

WHITEFISH CITY COUNCIL
February 6, 2023
SPECIAL SESSION AT 5:15 PM

1) Call to Order

The meeting was held in-person in the Council Conference Room. Deputy Mayor Sweeney called the meeting to order. Councilors present were Davis, Qunell, Feury, Norton and Caltabiano. Mayor Muhlfeld was absent. Staff present were City Manager Smith, City Clerk Howke, and Planning and Building Director Taylor.

2) Interview

City Council interviewed applicants interested to serve on the Whitefish Community Housing Committee; Carolyn Pitman, Leanette Galaz (virtually via Microsoft Teams), Bob Horne, Roxann Gallagher, and Cameron Blake. Addie Brown-Testa withdrew her application.

3) Public Comment

None

4) Appointment

Due to time constraints, Deputy Mayor Sweeney made appointments to the Whitefish Community Housing Committee during the regular session.

5) Adjourn

Deputy Mayor Sweeney adjourned the meeting at 6:25 p.m. and opened the work session.

/s/Francis Sweeney

Deputy Mayor Sweeney

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk

WHITEFISH CITY COUNCIL

February 6, 2023

7:10 P.M.

1) CALL TO ORDER

Deputy Mayor Sweeney called the meeting to order. Councilors present were Qunell, Feury, Caltabiano, Davis, and Norton. Mayor Muhlfeld was absent. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Finance Director Gospodarek, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Kelch and Fire Chief Page. Approximately 3 people were in the audience, and one attended virtually.

2) PLEDGE OF ALLEGIANCE

Deputy Mayor Sweeney asked Mayre Flowers to lead the audience in the Pledge of Allegiance.

3) COMMUNICATIONS FROM THE PUBLIC– (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments but may respond or follow-up later on the agenda or at another time. The mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Mayre Flowers, Citizens for a Better Flathead, provided written public comment that is appended to the packet on the website, addressing concerns with the proposed WB-T zoning district. She encourages the Council to relook at the intent and purpose; the ordinance does not list the most current finding of facts; the term accessory apartments appear as a permitted and a conditional use, but there is no definition for that in the Whitefish zoning codes; there is no definition for light commercial and ancillary services, and they are not a permitted use listed or conditional use and thinks they should be removed from the purpose statement. The consensus she is hearing is that everyone would like to see generous landscaping and if you currently have no minimum lot coverage that is harder to achieve.

Mayre also reported that the County is looking to build a composting facility south of the Wiley Dyke area, a mile north of Flathead Lake. All of the septic waste in the County (30,000 systems) will be directed to that facility. The solids would be removed, and the liquid would be pumped over to the Lakeside sewage treatment plant. The proposed area annually has groundwater depths as high as five feet. This is an area of concern. The County is scheduled on February 15th to decide about purchasing this land. She hopes city officials like Whitefish will raise questions. High concentration on an area of shallow groundwater is of concern. She thinks it is time to look for a better location and wanted to bring it to the Councils attention.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

None

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 January 17, 2023 Special Session (p.45)
- b) Minutes from January 17, 2023 Regular Meeting (p.46)
- c) Resolution No. 23-04; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 9.99 acres of land known as 625 Lund Lane in Section 1, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owner has petitioned for and consented to annexation (p.49)
- d) Consideration of a request from Seven Hills Construction LLC for a Final Plat for Orchard Lane 4 Subdivision, a 5-Lot subdivision located at 415 ½ Colorado Avenue (WFP 23-01) (p.60)

- e) **Consideration** of a request from the members of the Whitefish Lake Lodge Homeowners Association to amend Article VIII, Section 2, Insurance and Fidelity Bonds of the Declaration of Unit Ownership (p.89)

Councilor Davis recused himself from the Consent Agenda, item d) is his request for Final Plat.

Councilor Qunell made a motion, seconded by Councilor Caltabiano to approve the Consent Agenda. The motion carried.

- 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) **Ordinance No. 23-01**; **An Ordinance amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan (First Reading) (POSTPONED FROM 11/07/2022 AND 11/21/2022, PUBLIC HEARING CLOSED) (P.106)**

Planning and Building Director Taylor presented his staff report that is provided in the packet. One written comment was received from Citizens for a Better Flathead that is appended to the packet on the website. There have been multiple public hearings dating back over a year ago. November 21, 2022 Council directed staff to make some changes to the proposed code. The changes that were proposed were moving the majority of the permitted uses into the conditional use permit category, making the frontage and backage road portion mandatory and then increasing the buffers between that zoning and the adjacent residential zoning. The Highway 93 South Corridor Plan that was adopted called for this transitional zoning district. It established the intended purpose of that zone. Staff is confident it meets the Growth Policy criteria as long as the intent and purpose are not changed too much.

