resolution 11-52 was adopted in October 2011, approving a new five year contract for solid waste hauling services and providing a 3% annual increase for contract fees, as well as a 3% annual increase for user rates. A copy of that resolution is attached.

The provisions for annual water and wastewater rate adjustments, or indexing, found in Resolutions 6-51 and 7-12 are an important aspect of these rate plans that enable revenues to keep pace with rising costs such as fuel, power, labor and insurance. Indexing also helps us avoid abrupt rate increases, such as the three successive 30% water rate hikes we experienced in the late 1990s. A table from the Bureau of Labor Statistics' report on the Consumer Price Index for All Urban Customers is attached, indicating the CPI for Water, Sewer and Trash Collection Services for the 12 month period ending December 2012 was 5.7%. If enacted, a 5.7% water and wastewater rate increase would result an additional charge of approximately \$4.25 per month for a typical single family home. This calculation is based on an average monthly water and wastewater charge of \$74.50.

In the course of adopting Resolution 11-52 for solid waste services, the City Council indicated a preference to forego the annual 3% user rate increase in those years when cash reserves are sufficient to cover the increased charges for contract hauling. A copy of the minutes from that City Council discussion is attached. The Finance Director reports the Solid Waste Fund currently has approximately \$78,000 in cash reserves, with projections for that amount to increase slightly under the current rate schedule in FY14.

As such, the fund has adequate reserves to forego a 3% user rate increase; although the Council may want to consider the advisability of building up the cash reserve to allow the option of resuming in-house services for solid waste hauling at some time in the future. If enacted, a 3% rate increase would result in an additional charge of approximately \$0.25 per month for a typical single family home.

This matter does not involve a financial requirement for the Water or Wastewater Utility, although significant consequences could result if effective revenues were allowed to decline due to inflation.

Cash reserves in the Solid Waste Fund are capable of absorbing the 3% annual increase for contract hauling services. Nevertheless, cash reserves will increase at a slower rate if the Council chooses not to implement a 3% annual user rate increase, as proposed in Resolution 11-52.

**RECOMMENDATION: (TWO MOTIONS)** Staff respectfully recommends the City Council give direction on a 5.7% user rate increase for the water and wastewater utilities, effective October 1, 2013, as provided in City Resolutions 6-51 and 7-12 – for public hearing and consideration on October 7<sup>th</sup>.

Staff further recommends the City Council consider the information provided above on the Solid Waste Fund and provide staff with direction as to whether or not to implement the 3% user rate increase proposed in Resolution 11-52. If the Council chooses to direct staff to implement the 3% user rate increase, it is recommended that increase take effect on October 1, 2013.

#### COMMUNICATIONS FROM CITY MANAGER

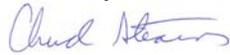
- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 205)
- b) Other items arising between September 11<sup>th</sup> and September 16<sup>th</sup>

#### COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Letter from Kate Orozco, Superintendent of Whitefish School District 44 requesting reimbursement of impact fees assessed on the high school project in the amount of \$66,714.69 (p. 210)

- c) Letter from Mary (Muldown) Ronfeldt, Michael Jennings Muldown, Anne (Jennings) Jackson, Charles Timothy Jennings, and Margaret (Muldown) Koonce regarding proposed annexation of Jennings Lakeside Road properties (p. 211)
- d) Letter from Thomas Q. Johnson regarding proposed annexation of residence on Jennings Lakeside Road (p. 212)
- e) Select two elected officials for engineering selection committee for two projects
- f) Consideration of requesting that Montana Department of Transportation perform a speed study on Wisconsin Avenue (p. 213)
- g) Letter and update on activities from Montana West Economic Development Corp. (p. 216)
- h) Consideration of continuing the annual tradition of cancelling the December 16, 2013 City Council meeting

Sincerely,



Chuck Stearns  
City Manager

## "Cheat Sheet" for Robert's Rules

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

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## WHITEFISH CITY COUNCIL MINUTES

September 3, 2013

7:10 P.M.

### **1. CALL TO ORDER**

Mayor Muhlfeld called the meeting to order. Councilors present were Anderson, Hildner, Kahle and Hyatt. Councilors Mitchell and Sweeney were 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, Senior Planner Compton-Ring, Public Works Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelly. Approximately 14 people were in attendance.

### **2. PLEDGE OF ALLEGIANCE**

Mayor Muhlfeld asked Rich Knapp to lead the audience in the Pledge of Allegiance.

Mayor Muhlfeld said two ordinances, Agenda items 7 e. and 7 d., have been withdrawn by the applicant and removed from the agenda tonight.

### **3. PRESENTATION – Annual reading of Resolution No. 08-34 – Family Day – A day to eat dinner with your children – September 23, 2013 (p. 32)**

Mayor Muhlfeld read a resolution declaring that September 23, 2013 is recognized as Family Day—a day to eat dinner with your children. Research shows that family dinners help reduce drug and alcohol use and build strong family units.

**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)

Leo Keane, 514 Pine Place, said he is concerned about the lot for sale on the corner of Highway 93 and Highway 40. He wondered if the City might want to look into buying it. He said it is the gateway to Whitefish and to Glacier Park. He said they could consider creating a visitor center and a small park. The property is too important to not look into and he said they might want to discuss it sometime. If it sells as a commercial use, he can picture it as a large gas station with glaring lights and that would be unfortunate.

### **5. COMMUNICATIONS FROM VOLUNTEER BOARDS**

Councilor Hildner said the weed committee will be working with the City Attorney to look at the weed ordinance because it says violators need to “abate” their weeds and the City wants them to “eradicate” the weeds. The Committee is currently addressing two areas of concern; one private land and one public land. The private land is the old trailer park north of Super One and the public land is the corner just north of the viaduct on Edgewood, which the City will be responsible to treat. Another Committee priority is to get increased funds for weed management in the Park’s Department budget for FY15.

**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 August 19, 2013 Council regular session (p. 34)**

**6b. Consideration of approving application from Houston Point Homeowners for Whitefish Lake Lakeshore Variance (#WLV-13-W28) at Houston Drive to Variance to add 24 square feet/8' feet in length to existing gangways on 4 docks at a private marina to extend the length of the existing docks to 78 feet and subject to 10 conditions (p. 58)**

**6c. Consideration of approving application from Westridge Investments, LLC for Whitefish Lake Lakeshore Permit (#WLP-13-W25) at 2454 Birch Glen Road for replacement of wooden stairs subject to 6 conditions (p. 92)**

**6d. Consideration of approving application from State of Montana for Whitefish Lake Lakeshore Permit (#WLP-13-W30) at the Montana State Park on State Park Road to replace the public boat launch subject to 16 conditions (p. 106)**

**6e. Consideration of application for final plat approval – Papp subdivision – 2 lot re-subdivision of Lot 42 Mountain Park subdivision (p. 119)**

**Councilor Kahle offered a motion, seconded by Councilor Hyatt, to approve the consent agenda. The motion passed unanimously.**

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

**7a. Resolution 13-\_\_\_; A Resolution to approve a petition to the Montana Department of Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway (p. 145)**

Mayor Muhlfeld said this is a resolution to approve a petition to the Montana Department of Fish, Wildlife & Parks (FWP) to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway. He said they had a work session on this topic preceding the meeting tonight. He turned the meeting over to Councilor Hildner. Councilor Hildner said for the last two years at the annual goal setting sessions the City Council set a goal to create a non-motorized waterway on the Whitefish River. There is currently a No-Wake restriction from the outlet at the lake down to the JP Road Bridge. In 2007 the Council voted to create a non-motorized waterway but it was rescinded when a couple of landowners complained that they wouldn't be able to bring their boats from the lake to their docks just north of the trestle. The new proposed resolution won't place the restriction until after the trestle. He said public safety and resource protection are the issues. The river has been closed for 5 years during the BNSF clean-up, so now there is an opportunity to be pro-active for any kind of management. He said paddle boarders and kayaks are not always compatible with powered craft. He said the silts are highly erodable and it might have some impact on the City's ability to deal with the water quality issues. He said the river is now as clean as most people can ever remember seeing it. He showed a slide presentation demonstrating various uses on the river and expressed his concerns with jet skis interacting with the non-motorized vehicles on the river. He said the site distances are less than 300 feet and it takes approximately 300 feet to stop a jet ski according to the Kawasaki owner's manual. He said it is important to protect this resource for the community.

Mayor Muhlfeld opened the public hearing.

Michael Park, who lives in Columbia Falls but owns a business in Whitefish, said the idea of “no motors” means they eliminate electric motors which allow those who are physically handicapped to access the river. He said his little boat isn’t safe on Whitefish Lake, but he is able to use it on the river. He said an electric motor has no wake. He asked them not to take away the right to use a part of the river that he currently has, and is able, to use.

Leonard Howke, 180 JP Road, said a lot of garbage floats down the river and he appreciates the wake because it takes it away. He said if he wanted to go on Whitefish Lake he would have to have a trailer, but right now he can just go up the river. He talked about the safety issues on the bike trail. He said visibility is an issue on those trails, too. He said Whitefish River is considered navigable waters and they can use a boat on it.

Sonny Schierl, 105 Wisconsin Avenue, owns Paddlefish Sports; and said he does a lot of stand up paddling. He said he takes a lot of people paddling up the river. He is in support of making this 6-mile stretch of river non-motorized except for the use of electric motors. He said wakes cause silt erosion and damage the river. He thinks that if they are proactive on this they can protect the river and make it work for a lot of people. He said many people are interested in silent sports; and more will come to Whitefish to paddle if this is a protected river way.

Mike Fitzgerald, 412 Lupfer Avenue, said he was involved in 1989 when they worked to create a non-motorized standard and they changed it to a no-wake designation, but it hasn’t worked. He said most of the traffic he sees comes from the lake down the river, not upstream. He agreed that perhaps electric motors should be allowed. He said they have lost 25 feet of shoreline at Riverside Park and if they allow the jet skis and other motorized traffic to have their way then it will get ruined again after the latest clean-up.

Rebecca Norton, 530 Scott Avenue, said she loved this proposal and she thanked Richard Hildner for all of his efforts. She likes the safety parts of this, but she also likes the preservation part of it.

Leo Keane, 514 Pine Place, said he fully supports the proposal. He thinks they should pass it and enforce it as soon as possible. He is a motor boat enthusiast, but there are 7 miles of lake to boat in. He agreed that electric motors are smaller with low impact. He wondered if they can grandfather a few folks who already live on Whitefish River and want to come up to the lake. He said the river is too special to lose it.

Chris Schustrom, 504 Spokane Avenue, supports the proposal. He encouraged the City to consider the use of electric motors and consideration for the use of small horse power watercraft for sporting pursuits. He said in October 2011 Montana FWP and the commission enacted motorized regulations on certain stretches of the Clark Fork River near Missoula while still allowing motorized uses for waterfowl hunting. He said the Whitefish River is a popular resource that they all can enjoy.

Mayor Muhlfeld closed the public hearing.

Councilor Kahle said he agreed with Chris Schustrom that what they’re concerned about is the wake. He agreed that they could allow low horse power gasoline and electric motors. He would favor

September 3, 2013

restricting high horse power motors and personal motor craft. Councilor Hildner said the public has given them grounds for thought and there might be things they can change in the resolution to make it more acceptable to more people. It may also enhance their chances of getting it through Fish, Wildlife and Parks. Councilor Anderson said the use of electric motors from the trestle to JP Road might need a little more thought. He said he wondered about the uses south of the bridge at JP Road. He said he learned tonight that there are a couple of assertions that have to accompany a petition like this for Montana Law. He said the data on erosion at Riverside Park might need to be developed before they go forward with this. Councilor Hyatt said he loves the river and wants to protect it. He said FWP has a restriction for allowing the use of motors under 10-HP they might want to consider. Councilor Hildner suggested that they postpone the vote on the resolution to allow more research and consideration of the concerns of the community expressed here tonight. He talked to the warden and there should still be time to get it in for this year's consideration

**Councilor Hildner offered a motion, seconded by Councilor Hyatt, to postpone a Resolution to approve a petition to the Montana Department of Fish, Wildlife & Parks to restrict motorized watercraft from a portion of the Whitefish River and designate a portion of the Whitefish River as Montana's first urban non-motorized waterway to November 4, 2013.**

**Councilor Anderson offered an amendment, seconded by Councilor Kahle, to re-open and continue the hearing. The amendment passed unanimously.**

**The original motion, as amended, passed unanimously.**

Councilor Hildner requested he be allowed to introduce John Swanson in the audience; he and Mr. Swanson served together in the Pease Corps forty years ago.

**7b. Consideration of an application from Marty Beale for a Conditional Use Permit for a professional office and tri-plex at 118 W. 2<sup>nd</sup> Street subject to 11 conditions (p. 152)**

Senior Planner Compton-Ring said that Marty Beale, on behalf of the Eighth Street llc, is requesting approval of a Conditional Use Permit to have multiple primary uses on one lot – a professional office and triplex at 118 W 2<sup>nd</sup> Street. The property is currently developed with a single family home. The property is zoned WR-3 (Low Density Multi-family Residential District). The Whitefish Growth Policy designates this property as “High Density Residential”. The Whitefish Zoning Regulations, §11-2-3B(12), permits only one primary use per lot unless a Conditional Use Permit is obtained.

The proposed project will convert an existing single family home into a professional office. The WR-3 (Low Density Multi-family Residential District) along Highway 93 W allows the conversion of existing single family homes to professional offices once a Conditional Use Permit is obtained. This is an area of town where one is able to obtain a Conditional Use Permit administratively; however, since a Conditional Use Permit is required for the multiple uses, staff is reviewing these two permits concurrently.

The other aspect to this project is a triplex on the north part of the property. Parking for the residential use and the office will be located in the center of the property. Three spaces for the residential units will be covered and one customer space for the professional office will be located in front of the professional office. A walking trail for the triplex is being designed to access the Whitefish

River. The triplex has already obtained Architectural Review approval. A shared access easement between this property and the lot to the east is in place and is located on the adjacent lot.

The request complies with the Growth Policy and is serviced by all public utilities. A notice was mailed to adjacent land owners and advisory agencies and no comments were received.

The development proposal is consistent with the purpose and intent of the applicable regulations. The WR-3 zoning has the following setback: 25-foot front, 15-foot side and 20-foot rear, which are being met with the new buildings. The existing building that will remain encroaches into the side yard setback, but no changes, other than interior, are proposed with the structure. The maximum lot coverage is 40% and the applicant is proposing well below the lot coverage at approximately 18%. The density standard is 3,000 square feet per dwelling unit and the applicant is proposing 5,592 square feet per unit. The proposed structure is taller than surrounding buildings, but meets the maximum height and is located on the back part of the lot. The existing building at the front of the lot will retain its scale.

Municipal Code Section 11-3-16, Professional Offices, provides for additional standards including parking requirements. This chapter requires a minimum of 1 space per 400 square feet of professional office space; therefore three parking spaces are required. In addition, 2.3 parking spaces are required per unit in the triplex; therefore seven spaces are needed for the residential aspect of the project. A total of ten parking spaces are required for the project and ten spaces are shown on the site plan. The WR-3 zoning district does not permit parking in the front yard setback and this parking space is outside the setback.

An access is on a shared 20-foot paved easement between the subject lot and the lot to the east. This easement is proposed to be extended to the back of the lot to serve the triplex. The Whitefish Fire Marshal has reviewed the project and wants to ensure the snow storage area is located off the access area. If access is less than optimal, the Fire Department may require sprinklering of the building.

The applicant has retained consultants to determine the top of bank and develop a project that meets the requirements of the Water Quality Protection (WQP) regulations. The applicant is proposing to restore the buffer in exchange for a 25% buffer reduction. A final plan for buffer restoration shall be submitted and approved prior to the issuance of the building permit. In addition, a geotechnical letter shall be submitted along with the building permit prior to the construction of the triplex. Staff has reviewed the submittals and finds them in compliance with the WQP regulations.

Fencing is not proposed and landscape screening is required for between the new parking area and the adjacent residential use to the west. A restoration landscaping plan has been submitted along with the application along the river. A landscaping plan will be required for the new parking area and remainder of the lot. There are large mature trees on the property that will remain as part of the project. A final landscaping plan will be reviewed and approved as the time of building permit review. There are utilities existing on site servicing the primary residence. The utilities along Highway 93 W will also be underground with the highway project and the applicant will be undergrounding their utilities. Separate water and sewer service is required for each unit. An engineered drainage plan shall be reviewed and approved by the City prior to its installation.

The residential use will have typical residential hours of operation and the professional office will have typical office hours of 8:00 AM to 5:00 PM. The office space is located along W 2<sup>nd</sup> Street/Highway 93 W in order to have less impact on surrounding neighbors. The existing single family, proposed to be

converted into a professional office, will need a professional design. This design shall be reviewed and approved by the Building Department.

The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with ten conditions as contained in the staff report and adopted the staff report as findings of fact. In addition, the Planning Board added one condition:

11. The applicant shall obtain a 310 permit from the Flathead Conservation District.

Councilor Hildner asked if this would conflict with a future Neighborhood Plan for the Highway 93 Corridor Plan. Planner Compton-Ring said it is consistent with current zoning and she didn't think they would downzone or remove conditional uses that are currently permitted along that corridor.

Mayor Muhlfeld opened the public hearing. No one wished to speak and the public hearing was closed.

**Councilor Anderson offered a motion, seconded by Councilor Hyatt, to approve the Beale Conditional Use Permit for a professional office and tri-plex at 118 W. 2<sup>nd</sup> Street subject to 11 conditions and adopting the Staff Report #WCUP 13-08 as findings of fact. The motion passed unanimously.**

**7c. Consideration of an application from Kevin and Melinda Johnson for a Conditional Use Permit for a guest house at 815 Delrey Road subject to 6 conditions (p. 191)**

Planner Compton-Ring said Bruce Boody, on behalf of Kevin and Melinda Johnson is requesting approval of a Conditional Use Permit to have a guest house at 815 Delrey Road. The property is currently developed with a single family home that will become the guest house and they are building a new primary residence. The Whitefish Growth Policy designates this property as "Suburban Residential". Water and sewer are on-site. A notice was mailed to adjacent land owners within 150-feet of the subject parcel and to advisory agencies on July 26, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on July 31, 2013. No comments were received. The proposed use complies with Growth Policy Designation of Suburban. The underlying zoning is WSR (Suburban Residential District). The purpose and intent of this zoning category describes single-family homes in a suburban setting. Planner Compton-Ring reviewed the findings of fact and conditions for approval. She said that the Whitefish City-County Planning Board met on August 15, 2013 and unanimously recommended approval of the above referenced conditional use permit with six conditions as contained in the staff report and adopted the staff report as findings of fact

Councilor Hildner asked and Planner Compton-Ring said there are four parking spots as shown on the site plan on page 212 in the packet. He asked and she said there is adequate parking. Councilor Hildner asked if the proposed septic tank is sufficient to handle both the old and new construction and she said she would defer to Bruce Boody. Councilor Kahle asked when the original septic tank was built and she suggested that he ask Bruce Boody.

Mayor Muhlfeld opened the public hearing.

Bruce Boody, landscape architect, said he represented Kevin and Melinda Johnson, and regarding the septic system, he said there is a letter from the Flathead County Environmental Health Services. In 2009 the Johnsons applied for a new septic system for this parcel, but weren't allowed to have one until they had a CUP. He said the old septic system was probably put in during the 1960's and it will be removed from the site. The new system is a Level 2 system and will be approximately 200 feet further from the lake than the existing septic system. Mayor Muhlfeld said with the addition of the impervious areas proposed, he wondered how the runoff would be handled. Bruce Boody said they have been out on the site during heavy rain events and there has been no run-off. He said there is no high ground water on this lot and there are porous soils. He said the water quality protection plan review will cover the runoff concerns. He noted that they are only covering 7% of the lot and the allowable coverage is 25%.

Mayor Muhlfeld closed the public hearing.

**Councilor Hildner, offered a motion, seconded by Councilor Hyatt, to approve the Johnson Conditional Use Permit for a guest house at 815 Delrey Road, adopting the Staff Report #WCUP 13-09 as findings of fact and subject to 6 conditions.**

Councilor Kahle said he thinks they should add a condition that requires an inspection of the existing septic system. This is exactly what they were talking about in dealing with these specific issues. He thought they should require a condition that requires upgrading and improving the adequacy of the septic system. Mayor Muhlfeld asked and Councilor Kahle said he is looking to use this as an opportunity to condition a review, inspection and upgrade to the existing septic system. Councilor Anderson said one of the condition states that it will be in compliance with the standards and the site plan. Councilor Kahle said he anticipates that these types of conditions will be expected by those who are asking for these kinds of conditional use permits. Councilor Anderson asked what permits are required and Bruce Boody said that is in their original submittal is the letter for Flathead County Environmental Health Services. He said they could say the septic plan will be updated based on the October 21, 2009 letter from Flathead County and the outdated septic will be removed. Councilor Kahle said he is trying to hold this up as an example for what should be done by future applicants. They expect people to work with environmental quality control. Mayor Muhlfeld said in the future, unless it is required by Environmental Health Services, they could require that the decommissioned septic field to be removed. Councilor Kahle said he doesn't mean to make a mountain out of a mole hill; these folks are doing it right, but he wants to hold future applicants to this higher standard. Councilor Kahle said he wants a standard condition for these types of situations that the applicant coordinates and investigates requirements regarding aging septic systems from the Environmental Health Department, and follows up with any permits required.

**Councilor Anderson offered an amendment, seconded by Councilor Kahle, to add a condition that the existing septic system be removed after the completion of the new septic system which will be constructed in accordance with Flathead Environmental Health Services.**

**The amendment passed unanimously.**

**The original motion, as amended, passed unanimously.**

**7d. Consideration of an application from Corrie Colbert and Neil Stuber for a Conditional Use Permit for a temporary expansion of a Home Occupation Permit for Hurraw Lip Balm at 103 Dakota Avenue subject to 3 conditions (p. 229)**

Planner Compton-Ring reported that Neil Stuber and Corrie Colbert on behalf of Hurraw! Balm llc are requesting approval of a Conditional Use Permit to temporarily allow an expanded home occupation at 103 Dakota Avenue. The property is currently developed with a single family home. The property is zoned WR-2 (Two-Family Residential District). The Whitefish Growth Policy designates this property as "Urban Residential".

The zoning regulations limit home occupation to no more than 25% of the gross floor area of the primary residence and limit employees to family members residing on the premises and one nonfamily member. If one exceeds these thresholds, a Conditional Use Permit is required. The applicant is proposing to use 50% (800 square feet) of the home in the basement and they have three part-time employees. This is an after-the-fact permit, and the use will not be expanding at this site as the applicant is in the process of constructing a new facility in Baker Commons. It is anticipated the building will be complete in January, 2014 and the entire operation will move to the new building.

A notice was mailed to advisory agencies and adjacent land owners within 150-feet of the subject parcel on July 26, 2013. One letter of support was sent in and is attached to the packet. The Whitefish City-County Planning Board met on August 15, 2013 and considered the request. Following the hearing, the Planning Board unanimously recommended approval of the above referenced conditional use permit with three conditions as contained in the staff report and adopted the staff report as findings of fact. Staff recommended that they add a condition stating that the CUP is only valid until they move their business.

Councilor Hildner asked if there are any materials flushed into the public sewer system and staff did not know the answer. Mayor Muhlfeld reminded the Council that this applicant was previously in front of this body with a proposal requesting impact fee relief and he wondered if that was still in the works. Planner Compton-Ring said they are pursuing other options; so the Mayor wondered if they should call out a specific date for the end of this CUP. Mayor Muhlfeld asked and she said they are running out of room and looking for a new business space solution. Manager Stearns said he received an email from Stuber saying they are going to move out to a temporary location out on Highway 93 South by November 2013 while they look for a permanent location. Councilor Hyatt noted it is stated in the packet on page 241 that they will be relocated to a new facility by January 2014; so this permit should be time-limited; Mayor Muhlfeld agreed.

Mayor Muhlfeld opened the public hearing. No one wished to speak and the public hearing was closed.

**Councilor Hyatt offered a motion, seconded by Councilor Kahle, to approve a Conditional Use Permit for a temporary expansion of a Home Occupation Permit for Hurraw Lip Balm at 103 Dakota Avenue with a term ending January 31, 2014, adopting the Staff Report #WCUP 13-10 as findings of fact and subject to 3 conditions.**

Councilor Anderson said he would abstain from this vote as his wife is an employee of Hurraw.

Councilor Hildner said he is concerned about industrial waste from this business. Councilor Hyatt said everything they make is organic. He said if they moved to any of the industrial areas they would be putting the same things into the system. Councilor Anderson said he would abstain from voting because his wife is an employee of Hurraw Lip Balm. Councilor Kahle said they could create a condition stating that any by-products that go into the drain are approved by Public Works. Public Works Director Wilson said there are regulations in place regarding materials disposal; and the applicants could be asked to submit a report about what they are putting down the drain to assure their compliance.

**Councilor Kahle offered an amendment, agreed to by the maker of the original motion, to require the applicants to submit a report to Public Works and to comply with City regulations in the handling of their waste products. The amendment passed with three aye votes, Councilor Anderson abstaining.**

**The original motion, as amended, passed with three aye votes, Councilor Anderson abstaining.**

**7e. Ordinance No. 13-\_\_\_; An Ordinance approving a zoning change and amendment of the Whitefish Zoning Jurisdiction Map to rezone Tract 1K from WR-1 (One-Family Residential District) to WR-2 (Two-Family Residential District), and to rezone Tracts 1D and 1DA from WA (Agricultural District) to WER (Estate Residential District), in Section 32, Township 31 North, Range 21 West, Whitefish, Flathead County, Montana, located at East 2nd Street north of the East 2nd Street and Armory Road intersection (1<sup>st</sup> Reading) (p. 243) - This item was withdrawn by the applicant.**

**7f. Ordinance No. 13-\_\_\_; An Ordinance approving the East 2nd Street Multi-Family/Condominium Planned Unit Development (PUD) overlay (1<sup>st</sup> Reading) (p. 246) - This item was withdrawn by the applicant.**

**8. COMMUNICATIONS FROM CITY MANAGER**

**8a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 813) - None.**

**8b. Other items arising between August 28<sup>th</sup> and September 3<sup>rd</sup> - None.**

**9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

**9a. Comments on the standing budget.**

Councilor Anderson thanked Finance Director Knapp for his help and for always being well-prepared. He wished him well in his new job and said he will be missed.

**9b. Letter from Nicholas Chickering regarding proposed annexation of Whitefish Summer Lake Homes Addition #1 lots, some of which are on Jennings Lakeside Road (p. 817)**

Councilor Kahle said he got a call from Nick and he brings up some great points that he hopes get considered as they go through this process. Manager Stearns said two more letters regarding this annexation will be on the next agenda.

Councilor Hyatt expressed his gratitude to Finance Director Knapp and the great job he has done. Councilor Kahle said Whitefish will miss him, but he wished him luck. Mayor Muhlfeld echoed those comments. Mayor Muhlfeld said Stoltze sent a letter of understanding regarding the Trust for Public Lands under which the State would be reimbursed for the full value of their development rights. He said he and Manager Stearns attended a tour with various representatives applying to the Trust for Public Lands for a grant; the State ranked it their highest priority and now it will go on to the national level. He said it was good news and more details will follow.

**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 8:37 p.m.

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Mayor Muhlfeld

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Jane Latus Emmert, Recording Secretary

Attest:

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Necile Lorang, City Clerk

## Chuck Stearns

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**From:** Andy Hergesheimer [ahergesheimer@cityofwhitefish.org]  
**Sent:** Tuesday, September 10, 2013 3:28 PM  
**To:** 'Chuck Stearns'  
**Cc:** 'Whitefish Parks and Recreation'  
**Subject:** RE: Recommendation on appointments to Ice Rink Advisory Committee

Chuck, Karl

The new curling representative is Bailey Minnich. She is a Whitefish resident, I will get her address. I have put many feelers out among the adult hockey group, but nobody yet.

Andy

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**From:** Chuck Stearns [<mailto:cstearns@cityofwhitefish.org>]  
**Sent:** Tuesday, September 10, 2013 2:47 PM  
**To:** 'Whitefish Parks and Recreation'; 'Andy Hergesheimer'  
**Subject:** Recommendation on appointments to Ice Rink Advisory Committee

Karl or Andy:

Do either of you have anything written on the recommended appointments from Adult Hockey and Curling groups for Council's confirmation of appointments to the Ice Rink Advisory Committee? I would like it today or very early on Wednesday. Thanks.

Chuck Stearns  
City Manager  
City of Whitefish  
P.O. Box 158  
418 East 2nd Street  
Whitefish, MT 59937-0158  
Telephone - 406-863-2406  
Fax - 406-863-2419  
Cell -  
[cstearns@cityofwhitefish.org](mailto:cstearns@cityofwhitefish.org)



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**RESOLUTION NO. 13-\_\_\_\_**

**A Resolution of the City Council of the City of Whitefish, Montana, maintaining the cash-in-lieu payment in connection with affordable housing at the current \$8,000 per unit.**

WHEREAS, the Whitefish Housing Authority through its Homeownership Program assists low and moderate income households finance the purchase of a home; and

WHEREAS, City Code Section 11-2S-3(B), which appears under the heading "PLANNED UNIT DEVELOPMENT DISTRICT", provides that developers shall be allowed a density bonus when a minimum of ten percent (10%) of the total number of units within the development is set aside for affordable housing or when the developer makes a cash payment in lieu of an affordable housing dedication, by paying a fixed amount per housing unit developed; and

WHEREAS, City Code Section 11-2S-3(B)(1) provides that the cash-in-lieu fees for affordable housing be reviewed and set annually by Resolution of the Whitefish City Council; and

WHEREAS, pursuant to Ordinance No. 06-11, adopted by the Whitefish City Council on May 15, 2006, the cash-in-lieu payment per developed unit was originally set at six thousand dollars (\$6,000.00) per market rate lot and/or unit; and

WHEREAS, beginning in 2008 the City Council adjusted the cash-in-lieu amount to eleven thousand dollars (\$11,000.00) by Resolution No. 08-31, which has been maintained at \$11,000.00 by subsequent Resolutions Nos. 09-42, 10-42 and 11-49, adopted by the City Council; and

WHEREAS, at the request of the Whitefish Housing Authority, and recommendation of the City Planning and Building Department, the City Council reduced the cash-in-lieu amount from eleven thousand dollars (\$11,000.00) to eight thousand dollars (\$8,000.00) by Resolution No. 12-32; and.

WHEREAS, the Whitefish Housing Authority has requested that the City Council maintain the cash-in-lieu amount at eight thousand dollars (\$8,000.00) and the City Planning and Building Department has also recommended that the amount be left unchanged.

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

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

Section 2: The cash-in-lieu payment per unit shall remain at eight thousand dollars (\$8,000.00) per market rate lot and/or unit, applicable to any subdivision for which application is received by the City after the effective date of this Resolution.

Section 3: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor thereof.

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

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk

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



September 16, 2013

Mayor Muhlfeld and City Councilors  
City of Whitefish  
Whitefish, Montana

Mayor Muhlfeld and City Councilors:

### **Recommendation on Cash-in-Lieu for Affordable Housing Fees**

#### Introduction/History

Section 11-2S-3(B)(1) of the code provides that the Cash-in-Lieu fees for affordable housing be reviewed annually by the City Council. Attached is a memo from Lori Collins, Director of the Whitefish Housing Authority, as well as a housing price index and a chart of lessee purchase prices and maximum unit subsidies. In 2008, the Council raised the per unit fee from \$6,000 to \$11,000. In 2012, the Council reduced the fee to \$8,000. The Housing Authority is recommending keeping the fee at the existing rate of \$8,000 per unit.

#### Current Report

The Planned Unit Development District (PUD), Chapter 2, Title 11 of the Whitefish City Code, contains voluntary provisions that allow a 50% density bonus if affordable housing is provided at a rate of at least 10% of the project. Paragraph B.1 provides that the density bonus may also be taken by providing "cash-in-lieu" in an amount set by City Council resolution. That number is currently \$8,000 per unit.

An "affordable" unit is defined as one which can be purchased by someone earning up to 120% of the median family income in Flathead County, without being cost-burdened. Generally, a homeowner is considered cost-burdened when mortgage payments (PITI) exceed 30% of his monthly income. The Whitefish Housing Authority and the Whitefish Area Land Trust operate permanent affordable housing programs which buy down the price of a home to the affordable mortgage price. According to the numbers provided in the attached memo from the Whitefish Housing Authority, a payment in lieu amount of \$8,000 per market rate unit makes up 100% of the difference between an affordable mortgage and a market rate home mortgage.

