

WHITEFISH CITY COUNCIL
February 21, 2023
SPECIAL SESSION AT 5:45 P.M.

1) Call to Order

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

2) Interview -Whitefish Convention and Visitors Bureau (WCVB)

The City Council interviewed Lauren Oscilowski for a vacant position on the WCVB. Jen Asebrook and Kimberly Wortman were interviewed on January 17, 2023 for the WCVB.

3) Public Comment

None

4) Appointment

Councilor Sweeney made a motion, seconded by Councilor Caltabiano to appoint Kimberly Wortman as the transportation representative; and Lauren Oscilowski as member – at – large, both to complete the term ending May 31, 2023. The motion carried.

5) Adjourn

Mayor Muhlfeld adjourned the Special Session at 6:00 p.m. and opened the Work Session

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk

WHITEFISH CITY COUNCIL
February 21, 2023
7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Caltabiano, Davis, Sweeney, and Norton. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs (virtual), Finance Director Gospodarek, Planning and Building Director Taylor, Public Works Director Workman, Police Chief Kelch and Fire Chief Page. Approximately 7 people were in the audience and 3 attended virtually.

Mayor Muhlfeld moved agenda item 9c) to follow the Pledge of Allegiance.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Deidre Corson to lead the audience in the Pledge of Allegiance.

9c) Consideration of a request from North Valley Music School to approve the building plans for the new facility in accordance with Project Whitefish Kids lease of Smith Fields (p.273)

Christine Rossi, North Valley Music School Board Chair, stated the City Council approved the sublease agreement between Project Whitefish Kids and the North Valley Music School last spring to lease two acres of land. In accordance with the lease, North Valley Music School is requesting the Council approve the new Music School building design. The lease also requires the approval from Project Whitefish Kids and the Architectural Review Committee. Letters of approval from both groups are included in the packet that is provided on the city website. North Valley Music School is the only non-profit music school in the state of Montana. This year they are celebrating their 25th year of providing quality affordable music education for students of all ages and all abilities. A new facility is desperately needed and warranted. They want to be able to continue serving the communities that they love for decades to come.

The new building will have ample and safe parking, with an accessible drop-off area for students and faculty and a meaningful expanded program capacity. The location provides easy access from neighboring communities and will have no impact to Whitefish traffic. It also allows for coordination of music lessons and sports activities at Smith Fields. Photos of the project are provided in the packet on the website.

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to approve the building plans for the new facility in accordance with Project Whitefish Kids lease of Smith Fields. The motion carried.

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)

Eric Payne, 100 Central Avenue, spoke towards agenda item 6d. He is excited for this to come to fruition. He will be available for any questions the Council would like to address.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Norton reported Arbor Days will be at Depot Park this year to plant trees to absorb moisture on the west side and provide shade on the south side. She also had a discussion with FWP's Bear Conflict Management representative about fruit bearing trees on public property. The fruit trees attract bears, and we are trying to get bears to leave town; and the Chronic Wasting Disease (CWD) goes into the ground and can contaminate deer years later. FWP thinks the gleaning program is still an attractant that we probably should move towards eliminating on public property over time. We need to be realistic about not having bear conflicts in town and we don't want deer dying of CWD. We might need to make drastic measures in the future.

- 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 February 6, 2023 Special Session (p.24)
 - b) [Minutes](#) from February 6, 2023 Regular Meeting (p.25)
 - c) [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 (Second Reading) (p.30)
 - d) [Resolution No. 23-](#); A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 11.18 acres of land known as 111 Iverson Lane, 119 Iverson Lane, 140 Iverson Lane, and 6010 US Highway 93 South, in Section 12, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned for and consented to annexation (p.36)
 - e) [Consideration](#) of a request for Final Plat for the Rock Ridge Subdivision (fka 93 LLC), a 28-lot subdivision located off Highway 93 West (WFP 22-09) (p.49)
 - f) [Consideration](#) of a request from Eric Sikola for a Whitefish Lakeshore Protection Permit as recommended in the staff report located at 1490 and 1492 Barkley Lane (WLP 23-W02) (p.205)

Councilor Sweeney made a motion to remove item d from the Consent Agenda for discussion before the Public Hearing.

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve the Consent Agenda as amended with the removal of item d.

Councilor Caltabiano made a motion to remove item c for further discussion before the Public Hearing.

The motion to approve the Consent Agenda as amended with items c and d removed for further discussion carried.