Councilor Norton asked and Director Taylor addressed Mayre Flower's comments regarding light commercial and ancillary services is a general term; storage facilities in enclosed buildings would have to be associated with that light manufacturing or assembly to store their product; guides and outfitters was not a use that was allowed in our WB-2 until an outfitter business moved out of WB-3 into the WB-2, City Council added it as a conditional use into the WB-2 zoning district.

Councilor Davis asked, and Director Taylor stated there is no maximum density to the residential development allowed in this district. The WB-2 does not have a maximum density unless you do a PUD.

Councilor Caltabiano made a motion, seconded by Councilor Norton to approve Ordinance No. 23-01; An Ordinance amending the Whitefish City Code to add Article Y, Chapter 2, Title 11, to establish the WB-T zoning district (Business Transitional District), as an implementation of the Highway 93 South Corridor Plan (First Reading). Councilor Caltabiano stated this ordinance will not affect any of the implementations that any owner not annexed into the city will be able to do within county regulations. If they do not require services from the City and they do not petition to annex this ordinance would be mute. We are trying to find a compromise to attract enough property owners to petition to annex, taking our services paying towards the city as well as managing and controlling the type of growth we want to see in that area.

Councilor Davis made a motion, seconded by Councilor Caltabiano to amend 11-2Y-3, Residential, Two-family (duplex) through a six-plex. Councilor Davis stated what is presented here looks like more or less the highest density residential zone in town. It has unlimited maximum density. Good city planning wouldn't be to put the highest density out of town. Conditional uses can't always be denied for various reasons. The developers are owed some predictability about what the council thinks is appropriate. If it is a conditional use permit, he feels like we are just going to get applications for the largest apartment buildings in the Flathead. This would be missing middle housing and below, that is what a six-plex is to him. He hopes

to encourage higher density development more towards our core when revising the Growth Policy. Councilor Norton stated she could not support his motion. She thinks it is a great place for housing, and she is not sure that we should restrict ideas at this point. **The motion carried 5-1, Councilor Norton voting in opposition.**

Councilor Qunell stated making sure that a CUP is required for pretty much any of the business uses really helps. He agrees with Councilor Davis, this is not a great place for housing for our city, not currently. Moving most everything to conditional uses was the right move here. It gives some predictability if people want to annex into the city. We want to be able to have a public conversation about any new uses that are going to be a part of the city.

Councilor Feury stated he still has concerns and doesn't know that it is going to either entice anyone to annex and he doesn't know if it is going to discourage anyone to annex. A couple of Mayor's Flowers comments ring true with him. Residential behind and commercial up front tends to lead to strip development that we are trying to not have. The reality is from a property development side, most people are going to want some kind of buffer from the highway. They are not going to want their front yard on Highway 93. Larger tracts would be under Council review when subdividing. Most of the commercial uses have been eliminated. At this point he is going to support it. He agrees, housing needs to be towards the core of our community.

The original motion to adopt Ordinance No. 23-01 carried.

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) **Consideration of approval of the Community Solar Agreement with Flathead Electric Cooperative, Inc. to construct a community solar facility on the wastewater treatment plant property and authorize the City Manager to execute the contract (p.205)**

Public Works Director Workman presented his staff report that is provided in the packet.

Councilor Davis made a motion, seconded by Councilor Caltabiano to approve the Community Solar Agreement with Flathead Electric Cooperative, Inc., removing a portion of Section 3 C. Insurance; FEC shall be added as an additional insured on such policies during the period of time that the System remains installed at the Facility. The motion carried.

8) COMMUNICATIONS FROM CITY MANAGER

- a) **Written report enclosed with the packet. Questions from Mayor and Council? (p.223)**

None

- b) **Other items arising between February 1st through February 6th**

Manager Smith provided updates to the Legislative Session. There are currently 434 House Bills (HB) that have been introduced and 279 Senate Bills (SB); SB159, restricting use of eminent domain, has been transmitted to the House; SB215 has some amendments, there was a hearing on January 30th and we are waiting on the executive action; HB226 regarding pension laws, as originally drafted would cause a significant increase for the pension of Public Employee Retirement System (PERS), having the increase in one year is not sustainable; HB244 revising the Montana Housing Fund Rules has been transmitted to the Senate, so it passed through the House; HB324, local government expenditure limitation, which would severely limit local governments from adjusting to growth, has a hearing on February 9th, written testimony will be provided as well as our lobbyist will be in person to testify in opposition; HB337, which would decrease the minimum lot sizes across the entire city to 4,000 square feet, a letter in opposition was written, we are waiting on the executive action; HB369, requiring a referendum to adopt growth policies and any growth policy changes, a hearing is scheduled on February 9th; LC300, regarding short-term-rentals is now

SB268 is scheduled for a hearing on February 20th, amendments were not made, so we will oppose that bill as drafted; a new draft for LC2647, which would grandfather structures within the lakeshore protection zone, has not been introduced yet.