Recommendation:

Based on the recommendation of the Whitefish Housing Authority, as well as the Housing Needs Assessment study, staff recommends the council adopt a resolution to maintain the affordable housing cash-in-lieu per unit fee for future Planned Unit Developments at \$8,000.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Taylor". The signature is fluid and cursive, with the first name "David" written in a larger, more prominent script than the last name "Taylor".

David Taylor, AICP  
Director of Planning & Building

**The Whitefish Housing Authority**  
PO Box 1237, 100 4<sup>th</sup> Street, Whitefish, MT 59937  
Phone: 862-4143 Fax: 862-4165  
[lcollins@cityofwhitefish.org](mailto:lcollins@cityofwhitefish.org)

September 4, 2013

**Annual Update of the Payment In Lieu of Housing**

The Whitefish Housing Authority recommends no change to the current set amount of the payment in lieu of housing option in the Whitefish Inclusionary Zoning Ordinance.

The Whitefish Homeownership Program aids low and moderate income households finance the purchase of a home. A mortgage is considered affordable if the monthly payment of the mortgage, taxes and insurance does not exceed 30% of the household's income. A household is considered low or moderate income (LMI) if their income does not exceed 80% of the area median income as determined by HUD. At present, the Whitefish Housing Authority has determined that an affordable mortgage for an LMI household of three earning \$39,900 a year is approximately \$113,000-\$117,000 (5% interest with no debt). The Homeownership Program uses a subsidy to bridge the gap between what a low income household earns and the price of a qualifying home.

In 2011 and 2012, the Homeownership Program aided four households purchase a home.

- The average subsidy for the five sales is \$79,500 per unit.
- The appraised value of the four homes ranged from \$130,000 to \$184,000, for an average of \$160,750.
- The average bank loan secured by the homebuyers is \$113,000. This is the affordable mortgage.

The Whitefish Housing Authority proposal of the payment in lieu of housing (PILOH) is again based on the assumption that the PILOH option would serve the same number of households as the option to include the affordable units in the development (10% of the total units).

Using an example development of 20 homes and the voluntary use of the options in the Ordinance by a development:

- A developer choosing to include the affordable homes in their development could expect to build two homes (10% of total) to be sold in the \$113,000 range; affordable to low and moderate income households.
- From recent sales, we would expect the homes to have market value in the \$130,000 - \$185,000 range. The developer contribution for the two homes (in exchange for the incentives of Inclusionary Zoning including an increase in density) would therefore be approximately \$170,000 total or an average of \$85,000 per home for two homes.
- A PILOH of \$8,500 per unit ( $8500 \times 20 = \$170,000$  total contribution) is therefore needed to be able to serve the same number of households at large in the community on average
- At \$8,000 per home, a developer choosing the PILOH (and serving at least the same number of households as if the homes were included) would pay an amount equal to \$160,000 for the entire development. ( $20 \text{ homes} \times \$8,000 = \$160,000$ ).

Recommendation: The Whitefish Housing Authority recommends no change to the payment in lieu of housing and that it therefore remain at \$8,000 per each house in the subdivision. As development again grows in Whitefish, the housing authority supports the inclusion of affordably priced homes in the new developments.

Respectfully submitted,

Lori Collins

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



September 10, 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 Great Northern Heights, Phase 3A (WPP 08-56)**

Request/Background:

This office is in receipt of a letter from Sands Surveying, on behalf of Rob Pero, requesting a 24-month extension for the Great Northern Heights, Phase 3A preliminary plat. The Great Northern Heights, phase 3A is a 15-lot (7 townhouses and 1 single family home) subdivision on 2.93 acres on Great Northern Drive. Attached to this report are the conditions of approval and the preliminary plat map.

The preliminary plat was approved by the Whitefish City Council on November 17, 2008. In 2011, the Council granted a 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires November 17, 2013.

Current Report:

This subdivision is located within the city limits and is zoned WR-1/PUD (One-Family Residential District) with a Planned Unit Development overlay. At the time of the public hearings, neighbors were concerned with weed abatement. According to the Planning Board and Council minutes, the applicant indicated he had entered into a weed abatement agreement with the city.

*Change in Standards:*

There following standards changed in the current standards (zoning or subdivision) that would change this subdivision:

1. This section of the Subdivision Regulations direct developers to consider the design of townhouses to avoid the garage-forward design. The use of garage-forward designed two-unit homes are not permitted. (§12-4-12I) The narrowness of these townhouse lots nearly require the use of garage forward design. The Architectural Review standards do provide options to mitigate the design of the

garage-forward two-family home, which the existing townhouse buildings in this neighborhood have used and will continue to use.

Public Comment

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on August 23, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on August 28, 2013. As of the writing of this report, 5 letters have been received by neighbors. There are two requests for this neighborhood – this preliminary plat extension and a new preliminary plat. Many of the attached letters address both requests. These letters will also be included in the preliminary plat request scheduled before the Council in October.

Concerns raised on the preliminary plat extension request include:

- Poor design of existing townhouse lots causing traffic problems and concern with more of these lots; and
- Residents would like to see detached single family lots, as they believe that type of development fits into the neighborhood better.

Recommendation:

Staff recommends the Council **approve** the request to extend the Great Northern Heights, phase 3A preliminary plat for 24 months, expiring on November 17, 2015 based on the following findings of fact:

**Finding 1:** The 15-lot preliminary plat was approved by the Council on November 17, 2008. In 2011, the Council granted a 24-month extension under HB 522 that provided local jurisdictions additional flexibility. The preliminary plat now expires November 17, 2013.

**Finding 2:** No other development or third party will be harmed if the preliminary plat is extended.

**Finding 3:** A legal notice was placed in the *Whitefish Pilot* on August 28, 2013 and public notice was mailed to property owners within 300-feet on August 30, 2013. As of the writing of this report, five letters have been received.

Sincerely,



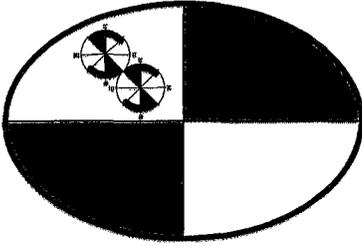
Wendy Compton-Ring, AICP  
Senior Planner

Att:           Extension Request Letter, 8-8-13  
                  Conditions of approval, 11-17-08  
                  Preliminary plat map, 8-7-07  
                  Legal Notice, *Whitefish Pilot*, 8-28-13

Adjacent Landowner Notice, 8-23-13  
Letter, Michael Anders, 9-4-13  
Letter, Craig Sanford, 9-4-13  
Letter, Stewart Cardon, 9-4-13  
Letter, Julie and Casey Burke, 9-6-13  
Letter, Sue Robison, 9-9-13

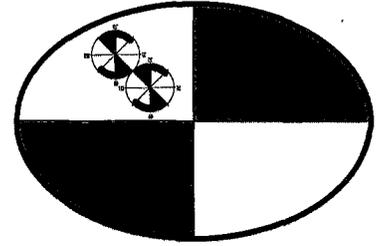
c/w/att: Necile Lorang, City Clerk

c/w/o/att: Eric Mulcahy, Sands Surveying, 2 Village Loop Kalispell, MT 59901



**SANDS SURVEYING, INC.**

2 Village Loop Road  
Kalispell, MT 59901  
406-755-6481  
Fax 406-755-6488



August 8, 2013

Mayor Mulfeld and City Councilors  
City of Whitefish  
P.O. Box 158t  
Whitefish, MT 59937

RE: Two year extension for the Great Northern Heights Phase 3A, Preliminary Plat

Dear Mayor and City Councilors:

On behalf of our client Rob Pero., we are requesting a two year extension for the Preliminary Plat approval of Great Northern Heights Phase 3A which is located just west of the Western Building Center on Great Northern Drive. The preliminary plat was approved by approved by Whitefish City Council on November 17, 2008. This would be the second extension granted.

Rob Pero has developed Phases 1 and 2 of Great Northern Heights and participated in developing the JP road extension and signal at the intersection. Mr. Pero is currently in the process of preliminary plat review for Phase 3 which expired several years ago. As with many preliminary plat approvals in the City of Whitefish, the recession of 2008 had a major impact on the housing market throughout the nation. The City of Whitefish is just beginning to recover from the housing market crash with lot and home prices beginning to climb as inventory is being absorbed. Mr. Pero would like the two year extension to allow the market to continue to recover but also to time the infrastructure improvements with the Phase 3 project working its way through the approval process.

Should you have any questions regarding the requested extension please contact me at 755-6481.

Sincerely,

Eric H. Mulcahy, AICP  
Sands Surveying, Inc.

08-14-13 P02:15 IN

November 18, 2008

Robert W Pero  
1290 Birch Point Drive  
Whitefish, MT 59937

Subject: Great Northern Heights, Phase 3A (WPP-08-56)

Dear Mr. Pero:

On November 17, 2008, the Whitefish City Council approved your request for a Preliminary Plat approval for Great Northern Heights, Phase 3A subject to 18 conditions of approval, enclosed herein. The preliminary plat approved was shown on a set of plans prepared by Sands Surveying, Inc. dated August 7, 2008.

The preliminary plat is valid for a period of three years from the date of approval.

Sincerely,

Wendy Compton-Ring, AICP  
Senior Planner

C: Sands Surveying, Inc. 2 Village Loop Kalispell, MT 59901  
Public Works, City of Whitefish  
Whitefish Fire Department, City of Whitefish

**Attachment A**  
**Great Northern Heights, Phase 3A**  
**WPP-08-56**  
**Whitefish City Council Approved**  
**November 17, 2008**

1. The subdivision shall comply with Title 12 (Subdivision Regulations) and Title 11 (Zoning Regulations) and all other applicable requirements of the Whitefish City Code, except as amended by these conditions.
2. Except as amended by these conditions, the development of the subdivision shall be in substantial conformance with the approved preliminary plat and labeled as “approved plans” by the city council.
3. Prior to any pre-construction meeting, construction, excavation, grading or other terrain disturbance, plans for all on and off site infrastructure shall be submitted to and approved by the Whitefish Public Works Department. The infrastructure improvements (water, sewer, roads, storm water management, street lights, sidewalks, driveways, etc.) shall be designed and inspected by a licensed engineer and in accordance with the City of Whitefish’s design and construction standards. The Public Works Director shall approve the design prior to construction. Plans for grading, drainage, utilities, streets, sidewalks and other improvements shall be submitted as a package and reviewed concurrently. No individual improvement designs shall be accepted by Public Works.
4. All roads within the subdivision shall be built to City of Whitefish Public Works Standards and the Whitefish Subdivision Regulations unless otherwise approved by the Public Works Director. Public utilities shall only be located in road rights-of-way unless otherwise approved by the Public Works Director.
5. That necessary public improvement requirements to service this subdivision shall be designed and constructed by a licensed engineer and in accordance with the City of Whitefish’s design and construction standards and the Whitefish Subdivision Regulations. The Public Works Department shall provide a letter stating that the plans and specifications for the development have been reviewed and approved in accordance with City standards or are otherwise not applicable.
6. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. Prior to any ground disturbing activities, a plan shall be submitted for review and approval by the Public Works and Planning/Building Department. The plan shall include, but may not necessarily be limited to, the following:
  - Dust abatement and control of fugitive dust.

- Hours of construction activity.
  - Noise abatement.
  - Control of erosion and siltation.
  - Routing for heavy equipment, hauling, and employees.
  - Construction office siting, staging areas for material and vehicles, and employee parking.
  - Measures to prevent soil and construction debris from being tracked onto public roadways, including procedures remove soil and construction debris from roadways as necessary.
  - Detours of vehicular, pedestrian, and bicycle traffic as necessary.
  - Notation of any street closures or need to work in public right-of-way.
7. A Certificate of Subdivision Approval shall be obtained from the Department of Environmental Quality and written approval by the Whitefish Public Works Department approving the storm drainage, water and sewage treatment facilities for the subdivision. (WCC 12-3-4-3.C)
  8. All utilities shall be placed underground.
  9. The following notes shall be placed on the face of the plat:
    - a. All house numbers will be visible from the road, either at the driveway entrance or on the house.
    - b. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner.
  10. That a common mail delivery site shall be provided by the developer and approved by the local post office.
  11. The Fire Marshal shall approve the placement and design of all fire hydrants prior to their installation and fire access. A letter shall be obtained from the Whitefish Fire Marshal stating that all of the required improvements comply with applicable fire codes and conditions of approval. (UFC and WCC 12-5-20)
  12. No building permits shall be issued by the City of Whitefish until the applicant has received final plat, water and sewer lines are installed and inspected and an all-weather drivable surface is installed and inspected.
  13. Boulevard trees shall be planted in accordance with the provisions of the Whitefish Subdivision Regulations. Species and spacing shall be approved in advance by the Whitefish Parks Department Director (WCC 11-4).
  14. A uniform fencing system, no chain link, is required on the west boundary of Phase III.

15. Prior to approval of the final plat, the applicant shall produce a copy of the proposed CC&R's for Great Northern Heights that provides for the long-term maintenance of the common areas (WCC 12-2S-5.C.4.).
16. All areas disturbed because of road and utility construction shall be re-seeded as soon as practical to inhibit erosion and spread of noxious weeds. All noxious weeds, as described by Whitefish City Code, shall be removed throughout the life of the development by the recorded property owner or homeowners' association.
17. That a note shall appear on the face of the plat stating, "The neighboring agricultural use pre-dates the Great Northern Heights development and these agricultural uses are completely lawful. Trespassing without landowner consent, harassing livestock and destruction of property such as fences are illegal and can be enforced by the appropriate law enforcement agencies."
18. The preliminary plat is approved for three years from Council action (WCC 12-3-3-1.E.6.).

By: SANDS SURVEYING, Inc.  
 2 Village Loop  
 Kalispell, MT 59901  
 (406) 785-6481

JOB NO: 242806 (163101.dwg)  
 DATE: AUGUST 7, 2008  
 FOR: ROB PERO  
 OWNERS: HILLTOP PARTNERS, LLC  
 ROBERT W. PERO REVOCABLE TRUST  
 ROBERT W. PERO

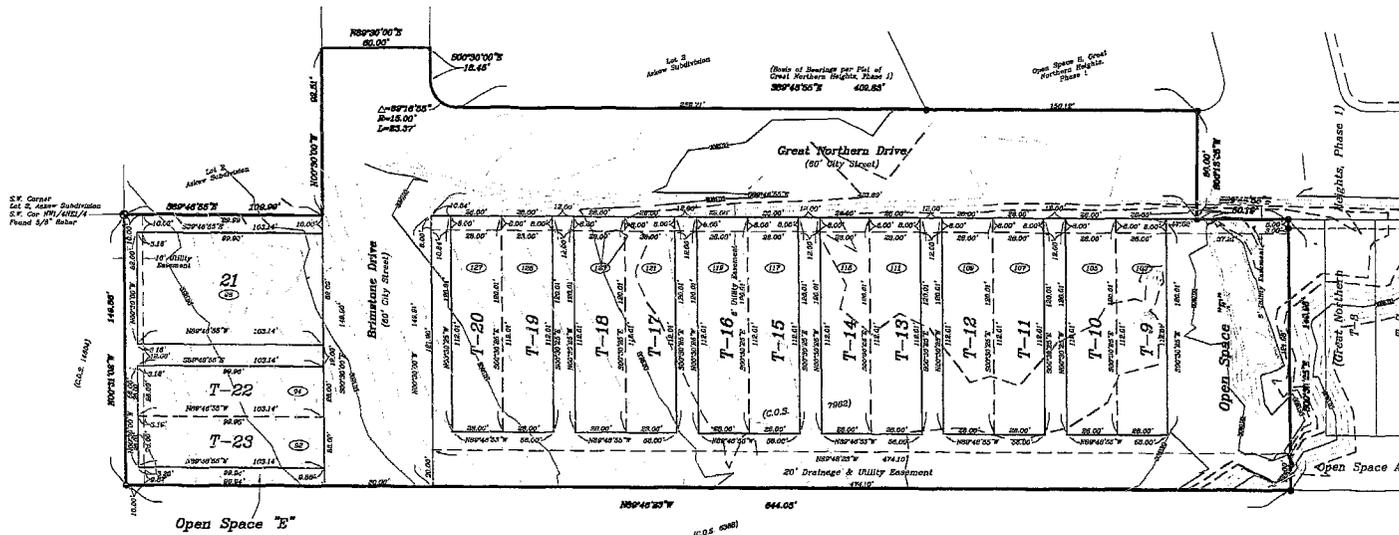
# Preliminary Plat Of Great Northern Heights, Phase 3A

A P.U.D. Of  
 A Portion of Lot 2, Askew Subdivision

W1/2NE1/4 SEC. 12, T.30N., R.22W., P.M.,M., FLATHEAD COUNTY, MONTANA



SCALE: 1" = 30'  
 30' 15' 0' 30' 45'



**Average Table:**

| Lot           | Area (Acres) | Area (Sq. Ft.) |
|---------------|--------------|----------------|
| T-9           | 0.0771       | 3360           |
| T-10          | 0.0771       | 3360           |
| T-11          | 0.0771       | 3360           |
| T-12          | 0.0771       | 3360           |
| T-13          | 0.0771       | 3360           |
| T-14          | 0.0771       | 3360           |
| T-15          | 0.0771       | 3360           |
| T-16          | 0.0771       | 3360           |
| T-17          | 0.0771       | 3360           |
| T-18          | 0.0771       | 3360           |
| T-19          | 0.0771       | 3360           |
| T-20          | 0.1488       | 6394           |
| T-21          | 0.0583       | 2568           |
| T-22          | 0.0583       | 2568           |
| T-23          | 0.0583       | 2568           |
| <b>Total:</b> | <b>2.890</b> | <b>127034</b>  |

Open Space "E" 0.069 4310  
 Open Space "T" 0.708 30768  
 Road: 0.520 40078  
**Total: 2.890 127034**

Note: For taxation purposes add 1/2nd of Open Space "E" to lots T-9 thru T-23. (1/2nd of 0.069 Acres = 0.0345 ac/lot.)  
 Note: For taxation purposes add 1/2nd of Open Space "T" to lots T-9 thru T-23. (1/2nd of 0.069 Acres = 0.0345 ac/lot.)

- LEGEND:**
- 1/16 Corner (as noted)
  - Found 1/2" Rebar & Cap (78755)
  - Found 5/8" Rebar
  - Street Address

TO: [office@whitefishpilot.com](mailto:office@whitefishpilot.com)

PLEASE PUBLISH THE FOLLOWING LEGAL NOTICE ONCE ON  
August 28<sup>th</sup>

PLEASE BILL: City of Whitefish

**Do not publish above this line**

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**WHITEFISH CITY COUNCIL  
NOTICE OF PUBLIC HEARING**

At the regular meeting of the Whitefish City Council on Monday, September 16, 2013 at 7:10 pm, the Council will hold a public hearing on the item listed below. The Council meets in Whitefish City Council Chambers, Whitefish, Montana.

1. A request by Sands Surveying, on behalf of Rob Pero, for a 24-month extension to the Great Northern Heights, Phase 3A preliminary plat. The property is located off Great Northern Drive and can be described as Tract 7CJ in 12-30-22. (WPP 08-56) Compton-Ring

Documents pertaining to these agenda items are available for review at the Whitefish Planning & Building Department, 510 Railway Street, Whitefish, Montana 59937 during regular business hours. Inquiries are welcomed. Interested parties are invited to attend the hearing and make known their views and concerns. Comments, in writing, may be forwarded to the Whitefish Planning & Building Department at the above address prior to the hearing or via email: [wcompton-ring@cityofwhitefish.org](mailto:wcompton-ring@cityofwhitefish.org). For questions or further information regarding this request, phone 406-863-2410.

WHITEFISH CITY COUNCIL  
John Muhlfeld, Mayor



## Public Notice of Proposed Land Use Action

The City of Whitefish would like to inform you that Sands Surveying, on behalf of Rob Pero, is requesting a 24 month extension to the Great Northern Heights, Phase 3A preliminary plat. This subdivision consists of 15-lots (7 townhouses and 1 single family home) on 2.93 acres and is located on Great Northern Drive. The property is undeveloped and is zoned WR-1/PUD (One Family Residential District) with a Planned Unit Development overlay. The preliminary plat was approved by the Whitefish City Council in November 17, 2007 and received an extension until November 17, 2013.

You are welcome to provide comments on the project. Comments can be in written or email format. The City Council will hold a public hearing and take final action for the request on:

**Monday, September 16, 2013**

**7:10 p.m.**

**Whitefish City Council Chambers, City Hall  
402 E. Second Street, Whitefish MT 59937**

On the back of this flyer is the approved preliminary plat. Additional information on this proposal can be obtained at the Whitefish Planning Department located at 510 Railway Street. The public is encouraged to comment on the above proposals and attend the hearings. Please send comments to the Whitefish Planning Department, PO Box 158, Whitefish, MT 59937, or by phone (406) 863-2410, fax (406) 863-2409 or email at [wcompton-ring@cityofwhitefish.org](mailto:wcompton-ring@cityofwhitefish.org). Comments received by the close of business on Monday, September 9, 2013, will be included in the packets to Councilors. Comments received after the deadline will be summarized to Councilors at the public hearing.

PLEASE SHARE THIS NOTICE WITH YOUR NEIGHBORS

## Wendy Compton-Ring

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**From:** Michael Anders <michael@teleport.com>  
**Sent:** Wednesday, September 04, 2013 1:17 AM  
**To:** wcompton-ring@cityofwhitefish.org  
**Subject:** Great Northern Heights phase 3 and 3A  
**Attachments:** Great Northern Heights Phase 3 land owners notice\_083013.pdf; Great Northern Heights Phase 3A land owners notice\_082313.pdf

To: Whitefish City Planning Department

RE: Great Northern Heights Phase 3 and 3A

It is hard to tell from the copies of the plat map on the notice, but it appears the right of way for Brimstone Drive is not as wide as the existing right of way for Great Northern Drive. If the right of ways are different, they should be the same for continuity of the neighborhood and better parking conditions for the community.

It appears that the areas between the townhome lots on phase 3A are part of the open Tract F. If this is the case, I highly encourage that a condition be put upon the applicant that Tract F be improved with landscaping and maintained by the declarant/HOA. Phase 1 and 2 of Great Northern Heights had "Open Space" dedicated in the plat. However, for years it was scrub grass and weeds that were field mowed at best.

For some of the owners in Phase 1 and 2, parking seems to be a concern with the town home lots. A compromise could be requiring the applicant to stipulate in the CCRs certain parking requirements, (i.e. resident parking in the garage or driveway, boats/trailers, or guest parking to be parked no longer than 72 hours, etc.)

Thank you for your consideration:

Michael Anders

Owner – 159 Granite Drive, Whitefish, MT

A & M Homes, LLC

 NW Dev Group, LLC  
4260 Galewood Street, Suite B  
Lake Oswego, OR 97035  
(503) 260-4484 Cell  
[michael@teleport.com](mailto:michael@teleport.com)

## Wendy Compton-Ring

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**From:** Craig Sanford <jsanford@centric.net>  
**Sent:** Wednesday, September 04, 2013 10:07 AM  
**To:** wcompton-ring@cityofwhitefish.org  
**Subject:** Craig Sanford

Dear planning dept.

We own a home on Granite Dr. in Whitefish. I have emailed you my concerns about townhouses in phase 3 by Hilltop Partners last week.

For the same reasons, I request you keep this adjoining area zoned for single dwelling use only. This is a family subdivision where children will be playing, riding bikes, etc.

Duplexes bring in much more traffic, and a less family oriented people group. These are families with working parents and kids who need to sleep at night.

We built our homes in this subdivision area believing it to be a quiet, family oriented neighborhood.

Duplexes will also decrease the value of our home, but the kids are the important part.

Please return this area of Phase 3A to WR-1(single family homes) Thank you.

Craig Sanford

406-721-9966

My daughter lives in my house at 167 Granite Dr. She is a school teacher in Whitefish.

## Wendy Compton-Ring

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**From:** Stewart Cardon <stewartcardon@bisoncreekpllc.com>  
**Sent:** Wednesday, September 04, 2013 9:39 PM  
**To:** Wendy Compton-Ring  
**Subject:** Fwd: Great Northern Heights Phase 3 & Phase 3A

Dear Planning Board,

Below is an email that I sent in opposition to the last proposal submitted to revise the zoning for Great Northern Heights. All of my arguments apply to this new method to change the zoning. Please read to refresh your memory.

This time around the developers have divided the application into Phase 3 & Phase 3A. I received a public notice from Hilltop Partners, dated August 19, 2013 for the revisions to Phase 3. I did not receive a public notice from Rob Pero for the 24 month extension to Phase 3A.

The result in this new "Bait & Switch" scheme is the same: market Phase 1 & 2 showing one density for Phase 3, and then change Phase 3 to increase its density. Only this method is a little more deceptive in that taking the townhouse units of Ph 3A out of the Ph 3 application hides the fact that the total number of townhouse units is increasing for the same area of land.

I believe that changing the density for Ph 3, regardless of which method is applied, defrauds the buyers of PH 1 & 2. And if the City allows this change they will be complicit in this fraud.

I am asking the City to deny this change.

Sincerely,

Stewart Cardon  
Architect  
406-249-4049  
[www.bisoncreekpllc.com](http://www.bisoncreekpllc.com)

Begin forwarded message:

**From:** Stewart Cardon <[StewartCardon@BisonCreekPLLC.com](mailto:StewartCardon@BisonCreekPLLC.com)>  
**Date:** July 4, 2013 1:09:58 PM MDT  
**To:** Wendy Compton-Ring <[wcompton-ring@cityofwhitefish.org](mailto:wcompton-ring@cityofwhitefish.org)>  
**Subject:** Great Northern Heights Phase 3

Dear Planning Board,

I am a resident at 148 Vista Drive, phase I of the Great Northern Heights subdivision. We bought our lot in 2006 and were the first house up in the development. At the time we bought both phase II and III were to be mostly single family. Part of the reason we bought was based on what the development was to become. To allow a change now is unfair to those who bought expecting a single family development.

Part of the marketing approach used from 2006 through 2013 was that Great Northern Heights was a single family neighborhood. Now that phase I & II have sold out, changing this plan to all townhouses in phase III represents a "Bait and Switch" tactic that defrauds all the buyers in phase I & II. If the City allows this change they will be complicit in this fraud.

The property is zoned WR-1, single family. I would imagine that part of the reason the City allowed the development in the first place was based on single family density, and there is no reason to increase the density this far from the city center now.

I cannot express strongly enough how wrong this would be. I am asking the City of deny this change.

Thank you.

Stewart Cardon  
Architect  
406-249-4049  
[www.bisoncreekpllc.com](http://www.bisoncreekpllc.com)

September 6, 2013

Whitefish Planning Department  
PO Box 158  
Whitefish, Montana 59937

Dear Whitefish Planning Department and City Council,

We are landowners in the Great Northern Heights Subdivision. We have been made aware of proposed changes and extensions of dead lines to the Great Northern Subdivision Phase 3.

The following is entered as comment on the proposed 24-month extension to the Great Northern Heights, Phase 3A preliminary plat. The request was made by Sands Surveying on behalf of Rob Pero. The subdivision consists of 15-lots (7 townhouses and 1 single family home) on 2.93 acres and is located on Great Northern Drive. The property is undeveloped and is zoned WR-1/PUD (One Family Residential District) with a Planned Unit Development overlay. The preliminary plat was approved by the Whitefish City Council in November 17, 2007 and received an extension until November 17, 2013.

The 24-month extension is not valid at this point and should not be considered. The extension will expire on November 17, 2013, that was the agreement. The agreements are meant to be honored by the signature of the developer.

The empty lots that are still in the Great Northern development are testimony to the problems that arise; visual reminders such as weed control, fire hazard and unsightly reminders of a subdivision left to it's own devices. These should be evidence enough that we don't need to give the developer another 2 years. Another 2 years to consider whether they will or won't proceed and too bad for the people that did buy lots and were hoping to have a beautiful community they could raise their families in. The total is 8 years to see the what ifs of this subdivision.

The vote should be no to an Extension.

Further comment will be given on the proposed land use action by Rob Pero on behalf of Hilltop Partners will be attached to this letter.

Thank you for the privilege to comment.

Sincerely,  
Julie and Casey Burke  
Box 488  
Glasgow, MT 59230

## Wendy Compton-Ring

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**From:** Sue Robison <sue@littlecreekfarm.com>  
**Sent:** Monday, September 09, 2013 9:28 AM  
**To:** wcompton-ring@cityofwhitefish.org  
**Subject:** Hilltop Partners, Great Northern Heights phase 3 and Rob Pero and Sands Survey extension  
**Attachments:** CCE09092013\_00000.jpg

To Whom It May Concern,

I oppose the changes that Hilltop Partners is proposing between Great Northern Drive and Brimstone Drive referred in my letter as Phase 3. I also have concerns about the extension that Sand Survey and Rob Pero are asking for at the City Council Meeting on September 16<sup>th</sup>. I realize that these are 2 separate issues/requests by the developers, but I believe the whole picture needs to be taken into consideration.

I purchased my property based on the fact that the phase 3 portion would be single family residential like Phase 1 & 2. I think 26 townhomes including the south side of Great Northern Drive (3A) are too many, especially considering the 8 that are currently being built out on the eastern portion of Great Northern Drive making a grand total of 34 townhomes.

Safety is a huge concern. This is a family-oriented neighborhood with children and pets. More housing per acre brings more traffic and congestion. There are only 2 access points and only one with a street light. The existing phase 1 & 2 are not even completely built out yet, and there are already problems with the traffic pattern, parking and speeding. I can't even imagine what it will be like if phase 3 and 3A are built out as proposed. ***Please refer to the attached picture*** of what is currently taking place with just 2 townhomes (4 units) on the south eastern end of Great Northern Drive. This type of housing has proven to be a poor design. Vehicles, boats & RV's are parked in the driveway, to the curb and on the street because they only have single car garages and no storage, not to mention the added congestion when visitors park in the street. There is not only traffic congestion for cars, but crammed sidewalks and curb areas make it so you would not even want to go for a walk in the neighborhood. Again, the plan with 26 units would be a real mess combined with the 8 units that have and will be built on the eastern end of Great Northern Drive.

And now I question the 14 townhomes proposed in 3a, because combined with the 4 townhomes (8 units) currently being built out there would be a total of 22 lining the south side

of Great Northern Drive and then the additional 12 proposed in phase 3 make a total of 34 townhomes. Should an extension be granted for this?

Also, phase 1 & 2 currently have 2 small public spaces barely large enough for use as is. With the design of phase 3 and 3A it seems that there would be very little yard space for families and I see them utilizing our common area which is not right. If they are to abide by the architectural guidelines for phase 1 and 2 (which I think they should), 1 story homes need to be a minimum of 1700 square feet and 2 story homes need a minimum of 2200 square feet....so where is the room for a yard for kids and pets? I fear that the homes would all look crammed in and unsightly.

I also have a concern regarding the effect on the conservation easement to the west. I understand from the owners that over the years they have watched the habitat change; there was a large wetlands with lots of wildlife that has become smaller with the impact of phase 1 & 2. How will an even denser phase 3 & 3a impact it when it is right next to the easement? Shouldn't the Critical Care Ordinance be taken into consideration in restricting density and the impact on this beautiful area?

Also, it appears that single family lots are selling very well in Whitefish and the townhome lots are not generally moving. So would these lots sit vacant and or be built out and used as rentals?

All the above issues of safety, density, change of the neighborhood design/feel, and impact on the conservation easement ultimately affect the value of homes and lots in phase 1 and 2 and that simply just doesn't seem fair to the current owners.

I have communicated with a majority of the owners and they all are opposed. Unfortunately, everyone has busy lives and might not be able to send a letter or attend the meeting with such a short timeframe.