5c. Councilor Caltabiano made a motion, seconded by Councilor Norton to reconsider for discussion item c, Ordinance 23-01. The motion carried. Councilor Caltabiano stated the amendment that added a restriction under 11-2Y-3 residential, limiting the residential to two-family duplex through six-plex dwellings. He did not realize that this is not a density ratio, but it is an absolute number. He thinks this is too restrictive for what the purpose is. Councilor Norton stated she felt it came at the very last minute and without understanding the repercussions of such a restriction on housing. Director Taylor stated some of the lots are narrower than others that are zoned County B-4. As it is drafted and approved you can only do up to a six-plex per lot with a conditional use permit. More density could be asked for through a Planned Unit Development (PUD). After some discussion **Councilor Qunell made a motion, seconded by Councilor Sweeney to adopt Ordinance No. 23-01 unamended. The motion carried on a 4-2 vote, with Councilor Norton and Caltabiano voting in opposition.**

5d. Resolution No. 23-__; A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 11.18 acres of land known as 111 Iverson Lane, 119 Iverson Lane, 140 Iverson Lane, and 6010 US Highway 93 South, in Section 12, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned for and consented to annexation.

Councilor Sweeney made a motion, seconded by Councilor Feury to postpone his item to the April 3, 2023 meeting. Councilor Sweeney wants to ~~endure~~ensure that we have an option for zoning this property under the WB-T zoning, which was just enacted and will become effective in 30-days. This property would be coming in without our ability to use that zoning on that particular property. Director Taylor stated the Business Transitional Zone is designated to property south of Highway 40. The text in the Highway 93 South Corridor Plan says this property would be zoned as Secondary Business. If Council approves the Resolution to Annex tonight, the zone change request will be in front of the Planning Board in March, and then to the City Council in April. This zone change is staff initiated. After some discussion with Council and staff regarding the process to postpone the annexation and to bring back as a simultaneous application for annexation and zone change; **Councilor Sweeney amended his motion to postpone the item to the June 5th meeting, Councilor Feury agreed as the second.**

Councilor Feury stated for clarification, the zone change would not occur at the March Planning Board meeting since the property will not be annexed into the city. Councilor Caltabiano addressed the applicant, Erik Payne, and after some discussion, Attorney Jacobs clarified Mr. Payne referred to the Extension of Services Plan as being his initial request for annexation. The Council did extend the Extension of Services Plan about 18 months ago. The City had not officially received a Petition to Annex until two weeks ago from Mr. Payne. He was waiting to see whether or not the city would extend its Extension of Services Plan, which is required for someone to petition for annexation.

The original motion to postpone this item to the June 5th meeting was a tie vote, Mayor Muhlfeld voting against the motion. The motion failed on a 4-3 vote.

Councilor Qunell made a motion, seconded by Councilor Caltabiano to approve item 5d on the Consent Agenda. The motion carried on 4-3 vote, with Councilor Sweeney, Davis and Norton voting in opposition; Mayor Muhlfeld voted in favor to break the tie vote.

- 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. 23-02](#); An Interim Zoning Ordinance prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensaries (Only Reading) (p.245)

Planning and Building Director Dave Taylor presented his staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing. There being no public comment, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for consideration.

Councilor Sweeney made a motion, seconded by Councilor Feury to approve [Ordinance No. 23-02](#); An Interim Zoning Ordinance prohibiting the approval of new applications for administrative conditional use permits for marijuana dispensaries (Only Reading). The motion carried.

~~b) Consideration of a request from Pheasant Run LLC, for a 24 lot preliminary plat called The Canopy, located at the western end of Pheasant Run and can be legally described as Tract 3ABM in S01 T30N R22W, P.M.M., Flathead County, zoned WR-2 (Two Family Residential District) and WB-2 (Secondary Business District) (WPP 22-08) (p.)~~ POSTPONED BY APPLICANT AFTER PUBLIC NOTICE WAS PUBLISHED

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) [Consideration](#) of approval of RAISE Grant Submittal for a portion of the Whitefish Promenade on Spokane Avenue between East Second Street and Railway Street (p.251)

Director Workman presented his staff report that is provided in the packet on the website.

Councilor Qunell made a motion, seconded by Councilor Norton to approve the approval of RAISE Grant submittal for a portion of the Whitefish Promenade on Spokane Avenue between East Second Street and Railway Street. The motion carried.

8) COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor and Council? (p.265)

None

- b) Other items arising between February 15th through February 21st.