Manager Smith announced that Luke Sponable has accepted our job offer for the Housing Coordinator/Planner II Long Range position. He is a master's student at the University of Washington, and has worked as a Planner I and II at the City of Breckenridge, Colorado. Currently he is an intern in Seattle working with the Department of Transportation. He brings a lot of knowledge. He will start on a part-time remote status starting February 21st, then become full-time in July.

The League of Cities and Towns and our lobbyist requested Manager Smith to write a response to the County Commissioners letter that was published in the paper addressing homelessness. There are legislative bills looking at supporting homeless shelters and centers, that would provide grant funding to them at the state level.

Councilor Davis asked, and Manager Smith stated the City of Whitefish was included in the debate in Kalispell regarding the homelessness issue. Manager Smith and Police Chief Kelch confirmed the rumors that Whitefish Police were taking homeless people down and dropping them in Kalispell to be untrue. Police Chief Kelch stated Whitefish Police deal with homelessness on an individual basis. We will get them to the resources that is best going to help their situation, many times through the Pastoral Association by providing a gas card, or food voucher, or a hotel room for an evening. If somebody needs to be warm, we will bring them to the Police Department to warm up. Part of their core values is to police with dignity and respect. The Warming Shelter in Kalispell hold beds for law enforcement throughout the county to bring individuals there when they are in need. We deal with it on an individual basis, as we encounter individuals in that situation and try to get them to the best resources or a quick fix at that point in time.

The Council directed Manager Smith to write a letter to the County Commissioners addressing their publication in the local paper.

Manager Smith stated the Consultants working on the Impact Fee update will be onsite soon and will be meeting with the Impact Fee Advisory Committee. She will extend an invitation to the City Council as well to attend. They are proposing for some Impact Fees to go away, and some Impact Fees that will be changing. She has held off on the transportation impact fee because of the Impact Fee bill at the Legislative Session. That bill has been amended at this point and as long as it goes through as amended, she doesn't see a problem adding that back into our work. At this point we are just doing the update of the seven impact fees we have currently.

c) **Consideration of fundraising sign request by North Valley Music School (p.227)**

Manager Smith presented her staff report that is provided in the packet.

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve the request from North Valley Music School as recommended by staff as stated in the packet, every Friday for the duration requested by North Valley Music School. The motion carried.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) **Consideration of appointment to the Whitefish Community Housing Committee – Mayoral Appointment(p.)**
 - i) **One representative from the Whitefish Housing Authority – Dwarne Hawkins (p.236)**
 - ii) **One representative from Housing Whitefish – Daniel Sidder (p.237)**

- iii) One representative from the Whitefish Convention and Visitors Bureau – Rhonda Fitzgerald (p.238)
- iv) One representative from the Whitefish Chamber of Commerce –Jeff Raper (p.239)
- v) The Mayor or one member of the City Council

Deputy Mayor Sweeney appointed Dwarne Hawkins, Daniel Sidder, Rhonda Fitzgerald, Jeff Raper and Councilor Ben Davis as recommended. Council ratified his appointments.

- b) Consideration of appointment to volunteer boards and committees not made during the Special Session preceding tonight’s meeting

Deputy Mayor Sweeney appointed Cameron Blake (real estate development), Carolyn Pitman (fundraising or financing) and Leanette Galaz and Roxann Gallagher (housing policy, property management, housing programs, end-users of community housing programs, or housing advocacy). The Council ratified his appointments.

Council Comment

Councilor Caltabiano congratulated the Whitefish Winter Carnival organization for a good job. The parade was exceptional with 57 floats, and the Penguin Plunge broke some records on Saturday morning. He also congratulated Councilor Davis for being awarded the Citizen of the Year.

Councilor Qunell received a letter from Whitefish Mountain Resort about the continued problems they have been having at the resort. He has noticed a lot of people have been getting really upset and frustrated. He stated we know the last few years have been hard and thinks that is part of the effect of what we are seeing up on Big Mountain this winter. You may be frustrated but grace is a gift you can give in any instance.

Councilor Norton congratulated the Public Works Department for receiving a \$160,000 Safe Streets for All Planning Grant; and congratulated Councilor Davis for receiving the Citizen of the Year award; and congratulated Councilor Caltabiano for his engagement. She asked Manager Smith to update the Council on the biosolids that Mayre Flowers brought to the Council’s attention during Communications from the Public. Manager Smith stated the County is planning on using their ARPA funds for that project. She will get more information from the County and email it to the Council.

Councilor Feury reported at the Trail Operations meeting last week, DNRC is also looking at a commercial use policy for the rest of the trail. They are getting an awful lot of requests and are looking at a relatively low number.

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

Deputy Mayor Sweeney adjourned the meeting at 8:46 p.m.

/s/Francis Sweeney
Deputy Mayor Sweeney

Attest:

/s/Michelle Howke
Michelle Howke, Whitefish City Clerk