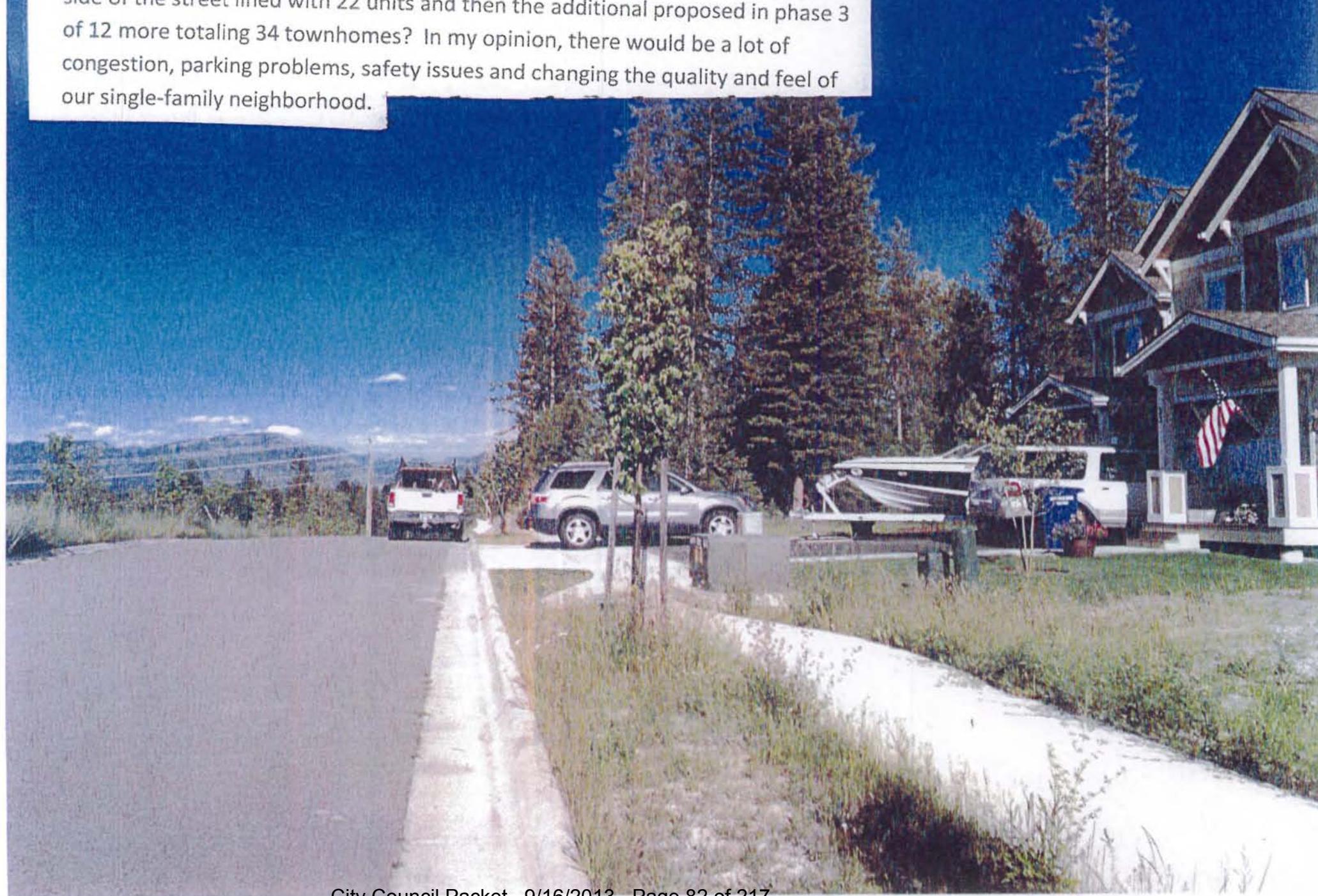
Please do not approve Hilltop Partners request to change the zoning in Phase 3 and also, consider not giving Sands Survey and Rob Pero an extension with their current plan.

Thank you for your time and consideration.

Susan Robison

Lot 45, 298 Brimstone Drive

An example of the congestion created with just one of the townhomes (2 units) currently on Great Northern Drive. What will it look like with the whole south side of the street lined with 22 units and then the additional proposed in phase 3 of 12 more totaling 34 townhomes? In my opinion, there would be a lot of congestion, parking problems, safety issues and changing the quality and feel of our single-family neighborhood.



(This page left blank intentionally to separate printed sections)

**ORDINANCE NO. 13-\_\_**

**An Ordinance of the City Council of the City of Whitefish, Montana, amending Whitefish City Code Title 11 Zoning Regulations and Title 12 Subdivision Regulations within the bounds of State law.**

WHEREAS, the City of Whitefish initiated an effort to amend the Zoning Regulations to implement new legislation from the 63rd Montana Legislature; and

WHEREAS, in response to the staff recommendations to amend the Whitefish City Code Title 12 Subdivision Regulations, and to move the design standards for Manufactured Home Parks, Recreational Vehicle Parks and Campgrounds to Title 11, Zoning Regulations, Special Provisions, Chapter 11-3-XX, the Whitefish Planning and Building Department prepared Staff Report WSUB 13-01 and Staff Report WZTA 13-01, dated August 8, 2013; and

WHEREAS, at a lawfully noticed public hearing on August 15, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Staff Report WSUB 13-01 and Staff Report WZTA 13-01, invited public comment, and thereafter unanimously recommended amendments be made by the Whitefish Planning and Building Department and adopted the supporting findings of fact; and

WHEREAS, at a public meeting on September 16, 2013, the Whitefish City Council received oral and written reports from Planning staff and thereafter directed staff to prepare the proposed text amendments; and

WHEREAS, at a lawfully noticed public hearing on October 7, 2013, the Whitefish City Council received oral and written reports from Planning staff, invited public input, and thereafter voted to recommend approval of the proposed 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 amendments to the subdivision regulations.

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 adopted as Findings of Fact.

Section 2: Staff Report WSUB 13-01 and Staff Report WZTA 13-01 are hereby adopted as Findings of Fact.

Section 3: Amendments to Whitefish City Code Title 11, Zoning Regulations, and Title 12, Subdivision Regulations, as provided in the attached Exhibit "A," with insertions shown underlined and deletions shown with strikethrough, are hereby adopted.

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

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

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

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk

## **Exhibit "A"**

### **New Sections in Title 11 - ZONING REGULATIONS Section 3, Special Provisions (moved from Title 12, Chapter 5)**

#### **11-3-XX: MANUFACTURED HOME PARK STANDARDS**

##### **A. Lot Requirements:**

1. All lots for manufactured home spaces in a manufactured home park shall meet the following requirements:
  - a. Manufactured home lots shall be arranged to permit the safe and practical placement and removal of manufactured homes.
  - b. The minimum lot width shall not be less than fifty (50) feet.

##### **B. Minimum Standards:**

1. All manufactured homes shall be located at least twenty five (25) feet from any property boundary line abutting upon a public street or highway right of way and at least fifteen (15) feet from the other outer boundaries of the park.
2. All buildings, structures and manufactured homes shall be located at least ten (10) feet from the street providing access to it.
3. Distance between Manufactured Homes: Neither manufactured home nor its attached structures, such as awnings or carports, shall be located within twenty (20) feet of any other manufactured home or its attached structures.
4. Detached Accessory Structures: No detached structure, such as a storage shed, shall be located within five (5) feet of any manufactured home or its attached structures.
5. Lot Coverage: A manufactured home shall not occupy more than one-third ( $\frac{1}{3}$ ) of the lot area. The total area occupied by a manufactured home and its roofed accessory buildings and structures shall not exceed two-thirds ( $\frac{2}{3}$ ) of the area of the lot.
6. Parking Spaces Required: A minimum of two (2) parking spaces shall be provided for each manufactured home lot. In addition, guest parking at the ratio of one space for each five (5) lots and vehicle storage parking at the ratio of one space per each ten (10) lots shall be provided. Parking dimensions shall meet the zoning standards for parking.

- C. Marking Of Manufactured Home Lots: The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be the same as shown on the approved plans.
- D. Manufactured Homes to Be Skirted: Each manufactured home shall be skirted within sixty (60) days after it is moved upon a lot within the manufactured home park. Said skirting shall be of a fire resistant material complementary to that of which the manufactured home exterior is constructed and shall be attached to the manufactured home.
- E. Electrical Systems: All electrical lines serving the subdivision shall be buried underground and shall be designed and constructed in accordance to the most recent edition of the national electrical code.
- F. Oil or Propane Gas Heating: Where oil or propane gas heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three hundred (300) gallon capacity. Said storage facility shall extend no higher than six (6) feet above ground level and shall be located and screened so it will blend with its surroundings.
- G. Gas Systems: All gas systems serving the subdivision shall be designed and constructed in accordance to the most recent edition of the national fuel gas code, the standard for the storage and handling of liquefied petroleum gases and the uniform fire code.
  - 1. A readily accessible and identifiable shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near the point of connection of the liquefied petroleum gas container.
  - 2. Each manufactured home lot shall have an accessible, listed gas shutoff installed. Said valve shall not be located under a manufactured home. Whenever a manufactured home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

**11-3-XX: RECREATIONAL VEHICLE PARK AND CAMPGROUND STANDARDS**

The provisions of this chapter shall apply to recreational vehicle parks and campgrounds, except as follows:

- A. Roadway Width: The following standards shall govern the roadway widths:
  - 1. A minimum ten (10) feet roadway width shall be provided for one-way streets or roads within the park/campground, provided such street:
    - a. Does not exceed five hundred feet (500') in length;

- b. Has no on-street parking:
  - c. Serves twenty five (25) or less spaces.
- 2. Otherwise the following shall apply:
  - a. Twenty (20) feet if no on street parking is proposed;
  - b. Twenty eight (28) feet if parking is proposed on one side of the street;
  - c. Thirty six (36) feet if parking is proposed on both sides of the street.
  - d. Minimum centerline curvature radius of forty five (45) feet.
- B. Recreational Vehicle Space: The lots or recreation vehicle spaces shall meet the following standards:
  - 1. Minimum lot (space) width = Twenty five (25) feet.
  - 2. Minimum lot (space) area = One thousand five hundred (1,500) square feet.
- C. Distance between Recreational Vehicles: The distance between the recreational vehicles shall not be less than fifteen (15) feet. This includes any foldout or pop out portion or awnings attached to the vehicle.

## **Amendments to Title 12 - SUBDIVISION REGULATIONS**

### **12-2-1: APPLICATION DEADLINES AND FEES**

- A. ~~Application submittal deadlines will be scheduled by the planning department on an annual basis.~~ Complete application submittals will be accepted by the planning department for review and processing.
- B. In order to cover costs of reviewing plans, advertising, holding public hearings and other expenses incidental to the review of a subdivision, the subdivider shall pay a non-refundable fee at the time of application. The fee schedule will be established by the city council. All application fees for preliminary and final plat applications will be due at the time of the subdivision application. If an application is terminated prior to the planning board public hearing, the planning department may refund a portion of the application fee as determined by the planning director.

### **12-3-4: REVIEW OF THE PRELIMINARY PLAT APPLICATION**

For both major and minor preliminary plat applications, an application is considered to be received the date the complete application is submitted along with the applicable fee.

The review process is as follows:

- A. Element Review: Within five (5) working days of receipt of a subdivision application, supporting documentation and fee; the planning staff shall determine whether the application contains all of the required materials required by these Regulations, outlined in the pre-application meeting and required in Appendix B - Preliminary Plat: Submittal Requirements.

### **12-4-18: WATER SUPPLY SYSTEMS**

- A. Water systems shall meet all the requirements of the Whitefish Engineering Standards. Preliminary water utility layout shall be submitted with the preliminary plat application. If a public water system is proposed, the applicant shall indicate if it is subject to the jurisdiction of the Public Service Commission.
- B. If the subdivision is proposing a well or wells, the subdivider shall ensure the well isolation zones are located wholly within the boundaries of the subdivision, unless the adjacent landowner authorizes the encroachment.

### **12-4-19: SANITARY SEWER SYSTEMS AND SEWAGE TREATMENT SYSTEMS**

- A. All sewage treatment systems shall comply with the Whitefish Engineering Standards, the Flathead City-County Health Department, and the Montana Department of Environmental Quality. Preliminary sewer utility layout shall be submitted with the preliminary plat application. If a public sewer system is proposed, the applicant shall indicate if it is subject to the jurisdiction of the Public Service Commission.

- B. Where the subdivision is within the service area of the City sanitary sewer system, sanitary sewer systems shall be designed, constructed, and tested in accordance with the current editions of the Montana Department of Environmental Quality Circulars, the Montana Public Works Standard Specifications and the City of Whitefish Engineering Standards.

**CHAPTER 5**  
**SUBDIVISIONS CREATED FOR LEASE OR RENT**

**~~12-5-1: PROCEDURES AND STANDARDS FOR RENT OR LEASE SUBDIVISIONS~~**

- ~~A. A subdivision created by rent or lease, such as manufactured home parks, recreation vehicle parks or campgrounds, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership. Plans, not plats, are submitted to the subdivision administrator for review. The plan shows spaces, not lots. The plan must comply with applicable zoning.~~
  
- ~~B. Exemption from Survey and Filing Requirements: Manufactured home parks, recreation vehicle parks and campgrounds are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the city council before portions thereof may be rented or leased. Approval shall be based upon the criteria and standards included in these Regulations.~~
  
- ~~C. Procedures:~~
  - ~~1. Manufactured home parks, recreational vehicle parks and campgrounds comprised of six (6) or more spaces, units or lots, shall comply with and shall be processed in accordance to the procedures for major subdivision outlined in these Regulations.~~
  
  - ~~2. Manufactured home parks, recreational vehicle parks and campgrounds comprised of five (5) or less spaces, units or lots, shall be processed in accordance to the procedures for minor subdivision outlined in these Regulations.~~
  
  - ~~3. In lieu of filing a final plat, the subdivider shall submit to the planning department one full sized plan conforming to the requirements for preliminary plats contained in these Regulations along with supplemental information. The plan shall show the space layout and the typical location of the manufactured home, recreational vehicle, camping space or other units on the lot. The final plan shall also show all existing and proposed buildings and structures, streets, parking and recreational area(s). The plan shall be reviewed to assure it conforms to the approved plan and conditions of~~

~~approval for the plan. The approved plan shall be maintained in the planning department and in the office of the city clerk.~~

~~4. Before any portion of a rental or lease subdivision may be rented or leased, the applicant shall have installed all required improvements. In case of a phased development, unit spaces in each phase shall be rented or leased only after all improvements pertaining to that phase are completed. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the city for review and approval prior to the construction of improvements. The city may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.~~

~~5. Manufactured home parks, recreational vehicle parks and campgrounds are required to be licensed by the Montana Department of Public Health and Human Service under Title 50, Chapter 52, MCA.~~

~~D. General Standards:~~

~~1. Subdivisions created by rent or lease shall comply with the provisions of these Regulations.~~

~~2. The city council may require:~~

~~a. Storage facilities on the lot or in compounds located within a reasonable distance.~~

~~b. A central area designated for storage and parking of boats, trailers or other recreational vehicles.~~

~~c. Landscaping to serve as a buffer between the development and adjacent properties.~~

~~d. An off-street area for mail delivery.~~

~~e. Sidewalks.~~

~~f. Curbs and gutters.~~

~~g. Street lighting.~~

~~h. Management regulations and/or covenants.~~

~~E. Parkland Dedication: The city council may waive parkland dedication and cash donation requirements if the subdivider agrees to develop park or playground as provided in these Regulations.~~

~~F. Additional Fire Protection: The development shall be equipped at all times with fire control equipment in good working order of such type, size and number and so located within the development as prescribed by the fire department.~~

~~G. Streets:~~

- ~~1. No on street parking shall be permitted on the entrance street for a distance of one 100 feet from the point of entrance.~~
- ~~2. Streets within the subdivision shall be private unless otherwise required by the city council and shall comply with the street design standards in these Regulations and the city of Whitefish Engineering Standards.~~
- ~~3. Rights of way in excess of the roadway width shall not be required for private streets.~~
- ~~4. Streets shall be adapted to the topography and site conditions and shall have suitable alignment and gradient for traffic safety and drainage.~~

## ~~12-5-2: MANUFACTURED HOME PARK STANDARDS~~

~~A. Lot Requirements:~~

- ~~1. All lots for manufactured home spaces in a manufactured home park shall meet the following requirements:
  - ~~a. Manufactured home lots shall be arranged to permit the safe and practical placement and removal of manufactured homes.~~
  - ~~b. The minimum lot width shall not be less than fifty (50) feet.~~~~

~~B. Minimum Standards:~~

- ~~1. All manufactured homes shall be located at least twenty five (25) feet from any property boundary line abutting upon a public street or highway right of way and at least fifteen (15) feet from the other outer boundaries of the park.~~
- ~~2. All buildings, structures and manufactured homes shall be located at least ten (10) feet from the street providing access to it.~~
- ~~3. Distance between Manufactured Homes: Neither manufactured home nor its attached structures, such as awnings or carports, shall be located within twenty (20) feet of any other manufactured home or its attached structures.~~
- ~~4. Detached Accessory Structures: No detached structure, such as a storage shed, shall be located within five (5) feet of any manufactured home or its attached structures.~~

~~5. Lot Coverage: A manufactured home shall not occupy more than one third ( $\frac{1}{3}$ ) of the lot area. The total area occupied by a manufactured home and its roofed accessory buildings and structures shall not exceed two thirds ( $\frac{2}{3}$ ) of the area of the lot.~~

~~6. Parking Spaces Required: A minimum of two (2) parking spaces shall be provided for each manufactured home lot. In addition, guest parking at the ratio of one space for each five (5) lots and vehicle storage parking at the ratio of one space per each ten (10) lots shall be provided. Parking dimensions shall meet the zoning standards for parking.~~

~~C. Marking Of Manufactured Home Lots: The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be the same as shown on the approved plans.~~

~~D. Manufactured Homes to Be Skirted: Each manufactured home shall be skirted within sixty (60) days after it is moved upon a lot within the manufactured home park. Said skirting shall be of a fire resistant material complementary to that of which the manufactured home exterior is constructed and shall be attached to the manufactured home.~~

~~E. Electrical Systems: All electrical lines serving the subdivision shall be buried underground and shall be designed and constructed in accordance to the most recent edition of the national electrical code.~~

~~F. Oil or Propane Gas Heating: Where oil or propane gas heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three hundred (300) gallon capacity. Said storage facility shall extend no higher than six (6) feet above ground level and shall be located and screened so it will blend with its surroundings.~~

~~G. Gas Systems: All gas systems serving the subdivision shall be designed and constructed in accordance to the most recent edition of the national fuel gas code, the standard for the storage and handling of liquefied petroleum gases and the uniform fire code.~~

~~1. A readily accessible and identifiable shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near the point of connection of the liquefied petroleum gas container.~~

~~2. Each manufactured home lot shall have an accessible, listed gas shutoff installed. Said valve shall not be located under a manufactured home. Whenever a manufactured home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.~~

### **~~12-5-3: RECREATIONAL VEHICLE PARK AND CAMPGROUND STANDARDS~~**

~~The provisions of this chapter shall apply to recreational vehicle parks and campgrounds, except as follows:~~

~~A. Roadway Width: The following standards shall govern the roadway widths:~~

~~1. A minimum ten (10) feet roadway width shall be provided for one-way streets or roads within the park/campground, provided such street:~~

~~a. Does not exceed five hundred feet (500') in length;~~

~~b. Has no on-street parking;~~

~~c. Serves twenty five (25) or less spaces.~~

~~2. Otherwise the following shall apply:~~

~~a. Twenty (20) feet if no on-street parking is proposed;~~

~~b. Twenty eight (28) feet if parking is proposed on one side of the street;~~

~~c. Thirty six (36) feet if parking is proposed on both sides of the street.~~

~~d. Minimum centerline curvature radius of forty five (45) feet.~~

~~B. Recreational Vehicle Space: The lots or recreation vehicle spaces shall meet the following standards:~~

~~1. Minimum lot (space) width = Twenty five (25) feet.~~

~~2. Minimum lot (space) area = One thousand five hundred (1,500) square feet.~~

~~C. Distance between Recreational Vehicles: The distance between the recreational vehicles shall not be less than fifteen (15) feet. This includes any foldout or pop out portion or awnings attached to the vehicle.~~

## **CHAPTER 6 CONDOMINIUMS**

### **~~12-6-1: CONDOMINIUM DEVELOPMENTS~~**

~~Condominiums constructed on land subdivided in compliance with the parts 5 and 6 of the MSPA or on lots within incorporated cities and towns are exempt from the provisions of this chapter if either:~~

~~A. The approval of the original division of land expressly contemplated the~~

~~construction of the condominiums and any applicable park dedication requirements in 76-3-621, M.C.A. is complied with; or~~

~~B. The condominium proposal is in conformance with applicable zoning regulations.~~

**~~12-6-2: DESIGN STANDARDS~~**

~~A. Condominium developments shall comply with those standards contained in Chapter 4, Design Standards, which the city council deems applicable and the applicable zoning regulations for the district in which the property is located.~~

~~B. Condominium developments shall meet the minimum standards of the Montana Department of Environmental Quality and Flathead City County Health Department.~~

~~C. Condominium developments shall comply with all the provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, M.C.A., as amended.~~

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



August 27, 2013

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

Re: Subdivision Text Amendment: WSUB 13-01

Honorable Mayor and Council:

**Summary of Requested Action:** This application is a request by the city of Whitefish to amend the subdivision regulations to implement the various bills related to the Subdivision Regulations from the 2013 Legislative Session.

- *Senate Bill 40* does not allow jurisdictions to have a subdivision application submittal deadline. Also, an application is considered 'received' the date the application is submitted with any required fees. (§12-3-4A)
- *Senate Bill 293* added language to identify if a subdivision is proposing a public water or sewer system and whether or not they are subject to the jurisdiction of the Public Service Commission. (§12-4-18, §12-4-19)
- *Senate Bill 316* added language that if someone is proposing a subdivision with wells that the 100-foot isolation zone is located wholly within the boundaries of the subdivision unless the adjacent landowner authorizes the encroachment. (§12-4-18)
- *Senate Bill 324* is the 'fix' for the attorney general opinion issued in 2012 concerning subdivisions for rent or for lease. The bill exempts jurisdictions such as Whitefish that have zoning from the provisions of Subdivisions for Lease or Rent.

**Planning Board Recommendation:** The Whitefish City-County Planning Board held a public hearing on August 15, 2013. Following this hearing, the Planning Board unanimously recommended approval of the amendments and adopted the supporting findings of fact in the staff report. (Blake, Konapatzke and Smith were absent)

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

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

This item has been placed on the agenda for your regularly scheduled meeting on September 16, 2013. Should Council have questions or need further information on this matter, please contact the Whitefish City-County Planning Board or the Planning & Building Department.

Respectfully,



Wendy Compton-Ring, AICP  
Senior Planner

Att: Exhibit A, Planning Board recommendation, 8-15-13  
Draft minutes of the 8-15-13 Planning Board meeting

***Exhibits from 8-15-13 Staff Packet to Planning Board***

1. Staff Report, WSUB 13-01, 8-8-13
2. Advisory Agency Notice, 7-26-13
3. Senate Bill 40
4. Senate Bill 293
5. Senate Bill 316
6. Senate Bill 324

c: w/att Necile Lorang, City Clerk

## **EXHIBIT A**

### **Amendment #1:**

#### **12-2-1: APPLICATION DEADLINES AND FEES**

- A. ~~Application submittal deadlines will be scheduled by the planning department on an annual basis.~~ Complete application submittals will be accepted by the planning department for review and processing.
- B. In order to cover costs of reviewing plans, advertising, holding public hearings and other expenses incidental to the review of a subdivision, the subdivider shall pay a non-refundable fee at the time of application. The fee schedule will be established by the city council. All application fees for preliminary and final plat applications will be due at the time of the subdivision application. If an application is terminated prior to the planning board public hearing, the planning department may refund a portion of the application fee as determined by the planning director.

### **Amendment #2:**

#### **12-3-4: REVIEW OF THE PRELIMINARY PLAT APPLICATION**

For both major and minor preliminary plat applications an application is considered to be received the date the complete application is submitted along with the applicable fee.

The review process is as follows:

- A. Element Review: Within five (5) working days of receipt of a subdivision application, supporting documentation and fee; the planning staff shall determine whether the application contains all of the required materials required by these Regulations, outlined in the pre-application meeting and required in Appendix B - Preliminary Plat: Submittal Requirements.

### **Amendment #3:**

#### **12-4-18: WATER SUPPLY SYSTEMS**

- A. Water systems shall meet all the requirements of the Whitefish Engineering Standards. Preliminary water utility layout shall be submitted with the preliminary plat application. If a public water system is proposed, the applicant shall indicate if it is subject to the jurisdiction of the Public Service Commission.
- B. If the subdivision is proposing a well or wells, the subdivider shall ensure the well isolation zones are located wholly within the boundaries of the subdivision, unless the adjacent landowner authorizes the encroachment.

Amendment #4:

**12-4-19: SANITARY SEWER SYSTEMS AND SEWAGE TREATMENT SYSTEMS**

- A. All sewage treatment systems shall comply with the Whitefish Engineering Standards, the Flathead City-County Health Department, and the Montana Department of Environmental Quality. Preliminary sewer utility layout shall be submitted with the preliminary plat application. If a public sewer system is proposed, the applicant shall indicate if it is subject to the jurisdiction of the Public Service Commission.
- B. Where the subdivision is within the service area of the City sanitary sewer system, sanitary sewer systems shall be designed, constructed, and tested in accordance with the current editions of the Montana Department of Environmental Quality Circulars, the Montana Public Works Standard Specifications and the City of Whitefish Engineering Standards.

Amendment #5: Delete Chapters 5 and 6 and renumber Chapter 7 to Chapter 5. Design standards below are proposed to be moved to the Zoning Regulations, Special Provisions Chapter (See WZTA 13-01).

**~~CHAPTER 5  
SUBDIVISIONS CREATED FOR LEASE OR RENT~~**

**~~12-5-1: PROCEDURES AND STANDARDS FOR RENT OR LEASE SUBDIVISIONS~~**

- ~~A. A subdivision created by rent or lease, such as manufactured home parks, recreation vehicle parks or campgrounds, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership. Plans, not plats, are submitted to the subdivision administrator for review. The plan shows spaces, not lots. The plan must comply with applicable zoning.~~
- ~~B. Exemption from Survey and Filing Requirements: Manufactured home parks, recreation vehicle parks and campgrounds are exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act but must be submitted for review and approved by the city council before portions thereof may be rented or leased. Approval shall be based upon the criteria and standards included in these Regulations.~~
- ~~C. Procedures:~~

- ~~1. Manufactured home parks, recreational vehicle parks and campgrounds comprised of six (6) or more spaces, units or lots, shall comply with and shall be processed in accordance to the procedures for major subdivision outlined in these Regulations.~~
- ~~2. Manufactured home parks, recreational vehicle parks and campgrounds comprised of five (5) or less spaces, units or lots, shall be processed in accordance to the procedures for minor subdivision outlined in these Regulations.~~
- ~~3. In lieu of filing a final plat, the subdivider shall submit to the planning department one full-sized plan conforming to the requirements for preliminary plats contained in these Regulations along with supplemental information. The plan shall show the space layout and the typical location of the manufactured home, recreational vehicle, camping space or other units on the lot. The final plan shall also show all existing and proposed buildings and structures, streets, parking and recreational area(s). The plan shall be reviewed to assure it conforms to the approved plan and conditions of approval for the plan. The approved plan shall be maintained in the planning department and in the office of the city clerk.~~
- ~~4. Before any portion of a rental or lease subdivision may be rented or leased, the applicant shall have installed all required improvements. In case of a phased development, unit spaces in each phase shall be rented or leased only after all improvements pertaining to that phase are completed. Preliminary plans, profiles, tentative grades and specifications for proposed improvements shall be submitted to the city for review and approval prior to the construction of improvements. The city may provide for inspection of all required improvements in order to assure conformance with the approved construction plans and specifications.~~
- ~~5. Manufactured home parks, recreational vehicle parks and campgrounds are required to be licensed by the Montana Department of Public Health and Human Service under Title 50, Chapter 52, MCA.~~

~~D. General Standards:~~

- ~~1. Subdivisions created by rent or lease shall comply with the provisions of these Regulations.~~
- ~~2. The city council may require:
  - ~~a. Storage facilities on the lot or in compounds located within a reasonable distance.~~
  - ~~b. A central area designated for storage and parking of boats, trailers or other recreational vehicles.~~~~

~~c. Landscaping to serve as a buffer between the development and adjacent properties.~~

~~d. An off street area for mail delivery.~~

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~~1. No on-street parking shall be permitted on the entrance street for a distance of one 100 feet from the point of entrance.~~

~~2. Streets within the subdivision shall be private unless otherwise required by the city council and shall comply with the street design standards in these Regulations and the city of Whitefish Engineering Standards.~~

~~3. Rights of way in excess of the roadway width shall not be required for private streets.~~

~~4. Streets shall be adapted to the topography and site conditions and shall have suitable alignment and gradient for traffic safety and drainage.~~

## **12-5-2: MANUFACTURED HOME PARK STANDARDS**

~~A. Lot Requirements:~~

~~1. All lots for manufactured home spaces in a manufactured home park shall meet the following requirements:~~

~~a. Manufactured home lots shall be arranged to permit the safe and practical placement and removal of manufactured homes.~~

~~b. The minimum lot width shall not be less than fifty (50) feet.~~

~~B. Minimum Standards:~~

- ~~1. All manufactured homes shall be located at least twenty five (25) feet from any property boundary line abutting upon a public street or highway right of way and at least fifteen (15) feet from the other outer boundaries of the park.~~
- ~~2. All buildings, structures and manufactured homes shall be located at least ten (10) feet from the street providing access to it.~~
- ~~3. Distance between Manufactured Homes: Neither manufactured home nor its attached structures, such as awnings or carports, shall be located within twenty (20) feet of any other manufactured home or its attached structures.~~
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- ~~5. Lot Coverage: A manufactured home shall not occupy more than one-third ( $\frac{1}{3}$ ) of the lot area. The total area occupied by a manufactured home and its roofed accessory buildings and structures shall not exceed two-thirds ( $\frac{2}{3}$ ) of the area of the lot.~~
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~~C. Marking Of Manufactured Home Lots: The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be the same as shown on the approved plans.~~

~~D. Manufactured Homes to Be Skirted: Each manufactured home shall be skirted within sixty (60) days after it is moved upon a lot within the manufactured home park. Said skirting shall be of a fire resistant material complementary to that of which the manufactured home exterior is constructed and shall be attached to the manufactured home.~~

~~E. Electrical Systems: All electrical lines serving the subdivision shall be buried underground and shall be designed and constructed in accordance to the most recent edition of the national electrical code.~~

~~F. Oil or Propane Gas Heating: Where oil or propane gas heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three hundred (300) gallon capacity. Said storage facility shall extend no higher than six (6) feet above ground level and shall be located and screened so it will blend with its surroundings.~~

~~G. Gas Systems: All gas systems serving the subdivision shall be designed and constructed in accordance to the most recent edition of the national fuel gas code, the standard for the storage and handling of liquefied petroleum gases and the uniform fire code.~~

~~1. A readily accessible and identifiable shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near the point of connection of the liquefied petroleum gas container.~~

~~2. Each manufactured home lot shall have an accessible, listed gas shutoff installed. Said valve shall not be located under a manufactured home. Whenever a manufactured home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.~~

### ~~12-5-3: RECREATIONAL VEHICLE PARK AND CAMPGROUND STANDARDS~~

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~~A. Roadway Width: The following standards shall govern the roadway widths:~~

~~1. A minimum ten (10) feet roadway width shall be provided for one-way streets or roads within the park/campground, provided such street:~~

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~~b. Has no on street parking;~~

~~c. Serves twenty five (25) or less spaces.~~

~~2. Otherwise the following shall apply:~~

~~a. Twenty (20) feet if no on street parking is proposed;~~

~~b. Twenty eight (28) feet if parking is proposed on one side of the street;~~

~~c. Thirty six (36) feet if parking is proposed on both sides of the street.~~

~~d. Minimum centerline curvature radius of forty five (45) feet.~~

~~B. Recreational Vehicle Space: The lots or recreation vehicle spaces shall meet the following standards:~~

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~~2. Minimum lot (space) area = One thousand five hundred (1,500) square feet.~~

~~C. Distance between Recreational Vehicles: The distance between the recreational vehicles shall not be less than fifteen (15) feet. This includes any foldout or pop out portion or awnings attached to the vehicle.~~

## **CHAPTER 6 CONDOMINIUMS**

### **~~12-6-1: CONDOMINIUM DEVELOPMENTS~~**

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~~A. The approval of the original division of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in 76-3-621, M.C.A. is complied with; or~~

~~B. The condominium proposal is in conformance with applicable zoning regulations.~~

### **~~12-6-2: DESIGN STANDARDS~~**

~~A. Condominium developments shall comply with those standards contained in Chapter 4, Design Standards, which the city council deems applicable and the applicable zoning regulations for the district in which the property is located.~~

~~B. Condominium developments shall meet the minimum standards of the Montana Department of Environmental Quality and Flathead City-County Health Department.~~

~~C. Condominium developments shall comply with all the provisions of the Unit Ownership Act, Sections 70-23-102 through 70-23-703, M.C.A., as amended.~~

are planning on moving out by October 1<sup>st</sup>.