City Manager stated there are 447 Senate Bills that have been introduced, and 720 House Bills. The last date to introduce General Bills is this Friday, and the last day for General Bills to the other Chambers is next Friday. She gave a couple of updates; the Bill that would require votes on Growth Policies was tabled so it is likely dead; SB142, the impact fee bill was referred to the House Local Government Committee, it is still pending a hearing to be scheduled; SB245 would revise municipal zoning to allow multi-family and mixed - use developments, staff provided testimony opposing the bill at the hearing on February 8th, the Committee did act and it passed by an 8-1 vote with an amendment that would require any of those developments to include 30% of the units reserved for low income to moderate income housing. At this point it is with the Senate and will have to go through the House, but at least there was some movement to identify that not all multi-family will become affordable that the risk is that it all becomes market rate. There are still issues with that bill in the parking requirements, maximum height and setbacks. SB 262 would revise the licensing requirement has passed the Senate, that could mean significant impacts to our business licensing program. The revenue from that program allows the Fire Marshal to inspect property and confirm zoning. So that could be problematic for the city if it does move through the house. HB407 which would provide for affordable housing in tax abatements, which has been discussed as an option, passed as amended which all they did was add trailer courts to a possible abatement. That could be a tool we use in the future. She encourages the Council to read SB382, some of the more significant changes to that bill include general information about how you adopt a land use plan, and information about zoning and subdivision and provides a lot of that to be done administratively, with the Planning Board being the appeal board. This bill was created to allow for some control by local governments and offset the bills that we are seeing that are telling us what we can do instead picking alternatives that would be best for our community.

Manager Smith also met with the City Managers of Kalispell, Columbia Falls and the County Administrator and talked about having a 5th Monday meeting with all of the jurisdictions. The Council showed support for holding a 5th Monday meeting.

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

Appointments were made at the Special Session preceding tonight's meeting.

- b) [Consideration](#) of approving tentative FY24 Budget calendar (p.272)

Councilor Sweeney made a motion, seconded by Councilor Caltabiano to approve the tentative FY24 Budget calendar. The motion carried.

~~e)a) [Consideration](#) of a request from North Valley Music School to approve the building plans for the new facility in accordance with Project Whitefish Kids lease of Smith Fields (p.273)~~

- d)c) [Consideration](#) of a request from Flathead Electric Cooperative asking to support Holy Cross Energy in its application under DOE's BIL Grid Resilience and Innovation Partnership FOA for Topic Area 1 (p.304)

The Council showed support.

Council Comments

Councilor Feury recognized and remembered former Councilor Nick Palmer, who passed away a week ago Monday. Nick was a very passionate person as a Councilor. He was enthusiastic and Councilor Feury always appreciated the different point of view that he would bring to the table. There is a memorial scheduled for March 19th.

Councilor Norton announced that the Free the Seeds is this weekend at Flathead Valley Community College. The Climate Smart Glacier County meeting is happening. A letter was provided to the Council at the dais in response to the impact fees. She asked for it to include "potential outstanding class action lawsuit".

Councilor Davis drafted the letter Councilor Norton is referring to, in response to public discussion about impact fees in some legislative efforts in Helena, and in some news reports. It felt to him that some of what was being said was either misleading, wrong, or unfair as it relates to the City of Whitefish. He felt like there was an opportunity for the Council to at least one time in the course of this impact fee issue to say something about it. The letter addresses why the City has impact fees, and why we have taken the processes that we have to figure the impact fees, why we hire outside consultants and in general what the social purpose of these fees are. Council showed support of the letter. Councilor Sweeney asked for the concept stated in the letter where "lawyers actually do waste public funds", he finds offensive. He would like that line removed.

Mayor Muhlfeld also acknowledged and send condolences to Paul Johannsen's family. Paul was a steadfast contributor to this Whitefish Winter Carnival. In 2011 Paul saw that Mayor Muhlfeld was running for his first term as mayor and asked if he could serve as his campaign manager/treasurer. He wanted to acknowledge his contribution to the community and send condolences and best wishes to his family. Mayor Muhlfeld also thanked Rose and Mark in the Utility Department for bringing to his attention that he left his hose running.

Councilor Caltabiano would invite the public to be actively involved in the Growth Policy update process. The more proactive we work as a community the better the process will be.

Mayor Muhlfeld wanted to give Alan Tiefenbach a big kudos for his presentation at the work session prior to the meeting.

9) 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 8:26 p.m.

/s/John Muhlfeld
Mayor Muhlfeld

Attest:

/s/Michelle Howke
Michelle Howke, Whitefish City Clerk