**PUBLIC HEARING**

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

**MOTION**

Anderson moved and Vail seconded Whitefish to adopt staff report WCUP 13-10 as findings-of-fact and recommend to the Whitefish City Council to approve the Hurraw! temporary home expansion request, subject to the conditions in the staff report.

**VOTE**

The motion passed (Scheduled for City Council on September 3, 2013.)

**CITY OF WHITEFISH  
SUBDIVISION  
REGULATIONS  
AMENDMENT REQUEST**

A request by the City of Whitefish to amend the Subdivision Regulations and Zoning Regulations as they pertain to the 2013 Legislative changes to the Montana State Subdivision and Platting Act.

**STAFF REPORT WSUB 13-01**

Planner Compton-Ring said the City updated the Subdivision Regulations in late 2009. Changes included recent state legislative requirements, local legislative amendments and reorganization of the chapter. In late 2010, the City amended the Subdivision Regulations in order to provide some additional relief to those with approved preliminary and final plats. In 2011, the City amended the Subdivision Regulations to provide additional flexibility in extending preliminary plats. In 2013 there were some changes to the subdivision and platting act.

**PROPOSED AMENDMENTS**

*Senate Bill 40.* There are two matters that need to be amended:

- The bill does not permit jurisdictions to use an application submittal schedule with subdivision application deadlines. No one is quite certain why eliminating a deadline was the focus of a bill, but it will cause uncertainty as applications are submitted. The purpose of a deadline is to establish predictability and certainty to the subdivision permitting process. Jurisdictions have been advised to have a 'recommended' submittal date. This bill will not affect our application deadlines for other applications. (§12-2-1A) The State office said they could have a recommended schedule.
- The other aspect to this application is the requirement that an application is considered 'received' the date the application is submitted with any required fees. This is how we process our subdivision applications now and the new rule does not affect our permitting process or review. Staff understands that perhaps other jurisdictions were letting applications linger on desks until a determination was made that the application was received. (§12-3-4A)

*Senate Bill 293.*

- Add language if a subdivision is proposing a public water or sewer system, not connecting to municipal water or sewer, they need to let the jurisdiction know if they are subject to the jurisdiction of the Public Service Commission. (§12-4-18, §12-4-19) If it is municipal it is designed by size. She said Iron Horse, Lookout Ridge and others up on Big Mountain have a private system.

*Senate Bill 316.*

- Add language that if someone is proposing a subdivision with wells that the 100-foot isolation zone is located wholly within the boundaries of the subdivision unless the adjacent landowner authorizes the encroachment. Similar to the amendment above, this may not really apply to projects within the city. (§12-4-18)

*Senate Bill 324.*

- This bill is the ‘fix’ for the attorney general opinion issued in 2012 concerning subdivisions for rent or for lease. The opinion came out of a request from Missoula County for clarification on MCA 76-3-204: exemption for conveyances of one or more parts of a structure or improvement. According to the opinion, the disagreement on the section came about since the County and the City both advise the joint city-county Office of Planning and Grants, but the attorney offices did not agree on how the section applied to multiple buildings on a single lot for rent or for lease.

The Attorney General ruled that the exemption under MCA 76-3-204 only applies to a single building on a single tract of land and that multiple buildings, including multiple residential buildings for rent or for lease are subject to subdivision review.

While this determination made some sense for areas of Montana that lacked zoning and other review processes; however, it made very little sense in Whitefish and other places with zoning and review processes in place. This opinion would have increased permitting time and costs for projects in Whitefish by requiring subdivision review for every condominium, multi-tenant and multi-building project.

The bill exempts jurisdictions with zoning from the provisions of Subdivisions for Lease or Rent. As such, Chapters 5 and 6 of the subdivision regulations will be amended accordingly.

Staff recommends that several code sections of Title 12 be amended. See exhibit A.

Staff recommends the Planning Board approve the recommendations

set forth in the staff report to amend Title 12 of the Zoning Regulations and adopt the findings of fact and transmit the same to the Whitefish City Council for further action.

**PUBLIC HEARING**

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

**PUBLIC HEARING**

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

**MOTION**

Meckel moved and Phillips seconded Whitefish to adopt staff report WSUB 13-01 as findings of fact and recommend that the City Council approve the recommendations set forth in the staff report to amend Title 12: Subdivision Regulations.

**BOARD DISCUSSION**

Anderson asked if staff had anyplace where they were going to recommend the scheduling and Compton-Ring said it would be added to their flier.

**VOTE**

The motion passed unanimously. (Scheduled for September 16, 2013)

**CITY OF WHITEFISH  
ZONING REGULATIONS  
AMENDMENT REQUEST**

A request by the City of Whitefish to amend the Subdivision Regulations and Zoning Regulations as they pertain to the 2013 Legislative changes to the Montana State Subdivision and Platting Act.

**STAFF REPORT WZTA 13-01**

Planner Compton-Ring said staff is just moving the standards for Manufactured Home Parks, RV Parks and Campgrounds from the Subdivision Chapter to the zoning regulations.

**PUBLIC HEARING**

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

**PUBLIC HEARING**

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

**MOTION**

Meckel moved and Phillips seconded to adopt staff report WZTA 13-01 to approve the recommendations to amend Title 11 Chapter 3 of the Zoning Regulations as findings of fact and recommend that the City Council approve the recommendations set forth in the staff report.

**VOTE**

The motion passed unanimously. (Scheduled for City Council on September 3, 2013.)

**CITY OF WHITEFISH  
GROWTH POLICY  
AMENDMENT REQUEST**

A request by the City of Whitefish to amend the Whitefish Growth Policy to incorporate a Parks and Rec Master Plan.

**STAFF REPORT WGPA 13-01**

Planner Compton-Ring said that this will be an amendment to the Growth Policy Master Plan. Staff is recommending approval

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



Date: July 26, 2013  
To: Advisory Agencies & Interested Parties  
From: Whitefish Planning & Building Department

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The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, August 15, 2013 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing for items 1, 2 and 3 on Tuesday, September 3, 2013 and items 4 and 5 on Monday, September 16, 2013. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. Marty Beale on behalf of Eighth Street llc is proposing to develop a tri-plex and a professional office on a single parcel. The property is developed with a single family home and is zoned WR-3 (Low Density Multi-Family Residential District). The property is located at 118 W 2<sup>nd</sup> Street and can be legally described as the east half of Lot 6, Block 1 Grandview Addition. (WCUP 13-08) Compton-Ring
2. Kevin and Melinda Johnson are proposing to construct a guest house. The property is developed with a single family home and is zoned WSR (Suburban Residential District). The property is located at 815 Delrey Rd and can be legally described as Tract 3D in Section 5 Township 31N Range 22W P.M.M., Flathead County. (WCUP 13-09) Compton-Ring
3. Neil Stuber and Corrie Colbert, on behalf of Hurraw! Balm llc, are proposing to temporarily expand their Home Occupation business until January 2014 when their permanent facility is finished. This home occupation will temporarily exceed the area limitation and the number of nonfamily member employees standards. The property is located at 103 Dakota Avenue and is zoned WR-2 (Two-Family Residential District). The property can be legally described as Lot 7, Block 12, Whitefish Townsite in Section 25 Township 31N Range 22W, P.M.M., Flathead County. (WCUP 13-10) Compton-Ring
4. A request by the City of Whitefish to amend the Subdivision Regulations and Zoning Regulations as they pertain to the 2013 Legislative changes to the Montana State Subdivision and Platting Act. (WSUB 13-01/WZTA 13-01) Compton-Ring
5. A request by the City of Whitefish to amend the Whitefish Growth Policy to incorporate a Park Master Plan. (WGPA 13-01) Taylor

## Wendy Compton-Ring

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**From:** Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>  
**Sent:** Friday, July 26, 2013 12:04 PM  
**To:** 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Gary Krueger (gkrueger@flathead.mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'Joe Page' (jpage@cityofwhitefish.org); 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; Karen Reeves; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; Paul Nicol (pnicol@flathead.mt.gov); 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears'; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'  
**Subject:** August City-County Planning Board Notice  
**Attachments:** 8-2013\_PB meeting.pdf

Attached please find the notice for the August Planning Board

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

EXHIBIT

3



AN ACT GENERALLY REVISING PROVISIONS GOVERNING SUBDIVISION REVIEW; REVISING PROCEDURES FOR THE SUBMISSION OF SUBDIVISION APPLICATIONS AMENDING SECTIONS 76-3-504, 76-3-601, AND 76-3-604, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-504, MCA, is amended to read:

**"76-3-504. Subdivision regulations -- contents.** (1) The subdivision regulations adopted under this chapter must, at a minimum:

- (a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);
- (b) except as provided in 76-3-509, 76-3-609 , or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;
- (c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;
- (d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;
- (e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.
- (f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;
- (g) prescribe standards for:

- (i) the design and arrangement of lots, streets, and roads;
- (ii) grading and drainage;
- (iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet

the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical

placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the authorized agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted as provided in 76-3-604;

(r) requires that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster development.

~~(3) The governing body may establish deadlines for submittal of subdivision applications."~~

**Section 2.** Section 76-3-601, MCA, is amended to read:

**"76-3-601. Submission of application and preliminary plat for review -- water and sanitation information required.** (1) ~~Subject to the submittal deadlines established as provided in 76-3-504(3), the~~ The subdivider shall present to the governing body or to the agent or agency designated by the governing body the subdivision application, including the preliminary plat of the proposed subdivision, for local review. The preliminary plat must show all pertinent features of the proposed subdivision and all proposed improvements and must be accompanied by the preliminary water and sanitation information required under 76-3-622.

(2) (a) When the proposed subdivision lies within the boundaries of an incorporated city or town, the application and preliminary plat must be submitted to and approved by the city or town governing body.

(b) When the proposed subdivision is situated entirely in an unincorporated area, the application and preliminary plat must be submitted to and approved by the governing body of the county. However, if the proposed subdivision lies within 1 mile of a third-class city or town, within 2 miles of a second-class city, or within 3 miles of a first-class city, the county governing body shall submit the application and preliminary plat to the city or town governing body or its designated agent for review and comment. If the proposed subdivision is situated within a rural school district, as described in 20-9-615, the county governing body shall provide a summary of the information contained in the application and preliminary plat to school district trustees.

(c) If the proposed subdivision lies partly within an incorporated city or town, the application and preliminary plat must be submitted to and approved by both the city or town and the county governing bodies.

(d) When a proposed subdivision is also proposed to be annexed to a municipality, the governing body of the municipality shall coordinate the subdivision review and annexation procedures to minimize duplication of hearings, reports, and other requirements whenever possible.

(3) The provisions of 76-3-604, 76-3-605, 76-3-608 through 76-3-610, and this section do not limit the authority of certain municipalities to regulate subdivisions beyond their corporate limits pursuant to 7-3-4444."

**Section 3.** Section 76-3-604, MCA, is amended to read:

**"76-3-604. Review of subdivision application -- review for required elements and sufficiency of information.** (1) (a) ~~Within 5 working days of receipt of a subdivision application submitted in accordance with any deadlines established pursuant to 76-3-504(3) and receipt of the review fee submitted as provided in 76-3-602, the reviewing agent or agency shall~~ A subdivision application is considered to be received on the date

of delivery to the reviewing agent or agency and when accompanied by the review fee submitted as provided in 76-3-602.

(b) Within 5 working days of receipt of a subdivision application, the reviewing agent or agency shall determine whether the application contains all of the listed materials as required by 76-3-504(1)(a) and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that elements are missing from the application, the reviewing agent or agency shall identify those elements in the notification.

(2) (a) Within 15 working days after the reviewing agent or agency notifies the subdivider or the subdivider's agent that the application contains all of the required elements as provided in subsection (1), the reviewing agent or agency shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of this chapter and the local regulations adopted pursuant to this chapter and shall notify the subdivider or, with the subdivider's written permission, the subdivider's agent of the reviewing agent's or agency's determination.

(b) If the reviewing agent or agency determines that information in the application is not sufficient to allow for review of the proposed subdivision, the reviewing agent or agency shall identify the insufficient information in its notification.

(c) A determination that an application contains sufficient information for review as provided in this subsection (2) does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the reviewing agent or agency or the governing body to request additional information during the review process.

(3) The time limits provided in subsections (1) and (2) apply to each submittal of the application until:

(a) a determination is made that the application contains the required elements and sufficient information; and

(b) the subdivider or the subdivider's agent is notified.

(4) After the reviewing agent or agency has notified the subdivider or the subdivider's agent that an application contains sufficient information as provided in subsection (2), the governing body shall approve, conditionally approve, or deny the proposed subdivision within 60 working days or 80 working days if the proposed subdivision contains 50 or more lots, based on its determination of whether the application conforms

to the provisions of this chapter and to the local regulations adopted pursuant to this chapter, unless:

(a) the subdivider and the reviewing agent or agency agree to an extension or suspension of the review period, not to exceed 1 year; or

(b) a subsequent public hearing is scheduled and held as provided in 76-3-615.

(5) (a) If the governing body fails to comply with the time limits under subsection (4), the governing body shall pay to the subdivider a financial penalty of \$50 per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body denies, approves, or conditionally approves the subdivision.

(b) The provisions of subsection (5)(a) do not apply if the review period is extended or suspended pursuant to subsection (4).

(6) If the governing body denies or conditionally approves the proposed subdivision, it shall send the subdivider a letter, with the appropriate signature, that complies with the provisions of 76-3-620.

(7) (a) The governing body shall collect public comment submitted at a hearing or hearings regarding the information presented pursuant to 76-3-622 and shall make any comments submitted or a summary of the comments submitted available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat.

(b) The subdivider shall, as part of the subdivider's application for sanitation approval, forward the comments or the summary provided by the governing body to the:

(i) reviewing authority provided for in Title 76, chapter 4, for subdivisions that will create one or more parcels containing less than 20 acres; and

(ii) local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.

(8) (a) For a proposed subdivision that will create one or more parcels containing less than 20 acres, the governing body may require approval by the department of environmental quality as a condition of approval of the final plat.

(b) For a proposed subdivision that will create one or more parcels containing 20 acres or more, the governing body may condition approval of the final plat upon the subdivider demonstrating, pursuant to 76-3-622, that there is an adequate water source and at least one area for a septic system and a replacement drainfield for each lot.

(9) (a) Review and approval, conditional approval, or denial of a proposed subdivision under this chapter may occur only under those regulations in effect at the time a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the review periods provided in subsections (1) and (2), the determination of whether the application contains the required elements and sufficient information must be based on the new regulations."

**Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 5. Effective date.** [This act] is effective on passage and approval.

**Section 6. Applicability** [This act] applies to subdivision applications submitted on or after July 1, 2013.

- END -

I hereby certify that the within bill,  
SB 0040, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

SENATE BILL NO. 40  
INTRODUCED BY E. BUTTREY

AN ACT GENERALLY REVISING PROVISIONS GOVERNING SUBDIVISION REVIEW; REVISING PROCEDURES FOR THE SUBMISSION OF SUBDIVISION APPLICATIONS; AMENDING SECTIONS 76-3-504, 76-3-601, AND 76-3-604, MCA; AND PROVIDING IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.



AN ACT REQUIRING A SUBDIVIDER TO SUBMIT INFORMATION REGARDING WHETHER A PROPOSED SUBDIVISION'S WATER AND WASTEWATER SYSTEMS WILL BE UNDER THE PUBLIC SERVICE COMMISSION'S JURISDICTION; AMENDING SECTION 76-3-622, MCA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-622, MCA, is amended to read:

**"76-3-622. Water and sanitation information to accompany preliminary plat.** (1) Except as provided in subsection (2), the subdivider shall submit to the governing body or to the agent or agency designated by the governing body the information listed in this section for proposed subdivisions that will include new water supply or wastewater facilities. The information must include:

- (a) a vicinity map or plan that shows:
  - (i) the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots, of:
    - (A) flood plains;
    - (B) surface water features;
    - (C) springs;
    - (D) irrigation ditches;
    - (E) existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater treatment systems;
    - (F) for parcels less than 20 acres, mixing zones identified as provided in subsection (1)(g); and
    - (G) the representative drainfield site used for the soil profile description as required under subsection (1)(d); and
  - (ii) the location, within 500 feet outside of the exterior property line of the subdivision, of public water and sewer facilities;

(b) a description of the proposed subdivision's water supply systems, storm water systems, solid waste disposal systems, and wastewater treatment systems, including:

(i) whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the department of environmental quality; and

(ii) if the water supply and wastewater treatment systems are shared, multiple user, or public, a statement of whether the systems will be public utilities as defined in 69-3-101 and subject to the jurisdiction of the public service commission or exempt from public service commission jurisdiction and, if exempt, an explanation for the exemption;

(c) a drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the department of environmental quality pursuant to 76-4-104;

(d) evidence of suitability for new onsite wastewater treatment systems that, at a minimum, includes:

(i) a soil profile description from a representative drained site identified on the vicinity map, as provided in subsection (1)(a)(i)(G), that complies with standards published by the department of environmental quality;

(ii) demonstration that the soil profile contains a minimum of 4 feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer; and

(iii) in cases in which the soil profile or other information indicates that ground water is within 7 feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance provided in subsection (1)(d)(ii);

(e) for new water supply systems, unless systems are proposed, evidence of adequate water availability:

(i) obtained from well logs or testing of onsite or nearby wells;

(ii) obtained from information contained in published hydrogeological reports; or

(iii) as otherwise specified by rules adopted by the department of environmental quality pursuant to 76-4-104;

(f) evidence of sufficient water quality in accordance with rules adopted by the department of environmental quality pursuant to 76-4-104;

(g) a preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the board of environmental review pursuant to 75-5-301 and 75-5-303 related to standard mixing zones for ground water, source specific mixing zones, and nonsignificant

changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. Instead of performing the preliminary analysis required under this subsection (1)(g), the subdivider may perform a complete nondegradation analysis in the same manner as is required for an application that is reviewed under Title 76, chapter 4.

(2) A subdivider whose land division is excluded from review under 76-4-125(2) is not required to submit the information required in this section.

(3) A governing body may not, through adoption of regulations, require water and sanitation information in addition to the information required under this section unless the governing body complies with the procedures provided in 76-3-511."

**Section 2. Applicability** [This act] applies to applications submitted on or after [the effective date of this act].

- END -

I hereby certify that the within bill,  
SB 0293, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

SENATE BILL NO. 293

INTRODUCED BY B. TUTVEDT

AN ACT REQUIRING A SUBDIVIDER TO SUBMIT INFORMATION REGARDING WHETHER A PROPOSED SUBDIVISION'S WATER AND WASTEWATER SYSTEMS WILL BE UNDER THE PUBLIC SERVICE COMMISSION'S JURISDICTION; AMENDING SECTION 76-3-622, MCA; AND PROVIDING AN APPLICABILITY DATE.



AN ACT REVISING SUBDIVISION AND LOCAL BOARD OF HEALTH LAWS RELATED TO ENCROACHMENT ONTO PRIVATE PROPERTY; PROHIBITING LOCAL APPROVAL OF PROPOSED SUBDIVISION IF A WELL ISOLATION ZONE OR OTHER FEATURES AND IMPROVEMENTS OF THE SUBDIVISION ENCROACH ONTO PRIVATE PROPERTY; REQUIRING DEPARTMENT OF ENVIRONMENTAL QUALITY SANITATION IN SUBDIVISION RULES TO PROVIDE FOR EVIDENCE THAT WELL ISOLATION ZONES ARE LOCATED WHOLLY WITHIN THE BOUNDARIES OF A PROPOSED SUBDIVISION; REQUIRING LOCAL BOARD OF HEALTH RULES TO ADDRESS WELL ISOLATION ZONES UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 50-2-116, 76-3-608, 76-4-102, AND 76-4-104, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 50-2-116, MCA, is amended to read:

**"50-2-116. Powers and duties of local boards of health.**(1) In order to carry out the purposes of the public health system, in collaboration with federal, state, and local partners, each local board of health shall:

- (a) appoint and fix the salary of a local health officer who is:
  - (i) a physician;
  - (ii) a person with a master's degree in public health; or
  - (iii) a person with equivalent education and experience, as determined by the department;
- (b) elect a presiding officer and other necessary officers;
- (c) employ qualified staff;
- (d) adopt bylaws to govern meetings;
- (e) hold regular meetings at least quarterly and hold special meetings as necessary;
- (f) identify, assess, prevent, and ameliorate conditions of public health importance through:
  - (i) epidemiological tracking and investigation;
  - (ii) screening and testing;
  - (iii) isolation and quarantine measures;

- (iv) diagnosis, treatment, and case management;
  - (v) abatement of public health nuisances;
  - (vi) inspections;
  - (vii) collecting and maintaining health information;
  - (viii) education and training of health professionals; or
  - (ix) other public health measures as allowed by law;
- (g) protect the public from the introduction and spread of communicable disease or other conditions of public health importance, including through actions to ensure the removal of filth or other contaminants that might cause disease or adversely affect public health;
- (h) supervise or make inspections for conditions of public health importance and issue written orders for compliance or for correction, destruction, or removal of the conditions;
- (i) bring and pursue actions and issue orders necessary to abate, restrain, or prosecute the violation of public health laws, rules, and local regulations;
- (j) identify to the department an administrative liaison for public health. The liaison must be the local health officer in jurisdictions that employ a full-time local health officer. In jurisdictions that do not employ a full-time local health officer, the liaison must be the highest ranking public health professional employed by the jurisdiction.
- (k) subject to the provisions of 50-2-130, adopt necessary regulations that are not less stringent than state standards for the control and disposal of sewage from private and public buildings and facilities that are not regulated by Title 75, chapter 6, or Title 76, chapter 4. The regulations must describe standards for granting variances from the minimum requirements that are identical to standards promulgated by the board of environmental review and must provide for appeal of variance decisions to the department as required by 75-5-305. If the local board of health regulates or permits water well drilling, the regulations must prohibit the drilling of a well if the well isolation zone, as defined in 76-4-102, encroaches onto adjacent private property without the authorization of the private property owner.

(2) Local boards of health may:

- (a) accept and spend funds received from a federal agency, the state, a school district, or other persons or entities;
- (b) adopt necessary fees to administer regulations for the control and disposal of sewage from private

and public buildings and facilities;

(c) adopt regulations that do not conflict with rules adopted by the department:

(i) for the control of communicable diseases;

(ii) for the removal of filth that might cause disease or adversely affect public health;

(iii) subject to the provisions of 50-2-130, for sanitation in public and private buildings and facilities that affects public health and for the maintenance of sewage treatment systems that do not discharge effluent directly into state water and that are not required to have an operating permit as required by rules adopted under 75-5-401;

(iv) subject to the provisions of 50-2-130 and Title 50, chapter 48, for tattooing and body-piercing establishments and that are not less stringent than state standards for tattooing and body-piercing establishments;

(v) for the establishment of institutional controls that have been selected or approved by the:

(A) United States environmental protection agency as part of a remedy for a facility under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601, et seq.; or

(B) department of environmental quality as part of a remedy for a facility under the Montana Comprehensive Environmental Cleanup and Responsibility Act, Title 75, chapter 10, part 7; and

(vi) to implement the public health laws; and

(d) promote cooperation and formal collaborative agreements between the local board of health and tribes, tribal organizations, and the Indian health service regarding public health planning, priority setting, information and data sharing, reporting, resource allocation, service delivery, jurisdiction, and other matters addressed in this title.

(3) A local board of health may provide, implement, facilitate, or encourage other public health services and functions as considered reasonable and necessary."

**Section 2.** Section 76-3-608, MCA, is amended to read:

**"76-3-608. Criteria for local government review.** (1) The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter.

A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145.

(2) The governing body shall issue written findings of fact that weigh the criteria in subsection (3), as applicable.

(3) A subdivision proposal must undergo review for the following primary criteria:

(a) except when the governing body has established an exemption pursuant to subsection (6) of this section or except as provided in 76-3-509, 76-3-609(2) or (4), or 76-3-616, the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety;

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part;

(c) the provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

(4) The governing body may require the subdivider to design the proposed subdivision to reasonably minimize potentially significant adverse impacts identified through the review required under subsection (3). The governing body shall issue written findings to justify the reasonable mitigation required under this subsection (4).

(5) (a) In reviewing a proposed subdivision under subsection (3) and when requiring mitigation under subsection (4), a governing body may not unreasonably restrict a landowner's ability to develop land, but it is recognized that in some instances the unmitigated impacts of a proposed development may be unacceptable and will preclude approval of the subdivision.

(b) When requiring mitigation under subsection (4), a governing body shall consult with the subdivider and shall give due weight and consideration to the expressed preference of the subdivider.

(6) A governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided pursuant to 76-3-622 or public comment received pursuant to 76-3-604 on the information provided pursuant to 76-3-622 only if the conditional approval or denial is based on existing

subdivision, zoning, or other regulations that the governing body has the authority to enforce.

(7) A governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date that the final subdivision plat is filed with the county clerk and recorder.

(8) A governing body may not approve a proposed subdivision if any of the features and improvements of the subdivision encroach onto adjoining private property in a manner that is not otherwise provided for under chapter 4 or this chapter or if the well isolation zone of any proposed well to be drilled for the proposed subdivision encroaches onto adjoining private property unless the owner of the private property authorizes the encroachment. For the purposes of this section, "well isolation zone" has the meaning provided in 76-4-102.

**Section 3.** Section 76-4-102, MCA, is amended to read:

**"76-4-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Adequate municipal facilities" means municipally, publicly, or privately owned facilities that supply water, treat sewage, or dispose of solid waste for all or most properties within the boundaries of a municipality and that are operating in compliance with Title 75, chapters 5 and 6.

(2) "Board" means the board of environmental review.

(3) "Department" means the department of environmental quality.

(4) "Extension of a public sewage system" means a sewerline that connects two or more sewer service lines to a sewer main.

(5) "Extension of a public water supply system" means a waterline that connects two or more water service lines to a water main.

(6) "Facilities" means public or private facilities for the supply of water or disposal of sewage or solid waste and any pipes, conduits, or other stationary method by which water, sewage, or solid wastes might be transported or distributed.

(7) "Mixing zone" has the meaning provided in 75-5-103.

(8) "Public sewage system" or "public sewage disposal system" means a public sewage system as

defined in 75-6-102.

(9) "Public water supply system" has the meaning provided in 75-6-102.

(10) "Registered professional engineer" means a person licensed to practice as a professional engineer under Title 37, chapter 67.

(11) "Registered sanitarian" means a person licensed to practice as a sanitarian under Title 37, chapter 40.

(12) "Reviewing authority" means the department or a local department or board of health certified to conduct a review under 76-4-104.

(13) "Sanitary restriction" means a prohibition against the erection of any dwelling, shelter, or building requiring facilities for the supply of water or the disposition of sewage or solid waste or the construction of water supply or sewage or solid waste disposal facilities until the department has approved plans for those facilities.

(14) "Sewer service line" means a sewerline that connects a single building or living unit to a public sewage system or to an extension of a public sewage system.

(15) "Solid waste" has the meaning provided in 75-10-103.

(16) "Subdivision" means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area, regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.

(17) "Water service line" means a waterline that connects a single building or living unit to a public water supply system or to an extension of a public water supply system.

(18) "Well isolation zone" means the area within a 100-foot radius of a water well."

**Section 4.** Section 76-4-104, MCA, is amended to read:

**"76-4-104. Rules for administration and enforcement.** (1) The department shall, subject to the provisions of 76-4-135, adopt reasonable rules, including adoption of sanitary standards, necessary for administration and enforcement of this part.

(2) The rules and standards must provide the basis for approving subdivisions for various types of public and private water supplies, sewage disposal facilities, storm water drainage ways, and solid waste disposal. The rules and standards must be related to:

- (a) size of lots;
- (b) contour of land;
- (c) porosity of soil;
- (d) ground water level;
- (e) distance from lakes, streams, and wells;
- (f) type and construction of private water and sewage facilities; and
- (g) other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife.

(3) (a) Except as provided in subsection (3)(b), the rules must provide for the review of subdivisions by a local department or board of health, as described in Title 50, chapter 2, part 1, if the local department or board of health employs a registered sanitarian or a registered professional engineer and if the department certifies under subsection (4) that the local department or board is competent to conduct the review.

(b) (i) Except as provided in 75-6-121 and subsection (3)(b)(ii) of this section, a local department or board of health may not review public water supply systems, public sewage systems, or extensions of or connections to these systems.

(ii) A local department or board of health may be certified to review subdivisions proposed to connect to existing municipal water and wastewater systems previously approved by the department if no extension of the systems is required.

(4) The department shall also adopt standards and procedures for certification and maintaining certification to ensure that a local department or board of health is competent to review the subdivisions as described in subsection (3).

(5) The department shall review those subdivisions described in subsection (3) if:

- (a) a proposed subdivision lies within more than one jurisdictional area and the respective governing bodies are in disagreement concerning approval of or conditions to be imposed on the proposed subdivision; or
- (b) the local department or board of health elects not to be certified.

(6) The rules must further provide for:

(a) providing the reviewing authority with a copy of the plat or certificate of survey subject to review under this part and other documentation showing the layout or plan of development, including:

- (i) total development area; and

(ii) total number of proposed dwelling units and structures requiring facilities for water supply or sewage disposal;

(b) adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed;

(c) evidence concerning the potability of the proposed water supply for the subdivision;

(d) adequate evidence that a sewage disposal facility is sufficient in terms of capacity and dependability;

(e) standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways;

(f) standards and technical procedures applicable to sanitary sewer plans and designs, including soil testing and site design standards for on-lot sewage disposal systems when applicable;

(g) standards and technical procedures applicable to water systems;

(h) standards and technical procedures applicable to solid waste disposal;

(i) adequate evidence that a proposed drainfield mixing zone ~~is~~ and a proposed well isolation zone are located wholly within the boundaries of the proposed subdivision where the drainfield or well is located or that an easement or, for public land, other authorization has been obtained from the landowner to place the proposed drainfield mixing zone or well isolation zone outside the boundaries of the proposed subdivision where the drainfield or well is located. A mixing zone may extend outside the boundaries of the proposed subdivision onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities. This subsection (6)(i) does not apply to the divisions provided for in 76-3-207 except those under 76-3-207(1)(b).

(j) criteria for granting waivers and deviations from the standards and technical procedures adopted under subsections (6)(e) through (6)(i);

(k) evidence to establish that, if a public water supply system or a public sewage system is proposed, provision has been made for the system and, if other methods of water supply or sewage disposal are proposed, evidence that the systems will comply with state and local laws and regulations that are in effect at the time of submission of the preliminary or final plan or plat. Evidence that the systems will comply with local laws and regulations must be in the form of a certification from the local health department as provided by department rule.

(l) evidence to demonstrate that appropriate easements, covenants, agreements, and management entities have been established to ensure the protection of human health and state waters and to ensure the long-term operation and maintenance of water supply, storm water drainage, and sewage disposal facilities.

(7) If the reviewing authority is a local department or board of health, it shall notify the department of its recommendation for approval or disapproval of the subdivision not later than 45 days from its receipt of the subdivision application. The department shall make a final decision on the subdivision within 10 days after receiving the recommendation of the local reviewing authority, but not later than 55 days after the submission of a complete application, as provided in 76-4-125.

(8) Review and certification or denial of certification that a division of land is not subject to sanitary restrictions under this part may occur only under those rules in effect when a complete application is submitted to the reviewing authority, except that in cases in which current rules would preclude the use for which the lot was originally intended, the applicable requirements in effect at the time the lot was recorded must be applied. In the absence of specific requirements, minimum standards necessary to protect public health and water quality apply.

(9) The reviewing authority may not deny or condition a certificate of subdivision approval under this part unless it provides a written statement to the applicant detailing the circumstances of the denial or condition imposition. The statement must include:

- (a) the reason for the denial or condition imposition;
- (b) the evidence that justifies the denial or condition imposition; and
- (c) information regarding the appeal process for the denial or condition imposition.

(10) The department may adopt rules that provide technical details and clarification regarding the water and sanitation information required to be submitted under 76-3-622."

**Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

- END -

I hereby certify that the within bill,  
SB 0316, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

SENATE BILL NO. 316

INTRODUCED BY J. FIELDER

AN ACT REVISING SUBDIVISION AND LOCAL BOARD OF HEALTH LAWS RELATED TO ENCROACHMENT ONTO PRIVATE PROPERTY; PROHIBITING LOCAL APPROVAL OF A PROPOSED SUBDIVISION IF A WELL ISOLATION ZONE OR OTHER FEATURES AND IMPROVEMENTS OF THE SUBDIVISION ENCROACH ONTO PRIVATE PROPERTY; REQUIRING DEPARTMENT OF ENVIRONMENTAL QUALITY SANITATION IN SUBDIVISION RULES TO PROVIDE FOR EVIDENCE THAT WELL ISOLATION ZONES ARE LOCATED WHOLLY WITHIN THE BOUNDARIES OF A PROPOSED SUBDIVISION; REQUIRING LOCAL BOARD OF HEALTH RULES TO ADDRESS WELL ISOLATION ZONES UNDER CERTAIN CIRCUMSTANCES; AND AMENDING SECTIONS 50-2-116, 76-3-608, 76-4-102, AND 76-4-104, MCA.



AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, The Montana Subdivision and Platting Act provides for the local review of proposed subdivisions; and

WHEREAS, Title 76, chapter 3, part 2, provides miscellaneous exemptions from subdivision review for certain divisions of land and conveyances; and

WHEREAS, sections 76-3-202, 76-3-204, and 76-3-208, MCA, address the sale, lease, or rent or other conveyance of one or more parts of a building, structure, or other improvement; and

WHEREAS, section 76-3-204, MCA, provides that the sale, lease, rent, or other conveyance of one or more parts of a building, structure, or other improvement is not subject to subdivision review; and

WHEREAS, this exemption has been interpreted to exempt only one or more parts of a single building, structure, or improvement on a tract of record from subdivision review; and

WHEREAS, a strict interpretation of section 76-3-204, MCA, places an undue burden of undergoing full subdivision review on property owners who seek to lease or rent certain buildings; and

WHEREAS, it is the intent of the Legislature to provide an alternative process to subdivision review for the creation of buildings for lease or rent on tracts of land.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Building" means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. Except as provided in 76-3-103(15) the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

(2) "Department" means the department of environmental quality provided for in 2-15-3501.

(3) "Governing body" means the legislative authority for a city, town, county, or consolidated city-county government.

(4) "Landowner" means an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

(5) "Local reviewing authority" means a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.

(6) "Supermajority" means:

(a) an affirmative vote of at least two-thirds of the present and voting members of a city or town council;

(b) a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners;

(c) an affirmative vote of at least four-fifths of the present and voting county commissioners in counties with five commissioners;

(d) an affirmative vote of at least two-thirds of the present and voting county commissioners in counties with more than five commissioners; or

(e) an affirmative vote of at least two-thirds of the present and voting members of the governing body of a consolidated city-county government.

(7) "Tract" means an individual parcel of land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

**Section 2. Buildings for lease or rent -- exemptions.** (1) A building created for lease or rent on a

single tract is exempt from the provisions of [sections 1 through 8] if:

(a) the building is in conformance with applicable zoning regulations adopted pursuant to Title 76, chapter 2, parts 1 through 3, provided that the zoning contains the elements of [section 4]; or

(b) when applicable zoning regulations are not in effect:

(i) the building was in existence or under construction before [the effective date of this act];

(ii) the building is a facility as defined in 15-65-101 that is subject to the lodging facility use tax under Title 15, chapter 65, except for recreational camping vehicles or mobile home parks;

(iii) the building is created for lease or rent for farming or agricultural purposes;

(iv) the building is not served by water and wastewater and will not be leased or rented;

(v) the building is served by water and wastewater and the landowner records a notarized declaration with the clerk and recorder of the county in which the property is located stating that the proposed building will not be leased or rented. The declaration recorded pursuant to this subsection (1)(b)(v) runs with the land and is binding on the landowner and all subsequent landowners and successors in interest to the property. The declaration must include but is not limited to:

(A) the name and address of the landowner;

(B) a legal description of the tract upon which the proposed building will be located; and

(C) a specific description of the building on the tract of record.

(2) Any building that is exempt under subsection (1) from the provisions of [sections 1 through 8] and that is or will be served by water or wastewater must be in compliance with the provisions of [section 3].

(3) The exemption provided in subsection (1)(b)(i) is limited to the first three buildings created for lease or rent on a single tract.

**Section 3. Buildings for lease or rent -- three or fewer buildings -- application -- review procedures.** (1) A landowner shall submit an application for the creation of the first three or fewer buildings for lease or rent on a single tract to the department or local reviewing authority for sanitation review if review is required by Title 76, chapter 4, or to the local board or department of health if review is required by Title 50.

(2) If the department or local reviewing authority approves the application, the landowner shall record the certificate of approval and any conditions for the approval of the application with the county clerk and recorder.

(3) If a building for lease or rent is created on a single tract on or after [the effective date of this act] and the tract is later subdivided or an exemption from subdivision review is used pursuant to Title 76, chapter 3, any building for lease or rent on the new tract is subject to the provisions of [sections 4 through 6].

**Section 4. Buildings for lease or rent -- four or more buildings -- regulations.** (1) A governing body shall adopt regulations for the administration and enforcement of the creation of four or more buildings for lease or rent on a single tract.

(2) The regulations adopted pursuant to this section must, at a minimum:

(a) list the materials that must be included in an application for the creation of four or more buildings for lease or rent;

(b) require a description of:

(i) property boundaries;

(ii) onsite and adjacent offsite streets, roads, and easements;

(iii) geographic features;

(iv) existing septic tanks and drainfields;

(v) existing wells; and

(vi) existing and proposed buildings;

(c) require adequate water supply and sewage and solid waste disposal facilities;

(d) require an assessment of potential significant impacts on the surrounding physical environment and human population in the area to be affected, including conditions, if any, that may be imposed on the proposal to avoid or minimize potential significant impacts identified;

(e) require adequate emergency medical, fire protection, and law enforcement services;

(f) require access to the site; and

(g) comply with applicable flood plain requirements.

(3) Prior to adopting regulations pursuant to this section, the governing body shall provide an opportunity for public hearing and comment on the proposed regulations. Notice of the public hearing must be published as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 if the governing body is a city commission or a town council and must be posted not less than 30 days before the public hearing in at least five public places, including but not limited to public buildings. Public comment must be addressed

before the regulations are adopted.

**Section 5. Additional review criteria -- four or more buildings for lease or rent.** (1) (a) Upon a majority vote, a governing body may increase the minimum number of buildings created for lease or rent that are subject to review by the governing body pursuant to [section 4]. The governing body may elect to increase the minimum number subject to review by the governing body for all buildings created for lease or rent or may limit the increase to specific types or uses of buildings created for lease or rent.

(b) For purposes of subsection (1)(a), the governing body shall adopt regulations pursuant to [section 4] identifying the number or types of buildings created for lease or rent that are subject to review by the governing body.

(2) Upon a supermajority vote, the governing body may adopt regulations pursuant to [section 4] for the purpose of reviewing four or more buildings for lease or rent that are in addition to the regulations provided in [section 4]. For purposes of this subsection, a governing body may adopt any regulations it considers necessary to protect public health, safety, or the general welfare.

**Section 6. Buildings for lease or rent -- review procedure.** (1) Unless the buildings are exempt from review as provided in [section 2] or subject to review as provided in [section 3], an application for the creation of buildings for lease or rent on a single tract must be reviewed as provided in this section.

(2) An application pursuant to this section for the creation of buildings for lease or rent must be submitted for review to:

(a) the governing body or its agent or agency in which the buildings are proposed to be located; and  
 (b) the department or local reviewing authority if review by the department or local reviewing authority is required by Title 76, chapter 4 or to the local board or department of health if review is required by Title 50.

(3) (a) Upon receipt of an application and any applicable fees, the governing body or its agent or agency shall within 10 working days determine whether the application contains the required materials and sufficient information for review. The governing body or its agent or agency shall notify the applicant in writing as to whether the application is complete. If the application is incomplete, the governing body shall identify any missing materials or insufficient information.

(b) After the governing body or its agent or agency has notified the applicant that the application is

complete, the governing body shall approve, conditionally approve, or deny the application for the creation of buildings for lease or rent pursuant to this section within 60 working days. The applicant and the governing body may agree to extend the time for review in writing.

(c) Review and approval, conditional approval, or denial of an application for the creation of buildings for lease or rent pursuant to this section must be based upon the regulations in effect at the time an application is determined to be complete. If regulations change during the period that the application is determined to be complete, the determination of whether the application is complete must be based on the new regulations.

(4) The governing body may establish a reasonable fee to be paid by the landowner commensurate with the cost of reviewing applications submitted pursuant to this section.

(5) If the governing body denies, approves, or conditionally approves the proposed creation of buildings for lease or rent pursuant to this section, the governing body shall provide written notification to the landowner within the 60 working-day period provided in this section.

**Section 7. Actions against governing body and department.** (1) An applicant who has filed an application for the creation of buildings for lease or rent and who is aggrieved by a decision of the department or the local reviewing authority may request a hearing as provided in 76-4-126(1). For purposes of this subsection, the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to the proceeding.

(2) An applicant who has filed an application for the creation of buildings for lease or rent or a landowner with a property boundary contiguous to the tract on which the buildings are proposed to be located who is aggrieved by a decision of the governing body may, within 30 days of the date of the decision of the governing body, appeal to the district court in the county in which the property involved is located.

(3) For purposes of this section, "aggrieved" has the meaning provided in 76-3-625.

**Section 8. Violations -- penalties.** (1) If any building is created in violation of [sections 1 through 8], the governing body may, in addition to assessing a fine or penalty not to exceed a maximum of \$500, initiate an action to:

- (a) prevent the unlawful creation of the building;
- (b) restrain, correct, or abate a violation; or

(c) prevent the occupancy of the building.

(2) For the purposes of enforcing the provisions of [sections 1 through 8], the governing body shall attempt to obtain voluntary compliance from the landowner at least 30 days prior to initiating an action for a violation of [sections 1 through 8].

**Section 9.** Section 76-3-103, MCA, is amended to read:

**"76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to ~~or possession of~~ a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to ~~or possession of~~ the parcels may be sold, rented, leased, or otherwise conveyed transferred and includes any resubdivision and ~~further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes~~ The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

(16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

**Section 10.** Section 76-3-504, MCA, is amended to read:

**"76-3-504. Subdivision regulations -- contents.** (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);

(b) except as provided in 76-3-509, 76-3-609, or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;

(d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;  
(ii) grading and drainage;  
(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical

placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the authorized agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted as provided in 76-3-604;

(r) ~~requires~~ require that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision;

(s) establish criteria for reviewing an area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster

development.

(3) The governing body may establish deadlines for submittal of subdivision applications."

**Section 11.** Section 76-4-125, MCA, is amended to read:

**"76-4-125. Review of subdivision application -- land divisions excluded from review.** (1) Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Within 5 working days after receipt of an application that is not subject to review by a local reviewing authority under 76-4-104, the department shall provide a written notice for informational purposes to the applicant if the application does not include a copy of the certification from the local health department required by 76-4-104(6)(j) or, if applicable, contain an approval from the local governing body under Title 76, chapter 3, together with any public comments or summaries of public comments collected as provided in 76-3-604(7)(a).

(c) If the reviewing authority denies an application and the applicant resubmits a corrected application within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted application within 30 days after receipt of the resubmitted application. If the review of the resubmitted application is conducted by a local department or board of health that is certified under 76-4-104, the department shall make a final decision on the application within 10 days after the local reviewing authority completes its review.

(d) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 55 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may

be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the ~~exclusions~~ exclusion cited in 76-3-201 and ~~76-3-204~~;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

**Section 12.** Section 76-6-203, MCA, is amended to read:

**"76-6-203. Types of permissible easements.** Easements or restrictions under this chapter may prohibit or limit any or all of the following:

- (1) structures--construction or placing of buildings, camping trailers, housetrailers, mobile homes, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- (2) landfill--dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (3) vegetation--removal or destruction of trees, shrubs, or other vegetation;
- (4) loam, gravel, etc.--excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance;
- (5) surface use--surface use except for such purposes permitting the land or water area to remain predominantly in its existing condition;
- (6) acts detrimental to conservation--activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat and preservation;
- (7) subdivision of land--subdivision of land as defined in 76-3-103; and 76-3-104; ~~and 76-3-202~~;
- (8) other acts--other acts or uses detrimental to such retention of land or water areas in their existing conditions."

**Section 13.** Section 76-7-203, MCA, is amended to read:

**"76-7-203. Permissible easements.** (1) An environmental control easement under this chapter may prohibit or limit the following activities or uses:

- (a) constructing or placing of buildings, camping trailers, housetrailers, mobile homes, roads, or other structures on or above the ground;
- (b) dumping or placing of soil, debris, or other wastes or substances as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (c) removing or destroying trees, shrubs, or other vegetation or planting or allowing growth of specific types of vegetation, such as crops for human or animal consumption or undesirable vegetation;
- (d) excavating, dredging, or removing of gravel, soil, rock, or other materials or substances;
- (e) using the surface of the land in a particular manner, such as for agricultural, residential, commercial, or industrial uses;

- (f) subdividing the land, as described in 76-3-103; and 76-3-104; ~~and 76-3-202~~;
  - (g) disturbing soil caps, soil surfaces, berms, drainage structures, or other structures or other activities that may cause erosion or migration of hazardous wastes or substances at or from the environmental control site;
  - (h) drilling or using water wells for potable or nonpotable purposes;
  - (i) other activities or uses detrimental to or interfering with the remediation or cleanup of the environmental control site or detrimental to the preservation of remedial structures, measures, or technologies employed at the environmental control site; and
  - (j) other activities or uses that may result in a risk or threat to the public health, safety, or welfare or the environment.
- (2) An environmental control easement under this chapter may include or require the following:
- (a) maintenance of environmental control site remedial structures or other remedial measures, such as soil surfaces, soil caps, berms, fences, or drainage improvements;
  - (b) rights in the holder of the easement or others for continuing access to the site as necessary to implement, operate, maintain, and monitor remedial work and technologies, including operation and maintenance, and to ensure implementation and enforcement of the requirements, restrictions, and limitations specified in the easement instrument;
  - (c) prompt notification to the holder of the easement or others of transfers of all or any portion of an environmental control site or interest in the site or of any proposed changes in land use at the site;
  - (d) compliance with all requirements of any applicable governmental order;
  - (e) arrangements for indemnification or for reimbursement of any costs and expenses of the easement holder or others or other methods of allocating costs and expenses for remedial actions, operations and maintenance, or other activities on the environmental control site or with respect to the site;
  - (f) other obligations that any federal public entity or other public body having jurisdiction over the property determines are necessary to implement, ensure noninterference with, or ensure the protection of remedial work performed under a governmental order; or
  - (g) other obligations that are necessary or advisable to reduce or eliminate risks or threats to the public health, safety, or welfare or the environment at environmental control sites."

**Section 14. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 76-3-202. Exemption for structures on complying subdivided lands.
- 76-3-204. Exemption for conveyances of one or more parts of a structure or improvement.
- 76-3-208. Subdivisions exempted from surveying and filing requirements but subject to review provisions.

**Section 15. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 8].

**Section 16. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 17. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 18. Effective date.** [This act] is effective September 1, 2013.

**Section 19. Applicability.** [This act] applies to buildings created for lease or rent on a single tract on or after [the effective date of this act].

- END -

I hereby certify that the within bill,  
SB 0324, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

SENATE BILL NO. 324

INTRODUCED BY ROSENDALE, BUTTREY, EDMUNDS, HERTZ, HILL, KARY, LARSEN, WASHBURN,  
D. MOORE

AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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



August 27, 2013

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

Re: Zoning Text Amendments; Special Provisions Chapter: WZTA 13-01

Honorable Mayor and Council:

**Summary of Requested Action:** This application is a request by the city of Whitefish to amend the zoning text regulations to implement Senate Bill 324 from the 2013 Legislative Session. As described in the WSUB 13-01 staff report, the state legislature amended the state Subdivision and Platting Act to exempt jurisdictions that have zoning regulations from the provisions of Subdivision for Lease or Rent. As such, the design standards for Manufactured Home Parks, Recreation Vehicle Parks and Campgrounds need to be moved into the zoning regulations.

**Planning Board Recommendation:** The Whitefish City-County Planning Board held a public hearing on August 15, 2013. Following this hearing, the Planning Board unanimously recommended approval of the amendments and adopted the supporting findings of fact in the staff report. (Blake, Konapatzke and Smith were absent)

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

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

This item has been placed on the agenda for your regularly scheduled meeting on September 16, 2013. Should Council have questions or need further information on this matter, please contact the Whitefish City-County Planning Board or the Planning & Building Department.

Respectfully,



Wendy Compton-Ring, AICP  
Senior Planner

Att: Exhibit A, Planning Board recommendation, 8-15-13  
Draft minutes of the 8-15-13 Planning Board meeting

***Exhibits from 8-15-13 Staff Packet to Planning Board***

1. Staff Report, WSUB 13-01, 8-8-13
2. Advisory Agency Notice, 7-26-13
3. Senate Bill 324

c: w/att Necile Lorang, City Clerk

## EXHIBIT A

### New Sections in Special Provisions:

#### 11-3-XX: MANUFACTURED HOME PARK STANDARDS

##### A. Lot Requirements:

1. All lots for manufactured home spaces in a manufactured home park shall meet the following requirements:
  - a. Manufactured home lots shall be arranged to permit the safe and practical placement and removal of manufactured homes.
  - b. The minimum lot width shall not be less than fifty (50) feet.

##### B. Minimum Standards:

1. All manufactured homes shall be located at least twenty five (25) feet from any property boundary line abutting upon a public street or highway right of way and at least fifteen (15) feet from the other outer boundaries of the park.
2. All buildings, structures and manufactured homes shall be located at least ten (10) feet from the street providing access to it.
3. Distance between Manufactured Homes: Neither manufactured home nor its attached structures, such as awnings or carports, shall be located within twenty (20) feet of any other manufactured home or its attached structures.
4. Detached Accessory Structures: No detached structure, such as a storage shed, shall be located within five (5) feet of any manufactured home or its attached structures.
5. Lot Coverage: A manufactured home shall not occupy more than one-third ( $\frac{1}{3}$ ) of the lot area. The total area occupied by a manufactured home and its roofed accessory buildings and structures shall not exceed two-thirds ( $\frac{2}{3}$ ) of the area of the lot.
6. Parking Spaces Required: A minimum of two (2) parking spaces shall be provided for each manufactured home lot. In addition, guest parking at

the ratio of one space for each five (5) lots and vehicle storage parking at the ratio of one space per each ten (10) lots shall be provided. Parking dimensions shall meet the zoning standards for parking.

- C. Marking Of Manufactured Home Lots: The limits of each manufactured home lot shall be clearly marked on the ground by permanent flush stakes, markers or other suitable means. Location of lot limits on the ground shall be the same as shown on the approved plans.
- D. Manufactured Homes to Be Skirted: Each manufactured home shall be skirted within sixty (60) days after it is moved upon a lot within the manufactured home park. Said skirting shall be of a fire resistant material complementary to that of which the manufactured home exterior is constructed and shall be attached to the manufactured home.
- E. Electrical Systems: All electrical lines serving the subdivision shall be buried underground and shall be designed and constructed in accordance to the most recent edition of the national electrical code.
- F. Oil or Propane Gas Heating: Where oil or propane gas heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three hundred (300) gallon capacity. Said storage facility shall extend no higher than six (6) feet above ground level and shall be located and screened so it will blend with its surroundings.
- G. Gas Systems: All gas systems serving the subdivision shall be designed and constructed in accordance to the most recent edition of the national fuel gas code, the standard for the storage and handling of liquefied petroleum gases and the uniform fire code.
  - 1. A readily accessible and identifiable shutoff valve controlling the flow of gas to the entire gas piping system shall be installed near the point of connection of the liquefied petroleum gas container.
  - 2. Each manufactured home lot shall have an accessible, listed gas shutoff installed. Said valve shall not be located under a manufactured home. Whenever a manufactured home lot outlet is not in use, the shutoff valve shall be plugged to prevent accidental discharge.

### **11-3-XX: RECREATIONAL VEHICLE PARK AND CAMPGROUND STANDARDS**

The provisions of this chapter shall apply to recreational vehicle parks and campgrounds, except as follows:

- A. Roadway Width: The following standards shall govern the roadway widths:
1. A minimum ten (10) feet roadway width shall be provided for one-way streets or roads within the park/campground, provided such street:
    - a. Does not exceed five hundred feet (500') in length;
    - b. Has no on-street parking;
    - c. Serves twenty five (25) or less spaces.
  2. Otherwise the following shall apply:
    - a. Twenty (20) feet if no on street parking is proposed;
    - b. Twenty eight (28) feet if parking is proposed on one side of the street;
    - c. Thirty six (36) feet if parking is proposed on both sides of the street.
    - d. Minimum centerline curvature radius of forty five (45) feet.
- B. Recreational Vehicle Space: The lots or recreation vehicle spaces shall meet the following standards:
1. Minimum lot (space) width = Twenty five (25) feet .
  2. Minimum lot (space) area = One thousand five hundred (1,500) square feet.
- C. Distance between Recreational Vehicles: The distance between the recreational vehicles shall not be less than fifteen (15) feet. This includes any foldout or pop out portion or awnings attached to the vehicle.

set forth in the staff report to amend Title 12 of the Zoning Regulations and adopt the findings of fact and transmit the same to the Whitefish City Council for further action.

**PUBLIC HEARING**

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

**PUBLIC HEARING**

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

**MOTION**

Meckel moved and Phillips seconded Whitefish to adopt staff report WSUB 13-01 as findings of fact and recommend that the City Council approve the recommendations set forth in the staff report to amend Title 12: Subdivision Regulations.

**BOARD DISCUSSION**

Anderson asked if staff had anyplace where they were going to recommend the scheduling and Compton-Ring said it would be added to their flier.

**VOTE**

The motion passed unanimously. (Scheduled for September 16, 2013)

**CITY OF WHITEFISH  
ZONING REGULATIONS  
AMENDMENT REQUEST**

A request by the City of Whitefish to amend the Subdivision Regulations and Zoning Regulations as they pertain to the 2013 Legislative changes to the Montana State Subdivision and Platting Act.

**STAFF REPORT WZTA 13-01**

Planner Compton-Ring said staff is just moving the standards for Manufactured Home Parks, RV Parks and Campgrounds from the Subdivision Chapter to the zoning regulations.

**PUBLIC HEARING**

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

**PUBLIC HEARING**

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

**MOTION**

Meckel moved and Phillips seconded to adopt staff report WZTA 13-01 to approve the recommendations to amend Title 11 Chapter 3 of the Zoning Regulations as findings of fact and recommend that the City Council approve the recommendations set forth in the staff report.

**VOTE**

The motion passed unanimously. (Scheduled for City Council on September 3, 2013.)

**CITY OF WHITEFISH  
GROWTH POLICY  
AMENDMENT REQUEST**

A request by the City of Whitefish to amend the Whitefish Growth Policy to incorporate a Parks and Rec Master Plan.

**STAFF REPORT WGPA 13-01**

Planner Compton-Ring said that this will be an amendment to the Growth Policy Master Plan. Staff is recommending approval

**PROPOSED CODE AMENDMENTS  
TITLE 11, CHAPTER 3: SPECIAL PROVISIONS  
MANUFACTURED HOME PARK STANDARDS  
RECREATIONAL VEHICLE PARK AND CAMPGROUND STANDARDS  
STAFF REPORT # WZTA 13-01  
August 8, 2013**

This is a staff report to the Whitefish City-County Planning Board and Whitefish City Council regarding recent legislative amendments and is an accompaniment to the WSUB 13-01 staff report amending the subdivision regulations. The Planning Board public hearing is scheduled for **August 15, 2013** and a subsequent hearing is scheduled before the City Council on **September 16, 2013**. Draft regulations are below for review and recommendation.

**BACKGROUND INFORMATION**

This is the zoning amendment that accompanies the subdivision regulations amendment concerning 2013 legislative bill that fixed the subdivisions for lease of for rent issue. As we are no longer obligated to process projects under the subdivision regulations since the city is zoned, the design standards for Manufactured Home Parks, Recreational Vehicle Parks and Campgrounds are proposed to be moved to the Special Provisions chapter in the Zoning Regulations. Staff is not proposing to make any changes, simply move them from the Subdivision Regulations to the Zoning Regulations.

**PROPOSAL**

Staff recommends additions to 11-3-XX, Manufactured Home Park Standards; Recreational Vehicle Park and Campground Standards. See Exhibit A.

**REVIEW AND FINDINGS OF FACT**

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

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

**Finding 1:** The Growth Policy is silent on manufactured home parks, RV parks and campgrounds in particular. It is acknowledged that Whitefish is a tourist designation and the Growth Policy supports affordable housing. Therefore, the proposed amendments are in accordance with the Growth Policy

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

**Finding 2:** The proposed code amendment will secure safety from fire and other dangers through the use of 'lot area', building setbacks, 'lot widths' and roadway standards.

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

**Finding 3:** The proposed amendments promote public health, public safety and general welfare are met through the use of 'lot area', building setbacks, 'lot widths' and roadway standards.

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

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

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

*a. Reasonable provision of adequate light and air*

**Finding 5:** Reasonable provisions of adequate light and air are met through the establishment of setbacks between manufactured homes, 'lot sizes' and 'lot widths'.

*b. The effect on motorized and nonmotorized transportation systems*

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

*c. Promotion of compatible urban growth*

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

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

**Finding 8:** The character of the district and its particular suitability of the property for the particular use is not applicable to this code amendment as it pertains more to site development than community wide zoning regulations.

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

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

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

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

### **ADDITIONAL FINDINGS**

**Finding 11:** Staff finds the considerations in Section 11-7-10(D) are either met, can be mitigated or are not applicable;

**Finding 12:** Whereas, legal public notice according to the Whitefish City Code was published in the *Whitefish Pilot* on July 31, 2013;

**Finding 13:** Whereas, staff sent a notice July 26, 2013 to twenty-three (23) reviewing agencies, departments and other service providers regarding the zoning regulation update.

We find it is in the best interest of the City of Whitefish to amend the Special Provisions Chapter in the zoning regulations to include standards for Manufactured Home Parks, Recreational Vehicle Parks and Campgrounds.

### **OVERALL RECOMMENDATION**

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



Date: July 26, 2013  
To: Advisory Agencies & Interested Parties  
From: Whitefish Planning & Building Department

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The regular meeting of the Whitefish City-County Planning Board will be held on Thursday, August 15, 2013 at 6:00 pm. During the meeting, the Board will hold public hearings on the items listed below. Upon receipt of the recommendation by the Planning Board, the Whitefish City Council will also hold subsequent public hearing for items 1, 2 and 3 on Tuesday, September 3, 2013 and items 4 and 5 on Monday, September 16, 2013. City Council meetings start at 7:10 pm. Planning Board and City Council meetings are held in the Whitefish City Council Chambers, Whitefish, Montana.

1. Marty Beale on behalf of Eighth Street llc is proposing to develop a tri-plex and a professional office on a single parcel. The property is developed with a single family home and is zoned WR-3 (Low Density Multi-Family Residential District). The property is located at 118 W 2<sup>nd</sup> Street and can be legally described as the east half of Lot 6, Block 1 Grandview Addition. (WCUP 13-08) Compton-Ring
2. Kevin and Melinda Johnson are proposing to construct a guest house. The property is developed with a single family home and is zoned WSR (Suburban Residential District). The property is located at 815 Delrey Rd and can be legally described as Tract 3D in Section 5 Township 31N Range 22W P.M.M., Flathead County. (WCUP 13-09) Compton-Ring
3. Neil Stuber and Corrie Colbert, on behalf of Hurraw! Balm llc, are proposing to temporarily expand their Home Occupation business until January 2014 when their permanent facility is finished. This home occupation will temporarily exceed the area limitation and the number of nonfamily member employees standards. The property is located at 103 Dakota Avenue and is zoned WR-2 (Two-Family Residential District). The property can be legally described as Lot 7, Block 12, Whitefish Townsite in Section 25 Township 31N Range 22W, P.M.M., Flathead County. (WCUP 13-10) Compton-Ring
4. A request by the City of Whitefish to amend the Subdivision Regulations and Zoning Regulations as they pertain to the 2013 Legislative changes to the Montana State Subdivision and Platting Act. (WSUB 13-01/WZTA 13-01) Compton-Ring
5. A request by the City of Whitefish to amend the Whitefish Growth Policy to incorporate a Park Master Plan. (WGPA 13-01) Taylor

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



Date: July 26, 2013  
To: Advisory Agencies & Interested Parties  
From: Whitefish Planning & Building Department

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## Wendy Compton-Ring

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**From:** Wendy Compton-Ring <wcompton-ring@cityofwhitefish.org>  
**Sent:** Friday, July 26, 2013 12:04 PM  
**To:** 'Anne Moran (asmoran@mt.gov)'; Ashley Keltner (a.keltner@flathead.coop); 'Ben DeVall'; Bill Dial (bdialw1@bresnan.net); 'BJ Grieve'; Cal Scott (cscott@flathead.mt.gov); Christina L Schroeder (christina.l.schroeder@usace.army.mil); 'Chuck Curry (ccurry@flathead.mt.gov)'; Columbia Falls Fire Department (cffire@centurytel.net); 'Dave Lawrence (dlawrence@skiwhitefish.com)'; Dennis Oliver (doliver@mt.gov); 'Doug Schuch (douglas.schuch@bnsf.com)'; 'Eric Smith (eric.smith@northwestern.com)'; Gary Engman (gengman@mt.gov); Gary Krueger (gkrueger@flathead.mt.gov); Ginger Kauffman (gingerk@flatheadcd.org); 'James Freyholtz (jfreyholtz@mt.gov)'; 'Joe Page' (jpage@cityofwhitefish.org); 'John Wilson'; 'Judy Williams (juwilliams@mt.gov)'; Karen Reeves; 'Kate Cassidy (kcassidy@flathead.mt.gov)'; Kate Orozco (orozcok@wfps.k12.mt.us); 'Kuennen, Norman'; 'Lisa Timchak (latimchak@fs.fed.us)'; 'Lorch, Steve'; 'Lynn Zanto (lzanto@mt.gov)'; 'Marcia Sheffels (msheffels@flathead.mt.gov)'; 'Mark Baumler (mbaumler@mt.gov)'; 'Mark Deleray (mdeleray@mt.gov)'; North Valley Refuse (nvr@centurytel.net); 'Pamela Holmquist (pholmquist@flathead.mt.gov)'; 'Patti V (pattiv@flathead.mt.gov)'; Paul Nicol (pnicol@flathead.mt.gov); 'Pris, Jeremy'; 'Rita Hanson (for Whitefish Water & Sewer District)'; 'Steve Kilbreath (skilbreath@mt.gov)'; 'Steve Kvapil (steve.j.kvapil@usps.gov)'; 'Stickney, Nicole'; SueAnn Grogan (sgrogan@cityofwhitefish.org); 'Tom Kennelly'; Tony.Hirsch@Centurylink.com; 'Traci Sears'; Virgil Bench (vbench@cityofwhitefish.org); 'Whitefish Parks and Recreation'  
**Subject:** August City-County Planning Board Notice  
**Attachments:** 8-2013\_PB meeting.pdf

Attached please find the notice for the August Planning Board

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

EXHIBIT

3



AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, The Montana Subdivision and Platting Act provides for the local review of proposed subdivisions; and

WHEREAS, Title 76, chapter 3, part 2, provides miscellaneous exemptions from subdivision review for certain divisions of land and conveyances; and

WHEREAS, sections 76-3-202, 76-3-204, and 76-3-208, MCA, address the sale, lease, or rent or other conveyance of one or more parts of a building, structure, or other improvement; and

WHEREAS, section 76-3-204, MCA, provides that the sale, lease, rent, or other conveyance of one or more parts of a building, structure, or other improvement is not subject to subdivision review; and

WHEREAS, this exemption has been interpreted to exempt only one or more parts of a single building, structure, or improvement on a tract of record from subdivision review; and

WHEREAS, a strict interpretation of section 76-3-204, MCA, places an undue burden of undergoing full subdivision review on property owners who seek to lease or rent certain buildings; and

WHEREAS, it is the intent of the Legislature to provide an alternative process to subdivision review for the creation of buildings for lease or rent on tracts of land.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Definitions.** As used in [sections 1 through 8], the following definitions apply:

(1) "Building" means a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of a business. Except as provided in 76-3-103(15) the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

(2) "Department" means the department of environmental quality provided for in 2-15-3501.

(3) "Governing body" means the legislative authority for a city, town, county, or consolidated city-county government.

(4) "Landowner" means an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

(5) "Local reviewing authority" means a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.

(6) "Supermajority" means:

(a) an affirmative vote of at least two-thirds of the present and voting members of a city or town council;  
 (b) a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners;

(c) an affirmative vote of at least four-fifths of the present and voting county commissioners in counties with five commissioners;

(d) an affirmative vote of at least two-thirds of the present and voting county commissioners in counties with more than five commissioners; or

(e) an affirmative vote of at least two-thirds of the present and voting members of the governing body of a consolidated city-county government.

(7) "Tract" means an individual parcel of land that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

**Section 2. Buildings for lease or rent -- exemptions.** (1) A building created for lease or rent on a

single tract is exempt from the provisions of [sections 1 through 8] if:

(a) the building is in conformance with applicable zoning regulations adopted pursuant to Title 76, chapter 2, parts 1 through 3, provided that the zoning contains the elements of [section 4]; or

(b) when applicable zoning regulations are not in effect:

(i) the building was in existence or under construction before [the effective date of this act];

(ii) the building is a facility as defined in 15-65-101 that is subject to the lodging facility use tax under Title 15, chapter 65, except for recreational camping vehicles or mobile home parks;

(iii) the building is created for lease or rent for farming or agricultural purposes;

(iv) the building is not served by water and wastewater and will not be leased or rented;

(v) the building is served by water and wastewater and the landowner records a notarized declaration with the clerk and recorder of the county in which the property is located stating that the proposed building will not be leased or rented. The declaration recorded pursuant to this subsection (1)(b)(v) runs with the land and is binding on the landowner and all subsequent landowners and successors in interest to the property. The declaration must include but is not limited to:

(A) the name and address of the landowner;

(B) a legal description of the tract upon which the proposed building will be located; and

(C) a specific description of the building on the tract of record.

(2) Any building that is exempt under subsection (1) from the provisions of [sections 1 through 8] and that is or will be served by water or wastewater must be in compliance with the provisions of [section 3].

(3) The exemption provided in subsection (1)(b)(i) is limited to the first three buildings created for lease or rent on a single tract.

**Section 3. Buildings for lease or rent -- three or fewer buildings -- application -- review procedures.** (1) A landowner shall submit an application for the creation of the first three or fewer buildings for lease or rent on a single tract to the department or local reviewing authority for sanitation review if review is required by Title 76, chapter 4, or to the local board or department of health if review is required by Title 50.

(2) If the department or local reviewing authority approves the application, the landowner shall record the certificate of approval and any conditions for the approval of the application with the county clerk and recorder.

(3) If a building for lease or rent is created on a single tract on or after [the effective date of this act] and the tract is later subdivided or an exemption from subdivision review is used pursuant to Title 76, chapter 3, any building for lease or rent on the new tract is subject to the provisions of [sections 4 through 6].

**Section 4. Buildings for lease or rent -- four or more buildings -- regulations.** (1) A governing body shall adopt regulations for the administration and enforcement of the creation of four or more buildings for lease or rent on a single tract.

(2) The regulations adopted pursuant to this section must, at a minimum:

(a) list the materials that must be included in an application for the creation of four or more buildings for lease or rent;

(b) require a description of:

(i) property boundaries;

(ii) onsite and adjacent offsite streets, roads, and easements;

(iii) geographic features;

(iv) existing septic tanks and drainfields;

(v) existing wells; and

(vi) existing and proposed buildings;

(c) require adequate water supply and sewage and solid waste disposal facilities;

(d) require an assessment of potential significant impacts on the surrounding physical environment and human population in the area to be affected, including conditions, if any, that may be imposed on the proposal to avoid or minimize potential significant impacts identified;

(e) require adequate emergency medical, fire protection, and law enforcement services;

(f) require access to the site; and

(g) comply with applicable flood plain requirements.

(3) Prior to adopting regulations pursuant to this section, the governing body shall provide an opportunity for public hearing and comment on the proposed regulations. Notice of the public hearing must be published as provided in 7-1-2121 if the governing body is a county commission or as provided in 7-1-4127 if the governing body is a city commission or a town council and must be posted not less than 30 days before the public hearing in at least five public places, including but not limited to public buildings. Public comment must be addressed

before the regulations are adopted.

**Section 5. Additional review criteria -- four or more buildings for lease or rent.** (1) (a) Upon a majority vote, a governing body may increase the minimum number of buildings created for lease or rent that are subject to review by the governing body pursuant to [section 4]. The governing body may elect to increase the minimum number subject to review by the governing body for all buildings created for lease or rent or may limit the increase to specific types or uses of buildings created for lease or rent.

(b) For purposes of subsection (1)(a), the governing body shall adopt regulations pursuant to [section 4] identifying the number or types of buildings created for lease or rent that are subject to review by the governing body.

(2) Upon a supermajority vote, the governing body may adopt regulations pursuant to [section 4] for the purpose of reviewing four or more buildings for lease or rent that are in addition to the regulations provided in [section 4]. For purposes of this subsection, a governing body may adopt any regulations it considers necessary to protect public health, safety, or the general welfare.

**Section 6. Buildings for lease or rent -- review procedure.** (1) Unless the buildings are exempt from review as provided in [section 2] or subject to review as provided in [section 3], an application for the creation of buildings for lease or rent on a single tract must be reviewed as provided in this section.

(2) An application pursuant to this section for the creation of buildings for lease or rent must be submitted for review to:

- (a) the governing body or its agent or agency in which the buildings are proposed to be located; and
- (b) the department or local reviewing authority if review by the department or local reviewing authority is required by Title 76, chapter 4 or to the local board or department of health if review is required by Title 50.

(3) (a) Upon receipt of an application and any applicable fees, the governing body or its agent or agency shall within 10 working days determine whether the application contains the required materials and sufficient information for review. The governing body or its agent or agency shall notify the applicant in writing as to whether the application is complete. If the application is incomplete, the governing body shall identify any missing materials or insufficient information.

(b) After the governing body or its agent or agency has notified the applicant that the application is

complete, the governing body shall approve, conditionally approve, or deny the application for the creation of buildings for lease or rent pursuant to this section within 60 working days. The applicant and the governing body may agree to extend the time for review in writing.

(c) Review and approval, conditional approval, or denial of an application for the creation of buildings for lease or rent pursuant to this section must be based upon the regulations in effect at the time an application is determined to be complete. If regulations change during the period that the application is determined to be complete, the determination of whether the application is complete must be based on the new regulations.

(4) The governing body may establish a reasonable fee to be paid by the landowner commensurate with the cost of reviewing applications submitted pursuant to this section.

(5) If the governing body denies, approves, or conditionally approves the proposed creation of buildings for lease or rent pursuant to this section, the governing body shall provide written notification to the landowner within the 60 working-day period provided in this section.

**Section 7. Actions against governing body and department.** (1) An applicant who has filed an application for the creation of buildings for lease or rent and who is aggrieved by a decision of the department or the local reviewing authority may request a hearing as provided in 76-4-126(1). For purposes of this subsection, the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to the proceeding.

(2) An applicant who has filed an application for the creation of buildings for lease or rent or a landowner with a property boundary contiguous to the tract on which the buildings are proposed to be located who is aggrieved by a decision of the governing body may, within 30 days of the date of the decision of the governing body, appeal to the district court in the county in which the property involved is located.

(3) For purposes of this section, "aggrieved" has the meaning provided in 76-3-625.

**Section 8. Violations -- penalties.** (1) If any building is created in violation of [sections 1 through 8], the governing body may, in addition to assessing a fine or penalty not to exceed a maximum of \$500, initiate an action to:

- (a) prevent the unlawful creation of the building;
- (b) restrain, correct, or abate a violation; or

(c) prevent the occupancy of the building.

(2) For the purposes of enforcing the provisions of [sections 1 through 8], the governing body shall attempt to obtain voluntary compliance from the landowner at least 30 days prior to initiating an action for a violation of [sections 1 through 8].

**Section 9.** Section 76-3-103, MCA, is amended to read:

**"76-3-103. Definitions.** As used in this chapter, unless the context or subject matter clearly requires otherwise, the following definitions apply:

(1) "Certificate of survey" means a drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

(2) "Cluster development" means a subdivision with lots clustered in a group of five or more lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing other lands to remain undeveloped.

(3) "Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted.

(4) "Division of land" means the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to ~~or possession of~~ a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

(5) "Examining land surveyor" means a registered land surveyor appointed by the governing body to review surveys and plats submitted for filing.

(6) "Final plat" means the final drawing of the subdivision and dedication required by this chapter to be prepared for filing for record with the county clerk and recorder and containing all elements and requirements set forth in this chapter and in regulations adopted pursuant to this chapter.

(7) "Governing body" means a board of county commissioners or the governing authority of a city or town organized pursuant to law.

(8) "Immediate family" means a spouse, children by blood or adoption, and parents.

(9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

(10) "Planned unit development" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that compose a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

(11) "Plat" means a graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

(12) "Preliminary plat" means a neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body.

(13) "Public utility" has the meaning provided in 69-3-101, except that for the purposes of this chapter, the term includes county or consolidated city and county water or sewer districts as provided for in Title 7, chapter 13, parts 22 and 23, and municipal sewer or water systems and municipal water supply systems established by the governing body of a municipality pursuant to Title 7, chapter 13, parts 42, 43, and 44.

(14) "Subdivider" means a person who causes land to be subdivided or who proposes a subdivision of land.

(15) "Subdivision" means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to ~~or possession of~~ the parcels may be sold, rented, leased, or otherwise conveyed transferred and includes any resubdivision and ~~further includes a condominium\_ or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes~~ The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

(16) (a) "Tract of record" means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office.

(b) Each individual tract of record continues to be an individual parcel of land unless the owner of the parcel has joined it with other contiguous parcels by filing with the county clerk and recorder:

(i) an instrument of conveyance in which the aggregated parcels have been assigned a legal description that describes the resulting single parcel and in which the owner expressly declares the owner's intention that the tracts be merged; or

(ii) a certificate of survey or subdivision plat that shows that the boundaries of the original parcels have been expunged and depicts the boundaries of the larger aggregate parcel.

(c) An instrument of conveyance does not merge parcels of land under subsection (16)(b)(i) unless the instrument states, "This instrument is intended to merge individual parcels of land to form the aggregate parcel(s) described in this instrument" or a similar statement, in addition to the legal description of the aggregate parcels, clearly expressing the owner's intent to effect a merger of parcels."

**Section 10.** Section 76-3-504, MCA, is amended to read:

**"76-3-504. Subdivision regulations -- contents.** (1) The subdivision regulations adopted under this chapter must, at a minimum:

(a) list the materials that must be included in a subdivision application in order for the application to be determined to contain the required elements for the purposes of the review required in 76-3-604(1);

(b) except as provided in 76-3-509, 76-3-609, or 76-3-616, require the subdivider to submit to the governing body an environmental assessment as prescribed in 76-3-603;

(c) establish procedures consistent with this chapter for the submission and review of subdivision applications and amended applications;

(d) prescribe the form and contents of preliminary plats and the documents to accompany final plats;

(e) provide for the identification of areas that, because of natural or human-caused hazards, are unsuitable for subdivision development. The regulations must prohibit subdivisions in these areas unless the hazards can be eliminated or overcome by approved construction techniques or other mitigation measures authorized under 76-3-608(4) and (5). Approved construction techniques or other mitigation measures may not include building regulations as defined in 50-60-101 other than those identified by the department of labor and industry as provided in 50-60-901.

(f) prohibit subdivisions for building purposes in areas located within the floodway of a flood of 100-year frequency, as defined by Title 76, chapter 5, or determined to be subject to flooding by the governing body;

(g) prescribe standards for:

(i) the design and arrangement of lots, streets, and roads;  
(ii) grading and drainage;  
(iii) subject to the provisions of 76-3-511, water supply and sewage and solid waste disposal that meet the:

(A) regulations adopted by the department of environmental quality under 76-4-104 for subdivisions that will create one or more parcels containing less than 20 acres; and

(B) standards provided in 76-3-604 and 76-3-622 for subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres; and

(iv) the location and installation of public utilities;

(h) provide procedures for the administration of the park and open-space requirements of this chapter;

(i) provide for the review of subdivision applications by affected public utilities and those agencies of local, state, and federal government identified during the preapplication consultation conducted pursuant to subsection (1)(q) or those having a substantial interest in a proposed subdivision. A public utility or agency review may not delay the governing body's action on the application beyond the time limits specified in this chapter, and the failure of any agency to complete a review of an application may not be a basis for rejection of the application by the governing body.

(j) when a subdivision creates parcels with lot sizes averaging less than 5 acres, require the subdivider to:

(i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;

(ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

(iii) reserve and sever all surface water rights from the land;

(k) (i) except as provided in subsection (1)(k)(ii), require the subdivider to establish ditch easements in the subdivision that:

(A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical

placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

(B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

(C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.

(ii) Establishment of easements pursuant to this subsection (1)(k) is not required if:

(A) the average lot size is 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable; or

(B) the water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

(l) require the subdivider, unless otherwise provided for under separate written agreement or filed easement, to file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights;

(m) require the subdivider to describe, dimension, and show public utility easements in the subdivision on the final plat in their true and correct location. The public utility easements must be of sufficient width to allow the physical placement and unobstructed maintenance of public utility facilities for the provision of public utility services within the subdivision.

(n) establish whether the governing body, its authorized agent or agency, or both will hold public hearings;

(o) establish procedures describing how the governing body or its agent or agency will address information presented at the hearing or hearings held pursuant to 76-3-605 and 76-3-615;

(p) establish criteria that the governing body or reviewing authority will use to determine whether a proposed method of disposition using the exemptions provided in 76-3-201 or 76-3-207 is an attempt to evade the requirements of this chapter. The regulations must provide for an appeals process to the governing body if the reviewing authority is not the governing body.

(q) establish a preapplication process that:

(i) requires a subdivider to meet with the authorized agent or agency, other than the governing body, that is designated by the governing body to review subdivision applications prior to the subdivider submitting the application;

(ii) requires, for informational purposes only, identification of the state laws, local regulations, and growth policy provisions, if a growth policy has been adopted, that may apply to the subdivision review process;

(iii) requires a list to be made available to the subdivider of the public utilities, those agencies of local, state, and federal government, and any other entities that may be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond. If, during the review of the application, the agent or agency designated by the governing body contacts a public utility, agency, or other entity that was not included on the list originally made available to the subdivider, the agent or agency shall notify the subdivider of the contact and the timeframe for response.

(iv) requires that a preapplication meeting take place no more than 30 days from the date that the authorized agent or agency receives a written request for a preapplication meeting from the subdivider; and

(v) establishes a time limit after a preapplication meeting by which an application must be submitted as provided in 76-3-604;

(r) ~~requires~~ require that the written decision required by 76-3-620 must be provided to the applicant within 30 working days following a decision by the governing body to approve, conditionally approve, or deny a subdivision;

(s) establish criteria for reviewing an area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes.

(2) In order to accomplish the purposes described in 76-3-501, the subdivision regulations adopted under 76-3-509 and this section may include provisions that are consistent with this section that promote cluster

development.

(3) The governing body may establish deadlines for submittal of subdivision applications."

**Section 11.** Section 76-4-125, MCA, is amended to read:

**"76-4-125. Review of subdivision application -- land divisions excluded from review.** (1) Except as provided in subsection (2), an application for review of a subdivision must be submitted to the reviewing authority. The review by the reviewing authority must be as follows:

(a) At any time after the developer has submitted an application under the Montana Subdivision and Platting Act, the developer shall present a subdivision application to the reviewing authority. The application must include preliminary plans and specifications for the proposed development, whatever information the developer feels necessary for its subsequent review, any public comments or summaries of public comments collected as provided in 76-3-604(7), and information required by the reviewing authority. Subdivision fees assessed by the reviewing authority must accompany the application. If the proposed development includes onsite sewage disposal facilities, the developer shall notify the designated agent of the local board of health prior to presenting the subdivision application to the reviewing authority. The agent may conduct a preliminary site assessment to determine whether the site meets applicable state and local requirements.

(b) Within 5 working days after receipt of an application that is not subject to review by a local reviewing authority under 76-4-104, the department shall provide a written notice for informational purposes to the applicant if the application does not include a copy of the certification from the local health department required by 76-4-104(6)(j) or, if applicable, contain an approval from the local governing body under Title 76, chapter 3, together with any public comments or summaries of public comments collected as provided in 76-3-604(7)(a).

(c) If the reviewing authority denies an application and the applicant resubmits a corrected application within 30 days after the date of the denial letter, the reviewing authority shall complete review of the resubmitted application within 30 days after receipt of the resubmitted application. If the review of the resubmitted application is conducted by a local department or board of health that is certified under 76-4-104, the department shall make a final decision on the application within 10 days after the local reviewing authority completes its review.

(d) Except as provided in 75-1-205(4) and 75-1-208(4)(b), the department shall make a final decision on the proposed subdivision within 55 days after the submission of a complete application and payment of fees to the reviewing authority unless an environmental impact statement is required, at which time this deadline may

be increased to 120 days. The reviewing authority may not request additional information for the purpose of extending the time allowed for a review and final decision on the proposed subdivision. If the department approves the subdivision, the department shall issue a certificate of subdivision approval indicating that it has approved the plans and specifications and that the subdivision is not subject to a sanitary restriction.

(2) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(a) the ~~exclusions~~ exclusion cited in 76-3-201 and ~~76-3-204~~;

(b) divisions made for the purpose of acquiring additional land to become part of an approved parcel, provided that water or sewage disposal facilities may not be constructed on the additional acquired parcel and that the division does not fall within a previously platted or approved subdivision;

(c) divisions made for purposes other than the construction of water supply or sewage and solid waste disposal facilities as the department specifies by rule;

(d) divisions located within jurisdictional areas that have adopted growth policies pursuant to chapter 1 or within first-class or second-class municipalities for which the governing body certifies, pursuant to 76-4-127, that adequate storm water drainage and adequate municipal facilities will be provided; and

(e) subject to the provisions of subsection (3), a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or this chapter; or

(ii) the remainder is 1 acre or larger and has an individual sewage system serving a discharge source that was in existence prior to April 29, 1993, and, if required when installed, the system was approved pursuant to local regulations or this chapter.

(3) Consistent with the applicable provisions of 50-2-116, a local health officer may require that, prior to the filing of a plat or a certificate of survey subject to review under this part for the parcel to be segregated from the remainder referenced in subsection (2)(e)(ii), the remainder include acreage or features sufficient to accommodate a replacement drainfield."

**Section 12.** Section 76-6-203, MCA, is amended to read:

**"76-6-203. Types of permissible easements.** Easements or restrictions under this chapter may prohibit or limit any or all of the following:

- (1) structures--construction or placing of buildings, camping trailers, housetrailers, mobile homes, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;
- (2) landfill--dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (3) vegetation--removal or destruction of trees, shrubs, or other vegetation;
- (4) loam, gravel, etc.--excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance;
- (5) surface use--surface use except for such purposes permitting the land or water area to remain predominantly in its existing condition;
- (6) acts detrimental to conservation--activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat and preservation;
- (7) subdivision of land--subdivision of land as defined in 76-3-103; and 76-3-104; ~~and 76-3-202~~;
- (8) other acts--other acts or uses detrimental to such retention of land or water areas in their existing conditions."

**Section 13.** Section 76-7-203, MCA, is amended to read:

**"76-7-203. Permissible easements.** (1) An environmental control easement under this chapter may prohibit or limit the following activities or uses:

- (a) constructing or placing of buildings, camping trailers, housetrailers, mobile homes, roads, or other structures on or above the ground;
- (b) dumping or placing of soil, debris, or other wastes or substances as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
- (c) removing or destroying trees, shrubs, or other vegetation or planting or allowing growth of specific types of vegetation, such as crops for human or animal consumption or undesirable vegetation;
- (d) excavating, dredging, or removing of gravel, soil, rock, or other materials or substances;
- (e) using the surface of the land in a particular manner, such as for agricultural, residential, commercial, or industrial uses;

- (f) subdividing the land, as described in 76-3-103; and 76-3-104; ~~and 76-3-202~~;
  - (g) disturbing soil caps, soil surfaces, berms, drainage structures, or other structures or other activities that may cause erosion or migration of hazardous wastes or substances at or from the environmental control site;
  - (h) drilling or using water wells for potable or nonpotable purposes;
  - (i) other activities or uses detrimental to or interfering with the remediation or cleanup of the environmental control site or detrimental to the preservation of remedial structures, measures, or technologies employed at the environmental control site; and
  - (j) other activities or uses that may result in a risk or threat to the public health, safety, or welfare or the environment.
- (2) An environmental control easement under this chapter may include or require the following:
- (a) maintenance of environmental control site remedial structures or other remedial measures, such as soil surfaces, soil caps, berms, fences, or drainage improvements;
  - (b) rights in the holder of the easement or others for continuing access to the site as necessary to implement, operate, maintain, and monitor remedial work and technologies, including operation and maintenance, and to ensure implementation and enforcement of the requirements, restrictions, and limitations specified in the easement instrument;
  - (c) prompt notification to the holder of the easement or others of transfers of all or any portion of an environmental control site or interest in the site or of any proposed changes in land use at the site;
  - (d) compliance with all requirements of any applicable governmental order;
  - (e) arrangements for indemnification or for reimbursement of any costs and expenses of the easement holder or others or other methods of allocating costs and expenses for remedial actions, operations and maintenance, or other activities on the environmental control site or with respect to the site;
  - (f) other obligations that any federal public entity or other public body having jurisdiction over the property determines are necessary to implement, ensure noninterference with, or ensure the protection of remedial work performed under a governmental order; or
  - (g) other obligations that are necessary or advisable to reduce or eliminate risks or threats to the public health, safety, or welfare or the environment at environmental control sites."

**Section 14. Repealer.** The following sections of the Montana Code Annotated are repealed:

- 76-3-202. Exemption for structures on complying subdivided lands.
- 76-3-204. Exemption for conveyances of one or more parts of a structure or improvement.
- 76-3-208. Subdivisions exempted from surveying and filing requirements but subject to review provisions.

**Section 15. Codification instruction.** [Sections 1 through 8] are intended to be codified as an integral part of Title 76, and the provisions of Title 76 apply to [sections 1 through 8].

**Section 16. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 17. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 18. Effective date.** [This act] is effective September 1, 2013.

**Section 19. Applicability.** [This act] applies to buildings created for lease or rent on a single tract on or after [the effective date of this act].

- END -

I hereby certify that the within bill,  
SB 0324, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2013.

SENATE BILL NO. 324

INTRODUCED BY ROSENDALE, BUTTREY, EDMUNDS, HERTZ, HILL, KARY, LARSEN, WASHBURN,  
D. MOORE

AN ACT GENERALLY REVISING SUBDIVISION LAWS RELATED TO LEASE OR RENT; PROVIDING FOR THE REGULATION OF BUILDINGS CREATED FOR LEASE OR RENT ON A SINGLE TRACT; PROVIDING EXEMPTIONS FROM REVIEW FOR CERTAIN BUILDINGS; REQUIRING CERTAIN BUILDINGS CREATED FOR LEASE OR RENT TO BE REVIEWED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR LOCAL REVIEWING AUTHORITY FOR SANITATION COMPLIANCE; AUTHORIZING A LOCAL GOVERNMENT TO REVIEW THE CREATION OF BUILDINGS FOR LEASE OR RENT IN CERTAIN CASES; PROVIDING MINIMUM REQUIREMENTS FOR LOCAL GOVERNMENT REGULATIONS; AUTHORIZING THE ADOPTION OF ADDITIONAL CRITERIA FOR THE LOCAL REVIEW OF CERTAIN BUILDINGS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; REVISING LOCAL SUBDIVISION REGULATIONS; AMENDING SECTIONS 76-3-103, 76-3-504, 76-4-125, 76-6-203, AND 76-7-203, MCA; REPEALING SECTIONS 76-3-202, 76-3-204, AND 76-3-208, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

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September 4, 2013

Mayor Muhlfeld and City Councilors  
City of Whitefish  
Whitefish, Montana

Mayor Muhlfeld and Councilors

**Recommendation to Approve an Engineering Contract Amendment  
for the Wastewater System Improvements Project**

Introduction/History

The City entered in to a consultant contract with Anderson-Montgomery Consulting, Inc. in October 2012 for the Wastewater System Improvements Project. This is a long term agreement which will involve several amendments over the coming years as we work through on-going discharge permit requirements, application and negotiation with DEQ for a new wastewater discharge permit, long range planning and, ultimately, design and construction of major wastewater treatment improvements necessary to comply with emerging standards for nutrient removal.

This memo is to recommend Amendment No 2 to that consultant contract in the amount of \$160,000 for engineering analysis, field work and report writing for the Whitefish Nutrient Reduction Plan and the Whitefish Lake Watershed Assessment.

Current Report

The City has been awarded two planning grants from the Montana Department of Natural Resources and Conservation for these closely related projects and is currently finalizing those grant agreements. The grant amounts are \$100,000 for the Nutrient Reduction Plan and \$50,000 for the Whitefish Lake Watershed Assessment.

The Nutrient Reduction Plan will investigate nutrient sources in the Whitefish, Stillwater and Flathead River drainages, as well as Flathead Lake, in such locations as may be eligible for nutrient trading agreements relevant to permit requirements for the Whitefish wastewater treatment plant. This study is expected to include the Whitefish River up to the lake.

The focus of the Whitefish Lake Watershed Assessment will be to evaluate water quality in Whitefish Lake and its primary tributaries. Issues identified thus far relate to sediments, nutrients, bacteria, metals and PCBs. The lake assessment work will be largely performed by the Whitefish Lake Institute as a subcontractor to Anderson-Montgomery.

Financial Requirement

The proposed amendment will increase the amount of the consultant contract for the Wastewater System Improvements Project by \$160,000, for a total contact amount of \$365,711. Funds for this amendment are included in the adopted FY14 Wastewater Budget and consist of a \$100,000 Nutrient Reduction Plan Grant, a \$50,000 Whitefish Lake Watershed Assessment Grant, and \$10,000 in local wastewater funds.

Recommendation

We respectfully recommend the City Council approve an amendment to the Wastewater System Improvements Project consultant contract with Anderson-Montgomery Consulting, inc. in the amount of \$160,000, contingent upon the execution of associated grant agreements with the Montana Department of Natural Resources and Conservation.

Sincerely,

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

John C. Wilson  
Public Works Director

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September 4, 2013

Mayor Muhlfeld and City Councilors  
City of Whitefish  
Whitefish, Montana

Mayor Muhlfeld and Councilors

### **Recommendations Regarding Annual Utility Rate Adjustments**

#### Introduction/History

In 2006 and 2007, the City Council adopted Resolutions 6-51 and 7-12, which generally provide for water and sewer rates to be adjusted on October 1<sup>st</sup> of each year “based on the increase, if any, in the U.S. Department of Labor’s Water, Sewer and Trash Collection Services Consumer Price Index for All Urban Consumers for the twelve-month period ending the preceding December 31.” Copies of those resolutions are attached.

Resolution 11-52 was adopted in October 2011, approving a new five year contract for solid waste hauling services and providing a 3% annual increase for contract fees, as well as a 3% annual increase for user rates. A copy of that resolution is attached.

#### Current Report

The provisions for annual water and wastewater rate adjustments, or indexing, found in Resolutions 6-51 and 7-12 are an important aspect of these rate plans that enable revenues to keep pace with rising costs such as fuel, power, labor and insurance. Indexing also helps us avoid abrupt rate increases, such as the three successive 30% water rate hikes we experienced in the late 1990s. A table from the Bureau of Labor Statistics’ report on the Consumer Price Index for All Urban Customers is attached, indicating the CPI for Water, Sewer and Trash Collection Services for the 12 month period ending December 2012 was 5.7%. If enacted, a 5.7% water and wastewater rate increase would result an additional charge of approximately \$4.25 per month for a typical single family home. This calculation is based on an average monthly water and wastewater charge of \$74.50.

In the course of adopting Resolution 11-52 for solid waste services, the City Council indicated a preference to forego the annual 3% user rate increase in those years when cash reserves are sufficient to cover the increased charges for contract hauling. A copy of the minutes from that City Council discussion is attached. The Finance Director reports the Solid Waste Fund currently has approximately \$78,000 in cash reserves, with projections for that amount to increase slightly under the current rate schedule in FY14.

As such, the fund has adequate reserves to forego a 3% user rate increase; although the Council may want to consider the advisability of building up the cash reserve to allow the option of resuming in-house services for solid waste hauling at some time in the future. If enacted, a 3% rate increase would result in an additional charge of approximately \$0.25 per month for a typical single family home.

#### Financial Requirement

This matter does not involve a financial requirement for the Water or Wastewater Utility, although significant consequences could result if effective revenues were allowed to decline due to inflation.

Cash reserves in the Solid Waste Fund are capable of absorbing the 3% annual increase for contract hauling services. Nevertheless, cash reserves will increase at a slower rate if the Council chooses not to implement a 3% annual user rate increase, as proposed in Resolution 11-52.

#### Recommendation

Staff respectfully recommends the City Council approve a 5.7% user rate increase for the water and wastewater utilities, effective October 1, 2013, as provided in City Resolutions 6-51 and 7-12.

Staff further recommends the City Council consider the information provided above on the Solid Waste Fund and provide staff with direction as to whether or not to implement the 3% user rate increase proposed in Resolution 11-52. If the Council chooses to direct staff to implement the 3% user rate increase, it is recommended that increase take effect on October 1, 2013.

Sincerely,



John C. Wilson  
Public Works Director

**RESOLUTION NO. 06-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AMENDING AND ESTABLISHING NEW RATES AND CHARGES FOR WATER SERVICE SUPPLIED TO ITS INHABITANTS AND ALL OTHER PARTIES SERVED BY THE CITY'S WATER UTILITY SYSTEM.**

WHEREAS, staff has recommended that a water rate adjustment is necessary to cover the rising costs of operations and maintenance, as well as cash flow requirements for existing debt obligations of the water utility, adequate provision for capital improvements, and discounts for low income and senior citizens; and

WHEREAS, City staff determined that it would be appropriate for the City Council to conduct a public hearing at its September 5, 2006, Council Meeting; and

WHEREAS, pursuant to Sections 69-7-111(2) and (3)(a), MCA, a Notice of Hearing was properly published in the Whitefish Pilot; and

WHEREAS, pursuant to Section 69-7-111(3)(b), MCA, the proper notice was mailed to all customers receiving water utility service from the City of Whitefish; and

WHEREAS, pursuant to Section 69-7-111(5), MCA, a Notice of the hearing was mailed to the Montana Consumer Council; and

WHEREAS, on September 5, 2006, a public hearing was conducted, and members of the public expressed their opinions concerning the proposed adjustment; and

WHEREAS, the City Council of the City of Whitefish has determined that it will be in the best interests of the City of Whitefish, its inhabitants, and all other parties served by the City's water utility system to adjust the rates and charges for water utility service;

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

Section 1: That those rates and charges as reflected on Exhibits "A-1," "A-2," "A-3," and "A-4," attached hereto and incorporated herein by reference, are hereby adopted and approved by the City Council of the City of Whitefish and shall be implemented effective for water use billed after October 1, 2006.

Section 2: In addition to the rate increase reflected on the attached exhibits, on October 1 of every year, beginning October 1, 2009, and continuing thereafter indefinitely, the basic service charge component of the City water rate, the commodity rate component rate of the City water rate, and the sprinkling rate will be automatically increased, based on the increase, if any, in the US Department of Labor's Water, Sewer and Trash Collection Services Consumer Price Index for All Urban Consumers for the twelve-month period ending the preceding December 31. For instance, the automatic rate increase that will take

effect on October 1, 2009, will be based on the increase in the above-referenced Consumer Price Index for the previous calendar year. The City Council will be notified of the amount of the increase based on the Consumer Price Index.

Section 3: This Resolution shall be filed immediately with the City Clerk, and shall become final ten (10) days after being filed with the City Clerk.

Section 4: Once this Resolution becomes final, a copy of the Resolution, together with the attached exhibits, shall be filed with the Public Service Commission.

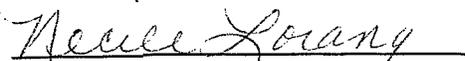
Section 5: Once this Resolution becomes final, the City Public Works Department is authorized and directed to implement the adjustments reflected on the attached exhibits, and the automatic increase described in Section 2, above.

Section 6: That the City Council of the City of Whitefish hereby repeals any and all prior Motions or Resolutions implementing rates and charges for water utility service that are inconsistent with the terms hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5TH DAY OF SEPTEMBER, 2006.

  
\_\_\_\_\_  
ANDY FEURY, MAYOR

ATTEST:

  
\_\_\_\_\_  
Necile Lorang, City Clerk

## RESOLUTION NO. 07-12

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, AMENDING AND ESTABLISHING NEW RATES AND CHARGES FOR SEWER SERVICE SUPPLIED TO ITS INHABITANTS AND ALL OTHER PARTIES SERVED BY THE CITY'S SEWER UTILITY SYSTEM.

WHEREAS, staff has recommended that a sewer rate adjustment is necessary to cover the rising costs of operations and maintenance, as well as cash flow requirements for existing debt obligations of the sewer utility, adequate provision for capital improvements, and discounts for low income and senior citizens; and

WHEREAS, City staff determined that it would be appropriate for the City Council to conduct a public hearing at its March 5, 2007, Council Meeting; and

WHEREAS, pursuant to Sections 69-7-111(2) and (3)(a), MCA, a Notice of Hearing was properly published in the Whitefish Pilot; and

WHEREAS, pursuant to Section 69-7-111(3)(b), MCA, the proper notice was mailed to all customers receiving sewer utility service from the City of Whitefish; and

WHEREAS, pursuant to Section 69-7-111(5), MCA, a Notice of the hearing was mailed to the Montana Consumer Council; and

WHEREAS, on March 5, 2007, a public hearing was conducted, and members of the public expressed their opinions concerning the proposed adjustment; and

WHEREAS, the City Council of the City of Whitefish has determined that it will be in the best interests of the City of Whitefish, its inhabitants, and all other parties served by the City's sewer utility system to adjust the rates and charges for sewer utility service;

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

Section 1: Those rates and charges as reflected on Exhibit "A," attached hereto and incorporated herein by reference, are hereby adopted and approved by the City Council of the City of Whitefish and shall be implemented effective for sewer use billed after October 1, 2007.

Section 2: In addition to the rate increase reflected on the attached exhibit, on October 1 of every year, beginning October 1, 2010, and continuing thereafter indefinitely, the City sewer rates and charges shall be automatically increased, based on the increase, if any, in the US Department of Labor's Water, Sewer and Trash Collection Services Consumer Price Index for All Urban Consumers for the twelve-month period ending the preceding December 31. For instance, the automatic rate increase that will take effect on October 1, 2010, will be based on the increase in the above-referenced

Consumer Price Index for the previous calendar year. The City Council will be notified of the amount of the increase based on the Consumer Price Index.

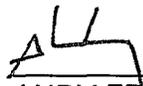
Section 3: This Resolution shall be filed immediately with the City Clerk, and shall become final ten (10) days after being filed with the City Clerk.

Section 4: Once this Resolution becomes final, a copy of the Resolution, together with the attached exhibit, shall be filed with the Public Service Commission.

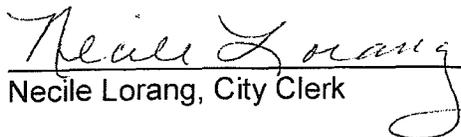
Section 5: Once this Resolution becomes final, the City Public Works Department is authorized and directed to implement the adjustments reflected on the attached exhibit, and the automatic increase described in Section 2, above.

Section 6: The City Council of the City of Whitefish hereby repeals any and all prior Motions or Resolutions implementing rates and charges for sewer utility service that are inconsistent with the terms hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 5TH DAY OF MARCH, 2007.

  
\_\_\_\_\_  
ANDY FEURY, MAYOR

ATTEST:

  
\_\_\_\_\_  
Necile Lorang, City Clerk

**RESOLUTION NO. 11-52**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, APPROVING A CONTRACT WITH MONTANA WASTE SYSTEMS, INC., D/B/A NORTH VALLEY REFUSE FOR SOLID WASTE COLLECTION AND DISPOSAL AND ESTABLISHING A GARBAGE COLLECTION FEE SCHEDULE.**

WHEREAS, Section 7-5-4301, MCA, authorizes the City of Whitefish to make any contract necessary to carry into effect its municipal powers authorized by Montana law; and

WHEREAS, since 2004, the City of Whitefish has contracted for the collection and disposal of solid waste for its residential and commercial businesses within the City boundaries with Montana Waste Systems, Inc., d/b/a North Valley Refuse, a Montana corporation licensed and authorized to collect and haul solid waste to the Flathead County Solid Waste District Landfill; and

WHEREAS, according to the terms of the contract, the City charges City residents and commercial businesses for the cost of solid waste collection and disposal, and the City compensates the City's contractor; and

WHEREAS, in order to initiate the process for approval of the five-year contract with North Valley Refuse, which beginning in 2012 would have a three percent (3%) annual increase in fees, and incorporate the monthly base rate for all solid waste collection and disposal customers and a garbage collection fee schedule, the City scheduled a public hearing before the Whitefish City Council, to be held at 7:10 p.m. on October 17, 2011; and

WHEREAS, prior to such hearing, a notice of the type required by Section 69-7-111, MCA, was published in the *Whitefish Pilot* three times, in compliance with subsection 69-7-111(3)(a), MCA; and

WHEREAS, notice of the hearing with the proposed monthly base rate, rate increases and fee schedule was also mailed to all persons receiving solid waste collection and disposal services, in the manner required by subsection 69-7-111(3)(b), MCA; and

WHEREAS, notice of the hearing was mailed, first class, postage prepaid, to the Montana Consumer Counsel, as required by subsection 69-7-111(5), MCA; and

WHEREAS, all notices referenced above comply fully with the requirements of Section 69-7-111, MCA; and

WHEREAS, at the October 17, 2011, public hearing, the City Council permitted all interested persons to speak, and all written comments received prior to the hearing were considered by the City Council and made a part of the public record; and

WHEREAS, upon completion of the public hearing, the City Council determined that it would be in the best interests of the City of Whitefish and its inhabitants and businesses,

to approve the proposed five-year contract with North Valley Refuse, with its annual three percent (3%) increases for solid waste collection and disposal, monthly base rates, and establish a garbage collection fee schedule.

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

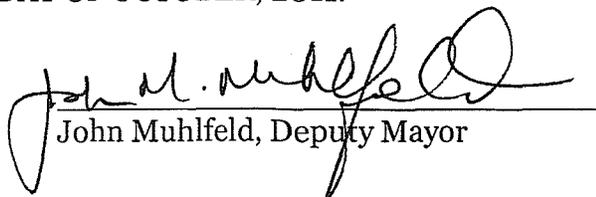
Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: The new five (5) year contract for solid waste collection and disposal, which beginning in 2012 would incorporate an annual three percent (3%) increase, and fee schedule as shown as Exhibit "1", attached hereto and incorporated by reference, are hereby adopted and approved, and the City Public Works Department is directed to implement the garbage collection fee schedule beginning immediately.

Section 3: The Whitefish City Manager is authorized to negotiate and execute a contract on behalf of the City of Whitefish, which incorporates the above-referenced terms, and is directed to fulfill all of the City's obligations under such contract.

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor or Deputy Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 17TH DAY OF OCTOBER, 2011.

  
John Muhlfeld, Deputy Mayor

ATTEST:

  
Necile Lorang, City Clerk

**EXHIBIT "1"**

## City of Whitefish Garbage Collection Fees

**RATES**

Monthly residential (\$8.50 per month) & commercial rates are unchanged - no increase until Oct 2012. Beginning Oct 2012 rates are proposed to increase 3% annually for four years. Only the fees below are proposed to be changed or added at this time.

**GENERAL FEES**

| Special Pick-Ups (Off Route) |          | Extra Pick-up on Site Outside of Container |                  |                 |
|------------------------------|----------|--|------------------|-----------------|
| Standard Cart - Per Lift     | \$7.49   | Standard-Per Lift                          | \$7.49           |                 |
| Bear Cart-Per Lift           | \$9.25   | Bear Cart-Per Lift                         | \$9.25           |                 |
| 300 Gallon-Per Lift          | \$23.71  | 300 Gal-Per Lift                           | \$13.40          |                 |
| 1.5 Yard-Per Lift            | \$23.71  | 1.5 Yard-Per Lift                          | \$13.40          | <b>Proposed</b> |
| 2 Yard-Per Lift              | \$31.30  | 2 Yard-Per Lift                            | \$13.40          |                 |
| 3 Yard                       | \$46.45  | <b>Proposed</b>                            | 3 Yards-Per Lift | \$16.33         |
| 4 Yard                       | \$61.60  | \$50.00                                    | 4 Yards-Per Lift | \$19.86         |
| 6 Yard                       | \$91.89  | \$54.00                                    | 6 Yards-Per Lift | \$25.76         |
| 8 Yard                       | \$122.19 | \$58.00                                    | 8 Yards-Per Lift | \$31.65         |

**GENERAL FEES-CONTINUED**

|                                       |                 | Proposed |                                    |
|---------------------------------------|-----------------|----------|------------------------------------|
| Change from Regular Cart to Bear Cart |                 | \$47.16  |                                    |
| New or Additional Cart:               | Regular Cart    | \$65.00  |                                    |
|                                       | Bear Cart       | \$107.00 |                                    |
| Cleaning of Carts:                    | 1st Cart        | \$13.00  | each                               |
|                                       | Additional Cart | \$9.00   |                                    |
| Delivery Fee-Change out 300g thru 8Yd |                 | \$30.00  | not applicable to new construction |
| Damaged Containers:                   |                 |          |                                    |
| Standard Cart                         |                 | \$101.00 |                                    |
| Bear Cart                             |                 | \$180.00 |                                    |
| 300 Gal                               |                 | \$510.00 |                                    |
| 1Yd to 8Yd Refurbished                |                 | \$455.00 |                                    |
| Bear 1 Yd - 8 Yd                      |                 | \$755.00 |                                    |

Extra Pick-ups charges will be waived for two weeks after December 25 for residential pickups.

Extra collection charges for garbage outside of containers, special pickups, and cleaning of carts are charged the cost of collection billed to the City plus a \$1.00 administration fee. The \$1.00 is included in the rates.

Montana Waste Systems bills customers directly who have compactors and cardboard recycling

Grass clippings need to be bagged and placed in cart - up to 3 bags only (single carts not 300 gal)

All overnight or weekly residential rental units shall be charged at commercial rates.

Change from regular cart to bear cart, delivery fee for change out 300g thru 8yd, and damaged containers will be assessed the charge of the cost to the city plus a \$5.00 admin fee. The \$5.00 fee is included in the rates.

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mess certain times of the week and he asked how they control that. Manager Stearns said that is in the next resolution and contract. They have to clean up their collection sites as part of the contract.

Deputy Mayor Muhlfeld opened the public hearing.

Richard Hildner, 104 E. 5<sup>th</sup> Street, said he approves because it is fair to share the fixed costs.

No one else wished to speak and Deputy Mayor Muhlfeld closed the public hearing.

Councilor Kahle asked what the base rate is and what it covered. Finance Director Knapp said the lowest and most common base rate for water is \$21, sewer \$17.20, and garbage \$8.50 for a total of \$46.70. The base rate varies on size of meter and number of lift stations. The base rate is charged regardless of use, so if the customer has no use for a month, their bill will still be a minimum of \$46.70. Public Works Director Wilson said there was a specific analysis to determine the fixed costs. Councilor Kahle agreed with Richard Hildner that they need to cover the fixed costs. Councilor Mitchell asked and Director Knapp said he didn't know how Columbia Falls or Kalispell break down their base rate. He said Flathead Electric is about \$21 for their base rate on electric use.

Councilor Friel asked and Rose Elliott, City of Whitefish Utilities Services Supervisor, said Columbia Falls has a tiered system based on usage. She said Kalispell has a flat rate plus usage. In Columbia Falls they can turn off the water, but Kalispell does not. The base rate for Clyde Park, MT with 4,000 gallons of water usage is \$52. The City of Whitefish is low based on 4,000 gallons. She said this will also reduce staff work load for utility billing. Director Wilson said he has tried to get another water clerk for the last three years because they have a lot of work for two people. He said this will make the system more manageable for the staff. Councilor Friel agreed that this was a sensible way to be equitable for all customers.

**Councilor Friel offered a motion, seconded by Councilor Kahle, to approve Resolution No. 11-51; A Resolution establishing a year round, monthly base rate for all customers of city water, wastewater, and garbage collection services. The motion passed unanimously.**

**6b. Resolution No. 11 - 52; A Resolution approving a five year contract with Montana Waste Systems, Inc., d/b/a North Valley Refuse for solid waste collection and disposal and establishing a garbage collection fee schedule (p. 27)**

Assistant City Manager/Finance Director Knapp passed out a new resolution because the contract in the packet wasn't the final contract from Montana Waste Systems, Inc. because their lawyer had a few small issues with the contract. This resolution authorizes the City Manager to finalize the final details. He reported that in May 2004, the City moved from collecting solid waste in house to contracting with Montana Waste Systems Inc. (MWS); however the billing remains in house. Staff looked into bidding out the solid waste service, only to discover pursuant to Public Service Commission's regulations for service area, the only other potential bidder, Evergreen, was several miles too far away. The only competition is the City.

The new five year MWS contract major changes include the following:

1. No fee increase until October 2012,

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2. Customer is charged garbage even if the customer's water/sewer is turned off. (MWS does not prorate or cease any charges to the city)
3. Cost increase is established at 3% annually.
4. No charge for public unit street cans on Central Avenue & downtown area.
5. MWS establishes new fees for delivery, damaged carts and cardboard special pickup.
6. Also, since we are not turning off garbage billing, MWS agrees to waive the extra garbage charge for two weeks after Christmas each year so the snowbirds who are visiting their house for holidays could put out extra garbage (present boxes, etc) at holidays in return for the months they are billed for no pickups. This benefit would apply to all residential pickups as well. He said Roger, with Montana Waste Systems was in the audience to answer questions if they had any.

The proposed contract (Exhibit "1") and exhibits are included in the packet.

#### *Solid Waste-Collection Fees*

Some garbage fees were never identified in our fees charged to residents, the schedule in the packet lists out the fees with some changes. A 3% increase, starting October 2012, will result in about a 25 cent residential increase each year of the contract. Current residential is \$8.50, Oct 2012-\$8.75, Oct 2013-\$9.00, Oct 2014-\$9.25, and Oct 2015-\$9.50. A 3% increase will have a greater effect on commercial due to higher rates.

Councilor Friel said it might be a good idea to let the public look at the contract since they just received the new resolutions.

Deputy Mayor Muhlfeld opened the public hearing.

Richard Hildner, 104 E. Fifth Street, said this is also fair and equitable. He said on page 57, Exhibit A, page 8 of 26 item 5 has a word missing. Manager Stearns said Finance Director Knapp will address it on the next agenda item. Councilor Mitchell said it was his understanding that the 3% increase would come before the Council each year. Finance Director Knapp said it isn't set up that way now. Other Councilors said they also remembered that as what they requested in a work session.

No one else wished to speak and Deputy Mayor Muhlfeld closed the public hearing.

Councilor Mitchell asked and Rodger Bridgeford, Montana Waste Systems, Inc. said they adjusted fees—they raised some and lowered some to encourage people to use larger containers to reduce MWS trips. Mr. Bridgeford explained that they charge fees for collection, transportation and container maintenance; this enables them to pass affordable rates on to the customers in rural areas. Councilor Mitchell asked if there is a way to promote recycling. Mr. Bridgeford said they collect three times/week at the recycling sites, but if they have a problem they'll get out there and clean it up within a few hours. Councilor Kahle asked how close they are to having recycling at individual homes. Mr. Bridgeford said the transportation costs are a large deterrent and they can't find a recovery place for glass. He said they do good curbside recycling of cardboard. Manager Stearns said it is an additional cost because it is a separate truck. Mr. Bridgeford said it is \$4.00/month for bi-weekly pick-up. Manager Stearns said they received several emails about garbage pick-up and the base rate. Those were handled out to the Council at the work session today. Finance Director Knapp said the contract currently says there will be a 3% increase every year. Councilor Mitchell clarified that senior rates remain discounted. He asked and Finance Director Knapp said the 3% increased is built into the

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contract. Councilor Mitchell said if the City is doing well with cash and can pay it with cash he doesn't want to see them increase the fee by 3% annually. The rest of the Council indicated agreement.

**Councilor Mitchell offered a motion, seconded by Councilor Friel, to approve Resolution No. 11 - 52; A Resolution approving a five year contract with Montana Waste Systems, Inc., d/b/a North Valley Refuse for solid waste collection and disposal and establishing a garbage collection fee schedule. The motion passed unanimously.**

**6c. Resolution No. 11-\_\_\_\_; A Resolution adopting updated Rules and Regulations for the city's water, wastewater, and garbage utility (p. 48)**

Assistant City Manager/Finance Director Knapp reported that staff went through the Utility Rules and Regulations and identified several areas that need updating. The main changes dealt with location of meters and refunding deposits. Some updates relate to the proposed year round base rate, some from billing changes made in the August 15 Council Meeting, and some are new recommendations from staff. He said the Council was handed a new page 8 with amendments including the correction Richard Hildner mentioned earlier. Deputy Mayor Muhlfeld asked about the location of meters and Rose Elliott, City Utilities Services Supervisors, said since 9/11, Homeland Security did a vulnerability test and one of the vulnerabilities is the water structure issue. Meters are supposed to be in meter pits outside the home. It is safer and also allows easier access for staff. It will be phased in with new construction and replacement of water lines. Deputy Mayor Muhlfeld asked and Supervisor Elliott said individuals pay about \$1200 for the replacement and repair costs for the meter and the plumber. Manager Stearns said they've been implementing this already and some people have been angry. For someone it resulted in \$2000 in costs. He wondered if it was an absolute requirement of Homeland Security. Ms. Elliott said she believes it is. He also wondered if the meter was bad could they replace the existing meter inside. Ms. Elliott said if only the meter is broken then the owner can just replace the meter. Councilor Askew asked about #5 on page 14 of 26, which says that "Meters can be moved at the discretion of the City staff at the cost of the resident." She said some of the older meters are in pits the staff can't get to and the lines are pretty deteriorated. Public Works Director Wilson said some of the older meters are in crawl spaces under old homes and it isn't safe or convenient. It impedes safety and accessibility. Deputy Mayor Muhlfeld said they should get a definite answer from the Homeland Security. Councilor Mitchell said it is a large expense for homeowners so he wants to be sure it is required. Councilor Hyatt asked if there was consensus to move this to the next meeting so they could address wording and determine the Homeland Security Issue.

**Councilor Friel moved, seconded by Councilor Hyatt, to table the resolution updating Rules and Regulations for the city's water, wastewater, and garbage utility to the November 3 meeting. The motion passed unanimously.**

## **7. COMMUNICATIONS FROM CITY MANAGER**

### **7a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 76)**

Councilor Mitchell asked and City Manager Stearns said Grouse Mountain Lodge had just recently joined the WCVB.

### **7b. Other items arising between October 12<sup>th</sup> and October 17<sup>th</sup>**

**Table 1. Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average, by expenditure category and commodity and service group**

(1982-84=100, unless otherwise noted)

| Item and group  | Relative importance, December 2011 | Unadjusted indexes |           | Unadjusted percent change to Dec. 2012 from— |           | Seasonally adjusted percent change from— |              |              |
|---|------------------------------------|--------------------|-----------|--|-----------|--|--------------|--------------|
|   |                                    | Nov. 2012          | Dec. 2012 | Dec. 2011                                    | Nov. 2012 | Sep. to Oct.                             | Oct. to Nov. | Nov. to Dec. |
| <b>Expenditure category</b>   |                                    |                    |           |  |           |  |              |              |
| All items .....   | 100.000                            | 230.221            | 229.601   | 1.7  | -0.3      | 0.1                                      | -0.3         | 0.0          |
| All items (1967=100) .....  | -                                  | 689.639            | 687.782   | -  | -         | -  | -            | -            |
| Food and beverages .....  | 15.256                             | 234.742            | 235.230   | 1.8  | .2        | .2                                       | .2           | .2           |
| Food .....  | 14.308                             | 234.896            | 235.390   | 1.8  | .2        | .2                                       | .2           | .2           |
| Food at home .....  | 8.638                              | 232.295            | 232.901   | 1.3  | .3        | .3                                       | .3           | .2           |
| Cereals and bakery products .....                                   | 1.242                              | 267.817            | 268.057   | .8   | .1        | .4                                       | .3           | .2           |
| Meats, poultry, fish, and eggs .....                                | 1.960                              | 232.303            | 232.262   | 1.5  | .0        | .8                                       | -.1          | .0           |
| Dairy and related products <sup>1</sup> .....                       | .916                               | 218.921            | 219.443   | .5   | .2        | .8                                       | .8           | .2           |
| Fruits and vegetables .....   | 1.287                              | 284.367            | 288.516   | 1.8  | 1.5       | .6                                       | .2           | .6           |
| Nonalcoholic beverages and beverage materials .....                 | .961                               | 168.222            | 168.204   | -.2  | .0        | -.3                                      | .5           | .2           |
| Other food at home .....  | 2.272                              | 204.531            | 204.626   | 2.0  | .0        | -.1                                      | .4           | .1           |
| Sugar and sweets <sup>1</sup> .....                                 | .307                               | 212.272            | 213.265   | 1.1  | .5        | -.2                                      | -.1.2        | .5           |
| Fats and oils .....   | .263                               | 231.588            | 231.540   | 1.7  | .0        | -.1                                      | .8           | .0           |
| Other foods .....   | 1.703                              | 216.748            | 216.708   | 2.2  | .0        | -.1                                      | .6           | .1           |
| Other miscellaneous foods <sup>1 2</sup> .....                      | .627                               | 128.936            | 129.455   | 2.5  | .4        | -.4                                      | .4           | .4           |
| Food away from home <sup>1</sup> .....                              | 5.669                              | 240.038            | 240.359   | 2.5  | .1        | .1                                       | .1           | .1           |
| Other food away from home <sup>1 2</sup> .....                      | .361                               | 167.835            | 167.816   | 2.3  | .0        | .2                                       | .2           | .0           |
| Alcoholic beverages .....   | .948                               | 231.178            | 231.572   | 1.9  | .2        | -.1                                      | .2           | .4           |
| Housing .....   | 41.020                             | 223.814            | 224.032   | 1.7  | .1        | .2                                       | .3           | .1           |
| Shelter .....   | 31.539                             | 258.999            | 259.298   | 2.2  | .1        | .3                                       | .2           | .1           |
| Rent of primary residence <sup>3</sup> .....                        | 6.485                              | 263.365            | 264.098   | 2.7  | .3        | .4                                       | .2           | .2           |
| Lodging away from home <sup>2</sup> .....                           | .749                               | 132.399            | 129.021   | .7   | -2.6      | .5                                       | -1.0         | -.9          |
| Owners' equivalent rent of residences <sup>1 3 4</sup> .....        | 23.957                             | 267.099            | 267.480   | 2.1  | .1        | .2                                       | .2           | .1           |
| Owners' equivalent rent of primary residence <sup>1 3 4</sup> ..... | 22.543                             | 267.073            | 267.454   | 2.1  | .1        | .2                                       | .2           | .1           |
| Tenants' and household insurance <sup>1 2</sup> .....               | .348                               | 132.468            | 133.852   | 3.4  | 1.0       | .2                                       | .5           | 1.0          |
| Fuels and utilities .....   | 5.372                              | 217.964            | 218.496   | .4   | .2        | .4                                       | .7           | .4           |
| Household energy .....  | 4.216                              | 187.141            | 187.642   | -1.1   | .3        | .4                                       | .8           | .4           |
| Fuel oil and other fuels <sup>1</sup> .....                         | .343                               | 335.075            | 335.590   | -1.4   | .2        | 1.1                                      | .3           | .2           |
| Energy services <sup>3</sup> .....                                  | 3.873                              | 187.359            | 187.880   | -1.1   | .3        | .3                                       | .9           | .4           |
| Water and sewer and trash collection services <sup>2</sup> .....    | 1.156                              | 192.921            | 193.237   | 5.7  | .2        | .4                                       | .4           | .4           |
| Household furnishings and operations .....                          | 4.109                              | 125.500            | 125.202   | .0   | -.2       | -.1                                      | .4           | -.2          |
| Household operations <sup>1 2</sup> .....                           | .727                               | 155.921            | 156.143   | 2.2  | .1        | -.1                                      | .4           | .1           |
| Apparel .....   | 3.562                              | 129.573            | 125.656   | 1.8  | -3.0      | .7                                       | -.6          | -.1          |
| Men's and boys' apparel .....                                       | .855                               | 122.155            | 118.525   | 2.2  | -3.0      | -.5                                      | .8           | -.2          |
| Women's and girls' apparel .....                                    | 1.507                              | 117.143            | 111.974   | 1.0  | -4.4      | 1.7                                      | -1.4         | -.6          |
| Infants' and toddlers' apparel .....                                | .201                               | 121.410            | 119.652   | 1.4  | -1.4      | .8                                       | -1.7         | .4           |
| Footwear .....  | .678                               | 135.849            | 133.908   | 4.4  | -1.4      | .7                                       | .1           | .4           |
| Transportation .....  | 16.875                             | 214.525            | 211.853   | 1.6  | -1.2      | -.1                                      | -2.6         | -.6          |
| Private transportation .....  | 15.694                             | 209.745            | 206.874   | 1.5  | -1.4      | -.3                                      | -2.8         | -.8          |
| New and used motor vehicles <sup>2</sup> .....                      | 5.651                              | 99.645             | 99.743    | -.1  | .1        | -.5                                      | -.1          | .0           |
| New vehicles .....  | 3.195                              | 144.762            | 145.181   | 1.6  | .3        | -.1                                      | .2           | .0           |
| Used cars and trucks .....  | 1.913                              | 145.862            | 145.234   | -2.0   | -.4       | -.9                                      | -.5          | -.4          |
| Motor fuel .....  | 5.463                              | 299.777            | 287.408   | 1.7  | -4.1      | -.6                                      | -7.3         | -2.3         |
| Gasoline (all types) .....  | 5.273                              | 298.131            | 285.606   | 1.7  | -4.2      | -.6                                      | -7.4         | -2.3         |
| Motor vehicle parts and equipment <sup>1</sup> .....                | .438                               | 148.509            | 148.761   | .9   | .2        | -.1                                      | -.1          | .2           |
| Motor vehicle maintenance and repair <sup>1</sup> .....             | 1.155                              | 258.943            | 258.845   | 1.3  | .0        | .2                                       | .1           | .0           |
| Public transportation .....   | 1.181                              | 272.244            | 273.364   | 2.4  | .4        | 1.7                                      | .8           | 1.0          |
| Medical care .....  | 7.061                              | 418.653            | 418.654   | 3.2  | .0        | .0                                       | .1           | .1           |
| Medical care commodities <sup>1</sup> .....                         | 1.716                              | 334.285            | 332.684   | 1.7  | -.5       | .0                                       | -.4          | -.5          |
| Medical care services .....   | 5.345                              | 445.278            | 445.955   | 3.7  | .2        | .0                                       | .3           | .3           |
| Professional services .....   | 3.005                              | 344.158            | 344.409   | 1.9  | .1        | .0                                       | .1           | .2           |

See footnotes at end of table.

|    | A   | B                 | C                 | D                | E                 | F                   | G                     | H                 | I                | J                | K                            | L                 | M                       | N                 |                  |                      |
|----|---|-------------------|-------------------|------------------|-------------------|---------------------|-----------------------|-------------------|------------------|------------------|------------------------------|-------------------|-------------------------|-------------------|------------------|----------------------|
| 1  | <b>Budget Summary by Main Revenue Source</b>            |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 2  | <b>City of Whitefish Final Budget</b>                   |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 3  | <b>Fiscal Year 2014</b>                                 |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 4  | <b>Resources</b>  |                   |                   |                  |                   | <b>Requirements</b> |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 5  | <b>Beginning Available</b>                              |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              | <b>Total</b>      | <b>Ending Available</b> | <b>Total</b>      |                  |                      |
| 6  |   |                   |                   |                  |                   | <b>Personal</b>     | <b>Materials</b>      | <b>Capital</b>    |                  |                  | <b>Debt</b>                  |                   |                         | <b>Approp</b>     | <b>Available</b> | <b>Approp. &amp;</b> |
| 7  | <b>Fund</b>   | <b>Cash</b>       | <b>Revenue</b>    | <b>Transfers</b> | <b>Total</b>      | <b>Services</b>     | <b>&amp; Services</b> | <b>Outlay</b>     | <b>Transfers</b> | <b>Service</b>   | <b>Conting.</b>              | <b>Budget</b>     | <b>Cash</b>             | <b>Unapprop</b>   |                  |                      |
| 8  |   |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 9  | <b>Property Tax Supported Funds:</b>                    |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 10 | General   | 737,438           | 3,288,323         | 693,432          | 4,719,193         | 622,553             | 286,122               | 53,000            | 3,057,371        | -                | 10,000                       | 4,029,046         | 690,148                 | 4,719,193         |                  |                      |
| 11 | Library   | 23,758            | 184,011           | 34,371           | 242,141           | 145,212             | 61,084                | -                 | -                | -                | 3,500                        | 209,796           | 32,345                  | 242,141           |                  |                      |
| 12 | Law Enforcement   | 71,627            | 371,581           | 1,845,000        | 2,288,209         | 1,719,345           | 490,400               | 35,800            | -                | -                | -                            | 2,245,545         | 42,663                  | 2,288,209         |                  |                      |
| 13 | Fire & Ambulance  | 525,018           | 3,092,162         | 575,000          | 4,192,180         | 2,088,093           | 805,870               | 995,000           | -                | 17,000           | -                            | 3,905,963         | 286,216                 | 4,192,180         |                  |                      |
| 14 | Bldg Codes  | 7,823             | 341,500           | -                | 349,323           | 295,235             | 41,575                | -                 | -                | -                | -                            | 336,810           | 12,513                  | 349,323           |                  |                      |
| 15 | Parks/Rec   | (90,162)          | 1,071,165         | 603,000          | 1,584,003         | 824,468             | 574,042               | 145,000           | -                | 30,000           | 10,000                       | 1,583,510         | 493                     | 1,584,003         |                  |                      |
| 16 | <b>Total</b>  | <b>1,275,503</b>  | <b>8,348,742</b>  | <b>3,750,803</b> | <b>13,375,048</b> | <b>5,694,906</b>    | <b>2,259,093</b>      | <b>1,228,800</b>  | <b>3,057,371</b> | <b>47,000</b>    | <b>23,500</b>                | <b>12,310,670</b> | <b>1,064,378</b>        | <b>13,375,048</b> |                  |                      |
| 17 |   |                   |                   |                  |                   |                     |                       |                   |                  |                  | Change in Cash \$ (211,125)  |                   |                         |                   |                  |                      |
| 18 |   |                   |                   |                  |                   |                     |                       |                   |                  |                  | Ending Cash as a % of Budget |                   | 11.5%                   |                   |                  |                      |
| 19 | <b>Other Tax, Fee &amp; Assessment Supported Funds:</b> |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 20 | Resort Tax  | 2,153,554         | 1,936,000         | -                | 4,089,554         | -                   | -                     | 2,305,000         | 733,232          | -                | -                            | 3,038,232         | 1,051,322               | 4,089,554         |                  |                      |
| 21 | Tax Inc Dist  | 2,059,195         | 4,961,882         | -                | 7,021,077         | 220,850             | 1,721,800             | 1,522,000         | 2,046,986        | -                | 300,000                      | 5,811,636         | 1,209,441               | 7,021,077         |                  |                      |
| 22 | Street Fund   | 1,044,448         | 1,326,257         | -                | 2,370,705         | 704,036             | 648,379               | 378,534           | -                | -                | 50,000                       | 1,780,949         | 589,756                 | 2,370,705         |                  |                      |
| 23 | Street Lighting #1                                      | 63,951            | 76,707            | -                | 140,658           | 21,092              | 44,600                | 30,000            | -                | -                | -                            | 95,692            | 44,966                  | 140,658           |                  |                      |
| 24 | Street Lighting #4                                      | 66,370            | 61,235            | -                | 127,605           | 21,092              | 77,229                | 30,000            | -                | -                | -                            | 128,321           | (716)                   | 127,605           |                  |                      |
| 25 | Impact Fees   | 363,318           | 128,500           | -                | 491,818           | -                   | -                     | 491,818           | -                | -                | -                            | 491,818           | -                       | 491,818           |                  |                      |
| 26 | Sidewalk  | 126,832           | 750               | -                | 127,582           | -                   | -                     | 127,582           | -                | -                | -                            | 127,582           | -                       | 127,582           |                  |                      |
| 27 | Stormwater  | 1,225,220         | 63,280            | -                | 1,288,500         | -                   | 47,267                | 526,500           | -                | -                | -                            | 573,767           | 714,733                 | 1,288,500         |                  |                      |
| 28 | <b>Total</b>  | <b>7,102,888</b>  | <b>8,554,611</b>  | <b>-</b>         | <b>15,657,499</b> | <b>967,070</b>      | <b>2,539,275</b>      | <b>5,411,434</b>  | <b>2,780,218</b> | <b>-</b>         | <b>350,000</b>               | <b>12,047,997</b> | <b>3,609,502</b>        | <b>15,657,499</b> |                  |                      |
| 29 |   |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 31 | <b>Enterprise Funds:</b>                                |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 32 | Water   | 1,516,495         | 2,956,700         | -                | 4,473,195         | 887,116             | 722,471               | 1,301,050         | -                | 543,450          | -                            | 3,454,087         | 1,019,108               | 4,473,195         |                  |                      |
| 33 | Wastewater  | 879,651           | 3,741,200         | -                | 4,620,851         | 834,840             | 835,003               | 2,066,800         | -                | 297,575          | -                            | 4,034,218         | 586,633                 | 4,620,851         |                  |                      |
| 34 | Solid Waste   | 75,324            | 748,170           | -                | 823,494           | 71,565              | 666,980               | -                 | -                | -                | -                            | 738,545           | 84,949                  | 823,494           |                  |                      |
| 35 | <b>Total</b>  | <b>2,471,471</b>  | <b>7,446,070</b>  | <b>-</b>         | <b>9,917,541</b>  | <b>1,793,521</b>    | <b>2,224,454</b>      | <b>3,367,850</b>  | <b>-</b>         | <b>841,025</b>   | <b>-</b>                     | <b>8,226,850</b>  | <b>1,690,691</b>        | <b>9,917,541</b>  |                  |                      |
| 36 |   |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 38 | <b>Other Funding Source Funds:</b>                      |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 39 | City Hall Reserve                                       | 2,027,194         | 8,000             | 250,000          | 2,285,194         | -                   | -                     | 400,000           | -                | -                | -                            | 400,000           | 1,885,194               | 2,285,194         |                  |                      |
| 40 | US93/2nd St TIGER                                       | -                 | 134,000           | -                | 134,000           | -                   | -                     | 134,000           | -                | -                | -                            | 134,000           | -                       | 134,000           |                  |                      |
| 41 | Housing Authority                                       | 4,573             | 645,000           | -                | 649,573           | -                   | 649,573               | -                 | -                | -                | -                            | 649,573           | -                       | 649,573           |                  |                      |
| 42 | WF Trail Construct                                      | 82,560            | 101,500           | -                | 184,060           | -                   | -                     | 172,000           | -                | -                | 11,500                       | 183,500           | 560                     | 184,060           |                  |                      |
| 43 | Park Dev  | 109,148           | 256,900           | 39,800           | 405,848           | -                   | 22,483                | 366,600           | -                | -                | -                            | 389,083           | 16,765                  | 405,848           |                  |                      |
| 44 | TIF Debt Svc  | 3,125,331         | 10,000            | 1,796,986        | 4,932,317         | -                   | -                     | -                 | -                | 1,784,824        | -                            | 1,784,824         | 3,147,493               | 4,932,317         |                  |                      |
| 45 | Victim/Wit  | 230               | 15,000            | -                | 15,230            | -                   | 15,000                | -                 | -                | -                | -                            | 15,000            | 230                     | 15,230            |                  |                      |
| 46 | Misc. S.I.D.  | 145,368           | 138,720           | -                | 284,088           | -                   | -                     | -                 | -                | 111,600          | -                            | 111,600           | 172,488                 | 284,088           |                  |                      |
| 47 | <b>Total</b>  | <b>5,494,404</b>  | <b>1,309,120</b>  | <b>2,086,786</b> | <b>8,890,310</b>  | <b>-</b>            | <b>687,056</b>        | <b>1,072,600</b>  | <b>-</b>         | <b>1,896,424</b> | <b>11,500</b>                | <b>3,667,580</b>  | <b>5,222,729</b>        | <b>8,890,309</b>  |                  |                      |
| 48 |   |                   |                   |                  |                   |                     |                       |                   |                  |                  |                              |                   |                         |                   |                  |                      |
| 49 | <b>Total</b>  | <b>16,344,266</b> | <b>25,658,543</b> | <b>5,837,589</b> | <b>47,840,397</b> | <b>8,455,497</b>    | <b>7,709,877</b>      | <b>11,080,684</b> | <b>5,837,589</b> | <b>2,784,449</b> | <b>385,000</b>               | <b>36,253,097</b> | <b>11,587,300</b>       | <b>47,840,397</b> |                  |                      |

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# MANAGER REPORT

September 11, 2013



## **CITY HALL ARCHITECTURE FIRMS – SELECTION NARROWED DOWN**

The City Hall Steering Committee met on September 10<sup>th</sup> and reviewed their evaluations and rankings of the 10 firms which submitted architectural proposals. The 10 firms which submitted proposals were:

Phillips Architecture and Planning, Inc.  
MacArthur, Means, and Wells, Architects  
Mosaic Architecture-Planning-Design  
Montana Creative Architecture + Design  
Montana Architects, Inc.  
Oz Architects/John Constenius  
Locati Architects  
Collaborative Design Architects  
CTA Architects/Engineers  
Schutz Foss Architects, P.C.

After reviewing and tabulating individual rankings, the steering committee, consisting of ten members, selected four firms to continue as finalists.

The four firms selected to continue as finalists were:

CTA - Kalispell  
MacArthur, Means, and Wells – MMW - Missoula  
Mosaic Architecture-Planning - Helena  
Oz Architects/John Constenius – Missoula and Whitefish

After the committee meets again, we plan to invite all four firms in for a joint meeting with the committee so that the four firms can gain an understanding of visions, goals, and priorities that the committee and each member individually have for a new City Hall and Parking Structure. That will give each firm a better understanding of our visions and priorities which will help them in the design competition. The joint meeting helps ensure a level playing field.

## **HIRING OF NEW PLANNER II**

Dave Taylor and Wendy Compton-Ring interviewed four people for the new position of Planner II. After the interviews, Dave offered the position to Bailey Minnich of Whitefish and she has accepted the offer. Bailey currently works in the Flathead County Planning Office and she has floodplain and other planning experience relevant to the position. Bailey will begin work on October 2<sup>nd</sup>.

## **WATER TREATMENT PLANT TREE THINNING PROJECT**

Pursuant to a Firewise grant, we are doing a tree thinning project at the Water Treatment Plant this year. Tony Hulett of T&N Enterprises is doing the contract work and he began thinning this week. He estimates it will take him one week to complete the work. Below is a picture of the equipment he uses for thinning – it is a hydraulically driven cutting saw with large carbide cutting bits that he uses to slice and chop the trees and undergrowth into chips. The cutting saw is mounted on an excavator with tracks for going up steep slopes.



## **RESORT TAX**

Resort tax collections for July were up 6.9% or \$19,289 compared to July of last year. July is typically our largest or second largest month for collections, so a 6.9% increase is a good start to the new fiscal year. A chart showing recent monthly collections is included in the packet.

## **MEETINGS**

City Hall Steering Committee (9/10) – I described this meeting in greater detail up above.

## **UPCOMING SPECIAL EVENTS**

Two Bear Marathon – Sunday, September 15<sup>th</sup>

## **REMINDERS**

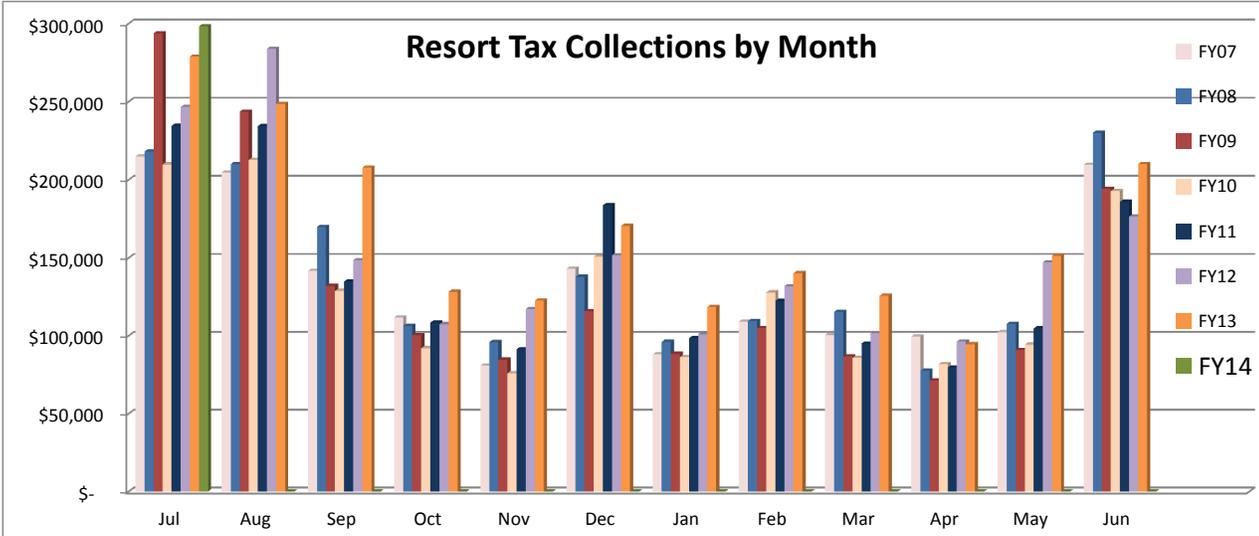
Respectfully submitted,

A handwritten signature in blue ink that reads "Chuck Stearns".

Chuck Stearns  
City Manager

**Resort Tax Report**  
Reported in the Month Businesses Paid Tax

| Month/Year             | Lodging             | Bars & Restaurants  |                      | Retail               | Collected | % Chng<br>Mnth to Pr Yr<br>Mnth  | % Chng<br>Quarter to Pr Yr<br>Quarter | Interest                 | Total |
|------------------------|---------------------|---------------------|----------------------|----------------------|-----------|----------------------------------|---------------------------------------|--------------------------|-------|
|                        |                     | Restaurants         | Retail               |                      |           |                                  |                                       |                          |       |
| Jul-08                 | 57,424              | 80,928              | 155,462              | 293,814              |           | 35%                              | \$ 3,040                              | \$ 296,854               |       |
| Jul-09                 | 41,463              | 71,552              | 96,808               | 209,823              |           | -29%                             | \$ 5,828                              | \$ 215,652               |       |
| FY09 vs FY10           | -9.0%               | -4.1%               | -2.6%                | -4.2%                |           | or \$ (67,489)                   | TaxableSalesFY10                      | \$ 81,019,064            |       |
| Jul-10                 | 54,499              | 81,857              | 98,267               | 234,624              |           | 12%                              | \$ 2,423                              | \$ 237,047               |       |
| Aug-10                 | 69,698              | 79,873              | 84,842               | 234,413              |           | 10%                              | 1,023                                 | 235,436                  |       |
| <b>Total FY11</b>      | <b>\$ 274,688</b>   | <b>\$ 651,321</b>   | <b>\$ 747,615</b>    | <b>\$ 1,673,624</b>  |           | <b>Compared to Prv Yr</b>        | <b>\$ 38,004</b>                      | <b>\$ 1,711,629</b>      |       |
| FY10 vs FY11           | 12.0%               | 15.5%               | 2.4%                 | 8.7%                 |           | or \$ 134,262                    | TaxableSalesFY11                      | \$ 88,085,492            |       |
| Jul-11                 | 56,106              | 90,212              | 100,325              | 246,642              |           | 5%                               | \$ 979                                | \$ 247,621               |       |
| Aug-11                 | 85,621              | 91,408              | 106,860              | 283,889              |           | 21%                              | 7,833                                 | 291,722                  |       |
| Sep-11                 | 28,154              | 58,830              | 61,535               | 148,519              |           | 10%                              | 593                                   | 149,112                  |       |
| Oct-11                 | 17,944              | 45,919              | 43,610               | 107,473              |           | -1%                              | 496                                   | 107,969                  |       |
| Nov-11                 | 14,351              | 39,054              | 63,758               | 117,162              |           | 28%                              | 479                                   | 117,641                  |       |
| Dec-11                 | 16,531              | 51,195              | 84,000               | 151,726              |           | -17%                             | 526                                   | 152,252                  |       |
| Jan-12                 | 10,032              | 44,089              | 46,905               | 101,026              |           | 3%                               | 515                                   | 101,541                  |       |
| Feb-12                 | 14,585              | 56,427              | 60,780               | 131,793              |           | 8%                               | 578                                   | 132,371                  |       |
| Mar-12                 | 11,008              | 42,952              | 47,682               | 101,643              |           | 7%                               | 557                                   | 102,200                  |       |
| Apr-12                 | 9,353               | 39,367              | 47,657               | 96,377               |           | 21%                              | 610                                   | 96,987                   |       |
| May-12                 | 15,461              | 51,207              | 80,526               | 147,194              |           | 40%                              | 6,993                                 | 154,187                  |       |
| Jun-12                 | 35,584              | 68,403              | 72,472               | 176,460              |           | -5%                              | 625                                   | 177,085                  |       |
| <b>Total FY12</b>      | <b>\$ 314,731</b>   | <b>\$ 679,063</b>   | <b>\$ 816,110</b>    | <b>\$ 1,809,903</b>  |           | <b>Compared to Prv Yr</b>        | <b>\$ 20,785</b>                      | <b>\$ 1,830,688</b>      |       |
| FY11 vs FY12           | 15%                 | 4%                  | 9%                   | 8%                   |           | or \$ 136,279                    | TaxableSalesFY12                      | \$ 95,258,076            |       |
| Jul-12                 | 69,418              | 94,341              | 115,149              | 278,908              |           | 13%                              | \$ 643                                | \$ 279,551               |       |
| Aug-12                 | 53,361              | 92,463              | 102,812              | 248,636              |           | -12%                             | 444                                   | 249,080                  |       |
| Sep-12                 | 57,000              | 77,503              | 73,232               | 207,734              |           | 40%                              | 533                                   | 208,267                  |       |
| Oct-12                 | 24,519              | 54,631              | 49,137               | 128,288              |           | 19%                              | 434                                   | 128,722                  |       |
| Nov-12                 | 8,099               | 40,326              | 74,122               | 122,547              |           | 5%                               | 393                                   | 122,941                  |       |
| Dec-12                 | 15,490              | 66,046              | 88,956               | 170,492              |           | 12%                              | 363                                   | 170,855                  |       |
| Jan-13                 | 13,152              | 51,930              | 53,396               | 118,478              |           | 17%                              | 413                                   | 118,891                  |       |
| Feb-13                 | 18,023              | 55,180              | 66,995               | 140,198              |           | 6%                               | 405                                   | 140,603                  |       |
| Mar-13                 | 16,171              | 56,231              | 53,318               | 125,720              |           | 24%                              | 465                                   | 126,185                  |       |
| Apr-13                 | 10,105              | 42,230              | 42,325               | 94,660               |           | -2%                              | 427                                   | 95,087                   |       |
| May-13                 | 19,009              | 52,303              | 80,090               | 151,402              |           | 3%                               |                                       |                          |       |
| Jun-13                 | 41,222              | 74,833              | 94,085               | 210,140              |           | 19%                              |                                       |                          |       |
| <b>Total FY13</b>      | <b>\$ 345,570</b>   | <b>\$ 758,018</b>   | <b>\$ 893,617</b>    | <b>\$ 1,997,205</b>  |           | <b>Compared to Prv Yr</b>        | <b>\$ 4,520</b>                       | <b>\$ 1,640,183</b>      |       |
| FY12 vs FY13           | 10%                 | 12%                 | 9%                   | 10%                  |           | or \$ 187,301                    | TaxableSalesFY13                      | \$ 105,116,040           |       |
| Jul-13                 | 81,828              | 98,642              | 117,727              | 298,197              |           | 7%                               |                                       |                          |       |
| <b>Total FY14</b>      | <b>\$ 81,828</b>    | <b>\$ 98,642</b>    | <b>\$ 117,727</b>    | <b>\$ 298,197</b>    |           | <b>YTD Compared to Last Year</b> | <b>\$ 4,520</b>                       | <b>\$ 1,640,183</b>      |       |
| YTD vs Last Year       | 17.9%               | 4.6%                | 2.2%                 |                      |           | 6.9%                             | TaxableSalesFY14                      | \$ 15,694,575            |       |
| FY14 % of Collections  | 27%                 | 33%                 | 39%                  |                      |           | \$ 19,289                        | <b>\$ 747,488</b>                     | <b>\$ 19,510,104</b>     |       |
| <b>Grand Total</b>     | <b>\$ 4,052,407</b> | <b>\$ 8,499,480</b> | <b>\$ 10,340,788</b> | <b>\$ 22,892,675</b> |           |                                  |                                       | 3.3% Average i since '96 |       |
| % of Total Collections | 18%                 | 37%                 | 45%                  |                      |           |                                  |                                       |                          |       |



|                                       |                  |
|---------------------------------------|------------------|
| <b>Total Taxable Sales Since 1996</b> | \$ 1,204,877,654 |
| <b>Total Collected</b>                | \$ 24,097,553    |
| <b>5% Admin</b>                       | \$ 1,204,878     |
| <b>Public Portion</b>                 | \$ 22,892,675    |

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## Whitefish School District 44

600 EAST SECOND STREET, WHITEFISH, MT 59937  
DISTRICT OFFICE • (406) 862-8640

August 26, 2013

received  
8/28/13 CS

Chuck Stearns, City Manager  
418 East Second Street  
P.O. Box 158  
Whitefish, Montana 59937

Dear Mr. Stearns,

We write this letter to make a formal request that the City of Whitefish consider waiving the impact fees assigned to the new high school building project.

As you know, the Building and Oversight Committee has worked vigorously in the last year to direct the project in such a way that the district is able diligently meet time lines and its budget. It has been a struggle. The \$60,000 impact fee assessed by the city creates significant impact on the high school building project budget. The entire school board and the Budget and Oversight Committee, in their desire to be good stewards of this project, believe it is essential to bring our request to your attention.

We realize well the concerns shared by city council members about setting a worrisome precedent resulting in more frequent future requests of the city to waive impact fees, especially after having recently waived fees for the Food Bank and the Wave. We also certainly understand the important purpose of impact fees for the city and its citizens, although we are struggling to understand how the remodeled building will create any additional burden on city services.

It is our hope, as a non-profit organization, and as leaders who are committed to building a school that will have *positive* environmental and financial impact on the city, that the city will consider waiving the impact fee for this project.

We continue to express, Chuck, that we are deeply grateful for the city council's support of the school project, and its generous donation of TIF funds, feedback and advice to the project leaders. We thank you for taking this request under consideration.

Sincerely,



Kate Orozco

Superintendent, Whitefish School District

Pat Jarvi  
Chair of Whitefish School District

Dave Fern, Shawn Tucker, Heather Vrentes, Shawn Watts, Nick Polumbus, Ruth Harrison  
(Trustees of Whitefish School District)



Muldown Elementary School - (406) 862-8620 • Whitefish Middle School - (406) 862-8650

Whitefish High School - (406) 862-8600 • Special Services - (406) 862-8655

City Council Packet 9/16/2013 Page 210 of 217



To: Mayor John Muhlfeld and City Council

From: Mary (Muldown) Ronfeldt, Michael Jennings Muldown, Anne (Jennings) Jackson, Charles Timothy Jennings, and Margaret (Muldown) Koonce,

Re: Proposed Annexation of Jennings Lakeside Road Properties

Date: August 30, 2013

We are members of the Jennings and Muldown families who jointly own an old cabin at 248 Jennings Lakeside Road. Our families span five generations in Whitefish and care deeply about its community and Lake. We are concerned about the proposal to annex properties on the Jennings Lakeside Road, because we believe its objective for increasing taxes is inconsistent with its Lake protection objective.

In 1997, we, along with other homeowners on our road, proposed to the City that we connect to its sewer services in order to improve water quality on the Lake. We were amongst the first on the Lake to take this initiative. Our common expectation was that, over time, the City would encourage all Lake homeowners to connect to its sewer and that this would most likely occur sequentially, expanding from the City limits on out. We therefore agreed with the City to connect to its sewer line at our own cost, pay monthly sewer service fees, and not protest an annexation that we thought would be contiguous with sequential sewer hook-ups along the land surrounding the Lake.

Now, the City is considering a proposal to annex unconnected pockets of properties which would greatly increase their taxes despite major property tax increases on these Lake properties in recent years. Further tax increases through annexation will only defeat the City's Lake protection objective, because they would discourage Lake homeowners from connecting to the City's sewer line in the future. This is particularly true with a sporadic annexation which fails to implement Lake protection in a sequential, comprehensive manner.

We fully agree with a policy that encourages all Lake homeowners to connect with the sewer line, thereby protecting the water quality of the entire Lake and annexing in a fair and equitable manner. That was our intent in entering into our agreement sixteen years ago. The present proposal, however, defeats rather than achieves those objectives.

Thank you for your consideration of our concerns.

received  
9/3/13 CS

LAW OFFICES

**Keller, Reynolds, Drake,  
Johnson and Gillespie, P.C.**

THOMAS Q. JOHNSON  
RICHARD E. GILLESPIE  
JACQUELINE T. LENMARK  
JOE SEIFERT  
GREGORY A. VAN HORSSEN  
CHARLES G. ADAMS  
SARAH M. PHILLIPS  
DARANNE R. DUNNING

GUARDIAN BUILDING - 3<sup>RD</sup> FLOOR  
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MAILING ADDRESS  
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OF COUNSEL  
P. KEITH KELLER

PAUL T. KELLER (1907-2003)  
GLEN L. DRAKE (1927-2001)

TELEPHONE (406) 442-0230  
FAX (406) 449-2256  
E-MAIL: firm@kellerlawmt.com

August 30, 2013

Mayor John Muhlfeld & City Counsel  
City of Whitefish  
P.O. Box 158  
Whitefish, MT 59937

Re: ***Proposed Annexation of Residence on Jennings Lakeside Road***

Dear Mayor Muhlfeld and Counsel Members:

My name is Tom Johnson and my family and I own a summer home on Jennings Lakeside Road. My parents had our home built in the early 1980s and it has been in our family since then. We very much value the community of Whitefish and Whitefish Lake. I am writing to express concern about a potential proposal to annex properties on Jennings Lakeside Road. It seems to me that the primary reason for such annexation would be to increase taxes on our homes rather than any increase in services for us or any increase in lake protection.

Our family was party to the agreement to extend water and sewer lines dated August 11, 1997. We participated in that voluntarily in order to improve water quality on the lake. We bore the costs of that at that time voluntarily.

Now we learn that the city is at least considering a proposal for noncontiguous annexation and we have been advised that our taxes would increase potentially in the neighborhood of 20%. As you are doubtless aware, Lakeside properties already pay a very heavy property tax

We agree the city should have a policy that encourages all lake home owners to connect with the sewer line, thereby protecting the water quality of the entire lake. That was our intent in entering into that agreement back in 1997. We don't feel the proposed annexation furthers that goal and we urge the city not to proceed.

Thank you for your consideration of my concerns.

Yours very truly,



Thomas Q. Johnson

TQJ/nh

## Chuck Stearns

---

**From:** Freyholtz, James [jfreyholtz@mt.gov]  
**Sent:** Tuesday, August 20, 2013 9:05 AM  
**To:** John Wilson  
**Cc:** 'John Muhlfeld'; 'J Barranger'; 'Chuck Stearns'  
**Subject:** RE: Campaign  
**Attachments:** speed\_limits\_informational.pdf

John,

New signage requests can be made to me. I will go ahead and follow up on whether deer crossing signs would be appropriate. Just to let you know we do get requests for deer crossing signs at different locations on a weekly basis so I need to check the crash history as well as what our maintenance staff has for history of picking up carcasses to determine if signs would be warranted at this location.

If the City believes a speed study is needed then those requests can also be submitted to me and I will have the MDT Traffic Investigation Section add it to their list of statewide speed study requests. I have attached a one page informational discussing the process of speed limits being changed. I would just add that if the deer crossing issue is the only basis of the speed study request then it is doubtful a speed study investigation will recommend a decrease to the posted speed limit, since the 85th percentile speed and the pace are main factors in determining what the posted speed limit should be.

*James Freyholtz, P.E.  
Kalispell Area Traffic Engineer  
Montana Department of Transportation (MDT)  
(406) 751-2066*

**From:** John Wilson [mailto:[jwilson@cityofwhitefish.org](mailto:jwilson@cityofwhitefish.org)]  
**Sent:** Monday, August 19, 2013 10:15 AM  
**To:** Freyholtz, James  
**Cc:** 'John Muhlfeld'; 'J Barranger'; 'Chuck Stearns'  
**Subject:** FW: Campaign

Good Morning Jim

Please see the email below from a concerned citizen to Mayor Muhlfeld. We understand Wisconsin Avenue speed limits and signage (such as "Deer Crossing Ahead") are subject to State jurisdiction. How should we respond to Ms. Olsen's inquiry? Would the City submit a request for a speed study or new signage directly to you or someone else at MDT?

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>

**From:** Olsen, Karin [<mailto:kolsen@nvhosp.org>]  
**Sent:** Monday, August 19, 2013 9:09 AM  
**To:** John Muhlfeld  
**Subject:** RE: Campaign

Hi John,

I have a citizen concern that I meant to ask you about. What would be necessary to do, to try and get the speed limit reduced on Wisconsin from 45, back down to 35? It increases by the church just before Whitefish Lake Lodge. There are always deer on that road, especially on the curve by the Hidden Moose and you can't see them. Today on my way to work there were two does with two fawns crossing the road with a lot of traffic.

Anything we can do?

Thanks, Karin

## **Special Speed Limits on Montana's Highways**

The purpose for a speed zone is to facilitate the safe and efficient flow of traffic. It also enables law enforcement to easily distinguish between the reasonable motorist and those traveling outside the normal flow of the traffic.

So how do speed limit changes occur on our highways?

State law places the authority for establishing and approving special speed limits on all federal-aid eligible highways with the Montana Transportation Commission (MCA 61-8-309). Their decisions must be based on a thorough engineering and traffic investigation or speed study.

It is the Montana Department of Transportation (MDT) policy that all speed studies must be conducted in cooperation with local officials. Therefore, in order for the MDT to begin a speed study on any federal-aid route, we require a request from the local governing authority. The request is placed on the list of speed study requests and processed in the order it was received.

What does the speed study entail?

A speed study consists in part of a review of the physical roadway environment, which includes evaluation of the roadway width and alignment, existence and the level of on roadway parking, number and spacing of side approaches, density and set-back of adjacent development, accident statistics and traffic volume trends. The traffic portion of the investigation consists of collecting speed data at a sufficient number of sites to identify the travel speed profile of the motorist population traveling this stretch of roadway. That sample of travel speed information is further refined to identify a profile of the 85<sup>th</sup> percentile speeds and sample pace.

The 85<sup>th</sup> percentile speed is that speed that 85 percent of the motorist population is traveling at or below at each of the sample sites. The pace is a ten mile per hour range containing the largest percentage of motorists grouped together. Research shows that motorists traveling at and near the 85<sup>th</sup> percentile speed are the most alert to travel conditions at hand and are involved in the lowest accident frequency. Motorists traveling significantly above or below that speed introduce more opportunities for traffic conflict. When vehicles are traveling at similar speeds, there are fewer opportunities for traffic conflicts.

The information collected in the study is combined and evaluated to identify what the maximum speed limit should be for the particular roadway, which was studied. A recommendation and supportive information is then presented to the Transportation Commission for their review and action.

It usually takes 9-12 months to complete a speed study. This allows for data collection and comment from the local government prior to recommendations being presented to the Transportation Commission for action.

For more information, please contact the MDT Kalispell office at (406) 751-2000.

September 2013

Dear Montana West Economic Development Membership:

We strongly believe starting and growing local business is first priority to improving and building upon the Flathead Valley economy. The services and resources we provide accelerate the growth of local companies. Our goal is to foster jobs; however it wouldn't be possible without an entrepreneurial community culture to support that goal. While the objective of the Quarterly Presidents Letter is to update you on how we are spending our time and resources, it is also our objective to share "their" story. Take some time to read how local businesses are impacting your community through this letter in addition to our monthly Flathead on the Move newsletter.

FLATHEAD ON THE MOVE: The jump in production of the Valley's local gun manufacturers has established a business case for local supply chain support. Montana West is involved with local business expansion opportunities in anodizing and heat treatment as a response to the request for these services. We provided a capital base to support Armor Anodizing's growing opportunities. Craig Ruch saw a missing link in the supply chain of many local and state metal manufacturers, so he decided to move forward with his entrepreneurial aspirations and founded Armor Anodizing in 2011. Armor Anodizing has two lines for plating processes, anodizing and parkerizing (a magnesium phosphate process). Craig's own experience in manufacturing and quality management paired with diligent research enabled him to service local manufacturers, which previously had to send their plating needs out of state. Recently, Craig has expanded his workforce to 7 full time employees. In order to meet this demand, Craig worked with Bill Nicholson of the Montana Manufacturing Extension Center (MMED) to evaluate shop layout and lean manufacturing training. Through this process, he immediately increased production output by 20%; an impressive return for a day in the classroom.

Montana West has experienced diverse loan growth over the summer which includes projects such as; fiber optic installation, technology for emergency command vehicles, hostel accommodations in Columbia Falls, an aerospace machine shop, and assisting a medical business. Many of these projects are highlighted in our Annual Report for FCDEA and MWED. If you haven't had the chance to see this year's success stories, please find the Annual Report on our website at [www.dobusinessinmontana.com](http://www.dobusinessinmontana.com).

WHAT'S HAPPENING?

- Destination Video: The Flathead County Economic Development Authority and the Montana West Executive Committee supported funding to partner with the Kalispell CVB on a destination video that will include elements of starting or expanding a business. Montana West will gain raw video footage to use for promotion.
- The Audit: Montana West Economic Development finalized the 2012 audit in July with local firm JCCS. The audit concluded no findings.
- Strategic Plan Update and Budgeting: The staff is focused on updating the organization's strategic plan framework and next year's budget to provide to the board of directors in September.
- UP Global Visit: Last month, Montana West staff hosted a networking event with Chet Kittleson from Seattle of UP GLOBAL, with some of the Valley's founding business leaders and Montana West members. UP GLOBAL provides resources and mentoring to startup businesses.
- New tool: Rob Irrizarry provided training for staff to learn about a new tool that evaluates business ideas, called the "Business Model Generation Canvas". The purpose is not to point

everyone in the direction of writing a business plan until the value proposition of the idea has been vetted.

- Education: Montana West hosted two timely topic roundtables: one on the health care impact to business and the second was an update on equity investment topic “crowdfunding.”

RAILPARK UPDATE: The next steps are to evaluate a relocation proposal from CHS to determine if terms can be met. The FCEDA board requested CHS to prepare a proposal and share with FCEDA in the next 60 days. The TIGER Grant awards are expected to be announced in September and if awarded will accelerate the rail park development. However, if the TIGER is not awarded to the Rail Park, then development will occur in incremental stages to service tenants one at a time. The traffic impact analysis was provided to the Montana Department of Transportation in July. Staff will follow up to request MDOT’s feedback of the report.

UPCOMING EVENTS:

*Friday, November 1<sup>st</sup>* is our Networking Soirée at the Hilton Garden Inn in Kalispell. We are excited to bring you change from our annual dinner. To decrease cost, include more people, and bring more fun the Soirée is a must attend event!

Join your fellow members at our **membership roundtable** on September 4<sup>th</sup>, 8:00 am – 9:00 am. This is your opportunity to give Montana West Board Members and Staff feedback, ideas, and suggestions about Economic Development in the Flathead Valley. Please RSVP to [jessica@dobusinessinmontana.com](mailto:jessica@dobusinessinmontana.com), we hope to see you there!

As a critical foundation to our organization, Montana West would like to thank our members for consistently contributing to local economic development. As summer comes to a close we trust our membership outreach has kept you up to date on our activities. We value your input and use it to continually improve this organization.

Sincerely,

Kellie Danielson, CEcD  
President | CEO

Serving the communities of Bigfork, Columbia Falls, Evergreen, Kalispell, Lakeside, Somers, Whitefish, and Flathead County